



Topic: **Reservoir Committee Agenda Item 3.2**

2020 August 21

Subject: **Permitting and Agreement List**

Requested Action:

Review and comment on Permitting and Agreement List.

Detailed Description/Background:

In June 2020, the Reservoir Committee and Authority Board approved an Approach to Permit and Agreement Negotiations for Environmental Planning, Permitting and Operations activities. This approach identified a process for managing the negotiations of permit and operating agreement terms and conditions with state and federal agencies.

Staff has developed the attached listing of key permits and agreements for the environmental planning, environmental permitting and reservoir operations activities to: (1) provide a quick reference on staff / member contacts for different agreements and (2) begin to plan and manage workload and efforts for staff and members participating in permitting / agreement negotiations. This listing focuses on those permits and agreements through the end of calendar year 2022. The listing identifies permit / agreement, purpose / key components anticipated to be addressed in the permit / agreement, negotiations timeframe, lead negotiator, negotiations team and the work group involved. Lead negotiators are identified for all activities to plan workload for staff. Negotiations teams are identified for the permitting and agreement efforts that are underway. Additional negotiations teams will be identified as activities are initiated.

The listing will be updated periodically as needed.

Prior Action:

June 2020: Approved an Approach to Permit and Agreement Negotiations, Environmental Planning, Permitting and Operations which identified a process for managing the negotiations of permit and operating agreement terms and conditions with state and federal agencies.

Fiscal Impact/Funding Source:

Sufficient funding exists within the approved work plan (budget) to cover the cost associated with conducting the negotiations planned in the period.

Staff Contact:

Ali Forsythe

Attachments:

Attachment A: Environmental Planning, Environmental Permitting, and Reservoir Operations Permits and Agreements - Lead Negotiator and Negotiations Team, Dated August 12, 2020

Environmental Planning, Environmental Permitting, and Reservoir Operations Permits and Agreements
Lead Negotiator and Negotiations Team
Focused on Activities Thru End of 2021
Draft – August 12, 2020

| Permit / Agreement | Agency With | Purpose / Key Components Addressed* | Negotiations Timeframe | Tiered from EIR/EIS | Lead Negotiator* | Negotiations Team | Work Group |
|--|-------------------------------|--|---|---------------------|--|--|---------------------|
| Sites / Reclamation Operations Agreement | Bureau of Reclamation | <ol style="list-style-type: none"> 1. Coordination of Sites water deliveries with Reclamation’s operation of the Central Valley Project (CVP) 2. Exchanges with Shasta and Folsom reservoirs (Within Year and Real-time) 3. Sites water accounting in the context of the Coordinated Operations Agreement for the CVP and State Water Project (SWP) 4. Conveyance and operational losses 5. Exchanges and transfers from Sites-participants to non-Sites CVP contractors 6. Water rights and point of delivery considerations 7. Note, need to determine if this agreement will also cover Warren Act contract, modifications to Federal Facilities (Funks, turnout for Dunnigan pipeline, etc.), and land license / lease of lands (for any facilities located of Federal lands). Might be best to have these as separate agreements as there are separate standard form of contracts and requirements for these in Reclamation. | <p>Now thru Spring 2022</p> <p>Term Sheet 6/2021</p> <p>Final Agreement Spring 2022</p> | Yes | Jerry Brown (lead) and Erin Heydinger | Cinda Kao Rob Kunde Randall Neudeck Dan Ruiz Jeff Sutton | Ops and Engineering |
| Sites / State Operations Agreement | Department of Water Resources | <ol style="list-style-type: none"> 1. Coordination of Sites water deliveries with DWR’s operation of the SWP 2. Exchanges with Oroville reservoir 3. Sites water accounting in the context of the Coordinated Operations Agreement for the CVP and SWP 4. Conveyance and operational losses 5. Exchanges and transfers from Sites-participants to non-Sites SWP contractors 6. Water rights and point of delivery considerations | <p>Now thru Spring 2022</p> <p>Term Sheet 6/2021</p> <p>Final Agreement Spring 2022</p> | Yes | Ali Forsythe (lead) and Erin Heydinger | Same team as Sites / Reclamation Operations Agreement | Ops and Engineering |

| Permit / Agreement | Agency With | Purpose / Key Components Addressed* | Negotiations Timeframe | Tiered from EIR/EIS | Lead Negotiator* | Negotiations Team | Work Group |
|-----------------------------------|--|---|---|--|---------------------------------------|-------------------|--|
| Plan of Finance (placeholder) | Sites Reservoir Committee | <ol style="list-style-type: none"> Governance and Policy Oversight Delegation of Authority Allocation of capital costs and operating costs (fixed and variable, beneficiary pays) Definition of project vs. non-project costs Storage as a benefit (consistent with the Storage Policy) Definition of water marketplace Conflict resolution | <p>11/2020 thru Spring 2022</p> <p>Term Sheet 6/2021</p> <p>Final Agreement Spring 2022</p> | Must be consistent with and can't be signed until CEQA completed | JP Robinette | | TBD |
| Sites / GCID Operations Agreement | Glenn Colusa Irrigation District (GCID) | <ol style="list-style-type: none"> Use of GCID facilities Operations and maintenance responsibilities Roles and responsibilities between the Authority and GCID Costs and payments Modification to GCID facilities (here or separate?) | <p>1/2021 thru Spring 2022</p> <p>Term Sheet 6/2021</p> <p>Final Agreement Spring 2022</p> | Must be consistent with and can't be signed until CEQA completed | JP Robinette (lead) and Kevin Spesert | | Ops and Engineering and Lands Management |
| Sites / TCCA Operations Agreement | Tehama-Colusa Canal Authority (TCCA) | <ol style="list-style-type: none"> Use of TCC facilities Operations and maintenance responsibilities Roles and responsibilities between the Authority and TCCA Costs and payments Modification to TCC facilities (here or separate?) <p>Who has authority to grant use and modification permissions (TCCA or Reclamation)? Need to determine how this agreement dovetails with Reclamation Warren Act contract, facility modification agreement, and land license.</p> | <p>1/2021 thru Spring 2022</p> <p>Term Sheet 6/2021</p> <p>Final Agreement Spring 2022</p> | Must be consistent with and can't be signed until CEQA completed | JP Robinette (lead) and Kevin Spesert | | Ops and Engineering and Lands Management |
| Biological Assessment | Bureau of Reclamation, U.S. Fish and Wildlife Service, National Marine Fisheries Service | <ol style="list-style-type: none"> Compliance with Federal ESA requirements for construction and operations, including incidental take of listed species Compliance with related statute such as the Migratory Bird Treaty Act, Magnuson Stevens Fishery Conservation and Management Act, etc. | <p>9/2020 thru early 2022</p> <p>Submit BA 6/2021</p> <p>BO target late 2021</p> | Yes | Jerry Brown | | Enviro Planning and Permitting |

| Permit / Agreement | Agency With | Purpose / Key Components Addressed* | Negotiations Timeframe | Tiered from EIR/EIS | Lead Negotiator* | Negotiations Team | Work Group |
|---|--|--|--|---------------------|------------------|---------------------|--------------------------------|
| Eagle Take Permit | Bureau of Reclamation and U.S. Fish and Wildlife Service | Compliance with the Bald and Golden Eagle Act | 9/2020 thru early 2022 Submit Application 6/2021 Permit target late 2021 | Yes | Jerry Brown | | Enviro Planning and Permitting |
| State Incidental Take Permit – Operations | CA Department of Fish and Wildlife | Compliance with State ESA (Section 2081.1 of Fish and Game Code) for operations, including incidental take of listed species | 9/2020 thru late 2022 Submit Application 12/2021 ITP target late 2022 | Yes | Jerry Brown | | Enviro Planning and Permitting |
| State Incidental Take Permit – Construction | CA Department of Fish and Wildlife | Compliance with State ESA (Section 2081.1 of Fish and Game Code) for construction, including incidental take of listed species | 9/2020 thru late 2022 Submit Application 12/2021 ITP target late 2022 | Yes | Jerry Brown | | Enviro Planning and Permitting |
| Section 106 Programmatic Agreement | Bureau of Reclamation; State Historic Preservation Officer; Tribes | Compliance with Section 106 of the National Historic Preservation Act thru completion of a Programmatic Agreement | 9/2020 thru 12/2021 | Yes | Kevin Spesert | | Enviro Planning and Permitting |
| AB 52 | Tribes | Compliance with AB 52 | Now thru end of EIR effort (Spring 2022) | Yes | Kevin Spesert | Same as Section 106 | Enviro Planning and Permitting |
| Water Right Permit | State Water Resources Control Board | Compliance with California Water Code | 9/2020 thru end of 2022 | Yes | Ali Forsythe | | Enviro Planning and Permitting |

| Permit / Agreement | Agency With | Purpose / Key Components Addressed* | Negotiations Timeframe | Tiered from EIR/EIS | Lead Negotiator* | Negotiations Team | Work Group |
|---|---------------------------------------|---|-------------------------|--|---------------------------------------|--|--|
| Clean Water Act Section 404 and River and Harbors Act Section 10 | Army Corps of Engineers | Compliance with Clean Water Act Section 404 for construction and operations | 9/2020 thru end of 2022 | Yes | Ali Forsythe | | Enviro Planning and Permitting |
| Clean Water Act Section 401 and 402 (NPDES Permit) and Porter Cologne Water Quality Control Act | State Water Resources Control Board | Compliance with Clean Water Act Section 401 and 402, and the Porter Cologne Water Quality Control Act | 9/2020 thru end of 2022 | Yes | Ali Forsythe | Same as 404 | Enviro Planning and Permitting |
| Rivers and Harbor Act, Section 14 (USC Section 408), if needed | Army Corps of Engineers | Compliance with River and Harbors Act Section 408 for actions in and near a Federally-authorized flood control project | 9/2020 thru end of 2022 | Yes | Ali Forsythe | | Enviro Planning and Permitting |
| Central Valley Flood Protection Board Encroachment Permit | Central Valley Flood Protection Board | Compliance with Title 23 of the California Code of Regulations (CCR Title 23, Div 1 Central Valley Flood Protection Board (July 2014)) | 9/2020 thru end of 2022 | Must be consistent with and can't be signed until CEQA completed | Ali Forsythe | Same as Rivers and Harbor Act Section 14 | Enviro Planning and Permitting |
| Sites/Colusa Basin Drain (CBD) entities and landowners | ??? | <ol style="list-style-type: none"> 1. Use of CBD for conveyance 2. Operations and maintenance responsibilities 3. Roles and responsibilities between the Authority and CBD entities and landowners | 9/2020 thru end of 2022 | Must be consistent with and can't be signed until CEQA completed | JP Robinette (lead) and Kevin Spesert | | Ops and Engineering / Lands Management |
| WSIP Public Benefits – Biological | CA Department of Fish and Wildlife | Comply with Prop 1 requirements for public benefits | 1/2021 thru end of 2022 | Must be consistent with and can't be signed until CEQA completed | Ali Forsythe | | Enviro Planning and Permitting |

| Permit / Agreement | Agency With | Purpose / Key Components Addressed* | Negotiations Timeframe | Tiered from EIR/EIS | Lead Negotiator* | Negotiations Team | Work Group |
|--|-----------------------------------|---|-------------------------|--|------------------|-------------------|--------------------------------|
| WSIP Public Benefits – Flood and Recreation | CA Department of Water Resources | Comply with Prop 1 requirements for public benefits | 1/2021 thru end of 2022 | Must be consistent with and can't be signed until CEQA completed | Ali Forsythe | | Enviro Planning and Permitting |
| 2022 and Beyond Permits (Would need to verify the need for some of these depending on final alternative selected) | | | | | | | |
| Lake and Streambed Alteration Agreement | CDFW | Comply with Section 1600 of Fish and Game Code | | | Ali Forsythe | | Enviro Planning and Permitting |
| State Land Use Lease (Need TBD) | California State Lands Commission | Work on sovereign land; specifically, below OHWM of Sacramento River | | | Ali Forsythe | | Enviro Planning and Permitting |
| SMARA mining permit | Glenn and Colusa Counties | Borrow pitting exceeding 1 acre or removal of more than 1,000 cubic yards of material | | | Ali Forsythe | | Enviro Planning and Permitting |
| Plan Approval | DWR- Div. of Safety of Dams | Water Code, Div. 3, Part 1 & 2 | | | Henry Luu | | Ops and Engineering |
| Permit to Construct/Operate | Air Districts | Warren-Alquist Act and Clean Air Act | | | Ali Forsythe | | Enviro Planning and Permitting |
| Encroachment Permits | Caltrans | Allow construction and operations of facilities that impact state highways | | | Henry Luu | | Enviro Planning and Permitting |

* Per the approved approach the lead negotiator is the Executive Director, except where delegated. In making these assignments, the Executive Director has established expectations for managing the process, coordinating/communicating with the negotiations team and the Boards, and coordinating with other activities. These assignments are subject to change by the Executive Director.