



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

May 22, 2026

Via Email

Presiding Hearing Officer Nicole Kuenzi
Administrative Hearings Office
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95814
Sites-wr-application@waterboards.ca.gov

Re: Sites Reservoir Project, Petition for Assignment of State-filed Application 25517, Water Right Application 25517X01, and Petitions for Release from Priority of State-Filed Applications 25513, 25514, 25517, 22235, 23780, 23781, of Sites Project Authority

Dear Officer Kuenzi,

The Metropolitan Water District of Southern California (Metropolitan) respectfully submits this comment letter to the State Water Resources Control Board's (State Water Board) Administrative Hearing Office (AHO) regarding its Draft Decision and Draft Water Right Permit issued to the Sites Project Authority on March 20, 2026 (Draft Decision and Order). This comment letter is in addition to, and incorporates by reference, comments submitted by the State Water Contractors and comments jointly submitted by Metropolitan and certain Sites Reservoir Project (Project) Participants that are public water agencies located south of the Sacramento-San Joaquin River Delta (Bay-Delta). Metropolitan also supports comments submitted by the Department of Water Resources (DWR).

Metropolitan, a regional water wholesaler, is comprised of 26 member agencies (14 cities, 11 municipal water districts, and one county water authority) that serve 19 million people in six counties in Southern California. Metropolitan's member agencies serve over 300 wholesale and retail public water systems in its 5,200 square-mile service area. Metropolitan's mission is to provide its service area with adequate and reliable supplies of high-quality water to meet present and future needs in an environmentally and economically responsible way.

Metropolitan provides imported water supplies to its member agencies from two primary sources: the Colorado River via the Colorado Aqueduct and Northern California watersheds via the Sacramento-San Joaquin Delta (Bay-Delta) and the State Water Project (SWP). Even though the development of local supplies that include conservation, recapture, recycling, and storage are important parts of our water supply portfolios, supplies conveyed through the Bay-Delta will continue to be important and therefore must be protected. Metropolitan herewith provides background and key policies that drive our support for the Project. Additionally, key areas of concern in the Draft Decision and Order are noted because those terms may limit or jeopardize the original benefits that were envisioned from the Project.

I. Metropolitan’s Support for the Sites Reservoir Project Planning and Permitting Process

Since 2017, Metropolitan has invested approximately \$31 million into planning, permitting, and environmental review for the Project because of its potential to improve water management flexibility and reliability as climate change intensifies hydrologic variability. Metropolitan’s current planning level percentage is approximately 22 percent of the Project. However, to date, Metropolitan’s Board has not yet acted on its level of participation, if any, in the financing and construction of the Project.

Metropolitan management and staff evaluate water supply projects and make recommendations to Metropolitan’s Board pursuant to Metropolitan’s mission, Board direction, and Board-adopted policies and principles, further described herein. The final permitting of Project-related water rights will directly inform the Metropolitan Board’s ultimate decision regarding its participation in the Project. Metropolitan’s potential investment of approximately 22 percent of the Project would help meet the needs of our communities in Southern California and across the State. However, there are numerous concerning terms in the Draft Decision and Order that would reduce the benefits of the Project and would affect Metropolitan’s decision-making regarding the Project.

II. Draft Decision and Order – Key Areas of Concern

Metropolitan appreciates the AHO’s administration of the water rights proceeding and the issuance of the Draft Decision and Order. Metropolitan appreciates the AHO’s preliminary determination that at least approximately 1 million acre-feet of water per year is available for appropriation.

However, numerous proposed terms in the Draft Decision and Order are concerning with respect to:

1. Reduced water supply benefits of the Project and resulting reduced affordability;

2. Conflation of the Project with the SWP and unlawful attempted further conditioning of the SWP's water rights without notice, due process, or jurisdiction;
3. Failure to conduct appropriate public trust balancing;
4. Permit terms and operational constraints that are not necessary, not supported by evidence, and/or too vague to be implementable; and
5. Inclusion of terms that potentially conflict with ongoing regulatory processes, including at the State Water Board.

The proposed terms of concern to Metropolitan, if maintained, would not only reduce the benefits and affordability for Metropolitan but would also reduce the ecosystem benefits funded by the state and federal governments. Furthermore, the proposed terms would result in additional constraints that are not substantiated in the Draft Decision and Order, nor were the proposed terms developed in a manner required by the Public Trust doctrine because the public trust was not balanced with the public interest, including urban, industrial, agricultural and recreational uses.

The Draft Decision and Order also contains terms that could condition the SWP water rights and fails to recognize that the SWP has its own water rights and legal authorizations and cannot be regulated through a third party's water right. The Sites Reservoir Project water would be "non-SWP water," not SWP water. The Project is not a part of SWP nor is it an extension of the SWP. Any further conditioning of the SWP water rights cannot be completed as part of the Sites Reservoir Project's water rights proceeding. The State Water Board exercises its authority over the SWP as part of the 2018 Water Quality Control Plan implementation and through water right Decision 1641. Metropolitan supports comments made by the State Water Contractors and DWR related to the SWP that were submitted to the State Water Board in separate letters.

There are also several terms in the Draft Decision and Order that potentially conflict with ongoing regulatory processes, some of which are before State Water Board. For example, the permit term that includes an unimpaired bypass flow of 55% unimpaired hydrograph as outflow is pre-decisional as it could not be off-ramped unless the State Water Board adopts and implements a very specific version of the Draft Water Quality Control Plan and assigns the Project a predetermined implementation path. Another example is the permit term that would require State Water Board review and approval of the Project's future permits issued by the California Department of Fish and Wildlife, where the State Water Board could hinder full implementation of future Incidental Take Permits. These proposed permit terms should be rejected because they would unlawfully foreclose the range of future decisions that could be made by the State Water Board and the California Department of Fish and Wildlife.

Metropolitan, together with other potential investors, is concurrently providing detailed comments and suggested edits in a separate letter and accompanying technical and legal

memorandum and appendices, incorporated by reference herein. Those suggested edits are offered to correct, streamline, and clarify specific language and permit terms to ensure that the Sites Reservoir Project would be best positioned for presentation to and consideration by Metropolitan's Board, in light of Metropolitan's priorities and objectives described below.

III. Metropolitan's Legislative Priorities and Principles and the Sites Reservoir Project

Metropolitan's 2026 Legislative Priorities and Principles set forth an integrated, collaborative approach to managing Southern California's watersheds, water resources, and water infrastructure to ensure long-term resilience and reliability for communities and ecosystems. Consistent with these priorities and principles, a top priority for Metropolitan is to continue to provide support for imported water supply resiliency and reliability, including planning for the Sites Reservoir Project in alignment with Board direction. Metropolitan also supports administrative actions to advance the Sites Reservoir Project, consistent with the Board's action, to advance this Project. Another top priority for Metropolitan is to improve water affordability, especially for disadvantaged communities. Metropolitan's 2026 Legislative Priorities explicitly identifies the Sites Reservoir Project as a project that would support water supply resiliency and reliability, and thus it is a priority for Metropolitan to continue to support the Project as authorized by the Board and provided that its final water rights permit terms maximize water supply benefits and affordability.

IV. Metropolitan's Bay-Delta Policy Objectives and Framework and the Sites Reservoir Project

Metropolitan's Board of Directors most recently adopted its Bay-Delta Policy Objectives and Framework in October 2022. The Bay-Delta Policy Objectives define Metropolitan's overarching goals to protect reliable, high-quality water supplies in an environmentally sensitive manner, consistent with Metropolitan's mission.

Metropolitan's support for the Sites Reservoir Project is consistent with these policy objectives, which include:

- Promoting a sustainable Bay-Delta within Metropolitan's integrated planning and implementation approach to managing finite water resources for long-term resilience and reliability, meeting both community and ecosystem needs; and
- Addressing the risks associated with climate change.

Metropolitan's support for the Sites Reservoir Project is also consistent with the policy principles intended to advance its Bay-Delta Objectives, which include:

- Protecting and restoring aquatic species and habitats based on best available science;
- Partnering in watershed-wide approaches to develop comprehensive solutions;

- Protecting water supply reliability and quality;
- Investing in actions that provide seismic and climate resiliency;
- Seeking flexible operations, water management actions, and infrastructure solutions;
- Maintaining and pursuing cost effective financial investments;
- Fostering broad and inclusive engagement of Delta interests and beneficiaries; and
- Promoting innovative and multi-benefit initiatives.

Accordingly, Metropolitan’s support for the Sites Reservoir Project is consistent with its Bay-Delta policies and objectives, as authorized by the Board and provided that its final water rights permit terms maximize water supply benefits and affordability.

V. Key Benefits of Sites Reservoir Project

The following is a summary of the key benefits of the proposed Project:

- Climate Change Resiliency: The Project could enhance the ability to manage the effects of climate change on water supply, including more frequent, intense, and prolonged droughts, more intense levels of precipitation/runoff, faster snowmelt, more rain and less snow in the upper watershed, and increased flood flows.
- Dedicated Ecosystem Water: The state and federal investment in this Project will make it one of the first reservoirs in California with dedicated ecosystem water, enhancing deliveries to National Wildlife Refuges, reservoir cold water pool, and anadromous fish habitat.
- Fish Friendly Wet-Year Storage, Dry-Year Yield: The Project will enhance the ability to store unregulated flows during high runoff events and release those water supplies for environmental and water supply purposes during drier periods.
- Local Flood Control and Recreational Opportunities: The Project will enhance flood control protection for small communities prone to flooding near the Project and expand recreational opportunities in northern California.
- Significant Local and Statewide Support: The Project has significant local and statewide support from more than 175 organizations, agencies, businesses, and bipartisan elected officials.

These key benefits align with Metropolitan’s Legislative Priorities and Principles and its Bay-Delta Policy Objectives articulated above provided that the final water rights permitting for the Project facilitates and maximizes these key benefits.

VI. Conclusion

For the reasons stated herein and more fully in accompanying letters and memoranda, multiple Project water right permit terms should be struck in their entirety or significantly amended. The

Sites Reservoir Project is poised for Metropolitan's potential support given that the Project is identified as consistent with its Bay-Delta Policies and Legislative Policies and Procedures. However, the final water right permit terms should be amended to (1) maximize the Project's water supply benefits and affordability, (2) remove the improper conflation of the Project with the SWP, (3) conduct the appropriate and lawful public trust analysis, (4) remove unnecessary and legally unsupported operational constraints, and (5) remove terms that could conflict with ongoing regulatory processes. We look forward to continued work with the State Water Board to resolve our concerns and finalize the water right permit for the Sites Reservoir Project, which would be the largest reservoir constructed in California in the last 50 years. We know that the State Water Board understands the importance of this Project and will take all appropriate action to revise the proposed permit terms as quickly as possible.

Sincerely,

Nina E. Hawk

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Chief of Bay-Delta Resources / Group Manager, Bay-Delta Initiatives