



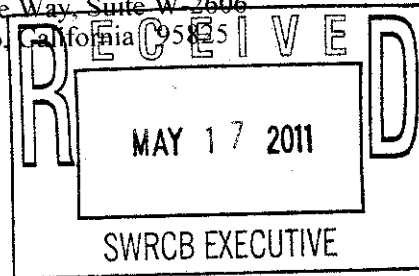
United States Department of the Interior



FISH AND WILDLIFE SERVICE
Pacific Southwest Region
2800 Cottage Way, Suite W 2606
Sacramento, California 95825

In Response Reply To:
FWS/R8/ES

Ms. Jeanine Townsend
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-2000



MAY 16 2011

Dear Ms. Townsend:

The U.S. Fish and Wildlife Service (Service) appreciates the opportunity to work with the State Water Resources Control Board on their Wetland Area Protection Policy and Dredge and Fill Regulations. We request your consideration of the following comments on the Revised Notice of Preparation of Environmental Impact Report/Initial Study Checklist.

General Comments:

1. We agree with the Board's approach of "no net loss" of wetlands. More importantly, we recommend a "no net loss in wetland function" as a management and regulatory framework. "Function" refers to plant and wildlife diversity, and ecological processes.

Specific Comments:

1. Wetland Area Definition and Delineation: We suggest that the Water Board use a single parameter to define wetlands, rather than follow the U.S. Army Corps of Engineers' (Corps) 3-parameter delineation. The single parameter wetland is consistent with other State agencies (e.g., California Department of Fish and Game [Department], California Coastal Commission) and Federal resource management agencies (U.S. Environmental Protection Agency [EPA], Service). Of the three parameters listed to define wetlands, we suggest that one parameter need only be present to define a wetland.
2. We concur with the Water Board's definitions of parameters (i.e., (a) saturation or inundation sufficient to result in anaerobic conditions within the substrate; (b) hydric substrate indicative of hydrology; and (c) either lack of vegetation, indicates open water, or vegetation dominated by hydrophytes). We believe that any one of these parameters indicates the presence of a wetland, and all three do not need to be present.
3. The Water Board proposes to regulate the direct, indirect and cumulative adverse impacts associated with an action. Wetland avoidance measures would be imposed in a permit. The Water Board would mitigate unavoidable impacts by requiring the following:

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- Compensation that includes wetland restoration, establishment, enhancement, and preservation.
- Consideration for determining the level of compensatory mitigation.
- Criteria for site selection and site buffers.
- Elements of a compensation plan.
- Permit mitigation conditions.

For "compensatory mitigation" as defined by the Water Board, we encourage avoidance and preservation. We concur with the Water Board that there is a loss of wetland function when impacts are incurred to wetlands. Therefore, we suggest the Water Board clarify that preservation or avoidance of wetland impacts, is the highest priority, with enhancement, restoration, and establishing new wetland (creation) following in priority as listed. We recommend wetland creation as mitigation be the last resort, and, if used, that it be at a ratio that addresses the loss of function. We also recommend that wetland function be assessed, after the mitigation is implemented, to evaluate the effectiveness of the methods and ratios used. Those results could be used to develop and improve future wetland mitigation.

In addition, we recommend that "mitigation banking" be used within specific geographic regions to ensure that "in kind" mitigation is applied. Consideration should also be given to type of wetland and function when using mitigation banks.

4. We encourage the Water Board to regulate groundwater as it is a key component determining whether wetlands are considered isolated. Groundwater pumping can have desiccate wetlands and alter ecologic function.

Please feel free to contact Dr. Diane Elam, Chief, Division of Section 7, Habitat Conservation and HCPs, at (916) 414-6464 with any questions.

Sincerely,



Assistant Regional Director

cc:

Nancy Finley, AFWO
Susan Moore, SFWO