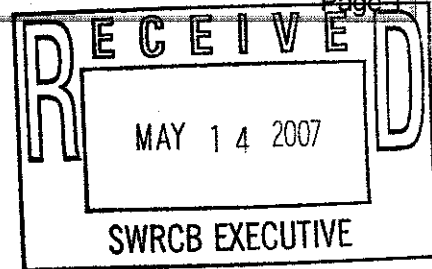


Wetland/Riparian Policy

Deadline: 5/15/07 12 noon

From: eileen cooper <upsprout@yahoo.com>
To: <commentletters@waterboards.ca.gov>
Date: Mon, May 14, 2007 3:03 PM
Subject: Comment Letter- Wetland and Riparian Area Protection Policy



Friends of Del Norte, Committed to our environment since 1973
A nonprofit, membership based conservation group advocating sound environmental policies for our region.

PO Box 229, Gasquet, CA 95543 e-mail:
kkkkkkkkkkkkkkkkkkkkkkkkkkkkkkkk
May 14, 2007

ATT: Song Her, Clerk to the Board, Executive Office, State Water Resources Control Bd, P.O. Box 100, Sacramento, CA 95812-0100. (Fax: 916-341-5620 or email: commentletters@waterboards.ca.gov).
Electronic submission via email is preferred.

Regarding: Comment Letter – Wetland and Riparian Area Protection Policy.

ALTERNATIVE 4: Develop a New State Policy to Regulate a Variety of Discharges and Activities That Impact Wetlands and Riparian Areas

Discussion of Alternative 4

Under Alternative 4, the State Water Board would develop a new state policy to regulate a variety of discharges and activities that impact wetlands and riparian areas; including, but not limited to, dredge or fill material discharges; discharges of other pollutants (e.g., nutrients); hydromodification; land and vegetation clearing activities; and invasive species. This action would provide a minimum level of protection to all waters of the state from these discharges and activities.

We support Alternative 4, because it is the only alternative that would address the great loss of water quality from ground disturbing activities and vegetation removal surrounding streams and wetlands. Currently in Del Norte County, wetlands and streams are cumulatively and incrementally degraded by development directly adjacent to streams and wetlands. Only in the Coastal Zone, do riparian and wetland areas receive the protection that is necessary to retain water quality and riparian quality.

We are intimately acquainted with the planning process in Del Norte County, and do attempt appeals in the Coastal Zone, whereby we are able to appeal small projects that cumulatively have very great negative effects on riparian and wetland areas. However, outside of the Coastal Zone in Del Norte County and throughout most of California, the picture is dismal.

One of the main problems that we have outside of the Coastal Zone is that the current Basin Plan parameters set no specific permit requirements that restrict native vegetation removal and ground disturbance within a buffer zone surrounding the wetland or stream riparian. Instead, we only have the Department of Fish and Game recommendations outside of the Coastal Zone, regarding ground disturbance and clearing directly adjacent to streams and wetlands. And therein is the problem, their recommendations have been completely ignored at the County planning level. Worse yet, most of the time County building projects adjacent to streams and wetlands are CEQA exempt or even ministerially exempt, which means the Dept. of Fish and Game does not even get to recommend anything, and nor does the public.

If we had permitting criteria for retention of native vegetation surrounding streams and wetlands built into Clean Water Permits and Basin Plan criteria, as is issued for septic building permits, then we would really get somewhere in protecting streams and wetlands outside of the Coastal Zone. Another problem is that we have no requirements for drainage plans to be developed before approval of projects, and so often storm water run-off enters into streams and natural drainages through direct routes.

If our new basin plan and water board criteria required that native vegetation be undisturbed within defined buffers around streams, and that drainage plans be developed before final project approval, our

streams and wetlands countywide would be more vital. Riparian/Wetland Buffer zones should be required on even ministerial or CEQA exempt projects. Obviously, any project that is directly adjacent to a stream or wetland should not be CEQA exempt because of the sensitivity of the area and cumulative effects. But unfortunately most individual building projects adjacent to streams and wetlands in Del Norte County are exempted. And this insidious incremental degradation, house by house continues along our streams and wetlands throughout Del Norte County. Buffer protections need to be implemented, no matter how small the project.

A good place to start setting defined riparian and wetland buffers in Del Norte County would be to review the Dept. of Fish and Game Recommendations for Wetlands and Streams for Northern California-North Coast Region 11, issued in 1994, and attached. Another document to review would be Effects of County Land Use Regulations and Management on Anadromous Salmonids and Their Habitats: Humboldt, Del Norte, Mendocino, Siskiyou and Trinity Counties, California by University of California Davis, Cooperative Extension, 1998, that analyzes the failings and strengths of riparian protection policies in the northern counties.

The State Legislature fully intended to protect streams and wetlands that are considered open space elements within Del Norte County General Plan. They required that these open space elements shall have specific "zoning," or actionable criteria that defines the riparian/wetland buffer zone.

Ideas for Open-Space Action Programs

Every local open-space element is required to contain a specific action program (§65564). What follows are some ideas for action programs to preserve open space.

While the first item on the list (i.e., open-space zoning) is a state requirement for counties and general law cities, the other ideas are suggestions only and are meant to stimulate thinking about action programs.

More detailed suggestions can be found in OPR's publication Putting Action into the Open-Space Element.

- Open-space zoning pursuant to §65910 (e.g., exclusive agriculture zones, large-lot zones, overlay zones for hazards areas, etc.)
- Open-space Zoning: Section 65910 specifically requires the adoption of open-space zoning to implement the open-space element. Similarly, the Timberland Productivity Act (§51100 et seq.) requires local governments with qualifying timberlands to adopt Timberland Productivity Zoning (TPZ) for qualifying timberlands.

Unfortunately our County, just as other counties, has not established this legislative mandate to define riparian buffer zones within our open space element, Humboldt being the exception. Counties make their monies in taxing housing developments at the local level. So, it is up to you.

I just came from a Del Norte County Planning meeting, where the County planners did not mention the fact that there were wetlands on a particular property. That is the first level of environmental neglect at the local level. (do not investigate or survey for wetlands and streams- if they aren't there then they don't need buffers, and you have the excuse of under staffing). The second level of neglect at the County level is, if you find a stream or wetland, call it a ditch (then you don't need a buffer). If the County only has ditches, then the County doesn't need to have the Dept. of Fish and Game review the project. If the County does find a stream and needs to put a buffer in, they most likely will CEQA exempt the project anyway, because it is only one building project amongst thousands (no matter the cumulative effect). And most importantly, if you work for the County, do not say where you are measuring a riparian buffer from (The county measures buffer zones inconsistently, from the center of the stream, or from the low water mark, no matter what size the stream,

even on the Wild and Scenic Smith River!! I kid you not. If they get in trouble or think they are being watched, they measure from the 10 year flood level or the top of the bank).

Whenever I comment on a project upon which I find a stream or wetland, I first check to see if it is in the Coastal Zone. If it is, I say Thank goodness this parcel is in the Coastal Zone. We are appealing it to the Coastal Commission, who will make sure that the wetlands are defined, and that buffers are maintained. We will tell you that in Del Norte County, the Planning Commission and most of the Board of Supervisors do not care if wetlands are filled and streams are built upon, right up to the very edge. I have personally reviewed thousands of projects, and find this to be true.

The public really only has you, the Dept. of Fish and Game (who's permitting authority is limited) and the Coastal Commission to defend buffers around wetlands and riparian zones. The Coastal Commission has been somewhat effective, in that their appeal process is accessible and not a costly burden to the environmental community. But outside the Coastal Zone wetlands and riparian zones are under incremental attack and degradation. Ideally, we really do need a Water Quality Board office established in Humboldt or Del Norte County, where officers are available and know what is happening here.

I could mention dozens of projects whereby wetlands and streams would be destroyed, if it were not for the ability of a citizen to go through a Coastal appeal process. The Coastal Commission office in Eureka is essential to effective oversight. I volunteer my life for a small environmental group that has no financial ability to appeal the hundreds of wetland/riparian violations that would occur (with incremental and cumulative damage) if it were not for the defined buffers of the Coastal Zone, and inexpensive appeal process of the Coastal Commission. The rest of our County needs your help.

Thank you,
Eileen Cooper, FDN Board member , 707-465-8904,
Joe Gillespie, president

Park yourself in front of a world of choices in alternative vehicles.
Visit the Yahoo! Auto Green Center.