Service Comments/Responses to Rick Breitenbach's Message of 9/12/97 re: Coverage of HCP in EIR/S

1) ERPP is presented in some forums as "self-mitigating" and in others as not self-mitigating, i.e., there may be mitigation required above and beyond ERPP to offset some ERPP actions. It will be important for the EIR/S to describe both how the ERPP will mitigate for itself and what ERPP actions may require additional mitigation. The EIR/S should also describe how far ERPP goes toward meeting the 10a1B permit issuance criterion of "minimize and mitigate to the maximum extent practicable." All CalFed documents should be consistent in their discussions of ERPP and any additional mitigation associated with ERPP.

2) The EIR/S will need to provide a fair amount of detail to satisfy ESA section 10 requirements to satisfy NEPA requirements for the HCP. It will need to identify and analyze those CalFed activities which may result in take and will be covered by the HCP, the species that will be covered by the HCP, the level of take (or an estimate) that would be authorized under a Service/NMFS 10a1B permit, and the impact of the take on the covered species; this is in addition to discussing the mitigation that will be implemented to minimize and mitigate, to the maximum extent practicable, the impacts of the take. Of course, we still need to figure out how all of these tasks will be accomplished, or if they can be, given the programmatic nature of the Bay-Delta Program.

3) The EIR/S should specifically address the issue of the No Surprises policy and its associated assurances since this is a very important issue on all sides (e.g., who will receive assurances, what does it mean for the applicants, what does it mean for the species/resources).

4) It will be important to address service area effects somewhere in the EIR/S; therefore, it will also be important to describe how the HCP will deal with service area impacts (once we figure that out).

[9/23/97]

5) Issuance of a 10a1B permit may have some effects above and beyond those resulting from implementation of the Bay-Delta Program (e.g., assurances may have economic impacts); any such effects would need to be addressed in the EIR/S.

Chapter on ESA compliance diff. issues to address

6) Alternatives, with respect to the HCP, should also be addressed in the EIR/S. Alternatives might include different options for structuring the HCP, coverage of different geographic areas, different scope of species covered, and others as appropriate. Perhaps most importantly, the EIR/S should compare the Bay-Delta Program with an HCP and without an HCP since the main purpose of the NEPA document, with respect to the HCP, is to analyze the effects of issuing a 10a1B permit.

Talk to Ben

7) The statement of purpose(s) in the EIR/S should reflect what the various entities hope to accomplish by implementing this action. One of the stated purposes should be to authorize incidental take for non-Federal CalFed partners.

Talk to Ben

[9/23/97]