AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3

RESOURCES AND TRANSPORTATION

Assemblymember Richard S. Gordon, Chair

WEDNESDAY, MAY 11, 2011

STATE CAPITOL - ROOM 447
9:00 A.M.

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Consent

Department of Parks and Recreation

1. **Office of Historic Preservation Database.** The Governor requests to extend the liquidation period for $163,000 of fiscal year 2008-2009 General Fund monies that will be used to re-host the Office of Historic Preservation's (OHP) mission-critical database. Staff recommends approval of this item. This information technology project was initiated in 2008 to replace the legacy OHP database. To date, all project costs have been absorbed within Parks' existing budget. Due to delays caused by the contractor, it is necessary to extend the liquidation period of the requested funds to allow Parks to complete the upgrade. If the existing database system is not replaced on schedule, it may fail. Also, there is a possibility that OHP may lose some or all of its federal funding if use of the database is interrupted. The re-host project is in its final phases and is expected to be completed according to the current budget and schedule. (April Finance letter)

2. **Concessions Angel Island State Park.** The Governor requests approval for the ferry service routes concession to Angel Island State Park, pursuant to Public Resources Code Section 5080.20 (b) which requires that the Legislature review the proposed project as a part of the annual budget process. The Department previously received legislative approval for the Tiburon route (2005 Budget Act) and for the San Francisco route (2009 Budget Act). The Department requests authority to solicit proposals from the public for one or multiple concessions to provide transportation between Angel Island State Park and various routes within the Bay Area. Currently, the Department has three expired concession contracts for routes from various points within the Bay Area to Angel. Staff has no concern with this request. The Department has engaged in a new feasibility study to evaluate the overall ferry transportation services to Angel Island, which is anticipated for completion in June. The public bid requested will be based on the recommendations within the new feasibility study. (April Finance letter)

3. **Local Assistance Funding-Prop 40.** The Governor requests to appropriate anew an active Local Assistance appropriation of $108,250,000 under Proposition 40 that is due to revert at the end of June. Proposition 40 provides funding for a specified list of grant programs and provides a total of eight years (until June 30, 2011) for grantees to complete their projects. Proposition 40 also states that by July 1, 2011, any unspent grants shall revert to the fund. The purpose of this request is to allow grantees additional time to liquidate encumbrances due to the decision to suspend interim financing for bond funded projects as directed by the Pooled Money Investment Board in December 2008 and still has an effect to date on this active appropriation. This request will provide a new appropriation to allow the grantees to complete their projects, as intended by Proposition 40. (April Finance letter)

4. **Local Bond Project Extensions.** Proposition 40 provides funding for a specified list of grant programs and provides a total of eight years (until June 30, 2011) for grantees to complete their projects. Due to the 2008 bond freeze, the grantees have not completed their projects. This adjustment reflects an adjusted timeline. **Staff Comments:** Staff concurs with the Administration's list of projects meriting extensions of liquidation. The bond freeze caused numerous projects to be suspended, resulting in a greater than expected number of these projects requesting extensions of liquidation. In order to be more equitable, this extension of liquidation should be given to all such projects on a one-time basis. This would reduce department and staff workload evaluating each local assistance project. **Staff Recommendation:** Staff recommends Budget Bill Language to provide a 2-year extension of liquidation for all Proposition 40 local parks projects. Staff will work with the Department of Finance and the Department of Parks and Recreation to craft appropriate language. This language is not intended to duplicate nor supplant previous actions by the Legislature on bond fund extensions.

5. **Marshall Gold Discovery State Historic Park and Various Reappropriations.** The Governor requests $1,128,000 to implement building and fire code changes, as well as more stringent storm water related discharge requirements for Marshall Gold Discovery State Historic Park. The proposal also requests reappropriation for projects in the Lake Tahoe Basin and at Pismo State Beach. (April Finance letter)

California Tahoe Conservancy

1. **Reappropriations.** The Governor requests various re-appropriations, reversions and an extension of liquidation for local assistance projects previously approved for the Lake Tahoe Basin. This request is mainly due to the bond freeze. Previously approved by the Subcommittee, but denied without prejudice in the full Committee.

2. **Extension of Liquidation Period – Habitat Conservation Fund**. The Governor requests to extend the liquidation periods of the Habitat Conservation Fund and associated Proposition 50 transfer to implement the Wildlife Conservation Act. These extensions are necessary because of delays caused by permitting requirements that only allow restoration work to be completed in summer. (April Finance letter)

Wildlife Conservation Board

1. **Extension of Liquidation Period-Habitat Conservation Fund and Prop 50.** The Governor requests a 1-year liquidation extension for the unliquidated encumbrances associated with the Board's Habitat Conservation Fund (HCF) Capital Outlay appropriation provided in the 2004 Budget. The Department is also requesting a liquidation extension on the associated Prop 50 bond funds,

which funded the HCF under the 2004 Budget. The HCF was created by the Wildlife Protection Act of 1990, also referred to as the Mountain Lion Initiative. The Act requires an annual transfer of $30 million of General Fund monies into the Fund, less any special fund transfers made, until 2020. The funds are used for acquiring and restoring habitat necessary to protect wildlife and plant populations, especially deer, mountain lions, and rare, endangered, threatened or fully protected species. (April Finance letter)

2. **Extension of Liquidation Period Prop 12.** The Governor requests a 1-year liquidation extension for the unencumbered balance of a Prop 12 appropriation to implement the San Joaquin River Parkway Master Plan. The Conservancy's strategic plan was approved and incorporated into the adopted San Joaquin River Parkway Master Plan. This proposal is critical to implementing all elements of the Conservancy's mandated mission and Master Plan: land acquisition, public access/recreation, wildlife habitat, and riparian restoration. The liquidation extension is necessary to meet an existing Grant Agreement obligation. The grantee needs additional time to complete the work due to the Pooled Money Investment Board freeze. (April Finance letter)

3. **Prop 84 Natural Communities Conservation Planning (NCCP) Reappropriation.** The Governor requests to reappropriate $25 million from Prop 84 for NCCP activities. This item was approved by the Subcommittee on February 2, but denied by the full Committee due to the absence of an action plan for expenditure of funds. WCB has completed the action plan. This funding is critical to leverage federal dollars and will for hundreds of millions in development to occur in an environmentally sensitive manner. **LAO Comments**: In response to the Legislature's denial without prejudice of the remaining $25 million reappropriation request for NCCP activities, WCB has completed an action plan that indicates WCB's intention to spend $27.5 million on NCCP in 2011-12, including the number of acres to be acquired in specific counties, and the number of NCCPs that these expenditures will support. In light of this action plan and WCB's success at expending reappropriations requested in 2010-11, we now recommend approval of the request to reappropriate $25 million from Proposition 84 for NCCP.

State Water Resources Control Board

1. **Reappropriation-Prop 84 Bond Funds (technical adjustment)**. The Governor requests to reappropriate unencumbered local assistance balance of Proposition 84 bond funds for the Agricultural Water Quality Grant Program and Clean Beaches Grant Program. Due to the bond freeze and late budget enactment, many grantees have not been able to complete projects or have revised work allowing projects to come under budget. The appropriation was included in the 2008 Budget Act. (April Finance Letter)

2. **Reversion-Various Bond Funds (technical adjustment).** The Governor requests to revert unencumbered state operations and local assistance balances of Propositions 13, 40, and 50 bond funds for water quality projects to ensure that the funds are available for future use. A number of water quality projects have been delayed for various reasons such as the bond freeze and delays in enacting a state budget. The reversions would allow the State Water Board to request an appropriation of funds with adequate time to encumber and liquidate. The appropriations were included in various Budget Acts over the last several years. (April Finance Letter)

Department of Resources Recycling and Recovery

1. **Extension of Repayment Date of Existing Loans.** The Governor requests budget bill language to delay two loan repayments from the General Fund to the Glass ($39 million) and PET ($27 million) Processing Fee Accounts under the California Beverage Container Recycling Fund (CBCRF) until fiscal year 2013-14. The two loan replacements from the General Fund that occurred in FY 2003-04 were statutorily scheduled to be repaid no later than June 30, 2012. However, these accounts currently possess funding level sufficient to sustain the programs without General Fund loan repayment until 2013-14. Because the General Fund is continuing to experience considerable solvency issues, staff has no concerns about the two-year delay in repaying the Glass and PET Processing Fee Accounts.

California Conservation Corps

1. **Reappropriation –Tahoe Base Center Relocation**. The Governor requests reappropriation for the acquisition and development of a California Conservation Corps (CCC) residential facility in the Tahoe Basin designed to accommodate 88 Corps-members. Although construction for the bulk of this project is underway, additional design work is needed on a small portion because of permitting restrictions imposed by the Tahoe Regional Planning Agency. (April Finance letter)

Vote Only

Joint Issue—Lake Tahoe Environmental Improvement Program and Land Use Planning in the Tahoe Basin

Special Resources Programs

1. **Base Budget—Tahoe Regional Planning Agency.** The Governor requests $4.1 million for baseline ongoing activities at the Tahoe Regional Planning Agency (TRPA).

California Tahoe Conservancy

1. **Implementation of the Environmental Improvement Program for the Lake Tahoe Basin.** The Governor requests $15.8 million (multiple funding sources, no General Fund) to continue capital outlay and local assistance funding for the implementation of the Environmental Improvement Program for the Lake Tahoe Basin.

   Background. The Tahoe Environmental Improvement Program (EIP), a collaboration of over 50 state, federal, academic, local, and private interests, is a capital improvement program designed to achieve environmental standards in the Lake Tahoe basin. Program implementation began in 1997. Over a 20-year period, the program is estimated to cost approximately $1.5 billion.

   The Lake Tahoe region has experienced environmental degradation for the past 100 years, most notably in the lake's water clarity and the health of the basin's forest lands. The lake's water clarity—which reflects water quality—has become the primary measure of the basin's environmental health.

   To counter this degradation, the Tahoe Environmental Improvement Program (EIP) was established in 1997. The Tahoe EIP is a 20-year capital improvement program involving multiple state, federal, local, academic, and private entities. In 1997, the state signed memoranda of agreement with the federal government, Nevada, the Washoe Tribe, and the Tahoe Regional Planning Agency (TRPA) committing to implement and fund the Tahoe EIP. Over 50 entities are involved in implementing the program including the primary state agencies—the California Tahoe Conservancy and the Tahoe Regional Planning Agency (TRPA), a joint regional planning agency co-funded by the State of Nevada. Both items were approved by the Subcommittee on February 7, 2011, but denied without prejudice to conform with the Senate. **Staff Recommendation**: Approve Governor's proposal.

Boating and Waterways

- **Local Assistance, Capital Outlay.** The Governor is requesting an increase of $3,250,000 to reflect the state's share of the construction phase of the Channel Islands Boating and Instruction Safety Center (BISC) project. However, the Department is also requesting a decrease of $3,250,000 to accommodate the corresponding increase in capital outlay funding for the Channel Islands BISC project. These local assistance funds were included in the Governor's Budget for planning, California Environmental Quality Act funding, and reassessed loan and grant amounts. This request will redirect these local assistance funds for the completion of the Channel Islands BISC project and can be deferred without significant programmatic impacts. The Channel Islands BISC is a continuing project that has been stalled for several years because of litigation that has recently been resolved. The project is a joint venture between The Department of Boating and Waterways (Boating) and the County of Ventura. Construction costs are estimated at $6.0 million, with Boating contributing up to $3,250,000 and the county contributing the balance. The county funds include $1.8 million in donations that will expire after 2011. If the project is delayed and these donations are no longer available, it is unlikely that the county would be able to fund its share of the project. **Staff Recommendation**: Approve April Finance letter.

- **Various Boating & Waterways Programs**. The Governor is requesting:

    - $17.9 million for local assistance public small craft loans and boat launching facility grants (BLF). This includes $7,100,000 for loans. The loans fund improvements for revenue producing facilities and non-revenue producing infrastructure (e.g. seawalls). In addition, it includes $10,845,000 for grants for public boat launching facilities that are open to the public. BLF grants are for projects that are not economically feasible for local governments to provide. Typically, marinas and BLFs have a 20-30 year life span. Each facility listed in the proposal (including the Channel Islands Boat Launching Facility, Santa Barbara launching ramp, and Santa Cruz Harbor) has reached a point where they are no longer meeting the needs of boaters due to excessive wear, damage by elements or new safety requirements. The Department of Boating and Waterways anticipates annual revenues of $690,000 over the next 30 years from the proposed loans.
    - $100,000 (Harbors and Watercraft Revolving Fund) to contract for financial services for basic financial management activities required to ensure the safeguarding of State assets as recommended by DOF. These proposals were denied without prejudice on February

2, 2011 due to concerns raised by the public on various aspects of these proposals and time constraints of Committee staff to review. The concerns raised center around the re-configuration of an existing parking lot. This project is consistent with DBW layout and design guidelines and has been approved by the Coastal Commission. **Staff Recommendation:** Approve Governor's proposal.

State Water Resources Control Board (SWRCB)

1. **Budget Trailer Bill Language-Wastewater Operator Certification Fund.** The Governor requests the adoption of budget trailer bill language to amend the Water Code to authorize the deposit of all monies collected by the Wastewater Operator Certification Program (WOCP) into the Wastewater Operator Certification Fund (WOCF) and to ensure the funds are utilized in accordance with an appropriation. The WOCF receives deposits of fees from persons applying for an operator certificate or renewing an operator certificate. However, the WOCF does not receive deposits of fees from persons applying for a contract operator registration or renewing such a contract. The proposed amendments would allow the Board to deposit all interest earnings and fees collected by the WOCP into the WOCF and utilize the funds for program activities. **Staff Recommendation**: Approve April Finance Letter.

2. **Underground Storage Tank Clean Up Fund.** The Governor requests a one-time augmentation of $90 million in state operations from the Underground Storage Tank Cleanup Fund. The increase funding will allow the SWRCB to reimburse additional claimants for work performed cleaning up contaminated sites. In addition, the proposal request $13.2 million in local assistance authority from the School District Account to allow the program to fully extend the fund. Finally, this item requests $15.8 million from the Orphan Site Cleanup Fund to allow the program to fully expend the $30 million placed in the fund. This proposal was approved by the Subcommittee on January 26, 2011, but denied without prejudice by the full Committee to conform with the Senate action. **Staff Recommendation**. Approve Governor's proposal.

Department of Water Resources (DWR)

1. **Implementation of Biological Opinions.** The Department is requesting 18 new permanent full-time positions in FY 2011-12, which will be funded by the State Water Project at an estimated cost of $2.550 million. Of this request, thirteen positions will be related to Sacramento-San Joaquin Delta Facilities, and will provide support to various program activities performed within the Bay-Delta Office (BDO) Fish Improvement Section. The remaining five positions are needed to carry out various program activities performed by the Department's Division of Environmental Services (DES), including two positions for Suisun Marsh Facilities and three positions for regulatory and operational compliance.

Staff Comments. This proposal was heard by the Subcommittee on May 4, 2011. Staff concurred with LAO's recommendation to approve 12 positions as follows:

- Sacramento-San Joaquin Facilities: **Approve Nine** Various Positions;
- Suisun Marsh Facilities: **Approve Two** Requested Environmental Scientist Positions; and,
- Regulatory Compliance for Division of Environmental Services: **Approve One** of Requested Staff Environmental Scientists.

The Subcommittee held this item open to give DWR an opportunity to respond to questions raised during Committee about the activities to be performed by the new positions. Below is the Department's response:

> *The National Marine Fisheries Service Biological Opinion (NMFS BiOp), the U.S. Fish and Wildlife Service Biological Opinion (FWS BiOp), and the Department of Fish and Game Incidental Take Permits (ITP) governing the operation of the State Water Project (SWP) Delta facilities require some 50 actions by DWR either alone or jointly with US Bureau of Reclamation. The required actions include increased monitoring of biological and environmental conditions (flow, water quality, etc.) beyond the monitoring efforts already being conducted by DWR and USBR. Additional actions also require new, special studies to determine the survival of listed species within the Delta and within SWP facilities located in the Delta. The new staff positions will design and conduct the special studies, implement the new monitoring programs, and determine actions including engineering solutions to existing or newly identified issues revealed through the monitoring and special studies. The requested environmental and engineering positions will be used to plan, design, construct, and implement studies and actions specifically required by the BiOps and ITP (see attached matrix).*
>
> *Due to the lack of existing staff, meeting the BiOp and ITP deadlines is challenging and in some cases, DWR has not been able to keep up. Over the past 10 years, the regulatory requirements for the Suisun Marsh Program have exponentially increased. Existing staff is insufficient to meet these needs. Annual Reports for existing regulatory or contractual obligations have not been submitted since 1999 (e.g. SWRCB's D-1641, Suisun Marsh Preservation Agreement).*

Staff Recommendation: Approve LAO recommendation of the 12 positions.

2. **Flood SAFE California-Delta Knowledge Improvement Program.** The Governor is requesting $2 million (Prop 1E) in contract support for follow up efforts related to the Delta Risk Management Strategy (DRMS) study and the Delta Knowledge Improvement Program (DKIP) for Flood SAFE. This proposal is an ongoing expense. To-date, total funding for this functional area including this proposal is $63.3 million. The Subcommittee held this item open on May 4, 2011. This issue involves two programs: the Delta Knowledge Improvement Program, which is designed to fill in data gaps about the vulnerabilities of delta levees, and the Conservation Strategy for the Central Valley Flood Protection Plan, which deals with environmental mitigation requirements for the plan. The Senate had questioned how these plans will fit in with the developing Delta plan. Staff finds that there is little potential for conflict between these programs and the Delta Plan, and the Delta Knowledge Improvement Program in particular will be very helpful for future revisions of the Delta plan. The Department of Water Resources has also provided a list of activities that seem to be worth pursing during this budget year. **LAO Comments:** LAO finds that the proposed expenditures denied by the Senate appear justified and appear not to raise potential conflicts with the emerging Delta Plan. **Staff Recommendation**: Approve the Governor's proposal.

Coastal Commission

3. **Coastal Data Management System Update.** The Governor is requesting a one-time augmentation from the Violation Remediation Account (VRA) (non-general fund) of $1,136,217 to be available over a period of two fiscal years for the purchase, installation, and implementation of a commercial off the shelf integrated database, including associated licensing and consultant services to design the system and migrate existing data into the new database. This item was held open by the Subcommittee on May 4, 2011 to allow the Department to respond to concerns about whether it might be better to hold off on this proposal to wait for the new wave of technology. Below is the Departments response:

> *The project is designed to meet the Commission's current and foreseeable future data management needs. After careful analysis and consultation with Technology Agency and Resource Agency staffs and consultants, the Commission has developed a project which would use a proven, standardized software platform (known as a Commercial Off The Shelf, or COTS, system), which can be easily configured and customized. COTS database solutions have been implemented by a number of state agencies and local governments with similar program functions and database requirements as the Commission. These COTS systems provide needed functionality, ready integration with GIS and records management systems, and do not require specialized programming expertise for long term operation and management.*

The project includes a software purchasing approach that will support future upgrades to the software system as part of annual licensing terms. Approximately 60% of the estimated project costs are associated with vendor support services for system interface design and development, data migration, system configuration, testing and staff training. The result will be a 'turn-key' system, which will be administered and maintained by Commission staff. The Commission evaluated a number of different procurement options including having the system housed and supported by the software vendor directly, and providing access to staff via the internet. However, the annual cost for system licensing was twice the annual costs of the currently proposed system, without any additional benefits.

Staff Recommendation: Approve April Finance letter

ITEMS TO BE HEARD

2665 – CALIFORNIA HIGH SPEED RAIL AUTHORITY (HSRA)

ISSUE 1: DEPARTMENT OVERVIEW

Project Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build "Phase I" (from San Francisco to Anaheim) is currently estimated by the HSRA to cost $43 billion (in year-of-expenditure dollars). Of the $43 billion cost, about $12.1 billion is currently "in hand" – $9 billion from Proposition 1A of 2008 (Prop 1A) and $3.1 billion in federal funds.

The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about $14.9 billion), local governments (about $4.5 billion), and private investment through selling the concession (about $11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of these positions were authorized last year, and due to the prior Governor's hiring freeze, only about 17 positions are currently filled.

The January Governor's Budget proposes funding of $192 million for the HSRA ($102.4 million Prop 1A funding and $89.7 million federal funds). This compares to 2010-11 funding of $221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

To date the California High-Speed Rail Authority has appropriated $474 million in state and federal funds since 1997-98. Of this amount, $312.1 million was from Prop 1A funding with the balance of funding from other state resources (PTA) and federal funds.

Update on Proposition 1A:
Proposition 1A authorized $9.95 billion in General Obligation Bonds to fund the High Speed Rail system. $9 billion on these funds are set aside for the beginning of the construction of the High Speed Rail network. As noted above, $312.1 million of this $9 billion has been appropriated to date.

Proposition 1A includes $950 million to improve existing passenger rail systems to link to High Speed Rail. The California Transportation Commission has identified $652 million of projects for that funding. SB 69, the 2011-12 Budget Conference report appropriates $161.2 million of this funding, reflecting earlier subcommittee action. If

Governor approves this level of funding, a total of $262.2 million will be appropriated to date.

Proposition 1A Implementation:
The Governor's budget included $179.3 million of funding for design work on the various segments of the system, as listed below:

State Building Program Expenditures	Estimated 2010-11*	Proposed 2011-12*
San Francisco to San Jose	$26,150	$12,390
San Jose to Merced	$26,120	$34,920
Merced to Fresno	$16,139	$13,358
Fresno to Bakersfield	$38,466	$13,884
Bakersfield to Palmdale	$1,815	$51,050
Palmdale to Los Angeles	$35,225	$45,392
Los Angeles to Anaheim	$11,085	$8,350
Los Angeles to San Diego	$3,700	$-
Merced to Sacramento	$2,800	$-
Altamont Pass	$2,750	$-
Totals, Major Projects	**$164,250**	**$179,344**

Planning and Administration limits: Proposition 1A limits includes a cap on design (7.5 percent) and administration (2.5 percent) expenditures**.** In its submission to the federal government, the authority estimated that it would spend $388 million on design activities for the project, well under this cap. In the 2011-12 budget, the Governor's budget proposed to spend $7.1 million on administration.

Staffing: The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of these positions were authorized last year, and due to the prior Governor's hiring freeze, only about 19 positions are currently filled.

Budget Change Proposals: HSRA has three budget change proposals pending before the Subcommittee. There proposals are:

1. *Program Management Team:* The HSRA is currently contracting with TY Lin International until 2013 to serve as the Program Management Oversight Team (PMO) to provide the day-to-day oversight of the Project Management Team (PMT) and regional Contractors working on the project. The PMO is required to report to the Board monthly on the progress of the project as well as the ability of the PMO and contractors to meet critical milestones.
2. *Public Information and Communications Services*: HSRA is requesting $1.8 million in Proposition 1A funding to continue the contract with Ogilvy Public Relations Worldwide (Ogilvy) for statewide public information and communications services. This request is equal to the amount appropriated in last year's budget.
3. *Financial Plan and Public Private Participation Program:* The Administration requests a total of $750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan.

ISSUE 2: HSRA STATE SUPPORT COSTS

Governor's Budget: The Administration requests an augmentation of $1.1 million in Prop 1A bonds to add to base funding of $359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS).

Background: The HSRA indicates that workload performed by DOJ is increasing substantially due to the preparation of the draft and final project level documents on multiple corridors. DGS provides records service, automobile rental, purchasing and real estate services, and human resource services. The Authority indicates that this workload increase is partially the result of increased legal and contracting needs that result in additional workload for state control agencies.

Staff Comments: The funding requested in this proposal is for costs that the HSRA has limited control.

Staff Recommendation: Approve as Budgeted

2665 - DEPARTMENT OF TRANSPORTATION
3540 - DEPARTMENT OF PARKS AND RECREATION
1760 - DEPARTMENT OF GENERAL SERVICES
3900 - CALIFORNIA AIR RESOURCES BOARD

ISSUE 1: AIR QUALITY MANDATES DIESEL RETROFITS AND FLEET REDUCTION

Two departments in Sub 3's jurisdiction are requesting funds to retrofit diesel vehicles to conform to the requirements of the California Air Resources Board. Both Departments are also subject to fleet reductions by DGS through a recent Executive Order.

Background: On December 8, 2005, the ARB adopted a fleet rule to reduce diesel particulate matter (PM) emissions from fleets operated by public agencies and utilities based on a phased implementation schedule.

Department of Parks and Recreation. In fiscal year 2009-10, the Department received $1.635 million from the Renewable Fuel and Vehicle Technology Fund on a one-tine basis for diesel retrofit. The Department must bring the remaining trucks (22 vehicles) into compliance by December 31, 2001.

The 22 on-road truck diesel vehicles include transport, dump, sewer, garbage, and water trucks. These trucks are vital to the operation of the parks and to basic services to visitors. This request provides funding to complete compliance via replacement and monitoring of vehicles. Without funding to support this mandate, the Department will have 22 vehicles out of compliance. This could result in substantial fines from regulatory agencies.

Caltrans. The 2010-11 budget appropriated $57.3 million to bring 435 vehicles into compliance. It was later determined that the Department's overall compliance plan did not actually bring the Department into compliance with the Air Resources Board (ARB) requirements. Subsequently, the Department worked with the Air Resources Board to develop a new compliance plan. The new compliance plan focused on retrofits instead of replacements in 2010-11 and results in expenditure savings of about $47 million in this fiscal year. The Department developed the 2011-12 request based on this new joint compliance agreement between the California Air Resources Board (ARB) and the Department.

Staff Comments: The Governor issued Executive Order B-2-11 on January 28, 2011, which requires state agencies to conduct an analysis of their fleets and equipment and submit the analysis to the Department of General Services (DGS). A schedule for submitting these analysis and plans shall be set by the Director of DGS and shall commence no later than March 1, 2011. Non-essential vehicles must be sold or transferred within 120 days of the plan's approval. The executive order also requires the Department of Finance to adjust departmental budgets to reflect any savings.

If Caltrans or the Department of Parks and Recreation reduce its fleet pursuant to the order, there could be some resulting savings from reduced vehicle replacement. It is unclear if the DGS evaluation and calculation of savings by the Department will be completed and submitted to the Legislature with the May Revision. The Administration could alternatively score the savings within Budget Control Section 3.91 that allows savings across departments.

STAFF RECOMMENDATION: APPROVE THE JANUARY BUDGET REQUEST FOR CALTRANS AND PARKS. DIRECT STAFF TO BRING THE ISSUE BACK AT A FUTURE HEARING IF THE ADMINISTRATION IDENTIFIES A FLEET REDUCTION AND CALTRANS/PARKS SAVINGS AS A RESULT OF THE EXECUTIVE ORDER.

3940 – STATE WATER RESOURCES CONTROL BOARD

ISSUE 1: ADDITION OF FUNDING-PACIFIC LUMBER LAWSUIT

Governor's Budget: The Department is requesting $3.44 million from liability assessments to provide additional funding to defend the State of California from a lawsuit filed by the Pacific Lumber Company. Additionally, the Department is requesting an amendment to add Budget Bill Language authorizing the use of penalty revenues from the Waste Discharge Permit Fund for the state's defense in litigation regarding the Headwaters Agreement.

Background: In December 2006, Pacific Lumber Company and Scotia Pacific Company filed a lawsuit against the State alleging a breach of the "Headwaters Agreement." The Headwaters Agreement principally addressed state and federal endangered species concerns. To date, the litigation has proceeded very slowly due to the bankruptcy filing in January 2007 of the plaintiffs.

The defense costs for this ongoing litigation are increasing as the original budget assumptions have changed. A judicial decision on January 3, 2011 to litigate all issues in this matter at one time, rather than phasing the issues, and setting the trial date for January 2012, expanded and accelerated the workload to be completed related to discovery and trial preparation. The state's potential liability in this case is claimed by plaintiffs to be between $500 million and $1 billion.

Staff Comments: Staff does not have any concern with this proposal because the state has no choice but to defend the litigation. The resources identified above will increase the likelihood that the state can have the litigation favorably resolved with no liability to the state.

STAFF RECOMMENDATION: APPROVE AS BUDGETED.

3640 - WILDLIFE CONSERVATION BOARD

ISSUE 1: SAN JOAQUIN RIVER PROP 40/84

Governor's Budget. The Department is requesting $11 million reappropriation from Prop 84 and $3 million from Prop 40 for restoration of the San Joaquin River Parkway.

Background. In the Governor's January budget proposal, the Wildlife Conservation Board (WCB) requested reappropriation of $13 million in unexpended bond funds for San Joaquin River Restoration (SJRR) activities. This proposal was approved by the Subcommittee on February 2nd, but denied without prejudice by the full Committee.

LAO Comments. We had initially recommended that the Legislature withhold its approval of these reappropriations pending demonstration by the board that the reappropriated funding would result in physical projects. The WCB has since informally withdrawn its request for the SJRR reappropriation ($11 million from Proposition 84 and $3 million from Proposition 40), and we accordingly recommend that the Legislature deny the reappropriation of those funds.

Staff Comments. Since the WCB has informally withdrawn its request for this reappropriation, staff concurs with the LAO's recommendation.

STAFF RECOMMENDATION: DENY PROPOSAL

3500 – DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

The Department of Resources Recycling and Recovery (DRRR) was created pursuant to Chapter 21, Statutes of 2009 (SB 63; Strickland) and is largely the merger of the Waste Board (minus the board members and associated support staff) and the Department of Conservation Division of Recycling. As such, the DRRR protects public health, safety, and the environment through the regulation of solid waste facilities, including landfills, and promotes recycling of a variety of materials, including beverage containers, electronic waste, waste tires, used oil, and other materials. The DRRR also promotes the following waste diversion practices: (1) source reduction; (2) recycling and composting; and, (3) reuse. Additional departmental activities include research, permitting, inspection, enforcement, public awareness, market development to promote recycling industries, and technical assistance to local agencies.

Governor's Budget. The Governor's Budget includes $1.4 billion (no GF) for the DRRR, including $1.2 billion for the Beverage Container Recycling and Litter Reduction Program, and $200 million for the Waste Reduction and Management Program (the old Waste Board).

ISSUE 1: IMPROVE AUDIT COVERAGE AND INTERNAL CONTROLS

Background. The Governor's budget requests to redirect $1.1 million Beverage Container Recycling Fund from the Consulting and Professional line item to fund 11.0 permanent positions to address the findings and recommendations in the State Auditor's report from June 2010.

In June 2010, the Bureau of State Audits released its findings from an audit of the Beverage Container Recycling Fund (BCRF). The audit found the Department failed to complete a three year audit plan and made findings regarding insufficient management controls. Internal fund audits are important to reduce fraud following reporting by the department of greater than 100 percent recycling rates (among other issues).

LAO Reorganization Analysis. The LAO has raised issues with the level of savings from the overall creation of DRRR as well as the best proposed reorganization model. The LAO recommends holding hearings to discuss the reorganization plan particularly as it impacts department programs (including the Beverage Container Recycling Fund). The LAO also recommends reporting language to require the Department to report on the savings from the reorganization.

Staff Comments. The Department has agreed to provide single points of contact for all current divisions and withdraw the proposed reorganization plan from the Department of Personnel Administration because this plan violates statute.

The Department has indicated that it is awaiting a Governor's appointment for a Director to make any further changes. This is largely unsatisfactory given that there is no

timeframe for this appointment, and this presumes the Department may continue to act outside of statutory guidelines in the interim.

Staff Recommendation: Staff recommends the following:

1) The Department shall convene a monthly workgroup starting July 1, 2011 and concluding December 31, 2011 to include Legislative budget and policy staff and the LAO. This working group shall focus on correcting the following issues at the department:

    a. Separating the Division of Recycling from the former waste board functions;
    b. Ensuring that funds are not co-mingled between the Beverage Container Recycling Fund and the waste divisions;
    c. Removing any unnecessary CEA positions that functionally duplicate any Governor's appointees; and,
    d. Determining a pathway to return functional programs by policy area to foster expertise in subject areas.

2) Request an audit by the Bureau of State Audits for a programmatic review of the Department and it's compliance with state law, including its organization and structure.

3) Deny Budget Proposal.

ISSUE 2: FRAUD PREVENTION PROGRAM, STRATEGIC PRIORITY INITIATIVE-BEVERAGE CONTAINER RECYCLING PROGRAM

Background. The Governor's budget requests 7 permanent positions funded by redirecting $681,000 Beverage Container Recycling Fund from Consulting and Professional Services to Personal Services. These positions are requested to prevent and investigate fraud in the Beverage Container Recycling Program.

As with the previous item, in June 2010, the Bureau of State Audits released its findings from an audit of the Beverage Container Recycling Fund (BCRF). The audit found the Department failed to complete a three year audit plan and made findings regarding insufficient management controls. Internal fund audits are important to reduce fraud following reporting by the Department of greater than 100 percent recycling rates (among other issues).

Staff Comments. As with the previous item, staff has been unable to get a clear picture regarding the state of the Beverage Container Recycling Fund. Staff recommends denying the proposal consistent with the previous action.

STAFF RECOMMENDATION: DENY PROPOSAL

3600 – DEPARTMENT OF FISH AND GAME

ISSUE 1: HATCHERY AND INLAND FISHERIES FUND (HIFF)

Governor's Budget. The Department is requesting an augmentation from the Hatchery and Inland Fisheries Fund of $6.8 million in 2011-12 and 2012-13, $3.8 million in 2013-14, and $1.8 million ongoing. This augmentation will be used to fund various activities to increase production of fish in order to achieve the Departments trout production goals established under AB 7 (Statutes of 2005).

Background. AB 7 (Statutes of 2005) required that 33 1/3 percent of the fees derived from the issuance of all sport fishing licenses be used to support programs of the Department of Fish and Game related to the management, maintenance, and capital improvement of California's fish hatcheries, the Heritage and Wild Trout Program (HWTP), and related enforcement activities.

Hatchery operations are completely separate from Heritage and Wild Trout Program activities and objectives. The HWTP's mission is: *"To protect and enhance California's heritage and wild trout resources, while providing high quality wild trout angling experiences."*

The overarching goal of the HWTP is to protect and manage California's wild & heritage trout populations through:

- protection and enhancement of coldwater habitats;
- preparation, publication and implementation of management plans and strategies;
- continued statewide assessment of designated and non-designated trout waters;
- conducting scientific research that will benefit trout management programs;
- conserving and restoring the state's native trout forms; and
- Preserving and enhancing the opportunity for Californians to fish for the state's native and non-native wild trout now and in the future.

<u>The HWTP is the only state program dedicated to the restoration of CA's inland native trout species.</u> It annually receives ~$2 million/year for basic operations. Additional funding would allow the program to expand the reach of its beneficial work despite a current hiring freeze. Priority projects that would be funded include:

- A new field crew dedicated to eradicating non-native fish and plant species from CA's waterways;
- The restoration of Hat Creek, an iconic trout fishery;
- Expanded research on CA's native trout resources to better understand and plan for restoration efforts; and
- Others, consistent with the above program priorities/objectives.

Staff Comments. A number of issues have come up related to hatchery fish in the past year including the impact of hatchery fish on native fish, impacts of endangered species on fish stocking areas, and the impacts of hatcheries on water quality. In addition, previous administrations have reduced budgets for activities that support healthy fisheries, including Timber Harvest Plan review.

The Department has commented that they have not been able to meet production goals established by AB 7. Currently, revenues going into the Hatchery and Inland Fisheries Fund are greater than expenditures and have created a $12 million balance. While the committee may wish to continue to approve individual capital projects (such as those listed in vote-only), the committee may also wish to consider an alternative approach to spending down the balance of the Fund – one that focuses on native/imperiled trout species and improved ecosystems and genetic integrity while at the same time helping the Department achieve its AB 7 fish production goals:

- $1.8 million on-going to maximize fish production at the department's trout hatcheries with budget bill language prioritizing natural and heritage fish production as first priority.

  > "$1.8 million on-going to maximize fish production at the department's trout hatcheries. The department shall prioritize expenditures that further existing objectives related to the restoration of naturally indigenous stocks of trout to their original California source watersheds, consistent with Section 13007 of the Fish and Game Code (AB 7), including but not limited to expenditures to ensure the genetic quality of hatchery-produced fish."

- $1.5 million for Timber Harvest Planning activities that impact fisheries for 2011-12 and 2012-13 including the following budget bill language:

  > "Notwithstanding Section 13007 of the Fish and Game Code (AB 7), one million five hundred thousand dollars ($1,500,000) shall be allocated by the department for Timber Harvest Plan (THP) review required under the California Environmental Quality Act (CEQA) functional equivalent certification to evaluate and mitigate the potential adverse impacts of timber operations on the public trust fish and wildlife resources of the state, including, but not limited to, salmonid fisheries."

- $500,000 per year in 2011-12 and 2012-13 for the Heritage and Wild Trout Program, consistent with the objectives of AB 7, including the following budget bill language:

  > "$500,000 for the department's Heritage and Wild Trout Program to support the identification, restoration and promotion of California's Wild Trout Waters and Heritage Trout Waters, consistent with Section 13007 of the Fish and Game Code (AB 7) and existing program priorities. The department may make grants to or enter into contracts with qualified entities including but not

limited to non-profit organizations if the department determines such grants or contracts necessary for the implementation of this provision.

- $3.0 million one-time per year in 2011-12 and 2012-13 to maximize fish production at the Department's trout hatcheries pursuant to AB 7. Adopt budget bill language (in concept) prioritizing natural and heritage fish production for this item.

  "$3 million to maximize fish production at the Department's trout hatcheries. The department shall prioritize expenditures that further existing objectives related to the restoration of naturally indigenous stocks of trout to their original California source watersheds, consistent with Section 13007 of the Fish and Game Code (AB 7), including but not limited to expenditures to ensure the genetic quality of hatchery-produced fish."

Such an alternative would greatly assist the department's production of hatchery fish, while also putting reasonable emphasis on the importance of restoring California's native fish populations.

STAFF RECOMMENDATION: APPROVE STAFF ALTERNATIVE PROPOSAL

ISSUE 2: VARIOUS AB 7 CAPITAL PROJECTS – VOTE ONLY

The Department has also requested funding under the normal capital outlay process for several specific projects referencing AB 7 as the statutory basis for the request. These proposals were previously denied without prejudice to give the Subcommittee more time to consider the most appropriate way to spend-down the balance in the Hatcheries and Inland Fisheries Fund (HIFF).

1. **Darrah Springs Hatchery Low Head Oxygen System.** The Governor requests $525,000 from the HIFF to increase hatchery water quality by increasing the level of dissolved oxygen in the fish-rearing areas in order to comply with Chapter 689, Statutes of 2009 (AB 7, Cogdill).

2. **American River Hatchery—New Hatchery Building.** The Governor requests $739,000 from HIFF to replace an incubation hatchery building in order to comply with trout production goals of AB 7.

3. **Hot Creek Hatchery.** The Governor requests $158,000 from the HIFF to replace a supply pond cover at Hot Creek Hatchery in order to protect against invasive species.

4. **Black Rock Hatchery—Feed Bins and Catwalk.** The Governor requests $386,000 from HIFF to replace metal feed bins with higher capacity feed bins, a common staircase, and walkway

5. **Ash Creek.** The Governor requests $300,000 in Proposition 99 funding for the construction of Elkins well on the Ash Creek wildlife Area. This project would install one deep well along Elkins Lane at the start of the water system to provide a reliable water sources for approximately 140 acres of managed wetland and enhance an additional 110 acres of natural wetlands.

6. **Hot Creek Hatchery Supply Pond Replacement.** The Governor requests a $158,000 appropriation from the HIFF to replace a supply pond cover at Hot Creek Hatchery in order to protect against invasive species. This proposal is a minor augmentation from this fund, which is supported from fishing license revenues that are dedicated to funding fish hatchery production.

Staff Comments. These specific AB 7 projects conform with the previous proposal on fish hatcheries.

STAFF RECOMMENDATION: APPROVE AS BUDGETED

ISSUE 3: OFFICE OF OIL SPILL PREVENTION AND RESPONSE.

Governor's Budget Proposal: The Governor requests $2.6 million from the Oil Spill Prevention and Administration Fund (OSPAF) to correct a miscalculation in the development of the Department of Fish and Game's (DFG) budget. This proposal would also shift $97,000 from local assistance to state operations to provide the funds needed to continue the Department's core functions related to hazardous material spill prevention and response.

Background: The fund condition statement for the Oil Spill Prevention and Administration Fund inadvertently excluded a repayment of a prior year cash flow loan. Consequently, the fund balance presented was inaccurate.

Staff Comments: This request will restore $2.6 million in Oil Spill Prevention and Administration Fund expenditure authority that was reduced as a result of the incorrect fund balance.

STAFF RECOMMENDATION: APPROVE APRIL FINANCE LETTER

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ISSUE 4: BIG GAME MANAGEMENT ACCOUNT

Governor's Budget. The Department is requesting $1,490,000 to implement SB 1058, Statute of 2010. This proposal would shift authority from existing Fish and Game Preservation Fund subaccounts to the new Big Game Management Account to manage and conserve big game species.

Background. SB 1058 created the Big Game Management Account within the Fish and Game Preservation Fund in an effort to consolidate three existing subaccounts: Deer, Bighorn Sheep, and Wild Pig. Pursuant to the bill, all revenues deposited into the existing subaccounts are to be deposited into the Big Game Management Account beginning January 1, 2011.

Staff Comments. Staff has no concern with this proposal. SB 1058 redirected revenues from the sale of bear, antelope, and elk tags from the non-dedicated Fish and Game Preservation Fund into the Big Game Management Account. DFG would not be able to manage and conserve big game species as directed by SB 1058 without the requested spending authority.

STAFF RECOMMENDATION: APPROVE APRIL FINANCE LETTER

ISSUE 5: SUCTION DREDGING BUDGET

Background: The Department of Fish and Game is responsible for administering Section 5653 of the Fish and Game Code, which requires a permit from DFG to conduct recreational motorized suction dredge mining in state waters. The Department's existing suction dredge mining regulations, which were adopted in 1994, were the subject of a court order in 2006 which found that the regulations could result in environmental impacts harmful to Coho salmon or other fish species listed as threatened or endangered under state or federal law, and ordered DFG to conduct a new environmental impact review and update the regulations as necessary. The Department was ordered by the court to complete the EIR by July of 2008.

After the Department failed to meet that deadline, the court in July 2009 prohibited DFG from issuing any suction dredge mining permits as long as the related litigation was pending. At the same time, the Legislature passed and the Governor signed into law SB 670 (Wiggins, c. 62, Statutes of 2009) on August 6, 2009. SB 670 imposed an immediate moratorium on suction dredge mining until three specified actions occur: 1) DFG completes the court-ordered environmental review of its permitting program; 2) DFG updates the existing regulations governing the program as necessary; and 3)The updated regulations take effect. DFG's draft EIR for suction dredge mining and new proposed revised regulations were released for public comment in February 2011. The draft EIR identifies a number of significant and unmitigated environmental impacts.

DFG has acknowledged in previous years that the current fees for suction dredge mining permits are inadequate to cover the full costs of the program. The current statutory base fee for a permit is $25, which when adjusted for inflation equates to approximately $40. The base fee is $130 if an onsite inspection is required. Nonresident base fees are $100 for a basic permit and $220 for onsite inspection. The Senate policy committee analysis for SB 670 notes that DFG "has previously estimated that the permits cost an average of $450 to process and to cover the costs of the program, which if extrapolated to the approximate 3,000 permits would result in an expenditure of about $1.3 million."

Under the new proposed regulations, DFG proposes to issue up to 4,000 permits. DFG's new estimate of revenue from 4,000 permits and onsite inspection fees is $373,000. If the Department's previous cost estimates are accurate, the program will cost $1.8 million, not counting the additional costs of onsite inspections, potential legal defense costs if anticipated lawsuits challenging the regulations are filed, and costs for SWRCB permitting since the proposed regulations acknowledge that suction dredging in mercury impaired waters will cause significant unmitigated environmental impacts, but do not propose to limit suction dredging in such waters, leaving that problem to the SWRCB. The Department has used 27 DFG employees in the development of the regulations so far. DFG wardens would also be required to enforce the regulations. The gap between the current fees and the costs of the program result in an estimated $2 million subsidy of the program from the Fish and Game Preservation Fund and/or the General Fund.

Staff Recommendation: Approve the following:

(1) Trailer bill language to continue the moratorium on issuance of suction dredge permits for an additional five years, or until such time as new regulations that fully mitigate all identified significant environmental impacts, and a proposed fee structure that will fully cover all program costs, are in place.

(2) Approve Budget Bill Language prohibiting any funding at the Department from being used for Suction Dred regulation, permitting, or other activities.

SALTON SEA RESTORATION – JOINT ISSUE

ISSUE 1: 3600 DEPARTMENT OF FISH AND GAME

Governor's Budget. The Department is requesting a reduction of $17 million Prop 84 expenditure authority to avoid an over allocation of available funds for coastal fishery restoration projects, and a reappropriation of the unencumbered balances of prior year appropriations for the Salton Sea Restoration Program until June 30, 2013.

ISSUE 2: 3860 DEPARTMENT OF WATER RESOURCES REQUEST

Governor's Budget Proposal. The Department is requesting $4.2 million in reimbursement authority for the Salton Sea Restoration Program. The Department of Water Resources (DWR) is under contract with the Department of Fish and Game (DFG) and the Wildlife Conservation Board to support the state's obligations for Salton Sea restoration, mitigation, and monitoring activities as a result of the Colorado River Quantification Settlement Agreement (QSA). This proposal will allow DWR to continue this program through June 30, 2013.

Background. The Department of Fish and Game is requesting a reappropriation of $13 million from the Salton Sea Restoration Fund (including Proposition 84 bond funds) for expenditure on Species Conservation Habitat (SCH) work to enhance fish and bird habitat in the Salton Sea. The reappropriation of $13 million includes the $4.2 million requested in reimbursement authority by DWR. The Subcommittee heard a separate request regarding Salton Sea Restoration on May 4, 2011, which would allocate $4.2 million in reimbursements from DFG to the Department of Water Resources for the same purpose.

Staff Comments. The Subcommittee heard testimony from the public about the urgent need to fund projects on the ground at the Salton Sea and discussed the merit of moving forward on "no regrets" projects before the Salton Sea Council is established and priorities identified. The Committee also heard concerns raised by the LAO about proceeding with projects prior to the establishment of the Council since only $9 million of the Restoration Fund remains unappropriated. DFG and DWR have provided the staff with the following list of projects that would be in jeopardy without this reauthorization:

Department of Water Resources:

- $1.2 million to complete the design and environmental compliance requirement (CEQA/NEPA) for the SCH ponds. Consultants are under contract to complete these tasks. Without the requested funding, the final SCH pond design work would halt and the EIR/S could not be completed. Further, without a certified EIR/S, State and federal permitting cannot be completed and the project cannot be built.

- $3 million for grants to be awarded to local governmental and non-governmental entities for habitat restoration and research consistent with the goals and objectives of the Salton Sea Restoration Act. Stakeholders got this commitment from the Resources Secretary and DFG to help engage qualified stakeholders in the restoration effort at the Sea.

Department of Fish and Game:

- Undertake restoration activities. This would include developing final designs for the SCH project, developing requests for proposals, and awarding contracts to begin on-the-ground work on habitat restoration at the Salton Sea. The on-the-ground work includes pond creation, and water delivery systems development;
- Evaluate air quality mitigation requirements related to the development of SCH;
- Conduct demonstration projects and field studies to test various dust control methods and efficiencies. These could include watering exposed soil with adequate frequency for continued moist soil (at least twice daily and indicated by soil and air conditions), replacing ground cover in disturbed areas as quickly as possible, and limiting vehicle speed for all construction vehicles to 15 miles per hour on any unpaved surface at the site;
- Conduct research to identify site specific factors affecting the dust emissivity of exposed playa. This could include sampling to determine the composition of representative shoreline sediments and the concentrations of ions and minerals in salt mixtures at the Salton Sea, and analyze to predict response of Salton Sea salt crusts and sediments to environmental conditions, such as rainfall, humidity, temperature, and wind; and,
- Conduct air quality monitoring to develop the baseline information needed to evaluate the effects of habitat construction and operation. The goal of the monitoring program would be to observe particulate matter (PM10) problems or incremental increases in toxic air contaminants concentrations associated with the project.

According to DWR and DFG, by 2017 the Salton Sea will likely be too salty to support tilapia, the primary food fish for fish-eating birds. Fish-eating birds are targeted by the SCH project because they are at most immediate risk of population impacts when the Sea can no longer support their food base. Populations of fish-eating birds will collapse. There are numerous special status bird species that move along the Pacific Flyway and are dependent on the Salton Sea for food and reproductive. As the Sea gets saltier and less productive, the SCH ponds will provide oases of food and reproductive opportunity.

"The SCH ponds are intended to provide survival habitat for tilapia until a comprehensive restoration plan for the entire Salton Sea can be recommended, developed, and implemented. The yet-to-be established Salton Sea Restoration Council is charged with providing a restoration plan recommendation to the Legislature by June 2013."

To date, the state has failed to construct a single acre of restoration habitat at the Salton Sea despite the expenditure of millions of dollars of restoration fund money. However, staff concurs that a need for continued funding of restoration efforts exists and should move forward despite the absence of an established Council. But, in the absence of clear priorities set by as-yet-to-be-established Council and after review of the "no regrets" projects provided by the Department, staff recommends a reduced reappropriation.

Staff Recommendation:

1. Approve $17 million reduction for coastal fishery restoration projects;

2. Approve one-time funding of $500,000 to the Natural Resources Agency from the balance of the Salton Sea Restoration Fund to establish the Salton Sea Restoration Council and hire an executive director. Per SB 51 (2010), Fish and Game Code Section 2946, DFG and DWR shall provide staff services using staff currently dedicated to Salton Sea activities.

3. Deny DFG request for reappropriation of $13 million from the Salton Sea Restoration Fund.

4. Approve $4.2 million reimbursement authority to DWR for Salton Sea Restoration, as follows:
    a) Approve $1.2 million in reimbursement authority to DWR to complete the design and environmental compliance requirement (CEQA/NEPA) for the Species Conservation Habitat ponds for the Salton Sea Restoration Program. DWR and DFG should to complete the environmental review and permitting of the SCH project by the end of 2011 and break ground by 2012;
    b) Approve $3 million in reimbursement authority to DWR for grants to be awarded to local governmental and non-governmental entities for on-the-ground work for habitat restoration at the Salton Sea, with priority given to pond creation and water delivery systems development. The agencies should to disburse these monies no later than the end of 2011. Reviews of proposals to the program should be reduced to two review panels from the current four, and should include independent restoration experts and not solely state staff. Criteria for awarding grants should be based on SB 187 (Ducheny) guidelines;

5. DFG shall submit a progress report to the Subcommittee by the end of 2011 documenting actions taken to complete the above objectives. This report should also document agency staff time spent on Salton Sea activities since the inception of the restoration fund, and all associated expenditures from these appropriated funds.

8570 – DEPARTMENT FOOD AND AGRICULTURE (CDFA)

ISSUE 1: IMPLEMENTATION OF THE ADMINISTRATION'S PROPOSAL TO REDUCE CDFA GENERAL FUND

Governor's Budget Proposal: The Governor requests technical adjustments to implement the Administration's proposal to reduce CDFA's General Fund budget by $15 million for 2011-12 fiscal year.

Background: The Legislature approved, in the budget (SB 69) and implemented through Chapter 2, Statutes of 2011 (AB 95), an unallocated reduction of $15 million in the budget and $30 million ongoing. The Department has returned with a proposal for the allocation of the program reduction.

CDFA held a number of stakeholder meetings to help identify the most appropriate way to reduce the Department's General Fund budget. The savings proposed were achieved by utilizing Special Funds, assessments and fee-for-service and reducing program scope, workload, and activities. In addition, this item discontinues General Fund support three programs: Weed Management Area (WMA), Noxious Weed, and Agriculture Security and Emergency Response (ASER). According to the Department, ASER activities will continue through the counties. CDFA states that it will explore alternative funding solutions for WMA and the Noxious Weed Program. However, in the absence of a solution, CDFA weed management activities will be discontinued or substantially reduced. Networks of local weed management areas will need to collaborate to leverage funding from federal and private sources. County agriculture commissioners will need to coordinate and maximize resources to eradicate, contain, or control noxious weeds. Absent a solution, incipient infestations of noxious weeds will become established and spread predominately in Northern California.

Staff Comments: The diversity of the reductions requires several statutory changes, which are included in the Administration's finance letter proposal. While staff acknowledges the critical role of the Weed Management Area program in protecting the state's environment and agriculture from invasive plants, given the state's on-going fiscal crisis, staff reluctantly supports CDFA's proposal.

STAFF RECOMMENDATION: APPROVE APRIL FINANCE LETTER

3790 – DEPARTMENT OF PARKS AND RECREATION

ISSUE 1: BUDGET REDUCTION PLAN FISCAL YEAR 2011-12 THROUGH 2012-13.

Governor's 2011-12 Budget. The budget proposes to reduce Park's budget by $11 million in 2011-12 and growing to $22 million General Fund ongoing beginning in 2012-13. These reductions will be proportionately distributed between field units of the state park system and the State Parks headquarters' functions including administrative and managerial support functions.

Previous Budget Action. The budget reduced the overall Parks budget by $11 million GF and $22 million ongoing starting in 2012-13. The budget approved trailer bill language specifying criteria for reducing the state park system including selecting parks for closure, partial closure, or reduced service and language limiting liability for closed or partially closed parks.

- The Department should update the Subcommittee on its plan for park closures, and what the public should expect to see on July 1, 2011.

ISSUE 2: LIABILITY LANGUAGE CLEANUP

Proposal: Chapter 2, Statutes of 2011 included a provision to relieve liability to the Department of Parks and Recreation for closed or partially closed parks. There was concern that the language was overly-broad. The revised language (see below) narrows the liability to only that needed by the department.

Background: When the Legislature passed the State Budget earlier this year, it included an unprecedented, broad immunity to the state for claims involving closed or partially closed state parks. Given the timing, it was impossible to amend the language at that time. The language presented now as a substitute, and agreed to by both Assembly and Senate leadership, gives the State full protection for liability under the current Government Code Sections without unprecedented reductions in the legal rights of Californians.

Proposed Trailer Bill Language, as agreed to by the Assembly and Senate leadership:

SEC. 25. Section 5007 is added to the Public Resources Code, to read:
5007. (a) The department shall achieve any required budget reductions by closing, partially closing, and reducing services at selected units of the state park system. For purposes of this section, "required budget reductions" means the amount of funds appropriated in the annual Budget Act to the department that is less than the amount necessary to fully operate the 2010 level of 278 units of the state park system. The department shall select the units to be closed based solely on all of the following factors:
(1) The relative statewide significance of each park unit, preserving to the extent possible, parks identified in the department's documents including "Outstanding and Representative Parks," the "California State History Plan," and the "California State Parks Survey of 1928."
(2) The rate of visitation to each unit, to minimize impacts to visitation in the state park system.
(3) (A) The estimated net savings from closing each unit, to maximize savings to the state park system.
(B) For purposes of this subdivision, "net savings" means the estimated costs of operation for the unit less the unit's projected revenues and less the costs of maintaining the unit after it is closed.
(4) The feasibility of physically closing each unit.
(5) The existence of, or potential for, partnerships that can help support each unit, including concessions and both for-profit and nonprofit partners.
(6) Significant operational efficiencies to be gained from closing a unit based on its proximity to other closed units where the units typically share staff and other operating resources.
(7) Significant and costly infrastructure deficiencies affecting key systems at each unit so that continued operation of the unit is less cost effective relative to other units.
(8) Recent or funded infrastructure investments at a unit.
(9) Necessary but unfunded capital investments at a unit.
(10) Deed restrictions and grant requirements applicable to each unit.
(11) The extent to which there are substantial dedicated funds for the support of the unit that are not appropriated from the General Fund.
(b) A public entity or a public employee shall be limited from liability as provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code for injury or damage caused by a condition of public property located in, or injury or damage otherwise occurring in, or arising out of an activity in, a state park system unit that is designated as closed, partially closed, or subject to service reduction by the department pursuant to subdivision (a).This immunity shall apply notwithstanding the fact that the public has access, whether invited or uninvited, to the state park system unit, and notwithstanding that the department may take actions such as patrols, inspections, maintenance, and repairs necessary to protect the state park system unit facilities

and resources from deterioration, damage, or destruction. The immunity provided by this subdivision does not limit any other immunity or immunities available to a public entity or a public employee.

Staff Comments: These changes are necessary because the liability immunity is overly broad and unprecedented. There is no exclusion for gross negligence or intentional conduct. Further, it covers all closed parks, even those partially closed. For example, what if you had a major park that had a small portion closed and the injury or death occurred on a non-closed portion completely unrelated to the closure? The party would be denied his or her day in court under this broad language.

STAFF RECOMMENDATION: APPROVE PROPOSED TRAILER BILL LANGUAGE

ISSUE 3: CALIFORNIA STATE RAILROAD MUSEUM

Governor's Budget Proposal: The Governor requests to reappropriate $11.6 million by extending the encumbrance availability and liquidation period by one year for the Railroad Technology Museum Grant, as appropriated by AB 2945, Statute of 2008.

Backgorund: AB 2945 provided $11.6 million for the development of a proposed railroad technology museum. The funding will allow the California State Railroad Museum Foundation (Foundation) to acquire two former industrial buildings (known as the Boiler Shop) at the Downtown Sacramento Rail yards. After the proposed acquisition, the Foundation would renovate the buildings to house the proposed Railroad Technology Museum, consistent with the master plan of the California State Railroad Museum.

Staff Comments: Due to a change of ownership of the industrial buildings, the Foundation was unable to complete the acquisition as scheduled. However, Parks expects the acquisition to be completed by June 30, 2011, and this extension request will ensure the funds are available to complete the acquisition in case of further delays.

STAFF RECOMMENDATION: APPROVE APRIL FINANCE LETTER