

Wetland Area Protection Policy and Dredge and Fill Regulations for California

Public Workshops and CEQA Scoping

Sacramento: January 31, 2011

San Diego: February 8, 2011

Today's Agenda

1. Welcome, introductions, meeting mechanics
2. Workshop
 - Explain and discuss the proposed Policy and regulations
3. Next steps for the Policy and Regulations
4. CEQA Scoping Meeting
 - Explain and receive comments on the Initial Study

Policy Purpose

- ◆ Protect all Waters of California, including Waters of the US, from dredge and fill discharges
- ◆ Provide a wetland definition for the state
- ◆ Standardize Water Board dredge and fill permitting procedures



Why Do We Need a New Policy?

California laws and policies require protection of ALL waters of the state, with no net loss and overall gain in the quantity, quality, and permanence of wetlands.



Why Do We Need a New Policy?



- ◆ Urgent need to do a better job of protecting remaining wetland resources
 - 91% of California's wetlands – 4.5 million acres – have been lost
- ◆ Federal jurisdiction/protection of waters is diminishing
- ◆ Uncertainty and inconsistency in dredge and fill permitting process

How Water Boards Currently Protect State Waters from Dredge and Fill Discharges

- ◆ Clean Water Act certifications (“401 certs”) for waters of the US – with Corps of Engineers
- ◆ Waste Discharge Requirements
 - For projects excluded from this Policy
 - For discharges to non-federal waters
- ◆ Discharge Prohibitions

What's being considered for the Policy?

- ◆ New statewide definition of wetlands
- ◆ Guidance for applicants and permit writers
- ◆ Watershed approach to compensatory mitigation planning
- ◆ Standardized monitoring and assessment methods



Proposed Wetland Definition

“An area is wetland if, under normal circumstances, it

- 1) Is saturated by ground water or inundated by shallow surface water for a duration sufficient to cause anaerobic conditions within the upper substrate;
- 2) Exhibits hydric substrate conditions indicative of such hydrology; and
- 3) Either lacks vegetation or the vegetation is dominated by hydrophytes.”



Requirements for Applicants

- ◆ Avoid impacts to water quality or integrity of wetlands
- ◆ Present feasible alternatives to the project



Requirements for Applicants



- ◆ Minimize unavoidable impacts
- ◆ Follow proposed compensatory mitigation guidelines

Compensatory Mitigation Plans

- ◆ When allowed, must account for:
 - Mitigation near the impacted wetland
 - Replacement and/or enhancement of any lost water quality function or value
 - Restoration, establishment, enhancement, or preservation of wetland resource
 - Long-term maintenance/monitoring plan, with financing assured

Permit Denial

- ◆ The Water Boards may deny a permit application, if:
 - A practicable alternative would have less impact on water quality
 - Project violates a regional Basin Plan
 - Project fails to comply with CEQA
 - Project jeopardizes a listed species or critical habitat
 - Project endangers a designated protected site or area

Proposed Exclusions from the Policy

- ◆ Projects may still be required to obtain permits:
 - Prior Converted Cropland (converted from non-ag use to cropland before 12/95)
 - “Constructed wetlands” (treatment wetlands, drainage basins, farm ponds)
 - “Normal farming activities” and other activities exempted in the Clean Water Act

Next Steps & Target Dates

CEQA scoping comments due	May 20, 2011
Release draft EIR, Policy, and regulations for public review and comment	Summer 2011
Public Hearing (during comment period)	Summer 2011
State Water Board Workshop	Fall 2012
State Water Board Adoption Hearing	Fall 2012

Questions?





CEQA Scoping Meeting



The California Environmental Quality Act (CEQA)

- ◆ Designed to minimize harmful impacts to the environment
- ◆ Applies to projects conducted, approved, or permitted by government agencies
- ◆ Ensures that government listens and responds to the public

Effects to Consider Under CEQA

Do consider:

- **Direct** physical changes in the environment
- Reasonably foreseeable **indirect** effects of the project (e.g., growth-inducing or other effects related to land use changes)

Need not consider:

- Changes to the environment from effects considered elsewhere
- Changes that would occur regardless of the Policy
- Changes that are speculative

CEQA Process for This Project

- ◆ We “scoped” previously, when fewer details were available
- ◆ Today’s purpose: Take public comments on the Initial Study
 - Management has determined that a full Environmental Impact Report is in order

The Initial Study

- ◆ Outlines CEQA requirements
- ◆ Explains that this is a Program-level analysis
- ◆ Describes the Water Boards' current wetland definitions/descriptions
- ◆ Summarizes the project
- ◆ Presents the project's Environmental Checklist

The Environmental Checklist

- ◆ Frames the project and provides a structure for public input
- ◆ Evaluates the project's potential to result in:
 - Potentially significant impacts
 - Impacts that will be less than significant with mitigation measures incorporated in the project
 - Less than significant impacts
 - No Impacts

CEQA Categories of Concern

- Aesthetics
- Agricultural / Forestry resources
- Air quality
- Biological resources
- Cultural resources
- Geology and soils
- Greenhouse gas emissions
- Hazards and hazardous materials
- Hydrology and water quality
- Land use and planning
- Mineral resources
- Noise
- Population and housing
- Public services
- Recreation
- Transportation / traffic
- Utilities and service delivery systems
- Public health and vector control

“Less than significant with mitigation incorporated”

- ◆ Program-level policy is designed to protect wetlands and water quality
- ◆ Local projects must undergo project-level CEQA review, and incorporate mitigation measures for unavoidable impacts (as approved)
- ◆ Water Board permit staff will shape projects for insignificant impacts

We Welcome Your Comments!

- ◆ Submit written comments to

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

Fax to 916.341.5620

Email commentletters@waterboards.ca.gov

Subject line: Wetland Area Protection Policy
& Regulations

- ◆ Deadline for comments May 20, 2011, noon

