

SUBCOMMITTEE NO. 2

Agenda

Senator Bob Wieckowski, Chair
Senator Mike McGuire
Senator Jim Nielsen
Senator Henry I. Stern



Wednesday, May 16, 2018
1:30 p.m.
State Capitol - Room 112

Consultant: Joanne Roy

OUTCOMES

VOTE-ONLY CALENDAR		
Issue		Page
0540	California Natural Resources Agency	
1	Reappropriation 3-1 (Nielsen: No)	4
3340	California Conservation Corps	
2	Delta Service District Center 4-0	4
3480	Department of Conservation	
3	Enforcement Program 3-1 (Nielsen: No)	4
3540	Department of Forestry and Fire Protection	
4	Reappropriation of Control Section 6.10 Deferred Maintenance Funding 4-0	4
3560	State Lands Commission	
5	Lake Tahoe Rent Methodology Study 3-1 (Nielsen: No)	5
3790	Department of Parks and Recreation	
6	Reversions 4-0	6
7	Museum of Tolerance 4-0	6
8	Fort Ross State Historic Park: Cultural Trail 4-0	6
3860	Department of Water Resources	
9	Reappropriations and Technical Adjustment (Propositions 1 and 13) 3-1 (Nielsen: No)	7
10	Dam Safety Trailer Bill Language (TBL) 4-0	7
11	Save Our Water Campaign 3-1 (Nielsen: No)	8
	(Vote-Only Continued on Next Page)	

3900	Air Resources Board	
12	Reappropriation: Greenhouse Gas Reduction Fund 3-1 (Nielsen: No)	8
3960	Department of Toxic Substances Control	
13	Reappropriation for Exide Technologies Cleanup 4-0	8
3970	Department of Resources Recycling and Recovery	
14	Plastic Market Development Program (TBL) 4-0	9
15	Enforcement of Beverage Container Recycling Program 3-1 (Nielsen: No)	9
8570	Department of Food and Agriculture	
16	Reappropriation: GGRF 3-1 (Nielsen: No)	10

ISSUES FOR DISCUSSION		
Issue	ALL ISSUES FOR DISCUSSION – HELD OPEN	Page
0540	California Natural Resources Agency (Various Departments)	
17	Forest Carbon Plan Implementation	11
3540	Department of Forestry and Fire Prevention	
18	Climate Change Fire Severity	15
19	Office of the State Fire Marshal, Fire and Life Safety Division	16
20	Fireworks Program (BCP and TBL)	17
3790	Department of Parks and Recreation	
21	California Indian Heritage Center (BCP and TBL)	20
3820	San Francisco Bay Conservation and Development Commission	
22	Relocation to Bay Area Metro Center	22
3860	Department of Water Resources	
23	Joint Operations Center Relocation	23
24	Flood Control Infrastructure (BCP and TBL)	25
25	Open and Transparent Water Data Act (AB 1755)	27
3900	Air Resources Board	
26	Agricultural Diesel Engine Replacement and Upgrades	28
27	Advanced Payment: TBL	29
3930	Department of Pesticide Regulation	
28	Improved California Environmental Quality Act Notification for Pesticide Registration	30
3970	Department of Resources Recycling and Recovery	
29	Disaster Recovery Assistance Program	32
	<i>(Discussion Issues Continued on Next Page)</i>	

3940	State Water Resources Control Board	
30	Administrative Hearings Office (BCP and TBL)	33
3960	Department of Toxic Substances Control	
31	BKK Third Party Initiative	35
32	Cost Recovery Program Implementation	36
33	Cost Recovery Management System	37
34	National Priorities List and State Orphan Sites	39
35	Lead-Acid Battery Program Implementation	41
36	Enforcement in Vulnerable Communities	42
37	Safe Consumer Products Implementation	43
38	Exide Enforcement Order	45
8570	California Department of Food and Agriculture	
39	Nutria Detection and Survey	46
40	San Joaquin Valley Grant	47

PUBLIC COMMENT

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

VOTE-ONLY CALENDAR**0540 California Natural Resources Agency**

- 1) **Reappropriation.** The May Revision proposes that Item 0540-491 be added to reappropriate the balance of Greenhouse Gas Reduction Fund for Urban Greening projects, with funding available for encumbrance until June 30, 2020.

3340 California Conservation Corps (CCC)

- 2) **Delta Service District Center.** A May Revision proposal requests reappropriation from the Public Buildings Construction Fund to extend the liquidation period of the construction phase of the Delta Service District Center project for a new residential facility located in San Joaquin County to June 30, 2019.

The Delta Service District Center project will construct a new CCC residential facility to replace the existing Stockton facility in San Joaquin County. The Legislature previously appropriated \$30,343,000 (\$255,000 General Fund and \$30,088,000 Public Buildings Construction Fund) for the design and construction of this project.

Due to design changes as well as limited interim financing, the project was delayed. This extension will allow the CCC to continue to make final payments for this project totaling approximately \$1,436,000.

3480 Department of Conservation

- 3) **Enforcement Program.** The Governor's budget requests \$1.211 ongoing Oil, Gas, and Geothermal Administrative Fund and six permanent positions to develop the new Centralized Statewide Enforcement Program.

Non-compliance by oil and gas operators poses a major threat to human health and safety and that of the environment. A centralized and comprehensive statewide enforcement program would enable DOGGR to have an effective compliance program.

3540 Department of Forestry and Fire Protection (CalFire)

- 4) **Reappropriation of Control Section 6.10 Deferred Maintenance Funding.** A May Revision proposal requests budget bill language to reappropriate the unencumbered balance of the funding appropriated pursuant to Control Section 6.10 of the Budget Act of 2016 to provide an additional year to complete deferred maintenance projects.

3560 State Lands Commission (SLC)

- 5) **Lake Tahoe Rent Methodology Study.** The May Revision proposes \$250,000 one-time Lake Tahoe Science and Lake Improvement Account to contract for an independent study and evaluation of rent-setting methodologies to inform the Commission's leasing practices for sovereign land at Lake Tahoe. The Commission also requests provisional language to authorize the use of the funds for the requested purpose.

Background. *Lake Tahoe Leases.* There are approximately 750 SLC-authorized leases at Lake Tahoe. Of these, 544 leases have annual rents based on the Category 1 benchmark. There are another 155 leases for piers and buoys that have rent-free status under a prior version of Public Resources Code Section 6503.5. The 155 rent-free leases will become subject to rent as their lease terms expire. These rent-free leases should be phased out by 2022. The remainder of the leases at Lake Tahoe are for purposes such as commercial marinas, public uses, or dredging, and are either rent-free or do not rely on the Category 1 benchmark for rent setting purposes.

Benchmarks. Benchmarks are set by SLC to establish uniform rental rates in specific geographic regions with large concentrations of similar facilities, mostly private recreational improvements within SLC's jurisdiction.

SLC has two types of benchmarks: 1) Category 1, which is generally applied to private docks, piers, and buoys; and, 2) Category 2, which is generally applied to cantilevered decks, sundecks, or other non-water dependent uses. Benchmark rental rates are based on an analysis of similar land uses or substitute facilities in the local area.

There is an existing Category 1 benchmark for Lake Tahoe, last updated in 2012, and SLC staff proposed to set a Category 2 benchmark for Lake Tahoe at SLC's February meeting.

Annual Rents for Leases at Lake Tahoe. SLC uses benchmark rental rates to set annual rents for leases of sovereign land at Lake Tahoe. The benchmark rental rates are developed by SLC's appraisal staff and are updated every five years.

This May Revision proposal comes after SLC deferred action on a proposed new rental rate structure at its February 27, 2018, public meeting following receipt of a letter from the Chairs of the Senate Budget Subcommittee #2 and the Assembly Budget Subcommittee #3 expressing concerns that the rental rate structure did not accurately reflect the value of the state's property being leased and requesting SLC delay any action on the benchmarks "until methodology that more completely reflects the benefits to the upland owner can be established."

In addition, SLC received comments that expressed concerns that the proposed lower benchmark rates would adversely impact the Account's ability to fund aquatic invasive species prevention projects, projects to improve public access to sovereign land in Lake Tahoe, and projects to improve near-shore water quality monitoring.

3790 Department of Parks and Recreation

- 6) **Reversions.** A May Revision proposal requests that Item 3790-496 be amended to revert the unencumbered balance of funding, estimated to be \$189,000, for the Malibu Creek State Park: Restore Sepulveda Adobe project. Project completion is anticipated in fall 2018 and there are savings to be reverted.
- 7) **Museum of Tolerance.** A May Revision proposal requests \$10 million one-time in General Fund to provide a local assistance grant for the renovation of the Museum of Tolerance.

Background. The Museum of Tolerance (MOT). The MOT is a multimedia museum in Los Angeles, and is designed to examine racism and prejudice around the world with a strong focus on the history of the Holocaust. Established in 1993, the MOT is the educational arm of human rights organization, the Simon Wiesenthal Center.

The MOT has served over five million visitors with 350,000 visiting annually, including 130,000 students who visit the museum as part of their curriculum. Further, over 160,000 criminal justice professionals and 75,000 educators have trained in the Museum's "Tools for Tolerance" program.

MOT is in need of a facelift. The museum has demonstrated its success, and there is concern for its future. The Museum is in need of a complete transformation of the Tolerancenter, which includes over half of the Museum's permanent installations. The state-of-the art story-based museum that led the global transformation of museumology is worn-out and falling apart. Once on the cutting edge, their technology is now old, the equipment is breaking down, and the films on issues of the day are rapidly becoming passé.

- 8) **Fort Ross State Historical Park: Cultural Trail.** A May Revision proposal requests \$852,000 in Proposition 12 funds for the preliminary plans (\$537,000) and working drawings (\$315,000) phases of the Fort Ross State Historic Park: Cultural Trail project in Sonoma County. Total estimated project cost is \$3.4 million.

Background. The Fort Ross State Historic Park (SHP). The Fort Ross SHP is a historical state park in Sonoma County. The site is recognized as a National Historic Landmark, National Register of Historic Places, and California Historical Landmark. Fort Ross, active from 1812 to 1842, was the southernmost settlement in the Russian colonization of the Americas.

Originally comprised of a several acres centered on the few structures still standing within the historic footprint of the Russian-American Company's stockade walls, the park has grown considerably as the state acquired additional land over the past century. Presently, the park consists of 3,386 acres, including 23,480 feet of waterfront. Protected underwater cultural resources, including shipwrecks and anchor points, also are part of the 90-acres of coastal environs managed by the Department at Fort Ross SHP.

Concept for A Cultural Trail. The concept for a trail was first articulated in the 1975 general development plan for the park. The envisioned trail would connect and interpret the locations where different cultural groups lived outside the fort compound and produce signs in multi-

lingual format. The concept was more explicitly presented in a 1992 publication after five years of collaborative research between State Parks archaeologists, UC Berkeley researchers, among other scholars.

The concept was further refined by 2011 and addressed ways to minimize the trail's possible impacts on Kashaya ancestral sites through a collaborative project to engage the public in productive dialogues about heritage and incorporating indigenous views on science, spirituality and heritage into the study and representation of the colonial past at the park. Most recently, the engagement of tribal, academic, and agency professionals was presented as a project proposal at the annual Fort Ross Dialogue in October 2017 to officials and visiting dignitaries.

3860 Department of Water Resources (DWR)

- 9) **Reappropriation and Technical Adjustment (Propositions 1 and 13).** The May Revision proposes a reappropriation of Proposition 1 funds for the CalConserve program and a technical adjustment to add provisional language to Proposition 13 funding requested in a spring proposal for San Joaquin River-related fish population enhancement to make funds available for support and local assistance.
- 10) **Dam Safety Trailer Bill Language. (TBL)** The May Revision proposes trailer bill language to clarify the process for dam owners where there is an existing or partial Emergency Action Plan (EAP) or inundation map as of March 1, 2017. The proposed language also require dam owners with partial EAPs or inundation maps to develop a timeline by which they will develop the comprehensive EAP and inundation maps.

Background. 2017 Dam Safety Trailer Bill. The Budget Act of 2017 included trailer bill language to require dams to have an emergency action plan that is updated every ten years, updated inundation maps every ten years, or sooner if specific circumstances change, and provide DWR with enforcement tools, including fines and operational restrictions for failure to comply.

Specifically, the trailer bill adopted last year required DWR to do a complete a reconnaissance of the geologic, hydraulic, hydrological, and structural adequacy of the identified 108 largest spillways in the state by October 1, 2017. By January 1, 2018, DWR is required to complete a thorough site investigation and evaluation of those spillways that are found to be potentially at risk. Immediate action such as emergency repairs or reservoir operation restrictions will be required of dam owners as necessary to reduce the risk of any spillway identified to be in poor condition as a result of the study. DWR is required to complete evaluations of the remaining spillways by January 1, 2019, and direct dam owners to make required repairs or restrict reservoir operations as needed.

DWR would also be required to re-classify jurisdictional dams as extremely high, high, significant or low risk. The DWR will require inundation maps and Emergency Action Plans for all jurisdictional dams allowing a waiver for low hazard dams. During regular inspections, DWR will track any dams where the hazard classification has changed and reassess the waiver as necessary.

The DWR will identify which scenarios beyond a complete dam failure require a separate inundation map. The dam owner will create the inundation map and submit to the DWR, which will be reviewed and approved by DWR's Division of Flood Management. The approved maps will then be posted publicly on DWR's website and linked to Cal OES' website.

Dam owners will be responsible for creating Emergency Action Plans in accordance with federal guidelines and based on their updated inundation maps. Cal OES will provide guidelines regarding the coordination between dam owners and local emergency management agencies to create local emergency response plans. Dam owners will submit the plans through DWR, who will work with Cal OES to review and confirm that plan components are acceptable for incorporation into and to guide local emergency response plans.

DWR was also provided additional enforcement power over dam owners who are not complying with the new emergency plan/inundation maps requirements.

Staff Comment. The proposed trailer bill language is clarifying in nature.

- 11) Save Our Water (SOW) Campaign.** The May Revision proposes \$300,000 ongoing from the Environmental License Plate Fund (ELPF) to support outreach and advertising to sustain the SOW campaign as an in-house DWR program run by the Public Affairs Office.

Background. SOW was created in 2009 while the state was experiencing drought. The program was initially funded through Proposition 84 and administered through a partnership between Association of California Water Agencies (ACWA) and DWR to raise public awareness about the ongoing drought. By early 2010, the drought had abated and the program's focus shifted to ongoing water conservation education following the passage of a comprehensive legislative water package, known as the *20x2020 Water Conservation Plan*, which mandated that urban water consumption be reduced by 20 percent by 2020. Funding for the program ends June 30, 2018.

3900 Air Resources Board

- 12) Reappropriation: Greenhouse Gas Reduction Fund (GGRF).** The May Revision proposes to reappropriate unexpended balance of GGRF used for the Enhanced Fleet Modernization Program (EFMP) and Plus-Up Pilot Project (Plus-Up). The revision requests provisional language to make the funds available for encumbrance or expenditure until June 30, 2020.

This proposal will allow EFMP, Plus-Up, and the Equity Pilot Program to continue to provide incentives for low-income drivers to retire and replace high-polluting vehicles with cleaner vehicles, provide car-sharing options to low-income communities, and provide reliable commute options for agricultural workers.

3960 Department of Toxic Substances Control

- 13) Reappropriation for Exide Technologies Cleanup.** The May Revision proposes that Item 3960-495 be added to reappropriate the unencumbered balance from the Toxic Substances

Control Account as appropriated by Section 2 of Chapter 10, Statutes of 2016 (AB 118) and Item 3960-011-0001 Chapter 9, Statutes of 2015 (SB 93) to authorize the transfer of up to \$176 million General Fund to the Toxic Substances Control Account. It is further requested that funding be made available for encumbrance or expenditure until June 30, 2021. This reappropriation provides additional time for remediation activities at properties around the Exide Technologies facility in Vernon.

3970 Department of Resources Recycling and Recovery

- 14) Plastic Market Development Program. (TBL)** A May Revision proposal requests trailer bill language to extend the sunset date on the Plastic Market Development Program from January 1, 2018 to July 1, 2022.

Background. *Plastic Market Development Program.* AB 3056 (Committee on Natural Resources, Chapter 907, Statutes of 2006) created the Plastic Market Development Payment (PMD) Program to develop California markets for recycled empty plastic beverage containers. The PMD program encourages the development of new end-use markets for California recycled plastic as feedstock by providing a monetary incentive to manufacturers.

Prior to the enactment of the PMD Program, virtually all of the plastic collected for recycling in California was exported overseas for recycling. After the enactment of the PMD Program, California succeeded in increasing both processing and use of recycled plastic in state.

Changes in the PMD Program. The PMD Program makes payments of up to \$150 per ton to California-based processors and manufacturers that recycle and utilize post-consumer plastic beverage containers. In 2007-09, the total amount of funds authorized was \$5 million. Beginning in 2010, the Legislature increased this payment authority to \$10 million annually. The PMD program was reauthorized and expanded in 2011.

Recent changes in global markets and scrap values have negatively affected California's recycling systems. This proposal will provide \$15 million Beverage Container Recycling Fund in FY 2018-19, and \$10 million annually thereafter through FY 2021-22, for market development payments to address the challenges in the recycled material market.

- 15) Enforcement of Beverage Container Recycling Program. (TBL)** A May Revision proposal requests trailer bill language to clarify the authority of the California Highway Patrol to arrest individual transporters who illegally transport out-of-state empty containers for redemption in California.

The May revision proposal request to add Section 14536.3 to the Public Resources Code:

14536.3. Any traffic officer, as defined in Section 625 of the Vehicle Code, and any peace officer, as specified in Section 830.1 of the Penal Code, may enforce this division as authorized representatives of the department.

According to CalRecycle, with a presence on highways and at border stations, the CHP is already strategically positioned to collaborate with the Department and its partner agencies.

Additionally, if the transporters try to bypass border stations by using alternative routes monitored by CHP officers, the CHP could still conduct an inspection and arrest.

8570 Department of Food and Agriculture (CDFA)

- 16) Reappropriation: GGRF.** A May Revision proposal requests that Item 8570-490 be added to reappropriate a portion of administrative funding for the State Water Efficiency and Enhancement Program, from the California Department of Food and Agriculture's FY 2016-17 Greenhouse Gas Reduction Fund appropriation, which expires on June 30, 2018. This request would allow CDFA to manage and close out awarded projects that will be completed in FY 2018-19, and to audit completed projects.

Staff Recommendation: Approve all vote-only items as proposed.

ISSUES FOR DISCUSSION**0540 California Natural Resources Agency (Various Departments)****Issue 17 – Forest Carbon Plan Implementation**

Governor’s Proposal. The May Revision proposes \$96 million for various departments in the Natural Resources Agency to: (1) increase pace and scale of forest management and restoration efforts, (2) to build local capacity and strengthen regional collaborations, and (3) to innovate and increase economies around the use of materials from forest health projects. More specifically, the May Revision outlines the total investment of \$96 million across three areas of need:

- 1) Increase pace and scale of forest management and restoration efforts.
 - **Department of Forestry and Fire Protection (CalFire): Prescribed Fire and Fuels Reduction.** \$26.8 million GGRF and 79 positions for ongoing support for prescribed fire and other fuel reduction project development, coordination, and implementation.
 - **Sierra Nevada Conservancy: Sierra Nevada Regional Forest Health Projects.** \$30 million California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Fund (Proposition 68) and two positions to implement restoration and management actions under the Watershed Implementation Program and other recommendations of the Forest Carbon Plan.
 - **Natural Resources Agency: Northern, Coastal, and Southern California Regional Forest Health Projects.** \$20 million GGRF to fund regional block grants to promote and expand regional forestry collaborations led by state, local, and nonprofit entities.
 - **Department of Parks and Recreation: Legacy Forests at State Parks.** \$15 million Proposition 68 for forest ecosystem restoration and fire prevention in the state park system.
- 2) Build local capacity and strengthen regional collaborations.
 - **Department of Conservation: Watershed Coordinator Grants.** \$1.9 million California Environmental License Plate Fund to support for multi-year watershed coordinator grants to build capacity for regional implementation of the recommendations of the Forest Carbon Plan in priority watersheds.
- 3) Innovate and increase economies around the use of materials from forest health projects.
 - **Board of Forestry and Fire Protection: Joint Institute for Wood Products Innovation.** \$750,000 Timber Regulation and Forest Restoration Fund (TRFRF) and one position for the Board to develop a joint institute for wood products innovation through the University of California, California State University, or other academic institution.

- **Sierra Nevada Conservancy: Rural Economic and Manufacturing Development Grants.** \$1 million TRFRF for grants to support the innovation of wood product manufacturing and increase of rural economic development around wood product manufacturing.
- **Government Operations Agency: California Mass Timber Building Competition.** \$500,000 Timber Regulation and Forest Restoration Fund to support implementation of the California mass timber building competition to showcase and incentivize use of innovative engineered wood products.

Background. Forested Land. California has 33 million acres of forestland and 1,256 square miles of urban forest canopy. Forested lands are the largest land-based carbon sink in California with trees and shrubs drawing carbon from the atmosphere and storing it in their woody structure and in forest soils.

Decades of fire exclusion compounded by rising average temperatures and reduced rainfall have dramatically increased the size and intensity of wildfires and bark beetle infestations, threatening the ability of our statewide forests to capture and clean water, serve as long-term carbon sinks, and support native biodiversity that depends on their ecosystems. Recent wildfires have been the deadliest, most destructive, costliest, and largest in state history, and more than 129 million trees, primarily in the Sierra Nevada, have died from drought and insects since 2010.

Executive Order B-52-18. The Governor issued Executive Order B-52-18 on May 10, 2018. Key elements of the order include:

- An increase of land actively managed through vegetation thinning, controlled fires and reforestation from 250,000 acres to 500,000 acres.
- New training and certification programs to help promote forest health through prescribed burning.
- Boosting education and outreach to landowners on the most effective ways to reduce vegetation and other forest-fire fuel sources on private lands.
- Streamlined permitting for landowner-initiated projects that improve forest health and reduce forest-fire fuels on their properties.
- Support of innovative uses of forest products by the building industry.
- Expanded grants, training, and other incentives to improve watersheds.

In addition, a Forest Management Task Force will be convened in the coming weeks to help implement the order and accompanying Forest Carbon Plan.

Forest Carbon Plan. The Forest Carbon Plan was released in May 2018. The goals of the plan are to secure California forests as a healthy, resilient net sink of carbon, while providing a wide range of ecosystem, social, and economic benefits, by doing the following:

- An increase in the pace and scale of treatments to increase forest health and resilience on private and public lands.
- Treatments include fuels reduction, prescribed fire, thinning, tree planting, and sustainable timber management.
- Restoration of forest meadows to increase their carbon and water storage functions.
- Prevention of forestland conversions.
- Innovation opportunities for wood products and biomass utilization to support sustainable forest management.

- Protection and enhancement of carbon sequestration potential and related co-benefits of urban forests.

Implementation of the plan for wildland forests would be through collaborative, regional processes working at the watershed or landscape level. Implementation for urban forests would take place through state and local government programs and nonprofit organizations.

Various Reports Recommend Investments in Forest Health. The Little Hoover Commission, the Legislative Analyst's Office, the Public Policy Institute of California, and the SB 859 Wood Products Working Group all recently released reports with findings that all converge around similar recommendations. Those recommendations include protecting the ecosystem, public health, and economic benefits that healthy forests provide to the state by increasing the rate of forest treatments and expanding state wood product markets through innovation, assistance, and investment.

Prescribed Fire and Fuels Reduction. CalFire currently participates in prescribed fire and fuels reduction projects to ensure that regulatory requirements and best management practices are followed and fires are contained within planned areas. The Vegetation Management Program is a cost-sharing program that allows public and private landowners to participate in vegetation treatment projects on State Responsibility Area lands. The primary tool used in the VMP program is prescribed fire.

Watershed Improvement Program. The Sierra Nevada Watershed Improvement Program (WIP) is a coordinated, integrated, collaborative initiative to restore the health of California's primary watershed through increased investment and needed policy changes. The WIP, guided by a Memorandum of Understanding between the California Natural Resources Agency and the US Forest Service, is coordinated by the Sierra Nevada Conservancy in partnership with the US Forest Service, with the support of a wide range of state, federal and local agencies, and private landowners.

Watershed Coordinator Grants. Between 2004 and 2014, the Department of Conservation awarded competitive grants like those in this proposal. The grant program supported Watershed Coordinator positions that were tasked with facilitating collaborative efforts to improve and sustain the health of California's watersheds. The Watershed Coordinator Grant Program offered organizations an opportunity to improve and sustain the health of California's watersheds through a coordinated and collaborative approach.

Joint institute for Wood Products Innovation. The Budget Act of 2016 directed the Natural Resources Agency to convene a wood products working group to develop recommendations for creating new innovative wood product markets from biomass removed in fuels reduction projects. In their final report, entitled "Recommendations to Expand Wood Products Markets in California", the Working Group recommended collaborating with the UC, CSU, or other academic institution to establish a Joint Institute for Wood Products Innovation. Though this partnership, the joint institute would be positioned to take advantage of California's academic leadership in forestry, wood product engineering and architecture to increase innovation of wood products and their use across construction, agriculture, fuels, and other economic sectors.

Rural Economic and Manufacturing Development Grant. The SB 859 Wood Products Working Group also recommended that the state create a grant program to develop and deploy new wood products and manufacturing capacity. The program was recommended to be modeled after

aspects of two successful grant programs: (1) the US Forest Service Wood Innovations Grants Program, which supports projects that promote the expansion of innovative non-energy wood products markets; and (2) the California Energy Commission Energy Innovations Small Grants Program, which funded research, development, and demonstration for innovative wood products and manufacturing concepts.

LAO Comment. *Forest Carbon Plan Implementation.* This proposal would provide \$96 million—mostly from the Greenhouse Gas Reduction Fund and Proposition 68 (assuming that voters approve it)—for forest health and related activities. The LAO recommends approving most of this proposal. Broad consensus exists about the problematic conditions of the state’s forests and the types of activities needed to address them, but the pace of making needed improvements has been slow. This augmentation will help restore healthy forests and protect the benefits that they provide, such as air, wildlife, climate, and recreational benefits. The LAO also notes that many aspects of the proposal are consistent with recommendations we made in our recent report *Improving California’s Forest and Watershed Management*.

The LAO, however, have outstanding questions on one component of the package—\$20 million GGRF for northern, coastal, and southern California regional forest health projects. Based on the LAO’s review of the budget proposal, it appears that the proposal is still at a conceptual phase, and the Administration is still developing how the program would work. So, while the concept for encouraging regional partnerships and landscape level projects is consistent with the LAO’s recommendations, the committee may want to ask some additional questions of the Administration, including the following:

1. What steps still need to be undertaken to develop this program, and how long will those steps take?
2. How much of the \$20 million proposed would be for planning and administrative activities versus for grants to implement forest health projects? When should we expect any grant funds to be released in the budget year?
3. How does the Administration envision prioritizing funds among various watersheds throughout the state?

Staff Recommendation. Hold open.

3540 Department of Forestry and Fire Protection (CalFire)**Issue 18 – Climate Change Fire Severity**

Governor’s Proposal. A May Revision proposal requests \$10.9 million General Fund and 52 positions starting in 2018-19 to provide heavy equipment mechanics, vehicle maintenance funding, and associated administrative support staff.

Background. *The Nearly Year-Round Fire Season.* Climate change continues to lengthen the fire season in California. In some areas, the fires are year-round. Over the last six years, CalFire has experienced a 25 percent increase in fire activity in the middle of the winter months. Scientists have been confirming that fire season length and intensity have noticeably increased over the past two decades.

In addition to the impacts of climate change on the fire season, large numbers of trees are dead or dying due to the multi-year drought, which has weakened trees and left millions of acres of forestland highly susceptible to bark beetle attacks. The current 129 million dead and dying trees, along with inevitable incremental increases in mortality, will directly influence fuel conditions and fire behavior for up to 20 years.

Additional Funding for Increased Fire Activities. In 2017-18, CalFire received funding to extend fire suppression staffing year-round and staff engines earlier and later in the calendar year. This allocation did not include staffing for vehicle maintenance or other critical departmental needs.

CalFire has added 215 vehicles since 2009-10. In FY 2015-16, the Legislature provided \$6 million for tree mortality equipment, including excavators, masticators, loaders, shippers, and portable saw mills. In 2017-18, the Legislature provided \$3 million for forest health heavy equipment. These allocations did not include resources for maintenance. As of April 2018, CalFire is approximately 30 percent behind schedule on winter maintenance.

Legislative Analyst’s Office. *Climate Change Fire Severity.* This proposal would provide \$10.9 million General Fund and 52 positions for heavy equipment mechanics, vehicle maintenance, and administrative staff support. The May Revision proposal did not include a clear workload justification, making it difficult to evaluate whether this significant augmentation is justified. Specifically, the Administration’s proposal did not include information on current and projected workload as compared to current staffing and resource levels for each component of the request. Moreover, LAO notes that the Governor’s January budget included a proposal for \$3.6 million and 21 positions for similar administrative purposes. LAO have requested additional workload justification from the department. LAO withholds recommendation pending receipt and review of this workload justification.

Staff Recommendation. Hold open.

Issue 19 – Office of the State Fire Marshal, Fire and Life Safety Division

Governor’s Proposal. A May Revision proposal requests an increase of \$4.029 million in reimbursement authority and 15 positions to support the Office of the State Fire Marshal’s Fire and Life Safety Division’s increased workload related to its plan review, construction inspection, and mandated interval inspection activities.

This proposal also requests provisional language to authorize a General Fund loan of up to \$2.3 million to be repaid over three years. These requests are initial outcomes of an ongoing Mission Based Review the Department of Finance is performing with the Office of the State Fire Marshal.

Background. *The State Fire Marshal’s Fire and Life Safety Division (Division).* The Division enforces laws and regulations related to fire prevention, life safety, fire protection systems, building construction, and protection. As such, the Division is responsible for the approval of construction, repair, remodel, addition, or change of occupancy of most state-owned and occupied buildings in California.

The Division is responsible for periodically inspecting state-owned and occupied buildings, providing fire and life safety oversight at large special events on state property, providing training on state regulations to local jurisdictions, and doing damage inspection reports, which provide an evaluation of the fire damage to structures within a specific fire perimeter. The largest proportion of the Division’s workload is dedicated to plan reviews and construction inspections

The Division’s Inspection Duties. In addition to inspection of state-owned buildings, the Division is also responsible for inspecting buildings in which the state leases space. This not only include the space being leased by the state, but also the points of entry and paths of ingress and egress to the space leased by the state to ensure they are compliant with the state’s fire and life safety laws and regulations. The Division is also responsible for inspecting all trial court facilities. Many of the trial court facilities are considered high-rise structures, which triggers more rigorous annual inspections.

All of the airspace under the highways and freeways in California are state-owned and are frequently used to operate facilities to support Caltrans’ operations, which includes storage of equipment and utility vehicles. Through delegated authority, Caltrans also leases some airspace to external entities for a variety of purposes, including for business and commercial use. The Division maintains the responsibility to conduct regular inspections of the Caltrans airspace despite the existence of the lease agreements because the ownership of the airspace still ultimately lies with the state.

The Division has the responsibility to enforce fire and life safety standards at special events that occur on state-owned property. For some events, the Division’s involvement is limited to review of the event permit application materials and approval or denial of the event permit based on the information provided. However, many events occur on state-owned property that involves significant infrastructure or special features, such as fireworks displays and concerts. These require a more intensive review, as well as site inspections by Division staff. Additionally, Division staff frequently attends the special events and fireworks displays to support the event operator in maintaining compliance with applicable laws and regulations and to respond to any fire and life safety risks that present during the course of the events.

Staff Recommendation. Hold open.

Issue 20 – Fireworks Program (BCP and TBL)

Governor’s Proposal. A May Revision proposal requests \$3.6 million one-time from the California Environmental License Plate Fund and two ongoing positions for Office of the State Fire Marshal to oversee the newly created Fireworks Stewardship Program and to increase the state's efforts to reduce the influx of illegal fireworks into the state.

This proposal also requests \$2.1 million in reimbursement authority to the State Fire Marshal Fireworks Enforcement and Disposal Fund starting in 2019-20 to reflect anticipated reimbursements that will be funded through the imposition of a management charge on retail sales of "safe and sane" fireworks. Trailer bill language is also requested to implement this proposal.

Background. *The Office of State Fire Marshal (OSFM) Regulates Fireworks in the State.* Current law requires the OSFM to regulate fireworks in the state and to destroy dangerous and illegal fireworks once they are seized by local fire departments or law enforcement agencies.

California allows only certain fireworks—those designated as “safe and sane” by the OSFM—to be sold in California. Many local jurisdictions in California elected to ban the sale or use of all fireworks within their borders. Consequently, illegal fireworks seized by law enforcement agencies include those that are illegally made in or transported into the U.S., as well as fireworks that are legally purchased in one jurisdiction (including parts of California, in some cases) and brought into another jurisdiction where they are illegal.

Illegal fireworks in California are on the rise. The use and sale of illegal fireworks continues to rise in California creating significant environmental and fire hazards. Each year the State seizes on average over 220,000 pounds of fireworks needing to be disposed. Without a stable funding source for enforcement and disposal, the confiscation of illegal and dangerous fireworks throughout the State has resulted in stockpiles. There is currently no long-term sustainable funding source for the enforcement on the illegal fireworks operation or the disposal of these fireworks. Up until now, the focus has been to properly dispose of the stockpiles leaving few resources, if any, for enforcement.

The Governor’s Proposal. The Governor’s office developed this proposal in collaboration with the fireworks industry, California Fire Chiefs Association, League of Cities, and California Police Officers Association. The proposed trailer bill language would create a program to deal with illegal fireworks by making the fireworks industry responsible for seized products as a condition of their licenses to do business in California. This proposal also addresses the need for increased enforcement, education, as well as funding for disposal. Specifically, this proposal would:

- Reduce the amount of illegal fireworks entering California.
- Provide a stable funding source for illegal fireworks disposal.
- Support local fire and law agencies in their efforts in enforcement.
- Provide a cohesive statewide effort addressing illegal fireworks.

The proposed Fireworks Stewardship Program. This proposal would require wholesalers of “Safe and Sane” fireworks, of which there are currently four operating in the state, to form a stewardship entity and create a stewardship plan as a condition of receiving their annual license. This stewardship entity would be required to:

- Assess a management charge on the sale of safe and sane fireworks.
- Provide funding for fireworks enforcement, education, and disposal.
- Create a plan with state and local law enforcement to reduce the volume of illegal fireworks entering California.
- Assist OSFM in sorting, classifying and packing all seized fireworks.
- Manage and repurpose collected commercially viable fireworks and ensure they do not return to California.

It is estimated that approximately 80 percent of all fireworks seized are commercially viable or even “Safe and Sane” fireworks. The proposed trailer bill language would authorize the transfer of commercially viable fireworks seized by OSFM to the stewardship entity. By allowing the stewardship entity to repurpose those fireworks, the amount of fireworks requiring disposal will be significantly reduced.

New program would increase enforcement of illegal fireworks. Disposal of illegal fireworks has taken so much time and resources that the OSFM has not been able to tackle enforcement adequately. This proposal would provide resources to the OSFM to coordinate fireworks enforcement and education, as well as continue its responsibility to handle the disposal of illegal fireworks. Specifically, this proposal would provide funding to OSFM to increase enforcement through local grants, provide for public education, and fund the disposal of illegal fireworks. This proposal would also fund four positions (two of which are currently unfunded) to coordinate, enforce and support the fireworks stewardship program.

Anticipated costs and proposed funding for the new program. The Administration anticipates a cost of \$2.1 million to operate the program and dispose of seized illegal fireworks in the future. The proposal provides \$3.6 million from the California Environmental License Plate Fund for the first year of the program. The additional \$1.5 million in the first year would allow the state to dispose of stockpiled fireworks from previous years. In 2019-20 and thereafter, \$2.1 million (the estimated cost to operate the program) will be reimbursed by the stewardship entity to the Fire Marshal Fireworks Enforcement and Disposal Fund.

	Year 1	Year 2	Year 3 +
4 Positions & Operating Expenses	\$980,000	\$780,000	\$766,000
Estimated Disposal Costs	\$550,000	\$550,000	\$550,000
Public Education	\$200,000	\$300,000	\$300,000
Local Enforcement Grants	\$350,000	\$450,000	\$464,000
Task Force Coordination Costs	\$20,000	\$20,000	\$20,000
TOTAL COSTS	\$2,100,000	\$2,100,000	\$2,100,000

LAO Recommendation. ***Fireworks Stewardship Program for Seized Illegal Fireworks.*** This proposal provides one-time funding of \$3.6 million from the Environmental License Plate Fund for 2018-19 and establishes a new Fireworks Stewardship Program. LAO does not have any specific concerns with the proposal, and it addresses an ongoing programmatic challenge. However, this May

Revise proposal is creating an entirely new program without a lot of time for Legislature to weigh the merits of this approach versus potential alternatives. The committee might wish to ask the department the following questions: (1) Why does the Administration believe the establishment of this new program should be done in the budget rather than through the policy process? (2) What alternative approaches were considered, and why is the proposed approach viewed as superior to those other alternatives?

Staff Recommendation. Hold open.

3790 Department of Parks and Recreation (Parks)**Issue 21 – California Indian Heritage Center (BCP and TBL)**

Governor’s Proposal. A May Revision proposal requests \$100 million in General Fund to be deposited into the Natural Resources and Parks Preservation Fund for the preliminary plans (\$4.7 million), working drawings (\$4.7 million), and construction (\$90.6 million) phases of the California Indian Heritage Center (CIHC) project in Yolo County.

This proposal also requests \$100 million in matching State Park Contingent Fund authority for construction costs to be funded through future fundraising efforts. This proposal also requests trailer bill language to authorize this project.

Background. *A Museum for California Tribes.* The concept for a museum for California Tribes originated in 1927 with a loan to the state from Benjamin Hathaway of nearly 40,000 objects. A temporary facility to store, exhibit, and educate the public about these collections came to fruition in 1940 with the construction of a 4,300 square foot building at Sutter's Fort State Historic Park, funded by the Native Daughters of the Golden West. In 1950, the state purchased the collection, hired its first professional staff, and developed new exhibits.

California Indian Heritage Center. Senate Bill 2063 (Brulte), Chapter 290, Statutes of 2002, appropriated \$5 million to establish the California Indian Cultural Center and Museum Task Force and directed this taskforce to advise and make recommendations to the department regarding development of a new museum, including its location, design, content, and governance structure. The task force adopted the name “California Indian Heritage Center.” The Department, Task Force, and community representatives selected the West Sacramento site at the confluence of the Sacramento and American Rivers after assessing several alternatives. The envisioned project constitutes a decades-long collaboration between the Department, California tribal communities, and interested philanthropic entities. It fulfills long-standing promises and demonstrates the state's commitment to and responsibility for collaborating with California tribal communities throughout the state to communicate their history and work together to preserve California tribal cultural heritage. Total estimated project cost is \$200 million.

LAO Comment. *California Indian Heritage Center.* This proposal would provide \$100 million General Fund to build the California Indian Cultural Center by depositing it into the Natural Resources and Parks Preservation Fund (NRPPF). It would also authorize up to \$100 million in matching funds via the State Park Contingent Fund. LAO has two major concerns with this proposal. First, it is unclear whether the \$200 million cost estimate is accurate given that the current project appears to only be at a conceptual stage. Second, depositing funds into the NRPPF does not provide the standard level of legislative oversight for capital outlay projects because funds are continuously appropriated. This would mean that subsequent planning and construction phases would not have to come before the budget committees for review and approval as is typically the case for capital projects of this magnitude. If the Legislature chooses to move forward with this project, LAO would recommend appropriating in the Parks budget the level of funding needed in the budget year. This might include funding for acquisition and initial planning activities. The department would then come back to the Legislature in future years as it needs funding for the next phases of the project. In addition, should the Legislature want to set aside additional funds for this project—\$100 million or some other amount— it

could still do so, but LAO would recommend that it revoke the continuous appropriation authority for the NRPPF so as to ensure use of the traditional budget review process in the future.

Staff Recommendation. Hold open.

3820 San Francisco Bay Conservation and Development Commission**Issue 22 – Relocation to Bay Area Metro Center**

Governor’s Proposal. The May Revision proposes \$3.02 General Fund one-time for tenant improvements (\$2.645 million) and moving costs (\$375,000) associated with the San Francisco Bay Conservation and Development Commission's (BCDC) relocation to the Metropolitan Transportation Commission's Bay Area Metro Center.

In addition, the proposal includes provisional language to provide one-time funding for tenant improvement and moving costs “contingent upon the Commission entering into a long-term lease agreement with the Bay Area Toll Authority.”

BCDC’s current space in the Hiram Johnson State Office Building is proposed to be backfilled by the Department of Justice (DOJ), which already occupies a portion of the state building.

Background. BCDC. BCDC is responsible for managing the protection and use of the San Francisco Bay, its shoreline, and nearly all development in and around the Bay (within 100’ of high tide). By statute, BCDC is required to be located in the City of San Francisco. The current facilities in the Hiram Johnson State Office Building cannot accommodate Commission meetings (the Commission’s 27 members cannot be seated on the dais) and are inadequate for hosting any other formal meetings due to its lack of internet and audio-visual capabilities. After the Metro Center opened in 2016, BCDC moved all of its public meetings from various facilities in San Francisco and Oakland to the Metro Center because the building has space that is specifically designed to hold large public meetings in hospitable spaces.

A New Home for Department of Justice (DOJ). In 2016, DOJ submitted a request for additional space in the City of San Francisco and the Department of General Services began searching for a new space. At the same time, BCDC submitted a request to move to the Metro Center after its completion to co-locate with its closest regional partners. DOJ is expected to move into the location where BCDC plans to move out of.

Staff Comments. Tenant Improvements. The Metropolitan Transportation Commission (MTC), which oversees the Bay Area Headquarters Authority (BAHA) (a joint powers authority between MTC and the Bay Area Toll Authority. According to MTC, BAHA oversees the redevelopment, management and operation of 375 Beale, known as the Bay Area Metro Center, where BCDC is planning to move. BAHA spent \$5 million on tenant improvements related to the space that BCDC plans to occupy. MTC does not believe this proposal is fair because it would only provide half the cost of the \$5 million it spent on tenant improvements.

Staff Recommendation. Hold open.

3860 Department of Water Resources (DWR)**Issue 23 – Joint Operations Center (JOC) Relocation**

Governor’s Proposal. The May Revision proposes \$964,000 General Fund and provisional language to prepare a request for proposal to enter into a build-to-suit lease for a new JOC.

In addition, \$926,000 State Water Project funds will be used for this purpose.

The May Revision Letter states the estimated total cost to acquire, design, and construct the JOC is \$265.2 million (\$116.3 million General Fund, \$111.8 million State Water Project, and \$37.1 million federal reimbursement). The state’s portion will be comprised of 51 percent General Fund and 49 percent continuously appropriated State Water Project (SWP) funds.

Background. JOC. JOC is a facility that houses state and federal entities working in collaboration to manage and operate the state and federal water projects, and respond to state’s flood emergencies. DWR is the participating state agency. DWR’s two main divisions involved are the Division of Flood Management (DFM) and the Division of Operations and Maintenance for SWP. The federal agencies are the US Bureau of Reclamation (USBR) and the National Weather Service (NWS), which includes the Sacramento Weather Forecast Office and California-Nevada River Forecast Center. The JOC state and federal collaboration has existed since the 1960s. In 1995, these entities moved from the Resources Building in downtown Sacramento and other federal facility locations to the El Camino and Watt Avenue facility in north Sacramento.

The current JOC was originally intended as an interim location until DWR could build a permanent facility. The JOC is out of compliance with the State of California Essential Services Act (ESA) for the Flood Operations Center (FOC) when activated during flood emergencies. The Division of State Architect provided a ten-year grace period to allow DWR to meet ESA, which elapsed in 2005. Both state and federal agencies have struggled to comply with new Homeland Security regulations that continue to change and become more restrictive for physical space and information technology requirements related to security. Both the state and federal partners have intended to find a permanent home for JOC, preferably having an ownership opportunity in the facility.

The new facility will be built to the standards of the ESA, the Americans with Disabilities Act, Title 24 of the California Code of Regulations, and designed to achieve Leadership in Energy and Environmental Design (LEED) Silver rating.

The proposed project, to be jointly occupied by the state and federal partners, is estimated to be approximately 282,000 square feet (247,000 sf state and 35,000 sf federal). A new JOC is necessary, as the current facilities no longer meet programmatic space needs to comply with essential service needs, do not conform to federal requirements of being located outside of the 100-year floodplain, and lack enough perimeter setback space to meet federal security requirements.

Additional Costs to Consider for This Proposal. The BCP states that the estimated annual lease payment is an average of \$20.2 million, which is an average \$17 million a year increase. The funding sources would include the General Fund (\$7.5 million), SWP funds (\$6.5 million), and federal reimbursement authority (\$3 million). If this proposal is approved, there will be one-time costs

associated with moving (\$15.8 million) and ongoing costs associated with the new lease payment (approximately \$7 million per year) that will be State Operations Support General Fund. DWR's Division of Flood Management cannot absorb an increase in lease costs or the cost of the move.

In addition, the BCP notes that there is potential risk that the federal partners will not be able to pay for their sub-lease payments – Under this scenario, DWR would have to pay this federal portion out of their support budget.

Staff Comments. The subcommittee may wish to ask the following questions:

- 1) What is the total cost that is anticipated for this entire project over 25 years?
- 2) What is the timeline you are anticipating for when the facility would be ready for move-in?
- 3) Are the increased costs for the State Water Contractors included in the updated long-term SWP contract terms currently being negotiated?

Staff Recommendation. Hold open.

Issue 24 – Flood Control Infrastructure (BCP and TBL)

Governor’s Proposal. The May Revision proposes \$195 million one-time in General Fund (\$25 million ongoing). One-time funding of \$170 million will be used to support the state cost-share of critical United States Army Corps of Engineers (USACE) urban flood risk reduction projects. Ongoing funds will be used to support operations, maintenance, repair, rehabilitation, and replacement of the flood control infrastructure.

Funding is proposed as follows:

- \$45 million in state operations support (USACE urban projects; operations, maintenance repair, rehabilitation, and replacement (OMRR&R), and Central Valley Flood Protection Board (CVFPB) feasibility study), as follows:
 - \$20 million one-time state ops: USACE urban projects – five-year extended encumbrance;
 - \$25 million ongoing state ops or local assistance: OMRR&R. For FY 2018-19 specifically, these funds include:
 - \$23.7 million state ops: OMRR&R – standard one-year encumbrance;
 - \$1.3 million state ops: CVFPB feasibility study – two-year extended encumbrance;
- \$150 million in one-time capital outlay (USACE urban levees) – five-year extended encumbrance.

This proposal also requests trailer bill language to make various changes to the Delta Levee Maintenance Program.

Background. USACE Urban Projects. Urban projects are generally considered those that protect urbanized areas and the majority of the state’s public and private assets. These projects are initiated and led by USACE and contributed to by local and state partners pursuant to federal cost-share requirements. These projects contribute directly toward 200-year flood protection, which is to be achieved by 2025 per SB 5 (Machado), Chapter 364, Statutes of 2007, for Central Valley urban communities such as the Sacramento and Stockton regions.

The Administration states that General Funds are needed for these projects to strengthen the state’s ability to leverage federal funds. While existing bond funds such as Proposition 1E and Proposition 68 provide funding for flood investments, these funds are largely limited to multi-benefit projects, or levee projects located in the Delta. USACE urban projects are typically not multi-benefit and, therefore, do not qualify for existing bond funds.

Operations, Maintenance Repair, Rehabilitation, and Replacement (OMRR&R). OMRR&R includes both routine and non-routine maintenance that is completed in a timely manner. OMRR&R is performed throughout the entire flood system. These funds are intended to support priority projects that reduce state liability and incentivize cost-sharing with local entities by: 1) encouraging a regional governance model that will better allow local entities to assess local beneficiaries of the levee system; and, 2) updating assurance agreements with the state to clarify levee maintenance responsibilities. General Fund is needed for this work as some maintenance cannot be funded with bond funds and because an ongoing appropriation is needed to address annual costs that currently exceed available funds. OMRR&R not completed in a timely manner becomes deferred maintenance.

LAO Comment. According to LAO, this proposal seems to meet identified needs, in particular, those identified by the Central Valley Flood Protection Plan, and mostly the funds are going to established programs and efforts.

Staff Comment. The subcommittee may wish to ask the following questions:

- 1) How will DWR choose which projects to spend the \$170 million on?
- 2) How does DWR plan to prioritize the use of the ongoing \$25 million? How might you use this funding to change practices by or arrangements with local agencies? Will there be local cost-share requirement?
- 3) Is \$25 million annually enough to properly maintain adequate flood protection?
- 4) Didn't the Central Valley Flood Protection Plan call for more than this for ongoing operations and maintenance?
- 5) Why is it appropriate to spend state funding on flood protection? Shouldn't it be paid for by the beneficiaries/residents who live behind the levees?

Staff Recommendation. Hold open.

Issue 25 – Open and Transparent Water Data Act (AB 1755)

Governor’s Proposal. The May Revision proposes that Item 3600-001-0140 be increased by \$150,000, Item 3860-001-0140 be increased by \$450,000, and Item 3940-001-0140 be increased by \$200,000 to continue implementation of AB 1755 (Dodd), Chapter 506, Statutes of 2016.

Background. An abundance of water resources data is created by local, state, and federal agencies, universities, and non-profits. Those datasets are not coordinated and, as a result, do not produce a complete water information picture. The state lacks a comprehensive approach, as well as framework of standards, and dedicated resources to cultivate useful data sets that can be presented on a statewide water data portal.

AB 1755 (Dodd) required DWR, in consultation with the State Water Resources Control Board, the Department of Fish and Wildlife, and the California Water Quality Monitoring Council to create and maintain a statewide integrated water data platform by August 1, 2020, based on a specified schedule. The Partner Agency Team meets regularly to plan, discuss progress, and offer high-level guidance in the multi-agency effort to fulfill requirements of AB 1755, including development of a strategic plan, protocols, and a statewide integrated water-data portal to publish water and ecological datasets.

Staff Recommendation. Hold open.

3900 Air Resources Board (ARB)

Issue 26 – Agricultural Diesel Engine Replacement and Upgrades

Governor’s Proposal. The May Revision proposes \$30 million General Fund one-time for agricultural diesel engine replacements and upgrades.

This proposal also requests provisional language to make this item available for encumbrance or expenditure until June 30, 2020.

Background. *ARB is Working to Reduce Emissions from Mobile Agricultural Equipment.* ARB has incentive programs and regulations to reduce emissions from a wide variety of agriculture-related diesel engines. Regulations include the Diesel Agricultural Engines, which sets requirement for stationary and portable diesel-fueled engines used exclusively in agriculture. Incentive programs include the Carl Moyer Memorial Air Quality Standards Attainment Program, which provides incentive grants or cleaner-than-required engines and equipment.

The Budget Act of 2017 also provided the ARB with \$135 million to reduce emissions from agricultural harvesting equipment, heavy-duty trucks, agricultural pump engines, tractors, and other equipment used in agricultural operations. ARB is in the process of developing the Funding Agricultural Replacement Measures for Emission Reductions Program Guidelines, which will outline ARB’s recommendations for expending these funds.

LAO Comment. This proposal requests \$30 million one-time in General Fund for incentives to replace high-emitting diesel agricultural vehicles. These funds would supplement the \$102 million GGRF included in the Governor’s 2018-19 cap-and-trade expenditure plan. If these activities are a high priority for the Legislature—for example, because agricultural equipment is a significant source of air pollution in the Central Valley—The LAO recommends the Legislature consider allocating a greater share of GGRF, instead of General Fund. (Under the Governor’s plan, roughly \$2.8 billion GGRF would be allocated to various programs.) This approach would reduce the amount of GGRF available for other climate-related activities, but would free-up General Fund dollars for the Legislature’s highest priorities.

Staff Comments. The Governor’s proposed cap-and-trade expenditure plan includes \$102 million for mobile agricultural equipment as well as \$4 million for agricultural renewable energy. The subcommittee may wish to ask the need for additional funding given the proposed GGRF expenditure.

Staff Recommendation. Hold open.

Issue 27 – Advanced Payment: Trailer Bill Language (TBL)

Governor’s Proposal. The May Revision proposes TBL to authorize ARB to make advance payments to grantees if ARB makes specified determinations.

Background. During the budget process in 2017, the ARB informed the local air districts that it cannot continue to provide air districts with funding for incentive programs such as the Enhanced Fleet Modernization Program in advance of those funds being actually expended, and can only reimburse air districts for payments already made. ARB cited California Constitution Article XVI, Sec. 3 and Sec. 6, which prohibits gifts or donations of public funds.

In response, the local air districts argue that ARB advancing funds to the local air districts to implement incentive programs is not an unconstitutional gift of public funds. The air districts assert that these are legislatively-authorized incentive programs which serve a vital public purpose of helping clean the air and improve public health. Thus, these funds are expended for a public purpose and do not violate the gift of public funds prohibition even where a private party is incidentally benefitted. Further, the local air district indicated that such a requirement would make participation in these incentive programs impossible for many districts, who simply do not have funds available to do so.

AB 109 (Chapter 249, Statutes of 2017) authorized the Air Board to provide the local air districts with advanced payments for fiscal year 2017-18 appropriations.

Staff Comments. The proposed trailer bill language would authorize the Air Board to make advanced payments on a permanent basis.

Staff Recommendation. Hold open.

3930 Department of Pesticide Regulation (DPR)**Issue 28 – Improved California Environmental Quality Act (CEQA) Notification for Pesticide Registration**

Governor’s Proposal. The May Revision proposes \$515,000 Department of Pesticide Regulation Fund and three positions to expand the documentation provided to the public to meet CEQA requirements.

Background. *DPR is required to notice the public of its intent to register or deny a pesticide product.* DPR is statutorily required to thoroughly evaluate the pesticide’s toxic effects, its fate in the environment, its potential exposure to people and non-target organisms, the potential for environmental problems with new pesticide products prior to registration, and continuously evaluate registered pesticide products to identify potential adverse impacts to human or environmental health. This process includes evaluation of product chemistry and efficacy, human toxicity, ecotoxicology (non-target organisms and the environment), phytotoxicity (plants), off-site movement in air and water, and the impact of proposed uses on pesticide applicators and other workers when applicable. Once evaluated, DPR provides a public notice of its proposed decision to register or deny the product and provides the opportunity for public comment. Proposed decisions to register or deny the request to register or amend a pesticide product are published on DPR’s website. DPR reviews and responds in writing to all public comments that raise a significant adverse environmental point regarding registration decisions prior to making a final decision on the product.

CEQA Compliance. An environmental impact report (EIR) is required when significant impacts are expected, unless an agency’s regulatory program is certified as the functional equivalent of an EIR. In 1979, the Secretary of the Resources Agency certified DPR’s regulatory program for pesticide registration and evaluation as a certified regulatory program. The Notices of Proposed and Final Decisions and public reports (NODs) to register or deny a pesticide product are posted weekly to satisfy the requirement for written documentation that may be used instead of an EIR.

Pesticide Action Network North America v. California Department of Pesticide Regulation (2017). In March, 2018, the California Court of Appeal determined that DPR’s NODs were deficient in demonstrating DPR’s certified environmental review process for two pesticide label amendments.

The Governor’s Proposal. In response to the recent court decision and community concerns, the DPR proposes to expand the documentation of pesticide registration provided to the public and show how the environmental review of each decision meets the substantive environmental review requirements of CEQA. The new NODs will include the following:

- A new summary for the public of all of the scientific analyses that are now in separate technical scientific documents specific to each product (this will require one scientist to review all of the technical documents and summarize them);
- A new process that makes the evaluation reports (the scientific technical document) and product labels accessible in the Notice of Proposed Registration;
- Expansion of DPR’s alternatives analysis for each type of registration decision;
- A new cumulative impact discussion for each product which will include analysis of several years of pesticide use records. It will also include a discussion of currently registered products with the same or similar ingredients.

This proposal is intended to enhance the public's access to information regarding DPR's pesticide evaluation process and findings.

Staff Recommendation. Hold open.

3970 Department of Resources Recycling and Recovery (CalRecycle)**Issue 29 – Disaster Recovery Assistance Program**

Governor’s Proposal. A May Revision proposal requests \$1.25 million Integrated Waste Management Account and six positions to enhance CalRecycle's ability to respond to requests from the Governor's Office of Emergency Services for assistance when disasters occur and debris removal is requested. The positions will also be available to provide technical assistance to local governments in developing disaster recovery plans and protocols when they are not deployed for recovery efforts related to a disaster.

Staff Comments. Staff did not receive a budget change proposal on this request at the time this agenda was sent to publication.

Staff Recommendation. Hold open.

3940 State Water Resources Control Board (SWRCB)**Issue 30 – Administrative Hearings Office (BCP and TBL)**

Governor’s Proposal. The May Revision proposes \$2 million Water Rights Fund, nine positions, and TBL to establish an Administrative Hearings Office that will provide administrative hearing officers and supporting staff to preside over administrative hearings in water right enforcement actions and prepare proposed decisions.

Under the proposed TBL, hearing officers will have purview over certain kinds of water right enforcement actions, such as hearings on complaints for administrative civil liability, proposed cease and desist orders, and proposed revocations. TBL prohibits the hearing officer from ex parte communications with board members. TBL also requires hearing officers to be attorneys and have qualifications equivalent to an administrative law judge and knowledge and experience in water law.

Background. Current Process at SWRCB. The State Water Board is responsible for enforcing California’s water rights laws. Under the existing procedures, when the State Water Board staff believes that some person or entity has violated the state’s water use laws, it can take a number of different actions. If the alleged violation already took place, the staff can seek Administrative Civil Liability – fines, in effect – against the alleged violator. If the alleged violation is imminent or ongoing, the State Water Board staff can issue a proposed Cease and Desist Order. In either instance, the alleged violator has the opportunity to challenge the State Water Board staff allegations by requesting a hearing on the matter to the State Water Board.

Under existing procedures, if the alleged violator requests a hearing, the full State Water Board may hear the case or, alternatively, a single member of the State Water Board may serve as the Hearing Officer and preside over the case. In either case, a team of State Water Board staff (the “hearing team”), usually including an attorney, a water resources control engineer and a water scientist, assists the decision maker with the case. A second team of State Water Board staff (the “prosecution team”), presents evidence and makes the argument to the decision maker as to why the prosecution team believes the water rights violation allegation it has made is true. The alleged violator has an opportunity to present its case and cross-examine witnesses in an effort to convince the decision maker that the prosecution team’s allegations are false, that it has a valid defense for its actions, or that there are mitigating circumstances, among other things.

During this process, the “hearing team” and the “prosecution team” are, in accordance with the Administrative Procedures Act, forbidden from communicating with one another about the case and the prosecution team is forbidden from communicating with the decision maker about the case outside of the public hearing.

Once the hearing is over, the decision maker rules on the case. If the decision maker was a single member of the State Water Board, the full State Water Board may review the individual member’s decision and either uphold, modify, or overturn it.

AB 313 (Gray). AB 313 (Gray) (2017) would have created a new Water Rights Division within the Office of Administrative Hearings (OAH) and assign to it the task of recommending a decision to SWRCB whenever the alleged violator challenged a SWRCB charge that a water use violation had been committed. The Governor vetoed AB 313, acknowledging the author's intent to increase fairness and transparency, but concluded that the bill would not work as intended. The Governor's veto message directed the Secretary of CalEPA "to evaluate the potential role for administrative law judges and provide a recommendation for administrative improvements to the Board's hearing process." This proposal would implement the Secretary's recommendation, which calls for establishment of an Administrative Hearings Office as a separate and independent organizational unit within SWRCB, to provide qualified, impartial hearing officers in water rights enforcement matters.

Volume of Actions Expected to Increase. The statistics on State Water Board water rights violation charges for the period 2012 to 2016 are as follows:

Number of complaints	2,560
Hearings requested	39
Hearings held	5
Decisions upholding complaint	4
Decisions dismissing complaint	1

SWRCB states that it has several hundred backlogged water rights actions. There can be long delays, sometimes for years, between a request for hearing and when a hearing is scheduled, and between the completion of the hearing and the release of a proposed decision.

The board anticipates an increase in water right enforcement actions due to its new cannabis enforcement authority, and expects implementation of the Drinking Water program and the Sustainable Groundwater Management Act to result in more hearing requests in coming years.

With this proposal, SWRCB expects about 200 hearings each year.

The current system for handling water rights actions was established prior to 1950. This proposal would be the first substantive modification to those procedures.

Legislative Analyst's Office. Legislative Venue. As noted above this proposal relates to AB 313 (Gray), which was vetoed by the Governor last year. This proposal provides a different structure for hearing water rights actions than AB 313 and establishes a new program and one which the Legislature recently debated in the policy process. The subcommittee may want to consider whether this proposal should be considered in policy committee.

Staff Comments. Water Rights Fund. For FY 2018-19, the fund balance is expected to be \$1.888 million. This proposal requests \$2 million from the Water Rights Fund. A question arises as to how the \$112,000 deficit would be addressed.

Staff Recommendation. Hold open.

3960 Department of Toxic Substances Control (DTSC)**Issue 31 – BKK Third Party Initiative**

Governor’s Proposal. The May Revision proposes \$434,000 General Fund and two positions to implement a coordinated enforcement and cost recovery initiative related to clean-up activity at the BKK facility.

Background. Under this initiative, DTSC and BKK Working Group, a group of 50 potentially responsible parties, will undertake a large-scale cost recovery effort against approximately 12,000 third parties that sent hazardous waste to the site. This initiative is expected to result in recovery of approximately \$128 million from third parties.

BKK Facility. The BKK facility is a 583-acre closed waste management facility in West Covina comprised of a closed hazardous waste landfill (Class 1 Landfill), a closed municipal landfill (Class 3 Landfill), a Leachate Treatment Plant (LTP), and other landfill infrastructure. From 1964 to 1987, the Class I Landfill accepted approximately five million tons of liquid and solid hazardous waste intermixed with a much higher volume of municipal waste. Ongoing concerns at the Class 1 include the potential emission of vinyl chloride and other toxic gases from the landfill surface, subsurface migration of landfill gases, potential contamination of groundwater, and seismic stability. Residential and commercial uses continue to develop around the BKK facility with the closes residences only 20 feet away.

In October 2004 BKK Corporation, the owner and operator of the BKK facility, notified DTSC that it no longer had the financial resources to continue critical post-closure activities at the Class 1 Landfill and LTP, related infrastructure, and to carry out critical facility repairs. Subsequently, DTSC initiated an emergency response action to ensure the day-to-day operation and maintenance of these facilities. DTSC received, and continues to receive, funding from General Fund to ensure that these daily landfill functions continue without disruption. In December 2004, DTSC issued an Imminent or Substantial Endangerment and Remedial Action Order (ISE Order), naming approximately 50 potentially responsible parties as Respondents and ordering them to undertake response actions at the site. In 2005, a group of respondents named in the ISE Order formed the BKK Working Group.

DTSC has incurred approximately \$72 million in response costs at the site since 2004 and continues to incur costs overseeing essential activities. The total estimated cost of cleanup is about \$760 million.

Settlement proceeds collected from third parties will be allocated towards implementation of the final cleanup remedy, within a 10 percent share going towards DTSC’s past costs. The remaining 90 percent share will be reserved to fund implementation of the future cleanup remedy.

Staff Recommendation. Hold open.

Issue 32 – Cost Recovery Program Implementation

Governor’s Proposal. The May Revision proposes \$1.093 million Hazardous Waste Control Account and three positions and \$1.093 million Toxic Substances Control Account and three positions to recover costs from third parties that were incurred by the Department to clean-up properties across the state that were contaminated by toxic substances. These resources will be used to resolve some of the Department's backlog for clean-up sites for which the Department has not recovered its costs.

Staff Comments. Staff did not receive a budget change proposal on this request at the time this agenda was sent to publication.

Staff Recommendation. Hold open.

Issue 33 – Cost Recovery Management System

Governor’s Proposal. The May Revision proposes \$140,000 Lead-Acid Battery Cleanup Fund for planning costs associated with a replacement cost recovery billing system, which is used for issuing invoices, tracking payments, and reconciling account balances. The current billing system is not supported by the manufacturer, does not meet the functional needs of the Department, and cannot be modified to meet new statutory mandates.

It is further requested that provisional language be added to authorize the Department of Finance to augment this item by up to \$1.5 million, contingent upon the approval of the California Department of Technology for Stage 4 of the Project Approval Lifecycle.

The additional funding would provide IT software and hosting services along with contracted services for California Department of Technology Oversight, Project Management, Independent Verification & Validation (IV&V), Change Management and System Integrator. The system serves a role in the cost recovery process, such as issuing invoices, tracking payments, and reconciling account balances.

Background. *DTSC Recoverable Costs.* DTSC incurs costs overseeing the investigation and cleanup of contaminated sites, performing investigation and/or cleanup activities itself, and permit review and issuance to hazardous waste facilities. These costs are known as DTSC’s “response costs.” DTSC is authorized to recover its response cost from responsible parties and permitted hazardous waste facilities (billable parties). DTSC recovers millions of dollars in response costs annually, which serves to fund future cleanup activities.

Cost Recovery Billing System (CRBS). CRBS serves as the vehicle for recovering DTSC’s costs, and thus serves a mission-critical purpose. CRBS issues invoices to responsible parties, tracks cost data, records payments, and reconciles account balances to ensure that claims for reimbursement are accurate. CRBS also maintains data on the number of invoices processed and the amount of reimbursements received. The information maintained in CRBS supports litigation undertaken by DTSC and the Office of the Attorney General against responsible parties and respond to Public Records Act requests. CRBS is the source of information for reports and tracking tools containing cost recovery information.

In August 2014, the State Auditor issued a report on DTSC’s cost recovery efforts. The report found several deficiencies in DTSC’s cost recovery processes. It specifically noted that CRBS was no longer supported and the system could not perform basic functions, such as track settlement agreements or automate the process for issuing collection letters to billable parties. The lack of basic functionality was an important factor in DTSC’s failure to collect response costs. The report noted that the Financial Information System for California (FI\$cal) would address some of the deficiencies in DTSC’s cost recovery process.

This proposal is intended to allow DTSC to address concerns stated in the State Auditor 2014 report.

Legislative Analyst’s Office (LAO) Recommendation. LAO recommends the Legislature modify the Administration’s proposed provisional budget bill language to require the Department of Finance to notify the Chairperson and Vice Chairperson of the Joint Legislative Budget Committee 30 days prior to any augmentation of funds for CRMS. Typically, the Legislature receives a complete project plan to review once a proposed project, such as CRMS, has gone through the four stages of the Project

Approval Lifecycle (PAL). However, in this case the project is still in Stage 4 of PAL and a complete project plan is not yet available. If the Legislature wishes to approve this request in order to avoid potential project delays, a 30-day notification requirement will ensure that the Legislature maintains the ability to exercise oversight of the project before CRMS moves from the planning stage to implementation.

Staff Recommendation. Hold open.

Issue 34 – National Priorities List and State Orphan Sites

Governor’s Proposal. The May Revision proposes \$4.547 million from the Toxic Substances Control Account (TSCA) and \$3.265 million Site Remediation Account to continue supporting the state's share of costs for National Priorities List sites. Priority 1A and IB state orphan sites, and continued cleanup activities for Priority 2 and 3 state orphan sites already underway. The cleanup work includes site investigation, characterization, cleanup, and remediation activities, among others. These remediation efforts reduce public exposure to hazardous and cancer-causing chemicals and reduce the spread of contamination.

Background. *The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).* CERCLA, commonly referred to as the “Superfund” law, helps to address cleanup needs at the nation’s most heavily contaminated toxic waste sites. Under CERCLA, the Superfund program identifies, investigates, and cleans up the nation’s most contaminated hazardous waste sites, which are also known as National Priority List (NPL) sites. In 2002, Congress amended CERCLA by passing the Small Business Liability Relief and Brownfields Revitalization Act in 2002. This law created a federal program to aid state brownfield cleanup programs, clarified and modified liability issues at CERCLA sites to help reduce litigation and expedite cleanups, and increased the states’ authority to impact whether US Environmental Protection Agency (US EPA) lists a site for cleanup under the NPL, among other changes to the law.

US EPA identifies and lists sites on the NPL following criteria in CERCLA. Of the 1,343 sites listed nationwide, 124 sites are in California, and 98 are active. Most NPL-listed sites have responsible parties funding the cleanup. Responsible parties are funding the cleanup for 103 of the total sites, including 76 of the active sites.

The remaining 22 active sites listed are considered fund-lead NPL sites, which means US EPA has determined that there are no viable responsible parties to fund the cleanup, and therefore, US EPA is partially funding the cleanup with federal Superfund money. The listing of an NPL site that uses federal funds to pay for the cleanup is a regulatory action that obligates the state to pay 10 percent of the cost of constructing the cleanup remedy, and 100 percent of the cost of operating and maintaining the remedy after it is built. CERCLA requires the state to assure all future maintenance of a remedial action provided for the expected life of such action. CERCLA further defines when US EPA remedial action ends and the state operation and maintenance (O&M) begins.

Once a site remedy becomes operational a functional, US EPA and the state enter into a Site Transfer Agreement to affect an orderly transfer of O&M activities and funding responsibilities. “Operational and functional” is either one year after remedy construction is complete, or when it is determined, concurrently by US EPA and the state, to be functioning properly and is performing as designed, whichever is earlier. Remedies considered “restoration” are operated by US EPA for 10 years prior to transitioning to state O&M.

Each year, US EPA provides DTSC with its best estimates of the state’s upcoming obligations for NPL sites. The listing of new sites, coupled with the transition of older sites from construction to O&M, is increasing the state’s funding obligation.

State Orphan Sites. State orphan site cleanup includes the investigation and cleanup of properties where no potentially responsible party has been identified who has the means to pay for the response actions needed. US EPA estimates there are between 96,000 and 212,000 contaminated sites in California. Of these, DTSC has identified approximately 9,800 contaminated sites statewide that may impact or threaten groundwater designated for crops or drinking water. They may also expose people to toxic metals or vapors. Most of these are orphan sites, and the state must bear the cleanup costs.

Staff Recommendation. Hold open.

Issue 35 – Lead-Acid Battery Program Implementation

Governor’s Proposal. The May Revision proposes \$6.7 million and 15 positions in 2018-19 and \$7.6 million ongoing from the Lead-Acid Battery Cleanup Fund to implement the provisions of the Lead-Acid Battery Recycling Act of 2016. Under this proposal, DTSC requests resources to investigate and cleanup properties in California reasonably suspected to have been contaminated by the operation of lead-acid battery recycling facilities.

Background. *Assembly Bill 2153 (C. Garcia, Chapter 666, Statutes of 2016).* AB 2153 created the Lead-Acid Battery Recycling Act of 2016. Among other things, the Act requires DTSC to investigate and cleanup areas of the state that are reasonably suspected to have been contaminated by the operation of lead-acid battery recycling facilities. To fund the mandates of the Act, lead-acid battery dealers must charge purchasers of lead-acid batteries a refundable deposit of \$1.00 for each lead-acid battery sold beginning on April 1, 2017. It also requires, beginning April 1, 2017 through March 31, 2022, lead-acid battery manufacturers to remit to the California Department of Tax and Fee Administration (CDTFA) a \$1.00 manufacturer battery fee for each lead-acid battery sold in California. Beginning April 1, 2022, the \$1.00 battery fee will be increased to \$2.00. Revenue from the California battery.

Previous Funding. The Budget Act of 2017 approved two-year funding of \$610,000 for DTSC to hire limited-term staff to: develop a program with public input for the evaluation, investigation, and cleanup of areas of the state reasonably suspected to have been contaminated by lead-acid battery recycling facilities (sites); evaluate the 14 potential sites to determine if they required further investigation or cleanup; provide out-reach to lead-acid battery dealers informing them of the public notification requirement in the Act; develop a spending plan; and to provide an annual progress report to the Legislature. Funding for the positions and associated work will expire on June 30, 2019.

According to DTSC, since receiving additional resources in July 2017, they have found that the scope of potential contamination caused by former lead-acid battery facilities may be extensive requiring additional resources.

LAO Recommendation. LAO recommends the Legislature reject this proposal without prejudice to its merits until DTSC provides a report required by the FY 2017-18 Budget Act (Item 3960-001-3301) regarding the department’s progress towards implementing the Lead-Acid Battery Recycling Act of 2016. LAO believes the information required to be provided under the reporting requirement would allow the Legislature to better assess the need for additional resources to implement the Lead-Acid Battery Program.

Staff Recommendation. Hold open.

Issue 36 – Enforcement in Vulnerable Communities

Governor’s Proposal. The May Revision proposes \$2.5 million Lead-Acid Battery Cleanup Fund in FY 2018-19 and ongoing to fund 11 existing positions previously approved with limited-term funding that expires in June 2018 in order to provide continued support to address serious environmental violations by hazardous waste transportation and metal recycling industries that disproportionately impact vulnerable communities.

Background. Beginning in FY 2015-16, DTSC received limited-term funding for 11 positions to undertake a pilot program to evaluate approaches to address serious environmental violations that occur in California’s most vulnerable communities. Referred to as the Enforcement Initiative in Vulnerable Communities, the initiative was a statewide effort designed to address possible violations of the Hazardous Waste Control Law by businesses that transport hazardous waste and recycle metals. Current funding for these positions expires on June 30, 2018.

There are 904 DTSC-registered hazardous waste transporters in California. Under the initiative, DTSC significantly increased the number of hazardous waste transporter inspections. Prior to the initiative, DTSC conducted an average of 50 to 60 inspections annually. After the initiative, DTSC conducted approximately 40 additional inspections in FY 2015-16 and 60 additional in FY 2016-17 and FY 2017-18.

DTSC estimates California has over 1,000 metal recycling facilities, approximately 200 certified appliance recyclers, and over 1,100 auto dismantlers licensed by the Department of Motor Vehicles. Approximately 1,359 of these facilities operate in the most vulnerable and highly impacted communities as indicated by CalEnviroScreen. DTSC investigated 43 facilities during FY 2015-16 and 2016-17. 37 (86 percent) had committed serious violations of the Hazardous Waste Control Law that warranted an enforcement response.

DTSC has conducted approximately 200 inspections of metal recyclers and inspection of transporters pursuant to this initiative. Of the 200 inspections, DTSC referred 17 cases to the Office of Attorney General to handle administratively or civilly.

Staff Comment. The subcommittee may wish to ask the department why the Lead-Acid Battery Cleanup Fund is appropriate for the proposed activities.

Staff Recommendation. Hold open.

Issue 37 – Safer Consumer Products Implementation

Governor’s Proposal. The May Revision proposes \$1.2 million Lead-Acid Battery Cleanup Fund and six positions to continue implementation of the Safer Consumer Products regulations. Specifically, these resources will be used to perform an alternatives analysis to determine how best to limit or prevent potential harm from chemicals in various products.

Background. *Green Chemistry Law and Safer Consumer Products (SCP) Regulations.* In 2008, the Green Chemistry Law was established amid concerns about harmful chemicals in common consumer products. The Green Chemistry Law promotes a systematic scientific and technological approach that seeks to reduce the use of hazardous chemicals and the generation of toxic wastes by changing how society designs, manufactures, and uses chemicals in products. The law establishes a chemicals management framework with enforcement authority.

In 2013, DTSC adopted the SCP regulations to implement the Green Chemistry Law. SCP regulates toxic chemicals that consumers may purchase while encouraging new product designs and manufacturing approaches to improve product safety. The regulations establish a four-step process for evaluating the safety of chemicals in products, assessing potentially safer alternatives, and determining how best to minimize the potential for adverse impacts to human health and the environment.

- Step 1: Candidate Chemicals. DTSC identifies potentially hazardous chemicals.
- Step 2: Priority Products. DTSC evaluates and prioritizes product-Candidate Chemical combinations to develop a list of “Priority Products” for which a safer alternative should be sought. DTSC must adopt Priority Products via rulemaking to trigger Step 3. DTSC publishes a Priority Products Work Plan every three years that describes product categories from which it will select Priority Products.
- Step 3: Alternative Analysis. Responsible entities (manufacturers, importers, assemblers, and retailers) perform an Alternative Analysis (AA) to determine how best to limit or prevent potential harm from the product’s Candidate Chemical. Options include product redesign, reformulation, or chemical substitution.
- Step 4: Regulatory Response. DTSC identifies and implements Regulatory Responses designed to protect public health or the environment based on Priority Product manufacturers’ submitted AAs. Regulatory Responses to manufacturers will be enforceable orders or agreements that may require further research, providing information to DTSC or consumers, making product design changes, establishing end-of-life product stewardship programs for hazardous wastes, or restricting the sale of the Priority Product.

Since the regulations have been in effect, DTSC has developed tools and processes to perform Step 1 and Step 2. It has used this capacity to adopt regulations to list two Priority Products. DTSC has taken a measured approach to implementing each of the four steps of the regulations. The Governor and stakeholders have indicated it is imperative that the program move faster, so increased rulemaking resources are proposed.

Listing Priority Products has triggered Step 3 of the regulations. The proposal includes staff for accelerating rulemaking and support key elements of Step 3.

LAO Comments. *Shift to Lead-Acid Battery Cleanup Fund (LABCF) to Fund Various BCP Proposals.* The Administration proposes to fund five of DTSC's BCPs with funds from LABCF as follows: 1) Cost Recovery Management System (\$140,000); 2) Lead-Acid Battery Program Implementation (\$6.7 million); 3) Enforcement in Vulnerable Communities (\$2.5 million); 4) Safer Consumer Products Implementation (\$1.2 million); and, 5) Exide Enforcement Order (\$1.1 million). Based on LAO's initial review, in some cases the Administration is proposing to utilize LABCF to fund programs in lieu of the funds historically used to fund them.

The Safer Consumer Products Program is funded primarily with Toxic Substances Control Account (TSCA) funds. LAO asks why the Administration is proposing to expand the program using LABCF in lieu of additional TSCA funding.

Staff Comments. The subcommittee may wish to ask the department why the Lead-Acid Battery Cleanup Fund is appropriate for the proposed activities.

Staff Recommendation. Hold open.

Issue 38 – Exide Enforcement Order

Governor’s Proposal. The May Revision proposes \$1.06 Lead-Acid Battery Cleanup Fund in FY 2018-19 and FY 2019-20 to implement the remaining activities associated with the 2014 Exide Enforcement Order (as amended 2015) and the ongoing Resource Conservation and Recovery Act (RCRA) corrective action work associated with the February 2002 Corrective Action Consent Order against Exide Technologies (Exide). This requires corrective action activities at the Exide facility, the off-site industrial areas, and the residential areas.

Background. Exide. The former Exide is located in Vernon, about five miles southeast of downtown Los Angeles. The facility occupies 15 acres in a heavily industrialized region with surrounding residential areas about 0.75 miles to the north, south, and east. Facility operations included recycling lead-bearing scrap materials obtained from spent lead-acid batteries to produce marketable lead ingots.

In response to contamination caused by past facility operations, DTSC issued a Corrective Action Consent Order in February 2002. Exide remains subject to the requirements of the order and corrective action activities are ongoing at the facility, the off-site industrial area, and the residential areas.

In November 2017, Exide began Phase 1 closure activities for the facility. The work is ongoing on the site, in off-site industrial areas, and residential areas; DTSC has provided oversight of the facility’s closure. This proposal is intended to fund those efforts.

LAO Comments. *Shift to Lead-Acid Battery Cleanup Fund (LABCF) to Fund Various BCP Proposals.* The Administration proposes to fund five of DTSC’s BCPs with funds from LABCF as follows: 1) Cost Recovery Management System (\$140,000); 2) Lead-Acid Battery Program Implementation (\$6.7 million); 3) Enforcement in Vulnerable Communities (\$2.5 million); 4) Safer Consumer Products Implementation (\$1.2 million); and, 5) Exide Enforcement Order (\$1.1 million). Based on LAO’s initial review, in some cases the Administration is proposing to utilize LABCF to fund programs in lieu of the funds historically used to fund them.

The Administration proposes to use LABCF for Exide Enforcement Order funding when TSCA and the Hazardous Waste Control Account (HWCA) have historically funded this. Why has the Administration chosen to shift funding to LABCF? Are there insufficient funds in TSCA and HWCA to continue to use them as a funding source?

Staff Comment. The subcommittee may wish to ask the department the following questions:

- 1) Is the Lead-Acid Battery Cleanup Fund appropriate for the proposed activities?
- 2) Does the Department intend to recover associated costs from Exide?

Staff Recommendation. Hold open.

8570 California Department of Food and Agriculture (CDFA)**Issue 39 – Nutria Detection and Survey**

Governor’s Proposal. A May Revision proposal requests \$400,000 General Fund on a two-year limited-term basis and one position beginning in 2018-19 for the survey and detection of nutria (*Myocaster coypus*) in and around California waterways.

Background. *Nutria is a serious agricultural pest.* The Coypu, also known as Nutria, is a large, herbivorous, semiaquatic rodent. Nutria has the potential to cause damage and lower yield to row crops, rice, fruit and nut orchards and vineyards. This rodent pest is also disruptive to water delivery systems and can become a primary cause of food safety issues by spreading contaminants through irrigation systems.

Permits for Nutria. Nutria were farmed for their pelts in the early 1900's and were meant to be contained and monitored through a permit system. In 1959 the issuance of Nutria farming permits was transferred from DFW to CDFA, and at that time there were 324 permitted Nutria farms in the state. By 1970, there were only three permits issued and none has been issued since.

Nutria escape from fur farming operations. In 1948, a Nutria escape occurred in Stanislaus County. Approximately 300 escaped animals were removed from 20 counties throughout California. The Nutria were eradicated through a cooperative effort between CDFA, DFW, the County Agricultural Commissioners and the USDA. Eradication was declared in 1978.

Recent detection of Nutria. Recently, Nutria have been detected in the Merced and San Joaquin river systems, in Fresno, Merced, Stanislaus and Tuolumne counties. To date, less than 30 animals have been removed from the field. The Nutria are currently as close as 10 miles upstream from the Sacramento-San Joaquin Delta. The natural riparian woodland habitat along the rivers where they are currently found is not prime habitat but once they reach the Delta, with its extensive emergent marsh and agricultural fields, their population will explode. It is unclear at this point the extent of the nutria infestation.

Staff Recommendation. Hold open.

Issue 40 – San Joaquin Valley Grant

Governor’s Proposal. A May Revision proposal requests \$500,000 one-time in General Fund to cover the California Partnership for the San Joaquin Valley’s (CPSJV) administrative cost while they are developing a sustainable funding plan.

This proposal also requests provisional language to authorize CDFA to provide the requested funding to the CPSJV.

Background. *The California Partnership for the San Joaquin Valley (CPSJV).* Executive Order S-05-05 established the CPSJV in 2005. The CPSJV is a public-private partnership focused on improving the economic vitality and improving the quality of life in the eight counties within the San Joaquin Valley.

CPSJV provides an organizational framework for collaboration to improve issues affecting the quality of life in San Joaquin Valley by:

- Developing implementation strategies of common value following the Sustainable Groundwater Management Act;
- Monitoring Greenhouse Gas Reduction Fund policy to ensure funding availability is accessible to potential San Joaquin Valley applicants and as appropriate;
- Requesting funding policy adjustments to create fair distribution of funds for the valley; Collaborating with two-year and four-year institutions to increase student transfer rates;
- Establishing Central Valley higher education policy and advocacy, and supporting collaborative initiatives including professional development and data collection analysis; and Promoting improved health status and well-being by promoting healthy lifestyles, safe communities, and providing timely access to healthcare.

The CPSJV Strategic Action Plan consists of:

- Growing a diversified, globally competitive economy supported by a highly skilled workforce;
- Creating a model PreK-12 public education system;
- Implementing an integrated framework for sustainable growth;
- Building a 21st century transportation mobility system;
- Attaining clean air standards; and
- Developing high-quality health and human services.

Previous Funding for CPSJV. The Legislature appropriated \$5 million initial funding for administration and 15 seed grants for CPSJV to achieve the goals in the CPSJV Strategic Action Plan. The Office of the President and Provost at Fresno State has provided additional funding and the James Irvine Foundation provided an annual grant for administrative support for the past four years, but those funds expire in September 2018. CPSJV has successfully leveraged more than \$13 million in federal and philanthropic investments with the State of California's initial investment in the partnership.

Staff Recommendation. Hold open.