



Action Item: Contra Costa Water District (CCWD) Request for Additional Early Funding Under the Water Storage Investment Program (WSIP)

Background

In June 2018 the Commission made Maximum Conditional Eligibility Determinations (MCED) for eight projects in the WSIP. The Commission also awarded Early Funding to three projects, Table 1.

Table 1. MCED and Early Funding Summary

Applicant	Project Name	MCED	Early Funding Award Amount	Early Funding % of MCED
Contra Costa Water District	Los Vaqueros Reservoir Expansion Project	\$459,000,000	\$13,650,309	3%
Santa Clara Valley Water District	Pacheco Reservoir Expansion	\$484,550,000	\$24,200,000	5%
Sites Project Authority	Sites Project	\$816,377,686	\$40,818,884	5%
Total			\$78,669,193	

Water Code 79755(c) and WSIP regulations section 6010 allow the Commission to award Early Funding for work related to the completion of environmental documentation and permits for projects. When the Commission considered applications in 2018, Early Funding could only be awarded if the applicant made a request in its application, showed a financial need for the funds, and received an MCED. The regulations require that a project's early funding award be capped at 5% of its MCED. Additionally, the regulations set a cumulative Early Funding cap at \$135M.

At the February 19, 2020 Commission meeting, Contra Costa Water District (CCWD) requested that the Commission consider its request to increase the Early Funding amount for the Los Vaqueros Reservoir Expansion (LVE) project. The Commission asked staff to add an item to the March agenda to consider CCWD's request. This staff report provides information regarding

considerations and options for the Commission's decision-making on whether to increase the LVE Early Funding award.

Staff Analysis

The request to increase an Early Funding award is not specifically covered by the WSIP regulations; however, the regulations do specify an upper limit to an Early Funding award of 5% of the project's MCED. CCWD's initial Early Funding award, \$13,650,309, is approximately 3% of the \$459 million MCED for the LVE project. If the Commission were to increase the Early Funding award it would be limited by the regulatory cap of 5% of the MCED. The other two project Early Funding awards are at 5% MCED. The regulations also set a program cumulative Early Funding cap of \$135M. The sum of the current Early Funding awards is \$56,330,807 below the program cumulative cap.

Part of the regulatory requirement for Early Funding is demonstrating need for the funding. While it is the applicant's responsibility to explain the need for an increase in Early Funding to the Commission, current Early Funding reimbursements to CCWD are relatively low. To date, CCWD has been reimbursed approximately \$3.6M in Early Funding, about 26% of their award. While reimbursements are much lower than the current Early Funding award, the Commission should be aware of the magnitude of costs associated with Early Funding activities. The funding agreement for Early Funding requires a minimum of a 50% cost share. This means the current total expenditures for Early Funding activities on LVE are over \$7M.

Assuming an applicant proceeds to final award, Early Funding and final award are connected. If an applicant runs out of Early Funding but still has planning costs, those costs can be reimbursed once the final funding is awarded. Conversely, if an applicant does not spend all the Early Funding awarded, whatever amount is left will be part of the final award agreement and can be used at that time. If LVE is not awarded an increase in Early Funding and is successful in getting a final award, any costs incurred for planning activities beyond those covered by Early Funding could be reimbursed through the final funding agreement. The reimbursement just occurs later than if the Early Funding award is increased. Conversely, if LVE does not spend all of the Early Funding award, the remainder would be included in the final funding agreement.

Any Early Funding provided in advance of a final award presents the possibility of a stranded investment, should a project be reimbursed through Early Funding but not proceed to a final funding award.

Commission Decisions

There are two options available to the Commission:

1. Increase the Award for Early Funding. If the Commission increases the early funding amount for the Los Vaqueros Reservoir Expansion Project, the maximum amount allowed (or 5% of MCED) would be \$22,950,000, which is \$9,299,691 more than the original award. The Commission would need to decide if the need exists for the funds and how much to increase the Early Funding amount. The Commission's decision would be documented in a resolution. Staff would then amend the existing Early Funding agreement.
2. Keep Early Funding at Current Amount. If the Commission decides to deny the request to increase the Early Funding, no further action would be taken. CCWD would continue to invoice for work under the current funding agreement and would be able to request reimbursement for funds in excess of Early Funding in the future should a final award be made.

This is an action item.

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