



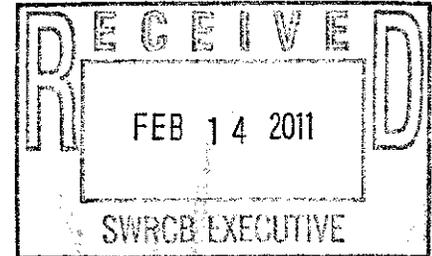
Marin Audubon Society

P.O. Box 599 | MILL VALLEY, CA 94942-0599 | MARINAUDUBON.ORG

Public Cmt /Wrkshp (1/31 & 2/8)
CEQA-Wetlands Policy & Reg
Deadline: 5/20/11 by 12 noon

February 9, 2011

Jeannie Townsend
State Water Resources Control Board
Division of Water Quality
P.O. Box 100
Sacramento, CA 95812-0100



RE: COMMENT LETTER-CEQA-Wetland Area Protection Policy and Regulations

Dear Ms Townsend:

The Marin Audubon Society appreciates your consideration of our comments on the proposed Wetland Area Protection Policy and Regulations. The proposed policy and regulations will provide regulatory coverage for more than a dozen wetland types that are currently unregulated in the state. In view of the historic wetland losses and to ensure no further losses, the Marin Audubon Society strongly supports the proposed definition and regulatory changes and urges the Board to proceed quickly to prepare an EIR.

We request that the EIR provide the following:

- a description of all wetland types that are not regulated as a result of Rapanos and address the places where these wetlands would be found.
- a description of the process for obtaining a permit for state regulated wetlands. Would applicants go the Corps first and then be referred to a Regional Board for a delineation and to apply for a permit?
- a "no net loss" policy should be adopted to guide decision-making on applications. Without a "no net loss" policy, there is a risk that continued loss of wetlands would occur.
- describe and discuss the proposed "watershed approach" to mitigation. Watershed should be defined as the local creek drainage in which the wetlands are located. Wetlands mitigation should be required to take place within that area. If watersheds are defined too broadly than that, and mitigation allowed to occur greater distances from the site of loss, wildlife that depend on the wetlands and other benefits provided by the wetlands, such as water quality and flood control, will be lost to that watershed.
- an alternatives analysis should be required.
- applicants should first be required to demonstrate they have avoided impacts. Specific procedures should be defined to ensure avoidance is addressed first, before any other type of mitigation is considered.
- criteria should be established to define what types of activities or development would be unavoidable. A wetland loss should not be considered unavoidable simply because an applicant makes such a claim.
- A ratio of mitigation wetlands to lost wetlands should be adopted. We suggest 2 acres restored for each acre lost in order. A greater mitigation ration is necessary to compensate for temporal loss and for possible failure. Mitigation ratio should be greater for wetlands with endangered species.

- Wetland mitigation should be of the same wetland type as the wetland lost.
- Transition zones should be provided and these should be protected from human activity by buffers. We recommend a minimum of 100 feet with 300 feet more desirable
- Compensatory wetlands should be restored prior to or at least concurrently with wetland filling.
- The Geology, and Soils, Hazardous Materials, Hydrology and Water Quality and other sections of the Initial Study state "...future actions would be required to undergo project-level CEQA review, at which time the potential for adverse impacts and, if warranted, mitigations measures will be analyzed and implemented in accordance with a variety of local, state and federal requirements." While state and federal requirements would be the same, local and/or regional requirements would be expected to vary throughout the state. The DEIR should address how the project will deal with CEQA analysis differences due to varying local ordinances and regional policies. Would each Regional Board undertake sufficient analysis of projects to ensure an overall consistency? Or, is it anticipated that local/regional differences would not matter due to similar state and federal laws?

In conclusion, it is vital that the state proceed with establishing this policy and regulations to ensure the state maintains a high standard of quality water, does not lose any more wetlands, provides for the state's wildlife and continues the other services wetlands provide.

We look forward to reviewing and commenting on the Programmatic EIR that will be prepared. Thank you for considering our strong support for moving ahead with this definition and regulatory program. MAS chapter of NAS with more than 2,000 members.

Sincerely,


Phil Peterson, Co-chair
Conservation Committee


Barbara Salzman, Co-chair
Conservation Committee