



Sustainable Conservation

December 14, 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 November 24, 2015 version of the draft regulations for the implementation of the Proposition 1 Water Storage Investment Plan (WSIP). We remain concerned that the current draft regulations fail to provide adequate opportunities for the consideration and approval of groundwater storage and conjunctive use projects. We remind you that Section 79750(b) of Proposition 1 establishes cost effectiveness as a fundamental requirement for acceptable water storage projects, and that 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. As we stated in our previous letter to the Commission, it is vital 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.

To briefly reiterate the concerns and recommendations we expressed in our previous letter to you, Sustainable Conservation finds the definition of “conjunctive use projects” in the current draft regulations to be overly restrictive, and in conflict with the intent of Proposition 1’s language. 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 “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.”

We are also concerned that the complexity of the draft regulations’ application requirements creates a *de facto* bias in favor of those proposing large projects, who can afford expert assistance needed to navigate the process quickly, over smaller project applicants facing the difficult task of quantifying public benefits. We recommend that DWR work with affected stakeholders to develop a quantification methodology that could guide applicants through this process in order to provide a level playing field.

Sustainable Conservation would like to expand on its earlier comments concerning the need for more than one round of funding of storage projects. 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.



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We understand that Commission staff has raised two arguments opposing the creation of more than one funding round: 1) the language of Chapter 8 of Proposition 1 requires that there be only

one funding round; and 2) the statutory funding application deadline of January 1, 2022 negates any connection between WSIP and the implementation of the Sustainable Groundwater Management Act (SGMA), since projects developed under groundwater sustainability plans (GSPs) will not be shovel-ready in time. We believe the first of these arguments is the result of a misreading of the statute. We find no basis, either express or implied, in the language of Chapter 8 for the contention that the statute somehow requires that there be only one round of storage funding. The second of these arguments appears to be based on a simplistic understanding of potential groundwater storage projects, in which that universe consists entirely of either currently shovel-ready projects or SGMA-related projects far in the future. As our own work in the field demonstrates, this is a serious over-simplification.

As some of the Commissioners are aware, Sustainable Conservation has been engaged in an ongoing project to determine the potential of applying flood flows to active agricultural land as a means to increase the amount of groundwater recharge and storage in the San Joaquin Valley. We have identified significant capacity and potential for this form of recharge/storage. We have done a great deal of work to establish metrics, determine where the most appropriate soils are, and identify growers who would be willing to accept floodwater on their fields. The prospect of heavy El Niño rains this winter has led us to accelerate this work. We have currently identified 20 grower/landowners who are willing to apply floodwater to land used for a wide range of crops this winter, and are on track to gather a significant amount of data in order to ground-truth our concept and take it to a much larger scale in subsequent years. These highly effective and inexpensive projects could be in a position to qualify for bond funds, either as part of a GSP or on their own, well before 2022, but, given the amount of data we and our partners will have to process, combined with the identification of new sites and the completion of the application process, it is highly unlikely that they could meet the currently proposed mid-2017 deadline.

Our on-farm recharge projects are only one of a range of innovative and effective storage concepts that do not fall into the overly limited temporal categories the Commission staff appears to have created for groundwater storage projects. We urge the Commission not to foreclose on the WSIP funding prospects for the very real and valuable storage projects that could come to fruition between 2017 and 2022. The Commission should utilize the full amount of time allotted to it to disburse the \$2.7 billion for storage projects to ensure that the full range of projects approved by the voters can be funded.

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