



United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825-1898

JAN 31 2014

IN REPLY REFER TO:

MP-700
WTR-3.00

VIA ELECTRONIC MAIL ONLY

California Water Commission
Room 1148
P.O. Box 942836
Sacramento, CA 94283-0001

To Whom It May Concern:

The California Water Commission (Commission) has an ongoing process to develop and adopt, by regulation, methods for the quantification and management of public benefits associated with eligible water storage projects. The resulting regulations will dictate the process for State funding public benefits of new water storage projects should California voters approve the associated water bond measure. The Bureau of Reclamation in cooperation with the California Department of Water Resources is conducting a number of investigations of water storage projects, which if authorized for construction, would provide public benefits as recognized by Federal regulations. Reclamation is interested in ensuring that any regulations adopted by the Commission are consistent for water storage projects potentially authorized for Federal construction.

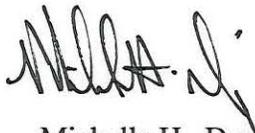
Attached are Reclamation's comments on two documents, which comprise the Commission's *Staff Draft Regulations and Guidelines for Public Benefits*. It is our understanding the comment period has been extended until January 31, 2014.

Reclamation is most concerned that the draft regulations appear to preclude funding of public benefits associated with the potential enlargement of Shasta Dam. For the reasons enumerated in our comments, Reclamation requests you consider revising this portion of the proposed regulations in the development of the next draft.

We are providing our general and specific comments in the attachment for your consideration. We appreciate the opportunity to participate in this process as the Federal co-lead partner for the ongoing surface storage feasibility studies, for which the draft documents are intended to

support. Please let me know of any concerns or advice by telephone at 916-978-5060 or email at mdenning@usbr.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle H. Denning". The signature is fluid and cursive, with a prominent initial "M" and a long, sweeping tail.

Michelle H. Denning
Regional Planning Officer

Enclosure

Reclamation Comments on Draft California Water Commission Documents

Reviewer Name: MP-700 Planning Division

Reviewer Mailing Address: 2800 Cottage Way (MP-700), Sacramento, CA 95825

Date: 1/27/2014

General Comments

1. Reclamation has been cooperating with the California Department of Water Resources (DWR) in conducting a series of feasibility studies (aka: investigations) for potential water storage projects since the mid-1990s, with formal partnering established pursuant to the CALFED Bay-Delta Program's Water Storage Program Element, and consistent with the related Programmatic Record of Decision (ROD) and Programmatic Environmental Impact Statement/Environmental Impact Report (PEIS/EIR) of 2000. Because these are the same and/or related potential storage projects that are the subject of the Act and emerging legislation and guidelines, we respectfully offer our comments in a manner that clearly and fairly reflects the Reclamation/Federal perspectives and concerns. It is in the spirit of cooperation that we offer these comments and suggestions. Further we would be happy to meet with us and assisted in refining these documents to affectly address potential benefits to the Nation as well as to Californians.

2. In 2000, the CALFED "Preferred Alternative" identified five potential surface water projects for further site-specific study, including enlargement/expansion of the existing Shasta Dam and Reservoir Project and Los Vaqueros Reservoir Projects, additional new storage in the Upper San Joaquin River Basin (aka: Temperance Flat), and new off-stream storage North-of-the-Delta (aka: Sites Reservoir) and in the Delta. In 2006, DWR suspended the In-Delta Storage Investigation and in 2012, a 60,000 acre-foot expansion project at Los Vaqueros Reservoir was completed by the Contra Costa Water District. While certain constraints are in place that limit State participation in potential Shasta Project modifications (i.e., California Public Resources Code 5093.542), it is possible that one or more of these potential projects are ultimately recommended and approved for implementation and related funding, and therefore may affect or be affected by the subject draft documents.

3. Because of their current definitions and assumptions in the subject documents, we are very concerned that, if left unchanged, it will likely be extremely difficult to determine that any of the five "public benefits" will be cost effective (benefits greater than costs) based on our experience with economic analyses for large storage projects. To be specific, Reclamation and others typically regard water supply benefits and improved water supply reliability to be "public benefits." Thus, when considered as part of the whole benefit picture, water supply benefits (for urban, M&I, agricultural, and environmental purposes) typically have the bulk of "public benefits," largely because of established methods of assessing their monetary values. Conversely, ecosystem improvements, water quality improvements, flood control, emergency response, and recreation benefits will likely not have the proportionate monetary and/or non-monetary benefits in comparison to those benefits attributed to water supply and reliability. The point is: while there may be acceptable metrics and methods for these five benefits of concern, it will be challenging to demonstrate their relative values and cost effectiveness, which is a primary requirement of the subject documents. Further, to date, none of the ongoing surface storage investigations have included "Flood Control" as a primary objective. Thus, while flood damage reduction benefits are assumed to be incidental by improving operational flexibility of reservoirs, current alternatives do not have specific designs or cost estimates for flood control features or related benefit/cost analyses.

4. The subject documents' definitions and treatment of "Public Benefits" and "Non-Project Benefits" need to be revised to clarify and put those definition/terms in perspective and proportion of all other prospective benefit types, etc., because they are ambiguous and contradictory to other recognized definitions. For example, other federal, regional, and local agencies and stakeholders have different definitions for "Public Benefits" and "Non-Public benefits. Therefore, we recommend replacing "Public Benefits" with "SBX7-2 Public Benefits" or some other acceptable distinguishing descriptor throughout the documents. Similarly, we recommend replacing "non-public benefits" with "other public benefits" or some other acceptable distinguishing descriptor throughout the subject documents."

5. We find the term "Benefits to Californians" in the subject documents to be problematic. While we recognize the intent and appropriateness in view of its context in State documents, we also suggest that you carefully review and revise its use and application to recognize that "Benefits to the Nation" must also be established as a basis for receiving and federal funds for the potential surface storage projects. Thus, we recommend to search and replace the term, "Benefits to Californians" with "Benefits to California and the Nation" throughout the subject documents.

6. While the subject documents emphasize that monetary benefits must be displayed, it should be recognized that non-monetary benefits may also be considered as part of the process to identify, assess, compare alternatives and their estimated benefits and costs, to ultimately identify and recommend the alternative with the greatest net benefits. This would be consistent with existing Federal Principles & Guidelines (WRC 1983), newly approved Principles & Requirements (CEQ 2013), and emerging Federal agency-specific guidelines to implement the Federal P&Rs. These requirements must be met if Federal funds are used to cost-share the construction and/or operation of any new surface storage projects.

7. Because any project that may be eligible for funds by virtue of their potential "public benefits" it is imperative to better describe the potential construction and other related benefits and costs in a complete and comprehensive manner, including but not limited to ownership scenarios, project purposes, funding sources, and implementation responsibilities. This would help clarify and avoid confusion regarding various types of "public benefits" by distinguishing those that are required by the subject documents from those that may also be pertinent for a proposed project.

8. Discuss "Beneficiaries Pay" requirements of the CALFED ROD where appropriate in the subject documents. Explain that the requirements are expected to be met by various combinations of funds from a variety of Federal, State, JPA, CVP and SWP water contractors, and other potential public and private stakeholders and taxpayers.

9. While the subject documents are focused on certain public benefits that may establish eligibility for specified State funds, it is unclear whether the CWC is also included in the process of reviewing and approving any of the potential proposed surface storage actions/projects. This begs the question, of when the CDC would act in considering applications and approving funding grants/provisions – before or after other decisions by State, Federal, and/or other entities – and would CWC decisions affect or be effected by the determination and approval of the "best alternative."

10. Define and/or clarify the CWC's criteria for review, screening, approval, and rankings of proposed projects as the basis for considering the applicant's proposals for funding of projects affecting the Delta and/or its tributaries.

Comments Regarding California Public Resources Code Section 5093.542

11. While we recognize that draft language in these two documents intend to preclude the State from participating in potential Shasta Project enlargement, we respectfully ask the CWC to consider the following and then revise the documents if possible.

11A. California Public Resources Code, Section 5093.542, was written and enacted in the late 1980s to amend the California Wild and Scenic Rivers Act to protect the McCloud River's free-flowing condition and the river's fishery below McCloud Dam at a time during which Reclamation was conducting a Feasibility Study of potential alternatives to raise the existing Shasta Dam up to 200 feet higher. The potential effects of inundation from a 200-foot raise would likely have adversely impacted the flow conditions below the McCloud Dam and the downstream premiere fishing areas and related resources eligible for listing as "Wild and Scenic," which were highly valued then, as they are now, by the legislation's authors and affected stakeholders. When Reclamation completed those feasibility studies, we concluded that there was no non-Federal sponsor interested or able to support and/or provide required cost sharing for any enlargement and thus no action should be taken by the Federal government to implement a project modification at that time. Further study was suspended until efforts resumed in the late 1990s pursuant to the Bay-Delta Accord and culminated in the CALFED Bay-Delta Programmatic ROD and PDEIS/EIR in late 2000. As explained below, subsequent planning and feasibility studies have abandoned further study of large raises ranging to 200 feet and instead focused on alternative raises ranging up to only 18.5 feet, which would not significantly impact flow conditions below the McCloud Dam or the related trout fishery, or wild and scenic resources, or the potential future eligibility for listing as a wild and scenic river under to pertinent Federal and State Acts.

11.B. Studies conducted in the late 1990s to assess the effectiveness of alternative dam raises resulted in the conclusion that a range of raises of up to about 18.5 feet would be reasonable and cost effective (Appraisal of the Potential for Enlarging Shasta Dam and Reservoir, 1999). These limited alternative raises were carried forward into CALFED planning and included in the CALFED Bay-Delta Programmatic ROD and PDEIS/EIR, as part of the Storage Program Element and "Preferred Alternative", in late 2000. In fact, the ROD includes the specific language regarding the proposed expansion of Shasta Lake, stating: "Resolve legal issues to allow State agency cooperation by the end of 2000."

11.C. While segments of the McCloud River have been determined eligible for listing under the Federal WSRA and are protected under the State PRC, the river has not been formally listed as wild and scenic under either the Federal WSRA or State PRC. The California Resources Agency (Resources Agency) evaluated the McCloud River in the late 1980s (Jones & Stokes Associates 1988) to determine whether it was eligible for listing under the State PRC. The Resources Agency study found it eligible, but the California legislature declined to add the river to the California wild and scenic river system. The legislature instead passed an amendment to the California Wild and Scenic Rivers Act to protect the river's free-flowing condition and the river's fishery below McCloud Dam through the State PRC. As addressed in the Draft Feasibility Report (2012) and Draft EIS (2013) for Shasta Enlargement, Reclamation would make every reasonable effort to avoid and/or mitigate for any significant impact to such resources to the extent practicable.

11.D. As addressed in the foregoing paragraphs, Reclamation respectfully requests that the CWC reconsider the opportunities, interests, and responsibilities of State agencies with respect to potential modifications to the Shasta Project in light of current planning assumptions, objectives, constraints, and alternative plans limited to 18.5-foot dam raises, consistent with the DEIS, particularly Chapter 25 therein. We believe that such consideration today would provide the State with a fresh look at the pros and cons of potential enlargement of the Shasta Project along with contemporary conditions and related trade-offs which would offer opportunities for State participation in providing up to 634,000 acre-feet of new storage capacity as additional cost-effective water supply storage and reliability for urban, agricultural, and environmental purposes, including a dedicated cold water pool of more than 378,000 acre-feet for the benefit of downstream fisheries.

Comments on California Water Commission's Working Draft SBX7-2 Chapter 8 Guidelines

12. Re: p.21, line # Step 5: I would insert "ability to pay values" for each public benefit.

13. Re: p.8, line #D: "Federal benefits" should also be considered in this guideline. For example Water supply, agricultural, M&I and irrigation.

14. Re: p. 26, line # D: Will this project require re-operating upstream reservoirs as well as CVP water operation system?

15. Re: p. 4, line # zz3.3)-4): Potential cost-effective alternative could demand new ways (more Public Benefit Corporation) to pay for California crippling infrastructure.

16. Re: p. 10, line # 2.d): Will the state bond support public health and safety? For example, providing safe drinking water in neighborhoods that can't afford it.

17. Re: p. 14, line # C: Its important to analyze Sustainable Economic Development: Alternative solutions for resolving water resources problems should improve the economic well-being of the Nation for present and future generations.

18. Re: p. 8, line # D: Public Safety: Threats to people, including both loss of life and injury, from natural events should be assessed in the determination of existing and future conditions, and ultimately, in the decision making process. Alternative solutions, which include structural and nonstructural elements, must avoid, reduce, and mitigate risks to the extent practicable and include measures to manage and communicate residual risks

19. Re: p. 12, line # C: The Federal, State, regional, Tribal, and local governments, as well as stakeholders, share the responsibility of managing and protecting public water resources.

20. Re: p. 19, Line # the documentation (a)): Be sure to show all "public and nonpublic benefits, beneficiaries, funding services (100 years +).

21. Re: p. 9, line # 2nd Para: Add d.) Such JPA(s) must demonstrate ability to secure and manage financing for acquisition, constructions, OMRR&R, permitting and env'l compliance perpetuity.

22. Re: P.21, line # Step 5: **Add:** And ability to pay/ repay/financial plan & capabilities to ensure constructability & long term O&M.

23. Re: p. 24, line # 1st Para (following characteristics): **Add:** and is required for Federal multiple purpose water storage projects