

**AGENDA****ASSEMBLY BUDGET COMMITTEE NO. 3 RESOURCES AND TRANSPORTATION****ASSEMBLYMEMBER RICHARD BLOOM, CHAIR****WEDNESDAY, MARCH 14, 2018****11:00 A.M. - STATE CAPITOL ROOM 447  
(NOTE TIME CHANGE)**

<b>ITEMS TO BE HEARD</b>		
<b>ITEM</b>	<b>DESCRIPTION</b>	
<b>0540</b>	<b>NATURAL RESOURCES AGENCY</b>	<b>2</b>
<b>3125</b>	<b>OCEAN PROTECTION COUNCIL</b>	
<b>3340</b>	<b>CALIFORNIA TAHOE CONSERVANCY</b>	
<b>3480</b>	<b>CALIFORNIA CONSERVATION CORPS</b>	
<b>3540</b>	<b>DEPARTMENT OF CONSERVATION</b>	
<b>3600</b>	<b>DEPARTMENT OF FORESTRY AND FIRE PROTECTION</b>	
<b>3640</b>	<b>DEPARTMENT OF FISH AND WILDLIFE</b>	
<b>3760</b>	<b>WILDLIFE CONTROL BOARD</b>	
<b>3790</b>	<b>STATE COASTAL CONSERVANCY</b>	
<b>3810</b>	<b>DEPARTMENT OF PARKS AND RECREATION</b>	
<b>3825</b>	<b>SANTA MONICA MOUNTAINS CONSERVANCY</b>	
<b>3835</b>	<b>SAN GABRIEL AND LOWER LOS ANGELES RIVER AND MOUNTAINS CONSERVANCY</b>	
<b>3845</b>	<b>BALDWIN HILLS CONSERVANCY</b>	
<b>3855</b>	<b>SAN DIEGO RIVER CONSERVANCY</b>	
<b>3860</b>	<b>SIERRA NEVADA CONSERVANCY</b>	
<b>3875</b>	<b>DEPARTMENT OF WATER RESOURCES</b>	
<b>3940</b>	<b>SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY</b>	
<b>8570</b>	<b>STATE WATER RESOURCES CONTROL BOARD</b>	
	<b>CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE</b>	
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## ITEMS TO BE HEARD

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**3940 STATE WATER RESOURCES CONTROL BOARD**  
**8570 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE**  
**0540 OCEAN PROTECTION COUNCIL**

### ISSUE 1: SB 5 BCPs

The Governor's budget requests to spend \$1.02 billion in SB 5 bond funds for a variety of projects across several departments. The chart below summarizes the proposed investments.

Department	BCP Title	Programs	State Operations	Local Assistance	Capital Outlay	Total	PY
Baldwin Hills Conservancy	Support and Local Assistance	Habitat Restoration, Watershed Protection, Park Improvements	0.135	1.100	0.000	1.235	0.0
California Conservation Corps	Corps Projects and Local Assistance Grants	Habitat Restoration	5.183	4.567	0.000	9.750	7.0
California Department of Food and Agriculture	Fair Deferred Maintenance	Deferred Maintenance	0.350	3.209	0.000	3.559	2.0

California Department of Food and Agriculture	SWEEP and Healthy Soils	SWEEP and Healthy Soils Program	1.048	26.404	0.000	27.45	7.0
California Tahoe Conservancy	Upper Truckee River and Marsh Restoration Project	River and Marsh Restoration	0.000	0.000	3.200	3.200	0.0
Department of Conservation	Working Lands and Riparian Corridors	Agricultural Land Trusts	0.195	1.000	0.000	1.195	0.0
Department of Fish and Wildlife	Implementation of California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018	River Restoration	1.574	22.060	0.000	23.6	0
Department of Forestry and Fire Protection	Urban Forestry Program	Urban Forestry	1.070	13.555	0.000	14.63	4.0
Department of Parks and Recreation	Safe Neighborhood Parks Local Assistance	Local Parks Grants	3.135	460.292	0.000	463.4	13.0
Department of Parks and Recreation	State Park System Scoping, Planning and Redwood Reforestation	Park Maintenance and Forestry	4.185	0.000	0.000	4.185	3.0
Department of Water Resources	Drought and Groundwater Investments	Regional Groundwater Sustainability	15.500	46.250	0.000	61.75	6.0
Department of Water Resources	Floodplain Management, Protection and Risk Awareness Program	Floods	2.000	0.000	0.000	2.000	0.0
Department of Water Resources	Floodwater for Groundwater Recharge	Groundwater recharge	2.500	0.000	0.000	2.500	0.0
Department of Water Resources	Mult-Benefit Flood Improvements Projects	Floods	0.0	0.000	94.000	94.000	0.0
Department of Water Resources	Salton Sea Management Program Phase 1 Implementation	Salton Sea	6.1	0.000	23.9	30.000	0.0
Department of Water Resources	Urban Streams Restoration Program	Urban Streams Restoration	0.537	0.000	0.000	0.537	0.0
Natural Resources Agency	Appropriations of SB 5 for Agency Programs	Waterways, Parkways, Multibenefit Green Infrastructure	0.700	56.500	0.000	57.20	5.0

Ocean Protection Council	CA Ocean Protection Council - Advancing Ocean and Coastal health Productivity and Resiliency	Marine wildlife, Coastal Restoration and Management	0.284	20.000	0.000	20.28	2.0
Sacramento-San Joaquin Delta Conservancy	Economic Development in the Delta	Delta	0.117	0.939	0.000	1.056	2.0
San Gabriel and Lower Los Angeles River and Mountains Conservancy	Los Angeles River Watershed and Tributaries Support, Local Assistance, and Capital Outlay Allocations	LA River	0.430	8.245	0.000	8.675	0.0
Santa Monica Mountain Conservancy	Los Angeles River Watershed and Tributaries	LA River	0.300	8.375	0.000	8.675	0.0
San Diego River Conservancy	SB 5 Local Assistance Grant Program	San Diego River	0.050	0.000	0.000	0.050	1.0
Sierra Nevada Conservancy	Watershed Improvement Program and Conservancy Projects	Habitat Restoration	1.045	5.300	0.000	6.345	3.0
State Coastal Conservancy	Support and Local Assistance Appropriation	Coastal Restoration and Management	0.191	4.872	0.000	5.063	1.5
State Water Resources Control Board	California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018	Drinking Water, Groundwater Treatment, Groundwater Sustainability	1.330	145.920	0.000	147.3	10.0
Wildlife Conservation Board	Lower American River Conservancy and Conservation Project Grant Programs	Habitat Restoration	0.853	20.000	0.000	20.85	5.0
Department of Parks and Recreation	Statewide bond costs	Bond Management	0.747	0.000	0.000	0.747	5.0
Natural Resources Agency	Statewide bond costs	Bond Management	0.426	0.000	0.000	0.426	2.0
Department of Water Resources	Statewide bond costs	Bond Management	0.188	0.000	0.000	0.188	1.0
			<b>\$50.2</b>	<b>\$848.6</b>	<b>\$121.1</b>	<b>\$1,019.9</b>	<b>79.5</b>

**BACKGROUND**

**Senate Bill 5 (SB 5).** SB 5 (De Leon, Chapter 852, Statutes of 2017) also known as the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act, places a new natural resources bond on the June 2018 ballot (Proposition 68). If approved by the California voters, this measure will provide \$4,000,000,000 in general obligation bonds for a variety of critical needs in the areas of natural resources and environmental protection. SB 5 includes specific dollar amounts for a number of purposes. They are as follows:

<b>SB 5 FUNDING ALLOCATIONS</b>		
<b>SB 5 Chapter</b>	<b>Purpose</b>	<b>Amount (in Millions)</b>
2	Investments in environmental and social equity, enhancing disadvantaged communities	\$725
3	Investments in protecting, enhancing, and accessing local and regional outdoor spaces	\$285
4	Restoration, preservation, and protection of existing state park facilities and units	\$218
5	Trails and greenway investments	\$30
6	Rural recreation, tourism, and economic enrichment investment	\$25
7	Grants pursuant to the California River Parkway Act of 2004 and the Urban Streams Restoration Program	\$162
8	To the state conservancies, Wildlife Conservation Board, California Natural Resources Agency, and the Salton Sea Authority for specified purposes	\$767
9	Ocean, bay, and coastal protection	\$175
10	Climate preparedness, habitat resiliency, resource enhancement, and innovation	\$443
11	Clean drinking water and drought preparedness	\$250
11.1	Groundwater sustainability	\$80

11.5	Flood protection and repair	\$550
11.6	Regional sustainability for drought and groundwater, and water recycling	\$390
<b>TOTAL</b>		<b>\$4,100</b>

**Some of the proposed projects are state obligations.** Proposition 68 is on the June 5, 2018 ballot, which still requires an affirmative vote for the money to flow. If the measure fails, the state would still have to fulfill a number of obligations that are currently proposed to receive SB 5 dollars. One such example is the management of the Salton Sea. The Salton Sea, currently sustained by agricultural runoffs, is threatened by increasing salinity and reduced water flows. The drying up of the sea will have grave human health and environmental impacts. The sea's decline will accelerate dramatically in 2018, when the Imperial Irrigation District must stop supplying "mitigation water" to the lake as part of the Quantification Settlement Agreement (QSA). The QSA, signed in 2003, was a deal between the U.S. Department of the Interior, California, and various water agencies in the state to resolve long disputed Colorado River rights claims, and to gradually wean California off its overdependence on water from the Colorado River. The QSA also detailed the financial responsibility the state assumed with respect to mitigation of the Salton Sea. The state would need to fulfill this obligation, with or without SB 5 bond funds.

#### LAO COMMENTS

The LAO recommends approval of most of the administration's SB 5 funding requests and associated positions. However, the LAO recommends the following two modifications:

- **Budget Bill Language Specifying Flood Projects.** The LAO recommends that the Legislature direct DWR to report at budget hearings on which specific flood management projects will be funded in the budget year. Based on this information—as well as an assessment of its own priorities—the LAO recommends that the Legislature adopt budget bill language that would schedule the proposed flood funding by project.
- **Replace SB 5 Funds With Proposition 1 Funding for Two DFW Grant Programs.** The LAO recommends reducing DFW's allocation from SB 5 by \$14 million and increasing its appropriation from Proposition 1 by an equivalent amount. This will be more consistent with the administration's broader approach to allocating the first year of SB 5 funding. Moreover, it will be administratively more efficient for the department to operate one set of bond programs related to

habitat restoration and improving conditions for fish and wildlife, rather than simultaneously administering parallel programs from different bonds.

The LAO additionally recommends the Legislature to:

**Report at Budget Hearings on Long-Term Funding Plan.** The Legislature may wish to direct the administration to report at budget hearings on its longer-term strategy for expending SB 5 funds. Doing so would give the Legislature a better sense of when programs not proposed for funding in 2018-19 would be implemented and how long the administration proposes taking to fully allocate bond funding.

**Consider Budget-Year Priorities and Alternative Funding if Proposition 68 Fails.** The Legislature might wish to consider whether there are certain programs funded in SB 5 that would be high enough priorities to fund from other sources should Proposition 68 fail. This could involve, for example, the budget subcommittees identifying an alternative budget approach for specific programs—including funding amounts and sources—that could be adopted in June if the proposition fails. Aside from the General Fund, whether an alternative fund source could be used for a particular program would probably depend on the allowable uses of that fund. In addition, the use of alternative fund sources generally would involve the trade-off of not having those funds available for other purposes.

#### STAFF COMMENTS

Until the voters approve Proposition 68, there are no monies to be spent. The Governor's budget proposes a variety of new programs to fund with SB 5 dollars. Notwithstanding the merits of these proposals, should the bond measure fail before the voters, these programs would be left without funding in 2018-19. In some cases, the state is obligated to perform these tasks, such as the management of the Salton Sea. The Subcommittee may wish to consider how to prioritize the projects that are proposed to receive SB 5 dollars in the event the measure fails and another funding source is needed.

The Subcommittee may wish to ask the administration the following:

- 1) How would the projects be prioritized for alternative funding should Proposition 68 fail?
- 2) Is there an alternative funding plan for any of the proposed projects?
- 3) What is the long-term spending plan for the bond, should Proposition 68 pass?

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**Staff Recommendation: Hold Open**

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## 0540 NATURAL RESOURCES AGENCY

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The California Natural Resources Agency (CNRA) oversees thirty departments, commissions, conservancies, and boards. Through these entities, the Natural Resources Agency is responsible for protecting historical, natural and cultural sites, monitoring and controlling state lands and waterways, and regulating fish and game use.

The California Natural Resources Agency's proposed budget is \$155.2 million, which represents a 53.5 percent decrease in expenditure from last year. Most of the Agency's budget is comprised of special funds, with \$4.86 million in General Fund.

### ISSUE 2: CALIFORNIA OCEAN PROTECTION COUNCIL- OCEAN RESILIENCY PROGRAM

The Governor's budget requests to transfer \$15 million one-time from the Environmental License Plate Fund to the California Ocean Protection Trust Fund to support projects that advance understanding of the impacts of climate change on coastal and ocean ecosystems; support adaptation strategies to address sea-level rise and changing ocean conditions such as ocean acidification and hypoxia; and build broader ecosystem resilience by improving ocean health, allowing marine life and habitats to better withstand climate change impacts.

#### BACKGROUND

**Environmental License Plate Fund (ELPF).** The ELPF was established to provide funding to various environmental programs through the EPP at the state and local level. The amount of funding available is dependent upon the number of certain specialty license plates sold and maintained in the state. Traditionally, the fund has been allocated to natural resource programs. The main priorities of the ELPF, as designated by Public Resources Code 21190, include:

1. The control and abatement of air pollution.
2. Acquisition, preservation, and restoration of ecological reserves.
3. Environmental education, including formal school programs and informal public education programs.
4. Protection of nongame species and threatened and endangered plants and animals.
5. Protection, enhancement, and restoration of fish and wildlife habitat.
6. Purchase of real property for state and local parks.
7. Reduction or minimization of soil erosion and sediment discharge into Lake Tahoe.
8. Climate assessments.

**Ocean Protection Council (OPC).** The OPC was created in 2004 by the California Ocean Protection Act to integrate and coordinate the state's laws and institutions

responsible for protecting and conserving ocean resources, including coastal waters and ocean ecosystems. OPC incorporates ecosystem perspectives into the management of coastal and ocean resources using sound science, with a priority of protecting, conserving, and restoring coastal and ocean ecosystems. OPC is also legislatively mandated to coordinate governance and stewardship of the state's ocean, to identify priorities, bridge existing gaps, and ensure effective and scientifically sound approaches to protecting and conserving the most important ocean resources. The OPC's Strategic Plan for 2012 – 2017 proposes action in areas of critical need and highlights a focus on five areas: 1) science-based decision making, 2) climate change, 3) sustainable fisheries and marine ecosystems, 4) coastal and ocean impacts from land-based sources, and 5) existing and emerging ocean uses.

**Climate change's effects on the ocean and marine resources.** Climate change is causing ocean waters to be warmer and more acidic. More acidic waters inhibit the formation of shells, skeletons, and coral reefs. Warmer waters harm coral reefs and alter the distribution, abundance, and productivity of many marine species. Climate change is also causing the sea level to rise. The San Francisco Tidal Gauge, a self-recording tide gauge, has recorded a rise of 8 inches since the gauge was installed in 1854. Scientists project an additional 3 to 5.5 feet or more of rising sea levels by 2100. These higher water levels amplify the flooding that occurs during El Nino periods and coastal storms. Ocean acidification and hypoxia, two phenomena often coupled for a variety of biological and oceanographic reasons, have the potential for profound impacts on living marine resources. Scientists have already demonstrated serious impacts on shell-building organisms, among others, and severe effects on the shellfish industry have been documented in the Pacific Northwest. In California, resource managers, stakeholders, tribes and citizens are beginning to express concerns about these emerging threats to local ecosystems, communities, and coastal economies. OPC's climate change program includes work on sea-level rise, ocean acidification and hypoxia, and coastal sediment management.

<b>STAFF COMMENTS</b>
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The OPC is primarily supported by Proposition 84 funds, which OPC anticipates to be depleted by June 30, 2018. Given the significance of climate change impacts on the ocean, marine ecosystem, and the array of resources and services we derive from the sea, additional funding to continue OPC's work is needed.

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**Staff Recommendation: Hold Open**

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**ISSUE 3: INFORMATION SECURITY OPERATIONS**

The Governor's budget requests \$2,916,000 from various funds (\$1,778,000 one-time, \$1,138,000 ongoing) and 6 positions to establish a new Security Operations Center (SOC) to address information security and cyber security vulnerabilities and threats. The SOC would provide service and support for all Natural Resources Agency's departments, commissions, conservancies, and boards that require information security operational activities to protect and secure critical information, systems, and infrastructure assets.

**BACKGROUND**

**Ubiquitous use of information technology.** The California Natural Resources Agency (CNRA) consists of thirty organizations (departments, commissions, conservancies, and boards) which have a total of 21,000 employees in over 1,000 locations throughout the State. The organizations' size range from large (i.e. CalFire, Department of Water Resources, Parks and Recreations, Fish and Wildlife) to small (i.e. Delta Protection, Native American Heritage, and Sacramento-San Joaquin Delta Conservancy).

In the last six years, CNRA organizations have expanded their use of information technology to help achieve their mission objectives and to effectively perform various program areas activities and tasks. CNRA organizations have utilized technology advances such as private and public cloud services, virtualization technologies, software as a service, and platform as a service. In addition, CRNA organizations have deployed numerous specialized technology solutions related to areas such as, but not limited to: water management, energy management, emergency and response management, conservation, oil and gas, land management, recreation management, engineering, and environmental science. Many of the CNRA organizations do not have independent technology resources and rely on the Agency to provide technology services and support.

**Data centers vary in level of security.** CNRA currently maintains a Tier III Data center used by all of the Agency's organizations. A data center is a facility used to house computer systems and associated components, such as telecommunications and storage systems. It generally includes backup power supplies, redundant data communications connections, environmental controls (e.g. air conditioning, fire suppression) and various security devices. A large data center is an industrial-scale operation using as much electricity as a small town.

Data centers are categorized in four levels, or tiers, based upon the availability of data processing from the hardware at a location. The higher the Tier level, the greater the expected availability. The Data Center Tier 4 is considered the most robust and least prone to failures. Tier 4 is designed to host mission critical servers and computer systems, with fully redundant subsystems (cooling, power, network links, storage etc) and compartmentalized security zones controlled by biometric access controls methods. This is in contrast to Tier 1, the simplest data center typically used by small business or

shops. The overall CNRA technology environment consist of: a Tier III Data Center, 6,000 virtual servers, 11 petabytes of data, 800 websites, 30,000 end-devices (PCs, workstations, laptops, tables), 3,500 applications/software products, and roughly 4,000 sensors.

**Increase in data breaches and cyber-attacks.** Recent information security assessments conducted as required by the State Administrative Manual 5305.7 and 5305.2 reveals that the majority of CNRA organizations are unable to implement and maintain the proper level of security control required and therefore are not or just partial in compliance with state, federal, and industry regulation and policies. In addition, information security incidents have risen due to lack of the proper level of security control across the CNRA organizations.

Over the last 12-month period, the CNRA Data Center's intrusion monitoring logs have recorded over 4,000,000 cyber-security hack attempts and probes for infrastructure vulnerabilities to network/system security. This number increases exponentially every time new systems, applications, services, and devices are added to the overall CNRA technology eco-system. As automation becomes more prevalent, high-risk system and confidential information maintained and entrusted to CNRA organizations can become more vulnerable to compromise. In addition, CNRA organizations' information and cyber security incidents have increased by 22% over the last year. To mitigate the ever-increasing trend reflected in cyberattack incident reports, security staff and resources (tools) are required to effectively combat the attempted breaches on security and privacy, which continue to increase in complexity and sophistication.

#### STAFF COMMENTS

A 2015 report by the State Auditor revealed that California has a history of failed IT projects. For example, between 1994 and 2013, the State terminated or suspended seven IT projects after spending almost \$1 billion. In the State Auditor's September 2013 assessment of high-risk issues the State and certain agencies face, the assessment concluded that based on the high costs of certain projects and the failure of others, the State's oversight of IT projects should remain designated as an area of ongoing concern.

Given the increasing reliance on information technologies and CNRA's level of security risk, it would be prudent to provide CNRA resources to proactively mitigate security vulnerabilities and respond to cyber-security attacks for the Agency and all its organizations' entities. However, it is important to have proper oversight procedures in place to ensure execution of the project goes as intended. The Subcommittee may wish to ask CNRA how it intends to ensure proper oversight and execution of the project.

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**Staff Recommendation: Hold Open**

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**3825 SAN GABRIEL AND LOWER LA RIVER AND MOUNTAINS CONSERVANCY  
3810 SANTA MONICA MOUNTAINS CONSERVANCY****ISSUE 4: INFORMATIONAL: LA RIVER REVITALIZATION UPDATE**

The Subcommittee will receive an update on revitalization efforts at the Los Angeles River from the Santa Monica Mountains Conservancy and the San Gabriel and Lower LA River and Mountains Conservancy.

**BACKGROUND**

The Los Angeles River (LA River) is approximately 51 miles long and is entirely within the County of Los Angeles. The LA River in the western San Fernando Valley and flows easterly across the Valley through Griffith Park where the river turns to the south, and passes through downtown Los Angeles and additional downstream cities en route to its estuary in Long Beach. Approximately 32 miles of the LA River upstream of the City of Vernon is considered to be the upper LA River and this is within the boundary of the City of Los Angeles. Approximately 19 miles of the lower LA River includes the cities of Vernon, Commerce, Maywood, Bell, Bell Gardens, Cudahy, South Gate, Lynwood, Compton, Paramount, Carson and Long Beach.

Historically, the LA River was the only source of water for Los Angeles. As the population in LA grew, settlements and farming encroached on the river's floodplain. Between 1850 and 1900, there were 11 major flood events along the river. The devastating flooding in 1914 led to the passage of the LA County Flood Control District Act in 1915, which created the LA County Flood Control District (LAFCD) to provide flood protection and water conservation. More serious flooding occurred in the 1930s, prompting the LAFCD to ask for federal help. In 1936, Congress directed the US Army Corps of Engineers to "channelize" the river to help control flooding. In the 50's and 60's the federal government straightened, deepened, and reinforced the river with concrete. The concrete structure has saved lives and prevented property damage, but has resulted in a river that is considered an eyesore, and not particularly welcoming to humans and nature.

In recent years, various community and governmental groups have been working together to revitalize the LA River. The upper LA River developed the Los Angeles River Revitalization Master Plan while the lower LA River has the Lower LA River Working Group working on finalizing the Lower LA River Revitalization Plan.

**STAFF COMMENTS**

Proposition 1 included \$100 million for the revitalization of the LA River. The Budget Act of 2017 approved the money equally between the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, which is tasked with Lower River restoration

through the Lower L.A. River Revitalization Plan, and the Santa Monica Mountains Conservancy, which focuses restoration efforts on the Upper River. The Subcommittee may wish to ask both conservancies whether they have the resources needed to carry out all of their planned revitalization projects.

## **3600 DEPARTMENT OF FISH AND WILDLIFE**

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The Department of Fish and Wildlife (DFW) is responsible for promoting and regulating the hunting of game species, promoting and regulating recreational and commercial fishing, and protecting California's fish and wildlife for the public trust. The department manages over 1 million acres of public land including ecological reserves, wildlife management areas, and hatcheries throughout the state.

DFW's proposed budget is \$609.7 million, which represents 1.6 percent increase in expenditure from last year. Most of the Department's budget is comprised of special funds, with \$93.8 million in General Fund.

### **ISSUE 5: SUSTAINABLE FUNDING FOR FISH AND WILDLIFE**

The Governor's budget requests \$31 million (\$6.6 million General Fund, \$6.4 million Fish and Game Preservation Fund, \$18 million Motor Vehicle Account) and 98 positions to continue and enhance DFW programs that are critical to the conservation of fish and wildlife throughout the State. This proposal also includes trailer bill language to transfer \$26 million from the Tire Recycling Management Fund to the Fish and Game Preservation Fund and change the statutory purpose of the Tire Fee from mitigating or remediating air pollution caused by tires to mitigating or remediating harmful impacts to wildlife and its habitat caused by tires.

This proposal seeks to: 1) resolve an existing \$20 million structural imbalance in the Fish and Game Preservation Fund and 2) provide \$31 million for increased actions focused on the following priority objectives:

- 1) Address Salmon Conservation and Population Declines:
  - a. \$4.9 million and 18 positions to implement a comprehensive salmon and steelhead monitoring and management program in coastal watersheds, the Central Valley, and the ocean and integrate monitoring and outcomes into salmon fishery management and restoration.
  - b. \$1.3 million and one position to provide scientific and production support for inland fisheries by improving hatchery production.
- 2) Marine Fisheries Management and Data Streamlining:
  - a. \$8.4 million and 38 positions to develop and apply new approaches to fisheries management to ensure sustainable marine fisheries in the face of a changing climate.
- 3) Law Enforcement Support:
  - a. \$8.6 million and 16 positions for enhancing law enforcement efforts to combat wildlife trafficking, and expansion of marine enforcement.
- 4) Managing and Recovering Declining Species:
  - a. Trend Monitoring and Status Reviews:
    - i. \$3.2 million and 9 positions to prepare status reviews of the top 10 percent of endangered species (30 species) each year and support

- for data collection and monitoring to provide the underlying information for the reviews and assessments.
- b. Collaborative Conservation and Recovery Strategies:
    - i. \$2.2 million and eight positions to support a suite of voluntary conservation programs for local governments, private landowners, and conservation organizations across California.
  - c. Statewide Connectivity:
    - i. \$1.1 million and one position to update the joint Caltrans and Department assessment "Essential Connectivity" that describes the most important wildlife and fisheries connectivity areas throughout California and will assist with the wildlife and fishery sensitive approach to Chapter 5, Statutes of 2017 (SB 1) investments. While this proposal does not utilize SB 1 revenues, identification of information on road-related wildlife and fish barriers should help streamline the environmental permitting of certain future SB 1 road rehabilitation projects.
- 5) Administration Support (\$1.3 million, 7 positions).

## BACKGROUND

**Fish and Game Preservation Fund (FGPF).** The FGPF was established in 1909 as a repository for all funds collected under the Fish and Game Code and any other law relating to the protection and preservation of birds, mammals, fish, reptiles and amphibians in California. These revenues are generated from the sale of licenses for hunting, recreational and commercial fishing, and numerous special permits. Over time, the Legislature has created various subaccounts within the FGPF, which have specified permit fees generating revenue for projects benefitting those species. For example, the taking of migratory waterfowl in California requires a state duck stamp validation in addition to a general hunting license. Revenues from the duck stamps are deposited into the Duck Stamp Account within the FGPF to be used for waterfowl protection and habitat restoration. There are currently 29 dedicated subaccounts within the FGPF. The department issues more than 500 different types of hunting and fishing licenses and permits.

Revenue from licenses, fees and permits that are not directed by statute to a dedicated account are accounted for in what is known as the non-dedicated FGPF. This is the largest repository for department revenues, including sales of general fishing and hunting licenses. Approximately 75 percent to 80 percent of total FGPF revenues are deposited into the non-dedicated account, with the remainder going to the various 29 dedicated subaccounts. There is a running deficit in the non-dedicated FGPF.

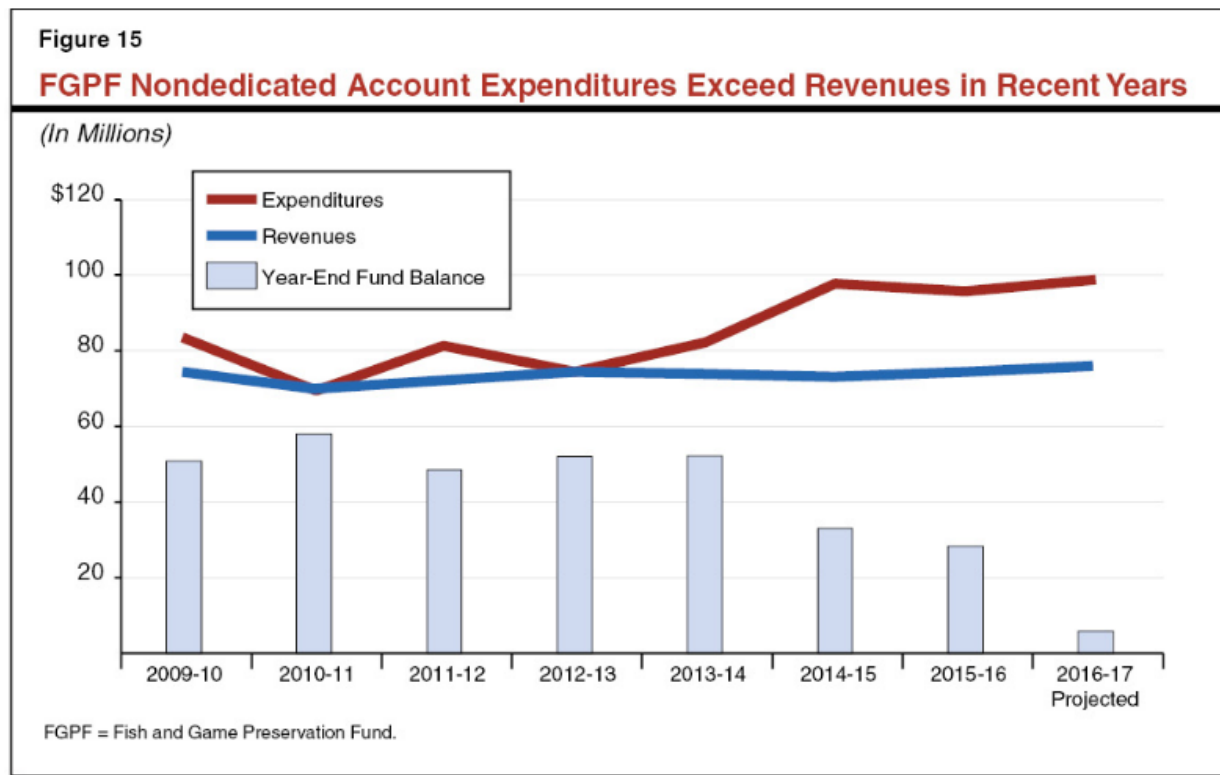
**Program Activities Supported by the FGPF.** The FGPF is the DFW's largest single fund source and supports a multitude of program activities. Some of the main functions supported by the FGPF are displayed in the following table:



<b>Main Functions Supported by the Fish and Game Preservation Fund</b>	
<b>Law Enforcement</b>	Support for more than 400 wildlife officers positioned throughout the state to promote compliance with laws and regulations protecting fish and wildlife resources. Wildlife officers also investigate habitat destruction, pollution incidents and illegal commercialization of wildlife, and serve the public through general law enforcement, mutual aid and homeland security.
<b>Lands Management</b>	Management of department-owned lands including wildlife areas, ecological reserves, and public access areas to contribute to the conservation, protection, and management of fish and wildlife. Among other things, these activities support hunting opportunities and serve as required match for federal wildlife restoration grant funds.
<b>Wildlife Conservation</b>	Activities conducted by regional and field staff related to resource assessment and monitoring, conservation and management activities for game and nongame species, and public outreach related to those species. Funding for these activities also serves as required match for federal wildlife restoration grant funds.
<b>Fisheries Management</b>	Development and implementation of policies to address management, protection, and restoration of fish species and their habitats. Also promotes commercial and public recreational angling opportunities. These funds serve as required match for federal sport fish restoration grant funds.
<b>Fish and Game Commission</b>	The commission establishes regulations for hunting, sport and commercial fishing, aquaculture, exotic pets, falconry, depredation control, listing of threatened or endangered animals, marine protected areas, public use of department lands, kelp harvest, and acts as a quasi-judicial appeal body.

**FGPF Structural Imbalance.** In recent years, expenditures have exceeded revenues in the non-dedicated account of the FGPF, with the gap reaching over \$20 million annually beginning in 2014-15. In the past, the department has been able to sustain FGPF program activities by utilizing the balance in the reserve and lowering actual expenditures, thereby creating savings. However, the current situation is not sustainable. Expenditures have continued to increase and the fund balance continues to

decrease, which, without action, will lead to a projected deficit in 2018-19. The following LAO chart displays the FGPF's non-dedicated revenue as compared to expenditures.



Some of the causes of the FGPF's structural imbalance that the department has identified include; fund shifts (particularly to the General Fund), lifting of prior spending restrictions (e.g. vehicles, furloughs), increased need for federal funds, increased responsibilities, decreasing revenues from user groups, and cost of business increases (e.g. employee compensation).

**Stakeholder Visioning Process.** AB 2376 (Huffman, Chapter 424, Statutes of 2010), required CNRA to convene a committee to develop a strategic vision for DFW in order to improve and enhance their capacity and effectiveness in fulfilling their public trust responsibilities for protecting and managing the state's fish and wildlife. As part of the project, a blue ribbon citizen commission and a stakeholder advisory group supported the executive committee in developing a strategic vision report in 2012.

The Budget Act of 2017 required the DFW to reconvene the 2012 stakeholder group and provide a report to the Legislature regarding implementation of the 2012 recommendations as well as undergo a zero-based budget evaluation. In response, the Department of Finance (DOF) initiated a "mission-based budgeting" review of DFW. According to DOF, this analysis will "determine the appropriate level of expenditures and resources needed to implement government services and programs." The review began in the fall of 2017, and the administration has not given a timeline for its completion or when it may be able to share its findings.

In October 2017, the DFW released the updated progress report showing numerous accomplishments in meeting the goals identified in the original report. In collaboration with the stakeholder advisory group, the Department produced the Funding Plan as a vision for the Department in the future, which is only achievable with long-term sustainable funding sources. It contains four elements, each with numerous actions specified to achieve the stated overarching objectives. The elements are:

1. Expansion of Conservation Efforts (endangered species, habitat conservation, monitoring programs).
2. Improved Hunting and Fishing and Increased Participation (fish hatcheries, angler/hunter recruitment).
3. Connecting More Californians to the Outdoors (lands management, wildlife related recreation, outdoor education).
4. Increased Stability and Services (law enforcement, public outreach, human-wildlife interaction).

**The proposed funding sources to right size DFW's budget might not be appropriate.**

- **The Motor Vehicle Account (MVA)** is a depository for vehicle registration fees and driver's license fees. This account primarily funds the Department of Motor Vehicles and the California Highway Patrol. The Governor's proposal cites the impacts of roadways on wildlife as the justification for using MVA. DFW has not yet justified how much of its workload is related to motor vehicles and therefore would be justified for use of MVA. Notwithstanding the actual impacts of transportation on wildlife, activities such as advanced planning and mitigation might not be an appropriate use of the MVA.

Further, this account has been under pressure in recent years and would have a projected shortfall if the Governor's budget did not include about \$200 million in proposals to shift capital outlay projects previously funded from the MVA to lease-revenue bonds. The added pressure on the MVA could potentially result in increasing fees on motorists.

- **The Tire Recycling Management Fund** is a depository for the fees assessed on the sale of new tires. This account primarily funds tire permitting and enforcement activities, and tire recycling and market development activities. Tire recycling activities include offering financial assistance, engaging in recycling and marketing research, and providing technical assistance. Current law requires a person to pay \$1.75 for each new tire purchased in California. One dollar of the tire fee is deposited into the Tire Recycling Management Fund for oversight, enforcement, and market development grants relating to waste tire management and recycling. The remaining \$0.75 is deposited into the Air Pollution Control Fund (APCF) for programs and projects that mitigate or remediate air pollution caused by tires.

This proposal redirects the \$0.75 to instead go to the FGPF and includes trailer bill language to revise the statutory purpose of the tire fee. The proposed use of the tire fee is centered on the argument that tires cause significant impacts on wildlife. However, the portion of the fee that would be redirected to DFW is scheduled for sunset in 2024, making this an unsustainable funding option.

#### LAO COMMENTS

The LAO recommends the Legislature: 1) adopt funding package to address FGPF shortfall; 2) adopt ongoing augmentation package that reflects legislative priorities; 3) require DFW to provide more detailed justification for use of MVA and approve the corresponding amount; 4) request proposed use of the Tire Fund; 5) balance use of other funding sources with other state priorities and consider revisiting based on budgetary review; 6) require DFW and DOF to provide update on progress of budgetary review.

***Adopt Funding Package to, at a Minimum, Address FGPF Shortfall.*** The LAO recommends the Legislature identify sufficient new ongoing revenues to provide at least \$19.6 million to support DFW's existing activities. Failure to do so would further limit the department's ability to implement current law and protect the state's public trust resources. While the department has sustained its service levels in recent years using one-time budget solutions, the LAO recommends the Legislature address this issue with a permanent solution in 2018-19 and avoid further uncertainty or the need to repeatedly revisit how to address the funding gap in future budgets. The Proposition 64 requirement to spend an additional \$6.6 million in General Fund can begin to address this shortfall, and the Legislature could provide the additional \$13 million from a combination of other sources, including MVA or additional General Fund.

***Adopt Ongoing Augmentation Package That Reflects Legislative Priorities.*** The LAO concurs with the administration that providing the department with some additional resources would improve its ability to respond to both existing and growing responsibilities. The LAO recommends the Legislature augment DFW's budget based on what it views as the highest state priorities. The LAO finds that the Governor's proposal provides a reasonable starting place, but the Legislature can add, modify, or remove activities based on its assessment of the most important priorities. Because the LAO finds that both the threats to wildlife—particularly species that are already threatened or endangered—and the associated responsibilities for the DFW will increase with the effects of a changing climate, the LAO recommends prioritizing proposals that respond to such pressures. These include those that would protect endangered salmon, increase enforcement in Marine Protected Areas, and monitor and assist species identified under CESA.

***Require DFW to Provide More Detailed Justification for Use of MVA, Approve Corresponding Amount of Funding.*** While the proposed use of MVA for DFW's vehicle-related tasks seems reasonable in concept, at the time this report was prepared, the Department had not yet provided sufficient justification for what amount of funding

would be appropriate. The LAO therefore recommends requiring that DFW provide the budget subcommittees an accounting for how much of its workload is directly related to motor vehicles. The LAO understands this exercise might be difficult given the multiple activities that staff such as wardens may undertake in a given day—only some of which might be related to vehicles—the LAO believes developing a reasonable estimate is important to justify the use of MVA for this new purpose. The LAO recommends the budget subcommittees review these data before approving the use of MVA for DFW. To the extent the department is able to quantify its vehicle-related workload, the LAO recommends the Legislature appropriate a corresponding amount of MVA to DFW.

**Reject Proposed Use of TRMF.** The LAO recommends the Legislature reject the Governor’s proposal to use \$26 million from the TRMF for DFW. The LAO believes the department has not sufficiently justified the legal nexus for using tire fees to support its workload. Furthermore, given the fund is scheduled to experience a significant drop in revenues in 2024—and the Governor proposes to stop using it for DFW at that time—the LAO recommends the Legislature avoid using it to establish new ongoing activities and positions that will be difficult to sustain in the future. The LAO also recommends against directing \$26 million from the GGRF to CARB, as rejecting the proposed TRMF transfer to DFW would negate the need for that backfill.

**Balance Use of Other Funding Sources With Other State Priorities, Consider Revisiting Based on Results of Budgetary Review.** As noted above, the LAO were not able to identify an obvious source for augmenting DFW’s budget—all of the options before the Legislature come with trade-offs. The Legislature will need to balance the strengths and weaknesses of each source to fund the service levels it wants DFW to provide. Moreover, as discussed earlier, determining the right mix of General Fund and fees for a budget augmentation is complicated further by the uncertainty surrounding DFW’s use of existing revenues. Assuming DFW chooses to focus program augmentations on new activities that benefit the public trust—such as protecting native species—relying primarily on the General Fund for program expansions in 2018-19 would be appropriate. However, the Legislature may want to revisit the mix of funding sources in future years once additional information on the Department’s existing budget is available. For example, if DOF’s budget analysis reveals that significant General Fund is being used to support activities that benefit specific groups—such as hunters, recreational or commercial fishers, or permit applicants—the Legislature may want to raise corresponding fees and reduce the General Fund support.

**Require DFW and DOF to Provide Update on Progress of Budgetary Review.** The LAO recommends requiring DOF and DFW to provide the Legislature with updates on their mission-based budgeting review. Specifically, the LAO recommends requesting a verbal update on the status of the review during spring budget hearings, and enacting budget bill language to require a formal written update and summary of initial findings to be provided no later than October 1, 2018. This information will be important for informing development of the 2019-20 budget. The LAO recommends requiring that this written update include a summary of initial findings related to: 1) how DFW uses its existing revenues and which fund sources support which types of activities; 2) instances

where DFW should readjust how it is directing existing revenues to support its activities and to better meet legal and programmatic requirements; 3) instances where DFW appears to have insufficient funding—either in total, or from a particular source—to implement specific statutory responsibilities; 4) instances where DFW might be undertaking activities outside of its core mission; 5) instances where statutory changes might be needed to improve DFW’s service delivery; 6) data or information that is lacking or unavailable and therefore precludes answering some of these key budgetary questions, and suggestions for how to overcome those gaps, and 7) to the degree that the full review is not yet complete, what data and questions remain to be analyzed, and a timeline for its completion.

<b>STAFF COMMENTS</b>
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DFW work on a broad range of activities such as habitat protection, law enforcement, promotion of hunting and fishing opportunities, and management of wildlife areas and ecological reserves. Costs to deliver these programs have increased considerably over the years and expenditures from the FGPF currently exceed annual revenues by more than \$20 million.

Additional funding for DFW is long overdue. However, the Subcommittee may wish to consider the sustainability, appropriateness of the funding sources proposed and consider directing DFW to take actions that would ensure the public, and the Legislature can see demonstrable improvements from any additional funding that is received.

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**Staff Recommendation: Hold Open**

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**ISSUE 6: STATE WATER PROJECT**

The Governor's budget requests \$3,940,000 reimbursement authority to enter into an agreement with the California Department of Water Resources (DWR), to support 17.0 existing positions currently funded by Proposition 84. The requested authority will ensure that the State Water Project complies with California Endangered Species Act requirements, and supports the implementation of mitigation actions and adaptive management.

**BACKGROUND**

**California State Water Project (SWP).** The SWP, maintained and operated by DWR, is a water storage and delivery system of reservoirs, aqueducts, power plants and pumping plants. The SWP includes 34 storage facilities, reservoirs and lakes; 20 pumping plants; 4 pumping-generating plants; 5 hydroelectric power plants; and about 701 miles of open canals and pipelines. Its main purpose is to store water and distribute it to 29 urban and agricultural water suppliers in Northern California, the San Francisco Bay Area, the San Joaquin Valley, the Central Coast, and Southern California. Of the contracted water supply, 70 percent goes to urban users and 30 percent goes to agricultural users.

The SWP makes deliveries to two-thirds of California's population. It provides supplemental water to approximately 25 million Californians and about 750,000 acres of irrigated farmland. The SWP is also operated to improve water quality in the Delta, control Feather River flood waters, provide recreation, and enhance fish and wildlife.

**DFW provides regulatory oversight to water storage and distribution operators.** State law requires DFW to provide technical input and regulatory oversight to the operators of California's water storage and distribution systems. This involves the analysis and synthesis of hydrology and fisheries data to guide the water project's operations to avoid and minimize impacts to sensitive fishes. Participation by the Department in long-term technical and management teams will be necessary to conduct adaptive management of water operations and coordinate implementation of all associated mitigation requirements over the longer timeframe required for infrastructure construction and operations.

DFW is currently developing an agreement with DWR to support its existing level of participation and to provide additional funding for staffing needed as part of updated California Endangered Species Act and federal Endangered Species Act authorizations for the State Water Project and to implement the California Water Fix.

**Incidental Take Permits.** The California Endangered Species Act (CESA) prohibits the take of any species of wildlife designated by the California Fish and Game Commission as endangered, threatened, or candidate species. DFW may authorize the take of any species listed as endangered, threatened, candidate, or a rare plant, if that take is

incidental to otherwise lawful activities and if certain conditions are met. These authorizations are commonly referred to as incidental take permits (ITPs).

In 2008, the U.S. Fish and Wildlife Service (USFWS) issued a biological opinion (BiOp) on the long-term operations of the SWP and determined that the operation is likely to jeopardize the continued existence and adversely modify the critical habitat of federally listed Delta smelt.

In 2009, the National Marine Fisheries Service (NMFS) issued a BiOp on the SWP operations and determined that the SWP operations are likely to jeopardize the continued existence and adversely modify the critical habitat of federally listed Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, Central Valley steelhead, and the Southern Distinct Population Segment of North American green sturgeon.

In 2009 DFW issued DWR an ITP for the on-going and long-term operation of the SWP existing facilities in the Sacramento-San Joaquin Delta for the protection of longfin smelt. DFW also issued DWR consistency determinations for the NMFS BiOp and USFWS BiOp. The 2009 Incidental Take Permit is set to expire on December 31, 2018. DFW is currently participating in the development and review of the environmental documentation and issuance of a new ITP.

#### STAFF COMMENTS

The requested reimbursement authority will provide the department resources to ensure adequate protection of fish species listed under CESA and to participate and oversee multiple regulatory and planning initiatives focused on the Delta, Yolo Bypass and Suisun Marsh in relation to implementation of mitigation requirements for the SWP and the CVP.

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**Staff Recommendation: Hold Open**

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## 3860 DEPARTMENT OF WATER RESOURCES

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The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, DWR plans for future water development and offers financial and technical assistance to local water agencies for water projects. In addition, the department maintains the State Water Project, which is the nation's largest state-built water conveyance system. Finally, DWR performs public safety functions such as constructing, inspecting, and maintaining levees and dams.

The DWR's proposed budget is \$3 billion, which represents a 28.2 percent decrease in expenditure from last year. Most of the Department's budget is comprised of special funds, with \$119 million in General Fund.

### ISSUE 7: CENTRAL VALLEY FLOOD PROTECTION BOARD- GENERAL FUND BASELINE INCREASE

The Governor's budget requests \$1.4 million in General Fund annually for two year to support ten existing permanent positions funded with Proposition 1E funds at the Central Valley Flood Protection Board. While the Board is an independent entity, its budget is contained within the DWR, and it receives some staff and administrative support from the Department.

#### BACKGROUND

**The State Plan of Flood Control (SPFC).** The SPFC is the state-federal flood protection system in the Central Valley. SPFC includes over 1,600 miles of levees, over 1,300 miles of designated floodways, and approximately 18,000 parcels of land held in fee, easement, or other agreements. Although many SPFC components were locally or federally constructed, in the 1950s, the state committed to the federal government that it would oversee the SPFC system and maintain it pursuant to federal standards. For most segments of SPFC levees, the state has developed formal agreements with local governments (primarily local reclamation districts) to handle regular operations and maintenance responsibilities.

**The Central Valley Flood Protection Board (CVFPB) oversees the SPFC facilities.**

The CVFPB is an independent state agency and the lead authority for flood protection in the Central Valley. The CVFPB is responsible for permitting and enforcing encroachments and operation and maintenance of all SPFC facilities. CVFPB collaborate with local authorities and stakeholders to ensure an integrated flood control system. CVFPB also manages real estate and easements necessary for flood control. CVFPB's activities include: 1) collaborating with local agencies to improve SPFC flood protection structures; 2) issuing permits for work on SPFC levees and facilities; and 3) ensuring that levees are maintained up to required standards, including ensuring that levee "encroachments" such as pipes or docks either meet code requirements and receive permits or are removed.

**State is financially liable for the loss of life or property if SPFC facilities fail.** In the 2003 *Paterno* decision, the California's Supreme Court found the state liable from the 1986 Linda Levee collapse in Yuba County. The levee failure killed two people and destroyed or damaged about 3,000 homes. The court opined that, "when a public entity operates a flood management system built by someone else, it accepts liability as if it had planned and built the system itself." The State settled with property owners for \$500 million. Since the 2005 settlement, the State has invested billions of dollars in improving the levees and other SPFC facilities.

**SPFC system needs.** The US Army Corps of Engineers identified thousands of non-compliant encroachments and/or deficient maintenance and operations of facilities within the SPFC. They estimate that 90 percent of the State's project levees no longer qualify for the federal Levee Rehabilitation Program. When a state project levee loses this status, it is no longer eligible for federal contribution funding for rehabilitation to return a levee to its pre-flood status. Instead, those rehabilitation costs and any associated liability due to loss of life/property falls on the state and/or local flood agency.

#### LAO COMMENTS

The LAO recommends the Legislature adopt the Governor's proposal. Allowing CVFPB to continue its existing level of oversight of SPFC facilities is an important component of state efforts to maintain flood protection and public safety. The LAO also finds merit in the Governor's proposal to provide the funding on a two-year basis, as this would allow the board the opportunity to exercise its existing fee authority and begin generating additional revenues to use in lieu of General Fund in the future.

The LAO additionally recommends the Legislature adopt supplemental reporting language requiring CVFPB to submit a report to the Legislature by February 1, 2019 that provides an update on its activities to generate additional revenues. This would help prepare the Legislature for how it might approach funding the existing positions whose General Fund is scheduled to expire. Having this information before it faces that 2020-21 budget decision would also allow the Legislature the opportunity to provide additional direction or assistance to CVFPB if the board is encountering barriers or making insufficient progress in implementing new revenue-generating practices. We recommend the report address five potential options for generating new revenues: permitting fees, inspection fees, noncompliance penalties, lease and royalty revenues, and a new SSJDD assessment. For each of these options, we recommend the report provide the following information: 1) status of implementation, 2) amount of revenue generated thus far, 3) estimated annual revenues in 2020-21 and future years,

#### STAFF COMMENTS

In addition to General Fund, the CVFPB has relied on Proposition IE funds allocated in 2012 to fulfill its statutory mandates. These bond funds will be fully expended by the end of 2017-18. The CVFPB has the authority to levy fines and charge fees for inspection

related activities, but to date has been unable to utilize its authority due to incomplete real estate records and limited inspection and enforcement staff. The 2017-18 Budget Act provided the CVFPB with an annual appropriation of \$2.2 million and one existing position for three years and nine new permanent positions for CVFPB's operating costs and to determine the nature and extent of its real estate rights and encroachments within the SPFC.

The requested funding for 2018-19 and 2019-20 will allow the CVFPB to continue to exercise its regulatory oversight authority over the SPFC and its implementation of the Central Valley Flood Protection Plan (CVFPP), which is updated every five years with continued implementation of flood control projects.

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**Staff Recommendation: Hold Open**

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**ISSUE 8: FLOOD CORRIDOR PROGRAM AND TRIBAL ENGAGEMENT**

The Governor's budget requests \$2.9 million in 2018-19, \$177,000 in 2019-20, and \$176,000 in 2020-21 to support the Flood Corridor Program and the Tribal Engagement program. Specifically, the proposal is as follows:

**Flood Corridor Program**

- Revert and reappropriate \$2 million from Proposition 84 for local assistance in 2018-19.
- Request \$530,000 from Proposition 13 for state operations (\$177,000 for 2018-19 and 2019-2020, \$176,000 for 2020-21).

**Tribal Engagement**

- Requests \$684,000 one-time from Proposition 84 for grants or contracts that facilitate greater and more effective participation by tribal governments and tribal communities in the Integrated Regional Water Management programs and activities.

**BACKGROUND**

The Department of Water Resources, in cooperation with the Central Valley Flood Protection Board, is the state's lead agency for flood management issues. DWR works with other state and federal agencies such as the California Office of Emergency Services, the National Weather Service, the U.S. Bureau of Reclamation, and the US Army Corps of Engineers to maintain the flood system and support the California Water Action Plan (CWAP).

The CWAP is a policy document that guides the state's response to water issues in California. Several documents implement this policy, one of which is the Division of Flood Management's (DFM) Implementation Plan. The DFM's Implementation Plan addresses water issues in three policy areas: 1) the delta, 2) the State Plan of Flood Control, and 3) floodplain management.

**Flood Corridor Program.** Floodplain management refers to planning and coordinating actions to reduce loss of life and property from floods and to restore the natural resources and function of floodplains. The Flood Corridor Program (FCP) is a grant program under area of floodplain management and seeks to help fund flood corridor projects statewide that expand the flood corridor and preserve agricultural land and/or preserve or enhance wildlife habitat. The FCP funds local agencies' implementations of structural and non-structural flood risk reduction projects in areas of critical need. This grant program currently has 15 active project agreements, and is expected to solicit approximately 10 new projects in late 2017.

The FCP has exclusive authority for specific sections of Proposition 13 and Proposition 84 funds, as indicated in California Water Code Section 79035 and CA Public Resources Code Section 75032.5.

**Tribal Engagement.** Executive Order B-10-11 established a statewide policy that every state agency and department shall encourage communication and consultation with California Indian Tribes. The California Natural Resources Agency established a Tribal Consultation Policy in 2012 that seeks to better facilitate effective government-to-government consultation between the departments of the Natural Resources Agency and Indian tribes and tribal communities to provide meaningful input into the development of regulations, rules, policies, programs, projects, plans, property decisions, and activities that may affect tribal communities.

The 2013 California Water Plan Update included a report on Californians without safe water and sanitation. This report highlighted challenges faced by tribal governments seeking to improve access to clean water, which include the lack of financial resources and technical expertise needed to construct and manage water treatment infrastructure. The report recommended that state agencies should facilitate access by California Native American Tribes to state funds for water infrastructure improvements.

**Integrated Regional Water Management (IRWM).** IRWM is a collaborative effort to identify and implement water management solutions on a regional scale that increase regional self-reliance, reduce conflict, and manage water to concurrently achieve social, environmental, and economic objectives. IRWM enables self-identified regions, who are organized into regional water management groups (RWMGs), to integrate and implement water management solutions for their region to manage water resources to meet regional needs.

While large inter-regional water management systems, such as the State Water Project, Central Valley Project, and flood management systems, are important, the majority of California's water resource management investments are made at the local and regional level. IRWM has been critical in helping meet California's water management challenges.

Numerous IRWM planning grants have helped RWMGs develop and adopt IRWM plans for their regions. IRWM implementation grants have helped make more than 800+ IRWM projects identified in IRWM plans a reality across the state. Proposition 84, passed in 2006, authorized \$1 billion for integrated regional water management programs and projects.

#### STAFF COMMENTS

The existing state operations funding for the Flood Corridor Program (FCP) will be exhausted in early 2019-20. However, the FCP still has approximately \$14 million available for local assistance. Continuing funding for state operations will help support this program and move money out the door.

The requested funding for the tribal engagement will help DWR fulfill its mandate to engage California's tribal governments to promote their participation in regional water planning efforts and to assist them in sustainably managing water resources at the local level. The requested resources would also help address the concerns regarding drinking water and sanitation problems facing tribal communities.

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**Staff Recommendation: Hold Open**

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**ISSUE 9: SAN JOAQUIN RIVER RESTORATION PROGRAM AND SAN JOAQUIN PROJECTS**

The Governor's budget requests \$20,800,000 in state reimbursement authority from the Natural Resources Agency and the Wildlife Conservation Board (Propositions 40, 84, 1) to support 17 existing positions for continued work on the San Joaquin River Restoration Program and the San Joaquin River Projects. Specifically, this proposal requests:

- \$15.6 million (\$5.1 million in 2018-19, \$5.3 million in 2019-20, and \$5.2 million in 2020-21) in reimbursement authority from Proposition 84 from the Natural Resources Agency to support the San Joaquin River Restoration Program (SJRRP).

The requested funds will be used to support the SJRRP through program management, hydraulic and sediment studies, geotechnical investigations, habitat studies, and design, to evaluate and implement priority actions identified in the Settlement and the program's environmental impact study/environmental impact report.

- \$5.2 million (\$1.1 million in 2018-19, \$2.1 million 2019-20, and \$2 million in 2020-21) in reimbursement authority from Propositions 84, 40, and 1 from the Wildlife Conservation Board to support habitat restoration, recreation, and public access improvement projects along the San Joaquin River (SJR).

The requested funds will be used for design and permitting of a gravel pit isolation and access improvement project at the Milburn Pond Ecological Reserve on the SJR; construction of a public fishing access project at the Sycamore Island Recreation area; planning and implementation of work for a bridge rehabilitation project on the SJR; and salmon spawning habitat enhancement on the SJR.

**BACKGROUND**

**The San Joaquin River (SJR).** The SJR was formerly home to the nation's largest spring-run of Chinook salmon. The SJR was dammed in 1942 to provide water to farms and cities in the San Joaquin Valley and has since been negatively impacted by poor stream flows and poor water quality.

In the 1980s, environmental organizations including the Natural Resources Defense Council filed suit to restore water flows to a 60-mile dry stretch of river and to boost the dwindling salmon populations. The lawsuit was settled in 2006, known as the San Joaquin River Restoration Settlement. The settlement's goals were to refill the 60-miles of dry river bed and salmon runs while minimizing water supply impacts to farmers.

**The San Joaquin River Restoration Program (SJRRP).** The SJRRP was created in 2006 to implement the settlement agreement, to restore flows and fish back to the SJR. The SJRRP endeavors to restore and maintain fish populations in good condition along the river from below Friant Dam to the confluence of the Merced River and to reduce adverse water supply impacts to all of the Friant Division long-term contractors that may result from the Interim Flows and Restoration Flows provided for in the Settlement. DWR has also been involved in planning, analyzing, and designing aspects of the SJRRP, which is funded by Propositions 13 and 84.

The Department of Water Resources (DWR) constructed its first fish habitat project on the Merced River, a tributary to the SJR, in 1990. Since then, DWR has planned, designed, and implemented numerous river parkway projects in the SJR system. In the early 2000s, DWR began designing and implementing projects for the San Joaquin River Conservancy and the Wildlife Conservation Board (WCB) on the SJR funded by WCB Proposition 40 and Proposition 50 funds. This collaboration has continued in recent years with WCB Proposition 84 funds.

<b>STAFF COMMENTS</b>
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The reimbursement authority requested would allow DWR to continue flood, fish passage, and habitat restoration projects that will support efforts to restore salmon back to the San Joaquin River.

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**Staff Recommendation: Hold Open**

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**ISSUE 10: STATE WATER PROJECT AGING INFRASTRUCTURE IMPROVEMENTS**

The Governor's budget requests 74 positions to support the State Water Project. Specifically, the requested resources would be used to:

- Meet new and expanded state and federal regulatory requirements.
- Respond timely, safely, and cost-effectively to urgent or emergency work as defined by Public Contract Code §10122 et seq, and other Executive, Legislative or regulatory mandates.
- Implement an asset management program, enhance condition assessment and maintenance programs, and facilitate increased design, construction and inspection projects for an aging SWP infrastructure.
- Provide legal support for the Oroville Dam spillway emergency and recovery.

**BACKGROUND**

**California State Water Project (SWP).** The SWP, maintained and operated by the Department of Water Resources, is a water storage and delivery system of reservoirs, aqueducts, power plants and pumping plants. The SWP includes 34 storage facilities, reservoirs and lakes; 20 pumping plants; 4 pumping-generating plants; 5 hydroelectric power plants; and about 701 miles of open canals and pipelines, the highest pumping lift in the United States and the tallest dam in the nation, Oroville Dam. Its main purpose is to store water and distribute it to 29 urban and agricultural water suppliers in Northern California, the San Francisco Bay Area, the San Joaquin Valley, the Central Coast, and Southern California. Of the contracted water supply, 70 percent goes to urban users and 30 percent goes to agricultural users.

The SWP makes deliveries to two-thirds of California's population. It provides supplemental water to approximately 25 million Californians and about 750,000 acres of irrigated farmland. The SWP is also operated to improve water quality in the Delta, control Feather River flood waters, provide recreation, and enhance fish and wildlife.

**Oroville Incident.** Lake Oroville is the SWP's largest storage facility with a capacity of approximately 3.5 million acre feet. On February 7, 2017, erosion was discovered on the lower chute of the main flood control spillway at Lake Oroville. With an onslaught of winter storms, releases down the damaged main spillway were unable to prevent the reservoir from overtopping the concrete weir. Water cascaded down the emergency spillway, triggering the evacuation of more than 180,000 people downstream of Lake Oroville on February 11. The incident also has other impacts downstream, such as bank and slope failures, and sediment buildup in the Feather River system.

This incident highlighted the importance of committing sufficient resources to inspect, assess conditions, set priorities, meet regulatory compliance obligations, and maintain the SWP including its 26 regulated dams and approximately 700 miles of canals and pipelines.

**State Division of Safety of Dams (DSOD) and Federal Energy Regulatory Commission (FERC) Regulations.** Of the 26 regulated dams, 22 are under the jurisdiction of the DSOD, with 11 of those also under the jurisdiction of the FERC. In compliance with DSOD and FERC regulations, DWR's Dam Safety Branch (DSB) convenes an independent consulting board on 5-year cycles to review dam performance data and operation and maintenance records, participate in comprehensive inspections, and produce a report of categorized findings and recommendations. Following each Board meeting, the DSB develops the scope of work, schedule, budget, and resources needed to address each of the findings and recommendations. DSB currently has 90 dam safety projects underway or queued to begin in the near future, which is a progressive increase from the 30 projects planned and scheduled three years ago.

<b>STAFF COMMENTS</b>
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Most of the requested positions seems reasonable given the increased workload. However, some of the positions may not be needed in the near term. For example, the request for positions to respond to the Settlement Agreement and the FERC relicensing might be premature given the discussions are still underway and the required actions have not yet been determined.

As part of reviewing the needs of the aging infrastructure of the SWP and assessing the appropriate level of resources for these efforts, the Subcommittee may wish to ask the department for the following:

- An update on Oroville.
- Whether the Department is doing anything to mitigate some of the downstream impacts such as sediment build up in the Feather River.

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**Staff Recommendation: Hold Open**

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## 3940 STATE WATER RESOURCES CONTROL BOARD

### ISSUE 11: INFORMATIONAL: EMERGENCY DRINKING WATER AND WASTEWATER CHALLENGES

The Subcommittee will receive a briefing from the State Water Resources Control Board on their Drinking Water for Schools Program and other efforts to ensure safe drinking water in California. The Subcommittee will also hear from members of the community afflicted with emergency drinking water and wastewater challenges.

#### BACKGROUND

California communities and schools continue to face severe challenges to access safe drinking water. More than a million Californians pay for water services that fail to meet safe drinking water standards. The recent drought's continued impact means thousands still face dry wells, and uncertain rainfall patterns mean drought is a constant threat.

**Emergency relief needed for wells and septic systems.** Thousands of Californians, primarily in small, rural and disadvantaged communities, already live in crisis and experience complete water loss and acute impacts due to increasing water scarcity and chronic groundwater contamination. Failing septic systems are one of the most serious threats to our groundwater supply and pose a significant ongoing public health threat.

Millions of Californians, primarily those in rural communities, depend on septic systems to manage household wastewater. The same residents that rely on private wells for their drinking water often rely on septic systems, increasing the public health threat of failing septic systems.

**Emergency relief needed for water tanks.** Nearly 300 households with dry wells still rely on water tanks that are filled by trucks to serve their basic household water needs and additional households have experienced total well failures in the past year, thus too late to access the water tank program. In the meantime, they work toward new wells or a community water system to provide an adequate water supply. As one household gets a new well, a nearby household's well may go dry. There is no clear "end" to the drought's effects on the state's groundwater supplies. The state has allocated funds to replace dry wells, but there remains a significant unmet need for well replacement. In the meantime, those households need immediate, ongoing access to water.

**State Water Board's Drinking Water for Schools Program:** The State Water Board's Safe Drinking Water for Schools grant program builds on the program established in the 2016 state budget. This program helps to supply access to safe drinking water for students in schools that currently lack a source of clean drinking water. Current funding levels for the program will fund about 500 of the state's 10,000 schools. In October 2017, after passage of the original funding, the Governor signed legislation mandating that public schools test their drinking water for lead contamination. The mandate is expected to demonstrate a significant demand for the program. To compound the issue, the new 1,2,3-TCP maximum contaminant level (MCL) standard also takes effect in

2018. We expect hundreds, if not thousands, of schools will be out of compliance with the 1,2,3-TCP MCL and will need additional resources to ensure student safety. While long-term solutions are debated, funded and brought online, the State Water Board's Drinking Water for Schools program is a cost effective and low-impact way to provide immediate safe drinking water access to students in low-income, rural communities, including addressing contamination issues like lead, 1,2,3,- TCP and arsenic. Numerous initial evaluation results prove the many merits of this program.

<b>STAFF COMMENTS</b>
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The Safe and Affordable Drinking Water proposal, which is being considered by the Subcommittee, seeks to resolve similar water challenges. However, it would not solve many of the associated immediate needs. The Subcommittee may wish to consider providing emergency assistance for low-income communities, families, and schools: 1) to repair/ replace failing septic systems, 2) to install tank systems for homes that have had wells recently go dry, and 3) to continue supply water tanks with water as an emergency measure while households await new wells or upgrades to community water systems.

**3940 STATE WATER RESOURCES CONTROL BOARD  
8570 DEPARTMENT OF FOOD AND AGRICULTURE****ISSUE 12: SAFE AND AFFORDABLE DRINKING WATER**

The Governor's budget proposes trailer bill language to establish the Safe and Affordable Drinking Water Program and the Safe and Affordable Drinking Water Fund (SADWF). The Governor's budget also requests a one-time loan of \$4.7 million from the Underground Storage Tank Cleanup Fund to begin implementation of this new program. Specifically, this budget proposal and trailer bill:

- 1) Establishes the Safe and Affordable Drinking Water Program and Fund to be administered by the State Water Resources Control Board.
- 2) Provides the Department of Food and Agriculture (CDFA) the authority to impose and collect fees from certain agricultural entities.
- 3) Exempts an agricultural operation from enforcement for causing or contributing to nitrate in groundwater if they demonstrate certain mitigation requirements are followed.
- 4) \$3.3 million and 23 positions for the State Water Resources Control Board to:
  - 1) develop and adopt a fund implementation plan, 2) process charges that would be deposited into SADWF, 3) map areas at high risk for drinking water contamination and process drinking water data provided by local agencies, 4) develop an assessment of the total amount of annual funding needed to assist water systems in the state to provide safe drinking water, and 5) perform accounting and other administrative tasks.
- 5) \$1.4 million and 7 positions for the CDFA to collect charges from agricultural entities.

**BACKGROUND**

**Federal, State, and Local Entities Regulate Drinking Water.** The federal Safe and Affordable Drinking Water Act (SDWA) was enacted in 1974 to protect public health by regulating drinking water. California has enacted its own safe drinking water act to implement the federal law and establish state standards. The U.S. Environmental Protection Agency (EPA) enforces the federal SDWA at the national level. However, most states, including California, have been granted "primacy" by the U.S. EPA, giving them authority to implement and enforce the federal SDWA at the state level.

Maximum contaminant levels (MCLs) are health-based drinking water standards that public water systems are required to meet. MCLs take into account the health risk, detectability, treatability, and costs of treatment associated with a pollutant. Agencies responsible for regulating water quality enforce these standards.

The SWRCB's Division of Drinking Water (DDW) regulates public water systems that provide water for human consumption and have 15 or more service connections, or

regularly serve at least 25 individuals daily at least 60 days out of the year. (A “service connection” is usually the point of access between a water system’s service pipe and a user’s piping.) DDW does not regulate water systems with less than 15 connections; county health officers oversee them. At the local level, 30 of the 58 county environmental health departments in California have been delegated primacy—known as Local Primacy Agencies (LPAs)—by the SWRCB to regulate systems with between 15 and 200 connections within their jurisdiction. For investor-owned water utilities under the jurisdiction of CPUC, the DDW or LPAs share water quality regulatory authority with CPUC.

The DDW regulates approximately 7,500 water systems. About one-third of these systems have between 15 and 200 service connections. The number of smaller systems—specifically, those with 14 or fewer connections—is unknown but estimated to be in the thousands.

**Multiple Causes of Unsafe Drinking Water.** The causes of unsafe drinking water can be separated into two categories: 1) contamination caused by human action and 2) naturally occurring contaminants. In some areas, there are both human caused and natural contaminants in the drinking water.

Three of the most commonly detected pollutants in contaminated water are arsenic, perchlorate, and nitrates. While arsenic is naturally occurring, perchlorate contamination is generally a result of military and industrial uses. High concentrations of nitrate in groundwater are primarily caused by human activities, including fertilizer application (synthetic and manure), animal operations, industrial sources (wastewater treatment and food processing facilities), and septic systems. Agricultural fertilizers and animal wastes applied to cropland are by far the largest regional sources of nitrate in groundwater, although other sources can be important in certain areas.

**Unsafe Drinking Water a Statewide Problem.** SWRCB has identified a total of 331 water systems that it or LPAs regulate that are in violation of water quality standards. These water systems serve an estimated 500,000 people throughout the state. The number of water systems with 14 or fewer connections that are currently in violation of water quality standards is unknown, but estimated to be in the thousands by SWRCB. Of the 331 systems identified by SWRCB, 68 have violations associated with nitrates (and in some cases, additional contaminants). In some of these water systems, unsafe contamination levels persist over time because the local agency cannot generate sufficient revenue from its customer base to implement, operate, or maintain the improvements necessary to address the problem. The challenge in these systems is often a product of a combination of factors, including the high costs of the investments required, low income of the customers, and the small number of customers across whom the costs would need to be spread.

**Safe and Affordable Drinking Water a Human Right.** In response to concerns about the prevalence of unsafe drinking water in California, Chapter 524 of 2012 (AB 685, Eng) was enacted. This law declares the state’s policy that every human being has the

right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. Under Chapter 524, state agencies are required to consider this policy when revising, adopting, or establishing policies, regulations, and grant criteria. Chapter 524 clarifies that it does not expand the state's obligations to provide water or require the state to fund water infrastructure.

**SWRCB Administers Programs to Provide Safe Drinking Water.** The SWRCB administers the Drinking Water State Revolving Fund (DWSRF), which provides continuously appropriated funding for low- and zero-interest loans, debt refinancing, principal forgiveness, and grants to public water systems for infrastructure improvements to correct system deficiencies and improve drinking water quality. Eligible projects include the planning, design, and construction of drinking water projects such as water treatment systems, distribution systems, and consolidation with another water system that has safe drinking water. The program is funded by annual capitalization grants from the U.S. EPA and a federally required 20 percent state match (usually from bond funds). The federal and state funds are then used to provide financial assistance for eligible projects. In 2016-17, SWRCB estimates the DWSRF disbursed about \$330 million and provided technical assistance to water systems.

SWRCB also administers temporary programs to provide safe and affordable drinking water. For example, SWRCB administers the Clean Drinking Water Program for Disadvantaged Households, which provided one-time funding of \$8 million General Fund in 2017-18 to disadvantaged households and small water systems, to ensure they have adequate access to clean drinking water and adequate sanitation. Eligible projects include capital costs for replacement and repair of existing domestic wells. The board has also administered funds approved by the voters through various bond measures for capital investments, and some operations and maintenance costs aimed at providing safe drinking water. For example, Proposition 1 (2014) authorized \$520 million for grants and loans for projects that improve water quality, including to help provide clean, safe, and reliable drinking water to all Californians. Some of this funding supports the DWSRF.

#### LAO COMMENTS

The LAO identified three issues for the Legislature to consider as it deliberates on the proposal: 1) consistency with the state's human right to water policy, 2) uncertainty about the estimated revenues that would be generated by the proposal and the amount of funding needed to address the problem, and 3) consistency with the polluter pays principle.

**Proposal Is Consistent With Human Right to Water Policy.** The Governor's proposal is consistent with the state's statutory policy that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption. The proposal would make safe and affordable drinking water more widely available throughout the state largely by providing funding for operations and maintenance activities for water treatment systems. While the administration has not conducted its

own estimate of the number of people this proposal would help, based on the information available, it would appear that this funding could address a large share of the problem. In particular, the proposal would prioritize additional funding to disadvantaged communities and low-income households served by water systems with less than 14 connections.

**Uncertain to the Extent Proposed Revenues Will Fully Address Problems.** A private consulting firm estimated the total annual cost to address contaminated drinking water at \$140 million (\$30 million for nitrate treatment and \$110 million for other contaminants). However, this estimate is highly uncertain given the lack of data about the number of smaller water systems and domestic wells that fail to provide safe drinking water. It is possible that actual costs could be significantly higher. We note that under the proposal, SWRCB would be required to prepare an annual needs assessment, which could provide the Legislature with greater certainty in the future.

There is also uncertainty about the amount of revenue that will be generated under this proposal, particularly from the agricultural entities. The budget trailer legislation allows SWRCB to adjust ratepayer charges downward if the funding provided exceeds future demand for the funds. However, if the demand exceeds funding in the future, any increase in charges would require approval by the Legislature.

**Might Not Fully Implement the Polluter Pays Principle.** The “polluter pays” principle is the concept that those entities that cause an environmental harm should be responsible for the costs associated with cleaning up that contamination and addressing the harm done. The vast majority of nitrate contamination is caused by agricultural activities. As such, the administration’s proposal to have agricultural entities pay charges to address the effects of that contamination appears consistent with the polluter pays principle. However, in at least two ways, the proposal might not be entirely consistent with the principle. First, it is worth noting that some of the current nitrate contaminants in groundwater are not entirely from current agricultural operations. Instead, some of these nitrates are legacy contamination that could be from as much as decades ago. Therefore, it might not be entirely consistent with the polluter pays principle to have current operators pay for contamination caused by previous operators. Second, based on the information available, it appears that the funds raised by charges on agricultural entities might not be sufficient to address the costs related to nitrate contamination. The assessment performed by the private consulting firm estimated annual total costs of \$30 million to address drinking water systems exceeding the nitrate MCL. However, CDFA estimates the charges on dairies and fertilizer combined would total about \$19 million per year when fully implemented. (At the time this analysis was prepared, the administration had not completed a revenue estimate for the charge on confined animals.) Consequently, the proposal could result in nitrate-related contamination in drinking water being addressed from revenues generated by the charge on water system customers rather than from agricultural entities. To the extent that occurs, it would be inconsistent with the polluter pays principal.

**STAFF COMMENTS**



A significant number of California communities, especially disadvantaged communities, rely on a contaminated groundwater source for their drinking water supply. Contaminants include nitrate, arsenic, and disinfectant byproducts. Water treatment systems are the key to providing safe drinking water to these communities, but the installation, operation and maintenance of such systems are often very costly. There are funds such as Proposition 1 and the Safe Drinking Water Revolving Fund that provides financial assistance for the construction cost of the treatment systems. However, there are no funding sources available to provide funding for long-term operations and maintenance costs.

This proposal seeks to address this funding gap by imposing a fee on water users and fees on various agricultural operations. The funds would provide necessary upgrades to water infrastructure and provide financial assistance for operations and maintenance of drinking water systems in disadvantaged areas in order to clean up contaminated groundwater and improve inadequate water systems and wells.

The goal of this proposal is very much needed and principled. However, there are additional policy considerations needed. For example, by indemnifying various agricultural operations as long as they meet certain mitigation requirements assumes that nitrate contamination is mostly a legacy problem. Further, the fees imposed on the various agricultural operations only cover a portion of the funding needed to address nitrate contamination. Lastly, this proposal does not include a requirement for agricultural operation to pay the fertilizer fee/dairy fee in a timely fashion to enjoy the enforcement immunity. As we deliberate this proposal, there should be thoughtful consideration on how to deal with ongoing issues with contamination.

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**Staff Recommendation: Hold Open**

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