

ELIGIBLE PROJECT TYPES

1. Additional language needs to be added to the following definitions, clarifying that no bond funds can be used to pay for any regulatory or other legal obligations which have already been assigned to a private corporation, individual or government agency with respect to preventing groundwater contamination or cleaning up of existing contamination. Any cleanup of groundwater contamination can only be for sites which the appropriate government regulatory agency has found that it is impossible to assign liability for at least part of the contamination.

This is regardless of the public benefits which would result from the prevention or cleanup programs or projects.

“Groundwater contamination prevention projects – Projects that prevent groundwater contamination by eliminating contamination sources from point sources (landfills, leaking gasoline storage tanks, leaking septic tanks and accidental spills) or non-point sources (naturally occurring contaminants such as iron, sulfates, radon, and arsenic and runoff from parking lots, pesticides and fertilizers that infiltrate the soil) or projects that prevent seawater intrusion or migration of contaminants into groundwater basins through the use of seawater or hydraulic barriers.

Groundwater remediation projects – Projects that remove constituents or contaminants that have degraded water quality of the groundwater and restore the capacity of the groundwater basin storage for beneficial uses.”

2. All eligible projects must be capital outlay projects, and not ongoing Operations and Maintenance or other types of non-capital outlay projects. These are bond funds, and must not be spent on one-time or non-capital outlay purposes.

3. eligible projects should provide only statewide benefits, and not just regional benefits. Statewide benefits should be defined as benefitting at least 30% of the state’s population.

PUBLIC BENEFITS

Public benefits must be above and beyond what is already required by regulatory agencies. Thus, if the Sacramento River must be maintained in a cold water condition due to a biological opinion or SWRCB requirement, the bond act must not fund a project which simply maintains that condition, thus relieving the requirement on an existing project to release cold water. The benefit must be above and beyond what is already required.

Specific answers to questions:

Should only benefits to native fish and wildlife be counted? YES

Should economic benefits caused by ecosystem improvements for non-native species, such as striped bass, be included? NO

Eligibility is unclear for restoration of terrestrial habitat or creation of new aquatic habitat –
Should restoration of terrestrial habitat be eligible? YES

Also, should creation of artificial aquatic ecosystems, for example, in a reservoir, be eligible? NO

Wildlife refuges – Improved water supply reliability for refuges is perceived by many to be an important ecosystem objective. New storage could provide water supply for refuges. Should water supply benefits for refuges be counted as ecosystem, or water supply? YES

Note that this decision could hinge on the previous issue, are refuge wetlands aquatic or terrestrial ecosystems? IT DOES NOT MATTER. BUT ONLY REFUGE SUPPLIES WHICH ARE NOT ALREADY REQUIRED SHOULD COUNT AS A PUBLIC BENEFIT. FOR EXAMPLE, LEVEL IV SUPPLIES WOULD COUNT BUT NOT LEVEL II.

Generally speaking, public benefits should not include simple reservoir reoperation unless a specific part of reservoir storage is dedicated to the public benefit. Also, no more than 10% of the bond act funds should be spent on this purpose, because otherwise it is possible that the bond act will go entirely to reoperation of existing surface and groundwater reservoirs, and no new storage will be built. This was clearly not the intent of the Legislature or the voters.

Storage in flood plains achieved by expansion of the flood plain by setting levees back should be considered a storage project providing an eligible public benefit for flood control.

The following are not related to storage projects, and should not be eligible for funding from Chapter 8 unless the project specifically includes one of the following:

1. Construction of new flood water retention space
 2. Re-allocation of reservoir space previously dedicated to non-flood control purposes such as hydroelectric power, water supply or recreation to flood control
 3. Creation of an expanded flood plain, providing greater in-channel flood storage.
- Actions that reduce the risk to human life, health, and safety from flooding, including protection of public safety infrastructure
 - Actions that reduce the risk of flood damage
 - Actions that reduce the operations and maintenance costs of the flood management system

As meritorious as it would be to relocate structures in the flood plain, such a program is not eligible to be considered as fundable by Chapter 8 of Proposition 1.

RECREATION BENEFITS. These must be net benefits. Applicants must show that there will be a net regional increase in recreation, and not simply a diversion from non-crowded nearby recreation at comparable facilities. Only recreation facilities should be eligible for funding, not the cost of construction of storage.

PUBLIC TRUST

No comments.

DFW PRIORITIES

DFW will have a hard time demonstrating that new storage will provide benefits to some pelagic fish species which they believe require very high outflows. This is because the projects which are likely to be proposed will be unable to provide outflow significantly higher than that already required under existing biological opinions which apply to existing water projects.

DFW should give higher priority to projects which provide improved in-stream flows in Tributaries to the Delta, and which provide refuge water supplies.

SWRCB PRIORITIES

The caution raised above regarding not paying for improvements which are already required by regulatory or judicial action applies here. This would be the equivalent for paying for mitigation, which is prohibited by the bond act.