

*Senate Budget and Fiscal Review—Senator Holly J. Mitchell, Chair***SUBCOMMITTEE NO. 2****Agenda**

**Senator Bob Wieckowski, Chair**  
**Senator Mike McGuire**  
**Senator Tony Mendoza**  
**Senator Jim Nielsen**



**Thursday, May 18, 2017**  
**9:30 a.m. or upon adjournment of session**  
**State Capitol - Room 112**

Consultant: Joe Stephenshaw

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## Vote-Only Calendar

### 3540 Department of Forestry and Fire Protection

#### Issue 1 – Board of Forestry and Fire Protection Fiscal Realign

**Governor’s Proposal.** The Governor's budget proposes a net increase of \$293,000 (\$193,000 State Responsibility Area Fire Prevention Fund, \$410,000 Timber Regulation and Forest Restoration Fund and reductions of \$308,000 General Fund and \$2,000 Professional Forester Registration Fund) for specified Governor's appointee and staff salary increases and one position for a full-time, dedicated attorney.

**Background.** The Board of Forestry and Fire Protection is a government-appointed body within CAL FIRE. The board is responsible for developing the general forest policy of the state, for determining the guidance policies of CAL FIRE and for representing the state's interest in federal forestland in California. Together, the board and CAL FIRE work to protect and enhance the state's unique forest and wildland resources.

The subcommittee heard this request on March 30<sup>th</sup>.

**Staff Recommendation.** Approve as budgeted.

#### Issue 2 – Hiring and Training – Permanent Funding and Staffing

**Governor’s Proposal.** The Governor's budget proposes \$14.2 million (\$10 million General Fund, \$332,000 in Special Funds, and \$3.9 million in reimbursements) and 55 positions to address increased hiring and training demands.

**Background.** Funding for personnel who are responsible for hiring and training CAL FIRE's firefighting workforce is based on the traditional fire season length. However, climate change, demographics, invasive species, and past fire management are lengthening the fire season in California.

The longer and more active fire season requires that more firefighters be hired and trained as expeditiously as possible. CAL FIRE has requested and received authority over the last several years to augment its firefighting force to deal with the longer and more active fire season. In addition, CAL FIRE has requested and received additional short-term funding to partially address this increased hiring and training workload. CAL FIRE, however, has not received any additional permanent funding or positions for its hiring and training workload.

The subcommittee heard this request on March 30<sup>th</sup>.

**Staff Recommendation.** Approve as budgeted.

**Issue 3 – Helicopter Procurement Reappropriation**

**Governor’s Proposal.** The May Revision proposes to reappropriate the funds allocated last year for the procurement of replacement helicopters in order to extend the encumbrance period.

**Background.** The Budget Act of 2016 appropriated \$12 million for CAL FIRE to purchase one helicopter in 2016-17. Department of General Services (DGS) issued a Request for Proposal in March 2017, and vendor bids were received in May 2017. These bids are currently being evaluated. Contract award could occur in late June 2017. However, if the funds are not encumbered by June 30, 2017, the requested reappropriation language provides for the current appropriation to be used should there be potential delays.

**Staff Recommendation.** Approve as budgeted.

**Issue 4 – Implementation of AB 1958, AB 2029, and SB 122**

**Governor’s Proposal.** The Governor's budget included \$1.4 million (\$1.3 million Timber Regulation and Forest Restoration Fund and \$120,000 Reimbursements) and six positions to comply with recent legislation.

**Background.** The subcommittee approved this proposal on March 30<sup>th</sup>. Subsequently, the Assembly took action to adopt placeholder trailer bill language to delay the report required by AB 1958 by one year and specify that the report shall include an analysis of exemption use, the need to remove or consolidate exemptions, whether the exemptions are having the intended effect, any barriers for small forest owners, and measures that might be taken to make exemptions more accessible to small forest owners.

**Staff Recommendation.** Conform to Assembly action to adopt trailer bill language.

**3600 Department of Fish and Wildlife****Issue 1 - Restructuring the Fish and Game Preservation Fund**

**Governor’s Proposal.** The Governor’s budget proposes \$12.4 million in additional revenue from an increase in commercial fish landing fees to support the Department of Fish and Wildlife’s (DFW) commercial fishing program, and a one-time redirection of \$10.6 million from the Lifetime License Trust Account (LLTA) (\$8.7 million of which would go to the Fish and Game Preservation Fund (FGPF) non-dedicated account). This proposal is intended to address the approximately \$20 million deficit in the FGPF.

**Additional Budget Proposals.** In addition to the proposal to address the FGPF’s deficit, the Governor’s budget includes the following proposals that would increase FGPF expenditures:

- \$1.7 million to develop and implement a sampling program, in coordination with the Department of Public Health, to protect public health and prevent unnecessary fishery closures associated with harmful microalgae blooms (aka “red tides”).

- \$1.8 million to improve efficiency in the conservation of natural resources through compliance with the State Water Resources Control Board's emergency regulation for measuring and reporting on the diversion of water related to management and operations of department lands and facilities.

These issues were heard by the subcommittee on March 2<sup>nd</sup>.

**Staff Recommendation:** Reject all of the Governor's proposals and adopt budget bill language requiring the department to (1) to reconvene Vision Stakeholders to provide an update on the status of the Vision recommendation implementations; (2) provide a report regarding the same to the Legislature by October 1, 2017; and (3) undergo a zero-based budget evaluation in time for implementation by fiscal year 2018-19.

## 3940 State Water Resources Control Board (SWRCB)

### Issue 1 – Drought Resources: Updated Request

**Governor's Proposal.** The May Revision proposes a decrease by \$4.7 million General Fund. The Governor's budget proposed \$5.3 million for drought-related activities. The requested reduction will maintain a budget of \$600,000 to support four positions that are necessary for the conclusion of open drought-related compliance and enforcement issues currently underway at the State Water Resources Control Board.

**Background.** Executive Order B-40-17 lifted the Governor's previous drought declaration in all but four counties. As a result of improved and significantly increased precipitation this year, the State Water Resources Control Board no longer requires additional resources for water curtailments and emergency change petitions.

**Staff Recommendation.** Approve as budgeted.

### Issue 2 – Irrigated Lands Management Program

**Governor's Proposal.** The Governor's budget proposes \$1 million from the Waste Discharge Permit Fund and five permanent positions to support ongoing regulatory efforts to protect sources of drinking water and reduce nitrate loading to groundwater from irrigated agriculture in California.

**Background.** In 2013, the SWRCB's report to the Legislature, "Recommendations Addressing Nitrate in Groundwater," identified nitrate contamination in groundwater as a widespread water quality problem that can pose serious health risks to pregnant women and infants. Agricultural fertilizers and animal wastes applied to cropland are by far the largest sources of nitrate in groundwater. The report revealed that almost 97 percent of nitrate loading to groundwater in the Central Valley and Central Coast can be directly linked to irrigated agriculture. The State Water Board made 15 specific recommendations to address issues associated with nitrate contaminated groundwater. The State Water Board and the Regional Water Quality Control Boards (collectively, the Water Boards) are engaged in numerous efforts to address nitrate contamination in groundwater. This proposal focuses on the Water Boards' efforts to regulate discharges with the Irrigated Lands Regulatory Program (ILRP).

The ILRP currently is supported by \$4.5 million and 23.1 positions. Identification of water quality concerns related to agricultural practices and operations has resulted in a systematic increase in workload over the last decade. The positions in this BCP will be funded from waste discharge permit fees from agricultural dischargers. To the extent that the existing fee payer base for these dischargers cannot support the increased program oversight costs, the current fee structure for these dischargers may be increased to cover the costs of regulating these facilities to protect sources of drinking water, public health, and the state's groundwater.

This proposal was heard by the subcommittee on March 16<sup>th</sup>.

**Staff Recommendation.** Approve as budgeted.

## 3970 Department of Resources Recycling and Recovery

### Issue 1 – Disaster Debris Recovery Closeout and Project Backlog

**Governor's Proposal.** The May Revision proposes \$1.0 million Integrated Waste Management Account (annually for two years) to finalize and complete disaster debris removal-related workload and project backlogs incurred by redirecting staff toward emergency disaster recovery and post-recovery efforts.

**Background.** The Engineering Support Branch, within the Waste Permitting, Compliance, and Mitigation Division, reviews and approves solid waste, and tire, facility plans to ensure effectively implemented state standards. The branch provides engineering technical support to other department branches for solid waste, climate change, bioenergy, and illegal dumping issues. It oversees CalRecycle's cleanup and remediation programs to mitigate hazards created by closed, illegal, and abandoned solid waste and tire disposal sites.

CalRecycle's responsibilities and expertise in the remediation of solid waste disposal sites make them suited to carry out debris removal operations required for the fire related disaster recoveries.

In 2015, the Governor declared a State of Emergency in Lake and Napa counties due to the severity and magnitude of the wildfires. CalRecycle was directed to support local governments in the management of debris removal operations. CalRecycle redirected significant resources from its Solid Waste Program to assist. The extended duration of debris removal operations, as well as the complexity and magnitude of managing project costs, claims, and federal reimbursements, have taxed staff resources significantly and delayed or postponed other planned projects.

According to CalRecycle, they are inadequately staffed to perform long-term, large-scale debris removal operations, in addition to carrying out its mandated responsibilities. The staff redirection has resulted in an un-absorbable backlog. Moreover, there continues to be ongoing workload to finalize debris removal projects, workload for evaluating costs for federal reimbursement, and work to assist counties with insurance recovery. CalRecycle remains behind in the review of technical reports, such as closure and post-closure maintenance plans, non-water corrective actions plans, implementation of various health and safety programs, and site remediation.

**Staff Comment.** An estimated 250 tons of waste and debris were generated for each residential structure destroyed during these wildfires. Thousands of structures were damaged, between the Valley Fire and Butte Fire. CalRecycle will likely continue to face added workload needs relating to the near- and long-term efforts to close out the Valley and Butte fire recoveries, as well as their own backlog as a result of staff redirection. This request is consistent with those needs.

**Staff Recommendation.** Approve as budgeted.

## 8570 Department of Food and Agriculture

### Issue 1 - Plant Pest Prevention System

**Governor's Budget.** The Governor's budget proposes \$1.8 million General Fund, and \$2.6 million in Department of Food and Agriculture Fund (Agriculture Fund) authority in 2017-18 and 190.5 positions (25.5 permanent positions and a conversion of 165 temporary positions to permanent positions), and \$1.9 million General Fund, \$2.9 million in Agriculture Fund and \$570,000 of reimbursements and 194 positions (29 permanent positions and a conversion of 165 temporary positions to permanent positions) in FY 2018-19 and ongoing for the Department of Food and Agriculture (CDFA) to fortify the infrastructure of the state's pest prevention system.

**Legislative Analyst's Office (LAO).** The LAO recommends approving the new positions and half of the positions requested to be shifted from temporary status. They further recommend the Legislature require the department to report at budget hearings on the need for new office facilities to house the additional staff requested under the Governor's proposal, as well as the estimated cost of the greenhouse structures that might be needed in order to implement the Governor's proposed biocontrol program.

This proposal was heard by the subcommittee on March 2<sup>nd</sup>. Since the time of the hearing, it has been brought to the subcommittee's attention that there is an additional concern regarding resource needs to combat Pierce's Disease. Vineyards statewide are being impacted. However, state funds that previously went to CDFA's Pierce Disease Control Program were cut in 2011.

**Staff Recommendation:** Approve the Governor's request. Additionally, add \$5 million General Fund for the Pierce Disease Control Program to combat and minimize the statewide impact of Pierce's Disease and its vectors in California.

## Discussion Calendar

### 3820 San Francisco Bay Conservation and Development Commission (BCDC)

#### Issue 1 – Co-Location to Regional Headquarters

**Proposal.** BCDC is need of \$5 million General Fund for construction of tenant improvement costs to make the bare floor (the 5th floor) of their new office habitable. The costs will be amortized over the ten-year period of the lease.

**Background.** The 2016 budget included \$350,000 General Fund to relocate BCDC offices into the Metropolitan Transportation Commission's new regional agency headquarters building in San Francisco at 375 Beale Street. This item had been heard multiple times in the subcommittee in 2014 and 2015 with recommendations to support this co-location move. BCDC does not have available funds for this co-location project, and is statutorily required to be located in San Francisco.

BCDC and its Bay Area Regional Collaborative (Metropolitan Transportation Commission, Association of Bay Area Governments, and the Bay Area Air Quality Management District) partners "coordinate and improve the quality of land use, transportation, and air quality planning for the Bay Area" by "coordinating the development and drafting of major planning documents prepared by" member agencies. BCDC is leading the region's efforts to adapt to climate change, is helping to coordinate the next iteration of the Bay Area's Sustainable Communities Strategy (SB 375), and working closely with its partners to harmonize important regional plans and strategies.

Co-locating these efforts in one building in which all agency staffs can work together seamlessly-both physically and figuratively-to increase regional integration more efficiently use state resources, rather than leaving BCDC on the sidelines by being the only one of the four partner agencies not located at the single site. Not joining its regional partners at 375 Beale would complicate, hinder, and lessen collaboration required to fulfill BCDC's mandate and would delay or otherwise diminish regional state policies-particularly addressing the challenge of how rising sea level will cause damage to state-owned and dependent assets absent BCDC and regional collaboration.

**Staff Comment.** This move was approved by the subcommittee last year. However, the costs (\$5 million) for tenant improvements have been identified, which BCDC does not have current resources to address.

**Staff Recommendation.** Approve \$5 million, to be amortized over the ten-year lease period, for BCDC to complete its move to 375 Beale Street in San Francisco.

### 3960 Department of Toxic Substances Control (DTSC)

#### Issue 1 – Exide Closure Implementation

**Governor's Proposal.** The May Revision proposes a loan of \$1.4 million annually for three-years from the Lead-Acid Battery Cleanup Fund to the Hazardous Waste Control Account for a third-party quality assurance contractor to provide oversight of the activities conducted under the Closure Plan for the Exide Technologies, Inc. facility in Vernon.



**Background.** The Exide facility is located in the City of Vernon, began operations as a lead smelter in 1922. Exide purchased the facility in 2000 and Exide's operations included treatment and recycling of spent lead-acid batteries. The Exide facility suspended its operations in 2013 in response to enforcement actions and permanently closed the facility in 2015.

In November 2014, DTSC ordered Exide to maintain a surety bond of approximately \$11 million and to establish a closure/post closure trust fund to ensure adequate funding for closure. DTSC estimates that closing the Exide facility will require Exide to spend \$38.6 million.

In March 2015, DTSC required Exide to submit an updated closure plan for the facility in accordance with applicable laws and regulations. Exide also signed a non-prosecution agreement with the United States Department of Justice that requires Exide to comply with certain orders issued to Exide by DTSC.

On December 8, 2016, DTSC approved the closure plan for the Exide facility. The closure plan requires the work to be overseen by a third-party quality assurance (QA) contractor hired by the regulatory agencies and funded by Exide. The third-party QA contractor will provide oversight for implementation of the closure plan to ensure that the closure activities do not add additional environmental impacts that are not already identified in the Environmental Impact Report (EIR) to the surrounding neighborhoods. This provision was included in the closure plan by DTSC in response to requests and concerns raised by the communities near the Exide facility.

DTSC intends to use the spending authority contained in this proposal to ensure payment to the contractor in the event that Exide disputes or rejects any invoice submitted by DTSC for reimbursement. DTSC would repay the loan as it receives payment from Exide for any late or disputed invoice.

**Staff Comment.** Nonpayment by DTSC to the contractor may cause a suspension of oversight work. This proposal will ensure that DTSC has the spending authority necessary to pay the contractor until it received reimbursement from Exide.

**Staff Recommendation.** Approve as Budgeted

## Issue 2 – Augmentation for National Priorities List and State Orphan Sites

**Governor's Proposal.** The May Revision proposes \$3.7 million, on a one-time basis, from penalty revenues from various funds (\$0.5 million from the Department of Pesticide Regulation Fund, \$2.7 million from the Air Pollution Control Fund, and \$0.5 million from the Waste Discharge Permit Fund) to direct site remediation at National Priorities List and state orphan sites. DTSC also requests provisional budget bill language to allow this.

**Background.** The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as the “superfund,” was passed in 1980 to help address cleanup needs at the nation's most heavily contaminated toxic waste sites. Hazardous waste sites eligible for long-term remedial action financed under the superfund program, are placed on the National Priorities List (NPL). Sites placed on the NPL contains the most heavily contaminated and difficult to clean up hazardous waste sites.

In partnership with the USEPA, DTSC acts on behalf of the State of California to remediate sites listed on the NPL. Under CERCLA, at sites where the responsible party cannot be found or cannot pay, the state is legally obligated to pay 10 percent of the cost of constructing the cleanup remedy (federal funds pay 90 percent), and 100 percent of the cost of operating and maintaining the remedy after it is built.

Over the past several years, DTSC has received an annual appropriation of approximately \$10 million for site remediation. According to DTSC, the funds allocated have not met historic demand. For example, in 2016-17, DTSC project managers identified a funding need that was more than twice the current appropriation. Underfunding this work has created a backlog at DTSC.

**Staff Comment.** CERCLA legally obligates DTSC to pay for 100 percent of operations and maintenance costs at NPL sites. The requested resources would allow DTSC to fully fund the state's NPL obligations and to protect the public and the environment from hazardous substances.

**Staff Recommendation.** Approve as budgeted.

## 3540 Department of Forestry and Fire Protection

### Issue 1 – Climate Adaptation Extended Fire Season

**Governor's Proposal.** The May Revision proposes \$42.4 million (\$42.1 million General Fund, \$309,000 Special Funds and Reimbursements), 18.5 positions, and 276.1 ongoing seasonal firefighters to add 42 year-round fire engines to the existing 10 year-round fire engines and to extend fire engine and helitack base ground crew staffing in the fall and spring. The department reports that there will be a corresponding reduction in E-Fund.

**Background.** Over the last five years, CAL FIRE has experienced a 25 percent increase in fire activity; data confirms that fire season length and intensity have noticeably increased over the past two decades. Much of the increased fire activity is due to the conditions resulting from the extreme weather patterns over the last five years in California – the worst drought in modern history, overlaid with the three consecutive hottest years on record, followed by the wettest year on record. Many predict that these extreme weather patterns will continue and result in larger, more frequent, and more intense fires.

Due to increased fire suppression needs, CAL FIRE has utilized the Emergency Fund (General Fund) over the last several years to supplement their staffing and budgetary needs. Instead of continuing to do so, CAL FIRE is requesting to adapt its staffing allocation guideline and base budget with its actual needs given the ongoing impact of climate change, demographics, invasive species, and forest health conditions.

The additional 42 engines and the extension of fire engine and helitack staffing in fall and spring each calendar year is intended to provide an amount of resources within each of CAL FIRE's 21 units to address climate driven conditions, based on the number of ignitions and acres. The extended fire engine and helitack base staffing would also provide surge capacity when there is an extended attack or major incident during this time, as is often the case with wind driven fires. This has the potential to avoid Emergency Fund costs as more CAL FIRE engine and helitack base staff would be available for

assignment to incidents, eliminating the need for costlier local government resources. The General Fund portion of this budget request will be offset by a commensurate reduction in the Emergency Fund starting in FY 2017-18, which results in a zero net cost to the General Fund.

**Legislative Analyst's Office (LAO).** The LAO recommends requiring the department to provide additional information in budget hearings prior to approving the requested resources. In particular, the department should address why the requested increase from 10 to 52 year-round staffed engines is justified given a 25 percent increase in fire activity in the winter months. In addition, the LAO suggests that the Legislature may want to request that the department more fully describe the outcomes it anticipates to achieve with the additional firefighters, such as reduction in number acres burned and acres on which they perform fuel reduction activities. LAO notes that the Administration's budget proposal assumes an equivalent reduction E-Fund expenditures. LAO argues that, while there might be some reduction in future spending from E-Fund if the funded activities effectively reduce the number of large fires, it is not clear what level of savings will actually occur, if any. Finally, the LAO recommends that if the Legislature chooses to approve these additional resources, they also recommend approving them on a limited-term basis in order to ensure that the Legislature has an opportunity to revisit whether the requested level of resources reflects the ongoing need rather than the unique circumstances created by the recent drought.

**Staff Recommendation:** Approve as budgeted.

#### **Issue 2 – CAD Hardware and Service Refresh**

**Governor's Proposal.** The May Revision proposes \$7.1 million General Fund in 2017-18, and \$1.3 million annually thereafter through 2021-22, to update the Altaris Computer Aided Dispatching (CAD) system.

**Background.** The CAD system is CAL FIRE's primary dispatch system used at CAL FIRE's emergency command centers, the academy and the information technology services headquarters lab facility. The CAD system is also CAL FIRE's primary automation tool used to facilitate initial attack dispatching operations by tracking the movement of CAL FIRE personnel in order to dispatch resources to an emergency.

The CAD system was originally approved in March 2002. The Budget Act of 2007 included five years of funding for CAD hardware update and ongoing maintenance and support. Funding for the last CAD hardware update and five-year contract for software maintenance and support was provided in the Budget Act of 2012. The warranties for the current hardware purchased with this funding will expire on June 30, 2017. In addition, the current five-year CAD software maintenance and support contract with Northrop Grumman Systems Corporation (NGSC) is also set to expire on June 30, 2017. The new contract is scheduled to begin July 1, 2017.

According to CAL FIRE, they do not have the staff or expertise necessary to service and maintain the CAD proprietary software system. Consequently, without ongoing service and maintenance support, the system would be considered "out of service" as soon as the first software failure is reported. Any failure in CAD has the potential of increasing risks in emergencies. Dispatching would return to operating on a manual system, which would be a massive undertaking at each command center because the manual system has not been maintained and would require an enormous time commitment to re-establish.

The prior and current CAD software maintenance and support contract with NGSC were for five years, respectively. CAL FIRE has negotiated a third five-year CAD software and maintenance support contract with NGSC, which was most recently discussed with DGS in April 2017. In early May 2017, DGS informed CAL FIRE the five-year term of the proposed CAD software maintenance and support contract could run longer than this. This request if approved will provide a one-time hardware lifecycle replacement, along with ongoing maintenance and support.

**Staff Recommendation:** Approve as budgeted.

### Issue 3 – Emergency Drought Actions

**Governor’s Proposal.** The May Revision includes a reduction of \$49.3 million General Fund from the January Governor’s budget, revising the \$90.98 million originally requested, resulting in a total request in the budget year of \$41.7 million (\$38.7 million General Fund and \$2.98 million SRA Fire Prevention Fund).

**Background.** The Governor’s proposed budget in January included \$90.98 million (\$88.1 million General Fund and \$2.9 million SRA Fund) for CAL FIRE for expanded fire protection in the 2017 fire season. This included continuation of increased firefighter surge capacity, extended fire season, surge helicopter pilots, California Conservation Corps fire suppression crews, increased vehicle maintenance and exclusive use of the large and very large air tankers. The proposed budget also reflected an additional \$90.4 million General Fund in the current fiscal year, supported by the Emergency Fund, to initiate these enhanced fire protection efforts in the spring of 2017.

Based on updated weather and fuel conditions, CAL FIRE is reducing the \$90.98 million to \$41.7 million. CAL FIRE is also reducing the current fiscal year amount to \$46.97 million. The majority of the savings come from reducing the extended fire season staffing in recognition of the climate adaptation budget request, eliminating the surge helicopter pilots, and reducing the number of exclusive use large and very large air tankers.

The remaining funding requested would be used to address the massive tree mortality and bark beetle infestation, as detailed in the October 30, 2015, Governor’s State of Emergency Proclamation on the tree mortality epidemic.

On November 18, 2016, the U.S. Forest Service increased its estimate of the number of dead trees in California’s forestlands from 66 million to 102 million. Large numbers of trees are dying due to six repeated years of drought, which has weakened trees and left millions of acres of forestland highly susceptible to bark beetle attacks. Drought stress is exacerbated in forests with too many trees competing for limited resources, especially water. Tree losses due to drought stress and bark beetle attacks are expected to increase until precipitation levels return to normal or above normal for several years. Research suggests forests recovering from drought take two to four years; drier forests take longer. Additional research shows high variability in response, with some species taking up to five years. It is, however, important to note that dead and dying trees will continue to increase fire risk until the trees burn, decompose, or are removed. The current 102 million dead and dying trees, along with inevitable incremental increases in mortality, will directly impact fuel conditions and fire behavior for up to 20 years.

Even after a normal rainy season, the dead vegetation will continue to dry out from past drought. Due to the large amount of moisture that a tree can store, it can take up to three years to completely die, as seen in Fresno County. The amount of diseased or infected trees, other increased dead fuels such as brush and smaller trees, and below average fuel moisture, has weakened trees to the point that they can fall down more easily during wind and snow storms, thus continuing to increase the dead fuel loading. The result of low live fuel moisture mixed with an abundance of dead fuel loading will increase the probability of fire starts and rapid rates of fire spread even during non-wind events, and will likely contribute to increased fire activity during hot periods, which also makes the fuels easier to ignite.

**Staff Comment.** As noted in the background, tree mortality and fire fuel remains a big concern despite the drought being over. The Subcommittee may wish to ask CAL FIRE how it is prioritizing fuel reduction activities. In addition, in the last couple of years the Legislature has added funding from the State Responsibility Area Fire Prevention Fund for grants to locals support fuel reduction efforts.

**Staff Recommendation.** Approve the request. However, add \$10 million from the State Responsibility Area Fire Prevention Fund and budget bill language to support local assistance grants for fuel reduction efforts and to improve drought resilience within state responsibility areas.

## 3860 Department of Water Resources

### Issue 1 – Infrastructure Repairs and Reimbursements for Flood Control

**Proposal.** A member letter submitted to the subcommittee requests \$100 million General Fund on an annual basis for the department to perform critical and serious infrastructure repairs and reimbursements for flood control infrastructure.

**Background.** The letter notes that the amount of rainfall this year and the severe damage to the Oroville Dam spillways have caused substantial damage to flood control structures that need to be addressed as soon as possible. The letter further notes that the need for a consistent and reliable source of funding to reduce food-risk in our state is vital to protection of human life and property.

The letter notes that the Sacramento, Feather, and Yuba River levees along with the Sutter and Yolo Bypasses are in critical need of repair, that serious repair must be made to urban and rural flood protection facilities in high risk flood areas, and that local agencies have spent a significant amount of money on emergency response activities.

Finally, the letter notes that the Central Valley Flood Protection Plan estimates up to \$21 billion needed over 30 years for upkeep of the state plan of flood control system of levees while an analysis by the department and the U.S. Army Corps of Engineers identified more than \$50 billion in needs in a 2013 report.

**Staff Recommendation.** Hold open.

**3970 Department of Resources Recycling and Recovery****Issue 1 – Enhanced Oversight, Audit, and Enforcement in the Beverage Container Recycling Program**

**Governor’s Proposal.** The May Revision proposes \$2.3 million Beverage Container Recycling Fund and 22 positions to convert limited-term resources into permanent to sustain increased and enhanced oversight, audit, and enforcement functions within the Beverage Container Recycling Program.

**Background.** Beverage container recycling is a multi-billion-dollar a year industry, and California is one of only ten states in the United States with a bottle bill program. Program revenues come from primarily two sources: the beverage manufacturers who pay processing fees to CalRecycle and beverage distributors who make redemption payments to CalRecycle for beverage container sold or transferred in California.

In 2015, over 23 billion containers were sold or transferred in California. On a daily basis, over 50 million containers are recycled. The recycling rate of the program reached 85 percent in 2013. A portion of the increase in the recycling rate is due to a substantial increase in fraud by individuals and entities attempting to compromise the integrity of the fund. Based on CalRecycle's experience, as well as the experiences of the Department of Justice, the majority of program fraud and illicit payments is associated with the importation and subsequent illegal redemption of imported out-of-state empty beverage containers and re-redemption of CRV empty beverage containers purchased from consumers in California.

In November 2014, the California State Auditor conducted an audit of the Program. The Auditor's report recommended that CalRecycle implement changes to address several areas to protect the Fund from the risk of the importation and illegal redemption of imported out-of-state empty beverage containers.

In the 2015 budget, five limited-term positions for auditors were approved to audit Beverage Manufacturers and Distributors within the BCRP. As two-year limited-term positions, there were challenges to recruiting for the position and keeping the positions filled. Two of the positions were filled by March 2015. The five positions were fully staffed between November 2015 and February 2016. In February 2016, two of the auditors transitioned into other permanent positions and CalRecycle has been unable to hire qualified candidates. All five limited-term positions will expire on June 30, 2017.

Despite the hiring challenges, the limited-term auditors started a total of 32 audits, and have been able to complete 10 of them. The total findings of these 10 audits have amounted to \$251,488. Additionally, there are 22 audits still in progress and the department estimates that projected findings for these 22 audits will amount to a total of \$793,774. The total amount of findings to which these five positions will have contributed is \$1,045,262.00. These “findings” represent underpayments of CRV and/or processing fees identified by the audits.

The limited-term positions have helped cleared the backlog issues that CalRecycle had experienced in the past. Every year CalRecycle plans to conduct a certain number of audits; if an audit is not performed within the year in which it is planned for, it will be carried to the next fiscal year. The limited-term auditors help conduct the low-volume audits, thus allowing the seasoned auditors to focus

on the more difficult high-volume audits. Therefore, not many audits have to be pushed to the next fiscal year. In addition, many audits are in the quality control inventory, waiting to be reviewed to make sure the audit conclusion is supported by sufficient appropriate evidence before the report can be issued. Some of the seasoned auditors can be freed up to do certain QC review, thus, helped to clear the backlog in QC.

**Staff Comment.** The previously approved limited-term resources for CalRecycle to conduct audits have proven to be successful, despite the difficulty in recruiting staff due to the limited-term positions. Making these positions permanent would allow CalRecycle to continue to conduct audits and enforcement.

**Staff Recommendation.** Approve as budgeted.

## 3885 Delta Stewardship Council

### Issue 1 – Delta Stewardship Council Trailer Bill Language

**Governor’s Proposal.** The Governor proposes trailer bill language to extend the term limit of the chairperson position at the Delta Protection Commission from four years to eight years.

**Background.** The Delta Reform Act established the Delta Stewardship Council in 2009. The council was created to advance the state’s coequal goals for the Delta – a more reliable statewide water supply and a healthy and protected ecosystem, both achieved in a manner that protects and enhances the unique characteristics of the Delta as an evolving place. The council is tasked with developing an enforceable long-term sustainable management plan for the Delta to ensure coordinated action at the federal, state, and local levels. The Delta Plan, adopted in 2013, includes both regulatory policies and non-binding recommendations.

The council is comprised of seven voting members and advised by a 10-member board of nationally and internationally renowned scientists. Four members are appointed by the Governor, one member is appointed by the Senate Rules Committee, the Speaker of the Assembly appoints one member, and one member serves as the Chairperson of the Delta Protection Commission.

The chairperson of the Delta Protection Commission serves as a member of the council for the period during which he or she holds the position as commission chairperson, which is four years.

**Staff Comment.** Whether to extend the term of the Delta Protection Commission chairperson from four to eight years is a policy questions. These issues were significantly debated in the past and the May Revise does not allow enough time to appropriately revisit.

**Legislative Analyst’s Office (LAO).** The LAO believes the proposal to extend the term of the council chairperson from four to eight years is a policy decision without a budgetary link, and therefore should be discussed through the policy process rather than the budget trailer bill. Moreover, including this change in the May Revision trailer bill does not allow sufficient time for the Legislature to solicit feedback or concerns from stakeholders.

**Staff Recommendation.** Reject, this proposal should be considered through the policy process.

## 8570 Department of Food and Agriculture

### Issue 1 – Milk Pooling Trailer Bill Language

**Governor’s Proposal.** The Governor proposes trailer bill language to authorize CDFA to establish a stand-alone milk quota program.

**Background.** The U.S. Department of Agriculture (USDA) uses marketing orders to regulate the sale of dairy products. These marketing orders are binding on all handlers of the commodity within the geographic area of regulation, once it is approved. The order may limit the quantity of goods marketed, or establish the grade, size, maturity, quality, or prices of the goods. This system allows producers to promote orderly marketing through collectively influencing the supply, demand, or price of a particular commodity. Research and promotion can be financed with pooled funds.

California has a state-specific pricing system for dairy that is separate from the USDA. CDFA is the regulatory agency charged with overseeing this system. In order to perform this function, CDFA monitors conditions in the dairy market place and establishes the minimum price that must be paid by processors to producers.

In February 2017, the USDA recommended establishing a federal order that would incorporate California dairy. USDA is now in the process of taking public comments on the recommendation. USDA is scheduled to host an official vote of California dairy farmers between late fall of 2017 and early spring of 2018 on whether to join the federal order.

If California dairy farmers choose to join the federal order, the existing California milk pricing system (which includes a quota system) would be repealed, but there would be no quota system under the federal order. California dairy farmers may be interested in maintaining a California-specific quota system (in addition to the federal order).

The proposed trailer bill language would authorize CDFA to establish a California-specific quota system contingent upon approval through a dairy farmer referendum. According to CDFA, it is important for dairy farmers to know whether CDFA has authority to implement a California-specific quota system before a vote is taken on whether to join the federal order.

**Staff Recommendation.** Approve placeholder trailer bill language.

### Issue 2 – Turlock North Valley Laboratory Replacement

**Governor’s Proposal.** The Governor's budget proposed \$3.1 million General Fund to construct the North Valley Animal Health Laboratory, a new full-service animal health laboratory in the northern San Joaquin Valley.

**Background.** The California Animal Health and Food Safety Laboratory System (CAHFS) is a network of four laboratories throughout California, providing broad-based surveillance for diseases in agriculture to ensure food and animal feed safety. CAHFS serves to prevent, detect, contain and eliminate livestock and poultry disease outbreaks through livestock and poultry necropsy examinations (animal autopsy) submitted by vets or animal owners to determine the cause of illness or death of an animal. CAHFS also tests environmental samples submitted to assist with diagnosing diseases,



certifying animals/environments are free from disease (often a requirement prior to import/export), and to maintain flock or herd health.

CAHFS' four laboratories (Davis, Turlock, Tulare, and San Bernardino) are strategically located throughout the state to facilitate receiving an adequate sample surveillance stream and serve as an early warning system to rapidly detect diseases of concern so they can be contained by CDFA before they spread.

Laboratories in Davis, Tulare, and San Bernardino provide full-service necropsies and testing on biological samples (eg. blood, tissue biopsies, etc.). Turlock is the only laboratory that is restricted to poultry testing. The laboratory in Turlock opened in 1958 and has two on-site trailers for a total square footage of 5,100. The laboratory can only accept avian (bird) species and cannot provide mammalian necropsy/pathology services.

According to CDFA, the testing limitations of the Turlock Laboratory leave a gap in the surveillance system given the large population of cattle, sheep and other livestock in the northern central valley of California. CDFA further asserts that the existing laboratory does not meet current standards for diagnostic testing, lacks adequate biocontainment safeguards, and cannot be modified to comply due to its age, the presence of asbestos, and the size and location of the existing site. This proposal seeks to replace the laboratory facility in Turlock with a full-service animal health laboratory. The total estimated cost of this project is \$54.1 million.

**Staff Recommendation.** Approve as budgeted.

## 3600 Department of Fish and Wildlife

### Issue 1 – Drought Modifications

**Governor's Proposal.** The May Revision proposes a decrease of \$5.6 million General Fund to reflect decreased need for emergency drought funding. The Governor's budget proposed \$8.2 million for drought-related activities. The requested reduction will maintain a budget of \$2.6 million to support acoustic monitoring in the Delta and maintenance of infrastructure procured during the drought.

**Background.** Executive Order B-40-17 lifted the Governor's previous drought declaration in all but four counties. As a result of improved conditions and significantly increased precipitation this year, the Department of Fish and Wildlife no longer requires additional resources for new infrastructure, terrestrial monitoring, salmon passage criteria, and increased law enforcement. However, this request will allow the department to continue to move forward with a long-term fish tracking system that will allow for real-time analysis of fish movement to provide more accurate data for decision making. The department currently funds an acoustic monitoring array that is overseen by a multi-agency Core Array Advisory Group. This monitoring array is built around several core locations within the Delta and its tributaries; however, this system is limited in size and scope, utilizes outdated technology that does not support real-time monitoring, and is funded under a Proposition 84 grant agreement set to expire in 2017.

In 2015 drought funding was provided to enhance the state's efforts by funding a pilot program (Phase I) that will, over the next two years develop the technology needed to implement a real-time

monitoring program in the Delta. The 2015 funds are short-term and will not support a long-term program. With Phase I funding, the department was able to purchase 30 acoustic receivers and approximately 2,600 tags in order to create an array of monitoring stations throughout the Delta. Effective wide-scale monitoring of fish movement in the Delta is fundamental to the protection of several at-risk aquatic species and the operations of the state and federal water projects. Additionally, it would facilitate adaptive management strategies by tracking spatial and temporal success of restoration and management activities.

**Staff Recommendation.** Approve as budgeted.

## **Issue 2 – Voluntary Agreements for Sacramento-San Joaquin River**

**Governor’s Proposal.** The May Revision proposes \$1.1 million General Fund and five positions to provide resources to negotiate, complete, and implement voluntary agreements in tributaries to the Sacramento-San Joaquin Rivers and the Delta. These agreements are intended to create water supply and regulatory certainty for water users, and improve ecological flow and habitat for species.

**Background.** The "Protect and Restore Important Ecosystems" action of the California Water Action Plan (CWAP) provides that:

"The administration, with the involvement of stakeholders, will build on the work in tributaries to the Sacramento and San Joaquin river, analyze the many voluntary and regulatory proceedings underway related to flow criteria, and make recommendations on how to achieve the salmon and steelhead and ecological flow needs for the state's natural resources through an integrated, multi-pronged approach."

The CWAP also identified the need for the State Water Resources Control Board to update the Bay Delta Water Quality Control Plan, which requires understanding and analysis of ecological conditions in over 20 streams in the Central Valley. The water board has begun this update, of which the department has been an active participant in and provided both written and oral comments. Through those ongoing efforts, the board has publicly stated its desire for parties to reach voluntary agreements that they can consider in lieu of lengthy water rights proceedings.

The department is currently involved in many, if not most, tributaries to the Sacramento and San Joaquin rivers and working directly with irrigation districts and water agencies through existing administrative processes. This includes Federal Energy Regulatory Commission relicensing of hydroelectric facilities, through collaborative discussions about ecological flow and restoration programs, and through programs like the department's Voluntary Drought Initiative.

The state provided \$816,000 to the department in 2016 to support legal assistance and re-direct staff to fully engage in voluntary agreement negotiations. This has allowed the department to develop the preliminary scientific and modeling evaluations necessary to negotiate critical terms of the voluntary agreements. Additionally, this level of support has provided assurance of the state's commitment to these efforts, which subsequently motivated parties to become similarly engaged. So much that formal negotiations on the San Joaquin tributaries is now underway.

**Legislative Analyst’s Office (LAO).** To ensure that General Fund-supported staff work is targeted for project assessment and implementation work that serves/improves public trust resources (and not

private interests, which should be supported by project permit fees or private funds), the LAO recommends adding budget bill language stipulating that requirement.

**Staff Recommendation.** Approve the proposal with the addition of budget bill language, as suggested by the LAO, to ensure that General Fund-supported staff is targeted for work related to public trust resources.