



Meeting: **Joint Reservoir Committee & Authority Board**
Agenda Item 2.2

August 23, 2023

Subject: **North Delta Water Agency Memorandum of Understanding (MOU)**
Regarding Sites Water Right Application

Requested Action:

Reservoir Committee and Authority Board consider authorizing the Executive Director to enter into a Memorandum of Understanding with the North Delta Water Agency, subject to legal counsel review, regarding issues and concerns on the Sites water right application.

Detailed Description/Background:

Staff have been working diligently with North Delta Water Agency (North Delta WA) to address and resolve concerns with the Authority's water right application. North Delta WA has a water contract with the California Department of Water Resources (DWR) for a specified quality and adequate quantity of water available for the use of diverters within North Delta WA's boundaries. That contract imposes year-round water quality criteria as measured at seven monitoring locations identified in the contract.

North Delta WA has expressed concerns that the Project may affect water users within its boundaries by reducing freshwater flows and altering surface water elevations in the Delta or by impacting DWR's ability to operate the State Water Project (SWP) in compliance with its contract with North Delta WA. Staff are proposing that the Authority enter into a MOU with North Delta WA to address its concerns. The proposed MOU is attached and includes the following key terms and mutual understandings:

- The Authority agrees to operate to its final permit approved diversion criteria and water right permit terms, including but not limited to, the proposed Wilkins Slough bypass flow criteria, the Project's proposed diversion season and amount, along with the Central Valley Project (CVP) and SWP special term proposed by the Authority.
- With regard to the CVP and SWP special term, the Authority considers DWR's contractual obligations to the North Delta WA "state law" requirements, as that phrased is used in the term.
- With regard to the Delta Conveyance Project (DCP), the Sites Project is independent of the DCP and will function with or without the proposed DCP as reflected in the Project's RDEIR/SDEIS. The Parties agree this to mean that Sites water cannot be diverted into the DCP's proposed

north Delta points of diversion without a future modification of the Sites water right permit. If there are any future consideration of a DCP north Delta points of diversion for Sites water, North Delta WA would have an opportunity to protest such change at that time.

- The Authority will contact North Delta WA if it plans to request modifying its operational criteria or if another agency proposes a modification to the Project's operational criteria.

In reliance upon these commitments and mutual understandings by the Authority in the MOU, North Delta WA would not file a formal protest to the Authority's water right application. However, North Delta WA reserves the right to challenge the Project in the future in the event of changes in the Project that would cause harm to North Delta WA or its constituents.

Staff is proposing that the Reservoir Committee and Authority Board authorize the Executive Director to enter into a Memorandum of Understanding with the North Delta WA consistent with the general form and content of the attached Memorandum of Understanding, subject to legal counsel review.

Prior Action:

None.

Fiscal Impact/Funding Source:

None. Activities under the MOU can be accomplished within the Amendment 3 Work Plan amounts.

Staff Contact:

Ali Forsythe

Primary Service Provider:

Somach/MBK

Attachments:

Attachment A – Memorandum of Understanding Between the North Delta Water Agency and the Sites Project Authority