



July 16<sup>th</sup> 2023  
California Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236-0001

**RE: Lookout Slough Tidal Habitat Restoration and Flood Improvement Project Revised EIR**

On behalf of the many thousand supporters and members of Backcountry Hunters & Anglers, we appreciate the opportunity to comment on the revised EIR for the Lookout Slough Tidal Habitat Restoration and Flood Improvement Project. We have several comments related to the revised analysis, which we expand upon in the remainder of this letter. BHA is a non-profit organization that champions the conservation of public lands and waters through advocacy, education and hands-on stewardship work; the organization also supports public recreation access to our state's lands and waterways and is concerned by the analysis that DWR has performed to evaluate the impacts of recreation from the Lookout Slough Tidal Restoration Project.

**Significant and growing visitation would be impacted**

As DWR is aware, recreation use at the project site is considerable, especially for fishing and waterfowl hunting. About 21,500 recreation visits annually occur here, based on the survey of recreationists that DWR recently completed (but has failed to reference in its revised EIR). About 40% are fishing for food, emphasizing the area's importance to lower income families. Although DWR's survey did not ask the origins of visitors, information gathered by Liberty Island Access (LIA) shows they come from throughout Solano County and beyond, likely drawing a cross section of the county, and region's diverse population.

Demand for recreation at the site will likely increase with the county's growing population, projected to increase by 20 percent over the next 40 years (California Department of Finance). Solano County's Christopher Drake concurs, noting that recreation may grow, especially as DWR's restoration project draws more attention to the area. Why does DWR assume that visitation numbers will remain static, when all available evidence suggests that regional demand for bank fishing and other recreation activities will only grow, if for no other reason than expanding population?

**Driving distance assumptions are inappropriate**

As California State Parks' Central Valley Vision Implementation Plan 8 points out, Central Valley residents travel an average of 50 minutes to reach favorite recreation destinations, not the one hour statewide figure cited on page IV J-2. Statewide and regional averages include high value recreation, such as snow skiing, big game hunting, or overnight camping trips, for which recreationists are likely willing to travel farther than they are for everyday activities such as

bank fishing. It is improbable that bank fishers currently accessing the project site I-80 corridor would drive an additional hour to shorelines in Antioch, Oakley, or Sherman Island.

To use a 60 minute driving time as the basis for comparing against other “available” shoreline opportunities underestimates the impact on the regional opportunities simply by overestimating the region. The CA Delta is quite large and has distinct districts in the Northern, Southern, Eastern, and Western portions of it. The Northern Delta has a pronounced lack of public access opportunities of any kind, despite being closest to the high-population I-80 corridor. LIA’s survey studies showed that while LIER attracts visitors from all over the Bay Area and Central Valley region, the highest proportion of visitors reside in the Dixon / Vacaville area, which is roughly 30 min away. DWR should have identified other “available” shorelines based on driving distance from the central area where the majority of users drive from, not a radius from the project site itself. DWR’s methodology over-inflates the number of alternative shoreline access sites that users could access, and thus underestimates the significance of impact.

### **Lack of parking and legal access considered**

The project disproportionately impacts bank fishers, not only due to a loss of access to fish Shag Slough and LIER, but also due to the loss of legal parking within close proximity to bank fishing access. Both legal and suitable shoreline for fishing and parking are essential for angling in the area, however the EIR only measures the linear feet of shoreline available when considering impacts to recreation. The proposed 16 parking spaces hardly make up for the 1.5 miles of parking that will be lost, especially with the new boat ramp which will likely increase the demand for parking. Several of the alternative fishing areas listed by DWR only allow for a few vehicles to park despite the thousands of feet of available shoreline referenced. With no public transportation this inevitably restricts access to only a select few.

Furthermore, several of the locations listed in the EIR as available for shore fishing state no trespassing and require private land easements to access, like the “Ulatis Creek”, “Ryer Island” “Alamo Creek”, and “Hastings Island” locations. Other locations referenced do not permit fishing, like the 4370 feet of shore fishing access at “Winchester Lake,” which does not allow fishing from levees or the 7790 ft at “Calhoun Cut” which prohibits land-based access to prevent ecological damage. The EIR is conflating several factors and ignoring others when listing the available shoreline for fishing.

### **Mitigation is inadequate**

During meetings with recreation stakeholders and DWR, both California Department of Fish and Wildlife (CDFW) and Solano County staff recommended that DWR provide adequate public parking and other features of contemporary boat ramps, a fishing pier for anglers, trails for nature study, or if nothing else, funding to improve off site areas suitable for these uses.

Adequate mitigation for the project’s impacts to recreation should have been developed per applicable state law, the Davis-Dolwig Act (Water Code sections 11900-11925), and DWR could

have leveraged the expertise of CDPR, CDFW, and local parks agencies in planning for recreational features as part of the Lookout Slough restoration project. The law provides, in part:

*“The Legislature further finds and declares it to be the policy of this State that recreation and the enhancement of fish and wildlife resources are among the purposes of state water projects; that the acquisition of real property for such purposes be planned and initiated concurrently with and as a part of the land acquisition program for other purposes of state water projects; and that facilities for such purposes be ready and available for public use when each state water project having a potential for such uses is completed.” (Water Code section 11900)*

*“As used in this chapter, “project” means any physical structure to provide for the conservation, storage, regulation, transportation, or use of water, constructed by the State...” (Water Code section 11903)*

*“There shall be incorporated in the planning and construction of each project those features (including, but not limited to, additional storage capacity) that the department, after giving full consideration to any recommendations which may be made by the Department of Fish and Game, the Department of Parks and Recreation, any federal agency, and any local governmental agency with jurisdiction over the area involved, determines necessary or desirable for the preservation of fish and wildlife, and necessary or desirable to permit, on a year-round basis, full utilization of the project for the enhancement of fish and wildlife **and for recreational purposes** to the extent that those features are consistent with other uses of the project, if any. It is the intent of the Legislature that there shall be full and close coordination of all planning for the preservation and enhancement of fish and wildlife and for recreation in connection with state water projects by and between the Department of Water Resources, the Department of Parks and Recreation, the Department of Fish and Wildlife, and all appropriate federal and local agencies.” (Water Code section 11903)*

***“The planning for public recreation use ... in connection with state water projects shall be a part of the general project formulation activities of the Department of Water Resources, in consultation and co-operation with the departments and agencies specified in Section 11910, through the advance planning stage, including, but not limited to, the development of data on benefits and costs, recreation land use planning, and the acquisition of land. In planning and constructing any project, the department shall, to the extent possible, acquire all lands and locate and construct, or cause to be constructed, the project and all works and features incidental to its construction **in such a manner as to permit the use thereof ... for recreational purposes upon completion of the project**” (Water Code section 11911).***

The Lookout Slough project is comparable to those described in the previous provisions. Its construction fulfills the State Water Project’s obligations to comply with regulations regarding SWP’s continued operation. Yet, in proposing its project, DWR completed hardly any of the planning required of it by the Davis-Dolwig Act.

Several departments and agencies such as CDFW and the Delta Protection Commission, made suggestions related to mitigation that DWR ignored. These include moving the first breach of

the Shag Slough levee further south to preserve more bank fishing access, building a kayak friendly boat launch dock, a small fishing pier, and most importantly, adequate parking to support both the existing recreation use as well as the new recreation users that will be attracted by a new kayak launching opportunity. Some of these recommendations could still be accomplished. If these mitigation measures were incorporated, it might help to decrease parking congestion and shoreline congestion, which would reduce the impacts on bank fishing at the site.

## **Conclusions**

We are concerned that DWR is undervaluing bank fishing and waterfowl hunting as attractions when it comes to recreation use. This is especially concerning considering that DWR has other projects underway, such as Little Egbert Tract and Prospect Slough. Allowing substandard analysis of studies that minimize or ignore significant impacts on recreation use sets a precedent for near and long term cumulative loss in opportunities for the public to access state lands and waterways. Californians have a right to fish per Section 25, Article 1 of the state constitution and Lookout Slough's design permanently cuts off LIER from the land-based access that users have enjoyed for decades. To suggest that the impacts of removing several miles of accessible shoreline is insignificant to the many low-income residents of the North Delta, many of whom fish for food, is unacceptable. We support the project's objectives and the habitat restoration of the Delta; however, we strongly urge DWR to consider mitigating the impacts of their project, to be a good neighbor to the residents of the region who have been recreating at Shag Slough and LIER for many years.

Sincerely,

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California Chapter Coordinator  
Backcountry Hunters & Anglers