



**US Army Corps of Engineers**  
**South Pacific Division**



# **US Army Corps of Engineers**

**Roles and Responsibilities in the BDCP**

**13 August 2009**



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## USACE Roles in the Federal Family

	<b>USACE</b>	BOR	USFWS	NPS	IWS/RF	NMFS	NRCS	USFS	FEMA	EPA
	<b>DOD</b>	DOI	DOI	DOI	DOC	DOC	DOA	DOA	DOHS	Agency
<b>Navigation</b>	X									
<b>Ecosystem Restoration</b>	X	x	X	X		X	X	X		X
<b>Regulatory CWA</b>	X						x			X
<b>Flood Risk Mgt</b>	X	x			X				X	
<b>Emergency Operations</b>	X				X				X	
<b>Hydropower</b>	X	X								
<b>Water Supply</b>	X	X	x		X	x	X			x
<b>Water Quality</b>	X	x	x	x		X	X	x		X
<b>Aquatic Species</b>	x	x	X	X		X	x	X		X
<b>Terrestrial Species</b>	X	x	X	X		X	x	X		X
<b>Recreation</b>	X	x		X				X		



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## Primary USACE Responsibilities with BDCP

- Regulatory Program
  - Protect the nation's aquatic resources
  - Prevent obstructions to navigation
- Operations
  - Improve public safety and reduce flood risk
  - Conduct maintenance dredging
- Planning
  - Integrate Civil Works projects



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## Regulatory Program & Section 408 Program Considerations

- The BDCP involves specific activities (conveyance, intakes, restoration) that require permission from the Corps.
- The Corps is a cooperating agency on the EIS.
- The EIS will provide analyses of alternatives and impacts that will assist the Corps in meeting its permit review requirements.
- The Corps plans to adopt the EIS (and subsequent activity-specific NEPA documents) to fulfill its NEPA responsibilities & make permit decisions.
- The Corps consultations under ESA Section 7 with USFWS and NMFS should go quicker once the BDCP is approved.
- Permit applications for activities should be submitted before DEIS is published.



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## Regulatory Program

- Issue permits to public and private applicants for specific activities, after a review process that involves evaluating alternatives, assessing environmental effects, and considering the public interest.
- Laws:
  - Section 404 of the Clean Water Act: Protect aquatic resources by regulating the discharge of dredged or fill material into Waters of the United States, including wetlands. (33 USC 1201 et seq.)
  - Section 10 of the Rivers and Harbors Act of 1899: Ensure safe navigation by regulating work or structures in or affecting Navigable Waters. (33 USC 403)
- Regulatory Program Regulations at 33 CFR 320-332



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## Regulatory Program Key Points

- Activities not Plans or Programs
  - Corps can only permit activities
  - Specific information about the activity and its impacts must be submitted as part of the permit application
- Complete Permit Application
  - To proceed, application must be “complete” (per 33 CFR Part 325.1(d)), including a compensatory mitigation proposal
  - Complete application before DEIS issued
- Impacts to Wetlands and Other Waters of the U.S.
  - Wetland delineations (high-level and site specific) to determine how much and of what type will be affected
  - Wetland functional assessment
- Impacts to Navigation
  - Understand how activities, including pumping operations, may affect recreational and commercial navigation in the Delta



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## Regulatory Program Key Points

- Section 106 of the National Historic Preservation Act and Tribal Coordination
  - Should include Corps permits on NHPA programmatic agreement with the State Historic Preservation Officer
  - Tribal relations
- Timing
  - Permit process should be concurrent with NEPA process
  - Application(s) should be submitted before the Draft EIS is issued
- Communication
  - Designate POCs at DWR and BOR for permitting
  - Pre-application meeting
  - Regular meetings, after permit applications submitted



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## Section 408 Program

- Issue permission to public sponsors for specific activities, after a review process that involves evaluating alternatives, assessing environmental effects, ensuring the usefulness of the work is maintained and considering the public interest.
- Law:
  - Section 14 of the Rivers and Harbors Act of 1899: For the alteration of a Federal project to include sea wall, jetty, dike, levee, wharf, pier, or other work. (33 USC 408)



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## Section 408 Program Key Points

- Central Valley Flood Protection Board (CVFPB) Permit
  - Must receive request from the CVFPB on behalf of the applicant
  - Minimum 60% designs
- Hydraulic Analysis
  - Evaluate transfer of risk
  - Evaluate system impacts through risk and uncertainty analysis
- Independent External Peer Review (Safety Assurance Review)
  - National Academy of Sciences standards must be followed
  - Includes design and construction phases
  - Develop a plan for appropriate level of review
- Level of Review
  - Minimum 60% designs for Headquarters USACE approval
  - 100% designs for letter of permission



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## Section 408 Program Key Points

- Timing
  - Section 408 review process should be concurrent with NEPA process
  - CVFPB coordination should be conducted as soon as possible for specific activities to be covered under the 408
  - 408 permission issued prior to 404/10 permit decision
- Communication
  - Designate POCs at DWR and BOR for 408 (EIS & engineering)
  - Regular meetings, after permit applications submitted by CVFPB



## Active Planning Studies in the Delta

- **Long Term Management Strategy (Delta LTMS) for Dredged Material**
  - Cooperators: US Environmental Protection Agency, Central Valley Regional Water Quality Control Board, Department of Water Resources, California Bay Delta Authority, others.
- **Sacramento River Deep Water Ship Channel**
  - Partner: Port of West Sacramento
    - \* Navigation



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## Active Planning Studies in the Delta (cont.)

- **San Francisco Bay to Stockton Navigation Improvement Project**
  - Partners: Port of Stockton & Contra Costa Water Agency
    - \* Navigation



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## Active Planning Studies in the Delta (cont.)

- **Levee Stability Program**
  - Partners: Up to 40 Reclamation Districts with DWR
  - Short Term, “Quick” Fixes on Fragile Delta Levees
- **Delta Islands and Levees Feasibility Study**
  - Partner: Department of Water Resources (DWR)
  - Long Term, Comprehensive Solution for the Delta Watershed/Systems Approach with Collaborative Planning
    - \* Flood Risk Management
    - \* Ecosystem Restoration
    - \* Water Supply
    - \* Water Conveyance
    - \* Water Quality



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## Active Planning Studies in the Delta (cont.)

- **Central Valley Integrated Flood Management Study**
  - Partner: Department of Water Resources
    - \* Flood Risk Management
    - \* Ecosystem Restoration
- **Lower San Joaquin Feasibility Study**
  - Partner: San Joaquin Area Flood Control Agency
    - \* Flood Risk Management
    - \* Ecosystem Restoration
- **Sacramento River Bank Protection Project**
  - Partner: Central Valley Flood Protection Board
    - \* Remedial Bank Protection



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## Opportunities

- Information Sharing
  - Data, models, GIS
- Leveraging
  - LTMS & DWSC dredging placement and reuse
- Shaping
  - Participate in scoping and public involvement
- Partnering
  - On-going studies/programs
  - New studies



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## USACE Regional Team Points of Contact

- South Pacific Division
  - Cindy Tejada, Regional Watershed Planner
- Sacramento District
  - Regulatory Division
    - Michael Jewell, Chief, Regulatory Division
    - Michael Nepstad, Deputy Chief, Regulatory Division
  - Operations & Readiness Branch, Construction-Operations Division
    - Meegan Nagy, Chief, Flood Protection and Navigation Section
    - Claire Marie Turner, Section 408 Project Manager
  - Planning Division
    - Tanis Toland, Delta Programs Integration