US Army Corps of Engineers

Roles and Responsibilities in the BDCP

13 August 2009
## USACE Roles in the Federal Family

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

• San Francisco Bay to Stockton Navigation Improvement Project
  – **Partners**: Port of Stockton & Contra Costa Water Agency
  * Navigation
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
    * Water Supply
    * Water Quality
    * Ecosystem Restoration
    * Water Conveyance
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
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
USACE Regional Team
Points of Contact

- South Pacific Division
  - Cindy Tejeda, 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