

Requested Action:

Receive an update on the water right application.

Detailed Description/Background:

The Reservoir Committee and Authority Board authorized the submittal of the Sites Project water right application at their April 2022 meeting. Staff completed the application and submitted it to the State Water Resources Control Board (State Board) on May 11, 2022. On August 26, 2022, the Authority received a letter from the State Board staff indicating that the State Board staff had accepted the application and determined the application needed additional information prior to noticing.

The State Board staff generally identified the following additional information needs:

- Water Availability Analysis – The State Board staff requested that the Water Availability Analysis be revised and updated to include an assessment of the proposed (but not yet completed) updates to instream flow and Delta outflow objectives in the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta (Bay-Delta Plan) along with an evaluation of water availability for the Project in light of the proposed Voluntary Agreements for implementing updates to the Bay-Delta Plan. The State Board staff also identified some additional changes and updates requested in the other three Water Availability Analysis methodologies.

The State Board staff's additional information requested is non-standard as an additional water availability scenario looking at water conditions under a proposed (but not yet completed) Bay-Delta Plan is speculative. However, we anticipated this might be requested and have already begun a review of this matter in earnest. The water right application and evaluation process are beneficial to all in that it allows for a public vetting of benefits and impacts in a water availability context. Having this additional information in the record should help to alleviate concerns and speed up the process later.

- Missing Information, Revisions, and Further Explanation – The State Board staff also identified 16 items that they believe were missing, required revisions or where they requested further explanation. Many of these items were minor inconsistencies in the application or information that would assist in the processing of the permit, but that are not required by law.

In general, a finding of incompleteness on any water right application is not unusual. In fact, we are not aware of any applications receiving a finding of sufficiency on the first submittal. Some applications take years to be found complete. While not the largest reservoir in the State nor the largest water project in the State, the Sites Project water right application is likely the most extensive water right application ever filed in the State as the application requirements and information needs have grown substantially over the last few decades.

Sites staff expects to have the additional analyses and revisions of materials as requested by the State Board staff and expects to respond to the letter within the 60-day timeframe. Concurrently, Sites staff is also continuing to reach out to other water right holders and other interested parties to proactively address any concerns.

It is important to remember that the process for receiving a water right permit requires careful analysis and deliberate consideration. There are a number of steps in the process, all of which are appropriately open and transparent to the public. There will be several instances of back and forth between the Authority, its staff and the State Board and there could be media coverage on this exchange. In an effort to maintain accurate and factual reporting to the public, the Authority plans to utilize the following means of communication throughout this process. First, blogs will be used to comment on the significant activities (the first of which will be completed prior to the Board meeting) which will be posted to our existing social media accounts and website as appropriate. Second, an FAQ page has been added for the water rights process which will reside on the website and provide facts and information on the questions raised by others (see attached recently posted on the State Board response). There are several categories of FAQs already listed on the website and the water rights process will be an addition with ongoing updates as needed.

It is also important to highlight that the State Board's mission is to ensure proper allocation of water resources for present and future generations. The Sites Authority supports this mission and is 100% committed to providing the best available information necessary to support the State Board's allocation of water to this Project.

Finally, recognizing that this Project will address serious stresses being experienced in our water management today which will get worse in a changing climate if left unaddressed, time is of the essence. The Governor's Water Supply Strategy shows the State's commitment to reaching permitting decisions in an expeditious manner on Sites and other water projects. We look forward to collaboratively working with the State Board and the Administration to achieve the permitting of this Project and we stand ready to act alongside the State Board, other permitting agencies, and interested parties to find the right balance between the urgency and cautiousness necessary to get the Sites Project finalized and built.

Prior Authority Board Action:

April 2022: Authorized the Executive Director to submit the Project's water right application for a Sites water right to the SWRCB including associated application fee.

Fiscal Impact/Funding Source:

None. Staff and the water rights team time to develop and submit the response and work with the SWRCB on processing the application, along with efforts to resolve protests and possibly participate in a hearing is currently budgeted for in Amendment 3.

Staff Contact:

Ali Forsythe

Primary Service Providers:

Somach Simmons & Dunn and MBK Engineers

Attachments:

Water Right FAQs

**Sites Reservoir Water Right Application
Frequently Asked Questions
September 9, 2022**

When did the Sites Reservoir Project team submit their Water Right Application to the State Water Resources Control Board (State Board) for review and consideration?

The Sites Project Authority completed the application and submitted it to the State Board on May 11, 2022.

Was the application accepted? Can an application be accepted yet ask for additional information?

Yes, and yes. On August 26, 2022, the Authority received a letter from the State Board indicating that the State Board had accepted the application and determined the application needed additional information prior to noticing.

It is important to remember that the process for receiving a water right permit requires careful analysis and deliberate consideration. There are a number of steps in the process, all of which are appropriately open and transparent to the public. There will be several instances of back and forth between the Authority, its staff and the State Board.

Is it common for the State Board to request additional information when reviewing project applications?

Yes. A finding of incomplete on any water right application is not unusual. In fact, we're not aware of any applications receiving a finding of sufficiency on the first submittal. Some applications take years to be found complete.

Do any of the additional requests pose a serious threat to the Project? Are you concerned the Project may not be approved by the State Board?

No, we will respond to the State Board's request and are confident that we will provide the information needed to secure the water right permit. We anticipated this information might be requested and have already begun a review of this matter in earnest.

How long will it take to provide the additional information request by the State Board?

The State Board's letter requests a response within 60 days, and we anticipate meeting this timeframe.

Will you be able to demonstrate the likelihood that there is available, unappropriated water on the Sacramento River that can/will be available to divert and store in the Sites Reservoir?

Yes, we conducted four different analyses to determine water available for the Project. These analyses demonstrate there is a reasonable likelihood of water being available to support the Project. In fact, the average annual estimated quantities of available water exceed the Project's average annual needs by 3 to almost 4.5 times, across the four analyses, based on highly conservative methodologies in analyzing the data AND after considering the effects of a changing climate in the future.

Do you feel confident you will be able to address the additional questions the State Board asked of the Project in their August 26 letter?

Yes. The water right application and evaluation process are beneficial to all in that it allows for a public vetting of benefits and impacts in a water availability context. In particular, having this additional information in the record should help to alleviate concerns and speed up the process later.