

Appendix A: Suisun Marsh Legislation, Protection Policies, and Plans

As a result of the collapse of agriculture and the Great Dust Bowl in 1938, the California Legislature passed laws authorizing the creation of California's soil conservation districts. In 1971, California had 113 soil conservation districts that were formally renamed Resource Conservation Districts.

In 1963, the Suisun Soil Conservation District was formed and in 1971 was renamed the Suisun Resource Conservation District (SRCD). The principal legislative Act that governs Resource Conservation Districts in California is Division 9 of the California Public Resources Code. As a resource conservation district, the SRCD is empowered to coordinate resource management efforts for purposes of watershed restoration and enhancement (*Id.* at §§ 9001(b)(3)). SRCD has the primary local responsibility of regulating and improving water management practices on privately owned lands within the primary management areas of the Marsh. The California Public Resources Code also empowers resource conservation districts to control runoff, prevent and control soil erosion, protect water quality, develop and distribute water, improve land capabilities, and facilitate coordinated re-source management efforts for watershed restoration and enhancement (*Id.* at §§ 9003, 9960 *et seq.*).

In the late 1960s, the Director of the Suisun Soil Conservation District recognized the threat to the natural resources of the Marsh by pressures of increasing urbanization and development in Solano County. Due to these pressures, in 1973, SRCD worked with the California Department of Fish and Wildlife (DFW) to sponsor legislation that would define a buffer zone around the primary management area of the Suisun Marsh and preclude any development within this area until a long-range protection plan was created by DFW and the San Francisco Bay Conservation and Development Commission (BCDC). In 1974, the Suisun Marsh landowners requested and supported the passage of the Nejedly-Bagley-Z'berg Suisun Marsh Preservation Act (SMPA 1974), to protect the Marsh from potential commercial, residential, and industrial developments. The act directed BCDC to create the Suisun Marsh Protection Plan (SMPP) with the goal to preserve the integrity and assure continued wildlife use of the Marsh. In support of the development of the SMPP, DFW cataloged the ecological characteristics of the Suisun Marsh and its surroundings and published the 1975 Fish and Wildlife Element of the Suisun Marsh Protection Plan.

Once completed, the SMPP was formerly adopted by BCDC and made part of the Suisun Marsh Preservation Act of 1977 (SMPA 1977) legislation, which stated that "The Suisun Marsh represents a unique and irreplaceable resource to the people of this state and nation; that future residential, commercial, and industrial developments could adversely affect the wildlife value of the area; and that it is the policy of the state to preserve and protect resources of this nature for the enjoyment of the current and succeeding generations" (*Id.* at § 29002).

The main goal of the SMPA 1977 was to preserve, protect, enhance, and restore Suisun Marsh wetland and wildlife resources. The SMPP established land use policies for the Marsh along with establishing the primary and secondary boundaries, and it designated regulatory responsibilities to BCDC and Solano County to enforce these policies. With passage of the SMPA 1977, local governments and special districts with responsibility or jurisdiction over the Marsh were required to create a Local Protection Program (LPP). Each LPP outlines policies, ordinances, and regulations to guide land uses in the Marsh to the following agencies: Solano County, City of Fairfield, Solano County Mosquito Abatement District (SCMAD), Solano County Local Agency Formation Commission (LAFCO), City of Benicia, Suisun City, and SRCD.

The SMPA 1977 legislation also empowered SRCD with the "...primary local responsibility for regulating and improving water management practices on privately owned lands within the primary management area of the Suisun Marsh" (*Id.* at § 9962 (a)). SRCD was also given the authority to issue regulations requiring compliance with any water management plan or program for privately owned lands within the primary management area (*Id.* at § 9962 (b)). These objectives were achieved, with SRCD adoption of the 1980 Suisun Marsh Management Program (SMMP) to Preserve, Protect, and Enhance the Plant and Wildlife Communities within the Primary Management of the Suisun Marsh (SRCD's LPP). The SMPA1977 also required a water management program for each managed wetland in private ownership within the boundaries of the primary management area of the Marsh. These water management programs were required to be reviewed by the DFW and certified by BCDC. The objectives and scope of these water management programs reflect on the policies and provisions of the SMPP (Section 29412.5 Public Resource Code) and resulted in the development of individual duck club management plans in the early 1980s.

Under the BCDC certified individual duck club management plans, it is the responsibility of the landowner on record to comply with the provisions and recommendations of the certified management program and any change in landownership will fall on the new landowner who assumes this responsibility. Proposals for modifications of certified programs are submitted by the landowners to SRCD. SRCD will treat proposals as amendments to its component of the SRCD LPP. Annually, SRCD will make a report to BCDC's Executive Director of any minor amendments to any certified individual management plans (PRC Section 29418). Minor repairs or improvements are defined as those activities which are routine in management of wetland systems. Such activities as reconstruction, replacement, removal, repairs, and incidental additions should be considered minor. Any management activity currently described in the certified duck club management plan and its appendices will be considered minor and shall not require a BCDC Marsh Development Permit (MDP) or an amendment to the certified Plan. All private landowners within the Primary Management Area also must comply with the regulations of the Bay Area Air Quality Management District (BAAQMD) with respect to burning of marsh vegetation within the Primary Management Area.

The legislative requirements of the SMPA 1977 and the 1978 State Water Quality Control Plan Water Rights Decision 1485 established the salinity standards to protect the beneficial uses of water in the Suisun Marsh. In addition, the Department of Water Resources (DWR) and United States Bureau of Reclamation (USBR) completed the 1984 Plan of Protection for the Marsh (PPSM), including an Environmental Impact Report. Under the 1984 Plan of Protection, DWR and USBR established a network of water quality monitoring stations throughout the Marsh, initiated to construction of the initial facilities (Roaring River Slough Unit, Morrow Island Distribution System, Goodyear Outfall facility) and the construction of the Suisun Marsh Salinity Control Gates in 1988.

In December of 1978, DFW and SRCD signed a contract with DWR to provide partial mitigation for the effects of increased salinity levels of the water available to certain managed wetlands in the Suisun Marsh. This was achieved by the construction of the initial facilities to be used in connection with the developing the PPSM. In March 1987, the Suisun Marsh Preservation Agreement (SMPA 1987) was signed by DWR, USBR, SRCD, and DFW, to assured that a dependable water supply is maintained to mitigate adverse effects on the Marsh of the Central Valley Project and State Water Project and a portion of the adverse effects of other upstream diversions. Since the agreement was originally signed in 1987, this agreement has had minor revisions in 1992, 1994, and was Revised in 2005 and 2015.

The Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP) Environmental Impact Report (EIR) was completed in 2011 and the companion Environmental Impact Statement (EIS) was completed with a Record of Decision in 2014. This SMP allowed the Suisun Marsh principal agencies to meet the needs of the Suisun Marsh Preservation Agreement (SMPA 1987). The SMP is a 30-year plan designed to address the various conflicts regarding the use of the Marsh resources, the approach of restoration in tidal wetlands, and the management of managed wetlands and their important functions. The SMP also sets the foundation for operations of managed wetlands including private and public land use, habitat restoration, levee system integrity, and water quality (DWR 2017).

Today, SRCD provides the landowners technical assistance in environmental permitting, water control, habitat management, grants, and cost share programs to ensure the wetland and wildlife values of the Suisun Marsh are sustained and enhanced. SRCD also coordinates with numerous government agencies to represent landowner interests and concerns.

The SRCD Board of Directors is the governing body for the special district comprised of five unpaid members serving 4-year terms. SRCD has full-time and part-time staff, led by the Executive Director and Operation Manager to provide landowners assistance on beneficial habitat management and resource protection activities. SRCD is also a landowner of the Marsh and conducts scientific research on the 1,330-acre Lower Joice Island located between Suisun and Montezuma Sloughs on the southwest side of the Marsh.

The wetland and wildlife resources of the Suisun Marsh are protected and regulated by a myriad of local, state, and federal laws, policies, and regulations. SRCD has held and administered the U. S. Army Corps of Engineer (USACE) Regional General Permit 3 (RGP 3) since 1977 to support the Suisun Marsh landowners' continued operations, maintenance, and enhancement of the managed wetlands. The RGP 3 provides a streamlined permitting procedure for Suisun Marsh landowners, allowing ongoing operations and maintenance of managed wetland infrastructure, water conveyance and control facilities, and levee systems. Under the RGP 3, SRCD administers the permit and is responsible for providing required reports to agencies and guidance to landowners. The landowners are responsible for ensuring all work that they (or their contractors undertake) is in accordance with the terms and conditions of the RGP 3 and companion environmental documents.

In 2014, SRCD obtained the USACE Letter of Permission (LOP) Dredging Permit for Suisun Marsh Exterior Levee Maintenance Activities. The LOP is a 10-year permit allowing up to 100,000 cubic yards of dredging for exterior levee maintenance a year in the Marsh.