

Reservoir Committee Meeting

Agenda Item 2.13: Incidental Take Permit
Application – Construction

December 17, 2021

Reminder on Construction ITP Components

- Covering 3 State-listed species
 - Swainson's hawk
 - Tricolored blackbird
 - Giant garter snake
- Avoid, reduce, then mitigate
 - Fully mitigate requirement
 - Compensatory mitigation necessary for Project (cant avoid and reduce all impacts)
- Types of mitigation for permanent impacts
 - Sites-lead off-site habitat acquisition or restoration
 - Conservation easements
 - Conservation banks / mitigation banks
 - On-site opportunistic habitat preservation / restoration

Financial Assurances Requirement and Purpose

- Financial assurances for mitigation required by CESA
 - applicant “ensure adequate funding to implement the measures required ... and for monitoring compliance with, and effectiveness of, those measures” (Fish & Game Code Section 2081(b)(4))
- Financial assurances there if applicant doesn't implement mitigation
 - Goes bankrupt, simply refuses, delays and delays
- CDFW uses financial assurances to implement the mitigation themselves

Cost Estimate Developed to Determine Amount of Financial Assurance

- Financial assurance costs were estimated:
 - For the anticipated 10-year term of the permit
 - Based largely on the detailed cost estimate of relevant conservation measures
 - Includes all mitigation measures for the permanent impacts to the three Covered Species
- Endowment costs are above and beyond these costs

Financial Assurance Cost Estimate

- ITP financial assurance cost estimate = \$128,047,000
 - Higher than June 2021 mitigation cost estimate for the three Covered Species
 - Not apples to apples comparison between the 2 estimates
- CDFW's standard is to have the cost estimate prepared in a specific way, that results in a more conservative (higher) cost

Financial Assurances Approach

- Letter of Credit
 - In place no later than 12 months after issuance of Project's water right permit and prior to initiating ground-disturbing activities under the ITP, whichever comes first
 - Phased over the 10-year construction period
- Long-term Management Financial Assurances
 - Typically called an endowment
 - If needed, Authority will be seeking legislative authority or other means to assure these costs in a manner appropriate for a public agency (other large projects are pursuing also)

Construction ITP Status

- Currently completing the final revisions to the Construction ITP application packet
- Document expected to be ready for release in the next week or so

Action Requested

- Authorize the Executive Director to submit the Construction ITP application to CDFW

Questions?