



Meeting: **Reservoir Committee & Authority Board Agenda
Item 3.2**

March 20, 2026

Subject: **Status Update on Draft Benefits & Obligations (B&O) Contract, Bylaws
and Joint Powers Agreement (JPA)**

Requested Action:

Receive a report on Participant comments on the December 2025 drafts of the Benefits & Obligations Contract, updated Bylaws, amended and restated Joint Powers Agreement.

Detailed Description/Background:

The B&O Contract, JPA and Phase 3, 4, and 5 Bylaws as a whole form the contract documents, including the governance structure for Phase 3, 4, and 5. The latest drafts of all three documents were released in December 2025, and comments were requested by February 2, 2026. Eight Participants provided comments on the draft documents.

This report provides an update on comments received from Participants on the draft contract documents and outlines next steps toward finalizing these documents.

As of December 2025, there were four remaining big issues needing to be resolved before finalizing the contract documents. Attachment A summarizes the issues. Of these four December 2025 items, two appear to be resolved, as there were no further comments on these topics. The other two items remain unresolved. The defining of DWR as the “Acquirer” continues to be discussed and is not yet resolved among those that are seeking this approach. Additionally, Staff has prioritized the five new issues according to the apparent magnitude of change being sought. Staff would like to hear from Board members during the meeting: 1) Do these properly summarize the remaining issues? 2) Is there any further input to be provided, and if so, by when?

Next Steps to Finalizing Contract Documents

Board members have suggested that a workshop be scheduled to address and resolve the remaining issues. It has been suggested that such a workshop will provide an opportunity for in-person collaboration among Participants to work through the substantive concerns and reach consensus on the remaining contract terms. Staff concurs that this approach would be most expedient, assuming each party can ensure attendance of their lead negotiator (i.e. the person with delegated authority to make the final staff/legal decision for their agency).

In consideration of Brown Act compliance and achieving the end goal of finalized contract language at the conclusion of the one-day session, Staff have developed two approaches (both are 100% in person) that the Board may want to consider:

1. Mediation style – this would be structured much like a mediation session where two caucuses of Participants are each formed (e.g. SOD Participants and NOD Participants) and they convene primarily independent of the other with a facilitator (i.e. someone mediator trained) that shuttles between rooms to arrive at the conclusion on the package of issues. This may include an overview session for the entire body at the beginning and ending of the day for the purpose setting the stage for the issues and for a concluding review of the resolution of the issues.
2. Traditional Face-to-Face Negotiations style – this would be structured much like the Federal Partnership Agreement session where each of the parties sit around one table and either by live editing or other means resolution of each issue is reached. This option could benefit from including a facilitator.

Staff believe either approach can work and must be structured to be Brown Act compliant. Staff would like proceed with scheduling a full-day workshop sometime next month and requests that the Board give direction on preferences for approaching the session.

In addition to the issues noted in Attachment A, the following items also need to be considered and can be accommodated with the scheduling:

- Considerations for final state and federal partner agreements.
- Conformance to the terms and conditions of the Water Right, as applicable.

Prior Action: December 2025 - Receive updated drafts of the Benefits & Obligations (B&O) Contract, updated Bylaws, amended and restated Joint Powers Agreement (JPA), and Operations Plan V2.2 and perform a final document review of each in advance of the upcoming start of investor commitment, which will be when the final signature versions (i.e, no further changes accepted) of the documents are circulated.

Fiscal Impact/Funding Source:

The Amendment 3 Work Plan includes sufficient budget to cover required resources and activities to finalize the Sites Reservoir Benefits & Obligations Contract. The drafting of the Joint Powers Agreement and Bylaws was anticipated in General Counsel's (Young Wooldridge) Amendment 3 scope, with \$100,000 of the contract authority being allocated, which is believed to be sufficient to finalize these documents.

Staff Contact:

JP Robinette (B&O Contract)
Jerry Brown / Alan Doud (Joint Powers Agreement/Bylaws)

Primary Service Provider:

Nossaman / Brown & Caldwell (B&O Contract)
Young Wooldridge (Joint Powers Agreement / Bylaws)

Attachments:

Attachment A – Resolved Issues and Issues for Resolution

Resolved Issues

The following major issues have been resolved by the committee/workgroups and incorporated into the draft documents:

1. **The "Default Waterfall":** A cap of 50% of base participation has been included in the B&O Contract.
2. **Conditions Precedent to Construction and "Off-ramps":** A "resolution to construct" after \$500M of participant spend has been included in the B&O Contract. **It should be noted that this resolution is a RMB decision and any individual Participant that wishes to offramp at any time after the signing of the B&O can do so in accordance with the B&O contract.**

Priority Issues for Resolution

The following priority issues have been identified from Participant comments and will be the focus of resolution efforts:

1. **Governance:** Governance changes that seek to (i) ensure the current governance structure is recognized and maintained, (ii) maintain RMB voting thresholds **throughout the life of the project notwithstanding any potential legal challenge of the governance structure**, (iii) ensure specific performance is available as a remedy ~~(related to Sections 4.13, 4.14.2, 4.15.1, 5.1.2, 6.2, 8.1.1(vii), 8.1.3, 8.2.1(vi), 8.2.4, 11.1.2(a), 15.2 and 15.10 amongst other minor changes).~~
2. **Downstream Capacity:** A number of Participants are seeking to treat Downstream Facilities Capacity Interest in generally the same way as Base Facilities Capacity Interest such that it is a fixed **and not subject to the Authority** ~~adjustment to reflect capacity to make room for~~ future buyers needing Downstream Capacity. Participants are also seeking ability to sell downstream capacity independent from Base Facilities and changes regarding priority of conveyance for Downstream Facilities Capacity Interest (related to Section 8.2.1(g) and related provisions).
3. **Acquirer:** Changes have been proposed regarding the role of the Acquirer in leasing and sale (related to Sections 8.1 and 8.2) and addition of language that deals explicitly with State Water Project Participants that are in default in payment to the Acquirer (related to Sections 10.1 and 10.2).
4. **NEW Partner Facilities:** Participants are seeking certain acknowledgements and commitments regarding (i) Partner facility capacity volume / constraints, (ii) requirements to build new Partner facilities, and

(iii) use of unused Partner facilities capacity, and (iv) approval of amendments to Partner Agreements (related to Sections 4.6.3, 4.13, 4.14, and Recitals).

5. **NEW Release of Water/Delivery Points Changes:** Some Participants located south of delta would like to see the primary Point of delivery for Participants located south of Sites must reach the downstream confluence with at the release to the Sacramento River, and the Sites Authority will deliver water consistent with Participant exchange agreements (related to Section 4.6).

Secondary Issues for Resolution

The following secondary issues have also been identified. Staff believe these items can be addressed with the finalizing of the documents and will be addressed:

1. **NEW Other Water:** Reference to permitting sale of Other Water (related to Section 8.3.3).
2. **NEW Legal Opinion:** Requirement for opinion (related to Sections 8.1.1(iv), and 8.2.1(iv)).
3. **NEW Exchanges:** Exchanges with Central Valley Project and State Water Project (related to Section 4.7).