July 9, 2026

Fern Steiner, Chair
California Water Commission
715 P St.
Sacramento, CA 95814

RE: Comments on the Draft Contract for the Administration of Public Benefits for the Proposed Sites Reservoir

Chair Steiner and Commissioners,

Friends of the River and San Francisco Baykeeper appreciate the opportunity to comment on the draft Contract for Administration of Public Benefits ("CAPB") for the proposed Sites Reservoir Project ("Project") and request that these comments be considered despite submission after July 6. The draft contract is intended to define how the Project will satisfy its obligations under the Water Storage Investment Program ("WSIP") to provide ecosystem improvements in exchange for approximately $1.36 billion in public funding approved under Proposition 1.

The CAPB and proposed ecosystem benefits do not justify the investment of substantial taxpayer dollars.

The history of the Project demonstrates a consistent pattern: each time the Project's claimed ecosystem benefits have received closer technical and legal scrutiny, those benefits have become increasingly narrow, uncertain, or unsupported by science and evidence. Rather than responding to this erosion by limiting public benefit claims to those that are well supported and justifiable, the CAPB instead expands the Sites Project Authority's ("Sites JPA") discretion to define future ecosystem benefits after execution of the contract. The Commission should not approve a contract that substantially broadens the claimed public benefits beyond those that have been evaluated and supported through the WSIP process.

I. The Project's ecosystem benefits have consistently diminished under scrutiny.

The Sites Project has long relied upon purported public ecosystem benefits to justify an unprecedented level of public investment. Yet those benefits have never been robust when subjected to scientific review.

In its 2018 Relative Environmental Value ("REV") analysis, the California Department of Fish and Wildlife ("CDFW") assigned the Project an overall score of only approximately 40.5 percent of the total possible points. Even the Project's strongest remaining ecosystem benefit—delivery of water to Incremental Level 4 ("IL4") refuge water deliveries—received only approximately 59 percent of the available points during CDFW's initial analysis. CDFW expressed repeated concerns regarding uncertainty in the Project's assumptions, adaptive management framework, monitoring, and the magnitude and durability of the claimed benefits. For example, CDFW concluded that many claimed ecological benefits depended upon assumptions that were not supported by commitments in the application, including assumptions regarding future agricultural practices and ecosystem responses.

CDFW was even more critical of many of the Project's other proposed ecosystem benefits, particularly the purported salmon and Delta ecosystem improvements. Its review repeatedly questioned the magnitude, biological basis, and supporting evidence for those benefits. The relatively low overall REV score reflects those concerns. Subsequent events have only reinforced that skepticism.

The Sites JPA had an opportunity to demonstrate the Project's ecosystem benefits during the water rights proceeding for Sites Reservoir. After approximately 34 hearing days, the presentation of testimony from 60 total witnesses by all parties, and approximately 1,600 exhibits in the evidentiary record, there still is no strong evidentiary basis to support the purported ecosystem benefits. If the Sites JPA were confident that the Project would provide the substantial ecosystem improvements used to justify over a billion dollars in WSIP funding, one would reasonably expect it would have presented that evidence to support the public trust analysis related to evaluation of its water right permit application. It did not do so.

Instead, the Administrative Hearings Office's Draft Decision concluded that the Project, even with Sites JPA's proposed operational constraints and an Incidental Take Permit from CDFW, would cause substantial impacts to fisheries, water quality, Tribal resources, and the environment, requiring numerous additional permit conditions to reduce those harms. The expansive record developed in the water rights proceeding therefore provides little support for the Project's claimed public ecosystem benefits.

The clearest example of this eroding public benefits concerns the previously proposed Delta Smelt/Yolo Bypass benefit. In an April 10, 2026 letter responding to questions from the Administrative Hearings Office of the State Water Resources Control Board (AHO), the Sites Project Authority acknowledged that:

> "CDFW has indicated that the flows into the Yolo Bypass for the benefit of Delta smelt cannot currently be considered an ecosystem improvement meeting the requirements of Water Code section 79750 et seq. as recent studies are not able to support the benefits of these flows to species."

As a result, the Sites JPA abandoned that ecosystem benefit entirely.

This progression illustrates a broader pattern. Each time the Project's claimed ecosystem benefits have been subjected to careful review, those benefits have been narrowed rather than strengthened. The Commission should decline to approve a contract that substantially expands claims of benefits through future administrative discretion. Approving a loose contract that relies on future discretion is not a responsible use of taxpayer funds.

Proposition 1 was approved by California voters to fund projects that provide genuine, measurable public ecosystem improvements. The Commission should ensure that the Project satisfies the language and underlying purpose of Proposition 1 by requiring ecosystem benefits that are specific, demonstrable, and supported by substantial evidence.

II. The CAPB wrongly expands the benefit related to water for wetlands.

The CDFW REV analysis evaluated specific ecosystem improvements at identified locations, principally through delivery of IL4 refuge water. Even that benefit was accompanied by significant discussion regarding uncertainty, adaptive management, and future implementation.

Rather than limiting ecosystem improvements to the specific locations evaluated during the WSIP process, the CAPB authorizes future ecosystem benefits on Refuge Water Supply Program ("RWSP") refuges, additional public lands, and private lands that may later satisfy broad eligibility criteria and future approval by CDFW. In its April 10 letter to the AHO, the Authority argued that limiting ecosystem improvements to RWSP refuges would improperly constrain its flexibility and requested authority to provide benefits throughout a much broader place of use. However, the Commission should not approve a contract that transforms a finite set of evaluated ecosystem improvements into an open-ended adaptive program whose ultimate locations, beneficiaries, and ecological objectives will be determined after execution of the contract.

III. The CAPB relies on future agreements and future discretion rather than demonstrated, reliable delivery.

The anticipated deliveries depend upon future donation agreements, exchange agreements, wheeling agreements, conveyance arrangements, operational coordination, adaptive management decisions, and future approval of additional habitat locations. The contract further acknowledges that projected deliveries are derived from CalSim modeling, that actual operations may differ, that future hydrology and regulations may change, and that reservoir filling takes priority over ecosystem benefit releases.

Accordingly, the Project receives credit today for ecosystem benefits whose delivery depends upon future discretionary actions that may or may not occur. To justify the expenditure of taxpayer dollars, claimed ecosystem benefits should be tied to demonstrated, enforceable, and reasonably certain delivery—not to future administrative discretion.

IV. Public ecosystem benefits should remain tied to an existing, accountable regulatory program, and should be restricted to north-of-Delta locations to ensure the greatest certainty of delivery of those benefits.

The Commission should also reject the CAPB's expansion of ecosystem improvements beyond the existing Refuge Water Supply Program.

The RWSP represents an established federal program with defined ecological objectives, identified beneficiaries, and measurable water supply obligations. Restricting WSIP ecosystem benefits to that existing framework provides accountability and allows public benefits to be evaluated against known ecological needs. However, the CAPB instead authorizes future ecosystem improvements on additional public and private lands whose eligibility and ecological justification will be determined later. This approach weakens accountability while making it substantially more difficult to determine whether the promised ecosystem improvements are actually occurring.

If the Commission approves the CAPB, ecosystem improvements should remain tied to existing regulatory programs with clearly defined ecological objectives rather than future discretionary determinations.

Finally, if refuge water deliveries remain the principal ecosystem benefit supporting WSIP funding, those deliveries should be limited to refuges north of the Delta. South-of-Delta deliveries depend upon export capacity when that capacity is least reliable, during dry and critically dry years, when that water would be most valuable. There is no evidence demonstrating that the Project can consistently provide the firm refuge water supplies contemplated by the Central Valley Project Improvement Act for south-of-Delta refuges. Moreover, the volume of water theoretically available for refuge deliveries is limited and insufficient to meet even the total needed north-of-Delta. As a result, the benefits should focus on those deliveries, rather than limit surer deliveries that are needed in order to (hypothetically) improve south-of-Delta deliveries.

Restricting ecosystem improvements to north-of-Delta refuge deliveries would substantially improve the likelihood that the claimed public benefits are actually realized while maintaining consistency with the evidentiary record.

V. Conclusion

The CAPB relies too heavily on future administrative discretion and limited, weak or uncertain public benefits. This contract would be the basis of an award of over $1 billion in public funds. It cannot be a plan to make a plan, nor should it result in such a massive expenditure for such a limited return.

The Project's claimed ecosystem benefits have consistently narrowed or vanished as they have received closer scrutiny. The Commission should not award funds to a highly speculative project for highly speculative benefits. But if it does so, it must ensure that the final CAPB reflects demonstrated benefits—deliveries of water to already existing accountable regulatory programs north of the Delta.

Thank you for your consideration of these comments.

Sincerely,

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