



Meeting: **Reservoir Committee & Authority Board**
Agenda Item 3.6

June 26, 2026

Subject: **Sites Authority Key Terms for Reclamation Excess Capacity Agreement**

Requested Action:

Provide Board feedback on the Authority's key terms of an Excess Capacity Agreement with Reclamation which is being publicly negotiated starting June 23, 2026.

Detailed Description/Background:

In April 2026, Staff reviewed what was anticipated to be the main elements of the Excess Capacity Agreement with Reclamation. The purpose of this report is to build off this previous Board discussion and develop the outline of the comprehensive key terms the Authority will be seeking to secure in the negotiations of the Excess Capacity Agreement with Reclamation.

The Authority expects to receive a draft agreement and enter public negotiations with Reclamation on an Excess Capacity Agreement (ECA) on June 23, 2026. The Excess Capacity Agreement will serve the functional role of a long-term conveyance arrangement for Sites water to be conveyed through federal facilities, including the TC Canal and other federal facilities.

Given that these types of contracts are standardized across Reclamation it is expected that many of the provisions of the Agreement will be limited in terms of the changes Reclamation might be willing to consider. However, there are aspects of these agreements that are project specific and Staff has prepared Attachment A to provide initial key terms the Authority should consider presenting in these areas.

The anticipated schedule is to complete the negotiated agreement and seek Board authorization to sign the agreement in August 2026.

Prior Action:

April 2026: Receive information on upcoming negotiations with the U.S. Bureau of Reclamation on an Excess Capacity Agreement which is expected to proceed consistent with existing federal law and policy regarding guaranteeing physical capacity in federal facilities for conveyance of Sites water.

Fiscal Impact/Funding Source:

Negotiation of the Excess Capacity Agreement is to be conducted within the budgeted funds currently authorized by the Board.

Reclamation is proposing O&M and capital recovery charges in addition those being covered in the TCCA Facility Use Agreement or approximately \$20 to \$25/af. It is not clear how any of these costs would be applicable to the Sites Project and a large portion ~80-90% is associated with Storage O&M and conveyance construction which are clearly outside of the needs of the project. These will be explored further in the discussions with Reclamation.

Staff Contact:

Jerry Brown

Attachments:

Attachment A – Sites Authority's Key Terms of Excess Capacity Agreement

Sites Authority's Key Terms of Agreement

Excess Capacity Contract with U.S. Bureau of Reclamation

The following summarizes the Authority's principal business and operational terms proposed for inclusion in the Long-Term Warren Act / Excess Capacity Contract with Reclamation. These terms are intended to preserve the Authority's operational flexibility, protect its water rights and stored water, clarify cost responsibilities, and align the contract with standard Reclamation excess-capacity practices.

1. **Dedication of Excess Capacity** –Ensure allowable quantities cover the full range of potential Sites operations throughout the entire life of the Project.
2. **Long-Term Contract Duration** – A 50-year term is proposed and would be acceptable using Agreement extensions applicable at the time of renewal.
3. **Contract Effectiveness Tied to Implementation of the Sites Project, not Project Agreements** - Execution of the contract remains contingent upon execution of the Sites Reservoir Project alone and should not be dependent upon any individual agreement between Sites Authority and Reclamation.
4. **Operational Scheduling as Coordination, Not Federal Approval** - The Authority seeks to clarify that water delivery schedules are submitted for operational coordination purposes and not as a discretionary federal approval right, except where necessary for the specific facility being used is experiencing operational constraints, maintenance issues, or otherwise lacks adequate excess capacity at that time.
5. **Protection of Sites Water from Automatic Forfeiture** - The Authority seeks to ensure that any relinquishment of Sites Water left in Federal Facilities is only invoked if not conveyed pursuant to contract operations and only after notice and an opportunity to remove or redirect the Sites water.
6. **Delivery Flexibility to Authority or Designee** - The contract should expressly allow delivery of Sites Water to the Authority or its designated participant, contractor, or delivery recipient consistent with project operations.
7. **Clear Allocation of Temporary Facility Responsibilities** - The Authority's obligations for temporary inflow, delivery, and measurement facilities should be limited only to facilities constructed, owned, or operated by the Authority and not extend to existing federal facilities.
8. **Measurement Responsibilities Goes to Owner of Facilities** - Measurement, maintenance, and replacement obligations should apply only to Authority-owned facilities, with Reclamation retaining responsibility for federal measurement facilities.

9. Power Cost Responsibility Without Administrative Burden - The Authority acknowledges responsibility for all power costs associated with conveyance of Sites Water but seeks to avoid unnecessary administrative requirements such as pre-delivery proof of payment or separate side agreements outside the contract.
10. Reclamation Charges Applicable to Sites Water – The Authority i) will not be charged twice for the same costs between Reclamation and Non-Federal Operating Entity and ii) Reclamation’s O&M and conveyance charges must be justified as directly attributable to the Sites Project. If applicable, such charges will apply to diverted water in the TC Canal, but not released water since the diversion charge would cover the entirety of the TC Canal use.
11. Clarification that Reclamation Provides Conveyance Only - The contract should expressly confirm that Reclamation’s role is limited to providing excess conveyance capacity and does not create any ownership or beneficial interest in Sites Water.
12. Dispute Resolution Process - The Authority seeks inclusion of a dispute resolution process to address disagreements over scheduling, excess capacity determinations, measurement, and other operational issues before unilateral contract termination rights may be exercised.
13. Avoidance of Obsolete Reclamation Directives and Standards - References to specific Reclamation Directives and Standards should be updated or generalized to avoid future ambiguity where such directives are amended, superseded, or deleted.
14. Water Rights and Regulatory Compliance Clarifications - The Authority should get clarification of how the federal acreage limitation requirements and other Reclamation law provisions would be implemented.

Collectively, these terms are intended to preserve the Authority’s ability to use federal facilities as a conveyance mechanism for Sites Water while maintaining the project’s operational and commercial flexibility and minimizing unnecessary federal administrative control beyond standard Warren Act practices.