CITY OF ROSEVILLE
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Community Development
311 Vernon Street
Roseville, California 95678-2649

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

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April 19, 2007

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

Subject: Proposed Wetland and Riparian Area Protection Policy – NOP Comments

Ms. Her:

Thank you for the opportunity to provide comment in response to the March 15, 2007 Notice of Preparation (NOP) issued for the proposed Wetland and Riparian Area Protection Policy. New policy regulating wetlands has the potential to affect the City's economic development activities and as such the City of Roseville is very interested in following this process. The City is concerned the current process for establishing new policy may not allow for sufficient review of policy impacts. This is due to the fact the State Water Resource Control Board (Board) has yet to determine the definition of wetlands or of riparian areas. Without these definitions in place, the City can not fully determine the possible impacts from the proposed policy alternatives. The City therefore strongly encourages the Board to move this policy forward through a phased approach. The first phase should include the development of clear definitions for "wetlands" and "riparian areas." Development of these definitions should also be done through a public process whereby stakeholders can provide comment on the definitions. Following establishment of these definitions the Board could then proceed with evaluating policy alternatives. Not withstanding, the City has reviewed the NOP and offers the following comments:

1. Should such new policy be adopted, the City would support policy development at the state level rather than by region to ensure consistent application of regulatory standards and a "level playing field" for the regulated community.
2. Because the NOP contains four alternatives without identification of a preferred alternative, it is difficult to understand exactly the policy being proposed and therefore how the policy may effect City operations and related development activities. For example, the alternatives under consideration range from No Action to a framework that would far exceed existing regulatory requirements. In the discussion of alternatives it is suggested that certain alternatives would offer a level of protection "higher" than currently provided. Without identification of a preferred alternative it is difficult to understand the ramifications of the proposed policy and provide meaningful NOP comment.
3. Alternatives 3 and 4 state "Compensatory mitigation would be required for impacts." The City is interested in understanding how compensatory mitigation would be

determined and how it would relate to compensatory mitigation currently required under the existing Clean Water Act "Section 404" permit process. Duplicate or overlapping mitigation requirements would further burden local government's (including the City of Roseville) economic and civic development projects.

4. The definitions for "beneficial uses" of wetlands that aid in pollutant removal have the opportunity to provide advantages in the implementation of mandated NPDES requirements. We would like to see the list of beneficial uses expand to include existing as well as created wetlands. Those created wetlands associated with storm water quality enhancements have value and should be considered in the compensatory mitigation equation.

5. Hydromodification is listed as an activity that would be regulated under Alternative 4. Hydromodification is currently required in several municipal stormwater permits and is also proposed as a requirement in the NPDES preliminary draft update of the General Permit for Stormwater Discharges Associated with Construction Activity. The City would be interested in how hydromodification is defined and regulated under the proposed policy and how the proposed policy would compare to other hydromodification requirements issued by the Board.

6. Many performance standards are proposed under Alternative 4. The policy indicates incorporation of recommendations of the State Water Board's 2006 Compensatory Mitigation Compliance Study. Currently this study is not finalized and is not available for review. It is our understanding based on communications with State staff the study will not be available prior to the close of the NOP comment period. As such the City is interested in understanding the specifics associated with the recommended standards. Further it is unclear if additional performance standards would be required beyond those listed in the scoping document. Without the specificity we are unable to determine the extent of possible impacts and related costs associated with the implementation of this policy.

7. Should new policy be developed that requires a new permitting process at the state level, the City is interested in understanding how that process would be implemented in terms of sequence and timing as related to the existing 404 permit process. In other words, does the state envision this to be a concurrent process or a process that would follow the existing 404 process? The City would support policy that calls for streamlined permit processing.

8. The City also requests the Board consider the following when evaluating policy alternatives:

   a) Unintended Consequences. We request the Board carefully consider the potential consequences of new policy. For example should the definition of riparian area be expanded and included greater upland areas, what are the potential impacts to already planned or existing infrastructure. Will there be waivers for allowing municipalities the ability to maintain, repair, or replace existing infrastructure that would fall under new policy requirements? Without the definitions in place, we are unable to fully understand the possible impacts to the City.

   b) Conflict with or Duplication of Other State or Federal Regulations. We strongly request the Board to consider existing policy requirements by other State and Federal agencies. We would not be in support of policy that would duplicate current efforts overseen by other agencies such as the Department of Water Resources and Fish and Game.

Thank you for your consideration of our comments. Please include the City of Roseville on any notification distribution list created for this project. Please send all future notices to:

Mark Morse, Environmental Coordinator
City of Roseville
Community Development Department
311 Vernon Street
Roseville, CA 95678

Should you have any questions regarding this letter, please contact me at (916) 774-5334, via email at mmorse@roseville.ca.us, or at the letterhead address.

Sincerely,

Mark Morse
Environmental Coordinator

cc: Kelye McKinney, Environmental Utilities