

CHAPTER 7. IMPLEMENTATION STRUCTURE

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CHAPTER 7. IMPLEMENTATION STRUCTURE

[Note to Reviewers: This draft of Chapter 7, Implementation Structure, includes revisions to the October 20, 2010 draft provided to the Steering Committee. Drafts of this chapter have been reviewed by the Steering Committee on the following dates: October 22, 2009 and October 20, 2010. The chapter reflects input from a wide range of agencies and stakeholders over several years of development. Although certain issues may require further discussion, this draft reflects a broad consensus on both the overall approach and many of the specific details related to an implementation structure for the BDCP.]

This chapter describes the institutional structure and organizational arrangements that will be established to govern and implement the BDCP, and sets out the roles, functions, authorities, and responsibilities of the various entities that will participate in plan implementation. The implementation structure is designed to ensure that sufficient institutional expertise, capacity, resources, and focus are brought to bear to accomplish the goals and objectives of the BDCP.

The BDCP implementation structure will help ensure effective and efficient plan implementation and ongoing compliance with the terms and conditions of the plan and its associated regulatory authorizations. This implementation approach will also facilitate the clear delineation of roles and responsibilities among the range of public and private entities participating in the process and help define the nature of their engagement. This approach further reflects the commitment to maintain and encourage ongoing collaboration among the range of public and private parties with interest in the Delta, and to facilitate adaptive and responsive plan implementation, guided by new information and scientific understanding.¹

The ~~approach~~ approaches to plan governance set out in this chapter ~~has~~ have been designed solely to facilitate the implementation of BDCP actions. If over the course of plan implementation matters arise that are outside the scope of the BDCP, any proposed actions related to those new matters may be implemented through the BDCP only upon appropriate modifications and/or amendments to the Plan.

The BDCP implementation structure will be organized around a new “BDCP Implementation Office” (IO),² which will have responsibility for plan implementation and oversight (Figure 7-1). The Implementation Office will operate under the direction of a BDCP Program Manager, who will coordinate implementation actions with the authorized entities/~~permittees, (i.e., all~~ entities receiving permits or other authorizations under ESA, NCCPA, and/or CESA), the State and federal contractors, the fish and wildlife agencies, and a range of stakeholders and other interests. The State and federal fish and wildlife agencies will maintain the roles described in this

¹-The BDCP implementing agreement ~~provides further explanation of specific~~ includes additional detail regarding the roles and responsibilities ~~regarding plan of the authorized entities/permittees, the Implementation Office, and the fish and wildlife agencies regarding the~~ implementation ~~and sets out the legal rights and obligations of the entities with responsibilities for BDCP implementation~~ Plan.

chapter to assure that such implementation is consistent with regulatory authorizations issued pursuant to the BDCP. In addition, a “BDCP Implementation Board” will be established to assist with help guide BDCP implementation, and will consist of representatives of the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (USBR), the State and Federal Contractor Water Authority (SFCWA), the State and federal fish and wildlife agencies, and certain other entities as described later in this chapter. Additionally, a “BDCP Stakeholder Committee” will be created to serve as a forum in which other public agencies, non-governmental organizations, interested parties, and the public may offer recommendations regarding BDCP implementation. The Implementation Office will also coordinate with the newly-created Delta Stewardship Council, Delta Science Program, and Sacramento-San Joaquin Delta Conservancy (Delta Conservancy) to ensure appropriate engagement and collaboration on matters of common interest. This approach to plan implementation is expected to ensure the timely, efficient, and proper implementation of the commitments reflected in the BDCP.

[Note to Reviewers: Additional text will be added to clarify the role of Mirant LLC in the implementation of the BDCP.]

7.1 ROLES AND RESPONSIBILITIES OF ENTITIES INVOLVED IN BDCP IMPLEMENTATION

The BDCP Implementation Office (IO) will be established to oversee and manage the implementation of the BDCP, and to ensure ongoing that implementation proceeds in compliance with the Plan, the Implementing Agreement, and the associated regulatory authorizations. Various other parties will be integral to the process of shaping decisions and effectuating actions set out in the BDCP. This section describes the roles and responsibilities of the Implementation Office IO and of the various other participants in the implementation process.

7.1.1 The BDCP Implementation Office and Program Manager

~~The IO will direct the implementation of the BDCP (Figure 7-1). The IO will be led by the BDCP Program Manager.~~

7.1.1.1 Implementation Office: Establishment, Organization, and Functions

The BDCP IO, under the direction of the Program Manager (see section 7.1.1.2), will be responsible for implementing, coordinating, overseeing, and reporting on all aspects of plan implementation. (Figure 7-1). The IO will assure that the BDCP conservation measures, including those related to protection and restoration of habitat; reduction of ecological stressors; management of conserved habitat; and operation of the water projects, including the development of infrastructure (in its role as reviewer oversight role to ensure plan compliance), are properly implemented throughout the life of the Plan. The IO will further oversee and effectuate the adaptive management program; monitoring, data collection, and scientific research efforts; annual and five-year workplans, budget, and report preparation; and the public outreach

1 process. To ensure that the commitments reflected in the BDCP are carried out in a timely and
2 efficient manner, the IO will institute processes and procedures to adequately address planning,
3 budgeting, sequencing, and scheduling needs related to plan implementation.

4 The IO may enlist other entities to carry out actions associated with conservation measures or
5 other implementation tasks on behalf of the IO (see “Supporting Entities,” below).

6 Notwithstanding the assignment of such responsibilities to other entities to implement projects or
7 actions, the IO will be responsible for ensuring that the work is performed in a manner that
8 complies with the terms and conditions of the BDCP and its associated regulatory authorizations
9 and are properly and fully implemented. As part of that responsibility, the IO will engage and
10 monitor those entities that become involved in aspects of plan implementation. The Program
11 Manager will be responsible for the management of contracts with these other entities to assist in
12 the implementation of the BDCP. Those entities, and the roles and responsibilities they are
13 likely to assume, are generally identified in this chapter and depicted in the organizational
14 framework in Figure 7-1.

15 ~~The Program Manager will be responsible for contract management where other entities are
16 engaged through contracts to support the implementation of the BDCP.~~

17 The IO will function with a significant level of independence and autonomy from its member
18 entities. The staff of the IO will work closely with these agencies on a range of matters,
19 particularly with respect to actions that affect water operations.

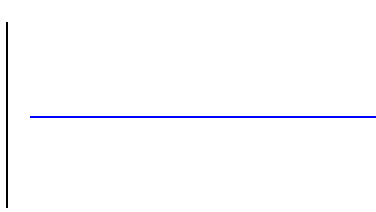
20 The IO will not be involved in the development or operation of SWP and/or CVP facilities;
21 instead, it will monitor ~~those water~~ operations to assemble the information necessary to evaluate
22 and report on compliance with the terms and conditions of the Plan and the
23 authorizations/permits. The BDCP sets out the parameters within which DWR and the USBR
24 will carry out CVP and SWP operations and infrastructure development. DWR and USBR may
25 chose to operate the projects and develop new infrastructure using their current organizational
26 capacity or by contract with other entities.

27 The IO will budget for and manage the funds and other resources needed to carry out its
28 responsibilities for plan implementation. The authorized entities/~~permittees~~ will dedicate, hold,
29 and release funds and resources necessary for plan implementation, and will not comingle
30 ~~them these funds~~ with other funds or resources of ~~those the~~ agencies. The authorized
31 entities/~~permittees~~ will be responsible for all appropriated funds and other funds entrusted to
32 them.

33 The IO will assume responsibility for the implementation of a broad range of actions, including:

- 34 • Administration of program funding and resources;
- 35 • Preparation of annual budgets and work plans;

- 1 • Establishment of procedures to implement plan actions;
- 2 • Oversight of and engagement in the implementation of conservation measures;
- 3 • Management of the monitoring and research and adaptive management programs;
- 4 • Implementation of public outreach program; and
- 5 • Fulfillment of compliance monitoring and reporting requirements.



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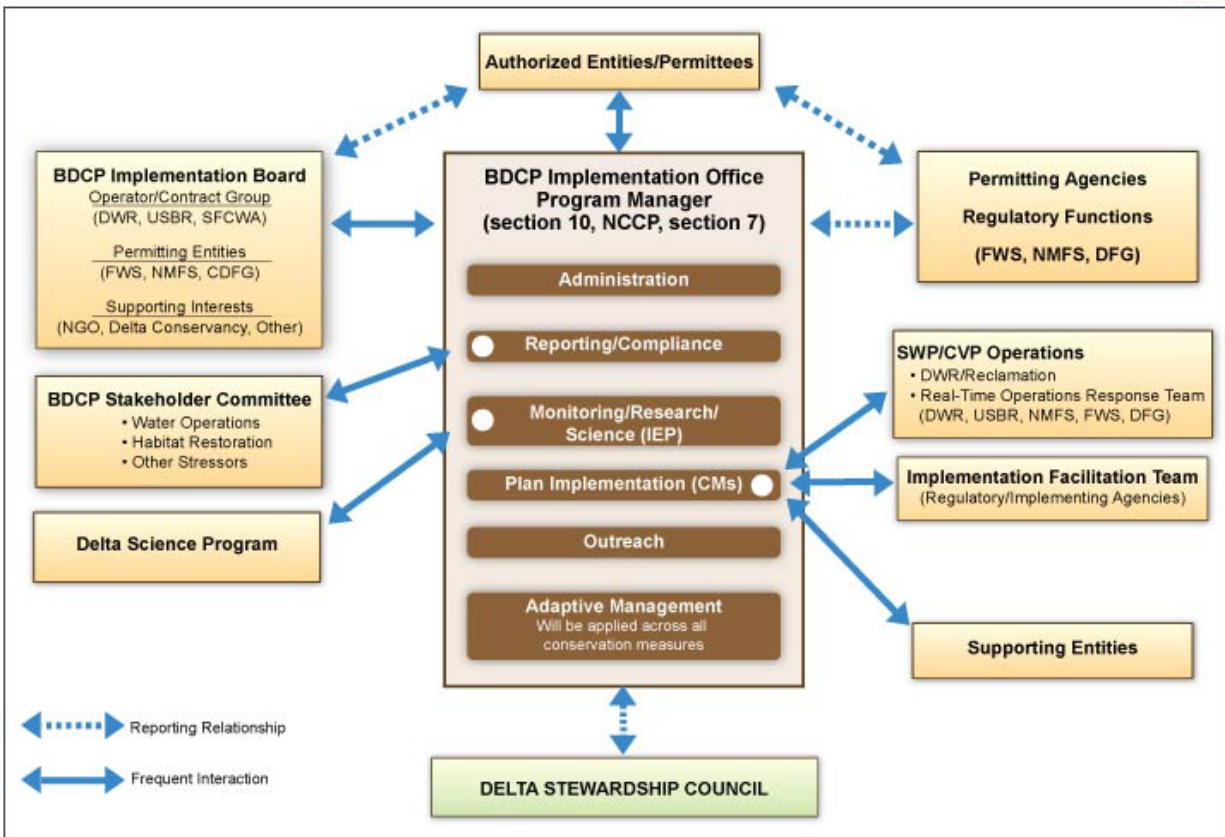
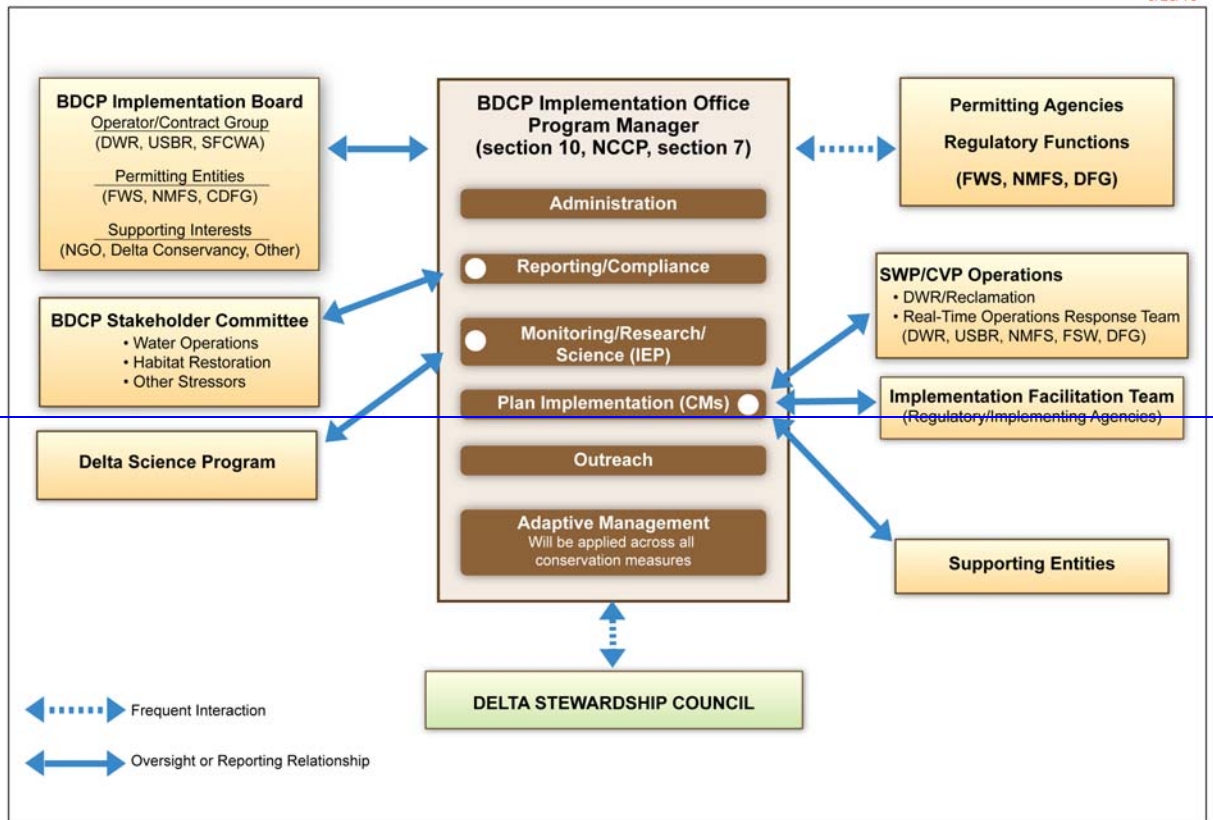


Figure 7-1. Governance: BDCP Implementation Structure

1 The [IO Program Manager](#) will also have responsibility for coordinating with the Delta-wide
2 governance entities (see Section 7.2.7. *Coordination with the Delta Stewardship Council, the*
3 *Delta Science Program, and the Delta Conservancy*) and managers of upstream operations (see
4 Section 7.2.5, *Coordination with the Authorized Entities/Permittees, Implementation Board,*
5 *Supporting Entities, and Stakeholder Committee*).

6 The specific roles and responsibilities of the IO are described in further detail in sections 7.2
7 *Implementation Office Administration, 7.3 Implementation of the Conservation Strategy, and 7.4*
8 *Regulatory Compliance Related to BDCP Implementation, and 7.5 Public Outreach.*

9 **7.1.1.2 Program Manager: Selection and Designation of Staff**

10 A single BDCP Program Manager will direct and oversee implementation of the IO's
11 responsibilities for BDCP implementation. ~~The authorized entities/permittees~~ The "holders of
12 the major permits/authorizations" will each designate a lead representative from their respective
13 agencies to assist the Program Manager with plan implementation. The Program Manager may
14 fulfill the staffing needs of the IO by drawing from existing personnel at DWR, USBR, SFCWA,
15 and other sources, as appropriate. Staff of the IO, many of whom will be assigned to the IO by
16 DWR, USBR, or other entities, will act under the direction of the Program Manager. The
17 engagement of personnel from DWR, USBR, and other entities in the IO, however, will not
18 affect or modify the existing authorities of federal, state, and local agencies or non-governmental
19 organizations that pertain to personnel matters

20 The holders of the major permits/authorizations (including DWR and USBR) for the BDCP will
21 solicit candidates for the Program Manager position, and will provide their recommendations to
22 the Implementation Board for ~~its review and comments.~~ acceptance. A definition of "holders of
23 major permits/authorizations" is provided in Section 7.1.2 *Authorized Entities/Permittees*. The
24 holders of the major permits/authorizations will, by consensus, select the Program Manager after
25 taking into account the views of other Implementation Board members, and after consulting with
26 the federal and State fish and wildlife agencies. The general qualifications of the Program
27 Manager will behave:

- 28 • ~~Minimum~~ A minimum 10 years experience in the field of natural resources management;
- 29 • Familiarity with complex natural resources issues, including water resources issues;
- 30 • Experience with State and federal regulatory processes that affect water and other natural
31 resources that fall within the scope of the BDCP;
- 32 • Experience with multi-stakeholder processes;
- 33 • Experience with the administration or management of large-scale programs or projects;
- 34 and

- Excellent communication skills.

The specific roles and responsibilities of the Program Manager are described in further detail in [Section 7.2, Implementation Office Administration](#), [Section 7.3, Implementation of the Conservation Strategy](#), and [Section 7.4, Regulatory Compliance Related to BDCP Implementation](#), and [Section 7.5, Public Outreach](#).

7.1.1.3 No Delegation of Authority

The formation of the IO will not alter or modify existing authorities, mandates, and obligations of the participating State and federal agencies. No specific delegation of authority by DWR and/or USBR to the IO is expected to occur except in the event that such delegation is considered by the agency to be beneficial to the efficient operation of the IO. Any such delegation will be conferred, in writing, by the appropriate delegating agency, and will be reviewed by that agency from time to time.

7.1.1.4 Assignment of Responsibilities

To effectively implement the BDCP, the IO will be assigned certain responsibilities by DWR and/or USBR. However, no specific delegation of authority by DWR and/or USBR to will provide the IO is expected with sufficient authority to make decisions necessary to occur except that which allows for effectively implement the efficient operation of the IO. Any such delegations will be in writing BDCP and will be updated from time explicitly define the scope of decision-making authority assigned to time the IO.

7.1.2 Authorized Entities/Permittees

[Note to ~~Reviewers~~ Reviewer: At this time, ~~the final list of the specific~~ authorized entities ~~and permittees~~ under the BDCP ~~have~~ has not been ~~identified~~ developed (i.e., all entities receiving permits or other authorizations under the ESA and the NCCPA). DWR and USBR will be authorized entities/permittees. In addition, the SFCWA may also be ~~a permittee~~ an authorized entity, but this ~~decision~~ issue is still under consideration. The term “holders of the major permits/authorizations” is used in this chapter, but has not yet been defined, ~~though~~. For the purpose of this draft, DWR and USBR will be included in this category. The SFWCA may be a major permit/authorization holder, but this decision is still under consideration.]

The BDCP authorized entities/permittees comprise all entities that will receive take authorizations pursuant to the federal ESA, and the NCCPA, ~~and/or CESA~~ on the basis of the

1 Plan. DWR, ~~USBR~~, and ~~Mirant~~² USBR will be authorized entities/~~permittees~~. ~~Additional~~
 2 ~~entities may be included as authorized entities/permittees.~~

3 ~~DWR~~ and ~~USBR~~ will be considered “major permit/authorization holders.” ~~Major.~~ As a major
 4 permit/authorization holder, DWR and USBR will assume a
 5 number of specified responsibilities under the Plan, such as ~~selection of~~selecting the Program
 6 Manager. ~~Mirant~~³ will be a permittee but will not be a major permit/authorization holder.

7 7.1.3 Implementation Board

8 ~~A BDCP Implementation Board will be established to provide a venue through which the~~
 9 ~~implementation plans of the IO, as described in the BDCP, can be reviewed and commented~~
 10 ~~upon.~~ A BDCP Implementation Board will be established to help guide the IO in the
 11 implementation of the Plan. Specifically, the Board will provide input to the IO on the proposed
 12 Annual Workplan and Budget, including the anticipated IO actions associated with the adaptive
 13 management program and the proposed habitat acquisition and restoration targets. The Board’s
 14 review of the workplan and budget will focus primarily on the programmatic aspects of the
 15 proposed actions. The involvement of the Board in plan implementation is not intended to
 16 constrain the Program Manager in day-to-day decision making.

17 7.1.3.1 Membership

18 The Implementation Board will consist of approximately 10 members, including DWR, USBR,
 19 ~~representatives of other authorized entities/permittees~~, the SFCWA, the State and federal fish and
 20 wildlife agencies, and certain other entities (including an NGO, and the Delta Conservancy) that
 21 will have a significant role in supporting the implementation of the Plan. ~~–~~ [Note to Reviewers:
 22 The specific NGO representative, as well as other supporting board members, and the process
 23 for future selection of those representatives will be reflected in a later draft of this chapter.]

24 7.1.3.2 Function

25 The Implementation Board will receive information from the ~~IO~~Program Manager and other
 26 sources on the implementation of the BDCP generally, and will have the opportunity to review
 27 ~~the proposed annual work plans, budgets, the acquisition~~Annual Workplan and Budget, including
 28 ~~the targeted acquisitions~~ of land and water interests, and ~~the~~ major aspects of ~~the~~anticipated
 29 ~~adaptive management actions described in the Annual Workplan and Budget.~~

² ~~Mirant will be responsible for all of their own operations separate from the operations of the SWP, CVP, and any other entities involved in BDCP implementation. Mirant will be responsible for implementing BDCP actions specifically identified for them in the BDCP. Mirant may become a member of the Stakeholder Committee.~~

³ ~~Mirant will be responsible for all of their own operations separate from the operations of the SWP, CVP, and any other entities involved in BDCP implementation. Mirant will be responsible for implementing BDCP actions specifically identified for them in the BDCP. Mirant may become a member of the Stakeholder Committee.~~

1 The primary function of the Implementation Board ~~is will be~~ to review and ~~accept~~ concur with the
2 Annual Workplan and Budget as proposed by the ~~IO. Content and timing~~ Program Manager.
3 The content of the Annual Workplan and Budget ~~is and the timing of preparation and submission~~
4 of the document to the Implementation Board are described in Section 6.2 *Compliance and*
5 *Progress Reporting*. The Annual Workplan and Budget will be deemed to be “final” once (i)
6 ~~consensus is reached~~ accepted by the Board or (ii) objections to the workplan and budget are
7 resolved through the final decisional ~~authority resolves any objection~~ authorities (see *Dispute*
8 *Resolution*, below). The Board will convene periodically ~~thereafter~~ throughout the year, as
9 needed, to review issues that arise in the implementation of the annual plan. The Program
10 Manager may request that the Board reconvene to consider proposed amendments to the Annual
11 Workplan and Budget.

12 The Implementation Board will consider such matters as:

- 13 • Candidates for the Program Manager position;
- 14 • Annual work plans and budgets; and
- 15 • Adaptive management changes.

17 **7.1.3.3 Dispute Resolution**

18 With respect to those matters that are considered by the Implementation Board, it is expected that
19 reasonable efforts will be made to provide input to the Program Manager that reflects a
20 ~~consensus of the members. Consensus is reached when a position reflects the predominant~~
21 ~~opinion of the board~~ acceptance by the members. A board member, however, will have the right
22 to object to any proposal of the Program Manager concerning the annual work plans, budgets,
23 the acquisition of land and water interests, and the major elements of the adaptive management
24 program. ~~Such~~ Any objections ~~may~~ will be made solely on the basis that the proposal (i) will not
25 adequately contribute to achievement of the goals and objectives of the BDCP or (ii) is
26 inconsistent with the requirements of the Plan and/or the permits/authorizations.

27 The board member may elevate the matter to the regional director(s) of the relevant federal
28 agency, to the director(s) of the relevant state agency, or to other appropriate authorities, as
29 determined by the locus of responsibility for the action (see examples below). A simplified
30 process for considering and responding to such objections in an orderly and timely manner will
31 be established, including a process to elevate appropriate matters for decision to the responsible
32 official, be it a federal or State cabinet-level official or their designee, or another corresponding
33 authority for other ~~responsible~~ locus of responsibility entities, such as a Delta Conservancy, the
34 SFWCA, or a State or federal water contractor. As required by existing law, final responsibility
35 for plan implementation and permit compliance will remain with the holders of those permits and
36 authorizations. The objection ~~procedure will ensure~~ procedures and dispute resolution process
37 may not be used to delay the timely completion and/or implementation of ~~plan commitments~~ the
38 Annual Workplan and Budget.

1 Examples of locus of responsibility:

- 2 • DWR would be responsible for actions that affect facilities or operations of the SWP;
- 3 • USBR would be responsible for actions that affect facilities or operations of the CVP;
- 4 • ~~USACE~~DWR, USBR, and the fish and wildlife agencies would be responsible for ~~actions~~
5 ~~that affect project levees or other USACE-controlled flood facilities~~adaptive management
6 changes in water operations within the adaptive range of the BDCP;
- 7 • SFCWA would be responsible for actions that would result in changes to costs of
8 conservation measures for which they have provided funding;
- 9 • Delta Conservancy would be responsible for projects charged to the Delta Conservancy
10 through future specific State legislation or bond requirements.

11 ~~Dispute~~ [Note to Reviewers: Implementation Board dispute resolution procedures will be
12 established by the Board and included in the Board's bylaws within two (2) months after the
13 Board convenes developed for the first time. Plan in a later version of this chapter and/or the
14 Implementing Agreement.]

15 **7.1.4 DWR and USBR: Operation of the SWP and CVP**

16 Implementation of the conservation measures related to water facilities and water operations, as
17 described in Chapter 3 *Conservation Strategy*, will be the responsibility of DWR and USBR or
18 entities with whom they may contract. DWR and USBR will retain their authority to operate the
19 SWP and the CVP within the parameters of the BDCP and other applicable laws and regulations.

20 The federal and state operators of the CVP and the SWP will continue to prepare coordinated
21 annual operation plans for the federal and state Projects, including the Annual Water Operations
22 Strategy as described in as described in Section 6.2, *Compliance and Progress Reporting*. The
23 IO will incorporate these annual operating plans into the BDCP Annual Workplan and Budget
24 (as described in Section 6.2, *Compliance and Progress Reporting*).

25 Decisions related to “real time” water operations will be the responsibility of the Real Time
26 Response Team, as described in Section 7.3.2, *Implementation of Water Operations*
27 *Conservation Measures*.

28 **7.1.5 Permitting Agencies: Fish and Wildlife Agencies**

29 On the basis of the BDCP, the State and federal fish and wildlife agencies (USFWS, NMFS, and
30 DFG) will issue regulatory authorizations to the authorized entities/permittees pursuant to the
31 federal ESA and the NCCPA. Consistent with their authorities under these laws, the fish and
32 wildlife agencies will retain responsibility for enforcing the terms and conditions of the permits

1 and regulatory authorizations. The fish and wildlife agencies retain full responsibility to: (i)
2 determine whether implementation complies of the BDCP is proceeding in compliance with
3 authorization the terms and conditions of the regulatory authorizations, (ii) enforce
4 authorization, the terms and conditions of the regulatory authorizations, and (iii) modify,
5 suspend, or revoke authorization as provided in regulatory authorizations, consistent with the
6 terms and conditions of the Plan, the Implementing Agreement, and applicable State and/or
7 federal law.

8 These agencies will also provide input on a range of implementation actions that will be carried
9 out by the IO. The IO will work closely with these agencies to ensure ongoing compliance with
10 the permits and authorizations.

11 **7.1.5.1 California Department of Fish and Game**

12 DFG is the agency of the State of California authorized to act as trustee for the state's wildlife.
13 DFG administers and enforces CESA, the NCCPA and other provisions of the Fish and Game
14 Code. DFG is authorized to enter into agreements with federal and local governments and other
15 entities for the conservation of species and habitats, to authorize take under CESA and the
16 NCCPA, and to provide statutory assurances under NCCPA. On an ongoing basis, DFG will
17 consult with the IO and the holders of major permit/authorizations on various aspects of plan
18 implementation, including participation in real-time operations decisions, the adaptive
19 management process, and the monitoring and science programs. DFG will also maintain
20 responsibility for plan enforcement, consistent with the NCCPA and other authorities. DFG
21 owns and manages land within the BDCP Plan Area, and may ~~also~~, at the request of the IO, enter
22 into agreements whereby it operates and maintains certain habitat areas that are developed
23 through BDCP habitat preservation and restoration actions. DFG is jointly responsible for
24 implementation of the Ecosystem Restoration Program, which was established to advance
25 ecosystem restoration projects in the San Francisco Bay Delta and its tributaries.

26 **7.1.5.2 National Marine Fisheries Service**

27 NMFS is an agency of the United States Department of Commerce authorized by Congress to
28 administer and enforce the ESA with respect to marine mammals and certain fish species
29 (including anadromous fish); to enter into agreements with states, local governments, and other
30 entities to conserve federally threatened, endangered, and other species of concern; to authorize
31 incidental take under ESA; and to provide regulatory assurances in accordance with 50 C.F.R.
32 section 222.307(g). On an ongoing basis, NMFS will consult with the IO and the holders of
33 major permit/authorizations on BDCP implementation, including participation in the real-time
34 operation and adaptive management processes and the monitoring and science programs. NMFS
35 will also maintain responsibility, jointly with USFWS, for plan enforcement consistent with the
36 ESA and other authorities. NMFS is jointly responsible for implementation of the Ecosystem
37 Restoration Program, which was established to advance ecosystem restoration projects in the San
38 Francisco Bay Delta and its tributaries.

7.1.5.3 United States Fish and Wildlife Service

The USFWS is an agency of the United States Department of the Interior authorized by Congress to administer and enforce the ESA with respect to terrestrial wildlife, certain fish species, insects and plants, to enter into agreements with states, local governments, and other entities to conserve threatened, endangered, and other species of concern, to authorize incidental take under ESA, and to provide regulatory assurances in accordance with 50 CFR section 17.22(b)(5) and section 17.32(b)(5). On an ongoing basis, USFWS will consult with the IO and the holders of major permit/authorizations on various aspects of plan implementation, including participation in real-time operations decisions, the adaptive management process, and the monitoring and science programs. USFWS will also maintain responsibility, jointly with NMFS, for plan enforcement consistent with the ESA and other authorities. USFWS may also, at the request of the IO, enter into agreements whereby it operates and maintains certain habitat areas that are developed through BDCP habitat preservation and restoration actions. [USFWS is jointly responsible for implementation of the Ecosystem Restoration Program, which was established to advance ecosystem restoration projects in the San Francisco Bay Delta and its tributaries](#)

7.1.6 Other Regulatory Agencies

The BDCP has been developed as a conservation plan pursuant to the ESA and the NCCPA. To implement the BDCP, certain conservation actions will need to conform to the requirements of various other State and federal laws and regulations not specifically addressed by the Plan. Prior to the implementation of many of the conservation actions set out in the BDCP, regulatory authorizations and approvals will need to be obtained from State and federal agencies under applicable laws. To facilitate compliance with these laws and regulations, the IO will work closely with the appropriate regulatory agencies to plan in advance of future permitting needs and establish processes to expedite such authorizations.

In addition, certain Important Related Actions (IRAs) have been identified ~~for which that fall within the implementation is the primary jurisdictional~~ responsibility of other [State and/or federal](#) regulatory agencies. The USFWS, NMFS, DFG, and the IO will work with these regulatory agencies to encourage the implementation of the IRAs. ~~The To the extent appropriate, the IO will take actions seek to implement the integrate~~ IRAs ~~as described in~~ into the BDCP [Conservation Strategy](#).

It is expected that the actions set out in the BDCP are likely to involve some or all of the following statutes: California Water Code sections 1000 *et seq.* (water rights), Water Code sections 13000 *et seq.* (water quality), California Fish and Game Code sections 1600 and 5900 *et seq.* (~~fish screens,~~ channel modification, [fish screens](#)), Clean Water Act section 401 (water quality) and section 404 (placement of dredge and fill), Rivers and Harbors Act section 408 (work on levees), Rivers and Harbors Act section 10 (navigation), the Migratory Bird Treaty Act (migratory birds), and the Federal Energy Regulatory Act implemented by the Federal Energy Regulatory Commission.

1 7.1.7 Implementation Facilitation Team

2 An “Implementation Facilitation Team” will be established by the Implementation Board and
3 directed by the Program Manager. The Facilitation Team will include the State and federal fish
4 and wildlife agencies and, as appropriate, Supporting Entities and other State and federal
5 regulatory agencies and other entities involved in the implementation of the BDCP. The
6 Facilitation Team will work closely with the IO and supporting entities to facilitate the process of
7 regulatory compliance under various authorities. The purpose of the Facilitation Team is to ensure
8 regular communication and coordination between the IO, Supporting Entities, and those agencies
9 that have regulatory responsibility for actions that will be implemented under the BDCP. The
10 Facilitation Team will work to address issues that may arise with respect to these regulatory
11 processes, including those related to technical and logistical matters, and will help facilitate the
12 efficient and timely implementation of conservation measures. The role of this team will be
13 limited to technical issues; it will not engage in matters related to the program oversight or
14 management.

15 7.1.8 Supporting Entities

16 The IO may assign specific implementation tasks to other entities that have the authority,
17 resources, and expertise to successfully and timely complete the task. These “Supporting
18 Entities” may, at the discretion of the IO, include the DWR, USBR, SFCWA or individual water
19 contractors, the fish and wildlife agencies, the Delta Conservancy, or other entities. Where
20 specific tasks are so assigned, the IO will ensure that that tasks and associated responsibilities are
21 carried out properly and in coordination with other BDCP actions.

22 The IO will oversee each supporting entity’s performance of its responsibility for carrying out a
23 specific task. Decisions by the IO to engage another entity in the implementation of specific
24 plan elements or actions will be accomplished by written contract and will be based on the
25 entity’s jurisdictional authority, level of expertise, and its capacity to carry out the element or
26 action in a timely and successful manner. The IO may terminate a supporting entity’s role in
27 plan implementation in the event that the supporting entity does not perform a task adequately.
28 Supporting entities may include, among others:

- 29 • DWR.
- 30 • USBR.
- 31 • SFCWA or individual SWP and CVP contractors. It is anticipated that the SFCWA will
32 be substantially involved in the implementation of the BDCP, and will likely assume
33 responsibility for implementing a number of BDCP actions.
- 34 • The Delta Conservancy. The Delta Conservancy has been designated by statute as a
35 primary State agency to implement ecosystem restoration in the Delta.

- 1 • Sponsors of regional conservation planning programs, including those engaged in NCCP
2 and/or HCP development or implementation, or of other similar conservation programs,
3 that overlap or are adjacent to the BDCP Plan Area–.
- 4 • State and federal regulatory agencies, including USFWS, NMFS, and DFG. In addition
5 to acting in their regulatory roles, these entities may act as supporting entities.
- 6 • Other public agencies and private entities that have jurisdiction, capacity, and expertise to
7 implement actions described in the conservation strategy in a cost-effective, reliable, and
8 timely manner.

9 The take authorizations ~~held by the authorized entities/permittees~~ that will be issued pursuant to
10 the BDCP will provide ~~the necessary regulatory coverage under the ESA and the NCCPA for all~~
11 activities covered by the Plan. As such, no additional take authorizations ~~under State and federal~~
12 endangered species laws to supporting entities will be required to implement ~~the specific~~ these
13 activities, regardless of whether the action is carried out by the IO or a supporting entity.

14 **7.1.9 BDCP Stakeholder Committee**

15 A BDCP Stakeholder Committee will be established to provide a forum through which interested
16 public and private entities will consider and discuss matters related to Plan implementation.

17 **7.1.9.1 Membership**

18 The Stakeholder Committee will comprise a broader membership than the Implementation Board
19 and consist of a range of entities and organizations engaged in BDCP matters.

20 **7.1.9.2 Function**

21 The Stakeholder Committee will convene periodically to exchange information and provide
22 input to the IO concerning the current significant issues at hand. Stakeholders will have
23 opportunity to inquire about implementation matters, be apprised by the IO of issues of interest,
24 and make recommendations concerning pending decisions.

25 For the benefit of the Stakeholder Committee members and the general public, the IO will
26 provide information and briefings regarding plan implementation. In addition, to further
27 facilitate access to information and promote transparency in decision-making, the IO will
28 maintain a public, on-line data base of key documents and information, such as annual
29 implementation reports, work plans, and budgets (see Section 6.2, *Compliance and Progress*
30 *Reporting*).

31 The Stakeholder Committee will develop its own internal organization and process by committee
32 consensus to best coordinate with the various aspects of BDCP implementation. The
33 Stakeholder Committee process will complement, but not substitute for, ongoing collaboration
34 and communication between stakeholders and the IO, authorized entities/~~permittees~~, the

1 Implementation Board, and the fish and wildlife agencies. The IO will organize, help convene,
2 and provide support for the Stakeholder Committee and its proceedings.

3 **7.1.10 Science Program and Chief Scientist**

4 The IO will retain a Chief Scientist to assist in the implementation of the BDCP and to ensure
5 that such implementation decisions are guided by the best available science/scientific
6 information. The Chief Scientist will report to the Program Manager. Specifically, the
7 responsibilities of the Chief Scientist include:

- 8 • Assist in the administration and implementation of the adaptive management program;
- 9 • ~~Direct/Oversee~~ the implementation of the BDCP monitoring and research program, with
10 the assistance of the IEP;
- 11 • ~~Coordinate/Oversee~~ the implementation of the BDCP adaptive management program;
- 12 • Engage in regular communication and coordination with the Delta Science Program and
13 coordinate with the Independent Science Board as well as other outside scientists to
14 gather ~~outside and~~ independent scientific information and solicit input and review, as
15 needed;
- 16 • Support the Program Manager in the preparation of reports and other technical
17 documents; and
- 18 • Assist in building sufficient scientific capacity and resources within the IO.

19 Matters relating to the conduct of scientific reviews, and the acquisition/solicitation of
20 independent scientific advice to assist in the implementation of the BDCP; will be conducted in a
21 manner that ensures their independence and scientific integrity.

22 **7.1.11 The General Public**

23 The BDCP implementation process will provide for ongoing and frequent engagement and
24 participation of the public. Other entities that have interests in the conservation of Delta
25 resources, may participate in BDCP implementation through the public outreach process
26 coordinated by the IO (Section 7.4 *Public Outreach*) or through the BDCP Stakeholder
27 Committee, if eligible for membership.

28 **7.2 IMPLEMENTATION OFFICE ADMINISTRATION**

29 The IO, which will not be a legal entity ~~that can contract~~ authorized to enter into contracts
30 directly or hold property in its own name, but will instead administer the implementation of the
31 BDCP under the existing authorities of the authorized entities/permittees. By relying on the
32 legal authorities of the authorized entities/permittees, the IO will be equipped with the resources
33 and capacity necessary to carry out BDCP implementation tasks for which it will be responsible.

1 This structure also contemplates that DWR and the USBR will maintain their historic roles as
2 owners and operators of the SWP and CVP, but provides flexibility for changing those roles if so
3 directed by Congress, the [California](#) Legislature, or through administrative processes.

4 Proper implementation of the Plan will require a skilled and expert team consisting of
5 administrators, policy-makers, scientists, engineers, data analysts, and regulatory specialists,
6 capable of working together in a cohesive and unified manner. In addition, effective
7 implementation will necessitate adequate financing of and support for the IO. The BDCP
8 includes funding assurances (See Chapter 8 *Implementation Cost and Funding*) that the IO will
9 have such capacity to carry out the responsibilities described in this chapter.

10 The IO may assign specific implementation tasks to other entities that have the authority,
11 resources, and expertise to successfully complete the task in a timely manner. These other
12 entities can, at the discretion of the IO, include an authorized entity, a regulatory agency, a
13 supporting entity, or any combination thereof. Where specific tasks are so assigned, the IO will
14 ensure that that tasks and associated responsibilities are carried out properly and in coordination
15 with other BDCP actions. The entity selected will be responsible, subject to oversight by the IO,
16 for entering into the necessary contracts and acquiring title to interests in real and personal
17 property, acquiring permits, and taking all other steps needed to complete the implementation
18 task.

19 The IO's primary functions and responsibilities are described in the following subsections.

20 **7.2.1 Establishing Administrative Capacity**

21 The Program Manager will manage the IO. The Program Manager will enter into an
22 employment ~~agreement~~[relationship](#) with one of the holders of major permits/authorizations.
23 ~~The~~[However, the](#) Program Manager, ~~however,~~ will receive direction ~~jointly~~ from [and be](#)
24 [responsive to all of](#) the holders of major permits/authorizations.

25 The Program Manager will arrange for and equip the IO office space, hire a staff of sufficient
26 size, and enter into contracts (through the authorities of DWR, USBR, and/or other holders of
27 major permits/authorizations) to build capacity to become fully functional and operational.

28 The Program Manager, with the consent of and pursuant to agreements with any affected
29 agencies, may enlist current employees of the Implementation Board's member agencies, as well
30 as employees of other State, federal, or local agencies, who possess the expertise and experience
31 necessary to carry out the tasks associated with BDCP implementation. The specific staffing
32 needs of the IO will be determined by the Program Manager. Staff from agencies that are
33 members of the Implementation Board will work at the direction of the Program Manager.

1 7.2.2 Preparing Budgets and Managing Expenditures

2 The Program Manager will develop, propose, and administer budgets for general program
3 administration for acceptance by the Implementation Board pursuant to the dispute resolution
4 process (Section 7.1.3.3 *Dispute Resolution*). The Program Manager will establish systems and
5 processes to centralize oversight of implementation budgets and related expenditures. The
6 Program Manager will also generally oversee budgets and expenditures related to
7 implementation actions carried out by authorized or supporting entities.

8 7.2.3 Contracting for Services

9 The IO, through the appropriate entity, may contract for services as necessary to implement the
10 BDCP, including for professional services related to:

- 11 • Acquisition and protection of habitat;
- 12 • Habitat restoration and management;
- 13 • Monitoring and scientific research;
- 14 • [Technical/Legal](#) and [legal services \(e.g., regulatory compliance\); matters;](#)
- 15 • [Environmental and technical services;](#)
- 16 • Engineering and construction (e.g., conservation facilities, water facilities, levees);
- 17 • Funding and grant agreements pertaining to state and federal programs and executing
18 sub-grants to third-parties to conduct specific actions; and
- 19 • Operations and maintenance.

20 The Program Manager shall administer such contracts.

21 7.2.4 Securing, Holding, and Managing Funds to Support 22 Implementation Actions

23 The IO will coordinate and direct the expenditure of funds from State, federal, and other sources
24 that have been dedicated to the implementation of the BDCP. At least one State and one federal
25 agency member of the Implementation Board will serve as the fiscal agents, consistent with
26 existing agency authorities, for the expenditure of funds by the IO, from both public and private
27 sources, to support implementation actions. The IO will not be authorized to manage the
28 expenditure of funds related to design, construction, operation and maintenance of water
29 diversion and conveyance facilities which are or will be elements of the SWP or CVP.

7.2.5 Coordinating with the Authorized Entities/~~Permittees~~, Implementation Board, Supporting Entities, and Implementation Committee

The Program Manager will convene meetings and facilitate communication with the authorized entities/~~permittees~~, the Implementation Board, supporting entities, and the Stakeholder Committee. The Program Manager will maintain frequent contact with these entities and provide regular updates concerning implementation matters, including progress in meeting BDCP timetables, dissemination of information, and maintenance and availability of BDCP records and reports.

7.2.6 Coordinating with Regulatory Agencies – Facilitation Team

The USFWS, NMFS, DFG, and other regulatory agencies will coordinate and collaborate through the Facilitation Team with the IO on matters potentially affecting compliance with the terms and conditions of the BDCP and its regulatory authorizations. The Program Manager will coordinate and lead Facilitation Team meetings.

7.2.7 Coordinating with the Delta Stewardship Council, Delta Science Program, and Delta Conservancy

The Program Manager will facilitate and monitor the effective and efficient incorporation of the BDCP into the Delta Stewardship Council's Delta Plan (Delta Plan).⁴ The Program Manager will report, at least annually, to the Delta Stewardship Council on the progress of BDCP implementation, including the status of monitoring programs and adaptive management, as required by Water Code section 85320(f). The IO will also respond to questions or concerns raised by the Delta Stewardship Council regarding the implementation of the BDCP.

The IO, lead by the Chief Scientist, will coordinate with the Delta Science Program and, as necessary, the Delta Independent Science Board,⁵ regarding scientific assistance in the formulation and implementation of monitoring activities and research efforts to support the BDCP adaptive management process.

The IO will coordinate with the Delta Conservancy concerning implementation of ecosystem restoration projects carried out pursuant to the BDCP Conservation Strategy and other programs being carried out by the Delta Conservancy.

⁴ Water Code § 85320.

⁵ Water Code § 85280

7.2.8 Coordinating with Local Governments, [Delta Protection Commission](#), and Other Public Agencies

The Program Manager will serve as the main point of contact for local, State, and federal agencies interested or engaged in BDCP implementation issues. The Program Manager will prepare, publish, and distribute general information about the BDCP to those agencies and serve as representative of the BDCP in public meetings convened by cities, counties, and other public agencies with jurisdiction within the Delta. [The Program Manager will encourage local government participation on the BDCP Stakeholder Committee.](#)

[Where regional conservation plans overlap with or adjoin the BDCP Plan Area, the IO will collaborate and coordinate with the sponsors of those regional conservation plans on the acquisition and management of habitat lands to be preserved and/or restored within areas common to both plans. The Program Manager will, as appropriate, enlist sponsors of those regional conservation plans and local governments to serve as BDCP supporting entities to assist in the acquisition and/or management of conservation lands. Where mutually beneficial, the IO will encourage joint acquisitions of land with local government plan sponsors to realize economies-of-scale and to secure large, contiguous blocks of habitat. The IO will explore opportunities to fund early conservation actions \(i.e., habitat acquisition and/or restoration\) that may benefit both the BDCP and other regional conservation plans.](#)

7.2.9 Coordinating with Flood Control Agencies

[In the design and implementation of conservation actions that could affect flood control capabilities, the IO will coordinate with agencies responsible for flood control in the Plan Area, including USACE, DWR, and regional flood control agencies.](#)

~~7.2.97.2.10~~ Protecting and Defending Against Legal Challenges

The IO, in coordination with the Implementation Board, supporting entities, fish and wildlife agencies, and other appropriate public agencies, will help direct efforts to defend against legal challenges to the BDCP or its associated State and federal authorizations. As necessary, the IO may also provide funding for legal counsel to address the range of legal issues associated with implementation, including: defense against litigation related to the BDCP, liability associated with land acquisition and related matters, disputes arising out of contractual agreements, and general, routine in-house legal matters.

~~7.2.107.2.11~~ 7.2.11 Overseeing Plan Amendments

In the event that an amendment to the BDCP and its authorizations is necessary, the IO will compile information and prepare documentation necessary to support such an amendment and will seek to obtain approvals from the applicable fish and wildlife agencies.

7.2.12 Implementing Mitigation Measures Identified in BDCP-related Environmental Documentation under NEPA and CEQA

Subject to the approval of the lead agency(ies) conducting the environmental review under NEPA and/or CEQA, the IO will, on behalf of the lead agency(ies), implement the mitigation measures identified in the final environmental documents. Such mitigation measures must be associated with either the EIS/EIR prepared for the BDCP or environmental documents necessary for the implementation of an action set out in the BDCP.

7.2.117.2.13 Undertaking Other Responsibilities

The IO will institute a program to monitor compliance with the BDCP and provide the fish and wildlife agencies, on a mutually-agreed upon time-frame, with reports on the results of the monitoring program (~~see section~~[Section 6.2 Compliance and Progress Reporting](#) and ~~section~~[Section 7.3, Implementation of the Conservation Strategy](#)). The IO will also obtain other regulatory authorizations and permits necessary to implement BDCP conservation actions (~~see section~~[Section 7.4, Regulatory Compliance Related to BDCP Implementation](#)) and will engage in public outreach and education ([Section 7.5, Public Outreach](#))

7.3 IMPLEMENTATION OF THE CONSERVATION STRATEGY

The IO will be responsible for planning, overseeing, and conducting actions set out in the BDCP Conservation Strategy (~~see~~ [Chapter 3, Conservation Strategy](#) and [Chapter 6, Plan Implementation](#)). The IO will be afforded sufficient flexibility to use supporting entities and the fish and wildlife agencies to undertake certain actions that will enhance the overall effectiveness of the Conservation Strategy and yield greater efficiencies in plan implementation. The following sets out the tasks and responsibilities of the IO regarding the implementation of the Conservation Strategy.

7.3.1 Implementation of the Habitat Protection and Restoration Conservation Measures

The IO will take actions directly or through the supporting entities to implement conservation measures related to the protection of existing habitat and the enhancement and restoration of habitat within the identified restoration opportunity areas (ROAs) and conservation zones, as well as within other areas in the Plan Area, as described in ~~chapter~~[Chapter 3, Conservation Strategy](#). These measures will primarily involve actions to acquire lands, restore or improve habitat conditions, and manage and maintain conservation lands. The IO will work with, and may contract with the Delta Conservancy or the supporting entities to carry out the conservation measures associated with habitat protection and restoration.

1 **Acquisition and/or Lease of Property Interests.** Pursuant to the authorities of DWR, USBR,
2 and/or other holders of major permits/authorizations, the IO may acquire interests in real
3 property to facilitate the implementation of a habitat protection and/or restoration conservation
4 measure. Similarly, under the direction of the IO, other entities that have been selected to
5 implement such conservation measures may also acquire interests in real property, as described
6 in Chapter 3 *Conservation Strategy*. The tasks related to the acquisition of fee interest and/or
7 conservation easements, for the purpose of habitat protection, restoration, and creation, will
8 include, among other things:

- 9 • Routine “due diligence” review of real property;
- 10 • Biological “due diligence” to assess habitat/restoration values;
- 11 • Appraisal of property, including oversight of the appraisal process;
- 12 • Negotiation and execution of the transaction; and
- 13 • Receipt of title or easement to lands.
- 14 • [Select appropriate mechanism or instrument to ensure the protection of conservation](#)
15 [lands.](#)

16 The selected entity will also acquire or lease lands or facilities, or, with the consent of the
17 Program Manager, contract with the Delta Conservancy or other appropriate entities to do so, for
18 the purpose of conducting scientific research and monitoring, housing administrative offices and
19 equipment, and undertaking other activities as necessary to administer and implement the
20 measure.

21 **Management of Land.** The IO will oversee the management and maintenance of lands acquired
22 for conservation, as described in Chapter 3 *Conservation Strategy*, and will select entities that
23 will be responsible for carrying out such management and maintenance. Tasks associated with
24 land management will generally include:

- 25 • Habitat management;
- 26 • Invasive species control;
- 27 • Security patrol;
- 28 • Liaison with neighboring landowners;
- 29 • [Mosquito abatement](#)
- 30 • Species and habitat monitoring;
- 31 • Public access management;
- 32 • Research activities;
- 33 • Educational services; and

- Agricultural lease management.

Maintenance of Facilities, and Improvements. The IO will oversee the maintenance of all related facilities and improvements, such as buildings, fences, levees, roads, as described in Chapter 3, *Conservation Strategy* and necessary for support and protection conservation lands

Funding of Activities of Other Entities. The IO may provide funding to other entities (such as local governments engaged in regional conservation planning processes), subject to appropriate conditions and oversight, to implement habitat and species conservation efforts, both inside and outside the Plan Area, that help advance the biological goals and objectives of the BDCP, as described in Chapter 3, *Conservation Strategy*.

7.3.2 Implementation of Water Operations Conservation Measures

7.3.2.1 Operations of Water Facilities

Implementation of water facilities and water operations conservation measures as described in Chapter 3 *Conservation Strategy* will be the responsibility of DWR and USBR, or entities with whom they may contract, consistent with their existing responsibilities and authorities.

7.3.2.2 Real Time Operations Response Team

To enhance the effectiveness of the water operations conservation measures, a “Real Time Operations Response Team” (Response Team) will be established. The Response Team will be assigned the responsibility to make real-time operational decisions, within boundaries established by the BDCP water operation conservation measures (~~see Chapter 3, *Conservation Strategy* and~~), other applicable regulatory constraints. ~~Real time operations will be, and~~ within the bounds established by the Annual Operating Plan (Section 6.2, *Compliance and Progress Reporting*). The Response Team will consist of representatives from the State and federal fish and wildlife agencies, DWR, and the USBR. The fish and wildlife agencies will make the final decision on real-time operational changes after taking into consideration the views of DWR and the USBR. The Response Team’s decisions will take into account upstream reservoir operations and other SWP and CVP operational requirements as well as the allocation, amount, and timing of water delivered, including surplus water that may be available, to the CVP or SWP customers within any water year. [*Note to Reviewers: Standard for allowable impact on water supply is under development.*]

7.3.2.2.1 Role of the Real Time Operations Response Team

The Response Team will make determinations in real time (*i.e.*, hourly/daily/weekly) regarding operations of the SWP and the CVP Delta facilities to achieve the purposes specified above.

The Response Team will not be vested with the authority to operate the CVP and SWP Delta water facilities outside of the permissible bounds of discretion set by the specified BDCP

1 conservation measures, but rather will work within the flexibility of initial operating criteria
2 identified in the water operations conservation measures and the bounds established by the
3 Annual Operating Plan. Changes in the permissible bounds of discretion can only be made
4 through the adaptive management procedures described in Section 3.7, *Adaptive Management*
5 *Program* [and subsequent Annual Operating Plans prepared by DWR and USBR](#).

6 Notwithstanding the role of the Response Team, the authorized entities/~~permittees~~ will retain
7 ultimate legal responsibility for water operations conservation measures and compliance with the
8 Plan and the regulatory authorizations. Similarly, the fish and wildlife agencies will retain legal
9 authority to oversee, enforce, modify, or revoke such authorizations, as described in Chapter 6,
10 *Plan Implementation*.

11 7.3.2.2.2 *Coordination between the IO and the Response Team*

12 The IO will coordinate with the Response Team and retain responsibility for overseeing,
13 ~~tracking, and monitoring,~~ [and reporting on](#) the implementation of the water operation
14 conservation measures. The IO will also establish processes to ensure that decisions made by the
15 Response Team regarding the implementation of water operations conservations measures are
16 transparent and understandable.

17 7.3.2.2.3 *Responsibility of the Response Team to Balance Conservation and Water* 18 *Supply Goals*

19 The Response Team will be required to take into account the effect of its operational decisions
20 on water supply. While the Response Team's primary aim will be to enhance the effectiveness
21 of the water operations conservation measures, it will make real time decisions in a manner that
22 considers water supply and timing of delivery from that which would have occurred without
23 variations from the Initial Operational Criteria set forth in the Annual Water Operations Plan.
24 [*Note to Reviewers: Standard for allowable impact on water supply is under development.*]

25 7.3.2.2.4 *Informational Resources Available to Support Decisions of the Response* 26 *Team*

27 In making real-time decisions regarding the implementation of operations-related conservation
28 measures, the Response Team will utilize data, information, and analysis generated from fisheries
29 and operational technical groups and, where appropriate, outside scientific experts. Specifically,
30 the Response Team will take into account real-time data derived from work conducted by the
31 following groups (or their successors or equivalents, [if any](#)), including current fish surveys, flow

1 and temperature information, and determinations regarding salvage or loss at the project facilities;
2 and information about public health, safety, and water supply reliability:⁶

- 3 • ~~Delta Science Program;~~
- 4 • ~~The Sacramento River Temperature Task Group (SRTTG);~~
- 5 • ~~Smelt Working Group (SWG);~~
- 6 • ~~Delta Operations for Salmon and Sturgeon (DOSS) Group;~~
- 7 • ~~American River Group (ARG); and~~
- 8 • ~~San Joaquin River Technical Committee (SJRTC).~~

9 • **The Sacramento River Temperature Task Group (SRTTG):** The SRTTG is a
10 multiagency group formed pursuant to SWRCB Water Rights Orders 90-5 and 91-1, and the
11 NMFS biological opinion, to assist with improving and stabilizing Chinook populations in
12 the Sacramento River. Annually, USBR develops temperature operation plans for the Shasta
13 and Trinity divisions of the CVP. USBR considers impacts on winter-run and other ESUs of
14 Chinook salmon, and associated project operations. The SRTTG meets initially in the spring
15 to discuss biological, hydrologic, and operational information, objectives, and alternative
16 operations plans for temperature control. Once the SRTTG has recommended an operation
17 plan for temperature control, USBR then submits a report to the SWRCB, generally on or
18 before June 1st each year. After implementation of the operation plan, the SRTTG may
19 perform additional studies and commonly holds monthly meetings, as needed through the
20 summer and into fall, to develop revisions based on updated biological data, reservoir
21 temperature profiles and operations data. Updated plans may be needed for summer
22 operations protecting winter-run, or in fall for fall-run spawning season. If there are any
23 changes in the plan, USBR submits a supplemental report to SWRCB and to NMFS for
24 review and concurrence.

25 • **Smelt Working Group (SWG):** The SWG evaluates biological and technical issues
26 regarding delta smelt and develops recommendations for consideration by the USFWS.
27 Since the longfin smelt became a state candidate species in 2008, the Working Group has
28 also developed for DFG recommendations to minimize adverse effects to longfin smelt.
29 USFWS chairs the group which consists of representatives from USFWS, DFG, DWR,
30 EPA, and USBR. The SWG compiles and interprets the latest near real-time information
31 regarding state- and federally-listed smelt, such as stages of development, distribution, and
32 salvage. If they agree that a protection action is warranted, the SWG submits their
33 recommendations in writing to USFWS and DFG. The Delta Smelt Risk Assessment Matrix

⁶ Additional working groups have been created and governed by SWRCB orders and NMFS and USFWS biological opinions. These work groups are listed here for informational purposes and are not necessary to the implementation of the BDCP

(DSRAM) outlines the conditions when the Working Group will convene to evaluate the necessity of protective actions and provide FWS with a recommendation. This generally occurs weekly during the months of January through June, when smelt salvage at CVP and SWP has occurred historically. However, the SWG may meet at any time at the request of USFWS. Further, with the State listing of longfin smelt, the group will also convene based on longfin salvage history at the request of DFG.

- **Delta Operations for Salmon and Sturgeon (DOSS) Group:** NMFS chairs this working group, which consists of biologists, hydrologists and other staff with relevant expertise from USBR, DWR, DFG, and USFWS and may include USGS, EPA, and Regional Water Quality Control Board participation. The DOSS provides recommendations for real-time management measures to reduce adverse effects to salmonids and green sturgeon by coordinating Delta Cross Channel (DCC) gate operations, fishery protection closures, water releases, and/or export reductions. Inputs such as fish life stage and size development, current hydrologic events, fish indicators (such as catch indices), salvage at the export facilities, and current and projected Delta water quality conditions are some of the factors used to make recommendations. The DOSS will coordinate with the SWG and other technical teams to maximize benefits to all listed species.
- **American River Group (ARG):** In 1996, USBR established a working group for the Lower American River, known as ARG. Although open to the public, the ARG meetings generally include representatives from several agencies and organizations with on-going concerns and interests regarding management of the Lower American River. The formal members of the group are USBR, USFWS, NMFS, and DFG. The ARG convenes monthly or more frequently if needed, with the purpose of providing fishery updates and reports for USBR and NMFS to help manage Folsom Reservoir for fish resources in the Lower American River.
- **San Joaquin River Technical Committee (SJRTC):** The SJRTC meets to plan and implement the Vernalis Adaptive Management Plan (VAMP) each year, and oversees two subgroups: Biology and Hydrology. These two subgroups are charged with certain responsibilities, and must also coordinate their activities within the San Joaquin River Agreement (SJRA) Technical Committee.

7.3.2.3 Annual Reporting and Planning for Water Operations

Planning and reporting requirements for the IO, DWR, USBR, and the Response Team are [provided set out](#) in Section 6.2, *Compliance and Progress Reporting*.

7.3.3 Implementation of All Other Conservation Measures

The IO will be responsible for the implementation of the other conservation measures described in Chapter 3, *Conservation Strategy*. The IO may undertake conservation actions directly or arrange for funding to support actions carried out by supporting entities, as described in chapter 3

1 *Conservation Strategy*. The funds provided to supporting entities will likely be for the purpose
2 of implementing conservation measures that address the adverse effects of other stressors, such
3 as toxic contaminants, non-native predatory species, low dissolved oxygen zones, and
4 entrainment unrelated to covered activities.

5 **7.3.4 Management of Biological Monitoring, Scientific Research, and** 6 **Reporting Programs**

7 The IO will be responsible for the overall management and oversight of the BDCP biological
8 monitoring and research program ~~and for, including~~ the implementation of monitoring-related
9 activities, as described in Chapter 3 *Conservation Strategy* (see Section 3.6 *Monitoring and*
10 *Research Program*).

11 ~~The IO will retain on staff a Chief Scientist. The Chief Scientist will report to the~~ will identify
12 technical staffing needs and requirements necessary to adequately implement the biological
13 monitoring and research program. The IO will utilize the Interagency Ecological Program
14 Manager and in consultation with the Program Manager (IEP) will employ such technical staff as
15 is required to implement ~~assist in~~ the monitoring and research program. The Chief Scientist will
16 oversee the development and implementation of the monitoring and research program and related
17 scientific activities, with the assistance of the IEP agencies and in coordination with the Delta
18 Science Program. The IO will establish the framework for the monitoring program (*e.g.*, scope,
19 methodologies, and protocols), in coordination with ~~the Fish IEP and Wildlife Agencies~~ the fish
20 and wildlife agencies, Delta Science Program, and supporting entities, ~~and the Interagency~~
21 Ecological Program (IEP). The IO, in collaboration with these entities, will develop and
22 implement a process for compiling, evaluating, and synthesizing the results of monitoring
23 activities, and will maintain databases and the results of data analysis, obtained through the
24 monitoring program and expand on that currently developed by IEP.

25 The Chief Scientist, will also manage the BDCP research program, as described in Chapter 3
26 *Conservation Strategy* (see Section 3.6 *Monitoring and Research Program*), which will include
27 establishing research goals and priorities and administering a process to select and coordinate
28 researchers who will be involved in the program: in coordination with the IEP agencies and the
29 Delta Science Program. The IO will be responsible for the compilation and synthesis of the
30 results of studies and analysis undertaken by other entities and organizations that are of interest
31 and assistance to BDCP implementation. The Chief Scientist will also coordinate BDCP funding
32 for research by other entities and organizations, as described in Section 3.6 *Monitoring and*
33 *Research Program*.

34 In addition, the IO will track plan implementation actions and comply with the reporting
35 requirements of the Plan, as described in Section 6.2 *Compliance and Progress Reporting*.
36 Reports prepared by the IO will include, among other things, the results of monitoring and
37 research, an assessment of overall plan performance, and an accounting of the distribution and

1 expenditures of funding by the various entities engaged in plan implementation activities. See
2 Section 6.2 *Compliance and Progress Reporting* for specifics on reporting requirements.

3 | The IO may contract with one or more of the authorized entities/~~permittees~~, supporting entities,
4 or consultants when appropriate to ensure completion of required monitoring, data analysis, and
5 scientific research.

6 | As appropriate, the IO will seek and obtain input and advice from independent scientists: [through](#)
7 [the Delta Science Program](#). Matters relating to the conduct of scientific reviews, and the
8 acquisition of independent scientific advice to assist in the implementation of the BDCP, shall be
9 conducted in a manner that ensures their independence and scientific integrity.

10 **7.3.5 Management of the Adaptive Management Program**

11 The IO, lead by the Chief Scientist, will manage the BDCP adaptive management program, as
12 described in chapter 3 *Conservation Strategy* (see Section 3.7 *Adaptive Management Program*).
13 ~~Among other things, the IO will~~[The IO will establish an Adaptive Management Team, directed](#)
14 [by the Chief Scientist, to](#) assemble, synthesize, and analyze the results of BDCP monitoring
15 efforts and integrate the results of new and relevant scientific research and studies conducted by
16 other parties, including the Delta Science Program. Based on this information, the IO will
17 facilitate and coordinate discussion and consideration of adaptive management issues among the
18 various participating entities, including the Implementation Board, the fish and wildlife agencies,
19 and the Stakeholder Committee as part of the process of making decisions based on the adaptive
20 management program.

21 **7.3.6 Implementation of Measures in Response to Changed** 22 **Circumstances**

23 The IO will be responsible for recognizing and responding to those changed circumstances
24 identified in the plan, and for implementing those responses set out in the BDCP to address those
25 changed circumstances, as described in Section 6.3 *Regulatory Assurances, Changed*
26 *Circumstances, and Unforeseen Circumstances*. The IO will establish a process to ensure timely
27 | engagement of the Implementation Board, authorized entities/~~permittees~~, fish and wildlife
28 agencies, and the Stakeholder Committee in the identification and response to such changed
29 circumstances.

30 **7.4 Regulatory Compliance Related to BDCP** 31 **Implementation**

32 The IO will be responsible for ensuring that the BDCP is properly implemented, including
33 ongoing compliance with the elements of the Plan and the terms and conditions of the associated
34 regulatory authorizations. The IO will also identify, seek, and obtain from State and federal

1 agencies any other regulatory permits or authorizations that are necessary to effectuate Plan
2 implementation.

3 **7.4.1 Maintaining Permits/Authorizations and Obtaining Amendments**

4 The IO will establish a process to ensure compliance with all permits and authorizations related
5 to BDCP implementation. If amendments or modifications to any of these permits or
6 authorizations become necessary, the IO and the authorized entities/[permittees](#) will work with
7 the applicable agency to develop the necessary documentation and obtain the amendment.

8 **7.4.2 Obtaining Additional Regulatory Authorizations**

9 *[Note to Reviewers: Certain specific regulatory authorizations (e.g. water rights) will need to be*
10 *completed prior to implementation of the BDCP. Other regulatory authorizations will be*
11 *acquired as necessary during BDCP implementation. This section describes those*
12 *authorizations that happen during BDCP implementation.]*

13 The IO will identify and seek regulatory authorizations necessary to implement BDCP actions.
14 The EIR/EIS for the BDCP will provide sufficient environmental review and analysis of the
15 proposed adoption of the Plan by DWR, CVP-related actions undertaken by Reclamation, and of
16 the proposed issuance of take authorizations by the State and federal fish and wildlife agencies
17 pursuant to the Plan, and may provide sufficient environmental review to support other
18 anticipated federal and State regulatory authorizations. However, additional NEPA and CEQA
19 review, as well as compliance with other environmental laws, will be necessary for a number of
20 BDCP-related actions.

21 The IO will oversee the likely need of supporting entities to obtain permits or authorizations, or
22 conduct environmental review, under the following State and federal laws, regulations, or
23 processes prior to the implementation of certain conservations measures:

- 24 • Sections 404 and 401 of the Clean Water Act;
- 25 • Sections 10 (33 USC 403) and 14 (33 USC 408) of the Rivers & Harbors Act of 1899;
- 26 • Section 1602 of the California Fish and Game Code (Streambed and Lakebed Alteration
27 Agreements);
- 28 • Section 106 of the National Historic Preservation Act;
- 29 • Encroachment permits from the Central Valley Flood Protection Board and reclamation
30 districts to conduct work on levees;
- 31 • Federal Energy Regulatory Act compliance through the Federal Energy Regulatory
32 Commission; and

- 1 • The National Environmental Policy Act and the California Environmental Quality Act, as
2 necessary for certain project-related actions.

3 This list is not intended to be comprehensive and the IO would be responsible for compliance
4 with any additional regulations necessary for Plan implementation.

5 **7.5 Public Outreach**

6 The IO will implement a public outreach and education program to promote public awareness
7 and provide opportunities for public input on matters concerning plan implementation. General
8 objectives of the outreach program will be to:

- 9 • Promote public awareness of and understanding about the plan's purpose, specific
10 conservation measures and their implementation;
- 11 • Provide streamlined and timely access to information;
- 12 • Provide contact with decision-makers; and
- 13 • Maintain a transparent process for understanding, clarifying and addressing public input
14 and comments.

15 Particular emphasis will be placed on outreach efforts focused on the following stakeholders:
16 Delta residents, including landowners, farmers, and business owners; environmental community;
17 agricultural community; boaters; commercial fishing interests; recreational anglers; local
18 governments; reclamation districts; irrigation districts; public utilities; public and private
19 landowners adjacent to BDCP conservation areas; and Native American tribes.

20 The public outreach and education program will include, at a minimum:

21 **Informational Material.** The preparation and distribution of general information materials such
22 as reports, quarterly electronic newsletters, and issue-specific fact sheets in timely manner so as
23 to facilitate public understanding and meaningful public input.

24 **Interactive Website.** Development and maintenance of an interactive website that provides
25 real-time access to information, updates regarding implementation activities, and expanded
26 opportunities for public engagement and input. Visual elements such as maps and webcasts will
27 be used to further aid information sharing and public understanding.

28 **Speakers Bureau.** Presentation of BDCP implementation information to various groups and at
29 public meetings that occur throughout the state, as well as targeted audiences including Delta
30 communities, Tribes, and specific statewide stakeholder interests.

31 **Annual Public Workshops.** Commitment to annual public workshops and others as needed to
32 provide timely opportunities for public dialogue, input and comment regarding a wide range of
33 implementation issues.

- 1 **Environmental Justice.** An environmental justice outreach program will be integrated into
- 2 overall outreach activities described above to provide minority and low-income communities
- 3 with access to information about the plan’s implementation and opportunities for input.
- 4 Outreach techniques include dedicated multilingual web page, availability of translation services
- 5 at public workshops and community presentations, and outreach to ethnic media outlets.

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