



Meeting: **Joint Reservoir Committee & Authority Board**  
**Agenda Item 2.1**

**August 23, 2023**

Subject: **Maxwell Irrigation District Memorandum of Understanding (MOU)**  
**Regarding Sites Water Right Application**

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**Requested Action:**

Reservoir Committee and Authority Board consider authorizing the Executive Director to enter into a Memorandum of Understanding with the Maxwell Irrigation District, subject to legal counsel review, regarding issues and concerns on the Sites water right application.

**Detailed Description/Background:**

Staff have been working diligently with Maxwell Irrigation District (Maxwell ID) to address and resolve concerns with the Authority's water right application. Maxwell ID has nine appropriative water rights for diversion of water at four points of diversion. One of Maxwell ID's points of diversion is on Stone Corral Creek. This point of diversion is included in five water rights held by Maxwell ID. These five water rights held by Maxwell are or will all be senior to the Project's water right. (One of these five water rights held by Maxwell ID is junior to the Project's water right but was included in the "Winter Water Right" special term and the Authority has thus, already agreed to allow this right to have priority over the Project's right to divert.)

Maxwell ID has expressed concerns that the Project may affect its ability to exercise its senior water rights due to impounding water from Funks and Stone Corral creeks as part of the Project. Funks Creek is a tributary to Stone Corral Creek upstream of Maxwell ID's point of diversion. As Maxwell ID's water rights are or have been acknowledged to be senior to the Project's water right, staff are proposing that the Authority enter into a MOU with Maxwell ID to address its concerns and establish a process to ensure that Project operations do not affect the ability of Maxwell ID to exercise its rights. The proposed MOU is attached and includes the following key terms:

- Recognize Maxwell ID's water rights as senior to those of the Project, including the one right that was included in the "Winter Water Right" special term in the Authority's application.
- Commit the Authority and Maxwell ID to working cooperatively on a technically feasible operations plan to avoid impacts to Maxwell ID's operations and water rights.

- Acknowledge the commitments in Section 2.6 of the Authority's Fourth Amended and Restated Joint Powers Agreement<sup>1</sup> which recognizes the commitment to seek written consent from Maxwell ID consistent with Section 2.6 prior to the State Water Board issuing the Authority's final water right permit.
- Commit the Authority and Maxwell ID to working cooperatively and in good faith to finalize an agreement that memorializes the above terms by February 29, 2024 (the anticipated end of the protest-resolution period).

In reliance upon these commitments by the Authority in an MOU, Maxwell ID would refrain from filing a formal protest to the Authority's water right application.

Staff is proposing that the Reservoir Committee and Authority Board authorize the Executive Director to enter into a Memorandum of Understanding with Maxwell ID consistent with the general form and content of the attached Memorandum of Understanding, subject to legal counsel review.

**Prior Action:**

None.

**Fiscal Impact/Funding Source:**

None. Activities under the MOU can be accomplished within the Amendment 3 Work Plan amounts.

**Staff Contact:**

Ali Forsythe

**Primary Service Provider:**

Somach/MBK

**Attachments:**

Attachment A – Memorandum of Understanding Regarding Maxwell Irrigation District Water Rights and Sites Reservoir

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<sup>1</sup> Section 2.6 of the Authority's Fourth Amended and Restated Joint Powers Agreement states the following: *MID Operations: The Authority Members anticipate that the pipeline connecting the reservoir to the Sacramento River will utilize an existing MID easement. The Authority shall not have the power, except with the express written consent of MID to enter into any agreements or otherwise take any action that will, directly or indirectly, decrease, restrict, or in any manner alter, modify or limit water rights, water supplies or contractual entitlements to water of MID or the operation of its facilities or any facilities that MID operates under contract.*











## Map of Maxwell Irrigation District's Water Right Permits and Licenses