



November 4, 2015

Sent via ELECTRONIC MAIL to [cwc@water.ca.gov](mailto:cwc@water.ca.gov)

Chairman Joseph Byrne, and Members  
 California Water Commission  
 P.O. Box 942836  
 Sacramento, CA 94236-0001

**Re: Water Bond, Federal Agency Applicant**

Dear Chairman Byrne and Members:

The undersigned organizations are writing to correct the record of the October 14, 2015 meeting of the California Water Commission (“Commission”) in Clovis, California where certain Commission members and staff stated that federal agencies could not be a co-applicant for funding under Chapter 8 of the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (“Water Bond”). This is a misstatement of the law and intent of Chapter 8 and the Water Bond.

The definition of “eligible applicants” does not preclude a federal agency from being an eligible applicant. Public agencies are one of the specified eligible applicants for funding under the Water Bond. (Cal. Water Code § 79712(a).) Chapter 3 of the Water Bond then defines “public agency” to include a joint powers authority. (Cal. Water Code § 79702(s).) In California, joint powers authorities are governed by the Joint Exercise of Powers Act and are formed when two or more public agencies enter into an agreement to jointly exercise any power common to the contracting parties, even if one or more of the contracting parties are located outside of California. (Cal. Govt. Code § 6502.) Under the Joint Exercise of Powers Act, a “public agency” is defined to include the federal government or any federal department or agency. (Cal. Govt. Code § 6500.) Thus, by definition, the federal government or any federal department or agency is an eligible applicant of Chapter 8 funding as a member of a joint powers authority.

Further, Chapter 8 specifically allows for funds allocated for the design, acquisition, and construction of projects identified in the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000 to be provided to local joint powers authorities to design, acquire and construct those projects. (Cal. Water Code § 79759(a).) These joint powers authorities may include governmental partners that are not located within the local hydrologic region as members of the joint powers authorities in financing surface storage projects, including, as appropriate, cost share participation or equity participation. (Cal. Water Code § 79759(b).) This section specifically allows governmental partners, including federal agencies, to be members of a joint powers authority for CALFED storage projects.

Surface storage projects funded by Chapter 8 may be a unit of the Central Valley Project (Cal. Water Code § 11290) and may be financed, acquired, constructed, operated, and maintained pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code. (Cal. Water Code § 79758.) Pursuant to these provisions, the Department of Water Resources, which operates projects located on the Central Valley Project, may:

1. Enter into contracts with the United States for the construction, maintenance, or operation of all or any part of the project or for the financing thereof;
2. Enter into contracts for the acquisition by the department of the works and properties of the project or any part thereof and for the repayment by the department of the cost thereof to the United States; and
3. Co-operate with the United States to the end that the people of the State may receive the benefits to be derived from the construction, maintenance, and operation of the project. (Cal. Water Code § 11500(a), (b), (e).)

We request that the Commission take action to correct its misstatement of the definition before there is any further confusion.

Finally, be advised that the undersigned organizations intend to submit comments in a separate communication on proposed regulations of the Commission.

Sincerely,



Richard Matoian  
American Pistachio Growers



Terry Gage  
California Agricultural Aircraft Association



Chris Zanobini  
California Association of Nurseries and Garden  
Centers



Joel Nelson  
California Citrus Mutual



Barry Bedwell  
California Fresh Fruit Association



Roger Isom  
California Cotton Ginners and Growers  
Associations  
Western Agricultural Processors Association



Steven Kost  
Far West Equipment Dealers Association



Manuel Cunha  
Nisei Farmers League



Timothy Johnson  
California Rice Commission



Renee Pinel  
Western Plant Health Association