



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code: Section:

[Up^](#) [Add To My Favorites](#)

GOVERNMENT CODE - GOV

TITLE 7.2. SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION [66600 - 66694] (Title 7.2 added by Stats. 1965, Ch. 1162.)

CHAPTER 6. White Slough Protection and Development [66670 - 66682] (Chapter 6 added by Stats. 1990, Ch. 247, Sec. 2.)

66670. This chapter shall be known and may be cited as the White Slough Protection and Development Act.

(Added by Stats. 1990, Ch. 247, Sec. 2.)

66671. The Legislature hereby finds and declares that the area of White Slough, consisting of at least 336 acres of tidal wetlands, 132 acres of tidally influenced wetlands, and 103 acres of adjacent upland, comprises a valuable wetland and urban resource in western Solano County, provides diverse habitat for waterfowl and endangered species, includes degraded areas which can be improved for both wildlife and the public, and is adjacent to developed areas that need adequate transportation and protection from flooding.

(Added by Stats. 1990, Ch. 247, Sec. 2.)

66672. The Legislature further finds and declares that the area of White Slough was not within the jurisdiction of the San Francisco Bay Conservation and Development Commission from the time the commission was established in 1965 until the winter of 1976–77, when storms and other natural forces caused levees along the Napa River to breach, allowing greater and more frequent inundation by the tides into much of the area of White Slough. Because neither the owners of the property in the area of White Slough, nor any public agency repaired the levees in a timely manner, subsequently in 1977, most of the area of White Slough became subject to the jurisdiction of the commission and thereby subject to this title.

(Added by Stats. 1990, Ch. 247, Sec. 2.)

66673. The Legislature further finds and declares that the breaches in the Napa River levees have caused a major sewerline to be covered by tidal waters, which could lead to serious water pollution in sensitive wildlife habitat areas in the event of leakage or breakage, to problems of infiltration of tidal waters into the sewerline, and to damage of wetlands during the normal maintenance of the sewerline. The breaches also allow the flooding of State Highway Route 37 and nearby developed areas which has already caused damage in excess of one million dollars (\$1,000,000) and threatens to cause additional damage in the future.

(Added by Stats. 1990, Ch. 247, Sec. 2.)

66674. The Legislature further finds and declares that it is in the public interest to provide flood protection to the residents and property surrounding White Slough, to relocate the flooded sewerlines in White Slough, and to enhance the ecological values of South White Slough, even though those improvements require some fill in tidal and tidally influenced wetlands. The Legislature further finds and declares that the United States Army Corps of Engineers has studied the flooding problems of White Slough and has identified the construction of levees protecting existing filled or developed lands north and south of State Highway Route 37 as an environmentally sound and economically feasible method of providing flood protection, together with a combined improved transportation route and flood control levees along State Highway Route 37.

(Added by Stats. 1990, Ch. 247, Sec. 2.)

66675. The Legislature further finds and declares that use of State Highway Route 37 now exceeds the highway's capacity, and that widening of the highway to four lanes with a minimum amount of fill may only be accomplished in the context of a project to relocate existing sewerlines, to protect private property, and to enhance the ecological values of South White Slough. The Legislature further finds and declares that, because of the unusual circumstances by which tidal influence was returned to White Slough, a combined project may be approved only if all adverse impacts to the environment are mitigated, and the overall effect of the project will be to improve the ecological value of the area.

(Added by Stats. 1990, Ch. 247, Sec. 2.)

66676. The Legislature further finds and declares as follows:

- (a) The provisions of this chapter are required because of extraordinary circumstances which have developed in the area of White Slough caused by the breaches of the Napa River levee.
- (b) Existing public access to the waters of White Slough is inadequate and may be improved along the periphery of South White Slough as part of an ecological enhancement project.
- (c) It is in the public interest to devise a resolution of these significant problems that is specific to the area of White Slough.
- (d) It is not the intent of the Legislature, in enacting this chapter, to modify any provision of this title except as otherwise expressly provided in this chapter.

(Added by Stats. 1990, Ch. 247, Sec. 2.)

66677. The Legislature further finds and declares that, in order to preserve the integrity and to assure the continued wildlife use of White Slough, to provide adequate flood protection, to reduce air pollution, and to complete a necessary transportation facility, there is a need for all of the following:

- (a) The establishment and maintenance of adequate waterflow and water quality and the improvement of present water management practices, including drainage and upland flood protection.
- (b) The permanent protection by local agencies of tidal wetlands and tidally influenced areas of White Slough, adjacent wetlands, and upland habitat areas.
- (c) Implementation of a plan to enhance the wetland values of White Slough, permanently protect wetland, tideland, marsh, and upland habitat areas, provide for an improved transportation link, provide flood protection for already developed upland areas, assure compatible upland development, and provide new public access to and along tidally influenced areas of South White Slough.
- (d) Assurance that state interests in the area of White Slough, including water quality, waterflow, habitat protection and enhancement, public access, transportation, and flood protection, will be protected.

(Added by Stats. 1990, Ch. 247, Sec. 2.)

66678. As used in this chapter, the following terms have the following meanings:

- (a) "City" means the City of Vallejo.
- (b) "Commission" means the San Francisco Bay Conservation and Development Commission.
- (c) "County" means the County of Solano.
- (d) "Department" means the Department of Transportation.
- (e) "Plan" means the White Slough Specific Area Plan adopted pursuant to this chapter.
- (f) "South White Slough" means all tidally influenced areas south of State Highway Route 37 which would naturally drain northerly to the Napa River, any areas within the tidally influenced portions of the slough that have been filled pursuant to a commission permit, and any areas within the tidally influenced portions of the slough which have been filled after January 1, 1977, without a permit from the commission.
- (g) "White Slough" means, within the county and the city, the historic, unfilled bed of White Slough, all lands surrounding the historic bed of White Slough that have been touched by tidal waters since January 1, 1977, any areas within the tidal and tidally influenced portions of the slough that have been filled pursuant to a permit from the commission, and any areas within the tidal and tidally influenced portions of the slough which have been filled after January 1, 1977, without a permit from the commission.
- (h) "White Slough Project" means, within the county and the city, the restoration and enhancement of the habitat values of South White Slough, the widening of State Highway Route 37 between Sacramento Street and State Highway Route 29 to not more than four traffic lanes with medians and shoulders of the minimum width possible, the construction of new tidal channels and control structures underneath the existing and the widened portions of State Highway Route 37, the construction of new interchanges between State Highway Route 37 and State Highway 29 and Sacramento Street, the covering with fill of an existing sewerline on the south side of the highway widening, and the relocation of the existing sewerline north of State Highway Route 37 within the area required for the widening of State Highway Route 37.

(Added by Stats. 1990, Ch. 247, Sec. 2.)

66679. (a) The city, in consultation with the county, the commission, the department, and other affected local, state, and federal agencies, has previously prepared a draft White Slough Specific Area Plan proposal as a first step toward the orderly, long-range conservation, use, and management of the natural, scenic, recreational, and manmade resources of White Slough.

(b) On or before January 1, 1996, the city and the county shall jointly adopt a final plan which shall include a specific wetlands enhancement segment for the area of White Slough. Provided that no other feasible measures are devised during the environmental review process which have fewer environmental impacts and which accomplish the goals of this chapter, this plan shall include the permanent protection and enhancement of at least 336 acres of tidal wetlands within White Slough and 132 acres of tidally influenced areas in South White Slough, provide for the minimum amount of fill, not to exceed 13 acres, necessary to widen State Highway Route 37 to a four-lane highway and to construct interchanges between State Highway Route 37 and State Highway Route 29 and Sacramento Street, provide flood protection for upland areas, provide for suitable water quality, and provide for wetlands enhancement for all tidally influenced areas of South White Slough, including a program for the acquisition, enhancement, and permanent preservation of those areas.

(c) Not later than 30 days after adoption of the final plan by the city and the county, the city and the county shall submit the plan to the commission for review. The commission shall approve or disapprove the plan within 45 days of submittal on the basis of whether the plan meets the objectives of Sections 66677 and 66680 and includes changes to the relevant city and relevant county general and specific plans and includes proposed city ordinances and county ordinances necessary to implement the plan.

(d) Upon approval of the plan by the commission and the adoption by the city and the county of necessary changes to the general and specific plans and implementing ordinances, the plan shall be the primary basis for reviewing applications for state and local permits for projects affecting White Slough. A permit shall be issued only if the permitting entity finds that the proposed project is consistent with the plan and the requirements of this chapter.

(e) After adoption, no changes shall be made in the plan or the implementing ordinances without the prior notification and approval of the commission.

(Amended by Stats. 1994, Ch. 528, Sec. 1. Effective January 1, 1995.)

66680. The commission shall review and approve, or disapprove, the plan on the basis of whether the plan provides all of the following:

(a) Permanent protection and enhancement of marshes, tidelands, tidally influenced wetlands, and upland habitat sufficient to assure the long-term usefulness of White Slough as a wildlife habitat, a flood basin consistent with wetland enhancement goals, and a wetland resource for the city and the region, including the establishment, operation, and maintenance of adequate tidal action and water quality to preclude algal blooms, to provide a fishery, and to provide waterfowl feeding, resting, and breeding areas.

(b) Location and siting for a project that consists of a State Highway Route 37 widened to not more than four lanes, with the minimum medians and shoulders necessary to assure highway safety, interchanges between State Highway Route 37 and State Highway Route 29 and Sacramento Street, the covering of the flooded sewerline south of State Highway Route 37 and the relocation of the flooded line north of State Highway Route 37 within the area required for the widening of State Highway Route 37, and that provides for all of the following:

(1) A tidal control structure or structures or open channels, sufficient to assure adequate waterflow for suitable water quality, wetland enhancement of South White Slough, and flood protection, between the wetlands north and south of the State Highway Route 37 corridor.

(2) Adequate height and design to protect developed areas of the city from flooding.

(3) No access from the widened State Highway Route 37 to tidal wetlands north of the highway.

(4) The minimum wetland fill necessary, but in no event more than 13 acres.

(5) Mitigation measures, specifically including the following:

(A) Prior to the placing of fill or commencement of other highway construction work, acquisition of upland areas in the vicinity of White Slough which do not presently provide unique or especially significant wildlife habitat and which are four times the size of the area to be filled.

(B) The conversion of these lands to wetlands during highway construction.

(C) The hiring of an independent biologist to assess current conditions on the wetlands to be filled and to monitor the conditions of the newly created wetlands over time.

(D) The permanent protection of the created wetlands.

(E) Assurances that the created wetlands will be functioning in a manner which fully replaces the filled wetlands within five years. If, after three years it does not appear that the created wetlands will be fully functioning within the five-year period, then

the wetlands shall be further improved in a manner which ensures full replacement of the filled wetlands or which provides additional new wetlands. After the five years, the department shall no longer be required to maintain the created wetlands, but may transfer the created wetlands either to the Department of Fish and Game or to another appropriate resource agency for the wetlands' permanent management for wildlife habitat purposes.

(c) Levees within and adjacent to South White Slough necessary for flood control, wetland habitat enhancement, and public access purposes. The department shall not be responsible for the construction and maintenance of the levees within and adjacent to South White Slough, except for the White Slough Project. Fill for flood control and public access purposes shall be the minimum necessary and shall be mitigated by the acquisition, excavation, and conversion to wetlands of uplands in the vicinity of the project and which do not presently provide unique or especially significant wildlife habitat, to provide an area of wetland habitat at least twice the area to be filled.

(d) Acquisition of interests in real property sufficient to preserve and maintain permanently the wetland, tidal, water-covered, and public access areas of White Slough.

(e) Recognition that the project constructed in accordance with the plan is required to meet the requirements of the federal Clean Water Act and the Rivers and Harbors Act, if applicable.

(Added by Stats. 1990, Ch. 247, Sec. 2.)

66681. The plan shall be implemented as follows:

(a) The city and the county shall adopt the relevant provisions of the plan into their general and specific plans, shall adopt land use ordinances that implement the policies of the plan, and shall review and issue or deny any necessary local permits for projects within White Slough based on the requirements of the plan and implementing ordinances.

(b) In addition to obtaining any other permit required by law from the city or county or any state, regional, or local agency, any person placing fill, extracting materials, or making any substantial change in use of any area within White Slough shall obtain a permit from the commission. The commission shall issue a permit for these activities only if it finds the project consistent with the plan, this chapter, and, where not inconsistent with the plan and this chapter, this title, the San Francisco Bay Plan, and other relevant state and local law.

(c) The Department of Fish and Game, the Wildlife Conservation Board, the State Lands Commission, the State Coastal Conservancy, and the Department of Transportation shall exercise their powers and allocate available resources to acquire, enhance, or manage wetlands and public access areas within White Slough in a manner consistent with the plan, subject to statewide goals and priorities of the agencies.

(Added by Stats. 1990, Ch. 247, Sec. 2.)

66682. The commission shall issue a permit for all, or any portion, of the White Slough Project only if the commission finds that the work is consistent with the plan, subdivision (b) of Section 66681, and all of the following requirements have been met:

(a) The city and the county have adopted the necessary implementing ordinances and have amended their general and specific plans.

(b) The department limits the project to a four-lane highway with the minimum medians and shoulders necessary to assure highway safety, and the project does not permit access to the wetlands north of State Highway Route 37.

(c) A minimum fill of tidal areas will result from construction of the combined flood barrier, new sewerline, and widened State Highway Route 37 and associated interchanges, which in no event will result in the loss of more than 13 acres of tidal areas.

(d) Fill of tidal and tidally influenced wetlands will be mitigated on a four-to-one basis in the vicinity of the project, and the mitigation will consist of the acquisition of upland areas which do not presently provide unique or especially significant wildlife habitat and the creation and permanent protection of new wetlands for habitat purposes. The acquisition of the upland areas will take place before construction of the highway project. Creation of new wetlands will be done concurrently with the construction of the highway project and will be monitored by an independent biologist. There shall be assurances that the created wetlands will be fully functional or additional measures shall be taken as described in paragraph (5) of subdivision (b) of Section 66680.

(e) The project will provide a barrier to protect already developed areas of the city from flooding.

(f) The project will include the covering of the flooded sewerline south of State Highway Route 37 and the relocation of the flooded line north of State Highway Route 37 within the area required for the widening of State Highway Route 37.

(g) The project will provide improved water circulation and waterflow throughout South White Slough, so as to minimize algal growth and air pollution and to improve wetland habitat values.

(h) The White Slough Project is the least environmentally damaging, feasible alternative identified pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(Added by Stats. 1990, Ch. 247, Sec. 2.)

