

Senator Jim Beall, Chair
Senator Jim Nielsen
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Hearing Room 112

Consultant: Catherine Freeman

PART B

Items Proposed for Discussion

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Resources—Environmental Protection—Energy—Transportation

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3885 Delta Stewardship Council

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

Governor's Budget. The Governor's budget includes \$17 million (\$9.7 million General Fund) for support of the Delta Stewardship Council. This reflects a decrease of \$5 million from reimbursements and other funds (mainly for one-time activities) and an increase of \$3 million General Fund.

Item Proposed for Discussion

Delta Plan Implementation

Background. The 2009 Delta Reform Act established the Council to develop, adopt, and implement the Delta Plan, an enforceable, comprehensive, long-term plan to guide state and local actions to further the state's goals for the Delta. The plan was unanimously adopted in May 2013, followed by a Delta Science Plan adopted in fall of 2013. The plan was made enforceable on September 1, 2013.

Budget Proposal. The budget requests the conversion of six limited term positions to permanent, and 12 new positions. Overall staffing of the agency is proposed to be 67 positions. The budget requests a baseline increase of \$5.8 million (\$3.2 million General Fund, \$2 million bond funds and \$600,000 from other state departments). The State Water Resources Control Board and Department of Water Resources have committed to supporting the Council through interagency agreements totaling \$600,000.

Staff Comments. Staff concurs with the proposal. The Council should: (1) update the subcommittee on the recent adoption of the Delta Plan and how this plan will be used in conjunction with other current delta activities, including the Bay Delta Conservation Plan and the State Water Project delta tunnels; (2) its relationship with the now-independent Delta Vision Foundation and any influence that foundation may have on the day-to-day activities of the Council; and, (3) discuss its added value to the continuing development of water conveyance by the state through the Delta.

Staff Recommendation: Approve.

3875 Sacramento-San Joaquin Delta Conservancy

The mission of the Sacramento-San Joaquin Delta Conservancy is to support efforts that advance both environmental protection and the economic well-being of Delta residents in a complementary manner. The conservancy's activities include: protecting and enhancing habitat and habitat restoration; protecting and preserving Delta agriculture and working landscapes; providing increased opportunities for tourism and recreation; and, promoting Delta legacy communities and economic vitality in the Delta. The conservancy acts as the primary state agency to implement ecosystem restoration in the Delta.

Governor's Budget. The Governor's budget includes \$1.7 million and eight positions for support of the department. This is a decrease of \$103,000 (mainly federal funds) and an increase of one position.

Item Proposed for Discussion

Delta Plan Implementation

Background. The Legislature created the Sacramento-San Joaquin Delta Conservancy (Conservancy) as a primary state agency for ecosystem restoration and economic development in the Delta. The Delta Conservancy was established by the Delta Reform Act of 2009, SB 1 (Simitian), Chapter 5, Statutes of 2009, which also made significant changes to the structure of various state agencies and redefined roles that they play in the Delta. Specifically, the legislation created two new agencies, the Delta Stewardship Council and the Conservancy using the former CALFED Bay-Delta Program. These two agencies, along with the Delta Protection Commission, were tasked with different, yet interrelated and complementary roles in the recovery of the Delta.

Budget Proposal. The budget requests one position (costs to be absorbed) to support the implementation of the Delta Plan near-term actions in the priority areas defined by the plan, and to assist in securing additional funding from a variety of sources.

The budget proposal includes two alternative analyses that purportedly increase the effectiveness of the Conservancy in its mission. The first would propose \$2.5 million and two positions for implementation of the Delta Plan near-term actions and efforts. The second would increase funding to allow for management of greenhouse gas emission reduction wetlands management. The alternatives do not include a designated funding source and were not recommended by the Administration.

Staff Comments. Staff concurs with the need for the position. Given the discussion in this subcommittee on March 6 regarding the distribution of Environmental License Plate Fund, staff suggests holding this item open for further evaluation. The subcommittee may also wish to consider the policy discussion of what the role of the Conservancy may be should a water bond not include funding for the Conservancy.

Staff Recommendation: Hold Open.

3860 Department of Water Resources

The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department maintains the State Water Resources Development System, including the State Water Project (SWP). The department also maintains public safety and prevents damage through flood control operations, supervision of dams, and water projects.

Additionally, the department's California Energy Resources Scheduling (CERS) division manages billions of dollars of long-term electricity contracts. The CERS division was created in 2001 during the state's energy crisis to procure electricity on behalf of the state's three largest investor-owned utilities (IOUs).

Governor's Budget. The Governor's budget includes \$3.5 billion (including infrastructure expenditures) and 3,469 positions for support of DWR. The proposed budget represents an overall decrease of \$357 million mainly due to decreased appropriations for bond funds.

Items Proposed for Vote-Only

- 1. DWR Implementation of the Delta Stewardship Council's Delta Plan.** The budget requests \$153,000 (Proposition 50 bond funds) to facilitate the department's work associated with the implementation of the Delta Plan. This proposal is consistent with the Delta Stewardship Council's request (see page 2).
- 2. Climate-Change Portion of the Multi-Benefit Planning and Feasibility Studies (Years 5-6).** The budget requests \$1.2 million in reversion and new appropriations from Proposition 84 to continue the previously-approved Climate Change Evaluation and Adaptation Program.
- 3. CERES Environmental License Plate Fund (ELPF) Position Redirection.** The budget proposes three positions for the California Environmental Resources Evaluation System (CERES) program and a transfer of \$380,000 in ELPF to provide environmental and scientific data and technology services and support.
- 4. Delta Water Quality Improvement Program (State Operations).** The budget proposes a reversion of \$1.8 million Proposition 84 state operations to establish an annual appropriation of \$250,000 for administration of local assistance grants for projects that reduce Delta salinity or other pollutants at agricultural and drinking water intakes.

Staff Recommendation: Approve Items 1-4.

Items Proposed for Discussion

1. Water Action Plan and Drought Bill Update

Background (Legislative Analyst’s Office [LAO]). In January 2014, the Administration released the water action plan, which identifies the state’s main water-related challenges. These include uncertain or scarce water supplies, declining groundwater supplies, poor water quality, declining native fish species, flood risk, and climate change. The water action plan lays out more than 60 activities—categorized under ten broad goals—to begin addressing those challenges. Figure 5 lists some of those activities. Nearly all of the activities in the water action plan have been recommended in numerous plans and reports issued in recent years by various state departments. These other plans and reports vary in terms of (1) their specific objectives, (2) which agency would be responsible for implementation, (3) the geographic area covered, and (4) the duration of the activities. When compiling the water action plan, the Administration asked departments to identify activities in those documents that they consider to be achievable in the next five years.

**Figure 5
Water Action Plan Includes Activities Intended to Meet Numerous Goals**

Goal	Example of Activity
Make conservation a California way of life	Provide funding for conservation and efficiency
Increase regional self-reliance and IWM across all levels of government	Increase use of recycled water
Achieve co-equal goals for the Delta	Restore Delta aquatic and intertidal habitat
Protect and restore important ecosystems	Bring salmon back to the San Joaquin River
Manage and prepare for dry periods	Revise reservoir operations to respond to extreme conditions
Expand water storage capacity and improve groundwater management	Increase statewide groundwater replenishment
Provide safe water for all communities	Consolidate drinking water and water quality agencies
Increase flood protection	Improve access to emergency funds
Increase operational and regulatory efficiency	Improve and clarify coordination of state Bay-Delta actions
Identify sustainable and integrated financing opportunities	Develop water financing strategy

IWM = Integrated Water Management

Governor’s Budget. As shown in Figure 6, the Governor’s budget for 2014-15 proposes \$621 million (mostly bond funding) to begin implementing some aspects of the water action plan. The Administration indicates that for the first year of water action plan implementation, it selected expenditures that it considered (1) actionable, (2) affordable, (3) supported by local agencies, (4) necessary to achieve implementation of the plan within five years, and (5) necessary for other activities in the plan to proceed. Below, are the most significant budget proposals identified by the LAO.

Budget Proposal for Water Action Plan Addresses Multiple Water Issues

(In Millions)

Activity	Department	Amount	Fund Source
IRWM grants	DWR	\$473	Proposition 84 bond
Flood protection	DWR	77	Proposition 1E bond
Wetlands and watersheds restoration	DFW	30	Cap-and-trade auction revenues
Water quality grants for disadvantaged communities	SWRCB	11	Various special funds
State Water Project energy efficiency	DWR	10	Cap-and-trade auction revenues
Water use efficiency project grants	DWR	10	Cap-and-trade auction revenues
Groundwater monitoring and management	SWRCB, DWR	8	General Fund, Waste Discharge Permit Fund
Drinking Water Program transfer ^a	SWRCB	2	Propositions 50 and 84 bonds
Salton Sea restoration maintenance	DFW	— ^b	Salton Sea Restoration Fund
Total		\$621	

^a Included in Water Action Plan but proposed separately in budget.

^b Proposal totals \$400,000.

IRWM = Integrated Regional Water Management; DWR = Department of Water Resources; DFW = Department of Fish and Wildlife; and SWRCB = State Water Resources Control Board.

Integrated Regional Water Management (IRWM). The budget proposes \$473 million in one-time bond funds for the IRWM program, which provides grants for water stakeholders within the same region to collaborate on projects that meet multiple water goals, such as improved quality, increased supply, and ecosystem restoration.

Flood Protection. The budget proposes \$77 million in one-time bond funds for flood control planning and projects. Of this amount, \$26 million is for improvements to Folsom Dam and \$12 million is for the construction of a facility that would enhance DWR's ability to respond to flood emergencies in the Sacramento-San Joaquin Delta (the Delta).

GHG Emission Reductions. The budget proposes \$50 million in cap-and-trade auction revenues for projects intended to reduce GHG emissions and provide water-related co-benefits, such as improved ecosystems. The proposals include:

- **Ecosystem Restoration.** The budget includes \$30 million and 17 positions for DFW to restore wetlands and other watersheds in order to improve the ability of those lands to capture and store carbon from the atmosphere.
- **Water-Energy Efficiency.** The budget includes \$20 million for DWR for projects that would save energy and reduce water use, including \$10 million for upgrades to State Water Project (SWP) generators to increase hydroelectric generation and \$10 million for grants to local agencies to reduce energy consumption associated with water use.
- **Groundwater Monitoring and Management.** The budget proposes a total of \$7.8 million for groundwater monitoring and management activities. The specific activities include:
 - a. **Overdraft Management.** The budget includes \$1.9 million (General Fund) for ten positions at SWRCB to identify basins that are in danger of suffering permanent damage due to overdraft, which occurs when water withdrawals consistently exceed the water entering the basin. These positions would also develop management plans for those basins in which local agencies do not address the overdraft condition. The proposed funding would support management of one basin at the requested level of resources. The Administration intends to propose budget trailer legislation to grant SWRCB the authority to develop these management plans.
 - b. **Groundwater Elevation Monitoring.** The budget includes \$2.9 million from the General Fund for DWR to (1) meet a statutory requirement that the department monitor groundwater elevation in basins where no local agency performs such monitoring, and (2) develop an information technology (IT) system so that individuals who drill wells can submit well records online.
 - c. **Groundwater Quality Monitoring.** The budget includes \$3 million from the Waste Discharge Permit Fund for SWRCB to monitor the water quality of groundwater used for public water supplies. This proposal would continue an existing monitoring program that was previously supported by bond funds.
- **Transfer of Drinking Water Regulation to SWRCB.** The budget proposes to transfer drinking water regulation and financial assistance responsibilities from Department of Public Health to SWRCB. The budget includes a one-time increase of \$1.8 million for moving and IT costs. This proposal is budget-neutral on an ongoing basis.

LAO Analysis. The LAO finds that the Governor’s proposal generally offers the Legislature a reasonable blueprint for addressing many of the state’s water challenges. Specifically, the LAO states:

- **Generally Consistent With Legislative Priorities.** Many of the activities in the water action plan were derived from legislatively mandated plans or reports or were developed in response to legislative priorities.
- **Makes Reasonable Assumptions About Activities to Be Completed.** In addition, it appears that progress could be made on all activities in the plan in the next five years.
- **Budget Proposals Provide Useful Starting Point.** The specific activities proposed in the Governor’s budget for 2014-15 also appear to be generally reasonable first steps in implementing the water action plan. The proposals have merit because they would take steps to address some of the state’s water challenges.
- **Several Budget Proposals Initiate Positive Policy Changes.** The Governor’s groundwater proposals appear to be consistent with recommendations that we have made in the past on groundwater management. Unlike most other western states, California currently does not monitor or permit groundwater use at the state level. In past reports, we have recommended that the Legislature establish “active management areas”—defined geographic areas where specific rules are established to govern the withdrawal and use of groundwater—in circumstances where the highest potential for groundwater overdraft exists. The proposal for SWRCB to identify and potentially regulate over-drafted basins could align with this recommendation. We note that the effectiveness of this proposal would depend on (1) the specific authority granted to the board, and (2) the availability of adequate groundwater quality and supply data to identify over-drafted basins.

LAO Recommendations

- **Administration Should Provide Implementation Strategy With 2015-16 Budget.** The Administration indicates that it is developing a strategy for implementing the remainder of the water action plan. We recommend the Legislature direct the Administration to provide that implementation strategy no later than the release of the Governor’s proposed budget for 2015-16. This strategy should include a schedule of activities that the Administration proposes for each of the next four budget years, the estimated costs of those activities, and the expected funding source. Having such a strategy would allow the Legislature to better understand how the goals of the water action plan will be achieved and at what cost. The Legislature could then determine whether the strategy is consistent with its water priorities for the state.
- **Administration Should Report at Budget Hearings on Future Bond Funding for Water Action Plan Activities.** In addition, as noted above, the Legislature is currently considering potential changes to the water bond scheduled for the November 2014 ballot. In order to ensure that the Legislature is able to make a fully informed decision as it considers those changes, the Administration should report at budget subcommittee hearings this spring on the degree to which the bond currently scheduled for the ballot would fund specific aspects of the water

action plan. The Administration could also identify any changes it would recommend to align the funding included in the water bond with the activities proposed in the water action plan.

Drought Package

On March 1, the Governor signed SB 103 and SB 104 (Budget and Fiscal Review Committee), Chapters 2 and 3, Statutes of 2014. Many of the Governor's January budget proposals were included in the drought package. These bills provided a total of \$680 million for: (1) infrastructure investments to improve water supply; (2) emergency drinking water, water supply, and water quality; (3) housing, employment, and emergency services for drought-stricken communities; (4) water and energy efficiency for urban and agricultural communities; (5) sustainable groundwater management; and, (6) water education, fish and wildlife, and fire fuel reduction.

The overall purpose of the drought package is to speed up actions to address the state's water shortage. The state is experiencing an historical drought year, the driest on record in some regions. Add that to the prior years' lower than average rainfall and it is clear that the Legislature's actions were necessary to infuse funding for immediate drought-relief.

Staff Comments. As the LAO discussed, the Governor's proposal is a good step towards implementing legislative direction of the recent years, and goes further with the drought package to address both long-term water needs and current drought-related issues. The LAO also provides good guidance for follow-up with the budget subcommittees on oversight of the Administration's implementation strategies.

The department should present its Water Action Plan and be prepared to address the following:

- How does the drought package advance the water action plan?
- How expeditiously will the department administer the IRWM funding now that the drought package has passed?
- How will the department address water supply issues that don't fit neatly into the specific categories of funding that were set up prior to the drought interties or water intake modifications at dams?
- Would the department have any issues with the LAO recommendations?

Budget Proposals. The following proposals are consistent with the drought package for the budget:

1. **Statewide Groundwater Elevation Monitoring Program.** Consistent with actions taken in the SB 103 (Budget and Fiscal Review Committee), Chapter 2, Statutes of 2014, the Governor's budget requests \$13.8 million (General Fund) in multi-year funding to support continued implementation of the program. This is a technical adjustment to continue the funding in the budget year.

Recommendation: (1) Approve Item 1. (2) Approve LAO recommendation to require the department to provide an implementation strategy with the 2015-16 budget. The LAO should draft supplemental reporting language to this effect.

2. Water Use Efficiency Program

Background. Throughout the past decade, California voters and the Legislature have passed several measures designed to provide funding for water conservation, water recycling, desalination and water demand reduction. The DWR has been one of three primary departments providing funding for local projects along with the State Water Resources Control Board and Department of Public Health.

Funding for water use efficiency projects has been allocated through several grant solicitations. At this time, many projects have been completed under budget, and the department is able to allocate more funding to water use efficiency. Both Proposition 84 and Proposition 50 have available funding for this purpose.

Governor's Budget. The Governor proposes a three-year appropriation of \$5 million (Propositions 50 and 84) for water conservation activities, water recycling, water desalination, and water demand evaluation in support of the California Water Plan. In addition, the budget requests \$400,000 (Proposition 50) for desalination grants.

Staff Comments. This request represents a continuation of activities funded in prior years. The department should be prepared to discuss how these grants will be allocated in conjunction with funding provided in the recent drought legislative package.

Recommendation: Approve.

3. Agricultural Drainage Water in the San Joaquin River

Background. The San Joaquin River is listed as an impaired water body, in part due to high loads of boron and salt, with a significant portion originating from agricultural subsurface drainage coming from the west side of the San Joaquin Valley. Subsurface drainage systems are designed to remove water from land without percolation to the groundwater table. More common in the upper midwest where excessive rains can damage crops, and high water tables are common, this practice is also present in parts of the Central Valley. The drainage programs in California are designed to remove excess salt from the soil which can accumulate in areas where the groundwater table is shallow.

The drainage system was largely designed for federal water contractors. Salinity problems increased from the 1940s to the late 1960s when Congress authorized a drainage system as part of a federal project. This resulted in the construction of an 85-mile canal that discharged into the Kesterson Reservoir in the southern part of the San Joaquin Valley. The discovery of bird deformities due to high concentrations of selenium from agricultural drainage water led to the shutdown of the reservoir and a portion of the drains. The subsurface drainage systems have remained in place and drain to local waters including the San Joaquin River.

Currently, the Mud and Salt Sloughs are tributaries of the San Joaquin River and contribute approximately 85 percent of the selenium load, 65 percent of the boron load, and 45 percent of the salt load carried by the river. Seasonal drainage from 90,000 acres of wetlands in the Grassland Water District and state and federal refuges also contribute to the salt load.

Governor's Budget. The Governor requests \$37 million for local assistance and \$930,000 for program administration (Proposition 84) for implementing projects that reduce or eliminate discharges of subsurface drainage water from the west side of the San Joaquin Valley for the purpose of improving water quality in the San Joaquin River and the Delta.

Staff Comments. This proposal is consistent with previous year efforts to reduce salt loads in the Delta. The department should discuss how this proposal will be used in conjunction with ground water programs to create a long-term solution to the agricultural subsurface drainage problem. In previous years, these programs have worked in isolation given complications of groundwater law and federal/state funding priorities.

Staff are concerned the proposal lacks the cohesiveness to provide a long-term and sustainable fix to the farming community. The proposal has merit but needs to be completed in a way that requires long-term groundwater and surface water interactions to be improved. The department should also address how much of a contribution the federal government will be making to reducing the impacts of the drainage system and why managed wetlands are increasing, rather than decreasing, the salt load.

Recommendation: Hold Open.

4. DWR Workplace Safety Program

Background. The DWR was created in 1956 to plan, design, construct, and oversee the building of the State Water Project (SWP). Today, the department oversees the SWP, as well as many other water-supply related projects statewide. In February 2007, two DWR employees were lost in a fatal diving accident at the SWP's Dos Amigos Pumping Plant at the San Luis Field Division. The department has reported other serious and close calls, mainly at SWP facilities.

In 2011, the department began implementing a comprehensive safety system in order to minimize the risks to employees, contractors, cooperating agencies, and for the visiting public at DWR-maintained facilities. Safety assessments were provided for every DWR location and a final report was released in February 2013, with recommendations to establish a DWR Safety Office.

Governor's Budget. The Governor requests \$3.9 million from various funds (including SWP) to support 23 new positions for establishing and implementing the comprehensive safety system and to reduce accidents and injuries at all department locations statewide.

Staff Comments. Staff concurs with the need for this proposal. The department should discuss how this proposal will be incorporated into the long-term contracts currently being developed with the SWP contractors, and how it plans to report its progress to the Legislature and contractors.

Recommendation: Approve.

3600 Department of Fish and Wildlife

The Department of Fish and Wildlife (DFW), formerly the Department of Fish and Game, administers programs and enforces laws pertaining to the fish, wildlife, and natural resources of the state. The Fish and Game Commission sets policies to guide the DFW in its activities and regulates fishing and hunting. The DFW currently manages about 850,000 acres including ecological reserves, wildlife management areas, hatcheries, and public access areas throughout the state.

Governor's Budget. The Governor's budget includes \$403 million and 2,616 positions for DFW. Decreases in federal and other special funds are the results of a concerted effort to re-align reimbursements and annual funding with historical expenditures and current revenues. Reductions in bond expenditures are the result of the near-depletion of available bond funds. Increases in funding are due to a proposal to expand the oil pollution program to enhance inland oil spill prevention activities.

Items Proposed for Vote-Only

- 1. Fisheries Restoration Grant Program Database.** The budget requests two positions (Federal Trust Fund) to operate and maintain the Fisheries Restoration Grant Program database.
- 2. Land Management Agreement Review and Tracking.** The budget requests \$34,000 (Wildlife Restoration Fund and Federal Trust Fund), and one position, to develop and implement a comprehensive process to review and track leases for management of department lands.
- 3. Interagency Ecological Program Management Support.** The budget requests two positions (reimbursements and Federal Trust Fund) to address the increased demands for reporting and tracking of obligations and objectives associated with biological opinions and water rights decisions.
- 4. Santa Rosa Plateau Ecological Reserve Manager.** The budget requests one position (reimbursements) to assess the resource impacts from activities on the reserve.
- 5. Minor Capital Outlay.** The budget proposes the following minor capital outlay projects: (1) \$210,000 (Hatcheries and Inland Fisheries Fund) for power lines and utilities at Darrah Springs; and, (2) \$405,000 for overhead electrical system replacement at Fish Springs Hatchery.

Staff Recommendation: Approve Items 1-5.

*Items Proposed for Discussion***1. Marijuana-Related Enforcement**

Background. California produces more marijuana from outdoor grows (crops planted) than any other state. There are two basic ways marijuana is grown in the state. The first is illegal cartel use of public lands to grow marijuana. The second is the legal cultivation of marijuana on private lands pursuant to Proposition 215 (1996). The impacts of growing marijuana on both public and private lands are well documented. The department estimates that private land marijuana cultivation has grown so much on the North Coast that Coho salmon, a state and federally-listed species, may go extinct in the near future if this problem is not immediately addressed. The State Water Resources Control Boards (SWRCB) have observed significant land clearing activities resulting in sediment discharges to many high-value surface waters in the north state, nutrient loading from fertilizers, and stream diversions that result in dangerously low water levels.

Whether on public or private land, the impact from marijuana cultivation is substantial. The DFW has conducted approximately 249 marijuana eradication and reclamation missions. These missions have led to the arrest of 228 illegal marijuana growers, seizure of 72 firearms and over 5,000 pounds of marijuana. The state has collected approximately 66,000 pounds of trash, 332,000 feet of poly pipe, 14,000 pounds of fertilizer, 113 containers of common pesticides, herbicides, and rodenticides, 15 hazmat containers, and removed 105 man-made dams from waterways feeding illegal grows. Costs to reclaim damaged lands and remediate impacts range from \$2,000 to \$14,000 per acre on public land and as high as \$30,000 to \$50,000 per acre on private land.

Budget Proposal. The DFW budget requests \$1.5 million (\$500,000 General Fund, \$500,900 Timber Regulation and Forest Restoration Fund, and \$500,000 Waste Discharge Permit Fund (WDPF) and seven positions. The SWRCB budget requests \$1.8 million (WDPF) and 11 positions to implement a task force and a priority-driven approach to address the natural resources damage. The DFW proposes shifting \$500,000 from the general enforcement budget to the marijuana task force and backfilling those funds with Fish and Game Preservation Fund.

Staff Comments. Staff concurs with the need to implement an immediate strategy to reduce the impacts of marijuana cultivation. The department should be prepared to introduce the proposal and to address the following questions:

- Will this proposal result in immediate increases in law enforcement for marijuana cultivation?
- Is the department and/or Department of Food and Agriculture considering enforcing current agriculture-related permitting regulations that would address the cultivation of marijuana on private land? With the added security needed for permitting agencies, is the Administration considering adding a fee to allow regulators law enforcement detail when inspecting these sites?

Staff Recommendation: Approve proposal. Adopt supplemental reporting language requiring the Administration to report back at budget hearings next year on its recommendations to require “215” growers to comply with regular permitting, and any needs for regulation changes to allow on law enforcement to accompany regulators for site visits.

2. Statewide Oil Pollution Program (Marine and Inland)

Background (Legislative Analyst's Office [LAO]). The Office of Spill Prevention and Response (OSPR) within DFW is responsible for preventing, preparing for, and responding to oil spills. The OSPR activities include reviewing oil spill contingency plans, performing inspections and investigations, tracking spills, and directing spill response and cleanup efforts. The OSPR has statutory authority to regulate prevention of marine spills (through activities such as reviewing oil spill contingency plans and conducting drills). That authority, however, does not extend to inland prevention activities. Statute further designates OSPR as the primary agency responsible for responding to both inland and marine spills. Currently, OSPR responds to only about half of inland spills because of funding limitations. The 2013-14 budget included \$44 million to support OSPR activities, including 190 positions.

The OSPR is principally funded by the Oil Spill Prevention Administrative Fund (OSPAF), which is supported by a fee of 6.5 cents on each barrel of oil brought into California over marine waters. (The State Lands Commission also receives some funding from OSPAF.) This fee is currently collected by the Board of Equalization from marine terminals and marine pipeline operators. The fee generates approximately \$38 million in revenues annually. In the current fiscal year, the state is projected to spend \$43 million from OSPAF, resulting in a structural deficit of about \$5 million. Under current law, the OSPAF fee will decrease to 5 cents on January 1, 2015.

In addition, the department supports a statewide system of facilities throughout the state, called the Oiled Wildlife Care Network (OWCN), to rapidly respond to and treat wildlife that have been affected by an oil spill. The OWCN is operated by the University of California but receives \$2 million in support annually from DFW, using interest from the Oil Spill Response Trust Fund (OSRTF). However, the interest from the OSRTF is no longer sufficient to fund OWCN as a result of a loan made to the General Fund and low interest rates.

Budget Proposal. The Governor proposes statutory changes to maintain the OSPAF fee at 6.5 cents per barrel on an ongoing basis, as well as expand the fee to all oil entering California refineries, including oil transported by rail and pipelines. The Administration projects that the proposed fee increase would increase revenues by \$6.6 million in 2014-15 (\$12.3 million annually when fully implemented) compared to current-year revenues. The Governor's budget for 2014-15 proposes to increase ongoing spending by \$8.7 million, as follows:

- \$6.2 million and 38 permanent positions to support the proposed expansion of OSPR's activities, to include inland prevention activities, as well as allow the office to respond to all inland spills. According to the Administration, the proposed expansion is necessary because the amount of oil transported over land (by rail or pipeline) is expected to significantly increase in coming years.
- \$2.5 million to support the OWCN and change the program's fund source from the OSRTF to the OSPAF. The proposed amount reflects an increase of \$500,000 for the program relative to the current-year funding level.

The LAO notes that even with the fee increase, expenditures from OSPAF are projected to exceed revenues in 2014-15 by \$7.1 million. While a fund surplus has been able to offset the structural deficit in past years, the projected fund balance would decrease to only \$1.8 million (four percent of the total estimated revenue) in 2014-15 under the proposal. Thus, a relatively small difference between actual and estimated revenues in 2014-15 could put the fund into deficit. In future years, the department proposes to use some of the increased revenue to address the structural shortfall in OSPAF.

LAO Analysis: Fee Structure Not Tied to Spill Risk. One approach to apportioning the costs of a regulatory program is to charge regulated entities in proportion to the potential harm they impose on public resources (such as the environment). In the case of OSPR's oil prevention and response programs, the potential harm is the risk associated with an oil spill. Currently, the OSPAF fee is charged to marine vessels and facilities based on the amount of oil they transport and, thus, only accounts for one aspect of oil spill risk. Other aspects of risk include the likelihood that a spill will happen (which can vary based on how the oil is transported), the type and chemical makeup of the oil, and the vulnerability of the ecosystem where the spill occurs. For example, an oil spill of a given size may have greater environmental consequences if it occurs in a smaller water body or in an ecosystem with high numbers of endangered species. Thus, the proposed fee structure is unlikely to charge regulated entities in proportion to the potential risk they pose.

LAO Recommendation. The LAO offers the following analysis and recommendation:

Given the potential environmental damage that can be caused by inland spills, as well as the projected increase in inland oil transportation, we find that the intent of expanding prevention activities to land is reasonable. Thus, we recommend that the Legislature approve the Administration's proposal to expand the OSPAF fee to all oil entering California refineries to ensure that parties that transport oil inland (and therefore pose a spill risk) pay for some prevention and readiness activities.

As noted above, a flat fee per barrel does not fully capture all factors that affect spill risk. Thus, we recommend the Legislature amend the proposed budget trailer legislation to direct the department to develop a risk-based fee structure to cover the costs of its combined inland and marine oil spill prevention program. We also recommend that the legislation authorize the department to charge the fees to generate total revenue up to the amount authorized for oil spill prevention and response in the annual state budget.

In developing this structure, the department should consider several factors, including: (1) which factors are most important for determining oil spill risk, including how oil spills affect different ecosystems; (2) how often the fee should be adjusted to account for changing risk; and (3) how to ensure that the fee structure is not administratively burdensome. Charging fees based on relative oil spill risk could help ensure that the state is reducing risk effectively, as well as helping to ensure that regulated entities are bearing an appropriate share of the costs of the program.

In addition, as noted above, this proposal would significantly reduce the balance in OSPAF, putting it at risk of a deficit. Thus, we recommend the Legislature fund the requested positions for OSPR's activities for a half year, resulting in a reduction of the appropriation by \$1.6 million in 2014-15. Based on current revenue estimates, this would result in a fund balance of eight percent. We further recommend that the Legislature approve the requested funding for OWCN from OSPAF.

Staff Comments. Staff concurs with the need to approve position authority for the evaluation and enforcement of well stimulation practices. The department should address its proposal to increase the per-barrel fee to \$0.065, and how this fits with a risk-based approach. However, the trailer bill language is still being reviewed by legislative staff and should be held open.

Staff Recommendation:

1. Approve budget proposal.
2. Hold trailer bill language open to work with the department and Senate and Assembly policy and budget staff to determine final trailer bill language.

3. Payment In Lieu of Taxes (PILT)

Background. Existing law requires the Department of Fish and Wildlife, when income is derived directly from real property acquired and operated by the state as a wildlife management area, as defined, to pay annually to the county in which the property is located, an amount equal to the county taxes levied upon the property at the time title to the property was transferred to the state, and any assessments levied upon the property by any irrigation, drainage, or reclamation district.

According to the department, this amount is estimated at \$2 million per year. The payments have been suspended for approximately 10 years, resulting in a balance of about \$20 million in payments owed to cities and counties. The Governor's budget does not include a proposal for PILT.

Legislation Introduced. SB 1410 (Wolk and Nielsen) was introduced on February 21, 2014, to appropriate \$19 million from the General Fund to the department to make payments to counties for outstanding obligations. The bill would also appropriate \$2 million annually, beginning in 2014-15, from the General Fund to the department to continue to make payments to counties.

Staff Comments. Staff are concerned about the possible accumulation of debt regarding the PILT properties. The department should be prepared to address the following:

- What is the current amount owed to counties for PILT?
- What would be the ongoing amount owed to cities and counties for an annual appropriation?
- What reason is given for not funding PILT in the budget and is there a plan to reimburse cities and counties in future budgets?

Staff Recommendation: Hold Open