



December 4, 2018

The Honorable Gavin Newsom  
 Governor-Elect  
 State of California  
 State Capitol  
 Sacramento, CA 95814

Re: State Water Resources Control Board – Proposed Waters of the State Policy

Dear Governor-Elect Newsom:

Congratulations on being elected Governor of California. As you and your Administration begin the transition process, our organizations believe it is important to highlight an extremely controversial regulatory rulemaking process currently underway at the State Water Resources Control Board (Board) that if adopted, could have a chilling and costly impact on your ability to achieve a number of your public policy objectives.

It is our understanding that the Board staff intends to release for public review and comment a proposed Waters of the State (WOTS) rulemaking package in December 2018 and has already identified the January 22, 2019, Board meeting for possible consideration and adoption. Based on the most recent publicly available draft, our organizations are concerned about the scope of the proposed WOTS which we believe is overly and unnecessarily broad.

The proposed WOTS will impose irresolvable conflicts by creating a wetland definition that differs from the U.S. Army Corps of Engineers (“Corps”) definition in use since 1977. This will result in conflicting alternatives analysis determinations and mitigation requirements between the Corps and Board. The inevitable result would be regulatory uncertainty and costly burdens placed on public and private projects.

According to comments submitted by the South Pacific Division of the U.S. Army Corps of Engineers during the Obama Administration (August 15, 2016), the definitional issue was one of many issues and problems identified by the Corps. “For consistency and to avoid unnecessary delays in permit evaluation, USACE recommends the State adopt the definition of wetlands utilized by USACE.”

Additionally, state agencies including the California Department of Transportation also submitted comments raising concerns with the Board’s proposal, saying it would slow and possibly stop critically needed highway projects.

Ever since the Board embarked on this effort in 2008 due to a U.S. Supreme Court ruling that called into question the ability of the federal government to protect isolated wetlands, we have consistently provided Board staff with a regulatory pathway to fill the gap created by the Court’s ruling without increasing burdens on the state and regulated entities. Unfortunately, the Board staff continues down this path of regulatory excess.

In addition to transportation/utility/public safety infrastructure projects, the Board staff’s proposed WOTS definition and other elements of the rulemaking package will stop, delay, or alter critically needed housing, renewable energy, stormwater and flood control projects, as well as impacting California’s agricultural, forestry, and aggregate industries, and the hundreds of thousands of jobs associated with all of these project. We encourage your office to ask the Board to delay the promulgation of the proposed WOTS rulemaking package in order to enable your administration to properly analyze the proposal.

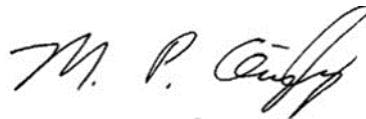
In an effort to provide you with a full account of our participation in the process as well as the concerns raised by federal and state agencies, we are including an attachment that contains a chronological account of our coalition comments and other relevant documents. We would welcome the opportunity to brief your office on this matter.

Again, congratulations! We look forward to working with you and your administration on this and other issues facing California.

Sincerely,



John Coleman  
Chief Executive Officer  
Bay Planning Coalition



Michael Quigley  
Executive Director  
California Alliance for Jobs

Jeli Gavric  
Legislative Advocate  
California Association of REALTORS®

Kari Fisher  
Attorney  
California Farm Bureau Federation

*/s/ Brad Goehring*

Brad Goehring  
Immediate Past Chair, Government  
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California Association of Winegrape  
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Rich Gordon  
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California Forestry Association

Nick Cammarota  
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California Building Industry Association

Rock Zierman  
Chief Executive Officer  
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Rex S. Hime  
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Director, Government Affairs  
California League of Food Processors

Kirk Wilbur  
Director of Government Affairs  
California Cattlemen's Association

Jonathan Young  
Regulatory Advocate  
California Municipal Utilities Association

Valerie Nera  
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California Chamber of Commerce

Mark Grey  
Director of Environmental Affairs  
Construction Industry Coalition on Water  
Quality

Gary Hambly  
President and CEO  
California Construction and Industrial  
Materials Association

*/s/ Steven Palmer*

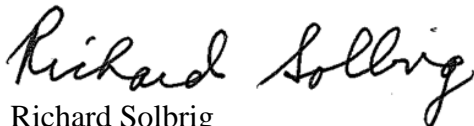
Steven Palmer, PE  
General Manager  
Georgetown Divide Public Utility District

/s/ **Mark Larsen**

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Kaweah Delta Water Conservation District



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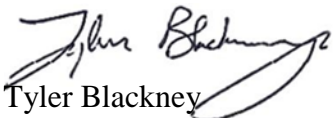
Bob Reeb  
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Gail Delihant  
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Western Growers Association

/s/ **Margo Parks**

Margo Parks  
Manager, California Policy Advocate  
Western States Petroleum Association



Tyler Blackney  
Director, Legislative & Regulatory Affairs  
Wine Institute

cc: Ms. Ann O'Leary  
Ms. Ana Matosantos