



Meeting: **Joint Reservoir Committee & Authority Board September 16, 2022**
Agenda Item 3.1

Subject: **United States Department of Agriculture (USDA) Rural
Development (RD) Loan Letter of Conditions**

Requested Action:

Receive an update on the USDA Rural Development Loan Letter of Conditions.

Detailed Description/Background:

In coordination with USDA RD staff, the Authority prepared and submitted a loan application under the USDA RD Community Facilities Program in July 2018 for the Maxwell Water Intertie (MWI) which is to be completed as part of the Sites Project. In September 2018, USDA RD issued a letter of conditions relating to a loan of \$449 million. The original letter of conditions had an expiration date of four years from the effective date of the letter (September 26, 2018).

Over the past few years, Authority staff has met with USDA RD to provide updates related to the MWI and overall Sites Project. Authority staff submitted a letter (Attachment A) to USDA RD staff requesting a one-year extension of the effective date of the letter of conditions (i.e., from September 26, 2022 to September 26, 2023).

Based on the current schedule and discussions with USDA RD, the Letter of Conditions will need to be updated again prior to the execution of the USDA RD Loan agreement to align with the construction timeline for the MWI. This will be a non-standard request but is necessary to align with the Sites Project schedule. The Sites East team is coordinating with the appropriate staff in Washington DC to ensure the need for this change is well communicated in advance of the request. Also, as we go through this process there is likely to be some further review of the design refinements that have occurred in the development of the Sites Project which may impact the loan conditions. The market conditions for the loan have changed as well and these may need to be reflected in the update. Staff will report on these matters to the Budget and Finance Committee as the review process advances next year.

Prior Action:

July 2018 – Approved the submission of the loan application for the Maxwell Water Intertie project.

Fiscal Impact/Funding Source:

The USDA loan is part of the assumed Sites Project financing. The Plan of Finance assumes the USDA loan is applied as a lump sum against all base facility costs as opposed to the MWI being a standalone project or the MWI cost and USDA loan being assigned to a subset of participants.

Staff Contact: JP Robinette/Derek Gardels

Primary Service Provider: HDR/Brown & Caldwell

Attachment: Attachment A – Authority Letter to USDA RD Regarding Letter of Conditions



August 31, 2022

Lisa M. Butler
Community Facilities Programs Director
Rural Development
United States Department of Agriculture
3530 W. Orchard Ct.
Visalia, CA 93277

Subject: Sites Project Authority Request for Extension of Letter of Conditions for a Community Facilities Program Loan to Construct the Maxwell Water Intertie

Dear Mrs. Butler,

LISA

The Sites Project Authority (Authority) is writing to express and demonstrate its continued commitment to developing the Maxwell Water Intertie (MWI) alongside the Sites Reservoir Project (Project). The Authority received a letter of conditions dated September 26, 2018, from the U.S. Department of Agriculture (USDA) relating to a USDA loan of \$449,559,000. This letter, along with the body of work completed to date in developing the Project, represents the Authority's commitment to advancing the MWI and working with USDA Rural Development to make the necessary adjustments to extend the date by which the USDA Loan needs to be executed to reflect the most current updated Project schedule.

The project and agency background information, along with the review of funding sources provided within the remainder of this letter, demonstrates the Authority's commitment to advancing the MWI.

This letter is a formal request to extend the effective date of the Letter of Conditions by one year (i.e., from September 26, 2022, to September 26, 2023). Based on the current schedule, the Letter of Conditions will need to be updated again prior to execution of the loan agreement as construction is not anticipated to be complete until September of 2029.

Project and Agency Background

The Congress of the United States of America and the California State Legislature have declared that the Sacramento-San Joaquin Delta watershed and California's water infrastructure are in crisis, and they have encouraged regional and local public agencies to form joint powers authorities to improve the operation of the State of California's water system. The Project has been identified by the State and the federal government as an important component of integrated water management in the Sacramento River watershed that could support the state's co-equal policy to improve water management and restore the ecological health for beneficial uses of the Sacramento-San Joaquin Delta and the Sacramento River Watershed in a manner consistent with the CALFED Bay-Delta Programmatic Record of Decision and Environmental Impact Report/Environmental Impact Statement.

The Authority was formed in 2010 as a joint exercise of powers agency duly organized and existing under and pursuant to the Constitution and laws of the State and a fourth amended and restated Sites Project Authority Joint Exercise of Powers Agreement, dated November 21, 2016 (JPA Agreement) and governed by an Authority Board for the purpose of developing the Project. The JPA Agreement provides the mechanism for project agreements to undertake specific work activities to develop the Project and commits the signatories to certain Project cost obligations. The Project Participants, which include water agencies, cities, counties, and districts, participate in the development of the Project through a Reservoir Committee. The Reservoir Committee currently acts in an advisory and funding capacity to the Authority Board.

The Authority released a Draft Environmental Impact Report/Draft Environmental Impact Statement in 2017, received comments, and proceeded to define a more affordable, permittable, and buildable Project through the value-planning process that culminated in the April 2020 approval of the value-planning report and the decision to recirculate the draft environmental documents. While the value-planning report adjusted project facilities, there was a commitment to continued delivery of the Project.

As a showing of organizational and governance commitment to the Project, the Reservoir Committee and Authority unanimously adopted a Strategic Plan in December 2020 to update the Authority's mission to build and operate a climate-resilient, 21st-century water storage system to responsibly manage and deliver water, improve the environment, and provide flood control and recreation benefits. Since then, the Authority has advanced the design of the Project through engineering and field explorations that have culminated in the current 10% design-level project engineering and have completed a Feasibility Project Cost Estimate for the Project, which was recommended for approval by the Reservoir Committee and unanimously adopted by the Authority on June 23, 2021.

A Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS) was released for public review and comment on November 12, 2021 with respect to the Project. The public comment period concluded on January 28, 2022. The Authority and Reclamation received 101 comment letters including a single form letter sent by 113 individuals. The Authority and Reclamation have numbered all comments and began preparation of responses to comments and the Final EIR/EIS.

In November 2021, the Authority submitted the Final State Feasibility Report and 75% Non-Public Cost Share Materials to the California Water Commission (CWC) staff to satisfy the Proposition 1 eligibility requirements as part of the Water Storage Investment Program (WSIP). In December 2021, the CWC determined the Project to be feasible – deeming the project eligible for the full WSIP final award.

Consistent with the USDA's Nationwide Programmatic Agreement, the Authority has initiated the activities called for in Section 3.7.2.2 of the Final EA. The Authority prepared the confidential Sites Reservoir Project Cultural Resources Report based on prior study information, updated

records searches, and historical map research. The confidential Report was prepared to inform the Authority's Sites Reservoir Project, which also includes the MWI Project area. The effort to identify cultural resources for the confidential Report included a review of state inventory records searches at the California Historical Resources Information Center (CHRIS), Authority and DWR records, Native American consultation and historical societies outreach, archival and public records research, previous archaeological field survey, and previous historical resources surveys and evaluations applicable to the study area. The Authority has also initiated discussions and consultation with Native American Tribes under State Assembly Bill 52 on the overall Sites Reservoir Project which also includes the MWI Project area. These discussions and consultations are ongoing. The Authority's Board of Directors recently approved land access agreements and the Authority is pursuing obtaining land access to complete on-the-ground surveys in the coming years. Any properties identified during surveys will be recorded and evaluated, applying National Register Criteria, 36 CFR 60.4.

Construction on the MWI is expected to start in February 2025 with substantial completion in September 2029.

Project Funding Sources

1. Project Members

Building on the contributions already received from the Project Members and Authority Board to date under the JPA Agreement and various project agreements, the Reservoir Committee unanimously recommended, and the Authority Board unanimously approved, a third amendment (Amendment 3) to the 2019 Reservoir Project Agreement (Project Agreement) in September 2021 to fund work through December 31, 2024. Each Project Member has worked with its respective home agency to execute the Project Agreement.

Project Members' approval of the Project Agreement and Work Plan represents a significant milestone in progressing the Project. This level of coordinated, stepwise partnering among local, state, and federal investment is exactly the approach that Congress and the State Legislature framed in establishing their related actions and directions for this new way of developing these multi-benefit and multi-agency statewide storage projects.

2. Federal Funding

The Final Federal Feasibility Report was submitted to Congress on December 22, 2020, and the Secretary of Interior made the determination of federal feasibility and federal investment of up to a 25 percent cost share under the Water Infrastructure Improvements for the Nation (WIIN) Act. These funds represent another source of committed cost share for the Project benefits.

In addition to federal investment through the WIIN Act, the Authority is pursuing federal low-interest loans to cover Project costs. These loans include a USDA Rural Development Loan (the

subject of this letter, as discussed above) for the MWI and an EPA WIFIA loan for all eligible components of the Sites Reservoir Project.

In July 2021, the Authority submitted a letter of interest under the Water Infrastructure Finance and Innovation Act (WIFIA) to the U.S. Environmental Protection Agency (EPA) declaring the Authority's interest in participating in the WIFIA loan program. In March 2022, the EPA invited the Authority to apply for a WIFIA loan up to 49% of eligible project costs (EPA WIFIA loan is currently estimated to be approximately \$2.2 billion for eligible components of the Sites Reservoir Project). The Authority plans to submit the full WIFIA Application by March of 2023 and to execute a final WIFIA loan agreement with EPA in 2024.

3. State Funding

The State of California provides funding for Project development activities through an Early Funding Agreement administered by the California Water Commission under Proposition 1 Water Storage Investment Program (WSIP). In December 2021, the CWC deemed the Project eligible for the full WSIP final award. The previous and ongoing agreements, expenditures, and Project development since the 2018 letter of conditions, together with the ongoing statewide and diverse partnerships among local, state and federal agencies, demonstrate an established commitment of cost-sharing that is expected to endure through the Project securing full funding.

Summary

In summary, this letter is a formal request to extend the effective date of the Letter of Conditions one year (i.e., from September 26, 2022, to September 26, 2023). Thank you in advance for your continued support. The Authority is committed to continuing to partner with the State and Federal government to develop this generational Project.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Brown", with a large, stylized flourish extending from the end of the signature.

Jerry Brown, Executive Director
Sites Project Authority