

## Water Storage Investment Program Commission Determinations and Additional Eligibility Requirement

### Pacheco Reservoir Expansion Project

#### Santa Clara Valley Water District

The applicant, Santa Clara Valley Water District (SCVWD), is proposing a regional surface storage project, the Pacheco Reservoir Expansion (PRE) Project. The PRE Project would enlarge the existing reservoir located in southeast Santa Clara County, from 6 thousand acre-feet (TAF) to 141.6 TAF. The PRE Project would construct new conveyance infrastructure to segments of the Central Valley Project (CVP) San Felipe Division in Merced and Santa Clara counties, and deliver water supply to up to eight south-of-Delta wildlife refuges in Merced County. The primary water sources to fill the expanded reservoir would be natural inflows from the North and East Forks of Pacheco Creek. Supplemental flows to the expanded reservoir would arrive from SCVWD's and the San Benito County Water District's (SBCWD's) share of contracted CVP pumped water from San Luis Reservoir.

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

- Ecosystem Improvement—Steelhead habitat
- Ecosystem Improvement—Refuge supply
- Emergency Response—Delta failure

The proposed project included a non-monetized flood control benefit.

#### 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 50percent 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"> <li>• Monetized and non-monetized benefits and costs as described in the application</li> <li>• 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</li> </ul> <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

<b>Table 1 - Staff Recommendations – Commission Determinations</b>	
<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 proposed PRE Project would provide greater operational flexibility for San Luis Reservoir operators and local water systems in Santa Clara County. By expanding south-of-Delta storage that is interconnected with both CVP and SWP, the proposed project would improve the operation of the state water system, including local, regional, state, and federal systems. The proposed project would improve overall system reliability and delivery flexibility, particularly related to joint CVP and SWP San Luis Reservoir operations.</p>	
3. The proposed project provides a net improvement in ecosystem and water quality conditions.	YES
<p>The monetized public benefits accepted by the Commission for this project are:</p> <ul style="list-style-type: none"> <li>• Ecosystem Improvement—Steelhead habitat</li> <li>• Ecosystem Improvement—Refuge supply</li> </ul> <p>The California Department of Fish and Wildlife (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. The PRE Project proposes to provide perennial stream flows in Pacheco Creek for habitat enhancement and benefits to South-Central California Coast Steelhead. Consistent with the Central Valley Project Improvement Act, the PRE Project also proposes to provide Incremental Level 4 water, in below normal water years, to south-of-Delta wildlife refuges for habitat enhancement.</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 water to enhance wetland habitat.</p>	
4. The proposed project provides measurable improvement to the Delta ecosystem or to the tributaries to the Delta.	YES
<p>The monetized public benefits accepted by the Commission for this project are:</p> <ul style="list-style-type: none"> <li>• Ecosystem Improvement—Steelhead habitat</li> <li>• Ecosystem Improvement—Refuge supply</li> </ul> <p>Based on CDFW’s findings that the ecosystem public benefits resulting from the project 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

<b>Table 1 - Staff Recommendations – Commission Determinations</b>	
Based on the Commission’s decision on May 3, 2018 and consistent with California Water Code section 79756(a), the project’s WSIP cost share is less than or equal to 50 percent of the project’s total capital costs. The Commission’s May decision determined the maximum eligibility amount for each project, which necessarily included consideration of the project’s WSIP cost share. The maximum eligibility amount for this project is \$484.55 million and the project’s total capital cost is \$969.10 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 California 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
<p>Section 6001(a)(7) of the Regulations defines “beneficial uses of the Delta” as those:</p> <p><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>CDFW found that the provision of year-round reservoir releases to Pacheco Creek and the delivery of Incremental Level 4 water, during below normal years, to south-of-Delta wildlife refuges are substantiated ecosystem benefits that constitute an ecosystem improvement to steelhead habitat, and refuge water supply.</p> <p>The identified public benefits appear to advance ecological beneficial uses of the Delta, including: Cold Freshwater Habitat; Estuarine Habitat; Wildlife Habitat; 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
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.	



## 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 PRE Project is unlikely to adversely affect a Wild and Scenic River, including its free-flowing character. The Big Sur River, which is located approximately 60 miles southwest of the proposed project area, is the nearest designated Wild and Scenic River, and the project does not propose a hydrologic connection to this watershed. The proposed project is located in the Pacheco Creek area of the Pajaro River watershed, which does not include, and does not provide hydrologic connectivity to any designated Wild and Scenic Rivers.