



8 September 2017

Dear Members of the Board,

I am writing to urge you to act quickly to adopt a statewide wetlands policy that will protect California's wetlands (Statewide Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State, July 21, 2017 draft proposed amendments).

Wetlands provide essential habitat for the wildlife of our state, and also protect against floods, recharge groundwater and improve water quality. Yet California has lost over 90 percent of its historic wetlands, and additional wetland acres are destroyed and degraded every year.

Current state and federal protections for wetlands are inadequate, and if the State Water Resources Control Board fails to act quickly, we could lose our remaining wetland resources once and for all. Once the Trump administration repeals and weakens the federal Clean Water Rule, many important California wetlands, including vernal pools, will be stripped of Clean Water Act protections. With the federal government out of the picture, effective state regulation is essential, and the current approach has not provided effective protection or conservation.

By finalizing the draft wetlands policy soon, you can fill the void left by Trump administration's rollbacks and help to preserve California's wetlands and wildlife.

Before adopting the policy, however, the following changes are necessary to make sure it's effective.

Compensatory mitigation. The compensatory mitigation requirements should be strengthened to ensure that every lost wetland acre is replaced. The minimum mitigation ratio of one-to-one and the case-by-case consideration of mitigation ratios of less than one are not appropriate because these ratios fundamentally undermine the State's existing no-net loss policy, and do so in the following manner:

- The scientific research has clearly shown that mitigation wetlands do not fully replicate natural wetland functions and values. This means that a mitigation ratio of one-to-one is actually a ratio of one-to-some-amount-less-than-one immediately upon application.
- Conserving one mile of stream for each stream mile lost to development still means there is one less stream mile on the landscape. To achieve zero net loss of our wetland resources will require a baseline mitigation ratio of two-to-one, and if we are going to turn the tide on the ongoing loss of our wetlands then there can be no option for mitigation ratios of less than that.

If we want to get out of this particular hole then we must certainly stop the digging.

Closure of the agricultural wetlands loophole. After decades of land conversion and wetland destruction, some of California's most important remaining wetland habitats are located on agricultural land. In the current draft policy, wetlands on lands designated as Prior Converted Cropland (PCCs) are excluded from the application procedures unless the PCC (1) changes to a non-agricultural use, or (2) is abandoned. The exclusion and overly-limited recapture provision leave open the possibility that important wetlands on lands designated as PCCs could be destroyed without any oversight from the Regional Boards. In particular, the draft policy would not require a landowner to receive a permit to destroy wetlands on a PCC if the land is still being used for agriculture. This means a landowner could, without any permitting oversight, deep rip or even fill wetlands on a PCC to plant an orchard. Once the wetlands are gone, the landowner could replace the orchard with development. The loss of wetlands on PCCs to either incompatible agricultural uses or development is enormously problematic and inconsistent with California's no-net-loss policy.

The best way to remedy this problem is to eliminate the exclusion for PCCs making wetlands on PCCs subject to the same permitting requirements as any other wetlands. Eliminating the exclusion would help to create a policy that is clear, consistent, and protective of wetlands and strengthen the Regional Boards' authority over wetlands on PCCs to ensure compliance with the statewide no-net-loss policy.

With these changes, you can protect our wetlands and help make certain California complies with its no-net-loss obligations.

Please act fast to save California's wetlands. The board's leadership on this issue is more important than ever before. I hope that you will rise to this occasion, and I thank you for considering my perspectives.

Kirk H. Vyverberg
2974 Govan Way
Sacramento, California 95818
916.212.7693