



**Action Item: Water Storage Investment Program – Future Available Funding**

**Summary**

The eight applicants that received Maximum Conditional Eligibility Determinations (MCEDs) for the Water Storage Investment Program (WSIP) must obtain the necessary permits and non-state cost shares, and complete other requirements before receiving a final award from the Commission. It is possible that one or more WSIP applicants may not be able to complete these requirements, or could receive less than their full MCED. In that event, the Commission would have additional funds to distribute.

Current project schedules indicate that the eight projects could be ready for their final award hearings sometime between 2020 and 2024. In September 2018, this Commission considered several options for how to handle such funding in the future. It also considered whether to express its preferences through regulations or a less-binding resolution. Based on the Commission's direction, staff has prepared the attached draft resolution to express the Commission's preference for allocating available funds to third-ranked projects that received MCEDs less than their full eligible funding amount.

The Commission should consider whether they wish to guide future Commissions with the preferences expressed in the draft resolution. The Commission may act on the resolution at the February 20 meeting. The Commission could also direct staff to revise the resolution for consideration at a future meeting.

**Background**

The Commission's regulations do not address what to do if additional funding becomes available in the WSIP. In a [September 19, 2018 report](#), the Commission staff described possible future scenarios that could yield additional funding:

- A project fails to meet the January 1, 2022 statutory requirements;
- The Commission revokes an MCED because an applicant fails to make sufficient progress toward meeting the statutory requirements (regulations section 6013 (f)(1)); or
- The Commission awards less than the MCED due to changes in the public benefits (regulations section 6013(f)(4)).

The Commission's discussion, as reflected in the minutes of the September 19, 2018 meeting indicated that the Commission wanted to express its preferences for handling such funding in a resolution, rather than by changing the WSIP regulations. The reasons for doing so include:

- To take advantage of this Commission's knowledge and experience in developing and implementing the WSIP regulations;
- To document this Commission's opinion that the three rank-3 projects, which have already been fully reviewed and found to provide public benefits, should be first in line to receive funds that may become available;
- To provide more certainty for the rank-3 project applicants regarding the possibility of additional funding; and
- To avoid locking a future Commission into a particular course of action.

### **Questions for the Commission**

The Commission could address this as a two-part question:

1. **Does the Commission wish to adopt a resolution expressing its preferences for how a future Commission should handle available funding?** Given the long timelines that applicants currently project for receiving their final funding award, it is likely that this Commission will be substantially different when the time comes to decide what to do with any available funds. Future Commissioners may not know the WSIP as well as the current Commission, which developed the regulations and reviewed the applications, ultimately deciding to invest nearly \$2.6 billion in the public benefits of eight projects. This Commission's experience and preferences would benefit a future Commission as it deliberates how to make the best use of any available funding.

At the September 19, 2018 meeting, several Commissioners stated their preference that any guidance to a future Commission should be in the form of a resolution rather than additions to the WSIP regulations.

The Commission could affirm that it prefers to use the less-binding approach of the Resolution. Alternatively, the Commission could opt to remain silent on the question, giving a future Commission the most flexibility.

2. **What preferences does the Commission wish to express in a Resolution?** If the Commission affirms the use of a resolution, the Commission could state its preferences for the use of any funding that becomes available. The attached draft resolution contains three preferences that the Commission can use as a starting point. The preferences—making rank-3 projects whole, considering adjusting MCEs to their full eligible amount, and considering an expedited solicitation—are fairly broad. The Commission may wish to consider additional preferences or details, such as a method for distributing available funding among rank-3 projects. As the Commission contemplates preferences in the

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resolution, it should be mindful that there are many future factors that are impossible to predict so a future Commission's ability to implement preferences will vary with situation specifics.

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