

Water Storage Investment Program Frequently Asked Questions

May 2023

Q1: How many projects is the Commission funding and how much storage do they provide?

A: There are seven projects in the Water Storage Investment Program (WSIP), three surface storage projects and four groundwater projects. When completed, these projects would provide 2.77 million acre-feet of gross storage capacity.

Q2: Proposition 1 was passed by voters in November 2014, why aren't these projects finished yet?

A: These projects are large and complex and require a lot of different parties to finance, plan, and ensure they operate as planned. From a funding aspect, there are limits to the Proposition 1 funding that determine the state's share, therefore, project proponents work with investors and partners to procure the rest of the funding. Even the simpler projects have at least a state and non-state cost share. For complex projects, the non-state cost share can consist of multiple water agencies (each with its own board) and perhaps even the federal government.

Storage projects are not mutually exclusive from other water infrastructure, so moving from a concept to a functional project requires studies, assurances, and agreements to ensure these projects cannot only receive the water they would store, but also deliver the water to investors at the appropriate time. This in turn requires studies, permits, and negotiations along the way, which all take time. Each project proponent drives their own project schedule. In 2017 when applications were submitted, each project submitted a project timeline. The Commission updates these schedules every quarter based on input from applicants, at cwc.ca.gov/Water-Storage. These timelines have not changed significantly since the application, which indicates project progress remains consistent with initial projections despite externalities such as the pandemic.

While Proposition 1 and the Commission's regulations allow for a small amount of early funding to help with permits and environmental documents, it prevents the Commission from making final awards until a project is shovel ready. The WSIP applicants must complete the remaining Proposition 1 requirements – final permits, completed environmental documents, contracts for the administration of public benefits, and contracts for non-program funding – before returning to the Commission for a final award hearing. The Commission remains ready to make its decisions as required by Proposition 1 when the applicant is ready to so.

Q3: Proposition 1 does not include water supply as a public benefit. Why?

A: Proposition 1 lists ecosystem improvement, water quality improvement, recreation, emergency response, and flood control as public benefits that the Commission can use to determine potential state investment. The Water Commission did not write this language, nor will the Commission speculate on how these benefits were chosen. However, the use of defined public benefits to determine state investment is consistent with the beneficiary pays principle. From an economic perspective, those receiving drinking water supply or agricultural water supply would typically pay a fee for the supply received. Proposition 1 requires contracts

for 100% of the non-public benefit cost share as a requirement for final funding as a way to ensure the non-program costs are covered so the state's investment is only for the public benefits associated with the project.

Q4: What decisions has the Commission made so far?

A: The Commission has made Maximum Conditional Eligibility Determinations (MCEDs), which is the amount of Proposition 1 funding available to a given project should they meet all the Proposition's requirements. While Proposition 1 does not allow the Commission to make a final award until a project is basically shovel ready, the MCEDs allows project proponents to work with their investors to advance their projects planning phase and to complete all the needed requirements and return to the Commission for a final funding decision. To help projects with permits and environmental documents, the Commission has awarded \$116 million to six of the projects that requested early funding, as allowed by Proposition 1 (see Q5 below).

In July of 2018, the Commission made initial MCEDs for eight projects. This was after developing required regulations governing the funding program (2015-2016), soliciting full application packages (2017), and reviewing applications (2018). Applicants then set to the task of advancing their projects to meet the Proposition 1 requirements, which includes interim requirements to ensure project advancement by January 2022 (see Q7 below). In October 2020, one applicant withdrew from the program because they could not meet the required schedule. In January 2021, the Commission voted to redirect a portion of the returned MCED to bring two projects up to their eligible amount, and to adjust the MCEDs of the seven remaining projects to account for inflation (2.5 percent). The Commission held \$63.9 million for a possible second solicitation and opened a screening process that allowed the Commission to receive conceptual submittals. Two projects completed the screening process. By December 15, 2021, applicants submitted interim Proposition 1 statutory requirements and the Commission completed their feasibility finding for each WSIP project. In March 2022, the Commission voted to redirect the \$63.9 million to bring one project up its eligible amount, and to adjust the MCEDs of the seven remaining projects to account for inflation (1.5 percent).

Q5: What decisions did the Commission make regarding early funding?

A: Proposition 1, Chapter 8 (Water Code Section 79755(c)) and the WSIP regulations (section 6010) allow the Commission to award a portion of an applicant's MCED prior to the final funding hearing to assist with permits and environmental documents. At the July 2018 meeting, the Commission considered early funding requests from four applicants and awarded early funding to three: Sites Project (\$40.8 million), Los Vaqueros Reservoir Expansion Project (\$13.6 million) and Pacheco Reservoir Expansion Project (\$24.2 million). To ensure projects continued to advance during COVID related economic uncertainty, the Commission adopted emergency regulations to allow applicants that did not initially request early funding to have one additional opportunity to make a request. In 2020 and 2021, three more applicants requested and received early funding: Willow Springs Water Bank Conjunctive Use Project (\$4.7 million), Harvest Water Program (\$14.37 million), and the Chino Basin Conjunctive Use Environmental Water Storage/Exchange Program (\$8.9 million). In May 2020, the Los Vaqueros Reservoir Expansion Project requested and received an additional \$9.29 million in early funding. In

October 2021, Willow Springs Water Bank Conjunctive Use Project requested and received an additional \$1.64 million in early funding. In May 2023, the Sites Project requested and received an additional \$2.95 million in early funding.

Q6: How does the Commission ensure the early funding awarded is spent consistently with Proposition 1 early funding provisions.

A: Early funding is governed by an agreement between the funding recipient and state that outlines a scope of work, schedule and budget. Invoices are reviewed by Commission staff to ensure charges are eligible and consistent with the scope of work. In addition, recipients of early funding must match the WSIP funds with at least 50 percent from other sources of funding. WSIP funds will be paid on a reimbursement basis, after applicants incur costs. The Commission cannot provide funds in advance of a cost being incurred which also helps ensure the expenditures match the intended purpose.

Q7: What incentives does an applicant have to make progress toward final funding?

A: Beyond the applicants' own desires to build their projects as quickly as possible, they were also required to meet a statutory deadline to ensure progress. By January 1, 2022, applicants had to have complete feasibility studies, a draft version of their environmental documents released for public review, and commitments for at least 75 percent of the non-program funding. In addition, the Commission had to make a feasibility finding for each project by January 1, 2022. All seven applicants met the statutory deadline and remain eligible for WSIP funding.

As projects continue to advance toward construction readiness, the regulations specify that the Commission has the discretion to determine a project is not making sufficient progress toward final funding and rescind its maximum conditional eligibility determination.

Q8: With each project progressing on a different schedule how do I know the progress an applicant is making?

A: You can follow the progress of each project at cwc.ca.gov/Water-Storage. In addition, you can stay current on program announcements and other Commission activities by signing up for our LISTSERV at cwc@water.ca.gov.

Q9: Will the Commission be visiting project locations?

A: The Commission's *ex parte* policy is in effect until the Commission determines a final funding award. The Commission must act as a body to decide if or when it will perform a site visit before the final funding hearing. In the September 2022 Commission meeting, the Commission decided to allow optional virtual site visits before an applicant's final funding hearing. The *ex parte* policy precludes site visits by individual commissioners during the competitive process. However, once the Commission makes a final funding award, the *ex parte* policy does not apply.

Q10: What is the Commission's role related to negotiating and executing the contracts for the administration of public benefits?

The contracts for the administration of public benefits are contracts between the state agencies responsible for administering public benefits and the project proponents. The California Department of Fish and Wildlife administers the ecosystem benefits. The State Water Resources Control Board administers the water quality improvement benefits. The Department of Water Resources administers the emergency response, flood control, and recreation benefits. The Commission will review and comment on the draft CAPBs but does not have approval authority. The Commission meetings provides a public forum for interested parties to comment. Ultimately it is the administering agencies that are responsible for the contracts for public benefits.

Q11: Once projects are funded, how will the public continue to have an opportunity to monitor the realization of public benefits?

A: The project proponent reports annually to the administering agency and the California Water Commission. These reports will be posted on the Commission's website. The Commission can invite project proponents or administering agencies to present at Commission meetings.

Q12: How will you ensure this is a transparent process?

A: The WSIP is governed by regulations (Cal. Code of Regs. tit. 23, §6000 *et seq.*). The regulations are based on the statutory language of Proposition 1, Chapter 8 (Wat. Code §79750 *et seq.*). Decisions by the Commission are made in public at scheduled Commission meetings. Contracts for the administration of public benefits, while negotiated by an administering state agency and project proponent, are presented in draft form at a Commission meeting to aid transparency. The contracts for the administration of public benefits contain reporting requirements to the Commission so the public has access to public benefit information.

Q13: How are projects going to be held accountable for providing public benefits?

A: Each contract for the administration of public benefits contains an adaptive management plan and process for holding project proponents accountable for actions to manifest the public benefits. The Commission can become involved if disputes regarding implementation of adaptive management actions cannot be resolved by the administering agency and project proponent. The Commission can take legal action to compel the project proponent to take specific actions to manifest the public benefit.

Q14: What happens if a project can't provide the public benefit over time, due to circumstances such as drought, climate change, or lack of available water?

A: Each contract for the administration of public benefits contains an adaptive management plan that specifies the actions that can be taken to adaptively manage the benefit over the term of the contract.

Q15: How far into the future will the Commission continue to be involved in ensuring benefits are achieved?

A: For the duration of the contracts for the administration of public benefits.

Q16: How is the state ensuring Tribal interests are protected?

A: Project proponents, as CEQA lead agencies for their projects, are responsible for Tribal consultations on their projects. Tribes may also make comments to the Commission throughout the process.

Q17: What does an applicant need to provide prior to the Final Funding Hearing?

- Final permits and agreements
 - The project applicant must obtain all federal, state, and local approvals, certifications, and agreements required to begin construction.
- Completed environmental documents
 - The project applicant must complete all final state and federal environmental documentation associated with the project.
- Contracts for the administration of public benefits
 - Project proponents must enter into contracts with the state agencies responsible for the administration of the public benefits produced by the project.
- Contracts for non-program funding
 - The project applicant must enter into a contract with each party that will derive benefits, other than public benefits, from the project. The contract ensures each party to the contract will pay its share of the total costs of the project. Documents meeting this requirement will vary among the projects.

Q18: When will this storage be available?

Based on applicant's quarterly reports, the projects are expected to be completed, and operations beginning, around the following dates:

- Harvest Water Program – June 2025
- Willow Springs Water Bank Conjunctive Use Project – January 2026
- Chino Basin Conjunctive Use Program – February 2028
- Los Vaqueros Reservoir Expansion Project – February 2029
- Kern Fan Groundwater Storage Project – March 2029
- Pacheco Reservoir Expansion Project – February 2030
- Sites Project – March 2030