

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Assemblymember Ira Ruskin, Chair

**WEDNESDAY, MAY 5, 2010
STATE CAPITOL, ROOM 447
9:00 A.M.**

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CONSENT CALENDAR

Secretary for Resources

1. **April Finance Letter -- Proposition 40 Reappropriation:** The Resources Agency is requesting that California River Parkways projects funded from Proposition 40 in 2005 be reappropriated until 2013.

Tahoe Conservancy

1. **Fund Shift to Maintain Baseline Support Budget.** \$49,000 Proposition 50 fund shift to replace an exhausted Proposition 12 program and to maintain the base budget for the program.
2. **Implementation of the Environmental Improvement Program for the Lake Tahoe Basin:** \$50,000 appropriation from Proposition 50 to support the Environmental Improvement Program as well as extensions of encumbrance for various bond funds.
3. **Capital Outlay:** Implementation of the Environmental Improvement Program: \$6.4 million from various non general funds (Bond, state and federal) to support the EIP.

Department of Conservation

1. **IT Business Planning:** \$122,000 from the Oil, Gas, and Geothermal Account for support of IT project planning for the Division of Oil, Gas, and Geothermal Resources.

Department of Resources, Recycling, and Recovery

1. **April Finance Letter -- Solid Waste Disposal Site Cleanup Trust Fund.** Technical correction to add a \$5 million transfer from the Integrated Waste Management Account (IWMA) to the Solid Waste Disposal Site Cleanup Trust Fund in order to allow for an annual appropriation required in statute to provide solid waste remediation activities.
2. **Integrated Waste Management Account Reductions:** Make various reductions and expenditures shifts to reduce total IWMA expenditures by \$8.6 million. This proposal was discussed in the March 17th hearing and was held open to hear the other proposals in the IWMA package.

Department of Fish and Game

1. **April Finance Letter -- Fish and Game Warden Stamp:** \$50,000 baseline expenditure authority to support wardens' activities from revenues generated by the newly created Fish and Game Warden Stamp Account.
2. **April Finance Letter -- Realignment of Bond Funds:** The department is requesting the realignment of various bond funds to align expenditure authority with expenditures. This proposal includes various reappropriations from Proposition 84; \$169,000 reversion and a reappropriation from Proposition 50; and, a reduction of \$1.4 million and a reappropriation of Proposition 13 funds to support the San Joaquin River Restoration.
3. **Department of Fish and Game Capital Outlay Proposals**
 - a) Fish and Game Project Planning -- \$60,000 (Non-dedicated FGPF)
 - b) Darrah Springs Hatchery, Analysis of Water Discharge for Settling Ponds -- \$150,000 (HIFF)

- c) Los Banos Wildlife Area Domestic Water Supply Infrastructure -- \$315,000 (Non-dedicated FGPF)
- d) Napa/Sonoma Marsh Wildlife Area Levee Improvement -- \$117,000 (Prop 99)
- e) Kern River Hatchery, Back-Up Well Water System – \$150,000 (Hatchery and Inland Fisheries Fund)
- f) Mojave River Hatchery Low Head Oxygen System Building –\$225,000 (HIFF)
- g) Yolo Bypass Wildlife Area, North Tule Ranch Pump Station repairs – \$115,000 (Prop 99)
- h) Honey Lake Wildlife Area, Tanner Weir Improvement Project -- \$386,000 (Prop 99)
- i) Gizzly Island Wildlife Area, South Solano Cut Water Control Structure repair -- \$38,000 (Prop 99)
- j) Mendota Wildlife Area, Water Conveyance Enhancement -- \$74,000 (Prop 99)
- k) Kern River Fish Hatchery Bird Enclosure – \$100,000 (HIFF)
- l) American River Hatchery New Settling Pond – \$408,000 (HIFF)
- m) Crystal Lake Hatchery Feed Bin Replacement – \$350,000 (HIFF)
- n) Crystal Lake Fish Hatchery Expand Outside Shed – \$72,000 (HIFF)
- o) Black Rock Hatchery Convault Fuel Tank – \$40,000 (HIFF)

Wildlife Conservation Board

1. **April Finance Letter: Reappropriation of Proposition 84:** The administration is requesting \$3.4 million in reappropriations until 2013 for projects that were delayed due to the bond freeze.
2. **Capital Outlay, Funding for Public Access Program:** \$1 million from the Wildlife Restoration Fund for the WCB's Public Access Program
3. **Habitat Conservation Fund:** \$21 million from the Habitat Conservation Fund to carry out requirements of the California Wildlife Protection Act.

State Coastal Conservancy

1. **April Finance Letter -- Reappropriation Proposition 50:** The administration is requesting \$5.5 million in reappropriations until 2013, for projects that were delayed due to the bond freeze.
2. **April Finance Letter -- Revise Proposition 40 Reappropriation:** Reversion of \$2 million in order to be able to fund the administration Proposition 40 programs. Additionally, it is requested that a reappropriation included in the Governor's budget be deleted as a technical correction.
3. **April Finance Letter --** \$325,000 augmentation for Waukell Creek Habitat Restoration Project.
4. **Coastal Conservancy Programs:** \$32.7 million from proposition 84 to fund resource enhancement and development projects.
5. **San Francisco Bay Conservancy Program:** \$2.1 million appropriation from Proposition 84 and various reappropriations to support the San Francisco Bay Conservancy Program.
6. **Prop 84 Conservancy Programs:** Reappropriation of all remaining unencumbered balances of Proposition 84 funds.

7. **Prop 12 Conservancy Programs:** Appropriation of \$5 million from Proposition 12 and various reappropriations for various SCC programs.

Baldwin Hills Conservancy

1. **Proposition 84 Program Delivery Staffing**
2. **Reappropriation Proposition 84 and 40**

San Joaquin River Conservancy (Though WCB)

1. **Acquisitions:** \$2.7 million from Proposition 84 for acquisitions within the San Joaquin River Conservancy.
2. **Restoration, Public Access and Recreation:** \$76,000 from Proposition 84 for public access, restoration and recreation grants.

Coachella Valley Mountains Conservancy

Acquisition: \$5.5 million from Proposition 84 funds for acquisition.

State Water Resources Control Board

1. **Above Ground Petroleum Storage Act Oversight.** \$577,000 augmentation from the Environmental Protection Trust Fund to provide funding for the Certified Unified Program Agencies Above Ground Storage Tank Inspection Program.
2. **Administration Water Rights Enforcement.** Cost neutral adjustment to funding levels for Water Rights Enforcement.

Item for Vote Only

Santa Monica Mountains Conservancy

1. **Acquisition and Local Assistance Grants – Upper Los Angeles River, Santa Monica Bay and Ventura County Coastal Watersheds:** \$4 million from Proposition 84 for acquisition and restoration grants.

ITEMS TO BE HEARD

0540 – RESOURCES AGENCY

ISSUE 1: APRIL FINANCE LETTER: PROPOSITION 84 URBAN GREENING

Governor's April Finance Letter Proposal

The Secretary for Resources is requesting an augmentation of \$286,000 from Proposition 84 and 3 positions to begin the first year of full implementation of the State's Urban Greening Program. This proposal also is requesting an appropriation of \$21.1 million in grant funds to be appropriated to the Resources Agency but administered by the Department of Conservation.

Background

Proposition 84 allocated \$90 million for urban greening projects that reduce energy consumption, conserve water, improve air and water quality, and provide other community benefits. SB 732 (Steinberg) established the Strategic Growth Council (SGC) and gave it the responsibility of managing and awarding financial assistance to cities, counties, or nonprofit organizations for the preparation, planning and implementation of an urban greening program. Grant guidelines for this program were developed through a public process between October 2009 and February 2010, and they will be updated annually. The SCG Board approved the final guidelines on February 9, 2010, and projects will be solicited and evaluated during the spring and summer.

Staff Comments

Staff does not have any issues with this position request of 3 PYs as it is comparable to their other grant program, the California River Parkways Program. Additionally, the program grants proposed are in line with Proposition 84 that provides this funding and allocates a maximum of \$70 million to this program.

Recently, the deadline for grant applications has passed and the Agency reports that they have received a considerable amount of applications from statewide agencies. At the hearing, the Agency should be prepared to discuss with the Subcommittee what types of projects are being proposed for funding and when they anticipate that funding will go out if this proposal is approved.

Staff Recommendation: Approve as budgeted.

3480 – DEPARTMENT OF CONSERVATION

ISSUE 1: STRATEGIC GROWTH COUNCIL – SUSTAINABLE COMMUNITIES PLANNING GRANTS

April Finance Letter Proposal

The Department is requesting a total \$70 million over 6 years from Proposition 84 to provide funds to implement and administer the new Sustainable Communities Planning Grant and Incentives Program and to fund planning projects and incentives awarded by the SGC. For the Budget Year, the Administration is requesting \$575,000 for program support; \$859,000 for outreach; \$830,000 to develop and provide data and information to applicants; and, \$40 million for project. While this position provides funding for 6 staff to implement the program, it does not actually provide new position authority. Rather, it requires that the Department use existing vacancies to fill these needs.

Background

Proposition 84 allocated \$90 million for Urban Greening planning grants and planning incentives, including revolving loan programs and other methods to encourage the development of regional and local and use plans that are designed to promote water conservation, reduce automobile use and fuel consumption, encourage greater infill and compact development, protect natural resources and agricultural lands, and revitalize urban and community centers. Of this total amount, \$12 million appropriated to the Natural Resources Agency in 2009 for data gathering and model development necessary to comply with SB 375 (Steinberg).

On March 17th, 2010, the Council directed SGC staff to establish an education program and to develop and provide data and information to applicants. The Outreach and Education Program will be used to support two SGC grant programs by providing coordination between state agencies; workshops for local governments and grant administrators; progress reports on the impacts of SGC grants; and, the creation of a centralized website where potential grantees can find available state grants. The Funding and Coordination of Local and Regional Data Needs Program will develop land based data useful in planning such as parcel, vegetation, and protected lands data as well as develop indicators to help applicants measure the impacts of proposals on health factors.

Staff Recommendation

Staff has no concerns with the overall framework of the Administration's proposal; however, staff is concerned that the Department will not have adequate existing vacancies to fill the staffing needs identified in the proposal (6 positions). In their recent reorganization when the Division of Recycling was transferred to the Department of Resources, Recycling and Recovery, staff understands that the department transferred many of its vacant positions to the new department in order to minimize disruption within the Department. While staff agrees with the Department of Finance that in most cases Department's should have adequate vacant positions due to current caps on staffing, staff feels that DOC should be provided new position authority because their recent reorganization moved most of their vacant positions.

Staff Recommendation: Approve as budgeted with augmentation of 6 positions.

ISSUE 2: CALIFORNIA FARMLAND CONSERVANCY PROGRAM

Governor's Budget Proposal

The Governor's budget is requesting a one-time appropriation of \$7.9 million from Proposition 40 funds for the Farmland Conservancy Program (CFCP). These funds will be used to provide grants to non-profit land trusts and local governments for the purchase of agricultural conservation easements that protect farmland in perpetuity.

Background

Since its inception, the CFCP has provided grant funding to protect over 43,000 acres of agricultural land and has provided over 30 planning/technical assistance grants to facilitate advancement of local farmland conversion programs. The department averages that this program has used state resources to leverage averaged matching funds of approximately 55 percent of appraised easement values.

Floodway Corridor Funding

Proposition 1E allocates \$290 million to the creation, and enhancement of flood protection corridors and bypasses through acquisition of easements or providing incentives for maintaining agricultural uses of real property. To-date, a balance of \$188 million remains in the section for projects when you take into account funding appropriated in prior years and proposed in the budget. Because Proposition 1E does not designate who this section shall be appropriated to, the Legislature could allocate these funds for agricultural projects that meet both the requirements of the Farmland Conservancy Program and the Wildlife Corridor Program.

Staff Comments

Staff does not have specific concerns with this request as it appropriates funds that were previously reverted after the program was unable to expend them due to last year's cash crisis. With regards to appropriating Floodway Corridor funding, staff notes that there is a proposal from a coalition of conservation groups to appropriate \$14 million to the Department for the Farmland Conservation Program. Currently, there are discussions with the Department of Water Resources on the best way to proceed with this approach in a way that meets the principle requirement of flood protection while achieving the land conservation goals of the Farmland Conservancy Program. As such, staff recommends that the Subcommittee approve the budget request but hold open the discussion of appropriating Proposition 1E Floodway Corridor funding for this program.

Staff Recommendation Approve as budgeted.

3600 – DEPARTMENT OF FISH AND GAME

ISSUE 1: APRIL FINANCE LETTER: PACIFIC COASTAL SALMON FUNDS

April Finance Letter Proposal

The Department is requesting an expenditure authority augmentation of \$17.2 million in Federal Funds for 2010-11 for the Fisheries Restoration Grant Program. The Department has submitted \$25 million in grant requests to the National Oceanic and Atmospheric Administration National Marine Fisheries Services. Based on previous funding received, the DFG anticipates that it will receive \$17.2 million in Pacific Coastal Salmon Recovery Funds in 2010-11. This funding is used for grants for statewide anadromous fish habitat restoration projects.

Background

The Fisheries Restoration Grant Program (FRGP) was established in 1981, in response to rapidly declining populations of wild salmon and steelhead trout and deteriorating fish habitat in California. This competitive grant program has invested over \$180 million to support projects from sediment reduction to watershed education throughout coastal California.

Contributing partners include the Department of Fish and Game (DFG), federal and local governments; tribes, water districts, fisheries organizations, watershed restoration groups, the California Conservation Corps, AmeriCorps, and private landowners.

Restoring anadromous salmon and steelhead habitat is a commitment this program and partners have embraced and with population of some salmon at critically low levels, there are many opportunities for restoration projects that will directly benefit the salmon and steelhead trout in California.

Staff Comments

Public Resources Code Section 75050 (a) from Proposition 84 allocates a total of \$180,000 for Bay Delta projects, NCCP development and fisheries restoration. Of this funding, up to \$45 million is specifically made available for coastal salmon and steelhead fishery restoration projects that support development and implementation of species recovery plans.

In 2008-09 the Department's budget request for Anadromous Fish Management listed that funding from this section would be divided as follows: Coastal Salmonid Plan Implementation -- \$2.5 million; Coho Recovery Plan Implementation -- \$25.6 million; and Coastal Steelhead and Chinook Recovery -- \$16.8 million. At the hearing, the Department should be prepared to discuss: 1) how much funding in total will be available for local fisheries restoration grants; and 2) how much funding remains in this section for local grants. Staff has no issues with the proposal to appropriate federal funds but the subcommittee may want to consider an additional appropriation of local grant funds to accelerate projects.

Staff Recommendation: Approve as budgeted with augmentation of \$7 million from Proposition 84 for salmon and steelhead restoration grants.

ISSUE 2: FACILITIES HEALTH AND COMPLIANCE (PREVIOUSLY HEARD APRIL 21)

Governor's Budget Proposal

The Department of Fish and Game (DFG) is requesting \$1.65 million to replace a major facility for the Central Valley Bay Delta Branch. This proposal includes \$1.1 million (\$550,000 Non-Dedicated FGPF and \$550,000 Federal Trust Fund) in one-time expenditures for employee relocation, modular workstations, and network services. Additionally, DFG is requesting \$525,000 in ongoing costs for operations of the new facility.

The Department cites in their proposal that the current building is unsuitable because they do not meet ADA, seismic, or California building codes. Additionally, the building is in need of infrastructure repairs (HVAC, plumbing, and electrical), and is not large enough to house the 130 staff that currently occupy the space that was originally leased for 70 employees. Lastly, the location of a raceway behind the facility in 2009 has increased public traffic through their parking area and other impacts such as garbage and vandalism.

Staff Comments

The Department has occupied this building since the early 90's during which time there has been an elevating focus from the state on Delta issues. Concurrently, staffing at the facility has grown 85 percent; the building is in a serious need of repair, is much smaller than the desired space for a staff of 130 employees, does not allow them the logistical space to maneuver large vehicles or boats and is on a high speed thoroughfare without sufficient parking.

Staff generally concurs with the expressed need to make this move. When this issue was heard on April 21st, staff raised concerns regarding one-time costs for modular furniture and workstations. The Subcommittee acted to approve the move but to hold the one time costs open for staff to explore options for lowering these costs. The Department has responded to staff that the prices for workstations and furniture are generally fixed and controlled by the Department of General Services from whom the DFG is required to purchase their furniture through. Additionally, the Department of Finance responded to staff that they are responsible for assessing whether "standard compliment costs" for items such as phones, furniture, computers, are reasonable. Once these are determined reasonable, the Departments plug these costs into their Budget Change Proposals for requested staff. Staff understands that the last time these were examined were in the late 1990s. Because DFG does not have control over these proposed one-time costs and their existing workstations do not comply with health and safety regulations, staff recommends that the Subcommittee move forward and approve the this proposal. Additionally staff recommends that budget bill language be adopted to require the Department of Finance to revisit the standard compliment of costs to determine whether or not they are reasonable. If they are found to be unreasonable, the new costs will be used to develop future budgets.

Staff Recommendation: Approve \$857,000 for furniture and workstations with the following BBL:

The Department of Finance shall make a determination in the budget year whether the standard compliment of costs for the Department is accurate. The Department of Finance should report at subcommittee hearings in 2010-11 on their findings.

ISSUE 3: DIESEL RETROFIT (PREVIOUSLY HEARD ON APRIL 21ST)

Governor's Budget Proposal

The Administration is requesting \$1.6 million from the non-dedicated FGPF to retrofit 23 on-road vehicles and 58 off-road diesel powered vehicles and equipment in its fleet. This funding request is divided between two fiscal years: \$1.04 million in 2010-11 and \$580,000 in 2011-12.

Background

In 2007, the Air Resources Board (ARB) adopted On-Road and Off-Road regulations to reduce pollution caused by diesel engines and to reduce the harmful public health impacts of diesel exhaust. ARB's original regulations required that public and private fleet owners either retrofit or replace non compliant vehicles. Since their adoption, the ARB has granted extensions to compliance schedules for private fleet owners. These extensions have not been extended to public fleets.

Staff Comments

When this issue was heard on April 21st, staff raised concern that this appropriation may not be necessary in the budget year as the ARB may be approving diesel regulations relief for public agencies in the summer. After further discussions with the ARB, it is apparent that the Board may be taking up options for providing relief to public agencies in the summer. However, at this time it is uncertain whether there will be and at what level relief may be structured. Because of this uncertainty, staff recommends that the Subcommittee move forward and approve the funding request for DFG with the following budget bill language to require that this appropriation be tied to the budget year regulatory requirements.

Funding appropriated in this item for compliance actions for Air Resources Board on-road and off-road diesel regulations may be reduced by the Department of Finance to meet the compliance needs of the Department of Fish and Game if the Air Resources Board takes an action to change on and off road regulatory requirements.

Staff Recommendation: Approve as budgeted with proposed budget bill language.

3940 – STATE WATER RESOURCES CONTROL BOARD

ISSUE 1: APRIL FINANCE LETTER: PACIFIC LUMBER COMPANY LITIGATION DEFENSE

April Finance Letter Proposal

The State Water Resources Control Board (State Board) is requesting a \$2.7 million General Fund augmentation to fund the defense of litigation filed by Pacific Lumber Company alleging that the State of California had breached the Headwaters Agreement. The costs to defend the State in the on-going litigation concerning the Headwaters Agreement are about to balloon because the case has entered active discovery and will be set for trial soon. The State's potential liability in this case is claimed to exceed \$671 million.

Background

In December 2006, Pacific Lumber Company and Scotia Pacific Company filed a lawsuit in Fresno Superior Court against the State of California, the State Board, and the North Coast Regional Board claiming that the State Board and North Coast Regional Board breached the Headwaters Agreement through their regulation of discharges of sediment and other waste associated with forestry activities.

In the summer of 2009, Pacific Lumber and Scotia Pacific Company went through bankruptcy, were sold to the Mendocino Redwood Company and reorganized into the Humbolt Redwood Company. Through this reorganization, the Humbolt Redwood Company assumed nearly all assets of the bankrupt companies while existing litigation assets from Scotia Pacific were acquired by the SPC Litigation Trust. SPC Litigation Trust will represent the interests of note holders that held various notes in which Scotia Pacific Company identified its land holdings as collateral.

Staff Comments

The State Board and North Coast Regional Board have been the state's lead on this case since it was filed in 2009. During this time, the State Board has been funding its legal activities with Waste Discharge Permit funds as the lawsuit was tied directly to the regulation of water discharge on the Headwaters property. As this case moves forward to trial and costs for the defense of this case escalate, there is not enough funding in the Waste Discharge Permit Fund to support the ongoing defense costs. Staff feels that the proposed use of the General Fund is appropriate considering the potential liabilities that could result from this lawsuit as well as the fact that the case involves many departments that were party to the Headwaters Agreement.

Staff Recommendations: Approve as budgeted.

ISSUE 2: UNDERGROUND STORAGE TANK CLEANUP FUND AUGMENTATION

Governor's Budget Proposal

The Governor's budget is requesting \$158 million in state operations authority for the Underground Storage Tank Cleanup Fund (USTCF). This revenue has been generated due to a storage fee increase of \$.006 for each gallon of petroleum placed in an underground storage tank that was enacted by AB 1188 (Ruskin) in 2009.

Background

California's Underground Storage Tank Cleanup Fund (Fund) program was established by the Barry Keene Underground Storage Tank Cleanup Fund Act of 1989 (Senate Bill 299) to: 1) Provide a means for petroleum underground storage tanks (UST) owners and operators (claimants or responsible parties) to meet the federal and state financial responsibility requirements; and, 2) Reimburse eligible owners for corrective action costs associated with the cleanup of contaminated soil and groundwater caused by an unauthorized release of petroleum from underground storage tanks.

Staff Comments

In 2010, a performance audit was conducted of the Fund that identified the major concerns about the Board's ability to manage costs within the Fund and accurately manage finances for future projects. Some specific concerns of the audit were as follows:

- The Fund does not collect sufficient data or cash flow estimates to project the full extent of funding needed to close out projects or to estimate unmet needs.
- Inadequate cost containment measures for ongoing projects. Other than a statutory reimbursement cap of \$1.5 million per claim, the Fund relies on reviewing the costs and reasonableness of cleanup activities after they have been conducted and doesn't track costs against budgeted or projected costs for cleanup projects.
- Clean up projects are staying open longer, thus incurring more costs. Regulatory oversight agencies retain the authority and wide-discretion to determine when cases are ready for closure. There are not clear responsibilities between these agencies and conflicting objectives to do not always drive for timely closure of cases.
- Without swift and significant changes, the Fund will be unable to sustain the demand of increasingly more expensive projects.

Staff has concern that if the State Board is unable to address cost containment issues discussed in the audit, the USTCF will not be able to meet future demand for underground storage tank remediation projects when the revenue increases created by AB 1188 (Ruskin) sunset in two years. One of the major issues driving insolvency in the USTCF is the fact that there is a reluctance of oversight agencies to shut down cases. Local agencies managing cases don't have a fiscal incentive to make the determination that a site has been fully remediated as it increases their liabilities while consultants being paid to remediate the site are economically incentivized to keep cases open. At the hearing, the State Board should be prepared to present to the Subcommittee how it is addressing the concerns raised in the audit. Specifically, the State Board should discuss its strategy to advance cases towards closure that have met all remediation requirements.

Staff Recommendation: Hold Open.