



critical to properly assess the potential impacts of these regulations. Specifically, information regarding additional permitting and mitigation requirements are necessary to address the full impact of these regulations and how they will correspond to existing regulations. Additionally, though Phases 2 and 3 are not developed, we would appreciate the inclusion of conceptual information to give a sense of what the program as a whole will entail.

The lack of a State equivalent to the federal General Permit program could double the hours required to permit wetland impacts for projects with minimal impacts. This information should be assessed and disclosed to the public during the CEQA process. Projects with minimal impacts that fall under the federal general permit program comprise the majority of Caltrans projects and are integral to maintain the safety of the SHS. The IS states that Regulations “include... requirements applicable to discharges of dredged or fill material based on the United States Army Corps of Engineers (Corps) 404(b)(1) guidelines including the recent compensatory mitigation rule...”, but there is no mention of whether or not a general permit program, similar to what is identified in the 404(b)(1) guidelines, will be included in these regulations or whether the Regulations will match, or vary from, the permitting and mitigation requirements for the 404(b)(1) guidelines. While we support protecting wetlands and waters of the State, especially those no longer under federal jurisdiction, deviation from the federal permitting and mitigation requirements could impact Caltrans’ ability to deliver transportation projects. Given the current fiscal situation throughout the state, this could limit Caltrans’ ability to maintain the SHS and deliver transportation projects including safety and congestion relief projects.

Implementation of the new wetlands definition will likely require a substantial amount of time during the environmental review of transportation projects to write a supplemental report to the wetland delineation report currently required to verify wetland areas with the Corps. The additional costs associated with implementing a new wetland definition and the additional permitting requirements should be assessed as part of the CEQA process. The proposed definition for State wetlands is very similar to the federal definition which has gone through years of scientific and regulatory scrutiny. With the methodology provided in the Arid West (September 2008) and Western Mountains, Valleys, and Coast Region (April 2008) regional supplements (regional supplements), the federal definition of wetlands includes all but a very small area of what would be included under the proposed State definition.

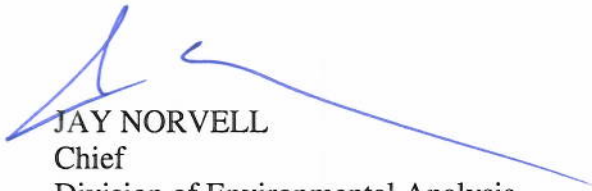
In order to fully assess the impacts of a new State wetlands definition, the project description needs to include a conceptual plan for a delineation methodology to address when the State definition differs from the federal definition. Additionally, definitions of the terms used in the proposed State policy should be clearly presented in the project description. While the proposed State definition is very similar to the current federal one, this information we are requesting could greatly affect the impact of the implementation of the new policy.

Jeanine Townsend, Clerk to the Board  
April 27, 2011  
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We urge the State Waterboard to consider the costs of the proposed regulation on Caltrans, other state agencies, and other stakeholders. As we noted in our April 9, 2007 letter and our September 8, 2008 letter, this effort should document the costs of the additional monitoring and mitigation required. These cumulative costs should then be compared with the benefits.

If you have questions regarding these comments, please contact Gregg Erickson at (916)654-6296, or Rebecca Loeffler at (916)651-6117. As Caltrans will be CEQA lead agency for many projects under the jurisdiction of the proposed policy and regulation, we would greatly appreciate being involved in future efforts to develop this policy and regulation.

Sincerely,



JAY NORVELL  
Chief  
Division of Environmental Analysis