

September 9, 2015

Paula Landis, P.E.
Executive Officer
California Water Commission
1416 9th Street
Sacramento, CA 95814

Re: American Rivers comments on Preliminary Working Draft of Chapter 1 of the WSIP Regulations, dated 9-1-2015

Dear Ms. Landis,

American Rivers appreciates this opportunity to provide initial comments on the Preliminary Working Draft of Chapter 1 of the Water Storage Investment Program Regulations, dated 9-1-2015, as provided to the Stakeholder Advisory Committee members in advance of the SAC meeting held on September 2, 2015. These initial comments address only sections 6000 through 6003.

Section 6000. Definitions

- (a) “Alternative cost” - recommend amending definition to read: “means the cost of the lowest-cost, feasible alternative to providing *the same or greater amount* of a physical benefit provided by a proposed project.
- (x) “Ecosystem improvements” - recommend clarifying that ecosystem improvements contribute to the restoration of aquatic ecosystems and native fish and wildlife in the Delta *and tributaries to the Delta* (as defined in (ttt)).
- (ee) “Flood control benefits” – recommend clarifying that it means a public benefit that *prevents or reduces the extent or magnitude of expected* detrimental effects of flooding as a result of new storage projects.
- (ccc) “Planning horizon” – recommend specifying in this definition or elsewhere in regulations what number of years applicants should use as the planning horizon.
- (nnn) “Reservoir reoperation project” – recommend modifying this definition to remove specific requirement that a proposed project must result changes

documented in a facility's operations document, such as an ACOE Water Control Manual. The update to the Folsom WCM was initiated in 2012 and will not be completed before 2017. Many WCM update efforts can take much longer. American Rivers agrees that the public benefits must remain in place in perpetuity, but how can the Commission require a specific outcome to a process that will likely conclude years after WSIP grants are awarded? We recommend the commission include other binding mechanisms to ensure the benefit will endure for the life of the project.

Section 6002. General Selection Process

Section (c)(1) Full Applications should include a requirement to provide an applicant's rationale for using methodologies or inputs used to quantify public benefits that differ from those recommended by the WSIP. We recommend this requirement be included in the Section (c)(1) list to ensure that applicants build their public benefits descriptions and quantifications such that any difference from Commission recommendations can be explained clearly to Commission staff and consultants.

Section (c)(2) Eligibility and Completeness Review should allow up to 30 days for applicants to submit requested information if additional analysis is required to satisfy the request.

Section (c)(3) Technical Review should specify the technical review to be performed on the applications, or refer to a specific description of the review in another section of the proposal solicitation package. Section (c)(3) subsection (i) through (iv) describe the information staff will be looking for, and with whom staff will work, but it does not indicate how proposals will be reviewed.

The **Independent Peer Review** process, referred to in **Section (c)(4)** should be expanded here or elsewhere in the proposal solicitation package, to describe in detail how this element will operate, including issues such as:

- What is the Peer Review panel's role in relation to the Commission or staff? Will it have a defined charge it carries out with some independence, or will it simply respond to staff/Commission queries? American Rivers recommends the former.
- What deliverable(s) should the Peer Review produce? Section (c)(4)(i) indicates the peer reviewers should "consider the reviews and document whether they agree with the evaluations." Such a "yes" or "no" role is not adequate for a program as important as the WSIP.
- What types of expertise will be required for the Peer Review, and how will candidates be identified and selected to serve?
- How much time will the Peer Review take, and what resources will participants be provided?

American Rivers strongly recommends the Commission and staff develop a robust program for the Independent Peer Review to provide a rigorous and independent review of proposed projects and provide conclusions on a number of issues that will inform key decision criteria the Commission will use to select projects for funding.

Section (c)(5) indicates the Commission will make initial funding decisions based on the technical reviews, independent peer reviews and public input. American Rivers requests the Commission specify in the regulations the timing and process that the public will use for reviewing and commenting on project proposals.

Section 6003 Funding Commitments

Subsection (e)(3) allows the Commission to rescind initial commitments of funds of proponents fail to “make timely progress to complete” prerequisites of a funding allocation per Water Code Section 79755(a). American Rivers recommends defining “timely progress” to minimize the likelihood of disputes arising over this provision.

Please do not hesitate to contact me if you have any questions regarding these comments. I look forward to working further with you and your staff and the Commissioners going forward.

Regards,

A handwritten signature in blue ink that reads "Steve Rothert". The signature is written in a cursive, flowing style.

Steve Rothert
California Director

