



Topic: Reservoir Committee Agenda Item 5-1 2019 October 18

Subject: First Amendment to the USBR-Sites Cost-Share MOU

2Requested Action:

Consider approval of a recommendation to the Sites Project Authority to approve the “First Amendment to the Memorandum of Understanding for Completion of the North-of-Delta Offstream Storage investigations and Sharing of Costs” (2015 Cost Share MOU) as presented in Attachment A.

Detailed Description/Background:

On 2004 October 25, Congress authorized the CalFed Bay-Delta Authorization Act, which authorized the US Bureau of Reclamation (Reclamation) to conduct planning and feasibility studies for the Sites Reservoir and four other storage projects. To complete the draft and final Feasibility Reports, Section 5(a) of the executed 2015 Cost Share MOU contemplated that Reclamation could spend up to \$2,000,000 as in-kind services commensurate with the Sites Project Authority spending up to \$5,000,000 of in-kind services.

However, actual spending has been substantially higher due to:

- a. \$4,350,000 from congressional appropriations (in federal fiscal year 2017) to Reclamation in accordance with the WIIN Act, Section 4007;
- b. The Authority and Reservoir Committee having spent and is committed to spend over \$27,000,000 by the end of the Phase 2 (2019) Reservoir Project Agreement; and
- c. The California Water Commission having executed an early funding agreement with the Sites Project Authority in the amount of \$40,818,884. In total, the current non-federal commitment of funding exceeds \$67,800,000.

NOTE: A summary of the cost share since the CalFed authorization is provided in Attachment B.

Further, the original 2015 Cost Share MOU expired on July 14, 2020.

The proposed first amendment acknowledges the non-federal funding commitment, increases Reclamation’s spending to \$22,000,000, and extends the duration to 5-years from the date it is signed by Reclamation (i.e. to fall 2024).

Prior Reservoir Committee Action:

None. However, on June 17, 2015, the Authority Board Chairman signed the original 2015 Cost Share MOU and on July 14, 2015, it was signed by Reclamation’s Mid-Pacific Region’s Regional Director.

Status:	Working draft	Preparer:	Watson	Phase:	2	Version:	A
Purpose:	Sites Reservoir Committee Staff Report	QA/QC:		Date:	2019 October 18		
Caveat:	Informational	Authority Agent:	Trapasso	Ref/File #:	10.401-014.321		
Notes:				Page:	1	of	2

Fiscal Impact/Funding Source:

Enables Reclamation to increase federal spending on studies needed to complete the congressionally authorized feasibility studies. In accordance with Reclamation directives and standards applicable for a project's planning phase, the federal cost share can't exceed the non-federal cost share.

Staff Contact:

Jim Watson/Joe Trapasso

Attachments:

Attachment A - First Amendment to the Memorandum of Understanding for Completion of the North-of-Delta Offstream Storage investigations and Sharing of Costs.

Attachment B - Summary of Federal, State, & Local Cost Share, dated 2019 September 17.

FIRST AMENDMENT
to the
MEMORANDUM OF UNDERSTANDING
FOR COMPLETION OF THE
NORTH-OF-THE-DELTA OFFSTREAM STORAGE INVESTIGATION
AND SHARING OF COSTS
By and Between
U.S. Department of the Interior,
Bureau of Reclamation, Mid-Pacific Region
and
Sites Project Authority

A Memorandum of Understanding (MOU) was made and entered into by and between the United States Department of the Interior, Bureau of Reclamation, Mid-Pacific Region, and the Sites Joint Powers Authority (Sites JPA) for the purpose of undertaking and completing ongoing feasibility studies and related environmental compliance activities for the North-of-the-Delta Offstream Storage (NODOS) Investigation. NODOS is one of the CALFED Program Surface Storage Program Feasibility Studies identified in the CALFED Bay-Delta Program Programmatic Record of Decision (CALFED ROD) (August 2000) and study authorizations cited therein.

WHEREAS, Sites Project Authority has joined Reclamation in conducting and advancing the ongoing NODOS Investigation, and these Parties recognize the unique relationships and opportunities, mutual and exclusive needs and dependencies, Federal and non-Federal standards and procedures, potential outcomes and applications of the study results and related decision making and approval processes.

WHEREAS, Reclamation and the Sites Project Authority mutually recognize the need to update some provisions of the original Memorandum of Understanding and also to extend all provisions of the original and amended documents.

WHEREAS, The Sites Project Authority and Reclamation both intend to advance the ongoing NODOS Investigation to the point of completion and eligibility for funding under the Water Infrastructure Improvements to the Nation Act (WIIN) or other future legislation.

NOW, THEREFORE, in consideration of continuing mutual and dependent covenants and

conditions upheld previously and contained herein, each Party acknowledges results in respective benefit, the Parties agree as follows:

A1. Amendment to Definitions, section 1 in the original MOU

- A1(a) Update to the definition of Parties, 1(a) in the original MOU. The non-Federal Partner, Sites Joint Powers Authority, name is corrected: “Sites Project Authority” is substituted for the “Sites Joint Powers Authority” as a party to the MOU.

A2. Amendment to Financial Obligations, Section 5 in the original MOU

- A2(a) The budget for Reclamation’s cost share of up to \$2,000,000, as identified in Section 5(a) of the MOU, is increased by \$20,000,000 for a new total cost share of \$22,000,000. The budget for the Sites Project Authority’s cost share of up to \$5,000,000, as identified in Section 5(a) of the MOU, is increased by \$62,800,000 for a new total cost share of \$67,800,000.
- A2(b) The maximum Federal cost share of \$22,000,000 also represents the maximum federal expenditure. The Sites Authority may choose to spend more than \$22,000,000 but the Federal cost share will not be increased for the purpose described in Section 2 of the Original MOU. Any requirement and/or expectation for 50/50 cost sharing is henceforth removed.

A3. Other Terms Remain the Same.

Other than the cost-share increase and update to definitions, all other terms and conditions of the MOU shall remain the same.

A4. Counterparts.

This First Amendment to the MOU can be executed in duplicate and each original, once fully executed, shall constitute one and the same instrument.

A5. Effective Date.

This First Amendment to the MOU for the Completion of the North-of-Delta Offstream Storage Investigation and Sharing of Costs will become effective upon full execution.

A6. Term.

This MOU will expire 5 years from Reclamation’s signature of the Amendment to the MOU.

A7. Signatures and Authorities.

In Witness Whereof, the Parties execute this First Amendment to the MOU on the date and year indicated below.

Non-Federal Partner:

Board Chairman
Sites Project Authority

Date

Reclamation:

Regional Director
Mid-Pacific Region

Date

Topic: **Sites Reservoir Project**

2019 Sept 27

Subject: **Federal, State, & Local Cost Share**

Purpose: Response to the Office of Management and Budget’s request to summarize the federal and non-federal funding that has been committed to advance the Sites Reservoir (aka North of Delta Offstream Storage) Project through a collaborative local, state, and federal partnership that will create water-based assets among other benefits.

Category	(dollars in millions)	Federal	Non-Federal	
		Reclamation	Dept Water Resources	Authority & Res. Comm.
CalFed (through 2014) ¹		\$ 13.	\$ 42.	\$ 1.75
Local cash call (2015)				\$ 0.2
Local cash calls (2016 - 2019)				\$ 27.
Prop 1 (WSIP) Early Funding Agreement (2019 June 17)				\$ 40.8
Local funding (April 1, 2020)				TBD
Reclamation budget reallocation (federal FY 2019)		~ \$ 1.		
WIIN ² FY 2017 appropriations		\$ 4.35		
WIIN FY 2018 (pending authorization of Senate bill 2470)		\$ 6.		
Total:		\$24. 4	> \$ 111.75	

NOTES:

- If the traditional cost sharing formula had been applied, federal funding through 2014 should have been increased by \$ 30.75 m [$\$ 42 + \$ 1.75 + - \$ 13$ m] and through 2019 should be increased by at least \$ 87.4 m [$\$ 111.75$ m - \$ 24.4 m].
- If the traditional cost sharing formula is applied *prior* to WIIN Act becoming law in 2016, then apply the cost-sharing as a non-federal project at the 25% maximum (i.e. non-federal \$ = 75% of subtotal \$), the federal funding should be increased by \$ 42.2 m. [$\$ 30.75$ m + \$ 0.2 m + 25% * (non-federal \$/75%) - (\$ 1 m + \$ 4.35 m + \$ 6 m) where non-federal \$ = \$ 27. + \$ 40.8)]

¹ On 2004 October 25, Congress authorized the Calfed Bay-Delta Authorization Act, which includes authorization to conduct planning and feasibility studies for the Sites Reservoir. Source of funds is from the executed 2015 Memorandum of Understanding between Reclamation and the Sites Project Authority (signed 2015 July 14). In addition, CalFed identified 5 water storage projects with a traditional 50% federal to 50% non-federal cost share.

² WIIN Act was signed into law on December 16, 2016. If project is deemed feasible as a federal project (WIIN §4007(b)), construction cost share is 50% federal to 50% non-federal. If project is deemed feasible as a non-federal project (WIIN §4007(c)), the construction cost share can't exceed 25% federal to 75% non-federal.