

Purpose & Need
look at

Why do we do
big regional plans?

Because the
goal of ERPP is
to contrib. to recovery

STATE AND FEDERAL ENDANGERED SPECIES ACT COMPLIANCE

I. OVERVIEW

CALFED will comply with the Federal Endangered Species Act of 1973, as amended (ESA), through initiation of the formal consultation process pursuant to Section 7 of the ESA and development of one or more Habitat Conservation Plans (HCP) pursuant to Section 10(a)(1)(B) of the ESA. CALFED will comply with the California Endangered Species Act (CESA) by obtaining take authorization through the Natural Community Conservation Planning Act, Section 2835 of the California Fish and Game Code; a Natural Community Conservation Plan (NCCP) will be prepared. In addition, Sections 2081 and 2091 of the California Fish and Game Code may be used to comply with the CESA on an individual project basis.

CALFED has begun developing a State and Federal ESA compliance process and will continue to develop that process during Phase II of the Program. As a first step in implementing the State and Federal ESA compliance process, CALFED has begun developing a Conservation Strategy for the CALFED Program. The Conservation Strategy will address all sensitive species and their habitats potentially affected by the Program, the effects of CALFED Program actions (beneficial, adverse, and neutral) on those species and habitats, and the minimization and mitigation measures needed to offset the anticipated adverse impacts and allow for species/habitat recovery. In addition, the Conservation Strategy will include a monitoring program, specify a process for adaptive management, and address funding for unforeseen circumstances. The Conservation Strategy will aim to provide a comprehensive, long-term plan that will allow for the recovery of listed species and conserve currently unlisted species.

Take authorization will be granted when specific actions are defined or at such time as adequate information is available to assess project effects on listed or other sensitive species. The Conservation Strategy will outline the criteria and process for determining the appropriate mechanism for implementing the strategy and authorizing incidental take associated with specific Program actions. Authorization of incidental take associated with an action will be through formal consultation (Section 7 Process), an HCP/NCCP (Section 10), or a special 4(d) rule authorizing take of threatened species, however, the specific levels of take and conditions under which incidental take can occur will likely be deferred until Program actions become more defined. The Conservation Strategy for the species and/or habitat will be the same regardless of the implementing mechanism used to authorize take.

critical

- Relationship to ERPP
- context - overall planning process
Phase II + III
- Take authorization - when? - need some
state ment

II. BACKGROUND

(This section will describe the generic processes; we'll get to how CALFED in particular implements these processes later in the "Implementing Mechanisms" section.)

A. Overview of Federal ESA

1. Take definition
2. Take prohibitions
3. Section 7 authorization (Federal actions)

Brief description: purpose of section 7 and when it is used

4. Section 10 permit (non-Federal actions)

Brief description: purpose of section 10 and when it is used

B. Section 7 Consultation

1. Section 7 Criteria
2. Take Authorization Under Section 7
3. Requirements/Contents of a Consultation

Description of proposed actions

Species accounts/environmental baseline

Effects of proposed action

Cumulative effects

Service area effects

Incidental Take Statement

C. Habitat Conservation Plan and Section 10(a)(1)(B) Permit

A Habitat Conservation Plan (HCP), which is a required component of a Section 10(a)(1)(B) incidental take permit application, must describe the activities sought to be authorized by the permit, the levels of incidental take such activities will result in, the effects of the take on the species covered, and the minimization and mitigation measures that will provide for the conservation of those species. A CALFED HCP will be subject to approval by the USFWS and NMFS.

1. Section 10 Requirements/Findings
2. Take Authorization Under Section 10
3. No Surprises Policy
4. HCP Contents

Permit holder/term of permit

Area covered by HCP/permit

Covered activities

Covered species

Effects of activities on species

Incidental take levels

Impact of take on species

Minimization and mitigation measures

Monitoring and adaptive management

Funding

Unforeseen circumstances

D. Overview of State CESA and NCCP Act

- 1. Take definition
- 2. Take prohibitions
- 3. Section 2835 (Natural Community Conservation Planning Act)

An NCCP provides for the regional or area wide conservation of wildlife resources while allowing for compatible and appropriate development and growth. Section 2835 of the Fish and Game Code authorizes the California Department of Fish and Game (CDFG) to permit the taking of any identified species whose conservation and management is provided for in an approved NCCP. An NCCP, which must include all necessary elements identified in the Natural Community Conservation Planning Act, is subject to approval by CDFG.

An NCCP and HCP developed for the CALFED Program may be prepared jointly, resulting in a common plan, an HCP/NCCP.

CDFG should review/revise/add/etc. Should include discussion of findings/criteria for Section 2835

- 4. Fish and Game Code section 2081 permitting process (private actions)

CDFG to provide text; include discussion of findings/criteria

- 5. Fish and Game Code section 2090 State lead agency consultation

CDFG to provide text; include discussion of findings/criteria

III. PROCESS

A. Conservation Strategy

CALFED has begun development of a Conservation Strategy that will address the effects of the CALFED Program and the conservation of listed, proposed, and candidate species and other species of concern ("sensitive species") and their habitats. The Conservation Strategy will specify, where possible and where appropriate, the conservation actions necessary to allow for the recovery of listed species and conserve other sensitive species. CALFED anticipates that the strategy will provide much of the foundation and information needed for subsequent compliance with the State and Federal Endangered Species Acts through one of the implementing

What is process? more explanation

*CALFED Compliance Process
ERP + ESA → fit together → form conservation strategy*

② Do we mean we will require Cons. Strategy every time a project appears - if yes - we need to put Cons. Strategy out for

mechanisms discussed below.

Actions from all CALFED programs which may affect sensitive species will be addressed in the Conservation Strategy; beneficial, adverse, and neutral effects will all be analyzed. Minimization and mitigation strategies that may be needed to offset adverse impacts to sensitive species resulting from Program actions will also be specified to the extent possible.

1. General Structure and Purpose

The Conservation Strategy, when implemented through an appropriate mechanism, will provide an assurance that CALFED Program actions will be implemented and will receive incidental take authorization based on implementation of identified conservation, minimization, and mitigation actions. These actions will include the Common Program actions and storage, conveyance and system operations. The strategy will identify and analyze, to the extent possible, both beneficial and adverse impacts to sensitive species and their habitats resulting from Program actions. General conservation measures, as well as specific avoidance, minimization, and mitigation measures necessary to offset adverse impacts, also will be identified to the extent possible. The strategy will include a discussion of Program-wide effects on species and their habitats. *(Need to add discussion re: process for dealing with "unforeseen circumstances" will be included in Conservation Strategy.)*

The strategy is intended to function as a "blueprint" or framework for assessing the effects of Program actions and identifying both conservation and mitigation measures. CALFED intends to include detail where possible in the Conservation Strategy during Phase II. For those actions where sufficient detail is not available, however, the strategy will provide the general structure for covering the action; specific information can be "plugged in" to the strategy at the time it becomes available.

The strategy will identify a process for determining the appropriate implementing mechanism to authorize incidental take for a particular action or set of actions. Although the mechanisms for authorizing incidental take may differ, CALFED anticipates that the level of assurances will be similar as long as the Conservation Strategy is followed. The Conservation Strategy itself is not a regulatory document and does not fulfill compliance requirements of the State or Federal Endangered Species Acts. It is expected to provide, however, much of the information needed for ESA and CESA compliance.

The Conservation Strategy will cover the geographic area covered by the Ecosystem Restoration Program Plan, the projected footprint areas of the potential storage facilities, plus any other areas that may be identified as being directly or indirectly affected by CALFED actions. The strategy will cover the time period beginning with implementation of the CALFED Program and continuing through completion of the ERPP. Mechanisms

and requirements to extend the time period will be addressed. CALFED recognizes that some actions may be ready for permitting at the conclusion of CALFED's planning process (Phase II), while others may not be ready for permitting at that time.

2. Specific Structure and Contents

The Conservation Strategy will address each of the Program actions that may affect sensitive species and each of the sensitive species and habitats affected by the Program. The format of the strategy will consist of a series of tables, one for each species and habitat type covered, plus supporting/supplemental text and appendices. For each covered species and habitat a table will be prepared which will:

- a. Identify each of the CALFED Program actions that may affect that species or habitat. Each action will be given a unique code which references the Program Plan, the geographic area, and the specific action. For example, restoration of tidal wetlands in the Delta under the Ecosystem Restoration Program might have the code "E0115" where "E" indicates ERPP, "01" indicates the Delta, and "15" indicates the specific action of tidal wetland restoration. An appendix or other supporting document will provide a description of all of the actions.
- b. Analyze the effects of each of the actions (beneficial, adverse, and neutral) on the species or habitat. Where appropriate, this analysis also will specify the level of incidental take anticipated from an action; this information will facilitate authorization of such take through one or more of the implementing mechanisms described below.
- c. Identify the appropriate conservation or mitigation measures necessary to provide for the conservation of the species or habitat. Examples of the types of conservation or mitigation measures that may be applied include:
 - I. "No additional measures needed" in the case of some actions which provide only benefits to the species/habitat.
 - ii. Recommended refinements to an action; for example, to conserve the California clapper rail, tidal marsh habitat should be restored in a particular area of the Bay adjacent to existing habitat.
 - iii. General conservation or recovery goals for a species or habitat; for example, a particular sensitive plant may require a minimum number of populations over its range with a minimum number of individual plants in each population.

- iv. Restrictions or limitations on a particular action; for example, a timing restriction on levee maintenance work to avoid impacts to valley elderberry longhorn beetles.
 - v. Minimization measures designed to reduce adverse effects to a species or habitat; for example, specific suggestions for operating the storage and conveyance system in a manner which reduces impacts to sensitive fish species.
 - vi. Specific mitigation measures to offset those adverse impacts to a species or habitat which cannot be avoided. Such measures may include the establishment and management of permanent preserves, restoration of degraded habitat, breeding or propagation programs, among others.
- d. In some cases, specific research or monitoring needs may be identified for a species or habitat.
 - e. Analyze the Program-wide, cumulative effects of all CALFED actions on the species or habitat.

In addition to the species and habitat tables described above, the Conservation Strategy will include a monitoring and adaptive management program. The monitoring program will describe the specific goals of monitoring and identify appropriate methodologies for achieving those goals. The monitoring and adaptive management program will be based on those programs implemented for the ERPP, but may require additional measures to ensure implementation of the Conservation Strategy. In general, the goals of monitoring will be to assess the effects of CALFED actions on covered species and habitats (i.e., how do the actual effects compare with those anticipated), assess the impact of those effects on particular species (i.e., what does it mean for a particular species to lose or gain "x" number of acres of habitat or "x" number of individuals), and assess the success of the conservation and mitigation measures (i.e., do these measures actually benefit species in the ways and to the extent anticipated). The strategy will describe a process for adapting the Conservation Strategy (i.e., adaptive management) based on the results of the monitoring, other pertinent studies or research, or other new information on either the Program or the covered species/habitats. (*Add: process for dealing with "unforeseen circumstances"*)

The strategy also will identify a process for funding actions that may be required in the event of unforeseen circumstances. For example, if an unexpected event occurs, such as an extreme weather situation not anticipated by the CALFED Program, which has a significant adverse impact on a species or habitat which would not be offset by implementation of the Conservation Strategy, a contingency fund would be necessary to

allow CALFED or the Program implementing entity to undertake restorative measures, such as the purchase of land or water. While it is the intention of the CALFED Program to address a reasonable range of circumstances that could be expected to occur over the life of the Program, such as drought conditions, this measure is intended to provide a "buffer" for those events that could not reasonably have been anticipated.

B. Criteria for Determining Appropriate State and Federal ESA Compliance Strategy

As noted above and discussed in detail below, there are several mechanisms available for authorizing incidental take of state and/or federally listed species. The implementing mechanisms for complying with the Federal ESA include formal consultation through Section 7 of the ESA, preparation of an HCP and issuance of an incidental take permit pursuant to Section 10(a)(1)(B) of the ESA, and development of a special rule authorizing take of threatened species pursuant to Section 4(d). Implementing mechanisms for complying with the State ESA include development of a Natural Community Conservation Plan pursuant to Section 2835 of the Fish and Game Code, and preparation of a Management Authorization pursuant to Section 2081 or Section 2090 of the CESA (*I'm not sure if I used the right terms here*). All of the mechanisms for complying with the State and Federal ESAs will rely on implementing the Conservation Strategy.

CALFED, in consultation with the USFWS, NMFS, and CDFG will determine which actions and which species will be covered by which implementing mechanisms when sufficient detail for a particular action or set of actions is available to allow an assessment to be made. The additional information or documentation required to fulfill the requirements of each implementing mechanism is described later in this chapter in the section titled Implementing Mechanisms. The general criteria for determining which implementing mechanism is appropriate are discussed below.

1. Federal ESA Section 7 Consultation

The ESA requires action agencies to consult with the USFWS and/or NMFS when there is discretionary Federal involvement or control over the action, whether obvious (a federally funded or permitted water resource development project), or less direct (State operation of a program that retains Federal oversight).

Incidental take resulting from Federal actions will be addressed through Section 7 consultation. A programmatic Section 7 consultation will be conducted for the CALFED Program. This consultation will address all species included in the Conservation Strategy:

2. Federal ESA Section 10 Permit (HCP)

Incidental take resulting from non-Federal actions will be addressed through an HCP. The criteria for determining whether incidental take of a particular species will be covered under an HCP are: (1) the species is listed under the State and/or Federal ESA or could become listed during the term of the permit; (2) there is a reasonable likelihood of incidental take resulting from Program actions; (3) the level of take of the species resulting from Program actions can be reasonably assessed; (4) there is sufficient biological information available to determine the impacts of the take on the species and provide appropriate mitigation; and (5) the species conservation and management are provided for in the HCP. Species which do not meet these criteria would not be covered for incidental take through an HCP. Unlisted species can be covered under an HCP provided that they are essentially treated as if they were listed (see discussion later in this chapter on HCP requirements).

3. Federal ESA Section 4(d) Rule

Need to add discussion on criteria for 4(d) rules.

4. State ESA Section 2835 (NCCP)

State and local government actions that lead to approval of a conservation plan that provides for the conservation and management of identified species and associated habitats. *(CDFG needs to provide text)*

5. State ESA Section 2081 and Section 2090

(CDFG needs to provide text)

IV. IMPLEMENTING MECHANISMS

A. Federal Endangered Species Act Section 7 Consultation

1. Programmatic Consultation

(This section will discuss the consultation that the Service and NMFS will have to complete before the ROD can be signed; while this will be a "programmatic" consultation, some actions may be defined well enough that incidental take will be authorized under this consultation. Describe how Conservation Strategy will fit into this programmatic consultation. Conservation Strategy also will be covered by consultation. Adaptive management program also covered by Section 7; reinitiation of consultation would only occur after adaptive management measures have been exhausted.)

The USFWS and NMFS will conduct a programmatic formal Section 7 consultation on the CALFED Bay-Delta Program, including: storage, conveyance, and system operations; the ecosystem restoration plan program; the water quality program; the levee integrity program; the water use efficiency program; the overall implementation, adaptive management, and assurances strategies for the CALFED Program; the Conservation Strategy; and any HCP/NCCP. The Conservation Strategy will serve as the biological assessment prepared by the action agencies, because it will determine the effects of the project on listed species in the project area.

The programmatic consultation will be completed prior to the end of the CALFED Program Phase II. Because most Program actions will not be specifically formulated at the end of Phase II, it is expected that incidental take for most CALFED activities requiring section 7 consultation will be provided in subsequent consultations. However, take may be authorized in the programmatic consultation for those actions where sufficient information exists to determine effects on listed species and specific mitigation requirements.

May want to discuss the following in more detail:

Description of proposed actions

- Ecosystem restoration plan program ✓ *enough detail*
- Levee integrity program ✓ *enough detail*
- Water quality program ~~some~~ *actions*
- Water use efficiency program
- Storage, conveyance, and system operations ~~short + long term ops~~
- Implementation strategy/assurances package
- Approval of HCP/NCCP and issuance of section 10(a)(1)(B) permit

Species accounts/environmental baseline
Effects of proposed action
Cumulative effects
Service area effects
Incidental Take Statement

2. Subsequent Consultations for Specific Actions

This section will describe the process for doing consultations when specific actions come in. I imagine it will be similar to above, but especially important to describe how the Conservation Strategy will be used and what additional info/documentation will need to be provided. Describe step-wise process of refining minimization/mitigation measures in order to authorize incidental take, but NOT turning back the process except if new info triggers reinitiation.

Contradicts what we will actually do.

The Conservation Strategy will provide the basis for information regarding the effects of Program actions on listed species, and will provide conservation and minimization/mitigation measures necessary to conserve such species. Hence, the strategy will provide the basic framework for the programmatic and all site-specific Section 7 consultations.

When specific Federal actions are proposed, site-specific Section 7 consultations shall be conducted using the Conservation Strategy as the basic framework for guiding any minimization/mitigation measures included in the consultation. Mitigation measures and adaptive management included in the Conservation Strategy may be refined if necessary to correspond with site-specific project information. Hence, it is anticipated that reinitiation of the programmatic consultation would not be needed for any of the site-specific actions.

3. Potential Assurances Associated with Section 7

This section will describe the potential assurances that a Section 7 can provide; i.e., if the Conservation Strategy is included in the "Project Description" and the terms of reinitiation are defined appropriately, assurances could be similar to those received under the No Surprises Policy. Reinitiation of consultation would only occur after adaptive management measures have been exhausted.

The Section 7 process allows for assurances to be included in the CALFED program. Assurances can be provided in a number of ways, such as: (a) including certain actions or activities (such as the Conservation Strategy and adaptive management measures) in project descriptions provided for the consultation, (b) appropriately defining the terms of

→ Clear description of hoops to jump through to get permits

reinitiation, and (c) allowing incidental take for specific actions. For the CALFED programmatic and site-specific consultations, a variety of assurance mechanisms will likely be used. It is anticipated that reinitiation of consultation would only occur after all adaptive management measures have been exhausted.

B. Federal Section 10(a)(1)(B) Permit and Habitat Conservation Plan

1. Preparation of Habitat Conservation Plan(s)

This section will describe how the Conservation Strategy fits into an HCP and what additional information/documentation will be needed to fulfill requirements.

Once a determination has been made that Section 10 is the appropriate implementing mechanism for authorizing incidental take for an action or set of actions and those actions are sufficiently defined, the responsible non-Federal entity will submit an application for a Section 10(a)(1)(B) permit to USFWS and/or NMFS, as appropriate. As part of the permit application, the applicant must submit a conservation plan which fulfills the Section 10 criteria described previously (see section II.C).

The Conservation Strategy will provide the general framework for most of the required components of an HCP: the activity or activities sought to be authorized, the species which will be incidentally taken, the level or amount of take, the impact of that take on each of the species, and the measures proposed to monitor, minimize, and mitigate such impacts. The degree to which the Conservation Strategy will fulfill the requirements for this information will depend on the level of detail that was known about those particular actions at the time the Conservation Strategy was initially prepared. For some actions, the Conservation Strategy may completely fulfill certain Section 10 requirements; for other actions, the Conservation Strategy will need to be refined to fulfill Section 10 requirements.

In those latter situations, the applicant will work with CALFED, USFWS, and/or NMFS, as appropriate, to refine the strategy based on a greater level of specificity or detail that will then be known about the action. These refinements will include a more detailed or accurate evaluation of: (1) the action or actions to be covered; (2) the species sought to be covered by the permit; (3) the level of incidental take likely to occur; (4) the impacts of that take on each of the species; (5) the measures proposed to minimize and mitigate the take; and (5) the proposed monitoring program and process for adaptive management.

CALFED anticipates that the Conservation Strategy will be maintained on an electronic database, possibly in conjunction with a geographic information system (GIS) for the CALFED Program. When refinements are made to the Conservation Strategy as part of

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an incidental take permit application, the changes will be incorporated into the database. Thus, the strategy will be an on-going "work in progress" with refinements incorporated as more and more actions become defined and implemented.

In addition to updating the Conservation Strategy for the action or set of actions to be covered by the permit, the applicant will need to provide some additional, supplemental information to completely fulfill the Section 10 requirements. This information must include: (1) the requested term of the permit (i.e., over what time period might take occur as a result of the covered actions); (2) the geographic area which will be covered by the permit; (3) a discussion the funding that will be used to implement the measures specified in the Conservation Strategy; (4) a discussion of the procedures to be used to deal with unforeseen circumstances; (4) a discussion of the process to be used for amending the permit; and (5) a description of the alternative actions the applicant considered to avoid or reduce the proposed level of take and the reasons why those alternatives are not being utilized (this can likely tier off the Programmatic EIS/EIR analysis).

The applicant will then submit to the USFWS and/or NMFS that portion of the revised Conservation Strategy applicable to the actions for which a permit is being sought, the supplemental information, and an application form.

2. Other Requirements/Processing a Permit Application

a. Implementing Agreement

One of the permit issuance criteria, as noted above in Section II, is other assurances, as needed, that the plan will be implemented. This requirement is typically fulfilled by the preparation of an Implementing Agreement (IA) between the agency or agencies issuing the permit and the permit applicant or applicants. The IA spells out the responsibilities of each of the parties under the HCP and the remedies available should any party fail to meet those obligations. CALFED anticipates that an Implementing Agreement will be prepared for the overall Program implementation. Depending on the nature and extent of the IA prepared for the CALFED Program, separate IAs may not be necessary for each incidental take permit application submitted. CALFED also intends that the IA or IAs will spell out the specific remedies for failure to comply with permit conditions.

b. NEPA Requirements

The Federal agency issuing the incidental take permit (i.e., USFWS and/or NMFS) is responsible for complying with NEPA. Preparation of a NEPA document (an Environmental Assessment or an Environmental Impact Statement)

is the agency's responsibility; however, the permit applicant may draft the document to expedite the process.

The NEPA document must describe the purpose and need for the proposed action of issuing a Section 10(a)(1)(B) permit, the existing environmental conditions, the alternatives considered, and the environmental effects likely to result from implementing the proposed action and each of the alternatives. The alternatives considered will consist of the proposed action (implementation of HCP and issuance of incidental take permit); no action (no HCP and no incidental take permit); and other alternatives, as appropriate.

This Programmatic Environmental Impact Statement/Environmental Impact Report for the CALFED Bay-Delta Program is expected to satisfy some of the NEPA requirements associated with issuance of a Section 10(a)(1)(B) permit or permits, such as a description of the existing environment. However, supplemental NEPA documents will likely need to be prepared as specific permit applications are submitted to the USFWS and/or NMFS. Supplemental NEPA documents will likely tier off the Programmatic EIS/EIR for the CALFED Program.

c. Internal Section 7 Consultation

In addition to the above requirements, the USFWS and/or NMFS, as appropriate, must conduct an internal Section 7 consultation on issuance of the incidental take permit, which is a Federal action subject to Section 7(a)(2) of the ESA. Again, there is likely to be some overlap with either the Programmatic Section 7 or subsequent Section 7 consultations prepared for specific actions; however, the extent of that overlap is not known at this time. The USFWS and NMFS can combine the internal consultation conducted on their own action of permit issuance with consultation on other Federal actions in one biological opinion.

d. Public Review and Comment Process

Once the completed application package is received by the USFWS and/or NMFS, and a draft NEPA document has been prepared, the agencies will publish a notice in the Federal Register announcing receipt of the permit application and provide a minimum of 30 days for the public to comment on the application. The public review and comment period for the NEPA document is typically combined with the permit application comment period.

Following the close of the public comment period, if the permit application is determined to meet the issuance criteria, the USFWS and/or NMFS must issue the incidental take permit. In general, a permit application which required an Environmental Assessment takes 3 to 5 months to process once the completed application is submitted; processing of an application which required an Environmental Impact Statement is targeted for 10 months or less from the time a completed application is submitted. It is likely, however, that permit applications for CALFED Program actions can be processed in less time than the projected targets because much of the information will have already undergone significant public and agency review.

3. HCP Options

This may be a good place (or elsewhere?) to discuss the various options of structuring an HCP: e.g., one "master" HCP/NCCP for all CALFED actions to be covered through this mechanism (would probably require amendments for subsequent actions); separate HCPs for individual or groups of actions as they develop; other options?

Our thinking has changed since this was written, but it is probably still accurate for the "master" HCP strategy. The CALFED State agencies will likely be the initial applicants for a section 10(a)(1)(B) permit. The initial term of an HCP and its associated incidental take permit will likely be the same as the CALFED Bay-Delta Program (i.e., 25 to 30 years). The geographic scope of an HCP will be no greater than the CALFED Program area; it will likely be more narrow, depending on the actions to be covered.

4. Potential Assurances Associated with Section 10(a)(1)(B)

As discussed above in Section II.C, the No Surprises Policy provides an assurance to Section 10(a)(1)(B) permittees that the USFWS and/or NMFS, in negotiating unforeseen circumstances provisions for HCPs, will not require the commitment of additional land or financial compensation beyond the level of mitigation which was otherwise adequately provided for under the terms of a properly functioning HCP. In short, this Policy provides that once an HCP has been approved and an incidental take permit issued, no additional mitigation or restrictions on covered actions will be required of any permittee who is in compliance with the terms of the permit, if unforeseen circumstances affecting the species arise after the permit has been issued.

Assurances to the permittee require that plan actions must be implemented and be functioning as conceived at the time of permit issuance. Incidental take permits issued

for CALFED Program actions will specify that the Conservation Strategy along with any other additional measures specified in the supporting/supplemental documents comprising the "HCP" be implemented as described. This will include the monitoring and adaptive management component of the Conservation Strategy. Thus, the permittee will be assured that implementation of the strategy, including all monitoring and adaptive management measures, for those actions covered by the permit will completely fulfill their obligation for mitigating impacts to those species covered by the permit resulting from those actions.

(Fish and Game to provide text for following sections)

- C. Natural Communities Conservation Planning Section 2835
- D. California Endangered Species Act Section 2081
- E. California Endangered Species Act Section 2090

V. IMPLEMENTATION PHASING

A. Actions Ready to be Permitted at the End of Phase II

In this section we will describe the process for complying with implementing mechanism and approximate time required to complete the permitting process. This discussion will likely refer to previous section which will specify the info that needs to be added to the Conservation Strategy to fulfill Section 7 or Section 10 requirements.

B. Actions Not Ready for Permitting at End of Phase II

In this section we will describe the process for amending the Conservation Strategy, biological opinion, HCP, NCCP and/or other documents to address additional actions.

*Mary Mantell
Process Description*

*Mary
Storage as
description example
level*