

AGENDA**ASSEMBLY BUDGET SUBCOMMITTEE NO. 3
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION****Assemblymember Ira Ruskin, Chair
(ASSEMBLYMEMBER EVANS, SUBSTITUTE CHAIR)**

-

**WEDNESDAY, MARCH 28, 2007
STATE CAPITOL, ROOM 447
9:00 AM****Hearing Items**

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
	CONSENT CALENDAR	2
3860	DEPARTMENT OF WATER RESOURCES	3
Issue 1	INFORMATIONAL: ALAMEDA COUNTY SUPERIOR COURT RULING	3
Issue 2	FLOOD MANAGEMENT	4
Issue 3	CALFED – SURFACE STORAGE STUDIES	10
Issue 4	CALFED – SOUTH DELTA IMPROVEMENT PROGRAM	11
Issue 5	CALFED – CONVEYANCE AND WATER QUALITY	12
Issue 6	CALFED – BAY DELTA CONSERVATION PLAN	13
Issue 7	LAO ISSUE: STATE WATER PROJECT BUDGET	14
Issue 8	PROPOSITION 50: INTEGRATED REGIONAL WATER MANAGEMENT/ LOCAL GROUNDWATER ASSISTANCE	16
Issue 9	PROPOSITION 84: INTEGRATED REGIONAL WATER MANAGEMENT	16
Issue 10	PROPOSITION 13: SAN JOAQUIN RIVER RESTORATION	18
Issue 11	PROPOSITION 84: ALL AMERICAN AND COACHELLA CANAL LINING	18
Issue 12	PROPOSITION 84: DELTA WATER QUALITY PROGRAM	19
Issue 13	PROPOSITION 84: MULTI BENEFIT PLANNING AND FEASIBILITY STUDIES	20

CONSENT CALENDAR

ITEM	DEPARTMENT	SUMMARY
3560	State Lands Commission	\$1.2 million (General Fund) for the State's obligation for hazardous waste remediation at Selby Slag Site.
3560	State Lands Commission	\$702,000 (Special Funds) for Marine Oil Terminal Engineering and Maintenance Standards Staffing.
3560	State Lands Commission	\$568,000 (Special Funds) for increased workload related to the marine Invasive Species Program.
3680	Department of Boating & Waterways	\$12.1 million (Harbors and Water Craft Fund) for public loans to develop marinas and expand/rehabilitate existing facilities.
3680	Department of Boating & Waterways	\$12.9 million (Harbors and Watercraft Revolving Fund) for various launching facility grants
3680	Department of Boating & Waterways	\$6 million (Harbors and Watercraft Revolving Fund) for marina construction loans.
3680	Department of Boating & Waterways	Position authority for 2 PYs for Aquatic Pest Control Technicians.
3680	Department of Boating & Waterways	\$500,000 (Abandoned Watercraft Fund) for the removal of Abandoned Watercraft.
3680	Department of Boating & Waterways	Capital Outlay: \$90,000 for project planning for both major and minor capital outlay projects.
3680	Department of Boating & Waterways	Capital Outlay: \$6.1 million for minor capital outlay projects for 17 high priority minor capital outlay projects.
8570	Department of Food & Agriculture	\$407,000 (General Fund) for one year and 5, one-year limited term positions to continue the Needles Border Protection Station Pilot Project.
8570	Department of Food & Agriculture	\$500,000 (Analytical Laboratory Account) for deferred maintenance and equipment replacement for the Center for Analytical Chemistry.
8570	Department of Food & Agriculture	\$658,000 (General Fund) one-time for new equipment for the medfly preventative release program.
8570	Department of Food & Agriculture	\$212,000 (Food and Agriculture Fund) fiscal year 2007-08 and ongoing spending authority of \$53,000 to develop and initiate hydrogen purity and performance standards.
8570	Department of Food & Agriculture	Capital Outlay: \$1.1 million (Glassywing Sharpshooter Assessment Fund) for Bakersfield Area Greenhouse Acquisition for Pierces Disease research.
8570	Department of Food & Agriculture	Capital Outlay: \$2.1 million (General Fund) to consolidate the Fresno/Tulare Animal Health and Food Safety Laboratories.
3860	Department of Water Resources	\$148,000 (General Fund) for Additional Legal Support Staff
3860	Department of Water Resources	\$8.4 million (Proposition 204) for Sacramento Valley Water Management and Habitat Protection Measures.
3860	Department of Water Resources	Reversion and appropriation of \$134,442 (Proposition 13) for Urban Streams Grant Program.
3860	Department of Water Resources	\$2.8 million from Proposition 13 to help phase II of the Contra Costa Water District's Canal Lining project.
3860	Department of Water Resources	\$1.2 million from Proposition 50 to support 7.6 existing positions for the CALFED fish passage improvement program.

3860 – DEPARTMENT OF WATER RESOURCES

ISSUE 1: INFORMATIONAL: ALAMEDA COUNTY SUPERIOR COURT RULING ON DELTA PUMPING

On Friday March 23, 2007, Alameda County Superior Court Judge Frank Roesch ruled that the Department of Water Resources (DWR) was violating the California Endangered Species Act (CESA) and the department had 60 days to obtain CESA permits before delta pumps would be ordered to be shut down. In his ruling, the courts allow for a 15-day comment period before the 60-day clock starts.

The pumps in the Delta referenced in the decision serve 23 million people through the State Water Project and have been operated by the department with a federal permit for the take of endangered species but without a state CESA permit. Many groups have issued concern that the manner in which water is pumped from the delta is a major contributor to the decline in pelagic organisms in the delta. To comply with state regulations, the department cites that a patchwork of historical agreements give proper authority to operate the pumps under state law without a formal CESA permit.

Staff Comments. The decision by the Alameda County Superior Court sets an abbreviated time frame for the state to either obtain a CESA permit from the Department of Fish and Game or reach an agreement in the Bay Delta Conservation Plan that is currently in negotiation. At the hearing, the department should be prepared to brief the subcommittee of this situation and what options the department is considering taking to remedy both the short-term issue of maintaining water deliveries and the long-term issue of addressing the courts concerns.

STAFF RECOMMENDATION: This item is informational, no action needed.

ISSUE 2: FLOOD MANAGEMENT

Last year, the voters approved almost \$5 billion in Propositions 1E and 84 for flood protection spending. Authorized primarily to the Department of Water Resources (DWR), these funds will be used to respond to immediate needs for statewide flood system repairs as well as for regional flood protection planning, mapping, and prevention. From studies conducted at the state and federal level, we know that California's flood protection system in the Central Valley is highly vulnerable to a catastrophic failure that would put in jeopardy California's ability to pump water from the delta and threaten both life and property in the Central Valley. In the proposed budget, the administration is requesting that the legislature consider funding a flood protection package that would continue many of the state's existing flood protection programs make requirements that existing flood infrastructure be maintained and conduct the necessary studies and evaluations to plan for potential changes in our states hydrology caused by climate change.

Prior Legislative Actions. Because of the immediacy in need for flood system repairs, the Legislature and the Governor gave bipartisan support in 2006 to AB 142 (Nunez/Perata) that continuously appropriated \$500 million from the General Fund to DWR to begin repair on an initial 24 critical levee erosion sites identified by the department. Under an emergency declaration signed by the Governor and through cooperation with federal regulatory agencies, the department was able to move forward on levee repair on an expedited pace. As work progressed on these sites over the course of the summer, the department identified an additional 71 critical levee sites for repair.

Proposition 1E. While the continuous appropriation made in AB 142 were intended to provide an immediate source of funding for DWR to use to address emergency levee repairs in the interim, Proposition 1E was approved to supplant the general fund with general obligation bond funds as the main sources of funding for our flood protection infrastructure. In total, Proposition 1E authorizes the state to sell about \$4.1 billion in GO bonds for various flood management purposes. In order to spend these bond funds, the measure requires the legislature to appropriate them in the annual budget act or other legislation.

Proposition 84. In total, Proposition 84 authorizes \$865 million to DWR for flood control projects. Of this funding \$310 million is continuously appropriated to the department and does not require action by the legislature. The charts on the next page outline funding provided in both Proposition 1E and 84 for flood protection:

Proposition 1E			
Program	Amount (millions)	Gov's Budget (millions)	Purpose
Flood Control	\$3,000	\$520	State project levees, local delta levee subventions, special flood protection projects in the delta
Local Flood Control subventions	500		State's share of nonfederal cost of legislatively-authorized projects
Flood Protection Corridors, Bypasses, Mapping	290	2	For acquiring easements, new levees, setting back levees, relocating structures, incentives for agricultural uses, map development
Stormwater Flood Management	300	102	Grants for stormwater flood management projects; designed to manage runoff to reduce flood damage and provide other benefits, including ground water recharge, water quality improvement, ecosystem restoration
Grand Total	\$4,090	\$624	

Proposition 84			
Program	Amount (millions)	Gov's Budget (millions)	Purpose
II. Flood Control	\$800	\$276	
Floodplain Mapping (cont. appropriation)	30	25	Central Valley floodplain mapping
Flood Control (cont. appropriation)	275	68	State project levees, local delta levee subventions, special flood protection projects in the delta
Flood Protection Corridor	40	25	Development of flood protection corridors through competitive grants
Delta Levee Flood Control	275	58	Competitive delta levee maintenance subventions program and special flood protection projects
Local Flood Control Subventions	180	100	Local subventions for legislatively authorized projects
III. Statewide Water Planning and Design	\$65	\$15	
Studies for Water Supply, Conveyance and Flood Control	65	15	Planning by DWR for changes to California's hydrology as a result of climate change
Grand Total	\$865	\$291	

Governor's Budget. The Governor's budget is proposing a total of \$160.1 million in new expenditures for flood management. Of this funding, \$9.5 million will be ongoing and includes flood protection maintenance, floodplain management, and emergency response activities. On a one-time basis, \$150.6 million will be expended mostly on flood control system projects and levee evaluation and repairs.

As mentioned above, Proposition 84 also continuously appropriates \$310 million for floodplain mapping, emergency preparedness, and a local subventions and grants for flood control projects.

Detailed below in the specific budget proposals, the state's general strategy for flood protection is to: 1) repair critical levee erosion sites, focusing first on those sites that pose highest liability for the state; 2) conduct a system-wide evaluation of the Central Valley flood control system; 3) incentivize maintenance of system levees and channels that are currently neglected; 4) develop nonstructural flood protection systems such as flood corridors; and 5) improve emergency response and flood fighting ability.

Major Flood Protection Proposals in the Governor's 2007/08 Budget

- **Central Valley Flood Control System System-Wide Levee Evaluations and Repairs**—\$100 Million (One-Time Proposition 1E Bond Funds). These funds would be used to begin conducting a system-wide evaluation of the state's levees and repair erosion sites where deficiencies are found.
- **Continuing Capital Outlay Projects**—\$47.1 Million (\$35.2 Million Bond Funds, \$11.9 Million Reimbursements). There are several continuing Central Valley flood control system capital outlay projects in the budget. These projects, while funded by the General Fund in past years, are proposed to be funded entirely by bond funds (and reimbursements) in the budget year. These projects include, for example, the Folsom Dam Modifications Project and the American River (Common Features) Project.
- **Flood Project Maintenance**—\$3.2 Million (\$1.7 Million General Fund, \$1.5 Million Reimbursement Authority). These augmentations are proposed for Maintenance Area Formation in areas where locals are not maintaining the state system, and for channel vegetation maintenance, mostly by the California Conservation Corps. The proposal also includes \$1.5 million in reimbursement authority to implement a "beneficiary pays" system of payment from locals benefiting from the projects.
- **Floodplain Management**—\$3.1 Million. These augmentations are proposed to improve DWR's ability to inform local governments about potential flood risks through increased floodplain mapping. The proposal also increases resources for enforcing violations of the Reclamation Board's designated floodway standards, creates a floodplain administrator for state buildings and a Community Rating System program to assist local communities reduce their insurance rates through proactive community flood activities.
- **Emergency Response**—\$3.2 Million (\$445,000 One-Time). These augmentations are proposed to improve DWR's ability to predict and respond to flood events. Under the proposal, for example, the department would improve reservoir operations coordination and expand the flood emergency training program.
- **Flood Protection Programs**—\$2.5 Million (One-Time Proposition 13 Bond Funding). This request will complete the Flood Protection Corridor Program, which funds nonstructural flood management projects that include wildlife habitat enhancement and/or agricultural land preservation.
- **Flood-Fighting Equipment** — \$465,000 (One-Time AB 142 funds). This request will purchase equipment for use in flood emergencies.

LAO Issue - Priorities and Oversight for Capital Outlay Projects. In their analysis of the 2007/08 budget, the LAO recommends that DWR establish independent review and oversight of capital outlay projects. Traditionally, when the department works with the federal government on levee maintenance and repair projects, the Army Corp of Engineers provides oversight of work conducted to provide certification of levee integrity. Because the department's levee repair and construction projects are moving forward without traditional involvement of the Army Corps of Engineers, the LAO has concerns that checks and balances usually in place with federal/state partnerships will be nonexistent.

Additionally in their analysis, the LAO commented that the department was late on their submittal of the Proposition 1E expenditure plan that was to include clear criteria and priorities for approved bond funds. Further, expending funds without a prioritization plan with clear criteria to guide the selection of projects to be funded could cause increased flood risk in some areas. For example, if funding were used to upgrade one part of the system, such as a levee in one county and no funding were provided to upgrade a levee on the opposite side of the river, in another county, the area not upgraded potentially would be subject to increased flooding risk.

As a precursor to Proposition 1E, the department was also required to provide quarterly reports to the legislature on how \$500 million appropriated in AB 142 (Nunez/Perata) was being spent. Since the release of the LAO analysis, the legislature has received the Proposition 1E expenditure plan however the AB 142 report for January has not been submitted.

Bond Fund Expenditure Priorities. In their submitted Proposition 1E spending report, the department provided the following list of criteria that will be used to prioritize flood protection spending:

- The project is critically needed or otherwise significantly maximizes public benefits, enhances public safety, and reduces state liability.
- The project is ready for early implementation (feasibility investigation and CEQA compliance are near completion) and needs funding in the budget year to maintain or accelerate the design and/or construction schedule.
- The project is economically feasible, taking into account both local and systemwide benefits.
- If the project protects an existing urban area, there is a strategy by the local agency for achieving 200-year or better flood protection for the area and the project fits into the strategy.
- If the project protects a non-urban area, it will restore the design level of flood protection where feasible, consistent with non-urban uses such as agriculture, open space, and habitat in the protected area.
- If the project would improve a levee in place, it is because it is clearly infeasible to move the levee and/or there are no significant flood risk management benefits to moving the levee.

- The project takes advantage of any feasible opportunities to provide additional room for the river to meander, enhancing channel capacity, reducing maintenance, and providing regional flood risk management and environmental benefits.
- The local agency has a sound financial strategy and plan to fund its cost-share to build the project, and to then maintain the completed project.
- The local agency agrees to provide a detailed emergency response plan acceptable to DWR.
- Cities and counties in the protected area formally acknowledge the flood risk. DWR will use these criteria and proceed as soon as possible to select Early Implementation Projects that best meet the objectives and policies set forth in Propositions 1E and 84.

LAO Issue - Proposed Payback to General Fund. As mentioned previously, the budget proposes to use \$200 million in Proposition 1E bond funds in the budget year to repay the General Fund for expenditures from the AB 142 appropriation that were incurred prior to the passage of the bond.

Legal Issues. According to the administration, since AB 142 and Proposition 1E each provide funds for similar types of flood management projects, it is an eligible use of Proposition 1E bond funds to reimburse the General Fund for AB 142-funded expenditures that were incurred before bond passage. The LAO is concerned about the policy implications of using bond funds to reimburse another fund source for expenditures made prior to bond passage.

Other Issues and Options to Consider. In addition, the LAO thinks there are other issues for the legislature to consider regarding this proposal. First, it appears that the amount of the payback is too high. Specifically, as shown in Figure 5, \$164.7 million, rather than \$200 million, was spent from AB 142 funds through the end of November. In light of this, the LAO recommends that the department advise the legislature at budget hearings on the maximum potential amount of the payback.

In addition to, or in lieu of, the payback proposal, the LAO recommends that the legislature consider the opportunity to create General Fund savings by “reverting” (transferring back) to the General Fund the unspent balance of the AB 142 appropriation—currently estimated to be about \$335 million. Proposition 1E funds could be used as a replacement funding source prospectively for future expenditures that would otherwise be funded from the AB 142 appropriation.

Staff Comments

AB 142. Staff understands that funding provided in AB 142 is being used to proceed with levee repair efforts until bond funding is being made available to them. Since Proposition 84 continuously approves levee repair funding to the department, the department should be prepared to comment on:

1. What balances of unspent funds exist from AB 142?
2. When will continuously appropriated funds be available to the department to proceed with levee repairs?

3. If more bond funds were to supplant more AB 142 funds, how would it affect ongoing levee repair projects?

Potential cost overruns. If cost overruns or scope changes occur for capital outlay projects and the department intends to request additional appropriation, the legislature is required to be notified by letter to the Joint Legislative Budget Committee. In contrast, if a department intends to use funds that are continuously appropriated to cover cost overruns or scope changes, there is no requirement for legislative notification. Through discussions between staff and the department, there is agreement that if any capital outlay project funded by the department needs additional funds from any sources, both on budget or off, the legislature should receive notification. The subcommittee should adopt budget bill language when actions are taken on bond funds that requires the department to notify the legislature whenever there is a scope change for any capital outlay project.

STAFF RECOMMENDATION. Hold open because this proposal includes Propositions 84 and 1E bond funds.

ISSUE 3: CALFED - SURFACE STORAGE STUDIES

Surface Storage Studies. The Governor's budget proposes \$15.8 million (\$3.76 million in Proposition 50 and \$12 million from Proposition 84) over two-years to complete feasibility studies and environmental documentation for three potential surface storage projects (North of Delta, Los Vaqueros, and Upper San Joaquin).

To date, the state has invested over \$62 million into the CALFED program on surface water storage studies. According to the administration, the Governor's budget would move the state forward on completing the three identified surface storage studies by the end of 2008-09. Though the administration expects that there would be a minimum of 50 percent cost share with benefiting entities for construction of a storage project, this proposal would not include nor identify any future cost share with entities who might benefit from these projects.

Figure 1
Summary of CALFED Expenditures on Surface Storage Studies

August 2000 through 2007-08 (in millions)

	Estimated 2006-07	August 2000 Through	Proposed 2007/08
	State Expenditures	Federal Expenditures	State budget
Common Assumptions		\$5.4	\$5.8
Shasta Lake Enlargement		0.4	14.5
North of Delta Off stream Storage (Sites Reservoir)		30.8	5.5
In-Delta Storage Investigations		9.3	0.7
Los Vaqueros Reservoir		13.5	13.2
Upper San Joaquin River Storage investigations (Temperance Flat)		3.2	15.7
Total		\$62.6	\$55.4
			\$9.8

LAO Comments. In their analysis of the budget, the LAO has raised concerns that the state will not be able to complete the proposed feasibility studies until local and federal beneficiaries are identified and their commitment to funding these projects is clearly demonstrated. Since the Governor's budget proposal does not include any cost share with locals or federal entities, the LAO is recommending that the funding request be rejected.

STAFF RECOMMENDATION: In concurrence with the LAO, staff recommends that the subcommittee reject Proposition 50 funds but hold open Proposition 84 funds consistent with previous actions.

ISSUE 4: CALFED - SOUTH DELTA IMPROVEMENT PROGRAM

South Delta Improvement Program. The Governor's budget is requesting \$14.4 million from Proposition 13 funds and \$17 million in Proposition 50 funds for final design, staff support, and construction costs for the South Delta Improvements Program (SDIP). Essentially, the SDIP will construct massive mechanical barriers to block fish passage to pumps and alter the circulation of water flow in the South Delta to improve water quality and water supply reliability for the State Water Project (SWP) and agricultural diverters. If completed, this project will increase the SWP's capacity to make water deliveries throughout the state.

As a temporary measure, the department has been placing and removing rock in place of mechanized barriers. The department has noted that this practice does not give the department functional flexibility needed for optimal management of water quality and fish populations.

Federal Fish and Wildlife Permits. In order to proceed with SDIP, the department is required to obtain environmental permits from the federal Fish and Wildlife Service. This summer, the Fish and Wildlife Service put an indefinite hold its permitting for SDIP, citing problems with declines in fish populations in the South Delta and an absence of a comprehensive delta-wide plan to improve that state of fish populations. A lack of federal permits creates substantial uncertainty as to whether the project can proceed.

LAO Comments. In their analysis of the budget, the LAO recommends that this budget request be denied because cost-sharing agreements with the federal government and SWP contractors who benefit directly from the program have not been secured. In fact, the budget documentation submitted to the legislature states that such cost sharing is the "preferred" way to fund the program, and that it would be "unacceptable" for the state to be the sole funding entity. However, the department has not received funding commitments from neither the federal government or nor SWP contractors.

Staff Comments. The department has informed staff that the reason that there are no partners identified to cost share this project is because the only beneficiary of the SDIP will be the state, as it will improve water quality and aquatic species health in the delta. Understanding that this will be an important tool for the department to manage water conditions in the South Delta, especially considering CALFED Science program studies that have suggested changes in management of pumping could greatly benefit pelagic organism health, the department should be prepared at the hearing to discuss:

- 1) What is the status of federal Fish and Wildlife permits?
- 2) How will the SDIP be operated to improve water quality and prevent continuing pelagic organism decline?
- 3) How will water exports in the delta be affected by this project?

Additionally, through discussions with staff, the department has identified that it has roughly \$30 million remaining from last year's appropriation for this project. At the hearing, the

department should be prepared to comment on what its expected need for funding will be for the budget year given delays in permitting and this additional funding retained in their capital outlay budget.

STAFF RECOMMENDATION. Because permits for this proposal have been suspended, cost shares are not identified, and the department does have remaining funding from last year's appropriation, staff recommends that the subcommittee reject this proposal.

ISSUE 5: CALFED - CONVEYANCE AND WATER QUALITY

The Governor's budget is requesting a total of \$5.9 million in Proposition 13 and Proposition 50 funds for two purposes:

Delta Fish Facility Improvement Project. The Governor's budget is requesting \$1.25 million from Proposition 13 for existing work at the Clifton Court Forebay Facility to evaluate alternative actions to address the decline of fish species in the delta. Studies funded from this proposal will evaluate cost-effective alternatives and processes to better protect fish at the SWP and Central Valley Project (CVP) Delta pumping plants.

South Delta Hydrodynamic Study. The Governor's budget is requesting \$500,000 from Proposition 13 to continue the South Delta Hydrodynamic Investigations (fourth year), SWP funds estimated at \$500,000 and a federal funding share are also planned. This study will evaluate fish entrainment and operational improvements to protect South Delta fisheries and improve water quality.

Franks Tract Project. This proposal is requesting \$4.1 million from Proposition 50 funds and one new permanent position funded through SWP funding for complete environmental impact reports and develop pilot proposals for the Franks Tract project. Franks Tract was an island in the Delta that flooded in 1938 and has very little land above water. This ongoing project aims to, if feasible, restore existing levees in Franks Tract, and install tidal gates to provide infusions of fresh water to reduce salinity levels in the delta.

Staff Comments. The proposals presented by the administration in large part are a continuance of prior projects approved by the legislature. The only issue of concern that staff has with these proposals is that budget bill language is requested to allow for a 2-year encumbrance schedule of the proposed funds rather than one. The subcommittee has had extensive discussion on the major policy decisions facing the delta and expectations are that we will be able to use the outcomes of the Delta Vision, the End of Stage 1 Review and the Bay Delta Conservation plan to drive the immediate policy making process. For the hearing, the department should be prepared to discuss why a two-year encumbrance period is needed rather than just one-year.

STAFF RECOMMENDATION: Approve funding for one year only.

ISSUE 6: CALFED – BAY DELTA CONSERVATION PLAN

The department is requesting two new positions to be funded with state water project funds to provide additional staff to support an effort to complete the development of one or more Bay Delta Conservation Plan(s) (BDCP) for the delta and its upstream basins.

Background. As part of the CALFED 10-year action plan, delta stakeholders are currently in the process of negotiating a Bay Delta Conservation Plan that will provide agreed upon environmental mitigation in exchange for assured water exports out of the delta. While it is, still unknown what combination of state and federal conservation plans will be agreed upon, the administration has expressed a clear priority to achieve an agreement under the Natural Community Conservation Planning (NCCP) program.

An NCCP is a regulatory tool used to comply with the California Endangered Species Act. Essentially, the development and implementation of an NCCP allows project proponents (in this case, delta water exporters relying on the delta pumps for water deliveries) to “take” (incidentally harm) endangered species, provided that the overall health of the ecosystem is protected.

Staff Comments. The department has expressed that the BDCP could be used in lieu of a CESA permit to comply with the ruling by Alameda County Superior Court Judge Frank Roesch that found that DWR lacks the proper authority to run a key station that pumps water from the delta into the California Aqueduct. At the hearing, the department should be prepared to discuss what timeline can be expected to complete the BDCP and what alternative steps are being taken if insufficient agreements are achieved within court ordered timelines.

STAFF RECOMMENDATION: Approve as budgeted.

ISSUE 7: LAO ISSUE: STATE WATER PROJECT BUDGET

Governor's budget. The Governor's budget is requesting 78 new positions for the State Water Project (SWP). These include (1) 42 capital outlay positions to improve and expand water conveyance capabilities of the system; (2) 10 positions to provide legal and billing staff for an increasing amount of billing protests experienced by the department on behalf of SWP contractors; (3) 7 positions for CALFED-related programs; and (4) 19 positions for other projects, including environmental review, drinking water quality, water transfers, and Oroville hydroelectric facility staffing. These positions require legislative approval, and are therefore presented to the Legislature for review. However, the expenditure authority for these positions is "off budget," as is expenditure authority for all SWP operations and capital outlay. Off budget means that (1) funds to support these positions, as well as all other functions of the SWP, are not appropriated in the annual budget bill, and (2) the department is not required to submit funding requests in conjunction with position requests. Consequently, the Legislature does not have information to fully evaluate these position requests in the context of the SWP's total existing staffing of about 1,450 positions.

Background. The SWP is the state's main water conveyance system mostly from Northern California to parts of the San Francisco Bay Area, the Central Valley, and Southern California. The project was initiated with a voter-approved bond (Proposition 1) in November 1960. The project is mainly funded by water users ("SWP contractors") of the system. However, there are other significant sources of funding. Specifically, the federal government provides a share of the costs for flood control projects related to SWP, the General Fund and user fees pay for recreation and fish and wildlife programs, and state general obligation bond funds have funded related environmental programs such as CALFED.

LAO Comments. After nearly 50 years, the role of SWP has changed. The LAO thinks that the role of SWP in the state is substantially different today than in 1960 when it was established, thereby justifying a change in its budget status. While in past years SWP operated more or less as a discrete, self-contained program, with fiscal oversight provided by SWP contractors who pay most of the project's costs, the SWP of today is much more integrally connected to other major "on budget" state programs. In particular, there is a growing recognition of SWP's role in contributing both to the causes of, and the potential solutions to, water-related problems in the Delta.

The SWP often directly benefits from these programs (such as those improving water quality and water conveyance), contributes funding to them, and may even play a programmatic role in them, but this is done off budget and therefore outside of legislative budgetary oversight. Similarly, SWP contractors are beneficiaries of the state-funded improvements underway in the state system of flood control. Without SWP being on budget, the LAO comments that the legislature is unable to evaluate the entire water system and address the state's water policy issues, including delta issues, in a comprehensive way.

Staff Comments. Staff shares concern with the LAO that the Legislature needs access to more SWP funding information as it proceeds with major policy decisions on the delta. As the legislature deliberates on major policy issues in the delta, the questions of who effects,

who benefits, and who pays for the delta need to be asked but without an accessible transparent fiscal snapshot of the delta, the ability to answer these questions will be impeded.

From communication with the department, staff understands that the department has legal concerns that this proposal would be in conflict with the voter approved Burns-Porter Act. For the hearing, the department should be prepared to discuss these issues with the subcommittee.

Staff Alternative. As an alternative to placing the SWP “on-budget”, staff suggests that the subcommittee consider having the department submit annually with their January 10 Budget a supplemental budget that would detail SWP funds that 1) contribute to projects in the delta; 2) are a cost share of state funds; 3) require any future commitment of state funds; and 4) any SWP funded positions that are transferred to state to be then funded “on-budget” with state funds.

STAFF RECOMMENDATION: Hold Open

ISSUE 8: INTEGRATED REGIONAL WATER MANAGEMENT/LOCAL GROUNDWATER ASSISTANCE

Governor's budget. The Governor's budget is requesting the following appropriations for their Integrated Regional Water Management (IRWM) and Local Groundwater Assistance programs.

IRWM Staff. \$700,000 (Proposition 50) to fund 4 existing positions working on program delivery and administration of the IRWM grant program. Currently DWR has \$1.25 million and 8 PYs dedicated to the IRWM program.

Groundwater Assistance Grants. \$12.8 million (Proposition 50) in Local Assistance funding for two additional years of funding for the Local Groundwater Assistance grant program that provides assistance to local agencies to conduct groundwater studies or to carry out groundwater monitoring and management activities. As part of subcommittee overall CALFED actions to conserve bond funds in 2005/06 funding for this program was suspended. This proposal would restore the program's local assistance funding only.

IRWM Local Assistance Funds. \$99.6 million appropriation of the balance of local assistance funds for the Proposition IRWM program for grant awards in the current fiscal year.

Staff Comments. Previous action to suspend funding for Groundwater Assistance Grants was predicated primarily on a desire to hold back on appropriation of CALFED bond funds in order to conserve what were then diminishing bond fund balances. At this point, staff does not have any issues with any of the components of this proposal.

STAFF RECOMMENDATION: Approve as budgeted

ISSUE 9: PROPOSITION 84: INTEGRATED REGIONAL WATER MANAGEMENT /STORMWATER GRANTS

Governor's Budget. The Governor's budget is requesting \$1.3 billion over 11 years, \$965 million from Proposition 84 for IRWM grants and \$289.5 million from Proposition 1E for stormwater grants. This proposal will include a total of 46.5 positions (13 new and 33.5 redirected) for support of the program. Below is a breakout of the different grants that will be administered as part of the IRWM program:

IRWM Grant Program - \$1.1 billion

- **Proposition 84 IRWM Implementation Grants** - \$808.5 million for grants allocated to 11 regions of the state identified in the proposition for regional projects that improve water quality, restore and protect the environment, and promote regional self-sufficiency.
- **Proposition 1E Stormwater Flood Management Grants** - \$274.5 for grants for stormwater flood projects that are designed to manage stormwater runoff in order to reduce flood damage and where feasible provide other benefits including groundwater recharge, water quality and ecosystem restoration.

- **Regional Planning Grants** - \$30 million for grants to help communities develop IRWM proposals. \$5 million would be dedicated to the participation of disadvantaged communities.
- **Local Groundwater Management Grants** - \$18 million in grants to install monitoring wells, conduct hydrogeologic studies of groundwater basins, and conduct other studies in accordance with the Local Groundwater Assistance Act.
- **Directed Actions to Projects with Inter-Regional and Statewide Benefits or Providing for Critical Needs and Disadvantaged Communities** - \$42 million for grants to promote interregional linkages or provide broad public benefits. DWR will allocate \$10 million to water management projects that directly effect disadvantaged communities.
- **Scientific Research Grants** - \$8 million to support CALFED science program grants.

Data Analysis, Technical Assistance, and Program Assessment – \$33 million

- **Data Collection, Management, Dissemination and Analysis** - \$15 million to develop data standards and data management systems; simplify and expand public access to DWR and other water resources data; and modernize DWR's aging surface water, groundwater level monitoring and water quality equipment.
- **Technical Assistance and Coordination for Regional Planning Efforts** - \$15 million to provide various technical assistance for water management projects.
- **Assessment of Progress and Benefits of IRWM Implementation** - \$3 million to track progress of IRWM funding.

Grant Administration – \$40.5 million over 10 years will be allocated to support grant solicitation, review, award, and management.

Background. The intent of the IRWM program is to encourage integrated regional strategies for management of water resources and to provide funding, through competitive grants, for projects that protect communities from drought, protect and improve water quality, and improve local water security by reducing dependence on imported water. Proposition 84 allocated roughly \$1 billion for the Department of Water Resources to administer through the program. Proposition 84 designates 11 different regions statewide that will be used to distribute these competitive grants. Using these designations, the department will determine through their regulation making process how integrated regional boundaries are drawn and what criteria will be used to award IRWM Grants.

Staff Comments. Because the IRWM program does have a stormwater component, the administration included \$274 million authorized in Proposition 1E for stormwater grants within their proposed IRWM grant program. Though the IRWM program is an appropriate place to administer these grants, the legislature is currently considering various Proposition 1E stormwater implementation bills that would potentially administer grants through a new program separate from IRWM. As such, the subcommittee may want to consider separating Proposition 1E stormwater funding from the department's IRWM proposal while the policy bills are moving through the committee process.

STAFF RECOMMENDATION. Hold open because this is a Proposition 1E proposal.

ISSUE 10: PROPOSITION 13 - SAN JOAQUIN RIVER RESTORATION

Governor's Budget. The Governor's budget has two budget change proposals related to the restoration of the San Joaquin River. The larger funded through Proposition 84 would provide \$57 million over five years for a large portion of state funded restoration activities. This proposal would appropriate \$1.3 million in existing Proposition 13 funds to the department in order to supplement implementation of the San Joaquin River restoration.

Background. Friant Dam is located on the San Joaquin River in Fresno County and is used to store water—primarily for agriculture. In 1988, the Natural Resources Defense Council sued the federal Bureau of Reclamation (the operator of Friant Dam) and the Friant Water Users Association (FUWA), alleging that the operation of Friant Dam violates the state's Fish and Game Code with respect to historic fish populations in the river. In August 2006, the parties reached a settlement agreement, the goal of which is to "restore and maintain fish populations" in the San Joaquin River below Friant Dam. The settlement specifies actions that will be taken to restore the San Joaquin River over the next 20 years. Under the agreement, the federal government will provide funds to restore the river, while FUWA agreed to actions that will increase flows in the river. While the total cost of the restoration is unknown, early estimates indicate that the total cost could be over \$700 million over the next 20 years. The settlement agreement recognizes that Congressional action is necessary to authorize the federal funding contribution.

Staff Comments. Funding requested in this proposal is from remaining Proposition 13 funds that had been retained by the Friant Water User Authority for restoration efforts.

STAFF RECOMMENDATION. Staff has no issues with this proposal, approve as budgeted.

ISSUE 11: PROPOSITION 84: ALL AMERICAN AND COACHELLA CANAL LINING PROJECTS

The Governor's budget is requesting \$82 million (\$47.2 million General Fund) and \$34.74 million Proposition 84 funds) for local assistance funding for canal linings and other groundwater conjunctive use projects considered essential to reduce the State's Colorado River water use to its basic apportionment of 4.4 million acre-feet in normal years, as specified in California's Colorado River Water Use Plan, the Quantification Settlement Agreement, and other related documents.

State General Funds appropriated for these projects have been continuously appropriated to the department since 2003 are expected to be fully expended by the end of the proposed three-year encumbrance period.

Background. California has a limited apportionment of water from the Colorado River that serves customers in the Los Angeles, Imperial and San Diego Counties. In the past agencies with rights to Colorado River water were exceeding their annual allotment but do to increasing demand from Nevada and Arizona, California was required to reduce its use of

Colorado River water to its “normal” apportionment. To continue serving its customers with less available water, water agencies with rights to the Colorado River agreed to a California Plan and signed a Quantification Settlement Agreement (QSA) that called for the implementation of conservation efforts, conjunctive use projects, and canal linings to prevent seepage of water into the water table. In total, \$225 million has been appropriated for the projects to date and Proposition 84 made \$34 million available as well.

STAFF RECOMMENDATION. Staff has no issues with this proposal but recommends it stay open due to Proposition 84 funding.

ISSUE 12: PROPOSITION 84: DELTA WATER QUALITY PROGRAM

The Governor’s budget is requesting \$125 million from Proposition 84 over a five-year period (\$25 million in 2007/08) to fund projects to improve water quality in the San Joaquin River Sacramento River Delta.

Background. Proposition 84 authorizes \$125 million for projects to improve water quality in the Delta. The department states that it intends to accomplish this by administering grant monies for projects that are cost shared by local agencies that:

- Reduce agricultural discharge from the west side of the San Joaquin Valley.
- Eliminate discharges of bromide, dissolved organic carbon, pesticide, salt, and pathogens from discharges in the water.
- Reduce salinity or other pollutants at agricultural and drinking water intakes by implementing projects at Franks Tract or other locations in the Delta.
- Implement projects identified in the June 2005 Delta Region Drinking Water Quality Management Plan.

Staff Comments. The Governor’s budget is proposing a five-year encumbrance period for the entire allotment of Proposition 84 funds for delta water quality. Consistent with other recommendations concerning Proposition 84 funds staff recommends that only the first year of funding be approved when action is taken.

STAFF RECOMMENDATION. Hold Open. Staff recommends a one-year appropriation of funds when actions are taken on Proposition 84 funding.

ISSUE 13: PROPOSITION 84: MULTI BENEFIT PLANNING AND FEASIBILITY STUDIES

The Governor's budget is proposing \$62.7 million from Proposition 84 to be appropriated over 5 years and 22.8 positions in fiscal year 2007/08 to develop and support DWR's program activities for integrated multi-benefit planning and feasibility studies related to California's future water needs. This proposal is broken into 6 components:

1. **Climate Change Evaluation and Adaptation. \$21 million, 1.9 PYs and redirection of 16 existing positions.** Over five years, DWR will conduct detailed evaluations of projected climate change impacts on the state's water supply and flood control systems, and identify potential system redesign alternatives that would improve adaptability and public benefits.
2. **Promotion of Urban and Agricultural Water Conservation. \$7.5 million, 10.3 redirected positions.** Over five years, DWR will study conservation strategies, develop best management practices for irrigation operations, and provide technical services for agricultural and urban water conservation.
3. **Completion of CALFED Surface Storage Studies. \$12.0 million, 27 redirected positions.** (This was discussed in Issue 3).
4. **Integration of Flood Management and Water Supply Systems. \$5.2 million, 7.9 redirected positions.** Over five years, DWR will conduct studies to evaluate fish, wildlife, and habitat components as part of the integration of flood management, water supply reliability, and water quality from a watershed perspective.
5. **Implementation of California Water Plan Recommendations.** \$15.0 million with 1 new position and 15 redirected positions. Over five years, DWR will improve stakeholder collaboration; implement regional planning outreach, coordination an inventory of water data and needs; assess progress in Integrated Regional Water Management planning and implementation; and improve environmental water use methodology for presentation in future California Water Plan update reports. This proposal also includes funding for a new Water Plan Information Exchange that will make water information data among state, federal, local, and public stakeholders.
6. **Develop Delta Vision and Redirection of 2 Existing Positions.** Support ongoing efforts to develop a plan for sustainable management of the Sacramento-San Joaquin Delta.

Staff Comments. The department is requesting a five-year expenditure plan for the proposed activities. With exception to the surface storage funding proposals that were discussed in Issue 3 of the agenda, staff does not have any issues with these proposals but would recommend that when the department takes action, only one year of funding is approved so that in subsequent years, the legislature will be able to revisit these projects.

STAFF RECOMMENDATIONS. Hold open due to Proposition 84 funding.