

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, all of California's 113 soil conservation districts that help manage and protect public land became Resource Conservation Districts. California's Resource Conservation Districts are governed under Division 9 of the Public Resource Code and are empowered to coordinate resource management efforts for purposes of watershed restoration and enhancement, runoff control, soil erosion prevention, water quality protection, distribution of water, improve land capabilities, and the facilitation of resource management efforts for watershed restoration and enhancement.

In 1963, the Suisun Soil Conservation District was formed and later renamed the Suisun Resource Conservation District. 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 and preclude any development within this area until a long-range protection plan was created by DFW and 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 and DFW to create the Suisun Marsh Protection Plan (SMPP) with the goal to preserve the integrity and assure continued wildlife use of the Marsh. DFW cataloged the ecological characteristics of the Suisun Marsh and its surroundings and established a recommended natural resource protection plan which later became the final SMPP in 1976.

Once completed, the SMPP was formerly adopted as part of the 1977 Suisun Marsh Preservation Act (SMPA 1977) 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 pre-serve and protect resources of this nature for the enjoyment of the current and succeeding generations" (*Id.* at § 29002). The Suisun Marsh Preservation Act 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)). Also, SRCD was 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)).

The main goal of the SMPP was to preserve, protect, enhance, and restore Suisun Marsh 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. Legislative requirements of the 1977 SMPA and the 1978 State Water Quality Control Plan Water Rights Decision 1485 established the Marsh salinity standards. In addition, the Department of Water Resources (DWR) and United States Bureau of Reclamation (USBR) required creation of a 1981 Suisun Marsh Protection Plan (SMPP) and 1984 Plan of Protection for the Marsh, including an Environmental Impact Report (DWR 2017).

With passage of the SMPA in 1977, local governments and special districts with responsibility or jurisdiction over the Marsh were required to create a Local Protection Program (LPP). The LPP outlines policies, ordinances, and regulations to guide land uses 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 for operations within and adjacent to the Marsh (Suisun Marsh Management Program 1980). A major component of the SRCD LPP which is known as the Suisun Marsh Management Program (SMMP 1980) required SRCD to include a water management program for each managed wetland in private ownership within the boundaries of the primary management area of the Marsh. The water management programs have 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 Suisun Marsh Protection Plan (Section 29412.5 Public Resource Code) and resulted in the initial duck club management plans in the 1980s.

Each privately managed wetland ownership within the Primary Management Area of the Marsh is managed in conformity with the provisions and recommendations of the individual management plans for that ownership as approved by BCDC, DFW, and SRCD (SMMP 1980). 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 LPP (Suisun Marsh Management Program 1980). 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.

An update of the management directions for Suisun Marsh was undertaken in the early 2000s. This resulted in the Suisun Marsh Habitat Management, Preservation, and Restoration Plan Environmental Impact Report (EIR) that was signed by the state in 2011, and the companion federal Environmental Impact Statement (EIS) was completed with a record of decision (ROD) in 2014. The EIR/EIS, known as the Suisun Marsh Plan (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 (DWR 2017). 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). It allowed the principal agencies in Suisun Marsh to meet the needs of the earlier Department of Water Resources Plan of Protection (1984) and the Suisun Marsh Preservation Agreement (SMPA 1987). [The SMPA "Agreement" was forged among the managing agencies in 1987 and updated (in 1995, 2004, and 2015). Although they have the same abbreviation, the SMPA "Agreements" are distinct from the state legislated SMPA "Acts" of 1974 and 1977.]

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 and partners with several groups that have mutual goals or similar interests. The SRCD Board of Directors is the governing body for the special district comprised of five unpaid members appointed to 4-year terms. SRCD's 7 full-time and 3 part-time staff are led by the Executive Director and assists the landowners of Suisun Marsh to benefit habitat management and resource protection. 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 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 <100,000 cubic yards/year of dredging for Suisun Marsh exterior levee maintenance. In 2014, the 30-year Suisun Marsh Habitat Management, Preservation, and Restoration Plan (SMP) and companion Environmental Impact Report/Environmental Impact Statement (EIR/EIS) was completed. SRCD was pivotal in the completion of this 13-year process generating a stable regulatory environment and permitting process for the next 30 years in the Suisun Marsh.

The SMP provides an environmental approval of ongoing managed wetland activities under the RGP 3, in addition to the following:

- Allows issuance of the LOP levee maintenance dredging permit
- Streamlines environmental permitting for managed wetland enhancement projects
- Supports SRCD's assistance and technical support for the management of water and wetlands
- Provides a programmatic review permitting process of future tidal wetland restoration projects

Environmental legislation, actions, and agreements affecting Suisun Marsh (Manfree 2015)

1963	Suisun Resource Conservation District (SRCD) Formed
1965	San Francisco Bay Conservation and Development Commission (BCDC) formed
1970	Four-Agency Memorandum of Agreement
1972	US Federal Legislation: Clean Water Act, Endangered Species Act
1974	Nejedly-Bagley-Z'Berg Suisun Marsh Preservation Act (SMPA)
1976	Suisun Marsh Protection Plan (SMPP)
1977	CA State Assembly Bill 1717: The Suisun Marsh Preservation Act of 1977 (SMPA 1977)
1978	State Water Resources Control Board (SWRCB) Water Rights Decision 1485
1979-1980	Roaring River and Morrow Island Distribution Systems and Goodyear Slough outfall constructed
1984	Department of Water Resources (DWR) Plan of Protection for the Suisun Marsh
1987	Suisun Marsh Preservation Agreement (SMPA: updated every ~5 years)
1988	Suisun Marsh Salinity Control Gates (SMSCG) constructed
1990-1995	Planning for the Western Salinity Control Project
1991	Cygnus and Lower Joice Facilities constructed
1994	Bay-Delta Accord initiates formation of a California-Federal (CALFED) Delta partnership
1995-1998	SWRCB Water Quality Control Plan completed
1995	Amendment Three to the 1984 SMPA
1999	SWRCB Water Rights Decision 1641
2000	Draft Jeopardy Biological Opinion
2000	CALFED Suisun Marsh Charter
2001	Suisun Marsh Charter Implementation Plan
2003	Habitat Management, Preservation, and Restoration Plan
2004	Bay-Delta Science Consortium Suisun Marsh Science Workshop

2011	Suisun Marsh Habitat, Preservation, and Restoration Plan EIR signed
2014	Suisun Marsh Habitat, Preservation, and Restoration Plan EIS Record of Decision