

Reservoir Committee and Authority Board Meeting

Agenda Item 2.2: CWA Permit Applications
Resubmission

June 20, 2025

Background and Today's Ask

- Authority submitted Clean Water Act (CWA) Section 404 and 401 permits in 2024
 - Army Corps administratively withdrew as we didn't have the Construction BiOp, Cultural Resources Programmatic Agreement, or sufficient detail on compensatory mitigation
 - State Board denied without prejudice as, with the Army Corps admin withdrawal, there was no 404-permit application processing
- Authority team has worked extensively with Army Corps, EPA, and State Board over the past year to revise the permitting approach
- Seeking Board's concurrence on approach and authorization to resubmit the applications

Revised Approach

- Authority will resubmit both permit applications
 - Entirety of Project construction
 - Supplemental information specific for the initial construction components
 - Will align with the Final EIS/EIR and other applicable permits
 - Located on land currently owned by the Authority or expected to be acquired prior to the start of initial construction
 - Land that has already undergone environmental surveys—or will be surveyed—before the initial construction begins
- Changes the process for applying for the permits
 - No change to original approach for wetland determinations, impact determinations or mitigation approach

Section 404 Permit

- Anticipate that Army Corps would:
 - Deem the entire Project application to have been completed
 - Evaluate the application and consider signing a Record of Decision
 - Final determination of the Project's alternatives under a 404(b)(1) analysis
 - Identify that upon submittal of certain supplemental materials the Army Corps intends to issue subsequent permits for future construction packages
 - Issue a 404 permit for the initial construction components
- Subsequent construction work packages authorized separately as information becomes available

Section 401 Permit

- Anticipate that State Board would:
 - Evaluate the application and deem it complete
 - Consider issuing a 401 permit for the whole of the construction
 - Issue an initial Notice to Proceed for the initial construction components
- Subsequent notices to proceed specific to each work package

Next Steps and Timing

- Continue coordination with TCCA and GCID
- Resubmit permit applications as soon as possible after:
 - Construction BiOp issued – very early July
 - Cultural Resources Programmatic Agreement signed – now likely early July
 - Permit application finalized – Largely completed and will be ready shortly
- Permit issuance in March 2026
 - Obtaining CWA permits are a condition precedent to CWC funding and some risk that permit issuance could slip past March 2026

Questions?