AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Assemblymember Fran Pavley, Chair

WEDNESDAY, MAY 12, 2004
STATE CAPITOL, ROOM 447
8:30 A.M.

PROPOSED CONSENT ISSUES

SCHEDULED HEARING ITEMS

Proposed Consent Issues

(dollars in thousands)

	Agency / Department	Description of Issue
1.	Colorado River Board of California	**January Proposal.** $258,000 (reimbursements) increase for baseline operating expenses of the Board.
2.	Department of Conservation	**January Proposal.** $1.2 million (Strong-Motion Instrumentation and Seismic Hazard Mapping Fund) and the establishment of 12 PYs for continued activities of the Program.
3.	Department of Conservation	**January Proposal.** $553,000 (CA Beverage Container Recycling Fund) for enactment of requirements of AB 23.
4.	Department of Conservation	**April Finance Letter.** $3.2 million (Proposition 50) for technical and financial assistance to locals for the CALFED Watershed Program activities.
5.	State Lands Commission	**January Proposal.** $1.8 million (reimbursements) for implementation of the Commission's responsibilities pertaining to the Marine Invasive Species Act.
6.	Department of Fish and Game	**April Finance Letter.** $72.3 million (Proposition 50) for year-one of a three-year effort to transition DFG into its role as the implementing agency of the Ecosystem Restoration element of the CALFED Bay-Delta Program.

COMMENTS: Staff has raised no issues with the proposals listed.

STAFF RECOMMENDATION: **Approve the consent calendar.**

3360 – ENERGY RESOURCES CONSERVATION & DEVELOPMENT COMMISSION

The Energy Resources Conservation and Development Commission works to ensure a reliable supply of energy to meet California's needs, while complying with environmental, safety and land use goals. The Commission processes applications for siting new power facilities, encourages measures to reduce wasteful and inefficient use of energy, and monitors alternative ways to conserve, generate and supply energy.

The Subcommittee's initial hearing on the commission's budget occurred on April 28th. The issues discussed below were help open at that time or are new requests by the commission.

ISSUE 1: POWER PLANT SITING PROGRAM FUNDING

BACKGROUND: The commission's budget requests $18.9 million for power plant siting and certification activities in 2004-05. This represents an increase of $1.5 million (8.6 percent). This portion of the commission's budget was held open pending an explanation of the apparent growth in the power plant siting budget, given that no new budget change proposals or major workload increases are proposed.

COMMENTS: The commission has provided staff with information explaining the increase. Position and funding reductions in 2002-03 under Control Section 31.60 disproportionately affected the Program, which had a relatively large number of vacancies at the time. The 2004-05 Budget reallocates some personal services staff and funding reductions from this to other programs. The commission also indicates that some reallocation will occur in the current fiscal year, so that the funding increase for Power Plant Siting from 2003-04 to 2004-05 will be less than originally displayed.

STAFF RECOMMENDATION: **Approve as budgeted.**

ISSUE 2: SURPLUS ERPA FUND TRANSFER TO GENERAL FUND

The Governor's Budget estimates that the Energy Resources Programs Account (ERPA) will have a reserve of $14.6 million at the end of 2004-05.

BACKGROUND: The ERPA is the basic source of support funding for the Energy Commission and also supports certain energy-related activities in the Department of General Services, the Department of Water Resources, and the Electricity Oversight Board. Revenues to ERPA come from a surcharge on all electricity bills in California. The commission establishes the surcharge rate each year based on the amount appropriated from ERPA by the Legislature up to a statutory maximum of 0.3 mills per kilowatt-hour of electricity.

Budget Assumes Surcharge Rate Reduction. The surcharge currently is set at the statutory 0.3 mill maximum. However, the budget assumes that the commission will reduce the current surcharge rate down to 0.2 mills effective January 1, 2005. That rate will be sufficient to fund proposed ERPA spending plus the $14.6 million year-end reserve.

COMMENTS:

- ERPA funds are tax revenues, available to the Legislature for any General Fund purpose.

- $12 million could be transferred from ERPA into the State's General Fund in 2004-05, while still allowing the planned rate reduction to 0.2 mills. This transfer would leave a $2.5 million reserve in ERPA (5 percent of spending) at the end of 2004-05.
- An additional $11 million (total of $23 million) could be transferred to the General Fund by maintaining the ERPA surcharge at its current maximum rate.

STAFF RECOMMENDATION: **Transfer $12 million from the Energy Resources Programs Account to the General Fund.**

ISSUE 3: REAPPROPRIATION FOR HYDROGEN FUELING STATION

BACKGROUND: On May 5th, the commission put forward a request for a reappropriation of $925,000 of Petroleum Violation Escrow (PVEA) funds to contribute to funding for a hydrogen fueling station that will be built and operated by the Alameda-Contra Costa Transit District (AC Transit).

These funds originally were appropriated in the 2000 Budget Act with language allowing until the end of 2003-04 to liquidate encumbrances (actually spend money that has been obligated). The commission indicates that contracting difficulties and project delays have prevented expenditure of the funds. The commission now requests a reappropriation of $925,000 in 2004-05. Under existing law, this reappropriation would make the funds available for liquidation of encumbrances through 2006-07.

This funding is a state contribution toward the $2.3 million estimated cost of a hydrogen refueling station that AC Transit and ChevronTexaco plan to build at AC Transit's Oakland maintenance facility. Completion of the state now is scheduled for August 2005. The station will use a steam reforming process to make hydrogen from natural gas. The hydrogen will be used to fuel three hydrogen fuel-cell demonstration buses. Overall cost of the AC Transit project is about $15 million, primarily from state and federal sources.

COMMENTS: The Energy Commission should explain to the subcommittee the reasons for the substantial delay in this project and the current project status and overall funding.

The National Academy of Engineering recently released a report on hydrogen technology entitled *The Hydrogen Economy: Opportunities, Costs, Barriers, and R&D Needs*. In that report, the academy cited many challenges of cost, technology, and safety that will need to be overcome to make hydrogen a major fuel in the United States. Among those challenges are the cost, safety and fuel sources of hydrogen production and storage. Clearly, the AC Transit project, which will cost about $15 million for three buses, will not be far from meeting cost requirements for commercialization. In addition, the fueling operation will depend on California's existing major fossil fuel—natural gas.

- The commission should identify the specific goals of this project and how they address critical barriers to cost-effective, practical, and safe use of hydrogen fuel.
- The commission also should identify how this project addresses the need to reduce California's dependence on fossil fuels and improve air quality.

STAFF RECOMMENDATION: **Approve request.**

ISSUE 4: CONTINUATION OF ENERGY TECHNOLOGIES RESEARCH, DEVELOPMENT AND DEMONSTRATION ACCOUNT

BACKGROUND: In another new request, the commission proposes the adoption of budget trailer bill language to eliminate the January 1, 2005 sunset of the Energy Technologies Research, Development and Demonstration Account (ETRDDA). The commission is not requesting an extension of the program that also sunsets at that time, however.

COMMENTS: According to the commission, the account will continue to be needed. This is because it receives loan repayments from the Small Business Energy Technology Loan Program and the Agricultural Industry Energy Program. Those programs are ongoing.

STAFF RECOMMENDATION: **Approve the request.**

3860 – DEPARTMENT OF WATER RESOURCES

The Department of Water Resources (DWR) protects and manages California's water resources. The Department maintains the State Water Project, works to ensure public safety and prevent damage through flood control operations through the supervision of dams, and water projects. The Department is also a major implementing agency for the CALFED Bay-Delta Program.

ISSUE 1: RESTORATION OF BOND FUNDS

This April Finance Letter requests approximately $125.9 million from Propositions 13, 40, 50, 44, and 81. This request would restore to the base budget, the bond expenditures to DWR that were held back in January.

BACKGROUND: The Governor's January budget proposal included expenditures from Propositions 40 and 50 of approximately $56.0 million for all State departments. This was a reduction from the current year appropriation of these funds of nearly $1.62 billion. The *2004-05 Governor's Budget Summary* indicated that the Administration was evaluating existing conservation efforts and therefore deferred bond proposals until later in the spring. As part of the release of the Administration's April Finance Letters, these bond proposals were included.

COMMENTS: The requested restorations reflect previously approved funding to programs at the department, specifically the Environmental Water Account, Levee, Storage and Conveyance Programs.

STAFF RECOMMENDATION: **Approve the restorations requested in the Finance Letter.**

ISSUE 2: ADDITIONAL BOND PROPOSALS

This April Finance Letter requests actions relating to bond funding of several DWR activities as follows:

1. **$102.9 million in Proposition 13 funding.**
   - $77.3 million for the Groundwater Storage Grant Program
   - $16.9 million for the Yuba-Feather Flood Protection Program
   - $4.8 million for the Arroyo Pasajero Flood Control Program
   - $3.7 million for Flood Control Subventions
   - $248,000 for Fiscal Coordination
2. **$3.3 million (Proposition 204) for loans and grants to local water projects.**
3. **$30.2 million ($9.9 million Proposition 13 and $20.3 million Proposition 50) for DWR's activities in the CALFED Bay-Delta Program.**
   - $9.9 million for the Conveyance Program
   - $1.0 million for the Ecosystem Restoration Program
   - $19.3 million for the Watershed Grant Program
4. **Reappropriation of $225.1 million in various, previously approved bond funds.**

COMMENTS: These requests are consistent with the requirements of the selected bond allocations and provide DWR with the resources necessary to fulfill its responsibilities of the programs.

STAFF RECOMMENDATION: **Approve the requested Finance Letter.**

ISSUE 3: ADDITIONAL DEPARTMENTAL PROPOSALS

This April Finance Letter requests actions relating to DWR activities as follows:

1. Extension of the liquidation period of previous appropriations to provide sufficient time for project completion.
2. Reappropriation of Capital Outlay funding for various flood control projects.
3. $1.6 million in reimbursements for the Watermaster Services Program.
4. $431,000 (Dam Safety Fund) to offset a previous General Fund reduction to the Dam Safety Program.
5. $489,000 in reimbursements to participate in power generation activities as a result of the Williams settlement (includes trailer bill language to implement).
6. $7.2 million in reimbursement authority for DWR to conduct studies relating to restoration of the Salton Sea.
7. Adjustment to Proposition 13 funding to correct an inadvertent over-allocation to the Flood Protection Corridor Program.

COMMENTS: These proposals make various technical changes, and provide DWR with the necessary support to implement the duties as described. Staff has identified no issues with the requests.

STAFF RECOMMENDATION: **Approve the requested changes.**

ISSUE 4: STATE MAINTENANCE AREAS

The Administration's April Finance Letter requests an increase in reimbursement authority from local governments to fund the State's maintenance activities on specified levee systems.

COMMENTS: This proposal includes trailer bill language necessary for the transfer of responsibility for maintenance of the levee from the local entity to the State.

GENERAL FUND IMPACTS: By taking over responsibilities as specified in this proposal, the State can potentially head-off future flood risks that could have significant General Fund impacts.

STAFF RECOMMENDATION: **Approve the Finance Letter and the corresponding trailer bill language.**

ISSUE 5: COLORADO RIVER MANAGEMENT ACCOUNT

The Governor's 2004-05 Budget proposes $16.1 million (Colorado River Management Account - General Fund) for canal lining and groundwater storage projects related to reducing the State's Colorado River water usage.

According to the Administration, this is a vital component of the Quantification Settlement Agreement (QSA) reached last fall to reduce California's water usage from the Colorado River to the 4.4 million acre-feet of water per year.

COMMENTS: In an effort to reduce State expenditures, AB 1756 (Committee on Budget) from 2003 contained a provision stating legislative intent that the Department of Finance not include funding for certain purposes in the 04-05 budget proposal. Among these purposes was funding for "the All American Canal." While the canal lining proposed here is for the Coachella Canal (a component of the All American Canal), this proposal appears to violate the intent language set forth by the Legislature.

Since the time that this issue was proposed in January, questions have arisen as to whether or not it is necessary in the Budget Year. The Department should comment on the status of existing funds for the QSA-related activities currently under way, and if these funds are necessary this year.

GENERAL FUND IMPACTS: Current revenue and expenditure estimates by the LAO indicate that the Governor's proposed budget, even with several yet-uncertain assumptions, remains as much as $12 Billion out of balance, requiring additional actions to provide California with a balanced budget. This proposal would commit $16.1 million (General Fund) to the project.

STAFF RECOMMENDATION: **Given the significant General Fund impact and the questionable need for the funds, a one-year deferral of these funds is recommended.**

3870 – CALFED BAY-DELTA AUTHORITY

CALFED was administratively created as a consortium of state and federal agencies that have regulatory authority over water and resource management in the Bay-Delta region. The objectives of the program are to:

- Provide good water quality for all uses.
- Improve fish and wildlife habitat.
- Reduce the gap between water supply and demand.
- Reduce the risks from deteriorating levees.

After five years of planning, CALFED began to implement programs and construct projects in 2000. The program's implementation—which is anticipated to last 30 years—is guided by the "Record of Decision" (ROD). The ROD represents the approval of the lead CALFED agencies of the final environmental review documents for the CALFED "plan." In the ROD, these costs are projected to total $8.5 billion for the program's first seven years. This amount has recently been revised upward to $9.2 billion.

ISSUE 1: BOND PROPOSALS

This April Finance Letter requests actions relating to CALFED's bond funding relating to its activities as follows:

1. **$21.7 million (Proposition 50) to restore to the base budget, the bond expenditures to CALFED that were held back in January.**
   - $12.8 million for the CALFED Science Program's activities
   - $5.2 million for the Ecosystem Restoration Program
   - $3.8 million for the Watershed Restoration activities of the Authority
2. **Reappropriation of 2003 Budget Act appropriations for the Ecosystem Restoration, Science, and Conveyance Programs.**

COMMENTS: These proposals would further the activities of the Authority in the implementation of the CALFED Bay-Delta Program. Staff has identified no issues of concern relating to the requests.

STAFF RECOMMENDATION: **Approve the April Finance Letter to appropriate the bond funds.**

8570 – DEPARTMENT OF FOOD AND AGRICULTURE

The California Department of Food and Agriculture (CDFA) provides services to both producers and consumers of California's agricultural products in the areas of agricultural protection, agricultural marketing, and support to local fairs.

The Governor's 2004-05 budget proposes expenditures of $267 million and 1,655 positions in 2004-05 for the department, including $111 million from the Agriculture Fund and $73 million from the General Fund. The proposed expenditures are $28 million (10 percent) below estimated current-year expenditures due to a variety of proposed program reductions.

ISSUE 1: CAPITAL OUTLAY PROPOSALS

The Governor's budget includes capital outlay proposals in support of the Department.

Truckee Agricultural Inspection Station. $19.2 million ($6.4 million State Highway Account and $12.8 million lease revenue bond) for continuing efforts to relocate the inspection station.

Technical Items. $416,000 (Food & Agriculture Fund) for the Medfly rearing facility, and a reappropriation of two prior-year capital outlay items.

COMMENTS: Staff has raised no issues with these proposals.

STAFF RECOMMENDATION: **Approve the items.**

ISSUE 2: POSITION MANAGEMENT

In the Legislative Analyst's (LAO) *Analysis of the 2004-05 Budget Bill*, the LAO has noted that the department's management of its budgeted positions deviates from standard state procedures. According to the LAO, about half of CDFA's positions have been created at the discretion of the department—without approval of either the Legislature or the Department of Finance (DOF).

As a result of these practices, the SCO, DOF, and the Legislature have a diminished ability to review departmental programs, activities, and vacancies at CDFA.

The LAO has noted that in addition to the seasonal, temporary positions for which CDFA indicates the flexibility of this practice is needed, the Department funds a wide variety of positions, outside the expertise of any emergency response or seasonal personnel.

COMMENTS: The Department has submitted additional information to the Legislature relating to the details of these positions; however it remains uncertain how this one department differs so greatly from every other department with unforeseen needs relating to staffing, that it would warrant a separate process by which it manages its position authority.

The Department has expressed a willingness to provide greater oversight of the positions; however they would still prefer to retain flexibility.

STAFF RECOMMENDATION: **Adopt trailer bill language requiring these positions to be established with the Controller's Office, and also provides flexibility in the Government Code to prevent undue loss of the PY due to the vacancy of an 'emergency' position.**

ISSUE 3: BORDER STATION FUNDING

The Governor's budget proposes $4.5 million (General Fund) to restore funding to 11 of the 16 Agricultural Inspection Stations.

BACKGROUND: Funding for the Agricultural Inspection Stations was reduced by $1.4 million in the 2003-04 Budget Act, eliminating individual auto inspections, allowing only for commercial inspections. Section 4.10 of the Budget Act provided the Director of Finance with the authority to make further statewide reductions to ensure an additional $1.07 billion in savings. As a result, in November 2003, CDFA realized an additional reduction of $8.6 million, including $4.5 million that would require the closure of 11 Inspection Stations.

COMMENTS: This proposal redirects $4.5 million (General Fund) from the County Agricultural Commissioners' (CACs) Pest Exclusion activities in order to restore funding for the inspection stations. The Department indicates that, in addition to direct inspections and enforcement of quarantine laws, these stations notify County Agricultural Commissioners of shipments requiring more detailed inspections.

This proposal would, however, reduce local assistance funding to CACs and reduce their ability to respond to potential risks when notified by the inspection stations.

STAFF RECOMMENDATION: **Approve the requested shift. See related recommendation in Issue 5 on the subsequent pages.**

ISSUE 4: FACILITY RELOCATION COSTS

The Governor's budget includes a request for $2.4 million ($912,000 General Fund, various other funds) for final relocation costs associated with the renovation of the Department's N Street building.

BACKGROUND: The Department's headquarters building has been undergoing significant structural renovations and hazardous materials cleanup. Renovation of the building is scheduled to be completed in early 2005. This proposal would provide funding to *re-relocate* staff to the headquarters.

The Subcommittee had withheld action on this proposal previously.

COMMENTS: Staff has raised no issue with this proposal. The Department has not been able to identify alternate funding that could reduce the General Fund request. There does not appear to be an acceptable alternative. Denial of this proposal due to the $912,000 General Fund would likely result in significant State costs to stop the relocation and continue providing space for staff in their current locations.

STAFF RECOMMENDATION: **Approve the requested funding to complete the relocation.**

ISSUE 5: MEDITERRANEAN FRUIT FLY EXCLUSION PROGRAM

The Governor's January budget proposal included no funding for the Medfly Program. This April Finance Letter is requesting $8.0 million (General Fund), a level approximately $900,000 below the current year amount. The federal government provides a dollar-for-dollar match of state funds. The Administration and Legislature have consistently supported this funding arrangement for nearly a decade.

BACKGROUND: Over the years, there has been some discussion as to whether the release of sterile Medflies constitutes exclusion, eradication, or control. Exclusion programs work by preventing a pest not found within a particular jurisdiction from establishing itself. Eradication programs, on the other hand, are meant to eliminate infestations of new pests that have already penetrated an exclusion barrier.

According to the Department, historically in California, exclusion and eradication of pests have been considered General Fund responsibilities. Control programs, which are efforts to deal with well-established and ongoing pest infestations, in recent years have tended to be industry funded.

COMMENTS: The Legislature and the LAO have previously expressed concerns over the State costs of this program. As a result, the Legislature requested, in the *Supplemental Report of the Budget Act of 2002*, that the Department provided a report, *Preventing Biological Pollution: Mediterranean Fruit Fly Exclusion Program* that included seven potential funding option of the program. The Department's 2003-04 Fiscal Year request was for $8.9 million in General Fund support of the Program, seeking no change in fund support. The options provided in the report included:

1) Continued Full General Fund Support
2) Support from the Food and Agriculture Fund
3) Assessments on Domestic Producers
4) Assessments on the Agri-food System
5) Assessments on Consumers
6) Assessments on International Travelers and Commerce
7) Seeking Full Federal Funding of the Program.

Again, in the *Supplemental Report of the 2003-04 Budget Act, the* Legislature requested information relating to the pest exclusion activities of the Department. Specifically, the Department was requested to provide a report that focuses on the following:

1) Assessment on parties with greater potential for introducing biological hazards.
2) Greater federal funding for the program.
3) A balance of funding from the above two, combined with a continued General Fund commitment.

The Department's January 2004 report, *Protecting California from Biological Pollution*, again recommends General Fund support, noting that increased federal funds would require more leverage at the Congressional level than California currently possesses, and any assessment on travel or commerce would be problematic.

While acknowledging the importance of this program, the fact cannot be ignored that, for three years the Legislature has directed the Department to seek funding, at least in part, from other-than General Fund sources, yet each year only General Fund has been offered.

STAFF RECOMMENDATION: Approve $4.0 million in General Fund support for the Medfly Program. Approve the remaining $4.0 million to backfill the local assistance funding to the CACs that was reduced in order to restore staffing of inspection stations.

The Department should be directed to develop a proposal that will provide the remaining 50% of the non-federal portion of the Medfly Program.
