

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Thursday, February 10, 2011
9:30 am or upon adjournment of session
Rose Ann Vuich Hearing Room (2040)

PART A—Resources and Environmental Protection
Consultant: Catherine Freeman

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Resources—Environmental Protection—Energy—Transportation

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3110 Special Resources Programs

1. Base Budget—Tahoe Regional Planning Agency. The Governor requests \$4.1 million for baseline ongoing activities at the Tahoe Regional Planning Agency (a program within the Special Resources Programs budget).

3125 California Tahoe Conservancy

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

3. BCP-2: Reappropriations. The Governor requests various reappropriations, reversions and an extension of liquidation for local assistance projects previously approved for the Lake Tahoe Basin. This request is mainly due to the bond freeze.

3720 State Coastal Conservancy

4. COBCP-1: Ocean Protection Council: Capital Projects and Science Applications. The Governor requests reappropriation of unencumbered balances (bond funds) for ocean-related capital and science projects. This request is mainly due to the bond freeze.

3810 Santa Monica Mountains Conservancy

5. COBCPs (multiple): Capital Outlay: Acquisition and Local Assistance Grants. The Governor requests various reappropriations from bond funds for projects in (1) the Upper Los Angeles River watershed and Santa Monica Bay and Ventura County Coastal watersheds; and, (2) Santa Monica Mountains Zone and Rim of the Valley Trail Corridor.

3825 Rivers and Mountains Conservancy

6. COBCP-1: Proposition 84, Capital Outlay and Grants. The Governor requests \$6.7 million (Proposition 84) to fund the fifth year of capital outlay projects in the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy.

3830 San Joaquin River Conservancy

7. COBCP-1: Environmental Restoration, Public Access and Recreation. The Governor requests \$1.0 million (reimbursement authority) to allow the Conservancy to receive funds from the Wildlife Conservation Board so the Conservancy may direct and administer projects along the San Joaquin River Parkway.

3835 Baldwin Hills Conservancy

8. COBCP-1: Acquisition and Improvement Program. The Governor requests reversion and reappropriation of the remaining balance of Proposition 40 funds to continue work on the park master plan as required by Chapter 752, Statutes of 1999.

3850 Coachella Valley Mountains Conservancy

9. COBCP-1: Land Acquisition (New Appropriation and Reappropriation). The Governor requests \$8.8 million (mainly Proposition 84) to allow the conservancy to acquire and protect mountainous zones and provide funding to implement the natural community conservation plan (NCCP) lands within the conservancy boundaries.

3855 Sierra Nevada Conservancy

10. COBCP-1: Proposition 84 Grant Program Re-Appropriation. The Governor requests reappropriation for the unencumbered balance in Proposition 84 local assistance grant funding to award grants and cooperative agreements in the Sierra Nevada Region.

Local Reappropriations and Extensions of Liquidation

11. Additional Reappropriations

Staff has been made aware by local governments that the following extensions of liquidation, reappropriations, or appropriations anew are also needed:

- El Monte, Gibson neighborhood park -- \$600,000
- County of Inyo, Tecopa Hot Springs Park -- \$1,040,245
- City of Encinitas, Leucadia State Beach -- \$2,482,845
- City of Encinitas, Recreational Grants -- \$426,471
- Boys and Girls Club of Hollywood -- \$2,153,000
- County of Sacramento, Recreational Grants -- \$671,396
- Rio Linda/Elverta RPD, Recreational Grants -- \$168,858
- Lassen County, Recreational Grants -- \$692,099
- Sierra County, Recreational Grants -- \$817,419
- Amador County, Recreation Grants -- \$628,866
- Sutter County, Recreational Grants -- \$58,837
- City of Long Beach, Boating and Ports -- \$8.1 million
- City and County of San Francisco (various) -- \$6.6 million
- County of Modoc (various)--\$831,957
- County of Fresno -- \$1.8 million
- Los Angeles County
 - Benny Potter Playground Restroom
 - Hansen Dam Skate Park
 - Ken Malloy Playground Restroom
 - Riverside Park Outdoor Development

Staff Comments: Staff has no concerns with the proposed reappropriations, extensions of liquidation, or appropriations anew. Due to the Bond Freeze, many projects experienced delays due to financing and/or construction times. By allowing these extensions, projects that are currently in process will be allowed to continue.

Staff Recommendation:

- (1) APPROVE Items 4-11
- (2) DENY WITHOUT PREJUDICE Items 1-3

Item 1 Actions:

- Reduce Item 3110-101-0140 by \$3,999,000
- Reduce Item 3110-101-0516 by \$124,000

VOTE:

Informational Item: LAO Bond and Cash Management Presentation

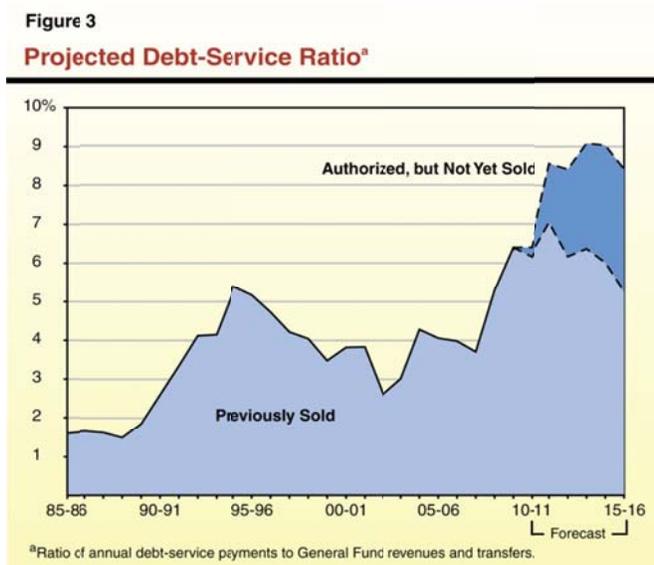
The Legislative Analyst's Office has written extensively about the relationship between debt and cash flow in the state budget. In the 2010 LAO Fiscal Forecast, the LAO discussed recommendations that would help the state manage its cash pressures, primary among them reducing operating shortfalls. The LAO will be providing a short presentation on bond expenditures within the Resources and Environmental Protection programs including a discussion of cash management and debt service on infrastructure bonds.

The Governor has stated that as one budget and cash management strategy, the administration will not hold a spring bond sale. The administration also has reduced the number and amount of bond requests in the budget year and has stated that the lack of a spring bond sale will not impact proposed Resources and Environmental Protection projects.

2010 LAO Fiscal Forecast—Debt Service on Infrastructure Bonds

Debt-Service Ratio (DSR) Expected to Rise. The DSR for general obligation and lease-revenue bonds—that is, the ratio of annual General Fund debt-service costs to annual General Fund revenues and transfers—is often used as one indicator of the state's debt burden. There is no one “right” level for the DSR. The higher it is and more rapidly it rises, however, the more closely bond raters, financial analysts, and investors tend to look at the state's debt practices, and the more debt-service expenses limit the use of revenues for other programs. Figure 3 shows what California's DSR has been in the recent past and our DSR projections for the forecast period.

The DSR we (LAO) are projecting—slightly above 9 percent at its peak—is considerably higher than it has been in the past. This reflects the sharp, recent fall-off in General Fund revenues, the planned sale of the large bonds approved since 2006, and the voters' recent approval of Propositions 22 and 26. To the extent additional bonds are authorized and sold in future years beyond those already approved, the state's debt-service costs and DSR would be higher than projected in Figure 3.



3640 Wildlife Conservation Board

Items Proposed for Vote-Only

1. **BCP-1: Funding for Development Programs.** The Governor requests \$1 million from the Wildlife Restoration fund for public access programs.
2. **BCP-2: Habitat Conservation Fund (2007 Reappropriation).** The Governor requests re-appropriation of a \$7 million unencumbered balance from 2007 due to the bond freeze. This annual transfer of funds and expenditure is required by the voter-approved Wildlife Protection Act of 1990 which requires an annual transfer of \$30 million from the General Fund to the Habitat Conservation Fund through the year 2020.
3. **COBCP-1: Habitat Conservation Fund.** The Governor requests \$21 million, less the amount necessary to fund the administrative support, for the Wildlife Conservation Board to carry out mandates of the California Wildlife Protection Act of 1990 as required by the voter-approved initiative.

Staff Recommendation: APPROVE Items 1-3

Vote:

Items Proposed for Discussion**4. Reappropriations of Propositions 40 and 84 Bond Funds (Various)**

Background. The Governor's budget proposes a total of \$39 million in reappropriations for three budget proposals in the Wildlife Conservation Board:

- San Joaquin River Conservancy Acquisitions and Public Access, Recreation and Environmental Restoration—\$10 million Proposition 84 and \$1 million reimbursements. To date, no funding has been encumbered.
- Proposition 84 Natural Communities Conservation Planning (NCCP) Reappropriation—\$24.9 million of the original \$25 million appropriation.
- San Joaquin River Conservancy—\$3 million of the original \$10.5 million appropriation in 2003.

LAO Recommendation.

Withhold approval of three reappropriations totaling \$39 million (\$11 million from Proposition 84 and \$3 million from Proposition 40 for restoration of the San Joaquin River Parkway; \$25 million from Proposition 84 for Natural Communities Conservation Planning) pending demonstration by the board why reappropriation of this funding would result in physical projects. (To date, the board has only spent 8 percent of the \$46.5 million in initial appropriations, some dating as far back as 2003.)

Staff Comments. This is the second year this issue has come before the committee. Staff shares the concerns of the LAO, particularly for the first two proposals totaling more than \$30 million in appropriations that the board has not acted upon. The subcommittee may wish to ask the board why they continue to have problems getting funding out the door for these legislative priorities.

Staff recommends the board return by April 1, 2011, with an action plan to administer these funds. It may no longer be acceptable to re-appropriate these funds annually with little to no progress being made by the board and conservancy. The Legislature may wish to have the board and LAO provide an analysis of alternative options for the funding, including distribution to other state agencies for capital expenditure.

Recommendation: DENY WITHOUT PREJUDICE. Require the board to return with an action plan for expenditure of funds by April 1, 2011.

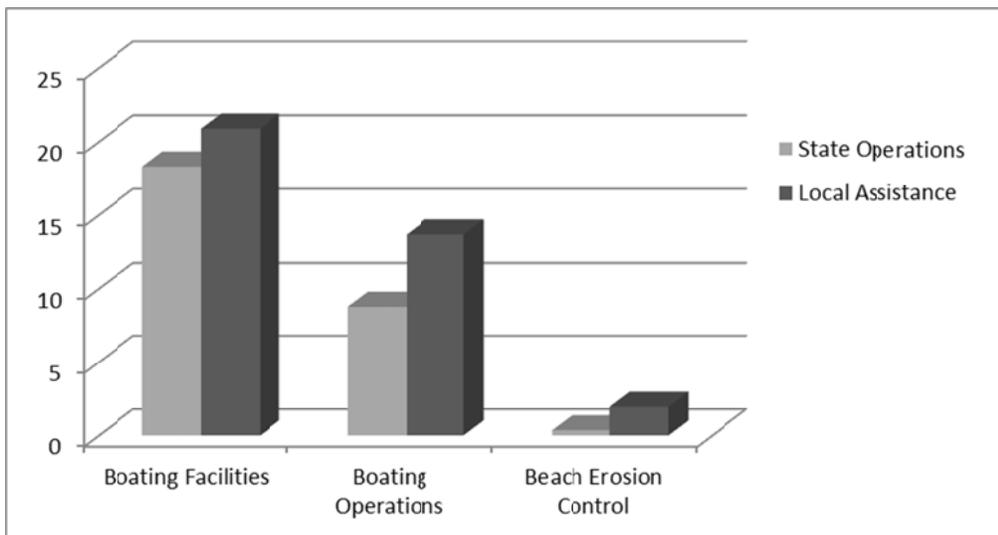
Vote:

3680 Department of Boating and Waterways

The Department of Boating and Waterways (DBW) funds, plans, and develops boating facilities on waterways throughout California and ensures safe boating for the public by providing financial aid and training to local law enforcement agencies. In addition, the department has responsibility for boating safety and education, licensing of yacht and ship brokers, aquatic weed control in the Sacramento-San Joaquin Delta, and beach erosion control and sand nourishment along California’s coast. The department operates an oceanography program at the Scripps Institute of Oceanography at La Jolla.

Governor’s Budget. The Governor’s Budget includes \$63.9 million (no General Fund) for support of the DBW, no change from current year estimates.

Department of Boating and Waterways Programs (in millions)



ITEMS PROPOSED FOR VOTE-ONLY**1. BCP-3: Coastal Data Information Program (CDIP) Federal Support Increase.**

The Governor requests an increase of \$1.8 million (ongoing), in federal budget authority in order to expend additional available federal funds on an ongoing basis from the US Army Corps of Engineers to support wave and water level studies in order to increase maritime safety and prevent coastal environmental damage.

2. BCP-4: Coastal Shore Protection Grants. The Governor requests \$2 million in FY 2011-12 and \$1.2 million in FY 2012-13 for multiple local assistance grants to protect public coastal infrastructure within the Beach Erosion program.

3. BCP-5: Statewide Emergency Repairs and Replacements. The Governor requests authorization to create a repair and replacement fund (\$300,000 within the Harbors and Watercraft Fund) in the baseline budget rather than as annual Capital Outlay request in order to immediately respond to unforeseen events and circumstances that impact the safe use of recreational boating facilities.

4. COCPs: Minor Capital Outlay Projects. The department requests a total of \$4.2 million (HWRF) for the following minor capital outlay projects:

- a. Statewide Low-Water Improvements – \$300,000
- b. Folsom Lake SRA Granite Bay Stage 4 Ramp Improvements – \$740,000
- c. Lake Davis Honker Cover Ramp Improvements – \$455,000
- d. Bidwell-Sacramento River State Park Pine Creek Ramp Improvements – \$500,000
- e. Castaic East Ramp Boarding Float Improvements – \$360,000
- f. Millerton Lake State Recreation Area Ramp 3 Restroom Replacement – \$340,000
- g. Antelope Lake Boat Launching Facility Improvements – \$680,000
- h. Frenchmen Lake Lunker Point Ramp Improvements – \$450,000
- i. Frenchman Lake Main Ramp Parking Improvements – \$36,000

Recommendation: APPROVE (Items 1-4)

Vote:

ITEMS PROPOSED FOR DISCUSSION**5. BCP-2: Department of Finance Recommendations—Boating and Facility Loans and Grants.**

Background. The Governor requests \$100,000 (Harbors and Watercraft Revolving Loan Fund) in ongoing state support to contract for the financial services required to ensure the safeguarding of state assets as recommended by the Department of Finance.

The Department of Finance (DOF) has recently completed a review of the Department of Boating and Waterways (the department) loan portfolio. In its review, the DOF made several findings and recommendations related to the department's loan portfolio.

According to DOF, the department has over \$2.9 million in delinquent loans. The department failed to consistently (1) conduct background checks; (2) develop a risk-based approach to prioritize and perform site visits; and (3) review loan recipients' annual financial reports to evaluate continuing ability to repay the loan.

Staff Comments. Staff have concerns with the recent report that the department does not institute financial safeguards as part of its normal course of business. The subcommittee may wish to ask the department and DOF:

- How much does the department currently spend on financial assurance and how many positions does this include?
- Why can't the department conduct these basic financial assurance measures with its existing staff?
- With whom would the department contract?

Staff concurs that there is a need to improve the department's financial management in order to protect the state's investments and assets. However, it is unclear why the department needs to contract for these services rather than incorporate them into its normal course of business.

Staff recommends denying the proposal, and any further loans, until the department is able to return with a plan to internally adopt the DOF recommendations for financial assurance.

Recommendation: DENY WITHOUT PREJUDICE

Vote:

6. BCP-1: Public Small Craft Harbor Loans and Boat Launching Grants (Reassessment and New Applications)

Background. The Governor requests \$17.9 million [Harbors and Watercraft Revolving Fund (HWRF)] in local assistance Public Small Craft loans and Boat Launching Facility grants. This includes \$7.1 million for loans with estimated repayments of \$441,000 per year for 30 years. The proposal also includes \$10.8 million for grants for public boat launching facilities that are open to the public.

This proposal includes the following grants:

- Channel Islands Boat Launching Facility (BLF), Ventura County Harbor District — \$4.5 million
- “Other Grants in Process of Reassessment” which are still being analyzed and for which decisions must still be made — \$1 million
- Various projects totaling no more than \$1 million per project

This proposal includes the following Local Assistance “Reassessed Loan Funding.”

- Santa Cruz Harbor Loan, Santa Cruz Port District — \$2.5 million
- Santa Barbara Harbor Loan, City of Santa Barbara — \$1.7 million
- “Other Loans in Process of Reassessment” which are still being analyzed and for which decisions must be made — \$2 million

The proposal includes the following New Loan Funding:

- Statewide Emergency Loans — \$300,000
- Statewide Planning Loans — \$300,000
- Statewide CEQA funding — \$300,000

Staff Comments. In general, specific projects within this larger budget proposal may have merit. However, staff have concerns with the lack of specificity regarding projects, the implications of the lack of financial controls within the department, and local concerns regarding various projects.

In order to remain consistent, staff recommends rejecting the entire budget proposal without prejudice so that the subcommittee and staff may have time to review these projects and work with the department on their financial assurance controls.

Recommendation: DENY WITHOUT PREJUDICE

Vote:

3860 Department of Water Resources

The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department maintains the State Water Resources Development System, including the State Water Project (SWP). The department also maintains public safety and prevents damage through flood control operations, supervision of dams, and water projects. Historically, the department was also a major implementing agency for the CALFED Bay-Delta Program, tasked with putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay Delta. As noted above, that program was abolished with SBx7 1, and CALFED responsibilities were transferred to new entities, including the Delta Stewardship Council.

Additionally, the department's California Energy Resources Scheduling (CERS) division manages billions of dollars of long-term electricity contracts. The CERS division was created in 2001 during the state's energy crisis to procure electricity on behalf of the state's three largest investor owned utilities (IOUs). The CERS division continues to be financially responsible for the long-term contracts entered into by the department. (Funding for the contracts comes from ratepayer-supported bonds.) However, the IOUs manage receipt and delivery of the energy procured by the contracts.

Governor's Budget. The Governor's Budget includes \$1.5 billion (\$115 million General Fund) for support of the DWR, a decrease of approximately \$1.6 billion, due primarily to reduced bond fund expenditures. An additional \$2.1 billion in CERS funding is not subject to the Budget Act (these funds are primarily for energy payments related to the 2001 electricity crisis).

ITEMS PROPOSED FOR VOTE-ONLY

1. WM-1: Groundwater Monitoring Program. The Governor requests \$1.3 million (Proposition 50) for three years to implement the provisions of the groundwater monitoring program pursuant to SBx7 6 (Steinberg and Pavley) in November 2009.

2. WM-2: Infrastructure Rehabilitation Program. The Governor requests \$966,000 (Proposition 13) in Local Assistance for the Groundwater Recharge Project Loan and Infrastructure Rehabilitation Grant Program. This appropriation will provide the balance of loan and grant funding for DWR's construction contracts with the Pajaro Valley Water Management Agency and City of Sanger.

3. WM-3: CA/NV Water Allocation of the Truckee River. The Governor requests \$1.4 million (Federal Trust Fund) annually for five years (\$250,000 per year for the first four years and \$450,000 in the final year). This reimbursement authority would allow the department to receive anticipated Truckee River Operating Agreement grant funds to supplement funds from two prior federal appropriations and to support implementation of the program in order to fulfill California's responsibilities under the Truckee River water agreement.

4. OP-1: Drinking Water Quality Pilot Projects. The Governor requests \$5 million (Proposition 50) for local assistance funding for pilot and demonstration projects which are part of an effort to develop effective, efficient, and economical ways of removing drinking water contaminants.

Capital Outlay Items (Items 5-21) totaling \$121.9 million (mainly bond funds):

Item	BCP	Description	Amount
5	CO-1	Feather River Early Implementation Project	\$11,150,000
6	CO-2	American River Flood Control Project: Common Elements	\$9,657,000
7	CO-3	West Sacramento Project	\$2,942,000
8	CO-4	West Sacramento Project (GRR)	\$1,995,000
9	CO-5	Mid-Valley Levee Reconstruction	\$3,950,000
10	CO-6	Yuba River Basin Project	\$728,000
11	CO-7	Marysville Ring Levee Reconstruction Project	\$2,032,000
12	CO-8	South Sacramento County Streams	\$5,380,000
13	CO-9	Sutter Basin Feasibility Study	\$1,280,000
14	CO-10	Rock Creek/Keefer Slough Feasibility Study	\$290,000
15	CO-11	West Stanislaus County, Orestimba Creek Project	\$1,892,000
16	CO-12	Folsom Dam Modifications Project	\$39,063,000
17	CO-13	Frazier Creek/Strathmore Creek Feasibility Study	\$290,000
18	CO-14	White River/Deer Creek Feasibility Study	\$302,000
19	CO-15	Merced County Streams, Bear Creek Unit	\$676,000
20	CO-16	Lower San Joaquin River	\$2,280,000
21	CO-17	Systemwide Levee Evaluations and Repairs	\$38,000,000

Staff Recommendation: APPROVE Items 1-21

Vote:

ITEMS PROPOSED FOR DISCUSSION**22. FloodSAFE California Program**

1. Background. Prior to the 1900s, the California Central Valley routinely flooded, transforming it into an inland sea. However, this changed in the mid-1900s with the completion of a vast flood control system consisting of levees, weirs, bypasses, and overflow areas. This system fueled the growth of California's agricultural sector and paved the way for millions to settle in the Valley.

However, following years of benign neglect, the state experienced a number of flood control system failures, and in the early 2000s was found liable in the *Arreola* and *Paterno* cases for damages caused by levee failures in 1995 and 1986, respectively. Subsequently, the department proposed a multi-year funding plan including both increased General Fund support as well as bond funding to improve the state's levee systems and to decrease likelihood of future state liability for levee failures.

Governor's Budget. The Governor requests continued FloodSAFE funding of \$64.9 million (Proposition 1E and Proposition 13), three new positions, and extension of three limited-term positions. The Governor's budget includes the following proposals:

- 1) **Floodplain Risk Management** – \$6 million (Proposition 1E) for Central Valley floodplain evaluation and delineation
- 2) **Flood Projects and Grants** – \$53.3 million (Propositions 1E and 13) for flood system modifications, floodway corridors, Yuba-Feather flood protection, and North Delta Flood control and ecological restoration.
- 3) **Evaluation and Engineering** – \$2 million for Delta Risk Management Strategy and the Delta Knowledge Improvement Program
- 4) **Flood Management Planning** – \$3.5 million for Central Valley Protection Plan and FloodSAFE Conservation strategy.

Staff Comments. Generally, this request represents a continuation of activities funded in prior years, and staff has no significant concerns with most of these ongoing expenditures. However, staff are concerned with two items in the budget proposal.

(1) **Delta Knowledge Improvement Strategy.** Staff have concerns about the Evaluation and Engineering request for \$2 million (Proposition 1E) for the Delta Risk Management Strategy (DRMS) and Delta Knowledge Improvement Program (DKIP). This proposal is a request for contract support to complete follow-up efforts to the DRMS Phase Two report. The DKIP is a multi-year project designed to fill in data gaps left by the DRMS Phase One and Phase Two, and to provide more comprehensive information than was provided in the initial two phases. The Phase Two report has not been released and therefore it is unclear how or what the DKIP will provide to inform the Legislature's decisions on Delta issues.

In 2010, the Legislature approved \$2 million to start the DKIP process. Because the DRMS Phase Two project ran longer than expected, the DKIP project has not begun and a contract solicitation has not been announced.

It would seem appropriate to allow the public and the Legislature to review the DRMS Phase Two report prior to funding any further efforts related to DRMS or DKIP. In addition, the release of the Delta Plan in 2012 will further direct scarce funding to fill in specific data gaps that are needed to implement the state's efforts in the Delta.

The subcommittee may wish to have the department report on:

- When Phase Two of the DRMS study will be released (this request does not include funding for Phase Two).
- What confidence the department has in the accuracy of the DRMS reports.
- Why the DKIP was not started, even when an appropriation was made in 2010.
- This effort will not have results for five years. What benefit could be seen to delaying for one year until the Delta Plan is complete and the state has a coordinated plan for spending limited bond funding?

(2) **Conservation Strategy.** Staff also have concerns with the three permanent positions requested for the Conservation Strategy. The budget proposal requests to develop an integrated approach to flood management that addresses the risk and the need to evaluate opportunities from a system perspective (including environmental stewardship actions and sustainability goals). The positions are requested to continue and expand on existing environmental components of the Central Valley Flood Protection Plan.

It is unclear what the outcomes of this effort will be and how this relates to the current Delta planning programs that are being undertaken by multiple state agencies, including the Delta Stewardship Council. It would seem prudent to hold off on approving permanent staffing and support until the department can provide a clear report on how this environmental effort will coordinate with current Delta restoration efforts.

Recommendation.

- (1) REJECT \$2 million proposed for Engineering and Evaluation.
- (2) REVERT \$2 million approved for the Delta Knowledge Improvement Program.
- (3) DENY \$575,000 (support) for Conservation Strategy for FloodSAFE (including three positions)
- (4) APPROVE remainder of proposal as budgeted.

Vote:

23. Implementation of the Biological Opinions

Background. The Governor's budget requests 18 full-time positions at an estimated cost of \$2.6 million (State Water Project off-budget funds) to implement various actions proposed under the federal fish agency Biological Opinion for the State Water Project (SWP) and Central Valley Project operations. These requirements are designed to improve the survival of fishery resources in the Delta and Suisun-Marsh, and at SWP facilities. The fishery agencies have concerns about fish losses related to export of water from the Delta from the two projects.

The positions are also proposed to support forthcoming activities related to the Bay Delta Conservation Plan and the Delta Stewardship Council that are focusing on habitat conservation and alternative conveyance systems.

LAO Comments. The LAO analyzed all position requests related to the SWP (contained in this and following budget proposals). Relevant to this proposal, the LAO states:

State Water Project Staffing for Implementation of Biological Opinions

Sacramento-San Joaquin Facilities: 13 Positions Requested, Three Justified. A total of 13 staff are proposed for the Bay-Delta Office to implement new requirements under the National Marine Fisheries and U.S. Fish and Wildlife Service biological opinion for the SWP. This total includes three engineers, four environmental scientists, two fish and wildlife technicians, and four office technicians. As discussed below, we find that only the three engineer positions have been justified, and therefore recommend rejection of the remaining ten positions, for a savings of \$1.3 million annually.

The Department of Water Resources (DWR) has indicated that no current staff possess the specialized knowledge required to perform the activities of the proposed engineers, and therefore we find that those three positions are justified. The remaining ten positions have not been justified for the following reasons. Six of the proposed positions would collect and maintain data on fish, water quality, and other ecological indicators related to Capture, Handling, Transport, and Release (CHTR) studies. However, existing staff have been sufficient to complete the initial CHTR studies and begin implementation of the studies' recommendations. Because those studies are now complete, those staff are available to devote all of their efforts to implementation. New staff are therefore not justified at this time. The proposal also requests four new office technician positions to deal with increased workload. We find these positions to be unjustified because this workload can be addressed adequately at current administrative staffing levels.

Suisun Marsh Facilities: Two Positions Requested, None Justified. The Governor's budget requests two new environmental scientist positions. We find that neither position has been justified, and therefore recommend that this component of the request be rejected, for a savings of \$287,000. The first position is requested for permitting and monitoring activities associated with the anticipated release by the State Water Resources Control Board (SWRCB) of a basin plan for the Delta and the Suisun Marsh. However, existing staff have been sufficient to acquire permits up to this point. A second environmental staff position was also requested to conduct on-site evaluations of fish

presence and behavior to support the work of the Environmental Planning and Information (EPI) branch to meet the needs of the SWP biological opinion. With the addition of a new staff environmental scientist in the EPI branch (see below) for compliance with the SWP biological opinion, we find that this position is unjustified.

Regulatory Compliance for Division of Environmental Services: Three Positions Requested, One Justified. The Governor's budget proposes the addition of three positions for coordinating regulatory compliance. We find that only one position has been justified, and therefore recommend the rejection of two positions, for a savings of \$311,000. The budget proposes two staff environmental scientists to perform modeling and participate in inter-agency regulatory processes, and an additional environmental scientist to run models and analyze data. Two of the division's more experienced personnel were performing some of these duties, but have since departed. Although these vacancies will be filled, we find that it is warranted to add one additional staff environmental scientist to make up for the lost capacity and knowledge. However, existing staff currently with the department have represented DWR in the inter-agency processes, and other offices within DWR possess the capacity to perform the modeling duties of these positions, so we find that the need for two additional positions (on top of the one we recommend be approved) has not been justified.

Staff Comments. Staff concurs with the LAO analysis of the position request and therefore recommends the subcommittee reject 14 of 18 positions proposed in the Governor's January budget for improving State Water Project (SWP) compliance with wildlife-related regulations, for a savings of \$1.9 million (SWP funds). The SWP has generally been able to comply with these regulations at existing staffing levels up to now, and a limited number of additional staff are needed to address workload requirements associated with the regulations going forward.

Recommendation: Adopt LAO Recommendation to reject 14 of 18 positions proposed.

Vote:

24. Delta Habitat Conservation and Conveyance Program (DHCCP)

Background. The Governor's budget requests to convert 15 limited-term positions to be made permanent to continue work on the Delta Habitat Conservation and Conveyance Program (DHCCP).

LAO Comments.

What is the DHCCP? The DHCCP was established in 2008 to implement a gubernatorial directive to address both water supply issues and environmental concerns related to the Delta. Specific goals of DHCCP include protecting and restoring Delta habitat and studying improved methods to reduce the impact of water conveyance on the Delta.

Governor's Proposal. The DHCCP's planning stage is currently being carried out by 15 limited-term positions in the Department of Water Resources (DWR) that are set to expire in June 2011. The Governor's January budget proposal requests that those 15 positions be made permanent to complete the DHCCP planning and to maintain staff continuity through the program's implementation stages. The planning stage was originally scheduled to be completed by December 2010, but has been pushed back until the end of 2011-12 due to delays in completion of the Bay Delta Conservation Plan (the Bay Delta Conservation Plan is a document that will provide the basis for the issuance of endangered species permits for the operation of the State and federal water projects, on which DHCCP's environmental impact reports depend).

Recommendation. While the requested positions are integral to the completion of the planning stage of DHCCP, we think it is premature to approve these positions on a permanent basis, since staffing requirements for the implementation phase beginning in 2012-23 are not yet known. Delaying the decision to make these positions permanent allows the Legislature and DWR to more accurately evaluate the staffing required for the implementation stage. As such, we recommend that the existing 15 positions be reauthorized on a one-year limited-term basis to allow for completion of the planning stage. The administration could then submit a budget request with the Governor's 2012-13 budget to address the staffing requirements for the implementation phase which will have by that time been more thoroughly evaluated and able to be justified.

Staff Comments. Staff concurs with the LAO recommendation to reject the request in the Governor's January budget proposal to make permanent the existing 15 limited-term positions for the planning and implementation stages of DHCCP. Instead, staff recommends the subcommittee approve extending these positions by one year (through FY 2011-12) to allow the conclusion of the planning stage of DHCCP.

Recommendation: Adopt LAO Recommendation to reject the request to make permanent the existing 15 limited-term positions. Extend limited-term positions by one year.

Vote:

25. SWP-1: Critical Support for the California State Water Project.

Background. The Governor's January budget proposes a total of 123 new positions funded by State Water Project (SWP) funds for the support of the SWP. Of these positions, 90 are requested for the budget year, and an additional 33 are requested for either 2012-13 or 2013-14.

LAO Comments.

Thirty-Three Future-Year Positions Should be Rejected. We recommend rejection of the 33 positions requested for future years because the department has not given a reason for why those future positions need to be approved in this budget year.

Regulatory Compliance and Safety Positions: 46 Requested, Six Justified.

The budget requests a total of 46 positions for regulatory compliance and safety improvements. Thirty positions are requested for compliance with a wide range of existing and future regulations pertaining to electricity generation and environmental safeguarding. We find only six of these 30 compliance positions have been justified. It is reasonable to request additional staff to comply with new regulatory burdens. However, the administration's proposal is unclear about which staff are being added to comply with existing regulations and which are being added for new regulations. In the case of existing regulations currently in force, no explanation has been given for why existing staff are able to meet the regulatory burdens now but will not continue to be able to do so in the future. In the case of new regulations not yet in force, the department has generally not indicated how the proposed activities for each of the positions would satisfy specific provisions of new regulations. One exception is the six positions (five utility craftworkers and one utility craftworker supervisor) requested to perform new activities required by the recent Federal Energy Regulatory Commission (FERC) relicensing of the SWP's Oroville facilities. In this case, a list of specific actions required by the regulation was submitted, so we recommend approval of these six positions. An additional 16 positions have also been requested relating to safety. As with the regulatory compliance staff discussed above, the department asserts that existing staff are insufficient to maintain safe workplace conditions but has not justified this assertion through data such as overtime hours logged or Occupational Safety and Health Act compliance failures. In summary, we recommend denial without prejudice of 40 of the 46 requested positions in this component of the staffing request until the department has identified what new activities are required that existing staff cannot perform.

Maintenance: 44 Positions Requested, None Justified. The third component of the staffing request for the budget year is 44 positions to support SWP's Division of Operations and Maintenance (O&M). In support of its request, the department cites a decline in a key metric of pumping capacity, referred to as "Operational Availability," which is the percentage of time in a given year that a

pumping unit is available for service. The department cites that Operational Availability has declined from 92.6 percent to 79 percent over the past seven years, and requests these positions to reverse that decline. We agree that this decline represents a significant problem. However, our review finds that during the time that the Division of O&M has added a large number of positions (103 positions added since 2006-07), the decline in Operational Availability has actually increased, not decreased. While there may be many reasons for this decline, the department has not provided data to demonstrate that the addition of even more positions will reverse the decline. (The department has suggested that the decline may be due to the loss of experienced staff due to compensation disparities between SWP and the private sector and the age of SWP facilities.) As such, we recommend denial without prejudice of these 44 positions until the department returns with data that demonstrate the utility of the proposed positions in addressing the identified problems.

The Legislature's Oversight Role Is Complicated by SWP's Off-Budget Status. As we have noted in a previous analysis, the Legislature's oversight role in respect of SWP is complicated by SWP's "off-budget" status, meaning that the Legislature is not required to approve SWP expenditures in the annual budget process. In the context of this request, the Legislature's limited oversight role (the Legislature is only required to approve SWP position authority) means that the Legislature is not able, for example, to review whether SWP is striking the appropriate balance between adding personnel and replacing equipment. We have recommended that the SWP be brought on budget to improve the Legislature's oversight of SWP (see our *2007-2008 Analysis of the Budget Bill*).

Staff Comments. Staff concurs with the LAO analysis and recommends the subcommittee adopt the LAO recommendation.

Recommendation: Adopt LAO Recommendation to:

- (1) REJECT 33 positions requested for future years,
- (2) DENY WITHOUT PREJUDICE 84 of 90 positions requested for budget year because there has been limited explanation of how those positions would achieve regulatory compliance goals and serve to improve State Water Project (SWP) performance,
- (3) APPROVE six positions requested to perform new activities required by the recent relicensing of the SWP's Oroville facilities.

Vote:

26. Mercury and Methylmercury Monitoring and Control Studies.

Governor's Proposal. The Governor's budget requests four full-time positions at an estimated cost of \$900,000 (State Water Project off-budget funds) for collaborative studies and laboratory and statistical analysis for implementation of the newly adopted regulations from the Central Valley Regional Water Quality Control Board (CVWQCB "regional board"). These positions will allow for dedicated staff to plan and implement the required studies, to participate in a required adaptive management approach, and will provide funds to enable internal department coordination as well as collaboration with other mercury researchers and land and water managers.

Background. In April 2010, the regional board adopted a Total Maximum Daily Load (TMDL) and Basin Plan Amendment for mercury and methylmercury in the Sacramento-San Joaquin Delta Estuary (including the Yolo bypass and Cache Creek Settling Basin). These regulations will become effective after US EPA approval in 2011. The regulations address both point (specific location) and nonpoint (unspecified location) sources. The regional water board held the State Water Project solely liable and responsible for implementation of this aspect of the regulation.

Staff Comments. Mercury and methylmercury are legacy pollutants from gold mining and other land extractions from the early 19th century and the Gold Rush. These pollutants settle into wetlands and water bodies and are released during the act of restoring wetland in the Delta. The state has planned numerous wetland restoration efforts, mainly by agencies participating in the Delta planning and restoration efforts (including DWR).

While the department may be a responsible party for some activities within this area, it is unclear why the regional water board took action to hold the DWR and SWP solely responsible for the TMDL actions. Other state, federal, and local agencies own and manage lands within these two basins. In particular, the State Lands Commission also is responsible for lands within this area. The subcommittee may wish to ask the administration to comment on the proposal to allow SWP ratepayers to foot 100 percent of this regulatory requirement.

Recommendation: DENY WITHOUT PREJUDICE. Request the administration return with a plan that appropriately spreads funding for this project among state and other local responsible agencies including the appropriate use of bond funds for this project.

Vote:

3885 Delta Stewardship Council

The mission of the Delta Stewardship Council, through a seven-member board, is to achieve the state's goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Sacramento-San Joaquin Delta (Delta) ecosystem. The Council will develop and implement a strategy to appropriately engage participation by federal and state agencies with responsibilities in the Delta and develop a scientific program to manage the Delta through the Delta Science Program and the Delta Independent Science Board. The Delta Stewardship Council is the successor to the California Bay-Delta Authority and CALFED Bay-Delta Program

Governor's Budget. The Governor's Budget includes \$43.9 million (\$5.7 million General Fund) for support of the Delta Stewardship Council. This is an increase of \$19 million or 44 percent above current year estimates. This is mainly due to increases in bond expenditures and reimbursements from other agencies.

ITEMS PROPOSED FOR DISCUSSION**1. BCP-2: Trailer Bill Language—CALFED Zero-Based Budget**

Background. As part of an in-depth discussion of the implementation of the 2009 legislative water package, the Legislature enacted Chapter 718, Statutes of 2010 (SB 855) requiring the administration to submit a zero-based budget for 2011-12 CALFED program expenditures by *April 1, 2011*.

This proposal will change the date for submitting the CALFED zero-based budget to *April 1, 2012*, and require the Delta Stewardship Council to conduct a programmatic review of the CALFED Bay-Delta Program expenditures for consistency with the Delta Plan. The Delta Plan will not be completed until January 1, 2012.

Staff Comments. Staff have discussed the issue with the Council and have no concerns with shifting the date of the zero-based budget to April 1, 2012, and increasing the effectiveness of the submission by determining consistency with the Delta Plan.

The subcommittee may wish to ask the Council for an update on its work with on the Delta Plan.

Recommendation: APPROVE

Vote:

2. LAO Recommendation—Reimbursement Authority

Background. As part of the development of the newly-formed Delta Stewardship Council (DSC), the legislature anticipated the authorization of multiple funding sources including General Fund, federal trust funds, bond funds and reimbursements from other agencies. These funds are used mainly to fulfill the primary mission of DSC, the creation of the Delta Plan.

The Governor's budget proposes \$27.5 million in reimbursements, an increase of \$14.7 million or 53 percent.

LAO Recommendation.

Reject \$5.8 million in reimbursement authority requested in the Governor's January budget that is stated to come from unknown sources and be for "unallocated" purposes. (The amount of such unallocated reimbursement authority was updated on January 21, based on a technical correction and clarification from the Department of Finance.)

These "unallocated" reimbursement funds make up 21 percent of the total requested reimbursement authority for the Delta Stewardship Council (DSC) and are proposed to make up 15 percent of the council's total 2011-12 expenditure authority. Requesting reimbursement expenditure authority without identifying the sources or uses of the reimbursements limits the Legislature's ability to decide which expenditures warrant funding and how those expenditures are funded. This practice of "contingency budgeting" is problematic as it reduces the Legislature's oversight of expenditures.

Staff Comments. According to Council staff, this reimbursement authority is a carryover of federal funding reimbursement authority from the CALFED Bay-Delta Program. Year after year, federal funds were anticipated to be received by the State in the budget only to have no reimbursement received from the federal government. This caused difficulties in budgeting and an inflated perceived level of funding for the overall program.

Staff agrees with the LAO recommendation and recommends reducing the reimbursement authority to the Council by \$5.8 million. Should the Council receive unanticipated funding from the federal government, it would go through the normal Legislative notification process. This would allow the Legislature more oversight over federal funding and the overall budgeting at the Council.

Recommendation: REDUCE \$5.8 million Reimbursement Authority

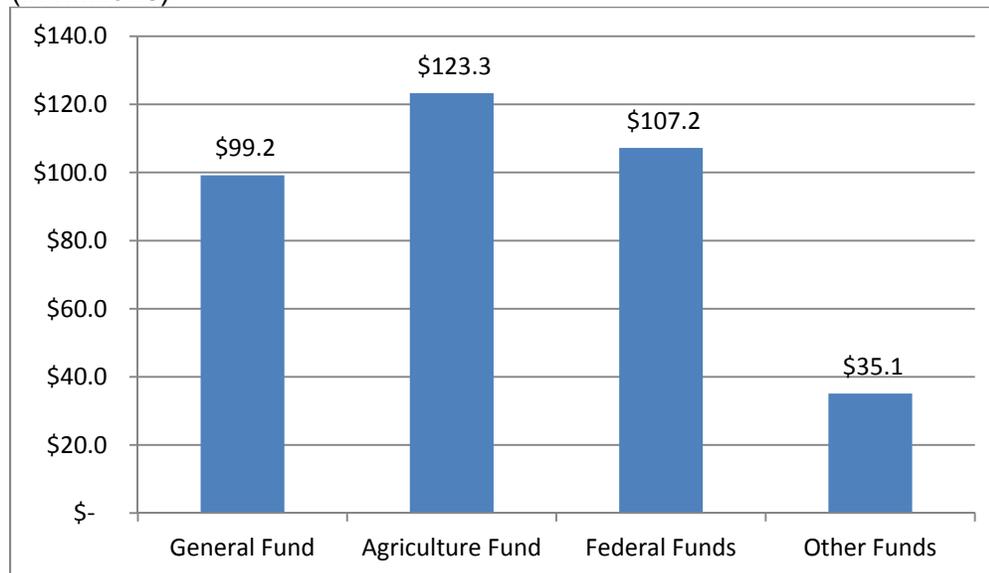
Vote:

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.

Governor's Budget. The Governor's Budget includes \$377 million (\$130 million GF) for support of the CDFA, an increase of approximately \$38 million, due primarily to increased efforts to control and eradicate various agricultural pests (supported by increased industry assessments as well as federal funds).

Department of Food and Agriculture 2011-12 Proposed Budget* (in millions)



* Does not reflect Governor's proposal to reduce \$15 million in 2011-12.

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-1: Asian Citrus Psyllid and Huanglongbing Mitigation Program. The Governor requests 38 three-year limited-term positions, 61 temporary help positions, and \$15 million (federal funds) to continue the Asian Citrus Psyllid and Huanglongbing Mitigation Project. This request will provide funding for detection, control, quarantine, and laboratory services to prevent the spread of these species throughout the state.

2. BCP-2: European Grapevine Moth Mitigation Campaign. The Governor requests 10 three-year limited-term positions and \$12 million (federal funds) to provide funding for detection, control, quarantine enforcement and laboratory services to prevent the European Grapevine Moth from spreading throughout the state.

3. BCP-4: Light Brown Apple Moth Program. The Governor requests an augmentation of \$7.5 million (federal funds) to provide an additional two-year funding for performing survey, delimitation, control, and regulatory activities necessary to ensure that the continuous threat of infestation of Light Brown Apple Moth is contained.

4. BCP-5: Country-of-Origin Labeling Surveillance and Enforcement. The Governor requests \$637,000 (federal funds) to support increased activities under the Country-of-Origin Labeling program. This program provides California with funding to conduct retail surveillance review of commodities sold in the state to ensure the accuracy of the originating country is properly labeled.

Staff Comments. Staff have received confirmation from the department that no aerial spraying will occur for any of the proposed vote-only items.

Recommendation: APPROVE the requests (1-4) listed above.

Vote:

ITEMS PROPOSED FOR DISCUSSION**1. General Fund Support for the Network of California Fairs.**

Background. Within the California Department of Food and Agriculture (CDFA) exists the network of California Fairs. The network of 78 California fairs is comprised of 52 district agricultural associations, 23 county fairs, two citrus fruit fairs, and the California Exposition and State Fair. The state provides coordination and local assistance services to the fairs.

Not all fairs receive funding from the state to support their operations. Many local fairs are self-supporting. However, recent legislation has increased local assistance funding. Beginning in 2009-10, for a variety of reasons, legislation removed funding from horse racing revenue that had previously helped to support the fairs and required \$32 million General Fund annually for support of the fairs.

Governor's Proposal. The Governor's budget proposes to permanently eliminate state support for the network of California Fairs. This would result in a \$32 million savings to the General Fund. It is not clear how much of this funding would impact the CDFA administrative functions and how much would impact local assistance to the fairs.

The subcommittee may wish to ask the department:

- 1) How much funding is specifically directed to local fairs (not used at CDFA or any other state agency).
- 2) How many fairs receive funding from the state?
- 3) What methods do fairs that do not receive state funding use to manage their budgets?
- 4) What criteria does the department use to provide local assistance to fairs?

Staff Comments. Consistent with previous actions regarding the State Parks system, and given the state's fiscal challenges, staff recommends approving the proposal.

Recommendation: APPROVE FUNDING PROPOSAL.

2. General Fund Reduction

Background. The Department of Food and Agriculture hosts multiple programs funded by the General Fund (baseline) including the following:

Department of Food and Agriculture Baseline General Funded Programs
(in millions)

Program Area	General Fund
Plant Health and Pest Prevention	\$60.4
Animal Health and Food Safety	\$25.8
Administrative Services (General)	\$6.7
Pierce's Disease (pest program)	\$4.2
Division of Measurements and Standards	\$2.1
Total	\$99.2

Governor's Proposal. The Governor's budget proposes to reduce the CDFA budget by \$15 million in 2011-12 and \$30 million ongoing. The budget proposal requires the Secretary of Food and Agriculture to convene key agricultural and industry individuals to look at the long-term viability of state programs and to determine solutions to limit the need for General Fund resources.

Staff Comments. Consistent with previous actions regarding the State Parks system, and given the state's fiscal challenges, staff recommends approving the proposal and requiring the department to return with a plan for reduction by February 15.

The subcommittee may wish to ask the department to discuss:

- (1) The criteria for reducing funding for programs (including how the working group handled statutory requirements).
- (2) What options the stakeholders have come up with for alternative revenues.
- (3) Impacts to federal funding.
- (4) When a trailer bill would be available to implement the reductions.

Recommendation. APPROVE FUNDING PROPOSAL. Require department to return on February 15 with a draft reduction plan.

OPEN ISSUES**8660 California Public Utilities Commission (CPUC)**

The California Public Utilities Commission (PUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions.

Open Issue: California Public Utilities Commission Foundation

Background. On January 27, the subcommittee was made aware of a newly created foundation called the "California Public Utilities Commission Foundation." Several questions were raised about the past, current, and future interactions between commission staff, commissioners, and the foundation. The commission was asked to return at this hearing to discuss its interaction with the foundation.

Recommendation. The committee may wish to require the Commission to report on specific activities, and to remit certain documents related to its relationship with the CPUC Foundation, among other actions.

Vote: