



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



May 23, 2018

Joseph Yun
Executive Officer
California Water Commission
P.O. Box 942836
Sacramento, CA 94236-0001

Dear Mr. Yun:

RELATIVE ENVIRONMENTAL VALUE OF WATER STORAGE INVESTMENT PROGRAM PROJECTS AND DEPARTMENT FINDINGS

Thank you for your leadership during this process. As you know, the California Department of Fish and Wildlife (Department) is tasked with the responsibility of making recommendations to the California Water Commission (Commission). I acknowledge the complexity of the process has been challenging for you, Commissioners, the reviewing agencies, and each applicant. No one has tried a competitive approach to water storage on such a scale before. The good news is that the Commission and applicants are as close as ever to adding much needed water storage capacity through a portfolio of different types of projects across a diverse geography.

This competitive approach must adhere to the controlling statute and the implementing regulations. At each step of your process, our Department has always based our recommendations on the plain instructions in the statute and the regulations. All of the current applicants, as members of a broad-based stakeholder advisory group, helped develop these regulations during a two-year dialogue. At the last Commission meeting, the Department's recommendations to the Commission on monetized ecosystem benefits to include in the public benefit ratio calculations were discussed. This package contains our next assignment under the regulations related to our calculation of relative environmental value for the ecosystem improvements of a project and preliminary findings. However, as I describe at the end of this letter, each applicant retains an important obligation to complete due diligence for their projects promptly.

Pursuant to the Water Storage Investment Program (WSIP) regulations, this letter and attachments transmit to California Water Commission (Commission) staff (1) the relative environmental value scores calculated by the California Department of Fish and Wildlife (Department) and (2) the Department's findings on the public benefits claimed by each WSIP project. The WSIP regulations require the Department to calculate a relative environmental value for ecosystem improvements, based on information supplied in each project's application. (Cal. Code Regs. tit. 23, § 6007, subd. (c).) Additionally, if the Department "finds the public benefits as described in a project's application meet all of the requirements of Water Code section 79750 *et seq.* for which the reviewing

agency is responsible, the reviewing agency shall provide to the Commission a written statement confirming the finding.” (Cal. Code Regs., tit. 23, § 6012, subd. (d).) This finding is a “preliminary assessment of public benefits based on information supplied in the application that indicates that a project’s public benefits meet the requirements of Water Code section 79750 *et seq.*” (Cal. Code Regs., tit. 23, § 6012, subd. (a).)

For each ecosystem benefit quantified, project applications were required to identify at least one applicable ecosystem priority listed in section 6007, subdivision (c), of the WSIP regulations. (Cal. Code Regs., tit. 23, § 6003, subd. (a)(1)(Q).) The Department applied the 10 relative environmental value criteria outlined in Table 2 of section 6007, subdivision (c)(1)(A)(1), to score each of the ecosystem priorities identified by the applicant. Based on information supplied in the application, the Department considered information supporting ecosystem benefits including the analytical methods, modeling results, and physical, chemical, or biological information. (Cal. Code Regs., tit. 23, § 6007, subd. (c)(1)(A)(1).) Section 6007, subdivision (c)(1)(A)(2), states the score shall be assigned by evaluating the degree of change between with- and without-project conditions, and the degree to which ecosystem improvements associated with each claimed priority would be provided by a project.

The relative environmental value scores reflect the Department’s critical and thorough evaluations of project applications and include comments to the Commission and its staff that address the many aspects of the projects as proposed. The Department’s analysis contained in this package is consistent with our analysis related to public benefits.

The Department recognizes that the projects in many cases have a long history in water management planning in California, and have additional steps in front of them that will refine the projects, reduce uncertainties, and further inform the Commission’s decisionmaking. The regulations emphasize the preliminary nature of the findings submitted to you today, and the fact that changes may occur after a reviewing agency’s findings. (Cal. Code Regs., tit. 23, § 6012(g).) Moreover, prior to the Commission encumbering funding, each successful applicant must enter into enforceable contracts for public benefits and non-public benefit cost shares, complete feasibility studies and environmental documentation, obtain all required federal, state, and local approvals, and provide extensive additional information to the Commission, as applicable, on items including labor compliance, urban water management plans, agricultural water management plans, and groundwater management plans or GSP(s). (Cal. Code Regs., tit. 23, § 6013(a)(1), (c).)

This letter and attachments represent the completion of the Department’s technical review of WSIP projects for the purpose of contributing toward the maximum conditional eligibility determination of each project that the Commission must make. The Department looks forward to continuing to work with the Commission and project

Mr. Joseph Yun, Executive Officer
California Water Commission
May 23, 2018
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applicants in the next phase of the WSIP.

Sincerely,

A handwritten signature in black ink, appearing to read "C. H. Bonham", with a long horizontal line extending to the right.

Charlton H. Bonham
Director

Encl: CDFW Findings on WSIP Public Benefits, Relative Environmental Value
Scores, Technical Review Comments

ec: California Department of Fish and Wildlife

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Pacheco Reservoir Expansion Project

AUTHORITY

The California Department of Fish and Wildlife (Department) issues these findings pursuant to California Water Code section 79755, subdivision (a)(3) and California Code of Regulations, title 23, section 6012.

SCOPE, PURPOSE, AND EFFECT OF FINDINGS

Under Chapter 8 of the Water Quality, Supply, and Infrastructure Improvement Act of 2014, funds were appropriated to the California Water Commission (Commission) for the purpose of investing in “public benefits associated with water storage projects that improve the operation of the state water system, are cost effective, and provide a net improvement in ecosystem and water quality conditions.” (Cal. Water Code, § 79750, subd. (b).) Funds allocated under this Chapter for water storage projects may be expended solely for public benefits derived from ecosystem, water quality, flood control, emergency response, and recreational improvements. (Cal. Water Code, § 79753, subd. (a).)

Funds for public benefits shall not be expended until the Commission makes a determination that a project applicant has entered into a contract with each public agency that administers the public benefits, after that agency makes a finding that the public benefits of the project meet all the requirements of Water Code section 79750 *et seq.* (Cal. Water Code, § 79755(a)(3).) The Commission adopted regulations for the quantification and management of the public benefits of water storage projects in accordance with the requirements of Proposition 1 (California Code of Regulations, title 23, sections 6000 *et seq.*) for implementing the Water Storage Investment Program (WSIP), and these regulations contain specific roles for the Department regarding technical review of applications and issuance of findings. Pursuant to Code of Regulations, title 23, section 6012, subdivision (b), the Department shall base its findings on:

- (1) The technical review of the ecosystem benefits;
- (2) The requirements of Water Code section 79753;¹ and
- (3) The agency’s assessment of a project’s relative environmental value in achieving the priorities identified by the agency.

In its technical review and assessments of projects’ relative environmental values, the Department has evaluated the applications, the reasonableness of assumptions, completeness and quality of analysis, appropriateness of the use of data and analytical methods, modeling results, and degree to which projects would provide the proposed ecosystem benefits. (Cal. Code Regs., tit. 23, § 6007.) This evaluation required the Department to critically consider project applications and provide thorough and candid comments and recommendations to the Commission and its staff, addressing the many and varied aspects of the projects as proposed. The Department recognizes that several of the projects reviewed have a long history in water resources planning discussions in California. As trustee for the fish and wildlife resources of the State, through its regulatory responsibilities under state law, and in its

¹ Funds allocated pursuant to Water Code section 79750 *et seq.* may be expended solely for ecosystem improvements, water quality improvements, flood control benefits, emergency response improvements, and recreational purposes. Funds shall not be expended for the costs of environmental mitigation measures or compliance obligations except for those associated with providing the public benefits. (Cal. Water Code, § 79753.)

ongoing role under the WSIP, the Department's work has will continue to intersect with these projects as they continue to develop.

A finding does not commit the reviewing agency to a definite course of action regarding any subsequent determination or approval by the reviewing agency under any regulatory or statutory authority, and the finding shall not be construed to limit any agency's obligations under any statute or regulation. (Cal. Code Regs., tit. 23, § 6012, subd. (e).) Changes in the amount of public benefits may occur between the time of the issuance of these findings and the time when an applicant enters into a contract with the Department. Prior to entering into a contract with any project applicant, the Department is required to confirm that the public benefits, as modified, continue to meet all the requirements of Water Code section 79750 *et seq.* (Cal. Code Regs., tit. 23, § 6012, subd. (g).)

The findings made herein are preliminary assessments of public benefits based on the information supplied in the application. (Cal. Code Regs., tit. 23, § 6012, subd. (a).) These findings are conditional upon satisfaction of all the requirements set forth in Water Code section 79755.

Only those public benefits found to be consistent with Water Code section 79750 *et seq.* will be considered in project scores and determinations of maximum conditional eligibility amounts. (Cal. Code Regs., tit. 23, § 6012, subd. (f).)

FINDINGS ON PUBLIC ECOSYSTEM BENEFITS

Based on the information supplied in the application, the technical review of the ecosystem benefits, the requirements of Water Code section 79753, and the Department's assessment of the Project's relative environmental value in achieving the ecosystem priorities identified in the Code of Regulations, the Department hereby makes the following findings with respect to the monetized ecosystem benefits identified in the application for funding for the Pacheco Reservoir Expansion Project:

Steelhead Habitat

The Department finds that the provision of year-round reservoir releases to Pacheco Creek, targeting average monthly flows ranging from 10-20 cfs, constitutes an ecosystem improvement that meets the requirements of Water Code section 79750 *et seq.*

Refuge Water Supply

The Department finds that the delivery of 2,000 acre-feet of Incremental Level 4 water, during below normal water years, to south-of-Delta wildlife refuges constitutes an ecosystem improvement that meets the requirements of Water Code section 79750 *et seq.*