

# PLUMAS COUNTY PLANNING & BUILDING SERVICES

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December 15, 2015

Chair Joseph Byrne  
California Water Commission  
Water Storage Investment Program  
Via email to [WSIPComments@cwca.gov](mailto:WSIPComments@cwca.gov)

**Re: Comments on the November 2015 draft Water Storage Investment Program (WSIP) draft storage regulations.**

Dear Chair Byrne:

Plumas County appreciates this last opportunity to comment on the administrative draft of the rulemaking for the Water Storage Investment Program (WSIP). We thank the Commission and staff for addressing some of our concerns and we draw your attention to areas that remain unaddressed or unresolved. In providing specific recommendations on specific provisions of the draft rulemaking package, our intent is to enable the Commission to start the formal rulemaking process with a credible and equitable approach for assuring the best allocation of public moneys for statewide public and environmental benefits associated with additional storage developments.

#### **General Comments:**

Other parties have identified the issues that we address in our comments here. We and others have voiced similar concerns during the Stakeholder Advisory Committee (SAC) process and in previous comment letters.

Here we suggest specific language changes for the Commission's consideration that we feel begin to clarify significant confusions and omissions in the November administrative draft regulations. Concerns that are not resolved before the formal rulemaking process will, at the least, cause further delays in the process. Since timely progress is a top Commission and staff priority, considering these deficiencies now is a practical approach to moving the WSIP program forward.

Our language "tweaks" are intended to articulate foundational policy recommendations for improving the draft regulations and the overall program. Our proposed language changes are intended to remedy substantive issues that we feel are improperly deferred to the applicants or to the contracts execution process. We recommend a number of ways that the Commission can provide programmatic leadership and direction for assuring equity, accountability and the transparent allocation of public moneys for any additional or "net" environmental and public benefits associated with new storage developments in California. If the language we have offered does not portray our intent, please consider the intent behind the words provided below.

- Our comments address the obligation for the Commission to establish the hydrologic baseline for the WSIP and at the programmatic level, to define the analytic approach and metrics that will be used to determine if the proposed projects can provide public and environmental benefits over the next 50 to 100 years in the context of a changing hydrology.

- Secondly, we provide suggested language for the Commission in order to assure opportunities for funding for integrated projects as a programmatic requirement for the WSIP, rather than as an optional activity for applicants.
- Finally, we offer changes to the proposed projects solicitation process in order to overcome continuing programmatic biases towards centralized surface storage CALFED-era projects that may not, by themselves, achieve the level of public and environmental benefits that could be gained through more diverse and distributive portfolio of conjunctive and groundwater storage projects in a changing hydrology future.

In summary, we recommend that the Commission use the “Independent Science Peer Review” and independent “Technical Review” elements of the proposed program, along with multiple solicitations and other innovative approaches like small project set asides, to assure that enhancing groundwater storage in the working landscapes and public lands in the Delta watershed and in the groundwater basins of the areas that import water from the Delta can fairly compete for funding.

We ask the Commission to recognize that alternative storage approaches are newer and may therefore be less developed than CALFED-era surface storage projects and may have not had the opportunity to benefit from decades of public investments in their development. Therefore we recommend that the Commission assure a “level playing field” between old and new storage alternatives by establishing more clarity and background information within the WSIP regulations and application process. “Leaving it to the applicant”, in our view, effectively discriminates against projects that were less important for California before the recent great drought and before the passage of the State’s landmark groundwater legislation, and before the increasing recognition that landscape based solutions to adapting to a changing climate in this 3<sup>rd</sup> largest state in the nation are all essential parts of California’s climate resilient future.

We suggest that the way for the Commission to “level the playing field” between the old suite of CALFED-era surface storage projects and the as yet untapped and potentially vast potential of new groundwater and conjunctive use projects, is for the Commission to commit the WSIP program itself to providing a credible and transparent programmatic framework for analyzing the benefits of a truly diverse and multi-scale set of potential storage projects. And we propose that the Commission utilize the independent science peer review and technical review process identified in the proposed rulemaking to accomplish that outcome.

This involves a considerable expansion of the roles of these committees and we would suggest that the membership and qualifications of these entities also be broadened to include natural resource economists, groundwater and surface water hydrologists, and social scientists, for example, in recognition of expanded roles and responsibilities. We propose that these two independent bodies be tasked (before any project solicitation) with providing the Commission with an integrative scientific and programmatic foundation, a climate sensitive environmental baseline, and scalable economic analysis templates for the WSIP.

These independent committees should be tasked with:

1. Defining and providing measures for the WSIP program’s environmental and public benefits baseline,
2. Developing a common economic analyses framework and worksheets for large and small groundwater, surface water, and conjunctive use projects, and
3. Establishing the common references, templates, and procedures that provide a transparent cost allocation framework for the WSIP including WSIP requirements for climate “sensitivity” or “stress test” analyses.

The draft regulations assign key analyses to the applicant that we feel are properly the Commission’s responsibility to define and provide for the applicants. This is an important nuance because deferring to the applicants is easiest on the staff but confuses the public, obscures the real differences between different kinds of projects, and reinforces

bias towards historic climatic conditions as the foundation for the WSIP. The merits of a diverse portfolio of integrated storage projects that compete based on the same transparent rules, the same suite of analytic procedures, and the same spectrum of baseline conditions offers California the best hope for ensuring public and environmental benefits from managing new storage and existing reservoirs in a changing hydrologic future. The recent record drought has taught us all that we all have a lot to learn about managing California’s water infrastructure in a more variable climate.

Therefore, the independent peer review and technical review committee should have ongoing oversight responsibilities, beginning with the formation of the scientific and analytic foundation for the WSIP, and continuing forward through at least the review of the first one or two project solicitations. This broader and longer duration of independent review is needed in order to assure that the public has access to the committee’s public review of the WSIP’s initial pre-application process, including public comments received on the process to allow for “course corrections” before the funds are allocated in the full application processes.

Since many of the projects most vulnerable to the current biases in draft regulations are those kinds of projects that could be implemented and begin achieving benefits earlier, pausing now and “getting it right” at the outset will not unduly delay the actual achievement of public and environmental benefits from WSIP. In fact, independent oversight now offers the best hope of achieving real and durable public and environmental benefits for all of California by July of 2022.

**Specific Comments:**

Article 1 Definitions:

- (20) “Conjunctive use project”
- (23) “Cost effectiveness”
- (24) “Cost allocation”
- (25) “Cost share”
- (53) “Groundwater storage project”
- (54) “Hydrologic record for analysis”
- (63) “Magnitude of improvement”
- (87) “Reservoir reoperations project”
- (88) “Resilience to the effects of climate change”
- (92) “Sensitivity analysis(es)”
- (102) “Threshold”
- (106) “Trigger”
- (107) “Undesirable groundwater results” sections: (B), (C), (D), (F)
- (111) “With-project future conditions”
- (112) “Without-project future conditions”

Recommendation: The “Definitions” for the numbers listed above are clear but how those definitions will be quantified, monetized, and otherwise applied to specific projects is not clear for the full range of potential eligible projects, especially under different hydrological scenarios. Under prolonged drought conditions, for example, water is more valuable during the 4<sup>th</sup> year of a drought than in a “normal” water year or after four years of average or above average precipitation. Therefore, the application of the definitions listed above to the appropriate analyses for a full range of climatic conditions requires further development by the Independent Peer Review team and Technical Review teams.

This clarification of analytical approaches across the full range of eligible projects and future hydrology scenarios needs to be provided before the first pre-application solicitation. The Commission and staff are encouraged to undertake another “survey of interest” to help guide the scope of work for the Peer Review and Technical Review teams. But the pre-application process is not the appropriate venue for assessing interest for the categories of eligible projects. The pre-application process is more appropriate for assessing the relative “readiness to proceed” by applicants for the different eligible project types, so that the full applications process can be designed and scheduled to ensure a robust suite of project types and sizes for the full range of future precipitation-including the extremes as recommended by the Union of Concerned Scientists in their December 9<sup>th</sup> 2015 letter.

## Article 2. Guidelines

### (b) (2) Eligible project types:

Pg. 12. Recommendation: Include a new project category (H). Eligible project category “H” would include “Integrated projects that combine elements of eligible project categories A through G” as an eligible project category.

### Section 6002. General Selection Process.

Pg. 12. Recommendation: (a) The Commission shall use a two-step application process “for two or more solicitations”.

Pg. 13. Recommendation: (b) (2) (G), (H), (I) Summary of... “using guidance provided by the Independent Peer Review team for the specific eligible project categories (A-H)”.

Pg. 13. Recommendation: (c) Full Application Process... (1) The full application solicitation will be open for a minimum of “nine” months.

Pg. 14. Recommendation: (C) Full Application Process... (2)(H). Documentation and analyses that support, substantiate, and quantify the claimed physical “net” benefits and “net” measurable improvements to the Delta or to the tributaries to the Delta, including rationale for methodologies and datasets used “if different than guidance and reference data and information provided by the Independent Peer Review team for the specific project category (A-H)”.

Pg. 17. Recommendation: (C) Full Application Process... (3) Completeness Review (C). The applicant shall be provided a “21-day period” to submit the required information to staff ... if an applicant does not furnish the required information within the “21-day period”...

Pg. 17. Recommendation: (C) Full Application Process... (4) Eligibility Review 6 b. (i) If the project is included in “critical” and high priority basins ...

Pg. 17. Recommendation: (C) Full Application Process... (4) Eligibility Review 6 b. (ii) If the project is located in “medium” priority groundwater basins as determined by the Department, the applicant must do one of the following:

1. Describe the current status...
2. Explain how the applicant has prepared...

Pg. 17. Recommendation: C) Full Application Process... (4) Eligibility Review 6 b. “(iii)” If the project is located in “low or very low” priority groundwater basins as determined by the Department, the applicant must do one of the following:

1. Describe the current status...
2. Explain how the applicant has prepared...
3. If compliance with subsection (6) (b) “(iii)” (2) is not possible, and the applicant is a local agency ...

Pg.17. Recommendation: (7) Any applicant seeking funding ... must demonstrate the existence of a limited waiver ... immunity “for the specific workplan or contractual items” ... pursuant to section 6003(e) (7).

Pg. 19. Recommendation: (6) Independent Peer Review. “Staff shall work with the Commission to solicit public input on the scope, membership, roles, and responsibilities of the Independent Review team. At a minimum the Independent Review team shall make recommendations on the appropriate data and information, appropriate analytic procedures, templates, and metrics, and the appropriate environmental baseline(s) for applicants for the pre-application and full application submittal process. Independent Peer Review team recommendations may vary by the type of project and by the stage of the application process, and may vary as a result of lessons learned in the initial project solicitation (s). The Independent Peer Review team will also be available to assist the Technical Review team. All findings and recommendations made by the Independent Peer Review Tem will be made available to the public and public comments on the findings and recommendations of the Independent Peer Review team, including minority opinions, will be solicited by the Commission, discussed at a Commission public meeting, and posted on the Commission’s website.”

(A) Staff shall work...

Pg. 19. Recommendation: (7) Commission Initial Funding Process. (B). Prior to making any funding decision, the Commission shall make the following determinations “after holding a public meeting or as an agenda item at a regularly scheduled and public Commission meeting to gather final input from the Independent Peer Review team and from the public at the meeting and by written comments provided to the Commission within 7 days of the Commission’s public meeting.”

#### Section 6003 Funding Commitments

Pg. 21. Recommendation: (b) The Commission will not encumber funds ... and the Commission determines that all the required provisions have been met, “including receiving and reviewing final recommendations and findings by the Independent Peer Review team and reviewing staff responses to public comments received.”

#### Article 3. Quantification and Management of Benefits

##### Section 6004. Quantification of Benefits

Pg.22. Recommendation: Quantification and Management of Benefits. “With guidance provided by the Independent Peer Review team on data and information, the environmental baseline, analytical approaches, templates, and metrics for the different eligible project categories, the applicant shall.”

##### Section 6005. Priorities

Pg. 29. Recommendation:

Section 6006. Relative Environmental Value

Pg. 30. Recommendation: (a) “(11) Recommendations and findings solicited by the California Department of Fish and Wildlife staff from the Independent Peer Review members and the Technical Review members.”

Pg. 30. Recommendation: (b) “(12) Recommendations and findings solicited by the State Resources Control Board staff from the Independent Peer Review members and the Technical Review members.”

Section 6007. Managing Public Benefits

Pg. 31. Recommendation: Managing Public Benefits. “With guidance provided by the Independent Peer Review team on data and information, the environmental baseline, analytical approaches, templates, and metrics for the different eligible project categories, the applicant shall.”

Pg. 32. Recommendation: (e) Per Section 6003 (e) any project funded ... and (d) and describe how the funding recipient will ensure ... are achieved “and the funding recipient will identify the remedy including the return of funds awarded under this program with applicable interest and other provisions as determined by the Commission.”

The funding agreement shall also ...

Thank you for the opportunity to comment.

Sincerely,



Randy Wilson

Plumas County Planning Director

Via email from [randywilson@countyofplumas.com](mailto:randywilson@countyofplumas.com)