



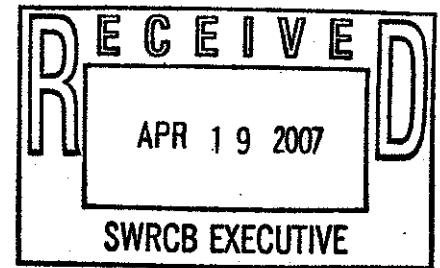
Wetland/Riparian Policy  
Deadline: 4/19/07 12 noon

# CLEAN WATER ACTION

*Sent via electronic transmission*

April 19, 2007

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



RE: Comment Letter – Wetland and Riparian Area Protection Policy

Dear Ms. Her,

On behalf of Clean Water Action and our 20,000 California members, I would like to thank you for this opportunity to share our views on the issue of a wetland and riparian area protection policy. Clean Water Action has its historical roots in the development and passage of the Clean Water Act and, over the years, has worked diligently to maintain the highest level of protection for wetlands in California and elsewhere in the nation. We support both the protection of intact wetland areas and the restoration of wetlands where development and other land use practices have taken their toll.

Despite this commitment to preserve and mitigate wetlands, we are concerned that protection and restoration projects may be implemented without regard to unintended consequences for public health and wildlife protection because of other environmental realities. Specifically, we are concerned with the potential of increasing the production of methylmercury in wetland areas that are impaired by mercury contamination. Increases in methylmercury pose a direct health threat to fishing populations, particularly subsistence fishers, as well as to fish eating wildlife.

Historic mining activities, as well as contemporary mercury sources have left many of our waterways severely contaminated. As the mercury methylates, due to environmental factors that are only partially understood, it becomes bioavailable, contaminating fish and moving up the food chain. For that reason, many of California's water bodies, including San Francisco Bay, the San Joaquin Delta, and the tributaries that flow into them, have fish advisories warning local fishers to avoid or limit their intake of locally caught fish. Unfortunately, these advisories are not effective in protecting families that rely heavily on fishing to put food on the table or wildlife.

Scientific evidence on the impact of wetlands on the methylation process is confusing at best. In some circumstances, wetland conditions appear to increase the presence of this bioaccumulative form of mercury, while other studies have shown decreases in methylation in certain wetlands. What we don't

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know, at this point, is how to effectively control methylation so that as we take on activities to restore or protect wetlands, we do not further contaminate fish and create greater risks to public and environmental health.

Currently, Regional Boards around the state are developing TMDLs (Total Maximum Daily Loads) and implementation plans, in the form of Basin Plan Amendments, to address mercury contamination in accordance with section 303d of the Clean Water Act. To accurately address the input of mercury into these water bodies, the Regional Boards must take into consideration the potential impacts of wetlands that sit upstream. If, for example, a wetlands restoration project results in higher methylmercury contributions to an impaired water body, this will affect efforts to bring those levels down in order to meet water quality standards in accordance with the Clean Water Act. The draft mercury TMDL being proposed for the Delta actually assigns a waste load allocation to wetland restoration projects in order to control the flow of methylmercury into Delta waters.

We support this aspect of the Delta TMDL, but are painfully aware that our ability to control methylation is limited at best. Consequently, we believe that any wetlands protection or restoration policy must ensure that impacts of restoration activities are considered as they are planned. This is essential in ensuring that "beneficial uses and water quality objectives would be met according to existing requirements in Regional Water Board basin plans, state plans, and policies" (CEQA Scoping Document, pages 11 and 17).

We strongly urge the State Board to:

- Adopt Alternative 4 as the basis for its final policy in order to optimize protection of our wetlands, streams, and riparian areas by looking at all of the activities that pollute our waters and protecting all of the values provided by these waters. Most importantly, it acknowledges the need to protect beneficial uses such as fishing (especially subsistence fishing) and complies with water quality objectives established by TMDLs for mercury.
- Establish state policy requirements and support for study of localized impacts of wetlands and restoration projects on methylation and potential mitigation strategies, so that appropriate decisions may be made to protect water quality and meet fish tissue requirements in fishing areas. (We point you to the CALFED Delta Fish Mercury Project as an example of such a monitoring and research model, as well as the parameters proposed in the afore mentioned Delta methylmercury TMDL.)
- Consider prioritizing restoration projects where fishing is limited or that are not directly downstream of mercury sources (such as abandoned mines), as research on methylation moves forward.

Clean Water Action applauds the State Board's commitment to protect California's wetlands and address mercury contamination both regionally and statewide. While these two issues may appear to be counter to each other, we firmly believe that a balanced approach that takes into account and expands the growing amount of research and knowledge about methylation will lead us to the development of strategies that will both protect water quality, public health, and the wetlands themselves.

Sincerely,

*Andria Ventura*

Andria Ventura  
Program Manager