

RESOURCES



60 YEARS OF SERVICE

2003-04 Analysis

MAJOR ISSUES

Resources



Budget's Fee Proposals Can Go Further

- The budget proposes various fee increases that create General Fund savings in resources programs. We recommend a number of additional opportunities to shift funding from the General Fund to fees, totaling \$214 million. Fees are an appropriate funding source in these cases, either because the state is providing a service directly to beneficiaries (such as fire protection), or administering a pollution control program that could reasonably be funded on a “polluter pays” basis.
- Our additional fee proposals result in General Fund savings in the following program areas:
 - Timber harvest plan review—\$22.1 million (see page B-60).
 - Resource assessment—\$2 million (see page B-52).
 - Fire protection—\$170 million (see page B-88).
 - Dam safety—\$5.4 million (see page B-106).
 - Air quality “stationary source” regulation—An additional \$4.4 million savings to the Governor’s proposal (see page B-111).
 - Pesticide regulation and risk assessment—An additional \$2.9 million savings to the Governor’s proposal (see pages B-116 and B-130).
 - Water rights—\$7.2 million (see page B-123).

- We also recommend enacting power plant siting and compliance fees that cover costs associated with the California Energy Commission's siting program (see page B-79).



Legislative Oversight and Guidance Needed for Bond Expenditures

- The budget proposes over \$2.1 billion of bond funds for resources programs, but provides few details on a number of proposals. We recommend that funding for these proposals be put in legislation that defines the programs. These include:
 - River parkway and Sierra Nevada Cascade (see page B-76).
 - Integrated regional water management and water security (see page B-48).
- There are a number of bond expenditure proposals that are inconsistent with legislative direction, and we recommend legislative action to ensure consistency with the prior direction:
 - CALFED Bay-Delta Program (see page B-26).
 - Colorado River management program (see page B-96).
 - Historical and cultural resources preservation program (see page B-101).
- Over \$1 billion of bond expenditures for the Wildlife Conservation Board in the current and budget years will not be reviewed by the Legislature given the board's "continuous appropriations" authority. We recommend several steps to improve the Legislature's oversight of these bond funds (see page B-93).

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OVERVIEW

Resources

The budget proposes significantly lower state expenditures for resources and environmental protection programs in 2003-04 compared to the estimated current-year level. This is mainly due to a substantial decrease in bond-funded expenditures for parks and water projects, even though the budget reflects a large infusion of funds from resources bond measures approved by the voters in 2002. The budget also proposes a lower level of General Fund expenditures for the budget year, reflecting the combination of generally small program reductions and the shifting of program funding to fees and bond funds.

EXPENDITURE PROPOSALS AND TRENDS

Expenditures for resources and environmental protection programs from the General Fund, various special funds, and bond funds are proposed to total \$5.1 billion in 2003-04, which is 5.3 percent of all state-funded expenditures proposed for 2003-04. This level is a decrease of about \$1.4 billion, or 21 percent, below estimated expenditures for the current year.

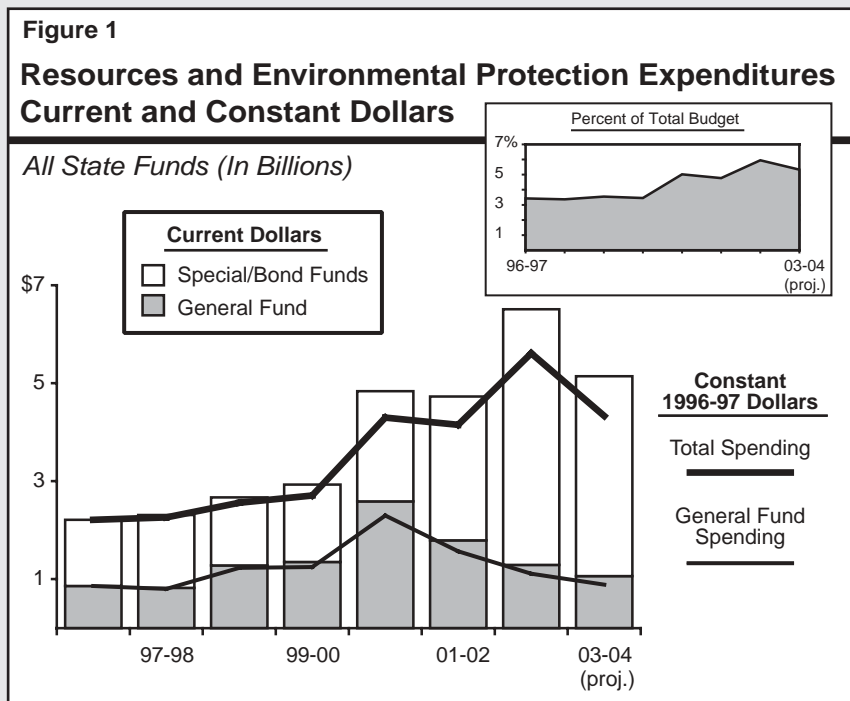
Decrease Largely Reflects Reduction in Bond Expenditures. The proposed reduction in state-funded expenditures of \$1.4 billion for resources and environmental protection programs largely reflects a \$1.2 billion decrease in bond fund expenditures for park and water projects. Between 1996 and 2000, \$5.1 billion of resources-related bonds were approved by the voters, and these funds have largely been drawn down. Although two resources bonds totaling about \$6 billion were approved by the voters in 2002, the budget reflects the Governor's plan to spread expenditures from these funds over a period of several years.

The reduction in state expenditures also reflects a decrease in General Fund expenditures for various purposes, including emergency fire suppression and state flood control projects. Some of the proposed Gen-

eral Fund reductions do not result in overall decreased funding levels, as the budget proposes to shift funding in some program areas from the General Fund to fees or bond funds. In total, the budget proposes General Fund expenditures for resources and environmental protection programs in 2003-04 that are \$232 million lower than the current-year level.

Funding Sources. The largest proportion of state funding for resources and environmental protection programs—about \$2.1 billion (or 42 percent)—will come from various bond funds. The budget proposes a slightly less amount—\$1.9 billion (38 percent)—to come from various special funds. These special funds include the Environmental License Plate Fund, Fish and Game Preservation Fund, funds generated by beverage container recycling deposits and fees, and an “insurance fund” for the cleanup of leaking underground storage tanks. Of the remaining expenditures, \$1.1 billion will come from the General Fund (20 percent of total expenditures).

Expenditure Trends. Figure 1 shows that state expenditures for resources and environmental protection programs increased by about \$2.9 billion since 1996-97, representing an average annual increase of about 13 percent. The increase includes about \$200 million in General Fund expenditures and the remainder in special fund and bond expenditures. When adjusted for inflation, total state expenditures for resources and



environmental protection programs increased at an average annual rate of about 10 percent. General Fund expenditures increased at an average annual rate of about 4 percent over this period. When adjusted for inflation, General Fund expenditures increased at an average annual rate of less than 1 percent. This increase in General Fund largely reflects the improved state fiscal condition beginning in 1998-99. General Fund expenditures for resources and environmental protection programs peaked in 2000-01 and have since declined due to the state's weakened fiscal condition. The budget proposes General Fund expenditures at a level that is above that found in 1997-98 and prior years, but is significantly below the General Fund expenditures in 1998-99 through 2002-03.

SPENDING BY MAJOR PROGRAM

Figure 2 (see next page) shows spending for major *resources* programs—that is, those programs within the jurisdiction of the Secretary for Resources and the Resources Agency.

Figure 3 (see page 12) shows similar information for major *environmental protection* programs—those programs within the jurisdiction of the Secretary for Environmental Protection and the California Environmental Protection Agency (Cal-EPA).

Spending for Resources Programs. Figure 2 shows the General Fund will provide the bulk of the California Department of Forestry and Fire Protection's (CDFFP) total expenditures, accounting for 62 percent (\$413.8 million) of the department's 2003-04 expenditures. The General Fund will account for less in the support of other resources departments. For instance, for the Secretary for Resources and the Department of Conservation (DOC), the General Fund will constitute only about 3 percent (\$1.4 million) and 1 percent (\$5.4 million) of their budget-year expenditures, respectively. In the case of the Departments of Fish and Game (DFG) and Parks and Recreation (DPR), the General Fund will pay for about 15 percent (\$41.2 million) and 10 percent (\$97.9 million) of the respective departments' total expenditures. The Department of Water Resources' (DWR's) expenditure total is skewed by the \$5.3 billion budgeted under DWR for energy contracts entered into on behalf of investor-owned utilities. If these energy-related expenditures are excluded from DWR's total, the General Fund pays for 3 percent (\$42.6 million) of DWR's expenditures.

Figure 2 also shows that compared to current-year expenditures, the budget proposes a reduction in some resources departments. Specifically, the budget proposes a substantial expenditure reduction in the Secretary for Resources of about \$386 million, or 88 percent less than the current-

Figure 2 Resources Budget Summary Selected Funding Sources

(Dollars in Millions)

Department	Actual 2001-02	Estimated 2002-03	Proposed 2003-04	Change From 2002-03	
				Amount	Percent
Resources Secretary					
General Fund	\$8.9	\$7.6	\$1.4	-\$6.2	-81.6%
Other funds	8.2	432.9	52.9	-380.0	-87.8
Totals	\$17.1	\$440.5	\$54.3	-\$386.2	-87.7%
Conservation					
General Fund	\$21.2	\$21.4	\$5.4	-\$16.0	-74.8%
Recycling funds	485.8	491.2	500.0	8.8	1.8
Other funds	17.5	42.2	35.7	-6.5	-15.4
Totals	\$524.5	\$554.8	\$541.1	-\$13.7	-2.5%
Forestry and Fire Protection					
General Fund	\$520.1	\$486.6	\$413.8	-\$72.8	-15.0%
Forest Resources Fund	10.6	—	11.5	11.5	a
Other funds	168.8	230.8	246.2	15.4	6.7
Totals	\$699.5	\$717.4	\$671.5	-\$45.9	-6.4%
Fish and Game					
General Fund	\$67.7	\$50.1	\$41.2	-\$8.9	-17.8%
Fish and Game Fund	88.4	95.1	91.5	-3.6	-3.8
Environmental License	15.7	20.1	17.8	-2.3	-11.4
Other funds	93.9	110.3	128.5	18.2	16.5
Totals	\$265.7	\$275.6	\$279.0	\$3.4	1.2%
Parks and Recreation					
General Fund	\$242.9	\$132.4	\$97.9	-\$34.5	-26.1%
Parks and Recreation Fund	57.2	77.0	96.7	19.7	25.6
Off-Highway Vehicle Fund	39.2	67.1	49.0	-18.1	-27.0
Other funds	627.3	979.2	782.5	-196.7	-20.1
Totals	\$966.6	\$1,255.7	\$1,026.1	-\$229.6	-18.3%
Water Resources					
General Fund	\$138.1	\$105.9	\$42.6	-\$63.3	-59.8%
State Water Project funds	762.1	758.9	753.1	-5.8	-0.8
Electric Power Fund	6,976.9	4,968.6	5,311.8	343.2	6.9
Other funds	271.5	481.2	468.3	-12.9	-2.7
Totals	\$8,148.6	\$6,314.6	\$6,575.8	\$261.2	4.1%

^a Not a meaningful number.

year estimated expenditure level. This reduction largely reflects a decrease totaling about \$370 million in bond-funded expenditures for ecosystem restoration and river parkway projects, given the substantial depletion of funds available from most of the available bonds for these purposes. Additionally, bond-funded ecosystem restoration expenditures related to the CALFED Bay-Delta Program, that would otherwise be under the Secretary for Resources, have been transferred to the California Bay-Delta Authority—a new state agency created by Chapter 812, Statutes of 2002 (SB 1653, Costa).

For DPR, the budget proposes an 18 percent reduction in spending, largely reflecting a drop in expenditures for state and local park acquisition and improvements from Proposition 12 bond money.

For CDFFP, the proposed reduction in spending—\$46 million or 6.4 percent of total spending—largely reflects a decrease of \$65 million from the General Fund for emergency fire suppression.

For DWR, the budget proposes an increase of about \$261 million (4.1 percent) in expenditures for 2003-04, compared to the estimated current-year level. Most of the increase reflects higher debt servicing costs for the revenue bonds that are financing DWR's energy purchase contracts. The budget, however, proposes to significantly reduce DWR's General Fund expenditures—by about \$63 million, about half of which is a reduction in General Fund support for state flood control projects. The balance of the reduction is due mainly to the shifting of funding for various activities from the General Fund to Proposition 50 bond funds.

In contrast, the budget proposes relatively minor changes in departmental expenditures for both DFG and DOC in 2003-04.

Spending for Environmental Protection Programs. As Figure 3 shows, the budget proposes decreases in a number of environmental protection programs. In particular, expenditures of the State Water Resources Control Board (SWRCB) are proposed to decrease by \$332 million, or 31 percent, from the current-year level. This decrease largely reflects the reduction in bond-funded expenditures for local water quality and water recycling projects. The budget also proposes a 39 percent reduction (\$29 million) in SWRCB's General Fund expenditures. The components of this reduction are about equally divided between program reductions and funding shifts.

Although not large in absolute dollars, the budget proposes a substantial reduction percentage-wise in the expenditures of the Office of Environmental Health Hazard Assessment (OEHHA). Specifically, the budget proposes a reduction of about 29 percent, mainly reflecting a decrease in expenditures for scientific studies, literature research, and administration.

Figure 3
Environmental Protection Budget Summary
Selected Funding Sources

(Dollars in Millions)

Department/Board	Actual 2001-02	Estimated 2002-03	Proposed 2003-04	Change From 2002-03	
				Amount	Percent
Air Resources					
General Fund	\$78.9	\$23.9	\$10.4	-\$13.5	-56.5%
Motor Vehicle Account	76.5	72.4	74.1	1.7	2.4
Other funds	46.2	66.6	78.7	12.1	18.2
Totals	\$201.6	\$162.9	\$163.2	\$0.3	0.2%
Waste Management					
Integrated Waste Account	\$38.6	\$42.5	\$44.0	\$1.5	3.5%
Used Oil Recycling Fund	29.0	31.0	31.5	0.5	1.6
Other funds	35.1	53.8	40.0	-13.8	-25.7
Totals	\$102.7	\$127.3	\$115.5	-\$11.8	-9.3%
Pesticide Regulation					
General Fund	\$16.4	\$12.8	—	-\$12.8	-100.0%
Pesticide Regulation Fund	37.7	38.3	\$50.2	11.9	31.1
Other funds	3.3	3.3	3.1	-0.2	-6.1
Totals	\$57.4	\$54.4	\$53.3	-\$1.1	-2.0%
Water Resources Control					
General Fund	\$102.9	\$73.2	\$44.6	-\$28.6	-39.1%
Underground Tank Cleanup	226.8	250.5	242.0	-8.5	-3.4
Waste Discharge Fund	15.9	32.2	45.9	13.7	42.6
Other funds	385.0	715.5	406.9	-308.6	-43.1
Totals	\$730.6	\$1,071.4	\$739.4	-\$332.0	-31.0%
Toxic Substances Control					
General Fund	\$174.2	\$33.6	\$20.1	-\$13.5	-40.2%
Hazardous Waste Control	35.6	42.9	50.6	7.7	18.0
Toxic Substances Control	25.8	36.4	36.3	-0.1	-0.3
Other funds	49.3	51.6	52.0	0.4	0.8
Totals	\$284.9	\$164.5	\$159.0	-\$5.5	-3.3%
Environmental Health Hazard Assessment					
General Fund	\$13.0	\$12.0	\$8.7	-\$3.3	-27.5%
Other funds	2.2	3.1	2.1	-1.0	-32.3
Totals	\$15.2	\$15.1	\$10.8	-\$4.3	-28.5%

Although the budget does not propose major changes to the level of total expenditures of the Air Resources Board (ARB), the Department of Pesticide Regulation, and the Department of Toxic Substances Control (DTSC), it proposes significant General Fund expenditure reductions in each of the three departments totaling about \$40 million. In the case of ARB and the Department of Pesticide Regulation, most of the reduction reflects a shifting of program funding from the General Fund to fee-based special funds. In the case of DTSC, the reduction reflects both a shift of funding from the General Fund to special funds, as well as a number of program reductions, including for administrative support, site cleanup oversight, and the clandestine drug lab program.

MAJOR BUDGET CHANGES

Figures 4 (see next page) and 5 (see page 15) present the major budget changes in resources and environmental protection programs, respectively.

As Figure 4 shows, the budget proposes a number of changes in funding for activities related to the CALFED Bay-Delta program. In particular, the budget reflects the statutory creation of the California Bay-Delta Authority in 2002, and the resulting transfer of expenditure authority from other CALFED implementing agencies (mainly DWR) to the new authority in the budget year. The budget also proposes \$329.4 million of Proposition 50 bond funds for the CALFED Bay-Delta program (by far the program's largest funding source). These funds will be spent largely by DWR and the California Bay-Delta Authority, as well as SWRCB under Cal-EPA.

The budget also proposes a number of General Fund reductions throughout resources departments. These reductions reflect both program reductions/savings as well as funding shifts. The one major funding shift involving a fee increase is the proposed \$20 million increase in state park fees in DPR. In addition, the budget proposes to shift about \$33 million from the General Fund to Proposition 50 bond funds in DWR for CALFED-related and for drought planning activities. The budget proposal for the California Bay-Delta Authority also reflects a shift of \$8.2 million from the General Fund to Proposition 50 bond funds.

The budget proposes General Fund reductions in DFG totaling \$15.6 million, a majority of which reflects reduced program levels. For DPR, the budget proposes to create \$9 million of General Fund savings by reorganizing the department's administrative functions. These savings in DPR are in addition to a \$6 million General Fund reduction from shifting funding for park planning and other activities at DPR to bond funds and the Off-Highway Vehicle Trust Fund.

Figure 4

Resources Programs Proposed Major Changes for 2003-04

Bay-Delta Authority	Requested:	\$216.4 million	
	Increase:	\$211.3 million	(+>100%)

- + \$211.3 million (mainly bond funds) to oversee and implement various components of the CALFED Bay-Delta Program

Forestry and Fire Protection	Requested:	\$671.5 million	
	Decrease:	\$45.9 million	(-6.4%)

- + \$13.8 million in federal funds for prefire projects, cooperative forestry assistance programs, and climate change strategy
-
- \$5 million in baseline General Fund support for emergency fire suppression, due to increased reimbursements from FEMA

Fish and Game	Requested:	\$279 million	
	Increase:	\$3.4 million	(+1.2%)

- + \$16 million for wildlife conservation and education grant programs
-
- \$15.6 million in General Fund support for various program activities (\$4 million shifted to other fund sources)

Parks and Recreation	Requested:	\$1,026.1 million	
	Decrease:	\$229.6 million	(-18.3%)

- + \$20 million from increased state park fees to replace General Fund
-
- \$9 million for administration resulting from reorganization
 - \$171.4 million (bond funds) for state and local parks

Water Resources	Requested:	\$6,575.8 million	
	Increase:	\$261.2 million	(+4.1%)

- + \$300 million from Proposition 50 for various programs, including CALFED (\$33 million replacing General Fund support)
-
- \$77.8 million due to transfer to new California Bay-Delta Authority

Figure 5

Environmental Protection Programs Proposed Major Changes for 2003-04

Air Resources Board	Requested:	\$163.2 million
	Increase:	\$0.3 million (+0.2%)

- + \$10 million from increased fees to replace General Fund
 - + \$6 million for equipment to monitor fine particulate matter pollution
-
- \$2 million for various air monitoring and compliance programs

Pesticide Regulation	Requested:	\$53.3 million
	Decrease:	\$1.1 million (-2%)

- + \$10.5 million from increased fees to replace General Fund support
-
- \$2.9 million for various activities, including surface water monitoring

Water Resources Control Board	Requested:	\$739.4 million
	Decrease:	\$332 million (-31%)

- + \$13.6 million from increased fees to replace General Fund support
-
- \$14.6 million for various water quality and water rights programs
 - \$304.8 million in bond-funded local water projects

Toxic Substances Control	Requested:	\$159 million
	Decrease:	\$5.5 million (-3.3%)

- + \$5.8 million for Hazardous Materials Laboratory
 - + \$2.5 million to maximize use of federal funds for site cleanup
-
- \$3 million for various activities in the site mitigation program

Environmental Health Hazard Assessment	Requested:	\$10.8 million
	Decrease:	\$4.3 million (-28.5%)

- \$3.6 million for risk assessments, research, and administration

In addition to the bond-funded increases, the budget proposes a number of increases in federal funds or special funds. Specifically, the budget proposes an increase in federal funds of \$13.8 million in CDFFP and \$12 million in DFG. The increase in CDFFP is for fire prevention, cooperative forest assistance, and climate change strategy activities. The increase in DFG is for wildlife conservation and education grant programs. Although not shown in the figure, the budget also proposes \$30 million (special funds) in the California Energy Resources Conservation and Development Commission for loans to public entities for energy efficiency projects.

Finally, the budget reflects both increases and decreases in proposed expenditures from various bond funds in DPR, as some bond funds available to it are nearing depletion (such as Proposition 12) while others have recently come on line for expenditure (such as Proposition 40). The net effect is a reduction of \$171.4 million in bond funds for DPR.

Regarding environmental protection programs, Figure 5 shows that the budget proposes both augmentations and reductions, although total spending will decrease in most departments. (The budget proposes a slight increase in total spending at ARB.) The budget also proposes a number of funding shifts from the General Fund to fees. The most significant of these are a \$13.6 million funding shift in SWRCB's core regulatory program, a \$10.5 million funding shift in the Department of Pesticide Regulation, and a \$10 million funding shift in ARB's stationary source program. In the case of the Department of Pesticide Regulation, the budget proposes to essentially eliminate all General Fund support for the department.

Of the proposed reductions to program funding levels, most are from the General Fund. The largest of the proposed General Fund reductions are found in SWRCB, where the budget proposes reductions totaling \$14.6 million from the General Fund for various water quality (\$11.3 million) and water rights (\$3.3 million) activities. In addition, the budget proposes significant General Fund reductions in ARB, OEHHA, DTSC, and the Department of Pesticide Regulation. Since OEHHA, unlike other environmental protection departments, receives most of its funding from the General Fund, the General Fund reduction has a disproportionate impact on OEHHA's total program level.

Of the proposed augmentations, most are one-time in nature and involve special funds. These include \$6 million for fine particulate matter monitoring equipment at ARB and most of a \$5.8 million increase in DTSC for its Hazardous Material Laboratory.

Finally, the budget reflects both increases and decreases in proposed SWRCB expenditures from various bond funds, as some bond funds available for SWRCB programs are nearing depletion while others are just

coming on line for expenditure (such as Proposition 50). The budget reflects a net reduction of \$304.8 million in bond-funded local water projects in SWRCB.

CROSSCUTTING ISSUES

Resources

CALFED BAY-DELTA PROGRAM

The CALFED Bay-Delta Program (CALFED), a consortium of 11 state and 13 federal agencies, was created to address a number of interrelated water problems in the state's Bay-Delta region. Program implementation began in September 2000. Over a seven-year period, the program is estimated to cost \$8.5 billion.

The 2003-04 budget proposes \$497 million in state funds for CALFED. We raise a number of policy, fiscal, and programmatic issues for the Legislature to consider.

CALFED Created to Address Bay-Delta Water Problems

The CALFED Bay-Delta Program. Pursuant to a federal-state accord signed in 1994, the CALFED Bay-Delta Program (CALFED) was administratively created as a consortium of state and federal agencies that have regulatory authority over water and resource management responsibilities in the Bay-Delta region. CALFED now encompasses 11 state and 13 federal agencies. The objectives of the program are to:

- Provide good water quality for all uses.
- Improve fish and wildlife habitat.
- Reduce the gap between water supplies and projected demand.
- Reduce the risks with deteriorating levees.

After five years of planning, CALFED began to implement programs and construct projects in 2000. The program's implementation—which is anticipated to last 30 years—is guided by the “Record of Decision” (ROD). The ROD represents the approval by the lead CALFED agencies of the final environmental review documents for the CALFED “plan.” Among other things, the ROD lays out the roles and responsibilities of each participating agency, sets goals for the program and types of projects to be pursued, and includes an estimate of the program's costs for its first seven years. In the ROD, these costs are projected to total \$8.5 billion for the program's first seven years (2000-01 through 2006-07).

The ROD also includes a schedule that allocates responsibility for paying the \$8.5 billion of projected costs among federal (\$2.4 billion), state (\$2.5 billion), and local/private (\$2.6 billion) sources. (About \$930 million of program costs have yet to be allocated among funding sources.) The proposed cost sharing is rather arbitrary, and in most cases reflects simply a 50-50 split between state and federal sources or a 33-33-33 split among federal, state, and local/private sources.

CALFED Governance Legislation Enacted Last Year

Chapter 812, Statutes of 2002 (SB 1653, Costa), established a governance structure for CALFED and created a new state agency—the California Bay-Delta Authority—to oversee and implement specified components of the program.

Governance Before 2002 Legislation. Before the enactment of legislation last year establishing a governance structure for CALFED (discussed in detail below), there was no statutorily authorized organizational structure for the program. Rather, a loosely configured organizational structure had developed administratively, with unclear lines of accountability among the program's director and the heads of the various state agencies involved in the program. The role of overseeing and coordinating the various elements of the program was undertaken by staff located within the Department of Water Resources (DWR). There was not, however, a legal entity of “CALFED” that had the authority under statute to hire staff, enter into contracts, adopt regulations, hold regulatory permits, receive and disburse funds, and the like. Rather, these functions could only be carried out legally by the various state agencies involved in implementing CALFED.

Governance Legislation Enacted Last Year. Chapter 812, Statutes of 2002 (SB 1653, Costa), established a governance structure for CALFED. One of the most important elements of this legislation was the creation of a new state agency in the Resources Agency—the California Bay-Delta Authority (CBDA)—to oversee and implement specified elements of

CALFED. The CBDA's membership is to consist of 24 members as follows: (1) representatives from six specified state agencies; (2) representatives from six specified federal agencies (if authorized in federal legislation to participate); (3) seven public members (five members to be appointed by the Governor and two by the Legislature); (4) one member of the Bay-Delta Public Advisory Committee; and (5) four nonvoting Members of the Legislature (the chair and vice-chair of the water policy committees in each house). The major responsibilities and authority of CBDA are set out in Figure 1 below.

Figure 1

California Bay-Delta Authority Major Roles and Authority

- ✓ Oversee coordinated implementation of the CALFED Bay-Delta Program in a manner consistent with the August 28, 2000 Record of Decision.
- ✓ Develop policies, track progress, modify program timelines.
- ✓ Report annually to Legislature and other specified parties on status of program implementation.
- ✓ Manage the science element of the CALFED Bay-Delta Program; establish Independent Science Board.
- ✓ Annually review and approve multiyear program plans and long-term expenditure plans of the implementing agencies; submit comprehensive budget proposal to Secretary for Resources.
- ✓ Administer program by hiring staff, entering into contracts, receiving and disbursing funds, and adopting regulations.

In addition to establishing the membership and responsibilities of CBDA, Chapter 812 designates certain state agencies to be the implementing agencies for the various elements of CALFED. For example, DWR and the State Water Resources Control Board (SWRCB) are designated as the implementing agencies for the water use efficiency and water transfer program elements. The CBDA is designated as an implementing agency for only one program element—the science program. (This role is in addition to its main role of oversight and coordination.)

The Budget Proposal

The budget proposes \$497 million in state funds for CALFED-related programs in 2002-03, of which \$18 million is from the General Fund and the balance mainly from bond funds. The largest expenditures are for ecosystem restoration and water use efficiency. Of these expenditures, \$171 million is proposed for the new California Bay-Delta Authority.

Figure 2 shows the breakdown of CALFED expenditures in the current year and as proposed for 2003-04, among the program's 12 elements.

Current-Year Expenditures. As shown in the figure, the budget estimates CALFED-related expenditures from state funds of about \$496 million in 2002-03. Of this amount, about \$30 million is from the General Fund, with the balance mainly from Proposition 13 (\$200 million) and Proposition 204 (\$165 million) bond funds.

For the current year, the largest state expenditures are in the ecosystem restoration (\$147 million) and water storage (\$100 million) programs. A majority of the ecosystem restoration expenditures is funded by Proposition 204 funds that became available with the signing of the ROD. A majority of the water storage expenditures is for local groundwater projects funded by various bond funds.

Budget Proposes \$497 Million of State Funds for 2003-04. As shown in Figure 2, the budget proposes \$497 million of state funds for various departments to carry out CALFED in 2003-04, virtually unchanged from the current year. Of this amount, \$18 million is proposed from the General Fund, with the balance mainly from three bond funds—Proposition 50 (\$329 million), Proposition 13 (\$63 million), and Proposition 204 (\$50 million).

As Figure 2 indicates, CALFED expenditures are spread among seven agencies. The largest expenditures are found in DWR (\$276 million) and CBDA (\$171 million). As in the current year, the largest state expenditures are proposed for ecosystem restoration (\$136 million) and substantial expenditures are proposed for water use efficiency projects, such as water recycling and water conservation (\$95 million). Although the budget appears to propose substantially lower expenditures for water storage projects in 2003-04, this is not necessarily the case. This is because the "water supply reliability" category includes funds for water storage projects.

In the sections that follow, we raise a number of issues for the Legislature to consider in its review of the Governor's budget proposal for CALFED. As discussed below, we think that the Legislature's policy direction to, and oversight of, CALFED is enhanced by having the relevant policy and budget committees, in each house, jointly consider CALFED budget proposals at oversight hearings.

Figure 2**CALFED Expenditures^a***(In Millions)*

Expenditures by Program Elements	2002-03	Proposed 2003-04
Ecosystem restoration	\$147.3	\$136.5
Environmental Water Account	45.3	35.9
Water use efficiency	45.9	94.6
Water transfers	0.6	0.6
Watershed management	42.8	30.0
Drinking water quality	44.6	5.6
Levees	4.1	22.2
Water storage	100.0	31.1
Water conveyance	41.8	31.8
Science	12.3	23.3
Water supply reliability ^b	1.7	76.2
CALFED program management	10.0	8.8
Totals	\$496.4	\$496.6
Expenditures by Department		
Water Resources	\$248.5	\$276.1
California Bay-Delta Authority	5.1	170.6
State Water Resources Control Board	73.3	45.4
Fish and Game	4.5	4.1
Forestry and Fire Protection	0.1	0.2
Conservation	0.1	0.1
San Francisco Bay Conservation And Development Commission	0.1	0.1
Secretary for Resources	164.7	—
Totals	\$496.4	\$496.6
Expenditures by Fund Source		
Proposition 50	\$67.1	\$329.4
Proposition 13	199.9	62.5
Proposition 204	165.1	50.1
General Fund	27.9	18.2
Other state funds	36.4	36.4
Totals	\$496.4	\$496.6
<p>^a State funds only.</p> <p>^b Could include conveyance, water storage, water use efficiency, water transfers, and Environmental Water Account expenditures.</p>		

Recommend Holding Joint Hearings

In order for the Legislature to effectively evaluate CALFED-related budget proposals—which are spread through several state departments—and provide appropriate policy direction to CALFED, we recommend that the water and natural resources policy committees and budget subcommittee, in each house, jointly consider CALFED budget proposals as was done in past years.

CALFED's Budget Encompasses Policy Choices. As was discussed in our *Analysis of the 2001-02 Budget Bill* (please see page B-23), there are trade-offs inherent in CALFED's plan (the ROD) and in its budget proposals that require policy choices to be made. This is because all elements of CALFED are interrelated and interdependent. For example, construction of a water storage or flood control facility could negatively affect fish habitat. Increasing the reliability of water supplies could reduce the incentive to conserve water.

We think that it is important for the Legislature to be apprised of the policy choices and funding priorities that are inherent in the Governor's budget proposal for CALFED. The Legislature will need this information to evaluate whether these choices and priorities are consistent with those of the Legislature, determine what policy direction should be given to CALFED, and determine the state's funding contribution.

Recommend Joint Policy/Budget Hearings. We think that the Legislature's evaluation of the many individual CALFED-related budget proposals in past years was significantly enhanced by holding joint policy and budget subcommittee hearings on CALFED. This gave the Legislature a "big picture" view of CALFED that could be missing if the budget proposals had been evaluated on a department-by-department basis (seven departments have CALFED budget proposals this budget year). We therefore recommend that the Legislature hold joint hearings of the water and natural resources policy committees and budget subcommittee, in each house, on CALFED. In the sections that follow, we raise a number of issues for the Legislature to consider at these hearings.

Federal Funding Highly Uncertain

The budget proposal assumes a certain level of federal reimbursements for CALFED in both the current and budget years, even though virtually no federal reimbursements have been forthcoming to date. In addition, although the CALFED seven-year implementation plan is based on an equal sharing of state and federal funding, direct federal spending for CALFED has greatly lagged the state's contribution. We recommend that the California Bay-Delta Authority advise the Legislature on the

programmatic implications and the administration's plans if federal reimbursements do not materialize and if federal direct spending for CALFED continues at its relatively modest level.

The Federal Government Has Lagged Behind State in Funding CALFED. As discussed above, CALFED has allocated \$2.5 billion and \$2.4 billion of program costs over a seven-year period to the state and federal governments, respectively. In providing its funding support, the federal government could either spend directly on projects or provide funding to the state as federal reimbursements.

While recognizing that CALFED has never anticipated that the state and federal contributions would be roughly equal on a *year-to-year* basis, our review nonetheless finds that the state has been contributing far more to CALFED than the federal government. As Figure 3 shows, from 2000-01 (the first year of program implementation) through the budget year, the state support for CALFED will total almost \$1.8 billion. This contrasts

Figure 3		
CALFED		
State Versus Federal Funding		
<i>(In Millions)</i>		
Year	State Contribution	Federal Contribution^a
2000-01	\$382.0	\$59.7
2001-02	402.2	119.6
2002-03	496.4	67.9 ^b
2003-04	496.6 ^c	33.6 ^d
Totals	\$1,777.2	\$280.8

^a Federal contribution includes (1) direct spending and (2) federal reimbursements passed through the state budget.

^b To date in the current year, almost all federal expenditures reflect direct spending as opposed to federal reimbursements passed through the state budget.

^c As proposed by Governor's budget.

^d Actual amount will depend on Congressional action on the 2004 federal budget.

with federal support of \$280.8 million. For the most part, the federal contribution has been in the form of direct federal spending for CALFED, as opposed to federal reimbursements that are passed through the state budget. Although the federal total does not include funding that may

become available in the 2004 federal fiscal year (covering the period October 2003 through September 2004), experience would indicate that this amount is highly uncertain.

Receipt of Federal Reimbursements Uncertain. The budget proposes the receipt of \$33.6 million of federal reimbursements by the state in 2003-04. The likelihood of the state receiving this amount of federal funding in the budget year is highly uncertain, given the state's history of receiving federal reimbursements. For example, while \$55 million of federal reimbursements were included in the *2002-03 Budget Act*, it appears that only about \$900,000 will actually be received. (The balance of the \$67.9 million of federal funding shown in Figure 3 reflects direct spending.)

The impact of reduced or no federal funds would vary by program element. For elements that assume a large amount of federal reimbursements in the current and/or budget year, a lack of federal funds would have an impact on the state's ability to complete planned activities. For example, for the budget year, federal reimbursements are budgeted mainly for program oversight and coordination. According to the administration, if federal reimbursements do not materialize, oversight and coordination activities such as the development of a water management strategy and a financing plan would be delayed. In addition, while the lack of federal reimbursements would not significantly impact most of the other program elements in the near term given the current availability of state bond funds for these elements, the administration anticipates that the state bond funds would be expended sooner than otherwise if federal funding does not become available.

Legislature Should Evaluate State's Options If Federal Funds Do Not Materialize. It is important for the Legislature to be informed of the programmatic implications if federal funds do not materialize. The Legislature should also be informed of CALFED's expenditure priorities if reduced or no federal funds necessitate a redistribution of state funds among the program elements. To the extent that those priorities do not coincide with the Legislature's priorities, the Legislature should provide clear direction to guide the redistribution of funds.

Budget Proposes Greater Role for Bay-Delta Authority Than Envisioned in Governance Legislation

The budget proposes that the new California Bay-Delta Authority implement CALFED's watershed management and ecosystem restoration programs in 2003-04, even though statute directs other state agencies to perform this role. We recommend the adoption of budget bill language to ensure that legislative direction is followed.

Budget Proposal for CBDA. The budget proposes expenditures of \$170.6 million of state funds and 73 personnel-years for CBDA in 2003-04—the first full fiscal year of its operation. Of this amount, \$158 million would come from bond funds and \$12.6 million from the General Fund. In addition, the budget proposes expenditures of \$45.8 million from federal funds (\$29.3 million) and other reimbursements (\$16.5 million), mainly for program oversight and coordination. The staffing level for CBDA does not reflect an increase in overall state personnel; rather, these positions were transferred from DWR to CBDA. (Previously, the oversight role for CALFED—now a statutory responsibility of CBDA—was performed by staff in DWR.)

The budget proposes state-funded expenditures in CBDA in four main areas:

- Overall Program Oversight and Coordination: \$8.3 million.
- Implementation of the CALFED Science Program: \$13 million.
- Implementation of the CALFED Ecosystem Restoration Program: \$114.7 million.
- Implementation of the CALFED Watershed Management Program: \$28 million.

Budget Proposal Gives Greater Initial Role to CBDA Than Authorized in Chapter 812. As noted earlier, Chapter 812 establishes the responsibilities and authority of CBDA, and specifies state agencies for purposes of implementing the various CALFED program elements. The CBDA is designated as an implementing agency for only one program element—the science program. However, the budget goes further, and proposes substantial CBDA expenditures to implement both the ecosystem restoration and watershed management programs. This is contrary to Chapter 812, which provides that the Department of Fish and Game (DFG) is the sole state implementing agency for the ecosystem restoration program and that the Resources Agency, State Water Resources Control Board (SWRCB), DWR, and DFG are the state implementing agencies for the watershed management program.

According to the administration, the funding for the watershed management and ecosystem programs are being budgeted “temporarily” in CBDA. The reasons given are somewhat different for each of these two programs. As regards the watershed management program, the administration has stated that the multiple state agencies that are designated as implementing agencies in Chapter 812 are in the process of negotiating a memorandum of understanding that will clarify each agency’s responsibilities for managing the program. It is the administration’s intent that

funding will be allocated to the respective implementing agencies once agency responsibilities are clarified.

As regards the ecosystem restoration program, the administration has stated that while DFG will assume the policy role for the program right away, the program's administrative and financial functions will be placed initially in CBDA in order to avoid program delays. According to the administration, this is because CBDA will have the "infrastructure" in place to perform these functions while DFG will not, given that DFG has not traditionally processed such a large infusion of bond funds. The administration has stated that it intends DFG to be the full implementing agency of this aspect of CALFED by 2004-05.

Recommend Budget Bill Language to Ensure Chapter 812's Direction Is Followed. While the administration's approach may be reasonable on efficiency grounds, the budget proposal raises concern because it does not provide the Legislature with the assurance that the legislative direction spelled out in Chapter 812 will ultimately be followed. To provide such an assurance, we recommend the adoption of the following budget bill language:

Item 3870-001-6031. No funds appropriated by this item may be expended for purposes of the CALFED watershed management program until a memorandum of understanding that clarifies the responsibilities of the agencies specified in Section 79441 of the Water Code as the implementing agencies of this program has been executed by these agencies and submitted to the Legislature. It is the intent of the Legislature that these agencies will serve as the implementing agencies beginning in 2003-04.

Item 3870-001-0546 and Item 3870-001-6031. Notwithstanding Section 79441 of the Water Code, the California Bay-Delta Authority is authorized to administer funds appropriated by this item for the CALFED ecosystem restoration program for the 2003-04 fiscal year only. It is the intent of the Legislature that, beginning in 2004-05, the Department of Fish Game will serve as the implementing agency for this program, as required by Section 79441.

Legislative Oversight of Bond Funds for CALFED

The Proposition 50 bond measure allocates \$825 million explicitly for CALFED and requires that these funds be expended consistently with the CALFED Record of Decision. We recommend the adoption of budget bill language to ensure that this requirement of Proposition 50 is followed.

Proposition 50 Allocates Funds Explicitly for CALFED. Proposition 50 allocates \$825 million of bond funds explicitly to several of the program elements of CALFED. The measure provides that all of these

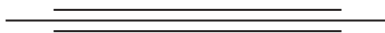
funds must be expended consistent with the CALFED ROD. This is in contrast to several allocations in other bond measures, such as the Water Conservation Account in Proposition 13, that have been used for CALFED programs but where the bond measure is silent regarding any connection with CALFED.

Several Departments Conduct Activities That Overlap With CALFED. Our review finds that several state agencies conduct activities under their non-CALFED programs that are similar to activities that they conduct as an implementing agency under CALFED. For example, SWRCB has had a water recycling grant program for many years; more recently, SWRCB has awarded water recycling grants under CALFED as one of CALFED's member agencies. This raises the concern that Proposition 50 bond funds, although allocated explicitly for CALFED and made subject to the CALFED ROD, could lose their "CALFED" character when allocated to a department that conducts activities outside of CALFED that are similar to the ones for which the Proposition 50 funds are provided.

Recommend Adoption of Budget Bill Language to Maintain Character of CALFED Bond Funds. To ensure that bond funds allocated in Proposition 50 for CALFED do not lose their required connection to the CALFED ROD when allocated to a department, we recommend the adoption of the following budget bill language under each item in the budget bill that appropriates funds from the \$825 million allocation to CALFED under Proposition 50:

No expenditures can be made from the funds appropriated by this item from the allocation of bond funds made to the CALFED Bay-Delta Program under Section 79550 of the Water Code unless those expenditures are consistent with the CALFED Programmatic Record of Decision, as required by Sections 79552 and 79553 of the Water Code.

We think that the adoption of this budget bill language will improve legislative oversight of Proposition 50 bond expenditures to ensure that the measure's requirements are followed.



ENVIRONMENTAL PROTECTION INDICATORS

In the sections that follow, we evaluate the administration's Environmental Protection Indicators for California (EPIC) initiative. We conclude that legislative involvement is crucial to ensuring the ongoing usefulness and effectiveness of this effort. We recommend the enactment of legislation to guide EPIC.

Administration's Environmental Indicators Initiative

The Secretaries for Environmental Protection and Resources, with staff support mainly from the Office of Environmental Health Hazard Assessment, have been working on a new initiative—Environmental Protection Indicators for California (EPIC). The budget proposes no funding for EPIC in 2003-04, and its future appears uncertain.

The Administration Initiates the EPIC Project. The administration created the EPIC Project in 2000-01 to establish and implement a process for developing environmental indicators. Broadly speaking, an environmental indicator is a scientifically based tool to track changes that are taking place in the environment. The EPIC Project has been a joint effort of the Secretaries for Environmental Protection and Resources, with most of the staff work being conducted by the Office of Environmental Health Hazard Assessment (OEHHA). The Project released its first report, containing data for a number of indicators, in April 2002. Since 2000-01, OEHHA's expenditures for the EPIC Project have been roughly \$700,000 (General Fund). The budget proposes no funding for EPIC in 2003-04.

Why Environmental Protection Indicators? According to the Secretary for Environmental Protection, the driving force behind the EPIC Project was a desire to be able to answer two questions: (1) what are we trying to accomplish in terms of environmental protection and (2) how do we know whether we are accomplishing it or not? In other words, the focus is placed on goals and results. This contrasts with the traditional reliance of the state's environmental programs on measures of workload as opposed to outcomes. For example, as noted in our *Analysis of the*

1999-00 Budget Bill (see page B-118), performance measures developed in past years by the State Water Resources Control Board for its core regulatory program focused on measures of activity, such as “number of self-monitoring reports reviewed.” As discussed in that analysis, measures of this type do not directly address whether there have been environmental quality improvements as a result of the state’s programs.

What Has the EPIC Project Accomplished to Date? In the project’s first year, an advisory panel of members from the business, environmental, and academic communities was convened to identify significant environmental issues facing the state and to begin developing an initial set of indicators for these issues. The issues were grouped into broad categories, including air quality, water (quality, supply, and use), waste management, pesticides, California/Mexico border pollution, human health, and ecosystem health.

According to the project, the primary consideration for selecting an indicator was its scientific validity. Scientific validity is determined largely by the extent and quality of data available to measure a status or trend. What came to light very quickly were the significant data gaps that exist for many environmental issues. The April 2002 EPIC Project report highlights many of these data gaps. For example, the report states that little information is available to develop indicators for indoor air pollution. The report also notes that a significant portion of the state’s waters has not been assessed to determine whether they support various beneficial uses, such as fishing, recreation, drinking water, and support of aquatic life. As yet another example, the report notes that information on the magnitude and scope of environmental contamination from improper management of solid and hazardous waste is very limited.

The project developed an initial set of about 90 environmental indicators, classifying the indicators as “Type I, II, or III” according to the availability of data. Type I indicators are those where adequate data are available to present a status (point-in-time environmental condition) or trend; Type II indicators require further data collection or analysis before a status or trend can be presented; and Type III indicators are conceptual indicators for which data collection does not exist. The April 2002 report lists these indicators, as well as provides data on trends for some of them. Figure 1 (see next page) shows a selection of indicators that have been developed by the project.

What Comes Next for EPIC? The future for EPIC is uncertain. As mentioned previously, the budget proposes to eliminate OEHHA’s funding for EPIC in 2003-04, and no other funding is proposed elsewhere in the budget for this effort. The administration has not yet released a work plan for the EPIC Project for the budget and future years, although one is

currently being developed. Given this, the administration was unable to provide an estimate of ongoing resource requirements for the project.

As discussed in the section that follows, this juncture in the course of the EPIC Project presents the Legislature with an opportunity to step in and guide the future development of the Project. We think that the Legislature's involvement is essential to ensuring that the EPIC Project adds significant value to the state's environmental protection activities.

Figure 1
EPIC Project
Selected Environmental Protection Indicators
Air Quality
<ul style="list-style-type: none"> • Number of days over the state ozone standard.¹ • Total emissions of toxic air contaminants.² • Visibility on an average summer and winter day in California national parks and wilderness areas.²
Water (Quality, Supply, and Use)
<ul style="list-style-type: none"> • Number of leaking underground fuel tank sites.¹ • Number of coastal beach postings and closings.¹ • Statewide per capita water consumption.¹
Land, Waste, and Materials Management
<ul style="list-style-type: none"> • Number of waste tires diverted from landfills.¹ • Amount of hazardous waste generation.²
Pesticides
<ul style="list-style-type: none"> • Percent of produce with illegal pesticide residues.¹ • Percent reduction in use of high-risk pesticides.²
Ecosystem Health
<ul style="list-style-type: none"> • Clarity of Lake Tahoe.¹ • Distribution of exotic plants.³ <p>1 Type I—adequate data for presenting status or trend. 2 Type II—further data collection or analysis is needed. 3 Type III—systematic data collection is not in place.</p>

Should Be a Legislative Role in EPIC

We think that the Environmental Protection Indicators for California Project's "results based" approach to environmental protection has merit. However, our review of similar initiatives in other states and countries finds that their effectiveness and value requires that the Legislature be very much involved in the effort.

EPIC Concept Has Merit. We think that the administration has shown considerable initiative by embarking on the EPIC Project, with a clear intent of improving the effectiveness of the state's environmental protection efforts. We think that the concept of the EPIC Project has merit, largely because of the *potential* to use the information derived from the project to improve environmental protection decision-making. For example, to the extent that the project identifies emerging environmental problems or helps in the evaluation of the effectiveness of state efforts to address environmental problems, and this leads to changes in environmental decision-making, then we think that the project's potential is being realized.

However, unless a clear and comprehensive plan is established to guide the project's activities and the use of its work products, we think that the effectiveness and usefulness of the EPIC Project will be limited. We conclude this after having reviewed similar initiatives to EPIC in other states and countries, discussed below.

Several Other States and Countries Have EPIC-Like Initiatives. We find that several other states and countries have had, or currently have, initiatives somewhat similar to the EPIC Project. For example, at least 16 states, including Florida, Oregon, Massachusetts, Texas, and New Jersey, have indicator initiatives. Other countries with such initiatives include Canada. We have reviewed surveys of legislators and executive staff in several other states conducted by others regarding these initiatives. The common theme among the initiatives is that they involve a formalized process to measure and report on the status and trends in environmental conditions. In some states, the indicators measure conditions beyond environmental ones. For example, the Oregon project has 90 "quality of life" indicators relating to the economy, education, civic engagement, social support, public safety, and community development, in addition to the environment.

Based on our review of other states' and countries' experience regarding their experiences with indicators and ways to improve them, we draw a number of lessons that can be used for further development of indicators in California.

Need for Legislative Buy-In. Based on our review of other states' experiences, we conclude that environmental indicators are more mean-

ingful, and the process to develop them is more credible and sustainable, when a Legislature has bought into the concept and established it in law. But perhaps a greater benefit from legislative buy-in is that it can result in the indicator effort being structured so that it provides information that is *relevant* to legislators. Clearly, if information is not relevant to legislators, it will not be used by them.

Legislatures in other states appear to have benefited most from indicators when they have been involved in selecting indicators that are most relevant to them. For example, in Florida, legislative policy committees review indicators proposed by the administration. In addition, legislative involvement in selecting indicators responds to a concern that indicators solely developed by the administration may be perceived as being self-serving. The concern is that departments might choose only those indicators that make them look the most effective.

We think that in upcoming years, the Legislature will have a good context in which to become involved in selecting indicators that are relevant to it. This is because two pieces of legislation enacted last year—Chapter 1016, Statutes of 2002 (AB 857, Wiggins) and Chapter 424, Statutes of 2002 (SB 1808, McPherson)—both revived a long dormant requirement that the Governor’s Office of Planning and Research prepare every four years a *State Environmental Goals and Policy Report* that is to be subject to legislative review and approval by the Governor. The last time this report was submitted was in 1978.

This report is to contain an overview, looking 20 to 30 years ahead, of state growth and development and a statement of approved state environmental goals and objectives. Among other purposes, the report is to serve as the basis for the allocation of state resources for environmental purposes through the budget and appropriation process. In the process of reviewing this report, the Legislature will be evaluating the state’s environmental goals and priorities. This will provide the Legislature with the opportunity to consider which environmental indicators would be appropriate to measure progress towards meeting legislative goals and priorities.

Need for Clear Statement of Intent and Purpose Upfront. Another lesson learned from the experience of other jurisdictions is that there should be upfront a clear statement of the intent and purpose of the indicator project. Lacking this, there is the risk of program delays as parties with varying understandings of the project’s purpose challenge the direction and operation of the project. By placing its vision for the project in legislation, the Legislature can ensure that the project is conducted consistently with its objectives and priorities.

Indicators Should Be “User Friendly” and Limited in Number. Other states, including Oregon, have found it necessary to pare down the number of indicators initially developed in their indicator programs to a more manageable number. When states have had too many indicators, the quality of the indicators has been questioned and Legislatures have tended to shy away from using them.

In addition, if indicators are to be used by decision-makers, including the Legislature, and if they are to serve a role in educating the public, experience has shown that they must be easy to understand.

Need for Systematic Feedback Into Budget Development Processes. Finally, we find that environmental indicators have been a particularly useful tool for legislators in states where there is an institutional framework in place to link the indicators to the budget development process. Sometimes the linkage is very direct. For example, in New Jersey, departmental budget requests submitted to the Finance agency are required to describe how the request affects the indicators.

When asked, the California Environmental Protection Agency (Cal-EPA) was unable to provide a tangible example of how the work of the EPIC Project influenced the development of a 2003-04 budget proposal in any department under Cal-EPA. In fairness to the agency, we appreciate that the EPIC Project is in its early stages of development, and it may be premature to expect a significant interplay between EPIC and the budget development process. We think that the tie between indicators and budget development has merit.

Recommend Enactment of Legislation to Guide EPIC

We recommend the enactment of legislation to set goals for the Environmental Protection Indicators for California Project, establish a process for carrying it out, and ensure that the project is integrated with budget development.

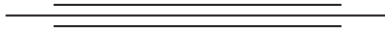
In order to establish legislative buy-in of the EPIC concept, and to make the EPIC project a valuable decision-making tool for both the Legislature and the administration, we recommend the enactment of legislation that:

- Establishes the EPIC Project in statute.
- Establishes clear goals for the project.
- Includes a timeline, priorities, and expectations for the project's work products.
- Specifies requirements to report to the Legislature.

- Establishes a process for legislative input into the selection of environmental protection indicators.
- Requires that environmental protection budget proposals submitted to the Legislature address how the proposals affect environmental protection indicator(s) relating to the proposal in a quantifiable way.
- Requires the information generated by the EPIC Project to be used in the development of the State Environmental Goals and Policy Report as required by Section 65041 of the Government Code.

Finally, we recommend that once the scope of the EPIC Project is established in legislation, the Secretaries for Environmental Protection and Resources be directed to develop a work plan to implement the legislation and present a funding proposal to the Legislature for its review and approval.

We think that a large part of what we recommend would not result in a significant increase in costs. Rather, our recommendations would provide guidance for the future activities of EPIC, the costs of which have already to some extent occurred. In addition, we have recommended that the number of indicators be limited. This will serve to further constrain the project's costs.



FUND CONDITIONS FOR RESOURCES PROGRAMS

The state uses a variety of special and bond funds to support the departments, conservancies, boards, and programs under the Resources Agency that regulate and manage the state's natural resources. Of the \$4.1 billion in state-funded expenditures for resources programs proposed for 2003-04, about \$1.3 billion (31 percent) would be from special funds, and \$1.9 billion (46 percent) from bond funds. The remainder—\$959 million—would be from the General Fund.

In this section, we provide a status report on selected special funds and bond funds supporting these programs. In general, the use of these special and bond funds is specified in statute. Some funds can be used for a wide variety of programs and activities, while the use of other funds is more limited. For purposes of this review, we divided the funds into two categories: (1) resources special funds and (2) resources bond funds. We conclude with a discussion of a number of issues for legislative consideration when evaluating the Governor's bond expenditure proposals.

Resources Special Funds

The budget proposes to spend most of the special funds projected to be available in 2003-04 for resource protection. If the Governor's spending proposals are approved, a balance of \$34.3 million will remain in these special funds, the use of most of which is statutorily restricted to specific purposes.

Figure 1 (see next page) summarizes the total resources available in 2003-04 for selected special funds, the Governor's proposed expenditures from these funds, and the balances available after the Governor's proposed expenditures. Approval of the Governor's spending proposals would leave a balance of \$34.3 million available for these selected funds, mostly in the Beverage Container Recycling Fund. As the use of most of these remaining funds is statutorily restricted to specific purposes, the

Legislature's flexibility in expending these funds for resources projects is limited.

Below we discuss in greater detail the funds shown in Figure 1.

Figure 1				
Resources Programs				
Selected Special Funds				
<i>(In Millions)</i>				
Special Funds	2002-03	2003-04		
		Expenditures	Resources	Expenditures Balance
Environmental License Plate Fund	\$34.7	\$32.3	\$31.4	\$0.9
Public Resources Account	16.1	15.7	15.3	0.4
Habitat Conservation Fund	29.4	10.2	8.5 ^a	1.7
Fish and Game Preservation Fund	94.9	91.3	91.3	—
Dedicated	(15.5)	(20.2)	(15.0)	(5.2)
Nondedicated	(79.4)	(71.1)	(76.3)	(-5.2)
Forest Resources Improvement Fund	—	11.7	11.5	0.2
State Parks and Recreation Fund	77.9	96.8	96.7	0.1
Beverage Container Recycling Fund	412.7	447.7	416.7	31.0
Totals	\$760.6	\$797.0	\$762.7	\$34.3

^a Net of transfer of \$21.7 million from the General Fund.

Environmental License Plate Fund (ELPF). The ELPF derives its funding from the sale of personalized motor vehicle license plates by the Department of Motor Vehicles. Funds from ELPF can be used for the following purposes:

- Control and abatement of air pollution.
- Acquisition, preservation, and restoration of natural areas and ecological reserves.
- Environmental education.

- Protection of nongame species and threatened and endangered plants and animals.
- Protection, enhancement, and restoration of fish and wildlife habitat, and related water quality.
- Purchase of real property, consisting of sensitive natural areas, for the state, local, or regional park systems.
- Reduction of the effect of soil erosion and discharge of sediments into the water of the Lake Tahoe region.

The budget proposes expenditures totaling \$31.4 million from ELPF, a decrease of about \$3.3 million (10 percent) below estimated current-year spending. The decrease is the result of lower capital outlay expenditures by the California Tahoe Conservancy and lower ELPF support for the Department of Fish and Game. Almost all of the proposed ELPF expenditures in 2003-04 would be for departmental support purposes, the largest being \$17.8 million for support of Department of Fish and Game (DFG). Only \$3.6 million would be for local assistance. The proposed ELPF expenditures will leave a balance of \$885,000 at the end of 2003-04.

Public Resources Account, Cigarette and Tobacco Products Surtax Fund (PRA). The PRA receives 5 percent of the Cigarette and Tobacco Products Surtax Fund (C&T Fund) revenues. Generally, PRA funds must be used in equal amounts for (1) park and recreation programs at the state or local level and (2) habitat programs and projects.

The budget projects \$15.7 million in PRA resources in 2003-04 and proposes total expenditures from PRA of \$15.3 million. Almost all proposed expenditures would be for departmental support purposes. About 77 percent (\$11.7 million) of the proposed expenditures would be used to support the Department of Parks and Recreation (DPR), 14 percent (\$2.1 million) would support the operations of the State Water Resources Control Board, and 3 percent (\$384,000) would support DFG.

The budget proposes a reserve of \$436,000 in PRA at the end of 2003-04.

Habitat Conservation Fund (HCF). The HCF was created by Proposition 117, the California Wildlife Protection Act of 1990. The proposition requires that the fund receive annual revenues of \$30 million primarily for wildlife habitat acquisitions and improvements. To provide this funding level, Proposition 117 requires transfers of (1) 10 percent of funds from the Unallocated Account, C&T Fund, and (2) additional funds from the General Fund in order to provide a total of \$30 million. Proposition 117 allows the Legislature to substitute other appropriate funds for the General Fund.

For 2003-04, the budget proposes to transfer \$7.8 million from the Unallocated Account, C&T Fund, and \$21.7 million from the General Fund to HCF. These transfers, together with carryover balances, would fund proposed expenditures of \$30.2 million (from all funds), leaving a balance of \$1.7 million at the end of the budget year. (For a further discussion of HCF and of an opportunity to substitute bond funds for the General Fund transfer, please see the "Wildlife Conservation Board" write-up of this chapter.)

Fish and Game Preservation Fund (FGPF). The FGPF derives most of its revenues from fishing and hunting licenses, tags, and permits. Money in FGPF is used to support DFG activities to protect and preserve fish and wildlife, including the acquisition and construction of projects for these purposes. Certain revenues in the fund are restricted (or dedicated) to be used for specific purposes or species. For instance, revenues from hunting or fishing stamps for particular species can be used only for activities related to the protection of those species. The costs of commercial fishing programs are to be paid solely out of revenues from commercial fishing taxes and license fees.

For 2003-04, the budget proposes total FGPF expenditures of \$91.3 million, almost entirely for the support of DFG. This amount is \$3.6 million (4 percent) less than estimated current-year expenditures. Of the budget-year amount, \$76.3 million is proposed to be spent from nondedicated funds and the remaining \$15 million from dedicated revenues. With the proposed expenditures, the budget projects a negative fund balance of \$5.2 million in the non-dedicated account and a positive balance of \$5.2 million in the dedicated account. Therefore, the combined balance of the dedicated and nondedicated accounts is almost zero.

Forest Resources Improvement Fund (FRIF). Revenues generated from timber harvesting in state forests are deposited into FRIF. Most of this revenue is generated from Jackson State Demonstration Forest. Funds in FRIF can be used for the following purposes:

- Forest improvement programs.
- Urban forestry programs.
- Wood energy programs.
- Reimbursing the General Fund for the operation of state demonstration forests.
- Regulation of forest practices.
- Support of state nurseries.
- Forest pest research and management.

Figure 2 shows the proposed 2003-04 expenditures for FRIF in the budget.

Figure 2	
Forest Resources Improvement Fund	
2003-04 Expenditures	
<i>(In Millions)</i>	
Program	Amount
State forest management and stewardship	\$5.0
California Forest Improvement	1.5
Forest pest management	1.3
State nurseries	1.2
Forest and Rangeland Assessment	1.2
State forest research	0.4
Urban forestry	0.5
Watershed restoration	0.4
Total	\$11.5

The budget projects \$11.7 million in FRIF resources. This expenditure level assumes resolution of litigation that halted the sale of timber harvesting on Jackson State Demonstration Forest, the primary revenue source for FRIF.

State Parks and Recreation Fund (SPRF). The SPRF is the main special fund source that supports DPR. The fund generates most of its revenues from state beach and park service fees. For 2003-04, the budget projects SPRF resources of \$96.8 million—\$16.9 million higher than the estimated current year resource level, due to a proposed increase in park service fees. The budget proposes to use \$96.7 million for DPR support, thereby leaving essentially no balance at year-end.

Beverage Container Recycling Fund (BCRF). Chapter 1290, Statutes of 1986 (AB 2020, Margolin), created the Beverage Container Recycling Fund as a depository for processing fees, fines, and redemption values paid to the Department of Conservation. Expenditures from the fund are limited to recycling program activities and payment of the redemption values. To the extent beverage containers are not redeemed for the California Redemption Value, a reserve accumulates in BCRF.

In order to address the shortfall in the General Fund condition, the budget proposes to loan \$80 million from BCRF to the General Fund and outlines specific provisions to ensure the loan does not adversely affect the operation of BCRF. A similar loan to the General Fund for \$218 million was made in the current year.

Tideland Oil Revenues. The state receives a portion of the revenue derived from oil, gas, and other minerals extracted from the state's tidelands. The amount of state revenue from tideland oil leases is based primarily on the net profit received by oil producers leasing state tidelands. The tideland revenues are difficult to project because of the instability of oil prices as well as fluctuating costs of production that figure into net profits of oil producers.

Current law requires that after specified amounts are deposited in the Housing Trust Fund and in the General Fund mainly to support the State Lands Commission (SLC), the remaining tidelands revenues are deposited into the Resources Trust Fund (RTF) created by Chapter 293, Statutes of 1997 (SB 271, Thompson) to support various resource special funds. The Department of Finance has interpreted the current statute to sunset at the end of the current year and therefore the proposed budget does not distribute tidelands oil revenues to various special funds to fund resource activities. Rather, the budget proposes to transfer to the General Fund \$18.8 million of tidelands revenues that would have previously been deposited into RTF.

Resources Bond Fund Conditions

The budget proposes expenditures in 2003-04 of about \$2.2 billion from five resources bonds approved by the voters since 1996. The proposed expenditures would leave a balance of about \$2.8 billion for new projects beyond the budget year. Most of the bond funds for park projects will be depleted at the end of the budget year, with the funds remaining being mainly for water projects, land acquisition and restoration, and the CALFED Bay-Delta Program.

As Figure 3 shows, the budget proposes expenditures totaling about \$2.2 billion in 2003-04 from five resources bonds approved by the voters between 1996 and 2002. These bonds include Proposition 204 approved in 1996, Propositions 12 and 13 approved in 2000, and Propositions 40 and 50 approved in 2002. While Propositions 204 and 13 are generally referred to as water bonds, and Proposition 12 as a park bond, Propositions 40 and 50 are more accurately described as resources bonds, since they provide funding for a mix of water, park, and land acquisition as well as restoration purposes.

Figure 3**Resources Bond Fund Conditions^a
By Bond Measure***2003-04
(In Millions)*

	Total Allocation In Bond	Resources Available	Expenditures	Balances
Proposition 204 ^b	\$995	\$138	\$82	\$56
Proposition 12 ^c	2,100	72	65	7
Proposition 13 ^d	1,970	539	178	361
Proposition 40 ^e	2,600	1,289	817	472
Proposition 50 ^f	3,440	3,021	1,085	1,936
Totals	\$11,105	\$5,059	\$2,227	\$2,832

^a Based on Governor's budget.

^b Safe, Clean, Reliable Water Supply Fund, 1996.

^c Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund, 2000.

^d Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Fund, 2000.

^e California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund, 2002.

^f Water Security, Clean Drinking Water, Coastal and Beach Protection Fund, 2002.

As shown in Figure 3, most of the bond funds from Propositions 204 and 12 will be depleted at the end of the budget year. The budget projects a balance remaining of about \$2.8 billion from the five bonds for new projects beyond the budget year.

Figure 4 (see next page) shows proposed expenditures and remaining fund balances in the five resources bonds, broken down by broad program category. We discuss each of these program categories in further detail below.

Parks and Recreation. Propositions 12 and 40 together allocated about \$2.3 billion for state and local park projects and for historical and cultural resources preservation. The budget proposes expenditures of \$708 million for these purposes in 2003-04, with a balance of \$141 million remaining for new projects beyond the budget year. Bond funds for historical and cultural resources preservation will essentially be depleted at the end of the budget year.

Water Quality. Propositions 204, 13, 40, and 50 together allocated about \$2 billion for various water quality purposes. These include fund-

ing for wastewater treatment, watershed protection, clean beaches, and safe drinking water infrastructure upgrades. The budget proposes expenditures of \$293 million for these purposes in 2003-04, with a balance of \$579 million remaining for new projects.

Figure 4

Resources Bond Fund Conditions^a By Programmatic Area

2003-04
(In Millions)

	Resources	Expenditures	Balances
Parks and Recreation	\$849	\$708	\$141
State parks	(155)	(93)	(62)
Local parks	(572)	(494)	(78)
Historical and cultural resources	(122)	(121)	(1)
Water quality	872	293	579
Water management	773	213	560
Land acquisition and restoration	1,525	590	935
CALFED Bay-Delta Program	1,017	400	617
Air quality	23	23	—
Totals	\$5,059	\$2,227	\$2,832

^a Based on Governor's budget; includes Propositions 204, 12, 13, 40, and 50.

Water Management. Propositions 204, 13, and 50 together allocated about \$1.7 billion for various water management purposes, including water supply, flood control, desalination, water recycling, water conservation, and water system security. The budget proposes expenditures of \$213 million for the purposes in 2003-04, leaving a balance of \$560 million for projects in future years.

Land Acquisition and Restoration. Propositions 203, 12, 40, and 50 together allocated about \$3.2 billion for a broad array of land acquisition and restoration projects. These allocations include funding to the several state conservancies and the Wildlife Conservation Board, as well as for ecosystem restoration, agricultural land preservation, urban forestry, and river parkway programs. The budget proposes expenditures of \$590 million for these purposes in the budget year, with a balance of \$935 million remaining for new projects in future years.

CALFED Bay-Delta Program. The CALFED Bay-Delta Program is a consortium of over 20 state and federal agencies that was created to address a number of interrelated water problems in the state's Bay-Delta region. These problems relate to water quality, water supply, fish and wildlife habitat, and flood protection. Although each of the five bond measures allocated funds that could (and have) been used for purposes that are consistent with the CALFED Bay-Delta Program's objectives and work plan, only Propositions 204, 13, and 50 allocated funds explicitly for this program. From these specific allocations, the budget proposes expenditures of \$400 million in 2003-04. This leaves a balance of \$617 million for CALFED projects in future years.

Air Quality. Finally, Proposition 40 allocated \$50 million for grants to reduce air emissions from diesel-fueled equipment operating within state and local parks. The budget proposes to spend the \$23 million that remains from this allocation in the budget year.

Bond Issues for Legislative Consideration

In order to facilitate the Legislature's oversight of the Governor's proposed bond expenditures, we recommend a number of steps be taken. These include (1) holding joint hearings on the budget proposal for Propositions 40 and 50 expenditures, (2) scheduling the Wildlife Conservation Board's Propositions 40 and 50 appropriations in the budget bill, (3) enacting legislation requiring budget display of bond fund conditions and designating a lead agency to implement bonds, and (4) enacting legislation to provide guidance for certain bond fund expenditures.

We discuss below a number of issues for legislative consideration when evaluating the Governor's budget proposals to expend resources bond funds.

Legislative Oversight Through the Hearing Process. As has been done in recent years, we recommend that the budget and policy committees of each house hold joint hearings on the Governor's budget proposal for each of the recently enacted bond measures—specifically Propositions 40 and 50 for this year's hearings. We think that it is important for the Legislature to evaluate the bond proposals as a "package" rather than on a department-by-department basis. This is important for a couple of reasons. First, since multiple departments, often with overlapping missions, are implementing programs funded from these bond funds, it is important that the Legislature assess the extent to which the bond expenditure proposals are coordinated both among the various departments and with similar programs in these departments that are funded from other fund sources. Second, we think that this approach would allow the Legisla-

ture to be apprised of the Governor's overall expenditure priorities from each of these bond measures.

In our write-up on the Wildlife Conservation Board (WCB) in this chapter, we raise concerns about a substantial amount of Proposition 40 and 50 bond funds for land acquisition and restoration that are "continuously appropriated," meaning that they are spent outside of the legislative review and approval process for the annual budget bill. In the WCB write-up, we recommend that these bond funds be appropriated in the budget bill and that expenditures be scheduled in the budget bill by broad project category. This scheduling is needed in order to provide the Legislature with a meaningful basis on which to evaluate the bond proposal, particularly given the lack of details in the Governor's budget display regarding the projects to be funded with these bond funds.

Legislative Oversight by Improving Bond Fund Accountability. In response to the Legislature's direction in the *Supplemental Report of the 2002 Budget Act*, the *2003-04 Governor's Budget* includes a fund condition statement for Proposition 40. However, the Governor's budget document does not include fund conditions for a number of other resources bonds—Propositions 204, 12, 13, and 50. As we have concluded in past years, the lack of these fund condition statements has complicated the Legislature's ability to oversee the budget's expenditure of these funds, as well as monitor and identify fund balances for appropriation in current and future budgets. A number of the bond measures are rather complex and legislative oversight would be facilitated by fund condition statements. For example, Proposition 13 established 26 subaccounts for the various programs funded by the measure. Therefore, we recommend the enactment of legislation that requires the balances for each of the subaccounts or allocations in Propositions 204, 12, 13, 40, and 50, as well as any future bond measure, be displayed annually in the Governor's budget document. This will promote accountability and will facilitate the monitoring of fund balances for use in current and future budget appropriations.

As a related matter, we think that the coordination of decision making, accounting, and reporting under the bond measures would be facilitated by designating a lead agency responsible for overseeing implementation of the bonds. For instance, the Resources Agency, which oversees the departments with most of the Proposition 40 expenditures, could be designated as the lead agency for that bond. Accordingly, we recommend that the legislation designate a lead agency for the overall implementation of each of Propositions 40 and 50—the two bond measures with substantial budget-year and future-year expenditures remaining.

Providing Legislative Guidance for Bond Fund Expenditures. The budget proposes bond expenditures for a number of new programs or to

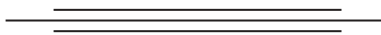
substantially expand expenditures for existing programs. In many of these cases, the bond measure provides very broad authority as to the eligible uses of the funds, and the budget proposal submitted to the Legislature provides few details regarding the proposed expenditures. As a consequence, the Legislature is unable to evaluate whether the Governor's expenditure proposal is consistent with legislative priorities or how the new program expenditures are coordinated with existing efforts.

In cases where the budget proposal provides few details regarding the proposed expenditures, we recommend that funding be deleted from the budget bill, and instead be put in legislation that defines the program and guides its implementation. There is significant legislative precedent for this approach. For example, a number of bills were enacted this past year to guide the implementation of Proposition 40-funded programs. These include AB 2534 (Pavley) which related to Proposition 40's \$300 million allocation for clean beaches and water quality projects.

For a more detailed discussion of this issue, please see our write-up on "Proposition 50 Water-Related Proposals Need Better Definition" in the "Crosscutting Issues" section of this chapter, as well as our write-ups under the Secretary for Resources, Department of Parks and Recreation, and Department of Water Resources elsewhere in this chapter.

Ensuring That Legislative Direction Is Followed. In evaluating the Governor's bond proposals, the Legislature should consider whether the proposals are consistent with previous direction provided by the Legislature. Our review of the Governor's budget proposal found a few examples where the budget appears to deviate from the Legislature's direction. For example, please see our write-up on the bond fund proposal for Colorado River management under WCB and our write-up on the "CALFED Bay-Delta Program" in the "Crosscutting Issues" section of this chapter.

Evaluating the Appropriateness and Eligibility of Bond Fund Expenditures. Finally, in evaluating the Governor's bond fund proposals, it is important for the Legislature to consider whether the expenditures are consistent with both (1) the provisions of the bond measure and (2) current law that provides general direction regarding the type of expenditures that are appropriately funded from general obligation bonds. We think that this issue is particularly relevant in light of the Governor's proposals to shift funding from the General Fund to bond funds in a number of resources program areas.



PROPOSITION 50 WATER-RELATED PROPOSALS NEED BETTER DEFINITION

Various budget proposals to expend Proposition 50 bond funds for water-related activities lack sufficient detail to justify approval. These proposals include expenditures by the Department of Water Resources (DWR), the State Water Resources Control Board (SWRCB), and the Department of Health Services (DHS) for integrated regional water management projects and water security activities. We recommend that the funding for these proposals be deleted from the budget bill, and instead be put in legislation that defines the programs and guides their implementation. (Reduce Item 3860-101-6031 by \$50.6 million, Item 3860-001-6031 by \$5.9 million, Item 3940-101-6031 by \$32.5 million, Item 3940-001-6031 by \$641,000, Item 4260-101-6031 by \$9.9 million, and Item 4260-001-6031 by \$350,000.)

Budget Proposal. The budget proposes expenditure of bond funds from the recently passed Proposition 50 bond for various water-related purposes. (See the “Crosscutting Issues” section of this chapter for more information on the Proposition 50 fund condition.) While some of the bond funds proposed for expenditure augment existing programs, others are for new program areas. Figure 1 lists two new program areas proposed by the budget in the water area. As shown, the budget proposes expenditure of approximately \$100 million from Proposition 50 bond funds for these new program areas at DWR, SWRCB, and DHS. Of this amount, \$93 million is for grants to local agencies for activities relating to integrated regional water management and water security, and \$6.9 million is for state staff to support these activities and for direct expenditures to upgrade security of the state’s water system. In addition, the administration indicates that similar levels of grant expenditures are likely to be available for most of these programs over each of the next four to five years. The budget proposes to expend these funds in accordance with Proposition 50, as follows:

Figure 1				
Selected Proposition 50 Bond Expenditures New Programs				
<i>2003-04 (In Millions)</i>				
Program	Proposed Expenditures, By Department			Total
	DWR	SWRCB	DHS	
Integrated Regional Water Management	\$51.7	\$33.1	—	\$84.8
Water Security	4.8	—	\$10.3	15.1
Totals	\$56.5	\$33.1	\$10.3	\$99.9
DWR = Department of Water Resources.				
SWRCB = State Water Resources Control Board				
DHS = Department of Health Services				

- Integrated Regional Water Management Projects.** Proposition 50 allocated \$500 million for competitive grants to fund integrated regional water management projects. Implementing legislation allocated 50 percent of these funds to DWR and 50 percent to SWRCB to administer. The budget proposes to expend these funds in accordance with the bond measure's broadly defined criteria. The bond defines integrated regional water management projects to include any projects that protect against drought, protect or improve water quality, and improve local water security by reducing dependence on imported water. For 2003-04, the budget proposes to expend about \$85 million for these projects, including \$6.4 million to fund the Governor's Drought Panel recommendations.
- Water Security.** Proposition 50 allocated \$50 million to protect drinking water systems from terrorist attack or deliberate acts of destruction. The budget proposes to allocate \$43.2 million to DHS for grants that protect the state's public water systems. (The DHS is responsible for permitting and regulating the state's public water systems.) The remainder of the funds (\$6.8 million) is allocated to DWR for security upgrades to the State Water Project and to improve security at high hazard state dams.

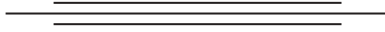
We have several concerns with the budget proposals as discussed below. Specifically, we find that the program areas proposed for funding by the budget are broad and lack definition. It is also not clear how the different agencies implementing these programs will work together to avoid inefficiencies resulting from duplication of efforts.

Proposals Sparsely Defined. As mentioned above, Proposition 50 specifically authorizes bond funds for integrated regional water management projects and water security activities. However, in doing so, it did not provide specific details regarding how these grants should be awarded, thereby relying on the Legislature and the administration to define how the funds would be spent. We have found that the administration's proposals for spending the funds are sparsely defined and in some cases provide no more detail than what is provided in the bond measure. For example, the budget does not propose criteria to evaluate grant proposals, nor does it make funding priorities clear. Other unresolved issues include whether there should be a maximum amount for individual grants and whether there should be a matching requirement for grants. Without better definition as to how the funds will be spent, the Legislature is unable to determine if the funds will be expended in a manner that is consistent with its priorities in these program areas.

Unclear How Implementing Agencies Will Coordinate Efforts. As shown in Figure 1, multiple departments are responsible for implementing these new programs. This raises issues as to how the departments will coordinate their efforts in order to avoid duplicative activities and to ensure that program expenditures are collectively made in an effective manner. However, the budget does not provide information regarding how the departments will coordinate their efforts in these program areas. This is especially the case with the integrated regional water management grant programs since both DWR and SWRCB will be allocating grants for essentially the same purposes. In addition, it is unclear how the integrated regional water management grant programs will coordinate with existing programs that administer grants for similar activities, including coordination with grant programs under the CALFED Bay-Delta Program and SWRCB's various other water quality grant programs. Similar concerns exist regarding the water security proposals given the significant activities at other state agencies to prepare for and prevent terrorist attacks.

Recommend Enactment of Legislation to Guide Program Implementation. Based on our review, we conclude that the proposal to expend Proposition 50 bond funds on integrated regional water management projects and water security activities lacks sufficient detail to justify approval. Accordingly, we recommend the deletion of the funding for these programs from the budget bill, and instead recommend it be put in legis-

lation. The legislation should provide policy direction for allocating the grant funds, including more definition of program priorities and criteria for evaluating the grants.



RESOURCE ASSESSMENTS: IMPROVING EFFECTIVENESS AND CREATING SAVINGS

A number of departments within the Resources Agency engage in resource assessment activities intended to determine the condition of natural resources in the state. In the sections that follow, we review the resource assessment activities of the Departments of Fish and Game (DFG) and Forestry and Fire Protection (CDFFP), as well as the Secretary for Resources, and identify opportunities for funding shifts and program reductions, some of which will create General Fund and Environmental License Plate Fund savings. We also discuss opportunities to increase the value of the information collected.

Background

What Are Resource Assessment Activities and Why Are They Important? We have defined resource assessments broadly to include a number of different activities related to determining the condition of natural resources in the state. For example, these assessment activities can include identifying the presence or absence of a particular plant or animal species, the size of the population, and the geographic distribution of that species. Activities involve either collecting original data or compiling existing data and can be species or habitat specific or be focused on a geographic area. Lastly, assessment activities can also include the analysis of the information in order to report on the overall health of a species or habitat and the factors that threaten it.

Resource assessment activities can serve an important function for resource departments. The information can be used in making investment, regulatory, and management decisions. For example, in order to invest in the land or other conservation strategies to protect a particular threatened or endangered species, the state needs to know, at a minimum, where that species occurs. For those departments issuing permits

for development or resource extraction, basic information on the nature and condition of natural resources that occur in the geographic area relevant to the permit is essential to the environmental review process. Lastly, information on species population and trends can serve as one measure of the effectiveness of the policies and investments intended to protect that species.

Opportunities for Fee Cost Recovery And Efficiencies at Fish and Game

We recommend that resource assessment activities in support of the Department of Fish and Game's environmental review process related to permit issuance and development approvals be partially funded by permit applicants and developers. We further recommend that the department partially fund its marine resource assessment activities by increasing fees on ocean-related fishing activities. Lastly, we recommend program reductions in light of opportunities for efficiencies. (Reduce Item 3600-001-0001 by \$2.2 million and increase Item 3600-001-0200 by \$2 million.)

Department Carries Out Activities Related to Permit and Development Approvals. The DFG has responsibility for managing and protecting the state's fish and wildlife resources. The department's responsibilities include reviewing environmental documents and issuing permits for a variety of activities which may impact natural resources. For example, the department is responsible for issuing permits for activities which may impact streambeds or the taking of endangered species. The department also reviews environmental documents under the California Environmental Quality Act (CEQA) for development proposals that may impact fish and wildlife resources. The department also participates in the Natural Communities Conservation Planning (NCCP) process, in which the department issues permits for development activities in exchange for a plan that provides for regional protection of multiple species.

The department engages in many resource assessment efforts to support its review of environmental documents prior to permit issuance or development approvals. For example, the department currently is conducting studies related to species located in areas for which the department is engaged in NCCPs and the monitoring of timber areas in the Sierra Nevada.

Some Resource Assessment Costs Are Related to Permit and Development Approvals. While the department was not able to provide us with the exact amount of its resource assessment expenditures that are related to permit or development-related approvals, we estimate the department spends between \$10 million and \$12 million (all funds) annually for this

particular purpose. These activities are funded from a variety of fund sources, including the General Fund, federal funds, and fees that are deposited in the Fish and Game Preservation Fund. While it is difficult to isolate the General Fund contribution for this particular activity, we estimate it could be up to around \$3 million. Fees appear to support little, if any, of the department's resource assessment activities.

Fees Should Cover Resource Assessment Costs for Permit and Development Approvals. Many permit applicants and developers benefit from the department's resource assessment activities. This is because the assessments are used by the department in the environmental review of permits and conservation plans. Once these permits and plans are approved, the development process can go forward, which benefits developers. However, the public also benefits from these activities because many of the assessment activities are also related to the department's mandate to manage the state's natural resources for the benefit of all of the state's residents. We therefore conclude that the assessment activities that are related to permit and development approvals should be at least partially funded by the permit applicants/developers who benefit directly from the department's environmental review.

Given the direct benefit to permit applicants and developers from the department's resource assessment activities, we think that it would be appropriate to shift a portion of the support for resource assessment from the General Fund to fees. Specifically, we recommend a reduction of \$1.5 million from the General Fund and an increase of like amount in the Fish and Game Preservation Fund (the fund into which most of DFG fees are deposited). This represents partial funding (about 50 percent) of the estimated General Fund costs of the department's resource assessment costs that are related to permit and development approvals. (Please see our write-up on Timber Harvest Plan Review Fees in this chapter for a discussion of opportunities to recover from fees the department's costs, including for resource assessment, related to timber harvest plan review.)

The department has a number of existing fee authorities that could be used to generate the increased fee revenues to support resource assessment. For example, Section 711.4 of the Fish and Game Code gives the department broad authority to defray through fees the costs of managing and protecting fish and wildlife resources for its CEQA-related activities. In addition, Section 1607 of the Fish and Game Code authorizes the department to charge fees to cover all costs related to the streambed alteration permit program and Section 2840 of the Fish and Game Code allows the department to recover all costs associated with its NCCP activities. For some fees, the specific fee schedule is set in statute, so revising the fees to increase them would require a statutory amendment. In other cases, the authorizing statute for the fee provides the department

with broad authority to set fees and therefore would allow fee increases to be made administratively.

Fees Should Cover Some Costs of Marine Management Activities. The Marine Life Management Act requires the department to prepare an annual report on the status of sport and commercial fisheries managed by the state. As part of the report, the department gathers data on individual fisheries and uses this information for the management and regulation of commercial and recreational fisheries. We estimate the assessment costs related to this effort to be about \$1 million annually paid for from the General Fund.

We think the costs to conduct the marine assessments should be partially borne by the commercial and recreational fishing activities that benefit from the management of those resources. We therefore recommend a reduction of \$500,000 from the General Fund and an increase in the Fish and Game Preservation Fund of a like amount to support these activities. In order to raise these additional fee revenues, we also recommend the enactment of legislation to assess a surcharge on each of the many existing DFG fees that are assessed on ocean-related fishing activities.

The DFG's Resource Assessment Coordination Can Be Achieved With Fewer Resources. Beginning in 2001-02, the department's budget has included two positions and \$200,000 from the General Fund to coordinate and prioritize certain monitoring and assessment programs. Our review finds that these coordination activities can be absorbed by the existing conservation planning staff, and we therefore recommend the deletion of these positions and associated funding.

Increased Value Can Be Achieved From Forestry's Resource Assessment Efforts

In order to improve the effectiveness of the resource assessment activities of the California Department of Forestry and Fire Protection, we recommend the enactment of legislation that would require that (1) the department include an analysis of the costs and benefits of various resource management policies as part of its assessment activities and (2) the resource assessment information collected by the department be made more readily available to the timber harvest program. Lastly, we recommend expenditure reductions for nonessential activities. (Reduce Item 3540-001-0140 by \$99,000).

The Forest and Rangeland Assessment Report. The CDFFP, under the policy direction of the Board of Forestry, provides fire protection services on timberlands and rangelands, owned privately or by state or local agencies. In addition, CDFFP (1) regulates timber harvesting on for-

estland owned privately or by the state and (2) provides a variety of resource management activities on these lands. As part of these responsibilities, CDFFP compiles and assesses data related to California's forest and rangelands. Statute requires CDFFP to conduct an assessment of these lands and to report its findings every five years to the Secretary for Resources and the Board of Forestry. As specified in statute, the Legislature intended that these assessment activities provide the basis for forest and rangeland policy recommendations. The latest assessment report was due in January 2002, but has yet to be completed. The department, however, anticipates this report will be released soon.

Based on our discussions with the department and our review of draft reports, we find that the department has compiled a substantial amount of data on forest and rangeland resources which provide information on the status and trends of those resources. However, we find that the report does not present the assessment information in such a way that it can easily be used by policymakers as a tool for policy decisions. For example, while the draft report includes data on the number of large, old trees, sometimes referred to as old growth, there is no discussion on the various policy options (including costs and benefits of those options) related to the preservation of old growth trees.

Resource Assessment Needs a Fiscal and Policy Framework. We think that the resource assessment activities of the department could be targeted more effectively if the statute requiring the five-year forest and rangeland assessment report were clarified to explicitly require the department to analyze the costs and benefits of a range of forest and rangeland management policy options as part of the report. For example, the Board of Forestry and the Legislature are often faced with resource policy decisions such as protecting the areas adjacent to fish bearing streams and addressing concerns with clearcutting. Information from the department's assessment activities, if focused on policy issues (including a discussion of costs and benefits of policy options) could be a valuable policy tool for policymakers. We think the department could include a fiscal and policy framework for their next report using existing resources by redirecting their efforts to focus on major forest and rangeland policy issues.

Relevant Assessment Information Should Be Available for Timber Harvest Review. The department is required to review all plans to harvest timber on nonfederal lands, and considers issues such as the impact of timber harvesting on water quality. However, we found that information collected by the department's resource assessment staff (such as the impact of timber harvesting on riparian vegetation and data on stream and road systems) has not been made easily accessible to the department's timber harvest review staff. This is due in large part to the fact that the

timber harvest review program operates as a separate program and that there appear to have been minimal efforts to date to integrate the resource assessment information into the timber harvest review program. To address this concern, we recommend that the Legislature amend statute governing the department's forest and rangeland assessment program to specify that relevant resource assessment information shall be made readily available to the timber harvest review program. We think that this requirement is achievable within existing resources.

Nonessential Assessment Expenditures Should Be Eliminated. In our review of the department's resource assessment efforts, we have identified one program, the Sierra Nevada Initiative Resource Assessment (\$99,000 from the Environmental License Plate Fund [ELPF]) that we conclude is not essential to the department's core assessment and monitoring activities. The program mainly funds contracts to support local and regional research and outreach projects in the Sierra Nevada, rather than the department's resource assessment activities. We therefore recommend the elimination of this program and a corresponding reduction of \$99,000 from ELPF. The resulting savings in ELPF could be used to free-up General Fund proposed for support of other resources programs.

Resource Secretary's Assessment Activities Can Be Reduced

Both major data efforts at the Secretary for Resources, the Legacy Project and The California Environmental Resources Evaluation System (CERES), have major weaknesses. We recommend eliminating the Legacy Project and significantly reducing CERES. These reductions will result in savings of \$2.3 million to the Environmental License Plate Fund that could be made available for other legislative resource priorities. (Reduce Item 0540-001-0140 by \$2,307,000.)

Recommend Eliminating the Legacy Project. The budget proposes about \$1.6 million for the California Legacy Project. The project (under its current and previous names) has received \$5.8 million in funding since 1999-00. The intent of the program as presented to the Legislature is to assess the current condition of the state's natural resources and habitat and to establish a long-term set of funding and policy priorities for future investment in resource protection and habitat acquisition and preservation. While we find the project has increased the level of communication among the various resource departments regarding existing assessment and conservation activities, we recommend that the project be eliminated for the following reasons.

- ***Process for Developing Resource Assessment and Conservation Priorities Remains Unclear.*** Over the course of the Legacy Project, the process for conducting resource assessments and developing

conservation priorities has changed several times, and remain unclear and poorly defined today. For example, the Legacy Project initially proposed to develop a systematic method of decision-making that the project would then use to establish conservation priorities for the state. It now appears that the Legacy Project does not intend to set conservation priorities in such a way. Rather, the project is now focused on compiling information that can be used by others, such as state departments and local planning agencies, in setting their own conservation priorities. The lack of a clear and coherent process for resource assessment and priority development reduces the likelihood that the project will result in valuable products.

- ***Connections to Land Acquisition and Conservation Policies Are Weak.*** The Legacy Project was intended, in part, to help guide resource investment decisions so that conservation and acquisition expenditures are spent effectively. However, our review finds that after three and one-half years of effort, the Legacy Project is not yet sufficiently linked to either the acquisition process or conservation policies. Without such linkages to acquisition and conservation policies, the Legacy Project's value as a strategic tool is limited. For example, the budget proposals for land acquisition under several resources departments do not reference any finding or work product of the Legacy Project as a basis for the proposal.
- ***Coordination and Compilation Can Be Achieved With Existing Agency Resources.*** While we find that the Legacy Project has resulted in some benefits in terms of increasing cross-agency dialogue and compiling departmental products from within the Resources Agency in one place, we think that these benefits are achievable as part of the ongoing coordinating responsibilities of the Secretary.

For these reasons, we recommend that funding for the Legacy Project be eliminated in the budget. This would provide \$1.6 million in ELPF which could free-up a like amount of General Fund in other resources programs.

Recommend Funding for CERES Be Reduced. The CERES is an information system developed by the Secretary of Resources to facilitate access to a variety of electronic data related to natural resources. The CERES system is available on the Internet to the public, free of charge. The budget proposes \$937,000 (ELPF) for CERES, a slight reduction from the current year. We recommend significantly reducing funding for CERES because of a number of factors that reduce the value of the system:

- **No Clear Priorities for Information Displayed.** We find that the Secretary for Resources has not established clear policies and priorities for the type of information that is to be collected or referenced. Without such priorities, it is unclear if CERES is most effectively achieving its mission.
- **Much of the Information Displayed Is Available Elsewhere and Easily Accessible.** Much of the information displayed on the CERES website is available elsewhere on the Internet. While CERES provides the benefit of compiling the information in one Internet location, without it, users can still access the information with relative ease by using publicly available search engines.
- **CERES Is Not Essential to the Work of Resources Departments.** We find that most resource departments generally rely on departmental data and information products, rather than the CERES Web site.

While we have raised concerns with CERES, we are recommending reducing rather than eliminating funding. This is because dismantling the program totally would not allow state departments and the public to make use of the state's past investment to compile resource information. Therefore, we recommend the Legislature reduce funding for the program by \$737,000 (ELPF), leaving \$200,000 in the budget year which is sufficient funding to provide for computing costs to maintain the existing site, but provides no funding to expand or add new information to the site. This would present the Secretary of Resources with the opportunity to develop a strategic plan and budget proposal for the program that could be considered by the Legislature in a future year. The resulting savings in ELPF could free-up a like amount of General Fund in other resources programs.



TIMBER HARVEST FEES

We recommend the enactment of legislation imposing fees on timber operators to fully cover the costs incurred by state agencies in their review and enforcement of timber harvesting plans. This would result in a savings of about \$22 million to the General Fund and \$806,000 to special funds. (Reduce Item 3480-001-0001 by \$1.2 million, Item 3540-001-0001 by \$13.2 million, Item 3540-001-0235 by \$384,000, Item 3600-001-0001 by \$4.9 million, Item 3600-001-0200 by \$422,000, and Item 3940-001-0001 by \$2.8 million; Increase new special fund item under Items 3480, 3540, 3600, and 3940 by like amounts.)

Background. The state regulates the harvesting of timber on nonfederal lands in California under the Forest Practice Act. Specifically, timber harvesting is prohibited unless harvest operations comply with a timber harvest plan (THP) prepared by a registered professional forester and approved by the Director of the California Department of Forestry and Fire Protection (CDFFP). The THP covers such matters as harvest volume, cutting method, erosion control, and wildlife habitat protection.

Timber harvest plans are reviewed by multiple state agencies in addition to CDFFP, including the Departments of Conservation, Fish and Game, and the State Water Resources Control Board (SWRCB). For example, SWRCB is responsible for reviewing the impact of a THP on water quality. The review process can include initial desk reviews, preharvest inspections, inspections during harvesting, and inspections and monitoring after harvesting is completed.

There is a significant amount of variation in the type of plans submitted to CDFFP for review. For example, plans can vary in the amount of timber proposed to be harvested, the type of harvesting methods that will be used, and sensitivity of the natural resources where the harvesting will occur. Furthermore, the type of timber proposed to be harvested and thus the value represented by the THP also varies.

Budget-Year Proposal. As shown in Figure 1, the budget proposes expenditures totaling \$23.5 million for various state agencies to review and enforce THPs. Most of this funding is from the General Fund.

Figure 1			
Timber Harvest Plan Review Expenditures			
<i>2003-04 (In Millions)</i>			
Department	General Fund	Other	Total
Forestry and Fire Protection	\$13.2	\$0.6 ^a	\$13.8
Fish and Game	4.9	0.8 ^b	5.7
State Water Resources Control Board	2.8	—	2.8
Conservation	1.2	—	1.2
Totals	\$22.1	\$1.4	\$23.5

^a Public Resources Account, Timber Tax Fund, and reimbursements.
^b Environmental License Plate Fund and reimbursements.

Fees Should Fully Cover Program Costs. We think that fees levied on timber operators should cover the total state agency costs to review and enforce THPs, including the cost of monitoring the impact of timber harvesting on natural resources. This is because there is a direct link between the THP review and enforcement and those who directly benefit from it through their harvesting of timber. In other words, without the state review and approval of the THP, businesses would not be able to harvest timber. Doing so would be consistent with the Legislature’s actions in requiring the costs of most other environmental regulatory programs, such as those protecting air and water quality, to be fully or partially reimbursed through industry fees and assessments.

Since CDFFP and other state agencies reviewing and enforcing THPs currently do not have the authority to charge fees for their costs associated with these activities, the Legislature would have to enact legislation to provide them with this authority.

Various Fee Mechanisms Could Be Established. We have reviewed a number of potential ways that fees could be structured to recover state agency costs related to THPs. These fee mechanisms include the following:

- **A Per Acre Fee.** Timber operators would pay a fee based on the number of acres proposed to be harvested in the submitted THP,

without regard to the value of the proposed harvest. Under this option, fees could be structured with a sliding scale so that above a certain minimum number of acres, the cost per acre could be reduced. The fees would be payable to CDFFP upon submission of a THP.

- **A Flat Fee Per THP.** Timber operators would pay a flat fee for each THP submitted to CDFFP, without regard to the value of the proposed harvest. The fees would be payable to CDFFP upon submission of a THP.
- **A Fee for Service Basis.** A fee would be assessed based on the costs of state agencies related to reviewing a particular THP. Under this option, THPs requiring more state agency review time would be assessed a higher fee. A fee would be collected at the conclusion of the review process.
- **A Timber Yield Fee.** Timber operators would pay a fee based on the value of timber that is harvested. Such a fee could be collected using the existing timber tax collection system in which timber owners are required to report each quarter the value of timber harvested to the State Board Of Equalization (BOE) for payment of timber yield taxes, based on the value of the harvested timber.

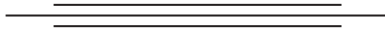
Our analysis of the various potential fee mechanisms concludes that the preferred fee structure would be a timber yield fee. This is because unlike the first three options, the timber yield fee would be directly proportional to the monetary gain from the harvest. This addresses concerns with the flat fee that all timber operators would pay the same regardless of the value harvested. Similarly, there is a concern that under a per acre fee, timber operators submitting the same size THP, but which represent different harvest values, would pay the same fee. We also find that a timber yield fee is preferable because unlike the other options, a yield fee would use an existing process to collect the fee, thereby saving the administrative costs to set up a totally new collection process.

Recommend Legislation to Enact Timber Yield Fee. We recommend that the Legislature enact a timber yield fee, calculated as a percentage of the value of timber that is harvested subject to the Forest Practice Act. We recommend that the Legislature specify that such a fee be collected using the existing timber tax collection system, administered by BOE. We also recommend that the fee *rate* be set initially at a level sufficient to fund the state's costs of review and enforcement of timber harvest plans and the BOE's administration costs. In order to account for fluctuations in the market value of timber (and thus the amount of revenue raised from the fee), the legislation should also authorize BOE to make biannual adjust-

ments in the fee rate in order that the fee would raise sufficient revenues to cover state costs as specified. We further recommend that the legislature create a special fund into which the fee revenues would be deposited, with expenditures from the fund subject to appropriation by the Legislature. We think that this would increase the Legislature's oversight of the use of the new fees. Similar legislation, AB 1172 (Keeley), was introduced last year to enact a fee on timber yield to cover state agency costs for THP review and enforcement.

General Fund and Special Fund Savings. Implementing our recommendation to shift funding in the forest practices regulatory program to fees levied on timber operators would result in General Fund savings of about \$22 million, savings to the Public Resources Account (PRA) of \$384,000, and savings to the Environmental License Plate Fund (ELPF) of \$422,000 in the budget year.

We therefore recommend that the Legislature make the corresponding reductions in General Fund, PRA, and ELPF and the increases of a like amount from the new special fund that we recommend be established. In estimating the savings to the General Fund, PRA, and ELPF, we have assumed that the fee structure and collection process would be in place to allow for collection of the timber yield fee for four quarters of the budget year.



OVERSIGHT OF ELECTRICITY CONTRACT SETTLEMENT FUNDS

In order for the Legislature to evaluate the proposed and future uses for settlement funds to the state resulting from renegotiated electricity contracts, we recommend that the Legislature's budget subcommittees and energy policy committees hold hearings on this issue. In addition, we recommend the enactment of legislation to establish a fund for the deposit of any cash settlements to the state and make the funds available upon appropriation by the Legislature.

Electricity Contract Settlement Agreements. The state has been actively renegotiating the long-term electricity contracts that the Department of Water Resources (DWR) entered into over the past two years to serve the customers of the state's three largest investor owned utilities. The majority of these contracts were signed at relatively high prices during the "energy crisis" in 2001. The Attorney General, the Governor's office, the Electricity Oversight Board (EOB), and the California Public Utilities Commission (CPUC) have all been involved at some level in renegotiating these contracts. At the time this analysis was prepared, approximately 22 long-term contracts had been renegotiated resulting in an estimated \$5.2 billion in savings over the life of the contracts. The majority of these savings are a result of shortening the term of the contracts and lowering contract prices for *future* electricity deliveries. In addition, the state has also received some cash and assets (six electricity generation turbines) as part of the settlements.

Renegotiated Agreements Direct the Expenditure of Settlement Funds. Figure 1 lists the cash and asset settlements received by the state. Thus far, the state has received approximately \$200 million in cash and assets in three separate settlements. The majority of cash and assets are a result of a settlement negotiated with Williams Energy Company and are to be received over the next seven years.

Figure 1**Cash and Assets Received by the State
Resulting From Renegotiated Electricity Contracts***January 1, 2003
(In Millions)*

Company	Cash	Assets	Total
Calpine Energy Services, LP	\$6	—	\$6
Constellation Power Source, Inc.	3	—	3
Williams Energy	101	\$90	191
Totals	\$110	\$90	\$200

The settlement agreements for the three energy corporations listed in Figure 1 each directed the allocation of the cash and assets received by the state. These settlements direct each energy corporation to transfer cash and assets to the Attorney General, who then distributes the cash and assets as set forth in the agreement. Thus far, the state has been allocated \$110 million in cash and \$90 million in assets. The assets the state has received include six gas-fired turbine generators that the Attorney General has allocated to two local districts (four of the turbines have been allocated to the San Francisco Public Utilities Commission and two to the Kings River Conservation District for use in the Fresno area). In addition, \$20 million of the \$110 million has been allocated to the California Consumer Power and Conservation Financing Authority (California Power Authority, or CPA) to assist with the siting and installation of these turbines in the representative areas. (The DWR has entered into long-term contracts for the energy that will be generated from these turbines starting in 2005.)

Additionally, the settlements allocate some cash funds (around \$69 million) to CPA for deposit in a newly created Alternative Energy Retrofit Account. The funds deposited in this account are directed by the settlement to be used to retrofit school and other public buildings with renewable energy and energy efficiency projects. The remaining cash settlements have been allocated to cover the legal costs of the Attorney General, EOB, and CPUC relating to these contract renegotiations.

Future Settlements Also Likely. The state continues to negotiate with seven other energy corporations regarding DWR's remaining contracts, with potentially \$5 billion in reduced state costs at stake. It is possible that these future settlements will include a distribution of cash and/or

assets to the state, in addition to contractual changes. Therefore, in addition to those settlements already completed, the Legislature will likely be presented with additional opportunities to consider and direct the expenditure of settlement funds provided to the state from future electricity contract renegotiations consistent with its priorities.

Legislature Has Opportunity to Direct Use of Settlement Funds Provided to State. Under current law, the Attorney General has the authority to direct the expenditure of settlement funds that are provided to the state, unless the Legislature provides other direction in statute. Since statute does not currently direct settlements resulting from the renegotiation of electricity contracts, the cash and assets resulting from the settlements are being deposited in the Attorney General's Litigation Fund, which is the default account if no other account is specified statutorily.

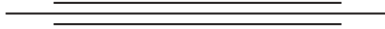
It appears, however, that the Legislature may redirect the use of settlement funds (cash and assets) already received by the *state* to uses other than those specified in the settlement agreements to the extent these funds have not been encumbered. The Legislature has the authority to do this, provided no harm results to any of the *nonstate* parties to the agreement. (The Williams Energy settlement agreement also included settlement funds for other states, local governments, and water districts based on separate claims made against Williams Energy by these entities.)

Recommend Hearings to Consider Uses for Settlement Funds. In order for the Legislature to assess the use of electricity contract settlement funds (both cash and assets) received by the state to date, as well as of potential future settlement funds, we recommend that the Legislature's budget subcommittees and energy policy committees hold hearings regarding the proposed and future uses for such settlement funds. At these hearings, the Legislature should evaluate the Governor's proposal (reflected in the budget display) to spend \$2.3 million in the current year and \$500,000 in the budget year from the cash settlements received to date. These funds are proposed to be transferred from CPA to the Energy Resources Conservation and Development Commission (California Energy Commission) for expenditure in the commission's Solar Schools Program. (This program provides rebates to public schools that purchase and install solar energy systems on their facilities.) The settlement funds proposed for expenditure in the budget display represent a small portion of the funds received by the state for this purpose.

In considering alternative uses for these settlement funds, the Legislature may want to consider directing the settlement funds so that they benefit the electricity ratepayers served by DWR's electricity purchases. This is because the ratepayers served by DWR's electricity purchases are responsible for paying all of the costs associated with DWR's long-term

electricity contracts, including those purchases made by the department during the state's "energy crisis."

Recommend Legislation to Create Special Fund. In order to provide ongoing legislative oversight of the electricity contract settlement funds received by the state, we recommend the enactment of legislation to establish a special fund in which cash from the settlements would be deposited and require that expenditures from the fund be made upon appropriation by the Legislature. By requiring legislative appropriation of these funds, the Legislature would be able to direct expenditures to ensure that they are consistent with its priorities for these settlement funds.



COORDINATING STATE AGENCY REPRESENTATION BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Several agencies represent state energy-related issues at the Federal Energy Regulatory Commission (FERC). In the sections that follow, we provide an overview of the agencies and the perspectives that they represent before FERC, report on the coordination of the agencies in their representation, and make recommendations on how the Legislature could improve the coordination.

Several State Agencies Represent the State Before FERC

Since deregulation of the state's electricity industry, the state's representation before the Federal Energy Regulatory Commission (FERC) has increased significantly. The state has several agencies that represent or have represented various state perspectives on state energy-related issues before FERC.

FERC Overview. The FERC is an agency within the United States Department of Energy that regulates the transmission and sale of wholesale electricity and natural gas and the transmission of oil by pipeline. It has jurisdiction over these issues because of the interstate nature of them.

Deregulation of California's Electricity Industry. The state's involvement with FERC has increased significantly over the last several years. This is a direct result of the state's decision to deregulate its electricity market starting in 1996. As a consequence of deregulation, a large portion of the investor owned utilities' (IOUs') generating assets were transferred to unregulated energy corporations (merchant generators), thereby creating a larger wholesale market for electricity in California. Wholesale electricity markets, and the merchant generators that sell electricity into these markets, fall under the regulatory jurisdiction of FERC. Deregulation, therefore, resulted in greater federal oversight of the state's electricity industry.

Overview of Agencies Representing State Before FERC. There are several state agencies responsible for representing the state before FERC. Some of these agencies have provided such representation for many years, while others' representation came about as a result of deregulation and/or the "energy crisis" that started in 2000. These agencies also represent different state perspectives, such as the perspective of a ratepayer or as a market participant. The following state agencies either represent or have represented state energy-related issues before FERC:

- **Electricity Oversight Board (EOB).** Created at the time of deregulation, its responsibilities include monitoring and investigating matters concerning the electricity grid and electricity markets. The EOB has represented the state's interests before FERC on various energy-related issues.
- **Energy Resources Conservation and Development Commission (California Energy Commission, or CEC).** Created as the state's primary energy policy and planning agency in the mid 1970s, CEC was given explicit state statutory authority to participate in FERC proceedings that could affect its ability to fulfill its energy policy-planning role. The CEC has represented the state on matters affecting the siting of new power plants, among other issues. However, it has not been directly involved in FERC proceedings for several years.
- **Department of Justice (DOJ).** Under the direction of the Attorney General, DOJ enforces state laws and provides legal services to state and local agencies. The DOJ has broad authority to represent the state before FERC to the extent it is deemed necessary to safeguard the public interest and protect ratepayers interests, including protecting ratepayers against unjustified increases in utility prices.
- **California Public Utilities Commission (CPUC).** The commission is responsible for regulating the state's IOUs and protecting the interest of the IOUs' ratepayers. This includes representing issues that affect ratepayer interests before FERC.
- **Department of Water Resources (DWR), California Energy Resources Scheduling (CERS) Division.** The CERS division at DWR purchased electricity on behalf of the state's three largest IOUs during the recent energy crisis, and continues to manage billions of dollars in long-term electricity contracts entered into to serve the customers of the state's three largest IOUs. It has been involved in representing the state before FERC on issues that directly affect its role as a major electricity buyer.

FERC Representation Reasonable Given Current Organization of State's Energy Agencies

We find that a number of state agencies represent similar state energy-related issues before the Federal Energy Regulatory Commission (FERC), but that informal efforts have been made to coordinate FERC representation resulting in reasonable coordination given the current organization of the state's energy agencies.

Supplemental Report Requirement. The *Supplemental Report of the 2002 Budget Act* directed various state agencies to submit to the Legislature reports on the perspectives they represent before FERC. The reports were to specifically identify (1) the state energy-related issues represented by the agency before FERC, (2) the personnel-years and budget resources dedicated to these activities, and (3) a description of each matter the agency was participating in at FERC as of November 1, 2002. The Legislative Analyst's Office was directed to review these reports and present its findings and recommendations in this *Analysis*.

Funding for FERC Activities. Figure 1 summarizes the state resources currently dedicated to FERC representation, as outlined in the reports submitted by the various agencies. Approximately 44 full-time equivalent positions and \$7.4 million were reported to be expended annually on FERC representation. The majority of the funding for these activities comes from utility fees and electricity ratepayers. However, the General Fund supports the FERC-related activities at DOJ. No significant changes in these funding levels have been proposed in the *2003-04 Governor's Budget*.

Figure 1

State Resources Dedicated to FERC Representation

(Dollars in Millions)

Agency	Full-Time Positions	2002-03 Expenditures
Electricity Oversight Board	26	\$3.7
California Energy Commission	2	0.1
Department of Justice	3	1.8
California Public Utilities Commission	14	1.4
California Energy Resources Scheduling	0	0.4
Totals	44	\$7.4

State Agencies Currently Represent Similar Issues Before FERC. Figure 2 provides a summary of the major state energy-related issues currently represented before FERC, by state agency. This figure shows that several agencies are involved in representing some of the same state energy-related issues before FERC. This is especially the case with regard to EOB and CPUC, both of which are involved in representing most of the state's major energy-related issues before FERC. Specifically, EOB and CPUC have each been involved in FERC proceedings related to state requests for refunds from generators, charges of market manipulation, and proposed changes in market design. Recently, the Attorney General has also been involved in the state's proceedings related to refunds from generators and market manipulation. The CERS' involvement before FERC has been limited to a few filings that are specific to its role as a major electricity buyer in the market. The CEC has not directly represented the state before FERC in recent years.

Figure 2

**Major State Energy-Related Issues
Currently Represented Before FERC by Agency^a**

(As of November 1, 2002)

Energy Issue	EOB	DOJ	CPUC	CERS
Reducing and mitigating wholesale energy costs	✓	✓	✓	
Energy market design and mitigation of market abuse	✓	✓	✓	
Maintaining the reliability of the energy system	✓		✓	
Matters relating to the California Energy Resources Scheduling division's market participation	✓		✓	✓

^a Although the California Energy Commission has statutory authority to represent the state before FERC, it has not done so in recent years.

Some Coordination Among Agencies Identified. Despite the evidence that several state agencies represent similar state energy-related issues before FERC, evidence of some informal coordination mechanisms does exist. For example, EOB reports that it maintains ongoing communications with CPUC in relation to various FERC proceedings and in some cases litigates matters jointly with CPUC by dividing the labor between the two agencies. In addition, CEC, CPUC, EOB, and the California Consumer Power and Conservation Financing Authority (California Power Authority, or CPA) have been involved in an informal interagency work-

ing group that meets to coordinate input to FERC proceedings regarding redesign of the wholesale electricity market.

FERC Representation Reasonable Given Current Organization of State's Energy Agencies. Since deregulation of the state's electricity industry and the subsequent energy crisis, there has been a proliferation of agencies involved in implementing the state's energy policy. This has resulted in the current organization of the state's FERC representation, where several state agencies represent the state on similar energy-related issues before FERC. In some cases, this proliferation of energy agencies has resulted in evidence of duplicative efforts and efforts that work at cross-purposes. For example, there are currently several agencies responsible for administering energy conservation and peak-load reduction programs. (These include the CEC, CPUC, and CPA.) However, we have not found this duplication to be the case in general with the state's FERC representation. We think that the informal coordination mechanisms being used by the agencies representing the state before FERC are helping to minimize the duplication of efforts that could arise from the current organizational structure of the state's energy agencies.

Future of State's FERC Representation Depends on State's Energy Agency Organization

The best way to organize and coordinate the state's representation at the Federal Energy Regulatory Commission (FERC) in future years will be dictated by decisions made regarding the structure of the electricity market, as changes to the market structure could result in changes to how the state's energy agencies are organized. For the interim, we recommend the adoption of budget bill language and supplemental report language to direct the agencies representing state energy-related issues before FERC to establish a memorandum of understanding to ensure continued coordination of their activities. We also recommend designating a lead agency to coordinate the memorandum of understanding among the agencies.

Future of State's FERC Representation Depends on State's Energy Agency Organization. There continues to be significant uncertainty regarding the future structure of the state's electricity market. This has made it difficult to evaluate what role the state will have in overseeing the state's electricity market in the future and whether the current organizational structure of the state's energy-related agencies is appropriate. We think this is also the case for the organization of the state's FERC representation. For example, the state would likely have more involvement at FERC if it continues to pursue a deregulated electricity market and less involvement if it returned to a more regulated market. Given this, we recom-

mend that the Legislature evaluate the organization of the state's energy agencies after key decisions have been made regarding the future structure of the electricity industry. This evaluation should also include assessing the current organization of the state's efforts in representing energy-related issues before FERC.

Recommend Interim Solution to Ensure Ongoing Coordination. For the near term, we recommend that the Legislature take a number of actions to ensure ongoing coordination of the agencies representing the state before FERC. First, we recommend the adoption of the following budget bill language directing the agencies involved in representing the state before FERC to develop a memorandum of understanding (MOU) to ensure continued coordination of their efforts. We think that the implementation of a MOU would provide a more formal means of coordinating efforts among agencies in order to avoid duplication of work and to avoid state agencies working at cross purposes, which would reduce effectiveness in representing the state's energy-related issues before FERC. A MOU was adopted in the *1998-99 Budget Act* to coordinate FERC representation between CPUC and EOB, but is no longer valid. In addition, MOUs have been used to coordinate the activities of other state agencies and have been found to be helpful in achieving better coordination among agencies and avoiding duplication.

We would also recommend that the Legislature designate a lead agency that would be accountable for coordinating the MOU. We recommend that the following budget bill language be adopted in the budgets of all of the agencies representing the state before FERC:

In order to ensure that California's interests are represented effectively and consistently before the Federal Energy Regulatory Commission (FERC), the Electricity Oversight Board, Energy Resources Conservation and Development Commission, Department of Justice, California Public Utilities Commission, and the Department of Water Resources' California Energy Resources Scheduling division should enter into a memorandum of understanding (MOU) that sets forth their respective responsibilities in representing state energy-related issues before FERC. This MOU should specify the involvement of each state agency in representing the state before FERC and designate a lead agency.

Second, we recommend the adoption of the following supplemental report language requiring the designated lead agency, in conjunction with the other agencies, to submit a report on the implementation of the MOU to the Legislature by December 1, 2003:

The departments representing the state before the Federal Energy Regulatory Commission (FERC) shall submit to the Joint Legislative Budget Committee and the fiscal committees of both houses of the Legislature by December 1, 2003 a copy of its memorandum of

understanding (MOU) that sets forth the respective responsibilities of each party in representing state energy-related issues before FERC. This should include descriptions of all mechanisms used to coordinate efforts as to comply with the MOU.

DEPARTMENTAL ISSUES

Resources

SECRETARY FOR RESOURCES (0540)

The Secretary for Resources oversees the Resources Agency. The Resources Agency through its various departments, boards, commissions, and conservancies is responsible for conservation, restoration, and management of California's natural and cultural resources. The following departments and organizations are under the Resources Agency:

- Conservation
- Fish and Game
- Forestry and Fire Protection
- Parks and Recreation
- Boating and Waterways
- Water Resources
- State Lands Commission
- Colorado River Board
- California Conservation Corps
- Energy Resources Conservation and Development Commission
- San Francisco Bay Conservation and Development Commission
- California Bay-Delta Authority
- Wildlife Conservation Board
- State Coastal Conservancy
- San Joaquin River Conservancy
- California Tahoe Conservancy
- California Coastal Commission
- State Reclamation Board
- Baldwin Hills Conservancy
- Special Resources Programs
- Coachella Valley Mountains Conservancy
- San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy
- Santa Monica Mountains Conservancy
- Delta Protection Commission
- San Diego River Conservancy

The budget requests \$54.3 million for the Secretary in 2003-04, a decrease of about \$386 million below estimated current-year expenditures. The decrease largely reflects the transfer of the authority to spend Proposition 204 bond funds related to the CALFED Bay-Delta Program from the Secretary to the new California Bay Delta Authority. Major budget proposals include (1) \$32.4 million (Proposition 50) for the River Parkway and Sierra Nevada Cascade Programs, (2) \$12.5 million (Proposition 40) for the River Parkway and Urban Streams Programs, and (3) \$2.3 million (Proposition 50) for statewide bond administration.

For a further discussion of other activities within the Secretary of Resources, please see the “Resource Assessments” write-up in the “Cross-cutting Issues” section of this chapter.

Funding for River Parkways and Sierra Nevada Programs Should Be Provided Through Legislation

The budget proposes \$33.3 million (Propositions 40 and 50) for river parkway projects and \$7 million (Proposition 50) for grants in the Sierra Nevada Cascade Program. We recommend deleting the proposed funding pending enactment of legislation that defines these programs, establishes grant or project funding criteria, and sets expenditure priorities. (Reduce Item 0540-001-6031 by \$32.4 million and Item 0540-001-6029 by \$7.9 million.)

Budget Proposals. The budget proposes \$25.4 million from Proposition 50 and \$7.9 million from Proposition 40 in support of river parkway programs. The budget also proposes \$7 million (Proposition 50) for grants for land and water resource acquisition in the Sierra Nevada Cascade Program.

Proposals Lack Key Information. The bond measures providing funding for these proposals give the implementing agencies very broad authority to expend the funds. Therefore, it is important that the budget proposals supply more specifics on how the programs will be implemented. Our review of the proposals, however, finds that they lack key information necessary to evaluate them. For example, neither of the river parkway proposals describes how the programs will be implemented. Among unanswered questions are whether the program will consist of direct expenditures on projects or grants, what criteria will be used to choose projects or award grants, and whether there will be any allocation by geographic area. While the Sierra Nevada Cascade Program proposal indicates that it will be administered as a grant program, no information is provided as to the type of grant program (competitive or targeted) or on the criteria to be used for the award of the grants.

We find that without this information the Legislature cannot fully evaluate the proposals. For example, knowing whether a grant program will be administered competitively or in some other targeted manner is relevant in evaluating appropriate staffing levels. Furthermore, without identified criteria or priorities, it is not known whether the funding will be directed at the highest statewide priorities or what the projects will achieve in terms of protection, restoration, and providing recreational opportunities.

Funding Should Be Provided Through Legislation. While providing additional funds for river parkways and Sierra Nevada projects may have merit, we think that the Legislature should define these programs and set criteria to prioritize projects for funding. We therefore recommend that any funding for the projects be included in legislation defining the programs and establishing such criteria.

Proposition 50 Statewide Administration Proposal

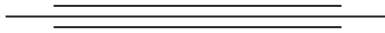
The budget proposes \$2.3 million from Proposition 50 bond funds and 5.3 positions for the Secretary for Resources for Proposition 50 related activities, including (1) accounting activities; (2) the development of a public Web site; and (3) coordination, audit expenses, and other administrative functions. We recommend the Secretary identify the department with which it will contract for accounting activities prior to budget hearings. Because the proposal for the Web site lacks an approved Feasibility Study Report as required under current state policy, we recommend denying funding for this aspect of the proposal. (Reduce Item 0540-001-6031 by \$603,000.)

The budget proposes \$2.3 million from Proposition 50 bond funds for the Secretary for Resources to provide overall coordination and administration of Proposition 50 expenditures. The proposal includes a number of different components, including (1) accounting activities (\$388,000), (2) the development of a public Web site (\$603,000), and (3) overall coordination, and audit expenses (\$1.3 million). Below we raise issues with two components of this proposal, the implementation of the accounting activities and the development of the public Web site.

Accounting Activities Proposal Is Incomplete. The Secretary for Resources requests \$388,000 to contract with another state department to provide accounting services for Proposition 50. The activities to be funded include tracking the fund balances for each allocation within Proposition 50 and appropriations for each department. This kind of accounting information is essential for legislative oversight. However, the Secretary for Resources was not able to specify which state department it will contract with to provide these accounting services. Without this informa-

tion, the Legislature cannot evaluate if the proposal is feasible. We therefore recommend the Secretary identify prior to budget hearings the department with which it expects to contract for this important function.

Delete Funding for Public Website Project. The budget proposes \$603,000 from Proposition 50 to develop a public Web site that would provide the geographic location of all Proposition 50 bond funded projects. Current state policy requires the Department of Finance to review and approve a Feasibility Study Report (FSR) for any information technology project prior to requesting funding in the budget. According to the Department of Finance, a FSR has not been completed for the proposed public website project. We therefore recommend deleting funding for this project.



ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION (3360)

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission, or CEC) is responsible for forecasting energy supply and demand, developing and implementing energy conservation measures, conducting energy-related research and development programs, and siting major power plants.

Proposed Funding. The budget proposes commission expenditures of \$350 million from various state and federal funds in 2003-04. This is \$29.8 million, or 9 percent, more than current-year estimated expenditures. This increase is mainly due to \$30 million received from a revenue bond sale by the California Consumer Power and Conservation Financing Authority that would be used as loans to local public entities for energy efficiency projects.

RETHINKING FUNDING THE CEC'S POWER PLANT SITING PROGRAM

The California Energy Commission is responsible for siting the majority of large power plants in the state. It was directed by the Legislature to report on establishing fees on the developers seeking the commission's siting approval and on generators subject to the commission's enforcement. In the sections that follow, we discuss the findings of the commission's siting fee study, establish that siting fees are appropriate for funding the commission's siting program, including enforcement, and recommend legislation be enacted to establish siting fees on power plant developers and generators.

CEC's Power Plant Siting Program

The commission's siting program licenses the majority of large power plants built in California. The program has traditionally been funded primarily by the Energy Resources Program Account, which is funded by a fee assessed on ratepayers.

Program Overview. The CEC's Energy Facilities Licensing Program (referred to as the siting program) is responsible for licensing thermal power plants of 50 megawatts (MW) or greater (thereby excluding hydroelectric facilities), as well as related transmission lines, fuel supply lines, and other facilities. After licensing, the commission is required to monitor compliance of the facility with all applicable federal, state, and local laws, as well as any conditions of certification required by the commission. The commission also must approve any modifications, expansions, or repowers of existing plants.

Budget Proposal. The budget proposes \$17.4 million for the siting program in 2003-04. This is \$3.7 million less than the current year, a reduction of 18 percent. This reduction largely reflects the sunset of 40 limited-term positions initially allocated to the siting program in 2000-01 to expedite the siting of power plants to help address the electricity shortages in California. The siting program, along with the majority of CEC's general operations, is primarily funded by a surcharge on ratepayers' electricity bills that is deposited in the commission's Energy Resources Program Account (ERPA). Historically, fees have not been levied on developers wishing to site power plants through CEC's process. The *2002-03 Governor's Budget*, however, proposed a \$25,000 flat siting fee to cover a nominal amount (less than 5 percent) of the commission's average costs of siting a power plant. This particular fee proposal was not adopted by the Legislature.

CEC's Siting Fee Study

In a report to the Legislature, the commission evaluated alternative structures for assessing siting application fees and annual compliance fees on the power plant developers/generators they regulate. However, the commission recommended against assessing siting fees.

Supplemental Report Requirements. The *Supplemental Report of the 2002 Budget Act* directed CEC to report to the Legislature on alternative fee structures for imposing fees on (1) developers seeking approval to site power plants and (2) generators for ongoing costs associated with compliance. The Legislative Analyst's Office was directed to review the study and report its findings and recommendations in this *Analysis*.

CEC Recommends Status Quo. The commission's siting fee study recommends retaining the existing funding structure for the siting program (ERPA support). The report maintains that the public's perception that the commission is objective and independent is paramount, and that establishing siting fees on power plant developers may undermine this objectivity. However, CEC recognizes that the power plant developer is a direct beneficiary of the services provided by the siting program. Despite this bottom-line recommendation, the commission's study does evaluate alternative fee structures, as directed by the supplemental report language.

CEC's Fee Alternatives. The CEC evaluated four different fee structures to cover some or all of its costs associated with power plant siting, as follows:

- **Developer Pays 100 Percent of Actual Costs**—The developer would pay for the actual hours charged by CEC staff for siting a particular power plant.
- **Developer Pays 100 Percent of Average Review Costs**—The developer would pay 100 percent of CEC's average cost to review a power plant application (currently around \$665,000).
- **Developer Pays 50 Percent of Actual Review Costs**—The developer would pay 50 percent of actual costs for application review.
- **Developer Pays Flat Fee Based on Size**—The developer would pay \$100,000 plus \$250 per MW of generating capacity up to a maximum of \$350,000, which represents about one-half of CEC's current average costs to review a power plant application.

For each of the above scenarios, CEC also suggested imposing an additional annual fee on the power plant owner to cover ongoing compliance activities. The CEC estimates that the average annual cost to monitor compliance of a power plant is approximately \$15,000.

In its report, the commission evaluated these four fee structures and ranked them based on a number of criteria, including ease of administration and predictability of revenues. The CEC found the flat fee structure the most favorable, mainly due to the relative ease of administration. Figure 1 (see next page) lists CEC's suggested criteria for a fee structure should one be implemented.

Figure 1**CEC's Suggested Criteria
For a Siting Fee Structure**

- Fee level should represent 50 percent of the total average cost of processing the application.
- Fee should be scaled based on the size of the power plant.
- Fee should have a floor and ceiling.
- Developer should be notified of fee level before the start of the application process.
- Annual compliance fee should be assessed on licensed power plants.
- Renewable projects should be exempt from the fees.
- Fees should be deposited in the General Fund to maintain the independence of the commission.
- Siting program expenditures should continue to be budgeted through the legislative budget process.

**Siting Fees on Power Plant Developers and Generators
Are Appropriate**

We find that power plant developers/generators should share in the responsibility of supporting the siting program since they are direct beneficiaries of the services provided by the siting program.

Siting Fees More Justified Under Deregulated Energy Market Structure. Before deregulation of the state's electricity industry, investor owned utilities (IOUs), whose revenues are subject to regulatory review by the California Public Utilities Commission (CPUC), built the bulk of new power plants in California. Since siting fees were not assessed by CEC when new power plants were sited, the IOUs' overall costs were lower than they otherwise would be, and these "savings" were passed on to California ratepayers through lower rates. Therefore, there was a basis for recovering CEC's siting program costs from ratepayers through the use of ERPA funding.

Under the current deregulated system, however, merchant generators (energy wholesalers) are the primary applicants for new power plants, and their revenues are not subject to regulation by CPUC. These generators make investments in power plants for financial gain and are direct beneficiaries of CEC's siting process. These generators are also not required to sell their power in California for use by California ratepayers nor are the prices at which they sell their electricity regulated by the state.

Therefore, the current funding structure, which relies on ratepayers to support the siting program, raises funding inequities. This is because California ratepayers do not necessarily benefit from the siting program, to the extent that additional investment in energy infrastructure approved under the siting program benefits energy users outside California. Accordingly, it is more appropriate under the current deregulated environment for the developer/generator—who directly benefits financially from the siting program—to cover at least some of the siting program’s costs.

Fees Not Likely to Deter Investment in New Generation. The estimated cost of building a natural gas-fired power plant is approximately \$700,000 per MW, or about \$350 million for the typical 500 MW plant. The CEC reports that its average cost for siting a power plant is about \$665,000. Therefore, a fee representing CEC’s average cost to site a typical power plant, for example, would represent an increase in total project costs of less than one-quarter of 1 percent. We do not think that the magnitude of such a fee is likely to deter developers from making investments in power plants.

Other States Assess Siting Fees. The CEC’s siting fee study also included a survey of power plant siting fees in other states. Of the eight states surveyed, all charged some level of fee on applications for new power plants. The fees ranged from very comprehensive in terms of the program costs that were covered—Oregon and Washington bill developers for the state’s actual costs associated with a power plant application—to one-time flat fees that were insignificant in covering the state’s costs in siting a new power plant. In most cases, support for a state’s power plant siting program was a shared responsibility between a fee assessed on the developer/generator and some other revenue source. This survey clearly indicates that paying fees to site a power plant is a regular part of doing business for generators investing in other states around the country.

California’s State and Local Programs Typically Assess Fees on Parties They Permit and Regulate. Central to CEC’s recommendation against establishing siting fees is CEC’s belief that its historical independence would be damaged if it collected fees from the generators it regulates. However, in the resources and environmental protection areas of state and local government, we find that there are numerous instances where agencies assess fees on the parties they permit and regulate, without undue concerns having been raised about a resulting lack of agency objectivity. For example, the State Water Resources Control Board assesses fees on the more than 17,000 waste dischargers it permits and regulates. Similarly, local agencies typically charge fees to cover environmental review costs with respect to a development proposal under consideration.

Support for Siting Program Is Appropriately a Shared Responsibility. As mentioned previously, both siting fees and some other funding source support most of the siting programs in other states. We think that it would be appropriate for the state's siting program to be funded with a mix of siting fees assessed on developers/generators and ERPA funds (which are derived from ratepayers). This is because both developers/generators and ratepayers benefit from the siting program. Ratepayers benefit from the siting program to the extent that additional investments in energy infrastructure increase the reliability of the state's electricity system. In addition, siting fee revenues are likely to be volatile from year to year, which poses challenges for funding a core siting staff from siting fee revenues alone. Since ERPA is a relatively steady funding source, it brings some predictability to the program's revenue stream. In addition, recent legislation allows CEC to reassess its ERPA surcharge annually (up to a capped amount) depending on expected expenditure needs.

Recommend Enactment of Fee Legislation

We recommend the enactment of legislation to establish a siting application fee and an annual compliance fee on power plants under the jurisdiction of the California Energy Commission (CEC), in order to provide partial funding support for CEC's siting and compliance-related activities. We also recommend the enactment of legislation to create a new special fund into which these fees would be deposited.

Legislature Should Enact a Siting Application Fee. As discussed above, we think it is appropriate for power plant developers seeking CEC's siting approval to help fund CEC's siting activities since they are direct beneficiaries of the permits issued by the commission. We therefore recommend the enactment of legislation to establish a siting application fee on power plant developers. The fee should encompass not only applications for new power plants, but also applications for modifications, expansions, or repowers of existing plants. We think that a fee that covers at least 50 percent of CEC's program costs would be reasonable based on the direct financial benefits that accrue to power plant developers that site power plants with CEC.

Consistent with CEC's fee criteria, we also believe that the siting application fee level should be known in advance of the siting process so the developer can plan for it. This is especially important in light of the uncertainty in financing new energy-related projects in the current financial market. Given this, we recommend a flat base fee plus a per MW fee based on power plant capacity. Of the fee proposals evaluated by CEC, the one most favored by the commission was one that proposed a flat \$100,000 fee, plus \$250 per MW, up to a maximum of \$350,000. The maxi-

imum fee represents roughly one-half of CEC's current average costs to permit a power plant. As stated above, while we think that siting fees should cover at least 50 percent of the program's costs to site power plants, the Legislature may wish to consider a fee covering a higher percentage of program costs—up to 100 percent.

Legislature Should Enact Annual Compliance Fee. Similarly, we also recommend the enactment of legislation to establish an annual compliance fee to cover the commission's ongoing compliance monitoring costs. Consistent with CEC's criteria, we recommend establishing a flat fee that is assessed annually on power plant licensees. The CEC estimates that it costs on average \$15,000 per power plant, annually, for compliance monitoring. We believe that a fee of this magnitude would be reasonable.

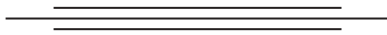
Interaction With Recent Legislation. In establishing the new siting fees, the Legislature should consider the interplay between the fee structure and recently enacted energy legislation. First, Chapter 567, Statutes of 2002 (SB 1269, Peace), authorizes CEC to revoke its certification for any power plant that does not start construction within 12 months after receiving its final permits and resolving its administrative and judicial appeals. It also allows CEC to extend the 12-month limit by an additional two years if the owner reimburses the commission's *actual* cost of licensing the project. If siting fees were enacted, Chapter 567 should be amended to require a developer to pay the commission's actual cost of licensing the power plant *less any siting fees already paid*.

Second, Chapter 516, Statutes of 2002 (SB 1078, Sher), establishes the Renewable Energy Portfolio Standard. This statute requires IOUs to invest 20 percent of their energy supply portfolio in renewable energy by 2017. Given this new requirement, additional investments are likely to be made in new renewable energy projects in the upcoming years. In order to facilitate these investments, CEC has suggested exempting renewable energy projects from the new siting fees. Depending on how the fee is structured, this would have the impact of shifting the costs associated with siting new renewable energy power plants to the developers of other types of power plants (fossil fueled) and/or ratepayers.

Legislature Should Create a Special Fund. We recommend that the Legislature enact legislation to establish a special fund into which the new siting fees would be deposited. Expenditures from the special fund should be made upon appropriation by the Legislature. We think that this would increase the Legislature's oversight of the use of the new fees.

Enactment of Fee Creates ERPA Savings. Establishing siting fees to fund CEC's siting program will create savings to ERPA to the extent fees replace ERPA as a source of funding for the program. The savings will depend on the level of the fee and therefore the percent of the program

costs covered. The ERPA funds have traditionally been used to support CEC's general operations, including forecasting energy supply and demand, and developing and implementing energy conservation measures. The Legislature could appropriate the freed-up ERPA funds to address other legislative priorities for CEC expenditures. Alternatively, the freed-up funds could be added to the ERPA fund balance, which may facilitate a future reduction of the ERPA surcharge assessed on ratepayers.



DEPARTMENT OF FORESTRY AND FIRE PROTECTION (3540)

The California Department of Forestry and Fire Protection (CDFFP), under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, CDFFP (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

The budget requests \$671.5 million for the department in 2003-04, including support and capital outlay expenditures. Of this total, 91 percent is for fire protection, 7 percent is for resource management, and the remainder is for State Fire Marshal activities and administration.

The total proposed budget is a decrease of about \$46 million (or 6.4 percent) below estimated current-year expenditures. Most of this decrease reflects higher expenditures for fire suppression activities during the current year than proposed to be budgeted for 2003-04.

The General Fund will provide the bulk of CDFFP's funding—\$413.8 million (about 63 percent). The remaining funding will come from federal funds and reimbursements (\$166.5 million); the Forest Resources Improvement Fund (FRIF) (\$11.5 million); and various other state funds. Major budget proposals include: (1) a continuation of federal reimbursement authority for prefire activities (\$6.6 million) and the Cooperative Forestry Assistance Programs (\$4.9 million), (2) a reduction of \$3.5 million in various FRIF funded programs, (3) an increase of \$2.2 million in federal reimbursement authority for the California Climate Change Initiative, and (4) an increase of \$2.1 million (State Emergency Telephone Number Account) to continue the implementation of the Computer Aided Dispatch (CAD) system.

Legislature Should Enact Fire Protection Fees

We recommend enactment of legislation to fund one-half of the proposed General Fund budget for fire protection on state responsibility areas by imposing fees on property owners who benefit from these services. This would result in a savings of about \$170 million to the General Fund. We also recommend the enactment of legislation to establish a new special fund for the deposit of the fees. (Reduce Item 3540-001-0001 by \$170 million; increase new special fund item under Item 3540 by like amount.)

Areas of State Responsibility. The CDFFP is responsible for fire protection on approximately one-third (31 million acres) of California's lands. The lands for which CDFFP is responsible are mostly privately owned forestlands, watersheds, and rangelands referred to as "state responsibility areas" (SRAs). The SRA lands must be designated by the Board of Forestry and must be covered wholly or in part by timber, brush, or other vegetation that serves a commercial purpose (such as rangeland or timber harvesting) or that serves a natural resource value (such as watershed protection). There can be several different types of property owners in SRAs, such as timber operators, rangeland owners, and owners of individual residences. However, CDFFP is not responsible for the protection of structures in SRAs.

Fire Protection Funded From General Fund. Funding for fire protection on SRA lands has come almost entirely from the General Fund. The department also receives reimbursements from federal or local agencies to cover those instances in which CDFFP responds to incidents for which other agencies are responsible. For 2003-04, the budget proposes about \$341 million from the General Fund for support of its fire protection program.

Direct Beneficiaries of Fire Protection Service Ought to Share Costs. Property owners in SRAs directly benefit from CDFFP's fire protection services, as does the state's general population through the preservation of natural lands and their wildlife habitat. As we noted in our discussion of financing resource programs in the *Analysis of the 1992-93 Budget Bill*, combining fees and General Fund revenues to finance a program enables a sharing of costs among private beneficiaries of services and the general public (please see page IV-19). We therefore recommend that the Legislature enact legislation that would provide for a sharing of the costs of fire protection in SRAs between property owners and the general public. This approach is also consistent with that of several other western states which require landowners to share in the costs of fire protection services provided by the state. We further recommend that the costs be shared evenly between the state and fee payers. This approach is used in Oregon and

Washington and appears to be a reasonable approach to allocating costs of a service for which the benefits and costs cannot be precisely measured and allocated.

Various Fee Mechanisms Could Be Established. There are a number of potential ways that fees could be structured to partially recover state costs for providing fire protection services in SRAs. All of the fee structures discussed below assume that (1) the fees are assessed only on those parcels located within SRAs and (2) the fees would be collected either by CDFFP or by each county as part of the property tax assessment.

The fee mechanisms are discussed individually below, but in many cases the individual fee mechanisms could be combined in a more complex fee structure. Some of the fee mechanisms result in fees for all landowners in SRAs, although the fee amount will vary. Other fee mechanisms would be focused on selected types of parcels in SRAs, such as parcels with timber or those parcels with residences.

Options for All SRA Parcels to Pay a Fee. These options include:

- **A Fee Based on Wildland Fire Risk.** This fee would be based on the department's analysis of wildland fire risk to a particular area, to reflect the fact that parcels in high risk areas are likely to receive greater benefit from CDFFP services than those parcels in areas less likely to experience wildland fire. Risk could be based on historical fire patterns and the vegetation type of particular areas.
- **A Fee Based on the Type of Land.** Under this fee option, fee rates would differ depending on the type of land. For example, timberland could be charged a higher fee than rangelands because it is generally more costly to suppress a timberland fire than a rangeland fire. Oregon and Washington, for example, have fee structures with differing assessment rates based on land types.
- **Per-Acre Fees Based on Past Actual Regional Costs.** Under this fee option, each of the 21 CDFFP fire districts would determine a per-acre assessment based on the past actual costs of fire suppression in that specific district. This fee structure is used in Oregon to partially fund state fire protection services.
- **A Flat Per-Acre Fee.** Under this fee option, property owners would be charged a simple per-acre fee regardless of the type of land, risk, or level of improvements on the land.

Options for Selected Parcels in SRAs to Pay a Fee. These options include:

- ***A Fee on Parcels With Residences.*** A fee would be assessed on parcels with residences, to reflect the fact that the presence of homes near wildlands increases the threat of fire to forestlands. A similar fee is applied in Oregon, where there is a surcharge of \$38 on all improved lots in SRAs.
- ***Timber Harvest Yield Fee.*** Timber operators would pay a fee based on the value of timber that is harvested. Such a fee could be collected using the existing timber tax collection system which relies on the Board of Equalization. Idaho uses a similar fee structure and charges timber operators a 12-cent tax per 1,000 board feet of harvested timber to partially offset the costs of providing wildland fire protection services.

For any one of the above fee mechanisms, fees could be adjusted to provide an incentive to property owners to take steps that potentially lower the extent of state fire protection services that would be needed. These would include fuel reduction and fire safe planning activities. In addition, fee reductions could be offered to property owners that have already purchased some level of fire protection, thereby potentially lowering the extent of *state* fire protection services that would be needed.

Preferred Fee Mechanism. Our review of the various potential fee mechanisms concludes that the preferred approach for the budget year would involve two steps: (1) establishing a simple per-acre fee structure as part of the county tax collection efforts for the interim (2003-04 and 2004-05) and (2) establishing a process to develop a permanent fee structure. We estimate the fee would need to be about \$6 per acre in order to fund one-half of the proposed General Fund budget for fire protection in SRAs.

We think a per-acre fee is the preferred approach among the options discussed because it is the most efficient fee mechanism by which the state could recover a portion of its costs of providing wildland fire protection services to landowners in the budget year. Furthermore, we think that acreage is a reasonable proxy for benefit to landowners and, unlike many of the other options, it is broad based and would not disproportionately affect one type of landowner over another. Lastly, the state's costs to collect the fee would be reduced by using an existing collection process (county property tax assessment and collection), rather than creating an entirely new one.

While we think a per-acre fee is a reasonable approach for the next two years, we recommend a permanent fee structure be developed and established by the Board of Forestry (to be implemented beginning with 2005-06) based upon further analysis of the various fee options. We think such an analysis is needed in order to further refine the fee structure by

making more precise the relationship between the amount of the fee assessed and the benefit a particular landowner receives from the state's firefighting services. This analysis should take into account any fire protection services already purchased by the landowner. In addition, the fee structure should allow for incentives to reduce the risk of wildland fire. We think such an analysis can be completed by the department under the direction of the Board of Forestry as part of its resource assessment activities. (For a discussion of the department's resource assessment activities, please see the "Crosscutting Issues" section of this chapter.) Based upon the analysis by the department, we recommend the board set fees commencing with 2005-06.

Recommend Legislation to Enact an Interim Per-Acre Fee Structure and Provide for Development of a Permanent Fee Structure. We therefore recommend the enactment of legislation to establish a per-acre fire protection fee to partially offset the state costs to provide fire protection services in SRAs. We recommend the fee be imposed on all parcels located within SRAs except for those parcels (1) exempt from property taxes, (2) owned by a public agency, or (3) already receiving fire protection and suppression services under a cooperative agreement between a local entity and CDFFP. We further recommend that the Legislature specify that such a fee be collected by each county as part of the property tax assessment and collection process. We also recommend that the fee rate be set for 2003-04 and 2004-05 at a level sufficient to fund one-half of the proposed General Fund budget (\$170 million) for fire protection in SRAs and the county's administrative costs.

Finally, we recommend that the fee legislation provide that, commencing with 2005-06 and each fiscal year thereafter, the fee rate is to be set by the Board of Forestry, based upon an analysis by the department of the costs and benefits of the various fee mechanisms, including those mechanisms that provide incentives for activities that may reduce the need for state fire protection services.

Recommend Creation of Special Fund. Lastly, we recommend the enactment of legislation to create a special fund into which the fee revenues would be deposited, with expenditures subject to appropriation by the Legislature. We think that this would increase the Legislature's oversight of the use of the new fees.

General Fund Savings. Implementing our recommendation to partially shift funding for wildland fire protection in SRAs to fees would result in a General Fund savings of about \$170 million. We therefore recommend that the Legislature make the corresponding reductions in the department's General Fund budget and provide an increase of a like amount from the new special fund that we recommend be established for

the deposit of the fire protection fee. In estimating the savings to the General Fund, we have assumed that the fee structure and collection process would be in place to allow for collection of the fire protection fee for a full year.

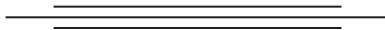
Recommend Rejection of Computer Aided Dispatch Proposal

Consistent with our recommendation in the “General Government” chapter of this Analysis, we recommend rejection of the proposal to provide funding for the Computer Aided Dispatch system because funding the proposal from the State Emergency Telephone Number (911) Account is inconsistent with current law and changes the nature of the 911 surcharge. (Reduce Item 3540-001-0022 by \$2.6 million.)

Budget-Year Proposal. The budget proposes \$2.6 million in one-time funding from the State Emergency Telephone Number (911) Account to continue the implementation of the Computer Aided Dispatch (CAD) system that facilitates dispatch of CDFFP resources to emergencies. In 2001-02, CDFFP received \$10.4 million General Fund for the development and implementation of the CAD system.

This proposal is part of a larger proposal to shift \$47 million in funding from the Motor Vehicle Account and the General Fund to the 911 Account. (Please see the discussion of these proposals in the “State Emergency Telephone Number Account” write-up in the “Crosscutting Issues” section of the General Government chapter of this *Analysis*.)

Recommend Rejection of CAD Proposal. Consistent with our recommendation in the “General Government” chapter of this *Analysis*, we recommend rejection of CAD proposal because funding the proposal from the 911 account is inconsistent with current law and changes the nature of the 911 surcharge.



WILDLIFE CONSERVATION BOARD (3640)

The Wildlife Conservation Board (WCB) acquires property in order to protect and preserve wildlife and provide fishing, hunting, and recreational access facilities. The budget proposes \$5.9 million for support of the board's state operations in 2003-04, an increase of \$2.5 million (or 76 percent) above current-year estimated expenditures. The increase mainly reflects a \$3.7 million augmentation from Proposition 50 bond funds for administrative support for bond-funded land acquisition and restoration. The WCB's support funding comes from a number of fund sources, including the General Fund, Habitat Conservation Fund, Environmental License Plate Fund, and bond funds. The budget also proposes \$411.9 million (mainly bond funds) for capital outlay expenditures in WCB. This is a decrease of \$276.8 million (or 40 percent) from estimated current-year expenditures. The decrease reflects the drawing down of Proposition 12 and Proposition 40 bond funds available to WCB in prior years.

Legislature Lacks Effective Oversight Over \$1 Billion in Bond Expenditures

We recommend establishing appropriations in the budget bill for expenditures of the Wildlife Conservation Board funded by Proposition 40 and Proposition 50 bond funds for various acquisition, restoration, habitat conservation, and capital outlay projects, in order to provide greater legislative oversight. Further, we recommend approval of budget bill language to ensure the Legislature can exercise ongoing oversight of these expenditures.

In the sections that follow, we discuss the recently passed Propositions 40 and 50 bond measures and highlight barriers to legislative oversight over WCB's bond expenditures. We recommend three steps the Legislature should take to ensure adequate bond oversight. Specifically, we recommend that the Legislature (1) include bond appropriations in the budget bill, (2) schedule projects in the budget bill by project category,

and (3) require legislative notification of major projects for which bond funding has been committed.

Propositions 40 and 50 Passed by Voters. Voters passed two large resources bond measures in 2002 allocating over \$1.2 billion in bond funds to WCB. Proposition 40—The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund—was passed in March 2002 and allocates \$300 million to WCB. Proposition 50—The Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002—was passed in November 2002 and allocates a total of \$940 million to WCB.

Under the terms of Propositions 40 and 50, WCB is given broad authority to expend the bond funds for various purposes, including acquisition and restoration of watersheds and wetlands, agricultural and grazing land, species habitat, oak woodlands, and other habitat categories.

Of the over \$1.2 billion allocated to WCB in Propositions 40 and 50, all but \$50 million (related to Colorado River management) is continuously appropriated directly to WCB by the terms of the bond measures. This means that almost \$1.2 billion of WCB expenditures over time would be allocated outside of the budget process without legislative appropriation. The projects funded by these bond funds are also not subject to State Public Works Board review. This board provides a review and approval process to assure that capital outlay projects adhere to legislatively approved scope and budget.

Consistent with Proposition 50, the budget proposes to allocate \$363.5 million from Proposition 50 directly to WCB (without a budget bill appropriation) for capital outlay expenditures in 2003-04. The budget also proposes \$3.7 million for WCB from Proposition 50 for state operations. The Proposition 50 funds for state operations are appropriated in the budget bill. As regards Proposition 40, the Governor's budget does not propose any expenditures from WCB's continuous appropriations authority in 2003-04.

Bond Fund Expenditures Should Be Appropriated in Budget Bill. While the budget's proposal to continuously appropriate funds to WCB is consistent with the terms of both Propositions 40 and 50, such a process of allocating funds outside of the budget process reduces the Legislature's oversight over the expenditure of bond funds. Appropriating these expenditures in the budget bill would provide the Legislature with greater oversight of when funds are spent—consistent with the requirements of the bonds—and better ensure that the objectives of the bonds are accomplished.

We find that neither Proposition 40 nor Proposition 50 precludes the Legislature from considering the proposed expenditures in the budget

process and appropriating the expenditures. Legislative Counsel has advised us that generally the Legislature has the authority to appropriate the bond funds in the budget bill for specified purposes, as long as those purposes are consistent with the bond act. Such an approach is consistent with current practice whereby expenditures from the Habitat Conservation Fund (Proposition 117) and Proposition 204, although continuously appropriated, are scheduled in the budget bill. Therefore, we recommend establishing these appropriations in the budget bill for both Proposition 40 and 50 expenditures in WCB.

Expenditures Should Be Scheduled in Budget Bill by Category. In addition to appropriating WCB's bond-funded expenditures in the budget bill, we conclude that the Legislature's oversight of these expenditures would be increased if the expenditures were scheduled in the budget bill at least by broad category. Currently, no such information exists. The Governor's budget documents simply show that of the \$411.9 million proposed for capital outlay in 2003-04 (largely from Proposition 50), \$385.9 million is for "unscheduled projects."

It is particularly important for the Legislature to oversee these expenditures given the numerous resources agencies with overlapping missions to acquire and restore land. For example, WCB's capital outlay expenditures need to be considered in conjunction with the proposed expenditures of the seven regional state conservancies, the State Coastal Conservancy, the Department of Water Resources, and the Department of Parks and Recreation. All of these state agencies receive bond funds and other funding to acquire or restore land on behalf of the state—an overlapping mission with the WCB. By appropriating WCB's bond expenditures in the budget bill, the Legislature can evaluate the budget package for land acquisition and restoration as a whole, provided that the Legislature has some level of detail about projects proposed for funding.

We recognize that WCB may not wish to have a project-by-project list of proposed expenditures scheduled in the budget bill. This could limit its flexibility to act swiftly on opportunity purchases. However, we think that it is reasonable for the Legislature to be apprised of WCB's priorities for expenditures so that it has a basis on which to evaluate the budget proposal, in conjunction with the budget proposals of other departments that have similar or overlapping missions. Therefore, we recommend that WCB's capital outlay expenditures from Propositions 40 and 50 be scheduled in the budget bill using broad categories. These categories could include the following:

- Agriculture and Rangeland
- Coastal Range Habitat

- Coastal Watershed and Wetland Protection
- Colorado River
- Oak Woodlands
- Sierra Nevada Mountain Habitat
- Urban Recreation

We recommend that WCB display its proposed expenditures in these categories and submit its schedule to the budget subcommittees prior to budget hearings. Finally, we note that Section 26.00 of the budget bill provides flexibility to the administration to make intra-schedule transfers under a specified threshold amount, and upon legislative notification for transfers above the threshold level.

Recommend Legislative Notification of Project Funding. In order for the Legislature to exercise ongoing oversight of WCB's expenditures from Proposition 50 funds, we recommend that the Legislature amend control section 9.45 in the budget bill to apply to Proposition 50 funds as well. This control section was added to the current-year budget act by the Legislature (and has been continued in the Governor's proposal for 2003-04) in order to provide notification prior to project purchases using Proposition 40 funds. (The control section requires prior legislative notification of the details of projects exceeding \$25 million from all fund sources, including Proposition 40 bond funds.) By making this amendment to the budget bill, the Legislature would be notified of all major projects receiving Proposition 50 funding commitments from not just WCB, but any other state agency as well.

Colorado River Proposal Contrary to Bond And Implementing Legislation

We recommend that \$32.5 million requested from Proposition 50 bond funds for the Colorado River program be denied because the Legislature's conditions for expenditure of these funds—found in implementing legislation—have not been met.

Proposition 50 allocates, upon appropriation by the Legislature, \$50 million to WCB for the acquisition, protection, and restoration of land and water resources necessary to meet state obligations for regulatory requirements related to California's allocation of water supplies from the Colorado River. Chapter 617, Statutes of 2002 (SB 482, Kuehl), established conditions for the expenditure of the \$50 million, including the execution of a settlement agreement among various water agencies relating to Colorado River water entitlements by December 31, 2002. At the time

this analysis was prepared, the required settlement agreement had not been executed.

The budget proposes \$32.5 million from Proposition 50 for the Colorado River program, and does not request this through a budget bill appropriation. This is contrary to the Proposition 50 requirement that the Colorado River funds be appropriated by the Legislature, as well as contrary to the requirements of Chapter 617. Therefore, we recommend that this request be denied.

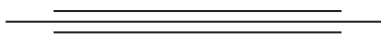
Shift Habitat Conservation Fund Support From General Fund to Bond Funds

The budget proposes to transfer \$21.7 million from the General Fund to the Habitat Conservation Fund to fulfill a funding requirement of the Wildlife Protection Act of 1990. The act specifically allows bond funds to be used for this purpose. We recommend deletion of the \$21.7 million General Fund transfer to be replaced with a transfer of a like amount from Proposition 50 bond funds. (Delete Item 3640-311-0001, and create Item 3640-311-6031 in the amount of \$21.7 million.)

The Habitat Conservation Fund. Proposition 117, the California Wildlife Protection Act of 1990, was passed by voters in June 1990. Among other things, the act requires an annual transfer of \$30 million into the Habitat Conservation Fund (HCF) until the year 2020. Funds are then appropriated to various departments for the purposes of the act, with the balance of funds administered by WCB.

Bond Funds Eligible for Transfer to HCF. The act provides parameters for the transfer of money to HCF. Of the \$30 million to be transferred annually, all must be General Fund unless funds are available and transferred from various other eligible sources. These eligible sources include the Cigarette and Tobacco Products Surtax Fund, Environmental License Plate Fund, the Wildlife Restoration Fund, and any bond funds which were authorized after July 1, 1990 and that may be used for purposes which are identical to the purposes specified in the act.

Proposition 50 an Appropriate Bond Source for Transfer. Our review finds that HCF funds proposed to be expended in 2003-04 are for acquisitions that meet the funding criteria of WCB's allocation under Proposition 50. We therefore recommend a one-time transfer of \$21.7 million in Proposition 50 bond funds to HCF in 2003-04, in replacement of the proposed General Fund transfer of this amount.



CALIFORNIA COASTAL COMMISSION (3720)

The California Coastal Commission was created by the State Coastal Act of 1976. In general, the act seeks to protect the state's natural and scenic resources along California's coast. It also delineates a "coastal zone" running the length of the California coast, extending seaward to the state's territorial limit of three miles, and extending inland a varying width from 1,000 yards to several miles. The commission's primary responsibility is to implement the act's provisions. It is also the state's planning and management agency for the coastal zone. The commission's jurisdiction does not include the San Francisco Bay Area, where development is regulated by the Bay Conservation and Development Commission.

The Coastal Commission has its headquarters in San Francisco and six regional offices throughout the coastal zone. The commission proposes expenditures totaling \$15.8 million in 2003-04. This represents a decrease of \$521,000, or 3 percent, below estimated current-year expenditures. The budget proposes a reduction of \$539,000 (General Fund) for the Coastal Management Program and continues the current-year elimination of \$500,000 from the General Fund to assist local agencies in developing local coastal plans.

Coastal Commission's Legal Status Is Uncertain

An appeals court recently ruled that the Coastal Commission's membership structure is unconstitutional. A legislative solution has been introduced to address this legal matter.

Court Rules Commission's Membership Structure Unconstitutional. Pursuant to the Coastal Act, the commission consists of 12 voting members, four appointed by the Governor and eight appointed by the Legislature. These appointees serve two-year terms "at the will" of their appointing body. The commission acts on permits and other matters by majority vote of its members, and enforces the Coastal Act as an executive branch agency.

On December 30, 2002, the State Court of Appeals upheld a lower court ruling that the commission's membership structure is unconstitutional. The court specifically referenced how the commission's members are appointed, holding that the "separations of powers" clause of the California Constitution was violated by giving the Legislature "unrestrained power" to replace a majority of the commission's voting members. The current ruling, if upheld, would remove the authority of the commission to exercise its regulatory functions, including issuing cease and desist orders, granting or denying permits, and ruling on coastal development issues.

Practical Implications of the Court Ruling. The Attorney General requested a rehearing to clarify several points of the December 30 ruling. On January 23, 2003, the Court of Appeals denied this request. The Attorney General has indicated his intent to file an appeal of the Court of Appeals decision. Until the legal status of the Commission is finally resolved, the commission continues to exercise its regulatory authority granted to it under the Coastal Act. The legal status could be settled in a number of ways:

- The California Supreme Court could refuse to take up the Attorney General's appeal, meaning that the State Court of Appeals ruling would stand. (The Supreme Court has 90 days from the filing of the appeal to make this decision.)
- The California Supreme Court could accept to hear the Attorney General's appeal, and could later accept or overturn the lower court decision. This could take approximately one year to resolve.
- The Legislature could respond to the constitutional issues raised by the lower court decision by amending the membership structure of the commission. At the time this analysis was prepared, a number of bills had been introduced to revise the Legislature's appointment power by making legislative appointees to the Commission subject to a fixed term rather than "at the will" of the Legislature. These bills are Senate Bill 2x (Kuehl), Assembly Bill 90 (Wyland), and Assembly Bill 2x (Jackson).

Legislature Should Act to Address Coastal Commission's Legal Status. We think that it is important for the issue of the commission's legal status to be resolved in a timely manner. As long as the legality of the commission's current structure is in question, the commission's ability to enforce the Coastal Act effectively is jeopardized. We therefore recommend that the Legislature enact the legislation necessary to address this issue in a timely manner.

DEPARTMENT OF PARKS AND RECREATION (3790)

The Department of Parks and Recreation (DPR) acquires, develops, and manages the natural, cultural, and recreational resources in the state park system and the off-highway vehicle trail system. In addition, the department administers state and federal grants to local entities that help provide parks and open-space areas throughout the state.

The state park system consists of 271 units, including 31 units administered by local and regional agencies. The system contains approximately 1.4 million acres, which includes 3,000 miles of trails, 285 miles of coastline, 822 miles of lake and river frontage, and about 13,500 camp sites. Over 80 million visitors travel to state parks each year.

The budget proposes about \$1 billion in total expenditures for the department in 2003-04. This is an overall decrease of about \$221 million (22 percent) below estimated current-year expenditures. Most of this reflects a decrease in bond funds for state and local parks.

The budget proposes \$278.6 million in departmental support, \$633.4 million in local assistance and \$114 million in capital outlay expenditures. (Please also see the "Capital Outlay" chapter of this *Analysis*.) Of the total proposed expenditures in 2003-04, about \$89.9 million (10 percent) will come from the General Fund; \$717.6 million (71 percent) from bond funding; \$96.7 million (10 percent) from the State Parks and Recreation Fund; \$49 million (5 percent) from the Off-Highway Vehicle Trust Account; and the remainder \$47.1 million (5 percent) from various other state funds, federal funds, and reimbursements.

The budget proposes to create \$20 million of General Fund savings by increasing state park fees to pay for state park operations. The budget proposes additional General Fund reductions totaling \$15 million by shifting funding to other fund sources (\$6 million) and as a result of an administrative reorganization (\$9 million).

Reorganization Proposal Lacks Information

The budget proposes to achieve \$9 million in General Fund savings by reorganizing and consolidating the existing departmental administrative structure. We withhold recommendation on this proposal until the department provides information detailing how the proposed reorganization will achieve the anticipated General Fund savings.

Budget Proposes General Fund Savings Through Reorganization. The budget proposes \$9 million in General Fund savings and the reduction of 90 positions through a reorganization effort. At the time this analysis was prepared, the department was not able to provide specific details on how this reorganization and subsequent savings will be achieved.

Recommend Department Report at Budget Hearings on Proposed Reorganization. Without information on how the reorganization will be achieved, the Legislature cannot determine the feasibility nor the programmatic impact of the budget proposal. We therefore recommend that the department provide details of this proposal to the Legislature prior to budget hearings that will allow for such an assessment.

Historical and Cultural Grants Funding Should Be Consistent With Existing Statute

The budget proposes \$98 million from Proposition 40 for a new cultural and historical grant program. Although the budget proposal lacks details on the implementation of these grant proposals, we find that Chapter 1126, Statutes of 2002 (AB 716, Firebaugh), does specify an allocation process for the historical and cultural allocation of funds in Proposition 40. We therefore recommend the Legislature appropriate the funds requested in the budget proposal consistent with the provisions of Chapter 1126.

Budget Proposes \$98 Million in Bond Funding for Historical and Cultural Grants Program. Proposition 40 (approved by the voters in March 2002) provides \$267.5 million for historical and cultural resources preservation, \$37.5 million of which is earmarked for two specific projects. Proposition 40 broadly defines the use of these funds to allow for the acquisition, development, preservation, and interpretation of many different types of cultural and historical resources, including buildings, sites, and artifacts.

The budget proposes a total of \$98 million from this Proposition 40 allocation for a new historical and cultural grants program. Of this amount, \$2.2 million is for administrative costs (\$1.9 million and 16.5

positions in the DPR and \$290,000 and 2 positions in the Secretary for the Resources Agency).

Budget Proposal Lacks Details. We find that the budget proposal for a new historical and cultural grants program lacks key information necessary to evaluate this initiative. For example, the proposal does not set out criteria or priorities for awarding grants, making it difficult for the Legislature to assess what the program might achieve in terms of protection and restoration of cultural and historical resources. According to the budget proposal, the administration proposes to introduce legislation to establish details of the grant program at a later date.

Funding Should Be Consistent With Existing Statute. However, we find that recently enacted legislation (Chapter 1126, Statutes of 2002 [AB 716, Firebaugh]), creates a structure and specifies priorities for the funding of historical and cultural grants and loans. Specifically, Chapter 1126 establishes the California Cultural and Historical Endowment, consisting of a specified membership, in the California State Library to administer an historical and cultural resources grant and loan program. The legislation further specifies that all Proposition 40 allocations for historical and cultural grants and loans be expended according to the provisions outlined in Chapter 1126. Therefore, since the Legislature has already specified an allocation process in Chapter 1126, we recommend the Legislature appropriate the funds requested in the budget proposal consistent with the provisions of Chapter 1126.

Recommend Deleting Funding for Statewide Acquisition Program

The budget proposes \$35 million from Proposition 40 for a statewide acquisition program for state parks. However, the budget provides minimal information on (1) the administration's priorities for these expenditures, and (2) future costs associated with the acquisitions. Given the lack of information, we recommend the proposal be denied. (Reduce Item 3790-301-6029 by \$35 million.)

Budget Proposes \$35 Million for Statewide Acquisition Program. Proposition 40 provides \$225 million for state park improvements and acquisitions, specifying that no more than 50 percent of the allocation is for land acquisitions. To date, the Legislature has appropriated \$69 million from this allocation. The budget proposes an additional \$35 million from this allocation for a statewide acquisition program.

Budget Provides Minimal Information on How Funds Will Be Spent. When making land acquisition funding decisions, we think it is important for the Legislature to have information about the general geographic area proposed for acquisition, the general type of acquisition that is pro-

posed, such as urban parks or wildlife habitat, and an explanation of how the proposed acquisitions further the specific objectives for which the acquisitions is sought. This information is needed so that the Legislature can determine whether the proposed use of the funds is consistent with its priorities. In our review of the budget proposal, we find that none of the above information has been provided.

Land Acquisitions May Result in Unfunded General Fund Obligations. As we noted in our *Analysis of the 2002-03 Budget Bill*, state park-related land acquisitions can result in future development and operation costs. However, the department has provided no information on estimated future costs (both support and development) associated with the proposed acquisitions. Without this information, the Legislature cannot assess the full cost of the budget proposal, which could include future pressure on the General Fund.

Recommend Deletion of Funding. Given the lack of information needed to evaluate the proposed acquisition program, and the potential for the acquisitions to result in future General Fund obligations, we recommend the proposal be deleted.

Concession and Operating Agreement Proposals

Under current law, the Legislature is required to review and approve any proposed or amended concession contract that involves a total investment or annual gross sales over \$500,000. In past years, the Legislature has provided the required approval in the supplemental report of the budget act.

The department has included six concession proposals and one proposed operating agreement in its budget that require legislative approval. We find all of the proposals to be warranted.

Big Basin Redwoods State Park, Big Basin Redwoods Concession. The department requests approval to solicit bids to operate and maintain the gift shop and camp store at the Big Basin Redwoods State Park (Santa Cruz County). Proposed conditions for the new contract include a term not to exceed ten years and minimum monthly rent of \$1000 or 16.5 percent of the monthly gross receipts, whichever is greater.

Carnegie State Vehicular Recreation Area, Store, and Motocross Track Concession. The department requests approval to solicit bids to develop, operate, and maintain a store and the motocross track at Carnegie State Vehicular Recreation Area (San Joaquin County). Proposed conditions for the new contract include a term not to exceed ten years, minimum annual rent of \$150,000 or 10 percent of the gross sales, and a minimum capital investment of \$400,000 to replace the existing store building.

Columbia State Historic Park, City and Fallon Hotel. The department requests approval to solicit bids to operate and maintain the City and Fallon Hotel complex concession (Tuolumne County). Proposed conditions for the new contract include a term not to exceed ten years, a minimum of \$20,000 in capital improvements, and minimum rent of four percent of gross receipts.

Old Town San Diego State Historic Park, Three Retail Specialty Store Concessions. The budget includes three separate requests from the department for approval to solicit bids for three separate retail specialty stores. All three of the stores have contracts that have expired and are operating on a month to month basis. Proposed conditions for the new contracts vary slightly for each of the stores and include a five-year term, minimum monthly rent of \$3,500 or 9 to 10 percent of gross monthly sales, and minimum capital improvement costs between \$25,000 and \$60,000.

Thornton State Beach, Operating Agreement. The department requests approval to enter into an operating agreement with the City of Daly City for the operation and maintenance of Thornton State Beach. The term of the agreement will not exceed 30 years.



DEPARTMENT OF WATER RESOURCES (3860)

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 safe drinking water projects. The department is also a major implementing agency for the CALFED Bay-Delta Program, which is implementing a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (the "Bay-Delta"). (Please see the discussion on the "CALFED Bay-Delta Program" in the "Crosscutting Issues" section of this chapter.)

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). However, on January 1, 2003, the IOUs resumed their electricity purchasing responsibilities. Nevertheless, CERS continues to manage the long-term contracts entered into by the department during the last two years.

The budget proposes total expenditures of about \$6.6 billion in 2003-04, an increase of about \$261 million, or 4 percent, above estimated expenditures in the current year. This increase is partly a result of an increase in Proposition 50 bond expenditures, mainly for activities related to the CALFED program. It also reflects an increase in expenditures (\$340 million) related to the energy purchases made on behalf of the IOUs, largely for debt servicing costs. Of the proposed total expenditures, about \$5.3 billion is for energy purchases on behalf of IOUs and about \$750 million is for planning, construction, and operation of SWP, financed with SWP funds (revenues from water contractors).

Major budget proposals include: (1) the transfer of around 75 personnel-years and \$77.8 million to the newly established California Bay-Delta Authority; (2) expenditure of approximately \$300 million from Proposition 50 for CALFED, desalination projects, water security, and water management grants; and (3) a \$4.4 million reduction in General Fund expenditures for various water management and flood management activities.

Fee-Based Cost Recovery for Dam Safety Program

We recommend the enactment of legislation to revise the existing dam safety fee structure in order that fees fully replace the department's budgeted General Fund expenditures for the dam safety program. We also recommend the enactment of legislation to require that dam safety fees be deposited in a special fund. (Reduce Item 3860-001-0001 by \$7.8 million and increase new special fund item by a like amount.)

Dam Safety Program Overview. The DWR's dam safety program regulates approximately 1,250 dams in the state that are not under federal jurisdiction. The program is responsible for supervising the maintenance and operation of all non-federal dams that are of a specified minimum size (dams within the department's jurisdiction are either over 25 feet tall or have storage capacity that exceeds 50 acre-feet).

In exercising its responsibility, the program reviews plans and supervises the construction of new dams, and the enlargement, alteration, repair, or removal of existing dams. The program currently oversees the construction of approximately 3 to 5 new dams and supervises around 10 to 15 major alterations or repairs annually. The program is also charged with evaluating the seismic stability of dams with close proximity to fault lines and has been involved in overseeing security at dams. Finally, the dam safety program also performs annual inspections of dams under its jurisdiction.

Fee Structure. The current fee structure in the dam safety program was established by statute and was last revised in 1991. It consists of two fees. The first fee is an annual maintenance fee of \$200 per dam plus \$24 times the dam's height in feet. The second is a filing fee for a new dam or enlargement, alteration, or repair of an existing dam. This filing fee is calculated as a fixed percentage of estimated costs of the project (tiered depending on project size), and the minimum filing fee is \$300. Statute has limited the amount of fees for dams located on farms or ranch properties and for small "privately owned" dams (small privately owned dams refers to dams with less than 100 acre-feet of storage capacity owned by individuals and businesses). These fees are set at \$150 per dam plus \$16 times the dam's height in feet.

The department collects around \$1.9 million annually in maintenance fees. These fees have remained virtually constant over the last five years. The division also collects an average of \$475,000 annually in filing fees for new dams or changes to existing dams. However, revenues from the filing fees have varied significantly—ranging from \$300,000 to \$5 million annually—depending on workload.

Budget-Year Proposal. The Governor's budget proposes about \$8.8 million for the dam safety program in 2003-04. Of this amount, \$7.8 million is from the General Fund, and \$1 million is from the Proposition 50 bond fund for dam security activities. The General Fund amount reflects fee revenues that are deposited directly in the General Fund rather than into a special fund. We estimate that such fee revenues will total about \$2.4 million in the budget year. Accordingly, the budget proposes that fees cover less than 30 percent of the program's expenditures.

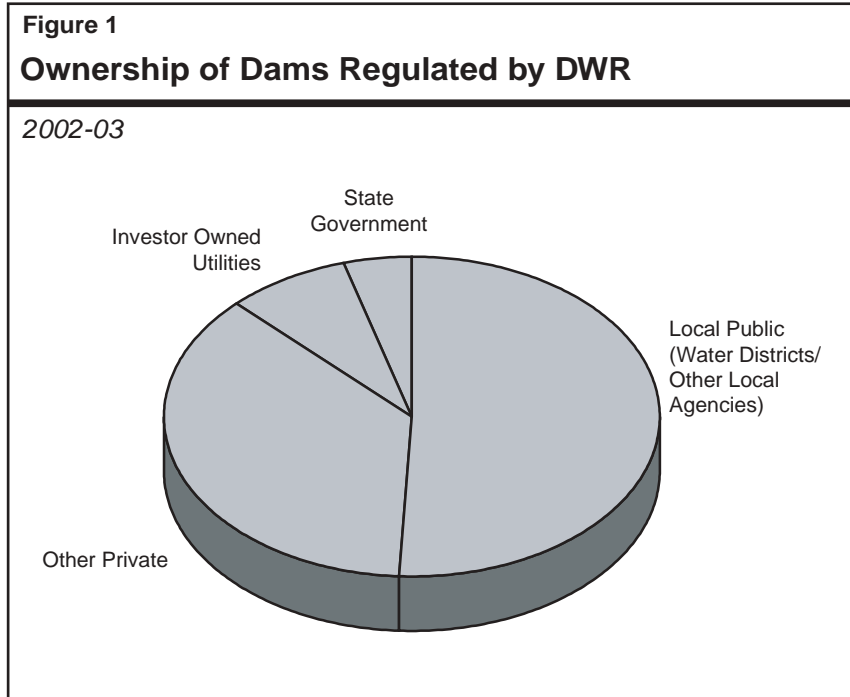
Fees Should Fully Replace General Fund Expenditures. As discussed below, we think that fees on dam owners should fully cover the dam safety program costs currently covered by the General Fund. This is because the program directly benefits a clearly defined population—dam owners—that should pay for the services provided to it.

Program Services Benefit a Clearly Defined Population. The dams under jurisdiction of the program are used for a variety of purposes, including storage, irrigation, flood control, and power production. These purposes result in economic gains and benefits for the owners. The services performed by the program directly benefit dam owners because they ensure that dams can be operated safely to serve the various purposes listed above. Specific benefits to the dam owners include (1) avoided costs due to prevention of safety problems and (2) lower insurance costs (some insurance companies provide beneficial rates to dam owners based on DWR's safety review).

In addition, since the program has the authority to enforce compliance with dam safety standards, and can potentially shut down or restrict the use of a dam that is out of compliance, the program in effect gives dam owners a permit to operate the dam. Such a "permit" may allow the dam owner to operate a business and make economic gains.

Many Dam Owners Have Cost Recovery Mechanisms. Our review finds that a majority of dam owners under the jurisdiction of the dam safety program have access to cost recovery mechanisms to recoup the costs of increased fees. As shown in Figure 1 (see next page), of the 1,250 dams under the jurisdiction of the program, over one-half of the dams are owned by public entities such as water districts and other local agencies. Most of these entities recover the costs of providing services through a user fee charged to customers. Investor owned utilities own another

9 percent of dams. These owners also have access to cost recovery mechanisms through the rate-setting proceedings at the California Public Utilities Commission. The bulk of the remaining dams (36 percent) are owned by private individuals and businesses. Of those dams, the majority are located on farm and ranch properties. The remaining 4 percent are owned by various other state government agencies.



Comparable Safety Programs Recover 100 Percent of Program Costs Through Fees. We have identified several comparable safety programs administered by state agencies where fees cover at least a *majority* of program costs. Like the dam safety program, these programs involve field inspections, review of new construction and alterations, and enforcement of regulations. Examples of such programs are:

- **Elevator, Ride, and Tramway Unit, Department of Industrial Relations**—This division operates programs to protect the safety of passengers who use elevators and amusement park rides. Fees assessed on owners of elevators and amusement park rides account for nearly 100 percent of program costs.
- **Drinking Water Program, Department of Health Services**—This program enforces drinking water standards in drinking water

systems. Fees assessed on large water utilities recover over 100 percent of program costs and additional revenues are used to subsidize small water utilities that only pay a flat fee.

Recommend Legislation to Increase Fees. We recommend that the Legislature enact legislation to increase the existing filing and annual maintenance fees on dam owners so that fees cover 100 percent of program costs. This is because we think that dam owners under the program's jurisdiction directly benefit from the services provided by the program. Although many dam owners have access to cost-recovery mechanisms, it is possible that this level of fee increase could impose a hardship on owners of some small dams, since these owners may be unable to recover the increased cost. Therefore, we recommend that the legislature direct DWR to structure the revised fees in a manner that limits the amount of the fee increases for privately owned dams that have less than 100 acre-feet of storage capacity. Such a structure is consistent with current law.

Recommend Legislation to Create Fee-Based Special Fund. Finally, we think that the Legislature's oversight of, and accountability for, the use of dam safety fees would be increased if the fees were deposited into a special fund that requires legislative appropriation for expenditure. (Under current practice, dam safety fees are deposited into the General Fund.) Therefore, we recommend the enactment of legislation to create this special fund.

General Fund Savings Result. The implementation of this recommendation would result in General Fund savings of \$5.4 million in the budget year, as this is the amount of General Fund that would be replaced by additional fee revenues. We recommend that the department's budget be reduced by \$7.8 million from the General Fund and increased by a like amount from the new special fund that we recommend be established. (The budgeted General Fund amount of \$7.8 million incorporates about \$2.4 million of fee revenues that the budget proposes be deposited directly into the General Fund.)

Funding for Desalination Projects Is Premature

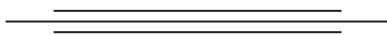
We think that the budget proposal to spend Proposition 50 bond funds on desalination projects is premature, pending legislative receipt and review of a statutorily required report on the state's role in furthering desalination technologies. Therefore, we recommend deleting the funding for desalination grants in the budget year. We also recommend the enactment of legislation directing the department to develop a plan for expenditure of these funds as part of the report to be submitted to the Legislature for its review. (Reduce Item 3860-101-6031 by \$15 million.)

Budget Proposal. The Proposition 50 bond measure allocates \$100 million to DWR for grants relating to contaminant and salt removal technologies, specifying that no less than \$50 million be appropriated for desalination projects. The budget proposes to expend \$15 million of these funds in the budget year to implement a grant program to assist in the construction of projects for desalination of ocean or brackish waters and for feasibility studies for such projects. (Budget documents expressed intent to spend the balance of the \$50 million in the subsequent two years.) In addition, the budget proposes \$245,000 from the bond funds for state staff to develop grant selection criteria and to administer the program in 2003-04.

Funding for Desalination Projects Is Premature. Chapter 957, Statutes of 2002 (AB 2717, Hertzberg), directs the department to convene a water desalination task force that is comprised of representatives from various state departments and stakeholder groups. The task force is to report to the Legislature by July 1, 2004 on its recommendations regarding the role of the state in furthering desalination technologies. This includes making findings on potential opportunities and impediments for using desalination in the state.

We think that plans to allocate bond-funded grants for desalination projects should be included in the report mentioned above, and the Legislature should have an opportunity to review this report and its findings before allocating these funds. We think this would ensure that any allocation of funds for desalination projects is effective in furthering the development of desalination technology in the state.

Given the above, we recommend enactment of legislation to require that, as part of the AB 2717 reporting requirement, the department develop a plan for using the Proposition 50 bond funds allocated for desalination. Pending legislative receipt and review of the AB 2717 report, we recommend deleting the funding proposed for desalination grants in the budget year. We recommend, however, approving the one-time augmentation of \$245,000 for state staff to help support the department's activities in preparing its recommendations to the Legislature, including a plan for expending the bond funds allocated for this purpose. This would provide a reasonable funding level for the desalination task force.



AIR RESOURCES BOARD (3900)

The Air Resources Board (ARB), along with 35 local air pollution control and air quality management districts, protects the state's air quality. The local air districts regulate *stationary sources* of pollution and prepare local implementation plans to achieve compliance with federal and state standards. The ARB is responsible primarily for the regulation of *mobile sources* of pollution and for the review of local district programs and plans. The ARB also establishes air quality standards for certain pollutants, administers air pollution research studies, and identifies and controls toxic air pollutants.

The budget proposes \$163 million from various funds, primarily special funds, for support of ARB in 2003-04. This is an increase of \$2.7 million, or 2 percent, from estimated 2002-03 expenditures. The budget reflects an increase of \$6 million for equipment to evaluate fine particulate matter pollution and a shift of \$10 million from the General Fund to fees in the stationary source program.

Stationary Source Fee Proposal Lacks Detail, Should Go Further

The budget proposes a \$10 million shift from the General Fund to fees in the stationary source program. We recommend the Legislature set parameters for collection of this new fee. We also recommend the Legislature go further to shift an additional \$4.4 million in General Fund stationary source costs to fees. (Reduce Item 3900-001-0001 by \$4.4 million and increase Item 3900-001-0115 by a like amount.)

Stationary Source Program. Air quality was first regulated at the local level in 1947 when state statute authorized the creation of an air district in every county. (Subsequent law provided for the formation of multi-county and regional districts). The focus of air regulation was initially on stationary sources of "visible" pollution, such as smoke and particulate matter.

Today there are 35 local air districts that are the primary agencies responsible for regulating emissions from stationary sources of pollution. Stationary sources include “point” sources (fixed sources such as petroleum refineries) and “area” sources (sources which individually emit small quantities of pollutants but which collectively emit significant emissions, such as gas stations).

The ARB carries out research, planning, and compliance in conjunction with the local districts and oversees local air district activities. The ARB also has primary jurisdiction over certain stationary sources of pollution, including consumer products (such as aerosol sprays) and architectural coatings (such as paints and wood stains). These sources generally involve emissions that come from the widespread use of a product that is portable, available statewide, and generally used in a similar fashion.

Current Law Includes a Stationary Source Fee on Major Polluters. The California Clean Air Act (Chapter 1568, Statutes of 1988 [AB 2595, Sher]) caps at \$3 million the total amount of fees that may be levied on stationary sources for support of ARB’s stationary source program. Further, these fees may only be levied on facilities emitting over 500 tons of pollution per year. Currently, only about 75 of the 20,000 stationary point sources statewide pay the stationary source fee. The fee is approximately \$26 per ton of emissions. Additionally, to the extent that more high-emitting polluters are operating in the state, the fee per ton of emissions is adjusted downward due to the \$3 million statewide cap on fees. Similarly, should a point source reduce its tonnage below 500 tons per year, the fee for the rest of the remaining stationary sources increases.

Governor Proposes to Increase Stationary Source Fee Revenues. The budget proposes \$39.6 million for ARB’s stationary source program, of which \$14.9 million is to come from the Air Pollution Control Fund (stationary source fees), \$10.4 million from the General Fund, and the balance mainly from federal funds and reimbursements. The budget reflects the Governor’s proposal to shift \$10 million from the General Fund to fees in the stationary source program. The budget proposes to generate the additional fee revenues by (1) removing the statutory \$3 million cap on total stationary source fee revenues and (2) expanding the base of fee payers to include manufacturers of consumer products and architectural coatings. The proposal keeps the threshold level of tons at which the fee begins to be assessed at 500 tons per year.

The Governor’s proposal specifically adds to the list of fee payers the new category of consumer products (primarily aerosols) and architectural coatings (paints, stains, varnishes). According to the board, these products contribute significantly to ozone pollution. For example, when certain consumer products are used, they emit volatile organic compounds

that are a key contributor to ozone. It is not the impact of a single use, but rather the cumulative impact of many product uses that brings their contribution to over 500 tons per year. There are approximately 40 consumer product companies and 16 architectural coatings companies whose products meet these criteria.

Basis of Governor's Proposal is "Polluter Pays" Principle. According to the Governor's budget documents, the basis for the proposed shift of funding from the General Fund to fees is the implementation of the polluter pays principle. This principle provides that private individuals or business that use or degrade a public resource (such as air, water, or wildlife) should pay all, or a portion of the social cost imposed by their use of the resource.

Issues for Legislative Consideration. The proposed shift of funding from the General Fund to fees is consistent with our prior recommendation to increase fee-based support in the board's stationary source program. (See our *Analysis of the 2002-03 Budget Bill*, page B-80.) Therefore, we are supportive of the Governor's proposal in concept. However, we think that there are several issues regarding the details of the proposal that the Legislature should consider in evaluating the Governor's fee plan. These include the following issues which are discussed in further detail below:

- Set parameters for new fee structure.
- Opportunity to increase fee-based support beyond Governor's proposal.
- Deny Governor's proposal to eliminate a reporting requirement.

Legislature Should Set Parameters for Collection of New Fee. The board has not specified how this fee will be structured, leaving the details to be determined in the regulatory process. We think, however, that the Legislature should provide guidance through legislation for the fee structure, including who should pay the fee, what the fee rates should be, and whether there should be a cap on total revenues collected from the fee.

We think the Legislature should consider increasing the fee paying universe to include a broader group of fee payers, thereby spreading the burden of paying fees and reducing the burden on individual fee payers. While the Governor's proposal includes adding a new category of fee payers, we think the Legislature should also consider adding further stationary point sources. For example, reducing the threshold level of pollution before the fee is assessed from 500 tons to 100 tons per year would increase the fee base from about 75 to 300 fee payers. These polluters are already tracked in both federal and local air pollution control district

databases as major polluters, and they include such large businesses as furniture manufacturing, metals manufacturing, propane and fuel storage plants, commodity manufacturing, and sewerage systems.

Further Shift to Fees Possible. In our *Analysis of the 2002-03 Budget Bill*, we recommended the enactment of legislation to increase fee-based support for the stationary source program to replace all General Fund support with the exception of the program's research division. We considered the research division's expenditures appropriately funded from the General Fund.

The *2003-04 Governor's Budget* proposes \$10.4 million from the General Fund for the stationary source program, of which \$6 million is for the research division and \$4.4 million for other activities. Consistent with our recommendation last year, we think the \$6 million in the research division should continue to be funded from the General Fund and that the \$4.4 million for other activities is appropriately funded by fees. Therefore, we recommend that the Legislature shift an additional \$4.4 million from the General Fund to fees in the board's stationary source program.

Recommend Denying Governor's Proposal to End Reporting to the Legislature. Finally, as part of the fee proposal, the Governor proposes to delete the current statutory requirement for an annual report on the expenditure of stationary source fees. This report, due on January 1 of each year, reports to the Governor and Legislature on the expenditure of fees collected in the Air Pollution Control Fund and includes a discussion of the status of implementation of programs in the stationary source program. In light of the new proposal for fees, we think this reporting requirement is particularly important for legislative oversight of the stationary source program. This report will allow the Legislature to monitor the board's progress in applying the new fees. Therefore, we recommend denying the proposed statutory change.

Agriculture Exemption Could Cost State Transportation Funds

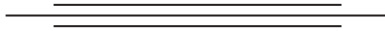
We recommend the enactment of legislation amending statute to remove the existing exemption for agriculture pollution sources from permitting requirements, in order to comply with federal law. Failure to comply will result in federally imposed sanctions, including the loss of federal transportation funding to the state.

Federal Permitting Requirements. On May 14, 2002, the federal government signed a lawsuit settlement agreement which will require "major" agricultural emission sources in California to apply for federal air quality permits as required by Title V of the federal Clean Air Act. Currently, state law exempts such emission sources from air quality permit-

ting requirements. Title V defines “major sources” as those polluting 100 tons per year or more in moderate nonattainment areas, 25 tons per year in serious and severe nonattainment areas, and ten tons per year in extreme nonattainment areas. In agricultural operations, this would mean that stationary diesel engines and certain confined feeding operations, among other sources, would no longer be exempt from air pollution permitting requirements.

Legislature Must Act to Prevent Federal Sanctions. The settlement agreement dictated a schedule for processing permits for this new category of permittees. (Permit applications are submitted to the U.S. Environmental Protection Agency [U.S. EPA].) Specifically, permit applications are due for agricultural sources that operate diesel engines by May 2003, and by October 2003 for all other major agricultural emission sources. Should these permits be delayed due to a failure to remove the state’s exemption for agricultural sources, two sanctions would be imposed. First, beginning in November 2003, the federal government would impose “two-to-one offsets” on permittees who propose to emit new sources of pollution in some of the state’s air districts. In order for the district to grant a permit in this situation, the district must demonstrate that two-to-one offsets were a condition of each new permit. (Currently, offsets vary by local air district, with the most common permit requiring a reduction of an equal amount of pollution for each new permit.) Second, beginning in May 2004, the federal government would withhold federal transportation funding to the state. The total amount of this funding at stake is projected to be up to \$2.5 billion annually.

Given the severe nature of the federal sanctions, we recommend the enactment of legislation to amend state statute to remove all exemptions for agricultural air pollution permitting before May 2003, to allow permits to be submitted to U.S. EPA pursuant to the schedule dictated by the settlement agreement. By doing so, the state would avoid the risk of federal sanctions.



DEPARTMENT OF PESTICIDE REGULATION (3930)

The Department of Pesticide Regulation (DPR) administers programs to protect the public health and the environment from unsafe exposures to pesticides. The department (1) evaluates the public health and environmental impact of pesticides use; (2) regulates, monitors, and controls the sale and use of pesticides in the state; and (3) develops and promotes the use of reduced-risk practices for pest management. The department is funded primarily by an assessment on the sale of pesticides in the state.

The budget proposes expenditures of about \$53.3 million and 359 positions in 2003-04 for the department, including \$50.2 million from the DPR fund (funded mainly by an assessment on pesticide sales). The proposed expenditures are \$1.1 million, or 1 percent below estimated current-year expenditures. Major budget proposals include shifting nearly all General Fund support (\$10.5 million) to fees, elimination of the Marketplace Surveillance Residue Program, and elimination of funding for pesticide source identification in water bodies.

Governor's Proposal to Increase Fee-Based Support

The budget proposes to create General Fund savings of \$10.5 million by increasing the level of fee-based support for the department. At the time this analysis was prepared, the department was late in submitting a statutorily required report that is important for the Legislature's evaluation of the Governor's proposal.

Governor's Budget Proposal. For 2003-04, the budget proposes \$50.2 million from the fee-supported DPR Fund for DPR's state operations and local assistance programs. The budget shifts \$10.5 million of departmental costs from the General Fund to the DPR Fund, resulting in virtually no General Fund remaining in DPR's budget.

According to the Governor's budget documents, the basis for the proposed shift of funding from the General Fund to fees is the implementation of the polluter pays principle. This principle provides that private individuals or businesses that use or degrade a public resource (such as air, water, or wildlife) should pay all, or a portion of, the social cost imposed by their use of the resource.

To generate the additional fee revenues, the budget proposes two main changes. First, the budget proposes to raise the statutory cap on the mill fee from 17.5 mills to 27 mills (\$0.0175 to \$0.027), while allowing the department, through the regulatory process, to set the mill rate each year depending upon projected revenue. For 2003-04, a 25 mill assessment (\$0.025) is estimated to cover state costs proposed in the budget.

Second, the budget proposes to increase fees on most licenses issued by the department (pest control business, maintenance gardener, qualified applicator, pest control advisor), as well as to increase exam and continuing education fees. The proposal calculates the new fee amounts by applying a cost-of-living adjustment from the time that the fees were last raised (mainly 1986 and 1987). The proposal also shifts the authority to change these fees from statute to regulation, thereby permitting the department to adjust the fees in future years. The one exception to the increases in fees is the registration program where no increase is proposed. We discuss this aspect of the fee proposal later in this analysis.

AB 780 Report Late. Chapter 523, Statutes of 2001 (AB 780, Thomson), required the department to report by January 1, 2003 both on the level of funding necessary to maintain statutorily mandated programs at the department as well as how the department proposes to provide this funding. At the time this analysis was prepared, the department had not submitted this report to the Legislature. While the budget proposal appears to address the issue of the need to establish a long-term funding mechanism for the department, it does not provide detailed information on how the department came to its determination on the level of program activity on which the fee proposal was based. We think it is necessary for the Legislature to have the AB 780 report so it can evaluate fully the Governor's fee proposal in context of total program funding requirements. We recommend that the department provide this report to the Legislature prior to budget hearings for its evaluation.

In the sections that follow, we raise two issues about the Governor's fee proposal for legislative consideration.

Recommend Different Mixture of Fees To Generate Proposed Revenue Increase

We find the Governor's fee proposal does not increase registration fees to cover the cost of the pesticide registration program. Further, the fee structure does not differentiate between registration of restricted materials and all other pesticides. We therefore recommend an increase in registration fees to cover the cost of the program and a tiered fee structure to reflect the additional program costs associated with registering restricted materials.

Registration Fees Should Be Raised to Cover Program Costs. In order for a pesticide manufacturer to sell a pesticide product in California, it must register the product with the department. (The department provides scientific review to determine application procedures which are then included on the product label prior to sale.) The Governor's fee proposal exempts registration fees from being raised. Rather, the budget proposes to replace approximately \$6.6 million in General Funded registration program costs with the mill fee. (The pesticide registration program's budget is about \$9 million, of which \$2.4 million comes from a \$200 fee on registration applications.) We think there is a clear nexus between the fees paid by pesticide registrants and the work conducted by the department in the registration program. However, the current fees do not cover the state's costs in this program. We recommend that in enacting fee legislation, the Legislature increase registration fees to cover the cost of the registration program. By doing so, the level of the mill fee required to fund other program activities would be lowered accordingly. According to the department, each \$100 increase in registration fees would raise approximately \$1.2 million annually.

Registration Fees Should Reflect Higher Program Costs Associated With Restricted Materials. In addition to increasing registration fees to cover program costs, we think that the Legislature should consider refining the registration fee structure to reflect the higher program costs associated with the registration of restricted materials. Restricted materials are those pesticides deemed to present special hazards to health or the environment if misused. Before each use of a restricted material, a pesticide applicator must obtain a permit that requires an environmental review equivalent to a California Environmental Quality Act review. The basis of this environmental review is determined during the registration process when the department determines the appropriate application of the pesticide product to avoid environmental or human health impacts. Although current law does not provide a higher registration fee for restricted materials, we find that the process to register a restricted material requires significantly more staff time than other pesticides, both at the state and County Agriculture Commissioner (CAC) level. (The local CACs receive a portion of the mill revenues to fund their programs.)

We therefore recommend the enactment of legislation establishing a tiered fee structure for the registration fee so that a higher fee is imposed on registrations involving restricted materials. Such a higher fee would reflect the higher state costs of this type of registration. There is precedence in other areas of environmental regulation for such a tiered fee structure. For example, the waste discharge fees assessed by the State Water Resources Control Board (SWRCB) are based on the complexity of the permit and risk to human and environmental health. Permits involving greater complexity and higher risk to health are charged a higher fee while permits with less complexity and lower risk are charged a lower fee.

Governor's Fee Proposal Is Step in Right Direction, But Should Go Further

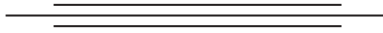
We find the Governor's proposal to shift nearly all General Fund support in the department to fees is a step in the right direction. However, we think the proposal should go further and therefore we recommend the enactment of legislation shifting the funding for pesticide-related programs in other agencies to pesticide fees. (Decrease Item 3600-001-0200 by \$100,000, decrease Item 3600-001-0001 by \$70,000 and create Item 3600-001-0106 for \$170,000; decrease Item 3900-001-0044 by \$300,000, decrease Item 3900-001-0001 by \$200,000 and create Item 3900-001-0106 for \$500,000; decrease Item 3940-001-0001 by \$2 million and create Item 3940-001-0106 for a like amount; decrease Item 3980-001-0001 by \$600,000 and create Item 3980-001-0106 for a like amount.)

Proposed Fund Shift Is Step in Right Direction, But Should Go Further. We think that the budget proposal to shift General Fund support of the department's programs to fees is a step in the right direction. We agree with having the polluter pays principle guide the funding of this program. In addition, we think that registrants of pesticides for sale in the state as well as pesticide users benefit directly from the department's permitting, enforcement, and related activities since these activities allow for pesticide sales and pesticide use in the state as part of business operations.

However, we think that the proposed fund shift does not go far enough. We think that the workload of other state agencies associated with regulating pesticides should also be fee based, including work conducted by the Air Resources Board (ARB), Department of Fish and Game, Office of Environmental Health Hazard Assessment, SWRCB, and Department of Health Services (DHS). The California Department of Food and Agriculture currently receives reimbursements from the DPR Fund for its work on pesticides. Figure 1 (see next page) describes the work conducted by these state agencies and the approximate level of funding proposed for this work in the budget year.

Figure 1 Proposed Pesticide-Related Expenditures By State Agencies Other Than Department of Pesticide Regulation	
<i>(In Millions)</i>	
Types of Pesticide Work Conducted	2003-04 Proposed Expenditures
State Water Resources Control Board	\$2.0^a
<ul style="list-style-type: none"> • Development of total maximum daily loads • Impaired water body listings 	
Office of Environmental Health Hazard Assessment	0.6^b
<ul style="list-style-type: none"> • Worker health and safety • Physician training and medical supervision program • Pesticide and food toxicity, risk assessment, and peer review • Emergency response • Drinking water and cancer toxicology and epidemiology 	
Air Resources Board	0.5^c
<ul style="list-style-type: none"> • Ambient air monitoring • Toxic air contaminants 	
Department of Fish and Game	0.2^d
<ul style="list-style-type: none"> • Aquatic bio-assessment laboratory • Emergency response and analysis • Planning and permitting related to fish and wildlife habitat 	
Department of Health Services	Unknown
<ul style="list-style-type: none"> • Laboratory work for pesticide illness survey • Farm worker health • Analysis of pesticide use • Environmental Laboratory Accreditation Program • Sentinel Event Notification of Occupational Risk (SENSOR) Pesticide Poisoning Prevention Project 	
<p>^a Legislative Analyst's Office estimate; funding is General Fund.</p> <p>^b General Fund.</p> <p>^c Motor Vehicle Account (\$300,000) and General Fund (\$200,000).</p> <p>^d Fish and Game Preservation Fund (\$100,000) and General Fund (\$70,000).</p>	

Recommend Greater Funding Shift to Fees. In order to fully apply the polluter and beneficiary pays principles to funding the state pesticide-related workload, we recommend the enactment of legislation increasing pesticide fees, including the mill assessment, to fully cover the cost of pesticide-related programs in other agencies. This funding should be a direct appropriation from the DPR Fund to the agency conducting the work. We further recommend that DHS and SWRCB report prior to budget hearings on the level and source of funding for all pesticide-related programs at their agencies so that the Legislature can consider shifting funding in these agencies to pesticide fees.



STATE WATER RESOURCES CONTROL BOARD (3940)

The State Water Resources Control Board (SWRCB), in conjunction with nine semiautonomous regional boards, regulates water quality in the state. The regional boards—which are funded by the state board and are under the state board’s oversight—implement water quality programs in accordance with policies, plans, and standards developed by the state board.

The board carries out its water quality responsibilities by (1) establishing wastewater discharge policies and standards; (2) implementing programs to ensure that the waters of the state are not contaminated by underground or aboveground tanks; and (3) administering state and federal loans and grants to local governments for the construction of wastewater treatment, water reclamation, and storm drainage facilities. Waste discharge permits are issued and enforced mainly by the regional boards, although the state board issues some permits and initiates enforcement actions when deemed necessary.

The state board also administers water rights in the state. It does this by issuing and reviewing permits and licenses to applicants who wish to take water from the state’s streams, rivers, and lakes.

The budget proposes expenditures of \$739.4 million from various funds for support of SWRCB in 2003-04. This amount is a decrease of \$332 million, or about 31 percent, below estimated current-year expenditures. Most of this decrease reflects a reduction in bond-funded expenditures, mainly for loans and grants for local water quality and water recycling projects. Despite this overall spending reduction, the budget does propose an increase of \$114.7 million from the recently passed Proposition 50 and \$65.9 million from Proposition 13 for various water quality and water recycling grant programs. Other major budget proposals include (1) a \$12.8 million reduction in General Fund expenditures for various water quality monitoring programs and water rights activities, (2) a

shift of \$13.6 million from the General Fund to fees, thereby eliminating General Fund support for the board's core regulatory program, and (3) a one-time increase of \$15 million in payments from an insurance fund to underground storage tank owners and operators for the cleanup of leaking tanks.

FUNDING THE SWRCB'S WATER RIGHTS PROGRAM

The State Water Resources Control Board's water rights program is responsible for permitting and enforcing a subset of California's water rights. In the sections that follow, we discuss the current funding for the program, conclude that fees assessed on water rights holders should fully fund the board's water rights activities, and recommend legislation that would increase current application fees and establish ongoing compliance fees on water rights holders.

The SWRCB's Water Rights Program

The board's water rights program permits and enforces water rights established after 1914. The board assesses nominal one-time fees on water rights applications, but the General Fund primarily supports the program.

Water Rights Program Overview. The SWRCB's water rights program is responsible for (1) issuing new water rights for water bodies that have not already been fully "allocated" to water rights holders, (2) approving changes to existing water rights (this may be to facilitate a water transfer), and (3) conducting ongoing enforcement and compliance monitoring of water rights under its jurisdiction. The board's enforcement authority applies only to water rights established after 1914.

Water Rights Permitting Process. The water rights permits issued by the board specify the purpose of use, point of diversion, quantity, and other conditions that protect prior water rights holders, the public interest, and the environment. As part of the permit issuance process, the board publicly notices the permit application, allows for public comment, and conducts various environmental reviews as required by statute, including the California Environmental Quality Act (CEQA). Other state agencies, including the Department of Fish and Game (DFG), may also be involved in the environmental review process for water rights.

Licensing and Ongoing Enforcement Activities. After a water right has been granted and the terms of the permit have been established, the board will inspect the water project. Before a project can be licensed, all of the terms of the permit must be met and the largest volume of water

under the permit must be put to beneficial use. This license represents the final confirmation of the water right and remains effective as long as its conditions are fulfilled and the water diverted continues to be used for a beneficial nonwasteful purpose. The board has authority to enforce the conditions of permits and licenses, and it does so by conducting inspections and investigating complaints about the water use behavior of water rights holders.

Fee Support Is Minimal. Currently, a *one-time* nominal application fee is assessed on all water rights applications, varying depending on the amount of the proposed diversion and/or storage. The minimum application fee is \$100. The current statutorily established fee schedule was last revised in the mid-1980s. These fees raise an insignificant amount of revenue—only about \$30,000—when compared to program expenditures of \$11.1 million in the current year. Applicants proposing large water diversions that are likely to have an impact on the environment pay for the preparation of any environmental documents required to comply with CEQA. However, the applicant does not cover the department’s costs of reviewing these documents.

Budget Proposal. The budget proposes expenditures of \$8.7 million (\$7.2 million General Fund) to support the water rights program in 2003-04. This reflects the Governor’s proposal to reduce the General Fund support for the program by \$3.3 million, a nearly 30 percent reduction in General Fund support. The vast majority of support for the program is proposed from the General Fund, with the balance coming from special funds, federal funds, and reimbursements (including fees). Fee revenues are estimated to cover less than 1 percent of program expenditures.

Increasing Fee-Based Support

We recommend that legislation be enacted that increases the existing one-time fees on water rights applications and establishes a new annual compliance fee assessed on all water rights holders under the board’s jurisdiction, in order to fully replace the General Fund support proposed for the board’s water rights program. We further recommend the enactment of legislation to establish a special fund for the deposit of the revenues generated by the water rights fees. (Reduce Item 3940-001-0001 by \$7.2 million and increase new special fund item by a like amount.)

Water Rights Program Benefits Permit Applicants. Water appropriated under water rights permits issued by SWRCB is used by permittees for a variety of purposes, including municipal and industrial uses, irrigation, hydroelectric generation, and livestock watering. In most cases, the water provides some form of economic benefit to the water rights permittee. For example, a municipal water district may request an in-

creased diversion in order to serve a new housing subdivision, or an agricultural business may wish to divert additional water to irrigate new land to put into agricultural production. In all such cases, the water rights applicant directly benefits from the permit issued by SWRCB.

Water Rights Program Provides Ongoing Benefits to Water Rights Holders. Similarly, we think that the water rights program provides *on-going* benefits directly to water rights holders. This is mainly because SWRCB is charged with assuring that applications for new water rights do not cause harm to any other existing legal water rights holder. In addition, the program conducts routine compliance and inspections of existing water rights. These activities also provide direct benefits to water rights holders by ensuring the terms and conditions of the water rights permits and licenses held by others are upheld.

California's Fees Are Much Lower Than Other States' Fees. Several other states around the nation have a more comprehensive water rights fee structure than California in terms of the proportion of program costs covered by fees. In some cases, these fees completely cover the costs associated with the state's program for regulating water rights. For example, in Arizona, all nonexempt water rights holders are required to register their water rights annually. Information from this registration is then used to compute a per acre-foot fee on water being diverted for beneficial uses. The revenues generated from this fee are used to fully fund the water rights program, along with other water-related programs. New Jersey has a similar fee structure, but the fee is assessed only on water rights holders that divert in excess of 100,000 gallons per day. This fee is also assessed and reviewed annually and adjusted to reflect changes in the cost of administering the water rights program.

Water Rights Fee Structure Should Be Revised. Since water rights holders benefit directly from all aspects of the water rights program—including permit issuance and compliance monitoring—we conclude that the existing fee structure should be revised so that fee revenues replace all General Fund support budgeted for the board's program. These fees should also cover water-rights-related costs incurred by other state departments (such as DFG). To accomplish this, we recommend the enactment of legislation to (1) increase existing water rights application fees and (2) establish an *annual* water rights compliance fee. We further recommend that the Legislature enact legislation to establish a special fund for the deposit of these fee revenues, with expenditures from the fund subject to appropriation by the Legislature. By creating the special fund, the Legislature will be able to exercise oversight over the expenditure and use of the fees.

Finally, as a result of creating this new fee structure, we recommend that the General Fund in SWRCB's budget be reduced by \$7.2 million and the new special fund item be increased by a like amount.

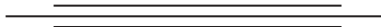
Substantial Workload Backlog Exists

The budget proposes a substantial General Fund reduction to the water rights program. This reduction would exacerbate the already substantial backlog of work in the program. The Legislature may wish to consider addressing this backlog when establishing a revised fee structure for the program.

Program Has Significant Backlog. The board receives an average of 170 applications for new water rights and changes to existing water rights each year. Existing funding levels allow the board to process around 150 applications annually. However, the board currently has a backlog of over 680 pending applications. Even with no new applications for permits, it would take over four years to process all of the backlogged applications at the current rate. The board also issues approximately 125 licenses annually on projects that have satisfied all of the conditions of their permits. Currently over 1,000 permittees are waiting to be inspected and licensed. In addition, staff inspect about 120 water rights annually at current funding levels. This reflects annual monitoring of less than 1 percent of the water rights under the board's enforcement jurisdiction.

Proposed Budget Reduction Will Exacerbate Backlog. The budget proposes a \$3.3 million General Fund reduction to the water rights program in the budget year. A reduction of this magnitude will likely have a significant adverse impact on the board's ability to process applications in a timely manner. This will also have the effect of increasing the backlog of water rights applications and licenses that need to be evaluated and will significantly reduce the minimal compliance activities currently performed by the department.

Fee Legislation in Context of Program Funding Requirements. As mentioned previously, we have identified a considerable backlog in the water rights program. In addition, the Governor's proposed reduction to the program is likely to exacerbate this backlog. Given this, the Legislature may wish to develop the fee legislation recommended above in the context of assessing the program's funding requirements. This is especially critical for processing applications for new water diversions, since significant delays could jeopardize the development of new water supplies.



OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT (3980)

The Office of Environmental Health Hazard Assessment (OEHHA) identifies and quantifies the health risks of chemicals in the environment. It provides these assessments, along with its recommendations for pollutant standards and health and safety regulations, to the boards and departments in the California Environmental Protection Agency (Cal-EPA) and to other state and local agencies. The OEHHA also provides scientific support to environmental regulatory agencies.

The budget requests total funding of \$10.8 million for support of OEHHA in 2003-04. This is a decrease of \$4.2 million, or 28 percent, below estimated current-year expenditures. Of this reduction, \$3.6 million is from the General Fund. Major budget proposals include eliminating the Pesticide Worker Health and Safety Program, reducing various air quality standard reviews, and eliminating 34 positions throughout the office that are currently filled.

ALTERNATIVE FUND SOURCES FOR OEHHA PROGRAMS

The Office of Environmental Health Hazard Assessment (OEHHA) is mainly supported by the General Fund. The budget proposes a significant General Fund reduction affecting most areas of the office. In the sections that follow, we discuss three sets of issues for legislative consideration concerning the Governor's proposal, and propose alternative funding sources for some of OEHHA's programs.

OEHHA Mostly General Fund Supported. Most of OEHHA's activities are required by statute and are supported mainly by the General Fund. Using General Fund money, OEHHA identifies cancer-causing chemicals for annual updates of the state list of chemicals in drinking water,

provides health risk assessments of “toxic air contaminants,” reviews health risk assessments of pesticides, and jointly regulates pesticide worker health and safety with the Department of Pesticide Regulation (DPR).

Budget Proposes Significant General Fund Reduction. As shown in Figure 1, the budget proposes significant General Fund reductions totaling \$3.6 million throughout OEHHA’s programs. These reductions affect

Figure 1	
Office of Environmental Health Hazard Assessment	
2003-04 Proposed General Fund Reductions	
By Program Area	
	Proposed Reductions (In Millions)
Air Toxicology and Epidemiology	\$0.3
<ul style="list-style-type: none"> • Indoor Air Program • Criteria Air Pollutant Program 	
Pesticide and Environmental Toxicology Section	1.4
<ul style="list-style-type: none"> • Pesticide Worker Health and Safety Program • Pesticide Registration Risk Assessments • Program Support 	
Reproductive and Cancer Hazard Assessment	0.4
<ul style="list-style-type: none"> • Proposition 65 Safe Harbor Program • Fuels Program • Program Support 	
Integrated Risk Assessment	0.8
<ul style="list-style-type: none"> • Emerging Challenges Program • Environmental Protection Indicators • California/Mexico Border Program • Alternative Fuels Program 	
Executive/Administration	0.7
Total	\$3.6

most areas of the office. However, unlike a number of proposed General Fund reductions in other environmental protection and resources departments, the budget does not propose to backfill these reductions with other

fund sources, such as fees or bond funds. (Since OEHHA is not a regulatory agency, it has traditionally not received direct appropriations from special funds supported by regulatory fees.) In addition, as part of the package of proposed General Fund reductions, the budget proposes to shift the responsibility to conduct scientific peer review of pesticide risk assessments from OEHHA to the Secretary for Cal-EPA. (Risk assessment for other areas would remain at OEHHA.)

The Governor's proposal raises three issues for legislative consideration, as discussed below.

Governor's Proposed Pesticide Review Shift Problematic

We find that the Governor's proposal to shift responsibility for scientific peer review of pesticide risk assessments from the Office of Environmental Health Hazard Assessment to the Secretary for the California Environmental Protection Agency, with no corresponding shift in program funding, will reduce the efficiency and effectiveness of the pesticide risk assessment peer review process. We therefore recommend denying this proposal, and later recommend an alternative source of funding to support this activity.

Current Law Mandates OEHHA's Role in Pesticide Risk Assessment. Current law requires OEHHA to perform scientific peer review of pesticide studies, registration reviews, and risk assessments conducted by DPR. Peer review determines whether these studies and risk assessments agree with the latest scientific body of knowledge and are factually correct. The findings from OEHHA's peer review are provided to DPR to assist with that department's determination on matters relating to pesticide registration, use, and labeling. The OEHHA's peer review function has been supported by the General Fund.

Secretary's Office Also Coordinates External Peer Review. Pursuant to another statutory requirement, the Secretary for Cal-EPA coordinates the peer review of policies, regulations, and guidelines proposed by Cal-EPA departments, using an external scientific peer review panel. The Secretary's peer review panel (proposed to be funded at \$618,000) is convened by the director of OEHHA and includes scientists not employed by any board or department in Cal-EPA. The committee makes its recommendations to both OEHHA and the Secretary. Funding for the peer review panel is in the Secretary's office and comes from a number of special funds.

Governor's Proposal Shifts Pesticide Peer Review to Secretary's Office. The budget proposes legislation to shift responsibility for pesticide-related peer review from OEHHA to the Secretary's external scien-

tific peer review panel. As a consequence of this shift, the budget proposes to reduce OEHHA's General Fund budget by \$309,000. (This reduction is part of the larger \$1.4 million reduction proposed for OEHHA's pesticide programs, shown in Figure 1.)

Concerns With Proposal. We are concerned that the Governor's proposal will reduce the efficiency and effectiveness of the pesticide risk assessment peer review process. Currently, the state benefits from OEHHA's role as the centralized health risk assessor for Cal-EPA boards and departments. Specifically, in addition to its risk assessment work related to pesticides, OEHHA also works on risk assessment issues pertaining to air, water, and waste. This role allows for greater consistency across environmental agencies in risk assessment matters. As a peer reviewer of DPR's assessments, OEHHA can ensure that DPR's approach is consistent with that used in assessing other environmental risk under Cal-EPA.

We think that shifting the pesticide peer review function from OEHHA would reduce the effectiveness of the state's overall risk assessment process. This is because the Governor's proposal would only move one aspect of OEHHA's risk assessment functions to the Secretary's panel, thereby weakening OEHHA's position as the state's environmental risk assessor.

We are also concerned that it would be inefficient if this peer review function were shifted to a new body, particularly one that is not funded for its new role, given the amount of time it would take for the new entity to come up to speed on these technical scientific issues. The Secretary's scientific advisory panel as currently configured does not possess the technical expertise to perform the individual risk assessments required under statute. It would take time for the panel to develop this expertise, and would change the function of this panel from high-level policy review to operational pesticide product risk assessment.

Therefore, for the reasons stated above, we recommend denying the Governor's proposal to shift the pesticide peer review function from OEHHA to the Secretary's Office. As discussed below, we recommend alternative funding sources to the General Fund for pesticide-related peer review and other activities in the budget year.

Alternative Fund Sources to Proposed General Fund Reductions

We find that alternative fund sources are available to offset proposed General Fund reductions for both pesticide-related work (\$1.4 million) as well as air programs (\$300,000). We recommend that the Department of Pesticide Regulation Fund be used to support the Office of Environmental Health Hazard Assessment pesticide-related work in the bud-

get year, and we identify the Environmental License Plate Fund as an alternative funding source for other program activities proposed for reduction. (Create Item 3980-001-0106 for \$309,000.)

Alternative Fund Sources. We discuss below two fund sources available to offset \$1.7 million of the \$3.6 million General Fund reduction proposed by the administration. Specifically, we think that the DPR Fund—supported mainly by a mill assessment on pesticide sales—is an appropriate fund source to offset the \$1.4 million in pesticide-related program reductions. The Environmental License Plate Fund (ELPF)—supported by a portion of the revenues from the sale of environmental license plates—is an appropriate fund source to offset the \$300,000 reduction in air quality programs.

Department of Pesticide Regulation Fund Should Pay for Pesticide-Related Programs. In our analysis of DPR's budget, we concur with the Governor's proposal to shift most of DPR's current General Fund support to fees, and recommend that the administration go further by fully funding from fees pesticide-related work conducted by all other state agencies, including OEHHA.

We previously discussed the Governor's proposed shift of risk assessment peer review to the Secretary's office as a component of the \$1.4 million proposed reduction. Some impacts of the proposed \$1.4 million pesticide-related program reductions include eliminating scientific support for physician pesticide training, reducing worker and community pesticide illness investigations, and eliminating OEHHA's pesticide-related community outreach. In order for this activity to remain in OEHHA as recommended above, we recommend that \$309,000 (the current funding level for this activity) be appropriated by the Legislature to OEHHA from the DPR Fund. If the Legislature wishes to restore funding for any of the remaining \$1.1 million of pesticide activities proposed for reduction, it could appropriate additional funds from the DPR Fund. (Both of these actions would require the enactment of legislation to increase pesticide-related fees.) In order to maintain OEHHA's independence, we recommend that appropriations from the DPR Fund be made directly to OEHHA, rather than as a reimbursement from DPR. We find that the Legislature has used this method of funding in other cases. For example, fees paid for solid waste disposal (tipping fees) are appropriated to the State Water Resources Control Board, directly, rather than by reimbursement from the Integrated Waste Management Board.

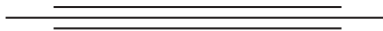
Potential Alternative Funding Source for Mandated Air Studies. If the Legislature wishes to provide funding to restore the proposed \$300,000 reduction in OEHHA's air program, the ELPF is a potential funding source to do so. The ELPF—which is administered by the Secretary for Re-

sources—may be used to fund an array of programs that preserve and protect the environment, specifically including the control and abatement of air pollution. (Please see our write-up on Resource Assessments in the “Crosscutting Issues” section of this chapter for our recommendations that would free up ELPF funds that could be used to support OEHHA’s air program.

Alternative Fund Sources to Create Additional General Fund Savings

We find that additional General Fund savings can be created by shifting \$600,000 of expenditures from the General Fund to the Department of Pesticide Regulation Fund for the pesticide-related activities that remain in the Office of Environmental Health Hazard Assessment’s General Fund budget. (Reduce Item 3980-001-0001 by \$600,000 and create Item 3980-001-0106 for a like amount).

While the Governor’s budget proposes a \$1.4 million General Fund reduction in OEHHA’s pesticide-related activities, it does leave \$600,000 from the General Fund for other pesticide-related activities. We believe that pesticide-related work of all state agencies should be funded by pesticide fees, as we discuss in our write-up on DPR in this chapter. We therefore recommend that OEHHA’s remaining pesticide program be supported by the DPR Fund rather than the General Fund, for a General Fund savings of \$600,000.



FINDINGS AND RECOMMENDATIONS

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CALFED Bay-Delta Program

- B-22 ■ **Substantial State Funding for CALFED Bay-Delta Program (CALFED) Proposed.** The budget proposes \$497 million in various departments for CALFED-related programs in 2003-04.

- B-24 ■ **Enhancing Legislative Review of CALFED Proposals.** Recommend joint policy/budget committee hearings to review CALFED's budget proposal.

- B-24 ■ **Federal Funding Highly Uncertain.** Recommend the California Bay-Delta Authority advise the Legislature on programmatic implications, and the administration's plans, if federal funds for CALFED do not materialize.

- B-26 ■ **Ensuring Governance Legislation Is Followed.** Recommend adoption of budget bill language to ensure that legislative direction in CALFED's governance legislation regarding designation of implementing agencies is followed.

- B-28 ■ **Bond Funds for CALFED.** Recommend adoption of budget bill language to ensure that Proposition 50 requirements governing use of bond funds allocated to CALFED are followed.

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Environmental Protection Indicators

- B-30 ■ **Administration Embarked on Environmental Indicator Initiative.** Since 2000-01, the Secretaries for Environmental Protection and Resources, with staff support from the Office of Environmental Health Hazard Assessment, have been working on the Environmental Protection Indicators for California (EPIC) Project.
- B-33 ■ **Legislature Should Have Role in EPIC.** Our review of initiatives similar to EPIC in other states and countries finds that their value and effectiveness was enhanced by legislative involvement.
- B-35 ■ **Recommend Enactment of Legislation to Guide EPIC.** Recommend enactment of legislation to establish EPIC, set goals for its operation, and guide the use of the project's information by the Legislature and administration, including in the budget development process.

Fund Conditions for Resources Programs

- B-37 ■ **Resources Special Funds.** The budget proposes to spend most of the special funds projected to be available in 2003-04 for resource protection. This will leave a balance of about \$34 million, most of which is statutorily restricted to specific purposes.
- B-42 ■ **Resources Bond Fund Conditions.** The budget proposes \$2.2 billion from the five resources bonds approved by the voters since 1996. Funds for park projects will be largely depleted by the end of the budget year.
- B-45 ■ **Bond Issues for Legislative Consideration.** We raise a number of issues for legislative consideration when evaluating the Governor's bond expenditure proposals. We make recommendations to improve the Legislature's oversight of these expenditures.

Analysis**Page****Proposition 50 Water-Related Proposals
Need Better Definition**

- B-48 ■ **Details Needed on New Bond Funded Water-Related Activities. Reduce Item 3860-101-6031 by \$50.6 Million, Item 3860-001-6031 by \$5.9 Million, Item 3940-101-6031 by \$32.5 Million, Item 3940-001-6031 by \$641,000, Item 4260-101-6031 by \$9.9 Million, and Item 4260-001-6031 by \$350,000. Recommend deletion of bond funding for water-related activities because funding should be put in legislation that better defines the programs.**

**Resource Assessments:
Improving Effectiveness and Creating Savings**

- B-53 ■ **Opportunities for Fee Cost Recovery and Efficiencies at Fish and Game. Reduce Item 3600-001-0001 by \$2.2 Million and Increase Item 3600-001-0200 by \$2 Million.** Recommend that resource assessment activities in support of the department's environmental review process related to permit issuance and development approvals be partially funded by permit applicants and developers. Recommend that the department partially fund its marine resource assessment activities by increasing fees on ocean-related fishing activities. Recommend program reductions in light of opportunities for efficiencies.
- B-55 ■ **Increased Value Can Be Achieved From Forestry's Resource Assessment Efforts. Reduce Item 3540-001-0140 by \$99,000.** Recommend amendment to existing statute governing the department's resource assessment activities to (1) require the department include an analysis of the costs and benefits of a range of forest and rangeland management policy options as part of its existing assessment activities and (2) specify that relevant resource assessment information shall be made

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readily available to the timber harvest review program. Recommend expenditure reductions for nonessential activities.

- B-57 ■ **Resource Secretary's Assessment Activities Can Be Reduced. Reduce Item 0540-001-0140 by \$2.3 Million.** Recommend eliminating the Legacy Project and significantly reducing the California Environmental Resources Evaluation System because both projects have major weaknesses.

Timber Harvest Fees

- B-60 ■ **Timber Harvest Fees Should Be Enacted. Reduce Item 3480-001-0001 by \$1.2 Million, Item 3540-001-0001 by \$13.2 Million, Item 3540-001-0235 by \$384,000, Item 3600-001-0001 by \$4.9 Million, Item 3600-001-0200 by \$422,000, and Item 3940-001-0001 by \$2.8 Million. Increase New Special Fund Item Under Item 3480, 3540, 3600, and 3940 by Like Amounts.** Recommend enactment of legislation imposing fees on timber operators to fully cover the costs incurred by state agencies in their review and enforcement of timber harvest plans.

Oversight of Electricity Contract Settlement Funds

- B-64 ■ **Legislative Oversight of Settlements Resulting From Renegotiated Electricity Contracts.** Recommend legislative hearings to evaluate uses for the settlement funds already received by the state and uses for future settlements. Recommend enactment of legislation to create a special fund for deposit of future cash settlements from electricity contract renegotiations.

Analysis**Page****Coordinating State Agency Representation
Before the Federal Energy Regulatory Commission (FERC)**

- B-68 ■ **Several State Agencies Represent the State Before FERC.** Deregulation of the state's electricity industry has increased the state's involvement before FERC on energy-related matters. Several state agencies are currently representing various perspectives on state energy-related issues before FERC.
- B-70 ■ **FERC Representation Reasonable Given Current Organization of State's Energy Agencies.** Several agencies currently implement the state's energy policy, which has resulted in several state agencies representing similar energy-related issues before FERC. However, informal coordination mechanisms appear to be working reasonably well to coordinate FERC representation, given the current organization of the state's energy agencies.
- B-72 ■ **Future of State's FERC Representation Depends on State's Energy Agency Organization.** Recommend budget bill language and supplemental report language to direct agencies representing state energy-related issues before FERC to enter a memorandum of understanding to coordinate their activities.

Secretary for Resources

- B-76 ■ **Funding for River Parkways and Sierra Nevada Cascade Programs Should Be Provided Through Legislation. Reduce Item 0540-001-6031 by \$32.4 Million and Item 0540-001-6029 by \$7.9 Million.** Recommend deleting the proposed funding because we think that funding should be included in legislation that defines the programs, establishes grant or project funding criteria, and sets expenditure priorities.

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- B-77 ■ **Proposition 50 Statewide Administration Proposal. Reduce Item 0540-001-6031 by \$603,000.** Recommend the Secretary for Resources identify prior to budget hearings the department that will carry out the accounting activities for Proposition 50. Recommend denying funding for the development of a public Web site because the proposal lacks an approved Feasibility Study Report as required under current state policy.

Energy Resources Conservation And Development Commission

- B-80 ■ **Power Plant Siting Program.** The budget proposes that support for the Energy Resources Conservation and Development Commission's (CEC's) siting of power plants and related compliance activities come almost entirely from utility ratepayers.
- B-80 ■ **CEC's Siting Fee Study.** In a report to the Legislature, the commission evaluated four alternative structures for assessing siting- and compliance-related fees on power plant developers and generators. The commission, however, recommended the status quo in terms of funding the siting program.
- B-82 ■ **Siting Fees on Power Plant Generators and Developers Are Appropriate.** Power plant developers/generators should share in the responsibility of supporting the siting program since they are direct beneficiaries of the services provided by the program.
- B-84 ■ **Recommend Establishing Siting Fees.** Recommend enactment of legislation to establish a siting application fee and an annual compliance fee on power plant developers and generators. Recommend enactment of legislation to create a special fund for deposit of fee revenues.

Analysis**Page****Department Of Forestry and Fire Protection**

- B-88 ■ **Legislature Should Enact Fire Protection Fees. Reduce Item 3540-001-0001 by \$170 Million and Increase New Special Fund Item by Like Amount.** Recommend the enactment of legislation to fund one-half of the proposed General Fund budget for fire protection on state responsibility areas by imposing fees on property owners who benefit from these services. This would result in a savings of about \$170 million to the General Fund. Also recommend enactment of legislation to create a new special fund for deposit of the fees.
- B-92 ■ **Recommend Rejection of Computer Aided Dispatch (CAD) Proposal. Reduce Item 3540-0001-0022 by \$2.6 Million.** Recommend rejection of CAD proposal because funding the proposal from the State Emergency Telephone Number (911) Account is inconsistent with current law and changes the nature of the 911 surcharge.

Wildlife Conservation Board

- B-93 ■ **Recommend Increased Oversight Over Bond Expenditures.** Recommend (1) bond expenditures be appropriated in the budget bill, (2) projects should be scheduled in the budget bill by category, and (3) legislative notification of major project funding should be required.
- B-96 ■ **Deny Colorado River Program Funding.** Recommend denial of the \$32.5 million requested for the Colorado River program from Proposition 50 bond funds because statutory requirements for expenditure of these funds have not been met.

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- B-97 ■ **Shift Transfer to Habitat Conservation Fund (HCF) From General Fund to Bond Funds. Eliminate Item 3640-311-0001 for \$21.7 Million and Substitute New Item 3640-311-6031 of a Like Amount.** Recommend proposed \$21.7 million General Fund transfer to HCF be replaced by a transfer of a like amount from Proposition 50 bond funds.

California Coastal Commission

- B-98 ■ **Coastal Commission's Legal Status Uncertain.** The Legislature should act in a timely manner to address court ruling that found the Coastal Commission's membership structure to be unconstitutional.

Department of Parks and Recreation

- B-101 ■ **Reorganization Proposal Lacks Information.** Withhold recommendation on a \$9 million General Fund reduction until the department provides information detailing the proposed administrative reorganization that would generate these savings.
- B-101 ■ **Historical and Cultural Grants Funding Should Be Consistent With Existing Statute.** Recommend the Legislature appropriate the funds requested in the budget proposal consistent with Chapter 1126, Statutes of 2002 (AB 716, Firebaugh).
- B-102 ■ **Recommend Deleting Funding for Statewide Acquisition Program. Reduce Item 3790-301-6029 by \$35 Million.** Recommend deletion because the budget provides minimal information on (1) how the funding will be spent and (2) future costs associated with the acquisitions.

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- B-103 ■ **Budget Includes Concession and Operating Agreement Proposals.** The budget includes six concession proposals and one operating agreement proposal that require legislative approval. We find all proposals to be warranted.

Department of Water Resources

- B-106 ■ **Fee-Based Cost Recovery for Dam Safety Program. Reduce Item 3860-001-0001 by \$7.8 Million and Increase New Special Fund Item by a Like Amount.** Recommend enactment of legislation to increase fees for the Department of Water Resources' dam safety program to fully replace General Fund expenditures. Recommend enactment of legislation to create special fund for deposit of dam safety fees.
- B-107 ■ **Funding for Desalination Is Premature. Reduce Item 3860-101-6031 by \$15 Million.** Recommend deleting funding for desalination grants in the budget year, pending legislative receipt and review of a specified report. Also, recommend the enactment of legislation to direct the department to develop, as part of the specified report, a plan for expenditure of the Proposition 50 bond funds.

Air Resources Board

- B-111 ■ **Stationary Source Fee Proposal Needs Legislative Parameters and Could Go Further. Reduce Item 3900-001-0001 by \$4.4 Million and Increase Item 3900-001-0115 by a Like Amount.** Recommend enactment of legislation to provide parameters for new stationary source fee structure. Recommend shifting an additional \$4.4 million General Fund in the stationary source program to fees. Further recommend denying proposed statutory change to delete a reporting requirement.

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- B-114 ■ **Remove Agriculture Exemptions in Air Permitting.** Legislature should remove all exemptions for agricultural air pollution permitting before May 2003 to avoid federally imposed sanctions.

Department of Pesticide Regulation

- B-116 ■ **Governor Proposes Increased Fee Support.** The budget proposes to shift \$10.5 million from the General Fund to fees in the department's budget. The department is late in submitting a statutorily mandated report that is necessary for legislative evaluation of the Governor's fee proposal.
- B-118 ■ **Registration Fees Should Cover Costs of Registration Program.** Recommend registration fees be raised to cover the cost of the registration program, and that registration fees be higher for restricted-use materials given the higher state and local program costs associated with them.
- B-119 ■ **Pesticide Fees Should Cover All State Agency Pesticide Workload.** Decrease Item 3600-001-0200 by \$100,000, Decrease Item 3600-001-0001 by \$70,000 and Create Item 3600-001-0106 for \$170,000; Decrease Item 3900-001-0044 by \$300,000, Decrease Item 3900-001-0001 by \$200,000 and Create Item 3900-001-0106 for \$500,000; Decrease Item 3940-001-0001 by \$2 million and Create Item 3940-001-0106 for a Like Amount; Decrease Item 3980-001-0001 by \$600,000 and Create Item 3980-001-0106 for a Like Amount. Recommend the Governor's proposal to shift departmental costs to fees go further by covering all state agency costs associated with pesticide regulation.

Analysis**Page****State Water Resources Control Board**

- B-123 ■ **Water Rights Program.** The board's water rights program permits and enforces appropriative water rights. The program currently assesses a nominal *one-time* fee on water rights applications and is primarily supported by the General Fund.
- B-124 ■ **Recommend Increasing Fee-Based Support. Reduce Item 3940-001-0001 by \$7.2 Million and Increase New Special Fund Item by a Like Amount.** Recommend enactment of legislation increasing existing *one-time* fees on water rights applications and establishing new *annual* fees assessed on all water rights holders under the board's jurisdiction. Recommend enactment of legislation to create new special fund for the deposit of water rights fees.
- B-126 ■ **Substantial Water Rights Backlog Identified.** Considerable backlog has been identified in the water rights program. Fee legislation could be developed in context of assessing the program's funding requirements.

Office of Environmental Health Hazard Assessment

- B-129 ■ **Retain Pesticide Risk Assessment Peer Review Function at Office of Environmental Health Hazard Assessment (OEHHA).** Recommend denying the Governor's proposal to shift responsibility for conducting scientific peer reviews of pesticide-related risk assessments from OEHHA to a scientific panel coordinated by the Secretary for Environmental Protection.
- B-130 ■ **Alternative Fund Sources to Proposed General Fund Reductions. Create Item 3980-001-0106 for \$309,000.** Recommend increase from the Department of Pesticide Regulation (DPR) Fund so that pesticide-related peer

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review function can continue at OEHHA. The DPR Fund and the Environmental License Plate Fund could offset other proposed General Fund reductions in OEHHA's air and pesticide programs.

- B-132 ■ **Additional General Fund Savings. Reduce Item 3980-001-0001 by \$600,000 and Create New Item 3980-001-0106 for a Like Amount.** Recommend shifting General Fund support for OEHHA's pesticide program to fee-supported DPR Fund.