

Department of Water and Power



the City of Los Angeles

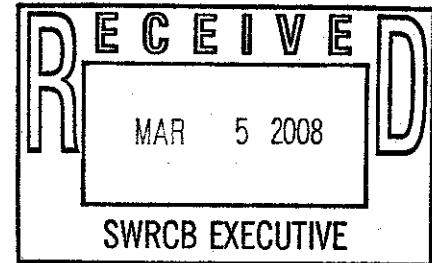
ANTONIO R. VILLARAIGOSA  
Mayor

Commission  
NICK PATSAOURAS, *President*  
EDITH RAMIREZ, *Vice President*  
LEE KANON ALPERT  
WALLY KNOX  
FORESCEE HOGAN-ROWLES  
BARBARA E. MOSCHOS, *Secretary*

H. DAVID NAHAI,  
*Chief Executive Officer and General Manager*

March 5, 2008

Ms. Jeanine Townsend  
Clerk of the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



Dear Ms. Townsend:

Subject: Comment Letter - Policy to Protect Wetland and Riparian Areas

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to comment on the proposed resolution to develop a policy to protect Wetland and Riparian Areas (Resolution). LADWP supports the State Water Resources Control Boards (SWRCB) action to include stakeholders in this ongoing process to develop and design the policy and to be a part of the solution. We also appreciate the SWRCB's efforts to develop the policy in a phased approach that will provide ample time, resources and review to develop a policy that is well thought out and not rushed. After reviewing the proposed Resolution, LADWP urges the SWRCB to adopt a Resolution that:

1. Maintains the existing Army Corps of Engineers definition of a wetland for consistency of application;
2. Embraces regulatory agency and stakeholder cooperation in working together to develop the policy;
3. Addresses the need to provide individual Regional Boards with the appropriate staffing and expertise to undertake such an expanded new program;
4. Provides for an in-depth review of issues impacting wetlands and riparian areas.

Wetland Definition:

The Resolution calls for the expansion of the current Army Corps of Engineer's definition of wetlands. LADWP recommends that the current definition be retained. The policy should continue to focus on protecting wetlands sustained by natural hydrologic processes. In the Rapanos decision, Justice Kennedy stated that a water or wetland

**Water and Power Conservation ... a way of life**

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700  
Telephone: (213) 367-4211 Cable address: DEWAPOLA

Ms. Jeanine Townsend

Page 2

March 5, 2008

must possess a significant nexus to waters that are navigable. This decision provides a comprehensive and scientific approach to decide if you have a covered wetland and LADWP supports this decision. One of LADWP's primary goals is to maintain the drinking water supply and quality for the 3.8 million residents of the City of Los Angeles. LADWP struggles with balancing the needs of providing safe drinking water in conjunction with California's Safe Drinking Water Act, while also protecting water quality as directed under both the Clean Water Act and the Porter-Colonge Act. The drinking water and the clean water statutes are at times in conflict with one another, but LADWP continues to have the responsibility to serve safe drinking water which includes the use of artificially created water conveyances. Undue regulation of these drinking water conveyances under a watershed approach to a wetland policy could impair LADWP's ability to efficiently deliver water to the City of Los Angeles. LADWP requests that the SWRCB consider this situation as it develops the policy so that public health and the delivery of essential public services are considered.

#### Agency and Stakeholder Cooperation in drafting the Policy:

LADWP supports Item 7 of the Resolution which provides for the cooperative development of the policy through a teamwork approach of regulating agencies and interested and affected stakeholders. Providing this teamwork approach to crafting the policy provides for wetland and riparian protection, but considers the needs of all involved.

#### Regional Board Staffing and Expertise:

The LADWP supports Item 4 of the Resolution which provides resource and staffing evaluations of the Regional Boards to ensure that this new policy can be undertaken in an efficient and successful manner. Wetland and Riparian habitat oversight will require specialized expertise that may not be present in all Regional Board areas. This section of the Resolution is an appropriate step to ensure these resources are available to implement the policy.

#### Review of Wetland and Riparian Areas:

The LADWP urges that the Phase 2 portion of the Policy development, first and foremost, focus on identifying what current regulations are not supporting the protection of wetland and riparian habitats before making definitional or water quality objective changes. Once identified, recommendation on how to solve those specific shortcomings would be appropriate. Additionally, LADWP is concerned with the broad, sweeping implications that the Phase 2 scope suggests, namely, the protection "from all other activities." LADWP believes that the Policy should focus on those activities known to have an impact on wetland beneficial uses or water quality.

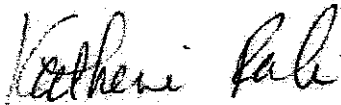
Ms. Jeanine Townsend

Page 3

March 5, 2008

Again, we thank the Board for the opportunity to comment on this policy resolution. Should you have any questions or require additional information, please contact Mr. Michael Hanson of LADWP's Wastewater Quality and Compliance Group at (213) 367-0634.

Sincerely,

A handwritten signature in cursive script that reads "Katherine Rubin".

Katherine Rubin  
Manager of Wastewater Quality and Compliance

MH:jm

c: Mr. Michael Hanson