Water Boards regulate:
- Federal waters (Section 401 of Clean Water Act)
- State waters (Porter-Cologne Act)

Caltrans obtains permits:
- 401 Certification
- 401 Certification or Waste Discharge Requirements

Before 2001 – federal and State waters effectively the same

2001 and 2006 – U.S. Supreme Court reduced federal jurisdiction
- Left a “gap” between State and federal jurisdiction of waters
Procedures: Development & Coordination

- 2007 – State Water Board began developing a wetland protection policy
- 2019 – State Water Board released Final Draft Procedures
  - Address the “gap” and “standardize permitting processes”
  - Incorporates many of the comments that Caltrans has provided
- Caltrans has submitted comments to the State Water Board at several opportunities
  - Engaging in ongoing discussions (October 2017 – Present)
Addressing Caltrans’ Concerns

Final Draft Procedure addresses most major concerns:

• Increased / uncertain Alternatives Analysis requirements
  More certainty and allowance for exclusion added

• Change in requirements for already-scoped projects
  Applicability dates revised (6 month extension)

• Uncertainty over acceptable means of financial security
  Clarification added that must be legally allowable means

Remaining Concerns:

• Additional clarification needed
  To be discussed with prospective agreement

• Will likely increase staff time needed to develop applications
  Prospective agreement and AB 1282 task force working to clarify and
  find efficiencies to offset some of the impact
## Status and Next Steps

<table>
<thead>
<tr>
<th>Action</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Release Final Draft Staff Report, and Procedures</td>
<td>January 3(^{rd})</td>
</tr>
<tr>
<td>Public Workshops</td>
<td>January 9(^{th}) and 22(^{nd})</td>
</tr>
<tr>
<td>State Water Board Consideration of Adoption</td>
<td>March 2019</td>
</tr>
<tr>
<td>Office of Administrative Law – rulemaking process concludes</td>
<td>Fall 2019</td>
</tr>
<tr>
<td>Effective Date</td>
<td>Early 2020</td>
</tr>
</tbody>
</table>
Questions?
Dredge or Fill Procedures – Next Steps

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stakeholder Outreach to Clarify Intent</td>
<td>January 31 – February 1</td>
</tr>
<tr>
<td>Public Stakeholder Meeting</td>
<td>February 6</td>
</tr>
<tr>
<td>Board Update Information Item</td>
<td>February 19</td>
</tr>
<tr>
<td>Release Revised Procedures for 10-day Review</td>
<td>February 22</td>
</tr>
<tr>
<td>Proposed Board Consideration of Adoption</td>
<td>March 5</td>
</tr>
</tbody>
</table>