



**Action Item: Notice of Proposed Emergency Regulations and Informational Update on the
Water Storage Investment Program**

Introduction

Water Commission staff will present emergency regulations that would reopen the early funding request process. The Commission will then vote on whether to adopt the emergency regulations. Staff will also give an update on the status of the Water Storage Investment Program (WSIP) projects, based on recently submitted quarterly reports.

Background

Through the WSIP, the California Water Commission will invest nearly \$2.6 billion in the public benefits of water storage projects, consistent with the requirements of Proposition 1 (the Water Quality, Supply, and Infrastructure Improvement Act of 2014), Chapter 8. In July 2018, the Commission determined the Maximum Conditional Eligibility (MCED) amounts for eight projects that will create more than four million acre-feet of storage capacity. Since then, applicants have been working to complete the Proposition 1 requirements, which include obtaining permits and environmental documents, contracts for the administration of public benefits, and contracts for non-Proposition 1 funding before returning to the Commission for a final award hearing.

At the July 2018 meeting, the Commission awarded early funding (a portion of the MCED) to help pay for environmental documents and permitting to three projects: Los Vaqueros Reservoir Expansion Project, Pacheco Reservoir Expansion Project, and Sites Reservoir Project.

On May 11, 2020, the Commission received a letter, signed by six of the applicants, that suggested ways the WSIP could be modified to assist applicants with economic hardships caused by COVID-19. The letter suggested a variety of modifications to the program, including allowing applicants that did not request early funding during the application process an opportunity to request funds now, which would require a change to the regulations.

At the July 15, 2020, meeting, the Commission voted 5-0 to direct staff to pursue a regulation change that would reopen the opportunity to request early funding. The Commission also voted 5-0 to direct staff to pursue emergency regulations, as the effectiveness of that regulation change would be lost in the standard regulation change timeline.

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Commission Decision

Commission staff drafted emergency regulations and a finding of emergency, as required by the Administrative Procedure Act, and posted them on the Commission website on August 7, 2020, and included the finding of emergency and draft regulations as attachments to the Commission's listserv announcement with the agenda for this meeting.

At the August 19, 2020 meeting, the Commission will vote on whether to adopt the emergency regulations. If the Commission adopts the regulations, staff will complete the rulemaking requirements for an emergency regulation and submit the package to the Office of Administrative Law (OAL) for approval. Once approved by the OAL, applicants can submit a request for early funding. Requests must include items required by WSIP regulations and applicants will present their request to the Commission at a subsequent meeting. The Commission will need to evaluate the request at a Commission meeting, consistent with the Bagley-Keene Act, and make an early funding award before the applicant has access to funds.

This is an action item.

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