



Sustainable Conservation

November 18, 2015

Joseph Byrne, Chair
California Water Commission
Department of Water Resources
1416 Ninth St.
Sacramento, CA 95814

Re: Draft regulations for the Proposition 1 Water Storage Investment Plan

Dear Chairman Byrne:

Sustainable Conservation would like to take this opportunity to comment on the October 6, 2015 version of the draft regulations for the implementation of the Proposition 1 Water Storage Investment Plan (WSIP). We do so based on the recognition expressed by the California Water Commission (Commission) at its October meeting that many issues remain to be resolved before the regulations enter the final administrative approval process. We are concerned that the current draft regulations fail to provide adequate opportunities for the consideration and approval of groundwater storage and conjunctive use projects, which are expressly authorized for funding by the voter-approved statutory language of the bond. The statute directs the Commission to rank projects based on “the expected return for public investment as measured by the magnitude of the public benefits provided...” We caution the Commission against the fallacy of assuming that the magnitude of public benefits directly correlates to the size of a project (as measured by cost and engineering complexity). Smaller projects, particularly groundwater and conjunctive use projects, can often provide significantly higher water storage and public benefits per dollar invested than larger, more expensive ones. In order to ensure that the voters who approved Proposition 1 get the highest value for their investment, and that the WSIP regulations properly provide for all classes of projects expressly authorized by the bond, we propose the following revisions to the draft regulations.

1. Amend the definition of “conjunctive use.”

Sustainable Conservation finds the definition of “conjunctive use projects” in the October 6 draft regulations to be overly restrictive, and in conflict with the intent of Proposition 1’s language. The current definition’s emphasis is on management of existing resources, rather than the implementation of projects to store water in groundwater basins in order to allow for the coordinated and planned management of both surface water and groundwater resources. It is a well-established policy that bond funds cannot be used for operation and management (O&M), but only for capital projects. The current definition of “conjunctive use,” by stressing management of existing resources and the use of existing facilities and resources, has the effect of making projects that fit the definition O&M projects, and therefore largely ineligible for bond funding. This seems to contradict the clear directive in the statutory language that conjunctive use projects are to be considered eligible for WSIP funding.

We recommend that the Commission return to the substance of the definition of “conjunctive use” found in the 9/1/2015 version of the draft regulations, which places the primary emphasis on



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“projects that allow for the coordinated and planned management of both surface water and groundwater resources in order to maximize the efficient use of both resources.” The 9/1 version goes on to state that in these projects “[w]ater supplies, regardless of whether the source of water is surface water, recycled water, or groundwater, are **stored in the groundwater basin through recharge** for use later” (emphasis added). The 9/1 definition does not ignore managing water supplies “in a coordinated manner,” but it places the emphasis more properly on capital recharge projects that enhance the groundwater resource to allow for true conjunctive use. The 9/1 definition also is much more consistent with the definition of a “groundwater storage project” in the 10/6 version of the regulations.

2. Provide dedicated funding for groundwater storage and conjunctive use projects.

Sustainable Conservation urges the Commission to set aside a percentage of the WSIP funds specifically for groundwater storage and conjunctive use projects in order to ensure that these effective and efficient projects are appropriately approved and implemented, and that the new groundwater recharge projects already being developed as part of the implementation of the Sustainable Groundwater Management Act (SGMA) will be able to obtain funding in order to further the goals of that legislation. It is vital that WSIP be coordinated as much as possible with SGMA and the goals of the State Water Action Plan (Plan). Groundwater storage and conjunctive use projects further the Plan’s goals of integrated water management, preparing for dry periods, increased storage capacity and groundwater management, and flood protection. Allocating funding specifically for groundwater storage and conjunctive use projects will provide California with a more diverse, reliable, and resilient portfolio of storage investments and advance multiple important state goals.

3. Provide for more than one round of funding.

In order to ensure that the widest range of innovative and effective storage projects have an opportunity for WSIP funding, and to coordinate effectively with the implementation of SGMA, Sustainable Conservation recommends that the Commission engage in more than one round of awarding funds. The current proposal to hold only one funding round, in fall 2017, does not provide adequate time for many smaller projects, including groundwater storage and conjunctive use projects, to assemble all the necessary elements for a successful application, particularly since the proponents of these projects rarely have the resources to quickly acquire the specialized expertise needed to do so. The current proposal also effectively fails to provide funding for the implementation of SGMA. The deadline for creating the groundwater sustainability agencies (GSAs) mandated by SGMA is June of 2017, after which they will develop their groundwater sustainability plans (GSPs) over the following five or seven years. It is extremely unlikely that many GSAs would be in a position to apply for funding for projects in 2017. Providing for at least one more round of funding after 2017 would provide an incentive to GSAs to act quickly to adopt fee authority, finalize their GSPs, and develop projects eligible for WSIP funding. The Commission has until July 2022 to disburse the \$2.7 billion for storage projects. It should use this time to ensure that a full range of projects, including those that arise from the implementation of SGMA, can be funded.

4. Clarify application requirements and provide quantification methodology.

The current draft regulations’ application requirements are quite complex and demanding. When combined with the proposal to hold only one funding round in 2017, this creates a *de facto* bias in



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favor of those proposing large projects, who can afford the expert assistance needed to navigate the process quickly. Sustainable Conservation shares the concern expressed by others over the particular difficulty this presents to smaller project applicants facing the difficult task of quantifying public benefits. We have become aware of a proposal by the Sacramento Sanitation District to convene a group to work with DWR to develop a quantification methodology that could guide applicants through this process. In addition to our recommendation to hold more than one funding round, we recommend that the Commission adopt this proposal in order to provide a level playing field for all applicants.

Sustainable Conservation is grateful for the opportunity to comment on the draft WSIP regulations, and we look forward to continuing to participate as the Commission moves forward with this important work.

Sincerely,

J. Stacey Sullivan
Policy Director