

From: [Michael Chotkowski](#)
To: [Ryan Wulff - NOAA Federal](#)
Subject: tracker etc. issues
Date: Thursday, November 14, 2013 11:54:00 AM
Attachments: [Federal Issues Tracker_UPDATED v.19_11.13.13.docx](#)
[List of Commitments - Between Draft and Final \(1\).docx](#)

Ryan – apologies; hit “reply” to something earlier and sent these to myself.

Federal List of Issues related to the Public Draft

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

1. Resolution of DEIS/DEIR comments from batch reviews
 - a. **STATUS:** Comments were submitted on 11/5
 - b. Federal agencies are reviewing the 11/12 complete clean draft to see if our comments have been incorporated.

2. Resolution of final edits to BDCP chapters (Ch. 3-8)
 - a. **STATUS:** Feds submitted comments on 11/5 and are reviewing the 11/12 clean copy now.
 - b. There is disagreement on some text in Ch. 6 and 7 that may require elevation to Principals.

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

3. 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.

4. Adaptive Limits/Assurances
 - a. **STATUS:** Current text drafted by Principals is included in BDCP.
 - b. Will require extensive discussions between draft and final.

5. Chapter 8 – “Implementation Costs and Funding Sources”
 - a. **STATUS:** Current text not sufficient
 - b. Will require extensive discussions between draft and final.

6. 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

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

8. 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.

9. 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.

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- 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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

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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.

15. 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.

16. Water Surface Analysis in ~~HCP EIS~~

- 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.

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17. 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:

18. Particle Tracking Method (PTM)

- a. Fry passage/survival issue
- b. Additional north Delta model runs

19. 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.

20. 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

21. Critical Habitat Analysis

- a. In EIR/EIS

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22. Essential Fish Habitat Analyses
 - a. BDCP and EIR/EIS
23. 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
24. 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
25. “Roll-up”/aggregate analysis
26. 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
27. Predation Measure (CM 15)
 - a. Metric to measure success of program
 - b. Description of expected outcomes if less than fully successful
28. Non-Physical barriers
 - a. Incorporate 2012 Geo SI report
29. Stressor reduction targets for smelt entrainment
30. Fish Population Dynamics analyses (smelt , splittail)
31. Avoidance and Minimization Measures (CM22)
 - a. Remove as a CM. Incorporate A&M’s into other appropriate CM’s.

~~30.~~

ISSUES EXPECTED TO BE RESOLVED WITHOUT FURTHER ELEVATION:

- ~~31-32.~~ Longfin population growth objective
 - a. **STATUS:** DFW has objective completed (part 1) and it has been inserted in the public draft.
- ~~32-33.~~ Resolution of NEPA habitat (flow) effects on delta smelt and longfin smelt.

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- a. **STATUS:** new text on conclusions included 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.

| ~~33-34.~~ Resolution of NEPA conclusions of project effects on Chinook salmon.

- a. **STATUS:** new text on conclusions included.

| ~~34-35.~~ Adaptive Management/Governance (Ch. 3.6 and 7)

- a. **STATUS:** Final text from Principals work sessions included in BDCP.

| ~~35-36.~~ 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.

| ~~36-37.~~ Editing BDCP/DEIS to remove biased language about the science and plaintiffs litigation points.

- a. **STATUS:** Discussed at live-edit sessions

| ~~37-38.~~ Inserting federal agency proposed actions into DEIS

- a. **STATUS:** Discussed at live-edit sessions

| ~~38-39.~~ Operational phasing

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

| ~~39-40.~~ Changed circumstances

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

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3. Independent Scientific Review
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