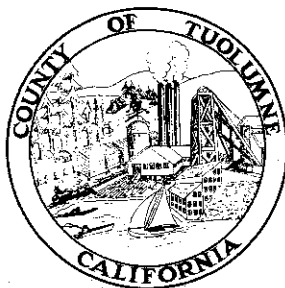


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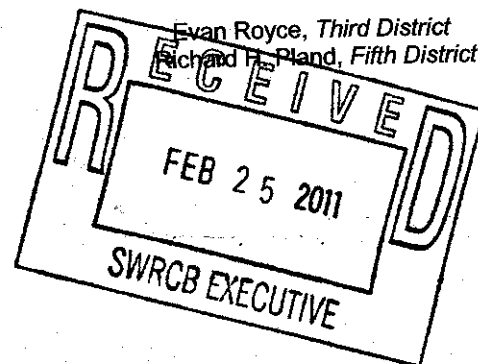
BOARD OF SUPERVISORS COUNTY OF TUOLUMNE

Elizabeth Bass, *First District*
John L. Gray, *Fourth District*

Randy Hanvelt, *Second District*

February 1, 2011

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000



Re: Comment Letter - CEQA - Wetland Area Protection Policy and Regulations

Dear Board Members:

Thank you for the opportunity to review the Notice of Preparation (NOP) and initial study prepared for the proposed Wetland Area Protection Policy and Dredge and Fill Regulations. Tuolumne County has reviewed these documents and requests that the following comments be addressed in the Environmental Impact Report (EIR) prepared for the project.

1. The EIR should clearly describe the need for the proposed new policy and regulations. The amount of isolated wetlands statewide should be identified and existing State and local programs that conserve those wetlands should be described. For example, Policy 4.J.5 and Implementation Program 4.J.c of the Conservation and Open Space Element of the Tuolumne County General Plan direct the County to allow no net loss of wetlands from land development projects. Furthermore, Tuolumne County utilizes a Biological Resources Conservation Handbook to mitigate cumulative impacts to wildlife resulting from land development projects. This program results in conservation of vernal pool (VPL), wet meadow (WTM) and spring (SPR) habitat in addition to other habitats on sites where development is proposed.
2. Section 15131 of the State CEQA Guidelines indicates that economic and social effects may be included in an EIR. Although economic impacts do not have to be treated as potential significant effects, it is important that the EIR prepared for this project identify the economic effects that the new policy and regulations will have on those who are subject to them. What will the financial costs be to property owners who must comply with the new policy and regulations? If a property owner elects to avoid isolated wetlands, would he/she have to expend funds for a wetland delineation in order to comply with the proposed regulations?

3. The EIR should identify the source of funding to implement the new policy and regulations. The State government continues to face a budget deficit of historical proportions. Proposed measures to reduce the deficit would indicate this is not the appropriate time to implement a new program. At a time when local governments are attempting to attract new business and development, increasing fees to cover the cost of a new program would tend to work counteractively to the efforts of local government.
4. The initial study indicates that the new policy and regulations are necessary to conserve isolated wetlands that are no longer afforded protection by the U.S. Army Corps of Engineers through Section 404 of the Clean Water Act. The EIR should describe whether the new policy and regulations would apply strictly to isolated wetlands or if there will be any duplication of authority between the regional water quality control boards and the Army Corps created by this project. The EIR should further clarify whether the Army Corps policy of no net loss of wetlands still applies to isolated wetlands since the courts have determined the Corps no longer has jurisdiction.
5. Tuolumne County encompasses approximately 1,458,121 acres. Of this amount, 77% or approximately 1,124,211 acres, is in public ownership primarily the Stanislaus National Forest, Yosemite National Park and lands administered by the U.S. Bureau of Land Management and U.S. Bureau of Reclamation. Of the 333,910 acres remaining, 121,252 acres are under Williamson Act land conservation contracts and 87,309 are zoned for Timberland Production (TPZ). This leaves approximately 125,349 acres available for development. The building industry and land development professions are an important segment of the economy in Tuolumne County. The EIR prepared for this project should identify whether, and to what degree, the proposed policy and regulations could discourage land development and building activity.
6. The initial study indicates that the project will include a definition of wetlands that is consistent with that used by the U.S. Army Corps of Engineers. In the past, Tuolumne County has encountered problems evaluating land development applications due to the different definitions of wetlands used by the Army Corps of Engineers and the California Department of Fish and Game. The definition used by the water boards should be made as close to that used by the Army Corps as possible. It would simplify review of land development applications even more if the new definition was required to be implemented by other State agencies, such as the Department of Fish and Game.
7. The EIR should clearly point out the differences in land development application review by the regional water quality control boards that would result from approval of this project. The current evaluation processes should be compared with the review process envisioned if the proposed policy and regulations are approved so that the public is made fully aware of any increases in time, submittals and cost.

8. The initial study relies heavily on local government environmental review of land development applications for mitigation. If the new policy will be implemented in this manner, it is imperative that the regional water quality control boards provide thorough comments during the scoping stage of individual land development application review. This rarely happens at present. As an example, if an application proposes development in the vicinity of a County airport and compensatory wetland mitigation is required in the form of constructed wetlands, the Airport Land Use Commission (ALUC) should be aware of this during its review of the application, since wetlands can attract large flocks of birds increasing the chance of bird strikes. If this information is not known at the time of ALUC review, the application would likely have to be sent back to the ALUC for additional review of the new wetland components, which would cost the applicant time and money for the delay.
9. If compensatory mitigation would be required by the proposed regulations, measures to mitigate environmental impacts created by manmade wetlands should be addressed in the EIR. Bird strike hazards in the vicinity of airports brought on by constructed wetlands should be addressed. Similarly, the initial study discusses impacts created by vectors that may use constructed wetlands. Measures to mitigate impacts created by compensatory mitigation required by the proposed policy and regulations should be identified and evaluated in the EIR.

Once again, thank you for the opportunity to comment on the Notice of Preparation and initial study for the proposed Wetland Area Protection Policy and Dredge and Fill Regulations. Tuolumne County looks forward to reviewing the Draft Environmental Impact Report prepared for this project.

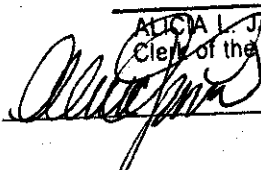
Sincerely,



John L. Gray, Chair
Tuolumne County Board of Supervisors

cc: Regional Council of Rural Counties (RCRC)
California State Association of Counties (CSAC)
Senator Tom Berryhill
Assemblywoman Kristin Olsen

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

By: 
ALICIA JAMAR
Clerk of the Board