

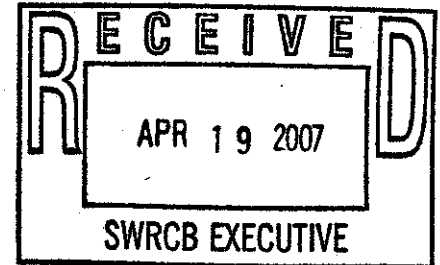


**Wetland/Riparian Policy**  
Deadline: 4/19/07 12 noon

**IRVINE RANCH WATER DISTRICT** 15600 Sand Canyon Ave., P.O. Box 57000, Irvine, CA 92619-7000 (949) 453-5300

April 19, 2007

Song Her  
Clerk to the Board, Executive Office  
State Water Resources Control Board  
Post Office Box 100  
Sacramento, CA 95812-0100



**Subject:** SWRCB Proposed Wetland and Riparian Area Protection Policy  
CEQA Scoping Comments

Dear Ms. Her:

Thank you for the opportunity to provide comments on the State Water Resources Control Board's (SWRCB's) Proposed Wetland and Riparian Area Protection Policy (Wetlands Policy) through SWRCB's CEQA scoping efforts.

Irvine Ranch Water District (IRWD) applauds SWRCB for both its concern to protect remaining natural wetland areas and its consistent promotion over the years of constructed wetlands for the treatment of urban runoff and non-point source pollution. Constructed wetlands, referred to as managed treatment wetlands herein, are considered by experts to be one of the most effective Best Management Practices (BMPs) available for urban runoff treatment.

In developing a statewide wetland policy, the SWRCB should continue to encourage and support the construction of wetlands for water quality purposes through its Wetlands Policy. In this policy, SWRCB should consider how managed treatment wetlands are different from naturally occurring wetlands. Regulating managed treatment wetlands as though they are natural can greatly discourage future expanded use of man-made wetlands for urban runoff and non-point source runoff treatment. The high level of protection needed for natural wetlands, when applied to managed treatment wetlands, leads to significant unnecessary cost and restriction of critical maintenance activities. IRWD encourages SWRCB to encourage the construction of managed water quality treatment wetlands in its new Wetlands Policy regardless of which project alternative is selected.

In 2001, the Legislature modified the California Water District Act in the Water Code to authorize IRWD to provide urban runoff treatment services. IRWD has invested and intends to continue to invest extensive resources in its San Diego Creek Natural Treatment System (NTS). NTS is a watershed-wide network of approximately 40 managed water treatment wetlands. IRWD voluntarily master planned NTS to clean up the community's waterways, protect Upper Newport Bay and provide neighborhood green space as a side benefit.

Here are some quick facts regarding IRWD's NTS wetlands:

- IRWD is constructing new wetlands that would not exist without NTS; existing healthy wetlands are not being modified to treat urban runoff.
- 30 of the 40 NTS wetlands are being constructed in upland areas where no wetlands previously existed or would exist in the future without NTS.
- 9 of the remaining 10 NTS wetlands are being constructed in flood control facilities (6 detention basins, 3 channels) previously devoid of vegetation or aquatic habitat; the tenth is being constructed in a degraded area choked with non-native weeds in conjunction with an adjacent wetland habitat enhancement project.
- Approximately 30 of the wetlands are being constructed by developers as Best Management Practices (BMPs) for compliance with stormwater permits, then transferred to IRWD for long term operation and maintenance; the remainder are being constructed under IRWD's Capital Budget program.
- None of the NTS wetlands are being constructed as compensatory mitigation for wetlands removed elsewhere.
- The primary function of all NTS wetlands is water quality treatment, not habitat establishment or restoration. Thus, any incidental temporal vegetation growth (eg, cattails and bulrush) is not being provided to promote wildlife usage.
- To optimize treatment capacity of managed treatment wetlands, vegetation and sediment will be removed periodically.

Many public agencies and private entities are not willing to construct or take over management of water quality wetlands, because they are concerned with the potential cost and management constraints placed on them by excessive regulation of wetlands. This has led to the use of other less effective BMP's for stormwater regulatory compliance instead of managed treatment wetlands.

IRWD has been willing to create new wetlands, but needs regulatory agencies to continue to assist in applying codes and regulations in a precise manner that optimizes flexibility of operation and maintenance. To that end, the SWRCB should address managed treatment wetlands specifically and differentiate them in the Wetlands Policy from more sensitive natural wetlands.

The following are some specific recommendations for the proposed policy. SWRCB should:

1. Provide a designation of "managed treatment wetland" or similar special designation to upland areas or other non-jurisdictional areas that are converted to wetlands for the purpose of urban runoff or non-point source treatment. Such new wetland areas should not be considered Waters of the State.
2. Exempt managed treatment wetlands from regulations that would otherwise require wetland owners or operators to obtain 401 permits for routine or repeated operation and maintenance activities (particularly vegetation or sediment removal), unless those activities result in dredge or fill within Waters of the State outside the managed treatment wetland property.

3. Defer to the Department of Fish and Game (CDFG) to deal with any habitat issues within managed treatment wetlands.
4. SWRCB and Regional Boards should focus on sources of pollution in urban runoff and encourage construction of wetlands to remove the pollution, rather than regulate the treatment facilities constructed to remove the pollution. Thus, managed treatment wetlands, which remove or pass through any pollution from outside its bounds, should be exempt from the issuance of Waste Discharge Requirements (WDRs). The wetlands themselves are not sources of pollution.

In conclusion, IRWD supports SWRCB's development of a statewide Wetlands Policy to protect the State's remaining natural wetlands and simultaneously encourage the creation of new wetlands like IRWD's Natural Treatment System. To that end, we recommend specific allowances for managed treatment wetlands be incorporated into the SWRCB Wetlands Policy.

Please feel free to call me at 949/453-5860 if you have any questions or desire to discuss our comments further.

Sincerely



Norris Brandt, PE  
Environmental Quality Manager