

1 *Note to Reviewers: This handout is the second draft of Chapter 7, Implementation Structure,*
2 *and has been revised to address comments received at the November 3, 2010 Stakeholder*
3 *Committee meeting, refine the description of the Implementing Entity, and incorporate*
4 *descriptions of the primary functions of the Implementing Entity. This Chapter will continue to*
5 *be refined and expanded to include additional detail of the functions and responsibilities of the*
6 *Implementing Entity as BRCP planning progresses.*

9 Chapter 7. Implementation Structure

10
11 This Chapter describes the organizational structure that will be established to implement the
12 BRCP and the roles, functions, and responsibilities of the entities that will participate in its
13 implementation. BRCP implementation commences with execution of the BRCP Implementing
14 Agreement with USFWS, NMFS, and DFG, issuance of Section 10(a)(1)(B) incidental take
15 permits and NCCP permit, and local authorizing ordinances.

17 7.1 BRCP IMPLEMENTING ENTITY

18 BRCP implementation will be directed by the Implementing Entity, which will be created from a
19 new Joint Powers Authority (JPA) developed specifically for implementation of the BRCP.
20 Based on a comparative review of other HCP/NCCPs throughout northern California, JPAs are
21 the most common type of arrangement for implementation among entities developing and
22 implementing HCP/NCCPs. Seven out of eight northern California HCP/NCCPs currently use,
23 or expect to use a JPA for HCP/NCCP implementation. Use of a JPA governance body provides
24 the Implementing Entity with the land use authority that will be necessary to effectively
25 implement BRCP habitat conservation actions.

26
27 The new JPA will identify a BRCP Board of Directors to be comprised of members of the Butte
28 County Board of Supervisors and a single city council member representative from the Cities of
29 Biggs, Chico, Gridley and Oroville. Because Caltrans District 3, Butte County Association of
30 Governments (BCAG), and the participating water and irrigation districts do not hold land use
31 authority and cannot approve fees, they would not be on the BRCP Board, but will provide
32 recommendations to the board via a technical committee or similar role.

33
34 The JPA will use BCAG staff for managing the implementation of the BRCP, which will include
35 the BCAG Executive Director, Planning Manager (Program Manager) Senior Planner
36 (GIS/Database Maintenance), Chief Financial Officer (Financial Management), Administrative
37 Assistant (Administrative Services) and other appointed staff and consultants working at the
38 direction of the Executive Director.

39
40 It is anticipated that BCAG may hire additional staff members where expertise is needed to assist
41 in the implementation of the BRCP. This may include a staff senior biologist, land acquisition
42 specialist, and others as necessary. The structure of the Implementing Entity is presented in

1 Figure 7-1. This implementing structure is similar to other HCP/NCCPs, including East Contra
2 Costa County HCP/NCCP, where a new JPA was created for implementation that was staffed by
3 a plan permittee (Contra Costa County Planning Department).
4

5 By using existing staff at BCAG for BRCP implementation, start-up costs will be significantly
6 reduced compared with initiating an entirely new organization with separate office expenses
7 where costs would escalate quickly due to separate office rent, utilities, copiers, fax machines,
8 computers, printers, software licenses, plotters, office furniture, and other such operating
9 expenses. This also ensures that the existing staff responsible for developing the BRCP can be
10 carried forward into implementation, benefitting the Permittees by ensuring that those
11 responsible for implementation are intimately familiar with the details of the BRCP, and have
12 established positive working relationships with the ten Permittees, Wildlife Agencies (USFWS,
13 DFG, NMFS), US Army Corp of Engineers, and various diverse interest groups throughout the
14 Plan Area.
15

16 The Implementing Entity will hold title to lands or easements it acquires to implement the BRCP
17 and will oversee any cooperative agreements that may be entered into with other entities that
18 own and/or manage conservation lands in fulfillment of BRCP commitments. Certain
19 implementation tasks may be contracted out to the private sector including but not limited to
20 preserve management and monitoring activities, legal services, and assistance with public
21 outreach activities (e.g., newsletters, brochures, public workshops).
22

23 **7.1.1 Executive Director**

24 The BCAG Executive Director will serve as the BRCP Executive Director and will report to the
25 BRCP JPA. The Executive Director is responsible for directing the activities of the
26 Implementing Entity and the implementation of the Plan under the authority granted by the
27 BRCP JPA. The Executive Director's responsibilities include staff and consultant management,
28 acquisition of outside funding, coordination with external advisors and agencies, compilation of
29 annual reports to USFWS, NMFS, and DFG, reporting to the BRCP JPA, coordinating activities
30 with the Permittees and BRCP participants that may be charged with implementing conservation
31 measures (e.g., non-profit conservancies and similar organizations), and implementation of all
32 BRCP adaptive management and monitoring efforts. The Executive Director is also responsible
33 for oversight of training Permittee staff in their processing of applications for coverage under
34 the HCP/NCCP and will conduct periodic audits of the Permittees to ensure compliance with the
35 terms of the Plan. The Executive Director will serve as the primary link between Implementing
36 Entity staff, Permittees, regulatory agencies, other decision makers, and the general public.
37

38 **7.1.2 Financial and Legal Services**

39 The Implementing Entity may retain financial and legal services on an as-needed basis. It is
40 anticipated that financial analysis assistance will be periodically required to review the
41 program's cost/revenue balance and ensure that sources of implementation funding (e.g.,
42 development fees) are adjusted with changing land costs and inflation. [*Note to Reviewers:*

1 *BRCP implementation funding sources have not yet been determined.]* It is anticipated that legal
2 counsel may also be periodically required to provide services related to drafting and reviewing
3 conservation easements, reviewing of land purchases, assisting with land transaction
4 negotiations, and assisting with easement violations should they occur.
5

6 **7.1.3 Consultants and Contractors**

7 To effectively discharge all of its duties, the Implementing Entity may retain the services of
8 qualified consultants to address any technical or scientific needs that cannot be effectively
9 addressed through other resources available to the Implementing Entity. The use of consultants
10 is expected to be greater early in BRCP implementation and less so as the Implementing Entity's
11 implementation experience increases. Contractors will be retained as needed to undertake tasks
12 related to maintaining and improving conservation land infrastructure (e.g., grading roads,
13 maintaining fences), implementing habitat restoration and enhancement actions, and similar
14 types of physical activities necessary for BRCP implementation.
15

16 **7.2 RESPONSIBILITIES OF THE IMPLEMENTING ENTITY**

17 The Implementing Entity is responsible for implementing all conservation measures, monitoring,
18 and other measures described in the BRCP. These responsibilities include, but are not limited, to
19 the following:

- 20 • Developing budgets and work plans,
- 21 • Securing grant funding and collecting, receiving, and expending funds,
- 22 • Identifying land acquisition opportunities and acquiring lands,
- 23 • Monitoring landowner compliance with terms of conservation easements,
- 24 • Coordination with and among and training of Permittees to ensure covered activities are
25 implemented in compliance with provisions of the Plan,
- 26 • Monitoring implementation progress to assure that mitigation and conservation measures
27 are being implemented roughly proportional in time and extent to the impact on habitat or
28 covered
- 29 • species authorized under the Plan
- 30 • Implementing the adaptive management and monitoring plans,
- 31 • Public outreach and education,
- 32 • Maintain implementation tracking databases and GIS (e.g., conservation agreements, fee-
33 title acquisitions, management actions, monitoring data, expenditures, mitigation),
- 34 • Coordinating implementation with agencies and NGOs,

- 1 • Implementing and overseeing implementation of habitat restoration and enhancement
- 2 conservation measures,
- 3 • Managing BRCP conservation lands,
- 4 • Coordinating plan amendments,
- 5 • Regular reporting of Plan implementation status to the Permitting Agencies (see Chapter
- 6 6, *Plan Implementation*).

7 The proposed organizational structure and coordination and consultation planning process of the
8 Implementing Entity are depicted in Figure 7.2.

9 10 **7.2.1 Coordination and Consultation Planning Process**

11 As indicated in Figure 7-1, the Implementing Entity will coordinate with existing entities to
12 effectively implement the BRCP as well as new entities established for this purpose.

13 14 **7.2.1.1 Permittees**

15 The following entities are anticipated to be Permittees on the ESA Section 10(a)(1)(B) incidental
16 take permit and the NCCPA permit providing authorization for take that occurs from covered
17 activities within their respective jurisdictions (see Chapter 2, *Covered Activities*):

- 18 • Butte County,
- 19 • City of Chico,
- 20 • City of Oroville,
- 21 • City of Gridley,
- 22 • City of Biggs,
- 23 • Butte County Association of Governments
- 24 • Western Canal Water District,
- 25 • Butte Water District,
- 26 • Biggs West Gridley Water District,
- 27 • Richvale Irrigation District,
- 28 • California Department of Transportation District 3, and
- 29 • The Implementing Entity for the BRCP HCP/NCCP.

30 The Implementing Entity will be responsible for implementing the BRCP on behalf of the
31 Permittees. The Permittees, however, will ultimately be responsible for compliance with all the
32 terms and conditions of the BRCP permits and the Implementing Entity's performance in
33 implementing the BRCP in conformance with the terms and conditions.

34

1 The local jurisdictions receiving permits will be responsible for determining the completeness of
2 applications for coverage of projects received from private developers. Each local jurisdiction
3 will grant take authorization under the BRCP HCP/NCCP as part of its normal project review
4 process if it has made a determination that the application is complete and the applicant has
5 complied with all the requirements of the BRCP HCP/NCCP. As described in Chapter 6, *Plan*
6 *Implementation*, each of the local jurisdictions will also be responsible for reporting the relevant
7 details of approved projects to the Implementing Entity, for monitoring the applicant's
8 compliance with the applicable avoidance and minimization measures described in Section 5.4.4,
9 *Avoidance and Minimization Measures*, and for collecting any fees that may be required under
10 the BRCP.

11 **7.2.1.2 Land Trusts, Land Management Agencies, and Mitigation Banks**

13 Coordination of BRCP implementation with land trusts, local land management entities and
14 mitigation banks is an important consideration for successful BRCP implementation. In
15 conformance with the conservation land assembly principles, BRCP conservation lands will
16 often be located adjacent to protected lands managed by other entities (e.g., lands managed by
17 local park districts, local land trusts, private mitigation banks, DFG, DWR). The Implementing
18 Entity will need to coordinate with these land management entities to ensure that habitat
19 enhancement and land management practices are compatible, that benefits for covered species
20 are fully provided for, and to seek opportunities to reduce implementation costs through
21 cooperative implementation of management actions. The BRCP Implementing Entity may also
22 choose to contract with existing land trusts to assist with aspects of BRCP implementation
23 including preserve management and monitoring activities, and may purchase credits from
24 existing mitigation banks provided their lands are managed in a manner that is compatible with
25 the BRCP (see Chapter 5, Section 5.x.).

26 **7.2.1.3 Technical Advisory Committee(s)**

28 The Implementing Entity may establish one or more technical advisory committees to better
29 inform implementation of conservation measures and coordinate habitat enhancement and land
30 management activities with other entities. For example, if the Implementing Entity enters into
31 agreements with other land management entities to implement management actions on its behalf,
32 then it may be desirable to establish a technical advisory committee comprised of land
33 management staff from the entities and Implementing Entity staff, with USFWS, NMFS, and
34 DFG representatives participating as advisors, to ensure that relevant BRCP actions are
35 appropriately implemented. Additional committees may be established to inform the BRCP staff
36 and Board of Directors of key issues effecting BRCP implementation.

37 **7.2.1.4 Planning Directors Committee**

38 The Implementing Entity will meet regularly with the City/County Planning Directors
39 Committee to ensure continued coordination with local city and county planning department staff
40

1 who are responsible for certain implementation tasks. This committee will include both planning
2 directors and staff from the cities of Biggs, Gridley, Oroville and Chico and the County of Butte.

4 **7.2.1.5 Regulatory Agencies**

5 USFWS, NMFS, and CDFG are the regulatory agencies that issue the federal and state permits
6 for incidental take and regulate implementation of the BRCP. As described in Chapter 6, Plan
7 Implementation, The Implementing Entity will submit annual reports to these agencies
8 describing each year's implementation activities, and they will provide guidance to the BCAG
9 JPA Board to ensure that the BRCP remains in compliance with terms and conditions of the
10 permits.

11
12 Representatives of these agencies will serve as advisory members to the BCAG JPA Board and
13 any technical advisory committees that may be established by the Board. USFWS, NMFS, and
14 DFG will also assist the Implementing Entity in attempting to secure state and federal funding
15 for HCP/NCCP implementation (see Chapter 8, *Implementation Costs and Funding Sources*). If
16 other regional permits are sought under the BRCP (e.g., regional wetland permits), state and/or
17 federal agencies administering those permits would also serve as advisory members to the Board
18 and any technical advisory committees that may be established.

19 **7.2.1.6 Science Advisors**

20
21 Science advisors, comprised of technical specialists with expertise in conservation biology,
22 management of local natural communities and agricultural lands, habitat enhancement and
23 restoration design, and the ecology of covered species will be assembled as needed by the
24 Implementing Entity to provide to guidance for BRCP implementation. The primary purpose of
25 periodic consultation with the science advisors is to provide technical advice and help gather the
26 best available scientific data for assembling the conservation lands, interpreting monitoring
27 results, and providing advice through the adaptive management decision making process (see
28 Section 5.8, *Adaptive Management Plan*).

29 **7.2.1.7 Stakeholder Committee**

30
31 The BCAG JPA Board will establish and appoint members to a Stakeholder Committee to
32 provide a venue for receiving input from public stakeholders with interest in Plan
33 implementation. The Committee will be charged with providing input to the Board and its staff
34 regarding all aspects of BRCP implementation and will be comprised of representatives from the
35 same interests that comprised the Stakeholder Committee that developed the BRCP. Committee
36 members will be appointed by the Board to represent the following interests:

- 37 • Developers seeking permits under the BRCP,
- 38 • conservation advocacy groups,
- 39 • agricultural interests, and

- rural and suburban residents.

Staff from participating local jurisdictions and USFWS, NMFS, and DFG will also participate in Committee meetings to ensure Committee deliberations are coordinated with those responsible for BRCP implementation and serve as a source of information regarding the relationship of BRCP implementation to other relevant ongoing planning activities in the Plan Area. The frequency of Committee meetings will be determined by the Implementing Entity and the Committee. Committee meetings will be open to the public and public participation in Committee discussions will be encouraged.

7.2.1.8 Public Input

The BRCP Implementing Entity will be responsible for continuing public outreach efforts that were initiated as part of the development of the BRCP. This includes maintaining a publicly accessible website, producing and distributing newsletters, brochures and press releases, and holding periodic public workshops to present BRCP implementation findings and results to the general public.

7.2.2 Implementing Entity Functions

As indicated in Figure 7-2, the Implementing Entity will serve eight categories of functions necessary to effectively implement the BRCP.

7.2.2.1 Financial Management

The Implementing Entity will be responsible for managing BRCP finances and, to do so, will establish and maintain internal accounting procedures for monitoring expenditures and cash flow. Financial management responsibilities include developing and monitoring budgets, processing invoices, managing financial reserves, identifying cost savings, and managing administrative contracts (e.g., liability insurance).

7.2.2.2 Real Estate Activities

The Implementing Entity conducts relevant financial and legal analyses to guide selection and acquisition of conservation lands. These functions may be fulfilled by a staff specialist retained by the Implementing Entity for this purpose, partnering with local jurisdictions to provide this service, or through consultant services.

As described in Section 5.4.1.1, *CMI: Protect Natural Communities*, the Implementing Entity will need to acquire lands that support the ecological characteristics that will, through habitat protection, enhancement, restoration, and management actions, achieve the biological goals and objectives (see Section 5.3, *Biological Goals and Objectives*). Lands may be acquired through conservation easements or in fee title. The Implementing Entity will need to establish a process for prioritizing land acquisition opportunities and will be responsible for conducting all pre-

1 acquisition surveys, title searches and review of existing encumbrances to ensure there are no
2 restrictions that conflict with BRCP implementation, and other tasks that may be necessary to
3 confirm that lands considered for acquisition support the ecological characteristics necessary to
4 fulfill one or more of the biological goals and objectives.

5 6 **7.2.2.3 Grant Development and Administration**

7 The Implementing Entity will be responsible for managing all grants, contracts, and
8 other funding sources during BRCP implementation. The Implementing Entity will be
9 responsible for establishing and executing procedures that meet the accounting and reporting
10 requirements of entities providing grant funds. The Implementing Entity will be responsible for
11 identifying and pursuing grant funds that are available for implementing the BRCP and preparing
12 grant applications necessary to secure these funds. These functions may be fulfilled by a staff
13 specialist retained by the Implementing Entity for this purpose, partnering with agencies and
14 organizations that provide this service, or through consultant services.

15 16 **7.2.2.4 Scientific Oversight**

17 The Implementing Entity is responsible for ensuring scientific oversight of key technical aspects
18 of BRCP implementation, including biological evaluations for selection of conservation lands,
19 implementation of conservation measures, and the monitoring and adaptive management
20 program. It is anticipated that this oversight will be conducted by a senior staff biologist or
21 qualified consultant retained for this purpose. The Implementing Entity will also be responsible
22 for being informed of new relevant scientific information and conservation approaches as it
23 becomes available of the term of the BRCP and for seeking external science advice and
24 assembling science advisor panels as needed to better inform implementation.

25 26 **7.2.2.5 Preserve Management and Monitoring**

27 The Implementing Entity has primary responsibility for ensuring the day-to-day management of
28 the BRCP acquired conservation lands in accordance with the provisions of Chapter 5,
29 *Conservation Strategy*. In addition to directing the management of BRCP conservation lands,
30 the Implementing Entity will coordinate its activities with managers of other conserved lands
31 (e.g., land trusts, mitigation banks, DFG, DWR) to synergistically improve the collective
32 ecological benefits provided by all conserved lands within the Plan Area. These activities
33 include periodic patrols to evaluate the status and function of infrastructure (e.g., water
34 conveyance, fences, roads, etc.) and any necessary repair and maintenance activities. The
35 Implementing Entity will also be responsible for implementing the management plans that will
36 be prepared for specific or groups of BRCP conservation land parcels (see Section 5.4.2.6, *CM9*:
37 *Enhance and Manage Protected Natural Communities*) and conducting the applicable
38 monitoring activities described in Section 5.7, *Monitoring Plan*.

1 **7.2.2.6 Public Outreach**

2 The Implementing Entity will be responsible for preparing informational materials, preparing for
3 and conducting public informational meetings/workshops, presentations in public venues (e.g.,
4 County Fair booths), posting information related to implementation on the BRCP website,
5 preparing informational materials for public distribution, and other such functions that serve to
6 keep the general public aware of BRCP implementation activities and to promote public interest
7 and participation.

8
9 **7.2.2.7 GIS/Database Maintenance**

10 The Implementing Entity will maintain the existing or modified BRCP website and require use
11 of GIS and other database systems to collect, store, and use spatial and other data necessary for
12 BRCP implementation and document implementation progress (see Section 6.2, *Progress and*
13 *Compliance Reporting Requirements*). The Implementing Entity will use GIS to guide preserve
14 design and monitoring programs and continue to build from the existing GIS database used to
15 develop the BRCP. The Implementing Entity will also be responsible for maintaining and
16 upgrading all database systems software and hardware as needed. The Implementing Entity will
17 also coordinate its database systems, procedures, and formats with systems used by the
18 Permittees for activities reporting and with USFWS, NMFS, and DFG procedures to streamline
19 database management activities to the extent practicable.

20
21 **7.2.2.8 Administrative Services**

22 The Implementing Entity will be responsible for maintaining administrative services in support
23 of all Implementing Entity functions, including procurement of office supplies, equipment,
24 software, computers, and other materials; hiring and training of staff; payroll services; and any
25 other such activities necessary to conduct the business of the Implementing Entity. These
26 services may be staffed by the Implementing Entity or provided externally through cooperative
27 agreements with partner agencies or through consultant services.

DRAFT

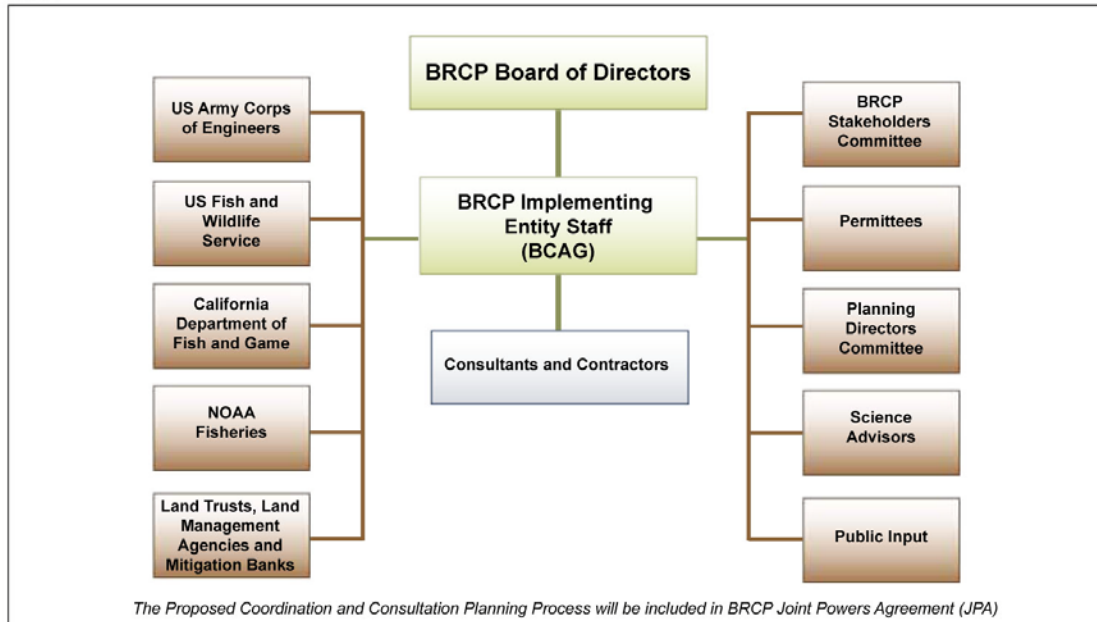


Figure 7.1 Proposed Implementing Entity Coordination and Consultation Planning Process

11/22/10
S:\GRAPHICS-WORKING FILES\BCAG_Figures

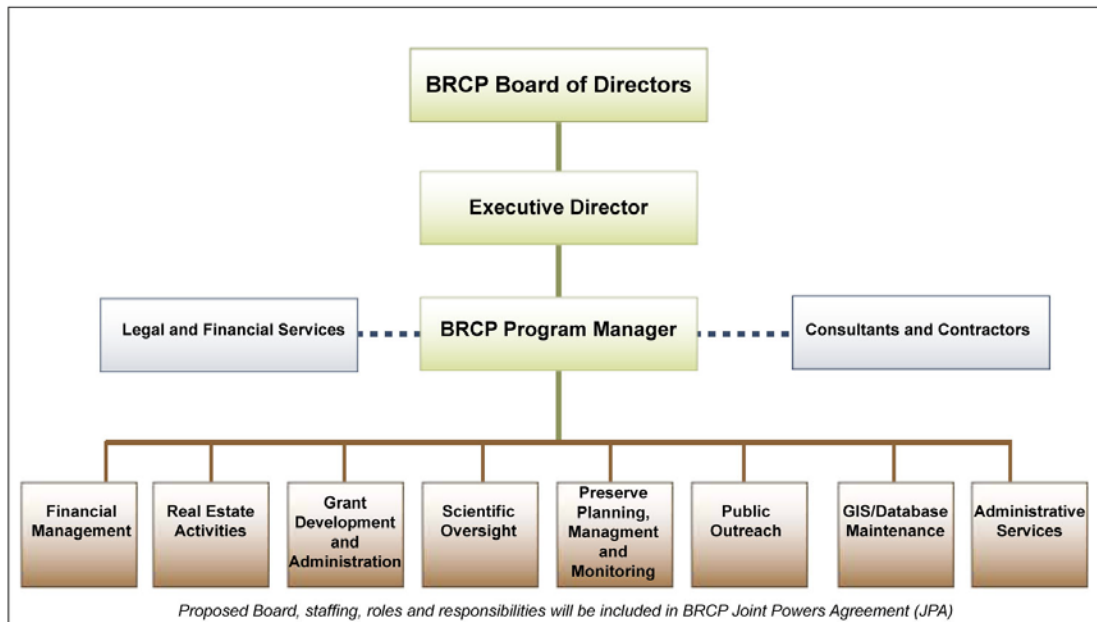


Figure 7.2 Proposed Organizational Structure for BRCP Implementing Entity

11/22/10
S:\GRAPHICS-WORKING FILES\BCAG_Figures