



Meeting: **Joint Reservoir Committee & Authority Board**  
**Agenda Item 3.1**

**November 17, 2023**

Subject: **Conditions Precedent Reporting**

---

**Requested Action:**

Receive and comment on quarterly status update of deliverables needed to support home board decision-making (i.e., conditions precedent), including a new “Storage Partner Approvals Coordination Table” that evaluates Participants, State and Federal needs for investor commitment.

**Detailed Description/Background:**

Funding the Sites Reservoir Project (Project) beyond the planning phase and into detailed design, construction and operation (Phase 3/4/5) requires execution of a “Sites Reservoir Benefits & Obligations Contract” (Contract) which will be the successor project agreement to the “2019 Phase 2 Reservoir Project Agreement” (currently on Amendment 3). The Contract will also serve as the long-term commitment of the Sites Authority to provide the Participant with its capacity interest in the Sites Reservoir water storage system. It will represent what each Participant will need to take to its Board of Directors to secure the necessary authority committing to its capacity interest in the Project.

The deliverables and activities (Attachment A) were previously reviewed by the Board and are meant to confirm Participants are provided what they expect to need in hand to effectuate a successful approval by their Boards of Directors to proceed with their participation in the Phase 3/4/5 of the Sites Project. Also included are subsequent activities needed for the Contract to take effect. The proposed Benefits and Obligations Contract also includes conditions precedent to construction that are not included in this list.

As an addition to this quarter's update of conditions precedent for Participants, Staff is including the working draft of the tracking list of all agreements, permits and approvals so that Participants can comment on the State and Federal requirements for funding the next phases of the Project. Staff is meeting with the State and Federal agencies on these requirements during the next 30 days and expects some changes from them. However, if Participants would like to make any comments or see any need for changes, this would be an excellent time to provide input. The goal is to start 2024 with a common understanding among all Storage Partners regarding their requirements for entering into commitment agreements with the Authority for Phase 3/4/5. Another goal is to establish the requirements early so the final decision by each Storage Partner

can occur without surprises or delay and no redirected impact on another Storage Partner.

**Prior Authority Board Action:**

August 2023 – Received and update and established quarterly updates.

**Fiscal Impact/Funding Source:**

The Amendment 3 Work Plan includes sufficient budget to cover required resources and activities to achieve the supporting deliverables as listed in the Storage Partners Approvals Coordination Table.

**Staff Contact:**

Ali Forsythe/JP Robinette

**Primary Service Provider:**

None.

**Attachments:**

Attachment A: Activities to be Completed Before the Execution of the Benefits and Obligations Contract, Status Update

Attachment B: Storage Partners Approvals Coordination Table – working draft dated November 9, 2023

**Attachment A**  
**Activities to be Completed Prior to the Execution of the Benefits and Obligations Contract**  
**Status Update as of November 9, 2023**

Activity / Agreement	Target Completion	Status	Notes / Critical Issues
<b>Contract and Supporting Documents:</b>			
• Benefits and Obligations Contract ready to execute	Jun 24	On Track	
• Phase 3, 4, 5 Bylaws	same as B&O	On Track	
• Amended Joint Exercise of Powers Agreement	same as B&O	On Track	
• Sites Reservoir Operations Plan (Version 2)	Jun 24	On Track	
<b>Actions:</b>			
• CEQA Notice of Determination	Oct 23	Revised	Rescheduled to Nov 17, 2023
• NEPA Record of Decision	Apr 24	On Track	
• Updated Cost Estimate and Updated Plan of Finance Forecast Tables	Jul 24	On Track	
<b>Permits and Approvals:</b>			
• Water Right decision by SWRCB	Jan 25	On Track	
• State Construction and Operations Incidental Take Permits	Apr 24 May 24	On Track	
• Federal Construction Biological Opinion	Apr 24	On Track	
• Federal Programmatic Operations Biological Opinion (Step one)	Apr 24	On Track	
• DSOD Confirmation of Dam Design Criteria	Jun 24	On Track	
• County Developer Agreements	Jun 24	On Track	
<b>Executed Agreements:</b>			
• Facilities Use Agreements – TC Canal System	Jun 24	On Track	
• Facilities Use Agreements – GCID System	Jun 24	On Track	
• Agency Agreements – Lower Colusa Basin Drain System	Jun 24	On Track	
• Operating Agreement with DWR and Reclamation	Apr 24	On Track	
<b>Conditions Subsequent for the Contract to take Effect:</b>			
• B&O Contract executed by all parties	Jun 25	On Track	
• Executed Public Benefit Agreements with CDFW and DWR	DWR – Jun 24 CDFW - Feb 25	Revised	Rescheduled to June 2024 for DWR and CDFW deferred to Feb 2025 for workload mgmt.
• Prop 1 Final Award by CWC and executed funding contract	Jul 25	On Track	
• Reclamation Partnership Agreement executed	Jun 25	On Track	
• Execution of Loan Agreements for Project Financing	Feb 25	On Track	
• Final Biological Opinion for project level operations (Step Two)	Apr 25	On Track	
• Final written water right permit and order by SWRCB	Jan 25	On Track	

Sites Project: Permits and Agreements by Agency  
Status Update as of October 2023

Attachment B

Permit / Agreement	Responsible Agency for Permit or Approval and/or Party Sites Authority enters into Contract with	Needed for Investor Commitment	Needed for CWC Funding Agreement	Needed for Reclamation Participation Agreement
Complete CEQA	Sites Project Authority	Yes	Yes	No
Complete NEPA and Sign ROD	Reclamation	Yes	No	Yes
Sites / Reclamation / DWR Operations Agreement	Reclamation and DWR	Yes	Yes	Yes
Conveyance Agreement(s) (formerly called 'Warren Act' contract(s))	Reclamation	No	Yes	No
Land Lease/License Agreement for use of Federally Owned Property	Reclamation/TCCA	No	No	No
Partnership Agreement	Reclamation	No, but required for B&O to take effect	Yes	Yes
Reimbursement Agreements within the CVP	Reclamation	No	No	Yes
Agreements Necessary for Pumping and Conveyance of IL4 Refuge Water	Reclamation	No	Yes	No
Design and Construction Agreement to Add Pumping Capacity at Red Bluff PP	Reclamation/ TCCA	No	No	No
Power Agreement(s)	Reclamation	No	No	No
Sites Reservoir Benefits and Obligations (B&O) Contracts PLUS all Necessary Annexes	Sites Project Authority and Sites Reservoir Committee Members	No, but required for B&O to take effect	No	Yes
Revisions to JPA and Bylaws	Sites Project Authority and Sites Reservoir Committee Members	No, but required for B&O to take effect	No	No
Sites / GCID Facilities Use Agreements	Glenn Colusa Irrigation District (GCID)	Yes	Yes	No
Sites / TCCA Facilities Use Agreements	TCCA/Reclamation	Yes	Yes	No
Sites / RD108 Lower Colusa Basin Drain Operations Agreement	Reclamation District No 108 (RD 108)	No	No	No
Biological Assessment/Biological Opinion Construction and Programmatic Operations (Step 1)	Reclamation, U.S. FWS, National Marine Fisheries Service	Yes	Yes	Yes
Biological Assessment/Biological Opinion Project-level Operations (Step 2)	Reclamation, U.S. FWS, National Marine Fisheries Service	No, but required for B&O to take effect	Yes	Yes
Eagle Take Permit / Eagle Conservation Plan	U.S. Fish and Wildlife Service	No	No	No
State Incidental Take Permit – Operations	CA Department of Fish and Wildlife	Yes	Yes	No
State Incidental Take Permit – Construction	CA Department of Fish and Wildlife	Yes	Yes	No

Sites Project: Permits and Agreements by Agency  
Status Update as of October 2023

Permit / Agreement	Responsible Agency for Permit or Approval and/or Party Sites Authority enters into Contract with	Needed for Investor Commitment	Needed for CWC Funding Agreement	Needed for Reclamation Participation Agreement
Section 106 Programmatic Agreement	Bureau of Reclamation; State Historic Preservation Officer; Consulting Tribes	No	Yes	Yes
Agreement for Treatment of Cultural Resources	Consulting Tribes	Yes	Yes	No
Water Right Permit Order	State Water Resources Control Board	No, but required for B&O to take effect	Yes	Yes
Clean Water Act Section 404 and River and Harbors Act Section 10	Army Corps of Engineers	No	Yes	No
Clean Water Act Section 401 and 402 (NPDES Permit) and Porter Cologne Water Quality Control Act	State Water Resources Control Board	No	Yes	No
Waste Discharge Requirements	Central Valley Regional Water Quality Control Board	No	No	No
Rivers and Harbor Act, Section 14 (USC Section 408), if needed	Army Corps of Engineers	No	Yes	No
Central Valley Flood Protection Board Encroachment Permit	Central Valley Flood Protection Board	No	Yes	No
County General Plan and Zoning Changes	Colusa County	No	No	No
	Glenn County			
	Yolo County			
County Developer Agreements – Agreements on Zoning Changes, Road Maintenance and Ownership, Taxes, Etc	Colusa County	Yes	No	No
County Developer Agreements – Agreements on Zoning Changes, Road Maintenance and Ownership, Taxes, Etc	Glenn County	Yes	No	No
County Developer Agreements – Agreements on Zoning Changes, Road Maintenance and Ownership, Taxes, Etc	Yolo County	Yes	No	No
WSIP Public Benefits – Ecosystem	CA Department of Fish and Wildlife	No, but required for B&O to take effect	Yes	No
WSIP Public Benefits – Flood and Recreation	CA Department of Water Resources	No, but required for B&O to take effect	Yes	No
WSIP Final Award Funding Agreement	California Water Commission	No, but required for B&O to take effect	Yes	No
Lake and Streambed Alteration Agreement (Master)	CDFW	No	Yes	No

Sites Project: Permits and Agreements by Agency  
Status Update as of October 2023

Permit / Agreement	Responsible Agency for Permit or Approval and/or Party Sites Authority enters into Contract with	Needed for Investor Commitment	Needed for CWC Funding Agreement	Needed for Reclamation Participation Agreement
WIFIA Master and Loan Agreement(s)	EPA	No, but required for B&O to take effect	No	No
Permit to Construct/Operate	Air Districts	No	Yes (Construct) No (Operate)	No
Encroachment Permits	Caltrans	No	No	No
Transportation Permits	Caltrans	No	No	No
Permit to Construct/Operate	Division of Safety of Dams	No	Partial	No
Interconnection Agreement	California ISO	No	No	No
Exemption from FERC	FERC	No	No	No
Lower Colusa Basin Drain – Knights Landing Outfall Gates Operations Agreement	DWR	Yes - term sheet only	No	No
Lower Colusa Basin Drain - Wallace Weir Operations Agreement	RD108	Yes - term sheet only	No	No
Lower Colusa Basin Drain - Flowage Easements	Various (landowners, RD108, Knights Landing Ridge Drainage District, Yolo County)	Yes - term sheet only	No	No
Lower Colusa Basin Drain: Dunnigan Pipe Outlet Structure into CBD	Morgan Twin Holdings LLC (landowner) & USDA (Conservation easement)	Yes - term sheet only	No	No
Lower Colusa Basin Drain: Maintenance Agreement	TBD (Colusa Basin Drainage District or RD 108 and/or Knights Landing Ridge Drainage District)	No	No	No