

AUDUBON CALIFORNIA
Conservation Committee Report
September 18, 2009

Prevent the Extinction of Rare Birds

Ashy Storm-Petrel – This rare, range-restricted and declining seabird is nearly endemic to California with confirmed breeding on seven island groups from the Farallon Islands to northern Baja, and with population centers at the Farallon and Channel Islands. Global population size is estimated at 8,500-10,000 individuals and declining as estimated by at-sea and breeding island surveys. This species is Audubon Red WatchList and the only California Current breeding species classified as “highly imperiled” by the U.S. Fish & Wildlife Service. In 2007 the Center for Biological Diversity filed suit to list the species under the U.S. Endangered Species Act. In August 2009 the Service issued its 12-month finding that the species does not warrant ESA protections. Audubon California and CBD reviewed the finding and concluded that it was not based on the best available information and is therefore in violation of the ESA. Both groups are considering next steps.

Agreement on the Conservation of Albatrosses and Petrels – Audubon California generated a letter to Senator Barbara Boxer asking her to lead the effort to ratify the Agreement on the Conservation of Albatrosses and Petrels (ACAP), an international treaty now in front of the Senate. By virtue of her chairmanship of Senate Environment and Public Works Committee and her membership on the Foreign Relations Committee, Sen. Boxer is ideally situated to help steer this treaty through the ratification process. Our letter (attached) was endorsed by 38 California groups.

Protect California’s Best Habitats

Kern River – Audubon acquired the 26-acre Vig parcel directly adjacent to the Audubon Kern River Preserve. This purchase will protect critical bird habitat on the property from development, and further secure adjacent lands on the Preserve for conservation.

San Joaquin River Restoration – We are working with the three San Joaquin River chapters (Fresno, Stanislaus, San Joaquin) to develop a birding trail and map of the river. The birding trail will become an education and outreach tool, as well as help to develop partnerships in the Valley. We are also providing sample newsletter articles to chapters to help build interest and enthusiasm for broad-based habitat conservation and balance the argument that conservation is being accomplished at the cost of the regional economy.

Marine Protected Areas – The California Marine Life Protection Act (MLPA) is a fast-moving, one-time opportunity to secure real protections for marine species and habitats within California’s three-mile jurisdictional limit. By the end of the process in 2012, ~20% of our coastal marine environment will be protected partially or fully from consumptive use. Marine protected areas and special closures benefit seabirds, shorebirds, and waterfowl by increasing populations of forage fish and dramatically reducing disturbance to colonies and roosts. Audubon California is the only conservation voice for marine and shorebirds in the process.

For the North Central Coast, Audubon California seabird program staff successfully advocated for the consensus plan that was supported by the vast majority of conservation groups, counties and

cities, and state and federal agencies. This plan faced considerable opposition from some commercial and recreational fishermen and fishing groups, even though it leaves nearly 90% of the coast open to all or some fishing. The plan was approved by the Fish and Game Commission in October and widely celebrated as an environmental victory. We became involved much earlier for the South Coast process. Since the start in December 2008, we've been working closely with members of the MLPA South Coast Stakeholder Group, as they develop marine protected area arrays, to promote the conservation of birds and their habitats. We're also working with directors of Los Angeles and San Diego Audubon in a strategic mini-campaign organizing thousands of members of 13 South Coast chapters in support of a strong network of marine protected areas. Birds to benefit include terns, gulls and Brown Pelicans.

San Pablo Bay/Tubbs Island – We are approaching our anticipated fall construction date for tidal marsh restoration at Tubbs Island on San Pablo Bay National Wildlife Refuge. Permits have been secured by Army Corps of Engineers and the Regional Water Quality Control Board. Our final hurdle is getting a permit from the Bay Conservation and Development Commission (BCDC). Meetings this summer between the refuge and BCDC revealed some public access issues at the restoration site that we are rapidly trying to resolve. We expect that a final decision on the permit will be made October 15th thereby allowing us to proceed to construction on the restoration. We received a grant of \$88,000 from the San Francisco Foundation that will complete fundraising needs through the required post construction monitoring. This summer we completed the second year of pre-construction biological monitoring (birds, plants, mosquitoes and micel!), and we are currently analyzing the data.

Santa Ynez Estuary – In June we received clearance by the Coastal Conservancy to begin our feasibility study for restoration the Santa Ynez Estuary, after a six-month budgetary delay. The Nature Conservancy is contributing \$25,000 to the project, as it is located in one of their priority areas. We contracted Philip Williams and Associates to complete the feasibility study in July. We held our first community meeting to introduce the project and gather historical data and input on how to restore the lower river. Participants include NOAA steelhead recovery lead, Vandenberg AFB staff, City of Lompoc, residents, La Purisima Audubon, Water Quality Control Board, UC Santa Barbara, and others. This fall, we will be conducting fieldwork on how the estuary functions and gathering hydrological data as the winter rainy season approaches. We applied for additional funding from NFWF to contribute to the study and also to work with La Purisima Audubon and PRBO on a second year of community outreach and highly successful volunteer shorebird/waterbird surveys.

Owens Lake – This summer Los Angeles Department of Water and Power (LADWP) issued a supplemental EIR on a proposed technology to control dust on the lakebed called “moat and row”. Audubon California submitted comments addressing the inadequacy of the SEIR and concern over impacts to nesting Snowy Plovers. We presented testimony at a hearing with State Lands Commission, based on our written letter. This process has resulted in increased communication between the major partners at the lake and more support for our ongoing Conservation Action Plan that incorporates the entire historic lakebed. We have scheduled the final conservation planning meeting for October but LADWP have already indicated that they would like to keep the process going, with all the partners.

Bay-Delta Conservation – Science and policy staff are working to influence the outcome of a major landscape scale Bay-Delta Conservation Plan (BDCP) in order to help maintain the important

bird values of the delta in the wake of habitat restoration efforts that focus primarily on the effects of water exports on endangered fish species. We submitted comments to the BDCP to help find a common ground that protects both fish and birds that currently depend on delta-related habitat values. Most important, we were successful in getting amendments into the Delta legislative package (see below) that included a no-net-loss provision to protect migratory bird habitat values in the Bay-Delta.

Reverse the Decline of Common Birds

Acorn Woodpeckers – The unfortunate situation involving Acorn Woodpeckers at the Rossmoor community remains problematic. Since late 2008 we have been highly critical of a permit issued by the US Fish and Wildlife Service which allowed the Rossmoor homeowners to kill up to 50 Acorn Woodpeckers because of structural damage the birds were causing in this development built in the midst of an oak woodland, prime habitat for the species. That permit expired in June. We were told that no depredation of woodpeckers allowed by their permit would take place thanks, in part to our input, new information on woodpecker ecology and the groundswell of public opinion on the issue. That promise was “technically” met. What we were not told is that a scientific collecting permit had been issued which allowed a comparable number of birds to be collected for research purposes. Twenty were collected and taken to Fort Collins, CO as part of a research project. Those birds will be euthanized once the study was done. We complained to USFWS that this represented bad faith.

Earlier this week we learned through third parties that the USFWS has issued a new depredation permit despite their assurances that no new permit would be issued. We are confirming this now and determining next steps.

Renewable Energy and Wildlife – The Conservation Committee continues to work on a policy that articulates Audubon California’s principles and strategies in dealing with energy development and habitat considerations in the state. Large areas in California, especially the desert, Northeastern California, and the Carrizo Plain in San Luis Obispo County are being explored to help meet the goals mandated by the Governor that sets a goal of more than 30% of our state’s electrical energy supply to be derived from renewable sources. Our timing for finishing this effort has been delayed due to our aggressive effort to pursue a solution to our water issues this legislative session together with related legislative debate on renewable energy standards and climate change in the State Legislature.

In another energy-related effort staff helped defeat the controversial effort to create a new transmission line that would have carried renewable energy from Northeastern California to Sacramento and the Bay Area. All three proposed routings of this line were environmentally problematic. The westernmost route would have bisected our Bobcat Ranch property in Yolo County. This project was not associated with other more comprehensive transmission line siting efforts and as a process was deeply flawed from the very beginning.

Audubon California Legislative Action List -- Final Report for 2009

Legislative Wrapup – 2009 will be remembered as one of the most difficult and contentious legislative sessions over the last 30 years or more due to the fiscal condition of the state. While we didn’t see huge rollbacks in environmental protections due to the two protracted sessions dealing

with the budget, fiscal concerns helped derail or delay a number of policy bills. This dynamic was also a factor (among many) that stopped us short of a comprehensive solution to water policy and the Delta. It is likely that a special session will be called in order to capitalize on the momentum behind the water packages but details are uncertain. We were successful in passing our high priority bill dealing with egregious poaching violations -- AB 708 which is now on the Governor's desk. The session also brought some success in protecting state parks from wholesale changes like what we fought against with the tollroad in Orange County over the last two years. It is uncertain whether the Governor will sign these state park bills. See below for specific results on Audubon priority bills.

Land/Wildlife Protection

AB 94 (Evans): Natural Heritage Preservation Tax Credit Act of 2000 – PASSED

- Re-authorizes the Natural Heritage Preservation Tax Credit (a volunteer program that allows willing land owners an option to donate their resource land to the state in exchange for a tax credit equal to 55% of the fair market value of the property).

AB 444 (Caballero): Conservation Lands Endowments – PASSED

- Permits local and state agencies to allow nonprofits and special districts to hold funds (endowments) dedicated to the management of mitigation lands or easements held by nonprofit land trusts and special districts.

AB 708 (Huffman): Anti-Poaching – PASSED

- Establishes mandatory minimum and higher maximum fines on illegal take of California wildlife
- Better incentivizes local prosecution of egregious poaching violators
- Provides authority to the Department of Fish and Game to permanently revoke hunting privileges for convicting violators.

AB 883 (Huffman): Department of Fish & Game Reform – TWO-YEAR BILL AS INTENDED

- Enhances the effectiveness, accountability, and capacity of the Department of Fish & Game.

AB 929 (Blakeslee): Conserving Agricultural Lands – TWO-YEAR BILL TO DUE TO COST ISSUES

- Expands the ability of the Department of Conservation to conserve additional agricultural lands outside the purview of the California Farmland and Conservancy Program that may also provide multiple benefits such as natural flood control and wildlife habitat.

AB 1321 (Eng): Advance Infrastructure Mitigation Program Act – TWO-YEAR BILL DUE TO COST ISSUES

- Enacts the Advance Infrastructure Mitigation Program, enabling infrastructure agencies to create and implement proactive regional mitigation plans.

SB 51 (Ducheny): Salton Sea Restoration Council – TWO-YEAR BILL DUE TO COST ISSUES

- Establishes the Salton Sea Restoration Council as a state entity within the Natural Resources Agency to implement the Salton Sea Ecosystem Restoration Program.

SB 281 (Runner): Endangered Species: Incidental Take – FAILED. We opposed.

- Undermines the "fully mitigate" standard in the California Endangered Species Act by capping mitigation for the destruction of endangered species and habitat in the desert as part of the construction of renewable energy projects at a 1:1 mitigation ratio regardless of whether that mitigation fully mitigates the impacts from the project on endangered species

AB 1536 (Blakeslee): PXP Oil lease in Santa Barbara Channel. –BILL FAILED

- (Gut and amended bill pertaining to the controversial PXP proposal was not brought up for a vote in the Senate.) Audubon CA actively opposed the bill.

SB 372 (Kehoe): State Parks Integrity – PASSED

- Prohibits the modification or adjustment of state park units, or the removal of state park units from within the state park system, without the State Park and Recreation Commission making that recommendation to the Legislature and the Legislature enacting legislation approving the recommendation.

SB 448 (Pavley): State Safe Harbor Agreement Program Act – PASSED

- Establishes a program to allow landowners to manage their lands voluntarily to benefit endangered, threatened, or candidate species.

SB 481 (Cox): Airports: Wildlife – PASSED AFTER IT REMEDIED OUR PRIMARY CONCERNS—OUR POSITION WENT FROM OPPOSE TO NEUTRAL

- Allows public use airports to take wildlife under specific circumstances as a last resort to protect public safety when accompanied by a valid USFWS depredation permit.

SB 555 (Kehoe): Conservation Easement Protection – PASSED

- Prohibits a governmental entity from condemning a conservation easement acquired by a state agency or nonprofit land trust, unless specified procedures are followed.

SB 679 (Wolk): State Park System Integrity – PASSED

- Prohibits land acquired for the state park system, through public funds or gifts, from being disbursed of or used for other than park purposes without the express authority of an act of the Legislature.

Climate Change

AB 64 (Krekorian): Renewable Portfolio Standard – SUPPORT POSITION. BILL PASSED BUT WAS VETOED BY THE GOVERNOR

- Requires all retail electricity sellers and public utilities to procure at least 35% of their electricity from eligible renewable energy resources by 2020.

AB 231 (Huffman): Climate Change Investments – TWO-YEAR BILL

- Requires the California Air Resources Board, either by fee or market mechanism, to collect a carbon fee from the sources of greenhouse gas emissions to go to AB 32 implementation.

AB 1091 (Ruskin): Climate Change Adaptation Planning – FAILED

- Requires the Resources Agency to incorporate climate change predictions into all relevant planning processes.
- Will be amended to identify potential conflicts between adaptation strategies proposed by individual sectors and state agencies.

AB 1504 (Skinner): Forest Resources: Carbon Sequestration – FAILED

- Requires that carbon sequestration be included in the list of public needs to be considered in forest resource management.

SB 14 (Simitian): Renewable Portfolio Standard – MERGED INTO AB 64

- Requires, by 2020, 33% of California’s electricity grid to be provided by eligible renewable energy resources.

SB 31 (Pavley): Climate Change Investments – FAILED

- Authorizes the California Air Resources Board to adopt a carbon fee to be paid by the sources of greenhouse gas emissions to go to AB 32 implementation.

SB 144 (Pavley): Carbon Sequestration – FAILED

- Requires the Department of Forestry and Fire Protection to develop options and incentives for forest management that enhance the capability of forest lands to sequester carbon.

SB 721 (Steinberg): Climate Action Team and Adaptation Planning – TWO-YEAR BILL

- Creates the Climate Action Team, responsible for creating specified climate change mitigation and adaptation reports, and overseeing the state’s overall climate policy.

Water & Delta

All of the Delta policy bills were merged into one bill, SB 68, which passed committee but was not put for a vote in the closing hours of the legislative session. The water bond never was heard in committee. This or a similar package will probably be considered in Special Session of the Legislature.

AB 39 (Huffman): Delta Vision Strategic Plan

- Requires the State Delta and Ecosystem Water Council to prepare a plan to implement the Delta Vision Strategic Plan issued by the Delta Vision Blue Ribbon Task Force, and to submit that plan to the Legislature.
- Established higher conservation standard for Bay-Delta Conservation Program and establishing as a state policy a no-net-loss standard for migratory bird habitat due to changes in the Delta to primarily benefit listed species of fish.

AB 49 (Feuer & Huffman): Water Conservation

- Implements the Governor’s call for legislation requiring a per capita water use reduction of 20% by 2020.
- Requires agricultural water users to prepare and adopt agricultural water management plans.

SB 12 (Simitian): Delta Governance

- Establishes the Delta Stewardship Council to advance the coequal goals of assuring a more reliable water supply for California and protecting, restoring and enhancing the Delta environment as an evolving place.

SB 229 (Pavley): Water use monitoring and enforcement

- Revises existing water use reporting and water rights enforcement.
- Establishes a statewide groundwater elevation monitoring program.

SB 458 (Steinberg-Simitian): Sacramento-San Joaquin Delta Conservancy –

- Establishes the Sacramento-San Joaquin Delta Conservancy as a state agency with to restore and acquire habitats and lands consistent with the Delta Plan.

WATER BOND – The Safe, Clean and Reliable Drinking Water Supply Acts of 2010 and 2012. Total: \$5.9 billion for 2010 and \$5.9 billion for 2012.

Water Supply Reliability

- \$800 million to the Department of Water Resources (DWR) for grants for Integrated Regional Water Management (IRWM) implementation. Funds allocated on a regional basis by population.
- \$500 million to DWR for grants and expenditures for local/regional drought-relief projects.

Sacramento – San Joaquin Delta Sustainability

- \$500 million for Delta sustainability:
 - Delta levees and flood control projects
 - Delta water quality conditions
 - Local urban and agricultural water supplies
 - Mitigation of impacts from eco restoration and conveyance
 - Local facilities, including waste water facilities
- \$1 billion for Delta ecosystem restoration.

Surface and Groundwater Storage Improvements

- \$1.5 billion to the California Water Commission (continuous appropriation) for public benefits associated with new surface and groundwater storage. Groundwater contamination prevention and remediation, as well as reservoir re-operation projects are eligible.

Conservation and Watershed Protection

- \$1 billion for grants and expenditures for ecosystem and watershed protection and restoration projects:
 - At least \$200 million to the State Coastal Conservancy for coastal watersheds, including \$20 million for the Santa Ana River Parkway and \$20 million San Diego River Conservancy.
 - \$100 million for the LA and San Gabriel Rivers.
 - At least \$50 million to the WCB for Central Valley wildlife refuges.

- At least \$200 million to WCB for protection/restoration of watersheds important to protecting threatened or endangered species.
- At least \$50 million to State Coastal Conservancy for coastal salmon restoration projects.
- At least \$50 million for Tahoe Environmental Improvement Program.
- At least \$5 million for private incentives for waterfowl conservation.
- Klamath settlement eligible.
- \$42.5 million to DFG for Delta and other watershed invasive species control.

Groundwater Protection and Water Quality

- \$180 million for grants, loans, and expenditures for groundwater contamination/prevention, consistent with adopted IRWM plan.
 - At least \$50 million to benefit disadvantaged communities.
- \$90 million to DPH for emergency drinking water actions in disadvantaged communities
- \$150 million to SWRCB for small community wastewater treatment projects.
- \$50 million to OPC for ocean ecosystems and water quality.
- \$150 million to SWRCB for storm water management projects.

Water Recycling and Advanced Technologies

- \$250 million for water recycling, desalination, water use measurement, and pilot projects for emerging technologies.