

## AGENDA

### ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 RESOURCES AND TRANSPORTATION

**ASSEMBLYMEMBER RICHARD S. GORDON, CHAIR**

**WEDNESDAY, MARCH 28, 2012  
9:00 A.M. - STATE CAPITOL ROOM 447**

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## INFORMATION ITEMS ONLY WORKFORCE CAP PLANS

Executive Order S-01-10 required Agency Secretaries and Department Directors to take steps to cap the State workforce by achieving an additional 5 percent salary savings by July 1, 2010, and maintain the additional salary savings ongoing. This savings was included in the Budget Act of 2010. The informational Budget Change Proposals (BCPs) listed below explain how the various departments achieved this "workforce cap" (WFC).

### **3460 COLORADO RIVER BOARD**

The Colorado River Board has met its WFC target/savings of \$54,000 (Reimbursements) by eliminating .5 of an Office Technician position.

### **3480 DEPARTMENT OF CONSERVATION**

The Department of Conservation has taken a reduction in appropriations totaling \$1,792 million (\$259,000 General Fund; \$1,533 Special/Federal/Other Funds) in compliance with WFC mandates by keeping 3 positions vacant, an additional 5 positions vacant through attrition, and reduced use of Temporary Help and Overtime. The WFC reductions were distributed across five divisions within DOC.

### **3680 DEPARTMENT OF BOATING AND WATERWAYS**

The Department of Boating and Waterways has taken a reduction in appropriations totaling \$293,000 (Harbors and Watercraft Revolving Fund), in compliance with WFC mandates, by using attrition through vacant positions from Fiscal Year (FY) 2010-11.

### **3820 SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION**

The San Francisco Bay Conservation and Development Commission has achieved its WFC reductions of \$211,000 (\$180,000 General Fund, \$31 Special Funds) by reducing 2.0 vacant positions and associated expenses.

### **3840 DELTA PROTECTION COMMISSION**

The Delta Protection Commission achieved its WFC reduction of \$41,000 (Environmental License Plate Fund) by intentionally leaving vacant a position established in FY 2010-11.

### **3860 DEPARTMENT OF WATER RESOURCES**

The Department of Water Resources achieved its WFC reduction of \$4,756 million (\$865,000 General Fund, \$3,891,000 Special/Federal/Other Funds) by managing vacancies, reclassifying existing positions to lower cost classifications, and reducing overtime expenses.

**3875 SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY**

The Sacramento San Joaquin Delta Conservancy achieved its WFC reduction of \$52,000 (General Fund) by using salary savings from a part-time employee and decrease spending for discretionary operating expenses.

**3885 DELTA STEWARDSHIP COUNCIL**

The Delta Stewardship Council achieved its WFC reduction of \$329,000 (\$246,000 General Fund, \$52,000 Special Funds, \$31,000 Reimbursements) by reducing 2.5 temporary help positions.

**8570 DEPARTMENT OF FOOD AND AGRICULTURE**

The Department of Food and Agriculture met its WFC reduction of \$6,053 million (\$2,750,000 General Fund, \$3,089,000 Federal/Special/Other Funds, \$214,000 Reimbursements) by eliminating 47 positions and redirecting 12 positions in various divisions and programs throughout CDFA.

**VOTE-ONLY****3480 DEPARTMENT OF CONSERVATION**

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**ISSUE 1: DIVISION OF OIL, GAS, AND GEOTHERMAL RESOURCES - ORPHAN WELL ELIMINATION**

The Governor's Budget proposes \$3 million (\$1 million 2012-13, \$1 million 2013-14, \$1 million 2014-15) from the Oil, Gas, and Geothermal Administrative Fund to plug orphan wells. Orphan wells are wells that have no responsible party, leaving the State to plug and abandon them. Orphan wells pose a hazard to the environment and public safety if left unattended, and represent a liability to the State. No position authority is requested.

**ISSUE 2: INFO TECHNOLOGY MAINTENANCE**

The Governor's Budget proposes an ongoing appropriation of \$132,000 (\$33,000 Mine Reclamation Account; \$99,000 Oil, Gas, and Geothermal Administrative Fund) for maintenance of information technology infrastructure. This proposal seeks to protect the performance, value, and security of the DOC's network computing infrastructure, and thus, minimize network interruptions and downtime that affect employee productivity.

**ISSUE 3: CALIFORNIA GEOLOGICAL SURVEY (CGS) - FEDERAL TRUST FUND AUGMENTATION**

The Governor's Budget proposes an ongoing appropriation of \$500,000 (baseline Federal Trust Fund) in order to receive grants related to the Federal Emergency Management Agency (FEMA). CGS is regularly awarded grants from the Federal government. Announcement of these grant awards are made according to Federal timetables, which often provides very short notice to the CGS and do not coincide with the State budget process. Approval of this BCP will provide the funding authority necessary to facilitate work on the FEMA grants in the next two years.

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**Staff Recommendation: Approve as Budgeted Issues 1-3**

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**3680 DEPARTMENT OF BOATING AND WATERWAYS**

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**ISSUE 1: PUBLIC SMALL CRAFT HARBOR LOANS**

The Governor's Budget proposes \$8.8 million (Harbors and Watercraft Revolving Fund [HWRF]) in local assistance, including loans to Santa Barbara, tsunami repairs at Crescent City and Santa Cruz Harbors, emergency loans, planning loans, and CEQA funding.

**ISSUE 2: PUBLIC BOAT LAUNCHING FACILITY GRANTS**

The Governor's Budget proposes \$9.876 million (HWRF) in local assistance Boat Launching Facility grants to fund public boat launching facilities, including grants to Ventura Port District, County of Imperial, County of San Bernardino, County of Los Angeles, East Bay Regional Park District, City of Antioch, and various statewide programs.

**ISSUE 3: FEDERAL CLEAN VESSEL ACT GRANTS BUDGET AUTHORITY**

The Governor's Budget proposes \$857,000 (Federal Trust Fund) permanent increase in budget authority in order to allow the Department of Boating and Waterways (DBW) to accept and spend funds awarded to it under the federal Clean Vessel Act (CVA) grant program for sewage pump-out facilities statewide. The current CVA grant program budget is \$1.643 million. Increasing DBW's budget authority by \$857,000 would allow the Department to take advantage of the new federal cap of \$2.5 million in grant awards.

**ISSUE 4: REAPPROPRIATION FOR CITY OF AVALON BOATING INFRASTRUCTURE GRANT PROJECT**

The Governor's Budget proposes a reappropriation of \$1.1 million (Federal Trust Fund) for a local assistance Boating Infrastructure Grant to the City of Avalon to reconstruct the Avalon Harbor Public Pier and Restroom. The City of Avalon will provide \$3 million in non-federal matching grants. The project will not construct without the federal cost share.

**ISSUE 5: ABANDONED WATERCRAFT ABATEMENT GRANTS**

The Governor's Budget proposes \$700,000 (Abandoned Watercraft Abatement Fund) for Abandoned Watercraft Abatement grants. For the past three consecutive fiscal years, AWAFF appropriations have been \$500,000 and many applicant agencies have been turned away due to insufficient State funding to meet local demand. An estimated additional 60 recreational vessels and navigational hazards can be removed with this additional \$200,000 in funding.

**ISSUE 6: VESSEL TURN-IN PROGRAM GRANTS**

The Governor's Budget proposes \$225,000 (Abandoned Watercraft Abatement Fund) for Vessel Turn-In Program (VTIP) grants (\$150,000 2012-13, and \$75,000 partial year funding 2013-14). AB 166 (Lieu), Chapter 416, Statutes of 2009, established the VTIP, a grant program available to public agencies for the removal and disposal of surrendered recreational vessels. Local agencies accept vessels from owners willing to surrender their boats, providing an alternative to abandonment. The VTIP will sunset on January 1, 2014.

**ISSUE 7: REAPPROPRIATION OF APPROVED PUBLIC LOAN AND GRANT FUNDING**

The Governor's Budget proposes a reappropriation of \$2.5 million (HWRF) for three projects (2 in Long Beach, 1 Orange County).

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**Staff Recommendation: Approve as Budgeted Issues 1-7**

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**3860 DEPARTMENT OF WATER RESOURCES**

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**ISSUE 1: PROP 1E STORMWATER FLOOD MANAGEMENT GRANT PROGRAM FUNDS**

The Governor's Budget proposes \$3.104 million (\$621,000 per fiscal year through 2015-16 and \$620,000 FY 2016-17) from Proposition 1E for the Stormwater Flood Management (SWFM) Grant Program to support 2.7 existing DWR positions that will conduct traditional grant program delivery activities, including grant solicitations, reviews, awards, and management.

The Prop 1E SWFM Grant Program is administered by DWR's Division of Integrated Regional Water Management under its Water Conservation Bond Law Program. DWR's Water Conservation Bond Law Program oversees a collection of general obligation bond-funded loan and grant programs assisting local agencies in the acquisition and construction of voluntary, cost-effective, capital outlay, water conservation, and groundwater recharge facilities projects and in the development of new local water supply projects. This proposal is consistent with DWR's mission to manage the water resources of California and meets the objectives of Proposition 1E.

**ISSUE 2: URBAN STREAMS RESTORATION ADMINISTRATION & TECHNICAL ASSISTANCE**

The Governor's Budget proposes \$2.631 million in reversions and new appropriations of the unused balances of funds in Prop 84 and Prop 13 to support 3.5 existing positions in support of the Urban Streams Restoration Program (USRP). This proposal requests: \$2,580,000 from Proposition 84, to be appropriated over four years, at \$645,000 per year, to support 3.4 existing positions for administration, planning, and design assistance for the USRP; and \$51,000 from Proposition 13, to support 0.1 existing position for four years beginning in FY 2012-2013, (\$13,000) to continue administration of the USRP.

The Urban Streams Restoration Program provides technical assistance and grants for communities statewide to address local flooding and erosion problems, enhance the environmental values, and promote community stewardship of streams. USRP specifically funds restoration, land acquisition (in flood prone areas), and promotes alternative land management practices. It also encourages the participation of the local public, landowners, and private organizations in urban stream projects and promotes cooperative planning to address local resource issues. The program manages grants of proposition 13, 40 and 84 funds and other funds when available.

Proposition 84 specifically provides \$18 million to DWR for the Urban Streams Restoration Program. This BCP requests staff funding for administrative and technical support activities through FY 2015-16. Funding is needed for administrative work, including providing oversight for \$8 million in existing Proposition 84 grants (awarded in FY 2011-12) and awarding an additional \$9 million in Proposition 84 and 13 grants in FY 2012-13. These activities will be supported under the 5 percent administrative cap.



**ISSUE 3: SAFE DRINKING WATER ADMINISTRATION**

The Governor's Budget proposes \$125,000 or up to 1.5 percent of monies repaid to the State in 2012 from existing Safe Drinking Water Bond Law loan contracts to administer the financial assistance program, which enables eligible entities to meet minimum domestic water supply standards. Existing DWR staff (0.9 PY) will be redirected to this activity.

Under California Safe Drinking Water Bond Law, the Legislature declared it necessary to continue to provide safe and adequate drinking water for Californians. Altogether, four Bond Laws authorized \$425 million in continuous appropriation to fund eligible projects. For the first time, DWR has exhausted the 5 percent administration cost allowance for the program. However, current water law stipulates that DWR may expend another 1.5 percent of the money repaid to the State annually for administrative costs, in addition to the 5 percent cap.

This request will help cover administrative costs of the Bond Law program and further support DWR's plan to develop a new 2-year short-term loan program to investigate and identify alternatives for system improvements. The current loan program was designed for long-term financing (30 years or more) of construction and improvement project. Discussions with stakeholders indicate that such a shorter-term loan program would be very beneficial for small waste water systems that have no other means to secure financial assistance for their water problems.

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**Staff Recommendation: Approve as Budgeted Issues 1-3**

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## **3875 Sacramento-San Joaquin Delta Conservancy**

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### **ISSUE 1: PUBLIC OUTREACH AND BAY-DELTA AWARENESS PROGRAMS**

The Governor's Budget proposes \$140,000 (Federal Reimbursement Authority) to conduct public outreach and educational activities, in partnership with the Bureau of Reclamation (BOR).

This proposal will enable the Delta Conservancy to receive funds from BOR to conduct public outreach and educational activities that promote awareness of the San Francisco Bay and Sacramento-San Joaquin Delta. The program will focus on water quality, water supply reliability, and ecosystem restoration and will be targeted toward the general public, as well as local, State, and federal officials.

### **ISSUE 2: OPERATIONAL NEEDS: FACILITY LEASE**

The Governor's Budget proposes a permanent baseline funding increase of \$75,000 (Environmental License Plate Fund) for the Sacramento-San Joaquin Delta Conservancy (Delta Conservancy) to support office space, utilities, or other costs directly associated with facility operations.

The Delta Reform Act of 2009 established the Delta Conservancy, the Delta Protection Commission, and the Delta Stewardship Council. The mission of the Delta Conservancy is ecosystem restoration and economic sustainability in the Delta. The Conservancy is a small agency with minimal baseline funding to support its operational costs, including facilities costs. This proposal will insure that the Conservancy is able to maintain its headquarters location in the Delta. At this time, there are no other funding sources available for this purpose. The Conservancy is primarily funded by the General Fund, which covers basic needs such as salaries/benefits and workers compensation insurance.

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**Staff Recommendation: Approve as Budgeted Issues 1 & 2**

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## 3885 Delta Stewardship Council

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**ISSUE 1: REAPPROPRIATION - IMPLEMENTATION OF THE DELTA PLAN**

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The Governor's Budget proposes a reappropriation of \$5.9 million (Prop 50) for support of the CALFED Science Program in order to fund the Delta Science Program, its successor program consistent with statute.

The Delta Stewardship Council is seeking a two-year extension of this appropriation in order to continue research and studies in the Delta.

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**Staff Recommendation: Approve as Budgeted**

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## 8570 DEPARTMENT OF FOOD AND AGRICULTURE

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**ISSUE 1: USED BEVERAGE CONTAINER IMPORTATION DATA COLLECTION PROGRAM**

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The Governor's Budget proposes ongoing reimbursement authority of \$1,432,000 for CDFA from CalRecycle for participation in a cooperative agreement to detect and identify shipments of used beverage containers (UBC) imported into California and illegally recycled for California Refund Value (CRV).

The Department of Justice (DOJ) estimates that up to \$40 million is lost from the California Beverage Container Recycling Fund (CBCRF) each year due to illegal recycling of out-of-state UBCs in California. Consequently, the CBCRF is in jeopardy of becoming insolvent if this issue is not addressed.

CDFA received a \$19 million General Fund (GF) reduction in 2011-12 and additional \$12 million GF reduction in 2012-13. This proposal will redirect 16.5 existing positions that are currently funded by the GF to the Used Beverage Container Importation Data Collection Program. CDFA will create an ongoing partnership with CalRecycle and will be a key component in the overall effort to stop the fraudulent collection of CRV on out-of-state UBCs.

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**Staff Recommendation: Approve as Budgeted**

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## ITEMS TO BE HEARD

### 3460 COLORADO RIVER BOARD

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The Colorado River Board (CRB) protects California's rights and interests in the water and power resources of the Colorado River system. The Board works with: Colorado River Basin states (Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming), federal agencies, other state agencies, six local agencies (Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley Water District, Metropolitan Water District of Southern California, San Diego County Water Authority, Los Angeles Department of Water and Power), Congress, and the courts. Its activities include analyses of engineering, legal, and economic matters concerning the Colorado River resources of the seven basin states and the 1944 United States-Mexico Water Treaty obligation to deliver Colorado River water to Mexico. The Budget includes \$1.5 million (Reimbursements) and 11.5 positions for support of the Board.

#### ISSUE 1: ELIMINATION

The Governor's Budget proposes to eliminate the Colorado River Board and transfer its responsibilities to the Natural Resources Agency. The Administration states, "This proposal will ensure that all statewide water supply issues, such as water supply reliability, Delta sustainability, and Colorado River water issues are addressed in a comprehensive and coordinated manner."

#### STAFF COMMENTS

Members of the CRB, including Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley Water District, the Metropolitan Water District of Southern California, San Diego County Water Authority, Los Angeles Department of Water and Power oppose the Governor's proposal because they argue it would increase the costs to the State, result in California being less effective in dealing with the federal and Basin State governments and Mexico on Colorado River issues, and jeopardize California's substantial interests in the Colorado River.

Each water agency on the CRB has contracts with the federal government for water and/or power resources provided by the Colorado River. The protection of the water and power resources used by these agencies is a primary concern of the Colorado River Board. For that reason, the statutes authorizing the CRB provide that each agency be represented on the Board. The State of California does not hold any Colorado River contracts or water rights, but it is well represented on the CRB by representatives from the Department of Water Resources and the Department of Fish and Game together with two public members appointed by the Governor.

The Colorado River Board's budget of approximately \$1.5 million is entirely funded by the local agencies that are represented on the Board. The state agencies that are represented on the Board do not contribute funds to the Board's budget and no state general funds are expended on the Board. By transferring the responsibilities of the Board to the Natural Resources Agency, the Board's budget would be shifted from local funding sources to the State General Fund. The elimination of the Board and its local agency representatives would result in the loss of the regular expertise and input of the local agencies with the experience in Colorado River matters.

Given that the CRB appears to be adequately protecting California's interests on the Colorado River and that eliminating the CRB would result in new costs to the General Fund, the Committee should consider rejecting the Governor's proposal.

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**Staff Recommendation: Reject Trailer Bill Language to Eliminate CRB**

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## 3480 DEPARTMENT OF CONSERVATION

The Department of Conservation (DOC) administers programs to preserve agricultural and open space lands, promote beverage container recycling, evaluate geology and seismology, and regulate mineral, oil, and gas development activities. The Budget includes \$74.7 million and 464 positions for support of the Department. Decreases in funding are largely due to reductions in bond expenditures (\$86 million). Increases in positions are tied to a request from the Division of Oil, Gas, and Geothermal Resources (DOGGR) to enhance onshore and offshore regulatory programs discussed below.

Fund Source	2010-11 Actual	2011-12 Projected	2012-13 Proposed	BY to CY Change	% Change
General Fund	\$4,165	\$4,416	\$4,469	53	1%
Oil, Gas, and Geothermal Administrative Fund	22,904	28,957	34,605	5,648	20%
Bond Funds	16,488	89,446	2,965	(86,481)	(97%)
Other	24,628	29,157	32,682	3,525	12%
<b>Total Expenditure</b>	<b>\$68,185</b>	<b>\$151,976</b>	<b>\$74,721</b>	<b>(77,255)</b>	<b>(51%)</b>
Positions	391.2	447	464.1	17	4%

### ISSUE 1: DOGGR Compliance and Support Staff Augmentation

The Governor's Budget proposes 18 permanent positions and a baseline appropriation of \$2,500,000 (\$2,292,000 ongoing) from the Oil, Gas, and Geothermal Administrative Fund to enhance onshore and offshore regulatory programs by improving its construction site review, environmental compliance, and underground injection control (UIC) programs.

#### STAFF COMMENTS

The Department of Conservation's DOGGR is responsible for regulating all onshore and offshore hydrocarbon field operations in California in order to prevent damage to State resources and provide adequate protection for oil field workers and surrounding communities. The DOGGR evaluates permit applications to drill, rework, and plug oil and gas operations in the State, including abandoned wells. It also provides expertise to local planning agencies and building developers when new developments are proposed over historic oil field operations.

The oil and gas industry has changed significantly over the past three decades with many technological advancements having been made in drilling and recovery techniques. However, according to DOGGR, the division has not kept up with the changing industrial landscape, and, therefore, they argue it is currently understaffed to meet current workload demands, as well as an ongoing backlog in workload that has developed in recent years. According to the Administration, prior to 2010, DOGGR last requested new positions in 1987.

**LAO Concerns.** The Legislative Analyst's Office raises three concerns with the Governor's proposal for additional DOGGR positions. Specifically, (1) *the Administration has not done a workload analysis to justify the positions requested, (2) many of the positions recently approved for this division are still vacant, and, (3) the department is currently developing a new "roadmap" for the division that may significantly change its workload and staffing needs.*

*No Analysis of Permitting Backlog.* In recent years, DOGGR has testified that new positions are needed to address the division's backlog in drilling permits. According to the division, recently approved positions have enabled it to increase the rate at which it is processing permits, resulting in a 17 percent increase in the number of permits processed in 2011. The backlog nonetheless still persists according to the division and the regulated industry. However, to date DOGGR has not provided a detailed workload analysis that assesses the specific positions necessary to eliminate the backlog. The division has also not provided adequate data to determine the impact of the recently added positions and the degree to which those positions could, if filled, address the current backlog.

*Many Recently Approved Positions Remain Unfilled.* During the 2010-11 budget year, the Legislature approved a request by the Administration for 17 positions that were intended to enhance and strengthen the regulatory oversight of new technologies including shallow thermal diatomite injection wells, hydraulic fracturing, steam injection, and CO2 injection wells. During the 2011-12 budget year, the Legislature approved a request by the Administration for an additional 18 positions that were intended to augment current permitting, environmental protection and construction site review, and UIC staff within the division. Of the 35 positions added in the past two years, 13 positions remain vacant, including 10 engineer positions. It is unclear that new positions are necessary when this many newly established positions remain vacant.

*Department Developing "Road Map" to Establish Priorities.* Industry growth over the past three decades has created the need to potentially update many of the division's regulations. New leadership at DOC is currently developing what it has described as a "roadmap" designed to set new priorities for DOGGR, as well as address various problems such as the current permitting backlog. The roadmap may result in significant operational changes, potentially including changes to the division's regulations for its UIC program, which covers oil recovery techniques such as hydraulic fracturing. Consequently, implementation of the roadmap could have significant impacts on the division's workload, including the permitting backlog, as well as the division's overall staffing needs.

*LAO Recommendations.* The LAO recommends the Legislature deny the Governor's proposal for additional DOGGR positions. The Administration has not provided the Legislature with adequate information regarding the position authority necessary to reduce the current workload. In addition, it believes it would be appropriate for the Department to prioritize filling the high number of vacant positions recently authorized by the Legislature before new positions are authorized.

*Additionally, the new roadmap currently being developed by the Department may provide new direction and priorities to the division, which could result in changes in workload and staffing needs. Therefore, it may be premature to authorize any new positions for the division until the DOGGR roadmap has been completed and an evaluation of the ongoing position need of the department is done. Given the policy implications of the new roadmap, we expect that legislative policy committees, as well as the budget committees, will want to review the plan. Thus, we also recommend that the Legislature direct DOC to submit a workload analysis in conjunction with its completed roadmap to the appropriate policy and budget committees. This workload analysis should provide details on the division's existing positions, how workload and responsibilities would change under the roadmap, and how the division's staffing needs would be affected by the roadmap. To the extent that the roadmap is consistent with legislative priorities, this workload analysis could then serve as the basis for future adjustments to the division's position and funding authority.*

The LAO raises several legitimate concerns about this proposal. The Committee should ask DOC and DOGGR about the absence of a workload analysis for these new positions. In particular, the Committee should inquire about the lack of a detailed workload analysis that assesses the specific positions necessary to eliminate the drilling permit backlog. The Committee may also wish to ask DOC to justify the need for new positions given that 13 positions out of the 35 positions added in the past two years remain vacant. Finally, given that the new roadmap being developed by the Department may provide new direction and priorities to the division and absence of a workload analysis, it may be premature to authorize any new positions for the division.

**Hydraulic Fracturing Regulations.** Hydraulic fracturing (fracking) is a process that involves injecting fluids into a well bore at pressures that exceed the strength of the formation (rock), thereby resulting in the formation breaking down or fracturing. This process increases the permeability of the formation and, therefore, increases the production of the resource. Recently, because of the increase in the development of horizontal shale gas wells in various regions of the United States, fracking has become the focus of significant attention, due to concerns about the chemicals used in fracking and the potential for groundwater contamination. According to an Assembly Natural Resources Committee analysis of this issue, the oil and gas industry acknowledges that hydraulic fracturing has been used in California for decades and operations by various oil companies are likely to increase significantly in the coming years. Yet, DOGGR has no data on when or where wells have been fracked in California.



While DOGGR has the statutory authority to regulate hydraulic fracturing, it does not currently have regulations in place. However, as mentioned above, in a 2010-11 BCP, DOGGR requested and received 17 positions and a baseline appropriation of \$3 million (\$2.7 million on going), in part, to "extend regulatory authority to cover all new technologies for EOR [Enhanced Oil Recovery], including...hydraulic fracturing..."

During the 2011-12 budget year, the Legislature approved a request by the Administration for an additional 18 positions and \$2.4 million that were intended to augment current permitting, environmental protection and construction site review, and UIC staff within the division. The Committee took action to add budget bill language to authorize DOGGR to use a portion of the appropriation for the collection and public dissemination of information related to hydraulic fracturing activities occurring in the State.

To date, no hydraulic fracturing regulations have been promulgated, nor has the Department actively collected or disseminate information on fracking activities in the State. The Committee should ask the DOGGR why it has not taken action to pursue the direction given by the Legislature on this issue in the 2010-11 and 2011-12 budgets.

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**Staff Recommendation: Hold Open**

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**3680 DEPARTMENT OF BOATING AND WATERWAYS**

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The Department of Boating and Waterways (DBW) funds, plans, and develops boating facilities on waterways (both public and private facilities), provides financial aid and training to local law enforcement, and licenses yacht and shipbrokers. Other activities include a wave and ocean data program, weed eradication in the Delta, and beach erosion and replacement programs. The budget proposes \$69 million in expenditures for 2012–13, mainly from boat registration fees, motor vehicle fuel tax revenue, principal and interest payments on previously issued loans, and federal funds.

**ISSUE 1: PRIVATELY OWNED RECREATIONAL MARINA LOANS**

The Governor's Budget proposes \$5 million (Harbors and Watercraft Revolving Fund) for construction loans to private marina owners for marina improvement projects statewide.

**STAFF COMMENTS**

The LAO questions whether this type of loan program should continue to be a State funding priority and recommends eliminating the private marina loan program operated by the DBW. Instead, it suggests that such lending functions are better left to the private sector.

Given LAO's recommendation and that, a solution to the funding problems regarding the State's obligations to recreation at the State Water Project may involve up to \$7 million (ongoing) from Harbors and Watercraft Revolving Fund (discussed later in the agenda), it might be prudent to hold this item open.

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**Staff Recommendation: Hold Open**

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**ISSUE 2: ELIMINATION OF CALIFORNIA BOATING AND WATERWAYS COMMISSION**

The Governor's Budget proposes to eliminate the Department and Commission, and to recreate the Department as a separate division of the Department of Parks and Recreation (DPR), similar to the Off-Highway Vehicle Division. The consolidation of DBW into DPR and the elimination of the Boating and Waterways Commission is subject to the Governor's Reorganization Proposal (GRP) process. As such, it will be transmitted to the Little Hoover Commission for review prior to being submitted to the Legislature.

**STAFF COMMENTS**

DPR currently partners with DBW in facility construction projects and operations at all of Parks' reservoirs. Because the DBW is being transferred to the DPR, the Boating and Waterways Commission will be eliminated. The Commission advises the DBW on matters within its jurisdiction and consents to all boating facilities loans and grants. The duties performed by the Commission will be absorbed by the DPR.

In 2009-10, Governor Schwarzenegger proposed the elimination of DBW and consolidating its functions into DPR to allow for better coordination and management of projects and grants relating to boating access and safety programs. At that time, the Governor estimated ongoing, annual savings of \$600,000 from the proposal. The Administration has not estimated any cost savings from this proposal.

**Previous LAO Comments.** *The Administration has indicated that the overall goal of its proposal is to eliminate redundancy and reduce costs. We concur that opportunities for efficiencies and savings exist from reorganizing DBW's current functions. We see no reason why another agency, such as DPR, would not be capable of administering DBW's ongoing grant and loan programs and overseeing its capital outlay activity. By coordinating such activities with similar activities in another agency, efficiencies should result. As such, we think the Governor's proposal has merit and recommend in principle that it be adopted.*

Members of the recreational boating and sport-fishing community are opposed to the elimination, arguing that DBW is self-supporting, effective, efficient, transparent, and enhances economic activity.

*"Rather than eliminating the Department of Boating and Waterways (DBW) and the Boating and Waterways Commission (BWC), the State should look to them as examples of how to efficiently and properly operate a state department. DBW takes its limited resources and carefully allocates it among many worthy and practical programs. For example among the many safety and awareness programs DBW manages, it provides direct financial support for law enforcement in high-boating counties.*

*Additionally, the BWC approves millions of dollars in grants and loans for boating infrastructure through a public process, via the Boating and Waterways Commission, in a transparent and accountable manner. Finally, DBW is totally self-funded from boater-derived taxes and fees and, in fact, generate revenues with the repayment of principal and interest on loans it provides. Eliminating DBW and the BWC would only harm boating, reduce government transparency lead to reduced safety on the water."*

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**Staff Recommendation: Informational Item Only**

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## 3860 DEPARTMENT OF WATER RESOURCES

The Department of Water Resources (DWR) protects conserves, develops, and manages California's water. The Department evaluates existing water resources, forecasts future water needs and explores future potential solutions to meet ever-growing needs for personal use, irrigation, industry, recreation, power generation, and fish and wildlife. The Department also works to prevent and minimize flood damage, ensure the safety of dams, and educate the public about the importance of water and its proper use.

The Budget includes \$2.5 billion (including infrastructure expenditures) and 3,405 positions for support of the Department. The Department's proposed program budget is \$2.2 billion, which represents an overall decrease of \$2.6 billion and an increase of 144 personnel years from the 2011-12 budget.

DWR's budget has decreased by approximately \$1.5 billion compared to FY 2011-12. The program areas that account for the decrease are the California Energy Resources Scheduling (CERS) and Proposition 1E, Disaster Preparedness and Flood Prevention Bond Fund of 2006. CERS' reduction is due to the power supply contracts expiring and the responsibility of power purchasing transferring back to the three Investor Owned Utilities (IOU). The reduction in the Proposition 1E budget is mostly because the Governor's Budget does not include any new major bond expenditures in anticipation of the release of the Governor's five-year infrastructure report in the spring of 2012.

Fund Source	2010-11 Actual	2011-12 Projected	2012-13 Proposed	BY to CY Change	% Change
General Fund	\$99,665	\$94,381	\$98,228	\$3,847	4%
Department of Water Resources Electric Power Fund	2,746,324	1,848,250	1,015,363	(832,887)	(45%)
Bond Funds	248,8590	1,627,762	97,208	(1,530,554)	(94%)
Other	954,439	1,297,794	1,055,841	(241,953)	(19%)
<b>Total Expenditure</b>	<b>\$4,049,287</b>	<b>\$4,868,187</b>	<b>\$2,266,640</b>	<b>(\$2,601,547)</b>	<b>(53%)</b>
Positions	3,147	3,261	3,405	144	4%

### ISSUE 1: FLOODSAFE CALIFORNIA PROGRAM

The Governor's Budget proposes \$14.9 million and an extension of 49 existing limited-term positions for two years from the Safe Drinking Water, Clean Water, Watershed Protection and Flood Protection Act of 2000 (Prop 13) and Disaster Preparedness & Flood Prevention Bond Fund 2006 (Prop 1E) to support FloodSAFE California.

<b>STAFF COMMENTS</b>
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In November 2006, California voters approved bond funding to improve the flood management system through Prop 1E and 84, increasing funding to over \$5 billion to enhance flood safety statewide. DWR launched the multi-faceted FloodSAFE California initiative in late 2006 to improve public safety through integrated management.

Implementation of the FloodSAFE initiative consists of work in seven different, but inter-related, functional areas: flood emergency response; flood system operations and maintenance; floodplain risk management; flood risk reduction projects; flood risk assessment; flood investment planning and conservation; and FloodSAFE Program management. Collectively, the seven functional areas describe the scope of activities through which DWR is addressing flood system issues.

Functional Area	Amount	Fund	Activities
Flood Emergency Response	\$500,000	Proposition 1E	Flood forecasting and reservoir operation improvements, flood emergency response improvement.
Flood System Operations and Maintenance	\$2.5 million	Proposition 1E	Flood operations and maintenance policy development and implementation, flood system repair and rehabilitation.
Floodplain Risk Management	\$792,000	Proposition 1E	Floodplain evaluation and delineation, alluvial fan technical support, building code updates, floodplain planning.
Flood Risk Reduction Projects	\$9.6 million	Proposition 1E and 13	Feasibility studies, small communities, rural and high risk urban projects, system-wide programs, federal projects and Delta projects.
Flood Risk Assessment	\$290,000	Proposition 1E	Flood system modeling and flood system engineering.
Flood Investment Planning and Conservation	\$790,000	Proposition 1E	Flood plan updates and conservation strategies.
FloodSAFE Program Management	\$496,000	Proposition 1E	Fund accountability and management, state and federal policy.

In compliance with SB 5, (Machado), Chapter 364, Statutes of 2007, the Central Valley Flood Protection Planning Act of 2008, DWR has prepared a draft of the Central Valley Flood Protection Plan (CVFPP). The Central Valley Flood Protection Board will adopt the CVFPP by July 1, 2012. DWR is also drafting a statewide Integrated Flood Management Plan to prepare recommendations for reducing flood risks for areas throughout the State that are not covered by the CVFPP. In addition, a flood management investment strategy has been prepared for the Delta, since the Delta is a critical region of the State for flood management, water supply, and ecosystem protection objectives in the State. These three documents provide a comprehensive framework for flood risk management in the State and they are the road map for implementing an integrated and sustainable flood risk reduction program in California.

Improving flood management and fixing or replacing an aging and inadequate flood system will take many years. DWR has formulated a phased approach to flood risk reduction that corresponds to the five-year cycle of CVFPP updates, which is mandated by SB 5. The next phase of the FloodSAFE initiative will be 2013-2017, and this BCP provides funding for the first year of the next five-year cycle.

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**Staff Recommendation: Approve as Budgeted**

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**ISSUE 2: CENTRAL VALLEY FLOOD PROTECTION BOARD (CVFPB) CEQA COMPLIANCE REIMBURSABLE AUTHORITY**

The Governor's Budget proposes \$8 million (Reimbursement Authority) to receive fees paid in advance from project sponsors to prepare environmental impact documents to comply with California Environmental Quality Act (CEQA).

**STAFF COMMENTS**

DWR and the CVFPB are the State's lead agencies for flood control issues. The State, as represented by the CVFPB, is the major non-federal sponsor for flood control projects constructed in cooperation with the federal government. CVFPB has provided assurances to the federal government to maintain flood levees, channels, and water control structures. The resources requested in this proposal are necessary to adequately meet State and federal mandates by enabling the Board to act as the lead agency for CEQA compliance.

Permit applicants most frequently in need of assistance to comply with the CEQA include economically disadvantaged communities and small businesses. The requested reimbursement authority will enable the Board to cost-effectively proceed with issuing permits critical for providing public benefits and environmental protection. It will also reduce costs to applicants by reducing the amount of time to obtain required State and federal permits prior to project construction. According to the CVFPB, the cost savings would be significant, as an environmental consultant's hourly wage ranges from \$150 to \$300 per hour. Under standard business practice, the project proponent would be paying not only the consultant's hourly wage, but also would incur the cost for the billable hours of the supervising consultant's hourly wage. As a result, a billable hour could total up to \$450 per hour.

<b>CEQA Document</b>	<b>CEQA Docs Per YR</b>	<b>Permits Per MO</b>	<b>Cost Per Doc</b>	<b>Cost Per YR</b>
Environmental Impact Report	5	0.42	900,000	4,500,000
Initial Study Mitigation Negative Declaration	24	2	127,008	3,048,200
Initial Study	5	0.42	75,000	375,000
Notice of Exemption	24	2	3,200	76,800
Total (\$)				8,000,000

**Staff Recommendation: Approve as Budgeted**



**ISSUE 3: OCAP BIOP HABITAT RESTORATION IMPLEMENTATION**

The Governor's Budget proposes \$1.7 million (annually) for 10 new permanent, full-time positions (State Water Project Water Resources Development Bond Fund) in the Division of Environmental Services to support and implement the habitat restoration requirements in the U.S. Fish and Wildlife Services and National Marine Fisheries Services Operations Criteria and Plan (OCAP) Biological Opinions (BiOps) and DFG Incidental Take Permit (ITP). The BiOps and ITP identify habitat restoration, as well as other actions, to address impacts on winter-run Chinook salmon, spring-run Chinook salmon, steelhead, green sturgeon, delta smelt, and longfin smelt by the operation of the State Water Project (SWP) Delta Pumping Facilities.

**STAFF COMMENT**

Last year's budget included 12 new full-time positions for the implementation of the above-mentioned biological opinions. These positions were intended for similar activities as those proposed in this year's budget request. According to the DWR, the workload necessitating these new positions stems from two projects, the Prospect Island/Suisun Marsh sub-tidal habitat and Sacramento River seasonal fish rearing habitat projects.

Staff recommends holding this item open in order for the DWR to continue working with the Legislative Analyst's Office and budget staff. It is unclear what the final workload associated with the BiOps will be or if the State needs to add permanent staff to the department rather than either extend limited-term positions. A longer-term project work plan that references other habitat and mitigation work in the Delta would assist staff in determining if these positions are justified on a permanent basis.

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**Staff Recommendation: Hold Open**

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**ISSUE 4: DELTA HABITAT CONSERVATION & CONVEYANCE PROGRAM (DHCCP) IMPLEMENTATION PHASE**

The Governor's Budget requests 117 new positions to work on the Delta Habitat Conservation and Conveyance Program (DHCCP). This includes converting 18 limited-term positions to permanent.

**STAFF COMMENT**

The DHCCP was established in 2008 to implement a gubernatorial directive to address both water supply issues and environmental concerns related to the Delta. Specific goals of DHCCP include protecting and restoring Delta habitat and studying improved methods to reduce the impact of water conveyance on the Delta.

The DHCCP's planning stage is currently being carried out by 18 limited-term positions in the DWR that are set to expire in June 2012. The Governor's January budget proposal requests that those 18 positions be made permanent to complete the DHCCP planning and to maintain staff continuity through the program's implementation stages.

The planning stage was originally scheduled to be completed by December 2010, but has been pushed back until the end of 2011-12 due to delays in completion of the Bay Delta Conservation Plan (the Bay Delta Conservation Plan is a document that will provide the basis for the issuance of endangered species permits for the operation of the State and federal water projects, on which DHCCP's environmental impact reports depend).

While it is clear that the Department is moving forward, the BDCP has not finalized a proposed project yet and alternatives range from no project, to through-Delta, up to a new conveyance of 15,000 cubic feet per second. Thus, the Legislature cannot evaluate the proposed permanent positions effectively.

According to the Administration, the final BDCP will be completed in 2013. When this plan is available to the Legislature in its final form, the Legislature would be in a better position to evaluate adding significant new permanent positions to the Department.

The LAO has been working with the Department to determine the right level of staffing. LAO believes it is clear that DWR will need some positions, the Department has not adequately justified them at this point.

The DWR provides the following explanation as to why it is crucial to approve the BCP before the BDCP is finalized:

*"In February, after nearly 6 years of work, the State released the 'Administrative Drafts' of both the conservation plan and the Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the Bay Delta Conservation Plan (BDCP). Later this summer the 'Public Draft' is expected, and the EIR/EIS will include a preferred project (canal/tunnel/conveyance project) necessary to implement provisions of BDCP. At that time, but in advance of the final Record of Decision (ROD) of the BDCP, preliminary design work will need to begin in order to meet certain US Army Corps of Engineers (USACE) design-level benchmarks necessary to receive federal permits once the ROD is certified (expected spring 2013). Should DWR not receive the positions to begin this preliminary design work now, the delay in beginning the design work would be significant (e.g., 5 months between certification and when these positions may again be authorized in the 2013-14 Budget Act, plus the time necessary to go through the hiring process for 117 positions, then the time to begin and complete the design work for the USACE permits)."*

Staff recommends holding this item open in order for the DWR to continue working with the Legislative Analyst's Office and budget staff.

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**Staff Recommendation:** Hold Open

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**ISSUE 5: ELIMINATION OF SALTON SEA COUNCIL**

Governor's Budget proposes eliminating the Salton Sea Restoration Council. While the Administration supports the restoration efforts at the Salton Sea, it believes creating a new department for a limited time, with only one employee is inefficient. The Administration states that it is committed to maintaining Agency staff focus on restoration activities and will ensure that future actions are transparent and are made in collaboration with stakeholders.

**STAFF COMMENT / QUESTIONS**

The Salton Sea Restoration Council was created by SB 51 (Ducheny), Chapter 303, Statutes of 2010, following several years of discussion over the governance structure that would guide any Salton Sea restoration efforts. Several committees are to be established under the Council: an executive committee that would function as the governing body, a science committee, a local government forum, and a stakeholder forum. As such, the Council is required to receive significant input from non-state organizations and provide a venue for public participation. The Council is charged with evaluating the range of restoration plans previously developed by the Secretary of Natural Resources, as well as any additional plans it deems necessary. The council is then required to recommend a plan to the Legislature by June 30, 2013, taking into consideration the impacts of the restoration plan on air quality, fish, and wildlife habitat, water quality, as well as the technical and financial feasibility of the restoration plan. Finally, the Council is directed to oversee the implementation of the selected restoration plan, and to that end, Chapter 303 divides responsibility for specific categories of restoration actions between the DWR and the Department of Fish and Game (DFG). The Administration has not yet taken action to set up the Council, nor has it submitted a budget request to provide for its funding support.

**Previous LAO Comments.** *The Governor's proposal to eliminate the council offers the Legislature an opportunity to consider whether Salton Sea restoration continues to be a State fiscal and policy priority. This consideration should be made in light of the potentially substantial costs of the restoration effort--as high as \$9 billion by some estimates (the cost to implement the Secretary for Natural Resources' previously developed preferred alternative)--and given that no viable funding plan for the restoration effort exists. If the Legislature were to decide that Salton Sea restoration is not a priority, then it may wish to approve the Governor's proposal to eliminate the council.*

**Funding Will Still Be Needed Even if Restoration Not a Priority.** *We note, however, that even if the Legislature decides that Salton Sea restoration is not a fiscal and policy priority and did not proceed with the development of plans to restore the Salton Sea, the State could continue to have financial exposure related to legally required mitigation activities connected with the implementation of the Quantification Settlement Agreement (QSA). These mitigation efforts involve multiple stage agencies, including DWR and DFG, and we are not aware of there being a coordinated long-term mitigation plan or a funding plan on how to pay for it. (The total cost of these legally-required mitigation actions is substantial. An estimate from*

several years ago projected the cost to be \$800 million over 75 years). As such, the State will need to identify a stable funding source for the mitigation efforts, potentially requiring the amendment of statute to provide recovery of costs from parties directly benefiting from, or causing the need for the, mitigation activity.

**Multiple Governance Options Exist If Decide to Proceed With Restoration.** *If the Legislature wishes to move forward with Salton Sea restoration above and beyond the required mitigation actions discussed above, multiple options for governance structures exist, of which establishing a Salton Sea Council as specified in Chapter 303 is one. In our 2008 report (predating Chapter 303), "Restoring the Salton Sea," we described various outcomes that should be achieved by the governance structure for the restoration effort. (In the report, we recommended that DWR be designated as the lead implementing entity and decision-maker for Salton Sea restoration. However, we note that there are trade-offs with such a governance structure. For example, the council structure under Chapter 303 would potentially provide more openness and opportunities for public participation in the decision-making process, while a structure with DWR as the lead would potentially be more administratively efficient. It is a policy call for the Legislature to weigh these trade-offs.) Regardless of which governance structure is chosen (whether it be the structure established by Chapter 303 or some other structure), we think that it is important for it to be clear who is "in charge" of the restoration effort and can accordingly be held accountable for its performance.*

**Legislature's Policy Guidance Needed for the Adoption of Any Restoration Plan.** *We continue to recommend that the Legislature formally adopt a restoration plan if it wishes to proceed with the restoration effort. Chapter 303 offers guidance on the considerations the council is to weigh when selecting a plan and delineates the roles of DWR and DFG in any restoration. This guidance is beneficial and should be retained, and perhaps even expanded, even if the council were eliminated and an alternative governance structure put in place. (For example, an existing State agency, such as DWR, could be designated as the lead agency to consider restoration alternatives and recommend a restoration plan). As we recommended in our 2008 report, we think that it is important for the Legislature to clearly express its priorities for restoration, keeping in mind that viable funding sources may not be available to fund all possible restoration activities.*

**Financing and Restoration Plans Should Be Developed Concurrently.** *In our view, the selection of a restoration plan and a financing plan are highly related and should therefore be developed concurrently. The feasibility and stability of funding for restoration efforts informs the scope and the selection of a restoration plan, and the scope of the restoration efforts determines what magnitude of funding is required and therefore what steps are necessary to secure it. Therefore, if restoration is a priority, whatever body is given authority over Salton Sea restoration should be tasked with recommending a viable financing plan in conjunction with a restoration plan. Furthermore, no restoration plan should be adopted by the Legislature without such a funding plan. To the degree possible, the funding plan should adhere to the beneficiary pays and polluter pays principles.*

***Limited Timeframe for Action.** Finally, we note that there are some limits on the Legislature's ability to defer the decision about pursuing restoration to a later time. In 2017, local water agencies will cease delivering water into the Salton Sea as they currently are doing under the QSA. The DWR has stated that any restoration effort will be much more challenging and costly if no restoration measures are already in place at that time. Thus, the Legislature's re-evaluation of the priority of any degree of Salton Sea restoration should be completed soon enough to allow adequate time to ensure that the necessary early-action restoration efforts are in place by 2017.*

LAO raises important issues for discussion by the Committee. Should the Legislature decide that Salton Sea restoration is not a priority, then it may wish to approve the Governor's proposal to eliminate the Council. However, LAO correctly points out that even if the Legislature decides that Salton Sea restoration is not a fiscal and policy priority and did not proceed with the development of plans to restore the Salton Sea, the State could continue to have financial exposure related to legally required mitigation activities connected with the implementation of the Quantification Settlement Agreement (QSA).

If the Committee agrees that creating a new state department for the Restoration Council is inefficient, another governance structure should be chosen. Staff agrees with LAO that it is important for it to be clear who is "in charge" of the restoration effort and can accordingly be held accountable for its performance. Given the number of unanswered questions with regard to funding, long-term planning and governance structure, the Committee should consider holding this item open to continue dialogue with the Administration on its plan for the Salton Sea restoration efforts.

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**Staff Recommendation: Hold Open**

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**ISSUE 6: DWR/DFG SUPPLEMENTAL REPORT - SALTON SEA RESTORATION PROGRAM****STAFF COMMENT**

Last year, the Legislature approved \$4.2 million reimbursement authority for the Salton Sea Restoration Program. At the Subcommittee hearing in May 2011, questions were raised about the absence of restoration habitat at the Salton Sea despite the expenditure of millions of dollars of restoration fund money. Consequently, the Subcommittee requested the DWR and the Department of Fish and Game submit a report to the Legislature documenting expenditures from all fund sources and agency staff time by both departments on Salton Sea mitigation or restoration efforts since the inception of the Salton Sea Restoration Fund.

In November, the Subcommittee held an interim hearing at the Salton Sea. The purpose of the hearing was to provide the Committee with an accounting of funds used for restoration efforts at the Sea; determine the balance of funds remaining; discuss future funding needs and options; and consider the State's obligation and role in these efforts moving forward. In January, the Departments submitted their Joint Report to the Legislature detailing expenditures on the Salton Sea Restoration Program.

The Joint Report documents that \$32 million has been spent on the Program to date (\$6.2 million Salton Sea Restoration Fund [derived from contributions from local water agencies]; \$5.6 million Prop 84; and \$20 million Prop 50). The remaining balance in the Restoration Fund is \$23.7 million.

It does not appear that any of the \$32 million has gone toward the construction of actual habitat. Rather, most of the money seems to have been spent on studies. Further, while the report details each appropriations request, it not clear from the report whether the tasks associated with the requests were accomplished. Finally, the report does not document agency staff time as required by the Supplemental Report request in last year's budget. At a minimum, it would be helpful to know which projects, which staff worked on. The Committee may wish to ask DWR to comment on why this information was not included in the report.

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**Staff Recommendation: Informational Item Only**

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**ISSUE 7: Salton Sea Restoration Program - Species Conservation Habitat (SCH)**

The Governor's Budget proposes \$9 million in reimbursement authority (\$7 million, FY 2012-13, \$1 million FY 2013-14, and \$1 million FY 2014-15) for a continuation of previously approved Salton Sea Restoration Program: SCH Project. The requested resources would implement mitigation and conservation concepts and activities developed in the previously approved BCPs for this same program. Specifically, the requested resources would support:

- \$3 million for 4.7 staff positions (\$1 million per year over the next three fiscal years) that support Department of Fish and Game (DFG) in meeting the goals and objectives of the SCH;
- \$3 million in FY 2012-13 for the Financial Assistance grant program to local stakeholders; and,
- \$3 million in FY 2012-13 for consultant contracts supporting completion of project design and environmental compliance.

**STAFF COMMENT / QUESTIONS**

As mentioned in the above agenda item, the Legislature approved a request for \$4.2 million reimbursement authority for the Salton Sea Restoration Program in the 2011-12 budget. This request implements mitigation and conservation concepts and activities developed from that BCP.

The Department describes the proposed actions that would be funded from the requested reappropriations and reimbursements as “no-regrets” projects that would be consistent with any plan to restore the Salton Sea, including a no-action alternative. Staff concurs that a need for continued funding of restoration efforts exists. However, given the limited funding for the Salton Sea restoration and questions remaining to be answered on the long-term plan for restoration of the sea, the Committee should consider holding this item open to continue dialogue with the Administration on its long-term plan for the Salton Sea restoration efforts.

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**Staff Recommendation: Hold Open**

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**ISSUE 8: SUSTAINABILITY OF THE STATE WATER PROJECT (SWP)**

The Governor's Budget proposes 35 new positions (State Water Project funds) to continue implementation of the staffing augmentation plan approved in FY 2011-12, Critical Support for the SWP BCP. That plan proposed an augmentation of staffing levels by a total of 123 positions to support new SWP workload needs in the areas of sustainability, compliance, and safety. The Legislature approved 90 positions but rejected 33 positions proposed for future years in order to provide continuing legislative oversight of the Department's activities. This proposal requests those 33 positions, plus 2 additional SWP positions not previously identified to provide the resources needed to carry out studies, negotiations, and other activities associated with the preparation and filing of an application for a new license from the Federal Energy Regulatory Commission for hydropower generation along the east and west branches of the California Aqueduct in Southern California (FERC Project No. 2426). The 35 proposed positions will be phased in over two fiscal years beginning with 24 positions in FY 2012-13.

All funding for these positions will be provided by the SWP through the State Water Project Contractors (SWPC) at an estimated annual cost of \$4,300,000. Of that amount, approximately \$86,000 will be reimbursed to the SWP by the United States Bureau of Reclamation (USBR) under the terms of the existing San Luis Joint Use Contract for their share of expenses directly or indirectly related to the San Luis Joint Use Facilities, and for Suisun Marsh operations and maintenance under the Suisun Marsh Preservation Agreement. Additionally, an annual savings in operational cost of at least \$4,500,000 will be realized by reversing the declining operational performance of the SWP, and from future long-term power savings through continuing operations of FERC Project 2426 in Southern California, once it is relicensed.

**STAFF COMMENT**

The SWP was built over 40 years ago to serve the water needs for the people of the State of California. This critical resource and infrastructure is in jeopardy of collapsing because of the lack of resources to safely and reliably operate and maintain the SWP at the appropriate level to deliver water and produce electricity for the State's residents.

The SWP is a water storage and delivery system of reservoirs, aqueducts, power plants, and pumping plants. Its primary mission 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, impacting approximately 25 million Californians. Currently, the SWP consists of 15 generating units, 148 pumping units, 14 pumping-generating units, and approximately 700 miles of open canals and pipelines.

Staff concurs with the need for the new positions. The SWP is an aging facility requiring continued and ongoing maintenance to maintain the level of service that it was intended to provide.

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**Staff Recommendation:** Approve as Budgeted

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**ISSUE 9: DAVIS-DOLWIG ACT (FUNDING RECREATION AT THE STATE WATER PROJECT)**

The Davis-Dolwig Act, passed in 1961, states the broad intent of the Legislature that SWP facilities be constructed “in a manner consistent with the full utilization of their potential for the enhancement fish and wildlife and to meet recreational needs.” The LAO, Department of Finance, and legislative staff have raised concerns in the past four years about the Administration of the Act by the DWR, and the role of the Legislature in ensuring oversight and accountability of State general purpose funding. For a background on the Act, see the LAO report “Funding Recreation at the State Water Project.”

**STAFF COMMENT**

As part of the final budget action in 2011, the Legislature directed the Administration to work with the LAO, the Legislature, and a third-party to develop solutions to ongoing funding and policy decisions related to the State’s recreation enhancements at the State Water Project. The Administration, including the Office of the Resources Secretary, Department of Finance, and DWR, along with the LAO, legislative staff, and the State Water Contractors have spent a considerable amount of time in the past six months negotiating a solution to the funding problems as well as considering long-term policy solutions to the State’s obligations to recreation along the project.

At this time, the working group convened by the Secretary’s office is close to a final package that addresses most of the concerns raised by both LAO and the Administration. A solution to the funding problems may involve up to \$7 million (ongoing) from Harbors and Watercraft Revolving Fund. While this plan is not final at this time, it is anticipated that in the next months, trailer bill language will be prepared to bring this issue to a close for the next few years.

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**Staff Recommendation: Informational Item Only**

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