



Audubon CALIFORNIA

3/18/08 Bd. Mtg. Item 11
Wetlands & Riparian Areas
Deadline: 3/5/08 by 12 p.m.

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March 4, 2008

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

Dear Ms. Townsend:

On behalf of the Audubon California and our more than 100,000 members and supporters in California, we are pleased to submit the following comments on the proposed State Water Board Resolution to Develop a Policy to Protect Wetlands and Riparian Areas.

We strongly support the Board's effort to create a much-needed wetlands protection strategy in California. We also support the phased approach being identified in the Proposed Resolution. However we urge the Board to move aggressively through the proposed stages in order to arrive at a comprehensive state-based solution to the issues brought forth by recent wetlands jurisdiction decisions at the federal level. We are concerned that absent strong federal protections once afforded by the federal Clean Water Act, many wetland areas in California are at far greater risk to activities that could adversely effect key habitat values. The need for prompt and comprehensive action by the Board is great.

Audubon California's Interest in Protecting Non-navigable Tributaries and Their Wetlands

Our mission is to conserve and restore natural ecosystems, focusing on birds, other wildlife, and their habitat, for the benefit of humanity and the Earth's biological diversity. To further this mission, we work to preserve our state's waters, including wetland ecosystems, and to ensure that the regulatory agencies maintain broad jurisdiction over wetlands and tributaries.

The potential loss of wetlands as the result significant changes in federal jurisdiction is of great concern to Audubon. Approximately 237,000 hectares of wetlands, 98% of which are freshwater wetlands, were lost between 1986 and 1997 in the United States – resulting from urban and rural development, agriculture, and forest plantations. To redress this loss, administrative measures initiated between 1998 and 2004 led to an estimated net gain of wetlands in the United States of 77,630 hectares. This progress will be jeopardized and wetland loss will accelerate if there is a retreat from these prior policies.

The Ecological Health of Our State's Waters Depends on Maintaining Healthy Wetlands for Wildlife.

Hundreds of species of migratory birds have a biological nexus to waters and wetlands of California. Through a process of scientific peer review Audubon California has designated 148 Important Bird Areas (IBA's) in California. IBAs are sites that provide essential habitat for one or more species of birds and they include sites for breeding, wintering, and/or migrating species. Of the 148 identified Important Bird Areas in California more than 90% include a significant wetland and/or riparian component.

Since many California IBAs include intermittent streams, without prompt action by the Board such areas may be compromised or lost, causing harm to the ecological health of both the area and its related waters. Audubon is particularly concerned that the exclusion of intermittent streams, ditches, and erosion features will threaten many California IBA's.

Audubon is also concerned that these habitats be preserved because, among other reasons, many wetland birds found on *The Audubon/American Bird Conservancy (ABC) 2007 WatchList of United States Birds of Conservation Concern* prefer to nest around non-navigable tributaries and their associated wetlands. The WatchList specifically highlights those bird species experiencing a crisis due to habitat modification and global warming such that they exhibit the greatest conservation needs. Since many of these species are often found in wetlands where the significant nexus to navigable waters could be difficult to prove, these wetlands could lose protection under current federal practices.

Here in California, the California Black Rail (*Laterallus jamaicensis coturniculus*), a threatened species in California is generally found in permanent or ephemeral freshwater and brackish marshes as well as isolated wet meadows often far from jurisdictional wetlands. If an isolated wetland is removed from federal protection and is filled for development or is polluted with toxic chemicals, that Black Rail may be unable to find another adequate wetland for breeding purposes, which could lead to population decline. Inadequate wetlands jurisdiction will only increase the number of Black Rails that are at risk, increasing their extinction potential.

Protecting Wetlands Is Critical for Public Health and Safety and Combats Global Warming. Maintaining broad, effective regulatory protections over California wetlands is also necessary to protect public health and safety. A wetland reduces pollution and sedimentation by acting as a filtration system by removing both organic and inorganic matter as well as toxic substances from the water.

Beyond providing filtration, wetlands also retain large amounts of water during times of excess rainfall. Thus, wetlands serve to decrease flooding in the developed sections of affected areas by storing the water and releasing it in measured quantities. Wetlands can also offset the effects of a drought by releasing some of their water stores. Consequently, protecting wetlands also ensures safer communities.

Wetlands are also important because they can improve global health and combat global warming by facilitating carbon sequestration. A wetland, because of its dense vegetation, captures (sequesters) the excess carbon dioxide in the air and photosynthesizes it into oxygen and sugars. Since carbon dioxide is the most important greenhouse gas contributing to global warming, removing it from the atmosphere helps to curb global warming.

Within the general category of intermittent waters, the current federal policy direction chooses to distinguish ephemeral waters of the arid west from all other ephemeral waters. This forced distinction is not founded in any science. During and following precipitation events, all ephemeral tributaries, regardless of their location in the United States, collect and transport water and sediment from the upper reaches of the landscape downstream to the traditionally navigable waters. These ephemeral tributaries may also provide habitat for wildlife and aquatic organisms in downstream, traditionally navigable waters. These biological and physical processes support nutrient cycling, sediment retention and transport, pollutant trapping and filtration, and improvement of water quality, functions that may significantly affect the chemical, physical, and biological integrity of downstream traditional navigable waters. Accordingly, all ephemeral waters should be seen as subject to regulation unless it is proven that no nexus exists between the ephemeral waters and other jurisdictional waters and wetlands.

Audubon California urges the Board to include in its policy swales, erosion features, and ditches which may lose federal protection because, in many cases, these features are crucial to the functioning of navigable waters. Although these features may not be perennial, the cyclical nature of wetlands dictates that they will change from wet to dry in order to ensure that the wetland soil remains biologically rich and capable of optimum water filtration.

Furthermore, the treatment of ditches, erosion features, and other changes in the landscape due to human activity should be revisited for another reason. Human activities affect water flows in a variety of ways. For example, dams, berms, levees, dikes, etc. stop water flow. Various kinds of ditches encourage or require water to flow where and how humans want it to flow. The fact that humans have interfered with the natural system should not change the fact that many of these ditches are carrying water that contributes to the quality and quantity of water in navigable waters. Birds use the full range of waters and wetlands that are influenced by these human-induced features. Thus, creatures that depend on the nation's waters, including wetlands, must continue to benefit from regulatory protection and will suffer when wetlands and other waters are filled in or degraded.

Conclusion

Audubon California applauds the Board in commencing an effort to draft a stronger policy framework for California's wetlands and riparian resources. We look forward to monitoring the Board's progress, Please do not hesitate to call on us if and when we may be of service.

Sincerely,

A handwritten signature in black ink that reads "Daniel Taylor". The signature is written in a cursive, flowing style.

Daniel Taylor
Director of Public Policy