

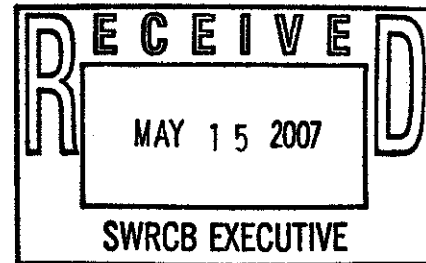


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May 15, 2007

Ms. Song Her, Clerk to the Board, Executive Office
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



Subject: Comment Letter – Proposed Wetland and Riparian Area Protection Policy

Dear Ms. Her:

Thank you for the opportunity to provide comments on the State Water Board's Proposed Wetland and Riparian Area Protection Policy. East Bay Municipal Utility District (EBMUD) is a publicly-owned utility that supplies water and provides wastewater treatment for parts of Alameda and Contra Costa counties. The District's water system serves approximately 1.3 million people in a 325-square-mile area of the East Bay portion of the San Francisco Bay Area. The wastewater system serves approximately 642,000 people in an 83-square-mile area. EBMUD also owns and manages a total of 56,000 acres of watershed land in the East Bay and Mokelumne River watershed, including 12,765 surface acres of water in the reservoirs. EBMUD policies allow watershed land uses compatible with the primary watershed purpose of protecting the water supply, with emphasis on preserving open space and biodiversity.

The State Water Board's Informational Document suggests the need for a statewide Wetland and Riparian Area Protection Policy to improve the efficiency and effectiveness of the Board's implementation of wetland and riparian area protection. The Board requested that comments be limited to identifying the range of actions, alternatives, mitigation measures, and potential significant environmental effects to be analyzed in-depth in the development of CEQA projects.

New Wetland and Riparian Protection Policy

EBMUD is supportive of the State Board's interest in improving protection of wetland and riparian areas statewide. Protecting these resources is a critical watershed management element on EBMUD-owned watershed lands in the East Bay and the Mokelumne River watersheds for the purpose of protecting water quality in EBMUD storage reservoirs and to support the protection and enhancement of the anadromous fishery in the lower Mokelumne River (downstream of Camanche Dam).

Definitions

Before an evaluation of a proposed project's alternatives and potential impacts can be completed, the proposed project must first be clearly defined. As documented in the State Board's "Wetland and Riparian Protection Policy Scoping Document" (Informational Document), there is a lack of clarity in the existing regulatory framework for the protection of areas no longer regulated under the Clean Water Act due to recent court cases, a lack of statewide consistency in the definitions for wetlands and riparian areas, and a lack in statewide consistency in the definitions of beneficial uses for wetland and riparian area functions. Since any potential new wetlands and riparian area protection policy may affect EBMUD's ability to repair, maintain and improve its water delivery system, manage wastewater discharges, manage its watershed lands, and implement wetland and riparian restoration and enhancement, EBMUD recommends that the State Board:

- Identify and consider the beneficial uses that are directly linked to wetland and riparian areas, including, but not limited to water supply, flood control, agriculture, recreation, fisheries and wildlife, watershed management, timber production, and transportation.
- Include definitions of the Best Management Practices, including regular monitoring, that must accompany the management of those beneficial uses to ensure they protect and do not degrade wetland and riparian areas. EBMUD finds this particularly important to implement within the basins of public drinking water supply reservoirs where the absence of BMPs and subsequent monitoring to ensure their efficacy can threaten public health through increased exposure to pathogens and other contaminants.
- Undertake a process of developing these definitions for the State of California prior to evaluating any policy alternatives, since without establishing all of these definitions, a "project" cannot be delineated sufficiently for CEQA evaluation, particularly with Alternatives 3 and 4. EBMUD recommends that the State Board. The development of these definitions should be a full public process that acknowledges current regulation and current, peer-reviewed science.

Range of Issues

Issues to address in the evaluation of alternatives must take into account the variety in the landscape and land uses in California. The proposed policy needs to address both rural and urban settings. Existing regulations (local, state, and federal) need to be considered along with any new potential policies or regulations. There is a distinct danger of creating a wider gap and greater inconsistency between policy and implementation as complexity increases. The adequacy of resources necessary to enforce the policy is also a critical issue that should be evaluated.

Permitting

EBMUD encourages incorporation of a permitting process that allows for a long-term programmatic approach to land and facility management, and consideration of exemptions from any new or existing permitting process for wetland and riparian protection, enhancement and restoration to encourage these types of activities.

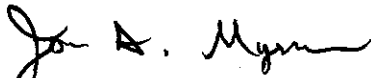
Wetlands and Riparian Area Protection Policy
State Water Resources Control Board
May 15, 2007

Alternative 4

EBMUD supports the development of as comprehensive a policy direction as possible. If an effort of this magnitude is undertaken, the State Board should do so with the intent of minimizing policy inconsistencies and addressing all critical issues, including, but not limited to dredge or fill material discharges; discharges of other pollutants (e.g., nutrients); hydromodification; land and vegetation clearing activities; and invasive species.

Please add EBMUD to the SWRCB's distribution and mailing lists for this process. If you have any questions, please contact Rick Leong at (510) 287-1192 or email rleong@ebmud.com

Sincerely,



Jon A. Myers
Manager of Natural Resources

JAM:RLL:dec