



December 7, 2016

Via E-Mail

Joe Yun
 California Water Commission
 P.O. Box 924836
 Sacramento, CA 94236
 E-mail: WSIPComments@cw.ca.gov

Re: Modified Water Storage Investment Program Quantification Regulations

Dear Mr. Yun and Members of the Commission,

These comments are submitted by Audubon California, Defenders of Wildlife, Grassland Water District, Grassland Resource Conservation District, and Point Blue Conservation Science regarding the California Water Commission's ("Commission") modified Water Storage Investment Program ("WSIP") Quantification Regulations issued for public comment on November 22, 2016.

As described in our previous comment letter dated September 3, 2016, our organizations work to protect, restore, and enhance habitats for birds and other wildlife in California's Central Valley. We appreciate the effort made by the Commission and staff to respond to our requests for greater detail and clarity in the WSIP regulations, particularly regarding the quantification and maintenance of public benefits for managed wetlands in the Central Valley. The following comments are submitted to confirm our understanding of certain modifications to the WSIP regulations and Technical Reference Document.

I. Water for Central Valley Refuges

The California Department of Fish and Wildlife's ("CDFW") Ecosystem Priority 14 prioritizes the achievement of public benefits through water deliveries to public and private wetlands and riparian habitats. Our previous comments emphasized the need for more details in the WSIP regulations and Technical Reference Document regarding managed wetlands in the Central Valley that are already entitled to receive a portion of

their required water supplies from the Central Valley Project (“CVP”). Our objective was to ensure that proposed public benefits in the form of refuge water deliveries would result in a net water supply improvement for managed wetlands, rather than replacement supplies.

The modified WSIP regulations and Technical Reference Document include new language responsive to our comments. First, modified Table 4-11 of the Technical Reference Document describes the metrics by which ecosystem priorities for wetland water supply will be measured. The modified language specifies that water delivered from a new water storage project to a managed wetland that is already entitled to receive Central Valley Project Level 2 refuge water should be delivered in the form of increased Incremental Level 4 flows.

Second, modified section 6004(a)(7)(A) of the WSIP regulations clarifies that the program’s cost share for CALFED projects and other water storage projects will not include flow-related environmental mitigation or compliance obligations that are set forth in the CalSim II model. As described in Table 2-3 and accompanying text of the modified Technical Reference Document, Level 2 refuge water deliveries are built into the CalSim II model as an operational requirement of the CVP.

It is our understanding that both of these changes are intended to clarify that public benefits from providing flows to Central Valley managed wetlands that are already entitled to receive Level 2 water must provide a net water supply benefit in the form of Incremental Level 4 water deliveries. Is this also the Commission’s understanding?

II. Public Input

Our previous comments asked the Commission to set forth a clear public process for reviewing and making decisions on various aspects of the WSIP application process, including eligibility, magnitude of public benefits, the applicability of scoring criteria, and staff’s recommendations to the Commission based on the technical review process. In response, the modified WSIP regulations clarify that all Commission decisions will be made after receiving public comment and holding a public hearing, and that staff’s supporting documentation will be made publicly available in advance of each hearing.

The modified regulations also indicate that any appeals of a Commission decision, and staff responses to appeals, will be made publicly available in a timely manner, and public comments will be accepted on applications that are the subject of an appeal. Based on these modifications and the Commission’s prior practice of accepting written comments before holding public hearings related to the WSIP, we expect that the Commission will receive and consider both written and in-person comments from the public on proposed decisions related to water storage project applications and appeals. Does the Commission intend to follow a practice of receiving both written and oral comments when making, or reviewing appeals of, WSIP funding decisions?

III. Public Benefits Management

We requested a specific process in the WSIP regulations that the Commission and the public could use to ensure that public benefits are properly realized and managed into the future. In response, modified section 6014 of the WSIP regulations identifies certain required elements in the contracts between the agencies administering public benefits and project applicants, including an adaptive management plan with metrics for monitoring public benefits, a reporting schedule, and a decision-making process for triggering adaptive management actions.

Section 6014 is also modified so that data and reports under those contracts will be made available to the public, and the public can interact with the Commission regarding the management of public benefits from a project. The modified language, however, states only that the agency administering a public benefits management contract “may” submit a draft of the contract to the Commission, and the Commission, after considering public comment, “may” offer comment for the administering agency’s consideration. Using permissive language, rather than mandatory language, suggests that the draft contracts for management of public benefits may not be made available for public comment before they are finalized. We urge the Commission to revise section 6014 to ensure that the public has an opportunity to comment on proposed public benefits management contracts before they are finalized or subsequently amended.

Thank you for your consideration of these comments and for your ongoing dedication and attention to the WSIP process. We look forward to the State’s investment in lasting ecosystem improvements, and we strongly believe there will be a significant return on public investment in California’s wetlands.

Sincerely,



Michael Lynes
Director of Public Policy
Audubon California



Ricardo Ortega
General Manager,
Director of Policy & Governmental Affairs
Grassland Water District and
Grassland Resource Conservation District



Rachel Zwillinger
Water Policy Advisor
Defenders of Wildlife



Catherine Hickey
Conservation Director
Point Blue Conservation Science