To: CN=Karen Schwinn/OU=R9/O=USEPA/C=US@EPA;CN=Erin Foresman/OU=R9/O=USEPA/C=US@EPA[]; N=Erin Foresman/OU=R9/O=USEPA/C=US@EPA[]
Cc: []
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From: CN=Tom Hagler/OU=R9/O=USEPA/C=US
Sent: Thur 7/28/2011 6:31:02 PM
Subject: The NEPA 404 MOU

I ran through the NEPA/404 MOU again just now, and think that in two very specific areas, we got it right.

First, I think how we defined the checkpoints works. Here's the language:

1. Checkpoints. The integration process comprises three checkpoints, which punctuate ongoing coordination efforts. These checkpoints are:
a. Definition of the purpose and need for the BDCP under NEPA, and the basic and overall project purpose under CWA Section 404 for the New Conveyance Projects; The requirements under NEPA for a "purpose and need" statement are discussed at 40 CFR Section 1502.13. The "basic and overall project purpose" is discussed generally at 40 CFR Section 230.10 and in more detail in the Corps of Engineers Standard Operating Procedures, 1999, at page 6.
b. Identification of the Range of Alternatives to be evaluated in the EIR/EIS at the programmatic and project specific level of detail; and
c. Preliminary USACE LEDPA Determination; USACE Section 408 Draft Response; and USACE agreement that the Draft Mitigation Plan (DMP) is consistent with applicable regulations.
Second, from Table 1, what the lead agencies need to give us is pretty clear:

Checkpoint A: NEPA Purpose and Need Statement and USACE permit process Basic and Overall Purpose Statements
-Lead Agencies identify the project(s) seeking USACE permits
-Ongoing communication during and after
-Federal Cooperating Agencies respond as listed on Table 2
-Closure letter from Lead Agencies
Checkpoint B: Range of Alternatives to the Project(s) seeking USACE permits
-Lead Agencies identify screening criteria for alternatives
-Lead Agencies identify proposed level and methods of analysis
-Lead Agencies identify alternatives for analysis in the EIR/EIS
-Lead Agencies identify preliminary analysis of impacts of the project(s) seeking USACE permits
-Federal Cooperating Agencies respond as listed on Table 2
-Closure letter from Lead Agencies

Checkpoint C: Preliminary LEDPA, Preliminary District 408 Recommendation, and Draft Mitigation Plan
-Federal Cooperating Agencies respond as listed on Table 23
-Closure letter from Lead Agencies

MOU ENDED at end of Final EIR/EIS 30 day waiting period

At some point, maybe when this thing is signed, we can get out a joint letter with the Corps reminding DOI that they and DWR need to comply with this process.

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