

**Supplemental Notice of Intent (NOI)/Notice of Preparation (NOP)
for Preparation of a Joint Programmatic
Environmental Impact Statement/Environmental Impact Report
(EIS/EIR) for the
CALFED Bay-Delta Program**

FEDERAL CO-LEAD AGENCIES: U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Bureau of Reclamation, National Marine Fisheries Service, National Resources Conservation Service

STATE LEAD AGENCY: California Resources Agency

COOPERATING (FEDERAL) / RESPONSIBLE (STATE) AGENCIES: U.S. Forest Service, California Department of Fish and Game, State Water Resources Control Board, California Department of Water Resources

ACTION: Supplemental NOI/NOP to Prepare a Joint Programmatic EIS/EIR

SUMMARY: The CALFED Bay-Delta Program is a joint effort among state and federal agencies with management and regulatory responsibilities in the Sacramento-San Joaquin River Bay-Delta system of California. The primary goal of the Program is to seek comprehensive resolution of problems in the Bay-Delta system through significant public and stakeholder participation. The mission of the CALFED Bay-Delta Program is to develop a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the Bay-Delta system. The Program addresses four primary resource areas; ecosystem quality, water quality, water supply reliability, and system vulnerability.

The original NOI titled, "*Programmatic Environmental Impact Statement/Environmental Impact Report on the CALFED Bay-Delta Program, San Francisco Bay/Sacramento-San Joaquin River Delta, California*" was published in the Federal Register on March 13, 1996 (vol. 61, No.50). The NOI summarized the CALFED Program, the Programmatic EIS/EIR, and provided a list of scoping meeting dates and locations.

This notice supplements the original NOI to include expand the use scope of the Programmatic EIS/EIR to support include the preparation of the a Habitat Conservation Plan (HCP) as defined under Section 10 of the Federal Endangered Species Act (FESA). The CALFED agencies intend to prepare an HCP and the State agencies intend to apply for an incidental take permit, pursuant to the Endangered Species Act (ESA) FESA and the California Endangered Species Act (CESA). These Acts Both FESA and CESA require a permits for any activity which could result in "take" of

special status threatened and endangered (or listed- D/J) species. The HCP planning process ensures- is intended to ensure that the effects of the incidental take are avoided, minimized or mitigated to the extent practicable. The statute requires that The National Environmental Policy Act (NEPA) requires that federal agencies assess the environmental impacts of agency actions. An EIS will be prepared pursuant to NEPA and an EIR prepared pursuant to the California Environmental Policy Quality Act (CEQA) to evaluate potential impacts associated with preparation of the actions contained within an HCP and subsequent issuance of an incidental take permit.

Upon receipt of an application or request for an incidental take permit the U.S. Fish and Wildlife Service and National Marine Fisheries Service (Services) must evaluate whether to issue an incidental take permit for the Bay-Delta Program under section 10(a)(1)(B) of the FESA and the California Department of Fish and Game (DFG) must evaluate whether to issue a management authorization under section 2081 and 2090 of CESA authorize take under CESA or NCCPA. Compliance with NEPA must also occur. The Programmatic EIS/EIR will include an analysis of the HCP and Program alternatives as part of the Bay-Delta Program and the action of the Services' issuance of an incidental take permit and DFG's approval of a management authorization. If a HCP is approved and an incidental take permit issued, nonfederal members of CALFED would receive assurances, pursuant to the Department of the Interior's No Surprises Policy. Assurances provide some certainty to the permit holders that, in a properly functioning HCP, the Services and DFG will not require additional land, funds, or restrictions on program actions covered by the HCP, beyond what was agreed to in the HCP in the event of unforeseen circumstances in the future. The purpose of this HCP is to provide comprehensive, long term conservation of threatened and endangered species such that the plan participants can be assured that no additional land, funds, or restrictions on program actions covered by the HCP, beyond what is agreed to in the HCP in the event of unforeseen circumstances in the future, will be required.

DATES: The CALFED agencies are seeking public input comment on the options for developing structuring an HCP and the potential of granting assurances via by way of the HCP process. Written comments should be sent to CALFED by October 14th, 1997.

A series of Three CALFED status/HCP and NEPA scoping meetings is are scheduled to solicit public input. Specific dates, times, and locations of these meetings will be sent to individuals, agencies, and organizations on the CALFED mailing list and will be published in local newspapers prior to the meeting dates.

- September 9, 1997, Los Angeles, California
- September 16, 1997, Redding, California

- September 30, October 1, 1997, Sacramento, California

ADDRESSES: Written comments on the proposal to prepare an HCP for the CALFED Bay-Delta Program should be sent to:

Ms. Sharon Gross, CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, California 95814

FOR FURTHER INFORMATION CONTACT: Ms. Sharon Gross at the above address; telephone: (916) 657-2666.

SUPPLEMENTARY INFORMATION:

A. Proposed Action

1. The CALFED agencies will develop an HCP and certain nonfederal CALFED agencies intend to apply for an incidental take permit, pursuant to section 10 of the FESA and corresponding sections of CESA, as part of the CALFED Bay-Delta Program. The CALFED agencies will seek incidental take coverage and assurances (for the nonfederal agencies) for state and federally listed species, as well as currently unlisted species should they become listed in the future. The level of assurances provided will depend on the specific actions covered by the HCP, the level of detail provided in the HCP, and on the unique circumstances of each species; assurances must be consistent with the requirements of the State and Federal Endangered Species Acts and other applicable laws.
2. The Programmatic EIS/EIR for the Bay-Delta Program will include an evaluation of the environmental impacts associated with the HCP and Program alternatives for the purpose of the Services' determination on whether to issue an incidental take permit.
3. The HCP will include, among other things, an adaptive management plan and monitoring requirements.

B. HCP Options

The CALFED agencies are considering several options for the structure of an HCP.

1. Standard HCP: Develop a comprehensive HCP that would address all reasonable and foreseeable options activities and associated impacts under consideration for the program. "No Surprises" Assurances to appropriate entities would be commensurate with the level of specificity and detail in each option provided in the HCP.
2. Phased HCP with Conditioned Permit: Develop an initial HCP for the Bay-Delta Program which covers addresses all known actions; subsequent supplemental HCPs (and appropriate CEQA and NEPA compliance) documents would be developed in the future as unknown/undefined program components became defined. Upon determination by the Services that issuance criteria have been met, an incidental take permit for the whole Bay-Delta Program would be issued upon completion of the initial HCP; the permit would be conditioned to become effective in stages corresponding to completion approval of supplemental HCPs. "No Surprises" Assurances to appropriate entities would become effective in stages.
3. Phased HCP with Permit Amendments: Develop an initial HCP for the Bay-Delta Program which covers all known actions; subsequent supplemental HCPs (and appropriate CEQA and NEPA compliance) documents would be developed in the future as unknown/undefined program components became defined (same as option (b) above). An incidental take permit, covering only those actions included in the initial HCP, would be issued upon completion approval of the initial HCP. Permit amendments would be issued processed as supplemental HCPs were completed approved. "No Surprises" Assurances would be provided to appropriate entities only for that portion of the overall Program as covered by each permit or amended permit amendment.

C. Scope of Comments

1. The CALFED agencies are seeking comments on the HCP options outlined above and are seeking comments on additional ideas for HCP options not discussed above.
2. The CALFED agencies are seeking comments on assurances provided in conjunction with an HCP, pursuant to the Department of Interior's No Surprises Policy, which would be given to non-Federal participants.