

AGENDA**ASSEMBLY BUDGET SUBCOMMITTEE No. 3
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION****Assemblymember Fran Pavley, Chair****WEDNESDAY, APRIL 19, 2006
STATE CAPITOL, ROOM 447
8:30 A.M.****Hearing Items**

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
	CONSENT CALENDAR	3
3340	CONSERVATION CORPS	
ISSUE 1	MAINTAIN CONSERVATION CORPS OPERATIONS	5
3480	DEPARTMENT OF CONSERVATION	
ISSUE 1	LAO ISSUE: BEVERAGE RECYCLING FUND BALANCE	6
ISSUE 2	BEVERAGE RECYCLING ENFORCEMENT	8
ISSUE 3	WILLIAMSON ACT AND CALIFORNIA FARMLAND CONSERVANCY	10
3480	DEPARTMENT OF FORESTRY AND FIRE PROTECTION	
ISSUE 1	YEAR ROUND FIRE PROTECTION AND PREVENTION	11
ISSUE 2	FORESTRY PROGRAMS	13
ISSUE 3	CAPITAL OUTLAY	14
3790	DEPARTMENT OF PARKS AND RECREATION	
ISSUE 1	DEFERRED MAINTENANCE PRESENTATION	19
ISSUE 2	IMPLEMENTATION OF EMPIRE MINE SHP REMEDIATION MEASURES	20
ISSUE 3	WATER/WASTEWATER TREATMENT SYSTEMS	21
ISSUE 4	CONCESSION GRANTS	22
ISSUE 5	OFF HIGHWAY VEHICLE PROGRAM	23
3600	DEPARTMENT OF FISH AND GAME	24
ISSUE 1	BALANCING THE FISH AND GAME PRESERVATION FUND	25

ISSUE 2	ADDITIONAL FISH AND GAME PRESERVATION FUND PROPOSALS	28
ISSUE 3	FISHERIES RESTORATION GRANTS PROGRAM	30
3600	DEPARTMENT OF FISH AND GAME	
3860	DEPARTMENT OF WATER RESOURCES	
ISSUE 1	SAN JOAQUIN RIVER RESTORATION	31
3860	DEPARTMENT OF WATER RESOURCES	
ISSUE 1	AUGMENTATION FOR THE STATE WATERMASTER SERVICE PROGRAM	33
ISSUE 2	FLOOD MANAGEMENT COMPREHENSIVE STRATEGIC PLAN	34
ISSUE 3	CAPITAL OUTLAY	35
ISSUE 4	CALFED RELATED PROPOSALS	36
3870	CALIFORNIA BAY-DELTA AUTHORITY	37
3940	STATE WATER RESOURCES CONTROL BOARD	
ISSUE 1	MONITORING ACTIVITIES	38
ISSUE 2	REDUCTION OF WATER RIGHTS BACKLOG	39
ISSUE 3	WATER RIGHTS INFORMATION SYSTEM	40

CONSENT CALENDAR

ITEM	DEPARTMENT	SUMMARY
3340	California Conservation Corps	\$1.4 million in Proposition 40 for Resource Conservation Projects
3340	California Conservation Corps	\$451,000 (Proposition 12) for Resource Conservation Projects
3480	Department of Conservation	\$8.87 million (Proposition 40) 2-year bond fund augmentation for final funding of the California Farmland Conservancy Program.
3480	Department of Conservation	Make 6 positions that are now temporary permanent that perform geologic and seismic hazard review for DGS
3480	Department of Conservation	4 PYs (no additional funding) for Oil, Gas and Geothermal facility enforcement program
3480	Department of Conservation	\$537,000 (Special Fund) Computing Infrastructure Lifecycle Support
3540	Department of Forestry & Fire Protection	\$932,000 (State Emergency Telephone Account) for the final Computer Aided Dispatch System Replacement
3540	Department of Forestry & Fire Protection	\$500,000 (State Fire Marshal Licensing and Certification Fund) for enforcement and Disposal of Seized Fireworks
3540	Department of Forestry & Fire Protection	\$360,000 (Reimbursements) for increased Fire and Life Safety Division Staffing
3790	Department of Parks & Recreation	\$45.3 million (Special Funds) for Local Assistance Program Funding and Program Delivery Costs
3600	Department of Fish and Game	\$607,798 (Special Deposit Fund Habitat Mitigation Account) for ongoing management of DFG lands.
3600	Department of Fish and Game	\$681,000 (Federal Trust Fund and Reimbursements) to restore and enhance mitigation Salmon and Steelhead hatchery mitigation programs in the Central Valley
3600	Department of Fish and Game	\$583,000 (Oil Spill Prevention Administration Fund) for a Aerial Dispersant Delivery System for treating oil spills off of the California Coast
3600	Department of Fish and Game	\$886,000 (Prop 12 funds) and two PYs to continue efforts for: preservation of DFG lands; ongoing Cal. Waterfowl Program contracts, and; control and eradication of noxious weeds in San Diego County
3860	Department of Water Resources	\$84.134 million in local assistance funding for continuing work on the lining of the All American and the Coachella Canal. Funding for this project is continuously appropriated and does not have a General Fund effect.
3860	Department of Water Resources	80 PYs (SWP funds) State Water Project Staffing
3860	Department of Water Resources	Staffing Requirements for Legal Review and Environmental Services Programs
3860	Department of Water Resources	\$113,000 in Proposition 13 funds for the Urban Streams Restoration Program
3860	Department of Water Resources	\$667,000 (Prop 50) DWR Watershed Program - Technical Assistance
3940	State Water Resources Control Board	\$1 million (Waste Discharge Permit Fund) to support the Enhanced Basin Planning and Water Quality Standards Program

3940	State Water Resources Control Board	\$64,000 (Federal Funds) for Lake Tahoe Total Maximum Daily Load Staff Augmentation
3940	State Water Resources Control Board	Proposition 13 and Proposition 50 Bondfund technical adjustments.
3940	State Water Resources Control Board	\$85,000 (Reimbursements) for Environmental Reviews for San Diego County Transportation Projects
3940	State Water Resources Control Board	Shift eight positions from the boards bond program to the Underground Storage Tank Cleanup program and provide a \$410 million increase in expenditure authority for reverted funds to accelerate distribution of cleanup.

3340 – CALIFORNIA CONSERVATION CORPS

ISSUE 1: MAINTAIN CONSERVATION CORPS OPERATIONS

The Governor's budget is requesting a General Fund augmentation of \$8.2 million to support activities previously funded through the Collins-Dugan California Conservation Corps Reimbursement Account (CDRA). As discussed in 2005-06 budget subcommittee hearings, the CDRA has been incurring a negative balance and this shift in funding source is necessary to maintain current levels of services.

Background. Since Fiscal Year 2001/02, the Conservation Corps (CCC) has taken \$36.1 million in General Fund Reductions to their budget. In response to these reductions, the CCC was able to absorb some of these reductions through increasing revenue, expending reserve funds and downsizing its operations. In last year's hearings, the subcommittee discussed the structural deficiencies faced by the CDRA that were the result of expenditure levels that exceeded CCC revenue levels annually by about \$8 million. In the 2006-07 budget year, these problems persist and absent any corrective actions, the CDRA will end the budget year with a negative balance of \$2.6 million.

STAFF RECOMMENDATION. Staff has no issues with this proposal but because it requires \$8.4 million in General Fund, it is recommended that the issue remain open.

3480 DEPARTMENT OF CONSERVATION**ISSUE 1: LAO ISSUE: BEVERAGE RECYCLING FUND BALANCE**

The Department of Conservation (DOC) administers the Beverage Container Recycling Program, commonly referred to as the Bottle Bill program that encourages the recycling of beverage containers by guaranteeing California Redemption Value (CRV) payments when containers are returned to certified recyclers. As designed by statute, the Bottle Bill program aims to achieve a recycling rate of 80 percent of beverage containers, at which point the program reaches parity in payments into and out of the Beverage Container Recycling Fund (BCRF). If this level of recycling is not achieved by the program, revenues from the CRV outweigh payments to recyclers and thus, results in the growth of the BCRF.

Below Target Recycling Rates and a Growing Fund Balance. In their analysis of the 2006-07 Budget, the Legislative Analysts' Office (LAO) has raised concerns that below target recycling rates have resulted in a swelling fund balance within the program. Currently the BCRF is expected to carry an overall fund balance of \$428.9 million and an actual cash-on-hand balance in the fund of roughly \$120-140 million by the end of 2006-07. The issue of swelling BCRF fund balances has been discussed in prior budget hearings and the subcommittee has taken actions in both the 2002-03 and 2003-04 Budgets to provide loans to the General Fund totaling of \$320 million dollars including interest earned which are to be repaid in 2008-09 and will further add to the growing balance. In their analysis, the LAO has proposed various options the Legislature could use to address this problem that include:

- **Increase the CRV. Expand Consumer Education Programs.** The Department's outreach and education programs, such as the *Recycle Rex* program that visits schools throughout the state, could be expanded or refocused on containers with low recycling rates, such as plastic water bottles.
- **Increase Convenience Zone (CZ) Handling Payments, or Expand Entities Eligible for Payments.** The Department makes handling payments to encourage recycling within CZs—designated areas generally located near a supermarket. Increasing handling payments to recycling centers operating in CZs and/or increasing the number of recyclers allowed in a CZ may lead to more conveniently located recycling centers.
- **Increase Grants to Community Organizations and Local Governments.** The Department could increase its grants to community organizations and to local governments to encourage litter abatement and recycling.
- **Increase Market Development Grants.** The Department could increase grants it makes to support market development and expansion activities, such as improved recycling processes and end uses for recycled materials to encourage more efficient recycling and greater demand for recycled products.

- **Increase Supplemental Payments to Curbside Recyclers.** The department makes payments to certified curbside recyclers, based on recycling activity. Increasing these payments could further encourage curbside recycling.
- **Reduce the Flow of Revenues into the Fund.** Suspend, either partially or in full, payments made by beverage container distributors into the fund, until fund balances reach a more desirable level.

LAO Recommendations. Department Should Report on Options to Address Fund Balance Issue. Many of the options available to potentially address very large BCRF balances involve policy choices that should be evaluated by the Legislature prior to implementation. To assist the Legislature in such an evaluation, we recommend that the Legislature adopt the following supplemental report language requiring the department to report on options available to address the BCRF fund balance:

Item 3480-001-0133. *Beverage Container Recycling Program.* The Department of Conservation shall submit a report to the Legislature by January 10, 2007, that includes the following information:

1. A history of revenues, expenditures, and balances of the Beverage Container Recycling Fund (BCRF) since its inception, and an estimate/projection of such information for 2006-07 and the subsequent two fiscal years.
2. A history of beverage container recycling rates, and an estimate/projection of such rates for 2006 and the subsequent two years.
3. Identification and assessment of the costs and effectiveness of options to decrease the residual balance in the BCRF. Options to be evaluated should include those intended to increase the rate of recycling through targeted program augmentations as well as options impacting the flow of revenues into the fund.

Comments. As designated in statute, the BCRF is to be used for purposes that result in the recycling of beverage containers within the state. Parameters for what purposes these funds can be used for are clearly constructed and restrict BCRF funds for activities that directly relate to increased beverage container recycling. The Department should be prepared to comment at the hearing on their current plan to address this swelling fund balance.

STAFF RECOMMENDATION. Approve LAO recommended supplemental report language.

ISSUE 2: BEVERAGE RECYCLING ENFORCEMENT

Governor's Budget. The DOC Division of Recycling (DOR) is proposing a two-year augmentation of \$904,000 from the BCRF and eight limited term positions to combat fraud in the California Beverage Recycling Program (CBRP).

Background. The Division of Recycling is responsible for administering the California Beverage Container Recycling and Litter Reduction Act. With the goal of achieving and maintaining an 80 percent recycling rate of beverage containers in the state, this Division provides a number of services including enforcement, auditing, economic analyses, nonprofit grant management, public outreach and education, technical assistance and paying program CRV claims.

Annually, Californian's purchase over 20 billion in redemption containers, which translates into \$900 million in potential refunds to recyclers. This enormity of potential cash payments to recyclers creates significant incentive for fraud within the system and in 2001, the Department of Justice estimated that there was \$40 million in annual fraud in the program. Since that study, the redemption value for containers has doubled and the annual program fraud is estimated to have increased by an addition \$28 million to total \$68 million.

Current Anti Fraud Activities. Between 2001-2004, when DOR implemented the fraud prevention program, 206 recycling centers were audited for possible fraudulent activity. Of these 206 center, it was found that 90 percent of all clams were fraudulent – yielding \$45 million in claims. Currently the Division has 12 auditors that perform an average of 42 investigation a year which the Department cites, achieves an average of about \$1 million per year per auditor. The Governor's budget should allow the DOC to conduct 28 more audits per year.

April Finance Letter. In an April Finance Letter, the DOC is requesting \$5.2 million from the BCRF to develop The Division of Recycling Integrated Information System (DORIIS) for the Division that will integrate existing incompatible databases into an integrated system that would help identify fraudulent activities.

In 1999, the Budget provided the Division a \$2.0 million baseline augmentation for the development of the DORIIS. At the time, an FSR for the project was completed and approved by the Department of Information Technology (DOIT) and the Department of Finance, however the project was never procured do to exceeding costs. In this proposal, the Department has commented that provisions have been included that will encourage more reasonable cost proposals.

Comments. As addressed previously in the agenda, the Bottle Bill Program's BCRF has a very sizeable cash-on-hand balance of about \$130 million that is the result of lower than targeted recycling rates by the program. Currently in the Legislature, AB 3056 (Committee on Natural Resources) is being proposed to address this swelling fund balance by advancing payment of increased CRV rates. Considering the identified levels of fraud within the program, when making the essential decision of "what to do" with the swelling fund balance,

the legislature should have confidence that the Department's fraud prevention activities are reaching appropriate milestones to ensure properly functioning program.

For the hearing, the Department should be prepared to comment on how both the Governor's January 10 proposal and the April Finance letter will combine to bring adequate fraud prevention and how the Legislature will be informed of their progress.

STAFF RECOMMENDATION. Approve both the Budget and April Finance Proposal as budgeted.

ISSUE 3 WILLIAMSON ACT AND CALIFORNIA FARMLAND CONSERVANCY PROGRAMS

Governor's Budget. The Department of Conservation requests a two-year limited-term augmentation of \$896,000 (Soil Conservation Fund, Proposition 12 and 40) and five two-year limited-term positions for increased enforcement and other activities related to recent legislation changes related to the Williamson Act and the Farmland Conservancy programs. Through an increase in penalties, cancellation fees, and audits this proposal assumes a General Fund Revenue increase of \$4.6 million.

Legislative Changes. In 2003, AB 1492 (Laird) enacted increased penalties for land involved and any improvements to that land that breach Williamson Act contractual agreements. In 2004, SB 1820 Machado was enacted to allow cancellation petitioners to challenge the County Assessor's valuation of their cancellation penalty and authorized the DOC to challenge inadequate valuations. Though increased workload created by these pieces of legislation was initially thought to be absorbable within existing resources, the department has indicated that the program currently has insufficient staffing to meet actual workload demands and achieve potential General Fund revenue targets.

In the 2005-06 budget, the legislature determined that the Williamson Act was being insufficiently enforced and added funding and positions to the Budget Bill for additional enforcement. This proposal was vetoed by the Governor because it was determined that justification was inadequate. This BCP proposed by the Department's responds to the same issues that were raised by the Legislature's last year's budget discussions.

Comments. This proposal commits limited term funding for an issue that will be an ongoing concern for the legislature. Once the proposed funds are depleted, how does the administration plan on evaluating these programs and potentially continuing their funding?

STAFF RECOMMENDATION. Approve as budgeted with supplemental report language requiring the Department to report at the end of the fiscal year on the number of cancellation fees, penalties and audits that were conducted by the Department.

3540 DEPARTMENT OF FORESTRY AND FIRE PREVENTION**ISSUE 1: YEAR ROUND FIRE PROTECTION AND PREVENTION**

The Governor's budget proposes an augmentation of \$38.7 million in mostly General Fund for increases in employee compensation costs due to recently enacted year-round fire season and associated contractual obligations which will increase planned overtime costs.

Increasing Overtime Costs. Employee compensation costs for CDFFP have been increasing significantly largely as a result of "planned overtime" that was agreed upon in a 2001 MOU with CDFFP fire fighters (Unit 8). Essentially, planned overtime can be characterized by the amount of hours within a regularly scheduled workweek that firefighters will receive overtime compensation rates. The number of hours in a firefighter's workweek is determined by collective bargaining agreements and Federal law requires that overtime be paid for hours that exceed 53 per workweek.

The 2005-06 budget approved \$9 million (General Fund) for year-round fire staffing. At the time of subcommittee hearings, the Department did not provide information related to the proposed increases in workers compensation. Prior to the approval of year-round staffing, Unit 8 fire fighters typically did not accrue overtime during the non-fire season. However, with the approval of a year-round fire season, it is expected that Unit 8 firefighters' workweek will increase from 53 hours to 72 hours and the average salary for a unit 8 employee (excluding benefits) will increase 29 percent. This increase in employee compensation generates \$38.7 million in additional costs for the year-round fire season.

Planned Overtime Costs Overbudgeted by \$2.9 Million. The LAO has found that the budget projections for 2006-07 are overstated by about \$2.9 million. This is because the projections overestimate the number of employees who will be affected by the move to year round planned overtime because they do not accurately account for the changes that have already occurred in the current year. (In the current year, there has already been the transition to year round staffing in selected Southern California counties.) The department concurs with our findings.

Staffing Should Support State Responsibilities. Under this new proposal, CDFFP employees will be on a 72-hour rather than a 53-hour workweek which will be broken up into three 24 hour shifts. As discussed in last year's subcommittee hearings, it is important that these increases in staffing are utilized to perform activities that encompass the entirety of the CDFFP mission. The LAO has recommended that the legislature adopt the following trailer bill language that would ensure that these additional resources available in the non-fire season are available for fire prevention as well as fire protection activities.

It is the intent of the Legislature that if funding is provided in the annual budget act as a result of extending the workweek in the nonfire season from 53 to 72 hours for most classifications within Unit 8, such funding will be used to significantly increase the level of fire prevention activities that are a state responsibility. In order to assess the progress of the department's prevention efforts, the

department shall expand its reporting of fire prevention efforts as specified in the Supplemental Report of the 2005 Budget Act to include its efforts in all state responsibility areas and provide an assessment of the additional fire prevention efforts that result specifically from expanding the workweek to 72 hours in the non-fire season on a statewide basis.

Future Compensation Agreements Merit Legislative direction. The LAO has found that when the Legislature approved the 2001 Unit 8 MOU, the Department of Personnel Administration did not provide information to the Legislature on all of the costs associated with the shift to a 72 hour workweek year-round.

Future Compensation Agreements Merit Legislative Attention. The LAO finds that the 2001 MOU with Unit 8 firefighters was approved by the Legislature without full consideration of the costs associated with the changes. In addition to the significant additional costs associated with the change in staffing patterns, resulting from the 2001 MOU, the change has also resulted in “salary compaction” problems at the department. The Department indicates that as a result of the MOU it is now difficult for the Department to recruit chief officer positions because some rank and file positions make more than chief officer positions.

The LAO recommends that the Legislature adopt trailer bill language to require that, when negotiating future Unit 8 contracts, the Department of Personnel Administration (DPA), in conjunction with CDF, conduct an analysis of the costs and benefits of alternative staffing patterns at CDF. Alternatives to be considered should include both proposals which reduce the need for planned overtime and proposals which eliminate the need for planned overtime during the off-season. The LAO finds that such an analysis would be valuable to the Legislature in evaluating future Unit 8 MOUs. Furthermore, legislation, (SB 621) enacted in 2005, requires the LAO to provide a fiscal analysis of future MOUs prior to consideration by the Legislature.

STAFF RECOMMENDATION. Staff recommends that the Subcommittee:

- **Adopt the LAO’s recommendation to reduce the Department’s General Fund monies by \$2.9 million.**
- **Approve trailer bill language to ensure increased staffing resources be used to support state responsibilities, consistent with the LAO’s recommendation.**
- **Recommend that Assembly Subcommittee 4 adopt proposed trailer bill language for the Department of Personnel administration.**

ISSUE 2: FORESTRY PROGRAMS

Background. Revenues generated from timber harvesting in state-owned forests are deposited into the Forest Resources Improvement Fund (FRIF). These funds are used to support forest resource assessment and enhancement programs such as forest pest research and management, forest and rangeland assessment activities, state nurseries, management of the state's forests and urban forestry programs.

The Jackson State Forest is the largest state-owned forest and revenues from this forest have historically generated the bulk of the FRIF revenues. However, since timber harvesting in Jackson State forest has been the subject of ongoing litigation, FRIF revenues have been sharply curtailed. Consequently, these programs have been funded at a reduced level over the past two years with funding from the Renewable Resources Investment Fund (RRIF).

Governor's Budget. The Governor's Budget estimates that \$15 million in revenue will be generated from the sale of forest products harvested on state forest land in the current and budget years combined. The budget proposes to expend \$4.7 million of these revenues to support forestry programs in 2006-07.

Jackson State Forest Issues Still Unresolved. The Department just completed the public comment period on the draft Environmental Impact Report (EIR) to continue timber harvesting at Jackson State Forest. The Department indicates that the Board of Forestry will begin to consider the final EIR at the April meeting of the board and will likely need more than one board meeting for a complete review of the EIR. Given this timeline, the Department does not realistically expect to receive any revenues from the forest in the current year.

The Legislature was notified on December 19, 2005 that an unanticipated decline in lease revenues had resulted in a \$2 million deficit in the RRIF fund. In order to continue to support CDFFP forest resource assessment and enhancement programs in the current year, DOF approved a \$2 million loan from the General Fund. The loan was proposed to be repaid before the end of the current year from revenues generated at Jackson State Forest.

Inadequate Revenues. Staff finds that CDF will not have adequate revenues from the Jackson State Forest to repay the General Fund prior to the end of the fiscal year and revenues that are projected to support forest resource assessment and enhancement activities are uncertain due to continued controversy surrounding timber harvesting at Jackson State Forest. Furthermore, FRIF funds are an appropriate funding source for Forestry programs, but should not necessarily be linked to the amount of FRIF revenues in any given year. Appropriate funding sources include the General Fund, Environmental License Plate Fund revenues, and timber harvest plan fee revenues.

STAFF RECOMMENDATION. Staff recommends that the Subcommittee hold the FRIF-funded activities open pending receipt of a final decision by the Board on the Jackson State Forest EIR and request CDF and DOF to provide information on how they plan to repay the General Fund in the current year.

ISSUE 3: CAPITAL OUTLAY

Real Estate Design Construction. Under current law, the Department of General Services (DGS) is responsible for managing most of the Department of Forestry and Fire Prevention's (CDFFP) capital outlay real estate design and management activities. In recent budget acts, however, some of this authority has been granted to CDFFP to conduct these activities for minor capital outlay projects costing less than \$500,000.

Governor's Budget. The Governor's budget is proposing to double the department's capital outlay staff from 15 positions to 30 positions over a two-year period in order to allow CDFFP to manage an additional six to eight capital outlay projects annually out of a total of about 45 projects on an ongoing basis (The remainder of the projects would continue to be managed by DGS). This proposal is intended help address an ongoing capital outlay backlog in DGS managed projects by assisting DGS with project management services for a number of major capital outlay projects on an ongoing basis. Currently, the department's capital outlay staff involvement is generally limited to minor capital outlay projects (such as landscaping, water system improvements, and equipment storage buildings) and providing assistance to DGS on major capital projects. As Figure 1 shows, this proposal will considerably widen the scope of CDFFP's involvement in the capital outlay process.

<p>Figure 1 California Department of Forestry and Fire Protection Real Estate Design and Project Management Activities</p>
<p>Planning and Design</p> <ul style="list-style-type: none"> • Development and review of preschematic documents. • Development and review of environmental documents. • Development, review, and administration of architectural and engineering service contracts. • Project cost estimating. • Development and review of preliminary plans (design documents). • Development and review of working drawings (construction documents).
<p>Construction</p> <ul style="list-style-type: none"> • Development, review, and administration of construction contracts. • Coordination of designers, special consultants, contractors, and inspectors. • Change order analysis and estimating. • Manage project schedules, costs, and scope. • Oversee on-site construction operations. • Preparation of project progress reports. • Analysis and settlement of construction claims and disputes. • Preparation of project completion reports. <p>Source – LAO Analysis of the 2006-07 Budget</p>

Capital Outlay Projects Are Consistently Behind Schedule and Over Budget. As raised by the LAO in their analysis of the Governor's 2006-07 budget, the Department's capital outlay projects are consistently behind schedule and are often over budget. Of the current 26 DGS-managed projects, DGS expects that there will be an average increase of 3.9 years in completing the programs. Additionally, the Department projects that of 200 projects that were to be initiated between 1998 and 2005, only 84 projects (42 percent) were begun and only 24 (12 percent) will be completed by the end of 2004-05.

The department indicates that these delays have occurred for a variety of reasons, including expanded review requirements for lease revenue bond financing, bids coming in over budget, project scope changes, and environmental studies dictating project changes. In addition, because DGS manages projects across state departments, statewide prioritization may contribute to a delay in CDFFP's projects.

LAO Concerns. The LAO has raised two primary concerns with the Department's approach to resolving their ongoing backlog and delays of capital outlay projects:

- **Inefficient to Establish New Duplicative State Function, Rather Than Fix Existing Function.** By expanding the project management function for major capital outlay projects at CDFFP, the budget proposal does not directly address the underlying issues with project delay and instead creates potential inefficiencies. The statutory policy to consolidate project management authority in a single agency-DGS-reflects the potential efficiencies from consolidating what would otherwise be similar functions performed by multiple state agencies. Additionally, there would likely be significant "start-up" costs at CDFFP to build expertise and it would take eight to ten months, according to the department, to hire staff to perform the expanded function.
- **Proposal is Inconsistent With Current Statutory Policy.** Under current law, DGS is generally delegated with project management authority for state agency capital projects. This budget proposal is inconsistent with this statutory policy in that it provides for a major project management function outside of DGS. As discussed above, the budget proposal raises fundamental policy issues about the role of DGS as the delegated authority for real estate management in statute. As such, the LAO feels that changes to existing statutory policy should be evaluated by the Legislature in the policy committees before approving the creation of a project management unit in CDFFP.

Other Capital Outlay Proposals.

The Governor's budget is proposing \$138 million for capital outlay projects to upgrade the state's fire protection infrastructure, including \$18.4 million from the General Fund and \$119 million from lease revenue bonds. The proposed projects are as follows:

1. **Replace Water Supply System at Bear Valley Helitack Base (HB).** \$413,000 (General Fund) to develop preliminary plans and working drawings of the most feasible and cost

effective means of providing reliable, long-term water supply for this facility. The current water supply is intermittent during summer months and of very poor quality.

2. **Relocate Batterson Forest Fire Station (FFS).** \$259,000 (General Fund) to develop working drawings relocating this facility to a more strategic location on U.S. Forest Service land. This relocation would improve the response times into Bass Lake and North Fork in the Sierras.
3. **Relocate Hollister Air Attack Base (AAB).** \$819,000 (General Fund) to acquire 10 acres of land and develop working drawings to construct a new AAB. The current facility is not large enough to handle the air traffic required during a fire fight and many of the facilities do not comply with Federal Aviation Administration (FAA) requirements.
4. **Remodel Baseline Conservation Camp (CC).** \$55,000 (General Fund) to develop working drawings to remodel the camp. When the camp was constructed in 1990, budget constraints did not allow for the construction of equipment storage space, emergency power, and adequate office space.
5. **Statewide Communication Facilities – Phase III.** \$13.1 million (General Fund) to support the replacement of nine communication facilities statewide. This is the third phase of communications towers to be replaced as part of the Tower and Vault Master Plan that was adopted to convert all telecommunications sites to digital technology.
6. **Statewide Communication Facilities – Phase IV.** \$1.6 million (General Fund) to support the development of preliminary plans and working drawings for the replacement of four communication facilities statewide. This is the fourth phase of communications towers to be replaced as part of the Tower and Vault Master Plan that was adopted to convert all telecommunications sites to digital technology. Phases I – IV will have replaced 37 telecommunications facilities. However, there are about 90 facilities remaining that need replacement.
7. **Upgrade Water and Wastewater Systems.** \$1.9 million (General Fund) to upgrade water and wastewater systems at three CCs and one FFS to comply with current water quality regulations. The facilities to be upgraded include: Devil's Garden CC (Alturas County), Ishi CC (Tehama County), Growlersburg CC (Placer County), and Howard Forest – Mendocino Unit Headquarters.
8. **Demolish Abandoned FFS.** \$252,000 (General Fund) to demolish the Coalinga FFS which is no longer in use. This station is located on land leased from Chevron and demolition is necessary to terminate the lease.
9. **Replace Various North Region FFS.** \$22.6 million (lease revenue bonds) to fund the development of preliminary plans and working drawings and to construct new facilities at the following locations: Elk Creek, Forest Ranch, Saratoga Summit, Smartsville, Whitmore, Thorn, Del Puerto, Burrell, Point Arena, Susanville, and Buckhorn. These replacement projects are proposed as a single major capital outlay project that will be

managed directly by CDF as opposed to the Department of General Services. The CDF will use a prototypical design and will engage in bulk purchasing of materials that will reduce construction costs to the state. The majority of these facilities were built in the 1950s, have fallen into disrepair, and are inadequate to meet today's needs.

10. **Replace Intermountain CC.** The budget proposes \$13.7 million (lease revenue bonds) to fund the development of preliminary plans and working drawings and to construct a new mess hall, barracks, and equipment storage facilities. The current facility is over 40 years old, crowded and inefficient.
11. **South Operations Area Headquarters.** The budget proposes \$30.5 million (lease revenue bonds) to acquire 10 acres to relocate these headquarters. The headquarters are used by several other federal and state agencies, including the U.S. Forest Service (USFS), Office of Emergency Services, and National Weather Service. The land purchased is at the USFS March Air Resources Base and will be held by a March Joint Powers and Redevelopment Agency. Funds are also allocated to develop working drawings and to construct new headquarter facilities, including offices, equipment shops, warehouses, and training classrooms.
12. **Replace Miramonte CC.** \$41.5 million (lease revenue) bonds to develop preliminary plans and working drawings and to construct new barracks, mess hall, and other administration buildings. The current facility was constructed in the 1940s and does not meet current health and safety codes.
13. **Replace Badger FFS.** \$4.1 million (lease revenue bonds) to develop preliminary plans and working drawings and to construct new barracks and equipment storage. The current facility was constructed in the 1940s and does not accommodate CDF's standard fire engines.
14. **Expand Fire Academy.** \$6.7 million (lease revenue bonds) to develop preliminary plans and working drawings and to construct an additional 80 person dormitory and expand the existing mess hall. The current facility is not adequate to house all of the Academy's students and guest instructors and excess students are sent to motels, which increases student housing costs.

Staff Recommendation. It is recommended that the subcommittee:

- **Hold open the Real Estate Design Construction BCP.**
- **Request CDFFP to provide additional information on the projects managed by CDFFP over the past five years, including the number of years delayed and reason for delay.**
- **Request CDFFP to provide additional information on how CDFFP is addressing or can address delays caused by expanded review requirements for lease revenue bond financing, bids coming in over budget, project scope changes, and environmental studies that dictate project changes.**

- **Hold open capital outlay BCPs with General Fund costs (1-8) and approve capital outlay projects with lease revenue bond funding (9-14).**

3790 – DEPARTMENT OF PARKS AND RECREATION

ISSUE 1: DEFERRED MAINTENANCE PRESENTATION - INFORMATIONAL

The Department of Parks and Recreation currently has a deferred maintenance backlog that is nearly \$1 billion dollars. Serving communities statewide, this accumulation of unfunded maintenance of our state parks is a result of years of under funding and represents an overall negligence of the State in the management of this invaluable public trust.

The Department will be presenting at the hearing on the scope of the problem, examples of deferred maintenance and the system by which Parks tracks maintenance and deferred maintenance projects.

ISSUE 2: IMPLEMENTATION OF EMPIRE MINE SHP REMEDIATION MEASURES

Background. The Empire Mine State Historic Park was the site of major mining activities for over 100 years. There are various contaminants present on the site, including asbestos, radon, and various heavy metals.

The Department was allocated \$500,000 from the Surface Mining and Reclamation Act Fund in 2005 to fund a human health risk assessment and storm water pollution prevention plan to begin to address the pollution caused by the Empire Mine.

Governor's Budget. The Governor's Budget proposes \$5 million in General Fund monies for contamination remediation measures at the Empire Mine State Historic Park.

Recent Lawsuit. State Parks and the Deltakeeper entered into a Consent Decree in January of 2006 to settle a lawsuit brought by the Deltakeeper. This Consent Decree requires State Parks' full compliance with industrial and construction storm water permits. The Department indicates that it already has a Storm Water Pollution Prevention Plan in place and is working on the necessary permits for implementing best management practices and a permanent pollution prevention strategy. The Department also indicates that it is pursuing potential responsible parties that will share in the cost of the cleanup.

STAFF RECOMMENDATION. Staff does not have any issues with this proposal but recommends holding it open because of General Fund.

ISSUE 3: WATER/WASTEWATER TREATMENT SYSTEMS

Background. The Department owns 246 water systems, 935 waste water systems, and 12 wastewater treatment plants. Many of these systems are old and require upgrades to meet regulatory requirements. The department was given \$6 million in additional fee authority in 2005-06 to fund water and wastewater infrastructure upgrades. However, these fee revenues have not been realized, mainly due to weather patterns that reduced attendance at state park facilities. Therefore, very little has been done to upgrade water and wastewater infrastructure at state parks.

Governor's Budget. The Governor's Budget proposes \$1.4 million (General Fund) to support ten new positions to supervise water and wastewater systems and to ensure safe drinking water and wastewater systems at park facilities.

Justification. The department has experienced numerous system failures that have impacted or threatened natural resources and cultural resources. Many of these failures were due to overuse of old systems designed for lower capacities. The department is legally required to address the deficiencies under the Federal Safe Drinking Water Act and Clean Water Act. Furthermore, the department currently does not have enough staff to manage its water and wastewater systems. State regulations now require water and wastewater systems to be supervised when they are in operation. The budget proposal begins to address this problem by providing 10 additional staff to supervise the department's water and wastewater facilities. The department indicates that it needs an additional nine positions to fully implement this regulatory requirement.

STAFF RECOMMENDATION. Staff does not have any issues with this proposal but recommends holding it open because of General Fund.

ISSUE 4: CONCESSION GRANTS

Background. Under current law, the Legislature is required to review and approve any proposed or amended concession contract that involves a total investment or annual gross sales over \$500,000. The Legislature is also required to approve most types of operating agreements, which are agreements between the department and other government entities (mainly local governments) to allow these entities to operate and maintain a state park unit. In past years, the Legislature has provided the required approval in the supplemental report of the budget act.

Governor's Budget. The budget proposal includes five operating agreements that require legislative approval. These operating agreements include: Woodland Opera House; Folsom Lake Natoma Aquatic Center; Stone Lake Property; Lighthouse Field State Beach; Lucadra and Moonlight State Beaches.

The budget proposal includes five concession proposals that require legislative approval. These concession agreements include:

- **Millerton Lake State Recreation Area.** Proposal to operate a marina for up to 30 years with a minimum capital investment of \$2 million and the state to receive an undetermined amount.
- **Asilomar State Beach.** Proposal to operate lodging with details to be determined.
- **Hollister Hills State Vehicular Area.** Proposal to operate a park store for ten years with details to be determined.
- **Old Town San Diego State Park.** Proposal to operate food and other retail for up to ten years with the state receiving \$5,000 or 8 percent of sales at a minimum capital investment of \$100,000.
- **Pismo State Beach.** Proposal to operate lodging and a restaurant with a minimum capital investment of \$14 to \$17 million and the state to receive an undetermined amount.

LAO Recommendation. The LAO recommends approving all of the operating agreements. Furthermore, the LAO recommends holding open all of the concession proposals due to missing information. Feasibility studies for the first three concession proposals have not been completed thus far and are required in order to determine the minimum rent to the state. The two latter concession proposals have not been approved by the State Parks and Recreation Commission.

STAFF RECOMMENDATION. Staff recommends that the Subcommittee take the following actions:

- **Approve the operating agreements.**
- **Hold open the concession proposals pending receipt of feasibility study reports or approval by the Parks and Recreation Commission.**

ISSUE 5: OFF HIGHWAY VEHICLE PROGRAM

Background. The Off-Highway Motor Vehicle Recreation Program (OHV Program) provides opportunities for OHV recreation while protecting California's natural and cultural resources from the negative environmental impacts of OHV recreation. The department operates eight OHV-related state parks. The department also allocates OHV grants for a variety of activities related to OHV facilities, law enforcement operations, resource management, safety and education, and equipment projects. The grant applications must be approved by the OHV Commission, which establishes policy for the program. The Commission is made up of seven members that are required to represent a broad range of interests.

Governor's Budget. The Governor's budget proposes \$18 million from the OHV Fund for the OHV grant program.

LAO Recommendation. The LAO finds that the process for establishing guidelines and priorities for the OHV grant program is broken. This is consistent with issues raised by the Bureau of State Audits in a recent audit of the OHV program. The allocation of OHV grants in the current year has been delayed due to ongoing disagreements between the OHV Commission and the OHV division regarding how the funds should be allocated. Furthermore, the LAO recommends deleting the \$18 million for OHV grants pending resolution of this breakdown in the process of allocating the grant funds.

OHV Act Sunsets. Staff finds that the entire OHV Recreation Program is scheduled to sunset on January 1, 2007.

Missing Gas Tax Study. Staff finds that OHV users participate in a wide range of activities. These activities range from motorcycle racing to using an OHV to access a remote fishing lake or hiking spot. The Department is currently preparing a gas tax study that includes a survey of the range and amount of time OHV users engage in different activities. Data from this study is critical to determining the best way to allocate the OHV Funds to ensure that they support activities that are consistent with the demands of all OHV users. The department has indicated that the gas study will not be complete until after the budget is approved and that the study is instrumental to the development of an OHV strategic plan.

STAFF RECOMMENDATION. Staff recommends that the Subcommittee:

- **Adopt the LAO's recommendation and delete funding for OHV grants from the OHV fund pending a resolution of the current problems with the grant allocation process.**
- **Adopt trailer bill language to extend the OHV Program and OHV Commission for one year.**
- **Adopt supplemental report language requiring the department to submit the gas tax study and a recommended strategic plan for the OHV Program to the Legislature no later than January 10, 2007.**

3600 – DEPARTMENT OF FISH AND GAME

In the 2005-06 Budget subcommittee hearing, the legislature discussed at length the structural and fiscal deficiencies that were pervasive throughout the department. As a result, the final budget proposed by the legislature included a combination of programmatic augmentations and extensive supplemental report language that directed the Department and the Secretary of Resources to conduct a comprehensive review of the department's statutory mandates, the programs that it provides and the accounting systems that it uses to track its expenditures. To date, the Legislature still has not received one of the three supplemental reports that required the Department to report on their accounting systems and provide recommendations as to how they can be improved.

While many of the ongoing issues identified within Fish and Game can be tied to General Fund and bond fund reductions, the prevalence of these reductions coupled with fundamental breakdowns within the Department's are at the root of many issues that will be before the committee. It is the recommendation of staff that the when looking at the entire Fish and Game budget framework, the subcommittee consider the following issues:

Resolve Imbalances and Transparency in the Fish and Game Preservation Fund. As is discussed later in this agenda, the Fish and Game Preservation Fund (FGPR) continues to carry "negative balances" within its various sub-accounts which will require one-time funding over one or many years to resolve. Until these issues are resolved, positive sub-account balances within the fund will not be able to be dedicated to the purposes they were intended for. Additionally, because of both an internal accounting system that allows for the shift of dollars between sub-accounts and a lack of a public record of all account balances within the FGPF, it is difficult for the public and legislature to adequately monitor the fund.

Address Chronic Funding Issues. Funding for the Department's core programs has been severely reduced as a result of declining bond funds, statewide General Fund Reductions and a lack of will by the legislature to increase revenues. In the Budget year, some examples of this need include: an upwards of \$7 million in need for the implementation of one of the States key ocean protection measures, The Marine Life Protection Act; a departmental review of only 40 percent of all California Environmental Quality Act documents; and a general lack of presence by DFG in our state lands that is demonstrated by the hundreds of acres of land that our wardens are responsible for protecting and the ongoing lack of funding for the management of these lands and the habitats among them.

Protect our State Lands. The Department has lost 25% of its game wardens as a result of funding reductions and inadequate salary and compensation levels. Responsible for protecting fish and game resources from poaching and other illegal activities, these losses have dismantled our state's presence in our open spaces and have left the department with a warden force equal to the one it had in the 1960's. DFG field staff and wardens have been spread thin over vast areas of responsibility. In some areas, hundreds of square miles are the responsibility of just one warden. More than simply checking for updated fishing licenses, these wardens are responsible for a broad range of environmental monitoring and enforcement activities, that only increase with California's growing population.

ISSUE 1: BALANCING THE FISH AND GAME FUND

About 33 percent of the DFG is funded with the Fish and Game Preservation Fund (FGPF). This fund receives revenues from hunting and fishing licenses and taxes, commercial fishing permits and fees, and environmental review fees paid by project proponents. Statute divides the use of these revenues into two categories, dedicated and non-dedicated. Dedicated revenues are designated by statute for specific activities relating to the sources from which fees are collected. Non-dedicated revenue can be used for a broad range of programs related to hunting and fishing as well as fish and wildlife protection and land management activities.

In 2005-06 hearings, the subcommittee discussed at length the structural deficiencies that existed, and continue to exist, within the FGPF that were the result of non-dedicated funding shortfalls and subsequent shifts between dedicated and non-dedicated subaccounts of the FGPF to cover for extensive reductions in General Fund support to the Department. As a result of these discussions, the Legislature required the Department to return with a plan to address the FGPF's structural problem in the 2006-07 Governor's Budget.

Governor's Budget. In response to the Legislature's request, the Governor's Budget proposes to bring the FGPF as a whole in balance through combination fund shifts, General Fund augmentations and reductions. The following are the Administration's proposals:

Implementation of AB 7 (Cogdill). The Governor's budget is proposing a General Fund Augmentation of \$6 million to replace Fish and Game Preservation Fund (FGPF) that is being redirected to implement Assembly Bill 7 (Cogdill) relating to hatcheries and sport fishing. Redirected funds will be divided between the Hatchery Program (\$5.2 million) and the Heritage and Wild Trout Program (\$8.4 million).

As signed by the Governor, AB 7 originally required DFG to deposit 33 percent of sport fishing license fees (\$16.7 million) in a Hatchery and Inland Fisheries Fund (HIFF). These funds could then be used by DFG for the management, maintenance and capital improvement of California's fish hatcheries, the Heritage and Wild Trout Program, related enforcement activities, and other activities eligible for funding sports fishing licenses.

The DFG has commented that when evaluating the implementation of AB 7 (Cogdill)' immediate hatchery production goals identified in the legislation would not be achievable with current staffing and operating resources levels. In the Governor's proposal, various significant changes to the original legislation have been proposed in trailer bill that would:

- Reduce percentage of sporting fees dedicated to implement AB 7 by one-third from 33.3 to 27 percent.
- Extend implementation timetables by two and a half years.
- Allow for the use of Federal Funds and Reimbursements to implement AB 7.

To date, the administration has not provided the legislature with a specific request for funding of AB 7 that includes positions, management plans, etc. The administration has indicated

that it plan is forthcoming. At the hearing, the Department should be prepared to update the subcommittee on their plans to submit an AB 7 implementation proposal.

General Fund Augmentation. The Governor's budget is proposing a General Fund augmentation of \$4 million to the FGFP non-dedicated revenues to encompass ongoing shortfalls of revenue for non-dedicated programs such as law enforcement, environmental review, oversight of commercial fisheries, and hunting programs and management of DFG lands. This augmentation will allow the FGFP to maintain an overall positive fund balance and sustain current levels of expenditure but will not improve the overall structural deficiencies within FGFP and its various subaccounts.

Across the Board Adjustments. The Governor's budget is proposing to reduce FGFP non-dedicated accounts by \$2.6 million and augment various dedicated accounts by \$2.4 million in an effort to realign revenues with expenditures and fund balances.

April Finance Letter. In their April Finance Letter, the Department has requested an additional \$1.2 million one-time (General Fund) Augmentation to account for lost fishing license revenue resulting from the federal closure of the salmon fishing season and a \$715,000 ongoing augmentation to offset additional revenue shortfalls within the Fish and Game non-dedicated accounts.

LAO Comments. In their review of the Governor's 2006-07 budget, the LAO notes that while the Department proposes adjustments to bring the FGPF "as a whole" into balance, it does not address the structural deficit problem in the fund and maintains various negative subaccount balances within the FGPF (Negative balances result when prior-year spending exceeded available resources.) As an example, the department has provided information showing that two accounts - the streambed alteration account and the nondedicated account - will start the budget year with a negative beginning balance of \$8.2 million and \$15.8 million, respectively. These accounts are projected to end the budget year with negative balances of \$12 million and \$ 7.7 million, respectively.

As underscored by the LAO, until these account deficits are eliminated-which could take many years absent corrective action-the department would presumably continue to "borrow" funds from other dedicated accounts as it has done in the past (contrary to statute) or seek a "bailout" from the General Fund. The LAO has recommended that to address the negative fund balances in the FGPF, the Legislature could pursue one of the three following options:

1. Provide General Fund or special fund loans to the accounts with the negative balances. Such loans could be paid back over a specified repayment term, either by reducing expenditures and/or increasing revenues from fees.
2. Provide loans from FGPF accounts with available fund balances to the accounts with the negative balances, with specified repayment terms. The loans could be paid back either by reducing expenditures and/or increasing revenues from fees.
3. Provide a General Fund transfer to the accounts with the negative balances.

Address the Structural Deficit Over the Long Term. To address the structural deficit problem over the long term and to ensure that the practice of deficit spending in FGPF accounts does not persist in future years, the LAO also recommends that the Legislature take action requiring each FGPF account to have a prudent reserve of five percent. This ongoing reserve requirement will require the department to take corrective action (reduce expenditures and/or increase fees) if needed to align the revenues and expenditures in each account.

Improve Budget Display. In the FGPF fund display in the *2006-07 Governor's Budget* document, revenues and expenditures are not broken down by non-dedicated and dedicated revenue sources, as was the practice in previous years. This lack of detail complicates legislative oversight, as the fund condition statement does not allow for a determination, for example, of whether dedicated revenue sources are being used to offset expenditures in other accounts of FGPF.

Comments. Subcommittee staff has requested that the Department provide information accounting for all of the transfers of funds between sub-accounts within the FGPF. This information was provided by the department on the Friday before the hearing and it shows a negative account balance for non-dedicated accounts of \$18.5 million and a total of \$21.4 million would be needed in order to follow the LAO's recommended actions of establishing a prudent reserve in each account.

At the hearing, the Department should be prepared to comment to whether it has a plan to pay back the negative sub-accounts in the FGPF and to what affect do these negative sub-account balances have on program delivery and program growth for both dedicated and non-dedicated accounts?

STAFF RECOMMENDATION. Staff recommends that this issue be kept open.

ISSUE 2: ADDITIONAL FISH AND GAME PRESERVATION FUND PROPOSALS

1. BAY DELTA SPORT FISHING ENHANCEMENT STAMP

Governor's Budget. The Governor's budget proposes to spend \$1.5 million from the Bay Delta Sport Fish Enhancement Stamp (BDSFES) within the FGPF and 2.5 positions to implement a long term program to ensure that adequate fish populations exist in the San Francisco Bay Delta estuary. This proposal will use revenues collected from the sale of the Bay Delta Sport Fishing Enhancement Stamp to fund fishery enhancement programs that are approved by the stakeholder Advisory Committee that was established under enabling legislation.

According to the Department, the BDSFES Advisory committee has already screened a large number of proposed projects and the following projects are currently being recommended by the Advisory Committee:

Sports Fishing Access

- Install new boat launch (Sacramento River)
- Dredge existing boat launch to maintain access until a new launch is completed

Monitoring and Research

- Central Valley Creel Census

Fisheries and Habitat Restoration

- Black bass release boat program
- Halibut population research and enhancement
- Hatchery salmon pre-release acclimation

Public Outreach

- Black bass outreach through release boat program
- Install fish rulers and fish consumption health advisories on Bay Area piers
- Striped bass fishing map

2. AUTOMATED LICENSE DATA SYSTEM

Governor's Budget. \$448,000 (Fish and Game Preservation Fund) for procuring, implementing and operating an Automated License Data System to replace the current Paper Based system.

3. FEDERAL TRUST FUND FINANCIAL COORDINATION AND ADMINISTRATION

Governor's Budget. \$189,000 (ELPF and FGPF) and 1.9 PYs to manage and administer Federal Funds coming into the department. This proposal is a result of an Office of Inspector General review that determined that Fish and Game had inadequate coordination and financial administration of federal grant funds to ensure full compliance with federal guidelines.

STAFF RECOMMENDATION: Staff does not have any issues with these proposals but recommends that they remain open due to outstanding issues with the overall Fish and Game preservation fund.

ISSUE 3: FISHERIES RESTORATION GRANTS PROGRAM

Governor's Budget. The Governor's budget proposes a General Fund Augmentation of \$4 million for the purposes of providing a state match for continuing federal grants to Tribes, non profit organizations, public agencies, and private entities for fisheries restoration projects in California. Since 2002-03 years, the Department has used \$8 million annually in Proposition 40 funds to provide the Federal match – the funds requested in this proposal will replace these bond funds and provide for the continuance of the grant program.

STAFF RECOMMENDATION: Staff has no issues the proposal but because the proposal includes general fund, it is recommended that this remain open.

3600 – DEPARTMENT OF FISH AND GAME**3860 – DEPARTMENT OF WATER RESOURCES**

ISSUE 1: SAN JOAQUIN RIVER RESTORATION

The Governor's budget has included two coordinated proposals for the Department of Fish and Game and the Department of Water Resources to develop a long term plan for restoring non-flow related issues on the San Joaquin River below the Friant Dam.

Department of Fish and Game. \$750,000 (Proposition 13) for the first year and a total \$5 million over three years. Prior to the completion of the federal court litigation, the DFG has indicated that it will engage in investigative and research activities to develop a plan for post-litigation restoration activities. Examples of restoration issues to be examined by the department include:

- Alternative water supplies for restoration water
- Structural barriers to fish passage
- Existing habitat conditions
- Comprehensive watershed evaluations

Department of Water Resources. \$5 million (Proposition 13) over three years for the following types of non-flow related restoration actions for the San Joaquin River: developing water supply alternatives, water quality, hydrology, water temperature, fish passage and fish spawning/rearing habitat for anadromous fish.

Background. The San Joaquin River has been the center of controversy and litigation since the NRDC sued the U.S. Bureau of Reclamation and the Friant Water Users Authority in 1988. In April of 2003, settlement talks between these two groups broke down and the NRDC and FWUA returned to court and are no longer working together. Because of litigation between associated parties, the completion of various studies associated with the San Joaquin River Restoration program have not been achieved. The Department of Water Resources has put forth efforts to complete all or portions of the unfinished studies, however unsettled issues of the Friant litigation have prevented the department from doing so.

Under the 1978 Supreme Court decision of California v. United States, the State enjoys broad discretion to impose conditions on Bureau of Reclamation water right permits, provided that the conditions are "not inconsistent with congressional provisions authorizing the [water] project in question." Thus, when Congress specifically directs the operation of a water project (a rare event), the State cannot interfere in that specific direction. In the case of the San Joaquin River, Congress directed the Secretary of the Interior to complete studies of how to restore the anadromous fishery on the San Joaquin by 1996. This study was never completed and until it is, reclamation may not release water from Friant Dam for fishery restoration until Congress approves. In the meantime, Friant water users are charged a surcharge for general ecosystem restoration.

Comments. Staff understands that there is great likelihood of a forthcoming federal court decision on the Friant litigation and with resolution, the State should be prepared to move forward with restoration activities along the San Joaquin River. Staff feels, however, that the subcommittee should have absolute assurance that the actions proposed in the BCP will in no way place in jeopardy the State's sovereignty over the San Joaquin River water flows nor have any other influence on the ongoing Friant litigation prior to its approval.

STAFF RECOMMENDATION: Leave item open.

3860 DEPARTMENT OF WATER RESOURCES

ISSUE 1: AUGMENTATION FOR THE STATE WATERMASTER SERVICE PROGRAM

The Governor's budget proposes an increase of \$1.35 million in reimbursement authority to support 2 new positions and 5.5 existing positions for the water master service program. This proposal intends to increase services of the Watermaster program to allow for the program be fully funded through payments from water right holders associated with the program.

Background. The Watermaster program in effect ensures that water is distributed according to established water rights through the apportionment of water in streams that have had water right determinations. This program encompasses seven Watermaster service areas that are all located in Northern California counties.

Prior to 2004, state Watermaster services were intended to be funded equally through Watermaster fees and the General Fund. In 2004, however, Watermaster fees had remained constant for nearly 12 years and in some service areas fees had remained constant for nearly 20 years which resulted in alter right holders only paying 25 percent or less of the actual costs of the program.

In 2005-06, it was intended that funding for the Watermaster program be 100 percent funded through payments from water right holders. Resulting fee increases necessary to implement a complete program are significant for water rights holders and accordingly this issue has been of interest in prior year budget discussions.

STAFF RECOMMENDATION: Staff has no issues, approve as budgeted.

ISSUE 2: FLOOD MANAGEMENT COMPREHENSIVE STRATEGIC PLAN

The Governor's budget is proposing \$38.1 million dollars and 30.4 PYs to provide for a statewide, flood management strategic plan that includes the following activities:

Flood Project Maintenance. Improved State maintenance of the Sacramento River Flood Control Project, levee inspection program improvements, encroachment management, sediment removal, regulatory forum, erosion repair, Reclamation Board Property File Management Project, Levee Crown and Cross Section Survey Program, and deferred maintenance.

System Reevaluation and Rehabilitation. \$2.1 million (General Fund) and 8 new positions to conduct a flood control system reevaluation to identify deficiencies within the Sacramento Regional Flood Control Project and the San Joaquin River Flood Control System. To the extent possible, identified flood control deficiencies will be fixed through cost-share state funds with locals.

Emergency Response. \$2.3 million (General Fund) and 9 new positions for increased staffing at the Flood Operations Center Program, the development of the Standardized Emergency Management System, increased flood forecasting, improve hydrologic data collections, and enhanced emergency response by improving hydrologic data systems and forecast technology.

Floodplain Management. \$3.0 million (General Fund) and one new position to update existing FEMA floodplain maps and provide advisory floodplain mapping for flood prone areas that were not previously mapped or proposed to be mapped by any other program but are expected to have development within the next 25 years.

CALFED Systems Integrity. \$16 million (General Fund), \$1 million (Prop 50) and \$1 million (Delta Flood Protection Fund) to maintain and improve over 600 miles of bay-delta levees through the CALFED Levee System Integrity Program. To conduct maintenance and improvements of levees, locals will receive funding through the Department's Delta Levee Maintenance Subventions and Special Flood Control Projects Programs. Additionally, these funds would be used to conduct the Delta Risk Management Study that was set forth through the Record of Decision.

Flood Protection Corridor Program and Floodplain Management Workshops. \$460,000 in voter approved bond funds to administer the Flood Protection Corridor Program and the National Flood Insurance Program Technical Assistance Program. Both programs are nearing completion and funding requested is significantly reduced from previous years.

STAFF RECOMMENDATION: Staff has no issues with this proposal, but recommends that it remain open due to General Fund impacts.

ISSUE 3: CAPITAL OUTLAY

The following are various DWR capital outlay proposals. Staff has no objections to these proposals but because they obtain General Fund, it is recommended that they be held open.

American River Watershed, Folsom Dam Raise Project, Bridge Element. \$6.8 million for the construction of the bridge element of the American River Watershed and the Folsom Dam Raise Project. This project has a federal and local cost-share of \$58.7 million and \$2.1 million respectively.

Upper Sacramento River Area Levee Restoration Project. \$484,000 (\$357,000 General Fund and \$127,000 Reimbursement Authority) to fund the nonfederal share of the Upper Sacramento River Area Levee Restoration Project.

American River (Common Features) Project. \$9.1 million (\$6.4 million General Fund and \$2.7 million Reimbursements) to fund the nonfederal share of the American River Commons Features project to improve the level of flood control along the lower American River and the Natomas reach of the Sacramento River.

Folsom Dam Modifications Project. \$19.4 million (\$14.4 million General Fund and \$5.0 Reimbursement) to continue construction of the Folsom Dam Modifications Project that will increase the capacity of the dam and improve flood protection along the lower American River to about a 1 in 140 year level.

American River Flood Control Project – Natomas Features. \$496 million (General Fund) to reimburse the Sacramento Area Flood Control Agency (SAFCA) for the State's share of the nonfederal project cost for Phase 1A of the American River Flood Control Project – Natomas Feature.

Sacramento River Bank Protection Project. \$4.9 million (General Fund) for riverbank protection efforts for the Sacramento River Flood Control Project. This proposal will secure \$14.4 million in federal funds to prevent bank erosion along the Sacramento River.

STAFF RECOMMENDATION: Staff has no issues with these proposals but recommends that they remain open because of General Fund.

ISSUE 4: CALFED RELATED PROPOSALS

As discussed under the CALFED section of this agenda, the Legislature to date has not received the Administration's 10-year plan for CALFED. Until this plan is received, it is the recommendation of staff that all CALFED related BCP's (listed below) be held open.

1. CALFED Storage - San Luis Low Point Bypass Feasibility Study
2. CALFED - Water Use Efficiency Program Implementation
3. CALFED Bay-Delta Program - Conveyance, Water Quality, Ecosystem Restoration, and Surface Storage CALFED Storage - San Luis Low Point Bypass Feasibility Study
4. Agricultural Water Conservation Loan Program (Proposition 13)
5. Sacramento Valley Water Management Program
6. South Delta Improvement Plan
7. Franks Tract Project

STAFF RECOMMENDATION: Until the subcommittee receives and has time to evaluate the administration's ten-year plan, leave CALFED related issues open.

3870— CALIFORNIA BAY DELTA AUTHORITY

In 2005-06 budget subcommittee hearings, the Legislature discussed at length concerns it had with the CALFED program's inability to produce a viable long-term finance plan, deficient governance structure and, overall unclear performance standards that allowed the program to set clear programmatic priorities. As a resulting action, the Legislature acted and the Governor approved a drastically reduced funding package for CALFED that restricted funding for only those activities that were necessary to maintain appropriate flood control, water quality and natural habitats.

In response to the Legislature's concerns, the Administration conducted four independent reviews of CALFED that came to a consensus agreement that the current governance structure is not working well, state priorities for CALFED are unclear and meaningful performance measures are lacking.

Governor's budget. The Governor's budget proposal for CALFED does not reflect any significant changes to how CALFED is financed or governed. While CBDA submitted a ten-year action plan to the Governor in December that recommends changes to the program's governance, fiscal management, and expenditure priorities, the Governor had not submitted his approved plan to the Legislature as of the time this analysis was prepared.

Expected Governance Changes. Staff understands that the 10-year action plan and a proposal to address deficiencies in governance are forthcoming from the Administration. Until these are reviewed by the Legislature, staff recommends that the subcommittee defer any decisions on CALFED.

STAFF RECOMMENDATION: Hold all CALFED items open pending new reports and budget proposal.

3940 – STATE WATER RESOURCES CONTROL BOARD

ISSUE 1: MONITORING ACTIVITIES

Background. The state's ambient water monitoring programs include the Surface Water Ambient Monitoring Program (SWAMP). Funding for ambient water quality monitoring was negatively impacted by General Fund reductions during the first part of this decade. The board has broad deficiencies in its current ambient water monitoring program and lacks critical information needed to support management decisions. Specifically, the Total Maximum Daily Loads (TMDL) program, agriculture waiver program, and basin planning activities are in critical need of better water quality monitoring data.

Governor's Budget. The Governor's Budget proposes \$8.5 million in special and federal funds (Section 106 funds) to improve the SWAMP Program. About \$4 million of this increase is proposed as a one-time augmentation to expand water monitoring infrastructure. Funding this program will result in a \$4 million increase to National Pollutant Discharge Elimination System (NPDES) permit fees. These fees can be increased by the SWRCB.

Justification. There are considerable unmet monitoring needs at the board. Currently, the SWAMP program is monitoring only about 50 sites statewide. This level of monitoring leaves significant data gaps since many of the state's water bodies remain unmonitored. Furthermore, federal law directs that Section 106 federal funds be used, at least in part, to support a robust monitoring program. These funds were being used to support the NPDES permit program, which is more appropriately supported by fees on waste dischargers.

STAFF RECOMMENDATION. Staff recommends that the Subcommittee approve this budget proposal.

ISSUE 2: REDUCTION OF WATER RIGHTS BACKLOG

Governor's Budget. The Governor's budget is requesting \$669,000 to support the permanent addition of 6.3 positions for water rights application and change petition processing. Funding for this proposal would come from the Water Rights fund and would require a fee increase to support the additional positions.

Justification. Currently the division has approximately 634 water rights applications pending and 563 petitions requesting approval to amend applications that have already been publicly noticed or to change the conditions of existing water right permits, or licenses, for a total backlog of 1197 projects with many of these applications have been pending processing for more than five years. This backlog is the result of long term deficiencies in staffing levels and in recent years, existing staff has been redirected to process other actions related to the water rights program.

STAFF RECOMMENDATION. Staff has no issues with this proposal and recommends approval as budgeted.

ISSUE 3: WATER RIGHTS INFORMATION SYSTEM

Governor's budget. The Governor's budget is proposing to loan the board \$2.9 million from the Underground Storage Tank Cleanup Fund to make improvements its current Water Right Information System (WRIMS) that stores and processes about 35,000 records of post-1914 appropriative rights, riparian and pre-1914 appropriated claimed rights, and groundwater diversions in select southern Californian counties. Currently, the WRIMS does not provide the Board the capability to address legislative mandates that require the system to provide real-time water rights information and allow the public to be able to track on-line status of water right applications and permits.

Bureau of State Audits Report. Recently the Bureau of State Audits completed an audit of the Water Rights program at the State Water Resources Control Board. One of the key findings of the audit is that the water rights permit data contained in the Water Board's database contains many errors which may impact the fees that are charged to water rights holders. (The database contains the major information from each permit, including the amount of the water right, the diverter, the point of diversion, etc. The Water Board's actual permit files contain the permits and all the related correspondence.) The fees charged by the Water Board are based on the amount of water diverted by the permit holders.

LAO Comments. After meeting with the board about the findings of the BSA audit, the the LAO expressed concern that the Water Board will not be able to review and update all the data in the water rights system before the upgraded computer system (proposed in the budget) comes online and any effort that is made will be conducted with existing funds.

Accordingly, the LAO recommends the following:

1. Hold open the proposal to use \$2.9 million from the Underground Storage Tank Cleanup fund to improve its water rights database management and tracking system.
2. Request the Water Board to report back to the subcommittee with 1) a plan (including a schedule) to *comprehensively* review and update all the records in its database using existing resources and 2) the additional staff resources, if any, that will be needed to review and update all the records in its database before the upgraded database management and tracking system comes online.

STAFF RECOMMENDATION. Follow LAO recommendation and hold the item open and request that the Board report back to the subcommittee.