

California Water Commission

# Project Progress and Commission Discretion in WSIP

Holly Geneva Stout  
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# 2018 Decision Activities

- Water Storage Investment Program (WSIP) regulations govern the evaluation of the applicant projects.
- The Commission made Maximum Conditional Eligibility Determination (MCED) decisions in July 2018.
- MCEDs represent the maximum amount a project can be awarded through the WSIP if the statutory requirements have been met.
- Results were based on a comprehensive evaluation of each project's application without initial comparison to other projects or broader policy considerations.
- Early funding is limited to 5% of the total MCED.

# Evaluation of Projects

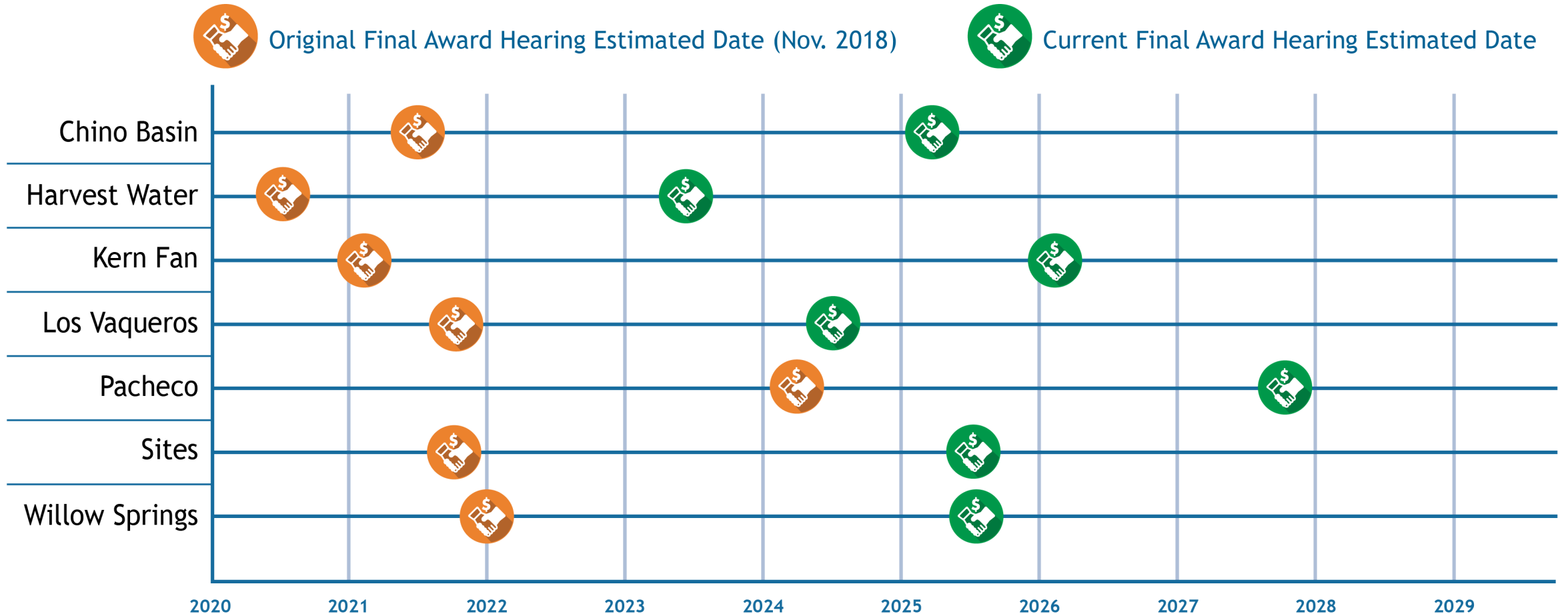
- Evaluation included overall feasibility (environmental, constructability, economics, and financial), water operations, and evaluation of the public benefits stated in Water Code section 79753:
  - Ecosystem improvements
  - Water quality improvements
  - Flood control benefits
  - Emergency response
  - Recreational purpose
- Other benefits cannot be considered by the Commission when determining the State's investment.

# Water Code section 79757 Requirement

- Once the Commission established MCEs, applicants began work on completing statutory requirements for final funding.
- Proposition 1 contains an interim deadline for projects to establish feasibility by January 1, 2022.
- Applicants submitted materials for the interim deadline in late 2021.
- Applicants must move projects from feasible to construction ready before final funding hearing.
- Did not make sense for Commission to consider exercising discretion while projects worked toward a statutory deadline.

# Project Timeline Shift

Estimated funding hearing from 2017 applications compared to latest quarterly report.





# Project Progress Information

- Projects submit quarterly reports (due at the end of January, April, July, October).
- Projects may also ask to present updates to the Commission.
- The Commission may ask for project updates.
  - Willow Springs updated the Commission in June 2023.
  - Pacheco updated the Commission in October 2023.
  - Sites Project provided an update when it requested additional early funding in May 2023.
  - Chino Basin Program provided an update when it requested additional early funding in November 2023.
- Commission staff follow Applicants' public meetings.
- Commission staff brief Commission monthly.

# Regulatory Discretion

- California Code of Regulations, Title 23, section 6013(f)(1) states:

*Funding for the capital costs of a project remain contingent until all items in section 6013(c) are complete and have been submitted to the Commission. The Commission may determine at a regularly scheduled meeting that the applicant has failed to make substantial progress toward completing these required documents and the project is no longer eligible for Program funding.*

# Regulatory Discretion Considerations

- Each project has its own timeline.
- Different projects will face different issues, and will have distinct considerations facing the Commission.
- Each project must be evaluated independently when exercising discretion (one size does NOT fit all).
- No set process/timeline to exercise discretion.



# Information Commission May Consider

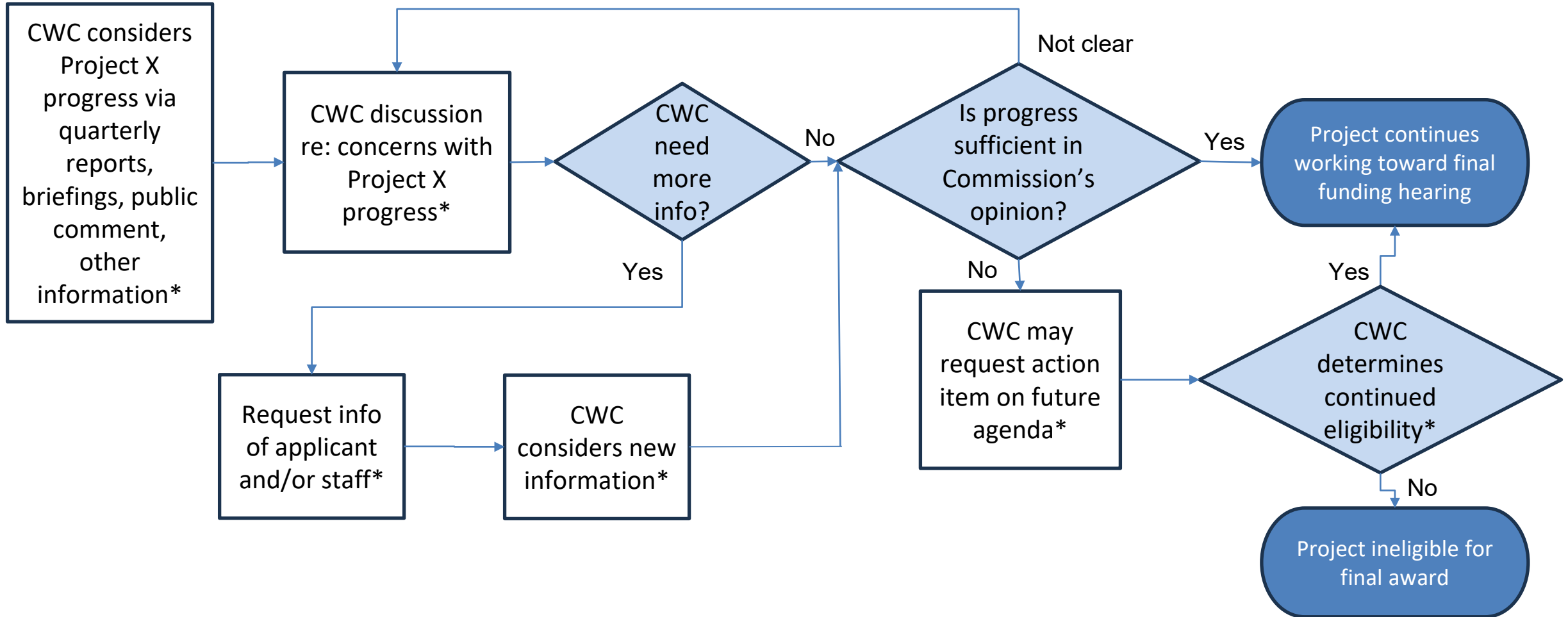
- Quarterly reports
- Project presentations
- Progress made toward completing the regulatory requirements
- News articles
- Public comments
- Commissioner's own opinions
- Staff's recommendation, information, and/or opinion

# Exercising Discretion

- Each project has its own circumstances and must be considered independently of other projects.
- No specific process.
- Key decisions:
  - Based on information from applicants and/or staff, is there cause for concern that the project cannot advance to final funding hearing?
  - Is more information needed?
  - Does the Commission have enough information to determine a project is not making sufficient progress?
- Each key decision may create multiple paths for the Commission.

# Potential Decision Process

\* Indicates public meeting information and/or action





Questions?