



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE

APR 24 1997

Ecological Services
Sacramento Field Office
3310 El Camino Avenue, Suite 130
Sacramento, California 95821-6340

April 18, 1997

Mr. Lester S. Snow
Executive Director
CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, California 95814

Subject: CALFED Habitat Conservation Planning Process

Dear Mr. Snow:

The Service provides the following guidance concerning the Habitat Conservation Planning (HCP) process:

The following documents or actions are required by statute, regulation, or Service policy for submittal of an HCP for approval and issuance of a section 10(a)(1)(B) permit--

A Habitat Conservation Plan that contains all components mandated by Section 10(a)(2)(A) of the ESA.

- An Implementing Agreement.
- A NEPA document (see attachment for an example).
- A permit application (form 3-200) and application fee, if applicable.
- Publication in the Federal Register of a Notice of Receipt of a Permit Application and a 30-day public comment period.
- An intra-Service formal section 7 consultation and preparation of a biological opinion with 135-day deadline.
- A Set of Findings describing how the HCP meets permit issuance criteria mandated by section 10(a)(2)(B) of the ESA (see below).
- The permit (form 3-201).

Section 10(a)(2)(A) of the ESA and Federal regulation requires that an HCP specify:

- The impacts which will likely result from the proposed taking.
- What steps the applicant will take to monitor, minimize, and

D - 0 4 9 8 4 5

D-049845

mitigate such impacts, the funding that will be made available to implement such steps, and the procedures to be used to deal with unforeseen circumstances.

- What alternative actions to such taking the applicant considered and the reasons why such alternatives are not proposed to be utilized.
- Such other measures that the Service may require as being necessary or appropriate for purposes of the plan.

The Service shall issue an incidental take permit if it finds with respect to the permit application that:

- The taking will be incidental.
- The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking.
- The applicant will ensure that adequate funding for the conservation plan and procedures to deal with unforeseen circumstances will be provided.
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.
- The measures, if any, that the Service may require as being necessary or appropriate for purposes of the plan will be met.
- The Service has received such other assurances as it may require that the plan will be implemented.

All Recovery Plans for species contained within affected areas should be considered when designing conservation, restoration, or mitigation. The Delta Native Fishes Recovery Plan should be used with conservation, restoration, or mitigation for the following species: delta smelt (*Hypomesus transpacificus*), Sacramento splittail (*Pogonichthys macrolepidotus*), longfin smelt (*Spirinchus thaleichthys*), green sturgeon (*Acipenser medirostris*), Sacramento spring-run, late fall-run, and San Joaquin fall-run chinook salmon (*Oncorhynchus tshawytscha*), and Sacramento perch (*Archoplites interruptus*). Other Recovery plans for the Bay/Delta include: California Clapper Rail/Salt Marsh Harvest Mouse (*Rallus longirostris obsoletus/Reithrodontomy raviventris*), San Joaquin kit fox (*Vulpes macrotis mutica*), San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), Antioch Dunes (Lange's Metalmark butterfly--*Apodemia mormo langei*, Antioch Dunes evening-primrose--*Oenothera deltoides* subsp. *howellii*, Contra Costa Wallflower--*Erysimum capitalurn* var. *angustatum*), San Bruno Elfin and Mission Blue Butterflies (*Callophrys mossii bayensis* and *Icaricia icarioides missionensis*). Species having seasonal or peripheral occurrence in the Bay that have had recovery plans completed are the California least tern (*Sterna antillarum browni*) and California brown pelican (*Pelecanus occidentalis californicus*) that occur in the Bay in spring and summer (tern) and late summer and fall (pelican), and the Aleutian Canada goose (*Branta canadensis leucopareia*), where a small portion of their wintering population spends some time at a few reservoirs on the east side of the Bay.

If you have any questions or concerns about the above, contact Robert Pine at (916) 979-2725 or Jean Elder at (916) 979-2130.

Sincerely,

Robert A. Pine
for Wayne S. White
Field Supervisor

Attachment

cc: ARD, Klamath and California Ecoregions, Region 1, Portland, OR
RD, Region 1, Portland
USEPA, San Francisco, CA
Sac District-Corps, Attn: Jim Monroe, Regulatory, Sacramento