

Updated: August 12, 2015

## **Discussion of Management and Monitoring of Public Benefits – SAC Comments in Redline and Comment Bubbles**

### **Existing Statutory Language Applicable to Management and Monitoring of Public Benefits**

*§79754 In consultation with the Department of Fish and Wildlife, the state board, and the Department of Water Resources, the commission shall develop and adopt, by regulation, methods for quantification and management of public benefits described in Section 79753 by December 15, 2016.*

*§79755 (a)(3) The project applicant has entered into a contract with each public agency identified in Section 79754 that administers the public benefits, after that agency makes a finding that the public benefits of the project for which that agency is responsible meet all the requirements of this chapter, to ensure that the public contribution of funds pursuant to this chapter achieves the public benefits identified for the project.*

### **Current Working Draft Regulations Text**

#### **§zz.7 Monitoring and Management of Public Benefits**

(a) Applicants shall demonstrate how the proposed project will be built and operated to provide the public benefits claimed. The applicant shall submit the following with its application:

- 1) A preliminary draft operations plan or documentation describing, at a minimum, the following items:
  - A. How the proposed project will be operated to provide public benefits under a range of hydrologic conditions; and
  - B. How operational decisions will be made if conditions fall outside the range of anticipated conditions.
- 2) A preliminary Monitoring, Assurances and Reporting Plan, that, at a minimum includes the following items:
  - A. Goals of the monitoring program;
  - B. A description of how operations will be monitored and verified;
  - C. The physical, chemical, or biological parameters that will be measured;
  - D. The location and frequency of measurement;
  - E. The parties responsible for conducting the monitoring program;
  - F. Procedures for submitting the monitoring results to the public agencies identified in Water Code Section 79754 that administer the public benefits; and
  - G. A listing of funding sources to be used to support the monitoring program.
- 3) The applicant shall identify the operational, monitoring, and proposed reporting commitments that apply to its project and notify the relevant state and federal regulatory and permitting agencies of such commitments. Any such agency may at its discretion, include compliance with such commitments as conditions of or articles in a permit or license.

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(b) The Commission shall not encumber Water Storage Investment Program funds towards a project until the documents listed in Sections §zz.7(a) have been updated to reflect the permitted and anticipated operations of the project and include all related conditions identified in the contracts with the California Water Commission and the public agencies identified in Water Code Section 79754 that administer the public benefits. The contracts shall be developed as required by Water Code Section 79755(a)(3). The final documents must be approved by the Commission and submitted to the public agencies identified in Water Code Section 79754 that administer the public benefits before funds can be encumbered.

**Comment [jlm1]:** A SAC member requested the addition of third party enforcement to the section. The statute does not include authority for third party enforcement and adding language to that affect would require legislative action.

(c) Any project funded under the Water Storage Investment Program shall, on an annual basis commencing with the end of the first full year of operation, submit a report to the Commission and the public agencies identified in Water Code Section 79754 that administer the public benefits that includes, at a minimum, a comparison of actual operations to those described in the final operations plan and a summary of annual public benefits provided. The reports shall be submitted annually for the useful life of the project or until such time as the Commission makes a determination that the reports are no longer necessary.

(d) Applicants shall comply with any additional reporting requirements contained in contracts entered into under Water Code Section 79755(a)(3).

#### Questions for the SAC

- Is there anything else the applicant should provide in the application to describe how public benefits should be managed?
- Is there anything else the applicant should provide in the application to describe how public benefits should be monitored?
- What else, if anything, should the draft regulations text on Monitoring and Management of Public Benefits include?