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Revised  
Administrative Draft

# Acronyms

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BDCP, the Plan	Bay-Delta Conservation Plan
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CFR	Code of Federal Regulations
CVP	Central Valley Project
Delta Conservancy	Sacramento-San Joaquin Delta Conservancy
DFG	California Department of Fish and Game
DWR	California Department of Water Resources
EIR	environmental impact report
EIS	environmental impact statement
EPA	U.S. Environmental Protection Agency
ESA	federal Endangered Species Act
Fish & Game Code	California Fish and Game Code
HCP	habitat conservation plan
IEP	Interagency Ecological Program
NCCP	natural community conservation plan
NCCPA	California Natural Community Conservation Planning Act
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanographic and Atmospheric Administration
Reclamation	Bureau of Reclamation
ROA	restoration opportunity area
SFWCA	State and Federal Water Contractor Agency
State Water Board	State Water Resources Control Board
SWP	State Water Project
USACE	U.S. Army Corps of Engineers
USC	United States Code
USFWS	U.S. Fish and Wildlife Service

# Chapter 7

## Implementation Structure

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*[Note to Reader: This is a revised working draft prepared by the BDCP consultants. This document is currently undergoing review by the Department of Water Resources with input from the Department of Fish and Game, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and U.S. Bureau of Reclamation and does not necessarily reflect the position of the state or federal agencies. All members of the public will have an opportunity to provide comments on the public draft of a revised version of this document during the formal public review and comment period. Responses will be prepared only on comments submitted in the formal public review and comment.]*

This chapter describes the institutional structure and organizational arrangements that will be established to govern and implement the Bay Delta Conservation Plan (BDCP or the Plan), 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, that the entities receiving regulatory authorizations are accountable to those agencies granting the regulatory authorizations, and that the decision-making process regarding the implementation of the Plan is transparent and understandable to the public.

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

The approaches to Plan governance set out in this chapter 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 California Department of Water Resources (DWR), Bureau of Reclamation (Reclamation), and those state and federal water contractors who receive take authorizations for activities covered under the BDCP, will have ultimate responsibility for compliance with the provisions of the BDCP and the associated regulatory authorizations. The implementation of the BDCP, however, will be organized around a newly created BDCP Implementation Office, which will be managed by a Program Manager and governed by the Authorized Entities through the Authorized Entity Group. The U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and California Department of Fish and Game (DFG) (collectively referred to as the state and federal fish and wildlife agencies) will maintain an ongoing role in Plan implementation, including participation in the Permit Oversight Group, to ensure that such implementation proceeds in a manner consistent

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<sup>1</sup> Appendix 7.A, *BDCP Implementing Agreement*, includes additional detail regarding the roles and responsibilities of the Authorized Entities, the Implementation Office, and the state and federal fish and wildlife agencies regarding the implementation of the Plan.

1 with the BDCP and its associated regulatory authorizations. Through the Permit Oversight Group,  
2 the state and federal fish and wildlife agencies will be involved in certain specified implementation  
3 decisions and will lend technical and scientific expertise to the implementation process. The  
4 Authorized Entities will work in a collaborative manner with the fish and wildlife agencies to  
5 implement the BDCP. In addition, a Stakeholder Council will be created and regularly convened to  
6 enable public agencies, nongovernment organizations, interested parties, and the general public to  
7 provide ongoing input into the BDCP implementation process.

8 The Implementation Office will also coordinate with the Delta Stewardship Council, Delta Science  
9 Program, Sacramento-San Joaquin Delta Conservancy (Delta Conservancy), and Delta Protection  
10 Commission to ensure appropriate engagement and collaboration on matters of common interest.  
11 This approach to Plan implementation is expected to ensure the timely, efficient, and proper  
12 implementation of the commitments contained in the BDCP.

## 13 **7.1 Roles and Responsibilities of Entities Involved in** 14 **BDCP Implementation**

15 The parties that will be engaged in the implementation of the BDCP recognize that substantial  
16 coordination and cooperation between the Permit Oversight Group, the Authorized Entity Group,  
17 the Implementation Office, and various stakeholders will be necessary to ensure the overall success  
18 of the Plan. As such, these parties will, on an ongoing basis, collaborate on various elements of Plan  
19 implementation. The Program Manager, through the Implementation Office and under the direction  
20 of the Authorized Entity Group, will manage the implementation of the BDCP and ensure that such  
21 implementation proceeds in compliance with the Plan, the Implementing Agreement, and the  
22 associated regulatory authorizations. With respect to those state or federal agency functions not  
23 subject to assignment or delegation, DWR and Reclamation will each name a designated official to  
24 approve and assist in the execution of those functions, in coordination with the Implementation  
25 Office.<sup>2</sup> Various other parties, including the state and federal fish and wildlife agencies, other public  
26 agencies, nongovernment organizations, interested parties, and the public will be integral to the  
27 process of shaping decisions and effectuating actions set out in the BDCP. This section describes the  
28 roles and responsibilities of these parties in the implementation process.

### 29 **7.1.1 Program Manager**

30 The Program Manager will manage, coordinate, oversee, and report on all aspects of Plan  
31 implementation, subject to the oversight of the Authorized Entity Group and the limitations set out  
32 in this chapter related to the development, operation, and maintenance of the State Water Project  
33 (SWP) and the Central Valley Project (CVP) facilities and the administration of the Adaptive  
34 Management and Monitoring Program. The Program Manager will report to the Authorized Entity  
35 Group, and act in accordance with the group's direction.

36 The Program Manager, with the assistance of the Implementation Office staff, will ensure that the  
37 BDCP is properly implemented throughout the duration of the Plan. Among other things, the

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<sup>2</sup> The designated state and federal officials will be charged with the responsibility for approving and executing, in coordination with the Implementation Office, those departmental functions that may not be delegated or assigned to other parties.

1 Program Manager will manage and/or monitor the implementation of implementation actions  
2 associated with the protection and restoration of habitat; reduction of ecological stressors;  
3 management of conserved habitat; and operation of the water projects, including the development  
4 of infrastructure. The Program Manager will also oversee the preparation of annual and 5-year work  
5 plans, budgets, and reports; and will implement the public outreach program. As set forth in this  
6 chapter, the Program Manager will engage the Authorized Entity Group, the Permit Oversight Group,  
7 the Stakeholder Council, and other interested groups and entities in matters related to Plan  
8 implementation.

### 9 **7.1.1.1 Program Manager: Selection and Designation of Staff**

10 The Authorized Entity Group will select the Program Manager. Prior to making its selection, the  
11 Authorized Entity Group will take the following actions.

- 12 • Solicit qualified candidates for the Program Manager position.
- 13 • Consult with the Permit Oversight Group regarding the selection process and the qualifications  
14 of the candidates, and invite the Permit Oversight Group to participate in the interview process.
- 15 • Confer with the Stakeholder Council regarding the selection process.

16 The Program Manager will have the following minimum qualifications.

- 17 • At least 10 years of experience in the field of natural resources management.
- 18 • Experience with complex natural resources issues, including water resources issues.
- 19 • Experience with state and federal regulatory processes that affect water and other natural  
20 resources that fall within the scope of the BDCP.
- 21 • Experience with multi-stakeholder processes.
- 22 • Experience with the administration or management of large-scale programs or projects,  
23 including experience with budget management.
- 24 • Excellent communication skills.

25 The Program Manager may be retained under the Intergovernmental Personnel Act (5 United States  
26 Code [USC] 3371–3375), through personal services contracts, or other appropriate mechanisms.

27 The specific roles and responsibilities of the Program Manager are described in further detail  
28 throughout this chapter.

### 29 **7.1.1.2 Science Manager: Selection and Function**

30 A position will be established within the Implementation Office for a Science Manager. The Science  
31 Manager will be responsible for handling technical and scientific matters on behalf of the Program  
32 Manager and will focus on ensuring that decisions related to Plan implementation are guided by the  
33 best available scientific information.

34 The Program Manager will select the Science Manager. Prior to making this selection, the Program  
35 Manager will consult with the Authorized Entity Group and the Permit Oversight Group regarding  
36 the selection process and the qualifications of the candidates, and invite the Authorized Entity Group  
37 and Permit Oversight Group to participate in the interview process. The Program Manager will also  
38 confer with the Stakeholder Council on the selection process.

1 The Science Manager will have the following minimum qualifications.

- 2 • Educational and professional background in relevant scientific disciplines.
- 3 • At least 10 years of experience in the management of large programs.
- 4 • Substantial experience and involvement in the management of large-scale research or
- 5 monitoring programs.
- 6 • Familiarity with water management and ecological issues related to the Delta.
- 7 • Excellent communication skills.

8 The Science Manager will report to the Program Manager and will, among other things, assume the

9 following responsibilities.

- 10 • Serve as Chair of the Adaptive Management Team and assist the team in the development and
- 11 administration of the Adaptive Management and Monitoring Program, in coordination with the
- 12 Interagency Ecological Program (IEP) and other science programs.
- 13 • Serve as a member of the IEP Coordinators.
- 14 • Engage in regular communication and coordination with the Delta Science Program and the
- 15 Independent Science Board, in a manner consistent with California Water Code Section 85820,
- 16 as well as with other outside scientists and, as directed by the Adaptive Management Team,
- 17 coordinate or contract with the Independent Science Board, the Delta Science Program, or other
- 18 scientists to obtain input and review, to support the Adaptive Management and Monitoring
- 19 Program.
- 20 • Support the Program Manager in the preparation of plans, reports and other technical
- 21 documents.
- 22 • Assist in building sufficient scientific capacity and resources within the Implementation Office
- 23 and the IEP to advance the goals and objectives of the BDCP.
- 24 • Assist the Adaptive Management Team in synthesizing and presenting the results of studies and
- 25 research, compiling the findings of monitoring efforts, and summarizing the current scientific
- 26 knowledge on relevant Delta resources to the Program Manager, the Authorized Entity Group,
- 27 Permit Oversight Group, Stakeholder Council, and others.

28 Matters relating to the conduct of scientific reviews and the solicitation of independent scientific

29 advice to assist in the implementation of the BDCP, including independent science review of

30 adaptive management decisions affecting water operations, will be managed by the Adaptive

31 Management Team, in a manner that ensures their independence and scientific integrity. The

32 Science Manager, as chair of the Adaptive Management Team, will coordinate such efforts with the

33 Delta Science Program, the IEP, the Authorized Entity Group, and the Permit Oversight Group.

### 34 **7.1.1.3 Implementation Office: Function, Establishment, and**

### 35 **Organization**

36 The Program Manager will establish, organize, and direct the Implementation Office. To ensure that

37 the commitments reflected in the BDCP are carried out in a timely and efficient manner, the

38 Program Manager, through the Implementation Office, will institute processes and procedures to

39 adequately address planning, budgeting, sequencing, and scheduling needs related to Plan

40 implementation. Under the direction of the Program Manager, the Implementation Office will

1 function with a significant level of independence. However, the Program Manager and the  
2 Implementation Office staff will work closely with the Authorized Entity Group on a range of  
3 matters, particularly with respect to actions that affect water operations, and will be responsive to  
4 the Authorized Entity Group, regardless of the entity through which the Program Manager and the  
5 Implementation Office staff have established employment relationships. In addition, for those  
6 activities involving functions that, under state and federal law, cannot be delegated (e.g., water  
7 operations, water contracting, procurement, expenditures of state and federal funds), the Program  
8 Manager will coordinate with the appropriate designated state or federal official to ensure that the  
9 necessary function is carried out. The Program Manager will also, to the extent appropriate, solicit  
10 input from the Stakeholder Council on a range of implementation matters.

11 Specifically, under the direction of the Program Manager, the Implementation Office will assume  
12 responsibility for the implementation of the following broad range of actions.

- 13 • Oversight and coordination of administration of program funding and resources.
- 14 • Preparation of annual budgets and work plans.
- 15 • Establishment of procedures and approaches to implement plan actions.
- 16 • Oversight of and/or engagement in the implementation of conservation measures.
- 17 • Technical and logistical support to the Adaptive Management Team with respect to the  
18 administration of the Adaptive Management and Monitoring Program,
- 19 • Coordination with Delta-wide governance entities, including the Delta Stewardship Council, the  
20 Delta Science Program, the Delta Protection Commission, and the Delta Conservancy.
- 21 • Implementation of public outreach programs.
- 22 • Fulfillment of compliance monitoring and reporting requirements, including the preparation of  
23 annual reports.

24 The Implementation Office will not be responsible for the construction or operation of SWP and/or  
25 CVP facilities; instead, it will monitor water operations to assemble the information necessary to  
26 evaluate and report on compliance with the provisions of the Plan, the Implementing Agreement,  
27 and the associated regulatory authorizations, as described in Chapter 6, *Plan Implementation*,  
28 Section 6.3, *Planning, Compliance and Progress Reporting*. The BDCP sets out the parameters within  
29 which DWR and Reclamation will conduct SWP and CVP operations and infrastructure development.  
30 DWR and Reclamation may choose to operate the SWP and CVP and develop new project  
31 infrastructure using their current organizational capacity or by contract with other entities.

32 The Program Manager will fulfill the staffing needs of the Implementation Office by drawing from  
33 existing personnel at DWR, Reclamation, State and Federal Water Contract Agency (SFWCA), and  
34 from other sources, including from sources outside of agencies, if appropriate and if such personnel  
35 possess the expertise and experience necessary to carry out the tasks associated with BDCP  
36 implementation. The specific staffing needs of the Implementation Office will be determined by the  
37 Program Manager, with input from the Authorized Entity Group and the Permit Oversight Group.  
38 Staff assigned to the Implementation Office will act under the direction of the Program Manager. The  
39 engagement of personnel from DWR, Reclamation, and other entities, however, will not affect or  
40 modify the existing authorities of federal, state, and local agencies or nongovernmental  
41 organizations that pertain to personnel matters. Personnel may be retained under the  
42 Intergovernmental Personnel Act (5 USC 3371–3375); through personal services contracts, or other



1 appropriate mechanisms. The Authorized Entities and the fish and wildlife agencies will each  
2 designate a lead representative from their respective agencies to serve as liaisons to the  
3 Implementation Office.

4 The Program Manager will budget for, oversee, and coordinate management of the funds and other  
5 resources needed to carry out the Program Manager's responsibilities for Plan implementation. The  
6 Program Manager will seek to ensure that the funding commitments set out in the BDCP and its  
7 Implementing Agreement are being met. Consistent with its respective funding commitments, each  
8 of the signatories to the Implementing Agreement will dedicate, hold, and release funds and  
9 resources necessary for Plan implementation; will not commingle these funds with other funds or  
10 resources of the agency; and will be responsible for all appropriated funds and other funds  
11 entrusted to it. Each of these signatories will retain final authority over the expenditure of funds it is  
12 required to dedicate for BDCP implementation.

13 The Implementation Office may enlist other entities to carry out on its behalf actions associated with  
14 the BDCP, including implementation of the conservation measures (Section 7.1.8, *Supporting*  
15 *Entities*). Notwithstanding the assignment of such responsibilities, the Implementation Office will be  
16 responsible for ensuring that the work is carried out and completed in a manner that complies with  
17 the provisions of the BDCP and its associated regulatory authorizations. As part of that  
18 responsibility, the Implementation Office will oversee and coordinate the management of contracts  
19 with these other entities, in conjunction with the designated state and federal officials as applicable,  
20 and monitor and verify the sufficiency of the work.

#### 21 **7.1.1.4 Assignment of Responsibilities**

22 The Authorized Entity Group will assign the Program Manager certain responsibilities concerning  
23 the implementation of the BDCP. The Authorized Entity Group will provide the Program Manager  
24 with sufficient capacity and capability to execute these responsibilities and effectively implement  
25 the BDCP and will explicitly define the scope of responsibilities assigned to the Program Manager.

#### 26 **7.1.1.5 No Delegation of Authority**

27 The assignment of responsibility to the Program Manager and the Implementation Office will not  
28 alter or modify existing authorities, mandates, and obligations of the Authorized Entities or any  
29 other participating state and federal agency participating in Plan implementation. No general  
30 delegation of authority by the Authorized Entities to the Implementation Office, including the  
31 Program Manager or to any employee assigned to the Implementation Office will occur, although  
32 specific delegation may occur in the event that it is considered by the delegating Authorized Entity  
33 to be beneficial to the efficient operation of the Implementation Office. Any such delegation will be  
34 conferred, in writing, by the delegating Authorized Entity to the Program Manager, and will be  
35 reviewed by that agency from time to time. No unauthorized delegation of state or federal authority  
36 to the Program Manager or the Implementation Office will occur.

### 37 **7.1.2 Entities to Receive Regulatory Authorizations**

38 The BDCP provides the basis for the issuance of regulatory authorizations, under the federal  
39 Endangered Species Act (ESA) and the California Natural Community Conservation Planning Act  
40 (NCCPA), for the take of certain fish and wildlife species that result from the implementation of  
41 covered activities and associated federal actions (Chapter 4, *Covered Activities and Associated*

1 *Federal Actions*). Take authorizations will be sought by federal and nonfederal entities under the  
2 following authorities.

- 3 • Nonfederal entities will seek regulatory coverage pursuant to ESA Section 10(a)(1)(B) and  
4 NCCPA Section 2835.
- 5 • Federal agencies will seek regulatory coverage under ESA Section 7(a)(2) for federally listed  
6 species.

7 DWR, Reclamation, and those state and federal water contractors that receive take authorizations  
8 for activities covered under the BDCP are referred to collectively as the Authorized Entities.

9 The Authorized Entities will have responsibility for compliance with the provisions of the BDCP and  
10 regulatory authorizations, regardless of whether another entity is assigned the responsibility for  
11 carrying out a required action. Consistent with their roles and responsibilities under the Plan, the  
12 Authorized Entities and the Program Manager may enter into agreements individually, amongst  
13 themselves, or with other entities, for the purpose of facilitating the implementation of the BDCP by  
14 the Implementation Office. Such agreements will not affect or diminish an Authorized Entity's  
15 established authority or control over a covered activity, such as the operation of the SWP and CVP,  
16 or any other plan action, as provided by law or pursuant to the BDCP and its Implementing  
17 Agreement.

18 Certain other entities may also obtain take authorizations under the Plan for covered activities other  
19 than water operations associated with the SWP or the CVP, as specified in Chapter 4, *Covered*  
20 *Activities and Associated Federal Actions*. Such other entities will be known as Other Authorized  
21 Entities.

### 22 **7.1.2.1 Authorized Entities**

23 The entities identified in this section are anticipated to be Authorized Entities for the purpose of the  
24 BDCP and its associated regulatory authorizations. The activities that will be covered under the  
25 regulatory authorizations issued to the Authorized Entities are identified and described in  
26 Chapter 4, *Covered Activities and Associated Federal Actions*. These activities will be covered under  
27 take authorizations issued to the Authorized Entities pursuant to ESA Section 10(a)(1)(B) and  
28 Section 2835 of the California Fish and Game Code (Fish & Game Code). Activities that are addressed  
29 by the BDCP and carried out by Reclamation are referred to in Chapter 4 as Associated Federal  
30 Actions. Those actions are subject to the consultation requirements of ESA Section 7. Reclamation  
31 will seek take authorizations under ESA Section 7 for those actions, as well as actions outside the  
32 scope of the BDCP related to the coordinated operations of the SWP and CVP.

#### 33 **7.1.2.1.1 California Department of Water Resources**

34 The State of California owns, and DWR manages and operates, the existing SWP Delta facilities,  
35 including the Clifton Court Forebay and the Banks Pumping Plant. Pursuant to the BDCP, DWR seeks  
36 state and federal regulatory authorizations to continue to operate such facilities. The State of  
37 California, through DWR, will construct, own, and operate any new diversion and conveyance  
38 facilities described in this plan.

### 1        **7.1.2.1.2        Bureau of Reclamation**

2        The United States owns, and Reclamation operates, the existing CVP Delta facilities, including the  
3        Jones Pumping Plant and the Delta Cross Channel. For Delta operations, the BDCP will provide the  
4        basis for the ESA Section 7 consultation on the coordinated long-term operation of the CVP.  
5        Reclamation will likely enter into an agreement with DWR to wheel CVP water through a new  
6        conveyance facility. Reclamation will not be an applicant for coverage under Section 10 of the ESA.  
7        Reclamation's expenditures in furtherance of the Plan will conform to the requirements of federal  
8        law.

### 9        **7.1.2.1.3        SWP and CVP Contractors**

10       The SWP and CVP water contractors receive water under contract from the projects. They will  
11       participate in various aspects of the implementation of the BDCP, including the implementation of  
12       certain conservation measures. Pursuant to the BDCP, the SWP and CVP contractors will seek  
13       permits under Section 10(a)(1)(B) of the ESA and Section 2835 under the NCCPA for covered  
14       activities, as set out in Chapter 4, *Covered Activities and Associated Federal Actions*. The water  
15       contractors are expected, on an individual basis or through SFWCA, to be Authorized Entities under  
16       the Plan. However, the decision whether to grant permits under Section 10 of the ESA resides with  
17       USFWS and NMFS and, under NCCPA, with DFG. The status of the water contractors as Authorized  
18       Entities will not provide them with any new authority over water project operations decisions or  
19       result in the delegation of authority from any state or federal agency. The water contractors may  
20       choose to carry out their responsibilities under the BDCP through SFWCA or other appropriate  
21       entities.

### 22       **7.1.2.2       Other Authorized Entities**

23       The BDCP covers certain diversions of water not associated with the SWP or the CVP. These  
24       activities are described in Chapter 4, *Covered Activities and Associated Federal Actions*. Take of  
25       covered species associated with these activities will be authorized through the state and federal take  
26       permits issued to DWR under the BDCP. The entities or individuals that receive such regulatory  
27       coverage will be considered Other Authorized Entities. However, these Other Authorized Entities  
28       will not be members of the Authorized Entity Group nor will they have a specific role in the  
29       governance of the BDCP, other than as potential members of the Stakeholder Council.

### 30       **7.1.3       Authorized Entity Group**

31       The Authorized Entity Group will be established to provide program oversight and general guidance  
32       to the Program Manager regarding the implementation of the Plan. The Authorized Entity Group will  
33       consist of the Director of DWR, the Regional Director for Reclamation, and a representative of the  
34       participating state contractors and a representative of the participating federal contractors, if they  
35       are issued permits pursuant to the Plan. The Authorized Entity Group will be responsible for  
36       ensuring that the management and implementation of the BDCP are carried out consistent with its  
37       provisions, the Implementing Agreement, and the associated regulatory authorizations.

### 38       **7.1.3.1       Function**

39       The Authorized Entity Group will provide oversight and direction to the Program Manager on  
40       matters concerning the implementation of the BDCP, provide input and guidance on general policy

1 and program-related matters, monitor and assess the effectiveness of the Implementation Office in  
2 implementing the Plan, and foster and maintain collaborative and constructive relationships with  
3 the State and federal fish and wildlife agencies, other public agencies, stakeholders and other  
4 interested parties, and local government throughout the implementation of the BDCP.

5 The Authorized Entity Group will also engage in more specific matters, such as consideration of  
6 proposed adaptive management actions and review and approval of an Annual Work Plan and  
7 Budget and the Annual Delta Water Operations Plan. The group's review of the work plan and  
8 budget will focus primarily on the programmatic aspects of Plan implementation. The Authorized  
9 Entity Group will seek the advice and input, and in certain instances review and concurrence, from  
10 the Permit Oversight Group and as appropriate, the Stakeholder Council, with respect to these  
11 matters. The Program Manager will make the day-to-day decisions necessary to carry out the  
12 Annual Work Plan and to otherwise properly implement the BDCP.

13 The Program Manager will organize, convene, and provide support to the Authorized Entity Group  
14 and its proceedings,<sup>3</sup> including its meetings with the Permit Oversight Group. The Program Manager  
15 will further ensure that the Authorized Entity Group receives and reviews all proposed work plans,  
16 reports, budgets, and other relevant information generated by the Implementation Office, the state  
17 and federal fish and wildlife agencies, the Adaptive Management Team, and other sources. The  
18 Program Manager will further ensure that the Authorized Entity Group has sufficient opportunity to  
19 provide input regarding these documents.

20 The participation of the Authorized Entities on the Authorized Entity Group will not trigger or  
21 otherwise cause a delegation of authority or responsibility for any of the implementation actions  
22 described in the BDCP from one Authorized Entity to another or to the Implementation Office.  
23 Rather, the specific roles and level of involvement in implementation actions are defined either by  
24 existing statutory and regulatory mandates or by provisions set out in this Plan and its associated  
25 Implementing Agreement. For many of the implementation actions and commitments, a specific  
26 Authorized Entity will have the sole responsibility for implementation; for other actions and  
27 commitments established by the Plan, the Authorized Entities may be jointly and severally  
28 responsible for their implementation. For instance, the operation of the SWP will remain under the  
29 control and responsibility solely of DWR; likewise, the operation of the CVP will continue to be  
30 under the control and responsibility of Reclamation. As such, while it is expected that the Authorized  
31 Entity Group will express a single position of the group regarding a matter under its consideration,  
32 the entity(ies) with statutory or regulatory authority over the matter will make the final  
33 determination.

34 The Program Manager will solicit input on the draft Annual Work Plan and Budget from the Permit  
35 Oversight Group, the Adaptive Management Team, and the Stakeholder Council, and submit the plan  
36 and budget to the Authorized Entity Group for review and approval. As part of this process, the  
37 Permit Oversight Group will review the draft plan and provide written concurrence prior to the  
38 Authorized Entity Group's approval that the draft accurately sets forth and makes adequate  
39 provision for the implementation of the applicable joint decisions of the Authorized Entity Group  
40 and the Permit Oversight Group or decisions of an agency within the Permit Oversight Group with  
41 authority over the matter (or associated decisions that are rendered through the elevation process).  
42 The content of the Annual Work Plan and Budget and the timing of preparation and submission of

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<sup>3</sup> In the event that the Program Manager position is vacant, then DWR and Reclamation will designate agency staff to serve this role until such time as the position has been filled.

1 the document to the Authorized Entity Group are described in Chapter 6, *Plan Implementation*,  
2 Section 6.3, *Planning, Compliance, and Progress Reporting*.

3 The Authorized Entity Group will meet on a schedule of its own choosing, but at a minimum, on a  
4 quarterly basis. The Authorized Entity Group may also be convened by the Program Manager, as  
5 needed, to review issues that arise during the implementation of the Annual Work Plan and Budget.  
6 The Program Manager may further request that the group reconvene to consider proposed  
7 amendments to the Annual Work Plan and Budget. The Authorized Entity Group will also meet with  
8 the Permit Oversight Group (Section 7.1.5, *Permit Oversight Group*), at least on a quarterly basis to  
9 review Plan implementation issues, including those related to the adaptive management and  
10 monitoring program and the restoration and preservation of habitat.

11 The Authorized Entity Group will institute procedures with respect to public notice of and access to  
12 its meetings and its meetings with the Permit Oversight Group. The date, time, and location of the  
13 meetings will be posted on the BDCP website at least 10 days prior to such meetings. The meetings  
14 will be held at locations within the City of Sacramento or the legal Delta. All meetings will be open to  
15 the public.

#### 16 **7.1.4 DWR and Reclamation: Operation of the SWP and CVP** 17 **and Preparation of the Annual Delta Water Operations** 18 **Plan**

19 Implementation of the conservation measures related to water facilities and water operations, as  
20 described in *CM1 Water Facilities and Operation* and *CM2 Yolo Bypass Fisheries Enhancement of*  
21 Chapter 3, *Conservation Strategy*, will be the responsibility of DWR and Reclamation or entities with  
22 whom they may contract. DWR and Reclamation will retain their authority to operate the SWP and  
23 the CVP within the parameters of the BDCP and other applicable laws and regulations.

24 The federal and state operators of the SWP and the CVP will prepare coordinated operation plans for  
25 the federal and state projects, including the Annual Delta Water Operations Plan as described in  
26 Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and Progress Reporting*. DWR and  
27 Reclamation will seek input from the Implementation Office, Permit Oversight Group, Adaptive  
28 Management Team, and the Stakeholder Council regarding the draft Annual Delta Water Operations  
29 Plan. DWR and Reclamation will retain final approval authority over the plan; however, the Permit  
30 Oversight Group will, within 30 days of receipt of the draft plan, or as soon as practicable thereafter,  
31 review the draft plan and provide written concurrence that the plan is consistent with the  
32 provisions of the BDCP, the Implementing Agreement, and the associated regulatory authorizations.  
33 If the Permit Oversight Group concludes that the plan is not consistent, it will notify DWR and  
34 Reclamation in writing, within the 30-day timeframe, of the specific reasons for its conclusion. In  
35 such event, DWR and Reclamation may modify the plan to the satisfaction of the Permit Oversight  
36 Group. If they do not, DWR, Reclamation and the Permit Oversight Group will, in a timely manner,  
37 meet and confer in an effort to resolve the matter in dispute. If these parties are unable to reach  
38 resolution, the elevation process (Section 7.1.7, *Elevation and Review of Implementation Decisions*)  
39 may be invoked by any of these parties. The Implementation Office will incorporate, for  
40 informational purposes, the final Annual Delta Water Operations Plan into the BDCP Annual Work  
41 Plan and Budget (Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and Progress*  
42 *Reporting*).

1 Decisions related to real-time water operations will be the responsibility of the Real Time Response  
2 Team, as described in Chapter 3, *Conservation Strategy*.

### 3 **7.1.5 Permit Oversight Group**

4 The Permit Oversight Group will be composed of the state and federal fish and wildlife agencies,  
5 specifically, the Regional Director of USFWS, the Regional Administrator of NMFS, and the Director  
6 of DFG or their designees. On the basis of the BDCP, USFWS, NMFS, and DFG are expected to issue  
7 regulatory authorizations to the Authorized Entities and Other Authorized Entities pursuant to the  
8 federal ESA and the NCCPA, as applicable. Consistent with their authorities under these laws, the  
9 fish and wildlife agencies will retain responsibility for monitoring compliance with the BDCP,  
10 approving certain implementation actions, and enforcing the provisions of their respective  
11 regulatory authorizations. In addition to fulfilling those regulatory responsibilities, the state and  
12 federal fish and wildlife agencies will also provide technical input on a range of implementation  
13 actions that will be carried out by the Implementation Office. The Permit Oversight Group will not be  
14 a separate legal entity nor will it be delegated any authority by the member agencies.

#### 15 **7.1.5.1 Function**

16 To ensure that the BDCP is being properly implemented, the Permit Oversight Group will coordinate  
17 agency review of the actions being implemented under the Plan and assessments of compliance with  
18 the provisions of the Plan, its Implementing Agreement, and associated regulatory authorizations.  
19 The Permit Oversight Group will be involved in certain decisions relating to the implementation of  
20 water operations and other conservation measures, actions proposed through the adaptive  
21 management program or in response to changed circumstances, approaches to monitoring and  
22 scientific research. The Implementation Office will work with the Permit Oversight Group and the  
23 Authorized Entity Group to institute mutually agreeable processes to enhance opportunities for such  
24 collaboration and engagement.

25 The Permit Oversight Group will have the following roles, among others, in implementation matters:

- 26 ● Approve, jointly with the Authorized Entity Group, changes to conservation measures or  
27 biological objectives proposed by the Adaptive Management Team (Section 7.1.5, *Permit*  
28 *Oversight Group*).
- 29 ● Decide, jointly with the Authorized Entity Group, all other adaptive management matters for  
30 which concurrence has not been reached by the Adaptive Management Team (Section 7.1.5,  
31 *Permit Oversight Group*).
- 32 ● Role in decision-making regarding real-time operations, consistent with the criteria of *CM1*  
33 *Water Facilities and Operation* and other limitations set out in the BDCP and annual Delta water  
34 operations plans. (The roles of the parties in decision-making regarding real-time operations are  
35 still under consideration and will be addressed in Chapter 3, *Conservation Strategy*.)
- 36 ● Provide input into the selection of the Program Manager and the Science Manager.
- 37 ● Provide input and concur with the consistency of specified sections of the Annual Work Plan and  
38 Budget with the BDCP and with certain agency decisions.
- 39 ● Provide input and concur with the consistency of the Annual Delta Water Operations Plan with  
40 the BDCP.

- 1 • Provide input and accept Annual Reports.
- 2 • Provide input and approve plan amendments.

3 The participation of the state and federal fish and wildlife agencies on the Permit Oversight Group  
4 will not trigger or otherwise cause a delegation of authority or responsibility for any of their  
5 regulatory actions described in the BDCP from one such agency to the Permit Oversight Group or to  
6 another Permit Oversight Group agency. Rather, the specific roles and level of involvement in  
7 implementation actions are defined by existing statutory and regulatory mandates and by  
8 provisions set out in this Plan and its associated Implementing Agreement.

9 For those actions that are regulatory in nature or require the concurrence and/or approval of the  
10 Permit Oversight Group, there will be one written communication, to the maximum extent  
11 practicable, relaying the position of the Permit Oversight Group on the issue in question. In  
12 developing this communication, the three member agencies will coordinate with each other to  
13 evaluate interspecies conflicts and determine actions that meet the needs of all covered species, and  
14 they will ensure consistency among the federal agencies and, to the extent possible, among all three  
15 agencies in the application of their respective regulatory authority. Subject to the requirements for  
16 consistency above, nothing in this section will limit the ability of any Permit Oversight Group agency  
17 to exercise its discretion through individual correspondence in circumstances where project  
18 operating agency action is imminent and there is not sufficient time to coordinate correspondence.  
19 Nothing in the this section will limit application of authorities with respect to necessary Section 7  
20 correspondence related to annual or seasonal operations of the CVP.

## 21 **7.1.5.2 Participants**

### 22 **7.1.5.2.1 California Department of Fish and Game**

23 DFG is the agency of the State of California authorized to act as trustee for the state's wildlife. DFG  
24 administers and enforces the California Endangered Species Act (CESA), the NCCPA, and other  
25 provisions of the Fish & Game Code. DFG is authorized to enter into agreements with federal and  
26 local governments and other entities for the conservation of species and habitats, to authorize take  
27 under CESA and the NCCPA, and to provide regulatory assurances under the NCCPA. As a member of  
28 the Permit Oversight Group, DFG will confer, on an ongoing basis, with the Implementation Office  
29 and the Authorized Entity Group on various aspects of Plan implementation, including participation  
30 in operations decisions, the adaptive management process, and the monitoring and science  
31 programs. DFG will also maintain responsibility for plan enforcement, consistent with the NCCPA  
32 and other authorities. DFG owns and manages land in the Plan Area, and may, at the request of the  
33 Implementation Office, enter into agreements whereby it operates and maintains certain habitat  
34 areas that are developed through BDCP habitat preservation and restoration actions. DFG is jointly  
35 responsible for implementation of the Ecosystem Restoration Program, which was established to  
36 advance ecosystem restoration projects in the San Francisco Bay Delta and its tributaries.

### 37 **7.1.5.2.2 National Marine Fisheries Service**

38 NMFS is an agency of the U.S. Department of Commerce authorized by Congress to administer and  
39 enforce the ESA with respect to marine mammals and certain fish species (including anadromous  
40 fish); to enter into agreements with states, local governments, and other entities to conserve  
41 federally threatened, endangered, and other species of concern; to authorize incidental take under  
42 ESA; and to provide regulatory assurances in accordance with 50 Code of Federal Regulations (CFR)

1 Section 222.307(g). As a member of the Permit Oversight Group, NMFS will confer, on an ongoing  
2 basis, with the Implementation Office and the Authorized Entity Group on BDCP implementation,  
3 including participation in the operations decisions and adaptive management processes and the  
4 monitoring and science programs. NMFS will also maintain responsibility, jointly with USFWS, for  
5 Plan enforcement consistent with the ESA and other authorities. NMFS is jointly responsible for  
6 implementation of the Ecosystem Restoration Program, which was established to advance  
7 ecosystem restoration projects in the San Francisco Bay Delta and its tributaries.

### 8 **7.1.5.2.3 U.S. Fish and Wildlife Service**

9 USFWS is an agency of the U.S. Department of the Interior authorized by Congress to administer and  
10 enforce the ESA with respect to terrestrial wildlife, certain fish species, insects and plants, to enter  
11 into agreements with states, local governments, and other entities to conserve threatened,  
12 endangered, and other species of concern, to authorize incidental take under ESA, and to provide  
13 regulatory assurances in accordance with 50 CFR Section 17.22(b)(5) and Section 17.32(b)(5). As a  
14 member of the Permit Oversight Group, USFWS will confer, on an ongoing basis, with the  
15 Implementation Office and the Authorized Entity Group on various aspects of Plan implementation,  
16 including participation in operations decisions, the adaptive management process, and the  
17 monitoring and science programs. USFWS will also maintain responsibility, jointly with NMFS, for  
18 plan enforcement consistent with the ESA and other authorities. USFWS may also, at the request of  
19 the Implementation Office, enter into agreements whereby it operates and maintains certain habitat  
20 areas that are developed through BDCP habitat preservation and restoration actions. USFWS is  
21 jointly responsible for implementation of the Ecosystem Restoration Program, which was  
22 established to advance ecosystem restoration projects in the San Francisco Bay Delta and its  
23 tributaries.

## 24 **7.1.6 Adaptive Management Team**

25 The Adaptive Management Team will have primary responsibility for administration of the adaptive  
26 management and monitoring program described in Chapter 3, *Conservation Strategy*, Section 3.6,  
27 *Adaptive Management and Monitoring Program*, and will decide when and on what terms to seek  
28 independent science review to evaluate technical issues for the purpose of supporting adaptive  
29 management decision making. The Adaptive Management Team will have primary responsibility for  
30 the development of performance measures, proposed changes to conservation measures, and  
31 proposed modifications to the biological objectives.

32 The Adaptive Management Team will be responsible for integrating adaptive management and  
33 monitoring activities into one cohesive program. Information obtained from monitoring and  
34 research activities will be used by the Adaptive Management Team to develop proposed changes to  
35 conservation measures or biological objectives to improve, on an ongoing basis, the outcomes  
36 associated with water resource management and ecological restoration commitments reflected in  
37 this plan.

38 The Adaptive Management Team will be chaired by the Science Manager, and will consist of  
39 representatives of DWR, Reclamation, DFG, USFWS, and NMFS; the IEP Lead Scientist; a Delta  
40 Science Program representative; the SFWCA Science Manager; and the Director of the NOAA  
41 Southwest Fisheries Science Center. The directors of DWR and DFG and the regional directors of  
42 Reclamation, USFWS, and NMFS will each designate a management-level representative to the  
43 Adaptive Management Team who can represent both policy and scientific perspectives on behalf of



1 their agency, including on matters related to adaptive management proposals and research  
2 priorities.

3 The Adaptive Management Team will operate by consensus.<sup>4</sup> In the event that consensus is not  
4 achieved, the matter will be elevated to the Authorized Entity Group and the Permit Oversight Group  
5 for resolution. Any proposed changes to conservation measures or biological objectives will be  
6 elevated to the Authorized Entity Group and the Permit Oversight Group for their concurrence or for  
7 their own determination regarding the matter. If concurrence is not achieved, the entity or entities  
8 with decision-making authority will make a decision, subject to the elevation and review process set  
9 forth Section 7.1.7, *Elevation and Review of Implementation Decisions* (and Chapter 3, *Conservation*  
10 *Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*). The Adaptive Management  
11 Team may invite individuals or convene subteams consisting of individuals who are not members of  
12 the team to provide input into specific issues under consideration. These individuals or groups of  
13 individuals may be from the technical staffs of the entities represented on the Adaptive Management  
14 Team, the Technical Facilitation Subgroup of the Stakeholder Council, or other entities or  
15 institutions, as deemed appropriate by the team. The Adaptive Management Team will also ensure  
16 that the Technical Facilitation Subgroup of the Stakeholder Council is afforded sufficient opportunity  
17 to provide input into matters under consideration by the Adaptive Management Team.

18 The Program Manager may request that the Adaptive Management Team provide internal scientific  
19 review (internal to the Implementation Office) on specific technical issues of importance to the  
20 success of the adaptive management program and the conservation strategy implementation. The  
21 Adaptive Management Team will also assess on a regular basis the overall efficacy of the adaptive  
22 management program, including the results of effectiveness monitoring, selection of research and  
23 adaptive management experiments, and relevance of new scientific information developed by others  
24 (e.g., universities, Delta Science Program) to determine whether changes in the implementation of  
25 the conservation measures and the monitoring program would improve the effectiveness of the  
26 BDCP in achieving its biological goals and objectives.

27 The Adaptive Management Team will hold public meetings at least quarterly. The Program Manager  
28 will institute procedures with respect to public notice of, and access to, these meetings. Other  
29 meetings in which changes to biological objectives or conservation measures are being proposed  
30 will also be noticed and open to the public. Information considered in developing any proposed  
31 actions will be presented in those public meetings.

## 32 **7.1.7 Elevation and Review of Implementation Decisions**

33 Various entities (e.g., the Authorized Entity Group, Permit Oversight Group, and their member  
34 agencies) will be responsible for making decisions to implement the BDCP. With respect to those  
35 proposed implementation decisions for which the Authorized Entity Group and the Permit  
36 Oversight Group are unable to reach agreement on a matter in which they have joint decision-  
37 making authority, or in which a member(s) of the Authorized Entity Group and/or Permit Oversight  
38 Group does not agree with the resolution of the matter by the entity with authority over the matter  
39 (Section 7.1, the dispute will be resolved pursuant to the following process.

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<sup>4</sup> For the purpose of this section, *consensus* will be considered to be reached if either all members of the Adaptive Management Team agree to the proposal at hand or no member of the team dissents from the proposal.

1 The Authorized Entity Group and/or the Permit Oversight Group, who may jointly agree to enlist the  
2 assistance of the Program Manager and the Science Manager or others as appropriate, will describe  
3 the basis for the dispute and options that may be available to assist the parties in seeking resolution.  
4 If the matter remains unresolved, the entity with decision-making authority will make a decision.  
5 Any member entity of the Authorized Entity Group or the Permit Oversight Group may request  
6 review and resolution of the decision at the highest level of the relevant federal department or of the  
7 state, up to and including the appropriate department secretary or the Governor of California. Action  
8 on any such request will be taken in a manner consistent with standard departmental or state  
9 delegation or designation procedures.

10 *[Note to readers: The roles of the parties in decision-making regarding real-time operations are still*  
11 *under consideration and will be address in Chapter 3, Conservation Strategy.]*

## 12 **7.1.8 Other Regulatory Agencies**

13 The BDCP has been developed as a habitat conservation plan pursuant to the ESA and the NCCPA. To  
14 implement the BDCP, certain implementation actions will need to conform to the requirements of  
15 various other state and federal laws and regulations not specifically addressed by the Plan. Prior to  
16 the implementation of many of the implementation actions set out in the BDCP, regulatory  
17 authorizations and approvals will need to be obtained from state and federal agencies under  
18 applicable laws. To facilitate compliance with these laws and regulations, the Implementation Office  
19 will work closely with the appropriate regulatory agencies to plan in advance of future permitting  
20 needs and to develop documentation to provide the basis for, and establish processes to expedite,  
21 such authorizations.

22 It is expected that the actions set out in the BDCP are likely to require the involvement of state and  
23 federal agencies that administer regulatory programs under the following statutes: California Water  
24 Code sections 1000 *et seq.* (water rights), Water Code Sections 13000 *et seq.* (water quality), Fish &  
25 Game Code sections 1600 and 5900 *et seq.* (channel modification, fish screens), Clean Water Act  
26 Section 401 (water quality) and Section 404 (placement of dredge and fill), Rivers and Harbors Act  
27 Section 408 (work on levees), Rivers and Harbors Act Section 10 (navigation), the Migratory Bird  
28 Treaty Act (migratory birds), and the Federal Energy Regulatory Act implemented by the Federal  
29 Energy Regulatory Commission.

## 30 **7.1.9 Supporting Entities**

31 The Implementation Office, through the Program Manager, may request that other entities, referred  
32 to as Supporting Entities, perform certain implementation tasks, where such entities have the  
33 authority, resources, expertise, and willingness to successfully undertake and complete the task.  
34 Where specific tasks are so assigned, the Program Manager will ensure that tasks and associated  
35 responsibilities are carried out properly and in coordination with other implementation actions. The  
36 Authorized Entities may also be Supporting Entities. Other Supporting Entities may include the  
37 following entities.

- 38 • The Delta Conservancy, which has been designated by statute as a primary state agency to  
39 implement ecosystem restoration in the Delta.
- 40 • Sponsors of regional conservation planning programs, including those engaged in natural  
41 community conservation plan (NCCP) and/or habitat conservation plan (HCP) development or

1 implementation, or of other similar conservation programs, that overlap or are adjacent to the  
2 Plan Area.

- 3 • State and federal agencies, including NMFS, USFWS and DFG.
- 4 • Other public agencies and private entities that have authority, capacity, or expertise to  
5 implement actions described in the conservation strategy in a cost-effective, reliable, and timely  
6 manner.

7 The Program Manager will oversee each Supporting Entity's performance of its responsibility for  
8 carrying out a specific task. Decisions by the Program Manager to engage another entity in the  
9 implementation of specific plan elements or actions will be accomplished by written contract and  
10 will be based on the entity's jurisdictional authority, level of expertise, and its capacity to carry out  
11 the element or action in a timely and successful manner. The Program Manager, with the  
12 concurrence of the Authorized Entity Group, may terminate a Supporting Entity's role in Plan  
13 implementation in the event that the Supporting Entity does not perform a task adequately.

14 The take authorizations that will be issued pursuant to the BDCP will provide regulatory coverage  
15 under the ESA and the NCCPA for all activities covered by the Plan. As such, no additional take  
16 authorizations will be required to implement these activities, regardless of whether the action is  
17 carried out by the Implementation Office or a supporting entity.

## 18 **7.1.10 Stakeholder Council**

19 The Stakeholder Council will be formed to provide opportunities for interested parties to consider,  
20 discuss, and provide input on matters related to the implementation of the BDCP. The primary  
21 purpose of the council is to provide a forum for the stakeholders to assess the implementation of the  
22 Plan, and to propose to the Implementation Office ways in which Plan implementation may be  
23 improved. The Stakeholder Council will be organized and convened by the Program Manager, who  
24 will also serve as a member of the council.

### 25 **7.1.10.1 Membership**

26 The Stakeholder Council will consist of representatives from entities and organizations with an  
27 interest in BDCP-related issues or otherwise engaged in BDCP matters. At a minimum,  
28 representatives of the following entities will be invited to participate on the Stakeholder Council.

- 29 • Representatives of DWR and Reclamation
- 30 • Representatives of SWP and the CVP water contractors
- 31 • Representatives of Other Authorized Entities
- 32 • Representatives of USFWS, NMFS, and DFG
- 33 • Representatives of other state and federal regulatory agencies, including the U.S. Army Corps of  
34 Engineers (USACE) , the U.S. Environmental Protection Agency (EPA) , and State Water  
35 Resources Control Board (State Water Board)
- 36 • A representative of the Delta Stewardship Council
- 37 • A representative of the Delta Protection Commission
- 38 • A representative of the Delta Conservancy

- 1 • A representative of the Central Valley Flood Protection Board
- 2 • Representatives of San Joaquin, Sacramento, Solano, Yolo, and Contra Costa Counties
- 3 Additional members will be selected from the following categories by the Secretary of the California
- 4 Natural Resources Agency, in consultation with the directors of the relevant departments of the
- 5 agency, such as DWR and DFG. The public may submit nominations for these additional members.
- 6 Each member will serve a term of 4 years, and may be reappointed without limit and may serve until
- 7 such time as they are replaced.
- 8 • At least three representatives from conservation groups with expertise in fish and wildlife
- 9 management and/or the management of aquatic habitats and other natural lands
- 10 • At least three representatives of local government agencies within the Delta
- 11 • At least one representative of fishing organizations
- 12 • At least one representative of hunting organizations
- 13 • At least one representative of recreation organizations
- 14 • At least two representatives of Delta reclamation districts
- 15 • At least two representatives of Delta agriculture
- 16 • At least three scientists with expertise in the management of natural lands, and native plant and
- 17 animals species
- 18 • At least one representative of water agencies located in the Sacramento Valley
- 19 • At least one representative of water agencies in the San Joaquin River watershed
- 20 • One representative from organized labor working in the building trades
- 21 • One representative from the exclusive representatives of state-employed scientific or
- 22 engineering professionals
- 23 • Other stakeholders whose assistance will increase the likelihood of the success of Plan
- 24 implementation, including delta civic organizations and members of the general public.

### 25 **7.1.10.2 Function**

26 The Program Manager will convene and facilitate the Stakeholder Council on at least a quarterly  
 27 basis to exchange information and provide input to the Program Manager concerning the current  
 28 significant issues at hand. Stakeholders will have the opportunity to inquire about implementation  
 29 matters, be apprised by the Program Manager of issues of interest, and make recommendations  
 30 concerning pending decisions and other implementation matters. Stakeholder Council meetings will  
 31 be open to the public.

32 For the benefit of the Stakeholder Council members and the general public, the Program Manager  
 33 will provide information and conduct briefings regarding Plan implementation. Briefings will  
 34 include presentations of drafts of the Annual Report, Annual Work Plan and Budget, Annual Delta  
 35 Water Operation Plan, the Annual Delta Water Operations Report, and the 5-Year Implementation  
 36 Plan, as described in Chapter 6, *Plan Implementation*. In addition, to further facilitate access to  
 37 information and promote transparency in decision-making, the Implementation Office will maintain  
 38 a public, on-line data base of key documents and information, such as annual implementation

1 reports, work plans, and budgets (Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance,*  
2 *and Progress Reporting*).

3 The Stakeholder Council will develop its own internal organization and process to consider and  
4 provide input regarding the various aspects of BDCP implementation, including matters related to  
5 work plans and budgets, water operations plans, implementation of conservation measures,  
6 adaptive management changes, monitoring and reporting activities, scientific research and review  
7 processes, and annual reports. The Technical Facilitation Subgroup will be established to provide  
8 input to the Implementation Office and the Adaptive Management Team on technical and scientific  
9 matters. The Stakeholder Council process will complement, but not substitute for, ongoing  
10 collaboration and communication between stakeholders and the Implementation Office; the  
11 Authorized Entity Group, the Permit Oversight Group, and their member entities. The  
12 Implementation Office will organize, help convene, and provide support to the Stakeholder Council  
13 and its proceedings.

### 14 **7.1.10.3 Dispute Resolution**

15 With respect to those matters that are considered by the Stakeholder Council, it is expected that the  
16 council will make reasonable efforts to provide input to the Program Manager and the Authorized  
17 Entity Group that reflects the general agreement of the members. Any member of the council,  
18 however, will have the right to object to any proposal of the Program Manager concerning the  
19 annual work plans, annual reports, budgets, the acquisition of land and water interests, or the major  
20 elements of the adaptive management program, as set out in Chapter 3, *Conservation Strategy*, and  
21 Chapter 6, *Plan Implementation*. Any member may also object to any prior implementation action  
22 taken by the Program Manager. Any such objections will be made on the basis that the proposed or  
23 prior action will not adequately contribute to achievement of the goals and objectives of the BDCP,  
24 or is inconsistent with the requirements of the Plan, and/or the permits and authorizations.

25 In consultation with the Implementation Office, the Stakeholder Council will establish a process for  
26 efficient consideration and resolution of any objections that may arise within the council related to  
27 Plan implementation. Under that process, a member of the Stakeholder Council may, at its  
28 discretion, object to a proposal or prior action related to such implementation. The member may  
29 object on behalf of itself or an entity it represents. The council will make reasonable efforts to  
30 resolve the dispute by general agreement. The Stakeholder Council will take action on a dispute  
31 within 60 days. If the dispute is not resolved within the 60-day period, the issue in dispute will be  
32 elevated to the Authorized Entity Group for its consideration. If the issue remains unresolved  
33 between the Authorized Entity Group and objecting member(s) of the Stakeholder Council for over  
34 90 days, it will be referred for decision by the entity with the locus of responsibility for the matter in  
35 dispute. For this purpose, *locus of responsibility* means primary responsibility to decide the matter,  
36 after which the matter will be ripe for implementation, while recognizing that multiple entities may  
37 have some relevant responsibility.

38 For those matters in which the Stakeholder Council has provided input, the position of the council,  
39 including any dissenting views, will be conveyed to the Implementation Office in a timely manner.  
40 Those position(s) will help inform decisions regarding the specific matter at hand. The objection  
41 procedures and dispute resolution process described above provide a means by which issues  
42 properly before the Stakeholder Council may be considered by the decision maker with the locus of  
43 responsibility for making the final decision with respect to the issue in controversy. This dispute  
44 resolution process, however, does not create a legal right nor does it give rise to a right of action

1 with regards to the members of the Stakeholder Council nor may it be used by any member of the  
2 council to delay, or otherwise impede, the proper implementation of the BDCP. The Implementation  
3 Office, or other parties responsible for developing proposals or rendering decisions regarding  
4 implementation actions, will execute their responsibilities notwithstanding a pending unresolved  
5 dispute within the Stakeholder Council.

6 This process does not substitute for any right or claim which a member of the Stakeholder Council  
7 or other entity may have under existing law or contract (e.g., with respect to claims related to  
8 private property damage associated with Plan implementation). The process does not create a new  
9 right or claim that does not arise under existing law.

### 10 **7.1.11 General Public**

11 The BDCP implementation process will provide for ongoing and frequent engagement and  
12 participation of the public. Other entities with interests in the conservation of Delta resources, may  
13 participate in BDCP implementation through the public outreach process coordinated by the  
14 Implementation Office (Section 7.5, *Public Outreach*) or through the Stakeholder Council, if eligible  
15 for membership. Stakeholder Council meetings will be noticed in advance and open to the public,  
16 and will be conducted in a manner that provides adequate opportunity for public comment.

17 The Implementation Office will also establish a process by which landowners who believe they have  
18 been adversely affected by BDCP implementation actions may bring the matter to the attention of  
19 the Program Manager. The process will be designed to afford landowners an opportunity to obtain  
20 resolution of the matter, such as redress for property damage caused by the actions of public  
21 agencies. The process developed by the Implementation Office will be consistent with the  
22 requirements of existing claims procedures established by the applicable Authorized Entities and  
23 other public agencies for such purposes. Through this process, the Implementation Office can serve  
24 as an important resource for landowners seeking timely and efficient disposition of their claims and  
25 other grievances. For example, where landowners in the Delta believe that BDCP implementation  
26 actions have damaged their property, the Implementation Office will be available to discuss their  
27 concerns and provide advice on methods to address their claims, such as assisting the landowner in  
28 contacting the appropriate implementing agency to seek resolution of the claim.

## 29 **7.2 Implementation Office**

30 The Program Manager will direct, oversee, and select staff for the Implementation Office. The  
31 Implementation Office, which will not be a legal entity authorized to enter into contracts directly or  
32 hold property in its own name, will administer the implementation of the BDCP under the existing  
33 authorities of the Authorized Entities. By relying on the legal authorities of the Authorized Entities,  
34 the Implementation Office will be equipped with the resources and capacity necessary to carry out  
35 BDCP implementation tasks for which it will be responsible. This structure also contemplates that  
36 DWR and Reclamation will maintain their historical roles as owners and operators of the SWP and  
37 the CVP, but provides flexibility for changing those roles if so directed by Congress, the California  
38 Legislature, or through administrative processes.

39 Proper implementation of the Plan will require a skilled and expert team consisting of  
40 administrators, policy-makers, scientists, engineers, data analysts, and regulatory specialists,  
41 capable of working together in a cohesive and unified manner. In addition, effective implementation

1 will necessitate adequate financing of and support for the Implementation Office. The BDCP includes  
2 assurances (Chapter 8, *Implementation Costs and Funding Sources*) that sufficient funds will be  
3 available to provide the Implementation Office with the capacity and resources to carry out the  
4 responsibilities described in this chapter.

5 Specific implementation tasks may be performed by other entities that have the authority,  
6 resources, and expertise to successfully complete the task in a timely manner. These Supporting  
7 Entities may include, at the discretion of the Program Manager, water agencies, water contractors,  
8 regulatory agencies, nongovernment organizations, or other appropriate entities. Where specific  
9 tasks are so assigned, the Program Manager will ensure that that tasks and associated  
10 responsibilities are carried out properly and in coordination with other implementation actions. The  
11 Supporting Entity will be responsible, subject to oversight by the Program Manager, for entering  
12 into the necessary contracts and acquiring interests in real and personal property, in some cases  
13 obtaining permits or other authorizations, and taking all other steps needed to complete the  
14 implementation task.

15 The primary functions and responsibilities of the Implementation Office are described in the  
16 following subsections.

### 17 **7.2.1 Establishing Administrative Capacity**

18 The Program Manager will oversee and manage the Implementation Office. The Program Manager  
19 will arrange for and equip office space to house the Implementation Office, hire a staff of sufficient  
20 size to effectively implement the BDCP, and effectuate contracts (through the authorities of DWR,  
21 Reclamation, other state and federal agencies, and/or the SWP and CVP contractors) necessary to  
22 build capacity to become fully functional and operational.

23 The Program Manager, with the consent of and pursuant to agreements with any affected agencies,  
24 may enlist current employees of the Authorized Entities, as well as employees of other state, federal,  
25 or local agencies, who possess the expertise and experience necessary to carry out the tasks  
26 associated with BDCP implementation. The specific staffing needs of the Implementation Office will  
27 be determined by the Program Manager. All Implementation Office staff, including staff from entities  
28 that are represented on the Authorized Entity Group, will work at the direction of the Program  
29 Manager.

### 30 **7.2.2 Preparing Annual Work Plans and Budgets and** 31 **Managing Expenditures**

32 The Implementation Office will prepare, on behalf of the Authorized Entity Group, the Annual Work  
33 Plan and Budget. The Annual Work Plan and Budget will address matters related to general program  
34 administration and Plan implementation.<sup>5</sup>

35 The Program Manager will solicit input on the draft plan and budget from the Permit Oversight  
36 Group and the Stakeholder Council, and submit the plan and budget to the Authorized Entity Group  
37 for review and approval. As part of this process, the Permit Oversight Group will review the draft  
38 plan and provide written concurrence, within 30 days, or as soon as practicable thereafter, that the

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<sup>5</sup> Annual Delta Water Operations Plans, as developed through the process described in Section 7.1.4, *DWR and Reclamation: Operation of the SWP and CVP*, will be incorporated into the Annual Work Plans.

1 draft accurately sets forth and makes adequate provision for the implementation of the applicable  
2 joint decisions of the Authorized Entity Group and the Permit Oversight Group or decisions of an  
3 agency within the Permit Oversight Group with authority over the matter (or associated decisions  
4 that are rendered through the elevation process), particularly with respect to matters involving  
5 adaptive management and biological monitoring and research. If the Permit Oversight Group  
6 concludes that the plan does not do so, it will provide written notification to the Program Manager  
7 and the Authorized Entity Group, within the 30 day timeframe, or as soon as practicable thereafter,  
8 of the specific reasons for its conclusion. In such event, the Authorized Entity Group may direct the  
9 Program Manager to modify the plan to the satisfaction of the Permit Oversight Group. If the  
10 Authorized Entity Group does not, the Program Manager, Authorized Entity Group and the Permit  
11 Oversight Group will, in a timely manner, meet and confer in an effort to resolve the matter in  
12 dispute. If the parties are unable to reach resolution, the elevation and review process described in  
13 Section 7.1.7, *Elevation and Review of Implementation Decisions*, may be invoked by any member of  
14 the Authorized Entity Group or the Permit Oversight Group.

15 The Program Manager will establish systems and processes to centralize oversight of  
16 implementation budgets and expenditures of funds. The Program Manager will also generally  
17 review and oversee budgets and expenditures related to implementation actions carried out by  
18 Authorized Entities or Supporting Entities. For those activities involving functions that, under state  
19 or federal law, cannot be delegated to the Program Manager, including contracting, procurement,  
20 and expenditures of state or federal funds, the Program Manager will coordinate with the  
21 appropriate designated state and/or federal official to ensure that the necessary function is properly  
22 carried out.

### 23 **7.2.3 Contracting for Services**

24 The Implementation Office, through an appropriate entity with contracting authority, may contract  
25 for services as necessary to implement the BDCP, in a manner consistent with state and/or federal  
26 law governing such contracts. Such contracts may be for a range of professional services, including  
27 those related to the following matters.

- 28 • Acquisition and protection of habitat
- 29 • Habitat restoration and management
- 30 • Monitoring and scientific research
- 31 • Legal and regulatory matters
- 32 • Environmental and technical services
- 33 • Engineering and construction (e.g., conservation facilities, water facilities, levees)
- 34 • Funding and grant agreements pertaining to state and federal programs and executing sub  
35 grants to third parties to conduct specific actions
- 36 • Operations and maintenance

37 The Program Manager, in coordination with the appropriate entity, will be responsible for the  
38 administration of any such contracts. The Program Manager will coordinate with the appropriate  
39 designated contact for the Authorized Entities or designated state or federal official to effectuate the  
40 execution, administration and implementation of contracts in support of activities of the  
41 Implementation Office.



## 7.2.4 Securing, Holding, and Managing Funds to Support Implementation Actions

The Program Manager will coordinate the expenditure of funds from state, federal, and other sources that have been dedicated to the implementation of the BDCP. In most instances, DWR and Reclamation will serve as fiscal agents, consistent with their existing agency authorities, for the expenditure of funds by the Implementation Office, from both public and private sources, to support implementation actions. The Program Manager will coordinate with the designated fiscal agents to ensure that sufficient funds are available for implementation actions. The Implementation Office, however, will not be authorized to manage the expenditure of funds related to design, construction, operation, and maintenance of water diversion and conveyance facilities which are or will be elements of the SWP or the CVP.

## 7.2.5 Coordinating with the Authorized Entities, the Authorized Entity Group, and Supporting Entities

The Program Manager will convene meetings and facilitate communication with the Authorized Entities, Authorized Entity Group, the Permit Oversight Group, and Supporting Entities. 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

The Implementation Office will coordinate and confer with the state and federal fish and wildlife agencies, including the Permit Oversight Group, USACE, EPA, State Water Board, and other appropriate regulatory agencies on matters potentially affecting compliance with the provisions of the BDCP, its associated regulatory authorizations, and other regulatory authorizations required to implement BDCP actions. The specific roles of the state and federal fish and wildlife agencies in various implementation actions are described primarily in this chapter and Chapter 3, *Conservation Strategy*. The Program Manager will coordinate and lead meetings convened for such purposes.

## 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) (California Water Code Section 85320). The Program Manager will ensure that the Delta Stewardship Council receives regular updates on the progress of BDCP implementation, including the status of monitoring programs and adaptive management, as required by California Water Code Section 85320(f). The Implementation Office will also respond to questions or concerns raised by the Delta Stewardship Council regarding the implementation of the BDCP.

The Adaptive Management Team, chaired by the Science Manager, will have primary responsibility for the formulation, design, content, and administration of the Adaptive Management and Monitoring Program described in Chapter 3, *Conservation Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*. The Adaptive Management Team, through the Science

1 Manager, will coordinate with the Delta Science Program, the IEP Coordinators; the Management,  
2 Analysis, and Synthesis Team; and, as necessary, the Delta Independent Science Board (California  
3 Water Code Section 85280), regarding matters relating to these monitoring activities and research  
4 efforts.

5 The Implementation Office will further coordinate with the Delta Conservancy as it initiates  
6 planning and implementation of ecosystem restoration projects carried out pursuant to the  
7 conservation strategy. The Implementation Office and the Delta Conservancy will maintain close  
8 coordination on other programs being carried out by the Delta Conservancy that potentially affect  
9 implementation actions.

## 10 **7.2.8 Coordinating with Local Governments, Delta Protection** 11 **Commission, and Other Public Agencies**

12 The Program Manager will serve as the main point of contact for local, state, and federal agencies  
13 interested or engaged in implementation issues. The Program Manager will prepare, publish, and  
14 distribute general information about the BDCP to those agencies and represent the BDCP at public  
15 meetings convened by cities, counties, water and reclamation districts, and other public agencies  
16 with jurisdiction within the Delta. The Program Manager will encourage local government  
17 participation on the Stakeholder Council.

18 Where regional conservation plans overlap with or adjoin the Plan Area, the Implementation Office  
19 will collaborate and coordinate with the sponsors of those regional conservation plans on the  
20 acquisition and management of habitat lands to be preserved and/or restored in areas common to  
21 both plans. The Program Manager will, as appropriate, enlist sponsors of those regional  
22 conservation plans and local governments to serve as Supporting Entities to assist in the acquisition  
23 and/or management of conservation lands. Where mutually beneficial, the Implementation Office  
24 will encourage joint acquisitions of land with local government plan sponsors to realize economies-  
25 of-scale and to secure large, contiguous blocks of habitat. The Implementation Office will explore  
26 opportunities to fund early conservation actions (i.e., habitat acquisition and/or restoration) that  
27 may benefit both the BDCP and other regional conservation plans.

## 28 **7.2.9 Coordinating with Flood Control Agencies**

29 In the design and implementation of implementation actions that could directly or indirectly affect  
30 flood control capabilities, the Implementation Office will coordinate and consult with agencies  
31 responsible for flood control in the Plan Area, including USACE, DWR, Central Valley Flood  
32 Protection Board, Reclamation districts in the Delta, local flood control agencies, and water districts.

## 33 **7.2.10 Addressing Legal Matters**

34 The Implementation Office, in coordination with the Authorized Entities, state and federal fish and  
35 wildlife agencies, and other appropriate public agencies, will, as appropriate, provide support to  
36 entities with the responsibility for handling legal matters that may arise out of the implementation  
37 of the BDCP. To the extent permitted by applicable law, the Implementation Office may also use legal  
38 counsel, retained by an appropriate entity, to address the range of regulatory matters associated  
39 with implementation, including compliance with the BDCP and its Implementing Agreement;  
40 compliance with various state and federal laws; transactional and other issues related to land

1 acquisition; and general, routine, in-house legal matters. No federal funds will be used to retain such  
2 counsel.

### 3 **7.2.11 Overseeing Plan Amendments**

4 In the event that an amendment to the BDCP and its authorizations is necessary, the Implementation  
5 Office will be responsible for compiling information and preparing the documentation necessary to  
6 support a proposal for such an amendment and for working with the applicable state and federal  
7 fish and wildlife agencies to obtain approval. Prior to submitting such documentation, the Program  
8 Manager will seek input from the Authorized Entity Group, the Permit Oversight Group, and the  
9 Stakeholder Council regarding the issue at hand. As required by law, the applicable fish and wildlife  
10 agencies will determine whether proposed amendments will be approved.

### 11 **7.2.12 Implementing NEPA and CEQA Mitigation Measures**

12 Subject to the approval of the lead agencies conducting the environmental review of the BDCP under  
13 the National Environmental Policy Act (NEPA) and/or the California Environmental Quality Act  
14 (CEQA) and the concurrence of the Authorized Entity Group, the Implementation Office will  
15 effectuate the implementation of some or all of the adopted mitigation measures identified in the  
16 mitigation and monitoring plan associated with the environmental documentation for the BDCP.  
17 Similarly, the Implementation Office may assume, subject to lead agency approval, responsibility for  
18 the implementation of adopted CEQA/NEPA mitigation measures related to the implementation of  
19 specific implementation actions. The role of the Implementation Office in implementing such  
20 mitigation measures will be limited to those measures associated with either the BDCP  
21 environmental impact statement (EIS)/environmental impact report (EIR) or subsequent  
22 environmental documentation that is required for implementation actions.

## 23 **7.3 Implementation of the Conservation Strategy**

24 The Program Manager, through the Implementation Office and on behalf of the Authorized Entities,  
25 will generally be responsible for the planning, oversight, and implementation of actions set out in  
26 the conservation strategy. Certain components of the conservation strategy, however, will be the  
27 responsibility of other Plan participants, including those related to water operations and the  
28 Adaptive Management and Monitoring Program (Chapter 3, *Conservation Strategy*, and Chapter 6,  
29 *Plan Implementation*). DWR will implement actions associated with construction of *CM1 Water*  
30 *Facilities and Operation*. With respect to water operations-related conservation measures, DWR and  
31 Reclamation will coordinate implementation of actions associated with *CM1 Water Facilities and*  
32 *Operations* and water operations aspects of *CM2 Yolo Bypass Fisheries Enhancement*. The Adaptive  
33 Management Team, which will be chaired by the Science Manager, will have primary responsibility  
34 for administration of the Adaptive Management and Monitoring Program (Chapter 3, *Conservation*  
35 *Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*).

36 The Program Manager will be afforded sufficient flexibility to use supporting entities, including the  
37 Authorized Entities and the state and federal fish and wildlife agencies, to undertake certain actions  
38 that enhance the overall effectiveness of the conservation strategy and yield greater efficiencies in  
39 Plan implementation.

1 The tasks and responsibilities of the Implementation Office regarding the implementation of the  
2 conservation strategy are described in the subsections below.

### 3 **7.3.1 Implementation of the Habitat Protection and** 4 **Restoration Conservation Measures**

5 The Implementation Office will take actions, either directly or through Supporting Entities, to  
6 implement conservation measures related to the protection of existing habitat and the enhancement  
7 and restoration of habitat within the identified restoration opportunity areas (ROAs) and  
8 conservation zones, as well as within other areas in the Plan Area, as described in Chapter 3,  
9 *Conservation Strategy*. These measures will largely involve the acquisition of habitat lands, the  
10 restoration or enhancement of habitat conditions, and the management and maintenance of habitat  
11 lands. The Implementation Office will work with, and may effectuate contracts with, the Delta  
12 Conservancy or other Supporting Entities to carry out the conservation measures associated with  
13 habitat protection and restoration.

#### 14 **7.3.1.1 Acquisition and/or Lease of Property Interests**

15 Pursuant to the authorities of the Authorized Entities, the Implementation Office will facilitate the  
16 acquisitions of interests in real property as part of the implementation of conservation measures  
17 associated with the protection and/or restoration of habitat. Similarly, under the direction of the  
18 Implementation Office, Supporting Entities that have been selected to help implement such  
19 conservation measures may also acquire interests in real property, as described in Chapter 3,  
20 *Conservation Strategy*. Interests in land acquired pursuant to the BDCP may be conveyed to the Delta  
21 Conservancy, DFG, USFWS, or other Supporting Entities, as appropriate.

22 The acquisition of fee interest and/or conservation easements, for the purpose of habitat protection,  
23 restoration, and creation, will include the following tasks.

- 24 ● Routine due diligence review of real property
- 25 ● Biological due diligence to assess habitat/restoration values
- 26 ● Appraisal of property, including oversight of the appraisal process
- 27 ● Negotiation and execution of the transaction
- 28 ● Receipt of title or easement to lands
- 29 ● Selection of appropriate mechanism or instrument to ensure the protection of conservation  
30 lands

31 The Implementation Office may, through an Authorized Entity or other Supporting Entity, acquire or  
32 lease lands or facilities for the purpose of conducting scientific research and monitoring, housing  
33 administrative offices and equipment, or undertaking other activities as necessary to administer and  
34 implement the measure.

#### 35 **7.3.1.2 Management of Land**

36 The Implementation Office will oversee the management and maintenance of lands acquired for  
37 conservation purposes, as described in Chapter 3, *Conservation Strategy*. The Implementation Office

1 may select Supporting Entities to carry out such management and maintenance activities. Land  
2 management will generally include the following tasks.

- 3 • Habitat management
- 4 • Invasive species control
- 5 • Security patrol
- 6 • Liaison with neighboring landowners
- 7 • Payment of appropriate in lieu fees
- 8 • Enforcement of easement terms and conditions
- 9 • Mosquito abatement
- 10 • Management of vegetation on flood control facilities to maintain flood flow capacity
- 11 • Species and habitat monitoring
- 12 • Public access management
- 13 • Emergency response
- 14 • Safety of nearby aircraft operations
- 15 • Research activities
- 16 • Educational services
- 17 • Agricultural easement oversight

### 18 **7.3.1.3 Maintenance of Facilities and Improvements**

19 The Implementation Office will oversee the maintenance and operation of all facilities and  
20 improvements associated with lands acquired for any BDCP purpose, including for the conservation  
21 of habitat, as described in Chapter 3, *Conservation Strategy*. The Implementation Office may also  
22 oversee the maintenance of facilities and improvements on lands acquired for the purpose of  
23 satisfying mitigation obligations adopted through the environmental review process for the BDCP or  
24 for specific actions implemented under the Plan.

### 25 **7.3.1.4 Funding of Activities of Other Entities**

26 The Implementation Office may direct funds to other entities (such as local governments engaged in  
27 regional conservation planning processes), subject to the authorities of the Authorized Entities or  
28 other participating agencies and under appropriate conditions and oversight, to implement habitat  
29 and species conservation efforts that help advance the biological goals and objectives of the BDCP, as  
30 described in Chapter 3, *Conservation Strategy*.

## 31 **7.3.2 Implementation of Water Operations Conservation** 32 **Measures**

33 Implementation of *CM1 Water Facilities and Operations* and water operations aspects of *CM2 Yolo*  
34 *Bypass Fisheries Enhancement*, as described in Chapter 3, *Conservation Strategy*, will be the  
35 responsibility of DWR and Reclamation, consistent with their existing responsibilities and

1 authorities. The state and federal fish and wildlife agencies, in conjunction with DWR and  
2 Reclamation, will participate in real-time operational decisions with respect to certain operational  
3 parameters. The nature and scope of such real-time adjustments, as well as the process by which  
4 such decisions will be made, are set out in Chapter 3, *Conservation Strategy*.

5 *[Note to readers: The roles of the parties in decision making regarding real-time operations are still*  
6 *under consideration and will be addressed in Chapter 3, Conservation Strategy.]*

### 7 **7.3.2.1 Annual Reporting and Planning for Water Operations**

8 The Implementation Office will provide input to DWR and Reclamation regarding plans and reports  
9 related to Delta water operations. The planning and reporting requirements related to water  
10 operations are set out in Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and*  
11 *Progress Reporting*.

12 The Annual Delta Water Operations Plan will be prepared by DWR and Reclamation, with input from  
13 the Implementation Office, the Permit Oversight Group, the Adaptive Management Team, and the  
14 Stakeholder Council. DWR and Reclamation will retain final approval authority over the plan.  
15 However, the Permit Oversight Group will, within 30 days of receipt of the draft plan, or as soon  
16 thereafter as practicable, review the draft plan and provide written concurrence that the plan is  
17 consistent with the provisions of the BDCP, the Implementing Agreement, and the regulatory  
18 authorizations, as described in Section 7.1.4, *DWR and Reclamation: Operation of the SWP and CVP*.  
19 DWR and Reclamation will also prepare, on an annual basis, with input from the water contractors,  
20 the state and federal fish and wildlife agencies, the Implementation Office, and the Stakeholder  
21 Council, a Water Operations Report. Among other things, the reports will include a summary of the  
22 prior year's operations, including a comparison of the actual operations with planned operations,  
23 and an evaluation of the effectiveness of actions for covered fish species and ecological processes,  
24 including the responses to real-time operational changes the prior water year's operational effects  
25 on covered species. The Annual Delta Water Operations Report will be submitted to the Permit  
26 Oversight Group for its acceptance.

27 The Program Manager will post on the BDCP website the Annual Delta Water Operations Plan and  
28 the Annual Delta Water Operations Report, including subsequent revisions to those plans or reports.  
29 As part of those postings, the Program Manager will include information, on a daily basis, about  
30 planned and actual water diversions, including updates on revisions to the Annual Delta Water  
31 Operations Plan that are made through the Seasonal Operations Strategy process. An accounting of  
32 actual diversions, including daily, weekly, monthly, and yearly operational levels, will also be posted.  
33 The Program Manager will describe and explain operational changes, including departures from  
34 planned or anticipated diversion levels, in terms that are understandable to the general public.

### 35 **7.3.3 Implementation of Other Conservation Measures**

36 The Implementation Office will be responsible for the implementation of other conservation  
37 measures, including conservation measures designed to address other stressors, as described in  
38 Chapter 3, *Conservation Strategy*. The Implementation Office may implement these other  
39 conservation measures either directly or through Supporting Entities, which may receive funds  
40 through the Implementation Office to carry out such actions. Supporting Entities, for instance, may  
41 help implement other stressor conservation measures that reduce the adverse effects of toxic

1 contaminants, nonnative predatory species, low dissolved oxygen zones, and entrainment unrelated  
2 to covered activities.

### 3 **7.3.4 Coordination of Adaptive Management and Monitoring** 4 **Program**

5 *[Note to readers: The provisions of this section are still under consideration and will be addressed in*  
6 *Chapter 3, Conservation Strategy. Conforming changes will be made to ensure consistency between*  
7 *this section and Section 3.6, Adaptive Management and Monitoring Program.]*

8 The Adaptive Management Team will have primary responsibility for the overall development,  
9 management and oversight of the BDCP adaptive management and monitoring program, as  
10 described in Chapter 3, *Conservation Strategy*, Section 3.6, *Adaptive Management and Monitoring*  
11 *Program*. The Adaptive Management Team, through the Science Manager, will coordinate such  
12 efforts with the Authorized Entity Group, Permit Oversight Group, Stakeholder Council, the IEP, and  
13 Delta Science Program.

14 The Science Manager will work with the entities identified by the Adaptive Management Team to  
15 determine technical staffing needs and other support requirements that will be necessary to  
16 adequately implement the biological monitoring program. The Science Manager will enlist the  
17 assistance of the IEP in carrying out the monitoring program. The Science Manager will further  
18 assist the Adaptive Management Team in the establishment of a framework for the monitoring  
19 program (e.g., scope, methodologies, and protocols), in coordination with IEP and the fish and  
20 wildlife agencies, Delta Science Program, as appropriate. As part of that effort, the Science Manager  
21 will help develop and implement a process for compiling, evaluating, and synthesizing the results of  
22 monitoring activities, and will prepare a plan to maintain databases and the results of data analysis  
23 obtained through the monitoring program.

24 The Adaptive Management Team will also manage the BDCP research program, as described in  
25 Chapter 3, *Conservation Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*, in  
26 coordination with IEP and the Delta Science Program. The Science Manager will help identify  
27 research priorities to address specific uncertainties, and will administer a process to select and  
28 coordinate researchers who will be involved in the program. In addition, the Science Manager, on  
29 behalf of the Adaptive Management Team, will be responsible for the compilation and synthesis of  
30 the results of studies and analysis undertaken by other entities and organizations that are assisting  
31 in the implementation of the Plan. The Science Manager will also coordinate BDCP funding for  
32 research by other entities and organizations, as described in Section 3.6, *Adaptive Management and*  
33 *Monitoring Program*.

34 The Adaptive Management Team will oversee and commission independent science review, as  
35 determined to be necessary, and may enlist the Delta Science Program and Independent Science  
36 Board to provide science support and review. As appropriate, the Science Manager will oversee the  
37 process of obtaining input and advice from independent scientists through the Delta Science  
38 Program and other science programs. Matters relating to the conduct of scientific reviews, and the  
39 acquisition of independent scientific advice to assist in the implementation of the BDCP, will be  
40 conducted in a manner that ensures their independence and scientific integrity. The Science  
41 Manager, on behalf of the Adaptive Management Team, will work with the Lead Scientist for the  
42 Delta Science Program and IEP Lead Scientist to ensure that BDCP science activities, reporting, and  
43 reviews are coordinated with other science activities being conducted in the Delta.

### 1 **7.3.4.1 Compliance Monitoring and Reporting**

2 The Program Manager will track implementation actions and carry out the reporting requirements  
3 of the Plan, as described in Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and*  
4 *Progress Reporting*. Reports prepared by the Implementation Office will include, among other things,  
5 the results of monitoring and research efforts undertaken by the Adaptive Management Team and,  
6 under its direction, by other parties; assessments of overall plan performance; and an accounting of  
7 the distribution and expenditures of funding associated with the various entities engaged in  
8 implementation actions. See Section 6.3 for more specific information regarding reporting  
9 requirements under the Plan. The Program Manager will ensure that all such reports are posted in a  
10 timely manner on the BDCP website.

### 11 **7.3.5 Management of the Adaptive Management Program**

12 The Adaptive Management Team will have primary responsibility for the administration of the  
13 adaptive management program. The Science Manager will chair the Adaptive Management Team,  
14 which will work with IEP; the Management, Analysis, and Synthesis Team; and others to assemble,  
15 synthesize, and analyze the results of BDCP monitoring efforts and integrate the results of new and  
16 relevant scientific research and studies conducted by other parties, including the Delta Science  
17 Program. The Science Manager will facilitate discussion and consideration of adaptive management  
18 matters by the Adaptive Management Team and will convey any proposed changes to conservation  
19 measures or biological objectives, or other adaptive management matters for which the Adaptive  
20 Management Team has been unable to reach consensus, to the Program Manager. The Program  
21 Manager will forward recommendations by the Adaptive Management Team to the Authorized  
22 Entity Group and the Permit Oversight Group.

23 The Program Manager and Science Manager will ensure the issues related to budget, schedule, and  
24 other matters of concern to BDCP implementation and the Authorized Entity Group will be raised to  
25 the attention of the Adaptive Management Team and duly considered.

### 26 **7.3.6 Implementation of Measures in Response to Changed** 27 **Circumstances**

28 The Permit oversight Group and/or the Implementation Office will be responsible for identifying  
29 and responding to changed circumstances, as described in the BDCP, and the Implementation Office  
30 will be responsible for implementing the responses set out in the Plan to address those changed  
31 circumstances, as described in Chapter 6, *Plan Implementation*, Section 6.4, *Regulatory Assurances,*  
32 *Changed Circumstances, and Unforeseen Circumstances*. The Program Manager will establish a  
33 process to ensure timely engagement of the Authorized Entity Group; fish and wildlife agencies,  
34 including the Permit Oversight Group; and the Stakeholder Council when a changed circumstance  
35 has been identified and a response to such changed circumstances is required.



## 7.4 Regulatory Compliance Related to BDCP Implementation

The Program Manager, through the Implementation Office, will be responsible for ensuring that the BDCP is properly implemented, including maintaining compliance with the elements of the Plan and the provisions of the associated regulatory authorizations. The Implementation Office, on behalf of the appropriate Authorized Entities, will also identify and take steps to obtain from state and federal agencies any other regulatory permits or authorizations that are necessary to effectuate Plan implementation. To further ensure that the BDCP is properly implemented over time, the Implementation Office will maintain regular contact with the Permit Oversight Group and its member agencies.

### 7.4.1 Maintaining Permits and Authorizations and Obtaining Amendments

The Implementation Office will establish a process to ensure compliance with the provisions of the BDCP and its associated regulatory authorizations. If amendments or modifications to the BDCP and/or its regulatory authorizations become necessary, the Implementation Office and the responsible Authorized Entities will work with the Permit Oversight Group or the responsible agency to develop the necessary documentation to support such amendments.

### 7.4.2 Obtaining Additional Regulatory Authorizations

In addition to take authorizations issued under the ESA and the NCCPA, other state and federal regulatory authorizations will be required to implement certain BDCP actions. The Implementation Office will oversee efforts to obtain any such regulatory authorizations that are necessary for the implementation of BDCP actions. The Implementation Office will generally assume responsibility for identifying and preparing the necessary documentation to support the issuance of such regulatory authorizations, unless the applicable Authorized Entity chooses to do so. The Implementation Office may also assign the responsibility to a Supporting Entity to obtain such authorizations.

The EIR/EIS for the BDCP will provide sufficient environmental review and analysis of the proposed adoption of the Plan by DWR, the implementation of CVP-related actions in the Delta undertaken by Reclamation, and the proposed issuance of take authorizations by the state and federal fish and wildlife agencies pursuant to the Plan. The EIR/EIS may also provide sufficient environmental review to support other anticipated federal and state regulatory authorizations necessary for Plan implementation. However, additional NEPA and CEQA review, as well as compliance with other environmental laws, will be necessary for a number of BDCP-related actions.

The Implementation Office may seek, oversee and monitor state and/or federal authorizations, as directed by the Authorized Entity Group. In addition the Implementation Office may conduct appropriate environmental review necessary for the implementation of BDCP conservation measures. In the event that a Supporting Entity assumes responsibility for obtaining such authorizations, the Implementation Office will assist that entity in its efforts. Compliance with the following laws and regulatory processes, among others, will likely be necessary for the following BDCP actions.

- Sections 404 and 401 of the Clean Water Act

- 1 • Sections 10 (33 USC 403) and 14 (33 USC 408) of the Rivers & Harbors Act of 1899
  - 2 • Section 1602 of the Fish & Game Code (Streambed and Lakebed Alteration Agreements)
  - 3 • Section 106 of the National Historic Preservation Act
  - 4 • Encroachment permits from the Central Valley Flood Protection Board and Reclamation districts
  - 5 to conduct work on levees
  - 6 • Federal Energy Regulatory Act compliance through the Federal Energy Regulatory Commission
  - 7 • NEPA and CEQA, as necessary for certain project-related actions
- 8 The Program Manager will be responsible for identifying all such authorizations necessary for Plan  
9 implementation and for ensuring that such authorizations have been obtained, consistent with the  
10 implementation schedule set out in Chapter 6, *Plan Implementation*.

## 11 7.5 Public Outreach

12 The Implementation Office will implement a public outreach and education program to promote  
13 public awareness and provide opportunities for public input on matters concerning Plan  
14 implementation. The outreach program will meet the following objectives.

- 15 • Promote public awareness of and understanding about the Plan's purpose, specific conservation  
16 measures and their implementation.
- 17 • Provide streamlined and timely access to information.
- 18 • Provide opportunities to engage with decision-makers.
- 19 • Maintain a transparent process for understanding, clarifying and addressing public input and  
20 comments.

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

26 The public outreach and education program will include the following elements, at a minimum.

- 27 • **Informational material.** The preparation and distribution of general information materials  
28 such as reports, quarterly electronic newsletters, and issue-specific fact sheets in timely manner  
29 so as to facilitate public understanding and meaningful public input.
- 30 • **Interactive website.** Development and maintenance of an interactive website that provides  
31 real-time access to information, updates regarding implementation activities, and expanded  
32 opportunities for public engagement and input. Visual elements such as maps and webcasts will  
33 be used to further aid information sharing and public understanding.
- 34 • **Speakers bureau** Presentation of BDCP implementation information to various groups and at  
35 public meetings that occur throughout the state, as well as targeted audiences, including Delta  
36 communities, tribes, and specific statewide stakeholder interests.

- 1       • **Annual public workshops.** Commitment to annual public workshops and others as needed to  
2       provide timely opportunities for public dialogue, input and comment regarding a wide range of  
3       implementation issues.
- 4       • **Environmental justice.** An environmental justice outreach program will be integrated into  
5       overall outreach activities described above to provide minority and low-income communities in  
6       and near the Delta with access to information about Plan implementation and opportunities for  
7       input. Outreach techniques will include creating and maintaining a dedicated multilingual web  
8       page, providing translation services at public workshops and community presentations, and  
9       contacting ethnic media outlets.

Revised  
Administrative Draft