



AGENDA

IDAHO WATER RESOURCE BOARD

Water Storage Projects Committee Meeting No. 3-20

Thursday, November 5, 2020

1:00 p.m. (MST)

Brad Little

Governor

Roger W. Chase

Chairman

Pocatello

District 4

Jeff Raybould

Vice-Chairman

St. Anthony

At Large

Vince Alberdi

Secretary

Kimberly

At Large

Peter Van Der Meulen

Hailey

At Large

Albert Barker

Boise

District 2

John "Bert" Stevenson

Rupert

District 3

Dale Van Stone

Hope

District 1

Jo Ann Cole-Hansen

Lewiston

At Large

Water Center
Conference Room 648A / Online Zoom Meeting
322 E. Front St.
BOISE

(This meeting will be conducted using guidance in response to the public health emergency caused by the COVID-19 pandemic. Masks are required & in person attendance is limited. Call or email if you have questions: jennifer.strange@idwr.idaho.gov)

Board Members & the Public may participate via Zoom

[Click here to join our Zoom Meeting](#)

Dial in Option: 1(253) 215-8782

Meeting ID: 977 2959 7819 Passcode: 468872

1. Introductions and Attendance
2. Anderson Ranch Dam Raise
 - a. Contracting*
 - b. Project Financing
3. Other Items
4. Adjourn

Committee Members: Chair Jeff Raybould, Jo Ann Cole-Hansen, Pete Van Der Meulen, and Bert Stevenson

* Action Item: A vote regarding this item may be made this meeting. Identifying an item as an action item on the agenda does not require a vote to be taken on the item.

Americans with Disabilities

The meeting will be held telephonically. If you require special accommodations to attend, participate in, or understand the meeting, please make advance arrangements by contacting Department staff by email jennifer.strange@idwr.idaho.gov or by phone at (208) 287-4800.

Memorandum



To: Idaho Water Resource Board, Water Projects Storage Committee
From: Cynthia Bridge Clark, Emily Skoro, and Meghan Carter
Date: November 4, 2020
Re: Boise River Feasibility Study – Contracting Considerations

REQUIRED ACTION: Committee to consider contracting preference for construction of a raise of Anderson Ranch Dam, use of water, and operations and maintenance of the new storage space. The committee’s recommendation will be advanced to the full IWRB for consideration of a resolution and action at the November 19th regular IWRB meeting.

Background

The Idaho Water Resource Board (IWRB) partnered with the Bureau of Reclamation (Reclamation) to complete a feasibility study of new surface water storage within the Boise River Drainage (study). The study was authorized under the Water Infrastructure Improvements for the Nation Act (WIIN Act, P.L. 114-322). Reclamation issued a Draft Environmental Impact Statement (DEIS) and Draft Feasibility Report (DFR) on July 31, 2020 and public comments on the DEIS were accepted through September 14, 2020. The DEIS and DFR identified a 6-foot raise of Anderson Ranch Dam as the preferred alternative.

Reclamation plans to release the Final Environmental Impact Statement (FEIS) in February 2021, which will address the public comments Reclamation received on the DEIS. In the FEIS, Reclamation intends to refine some of the details of the preferred alternative described in the DEIS. In May 2021, Reclamation will issue its decision on the alternatives presented in the FEIS in a Record of Decision (ROD). Once the ROD is issued, Reclamation can begin the negotiation process for a contract, pursuant to WIIN Act Section 2007, covering construction of the dam raise, use of water, and operations and maintenance for the new storage space. The contract will provide for the right to use the capacity in the increased storage space.

The WIIN Act requires Reclamation’s project partner(s) to pay for the full cost of the dam raise upfront. In addition, the WIIN Act requires the project to be under construction by December 16, 2021. The term “construction” means the designing, materials engineering and testing, surveying, and building of water storage including additions to existing water storage and construction of new storage facilities, exclusive of any Federal statutory or regulatory obligations relating to any permit, review, approval, or other such requirement.

Contracting Options

In the DEIS, Reclamation evaluated two different approaches to developing a contract for construction of the dam raise, use of water, and operations and maintenance of the new storage space. In the first option (Option A), IWRB would be the sole contractor with Reclamation. IWRB would “subcontract” with other entities for use of the space. In the second option (Option B), Reclamation would enter into one contract with multiple entities, IWRB and other existing Reclamation contractors. Reclamation has asked IWRB to comment on its contracting preference, so that Reclamation can consider it for the FEIS’ preferred alternative. There are some considerations that are unique to each option which are described below and summarized in a table.

- **Option A Considerations**

In Option A, IWRB would be required to provide upfront funds for all of the non-federal cost of construction. Reclamation has represented that IWRB would be allowed to pay in installments for discrete portions of the project (e.g. upfront payment to complete final design followed by payment for construction). IWRB would also be able to determine how all of the non-federal space from the project will be allocated. When allocating the space, IWRB would be limited to existing Water District 63 water users, or placing some portion of the water in the Water Supply Bank. As part of that determination, IWRB would be able to set its own prices and would not be constrained to the Reclamation pricing. IWRB would be responsible for developing “sub-contracts” with new spaceholders with the intent to recover non-federal project costs.

If Option A is selected, the ability to meet the timelines imposed by the WIIN Act is more assured. Reclamation would not need to determine how it would solicit and select other entities with which to contract, and it would not be required to secure the non-federal project funding from multiple sources. In addition, contract negotiations between just Reclamation and IWRB would be simpler and likely shorter. Option A would, however, require considerable effort by the IWRB to develop a process for selection of new spaceholders and negotiate water use sub-contracts with each entity.

- **Option B Considerations**

In Option B, IWRB would be required to provide upfront funds for only IWRB’s portion of the non-federal construction costs. Since multiple parties will be negotiating one contract with Reclamation, it is possible the amount each party pays will not directly correlate to the amount of space received. It is unclear how Reclamation would approach pricing, and whether it would be locked into the pricing used to develop the cost benefit ratio.

If Option B is selected, it may be difficult to meet the timelines imposed by the WIIN Act. Reclamation will have to determine how to solicit and select other entities with which to contract. The entities Reclamation can contract with for this project are limited to any State, department, agency or subdivision of a State, or any public agency organized pursuant to State law. In addition, Reclamation can only contract with current space holders. Once potential project proponents are determined, Reclamation will have to make a finding that a selected entity is financially capable of participating in the project as a project proponent. A single contract will be negotiated between all parties, which would likely make negotiations more difficult and time consuming.

Option A: <i>Reclamation would enter into a single agreement with IWRB covering construction, use of water, and operations and maintenance for the additional water supply.</i>	Option B: <i>Reclamation would enter into an agreement with IWRB and other existing Reclamation contractors.</i>
<ul style="list-style-type: none"> • IWRB determines how space may be allocated. IWRB is not constrained to Reclamation water pricing (e.g. irrigation vs. DCMI prices). • Contract negotiations between Reclamation and a single entity (IWRB) may be simpler and shorter. • Upfront funding of the non-federal project costs and negotiation/execution of subcontracts with new spaceholders will be the responsibility of the IWRB. 	<ul style="list-style-type: none"> • Reclamation determines how some space may be allocated, limited by WIIN Act. Needs a finding of financial capability for non-IWRB contractors. • More parties to negotiate with, possibly longer negotiations. • Upfront funding of non-federal project costs will be distributed among multiple parties. Funding must be secured in FY2021.

Other General Considerations

- **WIIN Act Contracts v. Spaceholder Contracts**

Contracts under the WIIN Act are different than spaceholder contracts under other Reclamation authorities. Those spaceholder contracts are usually repayment contracts, through which Reclamation finances the construction of the project and spaceholders pay Reclamation back over time. The WIIN Act requires the cost of construction to be paid upfront.

Spaceholder contracts also allow on-farm irrigation entities to pay Reclamation for the cost of construction without interest. This effectively makes the cost of water cheaper for on-farm irrigation. Under the WIIN Act there will be one contract with all project proponents. The allocation of water to each proponent must be mutually agreed to by Reclamation and each other party to the agreement.

- **Benefit-Cost Ratio**

In order to move forward with the project, the Secretary of the Interior must determine the project is feasible. A key factor in that determination is the benefit-cost ratio (BCR). A project is deemed infeasible if the BCR is below 1.0. The BCR analysis in the DFR found that the project BCR is 1.74. When analyzing the BCR, Reclamation used a mixed use scenario which allocated the water as follows: DCMI 45%, irrigation 45%, and fish and wildlife 10%. The BCR must remain above 1.0 when allocating the new space to water users. In discussions with Reclamation, it has been suggested that the distribution between DCMI and irrigation is flexible so long as the BCR remains above 1.0.

- **Financing**

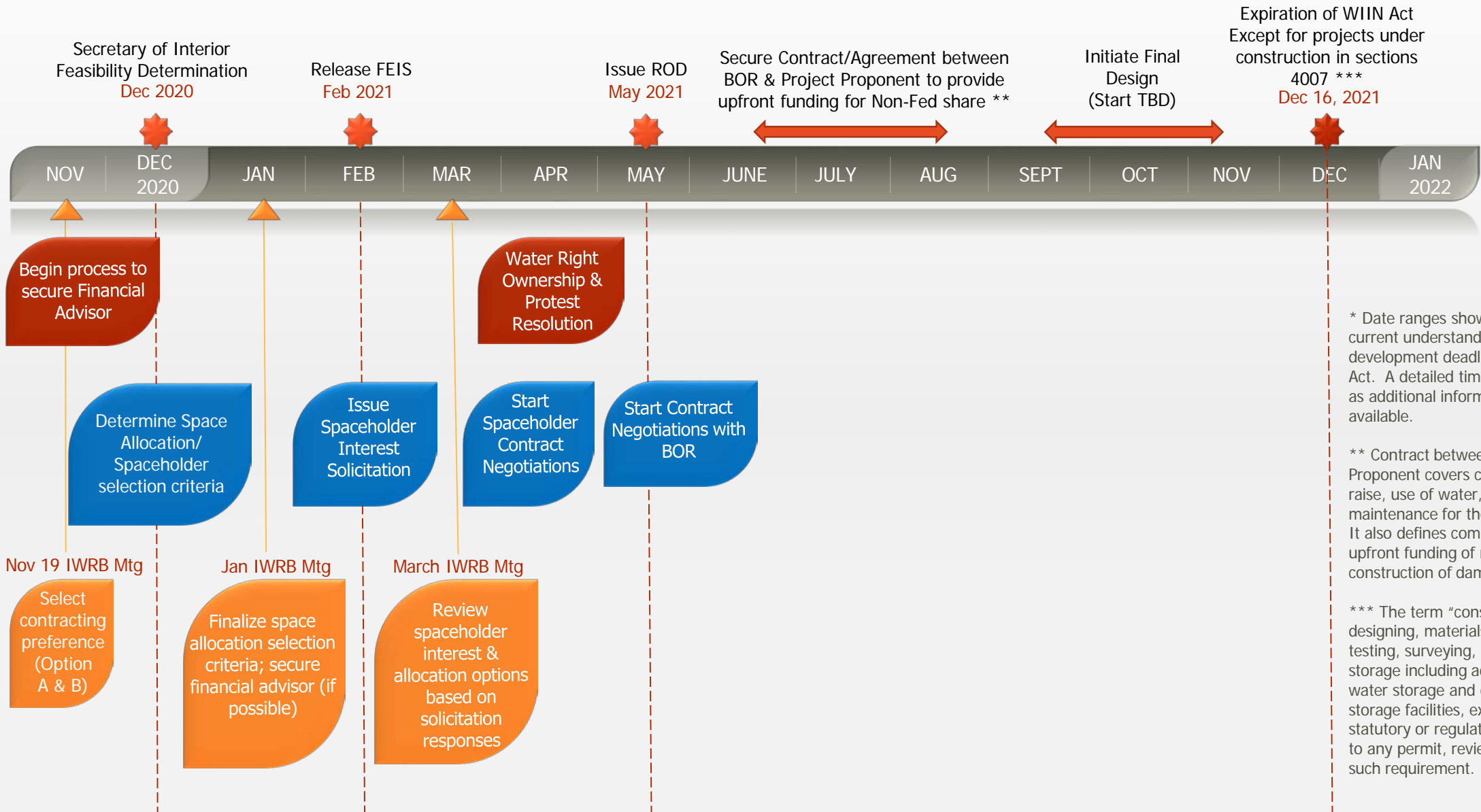
Should IWRB recommend the Option A contracting approach, it has a few options to finance the Anderson Ranch Dam raise. (1) IWRB can require all water users to pay for their portion of the costs upfront. (2) IWRB can finance the cost of the entire project with bonds and water users repay IWRB. (3) IWRB can use some or all of the funds the Legislature appropriated for large water infrastructure projects in HB285 (2019) to cover some of the costs and use option 1, option 2, or a combination to cover the remainder.

IWRB should consider hiring a financial advisor to discuss how the options will affect the total cost of the project. In addition, if IWRB decides to issue bonds a financial advisor and bond counsel will need to be involved in the contracting process with Reclamation and the water users to ensure IWRB has a marketable product. The latest IWRB should hire a financial advisor is April 2021. The financial advisor could then become familiar with the project and be ready to participate in contract negotiations.

Conceptual Project Timeline - Anderson Ranch Dam Raise *

WIIN Act Decision Points

Project Development Activities



* Date ranges shown are based on the current understanding of the project development deadlines under the WIIN Act. A detailed timeline will be developed as additional information becomes available.

** Contract between BOR & Project Proponent covers construction of the dam raise, use of water, and operations and maintenance for the new storage space. It also defines commitment to provide upfront funding of non-federal costs for construction of dam raise.

*** The term "construction" means the designing, materials engineering and testing, surveying, and building of water storage including additions to existing water storage and construction of new storage facilities, exclusive of any Federal statutory or regulatory obligations relating to any permit, review, approval, or other such requirement.