



Meeting: **Reservoir Committee/Authority Board Agenda
Item 3.2**

January 17, 2025

Subject: **Conditions Precedent Reporting**

Requested Action:

Receive and comment on updated conditions precedent quarterly status report.

Detailed Description/Background:

For the past nine months the conditions precedent report has been presented to the Board on a quarterly basis as a status update on the critical items the Board has identified as needed for their agency's execution of the B&O Contract. Also presented is 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 efforts in the right places. These logic connections are incorporated into the Amendment 3 schedule update, Agenda Item 4.4C.

This report updates on the progress of items listed in Attachment A since the October 2024 report. Board members and state and federal representatives are requested to confirm any changes or additions to their needs for executing contracts during investor commitment escrow.

As expected, schedules for some of the items in the report have shifted. However, generally the plans for an October 2025 start of Investor Commitment Escrow Period continue to hold. There is still some uncertainty in the actual timing of the water right decision and a few other items which could cause a minor shift in this date, but nothing is anticipated that would push this out past Q4 of 2025. This means Storage Partners should be doing their own preparations through this year to set the stage for receiving decision maker authorizations sometime during Q4 2025 or Q1 2026.

Prior Authority Board Action:

October 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 January 17, 2025

Attachment A

**Activities to be Completed Prior to Resolution to Offer Capacity & Service and During Investor Commitment Escrow
Status Update as of January 17, 2025**

Activity / Agreement	Target Completion	Status	Notes / Critical Issues
Contract and Supporting Documents:			
• Benefits and Obligations Contract policy item resolution and final review	Apr 25	Four remaining issues	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)	Apr 25	Conveyance Capacity Issue	Outcomes with other permits and approvals may affect document
Actions:			
• CEQA Notice of Determination	Nov 23	Completed	Nov 17, 2023
• NEPA Record of Decision	May 25	Dependent on Reclamation	Revised based on Programmatic Agreement schedule
• Preliminary Baseline Report including Updated Class 3 Cost Estimate and Updated Plan of Finance Forecast Tables	Aug 25	On Track	
• Resolution to Offer Capacity & Service	Oct 25	On Track	
Permits and Approvals:			
• Water Right decision by SWRCB	Aug 25	On Track	
• State Construction and Operations Incidental Take Permits	Oct 24 Oct 24	Completed	
• Federal Project Construction Biological Opinion	Apr 25	Revised	
• Federal Programmatic Operations Biological Opinion (Step one)	Dec 24	Completed	
• National Historic Preservation Act – Section 106 Programmatic Agreement	May 25	Revised	
• DSOD Confirmation of Dam Design Criteria	Sep 25	On Track	
• County Developer Agreements	Mar 25	On Track	
• Clean Water Act – Section 401	Dec 25	On Track	
• Clean Water Act – Section 404	Dec 25	On Track	Mainly awaiting Section 106 PA completion
• 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	On Track	Need to advance engineering/design to 65%
• Eagle Long Term Permit	Aug 25	Revised	Revised based on changes in Eagle Act regulations
• Memoranda of Understanding related to CEQA Compliance and Air Board permits	Jun 25	On Track	

Activity / Agreement	Target Completion	Status	Notes / Critical Issues
<ul style="list-style-type: none"> Master Lake and Streambed Alteration Agreement 	Feb 25	On Track	
Executed Agreements:			
<ul style="list-style-type: none"> Facilities Use Agreements – TC Canal System 	May 25	Revised	Revised based on progress to date
<ul style="list-style-type: none"> Facilities Use Agreements – GCID System 	May 25	Revised	Revised based on progress to date
<ul style="list-style-type: none"> Lower Colusa Basin Drain System Term Sheets 	Mar 25	Revised	Revised based on progress to date
<ul style="list-style-type: none"> Operating Agreement with DWR and Reclamation 	May 25	Revised	Outcomes with other permits and approvals may effect the document
Conditions To Occur During Investor Commitment Escrow:			
<ul style="list-style-type: none"> B&O Contract executed by all parties 	Apr 26	On Track	
<ul style="list-style-type: none"> Executed Public Benefit Agreements with CDFW and DWR <ul style="list-style-type: none"> 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 	DWR – Apr 25 CDFW - Jun 25	Revised	Revised based on progress to date
<ul style="list-style-type: none"> Prop 1 Resolution of Final Award by CWC 	Apr 26	On Track	
<ul style="list-style-type: none"> Final Prop 1 Funding Agreement executed by CWC Staff 	Jun 26	On Track	
<ul style="list-style-type: none"> Reclamation Partnership Agreement executed 	Apr 26	On Track	Awaiting Reclamation BON. B&O signing for some Participants conditioned upon Reclamation reimbursement agreements
<ul style="list-style-type: none"> Execution of Loan Agreements for Project Financing 	Apr 26	On Track	
<ul style="list-style-type: none"> Final Biological Opinion for project level operations (Step Two) 	Dec 25	Revised	B&O signing conditioned upon receiving this permit

Sites Project: Permits and Agreements by Agency
Status Update as of July 19, 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

Sites Project: Permits and Agreements by Agency
Status Update as of July 19, 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
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
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

Sites Project: Permits and Agreements by Agency
Status Update as of July 19, 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
Lake and Streambed Alteration Agreement (Master)	CDFW	No	Partial, based on conceptual approval	No
WIFIA Master and Loan Agreement(s)	EPA	Yes	No	No
MOUs related to CEQA compliance	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
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