



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Habitat Conservation Planning Branch
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 Sacramento, CA 95814
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EDMUND G. BROWN JR., Governor
 CHARLTON H. BONHAM, Director



Public Comment
 Statewide Dredged or Fill Procedures
 Deadline: 9/18/17 by 12 noon

September 15, 2017

Ms. Jeanine Townsend, Clerk to the Board
 State Water Resources Control Board
 1001 I Street, 24th Floor
 Sacramento, California 95814



Comments on Statewide Dredged or Fill Procedures

Dear Ms. Townsend:

The California Department of Fish and Wildlife (CDFW) appreciates the opportunity to comment on the “State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State” (Procedures) proposed by the State Water Resources Control Board (State Water Board). California has lost more than 90 percent of its historical wetland acreage. The State Water Board plays a critical role in the effort to meet the goals of the California Comprehensive Wetlands Policy set forth in Executive Order W-59-93 to ensure no overall net loss and achieve a long-term net gain in the quantity, quality, and permanence of wetland acreage and values in California in a manner that fosters creativity, stewardship and respect for private property. The Procedures will strengthen protection for waters of the state and better prevent the loss of wetlands in California.

The Procedures help eliminate ambiguity in the determination of whether a given site is a wetland based on the three wetland indicators of hydric soils, wetland vegetation, and hydrology. Under the Procedures, all three indicators must be present. In this context, CDFW believes that this definition will provide increased protection for California wetlands and better achieve the “no overall net loss” goal of Executive Order W-59-93.

While CDFW supports the State Water Board’s efforts to define wetlands and those that are considered waters of the state, CDFW considers this definition to apply specifically to State Water Board programs, but not to CDFW in its regulatory or policy applications. Instead, CDFW will continue to apply a wetland definition similar to that of the U.S. Fish and Wildlife Service as this definition more definitively supports CDFW’s trustee responsibilities and mission. CDFW looks to the three wetland indicators mentioned above, but where less than three indicators are present, CDFW’s approach allows for identification of a wetland by its demonstrable use by wetland associated fish or wildlife resources, related biological activity, and wetland habitat values. These areas may include, but are not limited to, upland/wetland and riparian/wetland transition zones that support wetland values and wetland-dependent fish and wildlife resources.

The Procedures specify that Ecological Restoration and Enhancement Projects (ERE Projects) when applying for a waste discharge requirement are not required to provide

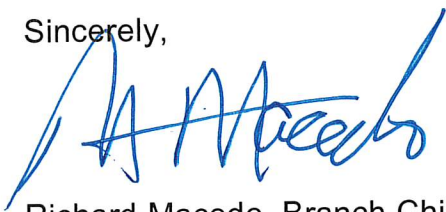
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an alternatives analysis, that is, an analysis of alternatives to the project that would have less adverse impact on the aquatic ecosystem. CDFW supports improving the overall efficiency of the permitting process for wetland restoration projects. However, CDFW is concerned that the proposed ERE Projects definition may be too broad and may inadvertently allow projects with only a minor or insignificant wetland restoration component to qualify when an alternatives analysis would be most appropriate. As proposed, ERE Projects are not limited to those state or federal agencies with the statutory mandate to manage natural resources, but is available to all agencies. CDFW recommends the ERE Projects definition as applied to federal or state agencies be limited to those federal and state agencies statutorily tasked with natural resource management and implementing projects with a primary purpose of wetland restoration.

Finally, the Procedures specify a minimum one-to-one acreage or linear foot compensation ratio will be used to determine the amount of compensatory mitigation necessary to offset environmental losses. CDFW agrees, as the State Water Board Staff Report accompanying the Procedures states, that the appropriate amount of compensatory mitigation varies depending on whether the mitigation project is fully established, the time required to develop a full range of functions, the level and type of any anthropogenic degradation, locational factors, likelihood of success, and the level of aquatic function being impacted. In CDFW's experience, it would be extremely rare for less than a one-to-one ratio to apply and a significantly higher ratio of compensatory mitigation generally is required to offset the known reduced environmental efficiency of mitigation wetlands, to avoid the reduction of wetland acreages at individual mitigation locations, and to ensure the attainment of the California Comprehensive Wetlands Policy "no overall net loss" goal for wetland protection.

CDFW appreciates the State Water Board's efforts to better protect California wetlands, improve consistency across its regions, and set forth clear procedures for the regulation of discharges of dredged or fill material for all waters of the state. Should you have any questions or require clarification regarding these comments, please contact me at 916-653-386, or by email at richard.macedo@wildlife.ca.gov.

Sincerely,



Richard Macedo, Branch Chief
Habitat Conservation Planning Branch

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