



Sacramento Field Office  
555 Capitol Mall, Suite 1290  
Sacramento, California 95814

tel [916] 449-2850  
fax [916] 442-2377  
nature.org/california

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California Water Commission  
ATTN: Joseph Yun  
P.O. Box 924836  
Sacramento, CA 94236

Via email: [WSIPcomments@cwcc.ca.gov](mailto:WSIPcomments@cwcc.ca.gov)

**RE: Comments on Draft Water Storage Investment Program Quantification Regulations**

Dear Mr. Yun and Members of the Water Commission,

Thank you for the opportunity to provide comments on the California Water Commission's (CWC) revisions to the Water Storage Investment Program (WSIP) Quantification Regulations (Revised Regulations).

The Nature Conservancy (Conservancy) is a global, nonprofit conservation organization with over 100,000 members in California. The mission of the Conservancy is to conserve the lands and waters on which all life depends. In pursuing this mission, the Conservancy relies on a science-based approach both to identify key threats to important natural communities and to develop effective strategies for their conservation. As a leading proponent of Proposition 1, the Conservancy has engaged in WSIP implementation to help realize its potential to improve California's water supply reliability, especially to meet the needs of natural systems, and ensure investments are *commensurate with* the public benefits provided by a given project.

Proposition 1 requires the Water Commission to evaluate all storage investments consistent with a "whole systems" water management approach. Projects that are designed to provide multiple benefits including flood risk reduction, opportunities to enhance groundwater recharge, improve habitat values, and provide for "reoperation" of other reservoirs should be prioritized by the Water Commission in the implementation of the WSIP. Further, the on-going impacts of the drought to natural systems and imperiled fisheries (e.g. winter & spring run Chinook salmon, Coho salmon, Delta smelt, long fin and other species) demonstrates that nature has fared especially poorly during the drought. Fundamentally, all Californians deserve a reliable, objective basis to measure whether the Chapter 8 storage investments are actually adding up to identifiable benefits for nature.

### General comments:

- Overall, the Revised Regulations contain many improvements over the previous draft and we thank staff and the Water Commission for their diligence releasing these proposed revisions on September 2, 2016. Furthermore, we appreciate and support many of the changes that have been made.
- We understand that the Water Commission is under a very tight deadline to finalize the Revised Regulations by December 15, 2016; however, we are concerned that the 30-day comment period has been inadequate to do justice to the necessary review of the Revised Regulations and the more than 400-page long Draft Technical Reference document that a \$2.7 billion public investment warrants.
- Over the past century, we have collectively done significant, and in many ways irreversible, harm to our environment by the way we have developed our water supply. This is part of the reason the Conservancy supported Proposition 1 in 2014 as it promised a \$2.7 billion investment in improving our water supply reliability with at least 50% of benefits going to the environment. It is paramount that this goal be realized in the implementation of WSIP.
- It is critically important that the Water Commission – both staff and Commissioners – not only do a thorough and complete analysis of the individual projects seeking funding through this program, but also evaluate how the portfolio of projects funded through this program add up to a greater whole that restores ecosystem values throughout our water system.
- Because WSIP must fund a portfolio of projects that delivers ecosystem benefits, we are concerned that the Revised Regulations are inherently biased against smaller or even medium-sized projects, which could offer valuable ecosystem benefits with minimal harm to natural resources. Whether it's through the elimination of the pre-application process or the significant cost involved in assembling a competitive proposal, the Revised Regulations clearly favor larger projects and put smaller conjunctive use or groundwater recharge projects at a competitive disadvantage. Ironically, such projects are likely to be much more cost-effective and can be delivered in a much shorter timeframe than surface projects. Groundwater storage and conjunctive use projects can likely be delivered within several years as compared to surface storage projects that may be a decade from delivery.

### Specific comments:

- **Section 6001 – Definitions.** We appreciate the inclusion of a reference to the definition of “groundwater dependent ecosystems” in the Revised Regulations. We believe this definition will help clarify potential environmental benefits that can accrue from groundwater storage or other projects.

- **Deleted Section 6002(b) – Mandatory Pre-Application Process.** We are very dismayed to see the deletion of the pre-application process. A pre-application process helps to develop better full proposals while allowing smaller and medium-sized projects an opportunity to assess whether or not incurring the cost of a full application is a prudent choice. The elimination of this requirement will likely dissuade some smaller projects from applying for funding.

- **Section 6007(c) – Total relative environmental value, Table 1.** Criterion 8 appropriately reflects the environmental benefits groundwater storage projects can provide to groundwater dependent ecosystems. We support the inclusion of the following language:

“8. Maintain or restore groundwater and surface water interconnection to support instream benefits and groundwater dependent ecosystems.”

- **Section 6007(c) – Total relative environmental value, Table 1.** Similar to our previous comment, we also appreciate the inclusion of the following language:

“9. Enhance flow regimes or groundwater conditions to improve the quantity and quality of riparian and floodplain habitat for aquatic and terrestrial species.”

- **Section 6007(c) – Total relative environmental value, Table 1.** Criterion 14, water for wildlife refuges, should clarify that public benefits from providing water to Central Valley refuges that receive Level 2 CVP supplies must be net water supply benefits in the form of increased long-term Incremental Level 4 water deliveries. As such, we request the following revision to criterion 14:

“Provide a long-term increase in water dedicated to enhance seasonal wetlands, permanent wetlands, and riparian habitat for aquatic and terrestrial species on State and Federal wildlife refuges and on other public and private lands.”

(Please refer to the group letter from the California Waterfowl Association, Grasslands Water District, Grassland Resource Conservation District, and others that the Conservancy is also a signatory to for a more detailed discussion of this concern.)

- **Section 6007(c) – Total relative environmental value, Table 2.** The emphasis on the connection between existing protected lands enhances these areas and supports a key adaptation strategy that will better prepare species and Californians for the inevitable impacts of climate change. For this reason, we appreciate the inclusion of the following priority under Table 2:

“8. Location of ecosystem improvements and connectivity to areas already being protected or managed for conservation values.”

- **Section 6007(d) – Magnitude of Water System Improvements.** We view this as an eligibility requirement per Water Code Section 79750(b), not a public benefit component of a project that can be funded by Proposition 1<sup>1</sup>; for this reason, we recommend that this entire section be deleted as an evaluation criterion.
- **Section 6008 – Scoring.** We recommend the inclusion of an explicit process for public review once staff have completed the scoring for each component of a given proposal. As discussed at the Water Commission hearing on September 16, 2016, we appreciate that this is the Water Commission’s intent, but remain concerned that there is not any process to achieve this laid out in the Revised Regulations. As an alternative, such a process could be described in Section 6011, “Commission Maximum Conditional Eligibility Determination,” instead of here.
- **Section 6008(b) – Component maximum point values.** Chapter 8 of Proposition 1 was clear that the funding was to be invested only in public benefits and, therefore, we think is unacceptable that only 40% of total points may go to “public benefits” category in this section. We recommend deleting “Water System Improvement” from this table (consistent with our previous comment) and allocating its 20 potential points to the “Relative Environmental Value” category so that the total for the “Relative Environmental Value” category is 40 potential points rather than 20.
- **Section 6008(c) – Component score normalization.** The definition of the denominator, “evalnummax,” could be clearer to clarify that it is the highest score for a given component amongst all proposals submitted.
- **Deleted under Section 6010 Independent Peer Review.** We object to the elimination of the independent peer review step in the evaluation process. Given the complexity of the projects and scoring requirements, as well as the fact that \$2.7 billion are being invested on behalf of the public, we strongly believe an independent peer review is necessary.
- **Section 6011 – Commission Maximum Eligibility Determination.** It is not clear to us why the Revised Regulations limit the component scores that the Water Commission itself are able to adjust by a majority vote. We recommend that the commissioners be able to adjust all component scores identified in the “Scoring” section of the Revised Regulations.<sup>2</sup> In addition, the Water Commission should not be restricted to adjusting a given component score by “plus or minus 6 points”<sup>3</sup> and recommend that this limit be deleted. It does not make sense for the Water Commission to vote to limit its own flexibility.

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<sup>1</sup> Water Code, § 79753 identifies the following public benefits that can be funded by WSIP: ecosystem improvements, water quality improvements, flood control benefits, emergency response, and recreational purposes.

<sup>2</sup> Revised Regulations § 6008(a)(1) & Table 6. Maximum Component Scores.

<sup>3</sup> Revised Regulations § 6011(a)(4).

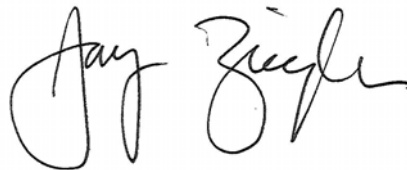
- **Section 6011(g)(1)(B) – Commission review of maximum conditional eligibility amount.** This ties back to our general comment about the need for the total investment by this program to deliver a significant and broad ecosystem benefit. We appreciate the inclusion of this provision here, but feel it could be even more prominent. The objective of this program is to maximize both the quantity and purposeful use of water for ecological purposes, recognizing that wildlife, fisheries and ecosystem needs and priorities will change over time. Additionally, this concept is aimed at maximizing the use of water for meaningful ecological purposes consistent with regulatory requirements that funding should be dedicated to achieve flows and habitat values beyond those required for regulatory compliance. In this regard, the Director of the Department of Fish and Wildlife is invested with the authority to plan, manage and allocate water to meet the highest ecological needs – which may vary over time. Authority for this approach is consistent with Proposition 1, CA Water Code S.79755 (3) which holds that as the “public agency should “ensure that the public contribution of funds pursuant to this chapter achieves the (optimal) public benefits identified for the project.”
- **Section 6014 – Managing Public Benefits.** The Revised Regulations do not dictate a specific process to oversee and ensure that proposed public benefits are provided, but instead makes a general delegation of the management of public benefits to the Department of Fish & Wildlife (DFW), the State Water Resources Control Board, and the Department of Water Resources.<sup>4</sup> Our organization has a vested interest in helping to ensure the efficient administration of proposed public benefits for Central Valley refuges. We request that the regulations be revised to allow for public review of proposed public benefits management contracts, require that available data and reports prepared under those contracts be made available to the public, and provide a mechanism for stakeholders to help ensure that public benefits and adaptive management plans are adhered to.

Thank you again for the opportunity to provide these comments. We look forward to continuing to work with the Water Commission as it implements WSIP.

Sincerely,



Sandi Matsumoto  
Associate Director, California Water Program  
The Nature Conservancy



Jay Ziegler  
Director, External Affairs & Policy  
The Nature Conservancy

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<sup>4</sup> Revised Regulations § 6014.