

CALFED Conservation Strategy

Staff Team Meeting Notes

February 16, 1999

9:00 AM to Noon

These meeting notes summarize major topics of discussion. The attendance list and a list of upcoming meetings are included at the end of these notes.

1. Call to Order, Introductions, Order of Business

After the agenda for this meeting was distributed, a list of agenda items mentioned at the attorneys' meeting on 2/9/99, was suggested for Staff Team meetings. In response to those suggestions, the agenda for this meeting was discussed under Order of Business and reduced to three items: (1) the relationship between the Conservation Strategy and Stage 1 actions; (2) definition and criteria for selection of covered species; and (3) document review procedures. The meeting was adjourned before item three was discussed.

2. Relationship between the Conservation Strategy and Stage 1 Actions

This was a wide-ranging discussion, which served the purpose of raising points where interpretations varied about the purpose and content of the Conservation Strategy.

It was agreed that it would be useful to have a diagram illustrating the overall relationship of the programmatic Conservation Strategy to subsequent specific actions, specifically Stage 1a actions. The issue of how to graphically represent the Conservation Strategy and its relationship to subsequent permitting was not resolved, although two alternatives were suggested. The first was a cartoon, with the programmatic Conservation Strategy represented as an umbrella under which the subsequent actions were gathered; the second, an organization chart with the programmatic Conservation Strategy as the primary authority and tiered documents arrayed below it.

After the discussion, there was general agreement on the following:

The programmatic Conservation Strategy is designed to provide a framework for compliance with federal and state laws protecting listed and other sensitive species. Four important purposes of the Conservation Strategy are to: (1) identify the conservation measures necessary to meet conservation goals; (2) identify existing Biological Opinions, permits, and approvals that apply to CALFED actions; (3) provide a clear description of the processes for obtaining take authorization for Types 1, 2, and 3 CALFED actions; and (4) include instructions for obtaining take authorization, including CEQA compliance as necessary, illustrated with a clear flowchart.

Stage 1 Actions: Much of the discussion dealt with the level of detail needed in the

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programmatic Conservation Strategy for Stage 1 actions. Stage 1 actions will be used to illustrate the process for obtaining take authorization under the streamlined process provided by the programmatic Conservation Strategy, but the Conservation Strategy will not request take authorization for Stage 1 actions. (However, the analysis of existing approvals will probably identify CALFED Stage 1 actions that can be implemented under existing take authorizations. See the discussion below.)

Ken Bogdan has been working with program managers to develop descriptions of Stage 1 actions. He will provide Danae Aitchison with that material so that she can select examples to illustrate the processes for obtaining take authorization.

Since some Stage 1 actions are planned for early implementation, it will be important to have the tiered documents for those actions in preparation so that the tiered BO/subregional NCCP can be issued concurrently with or immediately after issuance of the BO/NCCP for the programmatic Conservation Strategy. It was suggested that the best way to accomplish that would be to have a separate, but parallel, process for the first bundle of Stage 1 actions, although this raises the issue of staff workload. It was reported that when this was discussed by the Policy Group, the sense was that the Biological Assessments for the Stage 1 Bundle 1 actions could be prepared by the Staff Team while the Conservation Strategy is under review.

Take Authorization under Existing Biological Opinions and Other Approvals: Mike Fris and Marti Kie are gathering existing federal documents (mostly Biological Opinion and HCPs) and state documents (Section 2081(b) permits and Section 2080.1 authorizations) that may apply to CALFED actions. This information will be tabulated and the Conservation Strategy will identify the take authorizations (and their extent) already in place for specific CALFED actions. If there is an existing Biological Opinion that provides take authorization for a CALFED action but which does not meet the conservation goals for one or more species, USFWS can reopen the consultation to remedy the deficiency. The Staff Team needs input from Chris Beale about how a similar situation would be handled for existing CDFG take authorizations.

Grouping of Actions for Tiered Processing: Tiered processing will usually involve some form of grouping of the actions, both because it is more efficient to do so and because compliance with the NCCPA will not accommodate a fragmented approach. The attorneys are planning to meet to evaluate particular ways to group activities that could contribute to streamlining take authorization.

CEQA Compliance: CEQA compliance has not been dealt with and it is unlikely that the Conservation Strategy will be sufficiently complete to be covered by the EIS/EIR. It was suggested that the Staff Team identify what will trigger the need for additional CEQA compliance and describe how to accomplish it as part of the overall process described in the Conservation Strategy.

Missing Parts and Next Steps: Chapter 15 in the October draft of the Conservation Strategy is a good start for describing the process for obtaining take authorization. It needs examples of the Type 1, 2, and 3 actions; a description of agency actions and responsibilities; an analysis of the usefulness of existing take authorizations; and a description of the integration of Section 7 consultation and NCCPA compliance with other permits. Danae Aitchison will work with the other attorneys to rewrite Chapter 15 (Chapter 6 in the revised outline) for review at the next Staff Team meeting on 3/2/99.

3. Covered Species: Definition and Criteria for Selection

The 205 species that have been evaluated were selected from those species occupying CALFED's 14 Ecological Management Zones and the reservoir sites under consideration. To finalize the species information in the Conservation Strategy, it may be necessary to create two categories of species when the documents are submitted to USFWS: those for which a "no-jeopardy" opinion will be requested and those for which take authorization will be requested. For the NCCPs, the determination necessary for authorizing take is that the species is "adequately conserved."

The term "covered" does not have a specific legal definition under either of the endangered species acts, so it could be provided with a project-specific definition in the Conservation Strategy. The following categorization was suggested as a possibility:

Evaluated Species =

- (A) Species Not Affected by CALFED Actions and
- (B) Species with Conservation Goals

Species with Conservation Goals =

- (1) Covered Species, species for which take may be authorized now
- and
- (2) Reserved Species, species for which take cannot be authorized

Reserved Species =

- (a) information lacking about the species (federal and state criterion)
- (b) jeopardy opinion (federal criterion)
- (c) not adequately conserved (NCCPA criterion)

(d) fully-protected species (Fish and Game Code criterion)

Using this categorization, "covered" species are defined as the species remaining after the "reserved" species are removed from the universe of species for which conservation goals have been established. Before the Staff Team makes a decision about how to categorize the species, Mike Fris and Jeff Single will review their respective agencies requirements for take authorization. This item will be discussed again at the 3/2/99 staff team meeting.

4. Action Items

- Jeff Single and Mike Fris will develop the list of reviewers for their respective agencies.
- Mike Fris and Marti Kie will collect existing federal and state documents that may cover CALFED activities.
- Danae Aitchison and Marti Kie will schedule a meeting with Rick Breitenbach's EIS/EIR team to find out what that team needs from the Conservation Strategy team.
- Jeff Single and Kevin Shaffer will suggest revisions to the species list by 3/2/99.
- Ken Bogdan will provide Danae Aitchison with descriptions of Stage 1 actions by 2/23/99.
- Jeff Single and Kevin Shaffer will provide the list of species that need population monitoring to Peter Stine by 2/26/99.
- Mike Fris and Jeff Single will review their respective agencies' requirements for take authorization by 3/2/99.

Attendance at 2/16/99 Staff Team Meeting

Danae Aitchison, AG
Marina Brand, CDFG
Ken Bogdan, JSA
Scott Cantrell, CDFG
Paul Cylinder, JSA

Michael Fris, USFWS
Sandy Guldman, Toyon
Marti Kie, CALFED
Kevin Shaffer, CDFG
Jeff Single, CDFG via phone

Up-coming Meetings

The Staff Team will meet:

Tuesday	March 2, 1999	9 AM to Noon	Resources Building Room 804 Call-in Number (916) 657-4113
Tuesday	March 16, 1999	9 AM to Noon	Resources Building Room ## Call-in Number (916) 657-##
Tuesday	March 30, 1999	9 AM to Noon	Resources Building Room ## Call-in Number (916) 657-##

The Policy Team will meet:

Meeting Notes 2/16/99

Tuesday February 22, 1999 3:00 - 5:00 PM Resources Building Room 1147