



Meeting: **Reservoir Committee/Authority Board Agenda
Item 3.7**

June 26, 2026

Subject: **Conditions Precedent Reporting**

Requested Action:

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

Detailed Description/Background:

Since August 2023, the Conditions Precedent Report has been presented to the Board on a quarterly basis as a status update on the critical items the Authority Board and Reservoir Committee have 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 2026 report. Importantly, this is the last report to precede a July decision to proceed with the Investor Commitment, should this be the case.

The key activity to starting investor commitment continues to be the issuance of the water right order. This report continues to incorporate receipt of the draft water right in March, a draft final order in July, and a final order issued in September 2026. This is consistent with the water right approval process laid out in the March transmittal of the draft decision and permit. This schedule continues to assume a four-month investor commitment period starting on August 1 and ending on December 1.

While a number of activities on the Conditions Precedent Report have been completed or will be completed prior to investor commitment, it is important to note that some activities are running behind and/or are expected to be completed within or after the investor commitment period. The activities expected to be completed within the investor commitment period are as follows:

- Water Right Permit and Order – As previously noted, the water right permit and order are expected September 1, which is approximately a month into the investor commitment period of August 1 to December 1.
- Clean Water Act Section 401 and 404 Permits – These are well in the works, with the Army Corps issuing a Record of Decision and the State Water Board issuing a draft 401 certification. The exact date for completion is a bit uncertain and depends on a number of factors, however, staff is projecting these to be completed in August (or possibly September). This would be a month or two into the investor commitment period. In general and with issuance of the Army Corps ROD and draft 401 certification, staff is not seeing any concerns that could result in stopping the Project or substantially raising Project costs.
- Excess Capacity Agreement with Reclamation – The Excess Capacity Agreement negotiations are expected to be initiated this month. These negotiations are open to the public with materials posted on Reclamation’s website and Storage Partners that are concerned about this agreement can follow along and/or attend the negotiations sessions. However, this agreement is expected to be fairly standard and follow the concepts in Reclamation’s standard long term Warren Act contracts. Staff expects this agreement to be fully executed by September, about half way through the investor commitment period.

The activity expected to be completed after the investor commitment period are as follows:

- Final Biological Opinion for Project-level Operations – The project-level Operations BiOp is underway. Staff and the team have completed the modeling runs for this effort, have met extensively with Reclamation, USFWS and NMFS, and are reviewing the final draft Biological Assessment. The Project’s current schedule shows completion of this activity in February 2027 (see Item 4-4 on Today’s Agenda). This assumes the Federal fisheries agencies are able to complete a BiOp in 135 days. However, Authority Staff feel that this is highly unlikely due to substantial staff losses within the Federal fisheries agencies and competing priorities for the limited fish agency staff remaining. Authority Staff feel that summer 2027 is a more likely completion date for the BiOp. Whether the BiOp is completed in February 2027 or summer 2027, both timeframes are after the close of investor commitment.

Authority Staff feel that the risk of the final Operations BiOp adding constraints to the Project that substantially increase costs or reduce benefits is low for the following reasons. First, the Project’s Operations

ITP has been completed, covers the same or similar species, and is a much higher bar to meet than Federal ESA requirements (CESA requires a project proponent to fully mitigate the impacts to State-listed species, whereas ESA requires a federal agency to avoid jeopardizing the continued existences of the species.) Second, the Project was included as a covered activity in Reclamation's recent reconsultation of the operations of the CVP and SWP and associated Record of Decision – already providing Framework Programmatic coverage in a non-jeopardy BiOp.

In practical terms, the overall operations of the Sites Project have been analyzed by the Services under Federal ESA and determined to be non-jeopardy. This did not, however, provide Sites-specific take for operations (e.g., take at Red Bluff and Hamilton City Pumping Plants). The Operations BiOp is needed to provide the specific Incidental Take when we start operating. As operations are still several years off, and additional operational changes are possible from the final water right order, completion by Summer 2027 has no material financial, construction, and/or operational effect and Authority Staff feel that it is a very low likelihood that this future BiOp will have terms and conditions that go beyond those required in the Operations ITP and the Project's final water right permit.

Prior Action:

April 2026 – 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. The current adopted 2026 budget projects all existing sources of funds being fully expended by December 2026.

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 June 26, 2026



**Activities to be Completed Prior to Resolution to Offer Capacity & Service and During Investor Commitment Escrow
 Status Update as of June 26, 2026**

Activity / Agreement	Target Completion	Status	Notes / Critical Issues
Contract and Supporting Documents:			
• Benefits and Obligations Contract *	Jul 26	On Track	Remaining issues to be resolved in second workshop on June 26 and the B&O to be conformed upon issuance of final water right.
• Phase 3, 4, 5 Bylaws *	same as B&O	On Track	
• Amended Joint Exercise of Powers Agreement *	same as B&O	On Track	
• Sites Reservoir Operations Plan (Version 2) *	same as B&O	On Track	
Actions:			
• CEQA Notice of Determination **	Nov 23	Completed	
• NEPA Record of Decision **	Feb 26	Completed	
• Preliminary Baseline Report including Updated Class 3 Cost Estimate and Updated Plan of Finance Forecast Tables *	Jul 26	On Track	Cost and schedule presented in Jun 26; complete report in Jul 26.
• Resolution to Offer Capacity & Service	Jul 26; same as B&O	On Track	
Permits and Approvals:			
• Water Right decision by SWRCB **	Sept 26	On Track	Draft received in March; Comments submitted in May; Final Draft anticipated in Jul; Final anticipated in Sept.
• State Construction and Operations Incidental Take Permits **	Oct 24 Oct 24	Completed	
• Federal Project Construction Biological Opinion **	Jul 25	Completed	
• Federal Programmatic Operations Biological Opinion (Step one) **	Dec 24	Completed	
• National Historic Preservation Act – Section 106 Programmatic Agreement **	Feb 26	Completed	
• DSOD Confirmation of Dam Design Criteria	Aug 25	Completed	
• County Developer Agreements (Colusa, Glenn, and Yolo) *	Jul 26	Partial	Awaiting Yolo County approval (6/23)
• Clean Water Act – Section 401 **	Aug 26	Revised	Draft permit received in May; comments due 6/26
• Clean Water Act – Section 404 **	Aug 26	Revised	
• CVFPB Encroachment Permit	Aug 28	On Track	Need to advance engineering/design to 65%
• USC Section 408 Approval	Aug 28	On Track	Need to advance engineering/design to 65%



Activity / Agreement	Target Completion	Status	Notes / Critical Issues
• Eagle Long Term Permit **	Jul 26	Revised	
• Memoranda of Understanding related to CEQA Compliance and Air Board permits **	Jul 26	Revised	
• Master Lake and Streambed Alteration Agreement **	Jul 25	Completed	
Executed Agreements:			
• Facilities Use Agreements – TC Canal System *	Jul 26	On Track	
• Facilities Use Agreements – GCID System *	Jul 26	On Track	
• RD 108 Operations Agreement for Lower Colusa Basin Drain Operations *	Jul 26	On Track	
• Excess Capacity Agreement with Reclamation *	Sept 26	Revised	
• Lower Colusa Basin Drain System Term Sheets *	Mar 25	Completed	Completed KLOG; No longer need to use Wallace Weir for Ecosystem Benefits Agreement
• Operating Agreement with DWR and Reclamation *	May 26	Completed	Conform and execute after issuance of final water right
• Lower Colusa Basin Drain - Additional Information for Investor Commitment <ul style="list-style-type: none"> ○ Letter of Mutual Understanding ○ Technical Memorandum – Use of Lower Colusa Basin Drain vs. extending the Dunnigan Pipeline to the Sacramento River ○ Add assumption for losses in CBD to operations model ○ Develop itemized cost estimate for CBD improvements rather than using a contingency (refined) ○ Verify that modeled local facility capacity is adequate and understand opportunities for increased capacity at times to accommodate planned Sites releases 	Jun 26	Revised	
Conditions To Occur During Investor Commitment Escrow:			
• B&O Contract executed by all parties	Nov 26	Revised	
• Final Public Benefit Agreements with CDFW and DWR * <ul style="list-style-type: none"> • Acceptance Agreement with Reclamation for Pumping and Conveyance of Incremental Level 4 Refuge Water * • Exchange Agreement with DWR * 	DWR – May 26 CDFW – May 26 Final execution – Oct 26	On Track	Complete pending public review and conformance with final water right, including finalizing delivery quantities



Activity / Agreement	Target Completion	Status	Notes / Critical Issues
<ul style="list-style-type: none"> MOUs with Water Agencies conveying NOD Refuge water * 			
<ul style="list-style-type: none"> Prop 1 Resolution of Final Award by CWC * 	Dec 26	On Track	
<ul style="list-style-type: none"> Final Prop 1 Funding Agreement executed by CWC Staff * 	Mar 27	On Track	
<ul style="list-style-type: none"> Partnership Agreement with Reclamation * 	Jun 26 - Final draft Nov 26 - Final sign-off	Partially complete	Complete pending conformance with final B&O Contract
<ul style="list-style-type: none"> Reimbursement Agreement within the CVP for Sites Project costs 	--	--	Reclamation had determined this to be not necessary at this time
<ul style="list-style-type: none"> Execution of Loan Agreements for Project Financing * 	Mar 27	On Track	To occur after close of Investor Commitment Escrow
<ul style="list-style-type: none"> Final Biological Opinion for project level operations (Step Two) ** 	Summer 27	Revised	Continuing to coordinate with Reclamation and fisheries agencies

Notes:

* indicates that the activity / agreement, when completed, will be posted on the Authority's Agreements webpage here:

<https://sitesproject.org/agreements/>

** indicates that the activity / agreement, when completed, will be posted on either the Authority's Planning or Permitting webpage here:

<https://sitesproject.org/permitting/>

<https://sitesproject.org/environmental-review/>

Sites Project: Permits and Agreements by Agency

Agreement / Permit Name	Needed 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
Excess Capacity Agreement(s) (formerly called 'Warren Act' ; 'Conveyance Agreements' 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 - DWR Conveyance Agreement and Reclamation Donation Agreement	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 / 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

Sites Project: Permits and Agreements by Agency

Agreement / Permit Name	Needed for Offer of Capacity	Needed for CWC Funding Agreement	Needed for Reclamation Partnership Agreement
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
County General Plan and Zoning Changes	No	No	No
Colusa County Developer Agreements – Agreements on Zoning Changes, Road Maintenance and Ownership, Taxes, Etc	Yes	Yes	Yes
Yolo County Developer Agreements – Agreements on Zoning Changes, Road Maintenance and Ownership, Taxes, Etc	Yes	Yes	Yes
Glenn 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 (Proposed New Benefit - Drought Emergency Supplies	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

Sites Project: Permits and Agreements by Agency

Agreement / Permit Name	Needed for Offer of Capacity	Needed for CWC Funding Agreement	Needed for Reclamation Partnership Agreement
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
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 - Additional Information for Investor Commitment	Yes	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