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Bcc: []
From: CN=Erin Foresman/OU=R9/O=USEPA/C=US
Sent: Mon 6/6/2011 9:49:12 PM
Subject: BDCP Purpose
EPA R9 Comments on BDCP Purpose 061010.pdf
Lead FED BDCP Purpose and Need Letter 102610.pdf
Five Federal Agency Meeting on the Purpose and Need Statement_10MAR2010_Final.doc

Hi Everyone,

One of my follow up items from the May 25, 2011 NEPA/404 BDCP meeting is to send a refresher on where we stand with respect to the purpose statement.

Below is a timeline documenting the evolution of the BDCP purpose statement with respect to the lead federal agencies, EPA, and Corps discussions. Attached are the letters EPA and the lead federal agencies exchanged about the purpose statement and meeting notes from the March 17, 2010 meeting between the lead federal agencies, EPA, and the Corps.

BDCP Purpose Statement Timeline

January 24, 2008 NOI

· "…Allow for projects that restore and protect water supply, water quality, ecosystem, and ecosystem health to proceed within a stable regulatory framework….."

April 15, 2008 FR Amended NOI

· Doesn't have formal purpose or need statements but contains purpose and need language

· "Specifically, Reclamation seeks to improve water supply reliability for Federal water contractors while meeting its FESA obligations." (page 20326, center column).

· The BDCP Description section (page 20327) contains language about several core purposes but none of it directly addresses export volumes from the Delta.

February 13, 2009 FR

The purposes of the proposed actions are to achieve the following:

Respond to the applications for incidental take permits for the covered species that authorize take related to:

1. The operation of existing SWP Delta facilities and construction and operation of facilities for the movement of water entering the Delta from the Sacramento Valley watershed to the existing SWP and CVP pumping plants located in the southern Delta;

2. The implementation of any conservation actions that have the potential to result in take of species that are or may become listed under the ESA pursuant to the ESA at section 10(a)(1)(B) and its implementing regulations and policies;

3. The diversion and discharge of water by Mirant LLC for power generation in the Western Delta.

Improve the ecosystem of the Delta by:

1. Providing for the conservation and management of covered species through actions within the BDCP Planning Area that will contribute to the recovery of the species; and

2. Protecting, restoring, and enhancing certain aquatic riparian, and associated terrestrial natural communities and ecosystems.

3. Reducing the adverse effects to certain listed species of diverting water by relocating the intakes of the SWP and CVP.

Restore and protect the ability of the SWP and CVP to deliver up to full contract amounts, when hydrologic conditions result in the availability of sufficient water, consistent with the requirements of state and federal law and the terms and conditions of water delivery contracts held by SWP contractors and certain members of SLDMWA.

March 10, 2010

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Meeting with BDCP Federal Agencies (Lead = BOR, USFWS, NOAA Fisheries, Cooperating = Corps and EPA). See attached meeting notes compiled by Michael Nepstad, USACE.

· Discuss EPA and Corps discomfort with the following phrases in the February 13, 2009 FR purpose statements.

o "Restore and protect the ability of the SWP and CVP to reliably divert and deliver water up to full contract amounts…."

o Reducing the adverse effects to certain listed species of diverting water by relocating the intakes of the SWP and CVP.

· EPA and Corps recommended following changes to February 13, 2009 FR language:

o The operation of existing SWP Delta facilities. and construction Construction and operation of facilities and/or improvements for the movement of water entering the Delta from the Sacramento Valley watershed to the existing SWP and CVP pumping plants located in the southern Delta;

o Reducing the adverse effects to certain listed species of diverting water by relocating the intakes of the SWP and CVP.

o Alter the language regarding "full contract amounts" because it is misleading.

March 17, 2009 BDCP NEPA Purpose Statement Preferred by federl agencies in attendance at 3/17/2010 meeting.

Text below from an email from Melanie Rowland (NOAA) responding to a request from David Nawi (DOI).

This "preferred NEPA purpose statement" would be ready in case the NGOs' request to bring the P&N discussion to the Steering Committee results reopening of the discussion and a request for the federal co-lead agencies' preferred purpose statement. As you'll see, my only substantive edit is to delete "up to full contract amount" and accompanying phrases in the last purpose. We concluded yesterday that while we're all OK with the existing language, if the opportunity arises to express our preference, our preference is to go back to the language we originally drafted before negotiations with the PRE's led to the modified statement.

EPA and Corps supported the Preferred Federal Agency NEPA Purpose Statement by email (sent by Karen Schwinn and Michael Jewell).

Preferred NEPA Purpose Statement Draft 3-17-10:

The purposes of the proposed actions are to achieve the following:

A. Respond to the applications for incidental take permits for the covered species that authorize take related to:

(1) The operation of existing SWP Delta facilities;

(2) The construction and operation of facilities and/or improvements for the movement of water entering the Delta from the Sacramento Valley watershed to the existing SWP and CVP pumping plants located in the southern Delta;

(3) The implementation of any conservation actions that have the potential to result in take of species that are or

may become listed under the ESA, pursuant to the ESA at section 10(a)(1)(B) and its implementing regulations and policies; and

(4) The diversion and discharge of water by Mirant LLC for power generation in the Western Delta.

B. Improve the ecosystem of the Delta by:

(1) Providing for the conservation and management of covered species through actions within the BDCP Planning Area that will contribute to the recovery of the species;

(2) Protecting, restoring, and enhancing certain aquatic, riparian, and associated terrestrial natural communities and ecosystems; and

(3) Reducing the adverse effects to certain listed species of diverting water.

C. Restore and protect Delta water supply reliability.

April – May 2010 interagency meetings inform us that purpose statement is not likely to change to the preferred statement identified by attendees at the March 17, 2010 meeting.

June 2010 EPA writes letter to lead federal agencies with comments on the purpose statement.

October 2010 lead agencies respond.

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http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html

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