

**AGENDA****ASSEMBLY BUDGET COMMITTEE NO. 3 ON RESOURCES AND TRANSPORTATION****ASSEMBLYMEMBER RICHARD BLOOM, CHAIR****WEDNESDAY, MAY 16, 2018****9:30 A.M. - STATE CAPITOL, ROOM 447**

<b>VOTE-ONLY CALENDAR</b>		
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>PAGE</b>
<b>0540</b>	<b>NATURAL RESOURCES AGENCY</b>	<b>2</b>
ISSUE 1	REAPPROPRIATION	2
<b>3900</b>	<b>AIR RESOURCES BOARD</b>	<b>2</b>
ISSUE 2	REAPPROPRIATION: GREENHOUSE GAS REDUCTION FUND	2
<b>8570</b>	<b>DEPARTMENT OF FOOD AND AGRICULTURE</b>	<b>2</b>
ISSUE 3	GREENHOUSE GAS REDUCTION FUND REAPPROPRIATION	2
<b>3340</b>	<b>CALIFORNIA CONSERVATION CORPS</b>	<b>3</b>
ISSUE 4	DELTA SERVICE DISTRICT CENTER	3
ISSUE 5	VARIOUS NEW CAPITAL OUTLAY PROJECTS TO EXPAND THE RESIDENTIAL PROGRAM (JAN 10 BCP & SFL)	3
<b>3540</b>	<b>DEPARTMENT OF FORESTRY AND FIRE PROTECTION</b>	<b>4</b>
ISSUE 6	REAPPROPRIATION OF CONTROL SECTION 6.10 DEFERRED MAINTENANCE FUNDING	4
ISSUE 7	HELICOPTER ACQUISITION AND SUPPORT (SFL)	4
<b>3790</b>	<b>DEPARTMENT OF PARKS AND RECREATION</b>	<b>5</b>
ISSUE 8	REVERSIONS	5
<b>3860</b>	<b>DEPARTMENT OF WATER RESOURCES</b>	<b>5</b>
ISSUE 9	REAPPROPRIATION AND TECHNICAL ADJUSTMENT (PROPS 1 AND 13)	5
<b>3480</b>	<b>DEPARTMENT OF CONSERVATION</b>	<b>5</b>
ISSUE 10	ENFORCEMENT PROGRAM	5
ISSUE 11	REGULATORY FIELD INSPECTION	6

<b>ITEMS TO BE HEARD</b>		
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>PAGE</b>
	<b>VARIOUS DEPARTMENTS</b>	<b>7</b>
ISSUE 1	FOREST CARBON PLAN IMPLEMENTATION	7
<b>3900</b>	<b>AIR RESOURCES BOARD</b>	<b>12</b>
ISSUE 2	AGRICULTURAL DIESEL ENGINE REPLACEMENT AND UPGRADES	12
ISSUE 3	ADVANCED PAYMENT: TRAILER BILL LANGUAGE (TBL)	14

<b>8570</b>	<b>DEPARTMENT OF FOOD AND AGRICULTURE</b>	<b>15</b>
ISSUE 4	NUTRIA DETECTION AND SURVEY	15
ISSUE 5	SAN JOAQUIN VALLEY GRANT	16
<b>3540</b>	<b>DEPARTMENT OF FORESTRY AND FIRE PROTECTION</b>	<b>18</b>
ISSUE 6	CLIMATE CHANGE FIRE SEVERITY	18
ISSUE 7	OFFICE OF THE STATE FIRE MARSHAL, FIRE AND LIFE SAFETY DIVISION	20
ISSUE 8	FIREWORKS PROGRAM (BCP + TBL)	22
<b>3790</b>	<b>DEPARTMENT OF PARKS AND RECREATION</b>	<b>25</b>
ISSUE 9	MUSEUM OF TOLERANCE	25
ISSUE 10	CALIFORNIA INDIAN HERITAGE CENTER (BCP+TBL)	27
ISSUE 11	FORT ROSS SHP: CULTURAL TRAIL	29
<b>3930</b>	<b>DEPARTMENT OF PESTICIDE REGULATION</b>	<b>30</b>
ISSUE 12	IMPROVED CEQA NOTIFICATION FOR PESTICIDE REGISTRATION	30
<b>3970</b>	<b>DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY</b>	<b>32</b>
ISSUE 13	DISASTER RECOVERY ASSISTANCE PROGRAM	32
ISSUE 14	PLASTIC MARKET DEVELOPMENT PROGRAM (TBL)	33
ISSUE 15	ENFORCEMENT OF BEVERAGE CONTAINER RECYCLING PROGRAM (TBL)	35
<b>3860</b>	<b>DEPARTMENT OF WATER RESOURCES</b>	<b>36</b>
ISSUE 16	DAM SAFETY TRAILER BILL LANGUAGE (TBL)	36
ISSUE 17	OPEN AND TRANSPARENT WATER DATA ACT (AB1755)	38
ISSUE 18	JOINT OPERATIONS CENTER RELOCATION	39
ISSUE 19	SAVE OUR WATER CAMPAIGN	41
ISSUE 20	FLOOD CONTROL INFRASTRUCTURE (BCP +TBL)	42
<b>3820</b>	<b>SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION</b>	<b>44</b>
ISSUE 21	RELOCATION TO BAY AREA METRO CENTER	44
<b>3560</b>	<b>STATE LANDS COMMISSION</b>	<b>46</b>
ISSUE 22	LAKE TAHOE RENT METHODOLOGY STUDY	46
<b>3940</b>	<b>STATE WATER RESOURCES CONTROL BOARD</b>	<b>48</b>
ISSUE 23	ADMINISTRATIVE HEARINGS OFFICE (BCP +TBL)	48
<b>3960</b>	<b>DEPARTMENT OF TOXIC SUBSTANCES CONTROL</b>	<b>51</b>
ISSUE 24	SAFER CONSUMER PRODUCTS IMPLEMENTATION	51
ISSUE 25	BKK THIRD PARTY INITIATIVE	54
ISSUE 26	COST RECOVERY PROGRAM IMPLEMENTATION	54
ISSUE 27	COST RECOVERY MANAGEMENT SYSTEM	55
ISSUE 28	NATIONAL PRIORITIES LIST AND STATE ORPHAN SITES	57
ISSUE 29	LEAD-ACID BATTERY PROGRAM IMPLEMENTATION	59
ISSUE 30	ENFORCEMENT IN VULNERABLE COMMUNITIES	61
ISSUE 31	EXIDE ENFORCEMENT ORDER	62
ISSUE 32	REAPPROPRIATION FOR EXIDE TECHNOLOGIES CLEAN-UP	63

**VOTE-ONLY****0540 NATURAL RESOURCES AGENCY**

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**VOTE-ONLY ISSUE 1: REAPPROPRIATION**

A May Revision proposal requests that Item 0540-491 be added to reappropriate the balance of Greenhouse Gas Reduction Funds for Urban Greening projects, with funding available for encumbrance until June 30, 2020.

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**Staff Recommendation: Approve as proposed.**

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**3900 AIR RESOURCES BOARD**

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**VOTE-ONLY ISSUE 2: REAPPROPRIATION: GREENHOUSE GAS REDUCTION FUND**

A May Revision proposal requests that Item 3900-491 be added to reappropriate the unexpended balance of Greenhouse Gas Reduction Fund from Provision 2 of Item 3900-101-3228, Budget Act of 2016. It is further requested that provisional language be added to make the funds available for encumbrance or expenditure until June 30, 2020.

This proposal will allow the Enhanced Fleet Modernization Program Plus-Up and the Equity Pilot Program to continue to provide incentives for low-income drivers to retire and replace high-polluting vehicles with cleaner vehicles, provide car-sharing options to low-income communities, and provide reliable commute options for agricultural workers.

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**Staff Recommendation: Approve as proposed.**

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**8570 DEPARTMENT OF FOOD AND AGRICULTURE**

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**VOTE-ONLY ISSUE 3: GREENHOUSE GAS REDUCTION FUND REAPPROPRIATION**

A May Revision proposal requests that Item 8570-490 be added to reappropriate a portion of administrative funding for the State Water Efficiency and Enhancement Program, from the California Department of Food and Agriculture's 2016-17 Greenhouse Gas Reduction Fund appropriation, which expires on June 30, 2018. This request would allow CDFA to manage and close out awarded projects that will be completed in 2018-19, and to audit completed projects.

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**Staff Recommendation: Approve as proposed.**

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## 3340 CALIFORNIA CONSERVATION CORPS

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<b>VOTE-ONLY ISSUE 4: DELTA SERVICE DISTRICT CENTER</b>
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A May Revision proposal requests reappropriation from the Public Buildings Construction Fund, to extend the liquidation period of the construction phase of the Delta Service District Center project for a new residential facility located in San Joaquin County to June 30, 2019.

The Delta Service District Center project will construct a new CCC residential facility to replace the existing Stockton facility in San Joaquin County. The Legislature previously appropriated \$30,343,000 (\$255,000 General Fund and \$30,088,000 Public Buildings Construction Fund) for the design and construction of this project.

Due to design changes as well as limited interim financing, the project was delayed. This extension will allow the CCC to continue to make final payments for this project totaling approximately \$1,436,000.

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**Staff Recommendation: Approve as proposed.**

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<b>VOTE-ONLY ISSUE 5: VARIOUS NEW CAPITAL OUTLAY PROJECTS TO EXPAND THE RESIDENTIAL PROGRAM (JAN 10 BCP &amp; SFL)</b>
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The Governor's budget requests \$9.982 million in General Fund to begin a major expansion of the California Conservation Corps' residential center program by building four new residential centers. Specifically, this proposal includes:

- \$4.885 million for acquisition and preliminary plans for the Auberry Center.
- \$3.172 million for preliminary plans for the Greenwood Center.
- \$1.725 million for preliminary plans for the Los Piños Center.
- \$200,000 for the study phase of the Yountville Center.

An April Finance Letter requests a reduction of \$352,000 General Fund from the proposed Los Piños project and a reduction of \$591,000 General Fund from the proposed Auberry Center.

This item was heard in committee on April 4, 2018. Residential centers contribute to corpsmembers performing better than their non-residential colleagues on some educational and community service measures. However, there is a lack of information on educational outcomes and employment status of corpsmembers after they leave the CCC. Thus, it is difficult to determine the exact benefits of expanding the number residential centers.

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**Staff Recommendation: Approve Jan 10 BCPs and spring fiscal letter as proposed.**

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**8570 DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

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**VOTE-ONLY ISSUE 6: REAPPROPRIATION OF CONTROL SECTION 6.10 DEFERRED MAINTENANCE FUNDING**

A May Revision proposal requests budget bill language to reappropriate the unencumbered balance of the funding appropriated pursuant to Control Section 6.10 of the Budget Act of 2016, to provide an additional year to complete deferred maintenance projects.

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**Staff Recommendation: Approve as proposed.**

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**VOTE-ONLY ISSUE 7: HELICOPTER ACQUISITION AND SUPPORT (SFL)**

A Spring Fiscal Letter requests \$3,588,000 in General Fund for 2018-19, \$11,868,000 and 15 positions in 2019-20, \$10,535,000 in 2020-21, \$15,009,000 in 2021-22, \$14,589,000 in 2022-23, and \$13,789,000 in 2023-24. The requested resources are for the acquisition of 11 helicopters to replace the existing Super Huey helicopters with the competitively procured Sikorsky S-70i.

This item was heard in committee on April 25, 2018. When fighting wildland fires, CalFire use helicopters to deliver fire crews and to perform water or retardant drops that slow the fires' spread. Helicopters are also used for other firefighting and fire prevention operations, medical evacuations, cargo transport, mapping, rescues, and other missions. CalFire currently has 12 Super Huey helicopters that were acquired in 1990 through the Federal Excess Personal Property Program at no cost to the state.

When CalFire first acquired the current fleet of Vietnam-era helicopters from federal military, the plan was to use them for 20 years, based on the projected availability of parts to support operations. Use of these helicopters is now going on 30 years. Since then, the Federal Aviation Administration guidelines have evolved and replacement parts more difficult to find. With the trend of longer and more intense fire seasons, there is an urgent need to replace CalFire's aging helicopter fleet.

The process to replace these helicopters has been a long 3-year journey. While there was controversy over the process, the Administrative Law Judge found that the intent to award was offered to the appropriate bidder. Further, the higher cost of these helicopters is a result of several factors. The amount cited in the original BCP is a placeholder and was not intended to be the ceiling. Further, these helicopters are tailored for specific use by CalFire, which requires certain add-ons and retrofits.

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**Staff Recommendation: Approve as budgeted.**

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**3790 DEPARTMENT OF PARKS AND RECREATION**

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**VOTE-ONLY ISSUE 8: REVERSIONS**

A May Revision proposal requests that Item 3790-496 be amended to revert the unencumbered balance of funding, estimated to be \$189,000, for the Malibu Creek State Park: Restore Sepulveda Adobe project. Project completion is anticipated in the fall, 2018, and there are savings to be reverted.

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**Staff Recommendation: Approve as proposed.**

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**3860 DEPARTMENT OF WATER RESOURCES**

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**VOTE-ONLY ISSUE 9: REAPPROPRIATION AND TECHNICAL ADJUSTMENT (PROPS 1 AND 13)**

A May Revision proposal requests a reappropriation of Proposition 1 funds for the CalConserve program and a technical adjustment to add provisional language to Prop 13 funding, requested in a spring proposal for San Joaquin River-related fish population enhancement, to make funds available for support and local assistance.

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**Staff Recommendation: Hold Open.**

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**3480 DEPARTMENT OF CONSERVATION**

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**VOTE-ONLY ISSUE 10: ENFORCEMENT PROGRAM**

The Governor's budget requests \$1,211,000 ongoing from the Oil, Gas, and Geothermal Administrative Fund, and six permanent positions to develop the new Centralized Statewide Enforcement Program.

Non-compliance by oil and gas operators poses a major threat to human health and safety and that of the environment. A centralized and comprehensive statewide enforcement program would enable DOGGR to have an effective compliance program.

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**Staff Recommendation: Approve as budgeted.**

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**VOTE-ONLY ISSUE 11: REGULATORY FIELD INSPECTION**

The Governor's budget requests \$4,252,000 in 2018-19, \$3,664,000 in 2019-20 and ongoing from the Oil, Gas, and Geothermal Administrative Fund, and 21 positions to increase inspections and enforcement, assess and mitigate the risk of urban encroachment on oil and gas fields, and work with local agencies to assist with the protection of water resources.

Additional resources would increase DOGGR's field presence and allow for appropriate levels of field oversight of oil and gas wells, facilities, and activities to ensure that California's oil and gas operations are protected, properly regulated, efficient, and safe. However, staff agrees with the LAO's assessment that limited term funding with a reporting requirement would allow the Legislature to better assess the level of permanent resources needed for DOGGR to perform inspection and enforcement activities.

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**Staff Recommendation: Approve funding for three years and adopt placeholder TBL to require annual reporting on completion of mandated oversight activities as proposed by the LAO.**

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## ITEMS TO BE HEARD

### VARIOUS DEPARTMENTS

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<b>ISSUE 1: FOREST CARBON PLAN IMPLEMENTATION</b>
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A May Revision proposal requests \$96 million for various departments in the Natural Resources Agency to: (1) increase pace and scale of forest management and restoration efforts; (2) to build local capacity and strengthen regional collaborations; and (3) to innovate and increase economies around the use of materials from forest health projects. Specifically, the May Revision outlines the total investment of \$96 million for the following:

- 1) Increase pace and scale of forest management and restoration efforts.
  - **Department of Forestry and Fire Protection (CalFire): Prescribed Fire and Fuels Reduction.** \$26.8 million GGRF and 79 positions for ongoing support for prescribed fire and other fuel reduction project development, coordination, and implementation.
  - **Sierra Nevada Conservancy: Sierra Nevada Regional Forest Health Projects.** \$30 million California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Fund (Proposition 68) and two positions to implement restoration and management actions under the Watershed Implementation Program and other recommendations of the Forest Carbon Plan.
  - **Natural Resources Agency: Northern, Coastal, and Southern California Regional Forest Health Projects.** \$20 million GGRF to fund regional block grants to promote and expand regional forestry collaborations led by state, local, and nonprofit entities.
  - **Department of Parks and Recreation: Legacy Forests at State Parks.** \$15 million Proposition 68 for forest ecosystem restoration and fire prevention in the state park system.
- 2) Build local capacity and strengthen regional collaborations.
  - **Department of Conservation: Watershed Coordinator Grants.** \$1.9 million California Environmental License Plate Fund to support for multi-year watershed coordinator grants to build capacity for regional implementation of the recommendations of the Forest Carbon Plan in priority watersheds.
- 3) Innovate and increase economies around the use of materials from forest health projects.
  - **Board of Forestry and Fire Protection: Joint Institute for Wood Products Innovation.** \$750,000 Timber Regulation and Forest Restoration Fund (TRFRF) and one position for the Board to develop a joint institute for wood products innovation through the University of California, California State University, or other academic institution.



- **Sierra Nevada Conservancy: Rural Economic and Manufacturing Development Grants.** \$1 million TRFRF for grants to support the innovation of wood product manufacturing and increase of rural economic development around wood product manufacturing.
- **Government Operations Agency: California Mass Timber Building Competition.** \$500,000 Timber Regulation and Forest Restoration Fund to support implementation of the California mass timber building competition to showcase and incentivize use of innovative engineered wood products.

## BACKGROUND

**Forested Land.** California has 33 million acres of forestland and 1,256 square miles of urban forest canopy. Forested lands are the largest land-based carbon sink in California with trees and shrubs drawing carbon from the atmosphere and storing it in their woody structure and in forest soils.

Decades of fire exclusion compounded by rising average temperatures and reduced rainfall have dramatically increased the size and intensity of wildfires and bark beetle infestations, threatening the ability of our statewide forests to capture and clean water, serve as long-term carbon sinks, and support native biodiversity that depends on their ecosystems. Recent wildfires have been the deadliest, most destructive, costliest, and largest in state history, and more than 129 million trees, primarily in the Sierra Nevada, have died from drought and insects since 2010.

**Executive Order B-52-18.** The Governor issued Executive Order B-52-18 on May 10, 2018. Key elements of the order include:

- An increase of land actively managed through vegetation thinning, controlled fires and reforestation from 250,000 acres to 500,000 acres.
- New training and certification programs to help promote forest health through prescribed burning.
- Boosting education and outreach to landowners on the most effective ways to reduce vegetation and other forest-fire fuel sources on private lands.
- Streamlined permitting for landowner-initiated projects that improve forest health and reduce forest-fire fuels on their properties.
- Support of innovative uses of forest products by the building industry.
- Expanded grants, training, and other incentives to improve watersheds.

In addition, a Forest Management Task Force will be convened in the coming weeks to help implement the order and accompanying Forest Carbon Plan.

**Forest Carbon Plan.** The Forest Carbon Plan was released in May 2018. The goals of the plan are to secure California forests as a healthy, resilient net sink of carbon, while providing a wide range of ecosystem, social, and economic benefits, by doing the following:

- An increase in the pace and scale of treatments to increase forest health and resilience on private and public lands.
- Treatments include fuels reduction, prescribed fire, thinning, tree planting, and sustainable timber management.
- Restoration of forest meadows to increase their carbon and water storage functions.
- Prevention of forestland conversions.
- Innovation opportunities for wood products and biomass utilization to support sustainable forest management.
- Protection and enhancement of carbon sequestration potential and related co-benefits of urban forests.

**Various reports recommend investments in forest health.** The Little Hoover Commission, the Legislative Analyst's Office, the Public Policy Institute of California, and the SB 859 Wood Products Working Group all recently released reports with findings that all converge around similar recommendations. Those recommendations include protecting the ecosystem, public health, and economic benefits that healthy forests provide to the state by increasing the rate of forest treatments and expanding state wood product markets through innovation, assistance, and investment.

**Prescribed Fire and Fuels Reduction.** CalFire currently participates in prescribed fire and fuels reduction projects to ensure that regulatory requirements and best management practices are followed and fires are contained within planned areas. The Vegetation Management Program (VMP) is a cost-sharing program that allows public and private landowners to participate in vegetation treatment projects on State Responsibility Area lands. The primary tool used in the VMP program is prescribed fire.

**Watershed Improvement Program.** The Sierra Nevada Watershed Improvement Program (WIP) is a coordinated, integrated, collaborative initiative to restore the health of California's primary watershed through increased investment and needed policy changes. The WIP, guided by a Memorandum of Understanding between the California Natural Resources Agency and the US Forest Service, is coordinated by the Sierra Nevada Conservancy in partnership with the US Forest Service, with the support of a wide range of state, federal and local agencies, and private landowners.

**Watershed Coordinator Grants.** Between 2004 and 2014, the Department of Conservation awarded competitive grants like those in this proposal. The grant program supported Watershed Coordinator positions that were tasked with facilitating collaborative efforts to improve and sustain the health of California's watersheds. The Watershed Coordinator Grant Program offered organizations an opportunity to improve and sustain the health of California's watersheds through a coordinated and collaborative approach.

**Joint institute for Wood Products innovation.** The Budget Act of 2016 directed the Natural Resources Agency to convene a wood products working group, in order to

develop recommendations for creating new innovative wood product markets from biomass removed in fuels reduction projects. In their final report, entitled "Recommendations to Expand Wood Products Markets in California", the Working Group recommended collaborating with the UC, CSU, or other academic institutions to establish a Joint Institute for Wood Products Innovation. Through this partnership, the joint institute would be positioned to take advantage of California's academic leadership in forestry, wood product engineering and architecture to increase innovation of wood products and their use across construction, agriculture, fuels, and other economic sectors.

**Rural Economic and Manufacturing Development Grant.** The SB 859 Wood Products Working Group also recommended that the state create a grant program to develop and deploy new wood products and manufacturing capacity. The program was recommended to be modeled after aspects of two successful grant programs: (1) the US Forest Service Wood Innovations Grants Program, which supports projects that promote the expansion of innovative non-energy wood products markets; and (2) the California Energy Commission Energy Innovations Small Grants Program, which funded research, development, and demonstration for innovative wood products and manufacturing concepts.

#### LAO COMMENT

**Forest Carbon Plan Implementation.** This proposal would provide \$96 million—mostly from the Greenhouse Gas Reduction Fund and Proposition 68 (assuming that voters approve it)—for forest health and related activities. The LAO recommends approving most of this proposal. Broad consensus exists about the problematic conditions of the state's forests and the types of activities needed to address them, but the pace of making needed improvements has been slow. This augmentation will help restore healthy forests and protect the benefits that they provide, such as air, wildlife, climate, and recreational benefits. The LAO also notes that many aspects of the proposal are consistent with recommendations we made in our recent report *Improving California's Forest and Watershed Management*.

The LAO, however, have outstanding questions on one component of the package—\$20 million GGRF for northern, coastal, and southern California regional forest health projects. Based on the LAO's review of the budget proposal, it appears that the proposal is still at a conceptual phase, and the administration is still developing how the program would work. So, while the concept for encouraging regional partnerships and landscape level projects is consistent with the LAO's recommendations, the committee may want to ask some additional questions of the administration, including the following:

- 1) What steps still need to be undertaken to develop this program, and how long will those steps take?

- 2) How much of the \$20 million proposed would be for planning and administrative activities versus for grants to implement forest health projects? When should we expect any grant funds to be released in the budget year?
- 3) How does the administration envision prioritizing funds among various watersheds throughout the state?

<b>STAFF COMMENT</b>
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Better forest management practices are crucial to mitigating our state's fire risk. This proposal attempts to address many of the current challenges by increasing the pace and scale of forest management and restoration efforts and developing wood product markets.

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**Staff Recommendation: Hold Open.**

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## 3900 AIR RESOURCES BOARD

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### ISSUE 2: AGRICULTURAL DIESEL ENGINE REPLACEMENT AND UPGRADES

A May Revision proposal requests that Item 3900-101-0001 be added for \$30 million one-time for agricultural diesel engine replacements and upgrades. This proposal also requests provisional language to make this item available for encumbrance or expenditure until June 30, 2020.

#### BACKGROUND

**Diesel exhaust particulate matter is a toxic air contaminant.** Diesel engines emit a complex mixture of air pollutants, including both gaseous and solid material. In 1998, California identified diesel exhaust particulate matter as a toxic air contaminant based on its potential to cause cancer, premature death, and other health problems. Diesel engines also contribute to California's fine particulate matter air quality problems. Diesel particulate matter has a significant impact on California's population. It is estimated that about 70 percent of total known cancer risk related to air toxics in California is attributable to diesel particulate matter.

**Mobile agricultural equipment emissions are a significant source of air pollution.** Federal law requires all states to meet health-based air quality standards and to develop and implement plans to meet those standards. Emissions from mobile agricultural equipment are among a number of significant sources of air pollution in some areas such as the San Joaquin Valley. Therefore, reducing these emissions is necessary to meet federal ozone air quality standards.

**ARB is working to reduce emissions from mobile agricultural equipment.** ARB has incentive programs and regulations to reduce emissions from a wide variety of agriculture-related diesel engines. Regulations include the Diesel Agricultural Engines, which sets requirement for stationary and portable diesel-fueled engines used exclusively in agriculture. Incentive programs include the Carl Moyer Memorial Air Quality Standards Attainment Program, which provides incentive grants or cleaner-than-required engines and equipment.

The Budget Act of 2017 also provided the ARB with \$135 million to reduce emissions from agricultural harvesting equipment, heavy-duty trucks, agricultural pump engines, tractors, and other equipment used in agricultural operations. CARB is in the process of developing the Funding Agricultural Replacement Measures for Emission Reductions Program Guidelines, which will outline ARB's recommendations for expending these funds.

**LAO COMMENT**

This proposal requests \$30 million one-time in General Fund for incentives to replace high-emitting diesel agricultural vehicles. These funds would supplement the \$102 million GGRF included in the Governor's 2018-19 cap-and-trade expenditure plan. If these activities are a high priority for the Legislature—for example, because agricultural equipment is a significant source of air pollution in the Central Valley—The LAO recommends the Legislature consider allocating a greater share of GGRF, instead of General Fund. (Under the Governor's plan, roughly \$2.8 billion GGRF would be allocated to various programs.) This approach would reduce the amount of GGRF available for other climate-related activities, but would free-up General Fund dollars for the Legislature's highest priorities.

**STAFF COMMENT**

The Governor's proposed cap-and-trade expenditure plan already includes \$102 million for mobile agricultural equipment. The subcommittee may wish to ask the need for additional funding given the proposed GGRF expenditure.

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**Staff Recommendation: Hold Open.**

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**ISSUE 3: ADVANCED PAYMENT: TRAILER BILL LANGUAGE (TBL)**

A May Revision proposal requests trailer bill language to authorize the Air Resources Board to make advance payments to grantees, under certain conditions.

**BACKGROUND**

During the budget process in 2017, the ARB informed the local air districts that it cannot continue to provide air districts with funding for incentive programs such as the Enhanced Fleet Modernization Program in advance of those funds being actually expended, and can only reimburse air districts for payments already made. ARB cited California Constitution Article XVI, Sec. 3 and Sec. 6, which prohibits gifts or donations of public funds.

In response, the local air districts argue that ARB advancing funds to the local air districts to implement incentive programs is not an unconstitutional gift of public funds. The air districts assert that these are legislatively-authorized incentive programs which serve a vital public purpose of helping clean the air and improve public health. Thus, these funds are expended for a public purpose and do not violate the gift of public funds prohibition even where a private party is incidentally benefitted. Further, the local air district indicated that such a requirement would make participation in these incentive programs impossible for many districts, who simply do not have funds available to do so.

AB 109 (Chapter 249, Statutes of 2017) authorized the Air Board to provide the local air districts with advanced payments for fiscal year 2017-18 appropriations.

**STAFF COMMENT**

The proposed trailer bill language would authorize the Air Board to make advanced payments on a permanent basis.

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**Staff Recommendation: Hold Open.**

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**8570 DEPARTMENT OF FOOD AND AGRICULTURE**

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**ISSUE 4: NUTRIA DETECTION AND SURVEY**

A May Revision proposal requests \$400,000 General Fund on a two-year limited-term basis and one position beginning in 2018-19 for the survey and detection of nutria (*myocastor coypus*) in and around California waterways.

**BACKGROUND**

**Nutria is a serious agricultural pest.** The Coypu, also known as Nutria, is a large, herbivorous, semiaquatic rodent. Nutria has the potential to cause damage and lower yield to row crops, rice, fruit and nut orchards and vineyards. This rodent pest is also disruptive to water delivery systems and can become a primary cause of food safety issues by spreading contaminants through irrigation systems.

**Permits for Nutria.** Nutria were farmed for their pelts in the early 1900's and were meant to be contained and monitored through a permit system. In 1959 the issuance of Nutria farming permits was transferred from DFW to CDFA, and at that time there were 324 permitted Nutria farms in the state. By 1970, there were only three permits issued and none has been issued since.

**Nutria escape from fur farming operations.** In 1948, a Nutria escape occurred in Stanislaus County. Approximately 300 escaped animals were removed from 20 counties throughout California. The Nutria were eradicated through a cooperative effort between CDFA, DFW, the County Agricultural Commissioners and the USDA. Eradication was declared in 1978.

**Recent detection of Nutria.** Recently, Nutria have been detected in the Merced and San Joaquin river systems, in Fresno, Merced, Stanislaus and Tuolumne counties. To date, less than 30 animals have been removed from the field. The Nutria are currently as close as 10 miles upstream from the Sacramento-San Joaquin Delta. The natural riparian woodland habitat along the rivers, where they are currently found, is not prime habitat, but once they reach the Delta, with its extensive emergent marsh and agricultural fields, their population will explode. It is unclear at this point the extent of the nutria infestation.

**STAFF COMMENT**

A survey is necessary to determine the extent of the nutria infestation and to provide that information to DFW and the USDA Wildlife Services to assist in its effort to eradicate the incipient infestations.

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**Staff Recommendation: Hold Open.**

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**ISSUE 5: SAN JOAQUIN VALLEY GRANT**

A May Revision proposal requests \$500,000 one-time in General Fund to cover the California Partnership for the San Joaquin Valley's (CPSJV) administrative cost while they are developing a sustainable funding plan.

This proposal also requests provisional language to authorize CDFA to provide the requested funding to the CPSJV.

**BACKGROUND**

**The California Partnership for the San Joaquin Valley (CPSJV).** Executive Order S-05-05 established the CPSJV in 2005. The CPSJV is a public-private partnership focused on improving the economic vitality and improving the quality of life in the eight counties within the San Joaquin Valley.

CPSJV provides an organizational framework for collaboration to improve issues affecting the quality of life in San Joaquin Valley by:

- Developing implementation strategies of common value following the Sustainable Groundwater Management Act;
- Monitoring Greenhouse Gas Reduction Fund policy to ensure funding availability is accessible to potential San Joaquin Valley applicants and as appropriate;
- Requesting funding policy adjustments to create fair distribution of funds for the valley;
- Collaborating with two-year and four-year institutions to increase student transfer rates;
- Establishing Central Valley higher education policy and advocacy, and supporting collaborative initiatives including professional development and data collection analysis; and
- Promoting improved health status and well-being by promoting healthy lifestyles, safe communities, and providing timely access to healthcare.

The CPSJV Strategic Action Plan consists of:

- Growing a diversified, globally competitive economy supported by a highly skilled workforce;
- Creating a model PreK-12 public education system;
- Implementing an integrated framework for sustainable growth;
- Building a 21st century transportation mobility system;
- Attaining clean air standards; and
- Developing high-quality health and human services.

**Previous funding for CPSJV.** The Legislature appropriated \$5 million initial funding for administration and 15 seed grants for CPSJV to achieve the goals in the CPSJV

Strategic Action Plan. The Office of the President and Provost at Fresno State has provided additional funding and the James Irvine Foundation provided an annual grant for administrative support for the past four years, but those funds expire in September 2018. CPSJV has successfully leveraged more than \$13 million in federal and philanthropic investments with the State of California's initial investment in the partnership.

**STAFF COMMENT**

CPSJV is a unique public-private initiative focused on addressing San Joaquin Valley's challenges and maximizing its opportunities. Providing \$500,000 for administrative costs would enable CPSJV to continue its work in the San Joaquin Valley while a permanent funding plan is being developed.

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**Staff Recommendation: Hold Open**

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**8570 DEPARTMENT OF FORESTRY AND FIRE PROTECTION****ISSUE 6: CLIMATE CHANGE FIRE SEVERITY**

A May Revision proposal requests \$10.9 million General Fund and 52 positions starting in 2018-19 to provide heavy equipment mechanics, vehicle maintenance funding, and associated administrative support staff.

**BACKGROUND**

**The nearly year-round fire season, also known as the “new normal.”** Climate change continues to lengthen the fire season in California. In some areas, the fires are year-round. Over the last six years, CalFire has experienced a 25 percent increase in fire activity in the middle of the winter months. Scientists have been confirming that fire season length and intensity have noticeably increased over the past two decades.

In addition to the impacts of climate change on the fire season, large numbers of trees are dead or dying due to the multi-year drought, which has weakened trees and left millions of acres of forestland highly susceptible to bark beetle attacks. The current 129 million dead and dying trees, along with inevitable incremental increases in mortality, will directly influence fuel conditions and fire behavior for up to 20 years.

**Additional funding for increased fire activities.** In 2017-18, CalFire received funding to extend fire suppression staffing year-round and staff engines earlier and later in the calendar year. This allocation did not include staffing for vehicle maintenance or other critical departmental needs.

CalFire has added 215 vehicles since 2009-10. In 2015-6, the Legislature provided \$6 million for tree mortality equipment, including excavators, masticators, loaders, shippers, and portable saw mills. In 2017-18, the Legislature provided \$3 million for forest health heavy equipment. These allocations did not include resources for maintenance. As of April 2018, CalFire is approximately 30 percent behind schedule on winter maintenance.

**LAO COMMENT**

**Climate Change Fire Severity.** This proposal would provide \$10.9 million General Fund and 52 positions for heavy equipment mechanics, vehicle maintenance, and administrative staff support. The May Revision proposal did not include a clear workload justification, making it difficult to evaluate whether this significant augmentation is justified. Specifically, administration’s proposal did not include information on current and projected workload as compared to current staffing and resource levels for each component of the request. Moreover, the LAO notes that the Governor’s January budget included a proposal for \$3.6 million and 21 positions for similar administrative purposes. The LAO have requested additional workload justification from the

department. The LAO withhold recommendation pending receipt and review of this workload justification.

<b>STAFF COMMENT</b>
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Providing CalFire with additional personnel and funding would allow them to better respond to the longer and more complex fire season, and to support a growing workload created by emergency supply and service requests.

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**Staff Recommendation: Hold Open.**

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**ISSUE 7: OFFICE OF THE STATE FIRE MARSHAL, FIRE AND LIFE SAFETY DIVISION**

A May Revision proposal requests an increase of \$4,029,000 in reimbursement authority and 15 positions to support the Office of the State Fire Marshal's Fire and Life Safety Division's increased workload related to its plan review, construction inspection, and mandated interval inspection activities.

This proposal also requests provisional language to authorize a General Fund loan of up to \$2.3 million to be repaid over three years. These requests are initial outcomes of an ongoing Mission Based Review the Department of Finance is performing with the Office of the State Fire Marshal.

**BACKGROUND**

**The State Fire Marshal's Fire and Life Safety Division (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 not only include the space being leased by the state, but also 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.

<b>STAFF COMMENT</b>
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With the population growth in California and the commensurate growth of state agencies, additional pressures are being placed on the OSFM. Due to increased workload, the OSFM has prioritized plan review and construction inspection workload within existing resources, often at the expense of inspections of existing facilities. If the inadequacy in staffing levels persists, current fire and life safety conditions within state-owned and occupied properties will continue to deteriorate. Approving this request would alleviate the backlog and provide OSFM additional support for its increased workload.

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**Staff Recommendation: Hold Open.**

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**ISSUE 8: FIREWORKS PROGRAM (BCP + TBL)**

A May Revision proposal requests \$3.6 million one-time from the California Environmental License Plate Fund and two ongoing positions for Office of the State Fire Marshal, to oversee the newly created Fireworks Stewardship Program and to increase the state's efforts to reduce the influx of illegal fireworks into the state.

This proposal also requests \$2.1 million in reimbursement authority to the State Fire Marshal Fireworks Enforcement and Disposal Fund starting in 2019-20 to reflect anticipated reimbursements that will be funded through the imposition of a management charge on retail sales of "safe and sane" fireworks. Trailer bill language is also requested to implement this proposal.

**BACKGROUND**

**The Office of State Fire Marshal (OSFM) regulate fireworks in the state.** Current law requires the OSFM to regulate fireworks in the state and to destroy dangerous and illegal fireworks once they are seized by local fire departments or law enforcement agencies.

California allows only certain fireworks—those designated as “safe and sane” by the OSFM—to be sold in California. Many local jurisdictions in California elected to ban the sale or use of all fireworks within their borders. Consequently, illegal fireworks seized by law enforcement agencies include those that are illegally made in or transported into the U.S., as well as fireworks that are legally purchased in one jurisdiction (including parts of California, in some cases) and brought into another jurisdiction where they are illegal.

**Illegal fireworks in California is on the rise.** The use and sale of illegal fireworks continues to rise in California creating significant environmental and fire hazards. Each year the State seizes on average over 220,000 pounds of fireworks needing to be disposed. Without a stable funding source for enforcement and disposal, the confiscation of illegal and dangerous fireworks throughout the State has resulted in stockpiles. There is currently no long-term sustainable funding source for the enforcement on the illegal fireworks operation or the disposal of these fireworks. Up until now, the focus has been to properly disposing of the stockpiles leaving few resources, if any, for enforcement.

**The Governor's Proposal.** The Governor's office developed this proposal in collaboration with the fireworks industry, California Fire Chiefs Association, League of Cities, and California Police Officers Association. The proposed trailer bill language would create a program to deal with illegal fireworks by making the fireworks industry responsible for seized products as a condition of their licenses to do business in California. This proposal also addresses the need for increased enforcement, education, as well as funding for disposal. Specifically, this proposal would:

- Reduce the amount of illegal fireworks entering California.

- Provide a stable funding source for illegal fireworks disposal
- Support local fire and law agencies in their efforts in enforcement
- Provide a cohesive statewide effort addressing illegal fireworks

**The proposed Fireworks Stewardship Program.** This proposal would require wholesalers of “Safe and Sane” fireworks, of which there are currently four operating in the State, to form a stewardship entity and create a stewardship plan as a condition of receiving their annual license. This stewardship entity would be required to:

- Assess a management charge on the sale of safe and sane fireworks.
- Provide funding for fireworks enforcement, education, and disposal,
- Create a plan with state and local law enforcement to reduce the volume of illegal fireworks entering California.
- Assist OSFM in sorting, classifying and packing all seized fireworks.
- Manage and repurpose collected commercially viable fireworks and ensure they do not return to California.

It is estimated that approximately 80 percent of all fireworks seized are commercially viable or even “Safe and Sane” fireworks. The proposed trailer bill language would authorize the transfer of commercially viable fireworks seized by OSFM to the stewardship entity. By allowing the stewardship entity to repurpose those fireworks, the amount of fireworks requiring disposal will be significantly reduced.

**New program would increase enforcement of illegal fireworks.** Disposal of illegal fireworks has taken so much time and resources that the OSFM has not been able to tackle enforcement adequately. This proposal would provide resources to the OSFM to coordinate fireworks enforcement and education, as well as continue its responsibility to handle the disposal of illegal fireworks. Specifically, this proposal would provide funding to OSFM to increase enforcement through local grants, provide for public education, and funds the disposal of illegal fireworks. This proposal would also fund four positions (two of which are currently unfunded) to coordinate, enforce and support the fireworks stewardship program.

**Anticipated costs and proposed funding for the new program.** The Administration anticipates a cost of \$2.1 million to operate the program and dispose of seized illegal fireworks in the future. The proposal provides \$3.6 million from the California Environmental License Plate Fund for the first year of the program. The additional \$1.5 million in the first year would allow the State to dispose of stockpiled fireworks from previous years. In 2019-20 and thereafter, \$2.1 million (the estimated cost to operate the program) will be reimbursed by the stewardship entity to the Fire Marshal Fireworks Enforcement and Disposal Fund.



	Year 1	Year 2	Year 3 +
4 Positions & Operating Expenses	\$980,000	\$780,000	\$766,000
Estimated Disposal Costs	\$550,000	\$550,000	\$550,000
Public Education	\$200,000	\$300,000	\$300,000
Local Enforcement Grants	\$350,000	\$450,000	\$464,000
Task Force Coordination Costs	\$20,000	\$20,000	\$20,000
<b>TOTAL COSTS</b>	<b>\$2,100,000</b>	<b>\$2,100,000</b>	<b>\$2,100,000</b>

<b>LAO COMMENT</b>
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**Fireworks Stewardship Program for Seized Illegal Fireworks.** This proposal provides one-time funding of \$3.6 million from the Environmental License Plate Fund for 2018-19 and establishes a new Fireworks Stewardship Program. The LAO does not have any specific concerns with the proposal, and it addresses an ongoing programmatic challenge. However, this May Revise proposal is creating an entirely new program without a lot of time for Legislature to weigh the merits of this approach versus potential alternatives. The Subcommittee might wish to ask the department the following questions: (1) Why does the administration believe the establishment of this new program should be done in the budget rather than through the policy process? (2) What alternative approaches were considered, and why is the proposed approach viewed as superior to those other alternatives?

<b>STAFF COMMENT</b>
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This proposal would resolve the long-standing issue of disposal of illegal and dangerous fireworks that are seized and stockpiled throughout the state, and provide a stable, long-term funding source to support the increasing demands for fireworks education, enforcement, and disposal.

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**Staff Recommendation: Hold Open.**

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**3790 DEPARTMENT OF PARKS AND RECREATION****ISSUE 9: MUSEUM OF TOLERANCE**

A May Revision proposal requests \$10 million one-time in General Fund to provide a local assistance grant for the renovation of the Museum of Tolerance.

**BACKGROUND**

**The Museum of Tolerance (MOT).** The MOT is a multimedia museum in Los Angeles, and is designed to examine racism and prejudice around the world with a strong focus on the history of the Holocaust. Established in 1993, the MOT is the educational arm of human rights organization, the Simon Wiesenthal Center.

The MOT has served over 5 million visitors with 350,000 visiting annually, including 130,000 students who visit the museum as part of their curriculum. Further, over 160,000 criminal justice professionals and 75,000 educators have trained in the Museum's "Tools for Tolerance" program.

The MOT has been open for over 25 years and has been able to remain current, with assistance from the state, through investments made based on the recognized value of the Museum's mission. The state was instrumental in funding the Museum's acclaimed Anne exhibit on the life and story of the iconic Anne Frank.

**The MOT has a diverse membership.** According to a University of California, Los Angeles study of five major Los Angeles area museums, the MOT has the most diverse membership and visitor base. The Museum has received numerous accolades and has attracted world leaders, numerous presidents of the United States, kings, and prime ministers.

**The MOT is in need of a facelift.** The Museum has demonstrated its success, and there is concern for its future. The Museum is in need of a complete transformation of the Tolerancenter, which includes over half of the Museum's permanent installations. The state-of-the art story-based museum that led the global transformation of museumology is worn-out and falling apart. Once on the cutting edge, their technology is now old, the equipment is breaking down, and the films on issues of the day are rapidly becoming passé.

**LAO COMMENT**

**Museum of Tolerance.** This proposal would provide \$10 million General Fund for a one-time local assistance grant for the renovation of a wing of the Museum of Tolerance in Los Angeles. The LAO notes that the administration has not provided a clear explanation as to why it selected this project to receive direct General Fund support. Typically, local projects are funded through the department's local assistance program

on a competitive basis. In fact, Proposition 68, which will appear on the June 2018 ballot, would provide local jurisdictions with significant additional resources for parks and recreation projects. We recommend the Legislature ask the following questions to the department as it considers this proposal: (1) Why did the administration prioritize this project for General Fund resources over other potential state and local parks projects? (2) Would this project be eligible for funding under Proposition 68, either the per capita allocations to local jurisdictions or the competitive grants?

<b>STAFF COMMENT</b>
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Funding this proposal would help the MOT leverage \$10 million in matching private contributions and would ensure that the museum continues to raise awareness about the peril of intolerance in human lives, and effectively inspire the public to make a positive contribution towards creating a better world. However, staff concurs with the LAO's assessment on why this project was selected for funding over other projects.

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**Staff Recommendation: Hold Open.**

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**ISSUE 10: CALIFORNIA INDIAN HERITAGE CENTER (BCP + TBL)**

A May Revision proposal requests \$100 million in General Fund to be deposited into the Natural Resources and Parks Preservation Fund for the preliminary plans (\$4.7 million), working drawings (\$4.7 million), and construction (\$90.6 million) phases of the California Indian Heritage Center (CIHC) project in Yolo County.

This proposal also requests \$100 million in matching State Park Contingent Fund authority for construction costs to be funded through future fundraising efforts. This proposal also requests trailer bill language to authorize this project.

**BACKGROUND**

**A museum for California Tribes.** The concept for a museum for California Tribes originated in 1927 with a loan to the state from Benjamin Hathaway of nearly 40,000 objects. A temporary facility to store, exhibit, and educate the public about these collections came to fruition in 1940 with the construction of a 4,300 square foot building at Sutter's Fort State Historic Park, funded by the Native Daughters of the Golden West. In 1950, the state purchased the collection, hired its first professional staff, and developed new exhibits.

**California Indian Heritage Center.** Senate Bill 2063 (Brulte, Chapter 290, Statutes of 2002) appropriated \$5 million to establish the California Indian Cultural Center and Museum Task Force, and directed this taskforce to advise and make recommendations to the department regarding development of a new museum, including its location, design, content, and governance structure.

The task force adopted the name "California Indian Heritage Center." The Department, Task Force, and community representatives selected the West Sacramento site at the confluence of the Sacramento and American Rivers after assessing several alternatives.

The envisioned project constitutes a decades-long collaboration between the Department, California tribal communities, and interested philanthropic entities. It fulfills long-standing promises and demonstrates the state's commitment to and responsibility for collaborating with California tribal communities throughout the state to communicate their history and work together to preserve California tribal cultural heritage. Total estimated project cost is \$200 million.

**LAO COMMENT**

**California Indian Heritage Center.** This proposal would provide \$100 million General Fund to build the California Indian Cultural Center by depositing it into the Natural Resources and Parks Preservation Fund (NRPPF). It would also authorize up to \$100 million in matching funds via the State Park Contingent Fund. The LAO have two major

concerns with this proposal. First, it is unclear whether the \$200 million cost estimate is accurate given that the current project appears to only be at a conceptual stage. Second, depositing funds into the NRPPF does not provide the standard level of legislative oversight for capital outlay projects because funds are continuously appropriated. This would mean that subsequent planning and construction phases would not have to come before the budget committees for review and approval as is typically the case for capital projects of this magnitude. If the Legislature chooses to move forward with this project, we would recommend appropriating in the Parks budget the level of funding needed in the budget year. This might include funding for acquisition and initial planning activities. The department would then come back to the Legislature in future years as it need funding for the next phases of the project. In addition, should the Legislature want to set aside additional funds for this project—\$100 million or some other amount—it could still do so, but we would recommend that it revoke the continuous appropriation authority for the NRPPF so as to ensure use of the traditional budget review process in the future.

**STAFF COMMENT**

Funding this project would help fulfill a longstanding need to provide a properly sited California Indian Heritage Center. However, providing the entire amount from the outset would deprive the Legislature of oversight over the project.

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**Staff Recommendation: Hold Open.**

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**ISSUE 11: FORT ROSS SHP: CULTURAL TRAIL**

A May Revision proposal requests \$852,000 in Proposition 12 funds for the preliminary plans (\$537,000) and working drawings (\$315,000) phases of the Fort Ross State Historic Park: Cultural Trail project in Sonoma County. Total estimated project cost is \$3.4 million.

**BACKGROUND**

**The Fort Ross State Historic Park (SHP).** The Fort Ross SHP is a historical state park in Sonoma County. The site is recognized as a National Historic Landmark, National Register of Historic Places, and California Historical Landmark. Fort Ross, active from 1812 to 1842, was the southernmost settlement in the Russian colonization of the Americas.

Originally comprised of a several acres centered on the few structures still standing within the historic footprint of the Russian-American Company's stockade walls, the park has grown considerably as the state acquired additional land over the past century. Presently, the park consists of 3,386 acres, including 23,480 feet of waterfront. Protected underwater cultural resources, including shipwrecks and anchor points, also are part of the 90-acres of coastal environs managed by the Department at Fort Ross SHP.

**Concept for a cultural trail.** The concept for a trail was first articulated in the 1975 general development plan for the park. The envisioned trail would connect and interpret the locations where different cultural groups lived outside the fort compound and produce signs in multilingual format. The concept was more explicitly presented in a 1992 publication after five years of collaborative research between State Parks archaeologists, UC Berkeley researchers, among other scholars.

The concept was further refined by 2011 and addressed ways to minimize the trail's possible impacts on Kashaya ancestral sites through a collaborative project to engage the public in productive dialogues about heritage and incorporating indigenous views on science, spirituality and heritage into the study and representation of the colonial past at the park. Most recently, the engagement of tribal, academic, and agency professionals was presented as a project proposal at the annual Fort Ross Dialogue in October 2017 to officials and visiting dignitaries.

**STAFF COMMENT**

This project will develop the Fort Ross Cultural Trail, by adding a new trail segment to the California Coastal Trail.

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**Staff Recommendation: Hold Open**

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**3930 DEPARTMENT OF PESTICIDE REGULATION****ISSUE 12: IMPROVED CEQA NOTIFICATION FOR PESTICIDE REGISTRATION**

A May Revision proposal requests \$515,000 in Department of Pesticide Regulation Fund and three positions to expand the documentation provided to the public to meet the CEQA requirements.

**BACKGROUND**

**DPR is required to notice the public of its intent to register or deny a pesticide product.** DPR is statutorily required to thoroughly evaluate the pesticide's toxic effects, its fate in the environment, its potential exposure to people and non-target organisms, the potential for environmental problems with new pesticide products prior to registration, and continuously evaluate registered pesticide products to identify potential adverse impacts to human or environmental health. This process includes evaluation of product chemistry and efficacy, human toxicity, ecotoxicology (non-target organisms and the environment), phytotoxicity (plants), off-site movement in air and water, and the impact of proposed uses on pesticide applicators and other workers when applicable. Once evaluated, DPR provides a public notice of its proposed decision to register or deny the product and provides the opportunity for public comment. Proposed decisions to register or deny the request to register or amend a pesticide product are published on DPR's website. DPR reviews and responds in writing to all public comments that raise a significant adverse environmental point regarding registration decisions prior to making a final decision on the product.

**CEQA requires various state and local governmental entities to evaluate the effect of proposed activities on the environment.** An environmental impact report (EIR) is required when significant impacts are expected, unless an agency's regulatory program is certified as the functional equivalent of an EIR. In 1979, the Secretary of the Resources Agency certified DPR's regulatory program for pesticide registration and evaluation as a certified regulatory program. The Notices of Proposed and Final Decisions and public reports (NODs) to register or deny a pesticide product are posted weekly to satisfy the requirement for written documentation that may be used instead of an EIR.

**Pesticide Action Network North America v. California Department of Pesticide Regulation (2017).** In March, 2018, the California Court of Appeal determined that DPR's NODs were deficient in demonstrating DPR's certified environmental review process for two pesticide label amendments.

**The Governor's Proposal.** In response to the recent court decision and community concerns, the DPR proposes to expand the documentation of pesticide registration provided to the public and show how the environmental review of each decision meets

the substantive environmental review requirements of CEQA. The new NODs will include the following:

- A new summary for the public of all of the scientific analyses that are now in separate technical scientific documents specific to each product (this will require one scientist to review all of the technical documents and summarize them);
- A new process that makes the evaluation reports (the scientific technical document) and product labels accessible in the Notice of Proposed Registration;
- Expansion of DPR's alternatives analysis for each type of registration decision;
- A new cumulative impact discussion for each product which will include analysis of several years of pesticide use records. It will also include a discussion of currently registered products with the same or similar ingredients.

<b>STAFF COMMENT</b>
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This proposal will enhance the public's access to information regarding the Department's pesticide evaluation process and findings and ensure the documentation provided to the public meets CEQA requirements.

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**Staff Recommendation: Hold Open.**

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**3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

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**ISSUE 13: DISASTER RECOVERY ASSISTANCE PROGRAM**

A May Revision proposal requests that Item 3970-001-0387 be increased by \$1,250,000 and six positions, to enhance the Department's ability to respond to requests from the Governor's Office of Emergency Services for assistance when disasters occur and debris removal is requested. The positions will also be available to provide technical assistance to local governments in developing disaster recovery plans and protocols when they are not deployed for recovery efforts related to a disaster.

**STAFF COMMENT**

Staff did not receive a budget change proposal on this request at the time this agenda was sent to publication.

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**Staff Recommendation: Hold Open**

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**ISSUE 14: PLASTIC MARKET DEVELOPMENT PROGRAM (TBL)**

A May Revision proposal requests trailer bill language to extend the sunset date on the Plastic Market Development Program from January 1, 2018 to July 1, 2022.

**BACKGROUND**

**Plastic Market Development Program.** AB 3056 (Committee on Natural Resources, Chapter 907, Statutes of 2006) created the Plastic Market Development Payment (PMD) Program to develop California markets for recycled empty plastic beverage containers. The PMD program encourages the development of new end use markets for California recycled plastic as feedstock by providing a monetary incentive to manufacturers.

Prior to the enactment of the PMD Program, virtually all of the plastic collected for recycling in California was exported overseas for recycling. After the enactment of the PMD Program, California succeeded in increasing both processing and use of recycled plastic in state.

**Changes in the PMD Program.** The PMD Program makes payments of up to \$150 per ton to California-based processors and manufacturers that recycle and utilize post-consumer plastic beverage containers. In 2007-09, the total amount of funds authorized was \$5 million. Beginning in 2010, the Legislature increased this payment authority to \$10 million annually. The PMD program was reauthorized and expanded in 2011.

Recent changes in global markets and scrap values have negatively affected California's recycling systems. This proposal will provide \$15 million Beverage Container Recycling Fund in fiscal year 2018-19, and \$10 million annually thereafter through 2021-22, for market development payments to address the challenges in the recycled material market.

**LAO COMMENT**

**Plastic Market Development TBL.** This proposal would: (1) extend the program's sunset date from January 2018 to July 2022; (2) increases the department's expenditure authority from \$10 million to \$15 million for market development payments for empty plastic beverage containers; and (3) makes other statutory changes. The administration has not provided a budget change proposal to explain or justify these proposed changes. The LAO recommends that the budget committees ask the department the following questions to justify the proposal: (1) What information is available—such as from any studies of the program's effectiveness—that demonstrate that this program should be extended and expanded? (2) Given the sunset date and other statutory changes, why does the administration believe this issue is best addressed through the budget rather than the policy process?

**STAFF COMMENT**

Staff did not receive a budget change proposal on this request at the time this agenda was sent to publication. However, California has operated the PMD Program for over a decade. Extension of this program would continue to help California' recycling infrastructure by incentivizing California-based manufacturers of products and packaging to utilize recycled material, reduce pollution and waste, and increase jobs and economic opportunity in California.

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**Staff Recommendation: Hold Open**

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**ISSUE 15: ENFORCEMENT OF BEVERAGE CONTAINER RECYCLING PROGRAM (TBL)**

A May Revision proposal requests trailer bill language to clarify the authority of the California Highway Patrol to arrest individual transporters who illegally transport out-of-state empty containers for redemption in California.

**BACKGROUND**

The May revision proposal request to add Section 14536.3 to the Public Resources Code:

*14536.3. Any traffic officer, as defined in Section 625 of the Vehicle Code, and any peace officer, as specified in Section 830.1 of the Penal Code, may enforce this division as authorized representatives of the department.*

According to CalRecycle, with a presence on highways and at border stations, the CHP is already strategically positioned to collaborate with the Department and its partner agencies. Additionally, if the transporters try to bypass border stations by using alternative routes monitored by CHP officers, the CHP could still conduct an inspection and arrest.

**STAFF COMMENT**

Staff did not receive a budget change proposal nor additional back ground information on this request at the time this agenda was sent to publication.

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**Staff Recommendation: Hold Open.**

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**3860 DEPARTMENT OF WATER RESOURCES****ISSUE 16: DAM SAFETY TRAILER BILL LANGUAGE (TBL)**

A May Revision proposal requests trailer bill language to clarify the process for dam owners where there is an existing or partial Emergency Action Plan or inundation map as of March 1, 2017. The proposed language also require dam owners with partial EAPs or inundation maps to develop a timeline by which they will develop the comprehensive EAP and inundation maps.

**BACKGROUND**

**2017 Dam Safety Trailer Bill.** The Budget Act of 2017 included trailer bill language to require dams to have an emergency action plan that is updated every ten years, updated inundation maps every ten years, or sooner if specific circumstances change, and provide DWR with enforcement tools, including fines and operational restrictions for failure to comply.

Specifically, the trailer bill adopted last year required DWR to do a complete a reconnaissance of the geologic, hydraulic, hydrological, and structural adequacy of the identified 108 largest spillways in the State by October 1, 2017. By January 1, 2018, DWR is required to complete a thorough site investigation and evaluation of those spillways that are found to be potentially at risk. Immediate action such as emergency repairs or reservoir operation restrictions will be required of dam owners as necessary to reduce the risk of any spillway identified to be in poor condition as a result of the study. DWR is required to complete evaluations of the remaining spillways by January 1, 2019 and direct dam owners to make required repairs or restrict reservoir operations as needed.

The 2017 dam safety trailer bill also required DWR to re-classify jurisdictional dams as extremely high, high, significant or low risk. The DWR will require inundation maps and Emergency Action Plans for all jurisdictional dams allowing a waiver for low hazard dams. During regular inspections, DWR will track any dams where the hazard classification has changed and reassess the waiver as necessary.

The 2017 dam safety trailer bill also required DWR to identify which scenarios beyond a complete dam failure require a separate inundation map. The dam owner will create the inundation map and submit to the DWR, which will be reviewed and approved by DWR's Division of Flood Management. The approved maps will then be posted publicly on DWR's website and linked to Cal OES' website.

Dam owners will be responsible for creating Emergency Action Plans in accordance with federal guidelines and based on their updated inundation maps. Cal OES will provide guidelines regarding the coordination between dam owners and local emergency management agencies to create local emergency response plans. Dam

owners will submit the plans through DWR, who will work with Cal OES to review and confirm that plan components are acceptable for incorporation into and to guide local emergency response plans.

DWR was also provided additional enforcement power over dam owners who are not complying with the new emergency plan/inundation maps requirements.

<b>STAFF COMMENT</b>
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Staff has no concerns with the proposed trailer bill language, which is clarifying in nature.

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**Staff Recommendation: Hold Open**

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**ISSUE 17: OPEN AND TRANSPARENT WATER DATA ACT (AB1755)**

A May Revision proposal requests that Item 3600-001-0140 be increased by \$150,000, Item 3860-001-0140 be increased by \$450,000, and Item 3940-001-0140 be increased by \$200,000 to continue implementation of AB 1755 (Dodd, Chapter 506, Statutes of 2016).

**BACKGROUND**

AB 1755 (Dodd) 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.

**STAFF COMMENT**

This request builds on the funding provided in the Budget Act of 2017 and would allow the Water Board, DWR, and DFW to continue building the database and maintenance of the IT system.

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**Staff Recommendation: Hold Open**

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**ISSUE 18: JOINT OPERATIONS CENTER RELOCATION**

A May Revision proposal requests \$964,000 General Fund and provisional language to prepare a request for proposal to enter into a build-to-suit lease for a new Joint Operations Center. In addition, \$926,000 State Water Project funds will be used for this purpose.

**BACKGROUND**

**Joint Operations Center (JOC).** JOC is a facility that houses state and federal entities working in collaboration to manage and operate the state and federal water projects, and respond to state's flood emergencies. DWR is the participating state agency. DWR's two main divisions involved are the Division of Flood Management (DFM) and the Division of Operations and Maintenance for SWP. The federal agencies are the US Bureau of Reclamation (USBR) and the National Weather Service (NWS), which includes the Sacramento Weather Forecast Office and California-Nevada River Forecast Center. The JOC state and federal collaboration has existed since the 1960s. In 1995, these entities moved from the Resources Building in downtown Sacramento and other federal facility locations to the El Camino and Watt Avenue facility in north Sacramento.

The current JOC was originally intended as an interim location until DWR could build a permanent facility. The JOC is out of compliance with the State of California Essential Services Act (ESA) for the Flood Operations Center (FOC) when activated during flood emergencies. The Division of State Architect provided a ten-year grace period to allow DWR to meet ESA, which elapsed in 2005. Both state and federal agencies have struggled to comply with new Homeland Security regulations that continue to change and become more restrictive for physical space and information technology requirements related to security. Both the state and federal partners have intended to find a permanent home for JOC, preferably having an ownership opportunity in the facility.

The new facility will be built to the standards of the ESA, the Americans with Disabilities Act, Title 24 of the California Code of Regulations, and designed to achieve Leadership in Energy and Environmental Design (LEED) Silver rating.

**Additional Costs to Consider for This Proposal.** The BCP states that the estimated annual lease payment is an average of \$20.2 million, which is an average \$17 million a year increase. The funding sources would include the General Fund (\$7.5 million), SWP funds (\$6.5 million), and federal reimbursement authority (\$3 million). If this proposal is approved, there will be one-time costs associated with moving (\$15.8 million) and ongoing costs associated with the new lease payment (approximately \$7 million per year) that will be State Operations Support General Fund. DWR's Division of Flood Management cannot absorb an increase in lease costs or the cost of the move.



In addition, the BCP notes that there is potential risk that the federal partners will not be able to pay for their sub-lease payments – Under this scenario, DWR would have to pay this federal portion out of their support budget.

The May Revision Letter states the estimated total cost to acquire, design, and construct the JOC is \$265.2 million (\$116.3 million General Fund, \$111.8 million State Water Project, and \$37.1 million federal reimbursement). The state's portion will be comprised of 51 percent General Fund and 49 percent continuously appropriated State Water Project (SWP) funds.

The proposed project, to be jointly occupied by the state and federal partners, is estimated to be approximately 282,000 square feet (247,000 sf state and 35,000 sf federal). A new JOC is necessary, as the current facilities no longer meet programmatic space needs to comply with essential service needs, do not conform to federal requirements of being located outside of the 100-year floodplain, and lack enough perimeter setback space to meet federal security requirements.

<b>STAFF COMMENT</b>
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The Subcommittee may wish to ask the following questions:

- 1) What is the total cost that is anticipated for this entire project over 25 years?
- 2) What is the timeline you are anticipating for when the facility would be ready for move-in?
- 3) Are the increased costs for the State Water Contractors included in the updated long-term SWP contract terms currently being negotiated?

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**Staff Recommendation: Hold Open**

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**ISSUE 19: SAVE OUR WATER CAMPAIGN**

A May Revision proposal \$300,000 ongoing from the Environmental License Plate Fund (ELPF) to support outreach and advertising to sustain the Save Our Water (SOW) campaign as an in-house DWR program run by the Public Affairs Office (PAO).

**BACKGROUND**

**Save Our Water Campaign (SOW).** SOW was created in 2009 while the state was experiencing drought. The program was initially funded through Proposition 84 and administered through a partnership between Association of California Water Agencies (ACWA) and DWR to raise public awareness about the ongoing drought. By early 2010, the drought had abated and the program's focus shifted to ongoing water conservation education following the passage of a comprehensive legislative water package, known as the *20x2020 Water Conservation Plan*, which mandated that urban water consumption be reduced by 20 percent by 2020. Funding for the program ends June 30, 2018.

**LAO COMMENT**

The state has provided several million dollars in recent years for a water conservation campaign through ACWA, including \$1 million in the current year. This request would shift the campaign to DWR's office of public affairs and make these activities an ongoing part of water-related communications.

**STAFF COMMENT**

Despite not being in a drought this year, it might be sensible for the California to continue activities to raise public awareness about water conservation.

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**Staff Recommendation: Hold Open**

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**ISSUE 20: FLOOD CONTROL INFRASTRUCTURE (BCP +TBL)**

A May Revision proposal requests \$195 million one-time in General Fund (\$25 million ongoing). One-time funding of \$170 million will be used to support the state cost-share of critical United States Army Corps of Engineers urban flood risk reduction projects. Ongoing funds will be used to support operations, maintenance, repair, rehabilitation, and replacement of the flood control infrastructure.

Funding is proposed as follows:

- \$45 million in state operations support (USACE urban projects; operations, maintenance repair, rehabilitation, and replacement (OMRR&R), and Central Valley Flood Protection Board (CVFPB) feasibility study), as follows:
  - \$20 million one-time state ops: USACE urban projects – five-year extended encumbrance;
  - \$25 million ongoing state ops or local assistance: OMRR&R. For FY 2018-19 specifically, these funds include:
    - \$23.7 million state ops: OMRR&R – standard one-year encumbrance;
    - \$1.3 million state ops: CVFPB feasibility study – two-year extended encumbrance;
- \$150 million in one-time capital outlay (USACE urban levees) – five-year extended encumbrance.

This proposal also requests trailer bill language to make various changes to the Delta Levee Maintenance Program.

**BACKGROUND**

**USACE Urban Projects.** Urban projects are generally considered those that protect urbanized areas and the majority of the state's public and private assets. These projects are initiated and led by USACE and contributed to by local and state partners pursuant to federal cost-share requirements. These projects contribute directly toward 200-year flood protection, which is to be achieved by 2025 per SB 5 (Machado), Chapter 364, Statutes of 2007), for Central Valley urban communities such as the Sacramento and Stockton regions.

The Administration states that General Funds are needed for these projects to strengthen the state's ability to leverage federal funds. While existing bond funds such as Proposition 1E and Proposition 68 provide funding for flood investments, these funds are largely limited to multi-benefit projects, or levee projects located in the Delta. USACE urban projects are typically not multi-benefit and, therefore, do not qualify for existing bond funds.

**Operations, Maintenance Repair, Rehabilitation, and Replacement (OMRR&R).** OMRR&R includes both routine and non-routine maintenance that is completed in a

timely manner. OMRR&R is performed throughout the entire flood system. These funds are intended to support priority projects that reduce state liability and incentivize cost-sharing with local entities by: 1) encouraging a regional governance model that will better allow local entities to assess local beneficiaries of the levee system; and, 2) updating assurance agreements with the state to clarify levee maintenance responsibilities. General Fund is needed for this work as some maintenance cannot be funded with bond funds and because an ongoing appropriation is needed to address annual costs that currently exceed available funds. OMRR&R not completed in a timely manner becomes deferred maintenance.

**LAO COMMENT**

According to LAO, this proposal seems to meet identified needs, in particular, those identified by the Central Valley Flood Protection Plan, and mostly the funds are going to established programs and efforts.

**STAFF COMMENT**

The subcommittee may wish to ask the following questions:

- 1) How will DWR choose which projects to spend the \$170 million on?
- 2) How does DWR plan to prioritize the use of the ongoing \$25 million? How might you use this funding to change practices by or arrangements with local agencies? Will there be local cost-share requirement?
- 3) Is \$25 million annually enough to properly maintain adequate flood protection?
- 4) Didn't the Central Valley Flood Protection Plan call for more than this for ongoing operations and maintenance?
- 5) Why is it appropriate to spend state funding on flood protection? Shouldn't it be paid for by the beneficiaries/residents who live behind the levees?

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**Staff Recommendation: Hold Open.**

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**3820 SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION****ISSUE 21: RELOCATION TO BAY AREA METRO CENTER**

A May Revision proposal requests \$3,020,000 General Fund for one-time tenant improvement and moving costs associated with moving to the San Francisco Bay Area Metro Center Regional Headquarters building allowing BCDC to co-locate with its most important regional planning partners. BCDC's current space in the Hiram Johnson State Office Building is proposed to be backfilled by the Department of Justice, who already occupy a portion of the state building.

**BACKGROUND**

**SFBCDC currently conducts all public meetings at the Metro Center.** By statute, SFBCDC is required to be located in the City of San Francisco. The current facilities in the state office building cannot accommodate Commission meetings (the Commission's 27 members cannot be seated on the dais) and are inadequate for hosting any other formal meetings due to its lack of internet and audio-visual capabilities.

After the Metro Center opened in 2016, BCDC moved all of its' public meetings (Commission meetings, regional workshops, and committee meetings) from various facilities in San Francisco and Oakland to the Metro Center because the building has space that is specifically designed to hold large public meetings in hospitable spaces.

For these meetings, BCDC must transport meeting material and equipment from the state building to the Metro Center and BCDC staff uses public transit to attend meetings held at the Metro Center.

**DOJ is also in need of additional office space.** In 2016, the Department of Justice submitted a request for additional space in the City of San Francisco and the Department of General Services began searching for new space. At the same time, BCDC submitted a request to move to the Metro Center after its completion to co-locate with its closest regional partners.

**Tenant Improvements.** The Metropolitan Transportation Commission (MTC), which oversees the Bay Area Headquarters Authority (BAHA), is a joint powers authority between MTC and the Bay Area Toll Authority. According to MTC, BAHA oversees the redevelopment, management and operation of 375 Beale, known as the Bay Area Metro Center, where BCDC is planning to move. BAHA spent \$5 million on tenant improvements related to the space that BCDC plans to occupy. MTC does not believe this proposal is fair because it would only provide half the cost of the \$5 million it spent on tenant improvements.

**STAFF COMMENT**

SFBCDC argues that moving to the Metro center, where it currently conducts a lot of business, would also allow them to be closer to their regional partners making collaboration more efficient. Further, SFBCDC indicates that they are in need of more space and that paying these moving costs for SFBCDC is the least expensive all around option for accommodating DOJ, with the added bonus of allowing SFBCDC to be located with their partner agencies.

The Subcommittee may wish to ask the following:

- 1) How does the monthly rent that SFBCDC will pay in the new building compare to its current rent, and will it require an ongoing augmentation to cover that rent?
- 2) Even with this large one-time moving expenditure, is this proposal still less expensive for the state overall than SF BCDC staying where it is and DOJ moving to a different space?

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**Staff Recommendation: Hold Open.**

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## 3560 STATE LANDS COMMISSION

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### ISSUE 22: LAKE TAHOE RENT METHODOLOGY STUDY

A May Revision proposal requests \$250,000 one-time from the Lake Tahoe Science and Lake Improvement Account to contract for an independent study and evaluation of rent-setting methodologies to inform the Commission's leasing practices for sovereign land at Lake Tahoe. The Commission also requests provisional language to authorize the use of the funds for the requested purpose.

#### BACKGROUND

**Lake Tahoe Leases.** There are approximately 750 SLC-authorized leases at Lake Tahoe. Of these, 544 leases have annual rents based on the Category 1 benchmark. There are another 155 leases for piers and buoys that have rent-free status under a prior version of Public Resources Code Section 6503.5. The 155 rent-free leases will become subject to rent as their lease terms expire. These rent-free leases should be phased out by 2022. The remainder of the leases at Lake Tahoe are for purposes such as commercial marinas, public uses, or dredging, and are either rent-free or do not rely on the Category 1 benchmark for rent setting purposes.

**Benchmarks.** Benchmarks are set by SLC to establish uniform rental rates in specific geographic regions with large concentrations of similar facilities, mostly private recreational improvements within SLC's jurisdiction.

SLC has two types of benchmarks: (1) Category 1, which is generally applied to private docks, piers, and buoys; and, (2) Category 2, which is generally applied to cantilevered decks, sundecks, or other non-water dependent uses. Benchmark rental rates are based on an analysis of similar land uses or substitute facilities in the local area.

There is an existing Category 1 benchmark for Lake Tahoe, last updated in 2012, and SLC staff proposed to set a Category 2 benchmark for Lake Tahoe at SLC's February meeting.

**Annual Rents for Leases at Lake Tahoe.** SLC uses benchmark rental rates to set annual rents for leases of sovereign land at Lake Tahoe. The benchmark rental rates are developed by SLC's appraisal staff and are updated every five years.

This May Revision proposal comes after SLC deferred action on a proposed new rental rate structure at its February 27, 2018 public meeting, following receipt of a letter from the Chairs of the Senate Budget Subcommittee #2 and the Assembly Budget Subcommittee #3, expressing concerns that the rental rate structure did not accurately reflect the value of the state's property being leased, and requesting SLC delay any action on the benchmarks "until methodology that more completely reflects the benefits to the upland owner can be established."

In addition, SLC received comments that expressed concerns that the proposed lower benchmark rates would adversely impact the Account's ability to fund aquatic invasive species prevention projects, projects to improve public access to sovereign land in Lake Tahoe, and projects to improve near-shore water quality monitoring.

<b>STAFF COMMENT</b>
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The proposed study would provide the Legislature additional information on what the proper calculus for rents leases of sovereign land at Lake Tahoe should be, and would ensure the rate accurately reflects the benefits to the owner.

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**Staff Recommendation: Hold Open.**

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## 3940 STATE WATER RESOURCES CONTROL BOARD

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### ISSUE 23: ADMINISTRATIVE HEARINGS OFFICE (BCP + TBL)

A May Revision proposal requests \$2 million Water Rights Fund, nine positions and trailer bill language to establish an Administrative Hearings Office, which will provide administrative hearing officers and supporting staff to preside over administrative hearings in water right enforcement actions, and prepare proposed decisions.

Under the proposed TBL, hearing officers will have purview over certain kinds of water right enforcement actions, such as hearings on complaints for administrative civil liability, proposed cease and desist orders, and proposed revocations. TBL prohibits the hearing officer from ex parte communications with board members. TBL also requires hearing officers to be attorneys and have qualifications equivalent to an administrative law judge and knowledge and experience in water law.

#### BACKGROUND

**Current Process at SWRCB.** The State Water Board is responsible for enforcing California's water rights laws. Under the existing procedures, when the State Water Board staff believes that some person or entity has violated the state's water use laws, it can take a number of different actions. If the alleged violation already took place, the staff can seek Administrative Civil Liability – fines, in effect – against the alleged violator. If the alleged violation is imminent or ongoing, the State Water Board staff can issue a proposed Cease and Desist Order. In either instance, the alleged violator has the opportunity to challenge the State Water Board staff allegations by requesting a hearing on the matter to the State Water Board.

Under existing procedures, if the alleged violator requests a hearing, the full State Water Board may hear the case or, alternatively, a single member of the State Water Board may serve as the Hearing Officer and preside over the case. In either case, a team of State Water Board staff (the "hearing team"), usually including an attorney, a water resources control engineer and a water scientist, assists the decision maker with the case. A second team of State Water Board staff (the "prosecution team"), presents evidence and makes the argument to the decision maker as to why the prosecution team believes the water rights violation allegation it has made is true. The alleged violator has an opportunity to present its case and cross-examine witnesses in an effort to convince the decision maker that the prosecution team's allegations are false, that it has a valid defense for its actions, or that there are mitigating circumstances, among other things.

During this process, the "hearing team" and the "prosecution team" are, in accordance with the Administrative Procedures Act, forbidden from communicating with one another about the case and the prosecution team is forbidden from communicating with the decision maker about the case outside of the public hearing.

Once the hearing is over, the decision maker rules on the case. If the decision maker was a single member of the State Water Board, the full State Water Board may review the individual member's decision and either uphold, modify, or overturn it.

**AB 313 (Gray, 2017).** AB 313 would have created a new Water Rights Division within the Office of Administrative Hearings (OAH) and assign to it the task of recommending a decision to SWRCB whenever the alleged violator challenged a SWRCB charge that a water use violation had been committed. The Governor vetoed AB 313, acknowledging the author's intent to increase fairness and transparency, but concluded that the bill would not work as intended. The Governor's veto message directed the Secretary of CalEPA "to evaluate the potential role for administrative law judges and provide a recommendation for administrative improvements to the Board's hearing process." This proposal would implement the Secretary's recommendation, which calls for establishment of an Administrative Hearings Office as a separate and independent organizational unit within SWRCB, to provide qualified, impartial hearing officers in water rights enforcement matters.

**Volume of Actions Expected to Increase.** The statistics on State Water Board water rights violation charges for the period 2012 to 2016 are as follows:

Number of complaints	2,560
Hearings requested	39
Hearings held	5
Decisions upholding complaint	4
Decisions dismissing complaint	1

SWRCB states that it has several hundred backlogged water rights actions. There can be long delays, sometimes for years, between a request for hearing and when a hearing is scheduled, and between the completion of the hearing and the release of a proposed decision.

The board anticipates an increase in water right enforcement actions due to its new cannabis enforcement authority, and expects implementation of the Drinking Water program and the Sustainable Groundwater Management Act to result in more hearing requests in coming years.

With this proposal, SWRCB expects about 200 hearings each year.

The current system for handling water rights actions was established prior to 1950. This proposal would be the first substantive modification to those procedures.

#### LAO COMMENT

**Legislative Venue.** As noted above this proposal is relates to AB 313 (Gray), which was vetoed by the Governor last year. This proposal provides a different structure for

hearing water rights actions than AB 313 and establish a new program and one which the Legislature recently debated in the policy process. The subcommittee may want to consider whether this proposal should be considered in policy committee.

<b>STAFF COMMENT</b>
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For FY 2018-19, the fund balance is expected to be \$1.888 million. This proposal requests \$2 million from the Water Rights Fund. The Subcommittee may wish to ask how the \$112,000 deficit would be addressed.

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**Staff Recommendation: Hold Open.**

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**3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL****ISSUE 24: SAFER CONSUMER PRODUCTS IMPLEMENTATION**

A May Revision proposal requests that Item 3960-001-3301 be increased by \$1.2 million and six positions to continue implementation of the Safer Consumer Products regulations. Specifically, these resources will be used to perform an alternatives analysis to determine how best to limit or prevent potential harm from chemicals in various products.

**BACKGROUND**

**Green Chemistry Law and Safer Consumer Products (SCP) Regulations.** In 2008, the Green Chemistry Law was established amid concerns about harmful chemicals in common consumer products. The Green Chemistry Law promotes a systematic scientific and technological approach that seeks to reduce the use of hazardous chemicals and the generation of toxic wastes by changing how society designs, manufactures, and uses chemicals in products. The law establishes a chemicals management framework with enforcement authority.

In 2013, DTSC adopted the SCP regulations to implement the Green Chemistry Law. SCP regulates toxic chemicals that consumers may purchase while encouraging new product designs and manufacturing approaches to improve product safety. The regulations establish a four-step process for evaluating the safety of chemicals in products, assessing potentially safer alternatives, and determining how best to minimize the potential for adverse impacts to human health and the environment. The steps are as follows:

- Step 1: Candidate Chemicals. DTSC identifies potentially hazardous chemicals.
- Step 2: Priority Products. DTSC evaluates and prioritizes product-Candidate Chemical combinations to develop a list of “Priority Products” for which a safer alternative should be sought. DTSC must adopt Priority Products via rulemaking to trigger Step 3. DTSC publishes a Priority Products Work Plan every three years that describes product categories from which it will select Priority Products.
- Step 3: Alternative Analysis. Responsible entities (manufacturers, importers, assemblers, and retailers) perform an Alternative Analysis (AA) to determine how best to limit or prevent potential harm from the product’s Candidate Chemical. Options include product redesign, reformulation, or chemical substitution.
- Step 4: Regulatory Response. DTSC identifies and implements Regulatory Responses designed to protect public health or the environment based on Priority Product manufacturers’ submitted AAs. Regulatory Responses to manufacturers will be enforceable orders or agreements that may require further research, providing information to DTSC or consumers, making product design changes, establishing end-of-life product stewardship programs for hazardous wastes, or restricting the sale of the Priority Product.

Since the regulations have been in effect, DTSC has developed tools and processes to perform Step 1 and Step 2. It has used this capacity to adopt regulations to list two Priority Products. DTSC has taken a measured approach to implementing each of the four steps of the regulations. The Governor and stakeholders have indicated it is imperative that the program move faster, so increased rulemaking resources are proposed.

Listing Priority Products has triggered Step 3 of the regulations. The proposal includes staff for accelerating rulemaking and support key elements of Step 3.

#### LAO COMMENT

**Shift to Lead-Acid Battery Cleanup Fund (LABCF) to Fund Various BCP Proposals.** The Administration proposes to fund five of DTSC's BCPs with funds from LABCF as follows: (1) Cost Recovery Management System (\$140,000); (2) Lead-Acid Battery Program Implementation (\$6.7 million); (3) Enforcement in Vulnerable Communities (\$2.5 million); (4) Safer Consumer Products Implementation (\$1.2 million); and, (5) Exide Enforcement Order (\$1.1 million). Based on LAO's initial review, in some cases the Administration is proposing to utilize LABCF to fund programs in lieu of the funds historically used to fund them.

The Safer Consumer Products Program is funded primarily with Toxic Substances Control Account (TSCA) funds. Why is the Administration proposing to expand the program using LABCF in lieu of additional TSCA funding.

#### STAFF COMMENT

This May Revision Letter request, along with the MRL requests detailed in items 27, 29, 30, and 31, all propose to use the first revenues from the recently-enacted battery fee that is assessed on consumers and manufactures. These revenues are required by statute to be used for the remediation of contamination, that is reasonably suspected to be from the operation of a lead-acid battery recycling facility.

The Subcommittee may wish to ask how these proposals are consistent with those statutory restrictions on the use of the fee.

Further, the Toxic Substances Control Account and the Hazard Waste Control Accounts are anticipated to be in deficit in the next two or three years.

The Subcommittee may wish to ask the following:

1. How is the department preparing for that budget shortfall and what is the likely programmatic impact from those actions?
2. How do these proposals impact the timing of the department going into deficit?

3. Has the department done an evaluation of potential fee changes that could be instituted to maintain the department's current level of service?
4. Does the department believe that it can meet its statutorily required mandates with a smaller budget? If not, what responsibilities will most likely be impacted by lower revenues?
5. Given that the Independent Review Panel will sunset this year, how can stakeholders, such as impacted communities and industry, raise concerns about the Department's programs and ensure the agency is meeting the legislature's expectations?

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**Staff Recommendation: Hold Open**

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**ISSUE 25: BKK THIRD PARTY INITIATIVE**

A May Revision proposal requests \$434,000 and two positions to implement a coordinated enforcement and cost recovery initiative related to clean-up activity at the BKK facility.

**BACKGROUND**

According to DTSC, the requested resources will be used to undertake a large-scale cost recovery effort against approximately 12,000 third parties that sent hazardous waste to the site. This initiative is expected to result in recovery of approximately \$128 million from third parties.

**STAFF COMMENT**

Staff did not receive a budget change proposal on this request at the time this agenda was sent to publication. The Subcommittee may wish to ask whether the recovered funds will go back to DTSC to fund the closure or remediation of BKK or if those funds will be deposited into the General Fund.

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**Staff Recommendation: Hold Open**

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**ISSUE 26: COST RECOVERY PROGRAM IMPLEMENTATION**

A May Revision proposal requests that Item 3960-001-0014 be increased by \$1,093,000 and three positions, and Item 3960-001-0557 be increased by \$1,093,000 and three positions to recover costs from third parties that were incurred by the Department to clean-up properties across the state that were contaminated by toxic substances. These resources will be used to resolve some of the Department's backlog for clean-up sites for which the Department has not recovered its costs.

**STAFF COMMENT**

Staff did not receive a budget change proposal on this request at the time this agenda was sent to publication.

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**Staff Recommendation: Hold Open.**

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**ISSUE 27: COST RECOVERY MANAGEMENT SYSTEM**

A May Revision proposal requests \$140,000 Lead-Acid Battery Cleanup Fund for planning costs associated with a replacement cost recovery billing system, which is used for issuing invoices, tracking payments, and reconciling account balances.

The proposal also requests provisional language to authorize the Department of Finance to augment this item by up to \$1.5 million, contingent upon the approval of the California Department of Technology for Stage 4 of the Project Approval Lifecycle.

**BACKGROUND**

**DTSC Recoverable Costs.** DTSC incurs costs overseeing the investigation and cleanup of contaminated sites, performing investigation and/or cleanup activities itself, and permit review and issuance to hazardous waste facilities. These costs are known as DTSC's "response costs." DTSC is authorized to recover its response cost from responsible parties and permitted hazardous waste facilities (billable parties). DTSC recovers millions of dollars in response costs annually, which serves to fund future cleanup activities.

**Cost Recovery Billing System (CRBS).** CRBS serves as the vehicle for recovering DTSC's costs, and thus serves a mission-critical purpose. CRBS issues invoices to responsible parties, tracks cost data, records payments, and reconciles account balances to ensure that claims for reimbursement are accurate. CRBS also maintains data on the number of invoices processed and the amount of reimbursements received. The information maintained in CRBS supports litigation undertaken by DTSC and the Office of the Attorney General against responsible parties and respond to Public Records Act requests. CRBS is the source of information for reports and tracking tools containing cost recovery information.

In August 2014, the State Auditor issued a report on DTSC's cost recovery efforts. The report found several deficiencies in DTSC's cost recovery processes. It specifically noted that CRBS was no longer supported and the system could not perform basic functions, such as track settlement agreements or automate the process for issuing collection letters to billable parties. The lack of basic functionality was an important factor in DTSC's failure to collect response costs. The report noted that the Financial Information System for California (Fi\$cal) would address some of the deficiencies in DTSC's cost recovery process.

This proposal is intended to allow DTSC to address concerns stated in the State Auditor 2014 report.

**LAO COMMENT**

The LAO recommends that the Legislature modify the Administration's proposed provisional budget bill language, to require the Department of Finance to notify the



Chairperson and Vice Chairperson of the Joint Legislative Budget Committee 30 days prior to any augmentation of funds for CRMS. Typically, the Legislature receives a complete project plan to review once a proposed project, such as CRMS, has gone through the four stages of the Project Approval Lifecycle (PAL). However, in this case the project is still in stage 4 of PAL and a complete project plan is not yet available. If the Legislature wishes to approve this request in order to avoid potential project delays, a 30-day notification requirement will ensure that the Legislature maintains the ability to exercise oversight of the project before CRMS moves from the planning stage to implementation.

<b>STAFF COMMENT</b>
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The current billing system is not supported by the manufacturer, does not meet the functional needs of the Department, and cannot be modified to meet new statutory mandates. The additional funding would provide IT software and hosting services along with contracted services for California Department of Technology Oversight, Project Management, Independent Verification & Validation (IV&V), Change Management and System Integrator. The system serves a role in the cost recovery process, such as issuing invoices, tracking payments, and reconciling account balances.

The Subcommittee may wish to ask the department why the Lead-Acid Battery Cleanup Fund is appropriate for the proposed activities.

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**Staff Recommendation: Hold Open.**

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**ISSUE 28: NATIONAL PRIORITIES LIST AND STATE ORPHAN SITES**

A May Revision proposal requests \$4.547 million from the Toxic Substances Control Account (TSCA) and that the Site Remediation Account be increased by \$3,265,000 to continue supporting the state's share of costs for National Priorities List sites. Priority 1A and IB state orphan sites, and continued cleanup activities for Priority 2 and 3 state orphan sites already underway. The cleanup work includes site investigation, characterization, cleanup, and remediation activities, among others. These remediation efforts reduce public exposure to hazardous and cancer-causing chemicals and reduce the spread of contamination.

**BACKGROUND**

**The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).** CERCLA, commonly referred to as the “Superfund” law, helps to address cleanup needs at the nation’s most heavily contaminated toxic waste sites. Under CERCLA, the Superfund program identifies, investigates, and cleans up the nation’s most contaminated hazardous waste sites, which are also known as National Priority List (NPL) sites. In 2002, Congress amended CERCLA by passing the Small Business Liability Relief and Brownfields Revitalization Act in 2002. This law created a federal program to aid state brownfield cleanup programs, clarified and modified liability issues at CERCLA sites to help reduce litigation and expedite cleanups, and increased the states’ authority to impact whether US Environmental Protection Agency (US EPA) lists a site for cleanup under the NPL, among other changes to the law.

US EPA identifies and lists sites on the NPL following criteria in CERCLA. Of the 1,343 sites listed nationwide, 124 sites are in California, and 98 are active. Most NPL-listed sites have responsible parties funding the cleanup. Responsible parties are funding the cleanup for 103 of the total sites, including 76 of the active sites.

The remaining 22 active sites listed are considered fund-lead NPL sites, which means US EPA has determined that there are no viable responsible parties to fund the cleanup, and therefore, US EPA is partially funding the cleanup with federal Superfund money. The listing of an NPL site that uses federal funds to pay for the cleanup is a regulatory action that obligates the state to pay 10 percent of the cost of constructing the cleanup remedy, and 100 percent of the cost of operating and maintaining the remedy after it is built. CERCLA requires the state to assure all future maintenance of a remedial action provided for the expected life of such action. CERCLA further defines when US EPA remedial action ends and the state operation and maintenance (O&M) begins.

Once a site remedy becomes operational a functional, US EPA and the state enter into a Site Transfer Agreement to affect an orderly transfer of O&M activities and funding responsibilities. “Operational and functional” is either one year after remedy construction is complete, or when it is determined, concurrently by US EPA and the state, to be functioning properly and is performing as designed, whichever is earlier.

Remedies considered “restoration” are operated by US EPA for 10 years prior to transitioning to state O&M.

Each year, US EPA provides DTSC with its best estimates of the state’s upcoming obligations for NPL sites. The listing of new sites, coupled with the transition of older sites from construction to O&M, is increasing the state’s funding obligation.

**State Orphan Sites.** State orphan site cleanup includes the investigation and cleanup of properties where no potentially responsible party has been identified who has the means to pay for the response actions needed. US EPA estimates there are between 96,000 and 212,000 contaminated sites in California. Of these, DTSC has identified approximately 9,800 contaminated sites statewide that may impact or threaten groundwater designated for crops or drinking water. They may also expose people to toxic metals or vapors. Most of these are orphan sites, and the state must bear the cleanup costs.

<b>STAFF COMMENT</b>
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The Subcommittee may wish to ask the department the following questions:

- 1) How many orphan sites and NPL sites does DTSC estimates it can cleanup?
- 2) What is DTSC’s plan for having a stable fund for cleaning up orphan sites in CA?

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**Staff Recommendation: Hold Open.**

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**ISSUE 29: LEAD-ACID BATTERY PROGRAM IMPLEMENTATION**

A May Revision proposal requests \$6.7 million and 15.0 positions in 2018-19 and \$7.6 million ongoing from the Lead-Acid Battery Cleanup Fund to implement the provisions of the Lead-Acid Battery Recycling Act of 2016. Under this proposal, DTSC requests resources to investigate and cleanup properties in California reasonably suspected to have been contaminated by the operation of lead-acid battery recycling facilities.

**BACKGROUND**

**Assembly Bill 2153 (C. Garcia, Chapter 666, Statutes of 2016).** AB 2153 created the Lead-Acid Battery Recycling Act of 2016. Among other things, the Act requires DTSC to investigate and cleanup areas of the state that are reasonably suspected to have been contaminated by the operation of lead-acid battery recycling facilities. To fund the mandates of the Act, lead-acid battery dealers must charge purchasers of lead-acid batteries a refundable deposit of \$1.00 for each lead-acid battery sold beginning on April 1, 2017. It also requires, beginning April 1, 2017 through March 31, 2022, lead-acid battery manufacturers to remit to the California Department of Tax and Fee Administration (CDTFA) a \$1.00 manufacturer battery fee for each lead-acid battery sold in California. Beginning April 1, 2022, the \$1.00 battery fee will be increased to \$2.00. Revenue from the California battery.

**Previous Funding.** The Budget Act of 2017 approved two-year funding of \$610,000 for DTSC to hire limited-term staff to: (1) develop a program with public input for the evaluation, investigation, and cleanup of areas of the state reasonably suspected to have been contaminated by lead-acid battery recycling facilities (sites); (2) evaluate the 14 potential sites to determine if they required further investigation or cleanup; (3) provide out-reach to lead-acid battery dealers informing them of the public notification requirement in the Act; (4) develop a spending plan; and, (5) to provide an annual progress report to the Legislature. Funding for the positions and associated work will expire on June 30, 2019.

**LAO COMMENT**

The LAO recommends the Legislature reject this proposal without prejudice to its merits until DTSC provides a report required by the FY 2017-18 Budget Act (Item 3960-001-3301) regarding the department's progress towards implementing the Lead-Acid Battery Recycling Act of 2016. LAO believes the information required to be provided under the reporting requirement would allow the Legislature to better assess the need for additional resources to implement the Lead-Acid Battery Program.

**STAFF COMMENT**

According to DTSC, since receiving additional resources in July 2017, they have found that the scope of potential contamination caused by former lead-acid battery facilities may be extensive requiring additional resources.

The Subcommittee may wish to ask the department why the Lead-Acid Battery Cleanup Fund is appropriate for the proposed activities.

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**Staff Recommendation: Hold Open**

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**ISSUE 30: ENFORCEMENT IN VULNERABLE COMMUNITIES**

A May Revision proposal requests \$2.5 million Lead-Acid Battery Cleanup Fund in FY 2018-19 and ongoing to fund 11 existing positions previously approved with limited-term funding that expires in June 2018 in order to provide continued support to address serious environmental violations by hazardous waste transportation and metal recycling industries that disproportionately impact vulnerable communities.

**BACKGROUND**

Beginning in FY 2015-16, DTSC received limited-term funding for 11 positions to undertake a pilot program to evaluate approaches to address serious environmental violations that occur in California's most vulnerable communities. Referred to as the Enforcement Initiative in Vulnerable Communities, the initiative was a statewide effort designed to address possible violations of the Hazardous Waste Control Law by businesses that transport hazardous waste and recycle metals. Current funding for these positions expires on June 30, 2018.

There are 904 DTSC-registered hazardous waste transporters in California. Under the initiative, DTSC significantly increased the number of hazardous waste transporter inspections. Prior to the initiative, DTSC conducted an average of 50 to 60 inspections annually. After the initiative, DTSC conducted approximately 40 additional inspections in FY 2015-16 and 60 additional in FY 2016-17 and FY 2017-18.

DTSC estimates California has over 1,000 metal recycling facilities, approximately 200 certified appliance recyclers, and over 1,100 auto dismantlers licensed by the Department of Motor Vehicles. Approximately 1,359 of these facilities operate in the most vulnerable and highly impacted communities as indicated by CalEnviroScreen. DTSC investigated 43 facilities during FY 2015-16 and 2016-17. 37 (86 percent) had committed serious violations of the Hazardous Waste Control Law that warranted an enforcement response.

DTSC has conducted approximately 200 inspections of metal recyclers and inspection of transporters pursuant to this initiative. Of the 200 inspections, DTSC referred 17 cases to the Office of Attorney General to handle administratively or civilly.

**STAFF COMMENT**

The Subcommittee may wish to ask the department why the Lead-Acid Battery Cleanup Fund is appropriate for the proposed activities.

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**Staff Recommendation: Hold Open.**

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**ISSUE 31: EXIDE ENFORCEMENT ORDER**

A May Revision proposal requests \$1.06 Lead-Acid Battery Cleanup Fund in FY 2018-19 and FY 2019-20 to implement the remaining activities associated with the 2014 Exide Enforcement Order (as amended 2015) and the ongoing Resource Conservation and Recovery Act (RCRA) corrective action work associated with the February 2002 Corrective Action Consent Order against Exide Technologies (Exide). This requires corrective action activities at the Exide facility, the off-site industrial areas, and the residential areas.

**BACKGROUND**

**Exide.** The former Exide is located in Vernon, about five miles southeast of downtown Los Angeles. The facility occupies 15 acres in a heavily industrialized region with surrounding residential areas about 0.75 miles to the north, south, and east. Facility operations included recycling lead-bearing scrap materials obtained from spent lead-acid batteries to produce marketable lead ingots.

In response to contamination caused by past facility operations, DTSC issued a Corrective Action Consent Order in February 2002. Exide remains subject to the requirements of the order and corrective action activities are ongoing at the facility, the off-site industrial area, and the residential areas.

In November 2017, Exide began Phase 1 closure activities for the facility. The work is ongoing on the site, in off-site industrial areas, and residential areas; DTSC has provided oversight of the facility's closure. This proposal is intended to fund those efforts.

**LAO COMMENT**

The Administration proposes to use LABCF for Exide Enforcement Order funding when TSCA and the Hazardous Waste Control Account (HWCA) have historically funded this. Why has the Administration chosen to shift funding to LABCF? Are there insufficient funds in TSCA and HWCA to continue to use them as a funding source?

**STAFF COMMENT**

The Subcommittee may wish to ask the department the following questions:

- 1) Is the Lead-Acid Battery Cleanup Fund appropriate for the proposed activities?
- 2) Does the Department intend to recover associated costs from Exide?

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**Staff Recommendation: Hold Open.**

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**ISSUE 32: REAPPROPRIATION FOR EXIDE TECHNOLOGIES CLEAN-UP**

A May Revision proposal requests that Item 3960-495 be added to reappropriate the unencumbered balance from the Toxic Substances Control Account, as appropriated by Section 2 of Chapter 10, Statutes of 2016 (AB 118) and Item 3960-011-0001 Chapter 9, Statutes of 2015 (SB 93), to authorize the transfer of up to \$176 million General Fund to the Toxic Substances Control Account. It is further requested that funding be made available for encumbrance or expenditure until June 30, 2021.

**BACKGROUND**

According to the DTSC, in an effort to avoid potentially lengthy delays in getting the expanded testing and cleanup started, the Administration's 2016 proposal initially included an exemption to the California Environmental Quality Act (CEQA). However, in response to community and legislative concerns, the Department conducted a CEQA review of potential impacts of the cleanup. This resulted in a delay of the overall project. This reappropriation provides additional time for remediation activities at properties around the Exide Technologies facility in Vernon.

**STAFF COMMENT**

Staff did not receive a budget change proposal on this request at the time this agenda was sent to publication. However, the current pace of cleanup activities is alarming. As a result of the delays, the remainder of the \$176.6 million that was appropriated in 2016 is currently before the Subcommittee for reappropriation.

Assemblymember Carrillo, representing the area affected by the Exide lead contamination, submitted a letter to the Department with a number of questions. Prior to reauthorizing these funds, the Subcommittee may wish to ask the department to respond to them. Those questions along with concerns are listed below:

1. DTSC has chosen to not include the parkways in the residential clean-up partly because of the understanding that residents generally spend little time in those spaces. However, should the parkways have high levels of lead, merely passing through the parkway before entering the house could reintroduce soil-bound lead into a home. **Can DTSC please provide cost estimates for testing the parkways that are in front of the priority cleanup properties? What would be the additional cost to clean the parkways assuming that the parkways need the same level of cleanup as the adjacent residential property?**
2. Cleaning of the interior of the homes is important so that lead-contaminated dirt brought into the home prior to or during the remediation activities do not continue to expose residents to lead emitted from Exide. **How will homeowners receive the interior cleanup actions and when is the first time they are provided with this information? Is interior cleanup presented as an option or a recommendation? What is DTSC's goal for the participation rate in the**



**interior cleanup amongst the priority homes? If less than 100%, please explain why. Does DTSC's cleanup budget account for this participation rate goal? What is DTSC doing to reach this participation rate goal and how is this outreach culturally-and linguistically-competent?**

3. Last fall, DTSC solicited bids for the cleanup of approximately 2,500 priority properties in the 1.7 mile radius around the Exide facility that have high levels of lead. Unfortunately a contract with the winning bidder, EQM, was never signed largely because of disputes regarding the financial surety bond requirements and per property cost caps. **As DTSC is preparing to solicit bids for contracts again, what will the Department do to minimize potential further delays?**
4. In the first solicitation for bids to clean-up the residential areas, DTSC established a firm maximum cost that it would reimburse per property. A maximum per property cost is fiscally responsible and necessary to ensure that the contractor remediates the number of homes that is anticipated. However, it is conceivable that a contractor encounters legitimate unforeseen situations that might drive actual remediation costs higher than the maximum per property cost. **How will such variabilities in cleanup costs be handled so that the contractor is motivated to complete the project as designed without cutting corners that endanger public health? What mechanisms does DTSC have in place so that it can properly oversee the contractor's handling of unforeseen situations in real-time? How can the Legislature be assured that it will be kept apprised of any potential issues that might impact the clean-up budget?**
5. The future contractor is required under existing laws to secure a surety bond for the project to safeguard the state, and in turn the residents, against any work that may be improperly done by the contractor. However, given the large size of this project, EQM had expressed issues with securing a large enough bond for the project. **Will the next contract solicitation be changed to allow for some bonding flexibility without impacting the safeguards that the bond is meant to provide?**
6. **Are there any other modifications being made to the bid solicitation to ensure that that the next contract negotiation will be successful and lead to effective cleanup?**

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**Staff Recommendation: Hold Open.**

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