



Contra Costa County  
Public Works  
Department

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September 18, 2017



Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814

RE: Comments on the Final Draft of the  
Statewide Dredged or Fill Procedures

Dear Ms Townsend:

The Contra Costa County Public Works Department (CCCPWD) and Flood Control and Water Conservation District (CCCFCD) appreciate the opportunity to provide comments on the *State Water Resources Control Board's Procedures for Discharges of Dredged or Fill Materials to Waters of the State* (the Proposed Procedures).

As mentioned in our first comment letter, the CCCPWD manages road infrastructure in unincorporated Contra Costa County and the CCCFCD manages stormwater infrastructure in both unincorporated County and the County's incorporated cities. Both CCCPWD and CCCFCD are charged with protecting the health, welfare, and property of the residents of Contra Costa County.

We offer the following comments on the final draft of the Proposed Procedures:

**Project Application Submittal:** We appreciate that the Proposed Procedures were revised to allow applicants to identify impacts to a thousandth of an acre. This will allow us to more accurately characterize our impacts which are often very small. We would again recommend that impacts to Waters of the state below 0.05 acre be considered non-reporting and not subject to permitting approvals or mitigation. This would allow agencies and regulators to concentrate efforts and resources on larger projects where the effort will reap the most benefit.

**Least Environmentally Damaging Practicable Alternatives Analysis:** It is unclear what type of analysis is required for Tier 3 projects that impact more than 0.2 acre and is a project that inherently cannot be located in an alternate location. We recommend that this be clarified, that only an analysis for on-site alternatives be required, and that all on-site alternative analysis be limited to accepted engineering practices.

**Compensatory Mitigation:** Lines 570 through 578 imply that minor or routine maintenance activities are not likely to result in significant degradation to the aquatic environment. Additionally several sections of the Proposed Procedures suggest that compensatory mitigation be commensurate with the impact. However, it is left up to the permitting authority on a project-by-project basis to determine if compensatory mitigation will be required, which is unsettling to agencies whose mission it is to maintain flood control facilities and public infrastructure. If mitigation is required, the potential for additional studies is extensive and could result in costly and time consuming efforts. It is extremely important that permitting authorities understand and consider the responsibilities and limitations of flood control and public infrastructure agencies and make determinations accordingly. Requiring compensatory mitigation for routine operation and maintenance places an undue burden on agencies who are dealing with existing infrastructure with limited resources. We continue to recommend that routine operation and maintenance of existing facilities should be exempt from compensatory mitigation under the Final Procedures provided that the activities return the facility to the intended operational condition and it can be shown that measures are incorporated to reduce temporary impacts.

**Additional Information Required for Complete Application:** The majority of potential requirements are to be determined on a case by case basis. Although the flexibility allows for consideration of the unique aspects of each project, it creates uncertainty for the permittee and does not facilitate the consistency the Proposed Provisions seek to achieve. We request clear acknowledgement in the Final Procedures that low impact projects should not trigger the optional additional information required for a complete application, and we appreciate any efforts by the State and Regional Boards to consider a projects' scale in their regulatory process.

Regarding wet season delineations, current wetland delineation guidelines and procedures allow dry season delineations. The Proposed Procedures suggest the State and Regional Boards can require wet weather delineations if they believe there is a reason to do so. This requirement could add considerable time to a project's schedule and we believe it is unwarranted. The science of delineating wetlands relies on hydric indicators that are present regardless of season. A high quality wetland delineation provides accurate results even in late summer or early fall. We recommend that wet season delineations only be required to resolve uncertainties with dry season delineations if they occur.

Thank you again for the opportunity to comment on the Procedures for Discharges of Dredged or Fill Materials to Waters of the State. Please contact Avé Brown at (925) 313-2311 or [ave.brown@pw.cccounty.us](mailto:ave.brown@pw.cccounty.us) if you have any questions regarding these comments.

Sincerely,



for Brian Balbas  
Interim Public Works Director

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c: M. Carlson, Deputy Director  
A. Brown, Environmental Services  
M. Wara, Administration