

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Assemblymember Ira Ruskin, Chair

WEDNESDAY, MAY 12, 2010
STATE CAPITOL, ROOM 447
9:00 A.M.

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Consent Calendar

Department of Forestry and Fire Protection

1. **April Finance Letter – Proposition 84 Local Assistance:** \$3.2 million from Proposition 84 to support the fourth year of local assistance grant funds to implement urban forestry programs.
2. **April Finance Letter – Integrated Pest management ARRA Grant:** \$1.7 million in Federal ARRA Funds and 1 position to support an ARRA Grant for integrated pest management program for sudden oak death and gold spotted oak borer.
3. **Capital Outlay – Baker Fire Station:** \$10.4 million in lease revenue bond authority to design and construct a two engine fire station with a: 14 room barrack; water treatment building; fuel facilities; and, generator pump building.
4. **Capital Outlay -- Pine Mountain Fire Station:** \$9.9 million in Lease Revenue Bond authority to design and construction a one engine fire station on acquired land near the community of California Hot Springs.
5. **Capital Outlay -- Rincon Fire Station:** \$13.2 million in Lease Revenue Bond authority to design and construct a two-engine fire station at the existing site.
6. **May 1 Letter:** Various technical amendments to budget bill language that allow the Department to continue to manage and construct multiple fire stations.

Department of Water Resources

1. **April Letter -- California/Nevada Water Allocation of the Truckee River:** \$200,000 augmentation in Federal Fund authority to allow the Department to receive anticipated Truckee River Operating Agreement Grant Funds.
2. **April Letter -- Various Technical Adjustments, Reappropriations, Extensions of Liquidation and Reversions of bond funds.**

Food and Agriculture

1. **Mitigate the Spread of the Asian Citrus Psyllid (ACP).** 38 one-year limited-term positions, 117 temporary help positions, and \$19.8 million (federal funds) to fund detection and quarantine to prevent the spread of the ACP in California.
2. **California Citrus Pest and Disease Prevention Committee (Implement AB 281).** 15 million (Agriculture Fund) to implement the California Citrus Pest and Disease Prevention Committee created pursuant to Chapter 426, Statutes of 2009 (AB 281, De León). This legislation was passed largely in response to the threat posed by the ACP (see Item 1 above) and the requested funding would be supported by an industry-approved assessment.
3. **Citrus Nursery Stock Pest Cleanliness Program (Implement SB 140).** Two positions and \$250,000 (Agriculture Fund) to establish a Citrus Nursery Stock Pest Cleanliness Program to protect citrus nursery source propagative trees from diseases, pests, and other risks and threats. The requested expenditure would be supported by a new assessment on the industry.

4. **Relocation and Consolidation of Programs: Annex Building and Westfield Downtown Plaza.** The Governor requests a one-time augmentation of \$4.6 million (various funds) and an ongoing augmentation of \$116,000 to support the costs associated with the relocation of CDFA staff that is currently located in the Annex Building at 1215 O Street and at the Westfield Downtown Plaza at 560 J Street. The O Street facility was ordered vacated due to lack of fire and safety protection and the Westfield Downtown Plaza has been subject to repeated burglaries (to which the building management has failed to adequately respond).
5. **Fertilizing Materials: Organic Input Material (Implement AB 856).** Three positions and \$416,000 (Agriculture Fund) to monitor input material production processes at fertilizing material manufacturing facilities, consistent with Chapter 257, Statutes of 2009 (AB 856, Caballero), in order to ensure that “organic” foods are truly organic (and are not tainted by use of “non-organic” input materials in fertilizer).
6. **Municipal Shelter Spay-Neuter Fund (Implement AB 2291).** \$194,000 (Municipal Shelter Spay-Neuter Fund) to distribute, consistent with Chapter 328, Statutes of 2008 (AB 2291, Mendoza), grants to eligible municipal shelters for the purposes of providing low cost or free spay-neuter services. The grants are to be supported out of approximately \$196,000 in contributions to the above-named fund from voluntary contributions designated on the 2008 California Tax Return.
7. **Capital Outlay -- Tulare/Fresno Animal Health and Safety Laboratory:** Reappropriation of the funding for working drawings, construction and equipment for the Tulare/Fresno Laboratory.

California Conservation Corps

1. **May 1 Letter:** Reappropriation of funding for the Delta Service District Center working drawings and construction.

Secretary for CalEPA

1. **Integrated Waste Management Board Funding Reduction per SB 63:** Reduction of \$954,000 in personnel services and operating expenses as a result of the elimination of the Integrated Waste Management Board from the CalEPA Agency.
2. **April Finance Letter:** \$1.5 million augmentation in federal funds from a grant from the U.S Environmental Protection Agency to manage the Certified Unified Program Agencies and to provide grants to rural counties for Underground Storage Tank Inspections

Department of Toxic Substances

1. **Capital Outlay-- Stringfellow New Pre Treatment Plant:** \$1.6 million (General Fund) for working drawings for the construction of the New Pre-Treatment Plant to treat contaminated groundwater at Stringfellow.

ITEMS TO BE HEARD

0555 – SECRETARY FOR ENVIRONMENTAL PROTECTION

ISSUE 1: EDUCATION AND THE ENVIRONMENT INITIATIVE

Governor's Budget

The Governor's budget proposes to transfer \$748,000 (Integrated Waste Management Fund) and 6.5 permanent positions and to the CalEPA Agency in order to support the Education and the Environment Initiative as directed by SB 63 (Strickland).

Background

The Education and Environment Initiative (EEI) requires the state to develop a K-12th grade curriculum that is comprised of 85 units teaching select Science and History-Social Science academic standards. Each EEI Curriculum unit teaches these standards to mastery using a unique set of California Environmental Principles and Concepts. The curriculum was created to bring education about the environment into the primary and secondary classrooms of more than 1,000 school districts serving over 6 million students throughout California. Mandated by AB 1548 (Pavley) and AB 1721 (Pavley), the EEI Curriculum is the result of a multi-agency education and environmental partnership. Current key partners include the State Board of Education, the Office of the Secretary for Education, the State Department of Education, and the California Natural Resources Agency.

Currently, the EEI is progressing through phase five of their implementation plan. This phase involves the dissemination of EEI Curriculum and professional development through the following: Conduct focus groups with local school district staff; establish professional development advisory committee; identify potential dissemination and professional development; develop a plan for outreach and professional development; recruit school districts to participate in EEI; conduct professional development workshops for district-level educational leaders; and, provide technical support to school districts and curriculum staff.

Staff Comments

Staff notes that currently the EEI program has 13 staff. This proposal would shift half of the staff to the CalEPA agency and to work on the EEI and the other half to the department of Resources Recycling and Recovery where they would now be funded and work for the Waste Tire Recycling Program. When SB 63 (Strickland) was approved, it was intended that the whole EEI program would be transferred from the former Integrated Waste Management Board to the CalEPA Agency. This proposal to transfer only a portion of the staff was developed as a result of solvency issues with the Integrated Waste Management Fund due to a 30% decline in revenues. Staff feels that there is adequate continued workload within the EEI to warrant the transfer of the entire EEI program (13 positions) and the subcommittee may wish to consider using a different funding source to support the program. At the hearing, the Agency should be prepared to update the committee on where they are in the process of implementing the EEI and how their workload compares to prior years. Staff recommends that the subcommittee direct staff to work on finding an appropriate funding source to maintain current EEI staffing.

Staff Recommendation: Hold Open

3540 – DEPARTMENT OF FORESTRY AND FIRE PROTECTION

ISSUE 1: LAO ISSUE: IMPROVING OVERSIGHT OF CALFIRE'S FIRE PROTECTION BUDGET (ISSUE HEARD MARCH 17TH)

LAO Analysis of the Department's E-Fund Expenditures

In their 2010-11 Analysis of the Budget, the LAO raised concerns that the Department of Forestry and Fire Protection (CalFIRE) is budgeting too many anticipated baseline costs within the Emergency Fund (E-Fund) which is intended to pay for large-incident firefighting costs. The LAO is concerned about the expanded use over time of the E-Fund by the Department—in particular, its practice of charging day-to-day operating costs not related directly to a large incident to the fund.

Recommendations to Improve Legislative Oversight

Given their concerns, the LAO recommends that the Legislature make two changes to the budgeting of CAL FIRE's E-Fund, with the intent of improving the Legislature's oversight over CAL FIRE's budget:

- 1. Increase CAL FIRE's Base Budget and Decrease E-Fund Budget.** The LAO recommends that the Legislature increase CAL FIRE's General Fund base budget appropriation for 2010-11 by about \$60 million (our estimate of day-to-day costs inappropriately charged to the E-Fund), with a corresponding reduction of \$60 million in the E-Fund appropriation. The LAO recommends that the Legislature direct the Administration to provide the Legislature, in conjunction with the Governor's May Revision, a more precise estimate of the amount of funding that should be shifted from the E-Fund to the base budget to implement this change in budgeting policy. Also, the Administration should detail the changes in position authority for seasonal firefighters that should be implemented commensurate with this funding shift.

As noted above, the LAO recommends that whatever amount of funding that is reduced from the E-Fund in the budget year be added to the base budget appropriation. This will provide needed certainty to CAL FIRE that all funding that is needed will be available for the current fire season, which generally runs from May to October. That is, as CAL FIRE will be hiring seasonal firefighters and entering into a contract for the very large air tanker in the current year; the recommended budget adjustment should not impede CAL FIRE's planning for the full fire season that extends into the budget year.

However, given that many current E-Fund expenditures have never been subjected to the normal budget review process, the LAO recommends that this funding issue be revisited in 2011-12. Specifically, the Administration should be directed to provide budget change proposals in 2011-12 to fully justify this additional base-budget spending. Consistent with this approach, any staff positions shifted into the base budget for the budget year should be established on a limited-term basis and any new contracts funded from these monies should not commit state funding beyond the budget year.

- 2. Going Forward: Increasing E-Fund Spending Accountability.** In tandem with these budgetary changes, the LAO recommends that the Legislature take further steps to

ensure that E-Funds are spent solely for large-incident firefighting costs. To accomplish this, the LAO recommends the Legislature adopt statutory language that (1) explicitly specifies what types of expenditures are allocated from the E-Fund; and, (2) requires that any other expenditure be supported from the Department's base budget, where they would be subject to annual appropriation in the Legislature's regular budget review process.

Staff Comments

Staff agrees with the LAO's analysis that the Department currently uses the E-Fund to support some program costs that do not fall within the criteria of being solely for large-incident emergency firefighting costs. As is noted in the LAO analysis, there is need for the Department to provide additional information detailing out a more accurate count of positions and funding that should be shifted from the E-Fund to the Department's General Fund budget on a one time basis. Being that this information is not fully developed, staff recommends that the Subcommittee move forward and adopt the LAO's recommendation with the caveat that the Department works with staff to provide the technical information requested by the LAO.

Staff Recommendation: 1. Adopt LAO Recommendation to shift baseline expenditures from the E-Fund to the Department's baseline budget for one year.

2. Approve LAO recommended trailer bill language that specifies what types of expenditures are allocated from the E-Fund and requires that any other expenditures be supported from the Department's base budget, where they would be subject to annual appropriation in the Legislature's regular budget review process.

ISSUE 2: CODE DEVELOPMENT: GREEN BUILDING STANDARDS (ISSUE HEARD MARCH 17TH)

Governor's Budget Proposal

The Governor's budget is requesting one position and \$169,000 (Special Funds) in new baseline funding to accomplish the implementation of green building standards. This position will be responsible for promulgating building fire and safety regulations for new green building designs and products, approving fire safety products for use in Wildland Urban Interface and providing training to reduce home loss due to wildland fires.

Background

Currently, a portion of fees collected by cities and counties for building permit applications are used support code development at the State Building Standards Commission (BSC), Department of Housing and Community Development (HCD), and the Office of the State Fire Marshal (OFSM). The OFSM is the state agency responsible for developing building standards for fire and life safety and has been working with HCD and BSC to develop new regulations for new green building designs and products as they are introduced into the marketplace.

Comments

Economic incentives and government policy have been driving a sharp increase in innovative housing designs and products to lower home energy/water consumption. The department reports that these new advances in green technology have created workload increases through the need to promulgate regulations as well as required participation in local/state advisory committees, meetings and hearings. Staff feels that there is has been a valid increase in workload for the OFSM and the department's request for one staff is modest and appropriate.

When this issue was heard on March 17th, the Subcommittee raised concern with the requested vehicle purchase for the new staff. While there is definitely a need for this position to be able to travel to required meetings, staff that it would more cost effective to reject this purchase and require that the position use existing pooled vehicles or other resources for travel. Staff is aware that the Department concurs with this recommendation.

Staff Recommendations: Approve as budgeted minus \$30,000 in the budget year and \$5,000 ongoing for a new vehicle.

ISSUE 3: APRIL FINANCE LETTER: AB 32 IMPLEMENTATION

April Finance Letter Proposal

The Department is requesting a \$642,000 reduction from Proposition 84 and a \$1.25 million augmentation from AB 32 administrative fee revenue in the Air Pollution Control Account to fund the Department's implementation of the AB 32 scoping plan as it relates to the forestry sector.

In total, this \$613,000 augmentation will be used to fund the development of: baseline climate data related to forested lands; metrics to guide risk analyses and program decision making; and, methodologies for tracking and quantifying carbon sequestration. All of these activities are proposed to feed into the following Greenhouse Gas (GHG) reduction strategies:

- Plans for reforestation to sequester more carbon
- Forestland conservation to avoid forest loss to development;
- Fuels reduction to reduce wildfire emissions and utilization of those materials for renewable energy.
- Urban forestry to reduce energy demand through shading, increase sequestration and contribute biomass for energy generation.
- Improved management to increase carbon sequestration benefits and protect forest health.

Staff Comments

Unlike other areas of the Scoping Plan where GHG emissions can be easily identified through industrial or residential points of emission, it is more difficult to pinpoint GHG reductions in the Forestry sector as it encompasses statewide ecosystems and habitats as well as many different potential strategies for reducing or sequestering carbon. While staff recognizes a need for the department to commit to a fairly broad compliment of strategies to identify and measure GHG reductions, it is not clear from this proposal what specific workload actions these resources these resources will be dedicated to. At the hearing, it might be helpful for the Department to report to the subcommittee on some specific deliverables these positions and contracting funds will be expected to complete by the end of the budget year.

Staff generally agrees that the Department will need additional staffing to meet the responsibilities set upon the department in the scoping plan. At this point, however, staff notes that like other similar AB 32 implementation proposals reviewed by the subcommittee this year, this proposal should be held open to be considered together as a package in the May Revise.

Staff Recommendation: Hold Open

3860 – DEPARTMENT OF WATER RESOURCES

ISSUE 1: E-FUND FOR EMERGENCY PREPAREDNESS (HEARD ON APRIL 21ST)

Governor's Budget Proposal

The Governor's Budget is proposing to redirect \$1 million from their existing budget to a new Emergency Fund (E-Fund) item in the budget in order to allow the Department to quickly access the funds and initiate emergency response activities when emergencies are identified. This proposal includes budget bill language that would:

- Allow for funds in the E-Fund to be used exclusively for the Department's responses to imminent threats of flooding with a duration of no more than 7 days per event;
- Specify that if additional funds are needed, the Department of Finance be authorized to transfer funds from Item 9840 ("contingencies and emergencies item" which is funded by the General Fund) to the E Fund item without prior legislative notification; and,
- Allow the Department to transfer funds from the E-Fund item back to the original sources, either the Department's base budget or Item 9840, if the Department has determined that the funds are not ultimately needed.

Staff Comments

Currently, the Department must patch together existing funds within their base budget to fund the immediate response activities of a flood event. This process of patching together funds is time consuming and places the Department in a position where they are knowingly expending beyond their budgeted funding level. The proposal before the subcommittee would provide the Department with a mechanism to quickly access funding during a genuine flood emergency for limited time period. This authority would be triggered only when there the Department's State-Federal Operations Center is activated. Once these funds are spent, the proposal would then give the Department of Finance the authority to replenish the E-fund for additional need.

When this issue was heard on April 21st, the Subcommittee raised concerns that this proposal gives the Department a revolving door access to the General Fund because of the unlimited authority for this fund to be replenished without legislative approval. To address this concern, the Subcommittee directed staff to develop a compromise that places parameters of legislative control around this proposal. As a result of this meeting, the Administration has agreed to include budget bill language with this proposal that would require the Department to report to the JLBC within 30 days of expending funds from this account. This reporting would give the legislature the ability to track expenditures made by the Department without impeding the immediate needs of resources during a flood emergency event. Additionally at the hearing on the 21st there was concern raised regarding when the Department would trigger the use of these funds in order to assure that they were used only during the critical initial period when a flood emergency is identified. Internally, the Department uses their "Water Resources Engineering Memorandum Process" to define when a flooding event actually becomes an emergency event and would subsequently be eligible for funding. The Department has agreed to include budget bill language along with this item to require that the funds be spent only during an event defined

by the memorandum process for a period not to exceed 7 days. Staff has worked with the Department to develop the following BBL to reflect the agreed upon compromise.

Staff Recommendation: Approve as budgeted with the following budget bill language:

1. The Department shall notify the Joint Legislative Budget Committee within 30 days of expending funds from this section for flood emergency response.
2. The Department is only authorized to use funds from this section for flood emergency response if they are spent on activities to respond to a flood emergency event pursuant to criteria identified in the Water Resources Engineering Memorandum Process. These criteria will specify conditions where an imminent threat of system failure has been identified based on 1) forecasts of river flows to exceed flood stage or overtop levees or banks, 2) water flowing through a levee carrying sediment, or 3) the determination of a geotechnical engineer or flood-fight specialist that there is a need for immediate levee or flood control structure repair or stabilization to prevent failure.
3. The Department may only access funds from this section for a period of seven days for each event following the identification of a Flood Emergency Event.

ISSUE 2: STATE WATER PROJECT FACILITIES FISH AND WILDLIFE ENHANCEMENT

Governor's Budget Proposal

The Governor's budget proposes an ongoing augmentation of \$15.6 million from proposition 84 and an ongoing continuous appropriation of \$7.5 million from the Harbors and Water Craft Fund to pay for benefits to public recreation and fish and wildlife enhancements (R/F&WE) that are provided to the public as a result of the construction of State Water Project capitol infrastructure and its ongoing operation. Examples of benefits for R/F&WE include improvements of campgrounds, new day use facilities, public restrooms, trails and boating facilities ("boating facilities" have included both capitol infrastructure and the basic existence and management of a body of water that allows for boating). By law, the Department of Water Resources (DWR) is required to manage the overall costs of operating the State Water Project and determine, from those totals, what costs should be charged to State water contractors for ratepayer benefits, and which costs should be charged to the State taxpayer for public recreation and fish and wildlife benefits. The following chart outlines for 2009-10 through FY 2011/12 how much the Department is requesting from Proposition 84 for nine separate capital projects to fund the State's portion of R/F&WE:

Figure 1.

State Water Project Capital Outlay Costs for Recreation and Fish & Wildlife Enhancement	Revised FY 10/11 through FY 12/13 Amounts		R/F&WE % of Total Cost
	Fiscal 2010-11		
	Proj Total	R/F&WE	
Edmonston Pumping Plant Replacements Pumps	\$12,231	\$73	.3%
Perris Dam Remediation, General	241,000	13,737	5.7%
Gianelli Pump Generating Plant Butterfly Valves Refurb/Replace	16,072	220	1.3%
Castaic Intake Tower	80,460	483	.6%
SFD Administration Office Bldg, Pearblossom	8,267	50	.6%
SWP Communications Upgrade	20,130	201	.9%
SWP Control Systems Upgrade	34,923	339	.9%
TOTALS	\$413,083	\$15,013	3.86%

Additionally, in order to fund the R/F&WE costs for ongoing maintenance of the SWP, the Administration is requesting a continuous appropriation from the Harbors and Watercraft Fund of \$7.5 million indexed for inflation to the Department. The Harbors and Water Craft fund is largely supported by boating fees and State fuel taxes to support local grants for boating facilities and public safety activities.

Lastly, while statute requires costs associated by the Department for R/F&WE to be paid for by the General Fund, this budget change proposal follows many years in which no appropriations were made for R/F&WE for neither specific capitol projects nor ongoing SWP operations and maintenance. During this period, the State water contractors have contended that they are owed \$165 million in R/F&WE that were funded from SWP accounts that are allowed under Burns Porter Act to be used for R/F&WE. With this

proposal, the Administration has developed trailer bill language that would clarify a position that, because the State Constitution prohibits the Legislature from creating certain debts or liabilities for future Legislatures without voter approval, if there is no appropriation in a certain budget year for R/F&WE costs, the State does not carry an obligation to repay those costs in future years.

Background

The Department of Water Resources (DWR) is responsible for operating the SWP on behalf of the public and water contractors who draw water from the project. Operation of the SWP requires nearly a billion dollars in annual capital and staff resources that generally provide the State benefits to three principle areas: water/energy supply, public recreation and fish and wildlife.

Two statutory actions, the Burns Porter Act approved by referendum in 1959 and the Davis Dolwig approved by the Legislature and signed by the Governor in 1961, attempted to lay out parameters for how the development and maintenance of the State Water Project would be funded. The Burns Porter Act initiated the SWP and provided a \$1.75 billion bond for the capital construction costs of building the State aqueduct and its various storage and pumping facilities. Additionally, all of the water contracts related to the SWP were included in the Act which has the effect of requiring a vote of the people or a mutual agreement between the state and the contractors to change them. Lastly, the Burns-Porter Act placed the California Water Fund, which receives revenue from SWP ratepayers, outside the budget process through continuous appropriation to provide an ongoing source of funding for future development and maintenance costs.

The Davis-Dolwig Act further refined the distribution of costs of the SWP between the ratepayers who ultimately receive water deliveries from the SWP and the public who benefits from the SWP through recreation access and fish and wildlife enhancements. Generally, the Davis-Dolwig Act states that the State, through the General Fund, is responsible for paying for those activities that provide public benefits of recreation or fish and wildlife enhancements and that the SWP contractors who deliver water to ratepayers are responsible for funding all costs related to energy generation and water delivery to ratepayers.

LAO Analysis

In the LAO Report titled "Reforming Davis Dolwig: Funding Recreation in the State Water Project," the LAO finds that the Governor's proposal does not address a number of major problems with the implementation of the Davis Dolwig Act and that the administration's approach improperly limits the Legislature's oversight role. The LAO recommends that the budget request be denied, and instead offers the Legislature an alternative package of statutory reforms to the act.

LAO review has found that DWR has interpreted the provisions of the Davis-Dolwig Act broadly and as a result has:

- Over-allocated SWP costs to recreation, thereby overstating the appropriate public funding share of SWP costs for recreation.
- Incurred operational costs of recreation facilities without legislative budgetary review.

- Allocated some regulatory compliance costs of SWP operations to Davis–Dolwig and the State, rather than including them in charges to SWP contractors (users of the water system).

As there is currently no State funding source for costs allocated to Davis–Dolwig by DWR, the SWP contractors, who pay most of the costs of SWP, have fronted the monies with the anticipation of repayment by the State. The lack of a State funding source for recreation has also resulted in a situation in which new revenue bonds for SWP construction have been placed on hold, delaying these construction projects.

To address the shortcomings both in the current implementation of Davis–Dolwig by DWR and in the Governor’s proposal to reform the act, the LAO recommends that:

- The Legislature amend the Davis–Dolwig Act to specify what are eligible costs under Davis–Dolwig (and hence to be paid for with State funds) and what costs are to be met by SWP contractors.
- The DWR evaluate whether SWP facilities mainly used for recreation can be divested from the SWP.
- The Legislature provides clear policy direction on the status of costs previously allocated by DWR to Davis–Dolwig and for which the money has been fronted by the SWP contractors.

Staff Comments

The Davis Dolwig Act was established to ensure that public recreation and fish and wildlife benefits would be preserved as a foundation principle of the State Water Project to be funded by State funds. Under the Davis Dolwig Act, the State taxpayer is responsible for funding R/F&WE benefits for both capital projects and ongoing operations for the State Water Project. The Department uses a methodology based on derived-benefit and geography to determine what amount is ultimately to be charged to the State for R/F&WE. These methodologies are not fixed and change with time and are committed to the Department in statute as well as tied into contracts entered into by the State with contractors.

Ability to fund Capitol Projects: For capital projects, state appropriations for R/F&WE allow the Department to get revenue bond financing since they can show a committed revenue source to pay back the portion of the project that is determined to be a Davis Dolwig cost. The Department has noted, however if no funds are appropriated in the budget, limited funds from other sources can be used to fill in the financing formula in the short term. To date the department has been using "fourth priority" revenues to fund Davis Dolwig. The Department has noted that these funds are diminishing. At the hearing, the Department should update the subcommittee on how much of these funds remain available.

Operations and Maintenance: For standard operations and maintenance, the Department considers the State's commitment to fund R/F&WE costs as necessary to guarantee that the operation of the State Water Project provides a higher level as would be required by the regulatory process for fish and wildlife enhancements and public recreation. In recent years,

the administration has not requested funding to support R/F&WE costs although the SWP contractors have stated that they are owed \$165 million by the State for R/F&WE costs covered by SWP funds. In this proposal, the administration is stating that the State does not owe the SWP for prior costs that were not included in a proposed budget because the Constitution prevents one Legislature from binding another for future obligations. Staff agrees with the administration that the annual budget process, or other formal request by the Department of Finance, is the appropriate avenue for the Administration to acknowledge accrual of R/F&WE costs and request appropriate funds. Through this process, the Department of Finance can clearly state what costs it considers are State obligations.

Staff has two primary concerns with this proposal. First, as discussed by the LAO, the State invests significant resources into R/F&WE through our funding of State Parks, Fish and Game and Boating and Waterways. However, when the Department calculates how much the state's share of costs should be for R/F&WE for either a capitol project or maintenance, these state expenditures are counted towards the state's share in the calculation. If state funds are being used to support costs that are otherwise being required under regulatory permitting as a cost of doing business, it is unclear whether the state should be able to count those expenditures towards other R/F&WE costs. At the hearing, the Department and the LAO should discuss whether these indirect costs should be included in the calculation of the State's share of the R/F&WE.

Lastly, staff shares concern with one issue raised by the LAO of whether, or at what level, the State taxpayer should be responsible for the portion of R/F&WE costs for operations and maintenance. Since existing regulatory processes require many of the same R/F&WE costs of the permit applicant that are also charged to Davis Dolwig, these costs could be considered costs of doing business by the SWP as public utilities are required to do. At this point, if there are adequate fourth-priority funds to continue funding high priority projects, staff recommends that the subcommittee reject the proposal.

Staff Recommendation: Reject proposal

ISSUE 3: SALTON SEA CONSERVATION IMPLEMENTATION (HEARD ON APRIL 21ST)

Governor's Budget Proposal

The Department is requesting \$4 million in reimbursement authority through 2012 to support restoration activities on the Salton Sea. These funds will be provided through reimbursements from the Department of Fish and Game and the Resources Agency and will be used to construct shallow habitat on the sea as is outlined in the 2007-08 Salton Sea Management Plan.

Background

The Colorado River Quantification Settlement Agreement between the State, Federal Government, Imperial Irrigation Agency and the City of San Diego establishes water allocations from the Colorado River and the state's obligation for Salton Sea Ecosystem Restoration. The 2007 Salton Sea Management Plan was adopted by the Resources Agency to guide the restoration activities. The proposed funding in this request would be for the creation of low depth habitat for Salton Sea fish such as Tilapia and Pupfish.

Staff Comments

When this issue was heard on April 21st, this item was held open as a courtesy to concerns raised by public regarding which projects were being funded. At the time of writing this agenda, these concerns had not been fully articulated to staff. In absence of a these concerns, staff does not have any issues with this proposal and recommends that it be approved as budgeted.

Staff Recommendation: Approve as budgeted

ISSUE 4: VARIOUS CAPITAL OUTLAY PROPOSALS

Governor's Budget and Finance Letter Proposals

The Department is requesting the following augmentation to support ongoing flood protection projects throughout the state. The funding requested is for specific phases of the capital outlay process and is funded entirely from bond funds or reimbursements from local agencies or the federal government. The following are the different requests:

1. **Capital Outlay – American River Commons:** \$7.07 million from Proposition 1E to continue the evaluation and design and construction of the American River Common Features project. This request would secure \$20 million in Federal Funds and \$2.06 in local funds.
2. **Capital Outlay – Folsom Dam Modifications:** \$38.15 million from Proposition 1E and Reimbursement Authority to support the continued design and construction of the Project that will enhance flood release capability of Folsom Dam.
3. **Capital Outlay – Mid Valley Area Levee Reconstruction Project:** \$2.6 million from Proposition 1E and Reimbursement Authority and 1.5 positions to fund the non federal share of the Mid Valley Area Levee Reconstruction Project in Sacramento and Yolo County.
4. **Capital Outlay – South Sacramento Streams:** \$6.15 million from proposition 1E and reimbursement authority to continue construction of the South Sacramento Streams project that will improve flood protection from 50 year level to an over 200 year level.
5. **Capital Outlay – System Levee Evaluations and Repairs:** \$48 million from Proposition 1E to continue system wide levee evaluations and repairs.
6. **Capital Outlay – West Sacramento Project:** \$3.12 million from Proposition 1E for provide at least 200-year flood protection to the city of West Sacramento and surrounding areas.
7. **Capital Outlay – Yuba River Basin Project:** \$2.723 million from Proposition 1E and reimbursement authority to fund the general re-evaluation report and the design of the Marysville Ring Levee Reconstruction element of the Yuba River Basin Project.
8. **Capital Outlay – Butte Slough Outfall Gates Rehabilitation Project:** \$15.1 million from Proposition 1E and Reimbursements to fund the repairs of erosion beneath the inlet and outlet gates, and construction of a mechanized screen rack for debris removal in Butte Slough.
9. **Capital Outlay – Land Acquisition for Mitigation banks to support Delta Levee Repairs:** \$1.1 million from Proposition 84 for the department to acquirer approximately 100 to 150 acres of land in the Sacramento-San Joaquin Delta to be used as migration bank for levee projects in the delta.
10. **Capital Outlay – Lower Cache Creek, Yolo Ounty, Woodland Area Flood Control project:** \$1.5 million from Proposition 1E and Reimbursements for a feasibility study of the project.
11. **Capital Outlay – Lower San Joaquin River Flood Control project:** \$1.7 million from Proposition 1E and Reimbursements for a feasibility study of the project.

12. **Capital Outlay – Sutter County Flood Control project:** \$1.8 million from Proposition 1E and Reimbursements for a feasibility study of the project.
13. **April Letter: Sutter Bypass East Borrow Canal Water Control Structures -** \$1.5 million (Prop 1E) due to cost increases from changes in construction plans.
14. **April Letter: Terminus Dam, Lake Kaweah:** \$1.4 million (Prop 1E and Reimbursements) for state share for construction mitigation requirements.
15. **April Letter: Feather River Early Implementation Project:** \$9.6 (Prop 1E) for design and environmental review.

Staff Comments

These proposals will fund the ongoing work at multiple flood protection sites and are being heard in the agenda to offer opportunity for discussion by the subcommittee or public. Staff does not have any issues with these proposals and recommends that they be approved as budgeted.

Staff Recommendation: Approve as budgeted.

8570 – DEPARTMENT OF FOOD AND AGRICULTURE

ISSUE 1: FOOD AND AGRICULTURE BORDER PROTECTION STATIONS

Governor's Budget

The Governor's Budget is requesting the following two requests to strengthen the Department's CDFA Agricultural Inspection Station Program.

- 1. Continue Support of Board of Equalization (BOE) Tax Enforcement Program.** The Governor proposes to make permanent an existing pilot project in which CDFA personnel at the Needles (I-40) border protection stations inspect cargo, photocopy pertinent documents, and pass along potential leads to the BOE for collection of use tax. In FY 2008-09 the project resulted in \$14.3 million in GF revenue, and the Administration anticipates similar revenue on an ongoing basis with the continuation of the program. To this end, the Governor requests three positions and \$244,000 (\$232,000 ongoing) in reimbursement authority (so that the CDFA can expend GF support provided by the BOE through an interagency agreement).

Staff notes that this item conforms to a related request in the BOE budget.

- 2. Expand the BOE/CDFA Tax Enforcement Program to Three Additional Stations.** nine positions and \$706,000 (reimbursement authority) to expand the BOE/CDFA Tax Enforcement Program (see description above in item 2) to three additional border protection stations (Yermo, Truckee, and Hornbrook). The Administration estimates the requested resources would generate an estimated \$44.4 million increase in annual GF revenue.

Staff notes that this item conforms to a related request in the BOE budget.

Staff Comments

Staff commends the Department for their ability to coordinate their Agricultural Inspection Stations with other Department's to use these point of entry inspections as a tool to stop the spread of invasive pests as well as enforce California use taxes on goods intended for sale on the black market. At the hearing, the Department should be prepared to discuss with the Subcommittee which agencies it has coordinated their inspection activities with and additionally, in their experience over the last few years, what have been some lessons learned about the most effective way to manage points of entry on the California Boarder.

Last week, the Attorney General announced that the State had arrested an organized crime ring that had defrauded the state's Beverage Container Recycling Program out of \$3.5 million by trucking large amounts of out of state beverage containers to California Recyclers. At the hearing, the Subcommittee may wish to discuss how whether the Department coordinates with the Attorney General's office or the Department of Conservation to use these Agricultural Inspection stations could be used to support efforts to stop trafficking of fraudulent beverage containers.

Staff Recommendation: Approve as budgeted

ISSUE 2: STATE BOARD OF FOOD AND AGRICULTURE

Governor's Budget

The Governor requests three positions and \$513,000 (Agriculture Fund). According to the CDFA, these positions would help the Board address critical environmental, community, and business issues, complex regulations, and conflicting priorities that confront 75,000 California farmers and ranchers and threaten the state's \$37 billion agricultural economy.

Background

The State Board of Food and Agriculture (Board) consists of 15 members, appointed by the Governor, who each represent and further the interest of a particular portion of the agricultural industry. The Board acts as a consultative and policy body for farmers and consumers, and is empowered by law to investigate the needs of the agricultural industry and the functions of the CDFA in relation to such needs, and to confer and advise the Governor and the Secretary (of the CDFA) on how the agricultural industry and the consumer of agricultural products may best be served by the CDFA.

Staff Comments

The CDFA notes that although the Board is authorized in statute to "make investigations, conduct hearings, and prosecute actions concerning all matters and subjects which are under jurisdiction of the department," the Board does not have its own administrative staff. Accordingly, the Board is seeking the requested positions so that it may more effectively and efficiently represent consumers, farmers, and ranchers on critical issues such as climate change; water supply, reliability, and quality; air quality; alternative energy; public health, invasive species, wildlife habitat, and animal welfare; and forging alliances. For example, CDFA staff indicate these positions would help deliver "ground-truths" to the California Environmental Protection Agency, the Natural Resources Agency, the California Emergency Management Agency, the Department of Health and Human Services, and the Labor and Workforce Development Agency.

Staff does not feel that there is a clear enough need for the considerable amount of staffing in this request. Currently, the Board is staffed part time by CDFA staffers. This proposal would establish one CEA V position to serve as the director, one program analyst and one clerical staff to enable the board to more aggressively assist the farming industry with challenges created by environmental regulations and rulemaking processes identified above. These processes already have very public/transparent regulatory and rulemaking processes (e.g., air quality, water quality, and climate change). While ultimately there may be merit in having a more proactive Board to assist the farming community with farm specific regulatory compliance issues, staff feels that under this proposal, the Board would be used as more of a broader voice in opposition of environmental regulations and policies adopted by other state and federal agencies; staff feels that this does not represent a cause for immediate need. Lastly, this proposal represents a significant staffing request in a difficult budget year and without an immediate urgent need presented, staff is not able to support the request.

Staff Recommendation: Reject Proposal

ISSUE 3: APRIL FINANCE LETTER: FARM BILL 2011 SPENDING PLAN

April Finance Letter Proposal

The Department is requesting an augmentation of \$12.7 million in Federal Fund authority to implement the activities approved pursuant to Farm Bill Section 10201 for Plan Pest and Disease Management and Disaster Prevention. This funding will be spent pursuant to a plan developed through a stakeholder process led by the Animal and Plant health Inspection Services that identified the following projects:

Enhance Plant Pest Disease Analysis and Survey	
• California Expanded Peste Detection System	\$6.1 million
• Grape Commodity Survey	\$0.3 million
• Plum Pox Survey	\$0.2 million
Target Domestic Inspection Activities at Vulnerable Points in the SafeGuarding Continuum –	
• California Dog Teams	\$3.1 million
Enhance and Strengthen Pest Identification and Technology	
• California Laboratory Infrastructure	\$0.2 million
Enhance Mitigation Capabilities	
• Fruit Flies—California Med fly Prevention Release Programs in Los Alamitos/San Diego	\$2.8 million

Staff Comments

Staff doesn't have any issues with the proposed appropriations. At the hearing, however, the department should be prepared to give the Subcommittee a status report on the Specialty Crop Block Grant Program that includes a discussion on how much federal funds are currently available in the program and the status on the allocation of grant funds in the budget year.

Staff Recommendation: Approve as budgeted

ISSUE 4: ADDITIONAL OVERSIGHT ISSUES

Staff and stakeholders have been tracking CDFA's implementation of several programs and have concerns with the following program areas:

Composting Facility Oversight. Composting facilities are permitted by the Department of Resource Recovery and Recycling and inspected monthly for operations and processes, including looking at the quality of compost for such things as pathogen kill. CDFA is looking to inspect and oversee these facilities. At the hearing, the Department should be prepared to elaborate on and outline the policy directives of this effort.

Composting Labeling Requirements / Nutrient Claims for Compost: Unlike fertilizer that is composed of a fixed formula of composition, compost is a product of natural processes and has changing characteristics as feed stocks change. Staff has concerns that CDFA are preventing composters to show potential buyers a lab analysis of a representative batch of compost because they say that is a "nutrient claim" and if there is variance then it is considered misbranding, which carries penalties. This hurdle creates an uncertain regulatory landscape for the composting industry. At the hearing, CDFA should be prepared to address what they are doing to address this issue?

Leafy Green Marketing Agreement and Bifenthrin issue: Marketing agreements requires leafy green farmers to use organic certified compost for leafy green produce, whether or not it is organic. Leafy green farmers will not have an option for certified fertilizers if compost producers are not allowed to be certified due to trace amounts of bifenthrin (a widely used household pesticide for lawns and gardens that is not taken up by plants but is showing up in trace amounts in compost that includes urban green waste) in compost products. Also, other fertilizers are more expensive to farmers. How will the price of produce increase if farmers are forced to use high cost certified fertilizers instead of compost?

Management of Grease:. Could the department provide an update on the status of their development of a tracking system for the management of grease? Additionally, what is the department doing to address the problem of illegal dumping of grease?

Solid Waste Haulers and rendering licenses: Food waste composting helps divert tons of waste from landfills. These trucks and haulers are already certified by the ARB. However, we understand the CDFA is approaching solid waste haulers that pick up food waste and implying that they need to get a renderer's haulers license because they may have meat waste in a load. Food composters don't want meat waste as it can't be processed, so it is unlikely that food waste haulers are accepting meat waste.

Why does CDFA feel that this is an issue? Why are they focusing resources on this issue when they don't have the grease hauler situation and haulers getting renderes licenses?

Staff Recommendation: None, item is informational