



Reservoir Committee & Authority Board

August 16, 2024

Authority Board Chair:	Fritz Durst (Reclamation District 108)
Authority Board Vice Chair:	Jeff Sutton (Tehama-Colusa Canal Authority)
Reservoir Committee Chair:	Mike Azevedo (Colusa County)
Reservoir Committee Vice-Chair:	Robert Kunde (Wheeler Ridge-Maricopa Water SD)
Treasurer:	Jamie Traynham (Davis Water District)

MINUTES

CALL TO ORDER/PLEDGE OF ALLEGIANCE:

Chair Durst called the Joint Authority Board (AB) and Reservoir Committee (RC) Meeting to order at the hour of 9:00 a.m., followed by Roll Call and the Pledge of Allegiance.

ROLL CALL/ATTENDANCE:

Authority Board: 6 members in attendance, resulting in a quorum.

Reservoir Committee: 18 representatives (87.95%) in attendance, resulting in a quorum.

INTRODUCTIONS:

The Sites staff, consultants and members of the public introduced themselves.

AGENDA APPROVAL:

ACTION RC: Moved by Traynham, seconded by Pryor, to approve the August 16, 2024, meeting agenda. **Motion carried unanimously.**

ACTION AB: Moved by Director Vanderwaal, seconded by Director Sutton, to approve the August 16, 2024, meeting agenda. **Motion Carried: All Directors present voted yes.**

ANNOUNCEMENT OF CLOSED SESSION:

General Counsel (GC) Doud announced the Authority Board of Directors, and the Reservoir Committee Members would consider Closed Session matters 5.1 through 5.3.

PERIOD FOR PUBLIC COMMENT:

Chair Durst called for a period of public comment. Hearing none, he closed the period.

1. CONSENT AGENDA:

Chair Azevedo and Chair Durst made time to consider consent agenda items 1.1 through 1.4 as follows:

- 1.1 Reservoir Committee and Authority Board consider approval of July 19, 2024, Reservoir Committee and Authority Board Meeting Minutes.
- 1.2 Reservoir Committee and Authority Board consider acceptance of the Sites Project Authority Treasurer's Report.
- 1.3 Reservoir Committee and Authority Board consider approval of the Sites Project Authority Payment of Claims.
- 1.4 Reservoir Committee and Authority Board consider acceptance of the Sites Project Authority's Second Quarter 2024 Budget Year Quarterly Financial Report.

ACTION RC: Mr. Plinski moved, seconded by Mr. Traynham, to approve Consent Agenda Items 1.1, 1.2, 1.3 and 1.4 for the Authority Board. The **motion carried unanimously.**

ACTION AB: Director Allen moved, seconded by Director Vanderwaal to approve Consent Agenda items 1.1 through 1.4. **Motion carried: All Directors present voted yes.**

2. ACTION ITEMS:

None.

3. DISCUSSION AND INFORMATION ITEMS:

- 3.1 Receive an update on the progress being made in the development of certain Phase 3, 4 and 5 documents including the release of updated drafts (dated August 2024) of the following proposed contract documents: Benefits & Obligations Contract, Amended and Restated Joint Powers Agreement (JPA) and Phase 3, 4, 5 Bylaws. **(Attachments A, B, C & D)**

Executive Director Jerry Brown referred to the Benefits & Obligations (B&O) Contract, the Amended and Restated JPA, and the Phase 3,4,5 Bylaws and stated

this item is intended to provide an overview on the long-term commitment of the Sites Authority to the participating agencies. He turned the item over to JP Robinette. Mr. Robinette explained the documents regarding the JPA's governance structure are intended to be reviewed by the members' Boards. He reviewed the policy items stemming from participant comments related to the default waterfall and the Water Infrastructure Finance and Innovation Act ad hoc subcommittee's recommendations.

Mr. Robinette walked through edits and general improvements to the documents. He reviewed the voluntary and involuntary default waterfall actions and steps, and how they would emerge in the case of various default scenarios. He explained how the Operations Plan intersects with the B&O Contract. Mr. Robinette noted a correction to the B&O Contract Section 8.3.1, to provide clarification related to the 10-year lease. He stated that the Authority hopes to receive comments from Participants by October 1, 2024.

ED Brown pointed out that the FAQs in the staff report are meant to aid Participants in communicating with their agencies on the contract and project elements.

The Board and Committee members discussed how the Bureau of Reclamation (Reclamation) will be treated as a partner and ED Brown said this hasn't been fully decided. He said Reclamation is not a party to the default waterfall and the Participants would be given the first opportunity in the waterfall process. ED Brown noted that Reclamation is not in a position to negotiate yet, saying that there is not a Basis of Negotiation at this time. In response to a question from Mr. Weghorst, ED Brown explained the sequence of timing for signatures and critical paths for the partner contracts, the State's agreements, and the Federal Partnership Agreement.

Vice-Chair Kunde noted that the default waterfall process anticipates about a one-year period, so there is not a lot of time for institutional partners such as Reclamation to make a decision.

Mr. Robinette said that partnership agreements may come in the early spring, after water rights and permits, with contracts ready for the partner Boards in September or October 2025, at which time all documents will freeze and be considered substantially final.

3.2 Receive an update on the progress being made in the development of the Project Operations Plan, Version 2.1.

ED Brown introduced the item and noted the Project Operations Plan is a corollary item to the B&O agreement, to ensure that contractual elements of operations are embedded in the contracts. He stated that Angela Bezzone, the

Reservoir Operations Lead, was online and would be reviewing her work with the Operations & Engineering (O&E) Workgroup.

Ms. Bezzone explained that the draft Operations Plan 2.0 was written as part of the water right hearing process, and there was focus on updating information, including the information in the final EIR/EIS document. She said that now Plan Version 2.1 is being considered by the O&E Workgroup, and that this iteration will likely become an attachment to the B&O contract, once finalized.

Ms. Bezzone reviewed the Operations Plan Table of Contents, including new items in the operations plan content and definitions, such as “Sites water,” “Other Water,” and “Water.”

Alicia Forsythe, Sites Environmental Planning & Permitting, continued the presentation, reviewing the concept of conflicts of releases and release schedules. She said the draft plan was provided to the O&E workgroup and is available to anyone on the committee or the Board who may request a copy and provide comments. She talked about the timing of possibly receiving the Operations ITP from California Department of Fish & Wildlife; the Operations Plan is currently anticipated to have a September approval.

There were no questions on this item.

- 3.3 Receive a report on the progress being made on preparing for procuring the first Construction Manager at Risk (CMAR) for the Sites Project and direct Staff to work through the O&E Workgroup to address the items in the preparations checklist and come back to the full Board prior to issuing the RFQ. The first Construction CMAR selected for Sites is planned to cover the reservoir and roads elements of the Project.

ED Brown turned the item over to Mr. Robinette, Sites Engineering & Construction Manager. Mr. Robinette noted this item is fully described in the staff report and referred to the checklist the Authority would be using before issuing the RFQ. He referred to the policy issues related to the CMAR procurement, as a new organization which does not have procedures in place yet. He said consideration is being given to how the Sites Authority keeps its commitments to the community while going through the RFQ process. The Contract Strategy ad hoc subworkgroup is providing input and then the Operations & Engineering workgroup will review input.

Mr. Robinette stated the RFQ procurement checklist will come back to the Board and Committee prior to the RFQ being issued. He said that at the 30% design phase, the RFQ process provides the opportunity for the Authority to receive contractor input on cost, schedule, constructability, logistics, commitments to the community, and implementation of the environmental compliance plan.

Vice-Chair Kunde noted that the roster for the Contract Strategy subworkgroup has been updated, and three of the members on the subcommittee are from the Authority Board; he expressed appreciation for those who agreed to assist with the process.

3.4 Receive an update on the steps leading to a Record of Decision.

ED Brown stated this item was timely as the benefits and obligations are being discussed as well as the federal action to certify the National Environmental Policy Act (NEPA) document to approve the project from the federal perspective, as the federal government is a partner in the California Environmental Quality Act and NEPA process. He reviewed pertinent background information and explained the path to getting to the Record of Decision.

Ms. Forsythe provided further explanation regarding the NEPA completion. She said many of the first steps have been completed, but there are more steps left and they are being monitored closely for both investor commitment and for the Bureau's signing of the partnership agreement. She reviewed the steps related to cultural resources compliance and the programmatic agreement. These steps address the Bureau's and Army Corps' compliance needs, and the land access needs which involve historic properties.

Ms. Forsythe noted the four tribes who have requested consultation and said that the Bureau is consulting with them. She stated that comments made by tribes related to the draft programmatic agreement are not known by the Authority.

Ms. Forsythe continued her report and reviewed the two steps that need to be addressed for ESA Compliance. Step 1 refers to project-level construction and program-level operations and is expected to be completed in 2024. Step 2 is related to project-level operations and is expected to be completed by end of 2025 – this step includes biological opinions from United States Fish & Wildlife Service and National Marines Fisheries Service. She further said the Authority is working with the Bureau to evaluate whether the Record Of Decision (ROD) would be signed after Step 1 or Step 2; this question has not been answered. She explained that the ROD is not a prerequisite for the bond, though the partnership agreement with the Bureau cannot be signed until the ROD is signed.

There were no questions related to this item.

4. REPORTS:

4.1 Chairs' Reports:

Chair Azevedo has been conducting outreach for the September 12 community meeting in Maxwell and he invited those in the local area to attend.

Chair Durst has been receiving calls related to the State Water Quality Control Board hearing and has advised parties on how to provide input; he reported he is meeting with Pacific Coast Federation of Fisherman Association to help provide them with information on the Project.

4.1 Committee & Workgroup Chairs' Reports:

Operations & Engineering: Vice-Chair Kunde reported that staff turnovers have impacted the workgroup's operations. He asked Chair Azevedo to appoint new individuals to the workgroup. Jeff Sutton and Jordan Navarrot are now appointed. The workgroup has been focused on the operations plan review.

Mike Urkov has been appointed to the workgroup and will act as Vice-Chair.

Budget & Finance: Mr. Traynham reported that his workgroup is still waiting for the audit to be finalized.

Governance Ad Hoc: ED Brown reported that the committee has provided input on the B&O.

Legislation & Outreach: Because of the general election, it is a truncated fall season.

Local Community Working Group: Chair Azevedo reported the group will be meeting the week after the community meeting, on September 19.

4.3 Authority Board & Reservoir Committee Participant Reports:

Chair Durst reported he and ED Brown met with Congressman Thompson to provide a project update.

4.4 Executive Director's Reports:

Executive Director Brown spoke to the following:

The Water Rights hearing process is beginning August 19th. He thanked those who've submitted notices of intent to appear.

The Authority is preparing an FAQ for landowners to answer questions received during recent landowner meetings. The FAQ will be circulated through the Land Management Committee.

Ms. Jagruti Maroney will be retiring; she has been very pivotal with her activities withing the Department of Water Resources. ED Brown thanked Ms. Maroney for her contributions and efforts.

Chair Durst declared a recess at 10:19 a.m. and convened into Closed Session.

5. CLOSED SESSION:

5.1 Conference with legal counsel regarding existing litigation (Gov. Code §§54956.9(d)).

Friends of the River, et al. v. Sites Project Authority, et al., Yolo County Superior Court, Case No. CV2023-2626

5.2 Negotiations concerning water right permit terms and conditions (Govt. Code §54956.9(c) and §54956.9(d)(4)).

5.3 Conference with Real Property Negotiators (Gov. Code § 54956.8).

Property: [Colusa County] APNs 011-150-004, 011-150-023, 011-190-019, -021, 011-200-013, -014, 011-210-016, 011-210-017, 011-210-023, 011-210-024, 011-210-025, 011-210-026, 011-210-027

Agency negotiators: Jerry Brown, Kevin Spesert
Negotiating parties: Red Stick Farms
Under negotiation: Price and terms of payment

Chair Durst adjourned Closed Session at 12:13 p.m. and reconvened into Open Session.

6. REPORT FROM CLOSED SESSION:

GC Doud stated that no reportable action was taken on Closed Session matters.

7. RECAP: None.

7.1 Suggested Future Agenda Items.

7.2 Upcoming Meetings:

Joint Reservoir Committee & Authority Board

Day of Friday, September 20, 2024 (9:00 a.m. – 12:00 p.m.)

Maxwell Project Office & Virtual

Chair Durst adjourned the Joint Reservoir Committee and Authority Board Meeting at the hour of 12:14 p.m.



Fritz Durst, Authority Board Chair



Mike Azevedo, Reservoir Committee



MJ Brown, Board Clerk