

## **Description of Contents of BDCP**

### **Chapter 7: Implementation Structure**

(Draft July 31, 2009/Updated August 21, 2009)

Chapter 7 of the BDCP will describe the institutional structure and approach that will be used to implement the plan. The chapter will set out the nature of an implementing entity or multiple entities and the roles, functions, authorities, and responsibilities that will be vested in such an entity(ies) to ensure successful implementation of the plan. The following is a proposed description of the contents of chapter 7 recommended by the Implementation Structure/Governance Working Group.

#### I. Purpose of a BDCP Implementation Structure

- Effective and efficient implementation of BDCP
- Compliance with terms and conditions of regulatory authorizations
- Coordination and engagement with public and private entities and interests
- Management and administration of plan
- Improve effectiveness of BDCP conservation strategy over time
- Coordination with a Delta-wide governance entity

#### II. Overview of the BDCP Implementing Entity(ies)

- Structure of the Implementing Entity(ies)
- Composition of Implementing Entity

#### III. Roles and Responsibilities for Implementation

- Roles and responsibilities of Authorized Entities
- Roles and responsibilities of Implementing Entity (including assignment of responsibilities)
- Role of other entities in plan governance and implementation (e.g., Authorizing Agencies, Supporting Entities, Implementation Council, Delta Conservancy, local governments, Delta governance authorities, stakeholders) and their relationship to the Implementing Entity

#### IV. Administration of the BDCP

- Administering overall program (hiring, staffing and contract administration)
  - Physical office location and visibility of implementation structure
  - Organizational structure
  - Staff or coordinate staffing for BDCP decision-making body(ies)
  - Capacity to manage certain elements of BDCP implementation
- Budgeting and spending
  - Develop, propose, and manage budget for general program administration
  - Provide centralized budgeting and spending for various BDCP programs and actions.
  - Budgeting and spending function may also be assigned to various plan participants depending on source of funds and nature of action
- Contracting
  - Habitat restoration and management
  - Monitoring
  - Consulting/legal services (e.g., for environmental compliance)
  - Grant agreements for state and federal funding
    - Subgrants to third-parties for specific actions

- Securing, holding, and managing funds for implementation actions
  - Ensure sufficient funding for conservation measures
  - Coordinate expenditures of state and federal funding
  - Serve as fiscal agent for jointly-funded actions
  - Serve as fiscal agent for long-term BDCP funding sources
    - Long-term management of protected and restored habitat
    - Monitoring
- Coordinating with Supporting Entities and Implementation Council
  - Convene meetings and facilitate communication among these entities
    - Maintain and communicate frequently with points of contact for each entity
    - Establish decisionmaking and dispute resolution processes
  - Track and monitor compliance with BDCP deadlines
  - Maintain and disseminate BDCP information
  - Maintain BDCP records and reports in central location.
    - Will likely require gathering and synthesizing information from various plan participants.
- Coordinating with Authorizing Agencies (DFG, FWS, NMFS)
  - Serve as main point of contact for BDCP matters
  - Ensure that reports are adequate and provided on time
  - Coordinate input from agencies on BDCP implementation and compliance matters
- Coordinating with Delta-wide governance entity
  - Serve as main point of contact for BDCP matters
  - Prepare and publish/distribute general information about the BDCP
  - Serve as representative of the BDCP in public meetings
  - Serve as liaison and representative of the BDCP
- Coordinating with other local, state, and federal agencies
  - Serve as main point of contact for BDCP matters
  - Prepare and publish/distribute general information about the BDCP
  - Serve as representative of the BDCP in public meetings
  - Serve as liaison and representative of the BDCP with cities, counties, and other public agencies with jurisdiction in the Delta
- Compliance monitoring and reporting (see section VI)
- Obtaining other regulatory authorizations and permits (see section VI)
- Engaging in public outreach and education (see section VII)
- Protecting and defending against liability
  - Defense against legal challenges to the BDCP and associated state and federal permits
  - Dispute resolution process with Implementation Council
  - Obtain/maintain insurance
  - Engage legal counsel and coordinate defense of BDCP actions
    - Land acquisition and associated liability
    - Contract disputes
    - General in-house legal services

## V. Implementation of the Conservation Strategy

- Acquiring and/or leasing property interests (potentially through a Delta Conservancy)
  - Acquisition of conservation easements and fee title for habitat protection and/or restoration, including
    - ordinary “due diligence” review for real property transactions
    - biological “due diligence” to assess habitat/restoration value
    - obtain appraisals and oversee process
    - negotiate and transact acquisition

- hold title to new lands and easements
  - Leasing lands or facilities for scientific research or monitoring, administrative offices, housing equipment, etc.
- Managing lands (e.g., habitat management, invasive species control, trash removal, security, etc.) (potentially through a Delta Conservancy)
  - Staff or consultants to monitor and maintain habitat
  - Security patrols
  - Liaison with neighbors
  - Species and habitat monitoring
  - Manage public access
  - Provide educational services
  - May include management of agricultural leases on some lands
- Implementing specific conservation measures, including restoration of habitat
  - Oversee, track and monitor overall implementation of conservation measures, including mitigation
  - Implement or contract for implementation of species habitat restoration and other actions
  - Track, monitor and report on implementation of mitigation measures
    - Synthesize mitigation implementation monitoring and reporting from plan participants
- Maintaining lands, facilities, and improvements (e.g., buildings, fences, levees, roads, etc.)
  - Primarily addresses existing facilities on acquired lands
  - Potential development of new facilities for specific BDCP purposes
- Managing BDCP-related SWP/CVP conveyance operations
  - Oversee, track and monitor overall implementation of BDCP measures/standards regarding aquatic habitat and hydrodynamic conditions in Delta necessary for covered species and natural communities
  - Implementation of or assistance with BDCP-related SWP/CVP conveyance operations
- Funding activities of other entities that contribute to the conservation of covered species and the Delta ecosystem
  - Funding of entities conducting habitat and species conservation efforts outside the Delta (e.g., Suisun Marsh, upstream spawning habitat)
  - Funding of entities conducting actions to address stressors on Delta species and ecosystem functions (e.g., toxics, non-native species, hatchery management)
- Implementing adaptive management program
  - Coordinate BDCP related monitoring efforts
  - Support and synthesize new scientific research about the Delta
  - Facilitate and coordinate adaptive management decision-making and implementation responsibilities among plan participants (including implementing routine and non-routine adaptive management actions)
  - Coordinate routine/non-routine decisionmaking
- Implementing monitoring and research program (e.g., effectiveness monitoring)
  - Oversee overall monitoring program (e.g., scope, methodologies, protocols)
  - Coordinate and synthesize monitoring conducted by plan participants
    - Monitoring of habitat and species on land conserved under BDCP
  - Oversee overall research program
    - Coordinate and synthesize research conducted by plan participants or others
    - Coordinate BDCP funding for research by others (if any)
    - May include research grant program (i.e., proposal solicitation and selection process)

## VI. Regulatory Compliance

- Implementing plan compliance monitoring and reporting program (e.g., monitoring results, implementation of conservation measures, etc.)
  - Monitoring of compliance with BDCP requirements (e.g., conservation measures)

- Monitoring of effectiveness of BDCP conservation measures, including mitigation
- Overseeing and managing the BDCP amendment process
- Obtaining regulatory authorizations for plan implementation actions, including authorizations necessary for compliance with:
  - Sections 404 and 401 of the Clean Water Act
  - Section 1600 et seq. of the Fish and Game Code (Streambed Alteration Agreements)
  - National Historic Preservation Act
  - Encroachment permits
    - Central Valley Flood Protection Board
    - Reclamation districts
  - May include additional project-level review under
    - Section 7 of the ESA
    - CEQA
    - NEPA
- Conducting environmental review
  - CEQA
  - NEPA
- Incorporating new parties as beneficiaries of existing or new regulatory authorizations issued based on the BDCP

## VII. Public Outreach

- Outreach and public education program
  - Environmental community
  - Agricultural community
  - Boaters
  - Recreational anglers
  - Local governments
  - Reclamation districts
  - Irrigation districts
  - Public utilities
  - One-on-one outreach to neighboring landowners (i.e., adjacent to conserved lands)
  - Includes, at a minimum
    - Develop and update general informational materials
    - Maintain website
    - Presentations at public meetings
    - Annual public workshops