Meeting: **Reservoir Committee & Authority Board Agenda Item 1.1** **November 6, 2026**

Subject: **Clean Water Act Section 404 Permit for Work Package 1**

Requested Action:

Reservoir Committee and Authority Board consider authorizing the Executive Director to accept the U.S. Army Corps of Engineers (USACE) Clean Water Act (CWA) Section 404 Permit for Work Package 1 (WP1) of the Project and direct staff to proceed with implementation of the permit and associated compliance requirements.

Detailed Description/Background:

On October 15, 2026, the USACE Sacramento District issued a Department of the Army Section 404 permit for WP1 of the Project. The permit authorizes discharges of dredged or fill material associated with early construction activities, including site preparation, access roads, staging and stockpile areas, borrow areas, diversion infrastructure, dam foundation preparation, and geotechnical investigations. The permit also establishes the initial compensatory mitigation and compliance requirements applicable to WP1.

Issuance of the permit follows completion of the federal environmental review process and adoption of the Record of Decision (ROD) by the USACE, on April 17, 2026. The USACE's ROD adopted the Bureau of Reclamation's Final EIS and identified the Authority's preferred alternative as the Least Environmentally Damaging Practicable Alternative (LEDPA) under the CWA Section 404(b)(1) Guidelines. Importantly, the USACE's ROD established the overall permitting framework for future Project construction activities and confirmed that implementation would occur through a series of separate Section 404 permits for individual work packages rather than a single permit covering all Project construction.

How the Section 404 Permitting Strategy Will Be Implemented

The USACE has adopted a phased permitting strategy that is generally consistent with the Authority's planned construction sequencing and overall environmental compliance program. Rather than issuing a single permit covering all Project components, the USACE will evaluate and authorize individual work packages through separate permit decisions as Project design, land access, and construction readiness advance. This approach allows for mitigation, and associated costs, to be phased in proportion to actual anticipated impacts.

Under this approach, future permit applications will tier from the completed federal environmental review and USACE's ROD while allowing site-specific review of aquatic resource impacts, avoidance and minimization measures, compensatory mitigation,

and construction methods associated with each work package. As additional delineations, Project refinements, and land access become available, the USACE may adjust authorized impacts, mitigation requirements, and permit conditions based on project-specific information submitted for future permits.

The WP1 permit therefore represents both the first construction authorization and an important milestone in implementation of the broader federal permitting strategy for the Project. The permit incorporates requirements associated with the recently issued Section 401 Water Quality Certification, federal biological opinions, cultural resource agreements, mitigation obligations, construction notification procedures, and future verification of aquatic resource delineations.

Staff Assessment

Staff believe the WP1 Section 404 permit represents a significant Project permitting milestone and establishes a practical framework for continued implementation of the Project. The permit is consistent with broad permitting strategy contemplated throughout environmental review and allows Project construction authorizations to proceed incrementally as design and construction advance. This approach provides flexibility to incorporate updated resource information, refined engineering, and site-specific avoidance and minimization measures.

The permitting strategy also reduces the need to revisit project-level alternatives and environmental analyses with each future WP authorization. The USACE has already completed a comprehensive alternatives analysis, public interest review, and NEPA evaluation of the program, and determined that the approved Project configuration satisfies CWA requirements.

Future permit decisions are therefore expedited to focus primarily on implementation-level issues including aquatic resource delineations, construction methods, work package-specific impacts, and associated mitigation needs.

As implementation proceeds, the most important permitting considerations will be coordination of future WP applications, timely completion of field delineations and mitigation planning, integration of Section 404 requirements with the Section 401 Water Quality Certification process, and management of permit review schedules to support overall Project delivery. Staff will continue to coordinate closely with the USACE and resource agencies to maintain consistency across federal and state permits and to identify permitting issues early in the development of future work packages.

Based on staff's review, the permit conditions and implementation requirements are manageable and consistent with the Authority's anticipated environmental compliance program. Staff therefore recommend that the Authority Board authorize the Executive Director to execute the Section 404 permit for WP1 and direct staff to proceed with implementation.

Prior Action:

June 2025: Reservoir Committee and Authority Board consider authorizing the Executive Director to resubmit the Project's Clean Water Act 404 and 401 Permit applications.

Fiscal Impact/Funding Source:

Implementation of the WP1 Section 404 permit will require ongoing staff and consultant resources for ongoing permit compliance, mitigation implementation, agency coordination, aquatic resource delineation verification, monitoring, reporting, and preparation of future work package permit applications. These activities are part of the Project's planned environmental permitting and construction compliance program and will be incorporated into applicable Project work plans and budgets.

Staff Contact:

Ali Forsythe

Primary Service Provider:

HDR and ICF

Attachments:

Attachment A – Department of the Army Permit Number: SPK-2001-00055

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

DEPARTMENT OF THE ARMY PERMIT

Permittee: Sites Project Authority
Attn: Jerry Brown
122 Old Highway 99 West
Maxwell, California 95955
jbrown@sitesproject.org

Permit Number: SPK-2001-00055

Issuing Office: U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 "J" Street
Sacramento, California 95814-2922

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below. A notice of appeal options is enclosed.

Project Description:

Work Package 1 (WP1) includes site preparation, grading, excavation, construction of access roads, staging and stockpile areas, borrow areas, diversion infrastructure, dam foundation preparation, and geotechnical investigations for Sites Reservoir. These activities will result in the discharge of dredged or fill material into waters of the United States.

WP1 will result in permanent direct impacts to approximately 10.66 acres of wetlands and 14.03 acres of non-wetland waters of the United States, associated primarily with site preparation, road construction, staging and stockpile areas, borrow areas, and dam foundation activities.

The proposed project will also result in temporary direct impacts to approximately 18.19 acres of wetlands and 298.60 acres of non-wetland waters, primarily associated with geotechnical investigations within Funks Reservoir and the Terminal Regulating Reservoir area, where aquatic resources will be restored following completion of the investigations.

In addition, construction of the Golden Gate Dam cofferdam will result in temporary indirect impacts to approximately 17.85 acres of wetlands and 24.57 acres of non-wetland waters through temporary alterations to hydrology during construction.

The proposed project will include site preparation activities consisting of vegetation clearing, stripping of topsoil, grading, cut-and-fill operations, excavation, and placement and compaction of fill material to establish stable construction surfaces within dam foundation areas, staging and stockpile areas, borrow areas, and other construction support areas. Excavated native material will be reused for cofferdam construction or managed within designated stockpile areas.

Existing roads will be improved and new access and haul roads will be constructed to provide construction access between dam sites, borrow areas, staging areas, and public roadways. Road construction will involve grading, cut-and-fill operations, placement and compaction of gravel surfacing, installation or replacement of culverts and roadside drainage features, and placement of fill necessary to establish stable road prisms and stream crossings. Utility conduit will also be installed within select road corridors concurrent with road construction.

Borrow areas will be developed by removing overburden, excavating rock material, and stockpiling material for use as construction aggregate. Staging and stockpile areas will provide locations for equipment staging, material storage, and placement of excavated native material generated during construction activities. Development of these areas will involve grading, excavation, and placement of fill material.

Construction within the Golden Gate Dam footprint will include excavation of surficial materials to competent bedrock, installation of a temporary diversion system for Funks Creek, construction of a permanent cofferdam using excavated native material, and installation of a grout curtain through drilled boreholes beneath the future dam foundation. The proposed project also includes excavation of the Stone Corral Creek diversion tunnel using a tunnel boring machine, with temporary ground support installed as necessary. Material excavated during tunneling will be transported and placed within an adjacent stockpile area.

Geotechnical investigations will include exploratory borings, cone penetration testing, test pits, fault trenching, quarry studies, test fills, and installation of piezometers and monitoring wells. These activities will involve localized excavation, drilling, and trenching, with boreholes and probes backfilled using grout and native topsoil in accordance with California Department of Water Resources standards. Test pits and trenches will be backfilled with excavated material and restored upon completion, while select piezometers and monitoring wells will remain in place for long-term groundwater monitoring.

All work is to be completed in accordance with Attachment *A Revised Work Package No. 11 (Alternative 3, Applicant Preferred Alternative) Engineering Plans and Aquatic Resources* dated June 2026 (Enclosure 1).

Project Location:

The approximately 1,725.86-acre project site is located on Funks Creek, Latitude 39.32720°, Longitude -122.29721°, within Colusa County, California (Enclosure 2).

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **October 13, 2031**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. You shall implement the enclosed January 23, 2026, Programmatic Agreement (PA), entitled Programmatic Agreement Among the Bureau of Reclamation, Interior Region 10 California-Great Basin, the Advisory Council on Historic Preservation, and the California State Historic Preservation Officer Regarding Planning and Construction of the Sites Reservoir Project (Enclosure 3), and signed by these entities, in its entirety. USBR has been designated the lead federal agency responsible for implementing and enforcing the PA as signed. If you fail to comply with the implementation and associated enforcement of the PA, this office may determine that you are out of compliance with the conditions of your permit and suspend the permit. Suspension may result in modification or revocation of the authorized work.

2. This Corps permit does not authorize you to take an endangered species, in particular vernal pool tadpole shrimp (*Lepidurus packardi*), vernal pool fairy shrimp (*Branchinecta lynchi*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), and giant garter snake (*Thamnophis gigas*). In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). The enclosed U.S. Fish and Wildlife Service (USFWS) BO (Number 2024-0125050-S7-001, dated July 16, 2025; Enclosure 4), contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with "incidental take" of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

3. To compensate for the loss of 5.9 acres of seasonal wetlands, you shall:

Purchase 5.9 Vernal Pool (404) credits from Elsie Gridley Mitigation Bank

To compensate for the loss of 11.22 acres of stream and 2.81 acres of pond, you shall:

Purchase 28.6 aquatic resource credits from the National Fish and Wildlife Foundation Sacramento District (NFWF) In-Lieu Fee (ILF) Program, for the Cache-Putah Service Area.

To compensate for the loss of 1.61 acres of freshwater marsh, 1.47 acres of scrub shrub wetland, and 1.67 acres of forested wetland, you shall:

Purchase 9.5 aquatic resource unallocated advanced credits from the NFWF ILF Program.

Evidence of the purchase shall be provided to this office prior to initiation of construction activities in waters of the U.S. authorized by this permit.

4. You shall comply with all terms and conditions of the enclosed September 11, 2026, Section 401 Water Quality Certification (Enclosure 5).

5. At least 60 days prior to the commencement of any discharge of dredged or fill material authorized by this permit, you shall conduct an aquatic resource delineation throughout the entire project area and submit the results to this office for review and verification. No discharge of dredged or fill material into waters of the United States shall commence until this office has issued a written verification of the aquatic resource delineation. You shall not discharge dredged or fill material into waters of the United States exceeding those identified in this permit and on Figure *Alternative 3 – Maximum Avoidance, Aquatic Resources Impacts and Project Components* without written authorization from this office.

6. Within 60 days following completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, you shall submit as-built drawings and a description of the work conducted on the project site and avoidance area(s) to this office for review. The drawings shall include the following:

a. The Department of the Army Permit number.

b. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings. The drawing should show all "earth disturbance," wetland impacts, structures, and the boundaries of any on-site and/or off-site mitigation or avoidance areas. The drawings shall contain, at a minimum, 1-foot topographic contours of the entire site.

c. Ground and aerial photographs of the completed work. The camera positions and view-angles of the ground photographs shall be identified on a map, aerial photograph, or project drawing.

d. A description and list of all minor deviations between the work as authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings the location of any deviations that have been listed.

7. Prior to initiation of construction activities in waters of the U.S. authorized by this permit, you shall notify this office in writing of the anticipated start date for the work. No later than 10 calendar days following completion of construction activities in waters of the U.S. authorized by this permit, you shall notify this office in writing that construction activities have been completed.

8. You and your authorized contractor shall allow representatives from this office to inspect the activity authorized by this permit and all compensatory mitigation, and avoidance areas at any time deemed necessary to ensure that work is being or has been accomplished in accordance with the terms and conditions of this permit.

9. You are responsible for all work authorized herein and ensuring that all contractors and workers are made aware and adhere to the terms and conditions of this permit. You shall ensure that a copy of the permit and associated drawings are available for quick reference at the project site until all construction activities in waters of the U.S. authorized by this permit are completed.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant.

Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

_____ _____

Name_____ Date

Title_____

Permittee

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below

_____ _____

Michael S. Jewell

Chief, Regulatory Division Date

(For the District Engineer)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

_____ _____

Name_____ Date

Title_____

Transferee