

American Rivers comments on draft definitions of eligible projects, public benefits and the WSIP process – May 2015

American Rivers appreciates the opportunity to provide comments to the California Water Commission (CWC) on Water Storage Improvement Program (WSIP) documents containing draft definitions of key terms such as eligible storage projects, public benefits, and the Public Trust Doctrine. We also offer comments on certain process points identified in Stakeholder Advisory Committee (SAC) meetings.

1. Proposed Funding Process

A) Require standard economic analysis methodology and units

The Commission's draft process for incorporating technical work into the application development and review process appears to allow applicants to reject the methodology and units that DWR will recommend in favor of methods and units of the applicants' choice. We recognize the Commission will require applicants to justify the choice of different methods and units, and the "Agency Team" will conduct a "Reasonableness Assessment" in the review of applications. However, requiring a justification for using alternate methods and conducting a reasonableness review does not ensure that the Agency Team or an Independent Review Panel will be able to adequately evaluate project claims of public benefits or compare public benefits provided by different projects. Moreover, the work necessary for the Agency Team or Independent Review Panel to attempt to compare multiple analytical methods and units could be quite substantial.

American Rivers recommends the Commission require the use of a standard economic analysis methodology and units. We recognize this would likely require certain applicants to redo some analysis. However, it is possible that the level of effort necessary to justify using a methodology other than the recommended one, could approach the amount of work necessary to modify the applicant's original methodology to comport with the recommended approach.

If Commission does not require applicants to use its recommended methodology and units, the Commission should ensure that the Independent Review Panel is provided the time and capacity necessary to conduct the critical function of "normalizing" the submitted economic data such that all applications can be compared on common scale with common units.

B) Provide more than one grant cycle

At the May 4 SAC meeting, CWC staff indicated the proposed WSIP process would provide only one opportunity for project proponents to submit funding requests, and the Commission would disburse the entire \$2.7 billion in Proposition 1 funds in one grant cycle. This raises several concerns. First, given that the WSIP requires that

proposed projects have completed necessary environmental review and permitting, as well as secured matching funds, providing only one grant cycle will limit the pool of eligible projects to only those that were designed many years ago. This would eliminate projects that benefit from the latest developments in technology and scientific understanding of water storage and management strategies.

Second, conducting only one grant cycle would not offer an opportunity for the Commission to improve the proposal solicitation process in ways that can only be learned through experience. Despite the considerable skill and effort being devoted to developing a good process, there will certainly be unforeseen issues that should be addressed, even some that might disqualify a worthy project that would provide substantial public benefits.

Third, providing only one grant cycle would also limit the opportunity to integrate WSIP investments with other investments of Proposition 1 funds that are administered by other state agencies. In the face of the current drought and certainty of future droughts, it seems most prudent to offer new and innovative projects an opportunity to compete with those that were designed many years ago.

American Rivers recommends providing at least two opportunities to submit project proposals.

2. Eligible Storage Projects

Clarify enlarging Shasta Dam is not an eligible project

Section 79711(e) of Proposition 1 reads:

(e) Nothing in this division shall be construed to affect the California Wild and Scenic Rivers Act (Chapter 1.4 (commencing with Section 5093.50) of Division 5 of the Public Resources Code) or the federal Wild and Scenic Rivers Act (16 U.S.C. Sec. 1271 et seq.) and funds authorized pursuant to this division shall not be available for any project that could have an adverse effect on the values upon which a wild and scenic river or any other river is afforded protections pursuant to the California Wild and Scenic Rivers Act or the federal Wild and Scenic Rivers Act.

In the Bureau of Reclamation Draft Environmental Impact Statement for enlarging Shasta Dam, the Bureau acknowledges the project would violate state law and impair the McCloud River, which is protected under provisions of California's Wild & Scenic River Act.

Section 5093.524(c) of the Wild and Scenic Rivers Act states: Except for participation by the Department of Water Resources in studies involving the technical and economic feasibility of enlargement of Shasta Dam, no department or agency of the state shall assist or cooperate with, whether by loan, grant, license, or otherwise, any agency of the

federal, state, or local government in the planning or construction of any dam, reservoir, diversion, or other water impoundment facility that could have an adverse effect on the free-flowing condition of the McCloud River, or on its wild trout fishery.

For these and other reasons, enlarging Shasta Dam is not eligible for funding from Proposition 1 and should be removed from the list of eligible projects.

3. Comments on Defining Public Benefits

Proposed projects are likely to have certain adverse impacts that must be accounted for in its determination of net ecosystem benefits. The Commission needs to clarify in its guidelines and regulations that the Commission will only fund net ecosystem benefits, as required by Proposition 1.