

4.3 POLICY

Public policy decisions, whether through federal or state legislation, regulatory agency rules or administrative action, historically have played a significant role in bird conservation efforts in California.

Even before the passage of the implementing legislation for the Migratory Bird Treaty Act in 1918, which established international cooperation for the conservation of migratory birds, federal laws and regulations existed to help conserve bird populations. These include the Lacey Act (1900), prohibiting trade in wildlife, fish and plants illegally taken, possessed, transported or sold, and the Weeks-McLean Act (1913), regulating waterfowl hunting.

The federal Duck Stamp Act was passed in 1934 to acquire lands for waterfowl habitat protection and restoration efforts, while the federal Pittman-Robertson Act was approved in

1937 to create an annual funding source for state fish and wildlife agencies to conduct wildlife conservation projects. California uses these funds for restoration, population monitoring, as well as for operation and maintenance of state Wildlife Areas, relied upon by many migratory waterfowl and other birds.

In 1971, California lawmakers established a California State Duck Stamp to provide a separate state funding source for waterfowl conservation efforts. State lawmakers have also protected critical waterfowl habitat areas, notably in Suisun Marsh through the Suisun Marsh Preservation Act in 1977. State conservation easements critical to conserving waterfowl habitat on private lands were given additional protection from urban growth pressures by the state legislature in 2001 through the passage of Assembly Bill 910 (Wayne) Wildlife Conservation Easements.

The Farm Bill, reauthorized every 5 years, increasingly provides funding for migratory bird conservation nationally and in California. The 1985 Farm Bill was the first to have a



California state capitol building - Wayne Tilcock, California Waterfowl Association

specific title devoted to conservation and to emphasize the importance of soil conservation for reasons other than crop productivity. USDA programs such as the Wetland Reserve Easement (WRE) and Regional Conservation Partnership Program (RCPP) have provided significant conservation benefits for birds in the Central Valley.

The North American Waterfowl Management Plan (NAWMP), originally signed in 1986 and recently updated in 2018, was the genesis for the national Migratory Bird Joint Ventures program (MBJV 2017). The NAWMP is an international treaty signed by the United States, Canada and Mexico to promote international cooperation in the recovery of North American waterfowl populations. In 1989, the North American Wetlands Conservation Act (NAWCA) was passed, in part, to support activities under the NAWMP. The Act is funded at the federal level and requires reauthorization by the U.S. Congress.

The Central Valley Project Improvement Act (CVPIA), passed in 1992, mandated changes in management of the Central Valley Project, particularly for the protection, restoration, and enhancement of fish and wildlife. Title 34 (d) of Public Law 102-575 identifies wetlands as a key component of wildlife protection and enhancement in the Central Valley and specifies actions to improve water supplies in support of the objectives of the CVJV.

What is the CVJV's Role in Public Policy?

The CVJV partners focus on policy issues that affect the habitat goals and objectives of its Implementation Plan on both public and private lands. During regular board meetings and committee meetings, the CVJV leverages its diverse membership by discussing and sharing information about public policy initiatives that may affect its priorities. The CVJV Management Board sends letters to state and federal agencies and other decision makers to express positions or share information regarding administrative actions that may affect birds and their habitats in the Central Valley. The CVJV partners regularly meet with state and federal agency officials about issues affecting CVJV priorities. When permitted under applicable laws and policies, some CVJV members also lobby the California Legislature and U.S. Congress regarding proposed legislation that would affect CVJV priorities.

CVJV Committees That Address Policy Issues

The CVJV Board maintains a Legislative Affairs Committee that examines state and federal bills, regulations, and policy decisions that affect CVJV interests. The Committee then recommends positions and actions to the CVJV Board on issues with the greatest impact on CVJV habitat goals and objectives. The Legislative Affairs Committee is the primary

committee that works on public policy issues on behalf of the partners.

The Legislative Affairs Committee works closely with the Water Committee, whose members examine a wide range of water policy issues relating to both wetlands and wildlife-friendly agriculture for their effect on CVJV priorities, goals, and objectives, to formulate strategies for water-related policy engagement. Similarly, the Legislative Affairs Committee works with the Lands Committee to consider policy issues that impact bird conservation efforts on both public and private lands. Recommendations by any of the committees must receive approval by the CVJV Board prior to any coordinated action taking place. Actions by partners may include such things as comments on public documents and contact with legislative bodies and policymakers.

Programs and Regulatory Actions That Affect CVJV Habitat Goals and Objectives

The CVJV Management Board (as well as the boards of many of the other Joint Ventures across the United States) is actively engaged on many different public policy issues, particularly those that affect funding for bird habitat conservation efforts. Some important public policy issues are described here.

State and Federal Funding for Bird Habitat Programs

Several key federal and state programs currently help the CVJV fulfill its habitat goals and objectives as identified in this Implementation Plan. Funding for all of these programs is dependent on annual federal or state budget appropriations. In recent decades, the state has relied almost entirely on general obligation bonds to provide funding for state environmental programs.

North American Wetlands Conservation Act (NAWCA)

This U.S. Fish and Wildlife Service (USFWS) program provides grants for wetland conservation projects in the United States, Canada, and Mexico. There is a Standard Grants Program and a Small Grants Program. Both are competitive grant programs and require that grant requests be matched by partner contributions at no less than a 1-to-1 ratio.

Since 1992, there have been more than 120 NAWCA projects either completed or underway in the Central Valley. These projects have conserved over 800,000 acres of wildlife habitat. NAWCA funding of more than \$80 million stimulated partner contributions of more than \$300 million.

Partners for Fish and Wildlife (PFW)

This program is the U.S. Fish and Wildlife Service's habitat restoration cost-sharing program for private landowners. The program was established to provide technical and financial assistance to conservation-minded farmers, ranchers and other private (non-federal and non-state) landowners who wish to restore fish and wildlife habitat on their land. The PFW program emphasizes the restoration of historical ecological communities for the benefit of native fish and wildlife in conjunction with the desires of private landowners.

The Agricultural Conservation Easement Program (ACEP)

This USDA Natural Resources Conservation Service (NRCS) program provides financial and technical assistance to help

conserve agricultural lands and wetlands and their related benefits. Under the Wetlands Reserve Easements component, NRCS helps to restore, protect and enhance enrolled wetlands on private lands, many of which provide significant buffers adjacent to National Wildlife Refuges.

Regional Conservation Partnership Program (RCP)

This NRCS program encourages conservation partners to work with agricultural producers and private landowners to restore and improve the sustainable use of soil, water, wildlife and related natural resources on regional or watershed scales. RCP participants leverage funding to design, implement and maintain voluntary conservation solutions.

California Waterfowl Habitat Program (Presley Program)

This California Department of Fish and Wildlife (CDFW) program provides economic incentives to private landowners who agree to manage their properties in accordance with a wetland management plan developed cooperatively by CDFW biologists and the participating landowner.

CDFW started the program with an original enrollment of 6,500 acres in the Sacramento Valley and San Joaquin Valley. Since that time, the Presley Program has steadily grown to include over 29,000 acres of habitat for wintering and breeding waterfowl in the Central Valley, including the Tulare Basin, Grasslands Ecological Area, Suisun Marsh, and numerous locations in the Sacramento Valley.

California Winter Rice Incentive Program

The purpose of this program is to incentivize the flooding of rice fields after harvest. The practice has a variety of benefits, including air quality, waterfowl habitat, and the production of invertebrates that provide nutrients for out-migrating salmon smolts.

Permanent Wetland Easement Program

This program, administered by the CDFW in cooperation with the Wildlife Conservation Board's Inland Wetland Conservation Program, pays willing landowners approximately 50 to 70 percent of their property's fair market value to purchase the farming and development rights in perpetuity. The landowner retains many rights including trespass rights, the right to hunt and/or operate a waterfowl hunting club and the ability to pursue other types of undeveloped recreation (e.g., fishing, hiking). Easement landowners are required to follow a cooperatively developed wetland management plan and meet bi-annually with CDFW biologists to discuss habitat conditions and management.

Landowner Incentive Program (LIP)

This CDFW program is funded by the USFWS Wildlife and Sport Fish Restoration Program and is an effort to reverse the decline of at-risk species in the Central Valley through enhancement and management of private lands. LIP focuses on the Central Valley's three predominant historical habitat types: wetlands, native grasslands, and riparian habitats. LIP assists landowners with enhancing these three habitat types by providing annual incentive payments in return for implementing habitat management plans that benefit special status species.

Shared Habitat Alliance for Recreational Enhancement (SHARE) Program

CDFW administers the SHARE Program to provide financial incentives to landowners to open their property to the public for hunting and other wildlife-dependent recreation. These types of land uses support bird habitat conservation. The program helps to recruit and retain hunters, including waterfowl and upland game bird hunters, by providing additional low-cost but high-quality opportunities. In surveys, members of the public frequently cite a lack of access to land as a prime reason why they no longer hunt or hunt less often.

The 2018 North American Waterfowl Management Plan, which helps guide waterfowl management efforts in the United States, Canada and Mexico, calls for greater recruitment and retention of waterfowl hunters.

Nesting Bird Habitat Incentive Program

This landowner incentive program in the Fish and Game Code, administered by CDFW, focuses on establishing upland nest cover for waterfowl, other gamebirds and songbirds. For implementation, this program needs start-up and annual funding sources. The program pays farmers and other landowners to maintain vegetative cover on fallowed lands. Priority is given to lands adjacent to waterfowl brood water, such as flooded rice or semi-permanent wetlands on national wildlife refuges and state wildlife areas.

Wildlife Conservation Board – Inland Wetlands Conservation Program (IWCP)

The Inland Wetlands Conservation Program was created in 1990 to assist the CVJV in its mission to protect, restore and enhance wetlands and associated habitats. The IWCP has a wide range of options to accomplish CVJV goals relating to wintering waterfowl, breeding waterfowl, non-breeding shorebirds, breeding shorebirds, waterbirds, and breeding riparian songbirds. Options include acquisitions of land or water for wetlands or wildlife-friendly agriculture, acquisition of conservation easements, restoration of public or

private lands, or enhancement of existing degraded habitats. In addition, the program works toward providing long-term reliable water for wetlands and winter-flooded agricultural lands. The IWCP jurisdiction matches that of the CVJV and includes most of the watershed of the Central Valley.

Wildlife Conservation Board – California Riparian Habitat Conservation Program (CRHCP)

The California Riparian Habitat Conservation Program (CRHCP) was created to protect, preserve and restore riparian habitat throughout California. The CRHCP has a wide range of options to accomplish CVJV goals relating to waterfowl and breeding riparian songbirds. Options include acquisition of land for riparian habitat and floodplains, acquisition of conservation easements, protection of riparian habitat from agricultural land uses, restoration of public or private lands, or enhancement of existing degraded habitats. In addition, the program requires long-term management plans for habitat types protected, restored or enhanced under the CRHCP. The CRHCP jurisdiction overlaps that of the CVJV and includes the watersheds of the Central Valley.

The State Duck Stamp, Upland Game Bird Stamp and related bird hunting validations

The California State Duck Stamp was created by legislation in 1971 (Fish and Game Code §3702) and the Upland Game Bird Stamp was created by legislation in 1992 (Fish and Game Code §3682.1). Licensed hunters are required to purchase state duck and upland gamebird validations when hunting waterfowl and upland game birds. Stamp collectors and conservationists can also purchase the state duck and upland game bird stamps. Revenue from the sale of these items generates significant funding for bird conservation projects in California and is a traditional source of funding for CDFW. In 2018, duck stamp sales generated \$1.25 million and upland game bird stamp sales generated \$1.4 million (CDFW 2019).

The Federal Duck Stamp

Waterfowl hunters are required to purchase federal duck stamps every year with their hunting license; other outdoor recreationists can also buy the collectible federal stamps to support waterfowl habitat conservation. Revenue from this program is used to acquire and protect wetland habitat and purchase conservation easements for the National Wildlife Refuge System. In the Central Valley, these funds have been instrumental in purchasing refuge lands and for establishing conservation easements on private wetlands adjacent to refuges.

The Federal Aid in Wildlife Restoration Act of 1937 (Pittman-Robertson Act)

This Act generates funds from an excise tax on sporting firearms, pistols, ammunition, and bows and arrows. The funds are distributed to state fish and wildlife agencies based on the geographic area of the state and its population of license-buying hunters. In 2018, CDFW was apportioned more than \$26 million in Pittman-Robertson grant funds (USFWS 2018), much of which was used to establish and manage state wildlife areas that are operated for waterfowl and other wildlife conservation, hunting, and compatible public access.

Hunting Licenses

California hunting license revenue is used by CDFW for a variety of conservation purposes, most notably for fish and wildlife law enforcement. In 2018, hunting licenses generated about \$11.4 million (CDFW 2019).

State and Federal Water Programs

Effective water management is essential for achieving the CVJV's objectives because most Central Valley wetlands require water deliveries and because wildlife-friendly agricultural lands are a key part of the Central Valley's bird habitat mosaic. There are several state and federal water-related laws, policies, and programs that affect the CVJV's interests, as discussed in the Water subchapter.

Central Valley Project Improvement Act (CVPIA) Restoration Fund

This federal fund is administered by the U.S. Bureau of Reclamation and USFWS using annual appropriations based on the collection of mitigation and restoration fees from Central Valley Project water users. The CVPIA Restoration Fund is used to pay the costs of acquiring and delivering water to 19 identified wetland habitat areas in the Central Valley, including state, federal and private wetlands. The Restoration Fund is also used for water infrastructure and conveyance projects that benefit these wetlands.

Habitat Management Costs, Permitting and Regulations

Active management is required in order to maintain desired habitat conditions and can be costly. These expenses can prove especially problematic for budget-limited state and federal landowners such as CDFW and USFWS. Major regulatory expenses for wetland and other habitat managers include the following:

The Irrigated Lands Regulatory Program (ILRP)

The ILRP is a regulatory program, administered by the State Water Resources Control Board, that prevents non-source

pollution from irrigated lands. It requires irrigators to join "coalitions" that fund the testing and remediation of pollutant discharges from irrigated lands. The ILRP also requires irrigators to report on nitrate and sediment discharges. Because managed wetlands seldom discharge nitrates or sediment, the Central Valley Regional Water Quality Control Board has exempted managed wetlands from these reporting requirements, thanks to the efforts of CVJV members.

Dredge and Fill Procedures

The State Water Resources Control Board has adopted dredge and fill procedures that apply to waters of the state. With respect to Environmental Restoration and Enhancement Projects (EREP), which include the type of wetland restoration and maintenance projects generally undertaken by CVJV partners, permits may be obtained from regional water quality control boards by presenting funding agreements entered into with state and federal agencies who distribute wetland restoration funding. EREP projects are also exempt from alternatives analysis and compensatory mitigation.

Mosquito Abatement

Spraying or implementing best management practices (BMPs) to control mosquitoes not only constitute a significant wetland management cost in many counties throughout the Central Valley and Suisun Marsh; they also may limit the ecological function and productivity of managed wetlands (Kwasny et al. 2004). These negative ecological impacts can occur through pesticide impacts to the base of the food chain (e.g., invertebrates), which may reduce ecological productivity; habitat manipulation that degrades the quality of wetlands; or delaying or changing the duration of the flooding of wetlands. In addition, many wetland managers have limited operating budgets. More time and money dedicated to mosquito control means fewer resources available for other wetland management activities.

Noxious Weed Control

The spread of invasive non-native plant species can significantly degrade habitats important to waterfowl and other bird species, often requiring annual control efforts (Fredrickson and Taylor 1982). As an example, non-native or undesirable plants such as cocklebur and joint grass in managed wetlands reduce the production of key waterfowl food plants like smartweed and watergrass. Water conveyance systems in managed wetlands are also impeded by the overgrowth of non-native plant species such as water primrose and parrot's feather, requiring expensive and labor-intensive chemical or mechanical control.

SUCCESS STORY

WETLAND HABITAT RESTORATION ON FAITH RANCH

Faith Ranch, in the CVJV's San Joaquin planning region, is a privately-owned property under conservation easement with the USFWS. The easement allows cattle grazing and wildlife-friendly agricultural production while encouraging habitat restoration. Wetland restoration on Cacklebur Pond was completed in 2002 and cattle were excluded from the pond. Restoration was conducted with cost-share funding from two CVJV partners, the USFWS through the Partners for Fish and Wildlife Program, and the NRCS through the Wetland Reserve Program. Faith Ranch has received several NAWCA grants administered by the USFWS for its wetland conservation projects.

BEFORE WETLAND RESTORATION EFFORTS BEGAN



Cacklebur Pond in 2001 - Gary Zahm, Faith Ranch

AFTER CATTLE WERE EXCLUDED



The pond in 2002 - Gary Zahm, Faith Ranch

WITH WETLAND VEGETATION RE-GROWING



The pond in 2004 - Gary Zahm, Faith Ranch