

## AGENDA

### ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

**Assemblymember Ira Ruskin, Chair**

**WEDNESDAY, APRIL 9, 2008  
STATE CAPITOL, ROOM 447  
9:00A.M.**

#### Hearing Items

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## CONSENT CALENDAR

ITEM	DEPARTMENT	SUMMARY
3460	Col. River Board	<b>No BCPs. Approve Board's Budget</b>
3540	Forestry and Fire Prevention	<b>Fire and Life Safety Staff Augmentation:</b> \$1.5 million (reimbursements) to fund upon receipt of funds from Corrections, inspections of new facilities.
3540	Forestry and Fire Prevention	<b>State Fire Training Program Adjustment:</b> \$647,000 (CFAT) and 4pys for statutory required fire training courses.
3540	Forestry and Fire Prevention	<b>Arson and Bomb Unit:</b> \$1.2 million (Fireworks Enforcement Fund) to increase illegal firework disposal opportunities.
3540	Forestry and Fire Prevention	<b>Proposition 40 Agency Accounting Workload:</b> Reimbursement authority to contract with the Resources Agency to conduct accounting workload for the agency.
3600	Department of Fish and Game	<b>Management of DFG Lands:</b> \$470,000 (Proposition 12) to provide incentives to private landowners for management activities to improve habitat.
3600	Department of Fish and Game	<b>Improving Public Services:</b> \$835,000 (Preservation Fund) to environmental review and permitting, Critical infrastructure and landowner incentives
3600	Department of Fish and Game	<b>Wildlife Conservation:</b> \$507,000 (Preservation Fund) to fund various species specific restoration activities with dedicated funds.
3600	Department of Fish and Game	<b>Fishery Resource Assessment, Recovery, and Restoration:</b> Six positions (Federal Trust Fund) to support, monitor, and implement resource work of the California Recreational Fisheries Survey.
3600	Department of Fish and Game	<b>Salton Sea Restoration:</b> \$10.8 million (Prop 84) in 2008-9 and \$296K ongoing for ongoing restoration activities at the Salton Sea.
3600	Department of Fish and Game	<b>Federal and State Audit Compliance:</b> \$141,000 (Preservation Fund) for 2 temporary help positions to conduct a statewide property asset inventory.
3600	Department of Fish and Game	<b>Enhancing Communications, Education and Outreach:</b> \$120,000 (Preservation Funds) to provide live streaming of Commission meetings.
3600	Department of Fish and Game	<b>IT Security Improvements:</b> 9 positions (redirected funds) for ongoing IT support functions.
3600	Department of Fish and Game	<b>Reimbursement/Federal Expen. Authority Technical Correction.</b> Technical changes to expenditure authority levels.
3600	Department of Fish and Game	<b>Technical Adjustment to salmon recovery funding:</b> A technical redirection of General Funds provided in 2006-07 with programs to support ongoing programs
3600	Department of Fish and Game	<b>Quagga Mussel Funding Shift:</b> \$2.4 million (General Fund) shift to the Department of Food and Agriculture to support their border station activities.
3600	Department of Fish and Game	<b>Administrative Augmentation.</b> The Department is requesting 1 position its human resources branch to manage increased personnel workload.
3600	Department of Fish and Game	<b>AB 1683: Quagga Mussels:</b> \$428,000 and 4 positions to implement AB 1683 which requires the DFG to work with local water agencies to develop Quagga mussel prevention plans.
3680	Boating and Waterways	<b>Public Small Craft Harbor Loans:</b> \$22.3 million (Harbors and Watercraft Rev. Fund) for public loans for new and existing marina facilities.
3680	Boating and Waterways	<b>Launching Facility Grants:</b> \$3.7 million (HWRF) for Launching facility grants.
3680	Boating and Waterways	<b>Private Loans:</b> \$5 million (HWRF) for Private marina construction loans.

3680	Boating and Waterways	<b>Abandoned Watercraft Abatement Fund:</b> \$500K transfer from the HWRF to the AWAFF to remove hazards to recreational boaters.
3680	Boating and Waterways	<b>Clean and Green Program:</b> \$93,000 redirection from OE&E to Salaries and Wages to fund an ongoing position for the Clean and Green Campaign with the Coastal Commission. This was previously a contracted position.
3680	Boating and Waterways	<b>SANDAG Regional Beach San Project:</b> \$6.5 million transfer from the HWRF to the Public Beach Restoration Fund to restore 12 beaches in San Diego County.
3680	Boating and Waterways	<b>Permanent Federal Grant Increase Adjustment:</b> \$2.4 million ongoing augmentation from increased federal grants.

**3340 – CALIFORNIA CONSERVATION CORPS**

**ISSUE 1: BUDGET BALANCING REDUCTION**

**Governor's Budget.** The Governor's budget is proposing a reduction of \$3.76 million from the California Conservation Corps budget. As shown in Figure 1 below, the majority of this cut will be achieved through reductions to the corpsmember work week and through the closure of 3 facilities and the elimination of 75 corpsmember positions. Additionally, the Administration will be reducing General Fund allocations for Local Conservation Corps and increasing the monthly maintenance fee charged to members from \$300 to \$325 per month.

**LAO Recommendation.** The LAO is recommending, as shown in Figure 1, that the Legislature adopt some of the reductions but reject the proposed cuts to the Corpsmember's workweek and use existing special fund balances and revenue from increased contracting rates to avoid the closure of three satellite offices and elimination of 70 positions. In their analysis, they argue that the General Fund savings achieved through the proposed cuts are outweighed by the programmatic costs that these cuts would have on the CCC's capacity to fulfill their statutory mandate to train and education California youth.

**Figure 1**

**CCC Budget Balancing Reductions**

<b>Reduction</b>	<b>Savings</b>
1. Reduce the Corpsmember's work week from 40 hours to 36 hours	\$2.02 million
<b>LAO Recommendation:</b> Reject	
2. Increase the monthly maintenance fee assessed to residential Corpsmember from \$300 to \$325	\$165,000
<b>LAO Recommendation:</b> Approve	
3. Eliminate 50 percent of General Fund funding of Local Conservation Corps	\$337,000
<b>LAO Recommendation:</b> Approve	
4. Eliminate three non residential satellites located in, Sacramento, Los Angeles, and Arcata. 75 full-time equivalent CMs will no longer be served	\$1.03 million
<b>LAO Recommendation:</b> Approve reduction but backfill with Collins Dugan Fund which receives revenues from fee-for-service work provided by the CCC. In the budget year this could be achieved with existing balances but in out-years, rates would have to be increased to sustain funding levels.	
5. Reduce CCC Headquarters Expenses	\$207,000
<b>LAO Recommendation:</b> Approve	
<b>Total Reduction</b>	<b>\$3.76 million</b>

**Staff Comments.** In the special session, the Subcommittee expressed strong opposition to, and ultimately rejected, the proposed cuts to corpsmember facilities and work hours. Consistent with this action, staff recommends that the Subcommittee adopt the LAO's recommendation to: 1) reject the \$2 million cuts to corpsmembers workweek; and 2) use Collins Dugan Account special funds to backfill the \$1.03 million needed to keep open the three CCC facilities and not eliminate the 70 corpsmember positions.

Additionally, the Subcommittee may wish to consider cutting more from the General Fund support that is provided annually to Local Conservation Corps in order to offset the proposed increases in monthly maintenance fees charged to corpsmembers by the CCC. After the Governor's proposed cuts, \$337,000 in General Fund would remain in the Core's base allocation to 12 statewide local non profit local conservation corps. The CCC reports that this funding equates to roughly \$56,000 annually per local corps and accounts for .5% to .3% of the total Local Corps budgets. Staff understands that Local Conservation Corps depend on this funding as a flexible funding source for administration costs since a majority of the funding that Local Corps receive is restricted for specific purposes like capital outlay projects or program specific purposes.

**Staff Recommendation: Approve the LAO recommendation to:**

- **Increase appropriation from the Collins–Dugan Account by \$1 million to offset the same General fund reduction, as recommended by the LAO**
- **Reject \$2 million General Fund reduction in the budget year, as recommended by the LAO**

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**ISSUE 2: PROPOSITION 84: STATE/LOCAL CORPS FUNDING**

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**Governor's Budget.** The Governor's budget is requesting a total of \$33.3 million (Proposition 84) in 2008-09 and \$4 million in 2009-10 to fund resource conservation and restoration projects, and for facilities acquisition, development, restoration, and rehabilitation.

**Background.** Proposition 84 allocated \$45 million to the California Conservation Corps and Local Conservation Corps as follows:

- \$12.5 million in grants to Local Corps for projects to improve public safety and improve/restore watersheds, including regional and community fuel load reduction projects on public lands, and stream and river restoration projects.
- \$12.5 to the CCC for projects to improve public safety and improve/restore watersheds, including regional and community fuel load reduction projects on public lands, and stream and river restoration projects.
- \$20 million for grants to local Conservation Corps programs, and for local resource conservation activities.

**Staff Comments.** In last year's budget, \$1.5 million was approved to the CCC to begin setting up the Proposition 84 competitive grant program. This proposal would represent the first year of Proposition 84 local assistance appropriations. There has been discussion related to the potential use of these bond funds to backfill cuts proposed by the Governor. Because these cuts proposed by Governor are not related to capital expenditures, the LAO raised concerns about using bond funds to backfill. Staff share's LAO's concerns that the Proposition 84 funds should not be used for general administration of the CCC's non capital or local assistance programs.

**Staff Recommendation: Approve as budgeted**

## 3540 – DEPARTMENT OF FORESTRY AND FIRE PROTECTION

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### ISSUE 1: LAO RECOMMENDATION: PARTIAL REJECTION OF BUDGET BALANCING REDUCTIONS

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**Governor's Budget.** The budget proposes a number of General Fund budget-balancing reductions for which no alternative funding source is proposed. These proposed reductions—totaling about \$8 million—include \$3 million in resource management activities, \$4.8 million in administration, and \$315,000 in the Office of the State Fire Marshal.

The LAO recommends that the Legislature offset the component of the proposed General Fund budget-balancing reduction totaling \$870,000 that relates to timber harvest plan (THP) review and enforcement with new fees levied on timber operators (as discussed in Issue 4 of the agenda).

Additionally, the LAO recommends approval of the remaining General Fund budget-balancing reductions, with the following exceptions, totaling \$2.1 million:

- Reject the Administration's proposal to reduce funding for vegetation management (\$1.1 million). These funds are used by the department to plan for and carry out the removal of vegetation in fire-prone areas. Reducing fire prevention activities, such as this, may increase the state's long-term fire protection costs.
- Reject the Administration's proposal to reduce funding for hazardous material cleanup (\$165,000). These funds are used to clean up contamination caused by leaking fuel storage tanks and other toxic materials. Under state law, the Department does not have discretion whether or not to undertake these cleanups. The LAO notes that the Administration's budget proposal does not include a proposal to exempt CalFire from the state's water quality laws requiring the cleanup of this type of contamination. Thus, if the Department fails to adequately clean up contaminated sites, it could be subject to fines and/or penalties.
- Reject certain proposed cuts in the Department's administrative budget. Specifically, the LAO recommends the Legislature reject the reduction for accounting and audits (\$600,000) and contracts and purchasing (\$240,000). One of the key activities in these areas is fiscal oversight of the E-Fund. Over the last five years, average E-Fund expenditures from the General Fund have been about \$120 million per year. The LAO finds that these proposed reductions will impede the Department's ability to adequately oversee this large and un-appropriated source of funds, thereby increasing the likelihood that inappropriate, non-emergency costs are charged to the E-Fund, increasing the General Fund cost of fire protection.

While their proposal to reject this subset of the proposed budget-balancing reductions will increase the Department's General Fund budget above the Governor's proposal by \$2.1 million, it would be backfilled by the LAO's proposals to reduce the Department's General Fund budget through new fees for fire protection (discussed below) and for THP review.

**STAFF RECOMMENDATION: Hold open**

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**ISSUE 2: LAO RECOMMENDATION: STATE RESPONSIBILITY AREA FIRE FEES**

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**Increasing Cost of Fire Protection.** The Department's fire protection budget is divided into baseline fire protection and emergency expenditures. The baseline budget includes normal day-to-day costs, such as salaries and benefits for employees, the costs of operating facilities, and other regular firefighting costs. The budget also includes funding for the E-Fund which is used to pay for costs of fire protection beyond budgeted expenditures, such as overtime or special equipment rentals. The E-Fund expenditures are typically associated with large wildland fires that vary considerably in number and severity year-to-year. Actual fire protection expenditures (including E-Fund) in 1997-98 were \$408 million. In the current year, the Department estimates total fire protection expenditures (including E-Fund expenditures beyond the budget appropriation) will be over \$1 billion—a 150 percent increase. (Excluding E-Fund expenditures—the most volatile portion of the Department's fire protection budget—costs have nonetheless still increased by 120 percent over this period.)

**LAO Recommended Fee Proposal.** The LAO recommends that the Legislature create a new fee on SRA lands and use a portion of the revenues to offset the proposed General Fund reduction for the Department's fire protection program—thus avoiding the need to close facilities in the budget year. Specifically, the LAO recommends that the Legislature enact a fee assessed on property owners in SRA that would pay for 50 percent of the state's General Fund baseline cost for fire protection. The LAO recommends that E-Fund costs be excluded from this baseline, as E-Fund costs are often caused by large fire events that are of statewide significance. Based on the 2007-08 enacted budget, fee revenues from the LAO's proposed fee would be about \$265 million. The Legislature may wish to adopt an SRA fee along these lines, but one that reflects a different level of cost sharing between the state and the beneficiaries. Whatever the cost sharing level is, the LAO recommends that the Legislature design the fee such that it recovers a specified percentage of the state's General Fund baseline fire protection budget. This will ensure that the fee payers continue to pay an equitable share of the state's General Fund cost for fire protection over time.

**Staff Comments.** Staff supports the concept of a fee placed on those that benefit most from the State Wildfire protection spending. Details, however, of how this fee is structured are important considering that in past years when the Legislature has attempted to assign such a fee, it was blocked in the courts from collecting it because of conflicts at the local level. At the hearing, when the LAO presents this issue, it should be prepared to discuss how potential trailer bill language should be structured to ensure that such a fee doesn't face legal hurdles in the future. Additionally, because this fee would have to be included into local property tax bills in order to collect funds in the budget year, the LAO should comment on when this proposal would need to be adopted in order to score identified savings.

**STAFF RECOMMENDATION: Hold Open**



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**ISSUE 3: SOUTHERN CALIFORNIA WILDFIRE ACTION PLAN RECOMMENDATIONS**

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**Governor's Budget.** The Governor's budget is proposing an augmentation of \$33.1 million from the Insurance fund to support the following three proposals:

- **"4-0" Vehicle Staffing/\$28.0 million** – The proposal would increase staffing requirements from 3 fire fighters to 4. The Department feels that this proposal would help the Department provide higher levels of statewide fire protection services and help them with administrative issues related to sudden surges in staff needs during larger fires. Over the last few years, the Administration has used Executive Orders to increase staffing on an as-needed-basis; this proposal would make it mandatory statewide, year-round.
- **Automatic Vehicle Locators/\$4.2 million** – Proposal would install GPS locators on all Department vehicles and aircrafts to allow for real time location information at all times.
- **Helicopter Replacements/no cost in budget year, \$26 million per year thereafter.** Proposal would replace the Department's fleet of Vietnam era refurbished "Super-Huey" helicopters. While the proposal would not require an expenditure of funds in the current year, it would move the procurement process forward.

**Insurance Fee.** The Administration is proposing to fund this proposal and other fire protection BCPs for the Office of Emergency Services and the Military Department with \$44.7 million in new revenues generated from a 1.25% surcharge on property insurance premiums.

**LAO Recommendation.** The LAO is recommending that the Legislature: 1) Reject the proposed "4-0" staffing request as they feel the Department should continue using this staffing augmentation on an as-needed basis; approved through the Executive Order process; 2) Approve the Automatic Vehicle Locators proposal; 3) Hold off on action for the Helicopter Replacement until next year because the Administration is not proposing to actually expend any funding until the end of the budget year and the Department can proceed through the initial procurement process without an appropriation.

With regards to the funding source for this proposal, the LAO recommends that the Legislature reject the insurance surcharge because there is not a strong enough nexus between the fee paying public (all statewide property owners) and those that benefit from improved wildfire services. The LAO thus recommends using revenue from a SRA fee, discussed above, to fund these proposal and backfill other cuts for the Department.

**Staff Comments.** Staff understands that the Administration is also looking at the issue of fee-nexus in regards to the original proposal. At the hearing, the Subcommittee may want to discuss whether expansion of the Insurance Fee proposal to include other statewide natural disaster response programs for floods, earthquakes, etc. would increase the statewide benefit of the fee and resolve fee-nexus concerns.

**STAFF RECOMMENDATION: Hold Open until appropriate funding source is identified.**

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**ISSUE 4: LAO RECOMMENDATION: TIMBER HARVEST PLAN FEES**

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**Timber Harvest Plans.** Under the state Forest Practice Act, logging operations must comply with a Timber Harvest Plan (THP). The THP describes the proposed logging methods and projected production from an area, as well as any environmental mitigation measures that the timber harvesters will undertake to prevent or offset damage to natural resources, such as fish or wildlife. The Department of Forestry and Fire Protection has the statutory responsibility to review these plans, approve or deny them, and to monitor compliance with the plan during logging operations. In addition to the Department's review of THPs, the Department of Conservation, the State Water Resources Control Board, and the Department of Fish and Game (DFG) also participate in the review and enforcement of THPs under their own statutory authorities. Under current statute, there is no THP review fee in place to pay for the general cost of reviewing or monitoring compliance with THPs. (However, there is a fee in place that pays for a small portion of DFG's cost for THP review.)

**LAO Recommendation.** The LAO recommends the enactment of legislation establishing a Timber Harvest Plan review fee that would generate revenues sufficient to pay for the total cost of THP review in all relevant agencies. Timber harvesters benefit from the review and approval of THPs—required under statute—because the approval of a THP allows timber harvesters to begin revenue-generating timber harvesting. Thus, the LAO believes it is appropriate that timber harvesters pay the full cost of reviewing and enforcing THPs.

The LAO recommends the Legislature create a new THP fee in statute, to be assessed on the value of timber harvested under each THP. The fee should be set at a level such that total fee revenues are equivalent to the state's cost of THP review and enforcement as well as BOE's administrative costs. The LAO also recommends the Legislature give BOE the authority to adjust the fee level such that it continues to fully cover program costs, as the market value of timber (and thus the amount of revenues raised by the fee) fluctuates. The fee could be collected by the State Board of Equalization (BOE), which already collects a tax on timber yield.

**Staff Comment.** Staff has strong concerns regarding proposed statewide cuts to statewide Timber Harvest Review programs. For the Department, 10 forest practice and forestry assistant positions are proposed for elimination which would directly affect the Department's ability to process THPs. The revenue proposed by the LAO's proposal could be used to offset these, and other difficult cuts in the Resources Agency. The timber industry has raised concerns with staff over the costs of the increased THP fee. It is figured that there are roughly 400-500 THP are processed annually; the LAO's proposal would place a fee on each THP to cover the entire cost of THP review (\$24 million in the budget year). Spread evenly amongst THPs, this would equate to an increase of approximately \$60,000 per THP. Staff notes that this number would vary greatly between each proposal as the LAO's THP fee would be allocated on total timber value per THP basis, rather than equally among all submitted THPs.

**STAFF RECOMMENDATION: Hold Open**

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**ISSUE 5: BATTALION CHIEF STAFFING**

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**Governor's Budget.** The Governor's Budget proposes \$2,263,000 (\$926,000 on-going) from General Fund for 28 PY for the Battalion Chief Classification. Because actual costs for the positions are coming from existing resources, the requested General Fund will be used for equipment purchases (vehicles, computers, desks, etc.) for the increased number of positions.

**Background.** Prior to July 1, 2006, the Battalion Chief (BC) classification earned more with overtime than the management position Unit Chief. Thus there were few BCs willing to promote into the levels of management. As the workforce aged, a number of managers at the Unit Chief level had retired, leaving a number of vacancies. The Department of Personnel Administration and CALFIRE reached an agreement to address the inversion issue within CALFIRE, and the managers began to again earn more than the BCs.

Additionally, on July 1, 2006, the Bargaining Unit 8 contract changed the working hours for the BC classification from 84 to 72 hours per week. However, the incumbent BCs employed prior to July 1, 2006 retained the 84-hour work week.

As promotions and retirements take place, more BC positions are converting to 72-hour work weeks. Thus the Department is experiencing a shortage of BC positions.

**Missing Report.** On January 10 of each year, CALFIRE must provide a report to the Legislature regarding the Department's increased fire prevention activities in state responsibility areas and outside state responsibility areas. This report has not been received for 2008.

**STAFF RECOMMENDATION:** Staff recommends that the Subcommittee hold this item open until the missing report is received.

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**ISSUE 6: GENERAL FEE/COST INCREASES**

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**Governor's Budget.** The Governor's budget is requesting \$2.2 million (General Fund) for the following fee and cost increases

**Department of General Services Telecommunications Fee and Charges** – DGS is proposing fee increases that total \$903,000 on their services to manage the Department's major statewide communications systems.

**Department of General Service Asset Management Fee** – In 2006-07, DGS instituted a fleet asset management fee to cover the costs of the office of Fleet and Asset management. This fee is allocated on a per vehicle basis. Previously, the Department had authority to manage a majority of their fleet and was able to avoid most of this fee. Recently, DGS eliminated the Department's authority to manage its fire engine fleet, regaining control of the fleet and allowing a new fee structure of \$86 to be levied on all of the Department's 2,572 vehicles.

**Increase Cost of Fuel** – The Department reports that costs of fuel for vehicles and aircraft have increased by \$1.349 million. This cost is offset by \$344,000 due to a recently approved price increase of 2.4 percent.

**California Building Standards Commission Fee** – The Department is required to pay fees to support the Commission because it adopts building standards. This fee has increased from \$142,000 to \$398,000.

**Staff Comments.** Staff agrees with the Department that these fees are non-discretionary. Staff notes concern, however, that these fees which are being increased by other state agencies are having General Fund impacts that could be used to avoid other proposed reductions.

**STAFF RECOMMENDATION: Approve as budgeted**

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**ISSUE 7: STATEWIDE FIRE SUPPRESSION COST RECOVERY UNIT**

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**Governor's Budget.** The Governor's budget proposes \$2,475,000 from General Fund for 14 positions to establish a Statewide Fire Suppression Cost-Recovery Unit.

**Background.** CALFIRE routinely investigates the causes of fires. However, to collect enough evidence to stand in court takes a great deal more effort than simply determining that the fire was caused by arson. It can take 3,000 hours of investigation and litigation for each cost-collection case. Currently CALFIRE redirects internal resources to cost-recovery efforts. Between 2001 and 2006 the CALFIRE cost-recovery team collected \$16.8 million from 34 cases, with an average annual collection of \$2.8 million. The proposed cost-recovery unit would develop procedures and policies for cost-recovery investigations.

**Cost Recovery.** The Department estimates that the proposed cost-recovery unit would earn approximately \$12.5 million for the General Fund.

**Staff Comments.** The Department is requesting the establishment of a new program to investigate the causes of and pursue cost recovery for Wildland fires that the state has incurred costs to abate. The Department reports that in order to pursue these activities in the past, it has used existing resources and staff redirections to work on larger cases facing the state. The Department feels that its current use of existing staff and retired annuitants does not provide a stable workforce is able to be fully trained and focused for this effort.

Staff would like clarification with how this program would coordinate, overlap or even duplicate similar efforts at the local and federal level. On a fiscal basis, because this proposal is General Fund support for a new program, staff recommends that it be held open

**STAFF RECOMMENDATION: Hold Open**

## 3600 – DEPARTMENT OF FISH AND GAME

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### ISSUE 1: COURT ORDERED SUCTION DREDGE PROGRAM REVIEW

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**Governor's Budget.** The Governor's budget proposes \$1 million General Fund for 2008-09 and \$500,000 for 2009-10 to complete a court ordered environmental review of the Department's Suction Dredging Program pursuant to the California Environmental Quality Act.

**Background.** Suction Dredging is the practice of vacuuming river or lake bottoms for gold. In 1994 the Department of Fish and Game (DFG) adopted regulations to implement the suction dredge program, as required by statute. Since that time, the DFG and the National Marine Fisheries Service have listed ten fish species as threatened or endangered.

In 2005, the Karuk Tribe of California filed a complaint for declaratory relief against DFG in Alameda County Superior Court alleging DFG's issuance of suction dredge permits in the Klamath, Scott, and Salmon River watersheds violated the California Environmental Quality Act (CEQA) because of the potential for suction dredge mining in these watersheds to result in significant impacts to the newly listed Coho salmon.

On December 20, 2006, the Alameda County Superior Court ordered DFG by June 2008 to "...conduct a further environmental review pursuant to CEQA of its suction dredge mining regulation and to implement, if necessary, via rulemaking, mitigation measures to protect the Coho salmon and/or other special status fish species..." The Court found that DFG has a legal obligation to review the environmental effects of suction dredge mining on Coho salmon and other fish species of special concern.

**Current Fee Structure.** Annually, DFG processes about 300 permits per year for Suction Dredge Gold Mining. Currently, the Department charges a fee of \$50 for permit, generating total revenues of about \$150,000. Staff understands that it will cost the Department about \$1.26 million to conduct the EIR, administer and enforce this program in 2008-09.

**Staff Comments.** The Subcommittee may wish to consider raising the Suction Dredge Gold Mining permit fee by an amount that would generate adequate revenue to support more or all of the costs to administer and operate this program. Suction dredge mining poses significant risks to sensitive aquatic and riparian that provide habitat for many State and Federal listed endangered species. Increased revenues to the program would help improve ongoing enforcement of permitted, and non-permitted, mining activities – without which, the State has little control over how this practice is impacting the public trust.

Additionally, staff has concerns that while DFG is completing the EIR of the program, the Department's deficiencies in program enforcement will allow further potential degradation of statewide anadromous fish habitat. Considering the crisis the state is facing with salmon populations, the Subcommittee should discuss potential interim measures such as moratoriums on mining that might be taken to protect habitat from dredge mining.

**STAFF RECOMMENDATION:** Approve trailer bill language to increase suction dredging fees to generate enough revenue to support ongoing costs for the program.

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**ISSUE 2: CALFED: ECOSYSTEM RESTORATION PROGRAM**

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**Governor's Budget.** The Governor's budget requests \$21 million in Proposition 84 bond funds and 17 permanent positions for the CALFED Ecosystem Restoration Program (ERP), which is implemented by DFG. These funds would support the following activities:

- ***Dutch Slough Tidal Marsh Restoration (\$5.9 Million)***—Continuing restoration of an area of tidal marsh, to improve water quality and fish habitat.
- ***Miens Landing Tidal Marsh Restoration (\$1 Million)***—Continuing restoration of an area of tidal marsh, to improve water quality and fish habitat.
- ***M&T/Llano Seco Fish Screen (\$12 Million)***—Modifications to a specific Sacramento River bank near Chico to prevent sediment buildup over an existing fish screen that prevents salmon from being pulled into water supply systems.
- ***Performance Measures (\$824,000)***—Efforts to develop performance measures that will ultimately be used to track CALFED ERP project successes and failures.
- ***Constant Fractional Marking for Central Valley Chinook Salmon (\$1.1 Million)***—Collection of data on salmon in Central Valley rivers and in the Pacific Ocean.
- ***U.S. Fish and Wildlife Invasive Species Program (\$200,000)***—State support for a federal program to prevent invasive species from becoming established in the Delta.

**LAO Recommendation:** The LAO is recommending that the Legislature reject the Dutch Slough Tidal Marsh Restoration and the Miens Landing Tidal Marsh Restoration proposals in the budget year. The LAO feels that these proposals should be delayed until the Delta Vision process is complete to give the Legislature an opportunity to consider the long-term uses and configurations of the Delta as both an ecosystem and a water supply system. The LAO believes it would be premature to fund several of the proposed restoration projects before those decisions are made—since fundamental changes to the Delta may make the proposed projects unsustainable in the long term. In addition the “End of Stage One Report” found that in-Delta ERP projects over the last seven years have made low levels of progress—as evidenced by the dramatic decline in open water fish species such as Delta smelt. Until a comprehensive system of performance measures are developed, the LAO feels it would be fiscally imprudent to continue to fund restoration projects whose benefits are uncertain and will not be verifiable.

Additionally, the LAO recommends the Legislature reject the proposed M&T/Llano Seco Fish Screen project because of concerns that the project would not directly benefited fish populations *in* the Delta and possibly could be funded by non state beneficiaries.

**Staff Comments.** At the hearing, the Administration should be prepared to respond to: What process is used to identify potential ERP projects? Who is involved in that process? How are they linked to the Delta Vision and Bay Delta Conservation Plan?

Staff also notes that the Department has requested a reappropriation in an April 1 Finance letter for some of the same projects requesting new funding in this proposal. Staff recommends the item stay open to give staff further time to review this new proposal.

**Staff Recommendation: Hold Open**

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**ISSUE 3: PROPOSITION 84: ANADROMOUS FISH MANAGEMENT**

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**Governor's Budget.** The Governor's budget proposes \$10.8 million (Proposition 84) for grant funds and eight permanent and six temporary positions to support the Coastal Salmonid Monitoring Plan Implementation, Coho Recovery Plan Implementation, and Coastal Steelhead and Chinook Recovery. Grant funds will be used to match federal anadromous restoration grants.

**Background.** The Department of Fish and Game (DFG) Anadromous fish management has three components: Coastal Salmonid Monitoring Plan, the Coho Recovery Plan Implementation, and Coastal Steelhead and Chinook Recovery.

*Coastal Salmonid Monitoring Plan.* The State of California does not have in place a coast-wide program to monitor the status and trend of salmon and steelhead populations. The DFG and the National Marine Fisheries Service have partnered on the development of the California Coastal Salmonid Monitoring Plan to monitor Anadromous fishes on the entire coast of California. The emphasis of the plan is to gather the data needed to manage fishing and hatcheries, and to de-list the federal and state-listed species. The six temporary staff would be used to collect data in collaboration with Universities, Tribes, Counties, and Watershed groups.

*Coho Recovery Plan Implementation.* The DFG adopted a Coho Recovery Strategy in 2004 that sets forth detailed actions to recover the species to the point of de-listing. However, no funding has been provided for implementation. Two positions would be added to this program. This proposal would decrease the Coho salmon recovery period from 300 years to 50 years.

*Coastal Steelhead and Chinook Recovery.* The DFG approved a Steelhead Restoration and Management Plan in 1996, but no funding has been provided for the implementation of this plan. Nearly all salmon and steelhead runs on the coast are now listed as threatened or endangered.

**Staff Comments.** Staff has no concerns with the allocation of these bond funds for this grant program. In the budget year, changes in the federal grant program will potentially bring more federal funds to the state for this program than in prior years.

Staff also notes that this program is appropriated \$4.6 million in General Funds annually for grants and program support. Proposition 84 allocates a total of \$45 million for this program that is schedule to be spent over four years. As an action to save General Fund, the Subcommittee could increase the appropriation from Proposition 84 on a limited term basis by up to \$4.6 million and use the savings to fund other cuts in the DFG budget. Staff recommends that at this time, the Subcommittee approve this proposal as budgeted but look at this option to redirect General Fund for other proposed cuts to DFG programs later and potentially take a subsequent action amongst a comprehensive Resource funding plan.

**Staff Recommendation: Approve as budgeted.**



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**ISSUE 4: OIL SPILL PREVENTION PROGRAM**

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**Governor's Budget.** The Governor's budget is requesting an augmentation \$250,000 from the Oil Spill Prevention Administration Fund (OSPAF) to fully fund the operation of the Physical Oceanographic Real Time System (PORTS) by the Marine Exchange for the purpose of helping recreational boaters, ferry boats, merchant shipping and other users navigate safely through the bay. Currently, the Department provides \$126,000 per year in local assistance to the Exchange for PORTS operation with other funding coming from the Exchange and the Department of Boating and Waterways. This proposal would provide full funding from the Department and allow the Department to use local assistance funds previously dedicated to PORTS for other oil spill related grant programs.

**April 1 Finance Letter.** In an April 1 Finance Letter, the Department is requesting a one-time augmentation from OSPAF of \$230,000 and ongoing funding of \$70,000 to allow the Marine Exchange expand the PORTS program with additional marine sensors that will be placed in areas that are not currently monitored by the system.

**Oil Spill Response Grants.** Additionally in the April 1 Finance Letter, the Department is requesting two items: 1) An augmentation of \$650,000 in local assistance grant funds to provide grants to local governments to purchase oil spill response equipment to minimize the adverse effects of future oil spills. These grants will be in the amount of \$25,000 to any local government entity adjacent to marine waters (26 counties) to purchase response equipment that can be pre positioned throughout the state; and 2) \$104,000 for one two-year limited term position to oversee the Oil Spill Response Grant Program and to provide training to the local governments on how to use the oil spill response equipment.

**Background.** PORTS is a twenty four hour a day system that uses an array of measuring instruments, cable, radio, and telephone systems to measure the currents, depth, and wind in the San Francisco and Suisun Bays. Measurements are taken every six minutes and are available by phone or internet to users of the bay.

**Staff Comments.** Since the crash of the Cosco Busan freighter on November 7<sup>th</sup> last year, there has been strong interest from the Legislature for the Department to improve its statewide Oil Spill Response program and increase funding provided to local agencies for their response programs. Over the last three years, the Department has maintained sizable fund balances in the OSPAF – when the budget was released, the projected 2008-09 fund balance was \$15.1 million (down from \$18.7 in 2006-07). Combined, the Department is requesting a total of \$1.13 million in new funding from the OSPAF for the Oil Spill Response Program. Staff supports these proposals as they are good step forward for the program but has concerns that they might not be an aggressive enough improvement of S.F. Bay protection. While the impacts of the Cosco Busan incident were substantial (50,000 gallons of fuel oil spilled and more than 2,000 birds killed) it was small in comparison to what could happen if a larger freighter or tanker were to have a more severe accident. At the hearing, the Department should be prepared to discuss with the Subcommittee how these proposals provide an adequate response to program deficiencies highlighted by the Cosco Busan incident.

**STAFF RECOMMENDATION: Hold Open**

**ISSUE 5: LAO RECOMMENDATION: OFFSET BUDGET REDUCTIONS WITH NEW FEES**

**Governor’s Budget–Balancing Reductions.** The Governor’s budget proposal includes General Fund budget–balancing reductions of \$1.7 million in the current year and \$8.4 million in the budget year. These reductions are spread across several program areas within the department, as shown in Figure 1.

<b>Figure 1 Department of Fish and Game, Governors Proposed Budget-Balancing Reductions</b>				
General Fund (In Thousands)				
	2007-08		2008-09	
	Amount	PYs	Amount	PYs
Biodiversity conservation	\$1,400	—	\$3,580	22
Hunting, fishing and public use	165	—	1,189	3
Administration	152	—	964	—
Law enforcement	—	—	2,634	38
<b>Totals</b>	<b>\$1,717</b>	<b>—</b>	<b>\$8,367</b>	<b>63</b>

As is shown in the figure, the budget–balancing reductions will impact a number of program areas, including regulation and enforcement of existing environmental and natural resource laws. In particular, the Administration proposes to reduce the department’s review of California Endangered Species Act permits, Natural Communities Conservation Plans (NCCPs), and timber harvest plans (THPs). The Administration also proposes to eliminate 38 Fish and Game warden positions.

**Recommend General Fund Reductions for Regulatory Programs Be Offset With Increased Existing and New Fee Revenues.** Several of the program areas proposed for reductions are regulatory program activities that currently receive some fee–based support or could be supported with revenues from new fees. In particular, the following program areas have existing fees or could be supported by fees:

- **California Endangered Species Act Review.** State law requires the protection of all species that are designated as threatened or endangered. The Department has statutory responsibility to enforce these laws and is also empowered to grant permits for “incidental take” of protected species where activities—such as development—can be done in a way that does not threaten protected species’ long–term survival. Currently, there is no existing fee for this activity in statute.
- **NCCP Review.** In state law, there is an alternative to the Endangered Species Act approach of looking at individual species. Under the Natural Communities Conservation Planning Act, government agencies and/or private entities can create long–term, ecosystem–based conservation plans designed to protect multiple threatened or endangered species. This system allows for a more comprehensive approach to species

protection, while at the same time giving the proponents of a plan assurances about future regulation, thereby allowing them to proceed with projects that may impact species in the future. Under state law, the Department is required to review and approve any proposed NCCP. Existing law allows the Department to recover its costs through fees, but currently there is no fee in place.

- **THP Review.** In current statute, there is a fee charged by the Department for THP review—although the fee does not cover the Department’s full cost of carrying out review activities.

Currently each of these programs is either partially supported by fees or could be, based on the “polluter pays” principle and the “beneficiary pays” principle. In each case, the Department is responding to proposals by the regulated community that impact natural resources. Because the Department’s efforts in these programs are driven directly by the activities of the regulated community, the LAO thinks it is appropriate that the regulated community pay the full cost of operating these regulatory programs. Additionally, approval by the Department benefits the regulated community by allowing revenue-generating projects to proceed. Therefore, the LAO recommends that the Legislature:

- **CESA Fees** - Enact legislation to create a new fee to fully fund the review of California Endangered Species Act permits and correspondingly increase the Department’s expenditure authority to allow it to spend \$3.7 million in new fee revenues from the Fish and Game Preservation Fund;
- **NCCP Fees** - Increase the Department’s expenditure authority to allow it to spend \$3 million in new fee revenues from the Fish and Game Preservation Fund collected under the Natural Communities Conservation Planning Act;
- **THP Fees** - Increase the Department’s expenditure authority to allow it to spend \$3.5 million in additional fee revenues from a new special fund to support the review of THPs and decrease the Department’s appropriation from the Fish and Game Preservation Fund by \$443,000 to reflect a shift in funding for this activity to the new fund.
- **Resulting General Fund Savings** - Reduce the Department’s General Fund appropriation by \$7.3 million to reflect these funding shifts.

**Administrative Program.** Of the \$964,000 in proposed General Fund budget-balancing reductions for the budget year in the Department’s administrative program, the LAO is recommending that the Legislature reject the proposed reductions for training (\$400,000) and accounting services (\$287,000). Cutting the Department’s training budget may reduce the Department’s ability to fill vacant game warden positions—a legislative priority in the current year. The Department, like many state agencies, faces a large number of retirements in coming years. Reducing the Department’s training budget will decrease its capacity to prepare new and existing employees for future leadership positions in the Department.

Given the complexity of the Department’s funding sources (27 different funds and dozens of accounts within some of those funds), the Department’s administrative personnel must keep

careful track of program budgets and activities to ensure that activities are funded from the correct fund or account. Reducing the Department's accounting capacity would reduce the Department's ability to effectively oversee its complex budget. Improving the Department's fiscal management has been a legislative priority in recent years. Reducing the Department's accounting capacity may undo progress made by the Department in recent years. These relatively modest General Fund restorations totaling \$687,000 are easily offset by the additional General Fund savings created by adopting our fee-based recommendations above.

### **Staff Comments.**

**NCCP Fees.** The Natural Community Conservation Planning Act is a voluntary program for regional conservation planning. Because these are cooperative efforts between state, federal, and local government, private interests and landowners, the LAO's mandatory fee proposal is concerning to some as it might have negative effects on program participation. Alternatively to charging a fee, the Subcommittee could consider requiring that DFG seek reimbursement for planning and implementation costs of a final NCCP.

**CESA Fees.** The Department informs staff that it costs them \$1.75 million to process from between 50 to 75 CESA permits annually. Under this workload data, a fee of \$23,000 and \$35,000 per incidental take permit would have to be charged recoup enough revenue to fully fund the program. Staff agrees with the LAO that the Department should be charging some level of fee to administer CESA permits but because spreading the total cost to run the program across all permits results in a fee that is rather egregious, the Subcommittee may want to discuss with the LAO how this fee could be equitably levied by factors such as size of development, potential take, cost of project, etc.

**STAFF RECOMMENDATION: Hold Open**

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**ISSUE 6: COMMERCIAL LANDING FEES**

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The Department of Fish and Game collects charges fees, commonly referred to as landing fees, on the commercial sale of fish to generate revenue to support costs of commercial fisheries management programs.

The Department estimates it collects in fees only one fifth of the money needed to cover the current costs of commercial fisheries management. Because the amount of fee that the Department can charge is fixed in statute by fish species and can only be changes by a legislative action, the Department is unable to adjust the fees to support the full costs of their program.

**Staff Comments.** The Department reports that revenue to the Department generated from the commercial sale of fish has not exceeded \$2 million in the past decade. In 2005, about \$1.1 million was paid to the Department in landings taxes, while the total ex-vessel value of all commercial fish sold in that year was about \$109 million.

As witnessed in last year's and the current crash of salmon populations and its impacts to commercial fishermen and the state's economy, the successful management of our coastal fisheries is imperative from both a resource conservation and economic development perspective. Currently, funding levels for the Department's coastal programs are not adequate and the Budget proposes to reduce fishery management funding even further. Though there are Proposition 84 bond funds available for larger capital intensive programs, the Department's coastal programs are dependent on the General Fund. Landing Fees have not been increased since 1993 and are not providing enough revenue to support fisheries management and the coastal economy that depends on them. Staff recommends that the subcommittee consider increasing landing fees for inflation in order to support more of the costs of the Department's coastal programs. Staff understands that this fee increase would equate to a 40 percent overall increase in landing fees and would generate about \$600,000 annually.

**STAFF RECOMMENDATION: Hold Open**

## 3640 – WILDLIFE CONSERVATION BOARD

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### ISSUE 1: HABITAT CONSERVATION FUND

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**LAO Recommendation.** The LAO is recommending that the Subcommittee use funds allocated in Proposition 1E to supplant the State's General Fund required contribution to the Habitat Conservation Fund. Annually in the short term, this proposal would provide an ongoing annual General Fund savings of \$21 million.

***The Habitat Conservation Fund.*** The California Wildlife Protection Act of 1990 (Proposition 117), was enacted by the voters in 1990. Among other provisions, Proposition 117 requires an annual transfer of \$30 million of specified state funds to HCF until 2020. Proposition 117 allocates HCF funds to various agencies—including \$21 million to WCB—for specific programmatic goals (listed below) divided between Northern and Southern California:

- Acquisition of habitat—including oak woodlands, for the protection of deer and mountain lions;
- Acquisition of habitat—to protect rare, endangered, threatened, or fully protected species;
- Acquisition of habitat—to further implement the Habitat Conservation Program (protection of unique species or natural communities of species);
- Acquisition, enhancement, or restoration of wetlands;
- Acquisition, enhancement, or restoration of aquatic habitat for salmon and trout;
- Acquisition, restoration, or enhancement of riparian habitat.

Under Proposition 117, funds to be transferred to HCF come from the General Fund unless other eligible funds are transferred. Eligible fund sources for HCF include the Cigarette and Tobacco Products Surtax Fund (Proposition 99), the Environmental License Plate Fund, the Wildlife Restoration Fund, and any bond funds authorized after 1990, for which the allowed uses match the purposes of Proposition 117. In previous years, Proposition 50 bond funds were used to fulfill Proposition 117's requirements, reducing the General Fund transfer amount. Under the Governor's budget proposal, \$8 million comes from Proposition 99 funds, \$20.8 million comes from the General Fund, and \$1 million comes from Proposition 50.

***Using Special and Bond Funds to Replace the General Fund Obligation to HCF.*** Based on their analysis, there are available special and bond funds that could be used to replace the General Fund obligation to HCF in the budget year and future years. The LAO therefore recommends that the Legislature eliminate the General Fund transfer to HCF in the budget year and replace those funds with specified special and bond funds, thereby saving the General Fund \$20.8 million in the budget year and like amounts in future years.

**Using Proposition 1E Bond Funds.** In 2006, the voters enacted Proposition 1E, which provides \$4.1 billion for flood control and prevention projects. The Department of Water

Resources (DWR) has begun using Proposition 1E funds to repair flood control levees and will ultimately use some of the approved bond funds to purchase land for flood bypasses as a flood control mechanism.

Proposition 1E does not include any funds specifically allocated for wildlife habitat acquisition or restoration. However, it does include \$290 million for the acquisition of lands for floodway corridors for improved flood protection. Floodway corridor projects are located statewide and often provide many of the same habitat benefits that are required by the Habitat Conservation Fund. Based on the allowed uses of HCF, the Administration may be able to use the funding provided in Proposition 1E for floodway corridors to replace the annual General Fund appropriation to the HCF, resulting in a savings of \$21 million.

**Staff Recommendations.** Staff thinks that the Subcommittee should consider this proposal as a potential backfill for other cuts to the Resources Agency. At the hearing, staff recommends that the Subcommittee walk through the practical implementation of this proposal with the Administration and the LAO but hold off on action because this could be a significant solution for a comprehensive Resources Agency funding proposal.

**STAFF RECOMMENDATION: Hold Open**