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October 29, 2024

Submitted Electronically to CWC@water.ca.gov

Matthew Swanson, Chair
California Water Commission
P.O. Box 942836
Sacramento, CA 94236

Subject: Submittal of the Water Storage Investment Program Quarterly Report No. 25 for the Los Vaqueros Reservoir Expansion Project

Dear Chair Swanson:

Contra Costa Water District is pleased to submit the Water Storage Investment Program Quarterly Report No. 25 for the Los Vaqueros Reservoir Expansion Project. The report provides an update on project status following the July 1, 2024 to September 30, 2024 quarter.

If you have any questions or require additional information, please contact me at (925) 688-8018 or kochenduszko@ccwater.com, or Katie Kelley at (925) 688-8064 or kkelley@ccwater.com.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Ochenduszko".

Kyle Ochenduszko
Assistant General Manager

KO/KK:sf

Enclosures

Water Storage Investment Program Quarterly Report

The Quarterly Reporting covered by this template documents applicants' progress toward complying with regulation section 6013 to receive a final WSIP funding hearing with the Commission as well as any changes to the physical quantity and type of public benefit being provided by the project.

Applicants must provide an update of the project status for the requirements and milestones listed below. Applicants may deviate from this fill-in format, however, please provide the information requested in this template.

Project Information

Project name:

Los Vaqueros Reservoir Expansion Project

Applicant name:

Contra Costa Water District (CCWD)

Date:

10/29/2024

Reporting period:

Quarterly Report No. 25 - July 1, 2024 to September 30, 2024

Provide a brief project description:

The Los Vaqueros Reservoir Expansion Project would increase Bay Area and Central Valley water supply reliability, develop water supplies for wildlife refuges, and improve water quality while protecting Delta fisheries and providing additional Delta ecosystem benefits. The Phase 2 expansion would increase the Los Vaqueros Reservoir capacity from 160,000 acre-feet to 275,000 acre-feet and add new and modified conveyance facilities to provide broad environmental, water supply reliability, operational flexibility, water quality, and recreational benefits. Los Vaqueros Reservoir was originally constructed and expanded by CCCWD to address local water quality and supply issues.

Provide a brief description of public benefits:

The Los Vaqueros Reservoir Expansion Project would provide reliable water for South of Delta wildlife refuges, improve water quality, increase water supply reliability, provide emergency water supply storage, enhance recreational facilities, enhance regional collaboration, and provide economic growth with the creation of an anticipated 20,000 jobs.

Current total project cost:

As of September 2023, \$1.433B

General Update and Key Issues

Provide a general update and describe any **key issues** that occurred during this reporting period. You may attach additional documents or pages if more space is needed:

On June 5, 2024, the Contra Costa Water District Board of Directors (Board) authorized execution of Amendment No. 6 to the Multi-Party Cost Share Agreement for the Los Vaqueros Reservoir Expansion Project (Project). Concurrent with this authorization, the Board directed the General Manager to engage the general managers of the Los Vaqueros Reservoir Joint Powers Authority (JPA) Member Agencies (Member Agencies) to determine their commitments to the Project based on the updated cost, estimated benefits, and defined agreement terms. The Board also directed the General Manager to provide a report to the CCWD Board in September on the Member Agencies' commitments and responses.

On June 11, 2024, the CCWD General Manager issued a letter to the general managers of the JPA Member Agencies summarizing the key outstanding, unresolved issues in the Project and seeking an update on each member's commitment to the Project. The key outstanding, unresolved issues are summarized below:

1. Design and Construction Agreement: Member Agencies had not agreed on a methodology for allocating risk and responsibility for the total cost of construction, including potential cost overruns.
2. Facilities Usage Agreement: Member Agencies had not agreed on how the various facilities would be utilized, including CCWD's Los Vaqueros Reservoir and conveyance facilities, and East Bay Municipal Utility District's conveyance facilities. Additionally, Member Agencies had not agreed on the usage fees associated with use of CCWD's existing facilities as part of the Project.
3. Backstop Agreement: A backstop plan and agreement for CCWD are needed to ensure adequate assurances that water supply and water quality for CCWD customers will be maintained at acceptable levels during dam demolition, reconstruction, and refilling.
4. Los Vaqueros JPA Agreement: CCWD believes more work is needed to incorporate protection of its customers and their significant past investments into the terms for various Project agreements and permits, consistent with foundational Project documents, agreements, and environmental approvals.
5. Status of Member Agency Business Case: Member Agencies have stated that additional work is needed to develop their business case for Project participation.

Following CCWD's General Manager's letter in June 2024, several JPA Member Agencies have conducted public meetings where their respective Boards received reports on the outstanding, unresolved issues and updates to their individual business case. The reports underscored rising Project costs and increased environmental regulations that have decreased anticipated Project benefits. Additionally, the discussions during these meetings have highlighted Member Agency concerns regarding the updated business case analysis and have resulted in recommendations of some Member Agencies to decrease their level of participation in the Project. CCWD has received several responses to the June 11 correspondence. Most Member Agencies have indicated ongoing support to continue evaluating the Project and noted that additional time is needed to be able to definitively respond to CCWD's June 11 inquiry. Responses from the Member Agencies indicate that alignment is still lacking on several outstanding policy questions, but progress was made on negotiation of some issues.

Based on this information, at its September 18, 2024 meeting the CCWD Board provided direction to staff to develop an approach to conclude participation in the Los Vaqueros Reservoir Expansion Project. In Q4 2024, CCWD staff will work with the JPA, Member Agencies, and state and federal partners to determine the best approach to end CCWD's participation in the Project. The JPA and Member Agencies have requested continued discussions with CCWD to evaluate changes to the Project to address CCWD's concerns.

Attach latest project schedule. In addition, describe below how the actual schedule is progressing in comparison to the schedule provided in the last reported schedule:

During Q2 2024, the Project underwent an internal near-term and construction schedule update reflecting the delay related to the development of partner agreements and receipt of the approval memo from Reclamation to begin negotiations for Federal agreements (which was issued during Q3 2024). The result of this update reflects an anticipated CWC hearing date in July 2025. However, based on direction received on September 18, 2024, CCWD intends to conclude participation in the Los Vaqueros Reservoir Expansion Project. CCWD staff will work with the JPA, Member Agencies, and state and federal partners to determine the best approach to end participation in the Project during Q4 2024.

Note any milestones or accomplishments that occurred since submittal of the prior Quarterly Report:

Continued progress on partner agreements. Held in-person Facilities Usage Agreements in-person negotiations.

Items Required Prior to Scheduling a Final Award Hearing

The following items must be provided prior to scheduling a final award hearing. Please describe the status and include the estimated completion date for the following items. These dates should align with any attached project schedule.

1. Contracts for non-public benefit cost share:

List all required contracts for non-public benefit cost share, and provide the amount of associated funds, the status and estimated completion date. Please note any issues or concerns that have, will, or could affect the timing of executing contracts for non-public benefit cost share.

Contract Name	\$ Amount	Status	Est Completion Date
Service Agreement	TBD	Local cost share agreements have been amended amongst project partners and extend into FY 2025. The Service Agreement between the Authority and the Authority Members is being developed to cover local share of project costs. The schedule for finalizing and executing the Service Agreement sets a target date for May 2025.	May 2025

2. Contracts for administration of public benefits (CAPB):

Provide a status for each applicable administering agency Draft and Final CAPB and estimated completion date for both. The Draft CAPB completion date is when Commission receives the Draft CAPB for a subsequent Commission meeting. The Final CAPB completion date is when it will be executed. Please note any issues or concerns that have, will, or could affect the timing of executing CAPBs or could change the magnitude of the public benefits that could affect cost allocation.

CAPB Admin Agency	Status	Est Completion Date
SWRCB		
CDFW	Discussions continued with CDFW on individual project contract development. Drafts have been developed and negotiations are expected to continue in the fourth quarter of 2024.	December 2024; to be updated pending Project determination
DWR	Discussions continued with DWR on individual project contract development. Drafts have been developed and negotiations are expected to continue in the fourth quarter of 2024.	December 2024; to be updated pending Project determination

3. Completed feasibility studies:

Completion Date: October 2021

4. Complete environmental documentation:

Provide the status and estimated completion date for all required environmental documentation (draft and final) for the project, including all Board resolutions adopting or certifying CEQA environmental documents, CEQA findings, mitigation monitoring and reporting program, Notice of Determination (NOD), and CEQA Addenda, and all NEPA completion documents, including the Record of Decision (ROD). Please note any issues or concerns that have, will, or could affect the timing of providing complete environmental documentation at the state or federal level.

Environmental Document	Status	Est Completion Date
State Document	Final Supplement to the Final EIS/EIR was released February 2020. CCWD Board approved in May 2020.	August 2020
Federal Document	Same as update for State Document.	

5. All required federal, state, and local approvals, certifications, and agreements:

List permits needed for project to begin construction, describe status in acquiring them, and include estimated date to be acquired. Please note any issues or concerns that have, will, or could affect the timing of acquiring all federal, state, and local approvals, certifications, agreements, and permits necessary to begin project construction.

Approvals / Certifications / Agreements / Permits	Status	Est Date Acquired
<u>USFWS</u> <ul style="list-style-type: none"> • ESA ITP – Construction BO • Bald and Golden Eagle Act ITP 	Section 7 of the ESA is initiated by Reclamation, and the construction terrestrial BO is in development. Long-term eagle incidental 'take' permit was issued March 28, 2023.	December 2024
<u>CDFW</u> <ul style="list-style-type: none"> • ESA ITP – Construction (terrestrial) • ESA ITP – Operations (aquatic) 	Construction terrestrial ITP is in progress. Operations aquatic ITP was issued March 1, 2024.	December 2024
<u>SHPO & Reclamation</u> <ul style="list-style-type: none"> • Section 106 of the National Historic Preservation MOA 	In Progress. Final version of the MOA between Reclamation and the State Historic Preservation Officer is with Reclamation Management for review. Upon completion of this review, the MOA will be issued for execution. Other federal signatories include the USACE and the USEPA.	November 2024
<u>USACE</u> <ul style="list-style-type: none"> • Clean Water Act Section 404 Permit for Discharge of Dredged or Fill Materials into Waters of the U.S. <u>CVRWQCB</u>	Section 404 - In Progress. USACE will need Reclamation-initiated Section 7 of the ESA (ITP Construction BO) and Section 106 of the NHPA (MOA) consultations completed before it can issue its permit and decision document. Section 401/SWP - CVRWQCB issued permit June 30, 2022.	March 2025

Approvals / Certifications / Agreements / Permits	Status	Est Date Acquired
<ul style="list-style-type: none"> Clean Water Act Section 401 Water Quality Certification & State Wetlands Procedures 		
<u>CDFW</u> <ul style="list-style-type: none"> Section 1600 Lake and Streambed Alteration Agreement 	In Progress. CDFW staff drafting Master Agreement.	December 2024
<u>DSOD</u> <ul style="list-style-type: none"> Approval to Construct 	Issued May 3, 2024.	Complete
<u>Reclamation</u> <ul style="list-style-type: none"> Record of Decision 	Requires execution of the SHPO & Reclamation Section 106 of the NHPA MOA and issuance of the USFWS ESA ITP construction BO.	May 2025

Acronyms:

BO = Biological Opinion

CDFW = California Department of Fish & Wildlife

CVRWQCB = Central Valley Regional Water Quality Control Board

DSOD = California Department of Water Resources Division of Safety of Dams

ESA = Endangered Species Act

ITP = Incidental Take Permit

MOA = Memorandum of Agreement

NHPA = National Historic Preservation Act

SHPO = State Historic Preservation Officer

USACE = United State Army Corps of Engineers

USEPA = United States Environmental Protection Agency

USFWS = United States Fish & Wildlife Service

Items Required to Execute a Funding Agreement

Provide an update on the following documents needed to execute a funding agreement for the project and indicate if any significant change has occurred. The Commission may request updated information prior to executing a funding agreement.

	Status	Significant Change?
Applicant's audited financial statements	Under applicable law, the Authority and CCWD conduct annual audit reports that are filed with the State Controller's Office by the end of June of the following fiscal year. No changes pending completion of the audit. At the inception of the program, CCWD submitted two years of financial statements to the CWC along with the WSIP Financial Management Systems Questionnaire.	No
Final project costs, schedule, and scope of work	The most recent joint project cost estimate and construction schedule were developed in July 2023.	No
Evidence of bilateral communications with operators and owners of potentially impacted facilities regarding potential impacts of the proposed project to their facilities	Evidence of bilateral communications was provided in the WSIP application, and further pertinent evidence will be provided as communications between responsible agencies is initiated.	No
Limited waiver of sovereign immunity	CCWD is not a tribe and the project is not expected to impact tribal lands; thus, acquisition of a limited waiver of sovereign immunity is not applicable.	No

Status Update

Provide a status update for the following and indicate if any significant change has occurred. The Commission may request updated information prior to executing a funding agreement.

	Status	Significant Change?
Labor Compliance	Labor compliance program is expected to begin prior to qualifying work (construction) in approximately 2025.	No
Urban Water Management Plans	CCWD's 2020 Urban Water Management Plan was approved by DWR May 23, 2022.	No
Agricultural Water Management Plans	CCWD's service area includes a small amount of agricultural water customers, but CCWD is not required to complete an AWMP based on the requirements described in SB X7-7. CCWD is a participant in the GSP development of the East Contra Costa Subbasin; the GSP was finalized in October 2021 and all implementing GSAs adopted the GSP. The GSP was approved by DWR in July 2023.	No

	Status	Significant Change?
Potential effect on other conditional eligible projects on the applicant's public benefits	Any WSIP conditionally-eligible project that has a nexus to the Delta could have an impact on CCWD's water supply and to the Project's ability to deliver public benefits. As more data becomes available on other WSIP projects, CCWD and the Project team will continue to evaluate the Project's ability to deliver public benefits.	No

Other Pertinent Information:

1. Sources of Funding

List sources of funding (e.g., Federal, State grants, local partnerships, rate payers, loans...) to move the project to construction and provide the associated amount of funds from that source and a status of obtaining that funding source below:

Funding Sources	\$ Amount	Status	Est Completion Date
Federal	\$223M	Up to 25% cost share authorized in 2020, \$174M appropriated for construction to date.	TBD
CA State	\$477M	Anticipated CWC funding.	July 2025
Local	\$733M	Membership Contributions, WIFIA Loan, and Other Financial Instruments.	2025

2. Early Funding Agreement Status

Provide the status of the Early Funding Agreement (EFA), as applicable, and the percentage of EFA funds expended. If the EFA has been closed, describe how the remaining work needed to move the project to a final award hearing will be financed.

Status	Percentage of EFA funds expended
An Early Funding Agreement with CWC provides for a 50% cost share of eligible project costs during pre-construction (maximum early funding was 5% of the MCED, or \$23,877,917). An amendment was executed in November 2022 that extended the agreement through December 31, 2023 and added additional early funding of \$927,917 to the total award amount for an inflation adjustment. This agreement is complete and was fully billed as of December 31, 2023. CCWD submitted the initial project completion report to the California Water Commission for its review on May 17, 2024, with final approval received on September 6, 2024.	100%