

APPENDIX E. PROJECT APPLICATION PROCESS AND APPLICATION PACKAGE

BRCP Permittees, or project proponents with projects authorized by a Permittee through the development review process, may take covered species under the Endangered Species Act (ESA) section 10(a)(1)(B) and Natural Community Conservation Planning Act (NCCPA) section 2835 permits (Permits) once compliance with the BRCP has been verified by the Permittee with jurisdiction over the project or activity. They may also demonstrate compliance with certain CEQA requirements by identifying compliance with the BRCP in their CEQA document. The following is a description of the BCRP project application process and required components of the application package. Additional details of the application process may be provided during Plan implementation. Final details on the project application process and application package will be provided in the User's Manual. This project application process and application package applies also to landowners applying for neighboring landowner assurances (see Section 8.7, *Neighboring Landowner Assurances*) or Participating Species Entities (see Section 8.10, *Participating Special Entities*).

E.1 Authorization Process

BRCP incidental take permits (Permits) provide the Permittees with take authorization for implementing covered activities and allow the Permittees to extend this take authorization to project proponents under their jurisdiction when implementing covered activities. Permittees can extend take authorization through the local development approval process as long as the covered activities comply with the applicable AMMs in Chapter 6. As described in Chapter 2, *Covered Activities*, Permittees will provide take authorization under the BRCP for covered activities described in the chapter.

BCAG will develop the process through which applicants apply for permits in coordination with the Permittees, along with developing implementation materials, including a User's Guide. The User's Guide will be a handbook describing the process through which applicants apply for permits in coordination with the member agencies and providing examples of how the process works. This process could include review of applications before they are complete and participating in a local development review process to make BRCP requirements known early enough to influence process design.

E.1.1 Public Projects Proposed by Permittees

The Permits authorize incidental take associated with public projects proposed by Permittees and covered by the BRCP. Permittees must comply with the AMMs described in Chapter 6, *Conditions on Covered Activities* for each project. The Permittees must document compliance and provide a copy of this documentation to BCAG for tracking and reporting purposes (e.g., to track the amount of BRCP take coverage granted). Permittees must pay BRCP fees to BCAG or provide in lieu mitigation as described in Chapter 9, *Cost and Funding*. BCAG will develop a form to assist the Permittees, as well as project proponents, when implementing covered activities with this documentation. Permittees

may consult BCAG staff members for technical assistance to ensure accurate completion of the required documentation.

E.1.1.1 Private Projects Under Discretionary Authority of Permittees

Project proponents will submit a BRCP application package (as described in Section E.5.1.4, *BRCP Application Package*) to the relevant Permittee when implementing private projects that require discretionary land use or other approvals from a Permittee. The Permittee will undertake review of take authorization applications concurrent with California Environmental Quality Act (CEQA) environmental review. To facilitate this approach, the Permittee should require project proponents to submit initial BRCP application package information as part of the land use approval application and CEQA process.

The submittal of the initial BRCP application package information during the land use approval/CEQA process allows for early identification of the various requirements of the BRCP that will be applicable to the proposed project. This approach also provides time for the project proponent to consider modifications to the project to minimize biological impacts and identify alternatives for CEQA analysis, if necessary. It also will allow the project analysis and CEQA review to incorporate and consider applicable AMM requirements from the BRCP, as well as identify in the CEQA document the mitigation requirements that will be satisfied by participating in the BRCP. Based on a review of this initial information, the Permittee will develop and apply project conditions of approval that specify BRCP AMMs and fee requirements.

BCAG will develop a checklist for evaluating applications from Permittees before the first ordinance for implementing the BRCP takes effect. During CEQA review of the project, the Permittee will review the BRCP application package for completeness, in accordance with the checklist. The determination regarding the completeness of the application package rests with the Permittee. Permittees may request technical assistance from BCAG staff. If an application package is not complete, the Permittee will provide the project proponent with a letter that explains why it is incomplete. The project proponent will then provide the missing information to the Permittee. Once the application package is complete, the Permittee will calculate the required fees, as described in Chapter 9, *Costs and Funding*, consistent with the local ordinance for implementing the BRCP.

The Permittee will specify all AMMs and fees as conditions of project approval, or as specified in the local ordinances for implementing the BRCP. The project proponent will pay fees prior to any project-related ground disturbance. If the project proponent requests to contribute land in lieu of fees or requests conditions that deviate from the AMMs, such requests must be reviewed and approved by BCAG, USFWS, and CDFW. If these conditions affect the covered fish, the deviations must also be reviewed and approved by NMFS.

E.1.1.2 Projects Proposed by Participating Special Entities

Participating Special Entities (PSEs) are involved with proposed projects or activities that are not subject to the land use authority of the Permittees under the CEQA process and therefore cannot receive coverage under the BRCP. PSEs may include utilities or special districts that own land or provide public services. Proponents of private activities (e.g., ministerial activities, such as single-family building permits and most agricultural activities) that do not require discretionary approval from the Permittees may request coverage as a PSE. This includes activities that involve farm dwellings. These entities may choose to request coverage under this HCP/NCCP as PSEs to obtain

take authorization for their projects or activities. If the entity qualifies as a PSE, the BRCP Board of Directors may issue take coverage through a Certificate of Inclusion at the Board's discretion. The BRCP Board of Directors will base the determination of eligibility for PSE status on the factors described in Section 8.10, *Participating Special Entities*, including whether the PSE can meet BRCP conditions or whether the amount of take requested (i.e., acres of natural community or covered species habitat loss) is available for the project. The project also must not unduly reduce the take authorization of the Permittees.

To grant take authorization to a PSE, BCAG must establish a legally enforceable contractual relationship with the PSE. The PSE will submit a complete application package for the proposed activity directly to BCAG, with notification to the jurisdiction in which the project will occur. This application package will contain the components described below in Section E.5.1.4, *BRCP Application Package*, and an explanation as to how the proposed activity meets the eligibility requirements for PSE status, as provided in Chapter 8, *Plan Implementation*.

If the PSE meets BRCP requirements and take allowance is available, BCAG will execute a contract with the PSE, binding it to the relevant terms of the Permits, implementing agreement, and BRCP.¹ Upon approval of the contract by the BRCP Board of Directors, execution of the contract with the PSE, payment of the fee specified in the contract, and completion of any other steps required by the contract, BCAG will issue a Certificate of Inclusion to the PSE. The Certificate of Inclusion will include an attached map depicting the area, parcel number, acreage, and owner of lands to which the take authorization(s) would apply.

BCAG will provide a template of the Certificate of Inclusion to the wildlife agencies for review and approval during plan implementation before the BCAG approves the first PSE project. BCAG will track the amount of take authorization extended to PSEs against the total allowable take authorized under the BRCP. Requirements related to PSEs are further described in Section 8.10, *Participating Special Entities*.

E.1.1.3 *BRCP Application Package*

All public and private project proponents covered by the BRCP must complete a BRCP application package. Proponents of private projects under the discretion of Permittees must submit the application to the relevant Permittee for review and approval to receive coverage under the BRCP. The project proponent is responsible for preparing the application package and conducting any necessary field surveys, if required. PSEs submit their application package to the BRCP Board of Directors for review and approval to receive coverage under the BRCP.

The application package must contain the items listed below, if applicable. Each is described in detail in this section.

- *Item 1:* Project application form.
- *Item 2:* Project description, vicinity map, and detail map.
- *Item 3:* Land cover mapping and planning-level surveys.
- *Item 4:* Verification of land cover impacts.

¹ In the event of failure to uphold the terms of the Permit, implementing agreement, and BRCP, the contract shall give BCAG the ability to force action by the Participating Special Entity through legal means.

- *Item 5: Avoidance and minimization measure plan.*
- *Item 6: BRCP fees or equivalent mitigation.*

BCAG will provide templates for all application components to each Permittee prior to the first authorization for coverage under the BRCP. BCAG also will post these templates on BCAG's website for use by Permittees, PSEs, and private project proponents and their consultants. Use of the templates will streamline the Permittee review and approval process. The Permittees may adjust the required components of the application package over time, consistent with the requirements of the BRCP. Permittees may charge a fee to recover the costs of accepting, reviewing, and processing these application packages (see Chapter 9, *Costs and Funding*, for details).

Item 1: Project Application Form

The project application form² will contain basic information about the project. BCAG will provide required forms through the websites of the Permittees and BCAG.

Item 2: Project Description, Vicinity Map, and Detail Map

The application package will include a brief project description, vicinity map, and detail map. The project description will include the location, assessor's parcel number(s), construction activity or maintenance methods, a description of the nature of the impacts (permanent or temporary), and timing (including duration) of the project or activity. The project description will document that the project is a covered activity (Chapter 2, *Covered Activities*). The vicinity map will document that the project site is in the Plan Area and include any streams or water bodies that fall within the project area. BCAG will provide further guidance in the implementation handbook for details required in detail map. At minimum, the detailed map must show any relevant landforms, roads, water bodies, and existing and proposed structures that will be affected by the proposed project.

Item 3: Land Cover Mapping and Planning-Level Surveys

The project proponent will retain a qualified biologist to conduct planning-level surveys and identify natural communities and important elements of covered species habitat in the area of impact. Planning-level surveys provide information on the natural communities and covered species present at a project site to comply with the AMMs and document key resources for tracking and reporting purposes. These surveys are required for all covered activities that result in ground disturbance or other effects that could result in take of covered species or natural communities.

Prior to conducting surveys at the site, the biologist will review existing information, including aerial photographs, the most recent California Natural Diversity Database (CNDDDB) records, and any other relevant sources of information. This literature and data review is intended to identify natural communities and covered species habitat or populations that are potentially present on the project site and that require specific project AMMs. Based on the results of the initial information review, the biologist will conduct site-specific surveys, as identified in the required AMMs, to inform project design and incorporate site-specific avoidance and minimization actions.

² BCAG will develop this form prior to allowing permittees to use the Permits.

Item 4: Verification of Land Cover Impacts

Based on the maps created during planning-level surveys, the project proponent must provide the acres of effect (and linear feet of impacts for stream channels) in the area of impact by land cover type. BCAG will use these calculations to track natural community and covered species habitat loss under the BRCP by land cover type. The tracking must be based on actual loss of each land cover type. Permittee planning staff or BCAG will verify that a qualified biologist completed the land cover mapping and calculations correctly. Permittee planning staff will verify land cover data determinations provided by all project proponents within the Permittee's jurisdiction, and BCAG will verify all land cover data determinations provided by PSEs. The Permittee and BCAG will verify land cover data determinations at the time applications are submitted because of the potential for land cover to change since the BRCP was approved.

For the most part, effects of covered activities will be quantified and tracked based on site conditions at the time the effects occur, rather than on the BRCP land cover database at the time of permit issuance. This approach will overcome the inaccuracies in the land cover map that was created using regional-scale data and was not designed for project-level or site permitting. However, the Permittee reviewing the application package must ensure that project sites are similar in land cover types and extent to what was mapped for the BRCP and have not been substantially degraded or cleared of vegetation after BRCP approval. Permittees with jurisdiction over the project will compare information regarding existing conditions at the time an applicant requests coverage for a project with the BRCP land cover database. If current site conditions reflect a substantial degradation of habitat conditions from the original BRCP land cover map (e.g., from a change or intensification of land uses), project effects, conditions on covered activities, and BRCP fees will be determined and calculated using the BRCP land cover map instead of the current, degraded site conditions. The Permittee will make this determination based on information submitted by the project proponent (e.g., current air photos, vegetation map), other information available, and a project site visit, if necessary. Project proponents may challenge the accuracy of the original BRCP land cover map for the project site by providing evidence to the Permittee of the original land cover (e.g., historic air photos, past biological surveys, ground-level site photos).

Land cover mapping is not required for operations and maintenance activities conducted by Permittees.³ Permittees will rely on the most recent land cover map developed by BCAG to quantify land cover loss.

Item 5: Avoidance and Minimization Measure Plan

Based on the results of steps 1 and 3, above, the project proponent will identify applicable AMMs and include these in an AMM plan, which will be submitted with the application package. The project proponent will include monitoring requirements in the AMM plan and surveys provided by a qualified biologists, as needed.

Item 6: BRCP Fees or Equivalent Mitigation

The project proponent will estimate fees based on the information provided in the items above, using a fee calculator developed by BCAG and the calculation methods described in Section 9.3.1.1,

³ Land cover mapping is required for these activities for all private project proponents and Special Participating Entity projects.

BRCP Fees. If the project proponent proposes to purchase credits at a USFWS- or CDFW-approved mitigation bank, the proponent must indicate this upon project approval. The BRCP Board of Directors may authorize use of an approved mitigation bank or mitigation receiving site for in-county mitigation if it meets BRCP requirements, including monitoring and adaptive management requirements, and pays all appropriate fees. Out-of-county mitigation may not rely on BRCP for take authorization. Chapter 9, *Costs and Funding*, describes the fees BCAG will apply to the mitigation receiving site process.