

**Changes to Draft EIR
Based on Consultation with
U.S. Fish and Wildlife Service**

Changes to the Draft Environmental Impact Report Resulting from Consultations with USFWS

This section identifies DBW modifications to the project description based on consultations with USFWS. A total of eleven (11) modifications are identified in **Table 1** below. Also included in Table 1 are specific cross-references to areas in the draft EIR that would change as a result of these modifications. The remainder of this section provides the detailed description behind each of the eleven modifications to the EDCP and Two-Year Komeen Trial project description.

Table 1
Modifications to the EDCP and Two-Year Komeen Trial Project Description
Based on United State Fish and Wildlife Consultations
(with cross-references to Draft Environmental Impact Report)

<i>Modification</i>	<i>Reference to Draft EIR</i>
1. Provide Additional Dissolved Oxygen Monitoring	Exhibit E-2, pg. E-8 (Proposed Mitigation Measures for DO); Exhibit E-2, pg. E-11 (Mitigation Measures, Indirect Impacts to Fish: Habitat); Exhibit 1-8, pg. 1-36, Exhibit E-3, pg. E-15, Exhibit 1-8 pg. 1-36, Exhibit 1-9, pg. 1-38; Exhibit 3-2 pg. 3-5, Exhibit 3-2, pg. 3-8; Exhibit 4-2, pg. 4-5, Section 3.1.4.1, pg. 3-25; Section 4.1.4.1, pg. 4-22
2. Notify USFWS of Proposed Treatments	Exhibit E-2, pg. E-8 (Proposed Mitigation Measures – Fish: Direct Impacts), Exhibit E-3, pg. E-17; Exhibit 3-2, pg. 3-7; Exhibit 4-2, pg. 4-7
3. Restrict Timing of Treatment Based on Presence/Absence of Sensitive Fish Species	Exhibit E-2, pg. E-8 (Proposed Mitigation Measures – Fish: Direct Impacts); Exhibit E-2, pg. E-11 (Mitigation Measures, Indirect Impacts to Fish: Prey Base); Section 1.3.2.1 pg. 1-30; Exhibit 3-2, pg. 3-7; Exhibit 3-2, pg. 3-8; Section 4.2.7.3, pg. 4-53
4. Create Treatment Buffer Zones and Limit Treatment Acreage	Exhibit E-2, pg. E-10 (Proposed Mitigation Measures), Section 3.1.4.1, pg. 3-25, Section 3.2.7.2, pg. 3-58, Section 3.2.7.3, pg. 3-59; Section 4.1.4.1, pg. 4-22; Section 4.1.4.2, pg. 4-22, Section 4.2.7.2, pg. 4-53
5. Identify New Two-Year Komeen Trial Locations	Section 1.7.4, pg. 1-26, Section 1.9.2, pg. 1-41
6. Expand Toxicity Studies for Two-Year Komeen Trials	Section 1.9.2, pg. 1-38-1-41, Section 4.2.7.3, pg. 4-54
7. Identify Cumulative Benefits of Proposed Project	Chapter 6
8. Inform USFWS of Future Amendments to Proposed Sites	Section 1.6, pgs. 1-14-1-16; Exhibit 1-3, pgs. 1-17-1-18; Appendix G, pg. G-1-G-3;
9. Treat a Measurable Change in the Scale of the Project as a New Consultation	Section 1.4.1 pg. 1-9
10. Conclude Current Level of Minimization/Avoidance Measures for Selected Other Species in Satisfactory	Section 4.2.7.4, pg. 4-55
11. Acknowledge Planting Native Vegetation is a Cal Fed Initiative	Section 4.2.7.1, pg. 4-52

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1. Provide Additional Dissolved Oxygen Monitoring

Based on consultations with USFWS, the DBW would:

- a. Not treat using Reward and Komeen if pre-treatment DO levels are as follows:
 - i. Low flow areas: between 4 and 6 ppm
 - ii. High flow areas: below 5 ppm
- b. Provide a protocol to the USFWS for DO monitoring
- c. Develop operator procedures based upon actual operations for the first and second year (i.e., using adaptive management)
- d. Establish a review committee to examine monitoring results.

2. Notify the USFWS of Proposed Treatments

Based on consultations with USFWS, the DBW would:

- a. Submit an annual treatment schedule no later than January 31st of each year that identifies:
 - i. Treatment sites (previous year and planned for next year)
 - ii. Treatment methods (previous year and planned for next year)
 - iii. Efficacy (over the past year)
- b. Provide the USFWS a copy of treatment schedules submitted by the DBW to County Agricultural Commissioners. The DBW would provide these schedules one week in advance of a proposed treatment. These schedules would include a list of alternative sites should the DBW be unable to treat any of the proposed sites.

3. Restrict Timing of Treatment Based on Presence/Absence of Sensitive Fish Species

Based on consultations with USFWS, the DBW would use the following treatment schedule:

- a. March 1 to March 30 - No treatment using any chemical or mechanical method because Delta smelt and Sacramento splittail may have eggs adhering to aquatic plants during this time. Treatment could bury and suffocate eggs or cause adverse impacts to developing embryos.

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- b. April 1 to May 31 – Conduct Fluridone and mechanical harvesting treatments if Delta smelt and Sacramento splittail larvae are not present. To determine whether larvae are present, the DBW would sample *Egeria* to determine whether eggs are present. From a laboratory analysis of the *Egeria* to determine presence and growth stage, the USFWS would determine whether or not the DBW would treat at a given site during this period. The DBW would not treat with Diquat nor would it conduct Two-Year Komeen Trials during this period.
- c. June 1 to November 30 - Conduct the EDCP (using all proposed aquatic herbicides and mechanical harvesting) and perform the Two-Year Komeen trails during this period.

At any point throughout the year, the USFWS may prohibit chemical treatments when IEP data shows Delta smelt in the vicinity of proposed treatment areas (as defined in the Federal Reg. Notice listing Critical Habitat for Delta smelt (59 FR 65256)). For any of the cases where the USFWS would restrict treatment, the USFWS would notify the DBW within 2 working days prior to the proposed treatment time.

4. Create Treatment Buffer Zones and Limit Treatment Acreage

Based on consultations with USFWS, the DBW would:

- a. Treat no more than 20 acres, per site, per day
- b. Create a buffer zone of a distance equal to the linear dimension of the longer treatment site. Referring to **Figure 1** below, if Site A were treated on Day 1, then Site B could not be treated until Day 3. If Site B were treated on Day 3, then the DBW could not treat Site A again until Day 5.

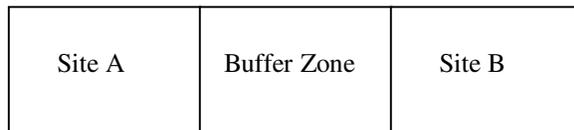


Figure 1

- c. Not exceed 10 acres per day with mechanical harvesting.

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5. Identify New Two-Year Komeen Trial Locations

Based on consultations with USFWS, the DBW would:

- a. Conduct the Two-Year Komeen Trials at the following three sites:
 - i. Disappointment Slough
 - ii. Sandmound Slough
 - iii. Venice Cut
- b. Propose to use Frank's Tract (along the edges and not near areas proposed for the EDCP) as an alternate site. The DBW would conduct the trials at Frank's Tract if one of the other three sites identified above had either pre-treatment (as identified in Exhibit 1-9 on page 1-39 of the draft EIR) or day of treatment conditions (identified in 1.8.2.2 on page 1-30 and in Exhibit O-1 on page O-2 of Appendix O in the draft EIR) which would restrict the DBW's ability to perform the treatment or properly capture the necessary data for the trial.

6. Expand Toxicity Studies for Two-Year Komeen Trials

Based on consultations with USFWS, the DBW would:

- a. Over the next five years, perform toxicity tests in the laboratory on the following three sensitive fish species:
 - i. Delta smelt
 - ii. Sacramento splittail
 - iii. Chinook salmon (salmonids)

If a species is unavailable through IEP and Cal Fed sources, the DBW would work with USFWS to identify an acceptable surrogate species. If the Two-Year Komeen Trials do not provide sufficient reason for the DBW to incorporate Komeen into the EDCP (requiring supplemental environmental documentation), then these toxicity tests may not be performed.

7. Identify Cumulative Benefits of Proposed Project

Based on consultations with USFWS, the DBW would:

- a. Agree that there are a number of potential beneficial cumulative impacts of the proposed project. Potential cumulative benefits that should be weighed against the potentially adverse cumulative impacts are identified below:
 - i. Increased foodweb productivity

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- ii. Enhanced water quality
- iii. Increased viability of native plant species
- iv. Relieved interference with water conveyance and flood control systems
- v. Opened shallow water habitats for fish rearing
- vi. Improved navigation of Delta waters.

8. Inform USFWS of Future Amendments to Proposed Sites

Based on consultations with USFWS, the DBW would:

- a. Propose to control the 35 sites identified in the project description. The DBW also has identified in Appendix G of the draft EIR another 35 lower priority sites not considered part of the five-year EDCP. The DBW would expect to modify the list of 35 sites proposed in the project description over the five years. Such modifications would accommodate unforeseen changes in the degree or significance of infestation of currently designated low priority sites, or would target other not yet infested sites. The USFWS has acknowledged that the DBW is not locked into the 35 sites proposed in the draft EIR.
- b. Propose to control each of the 35 sites with one treatment method for the EDCP (as identified in the project description of the draft EIR). The DBW would expect a potential need to use a different treatment method than was proposed for a given site. Such changes to treatment methods would be consistent with an adaptive management strategy for controlling *Egeria densa*. For example, a site originally proposed for Diquat treatment may be better suited for mechanically harvesting.
- c. Work with USFWS to simply amend the project description should there be no change in the significance of the potential environmental impacts. The USFWS has indicated that the DBW could submit to USFWS a letter identifying potential program changes (i.e., identified in a. or b. above). If newly identified sites or treatment methods would not substantially alter the project's potential environmental impacts, the USFWS would consider these changes as an amendment to the Biological Assessment and a re-initiation of the consultation process, rather than a new consultation.

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9. Treat a Measurable Change in the Scale of the Project as a New Consultation

Based on consultations with USFWS, the DBW would:

- a. Submit supplemental environmental documentation for changes that would materially increase the 1,733 acres proposed for the EDCP. This change would require a new consultation with the USFWS.

10. Conclude Current Level of Minimization/Avoidance Measures for Selected Other Species in Satisfactory

Based on consultations with USFWS, the DBW would:

- a. Assume that it has adequately addressed minimization/avoidance measures in the Biological Assessment and draft EIR for other species identified in the consultation. The USFWS had indicated minor concerns with waterfowl and the Giant Garter Snake.

11. Acknowledge Planting Native Vegetation is a Cal Fed Initiative

Based on consultations with USFWS, the DBW would:

- a. Acknowledge that USFWS believes planting new native vegetation is an ecosystem restoration activity. The USFWS indicated that such planting activities are a Cal Fed initiative and not a DBW issue.