




## Responses to EPA Comments on the Sites Reservoir Project Final EIS

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**To:** Alicia Forsythe, Environmental Planning and Permitting Manger  
**Cc.** File  
**Date:** July 21, 2025  
**From:** Laurie Warner Herson, Environmental Planning Lead   
**Subject:** Draft Responses to EPA Comments, dated December 4, 2023, on the Sites Reservoir Project Final EIS

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This memorandum addresses the December 4, 2023, letter (see attached) submitted by the U.S. Environmental Protection Agency (EPA) to the U.S. Department of the Interior, Bureau of Reclamation (Reclamation) and recently provided to the Sites Reservoir Authority (the Authority). The letter provides EPA's comments on the Final Environmental Impact Statement (Final EIS) for the Sites Reservoir Project (Project) pursuant to the National Environmental Policy Act (NEPA) and Section 309 of the federal Clean Air Act (CAA). As noted in EPA's letter:

...the CAA Section 309 role is unique to EPA. It requires EPA to review and comment on the environmental impact on any proposed federal action subject to NEPA's environmental impact statement requirements and to make its comments public.

In November 2023, the Authority and Reclamation released a joint Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Sites Reservoir Project in compliance with the California Environmental Quality Act (CEQA) and NEPA, respectively. The Authority certified the Final EIR and approved the Project on November 17, 2023. The Authority also prepared CEQA Findings, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations for the Project which were adopted on November 17, prior to Project approval. A Notice of Determination was prepared and filed with relevant county clerk-recorders and the State Clearinghouse on November 20, 2023. This concluded the EIR process<sup>1</sup>

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<sup>1</sup> On December 18, 2023, petitioners, including the Friends of the River, Center for Biological Diversity, California Sportfishing Protection Alliance, California Water Impact Network, and Save California Salmon notified the Authority of their intent to file a petition for Writ of Mandate in Yolo County Superior Court under the provisions of the CEQA, Public Resources Code § 21000 et seq., against the Authority, challenging the Authority's November 17, 2023 certification of the Final EIR, CEQA findings, and approval of the Project. Among the areas of analysis that were challenged were the accuracy of baseline, range of alternatives, environmental setting, project description, and failure to adequately disclose, analyze and/or mitigate environmental impacts. The Authority was successful in

EPA's December 4, 2023, comment letter was submitted to Reclamation after the Authority completed the CEQA process. This memorandum is intended to respond to EPA's comments for the record and in support of Reclamation's completion of the NEPA process. EPA's comments and the Authority's responses are provided in the following table.

EPA Comment	Authority Response
<p>The Sites Reservoir would be a new off-stream surface storage reservoir ten miles west of Maxwell, California, with a purpose to capture excess water from major storms and store the water for drier periods. Since the original proposal, many refinements have been made to the project including addition of mitigation and monitoring measures for construction and operation. The Bureau of Reclamation acknowledges that it needs to continue to participate in the development of the project's operations to consider the environmental impacts of coordinating federal facilities that would be used to supply water to the reservoir as well as examining the possibility of investing in Sites reservoir storage up to 25% to improve operational flexibility of the Central Valley Project (CVP). A 25% investment is identified as Reclamation's Preferred Alternative.</p>	<p>The Sites Authority and Reclamation have considered many refinements to the original project proposed in the 2017 Draft EIR/EIS for the Project. The Authority and Reclamation conducted an extensive screening process that considered the Project objectives and purpose and need to develop a reasonable range of potentially feasible alternatives for evaluation in a Revised Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS). This screening process built upon prior water supply evaluations that examined a broad array of factors (see Final EIR/EIS Appendix 2A, <i>Alternatives Screening and Evaluation</i>, and Appendix 2B, <i>Additional Alternatives Screening and Evaluation</i>) and was taken into consideration in both the Authority's selection of the Preferred Project and Reclamation's identification of their Preferred Alternative in the Final EIR/EIS.</p>
<p>The EPA recognizes the need for improved water management in California and has been a cooperating agency on this project to ensure that federal decision making concerning new water storage facilities appropriately considers environmental impacts associated with siting, design, construction, and operation of such facilities. In our comments on the Supplemental Draft EIS, we identified several topics or resource areas that would benefit from additional information or analysis in the Final EIS, including project operations, scope of analysis, climate impacts and greenhouse gas emissions, impacts to streams and wetlands, sediment management, and surface water quality. We appreciate</p>	<p>The Authority appreciates EPA's engagement in the Project and acknowledges the role and participation of the EPA in the preparation of the EIS. As a cooperating agency, EPA was engaged in the review of draft as well as published versions of the Preliminary Project Description, SDEIS, Responses to Comments on the SDEIS and revised chapters and appendices of the Final EIS, which included updated modeling results. Comments provided by EPA on draft documents were all taken into consideration during preparation of the subsequent, publicly circulated versions. Specific responses to EPA's public comments on the Supplemental Draft EIS are included in the Final EIR/EIS, in Volume 3,</p>

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defending the CEQA litigation (*Friends of the River, et al., v Sites Project Authority, et al.*). On May 31, 2024, the Yolo County Superior Court found in favor of the Sites Authority on all counts. On June 14, 2024, *Friends of the River, et al.*, appealed the case. On September 20, 2024, the Third District Court of Appeals found that the Project's environmental review fully complied with CEQA.

Reclamation's response to our comments provided in the Final EIS.	Chapter 4, <i>Responses to Comments</i> (Letter 79, Comments 1-52).
The EPA appreciates that the Final EIS includes additional climate change analyses and information on greenhouse gas emissions from reservoirs (detailed in Appendix 21A). We support the strong commitments for renewable energy and the inclusion of climate adaptation modeling to 2070 (Appendix 28A).	In addition to preparing responses to EPA comments, the Authority and Reclamation prepared a supplemental greenhouse gas (GHG) analysis to address EPA's concerns regarding the GHG effects of converting agricultural grazing land to a reservoir (see Final EIR/EIS Appendix 21A, <i>Greenhouse Gas Support Appendix</i> ). As noted in the Final EIR/EIS, this appendix documents the change in GHG emissions due to changing the land use from open fields but does not account for activities that would potentially sequester carbon, such as activities associated with Project implementation, or implementation of Project mitigation measures. This provides a more conservative analysis and relies on known information without speculation. The Sites Authority is committed to mitigating GHG to net zero.
The EPA remains concerned about the approach to project operations in the Final EIS, which have not yet been finalized but are critical to understanding the environmental impacts of Sites Reservoir. Proposed mitigation, including water exchanges, as well as information on how operations would be coordinated with state and federal projects is not complete at this time (p. 2-78). The water rights process and Endangered Species Act consultations, which will affect diversion criteria as well as the Clean Water Act Section 404 permitting process, are critical to complete the understanding of environmental impacts. These processes will help to inform decision-making and to guide future permitting and mitigation actions. In particular, the proposed Sites reservoir would have to operate in conjunction with other major water projects in the Delta, such as the Delta Conveyance project, and coordinated long-term operations of the Central Valley Project and State Water Project (both projects which have NEPA processes underway).	<p>As noted in the response to comment 79-13 in the Final EIR/EIS, Volume 3, Chapter 4, <i>Responses to Comments</i>, "[T]he Authority and Reclamation considered multiple operational scenarios over the course of Project development that were designed to meet the Project objectives, purpose, and need; enhance Project benefits; and reduce or avoid impacts. The features of alternatives, including Sites Reservoir capacity, conveyance systems, and operational scenarios, were conceptually developed and refined over time to maximize the achievement of the objectives. Please see Master Response 9, <i>Alternatives Development</i>, regarding operational criteria development, and Master Response 2, <i>Alternatives Description and Baseline</i>, regarding the preparation of the Reservoir Operations Plan."</p> <p>However, the Authority agrees with EPA's statement that "[T]he water rights process and Endangered Species Act consultations, which will affect diversion criteria as well as the Clean Water Act Section 404 permitting process, are critical to complete the understanding of environmental impacts." The Authority</p>

	<p>recognizes that further definition of operations has and will occur with the continued consultation and coordination of the permitting process.</p> <p>Since the preparation of the Final EIR/EIS, the Authority and Reclamation have continued to work with federal and State agencies to refine the environmental impacts of the Project as well as operational considerations. The Endangered Species Act (ESA), Clean Water Act (CWA) Sections 404 and 401, and State Water Resources Control Board (State Board) water right processes have progressed. Both the ESA Biological Opinion (BiOp) for construction and the California Department of Fish and Wildlife (CDFW) Incidental Take Permits (ITPs) for construction and operation of the Project have been issued. CDFW has also issued a Lake and Streambed Alteration Agreement (LSAA) for the Project.</p> <p>In addition, in 2024 Reclamation prepared a Final EIS for the Long-Term Operation (LTO) of the Central Valley Project and State Water Project. As noted in the LTO Record of Decision, “Reclamation’s decision is to implement Alternative 2 – Multi-Agency Consensus Proposal (Preferred Alternative) as described in the Final EIS and analyzed in the 2024 USFWS and 2024 NMFS Biological Opinions, which includes both project-specific and programmatic elements.” The Sites Reservoir Project is one of the programmatic components analyzed in the Draft LTO EIS, Appendix AA – <i>Evaluation of Sites Reservoir Project Operations</i>.<sup>2</sup></p>
The potential impacts of harmful algal blooms on the Delta and effects on aquatic organisms are acknowledged and described in Chapters 6 and 11 of the Final EIS. We appreciate that Reclamation has included cyanobacteria and	As discussed in the Final EIR/EIS, Chapter 6, <i>Surface Water Quality</i> , Sites Reservoir operation would result in reservoir drawdown, reduced storage volume, and higher water temperatures from late spring through fall, particularly in Dry

<sup>2</sup> As stated in Appendix AA, “[T]he purpose of this appendix is to provide information, to the extent possible given the information available today, to assess how the Sites Reservoir Project would operate in the context of Alternative 2. This appendix discloses the environmental effects of the operation of Sites Reservoir Project, as described under Alternative 3 in the Sites Reservoir Project Final EIR/EIS, along with the environmental effects of Alternative 2 as described in the LTO Draft EIS. This analysis provides supporting evidence as to why or why not the magnitude and severity of environmental effects disclosed in the LTO EIS for Alternative 2 may change with consideration of the Sites Reservoir Project.

<p>cyanotoxins analyses to the Surface Water Ambient Monitoring Program component of the Aquatic Study Plan (HABs Action Plan). While the document acknowledges the uncertainty and unpredictability of HABs, the Final EIS also acknowledges that conditions and temperatures in the proposed reservoir are conducive to the formation of HABs. Monitoring and operational components (such as the utilization of the intake/outtake structures described on p. 6-102) are imperative for protecting water quality in the reservoir as well as receiving waters. Integration of a HABs action plan into operations scenarios will become an important component of operation scenarios in the future.</p>	<p>and Critically Dry Water Years. This would create favorable conditions for the initiation of HABs in the reservoir. If cyanobacteria and cyanotoxins were present in reservoir releases, potential downstream effects on water quality would not be expected because concentrations of cyanobacteria and cyanotoxins would be greatly diluted when eventually discharged into the Sacramento River, and cyanotoxins would undergo biodegradation and, to some degree, photodegradation.”</p> <p>In their comments on the Supplemental Draft EIS, EPA recommended that the Sites Reservoir Management Plan (RMP) be revised to improve HAB monitoring. As stated in the Final EIR/EIS, Volume 3, Chapter 4, <i>Responses to Comments</i>, Comment 79-43, the following revisions to the RMP have been made:</p> <ul style="list-style-type: none"> <li>• Monitoring will begin 2 weeks earlier than identified in the RDEIR/SDEIS (i.e., monitoring will begin April 1 instead of April 15).</li> <li>• Monitoring will continue through November if confirmed blooms are still present at the end of October. This is 1 month longer than originally proposed in the RDEIR/SDEIS.</li> <li>• Clarification was added that with confirmation of the presence of toxic cyanobacteria in suspected blooms, visual and water quality monitoring will continue weekly until cell density and cyanotoxin concentrations at any monitored location reaches the “Caution” action trigger level.</li> <li>• Monitoring and water sampling frequency as part of the HABs Action Plan was increased from biweekly to two times per week, or as advised based on coordination with the State Water Board and/or Central Valley Regional Water Quality Control Board, when the “Caution” action trigger level is reached.</li> <li>• Cell density OR cyanotoxin concentrations as trigger levels (not “and” as is proposed).</li> </ul>
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	<ul style="list-style-type: none"> <li>• Text referring to planktonic HABs posting guidance in Table 2D-2 has been revised to indicate that amendments or updates to those trigger levels would be used to determine if and when planktonic advisory signs at Sites Reservoir are necessary based on reservoir water quality.</li> <li>• Where benthic HABs are confirmed, composite samples, consisting of multiple portions of different algal mats, will be collected for toxin analysis.</li> <li>• The RMP includes monitoring for benthic HABs and coordination with the State Water Board and the Central Valley Regional Water Quality Control Board for posting benthic HABs signage.</li> </ul> <p>As noted in Appendix 2D of the Final EIR/EIS, the RMP is, and will continue to be, revised throughout the operation of the reservoir. Revisions to the RMP will account for changes to operations, site-specific conditions, adaptive management actions and decisions, and future changes to regulations or methodologies for evaluating water quality constituents. Refinement of the RMP may occur during consultation with agencies.</p>
<p>The EPA encouraged concurrent analysis of alternatives under NEPA and the Clean Water Act Section 404 to ensure that the least environmentally damaging practicable alternative (LEDPA) is included in NEPA alternatives and can be selected in the Record of Decision. EPA notes that the Final EIS presents information relevant to a future CWA 404 permit application, including information to evaluate compliance with the CWA Section 404(b)(1) Guidelines (40 C.F.R. Part 230). While project operations have not yet been fully defined pending outcome of ESA consultation and other regulatory processes, assessment of their potential impacts is required. The Guidelines require factual determinations of the secondary effects “associated with but not resulting directly from the actual placement of dredged or fill material,” and consideration of how the direct and secondary effects of the</p>	<p>In 2024, the Authority submitted a CWA Section 404 application to the USACE, including a draft 404(b)(1) compliance memorandum. The compliance memorandum demonstrated the Authority’s compliance with the <i>CWA 404(b)(1) Guidelines</i> (40 CFR 230) and the <i>State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State</i>. In late-2024, the USACE withdrew the Authority’s application as it was deemed incomplete. Since that withdrawal, the Authority continues to coordinate with the USACE to identify a permitting approach which addresses the incompleteness of the initial permit submittal. This includes:</p>

<p>proposed project would contribute to cumulative effects on the aquatic ecosystem. In consideration of the CWA Section 404 permit process and compliance with the Guidelines, we continue to recommend analysis and disclosure of secondary effects associated with operations of the Sites Project, including: adverse effects on water quality such as harmful algal blooms; disruption of migratory corridors for salmonids and sturgeon; disruption and loss of ecosystem processes such as flood pulses; reductions in cold water supply for migratory fishes in the upper watershed; and changes to wetland or river hydrology. EPA also notes that the Sites Project has not yet identified potential sites or mechanisms to provide compensatory mitigation for impacts to aquatic resources pursuant to the 2008 Mitigation Rule (40 CFR 230.91-98) and recommends that proposed compensatory mitigation be identified in the Record of Decision and CWA 404 Permit application.</p>	<ul style="list-style-type: none"> <li>• Addressing USACE and EPA comments on the draft 404(b)(1) compliance memorandum and confirming the LEDPA</li> <li>• Identifying a strategy on obtaining Preliminary Jurisdictional Determinations as access is gained to the Project area</li> <li>• Identifying a permitting approach for issuance of a 404 permit prior to issuance of a Section 408 permit, and</li> <li>• Developing the compensatory mitigation plan that meets all USACE requirements as part of the individual permit application.</li> </ul> <p>As an outcome of continued coordination with the USACE, the USACE approached the Authority with a permitting strategy which includes the Authority submitting individual permit applications for each construction phase. In June 2025, the Authority resubmitted the individual permit application for the whole of the Project and included construction Phase 1-specific information. Future construction phases will require the Authority to submit information specific to the construction phase.</p> <p>The Final EIR/EIS identifies multiple mitigation measures for biological habitat and species that call for compensatory mitigation. For example, Mitigation Measure VEG-3.2 addresses the unavoidable temporary and permanent impacts on wetlands and includes the following: “Final compensation acreages will be based on the verified aquatic resources delineation and through the CWA Section 404 and 401 permitting processes. Mitigation for temporary impacts will occur on site, if feasible. Compensation will also be in compliance with the <i>Regional Compensatory Mitigation and Monitoring Guidelines for South Pacific Division</i> (U.S. Army Corps of Engineers 2015). Any permanent impact on wetlands will be mitigated by creating or preserving wetlands at a minimum 1:1 ratio (1 acre restored or created for every 1 acre filled), but the final compensation ratios may include additional compensation and will be based on site-specific information and determined through</p>
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	<p>coordination with state and federal agencies (State Water Board, USACE) during permit processing. Where wetland impacts overlap with listed species impacts, mitigation will be coordinated for both resources and will not be duplicated.”</p> <p>The Authority is working on a contracting strategy to contract for all of its biological terrestrial mitigation, including waters requirements, and expects to issue a Request For Proposals this year  <a href="https://sitesproject.org/contractor-outreach/">(https://sitesproject.org/contractor-outreach/;</a>  <a href="https://sitesproject.org/wp-content/uploads/2025/03/03-01-Biological-Terrestrial-Mitigation-Strategy-corrected-2.pdf">https://sitesproject.org/wp-content/uploads/2025/03/03-01-Biological-Terrestrial-Mitigation-Strategy-corrected-2.pdf)</a>.  Bringing on a mitigation contractor will allow the Authority and Reclamation to address and answer mitigation questions more thoroughly and begin the initial steps to acquiring the mitigation necessary for the Project.</p>
<p>Key regulatory requirements that will help determine the full impacts from the operations of the proposed project will be established through the pending actions by the State Water Resources Control Board, U.S. Fish and Wildlife Service, National Marine Fisheries Service, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers. EPA encourages Reclamation, the other federal agencies, and the State of California to help define an environmentally sound and effective project that would operate in a manner that simultaneously supports water supply reliability and protects as well as enhances California’s fisheries and ecosystems. We consider the upcoming actions by FWS, NMFS, CDFW, the State Water Board, and the Corps of Engineers to be critical steps in that process, including any future NEPA compliance. We recommend that the Record of Decision include a commitment to conduct additional NEPA compliance if the outcomes of any of these processes alter the project in such a way that is not covered under the current EIS range of alternatives and analysis.</p>	<p>As noted previously, key regulatory permits, including ESA Section 7, CWA Section 404, and the State Board water right, have progressed. The ESA biological opinion for construction and CDFW ITPs for both construction and operation of the Project have been issued (see above). Many of the refinements to the Project that have occurred since 2017 have been undertaken in coordination or based on consultation with these agencies. Any changes to the Project that may occur as a result of regulatory actions will be reviewed for potential changes in environmental impacts and further documented, as necessary.</p>