

Public Involvement, Consultation, and Coordination

This chapter provides a summary of the public involvement and outreach activities conducted for the Bay Delta Conservation Plan (BDCP)/California WaterFix Environmental Impact Report/Environmental Impact Statement (EIR/EIS). This chapter also contains information regarding the federal and state agencies that participated in the CEQA and NEPA processes leading to the development of the Draft BDCP EIR/EIS and the BDCP/California WaterFix Partially Recirculated Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS).

The BDCP/California WaterFix planning process has included public involvement, consultation, and coordination activities with a variety of stakeholders. Some of the outreach efforts prior to 2014 were conducted in collaboration with the EIR/EIS process to provide the stakeholders with information on the BDCP planning process, including the Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). In many other cases, BDCP/California WaterFix stakeholder groups have included outreach independent of the EIR/EIS process. This chapter provides a summary of some of the activities conducted in the BDCP/California WaterFix outreach process that are relevant to the EIR/EIS process; however, this chapter is not intended to provide an exhaustive review of the BDCP/California WaterFix outreach process.

32.1 Public Involvement

Public participation is a cornerstone of both CEQA and NEPA, with opportunities for public participation required throughout the environmental review process. During the preparation of this EIR/EIS, the lead agencies provided numerous avenues for public participation.

Scoping is a public participation element of CEQA and NEPA that is intended to assist the lead agencies preparing an EIR/EIS with determining the topics that the document should address. The scoping process invites public comment during a public review period. Comments received during the public scoping process are considered in the preparation of the EIR/EIS. The EIR/EIS lead agencies conducted a total of 22 public scoping meetings throughout California during 2008 and 2009. A summary of the public scoping activities and an overview of comments received during the public scoping process are provided in Section 32.1.1, *EIR/EIS Scoping Meetings and Comments*.

In addition to the public participation opportunities, such as scoping, that were conducted as required under CEQA and NEPA, the lead agencies provided numerous other ways for individuals, stakeholders and agencies to participate. Those public participation opportunities are summarized in Section 32.1.2, *Draft EIR/EIS Public Meetings and Comments*.

32.1.1 EIR/EIS Scoping Meetings and Comments

Public scoping activities conducted as part of compliance with both CEQA and NEPA are intended to provide an open process for determining issues to be addressed and alternatives to be considered in the EIR/EIS. Between April 2008 and March 2009, the lead agencies conducted a total of 22 scoping meetings throughout California.

1 On January 24, 2008, the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries
 2 Service (NMFS) issued a Notice of Intent (NOI) to prepare an EIS. A second NOI was issued on April
 3 15, 2008 to include the Bureau of Reclamation (Reclamation) as a federal co-lead agency, update the
 4 status of the planning process, and provide updated information related to scoping meetings. On
 5 March 17, 2008, the California Department of Water Resources (DWR) issued a Notice of
 6 Preparation (NOP) of an EIR. The March 17, 2008, NOP and the April 15, 2008, NOI identified
 7 scoping meeting locations and stated that written comments would be accepted until May 30, 2008.

8 At the time of the publication of the NOP and NOI in 2008, the BDCP was in development, and
 9 information related to the alternatives to be considered in the EIR/EIS was not available. Additional
 10 information was developed to describe the BDCP, and subsequent scoping activities were initiated
 11 on February 13, 2009 with the publication of a second NOP and a third NOI. The second NOP and
 12 third NOI identified scoping meeting locations and stated that written comments would be accepted
 13 until May 14, 2009. Copies of the NOPs and NOIs, as well as the press releases and newspaper
 14 notifications related to the scoping meetings, are included in Appendix 1D, *Final Scoping Report*. The
 15 *Final Scoping Report* also provides a list of agencies, stakeholders, and individuals that provided
 16 written and oral comments; the letters, emails, and comment cards; and transcripts of the meetings.

17 **32.1.1.1 2008 Scoping Meetings**

18 Scoping meetings were conducted during 2008 throughout California. Interested parties were
 19 encouraged to attend the scoping meetings to provide oral comments. The locations, dates, and
 20 number of registered attendees at each scoping meeting are presented in Table 32-1.

21 **Table 32-1. Locations and Dates of 2008 Scoping Meetings**

Meeting Locations	Date	Attendees who Registered
Sacramento – California Resources Building Auditorium	April 28, 2008	117
Chico – Chico Masonic Family Center	April 29, 2008	25
Clarksburg – Clarksburg Middle School	April 30, 2008	167
Stockton – San Joaquin Farm Bureau	May 5, 2008	57
San Jose – Santa Clara Valley Water District	May 6, 2008	32
Los Banos – City of Los Banos Senior Center	May 7, 2008	7
Los Angeles – Junipero Serra State Office Building	May 8, 2008	31
San Diego – Marina Village Conference Center	May 12, 2008	13
Fresno – Four Points Hotel	May 13, 2008	25
Bakersfield – Kern County Board of Supervisors Chamber	May 14, 2008	19

22
 23 To announce the scoping meetings and encourage public participation, advertisements ran in
 24 12 newspapers in key affected areas and press releases were distributed to media outlets
 25 throughout California for publication.

26 The format for these scoping meetings included a 30-minute period during which the attendees
 27 could view informational posters and discuss issues pertaining to the BDCP with staff from DWR,
 28 California Department of Fish and Wildlife (CDFW), Reclamation, USFWS, and NMFS. CDFW
 29 participated in the scoping meetings because of their oversight and involvement in the NCCP. After
 30 public review of the posters, the agencies made a 20-minute formal presentation. Following the
 31 presentation, the public was invited to make oral comments. Comments provided during the formal

1 comment period of the meeting were recorded and transcribed. Following the formal portion of the
 2 scoping meeting, attendees could further discuss issues and ask questions of the DWR, CDFW,
 3 Reclamation, USFWS, and NMFS staff.

4 **32.1.1.2 2009 Scoping Meetings**

5 Scoping meetings also were conducted during 2009 throughout California. As with the 2008
 6 meetings, interested parties were encouraged to attend the scoping meetings to provide oral
 7 comments. Table 32-2 presents the locations, dates, and number of registered attendees at each
 8 2009 scoping meeting.

9 **Table 32-2. Locations and Dates of 2009 Scoping Meetings**

Meeting Locations	Date	Attendees who Registered
Chico – Chico Masonic Family Center	March 9, 2009	13
San Jose – San Jose Marriott at the Convention Center	March 10, 2009	14
Bakersfield – Bakersfield Marriott at the Convention Center	March 11, 2009	24
Los Angeles – Junipero Serra State Office Building	March 12, 2009	6
San Diego – Marina Village Conference Center	March 16, 2009	14
Merced – Merced High School	March 17, 2009	9
Davis – Davis Veterans Center	March 18, 2009	43
Sacramento – Sacramento Hyatt Regency	March 19, 2009	61
Brentwood – Brentwood Community Multipurpose Room	March 23, 2009	90
Stockton – Stockton Civic Memorial Auditorium	March 24, 2009	112
Fairfield – Fairfield Hilton Garden Inn	March 25, 2009	50
Clarksburg – Clarksburg Middle School	March 26, 2009	352

10

11 To announce the scoping meetings and encourage public participation, the lead agencies ran
 12 advertisements in newspapers in key affected areas and distributed press releases to media outlets
 13 throughout California for publication.

14 The scoping meetings provided a 30- to 60-minute period during which the attendees could
 15 informally view informational posters and discuss issues pertaining to the project with DWR, CDFW,
 16 Reclamation, USFWS, and NMFS staff.

17 During the meetings, representatives of the BDCP Steering Committee made a short formal
 18 presentation and requested comments on the proposed BDCP. These comments were recorded for
 19 all of the meetings. The transcriptions were provided by the BDCP Steering Committee to DWR,
 20 Reclamation, USFWS, and NMFS and are included in Appendix 1D, *Final Scoping Report*.

21 **32.1.1.3 Summary of Scoping Comments Received**

22 During the 2008 scoping process, 123 letters, emails, and comment cards were submitted.
 23 Transcripts from the 2008 scoping process included comments from 94 commenters. During the
 24 2009 scoping process, 182 letters, emails, and comment cards were submitted. During 5 of the
 25 meetings, 84 comments were recorded. Based on all of this input, there were a total of 2,950
 26 separate comments identified, which were grouped into 28 categories, as summarized in Table 32-3.

1 **Table 32-3. Summary of Comments Received During 2008 and 2009 Scoping Processes**

Topics Addressed by Comments	Number of Comments
Scoping Process	69
Participation in EIR/EIS Process	100
Interaction with Other Processes	95
Preparation of the EIR/EIS	37
Issues to be Considered in Development of BDCP Concepts	1,051
Study Area Concepts	16
Future Conditions without BDCP Concepts	40
Biological Resources	540
Surface Water Resources	316
Water Quality Conditions	324
Flood Management Concepts	156
Groundwater Concepts	52
Sediment Concepts	21
Seismic Concepts	23
Soils Resources	21
Agricultural Resources	256
Socioeconomic, Population, and Land Use Resources	264
Utilities and Public Services Resources	118
Recreation Resources	67
Transportation Resources	46
Regional Economic Resources	198
Potential Risk from Mosquitoes and Other Hazards	44
Air Quality Resources and Potential for Odors	16
Aesthetic Resources	30
Natural, Historical, and Cultural Resources	3
Climate Change Concepts	44
Energy Use and Greenhouse Gas Emissions Concepts	14
Secondary Growth Concepts	11

Note: The total number of comments presented in this table exceeds the number of categorized comments because many comments are included in several categories.

- 2
- 3 Agency representatives and members of the public at these scoping meetings raised issues in six key
- 4 areas.
- 5
- 6 • Development of BDCP concepts.
 - 7 • Biological resources.
 - 8 • Surface water resources and water quality conditions.
 - 9 • Agricultural resources.
 - 10 • Socioeconomics, population, and land use.
 - Regional economic resources.

1 More detailed information regarding the scoping comments, including the specific comments
2 organized by category and topic, is provided in Appendix 1D, *Final Scoping Report*.

3 **32.1.2 Draft EIR/EIS Public Meetings and Comments**

4 The release of the Draft EIR/EIS was not only a major milestone, but also a critical point for public
5 review and involvement that is carefully guided by CEQA and NEPA. The Draft EIR/EIS was
6 circulated for public review on December 13, 2013 for a 228-day comment period that closed on
7 July 29, 2014. In January and February 2014, the lead agencies conducted 12 public meetings
8 throughout California to take comments on the Draft EIR/EIS.

9 The public review process for the Draft EIR/EIS had the following goals and objectives.

- 10 • Establish a format whereby the public can gain a better understanding of the planning process,
11 the contents of the Draft BDCP and Draft EIR/EIS, and engage in dialogue with appropriate staff.
- 12 • Establish an open and transparent process whereby accurate, easily understood information is
13 presented to provide well-informed public comments.
- 14 • Facilitate the intent of CEQA and NEPA for providing opportunities for interested members of
15 the public to comment on the contents of the Draft BDCP and Draft EIR/EIS documents and the
16 alternatives under consideration.
- 17 • Address environmental justice needs to ensure adequate opportunity for participation from all
18 members of the public.

19 A notice of completion (NOC) and notices of availability (NOA) were prepared by DWR and NMFS to
20 satisfy CEQA and NEPA. The NOC was filed with the California State Clearinghouse pursuant to CEQA
21 requirements, and electronic copies of the draft documents were distributed by the Clearinghouse to
22 the reviewing agencies as indicated on the NOC. The NEPA NOA was published in the *Federal*
23 *Register* on December 13, 2013 and provided the official NEPA notice to federal agencies and
24 individuals that the Draft EIR/EIS was available for review and that the comment period had begun.
25 Pursuant to State CEQA Guidelines Section 15087, the state prepared a NOA that was published in
26 newspapers of general circulation throughout the state and emailed to the project email list. Copies
27 of the all of the notices, as well as the press releases, additional newspaper notifications, and
28 additional email notices related to the public meetings, are included in Appendix 32B, *Draft EIR/EIS*
29 *Public Review Summary Report*. *The Draft EIR/EIS Public Review Summary Report* also provides a list
30 of agencies, stakeholders, and individuals that provided written and oral comments; the letters,
31 emails, and comment cards; and transcripts of the meetings.

32 **32.1.2.1 2014 Public Meetings on the Draft EIR/EIS**

33 Public meetings were conducted during 2014 throughout California. Interested parties were
34 encouraged to attend the public meetings to provide comments on the Draft EIR/EIS. Table 32-4
35 presents the locations, dates, and number of registered attendees at each public meeting.

1 **Table 32-4. Locations and Dates of 2014 Public Meetings**

Meeting Locations	Date	Attendees who Registered
Fresno – Fresno Convention and Entertainment Center	January 15, 2014	69
Bakersfield – Four Points by Sheraton	January 16, 2014	50
Stockton – University Plaza Waterfront Hotel	January 21, 2014	117
San Jose – San Jose Marriott	January 22, 2014	27
Redding – Red Lion Hotel	January 23, 2014	45
Fairfield – Hilton Garden Inn	January 28, 2014	62
Walnut Grove – Jean Harvie Community Center	January 29, 2014	42
Sacramento – Sheraton Grand Sacramento Hotel	January 30, 2014	160
Los Angeles – Los Angeles Convention Center	February 4, 2014	65
Ontario – Ontario Convention Center	February 5, 2014	44
San Diego – San Diego Convention Center	February 6, 2015	16
Clarksburg – Clarksburg Middle School	February 12, 2014	115

2

3 To announce the public meetings and encourage public participation, the lead agencies ran
4 advertisements in 9 newspapers in key affected areas, distributed press releases to media outlets
5 throughout California for publication, and ran Facebook advertisements in the regions the meetings
6 were held. Letters and postcards were distributed to stakeholders and landowners. Notices
7 encouraged interested parties to review the document online or at one of the 129 libraries and
8 repositories throughout the state where an electronic copy of the document could be found.
9 Additionally, interested parties could request an electronic copy of the document at no cost. Multiple
10 emails and social media reminders were sent out in advance of meetings. Copies of all meeting
11 reminders are provided in the *Draft EIR/EIS Public Review Summary Report* (Appendix 32B).

12 The format for these meetings was an open house in which the attendees could view informational
13 posters and discuss issues pertaining to the BDCP and the BDCP Draft EIR/EIS with DWR, CDFW,
14 Reclamation, USFWS, and NMFS staff. Throughout the open house the public was able to make oral
15 comments to a court reporter or submit written comments.

16 **32.1.2.2 Summary of Public Comments Received on the Draft EIR/EIS**

17 During the 228-day public review period on the Draft EIR/EIS, 2,018 non-form comment letters
18 were received. Of those letters, 51 were received from elected officials, 85 were received from
19 governments or public agencies, 455 were received from non-governmental organizations and
20 1,522 were received from the general public (because some letters were signed by more than one
21 entity, these numbers total more than 2,018). Transcripts from the 2014 public meetings included
22 oral comments from 104 commenters. Based on all of this input, there were a total of 18,532
23 separate comments identified, which were grouped into 196 categories, as summarized in part, in
24 Table 32-5.

1 **Table 32-5. Summary of Comments Received During 2014 Draft EIR/EIS Public Review**

Topics Addressed by Comments	Number of Comments
EIR/EIS Process	1,023
Alternatives	2,560
BDCP/HCP	3,285
Natural Resources Management	1,037
Biological Resources and Biodiversity	408
Aquatic Resources	1,002
Surface Water Resources	1,538
Water Quality Conditions	917
Flood Management Concepts	381
Groundwater Concepts	248
Seismic Concepts	96
Soils Resources	14
Aesthetic Resources	58
Hazards and Hazardous Materials	73
Air Quality Resources and Greenhouse Gases Emissions Concepts	125
Climate Change Concepts	103
Energy Use	34
Paleontological Resources	5
Agricultural Resources	367
Noise Conditions	69
Recreation Resources	276
Land Use Resources	503
Transportation Resources	292
Socioeconomic Conditions	239
Natural, Historical, and Cultural Resources	71
Utilities and Public Services Resources	58
Public Health	106
Environmental Justice	60
Secondary Growth Concepts	33
Costs of Implementation	177
Regional Economic Resources	187

Note: The total number of comments received exceeds the number presented in this table because many comments fell outside these broad categories.

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3 **32.1.3 Partially Recirculated Draft EIR/EIS Public Meetings and** 4 **Comments**

5 In 2015, DWR and Reclamation, as state and federal lead agencies under CEQA and NEPA,
6 respectively, released the RDEIR/SDEIS. A new alternative, 4A, also referred to as California
7 WaterFix, was developed in response to public and agency input, replacing Alternative 4 (the
8 proposed BDCP) as the CEQA Preferred Alternative. Alternative 4A is also the NEPA Preferred

1 Alternative, a designation that was not attached to any of the alternatives presented in the Draft
 2 EIR/EIS. The purposes of the RDEIR/SDEIS were to provide the public with updated environmental
 3 analysis to address certain revisions to the Draft BDCP, to introduce Alternative 4A and two other
 4 non-HCP alternatives (Alternatives 2D and 5A), and to address certain issues raised in comments
 5 received on the Draft EIR/EIS.

6 A NOC and NOAs were prepared by DWR and Reclamation to satisfy CEQA and NEPA. The NOC was
 7 filed with the California State Clearinghouse pursuant to CEQA requirements, and electronic copies
 8 of the RDEIR/SDEIS were distributed by the Clearinghouse to the reviewing agencies as indicated on
 9 the NOC. The NEPA NOA was published in the *Federal Register* on July 10, 2015 and provided the
 10 official NEPA notice to federal agencies and individuals that the RDEIR/SDEIS was available for
 11 review and the comment period had begun. Pursuant to State CEQA Guidelines Section 15087, the
 12 state prepared a NOA that was published in newspapers of general circulation throughout the state
 13 and emailed to the project email list. Copies of the notices, as well as the press releases and
 14 additional notifications related to the public meetings, are included in Appendix 32C, *RDEIR/SDEIS*
 15 *Public Review Summary Report*. The *RDEIR/SDEIS Public Review Summary Report* also provides a list
 16 of agencies, stakeholders, and individuals that provided written and oral comments; the letters,
 17 emails, and comment cards; and transcripts of the meetings. The RDEIR/SDEIS was circulated for
 18 public review on July 10, 2015 for a 112-day comment period that closed on October 30, 2015.

19 **32.1.3.1 2015 Public Meetings on the RDEIR/SDEIS**

20 Public meetings were conducted during 2015 in Sacramento and Walnut Grove, California.
 21 Interested parties were encouraged to attend the public meetings to provide comments on the
 22 RDEIR/SDEIS. Table 32-6 presents the locations, dates, and number of registered attendees at the
 23 public meetings.

24 **Table 32-6. Locations and Dates of 2015 Public Meetings**

Meeting Locations	Date	Attendees who Registered
Sacramento – Sheraton Grand Sacramento Hotel	July 28, 2015	230
Walnut Grove – Jean Harvie Community Center	July 29, 2015	140

25
 26 To announce the public meetings and encourage public participation, press releases were
 27 distributed to media outlets throughout California for publication, letters and postcards were
 28 distributed to stakeholders and landowners, and multiple emails and social media reminders were
 29 sent out in advance of meetings. Notices encouraged interested parties to review the document
 30 online or at one of the 129 libraries and repositories throughout the state where an electronic copy
 31 of the document could be found. Additionally, interested parties could request an electronic copy of
 32 the document at no cost. Copies of all meeting reminders are provided in the *RDEIR/SDEIS Public*
 33 *Review Summary Report* (Appendix 32C).

34 The format for these meetings was an open house in which the attendees could view informational
 35 posters and discuss issues pertaining to the RDEIR/SDEIS with staff of DWR and Reclamation.
 36 Throughout the open house the public was able to make oral comments to a court reporter or
 37 submit written comments.

1 **32.1.3.2 Summary of Public Comments Received on the Partially**
 2 **Recirculated Draft EIR/Supplemental Draft EIS**

3 During the 112-day public review period on the RDEIR/SDEIS, 6,349 non-form comment letters
 4 were received. Of those letters, 36 were received from elected officials, 117 were received from
 5 governments or public agencies, 464 were received from non-governmental organizations, and
 6 5,920 were received from the general public (because some letters were signed by more than one
 7 entity, these numbers total more than 6,349). Transcripts from the 2015 public meetings included
 8 comments from 81 commenters. Based on all of this input, there were a total of 12,492 separate
 9 comments identified, which were grouped into 132 categories, as summarized, in part, in Table
 10 32-7.

11 **Table 32-7. Summary of Comments Received During 2015 RDEIR/SDEIS Public Review**

Topics Addressed by Comments	Number of Comments
EIR/EIS Process	1,071
Alternatives	2,330
BDCP/HCP	42
Natural Resources Management	3,852
Biological Resources and Biodiversity	284
Aquatic Resources	331
Surface Water Resources	1,423
Water Quality Conditions	352
Flood Management Concepts	122
Groundwater Concepts	70
Seismic Concepts	28
Soils Resources	14
Aesthetic Resources	13
Hazards and Hazardous Materials	11
Air Quality Resources and Greenhouse Gases Emissions Concepts	33
Climate Change Concepts	31
Energy Use	15
Paleontological Resources	0
Agricultural Resources	293
Noise Conditions	19
Recreation Resources	167
Land Use Resources	176
Transportation Resources	61
Socioeconomic Conditions	194
Natural, Historical, and Cultural Resources	44
Utilities and Public Services Resources	19
Public Health	9
Environmental Justice	24
Secondary Growth Concepts	15
Costs of Implementation	119
Regional Economic Resources	112

Note: The total number of comments received exceeds the number presented in this table because many comments fell outside these broad categories.

1 **32.1.4 Public Outreach Activities**

2 The lead agencies have proactively engaged stakeholders, agencies, and individuals interested in the
 3 project throughout the CEQA/NEPA process. Additionally, DWR and California Natural Resources
 4 Agency (CNRA) officials encouraged public participation through a variety of approaches in order to
 5 provide an overview of the BDCP/California WaterFix and to solicit input during the development of
 6 the project.

7 **32.1.4.1 BDCP Steering Committee and Working Groups**

8 From 2006 through 2010, the BDCP planning process was guided by a Steering Committee
 9 consisting of representatives of many agencies and stakeholder organizations. Members of the
 10 Steering Committee are listed on the project website in the archived Steering Committee
 11 Agendas/Handout section. All meetings of the Steering Committee were open to the public, and all
 12 presentations and documents discussed at the meetings were available on the project website.
 13 Interested parties were initially notified of Steering Committee meetings through a group email list.
 14 Later, an electronic mailing list was developed and maintained to ensure that interested members of
 15 the public were notified of upcoming meetings and that draft documents pertaining to the planning
 16 process were distributed as they became available. At the Steering Committee meetings, both oral
 17 and written public comments were accepted, and comments received in writing were posted to the
 18 website. Meeting notes also reflected comments and input offered by the public.

19 The Steering Committee formed a number of standing working groups, technical teams and *ad hoc*
 20 groups to focus on approaches and solutions to specific issues related to BDCP development. The
 21 working groups dealt with broad topics, such as conservation strategies and water conveyance, and
 22 developed recommendations that were presented to the Steering Committee for consideration.
 23 Technical teams were tasked with developing proposed approaches to technical and scientific
 24 issues. These teams were co-chaired by subject-matter experts who often represented Steering
 25 Committee members, and were staffed by appropriate technical experts. Meetings of the working
 26 groups and technical teams were noticed on the project website and open to the public. The working
 27 groups and technical teams listed below were convened.

- 28 ● Analytical Tools Technical Team.
- 29 ● Conservation Strategy Work Group.
- 30 ● Fish Facilities Technical Team (FFTT).
- 31 ● Goals and Objectives Work Group.
- 32 ● Habitat and Operations Technical Team (HOTT).
- 33 ● Habitat Restoration Program Technical Team (HRPTT).
- 34 ● Conservation Strategy Integration Team.
- 35 ● Logic Chain.
- 36 ● Metrics Group.
- 37 ● Modeling for Modelers.
- 38 ● Other Stressors Conservation Measures.
- 39 ● Science.

- 1 • Science Liaison Group.
- 2 • Synthesis Team.
- 3 • Terrestrial Species Subgroup.

4 At the beginning of 2011, the BDCP Steering Committee was disbanded under a new state
5 administration; however, the public participation component of the planning process remained
6 heavily focused on incorporating public input from varying interest groups. CNRA and DWR formed
7 a new series of working groups to formulate solutions to outstanding issues that needed to be
8 resolved in order to inform the draft environmental documents. The working groups were
9 comprised of stakeholders with a key interest in the working groups' charge. The stakeholders'
10 input at working group meetings contributed to elements of the Draft BDCP. The working group
11 meetings were open to the public, and each working group meeting included an opportunity for
12 public comment. Working group meetings were publicized on the project website and meeting
13 notices were sent to the electronic mailing list. Below are some of the group meetings noticed on the
14 project website.

- 15 • Biological Goals and Objectives.
- 16 • Yolo Bypass Fishery Enhancement Planning Team.
- 17 • Governance Structure.
- 18 • South Delta Habitat.
- 19 • Financing.
- 20 • Delta Agriculture.
- 21 • Economic Impacts – Cost/Benefits Analysis.
- 22 • Adaptive Limits.

23 **32.1.4.2 Stakeholder Briefings and Presentations**

24 Over the course of the planning process, DWR and CNRA officials conducted more than 400 briefings
25 for community organizations, local jurisdictions within and adjacent to the Plan Area, elected
26 officials, environmental organizations, urban and agricultural water users groups, recreational and
27 commercial fishing organizations, and professional conferences or association meetings. These
28 briefings were held throughout the state, and information about the BDCP was regularly distributed,
29 including updated fact sheets explaining the purpose of the project and describing its various
30 components.

31 **32.1.4.3 Public Meetings**

32 In addition to the scoping meetings conducted during 2008 and 2009, the public meetings
33 conducted on the Draft EIR/EIS in 2014, and the public meetings on the Recirculated Draft EIR/EIS
34 in 2015, DWR and CNRA conducted numerous other public meetings associated with the
35 development of the BDCP/California WaterFix at different milestones in the planning process to
36 share information and solicit input.

- 37 • During June 2008, the CNRA hosted three town hall meetings in the Delta to discuss the major
38 programs and projects underway throughout the Delta.

- 1 • During August and November 2008, eight landowner meetings were conducted to discuss the
2 required field studies needed to support the environmental review process.
- 3 • Prior to the 2009 scoping meetings, a webinar was held to provide background information
4 about the purpose, approach, and status of the BDCP. The webinar took place on February 18,
5 2009, and was broadcast from the CNRA auditorium in Sacramento. Following the presentation,
6 participants submitted questions online for a question and answer session.
- 7 • During March 2009, the BDCP staff hosted informational sessions in conjunction with the
8 EIR/EIS scoping meetings about the purpose, approach, and status of the BDCP.
- 9 • During September 2009, BDCP Steering Committee and working groups conducted four public
10 workshops throughout the Delta to review the Draft BDCP Conservation Strategy. Input from the
11 workshops was compiled and conveyed to the BDCP Steering Committee and posted on the
12 project website.
- 13 • Throughout 2011, the CNRA conducted six public meetings to discuss the progress of the
14 working groups that were established earlier in the year, update stakeholders on issues being
15 resolved and incorporated into the BDCP, and provide an opportunity for public comment and
16 questions. The meetings focused on plan development, schedule update, alternatives for
17 analysis, conveyance facilities and sizing, and water demand management. In addition, other
18 agencies provided updates on Delta-related issues.
- 19 • In 2012, public meetings continued to update stakeholders and the public on elements of the
20 administrative draft BDCP and EIR/EIS. Six meetings were held during the year focused on the
21 administrative draft EIR/EIS and BDCP chapters available for public review, alternatives
22 undergoing analysis, BDCP Effects Analysis, decision tree analysis related to the preliminary
23 proposal, biological goals and objectives, and funding.
- 24 • In 2013, three additional public meetings occurred to provide public briefings of BDCP
25 developments.

26 **32.1.4.4 Environmental Justice**

27 As discussed in Chapter 28, *Environmental Justice*, public outreach is central to the principles of
28 environmental justice. During the document preparation process, public outreach activities were
29 conducted that considered minority and low-income populations. A survey was conducted to assess
30 possible impacts and identify future outreach opportunities. These activities included the following.

- 31 • Distributing key project information to Spanish-language media outlets (print, television, radio).
- 32 • Providing a multilingual information hotline and overview handouts for project information in
33 English, Spanish, Tagalog, Vietnamese, Chinese (Mandarin), Hmong, and Cambodian (Khmer)
34 which were distributed at public meetings and online.
- 35 • Provided multilingual hotline information in newspaper announcements, postcards and flyers
36 for Spanish, Tagalog, Vietnamese, Chinese (Mandarin), Hmong, and Cambodian (Khmer)
37 speaking individuals to call for more information.
- 38 • Conducting scoping meetings within affected communities during evening hours in an effort to
39 involve low-income and minority communities outside of working hours.
- 40 • Providing Spanish translators at public scoping, Draft EIR/EIS, and RDEIR/SDEIS meetings.

- 1 • Providing postcard and email announcements regarding major project milestones to
- 2 Environmental Justice community groups and leaders in the project area that included a
- 3 statement directing Spanish speakers to the hotline for more information.
- 4 • Providing key project information, such as a description of the proposed project, major
- 5 milestones or developments in the planning process, and information regarding the public
- 6 comment periods, on the website in Spanish. Contact card with multilingual hotline information
- 7 distributed to field staff that were likely to encounter non-English speaking groups in the course
- 8 of regular field work.
- 9 • Providing oral translators upon request to field phone calls.
- 10 • Providing written translation services upon request to address written communications.

11 **32.1.4.5 Additional and Ongoing Public Participation Opportunities**

12 To further facilitate the dissemination of information about the BDCP/California WaterFix, DWR and
 13 CNRA maintain a project website at www.baydeltaconservationplan.com. The website is updated
 14 regularly with information about the project schedule and documents of interest. In recognition of
 15 the fact that the proposed project is an enormous endeavor and in an effort to ensure an open and
 16 transparent process, administrative draft chapters of the EIR/EIS and the BDCP were posted on the
 17 website in 2011 and 2012 to provide the public an opportunity to review the administrative draft
 18 documents. Disclaimers were posted on the website to advise the public that the chapters were
 19 preliminary and subject to change, and that the posting of the draft versions of the chapter would
 20 not take the place of a formal public review required under CEQA and NEPA once the public draft
 21 EIR/EIS was released. In July 2012, information released by California Governor Jerry Brown,
 22 Secretary of the Interior Ken Salazar, and Eric Schwaab, National Oceanic and Atmospheric
 23 Administration (NOAA) Acting Assistant Secretary for Conservation and Management, outlining
 24 changes to the proposed BDCP from the February 2012 administrative draft and was posted to the
 25 project website. The website was maintained and regularly updated in 2013 and 2014 to notify the
 26 public about the comment period for the Draft EIR/EIS and the public meetings throughout the state
 27 to take public comments on the document. The Draft EIR/EIS and Draft BDCP, along with other
 28 informational materials including guides to assist in review the document, were also posted. At the
 29 end of 2014, DWR and its federal partners announced significant refinements to the proposed BDCP
 30 water facilities to reduce impacts to Delta communities, minimize disturbances to, or dislocation of
 31 Greater Sandhill Cranes, and improve the long-term reliability and operation of the proposed
 32 tunnels. DWR also announced additional information about the scope of the recirculated documents
 33 that were planned for release in 2015. In April of 2014 DWR and Reclamation announced that a new
 34 sub-alternative (Alternative 4A) would replace the BDCP as the state's proposed project and that
 35 two other non-HCP alternatives (Alternatives 2D and 5A) would be evaluated in the RDEIR/SDEIS.
 36 Alternative 4A, also known as California WaterFix, reflects the state's proposal to separate the
 37 conveyance facility and habitat restoration measures into two separate efforts: California WaterFix
 38 and California EcoRestore. To support public outreach related to California WaterFix, a new website
 39 was launched, www.californiawaterfix.com. The announcement was made on the BDCP website and
 40 through an e-blast. Interested parties were directed to the California WaterFix website for
 41 additional information. The California WaterFix website contains overview information about the
 42 proposed project as well as news articles, factsheets, Frequently Asked Questions, videos and other
 43 resources related to permitting processes and the Design & Construction Enterprise. In July 2015,
 44 DWR and Reclamation released the RDEIR/SDEIS and posted the revised documents along with
 45 information about public meetings and how to comment on the documents on the website.

1 An email list issued notices and project updates regularly to communicate information of
2 significance to interested stakeholders.

3 Numerous fact sheets and brochures were developed during the project planning process and
4 distributed to stakeholders at public meetings or project briefings. All fact sheets and brochures are
5 available for review on the project website.

6 Informational materials provided through the public involvement process are included in Appendix
7 32A, *Public Involvement Informational Materials*.

8 **32.2 Compliance with Agency Consultation** 9 **Requirements**

10 The following sections describe relevant federal and state consultation requirements and the
11 consultation that has occurred to date, or that will occur, for the lead agencies to achieve
12 compliance.

13 **32.2.1 Federal Requirements**

14 Below is a summary of relevant federal laws, executive orders, and policies requiring agency
15 consultation.

16 **32.2.1.1 Clean Water Act**

17 The Clean Water Act (CWA) is the primary federal surface-water protection legislation. The CWA
18 aims to restore and maintain the chemical, physical, and biological integrity of surface waters to
19 support “the protection and propagation of fish, shellfish, and wildlife ... and recreation in and on the
20 water.” The U.S. Environmental Protection Agency (USEPA) is the federal agency with authority for
21 implementing regulations adopted pursuant to the CWA. USEPA has delegated the authority to
22 implement and oversee most of the programs authorized or adopted for CWA compliance to the U.S.
23 Army Corps of Engineers (USACE) or the Regional Water Quality Control Boards (RWQCB). The
24 USACE, through the Regulatory Program, administers and enforces Section 404 of the CWA. Under
25 CWA Section 404, a permit is required for the discharge of dredged or fill materials into water of the
26 United States.

27 Project applicants will participate in one or more pre-application meetings with USACE and will
28 prepare applications for permits under Section 404 of the CWA. In addition, these applications will
29 include the relevant information to obtain Section 401 Water Quality Certifications from the State
30 Water Resources Control Board (State Water Board), the San Francisco Bay RWQCB, and the Central
31 Valley RWQCB.

32 **32.2.1.2 Federal Endangered Species Act**

33 The federal Endangered Species Act (ESA) provides a program for the conservation of threatened
34 and endangered plants and animals, and the habitat in which they live. Pursuant to ESA, USFWS and
35 NMFS have authority over projects that may result in the take of a species listed as threatened or
36 endangered. Under ESA, the definition of “take” is to “harass, harm, pursue, hunt, shoot, wound, kill,
37 trap, capture, or collect, or to attempt to engage in any such conduct.” USFWS has also interpreted

1 the definition of “harm” to include significant habitat modification that could result in take. If a
 2 project is likely to result in a take of a federally listed species, either an incidental take permit under
 3 Section 10(a) of the ESA or a federal interagency consultation under Section 7 of the ESA is required.

4 **Section 10 of the Endangered Species Act**

5 Each alternative that includes an HCP component (1A, 1B, 1C, 2A, 2B, 2C, 3, 4, 5, 6A, 6B, 6C, 7, 8, 9)
 6 has been prepared as a joint HCP/NCCP consistent with ESA and the California Natural Community
 7 Conservation Planning Act (NCCPA). These alternatives are intended to meet all regulatory
 8 requirements necessary for USFWS and NMFS to issue ESA Section 10 permits and for CDFW to
 9 issue an NCCPA permit to allow incidental take of all proposed covered species as a result of covered
 10 activities undertaken by the permit applicants.

11 Federal policy to implement the ESA Section 10 known as the “5-Point Policy” requires a 90-day
 12 public review period for all draft HCPs that are accompanied by an EIS. If the HCP includes an
 13 Implementing Agreement, a draft of that agreement will also be released for public review. The
 14 release of the draft BDCP and Implementing Agreement concurrent with the publication of the draft
 15 EIR/EIS satisfies this requirement.

16 Prior to issuance of an ESA Section 10 incidental take permit, the Bureau of Reclamation must
 17 engage in formal consultation with both USFWS and NMFS, leading to issuance of a biological
 18 opinion authorizing Reclamation activities covered by BDCP under ESA Section 7. Similarly, the
 19 USFWS and NMFS must engage in formal consultation both internally and with each other. These
 20 consultations are expected to result in a single biological opinion prepared jointly by USFWS and
 21 NMFS and issued to USFWS, NMFS, and Reclamation. The NEPA lead agencies cannot issue a Record
 22 of Decision for this EIR/EIS until these formal consultations are concluded.

23 **Section 7 of the Endangered Species Act**

24 Where the alternative does not include preparation of an HCP (Alternatives 4A, 2D, 5A), ESA
 25 compliance for construction and operation of water intakes in the north Delta and associated
 26 conveyance facilities would be achieved solely through Section 7. For these alternatives, USFWS and
 27 NMFS would not issue a permit. Where Section 7 is the ESA compliance strategy, USFWS and NMFS
 28 will assume roles as cooperating agencies for purposes of the NEPA review.

29 Reclamation would be the lead federal action agency for Section 7 compliance where a non-HCP
 30 alternative is selected. Reclamation’s Section 7 compliance would be expected to also address the
 31 Section 7 compliance needs for the USACE permit actions. In cooperation with DWR, Reclamation
 32 has prepared a biological assessment (BA) for submission to USFWS and NMFS requesting formal
 33 consultation under ESA Section 7. Formal consultation may last up to 90 days, after which USFWS
 34 and NMFS will prepare a consolidated biological opinion on whether the proposed activity
 35 will *jeopardize* the continued existence of a listed species. USFWS and NMFS have 45 days after
 36 completion of formal consultation to write the opinion. It is expected that USFWS and NMFS would
 37 ultimately prepare a biological opinion authorizing incidental take of federally listed species.

38 **32.2.1.3 Fish and Wildlife Coordination Act**

39 The Fish and Wildlife Coordination Act (FWCA) ensures that fish and wildlife receive equal
 40 consideration with water resources development during planning and construction of federal water
 41 projects by requiring that the federal agencies consult with USFWS and the State wildlife resources

1 agency before the waters of any stream or other body of water are impounded, diverted, deepened
 2 or otherwise controlled or modified. The FWCA requires that the views of USFWS and the State
 3 agency be considered when evaluating impacts and determining mitigation needs. NEPA regulations
 4 further require that an EIS meet the consultation requirements of the FWCA (40 CFR 1502.25[a]).
 5 The FWCA consultation requirements are being satisfied through the EIR/EIS process.

6 **32.2.1.4 Magnuson-Stevens Fishery Conservation and Management Act**

7 The Magnuson-Stevens Fishery Conservation and Management Act (MSA) establishes a management
 8 system for national marine and estuarine fishery resources. Section 305(b)(2) of the 1996
 9 reauthorization of the MSA added a provision for federal agencies to consult with NMFS on impacts
 10 to Essential Fish Habitat (EFH), which applies to commercial fisheries. EFH includes specifically
 11 identified waters and substrate necessary for fish spawning, breeding, feeding, or growing to
 12 maturity. BDCP Appendix 5.I includes an assessment of BDCP effects on EFH. The lead agencies
 13 cannot issue a Record of Decision for this EIR/EIS until the NMFS issues a statement of concurrence
 14 with the findings of that assessment. It is expected that compliance with the MSA for the proposed
 15 project or any of the action alternatives will be through NMFS' issuance of the biological opinion
 16 under Section 7 of the ESA.

17 **32.2.1.5 Rivers and Harbors Act**

18 The Rivers and Harbors Act of 1899, addresses projects and activities in navigable waters and
 19 harbor and river improvements.

20 Section 9 of the Rivers and Harbors Act prohibits the construction of dams, bridges, dikes, and other
 21 structures across any navigable water, or placing obstructions to navigation outside established
 22 federal lines in the absence of Congressional consent and approval of the plans by the Chief of
 23 Engineers and the Secretary of the Army. Where the navigable portions of the water body lie wholly
 24 within the limits of a single state, the structure may be built under authority of the legislature of that
 25 state, if the location and plans or any modification thereof are approved by the Chief of Engineers
 26 and by the Secretary of the Army. Excavating from or depositing material in navigable water
 27 requires permits from USACE. Section 9 also pertains to bridges and causeways but the authority of
 28 the Secretary of the Army and Chief of Engineers with respect to bridges and causeways was
 29 transferred to the Secretary of Transportation under the Department of Transportation Act of
 30 October 15, 1966.

31 Section 10 prohibits the unauthorized obstruction or alteration of any navigable water in the United
 32 States. This section provides that the construction of any structure in or over any navigable water of
 33 the United States, or the accomplishment of any other work affecting the course, location, condition,
 34 or physical capacity of such water, is unlawful unless the work has been authorized by the Chief of
 35 Engineers. Project applicants will coordinate with USACE for issuance of a Section 10 permit.

36 Section 14 provides that the Secretary of the Army, on the recommendation of the Chief of
 37 Engineers, may grant permission for the temporary occupation or use of any sea wall, bulkhead,
 38 jetty, dike, levee, wharf, pier or other work built by the United States. This permission will be
 39 granted by an appropriate real estate instrument in accordance with existing real estate regulations.
 40 To initiate the Section 408 permission process, the federal lead agencies will submit the following.

- 41 • A written request for approval of the modification that includes a description of the modification
 42 and the purpose of and need for the modification.

- 1 • A technical analysis of the adequacy of the proposed design; a real estate analysis.
- 2 • A discussion of residual risk.
- 3 • Information supporting compliance with other applicable Federal laws.

4 Activities that require Section 408 permission typically also require authorization under Section 404
 5 of the CWA and Section 10 of the Rivers and Harbors Act. Project applicants will participate in one or
 6 more pre-application meetings with USACE and will prepare applications for permits under Section
 7 408 of the Rivers and Harbors Act.

8 **32.2.1.6 National Historic Preservation Act**

9 Section 106 of the National Historic Preservation Act (NHPA) of 1966 (as amended in 1992)
 10 requires federal agencies to evaluate the effects of federal undertakings on historic, archaeological,
 11 and cultural resources, and to consult with the Advisory Council on Historic Preservation (ACHP)
 12 concerning potential effects of federal actions on historic properties. Before federal funds may be
 13 approved for a particular project and prior to the issuance of any license, the effect of the project on
 14 any district, site, building, structure, or object that is included in or eligible for the National Register
 15 of Historic Places shall be evaluated.

16 To comply with the NHPA, notices of public meetings for this project will be sent to the State
 17 Historic Preservation Officer (SHPO), a unit of the California Department of Parks and Recreation
 18 that acts as an intermediary for the ACHP. In addition, copies of the Draft EIR/EIS and RDEIR/SDEIS
 19 were sent to SHPO requesting review and soliciting input on the project. Reclamation, USFWS,
 20 NMFS, and DWR will coordinate with ACHP and SHPO consistent with Section 106 of the NHPA.

21 **32.2.1.7 Native American Consultation**

22 The regulations for Section 106 of the NHPA require federal agencies to consult with Indian Tribes
 23 that attach cultural or religious significance to cultural resources subject to management during the
 24 Section 106 process (see 36 CFR 800.2). Each federal agency performing an action that constitutes
 25 an undertaking as defined in the Section 106 regulations will consult with relevant Indian Tribes
 26 regarding that undertaking (36 CFR 800.16[y]). Government-to-government consultation would
 27 take place to determine interests, concerns, impacts, applicable tribal regulations, and appropriate
 28 avoidance measures.

29 As directed by the Governor's Executive Order B-10-11 and the California Natural Resources Agency
 30 policy regarding consultation with California Native American Tribes, DWR is conducting
 31 government-to-government consultation on the EIR/EIS for the BDCP/California WaterFix.

32 Regional meetings were held across the state as a means to provide information and solicit input on
 33 the project. In addition, any tribe interested in further consultation with DWR may request
 34 consultation and that request will be facilitated in the most appropriate manner for both parties.
 35 Information about DWR's tribal engagement efforts as well as a list of the meetings that have been
 36 held and meeting materials is posted to the BDCP/California WaterFix website at
 37 www.baydeltaconservationplan.com.

1 **32.2.1.8 Executive Order on Environmental Justice (EO 12898)**

2 Executive Order (EO) 12898, *Federal Actions to Address Environmental Justice in Minority*
 3 *Populations and Low-Income Populations* (59 CFR 7629), requires federal agencies to analyze federal
 4 actions that have the potential to result in disproportionately high and adverse effects on minority
 5 and low-income populations. Public outreach is an important component of meeting the goals
 6 identified in EO 12898. As Reclamation’s NEPA Handbook states, “scoping and public involvement
 7 activities should be carried out to ensure adequate opportunity for minority and low-income
 8 populations in the affected area to participate in the NEPA process. The participation of these groups
 9 can be particularly important when assessing the significance of impacts and the adequacy of
 10 contemplated mitigation measures.”

11 **32.2.2 State Requirements**

12 Below is a summary of relevant state laws and policies requiring agency consultation.

13 **32.2.2.1 Natural Community Conservation Planning Act**

14 The NCCPA is part of the California Fish and Game Code, Sections 2800–2835. The NCCPA authorizes
 15 and encourages conservation planning on a regional scale in California. The NCCPA addresses the
 16 conservation of natural communities as well as individual species. The mechanism for this regional
 17 conservation is the development of NCCPs that provide for early coordination efforts to protect
 18 natural communities that contain species listed for protection under ESA or the California
 19 Endangered Species Act (CESA), as well as unlisted species. To be approved by CDFW, an NCCP must
 20 adequately conserve species and natural communities within the plan area, as is required under ESA
 21 and CESA. An NCCP differs from the individual project approach to ESA and CESA compliance, in
 22 which impacts of taking a listed species caused by individual projects are addressed on a project-by-
 23 project basis. The NCCPA also provides an alternative to incidental take permits under CESA. Under
 24 the NCCPA, CDFW may issue “NCCPA authorizations” for actions that would result in the take of any
 25 species, including listed species that are adequately conserved by an approved NCCP.

26 In December 2006, the members of the BDCP Steering Committee entered into a formal Planning
 27 Agreement consistent with requirements of the NCCPA for the development of the BDCP. Among
 28 other things, the Planning Agreement defined the goals, commitments, and expectations of the
 29 parties regarding the BDCP planning process. It also reiterated the goal of the Steering Committee to
 30 develop a conservation plan that would meet the requirements of ESA and the NCCPA.

31 Each alternative that includes an HCP component (1A, 1B, 1C, 2A, 2B, 2C, 3, 4, 5, 6A, 6B, 6C, 7, 8, 9)
 32 has been prepared as a joint HCP/NCCP consistent with ESA and the NCCPA, to support the issuance
 33 of incidental take authorizations from USFWS and NMFS pursuant to ESA (see Section 32.2.1.2,
 34 *Federal Endangered Species Act*), and to support the issuance of take authorizations from CDFW
 35 under Section 2835 of the NCCPA (see Section 32.2.2.1, *Natural Community Conservation Planning*
 36 *Act*). Alternatives 4A, 2D, and 5A are not presented as habitat conservation/natural community
 37 conservation plans according to ESA Section 10 and the NCCPA.

38 **32.2.2.2 California Endangered Species Act**

39 CESA (Fish and Game Code Section 2050 et. seq.) establishes state policy to conserve, protect,
 40 restore, and enhance threatened or endangered species and their habitats. CDFW is responsible for

1 administering this act and for maintaining the California threatened and endangered species listings.
 2 CESA prohibits the *take* of listed and candidate (petitioned to be listed) species. As defined by CESA,
 3 take is to “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch capture, or kill.”
 4 To ensure that actions proposed by an agency do not jeopardize the continued existence of any
 5 endangered or threatened species or result in destruction or adverse modification of essential
 6 habitat, lead agencies must seek consultation with CDFW prior to project implementation. For
 7 projects that would affect a species that is federally and state-listed, compliance with ESA satisfies
 8 CESA if CDFW determines that the federal incidental take authorization is consistent with CESA
 9 (Fish and Game Code Section 2080.1). For projects that would result in take of a state-listed species,
 10 the project proponent must apply for a take permit under Fish and Game Code Section 2081(b).

11 Where the alternative does not include preparation of an HCP (Alternatives 4A, 2D and 5A), CESA
 12 compliance for construction and operation of water intakes in the north Delta and associated
 13 conveyance facilities would be achieved through Fish and Game Code Section 2081(b). The CESA
 14 allows CDFW to issue an incidental take permit for a state-listed threatened and endangered species
 15 only if specific criteria are met. For this alternative compliance strategy, CDFW would be a
 16 responsible agency for CEQA compliance purposes.

17 As a component of any of the action alternatives, including Alternative 4A, an adaptive management
 18 and monitoring program would be implemented to use new information and insight gained during
 19 the course of construction and operation of water conveyance facilities to ensure that the proposed
 20 project continues to meet CESA Section 2081(b) standards.

21 DWR has submitted an application for authorization of an incidental take permit for take associated
 22 with construction and operation of the proposed project.

23 **32.2.2.3 Porter-Cologne Water Quality Control Act**

24 In 1967, the Porter-Cologne Act established the State Water Board and nine RWQCBs as the primary
 25 state agencies with regulatory authority over California water quality and appropriative surface
 26 water rights allocations. The State Water Board administers the Porter-Cologne Act, which provides
 27 the authority to establish Water Quality Control Plans (WQCPs) that are reviewed and revised
 28 periodically. The Porter-Cologne Act also provides the State Water Board with authority to establish
 29 statewide plans.

30 The nine RWQCBs carry out State Water Board policies and procedures. The State Water Board and
 31 the RWQCBs also carry out sections of the federal CWA administered by USEPA, including the
 32 National Pollutant Discharge Elimination System (NPDES) permitting process for point source
 33 discharges and the CWA Section 303 water quality standards program.

34 WQCPs, also known as basin plans, designate beneficial uses for specific surface water and
 35 groundwater resources, and establish water quality objectives to protect those uses. These plans can
 36 be developed at the state or regional level. RWQCBs issue waste discharge requirements for the
 37 major point source waste dischargers, such as municipal wastewater treatment plants and industrial
 38 facilities. In acting on water rights applications, the State Water Board may establish terms and
 39 conditions in a permit to carry out WQCPs.

40 Basin plans adopted by RWQCBs are primarily implemented through the NPDES permitting system
 41 and through issuance of waste discharge requirements to regulate waste discharges so that water
 42 quality objectives are met. Basin plans provide the technical basis for determining waste discharge

1 requirements and authorize the RWQCBs to take regulatory enforcement actions if deemed
 2 necessary. The basin plans are subject to a triennial review and may be amended under a structured
 3 process involving full public participation and state environmental review. The Delta is under the
 4 jurisdiction of the Central Valley RWQCB and the San Francisco Bay RWQCB, which carry out
 5 policies and procedures adopted under their respective basin plans.

6 **32.3 Agency Involvement and Coordination**

7 **32.3.1 Agency Involvement in the EIR/EIS**

8 The Delta Habitat Conservation and Conveyance Program (DHCCP) was formed in 2008 as a result
 9 of Governor Schwarzenegger's calls for studies to assess potential habitat restoration and water
 10 conveyance options in the Delta. The DHCCP is a partnership between DWR and Reclamation to
 11 evaluate the ecosystem restoration and water conveyance alternatives identified by the BDCP.
 12 USFWS, Reclamation, and NMFS are participating in the BDCP planning process as advisors and are
 13 co-lead agencies for the EIR/EIS. The DHCCP has three primary goals.

- 14 • Analyze BDCP proposed actions and alternatives through a formal EIR/EIS process.
- 15 • Analyze options and consider areas of concern presented by the public during the EIR/EIS
 16 process.
- 17 • Develop preliminary engineering options for habitat restoration, other stressors, and water
 18 conveyance.

19 In June 2008, the BDCP Environmental Coordination Team (BECT) was founded as a project working
 20 group consisting of the BDCP EIR/EIS lead agencies and responsible, cooperating, and interested
 21 agencies to provide environmental planning and review. More specifically, the BECT includes
 22 representatives from DWR, CDFW, Reclamation, NMFS, and USFWS, and other interested,
 23 responsible, and cooperating agencies (e.g., State Water Board, USACE, and USEPA). The goal of the
 24 BECT was to identify and implement a collaborative process that would result in the issuance of
 25 applicable permits. The process involved environmental analyses of potential conservation
 26 measures, including conveyance and habitat restoration, and other options in support of agency
 27 decision-making. More than 60 BECT meetings occurred between 2008 and 2013.

28 Ongoing agency consultation and coordination activities are continuing during preparation of the
 29 environmental documents for the BDCP/California WaterFix. The lead agencies continue to
 30 proactively engage interested agencies throughout the NEPA, CEQA, and project permitting
 31 processes.

32 **32.3.2 Agency Involvement in the BDCP/California WaterFix**

33 The history of agency involvement in BDCP development is described in BDCP Appendix 3G,
 34 *Background on the Process of Developing the BDCP Conservation Measures*, and is summarized in this
 35 section.

36 From 2006 to 2010, the BDCP planning process was guided by the BDCP Steering Committee.
 37 Steering Committee membership included eight state and federal agencies (Reclamation, CDFW,
 38 DWR, California Natural Resources Agency, NMFS [ex officio], State Water Board [ex officio], USACE

1 [ex officio], and USFWS [ex officio]) as well as six public water agencies, six environmental non-
 2 governmental organizations, and five other regional member agencies. Steering Committee
 3 responsibilities included providing policy guidance and direction for the preparation of all elements
 4 of the BDCP. The Steering Committee formed various standing and *ad hoc* groups as needed to
 5 address specific technical issues related to BDCP development. Meetings of the Steering Committee
 6 and Steering Committee groups were noticed on the project website and open to the public.

7 Following release of a preliminary administrative draft BDCP document in November 2010, the
 8 Steering Committee was disbanded. DWR, Reclamation, USFWS, NMFS, and CDFW formed several
 9 groups for meeting and resolving policy and technical issues. The *Authorized Entities* – those parties
 10 seeking coverage under BDCP permits – included DWR, Reclamation, and several public water
 11 agencies. DWR and Reclamation managed the BDCP as lead agencies, coordinating with the other
 12 authorized entities and the permitting and regulatory agencies separately and together, depending
 13 on the specific topic. Consultation with these agencies continued throughout the development of this
 14 EIR/EIS, and in particular those fish and wildlife agencies that would be reviewing the BDCP for
 15 proposed permits and authorizations to be issued pursuant to the ESA and NCCPA: the CDFW,
 16 USFWS, and NMFS.

17 Consultations between DWR and Reclamation and the fish and wildlife agencies have been frequent
 18 from late 2010 to the present, featuring hundreds of communications on scores of issues. The
 19 primary venues for these discussions have been as follows.

- 20 ● Principals meetings, which are meetings scheduled as needed between senior staff of DWR,
 21 Reclamation, USFWS, NMFS, CDFW, United States Department of Interior, and the California
 22 Natural Resources Agency, and which are primarily used to discuss broad issues and those
 23 affecting agency policies.
- 24 ● BDCP working group meetings, which are meetings attended by technical staff representing
 25 both the Authorized Entities and the fish and wildlife agencies, and which are focused on
 26 technical issues in the analysis. Examples include meetings of the Fish Facilities Technical Team,
 27 which addressed technical issues related to the proposed north Delta diversions, and the
 28 Terrestrial Technical Team, which addressed issues related to the conservation reserve
 29 program and protection of natural communities and associated species. Both of these examples
 30 represent meetings focused on developing the conservation strategy. Other working groups
 31 addressed issues in the effects analysis (BDCP Chapter 5), Plan governance (BDCP Chapter 7),
 32 and Plan costs and funding (BDCP Chapter 8). Other meetings were held with the State Water
 33 Board staff, USACE staff, and USEPA staff as needed to discuss their comments on the EIR/EIS.
- 34 ● BDCP Draft documents. Complete or largely complete drafts of the BDCP were issued in
 35 December 2010, February 2012, and March 2013. Each of these drafts provided the fish and
 36 wildlife agencies with an opportunity to review the complete plan and to issue review
 37 comments. Each successive draft addressed these comments. The process typically included
 38 many emails and telephone conversations to discuss the review comments and the appropriate
 39 response.
- 40 ● Section 7 Consultation Team (SCT) meetings. This group was begun in September 2014 based
 41 around planning efforts for the ESA Section 7 compliance component of the BDCP. Attendees
 42 included representatives from Reclamation, DWR, USFWS, NMFS, and CDFW. The purpose of the
 43 SCT was to coordinate the use of the BDCP ESA Section 10 document for purposes of completing
 44 the ESA Section 7 consultation. Meetings were held bimonthly through December. In February

1 2015, Reclamation and DWR decided to pursue an ESA Section 7 consultation in lieu of the ESA
 2 Section 10 permit. At that time, the SCT began meeting weekly and was focused on the
 3 development of a new document to support ESA Section 7 consultation. Additionally, technical
 4 teams were formed with the same membership as the SCT to allow USFWS and NMFS to provide
 5 technical assistance in the development of the BA.

- 6 ● On January 15, 2016, DWR and Reclamation released a working draft of the BA and made it
 7 available for inspection on the California WaterFix website. An email notice sent to the
 8 California WaterFix email list to inform interested parties that the document was available
 9 online.
- 10 ● From March 2015 through November 2015, NMFS, USFWS, CDFW, DWR, and Reclamation
 11 participated in collaborative meetings to develop appropriate technical approaches to the
 12 evaluation of the redefined proposed project.
 - 13 ○ Weekly SCT meetings.
 - 14 ○ Weekly ESA Technical Team meetings.
 - 15 ○ Weekly Terrestrial Technical Team meetings.
 - 16 ○ Weekly Aquatics Technical Team meetings.
 - 17 ○ Various workshops to discuss specific topics, such as the inclusion of climate change,
 18 application of specific modeling tools, and modeling assumptions.
- 19 ● Beginning in April 2015, USACE and USEPA also participated in technical discussions pertaining
 20 to relevant components of the consultation through the weekly ESA technical team meetings.

21 **32.4 Public Review of the Final EIR/EIS**

22 This document (the Final EIR/EIS) contains responses to substantive public and agency comments
 23 on the Draft EIR/EIS and RDEIR/SDEIS. DWR is responsible for certifying the EIR portion as
 24 adequate in compliance with CEQA. Under CEQA, certification of a final EIR consists of three findings
 25 made by the lead agency’s decision-making body: 1) “The final EIR has been completed in
 26 compliance with CEQA”; 2) “The final EIR was presented to the decision-making body of the lead
 27 agency, and ... the decision-making body reviewed and considered the information contained in the
 28 final EIR prior to approving the project”; and 3) “The final EIR reflects the lead agency’s independent
 29 judgment and analysis” (State CEQA Guidelines Section 15090(a)). Due to the level of public interest
 30 in the proposed project and because this is a Final EIR/EIS jointly prepared under the requirements
 31 of CEQA and NEPA, DWR will issue a notice for a 30-day period consistent with the federal notice,
 32 and prior to certification saying that the Final EIR/EIS has been published. At the end of this 30-day
 33 period, DWR will conduct a public meeting regarding the certification of the Final EIR/EIS and
 34 consideration of approval of the project. If DWR chooses to approve a project, it would also be
 35 required to adopt CEQA findings, a mitigation monitoring and reporting plan, and a statement of
 36 overriding considerations prior to approving the project (see State CEQA Guidelines, Sections
 37 15091–15093). These project approval documents, which would memorialize DWR’s choice
 38 amongst the alternatives developed in this EIR/EIS, would be referenced in a Notice of
 39 Determination (State CEQA Guidelines Section 15094). The Notice of Determination would be filed
 40 with the Office of Planning and Research. Where Reclamation determines it will approve the
 41 proposed action, it is responsible for issuing a Record of Decision following a 30-day period after a

1 Notice of Availability for the EIS has been published with the U.S. Environmental Protection Agency
2 (USEPA). The Record of Decision would also include consideration of a final biological opinion
3 issued under ESA Section 7.

4 The Final EIR/EIS will be mailed in electronic format to all of those who provided comments on the
5 Draft EIR/EIS or RDEIR/SDEIS and provided a valid mailing address. An email with a link to the
6 Final EIR/EIS will be sent to the entire project email list. The Final EIR/EIS will also be available for
7 inspection at these locations:

- 8 • California Department of Water Resources, 3500 Industrial Blvd., Room 117, West Sacramento,
9 CA 95691
- 10 • Bureau of ReclamationMP100, 2800 Cottage Way, Sacramento, CA 95825
- 11 • <http://baydeltaconservationplan.com>