



Linda S. Adams  
Secretary for  
Environmental Protection

# State Water Resources Control Board

## Division of Water Quality

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Arnold Schwarzenegger  
Governor

## NOTICE OF A PROPOSED BOARD RESOLUTION TO DEVELOP A POLICY TO PROTECT WETLANDS AND RIPARIAN AREAS, AND OPPORTUNITY FOR PUBLIC COMMENT

**NOTICE IS HEREBY GIVEN** that the State Water Resources Control Board (State Water Board) will consider adoption of a proposed resolution supporting the development of a statewide policy to protect wetlands and riparian areas (Policy) at its meeting on March 18, 2008 in Sacramento. The Policy recognizes that streams and wetlands play a critical role in California watersheds by promoting the health and existence of other vital natural resources, and by providing significant economic benefits to society in areas such as flood control and recreation. There is a need to protect the remaining wetlands and riparian areas since over 85 percent of these resources have been lost to development.

The location and time of the Board meeting is:

March 18, 2008 – 10 a.m.  
Cal/EPA Headquarters Building  
Coastal Hearing Room  
1001 I Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814

### BACKGROUND

The State has relied primarily on requirements of the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) (Clean Water Act) to control water quality impacts from activities in wetlands and riparian areas. However, recent U.S. Supreme Court rulings have reduced the jurisdiction of the Clean Water Act over wetland and riparian areas by limiting the definition of “waters of the United States” (*Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 2001 and *Rapanos. v. United States*, 2006).

In 2004, State Water Board staff initiated a plan upon the California Environmental Protection Agency’s request (*Workplan: Filling the Gaps in Wetland Protection*) to address the waters of the State that are no longer subject to regulation under the Clean Water Act. This plan included developing a statewide policy for wetland protection. As an immediate action, the State Water Board adopted general waste discharge requirements for minor discharges to non-federal waters ([Water Quality Order 2004-0004](#), May 4, 2004).

In 2005, the U.S. Environmental Protection Agency provided the North Coast and San Francisco Bay Regional Water Quality Control Boards grant funds to conduct wetland-related basin planning, including development of a statewide wetland definition in coordination with the State Water Board. This work is currently underway.

In 2007, State Water Board staff completed public scoping meetings on Policy alternatives and considered comments received in accordance with the California Environmental Quality Act. The comment letters can be viewed at: [http://www.waterboards.ca.gov/cwa401/comments\\_wrapp.html](http://www.waterboards.ca.gov/cwa401/comments_wrapp.html) .

## **PROPOSED RESOLUTION**

The proposed resolution directs State Water Board staff to examine the environmental issues, evaluate the relevant alternatives, and make recommendations regarding the Policy. To ensure a comprehensive scope, staff is directed to consider additional alternatives and recommendations than those outlined in the 2004 Workplan.

Further, because successful Policy implementation relies on a supporting level of internal program infrastructure, the resolution directs that a three-phased Policy framework be implemented. This will allow for the major policy areas to be addressed in a step-wise fashion, providing adequate time for commensurate program development. The resolution will also direct that the Policy support efforts to collect wetland data to monitor progress towards wetland protection and to evaluate the level of program resources needed to undertake the next phases.

The proposed resolution directs staff to develop the State Water Board's wetland and riparian area protection Policy in three phases, beginning with the first phase now.

Phase 1 – establish a Policy to protect wetlands from dredge and fill activities. Staff is directed to develop and bring forward for State Water Board consideration: (a) a wetland definition that would rely on the United States Army Corps of Engineers' wetland definition to the extent feasible, but would also reliably define the diverse array of California wetlands, (b) a wetland regulatory mechanism based on the 404 (b)(1) guidelines (40 C.F.R. parts 230-233) that includes a watershed focus, and (c) an assessment method for collecting wetland data to monitor progress toward wetland protection and to evaluate program development.

Phase 2 – expand the scope of the Policy to protect wetlands from all other activities affecting water quality. Staff is directed to develop and bring forward for State Water Board consideration: (a) new beneficial use definitions, (b) water quality objectives, and (c) a program of implementation to achieve the water quality objectives, as necessary, to protect wetland-related functions.

Phase 3 – extend the Policy’s protection to riparian areas. Staff is directed to develop and bring forward for State Water Board consideration: (a) new beneficial use definitions, (b) water quality objectives, and (c) a program of implementation to achieve the water quality objectives, as necessary, to protect riparian area-related functions.

Finally, the resolution directs staff to use a collaborative process involving the Regional Water Quality Control Boards, other State and federal agencies and interested stakeholders. At all phases, the Policy is intended to complement and support Region-specific plans and policies to protect wetlands and riparian areas.

## **DOCUMENT AVAILABILITY**

The proposed resolution to develop the Policy may be obtained via the Internet on the State Water Board Web site at:

<http://www.waterboards.ca.gov/cwa401/index.html#new> .

You may also receive a paper copy of the proposed resolution by writing to Welcom Ang, State Water Resources Control Board, 1001 I St., Sacramento, CA 95814 or email: [WAng@waterboards.ca.gov](mailto:WAng@waterboards.ca.gov).

Interested parties may subscribe to an email list for future notifications about the proposed Policy at: [http://www.waterboards.ca.gov/lyrisforms/swrcb\\_subscribe.html](http://www.waterboards.ca.gov/lyrisforms/swrcb_subscribe.html) : choose Dredge or Fill Policy.

## **SUBMISSION OF WRITTEN COMMENTS**

Written comments are welcomed and encouraged. To be considered, written comments on the proposed resolution should be submitted by **12 p.m. on March 5, 2008**. Written comments are to be addressed and submitted to:

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814  
Fax (916) 341-5621

Email comments should be sent to: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov) .

Please also indicate in the subject line, “Comment Letter – Policy to Protect Wetlands and Riparian Areas.”

## ORAL COMMENTS

Time limitations on oral presentations may be imposed. Please coordinate oral presentations with others with similar comments. For other presentation recommendations, see "Presentations to the Board" at:

<http://www.waterboards.ca.gov/board.html>.

## PARKING AND ACCESSIBILITY

All visitors are required to sign in and receive a badge prior to attending any meeting in the building. The Visitor and Environmental Services Center is located just inside and to the left of the Cal/EPA Building's public entrance. Valid picture identification may be required due to the security level. Please allow up to 15 minutes for receiving clearance before proceeding to the Coastal Hearing Room.


Individuals who require special accommodations are requested to call (916) 341-5881 at least five working days prior to meeting date.

Persons with hearing or speech impairments can contact us by using the California Relay Service TDD. TDD (Telecommunications Device for the Deaf) is reachable only from phones equipped with a TDD Device. HEARING IMPAIRED RELAY SERVICE: TDD to voice 1-800-735-2929, Voice to TDD 1-800-735-2922.

## ADDITIONAL INFORMATION

Please direct questions about this notice to Bill Orme at (916) 341-5464 or [borme@waterboards.ca.gov](mailto:borme@waterboards.ca.gov).

February 15, 2008  
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Date

  
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Jeanine Townsend  
Clerk to the Board