



CALIFORNIA FARM BUREAU FEDERATION

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Sent Via E-Mail

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December 15, 2015

California Water Commission
P.O. Box 942836
Sacramento, CA 94236-0001

RE: Comments on Proposition 1 Water Storage Investment Program

Dear Commission:

The California Farm Bureau Federation is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing more than 53,000 agricultural, associate and collegiate members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

Farm Bureau commends the Commission and its staff on the considerable progress made to date toward finalizing a common-sense, workable set of regulations for implementation of the Water Storage Investment Program, that can serve the needs of California, and remain true to the intent of the People of California, as embodied in Proposition 1. We respectfully offer the following comments for consideration in regard to the latest iteration of the regulations, dated November 24, 2015.

Project Set-Asides

Proposition 1 requires competitive ranking of projects, and not set asides. The draft regulation's current approach is consistent with this conception, and should remain so.

Requirements for Quantification of Public Benefits

Farm Bureau does not disagree that there may be room for improvement in the clarity of some of the requirements relating to quantification of public benefits, as reflected in past comments of the water agencies, including comments by the Association of California Water Agencies. At the same time, we believe that the requirements for quantification of public benefits must provide some floor of technical rigor for projects to be properly ranked, evaluated, and compared. Overall, we do not support any major relaxation of the requirements for concrete quantification of public benefits.

NANCY N. McDONOUGH, GENERAL COUNSEL

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Project Integration

Applications should be taken as is. The Commission should assume no obligation to recombine, bundle, identify potential synergies, furnish technical analyses, or optimize operations and potential public benefits among separate projects. If a project proponent sees potential synergistic benefits among multiple, interrelated projects, then it should be up to the proponents of these projects to coordinate their submissions, analyzing potential integration within a region or basin. Where local proponents choose to pursue such an approach, past integrated regional water management planning efforts should assist their efforts.

Multiple Rounds of Funding to Coincide with Sustainable Groundwater Implementation after 2020/22

While local implementation of the Sustainable Groundwater Management Act of 2014 (“SGMA”) will indeed require significant investment at the local level, there will be additional opportunities to identify and fund such projects, not only in Proposition 1, but also in SGMA implementation at the local level. Nothing precludes local agencies in affected basins from anticipating and formulating projects to assist with improved management of groundwater in their local areas in advance of a 2017 funding date.

Small Local, Regional, and Groundwater and Conjunctive Use Projects Versus Large New Surface Water Storage Facilities

There are several chapters of Proposition 1 that make monies specifically available for local and regional projects, local groundwater projects, water recycling, watershed management, and water projects for disadvantaged communities, as distinguished from major new surface water storage facilities, for which there are adequate amounts of funding committed *only* in Chapter 8.

Groundwater storage and conjunctive use projects require surface water to work. A major limitation on such projects at this time—and a cause, along with natural drought, of the recent marked increase in groundwater reliance—is the lack of available surface water. Large surface water storage projects are uniquely situated to provide added operational flexibility and reoperation of the existing system, including adjusted operations to store groundwater and management surface and groundwater in local areas throughout the state.

Existing Environmental Compliance and Mitigation Requirements

Water Code section 79753 authorizes expenditures of funds for “public benefits associated with water storage projects” for “ecosystem improvements,” “water quality improvements,” “flood control benefits,” “emergency response,” and “recreational purposes,” but cannot be expended for “costs of environmental mitigation measures or compliance obligations except for those associated with providing the public benefits as described.”

The current draft regulations appear to draw a distinction between an applicant's without-project, existing enforceable mitigation and compliance obligations, versus fundable public benefits associated with new mitigation and compliance obligations of a new project. (See November 24, 2015 Draft Regs at 6004(a)(7)(A)4.) We are concerned that the proposed distinction could preclude funding of a public benefit associated with a proposed project if an improvement related to that benefit were in any way to assist with the closing of an existing compliance or mitigation condition somewhere else in the system. This, we believe, is inconsistent with a plain reading of section 79753.

Funding decisions by the Commission under Chapter 8 should not preclude funding of improvements in the public benefit categories where these improvements could provide environmental benefits over and above some sub-optimum condition existing at the system level, independent of, and without specific reference to a proposed project. They should also not impair or frustrate efforts by project applicants to secure environmental improvements above the existing environmental baseline where a proposed project provides the best means to achieve such an outcome.

Quantifying Negative Impacts

Net benefits are, by definition, benefits over the pre-project baseline. By and large, this is adequately captured in the Commission's draft regulations to date, and does not warrant radical, eleventh-hour revision. Negative environmental effects directly caused by a project require mitigation under existing law, and are expressly addressed in the draft regulation's proposed methodology for quantification of public benefits.

Technical and Peer Review Process

The Commission's current regulations afford extensive public process and transparency. This openness should not be extended still further to allow third-party abrogation of the Commission's decision-making authority, or to afford potential opportunities for delay and protracted litigation.

Third-Party Enforcement

Normal contractual mechanisms enforced, under appropriate circumstances, by the State of California, are sufficient to safeguard the intent of Proposition 1, without any need of third-party citizen enforcement. This would include contracts between applicants and the State Water Resources Control Board and California Fish and Wildlife Department for public benefits associated with water quality and fish and wildlife.

Adaptive Management

Private investment in major water infrastructure requires a stable planning environment and reasonable certainty. Long term water supply benefits must be secured, no less than anticipated environmental outcomes. Outside third parties should not be afforded undue opportunity to

intervene in “adaptive management” as a means to continually revise intended project objectives and potentially erode intended non-public benefits over time.

Climate Change

Project resiliency to potential impacts of future climate change should be captured at a reasonable level of detail, consistent with other state planning efforts and projections of potential change. At the same time, considerable uncertainty about the extent and exact nature of climate change should *not* be allowed to inject undue speculation into the Commission’s project selection process.

In closing, Farm Bureau again thanks and commends the Commission and its staff for all of their hard work. Proposition 1, passed overwhelmingly by the voters of the State of California, is a clear mandate for large-scale improvements to California’s water infrastructure, and the work embodied in the draft regulations supporting the Water Storage Investment Program is a major step in reaching this mandate.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Fredrickson", with a long horizontal line extending to the right.

Justin Fredrickson
Environmental Policy Analyst

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