



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

July 18, 2025

Subject: **Conditions Precedent Reporting**

Requested Action:

Receive and comment on the updated conditions precedent quarterly status report.

Detailed Description/Background:

For the past 15 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 necessary for their agency's execution of the Benefits & Obligations Contract. Also presented was a Storage Partner Approvals Coordination Table to represent the permits and approvals needed across all of the Storage Partners; Participants/Reservoir Committee members, State/California Water Commission, and Federal/Bureau of 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 April 2025 report. Board members, state representatives 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 items in the report have shifted, but critical items are progressing and are being completed. The key activity to starting investor commitment is issuance of the water right order. The closing reply briefs were submitted on June 27, 2025, so the water right hearing process is now fully in the Administrative Hearings Office and the State Water Resources Control Board's court. As mentioned in the April report, there is still some uncertainty in the actual timing of the water right decision. The current working assumption in the schedule is that the order will be issued sometime in Q4 of 2025. The Authority anticipates a 2-month process to true-up documents to the final water right order. Therefore, Participants should plan to be in the six-month investor escrow, starting as early as December 1, 2025, or as late as April 1, 2026. If the later date for the water right holds, Participants should consider taking steps early to assist in compressing the

escrow period to shorter than six months to align with funding availability, unless other sources of funds are identified.

During the last quarter, two items have been identified as coming in after the start of investor commitment. They are the Operations Biological Opinion (BiOps) and the 404/401 permits. The current scheduling assumption for each is that:

- The investor commitment period may begin before completing the Operations BiOps from the Participants' perspective, but completing the Operations BiOps remains necessary for the State and Federal Partners to execute their contracts.
- The 404/401 permits are only a condition precedent for the State and the current schedule shows these permits completing before the end of investor commitment. This should be acceptable because the State requires all other Storage Partners to be committed before they will make their final award and the permits are scheduled to be complete by this time.

Prior Authority Board Action:

April 2025 – 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 July 18, 2025



Activities to be Completed Prior to Resolution to Offer Capacity & Service and During Investor Commitment Escrow
Status Update as of July 18, 2025

Activity / Agreement	Target Completion	Status	Notes / Critical Issues
Contract and Supporting Documents:			
• Benefits and Obligations Contract policy item resolution and final review	Oct 25	Covered under Agenda Item 03-01	Remaining issues to be resolved and the B&O to be true up upon issuance of final water right.
• 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)	same as B&O	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	Jul 25	Dependent on Reclamation	Revised based on Programmatic Agreement and Construction BiOp schedule.
• Preliminary Baseline Report including Updated Class 3 Cost Estimate and Updated Plan of Finance Forecast Tables	Nov 25	On Track	Progress report on cost/benefit estimates provided June 2025.
• Resolution to Offer Capacity & Service	Nov 25	Revised	Revised based on schedule update.
Permits and Approvals:			
• Water Right decision by SWRCB	Sept 25	Revised	Early date shown in schedule.
• State Construction and Operations Incidental Take Permits	Oct 24 Oct 24	Completed	
• Federal Project Construction Biological Opinion	Jun 25	Revised	All final reviews have been completed. Release of permit is imminent.
• Federal Programmatic Operations Biological Opinion (Step one)	Dec 24	Completed	
• National Historic Preservation Act – Section 106 Programmatic Agreement	Jul 25	Revised	Document is out for final review prior to signature.
• DSOD Confirmation of Dam Design Criteria	Sep 25	On Track	
• County Developer Agreements	Aug 25	Revised	
• Clean Water Act – Section 401	Mar 26	Revised	
• Clean Water Act – Section 404	Jun 26	Revised	Mainly awaiting Section 106 PA completion and Construction BiOp to complete app in Aug25.
• 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%.

Activity / Agreement	Target Completion	Status	Notes / Critical Issues
• USC Section 408 Approval	Nov 28	On Track	Need to advance engineering/design to 65%.
• Eagle Long Term Permit	Dec 25	On Track	
• Memoranda of Understanding related to CEQA Compliance and Air Board permits	Aug 25	On Track	
• Master Lake and Streambed Alteration Agreement	Jul 25	Completed	
Executed Agreements:			
• Facilities Use Agreements – TC Canal System	Oct 25	Revised	Revised based on progress to date.
• Facilities Use Agreements – GCID System	Oct 25	Revised	Revised based on progress to date
• Lower Colusa Basin Drain System Term Sheets	Mar 25	Partially Completed	Completed KLOG; Waiting on Ecosystem Benefits Agreement to complete Wallace Weir.
• Operating Agreement with DWR and Reclamation	Oct 25	Revised	Agreement is in Legal Review.
Conditions To Occur During Investor Commitment Escrow:			
• B&O Contract executed by all parties	Apr 26	On Track	Early date shown in schedule.
• Final 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 – Oct 25 CDFW - Oct 25	On Track	Revised based on progress to date. Executed agreements will occur after CWC public review process.
• Prop 1 Resolution of Final Award by CWC	Jul 26	On Track	CWC has clarified their schedule.
• Final Prop 1 Funding Agreement executed by CWC Staff	Sept 26	On Track	
• Final Partnership Agreement with Reclamation. Complete negotiations and sign-off ready document NLT Oct 25	Oct 25 Complete negotiations and sign-off ready document Apr 26 final sign-off	On Track	Public negotiations to begin in Aug 25.
• Execution of Loan Agreements for Project Financing	Jun 26	On Track	
• Final Biological Opinion for project level operations (Step Two)	Dec 25	On Track	

Sites Project: Permits and Agreements by Agency
Status Update as of July 18, 2025

July 18, 2025, RC & AB Meeting
Agenda Item 3.3 Attachment B

Permit Issued or Agreement Ready for Execution	Needed for Resolution for Offer of Capacity	Needed for CWC Funding Agreement	Needed for Reclamation Partnership Agreement
Complete CEQA	Yes	Yes	No
Complete NEPA and Sign ROD	Yes	Yes	Yes
Sites / Reclamation / DWR Operations Agreement	Yes	Yes	Yes
Conveyance Agreement(s) (formerly called 'Warren Act' contract(s))	No	Partial, for refuge water deliveries	No
Land Lease/License Agreement for use of Federally Owned Property	No	No	No
Partnership Agreement	Yes	Yes	Yes
Reimbursement Agreements within the CVP	Yes	No	No
Agreements Necessary for Pumping and Conveyance of IL4 Refuge Water	No	Yes	No
Design and Construction Agreement to Add Pumping Capacity at Red Bluff PP	No	No	No
Power Agreement(s)	No	No	No
Sites Reservoir Benefits and Obligations (B&O) Contracts PLUS all Necessary Annexes	Yes	Yes	Yes
Revisions to JPA and Bylaws	Yes	Yes	Yes
Sites / GCID Facilities Use Agreements	Yes	Yes	Yes
Sites / TCCA Facilities Use Agreements	Yes	Yes	Yes

Sites Project: Permits and Agreements by Agency
Status Update as of July 18, 2025

Permit Issued or Agreement Ready for Execution	Needed for Resolution for Offer of Capacity	Needed for CWC Funding Agreement	Needed for Reclamation Partnership Agreement
Sites / RD108 Lower Colusa Basin Drain Operations Agreement	No	No	No
Biological Assessment/Biological Opinion Construction and Programmatic Operations (Step 1)	Yes	Yes	Yes
Biological Assessment/Biological Opinion Project-level Operations (Step 2)	Yes	Yes	Yes
Eagle Take Permit / Eagle Conservation Plan	No	No	Yes
State Incidental Take Permit – Operations	Yes	Yes	Yes
State Incidental Take Permit – Construction	Yes	Yes	Yes
Section 106 Programmatic Agreement	Yes	Yes	Yes
Water Right Permit SWRCB Decision	Yes	Yes	Yes
Clean Water Act Section 404, wetlands and waters of the US (must have a Section 401 to get a 404)	No	Partial, based on conceptual approval	No
Clean Water Act Section 401 and Porter Cologne Water Quality Control Act	No	Partial, based on conceptual approval	No
Waste Discharge Requirements	No	No	No
USC Section 408, if needed	Partial, based on conceptual approval	Partial, based on conceptual approval	No
Central Valley Flood Protection Board Encroachment Permit	Partial, based on conceptual approval	Partial, based on conceptual approval	No
County General Plan and Zoning Changes	No	No	No

Sites Project: Permits and Agreements by Agency
Status Update as of July 18, 2025

Permit Issued or Agreement Ready for Execution	Needed for Resolution for Offer of Capacity	Needed for CWC Funding Agreement	Needed for Reclamation Partnership Agreement
County General Plan and Zoning Changes	No	No	No
County Developer Agreements – Agreements on Zoning Changes, Road Maintenance and Ownership, Taxes, Etc	Yes	Yes	Yes
County Developer Agreements – Agreements on Zoning Changes, Road Maintenance and Ownership, Taxes, Etc	Yes	Yes	Yes
County Developer Agreements – Agreements on Zoning Changes, Road Maintenance and Ownership, Taxes, Etc	Yes	Yes	Yes
WSIP Public Benefits – Ecosystem	Yes	Yes	Yes
WSIP Public Benefits – Flood and Recreation	Yes	Yes	Yes
WSIP Final Funding Resolution by CWC	Yes	Yes	Yes
WSIP Final Funding Agreement (CWC staff approval)	No	No	Yes
Lake and Streambed Alteration Agreement (Master)	No	Partial, based on conceptual approval	No
WIFIA Master and Loan Agreement(s)	Yes	No	No
MOUs related to CEQA compliance (Air Districts)	No	Yes (Construct) No (Operate)	No
Encroachment Permits	No	No	No
Transportation Permits	No	No	No
Permit to Construct/Operate	No	Partial, based on conceptual approval	No
Interconnection Agreement	No	No	No

Sites Project: Permits and Agreements by Agency
Status Update as of July 18, 2025

Permit Issued or Agreement Ready for Execution	Needed for Resolution for Offer of Capacity	Needed for CWC Funding Agreement	Needed for Reclamation Partnership Agreement
Exemption from FERC	No	No	No
Lower Colusa Basin Drain – Knights Landing Outfall Gates Operations Term Sheet	Yes	Yes	No
Lower Colusa Basin Drain – Knights Landing Outfall Gates Operations Agreement	No	No	No
Lower Colusa Basin Drain - Wallace Weir Operations Term Sheet	Yes	Yes	No
Lower Colusa Basin Drain - Wallace Weir Operations Agreement	No	No	No
Lower Colusa Basin Drain - White Paper Evaluation (Flowage Easements)	Yes	Yes	No
Lower Colusa Basin Drain - Real Estate Agreement (Flowage Easements)	No	No	No
Lower Colusa Basin Drain: Real Estate Term Sheet (Dunnigan Pipe Outlet Structure into CBD)	Yes	Yes	No
Lower Colusa Basin Drain: Real Estate Agreement (Dunnigan Pipe Outlet Structure into CBD)	No	No	No
Lower Colusa Basin Drain: Long Term Maintenance Agreement	No	No	No