

## Water Storage Investment Program Commission Determinations and Additional Eligibility Requirement

### Temperance Flat Reservoir Project

#### San Joaquin Valley Water Infrastructure Authority

The San Joaquin Valley Water Infrastructure Authority is proposing the Temperance Flat Reservoir (TFR) project. The TFR project would be a new reservoir, formed by constructing a new dam within the footprint of the existing Millerton Lake on the San Joaquin River, approximately 20 miles northeast of Fresno, California. The TFR would provide an additional 1.26 million acre-feet of water storage capacity on the San Joaquin River that would manage water supplies stored from inflow that exceeds the operational capabilities of Millerton Lake and exchanged water supplies developed through coordinated operations with statewide water systems.

The California Water Commission (Commission) accepted the following monetized public benefits for this project:

- Ecosystem Improvement—Refuge water supply
- Flood Control
- Emergency Response
- Recreation

The applicant did not include non-monetized benefits in its application.

#### Introduction

This document addresses the following components of the Commission’s Water Storage Investment Program (WSIP) project evaluation process:

- **Determinations:** The Commission must make nine (9) determinations by before assigning a maximum conditional eligibility amount.
- **Additional Eligibility Requirement:** The Commission must consider the eligibility requirement related to wild and scenic rivers.

#### Part 1: Discussion of Commission Determinations

Regulation section 6011(c) states that before the Commission assigns a maximum conditional eligibility amount to a project, the Commission shall make all nine determinations based on the technical review and appeal information. The determinations are the following items:

- The proposed project is cost effective;
- The proposed project improves the operations of the State water system;
- The proposed project provides a net improvement in ecosystem and water quality conditions;
- The proposed project provides measurable improvements to the Delta ecosystem or to the tributaries to the Delta;

- The Program cost share is less than or equal to 50 percent of the proposed project’s total capital costs, with the exception of conjunctive use projects and reservoir reoperation projects;
- The Program funded ecosystem improvement benefits make up at least 50 percent of the total public benefits funded by the Program;
- The proposed project appears to be feasible;
- The proposed project will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta; and
- The proposed project is consistent with all applicable laws and regulations.

If, for a project, the Commission cannot make any single determination then a maximum conditional eligibility determination (MCED) cannot be made for that project.

Relationship Between Determinations and Eligibility

These determinations are made before projects have completed all project formulation efforts. Regulations section 6013(c) states that additional requirements (such as completed feasibility studies, final environmental documents, contracts for the non-WSIP cost share, contracts for administration of public benefits, and permits) must be obtained by applicants after the MCEDs are made, but before the Commission makes a final award to the project. Those additional requirements may result in changes to the project that was proposed to the Commission in the August 2017 Application. Such changes may positively or negatively affect project eligibility and in turn one or more of the Commission’s determinations. The Commission will consider such changes in determining a project’s final award (section 6013(f)(3-5)). Additionally, regulations section 6013(f)(2) sets January 1, 2022, as the deadline for completing feasibility documents.

Table 1 presents Staff’s assessment of whether each of the nine determinations conditions has been met. This assessment is based on the technical review and the appeal.

Table 1 - Staff Recommendations – Commission Determinations	
1. The proposed project is cost effective.	--
<p>The quantified costs and benefits may have changed since the submission of the application in August 2017 and the February 2018 appeal. Staff recommends the Commission discuss with the applicant, consistent with the requirements of the Bagley-Keene Act, any changes that relate to cost effectiveness. The Commission may determine the project to be cost-effective based on the following factors:</p> <ul style="list-style-type: none"> <li>• Monetized and non-monetized benefits and costs as described in the application</li> <li>• A discussion with the applicant, consistent with the requirements of the Bagley-Keene Act, about any changes in benefits and costs related to cost effectiveness (Regulations section 6004(a)(4)(E)) that may have arisen since the submission of the application</li> </ul> <p>Any changes that arise from such a discussion would need to be documented and supported as part of the ongoing WSIP regulatory process.</p>	
2. The proposed project improves the operations of the state water system.	YES

<b>Table 1 - Staff Recommendations – Commission Determinations</b>	
<p>The applicant described how the project would be integrated into the local, regional, state, or federal systems that provide water resources benefits within California. Such integration would improve the operations of the state water system. The proposed TFR would be operated in a coordinated manner with other facilities that comprise the statewide water system and would allow greater integration of surface water and groundwater, and contribute to sustainable groundwater management in the San Joaquin Valley. In addition, the proposed TFR would increase South of Delta storage capacity and improve operation of local, regional, state and federal facilities to support groundwater sustainability and increase operational flexibility.</p>	
3. The proposed project provides a net improvement in ecosystem and water quality conditions.	YES
<p>The ecosystem public benefit accepted by the Commission for this project is:</p> <ul style="list-style-type: none"> <li>Ecosystem Improvement—Refuge water supply</li> </ul> <p>The California Department of Fish and Wildlife (CDFW) found that the monetized ecosystem benefit, as described in the application, meets the requirements of Chapter 8, as related to matters within its purview.</p> <p>Staff concludes that this ecosystem improvement appears to contribute to the restoration of aquatic ecosystems and native fish and wildlife, including those ecosystems and fish and wildlife in the Delta (Water Code section 79753(a)(1)). This project also appears to contribute to ecosystem-related water quality improvements by enhancing wetland habitat.</p>	
4. The proposed project provides measurable improvement to the Delta ecosystem or to the tributaries to the Delta.	YES
<p>The ecosystem public benefit accepted by the Commission for this project is:</p> <ul style="list-style-type: none"> <li>Ecosystem Improvement—Refuge water supply</li> </ul> <p>Based on CDFW’s finding that the ecosystem public benefits resulting from refuge water supply meet the requirements of Chapter 8, Staff conclude that the project will provide measurable improvements to the Delta ecosystem or to the tributaries to the Delta.</p> <p>This ecosystem public benefit will likely provide changes in the physical, chemical, or biological conditions that provide public benefits which can be quantified at a specific location and time (Water Code section 79752; Regulations section 6001(a)(48)).</p>	
5. The proposed project’s program cost share is less than or equal to 50 percent of the proposed project’s total capital costs, with the exception of conjunctive use projects and reservoir reoperation projects.	YES
<p>Based on the Commission’s decision on May 3, 2018 and consistent with California Water Code section 79756(a), the project’s WSIP cost share is less than or equal to 50 percent of the project’s total capital costs. The Commission’s May decision determined the maximum eligibility amount for each project, which necessarily included consideration of the project’s WSIP cost share. The maximum eligibility amount for this project is \$171.33 million and the project’s total capital cost is \$2,644.10 million.</p>	

<b>Table 1 - Staff Recommendations – Commission Determinations</b>	
6. The proposed project’s program-funded ecosystem improvement benefits make up at least 50 percent of the total public benefits funded by WSIP.	YES
The Commission’s decision on May 3, 2018 determined the public benefit amount for each project, which necessarily included consideration and determination of the project’s ecosystem benefits. Based on that decision, the project’s public benefits consist of at least 50 percent ecosystem improvements, as required by Water Code section 79756(b).	
7. The proposed project appears to be feasible.	YES
Notwithstanding the implementation risks documented in the Technical Review, on whole the project appears to be feasible. The applicant demonstrated that the project can be constructed with existing technology and available construction materials, work force, and equipment. The applicant also demonstrated that the project is technically feasible consistent with the preliminary operations plan.	
8. The proposed project will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta.	YES
<p>Section 6001(a)(7) of the Regulations defines “beneficial uses of the Delta” as those:</p> <p><i>“...identified in the State Water Board’s ‘Water Quality Control Plan for the San Francisco/Sacramento-San Joaquin Delta Estuary’ (December 2006).”</i></p> <p>The TFR project proposes to provide dedicated water storage that could be used to manage San Joaquin River area wildlife refuges. CDFW found that the project meets the requirements of Chapter 8, as related to matters within its purview. CDFW found that the delivery of Incremental Level 4 water supplies to wildlife refuges during dry, critical-high, and critical-low years is a substantiated ecosystem benefit that constitute an ecosystem improvement.</p> <p>This identified public benefit appears to advance ecological beneficial uses of the Delta, including: Wildlife Habitat. The advancement of beneficial uses resulting from the project would aid in restoring healthy wildlife corridors, and migratory species habitats that support the Delta ecosystem complex.</p>	
9. The proposed project is consistent with all applicable laws and regulations	YES
The applicant stated in the application that the project will comply with all applicable laws and regulations. Such compliance is a requirement for WSIP funding.	

## Part 2: Additional Eligibility Requirement

### Wild and Scenic Rivers

Regulations section 6006(c)(2) identifies six additional eligibility items that require the Commission's consideration as part of the technical review. Five of the additional eligibility items are included in the determinations discussed above. One additional eligibility item (Wild and Scenic Rivers) is not included in the determinations. Water Code sections 79711(e) and 79751(a) prohibit the use of WSIP funds by any project that could have an adverse effect on the values upon which a Wild and Scenic River or any other river is afforded protections pursuant to the California Wild and Scenic Rivers Act or the federal Wild and Scenic Rivers Act.

The TRF Project is unlikely to adversely affect a currently designated Wild and Scenic River, including its free-flowing character. The proposed project is an on-stream reservoir, which includes a dam along a stretch of the San Joaquin River that was identified by the Bureau of Land Management as eligible for inclusion in the National Wild and Scenic Rivers System. Although the project as proposed would substantially adversely affect this stretch of river, it is not currently designated Wild and Scenic. The Merced River, which is located over 30 miles north of the proposed project area, is the nearest designated Wild and Scenic River, and the project does not propose a hydrologic connection to this watershed.