

Scoping Report
for the
Habitat Management, Preservation, and
Restoration Plan for the Suisun Marsh
**Programmatic Environmental Impact Statement/
Environmental Impact Report**

U.S. Fish and Wildlife Service & U.S. Bureau of Reclamation – Federal Joint Lead Agencies
California Department of Fish and Game – State Lead Agency



Photo: Angelo Garcia, Jr., Dept. of Water Resources

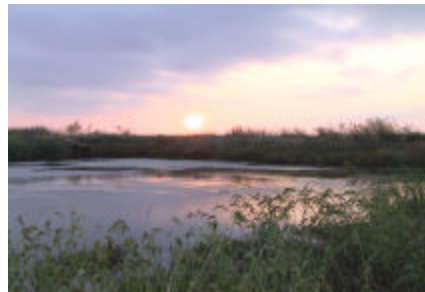


Photo: Department of Fish and Game



Photo: Department of Fish and Game



Photo: Department of Fish and Game

Prepared by:

Suisun Marsh Charter Group Principal Agencies

- U.S. Fish and Wildlife Service
- U.S. Bureau of Reclamation
- National Oceanic and Atmospheric Administration, National Marine Fisheries Service
- California Department of Fish and Game
- California Department of Water Resources
- California Bay-Delta Authority
- Suisun Resource Conservation District

May 2004

Scoping Report
for the
**Habitat Management, Preservation,
and Restoration Plan for the Suisun Marsh**
**Programmatic Environmental Impact Statement/
Environmental Impact Report**

Prepared by:

Suisun Marsh Charter Group Principal Agencies

- U.S. Fish and Wildlife Service
2800 Cottage Way
Sacramento, CA 95825
- U.S. Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way
Sacramento, CA 95825
- National Oceanic and Atmospheric
Administration,
National Marine Fisheries Service
777 Sonoma Avenue
Santa Rosa, CA 95404
- California Department of Fish and Game
4001 N. Wilson Way
Stockton, CA 95205
- California Department of Water Resources
Division of Environmental Services
3251 – S Street
Sacramento, CA 95816
- California Bay-Delta Authority
650 Capitol Mall, 5th floor
Sacramento, CA 95814
- Suisun Resource Conservation District
2544 Grizzly Island Road
Suisun City, CA 94585

May 2004

Contents

- Introduction..... 1**
- Background..... 2**
- Scoping Process..... 3**
 - Notices of Intent and Notice of Preparation 4
- Public Scoping Meetings..... 4**
 - Meeting Structure 4
 - Participating Staff..... 5
 - Meeting Attendance..... 6
- Public Comments 6**
 - Meeting Structure 6
 - Written Comments Submitted by Government Agencies 24
- Conclusion 25**

- Appendix A Habitat Management, Preservation, and Restoration Plan for the Suisun Marsh: Scoping Process Fact Sheet**

- Appendix B Suisun Marsh Map and Proposed Planning Area Boundary**

- Appendix C Charter for Development of an Implementation Plan for Suisun Marsh Wildlife Habitat Management and Preservation**

- Appendix D Notice of Intent / Notice of Preparation**

- Appendix E Media Notification List and Press Release**

- Appendix F Scoping Meeting Announcement**

- Appendix G Scoping Meeting Agenda and Presentation Materials**

- Appendix H Correspondence Received in Response to Notices of Intent and Preparation**

Introduction

This report summarizes the comments and questions raised during the public scoping period for the proposed Habitat Management, Preservation, and Restoration Plan for the Suisun Marsh (Suisun Marsh Plan) being developed by the Suisun Marsh Charter Group (Charter Group), a collaborative effort among of federal, state and local agencies with primary responsibility for actions in Suisun Marsh.

Scoping is the process of determining the coverage, focus, and content of an environmental impact statement (EIS) (as prescribed by the National Environmental Policy Act [NEPA]) and an environmental impact report (EIR) (as prescribed by the California Environmental Quality Act [CEQA]). The Principal Agencies of the Charter Group have chosen a programmatic approach and will be developing a joint programmatic environmental impact statement (PEIS)/ programmatic environmental report (PEIR), collectively referred to for this project as the PEIS/R. Scoping helps to identify the range of actions, alternatives, environmental effects, and mitigation measures to be analyzed in depth, to select methods of assessment, and to eliminate from detailed study those issues that are not important to the decision at hand. Scoping is also an effective way to bring together and resolve the concerns of a project's proponents; interested federal, state, and local agencies; and other interested parties, including opponents of the project.

The scoping process focused on the six preliminary goals printed on the *Habitat Management, Preservation, and Restoration Plan for the Suisun Marsh: Scoping Process Fact Sheet*, which was distributed at each scoping meeting (Appendix A). The Principals recognize that development of a PEIS/R is an iterative process and goals may be revised or supplemented as the process moves forward. In response to public comments received at the meetings, and written comments received through the mail, some goals statements have been modified to incorporate new issues. In addition, a new goal (Goal 7) was created to encompass a set of issues not previously addressed.

This report includes verbal and written public comments received during the scoping period (November 7, 2003 to February 9, 2004). The report has been circulated among the Principal Agencies of the Charter Group and will be used to identify significant issues for analysis in the PEIS/R and will influence alternatives development.

Background

The Suisun Marsh is the largest contiguous brackish water wetland in western North America (Appendix B). It is an important wetland on the Pacific Flyway, providing food and habitat for migratory birds. This intricate mosaic of tidal wetlands, diked seasonal wetlands, sloughs, and upland grasslands comprises over 10 percent of the remaining wetlands in California and is an important part of the San Francisco Bay-Delta Estuary. The Suisun Marsh provides habitats for many species of plants, fish, and wildlife, in addition to wintering and nesting waterfowl habitat.

The Charter Group was formed in 2001 to resolve issues of amending the Suisun Marsh Preservation Agreement (SMPA), obtain a Regional General Permit, implement the Suisun Marsh Levee Program, and recover endangered species. The broader purpose of the Charter Group was to develop and agree on a long-term implementation plan for the Suisun Marsh consistent with, and in the context of, the CALFED Bay Delta Program. A *Charter for Development of an Implementation Plan for Suisun Marsh Wildlife Habitat Management and Preservation* was prepared by the Charter Group Principal Agencies (Appendix C).

The Charter Group was charged with developing a regional plan that would outline the actions needed in Suisun Marsh to preserve and enhance managed seasonal wetlands, restore tidal marsh habitat, implement a comprehensive levee protection/improvement program, and protect ecosystem and drinking water quality. The proposed Suisun Marsh Plan would be consistent with the goals and objectives of the Bay-Delta Program, and balance them with SMPA, Federal and State Endangered Species Acts, and other management and restoration programs within the Suisun Marsh in a manner responsive to the concerns of all stakeholders, and based upon voluntary participation by private landowners. The proposed Suisun Marsh Plan also would provide for simultaneous protections and enhancement of: (1) The Pacific Flyway and existing wildlife values in managed wetlands, (2) endangered species, (3) tidal marshes and other ecosystems, and (4) water quality, including, but not limited to, the maintenance and improvement of levees.

The Charter Group principal agencies are: U.S. Fish and Wildlife Service (USFWS), Bureau of Reclamation (USBR), California Department of Fish and Game (DFG), Department of Water Resources (DWR), Suisun Resource Conservation District (SRCD), California Bay-Delta Authority (CBDA), and National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries). Additional public entities participating in the Charter Group include: U.S. Army Corps of Engineers, San Francisco Bay Conservation & Development Commission, and San Francisco Bay-Delta Science Consortium.

The USFWS and USBR are participating as NEPA co-lead Federal agencies, and the DFG is the lead CEQA State agency, for the development of the PEIS/R. These lead agencies will oversee the environmental review process. The Center for Collaborative Policy (CCP), a joint program of California State University

Sacramento and the McGeorge School of Law, has been contracted by the Charter Group to provide public participation and facilitation/mediation assistance with the multi-agency environmental compliance process.

Scoping Process

The federal Council on Environmental Quality's (CEQ's) NEPA Regulations and the State of California's CEQA Guidelines all provide guidance for the scoping process. Scoping has the following objectives.

- 1. To identify the concerns of the affected public and agencies.*
- 2. To facilitate an efficient EIS/EIR preparation process by assembling the cooperating agencies, ascertaining all the related permits and reviews that must be scheduled concurrently, and establishing time or page limits.*
- 3. To define the issues and alternatives that will be examined in detail in the EIS/EIR while simultaneously devoting less attention and time to issues that cause no concern.*
- 4. To appropriately scale the overall review process by obtaining early feedback on draft statements of the issues and preliminary findings. Environmental studies and evaluations can then be focused on areas and issues of outstanding concern.*

The Charter Group Principal Agencies are committed to a planning process, consistent with the CALFED Record of Decision (ROD), that includes strong local involvement, is integrated with other programs, is based on sound science, and is open and transparent.

Accordingly, three public meetings were held to allow the general public an opportunity to offer input on the programmatic plan and issues that should be addressed in the PEIS/R. CCP facilitated the meetings and provided a neutral written recording of comments received at the meetings.

In addition to the formal scoping process, the San Francisco Bay-Delta Science Consortium, in coordination with the CBDA Science Program and the Suisun Marsh Charter Group, held a Suisun Marsh Science Workshop on March 1 and 2, 2004, in Sacramento, California. While the information presented and discussed at the Workshop was not part of the formal scoping process, that information, nonetheless, is important to the future NEPA/CEQA planning efforts. Additional information, including Workshop proceedings, can be found at <http://www.baydeltaconsortium.org>.

Notice of Intent and Notice of Preparation

Both NEPA and CEQA require formal public announcement of the intent to prepare an EIS/EIR or PEIS/PEIR for a proposed project. In compliance with NEPA, the USFWS and USBR jointly published a Notice of Intent (NOI) in the Federal Register (Volume 68, Number 217) on November 10, 2003. In compliance with CEQA, the DFG issued a Notice of Preparation (NOP) on November 7, 2003. Both the NOI and NOP invited the public to offer comments during the scoping period, which began November 7, 2003 and closed February 9, 2004. Copies of both the NOI and NOP are provided in Appendix D.

Public Scoping Meetings

Three public scoping meetings were held to solicit comments to help determine the scope of the proposed Suisun Marsh Plan PEIS/R. The meetings were held:

- November 25, 2003 at the Solano County Mosquito Abatement District in Fairfield, California;
- December 4, 2003 in the Dona Benicia Room of the Benicia Public Library in Benicia, California; and
- December 10, 2003 in the Pena Adobe Room of the Solano County Office of Education in Fairfield, California.

The November 25th meeting began at 12 noon; both the December 4th and 10th meetings began at 6 p.m. A press release was prepared regarding the meetings and was sent to various radio, television, and print media (Appendix E). In addition, a direct mailing was prepared and sent to approximately 1,000 potentially interested parties compiled from mailing lists provided by the Charter Group agencies (Appendix F). The direct mail was supplemented by an email distribution of the meeting notice to approximately 250 public agencies and interested parties.

Meeting Structure

The facilitator from CCP (November 25 and December 4: Mr. Dave Ceppos; December 10: Mr. Austin McInerny) welcomed and thanked the public at each meeting and explained that the CCP had been retained by the Charter Group to assist with the scoping process. Messrs. Ceppos and McInerny also explained that the CCP would prepare a report summarizing the issues raised during the meetings as well as the issues identified in all written comments received during the public comment period. They further explained that this report, when completed, would be publicly available.

Following a brief overview of the meeting's purpose, a series of presentations were given to provide the public with an overview of the federal and state decision-making process, the nature and physical requirements of the proposed project, and the environmental review process. The meeting agenda and the PowerPoint presentation are included in Appendix G.

A facilitated question-and-answer and comment period followed the formal presentations. During that time, Charter Group representatives and members of the facilitation team responded to audience questions and clarified aspects of the project (see Photo 1). The moderator and his assistant recorded all verbal comments on a series of flip charts. Interested parties were also encouraged to provide comments in writing either on the blank comment cards that were distributed at the meetings, by U.S. mail after the meetings, or by e-mail to lbriden@delta.dfg.ca.gov.



Photo: Charter Group staff responds to questions during scoping meeting.

Attendees at the meetings received several handouts, including a meeting agenda; a scoping process fact sheet; a copy of the PowerPoint presentation notes; a copy of the *Charter for Development of an Implementation Plan for Suisun Marsh Wildlife Habitat Management and Preservation*; and a blank comment sheet.

Participating Staff

The following representatives from the Charter Group agencies and the facilitation team participated in one or more of the scoping meetings:

- U.S. Fish & Wildlife Service
Cay Goude, Principal
Cecilia Brown
Dan Buford
- U.S. Bureau of Reclamation
Donna Tegelman, Principal
Lee Laurence
John Robles
- California Dept. of Fish and Game
Carl Wilcox, Principal
Laurie Briden
Laurie Thompson
Frank Wernette
- California Bay Delta Authority
Rhonda Reed, Principal
Dan Ray

- Department of Water Resources
Barbara McDonnell, Principal
Terri Gaines
Victor Pacheco
- Suisun Resource Conservation
District
Steve Chappell, Principal
Jini Scammell-Tinling
Jim Waters
- Center for Collaborative Policy
Dave Ceppos
Austin McInerny
Jodie Monaghan

Meeting Attendance

Approximately 85 individuals attended the November 25, 2003 meeting; approximately 40 individuals attended the December 4, 2003 meeting; and approximately 35 individuals were present at the December 10, 2003 meeting. While attendees were encouraged to leave their names and contact information on sign-in sheets at the meetings, not all attendees did so. Those individuals who left contact information have been added to the larger mailing list of all parties notified of scoping meetings. Individuals who attended the scoping meetings and/or submitted written comments, and provided contact information, will be mailed this scoping report. All others on the mailing list will be notified via email or postcard that the scoping report is available, either online at <http://www.delta.dfg.ca.gov/suisunmarsh/charter>, or in hard copy format that may be requested at no charge. The completed sign-in sheets from all meetings are available for public review at DFG's Central Valley Bay-Delta Branch office, 4001 N. Wilson Way, Stockton, CA 95205; Attn: Ms. Laurie Briden.

Public Comments

All comments received at the scoping meetings, as well as written comments received in response to the NOI/NOP, will be considered during preparation of the draft PEIS/R. To assist in this process, the comments received during the formal NOI/NOP comment period are summarized below. Copies of all written correspondence received during the comment period are included in Appendix H.

Verbal Comments from Scoping Meetings

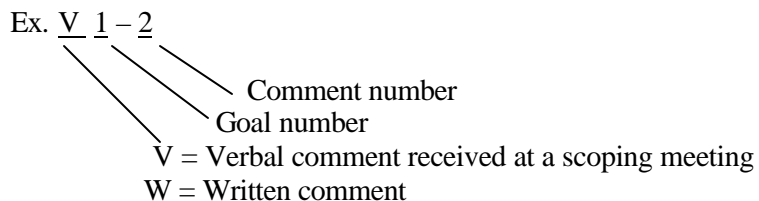
All public comments received as part of the public scoping process are presented below. Verbal comments received at the meetings are presented as they were recorded (with minor changes by the facilitation team for grammatical and topical consistency). Written comments are presented as received (with some summarization consistent with that done at the public scoping meetings). The comments/questions are sorted into appropriate topical categories that relate to the Suisun Marsh Plan's preliminary program goals and issues that were presented at the scoping meetings. For clarity, the preliminary goals and issues

are presented in italics. As stated in the Introduction, some goals and issues have been modified in response to comments received. The comments are notated as either comments articulated at the scoping meetings (V) or written comments submitted either at the meetings or by mail or email (W). In addition, the comments have been grouped into 4 categories under each goal statement:

- Issues Currently Addressed - Issues believed to be currently addressed in the preliminary goals and issues prepared by Charter Group staff;
- New Issues Warranting Evaluation - New issues not previously raised by the Charter Group and warranting evaluation in the PEIS/R document;
- Comments Under Consideration - Comments under consideration at this time; and
- General Questions to be Answered - General questions to be answered in the PEIS/R document.

For clarification, in situations where Charter Group staff have made some assumptions regarding the specific intent of a broad question, the Charter Group staff noted these assumptions in *italics* following the comment. Questions and/or issues associated with the PEIS/R process and with general regulatory and agency coordination matters that do not relate specifically to one of the program goals are presented separately. Not all the questions that were raised could be answered during the public meetings. Charter Group comments presented at the public meeting, as well as responses to questions asked, were not recorded, and therefore are not presented in this document. Lastly, the comments are displayed as they were recorded by the facilitation team and do not represent the position or opinion of either the lead agencies or the Charter Group members.

For easy reference, each comment is numbered according to the format below: (NOTE: comment numbers are for reference purposes only and do not imply any prioritization of comments.)



Goal 1: Ecological Processes

Rehabilitate natural processes where feasible in the Suisun Marsh to more fully support, with minimal human intervention, natural aquatic and associated terrestrial biotic communities and habitats, in ways that favor native species of those communities, with a particular interest in waterfowl and sensitive species.

- *Restoration activities in the Suisun Marsh may affect the numbers and frequency of occurrence of birds, mammals, plants and aquatic species in the Marsh.*
- *Most Suisun Marsh land surfaces within leveed areas have subsided below mean sea levels, thus complicating seasonal wetland management and tidal marsh restoration options.*
- *Existing managed wetland infrastructure in Suisun Marsh is subject to degradation that may impair habitat quality and management efficiency and requires routine maintenance.*
- *Isolation of bay waters from seasonally managed wetlands in Suisun Marsh has created detrimental ecological conditions for some aquatic and tidally dependent species.*
- *Existing levees isolate the Suisun Marsh plain from tidal influence, altering salinity regimes, sediment transport, and hydrodynamic patterns to the detriment of natural ecological processes.*

Issues Currently Addressed – Goal 1

The following issues raised in verbal and written comments are believed to be currently addressed in the preliminary goals and issues prepared by Charter Group Staff.

- V1-1 What extent will tidal restoration play in program?
- V1-2 What is the basis for the assumption that tidal wetlands are beneficial vis-à-vis managed wetlands?
- V1-3 What is the role / effect of tidal marsh on waterfowl?
- V1-4 Is there evidence that breached dikes restore ecosystems?
- V1-5 Is the pursuit of tidal wetlands an inviolate part of CALFED?
- W1-1 Can assurances that progressive tidal restoration will not extend beyond the currently proposed acreage be written into the Plan?
- W1-2 The Suisun Marsh Plan should identify the number of acres of tidal salt marsh that public agencies seek to restore, and the number of acres of seasonal managed wetland that public agencies seek to support through regulatory streamlining and public funding.

<p>Legend: Ex. V¹ I² - I³</p> <p>¹ V = Verbal Comment</p> <p>W = Written Comment</p> <p>² Goal Number</p> <p>³ Comment Number</p>

New Issues Warranting Evaluation – Goal 1

The following new issues raised in verbal and written comments are believed to warrant evaluation in the PEIS/R document.

- V1-6 Pre-European settlement ecological conditions are not necessarily better. Need to be sure that the planning process balances the conditions that are actually improving the ecological / habitat conditions.
- V1-7 What's the baseline for beginning tidal marsh restoration?
- V1-8 When talking about restoration – What are you restoring to and why? When are you turning the clock back to? (What are we trying to achieve?)
- V1-9 Dredging is critical for maintaining overall habitat quality. (*Charter Group assumes reference to ecosystem process related to managed wetland infrastructure.*)
- V1-10 What will the economic impact of agricultural conversions be?
- W1-3 The potential effects of sea level rise should be considered on each of Plan's programs.

Comments Under Consideration – Goal 1

The following verbal and written comments are currently under consideration by the Charter Group.

- W1-4 The PEIS/R should include a “pre-intervention” alternative. This alternative would assume elimination of the man-made dikes and other facilities and altered natural hydrology, increased freshwater flows, and elimination of invasive exotic species. This alternative would account for the species assemblages that these marshes supported historically and, to the extent feasible, emulate the natural processes that shaped this ecosystem over the past several millennia. Such an alternative would eliminate the need to maintain the dikes, mimic the natural variability in the watershed to the maximum extent possible, and potentially maximize benefits to plant and animal communities. The pre-intervention alternative would accomplish most of the stated goals of the plan, except for the goal of levee system integrity. The direct and indirect costs and benefits of maintaining such levees would become more obvious by including a pre-intervention alternative in the PEIS/EIR.

<p>Legend: Ex. V¹ I² - I³ ¹ V = Verbal Comment W = Written Comment ² Goal Number ³ Comment Number</p>

General Questions to be Answered – Goal 1

The following issues raised in verbal and written comments will be answered in the PEIS/R document:

(none)

Goal 2: Habitats

Protect, restore, and enhance habitat types where feasible in the Suisun Marsh for ecological and public values such as supporting species and biotic communities, ecological processes, recreation, scientific research, and aesthetics.

- *Historical diking, water diversions, and land management practices have reduced the presence and availability of habitat for tidal marsh dependent species.*
- *Limited size, connectivity, and range of habitat types have reduced the presence and population viability of tidal marsh dependent species.*
- *Habitat requirements for many species differ and thus create conflicts regarding management of the marsh resources.*
- *Unscreened water diversions entrain fish species of concern.*

Issues Currently Addressed – Goal 2

The following issues raised in verbal and written comments are believed to be currently addressed in the preliminary goals and issues prepared by Charter Group Staff.

- V2-1 How will fish screens be managed / addressed in the program?
- V2-2 What are the trade-offs between seasonal wetlands and tidal wetlands?
- V2-3 How will you know when the salt marsh harvest mice are restored? How do you know the mouse hasn't adapted to managed-wetlands?
- V2-4 Landowners should not be penalized for the decline in the clapper rails. Stability of rail populations in the Marsh reflects long-term changes that over time, have created an existing condition that provides benefits to habitat / species.
- V2-5 What exact habitat does the salt marsh harvest mouse require – managed wetlands or tidal habitat?
- V2-6 How does this current effort relate to the past habitat goals planning effort?
- W2-1 Will the restoration of tidal wetlands be at the expense of managed wetlands?
- W2-2 The Suisun Marsh Plan should identify the number of acres of tidal salt marsh that public agencies seek to restore, and the number of acres of

Legend:

Ex. V¹ I² - I³

¹ V = Verbal
Comment

W = Written
Comment

² Goal Number

³ Comment
Number

seasonal managed wetland that public agencies seek to support through regulatory streamlining and public funding.

- W2-3 The Plan should provide encouragement and assistance with funds and technical support for landowners to provide restoration of natural habitats (seeding of native plants).
- W2-4 What impact will tidal restoration have on adjacent properties?
- W2-5 Will there be a maximum amount of acreage slated for tidal restoration?
- W2-6 How will the plan balance the dichotomy of voluntary relinquishing of property to mandated tidal restoration?
- W2-7 Property managers must be encouraged to grow and develop abundant natural wild flora. Property managers must not be prohibited from removing problem plants and replacing them with wild, natural food sources.
- W2-8 Property owners must be provided with sufficient fresh water to desalinate and irrigate the natural plant life on their land.

New Issues Warranting Evaluation – Goal 2

The following new issues raised in verbal and written comments are believed to warrant evaluation in the PEIS/R document.

- W2-9 The numbers of Salt Marsh Mouse should be investigated to determine if the species is at risk in the Marsh. Just because the Salt Marsh Mouse is a listed species because of mismanagement in the San Francisco Bay, doesn't mean the Suisun Marsh is similarly impacted. The Marsh should not be penalized by rehabilitating a species that doesn't need rehabilitating.

Legend:
Ex. V ¹ I ² - I ³
¹ V = Verbal Comment
W = Written Comment
² Goal Number
³ Comment Number

Comments Under Consideration – Goal 2

(none)

General Questions to be Answered – Goal 2

The following general questions raised in verbal and written comments will be answered in the PEIS/R document.

- V2-7 What is CBDA's definition of "Tidal Marsh"?
- V2-8 What is the Suisun Marsh Ecological Zone?

Goal 3: Levee System Integrity

Provide long-term protection for multiple Suisun Marsh resources by maintaining and improving the integrity of the Suisun Marsh levee system.

- *Exterior levee maintenance is difficult due to limitations on the use and expense of available materials, high costs of levee work, and physical and regulatory constraints.*
- *The lack of a coordinated emergency response plan poses a threat to critical Marsh resources in the event of an emergency created by a levee failure and property inundation.*

Issues Currently Addressed – Goal 3

The following issues raised in verbal and written comments are believed to be currently addressed in the preliminary goals and issues prepared by Charter Group Staff.

- V3-1 Without levees, there is no Marsh. Levee integrity is critical and the goal of levee integrity should be of highest importance.
- V3-2 With over 230 miles of levees, CBDA needs to understand the importance/need for levee integrity.
- V3-3 A levee maintenance fund should be created to help fund emergency levee work.
- V3-4 Emergency levee work needs to be fast-tracked. Working with the USFWS is infeasible. Better levee repair technologies need to be developed and a one-stop permit center / agency needs to be identified.
- V3-5 Duck Club owners are already doing everything they can to improve / maintain levees. Dredging must be considered to maintain levees.
- V3-6 Duck clubs benefit the Marsh through flood control.
- V3-7 Mitigation laws / requirements do not work and should be repealed.
- W3-1 Levee maintenance is a huge concern for all the reasons known and the problems entailed already being addressed by private property owners.
- W3-2 Property owners in the Marsh and Grizzly Island must be encouraged to maintain their levees and be allowed to dredge their river/bay access harbors and inlets.
- W3-3 Property managers must be permitted quick and easy access to dredging permits with reasonable conditions to enable them to access their

Legend:

Ex. V¹ I² - I³

¹ V = Verbal
Comment
W = Written
Comment

² Goal Number

³ Comment
Number

property from the bay/river and to continue their work on marsh property.

- W3-4 Dredging is the most cost effective way to preserve the Marsh. A priority list of levees in the greatest need of repair should be developed based on science and engineering.
- W3-5 The most important goal that we all need to work for is the protection of our levees and the Marsh itself. We must have a reasonable dredging program to provide the rocks and dirt to rebuild our levees.

New Issues Warranting Evaluation – Goal 3

The following new issues raised in verbal and written comments are believed to warrant evaluation in the PEIR/S document.

- V3-8 Dredging is critical for maintaining overall habitat quality.
- V3-9 Dredging is critical and must be included in program.
- W3-6 Tidal restoration brings with it many problems currently being attended by property owners in spite of many restrictions imposed on dredging, repair of levees, and burning to name a few of the significant challenges.
- W3-7 Who will pay for the maintenance of levees?
- W3-8 The levee issue should not await the completed deliberations of this group.
- W3-9 Repair of levees on Van Sickle and Wheeler islands is in the best interest of Southern California and Contra Costa water users.
- W3-10 Property owners should be allowed to use rip rap to maintain levees. Excessive erosion is due to ever increasing boat traffic.

Legend:
Ex. V¹ I² - I³
¹ V = Verbal
 Comment
W = Written
 Comment
² Goal Number
³ Comment
 Number

Comments Under Consideration – Goal 3

(none)

General Questions to be Answered – Goal 3

(none)

Goal 4: Non-Native Species

Prevent the establishment of additional non-native species and reduce the negative ecological and economic impact of established non-native species in the Suisun Marsh.

- *Many non-native invasive species are present in the Marsh and often prove detrimental to native species of both managed and tidal wetlands through indirect or direct competition, and/or by predation.*

Issues Currently Addressed – Goal 4

The following issues raised in verbal and written comments are believed to be currently addressed in the preliminary goals and issues prepared by Charter Group Staff.

- V4-1 Non-native species (phragmites, pickle weed, feral pigs, etc.) need to be eradicated.
- V4-2 Look to pilot projects to better understand restoration needs and invasive species eradication.
- V4-3 The interim eradication of non-native species is an issue that should be addressed, including seed stock, phragmites and adjacent development
- W4-1 The impact of the Plan on the ability to curb non-native invasive species should be addressed in the PEIS/R. This would include preventing the establishment of new ones and reducing the impact of established ones.

Legend:

Ex. V¹ I² - I³

¹ V = Verbal
Comment
W = Written
Comment

² Goal Number

³ Comment
Number

New Issues Warranting Evaluation – Goal 4

The following new issues raised in verbal and written comments are believed to warrant evaluation in the PEIR/S document.

- V4-4 Planted barley is a non-native species.
- W4-2 We also find that it's best if we can occasionally burn invasive vegetation that hinders the growth of more beneficial vegetation for the good of local and migratory bird populations.

Comments Under Consideration – Goal 4

(none)

General Questions to be Answered – Goal 4

The following general questions raised in verbal and written comments will be answered in the PEIS/R document.

V4-5 How broadly do you define invasive species?

Goal 5: Water and Sediment Quality

Improve and/or maintain water and sediment quality conditions to provide good quality water for all beneficial uses and fully support healthy and diverse aquatic ecosystems in the Suisun Marsh; and to eliminate, to the extent possible, toxic impacts to aquatic organisms, wildlife, and people.

- *Current wetland management and future marsh restoration activities may increase methyl mercury loading in the water column and benthic sediments of the marsh.*
- *Planned levee breaches and unplanned levee failure may affect Suisun Marsh and Delta salinity levels.*
- *Some fish species may be affected by low dissolved oxygen levels that may occur in sloughs of the marsh at certain times of the year.*
- *Planned levee breaches may cause localized higher salinity levels and decrease tide stage such that adjacent land and water management is impaired.*

Issues Currently Addressed – Goal 5

The following issues raised in verbal and written comments are believed to be currently addressed in the preliminary goals and issues prepared by Charter Group Staff.

- V5-1 Cordelia Slough water quality is very problematic. “Black Water” needs to be addressed.
- V5-2 How will Cordelia Slough “Black Water” be addressed?
- V5-3 How do we prevent / regulate fumes from Black Water?
- V5-4 What do clubs do to deal with Black Water when normal practices are not enough?
- V5-5 Duck clubs worked hard to remedy Black Water odors.
- V5-6 Why doesn’t someone just get the duck club owners together and figure out what to do (*about Black Water*)?

Legend:

Ex. V¹ I² - I³

¹ V = Verbal
Comment
W = Written
Comment

² Goal Number

³ Comment
Number

V5-7 Salinity effects resulting from tidal restoration must be analyzed in the planning document.

New Issues Warranting Evaluation – Goal 5

The following new issues raised in verbal and written comments are believed to warrant evaluation in the PEIS/R document.

V5-8 What happens if the Marsh gets more fresh water? (*Charter Group assumes reference to influence of urban storm water and sewer treatment discharge.*)

V5-9 Who addresses air quality issues relative to Black Water fumes?

W5-1 The 12-miles of levees bordering the Sacramento River along Honker Bay to Grizzly Bay have been determined to be critical to water quality. Tidal land in this area of the Suisun Marsh doesn't make sense.

Comments Under Consideration – Goal 5

The following verbal and written comments are currently under consideration by the Charter Group.

Legend:

Ex. V¹ I² - I³

¹ V = Verbal
Comment

W = Written
Comment

² Goal Number

³ Comment
Number

V5-10 To what degree is less water flowing into the Marsh from upstream? (*Charter Group assumes reference to historical flows.*)

V5-11 Will this group look at water quality if water from the Delta is sent south?

W5-2 It is most important that the water quality (low salinity) be maintained between Collinsville and the Benicia Bridge.

General Questions to be Answered – Goal 5

(none)

Goal 6: Public Use and Waterfowl Hunting

Maintain the heritage of waterfowl hunting and increase the surrounding communities' awareness of the ecological values of the Suisun Marsh.

- *The general public and some agencies lack awareness about Suisun Marsh and its resources.*
- *Tidal marsh restoration in Suisun Marsh will reduce managed wetland acreage and may alter existing wildlife populations and waterfowl hunting heritage and hunting success.*

- *Changing management strategies in the Suisun Marsh will depend on the willingness and cooperation of public and private landowners.*
- *The loss or failure of waterfowl hunting clubs in Suisun Marsh may have secondary economic impacts on the local economy.*
- *Potential adjacent urbanization may affect the unique ecological and cultural characteristics of Suisun Marsh.*

Issues Currently Addressed – Goal 6

The following issues raised in verbal and written comments are believed to be currently addressed in the preliminary goals and issues prepared by Charter Group Staff.

- V6-1 SRCD should provide a Marsh tour. Education is important to preserving the Marsh.
- V6-2 Tidal restoration – misconceptions and fear exist.
- V6-3 There is tremendous pressure on the Marsh from surrounding development.
- W6-1 Expansion and development of communities are encroaching on our precious marsh. We must amend the present regulations and add new ones that preserve the integrity of the freshwater marsh and its inhabitants.
- V6-4 Upstream development has significant impacts on downstream clubs and habitats.
- V6-5 The PEIS/R must analyze impacts resulting from upstream development.
- V6-6 Will the plan address the effects of proposed land development near the Marsh (i.e. the Benicia Transportation Center)?
- V6-7 How will the plan address development adjacent to the Marsh?
- W6-2 The single most important issue is the need to modify the present prohibition on slough dredging. The present slough siltation is not the fault of marsh landowners, nor is it natural marsh process. It derives from the mushrooming of housing and other building developments around the marsh perimeter. The runoff from such activities has interrupted natural water flows that previously kept channels open and cleansed the marsh. It is resulting in stagnation of water circulation to the point that it is becoming a menace to wildlife habitat and eventually will have a negative impact on a broad spectrum of biota.

<p>Legend: Ex. V¹ I² - I³</p> <p>¹ V = Verbal Comment W = Written Comment</p> <p>² Goal Number</p> <p>³ Comment Number</p>

- W6-3 The influx of stormwater runoff from upstream development must be considered. At issue is what is in the water (i.e. oil/gas runoff, fertilizers from landscapes, antifreeze spills and erosion loads from hillsides and construction sites.)
- V6-8 Is Potrero Hills dump included in the plan?
- W6-4 The Plan should provide discouragement of continued intrusions into the Marsh, such as the Potrero Hills Landfill Expansion and the Benicia Intermodal Transportation Station.
- V6-9 Are any of the agencies prepared to weigh-in on the Benicia Inter-modal Transportation development?
- V6-10 What if no one wants to sell his or her land?
- W6-5 Will landowners be forced to sell their land for tidal restoration?

New Issues Warranting Evaluation – Goal 6

The following new issues raised in verbal and written comments are believed to warrant evaluation in the PEIS/R document.

- V6-11 Upland game hunting needs to be included in program goals.
- W6-6 The impact of the Plan on public use and access to the Marsh should be addressed in the PEIS/R.
- V6-12 Public access and public use need to be addressed and communicated in the Plan.
- V6-13 Recreational fishing needs to be addressed in the Plan.
- V6-14 Will the program result in the public having increased access to private lands?
- V6-15 How are you defining public use? What about public access?
- W6-7 Will there be public funding for the general public to access private land under mandate?
- W6-8 How can we insure that public lands will remain open to sportsmen?
- W6-9 Will loss of hunting/fishing/waterfowl habitat be mitigated?
- W6-10 Public funding of proposed projects should not impact private landowners by allowing the public access on private land.

<p>Legend: Ex. V¹ I² - I³ ¹ V = Verbal Comment W = Written Comment ² Goal Number ³ Comment Number</p>

Comments Under Consideration – Goal 6

(none)

General Questions to be Answered – Goal 6

(none)

In addition to the proposed preliminary goals, the issue of regulatory relief was raised. In response, the following new goal was created:

Goal 7: Long-Term Funding, Plan Implementation, and Regulatory Reliability and Efficiency

Develop and implement a Plan that: (1) addresses long-term funding, (2) creates an efficient and reliable regulatory climate, (3) promotes effective management practices, and (4) improves coordination of activities among agencies within and adjacent to the Suisun Marsh.

- *Reliable funding for Plan implementation including Marsh management needs to be obtained.*
- *Permit processes can be long, with multiple permitting agencies giving permits for the same activity, which can result in delays of implementing maintenance and management activities.*
- *Existing programs and restoration opportunities cannot be implemented in a timely manner, due to numerous constraints.*
- *Currently certain management and maintenance activities are performed annually and require annual permits, which may result in delays and / or postponement of these activities.*
- *Permit renewal often results in additional regulatory constraints, which may limit management opportunities, and may impact managed wetland habitat quality.*
- *Coordination between local government, interested parties and involved agencies needs to be improved.*
- *Interagency coordination and development of an Implementation Plan for Suisun Marsh needs to be continued and communicated.*

Legend:

Ex. V¹ I² - I³

¹ V = Verbal
Comment

W = Written
Comment

² Goal Number

³ Comment
Number

Issues Currently Addressed – Goal 7

(none)

New Issues Warranting Evaluation – Goal 7

The following new issues raised in verbal and written comments are believed to warrant evaluation in the PEIS/R document.

- V7-1 Need to keep Solano County involved and informed of evolving process.
- V7-2 City of Fairfield needs to be involved in order to better understand results of development.
- V7-3 US Army Corps of Engineers requires way too much information and notification of very minor activities.
- V7-4 Resume regular meetings of regulatory agencies with landowners and interested parties.
- V7-5 How many agencies currently provide permits to landowners?
- V7-6 Goal statements need to reflect need for reducing regulatory bureaucracy.
- V7-7 What is the legal mechanism to provide certainty to landowners?
- V7-8 Seems that there are too many agencies involved in the Marsh – reduce the bureaucracy and regulations.
- W7-1 Property owners must be given regulatory relief and allowed to use dredge soils to maintain levees. Dredge soils are a “renewable resource” because the cavity left by the dredging is typically refilled through normal tidal action over a period of several years. Currently, the only immediate resource is material from “inside” the levee – a “non-renewable resource.” Once it is used, it cannot be replaced without expensive importation of earth material that is required to be “environmentally compatible.” Further, use of material from inside the levee severely weakens the integrity of the levee.
- W7-2 The Suisun Marsh Plan should identify the circumstances under which regulatory gridlock constitutes a regulatory taking of private land, and the fact that regulatory gridlock may constitute a strategy by government agency personnel to influence the fate of private lands over the Suisun Marsh. The Plan should provide a review of case law on this subject, as it pertains to regulatory takings and its application to the Suisun Marsh. The Plan should identify the threshold beyond which regulatory gridlock constitutes a regulatory taking of private property rights.
- W7-3 The PEIS/R must address historical regulatory and bureaucratic lack of cooperation. Simplification of the permitting process is mandatory.

Legend:

Ex. V¹ I² - I³

¹ V = Verbal
Comment

W = Written
Comment

² Goal Number

³ Comment
Number

- W7-4 No one has ever seen a Clapper Rail, yet landowners are prevented from repairing levees from February through August. Landowners must have regulatory relief from this burdensome restriction.
- V7-9 Landowners want to see consensus among agencies when they need to do something. It would provide greater respect for landowners and greater expedition of request.
- V7-10 We need a rational approach to government.
- V7-11 What are the ramifications / implications to private landowners of increased agency involvement?
- V7-12 What expectations will landowners have that state and federal agencies will uphold their end of the plan – particularly in regard to non-native species?
- V7-13 Who's in charge among the federal agencies? What is the involvement of the US Bureau of Reclamation, US Fish and Wildlife and NOAA Fisheries?
- W7-5 The Plan must have written guarantees and assurances that reflect decisions mutually established among all agencies and property owners. The guarantees and assurances must be such that some agency, individuals or groups will not be able to change without agreement from all.
- V7-14 Will this plan include a funding component?
- V7-15 Misconceptions exist around the geographic area under AB360. District already exists that can accept dollars.
- V7-16 AB360 funds should be used to restore a currently degraded 12-mile segment of levees – stop planning and begin work.
- V7-17 Why is there a delay in working on the 12-mile AB360 levee segment?
- V7-18 What happened with AB360 funds? The Marsh needs for work to be done now before the next big flood.
- W7-6 AB360 set money aside to repair critical levees in Suisun Marsh. It should be used for what it was intended for, not for repair of Delta levees.
- W7-7 Will restoration mandates become so intrusive that property owners simply give up? If so, who will remunerate the property owners and where are the funds?
- V7-19 Will the program result in increased fees / changes for private landowners?

Legend:
 Ex. V¹ I² - I³
¹ V = Verbal
 Comment
 W = Written
 Comment
² Goal Number
³ Comment
 Number

- W7-8 Mandated actions must be affordable to landowners.
- W7-9 The Suisun Marsh Plan must provide additional funding to realize the many existing and potential contributions of the Suisun Marsh to biological diversity.
- W7-10 Return to burning, not flooding of harvested rice fields. Apparently the smoke generated by the burning caused some alarm regarding air quality. Flooded rice fields do a disservice to migratory birds. They result in wild birds becoming dependent upon artificial feed put out by humans. (*Charter Group assumes reference to regulatory constraints.*)
- V7-20 What is the timeline for a new permit process to allow for levee repair?
- V7-21 How long does it take to approve a levee improvement permit?
- W7-11 Property managers in the Marsh and Grizzly Island must be given access to sufficient fresh water to de-salinize their land and help natural feed plants flourish. Misguided restrictions on pumping, flooding and draining marsh areas with freshwater must be abolished.
- V7-22 The Charter Group should work with Bay Area Air Quality Management District in developing the plan.
- W7-12 The Plan should not impose additional restrictions on landowners, over and above what is currently in place.
- W7-13 The scope of the Suisun Marsh Plan should include: a) the need to resolve regulatory gridlock over levee and marsh management; b) the recognition that regulatory gridlock by government agencies constitutes a regulatory taking of private land; c) the recognition of managed wetlands as important contributors to biological diversity in California; d) the need for public funding to support the many public benefits that are derived from public and private lands of the Suisun Marsh; and finally e) the Suisun Marsh Plan should lay out very clear objectives for the desired number of acres in tidal salt marsh versus seasonal managed wetland.

Legend:
 Ex. V¹ I² - I³
¹ V = Verbal
 Comment
 W = Written
 Comment
² Goal Number
³ Comment
 Number

Comments Under Consideration – Goal 7

(none)

General Questions to be Answered - Goal 7

(none)

General PEIS/PEIR Process and Content Questions and/or Issues

Issues Currently Addressed:

(none)

New Issues Warranting Evaluation:

(none)

Comments Under Consideration:

(none)

General questions to be Answered:

The following general questions raised in verbal and written comments will be answered in the PEIS/R document.

- V-1 Why are we here tonight? What's the problem with the Levees?
- V-2 What do you want? What can we do to help? What outcome would the agencies like to see?
- V-3 How voluntary is "voluntary" if the plan includes federally mandated programs?
- V-4 What is the reason / ultimate goal of this effort?
- V-5 Does the public have any say in the final decision?
- V-6 How was the boundary on the map drawn?
- V-7 What is the process for resolving differences in competing goals?
- V-8 At what point will this group look at activities outside the study area regarding cumulative impacts (i.e. the Stockton Deep Water Ship Channel)?
- V-9 Can agencies address immediate issues during development of the plan (e.g. interim eradication of non-native species including seed stock, phragmites, and adjacent development)?
- V-10 The State of the Marsh Workshop should be held at a location closer to the Marsh than Davis or Sacramento.
- V-11 Can neighbors contact duck clubs directly to discuss Black Water issues – and odors?

Legend:

Ex. V¹ I² - I³

¹ V = Verbal
Comment
W = Written
Comment

² Goal Number

³ Comment
Number

- V-12 The public scoping meetings could have been broadcast on cable TV. The Benicia public library is wired for television transmission. That's the way this community operates.
- V-13 How was this meeting advertised?
- W-1 Will property owner input be seriously considered?

Written Comments Submitted by Government Agencies

California Department of Transportation

The Department of Transportation provided no formal comments upon receipt of the NOP, but requested one copy of the Draft PEIS when it is published.

U.S. Environmental Protection Agency (EPA)

EPA provided no formal comments upon receipt of the NOI, but requested two copies of the Draft PEIS when it is published.

Delta Protection Commission

The PEIS/R should more specifically identify the areas to be included in the Suisun Marsh Plan. In addition, the Plan should identify the boundary of the Legal Delta and the Primary Zone of the Delta. The Plan should identify the Commission's Land Use and Resource Management Plan for the Primary Zone of the Delta as relevant State planning document for the lands in the Primary Zone.

The Commission requested to be apprised of planning or coordination meetings held on the Suisun Marsh planning process.

California Department of Conservation

The PEIS/R should provide a detailed discussion of the potential impacts to agricultural resources due to implementation of alternatives. Conversion of acreage from agriculture to other use should be addressed, particularly land covered by the Williamson Act contract. The document should clearly indicate whether acreage to be converted or impacted is under the Williamson Act contract. It is suggested that the Department's Land Evaluation and Site Assessment (LESA) model be utilized to determine the level of significance.

The Department encourages the lead agencies to tier off the California Bay-Delta Authority Program Programmatic CALFED EIS/R. If there is a significant impact to agricultural resources, mitigation measures identified in the Record of Decision should be identified and implemented as appropriate.

San Francisco Bay Conservation and Development Commission

The study area shown in the November 2003 NOP is not precise about what areas are included in the project study area. However, portions of the area shown are within the Commission's Bay jurisdiction, thus the Charter Group should continue to consult with the Commission to ensure that the planning process is consistent with the Commission's authority and policies, and that integrates the Commission into the planning process.

The specific implementation and maintenance activities that may be developed pursuant to the planning process will need to be consistent with the Commission's existing policies for the Marsh, including the approved Local Protection Programs and issued BCDC Marsh Development Permits. Under some circumstances, the Commission staff recognizes that some of the Commission's more specific plans and permits may be amended to address inconsistencies. Therefore, the PEIS/EIR should address the consistency of proposed actions with the Commission's policies.

The PEIS/EIR should discuss the nature of the Commission's authority within the Marsh and inform the public of that role.

Conclusion

The managers from each of the Charter Group Principal agencies have reviewed the comments and believe that the preliminary goal statements and subsequent issue statements currently address many but not all of the comments. As presented in the previous section, the Principal Agencies are committed to including several new issues in the PEIS/R analysis. The Principal Agencies are further committed to considering a variety of other issues for potential inclusion in the PEIS/R.

Announcements and updates on the development of the Suisun Marsh Habitat Management, Preservation, and Restoration Plan will be made available online at: <http://www.delta.dfg.ca.gov/suisunmarsh/charter>, including notices for future public involvement.

Additional copies of this report are available online at: <http://www.delta.dfg.ca.gov/suisunmarsh/charter>, or may be requested from:

Ms. Lee Laurence
U.S. Bureau of Reclamation, MP-400
2800 Cottage Way
Sacramento, CA 95825-1898
Fax: (916) 978-5290
Email: llaurence@mp.usbr.gov