



October 23, 2023

Mr. Austin Kerr
 Air Quality & GHG Analyst
 The Governor’s Office of Planning and Research (OPR)
 1400 10th St # 100
 Sacramento, CA 95814

Re: Opposition to Sites Reservoir’s SB 149 Application – Infrastructure Streamlining

Dear Mr. Kerr,

On behalf of the undersigned organizations, **we strongly oppose the Administration’s consideration of the proposed Sites Reservoir’s application to be certified under the new Senate Bill (SB) 149 Infrastructure Streamlining program.** The Administration should not consider, or certify, Sites Project Authority’s application for certification under the SB 149 program because the Governor’s Office of Planning and Research (OPR) has not yet issued project eligibility guidelines as recommended by SB 149, and the proposed Sites Reservoir (Sites) is an environmentally destructive and controversial project.

SB 149 was a core part of the Governor’s 11-trailer bill package from June 2023 that significantly changed judicial review, environmental permitting, imperiled species protections, water law, and community engagement among other important laws and policies. SB 149’s purpose is to

“provide unique streamlining benefits...for critical state, regional, and local investments in *climate resiliency, safety, and infrastructure maintenance while maintaining the environmental and public engagement benefits* of this division for projects that provide the public benefits, including environmental and climate-related benefits...and put people to work as soon as possible.”

Public Resources Code (PRC) § 21189.80(g)(emphasis added).

We agree that our state – indeed the planet – is facing a climate crisis. And we agree that we need to move forward with climate infrastructure quickly. However, **Sites Reservoir does not meet the infrastructure criteria as outlined in SB 149, as detailed below.**

First and foremost, **OPR and the Governor’s Office should not consider or certify Sites under the infrastructure streamlining program because OPR has not yet issued guidelines to determine**

project eligibility as recommended under the text of SB 149. *See* PRC § 21189.82(b). According to OPR’s website, guidelines are expected to be issued in Fall 2023. Issuing a rushed certification in 15 days, especially without these guidelines, risks misapplication of SB 149 by the Administration and continues to needlessly rush this process, furthering the previously rushed legislative process this summer.

Moreover, with or without guidelines, **Sites is not a green, environmentally beneficial project. Instead, it is environmentally destructive, controversial, and is beyond the type of green investment intended for streamlining under the SB 149 program.** *See* PRC § 21189.80(g). Sites Reservoir will not fulfill SB 149’s most basic purpose because it does not contribute to statewide climate resiliency or provide more environmental benefits that outweigh the destructive harms. Indeed, approval of Sites is likely to discourage other better, more local, and less expensive solutions to future water supply challenges.

Sites will also have significant impacts to disadvantaged communities due to construction impacts, and the impacts of water diversions and discharges on freshwater flows, temperature, water quality and related impacts to imperiled species. SB 149 explicitly requires water-related projects to “[a]void or minimize significant environmental impacts in any disadvantaged community.” *See* PRC § 21189.82(c)(1). These impacts are not mitigated in the Supplemental Draft Environmental Impact Statement/Revised Draft Environmental Impact Report (SDEIS/RDEIR), and therefore it is premature and inappropriate for OPR to determine that Sites would meet this critical requirement of SB 149 certification.

Sites is an environmentally destructive project. Public Resources Code section 21189.81(h)(1)(B)(ii) states that any water-related storage project must “minimize the intake or diversion of water except during times of surplus water and *prioritizes the discharge of water for ecological benefits* or to mitigate an emergency, including, but not limited to, dam repair, levee repair, wetland restoration, marshland restoration, or habitat preservation, or other public benefits” (emphasis added). The Sites Project Authority plans to divert water from the Sacramento River at any time that water is legally available, meaning there is sufficient water to meet all water rights with priority and the absolute minimum instream flows required to protect endangered species as required by the State Water Resources Control Board. This means not only would the project divert water from the imperiled Sacramento-San Joaquin Delta Estuary during wet years, but even during dry years, when maintaining instream flows is critical to protecting water quality, temperature and commercially, recreationally, and tribally important species. The State Water Resources Control Board is currently in the process of updating water quality requirements for the Bay-Delta watershed, which would likely affect Sites diversions and operations.

Sites does not prioritize water for ecological benefits in its operations. As stated above, that is a clear requirement of SB 149. *See* PRC § 21189.81(h)(1)(B)(ii). The Sites Project Authority plans to allow each Storage Partner to manage their own water storage space independently, to the extent feasible. The State of California has invested in this project through the Proposition 1 Water Storage Investment Project and is a Storage Partner with Sites Project Authority to secure a block of water intended for wildlife refuges. However, by the project terms, all water deliveries will be treated uniformly, which does not guarantee those water deliveries to refuges, especially in critically dry years. Furthermore, Sites has no available plan for conflict resolution to demonstrate that, in the event water is not available to meet all Partners’ needs, water for ecological benefits would take precedence. Therefore, many of the primary “environmental benefits” are not certain to occur and do not outweigh the considerable impacts the project will cause. *See* § PRC 21189.80(g).

Sites will contribute significantly to greenhouse gas emissions. SB 149 states that “the Governor *may* certify a project as a water-related project for purposes of this chapter *only if* the Governor finds that

greenhouse gas emissions resulting from the project will be mitigated to the extent feasible.” See PRC § 21189.82(4)(C)(emphasis added). According to a recent study¹, the Sites Project is estimated to emit 362,000 metric tons of CO₂e annually, a majority of which will be in the form of methane. This is the equivalent to the annual emissions from over 80 thousand gas-powered cars. While construction, operations and maintenance, and recreation activities contribute somewhat to greenhouse gas emissions (GHG), surface emissions due to decomposition of organic matter, discharge of water through turbines, and downstream wetland loss caused by diversion impacts to hydrologic flow were found to be the most significant contributors for the Sites Project. The Sites Project Authority has undercalculated GHG emissions in the RDEIR/SDEIS, and therefore any eventual GHG Reduction Plan will not mitigate emissions “to the extent feasible” as required by SB 149. *Id.*

Finally, as mentioned previously, the Sites Project Authority has issued two complex and inadequate California Environmental Quality Act (CEQA) documents for the proposed reservoir that are not finalized as of October 23, 2023.² Until the CEQA documents are finalized, **it is inappropriate for OPR to consider this project’s application, and it is moreover inappropriate for the Governor to certify a project that has yet to meet CEQA requirements.** Once finalized, those documents must be adequately reviewed by the judicial system. Preemptively certifying a project and rushing the review period undermines CEQA, and harms the environment and state and federal taxpayers.

We thank you for the opportunity to provide our input on this important matter and look forward to working with the Administration and OPR to address our climate goals. If you have any questions, please do not hesitate to contact us.


Respectfully submitted,



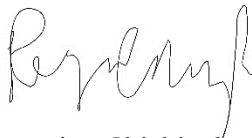
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¹ “Estimate of Greenhouse Gas Emissions for the Proposed Sites Reservoir Project using the All-Res Modeling Tool,” Tell the Dam Truth, Friends of the River, Patagonia, 2023. Available at: <https://tellthedamtruth.com/wp-content/uploads/2023/08/Sites-Reservoir-Project-Emmissions-V4.pdf>

² Documents published by Sites Project Authority as required by the California Environmental Quality Act and the National Environmental Policy Act in 2017 and 2021, respectively. Available at: <https://sitesproject.org/environmental-review/>



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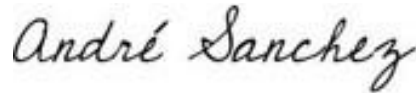
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