



COUNTY OF SISKIYOU

Board of Supervisors

P.O. Box 750 □ 1312 Fairlane Rd
Yreka, California 96097
www.co.siskiyou.ca.us

(530) 842-8005
FAX (530) 842-8013
Toll Free: 1-888-854-2000, ext. 8005

September 05, 2017

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

Subject: Preliminary Draft for State Wetland Definition and Procedures for Discharges of Dredged or Fill Materials to Waters of the State

Dear Ms. Townsend:

The Siskiyou County Board of Supervisors would like to provide the following comments on the *Preliminary Draft for State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Preliminary Draft). Attached is a letter that the County previously submitted to the State Water Resources Control Board (State Board) during its 2016, release of the Preliminary Draft of the proposed procedures.

This current version of the Preliminary Draft continues to duplicate efforts already regulated by federal, state, and local laws through activities under the US Army Corps of Engineers (Army Corps) Clean Water Act, and the Environmental Protection Agency's regulations for discharges of pollutants into waters of the United States. Under the Clean Water Act, state agencies such as the State and Regional Water Boards have the opportunity to review and revise projects permitted by the Army Corps, and The Porter-Cologne Water Quality Control Act outlines that State and Regional Water Boards will regulate discharge of waste into waters of the state. The California Department of Fish and Wildlife performs similar work through their streambed alteration agreement process. Duplication and redundancy heavily impacts an already burdened and regulated system and increases unnecessary efforts for landowners and business owners by requiring additional work and cost, and causing more delays to projects and proactive activities that aim to improve water quality and quantity.

The wetland definition included in the Preliminary Draft has the real and lasting potential to drastically increase the acreage of property regulated as a wetlands, because it would allow wetted areas without a nexus to a water of the United States to be regulated (which according to past documentation appears to be the State Board's reasoning for developing the rule). This wetland definition does not align with the federal definition of wetlands and would extend to small and completely isolated features, and would include features that are not currently under the federal

Brandon Criss
District 1

Ed Valenzuela
District 2

Michael N. Kobseff
District 3

Lisa Nixon
District 4

Ray Haupt
District 5

definition of a wetland. The Preliminary Draft and wetland definition could impact canals, constructed waterways, non-vegetated areas, and others which have not historically been identified as “wetlands” or “waters of the state” (and have previously been covered under exemptions). Implementation of these terms and rules will impact daily operation and maintenance activities performed by landowners, farmers, ranchers, small privately owned construction companies, and others.

The Preliminary Draft states on page 2 under wetland definition 4(d) that:

... the following artificial wetlands are not waters of the of the state unless they also satisfy another one of the above criteria.

- i. Industrial or municipal wastewater treatment or disposal,
- ii. Settling of sediment,
- iii. Storm water detention, infiltration, or treatment,
- iv. Agricultural crop irrigation or stock watering,
- v. Fire suppression,
- vi. Cooling water,
- vii. Active surface mining – even if the site is managed for interim wetlands functions and values, or
- viii. Log storage.

However, these criteria would be triggered under wetland definition 4(c), where an area is considered a wetland and water of the state if it is an artificial wetland that resulted from historic human activity and has become a “relatively” permanent part of the natural landscape. Therefore, the items listed above would be considered a water of the state if they resulted from human activity, which could be any of them and negates the reasoning for exempting these activities. Essentially, the State Board through this Preliminary Draft is allowing itself to impose jurisdiction over almost any watered area or waterway throughout the entire state of California.

Implementation of the Preliminary Draft would result in clear government overreach, overlapping and more complex permitting processes and requirements, with much confusion regarding the differing definitions of wetlands between state and federal agencies. Implementation would further restrict activities in areas determined as “wetlands” by the state. These same concerns, and others, have also been expressed by the Army Corps, local and state Farm Bureau Federation’s, irrigation districts, water coalitions, law firms, and others.

Lastly, adding more burden and processes on the State Board itself would be detrimental to an agency that has limited staff and funding resources, would interfere with already existing programs, and would further delay projects performed between the State Board and landowners.

If you have any questions or to further discuss these issues, please contact Elizabeth Nielsen, Siskiyou County Natural Resource Policy Specialist at (530) 842-8012, or by email at enielsen@co.siskiyou.ca.us.

This letter was approved by the Siskiyou County Board of Supervisors on September 05, 2017, by the following vote:

AYES: Supervisors Criss, Haupt, Valenzuela, Nixon and Kobseff

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

Sincerely,

A handwritten signature in black ink, appearing to read "Michael N. Kobseff", with a long horizontal flourish extending to the right.

Michael N. Kobseff, Chair
Board of Supervisors