

Frequently Asked Questions About Evaluating Ecosystem Restoration Program Milestones Progress and Efficacy of the Environmental Water Account

1) Why was the CALFED program consultation reinitiated?

The U. S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NOAA Fisheries), and California Department of Fish and Game (CDFG) collaborated to develop a single, joint list of milestones for Stage 1 implementation of the CALFED Program. The USFWS, NOAA Fisheries, and CDFG included the Milestones in their regulatory documents.

The purpose of the reinitiation is to ensure that the Ecological Restoration Program (ERP), Multi-species Conservation Strategy (MSCS), and Water Quality Program are being implemented in a manner and to an extent sufficient to support programmatic Federal Endangered Species Act (FESA), California Endangered Species Act (CESA), and Natural Communities Conservation Program Act (NCCPA) compliance for all Program elements.

A commitment was made by all CALFED agencies in the Record of Decision (ROD) (within the Conservation Agreement regarding the Multi-Species Conservation Strategy, pg. 9 and within the USFWS B.O., pg. 143) to reinitiate FESA section 7 consultation on the Bay-Delta Program no later than “180 days prior to September 30, 2004” to “evaluate the efficacy of the Environmental Water Account and progress toward achieving the Milestones in conserving and promoting the recovery of Covered Species”.

2) How was this task accomplished?

For assessing Milestones, over 450 projects funded by CALFED agencies were organized according to which milestones were addressed by each project, and accomplishments of each project. This summary was organized according to CALFED regions (Sacramento Region, San Joaquin Region, Delta and East-side Tributaries Region, and Bay Region, as per the PEIS/PEIR). The product is a comprehensive evaluation of milestones implementation to date.

The evaluation of the efficacy of the Environmental Water Account (EWA) was prepared by EWA agency staff and includes a summary of accomplishments, acquired assets, fish actions, and other pertinent information.

3) How were stakeholders involved?

The assessment package was made available to stakeholders, the ERP Science Board, and regulatory agencies at the time of reinitiation of consultation. While the regulatory agencies began the consultation process, stakeholders and other interested parties were provided the opportunity to review, comment on, and supplement the package (per 50 CFR § 402.14(d), new information can be submitted while consultation is taking place). Comments were received and incorporated to improve the quality of the overall analyses.

4) What were the product(s) of this consultation?

There are several products that were prepared as a result of this process, including:

- Completed reviews by USFWS and NOAA Fisheries of the progress on implementing the CALFED milestones and the efficacy of the EWA.
- A CDFG evaluation of its original NCCP determination.
- A signed MOU among the EWA agencies that extends the EWA through the end of Stage 1.
- An amendment to the CALFED Conservation Agreement extending the regulatory commitments through the end of Stage 1.

5) What are the outcomes of these documents?

By completing the assessments and extending both the EWA and the regulatory commitments portion of the Conservation Agreement, the agencies are agreeing that: 1) the EWA has been an effective water management and fishery protection tool during its first 4 years, and 2) there has been adequate implementation of the milestones; which, when considered together, warrant continuing the commitments to CVP and SWP delta exporters not to reduce deliveries beyond those required by the regulatory baseline without compensation. In addition, the programmatic State and Federal Endangered Species Act and NCCP Act coverage for all CALFED program elements, consistent with the Multi-species Conservation Strategy, is continued.

6) What is the benefit of the CALFED programmatic coverage under the Endangered Species Act and the NCCP Act?

The programmatic coverage is an essential part of tiering Endangered Species Act compliance to project specific actions included in the CALFED ROD. Thus, these actions can implement measures provided in the Multi-species Conservation Strategy for covered species to minimize or mitigate impacts without an extensive and potentially lengthy process of developing project specific actions.

In addition, maintaining programmatic Endangered Species Act and NCCP Act coverage also is a fundamental part of tiering from the ROD for future actions described in the ROD and undertaken under independent State and Federal agency action.

7) What are the benefits of programmatic Environmental Impact Statement/Report?

The programmatic EIS/R serves as a high level National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) analysis for the long-term plan adopted in the ROD. When a CALFED agency prepares a more detailed NEPA or CEQA document for a site specific project, it can build upon any relevant analysis in the programmatic EIS/R, rather than start from scratch. For example, storage projects identified for further analysis under the ROD could incorporate the extensive alternatives analysis and cumulative effects analysis done as a part of the NEPA/CEQA compliance for the program.

8) Does the extension of the Conservation Agreement require the commitment of the same levels of funding of \$150 Million/annually for ERP and \$50 Million/annually for EWA?

The amendment to extend the Conservation Agreement does not change this commitment. However, the Conservation Agreement allows for modification of this level of funding through a collaborative process among the implementing agencies. This process has been employed yearly for the EWA as the assets described in the ROD have not materialized as envisioned, yet the assets necessary to cover fishery protection needs have been made available.

9) How does the decision to extend the EWA affect the long-term EWA?

This decision to extend the EWA continues the program for another 3 years. An EIS/EIR has been prepared that covers only this action. The EWA implementing agencies can not make a decision to implement an EWA beyond 2007 without first completing NEPA and CEQA compliance, with public review and comment.