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Subject: Updated Federal BDCP tracker and Checklist
Date: Wednesday, October 23, 2013 5:23:22 PM
Attachments: [Public Draft Issues to be Resolved List UPDATED v.17 10.23.13.docx](#)
[BDCP CHECKLIST for Public Draft Release REVISED for December 13 v.11 10.23.13.docx](#)
[BDCP Remaining Federal Issues Public Draft 102113.pdf](#)

Colleagues:

Attached are three documents for tomorrow's weekly 12pm Pacific/3pm Eastern call.

1. Updated Federal Issues tracker (revised based on current discussions with DWR and input from NMFS, FWS and Reclamation)
2. Revised checklist showing our new schedule for publishing the public draft on December 13 (based on Principals call today)
3. DWR's list of issues that need to be resolved before public draft (this mirrors the first section in our tracker but thought folks might want it for reference as well).

Regards,

Ryan

Federal List of Issues related to the Public Draft

ISSUES THAT MAY STILL NEED RESOLUTION BY PRINCIPALS BEFORE PUBLIC DRAFT:

1. Longfin population growth objective
 - a. **STATUS:** FWS has objective completed but DWR and ICF do not believe there is time to incorporate into the public draft
 - b. This issue may still need elevation
2. Resolution of DEIS/DEIR comments from batch reviews
 - a. **STATUS:** Comments on remaining batches (2-4) are due to DWR/ICF by 11/5
 - b. Other comments expected to be addressed and incorporated in 11/12 complete clean draft
3. Resolution of NEPA habitat (flow) effects on delta smelt and longfin smelt.
 - a. **STATUS:** discussions underway with DWR on resolving the conclusions regarding the effects of the “decision tree” operational sub-alternatives within ALT 4, and on NEPA conclusions regarding flow/habitat effects in the other NEPA alternatives.
 - b. This issue may need elevation.
4. Resolution of NEPA conclusions of project effects on Chinook salmon.
 - a. **STATUS:** Call with DWR to go over text revisions set for 10/24.
 - b. This issue may need elevation.
5. Resolution of final edits to BDCP chapters (Ch. 3,4,6, and 7)
 - a. **STATUS:** Ongoing batch review, focused primarily on net effects (Ch.5) with comments due 10/29.
 - b. DWR providing specific text to Feds the week of 10/21 on specific chapters:
 - i. Real-Time Ops
 - ii. Edits from CDFW on CM1 and Ch. 6
 - iii. PWA edits to Ch. 4
 - iv. Various edits to Ch. 7
 - c. Aiming to be completed by 11/5

“OPEN” ISSUES THAT WILL REQUIRE DISCUSSIONS BETWEEN DRAFT AND FINAL:

6. Real Time Operations
 - c. **STATUS:** Current text drafted by Principals is included in BDCP.
 - d. Further discussion will be needed on membership, structure and references to upstream impacts/HOS between draft and final.
7. Adaptive Limits/Assurances
 - a. **STATUS:** Current text drafted by Principals is included in BDCP.
 - b. Will require extensive discussions between draft and final.
8. Chapter 8 – “Implementation Costs and Funding Sources”
 - a. **STATUS:** Revised text sent on October 1
 - b. Will require extensive discussions between draft and final.
9. Implementing Agreement
 - a. **STATUS:** This will be released after the public draft DEIS and BDCP
 - b. Revise the document as policy issues are resolved and rewrite sections

10. High Outflow Scenario and Decision Tree
 - a. **STATUS:** Principals discussed week of 9/2.
 - b. Issue will need further work between draft and final.

11. North Delta Diversion Bypass flows
 - a. **STATUS:** Principals agreed that the public draft would have the analysis that includes the results for the modeled flows and qualify the conclusions.
 - b. We will need to explore what criteria are providing the protections between draft and final, and possibly incorporate them.

12. Agreement that CVP operations will not be adversely affected by BDCP operations; that is, new conveyance and associated operational requirements will be implemented as modeled so as to not cause an impact. This allows Reclamation to use DEIS for Delta-specific actions.
 - a. **STATUS:** This issue has come up again in Real Time Operations and HOS discussions. It is not considered resolved.
 - b. If future efforts reveal an impact to CVP reservoirs, then Reclamation will be required to complete a supplemental EIS for its actions in the Delta.
 - c. This will require further discussions between draft and final.

13. Terrestrial Species Issues in HCP
 - a. **STATUS:** issues raised in FWS progress memo have not been adequately addressed. Remaining issues include: level of development of monitoring and research plans for specific species to support adaptive management; needed refinements to avoidance and minimization measures; fixes for contaminants analysis; cumulative effects text for the salt marsh harvest mouse regarding late long-term condition with sea level rise; DWR's removal of the "stay ahead" provision from the plan (issue may apply to more than just terrestrial species).
 - b. Issues will require additional work on HCP between draft and final for resolution.

14. Flow and habitat analyses in HCP
 - a. **STATUS:** issues raised in FWS progress memo have not been adequately addressed. Issues include: CM4 habitat restoration analyses and conclusions in the HCP and EIS assume 100% restoration success and fish species occupancy/use: sensitivity of overall effects analysis to these assumptions needs to be developed and reported; though improved, new Net Effects analyses in the HCP continue to combine outflow and restored habitat into one concept that is inconsistent with best available science, resulting in unrealistically optimistic overall conclusions regarding the embedded operations alternatives.
 - b. Issue will require additional work on the HCP between draft and final to resolve.

15. Contaminant/Turbidity analysis in HCP
 - a. **STATUS:** issues raised in FWS progress memo and EIS review have not been adequately addressed. Issues include: arbitrary significance thresholds for biological or ecological effects (e.g. 8-9% additional reduction in Delta sediment loads determined to be insignificant without rationale); mercury and selenium modeling not credible in current state (DSM2 QUAL likely cannot be validated for these constituents); selenium analysis inadequate and incomplete; mercury and selenium effects analysis for covered species based on potentially inappropriate model species, reducing credibility of analysis; information about chemical additives used in tunnel drilling have not been provided nor has any data on contaminants present in in-river sediments that would be dredged and relocated.

- b. Issue will require additional work between draft and final to resolve.
16. Crane analysis in the HCP and EIS
- a. **STATUS:** issues raised by realignment of the tunnels have not been adequately addressed. Issues include: need additional discussion of minimization and mitigation measures for impacts to the SLNWR because the Refuge is the focal area receiving the greatest level of impact from the conveyance project; discussion of additional monitoring/adaptive management /minimization/mitigation for the Staten Island population of cranes is needed; discussion of additional minimization/mitigation measures for transmission line placement and further discussions on other indirect effects (noise, light etc) are needed.
 - b. Issue will require additional work between draft and final for resolution.
17. Conservation Measures in the HCP
- a. **STATUS:** Issues have not been adequately resolved. Issues include: the "other stressors" conservation measures are inadequately developed and need significant improvements to clarify role of BDCP amid other regulatory obligations, reduce uncertainty of success, and contribute to listed species recovery; further discussion among the federal and state fish and wildlife agencies needed to discuss the potential benefits and impacts due to restoration in the south Delta.
 - b. Issue will require additional work between draft and final for resolution.
18. EIS Summary Tables
- a. **STATUS:** Issues raised by the Summary Tables that will not be resolved for the public draft will need to be resolved for the final. They include: Executive Summary Tables - need refinement for the NEPA effects determination; a separate summary of NEPA effects determinations table needs to be included in each resource chapter; Alternative Comparison Summary Table – needs to be included in the final.
 - b. Issue will require additional work between draft and final for resolution.
19. Water Surface Analysis in HCP
- a. **STATUS:** issues have not been adequately resolved. Issues include: need results of the UnTRIM-RMA-DSM2-ANN-CALSIM II “full circle analysis” alluded to in Appendix 5A atop page A-44 (checking salinity-flow relationships); need the rationale/sensitivity analysis that led to using a one-dimensional average cross-sectional velocity of 0.4 feet per second 1,000 feet downstream of each intake location; need analysis of how sensitive the CALSIM II results are to the assumption of a 12,000 cfs Wilkins Slough flow threshold for defining a Sacramento River pulse; need an assessment of how avoidable the modeled episodic dead pool conditions may be in 2060.
 - b. Issue will require additional work between draft and final for resolution.
20. Site-Specific Analysis in HCP
- a. **STATUS:** issues raised in FWS progress memo have not been adequately resolved. Issue: the final BDCP must have the site specific information needed to complete our intra-service Sec 7.
 - b. Issue will require additional work between draft and final for resolution.

OTHER COMMITMENTS AGREED TO BE COMPLETED BETWEEN DRAFT AND FINAL:

21. Particle Tracking Method (PTM)
- a. Fry passage/survival issue
 - b. Additional north Delta model runs

22. Delta Passage Model (DPM)
 - a. Incorporate revisions to model based on NMFS and other agencies' comments
 - b. Work on the relationship between exports and survival for SJ River fish
 - c. Determine appropriate level of significance for flow/survival relationships (Newman/Perry) within the model.
23. Independent Scientific Review
 - a. ND Bypass Flows
 - b. Effects of Oroville operations on Feather River
 - c. DPM
 - d. Effects of habitat restoration & sea-level rise on tidal energy and river stage
 - e. Appropriate interpretation of upstream flow and temperature models
24. Critical Habitat Analysis
 - a. In EIR/EIS
25. Essential Fish Habitat Analyses
 - a. BDCP and EIR/EIS
26. ND Diversion Bypass Flows analyses
 - a. Update on when to expect analysis of controlling criteria.
 - b. A "water costs analysis" showing the difference in average exports under each of the bypass criteria levels (Levels 1, 2 & 3)
 - c. Analyses showing what the survival rates for ONLY level 1 pumping
27. Effects Analysis
 - a. Analyze CS5 operations for the south Delta.
 - b. Fall run/late fall run -two species aggregated over multiple rivers
 - c. Green sturgeon analyses
 - d. Water temperature impact analysis
28. "Roll-up"/aggregate analysis
29. Continue work on habitat restoration analyses
 - a. Floodplain
 - b. Channel Margin Habitat
 - c. Tidal Marsh
 - d. Partial implementation (feasibility and uncertainty issue)
 - e. Lessons learned from unintentional restoration examples
 - f. Foodweb
30. Predation Measure (CM 15)
 - a. Metric to measure success of program
 - b. Description of expected outcomes if less than fully successful
31. Non-Physical barriers
 - a. Incorporate 2012 Geo SI report
32. Stressor reduction targets for smelt entrainment
33. Fish Population Dynamics analyses (smelt)

ISSUES EXPECTED TO BE **RESOLVED** WITHOUT FURTHER ELEVATION:

34. Adaptive Management/Governance (Ch. 3.6 and 7)
 - a. **STATUS:** Final text from Principals work sessions included in BDCP.

35. Chapter 4-“Covered Activities” and related ESA coverage under Section 7/10 for Federal agencies participation in “covered activities”. This is an issue for all Federal agencies as some assume all Federal agencies will participate in implementing covered activities.
 - a. **STATUS:** Federal agencies are not implementing CM2-22 outside of existing authorities and responsibilities and will have to do NEPA and ESA compliance as necessary.

36. Editing BDCP/DEIS to remove biased language about the science and plaintiffs litigation points.
 - a. **STATUS:** Discussed at live-edit sessions

37. Inserting federal agency proposed actions into DEIS
 - a. **STATUS:** Discussed at live-edit sessions

38. Operational phasing
 - b. **STATUS:** Agreed text on 9/20

39. Changed circumstances
 - c. **STATUS:** Agreed text on 9/6

REVISED BDCP CHECKLIST FOR RELEASING DRAFT BDCP & EIR/EIS – Projected Date: 12-13-13

- 1. Live-Edit Sessions completed
 - a. **TIMELINE:** Completed on 9/24

- 2. Policy Issues resolved and corresponding text inserted in to the HCP and DEIR/DEIS
 - a. **STATUS:** Principals and senior staff meeting on various issues concurrently
 - b. **TIMELINE:** To be completed by 11/5

- 3. Completed chapters provided in “batches” to facilitate expedited DC review process and allow final regional review on text from numbers 1 and 2 above.
 - a. **STATUS:** 4 Batches sent by ICF. Federal Agencies have provided POCs.
 - i. 9/6 - *Batch 1*: Chapters 1-4, 9, 10, 13, 20, 21, 24-27
 - ii. 9/13 - *Batch 2*: Chapters 5-8, 14-18, 23, 28-33, 35
 - iii. 9/20 - *Batch 3*: Chapters 19 and 22
 - iv. 10/1 - *Batch 4*: Chapters 11, 12, Executive Summary, cover page, cover sheet, table of contents, references (Chapter 34), list of acronyms and abbreviations, and index
 - b. **TIMELINE:** All batches sent by 10/1. Regional batch 1 review completed by 9/17. Regional batch 2, 3 and 4 review to be completed by 11/5. DC review completed by 10/29.

- 4. NMFS SWR NEPA Coordinator needs to see record of how all her comments were responded to and/or addressed.
 - a. **TIMELINE:** Completed on 10/21.

NOTE: Numbers 1-4, above, must be completed before number 5

- 5. Complete clean copy of documents (HCP and DEIR/DEIS) provided to federal agencies for one week “final” regional review.
 - a. **STATUS:** Target date for ICF to provide is 11/12
 - b. **TIMELINE:** “Final Regional Review” completed by 11/19

- 6. NOAA PPI NEPA and DOI OEPC comments responded to and/or addressed.
 - a. **STATUS:** NMFS to work with ICF on the process for this
 - b. **TIMELINE:** To be completed by 11/19

- 7. ICF processes and formats final “Camera Ready” copy
 - a. **TIMELINE:** 11/22 to 11/29. To be completed by 11/29.

- 8. Final “Camera Ready” Copy of full package of documents (HCP and DEIR/DEIS) provided to federal agencies with all Fed comments incorporated.
 - c. **TIMELINE:** NMFS will need this by 11/29 to allow for 12/6 Filing date and 12/13 publishing date.

BDCP and EIR/EIS Remaining Issues to Resolve with Federal Agencies for Public Draft as of 10.18.13

Issue	Affects	Status
EIR/EIS Issues		
1. AQUA-42 NEPA Conclusion for Alt. 1A: Effects of Water Operations on Migration Conditions for Winter-Run Chinook	EIR/EIS Ch. 11	Laura King Moon sent DWR proposal 9/28. Maria Rea replied with counter proposal 9/30. DWR and DFW working on proposed new counter-edits to discuss with NMFS.
2. AQUA-58 NEPA Conclusion for Alt. 1: Effects of Water Ops on Spawning and Egg Incubation Habitat for Spring- Run Chinook	EIR/EIS Ch. 11	Same as above
3. AQUA-5 NEPA Conclusion for Alt. 4: Effects of water operations on rearing habitat for delta smelt	EIR/EIS Ch. 11	DWR and DFW working on proposed edits to share with FWS.
4. Resolution of USBR comments	EIR/EIS Ch. 18, 29, 30	Ch. 30 (growth inducement) comments were sent very late after being discovered (should be ok); Ch. 18 (cultural resources) includes backcheck comments; Ch. 29 (climate change) – set up meeting with USBR staff to review. Mary Lee Knecht is working with Steve and Cassandra
BDCP Issues		
1. Proposed new longfin smelt biological objective 1.1	BDCP Ch. 3, 5	Received proposed new objective from CDFW on 9/20; met with CDFW staff on 10/4 and with contractors next to discuss. Identified numerous tasks to explore implications and refine objective. <i>CDFW submitting revised objective 10/22; will evaluate and will try to incorporate it into public draft.</i>
2. Real-time operations language	BDCP Ch. 3, CM1	DWR to talk with Maria re: language suggested Then discuss with all agencies and contractors re: Oroville (or via email)

Issue	Affects	Status
3. Edits from CDFW on CM1: <ul style="list-style-type: none"> • Operational testing criteria • N Delta bypass flows • Edits to decision tree language 	BDCP Ch. 3, CM1	Received 10/3 -Need to verify with Feds -ICF sent track changes 10/21 (from Chris Earle)
4. Edits from CDFW on Ch. 6	BDCP Ch. 6	Received 10/4; need to verify with Feds -ICF sent track changes on 10/21 (from Chris Earle)
5. Edits on Ch. 7 from various parties	BDCP Ch. 7	DWR to compile all edits and comments; will need to verify with Feds. -ICF sent track changes 10/21 (from David Zippin)
6. PWA Suggested edits to Ch. 4 regarding Reclamation covered activities	BDCP Ch. 4	Need to verify with Reclamation -ICF sent track changes 10/21 (from Chris Earle)
7. CM1 N Delta bypass flows – new paragraph added in Oct. 1 draft?	BDCP Ch. 3, CM1	Check with Jennifer on status
8. CM1 Affirmative statement that spring outflow requirements will be met from Oroville and not from CVP reservoirs	BDCP Ch. 3, CM1	Feds to verify language in table 3.4.1-1 under Spring Outflow re: Oroville.