



Meeting: **Joint Sites Reservoir Committee & Authority Board**

**June 16, 2023  
9:00 AM – 12:00 PM**

Authority Board Chair:	Fritz Durst (Reclamation District 108)
Authority Board Vice Chair:	Jeff Sutton (Tehama-Colusa Canal Authority)
Reservoir Committee Chair:	Valerie Pryor (Zone 7 Water Agency)
Reservoir Committee Vice-Chair:	Mike Azevedo (Colusa County)
Treasurer:	Jamie Traynham (Davis Water District)

### MINUTES

CALL TO ORDER/PLEDGE OF ALLEGIANCE:

Authority Board Chairman Durst called the Joint Authority Board (AB) and Reservoir Committee (RC) Meeting to order at the hour of 9:00 a.m., followed by Roll Call and the Pledge of Allegiance.

ROLL CALL/ATTENDANCE:

Roll of the Authority Board equaled 9 members in attendance, which resulted in a quorum.

Roll call of the Reservoir Committee equaled 18 representatives, 86.44% in attendance, which resulted in a quorum.

INTRODUCTIONS:

The Sites Staff, Consultants, and members of the public introduced themselves.

AGENDA APPROVAL RC

Chair Pryor entertained a motion for the Reservoir Committee to approve the June 16, 2023, Joint Reservoir Committee, and Authority Board Meeting Agenda. **Motion carried unanimously.**

AGENDA APPROVAL AB:

It was moved by Director Sutton, seconded by Director Evans to approve the June 16, 2023, Joint Reservoir Committee, and Authority Board Meeting Agenda. **Motion carried: All Directors present voted yes.**

ANNOUNCEMENT OF CLOSED SESSION:

Counsel Doud announced the Authority Board of Directors, and the Reservoir Committee Members would consider Closed Session matters 5.1 and 5.2.

PERIOD FOR PUBLIC COMMENT:

Authority Board Chairman Durst called for a period of public comment. Hearing none, he closed the period for public comment.

1. CONSENT AGENDA:

RC Chair Pryor and AB Chair Durst made time to consider Consent Agenda items 1.1 through 1.5 as follows:

- 1.1 RC and AB consider approval of May 19, 2023, Joint RC and AB Meeting Minutes.
- 1.2 RC and AB consider approval of June 5, 2023, Special Joint RC and AB Meeting Minutes.
- 1.3 RC and AB consider acceptance of the Sites Project Authority Treasurer's Report.
- 1.4 RC and AB consider approval of the Payment of Claims.
- 1.5 RC and AB consider authorizing the Executive Director to enter into a new Memorandum of Agreement (MOA) that outlines roles and responsibilities along with cost sharing for the remainder of Phase 2 and 3 of the Project with the Bureau of Reclamation.

Kunde requested that Consent Agenda item 1.5 get pulled as a separate item. Chair Pryor so directed.

Murphy asked for an update on the audit. Traynham reported that the audit was almost finished.

Chair Pryor entertained a motion for Consent Agenda items 1.1 through 1.4.

**ACTION RC:**

It was moved by Tincher, seconded by Murphy to approve Consent Agenda Item Numbers 1.1 through 1.4. **Motion carried unanimously.**

Chair Pryor made time for Consent Agenda item 1.5.

Kunde received clarification that the staff report for Consent Agenda item 1.5 referencing the Endangered Species Act (ESA) permitting in the 2023 MOA with the Bureau of Reclamation refers to Federal ESA permitting. He also received clarification that cost sharing up to 25 percent for the remainder of Phase 2 and 3 applies to the Bureau of Reclamation.

**ACTION RC:**

It was moved by Kunde, seconded by Traynham to approve Consent Agenda Item Number 1.5. **Motion carried unanimously.**

Chairman Durst made time to consider Consent Agenda Items 1.1 through 1.5

Director Sutton requested that Consent Agenda item 1.4 get pulled as a separate item. Chairman Durst so directed.

Chairman Durst entertained a motion to approve Consent Agenda Items 1.1 through 1.3 and 1.5.

**ACTION AB:**

It was moved by Director Allen, seconded by Director Sutton to approve Consent Agenda Item Numbers 1.1 through 1.3 and 1.5 **Motion carried: All Directors present voted yes.**

Chairman Durst made time to consider Consent Agenda Item 1.4.

Director Sutton noted he would be abstaining from voting on Consent Agenda Item 1.4 because one of the payments is for the Tehama-Colusa Canal Authority (TCCA).

**ACTION AB:**

It was moved by Director Dennis, seconded by Director Evans to approve Consent Agenda Item Number 1.4. **Motion carried: All Directors present voted yes, except for Director Sutton, TCCA, who abstained.**

2. **ACTION ITEMS:**

- 2.1 RC and AB consider approval for staff to proceed with negotiation of the Benefits and Obligations Contract (B&O) (Draft 1) with Participants.

Mr. Robinette presented on Draft Benefits & Obligations Contract and spoke to the following:

- The B&O Contract secures the benefits for the Authority and provides the obligations to each participant, Long-term commitment of the Sites Authority to provide Participants with its capacity rights in the Sites Reservoir system.
- Key Concepts reflected in the contract, Sites Authority will operate facilities, contract to use certain facilities for the benefit of the Participants and expects to receive a water right to provide water service to Participants.
- Relationship to supporting documents, Foundation for Drafting, Materials to be developed alongside Contract.
  - Final Adopted Guiding Principles, Master Resolution, Water Infrastructure Finance Innovation Act (WIFIA) Reserve Policy. Operations Plan version 2, Amended Governance Documents, JPA

Agreement, Bylaws, Finance policies/documents, WIFIA Master Agreement and WIFIA Loan 1.

- Contract development activities, approval to initiate negotiations, by July 28 Participants provide substantive issues list to staff.

Cheng inquired to the schedule and Mr. Robinette noted the schedule will be detailed after identifying substantive issues.

Tincher expressed appreciation for a proactive approach.

Kunde noted that Mr. Robinette is referring to the Internal Operations Plan in the staff report, not the Three-Party Operating Agreement being developed by the Department of Water Resources, Bureau of Reclamation, and Sites Authority.

**ACTION RC:**

It was moved by Tincher, seconded by Kunde to approve staff to proceed with negotiation of the B&O Contract (Draft 1) with Participants. **Motion carried unanimously.**

Executive Director Brown explained that the Authority Board is the contracting party with each of the individual Reservoir Committee participants.

**ACTION AB:**

It was moved by Director Sutton, seconded by Director Allen to approve staff to proceed with negotiation of the B&O Contract (Draft 1) with Participants. **Motion carried: All Directors present voted yes.**

- 2.2 RC and AB consider authorizing the Executive Director to enter into two contracts for geotech monitoring as-needed services with the Cachil Dehe Band of Wintun along with geotech monitoring as-needed services and an ethnographic study with the Paskenta Band of Nomlaki Indians for a total of up to \$370,000 through December 2024, with a not-to-exceed of \$210,000 for fiscal year 2023.

Ms. Forsythe presented on Contracts with Cachil Dehe and Paskenta Tribe and spoke to the following:

- Five Tribes with traditional or cultural affiliation with the Project area.
  - Nomlaki descendants include Grindstone Indian Rancheria of Wintun-Wailaki Indians and Paskenta Band of Nomlaki Indians.
  - Patwin descendants include Cachil Dehe Band of Wintun, Kletsel Dehe Wintun Nation, and Yocha Dehe Wintun Nation.
- Existing contract with Cachil Dehe Band of Wintun Nation.
- Proposed contracts include Cachil Dehe Band of Wintun with geotechnical monitoring and Paskenta Band of Nomlaki Indians, geotechnical

monitoring primarily for areas of Glenn County and ethnographic study for Paskenta and Grindstone.

Director Sutton confirmed with Ms. Forsythe that the reengagement efforts with Cachil Dehe does not undermine what was previously contracted.

Director Allen asked if entering into the contracts will have potential delays in the project. Executive Director Brown explained that the monitoring is an as needed on call basis to support the work in the field and Ms. Forsythe explained the contract will have a schedule to allow for plenty of time to address any issues. She noted the ethnographic study is not a critical path item, but it's a good idea for the project to move sooner than later with the study.

Director Evans requested to have a discussion offline regarding concerns with some of the Tribal activities.

Kunde noted that the Environmental Planning and Permitting workgroup was supportive of the contracts.

Eckhart asked about risk with increased monitoring and if there are any elements that could stall the project at this stage by introducing something new. He expressed the increased monitoring seems duplicative.

Ms. Forsythe explained that there are some overlaps in monitoring, but each Tribe will look at resources in a different way and over time the Project should be able to work through the overlap by working with the Tribes in a productive manner to uphold commitments. She noted the increased monitoring shouldn't stall the Project and this is a good time to start building a solid foundation and working relationship with the Tribes.

A member of the public attending virtually asked if there is a detailed budget for the \$370,000 and if there is an audit trail. Durst and Pryor concurred with staff responding even though the question did not originate from a board member and public comment was not opened on this item.

Ms. Forsythe confirmed there will be detailed budgets for the \$370,000 in the contracts and the funds are reimbursed based on the invoices received after entering the contract. She confirmed the Authority does an audit each year.

**ACTION RC:**

It was moved by Kunde, seconded by Cheng to authorize the Executive Director to enter into two contracts for geotech monitoring as-needed services with the Cachil Dehe Band of Wintun along with geotech monitoring as-needed services

and an ethnographic study with the Paskenta Band of Nomlaki Indians for a total of up to \$370,000 through December 2024, with a not-to-exceed of \$210,000 for fiscal year 2023, with the understanding that Director Evans and Executive Director Brown will have additional discussions. **Motion carried unanimously.**

**ACTION AB:**

It was moved by Director Sutton, seconded by Director Dennis to authorize the Executive Director to enter into two contracts for geotech monitoring as-needed services with the Cachil Dehe Band of Wintun along with geotech monitoring as-needed services and an ethnographic study with the Paskenta Band of Nomlaki Indians for a total of up to \$370,000 through December 2024, with a not-to-exceed of \$210,000 for fiscal year 2023. **Motion carried: All Directors present voted yes, except for Director Evans, Colusa County and Director Arnold, Glenn County, who voted in opposition.**

**3. DISCUSSION AND INFORMATION ITEMS:**

- 3.1 Review and comment on the Final Environmental Impact Report /Environmental Impact Statement (EIR/EIS), Part 3 (continued) status briefing in preparation for approval of the Project.

Ms. Forsythe presented on the Final EIR/EIS Status Update and spoke to the following:

- Project Findings, Water Quality, Harmful Algae Blooms, and Mercury.
- Monitoring and Adaptive Management, Tribal Cultural Resources, Detailed Review to Scrub Carefully.
- California Assembly Bill (AB) 52.
  - Process for lead agency consultation with CA Native American Tribes that are traditionally and culturally affiliated with the geographic area of a proposed project.
  - Instructs a Tribe to notify CA public agencies of their interest in being informed of projects proposed for the geographic area traditionally and culturally affiliated with the Tribe.
- Consulting Tribes, Cachil Dehe Band of Wintun Indians and Yocha Dehe Wintun Nation responded to the 2017 notification of the Project.
  - Paskenta Band of Nomlaki Indians recently verbally expressed interest, but it is well past the 30-day response time.
- AB 52 Consultation Ends with Certification of the EIR.
  - Procedurally AB 52 requirement to conclude does not mean the Project will conclude relationships with the Tribes.

3.2 Receive an update on the Federal Biological Assessment/Biological Opinion (BA/BO) and State Operations Incidental Take Permit application (ITP).

Ms. Forsythe presented on the Federal BA/BO and State Operations ITP Application and spoke to the following:

- Revised Federal Endangered Species Act (ESA).
  - Original BA approach was project-level analysis, both construction and operations.
- State ITP Operations Consultation Status.
  - Operations ITP Application will be ready to submit shortly.
  - Will start consultation with Calsim II modeling and current Central Valley Project/State Water Project (CVP/SWP) operations baseline, may amend application in late 2023 with Calsim 3 with new CVP/SWP operations baseline.

Discussion was held on the possible need to amend the current Calsim II Operations ITP analysis and application with an updated analysis using Calsim 3 modeling and the Project schedule to reflect the two step BA/BO approach and the revisions to the State ITP to reflect Calsim 3 modeling.

3.3 Review and comment on updated Project schedule development findings and recommendations for Amendment 3 work plan update.

Mr. Maltby presented on the Project Schedule Development and spoke to the following:

- Program Schedule Status Update.
  - Substantial completion in late 2032 and extension to Phase 2.
- Phase 2 Amendment 3 Work Plan Update.
  - Delay in key predecessors to the B&O Contract execution.
  - Extend Project Agreement to mid/late 2025 without additional funding authorization from Participants. Approach is to stretch existing local funds as authorized by each Participant's home board while continuing to look at opportunities to maximize state and federal contributions.
  - Scope, Annual work plan check-in primary focus is on supporting Participant commitment, signing B&O Contracts and secondary focus is prioritizing efforts on critical path activities, early acquisition program, early CMAR Procurement, advancing Project Road design beyond 30%.
- Summary Schedule Reporting.
  - Support decision making at the AB/RC level, land acquisition, major procurement, financial decisions.
  - Inform and communicate with outside agencies, Status reporting tool.

- Feedback from Operations & Engineering meeting that staff plans to incorporate into the Summary Schedule before the July Board meeting includes capturing other construction packages, a roll up of like activities bar such as dams/construction, request to further clarify investor commitment activity.

Mr. Robinette explained the items in the schedule that are critical to investor commitment are detailed in Attachment B, Draft Schedule Assumptions for B&O Contract Execution of Predecessors Document and the critical path through construction is in Attachment A, Draft Program Schedule Summary Report He explained that any funds that do remain after completion of the priorities in Attachment B would be used to advance activities on the Attachment A Summary Schedule to get to an earlier completion date.

Cheng confirmed that the investor commitment shown on the summary report would include Participants finalizing and signing the B&O Contract. He expressed concern for investor commitment by 2025 if final project design and final construction cost estimate isn't anticipated until 2028.

Executive Director Brown explained the schedule represents 30% design completion for investor commitment that was agreed upon by Participants in Amendment 3.

Kunde noted that in association with the 30% design is an improvement in the appraisal level cost certainty.

Weghorst responded to the discussion of investor commitment at 30% design, noting that participants need to be flexible but make sure they are comfortable with the contingencies going into commitment.

Tincher noted that the early contractor involvement approach is one of the contributing factors that led to the design build methods based on the 30% design approach.

Neudeck recommended everyone review the predecessor documents and noted there will be several agency agreements as well as other supporting documents for review at time of investor commitment. He spoke to the need to have enough money for potential slowdowns that would extend the current planning process beyond 2025.



Discussion continued regarding concerns about significant project cost increases occurring after investor commitment, making sure the B&O Contract will address how cost increases are handled, and the level of contingency in the cost estimate, prior to investor commitment.

3.4 Discuss the draft principles establishing guidelines for the Sites Project's use of the Lower Colusa Basin Drain and Knights Landing Ridge Cut.

Mr. Robinette presented on Lower Colusa Basin Drain System and spoke to the following:

- Lower Colusa Basin Drain (CBD) geographic extents.
  - Lower CBD is 40 miles south of the Sites Reservoir.
  - Dunnigan Pipeline enters the CBD 13 miles downstream of the Balsdon Weir and then the water flows down from the Dunnigan Pipeline to the Knights Landing Outfall Gates (KLOG) which is 11 miles downstream.
  - The bulk of the water will move between the discharge of the Dunnigan Pipeline and the KLOG, where most Participants water will enter the Sacramento River.
  - A certain amount of water will continue downstream of KLOG in the Knights Landing Ridgecut, that is connected to the CBD near Knights Landing.
  - There is a 6.5-mile stretch between the KLOG and the Wallace Weir.
  - The 3 different stretches are the Balsdon Weir to the Dunnigan Pipeline (upstream), and downstream is the Dunnigan Pipeline to the KLOG and KLOG to the Wallace Weir.
- Acknowledging existing operation and uses of the Lower CBD System.
- Partnerships with local partners, Water rights and water accounting, Maintenance, and capital improvements.

Director Sutton spoke to the potential losses and a future comparative analysis to pivot to a preferred alternative if needed.

A member of the public, Francis Hickel representing the Colusa Basin Drainage District asked about the potential decision to have water enter a different location of the Colusa Basin Drain further north near Davis Weir and how that location would impact others in that area. Mr. Robinette explained there is currently nothing in the Environmental documents reflecting an entry point further north near the Davis Weir or the proposed point of entry affecting CBD that far north and that if any plans were to change, there would have to be an intricate process that would include analytics and environmental documentation that would involve a change to the Project. Mr. Robinette stated that currently there are no foreseeable plans to make that change.

Chairman Durst inquired to the principles for the Colusa Basin Drain. He acknowledged Reclamation District 108 (RD108) for providing levels and elevation numbers.

Kunde commented that the principles as written appear to be complete and well documented.

Mr. Robinette responded that staff has identified principles and they are looking at the best way to communicate. Staff has started meetings with the mutual water company and started dialogue with the drainage district. He expressed his appreciation for Lewis Bair and Bill Vanderwaal (RD108) for continuing to provide their level of experience and help with providing information to initiate the process.

- 3.5 Receive an update on the current thinking of the Governance Ad Hoc Committee with regard to governance adjustments to be implemented following investor commitment.

Charles Gardiner presented on the Ad Hoc Governance Work Group Update and spoke to the following:

- Core Governance Roles & Assumptions.
  - AB is the contracting entity and owner/operator of the Project.
  - RC represents the Participants' means of governance and responsibility for overall project viability and costs, benefits, and long-term operations.
  - Future project delivery, consensus-based decision-making.
- Phases 3&4 Governance Concept.
  - AB project obligations.
  - AB delegation to RC, managing design & construction.
  - Shared decision-making.
- Joint Powers Agreement specifies the overall purpose and establishes the local control for the project. Bylaws specify what is delegated to the RC and what is shared decision-making. Participant Benefits and Obligations will be documented in the B&O Contract.
- Proposed Agreement Structure, Phases 3, 4 & 5 Agreements Content, AB & RC Voting Procedures,
- Phase 5 Governance Recommendations, Proposed governance concepts for the Operations Phase.

**4. REPORTS:**

**4.1 Chairpersons' Reports:**

None.

**4.1 Committee & Workgroup Chairpersons' Reports:**

**Legislative & Outreach**

Director Sutton spoke to the ACWA 2 Tour held at the Maxwell office noting that it was a very successful turnout. He also mentioned a project briefing with the Commissioner of Reclamation as a follow-up to the DC Leg visits a few months ago.

**Land Management:**

Kevin Spesert mentioned that the next meeting is scheduled to occur June 23, 2023

**Operations & Engineering:**

Kunde spoke to the Operations & Engineering meeting held on June 7, 2023.

**4.3 Authority Board & Reservoir Committee Participant Reports:**

None.

**4.4 Executive Director's Reports:**

Executive Director Brown spoke to the following:

- Monthly status report, Work Plan Key Deliverables Report, Meetings Action Items Summary.
- Briefing for the commissioner of Bureau of Reclamation.
- Update on the Governors Permit Reform Package.

Authority Board Chairman Durst declared a recess at 11:37 a.m. and convened into Closed Session.

**5. CLOSED SESSION:**

5.1 Negotiations concerning water right permit terms and conditions (Govt. Code §54956.9(c) and §54956.9(d)(4)).

5.2 Conference with Legal Counsel—Anticipated Litigation; significant exposure to litigation (Govt. Code § 54956.9(d)(2)) (1 Item).

Chairman Durst adjourned Closed Session at 12:26 p.m. and reconvened into Open Session.

**6. REPORT FROM CLOSED SESSION:**

Counsel Doud stated that no reportable action was taken on Closed Session matters.

**7. RECAP:**

7.1 Suggested Future Agenda Items.

7.2 Upcoming Meetings:

**Joint Reservoir Committee & Authority Board**

Friday, July 21, 2023 (9:00 am – 12:00 pm)

Maxwell Project Office & Virtual

Authority Board Chair Durst adjourned the Joint Reservoir Committee and Authority Board Meeting at the hour of 12:27 p.m.



Fritz Durst, Authority Board Chair



Valerie Pryor, Reservoir Committee Chair



~~Sandra Yarbrough~~, Board Clerk

MARCIA Kivett