



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

**July 19, 2024**

Subject: **Status Update on Development of Agreements with Reclamation**

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**Requested Action:**

Receive an update on the to be developed Partnership Agreement representing federal participation in the Sites Project with the Bureau of Reclamation (Reclamation) and the Operations Agreement being developed to ensure coordination of Sites Project operations with DWR State Water Project (SWP) and Reclamation Central Valley Project (CVP) operations.

**Detailed Description/Background:**

The Partnership Agreement and Operations Agreement are two agreements listed in the conditions precedent report (quarterly update included on this agenda) as necessary to execute prior to completion of Investor Commitment. Both agreements involve Reclamation, who is seeking to be a Storage Partner in the Sites Project currently engaged at a 9% capacity interest and has expressed an interest in increasing their participation to a 16% level should capacity become available. Also, Reclamation continues to provide federal funding toward project development and is in good standing.

Technical discussions among all the parties are occurring on both agreements and are productive. Negotiation of the Partnership agreement has not yet started. This report is intended to provide an update on the development of these agreements. Reclamation's, Adam Nickels, Principal Deputy Regional Director of California-Great Basin Region, has been asked to attend the meeting and address the board about Reclamation's conceptual plans for their Sites participation. He will also be available to answer questions from board members.

**Partnership Agreement**

The 2016 Water Infrastructure Improvements for the Nation Act (WIIN Act, P.L. 116-94) provided for the participation of Reclamation in locally led water storage projects by entering into Partnership Agreements with the local project lead. In the case of the Sites Project, this would be an agreement between the Authority and Reclamation and would serve a similar purpose to the Benefits and Obligations Contracts with public water agencies or the Public Benefit Agreement/Final Funding Agreement with the State for Prop 1 public benefits.

Discussions between Reclamation and Authority staff thus far have focused on the means and methods to align Reclamation's participation with that of the other Participants. As a beneficiary on par with the other investors, Reclamation is envisioned to receive similar benefits and obligations as is the case with all of the Storage Partners, with certain exceptions for meeting federal regulations and requirements. After Reclamation has received a Basis of Negotiation, the next step involves public negotiations which are expected to begin in late 2024 or early 2025, followed by concluding drafting of the Agreement in mid 2025, which is to be approximately commensurate with the completion of the Benefits & Obligations and State Partnership Benefit Agreement.

### **Operation Agreement**

Technical discussions with DWR and Reclamation have been occurring to ensure coordination between Sites operations and SWP and CVP project operations is carefully considered, with the primary intention being to avoid Sites operations harming the SWP and CVP's performance. Thus far there have been no unresolvable issues or concerns raised in these discussions. These discussions have led to the successful avoidance of any outstanding water rights protest by CVP or SWP, or any of their contractors against the Sites water right application.

The team is examining strategies and approaches that avoid harm and allow the projects to achieve each projects' own performance goals through close coordination.

As a reminder, the Sites water right application includes a proposed permit term that fully protects the CVP and SWP from adverse effects. The Authority recently communicated with the Administrative Hearing Officer that the planned Operations Agreement is to be focused on day-to-day coordination and communications protocols and procedures among the parties to ensure full compliance with the final Sites water right. A final Operations Agreement is expected to be executed prior to initiating investor commitment which is expected to occur after the receipt of critical permits and approvals, including the final water right decision.

### **Fiscal Impact/Funding Source:**

None. The staff cost to negotiate and draft these agreements are included within the Amendment 3 work plan and sufficient funds exist to complete both activities.

**Staff Contact:** Jerry Brown/Angela Bezzone

**Attachments:** None.