

Water Storage Investment Program Commission Determinations and Additional Eligibility Requirement

Chino Basin Conjunctive Use Environmental Water Storage/Exchange Program

Inland Empire Utilities Agency

The Chino Basin Conjunctive Use Environmental Water Storage/Exchange Program (CBEWP) would construct an advanced water treatment facility (AWTF) and distribution facilities that would store up to 15 thousand acre-feet (TAF) per year of treated wastewater in the Chino Basin Water Bank (CBWB). During the first 25 years of operation of the proposed CBEWP, the CBWB, an existing water bank, would be operated in a way that dedicates blocks of water of up to 50 TAF per each dry and critical year, for up to three consecutive dry and critical years, to enhance instream flows in the Feather River below Lake Oroville. This would require agreements with one or more State Water Project (SWP) partners to forego SWP delivery in exchange for receiving CBWB water, and agreements with the Department of Water Resources (DWR) and the California Department of Fish and Wildlife (CDFW) to re-operate Oroville Dam and manage the water to provide an ecosystem benefit. After the initial 25 years of operation, ecosystem benefits would cease, and the water stored in the CBWB would be extracted for local, non-public water supply.

The California Water Commission (Commission) accepted the following monetized public benefits for this project:

- Ecosystem Improvement—Increased juvenile Chinook emigration
- Water Quality—Groundwater protection
- Emergency Response

Introduction

This document addresses the following components of the Commission's Water Storage Investment Program (WSIP) project evaluation process:

- **Determinations:** The Commission must make nine (9) determinations by before assigning a maximum conditional eligibility amount.
- **Additional Eligibility Requirement:** The Commission must consider the eligibility requirement related to wild and scenic rivers.

Part 1: Discussion of Commission Determinations

Regulation section 6011(c) states that before the Commission assigns a maximum conditional eligibility amount to a project, the Commission shall make all nine determinations based on the technical review and appeal information. The determinations are the following items:

- The proposed project is cost effective;
- The proposed project improves the operations of the State water system;
- The proposed project provides a net improvement in ecosystem and water quality conditions;

- The proposed project provides measurable improvements to the Delta ecosystem or to the tributaries to the Delta;
- The Program cost share is less than or equal to 50 percent of the proposed project’s total capital costs, with the exception of conjunctive use projects and reservoir reoperation projects;
- The Program funded ecosystem improvement benefits make up at least 50 percent of the total public benefits funded by the Program;
- The proposed project appears to be feasible;
- The proposed project will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta; and
- The proposed project is consistent with all applicable laws and regulations.

If, for a project, the Commission cannot make any single determination then a maximum conditional eligibility determination (MCED) cannot be made for that project.

Relationship Between Determinations and Eligibility

These determinations are made before projects have completed all project formulation efforts. Regulations section 6013(c) states that additional requirements (such as completed feasibility studies, final environmental documents, contracts for the non-WSIP cost share, contracts for administration of public benefits, and permits) must be obtained by applicants after the MCEDs are made, but before the Commission makes a final award to the project. Those additional requirements may result in changes to the project that was proposed to the Commission in the August 2017 Application. Such changes may positively or negatively affect project eligibility and in turn one or more of the Commission’s determinations. The Commission will consider such changes in determining a project’s final award (section 6013(f)(3-5)). Additionally, regulations section 6013(f)(2) sets January 1, 2022, as the deadline for completing feasibility documents.

Table 1 presents Staff’s assessment of whether each of the nine determinations conditions has been met. This assessment is based on the technical review and the appeal.

Table 1 - Staff Recommendations – Commission Determinations	
1. The proposed project is cost effective.	--
<p>The quantified costs and benefits may have changed since the submission of the application in August 2017 and the February 2018 appeal. Staff recommends the Commission discuss with the applicant, consistent with the requirements of the Bagley-Keene Act, any changes that relate to cost effectiveness. The Commission may determine the project to be cost-effective based on the following factors:</p> <ul style="list-style-type: none"> • Monetized and non-monetized benefits and costs as described in the application • A discussion with the applicant, consistent with the requirements of the Bagley-Keene Act, about any changes in benefits and costs related to cost effectiveness (Regulations section 6004(a)(4)(E)) that may have arisen since the submission of the application <p>Any changes that arise from such a discussion would need to be documented and supported as part of the ongoing WSIP regulatory process.</p>	
2. The proposed project improves the operations of the state water system.	YES

Table 1 - Staff Recommendations – Commission Determinations	
<p>The applicant described how the project would be integrated into the local, regional, state, or federal systems that provide water resources benefits within California. Such integration would improve the operations of the state water system. The CBEWP would increase operational flexibility to the state water system by producing new water supplies; reducing Delta exports which would provide flexibility to work within regulatory constraints that control the operations of the state water system; providing additional conveyance capacity for cross-Delta voluntary water transfers and water markets, and providing infrastructure connections between Chino Basin Water Bank and Metropolitan Water District of Southern California for southern California water managers.</p>	
3. The proposed project provides a net improvement in ecosystem and water quality conditions.	YES
<p>The ecosystem public benefit accepted by the Commission for this project is:</p> <ul style="list-style-type: none"> • Ecosystem Improvement—Increased juvenile Chinook emigration <p>CDFW found that the monetized ecosystem benefits, as described in the application, meet the requirements of Chapter 8, as related to matters within its purview. CBEWP’s claimed ecosystem benefits would be realized through water transfers with the SWP, whereby a SWP Contractor would use water from the proposed project in lieu of SWP water, allowing water stored in Oroville Reservoir to be dedicated to instream flow benefits. The CBEWP proposes providing up to 50 TAF of water per year, in the spring of dry and critically dry years, to act as pulse flows on the Feather River.</p> <p>Staff concludes that the proposed project appears to contribute to the restoration of aquatic ecosystems and native fish and wildlife, including those ecosystems and fish and wildlife in the Delta (Water Code section 79753(a)(1)). This project also appears to contribute to ecosystem-related water quality improvements by providing pulse flows.</p> <p>The water quality benefit accepted by the Commission for this project is:</p> <ul style="list-style-type: none"> • Water Quality—Groundwater protection <p>The State Water Board found that the project meets the requirements of Chapter 8, as related to matters within its purview. The proposed CBEWP would construct an AWTF and distribution facilities that would store up to 15 TAF per year of unused new local water supply in the Chino Basin Water Bank.</p> <p>Staff concludes that the proposed project appears to provide water quality improvements that clean up or restore groundwater resources (Water Code section 79753(a)(2)).</p>	
4. The proposed project provides measurable improvement to the Delta ecosystem or to the tributaries to the Delta.	YES

Table 1 - Staff Recommendations – Commission Determinations	
<p>The ecosystem public benefit accepted by the Commission for this project is:</p> <ul style="list-style-type: none"> • Ecosystem Improvement—Increased juvenile Chinook emigration <p>Based on CDFW’s finding that the ecosystem public benefits resulting from pulse flows on the Feather River meet the requirements of Chapter 8, Staff conclude that the project will provide measurable improvements to the Delta ecosystem or to the tributaries to the Delta.</p> <p>These ecosystem public benefits will likely provide changes in the physical, chemical, or biological conditions that provide public benefits which can be quantified at a specific location and time (Water Code section 79752; Regulations section 6001(a)(48)).</p>	
5. The proposed project’s program cost share is less than or equal to 50 percent of the proposed project’s total capital costs, with the exception of conjunctive use projects and reservoir reoperation projects.	YES
The project is a conjunctive use project and is eligible for more than 50 percent of the project’s total capital cost. The maximum eligibility amount for this project is \$206.90 million and the project’s total capital cost is \$371.98 million.	
6. The proposed project’s program-funded ecosystem improvement benefits make up at least 50 percent of the total public benefits funded by WSIP.	YES
The Commission’s decision on May 3, 2018 determined the public benefit amount for each project, which necessarily included consideration and determination of the project’s ecosystem benefits. Based on that decision, the project’s public benefits consist of at least 50 percent ecosystem improvements, as required by Water Code section 79756(b).	
7. The proposed project appears to be feasible.	YES
Notwithstanding the implementation risks documented in the Technical Review, on whole the project appears to be feasible. The applicant demonstrated that the project can be constructed with existing technology and available construction materials, work force, and equipment. The applicant also demonstrated that the project is technically feasible consistent with the preliminary operations plan.	
8. The proposed project will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta.	YES

Table 1 - Staff Recommendations – Commission Determinations	
<p>Section 6001(a)(7) of the Regulations defines “beneficial uses of the Delta” as those:</p> <p style="text-align: center;"><i>“...identified in the State Water Board’s ‘Water Quality Control Plan for the San Francisco/Sacramento-San Joaquin Delta Estuary’ (December 2006).”</i></p> <p>The CBEWP proposes providing up to 50 TAF per year, in the spring of dry and critically dry years, to act as pulse flows on the Feather River. CDFW found that pulse flows to the Feather River, resulting in increased juvenile Chinook emigration, are a substantiated ecosystem benefit that constitute an ecosystem improvement.</p> <p>This identified public benefit appears to advance ecological beneficial uses of the Delta, including: Cold Freshwater Habitat; Migration of Aquatic Organisms; Spawning, Reproduction, and/or Early Development; and, Rare, Threatened, or Endangered Species. The advancement of beneficial uses resulting from the project would aid in restoring healthy wildlife corridors, and migratory species habitats that support the Delta ecosystem complex.</p>	
9. The proposed project is consistent with all applicable laws and regulations	YES
<p>The applicant stated in the application that the project will comply with all applicable laws and regulations. Such compliance is a requirement for WSIP funding.</p>	

Part 2: Additional Eligibility Requirement

Wild and Scenic Rivers

Regulations section 6006(c)(2) identifies six additional eligibility items that require the Commission’s consideration as part of the technical review. Five of the additional eligibility items are included in the determinations discussed above. One additional eligibility item (Wild and Scenic Rivers) is not included in the determinations. Water Code sections 79711(e) and 79751(a) prohibit the use of WSIP funds by any project that could have an adverse effect on the values upon which a Wild and Scenic River or any other river is afforded protections pursuant to the California Wild and Scenic Rivers Act or the federal Wild and Scenic Rivers Act.

The CBEWP is unlikely to adversely affect a Wild and Scenic River, including its free-flowing character. Bautista Creek, which is located approximately 50 miles south of the proposed program area, is the nearest designated Wild and Scenic River, and the program does not propose a hydrologic connection to this watershed. The CBEWP activities would include hydrologic connectivity to the Chino and Feather River Basins. There are currently no designated Wild and Scenic Rivers in the Chino Basin, and the 42.6 mile stretch of the Feather River that is designated as Wild and Scenic is located upstream of the pulse flows proposed as part of the CBEWP.