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Cc: []
From: CN=Karen Schwinn/OU=R9/O=USEPA/C=US
Sent: Mon 8/2/2010 6:46:56 PM
Subject: #1 --- Fw: SPK Regulatory Concerns on Scope and LEDPA for BDCP EIS/EIR

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----- Forwarded by Karen Schwinn/R9/USEPA/US on 08/02/2010 11:44 AM -----

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Date: 08/26/2009 08:50 AM
Subject: SPK Regulatory Concerns on Scope and LEDPA for BDCP EIS/EIR

The purpose of this email is to provide the Bay Delta Conservation Plan's (BDCP) BDCP Environmental Compliance Team (BECT) information, analyses, and processes which appear necessary to support the USACE permit decisions for those components of the BDCP for which the applicants are seeking permits and which constitute complete projects based upon my current understanding of the BDCP.
The USACE has jurisdiction over the BDCP under section 10 of the Rivers and Harbors Act of 1899 (section 10), section 14 of the Rivers and Harbors Act of 1899 (section 408, so called as it's also listed as 33 USC 408), and section 404 of the Clean Water Act (section 404).
The topics within this email are specific to section 10 and 404 permit decision needs.
The USACE is a cooperating agency under the National Environmental Policy Act for the Environmental Impact Statement/Environmental Impact Report (EIS/EIR) which is being prepared for the BDCP by the BECT. I am looking forward to working with the applicants to ensure the EIS/EIR prepared for the BDCP is adequate in both process and content to support the permit decisions of the USACE. I expect the topics discussed below will be further discussed at the next BECT meeting or another meeting to ensure the right information, analyses, and processes are incorporated into the EIS/EIR to support the permit decisions of the USACE. Without the right information, analyses, and processes incorporated into the EIS/EIR, additional NEPA processes and documentation would be necessary for completion of the permit decisions of the USACE.
Concerns on Scope of the BDCP EIS/EIR
USACE would like to have group discussions with the applicants and the other regulatory agencies (USFWS, EPA, RWQCBs, NMFS, DFG) to make sure the scope of the EIS/EIR is sufficient. Because the proposed action is the reoperation of the SWP and CVP, upstream operational effects in the Trinity, Sacramento, American and Feather rivers mey need to be included. Because the proposed action will

alter water quality, downstream impacts in the Suisun Marsh and San Francisco Bay may need to be included. Because the proposed action will increase the amount of water conveyed to southern California, far more than the existing service areas may need to be included in the growth inducing and cumulative effects analysis. This is another foundational element to the process, and needs to be well planned and justified.

SPK Regulatory Concerns on LEDPA of the BDCP EIS/EIR

SPK Regulatory recommends that as soon as possible a meeting be held with the applicants and at least the EPA and SPK Regulatory to discuss the process and content of the 404(b)(1) alternatives analysis. While not required to start the permit decision making process, it seems prudent given the costs and scheduling issues associated with the BDCP that the alternatives in the EIS/EIR be well justified and at least one be the Least Environmentally Damaging Practicable Alternative (LEDPA)(or close to it) in accordance with the 404(b)(1) guidelines.

Mike

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