

Submitted via: input@waterresilience.ca.gov

February 7, 2020

Ms. Nancy Vogel
Director of the Governor's Water Portfolio Program
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

RE: Association of California Water Agencies' Comments regarding the Draft Water Resilience Portfolio

Dear Ms. Vogel,

The Association of California Water Agencies (ACWA) appreciates the opportunity to provide comments regarding the California Natural Resources Agency's, the California Environmental Protection Agency's and California Department of Food and Agriculture's draft Water Resilience Portfolio (Draft Portfolio). ACWA represents more than 450 public water agencies that collectively deliver approximately 90 percent of the water distributed in California for public, agricultural and business uses.

The Draft Portfolio is a well-written document that appropriately takes a comprehensive approach to water resilience. We commend the Newsom Administration for the inter-agency teamwork and outreach to stakeholders that led to this draft.

On September 9, 2019, ACWA submitted detailed recommendations for the Draft Portfolio to the Newsom Administration. ACWA's recommendations emphasized that local and regional water management, which is built on local knowledge of local and regional water supplies and conditions, is key to a water-resilient future in California. ACWA appreciates that the Draft Portfolio emphasizes the need to partner and establish regular dialogue with local and regional water leaders. This collaboration will help the State take a solutions-oriented approach on water issues and avoid foreseeable negative consequences. ACWA is always available for dialogue and to bring water leaders and subject matter experts from across the State to the table.

In this letter, we present ACWA's comments regarding the Draft Portfolio in three categories:

- I. Comments about the overall approach with examples of proposed actions that are particularly positive;
- II. Concerns about some proposed actions and how to address those concerns; and
- III. Proposed actions that should be added or expanded.

I. COMMENTS ON OVERALL APPROACH

As noted above, ACWA appreciates that the Newsom Administration is taking a comprehensive ("broad and diverse") approach in the Draft Portfolio. There are many positive proposed actions in the Draft Portfolio. We highlight some examples here (not a complete list):

Examples of Positive Proposed Actions

- A. **G.O. Bond** - Including Water Portfolio priorities in the discussion of a potential climate resilience General Obligation (G.O.) bond (Proposed Action 31.1)

ACWA appreciates that in addition to this proposed action, Governor Newsom released the overview of his climate resilience bond in his proposed State Budget for Fiscal Year 2020-2021, and the Administration has since released legislative language for the bond. ACWA looks forward to collaborating with the Administration regarding the development of the bond.

The Draft Portfolio references in many places the impacts of the reduction in snowpack due to increasing winter temperatures, such as increased flood risks and reduced spring and summer streamflow. The Executive Summary to the Draft Portfolio states that the State "aims to improve physical infrastructure to **store, move, and share** water more flexibly." ACWA supports that aim. The bond discussions are a real opportunity for critical work on the State investments needed for that purpose in the wake of reduced snowpack and other climate change impacts.

- B. **Voluntary Agreements** - Identifying opportunities to meet legal standards in creative, collaborative ways, as through voluntary agreements that enhance flows and habitat (Proposed Action 13.7)

ACWA supports this proposal. As the Administration has explained in the Bay-Delta Water Quality Control Plan context, voluntary agreements can be the game changer that achieves more ecosystem benefits than a flow-centric approach would achieve.

- C. **Integrated Regional Water Management** - Building on the Integrated Regional Water Management (IRWM) Program and other regional programs (Proposed Action 20.1)

ACWA supports Integrated Regional Water Management (IRWM) as a voluntary tool in solving short- and long-term water management challenges. IRWM provides opportunities for regional-

scale collaboration with diverse stakeholders and the accomplishment of many of the proposed actions included in the Draft Portfolio depending on regional needs and water supplies. ACWA supports the role of Regional Water Management Groups in working with disadvantaged communities, tribes, academia and nongovernmental organizations. As the State implements the final version of the Portfolio, it will be important to reflect on lessons learned from the IRWM experience to date.

D. **Recycling and Reuse - Increasing recycling and reuse (Proposed Goal 4)**

ACWA supports Proposed Goal 4 that would have the State support local and regional agencies to significantly increase recycling and reuse in the next decade. Recycling and reuse are important tools for water resilience in many areas.

E. **Flood Management - Streamlining the Permitting Process for Flood Management (Proposed Action 25.1)**

ACWA supports the Administration's proposed action to provide ways to simplify the permitting process for flood management projects. This is an area where real, practical strides can be made so that this permitting process does not take years.

ACWA suggests the following changes to this proposed action to clarify that the action is about improving the permitting processes as opposed to reviewing proposed permits:

25.1 Review state, federal, and local ~~permits~~ **permitting processes** for flood management projects and operations and maintenance and recommend ways to simplify the permitting processeses.

II. **CONCERNS ABOUT CERTAIN PROPOSED ACTIONS**

As explained below, ACWA has concerns about some of the proposed actions.

A. **Water Rights (Proposed Action 27.2)**

Proposed Action 27.2 (at Page 25) reads as follows:

27.2 Support California Water Plan planning-area scale analysis of future flood risk, water demand, supply reliability, and water for the environment for a range of climate and growth scenarios. **Integrate future water supply and demand analyses into the water right priority system** and incorporate climate change forecasts into **permitting processes**.

ACWA appreciates the value of regional-scale planning analyses to examine a range of hydrology and water supply and demand for a range of future climate and growth scenarios to better inform state, regional and local adaptation actions. However, the proposal to

“integrate” such analyses “into the water rights priority system” would be subject to technical challenges and legal barriers.

ACWA strongly suggests that this proposed action be revised to read:

27.2 Support California Water Plan planning-area scale analysis of future flood risk, water demand, supply reliability, and water for the environment for a range of climate and growth scenarios. ~~Integrate~~ Develop future water supply and demand forecasts for this range of scenarios ~~analyses into the water right priority system~~ and assess the feasibility and implications of incorporating climate change forecasts into permitting processes.

This modified proposal would go a long way toward what the Administration is trying to achieve in this area.

B. Stream Flows (Goal 9)

ACWA supports the Administration’s goal of protecting and enhancing natural ecosystems. While the Draft Portfolio recognizes that comprehensive actions that include multi-benefit water projects and large-scale habitat restoration can build resilience, ACWA is concerned that some of the proposed actions focus on flows through a singular flow lens as opposed to through a more comprehensive approach.

For example, Proposed Action 9.1 would call for the development of “rapid” methodologies to establish regional instream flow metrics. Proposed Action 9.2 calls for instream flow analyses to develop instream flow recommendations for ecologically important streams.

Comprehensive and integrated actions that include habitat restoration projects, functional flows, predation measures, and food production, and that rely on science-based decision-making, have demonstrated success in providing meaningful benefits to fish and wildlife, while ensuring water supply reliability for California’s urban and agricultural communities. A flow-only approach to protecting and enhancing natural ecosystems, compared to collaborative and comprehensive approaches, would have the greatest impact to water supply and would fail to incorporate many of the essential ecosystem needs critical for fish and wildlife species survival. ACWA recommends that methodologies and analyses for instream flows should be integrated and quantify benefits associated with non-flow measures. This action would require work across agencies, but that inter-agency work is an important feature of the Newsom Administration’s approach to water resilience.

1. Public water agencies are a key stakeholder in ecosystem work.

Public water agencies are a key stakeholder in the area of protecting and enhancing natural systems.

Accordingly, ACWA suggests the following edits to Proposed Actions 9.3 and 9.4.

9.3 Bring together regulators, public water agencies, water users, and other stakeholders to develop innovative, voluntary solutions to water supply and ecosystem protection.

9.4 Work with universities, public water agencies, tribes and nongovernmental groups to develop new tools for identifying functional ecosystem flows.

C. **Proposed New Water Management Plan Requirement - Reduced Reliance on the Delta (Proposed Action 18.3)**

Proposed Action 18.3 calls for the addition of a new mandate for urban and agricultural water management plans. The proposed new requirement would be for districts that receive water from Delta-based projects to demonstrate in those plans how they are reducing reliance on those supplies.

1. This proposed action would require State legislation.

California Water Code Section 85021 provides the following:

85021. The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a **statewide strategy of investing** in improved regional supplies, conservation and water use efficiency. **Each region** that depends on water from the Delta watershed shall improve its regional self-reliance for water **through investment** in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts. [Emphasis added.]

Section 85021 does not set forth a requirement for individual water districts. The Legislature would need to grant the Department of Water Resources (DWR) the authority to impose the demonstration requirement in the water management plans. ACWA questions whether a new requirement in a new State law is really needed when the Legislature just recently enacted major new laws with enforceable requirements for water use efficiency and drought preparedness (AB 1668, Friedman, 2018 and SB 606, Hertzberg, 2018).

2. State investments in regional self-reliance is a more effective approach.

Consistent with Section 85021, what would be more effective is State investments to help local water agencies with their ongoing investments in water use efficiency, water recycling, advanced water technologies and other local and regional water supply projects. ACWA appreciates that the Governor is leading on a climate resilience bond with much needed funding. Such State funding will leverage local funding and help the State achieve the coequal

goals under the Sacramento-San Joaquin Delta Reform Act of providing a more reliable water supply for California and enhancing the Delta ecosystem.

D. Telemetered Diversion Data (Proposed Action 22.8)

Proposed Action 22.8 regarding telemetered diversion data would call for the phasing in of reporting of 500 acre-feet or more per year – down from the existing 10,000 acre-feet reporting threshold. ACWA is concerned that this proposed change would place substantial costs on diverters and only provide additional telemetered data for a fraction of the overall volume of diversion statewide. The State should consider how other forms of data and information can more efficiently and cost-effectively meet the State’s needs and objectives.

ACWA suggests that the Newsom Administration revise this proposed action as follows:

22.8 - **Phase in-Evaluate existing** requirements for telemetered diversion data (real-time water use), **including potential streamlining opportunities with other existing monitoring and reporting requirements. Analyze the costs and benefits of phasing in requirements for telemetered diversion data** to diversions of 500 acre-feet or more per year, down from diversions of 10,000 acre-feet a year, **in selected watersheds across the state to evaluate the potential** to help water users coordinate projects, transfers, environmental protection, and other management activities.

E. 2012-16 Actions on Drought (Proposed Action 26.2)

Proposed Action 26.2 would have the State:

26.2 Review state actions during the 2012-16 drought and **use that response as the basis** for planning water right inspections, emergency regulations, emergency staffing, improved forecasting and other necessary responses for future droughts. [Emphasis added.]

Certainly, it is appropriate for the State to plan for future droughts, but it is important to remember that there were lessons learned as the actions in 2012-2016 evolved. For example, it became clear that blanket requirements for rationing did not reflect actual water supply conditions. When the State Water Resources Control Board moved to the “stress test” approach, that was a major improvement in the State’s response.

ACWA suggests that Proposed Action 26.2 be modified along the lines of:

26.2 Review state actions during the 2012-16 drought and use **the lessons learned during that period to inform** ~~that response as the basis for planning water right inspections, emergency regulations, emergency staffing, improved forecasting, and other necessary responses for future droughts.~~

III. PROPOSED ACTIONS THAT SHOULD BE ADDED OR EXPANDED

A. Regional Conveyance (Proposed Actions 19.2, 19.3 and 19.4)

ACWA supports Proposed Goal 19 – “Modernize inter-regional conveyance to help regions capture, store and move water.” However the proposed actions (“conduct a feasibility analysis,” “continue studies of subsidence effects,” and “Direct the Water Commission to assess a state role in financing regional conveyance projects”) in our view do not appropriately reflect the urgent need to repair conveyance facilities that have been damaged by subsidence, including, but not limited to, the California Aqueduct, the Friant-Kern Canal, and the Delta-Mendota Canal. Many such facilities are critical for conveying surface water in areas of the State that face significant challenges for implementing the Sustainable Groundwater Management Act (SGMA). The impact of SGMA in the San Joaquin Valley, for example, could result in up to one million acres of land being taken out of agricultural production and tens of thousands of jobs being lost in some of our State’s most vulnerable disadvantaged communities, underscoring the need to restore lost capacity for delivering surface water in these areas.

In 2009, over two-thirds of the Legislature voted to include \$350 million in the 2009 version of the water bond for local and regional conveyance projects. (See the chaptered version of SB 7X-2, 2009 at Water Code Section 79723.) While that provision was not included in 2014 when the bond was downsized before the voters approved it as Proposition 1, the provision shows that the State already acknowledged that State funding assistance was appropriate to address these conveyance needs.

ACWA suggests that the Newsom Administration revise this section to make it stronger from an action perspective. ACWA would like to work with the Administration in the context of the climate resilience bond to advance state funding assistance in this area in addition to other areas.

B. Improved Forecasting Capabilities

In light of new research, in part funded by the State of California, we now understand that atmospheric river (AR) storms cause up to fifty percent of California’s total annual precipitation and ninety percent of its flooding. California’s annual precipitation patterns are such that the risk of flooding or drought may hinge on only a few AR storms (or lack thereof). Improved forecasting will help increase California’s water resilience and reduce public safety risks such as flood and post-wildfire landslides.

ACWA suggests inclusion of the following action in the final Water Resilience Portfolio:

Fund multi-year implementation (\$9.25 million per year) of the California Department of Water Resources Atmospheric Rivers Research Program to improve storm observations, precipitation, snow-level and post-wildfire landslide forecasts, climate models, and decision support.

Additionally, since 2013 the State of California has partnered with local and regional water agencies to help fund aerial snow surveys in a handful of central Sierra Nevada watersheds representing one-third of our state's major snow-covered areas. The data and information produced as a result of these surveys has been relied upon heavily by DWR's flood forecasting group to provide runoff estimates that are up to 98 percent accurate almost two weeks before a flood event occurs. The Sierra Nevada Conservancy is also using high-quality aerial imagery from the surveys to develop forest management plans with the U.S. Forest Service. ACWA supports Proposed Action 27.4 to "Support utilization of emerging technologies and partnerships to better estimate severity of future flood and drought conditions, including seasonal snowpack and runoff that generate most of California's water supply." We recommend a stronger commitment to long-term support, including funding, for this technology as an augmentation of California's snow survey program.

Implementation of these proposed actions would provide benefits across the Portfolio.

C. Safe Drinking Water – Expansion of Tools - Point of Use/Point of Entry Treatment
(Proposed Goal 1)

ACWA encourages the Administration to include the following action in the final Water Resilience Portfolio:

- 1.5 Advance State legislation to allow point-of-use (POU) and point-of-entry (POE) water treatment systems to be permitted for a permanent or long-term option for compliance with drinking water standards.

Existing California law limits POU/POE permits to no more than three years. For some small community water systems, POU/POE water treatment systems provide the only technically and economically feasible option to provide safe and affordable drinking water. ACWA recommends that the State work with stakeholders to resolve related maintenance issues and then pursue a change to State law that would provide more flexibility for the use of POU/POE water treatment systems.

D. Upper Watersheds - Headwaters and Forest Management (Proposed Goal 15)

ACWA appreciates that the Newsom Administration has included Proposed Goal 15 regarding upper watersheds in the Draft Portfolio. Immediate action is needed to address variables such as the increasing frequency and severity of wildfires and to create healthy, resilient forests. By improving traditional management concepts and implementing a more integrated systems approach, coupled with increasing the pace and scale of on-the-ground projects, California's headwaters can provide longer-lasting benefits to the State's water system.

We encourage the Newsom Administration to explore investments in the economic viability of forest management. ACWA recommends the inclusion in the final Portfolio of an action to make

biomass energy conversion, long-term mill construction and operation, and new uses for small diameter tree and brush cleared for healthy forest restoration a high priority to achieve forest health and wildfire safety objectives along with water benefits.

Further, ACWA recommends the inclusion of an action where the State would work with stakeholders to obtain a lifting of the federal prohibition on the export of unprocessed timber from federal lands.

E. Transition to Sustainable Groundwater Use (Proposed Goal 3)

ACWA and our membership were pleased to see several proposed actions under Goal 3 that acknowledge the impact that implementation of SGMA will have for many rural and agriculturally-focused communities. For example, current estimates of future job loss in the San Joaquin Valley under SGMA and other water regulations are as much as 40,000 farm jobs annually for two to three decades as a result of large-scale land retirement. ACWA supports sustainable groundwater management, but we also believe that the Administration must make a stronger commitment to implementing solutions that reduce the impacts of SGMA, including minimizing the amount of land that will need to be taken out of agricultural production, promoting multi-benefit projects that make recharge water available, and helping communities transition.

Given the Draft Portfolio's emphasis on regional planning and solutions, the Administration should consider ideas proposed in regional efforts, such as the Water Blueprint for the San Joaquin Valley, a regional coalition that is focused on developing recommendations for closing the gap between the Valley's water needs and its water supplies. This collaborative effort is identifying solutions that could be implemented to resolve the Valley's water imbalance, including: development of surface supplies for recharge; and implementation of several conveyance and groundwater storage projects that can take advantage of flood water. Such collaborative processes that work toward comprehensive solutions are important.

F. Avoidance of Stranded Assets - Renewable Energy and Zero-Carbon Resources

In SB 100 (Chapter 312, Statutes of 2018), the Legislature declared that the State should plan for 100 percent of total retail sales of electricity in California to come from eligible renewable energy sources and zero-carbon resources by December 31, 2045. ACWA encourages the Administration to include a proposed action that would call for the State to pursue policies that would protect the long-term viability of hydropower facilities of all sizes, as well as water agencies' renewable energy projects. Large hydropower is not included in the State's renewable portfolio standard. It is important to water resilience that as the State moves to implement SB 100, large hydro facilities be included in the scope of zero-net carbon so that these non-fossil fuel sources of energy do not become stranded assets. Water agencies have implemented a wide range of energy projects, including large and small hydropower, biogas, micro turbines, geothermal, wind, energy storage and photovoltaic solar, as well as participated in a combination of energy efficiency, demand-side management, and peak-use reduction

programs. The State's future energy policies should preserve the financial integrity of water agencies' investments and should not result in the stranding of clean energy assets that public dollars are helping to fund. Policies should enable local water agencies to continue to implement a wide range of these types of projects and programs that help make water more affordable for their customers, including large hydroelectric power, and help the State meet its energy policies and support a reliable electric grid.

IV. CLOSING

ACWA appreciates the Newsom Administration's consideration of these comments in the finalization of the *Water Resilience Portfolio*. We are committed to continuing to work with the Administration to pursue a collaborative and comprehensive approach to water resilience. Please do not hesitate to contact me or Deputy Executive Director for Government Relations Cindy Tuck at (916) 441-4545 if you have questions or would like to discuss ACWA's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Eggerton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dave Eggerton
Executive Director

cc: The Honorable Wade Crowfoot, Secretary for Natural Resources, California Natural Resources Agency
The Honorable Jared Blumenfeld, Secretary for Environmental Protection, California Environmental Protection Agency
The Honorable Karen Ross, Secretary, California Department of Food and Agriculture
The Honorable Joaquin Esquivel, Chair, State Water Resources Control Board
The Honorable Karla Nemeth, Director, California Department of Water Resources
Ms. Jenny Moffit, Undersecretary, California Department of Food and Agriculture
Ms. Eileen Sobeck, Executive Director, State Water Resources Control Board
Ms. Cindy Messer, Chief Deputy Director, California Department of Water Resources
Mr. Jonathan Bishop, Chief Deputy Director, State Water Resources Control Board
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Ms. Cindy Tuck, Deputy Executive Director for Government Relations, Association of California Water Agencies