

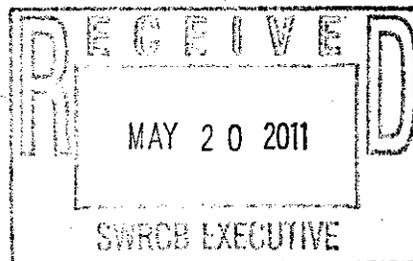


MONTEREY
COASTKEEPER
www.montereycoastkeeper.org

475 Washington Street, Suite A
Monterey, CA 93940
831/646-8837

May 19, 2011

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



Via email: commentletters@waterboards.ca.gov

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

Dear Water Board Members and Mr. Orme:

Please accept these comments on behalf of Monterey Coastkeeper, the water quality program of The Otter Project, our 3000 members, and our Board of Directors.

The Monterey Coastkeeper has extensive on the ground experience throughout the Central Coast, but especially in the Salinas Valley where there has been an extensive loss of wetlands and riparian habitat.

We certainly realize that we are not trying to restore the pre-Columbian condition but we still think it is important to acknowledge the early 1900s condition. Many decades ago there was a chain of seven freshwater lakes on the northeast side of the Salinas River. Early water-maps of the Valley show fresh water was artesianal, literally gushing from the ground. The Salinas River oxbowed back and forth across the entire Valley bottom. And a wetland stretched from Moss Landing and Castroville inland for eleven miles to present day Salinas. The seven lakes were drained by a Reclamation Ditch dug by Chinese and Japanese laborers around 1911. Continuing to the present day, the groundwater has been pumped down to the point where the area now has a serious problem with saltwater intrusion. And the Salinas River has been forced to one side of the Valley and into a riverbed so narrow that flooding is almost an annual problem.

In the lower Salinas Valley the footprint of agriculture has steadily grown and today every square foot is covered with crop. We have photographs showing the Salinas river bottom being farmed - literally.

As shown in your IS (page 12), channel flood control is the single largest loss of wetland habitat (fill). Given that growers are literally farming the river bottom and then complaining of flooding and consequently driving the need for dredge and fill permits, it is imperative that regulations be strict and explicit enough to curb this loss. While it would be ideal if other regulations were effective (Army Corps 404 permits and Fish and Game 1600 permits), they simply are not adequate or are not reviewed thoroughly or are not enforced or all of the above. The State Water Resources Control Board and the Regional Water Quality Control Boards are the agencies with the primary mandate to protect our valuable water resources.

As mentioned above, Monterey Coastkeeper has extensive on the ground (and water!) experience and we would like to highlight two problems we have encountered. We hope the

outcome of this process will clarify the regulatory approach to these issues. We understand that the SWRCB is taking a phased approach with Phase 3 addressing riparian habitat. Unfortunately a shortcoming of your phased approach is that these serious problems could fall through the cracks or not be addressed in a timely manner. Problems in the Salinas Valley are severe and your dredge and fill rules could clarify solutions to our issues.

Example #1: Reclamation Ditch. As previously noted, the Reclamation Ditch (or Canal) was created in the early 1900s to drain the chain of seven lakes and the wetland that once stretched between Salinas and the coast. The ditch is approximately 20 miles long and in places over twelve feet wide. Most areas of the Ditch carry water all year long. As noted in Attachment 1, the ditch is "maintained to include clearing, compaction, and excavation..." Crops are grown to the literal edge of the ditch. Consequently, the Reclamation Ditch has extremely poor water quality -- perhaps the highest toxicity in the State of California (RWQCB CCAMP and Cooperative Monitoring Program data). When it best serves their purpose, Monterey County Water Resources Agency (MCWRA) will argue the Ditch is a "manmade earthen channel" and "[not] a natural creek or stream (Attachment 1)." Or, when it serves their purpose, MCWRA will argue the Reclamation Ditch *is* a water of the State (MCWRA demurre Monterey County Superior Court Case #108858). The Reclamation Ditch carries water all year and drains into Tembladero Slough and ultimately into Elkhorn Slough; the Ditch is very likely a water of the US as well as a water of the State.

Monterey Coastkeeper called the Army Corps of Engineers to inquire if MCWRA had obtained an ACE 404 (dredge and fill) permit. We were told that MCWRA was not required to obtain a 404 permit because although they were dredging, they were not filling (phone conversation with Bob Smith, Army Corps of Engineers, San Francisco, 415-503-6792). Obviously, the Corps arbitrarily puts emphasis on the "*and*" of "Dredge and Fill" in this case.

The Wetland Policy should clarify that any time a State water is dredged or cleared, RWQCB review is required.

Example 2: Salinas River Channel Maintenance. As noted above, growers actively farm the Salinas River bottom (see photo 1). In addition, there are numerous situations where existing drainages truncate into farm lands (see photos 2 and 3). Flooding of "valuable and productive cropland" leads to calls for channel clearing and maintenance. Growers have an unrealistic expectation that they should be protected from inundation even though they are farming in a floodplain and sometimes in the river bottom itself. County Supervisors and State and Federal legislators all join the chorus demanding action and protection of property. All lands simply cannot be protected and farming in a floodplain has associated risks.

Exacerbating the problem, the Salinas River channel has been confined to an un-naturally narrow channel. Some growers perceive that given the narrowed channel (that they have created) the best way to provide flood protection is through channelization and the removal of all vegetation. When practiced, the outcome on the Salinas River is illustrated in Photo 4. The removal of vegetation results in both the removal of wildlife habitat and removal of the vegetated treatment that offers water quality benefits. The Lower Salinas River is impaired for nutrients, toxicity, and sediment. As shown in Photo 5, channel clearing and "maintenance" often does not result in flood control.

Photo 4 was shown to many interested people and agencies and most had no idea that the outcome of the 404, 401, and 1600 permits they were issuing resulted in these extreme measures. The SWRCB should not rely on a Waterkeeper who happens to be a pilot and happens to recognize what he is seeing.

We should note that the photos have resulted in a "pause" to re-evaluate the Salinas River Channel Maintenance program. In 2009 MCWRA again advanced a Mitigated Negative Declaration in their 404 permit application to bulldoze 92 miles of river bottom. The RWQCB did NOT 401 certify the program and MCWRA is now doing additional environmental review.

As stated in your IS, 27% of fill acres in 2003 were due to "Channel Flood Control." We believe the Wetland Area Protection Policy and Dredge and Fill Regulations should anticipate projects and tensions such as outlined here. All farmland cannot be protected from inundation and creation of regulations to protect every acre are inappropriate. In addition, the permit should anticipate outcomes on the land such as shown in Photo 4.

Thank you for the opportunity to comment on the Wetland Area Protection Policy and Dredge and Fill Regulations. If you have any question or would like to see further examples of what is happening on the land or water, please do not hesitate to visit, call, or email.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve Shimek". The signature is fluid and cursive, with the first name being more prominent.

Steve Shimek
Chief Executive

Pictures 1-5 and Attachment 1 follow.

Photo 1. The fallow farm field that has flooded has obviously been cut from the Salinas River riparian corridor (see square borders to each side of the field). We do not know if the field was cut legally or illegally. It is impossible to keep fields such as this from flooding.



Photo 2. Very frequently drainages from the bordering mountains or hills are cut off and drain directly into farmlands. Usually, a low-capacity ditch adjacent to fields can carry some water, but larger rain events flood the fields.



Photo 3. In this situation a grower has farmed the bottom of an intermittent arm of the Salinas River. The field has flooded.



Photo 4 - Channel Maintenance. The white areas are bare sand. This project was part of the 2004-2009 Salinas River Channel Maintenance Program permitted to clear over 60 miles of the Salinas River. The program was granted an ACE 404 permit after receiving a 401 certification from the RWQCB. The environmental review was a cursory Initial Study and Mitigated Negative Declaration. Landowners were each responsible for clearing their own stretch of River and obtaining DFG 1600 permits. All vegetation has been removed except for a very thin strip along the low water channel. The farmstead in the lower right offers scale.



Photo 5. This is a view of the same section of the Salinas River after a storm event. The channel clearing obviously did not offer flood protection.



MONTEREY COUNTY

WATER RESOURCES AGENCY



PO BOX 930
SALINAS, CA 93902
(831) 755-4860
FAX (831) 424-7935

CURTIS V. WEEKS
GENERAL MANAGER

November 28, 2007

STREET ADDRESS
889 BLANCO CIRCLE
SALINAS, CA 93901-4455

Mr. Roger Briggs
Executive Officer
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

Subject: City of Salinas Draft SWMP Required Revisions

Dear Mr. Briggs,

This letter is in response to the Public Notice on the above subject document. The Monterey County Water Resources Agency (MCWRA) operates and maintains the Reclamation Ditch that empties flood waters from the north central part of Monterey County (approximately 150 square miles) including the City of Salinas into the Tembladero Slough that eventually goes into Moss Landing Harbor and then to the Monterey Bay National Marine Sanctuary. The Reclamation Ditch is a manmade earthen channel built over 80 years ago and not a natural stream or creek.

Reference is made to comment 39 on page 10 and the associated footnote 2 on page 12. The Reclamation Ditch is included incorrectly as a natural creek or stream. The Reclamation Ditch must be maintained to include clearing, compaction and excavation among other activities in order to pass flood waters. If obstructions are allowed to occur and remain in the Reclamation Ditch without proper maintenance of clearing and excavation, localized flooding will occur with the high potential of loss of property and/or life. It is requested that any reference to the Reclamation Ditch be removed from the document.

Sincerely,

Bob Meyer
Chief Engineer Operations and Maintenance

cc: Carl Niizawa, Deputy Engineer, City of Salinas

