

AGENDA PART II

ASSEMBLY BUDGET SUBCOMMITTEE No. 3 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Assemblymember Ira Ruskin, Chair

MONDAY, MAY 21ST, 2007

STATE CAPITOL, ROOM 437

UPON CALL OF THE CHAIR

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CONSENT CALENDAR

0555	Secretary for CalEPA	April Finance Letter: \$2.7 million (Multiple Special Funds) to Agency Wide information technology infrastructure equipment
0555	Air Resources Board	\$1 million (Motor Vehicle Account) to implement AB 679 by developing a test protocol for the valuation of California diesel fuel, and conduct a test program that measures the emissions benefits for California diesel fuel
3900	Air Resources Board	Haagen-Smith Lab Finance Letter-Construction (\$1 million)
3900	Air Resources Board	\$94,000 (General Fund) to implement AB 2276 that deals with the regulation of indoor air cleaning devices.
3360	Energy Commission	\$220,000 (ERPA) and 3 PYS to Implement SB 1268 (Perata) that creates Greenhouse Gases Emissions Performance Standard for publicly Owned Utilities. <u>This recommendation is one position and \$160,000 above the governor's budget.</u>
3930	Pesticide Regulations	\$255,000 (reimbursements) and one limited term position to evaluate mitigation measures for chlorpyrifos and pyrethoid pesticides
3930	Department of Pesticide Regulation	\$624,000 Pesticide Mitigation Reimbursement
3960	Department of Toxic Substances	\$1.571 million (Reimbursement Authority) for the Department to work with the Department of Conservation on the developing environmentally friendly plastic bottles.
3960	Department of Toxic Substances	Finance Letter-Acquisition and Preliminary Plans (\$3.963 million)
3940	State Water Resources Control Board	\$1.1 million in waste discharge Permit Funds and the redirection of seven PYS to regulate Confined Animal Facilities in the San Joaquin Central Valley Region. Resources requested in this proposal will help the State Board study the effect that confined animal facilities have on groundwater
8570	Department of Food and Agriculture	\$2 million (General Fund) for eradication efforts for the Light Brown Apple Moth
8570	Department of Food and Agriculture	\$300,000 increase in Federal Funding authority for specialty crop competitiveness grants
8570	Department of Food and Agriculture	May 1 Capital outlay: It is requested that Item 8570-495 be added to revert the unencumbered balances totaling \$23,196,000 for the relocation of Yermo Agricultural Inspection Station—Acquisition, Preliminary Plans, Working Drawings, and Construction.

ITEMS TO BE HEARD

3360 ENERGY CONSERVATION AND DEVELOPMENT COMMISSION

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission, or CEC) is responsible for forecasting energy supply and demand, developing and implementing energy conservation measures, conducting energy-related research and development programs, and siting major power plants.

ISSUE 1: LAO ISSUE: WILLIAMS SETTLEMENT FUNDS

Governor's Budget. The budget proposes to use \$24.8 million of Williams Energy settlement funds to fund a new photovoltaic (PV) energy efficiency program for public K-12 schools. This is achieved by transferring funds from the Ratepayer Relief Fund to the continuously appropriated Energy Conservation Assistance Account. Of this amount, \$1.1 million is for program administration (four positions) and the balance of \$23.7 million is for grants, loans, and technical support contracts. The proposal assumes that loans under this program could be repaid by using the monies saved by energy efficiencies.

Background. During the energy crisis of 2001, the Department of Water Resources (DWR) entered into a number of longer-term contracts to purchase electricity to serve the customers of the state's three largest investor owned utilities (IOUs). The majority of these contracts were signed at relatively high prices. As a result of litigation, the state renegotiated its contract with Williams Energy and settled other claims against that company, resulting in an allocation of cash and assets to the state. Among other purposes, the settlement directed that \$69 million in cash be used to retrofit schools and other public buildings with renewable energy and energy efficiency projects.

LAO Concerns. The LAO has raised concerns that the proposed use of the Williams Energy settlement funds is inconsistent with prior legislative intent (as indicated in AB 2756) on a number of counts. First, the budget proposal specifies a single energy efficiency technology—PV—as a necessary criterion for grants and loans under the program. However, the budget already proposes multiple ongoing solar programs at CEC and the California Public Utilities Commission (CPUC) for the New Solar Homes Partnership; the Solar Initiative; and implementation of Chapter 132, Statutes of 2006 (SB 1, Murray), that serve to promote this technology. Consistent with legislative intent in AB 2756, the LAO thinks that settlement funds should be awarded for a broader array of energy efficiency upgrades, beyond those that are PV in nature. Examples of other types of energy efficiencies are retrofitting heating and cooling systems, replacing lighting fixtures, improving insulation, and using alternative building materials. Second, the budget proposal includes using settlement funds for loans. This again contrasts with AB 2756, which provided funding only for grants in keeping with legislative policy that the electricity settlement fund should be used for purposes of ratepayer relief. Loans to ratepayers may not serve the purpose of ratepayer relief as effectively as grants. As such, the LAO is recommending that the CEC's proposal be rejected

and that these funds be expended according to the settlement agreement through a policy bill.

Staff Comments. By 2010, the state will receive \$69 million in Williams Settlement funds, \$25 million in 2006/07 that can be expended by the legislature for a broad variety of uses. The administration is proposing that these funds be used to fund Solar School programs. Staff concurs with the LAO that existing solar programs in the Public Utilities Commission should be sufficient for Solar School programs and staff feels that the Legislature should expend these funds according to their priorities.

STAFF RECOMMENDATION. Adopt LAO recommendation and reject proposal so funds can be spent according to the settlement agreement through a policy bill.

3900 AIR RESOURCES BOARD

ISSUE 1: ZERO EMISSIONS VEHICLE PROGRAM – HYDROGEN HIGHWAY

Governor's Budget. The Air Resources board (ARB) is requesting \$6.5 million dollars (Motor Vehicle Account) to establish up to eight fueling stations: four small scale stations to service fleets and the public and four stations to demonstrate that renewable hydrogen production pathways. This request will also continue funding for three existing staff.

Background. In 2005-06, SB 76 (Committee on Budget) was enacted as part of the budget and provided the ARB with \$6.5 million in special funds to fund the Governor's Hydrogen Highway initiative. In 2006-07, the legislature continued this program with \$6.5 million in motor vehicle account for:

- Three publicly accessible demonstration hydrogen fueling stations
- Lease of up to 12 hydrogen-powered vehicles, and purchase up to two hydrogen-powered shuttle buses for use at airports or universities
- Employment of three new positions to manage the effort
- Three publicly accessible demonstration hydrogen fueling stations
- Five fuel cell buses

Staff Comments. In a recent status report on the California Air Resources Board's Zero Emission Vehicle program entitled "Zev Technology Review" clear questions are raised are raised by an expert panel as to the ability of hydrogen fuel cell technology and infrastructure to fully develop so that the technology can be incorporated into California's transportation infrastructure as aggressively as promised. While the Hydrogen Highway Blueprint predicted that fuel cell technology and infrastructure would be able to support small scale commercialization (1,000's) by 2012 and mass scale (100,000's) by 2018, the expert panel expects this schedule to be delayed at least by 10 years with a final mass production goal set in 2025. Challenges cited by the report as preventing the state from reaching the previously set targets include a costs of production, deficiencies in infrastructure, and a lack of non state investment.

When taking a step back and reviewing all of the technologies reviewed in the report, it is clear that many ZEV and Partial ZEV technologies are not expected to reach mass production until 2030 or beyond. While many technologies will take a considerable time to be developed, the question of whether there an adequate infrastructure can be developed once roadblocks such as battery life, fuel cost or cost of components are surpassed. If an adequate infrastructure is not achievable, the panel expressed industry sentiment that there will not be adequate investment to continue a project.

Because of the unique attributes for hydrogen, it is a very costly fuel source to build infrastructure for. When the Hydrogen Blueprint Plan was proposed, it was predicted that the state would see a synergetic response from industry and together would be able to place up to 100 stations in the state by 2010 that would bring with them a large infusion of vehicles. Currently there are 126 hydrogen vehicles, 8 transit buses and 24 hydrogen stations in the

state. The ARB cites that of these 24 stations, an additional 15 are publicly accessible and an additional 13 are in the planning or development stations.

Staff recommends that the subcommittee reject funding for this proposal because of questions of the near term benefits that the state will achieve through hydrogen fuel cell technology and a general shortfall in funding in the Motor Vehicle Account from where this proposal is funded from.

STAFF RECOMMENDATION. Reject Proposal

ISSUE 2: LOWER EMISSION SCHOOL BUS PROGRAM

Governor's Budget. The Governor's Budget proposes to allocate \$193 million from Proposition 1B for two years to replace and retrofit diesel school buses. With these funds, 535 pre-1987 school buses would be replaced each year and 1,500 diesel school buses would be retrofitted with devices that reduce PM emissions by 85 percent. As part of the school bus replacement, all pre-1977 school buses would be replaced.

Background. In 1998, following a ten-year study, the Air Resources Board (ARB) identified particulate matter (PM) from diesel-fueled engines as a toxic air contaminant. The ARB 2003 Children's School Bus Exposure Study indicates that children who ride school buses likely have increased exposure to diesel PM, as diesel exhaust levels inside the bus are higher than those in passenger cars on the road. The exposure was highest in school buses. Currently, there are about 27,000 school buses in California. Of these, approximately 4,000 public school buses use engines built before 1987 and are extremely high-polluting. It is difficult to retrofit pre-1987 school buses because in 1987 new vehicle emissions standards went into effect that changed how the engines were built. Pre-1977 school buses are of special concern because they do not meet the 1977 minimum federal motor vehicle safety standards. The state has already spent approximately \$100 million to replace pre-1977 school buses, but 210 such buses remain in service.

STAFF RECOMMENDATION. Appropriate \$193 million in 2007-08 for one year with the following budget bill language that places first priority on the replacement of pre 1987 school buses.

Of the \$193,000,000 appropriated in this item for the replacement and retrofit of diesel school buses, the replacement of both pre-1987 and post-1987 school buses shall take first priority.

Approve Supplemental Report Language:

By January 10, 2008, the Air Resources Board shall report to the Legislature on its program to enforce the proper maintenance and emission reporting of school buses. The report shall include an accounting of the total amount of school buses surveyed, the amount of buses that were found in violation, a description of each violation and the penal assessed, and, if applicable, a description of the action(s) that were taken to prevent the future occurrence of said violation(s). The report shall also include any

recommendations to the Legislature as to how the Board's monitoring and enforcement program could be strengthened or improved to ensure that all school buses are properly maintained for the public health and safety of its riders.

ISSUE 3: DIESEL HEALTH RISK MANAGEMENT

Governor's Budget. The Governor's Budget proposes \$1,259,000 (\$917,000 on-going, \$342,000 one-time) from the Motor Vehicle Account for seven permanent positions and equipment for implementation of regulations adopted to reduce risk from diesel particulate matter. Specifically, these positions would:

- Enforce the Fleet Rule for Public Fleets – 3 positions.
- Work on the existing Periodic Smoke Inspection Program – 2 positions.
- Conduct in-use compliance testing using Portable Emissions Monitoring Systems – 2 positions.

Background. In 2000, the Air Resources Board (ARB) adopted a Diesel Health Risk Management Plan, which calls for reducing diesel particulate matter levels by 75 percent from 2000 baseline levels by 2010, and by 85 percent by 2020. The Diesel Health Risk Management Plan is a multi-faceted plan that included verification of newly developed diesel emissions control strategies, incentive funding, and regulations requiring diesel emission reductions from existing fleets. In 2004 and 2005, the ARB adopted three regulations that affect public transit, solid waste collection, and public and utility fleets. These new regulations mandate reducing diesel emissions from over 50,000 heavy-duty diesel vehicles and require over 1,200 transit, city, county, special district, state, federal, solid waste, and utility fleet operators to comply with the newly-developed regulations.

In addition to these existing regulations, the ARB intends to initiate the implementation of new in-use vehicle control measures applicable to all mobile off-road diesel equipment 25 horsepower and greater, and on-road heavy duty vehicles owned by private fleets. These new regulations would mainly impact the construction and trucking sectors. Currently the Air Resources Board has 39 PYs dedicated to the following Enforcement Programs:

1. Heavy Duty Vehicle Inspection (HDVIP). Heavy duty diesel vehicle are subject to random roadside and fleet smoke emissions and tapering inspections.
2. Fleet Periodic Smoke Inspection Program (PSIP). Public and private fleets are required to annually self inspect all heavy duty diesel vehicles. ARB staff audits the fleets' records and vehicles for compliance with regulations.
3. Solid Waste Collection Vehicles (SWCVs). Public and Private solid waste collection vehicle fleets in California are required to install labels, in clear and present view on each solid waste collection vehicles, which indicate their fleets' program compliance strategy. Under this plan, all fleets must phase in cleaner trucks from 2004 through 2010.

4. Various Heavy Duty Diesel Idling Programs. Heavy duty diesel powered vehicles (public and private) are subject to idling restrictions when operating in California, vehicles are prohibited from idling more than five minutes under this program.

5. Various Heavy Duty Diesel Engine Low Oxides of Nitrogen and Particulate Matter Standards. Variety of programs, from requiring HD Diesel owners to have engine computer controls reflashed (upgraded) with a low NOx emission software program, to complying with fleet averages for NOx and PM emissions by updating existing engines with best available control technologies.

In Budget Year 2007-08, ARB anticipates 44 positions dedicated to the above areas. An increase of 5 PYs added from the BCP titled, Implementation of the Diesel Risk Management Program, 3 PYs for the Fleet Rule section, and 2 PYs for the PSIP section.

STAFF RECOMMENDATION: Approve the Governor's budget and augment the proposal by \$658,000 (Motor Vehicle Account) for 7.0 additional PYs (3 Air Resources Engineers, 2.0 Air Pollution Specialists, 2.0 Air Resources Field) and needed contracting funds.

ISSUE 4: MAY REVISE: CARL MOYER PROGRAM ENHANCED OVERSIGHT

May Revision Proposal: The Air Resources Board is proposing to shift \$900,000 within the Carol Moyer program from funds that were provided for local air district administration to support 6.0 permanent positions and 2.0 limited term positions within the ARB to provide increased oversight and accountability for the program. The ARB indicates that this proposal was negotiated with all 35 local air districts that participate in this program.

Background. The Carl Moyer Program provides financial assistance for projects that clean up equipment or vehicles early or beyond regulatory requirements. Passed in 2004, AB 923 (Firebaugh) expanded funding for the Carl Moyer program to up to \$145 million per year. With expanded funding, the ARB and the Department of Finance have recognized a need for increased oversight and accountability measures that need to be taken within the program to ensure that grant funds are properly expended.

Staff Recommendation. Approve as budgeted.

ISSUE 5: MAY REVISE: TRADE CORRIDORS EMISSION REDUCTION INCENTIVE PROGRAM

May Revision Proposal: The Air Resources Board proposes to spend \$111 million in Proposition 1B bond funds to implement its Trade Corridors Emission Reduction Incentive Program. Under the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, the Air Resources Board is authorized to spend a total of \$1 billion on projects to improve the air quality in California's major trade corridors. These corridors include the Los

Angeles/Inland Empire Region, the Central Valley, the Bay Area, and the San Diego/Border Region. Projects expected to be funded by the Air Resources Board include the following:

- upgrade of old, high-emitting trucks used to serve ports and intermodal rail yards, and to transport goods and farm produce throughout the state;
- electrification of piers that serve frequent visitor ships to avoid the use of onboard diesel generators;
- replacement of older switch engines and other locomotives with new models meeting ultra-low emissions levels; and
- replacement of existing diesel engines on harbor craft with new, cleaner engines.

In administering the program, the Air Resources Board will give priority to projects that provide the greatest lifetime emissions reduction in each corridor for each state dollar invested. Using this criterion provides an incentive for projects that offer substantial matching funds and are long-lived without prohibiting the Air Resources Board from funding projects that produce dramatic emissions reductions regardless of match amount or project life.

STAFF RECOMMENDATION. Approve as budgeted with the following budget bill language that makes this program subject to the passage of legislation:

The expenditure of funds for the Trade Corridors Emissions Reduction Incentives Program shall be subject to the passage of subsequent legislation.

3930 DEPARTMENT OF PESTICIDE REGULATION

ISSUE 1: VOLATILE ORGANIC COMPOUND REGULATIONS

Background. Currently, pesticides rank among the largest contributors to California's notoriously poor air quality. In the San Joaquin Valley, pesticides rank as the fourth largest source of smog-forming volatile organic compound emissions. At the hearing, the department should be prepared to give the subcommittee a status report on adoption of regulations necessary to reduce volatile organic compound emissions from agricultural and commercial structural pesticides. Additionally, department should be prepared to comment on what monitoring programs it will use to ensure that VOC standards, once adopted, are complied with.

Staff Comments. In order to address the concerns raised by member of the subcommittee on the importance of this issue, staff is recommending that the department report to the legislature on what final regulations were adopted, how the department measures their baseline emission levels, how emissions are quantified and the measured compliance with the standards.

STAFF RECOMMENDATION: Staff recommends that the subcommittee adopt the following draft Supplemental Report Language:

By January 10, 2008 the Department of Pesticide Regulation shall report to the legislature on the statewide compliance with Volatile Compound Regulations. This report shall include a description of: the approved VOC regulation; how baseline emission measurements were formulated; how emissions are monitored; and what are the compliance rates of state wide registered VOC emitters.

3940 STATE WATER RESOURCES CONTROL BOARD

ISSUE 1: GROUNDWATER CONTAMINATION

Throughout the state, many water systems are dependent on groundwater sources for drinking water where surface water is neither available nor economically feasible. In general, groundwater basins are charged through the percolation of water through the earth's substrate. Above ground, water percolating into groundwater aquifers can be fed from multiple sources such as precipitation, river seepage, irrigation, groundwater recharge projects, and salt water intrusion from the delta or the ocean. With water percolation, contaminants found in the water or in the soil also filter through the ground and into the aquifer. Underground aquifer formation varies greatly with the earth's geography and factors such as location, depth, connectivity and volume determine how contaminants filtering into the basin affect overall groundwater quality.

Many small communities and their water systems that do not have access to surface water are dependent on treating groundwater for their drinking water. As the subcommittee discussed on April 11th, 2007, there is concern that groundwater contamination and a lack of proper treatment pose serious health risks to these communities. In those cases where water delivered by a small water system is not safe for human consumption, it is required by law that rate payers be notified that they should drink water from other sources – usually bottled water purchased by the resident.

Role of State Water Resources Control Board. As a general rule, the State Water Resources Control Board (SWRCB) is, through its regional water boards, responsible under the Porter-Cologne Act to maintain the quality of both surface and groundwater in the state through monitoring and regulatory actions. Unlike surface water where dischargers can be easily identified, the Regional Boards in the Central Valley and Central Coast have struggled to identify and regulate point and non-point source pollution since water percolating into aquifers can be generated from many different sources.

Role of the Department of Public Health. While Regional Water Boards are responsible for ensuring surface and groundwater quality through monitoring and regulation, the Department of Public Health (DPH) is responsible for testing water coming from wells and ensuring that treatment methods produce safe drinking water.

Staff Comments. The state does not have sustainable funding to support a program to identify point and non-point pollution sources for groundwater and treat those aquifers so that they are safer for human consumption. Because smaller disadvantaged communities are often completely reliant on groundwater, they are required to complete treatment actions so that water is safe for human consumption.

When the subcommittee heard this issue in April, concern was raised by Members that the regional water boards throughout the state, particularly in the central valley and the central coast, do not have adequate programs to monitor groundwater basins and identify dischargers of pollutants into the aquifers. It is the recommendation of staff that the state move forward with a pilot project in either the central valley or the central coast that would begin to determine the proportional contribution of dischargers into polluted groundwater aquifers. With this information, the board could then examine potential funding sources to begin to support small scale remediation programs for select groundwater aquifers.

STAFF RECOMMENDATION. Approve \$650,000 (General Fund) augmentation and 5 PYs to initiate a pilot project to assess sources of groundwater sources.

Issue 2: NORTH COAST WATER BOARD TOTAL MAXIMUM DAILY LOAD (TMDL) WORKLOAD

TMDL Workload in the North Coast. Within the North Coast Water Board's jurisdiction, it has 47 bodies of water that are declared "impaired" that require a total of 85 individual TMDLs – of which only 29 have been completed to date. Because TMDLs are established on a watershed basis and cover an entire watershed for all listed pollutants, the process to implement them is lengthy from start to finish. This process involves extensive staff hours in monitoring, modeling, and work with the various watershed groups, landowners, counties and cities to develop plans to reduce the pollutant loadings. Early implementation is an important feature of the work, but a final TMDL and implementation plan must be adopted as a Basin Plan amendment and approved by the SWRCB, OAL, and USEPA.

Staff Comments. Staff has received concern from the public that needed TMDLs are not being completed in timely fashion chiefly because there is not enough staff to handle the TMDL workload at the North Coast Water Board. As was stated before, of the 85 TMDLs the Board is required to complete, only 29 have been completed to date. Compounding the workload issue, staff understands that because of the consent decree and the technical and political complexity, the Klamath River and related TMDLs are consuming a considerable percentage of available staff time.

Russian River TMDL. In addition to concerns over workload and board staffing levels, staff has received specific commentary on the need to complete the TMDLs for the Russian River and the Laguna de Santa Rosa. The Laguna de Santa Rosa, a wetland complex which is largest tributary of the Russian River has been listed under the Clean Water Act for more than 20 years, within which its contaminant listings have increased from two to six with limited work done to identify pollutant sources and levels. Staff understands that because of the complexity of the TMDL, understaffing and legal requirements placed on the board to complete the Klamath, the board expects that the Russian River TMDL to be completed at the earliest in 2011 but it is not scheduled for completion until 2019. Without a TMDL, this and other bodies of water do not have a clear framework their restoration.

When the subcommittee heard this issue in May, the State Board provided the members with information that clearly demonstrated that statewide need for increased staff to address considerable workload issue with regard to TMDL assessments. While staff concurs with the Water Board that there is a statewide need, because of delays in TMDL completion in the North Coast caused by ongoing work on the Klamath combined with a local government discharge permit timelines, staff recognizes a unique need to accelerate ongoing TMDL work on the Russian River by providing additional staff.

STAFF RECOMMENDATION. Approve \$650,000 (General Fund) augmentation and 5 PYs to accelerate North Coast Water Board TMDL assessments.

ISSUE 3: WASTEWATER REGULATORY PROGRAMS FUNDING

Governor's Budget. The Governor's budget is proposing \$1.3 million in General Funds and \$2.7 million from the Waste Discharge Permit Fund to continue funding current staffing levels in Wastewater Regulatory Programs that are necessary to comply with the mandates of the clean water act.

Background. This proposal is needed because \$4 million in Federal Funds that are available for this program are currently being allocated to the State Water Board's Surface Water Monitoring Program (SWAMP). Both the NPDES and SWAMP program are part of a required set of actions that the State Board has agreed to with the USEPA to address the most pressing water quality problems in the state.

Staff Comments. While staff generally agrees with the administration that these programs serve the overall public good and do merit general fund support, it is also appropriate that a percentage of the costs of monitoring discharged pollution be supported by those that discharge into public waterways. Staff suggests that the subcommittee look again at the feasibility of using fee revenue to support some if not all of these programmatic costs.

STAFF RECOMMENDATION: Approve positions but shift funding for this proposal from General Fund to fee funded.

ISSUE 4: REDUCTION OF THE WATER RIGHTS BACKLOG

Governor's Budget. The Governor's budget is requesting \$693,000 to support the permanent addition of 6.3 positions for water rights application and change petition processing. Funding for this proposal would come from the Water Rights fund and would require a fee increase to support the additional positions.

Background. Currently, the division has approximately 567 water rights applications pending and 630 petitions requesting approval to amend applications that have already been publicly noticed or to change the conditions of existing water right permits, or licenses, for a total backlog of 1197 projects with many of these applications have been pending processing for more than five years. This backlog is the result of long term deficiencies in staffing levels and in recent years, existing staff has been redirected to process other actions related to the water rights program.

Staff Comments. Last year, the Governor's budget proposed to use funding from the water rights application and change petition processing to support this proposal. If the proposal were to have been funded through this funding source it would have required a fee increase to support the additional positions. This funding proposal was supported by the subcommittee but in the final budget proposed by the legislature and signed by the Governor, it was shifted to general fund. The Governor's budget proposal this year would make last year's commitment to use general funds for this proposal ongoing.

While staff agrees with the administration on reducing the water rights backlog, staff feels that the subcommittee may want to consider using non general fund sources, as was proposed last year, to support these costs.

STAFF RECOMMENDATION: Approve as budgeted

ISSUE 5: AG WAIVER PROGRAM

Governor's Budget. The Governor's budget is requesting \$1.6 million (General Fund) to fully support the existing 22.3 positions that support the waste discharge requirements irrigated agricultural lands waiver (ag waiver) program.

Staff Comments. In 2005, the Central Valley Regional Board adopted an increased fee schedule for the Ag Waiver program that was anticipated to raise \$1.9 million for this program. When the State Water Board implemented this fee schedule in 2005-06, it ran into problems such as confusion over what acreage is actually covered by the program and only was able to collect about \$570,000 in 2005-06. In last year's final budget, a general fund augmentation of \$1.6 million was allocated to the State Water Board to supplant increased fees in the agricultural waiver program. This proposal would continue ongoing general fund support for the program.

STAFF RECOMMENDATION: Approve as budgeted

ISSUE 6: ABOVE GROUND STORAGE TANK INSPECTIONS

The Aboveground Petroleum Storage Tank Act of 1989 requires the State Water Resources Control board to carry out inspections of above-ground petroleum tanks as a means to protect public health, safety, and the environment. The funding of the program derives from fees on tank owners. Currently, there is a fund balance of \$7.5 million in the Environmental Protection Trust Fund for the purpose of conducting inspections.

STAFF COMMENTS. Staff has concern that while there is funding in at the Water board to conduct inspections on above ground petroleum tanks, there is currently no funding nor staff allocated for this purpose. As such, staff is recommending that the subcommittee appropriate on a one time basis the balance of \$7.5 million from the Environmental Protection Trust Fund for the purpose of conducting inspections to carry out inspections required pursuant to the Aboveground Petroleum Storage Tank Act .

STAFF RECOMMENDATION. Appropriate on a one time basis the balance of \$7.5 million from the Environmental Protection Trust Fund for the purpose of conducting inspections to carry out inspections required pursuant to the Aboveground Petroleum Storage Tank Act .

3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

ISSUE 1: LAO ISSUE: PUBLIC HEALTH GOALS

LAO Comments. The Office of Environmental Health Hazard Assessment (OEHHA) develops and periodically updates scientifically derived, health-based public health goals (PHGs) for drinking water contaminants regulated by the Department of Public Health. The General Fund has funded the entirety of OEHHA's PHG-related work since the program's inception. The LAO recommends shifting support for the PHG program - \$1.8 million - from the General Fund to the fee-funded Safe Drinking Water Account. As OEHHA has consistently lagged statutory deadlines to develop and update PHGs, the LAO further recommends that OEHHA report to the budget subcommittees prior to budget hearings on the required resources to complete its statutorily defined responsibilities in a timelier manner.

Background. Roles of OEHHA and Department of Public Health (DPH). In California, two state entities—OEHHA and the newly constituted DPH, formerly part of the Department of Health Services—are responsible for assuring that the state's drinking water is safe, pure, and potable. The OEHHA scientifically assesses the risks to human health posed by contaminants that may be found in the state's public drinking water systems and are regulated or proposed to be regulated under DPH's safe drinking water regulatory program (discussed below). Based on that scientific assessment, OEHHA adopts contaminant-specific goals, known as PHGs that specify based solely on public health considerations, the maximum levels of concentration at which various contaminants can be found in drinking water without adversely affecting human health. Statute specifies that OEHHA is to set each PHG at a level that protects the public from both acute adverse health effects and chronic disease. Statute further directs OEHHA to consider possible combined and interactive effects of exposure to two or more contaminants, as well as the effect of contaminants upon specified subgroups, including infants, children, pregnant women, and elderly persons, and persons suffering from serious illness.

Unlike most other regulatory-related programs within the California Environmental Protection Agency, OEHHA's PHG program receives no funding from regulatory fees. Rather, the program has been funded entirely from the General Fund since its inception in 1997-98, at which time the program's budget was \$835,000. For 2007-08, the budget proposes \$1.84 million from the General Fund for OEHHA's PHG program.

Staff Comments. By shifting programmatic support from the general fund to fee supported services, this proposal will provide a \$1.8 million benefit to the General Fund. The Department of Finance has raised concern that this proposal will increase the likelihood that regulatory fees on public drinking water systems will need to be raised to support this proposed fund shift.

STAFF RECOMMENDATION: Approve LAO recommendation to shift support for this program to fee funded safe drinking water account.

8570 DEPARTMENT OF FOOD AND AGRICULTURE

The California Department of Food and Agriculture (CDFA) provides services to both producers and consumers of California's agricultural products in the areas of agricultural protection, agricultural marketing, and support to local fairs. The purpose of the agricultural protection program is to prevent the introduction and establishment of serious plant and animal pests and diseases. The agricultural marketing program promotes California's agricultural products and protects consumers and producers through the enforcement of measurements, standards, and fair pricing practices. Finally, the department provides financial and administrative assistance to county and district fairs.

ISSUE 1: HIGH RISK PEST EXCLUSION

High Risk Pest Exclusion. California operates programs at the state and local level to prevent invasive pests from entering the state. On the state's major highways, CDFA operated agricultural stations monitor commercial traffic transporting fruits and vegetables and in one case, through a legislative approved pilot program in Needles, CA, non commercial traffic is also monitored. In addition to California's agricultural inspection stations on highways, CDFA partners with county agricultural inspectors to inspect agricultural cargo entering local counties from national and international destinations.

Staff Comments. Annually, the department expends \$3.9 million on high risk pest exclusion activities at the local level and \$10.5 million to inspect commercial traffic at statewide border stations. Through discussions in prior year subcommittee hearings and from comments received from local governments, staff notes an ongoing concern that statewide high risk pest exclusion is not funded to an adequate level so that the state's border stations are fully staffed, airports and ports are adequately monitored and county agricultural commissioners have enough staff to monitor incoming shipments for pests.

STAFF RECOMMENDATION. Approve \$2.2 million in funding for local agricultural commissioners for high risk pest exclusion.

ISSUE 2: HYDROGEN FUEL STANDARDS

The Department of Food and Ag is proposing to expend \$212,000 (Food and Agriculture fund) in 2007-08 and \$53,000 for laboratory supplies and an equipment replacement funding factor to initiate standardized sampling, testing, and enforcement activities related to the hydrogen fuel quality mandate.

Staff Comments. In recent reports, the Zero Emissions Vehicle Expert Panel reported to the ARB that it does not expect hydrogen fuel cell vehicle to be mass produced in the public within the next 25 years. Staff therefore feels that moving forward with establishing measurements for a fuel source that is not used in the public arena is premature.

STAFF RECOMMENDATION: Reject Proposal