

September 18, 2017

Chair Felicia Marcus and Board Members
c/o Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I St., 24th Floor
Sacramento, CA 9814

Sent via electronic mail to: commentletters@waterboards.ca.gov



RE: Comment Letter – Statewide Dredged or Fill Procedures

Dear Chair Marcus and Board Members:

San Diego Coastkeeper is a local non-profit environmental organization, based in San Diego dedicated to protecting and restoring swimmable, fishable, drinkable waters in San Diego County. We appreciate the opportunity to comment on the revised draft of the State Wetland Definition and Procedures for Discharges of Dredged or Fill Materials to Waters of the State. We also appreciate the State Water Board's efforts to address the public comments received last year to the initial draft and to strengthen the policy accordingly. While we are pleased with the revised draft and the jurisdictional framework it establishes, we do offer a few changes we believe are critical to maximizing the efficacy of the policy. We also ask that the Board finalize this policy as soon as possible to secure these environmental protections and provide regulatory certainty in these uncertain times.

This policy, which will clarify the state's jurisdiction over California wetlands under state law and establish regular, uniform procedures for their protection, is critical for safeguarding these valuable ecosystems and the communities that depend on them. California has already lost more than 90% of the wetlands that once thrived across the state. Our remaining wetlands are vital for the health of our waterways, wildlife, and communities by filtering toxins, buffering flooding, replenishing groundwater supplies, and providing essential habitat. In San Diego, our valuable wetlands provide irreplaceable habitat for several endangered species and help cushion our coastal communities from the menace of sea level rise.

Today, these systems are at greater risk than ever from an onslaught of federal rollbacks under the Trump Administration. In particular, efforts to repeal and weaken the Waters of the United States Rule, which would eliminate critical federal protections, could have profound impacts on California wetlands. Mesas dotted with vernal ponds and canyons with intermittent streams once characterized San Diego's inland aquatic landscape. These unique biological systems are host to a plethora of rare species and provide important food sources for migratory bird species, but are under constant threat as these same mesas remain popular targets of development projects.

In response to these threats, the State Water Board has released a new draft of the policy intended to halt the destruction of California's remaining wetlands. This draft includes an unambiguous wetlands definition and a clear process for determining whether a feature that meets this definition is entitled to waters of the state protections under the Porter-Cologne Act. We are also encouraged to see that the policy prioritizes avoidance and minimization of impacts over mitigation. The framework established by this draft will help create a uniform permitting approach across regions, provide regulatory certainty, and go a long way towards protecting California's wetlands. Given the threat posed by ongoing regulatory revisionism under the Trump Administration, adoption of this policy provides an invaluable opportunity to protect California's wetlands under state law even if federal Clean Water Act protections are rolled back.

While we are pleased with certain elements of the draft, there are, however, some changes remaining we believe are necessary to ensure that the Board adopts a policy that is truly protective. First, we ask that the Board

strengthen the compensatory mitigation requirements so that mitigation ratios are always one-to-one or greater to ensure compliance with the no-net-loss policy. This is particularly important as mitigation wetlands typically do not perform as well as natural wetlands. Secondly, the exemptions to the alternatives analysis requirements must be refined to ensure that the Regional Boards always follow the guidelines regarding required level of analysis. Finally, we ask that the Board close a loophole for prior converted croplands. As currently drafted, this loophole could be exploited to exacerbate the destruction of natural wetlands on certain agricultural lands to make way for urban sprawl.

The revisions that have been made to previous drafts of the statewide dredged and fill procedures are vital to maximizing the effectiveness of the policy. We are pleased to offer our support for these revisions and the Board's efforts, more broadly, to protect our critical wetland habitats, particularly in light of new threats and uncertainty at the federal level. We ask that the Board consider the additional changes we have requested above, which we believe are essential for protecting the state's last wetlands, but also request that there is no significant deviation from the currently proposed timeline in adoption of the policy.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Meyers', with a long horizontal flourish extending to the right.

Meredith Meyers, PhD
Staff Scientist/ Water Quality Lab Manager
San Diego Coastkeeper