



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

**October 18, 2024**

Subject: **Conditions Precedent Reporting**

---

**Requested Action:**

Receive and comment on updated conditions precedent quarterly status report.

**Detailed Description/Background:**

In February 2024, Staff presented the approach that will guide activities and priorities leading up to the start of investor commitment, which would occur upon the Board adopting a “Resolution of Offer of Capacity”. This will be the point in time when 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.

In March 2024, Staff presented the conditions precedent report which includes the items the Board has identified as needed for their agency’s execution of the B&O Contract. Also presented in March was a Storage Partner Approvals Coordination Table to represent the permits and approvals needs across all of the Storage Partners – Participants – RC members, State- California Water Commission, and Federal- Reclamation.

Having a common list of expected deliverables ensures Sites Staff, consultants, and all Storage Partners prioritize their efforts in the right places. These logic connections have now been incorporated into the Amendment 3 schedule update, Agenda Item 4.4C.

This report is intended to provide an update on the progress of items listed in Attachment A since the July 2024 report. This reporting provides the opportunity for board members and state and federal representatives to confirm any changes or additions to their needs for executing contracts during investor commitment escrow. This is all in an effort to avoid any last-minute surprises that could have the effect of delaying investor commitment. Also of

note is that during the “investor commitment escrow” all approval documents will be frozen which means no changes will be accepted. It is important for efficiency that each agency take the opportunity and time to understand its agency’s needs in these documents and to communicate these needs with Sites staff to ensure these items are addressed prior to the start of the escrow period.

**Prior Authority Board Action:**

July 2024 – 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 October 18, 2024

**Status Update as of October 18, 2024**

Activity / Agreement	Target Completion	Status	Notes / Critical Issues
<b>Contract and Supporting Documents:</b>			
• Benefits and Obligations Contract ready to execute	Apr 25	On Track	Outcomes with other permits and approvals may affect document
• Phase 3, 4, 5 Bylaws	same as B&O		
• Amended Joint Exercise of Powers Agreement	same as B&O		
• Sites Reservoir Operations Plan (Version 2)	Dec 24	On Track	Outcomes with other permits and approvals may affect document.
<b>Actions:</b>			
• CEQA Notice of Determination	Nov 23	Completed	Nov 17, 2023
• NEPA Record of Decision	Mar 25	On Track	Revised based on LTO ESA consultation schedule
• Updated Cost Estimate and Updated Plan of Finance Forecast Tables	Apr 25	Revised	
• Resolution to Offer Capacity & Service	Oct 25	On Track	
<b>Permits and Approvals:</b>			
• Water Right decision by SWRCB	Aug 25	On Track	
• State Construction and Operations Incidental Take Permits	Oct 24 Oct 24	On Track	
• Federal Project Construction Biological Opinion	Dec 24	On Track	
• Federal Programmatic Operations Biological Opinion (Step one)	Dec 24	On Track	
• National Historic Preservation Act – Section 106 Programmatic Agreement	Mar 25	On Track	
• DSOD Confirmation of Dam Design Criteria	Sep 25	Revised	
• County Developer Agreements	Mar 25	On Track	
• Clean Water Act – Section 401	Sep 25	On Track	Application deemed insufficient, pending 404 progress
• Clean Water Act – Section 404	Sep 25	On Track	Revised based on discussions with USACE
• Rivers and Harbors Act, Section 10	--	--	Not applicable based on adopted Project
• CVFPB Encroachment Permit	Jul 28	On Track	Need to advance engineering/design to 65%
• USC Section 408 Approval	Nov 28	Revised	Need to advance engineering/design to 65%
• Eagle Long Term Permit	June 25	Revised	Revised based on changes in Eagle Act regulations
• Air Board Permits to Construct/Operate	Jun 25	On Track	
• Lake and Streambed Alteration Agreement	Dec 24	On Track	
• <del>Final written water right permit and order by SWRCB</del>	Feb 25	On Track	Removed, included above
<b>Executed Agreements:</b>			
• Facilities Use Agreements – TC Canal System	Apr 25	On Track	

Activity / Agreement	Target Completion	Status	Notes / Critical Issues
• Facilities Use Agreements – GCID System	Apr 25	On Track	
• Lower Colusa Basin Drain System Term Sheets	Jan 25	On Track	
• Operating Agreement with DWR and Reclamation	Mar 25	Revised	Revised based on progress to date
<b>Conditions To Occur During Investor Commitment Escrow:</b>			
• B&O Contract executed by all parties	Apr 26	On Track	
<ul style="list-style-type: none"> <li>• Executed Public Benefit Agreements with CDFW and DWR <ul style="list-style-type: none"> <li>○ Agreement with Reclamation for Pumping and Conveyance of Incremental Level 4 Refuge Water is anticipated to be on same timing with Public Benefit Agreement with CDFW</li> </ul> </li> </ul>	DWR – Dec 24 CDFW - Apr 25	On Track	Rescheduled to Dec 2024 for DWR and CDFW deferred to Apr 2025 for workload mgmt.
• Prop 1 Resolution of Final Award by CWC	Apr 26	On Track	
• Final Prop 1 Funding Agreement executed by CWC Staff	Jun 26	On Track	
• Reclamation Partnership Agreement executed	Oct 25	On Track	
• Execution of Loan Agreements for Project Financing	Apr 26	On Track	
• Final Biological Opinion for project level operations (Step Two)	Oct 25	On Track	

Sites Project: Permits and Agreements by Agency  
Status Update as of October 18, 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
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

Sites Project: Permits and Agreements by Agency  
Status Update as of October 18, 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
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
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

Sites Project: Permits and Agreements by Agency  
Status Update as of October 18, 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
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	DWR	Yes	Yes	No
Lower Colusa Basin Drain - Wallace Weir Operations Agreement	DWR	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