

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 ON RESOURCES AND TRANSPORTATION

ASSEMBLYMEMBER RICHARD BLOOM, CHAIR

WEDNESDAY, MAY 15, 2019

9:30 A.M. - STATE CAPITOL, ROOM 447

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ITEMS TO BE HEARD

VARIOUS DEPARTMENTS

ISSUE 1: MAY REVISION 2019-20 CAP AND TRADE EXPENDITURE PLAN

The Governor's May Revision increases the total Cap and Trade investment proposed in January of \$1 billion by \$251 million to a revised total of \$1.25 billion. The bullets below explain how the increase in funding is proposed to be spent:

- ***Transformative Climate Communities***—One-time increase of \$92 million to support integrated, community-scale housing, transit-oriented development, and neighborhood projects that reduce emissions in disadvantaged areas.
- ***Low Carbon Transportation***—One-time increase of \$130 million for programs that reduce emissions from the transportation sector, with a focus on diesel pollution including: (1) \$65 million to replace and upgrade diesel engines and equipment in the agricultural sector; and, (2) \$50 million to provide incentives for zero-emission trucks, transit buses, and freight equipment. In addition, \$15 million is proposed to help individuals replace old, highly polluting vehicles with newer, more efficient cars and trucks.
- ***Climate Smart Agriculture***—One-time increase of \$20 million, including: (1) \$10 million for the Healthy Soils program; and, (2) \$10 million for methane reduction programs.
- ***Preparing Workers for a Carbon-Neutral Economy***—Ongoing increase of \$8 million to increase job training and workforce development as the state transitions to a carbon-neutral economy. When combined with the funding proposed in the Governor's Budget, this proposal invests \$35 million annually for five years in two key areas: (1) targeted pre-apprenticeship and apprenticeship programs for the construction industry; and, (2) a new High Road Training Partnership program to foster connections between employers, workers, and communities with an emphasis on regions and industries that have been traditionally dependent on fossil fuels.
- ***Transition to a Carbon-Neutral Economy***—One-time increase of \$1.5 million for a study laying out actions the state must take to transition toward a carbon-neutral economy. The study will emphasize environmental and economic programs and policies to dramatically reduce fossil fuel demand by 2050. The study will inform the California Air Resources Board's Scoping Plan, which lays the foundation for achieving California's ambitious goals, including achieving carbon-neutrality by 2045 and reducing greenhouse gas emissions to 80 percent below 1990 levels by 2050.

The following table shows the proposed expenditure plan compared to the January budget:

2019-20 Cap and Trade Expenditure Plan

(Dollars in Millions)

Investment Category	Department	Program	Governor's Budget	May Revision	Total
Air Toxic and Criteria Air Pollutants	Air Resources Board	AB 617 - Community Air Protection	\$200	-	\$200
		AB 617 - Local Air District Implementation (\$50 million total, including other funds)	\$20	-	\$20
		Technical Assistance to Community Groups	\$10	-	\$10
Low Carbon Transportation	Air Resources Board	Clean Vehicle Rebate Project	\$200	-	\$200
		Clean Trucks, Buses, & Off-Road Freight Equipment	\$132	\$50	\$182
		Enhanced Fleet Modernization Program & Transportation Equity Projects	\$50	\$15	\$65
		Agricultural Diesel Engine Replacement & Upgrades	\$25	\$65	\$90
Healthy Forests	CAL FIRE	Healthy & Resilient Forests	\$165	-	\$165
		Prescribed Fire & Fuel Reduction	\$35	-	\$35
Climate Smart Agriculture	Department of Food & Agriculture	Healthy Soils	\$18	\$10	\$28
		Methane Reduction	\$25	\$10	\$35
Short-Lived Climate Pollutants	CalRecycle	Waste Diversion	\$25	-	\$25
Integrated Climate Action: Mitigation & Resilience	Strategic Growth Council	Transformative Climate Communities	\$40	\$92	\$132
	Coastal Commission & BCDC	Coastal Resilience	\$3	-	\$3
	Community Services & Development	Low-Income Weatherization	\$10	-	\$10
	California Conservation Corps	Energy Corps	\$6	-	\$6
Workforce Training	Workforce Development Board	Preparing Workers for a Carbon-Neutral Economy	\$27	\$8	\$35
Climate and Clean Energy Research	Strategic Growth Council	Climate Change Research	\$10	-	\$10
	California Environmental Protection Agency	Transition to a Carbon-Neutral Economy	-	\$1.5	\$1.5
Total			\$1,001	\$252	\$1,253

LAO COMMENTS

The LAO provides the following comments:

Cap-and-Trade Revenue. The May Revision assumes that cap-and-trade auctions will generate nearly \$3.1 billion in 2018-19 and \$2.4 billion in 2019-20—or a total of roughly \$750 million more than the Governor assumed in January. Under these revised estimates, there would be about \$300 million additional revenue available for “discretionary” spending in the budget year or in future years. Our revenue estimates are very similar to the May Revision. The primary difference is that we estimate revenue for the last quarterly auction in 2018-19 (scheduled for May 14th) will be about \$150 million higher than the Governor assumes. This is because: (1) we assume all allowances offered at the advance action are sold, whereas the administration assumes only 43 percent of advance allowances are sold; and, (2) we assume allowances sell for \$17.50 (current auction) and \$17.00 (advance auction), somewhat higher prices than the May Revision assumes (at or slightly above the \$15.62 floor price). Under our estimate, about \$60 million in additional revenue would be available for discretionary spending in the budget year or future years compared to the May Revision estimate. Preliminary results from the May auction are expected to be available on May 21st. We will provide the Legislature with updated revenue information at that time.

Cap-and-Trade Expenditures. The May Revision allocates an additional \$252 million of discretionary cap-and-trade revenues (Greenhouse Gas Reduction Fund [GGRF]) to the following programs: Transformative Climate Communities (\$92 million), agricultural diesel engine replacements (\$65 million), Clean Trucks, Buses, and Off-Road Freight Equipment (\$50 million), Enhanced Fleet Modernization Program and transportation equity projects (\$15 million), Healthy Soils (\$10 million), and agricultural methane reductions (\$10 million). The administration did not provide a clear rationale for why it allocated the additional revenue to this specific mix of programs, or how it determined the specific amount of funding provided to each program. As we discussed in our February budget analysis, we recommend the Legislature allocate GGRF funds according its priorities.

STAFF COMMENTS

The Assembly is developing its Cap and Trade Expenditure Plan.

Staff Recommendation: Hold Open.

8660 CALIFORNIA PUBLIC UTILITIES COMMISSION

ISSUE 2: WILDFIRES AND CLIMATE CHANGE: CALIFORNIA'S ENERGY FUTURE

The May Revision includes 16 positions and \$41.0 million (\$38.0 million in one-time contract authority) in 2019-20, \$3.0 million in 2020-21 and 2020-22, and \$2.9 million on-going to support permanent staff from the Public Utilities Commission Utilities Reimbursement Account to begin the implementation of a five-part action plan aimed at preventing and responding to catastrophic wildfires as laid out in the *Wildfires and Climate Change: California's Energy Future* report released on April 12, 2019.

BACKGROUND

The CPUC has broad powers to regulate investor-owned utilities (IOU's) and ensure that safety is the top priority for the state. SB 901 (Dodd, Chapter 623, Statutes of 2018) requires CPUC to review and approve wildfire mitigation plans (WMP) that are to be submitted to the CPUC annually. The current law requires the CPUC to approve WMPs within three months with consideration given to costs, establishment of memo accounts, and the review for reasonableness of these costs. In addition, the bill also requires the CPUC to:

- Retrospectively determine the maximum amount the IOU's could pay without harming ratepayers and maintaining adequate and safe services.
- Review catastrophic wildfire ratepayer protection financing to allow for cost recovery if the costs and expenses are "just and reasonable," determine fixed recovery charges, and issuance for recovery bonds.

A budget request was submitted to the Legislature requesting 34 positions to perform the work outlined in SB 901. This proposal is currently being heard by the Legislature. These positions focused on WMP reviews to assess public safety. The current request focuses efforts on enforcement activities.

On the following page is a comparison of the two requests:

Division	Positions (SB 901 January Request)	Positions (May Revision Request)
Safety and Enforcement	11 (Safety)	8 (Enforcement)
Energy	2	0
Office of Safety Advocate	4	0
Administrative Law Judge	11	0
Legal	6	4
Policy Positions for Executive Management	0	4
Total	34	16

In addition to the positions requested above, \$25 million is requested for an investigative “swat team” and \$13 million to contract for a wildfire policy development roadmap.

According to the Administration, the report it had prepared calls for CPUC to take on additional responsibilities above the work required in SB 901. These additional responsibilities include establishing a more rigorous wildfire mitigation plan review process, building safer utilities, exploring potential technologies and innovations to reduce wildfire risk and increase utility reliability, and increase inter-agency coordination and planning efforts designed at implementing collaborative measures to reduce wildfire risk and threat. In addition, the CPUC is focused on forward thinking actions and long-term plans to assist with this endeavor that faces California.

The table below lays out the goals for CPUC and associated resources:

<p>Part 1: Catastrophic Wildfire Prevention and Emergency Response.</p> <ul style="list-style-type: none"> • Establish a More Rigorous Wildfire Mitigation Plan Process • Emergency Response 	<ul style="list-style-type: none"> • 8 positions to establish a Division of Emergency Response and Operations. This Division would house the de-energization (Public Safety Power Shutdown (PSPS)) program. • \$25 million in reimbursement authority for immediate boots on the ground contract for enhanced safety protocols. • \$13 million for wildfire policy development roadmap for:
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	<ul style="list-style-type: none"> ○ Long-term action plans – 10+ years vision ○ Wildfire Mitigation Plan evaluation improvements ○ Standards for wildfire hardening based on best processes and lessons learned. <ul style="list-style-type: none"> • 2 Attorneys IVs for state ratemaking: • One Advisory Attorney IV would assist the Commission in supporting the development of utility safety incentives and cost-effective deployment of new technology and innovations in Commission proceedings; and would be responsible for advising decision makers and assisting in the decision making process for ratesetting and rulemaking proceedings related to Catastrophic Wildfire Prevention and Emergency Response. • One Advocacy Attorney would assist the advocacy clients, and appear in and developing the record in the Commission proceedings addressing the development of utility safety incentives and cost-effective utility deployment of new technology and innovations; and would be responsible for representing advocacy clients (e.g. Safety and Enforcement Division, Public Advocates Office) in ratesetting and rulemaking proceedings related to Catastrophic Wildfire Prevention and Emergency Response.
<p>Part 2: Mitigate Climate Change through Clean Energy Policies.</p> <ul style="list-style-type: none"> • Evaluate Resource Adequacy Back-Stop Through the Legislative Process • Address Variability in Generation and Consumption 	<ul style="list-style-type: none"> • Will assess additional resource needs as the long-term implementation plan is developed, in conjunction with the Legislative process.
<p>Part 3: Fair Allocation for Catastrophic Wildfire Damages</p> <ul style="list-style-type: none"> • Principles Underlying a New Approach to Socialization and Stabilizing Costs • Current Framework for Allocation Costs of Utilities-Caused Wildfires • Concepts for a Solution 	<ul style="list-style-type: none"> • Will assess additional resource needs as the long-term implementation plan is developed, in conjunction with the Legislature.
<p>Part 4: A More Effective CPUC with the Tools to Manage a Changing Utility Market.</p> <ul style="list-style-type: none"> • Expand Safety Expertise • Streamline Decision-Making Processes • Consult with experts to 	<ul style="list-style-type: none"> • 2 Attorney IVs <ul style="list-style-type: none"> • One Advisory Attorney IV would assist the Commission in streamlining and reforming the CPUC's procedures to implement safety-related initiatives and requirements more efficiently, by streamlining procedures, drafting legislation, increasing authority to delegate lower level decisions to technical staff, and eliminating unnecessary steps in proceedings which will provide the Commissioners with

summarize best practices that could be applied	<p>discretion to shorten timelines, all while still allowing for streamlined due process.</p> <ul style="list-style-type: none"> One Advocacy Attorney IV would assist the advocacy clients in implementing the streamlining and reforming of the CPUC's procedures. This position would develop strategies to implement safety-related initiatives when bringing and prosecuting enforcement actions and prosecute enforcement actions more efficiently, using streamlined procedures, and respond to delegated lower level decisions of technical staff. 4 Public Utility Regulatory Analyst (PURA) V positions to analyze current processes and develop focused statutory and legislative changes that will create more flexibility and efficiency in processes at the CPUC. Once development was complete, these positions will assist with implementation and future policy changes for the Commission as a pro-active forward-thinking Commission.
Part 5: Holding PG&E Accountable & Building a Utility that Prioritizes Safety	<ul style="list-style-type: none"> Will assess additional resource needs as the bankruptcy progresses.

LAO COMMENTS

The LAO provides the following comments on this proposal:

The May Revision includes \$41 million (Public Utilities Commission Utility Reimbursement Account and Reimbursements) for activities to reduce the risk of utility started wildfires. This includes \$25 million one-time contracting resources to hire a "swat team" of investigators to monitor and enforce utility Wildfire Mitigation Plans (WMPs), \$13 million one-time contracting resources to help CPUC develop a strategy and expertise needed to effectively oversee WMPs, and \$3 million ongoing for additional staff to help oversee utility power shutoffs and reform internal CPUC processes. In concept, we think these activities have merit as part of the state's overall approach to reducing wildfire risk. However, there is no clear implementation plan for WMP enforcement activities or estimates of the outcomes that CPUC expects the swat team to accomplish. In addition, it is unclear how CPUC will use its experience with using the swat team to inform its long-term WMP enforcement strategy. We recommend the Legislature adopt Supplemental Report Language requiring the CPUC to report, by April 1, 2020, on how much contract funding for enforcement it has spent, what outcomes it has achieved, and how the experience will be used to inform the development of ongoing WMP enforcement. This would enhance legislative oversight of WMP implementation and potentially inform future policy changes to improve WMP enforcement.

STAFF COMMENTS

Staff agrees with the LAO's comments. The Administration is requesting \$38 million for undefined activities.

Staff Recommendation: Hold Open.

ISSUE 3: CALIFORNIA LIFE LINE LOCAL ASSISTANCE AND STATE OPERATIONS UPDATE (MAY REVISION)

The May Revision includes \$426.1 million for local assistance and \$27.9 million for state operations for the California LifeLine Program.

BACKGROUND

The Moore Universal Telephone Service Act, in 1984, set the goal of providing high quality telephone service at affordable rates to low-income households. The Act requires the CPUC to annually designate a class of lifeline service necessary to meet minimum residential communications needs, develop eligibility criteria (currently about 150 percent of the federal poverty level), and set rates for the lifeline services, which are required to be no more than 50 percent of the rate for basic telephone service. Over the years, the definition of a “basic service,” has been expanded to include new technologies such as voice, video, and data services.

Revenues to fund the program are collected from a surcharge on telephone bills for non-LifeLine customers. The CPUC adjusts the level of the surcharge based on its projections of the amount of revenue needed to cover the costs of the program. The surcharge is 4.75 percent, effective November 1, 2016.

May Revision Proposes 25 Percent Increase. The Governor's January budget requested \$339.1 million for local assistance and \$23 million for state operations for the California LifeLine Program. The May Revision proposes \$426.1 million for local assistance and \$27.9 million for state operations, an overall increase of \$91.9 million or 25.4 percent compared to the January budget request.

Increase Primarily Due to Pilot Costs. The projected increase in local assistance expenditures is primarily due to costs for two pilot programs that will explore a potential redesign of California LifeLine through partnerships with government (state and local) agencies, non-profit organizations, and facilities-based communications service providers. On April 25, 2019, the Commission approved the two pilots to increase participation which is estimated at \$56 million for 2019-20. The first pilot targets foster youth up to age 26. The second pilot explores expanding participation by using the LifeLine subsidy as a discount towards a wireless plan.

The increase for state operations is primarily due to the costs to conduct outreach for the pilot programs. Specifically, a recently approved pilot that targets California Alternate Rates for Energy (CARE) program participants. Customers are eligible for CARE through income based or if they are enrolled in public assistance programs similar to public assistance programs under California LifeLine. The Commission authorized the energy companies administering CARE to share their participants' information with California LifeLine. For this pilot program, the

Commission will use this information to conduct outreach to CARE participants and inform them about the Boost pilot and the California LifeLine Program. The possible outreach channels include mailing/receiving printed materials, sending/receiving emails and text messages, making/receiving phone calls, and developing a website.

Another driver of state operations costs are the Third Party Administrator (TPA) and Office of State Publishing (CSP) costs. A new TPA contract began in August 2018 with a transition period through March 2019. The new TPA took over all functions beginning in April 2019.

Number of Subscribers Appears to be Stabilizing. As shown in the figure below, the number of wireless and wireline subscribers appears to be stabilizing:

Workload Measure	2015-16	2016-17	2017-18	2018-19 (Projected)	2019-20 (Projected)
Applications Received/Processed	5,748,157	5,244,121	4,251,094	4,072,195	4,072,195
Wireline Subscribers	575,073	464,348	386,451	315,106	250,881
Wireless Subscribers	1,530,872	1,374,419	1,374,419	1,383,884	1,441,398
Total Subscribers	2,105,945	1,838,767	1,694,724	1,698,990	1,692,279

LAO Review Required As Part of the 2018-19 Budget. As part of last year's budget, the LAO was directed to provide an assessment and recommendations related to the CPUC's LifeLine budget and caseload estimates and an assessment of potential factors contributing to current enrollment and renewal rates.

The LAO's review found that caseload forecasts appear to be improving, but significant uncertainty remains and that there are various possible explanations for low enrollment and renewal rates. Currently, about 40 percent of eligible households are enrolled in the program. There are several reasons why an eligible household might not enroll or renew in the program, including that the household might: (1) be unaware of the program or need to renew; (2) prefer a non-LifeLine telephone plan or carrier; or, (3) have difficulty completing the enrollment and/or renewal process. CPUC is currently planning to implement some changes intended to improve enrollment and renewal. However, CPUC has not conducted a large-scale study of the primary reasons why eligible households do not participate in the program.

LAO Recommendations. The LAO recommends the Legislature direct CPUC to conduct a formal evaluation of the major reasons why eligible households do not enroll in the program in order to inform future decisions about potential changes that could improve enrollment.

The LAO also recommends the Legislature consider directing CPUC to:

- Develop a statewide marketing and outreach plan.
- Report on options to make LifeLine more attractive.
- Report on potential changes to enrollment and renewal process.

STAFF COMMENTS

As requested, the LAO reviewed the LifeLine program and made various recommendations to improve enrollment. The program faces challenges in serving its target population in part because it is housed in a department whose primary focus is not low-income individuals. The recently started pilot programs may help CPUC to improve enrollment and retention in the program. It will be important for CPUC to assess the result of these programs. The Subcommittee may wish to ask CPUC to describe the pilot programs and how the efficacy of these programs will be assessed and what the next steps are for these programs.

In addition, through the policy process the Legislature may want to evaluate if the CPUC is the right home for this program. The Governor's report on *Wildfires and Climate Change: California's Energy Future* (April 12, 2019) found that:

"The current structure of the CPUC does not align with California's need for a regulator that can effectively address wildfire safety and can be nimble in today's changing energy market. The CPUC has assumed a greater role in safety regulation, as well as in protecting consumers. However, its structure has not fundamentally changed. Further, its other obligations, including regulation of some transportation industries, telecommunications, and other industries has grown as the demand on the Commission, as the state's regulator of utilities, have increased and become more complicated."

Staff Recommendation: Hold Open.

0555 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

ISSUE 4: PROCESS IMPROVEMENT POSITIONS

A May Revision Proposal requests \$985,000 and 6 positions to implement process improvements that will benefit the boards, departments, and offices within CalEPA. These positions will provide strategic planning leadership, improve internal and external communications, and enhance the coordination of departmental policies at the Agency level.

BACKGROUND

CalEPA, Office of the Secretary. The Office of the Secretary heads CalEPA, overseeing and coordinating the activities of one office, two boards, and three departments (collectively referred to as BDOs). According to CalEPA, the Office of the Secretary currently lacks sufficient support in the following areas: strategic planning, training, contract law, communications, and enforcement coordination.

Need for better coordination and alignment of strategic plans among BDOs. Presently, there are a variety of strategic plans throughout CalEPA and those plans are not consistent across BDOs. None of these plans provide a single overall mission or vision for the agency. In addition, there is no agency-wide staff development and training program. As a result, CalEPA lacks necessary institutional infrastructure. Additionally, CalEPA needs more planning and coordination of partnerships with internal and external organizations, including other state agencies and key stakeholder groups. CalEPA proposes hiring a position that can assist its Communications Unit with developing social media strategies to promote the goals and mission of the agency and effectively communicate with disadvantaged communities. Lastly, CalEPA proposes more coordination of all BDO environmental enforcement programs and requests a position to work under the CalEPA Chief Counsel and provide oversight on inspections, violations, and development and execution of enforcement actions. This proposed position would oversee implementation and compliance with environmental laws and regulatory requirements.

Lean Six Sigma. In looking at models for these needed improvements, CalEPA notes that the Lean Six Sigma process has been utilized for decades in the manufacturing and service sectors. It is supported and sponsored by the California Department of Human Resources. It is a model that is meant to improve all areas of an organization using the expertise of the organization's own employees.

LAO COMMENTS

The broad goals described in this proposal have merit. However, the proposal does not include a detailed description of specific problems being addressed, activities that would be undertaken, or measurable outcomes that CalEPA intends to achieve if the request is approved.

For example, the proposal requests a position to provide leadership in preparing a training program, but does not identify: (1) the type(s) of training that would be provided; (2) the number of state employees in need of specific types of training; or, (3) a time frame for when trainings would commence and be completed.

LAO Recommendation. Before approving this proposal, LAO recommends CalEPA be required to testify in budget subcommittee hearings to provide more details on the existing shortcomings being addressed, activities that would be undertaken, and measurable outcomes that would be established for each of the components of this proposal. This information would better ensure that the Legislature could hold the agency accountable for its implementation of this proposal.

STAFF COMMENTS

Staff concurs with the LAO's assessment. An effort to improve process and coordination is a laudable goal. However, to ensure we are effectually executing this process, the Subcommittee may wish to ask CalEPA to clearly articulate their objectives and how will success be measured.

Staff Recommendation: Hold Open.

3480 DEPARTMENT OF CONSERVATION

ISSUE 5: WELL STATEWIDE TRACKING AND REPORTING SYSTEM

A May Revision Proposal requests \$3,170,000 from the Oil, Gas, and Geothermal Administrative Fund to expand the scope and functionality of the Well Statewide Tracking and Reporting (WellSTAR) System. This proposal also requests the reappropriation of a portion of Item 3480-001-3046, Budget Act of 2018, for the continued development and implementation of the WellSTAR system.

BACKGROUND

The Well Statewide Tracking and Reporting System (WellSTAR). WellSTAR is a comprehensive electronic database currently under development to better handle data collection and analysis, streamline operations and processes, and adhere to requirements prescribed by legislation. WellSTAR is designed to give DOGGR, other state agencies, industry, and the public an integrated information system that provides centralized information on oil and gas production operations. WellSTAR is also meant to address many of the systematic problems within DOGGR, including poor recordkeeping and the lack of modern data tools and systems.

WellSTAR project is on schedule and on budget. According to the December 2018 Independent Project Oversight Report (IPOR) prepared by California Department of Technology, the overall health of the WellSTAR project is “satisfactory,” meaning no corrective action is necessary at this time. For example, the project is operating: (1) on schedule; (2) within the approved budget; and, (3) within the approved scope. The project is also meeting other requirements for a satisfactory rating in seven other areas tracked on IPOR’s independent project oversight dashboard (such as having an approved staff management plan in place).

Recent legislation and regulations necessities changes to WellSTAR design. SB 1493 (Committee on Natural Resources, Chapter 742, Statutes of 2018) revised the due date of Idle Well Fees to allow operators time to report production for the prior year to ensure a more accurate idle well inventory. According to DOGGR, these changes are substantial enough that they have resulted in a rewrite of the Idle Well program and associated business processes, and therefore the current WellSTAR designs no longer meet the current needs of the program.

AB 1420 (Salas, Chapter 272, Statutes of 2016) increased the Department's authority over pipelines and facilities. AB 2729 (Williams, Chapter 272, Statutes of 2016) expanded the Idle Well Program within the Department making significant changes. SB 724 (Lara, Chapter 652, Statutes of 2017) added additional responsibilities for the Department in the areas of pipelines,

facilities, and idle wells. According to the Department, these changes requires the expansion of scope and functionality of WellSTAR.

In addition to the legislative change, the Department also promulgated regulations needed to implement legislative changes relating to the Idle Wells program, Underground Injection Control program, Well Stem, Underground Gas Storage program, and Pipelines and Facilities programs. According to the Department, these changes continued to evolve after the initial WellSTAR design and scope and has resulted in the need for additional functionality to WellSTAR.

STAFF COMMENTS

The Governor's Budget included a WellSTAR BCP to fund the final stage of the WellSTAR project. This May Revision proposals would build on top of that BCP by expanding the scope and functionality. Legislation enacted after the original scope of the project was developed, along with subsequent regulatory changes, have expanded the functionality requirements placed on the Department and the WellSTAR project. Although the existing WellSTAR Information Technology project remains within scope, on time, and within budget as initially planned, the additional functionality requested will incorporate enhancements necessary to meet the requirements of recent regulatory and legislative changes.

The Subcommittee may wish to ask how the Department is thinking of designing WellSTAR to anticipate potentially additional changes.

Staff Recommendation: Hold Open.

3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

ISSUE 6: EMERGENCY DEBRIS CLEANUP AND RECOVERY

A May Revision Proposal requests \$2,782,000 and 21.5 positions for CalRecycle to establish a dedicated team to help facilitate timely, safe, and effective debris removal operations as well as to assist local governments in the preparation of Debris Removal plans for future incidents.

BACKGROUND

Management of debris from disasters. California experiences a wide range of natural and man-made disasters that often create significant quantities of debris, which can include ash, metal, concrete, building materials, soils, and hazardous materials. Debris generated by a disaster incident must be removed, recycled, or disposed of expeditiously in order to reduce threats to public health and safety and the environment, and assist communities impacted by these disasters efficiently recover and rebuild.

Challenges with debris management. Debris management poses challenges for state, local, and tribal agencies and governments in terms of available resources for debris management operations, appropriate procurement and management of contractors, reduction of debris volume, disposal and segregation, handling and disposal of household hazardous waste, and other hazardous materials. There are also legal requirements to recycle applicable material into appropriate waste streams, and specific environmental issues that need to be evaluated for compliance.

CalRecycle tasked with overseeing debris removal operations. Debris management operations are the responsibility of the affected jurisdiction. Affected jurisdictions are responsible for organizing recovery operations from disasters, including debris removal operations, in accordance with a debris management plan. However, at the request of the state, the federal government may provide assistance for debris management following a Presidential declaration of emergency or major disaster, in response to a Governor's declared State of Emergency and an assistance request from a local government, CalOES has regularly tasked CalRecycle to organize, manage, implement and oversee debris removal operations in support of a local government.

CalRecycle does not have permanent staff for debris removal. CalRecycle has limited staff and no formalized program, division, structure or processes to organize and oversee debris removal operations. CalRecycle has implemented its disaster debris removal operations by drawing from personnel dedicated to non-emergency mandated programs within CalRecycle. These operations have utilized staff resources from within every CalRecycle division and office.

Wildfires and subsequent debris removal projects are no longer abnormal, and are occurring with more frequency and intensity every year. CalRecycle workload has increased significantly as a result of multiple, large, and simultaneous disaster incidents. There is little or no CalRecycle resources available to provide adequate opportunities to train, and otherwise support, local governments to implement their own independent efforts to remove debris.

The work of staff redirected to debris projects must be delegated to others, delayed until staff return to their original duties, and is sometimes not completed. This work includes jurisdiction compliance reviews, inspections of facilities, landfill closures, and successful implementation of many other core CalRecycle programs.

Debris removal needs will likely continue. CalRecycle has conducted debris removal operations for 22 incidents since 2007, and eight of the 22 incidents occurred in 2018 alone. The majority of incidents CalRecycle has responded to are the result of destructive wildfires. These wildfires have increased significantly in magnitude, cost, duration and frequency. The Camp Fire is the most deadly and destructive wildfire in California history to date, over 18,000 structures were destroyed and 86 people died in the fire. At an initial estimate of \$2 billion, the Camp Fire debris removal project will be the most expensive disaster cleanup in California history.

The May Revision proposes to provide additional resources to enable CalRecycle to continue to provide debris removal services and assistance to local governments in order to facilitate timely, safe, and effective debris removal operations, as well as assist local governments in the preparation of Debris Removal plans for future incidents. This will not only provide for efficient operations in the event of a future incident, it may also entitle the state or local jurisdiction to additional FEMA reimbursements, as well as decrease costs overall by having pre-approved private public partnerships, Master Services Agreements, and a directory of local resources and infrastructure that may be utilized in a cleanup.

STAFF COMMENTS

The requested positions would be used to formally establish a team to respond to local government requests for technical assistance, provide guidance when developing disaster recovery plans, and support CalRecycle's response to emergency mission tasking for state-operated disaster removal programs.

This proposal is part of the Administration's larger Disaster Preparedness, Response, and Recovery May Revision package. The May Revision includes resources for various departments to enhance the state's disaster response preparedness and support the continuity of state government during disasters.

Staff Recommendation: Hold Open.

3810 SANTA MONICA MOUNTAINS CONSERVANCY

ISSUE 7: WOOLSEY FIRE RESTORATION AND RECOVERY

A May Revision Proposal requests \$15 million General Fund one-time and two positions (5 year-limited-term) to cover the costs of the Woolsey Fire.

BACKGROUND

Damages and safety concerns from the Woolsey Fire. The Woolsey Fire damaged tens of thousands of acres of Conservancy property including buildings, trails, trailheads, and public amenities. Soon after the fire, the rainy season compounded the damage with mudflows and slides. Several properties owned by the Conservancy were, and continue to be, evacuated while an assessment of the damage continues and utilities remain cut off. There are several safety concerns that must be addressed immediately and regular and frequent protective actions are necessary to prevent further damage and protect the public and employees. The Conservancy has begun to assess the damage and will develop a recovery and restoration plan. The plan will include the replacement, rebuilding, and repair of capital assets such as buildings and visitor serving amenities, as well as restoration activities for parkland and open space. Examples include culvert repair and/or replacement, fire break road repair, sign and kiosk replacement, soil testing, active and passive restoration.

Priority list for recovery and restoration. The following park locations have already been identified as priorities for this request, and more will be added as additional locations are assessed:

- Ramirez Canyon Park (Conservancy Headquarters)
- Cameron Nature Preserve at Puerco Canyon
- Charmlee Wildness Park
- Corral Canyon Park - Sara Wan Trailhead
- Escondido Canyon Park
- Fran Pavley Meadow
- Las Virgenes View Trail
- Liberty Canyon Trailhead
- Triunfo Creek Park
- Upper Las Virgenes Canyon Open Space Preserve (formerly Ahmanson Ranch)
- Zev Yaroslavy Las Virgenes Highlands Park

STAFF COMMENTS

The requested funding would allow the Conservancy to address safety concerns, assess the damage, and implement a restoration and recovery plan.

Staff Recommendation: Hold Open.

3540 DEPARTMENT OF FORESTRY AND FIRE PROTECTION

ISSUE 8: COMMUNITY WILDFIRE PREVENTION AND MITIGATION REPORT: CALIFORNIA VEGETATION TREATMENT PROGRAM ENVIRONMENTAL IMPACT REPORT

A May Revision Proposal requests \$730,000 one-time General Fund to complete the revision and certification of the California Vegetation Treatment Program Environmental Impact Report.

BACKGROUND

California Vegetation Treatment Program Environmental Impact Report (CalVTP). The Board of Forestry and Fire Protection has been working on the CalVTP for over a decade. The CalVTP represents more than a decade of work analyzing potential environmental effects associated with vegetation management aimed at reducing wildland fire risk across the state. The CalVTP plays a critical role is assisting CalFire in increasing the pace and scale of vegetation management while also maintaining California's diverse vegetation and habitats.

Upon certification, the CalVTP will facilitate timely implementation of wildland urban interface vegetation reduction projects, fuel breaks to assist in wildland fire suppression efforts, and support ecological restoration projects.

STAFF COMMENTS

The funds requested will enable the Board to continue contracts with outside legal counsel and environmental experts to complete the revision and certification of the CalVTP. The CalVTP will enable CalFire and other partner agencies to increase the pace and scale of fire prevention activities and help achieve statewide forest management targets as recommended in the Forest Carbon Plan.

Staff Recommendation: Hold Open.

ISSUE 9: ENHANCED FIRE PROTECTION MAY REVISION UPDATE: C-130 FEDERAL AIR TANKERS

A May Revision Proposal requests \$4.6 million in 2019-20, \$4.6 million in 2020-21, and \$2.2 million in 2021-22 to fund an Exclusive Use C-130 Contract-Training Platform to support CalFire's Large Air Tanker C-130 Program.

BACKGROUND

The National Defense Authorization Act of 2019. The NDAA of 2019 passed in August of 2018, which allocated seven C-130 aircrafts from the United States Coast Guard to CalFire. These C-130s will be modified for firefighting purposes and equipped with a retardant drop system.

Governor's Budget proposed resources to support the deployment of seven C-130s. The Governor's Budget included \$13.1 million and six positions to support the deployment of the seven C-130s allocated to CalFire by the federal government. The BCP noted that the ongoing training needs identified were based on the assumption that CalFire would receive one C-130 in 2019-20. According to CalFire, discussions with the federal government concluded in March 2019, and the schedule acceleration did not occur as anticipated, resulting in a need for a May Revision budget request.

Exclusive use contract for a C-130 training platform. According to CalFire, they need access to the training platform in 2019-20 to have flight crews fully trained and prepared in anticipation of the first C-130 being delivered in 2020-21. Not having access to this training will result in delivered C-130 without properly trained crews, delaying operations for up to two years. The training platform will be provided by a third-party vendor, and includes C-130 flight instructors to provide training for new and existing pilots, C-130 qualified mechanics to work with existing mechanics to gain C-130 familiarization training, and an on call 4,000-gallon LAT for actual wildfire firefighting missions.

LAO COMMENTS

CalFire asserts that the proposal is cost neutral since the department would likely contract for a similar air tanker for use during the peak fire season. However, the LAO finds the backup data to support the concept of this proposal being cost neutral is inconclusive. While the cost of the C-130 training aircraft is likely to be offset to some degree by savings from reduced emergency fire suppression expenditures, the amount of offsetting savings is unknown and will depend on the severity and fire response needs in the upcoming fire seasons. The LAO recommends the Legislature to align its actions on this proposal with actions on the broader proposed C-130 air tanker program. The LAO continue to think that the Legislature will want to weigh the costs and

potential benefits of the proposed enhanced fire protection resources, including the C-130 air tanker program, against other options for addressing wildfires.

STAFF COMMENTS

CalFire had planned to use the anticipated C-130 in 2019-20 as a training platform. Since discussions with the federal government finalized and it is confirmed that we will not receive a C-130 in 2019-20, CalFire is requesting additional funds to enter into an exclusive use contract for training.

Staff Recommendation: Hold Open.

ISSUE 10: OFFICE OF THE STATE FIRE MARSHAL, FIRE AND LIFE SAFETY DIVISION

A May Revision proposal requests:

- \$2.2 million (\$531,000 General Fund, \$133,000 Special Fund, and \$1.5 million reimbursements) and eight positions to support the Office of the State Fire Marshal's Fire and Life Safety Division's increased workload.
- \$500,000 one-time General Fund for an analysis of the Division's fee structure and a contract with the California Attorney General's office to analyze and provide clarity for specific statutory issues that relate to and impact the OSFM's jurisdiction.
- Trailer Bill Language to help define and clarify the Division's mission and responsibilities.
- Various technical changes included in the 2018-19 Budget.

BACKGROUND

Office of the State Fire Marshal's Fire and Life Safety Division's (Division). The Division enforces laws and regulations related to fire prevention, life safety, fire protection systems, building construction, and protection. As such, the Division is responsible for the approval of construction, repair, remodel, addition, or change of occupancy of most state-owned and occupied buildings in California. The Division is responsible for periodically inspecting state-owned and occupied buildings, providing fire and life safety oversight at large special events on state property, providing training on state regulations to local jurisdictions, and doing damage inspection reports, which provide an evaluation of the fire damage to structures within a specific fire perimeter. The largest proportion of the Division's workload is dedicated to plan reviews and construction inspections.

The Division's inspection duties are extensive. In addition to inspection of state-owned buildings, the Division is also responsible for inspecting buildings in which the state leases space. This includes the points of entry and paths of ingress and egress to the space leased by the state to ensure they are compliant with the state's fire and life safety laws and regulations. The Division is also responsible for inspecting all trial court facilities. Many of the trial court facilities are considered high-rise structures, which triggers more rigorous annual inspections.

All of the airspace under the highways and freeways in California are state-owned and are frequently used to operate facilities to support Caltrans' operations, which includes storage of equipment and utility vehicles. Through delegated authority, Caltrans also leases some airspace to external entities for a variety of purposes, including for business and commercial use. The Division maintains the responsibility to conduct regular inspections of the Caltrans airspace, despite the existence of the lease agreements, because the ownership of the airspace still ultimately lies with the state. The Division has the responsibility to enforce fire and life safety standards at special events that occur on state-owned property. For some events, the Division's

involvement is limited to review of the event permit application materials and approval or denial of the event permit based on the information provided. However, many events occur on state-owned property that involve significant infrastructure or special features, such as fireworks displays and concerts. These require a more intensive review, as well as site inspections by Division staff. Additionally, Division staff frequently attend the special events and fireworks displays to support the event operator in maintaining compliance with applicable laws and regulations and to respond to any fire and life safety risks that present during the course of the events.

Mission-Based Review process. The Division is currently undergoing a mission-based review process with the Department of Finance. The goal of this review is to determine the appropriate level of resources needed to implement OSFM Division's services and programs. The mission-based review process has identified a significant amount of management time was spent addressing administrative issues, thus decreasing the amount of time available for program implementation. The mission-based review process also conducted an analysis of the fee structures of other outside entities performing similar services and activities was conducted and found that the Division's approach of applying a single hourly rate to all billable services and activities is inconsistent with standard industry practice. This has led to significantly disparate costs for comparable work on similar projects in terms of scope, and has also resulted in budgeting difficulties related to Division's costs on individual projects.

STAFF COMMENTS

Staffing levels at the Division had not kept pace with their increasing workload due to population growth and the growth of state agencies. As such, there was a backlog of plan reviews, construction inspections, and mandated interval inspection activities. As a result of the ongoing mission-based review, the Budget Act of 2018 included resources to begin addressing the staffing and resources needs. This May Revision proposal is a result of the continuing mission-based review process and seeks to implement the findings of this effort so far.

Staff Recommendation: Hold Open.

ISSUE 11: OFFICE OF THE STATE FIRE MARSHAL, LICENSING AND CERTIFICATION FUND PROGRAM

A May Revision Proposal requests \$1.1 million State Fire Marshal Licensing and Certification Fund (L&C Fund) and four positions in fiscal year 2019-20 and \$1.1 million L&C Fund and five positions ongoing to support the Office of the State Fire Marshal Fire Engineering and Investigations Division's Licensing and Certification Program.

BACKGROUND

Office of the State Fire Marshal's Fire and Life Safety Division's (Division) oversees 11 licensing programs. The Division enforces laws and regulations related to fire prevention, life safety, fire protection systems, building construction, and protection. The Division is responsible for overseeing 11 licensing and certification programs. This includes the Building Materials Listing Program, the Flame Retardant Program, Automatic Extinguishing Systems, Fire Extinguishers, Pyrotechnics, Laboratory Accreditations, Motion Picture and Entertainment, and Vapor Recovery. Each program either licenses an individual to perform a related service or certifies the safety of a product that the citizens of California will use. The programs are funded by the collection of fees associated with the licensing and certification of related products and services.

Building Materials Listing (BML) Program. The BML Program ensures that fire alarm systems and fire alarm devices are tested and approved before any marketing or sale of the product occurs in California. The program has expanded to include several other materials such as roof coverings, wall finish materials, insulating products, and fire doors and dampers. The approval and listing of each product is based on an evaluation of test results that include an analysis of required performance and reliability features. California law requires these products, and other related products, be tested by an OSFM accredited laboratory before any company may begin to sell or market the products.

Flame Retardant (FR) Program. The FR Program issues certificates of registration for flame-retardant chemicals, nonflammable materials, fabrics that have been treated with flame-retardant chemicals, and individuals or companies that apply flame-retardant chemicals. All approved and registered flame-retardant chemicals, nonflammable materials, and treated fabrics are first subjected to testing by an OSFM accredited laboratory where they must satisfactorily demonstrate flame-retardant capabilities.

Current fee structure no longer support association operational costs. Over the years, both operational costs and workload have increased while revenue has failed to increase commensurately due to the static fee structures. To help offset this imbalance between workload and revenue, the Division has left positions vacant while also reducing operating expenditures. The Division is currently engaged in a collaborative mission-based budget review with the

Department of Finance. This process identified the need for the additional resources to address urgent programmatic challenges resulting from critical staffing deficiencies and increases in workload.

STAFF COMMENTS

This request is also a result of the mission-based budget review process and addresses needs in the Building Materials Listing Program and Flame Retardant Program. The additional funding and positions requested will be supported through increased fee revenues.

Staff Recommendation: Hold Open.

ISSUE 12: INNOVATION PROCUREMENT SPRINT

A May Revision Proposal requests \$15 million to enable CalFire to procure innovative solutions to combat the state's wildfire crisis consistent with Executive Order N-04-19. It is also requested that provisional language be added to allow for augmentations of this amount as necessary under specified conditions.

BACKGROUND

Executive Order (EO) N-04-19. The EO directed CalFire, in collaboration with the California Department of Technology (CDT) and Department of General Services (DGS), to engage in a modified procurement process to identify solutions to the state's wildfire crisis. This approach would grant broad authority to CDT and DGS to utilize flexible approaches on behalf of the state and other state agencies. The first innovative solutions procurement process will be executed by CDT and DGS on behalf of CalFire to identify innovative solutions to the threat of catastrophic wildfires.

The Request for Innovative Ideas was issued on March 22, 2019. The following problem state was issued with the requests solutions: *"If not immediately notified by a 9-1-1 caller, first responders and decision makers are faced with challenges related to early wildfire detection, ability to adequately dispatch the most appropriate emergency resources to the scene of an emergency, and the ability to make appropriate public notifications. Those decision makers are further challenged to make a definitive prediction of the path of travel of a wildfire based on the materials or fuels burning, the current and predicted weather factors based on California's climate zones and micro climates, and the topography in which a fire is burning."* Interested innovators with solutions to all or part of the problem statement were encouraged to submit their proposals to DGS by April 24, 2019. Innovative ideas that pass an initial evaluation by the state will be invited to demonstrate their proposed solutions with a prototype deployment between July and October 2019. Based on those prototype evaluations by the state, one or more contracts will be awarded in spring 2020.

Requested funding represents a starting appropriation for proof of concept as well as for awarding the contract. This proposal requests authority of up to \$5 million to innovators to support the proof of concept phase with provisional language to augment this amount as necessary after the required 30-day legislative notification process has occurred. The Administration anticipates that one or more contracts may be awarded to innovators with identified solutions to the problem statement that were successful during the prototype evaluation phase as early as spring 2020. The total cost of the innovative solutions have not been finalized. The request for \$10 million for CalFire to enter into contracts with successful innovators is a starting point. This request includes provisional language to augment this amount, as needed, based on the number of contracts and total cost. Augmentation will require

Department of Finance approval and legislative notification. It should be noted that it is possible that the innovative solutions identified could require staff resources to support implementation. If this is the case, CalFire will utilize a portion of the \$15 million to hire temporary help staff, as applicable, in fiscal year 2019-20. Any ongoing resources needed to implement the innovative solutions would be requested in a future budget proposal.

LAO COMMENTS

While the LAO recognizes the potential benefits of piloting a new procurement approach, the LAO finds the proposed provisional language to raise two major concerns. First, the provisional language allows the administration to augment the funding by an unlimited amount upon notification to JLBC (in some cases with only a 15 day notification). Given the uncertainty around the types of technologies or solutions that might result from the innovative procurement approach, some flexibility in funding may be reasonable. However, providing an unlimited potential augmentation of funds outside of the traditional budget process significantly limits the Legislature's role. Second, given the confidential nature of the ongoing procurement process, the Administration has not provided any details on the types of technologies or solutions it might select with these funds, and the proposed provisional language does not include a requirement to report on these details. Without details on how the funds might be spent it will be difficult for the Legislature to weigh the potential benefits against other budgetary priorities.

Based on these concerns, the LAO recommend modifying the proposed provisional language to: (1) specify a cap on the total level of augmentations that can be authorized; (2) require 30 day notification and review periods, rather than a 15 day period; (3) require CalFire to provide an update to the JLBC on the procurement process and the number and types of technologies being considered upon conclusion of the initial evaluation of proposals; and, (4) require CalFire to provide a description of the outcomes of field testing of any technologies or solutions before entering into any contracts beyond the initial proof of concept.

STAFF COMMENTS

This procurement process is unusual and makes it very difficult for the Legislature to evaluate its merits.

Staff Recommendation: Hold Open.

3860 DEPARTMENT OF WATER RESOURCES

ISSUE 13: DAM SAFETY RISK MANAGEMENT

A May Revision Proposal requests \$1.625 million ongoing from the Dam Safety Fund and 6 positions to incorporate Risk Informed Decision Making into the California Dam Safety Program. This proposal also requests that the remaining three years of \$1.625 million annual payback of the General Fund loan made in 2017-18 be forgiven to offset dam safety fee impacts to dam owners. The total balance of \$4.875 million from the original \$6.5 million loan.

BACKGROUND

California Dam Safety Program. The Division of Safety of Dams (DSOD) regulates approximately 1,250 non-federal dams, of which about 650 dams are classified as high or extremely-high hazard. This program is the only State-level regulatory program with respect to dam safety. The hazard classification indicates the potential for life and property loss downstream of the dam if it were to fail. Because hazard classification is not an indicator of dam condition or likelihood of failure, DSOD conducts inspections and reevaluations to make needed assessments with respect to dam safety and to support its mission of protecting life and property from dam failures.

Dam Safety Reevaluation Program. DSOD began conducting reevaluations in the late 1960's to identify potential dam safety deficiencies at jurisdictional dams in support of its mission. Reevaluation programs have used a traditional standards based assessment approach focused on specific failure modes and maximum loading conditions (e.g. extreme floods, maximum earthquakes). Thus, DSOD has historically focused on earthquake-related risks at dams given the statewide seismic regime. Other focused reevaluation efforts have been initiated in response to lessons learned from incidents such as the radial gate reviews (Folsom Dam, 1995) and the recent spillway reevaluations (Oroville Dam, 2017). Generally, 10 to 20 dams are reevaluated annually by DSOD. Until 2017-18, DSOD did not have dedicated resources for reevaluation studies. The number of reevaluation reviews was largely governed on an annual basis by the workload associated with time sensitive application reviews that included design and construction reviews of new dam construction and the repair, alterations, enlargements, and removals of existing dams.

Dam fees. Annual fees paid by dam owners fully support the Dam Safety Program. Dam fees have increased recently about 55-percent because of recent dam safety mandates and requirements (e.g. inundation maps, spillway reevaluations, etc.), and some owners are also financing other DSOD directives, such as necessary investigative field studies, engineering analyses, and repair work related to spillways.

Industry Development of Risk-Informed-Decision-Making. Various organizations, including the US Army Corp of Engineers, observed that the traditional standards-based approaches to dam safety reevaluations are inefficient and slow in identifying deficiencies. They found that dam safety incidents often occur from deficiencies that were not identified through focused reviews. They needed an efficient and consistent method to comprehensively review dams, identify all potential failure modes, and rank dams by their risk. Risk-Informed-Decision-Making (RIDM) was developed as a method to solve these needs and to formalize a process for repeatability and consistency. Risk is the product of the following three components: (1) likelihood of a loading condition; (2) likelihood of failure occurring for the load (e.g. dam performance); and, (3) the downstream consequence of that failure in terms of lives and property losses. RIDM uses the evaluated risks to prioritize additional detailed analyses. Additionally, RIDM facilitates communication of the risks across a portfolio of dams to increase awareness, inform risk reduction measures or repairs, and aid owners in securing funding for repairs.

RIDM recognized as a best practice in dam safety organizations. The U.S. Bureau of Reclamation (USBR) and U.S. Army Corps of Engineers have adopted RIDM within the last 20 years and have acknowledged this significant effort has tremendous benefits. The USBR has a portfolio of 366 high hazard dams, and it has taken nearly 20 years to mature its RIDM program using dedicated staffing and funding resources. These 366 high hazard dams have now been comprehensively reviewed three times, with an expectation that each dam is periodically assessed once every six (6) to eight (8) years. Their process informs the decision of detailed evaluations needed, helps prioritize funding for repairs, and provides confidence that they are identifying and addressing the critical risks associated with their dams.

Cumulative impacts to dam owners. In addition to the recent 55-percent annual dam fee increase, some owners are also financing other DSOD directives, such as necessary investigative field studies, engineering analyses, and repair work related to spillways. Funding the proposed initiative would require an additional 10-percent fee increase in 2019-20, which would equate to an overall 30-percent fee increase in 2019-20. Given the cumulative fiscal impacts on dam owners, DWR is proposing to offset the additional 10-percent fee increase by forgiving the 2017-18 General Fund loan balance of \$4,875 million. Revenue collected through fees for the loan payback of \$1.625 million annually for the next three years would be used to fund this request without any additional impacts to owners.

STAFF COMMENTS

RIDM is now considered a best practice and will likely become the standard of practice worldwide in the coming decade. Approving this request would enable DWR to incorporate RIDM into the Dam Safety Program.

Staff Recommendation: Hold Open.

ISSUE 14: OPEN AND TRANSPARENT WATER DATA ACT (AB 1755)

A May Revision Proposal requests \$1,058,000 from the Environmental License Plate Fund annually for four years to implement the Open and Transparent Water Data Act

BACKGROUND

Open and Transparent Water Data Act. The Open and Transparent Water Data Act was established by AB 1755 (Dodd, Chapter 506, Statutes of 2016). AB 1755 required DWR, in consultation with the State Water Resources Control Board, the Department of Fish and Wildlife, and the California Water Quality Monitoring Council to create and maintain a statewide integrated water data platform by August 1, 2020, based on a specified schedule. AB 1755 included a September 1, 2019 deadline to make state statute-compliant datasets available and an August 1, 2020 deadline to make federal statute compliant datasets available. Achieving these statutory deadlines requires coordination with the state agency partners, federal agencies, and stakeholders to iteratively develop and improve water data publication practices and standards for use across California to support the discoverability and interoperability of water data. DWR is requesting funding to support collaboration on and periodic update of protocols for data sharing, documentation, quality control, and public access; coordinated operation, maintenance, and federation of existing portals and addition of new portals; and work with stakeholders to produce usable and useful data to inform water management decisions.

STAFF COMMENTS

Funding for this effort was provided in the Budget Act of 2017 and 2018. The Department had anticipated philanthropic donations to support this effort, which has not materialized. This request is made to enable DWR to fulfill the two statutory deadlines prescribed in AB 1755 and allow the Water Board, DWR, and DFW to continue building the database and maintenance of the IT system.

Staff Recommendation: Hold Open.

3600 DEPARTMENT OF FISH AND WILDLIFE
3790 DEPARTMENT OF PARKS AND RECREATION
0540 NATURAL RESOURCES AGENCY

ISSUE 15: ADULT USE OF MARIJUANA ACT: PROGRAM CONTINUATION AND ENHANCEMENT

The May Revision includes \$45.1 million in CA Marijuana Tax Fund and 132 positions for a variety of activities aimed to support clean-up, remediation, enforcement, and restoration of damage affected by cannabis cultivation. Specifically, the resources are provided as follows:

- \$5.3 million in Cannabis Tax Fund for CNRA to support youth community access grants. These grants will fund programs to support youth access to natural or cultural resources, with a focus on low-income and disadvantaged communities.
- \$23.9 million in Cannabis Tax Fund and 79 positions for DFW to perform to conduct enforcement, remediation and restoration activities.
- \$15.9 million in Cannabis Tax Fund and 53 positions for Parks to conduct enforcement, remediation and restoration activities.

BACKGROUND

Cannabis Tax Fund. Proposition 64 imposed excise taxes on the cultivation and retail sale of both adult-use and medicinal cannabis with tax revenues being deposited into the Cannabis Tax Fund. Proposition 64 specified the allocation of resources in the Cannabis Tax Fund. A specified percentage of the funds go to DFW and Parks for cleanup, remediation, and restoration of environmental damage in watersheds affected by cannabis cultivation. As well as for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cannabis activities on public lands, in addition to other enforcement efforts.

DFW's plan to use Cannabis Tax Funds. DFW will receive \$23.9 million in Cannabis Tax Fund and 79 positions in 2019-20 and intends to use those resources as follows:

- **\$13.8 million for Remediation and Restoration.** These funds will be used to support clean-up, remediation, and restoration of damage in watersheds affected by illegal cannabis cultivation:
 - Continue to provide funding through the Cannabis Restoration Grant Program for cleanup, remediation, and restoration projects to address statewide environmental impacts from cannabis cultivation.

- Develop and implement a pilot monitoring and assessment program to evaluate cannabis cultivation impacts on fish and wildlife throughout the state to help inform where to prioritize DFW cannabis activities.
- Add scientific staff to assess environmental damage from cannabis cultivation.
- Add resources to implement and coordinate with other state and local agencies on data efforts.
- Assess, clean up, remediate, and restore affected DFW properties from illegal cultivation throughout the state.
- Secure property boundaries and increase staff patrols to discourage illegal trespass cultivation.
- **\$10.1 million for Enforcement.** These funds will be used to support enforcement activities aimed at preventing further environmental degradation of public lands. DFW works collaboratively with SWRCB and other federal, state, and local agencies to address statewide environmental impacts from illegal cannabis cultivation. These resources will enable DFW to:
 - Add law enforcement to respond to illegal cultivation on DFW and public lands.
 - Add additional law enforcement to address cleanup and remediation on private properties.
 - Add support positions for more efficient enforcement operations, including minimizing risks to DFW and allied agency personnel.

Park's plan to use Cannabis Tax Funds. Parks will receive \$15.9 million in Cannabis Tax Fund and 53 positions in 2019-20 and intends to use those resources as follows:

- **Assessment and Program Development (\$7.1 million).** Many illegal cannabis grow sites within units of the state park system are unknown to staff as Parks' current approach to identifying grow sites is reactive. Parks has not fully evaluated the environmental impacts of many illegal grow sites after the initial removal of plants due to a lack of dedicated staffing. With these resources, Parks will develop a multi-disciplinary task force to assess the environmental impacts of illegal cannabis cultivation in the state park system, develop and implement methods of better identifying illegal grows and establish staffing requirements necessary to meet program needs in future years.
- **Ingress and Egress (\$3.2 million).** Illegal grows in the state park system are largely conducted in areas with the least accessibility. Resources dedicated to ingress and egress will be used to develop methods of entry for park rangers and remediation teams who cannot currently access areas in order to patrol them and provide cleanup activity at identified grow sites. These resources will provide for brush removal, downed tree removal, drainage maintenance, and both foot and vehicle access.

- **Remediation and Restoration (\$5.6 million).** Resources in this category will be used for projects to clean up and restore the natural environment in areas where illegal grows have been identified. Parks has identified over 240 individual remediation and restoration projects in districts affected by illegal grows with an estimated total completion price of \$50 million. Parks estimates the resources dedicated to this category will be sufficient to complete 20 to 25 projects. Parks estimates the average remediation project will take two years to complete based on the complexity of conducting restoration projects in environmental sensitive locations. It is estimated that the number of total remediation and restoration

STAFF COMMENTS

The Cannabis Tax Fund is continuously appropriated, meaning no action from the Legislature is needed to spend the funds. However, the Legislature has a role in authorizing position authority. The Subcommittee may wish to ask how Parks and DFW intend to use the positions and how they are coordinating on environmental protection and enforcement activities as they relate to illegal cannabis cultivation.

Staff Recommendation: Hold Open.

3600 DEPARTMENT OF FISH AND WILDLIFE

ISSUE 16: ERSKINE LAND RESTORATION

A May Revision Proposal requests \$325,000 General Fund to fulfill its contractual obligation to the United States Department of the Interior, Bureau of Land Management under an existing Recreation or Public Purposes Lease.

BACKGROUND

A Recreation or Public Purposes Lease and a Cooperative Agreement. In 1987, DFW entered into a Recreation or Public Purposes Lease with the Bureau of Land Management (BLM) for a property located near Lake Isabella, Kern County, California. At approximately the same time, DFW entered into a cooperative agreement with the Mountain Valley Bow Hunters dba Kern River Archers (Archers) for the development and management of an archery range. The parties subsequently renewed both agreements. DFW renewed its lease with BLM on May 11, 2007, for a period of 25 years subject to all the original terms and conditions. DFW last renewed the cooperative agreement with the Archers in 1992. Although it states a term of five years, the parties continued to operate under the 1992 terms and agreement.

The In-Lieu of Rent Arrangement. Federal rules allow BLM to lease property under a Recreation or Public Purposes Lease to government entities without imposing rent. With Department of General Services (DGS) approval, DFW entered into the cooperative agreement with the Archers in an in-lieu of rent arrangement whereby the consideration by the Archers was to develop and maintain an archery range opened to the public. All three parties entered into these agreements with the understanding that DFW's role was passive. It did not develop, manage, or maintain the site.

One of the provisions of the BLM lease agreement states: *"(that upon the termination of this lease by expiration, surrender, or cancellation thereof, the lessee [CDFW], shall surrender the possession of the premises to the United States in good condition and shall comply with such provisions and conditions respecting the removal of the improvements of and equipment on the property as may be made by an authorized officer..."*

Erskine Fire. On June 23, 2016, a wildfire occurred in the Lake Isabella area, known as the Erskine Fire, which destroyed over 300 structures and killed two individuals. The Kern County Fire report determined that the source of the fire originated when an electrical line rubbed against a tree located on the archery property. The Archers installed the line as a drop line from the main utility line to bring power to an outbuilding. Numerous claims were filed with the California

Government Claims Program and parties are currently trying to resolve the claims as part of a complex mediation.

Notice to Terminate the Agreements. In April 2017, DFW sent notice to both BLM and the Archers that it wanted to terminate the agreements. DFW partially extended the termination date of the cooperative agreement with Archers numerous times to prevent evidentiary issues with spoliation of evidence and to allow the Archers and BLM to explore a direct contractual relationship. BLM notified DFW that it would not accept DFW's surrender of the property until restoration of the property occurs. In April 2018, DGS provided an estimate cost of removal of the improvements and restoration of the property in the amount of \$320,600.

The Archers and BLM have made no progress toward reaching a direct contractual relationship over the nearly two years since DFW provided them with notice of its desire to terminate the agreements. Therefore, DFW did not extend the termination date of the cooperative agreement beyond March 31, 2019. DFW remains obligated to BLM for the restoration of the property and is not able to dissolve the lease and reduce future liability until the property is restored.

Erskine Fire Claims against the State. The Archers is a nonprofit organization and has minimal financial resources. As such, individuals affected by the 2016 Erskine Fire filed claims against the State of California and DFW seeking to recover damages. DFW seeks to limit its liability exposure in the event of any subsequent wildfire. The most effective way to limit liability is to terminate the cooperative agreement with the Archers and surrender the property back to BLM. BLM requires the property to be restored to its pre-lease condition before it will accept DFW's surrender.

STAFF COMMENTS

The funding would be used to conduct remediation of the site and remove CDFW from further involvement in the site, which was the source of a destructive wildfire in 2016.

Staff Recommendation: Hold Open.

3790 DEPARTMENT OF PARKS AND RECREATION

ISSUE 17: PUBLIC SAFETY EMERGENCY RESPONSE

A May Revision Proposal requests \$3,873,000 one-time from the General Fund to enhance its emergency response efforts. This funding will provide multi-band portable radios, two incident command trailers with tow-vehicles, two inflatable rescue boats and rescue paddleboards with a cargo trailer, and flame retardant clothing.

BACKGROUND

DPR has a fleet of public safety equipment. DPR operates a fleet of marine vessels, aircraft, fire apparatus and other public safety equipment to protect the natural and cultural resources at more than 280 park units, which provide direct service millions of visitors, and the surrounding communities. These are specialized equipment and apparatus and are part of the State's Office of Emergency Services response plan.

DPR participates in the statewide mutual aid system. DPR provides mutual aid response in the form of search and rescue, law enforcement, emergency management and incident management. The department's Law Enforcement and Emergency Services Division's current resources do not allow for a significant response to natural disasters, including extreme weather or rescue events.

STAFF COMMENTS

This request is similar to several other requests that this Subcommittee has approved relating to radio interoperability and emergency response equipment. Funding this request would better equip the Department to effectively respond to emergency response situations.

Staff Recommendation: Hold Open.

ISSUE 18: WILDFIRE REPAIR AND REIMBURSEMENT

A May Revision Proposal requests \$7,900,000 one-time from the General Fund and \$2,800,000 in reimbursement authority from the State Parks and Recreation Fund to begin addressing the wildlife repair costs due to the severe fire damage incurred over the last year.

BACKGROUND

Parks affected by recent wildfires. Wildfires throughout California in the past year have affected the State park system. In particular, the Woolsey Fire in Southern California, named the worst wildfire in modern history, affected Leo Carrillo State Park and Malibu Creek State Park. The Woolsey Fire began November 8, 2018, and ravaged Southern California for 13 days, destroying over 150 square miles of land, 70,000 homes and businesses, and dozens of historic park structures. The fire also destroyed DPR field offices, trails, equipment storage facilities, and visitor centers. DPR continues to assess the damage to the State park system's park unit facilities. Certain hazards have been identified that jeopardize public safety. In these instances, affected park units or areas have been closed to the public. Once the hazards are addressed to ensure public safety and resource protection, the closures can be lifted.

Federal funding is available on a cost-sharing basis. The Federal Emergency Management Agency has announced that federal funding is available for eligible parties on a cost-sharing basis for emergency work and the repair or replacement of facilities damaged during the wildfires. The federal funds available, which pays for 75 percent of the cost, requires a 25 percent match from the state.

Future costs anticipated. According to DPR, this proposal request for resources for the most critical repair and replacement projects as well as the planning funding needed to assess the comprehensive damage to the State park system. DPR anticipates a future proposal for the balance of the work that is needed to restore the State park system once the planning efforts have been completed and is able to quantify the total resource needs.

LAO COMMENTS

Our key concern with the proposal is that the proposal lacks detail regarding the specific parks and projects that will be funded. We recommend that the Legislature require DPR to provide details on how the funds will be spent, including identifying specific parks and projects that will receive this funding before taking action on this proposal. Doing so will allow the Legislature to consider whether the list of projects aligns with its priorities and better ensure that in the future the Legislature can hold the department accountable for implementing these projects.

STAFF COMMENTS

The recent wildfires destroyed park structures and left others with public safety hazards that requires those parks to be closed to the public. Funding this request would help repair and replace facilities and trails damaged or lost during the fires. The anticipated FEMA funding will be the source of the reimbursements for this proposal.

Staff Recommendation: Hold Open.

ISSUE 19: HARBORS AND WATERCRAFT REVOLVING FUND AND STATE PARKS AND RECREATION FUND STABILIZATION

A May Revision Proposal requests \$35,747,000 one-time in General Fund and \$9,747,000 ongoing in General Fund to offset the below estimate Motor Vehicle Fuel Account transfers to the State Parks and Recreation Fund. This proposal also requests a reversion of \$16,410,000 from the unencumbered balance of Harbors and Watercrafts Revolving Fund local assistance appropriations and the transfer of \$6,000,000 from the Public Beach Restoration Fund to the Harbors and Watercraft Revolving Fund to offset the reduced Motor Vehicle Fuel Account transfers.

BACKGROUND

Portion of motor vehicle fuel goes to DPR. The Department receives funding from the Motor Vehicle Fuel Account for the portion of taxes attributable to the sale of motor vehicle fuel for use in boating and off-highway motor vehicle recreation. The base excise tax, currently \$0.18 of the total per gallon rate, on each gallon sold for these purposes is transferred to the Harbors and Watercraft Revolving Fund or the Off-Highway Vehicle Trust Fund.

SB 1 increased the motor vehicle fuel tax. SB 1 increased the gas tax by \$0.12 per gallon and transfers the revenues attributable to boating and off-highway vehicle use to the State Parks and Recreation Fund (SPRF). This creates a recurring transfer of \$26,649,000 in boating related motor vehicle fuel tax revenues from the MVFA to SPRF for boating related purposes within the state park system.

Discrepancy between DPR and State Controller's Office. According to DPR, it was the Administration's intent that the entirety of this transfer be made from the base excise tax revenues that would otherwise be transferred to the Harbors and Watercraft Revolving Fund. However, the State Controller's Office is transferring from the entire per gallon rate, resulting in revenues otherwise transferred to the General Fund and SPRF being included in the transfers. This discrepancy in understanding between the DPR and the State Controller's Office is the result of ambiguous provisional language included.

LAO COMMENTS

The key issue is that the budget plan for DPR includes ongoing funding commitments from SPRF and the Harbors and Watercraft Revolving Fund that are higher than these funds can actually support because of a miscalculation of the amount of new SB 1 revenues that are supposed to be deposited into these funds. As with any fund shortfall, there are a few types of strategies that can resolve the shortfall. In this case, the May Revision proposes to address the SPRF shortfall with onetime and ongoing General Fund transfers to maintain previously committed and planned

spending levels. However, given how recently these new funding commitments were made, another option is for the Legislature to consider modifying planned expenditures downward to address the shortfalls, or approving a combination of General Fund transfers and expenditure reductions.

STAFF COMMENTS

This request will allow DPR to maintain projected resource levels by adjusting down the appropriations from SPRF and providing General Fund to compensate for reduced revenues. The one-time appropriation will account for revenues received below estimate in 2017-18 and 2018-19. The proposed reversion of, and transfer to, the Harbors and Watercraft Revolving Fund will establish a balance in the fund and will allow the Department time to develop a long term solution for inclusion in the 2020 Budget.

Staff Recommendation: Hold Open.

3940 STATE WATER RESOURCES CONTROL BOARD

ISSUE 20: EMERGENCY RESPONSE PROGRAM

A May Revision Proposal requests \$1.052 million for the support of six permanent positions to establish an emergency preparedness and response unit needed to improve the capabilities of the State Water Board and the nine regional Water Quality Control Boards to prepare for and respond to disasters.

BACKGROUND

SWRCB's role during and after a disaster. The 2017 California State Emergency Plan identifies SWRCB as the appropriate entity to assist public water systems to provide a reliable, adequate, and safe drinking water source, advise water systems and the public of emergency situations (including issuing unsafe water notices), and monitor water quality. SWRCB's most critical role is to protect human health and safety by coordinating efforts to meet drinking water needs during and after a disaster. SWRCB also works with water systems to maintain pressure and supply, which is crucial for firefighters' ability to respond during fires.

Effects of disasters on water systems. In disasters, drinking water systems and waste water systems can lose power, infrastructure, and staff, and water supplies can be degraded or destroyed. Recent fires (including the Tubbs Fire and the Camp Fire), for example, contaminated drinking water distribution pipes with benzene and other volatile organic compounds and complicated recovery efforts. Erosion of disaster debris and sediments after an initial disaster can itself constitute an additional disaster. The first rains after a wildfire destroys the vegetation that stabilizes hillsides, for example, can cause huge debris flows or mudslides that kill people or destroy infrastructure, or, less dramatically but still harmfully, increase erosion and clog and degrade waterways—with the potential to degrade community water supplies.

SWRCB's emergency efforts are not centralized. Currently, SWRCB's emergency efforts are carried out by a decentralized group of staff. Over the last two years, SWRCB temporarily assigned staff to respond to simultaneous wildfires in Northern and Southern California. SWRCB faces increased planning, coordination, and response emergency-related workload, as the frequency, severity, and length of wildfires increase. Between July 2018 and February 2019, SWRCB staff were temporarily reassigned and deployed with emergency response duties for a total of 103 days to respond to eight wildfires, some concurrently. More than 30 staff were temporarily reassigned and are active on debris task forces; these task forces are cleaning up residential hazardous waste and debris and are supporting environmental restoration efforts in the areas impacted by the November 2018 wildfires. As of February 2019, SWRCB staff had reported 6,378 regular hours and 1,718 overtime hours associated with fire recovery efforts. In

addition. SWRCB staff are temporarily reassigned to support longer-term recovery efforts. SWRCB also continued to monitor water quality impacts, perform site inspections of burned areas, and support local recovery from the 2017 Northern and Southern California fires and environmental restoration efforts throughout the State while simultaneously responding to 2018 wildfires.

SWRCB's proposes new program to improve emergency response. The proposed program is intended to increase overall efficiency and effectiveness by centralizing the SWRCB's coordinated statewide emergency planning and response efforts. The emergency preparedness and response program is intended to conduct activities to protect public health and the environment. These include:

Plans, reports, and evaluations:

- Annually review and update emergency response plans.
- Conduct and submit after-action reports in order to identify ways to improve responses.
- Annually conduct an emergency response lessons learned session for SWRCB and Regional Water Boards' staff.

Outreach and training:

- Support and provide technical services to State and local partners.
- Conduct drills and table-top simulation exercises to improve staff preparedness.
- Train federal, state, and local response partners in developing and exercising plans to respond to significant environmental incidents.
- Conduct public outreach and education to increase public awareness of drinking water and waste water systems operational status.
- Make public presentations to SWRCB upon request.

Coordination and statewide consistency:

- Staff emergency operation centers with people experienced with water-sector issues, including issues unique to small utilities and meet their needs or answer questions.
- Appoint emergency response liaisons in each Regional Water Boards' office to improve coordination with partners.

Watershed protection:

- Develop and implement best management practices to reduce water quality impacts.
- Grant waivers of policies to regulated parties to balance water resource protection and the urgent needs that arise in emergencies.

- Increase the number of water quality monitoring sites and frequency of water quality sampling and analysis to determine the efficiency of BMPs to protect water quality.
- Increase Regional Water Boards' participation in local Watershed Emergency Response Teams, Burned Area Emergency Response teams, and other local response efforts to evaluate changes to impacted watersheds following a disaster.

STAFF COMMENTS

These additional resources will allow the State Water Board to support ongoing disaster recovery efforts without diverting staff away from other aspects of the Board's mission.

Staff Recommendation: Hold Open.

ISSUE 21: INYO COUNTY PRIMACY DELEGATION REVOCATION

A May Revision Proposal requests \$386,000 and 2 positions, for the Water Board to assume regulatory responsibility for federal Safe Drinking Water Act requirements in Inyo County. The Water Board is the designated primacy agency for implementing the Act, and delegates primacy to certain counties to regulate systems below 200 service connections. The Water Board informed Inyo County in February 2019 that it failed to meet requirements under its delegation agreement, which has now been revoked.

BACKGROUND

SWRCB designated primacy agency. The federal Safe 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 United States Environmental Protection Agency (USEPA) enforces the federal SDWA at the national level. However, most states, including California, have been granted “primacy” by the US EPA, giving them authority to implement and enforce the federal SDWA at the state level.

Local Primacy Agreements (LPA). SWRCB’s Division of Drinking Water (DDW) is the designated primacy agency for implementing the federal Safe Drinking Water Act by the US Environmental Protection Agency (USEPA). DDW further delegates primacy to 30 Counties to regulate small public water systems below 200 service connections known as Local Primacy Agreements (LPAs).

Inyo County LPA Program. SWRCB has evaluated Inyo County LPA program annually prior to 2018, and quarterly since January 2018 for compliance with the delegation agreement. Quarterly reports submitted to the county have described inadequacies in the program in multiple areas of water quality monitoring review, permitting, surveillance and enforcement of the Safe Drinking Water Act for the county’s small water systems. In July 2018, SWRCB notified the county that improvements needed to be made in 12 specific program areas or the delegation agreement would be revoked. The county submitted a corrective action plan in August 2018; however, the county has failed to complete 11 of the 12 improvements identified in its corrective action plan.

SWRCB revokes Primacy Agreement with Inyo County. In February 2019, SWRCB informed the county it failed to meet requirements under its delegation agreement and has been revoked. Starting July 1, 2019, the San Bernardino District office will be the regulatory authority over the 89 public water systems which serves a permanent population of 10,726 people in Inyo County. DDW has assessed the workload of the county water systems and determined that two positions are needed to conduct regulatory oversight of the 89 public water systems.

STAFF COMMENTS

SWRCB is mandated to establish and maintain a minimum regulatory program for all public water systems that is adequate to ensure that consumers are reasonably protected from waterborne diseases and chemical contamination. This mandate may be partially carried out through delegation to LPAs that apply for delegation. However, under state law and the EPA primacy delegation to SWRCB to operate a drinking water program, SWRCB is also responsible for the Public Water System Supervision program in California. If the state does not adequately fulfill its mandate to protect public health in this area, including those systems delegated to the counties, the federal government may withdraw primacy from California. This could jeopardize federal funding for the Drinking Water Program in California. This request is intended to enable the state to provide regulatory oversight of public small water systems in Inyo County.

Staff Recommendation: Hold Open.

3900 AIR RESOURCES BOARD

ISSUE 22: EVALUATION AND APPROVAL OF INNOVATIVE FREIGHT TECHNOLOGIES

A May Revision Proposal requests \$1,326,000 from the Air Pollution Control Fund for three years and seven permanent full-time positions to meet existing regulatory, planning, and incentive commitments for innovative technologies to cut emissions from freight equipment such as ships, locomotives, harbor craft, cargo handling equipment, and transport refrigeration units.

BACKGROUND

Movement of goods is a major contributor of greenhouse gas emissions. Ships, harbor craft, cargo handling equipment, locomotives, and other equipment that move freight in California are significant contributors of emissions including toxic diesel particulate matter, greenhouse gases (GHGs), and nitrogen oxides that form ozone and fine particles. These emissions are a public health concern at both community and regional levels, and contribute to climate change. While existing ARB programs have reduced emissions significantly, most progress has resulted from the adoption of lower-emitting combustion technologies.

Proposal to expand the Transportation and Toxics Division. Every new emission control technology must be approved by ARB to be used for regulatory compliance. To meet the demand for new technology approvals, ARB requests seven new positions in the Transportation and Toxics Division to conduct reviews of advanced pollution control technologies and facilitate CARB approvals for freight equipment used at seaports, rail yards, distribution centers, and other freight hubs. Specifically, the requested positions include four Air Resources Engineers, two Air Pollution Specialists, and one Air Resources Supervisor to manage the team.

ARB anticipates growing demand for approval of innovative control technologies. ARB currently evaluates, approves, and monitors new technologies to cut emissions from port, rail, and other off-road freight equipment (such as ships, locomotives, harbor craft, cargo handling equipment, and transport refrigeration units). Zero-emission and other innovative technologies are coming to market in each of these freight sectors under existing regulatory, incentive, and planning commitments. Existing regulations and incentive programs specify ARB's approval of zero-emission and other innovative control technologies is required prior to deployment. ARB does not currently have dedicated staffing, established approval procedures, or fee schedules for innovative technology approvals for the freight equipment concentrated at seaports, rail yards, and distribution centers.

Funding for the requested resources. Enforcement settlement funds deposited into APCF would initially fund the positions until fees collected from technology developers can provide ongoing support for the program. SB 854 (Committee on Budget and Fiscal Review), Chapter 51, Statutes of 2018, authorized CARB to assess fees for certifying, verifying, or approving innovative control technologies for non-vehicular and other off-road equipment. ARB has begun developing an overarching fee regulation and will amend existing equipment-specific regulations over the next 5 years to include fee collection provisions.

STAFF COMMENTS

The ARB anticipates demand for approval of innovative controls technology to increase by 400 percent over the next few years. The requested resources would enable ARB to develop procedures, perform technology evaluations, approve manufacturer/industry requests, monitor performance, and respond to detected problems. This would provide regulatory compliance options for California businesses, allow technology developers to bring products to market, and to prevent delays in deployment of cleaner freight equipment needed to cut emissions in disadvantaged communities.

Staff Recommendation: Hold Open.

ISSUE 23: HEAVY DUTY PHASE 2 GREENHOUSE GAS IMPLEMENTATION AND AUDIT PROGRAM

A May Revision Proposal requests \$1.9 million Air Pollution Control Fund and 10.0 positions phased in over three years to review and certify medium and heavy-duty engines, vehicles, and trailers to the newly adopted California Phase 2 Greenhouse Gas (GHG) Regulations.

This proposal also requests trailer bill language to remove the cap on the total amount of funds the Air Resources Board may collect for certification of motor vehicles, engines, and trailers sold in the state so that fees are sufficient to cover the cost of implementing required state programs. Specifically, the proposed trailer bill language removes the cap from HSC section 43019, adds HSC section 38510 and HSC section 38560 to HSC 43019.1 to allow fee assessment for the certification of trailers for the Phase 2 GHG program, and directs the implementation fees to the new certification fund established in HSC 43019.3. Upon legislative changes, the Board will begin the public process to establish the fees to cover the new Phase 2 GHG program.

BACKGROUND

Phase 1 emission standards for medium- and heavy-duty vehicles. In 2011, the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) jointly adopted the first federal GHG emission standards and fuel economy standards for heavy-duty engines and vehicles, referred to as the federal Heavy-Duty GHG Phase 1 regulation (Phase 1). That regulation requires both engine and vehicle manufacturers to employ more efficient components and systems. The federal Phase 1 standards took effect with model year 2014 tractors, vocational vehicles, and heavy-duty pick-up trucks and vans and the engines powering such vehicles. They did not set standards for trailers.

In 2013, the CARB approved for adoption California Phase 1 GHG regulations that were substantially identical to the federal Phase 1 regulations. This provided California the authority to certify new California certified engines and vehicles to the Phase 1 standards, as well as enforce them.

Phase 2 standards for medium and heavy-duty vehicles. The federal Phase 2 standards follow the same regulatory structure as the federal Phase 1 standards. GHG emission standards are set for tractors, vocational vehicles, and PUVs. Separate engine standards are also established for the engines used in tractors and vocational vehicles. In addition, the federal Phase 2 standards establish for the first time, federal emissions requirements for trailers hauled by heavy-duty tractors. The federal Phase 2 standards are more technology-forcing than the federal Phase 1 standards, requiring manufacturers to improve existing technologies or develop new technologies to meet the standards. The progressively more stringent federal Phase 2

standards are phased-in from 2021 to 2027 for tractors, vocational vehicles, and PUVs. For trailers, the standards are phased-in from 2018 (2020 in California) through 2027.

California is aligning with the federal Phase 2 standards in structure, timing, and stringency, but with some minor California differences. This will allow manufacturers to continue to build a single fleet of vehicles and engines for the U.S. market. In February 2019, the Office of Administrative Law approved the rulemaking, and filed with Secretary of State. The regulations are effective April 1, 2019.

Compliance with Phase 1 and Phase 2 standards. For the Phase 1 GHG standards, which took effect between 2014 and 2017, ARB allowed manufacturers to certify vehicles and engines in California via a "deemed to comply" approach, whereby manufacturers that were certified with US EPA were "deemed to comply" with ARB certification requirements. This approach limited ARB review and oversight prior to issuing California certification. This will not be the case for the Phase 2 standards.

For Phase 2 standards, manufacturers will be required to submit data to ARB for independent review and approval before being issued an Executive Order to legally sell trailers, engines and vehicles in the state. In addition, the federal government is currently not administering the trailer GHG requirements making California the only state to require GHG standards for trailers.

STAFF COMMENTS

On-road medium and heavy-duty trucks are a significant source of air pollution. To ensure vehicles and equipment meet California's strict emission standards, ARB currently issues over 3,900 certifications, also known as Executive Orders, annually. Vehicles, engines and components must be certified by ARB to be sold in California, and advanced emission control technology must be approved by ARB to be used for regulatory compliance or to obtain grant funding. Under California's Phase 2 GHG regulations, ARB staff will be required to conduct detailed independent reviews and approval before issuing an Executive Order to authorize the sale of those trailers, engines and vehicles in the state. Further, the proposed trailer bill language would allow CARB to assess fees to cover the Phase 2 GHG implementation activities.

Staff Recommendation: Hold Open.

**3930 DEPARTMENT OF PESTICIDE REGULATION
8570 DEPARTMENT OF FOOD AND AGRICULTURE****ISSUE 24: TRANSITIONING TO SAFER, MORE SUSTAINABLE PEST MANAGEMENT SOLUTIONS /PEST MANAGEMENT RESEARCH GRANTS**

A May Revision Proposal requests the following to assist with the transition to safer, more sustainable pest management solutions:

- \$2.225 million General Fund one-time to DPR to contribute additional resources to the Pest Management Research Grant Program and facilitate a cross-sector work group that will identify, evaluate, and develop safer practical, and more sustainable alternative pest management tools for California growers.
- \$3.5 million General Fund one-time to CDFA to supplement CDFA's Pesticide Alternatives Grant program and to revitalize the Biologically Integrated Farming Systems (BIFS) Program to provide training and demonstration projects for Integrated Pest Management.

DPR and CDFA also request that the funds be available for encumbrance or expenditure until June 30, 2022, in recognition of the long-term nature of research grant projects and to accommodate terms of the Model Contract Language between the state and the University of California.

BACKGROUND

Chlorpyrifos is a pesticide and a toxic air contaminant. Chlorpyrifos is a pesticide used to control a variety of insects on more than 60 crops, with major uses in California for nut trees, alfalfa, citrus, cotton, and several other food crops. In 2018, DPR determined that chlorpyrifos was a toxic air contaminant (TAC), which is defined as "*an air pollutant that may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health.*" Chlorpyrifos was listed as a TAC on April 1, 2019.

Recommended interim mitigation measures until registration of chlorpyrifos is canceled. After listing Chlorpyrifos as a TAC, DPR recommended that county agricultural commissioners implement interim mitigation measures. Those mitigation measure should prohibit or otherwise limit certain kinds of applications (aerial and air blast), institute buffer zones of up to a quarter mile, and restrict use to certain crops without acceptable pesticide alternatives. These recommendations were available to the county agricultural commissioners to use as of January 1, 2019 and are expected to further reduce the use of chlorpyrifos in California. DPR will

commence a regulatory process to cancel the registration of chlorpyrifos, which would essentially no longer allow the use of this insecticide in the state.

Proposal to transition to safer alternatives. DPR and CDFA are proposing a comprehensive approach to assist in the transition to safer, more sustainable pest management solutions. DPR and CDFA will lead the work of a newly created, cross-sector work group that will identify, evaluate and develop safer, practical, more sustainable alternative pest management tools for California growers. In order to implement the work group's recommendations, DPR and CDFA also propose to fund incentive programs, additional research, and technical assistance to develop practical, safer, more sustainable alternatives to chlorpyrifos. In combination, the working group and funding for the development of alternatives will produce short-term solutions and prioritize the development of long-term solutions to support healthy communities and a thriving agricultural sector.

Work group to develop safer, sustainable pest management alternatives. DPR requests \$125,000 General Fund one-time to convene a cross-sector work group that will identify, evaluate, and develop safer, practical, more sustainable alternatives pest management tools for California growers. Recognizing the importance of maintaining a strong agricultural industry in California and the critical role pesticides currently play in that industry, there will be a corollary focus on the strategic controlled use of existing tools in the face of increasing restrictions on their use. The work group will develop an action plan by spring 2020.

The work group will include representatives from California universities, environmental groups, growers and agricultural organizations, including those focused on sustainable agricultural practices, farmworker and field labor organizations, agricultural commissioners, commodity boards, pest control advisers, pest management product manufacturers, and state agencies. Recognizing that previous groups have worked to identify areas for future investment and development, the work group will begin by reviewing previous reports and recommendations to determine what pest management practices can be implemented in the short term. In addition, the work group will consult with experts from across the globe to identify and develop pest management tools and practices in agricultural production focusing primarily on the current use of chlorpyrifos for control of insect pests. The work group will also consider the strategic use of pesticides in the face of increasing use restrictions on chlorpyrifos in California.

The work group will provide practical, short-term solutions to begin the transition to safer, more sustainable pest management solutions. It will also provide direction for a five-year action plan to invest in new products and strategies to manage pests.

Funding incentive programs, additional research, and technical assistance. DPR and CDFA request additional, one-time resources to reflect the state's commitment to supporting the agricultural sector in transitioning to safer, more sustainable pest management solutions. There

are several existing programs that can serve to support this transition in the short- and long-term. DPR and CDFA request a total of \$5.6 million General Fund to support three grant programs, as described below, to support the investment and implementation of safer, more sustainable pest management solutions.

- **DPR Pest Management Research Grants.** \$2.1 million General Fund one-time for Pest Management Research Grants are intended to foster reduced-risk and sustainable integrated pest management (IPM) strategies that provide for public safety, environmental stewardship, environmental justice, effective pest management, and increased compliance with environmental laws and regulations.
- **CDFA Development of Pesticide Alternatives Grant.** CDFA requests \$1.5 million General Fund to support the Inter-Regional Research Project Number 4 (IR 4) and CDFA's Proactive Integrated Pest Management Solutions grants program. IR 4 is a program of the United States Department of Agriculture that supports and accelerates the registration of pest management tools on specialty crops. CDFA currently funds three IR-4 projects per year and one Proactive Integrated Pest Management Solutions grant per year. A one-time investment of \$1.5 million could support the backlog in the IR 4 program and focus on the funding of alternatives to chlorpyrifos that advance safer, more sustainable pest management solutions.
- **Biologically Integrated Farming Systems (BIFS) Program.** CDFA requests \$2 million General Fund for the BIFS grants program. This one-time investment would support two three-year projects, with an emphasis on demonstration sites, incentives to growers to participate, technical assistance, reporting, and administrative costs.

STAFF COMMENTS

Chlorpyrifos is a pesticide used on many staple food crops such as corn, wheat, and citrus. It is also known as a toxic air contaminant that endangers public health and is harmful to the environment. The US EPA was expected to ban the use of chlorpyrifos in 2017 but ultimately did not do so. The request before us would enable DPR and CDFA to search for safer alternatives to chlorpyrifos.

Staff Recommendation: Hold Open.

8570 DEPARTMENT OF FOOD AND AGRICULTURE

ISSUE 25: FARM ANIMAL CONFINEMENT (PROPOSITION 12)

A May Revision Proposal requests \$4,513,000 and 14 positions to support the first year of implementation of Proposition 12, the Farm Animal Confinement Initiative of 2018, which establishes new standards for confinement of specified farm animals and bans the sale of noncomplying products. These resources will support registration and certification activities, compliance activities, program administration, and information technology consultant services for project planning and system development.

BACKGROUND

Proposition 2 imposed animal housing requirements. In 2008, California voters approved Proposition 2 which added Chapter 13.8, *Farm Animal Cruelty*, to the Health and Safety Code. The statute prohibited egg-laying hens, breeding pigs and calves raised for veal from being housed in areas that do not allow freedom to turn around, lie down, stand up or fully extend their limbs. The animal housing requirements in Proposition 2 did not apply to out-of-state producers who shipped affected products into California, nor did the measure specify enforcement authority or a compliance activity mandate to CDFA.

Proposition 12 expanded the animal housing requirements imposed by Proposition 2. On November 6, 2018, California voters approved Proposition 12 which expanded the animal housing requirements in Chapter 13.8, *Farm Animal Cruelty*, of the Health and Safety Code. The revisions to state law established new and more stringent minimum space standards on housing for calves raised for veal, breeding pigs and egg-laying hens that will go into effect in a phased approach over the next three years.

Proposition 12 also makes it illegal for businesses in California to knowingly sell eggs (including liquid eggs) or uncooked pork or veal that came from animals housed in a manner that does not comply with the new confinement requirements, including products from animals raised and maintained at facilities located in California and out-of-state. The provisions are broad-sweeping and apply to the entire production and marketing systems for the specified animal products, encompassing both in-state and out-of-state livestock production facilities, as well as the extensive and diverse retail food sectors they supply in California.

Proposition 12 will be enforced jointly by CDFA and CDPH. Proposition 12 mandates enforcement by CDFA and the California Department of Public Health (CDPH) through joint promulgation of regulations to implement its requirements. CDFA is responsible for the safety and security of meat, poultry and dairy products, along with other foods of animal origin. CDFA

coordinates with various local and federal government agencies and stakeholders to provide services to protect the public and animal health. Due to the farm expertise of CDFA in relation to livestock and poultry, when CDPH and CDFA executive management teams met in December 2018 to initiate implementation, they mutually agreed that CDFA will take the lead on regulatory development and enforcement in continuing consultation with CDPH.

Compliance with Proposition 12 through the Animal Care Program. CDFA proposes a comprehensive system-wide Animal Care Program to comply with the requirements of Proposition 12. The Animal Care Program would consist of regulatory components extending from farm to shelf, including all of the following:

- A registration program for establishing a regulatory inventory of production facilities both in-state and out-of-state that ship covered animal products into California commerce;
- A certification program for documenting compliance with California animal housing and confinement standards;
- A compliance audit program for verifying conformance with animal cruelty and confinement provisions of the Health and Safety Code at both in-state and out-of-state facilities that house veal calves, breeding pigs and egg-laying hens;
- An investigative unit for enforcing violations of the animal cruelty provisions of Proposition 12, including criminal case development for submission to appropriate prosecutorial authorities under the Health and Safety Code and the Business and Professions Code;
- Border surveillance by monitoring shipments entering California through existing CDFA Border Protection Stations;
- Information management utilizing a database that would provide accurate, secure and up-to-date program information to properly track facility locations, animal confinement system information, compliance status on registrations and certifications, as well as enforcement actions.

STAFF COMMENTS

Proposition 12 imposes detailed confinement space standards for specified classes of food-producing livestock including calves raised for veal, breeding pigs and egg-laying hens. The requested resources would enable CDFA to establish an Animal Care Program necessary to implement Proposition 12.

Staff Recommendation: Hold Open.

ISSUE 26: CATASTROPHIC LIVESTOCK DISEASE PREVENTION AND EMERGENCY RESPONSE-VIRULENT NEWCASTLE DISEASE AND NATURAL DISASTERS IMPACTING ANIMALS

A May Revision Proposal requests \$3,336,000 and 23 positions to address current and continued threats to animal health, food supply, and the economy posed by the virulent Newcastle Disease and other diseases and natural disasters. Specifically, these resources will be utilized to establish teams that will coordinate and respond to current and future threats to animal health.

BACKGROUND

Recent virulent Newcastle Disease outbreaks. The current outbreak of virulent Newcastle Disease (vND) was originally detected on May 16, 2018, in backyard chickens that died in Los Angeles County. Once this virus hits a large group of susceptible birds, it can explode as virus replication creates a viral plume, moving quickly from one ranch to another through workers, equipment, supplies, products, rain runoff, blown dust, rodents and feral poultry or wild birds.

On December 14, 2018, vND was confirmed in a commercial poultry ranch in Riverside County where CDFA found dense backyard poultry and high levels of disease. As of the mid-April 2019, nine other commercial producers have tested positive in Riverside and San Bernardino Counties. About 1.2 million birds have been euthanized on over 450 confirmed infected and 1,000 exposed premises. The direct response costs alone total more than \$30 million and continues to increase. As of mid-April 2019, the virus spread into new areas of Los Angeles, San Bernardino, Riverside, Ventura and Alameda Counties, as well as to Utah and Arizona.

Federal emergency fund sought to augment CDFA's vND response. The United States Department of Agriculture (USDA) has agreed to seek federal emergency funds to augment CDFA's response. USDA intends to assist with temporary funding for needed permanent CDFA prevention and response staff through June 30, 2019. USDA is also seeking emergency funds to cover the much larger immediate eradication effort, recognizing prior responses suggest that \$200 million may be required. USDA's conditional emergency support includes a commitment from California to ensure core infrastructure is maintained to prevent further introductions, immediately limit spread, and manage scale-up when facing future emergencies.

Early warning system of skilled response specialists across state to fight these outbreaks. CDFA has an early warning system that utilizes animal owners, thousands of private veterinarians, specially trained CDFA foreign animal disease diagnosticians and the California Animal Health and Food Safety Laboratory System. One of CDFA's responsibilities is to train all contributors to the early warning system so they know when and how to contact CDFA at the first sign of a problem. CDFA also maintains constant foreign and emerging animal disease

surveillance to assure that the state is free from particularly dangerous disease. When a disease of concern is detected, CDFA shifts all available staff resources into response positions. For livestock and poultry epidemics, these skilled resources are prepositioned at the state level rather than the local level, so they can be quickly deployed to any county.

STAFF COMMENTS

The current vND outbreak and associated challenges demonstrates that core staffing is essential where catastrophic disease is often introduced, at the rural-urban interface. CDFA intends to use the requested resources to place skilled, permanent staffing close to historical vND outbreak locations and for the staff to build a rapport with local communities. These resources would allow CDFA to shift its approach from waiting until an outbreak gets large enough to detect in California as done historically, to striking once a disease is detected.

Staff Recommendation: Hold Open.

ISSUE 27: PRODUCE SAFETY TECHNICAL ASSISTANCE PROGRAM

A May Revision Proposal requests \$700,000 and 1 position to provide produce safety technical assistance and education to California farmers to support their compliance with the Federal Food Safety Modernization Act. This team will assist growers in complying with the Act and will also support in food safety outbreak post-response activities.

BACKGROUND

Food Safety Modernization Act (FSMA). FSMA was signed into law in 2011 and provides the Food and Drug Administration (FDA) new authorities to regulate the way foods are grown, harvested and processed. It also allows the FDA to focus on preventing food safety problems before they begin rather than primarily reacting to problems after they occur.

Product Safety Rule. Within rules created by FSMA, the Product Safety Rule (PSR), effective January 2016, establishes science-based minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption. The first major compliance date for large farms began on January 26, 2018 with routine inspections beginning in spring 2019.

Produce Safety Program (PSA). PSA is a unit operating under CDFA's Inspection Services Division. It exists to help bring California produce farms into compliance with the Produce Safety Rule. CDFA currently has a partnership with the FDA and has received federal funding for the PSA. The PSA has provided some educational opportunities for California's agricultural industry, such as presenting at workshops and providing voluntary on-farm readiness reviews. Beginning in 2019, the PSA will focus on produce safety inspections and compliance under the Product Safety Rule.

STAFF COMMENTS

The resources requested is intended to be utilized to establish the Produce Safety Technical Assistance Program to assist growers by offering the tools necessary for meeting compliance of the PSR in California and allow for contracting with food safety experts at University of California Cooperative Extension.

Staff Recommendation: Hold Open.

ISSUE 28: UNCLAIMED GAS TAX

A May Revision Proposal requests trailer bill language to amend Food and Agriculture Code Section 224(g) to authorize CDFA to retain a portion of the remaining Unclaimed Gas Tax funding, upon agreement by the agricultural commissioners and the Secretary, for purposes of implementing jointly developed priority agricultural program spending.

BACKGROUND

Unclaimed Gas Tax (UGT). Excise taxes collected on motor vehicle fuels are deposited in the Motor Vehicle Fuel Account (MVFA) in the Transportation Tax Fund. Revenue and Taxation Code Section 8352.5 requires fuel taxes attributable to unclaimed agricultural gasoline tax used for off-highway purposes be transferred from the MVFA to CDFA, to be used for activities benefiting agriculture, pursuant to FAC Section 224.

UGT funds go unclaimed. These UGT funds represent excise taxes paid for gasoline purchased by agricultural producers and used for off-road purposes. These excise taxes paid are eligible for refund if a claim is filed with the State Controller. A relatively small number of agricultural producers file these claims to collect their refunds and most of the taxes paid via these transactions are unclaimed. As a result, in the 1970s, a process was established for the transfers of UGT from Caltrans to CDFA based on a formula using various factors. The main drivers in the formula that determine the amount to be transferred each year are gallons estimated used in agriculture for off-road purposes and resulting excise taxes paid.

SB 1 increased the amount of UGT funds. The passage of SB 1 (Beall, Chapter 5, Statutes of 2017), significantly increased the amount of excise taxes collected which in turn resulted in an increase in the amount transferred from Caltrans to CDFA beginning in 2018. Prior to SB 1, the amount transferred was around \$40 million, and after SB 1, the amount is approximately \$65 million.

UGT funds goes to counties. FAC Section 224 specifies how these funds are utilized and has provisions for fixed amounts going toward specific activities. The amount remaining is distributed to the counties as reimbursement for their local general fund support for agricultural programs carried out by the agricultural commissioners under the supervision of the Secretary, pursuant to FAC 224(g). The remaining amount going to the counties under FAC 224(g) was approximately \$23 million before SB 1 and is now approximately \$48 million due to SB 1.

STAFF COMMENTS

Given the increase in UGT funds as a result of SB 1, it is a reasonable to authorize CDFA to retain a portion of these funds to implement activities benefitting agriculture.

Staff Recommendation: Hold Open.

This agenda and other publications are available on the Assembly Budget Committee's website at: <https://abgt.assembly.ca.gov/sub3hearingagendas>. You may contact the Committee at (916) 319-2099. This agenda was prepared by Susan Chan and Farra Bracht.