

MAJOR ISSUES

Resources



Beverage Container Recycling Funds Rise While Recycling Rates Fall

- The Beverage Container Recycling Program is amassing large fund reserves while recycling rates for all types of beverage containers are declining. We make recommendations for reversing both trends (see page B-45).



Regulation of Petroleum Pipelines Needs Improvement

- We find that jurisdictional boundaries between regulatory agencies are vague, permitting requirements are costly and time-consuming, and past pipeline leaks are going undetected. We recommend the enactment of legislation to designate a lead agency to address these concerns (see page B-27).



Significant Deferred Maintenance in State Parks Negatively Impacts Service

- The Department of Parks and Recreation estimates its deferred maintenance to total \$180 million. This large backlog negatively impacts the level and type of service the department can provide, as well as reduces the useful life of facilities and devalues the state's assets. We recommend the department prepare a deferred maintenance reduction plan to set priorities for eliminating the backlog (see page B-74).
- We also recommend that the Legislature, in determining the state's priorities in funding various programs, consider providing some funding for the department to continue to reduce the maintenance backlog (see page B-85).



State's Unpaid Bills for Local Flood Control Projects Continue to Mount

- With no funding proposed to pay the state share of cost for local flood control projects, the unpaid amount owed to local agencies will increase to about \$189 million by the end of 1999-00 (see page B-93).
- We recommend the enactment of legislation to provide statutory criteria to establish clear statewide priorities for state funding of local flood control projects (see page B-93).



Clean Water Enforcement Can Be Made More Effective

- The state's ability to meet water quality objectives is impaired because enforcement and compliance assurance activities are not being carried out, or not being carried out effectively. We recommend that the Legislature reexamine the funding and fee structure supporting these activities, based on an updated analysis of program needs (see page B-109).
- The various regional water boards have implemented enforcement policies and procedures inconsistently, leading to increased compliance costs to the regulated community. We recommend that a statewide enforcement policy be codified in regulations, an enforcement action review panel be established, and reporting by regional boards be standardized (see page B-111).
- Mandating minimum penalties for serious water quality violations has proven to be a cost-effective enforcement approach in other states (see page B-114).



State Agencies Impeding Efforts to Reduce Landfill Waste Disposal

- State agencies are impeding local jurisdictions' ability to meet landfill diversion requirements by failing both to recycle and purchase recycled-content products in substantial amounts (see page B-98).

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OVERVIEW

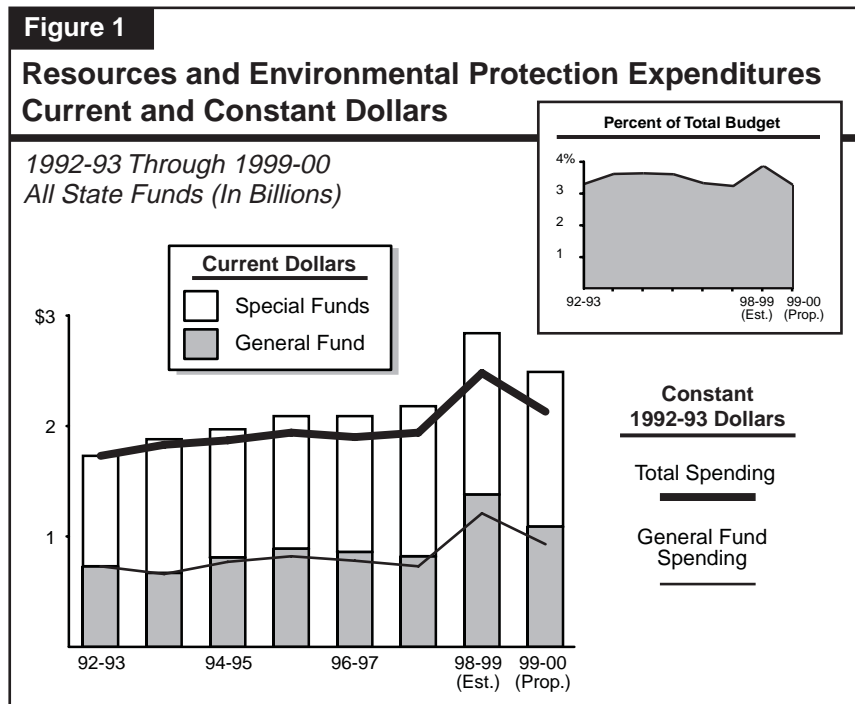
Resources

The budget proposes a significantly lower level of state expenditures for resources and environmental protection programs in 1999-00 compared to the estimated current-year level. The reduction primarily reflects the expiration of many one-time expenditures, and fewer General Fund dollars available for resources programs, particularly for local assistance purposes.

Expenditures for resources and environmental protection programs from the General Fund and various special funds are proposed to total \$2.5 billion in 1999-00, which is 3.3 percent of all state-funded expenditures proposed for 1999-00. This level is a decrease of about \$360 million, or 13 percent, below estimated expenditures for the current year.

The budget proposes a greater reliance on special funds for the support of resources and environmental protection programs in 1999-00 than in the current year. Specifically, the budget proposes that 56 percent (\$1.4 billion) of state funding for these programs come from special funds, including the Environmental License Plate Fund, Fish and Game Preservation Fund, funds generated by beverage container recycling fees, and an "insurance fund" for the cleanup of leaking underground storage tanks. The General Fund will support the remaining 44 percent of the these expenditures, a drop from about 49 percent in the current year.

Figure 1 (see next page) shows that state expenditures for resources and environmental protection programs increased by about \$750 million since 1992-93, representing an average annual increase of 5.3 percent. This increase primarily reflects the establishment of various programs to address environmental problems such as leaking underground tanks, hazardous waste sites, and solid waste generation. When adjusted for inflation, these expenditures increased at an average annual rate of 3 percent. General Fund expenditures increased at an average annual rate of about 5.9 percent over this period. When adjusted for inflation, General Fund expenditures increased at an average annual rate of 3.5 percent.



SPENDING BY MAJOR PROGRAM

Figure 2 shows spending for major *resources* programs—that is, those programs within the jurisdiction of the Secretary for Resources.

Figure 3 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 that the General Fund provides a relatively small proportion of total expenditures for resources programs, except in the case of the California Department of Forestry and Fire Protection (CDFFP) and the Department of Parks and Recreation (DPR). For 1999-00, the budget proposes that 71 percent (\$378.9 million) of CDFFP's expenditures come from the General Fund. For DPR, the General Fund will constitute about 31 percent (\$75.2 million) of the department's expenditures in 1999-00.

Figure 2					
Resources Budget Summary Selected Funding Sources					
<i>1997-98 Through 1999-00 (Dollars in Millions)</i>					
Department	Actual 1997-98	Estimated 1998-99	Proposed 1999-00	Change From 1998-99	
				Amount	Percent
Conservation					
General Fund	\$13.2	\$24.1	\$18.5	-\$5.6	-23.2%
Recycling funds	354.7	343.0	329.4	-13.6	-4.0
Other funds	16.9	28.2	19.5	-8.7	-30.8
Totals	\$384.8	\$395.3	\$367.4	-\$27.9	-7.1%
Forestry and Fire Protection					
General Fund	\$318.1	\$345.4	\$378.9	\$33.5	9.7%
Forest Resources Fund	14.5	6.5	12.9	6.4	98.4
Other funds	127.8	135.7	143.1	7.4	5.4
Totals	\$460.4	\$487.6	\$534.9	\$47.3	9.7%
Fish and Game					
General Fund	\$4.4	\$29.9	\$18.5	-\$11.4	-38.1%
Fish and Game Fund	87.3	72.6	79.6	7.0	9.6
Oil Spill Prevention Fund	16.3	20.0	16.0	-4.0	-20.0
Environmental License Plate Fund	11.1	12.1	15.2	3.5	29.9
Other funds	78.7	79.1	77.2	-2.3	-2.9
Totals	\$197.8	\$213.7	\$206.5	-\$7.2	-3.4%
Parks and Recreation					
General Fund	\$75.3	\$150.1	\$75.2	-\$74.9	-49.9%
Parks and Recreation Fund	77.5	80.6	81.9	1.3	1.6
Off-Highway Vehicle Fund	31.8	45.8	41.3	-4.5	-9.8
Other funds	47.2	78.1	44.1	-34.0	-43.5
Totals	\$231.8	\$354.6	\$242.5	-\$112.1	-31.6%
Water Resources					
General Fund	\$41.8	\$184.6	\$62.7	-\$121.9	-66.0%
State Water Project funds	677.7	692.1	725.6	33.5	4.8
Other funds	88.1	115.4	105.2	-10.2	-8.8
Totals	\$807.6	\$992.1	\$893.5	-\$98.6	-9.9%

Figure 2 also shows that for 1999-00, the budget proposes a reduction in most resources departments, with the exception of CDFFP. Specifically, the budget proposes a significant reduction in DPR expenditures—about 32 percent below the current-year estimated level. The reduction would be mainly in General Fund-supported local assistance and capital outlay expenditures for park development, as well as expenditures on deferred maintenance of state parks. The budget also proposes reductions of about 10 percent in the expenditures of the Department of Water Resources, including mostly local assistance for flood control projects and for groundwater development.

For CDFFP, the budget proposes a 9.7 percent increase in departmental expenditures, mainly for fire protection, funded from the General Fund. As in the current year, the budget includes a base level of \$20 million for emergency firefighting in 1999-00. This funding level is likely to be insufficient, as emergency firefighting expenditures have averaged around \$40 million in past years. To the extent actual emergency firefighting expenditures exceed that base amount, additional funds will be provided through subsequent deficiency appropriations.

Spending for Environmental Protection Programs. As Figure 3 shows, the budget proposes reductions in all the major environmental protection programs. Specifically, the expenditure level for the Air Resources Board is proposed to decrease by about 20 percent, compared to current-year expenditure levels. The reduction mainly reflects the one-time expenditure in the current year of \$25 million from the General Fund for grants to reduce emissions from high-polluting heavy diesel engines.

The budget also proposes to reduce expenditures of the Department of Pesticide Regulation by about 10 percent and the State Water Resources Control Board by about 7 percent in 1999-00. For the Department of Pesticide Regulation, the reduction is the result of projected lower claim payments to local governments for reporting pesticide use and the expiration of one-time expenditures for pesticide research and for office relocation. For the State Water Resources Control Board, much of the reduction reflects lower expenditures from the Underground Storage Tank Cleanup Fund due to lower resources projected to be available in 1999-00.

Figure 3					
Environmental Protection Budget Summary Selected Funding Sources					
<i>1997-98 Through 1999-00 (Dollars in Millions)</i>					
Department/Board	Actual 1997-98	Estimated 1998-99	Proposed 1999-00	Change From 1998-99	
				Amount	Percent
Air Resources					
General Fund	\$2.5	\$50.2	\$22.6	-\$27.6	-55.0%
Motor Vehicle Account	74.3	57.6	58.0	0.4	0.7
Other funds	36.8	38.3	36.9	-1.4	-3.6
Totals	\$113.6	\$146.1	\$117.5	-\$28.6	-19.6%
Waste Management					
Integrated Waste Account	\$30.0	\$32.4	\$37.2	\$4.8	14.8%
Used Oil Recycling Fund	19.8	24.2	24.2	—	—
Other funds	12.0	27.5	21.6	-5.9	-21.4
Totals	\$61.8	\$84.1	\$83.0	-\$1.1	-1.3%
Pesticide Regulation					
General Fund	\$10.9	\$17.2	\$12.2	-\$5.0	-29.1%
Pesticide Regulation Fund	31.3	31.2	31.3	0.1	0.3
Other funds	5.0	5.9	5.4	-0.5	-8.5
Totals	\$47.2	\$54.3	\$48.9	-\$5.4	-9.9%
Water Resources Control					
General Fund	\$34.9	\$42.2	\$40.6	-\$1.6	-3.8%
Underground Storage Tank	244.1	210.6	186.4	-24.2	-11.5
Waste Discharge Fund	11.9	15.4	14.4	-1.0	-6.5
Other funds	155.9	222.8	215.1	-7.7	-3.4
Totals	\$446.8	\$491.0	\$456.5	-\$34.5	-7.0%
Toxic Substances Control					
General Fund	\$26.0	\$32.7	\$36.6	\$3.9	11.9%
Hazardous Waste Control	51.0	25.8	31.4	5.6	21.7
Toxic Substances Control	—	27.8	35.7	7.9	28.4
Other funds	45.6	46.4	27.4	-19.0	-40.9
Totals	\$122.6	\$132.7	\$131.1	-\$1.6	-1.2%

MAJOR BUDGET CHANGES

Figures 4 and 5 (see page 12) present the major budget changes in resources and environmental protection programs, respectively.

As Figure 4 shows, the budget proposes increases totaling \$47.3 million for CDFFP in 1999-00. Of the increase, \$30 million would be for ten additional airtankers and related parts and equipment and \$13.8 million for a computer-aided dispatch system. The budget also proposes an increase of \$6 million for a number of programs to improve forest resources. These programs include urban forestry, incentive grants and cost-sharing for reforestation on small privately-owned forests, forest pest-management—primarily pitch canker, forest research, and operation of state nurseries.

For the Department of Conservation, the budget proposes \$2 million for local assistance in open space/land conservation. This is a drop of \$14 million compared to the estimated current-year expenditure level. The budget also projects \$14 million less in expenditures in the Beverage Container Recycling Program due to the expiration of certain provisions of the law.

Similarly, the budget proposes reductions in the Departments of Parks and Recreation, Water Resources and Fish and Game. In particular, the budget proposes a total reduction of \$112 million in the Department of Parks and Recreation's expenditures on deferred maintenance and state and local park development.

For the Department of Water Resources, the budget proposes a reduction of \$59 million for local flood control subventions, including the reversion of \$44 million in General Fund support appropriated by Chapter 326, Statutes of 1998 (AB 2784, Strom-Martin) for 1999-00 to pay the state's share of the nonfederal costs of flood control projects. The administration advises that it will seek legislation to revert these funds. Additionally, the budget includes a reduction of \$35 million in one-time local assistance expenditures to develop groundwater.

For the Department of Fish and Game, the budget proposes an increase of \$2.4 million to accommodate environmental review workload for streambed alteration projects, and \$4 million to expand fishing opportunities. Due to the depletion of the reserve, the budget also proposes \$4 million less in expenditures from the Oil Spill Prevention and Administration Fund for various oil spill prevention activities.

Figure 4

**Resources Programs
Proposed Major Changes for 1999-00**

Conservation	Requested: \$367.4 million Decrease: \$27.9 million (-7.1%)
<ul style="list-style-type: none"> - \$14 million in open space/land conservation subventions - \$14 million in beverage container recycling expenditures 	
Forestry and Fire Protection	Requested: \$534.9 million Increase: \$47.3 million (+9.7%)
<ul style="list-style-type: none"> + \$30 million for additional airtankers and equipment + \$13.8 million to acquire computer-aided dispatch system + \$6 million for various forest improvement programs 	
Fish and Game	Requested: \$206.5 million Decrease: \$7.2 million (-3.4%)
<ul style="list-style-type: none"> + \$2.4 million for environmental review of streambed alteration projects + \$4 million to expand fishing opportunities <hr style="width: 20%; margin: 10px auto;"/> <ul style="list-style-type: none"> - \$4 million for oil spill prevention due to depletion of reserve 	
Parks and Recreation	Requested: \$242.5 million Decrease: \$112.1 million (-31.6%)
<ul style="list-style-type: none"> - \$39.4 million in state park capital outlay - \$38 million in local assistance for park development - \$30 million for one-time deferred maintenance expenditures 	
Water Resources	Requested: \$893.5 million Decrease: \$98.6 million (-9.9%)
<ul style="list-style-type: none"> - \$59 million for local assistance for flood control - \$35 million for one-time expenditures for groundwater development 	

Figure 5

**Environmental Protection Programs
Proposed Major Changes for 1999-00**

Air Resources Board	Requested: \$117.5 million
	Decrease: \$28.6 million (-20%)

- \$25 million in one-time expenditures for grants to reduce emission of high polluting heavy diesel engines

Pesticide Regulation	Requested: \$48.9 million
	Decrease: \$5.4 million (-9.9%)

- \$3.5 million in one-time expenditures for pesticide research and for office relocation
- \$1.7 million in state-mandated local claim payments for pesticide use reporting

Water Resources Control Board	Requested: \$456.5 million
	Decrease: \$34.5 million (-7%)

- + \$1.4 million to regulate stormwater discharge
 - + \$1.3 million to address water rights and landfill permit backlog
-
- \$20 million due to lower Underground Storage Tank Cleanup Fund resources
 - \$7.5 million in local assistance for water quality projects

Toxic Substances Control	Requested: \$131.1 million
	Decrease: \$1.6 million (-1.2%)

- + \$7 million for cleanup of Stringfellow superfund site
 - + \$1.1 million to increase pollution prevention activities
-
- \$2.6 million for military base cleanup

Figure 5 shows that for the Air Resources Board and the Department of Pesticide Regulation, the budget proposes reductions to reflect mainly the expiration of one-time expenditures. For the State Water Resources Control Board, proposed reductions in 1999-00 reflect mainly (1) lower expenditures to reimburse tank owners for the cleanup of underground storage tanks as a result of lower projected resources in the Underground Storage Tank Cleanup Fund, and (2) lower funding for grants and loans to local governments for water quality projects.

For the Department of Toxic Substances Control, the budget proposes a baseline increase of \$7 million for cleanup operations at the Stringfellow superfund site. This increase would bring total budget-year funding for these purposes to about \$13 million, a net increase of about \$2 million over the current-year funding level. The department also anticipates decreases of \$2.6 million in federal funds for military base cleanup.

CROSSCUTTING ISSUES

Resources

FUND CONDITIONS FOR RESOURCES PROGRAMS

The state uses a variety of special and bond funds to support the departments, conservancies, boards, and programs that regulate and manage the state's natural resources. In this section, we provide a status report on selected special funds and bond funds supporting these programs. For purposes of this review, we divided the funds into three categories: (1) resources special funds, (2) park-related bonds, and (3) bonds for water programs. (We discuss the condition of various environmental protection funds in the write-ups of the individual departments and boards.)

Resources Special Funds

The budget proposes to spend most of the special funds projected to be available in 1999-00 for resources protection. Approving the Governor's spending proposal will leave up to \$30 million for legislative priorities. However, the use of some of these remaining funds may be statutorily restricted to specific purposes.

Figure 1 (see next page) summarizes the total amount of funds available for expenditure in 1999-00 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 limited funds available for legislative priorities. This is especially the case because the Legislature may wish to

retain some of the projected reserves in the accounts to meet contingencies such as revenue shortfalls or unanticipated expenditures. However, this would reduce the amount of funds available for appropriation by the Legislature in 1999-00. Furthermore, some of the remaining funds can only be used for specific purposes, as required by statute. For instance, about \$9.8 million of the projected balance in the Fish and Game Preservation Fund is dedicated statutorily and can only be used for activities related to certain species. As a result, the Legislature's flexibility in expending these funds for resources projects is limited.

Figure 1

Selected Special Funds Resources Programs^a

1998-99 and 1999-00 (In Millions)

Special Funds	1998-99 Expenditures	1999-00		
		Resources	Expenditures	Balance
Salmon and Steelhead Trout Restoration Account	\$6.5	\$8.0	\$8.0	—
Marine Life and Reserve Management Account	—	1.9	—	\$1.9
State Parks System Deferred Maintenance Account	—	—	—	—
Natural Resources Infrastructure Fund	1.1	—	—	—
Environmental License Plate Fund	26.0	27.3	26.6	0.7
Public Resources Account	24.2	19.5	18.7	0.7
Habitat Conservation Fund	29.5	18.1	9.6	8.5
Fish and Game Preservation Fund	72.6	97.4	79.6	17.8 ^b

^a Based on Governor's budget.
^b Includes reserve for dedicated accounts (\$9.8 million) and nondedicated accounts (\$8 million).

Resources Trust Fund. The Resources Trust Fund (RTF) was created by Chapter 293, Statutes of 1997 (SB 271, Thompson). Funds in RTF are to be allocated to preserve and protect the natural and recreational resources of the state. The RTF is funded from the tidelands revenues remaining after specified amounts are deposited into the General Fund and the California Housing Trust Fund. (Please see *Analysis of the 1998-99 Budget Bill*, page B-17.)

Chapter 293 split the trust fund into two separate accounts: the Salmon and Steelhead Trout Restoration Account (SSTRA) and the Natural Resources Infrastructure Fund (NRIF). Chapter 293 also required that the first \$8 million from RTF be deposited into SSTRA to be appropriated to the Department of Fish and Game (DFG) for the recovery of salmon and steelhead trout. Of the \$8 million, at least 87.5 percent (\$7 million) must be allocated as project grants through DFG's fisheries management grant program. The grants are to be awarded for activities that improve fish habitat in coastal water utilized by salmon and anadromous trout, and are to emphasize the development of coordinated watershed improvement activities. The remaining 12.5 percent may be used for project administration costs incurred by DFG.

Chapter 326, Statutes of 1998 (AB 2784, Strom-Martin) created two additional accounts within RTF. First, Chapter 326 created the Marine Life and Marine Reserve Management Account (MLMRMA) and allocated \$2.2 million annually through 2005-06, from RTF to the account for expenditure by DFG for marine life management. Second, Chapter 326 created the State Parks System Deferred Maintenance Account (SPSDMA) within RTF and allocated \$10 million annually through 2005-06, from RTF to the account for expenditure by the Department of Parks and Recreation (DPR) for deferred maintenance expenses.

The remaining RTF money is to be deposited in NRIF for preserving and protecting natural and recreational resources. Chapter 293 identified four priorities for the use of NRIF. These priorities are: environmental review and monitoring by DFG, Natural Community Conservation Plan (NCCP) acquisitions, Habitat Conservation Fund (HCF) funding requirements, and expenditure for nonpoint source pollution control programs. Funds not appropriated to these priorities will be spent on natural and recreational resources.

Because of the recent drop in oil prices, tidelands oil revenues to the state have dropped significantly. As a result, it is estimated that SSTRA will receive only \$6.5 million in the current year, and NRIF will receive no tidelands oil revenues. As Figure 1 shows, for 1999-00, the budget projects total RTF revenues to be slightly higher, including \$8 million to be available to fund SSTRA, and \$1.9 million for the newly created MLMRMA. However, neither NRIF nor SPSPDMA would receive tidelands oil revenues in 1999-00.

The projected drop in tidelands oil revenues to RTF severely limits the Legislature's ability to fund various resources programs, without looking to other funding sources. For example, because of the absence of NRIF money, various programs—including DFG environmental review activi-

ties, in particular—would have to be funded with alternative sources, including the Environmental License Plate Fund or 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 \$26.6 million from ELPF, an increase of \$580,000 (2.2 percent) over estimated current-year spending. About 57 percent (\$15.2 million) of total proposed ELPF expenditures would go to support DFG. About 20 percent of the proposed expenditures would be for local assistance and capital outlay projects by the California Tahoe Conservancy.

The proposed ELPF expenditures will leave a balance of \$660,000 at the end of 1999-00.

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 \$19.5 million in PRA resources in 1999-00 and proposes expenditures from PRA for the various departments totaling \$18.7 million. This is a decrease of \$5.5 million (23 percent) from the estimated current-year expenditure level. The decrease is mainly due to a continued drop in cigarette tax revenues and the drawing down of prior

reserves in the account. About 64 percent (\$11.9 million) of the proposed expenditures would be for the support of the DPR, and 17 percent (\$3.2 million) would support the operations of DFG.

The budget proposes a reserve of \$729,000 in PRA at the end of 1999-00.

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 the funds in 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 for the General Fund the transfer of other appropriate funds.

The budget proposes total HCF expenditures of \$30 million in 1999-00. The amount would be funded with \$9.6 million to be transferred from the Unallocated Account, C&T Fund, and \$20.4 million from the General Fund. The budget projects a \$8.5 million reserve in HCF for 1999-00.

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 are restricted to be used for specific purposes or species. For instance, the cost of hunting and sport fishing programs is to be financed out of hunting and sport fishing revenues. The costs of commercial fishing programs are to be paid solely out of revenues from commercial fishing taxes and license fees.

For 1999-00, the budget proposes FGPF expenditures of \$79.6 million, almost entirely for the support of DFG. This amount is \$7 million (or 9.6 percent) more than estimated current-year expenditures. Of the amount, \$64.9 million is proposed to be spent from nondedicated funds and the remaining \$14.7 million from dedicated revenues.

With the proposed expenditures, the budget projects a reserve of \$17.8 million in FGPF for 1999-00.

(Please see Item 3790, Department of Parks and Recreation for a discussion of the condition of the State Parks and Recreation Fund.)

Park-Related Bonds

There will be almost no park bond funds available for park projects in 1999-00.

Park development projects and land acquisitions have traditionally been funded by various bonds passed by the voters. The availability of bond funds has contributed to the Legislature’s flexibility in funding its priorities in past years. This is because the Legislature has been able to free up funds in ELPF and PRA by using bond funds to the greatest extent possible to fund various projects.

Figure 2 shows that essentially all park bond funds have been depleted. The budget projects minimal bond funds available for park projects in 1999-00.

Figure 2				
Selected Park Bond Funds Resources Programs^a				
<i>1998-99 and 1999-00 (In Millions)</i>				
Bond Funds	1998-99 Expenditures	1999-00		
		Resources	Expenditures	Balances
Parklands Fund of 1980	\$2.6	—	—	—
Parklands Fund of 1984	1.7	—	—	—
Recreation and Fish and Wildlife Enhancement Fund	—	\$0.5	\$0.5	—
State Coastal Conservancy Fund of 1984	0.6	—	—	—
California Wildlife, Coastal Parkland Conservation Fund of 1988	15.4	3.7	0.8	2.9

^a Based on Governor's budget.

Water Bonds

The budget proposes expenditures of about \$169 million from various water bonds for water quality, water supply, and ecosystem restoration projects. No bond funds are available in the budget year for (1) state matching funds for federal safe drinking water loans and grants and (2) the state’s unmet share of costs for federally authorized, local flood control projects. While the budget proposes \$15.1 million from the Gen-

eral Fund to match federal safe drinking water funds, no funding is proposed from other sources for flood control subventions.

As indicated in Figure 3, the budget reflects expenditures totaling \$169.3 million in 1999-00 from various water bonds for (1) safe drinking water; (2) water supply, including water conservation, water recycling, and groundwater recharge; (3) wastewater treatment and other water quality projects; and (4) Bay-Delta improvements, including fish and wildlife restoration and delta levee rehabilitation. This is a decrease of \$92.2 million, or 35 percent, from estimated current-year expenditures

Figure 3			
Selected Water Bond Funds^a			
<i>1999-00 (In Millions)</i>			
	Resources	Expenditures	Balances
Safe drinking water			
1986 California Safe Drinking Water Fund	\$32.5	\$5.2	\$27.3
1988 California Safe Drinking Water Fund	32.3	10.8	21.5
Subtotals	(\$64.8)	(\$16.0)	(\$48.8)
Water supply/water recycling			
1986 Water Conservation and Water Quality Fund	\$26.1	\$23.7	\$2.4
1988 Clean Water and Water Reclamation Fund	7.3	4.2	3.1
1988 Water Conservation Fund	22.0	5.8	16.2
Safe, Clean, Reliable Water Supply Fund ^b	106.6	56.2	50.4
Subtotals	(\$162.0)	(\$89.9)	(\$72.1)
Wastewater treatment/water quality			
1984 State Clean Water Fund	\$31.2	\$6.8	\$24.4
Safe, Clean, Reliable Water Supply Fund ^b	113.2	37.2	76.0
Subtotals	(\$144.4)	(\$44.0)	(\$100.4)
Bay-Delta improvements			
Safe, Clean, Reliable Water Supply Fund ^b	\$451.0	\$19.4	\$431.6
Flood control and prevention			
Safe, Clean, Reliable Water Supply Fund ^b	— ^c	—	—
Totals	\$822.2	\$169.3	\$652.9

^a Based on Governor's budget.
^b Proposition 204.
^c Funds in Proposition 204 subaccount depleted at end of 1997-98.

from bonds for these purposes. Most of this decrease reflects a depletion or near depletion of some of the Proposition 204 bond fund accounts (such as funds for specific Bay-Delta ecosystem restoration purposes and the river parkway program) at the end of 1998-99. Proposition 204—the Safe, Clean, Reliable Water Supply Act of 1996—provides \$995 million for various water-related purposes, including habitat restoration in the Bay-Delta, wastewater treatment, water recycling and conservation, and local flood control and prevention.

Safe Drinking Water. The budget projects total expenditures of \$16 million in 1999-00, leaving a balance of \$48.8 million at the end of 1999-00. There are pending grant applications that would spend much of this balance in future years. About \$463 million in federal loans and grants will be available over the next six years to public water systems in the state for upgrades to meet safe drinking water standards if matched by a 20 percent state contribution. However, existing safe drinking water bond funds are not authorized to serve as a state match for these federal funds. The budget proposes \$15.1 million from the General Fund to match \$75.7 million of federal funds in 1999-00. Our review finds that an additional \$78.5 million of federal funds would be available in 1999-00 if the state were to provide an extra \$15.7 million in matching funds. We discuss this issue in greater detail in our write-up under Item 4260, the Department of Health Services.

Water Supply. The budget projects total expenditures of \$89.9 million, including \$56.2 million from Proposition 204 funds, for water supply and recycling projects. This leaves a balance of \$72.1 million, mainly for new projects.

Wastewater Treatment and Other Water Quality Projects. The budget proposes \$44 million in expenditures to fund wastewater treatment, agricultural drainage treatment, seawater intrusion control, and other water quality projects in 1999-00. This leaves a balance of \$100.4 million. Pending grant and loan applications for wastewater treatment projects would spend much of this balance in future years.

Bay-Delta Improvements. Proposition 204 bond funds provide a total of \$583 million for projects specifically related to the Bay-Delta, mainly for ecosystem restoration. The budget proposes expenditures of \$19.4 million in 1999-00, leaving a balance of \$431.6 million. Of this remaining balance, \$390 million would be available for expenditure only upon federal and state approval of environmental impact reports being developed by the "CALFED" Bay-Delta Program. Such approval is not expected until sometime in the year 2000.

Flood Control and Prevention. The costs of federally authorized, locally sponsored flood control projects are shared by the federal government (50 to 75 percent), state government (17.5 to 35 percent), and local government (7.5 to 15 percent). Due to the state's budget condition in recent years, however, the state has been unable to pay fully its share of costs for these flood control projects. Proposition 204 provided \$60 million to pay some of the arrears owed to local agencies; however, these funds were depleted by the end of 1997-98.

According to the Department of Water Resources (DWR), the unpaid amount on the state's share of costs will be about \$132 million at the end of 1998-99, after the expenditure of \$40 million provided for this purpose in the current-year budget. Chapter 326 appropriated \$44 million from the General Fund for each of 1999-00 and the subsequent two fiscal years for local flood control subventions. However, the budget proposes to revert the \$44 million appropriated for 1999-00 to the General Fund, pending the enactment of legislation to authorize the reversion. With the reversion and no additional funding provided in the budget, DWR projects the arrearages to increase to about \$189 million by the end of the budget year. According to DWR, the failure of the state to pay its share owing to local agencies has caused construction to stop on a number of flood control projects. We discuss this issue in greater detail in our write-up under Item 3860, the DWR.



HEADWATERS PURCHASE: AN UPDATE

Chapter 615, Statutes of 1998, appropriated funds for the purchase of the Headwaters Forest and certain other forest properties, under specified conditions. The Wildlife Conservation Board plans to authorize the purchase of the Headwaters in late February 1999, provided that the conditions of Chapter 615 are met. The acquisition of this property, however, could be delayed by legal challenges.

Background

The Headwaters Forest, located in Humboldt County, is one of the largest stands of old-growth redwoods left in private ownership. Environmentalists, the state and federal governments, and PALCO (the current landowner) have been at loggerheads over its fate for over a decade. In September of 1996, the state and federal governments and PALCO entered into an agreement which committed the state and federal governments to provide \$380 million (\$250 million from the federal government and \$130 million in state funds) for the purchase of the Headwaters Forest.

State Committed Funding and Specified Conditions for Purchase of Headwaters Forest. In 1998-99, the Legislature enacted Chapter 615, Statutes of 1998 (AB 1986, Migden), which appropriated the following from the General Fund:

- \$130 million to purchase the Headwaters Forest (approximately 4,500 acres). The amount is available until July 1, 1999, when it will revert to the General Fund.
- Up to \$80 million to purchase the Owl Creek property owned by PALCO. The amount is available from July 1, 1999 until June 30, 2001, when it will revert.

- Up to \$20 million to purchase the Grizzly Creek property, also owned by PALCO.
- \$15 million for economic assistance to Humboldt County. This amount was subsequently reduced to \$12 million by the Governor.

Under Chapter 615, the state funds are available only if the following conditions are met. First, the federal government provides \$250 million as matching funds for the Headwaters purchase. Second, the final approved federal environmental document issued for other PALCO-owned lands, specifically a Habitat Conservation Plan (HCP) must include certain restrictions established in Chapter 615. The HCP would allow PALCO to log on the approximate 200,000 acres it owns outside of the Headwaters Forest, with certain restrictions to ensure the long-term preservation of endangered species. Chapter 615 specifies additional restrictions relating primarily to the establishment of no-cut buffer zones along watercourses in order to protect fish and birds.

The Wildlife Conservation Board (WCB) is the state agency responsible for acquiring the properties. However, Chapter 615 does not specify which state agency is responsible for determining whether the final HCP approved by federal authorities meets the specified conditions.

Current Status of HCP. On January 22, 1999, the final Environmental Impact Statement/Environmental Impact Report on the HCP was put on public review for a 30-day comment period. It is anticipated that the plan will be approved by federal authorities at the end of that period. The federal approval of the HCP would make federal funds available for the acquisition of the forest.

At the time this analysis was prepared, WCB indicated that it plans to authorize the \$130 million expenditure for the Headwaters purchase (provided the conditions of Chapter 615 are met) at a February 24, 1999 board meeting following federal approval of the final HCP. This action will also make \$32 million dedicated for Humboldt County and for the Grizzly Creek property available in the current year, and \$80 million for the Owl Creek purchase available beginning July 1, 1999.

Implications for State

Legal Challenge Could Delay Acquisition. While both the state and federal governments are proceeding with the Headwaters purchase, the final HCP could be challenged in court, thereby delaying or derailing the acquisition of the forest. Because the \$250 million in federal funds is available only until March 1, 1999, if the final approval of the HCP is

delayed past that time, then the federal funds would expire. (However, the federal budget for the 2000 fiscal year—proposed in early February 1999—provides that the previously appropriated funds for the Headwaters purchase remain available for expenditure.) If the federal funds expire, the state funds would also revert to the General Fund. If the final HCP is successfully challenged after WCB has taken action to purchase Headwaters, it is unclear how this would affect the validity of any previous disbursement of funds for the Owl Creek and Grizzly Creek properties and for economic assistance to Humboldt County.

State Will Bear Some Ongoing Costs When Properties Are Acquired. According to WCB, upon the acquisition of Headwaters, the federal Bureau of Land Management will take title of the property and will be responsible for the operations and maintenance of the property. PALCO has agreed to pay \$250,000 annually for the state to monitor the company's compliance with the HCP. However, given the number of requirements specified in Chapter 615 and the potential number of requirements in the HCP, it is not clear whether this amount would be sufficient to accommodate the enforcement workload to the state.

Upon purchase of the Owl Creek and Grizzly Creek properties, the state as sole owner would be responsible for the operation and maintenance of these properties. At this time, the magnitude of these costs has not been determined.



STATE REGULATION OF PETROLEUM PIPELINES STILL EVOLVING

Commercial oil production began in California in 1876. Since that time, California has become the nation's fourth largest oil-producing state. The state has an estimated reserve of about three billion barrels, and produces almost one million barrels each day.

Despite the maturity and scale of California's petroleum industry, state regulation of pipelines and associated infrastructure was minimal until the early 1980s. Most pipelines were operated and maintained largely at the discretion of private operators. While many operators employed what were at the time considered to be prudent industry practices, there have been numerous instances of petroleum leaks and spills contaminating groundwater, damaging wildlife habitats, and washing onto shores. The full extent of damage caused by these past incidents is unknown, as some underground spills can go undetected for decades.

This write-up separately addresses active pipelines and abandoned pipelines. First, we review the current regulatory environment and discuss problems associated with the regulation and permitting process for active pipelines. Second, we discuss the potential threat of abandoned pipelines and undetected past leaks, and provide recommendations on how to reduce them.

REGULATION AND PERMITTING OF PETROLEUM PIPELINES

Regulatory Environment Recently Developed

Legislation and regulatory changes over the past two decades have greatly enhanced the regulation of pipelines and associated infrastructure.

California's pipeline infrastructure has developed over the past century. Today, the state has about 10,000 miles of various petroleum pipelines. Although much of this infrastructure is modern and well-main-

tained, the lack of age-based replacement requirements has allowed 50- and even 70-year-old pipeline segments to remain in use. In response to several dramatic spills and growing awareness of the environmental and health risks posed by the transportation of petroleum, the regulation of pipelines was expanded considerably in the 1980s and 1990s. Figure 1 highlights the key provisions of major state laws enacted since 1981.

Figure 1	
Key Provisions Major State Laws Concerning Pipeline Operations	
<i>1981 Through 1998</i>	
Legislation	Key Provisions
Inspection, Testing, and Safety	
Chapter 861/1981 (AB 911, Elder)	<ul style="list-style-type: none"> • Requires State Fire Marshal (SFM) to adopt pipeline safety regulations to comply with federal requirements.
Chapter 1222/1983 (AB 1171, Elder)	<ul style="list-style-type: none"> • Requires new pipelines to include a method of leak detection, and older pipelines to meet certain standards. • Assigns penalties for violations of pipeline regulations.
Chapter 1277/1989 (SB 268, Rosenthal)	<ul style="list-style-type: none"> • Requires new pipelines to accommodate internal inspection devices. • Increases penalties for violations of pipeline regulations.
Chapter 395/1991 (AB 718, Elder)	<ul style="list-style-type: none"> • Permits visual inspection for certain above-ground pipelines.
Research and Data Collection	
Chapter 1252/1989 (AB 385, Elder)	<ul style="list-style-type: none"> • Requires SFM to prepare a report assessing risks associated with pipelines near rail lines.
Chapter 523/1994 (AB 3261, O'Connell)	<ul style="list-style-type: none"> • Requires SFM to assess safety of certain low-pressure pipelines, and maintain a database of such pipelines. • Requires SFM to investigate barriers and incentives for replacing and improving all hazardous liquid pipelines.
Chapter 731/1994 (AB 3521, McDonald)	<ul style="list-style-type: none"> • Requires SFM to report every fifth year (beginning in 1999) on regulatory effectiveness with regard to pipeline safety and make recommendations.
Chapter 611/1996 (SB 562, Thompson)	<ul style="list-style-type: none"> • Requires State Water Resources Control Board (SWRCB) to develop database of past underground storage tank leaks.
<i>Continued</i>	

Legislation	Key Provisions
Chapter 973/1996 (AB 349, Escutia)	<ul style="list-style-type: none"> Requires pipeline operators, by July 1, 2000, to provide SFM with an evaluation of pipelines built before 1960, as well as certain high-risk newer pipelines.
Chapter 814/1997 (AB 592, Kuehl)	<ul style="list-style-type: none"> Requires SFM to develop database of pipeline information. Requires SWRCB, by July 1, 1999, to report on the feasibility of a mapping system for underground leak data. Requires SFM at least biennially to identify all pipelines within 1,000 feet of a public drinking water well, and pipeline operators to develop plans to protect those wells.
Chapter 815/1997 (SB 1189, Hayden)	<ul style="list-style-type: none"> Requires an advisory committee to recommend whether MTBE should be listed as a carcinogen or toxin.
Spills and Leaks	
Chapter 1248/1990 (SB 2040, Keene)	<ul style="list-style-type: none"> Creates an oil spill response program, funded from fees paid by pipeline and marine terminal operators.
Chapter 979/1995 (AB 1868, Katz)	<ul style="list-style-type: none"> Makes public utilities liable for damages arising from oil leaks from public utility pipelines.
Chapter 605/1996 (AB 1376, Bustamante)	<ul style="list-style-type: none"> Requires minimum volume thresholds be set for oil spills that must be reported to state officials.
Miscellaneous	
Chapter 863/1986 (SB 1978, Campbell)	<ul style="list-style-type: none"> Expands SFM's jurisdiction to interstate pipelines.
Chapter 765/1996 (AB 1487, Pringle)	<ul style="list-style-type: none"> Extends from one to eight miles the maximum length of pipeline that can be installed, repaired, or replaced, without being subject to certain environmental requirements.
Chapter 1068/1998 (SB 1763, Costa)	<ul style="list-style-type: none"> Increases bond requirements for drilling and operating oil wells. Increases the amount the Department of Conservation may spend annually for plugging orphan wells.

These statutes have considerably expanded and strengthened the laws governing pipelines, which previously had tended to be sketchy and haphazard. The statutes establish testing criteria, create monitoring and response programs, impose fees to fund safety and environmental protection efforts, and establish reporting requirements. For instance, Chapter 731, Statutes of 1994 (AB 3521, McDonald) requires the State Fire Marshal (SFM) to issue a report every five years that reviews current regulatory effectiveness with regard to pipeline safety, identifies pipeline

leak incident rate trends, and recommends necessary changes to the Legislature. The first such report must be submitted in 1999.

We expect that the regulatory framework established by the above statutes will continue to evolve as new pipeline data are made available pursuant to statutory requirements, and as technological improvements allow better testing and maintenance of pipelines. Nevertheless, our review has identified two major regulatory issues which warrant legislative attention: jurisdictional boundaries among regulatory agencies, and consequences of permit requirements imposed on pipeline modification proposals.

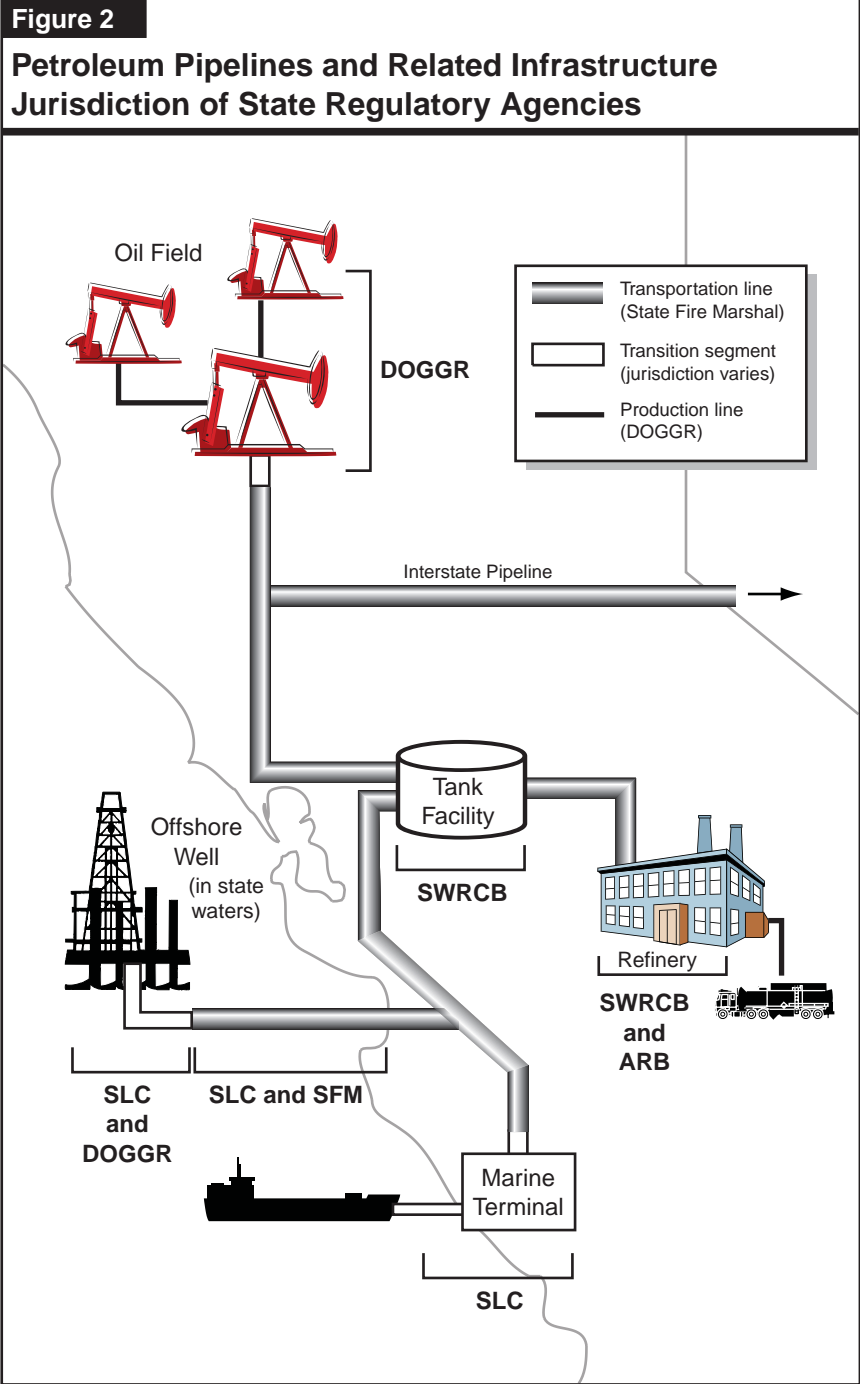
Many Regulatory Agencies Have Jurisdiction

The petroleum production and transportation infrastructure is regulated by a multitude of state and federal agencies. We find that this results in jurisdictional conflicts and regulatory ambiguity. To some extent, these problems are being addressed through interagency agreements.

The physical infrastructure of the petroleum industry comprises a range of production and transportation elements. A number of regulatory agencies exercise primary jurisdiction over most of those elements. Figure 2 depicts the major components of the petroleum production and transportation infrastructure, along with the primary state agencies that regulate them. Regulations typically concern scheduled testing and inspection of pipelines for leaks or weakness, operating practices (including operational temperatures and pressures), and installation and maintenance of safety devices.

Three state agencies are most directly involved in the regulation of petroleum pipelines. They are:

- **State Fire Marshal (SFM).** Within the Department of Forestry and Fire Protection, SFM is responsible for regulating “transportation” pipelines. These pipelines generally are pressurized, and carry petroleum (and other) products across the state. For those portions of interstate pipelines within California, SFM acts as the agent for the federal Office of Pipeline Safety in enforcing federal safety standards. The pipelines under SFM’s jurisdiction total about 6,000 miles in length. On the basis of its extensive jurisdiction and the numerous powers and responsibilities imposed on it by state law, SFM is one of the major pipeline regulators in the state and even the nation.



- ***Division of Oil, Gas, and Geothermal Resources (DOGGR)***. The DOGGR is a division of the Department of Conservation and is primarily concerned with oil production operations in on-shore oilfields and, to a lesser extent, within state waters. Pipelines associated with on-shore operations are typically smaller “production” lines that carry crude oil from wells to on-site storage tanks or to larger lines. Oilfields also frequently make use of diluent (a petroleum product that thins crude oil) to assist in extracting oil from the ground, and this diluent is pumped to wells through pipelines for that purpose.
- ***State Lands Commission (SLC)***. The SLC leases out the state’s submerged lands for oil drilling and other mineral resource activities. As part of its associated responsibilities, SLC (along with DOGGR) regulates oil wells (platforms) in state waters. The SLC also regulates marine terminals (where oil is transferred to or from vessels). Although pipelines connecting offshore platforms to the mainland are transportation lines (and thus under SFM’s jurisdiction), SLC also possesses authority over these lines by virtue of their passing through state waters. At the time this analysis was prepared, SFM, SLC, and other agencies were working to clarify their respective authority over these lines.

Other state agencies become involved in pipeline regulation in less direct ways, such as through the regulation of petroleum storage tanks (State Water Resources Control Board—SWRCB) or in responding to spills (the Department of Fish and Game’s Office of Spill Prevention and Response). Federal agencies, such as the U.S. Minerals Management Service and the Department of Transportation, also have roles. Further, various local agencies issue permits for the construction of new pipelines or the modification or repair of existing lines. Figure 3 provides a list of agencies involved in the regulation of pipelines.

Agencies Grapple With Jurisdictional Issues. As Figure 3 shows, there is a large number of local, state, and federal agencies with regulatory responsibilities for different aspects of the oil production and transportation infrastructure. Occasionally, this leads to jurisdictional conflicts and ambiguity. This is partly because the criteria for defining an agency’s jurisdiction differ among agencies. Some jurisdictions are based on location of the pipelines (onshore or offshore, for example), some are based on the type of facility being regulated (such as production or storage), and some are based on the type of resource being protected (such as public health or wildlife habitat). As a result, it is not always clear where one agency’s jurisdiction begins and another’s ends. This can lead to overlapping jurisdictions or

jurisdictional “gaps,” where no regulatory agency assumes responsibility for particular segments of pipeline infrastructure.

Figure 3

Pipeline Operations and Maintenance Regulatory Agencies

State	Federal	Local
<ul style="list-style-type: none"> • State Fire Marshal (Department of Forestry and Fire Protection) • Division of Oil, Gas, and Geothermal Resources (Department of Conservation) • State Lands Commission • State Water Resources Control Board • Coastal Commission • Department of Parks and Recreation • Office of Spill Prevention and Response (Department of Fish and Game) • Air Resources Board • Department of Transportation 	<ul style="list-style-type: none"> • Minerals Management Service • Department of Transportation • Environmental Protection Agency • Coast Guard • National Marine Fisheries Service • Fish and Wildlife Service • Bureau of Land Management 	<ul style="list-style-type: none"> • Resources Management Department • Environmental Health Department • Public Works Department • Zoning/Planning Department • Fire Department • Systems Safety and Reliability Review Committee • Board of Architectural Review • Air Pollution Control District

Among state agencies, many of these potential conflicts have over the past several years been addressed through the development of memoranda of understanding (MOUs). An MOU signed between SLC and SFM in 1994, for instance, identified the precise points where their respective jurisdictions met at every marine terminal in the state. While MOUs help to better define jurisdictional boundaries, they are administratively inefficient in that they require staff time and costs for their negotiation. In addition, notwithstanding the jurisdictional clarification provided by some MOUs, other

areas of jurisdictional ambiguity remain. It is doubtful that all jurisdictional issues could be fully resolved through the development of MOUs.

Another potential problem arising from regulation by multiple agencies concerns inconsistent testing and maintenance standards. For example, our review found examples of pipeline operators having to meet two different sets of testing standards (for example, differences in testing method and frequency of testing) for the same pipeline. Some state and federal agencies have responded to this type of situation by either adjusting their standards so that they are consistent, or by accepting a test certification or inspection by specified regulatory agencies. However, industry still feels that this problem has not been fully addressed.

We believe that state and federal agencies are making good faith efforts to mitigate multijurisdictional problems. We recommend that these efforts continue. In addition, as detailed in a later section of this write-up, we believe multijurisdictional issues could be further mitigated by the designation of a single lead agency to oversee the regulation of pipeline operations.

Permitting Process May Discourage Pipeline Repair and Replacement

Under the existing permitting process, a pipeline operator wishing to modify or replace an oil pipeline may have to wait months or even years and incur substantial costs to be authorized to make such improvements. This may create disincentives to repair pipelines.

As pipelines age they may become more susceptible to leaks, less capable of handling flow demands, and technologically obsolete. However, securing the authorizations necessary to alter or replace pipelines can be expensive and time consuming.

The first step in repairing, replacing, or installing a pipeline or pipeline segment is to ensure that the project complies with the California Environmental Quality Act (CEQA). Projects which involve a segment of pipeline longer than eight miles are subject to CEQA. This involves preparing an environmental impact report, holding public hearings, and providing for necessary environmental mitigation measures. According to representatives from industry, this process generally takes one to three years to complete.

Although projects affecting less than eight miles of pipeline are exempt from CEQA, only one-half mile of pipeline may be excavated at a time. This adds to the time needed to complete a project. It can also add to the costs of the project.

After a project meets CEQA requirements, or is exempted from them, the permitting process begins. Figure 4 highlights some of the permits that may be required of industry in order to install, repair, or replace a pipeline, and the estimated time needed to obtain these permits. The permits and times listed in Figure 4 were provided by various representatives of industry. The number of permits required varies depending on the pipeline's location.

Figure 4		
Installation, Repair, or Replacement of Pipelines State and Local Permitting Agencies		
Pipeline Location	Permit Agency	Estimated Time to Issue Permit
Over 8 miles long	Local planning agency, various state agencies (CEQA)	1 - 3 years
In a city	Planning department Public works agency	6 - 12 weeks
In an unincorporated area	Planning department Public works agency	6 - 12 weeks
On the coast	California Coastal Commission and/or local designee	6 - 12 weeks
In a flood control district	County flood control district	8 - 12 weeks
Crossing a city/county road	City/county transportation department	NA
Crossing over aqueducts	Department of Water Resources	NA
San Francisco Bay Area	Bay Area Conservation and Development Commission	NA
Ports of Los Angeles/ Long Beach/San Francisco	Port authorities	7 - 12 weeks
On state property	Affected state agency	2 - 4 weeks
On wildlife habitat	Department of Fish and Game	6 - 8 weeks
Railroad rights-of-way	Agreement with railroad owners	Varies
On private property	Agreement with landowners	Varies
In state waters	State Lands Commission	NA

Note: Some permits may be applied for simultaneously.
NA - Not Available.

Permitting Processes Create Disincentives to Repair Pipelines. Pursuant to Chapter 532, Statutes of 1994 (AB 3261, O'Connell), SFM investigated incentives that would encourage pipeline replacement or improvements. The report, which was completed in 1997, surveyed the industry and found that the most commonly cited barriers to replacing or improving pipelines involved the permitting process. Specifically, operators indicated that the permitting process was lengthy and expensive. Additionally, the process could have adverse effects on public safety and health.

In our review of that report and in subsequent discussions with SFM and industry representatives, we found the following to be the most significant barriers presented by the permitting process:

- **Time Delays.** Depending on the number of permits required for a given project, the permitting process could take a couple of weeks to several months, or more. In some cases, requirements can be duplicative. In many of those cases, it also appears that the sequencing of the required permits contribute to the length of time required to obtain all permits. For example, one company noted that while the California Coastal Commission's coastal development permit is essentially the same as the County Coastal Development Permit, the state permit cannot be applied for until the county permit is approved. Additionally, the U. S. Army Corps of Engineers would not issue its required permit until after the state's permit was approved. In addition, some permitting agencies may add requirements to the project such as additional mitigation or shut-off valves. Complying with these additional requirements could further delay the project.
- **Increased Costs.** In some cases, the cost of repairing pipelines is prohibitive due to the number of permits required, the mitigation efforts required by CEQA, and the necessary planning documents. One company claimed that it had started to abandon some of its pipelines that needed repair because it was too costly to prepare the required development plans and obtain all of the necessary permits. This company found it to be more cost-effective to begin transporting oil via tanker trucks. In addition, some permitting agencies may impose requirements beyond the scope of the immediate project as a condition of issuing a permit. These additional requirements, among other things, could include mitigation beyond CEQA requirements. Additional requirements will increase the cost of the pipeline project as well as cause time delays as mentioned above.

Disincentives to Repair Pipelines Could Jeopardize Public Health. As a result of the length and expense of the permitting process, pipelines are not replaced as quickly as they should be and could pose a health and safety hazard to the public and the environment. A number of representatives from industry have indicated that it often takes one to two years to obtain permits to replace or repair pipeline segments they know to be substandard. This delay presents a risk to the health and safety of the surrounding communities as well as to wildlife habitat. Furthermore, permitting costs increase the expense to repair pipelines, making pipeline transportation more costly than alternative means. As a result, more oil is being transported on the highways. According to the SFM, transporting oil via highways is over 400 times more likely to result in fatalities than via pipelines.

Additionally, many of the permitting agencies do not have the technical expertise to determine the need for certain safety features associated with pressurized pipelines. As a result, some of their efforts to improve the safety of the pipelines could actually increase the health risks to the public and environment. An example of this could be a local fire department requiring shut-off valves to be accessible to them as a condition of receiving a permit. Given that most petroleum pipelines are pressurized, shutting off the flow without notifying the operator could cause elevated pressures, leaks, and even structural damage to the pipelines.

Lead Agency Would Help Resolve Jurisdictional Issues And Streamline Permitting Process

We recommend the enactment of legislation to designate a single lead state agency to (1) coordinate testing and maintenance requirements and (2) streamline the permitting process.

As discussed above, the respective jurisdictions of regulatory agencies are not always clear. Additionally, pipeline operators are subject to inconsistent requirements imposed by these regulatory agencies. In order to help clarify jurisdictions and to make testing and maintenance criteria more consistent, the Legislature should designate a lead agency among pipeline regulators. This lead agency should be responsible for coordinating all state agencies and working with federal and local agencies to better delineate each agency's jurisdiction and how they can work to reduce potential duplication and uncertainty for the regulated community. The lead agency should also be required to make recommendations to the Legislature on statutory changes necessary to address any jurisdictional issues.

Based on our review of the roles of various state agencies in the regulation of pipelines, we believe that it would be reasonable to designate SFM as the lead agency. The SFM's jurisdiction currently covers a larger geographical area than other likely candidates. In addition, SFM is currently required by various statutes to produce reports on pipeline issues and maintain databases of pipeline information. Finally, SFM has already made considerable progress in coordinating jurisdictional issues with other state and federal agencies through MOUs.

The current permitting process creates a number of disincentives to pipeline operators who may otherwise have voluntarily replaced or upgraded pipelines. In order to help eliminate those disincentives associated with cost and time delays, the Legislature should charge the same lead agency to work in partnership with other federal, state, and local permitting agencies. This lead agency should evaluate the current permitting process to standardize and eliminate redundancies where possible. It should also be required to make recommendations to the Legislature on statutory changes that would streamline the permitting process.

ABANDONED PETROLEUM PIPELINES

Abandoned Pipelines and Past Leaks Pose Unknown Threat

While the nature, extent, and threat of undetected petroleum leaks are not clear, we find that the potential for long-term damage warrants further investigation of this problem and its implications for the state. We recommend the enactment of legislation appointing a lead agency to collect, integrate, and utilize data to identify sites that are especially likely to have had past petroleum leaks and are unusually susceptible to human health risks or environmental damage.

While the regulation of operational pipelines, as well as the state's ability to respond to new oil spills, has improved markedly in recent years, there is a continuing, unknown threat posed by past leaks and abandoned pipelines. This threat was dramatically illustrated a decade ago, when extensive underground pools of petroleum products were discovered under the town of Avila Beach. (Please see our December 1998 California Update, *Oil Pipeline Spills: The Avila Beach and Guadalupe Experience*.) The leaks had occurred over many years. The discovery of the leaks has led to a major clean-up effort involving the demolition of at least 21 buildings and the excavation of 100,000 cubic yards of contaminated soil.

As we noted in our December 1998 report, experts in industry and in the regulatory agencies believe that there are additional instances of past leaks

still to be discovered in the state. The nature and extent of such leaks are currently unknown, and it is not even clear whether they pose any immediate threats to public health and safety. The level of threat would depend on a number of factors, including the proximity of drinking water supplies, the composition of the surrounding soil, the volume and age of the spill, and other considerations. Notwithstanding this uncertainty, we believe that the potential for long-term damage posed by undetected past leaks warrants further investigation of this problem. Existing data held by industry and governmental agencies will aid this investigation, as will several new reports and databases that SFM and other agencies are required to make available over the next two years.

We recommend, therefore, the enactment of legislation appointing a lead agency to collect, integrate, and utilize available data sources to identify sites that are (1) highly likely to have had past petroleum leaks and (2) unusually susceptible to environmental damage or human health risks. We believe the following data sources, among others, could be helpful in this effort:

- Comprehensive GIS-compatible database of pipeline information (including pipeline locations, age, reported leak incidences, and inspection history), to be developed by SFM as required by Chapter 814, Statutes of 1997 (AB 592, Kuehl). The SFM expects to make this database available later this year.
- Database of cases involving discharges of petroleum from underground storage tanks, created and maintained by SWRCB as required by Chapter 611, Statutes of 1996 (SB 562, Thompson) and Chapter 814. The SWRCB is required to report to the Legislature by July 1, 1999 on the feasibility of expanding this database to a statewide GIS system.
- State Energy Map, developed by DOGGR, identifying locations of known active and abandoned pipelines, as well as other associated infrastructure. The department expects an updated, computer-based map to be available later this year.

After assessing available information, the lead agency should be authorized to obtain other information it deems necessary to complete an inventory of high-risk sites. We further recommend that the Legislature require that a sample of sites from this inventory be tested for evidence of past petroleum leaks. Results of these tests should then be used to determine whether further testing (and possible remediation) is warranted. These conclusions should be submitted in a report to the Legislature and Governor.

DEPARTMENTAL ISSUES

Resources

SECRETARY FOR ENVIRONMENTAL PROTECTION (0555)

The Secretary for Environmental Protection heads the California Environmental Protection Agency (Cal-EPA). The Secretary is responsible for overseeing and coordinating the activities of the following departments that make up Cal-EPA:

- Air Resources Board (ARB)
- California Integrated Waste Management Board (CIWMB)
- Department of Pesticide Regulation (DPR)
- Department of Toxic Substances Control (DTSC)
- Office of Environmental Health Hazard Assessment (OEHHA)
- State Water Resources Control Board (SWRCB)

Beginning in 1999-00, the budget combines the Secretary's budget with that for "Special Environmental Programs," which was previously budgeted separately under Item 3985. Special Environmental Programs includes four agency-wide activities: permit assistance centers, scientific peer review, information technology, and the Circuit Prosecutor Project. The Circuit Prosecutor Project provides funds to train local attorneys in rural areas on enforcement of environmental laws.

The budget proposes expenditures of about \$8 million for the Secretary (including Special Environmental Programs) in 1999-00. This amount is about \$1.1 million, or 16 percent, above estimated current-year expenditures. Of the proposed expenditures, about \$2.5 million is for the Office of the Secretary (the same as estimated current-year expenditures) and \$5.5 million is for Special Environmental Programs (\$1.1 million higher than estimated current-year expenditures). The increase reflects two major budget adjustments: (1) a one-time increase of \$1.6 million for information technology at the new Cal-EPA headquarters (scheduled for completion in the summer of 2000) and (2) a decrease of \$444,000 for staffing at the permit assistance centers. Additionally, the budget proposes to continue 24 limited-term positions within the Secretary which were set to expire on December 31, 1999.

Governor Plans Review of Cal-EPA Program Delivery, Structure, and Funding

The administration's planned review of Cal-EPA program delivery, structure, and funding would examine issues of substantial concern to the Legislature. We recommend approval of the budget's proposal to continue 24 positions set to expire on December 31, 1999, but recommend that these positions be made two-year, limited-term.

Governor Plans Review of Cal-EPA. While no specific proposal was included in the budget, the Governor indicated in his summary of the budget that he would direct the Secretary to review the operations of Cal-EPA. Specifically, the Secretary is to examine (1) the delivery of environmental programs, (2) the structure of environmental organizations, and (3) funding mechanisms for environment programs, as "... there is substantial room for improving the efficiency, effectiveness, and accountability of environmental programs."

Review Will Address Legislative Concerns. We think that the review proposed by the Governor is important in that it would examine issues that have been of substantial concern to the Legislature. During the past session, the Legislature passed, but the Governor vetoed, SB 1577 (Sher) that would have established a legislative sunset review of the structure and functions of Cal-EPA. (The agency would have sunset on January 1, 2000, unless a statute were passed to continue the agency in some form.) The purpose of this review was to develop recommendations on how the agency could better meet the goals set for it when it was established by a Governor's reorganization plan in 1991. These goals include:

- Focusing on assessing and addressing the greatest environmental and public health risks, using the best science.

- Coordinating the state's environmental programs.
- Serving as a primary point of accountability for these programs.

The Legislature has expressed concerns at budget hearings in recent years about how well the agency is meeting these goals. Of particular concern have been the use of science in regulatory development (this led to a recent statutory requirement for scientific peer review); the effectiveness of enforcement activities within the agency; and how well the agency addresses issues—such as the MTBE issue—that cut across a number of environmental media (air, water, land). We discuss the issue of how well the agency is meeting its goals in further detail in our *Analysis of the 1998-99 Budget Bill* (please see page B-51). In that write-up, we found that the current organizational structure of Cal-EPA, which includes 12 independent boards, is inherently problematic, and recommended that the agency's structure be reexamined.

Budget Extends Positions Set to Expire on December 31, 1999. The 1998-99 Budget Act made all 24 positions in the Secretary 18-month, limited-term positions to expire on December 31, 1999. This action was taken in conjunction with the Legislature's approval of SB 1577 which would sunset the Secretary on January 1, 2000. However, since the Secretary will not sunset on January 1, 2000 due to the veto of SB 1577, the budget proposes to continue on an ongoing basis the 24 positions that were set to expire on December 31, 1999.

Recommend Continuing Positions, But on a Limited-Term Basis. The Secretary's review of Cal-EPA may result in recommendations that affect the function and structure of the agency. Therefore, we recommend that these 24 positions be made two-year, limited-term positions to expire on June 30, 2001. We think that this would provide the Secretary with sufficient time to conduct the planned review of Cal-EPA and for changes to be made based on the review's findings and recommendations.

Legislative Oversight of Proposed Information Technology Infrastructure

We recommend that the Legislature adopt budget bill language requiring the Secretary to notify the Legislature of the final plan for an information technology infrastructure in the new Cal-EPA headquarters prior to funds being made available for equipment purchases.

Information Technology Infrastructure for New Headquarters. The budget proposes \$1.6 million for development and equipment costs for an information technology infrastructure in the Cal-EPA headquarters

building currently under construction. The Cal-EPA headquarters—expected to be completed in the spring/summer of 2000—will collocate in one building about 2,700 employees from the six boards and departments within the agency. Currently, these employees are dispersed in several locations throughout Sacramento. The budget proposal is for the installation of a data communications infrastructure that will allow all Cal-EPA employees to communicate with one another and share data.

Equipment Needs Are Not Certain at This Time. Of the \$1.6 million proposed expenditure, \$393,000 is for staff and consultant contracts to, among other things, evaluate technologies that will provide electronic communication and database sharing, identify areas of potential equipment needs, and oversee the procurement and installation of the networking infrastructure. The remaining \$1,207,000 would fund “. . . possible equipment needs.” The feasibility study report (FSR) for the project—which has been approved by the Department of Information Technology and the Department of Finance—however, does not specify the equipment needs. Rather, the FSR provides for staff (one position) and consultants to evaluate and finalize the equipment to be purchased. The Secretary does not expect that the consultant will finalize the equipment needs before the end of the current fiscal year.

Recommend That Legislature Be Notified of Chosen Infrastructure. While our review finds that the request for \$1,207,000 for equipment may be reasonable, we think that it is premature for the Legislature to approve this amount without being provided details of the equipment ultimately to be purchased. Accordingly, we recommend that the following budget bill language be adopted to require notification of the Legislature prior to \$1,207,000 of funds being made available for equipment, as follows:

Item 0555-001-0044. Of the funds appropriated in this item, \$1,600,000 is appropriated for the development and installation of a data communications infrastructure in the Cal-EPA headquarters building. Of this amount, up to \$393,000 may be expended for a staff position and to contract with an outside vendor to evaluate equipment needs, recommend equipment purchases, and oversee the installation of the procurement and installation of the networking infrastructure. Funds may be expended for equipment purchases no sooner than 30 days after the Secretary notifies the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the legislative fiscal committees of (1) the equipment to be purchased and (2) any written approvals from the Department of Information Technology and the Department of Finance for equipment purchases to the extent such approvals are required.

DEPARTMENT OF CONSERVATION (3480)

The Department of Conservation (DOC) is charged with the development and management of the state's land, energy, and mineral resources. The department manages programs in the areas of: geology, seismology, and mineral resources; oil, gas, and geothermal resources; agricultural and open-space land; and beverage container recycling.

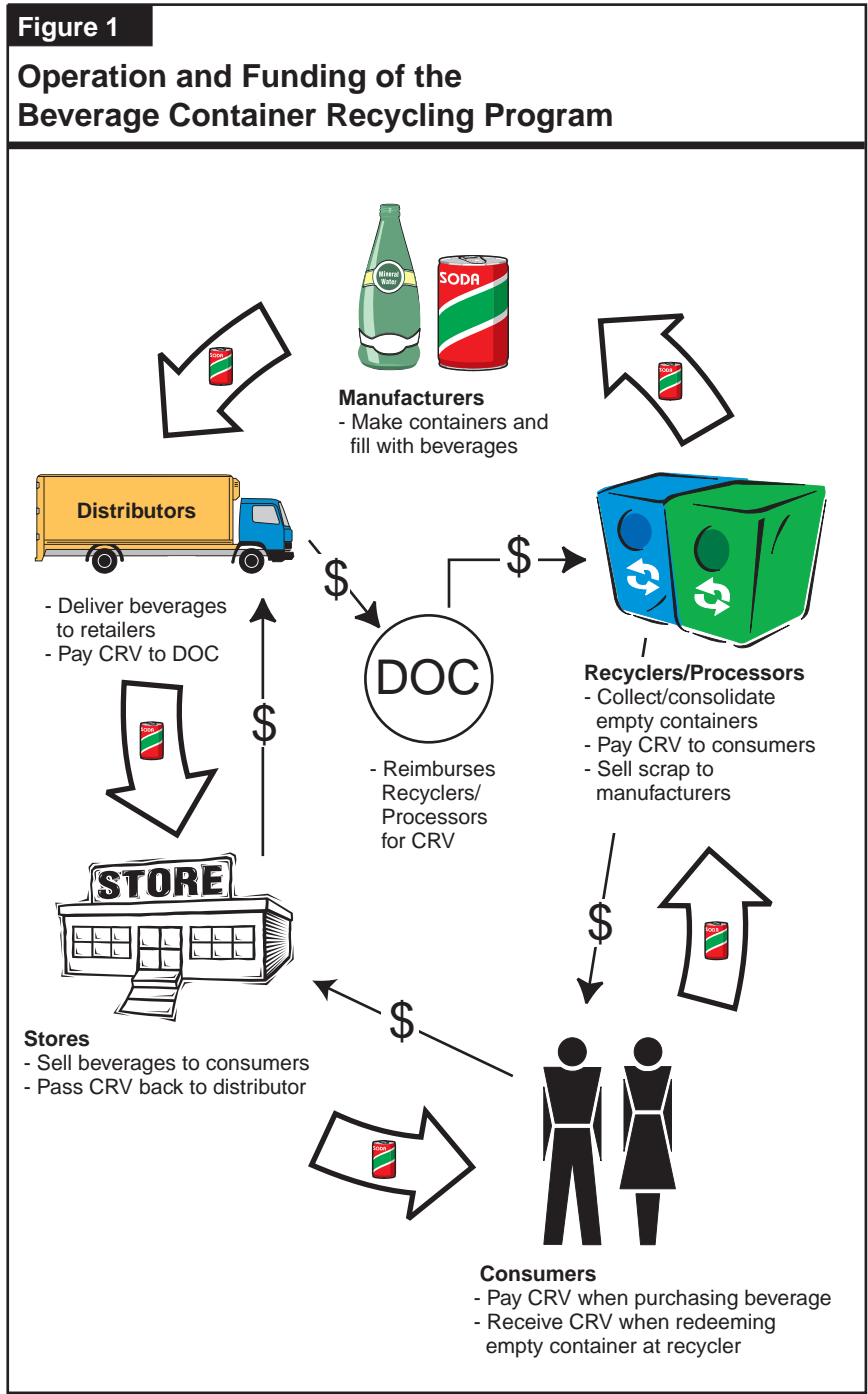
The department proposes expenditures totaling \$367.4 million in 1999-00, which represents a decrease of about \$27.9 million, or 7 percent, from estimated current-year expenditures. Almost 90 percent of the department's proposed expenditures (\$329.4 million) represents costs associated with the Beverage Container Recycling Program.

BEVERAGE CONTAINER RECYCLING PROGRAM

The Beverage Container Recycling Program was created twelve years ago by Chapter 1290, Statutes of 1986 (AB 2020, Margolin). The program seeks to encourage the voluntary recycling of beverage containers by guaranteeing a minimum payment (California Redemption Value, or CRV) for each container returned to certified recycling centers. Certain provisions of the Beverage Container Recycling Act will expire on January 1, 2000. This report analyzes the implications of those sunsets, and suggests actions for the Legislature's consideration.

Operation of the Program

Specific types of beverages (largely carbonated soft drinks, beer, and wine and spirit coolers) fall under California's recycling program. In general, the program operates as shown in Figure 1 (see next page). Manufacturers make containers and fill them with beverages. Distributors of beverages subject to the program pay the CRV (currently 2.5 cents for most containers) into the Beverage Container Recycling Fund (BCRF),



which is maintained by the DOC. Distributors typically pass the cost of the CRV along to retailers who in turn charge the CRV to consumers.

Consumers can recoup the CRV at any certified recycling center when they return their empty containers. Recyclers pay the CRV, as well as scrap value in some circumstances, for each container returned. Recyclers then sell the containers to processors, who collect, sort, clean, and consolidate the materials. In addition to paying scrap value, processors reimburse recyclers for CRV payments they made to consumers. Processors are in turn reimbursed for those CRV pass-throughs out of the BCRF. Finally, processors sell the collected material to container manufacturers or other end users. (In order to simplify this discussion, we subsume processors under the term "recyclers" for the rest of this write-up.)

The program is administered by DOC's Division of Recycling. In addition to maintaining the BCRF, the department enforces program requirements, certifies and audits recyclers and processors, calculates recycling costs and associated fees, encourages the development of markets for recycled materials, and awards grants to public and private groups that promote recycling. For 1998-99, the department has 181 staff and \$21 million to administer the program. Program support is drawn from the BCRF, which is expected to take in about \$355 million in CRV during the current fiscal year. The department estimates it will expend about \$287 million of that amount in CRV payments to recyclers.

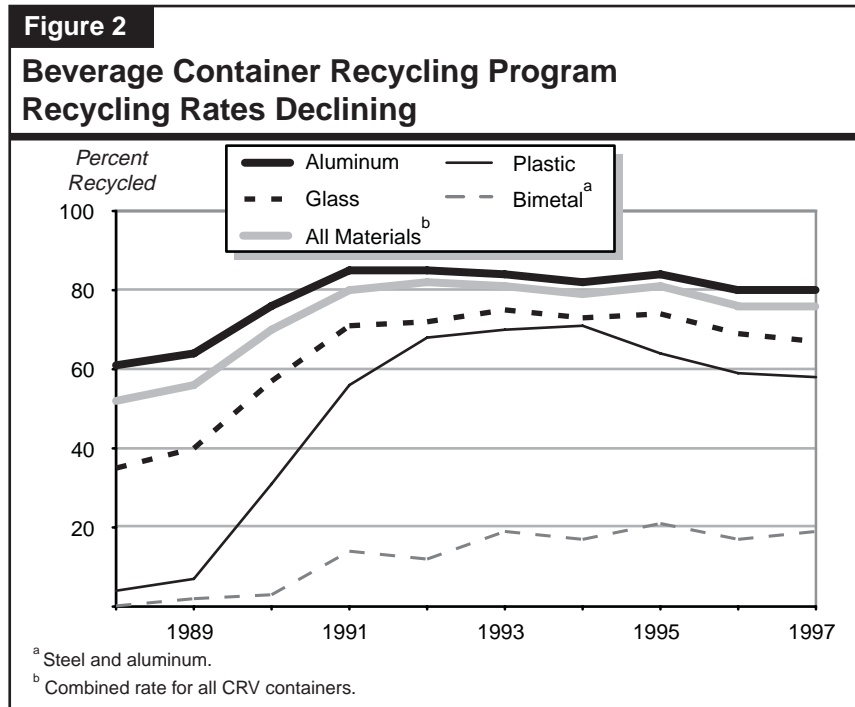
Recycling Rates Have Declined

After peaking in 1995, recycling rates for all types of beverage containers have stagnated or declined.

California's Beverage Container Recycling Program was developed with the primary objective of diverting containers from landfills and litter. Although CRV beverage containers only comprise about 3 percent of generated solid waste, their potential for winding up as litter made them a logical target. By guaranteeing a refund payment for these containers, the program provides a financial incentive for consumers to recycle their containers. The same incentives also encourage third parties to retrieve and redeem containers from litter. Assembly Bill 2020 established a goal of maintaining a minimum 80 percent recycling rate for all applicable containers.

Figure 2 (see next page) shows the annual recycling rates for CRV beverage containers since 1988. As the figure illustrates, the 80 percent rate has been met for aluminum cans consistently since 1991, and for all beverage containers as a group from 1991 through 1995. However, recy-

clinging rates for glass, plastic, and bimetal (steel-and-aluminum) containers have never met the 80 percent goal.



More worrisome, recent trends reveal a stagnation and decline in recycling rates. The downward trend has been most pronounced since 1995. The drop in recycling rates means more containers will wind up in landfills or as litter. This problem is compounded by ever-higher volumes of CRV containers sold in the state. Even if recycling rates were to remain constant, the raw number of unredeemed containers would increase as the volume of sales increases.

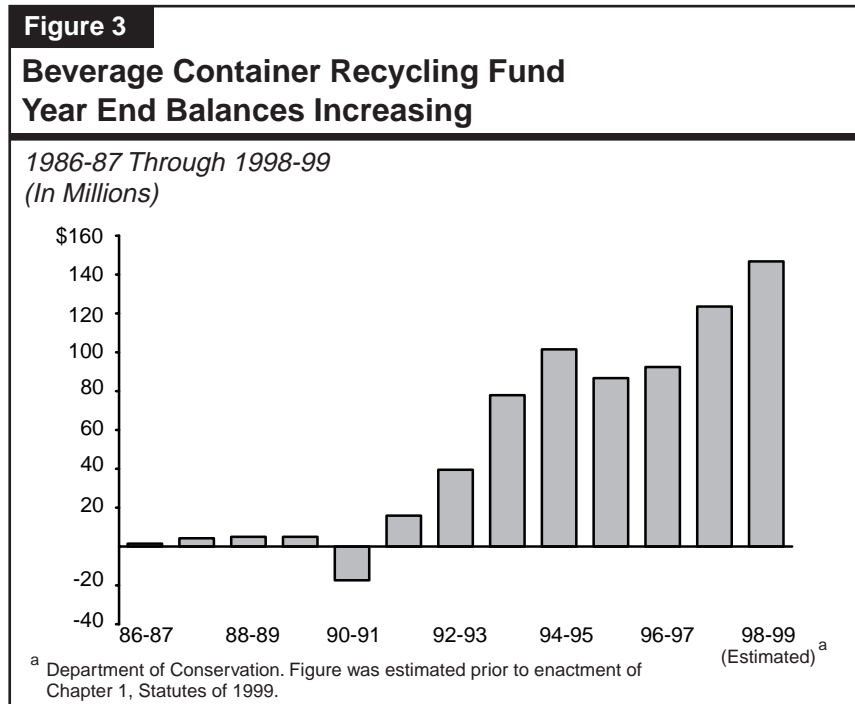
The recent decline in recycling rates could stem from several factors. Improvements in the state's economy may have dampened the financial incentive to recycle afforded by a 2.5 cent CRV per container. Also, the continuing trend toward food and drink consumption away from home may make recycling less convenient. In addition, limited markets for recycled glass and plastic keep scrap values low, and thus may dampen recyclers' enthusiasm for promoting recycling of those materials. Given a low overall recycling rate for plastic containers, an increase in the market share for beverages in plastic (versus glass and aluminum) containers has helped to pull down the aggregate recycling rate for all containers.

Furthermore, as we explain later, subsidies from the BCRF to beverage manufacturers may reduce manufacturers' incentive to switch from container types with low recycling rates to containers with higher recycling rates.

Large, Growing Reserve in Beverage Container Recycling Fund

Low recycling rates have contributed toward a growing reserve in the Beverage Container Recycling Fund that currently exceeds \$120 million.

To the extent affected beverage containers are not redeemed for CRV, a reserve accumulates in the BCRF. Our review shows that the reserve of unredeemed CRV has continued to mount throughout the 1990s. Although statutory changes (as well as a one-time diversion of BCRF monies to the Department of Parks and Recreation) in 1995 resulted in a temporary reduction in the reserve, the fund balance has been growing ever since. Figure 3 shows the BCRF balances over time.



The large reserve is frequently identified by various interested parties, such as recyclers and beverage manufacturers, as a way to reduce their expenses associated with the recycling program. The most recently enacted major legislation to make use of the reserve was Chapter 624, Statutes of 1995 (SB 1178, O'Connell). This legislation directed moneys from the BCRF to reduce the expenses of recyclers and manufacturers. It is significant to note that even with this provision, the unexpended balance of the BCRF reached \$123 million by the end of 1997-98.

Key Provisions to Sunset in 2000

Major provisions of the program are due to expire on January 1, 2000. This will cause program reserves to increase by more than \$80 million annually.

Several major provisions of the program—in particular, provisions created or extended by SB 1178—will expire on January 1, 2000. (These provisions actually expired on January 1, 1999, but were reinstated for one year by Chapter 1, Statutes of 1999 [SB 1, Sher], enacted in late January.) These provisions, which are discussed in greater detail below, include:

- An offset of the processing fee paid by container manufacturers.
- A special methodology for calculating those processing fees.
- A subsidy for convenience zone recyclers.
- A subsidy for curbside recyclers.

The expiration of these provisions will effectively eliminate these subsidies, and will likely add more than \$80 million to the program's mounting reserves each year.

Offset and Reduction of Processing Fee. The Beverage Container Recycling Program requires manufacturers of beverage containers to pay a per-container "processing fee" whenever DOC determines that the cost of recycling a container type exceeds its scrap value. Revenues from the processing fees are dispersed by DOC in the form of per-container payments to recyclers. In this way, recyclers are assured that their costs, including a reasonable financial return, are covered for each container type. This also is consistent with the Legislature's expressed intent in establishing the program, that each type of container should pay its own recycling costs. Aluminum cans are the only containers whose scrap value exceeds recycling costs, and thus are not subject to processing fees.

Senate Bill 1178 allocated a portion of BCRF reserves to reduce the processing fee paid by manufacturers. Specifically, 25 percent of all CRV payments into the BCRF for each container type are applied annually toward the respective processing fees, thereby backfilling fees that otherwise would be paid by manufacturers. In 1998, this offset effectively reduced glass processing fees paid by manufacturers by half and eliminated bimetal processing fees altogether. While manufacturers of plastic containers do not pay a processing fee, they experience an analogous cost in the form of above-market prices they voluntarily pay to purchase scrap plastic from recyclers. Per SB 1178, plastics manufacturers receive an offset similar to other manufacturers.

From 1993 through 1999, processing fees paid by manufacturers are reduced in another way as well. Specifically, manufacturers are required to pay the fee only on containers that are redeemed, rather than for *all* containers that are sold. As a practical matter, if only 65 percent of a container type is being redeemed, then manufacturers have to pay only 65 percent of the processing fee. This methodology does not affect the payments that are actually made to recyclers, who continue to receive the full processing fee for each container they accept.

Predetermination of Processing Fee Calculation. As indicated earlier, the purpose of charging manufacturers processing fees is to generate revenues to pay recyclers whenever their recycling costs for a container type exceed the scrap value. In order to calculate processing fees, DOC must ascertain the costs to recycle beverage containers and the scrap value of each container type. However, SB 1178 requires the processing payments to be set at a specified amount regardless of the actual difference between the recycling costs to a recycler and the scrap value of the container type. For glass and bimetal containers, the processing fee is set at \$65.72 per ton and \$340.26 per ton, respectively, adjusted for inflation. For plastic containers, SB 1178 requires that the recycling fee be set between \$770 and \$900 per ton.

In anticipation of the expiration of SB 1178's provisions, DOC conducted surveys in 1998 in order to establish new processing fees for 1999. Figure 4 (see next page) compares (1) DOC's initial calculation of processing fees to be paid by manufacturers and processing payments to be made to recyclers for 1999, and (2) DOC's revised figures in response to Chapter 1's reinstatement of SB 1178's provisions. Without Chapter 1, costs to manufacturers of glass and plastic containers would have been about three times as high.

Subsidy to Convenience Zones. An important feature of the Beverage Container Recycling Program is the requirement that areas close to super-

markets be served by certified recycling centers. If no certified recycling center is operating within a half-mile of a supermarket conducting a specified volume of business, the supermarket itself would be required to accept returned containers. These half-mile-radius areas are referred to as "convenience zones" ("CZs").

Figure 4

Comparison of 1999 Per-Container Processing Fees Before and After Chapter 1, Statutes of 1999

(Per Ton)

	1999 Before Chapter 1		1999 After Chapter 1	
	Payment to Recyclers	Actual Amount Paid by Manufacturers	Payment to Recyclers	Actual Amount Paid by Manufacturers
Aluminum	NA	NA	NA	NA
Glass	1.4 cents	1.4 cents	1.9 cents	0.5 cents
Bimetal	5.3 cents	5.3 cents	4.1 cents	0.0 cents
Plastic ^a	3.6 cents	3.6 cents	3.5 cents	1.1 cents

^a Though not formally paying a processing fee, plastic container manufacturers have paid a voluntary amount to increase scrap payments to recyclers. Figures are rough estimates assuming a market value of \$120/ton for scrap plastic.

NA—Not applicable.

When the program was established in 1986, recyclers were offered a per-container subsidy as an enticement to locate in CZs. Assembly Bill 2020 authorized these subsidies (originally called "incentive payments") until January 1, 1991. Chapter 1266, Statutes of 1992 (AB 87, Sher), extended the subsidies (renaming them "handling fees"), allocating a total of \$18.5 million per year for the subsidy until January 1, 1996. Senate Bill 1178 extended the subsidy until January 1, 1999, and Chapter 1 again extended it until January 1, 2000.

The CZ recyclers receive 1.7 cents per container in handling fees, up to a maximum of \$2,000 per month. Fees are paid to recyclers in priority order from those with the highest to the lowest volume of business, until the \$18.5 million allocated for each year is depleted. About 70 percent of all CZ recyclers received handling fees in 1998.

The expiration of the handling fee will place CZ recyclers on the same footing as "old line" recyclers, who pre-date the Beverage Container

Recycling Program and have never received handling fees. Both groups, however, will continue to be subsidized with processing fees.

Subsidy to Curbside Programs. Another important aspect of the recycling infrastructure is curbside recycling programs. Though not mandated by the Beverage Container Recycling Program, many local governments provide for the collection of specified recyclable materials (such as newspapers and various containers) from local residents. Residents typically place their recyclable material into dedicated bins, which are picked up as part of scheduled trash collection. Although local governments usually recoup CRV and processing fees for the beverage containers they collect, as well as scrap value for most recyclables, these revenues do not cover the costs of collection and other overhead. Remaining curbside program costs typically are borne by residents through fees.

Under SB 1178, \$5 million from the BCRF is provided annually to subsidize curbside programs. The money is allocated among the state's approximately 513 curbside programs in proportion to the number of beverage containers they collected. The subsidy generally covers only a fraction of a typical program's operating costs. The expiration of the subsidy on January 1, 2000 could result in slightly higher monthly bills for residents, although other government revenues, increased operating efficiencies, or lower payments for contracted services could help to offset the lost subsidies.

Use Reserves to Raise Recycling Rates

In order to raise recycling rates, we recommend the enactment of legislation to authorize the raising of CRV payouts and the dispersal of grants to encourage the expansion and creation of new curbside recycling programs. We further recommend the Legislature not continue the processing fee offset, the restrictions on the Department of Conservation's calculation of processing fees, and the handling fees for CZ recyclers.

The expiration of the provisions discussed above will alter the economics of the Beverage Container Recycling Program. In general, the effect would be to simplify aspects of the program and to somewhat increase the costs experienced by beverage manufacturers and CZ recyclers. If manufacturers were to pass on all those new costs to consumers, the price of a CRV beverage in a glass or plastic container could increase by about one or two cents, respectively. Meanwhile, the expiration of SB 1178's (and Chapter 1's) provisions will cause the program to receive more than \$80 million in additional funds each year.

In our opinion, the Legislature should respond to the twin issues of declining recycling rates and increasing reserves. The Legislature has the opportunity to ensure that moneys collected by the program are used to boost recycling rates. With this central objective in mind, we believe four central questions deserve the Legislature's consideration:

What Should Be Done With Program's Mounting Reserve? As noted above, the reserve in BCRF has increased to more than \$120 million. Before Chapter 1 reinstated curbside subsidies and handling fees, DOC estimated the fund's reserve would reach \$147 million by the end of 1998-99, and \$179 million by the end of 1999-00. In addition, reserves of collected processing fees were expected to reach about \$28 million by the end of 1998-99, and \$78 million by the end of 1999-00. Thus, if SB 1178's provisions had not been extended by Chapter 1, total program reserves would have reached about \$257 million by June 2000. Even with the one-year extension of those provisions, total program reserves are expected to approach \$200 million.

We believe that reserves of this magnitude are unwarranted. We recommend that they be reduced by targeting excess moneys toward efforts that directly improve recycling rates. Increasing the per-container CRV payout (without increasing CRV pay-in) could be an effective method. The previous major increase in CRV (from 1 cent to 2.5 cents in 1990) resulted in a dramatic increase in the overall recycling rate (from 54 percent to 70 percent in one year).

We believe that permitting further increases in CRV payout for containers experiencing low recycling rates, without any corresponding increase for the CRV pay-in by distributors, would be a prudent and effective use of mounting BCRF revenues. Such a change would impose no additional costs on any stakeholders—consumers, distributors, container manufacturers, recyclers, and others—and would create a greater financial incentive for recycling. The actual increase in CRV payout should be recalculated periodically by DOC, as a function of recycling rates and fund reserves. For illustration purposes, a one cent increase in the CRV payout for glass and plastic containers would cost approximately \$100 million per year at current recycling levels.

We recommend, therefore, that DOC be authorized to disperse a portion of fund reserves for increasing CRV payout for container types with low recycling rates. In order to ensure that the higher CRV payout has the desired effect of increasing recycling rates, we recommend that DOC be required to report to the Legislature on the higher payouts' effects on actual recycling rates after one year. The DOC also should report on how the higher payouts affect the condition of the BCRF.

How Should Processing Fees Be Structured? When the Legislature established the Beverage Container Recycling Program in 1986, it expressed its intention that each container type should “pay its own way.” In other words, the costs of recycling a certain type of container should be borne by the manufacturers and purchasers of that type of container. This is sometimes referred to as the “polluter pays” principle.

By imposing a processing fee on containers with high recycling costs—in excess of scrap value—the program returns the costs of recycling to the responsible parties (manufacturers and consumers). To the extent that manufacturers pass the fee on to consumers, this in turn directs consumers toward containers that are more efficiently recycled. In addition, by using the processing fees to help cover the costs of recyclers, the program ensures that viable recycling opportunities are provided for all eligible container types.

We believe, therefore, that manufacturers should bear the full cost of the processing fees. Offsetting those fees, as currently being done until January 1, 2000, dilutes the market signals the fee is designed to communicate to manufacturers and consumers.

In addition, we believe that processing fees should reflect, as closely as practicable, the actual differential between recycling costs and scrap value for beverage containers. We believe that prescribing the fee amounts unreasonably constrains DOC’s ability to assign fair and effective processing fees.

Based on these considerations, we recommend that the Legislature (1) not continue the processing fee offset past its scheduled sunset date and (2) continue to allow DOC to base its processing fee calculation on periodic cost and scrap value surveys for 2000 and beyond.

Should CZ Recyclers Receive Handling Fees? When the Beverage Container Recycling Program was created, CZ recyclers entered a new and unproven market for CRV recycling. Start-up costs, programmatic requirements (such as hours of operation and location), and market uncertainties posed significant difficulties for these new recycling businesses. These conditions were especially onerous when compared with those faced by “old line” recyclers, whose start-up costs had already been depreciated and some of whom were exempt from some of the Beverage Container Recycling Program’s requirements.

The disadvantages experienced by CZ recyclers have diminished over time. They have developed an infrastructure, established a presence, increased consumer awareness, and gained a better understanding of the market over the past dozen years. As the program enters its thirteenth

year, we see no justification for continuing a special subsidy to CZ recyclers. Further, because DOC surveys reveal that consumers do not experience more “convenience” from convenience zones (compared with opportunities afforded by old line recyclers and curbside programs), providing a special subsidy for CZ recyclers in order to enhance consumer convenience is even less warranted.

We recommend, therefore, that handling fee subsidies for CZ recyclers not be continued past their scheduled sunset date.

Should Curbside Programs Receive Subsidies? Curbside recycling programs are an important and growing element of the state’s recycling infrastructure. These programs recycle a wide range of materials, including newspapers, cardboard, and various food and beverage containers. By providing consumers with the convenience of being able to recycle materials in front of their homes, California’s more than 500 curbside recycling programs have become a significant element in communities’ efforts to redirect waste away from landfills.

Surveys conducted by DOC demonstrate that consumers value the convenience of curbside programs to recycle their beverage containers, even though they are essentially donating their CRV to the curbside operators. We believe that these programs serve an important role in encouraging and facilitating beverage container recycling. Support for the expansion of curbside recycling appears to be an appropriate activity for the Beverage Container Recycling Program. Currently, about one in four California residents does not have access to curbside service. Further, some curbside programs are not currently able to accept certain types of beverage containers.

We recommend that the Legislature create a new grant program for extending curbside recycling. We believe that a portion of the grants should be earmarked specifically to help extend the types of beverage containers that an existing program can accept. By defraying start-up costs, these grants would provide an incentive to local governments to establish or expand curbside recycling programs.

Summary

The Beverage Container Recycling Program has become an important component of the state’s recycling efforts. While it has achieved considerable success when compared with the early 1980s, recycling rates have stagnated and even declined in recent years.

We believe that the January 1, 2000 sunset of the provisions relating to processing and handling fees will improve the program's ability to encourage beverage manufacturers and consumers to make choices that increase recycling rates. We recommend that the sunset provisions not be extended. Rather, we recommend that the program provide grants to assist the startup of curbside programs. We further recommend that DOC be authorized to disperse a portion of fund reserves for increasing CRV payout for container types with low recycling rates.

AUDITS REVEAL OVERPAYMENT AND OTHER PROBLEMS IN LAND CONSERVATION PROGRAM

We recommend approval of the department's request for funding to continue audits of land conservation grants. We recommend further that the Department of Finance's Office of State Audits and Evaluation and the Department of Conservation explain at budget hearings how the department should address the regulatory and procedural shortcomings identified by the audits and what steps the department is taking to do so.

In carrying out one of its primary missions, the department encourages the preservation of agricultural and open-space land by administering the California Land Conservation Act, also known as the Williamson Act. Through this act, owners of undeveloped property are offered reduced local tax assessments in exchange for agreeing not to develop the land for ten years. These contracts between landowners and local governments are renewable. If a landowner cancels a contract, the county must be paid a cancellation fee. These fees must be forwarded to the state. About 16 million acres of undeveloped land currently is covered by Williamson Act contracts.

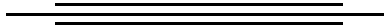
Local governments are reimbursed by the state for a portion of the tax receipts that they forego through these contracts. The amount of these reimbursements, or subvention payments, depends on the type and quantity of land under contract. The department currently expends about \$35 million in subvention payments annually.

Audits Reveal Mismanagement and Violations. In 1996-97 and 1997-98, the department contracted with the Department of Finance's Office of State Audits and Evaluations (OSAE) to audit five counties for compliance with the program's requirements. The audits found numerous instances of inflated claims for state subventions, failure to pay cancellation fees owed to the state, and various other irregularities.

The faulty reporting identified by the audits resulted in overpayments of at least several million dollars from DOC to the counties over the past several years. The full extent of overpayment to the 48 participating counties is likely to be many times this amount.

Recommend Permanent Funding of Audits and Regulatory Reform of Program. The DOC requests an increase of \$90,000 to continue the audits on a regular basis. We think this request is warranted. It is important that there be continuing efforts to monitor compliance with this program, both to ensure the promotion of its goals and to guard against the inappropriate use of state funds.

In addition, we note that the audits identified a number of departmental procedures and regulations that may have inadvertently contributed to the overpayments and other errors. We recommend that OSAE report at budget hearings on its recommendations for correcting these problems, and that DOC report on the steps it has taken in response to the audits' findings.



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 \$534.9 million for total departmental expenditures in 1999-00. This is an increase of \$47.3 million, or 9.7 percent, from estimated current-year expenditures. Of that increase, \$43.3 million is from an increase in the level of funds budgeted for fire protection—specifically, an increase in the airtanker fleet within the aviation management unit of 10 new S-2T airtankers.

The General Fund would provide the bulk of CDFFP's funding—\$378.9 million. The remaining funding would come from the Forest Resources Improvement Fund (\$12.9 million), various other state funds (\$13.9 million), and federal funds and reimbursements (\$129.2 million).

Increased Reserves Can Fund Legislative Priorities

The Forest Resources Improvement Fund is projected to have a \$12.7 million reserve by the end of 1999-00—significantly higher than the past reserve amount of about \$5 million. This reserve offers the Legislature opportunities to fund its priorities relative to forest improvement activities.

The Forest Resources Improvement Fund (FRIF) derives most of its revenues from the sale of forest products on four of the state's eight demonstration forests. The original purposes of FRIF, when established in 1978, was to reinvest revenues from the sale of forest resources back into

California's forests. This was to be done through (1) forest improvement programs; (2) urban forestry programs; (3) wood energy programs; and (4) reimbursement to the General Fund for the cost of operating the state's demonstration forests. As a result of the state's fiscal crisis in the early 1990s, the Legislature amended statute to allow FRIF also to be used for the regulation of forest practices, direct funding of state forest operations, forest pest research and management, and support of state tree nurseries.

Large FRIF Reserve Resulted From Expenditures Being Vetoed in Current Year. For the current year, the Legislature funded forest practice regulation from the General Fund while providing \$16.8 million in FRIF money to forest resource management programs. The Governor subsequently vetoed \$8.5 million of the FRIF expenditures. This resulted in an increase in the FRIF reserve which is projected to reach \$12 million by the end of the current year.

For 1999-00, the budget proposes to spend \$12.9 million from FRIF on forest resources management, leaving a reserve of \$12.7 million.

Because FRIF revenues are generated mainly from timber sales, annual total revenues may fluctuate. Thus, it is prudent to have some reserve in the account. In past years, the reserve has been maintained at about \$5 million annually. The projected 1999-00 reserve of \$12.7 million would far exceed that amount.

One-Time Expenditure Options for the Legislature. The sizeable reserve provides the Legislature with opportunities to further enhance forest improvement activities if it so desires. Specifically, the Legislature could provide one-time expenditures related to forest resources management to fund legislative priorities. Some options that the Legislature could consider are:

- ***Enhance Operations of State Nurseries.*** The State Nursery Program provides a genetically appropriate and reliable supply of forest tree seed, seedlings, and other associated plant materials for reforestation or rehabilitation after forest fires or other catastrophes on nonfederal forestlands in the state. State nurseries are the major supplier of seedlings to small forest landowners throughout California. However, the number of seedlings the state produces has decreased considerably, compared to historic levels.
- ***Proposed Budget Brings Bareroot Seedlings Close to Maximum Capacity.*** The maximum production level of bareroot seedlings is 2.7 million. The production level has remained at 1.2 million seedlings since 1996-97. For 1999-00, the budget proposes increasing production to 2.5 million bareroot seedlings.

- **Container Seedlings Nearing Historic Levels.** The historic production level of container seedlings was about 305,000 annually until 1996-97 when it was reduced to the current level of 125,000. The 1999-00 budget proposes to increase production to 250,000 container seedlings.
- **Additional Funding for Forestry Grants.** The department provides grants to landowners to encourage investment in, and improved management of, California forest lands and resources. The objective is to ensure adequate high quality timber supplies and to protect and maintain a productive and stable forest resource system in the state. Grant programs include:
 - **California Forest Improvement Program (CFIP) Grants.** Under this program, assistance is provided on a cost-share basis to private forest landowners, Resource Conservation Districts, and nonprofit watershed groups. This program includes a wide range of benefits including forest management planning, site preparation, tree purchase and planting, timber stand improvement, fish and wildlife habitat improvement, and land conservation practices for parcels containing up to 5,000 acres of forest land. The current-year budget includes about \$850,000 for CFIP grants. For 1999-00, the budget includes \$3.6 million for these grants.
 - **California Urban and Community Forestry Program.** The purpose of the program is to create sustainable urban forests providing benefits to local communities by (1) arresting the decline of urban forest resources through proper management and planting of trees in communities and (2) maximizing potential use of tree and vegetation cover to reduce energy consumption, improve air and water quality, and produce an assortment of products. For 1999-00, the budget proposes \$1.6 million for this program—an increase of about \$1.5 million over current-year level.
- **Forest Products Utilization and Special Projects.** The purpose of this program is to improve the utilization of forest woody material and to reduce the fuel buildup on California forest lands. One project currently undertaken by the department is the “Tahoe ReGreen” project. For 1999-00, the budget proposes \$159,000 in reimbursements from the California Tahoe Conservancy for this project which is about the same level as the current year.

The FRIF account was established by the Legislature to encourage investment in the state's forest resources. Among other things, the Legislature wanted to encourage investment in private forest lands as well as urban forests. With the current reserves in FRIF, the Legislature could consider increasing funding for CFIP and the Urban Forestry programs, among others, in order to further achieve these objectives.

Staff State Nurseries With California Conservation Corps And Corrections Crews

We recommend that the Departments of Forestry and Fire Protection and Corrections (CDC) report at budget hearings on the feasibility of dedicating an inmate crew to provide labor for state nurseries. We further recommend adopting budget bill language requiring the department to use California Conservation Corps or CDC crews, or both, as the labor source for the state nurseries if dedicated crews can be made available.

The department currently operates two state nurseries—the Magalia Reforestation Center (MRC) at Magalia in Butte County, and the Lewis A. Moran Reforestation Center (LAMRC) at Davis in Yolo County. The state operated a third nursery in Ben Lomand (Santa Cruz County) but it was closed in the early 1990s due to fiscal constraints. The Nursery Program collects, processes, and stores seeds to protect the genetic integrity and diversity of forest trees and plant species, and supplies forest tree seeds and seedlings for reforestation.

The Magalia Reforestation Center. The MRC was established in 1952 and is capable of producing 2.7 million bareroot seedlings per year but currently only produces 1.2 million seedlings. The MRC is currently staffed with two positions and two 16-person California Conservation Corps (CCC) crews which do the work equivalent to 12.5 positions annually. The CCC crew labor is provided under an interagency agreement in which CDFFP provides firefighting training in exchange for nonreimbursed CCC labor to respond to fires, floods, and other emergencies as needed. These crews also work at the state nurseries, at no cost to the nurseries. However, the number of crew members available varies depending on emergency needs.

Lewis A. Moran Reforestation Center. The Lewis A. Moran Reforestation Center (LAMRC) was established in 1917 and can produce 400,000 to 500,000 container seedlings per year. Its current production level, however, is 125,000. In addition to container production, nursery sales, and seed processing, this nursery also houses the State Seed Bank opera-

tions. Staffing at LAMRC is currently 5.2 positions. Additionally, CDC provides a 14-member crew from its Delta Conservation Camp which works three to eight days per month at LAMRC.

The Budget Proposes Increased Funding for State Nurseries. The budget proposes to increase funding for state nurseries from \$654,000 to \$894,000 in 1999-00 and staffing from 7.2 to 28 positions. The request would include \$389,000 to provide 17.3 positions in temporary help. The department is proposing to use temporary help instead of the crews from CDC and CCC as the labor source for the nurseries on an ongoing basis.

Substituting Paid Temporary Help for CCC Crews at MRC Not Justified. The department proposes to use paid temporary help at Magalia instead of CCC crews because the current agreement does not provide adequate CCC labor to fully staff both the fire crew and the nursery. As a result, the nursery is disadvantaged whenever the crews are deployed for emergency response.

Instead of hiring temporary help for CDFFP, we recommend CDFFP contract for *additional* CCC crews on a reimbursed basis specifically for the nursery. Doing so would address CDFFP's concerns regarding the current CCC crew work arrangement. It would also be consistent with current law which directs CDFFP to cooperate with CCC to provide training and facilitate, wherever feasible, the creation of forest resources improvement work opportunities. The CCC has indicated that it would "dedicate" a 15-member crew to the nurseries that would not be required to leave their assignment in order to respond to emergencies.

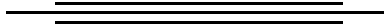
Substituting Paid Temporary Help for CDC Crews at LAMRC Not Justified. The department proposes to substitute paid temporary help instead of fire crews from CDC's Delta Conservation Camp at LAMRC because:

- Fires, floods, training and other contingencies make Delta crews unavailable when needed most to meet production deadlines.
- Travel time from Delta (at Rio Vista in Solano County) to LAMRC (at Davis in Yolo County) reduces the length of the workday to 4.5 hours per day on site.
- The CDFFP maintains that it has more flexibility in deploying seasonal labor than CDC crews. For instance, the size of seasonal labor crews can be varied whereas crews from conservation camps are typically 12 to 13 worker crews. The CDFFP also argues that there are too many restrictions placed on the movement of inmates at the work site, thereby limiting their usefulness.

Instead of hiring temporary help in place of CDC crews, we recommend that CDFFP and CDC report at budget hearings on the possibility of (1) using CDC crews from other correctional facilities that are closer to LAMRC (for example, California State Prison, Solano, in Vacaville) and (2) varying crew sizes to provide the necessary seasonal labor. Using crews from other correctional facilities could continue to provide CDFFP with low cost labor at the nurseries in addition to providing additional work slots for minimum security inmates. The CDC should also report at budget hearings as to any restrictions on the movement of inmates at work sites that could limit their effectiveness in the nursery.

Recommend Budget Bill Language. In order to direct CDFFP to use CCC and CDC crews, if dedicated crews can be made available, we recommend the following budget bill language be adopted (Item 3540-001-0928):

Of the amount appropriated in this item, up to \$389,000 shall be used to provide crews from the California Conservation Corps or the Department of Corrections, or both, to the state nurseries if dedicated crews can be made available.



DEPARTMENT OF FISH AND GAME (3600)

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

The budget proposes total expenditures of \$206.5 million from various sources. Of that amount, \$201 million is for support, \$4.5 million for local assistance, and \$1.5 million in capital outlay. The proposed 1999-00 budget is an overall decrease of about \$7 million (3.4 percent) from the estimated current-year level. This includes a General Fund reduction of \$11.3 million, offset by increases of about \$4 million from other sources. The bulk of the General Fund decrease is the result of the elimination of one-time funding in the current year of \$7 million to backfill for lost revenues to the Fish and Game Preservation Fund as a result of El Niño.

Department's Reorganization Plan: An Update

We recommend that the department report at budget hearings on whether it plans to continue the reorganization effort under the new administration. To the extent the reorganization effort will continue, the department should present an update of its progress to date and the expected time line for full implementation. We further recommend that the department advise the Legislature at budget hearings what it plans to accomplish in the budget year given its reorganization efforts to date.

The department initiated a reorganization in 1997. In our *Analysis of the 1998-99 Budget Bill* (pages B-63 through B-69) we provided a preliminary overview of the department's reorganization plan. At that time, it appeared that only the organizational structure of the department—the number and location of regions, the number of divisions and the

functions carried out by each—was being changed. However, as the department implements the reorganization, DFG indicates that it will also involve two other components:

- **Program Restructuring.** In order to meet statutory requirements and objectives, DFG organizes its responsibilities by program area. The department has stated that the old program structure no longer reflected DFG's mission. The new program structure is identified for the first time in the *1999-00 Governor's Budget*.
- **Management Systems Development.** This component of the reorganization is still underway. It includes (1) the development of work plans for all programs, (2) activity time and expenditure reporting for all employees, and (3) tracking the use of resources and managing programs using these work plans and time and expenditure data.

According to the department, restructuring the organization, programs, and management systems will increase DFG's ability to implement its strategic plan, better define and communicate departmental and program priorities, improve cooperation between regions and divisions, and enhance accountability.

In the following sections, we provide a more detailed description of each of these components of DFG's reorganization.

Structural Reorganization to Better Develop and Administer Programs. The structural reorganization helps to define how the programs are delivered. This component of the department's reorganization has been completed and includes (1) the consolidation of nine divisions into four and (2) the expansion of five regions into seven.

- **Divisions Provide Policy Guidance.** Generally, the four divisions under the new structure are each responsible for the development of policies, planning, coordination, and evaluation of one program (except for the Wildlife and Inland Fisheries Division which is responsible for three programs). Figure 1 illustrates which programs fall under each division. It also shows where these programs or parts of these programs would have been managed under the previous structure. The department expects that this aspect of the reorganization will increase its ability to develop consistent policies and management practices for each program.

Figure 1

**Department of Fish and Game
Program Responsibilities
Under Current and Previous Divisions**

Current
Habitat Conservation
<ul style="list-style-type: none"> • Biodiversity Conservation Program (for example, NCCP, Bay-Delta, wild-life and habitat protection restoration)
Wildlife & Inland Fisheries Division
<ul style="list-style-type: none"> • Hunting, fishing, and other public use <ul style="list-style-type: none"> — Management of department lands and facilities — Conservation education and enforcement
Office of Spill Prevention and Response
<ul style="list-style-type: none"> • Spill prevention and response
Administration
<ul style="list-style-type: none"> • Administration
Previous^a
Inland Fisheries
<ul style="list-style-type: none"> • Hunting, fishing, and other public use • Management of department lands and facilities
Marine Fisheries
<ul style="list-style-type: none"> • Hunting, fishing, and other public use
Bay Delta
<ul style="list-style-type: none"> • Biodiversity Conservation Program
Wildlife Management
<ul style="list-style-type: none"> • Biodiversity Conservation Program • Hunting, fishing, and other public use • Management of department lands and facilities
Natural Heritage
<ul style="list-style-type: none"> • Biodiversity Conservation • Hunting, fishing, and other public use • Management of department lands and facilities • Conservation education and enforcement
Environmental Services
<ul style="list-style-type: none"> • Biodiversity Conservation • Enforcement • Spill prevention and response
Wildlife Protection
<ul style="list-style-type: none"> • Conservation education
Oil Spill Prevention and Response
<ul style="list-style-type: none"> • Spill prevention and response
Administration
<ul style="list-style-type: none"> • Administration

^a For simplicity sake, we used the new program names but applied them to where they would have gone under the previous organizational structure.

- **Regions Deliver Services.** The seven regions will administer programs in accordance with policy direction from the divisions. In this way, the department expects that departmental policies will be carried out in a more coordinated and consistent manner. The new structure also created two new regions in an attempt to enable the department to manage more effectively the vast geographic areas of the state which often have diverse wildlife populations and habitats.

(Please see pages B-63 through B-69 of our *Analysis of the 1998-99 Budget Bill* for more details on this component of the reorganization.)

New Program Structure Should Facilitate Priority Setting and Accountability. Through the years, DFG has had its responsibilities increased, especially in regard to its natural resources protection activities such as enforcement of the California Environmental Quality Act and the California Endangered Species Act. What once used to be an exclusively hunting- and fishing-related department, has evolved to be one of the state's main trustees of all natural resources. To reflect the changes in its responsibilities and its changing activities to meet those responsibilities, the department has realigned its programs. The realignment is an attempt to better define what DFG does and how it allocates its resources to meet existing statutory requirements and objectives. This realignment should enable the department (1) to focus on its priorities given the broader range of responsibilities within its mission, and (2) to be more accountable for its allocation of resources.

- **Priorities.** As Figure 1 shows, the new program structure more clearly presents how the department allocates its resources. Figure 1 illustrates that in the previous structure, many of the programs shared the same responsibilities. For example, habitat conservation efforts (namely biodiversity conservation) was carried out under at least four different programs with varying program objectives and policies. This made it difficult, if not impossible, for the department to know what it was achieving or even how to set goals. By grouping common activities together, the department should be able to better understand its needs, establish priorities, and evaluate programmatic outcomes.
- **Accountability.** In addition to the department understanding what it is doing and therefore better able to evaluate its funding, the new programs should help other interested parties—such as the Legislature, hunters, anglers, conservationists, and environmentalists—to understand how the department is allocating resources.

The programs are displayed annually in the Governor's budget and provide a glimpse of the department's activities.

The new program alignment is displayed for the first time in the 1999-00 Governor's Budget. However, because work plans (we discuss this in the next section) have not been completed for each program, and therefore the goals are not yet established, resource allocation as presented in the budget essentially represents the status quo. Recognizing this is a transition year and that the objective of the reorganization is to be more goal oriented and accountable, the department should present the Legislature at budget hearings what it plans to accomplish in the budget year in each of the program areas.

New Management Systems to Increase Accountability. In order to increase accountability, better manage programs, and prioritize departmental needs given budgetary and personnel limitations, DFG has begun to implement changes in its management and information systems. Specifically, the department is (1) developing work plans; (2) requiring activity time and expenditure reporting; and (3) tracking how resources are used and managing programs using the work plans and the time and expenditure data.

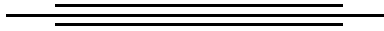
- **Work Plans.** The work plans are to be developed for each program. Standard formats and terminology will be used in the development of work plans to ensure that they can be compared to each other and from year to year. Additionally, work plans are to focus on key results and program objectives.

The work plans are currently being developed and it is not clear when the department expects to have them completed. We believe that in developing these work plans, the department should set goals based on statutory requirements. Additionally, the work plans should establish efficient and effective methods to achieve those goals.

- **Activity Time and Expenditure Reporting.** In addition to work plans, the department is requiring all staff to report on activity time used and expenditures by activity. This will enable the department to maintain better records on where their special fund dollars are being spent and on what employees are focusing their time.
- **Managing Programs and Tracking Expenditures.** The DFG expects these efforts to increase accountability. The department will use the information from the work plans and time and expenditure data to determine if objectives are being met and if they are being

done on budget. Additionally, once the system is fully implemented, the department should be able to more accurately describe what its personnel does, how much it spends on programs, and the sources of those funds. This should enable the department to be more informed in setting its priorities.

Recommendations. Our review shows that the department's reorganization effort is a step in the right direction to improve its priority setting and accountability. Given the change in administration, we recommend that the department report at budget hearings whether it plans to continue the reorganization effort. To the extent the new administration carries on the reorganization effort, the department should present an update of its progress to date and the expected time line for full implementation. We further recommend that the department advise the Legislature at budget hearings what it plans to accomplish in the budget year for each of the programs given its reorganization efforts to date.



STATE COASTAL CONSERVANCY (3760)

The State Coastal Conservancy (SCC) is authorized to acquire land, undertake projects, and award grants for the purposes of (1) preserving agricultural land and significant coastal resources, (2) consolidating subdivided land, (3) restoring wetlands, marshes, and other natural resources, (4) developing a system of public accessways, and (5) improving coastal urban land uses. In general, the projects must conform to California Coastal Act policies and be approved by the conservancy governing board.

The 1999-00 budget includes \$15 million from the General Fund for capital outlay, including \$10 million for a new challenge grant program and \$5 million to expand the existing Natural Community Conservation Planning program in San Diego County. The \$15 million appropriation is about \$10.9 million less than the estimated current-year General Fund expenditure for capital outlay by the conservancy.

Challenge Grant Program Proposed

We recommend that the conservancy explain at budget hearings the criteria it will use to allocate grant funds under the Challenge Grant Program. We further recommend adoption of budget bill language to ensure none of the proposed \$10 million is used for the conservancy's administrative costs.

The SCC proposes to create a new competitive grant program to fund coastal access and wetlands restoration projects. The program will provide "challenge grants," which are intended to leverage federal and private funds for qualifying projects. This program is consistent with the conservancy's existing statutory authority.

The SCC is requesting \$10 million for the Challenge Grant Program. Projects receiving grants from this source would be required to be matched by at least equal levels of nonstate funds. The grants would be

available to local agencies and private entities. Grant funds also could be expended directly by the SCC on qualifying projects, so long as the match requirement is met.

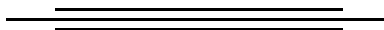
Grant Criteria Should Be Explained. We believe the proposal would help to preserve some of the state's vital coastal resources. The matching requirement at least doubles the total funds available, and helps ensure the commitment of local and private partners to coastal resource preservation and enhancement.

However, given the broad range of projects which could conceivably compete for funding under this program, it is not possible to determine how the proposed expenditure maximizes the state's goal of protecting the coast without knowing which specific projects, or at the very least, categories of projects, would be provided grant funds. To enable the Legislature to determine whether the conservancy's planned use of grant funds meets legislative priorities, the conservancy should provide a clear description of (1) the major criteria which grant applications must meet, and (2) how funds would be allocated—for instance, whether certain funds would be set aside for different types of projects. The information would be helpful to the Legislature in gauging the long-term impact of these grants. For example, to the extent the grants are aimed at acquiring new property for the state, they may result in increased maintenance costs to the state.

We recommend, therefore, that the conservancy report at budget hearings on what major criteria it plans to establish for the grants, and how grant funds would be allocated to various categories of projects.

Grant Funds Should Not Pay SCC's Administrative Costs. The SCC and the Department of Finance have indicated that the entire \$10 million requested would be expended as grant funds. The SCC's administration of the grant program, including advertising, technical assistance, and contract administration, would be funded out of existing resources. However, the SCC's written proposal indicates these administrative activities would be funded out of the \$10 million request. In order to maximize the use of these funds for coastal access and wetlands restoration projects, we recommend the adoption of budget bill language prohibiting the use of the \$10 million for the conservancy's administrative costs.

Of the \$10 million appropriated in this item for the Challenge Grant Program, no funds shall be used for support of the conservancy's administrative costs.



DEPARTMENT OF PARKS AND RECREATION (3790)

The Department of Parks and Recreation (DPR) acquires, develops, preserves, interprets, 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 cities, counties, and special districts that help provide parks and open-space areas throughout the state.

The state park system consists of 265 units, including 39 units administered by local and regional agencies. The system contains approximately 1.3 million acres, which include 3,000 miles of trails, 280 miles of coastline, 625 miles of lake and river frontage, and nearly 18,000 camp sites. Over 70 million visitors travel to state parks each year.

The budget proposes \$242.5 million in total expenditures for the department in 1999-00. This is an overall decrease of \$112.1 million (32 percent) below estimated current-year expenditures. The reduction includes about \$35 million in departmental support, and about \$38 million each in local assistance and capital outlay expenditures. (Please also see the "Capital Outlay" chapter of this *Analysis*.)

The decrease in support expenditures reflects mainly one-time funding of \$30 million in 1998-99 for deferred maintenance. As we discuss in a later section of this item, the budget proposes no funds in 1999-00 to address the department's maintenance backlog. The decrease in local assistance mainly reflects one-time expenditures in 1998-99 totaling \$31 million for local park development.

Of the total proposed expenditures in 1999-00, about \$75.2 million (31 percent) will come from the General Fund, about \$82 million will come from the State Parks and Recreation Fund (SPRF) and the remainder from various other state funds, federal funds and reimbursements.

SIGNIFICANT MAINTENANCE BACKLOG NEGATIVELY IMPACTS DEPARTMENT'S SERVICE

The DPR oversees one of the largest and most diverse natural and cultural heritage holdings of any agency in the nation. As such, its maintenance needs are also large and diverse—ranging from Civil War era structures to museums, artifacts, and park benches. The 265 park units encompass approximately 1.3 million acres throughout the state. These units include state beaches, state parks, museums, day-use and overnight campgrounds. Figure 1 highlights some of the key holdings that the department is responsible for maintaining.

Figure 1	
Department of Parks and Recreation Key Assets Maintained	
Holdings	Quantity
Campsites	18,000
Miles of trails	3,000
Miles of roads	2,704
Road and trail bridges	748
Historic, archaeological, and archival artifacts	2,750,000
Historic buildings	1,455
Nonhistoric buildings	3,646
Parking facilities	828

Source: Department of Parks and Recreation, December 1998.

In the following sections, we discuss:

- The ongoing maintenance needs and funding level of the department.
- The magnitude of deferred maintenance and its implications.

We make recommendations on how deferred maintenance ought to be reduced and provide the Legislature with options for funding DPR's ongoing and deferred maintenance.

Ongoing Maintenance Needs Should Be Substantiated

While the department has estimated its annual ongoing maintenance needs to be \$15 million, it has not substantiated this estimate. We recommend that the department provide to the Legislature at budget hearings substantiation for its total ongoing maintenance needs, by maintenance categories.

The DPR categorizes its ongoing maintenance into two broad categories:

- **Category I**—includes (1) all preventive and recurring maintenance which is necessary every year, (2) that portion of regular maintenance activities which recur on two- to five-year cycles, and (3) projects recurring every five years or more that cost less than \$2,500. Examples include repairs to fences, interior and exterior painting, or replacement of water heaters, doors, or windows.
- **Category II**—includes maintenance which recurs on a cycle of six years or more, corrective repair projects, and maintenance work which does not recur at any periodic interval. Examples include replacement of roofs and heating, ventilation, and air conditioning systems.

An adequate funding level for ongoing maintenance should cover all anticipated and scheduled maintenance work in accordance with maintenance cycles that maximize the useful life of facilities and equipment. It should also provide for some contingency funding for unanticipated maintenance, such as repair work that typically results from storm damage. If, on a persistent basis, ongoing maintenance work is not accomplished or not fully funded, a maintenance backlog (or deferred maintenance) accumulates. If maintenance on buildings and infrastructure components (such as roads and trails) are continuously deferred, facilities will eventually require higher expenditures for emergency repairs, major rehabilitations or replacement, or the initial investment may be abandoned and lost.

Ongoing Maintenance Estimates Not Substantiated. The department currently estimates its ongoing maintenance needs to be about \$15 million annually. However, the department has not been able to provide any details for its estimate. As a result, the Legislature is unable to (1) evaluate whether this estimate is reasonable or (2) set maintenance funding priorities.

Ongoing Maintenance Needs Should Be Substantiated. By addressing ongoing maintenance needs, the Legislature can ensure that the depart-

ment does not continue to expand its maintenance backlog. We recommend that the department provide the Legislature, no later than April 15, 1999, a finalized estimate of annual ongoing maintenance needs that identifies funding necessary to cover all anticipated and scheduled maintenance work by category. This information should include how the funding level was determined. Additionally, the needs estimate should include contingency funding for unanticipated maintenance work. With this information, the Legislature will be better able to evaluate the funding needs of the department and determine an appropriate level of funding on an ongoing basis for the department's maintenance activities.

Deferred Maintenance on Rise Since 1983

We find that the Department of Parks and Recreation's deferred maintenance has been on the rise since the early 1980s. The maintenance backlog has resulted due to persistent underfunding of increasing maintenance needs.

Our review finds that the department has a significant backlog of maintenance projects. Deferred maintenance includes both Category I and Category II projects that were not completed on their regularly scheduled maintenance cycle. In contrast to the information provided regarding ongoing maintenance needs, the department has spent more time trying to gauge the magnitude of its deferred maintenance needs. Based on information provided by the department, it appears that the backlog began to develop in the early 1980s.

Deferred Maintenance Due Mainly to Underfunding. The accumulation of deferred maintenance is primarily the result of maintenance needs being underfunded over time. Figure 2 shows the amount requested for maintenance by the department's park districts compared to the actual funds available from 1983 through 1997. The requested amounts do not represent all the maintenance needs of the department; rather, they represent the amounts needed for the most important projects determined by district superintendents. (These amounts were requests made internally to department headquarters.) As Figure 2 shows, actual funding from 1983 through 1997 fell far short of the amount requested by state park districts. It is important to note that the funding gap, while providing a measure of deferred maintenance, is not a completely accurate measure. This is because the requested needs are only for the highest priority projects and could include both regularly scheduled maintenance and deferred maintenance projects.

Figure 2**Department of Parks and Recreation
Requested Versus Actual Funding for Maintenance***1983 Through 1997
(In Millions)*

Fiscal Year	Requested Amount ^a	Actual Funding ^b	Difference
1983	\$5.8	\$4.9	\$0.9
1984	6.0	5.0	1.0
1985	9.1	4.1	5.0
1986	10.7	5.7	5.0
1987	14.1	6.1	8.0
1988	15.4	7.9	7.5
1989	19.1	8.2	10.9
1990	26.3	11.5	14.8
1991	25.0	7.7	17.3
1992	25.0	8.2	16.8
1993	33.9	7.8	26.1
1994	40.0	7.8	32.2
1995	45.4	8.0	37.4
1996	46.6	8.0	38.6
1997	52.6	10.8	41.8

^a Internally requested by state park superintendents to department headquarters.

^b Actual amount included in the department's approved budget.

Limited Resources Squeeze Maintenance Funding. In times of fiscal stress, maintenance is often viewed as a discretionary activity which can be deferred while limited resources are used to meet more immediate program and service needs. For instance, between 1988-89 and 1998-99, the department's total support funding grew at an average annual rate of 2.5 percent. The DPR indicated that this increase, however, has not been sufficient to pay for increases in costs such as utilities, rent, and increasing staff costs. In order to pay for these increasing costs, funding for maintenance was reduced.

Additionally, due to the state's fiscal condition, the department's General Fund support dropped by 30 percent (or a cumulative total of \$22 million) from 1990-91 through 1995-96, leaving it to rely more heavily on less stable, alternative fund sources such as park fees. To the extent these fee revenues did not materialize, the department frequently reduced expenditures on maintenance.

Deferred Maintenance Problem Worsens as Maintenance Needs Have Increased. The department's maintenance needs are continuously increasing. In part, this is because many of the park facilities and properties were acquired and developed in the 1930s, 1940s, and 1950s, and structures require increasing repairs and rehabilitation as they age. In addition to many structures being quite old, the park units themselves were designed for far fewer visitors and for different recreational purposes. For example, in 1950-51, there were 7.2 million visitors to state parks. Today, there are in excess of 70 million visitors each year. Additionally, today's parks accommodate recreational vehicles and many more group campers than the number for which they were designed. Visitation has increased to the point where many parks actually exceed the capacities they were developed to accommodate. This leads to deterioration and damage of many park properties and facilities, thereby necessitating more frequent repairs and modifications. This appears to be the biggest problem in day-use areas that tend to have heavy foot traffic and multiple points of entry, like beaches.

As ongoing maintenance needs increase, any persistent underfunding of ongoing maintenance results in increases in deferred maintenance. This is because facilities deteriorate more quickly and problems become more severe as routine maintenance and upkeep are not done.

Preliminary Data Show Significant Deferred Maintenance Needs

The preliminary data provided by the department show significant deferred maintenance needs. Most of the work is concentrated in the state's coastal park districts.

In October 1998, the department prepared a preliminary list identifying 2,600 deferred maintenance projects, totaling about \$180 million. Because the department's current-year budget includes \$30 million to reduce its deferred maintenance, the remaining backlog in 1999-00 should be about \$150 million based on this preliminary estimate.

The preliminary list represents a compilation of the projects as reported by state park district superintendents. Data on each project was limited to a project identification number, project title, and estimated cost to complete the project.

Deferred Maintenance Projects Concentrated in Coastal Districts. Of the preliminary estimate, \$118 million, or 66 percent of the total, is for projects located in the state's 12 coastal districts (consisting of 105 parks). Figure 3 summarizes the deferred maintenance needs in these districts. Of the 12 districts, the Marin District has the largest number and costs of

deferred maintenance projects, estimated at \$50 million. The majority of this amount is for deferred maintenance at Angel Island (see box). The next coastal district with the highest backlog is the North Coast Redwoods District, with an \$11.2 million backlog.

Figure 3

Deferred Maintenance Needs in State Coastal Districts

(Dollars in Millions)

State Park District	Number of Projects	Estimated Cost Of Projects
Bay Area	98	\$3.2
Channel Coast	127	8.1
Marin	249	50.0
Monterey	177	8.3
North Coast Redwoods	215	11.2
Oceano Dunes	—	—
Orange Coast	63	6.7
Russian River - Mendocino	129	6.4
San Diego Coast	61	2.6
San Luis Obispo	51	2.9
San Simeon	168	10.2
Santa Cruz	203	8.5
Totals	1,541	\$118.1

The 16 inland districts have about \$62 million of deferred maintenance. However, none of the six off-highway vehicle (OHV) districts have any deferred maintenance—including the one coastal OHV district, Oceano Dunes. This is because OHV districts are funded from the Off-Highway Vehicle Account, which provides a stable source of funds mainly from gas tax revenues for district maintenance. Additionally, maintenance needs for OHV parks are generally lower than other state park facilities.

Deferred Maintenance Projects Fall in Two Main Categories. Based on the limited description on individual projects provided by DPR, we grouped the projects into two main categories: public use and basic infrastructure. Projects that do not fit into either category are lumped into an “other projects” category.

Because a key component of DPR’s mission is to provide recreational opportunities to the public, we attempted to identify all projects that would directly impact park visitation or the experience visitors have

while in the state park system. Where we could easily identify projects related to restroom facilities, campgrounds, visitor centers, trails, or exhibits, we grouped them as public use-related projects. Projects identified by DPR which involve repairs to the infrastructure, such as roofs or foundations, windows or floors, or water and sewer systems are grouped into a separate “basic infrastructure” category.

Marin District’s Deferred Maintenance Concentrated on Angel Island

Angel Island State Park has approximately \$40 million in deferred maintenance. With over 2 million visitors annually, this park is the ninth most visited park in the system.

The backlog at this park is attributed to:

- **Difficult Access.** It is an island with no easy access for labor or heavy equipment to do routine maintenance.
- **Numerous Historic Structures.** Angel Island has some of the oldest structures in the United States, some dating back to the Civil War. Historic structures are costly to maintain and repair because they require the use of historic materials and must meet historic standards.

One Quarter of the Backlog Directly Impacts Public Use. About 24 percent (\$43 million) of the projects on the department’s list fall under this category. The biggest portion of that—\$15 million—is for trails or access, including pedestrian, bike, horse, and skating trails, as well as sidewalks and ramps which increase access to public facilities.

The second largest portion of the public-use category is for restroom repairs. Restroom repairs include replacing fixtures, repairing tiles, showers or toilets, or replacing or renovating restrooms, comfort stations, combination buildings, and chemical or pit toilets. These projects represent about \$12 million in costs.

Repairs to campgrounds, campfire centers, fire pits, RV hook ups, and day-use areas totaled about \$9 million.

Bulk of the Maintenance Backlog Is Projects on Basic Infrastructure. Based on the preliminary list, 61 percent, or about \$110 million, of all projects are for basic infrastructure maintenance. Specifically, about \$40 million is for general repairs and rehabilitations. This includes repairs

to historic structures built by the Civilian Conservation Corps such as benches, culverts, and retaining walls. It also includes repairs to kiosks or district headquarters which may need new paint or siding.

Stabilization or foundation work projects total \$16 million. Additionally, deferred roof maintenance or replacements are estimated to cost \$16 million and a similar amount is estimated to be needed for deferred water, sewer, and drainage projects.

Preliminary Data Have Limitations

We find that the preliminary data submitted by the department on its deferred maintenance has limitations in that it is incomplete and inconsistent. In order for the Legislature to better evaluate funding priorities for deferred maintenance, we recommend that the department provide a more complete and consistent inventory of its deferred maintenance projects for all districts at budget hearings.

The department's preliminary list is a good first effort to identify its total deferred maintenance needs. However, the list of projects is still being evaluated by the department for completeness and accuracy. While each district was asked to identify *all* of its maintenance needs, our review shows that the preliminary list did not (1) include projects related to road maintenance, (2) detail information on artifact conservation needs, and (3) provide complete information on natural resources maintenance needs. Furthermore, not all districts used a consistent set of terminology in reporting their maintenance backlog. For instance, districts did not use project descriptions consistently to identify health and safety projects or projects mandated by law. Thus, it is not possible to compare and group projects to any detailed level that would enable the department and the Legislature to determine project priorities.

Criteria Used in Identifying Deferred Maintenance Projects Not Known. The preliminary data provided by the department also failed to identify what criteria were used in developing the deferred maintenance list. It is not clear whether the list is simply a compilation of all maintenance projects that have missed a scheduled maintenance date or if projects on the list were also inspected to determine that maintenance was in fact needed. Missing a scheduled maintenance date alone may not constitute deferred maintenance given that the maintenance schedule only provides a rough guideline for when maintenance will be needed. For example, while it may be optimal to repaint building exteriors every six years, for buildings in very mild climates, or in areas experiencing unusually mild weather, optimal maintenance could be every eight years.

Better Information Will Be Forthcoming in March. The department anticipates that these data problems will be resolved by mid-March. According to DPR, two maintenance program managers are currently evaluating the projects within each state park district in order to ensure that all data are consistently reported throughout the department and that the missing information on roads, artifacts, and natural and cultural resources projects are added.

As deferred maintenance for roads, artwork, and natural and cultural resources are identified, total funding needs will increase. On the other hand, the current evaluation process could result in some projects being dropped from the list or project costs being revised.

In order to provide the Legislature with better information regarding DPR's deferred maintenance, we recommend that the department provide to the Legislature, at budget hearings, a complete and updated list of deferred maintenance projects. The projects should be categorized by whether they relate to health and safety, natural and cultural resources, artifacts and historic needs, legal mandates, and roads. Additionally, the department should specify what criteria were applied to determine which projects were truly deferred maintenance. This information will enable the Legislature to better evaluate funding priorities for deferred maintenance.

Implications of Deferred Maintenance In the State Park System

Deferring maintenance on a continuous basis impedes the Department of Parks and Recreation's ability to carry out its mission, negatively impacts the level and type of services parks can offer, and leads to a devaluation of assets.

The mission of DPR is to preserve the state's biological diversity, protect its natural and cultural resources, and create opportunities for high-quality outdoor recreation for the health and education of the people of California. A large backlog of maintenance projects negatively impacts the level and type of service the department can provide and thus reduces the department's ability to carry out its mission. Furthermore, continuous deferral of maintenance reduces the useful life of facilities and devalues the state's assets.

Level and Type of Service Suffers as a Result of Backlog. Service to the public is negatively affected by a lack of adequate maintenance of park facilities. For instance:

- ***Health and Safety Concerns Affect Park Visitors and Staff.*** The lack of adequate maintenance can pose a health and safety threat,

real or perceived, to park visitors and staff. In addition, unsafe facilities may have to be closed to public access.

- ***Unkempt Facilities Could Impact Visitation Rates.*** Many of the restrooms, visitors centers, and exhibits are in varying states of deterioration. Deteriorated facilities could deter park visitation.
- ***Public Access to Facilities Is Restricted Due to Lack of Repair.*** The department's preliminary data show that nearly 25 percent of the pedestrian, horse, bicycle, and wheel chair accessible trails are in need of repair. Most of these trails are in coastal areas and require high maintenance because of unstable soils and natural erosion that occurs on the coast. The trails in the Russian River-Mendocino District, for example, need an estimated \$1.3 million for deferred maintenance work. The lack of timely repairs limits the public's access to these beaches and park facilities.
- ***Some Facilities Are Not Energy or Cost-Efficient Due to Deferred Maintenance.*** Many of the deferred projects involve the replacement of doors and windows, weatherproofing, or replacing whole plumbing or electrical systems. These types of repairs could improve facilities' energy efficiency, thereby reducing expenses such as utilities costs. This could free up funds to meet other needs.

Deferred Maintenance Could Result in Devaluation of Assets and Higher Costs. As we noted earlier, deferring maintenance results in substantially more costly repair and rehabilitation in the long run. In addition, deferring maintenance reduces the useful life of a facility, in some instances resulting in irreparable damage, thereby reducing the value of state assets. For example:

- ***Loss of Historical and Cultural Resources.*** The department is charged with the protection of the state's most valued historical and cultural resources. To the extent that proper maintenance and conservation is not done, these resources—some of them irreplaceable—will deteriorate and could eventually be lost to the state. For instance, among the state's collection at Hearst Castle, two 17th century ecclesiastical banners have been permanently taken off display in order to prevent further deterioration. According to staff, this could have been prevented had conservation efforts been done earlier.
- ***The Longer Items Are Neglected, the Higher the Costs to Repair Them.*** For instance, by not addressing some relatively minor roof repairs at the historic Vikingsholm on Lake Tahoe, a fresco was damaged on the interior of the home that cost the district about \$30,000 to repair in addition to the cost of repairing the leaking roof.

Reduction Plan Needed to Set Priorities For Funding of Deferred Maintenance

We recommend that the Legislature adopt supplemental report language requiring the Department of Parks and Recreation to develop a deferred maintenance reduction plan by December 31, 1999.

Department Should Develop Plan to Eliminate Deferred Maintenance. We believe that the Legislature should take steps to eliminate the backlog of deferred maintenance over several years. In order that the Legislature can determine how much money should be provided annually, and over what period of time, the department should provide the Legislature with a multiyear plan to eliminate the backlog. This plan should set priorities for DPR's list of projects using such criteria as the health and safety implications of projects and urgency of the projects. The plan should identify the work that has to be done annually, assuming adequate funding for ongoing maintenance, that would result in eliminating the backlog over several years. Additionally, the plan should incorporate the department's ongoing maintenance needs estimate to ensure that the current level of deferred maintenance does not continue to grow.

Based on this plan, the Legislature can determine how to fund deferred maintenance to eliminate the backlog. Once funding is provided, the Legislature can hold the department accountable for the amount of work to be accomplished.

Accordingly, we recommend that the Legislature adopt the following supplemental report language:

The department shall submit a deferred maintenance reduction plan to the Legislature no later than December 31, 1999. The plan shall set priorities for the department's deferred maintenance projects and identify the amount of work it needs to accomplish, assuming adequate funding for ongoing maintenance, in order to eliminate the backlog.

Options for Funding DPR Maintenance And Deferred Maintenance

The Legislature has several options to fund park maintenance and deferred maintenance. The Legislature should determine which park facilities and assets serve a statewide purpose and therefore the state should retain and which should be sold or turned over to local governments.

The Legislature has a number of options it can consider to fund both the maintenance and deferred maintenance needs of the department.

- *Increase General Fund Support.* The DPR holds some of the state's finest and most diverse collections of natural, cultural, and recre-

ational resources. Some of these resources have statewide significance and their preservation would provide benefits to the entire population as well as future generations. As such, General Fund support is appropriate.

- ***Increase User-Fee Support.*** The primary fund source for DPR is the State Parks and Recreation Fund (SPRF) which derives its revenues from fees and concessions. To the extent that the maintenance of certain facilities, such as campgrounds, would directly benefit particular groups of users, increasing user fees is an appropriate option. Increasing fees, however, may have the effect of deterring certain visitors and limiting access. However, the fees could be structured to minimize this effect.
- ***Public-Private Partnership.*** The Legislature may also want to develop a state policy on the use of private sector sponsorship for state parks. Consideration should be given to the types of projects or exhibits that could be appropriately sponsored by a private entity. For example, allowing a private entity to restore or conserve an exhibit in exchange for public acknowledgment is a way of raising funds for maintenance needs. Similarly, an "adopt-a-park" program may help to generate additional resources for maintenance needs.

In addition to increasing funds to accommodate maintenance needs, the Legislature should also review the state's holding of park facilities and collections to ensure that they serve statewide purposes and interests and therefore should be under state ownership. The department's holdings of properties and collections have been accumulated over the years, some acquired deliberately by the state, while others were donated. We believe that facilities that serve mainly local interests should be returned to local ownership, while facilities that serve no particular public interest or purpose should be considered for sale. This would reduce total maintenance needs and allow the Legislature to direct limited resources to facilities and collections with statewide significance.

Budget Proposes No Funding For Deferred Maintenance

The Governor's budget does not provide any funding for the Department of Parks and Recreation's deferred maintenance. We recommend that the Legislature, in determining the state's funding priorities, consider providing some amount of funding to continue to reduce deferred maintenance in 1999-00.

For 1998-99, the Legislature provided \$30 million for DPR deferred maintenance reduction. With this level of funding, the current estimated backlog would be eliminated in about five years.

No Funding Proposed for Budget Year. The budget proposes no money for deferred maintenance in 1999-00. Chapter 326, Statutes of 1998 (AB 2784, Strom-Martin) created the State Parks System Deferred Maintenance Account within the Resources Trust Fund and designated \$10 million annually from state tidelands oil revenues to the account. Money in the account would be subject to legislative appropriation for DPR deferred maintenance purposes. Because of the drop in oil prices, this account would not receive any revenues in 1999-00 (please see Fund Condition for Resources Programs discussion in the "Crosscutting Issues" section of this chapter.) Therefore, there would be no funds for DPR deferred maintenance from this account for 1999-00.

Nonetheless, given the magnitude of the department's estimate of the backlog, we believe it is important that the reduction of deferred maintenance continue, to the extent possible. Consequently, we recommend that the Legislature, in determining the state's priorities in funding various programs, consider providing some level of funding for DPR's deferred maintenance in 1999-00.

ENTERPRISE ACTIVITIES AND FINANCING PARKS: REPORT TO THE LEGISLATURE

The *Supplemental Report of the 1998 Budget Act* required DPR to submit a report to the Legislature on (1) its plans for using enterprise activities to finance DPR responsibilities, (2) DPR's role in providing services that compete with private operators of hotels, convention centers and recreation facilities, (3) measures to evaluate the performance of concession contracts and (4) procedures for soliciting customer reaction to concessionaire's performance. The department submitted the report in November 1998.

The supplemental report also required the Legislative Analyst's Office to review DPR's report, and propose a long-term funding plan for the department. Our review and recommendations are in the following sections.

Enterprise Activities Provide Revenues; Activities Consistent With Statute

Enterprise activities, primarily concessions, provide substantial revenues to supplement Department of Parks and Recreation's (DPR's) support. The DPR is pursuing enterprise activities in a manner consistent with statutory guidelines and restrictions.

Statute Sets Limit on DPR Enterprise Activities. Current law requires improvements undertaken within state parks to be for the purpose of promoting public enjoyment and education while preserving the natural, scenic, cultural and ecological value of the facilities. Improvements which are attractions in themselves, or which are otherwise available to the public within a reasonable distance outside state parks, are prohibited in park facilities. In addition, current law prohibits concessions to be entered into solely for revenue generating purposes.

Concessions Represent Largest "Enterprise Activity" in DPR and Provide Substantial Revenues. The department relies on concessions to finance a portion of its activities. Concessions pay rents to the state, typically based on some percentage of the concession's gross sales revenues. Rent revenues are deposited into SPRF. Restaurants and retail businesses account for about 60 percent of SPRF revenues from concessions.

In 1996-97, 226 concession contracts were in place to serve visitors in state park units. Concessions range in size and activity from pay showers at Leo Carrillo State Beach (which generated \$3,900 in 1996-97 to the state), to the food and souvenir concession at Hearst San Simeon State Historical Monument (which generated \$1.4 million in 1996-97). Concessions generated in excess of \$59 million in gross sales and paid more than \$7.2 million in rent in 1996-97. This amount accounted for about 11 percent of all SPRF revenues in that year.

The DPR Has Five-Year Plan for Concessions. The department uses a five-year concession plan which it updates annually in order to guide its enterprise activities. Having one comprehensive plan allows DPR to identify and assess concession opportunities statewide. The plan also lets the department monitor and compare concession contracts to ensure that they are competitive and provide maximum returns to the state.

Revenue Allocation Program Established to Encourage Enterprise Activities. Since 1995, DPR has established a Revenue Allocation Program to (1) provide state park district superintendents with the flexibility to try new, revenue generating activities and (2) hold superintendents accountable in how they raise and spend moneys in the district.

Under the program, districts must continue to follow state and departmental guidelines for purchasing and contracting. However, superintendents may make operational decisions regarding revenue generation and how funds are spent. Specifically, each superintendent is provided a target amount of revenues to be raised. As an incentive, the district can keep a portion of the revenues raised in excess of the target. Districts may also receive a credit for any cost-savings achieved.

Types of new programs and activities initiated as a result of the Revenue Allocation Program include the following:

- **Hosting New Special Event Programs.** Some districts now host outdoor performances in unused parking lots during the off season. Revenues are used to fund additional seasonal staff and to address specific needs of the individual park units.
- **Adjusting Campgrounds.** In some park units, campgrounds have been reorganized to more efficiently use the space dedicated to family camping, thereby increasing the number of campsites, and enhancing fee generating potential. Other park units have provided day-use areas off state highways as fee-generating overnight camping areas.
- **Enhancing Day Use Activities.** Some historic parks now provide more “environmental living programs” where visitors participate in activities in a historical setting, in order to increase park attendance and fee revenues.

Other Enterprise Activities Under Evaluation. The department is currently evaluating other opportunities including:

- Tent cabins and other group facilities to expand the typical visitor season and to attract broader groups of park visitors.
- Environmental tours and hikes, and environmental education programs and facilities to better serve school children and to encourage public participation.
- Private sponsorships and “adopt-a-park” programs.
- Services to address emerging recreational trends, such as off-highway vehicles and personal watercraft.
- Reservation system improvements.

DPR Avoids Direct Competition with Private Sector. Our review of DPR’s report indicates that the department is pursuing enterprise activities in a way consistent with statutory guidelines and restrictions. In evaluating new enterprise opportunities, the department appears to focus first on the benefits the opportunities would provide the public. The concession opportunities considered also do not appear to compete with commercial services offered in close proximity to park units.

Concession Evaluation Process Protects State Interest

The Department of Parks and Recreation’s annual review of concession contracts serves to protect the interests of the state and the public.

The DPR evaluates all concessionaires annually in the following categories: accounting, bonds/insurance, construction, use of premises, quality assurance (which includes prices and customer service), safety, facility maintenance, and interpretive program (where applicable). The DPR takes past performance evaluation of a concessionaire into consideration when it awards new contracts. Depending on the evaluation, the department may take corrective action, including contract termination, if necessary.

The annual review of concession contracts enables the department to verify that the concession is operating consistent with the terms of the contract and is providing the expected services to the public. As such, the review process protects the state's and the public's interest while ensuring that revenues due to the state are collected.

Procedures for Soliciting Customer Reaction Should Be Standardized

We recommend that the department develop standardized customer survey forms to assess concession performance. We further recommend that the department adopt a consistent method of distributing and collecting customer surveys.

Customer satisfaction is a critical factor in measuring DPR's performance. However, our review shows that customer satisfaction with concessions is not being effectively measured. Specifically, there is no standard survey of concession customers. Generally, concessions may develop their own survey forms to get customer feedback. Our review of a sample of customer survey forms shows that surveys differ in the questions posed as well as the rating options. This makes it difficult for the department to utilize survey results to compare performance among concessions.

In addition, our review shows that there is no consistent way of distributing and collecting survey forms. As a result, customers' responses are gathered haphazardly. A more consistent way of distributing and collecting survey forms in all concessions would likely increase the number of responses and provide concessionaires and the department better information to gauge customer satisfaction.

Accordingly, we recommend that the department develop standardized customer surveys and adopt a more consistent way of distributing and collecting survey forms.

Options for Long-Term Funding of DPR

We recommend that the current funding mix of General Fund and user fees, supplemented with revenues from enterprise activities such as concessions, be continued. However, enterprise activities should not be pursued at the cost of stewardship responsibilities.

Currently, the ongoing operations of the department are funded with a combination of General Fund and special user fees, supplemented with revenues from concessions. We think this funding mix should continue. To the extent that state park facilities provide public benefits to the entire population of the state, General Fund support is warranted. Where benefits accrue to specific users, such as campground users, user fees are appropriate.

Enterprise activities, including concessions, also provide a revenue source for the department's support. However, we think that such activities should be consistent with current statutory guidelines and restrictions. In recent years, due to the state fiscal condition, General Fund support of the department has decreased. (Please see *Analysis of the 1996-97 Budget Bill*, page B-67.) As a result, the department has increasingly relied on SPRF revenues for ongoing support and therefore has sought to increase its enterprise activities in an attempt to generate additional revenues. However, despite these efforts, concession revenues only account for about 3 percent of the department's total expenditures.

Given current statutory requirements, it appears difficult for DPR to substantially increase revenues from enterprise activities. Whether DPR's authority to engage in enterprise activities should be broadened is a policy decision for the Legislature. In our view, any loosening of statutory guidelines and restrictions to facilitate increased use of concessions must be weighed against the potential of (1) compromising the department's stewardship role, and (2) increasing competition with the private sector. In our write-up on DPR's deferred maintenance, we indicate that, as a funding option, the Legislature may want to consider a state policy for public-private partnerships, whereby private funding and sponsorships may be encouraged.

As we also noted in that write-up, we believe that the Legislature should review the department's holdings of facilities and other assets to make sure that the state owns only those assets that serve statewide purposes and interests. Doing so would enable the Legislature to more effectively utilize limited state funds.

Bond Funds Are Appropriate for Capital Improvement. Park development and major rehabilitation projects, as well as land acquisitions have traditionally been supported by bond funds authorized by voters. Be-

cause these projects provide long-term benefits over many years, financing them through bonds is appropriate. However, bonds are not an appropriate fund source for ongoing maintenance of facilities because maintenance efforts generally do not extend the useful life of facilities sufficiently to justify the incurring of long-term debt obligations.

As we pointed out in the "Crosscutting Issues" section of this chapter, there are virtually no park bond funds available for additional park development.

Zero Balance Projected for State Parks and Recreation Fund

The budget projects zero balance for the State Parks and Recreation Fund by the end of 1999-00. We recommend the department report at budget hearings on what actions it plans to take in the event that (1) projected park revenues do not materialize or (2) expenditures are higher, such as in the case of increased employee compensation for department staff.

The budget projects SPRF resources of \$81.9 million in 1999-00, and proposes to use the full amount for DPR support. About two-thirds (\$54.3 million) of the resources are projected to come from park user fees and concession revenues.

Our review, however, shows that the department has typically overestimated these revenues. (Please see *Analysis of the 1996-97 Budget Bill*, page B-68). For instance, actual revenues in 1997-98 were \$5.9 million lower than projected. For the current year, the most recent estimate of revenues is \$52 million, or \$2.2 million less than when the current year budget was enacted.

To the extent that park revenues do not materialize at the level projected for 1999-00, the department will have to cut back expenditures. Additionally, any increase in expenditures, including increases in employee compensation for DPR staff and other unforeseen expenditures such as storm damage repairs, would have to be covered by either the General Fund or by further reductions in other SPRF-supported expenditures. In order that the Legislature is informed of the potential impact on DPR programs, we recommend that the department report at budget hearings on actions it plans to take if (1) projected park revenues do not materialize and/or (2) planned expenditures are higher than projected.



DEPARTMENT OF WATER RESOURCES (3860)

The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department implements 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.

Currently, the department houses, and participates along with 14 other state and federal agencies in, the CALFED Bay-Delta Program. This program is developing a long-term solution to water supply, water quality, flood control, and fish and wildlife problems in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (the "Bay-Delta").

The budget proposes total expenditures of \$893.5 million in 1999-00, a decrease of \$98.7 million, or 10 percent, from estimated current-year expenditures. This decrease reflects (1) a reduction of about \$59 million for flood control subventions and (2) elimination of a one-time expenditure in the current year of \$35 million for groundwater supply development to help the state live within its allocation of Colorado River water. Other major budget proposals for 1999-00 include an increase of \$6 million from the General Fund and 44 positions for support of the CALFED Bay-Delta Program. Additionally, as discussed below, the budget proposes to revert to the General Fund \$44 million appropriated by Chapter 326, Statutes of 1998 (AB 2784, Strom-Martin) for payment in the budget year of the state's share of costs for local flood control projects.

Of the proposed total expenditures, \$726 million is for planning, construction, and operation of the SWP, financed with SWP Funds (revenues from water contractors). The budget also includes about \$80 million in bond funds—for loans and grants to local agencies for safe drinking water, water conservation, and water supply management and development—and about \$63 million from the General Fund—mainly for water planning and flood control/management.

Flood Control Subvention Arrearage Continues To Grow

The budget proposes no funding to pay local claims for the state share of costs of locally sponsored, federally authorized flood control projects. As a consequence, the state's unpaid amounts owed to local governments will increase to about \$189 million by the end of 1999-00. We recommend the enactment of legislation setting out the criteria for funding future local flood control projects and determining the state share of costs for such projects.

State Shares in Costs of Local Flood Control Projects. Under current law, the costs of locally sponsored, federally authorized flood control projects are shared among federal, state, and local governments. State and local governments are responsible for 70 and 30 percent, respectively, of the nonfederal share of project costs. (The nonfederal share varies between 25 and 50 percent of a project's total costs.)

In order for a locally sponsored flood control project to be eligible for state funds, the project must be authorized by the Legislature (for "large projects" where the federal share exceeds \$5 million) or the department (for "small projects"). Congress must also authorize large projects in order for federal funding to be provided. Beginning in 1999, Chapter 326, Statutes of 1998 (AB 2784, Strom-Martin) requires, as a condition of state funding, large projects to be authorized by the Legislature *prior* to getting Congressional authorization for federal funding.

State Unable to Pay Its Full Share of Costs. Due to the state's budget condition in the 1990s, the state has been unable to pay its full share of costs for these flood control projects. According to the department, the lack of funds for the state share has caused construction to stop or be delayed on a number of projects.

Funding to reduce the amounts owed to local governments has come from two sources in recent years. First, Proposition 204 approved by the voters in 1996 provided \$60 million in bond funds for this purpose. (These funds were depleted at the end of 1997-98.) In addition, the 1998-99 *Budget Act* provided \$40 million from the General Fund. Even with this recent infusion of funding, the department estimates the unpaid amount of the state's share of costs owed to local governments at the end of 1998-99 to be about \$132 million. If no funding were to be provided in 1999-00 for local flood subventions, the department projects the arrearage would increase to about \$189 million by the end of 1999-00.

Budget Proposes to Revert Statutory Appropriation for 1999-00. Chapter 326 appropriated \$44 million from the General Fund for each of 1999-00 and the subsequent two fiscal years. However, the budget pro-

poses to revert the \$44 million appropriated for 1999-00 to the General Fund, pending the enactment of legislation to authorize the reversion. With the reversion, the arrearages will be about \$189 million at the end of 1999-00.

Unpaid Obligations Should Be Addressed. The amounts currently owed to local governments are obligations of the state that should be addressed. To the extent that additional General Fund resources—over the currently projected amount—become available in the budget year, we think that consideration should be given to reducing these arrearages.

Legislature Should Examine the Appropriate State Role in Funding Future Local Flood Control Projects. We think that the state should play a role in the funding of future local flood control projects. However, we think the Legislature should examine what the appropriate role ought to be. Specifically, the Legislature should determine (1) what types of future local projects ought to be funded and (2) what the appropriate cost sharing ratio ought to be.

This examination is warranted because currently, it is not clear whether legislative or departmental authorization of local flood control projects is based on clear criteria for project prioritization. Once a local flood control project is authorized either by statute or by DWR (in the case of small projects), the state is essentially committed to funding a fixed share of the project's cost. This creates a state fiscal obligation. However, without clear criteria for project prioritization, there is no guarantee that state funding is directed to projects that address the most crucial public safety needs on a statewide basis.

To the extent the state fails to meet its obligations to local governments, these governments will experience additional fiscal strain. This is because local governments often "front" the state's share of costs pending state reimbursements rather than shut down project construction or delay project repairs. To do this, local governments often redirect resources from other programs or borrow funds.

In order to ensure state funds are targeted to projects that are consistent with legislative priorities, we recommend that the Legislature enact legislation setting out the criteria for determining the eligibility of *future* local flood control projects to receive state funding. These criteria would also provide a basis to decide which projects to authorize in light of limited available state resources. For example, the Legislature could set criteria based on the extent to which a project reduces the risk to public safety, or the amount of other benefits a project would generate in addi-

tion to flood control, such as water quality/supply improvements and habitat conservation.

The Legislature could also limit eligibility for state support in cases where future local land use decisions would result in substantial flood risks that require control measures. Such eligibility criteria could be used to encourage land use decision-makers to give greater consideration to the potential costs and benefits of their decisions.

In addition to setting eligibility criteria, the Legislature should also reevaluate the proportion of the nonfederal share of local projects' costs to which the state is willing to commit. While at least some of the costs of local flood control projects are appropriately a local responsibility, these projects do provide—to varying degrees—benefits of a regional or statewide nature. Such benefits may include enhanced water supplies and habitat conservation. The Legislature might consider setting different rates (percentage amount) for the state share of costs for different categories of projects based on the relative statewide benefits derived from the projects and the extent of the affected population.

We believe that by enacting legislation that sets out funding eligibility criteria and determines the degree to which the state contributes to local flood control projects, the Legislature will better ensure that state funding is directed to meet statewide priorities.

Legislative Oversight of CALFED Program Budget Needs Strengthening

The Legislature's oversight of the CALFED Bay-Delta Program is made difficult by the lack of information in the Governor's budget display and by not scheduling the program in the budget bill. We recommend that the department provide the Legislature, prior to budget hearings, with expenditure and staffing information on the program. We also recommend that the Legislature adopt supplemental report language directing that this information be provided in future years. Finally, we recommend that the Legislature schedule the CALFED Bay-Delta Program in the budget bill.

The CALFED Bay-Delta Program. Since 1995, the CALFED Bay-Delta Program has been developing a long-term comprehensive plan to improve water management and preserve the ecological health of the Bay-Delta. The program (which is housed in the department) coordinates activities of 15 state and federal agencies and receives state support through the department's budget. The program's administrative costs—estimated to total about \$48 million from 1995 through the end of

1998-99—are split about evenly between the state and the federal government. (Federal funds support about \$23 million of the \$48 million. These funds do not pass through the state budget.) For 1999-00, the budget proposes \$6 million from the General Fund, and an increase of 44 positions, for the program.

Under the state's current contract with the federal government, the program continues through the end of 2000. However, it is likely that the program will continue in some form for a decade or two in order to provide oversight of the long-term implementation of the Bay-Delta "solution" being developed by the program.

Legislature's Oversight Has Been Difficult. We find that it has been difficult for the Legislature to oversee the CALFED Bay-Delta Program. In part, this is because the CALFED Bay-Delta Program expenditures are not separately identified or displayed in the Governor's budget. Thus, it is difficult for the Legislature to identify program expenditures, staffing, and activities to hold the department accountable. The Legislature's oversight of the program has also been complicated by the substantial shift from year to year in fund sources that support the program. Additionally, legislative oversight has been complicated by the program's staffing arrangements. The program's staffing has come mainly from employees loaned to the department from other state agencies or hired under the department's blanket authority for temporary help. As a result of these arrangements, the Legislature has had limited ability to review and approve specific positions for CALFED.

Detailed expenditure and staffing information would help the Legislature evaluate the appropriate support for the program as well as the appropriate fund sources for that support.

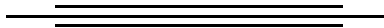
Recommend CALFED Program Budget Be Presented to Legislature. In order for the Legislature to better evaluate the budget's proposal for the CALFED Bay-Delta Program, we recommend that the department, prior to budget hearings, provide the fiscal subcommittees responsible for reviewing the department's budget the following information:

- Expenditures, broken down by fund source, for the CALFED Bay-Delta Program for 1997-98, 1998-99 (estimated), and 1999-00 (proposed).
- Staffing for the CALFED Bay-Delta Program in 1997-98, along with an estimate for 1998-99 and projection for 1999-00. This information should identify the position authority for all staff working in the program and include information on any interagency loan agreements.

In order to ensure that this information is presented to the Legislature in future budget years, we recommend that the Legislature adopt the following supplemental report language:

In order for the Legislature to better evaluate budget proposals for the CALFED Bay-Delta Program, it is the intent of the Legislature that the Governor's budget display include the CALFED Bay-Delta Program as a program element. This display should be included in the budget for the department for the 2000-01 and future budget years. The department, as part of its 2000-01 and future years' budget requests, shall also provide information to the Legislature on staffing in the CALFED Bay-Delta Program over the two years preceding the budget year, including the position authority for all staff working in the program and information on any interagency loan agreements.

Recommend CALFED Bay-Delta Program Be Scheduled in Budget Bill. The Legislature's oversight of the CALFED Bay-Delta Program has also been compromised by not scheduling the program in the budget bill. By scheduling a program in the budget bill, the Legislature can ensure that funds appropriated for a particular purpose are used for that purpose. Accordingly, we recommend that the Legislature amend the budget bill to schedule the CALFED Bay-Delta Program within the item for the Department of Water Resources (Item 3860).



CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (3910)

The California Integrated Waste Management Board (CIWMB), in conjunction with local agencies, is responsible for promoting waste management practices aimed at reducing the amount of waste that is disposed in landfills. Cities and counties develop solid waste management plans—which must be approved by CIWMB—showing how 50 percent of solid waste will be diverted from landfills by 2000. (As of 1997, the statewide diversion rate was 32 percent.) The CIWMB administers various programs which promote waste reduction and recycling, with particular programs for waste tire and used oil recycling. The board also regulates landfills through a permitting, inspection, and enforcement program that is mainly enforced by local enforcement agencies that are certified by the board. In addition, CIWMB oversees the cleanup of abandoned solid waste sites.

The budget proposes expenditures of \$83 million from various funds (primarily special funds) for support of CIWMB. This is a reduction of about \$1 million, or 1 percent, from estimated 1998-99 expenditures. Major budget adjustments include (1) an increase of about \$2.6 million to reduce landfill disposal of organic materials and construction and demolition debris, (2) an increase of about \$1.8 million for enforcement of landfill regulations, and (3) an increase of \$726,000 to assist some of the 25 percent of local governments currently not on track to meet the 50 percent waste diversion goal by 2000. The net reduction reflects the elimination of a one-time expenditure of \$5 million in the current year for cleanup and enforcement at waste tire stockpiles.

State Agencies Failing to Recycle And to Purchase Recycled-Content Products

We find that state agencies are recycling at rates far below the statewide average, and are failing to meet statutory goals to purchase

recycled-content products. We recommend that the board and the Department of General Services report at budget hearings on actions they plan to take to address these failings.

Role of State Agencies in Diverting Waste From Landfills. State agencies have two major roles in diverting waste from landfills. First, by establishing recycling programs, state agencies are an important source of *supply* of recyclable materials to be used in the manufacture of recycled-content products (RCPs). Second, state agencies are an important source of *demand* for RCPs. Without markets for RCPs, recyclable materials can end up being disposed at landfills.

Failure of State Agencies to Meet Recycling Mandates. Under current law, each state agency is required to initiate activities to collect, separate, and recycle “recyclable materials.” The board administers the state agency recycling program—known as Project Recycle—and is required to approve recycling programs and recycling contracts at each state agency. State agencies are required to report annually to the board on their recycled amounts and submit the revenues from these contracts to the board.

As discussed in greater detail in our *Analysis of the 1998-99 Budget Bill* (please see page B-79), we find that state agencies are failing to fulfill these statutory requirements. Specifically, we estimate that:

- Less than 20 percent of state facility sites have recycling programs.
- State agencies are diverting less than 6 percent of their waste from landfills by recycling, far below the statewide average of over 32 percent.

We also find that:

- Many state agencies are not reporting their recycled amounts to the board.
- Some state agencies are keeping their revenues from the sale of recyclables, rather than submitting them to the board (as required by statute) for support of the state agency recycling program.

Report on State Agency Recycling Delayed. In light of the above problems, the Legislature, in the *Supplemental Report of the 1998 Budget Act*, directed the board to report to the Legislature by December 1, 1998 on actions that the board will take to assist state agencies to improve their recycling efforts. However, the board notified the Legislature in January that it will not be submitting the requested report until March 1, 1999.

Failure to Meet Mandates to Buy Recycled-Content Products. Under current law, state agencies are required to meet a number of requirements related to the procurement of RCPs. Specifically, state agencies are required to:

- Purchase RCPs in sufficient quantities to attain statutory goals. For example, the goal for 1994-95 was 20 percent of total purchases of specified categories of products. For 1998-99, the goal increased to 50 percent of those purchases.
- Report annual purchases of RCPs to the Department of General Services (DGS).
- Submit plans identifying how the annual goals for RCPs will be met.

Chapter 672, Statutes of 1997 (SB 1066, Sher), required the board to submit a report to the Legislature on RCP procurement activities of state agencies. Our review of the board's report (dated September 1, 1998) finds that:

- Many state agencies do not report their RCP purchases to DGS. In 1997-98, 17 percent of the agencies failed to report.
- State agencies are very far from meeting mandated goals for RCP purchases. For example, while the statutory goal for RCPs in 1997-98 was 30 percent of the dollar amount of goods purchased, the board estimates less than 2 percent of state agency purchases were for RCPs.

State Agency Failure to Recycle and Purchase RCPs Impedes Local Waste Diversion Efforts. Under current law, local governments are required to divert 50 percent of waste from landfills by 2000. Since state facilities generate waste, they have a role in helping local governments where state facilities are located to meet these diversion requirements. In some local jurisdictions, state facilities are among the major contributors to the waste stream (for example, prisons). If state facilities do not recycle and/or purchase RCPs, they may significantly hinder local governments in meeting the diversion requirements, potentially subjecting local governments to civil penalties.

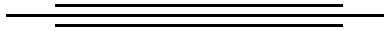
Recommend Reports at Budget Hearings. In order that the Legislature can evaluate actions necessary to facilitate state agency recycling and the procurement of RCPs, we recommend that the board and DGS report at budget hearings on (1) specific actions that they have taken and plan to take to improve state agency compliance with recycling and procurement

requirements and (2) obstacles that they have faced in enforcing compliance by state agencies with these requirements.

The Legislature should also consider having large state agencies that generate substantial amounts of waste and/or purchase large amounts of products report at budget hearings on their recycling and procurement activities. These agencies could include, for example, the Departments of Transportation, Corrections, and Parks and Recreation, and the University of California. These agencies could be asked to report on:

- Their recycling programs, and estimated recycling rates.
- The extent to which they follow requirements to (1) report to the board on their recycling amounts, (2) obtain board approval for recycling contracts, and (3) submit recycling revenues to the board.
- Their RCP procurement practices, and estimated proportion of purchases that are RCPs.
- The extent to which they follow requirements to report to DGS on their RCP purchases.

With the above information, the Legislature will be in a better position to evaluate actions it can take to ensure that the Legislature's goals in this area are met.



STATE WATER RESOURCES CONTROL BOARD (3940)

The State Water Resources Control Board (SWRCB), in conjunction with nine semi-autonomous 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 state 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 action 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 \$456.5 million from various funds for support of SWRCB in 1999-00. This amount is a decrease of \$34.5 million, or 7 percent, from estimated current-year expenditures. Much of this decrease reflects a reduction of \$20.5 million from the Underground Storage Tank Cleanup Fund due to lower resources in the fund. (Available resources in prior years were greater due to substantial reserves in the fund that have since been drawn down.) Other major budget proposals include (1) an increase of \$6 million in federal funds to address water pollution in the most seriously impaired water bodies in the state, (2) an increase of \$1.4 million in the Stormwater program to

comply with federal regulations expanding the universe of municipal and construction dischargers requiring permits, and (3) an increase of \$1.3 million to address permit backlogs in the water rights and landfill regulatory programs.

IMPROVEMENTS NEEDED IN CLEAN WATER ENFORCEMENT

In order to enforce compliance with clean water laws, the state and regional water boards issue permits to over 20,000 dischargers of waste impacting the state's surface and ground waters. Assuring compliance with permit requirements and taking enforcement action when violations are found are fundamental to meeting the state's water quality objectives. However, as discussed in the sections that follow, we find that:

- Certain compliance assurance and enforcement activities are not being carried out, while others are not being carried out effectively.
- Enforcement policies and procedures are being implemented inconsistently among the nine regional boards.
- Violation and enforcement data tracking has been incomplete and inconsistent.
- Information on compliance and enforcement expenditures is limited.
- Existing compliance and enforcement-related performance measures are not tied directly to water quality outcomes.

While we find that the boards are taking actions to address these problems, we make several recommendations to further improve the boards' compliance assurance and enforcement programs so as to better achieve the state's water quality objectives.

Background

Regulation of Waste Discharges. Since the 1960s, discharges of waste into the state's surface waters and groundwater have been regulated by the state and regional boards. The state board assesses the state's water quality, sets standards, and develops statewide plans to control water pollution. To control pollution from *point sources* that discharge waste directly into water bodies, the boards issue and enforce compliance with permits ("waste discharge requirements") that set limits on the types and amount of discharges. While most permitting and enforcement takes

place at the regional board level, the state board issues some permits and initiates enforcement action when considered necessary. The state board also serves as an appellate body for regional board decisions on permitting and enforcement actions.

Nonpoint source pollution—created when water picks up contaminants from pesticide use, mining, logging, and other sources and deposits them in water bodies—is controlled mainly by a state board program. This program develops voluntary best management practices to be adopted by farmers and other nonpoint source waste dischargers. An exception pertains to *stormwater* pollution, which, while sometimes nonpoint source in nature, is regulated through a series of statewide or countywide permits that apply to a multitude of construction, industrial, or municipal sources of pollution.

This analysis focuses on the boards' three programs that issue and enforce permits for point sources, as well as the Stormwater program, as set out in Figure 1. (For purposes of this analysis, we refer to these programs as the boards' core regulatory program. The underground fuel storage tank and nonpoint source programs are thereby excluded from this analysis.) Figure 1 shows the type and number of facilities regulated under the core regulatory program. Figure 2 (see page 106) shows the program's expenditures and funding sources over the last several years.

Checking and Enforcing Compliance. The regional boards rely mainly on inspections by their staff, their review of self-monitoring reports submitted by waste dischargers, and their investigations of complaints, to ensure compliance with the core regulatory program's permit and other regulatory requirements.

Enforcement of waste discharge permits and other clean water requirements is important as it serves to induce compliance with these requirements that are collectively designed to meet water quality objectives. A lack of consistent and effective enforcement would erode the credibility of the requirements and allow violations to continue undeterred, resulting in water quality objectives not being met.

Enforcement Tools Available. Under state law, the regional boards have a variety of enforcement tools at their disposal. Depending on the nature and severity of the violation, the boards may take informal enforcement action by issuing a warning letter to a violator, or more formal enforcement action, including issuing orders requiring corrective actions within a particular time. Civil penalties may also be levied administratively or cases may be referred to the Attorney General or District Attorney who may seek higher penalties in court.

Figure 1	
State Water Resources Control Board Core Regulatory Program Components	
Program Component	
Rivers, lakes, coastal waters (NPDES)^a	<ul style="list-style-type: none"> • Regulates about 2,100 dischargers of waste into the state's streams, rivers, lakes, and coastal waters. • Regional boards issue NPDES permits to dischargers. • Under federal law, NPDES permits generally must be reissued every five years.
Landfills (Chapter 15^b)	<ul style="list-style-type: none"> • Regulates about 1,200 dischargers of waste to waste management units such as landfills. • Regional boards issue Chapter 15 waste discharge requirements (WDRs) to dischargers. • WDRs are to be updated every 5, 10, or 15 years, based on relative threat to water quality of the permittee's activities.
Lands, other than landfills (Non-Chapter 15^c)	<ul style="list-style-type: none"> • Regulates about 3,600 dischargers of waste to land, excluding landfills and other specified lands. • Regional boards issue Non-Chapter 15 WDRs to dischargers. • WDRs are to be updated every 5, 10, or 15 years as above.
Stormwater	<ul style="list-style-type: none"> • Regulates about 14,000 construction and industrial sites contributing to stormwater runoff under a statewide general NPDES permit. • Regulates municipal stormwater runoff under areawide general NPDES permits.
<p>^a National Pollutant Discharge Elimination System, implementing the federal Clean Water Act under agreement with U.S. EPA.</p> <p>^b Chapter 15, Title 23, California Code of Regulations, pursuant to Porter-Cologne Water Quality Control Act.</p> <p>^c Pursuant to Porter-Cologne Water Quality Control Act.</p>	

Figure 2

State Water Resources Control Board Core Regulatory Program Expenditures

1997-98 Through 1999-00
(In Millions)

Fund Source	Actual 1997-98	Estimated 1998-99	Proposed 1999-00
General Fund	\$12.6	\$13.0	\$13.0
Waste Discharge Permit Fund	11.9	12.3	13.7
Integrated Waste Management Account ^a	4.5	4.8	5.6
Federal funds	4.1	4.5	5.1
Totals	\$33.1	\$34.6	\$37.4

^a Revenues from "tipping fees" on solid waste disposed at landfills.

Some Core Regulatory Activities Not Being Carried Out

We find that a number of the core regulatory program's compliance assurance and enforcement activities are not being carried out. As a consequence, the state's ability to meet water quality objectives is impaired.

Compliance Assurance and Enforcement Activities Not Being Carried Out. Our review finds that there are various cases where compliance assurance or enforcement activities are not being carried out by the regional boards, when measured against work plan commitments, state board objectives, minimum work plan standards set by the U.S. Environmental Protection Agency (U.S. EPA), or needs identified by the boards. Examples include the following:

- **Inspections.** In 1997-98, one regional board conducted only 25 percent of the inspections committed to in its annual work plan for the Non-Chapter 15 program. For 1998-99, another regional board has committed in its work plan to conduct only 70 percent of the NPDES inspections required under U.S. EPA *minimum* standards, "... due to resource constraints and permitting workload." More generally, the state board's recent assessment (completed in June 1998) found that the number of inspections per regulated discharger "... fell far short of the number recommended by the [state board's] Administrative Procedure Manual, ..." which requires between one and three inspections per discharger per year, depending on threat to water quality. This failure is particularly

acute in the Stormwater program where as few as 10 percent of the dischargers have been inspected annually by some of the boards.

- **Compliance Assistance.** According to one of the regional boards, many industrial stormwater dischargers regulated under a state-wide general permit lack the technical expertise necessary to develop feasible pollution reduction strategies. These reduction strategies are necessary in order to meet the permit's basic requirement that pollution be reduced "to the maximum extent practicable." However, practically no resources have been devoted by the boards to assist these dischargers to comply with the permit requirements.
- **Following Up on Known Violations.** According to the state board, there are "fairly significant backlogs" in the regional boards' follow-up to known violations. As an example, the Bureau of State Audit's November 1998 audit of one of the regional boards found that over 20 percent of the dischargers in that region failed to submit at least one-half of the self-monitoring reports required of that board in 1997-98. However, in all but one case, the board made no apparent attempt to obtain the missing reports. This is of concern since self-monitoring reports are a primary means by which violations of effluent limitations are detected.
- **Review of Water Monitoring Reports.** In addition to monitoring their effluent discharges, some dischargers are required to monitor the quality of the water receiving the discharge. According to one board, it has a substantial backlog in reviewing these reports, with some reports not having been reviewed "for years."

Outdated Permits Result in Ineffective Enforcement. Our review also finds significant backlogs in the update and renewal of permits in the core regulatory program. Permits are updated and renewed in order to conform to changing state and federal laws, pollution control technology, and water quality conditions. For example, our review found that at the beginning of 1998-99, 400 out of 2,400 Non-Chapter 15 permits had not been reviewed and updated to conform to changing laws and water quality conditions.

With outdated permits and other core regulatory activities not being carried out, the state's ability to meet water quality objectives is impaired and the state risks losing federal grant funds. In the sections that follow, we make a number of recommendations which address this problem.

Needs Analysis Should Be Updated

The board has not substantially updated a baseline needs analysis for the core regulatory program for over ten years. We recommend that the Legislature adopt supplemental report language directing the board to perform the necessary update.

Core Regulatory Program Needs Analysis Should Be Updated. As discussed above, there are certain compliance assurance and enforcement activities that are not being done and others (such as in the case of outdated permits) that are not being carried out effectively. In part, this may reflect either inadequate resources or an inappropriate allocation of resources. To appropriately assess and address this problem, it is first necessary to identify the total needs of the core regulatory program in light of *current* statutory responsibilities under state and federal law and existing water quality conditions and threats. However, according to the board, it has not substantially updated a state-wide needs analysis for the core regulatory program since the late 1980s.

While the board has made budget adjustments to address particular water quality problems that have arisen, we think that the board should update the needs analysis of the core regulatory program on a comprehensive basis. Some of the information for such an analysis should be readily available from existing work plans of regional boards.

Without an up-to-date needs analysis, the Legislature is unable to determine the appropriate expenditure levels and funding priorities for compliance assurance, enforcement, and the other core regulatory program activities. In order to be provided such an analysis, we recommend that the Legislature adopt the following supplemental report language:

The State Water Resources Control Board shall provide the Legislature with reports on a baseline needs analysis for the core regulatory program (the NPDES, Chapter 15, Non-Chapter 15, and Stormwater programs). A preliminary report shall be provided by April 1, 2000 and a final report by January 1, 2001. The needs analysis shall reflect current program responsibilities under state and federal law and the major threats to water quality needing to be addressed in light of existing water quality conditions. The analysis shall include, but not be limited to, an assessment of needs for a cost-effective compliance assurance and enforcement program that serves to maximize compliance with clean water requirements.

Legislature Should Reexamine Core Regulatory Funding and Fee Structure

We recommend that the Legislature reexamine the funding level for the core regulatory program as well as how the program is funded (government versus polluter). In order to determine the appropriate funding level, the Legislature should make use of an updated needs analysis for the core regulatory program. As regards the appropriate funding source, we recommend that the Legislature enact fee legislation to apply the "polluter pays principle," thereby requiring that the nonfederal share of costs be paid by fees. Finally, we provide some options to address funding needs in the municipal stormwater permit program in particular.

Mix of Fund Sources Support Core Regulatory Program. Over the past several years, the core regulatory program has been funded with a mix of General Fund, federal funds, and fees. Fees supporting the program are levied on waste dischargers (waste discharge permit fees) and on the disposal of solid waste at landfills ("tipping fees"). Since 1990-91, annual General Fund support and federal funding levels (which support NPDES-related permitting and inspection activities) have remained relatively stable. For 1999-00, the budget proposes about \$13 million from the General Fund for support of the core regulatory program—about 35 percent of total program expenditures. Federal funds will total about \$5 million, with fee revenues amounting to \$19 million.

Current Waste Discharge Fee Levels Capped in 1980s. Currently, annual waste discharge permit fees are subject to a statutory cap of \$10,000 that was set in 1988 (effective in 1990), based in part on the board's analysis of workload needs in light of statutory requirements at that time. Current fees range from \$200 to \$10,000, based on a discharger's relative threat to water quality.

Workload Has Increased. Since the fee cap of \$10,000 became effective in 1990, the boards' core regulatory workload has increased significantly. For example, the Stormwater program began in 1991 as required by federal law. Also, additional workload has resulted from federal requirements for more detailed permits and more extensive reporting requirements. In particular, recently adopted federal regulations expand the number of chemicals subject to discharge requirements. Such changes not only increase the workload for new permits, but also create workload in the updating and renewal of existing permits.

Need to Reexamine Funding Level and Fee Structure. As discussed above, new workload needs have arisen since the current fees were capped in statute in the late 1980s, and certain core regulatory program

activities are not being carried out. We think that at least some of this additional workload can be addressed through increased efficiencies. For example, wider use of general permits that apply to several like dischargers could help reduce existing backlogs in the reissuance and update of permits. However, other workload needs may require additional funding.

Accordingly, we think that the Legislature should reexamine the total program funding for the core regulatory program and the fee levels. In order to provide the Legislature with the information necessary to make this evaluation, we recommend that budgets submitted by the board subsequent to January 1, 2001 be based on the updated needs analysis that we recommend be conducted by the board. The needs analysis would provide a basis for setting funding priorities necessary to meet water quality objectives.

As part of this funding review, the Legislature should also consider the appropriate mix of funding from General Fund and from polluter fees. While the General Fund has partially supported the core regulatory program for many years, we think that fees should be assessed at a level that would eliminate the need for General Fund support. We have made this recommendation, based on the "polluter pays principle," in prior years. (For example, please see our *Analysis of the 1993-94 Budget Bill*, page B-65.) Under the polluter pays principle, private parties that benefit from using public resources are responsible for paying the costs imposed on society to regulate such activities. We think that the relationship between private degradation of resources and public costs is particularly strong in the case of *point source* pollution (the focus of the boards' core regulatory program), thereby justifying a fee-based recovery of the costs of the boards' core regulatory program. Accordingly, we recommend the enactment of legislation requiring that the nonfederal share of costs of the program be paid by the polluter through fees.

Needs Analysis Will Support More Rational Fee Structure. While our recommendation for "polluter pays" fee legislation would increase costs to the regulated community as a whole, we think that our recommendation would benefit certain segments of the regulated community. This is because under the board's current fee structure, the level of fees assessed on polluters often bears little relationship to the boards' workload to regulate those polluters. As a consequence, fees levied on one group of polluters are sometimes used to subsidize programs regulating other polluters. We think that by updating the needs analysis for the core regulatory program as recommended above, the board will be in a better position to align fees with workload needs.

Recommend Revision to Fee Structure for Municipal Stormwater Permits. Currently, municipalities are required to implement plans for controlling stormwater runoff. These plans are regulated under municipal stormwater permits issued by the regional boards. Under state board regulation, a \$10,000 annual fee (the statutory cap) is assessed on permits for areas with a population over 100,000. Rather than issue a separate permit to every city, regional boards generally issue a municipal stormwater permit to a county, with individual cities as “co-permittees.” Issuing an areawide permit is more cost-efficient and is appropriate particularly when cities drain into a single county storm drain system.

The state board interprets the current statutory cap on fees—set before the Stormwater program evolved—as limiting fee assessment to one fee per permit. Our review finds that generally the compliance assurance and enforcement workload associated with these areawide permits greatly exceeds \$10,000 annually. In order to enforce compliance with municipal permits, the regional boards often redirect resources to the municipal program from other programs—mainly the construction and industrial stormwater programs. Even then, the level of regional board oversight over the municipal permittees remains minimal.

Given workload demands, we think that a change in the fee structure to provide greater funding for the municipal stormwater permit program is warranted. One option is to increase the annual \$10,000 statutory cap. Another option would be to provide statutory authority for the boards to assess waste discharge permit fees on individual municipalities who are co-permittees under an areawide municipal stormwater permit based on some annual workload measure.

More Consistent Implementation Of Enforcement Policies Needed

We find that the regional boards implement enforcement policies and procedures inconsistently. We recommend that the Legislature direct the state board to take a number of actions to ensure greater consistency among the regional boards in enforcement activity, including: (1) establishing an enforcement action review panel of board members; (2) standardizing the quarterly enforcement reports of the regional boards; and (3) codifying the state board enforcement policy in regulations.

State Board Enforcement Policy. The state board adopted a water quality enforcement policy in 1996 (revised in 1997) to ensure that enforcement throughout the state is consistent, predictable, and fair. Among other things, the policy provides that violations should result in “a

prompt enforcement response.” In addition, regional board staff shall “consider” escalating their enforcement response to more formal and severe enforcement actions when a violation continues after the initial action taken. Generally, though, the policy provides the regional boards with substantial discretion in pursuing enforcement action. The policy also requires regional board staff to report quarterly to their boards (in a public hearing) and to the state board on cases of “significant noncompliance” in the prior quarter, including cases that exceed effluent limitations by a specified percentage amount.

Statutory Policy Directives. The Legislature also has established enforcement-related policy directives in statute. For example, the state board’s policy is consistent with Chapter 775, Statutes of 1996 (AB 2937, Brulte) that requires informal enforcement actions in cases of unintentional, first-time minor environmental violations. Second, Chapter 998, Statutes of 1998 (AB 2019, Kuehl) provides a process of escalating enforcement to ensure compliance with stormwater discharge requirements, and mandates that penalties be assessed in particular cases of noncompliance. Statute does not otherwise provide for mandatory penalties for violations of clean water requirements.

Inconsistencies in Enforcement Continue. A recent state board assessment found that, even after the adoption of a statewide enforcement policy in 1996, inconsistencies in enforcement continued among regional boards. For industries that operate under the jurisdiction of a number of regional boards, the lack of consistency, and therefore predictability, adds to the costs of compliance.

Our review also finds inconsistencies in the violation and enforcement data that are tracked and reported quarterly by staff to the regional and state boards. For example, some of the regional boards’ quarterly reports include details of all violations, while others are limited to more serious violations. (We discuss the boards’ problems with data tracking in greater detail below.)

Additionally, a number of recent reviews of regional board enforcement activity, including ones conducted by the Bureau of State Audits and others, have found that regional boards have not always followed the state board’s policy for escalated enforcement when the initial enforcement action is not effective. The state board recognizes that this type of problem exists, but has not quantified it. We think that when the policy of escalating enforcement is not implemented, this reduces the effectiveness of enforcement in inducing compliance in general.

As shown in Figure 3, for 1996-97 only 5 percent of core regulatory program violations resulted in a formal enforcement action and only 1 percent resulted in the assessment of an administrative civil penalty. Accordingly, for about 95 percent of the violations, an “informal” enforcement action (a warning letter) was taken. Because many of these violations were minor violations, an informal enforcement action was the appropriate response in light of the Legislature’s policy in Chapter 775. However, the Bureau of State Audits and others were able to identify numerous examples of cases where regional boards had not appropriately taken escalated enforcement action.

Figure 3

**Violations and Enforcement Actions
Core Regulatory Program^a**

1996-97

Program	Violations and Enforcement Actions ^b		
	Violations	Formal Enforcement Actions ^c	Administrative Penalties
NPDES	1,202	82	18
Chapter 15	234	21	3
Non-Chapter 15	462	31	6
Stormwater	2,850	99	22
Totals	4,748	233 (5%)	49 (1%)

^a NPDES, Chapter 15, Non-Chapter 15, and Stormwater programs.
^b Based on 1998 assessment conducted by board’s Compliance Assurance and Enforcement Unit.
^c Includes time schedule orders, cease and desist orders, cleanup and abatement orders, modification/rescission of permits, administrative civil liabilities (monetary penalties), and referrals to Attorney General or District Attorney.

Improvements Can Be Made to Ensure Consistency. We find that, in addition to adopting a statewide policy, a number of further actions can be taken by the state board to ensure that regional board enforcement actions are consistent among regional boards, and also consistent with state board and statutory policies. We make the following recommendations:

- *Recommend Enforcement Action Review Panel.* We recommend that the state board establish a review panel of state and regional board members to review and evaluate the consistency of enforcement actions taken by the regional boards. This was recommended

by a 1994 external program review of the board and the 1998 Bureau of State Audits' audit of a regional board. Currently, the state and regional board staff meet in roundtables to discuss *prospective* enforcement actions as a means to ensure consistency. While this is a good first step, we think that *after-the-fact* reviews are equally important because, with these reviews, enforcement actions *actually* taken can be evaluated for consistency.

- ***Recommend More Comprehensive, Standardized Quarterly Enforcement Reporting.*** We recommend that the state board standardize and expand the content of the quarterly enforcement reports of the regional boards. Currently, it is difficult to evaluate the consistency of enforcement actions among the regional boards. This is because the regional boards do not consistently report on a comprehensive basis all violations and the enforcement actions taken. In particular, we recommend that the quarterly reports include *all* violations, not just violations of significant noncompliance, as currently done by the Los Angeles regional board. We think that this is important in order to identify cases where relatively minor violations by a large number of dischargers collectively result in a major problem to be addressed. We also recommend that the enforcement reports be expanded to include the compliance history of a discharger. This will help to identify chronic violators and provide a useful context for the severity of the enforcement action chosen.
- ***Recommend State Board Enforcement Policy Be Codified in Regulations.*** We also recommend that a statewide enforcement policy be codified in state board regulations. We think that this is necessary in order to provide greater certainty to the regulated community, thereby facilitating compliance. Also, we recommend that the codified policy include a more explicit protocol than currently exists regarding escalating enforcement in cases where prior, more informal enforcement actions have not proven effective. This would follow the approach taken by Chapter 998 for the industrial stormwater permit program, where levels of noncompliance have been particularly high.

Mandatory Minimum Penalties Induce Compliance

We find that mandating minimum penalties for serious and chronic violations is a cost-effective enforcement approach that induces compliance. We recommend enactment of legislation mandating minimum penalties in specified circumstances.

As discussed previously, enforcing compliance with permit and other clean water requirements is necessary to ensure that the state's water quality objectives are met. As shown in Figure 3 (please see page 113), there are a significant number of *known* violations of these requirements. Given that some core regulatory activities are not being carried out, it is likely that the number of *actual* violations is higher. While the board is unable to quantify the impact of these violations on water quality, it is probable that at least some of the violations impair water quality.

New Jersey Experience With Mandatory Minimum Penalties. Currently, California law does not generally mandate that minimum penalties be assessed for water quality violations. Our review finds that where minimum penalties for water quality violations have been mandated by law, substantial increases in compliance have resulted. This has been the experience in New Jersey, which in 1990 mandated minimum penalties for "serious violations" (includes exceeding effluent limitations by 20 to 40 percent) and for "significant noncompliers" (includes chronic violations, such as a failure to submit a self-monitoring report a number of times over a given time period). The number of violations has steadily decreased in New Jersey since the enactment of the law—decreasing by more than 60 percent from 1992 to 1997.

It is sometimes argued that mandating minimum penalties would result in a substantial increase in staffing costs given the additional time required to prepare for administrative hearings. However, the New Jersey experience has shown the policy to be cost-effective, in large measure due to lower enforcement program costs resulting from a substantial increase in compliance. Additionally, the New Jersey experience found that staff preparation for a penalty hearing under mandatory penalties is not as labor intensive as for hearings in cases where penalties are discretionary. This is because in mandatory penalty cases, less time is spent assessing mitigating factors to determine whether a penalty *should* be assessed.

Recommend Enactment of Legislation Mandating Minimum Penalties. We recommend the enactment of legislation to mandate the assessment of penalties for serious and chronic water quality violations. Such legislation could serve to make enforcement actions more consistent by prescribing a protocol for enforcement and would be cost-effective, based on the New Jersey experience. This approach has been proposed in AB 50 (Migden), as introduced this session. Assembly Bill 50 would require a minimum mandatory penalty of \$3,000 be assessed for certain serious water quality violations, including exceeding effluent discharge limitations by a specified percentage.

Current Data Tracking Problematic

We find that compliance and enforcement data have been tracked and reported incompletely and inconsistently by the regional boards. Consequently, the state board is unable to target compliance and enforcement-related expenditures cost-effectively, assess levels of compliance, or evaluate the consistency of enforcement actions among the regional boards. A recent state board proposal for a new information system is intended to address these deficiencies.

Board's Own Assessment: Unreliable, Inconsistent, Incomplete Data Tracking. In 1997, the state board formed a Compliance Assurance and Enforcement Unit to coordinate and evaluate enforcement activities taken statewide by the state and regional boards. The unit's initial assessment of enforcement activities in the core regulatory program, completed in June 1998, identified many problems with the tracking of compliance assurance (inspections, self-monitoring report reviews, et cetera) and enforcement data. In particular, the assessment found that, in general, data compiled on a *statewide* basis are not reliable. Reliable statewide data are limited mainly to an identification of regulated facilities and a listing of scheduled and completed inspections. As regards data collected by the regional boards, the assessment found significant variability among the compliance assurance and enforcement data. Thus, there are no reliable historical data on a statewide basis that track:

- Violations detected on inspections.
- Enforcement actions taken when violations are found.

Implications of Data Problems. Without reliable, consistent, and complete statewide data that make the linkages listed above, the board is not able to:

- Assess water quality in many water bodies of the state.
- Assess compliance levels over time.
- Target resources to compliance checking and enforcement activities cost-effectively by identifying where these activities are needed the most on a *statewide* basis.
- Evaluate the consistency of enforcement actions among the regional boards.

State Board Proposing Data Tracking Improvements. In order to address the above problem, the state board is proposing a new statewide compliance and enforcement data tracking system called "SWIM" (System for Water Information Management). The SWIM is based on an information management system already operated by the Los Angeles

Regional Water Quality Control Board. If implemented, SWIM would, among other things, link violation and enforcement data on a statewide basis and would organize data on a geographic basis so that water quality impacts with respect to a particular water body can be assessed.

We think that an information system such as SWIM would provide the state and regional boards with important compliance and water quality information to allow for better targeting of resources to areas of greatest need.

Better Information Needed On Enforcement Expenditures

The board does not generally budget and track expenditures specifically for compliance assurance and enforcement. We recommend the adoption of supplemental report language to require the board to provide information on compliance assurance and enforcement-related expenditures with future budget requests.

Board Cannot Tell How Much It Spends on Compliance Assurance and Enforcement. The board is unable to provide information on total expenditures for compliance assurance and enforcement in the core regulatory program over the past several years. This is because it does not generally budget and track expenditures on the basis of these *functions*. Without information on these expenditures, and without reliable data on compliance and enforcement activities (discussed earlier), the Legislature is unable to evaluate whether (1) expenditures on compliance assurance and enforcement are adequate to achieve the state's water quality goals, and (2) resources are being targeted cost-effectively to achieve these goals.

Recommend Adoption of Supplemental Report Language. In order that the Legislature is provided with information on an ongoing basis that enables it to better evaluate the board's compliance assurance and enforcement expenditures, we recommend that the Legislature adopt the following supplemental report language:

The State Water Resources Control Board, as part of its 2000-01 and future years' budget requests, shall provide the Legislature with information on its compliance assurance and enforcement expenditures in the core regulatory water quality program (NPDES, Chapter 15, Non-Chapter 15, and Stormwater programs), as proposed for the budget year and for the preceding two fiscal years. The information should provide sufficient detail of the proposed expenditures to demonstrate and justify the board's proposed funding priorities for the core regulatory program and to show how the proposed expenditures serve to meet the state's water quality objectives in a cost-effective manner.

We think that the above information on expenditures, together with more comprehensive data on violations and enforcement activities, will

enable the Legislature to evaluate the adequacy of the board's expenditures and the cost-effectiveness of its core regulatory program.

Need for Better Performance Measures

The board's performance measures for the core regulatory program are not based on water quality outcomes. We recommend that the Legislature adopt supplemental report language directing the board to develop more meaningful measures to fulfill the Legislature's intent in Chapter 418, Statutes of 1993.

As discussed throughout this write-up, the board is unable to provide information on compliance trends and related water quality impacts due to data tracking problems. Without this information, it is difficult to evaluate the performance of the board's enforcement programs, because ultimately a well-performing enforcement program is one that maximizes compliance with clean water laws so as to meet water quality objectives.

Our review finds that the board's core regulatory work plans and budget are not tied to water quality-based performance measures. Rather, the ten performance measures adopted by the board for the core regulatory program are mainly of a workload nature, such as "number of self-monitoring reports reviewed." We think that these measures fail to meet the Legislature's objectives for such measures as found in Chapter 418, Statutes of 1993 (SB 1082, Calderon). Chapter 418 required the state board, among other environmental agencies, to develop measurable performance objectives designed to *enhance environmental protection*. The measures adopted do not directly address whether there have been water quality improvements. An example of a measure relating to water quality improvements would be "number of beach closures due to water pollution."

Recommend Adoption of Supplemental Report Language. We think that the data tracking system proposed by the board would allow the board to develop more meaningful performance measures that are tied more directly to water quality objectives. Accordingly, we recommend that the Legislature adopt the following supplemental report language to direct the board to develop such measures:

The State Water Resources Control Board shall develop performance measures for its core regulatory water quality program (NPDES, Chapter 15, Non-Chapter 15, and Stormwater programs) that relate directly to water quality outcomes, pursuant to the requirement of Chapter 418, Statutes of 1993 (SB 1082, Calderon) for performance measures. The board shall report to the Legislature on these measures in a preliminary report by April 1, 2000 and in a final report by January 1, 2001.

LOCAL INFRASTRUCTURE FUNDING NEEDS SUBSTANTIAL

In a report to the Legislature, the board finds that there are substantial unmet infrastructure funding needs related to the control of point source pollution. The same report provides limited new information on the infrastructure funding needs to control nonpoint source pollution.

Supplemental Report Requirement. In the *Supplemental Report of the 1998 Budget Act*, the Legislature directed the board to report, with its 1999-00 and future year budget requests, on infrastructure funding needs to meet state and federal water quality objectives. The board addresses these needs under its local assistance programs that provide loans and grants for various water quality purposes, such as wastewater treatment plant construction or upgrades.

The Legislature requested this report because previous reports on these needs had provided incomplete information. For example, past projections had focused almost exclusively on point source pollution, even though nonpoint source pollution is a major cause of degradation of the state's waters. In addition, the board's previous estimates of needs were limited to a projection of funds available.

Needs to Control Nonpoint Source Pollution Still Largely Unknown. According to the board's report, there are currently no comprehensive data on the cost of infrastructure improvements needed to correct the water quality problems related to nonpoint source pollution. Until now, periodic needs surveys of local agencies conducted by the United States Environmental Protection Agency (U.S. EPA)—the primary source of information for previous reports—have focused almost exclusively on point source pollution, and on wastewater treatment and water recycling facilities in particular.

According to the board, one very rough indicator of the magnitude of needs is derived from examining local requests for federal funds for nonpoint source pollution control. For example, since 1990, local agencies have requested about \$200 million under one federal grant program, while only about \$26 million was awarded.

The board has recently begun a multiyear effort to address all sources of water pollution in 470 water bodies (including lakes, rivers, and streams) throughout the state that are failing to meet water quality standards. Under federal law, the board is required to develop plans for each of these water bodies to allocate responsibility for reducing pollution among all sources, including nonpoint sources. A separate plan is required on a pollutant by pollutant basis. As these plans—called Total

Maximum Daily Loads (TMDLs)—are developed, more useful information will be generated about local infrastructure needs relating to the control of nonpoint source pollution. The board anticipates that it will have to develop 1,380 TMDLs over a multiyear period. Thus far, only two TMDLs have been completed. The budget expects \$6 million of federal funds annually to be available to develop 50 more TMDLs over the next five years.

Of the two TMDLs completed, only one places limits on nonpoint sources, and total costs for infrastructure changes in this one case have not been estimated. Accordingly, limited new information on infrastructure needs related to the control of nonpoint source pollution has become available over the past year.

Unmet Needs for Point Source Pollution Control Are Substantial. Based on the U.S. EPA needs survey, the board conservatively estimates local needs totaling about \$3 billion over the ten-year period between 1999-00 and 2008-09 for wastewater and other water pollution infrastructure mainly for point source pollution control. The board projects that about \$1.7 billion would be available from federal funds and existing bond funds (including bond repayments). The remaining \$1.3 billion would have to come from a combination of additional state funds and local funds. Assuming that the state maintains its current level of financial assistance to local agencies, the state would need to provide about \$600 million over the next ten years, with local agencies providing \$700 million.

Need to Overhaul the State's Infrastructure Planning and Financing Process. We think that it is important for the Legislature to consider the water quality-related infrastructure needs discussed above in the context of statewide public infrastructure needs in general. We make a number of recommendations to improve the state's infrastructure planning and financing process in our write-up found in our *1999-00 Budget: Perspectives and Issues*.



DEPARTMENT OF TOXIC SUBSTANCES CONTROL (3960)

The Department of Toxic Substances Control (DTSC) regulates hazardous waste management, cleans up or oversees the cleanup of contaminated hazardous waste sites, and promotes the reduction of hazardous waste generation. The department is funded by fees paid by persons that generate, transport, store, treat, or dispose of hazardous wastes; environmental fees levied on most corporations; the General Fund; and federal funds.

The budget requests \$131.1 million from various funds for support of DTSC in 1999-00. This is a decrease of \$1.7 million, or 1 percent, from estimated current-year expenditures. Major budget proposals include (1) a reduction of \$2.6 million in federal funds for cleanup at federal military sites and (2) an increase of \$1.1 million for pollution prevention activities. In addition, the budget proposes to increase expenditures for cleanup operations at the Stringfellow Superfund site by about \$2 million—to \$13 million. The budget also proposes a number of technical adjustments to provide the department with expenditure authority for cleanups at toxic waste sites and illegal drug labs, in light of the sunset of the state Superfund law on January 1, 1999.

Stringfellow Litigation Update: Settlement Signed in December 1998

The state has recently signed a settlement agreement in the Stringfellow litigation that reduces the state's potential liability by about \$92 million, provided the state receives insurance payments to cover other Stringfellow-related liabilities. We recommend the enactment of legislation to establish a separate account for Stringfellow-related revenues (including insurance proceeds) and expenditures to provide better accounting of activities related to Stringfellow.

The State's Liability at Stringfellow. The Stringfellow Federal Superfund Site (Stringfellow) was operated as a hazardous waste disposal facility in Riverside County from 1956 to 1972. However, due to the physical environment around the site, a substantial amount of contamination migrated from the site to neighboring communities. In 1983, Stringfellow was placed on the federal Superfund list, a list of high-risk contaminated sites to be cleaned up by, or under the oversight of, the United States Environmental Protection Agency (U.S. EPA) with state participation.

In 1995, a federal court found the state to be liable for *all* past and future cleanup and site operation costs at Stringfellow on the basis that state agencies were negligent in issuing permits for the location of the facility. As shown in Figure 1, this results in the state being liable for over \$200 million of past costs of other parties (including U.S. EPA) and for future costs which, according to the department, could be over \$200 million.

Figure 1	
Stringfellow Federal Superfund Site Cleanup Costs^a	
Costs (1983 - 1998)	
State	\$60 million
Federal government	115 million ^b
Industrial "responsible parties"	<u>92 million</u>
Total	\$267 million
Projected Future Costs	
Total	Over \$200 million^c
^a Costs are approximate. Exclude litigation-related costs. ^b Includes interest. This amount is under negotiation with U.S. EPA. ^c Projection of Department of Toxic Substances Control.	

As of December 1998, state environmental agencies (mainly the department) have spent about \$60 million at Stringfellow for investigations and cleanup activities. In addition, the Attorney General has spent over \$15 million to defend the state in the Stringfellow litigation and to pursue litigation against the state's insurers. The budget requests about \$13 million from the General Fund in 1999-00 for the department to con-

tinue cleaning up the Stringfellow site and to operate a water pretreatment plant at the site. The budget for the Attorney General also requests about \$5 million to continue representing the state in Stringfellow-related insurance litigation in 1999-00.

Settlement Signed in December 1998. This past December, the state signed a settlement agreement with the private responsible parties (RPs) who had successfully sued the state, making the state liable for all past and future cleanup costs at Stringfellow. (The agreement becomes effective provided the U.S. EPA approves of the agreement by February 15, 1999.) Under the terms of the agreement, the department will assume full responsibility for the future cleanup and operations costs at Stringfellow, while the private RPs will forego reimbursement from the state for costs of about \$92 million they have incurred through 1998.

However, the agreement is conditioned on the state obtaining insurance payments currently being pursued in litigation. Specifically, the state would need to obtain: (1) by January 1, 2001, amounts that are sufficient to cover both the state's obligation to U.S. EPA for its past costs (potentially as high as \$115 million) and \$85 million of the state's future costs; and (2) by January 1, 2002, amounts that are sufficient to cover an additional \$85 million of the state's future costs.

If the insurance payments specified in either of the above two conditions are not forthcoming, the settlement agreement would be voided. In that event, the state presumably would reinstate its appeal of the court decision that found it liable for all past and future costs at Stringfellow. The state agreed to put its appeal of the court's decision on the liability issue on hold during the period when it attempts to obtain insurance payments to meet the above conditions. Based on discussions with the department, it appears likely that the state will receive significant insurance payments to cover much, if not all, of its liability at Stringfellow.

Benefit of the Settlement to the State. We find that the settlement agreement reached this past December is an important step in resolving over 15 years of continuous litigation over Stringfellow. In effect, the agreement reduces the state's potential liability at Stringfellow by about \$92 million, provided the conditions in the agreement related to the receipt of insurance payments by the state are met. The state will now shift its litigation focus to the litigation against several insurance carriers.

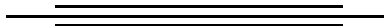
Budgetary Implications. According to the Attorney General and the department, it is unlikely that a court decision or significant settlements in the insurance litigation will take place in the budget year. As the state remains obligated under federal law to perform various cleanup and

maintenance activities at the site, we find that the proposed expenditures of \$13.1 million from the General Fund for these activities in 1999-00 are warranted. For 2000-01 and 2001-02, the budget projects expenditures of \$13 million and \$14.3 million, respectively, for these activities. Any insurance proceeds received could be used to supplant the General Fund for these expenditures.

If the settlement agreement were voided because the insurance proceeds were not forthcoming, and the state reinstates its appeal of the liability finding, it would likely be a year or two beyond 2001-02 before final court resolution of the litigation. At that time, the state, if still found to be liable, would be responsible to start making payments out of state funds to cover other parties' past costs at the site.

Recommend Legislature Establish Account for Stringfellow. Insurance proceeds from settlements and court judgments will likely come to the state over a number of years, as there are several insurance carriers involved. We think that it is important that the state track both the receipt of the insurance proceeds and the use of these funds, and that the Legislature retain control over Stringfellow-related expenditures through the budget process.

In order that the Legislature retain oversight over the use of insurance proceeds received and state funds provided for Stringfellow-related activities (including cleanup, operations and maintenance, administration, and litigation), we recommend the enactment of legislation to establish a separate account for Stringfellow. We also recommend that expenditures from the Stringfellow account be subject to appropriations in the annual budget act.



FINDINGS AND RECOMMENDATIONS

Resources

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Crosscutting Issues

Fund Conditions for Resources Programs

1. **Resources Special Funds.** Approving the Governor's spending proposal would leave up to \$30 million in various special funds for legislative priorities in resource protection. The use of some of the funds may be statutorily restricted to specific uses. B-15
2. **Park-Related Bonds.** There will be almost no park bond funds available for park projects in 1999-00. B-20
3. **Water Bonds.** No bond funds are available in the budget year for (a) the state's unmet share of costs for federally authorized, local flood control projects; and (b) state matching funds for federal safe drinking water loans and grants. The budget proposes alternative funding (General Fund) only to provide state matching funds. B-20

Headwaters Purchase

4. **Headwaters Purchase: An Update.** The Wildlife Conservation Board plans to authorize the purchase of Headwaters Forest in late February 1999, provided conditions specified in Chapter 615, Statute of 1998, are met. B-24

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State Regulation of Petroleum Pipelines Still Evolving	
5. Regulatory Environment Recently Developed. Legislation and regulatory changes over the past two decades have greatly enhanced the regulation of pipelines and associated infrastructure.	B-27
6. Many Regulatory Agencies Have Jurisdiction. The petroleum production and transportation infrastructure is regulated by a multitude of state and federal agencies. This results in jurisdictional conflicts and regulatory ambiguity. To some extent, these problems are being addressed through interagency agreements.	B-30
7. Permitting Process May Discourage Pipeline Repairs and Replacement. Currently, a project to repair or replace oil pipelines may take months or years and cost substantial amounts to be authorized. This may create disincentives to repair pipelines.	B-34
8. Lead Agency Would Help Resolve Jurisdictional Issues and Streamline Permitting Process. Recommend the enactment of legislation to designate a single lead agency to (a) coordinate jurisdictions and pipeline testing and maintenance requirements and (b) work in partnership with other permitting agencies to streamline the permitting process.	B-37
9. Abandoned Pipelines and Past Leaks Pose Unknown Threat. Recommend the enactment of legislation to appoint a lead agency to identify high-risk sites and test sample of sites for hazards.	B-38
Secretary for Environmental Protection	
10. Review of Cal-EPA Program Delivery, Structure, and Funding. Planned review by administration of Cal-EPA will examine issues of legislative concern. Recommend all positions in Secretary be made two-year, limited-term.	B-42

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| 11. Cal-EPA Information Technology Infrastructure Proposal Requires Legislative Oversight. Recommend adoption of budget bill language requiring legislative notification of equipment needs for information technology infrastructure in Cal-EPA headquarters building (under construction). | B-43 |

Department of Conservation

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| 12. Recycling Rates Have Declined. After peaking in 1995, recycling rates for each container type have stagnated or declined. | B-47 |
| 13. Beverage Container Recycling Fund (BCRF) Reserve Large and Growing. Low recycling rates have contributed toward a growing reserve in the BCRF that currently exceeds \$120 million. | B-49 |
| 14. Key Provisions to Sunset. Important provisions of the program will expire on January 1, 2000. | B-50 |
| 15. Use Reserves to Raise Recycling Rates. Recommend the enactment of legislation to (a) authorize the Department of Conservation (DOC) to raise California Redemption Value (CRV) payouts and (b) disperse grants to encourage expansion and creation of new curbside recycling programs. Further recommend the Legislature not to continue the processing fee offset, the restrictions on the calculations of processing fees, and the handling fees for "convenience zone" recyclers. | B-53 |
| 16. Williamson Act Audits Reveal Overpayment. Recommend that the Department of Finance's Office of State Audits and Evaluation report on recommended changes in program's administration and regulations, and that DOC report on steps it is taking to address the auditor's recommendations. | B-57 |

Forestry and Fire Protection

17. **Increased Reserves Can Fund Legislative Priorities.** B-59
Projected reserve in the Forest Resources Improvement Fund is significantly higher than in recent years. This reserve offers the Legislature the opportunity to fund its priorities relative to forest improvement activities.
18. **Staff State Nurseries With California Conservation Corps and Department of Corrections Crews.** B-62
Recommend the California Department of Forestry and Fire Protection (CDFFP) and the California Department of Corrections (CDC) report at budget hearings on the feasibility of dedicating an inmate crew to provide labor for state nurseries. Further recommend adopting budget bill language requiring CDFFP to use California Conservation Corps or CDC crews, or both, as the labor source for the state nurseries if dedicated crews can be made available.

Department of Fish and Game

19. **The Department Is Undergoing Reorganization.** B-65
Recommend that the department report at budget hearings on whether it plans to continue the reorganization effort and provide an update of its efforts and the expected date for full implementation. Further recommend that the department advise the Legislature at budget hearings what the department plans to accomplish in the budget year given its reorganization efforts to date.

State Coastal Conservancy

20. **Challenge Grant Program Proposed.** B-71
Recommend department explain at budget hearings what major criteria will apply to grant applications and how funds would

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be allocated. Further recommend budget bill language to prevent expenditure of grant funds on department's administrative costs.

Department of Parks and Recreation

21. **Ongoing Maintenance Needs Should Be Substantiated.** Recommend that the Department of Parks and Recreation (DPR) provide to the Legislature at budget hearings substantiation for its total ongoing maintenance needs, by maintenance categories. B-75
22. **Deferred Maintenance on Rise Since 1983.** The DPR's deferred maintenance has been on the rise since the early 1980s. The maintenance backlog has resulted due to persistent underfunding of increasing maintenance needs. B-76
23. **Preliminary Data Show Significant Deferred Maintenance Needs.** The preliminary data provided by the department show significant deferred maintenance needs. Most of the work is concentrated in the coastal park districts. B-78
24. **Preliminary Data Have Limitations.** Recommend that the department provide a more complete and consistent inventory of its deferred maintenance projects for all districts at budget hearings. B-81
25. **Implications of Deferred Maintenance in the State Park System.** Deferring maintenance on a continuous basis impedes DPR's ability to carry out its mission, negatively impacts the level and type of services parks can offer, and leads to a devaluation of assets. B-82
26. **Reduction Plan Needed to Set Priorities for Funding of Deferred Maintenance.** Recommend the adoption of supplemental report language requiring DPR to develop a deferred maintenance reduction plan by December 31, 1999. B-84

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27. Options for Funding DPR Maintenance and Deferred Maintenance. The Legislature has several options to fund park maintenance and deferred maintenance. The Legislature should determine which park facilities and assets serve a statewide purpose and therefore the state should retain and which should be sold or turned over to local governments.	B-84
28. Budget Proposes No Funding for Deferred Maintenance. Recommend that the Legislature, in determining the state's funding priorities, consider providing some amount of funding to continue to reduce deferred maintenance in 1999-00.	B-85
29. Enterprise Activities Provide Revenues; Activities Consistent With Statute. The Department of Parks and Recreation is pursuing enterprise activities in a manner consistent with statutory guidelines and restrictions. Enterprise activities, primarily concessions, provide substantial revenues to supplement the department's support.	B-86
30. Concession Evaluation Process Protects State Interest. The DPR's annual review of concession contracts serves to protect the interests of the state and the public.	B-88
31. Procedures for Soliciting Customer Reaction Should Be Standardized. Recommend the department develop standardized customer survey forms to assess concession performance. Further recommend the adoption of a consistent method of distributing and collecting surveys.	B-89
32. Options for Long-Term Funding. Recommend the current funding mix of General Fund and user fees, supplemented with revenues from enterprise activities such as concessions, be continued.	B-90
33. Zero Balance for State Parks and Recreation Fund Projected. Recommend the department report at bud-	B-91

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get hearings what actions it plans to take in the event (a) projected park revenues do not materialize or (b) expenditures are higher than planned, such as in the case of increased employee compensation for department staff.

Department of Water Resources

34. **Local Flood Control Subvention Arrearages Increase.** B-93
The budget proposes no funding for the state share of costs for local flood control projects, increasing the amount owed to local governments to \$189 million by the end of the budget year. Recommend the Legislature adopt criteria for funding future projects and reevaluate the percentage amount of the state share of costs.
35. **Legislative Oversight of CALFED Program Difficult.** B-95
Recommend (a) the department provide the Legislature, prior to budget hearings, with expenditure and staffing information on the CALFED Bay-Delta Program, and (b) adoption of supplemental report language to require the Governor's budget display to include this information in future years. Recommend that CALFED Bay-Delta Program be scheduled in the budget bill within the department's item.

California Integrated Waste Management Board

36. **State Agencies Failing to Recycle and Purchase Recycled-Content Goods.** B-98
Recommend board and Department of General Services report at budget hearings on state agency recycling programs and recycled-content product procurement.

State Water Resources Control Board

37. **Some Core Regulatory Activities Not Being Carried Out.** B-106
A number of compliance assurance and enforce-

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ment activities are not being carried out by the state and regional boards.	
38. Needs Analysis Should Be Updated. Recommend adoption of supplemental report language directing the board to update baseline needs analysis for core regulatory program.	B-108
39. Funding Should Be Reexamined. Recommend reexamination of total core regulatory program funding and waste discharge permit fee levels based on updated needs analysis. Recommend enactment of legislation to base fee levels on "polluter pays principle." To address funding needs of municipal stormwater program, Legislature could raise fee cap or provide authority for fees on co-permittees.	B-109
40. Inconsistent Implementation of Enforcement Policies. Recommend board take various actions to ensure greater consistency in regional board enforcement actions, including establishing a review panel, standardizing enforcement reporting, and codifying its enforcement policy in regulations.	B-111
41. Mandatory Minimum Penalties Cost-Effective. Recommend enactment of legislation mandating minimum penalties in specified circumstances.	B-114
42. Data Tracking Problematic. The board has been unable to use compliance and enforcement data as a budgeting tool to guide resource allocation. Proposed tracking system will make improvements.	B-116
43. Better Enforcement Expenditure Information Needed. Recommend adoption of supplemental report language requiring information of enforcement expenditures to be submitted with future budget requests.	B-117
44. Performance Measures Should Relate to Water Quality Objectives. Recommend adoption of supplemental	B-118

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report language requiring board to develop performance measures in core regulatory program that are tied to water quality objectives, rather than “outputs.”

45. **Substantial Funding Needs for Local Water Quality Infrastructure.** B-119
The board reports substantial local infrastructure needs for point source water pollution control (of about \$3 billion) over the next ten years. The board reports limited new information on funding needs to control nonpoint source pollution.

Department of Toxic Substances Control

46. **Stringfellow Settlement Reached.** B-121
In December 1998, the state signed a settlement agreement with private polluters regarding the Stringfellow Federal Superfund Site, conditioned upon the state receiving insurance payments. Recommend the enactment of legislation enact legislation to establish a separate account for Stringfellow-related resources and expenditures, subject to appropriations in the annual budget act.

