



Meeting: **Reservoir Committee/Authority Board Agenda
Item 3.3**

March 22, 2024

Subject: **Conditions Precedent Reporting**

Requested Action:

Receive and comment on conditions precedent' status report and storage partner approval coordination table.

Detailed Description/Background:

Last month, Staff introduced the concept that the start of investor commitment would occur upon the Board adopting a "Resolution of Offer of Capacity". This would be the point in time where the Board determines sufficient progress has been made on the elements critical to each agency making its decision to sign the Benefits & Obligations (B&O) Contract. Adopting the resolution would kick-off an approximately 6-month (time certain) Investor Commitment escrow period where the Participants, State Government, and Federal Government would execute their respective agreements committing to pay for their capacity shares in the Project. Upon closing of Investor Commitment Escrow, Phase 3/4/5 would be initiated and one of the first actions would be the Authority entering into agreements and taking out loans that would fund the Phase 3/4/5 activities.

Staff are tracking the items that the Board has identified as needed for their agency's execution of the B&O Contract. The deliverables and activities (Attachments A and B) 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. These are items that Staff are working to finalize prior to bringing the Resolution to Offer Capacity to the Board for approval. Also included are activities needed to occur during the Investor Commitment Escrow Period.

Since last quarter's update, Staff has coordinated with the State and Federal Partners to identify their list of all agreements, permits and approvals necessary to have in hand for them to provide their approvals. This aggregate list shown in Attachment B represents a common understanding among all Storage Partners regarding our collective current thinking around our requirements for entering into commitment agreements with the Authority for Phase 3/4/5. Please bear in mind two things; 1) There is some discretion of Storage Partners to accept lesser

than full completion of progress on individual items and this flexibility may become necessary to explore as progress is made,

2) Reasonable efforts have been made to provide an exhaustive list; however, it is possible that additional items not identified here may arise as work continues.

Having a common list of expected deliverables ensures all Storage Partners prioritize their efforts in the right places. Staff will continue to coordinate with Storage Partners on these items and will provide quarterly updates to the Board to monitor progress.

Prior Authority Board Action:

November 2023 – Received a quarterly update.

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/Jerry Brown

Primary Service Provider:

None.

Attachments:

Attachment A: Activities to be Completed Prior to Resolution of Offer of Capacity and During Investment Commitment Escrow, Status Update

Attachment B: Storage Partners Approvals Coordination Table – working draft dated March 22, 2024

Attachment A

**Activities to be Completed Prior to Resolution to Offer Capacity & Service and During Investor Commitment Escrow
Status Update as of March 22, 2024**

Activity / Agreement	Target Completion	Status	Notes / Critical Issues
Contract and Supporting Documents:			
<ul style="list-style-type: none"> Benefits and Obligations Contract ready to execute 	Aug 24	Revised	Rescheduled to August 2024 (to follow Sites Reservoir Ops Plan Version 2)
<ul style="list-style-type: none"> Phase 3, 4, 5 Bylaws 	same as B&O	On Track	
<ul style="list-style-type: none"> Amended Joint Exercise of Powers Agreement 	same as B&O	On Track	
<ul style="list-style-type: none"> Sites Reservoir Operations Plan (Version 2) 	July 24	Revised	Rescheduled to July 2024
Actions:			
<ul style="list-style-type: none"> CEQA Notice of Determination 	Nov 23	Completed	Nov 17, 2023
<ul style="list-style-type: none"> NEPA Record of Decision 	July 24	Revised	Revised based on LTO ESA consultation schedule
<ul style="list-style-type: none"> Updated Cost Estimate and Updated Plan of Finance Forecast Tables 	July 24	On Track	
<ul style="list-style-type: none"> Resolution to Offer Capacity & Service 	Mar 25	New	New
Permits and Approvals:			
<ul style="list-style-type: none"> Water Right decision by SWRCB 	Feb 25	On Track	
<ul style="list-style-type: none"> State Construction and Operations Incidental Take Permits 	July 24 July 24	Revised	Revised to match current schedule and align with water rights schedule
<ul style="list-style-type: none"> Federal Construction Biological Opinion 	July 24	Revised	Revised to match current schedule
<ul style="list-style-type: none"> Federal Programmatic Operations Biological Opinion (Step one) 	July 24	Revised	Revised to match current schedule
<ul style="list-style-type: none"> DSOD Confirmation of Dam Design Criteria 	Dec 24	Revised	Revised to match current schedule
<ul style="list-style-type: none"> County Developer Agreements 	Jun 24	On Track	
<ul style="list-style-type: none"> Final written water right permit and order by SWRCB 	Feb 25	On Track	Removed, included above
Executed Agreements:			
<ul style="list-style-type: none"> Facilities Use Agreements – TC Canal System 	July 24	Revised	Revised to match current schedule
<ul style="list-style-type: none"> Facilities Use Agreements – GCID System 	July 24	Revised	Revised to match current schedule
<ul style="list-style-type: none"> Agency Agreements – Lower Colusa Basin Drain System 	June 24	On Track	
<ul style="list-style-type: none"> Operating Agreement with DWR and Reclamation 	July 24	Revised	Revised to match current schedule and align with water rights schedule
Conditions To Occur During Investor Commitment Escrow:			
<ul style="list-style-type: none"> B&O Contract executed by all parties 	Sept 25	On Track	
<ul style="list-style-type: none"> Executed Public Benefit Agreements with CDFW and DWR 	DWR – June 24 CDFW - Feb 25	Revised	Rescheduled to June 2024 for DWR and CDFW deferred to Feb 2025 for workload mgmt.
<ul style="list-style-type: none"> Prop 1 Resolution of Final Award by CWC 	July 25	On Track	
<ul style="list-style-type: none"> Final Prop 1 Funding Agreement executed by CWC Staff 	Sept 25	Revised	Revised to match current schedule (close of investor commitment escrow)

Activity / Agreement	Target Completion	Status	Notes / Critical Issues
<ul style="list-style-type: none"> Reclamation Partnership Agreement executed 	Mar 25	Revised	Revised to match current schedule
<ul style="list-style-type: none"> Execution of Loan Agreements for Project Financing 	Oct 25	Revised	To follow completion of Investor Commitment Escrow period
<ul style="list-style-type: none"> Final Biological Opinion for project level operations (Step Two) 	May 25	On Track	

Sites Project: Permits and Agreements by Agency
Status Update as of March 22, 2024

Permit Issued or Agreement Ready for Execution	Responsible Agency for Permit or Approval and/or Party Sites Authority enters into Contract with	Needed for Resolution for Offer of Capacity	Needed for CWC Funding Agreement	Needed for Reclamation Partnership Agreement
Complete CEQA	Sites Project Authority	Yes	Yes	No
Complete NEPA and Sign ROD	Reclamation	Yes	Yes	Yes
Sites / Reclamation / DWR Operations Agreement	Reclamation and DWR	Yes	Yes	Yes
Conveyance Agreement(s) (formerly called 'Warren Act' contract(s))	Reclamation	No	Partial, for refuge water deliveries	No
Land Lease/License Agreement for use of Federally Owned Property	Reclamation/TCCA	No	No	No
Partnership Agreement	Reclamation	Yes	Yes	Yes
Reimbursement Agreements within the CVP	Reclamation	Yes	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	Yes	Yes	Yes
Revisions to JPA and Bylaws	Sites Project Authority and Sites Reservoir Committee Members	Yes	Yes	Yes
Sites / GCID Facilities Use Agreements	Glenn Colusa Irrigation District (GCID)	Yes	Yes	Yes
Sites / TCCA Facilities Use Agreements	TCCA/Reclamation	Yes	Yes	Yes
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	Yes	Yes	Yes
Eagle Take Permit / Eagle Conservation Plan	U.S. Fish and Wildlife Service	No	No	Yes
State Incidental Take Permit – Operations	CA Department of Fish and Wildlife	Yes	Yes	Yes
State Incidental Take Permit – Construction	CA Department of Fish and Wildlife	Yes	Yes	Yes
Section 106 Programmatic Agreement	Bureau of Reclamation; State Historic Preservation Officer; Consulting Tribes	Yes	Yes	Yes
Agreement for Treatment of Cultural Resources	Consulting Tribes	Yes	Yes	No
Water Right Permit SWRCB Decision	State Water Resources Control Board	Yes	Yes	Yes
Clean Water Act Section 404, wetlands and waters of the US (must have a Section 401 to get a 404)	Army Corps of Engineers	No	Partial, based on conceptual approval	No

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Clean Water Act Section 401 and Porter Cologne Water Quality Control Act	State Water Resources Control Board	No	Partial, based on conceptual approval	No
Waste Discharge Requirements	Central Valley Regional Water Quality Control Board	No	No	No
Rivers and Harbor Act, Section 10, USC Section 408, if needed	Army Corps of Engineers	Partial, based on conceptual approval	Partial, based on conceptual approval	No
Central Valley Flood Protection Board Encroachment Permit	Central Valley Flood Protection Board	Partial, based on conceptual approval	Partial, based on conceptual approval	No
County General Plan and Zoning Changes	Colusa County	No	No	No
County General Plan and Zoning Changes	Glenn County	No	No	No
County Developer Agreements – Agreements on Zoning Changes, Road Maintenance and Ownership, Taxes, Etc	Colusa County	Yes	Yes	Yes
County Developer Agreements – Agreements on Zoning Changes, Road Maintenance and Ownership, Taxes, Etc	Glenn County	Yes	Yes	Yes
County Developer Agreements – Agreements on Zoning Changes, Road Maintenance and Ownership, Taxes, Etc	Yolo County	Yes	Yes	Yes
WSIP Public Benefits – Ecosystem	CA Department of Fish and Wildlife	Yes	Yes	Yes
WSIP Public Benefits – Flood and Recreation	CA Department of Water Resources	Yes	Yes	Yes
WSIP Final Funding Resolution by CWC		Yes	Yes	Yes
WSIP Final Funding Agreement (CWC staff approval)	California Water Commission	No	No	Yes
Lake and Streambed Alteration Agreement (Master)	CDFW	No	Partial, based on conceptual approval	No
WIFIA Master and Loan Agreement(s)	EPA	Yes	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, based on conceptual approval	No
Interconnection Agreement	California ISO	No	No	No

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Exemption from FERC	FERC	No	No	No
Lower Colusa Basin Drain – Knights Landing Outfall Gates Operations Term Sheet	DWR	Yes	Yes	No
Lower Colusa Basin Drain – Knights Landing Outfall Gates Operations Agreement	DWR	No	No	No
Lower Colusa Basin Drain - Wallace Weir Operations Term Sheet	RD108	Yes	Yes	No
Lower Colusa Basin Drain - Wallace Weir Operations Agreement	RD108	No	No	No
Lower Colusa Basin Drain - White Paper Evaluation (Flowage Easements)	Various (landowners, RD108, Knights Landing Ridge Drainage District, Yolo County)	Yes	Yes	No
Lower Colusa Basin Drain - Real Estate Agreement (Flowage Easements)	Various (landowners, RD108, Knights Landing Ridge Drainage District, Yolo County)	No	No	No
Lower Colusa Basin Drain: Real Estate Term Sheet (Dunnigan Pipe Outlet Structure into CBD)	Morgan Twin Holdings LLC (landowner) & USDA (Conservation easement)	Yes	Yes	No
Lower Colusa Basin Drain: Real Estate Agreement (Dunnigan Pipe Outlet Structure into CBD)	Morgan Twin Holdings LLC (landowner) & USDA (Conservation easement)	No	No	No
Lower Colusa Basin Drain: Long Term Maintenance Agreement	TBD (Colusa Basin Drainage District or RD 108 and/or Knights Landing Ridge Drainage District)	No	No	No