



THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

March 14, 2016

The Honorable Joseph Byrne  
Chair, California Water Commission  
1416 9<sup>th</sup> Street  
Sacramento, CA 95814

Sent via email: [WSIPComments@cwca.gov](mailto:WSIPComments@cwca.gov)

**Re: Comments from The Metropolitan Water District of Southern California regarding the Water Storage Investment Plan Program Proposed Regulations dated January 11, 2016**

Dear Chairman Byrne and Commission Members:

The Metropolitan Water District of Southern California (Metropolitan) respectfully submits its comments to the California Water Commission (Commission), regarding the proposed regulations for the Water Storage Investment Program (WSIP). Over the past year, the Commission has made great efforts to outreach to a variety of stakeholders and ensure the process for developing the proposed quantification regulations was transparent and reflective of public involvement. As a participant of the WSIP Stakeholder Advisory Committee, Metropolitan is appreciative of the opportunity to provide comments at this time.

As the primary wholesale water supplier in the Southern California region, Metropolitan delivers over 55% of the drinking water consumed by nearly 19 million residents within a 5,200 square-mile service territory. Consequently, Metropolitan serves as the region's water management planner, and we have established a diversified water supply portfolio to help ensure water supply reliability during periods of drought or regulatory restrictions. We recognize and value the importance of a storage component within the context of a well-diversified portfolio, particularly for the ability to draw upon stored water supplies during extended dry-years. As California continues to adapt to the changing climate and hydrology conditions through implementing its adopted California Water Action Plan, all identified options to improve the management of water supplies is becoming increasingly important.

Metropolitan extends its concurrence and support for the comments provided by the Association of California Water Agencies for the January 11, 2016, version of the draft regulations. We wish to provide additional and complementary comments for your consideration, as the Commission evaluates how best to assess consistency between Chapter 8 in Proposition 1, as approved by California voters in November 2014, and the proposed regulations developed by the Commission.

- **Application Process – Funding Environmental Documentation [Section 6002(b), 6002(c), 6003(d)]**

The draft regulation language under the pre-application and full application process does not explicitly allow for an applicant to apply for funding to complete environmental documentation (only funding for permitting costs). It is important to note, however, that the language in Chapter 8 of Proposition 1 does allow the California Water Commission to provide this funding. Water Code section 79755(c) states that “funds may be made available under this chapter for the completion of environmental documentation and permitting of a project.”

Recommendation – Consistent with the Water Code and the Initial Statement of Reasons, Commission staff should reword Sections 6002(b), 6002(c), 6003(d) and other respective sections to explicitly reference the Commission’s authority to fund environmental documentation and permitting of a project.

- **Funding Commitments – Allocation/Reimbursement Dates (Section 6003)**

The Commission should be allowed the flexibility to make its own determination on timing for reimbursement of project funding and not be tied to subjective dates prescribed in the draft regulations.

Recommendation – Delete the following language under Section 6003(e)(6): “The Commission shall not reimburse any cost incurred prior to November 4, 2014,”

- **Requirements for Quantification of Benefits – Watershed Analysis Requirements (Section 6004)**

The draft regulation language requires an applicant that affects the operations of the State or Federal water projects to analyze *all* watersheds and regions (in northern, central, and southern California) where those facilities are located. This draft regulation is interpreted by potential applicants to be over and above what is required by normal state and federal environmental documentation. In addition to being overly costly, especially for small agencies requesting funding, the benefits are highly speculative.

Recommendation – Revise the language of Section 6004(a)(1)(B) to appropriately limit this analysis and costs.

- **Requirements for Quantification of Benefits – ”Over the Planning Horizon” Analysis (Section 6004)**

The draft regulation language requires an applicant to analyze “over the planning horizon” conditions including future laws, state/federal regulations, land use, etc. This type of analysis is considered by potential applicants to be highly speculative, and it is impossible to accurately determine future state/federal laws and regulations.

Recommendation – Revise the language of Section 6004(a)(3)(A)(3) to appropriately limit this analysis.

- **Requirements for Quantification of Benefits – Climate Change Requirements (Section 6004)**

The draft regulation language requires an applicant to use highly prescriptive technical specifications which are linked to current climate change projections in the quantification of benefits. Although this “common assumptions” approach may seem appropriate at first glance, it is important to note that the best available science is consistently updated by state/federal agencies. As a result, the proposed projections and analysis required may become less accurate as more information becomes available and widely used. In addition, “best available science” is consistent with the intent expressed in Section 79707(d) of Proposition 1.

Recommendation – Revise the language in Section 6004(a)(8) so the project proponents can use the “best available science” regarding future climate change as recommended by state/federal agencies.

- **General Selection Process – Eligibility Requirements (Section 6002)**

The draft regulations require a project application for Proposition 1 funds to have contracts/ commitments from all cost-share partners for at least 75 percent of the non-public benefit cost-share at the time of submitting the full application. However, this requirement is not wholly consistent with language expressed in Chapter 8. Section 79755 states that “...no funds may be allocated for a project...until the commission approves the project based on the commission’s determination...” More specifically, the cost-share commitments should not be required until the Commission makes a determination to encumber funds. However, if there is a need to identify committed cost share of a project at the time the full application is submitted, flexibility should be provided in allowing for “initial” commitment requirements. In addition, since many of cost-share partners are public agencies themselves, which have to meet specific administrative, legal and governing board

requirements, there should be some flexibility in these “initial” commitment requirements.

Recommendation – Revise the language in Section 6002(c)(2)(E) and Section 6002(c)(4)(A)(3) to replace “commitments from duly authorized representatives of non-public benefit cost-share partners providing at least 75 percent of the non-public benefit cost-share” with “information regarding [initial] commitments of non-public benefit cost-share partners providing at least 75 percent of the non-public benefit cost-share.”

- **Managing Public Benefits – Requirements to Enter into Three Public Agency Contracts (Section 6007)**

The draft regulation language requires an applicant to enter into three separate public agency contracts (in addition to the normal state/federal permit requirements) with the California Department of Fish and Wildlife, the State Water Resources Control Board and the California Department of Water Resources to administer the public benefits of a project.

Recommendation – Revise the language of Section 6007(c) to emphasize coordination among these multiple contracts and, if possible, combine the requirements under a joint state contract. Suggested language: “...any project funded under the Program shall enter into a single contract with the California Department of Fish and Wildlife, the State Water Resources Control Board and the Department of Water Resources, to provide for coordinated and effective administration of the public benefits of the project.” Alternatively, specify contracts with each agency with an additional coordination agreement amongst the other two agencies.

Thank you, again, for the opportunity to provide comments to the proposed quantifications regulations which are currently before the Office of Administrative Law. If you should have any further questions regarding Metropolitan’s comments on this matter, please contact me at 213-217-7537.

Sincerely,



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The Metropolitan Water District  
of Southern California