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# Acronyms

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BDCP, the Plan	Bay-Delta Conservation Plan
CDFW	California Department of Fish and Wildlife
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
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
SFCWA	State and Federal Contractors Water 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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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.

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

The Implementation Office will also coordinate with the Delta Stewardship Council, Delta Science Program, Sacramento-San Joaquin Delta Conservancy (Delta Conservancy), and Delta Protection Commission to ensure appropriate engagement and collaboration on matters of common interest.

1 This approach to Plan implementation is expected to ensure the timely, efficient, and proper  
2 implementation of the commitments contained in the BDCP.

## 3 **7.1 Roles and Responsibilities of Entities Involved in** 4 **BDCP Implementation**

5 The parties that will be engaged in the implementation of the BDCP recognize that substantial  
6 coordination and cooperation between the Permit Oversight Group, the Authorized Entity Group,  
7 the Implementation Office, and various stakeholders will be necessary to ensure the overall success  
8 of the Plan. As such, these parties will, on an ongoing basis, collaborate on various elements of Plan  
9 implementation. The Program Manager, through the Implementation Office and under the direction  
10 of the Authorized Entity Group, will manage the implementation of the BDCP and ensure that such  
11 implementation proceeds in compliance with the Plan, the Implementing Agreement, and the  
12 associated regulatory authorizations. With respect to those state or federal agency functions not  
13 subject to assignment or delegation, DWR and Reclamation will each name a designated official to  
14 approve and assist in the execution of those functions, in coordination with the Implementation  
15 Office.<sup>1</sup> Various other parties, including the state and federal fish and wildlife agencies, other public  
16 agencies, nongovernment organizations, interested parties, and the public will be integral to the  
17 process of shaping decisions and effectuating actions set out in the BDCP. This section describes the  
18 roles and responsibilities of these parties in the implementation process. Table 7-1 summarizes the  
19 governance process for key decisions expected during Plan implementation. The organization of the  
20 implementation is illustrated in Figure 7-1, and the roles of implementation staff are illustrated in  
21 Figure 7-2.

### 22 **7.1.1 Program Manager**

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

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<sup>1</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 **Table 7-1. BDCP Governance Decision-Making**

Decision	Who initiates?	Who has input?	Who makes decision?	Who has final authority to decide the matter?	Final decision subject to review process? <sup>1</sup>
<b>Program Management</b>					
Selection of Program Manager (Section 7.1.1.1)	Authorized Entity Group (AEG)	Permit Oversight Group (POG); Stakeholder Council	Authorized Entity Group	AEG	No
Selection of Science Manager (Section 7.1.1.2)	Program Manager	POG; AEG; Stakeholder Council	Program Manager	Program Manager	No
Oversight and administration of program funding and resources and of contracting (except for water conveyance infrastructure)	Program Manager	Stakeholder Council	Program Manager in conjunction with designated State and Federal agents	AEG	No
Oversight and implementation of conservation measures (except water operations)	Program Manager	AMT, Stakeholder Council	Program Manager	AEG	No
Implementation of outreach, compliance monitoring and reporting requirements	Program Manager	Stakeholder Council	Program Manager	AEG	No
Annual Work Plan (Section 7.1.3.1)	Program Manager	AEG; POG; Stakeholder Council	AEG review and approval. POG concurrence that plans are consistent with past decisions that involve the POG	AEG	Yes
Annual Progress Report/Annual Water Operations Report	Program Manager	AEG; POG; Stakeholder Council; Real Time Operations Team	AEG review and approval	POG	No
Formal amendment (Section 7.2.11)	Program Manager	AEG	AEG review and approval	POG	No
<b>Adaptive Management and Monitoring</b>					
Adaptive management change to a conservation measure (water operations and non-water related)	AMT (proposals may be submitted by any party or	AEG; POG; Stakeholder Council (Technical Facilitation Subgroup)	AEG and POG	Regional director of relevant federal agency(ies) (USFWS or	Yes

Decision	Who initiates?	Who has input?	Who makes decision?	Who has final authority to decide the matter?	Final decision subject to review process? <sup>1</sup>
measures)	stakeholder)			NMFS) and/or CDFW director <sup>2</sup>	
Adaptive management change to a biological objective	AMT (proposals may be submitted by any party or stakeholder)	AEG; POG; Stakeholder Council	AEG and POG	Regional director of relevant federal agency(ies) (USFWS and/or NMFS) and/or CDFW director	Yes
Adaptive management change to problem statement and model refinement	AMT	AEG; POG; Delta Science Program; Interagency Ecological Program; Stakeholder Council	AEG and POG, if no consensus among AMT	POG	Yes
Development and modification of monitoring and research plans	Program Manager	AMT, AEG, POG, Delta Science Program, Interagency Ecological Program, Stakeholder Council	AEG and POG	POG	Yes
Science Review initiation and panel selection (independent and internal)	AMT and/or AEG/POG	AMT; AEG; POG; Stakeholder Council	AEG and POG	POG	Yes
<b>Water Operations</b>					
Annual Delta Water Operations Plan (Sections 7.1.4 and 7.3.2.1)	DWR and Reclamation	Implementation Office; POG; AMT; Stakeholder Council; Real Time Operations Team	DWR and Reclamation (POG review and concurrence regarding consistency with BDCP and associated authorizations)	DWR and Reclamation	Yes
Real-time operations changes	Real Time Operations Team	Case-by-case, as needed	Real Time Operations Team	Regional director of relevant federal agency(ies) (USFWS or NMFS) and/or CDFW director	No
<p>Notes:</p> <p><sup>1</sup> See Section 7.1.7 <i>Review of Disputes Regarding Implementation Decisions</i> for details.</p> <p><sup>2</sup> DWR and Reclamation need to confirm that any changes to a conservation measure are within their legal authority to implement.</p>					



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

### 11 **7.1.1.1 Program Manager: Selection and Designation of Staff**

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

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

18 The Program Manager will have the following minimum qualifications.

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

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

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

### 31 **7.1.1.2 Science Manager: Selection and Function**

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

36 The Program Manager will select the Science Manager. Prior to making this selection, the Program  
37 Manager will consult with the Authorized Entity Group and the Permit Oversight Group regarding

1 the selection process and the qualifications of the candidates, and invite the Authorized Entity Group  
2 and Permit Oversight Group to participate in the interview process. The Program Manager will also  
3 confer with the Stakeholder Council on the selection process.

4 The Science Manager will have the following minimum qualifications.

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

11 The Science Manager will report to the Program Manager and will, among other things, assume the  
12 following responsibilities.

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

31 Matters relating to the conduct of scientific reviews and the solicitation of independent scientific  
32 advice to assist in the implementation of the BDCP, including independent science review of  
33 adaptive management decisions affecting water operations, will be managed by the Adaptive  
34 Management Team, in a manner that ensures their independence and scientific integrity. The  
35 Adaptive Management Team, through the Science Manager, will coordinate such efforts with the  
36 Delta Science Program, the IEP, Stakeholder Council, the Authorized Entity Group, and the Permit  
37 Oversight Group.

### 1 **7.1.1.3 Implementation Office: Function, Establishment, and** 2 **Organization**

3 The Program Manager will establish, organize, and direct the Implementation Office. To ensure that  
4 the commitments reflected in the BDCP are carried out in a timely and efficient manner, the  
5 Program Manager, through the Implementation Office, will institute processes and procedures to  
6 adequately address planning, budgeting, sequencing, and scheduling needs related to Plan  
7 implementation. Under the direction of the Program Manager, the Implementation Office will  
8 function with a significant level of independence. However, the Program Manager and the  
9 Implementation Office staff will work closely with the Authorized Entity Group on a range of  
10 matters, particularly with respect to actions that affect water operations, and will be responsive to  
11 the Authorized Entity Group, regardless of the entity through which the Program Manager and the  
12 Implementation Office staff have established employment relationships. In addition, for those  
13 activities involving functions that, under state and federal law, cannot be delegated (e.g., water  
14 operations, water contracting, procurement, expenditures of state and federal funds), the Program  
15 Manager will coordinate with the appropriate designated state or federal official to ensure that the  
16 necessary function is carried out. The Program Manager will also, to the extent appropriate, solicit  
17 input from the Stakeholder Council on a range of implementation matters.

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

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

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

39 The Program Manager will fulfill the staffing needs of the Implementation Office by drawing from  
40 existing personnel at DWR, Reclamation, State and Federal Contractors Water Agency (SFCWA), and  
41 from other sources, including from sources outside of agencies, if appropriate and if such personnel

1 possess the expertise and experience necessary to carry out the tasks associated with BDCP  
2 implementation. The specific staffing needs of the Implementation Office will be determined by the  
3 Program Manager, with input from the Authorized Entity Group and the Permit Oversight Group.  
4 Staff assigned to the Implementation Office will act under the direction of the Program Manager. The  
5 engagement of personnel from DWR, Reclamation, and other entities, however, will not affect or  
6 modify the existing authorities of federal, state, and local agencies or nongovernmental  
7 organizations that pertain to personnel matters. Personnel may be retained under the  
8 Intergovernmental Personnel Act (5 USC 3371–3375); through personal services contracts, or other  
9 appropriate mechanisms. The Authorized Entities and the fish and wildlife agencies will each  
10 designate a lead representative from their respective agencies to serve as liaisons to the  
11 Implementation Office.

12 The Program Manager will budget for, oversee, and coordinate management of the funds and other  
13 resources needed to carry out the Program Manager’s responsibilities for Plan implementation. The  
14 Program Manager will seek to ensure that the funding commitments set out in the BDCP and its  
15 Implementing Agreement are being met. Consistent with its respective funding commitments, each  
16 of the signatories to the Implementing Agreement will dedicate, hold, and release funds and  
17 resources necessary for Plan implementation; will not commingle these funds with other funds or  
18 resources of the agency; and will be responsible for all appropriated funds and other funds  
19 entrusted to it. Each of these signatories will retain final authority over the expenditure of funds it is  
20 required to dedicate for BDCP implementation.

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

#### 29 **7.1.1.4 Assignment of Responsibilities**

30 The Authorized Entity Group will assign the Program Manager certain responsibilities concerning  
31 the implementation of the BDCP. The Authorized Entity Group will provide the Program Manager  
32 with sufficient capacity and capability to execute these responsibilities and effectively implement  
33 the BDCP and will explicitly define the scope of responsibilities assigned to the Program Manager.

#### 34 **7.1.1.5 No Delegation of Authority**

35 The assignment of responsibility to the Program Manager and the Implementation Office will not  
36 alter or modify existing authorities, mandates, and obligations of the Authorized Entities or any  
37 other participating state and federal agency participating in Plan implementation. No general  
38 delegation of authority by the Authorized Entities to the Implementation Office, including the  
39 Program Manager or to any employee assigned to the Implementation Office will occur, although  
40 specific delegation may occur in the event that it is considered by the delegating Authorized Entity  
41 to be beneficial to the efficient operation of the Implementation Office. Any such delegation will be  
42 conferred, in writing, by the delegating Authorized Entity to the Program Manager, and will be

1 reviewed by that agency from time to time. No unauthorized delegation of state or federal authority  
2 to the Program Manager or the Implementation Office will occur.

## 3 **7.1.2 Entities to Receive Regulatory Authorizations**

4 The BDCP provides the basis for the issuance of regulatory authorizations, under the federal  
5 Endangered Species Act (ESA) and the California Natural Community Conservation Planning Act  
6 (NCCPA), for the take of certain fish and wildlife species that result from the implementation of  
7 covered activities and associated federal actions (Chapter 4, *Covered Activities and Associated*  
8 *Federal Actions*). Take authorizations will be sought by federal and nonfederal entities under the  
9 following authorities.

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

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

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

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

### 29 **7.1.2.1 Authorized Entities**

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

### 1        **7.1.2.1.1        California Department of Water Resources**

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

### 7        **7.1.2.1.2        Bureau of Reclamation**

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

### 15       **7.1.2.1.3        SWP and CVP Contractors**

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

### 28       **7.1.2.2        Other Authorized Entities**

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

### 36       **7.1.3        Authorized Entity Group**

37       The Authorized Entity Group will be established to provide program oversight and general guidance  
38       to the Program Manager regarding the implementation of the Plan. The Authorized Entity Group will  
39       consist of the Director of DWR, the Regional Director for Reclamation, and a representative of the  
40       participating state contractors and a representative of the participating federal contractors, if they

1 are issued permits pursuant to the Plan. The Authorized Entity Group will be responsible for  
2 ensuring that the management and implementation of the BDCP are carried out consistent with its  
3 provisions, the Implementing Agreement, and the associated regulatory authorizations.

#### 4 **7.1.3.1 Function**

5 The Authorized Entity Group will provide oversight and direction to the Program Manager on  
6 matters concerning the implementation of the BDCP, provide input and guidance on general policy  
7 and program-related matters, monitor and assess the effectiveness of the Implementation Office in  
8 implementing the Plan, and foster and maintain collaborative and constructive relationships with  
9 the State and federal fish and wildlife agencies, other public agencies, stakeholders and other  
10 interested parties, and local government throughout the implementation of the BDCP.

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

19 The Program Manager will organize, convene, and provide support to the Authorized Entity Group  
20 and its proceedings,<sup>2</sup> including its meetings with the Permit Oversight Group. The Program Manager  
21 will further ensure that the Authorized Entity Group receives and reviews all proposed work plans,  
22 reports, budgets, and other relevant information generated by the Implementation Office, the state  
23 and federal fish and wildlife agencies, the Adaptive Management Team, and other sources. The  
24 Program Manager will further ensure that the Authorized Entity Group has sufficient opportunity to  
25 provide input regarding these documents.

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

40 The Program Manager will solicit input on the draft Annual Work Plan and Budget from the Permit  
41 Oversight Group, the Adaptive Management Team, and the Stakeholder Council, and submit the plan

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<sup>2</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 and budget to the Authorized Entity Group for review and approval. As part of this process, the  
2 Permit Oversight Group will review the draft plan and provide written concurrence prior to the  
3 Authorized Entity Group's approval that the draft accurately sets forth and makes adequate  
4 provision for the implementation of the applicable joint decisions of the Authorized Entity Group  
5 and the Permit Oversight Group or decisions of an agency within the Permit Oversight Group with  
6 authority over the matter. The content of the Annual Work Plan and Budget and the timing of  
7 preparation and submission of the document to the Authorized Entity Group are described in  
8 Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and Progress Reporting*.

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

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

## 22 **7.1.4 DWR and Reclamation: Operation of the SWP and CVP** 23 **and Preparation of the Annual Delta Water Operations** 24 **Plan**

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

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



1 resolution, the review process (Section 7.1.7, *Review of Disputes Regarding Implementation*  
2 *Decisions*) may be invoked by any of these parties. The Implementation Office will incorporate, for  
3 informational purposes, the final Annual Delta Water Operations Plan into the BDCP Annual Work  
4 Plan and Budget (Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and Progress*  
5 *Reporting*).

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

## 8 **7.1.5 Permit Oversight Group**

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

### 20 **7.1.5.1 Function**

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

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

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

- 1       • Provide input and concur with the consistency of specified sections of the Annual Work Plan and  
2       Budget with the BDCP and with certain agency decisions.
- 3       • Provide input and concur with the consistency of the Annual Delta Water Operations Plan with  
4       the BDCP.
- 5       • Provide input and accept Annual Reports.
- 6       • Provide input and approve plan amendments.

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

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

## 25      **7.1.5.2           Participants**

### 26      **7.1.5.2.1        California Department of Fish and Wildlife**

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

### 1        **7.1.5.2.2        National Marine Fisheries Service**

2        NMFS is an agency of the U.S. Department of Commerce authorized by Congress to administer and  
3        enforce the ESA with respect to marine mammals and certain fish species (including anadromous  
4        fish); to enter into agreements with states, local governments, and other entities to conserve  
5        federally threatened, endangered, and other species of concern; to authorize incidental take under  
6        ESA; and to provide regulatory assurances in accordance with 50 Code of Federal Regulations (CFR)  
7        Section 222.307(g). As a member of the Permit Oversight Group, NMFS will confer, on an ongoing  
8        basis, with the Implementation Office and the Authorized Entity Group on BDCP implementation,  
9        including participation in the operations decisions and adaptive management processes and the  
10       monitoring and science programs. NMFS will also maintain responsibility, jointly with USFWS, for  
11       Plan enforcement consistent with the ESA and other authorities. NMFS is jointly responsible for  
12       implementation of the Ecosystem Restoration Program, which was established to advance  
13       ecosystem restoration projects in the San Francisco Bay Delta and its tributaries.

### 14       **7.1.5.2.3        U.S. Fish and Wildlife Service**

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

### 30       **7.1.6        Adaptive Management Team**

31       The Adaptive Management Team will have primary responsibility for administration of the adaptive  
32       management and monitoring program described in Chapter 3, *Conservation Strategy*, Section 3.6,  
33       *Adaptive Management and Monitoring Program*, and will decide when and on what terms to seek  
34       independent science review to evaluate technical issues for the purpose of supporting adaptive  
35       management decision making. The Adaptive Management Team will have primary responsibility for  
36       the development of performance measures and effectiveness monitoring and research plans;  
37       analysis, synthesis, and communication of monitoring and research results; soliciting independent  
38       scientific review; and developing proposals to adapt (e.g., proposed modifications to the biological  
39       objectives and conservation measures). The Adaptive Management Team will ensure an appropriate  
40       level of integration between the BDCP adaptive management and monitoring program and the Delta  
41       Science Plan (Section 3.6.2.4, *Integration with the Delta Science Plan*).

42       The Adaptive Management Team will be responsible for integrating adaptive management and  
43       monitoring activities into one cohesive program. The roles and responsibilities of the Adaptive

1 Management Team to implement the adaptive management process are discussed further in  
2 Sections 3.6.3.5.1 and 3.6.3.4. Information obtained from monitoring and research activities will be  
3 used by the Adaptive Management Team to develop proposed changes to conservation measures or  
4 biological objectives to improve, on an ongoing basis, the outcomes associated with water resource  
5 management and ecological restoration commitments reflected in the Plan.

6 The Adaptive Management Team will be chaired by the Science Manager, and will consist of  
7 representatives of DWR, Reclamation, a CVP contractor-Permittee, a SWP contractor-Permittee,  
8 CDFW, USFWS, and NMFS, who will serve as voting members; and the IEP Lead Scientist, the Delta  
9 Science Program lead scientist or a designee, and the Director of the NOAA Southwest Fisheries  
10 Science Center, who will serve as nonvoting members. The directors of DWR and CDFW and the  
11 regional directors of Reclamation, USFWS, and NMFS will each designate a management-level  
12 representative to the Adaptive Management Team who can represent both policy and scientific  
13 perspectives on behalf of their agency, including on matters related to adaptive management  
14 proposals and research priorities.

15 The Adaptive Management Team will operate by consensus.<sup>3</sup> In the event that consensus is not  
16 achieved, the matter will be elevated to the Authorized Entity Group and the Permit Oversight Group  
17 for resolution. Any proposed changes to conservation measures or biological objectives will be  
18 elevated to the Authorized Entity Group and the Permit Oversight Group for their concurrence or for  
19 their own determination regarding the matter. If concurrence is not achieved, the entity or entities  
20 with decision-making authority will make a decision, subject to the review process set forth Section  
21 7.1.7, *Review of Disputes Regarding Implementation Decisions*. The Adaptive Management Team may  
22 invite individuals or convene subteams consisting of individuals who are not members of the team  
23 to provide input into specific issues under consideration. These individuals or groups of individuals  
24 may be from the technical staffs of the entities represented on the Adaptive Management Team, the  
25 Technical Facilitation Subgroup of the Stakeholder Council, or other entities or institutions, as  
26 deemed appropriate by the team. As part of its deliberations, the Adaptive Management Team may  
27 seek input from independent scientists or from other appropriate sources, including the Technical  
28 Facilitation Subgroup of the Stakeholder Council. Operation of the Adaptive Management Team,  
29 with respect to making decisions and development recommendations, is described in Section  
30 3.6.3.5.2, *Operation of the Adaptive Management Team*.

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

40 The Adaptive Management Team will hold public meetings at least quarterly, and will otherwise  
41 determine its meeting schedule and rules of operation. The Program Manager will institute  
42 procedures with respect to public notice of, and access to, these meetings. Other meetings of the

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<sup>3</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 Adaptive Management Team in which changes to the BDCP conservation strategy (e.g., biological  
2 objectives or conservation measures) are being proposed will also be noticed and open to the public.  
3 Information considered in developing any proposed actions will be presented in those public  
4 meetings.

### 5 **7.1.7 Review of Disputes Regarding Implementation** 6 **Decisions**

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

14 The Authorized Entity Group and/or the Permit Oversight Group, who may jointly agree to enlist the  
15 assistance of the Program Manager and the Science Manager or others as appropriate, will describe  
16 the basis for the dispute and options that may be available to assist the parties in seeking resolution.  
17 In the event that the Authorized Entity Group and the Permit Oversight Group are unable to resolve  
18 the issue at hand, the entity with decision-making authority over the matter will make a final  
19 decision.

20 Prior to that final decision by the entity with decision-making authority, any member of the  
21 Authorized Entity Group or the Permit Oversight Group may initiate a nonbinding review process  
22 concerning the matter in dispute. The decisions that are eligible for this nonbinding review process  
23 are listed in Table 7-1. A member of either group may trigger this process by providing the  
24 Authorized Entity Group and the Permit Oversight Group with a written notice of dispute that  
25 describes the nature of the dispute and a proposed approach to resolution. Such notice must be  
26 provided to the parties within 14 days of the memorialization of the disputed issue.

27 Within 14 days of the issuance of the written notice of dispute, the parties, with the assistance of the  
28 Implementation Office, will form a three member panel of experts. One member of the panel will be  
29 selected by the Authorized Entity Group, one member will be selected by the Permit Oversight  
30 Group, and a third member will be selected by mutual agreement of the first two panel members. No  
31 discovery will be allowed. At its discretion, the panel may meet and confer with any of the parties  
32 regarding the matter and gather whatever available information it deems necessary and  
33 appropriate. Within 14 days of the submittal of the written positions of the parties, a non-binding  
34 recommendation will be issued by a majority of the panel, in writing, which will include a statement  
35 explaining the basis for the recommendation.

36 Within 14 days of issuance of the panel's nonbinding recommendation, the entity with final  
37 decision-making authority over the matter will consider those recommendations, as well as any  
38 other relevant information concerning the issue at hand, and convey its final decision regarding the  
39 matter to the Authorized Entity Group and the Permit Oversight Group.

40 The availability of this review process will have no effect on the ability of a party to pursue legal  
41 remedies that may otherwise be available regarding a disputed matter. The recommendations of the

1 panel are not intended to be given special deference by a reviewing court relative to the expert  
2 judgment of the agency making the final decision.

### 3 **7.1.8 Other Regulatory Agencies**

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

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

### 21 **7.1.9 Supporting Entities**

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

- 29 • The Delta Conservancy, which has been designated by statute as a primary state agency to  
30 implement ecosystem restoration in the Delta.
- 31 • Sponsors of regional conservation planning programs, including those engaged in natural  
32 community conservation plan (NCCP) and/or habitat conservation plan (HCP) development or  
33 implementation, or of other similar conservation programs, that overlap or are adjacent to the  
34 Plan Area.
- 35 • State and federal agencies, including NMFS, USFWS and CDFW.
- 36 • Other public agencies and private entities that have authority, capacity, or expertise to  
37 implement actions described in the conservation strategy in a cost-effective, reliable, and timely  
38 manner.

39 The Program Manager will oversee each Supporting Entity's performance of its responsibility for  
40 carrying out a specific task. Decisions by the Program Manager to engage another entity in the  
41 implementation of specific plan elements or actions will be accomplished by written contract and

1 will be based on the entity's jurisdictional authority, level of expertise, and its capacity to carry out  
2 the element or action in a timely and successful manner. The Program Manager, with the  
3 concurrence of the Authorized Entity Group, may terminate a Supporting Entity's role in Plan  
4 implementation in the event that the Supporting Entity does not perform a task adequately.

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

## 9 **7.1.10 Stakeholder Council**

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

### 16 **7.1.10.1 Membership**

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

- 20 • Representatives of DWR and Reclamation
- 21 • Representatives of SWP and the CVP water contractors
- 22 • Representatives of Other Authorized Entities
- 23 • Representatives of USFWS, NMFS, and CDFW
- 24 • Representatives of other state and federal regulatory agencies, including the U.S. Army Corps of  
25 Engineers (USACE), the U.S. Environmental Protection Agency (EPA), and State Water Resources  
26 Control Board (State Water Board)
- 27 • A representative of the Delta Stewardship Council
- 28 • A representative of the Delta Protection Commission
- 29 • A representative of the Delta Conservancy
- 30 • A representative of the Central Valley Flood Protection Board
- 31 • Representatives of San Joaquin, Sacramento, Solano, Yolo, and Contra Costa Counties

32 Additional members will be selected from the following categories by the Secretary of the California  
33 Natural Resources Agency, in consultation with the directors of the relevant departments of the  
34 agency, such as DWR and CDFW. The public may submit nominations for these additional members.  
35 Each member will serve a term of 4 years, and may be reappointed without limit and may serve until  
36 such time as they are replaced.

- 37 • At least three representatives from conservation groups with expertise in fish and wildlife  
38 management and/or the management of aquatic habitats and other natural lands

- 1       • At least three representatives of local government agencies within the Delta
- 2       • At least one representative of fishing organizations
- 3       • At least one representative of hunting organizations
- 4       • At least one representative of recreation organizations
- 5       • At least two representatives of Delta reclamation districts
- 6       • At least two representatives of Delta agriculture
- 7       • At least three scientists with expertise in the management of natural lands, and native plant and
- 8       animals species
- 9       • At least one representative of water agencies located in the Sacramento Valley
- 10      • At least one representative of water agencies in the San Joaquin River watershed
- 11      • One representative from organized labor working in the building trades
- 12      • One representative from the exclusive representatives of state-employed scientific or
- 13      engineering professionals
- 14      • Other stakeholders whose assistance will increase the likelihood of the success of Plan
- 15      implementation, including delta civic organizations and members of the general public.

#### 16   **7.1.10.2        Function**

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

23       For the benefit of the Stakeholder Council members and the general public, the Program Manager  
 24       will provide information and conduct briefings regarding Plan implementation. Briefings will  
 25       include presentations of drafts of the Annual Report, Annual Work Plan and Budget, Annual Delta  
 26       Water Operation Plan, the Annual Water Operations Report, and the 5-Year Implementation Plan, as  
 27       described in Chapter 6, *Plan Implementation*. In addition, to further facilitate access to information  
 28       and promote transparency in decision-making, the Implementation Office will maintain a public, on-  
 29       line data base of key documents and information, such as annual implementation reports, work  
 30       plans, and budgets (Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and Progress*  
 31       *Reporting*).

32       The Stakeholder Council will develop its own internal organization and process to consider and  
 33       provide input regarding the various aspects of BDCP implementation, including matters related to  
 34       work plans and budgets, water operations plans, implementation of conservation measures,  
 35       adaptive management changes, monitoring and reporting activities, scientific research and review  
 36       processes, and annual reports. The Technical Facilitation Subgroup will be established to provide  
 37       input to the Implementation Office and the Adaptive Management Team on technical and scientific  
 38       matters. The Stakeholder Council process will complement, but not substitute for, ongoing  
 39       collaboration and communication between stakeholders and the Implementation Office; the  
 40       Authorized Entity Group, the Permit Oversight Group, and their member entities. The



1 Implementation Office will organize, help convene, and provide support to the Stakeholder Council  
2 and its proceedings.

### 3 **7.1.10.3 Dispute Resolution**

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

14 In consultation with the Implementation Office, the Stakeholder Council will establish a process for  
15 efficient consideration and resolution of any objections that may arise within the council related to  
16 Plan implementation. Under that process, a member of the Stakeholder Council may, at its  
17 discretion, object to a proposal or prior action related to such implementation. The member may  
18 object on behalf of itself or an entity it represents. The council will make reasonable efforts to  
19 resolve the dispute by general agreement. The Stakeholder Council will take action on a dispute  
20 within 60 days. If the dispute is not resolved within the 60-day period, the issue in dispute will be  
21 elevated to the Authorized Entity Group for its consideration. If the issue remains unresolved  
22 between the Authorized Entity Group and objecting member(s) of the Stakeholder Council for over  
23 90 days, it will be referred for decision by the entity with the locus of responsibility for the matter in  
24 dispute. For this purpose, *locus of responsibility* means primary responsibility to decide the matter,  
25 after which the matter will be ripe for implementation, while recognizing that multiple entities may  
26 have some relevant responsibility.

27 For those matters in which the Stakeholder Council has provided input, the position of the council,  
28 including any dissenting views, will be conveyed to the Implementation Office in a timely manner.  
29 Those position(s) will help inform decisions regarding the specific matter at hand. The objection  
30 procedures and dispute resolution process described above provide a means by which issues  
31 properly before the Stakeholder Council may be considered by the decision maker with the locus of  
32 responsibility for making the final decision with respect to the issue in controversy. This dispute  
33 resolution process, however, does not create a legal right nor does it give rise to a right of action  
34 with regards to the members of the Stakeholder Council nor may it be used by any member of the  
35 council to delay, or otherwise impede, the proper implementation of the BDCP. The Implementation  
36 Office, or other parties responsible for developing proposals or rendering decisions regarding  
37 implementation actions, will execute their responsibilities notwithstanding a pending unresolved  
38 dispute within the Stakeholder Council.

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

### 1 **7.1.11 General Public**

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

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

## 20 **7.2 Implementation Office**

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

30 Proper implementation of the Plan will require a skilled and expert team consisting of  
31 administrators, policy-makers, scientists, engineers, data analysts, and regulatory specialists,  
32 capable of working together in a cohesive and unified manner. In addition, effective implementation  
33 will necessitate adequate financing of and support for the Implementation Office. The BDCP includes  
34 assurances (Chapter 8, *Implementation Costs and Funding Sources*) that sufficient funds will be  
35 available to provide the Implementation Office with the capacity and resources to carry out the  
36 responsibilities described in this chapter.

37 Specific implementation tasks may be performed by other entities that have the authority,  
38 resources, and expertise to successfully complete the task in a timely manner. These Supporting  
39 Entities may include, at the discretion of the Program Manager, water agencies, water contractors,  
40 regulatory agencies, nongovernment organizations, or other appropriate entities. Where specific  
41 tasks are so assigned, the Program Manager will ensure that tasks and associated responsibilities  
42 are carried out properly and in coordination with other implementation actions. The Supporting

1 Entity will be responsible, subject to oversight by the Program Manager, for entering into the  
2 necessary contracts and acquiring interests in real and personal property, in some cases obtaining  
3 permits or other authorizations, and taking all other steps needed to complete the implementation  
4 task.

5 The primary functions and responsibilities of the Implementation Office are described in the  
6 following subsections.

### 7 **7.2.1 Establishing Administrative Capacity**

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

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

### 20 **7.2.2 Preparing Annual Work Plans and Budgets and** 21 **Managing Expenditures**

22 The Implementation Office will prepare, on behalf of the Authorized Entity Group, the Annual Work  
23 Plan and Budget. The Annual Work Plan and Budget will address matters related to general program  
24 administration and Plan implementation.<sup>4</sup>

25 The Program Manager will take into consideration guidance provided by the Adaptive Management  
26 Team and will solicit input on the draft plan and budget from the Permit Oversight Group and the  
27 Stakeholder Council. The Program Manager will submit the plan and budget to the Authorized Entity  
28 Group for review and approval. As part of this process, the Permit Oversight Group will review the  
29 draft plan and provide written concurrence, within 30 days, or as soon as practicable thereafter, that  
30 the draft accurately sets forth and makes adequate provision for the implementation of the  
31 applicable joint decisions of the Authorized Entity Group and the Permit Oversight Group or  
32 decisions of an agency within the Permit Oversight Group with authority over the matter,  
33 particularly with respect to matters involving adaptive management and biological monitoring and  
34 research. If the Permit Oversight Group concludes that the plan does not do so, it will provide  
35 written notification to the Program Manager and the Authorized Entity Group, within the 30 day  
36 timeframe, or as soon as practicable thereafter, of the specific reasons for its conclusion. In such  
37 event, the Authorized Entity Group may direct the Program Manager to modify the plan to the  
38 satisfaction of the Permit Oversight Group. If the Authorized Entity Group does not, the Program  
39 Manager, Authorized Entity Group and the Permit Oversight Group will, in a timely manner, meet

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<sup>4</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 and confer in an effort to resolve the matter in dispute. If the parties are unable to reach resolution,  
2 the review process described in Section 7.1.7, *Review of Disputes Regarding Implementation*  
3 *Decisions*, may be invoked by any member of the Authorized Entity Group or the Permit Oversight  
4 Group.

5 The Program Manager will establish systems and processes to centralize oversight of  
6 implementation budgets and expenditures of funds. The Program Manager will also generally  
7 review and oversee budgets and expenditures related to implementation actions carried out by  
8 Authorized Entities or Supporting Entities. For those activities involving functions that, under state  
9 or federal law, cannot be delegated to the Program Manager, including contracting, procurement,  
10 and expenditures of state or federal funds, the Program Manager will coordinate with the  
11 appropriate designated state and/or federal official to ensure that the necessary function is properly  
12 carried out.

### 13 **7.2.3 Contracting for Services**

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

- 18 • Acquisition and protection of habitat
- 19 • Habitat restoration and management
- 20 • Monitoring and scientific research
- 21 • Legal and regulatory matters
- 22 • Environmental and technical services
- 23 • Engineering and construction (e.g., conservation facilities, water facilities, levees)
- 24 • Funding and grant agreements pertaining to state and federal programs and executing sub  
25 grants to third parties to conduct specific actions
- 26 • Operations and maintenance

27 The Program Manager, in coordination with the appropriate entity, will be responsible for the  
28 administration of any such contracts. The Program Manager will coordinate with the appropriate  
29 designated contact for the Authorized Entities or designated state or federal official to effectuate the  
30 execution, administration and implementation of contracts in support of activities of the  
31 Implementation Office.

### 32 **7.2.4 Securing, Holding, and Managing Funds to Support** 33 **Implementation Actions**

34 The Program Manager will coordinate the expenditure of funds from state, federal, and other  
35 sources that have been dedicated to the implementation of the BDCP. In most instances, DWR and  
36 Reclamation will serve as fiscal agents, consistent with their existing agency authorities, for the  
37 expenditure of funds by the Implementation Office, from both public and private sources, to support  
38 implementation actions. The Program Manager will coordinate with the designated fiscal agents to  
39 ensure that sufficient funds are available for implementation actions. The Implementation Office,

1           however, will not be authorized to manage the expenditure of funds related to design, construction,  
2           operation, and maintenance of water diversion and conveyance facilities which are or will be  
3           elements of the SWP or the CVP.

## 4   **7.2.5           Coordinating with the Authorized Entities, the** 5                   **Authorized Entity Group, and Supporting Entities**

6           The Program Manager will convene meetings and facilitate communication with the Authorized  
7           Entities, Authorized Entity Group, the Permit Oversight Group, and Supporting Entities. The  
8           Program Manager will maintain frequent contact with these entities and provide regular updates  
9           concerning implementation matters, including progress in meeting BDCP timetables, dissemination  
10          of information, and maintenance and availability of BDCP records and reports.

## 11   **7.2.6           Coordinating with Regulatory Agencies**

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

## 19   **7.2.7           Coordinating with the Delta Stewardship Council, Delta** 20                   **Science Program, and Delta Conservancy**

21          The Program Manager will facilitate and monitor the effective and efficient incorporation of the  
22          BDCP into the Delta Stewardship Council's Delta Plan (Delta Plan) (California Water Code Section  
23          85320). The Program Manager will ensure that the Delta Stewardship Council receives regular  
24          updates on the progress of BDCP implementation, including the status of monitoring programs and  
25          adaptive management, as required by California Water Code Section 85320(f). The Implementation  
26          Office will also respond to questions or concerns raised by the Delta Stewardship Council regarding  
27          the implementation of the BDCP.

28          The Adaptive Management Team, chaired by the Science Manager, will have primary responsibility  
29          for the administration of the Adaptive Management and Monitoring Program described in Chapter 3,  
30          *Conservation Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*. The Science  
31          Manager, with guidance from the Adaptive Management Team, will coordinate with the Delta  
32          Science Program, the IEP Coordinators; the Management, Analysis, and Synthesis Team; and, as  
33          necessary, the Delta Independent Science Board (California Water Code Section 85280), regarding  
34          matters relating to these monitoring activities and research efforts. The Adaptive Management  
35          Team will ensure an appropriate level of integration between the BDCP adaptive management and  
36          monitoring program and the Delta Science Plan.

37          The Implementation Office will further coordinate with the Delta Conservancy as it initiates  
38          planning and implementation of ecosystem restoration projects carried out pursuant to the  
39          conservation strategy. The Implementation Office and the Delta Conservancy will maintain close

1 coordination on other programs being carried out by the Delta Conservancy that potentially affect  
2 implementation actions.

### 3 **7.2.8 Coordinating with Local Governments, Delta Protection** 4 **Commission, and Other Public Agencies**

5 *[Note to reader: At the time of this Public Draft, the California Natural Resources Agency is working*  
6 *with representatives from Delta counties to identify an appropriate mechanism to involve Delta*  
7 *counties in Plan implementation. It is the intention of the agency to incorporate revisions to the*  
8 *implementation structure set forth in this chapter that address further Delta county participation in a*  
9 *final plan.]*

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

16 Where regional conservation plans overlap with or adjoin the Plan Area, the Implementation Office  
17 will collaborate and coordinate with the sponsors of those regional conservation plans on the  
18 acquisition and management of habitat lands to be preserved and/or restored in areas common to  
19 both plans. The Program Manager will, as appropriate, enlist sponsors of those regional  
20 conservation plans and local governments to serve as Supporting Entities to assist in the acquisition  
21 and/or management of conservation lands. This coordination will also ensure consistency between  
22 overlapping plans and encourage complementary actions. The Implementation Office will further  
23 work with plan sponsors to avoid conflicts between conservation plans; where conflicts are  
24 unavoidable, the Implementation Office will ensure that the conservation strategy of the regional  
25 plan is neither compromised nor otherwise adversely affected.<sup>5</sup> Where mutually beneficial, the  
26 Implementation Office will encourage joint acquisitions of land with local government plan sponsors  
27 to realize economies-of-scale and to secure large, contiguous blocks of habitat. The Implementation  
28 Office will explore opportunities to fund early conservation actions (i.e., habitat acquisition and/or  
29 restoration) that may benefit both the BDCP and other regional conservation plans.

### 30 **7.2.9 Coordinating with Flood Control Agencies**

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

### 35 **7.2.10 Addressing Legal Matters**

36 The Implementation Office, in coordination with the Authorized Entities, state and federal fish and  
37 wildlife agencies, and other appropriate public agencies, will, as appropriate, provide support to

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<sup>5</sup> Actions will include addressing the effects of BDCP tidal and floodplain restoration activities on existing conservation easements, and ensuring that acquisition of cultivated land easements do not preclude the overlapping plan from meeting its cultivated land protection requirements.

1 entities with the responsibility for handling legal matters that may arise out of the implementation  
2 of the BDCP. To the extent permitted by applicable law, the Implementation Office may also use legal  
3 counsel, retained by an appropriate entity, to address the range of regulatory matters associated  
4 with implementation, including compliance with the BDCP and its Implementing Agreement;  
5 compliance with various state and federal laws; transactional and other issues related to land  
6 acquisition; and general, routine, in-house legal matters. No federal funds will be used to retain such  
7 counsel.

### 8 **7.2.11 Overseeing Plan Amendments**

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

### 16 **7.2.12 Implementing NEPA and CEQA Mitigation Measures**

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

## 28 **7.3 Implementation of the Conservation Strategy**

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

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

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

### 7 **7.3.1 Implementation of the Habitat Protection and** 8 **Restoration Conservation Measures**

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

#### 18 **7.3.1.1 Acquisition and/or Lease of Property Interests**

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

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

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

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



### 1 **7.3.1.2 Management of Land**

2 The Implementation Office will oversee the management and maintenance of lands acquired for  
3 conservation purposes, as described in Chapter 3, *Conservation Strategy*. The Implementation Office  
4 may select Supporting Entities to carry out such management and maintenance activities. Land  
5 management will generally include the following tasks.

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

### 21 **7.3.1.3 Maintenance of Facilities and Improvements**

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

### 28 **7.3.1.4 Funding of Activities of Other Entities**

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

## 7.3.2 Implementation of Water Operations Conservation Measures

Implementation of *CM1 Water Facilities and Operations* and water operations aspects of *CM2 Yolo Bypass Fisheries Enhancement*, as described in Chapter 3, *Conservation Strategy*, will be the responsibility of DWR and Reclamation, consistent with their existing responsibilities and authorities. The state and federal fish and wildlife agencies, in conjunction with DWR and Reclamation, will participate in real-time operational decisions with respect to certain operational parameters. The nature and scope of such real-time adjustments, as well as the process by which such decisions will be made, are set out in Chapter 3, *Conservation Strategy*.

### 7.3.2.1 Annual Reporting and Planning for Water Operations

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

The Annual Delta Water Operations Plan will be prepared by DWR and Reclamation, with input from the Implementation Office, the Permit Oversight Group, the Adaptive Management Team, and the Stakeholder Council. DWR and Reclamation will retain final approval authority over the plan. However, the Permit Oversight Group will, within 30 days of receipt of the draft plan, or as soon thereafter as practicable, review the draft plan and provide written concurrence that the plan is consistent with the provisions of the BDCP, the Implementing Agreement, and the regulatory authorizations, as described in Section 7.1.4, *DWR and Reclamation: Operation of the SWP and CVP*.

The Implementation Office will prepare, on an annual basis, with input from DWR and Reclamation, the water contractors, the state and federal fish and wildlife agencies, and the Stakeholder Council, a Water Operations Report. Among other things, the reports will include a summary of the prior year's operations, including a comparison of the actual operations with planned operations, and an evaluation of the effectiveness of actions for covered fish species and ecological processes, including the responses to real-time operational changes the prior water year's operational effects on covered species. The Annual Water Operations Report will be submitted to the Authorized Entity Group for its review and approval. Upon approval of the report by the Authorized Entity Group, the Implementation Office will submit the report to the Permit Oversight Group for its acceptance.

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

## 7.3.3 Implementation of Other Conservation Measures

The Implementation Office will be responsible for the implementation of other conservation measures, including conservation measures designed to address other stressors, as described in

1 Chapter 3, *Conservation Strategy*. The Implementation Office may implement these other  
2 conservation measures either directly or through Supporting Entities, which may receive funds  
3 through the Implementation Office to carry out such actions. Supporting Entities, for instance, may  
4 help implement other stressor conservation measures that reduce the adverse effects of toxic  
5 contaminants, nonnative predatory species, low dissolved oxygen zones, and entrainment unrelated  
6 to covered activities.

#### 7 **7.3.4 Coordination of Adaptive Management and Monitoring** 8 **Program**

9 The Adaptive Management Team will have primary responsibility for the administration of the  
10 BDCP adaptive management and monitoring program, as described in Chapter 3, *Conservation*  
11 *Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*. The Implementation Office will  
12 work in close collaboration with the Adaptive Management Team regarding such matters. The  
13 Adaptive Management Team, through the Science Manager, will coordinate its efforts with the  
14 Authorized Entity Group, Permit Oversight Group, Stakeholder Council, the IEP, and Delta Science  
15 Program.

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

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

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

1 IEP Lead Scientist to ensure that BDCP science activities, reporting, and reviews are coordinated  
2 with other science activities being conducted in the Delta.

### 3 **7.3.4.1 Compliance Monitoring and Reporting**

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

### 13 **7.3.5 Management of the Adaptive Management Program**

14 The Adaptive Management Team will have primary responsibility for the administration of the  
15 adaptive management program, in accordance with Chapter 3, *Conservation Strategy*, Section 3.6,  
16 *Adaptive Management and Monitoring Program*. The Science Manager will chair the Adaptive  
17 Management Team, which will work with IEP and other science programs to assemble, synthesize,  
18 and analyze the results of BDCP monitoring efforts and integrate the results of new and relevant  
19 scientific research and studies conducted by other parties, including the Delta Science Program. The  
20 Science Manager will facilitate discussion and consideration of adaptive management matters by the  
21 Adaptive Management Team and will convey any proposed changes to conservation measures or  
22 biological objectives, or other adaptive management matters for which the Adaptive Management  
23 Team has been unable to reach consensus, to the Program Manager. The Program Manager will  
24 forward, without modification, the recommendations of the Adaptive Management Team to the  
25 Authorized Entity Group and the Permit Oversight Group. The Program Manager may include any  
26 additional material they deem necessary or useful to the Authorized Entity Group or Permit  
27 Oversight Group in making their decision.

28 The Program Manager and Science Manager will ensure that issues related to policy, law, budget,  
29 schedule, and other matters of concern to BDCP implementation and the Authorized Entity Group  
30 are raised to the attention of the Adaptive Management Team and duly considered.

### 31 **7.3.6 Implementation of Measures in Response to Changed** 32 **Circumstances**

33 The Permit Oversight Group and/or the Implementation Office will be responsible for identifying  
34 and responding to changed circumstances, as described in the BDCP, and the Implementation Office  
35 will be responsible for implementing the responses set out in the Plan to address those changed  
36 circumstances, as described in Chapter 6, *Plan Implementation*, Section 6.4, *Regulatory Assurances,*  
37 *Changed Circumstances, and Unforeseen Circumstances*. The Program Manager will establish a  
38 process to ensure timely engagement of the Authorized Entity Group; fish and wildlife agencies,  
39 including the Permit Oversight Group; and the Stakeholder Council when a changed circumstance  
40 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.

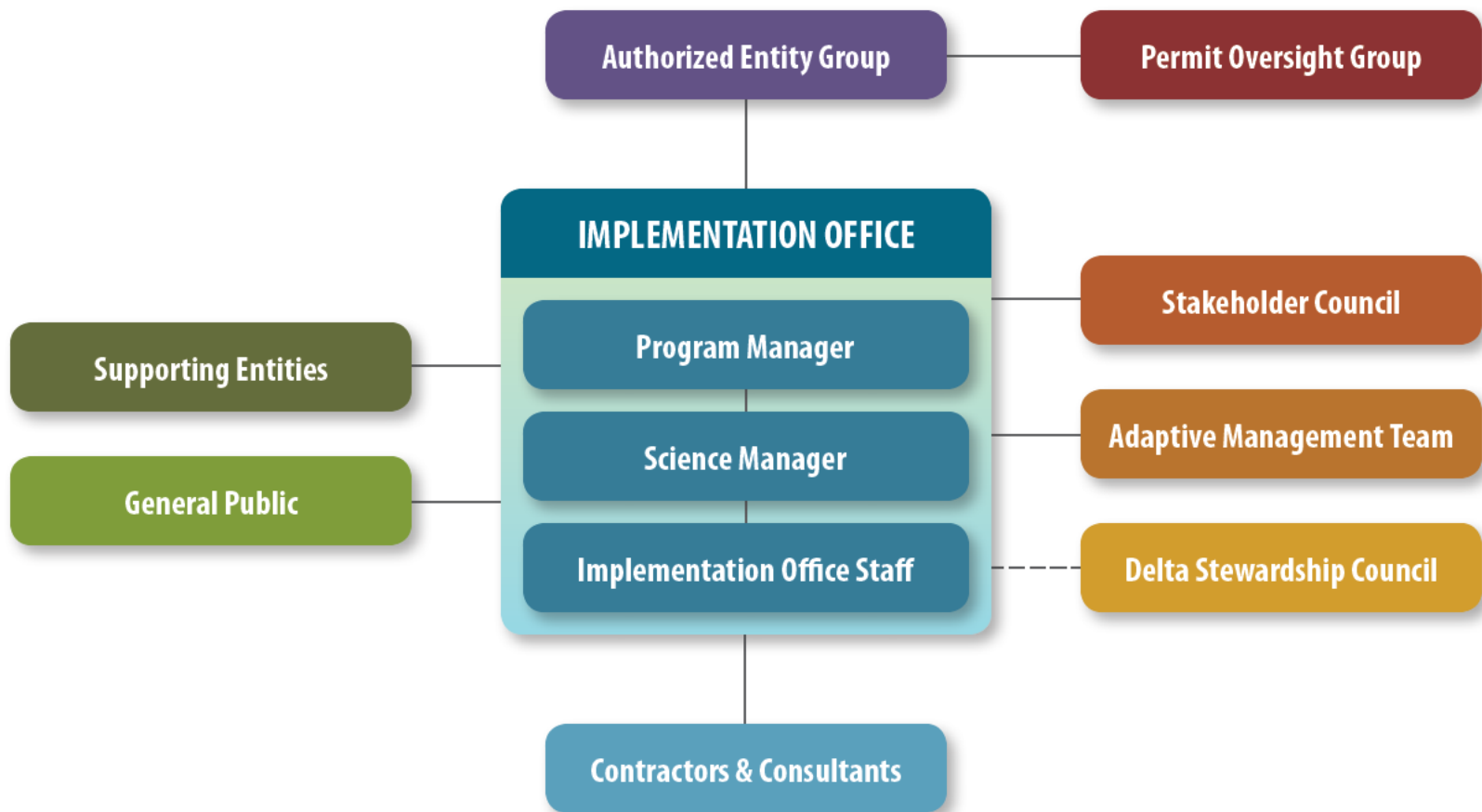
- 15 • Promote public awareness of and understanding about the Plan's purpose, specific conservation  
 16 measures and their implementation.
- 17 • Provide streamlined and timely access to information.
- 18 • Provide opportunities to engage with decision-makers.
- 19 • Maintain a transparent process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

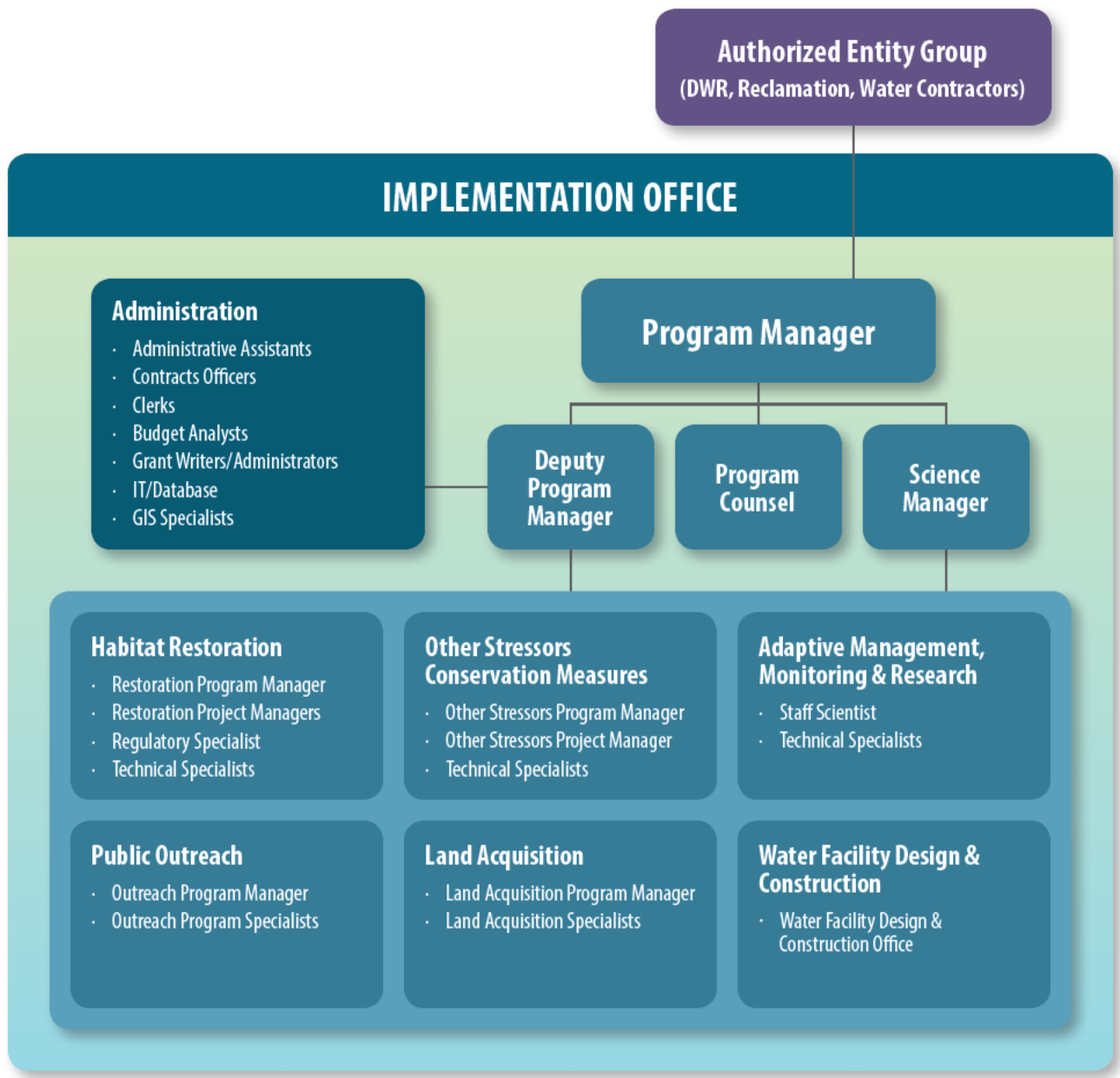
- 27 • **Informational material.** The preparation and distribution of general information materials  
 28 such as reports, quarterly electronic newsletters, and issue-specific fact sheets in timely manner  
 29 so as to facilitate public understanding and meaningful public input.
- 30 • **Interactive 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.



**Figure 7-1**  
**Organization of BDCP Implementation**





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**Figure 7-2**  
**Staff Organization for BDCP Implementation Office**