



September 30, 2016

Joseph Byrne, Chairman  
Members of the Commission  
California Water Commission  
P.O. Box 924836  
Sacramento, CA 94326

Sent electronically to [WSIPComments@cw.com](mailto:WSIPComments@cw.com)

Dear Chairman Byrne and Members of the Commission:

The Northern California Water Association, California Rice Commission and Family Water Alliance provide comments on the California Water Commission's (Commission) proposed regulations (September 2, 2016) for Proposition 1, Chapter 8 (The Water Storage Investment Program or "Storage Program").

There have been significant improvements to the regulations since the last version that we appreciate and which will be helpful to the Commission as it moves forward. There is still, however, a certain mindset that seems to be imbedded in the regulations that we urge the Commission to re-align as soon as possible with the specific language in Proposition 1 and the clear intent of both the Legislature and the Governor.

More specifically, the mindset now appears to focus on creating a prescriptive and detailed set of regulations for water storage projects that make it painstakingly difficult and cumbersome for any project applicant to meet these onerous requirements. Rather than continuing to ratchet down on project requirements focused on water storage, we instead encourage the Commission to pursue a different mindset by re-aligning the regulations more with the "public benefits" called for in Proposition 1 and the desire for innovative new water storage projects that provide a "magnitude of public benefits" as specifically described in Chapter 8. We believe that this will fulfill the Legislature and Governor's desire to create large, cost-effective, blocks of water associated with these storage projects that provides "a net improvement to ecosystem and water quality conditions" in tributaries to the Delta or the Delta. In other words, let certain projects breathe that meet these specific requirements in Chapter 8 and provide more general guidelines for the project managers to show their creativity on how their projects can provide a new water asset for California that will serve the public benefits for an improved ecosystem and water quality.

In this regard, we think it is helpful for the Commission to step back and recall why Proposition 1 (specifically Chapter 8) was passed. The nearly unanimous support for Proposition 1 in the Legislature, Governor Brown's strong and active support to "save water for the future" and a resounding 67% support from California's voters--combined with the lessons from four consecutive dry years--provide a strong impetus to advance the Storage Program in a way that

encourages state investment in the “public benefits” of water storage in California. Here, Proposition 1 provides significant funding for regional and local agencies to advance projects that provide water for the “public benefits” that improve the ecosystem and water quality.

This is an exciting new vision for California. The Commission has an opportunity through this process to empower and provide important tools for local and regional agencies to creatively develop these “public benefits” through a state investment in large and innovative water assets. We encourage the Commission to shift its mindset without any further delay to provide regulations that will help foster this exciting new vision for California.

More specifically, we urge the Commission to consider the following:

**We appreciate the more aggressive time schedule and encourage the Commission to stay with this schedule going forward.**

We appreciate the actions taken to reduce the time before the Water Commission plans to make its initial funding decisions. Yes, the revised schedule has reduced the time to prepare the application, which has increased the costs for the application. Yet, the time savings coupled with the shortened evaluation period will enable selected projects to become operational sooner and therefore enable the expected benefits to be realized sooner, which is important for the State of California. We support the more aggressive time schedule.

**The draft regulations are still too tightly wound.**

The Commission has made a strong attempt to include comments from numerous parties, but as a result, the regulations are still so tightly wound that they make it nearly impossible for a project applicant to weave through all the various prescriptions, potentially leaving Chapter 8 as a stranded investment. This concern was previously expressed in our March 14, 2016 comment letter to the Commission. The last four years of drought has shown that we cannot anticipate every possible dynamic in California. Instead, we need to provide general guidelines for appointed officials, who are accountable to the Governor, different Commissions and the Legislature, to exercise their discretion within these guidelines to fulfill the intent of the Storage Program. As an example, the requirements in the draft regulations and those included in the Technical Reference Document (which by reference becomes an integral part of the draft regulations) include application requirements that: (1) appear to be overly prescriptive; (2) add cost to prepare the application; and/or (3) require extensive supporting documentation in topic areas that are not a part of the primary evaluation criteria. Rather than be repetitive, we support the details provided by the Sites Project Authority to these issues.

**The Commission should acknowledge net public benefits contributed by projects.**

The previous version of the regulations recognized the importance of net contributions towards public benefits, yet they now seem to be missing from the current version of the regulations. Proposition 1 calls for projects that “provide a net improvement in ecosystem and water quality conditions, in accordance with this chapter.” As an example, Sites Reservoir could help preserve the cold-water pool in Shasta, which is a significant public benefit as defined in Chapter 8. We encourage the Commission to reinstate this important provision to advance public benefits.

**The draft regulations need to be re-aligned with Proposition 1.**

Another example that does not align with Proposition 1 is the suggestion to spread available funding across multiple projects. Although this may seem to be politically expedient, it defies the clear value of Chapter 8—a large block of funding (\$2.7B) that can be used to create public benefits associated with water storage. Proposition 1 clearly provides that “projects shall be selected by the commission through a competitive public process that ranks potential projects based on the expected return for public investment as measured by the magnitude of the public benefits provided, pursuant to criteria established under this chapter.” There should not be any side doors to funding under Chapter 8. It is important that the Commission stay true to the specific requirements in Chapter 8, where a project will only be funded if the applicant projects meet all of the Proposition 1 criteria.

As you know, there is widespread and strong support in Northern California for the Sites Project Authority and thus we urge you to review and incorporate its specific comments in your revised regulations. We previously provided comments to you on March 14, 2016 and appreciate the progress that the Commission has made since that time. We continue to be very supportive of the Sites Reservoir Project and any other project that provides “public benefits” as described in Proposition 1.

Thank you for the opportunity to provide our Northern California perspective on the proposed regulations. For the Storage Program to advance these important purposes, we encourage the Commission to move quickly to unwind the current regulations and refocus on a clear and more direct path forward for the state to immediately start investing in the “public benefits” of water storage in California. If you have any questions, please call.

Sincerely yours,



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Tim Johnson  
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Nadine Bailey  
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cc: John Laird, Secretary  
Mark Cowin, DWR Director  
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