



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 19, 2025

Fern Steiner, Chair
California Water Commission
P.O. Box 924836
Sacramento, CA 94236

**Subject: California Water Commission Proposed Emergency Rulemaking Action
(November 7, 2025) – Comments from California Department of Fish and Wildlife**

Dear Chair Steiner:

On November 7, 2025, the California Water Commission (Commission) provided notice of its proposal to adopt emergency regulations related to the administration of the Water Storage Investment Program (WSIP), specifically the use of uncommitted program funds to provide supplemental funding to existing approved projects. The California Department of Fish and Wildlife (CDFW) respectfully submits the comments below regarding the proposed regulations.

CDFW ROLE IN WSIP

CDFW plays a key role in WSIP, providing technical support to the Commission and assisting with the administration of public benefits.

Pursuant to Water Code section 79754, in 2016 CDFW identified ecosystem priorities and relative environmental values of ecosystem benefits to aid in the implementation of the program. Additionally, CDFW assisted the Commission with the review and evaluation of project applications and related documents submitted under WSIP. During the Technical Review of project applications described in California Code of Regulations, Title 23, Section 6007, CDFW made a preliminary assessment of each project's proposed public ecosystem benefits and determined their relative environmental value based on information supplied in the application.

Pursuant to Water Code section 79755, projects funded under WSIP must enter into a contract with CDFW to administer their public ecosystem benefits. The final funding award is contingent, in part, on CDFW's finding that the public ecosystem benefits of the project meet all the requirements set forth in Water Code sections 79750 *et seq.*

COMMENTS AND RECOMMENDATIONS

Under the proposed regulations, the Commission may make a supplemental funding determination if it determines that there is "good cause." In making a determination of

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Chair Fern Steiner
California Water Commission
November 19, 2025
Page 2

“good cause,” the Commission will consider any changes that have occurred since a project’s Maximum Conditional Eligibility Determination (MCED), including the availability of “additional public benefits.” Section 6020(a)(1) of the proposed regulations defines “additional public benefits” as “public benefits associated with water storage projects outlined in Water Code section 79753(a) and that were either not previously included in an application or not previously accepted by the Commission during the evaluation of the project pursuant to section 6011.”

I. Exclusion of Previously Unaccepted Public Benefits

CDFW believes that the definition of “additional public benefits” should exclude those benefits that were contained in a project’s application but not accepted by the Commission. As described in California Code of Regulations, Title 23, Section 6011, the Commission engaged in a thorough evaluation and review process before determining the MCED for project applicants. During this process the Commission considered the robust technical review of each project’s benefits, their relative environmental value, resiliency, and implementation risks. The Commission’s decisions to not accept certain benefits were grounded in this extensive review and should be sustained.

II. Inclusion of Enhanced, Previously Accepted Public Benefits.

CDFW believes the proposed definition of “additional public benefits” should explicitly state that additional public benefits may include the provision of a greater quantity of a public benefit than previously accepted by the Commission. Over time, project applicants may determine that it is valuable to provide more of an accepted benefit, rather than to focus on a greater variety of public benefits. Including such benefits within the definition of “additional public benefits” would afford projects, as well as the Commission, greater flexibility to support projects and maximize the value of public benefits generated through WSIP.

In summary, CDFW recommends the definition of “additional public benefits” in section 6020, subd. (a)(1) of the proposed regulations be revised to mean “public benefits associated with water storage projects outlined in Water code section 79753(a) and that were either not previously included in an application, or were previously accepted by the Commission during the evaluation of the project pursuant to section 6011 and have increased in quantity.”

CONCLUSION

CDFW appreciates the opportunity to comment on the Commission’s proposed emergency action. CDFW recognizes the value in adopting regulations allowing the Commission to (1) award supplemental funding that exceeds a project’s maximum conditional eligibility determination, and (2) recommit uncommitted funds returned to the Commission following a project’s withdrawal from WSIP. However, CDFW is concerned

Chair Fern Steiner
California Water Commission
November 19, 2025
Page 3

that the definition of “additional public benefits” included in the proposed regulations is best revised to exclude benefits that the Commission previously did not accept and to include the provision of a greater quantity of previously accepted benefits. Doing so will allow the Commission greater flexibility to maximize public benefits while avoiding the need to reinstate review of previously analyzed benefits.

Sincerely,

Signed by:

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Brooke Jacobs, Chief
Water Branch

ec: **California Department of Fish and Wildlife**

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