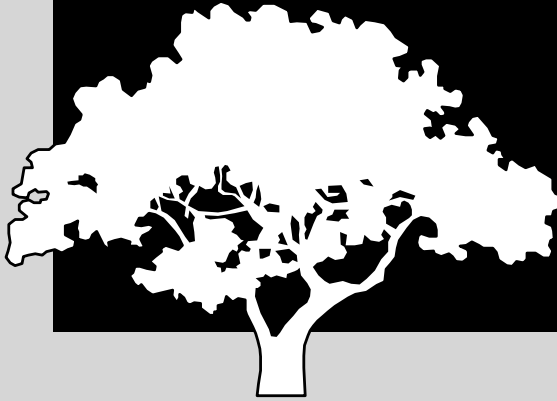


RESOURCES



2001-02 Analysis

MAJOR ISSUES

Resources



Several Resources Proposals Raise Issues Best Addressed in Legislation

- The budget proposes to fund a number of new programs and to significantly expand several existing programs. These proposals raise important policy issues for legislative consideration. Additionally, funding requirements and program implementation for these proposals are not well defined. We recommend that funding for these proposals be put in legislation that defines the programs and addresses the policy issues.
 - Diesel Emission Reduction Grant Program—\$100 million (see page B-95).
 - Clean Beaches Initiative—\$100 million (see page B-119).
 - River Parkways Program—\$70 million (see page B-42).
 - Low-Cost Environmental Insurance—\$37.5 million (see page B-122).
 - Environmental Water Account—\$30.2 million (see page B-27).
 - Natural Community Conservation Planning—\$3.3 million (see page B-80).



CALFED: Issues Abound

- The budget proposes \$414 million in state funds for various CALFED programs to address Bay-Delta water problems.

While the proposal assumes substantial federal funds, the availability of these funds is highly uncertain (see page B-26).

- Legislative review of the CALFED proposal—involving seven state agencies—could be enhanced by holding joint policy/budget committee hearings that enable evaluation of the trade-offs and policy choices inherent in CALFED's seven-year \$8.5 billion plan (see page B -23).



Coastal Commission Not Performing Statutory Duties

- Because of increasing workload and limited resources, the California Coastal Commission is unable to fulfill its statutory responsibilities. About 91 percent of local coastal planning documents are overdue for state review. Eliminating this backlog over five years will require additional staff (see page B-86).



Many Mines Violating Surface Mining Law

- A potentially significant number of surface mines are operating in violation of state mining law. In some cases, local governments have failed to conduct required inspections. Among other recommendations, we recommend the enactment of legislation to authorize the state to (1) revoke local approval of certain mining documents that do not meet state requirements, and (2) conduct required mine inspections when local governments fail to do so. (see page B-54).



State Lags in Addressing Seriously Polluted Water Bodies

- The State Water Resources Control Board (SWRCB) is lagging in developing federally required plans (TMDLs) to address the most polluted water bodies in the state. The slow pace delays water quality improvements, risks federal funding, and could result in loss of state control over aspects of water quality regulation (see page B-110).
- Several operational improvements are possible to make the program more effective, efficient, and timely. The SWRCB should also develop a long-term work plan for TMDLs (see pages B -112 and B-116).

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OVERVIEW

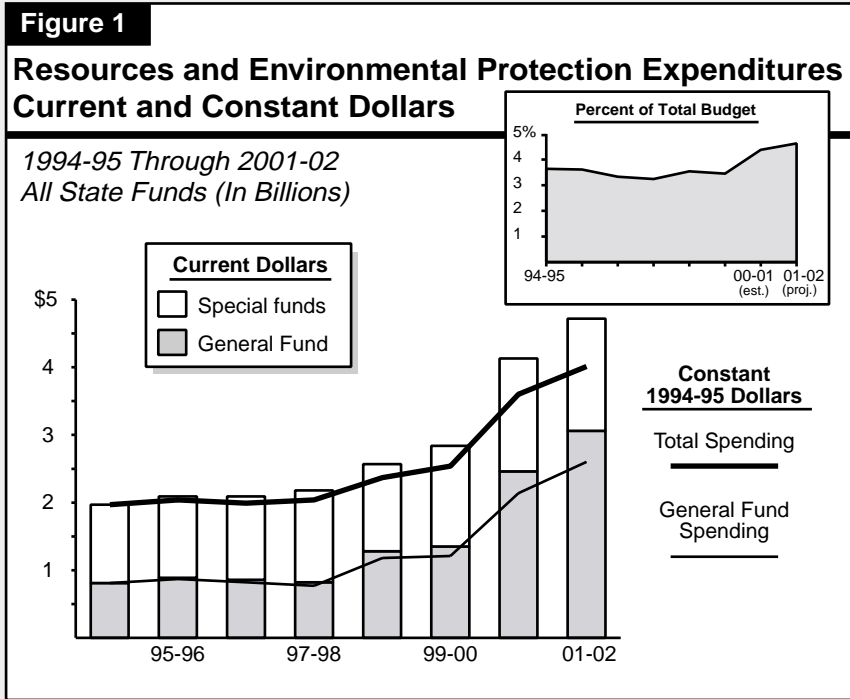
Resources

The budget proposes significantly higher state expenditures for resources and environmental protection programs in 2001-02 compared to the estimated current-year level. The increase is exclusively due to a \$1 billion set-aside proposed in the budget. The amount will be used to fund unspecified initiatives to address the state's energy problems.

Net of the set-aside amount, total state expenditures for resources and environmental protection programs in the budget year are proposed to be moderately lower than the current-year level. This is mainly due to (1) the elimination of one-time General Fund expenditures in the current year for land and habitat acquisition and state and local park development and improvements, and (2) lower bond fund expenditures for various water-related purposes.

Expenditures for resources and environmental protection programs from the General Fund and various special funds are proposed to total \$4.7 billion in 2001-02, which is 4.6 percent of all state-funded expenditures proposed for 2001-02. This level is an increase of about \$583 million, or 14 percent, above estimated expenditures for the current year. Of the total state funding for resources and environmental protection programs, \$3 billion (or 65 percent) will come from the General Fund. The remaining 35 percent of these expenditures will be supported by various special funds, including the Environmental License Plate Fund, Fish and Game Preservation Fund, Natural Resources Infrastructure Fund, funds generated by beverage container recycling deposits and fees, and an "insurance fund" for the cleanup of leaking underground storage tanks.

Figure 1 (see next page) shows that state expenditures for resources and environmental protection programs increased by about \$2.7 billion since 1994-95, representing an average annual increase of 13 percent. The increase includes about \$2.2 billion in General Fund expenditures and the remainder in special fund expenditures. When adjusted for inflation, these expenditures increased at an average annual rate of 11 percent. General Fund expenditures increased at an average annual rate of about



21 percent over this period. When adjusted for inflation, General Fund expenditures increased at an average annual rate of 18 percent.

Increase Skewed by Set-Aside for Energy Initiatives. The significant growth in resources and environmental protection expenditures is skewed by the budget year proposal to set aside \$1 billion from the General Fund for energy initiatives. According to the Governor’s budget, these initiatives, yet to be developed, will seek to increase energy efficiency, reduce energy consumption, and increase the supply of electricity. (The \$1 billion set-aside proposal and other energy-related issues are discussed in the “General Government” chapter.) Adjusting for the set-aside amount, total state-funded expenditures for resources and environmental protection programs are proposed to be about \$417 million (or 10 percent) lower than current-year expenditure level. The reduction reflects mainly (1) the elimination of one-time General Fund expenditures in the current year for land and habitat acquisition as well as state and local park development and improvements and (2) lower bond fund expenditures for various water-related purposes.

The adjusted 2001-02 expenditures from all state funds represent an average annual growth of 9.5 percent since 1994-95, or 6.6 percent, when adjusted for inflation. In particular, General Fund expenditures grew at

an average annual growth rate of 14 percent since 1994-95 (and 12 percent when adjusted for inflation). This increase is mainly the result of the improved state fiscal condition in recent years. Specifically, through the early 1990s, General Fund expenditures for resources and environmental protection programs were greatly curtailed due to the state's fiscal condition. Since 1998-99, the trend has reversed and General Fund support for these programs has increased.

SPENDING BY MAJOR PROGRAM

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

Figure 3 (see page 11) 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.

Spending for Resources Programs. Figure 2 shows the General Fund will provide the bulk of the California Department of Forestry and Fire Protection's (CDFFP) total expenditures, accounting for 74 percent (\$467.7 million) of the department's 2001-02 expenditures. The General Fund will account for less in the support of other resources departments. For instance, for the Resources Agency and the Department of Fish and Game (DFG), the General Fund will constitute about 33 percent (\$76.9 million) and 31 percent (\$88.2 million) of their budget-year expenditures, respectively. In the case of the Departments of Parks and Recreation (DPR) and Water Resources (DWR), the General Fund will pay for about 23 percent (\$148.9 million) and 22 percent (\$279.7 million) of the respective departments' total expenditures.

Figure 2 also shows that compared to current-year expenditures, the budget proposes a reduction in many of the resources departments except for the Resources Agency and CDFFP. Specifically, the budget proposes a significant reduction in DPR expenditures of \$655.9 million, or 50 percent less than current-year estimated expenditure level. The reduction includes (1) about \$102 million less in department support and operations, mainly due to the elimination of one-time expenditures for state parks deferred maintenance, and (2) a drop of \$504 million in expenditures for state and local park improvements funded by Proposition 12 bond money. For DWR, the budget proposes 22 percent less in expenditures for 2001-02, compared to the estimated current-year level. The reduction includes a decrease of \$254 million (mainly in local assistance) for various projects and programs funded with Proposition 13 bond funds.

Figure 2**Resources Budget Summary
Selected Funding Sources**1999-00 Through 2001-02
(Dollars in Millions)

Department	Actual 1999-00	Estimated 2000-01	Pro- posed 2001-02	Change From 2000-01	
				Amount	Percent
Resources Agency					
General Fund	\$8.5	\$11.2	\$76.9	\$65.7	586.6%
Other funds	1.8	119.8	149.7	29.9	25.0
Totals	\$10.3	\$131.0	\$226.6	\$95.6	73.0%
Conservation					
General Fund	\$22.2	\$32.2	\$24.3	-\$7.9	-24.5%
Recycling funds	416.7	498.3	492.1	-6.2	-1.2
Other funds	17.5	31.5	26.0	-5.5	-17.5
Totals	\$456.4	\$562.0	\$542.4	-\$19.6	-3.5%
Forestry and Fire Protection					
General Fund	\$465.8	\$419.1	\$467.7	\$48.6	11.6%
Forest Resources Fund	16.4	19.5	17.4	-2.1	-10.8
Other funds	172.3	140.5	145.4	4.9	3.5
Totals	\$654.5	\$579.1	\$630.5	\$51.4	8.9%
Fish and Game					
General Fund	\$37.0	\$84.7	\$88.2	\$3.5	4.1%
Fish and Game Fund	82.4	80.0	88.5	8.5	10.6
Environmental License	15.5	18.9	15.9	-3.0	-15.9
Other funds	20.3	115.1	93.9	-21.2	-18.4
Totals	\$213.7	\$298.7	\$286.5	-\$12.2	-4.1%
Parks and Recreation					
General Fund	\$170.5	\$368.9	\$148.9	-\$220.0	-59.6%
Parks and Recreation Fund	81.8	57.1	57.0	-0.1	-0.2
Off-Highway Vehicle Fund	23.9	61.8	39.6	-22.2	-35.9
Other funds	40.5	813.2	399.6	-413.6	-50.9
Totals	\$316.7	\$1,301.0	\$645.1	-\$655.9	-50.4%
Water Resources					
General Fund	\$127.3	\$374.3	\$279.7	-\$94.6	-25.3%
State Water Project funds	663.9	753.9	748.4	-5.5	-0.7
Other funds	53.2	511.2	257.2	-254.0	-49.7
Totals	\$844.4	\$1,639.4	\$1,285.3	-\$354.1	-21.6%

Figure 3**Environmental Protection Budget Summary
Selected Funding Sources**1999-00 Through 2001-02
(Dollars in Millions)

Department/Board	Actual 1999-00	Estimated 2000-01	Pro- posed 2001-02	Change From 2000-01	
				Amount	Percent
Air Resources					
General Fund	\$30.0	\$128.2	\$186.0	\$57.8	45.1%
Motor Vehicle Account	60.5	73.3	74.2	0.9	1.2
Other funds	49.1	41.8	48.0	6.2	14.8
Totals	\$139.6	\$243.3	\$308.2	\$64.9	26.7%
Waste Management					
Integrated Waste Account	\$38.2	\$43.6	\$41.9	-\$1.7	-3.9%
Used Oil Recycling Fund	36.9	33.6	27.4	-6.2	-18.4
Other funds	30.0	33.2	24.6	-8.6	-25.9
Totals	\$105.1	\$110.4	\$93.9	-\$16.5	-14.9%
Pesticide Regulation					
General Fund	\$13.8	\$17.2	\$17.1	-\$0.1	-0.6%
Pesticide Regulation Fund	33.0	39.2	40.8	1.6	4.1
Other funds	5.4	5.8	5.5	-0.3	-5.2
Totals	\$52.2	\$62.2	\$63.4	\$1.2	1.9%
Water Resources Control					
General Fund	\$56.8	\$100.6	\$208.8	\$108.2	107.5%
Underground Tank Cleanup	220.4	236.3	226.4	-9.9	-4.2
Waste Discharge Fund	12.8	15.4	17.2	1.8	11.7
Other funds	284.9	479.0	420.5	-58.5	-12.2
Totals	\$547.9	\$831.3	\$872.9	\$41.6	5.0%
Toxic Substances Control					
General Fund	\$31.0	\$137.1	\$111.2	-\$25.9	-18.9%
Hazardous Waste Control	31.9	35.8	34.5	-1.3	-3.6
Toxic Substances Control	28.0	35.8	29.5	-6.3	-17.6
Other funds	24.6	-39.4	53.7	93.1	— ^a
Totals	\$115.5	\$169.2	\$228.9	\$59.7	35.3%
Environmental Health Hazard Assessment					
General Fund	\$8.5	\$12.9	\$14.4	\$1.5	11.6%
Other funds	2.9	4.3	3.4	-0.9	-20.9
Totals	\$11.4	\$17.2	\$17.8	\$0.6	3.4%

^a Not a meaningful figure.

For both DFG and the Department of Conservation, the budget proposes minor reductions in departmental expenditures in 2001-02.

In contrast, the budget proposes a significant increase of \$95.6 million (or 73 percent) in the Resources Agency's 2001-02 expenditures. The increase is mainly the result of an additional \$70 million in General Fund expenditures proposed for the River Parkway program.

In addition to the proposed changes discussed above, the budget proposes to set aside \$1 billion from the General Fund to pay for the cost of energy initiatives. These initiatives have yet to be determined. The budget expects further definition of these initiatives in April/May.

Spending for Environmental Protection Programs. As Figure 3 shows, the budget proposes increases in all of the environmental protection programs except for the California Integrated Waste Management Board (CIWMB). In particular, expenditures of the Department of Toxic Substances Control (DTSC) are proposed to increase by \$59.7 million, or 35 percent, over the current-year level. This increase will be in various special-funded programs. In terms of General Fund expenditures in 2001-02, the budget proposes two increases totaling \$58.8 million to (1) provide low-cost environmental insurance to developers for the cleanup of contaminated urban properties ("brownfields") and (2) repay a loan made from the Superfund Bond Trust Fund. Despite these increases, total General Fund support of DTSC will decline in 2001-02 mainly due to the elimination of a one-time transfer of \$85 million in the current year to clean up brownfields.

The budget also proposes to increase expenditures for the Air Resources Board (ARB) significantly by \$64.9 million, or about 27 percent, compared to current-year expenditure level. The increase is mainly due to a proposed \$150 million increase from the General Fund to replace high polluting diesel vehicles and to provide grants to purchase zero-emission vehicles.

While the budget proposes that total expenditures for the State Water Resources Control Board (SWRCB) will increase modestly by 5 percent, the board's General Fund expenditures are proposed to increase significantly, by \$108.2 million, over the current-year level. The increase reflects mainly a proposed \$100 million to improve the water quality of the state's beaches.

For CIWMB, the budget proposes total expenditures of \$94 million—about 15 percent less than current-year expenditures. The reduction includes lower expenditures from the Used Oil Recycling Fund as well as lower grant expenditures for the development of markets for recycled materials.

MAJOR BUDGET CHANGES

Figures 4 and 5 present the major budget changes in resources and environmental protection programs, respectively.

As Figure 4 (see next page) shows, the budget proposes significant increases in funding for activities in various departments related to the CALFED Bay-Delta program. Specifically, the budget proposes (1) an increase of \$185.9 million for DWR for water supply projects, levee improvements, the operation of an Environmental Water Account, and various other purposes, (2) an increase of \$88.7 million for the Resources Agency for ecosystem restoration, and (3) \$8.1 million for DFG to do restoration planning, implementation, and monitoring.

In addition, the budget proposes \$70 million from the General Fund for the Resources Agency for the River Parkways Program. For DWR, the budget proposes an increase of \$73.6 million for flood control subvention. Expenditures of Proposition 13 bond funds for water projects, however, are proposed to decrease by \$254 million.

For CDFFP, the budget proposes \$10.2 million for a computer-aided dispatch system and \$7 million to replace emergency communications equipment. Similarly, the budget requests funds (\$14.2 million) for DFG to implement various office automation and information technology projects.

For DPR, the budget proposes an increase of \$11 million for ongoing maintenance of natural resources in state parks. The budget, however, does not propose any additional funds for deferred maintenance. The budget also proposes significantly less expenditures in 2001-02 for state and local park development. This reduction reflects the elimination of one-time expenditures for capital improvements on state and local parks.

Regarding environmental protection programs, Figure 5 (see page 15) shows that the budget proposes significant increases to enhance the state's air and water quality. Specifically, the budget proposes \$100 million for ARB to provide grants to replace older diesel engines and \$50 million to provide incentives for the purchase of zero-emission vehicles. The budget also proposes \$100 million for SWRCB to provide grants for local efforts to address pollution problems at the state's beaches. Additionally, the budget includes \$8.1 million to address the impact of storm water runoff on water quality.

In addition, the budget provides \$37.5 million for DTSC to establish a low-cost insurance program to assist owners with the cleanup of contaminated urban properties ("brownfields").

Figure 4

Resources Programs Proposed Major Changes for 2001-02

Resources Agency	Requested: \$226.6 million
	Increase: \$95.6 million (+73%)

- + \$70 million for the River Parkway Program
- + \$88.7 million for the CALFED Ecosystem Restoration Program

Forestry and Fire Protection	Requested: \$630.5 million
	Increase: \$51.4 million (+8.9%)

- + \$10.2 million for a computer-aided dispatch system
- + \$7 million to replace emergency communications equipment

Fish and Game	Requested: \$286.5 million
	Decrease: \$12.2 million (-4.1%)

- + \$14.2 million for office automation and information technology
 - + \$8.1 million for restoration activities related to CALFED
-
- \$16 million in bond and federally funded habitat restoration

Parks and Recreation	Requested: \$645.1 million
	Decrease: \$655.9 million (-50%)

- + \$11 million for ongoing maintenance of natural resources
-
- \$554 million in state and local park improvements

Water Resources	Requested: \$1.3 billion
	Decrease: \$354.1 million (-22%)

- + \$185.9 million for CALFED Bay-Delta Program
 - + \$73.6 million for flood control subventions
-
- \$254 million in Proposition 13 funded water projects

Figure 5

Environmental Protection Programs Proposed Major Changes for 2001-02

Air Resources Board	Requested: \$308.2 million
	Increase: \$64.9 million (+27%)

- + \$100 million to replace older diesel engines
- + \$50 million for the Zero-Emission Vehicle Program
- + \$8.5 million to upgrade equipment and instruments

Water Resources Control Board	Requested: \$872.9 million
	Increase: \$41.6 million (+5%)

- + \$100 million for the Clean Beaches initiative
- + \$8.1 million to reduce the impact of storm water runoff on water quality
- + \$3.2 million to automate water quality business processes
- + \$3 million for Lake Tahoe environmental improvement

Toxic Substances Control	Requested: \$228.9 million
	Increase: \$59.7 million (+35%)

- + \$37.5 million for low-cost insurance for the cleanup of urban properties
- + \$21.3 million to repay a Superfund Bond Trust Fund loan
- + \$2.5 million to administer the Cleanup Loans and Environmental Assistance to Neighborhood program

CROSSCUTTING ISSUES

Resources

CALFED BAY-DELTA PROGRAM

The CALFED Bay-Delta Program, a consortium of 18 state and federal agencies, was created to address a number of interrelated water problems in the state's Bay-Delta region. Program implementation began in September 2000. Over a seven-year period, the program is estimated to cost \$8.5 billion.

The 2001-02 budget proposes \$414 million in state funds for CALFED. In determining a funding level for the program, there are a number of policy, fiscal, and programmatic issues for the Legislature to consider.

CALFED Created to Address Bay-Delta Water Problems

Problems in the Bay-Delta. The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (the Bay-Delta) supplies much of the water used in the state for urban, agricultural, and environmental purposes. A number of interrelated water problems have developed in the Bay-Delta, including inadequate water quality, declining fish and wildlife populations, deteriorating levees, and uncertain water supplies.

The Bay-Delta Accord. In December 1994, federal and state agencies that have regulatory and resource management responsibilities in the Bay-Delta signed the Bay-Delta Accord. Among other things, the accord provided for the creation of the CALFED Bay-Delta Program to develop a long-term solution to the Bay-Delta problems. Specifically, the objectives of the program are to:

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

The CALFED Bay-Delta Program. Pursuant to the Bay-Delta Accord, the CALFED Bay-Delta Program (CALFED) was administratively created in 1995 as a consortium of federal and state agencies that have regulatory authority over water and resource management responsibilities in the Bay-Delta. The program is currently housed in the Department of Water Resources (DWR) and has an executive director. As shown in Figure 1, CALFED now encompasses 18 agencies. For 2001-02, the budget proposes \$414 million of state funds in various departments for CALFED. In addition to the executive director, the budget proposes at least 363 personnel-years in seven state departments to implement CALFED-related programs in 2001-02. Of these staff, about 59 are for overall CALFED program management and policy coordination.

Figure 1	
CALFED Agencies	
State	Federal
Fishery Agencies	
<ul style="list-style-type: none"> • Department of Fish and Game 	<ul style="list-style-type: none"> • Fish and Wildlife Service^a • National Marine Fisheries Service^a
Water Project Operators	
<ul style="list-style-type: none"> • Department of Water Resources 	<ul style="list-style-type: none"> • Bureau of Reclamation^a
Flood Control Agencies	
<ul style="list-style-type: none"> • State Reclamation Board 	<ul style="list-style-type: none"> • U.S. Army Corps of Engineers^a
Environmental Protection (Water Quality) Agencies	
<ul style="list-style-type: none"> • State Water Resources Control Board • Secretary for Environmental Protection 	<ul style="list-style-type: none"> • U.S. Environmental Protection Agency^a
Land Management/Agricultural/Other Agencies	
<ul style="list-style-type: none"> • Delta Protection Commission • Department of Food and Agriculture • Secretary for Resources^a 	<ul style="list-style-type: none"> • Bureau of Land Management • U.S. Geological Survey • Natural Resources Conservation Service^a • U.S. Forest Service • Western Area Power Administration
^a Lead agency.	

“Record of Decision” Is Foundation for CALFED Program

An August 2000 planning document referred to as the “Record of Decision” provides a framework for the implementation of CALFED-related programs and projects costs, over a seven-year period, of \$8.5 billion. The Record of Decision proposes a cost-sharing of expenditures among federal, state, and user/local sources.

August 2000 “Record of Decision.” The CALFED Bay-Delta Program is divided into three phases: problem identification, planning, and implementation. Since 1995, CALFED has been developing a planning framework. The planning process culminated in August 2000 with the signing of the “Record of Decision” (ROD) by the lead state and federal CALFED agencies. With the signing of the ROD, the lead agencies approved the final environmental review documents for the framework. The ROD divides CALFED into 11 interrelated program elements. The ROD is focused on the first seven years of the program’s implementation beginning in September 2000, although it is anticipated that it will take at least 30 years to carry out programs and construct projects in each of the 11 elements.

Record of Decision Guides Program Implementation. The ROD lays out the key parameters for the implementation of CALFED in the following ways:

- *Designates Lead Agencies.* The ROD includes an implementation agreement among the 18 CALFED agencies that lays out the roles and responsibilities of each participating agency. A lead agency has been negotiated for each program element.
- *Establishes Program and Project Goals, Types of Projects to Be Pursued.* The ROD sets goals, some very broad and others rather specific, to guide CALFED programs and projects. For example, the broadly defined goal of the water transfer program is to facilitate water transfers while protecting the environment and local economies impacted by transfers. In other cases, the ROD guides projects more specifically. This may be done by setting geographic boundaries (such as by setting a goal to restore habitat in a particular stream) or by identifying a specific type of project that should be studied or implemented (such as a particular type of water storage facility).
- *Estimates and Allocates Costs.* The ROD includes a rough estimate of costs to carry out each of the program’s elements for the first seven years of implementation. The cost estimates are very much subject to change, as CALFED gains experience by reviewing how well its programs and projects that have been implemented are meeting their goals. The schedule also allocates responsibility for paying these costs among federal, state, and user/local sources.

Figure 2 shows CALFED's 11 program elements, the estimated costs for each element over seven years, and the proposed cost-sharing for the program.

Figure 2				
CALFED's Seven-Year Expenditure Plan				
<i>2000-01 Through 2006-07</i> <i>(In Millions)</i>				
Program Element	Estimated Expenditures			
	State	Federal	Other^a	Total
Ecosystem restoration	\$413	\$413	\$300	\$1,126
Environmental Water Account	100	100	—	200
Water use efficiency	759	759	1,438	2,956
Water transfers	7.5	7.5	—	15
Watershed management	138	138	24	300
Water quality	290	290	375	955
Levees	88	142	34	444 ^b
Water storage	237	237	200	1,425 ^b
Water conveyance	366	188	193	747
Science	150	150	—	300
CALFED program management	^c	^c	^c	^c
Totals	\$2,549	\$2,425	\$2,564	\$8,468^b

^a Local and user sources, such as State Water Project funds.

^b Individual cost-shares do not add up to the total expenditures for the Levees and Water Storage program elements. Program costs totaling \$930 million for these elements have yet to be allocated among funding sources.

^c Not estimated.

Seven-Year Costs Total \$8.5 Billion; Proposed Cost-Sharing Contingent on Availability of Funds. As shown in Figure 2, CALFED estimates total costs of about \$8.5 billion to implement the program over seven years. It is important to note that the proposed cost-sharing is relatively arbitrary and is *not* based on available sources of funds. Rather, in most cases the cost shares reflect simply a 50-50 split between state and federal sources or a 33-33-33 split among federal, state, and user/private sources. The CALFED documents state explicitly that the commitments of the state and federal governments under the ROD are contingent upon the availability of appropriated funds or upon enactment of legislation providing other sources of funding.

The Budget Proposal

The budget proposes \$414 million of state funds for CALFED-related programs in 2001-02, of which \$94 million is from the General Fund and the balance mainly from bond funds. The largest expenditures are for ecosystem restoration and water storage.

Current-Year Expenditures. The budget estimates CALFED-related expenditures from state funds of about \$605 million in 2000-01. Of this amount, about \$175 million is from the General Fund, with the balance mainly from Propositions 13 (\$258 million) and Proposition 204 (\$133 million) bond funds. Of the General Fund amount, the expenditure of \$135 million is contingent on legislation (not yet enacted) certifying that the planned use of the funds is consistent with the ROD.

For the current year, the largest state expenditures are in the ecosystem restoration (\$188 million) and the water storage (\$105 million) programs. A majority of the ecosystem restoration expenditures are funded by Proposition 204 funds that became available upon the signing of the ROD. A majority of the water storage expenditures are for local groundwater projects funded by Proposition 13 bond funds appropriated in the 2000-01 Budget Act.

Budget Proposes \$414 Million of State Funds for 2001-02. As shown in Figure 3 (next page), the Governor's budget proposes \$414 million of state funds for various departments to carry out CALFED in 2001-02, a decrease of about 32 percent from the current year. Of this amount, \$94 million is proposed from the General Fund, with the balance mainly from Proposition 13 (\$148 million) and Proposition 204 (\$150 million) bond funds.

As Figure 3 (see next page) indicates, CALFED expenditures are spread among seven state agencies, with the largest expenditures in DWR, the Secretary for Resources, and the State Water Resources Control Board. (The funding for the secretary—mainly for ecosystem restoration—will be disbursed to a number of state departments to administer for specific projects.) As in the current year, the largest state expenditures are proposed for ecosystem restoration (\$161 million) and water storage (\$56 million). The budget proposes lower expenditures in 2001-02 than in the current year for all program elements. This is largely due to lower expenditures from Proposition 13 bond funds in the budget year.

In the sections that follow, we raise a number of issues for the Legislature to consider in its review of the Governor's budget proposal for CALFED. As discussed below, we think that the Legislature's policy direction to, and oversight of, CALFED would be improved by changing the way in which the Legislature reviews CALFED-related budget proposals.

Figure 3**CALFED Expenditures^a**2001-02
(In Millions)

Expenditures by Program Elements	Amount
Ecosystem Restoration	
Secretary for Resources	\$140.2
Department of Water Resources (DWR)	21.1 ^b
State Water Resources Control Board (SWRCB)	0.2
Subtotal	(\$161.5)
Environmental Water Account	
DWR	\$30.0
Department of Fish and Game (DFG)	0.2
Subtotal	(\$30.2)
Water Use Efficiency	
SWRCB	\$25.0
DWR	19.5
Subtotal	(\$44.5)
Water Transfers	
DWR	\$1.2
SWRCB	0.1
Subtotal	(\$1.3)
Watershed Management	
SWRCB	\$10.0
DWR	7.6
Department of Forestry and Fire Protection (CDFFP)	1.6
DFG	0.8
Subtotal	(\$20.0)
Water Quality	
DWR	\$15.9
SWRCB	10.2
Subtotal	(\$26.1)
Levees	
DWR	\$22.4
DFG	0.8
SWRCB	0.2
San Francisco Bay Conservation and Development Commission (BCDC)	0.2
Subtotal	(\$23.6)

Continued

Expenditures by Program Elements	Amount
Water Storage	
DWR	\$54.9
DFG	0.7
Subtotal	(\$55.6)
Water Conveyance	
DWR	\$23.4 ^b
DFG	0.6
Subtotal	(\$24.0)
Science	
DWR	\$15.5
DFG	2.9
Subtotal	(\$18.4)
CALFED Program Management	
DWR	\$7.2
DFG	1.0
State Lands Commission (SLC)	0.2
BCDC	0.1
Subtotal	(\$8.5)
Total CALFED Expenditures	\$413.7
Expenditures by Departments	Amount
DWR	\$218.7
Secretary for Resources	140.2
SWRCB	45.7
DFG	7.0
CDFFP	1.6
BCDC	0.3
SLC	0.2
Total CALFED expenditures	\$413.7
^a State funds only.	
^b Includes State Water Project funds, classified as "user funds" by CALFED.	

An Approach to Enhancing Legislative Review of CALFED Proposals

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

Trade-Offs Are Inherent in CALFED's Plan. All elements of CALFED are interrelated and interdependent. For example, water quality is dependent on stable levees and healthy watersheds. Construction of a water storage or flood control facility could negatively impact fish habitat. Increasing the reliability of water supplies could reduce the incentive to conserve water. Given these interrelationships, there are trade-offs inherent in CALFED's plan that require policy choices to be made.

Legislature Should Be Apprised of Trade-Offs and Policy Choices. Since the ROD was agreed upon, the Legislature has not had an opportunity to review CALFED's planning framework as reflected in the ROD. Implementation of the planning framework implies a certain level of funding. Because the state will be called upon to contribute substantially to this total funding level over many years, we think that it is important for the Legislature to be informed of the policy choices inherent in the CALFED framework. The Legislature will need this information to evaluate whether these policy choices are consistent with legislative priorities, determine what policy direction should be given to CALFED, and decide on the state's funding contribution.

As CALFED is starting to implement projects and programs, there will be many funding requests on an annual basis—spread among various state agencies—for the Legislature to approve. We think that it would be difficult for the Legislature to make this evaluation if it were to review CALFED proposals on a department-by-department basis. This is because such a review would not give the Legislature a comprehensive picture of the proposed funding and program activities and how the various program elements work together.

Recommend Joint Policy/Budget Committee Hearings. To facilitate the Legislature's review of the Governor's budget proposal for CALFED, we recommend that each house's water and natural resources policy committees and budget subcommittee hold joint hearings on CALFED's budget proposals. This will help identify any need for legislation to provide policy direction to CALFED and will provide a policy basis for the budget subcommittees as they decide which proposals to fund. These oversight hearings should be held on an as-needed basis; the Legislature may wish to continue this practice in future years.

As regards the 2001-02 budget proposal, CALFED should be directed to provide at the joint hearings certain information to present the "big picture" of CALFED so as to facilitate the Legislature's decision-making process. The CALFED should be directed to:

- Provide summary details on the major activities planned for each of the program's 11 elements in the budget year, including project specifics and time lines.

- Explicitly set out the policy choices inherent in the ROD and made in developing the budget proposal and explain how the 11 program elements work together.
- Discuss the programmatic implications of the lack of federal funds for CALFED in the current federal fiscal year, the implications of the uncertainty in future federal funding, and the administration's plans if federal funds do not materialize in the budget year. (We discuss this issue later.)

Based on this information, the Legislature should enact legislation to authorize and provide direction to particular components of the CALFED program. Specifically, as we discuss below, legislation should be enacted to define a governance structure for CALFED. Additionally, we think that CALFED's proposal for an Environmental Water Account raises a number of policy issues that are best addressed in legislation.

New Governance Structure Needed to Improve Accountability

We recommend the enactment of legislation to establish a governance structure for CALFED that will improve accountability to the Legislature.

While legislative review of CALFED's budget in joint hearings will improve the Legislature's oversight of CALFED, we think that the Legislature's oversight will continue to be complicated by CALFED's current organizational structure.

As discussed in our *Analysis of the 2000-01 Budget Bill* (please see page B-48), CALFED's current organizational structure is loosely configured, as it has evolved administratively and has not been authorized in statute. The lines of accountability among the program's director and the heads of the various state agencies involved in the program are unclear. It is also not clear who is ultimately responsible for making decisions. As a result of this loose structure, there is not a clear point of accountability to the Legislature for CALFED-related decisions and expenditures.

Therefore, we recommend the enactment of legislation to establish an organizational structure that provides this accountability. A revised organizational structure could take many forms. For example, a new state oversight commission could be established, as proposed in AB 909 (Machado) last session. Whatever form it takes, we think that the organizational structure should at a minimum include the following responsibilities for the entity overseeing CALFED program implementation:

- Ensure coordination among the various agencies implementing the program.
- Set expenditure priorities among the program's 11 elements and inform the Legislature of these priorities on an annual basis.

- Establish a work plan encompassing all CALFED-related activities, including program milestones. This work plan should be submitted annually to the Legislature.
- Provide greater accountability to the Legislature in the budget process. The new entity should be required to submit to the Legislature a budget for all proposed CALFED-related expenditures. The new entity should also be required to report periodically to the Legislature on the progress in implementing the ROD.

Lack of Federal Funds a Major Concern

The budget proposal for CALFED assumes a level of federal funds to be allocated among all program elements. We recommend that CALFED advise the Legislature on the programmatic implications and the administration's plans if federal funds do not materialize. We further recommend that budget bill language be adopted to provide clear direction on expenditure priorities. We also recommend the adoption of supplemental report language to require a status report on federal funding.

Federal Funding for CALFED Has Not Been Forthcoming. As shown in Figure 2, CALFED's proposed cost-sharing plan in the ROD includes a federal funding contribution totaling at least \$2.4 billion over seven years. Of this amount, \$365 million is scheduled currently for the state's 2001-02 fiscal year. However, no federal funds for CALFED were appropriated for the current federal fiscal year (ending September 30, 2001). Based on the current-year experience, federal funding for the 2002 federal fiscal year (covering the period October 2001 through September 2002), is highly uncertain.

Budget Proposal Assumes Federal Funding. According to CALFED, if less than the \$365 million in federal funding were forthcoming for 2001-02, the state would need to reevaluate its budget proposal. This is because the budget is based on the seven-year cost-sharing plan in the ROD, thereby assuming a certain amount of federal funds to be available for each of the 11 program elements. Therefore, no element would be able to complete all planned activities if federal funds fail to materialize. The impact of a lack (or a reduced level) of federal funds would vary by program element. For elements that assume a large amount of federal funds, a lack of federal funds would have a major impact on the ability to complete planned activities in the budget year. For those elements that assume smaller amounts of federal funds, the programmatic impact would be less severe.

Legislature Should Evaluate State's Options if Federal Funds Do Not Materialize. It is important for the Legislature to be informed of the programmatic implications if federal funds do not materialize as proposed in the cost-sharing arrangement. The Legislature should also be informed of CALFED's expenditure priorities if a lack of federal funds necessitates

a redistribution of state funds among the program elements as proposed in the Governor's budget. To the extent those priorities do not coincide with the Legislature's priorities, the Legislature should provide clear direction to guide the redistribution of funds.

Accordingly, we recommend that the Legislature adopt budget bill language that establishes its expenditure priorities for state funds should the federal funds not materialize. In addition, because it will not be known until later this year whether federal funds for CALFED will be appropriated for the 2002 federal fiscal year, we recommend that the Legislature adopt the following supplemental report language to ensure that it is updated on the status of federal funding for CALFED:

Item 3860-001-0001—Department of Water Resources. The CALFED Bay-Delta Program (CALFED) shall report to the Legislature by November 1, 2001 on the federal appropriations for CALFED for the 2002 federal fiscal year. The report shall provide details of the programmatic implications of this level of federal funding in 2001-02, to the extent that it is less than the \$365 million indicated in CALFED's cost-sharing plan for "year 2" of program implementation. The report shall also identify any plans to revise CALFED's budget for 2001-02, as approved in the 2001-02 *Budget Act*.

CALFED's Environmental Water Account Raises Policy Issues

We find that the budget proposal for an Environmental Water Account (EWA) raises many policy and implementation issues that should be considered by the Legislature before funding is provided for this activity. We therefore recommend that funding be deleted from the budget bill and instead be put in legislation authorizing EWA. (Reduce Item 3600-001-0001 by \$261,000, Item 3860-001-0001 by \$1,752,000, and Item 3860-001-6027 by \$28,233,000.)

The budget proposes \$30.2 million (mainly Proposition 13 bond funds) for the Environmental Water Account (EWA) program in 2001-02. Of this amount, about \$30 million is for DWR and \$261,000 is for the Department of Fish and Game (DFG). Basically, EWA is a new concept that would involve the state buying water to hold in reserve to release when needed for fish protection. The program's objective is to minimize reductions in water deliveries from the state and federal water projects due to endangered species requirements.

As discussed in our recent (January 2001) report, *Environmental Water Account: Need for Legislative Definition and Oversight*, we think that EWA raises a number of policy and implementation issues that should be considered by the Legislature before this activity proceeds. These issues include:

- The costs and benefits of EWA, and the program's impacts on the water transfer marketplace and groundwater resources.
- The appropriate state role in EWA, particularly in terms of funding.
- Operational issues including governance, scientific review, and acquisition and use of water by EWA.
- How to facilitate the water transfers and provide the storage capacity necessary for EWA to work well.
- How to hold the program accountable to the Legislature.

We recommend that the joint policy/budget committees recommended above hold oversight hearings on CALFED's proposal for EWA. If the Legislature approves the concept, we recommend that legislation be enacted to create the program and to specify how the program will be governed, funded, operated, and held accountable. Pending resolution of these issues in legislation, we recommend that \$30.2 million for EWA in the budget bill be deleted.

Update on Water Storage Studies

The budget proposes about \$19 million for water storage studies in 2001-02. We recommend that the Legislature withhold action on funding these studies until CALFED submits an overdue report on the status of these studies in the current year.

Water Storage Studies: An Important Component of CALFED's Bay-Delta Solution. Planning for surface water and groundwater storage is an important component of CALFED's plan to address various water-related problems in the Bay-Delta. For example, water storage operations can be used to improve the reliability of water supplies, provide water to address environmental needs and improve water quality, and provide flood protection when operated in conjunction with flood control reservoirs.

In 1997, DWR began a multiyear program to investigate water storage alternatives focused entirely on potential offstream storage projects north of the Delta. In 1999, the department expanded the focus of its investigations to include various types of storage alternatives on a state-wide basis and consolidated its activities into a single program—the Integrated Storage Investigations (ISI) program.

Legislative Oversight of Water Storage Studies Program. The ISI program was established administratively and, therefore, has not been given statutory direction. Expenditures for these studies have been requested on a year-by-year basis. At budget hearings in past years, the Legislature has expressed an interest in this program because water storage studies have important policy implications for the Legislature. Specifically, the

Legislature has to assess the pros and cons, as well as policy and fiscal trade-offs, of:

- Pursuing water storage construction versus other means, such as water conservation, to address water supply shortfalls.
- Pursuing one type of water storage alternative over another, in light of varying, and potentially substantial, environmental impacts of these alternatives.

To provide oversight of expenditures for water storage studies, the Legislature specified funding for seven different storage options in the 2000-01 Budget Act. For example, of the \$20 million appropriated for these studies in 2000-01, \$8.1 million was allocated to study offstream storage options north of the Delta. The Legislature also adopted supplemental report language requiring DWR to report by January 1, 2001 on the status and expenditures of the ISI program in the current year.

Budget Proposal. As shown in Figure 4, the budget proposes \$18.6 million (mainly from the General Fund) for DWR to conduct water storage studies in 2001-02. Figure 4 also shows the allocation of these funds among nine program elements—expanded from seven in the current year. In addition, the budget proposes \$692,000 for DFG to assess environmental impacts of water storage options and \$41.6 million of Proposition 13 bond funds for local groundwater storage projects.

Figure 4

**CALFED Bay-Delta Program
Integrated Storage Investigations Program**

2001-02
(In Millions)

Program Elements	Proposed Expenditures ^a
North of Delta offstream storage	\$4.5
Surface and groundwater conjunctive use	4.5
Los Vaqueros Reservoir enlargement	2.8
In-Delta storage	2.2
Fish passage improvement	2.0
San Joaquin River management	1.1
Comprehensive storage strategy	1.1
Hydropower facilities operational changes	0.2
Shasta Lake enlargement	0.2
Total	\$18.6

^a Expenditures of Department of Water Resources.

Our review finds that the budget proposal for water storage studies makes a number of revisions to the long-term plan for water storage studies that was included with the 2000-01 budget proposal. These changes include the following:

- Significantly greater expenditures than originally projected for water storage studies overall. While the long-term plan anticipated expenditures of \$12.6 million for 2001-02, the budget proposes \$18.6 million.
- Significantly lower expenditures to study offstream storage options north of the Delta. While the long-term plan anticipated expenditures of \$7.6 million for 2001-02, the budget proposes \$4.6 million. According to CALFED, this element was reduced "due to competing priorities within CALFED programs."
- Creation of a program element to address storage need specifically in upper San Joaquin River watershed. The ROD identified a need for 250,000 to 750,000 acre-feet of additional storage in the upper San Joaquin River watershed. For this purpose, the budget proposes \$1.1 million to continue studying raising Friant Dam to enlarge Millerton Lake near Fresno and the creation of Montgomery Reservoir as an offstream storage alternative in the Merced River Basin.
- Significantly greater expenditures, and the creation of a new program element, to continue studying the enlargement of the Los Vaqueros Reservoir in Contra Costa County. The budget proposes \$2.8 million for this element.

We recommend that the Legislature evaluate whether the budget's proposed allocation of expenditures among the ISI program's nine elements meets with its own priorities. The DWR has not yet submitted the required supplemental report on the program's current-year activities. Before making funding decisions for the budget year, we think that the Legislature should evaluate the department's progress in the current year. Therefore, we recommend that the Legislature withhold action on approving the funding request for the ISI program until it receives and reviews the report.

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. Of the \$4.3 billion in state-funded expenditures for resources programs proposed for 2001-02, about \$1 billion (24 percent) would be from special funds, and \$740 million (17 percent) from bond funds. The remainder—\$2.6 billion—would be from the General Fund.

In this section, we provide a status report on selected special funds and bond funds supporting these programs. In general, the use of these special and bond funds is specified in statute. Some funds can be used for a wide variety of programs and activities, while the use of other funds is more limited. For purposes of this review, we divided the funds into three categories: (1) resources special funds, (2) park-related bond funds, and (3) bond funds for water programs.

Resources Special Funds

The budget proposes to spend most of the special funds projected to be available in 2001-02 for resources protection. If the Governor's spending proposals are approved, it will leave about \$27 million for legislative priorities. However, the use of most of these remaining funds is e statutorily restricted to specific purposes.

Figure 1 (see next page) summarizes the total resources available in 2001-02 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 \$27 million available for legislative priorities. This amount would be even less if the Legislature wishes to maintain some level of reserves in the accounts to meet contingencies such as revenue shortfalls or unanticipated expenditures. Furthermore, most of the remaining funds

can only be used for specific purposes, as required by statute. For instance, about \$8.7 million of the projected balance in the Fish and Game Preservation Fund (FGPF) 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

2000-01 and 2001-02
(In Millions)

Special Funds	2000-01 Expenditures	2001-02		
		Resources	Expenditures	Balance
Salmon and Steelhead Trout Restoration Account	\$8.0	\$8.0	\$8.0	—
Marine Life and Reserve Management Account	2.2	2.2	2.2	—
State Parks System Deferred Maintenance Account	—	10.0	10.0	—
Natural Resources Infrastructure Fund	—	— ^a	—	—
Environmental License Plate Fund	27.0	29.6	22.7	\$6.9
Public Resources Account	18.3	18.2	17.2	1.0
Habitat Conservation Fund	50.3	30.3	30.0	0.3
Fish and Game Preservation Fund				
Dedicated	11.2	23.8	15.1	8.7
Nondedicated	65.4	80.9	73.5	7.4
State Parks and Recreation Fund	57.2	59.9	57.0	2.9
Totals	\$239.6	\$262.9	\$235.7	\$27.2

^a Net of transfer of \$21.1 million to the Habitat Conservation Fund.

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

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 Cali-

ifornia Housing Trust Fund. (Please see the *Analysis of the 1998-99 Budget Bill*, page B-17 for a graphic representation of the distribution of tidelands revenues.)

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. These two accounts have higher funding priority than NRIF. 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, upon appropriation, 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, upon appropriation, by the Department of Parks and Recreation for deferred maintenance expenses.

The remaining RTF money will 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.

With the recent increase in oil prices, tidelands oil revenues to the state are projected to total about \$68 million in 2001-02. As a result, the budget projects that SSTRA, MLMRMA, and SPSPDMA would receive their respective statutory allocations in 2001-02, and NRIF would receive about \$25.6 million. After transferring \$4.5 million to the General Fund to meet specified statutory requirements, the budget proposes to transfer the remaining \$21.1 million of NRIF money to HCF in order to meet the funding requirement of Proposition 117. As a result, the budget projects no remaining funds in NRIF, as shown in Figure 1.

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 \$22.7 million from ELPF, a decrease of about \$13.3 million (37 percent) below estimated current-year spending. The decrease is the result of lower local assistance and capital outlay expenditures by the California Tahoe Conservancy and lower ELPF support for the DFG. Almost all of the proposed ELPF expenditures in 2001-02 would be for departmental support purposes, including \$15.9 million for support of DFG. Only \$967,000 would be for local assistance.

The proposed ELPF expenditures will leave a balance of \$6.9 million at the end of 2001-02.

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.

Due to the decline in cigarette and tobacco sales, revenues into the C&T Fund have been declining annually. The budget projects \$18.2 million in PRA resources in 2001-02 and proposes total expenditures from PRA of \$17.2 million—\$1.2 million lower than the estimated current-year expenditure level. All proposed expenditures would be for departmental support purposes. About 76 percent (\$13 million) of the proposed expenditures would be used to support the Department of Parks and Recre-

ation (DPR), and 12 percent (\$2 million) would support the operations of the State Water Resources Control Board.

The budget proposes a reserve of \$1 million in PRA at the end of 2001-02.

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

For 2001-02, the budget proposes to transfer \$8.9 million from the Unallocated Account, C&T Fund, and \$21.1 million in NRIF money to HCF. These transfers, together with carryover balances, would fund proposed expenditures of \$30 million, leaving a balance of \$0.3 million at the end of the budget year.

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

For 2001-02, the budget proposes total FGPF expenditures of \$88.6 million, almost entirely for the support of DFG. This amount is \$12 million (16 percent) more than estimated current-year expenditures. Of the budget-year amount, \$73.5 million is proposed to be spent from nondedicated funds and the remaining \$15.1 million from dedicated revenues.

With the proposed expenditures, the budget projects a reserve of \$16.1 million in FGPF for 2001-02, of which \$7.4 million is expected to be in nondedicated funds.

State Parks and Recreation Fund (SPRF). The SPRF is the main special fund source that supports DPR. The fund generates most of its revenues from state beach and park service fees. For 2001-02, the budget projects SPRF resources of \$59.9 million. This amount is significantly lower than previous years mainly as a result of the lowering of park fees state-

wide beginning in the current year. About 48 percent of these resources (\$29 million) would be from beach and park fees. The budget proposes to use \$57 million for DPR support, leaving a balance of about \$2.9 million by year end.

Parks Bond

The budget proposes expenditures in 2001-02 of about \$419 million from the 2000 Parks Bond for park acquisitions, development, improvement, and restoration. The proposed expenditures would leave a balance of about \$418 million which after netting out administrative costs (\$144 million) leaves \$274 million for new projects beyond the budget year.

In March 2000, the voters approved Proposition 12 (the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act), which authorized \$2.1 billion in bond funds for specified and unspecified parks projects and habitat acquisition. As shown in Figure 2 DPR is to receive about \$545 million for various state park development and improvement projects, plus another \$820 million to provide grants to local and nonprofit agencies. The remaining \$736 million is to be allocated to a dozen other state departments for land acquisition and parks-related projects.

The current-year budget appropriates a total of \$1.3 billion of the bond funds across all the recipient departments. For 2001-02, the budget proposes a total of \$419 million to be expended by these departments. This would leave a balance of about \$418 million.

The actual balance available for park projects, however, will be less. This is because Proposition 12 provides for the use of bond funds for certain administrative costs. The administration estimates these costs to total \$144 million over the entire bond period. Netting out these administrative and support costs, the bond funds remaining for new projects beyond 2001-02 would be about \$274 million. Most of this amount (\$171 million) would be for projects carried out by DPR.

Water Bonds

The budget proposes expenditures of about \$622 million from a number of water bonds for various water quality, water supply, flood control, and ecosystem restoration projects. Bond funds are no longer available in the budget year for the state's unmet share of costs for federally authorized, local flood control projects. To fund the state's share of these costs, the budget proposes \$117.6 million from the General Fund.

Figure 2**Proposition 12 Allocations and Appropriations by Department***(In Millions)*

Department	Bond Allocation	Appropriation		Balance
		2000-01	2001-02 (Proposed)	
Parks and Recreation				
Local grants	\$819.5	\$512.2	\$256.0	\$51.3
Projects	544.8	229.2	77.4	238.2
Wildlife Conservation Board	265.5	253.3	0.4	11.9
Coastal Conservancy	250.4	165.4	50.0	35.0
Tahoe Conservancy	50.0	6.5	6.7	36.9
Resources Agency	45.9	41.5	0.1	4.3
SMMC ^a	35.0	19.0	14.3	1.8
Conservation	25.0	5.5	5.5	14.0
Conservation Corps	15.0	3.0	3.5	8.5
SJRC ^b	15.0	14.6	—	0.4
Fish and Game	12.0	1.5	1.4	9.1
Forestry and Fire Protection	10.0	2.8	1.4	5.8
CIWMB ^c	7.0	2.8	2.8	1.4
CVMC ^d	5.0	4.9	—	0.1
Totals	\$2,100.0	\$1,262.0	\$419.5	\$418.5

^a Santa Monica Mountains Conservancy.
^b San Joaquin River Conservancy.
^c California Integrated Waste Management Board.
^d Coachella Valley Mountains Conservancy.

As Figure 3 (see next page) shows, the budget proposes expenditures totaling \$621.7 million in 2001-02 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; (4) Bay-Delta improvements, including fish and wildlife restoration; and (5) flood control and prevention. Of the proposed expenditures, about 42 percent are from Proposition 204 bond funds and 51 percent from Proposition 13 bond funds. Proposition 204—the Safe, Clean, Reliable Water Supply Act of 1996—provided \$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. Proposition 13—the Safe Drinking Water, Clean

Water, Watershed Protection, and Flood Protection Act (2000)—provided \$1.97 billion for safe drinking water, flood control, Bay-Delta restoration, watershed protection, and various water quality and supply projects.

Figure 3**Selected Water Bond Funds^a**

2001-02
(In Millions)

	Resources	Expenditures	Balances
Safe drinking water			
1986 California Safe Drinking Water Fund	\$26.4	\$4.8	\$21.6
1988 California Safe Drinking Water Fund	29.8	7.2	22.6
Proposition 13 ^b	35.0	17.0	18.0
Subtotals	(\$91.2)	(\$29.0)	(\$62.2)
Water supply/water recycling			
1986 Water Conservation and Water Quality Fund	\$13.7	\$12.9	\$0.8
1988 Clean Water and Water Reclamation Fund	5.3	1.2	4.1
1988 Water Conservation Fund	15.3	12.0	3.3
Proposition 204 ^c	94.8	69.9	24.9
Proposition 13 ^b	304.3	53.1	251.2
Subtotals	(\$433.4)	(\$149.1)	(\$284.3)
Wastewater treatment/water quality			
1984 State Clean Water Fund	\$27.1	\$7.1	\$20.0
Proposition 204 ^c	87.9	37.6	50.3
Proposition 13 ^b	432.1	187.6	244.5
Subtotals	(\$547.1)	(\$232.3)	(\$314.8)
Bay-Delta improvements			
Proposition 204 ^c	\$373.2	\$152.9	\$220.3
Proposition 13 ^b	268.5	44.4	224.1
Subtotals	(\$641.7)	(\$197.3)	(\$444.4)
Flood control and prevention			
Proposition 13 ^c	\$143.8	\$14.0	\$129.8
Totals	\$1,857.2	\$621.7	\$1,235.5

^a Based on Governor's budget.

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

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

Safe Drinking Water. The budget projects total expenditures of \$29 million in 2001-02, leaving a balance of \$62.2 million at the end of 2001-02. There are pending grant applications that would spend much of this balance in future years. Proposition 13 provided \$70 million of bond funds for safe drinking water. These monies are used to provide a 20 percent state match for federal loans and grants that are available to public water systems in the state for upgrades to meet safe drinking water standards.

Water Supply and Water Recycling. The budget projects total expenditures of \$149.1 million for water supply and recycling projects. This leaves a balance of \$284.3 million, mainly for new projects.

Wastewater Treatment, Watershed Protection, and Other Water Quality Projects. The budget proposes \$232.3 million in expenditures to fund wastewater treatment, agricultural drainage treatment, seawater intrusion control, watershed protection, and other water quality projects in 2001-02. This leaves a balance of \$314.8 million.

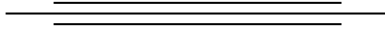
Bay-Delta Improvements. Propositions 13 and 204 bond funds provide a total of about \$1 billion for projects specifically related to the Bay-Delta. These funds are mainly for ecosystem restoration, fish screens to reduce fish losses from water diversions, delta levee rehabilitation, and water supply/quality projects in areas receiving water deliveries diverted from the Bay-Delta. The budget proposes expenditures of \$197.3 million in 2001-02, leaving a balance of \$444.4 million.

Flood Control and Prevention. The costs of federally authorized, locally sponsored flood control projects are currently 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 during the 1990s, however, the state has been unable to pay its full share of costs for these flood control projects. Propositions 204 and 13 together provide \$105 million in bond funds to pay some of the arrearages owed to local agencies; however, these funds will be depleted by the end of 2000-01.

According to the Department of Water Resources (DWR), the unpaid amount of the state's share of costs will be about \$17.4 million at the end of 2000-01. The budget proposes \$117.6 million from the General Fund to pay these arrears as well as the estimated \$100.2 million owed to local agencies from new claims submitted in 2001-02. This is the first time in many years that the budget proposes to end the budget year with no arrearages owed to local agencies for flood control projects.

In addition to providing funds to pay the state share of costs for federally authorized flood control projects, Proposition 13 bond funds pro-

vide a total of \$217 million for other flood control projects. The budget proposes expenditures of \$14 million for these projects in 2001-02, leaving a balance of \$129.8 million for future years.



DEPARTMENTAL ISSUES

Resources

RESOURCES AGENCY (0540)

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

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

The budget requests \$226.6 million for the Resources Agency in 2001-02, an increase of about \$95.6 million (or 73 percent) above estimated current-year expenditures. The increase reflects primarily an increase of \$70 million from the General Fund for a River Parkways Program and \$88.7 million in bond funds for the CALFED Ecosystem Restoration Program, and a decrease of \$58.7 million in Propositions 12 and 13 bond expenditures.

River Parkways Program Should Be Defined Statutorily

The budget proposes \$70 million from the General Fund for a River Parkways Program to significantly expand funding for river parkway projects. We recommend the enactment of legislation to define the program and establish a process and a set of criteria to prioritize river parkway projects statewide. We further recommend that the proposed \$70 million be deleted and any additional funding for the River Parkways Program be included in that legislation. (Reduce Item 0540-101-0001 by \$70 million.)

The budget proposes \$70 million from the General Fund on a one-time basis for a River Parkways Program to be administered by the Secretary of Resources. The money would be used to provide grants for habitat acquisition, park development, riparian habitat restoration, bank stabilization, and development of public access and trails in the following areas:

- \$25 million for the Los Angeles River (north).
- \$15 million for the Los Angeles River (south).
- \$7 million for the San Joaquin River Parkway.
- \$8 million for the Tuolumne River Parkway.
- \$1 million for the Guadalupe River.
- \$4 million for the Sacramento River.
- \$10 million for "opportunity matching" (to provide state matching funds when the opportunity of a worthy project arises).

Funding for River Parkway Projects Mostly From Bond Funds. Up until now, funding for river parkway projects has come mostly from bond funds. Specifically, Proposition 204 (1996) provided \$27 million for a river parkway program. Approved by the voters in March 2000, Proposition 12 provided \$33.5 million in additional funding for river parkways and Proposition 13 provided \$95 million that could be used for the river parkway projects defined in Proposition 204. The agency indicated that most of the bond funds available for river parkways have been either encumbered or earmarked for specific projects.

Bond-Funded Programs Do Not Specify Project Criteria or Selection Process. Proposition 204 specifies a wide range of projects that may be funded with its bond funds. These include acquisition and restoration of riparian habitat and developing public access and providing recreational opportunities. However, Proposition 204 does not specify the selection process or define the criteria to be used in deciding which projects to fund. Similarly, Proposition 12 does not provide specific criteria or a selection process to allocate funds not already designated to particular projects in the measure. Proposition 13 also does not specify a project selection process or criteria other than requiring 60 percent of funding to be used in or near urban areas.

Proposed Program Expansion Lacks Details on Key Components of the Program. Our review of the budget's \$70 million proposal for river parkways finds that it lacks key information necessary to evaluate this initiative. For example, there is no justification for the size of the expenditure amounts or justification as to why particular geographical areas were selected. The proposal also does not set out the priorities or criteria by which specific projects will be funded. Consequently, it is not known whether the funding will be directed at the highest statewide priorities or what the projects will achieve in terms of protection, restoration, and providing recreational opportunities.

Furthermore, the proposal does not describe how the program will be administered. For example, it is not clear whether the program will be administered as a competitive grant program. It is also not clear how much of the funding will be administered directly by the agency and how much will be administered by its constituent departments, some of which currently fund river parkway projects under various grant programs. Because the agency proposal does not request any staffing to administer the program, this raises additional concerns about the agency's capacity to develop and implement a River Parkways Program.

River Parkways Funding Should Be Provided Through Legislation. While providing additional funds for river parkways may have merit, we think the Legislature should define the program and establish a process including a set of criteria to prioritize river parkway projects statewide. We therefore recommend that any funding for a River Parkways Program be included in legislation defining the program and establishing criteria to prioritize river parkway projects statewide according to where they are most needed.

Additional CCRISP Funding Should Await Delivery of Current-Year Products

The budget requests \$2 million to continue the California Continuing Resources Investment Strategy Project (CCRISP). The agency is scheduled to deliver by May 2001, two reports essential to the project's development in future years. Therefore, we withhold recommendation on the requested amount pending receipt of these products.

Recognizing the need for an assessment of the state's natural resources and a plan to guide acquisition and habitat restoration efforts, the Legislature in the 1999-00 *Budget Act*, directed the Resources Agency to develop a habitat blueprint and provided \$250,000 for that purpose. The Legislature specified two goals for the habitat blueprint:

- To assess the current condition of the state's natural resources and habitat.
- To establish a long-term set of funding and policy priorities for future investment in resources protection and habitat acquisition and preservation.

The agency renamed the project, California Continuing Resources Investment Strategy Project (CCRISP) and in May 2000 requested \$2 million for the 2000-01 costs of the multiyear project.

Work Products Defined and Time Lines Set. The Legislature approved funding for CCRISP in the 2000-01 *Budget Act*, subject to the approval of a work plan by the Department of Finance and the Legislature. The agency submitted a work plan in November 2000, that was subsequently approved by the Legislature. The work plan identified time lines and work products for the project over the six-year span of the project, as shown in Figure 1. Specifically, during the current year, the agency is scheduled to report on the methodology to be used and an evaluation of key data available for the development of CCRISP. In the following years, a resource assessment and a report on conservation priorities will be developed.

Decisions on New Funding Should Await Receipt of Interim Work Products. The budget requests \$2 million for the third-year funding of CCRISP. Work products to be delivered in the current year are particularly important to the success of developing a statewide conservation blueprint. Specifically, the report on the methodology to be used in identifying conservation priorities (due April 2, 2001) will determine how the agency will develop conservation priorities statewide. The evaluation of available data (due May 1, 2001) will provide an indication of what additional data collection and analysis are needed. At the time this analysis was prepared, work on these products was underway and the agency

Figure 1**Major Products and Time Lines for CCRISP
In the Current and Future Years**

Project Deliverables	Due Dates
A report listing and evaluating the key data that have been identified	May 1, 2001
Reports on the methodology to be used in the resource assessment	June 1, 2001; July 1, 2001
Assessment of health/conditions of all lands/resources in the state	July 1, 2002; July 1, 2003; July 1, 2004
Reports on the methodology to be used to identify state conservation priorities	April 2, 2001; October 1, 2002
Report on conservation priorities	Annually beginning January 1, 2002

reports it intends to meet the schedule. In order that the Legislature can be provided with more information on the progress of CCRISP, we think it is prudent for the Legislature to await receipt of these products before approving additional funding for CCRISP. Accordingly, we withhold recommendation on \$2 million pending receipt of the products.

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).

The budget combines the secretary's budget with that for "Special Environmental Programs," which was previously budgeted separately. For the budget year, Special Environmental Programs include five agency-wide activities: permit assistance centers, scientific peer review, enforcement, the design and testing of environmental management systems for businesses, and the Circuit Prosecutor Project. The Circuit Prosecutor Project provides training and funds for local enforcement of environmental laws in rural areas.

The budget proposes expenditures of about \$11.3 million for the secretary (including Special Environmental Programs) in 2001-02. Of the proposed expenditures, about \$5.4 million is for the Office of the Secretary (\$2.5 million, or 86 percent, above estimated current-year expenditures) and \$5.9 million is for Special Environmental Programs (\$1.2 million, or 26 percent, higher-than-estimated current-year expenditures).

The total increase of \$3.7 million reflects (1) \$1.3 million to design and test environmental management systems, (2) \$900,000 to assist rural agencies implement the Certified Unified Program Agency (CUPA) program, and (3) \$799,000 for positions (transferred from DTSC) to oversee the CUPA program. The budget also proposes \$1.9 million to continue 24 limited-term positions within the agency (the secretary's core staff) set to expire on June 30, 2001.

Environmental Management Systems Proposal Premature And May Be Outside Secretary's Authority

The budget's proposal for a substantially expanded program to design and test environmental management systems (EMS) is premature, pending the evaluation of a pilot program recently initiated. Additionally, elements of the proposal may fall outside the secretary's statutory authority. We therefore recommend the deletion of \$1,272,000 from the General Fund and 8.5 positions for EMS. (Reduce Item 0555-001-0001 by \$1,272,000.)

Legislature Establishes EMS Pilot Program. As part of the 1999-00 Governor's Budget, the Governor proposed \$499,000 and 4.5 positions for a pilot program to test the use of EMS in a number of individual businesses. Basically, an EMS is a process by which a business manages its operations in such a way as to meet specified environmental targets. This is done by evaluating the business' impacts on the environment as a whole and seeking ways to reduce those impacts.

These management systems are "performance-based" in that businesses are given the latitude to find the most cost-effective ways to meet the environmental targets. As such, EMS are a departure from existing environmental regulation which in general is of a "command-and-control" nature. Command-and-control environmental regulation typically requires businesses to meet minimum standards based on pollution type (air, water, et cetera), by prescribing the technology necessary to meet these standards. The 1999-00 proposal provided that certain voluntary international standards—the ISO 14000 standards—be the basis for the environmental targets in the pilot program. The proposal also stated that the EMS initiative would allow Cal-EPA "to achieve regulatory efficiencies in the areas of permitting, monitoring and reporting, and audits and inspections."

The Legislature raised a number of concerns about the EMS proposal at hearings on the 1999-00 Governor's Budget. In particular, the Legislature raised concerns about whether a business under EMS would be subject to different (and potentially lower) environmental standards than

required under current law. The Legislature also raised concerns that the secretary lacked the statutory authority for the pilot program. As a consequence, the Legislature enacted Chapter 65, Statutes of 1999 (AB 1102, Jackson) to provide parameters for the pilot program. In addition, Chapter 65 limits the program to test up to eight businesses and sets January 1, 2002 as the program's expiration date.

The purpose of the pilot program is to enable the secretary to evaluate whether and how the use of an EMS by a regulated business (1) increases public health and environmental protection and (2) provides the public with better information on the public health and environmental impacts of that entity's activities. The secretary is also required to report quarterly to the Legislature on the program's implementation.

In July 2000, the secretary selected seven businesses to pilot test EMS.

Budget Proposal Greatly Expands Funding. The budget proposes \$1,272,000 from the General Fund and 8.5 positions in 2001-02, on a permanent basis, for an EMS initiative. This would substantially expand, and make permanent, the current pilot program.

As with the 1999-00 budget proposal for EMS, the stated goal of the initiative is to design and test a process by which businesses would be encouraged to manage their operations so as to meet "environmental targets." Unlike the 1999-00 proposal, however, there is no reference to "ISO 14000" standards. Rather, the initiative provides that the secretary would develop environmental improvement targets on a statewide and regional basis, as well as for a number of individual businesses that would be chosen to test EMS.

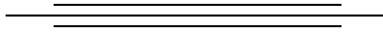
The proposal would allow the secretary to enter into negotiated agreements with businesses to set the targets that would apply to the business. Targets would be set at a level higher than current regulatory requirements. In exchange, the secretary would "commit to seek the necessary changes in practice, policy, regulation or law to achieve a more rational regulatory regime." Our understanding is that the "relief" afforded the pilot businesses in exchange for meeting higher standards may take a number of forms. For example, the businesses could be granted flexibility in how the standards can be met. In addition, problems with overlapping or duplicative regulations could be addressed.

Budget Proposal Is Premature. The secretary has not had an opportunity to evaluate the existing EMS pilot test cases as these were chosen only a few months ago. As a consequence, the secretary is not yet able to answer the questions posed by the Legislature in Chapter 65 about the impacts of EMS. Until there has been a full evaluation of the existing

pilot cases, we think that the budget proposal to make the program permanent is premature.

Budget Proposal May Fall Outside Secretary's Statutory Authority.

In addition to being premature, we are concerned that elements of the proposal may be outside the secretary's authority under current law. Given that the secretary is not a regulatory agency, but rather oversees boards and departments that have regulatory authority, the secretary may not have the statutory authority to grant regulatory relief to the pilot businesses. If the secretary is to have this authority, we think that it should be clearly authorized in statute. For the reasons stated above, we recommend the deletion of \$1,272,000 from the General Fund, and 8.5 positions, for the EMS initiative.



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 \$542.4 million in 2001-02, which represents a decrease of \$19.6 million, or 3.5 percent, below estimated current-year expenditures. About 91 percent of the department's proposed expenditures (\$492.1 million) represent costs associated with the Beverage Container Recycling Program.

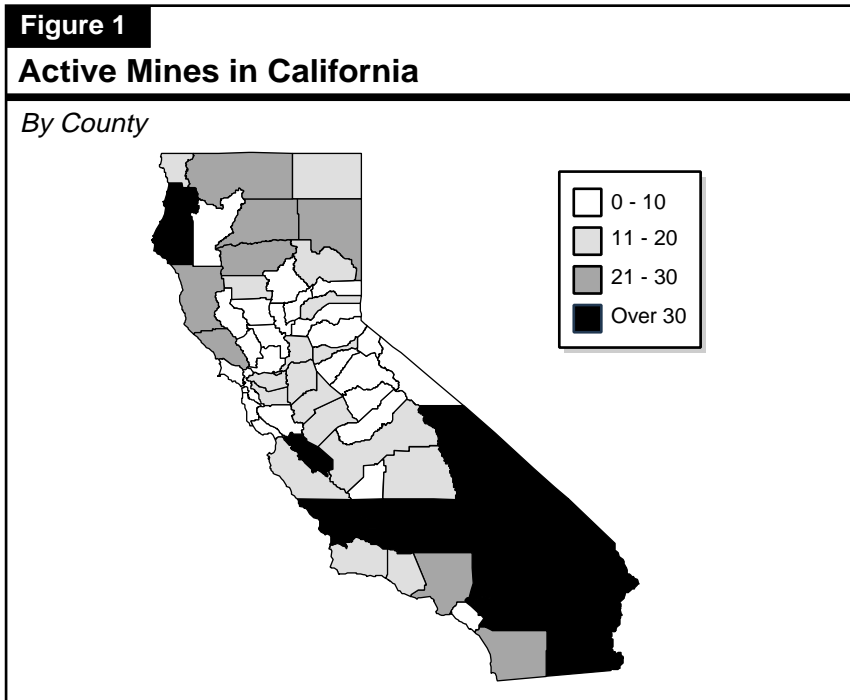
MINE ENFORCEMENT AND OVERSIGHT UNEVEN; VIOLATIONS POTENTIALLY SIGNIFICANT

The Department of Conservation is the state agency that oversees enforcement of the Surface Mining and Reclamation Act (SMARA). We find that there are several problems associated with the operation of the program. Most importantly, an unknown, potentially significant number of mining operations are in violation of SMARA.

California's surface mining industry is highly diverse in terms of mine size, minerals mined, and terrain affected by mining activities. In 1999, the state's mining industry ranked second among the states in nonfuel mineral production, with total production value of about \$3 billion. About two-thirds of that amount was generated by the mining of construction-grade aggregates, such as construction sand and gravel, portland cement, and crushed stone.

Figure 1 (see next page) shows the geographical distribution of the approximately 1,000 active mines in the state. All counties except one—

San Francisco—have active mines. The counties with the largest number of active mines are San Bernardino, Inyo, Riverside, Humboldt, Imperial, and Kern. For some counties, such as Trinity and Humboldt, mining is a large portion of the local economy. In other counties, such as San Bernardino and Kern, mining is of less economic importance due to a more diverse economic base. The types of materials mined throughout the state vary greatly. More than half of the state’s active mines are sand and gravel mines. Stone and rock mines account for another 10 percent.



In the following sections, we discuss the requirements of the Surface Mining and Reclamation Act (SMARA), evaluate how DOC and local agencies implement and enforce SMARA, and make recommendations to improve the enforcement and oversight of SMARA.

Mining Operations Are Subject to Regulation

Different levels of government have established a variety of laws and regulations to minimize environmental and other risks posed by surface mining.

Although mining is an important sector of California’s economy, it poses distinct environmental and public safety risks. Depending on the

type of mineral mined and the process used, mining can have an adverse effect on water and air quality, wildlife habitat, wetlands, soils, ambient noise levels, and other aspects of the environment.

A variety of laws and regulations attempt to ensure that mining is conducted in a way that does not unduly harm the state's environment, public safety, or quality of life. Local ordinances address land use issues such as siting and hours of operation. State laws such as the California Environmental Quality Act require that adverse environmental impacts be mitigated, while regional agencies such as regional water boards and air quality management districts regulate water and airborne emissions coming from mines.

In addition, SMARA, enacted in 1975, imposes various requirements specifically related to the operation of mines. More importantly, SMARA establishes requirements for the ultimate disposition of mining sites once mining has ceased—that is, the *reclamation* of mined lands. In general, SMARA seeks to ensure that mines are operated in a way that permits the land to be effectively reclaimed at the end of the mine's useful life.

Central to SMARA is a split in enforcement responsibility between the state and local governments. In general, "lead agencies" (primarily county governments) approve mining permits and conduct annual reviews and inspections, while the state oversees the lead agencies to ensure that they carry out their duties and serves as an arbiter of disputes over lead agency actions.

Primary Responsibilities Under SMARA

The Surface Mining and Reclamation Act requires that a variety of activities be performed by the state, local lead agencies, and mine operators.

Three general types of activities are to be performed under SMARA: (1) the classification and designation of lands with mineral resources; (2) the development of mining-related documents (mining ordinances, reclamation plans, and financial assurances); and (3) the monitoring of mining operations through inspections and reports.

Classification and Designation of Lands. The State Geologist, appointed by the Director of DOC, is responsible for "classifying" land based on the extent and importance of its mineral deposits. This mineral classification is provided to the affected local lead agencies that oversee mining operations (generally counties) to be incorporated into their local general plans. The State Mining and Geology Board (SMGB) also uses the mineral classification information to "designate" lands throughout California that have "regional significance" or "statewide significance" in

meeting projected future demands for minerals. Lead agencies with jurisdiction over lands designated as significant must adopt land use policies that “emphasize the conservation and development of identified mineral deposits.” For example, a local government might prohibit development in areas that would prevent the mining of major mineral deposits.

To date, the State Geologist has classified approximately 10 percent of the land in the state, focusing on those areas most subject to projected development. (Upon request and as resources permit, the State Geologist will classify additional lands, giving priority to regions facing development pressures.) The SMGB has designated approximately one-fourth of all classified lands as being of regional or statewide significance.

Ordinances, Reclamation Plans, and Financial Assurances. Under SMARA, lead agencies must have adopted a surface mining ordinance, approved by SMGB, before they are able to approve mining operations in their jurisdictions. The ordinance must specify requirements for mine operation permits, as well as requirements for reclamation plans and maintenance of financial assurances.

Mine operators must possess a surface mining permit and an approved reclamation plan to operate a mine. In general, a reclamation plan describes the nature of the surface mining operation and explains how the land will be restored after mining ceases, noting such concerns as controlling groundwater contamination, rehabilitating habitat, and stabilizing geological features.

Operators must also provide financial assurances to cover the costs the local government or the state would incur if it has to reclaim the land in the event the operator fails to do so. A financial assurance can take the form of a surety bond, a letter of credit, a trust fund, or another form approved by SMGB. In the event the operator abandons the site or is unable to complete reclamation, the lead agency or DOC’s Office of Mine Reclamation (OMR) can seek forfeiture of the financial assurance in order to fund the reclamation.

Reclamation plans and financial assurances must be approved by lead agencies. When the lead agency believes that a submitted reclamation plan or financial assurance meets SMGB requirements, it forwards the document to OMR. Current law allows OMR to review and recommend revisions to the plan or financial assurance in order to ensure compliance with SMARA. The lead agency must consider OMR’s comments, and may require that a mine operator amend its reclamation plan or financial assurance to address OMR’s concerns. Once the lead agency approves a reclamation plan or financial assurance, it files the approved document with OMR. Reclamation plans and financial assurances must be adjusted annually to reflect expansion of operations or progress made toward rec-

lamation. Amended plans and assurances are also subject to review by the lead agency, review by OMR, and approval by the lead agency (after considering any suggestions made by OMR).

Inspections and Reporting. The SMARA also requires lead agencies annually to inspect all mines in their jurisdictions. These inspections in part are to determine whether mine operators are operating in accordance with the approved reclamation plan and mining permit. Mine operators are responsible for the cost of inspection.

In addition, mine operators are required to report annually to the lead agency and OMR. The report must describe the mining operation during the previous calendar year, and must include specified information pertaining to ownership, production, land disturbance, and documentation of financial assurances, reclamation plans, and inspections. Operators must also pay to the state an annual fee, as determined by SMGB, based on the size and type of mining operations.

Inadequate Enforcement and Oversight Allow Many Violations

Various provisions of the Surface Mining and Reclamation Act (SMARA) fail to be enforced at an unknown, potentially significant number of mines. Hundreds of mines are in violation of procedural requirements. In addition, some mines do not meet SMARA's substantive provisions, but the number is unknown because state oversight in this area has been limited.

In the course of our review, we conducted site visits of active mining operations, met with representatives of the mining industry and local governments, participated in discussions with DOC and legislative staff, and reviewed various reports, including DOC's October 2000 report required by the *Supplemental Report of the 2000 Budget Act*. We find that various provisions of SMARA fail to be enforced at a potentially significant number of mine sites.

Violations can be classified as "procedural" or "substantive." By a "procedural" violation we mean a failure to complete some mandated action, such as a mine operating without an approved reclamation plan or a lead agency failing to conduct an annual mine inspection. By contrast, we define a "substantive" violation as an instance where a mandated action has been taken—such as submitting a reclamation plan—but it does not conform to the standards established in statute and regulations.

As regards *procedural* violations, DOC reports that well over 100 mines lack approved reclamation plans and financial assurances. In addition, lead agencies have failed to conduct required annual mine inspections

for more than 200 mines. This is a preliminary estimate that may increase upon further review by DOC.

The complete number of *substantive* violations is unknown. This is because DOC has seldom determined whether reclamation plans and financial assurances substantively comply with SMARA. Anecdotal evidence suggests that a portion of these documents in fact do not meet the substantive requirements of SMARA. In addition, the failure of lead agencies to conduct annual inspections for some mines prevents the Legislature from knowing whether those mines are in fact operating in compliance with their reclamation plans.

Statewide Compliance Data Inadequate, Not Reliable

The department lacks current, complete, and reliable data on mine compliance. We recommend the enactment of legislation that requires an annual report from the department in order to monitor its efforts to improve its data collection activities.

The DOC has not been able to provide reliable information on the status of mine compliance with SMARA. This became an issue during the 2000-01 budget hearings as the department cited high levels of non-compliance as justification for its budget augmentation request. When asked to elaborate, the department asserted that it did not have reliable data to provide a precise number of mines which were in compliance with SMARA.

Partly as a response to this uncertainty about compliance levels, the Legislature included in the *Supplemental Report of the 2000 Budget Act* a requirement that OMR identify mines that lacked valid reclamation plans, financial assurances, current annual reports, or recent inspections. The findings of that report, dated October 2000, are summarized in Figure 2 (see next page). However, as emphasized in the report, OMR's data remains subject to serious limitations. These limitations generally fall into two categories: (1) incomplete data and (2) insufficient document review.

Incomplete Data. The incompleteness of OMR's data stems from several causes. For example, OMR asserts that a portion of its mine files lack certain documents, such as approved reclamation plans and financial assurances. In such cases, DOC cannot determine whether the missing document was never approved, or whether it *was* approved but simply not delivered to DOC by the lead agency. In preparing the October report, DOC attempted to clarify these kinds of questions by reviewing its mine files and requesting missing documents from lead agencies. However, in order to meet the report deadline, DOC staff reviewed fewer than half of its mine files. It is possible that review of the remaining files, which the department intends to complete in the future, will uncover additional violations.

Figure 2**Number of Mines Violating Certain Procedural Requirements of SMARA***October 2000 Report*

Types of Violations	Number of Mines
Lacking approved financial assurance	
• Active mines	52
• Inactive mines	70
Lacking approved reclamation plan	
• Active mines	39
• Inactive mines	40
Active mines lacking annual report	20
Mines lacking required inspection since 12/31/98	224

In addition, the incompleteness of DOC's data in part owes to haphazard data management in the department. The department asserts that management of OMR's database, including data entry and modification, has not been a priority in the past. As a result, the database is subject to missing and inaccurate information.

Insufficient Document Review. Another data limitation is the insufficient review of documents. For example, while OMR reviews most reclamation plans and amendments submitted by lead agencies, it generally does not attempt to determine whether the recommendations it makes in response to those submittals are in fact incorporated into the final, adopted versions of those plans. Further, OMR performs no review at all on most of the financial assurances that it receives. The department asserts that it limits these reviews because it lacks staff to review all documents.

The DOC Needs Incentive to Maintain Completeness, Accuracy of Data. In our opinion, DOC needs increased incentive to keep better records on statewide mine compliance with SMARA. We believe the *Supplemental Report of the 2000 Budget Act* requirement motivated the department to confront some of its data problems for preparation of the October 2000 SMARA report. The supplemental report requires additional SMARA reports on January 1, 2001 and quarterly thereafter, but it is unclear whether this requirement would extend beyond the 2000-01 fiscal year.

In order to ensure that it continues to maintain current and accurate data on mine compliance with SMARA, we recommend the enactment of legislation requiring DOC to report to the Legislature at least annually on mine compliance with SMARA. This report should include, at a minimum:

- The identity and location of all mines subject to SMARA that operated without an approved reclamation plan during the prior year.
- The identity and location of all mines subject to SMARA that are operating without an approved financial assurance.
- Enforcement actions taken by DOC to bring these mines into compliance with SMARA.

We recommend the reporting requirement be allowed to sunset after four years if the Legislature does not decide to extend the requirement before then.

Department's Review Activities Should Be Geared Toward Improving Compliance

It is unclear whether the department's review of financial assurances and reclamation plans results in increased compliance with the Surface Mining and Reclamation Act. We believe that review activities should be more directly tied to improving compliance with the act. We recommend that the department be required to provide at budget hearings a detailed plan for monitoring the adequacy of submitted reclamation plans and financial assurances. Depending on the department's response to this request, the Legislature may wish to provide further direction on how enforcement resources are to be allocated.

Under SMARA, lead agencies perform the initial review of financial assurances and reclamation plans to ensure they comply with SMARA. The DOC's role is to make certain that the documents ultimately approved by the lead agencies do in fact meet SMARA regulations. In fulfilling this role, DOC has discretionary authority to evaluate reclamation plans and financial assurances submitted by lead agencies. We believe that DOC should not exercise this discretionary authority simply to duplicate the review activity of lead agencies. Rather, DOC's activity should help to ensure that lead agencies are performing their role effectively.

One important way to help lead agencies effectively perform their SMARA duties is through the provision of technical assistance and workshops for local officials. The department currently provides such assistance to a very limited extent. We believe that such activities are valuable insofar as they help local agencies to understand SMARA requirements and to review financial assurances and reclamation plans more effectively.

The other way DOC can help to promote local compliance with SMARA is through its monitoring of lead agency-certified financial as-

surances and reclamation plans. In general, DOC focuses its review activity on reclamation plans, not financial assurances.

The DOC Reviews Reclamation Plans. According to DOC, OMR reviews most reclamation plans and amendments submitted to the office. Reviews often include a visit to the mine site by a geologist and a revegetation specialist. In 1999, OMR reviewed 166 reclamation plans and reclamation plan amendments, including interim management plans. In carrying out these reviews, OMR conducted 61 site visits.

The OMR does not know how many of the reclamation plans and amendments it receives comply with SMARA requirements. The OMR sometimes uses the number of comments it provides in review letters as a rough gauge of compliance, but we believe this rule of thumb cannot estimate actual, substantive compliance with any precision.

The SMARA does not require that a lead agency adopt any of OMR's recommended changes to reclamation plans and financial assurances. The lead agency is only required to "respond to" the comments, with an explanation of how it disposed of the issues raised by DOC, including reasons for rejecting any comments and suggestions. Since OMR typically does not go on to determine whether its comments were addressed in the final, adopted reclamation plans, OMR does not know the percentage of adopted plans that comply with SMARA.

The DOC Does Not Review Most Financial Assurances. Currently, OMR does not review the majority of submitted financial assurances. According to DOC, this is a policy decision meant to direct limited resources to reclamation plan review, which the department views as the higher-priority task. However, the office does review a small number of financial assurances from operators and lead agencies that it believes historically to be deficient in carrying out their SMARA responsibilities. When it does review a financial assurance, OMR verifies that the form of the assurance meets state law, and ensures that the amount would enable the lead agency to complete reclamation if the mine operator is unable to do so.

In its documentation supporting a proposed SMARA enforcement position in the 2000-01 budget, the department asserted that it has "performed few reviews of cost estimates" for financial assurances. Although the new position was included in the adopted budget, DOC has not filled the position as of January 2001.

Reviews Should Promote Compliance. We believe DOC should perform reviews in a way that ensures that lead agency activity is periodically checked for accuracy and compliance. It may not be necessary to review *all* submitted documents; such reviews could be performed on a

representative sample of documents received by DOC. However, we believe it is important that *both* financial assurances and reclamation plans are checked.

We recommend that the Legislature direct the department to provide at budget hearings a detailed plan for monitoring the adequacy of submitted reclamation plans and financial assurances. The plan should (1) estimate the number of reclamation plans and financial assurances the department expects to receive during the 2001-02 fiscal year; (2) estimate the number of reclamation plans and financial assurances that, in its judgment, the department should review during the 2001-02 fiscal year in order to provide an appropriate level of oversight; (3) explain the criteria that will be used to select plans and assurances for review; (4) indicate the number and type of staff that will be required to perform these activities; and (5) indicate whether the department currently has adequate resources to implement the plan and, if not, how the department proposes to secure adequate resources.

Department Lacks Authority to Reject Deficient Plans

While statute clearly authorizes the Department of Conservation to review reclamation plans and financial assurances for compliance with the Surface Mining and Reclamation Act (SMARA), the department's recommendations that arise from those reviews are often not adopted by lead agencies. We recommend that legislation be enacted authorizing the department to revoke a lead-agency approved reclamation plan or financial assurance that it deems to not substantively comply with SMARA.

When DOC reviews reclamation plans and financial assurances submitted by lead agencies, it sends the lead agency a letter with any recommendations for changes. Statute requires lead agencies to review those recommendations and to provide DOC with a written response to its comments. It also requires the lead agency to provide DOC with a copy of the assurances and plans when they are approved.

In most cases, the department does not determine whether its recommendations were in fact adopted. This is for two reasons. First, lead agencies often neglect to submit written responses to DOC's recommendations. Without those letters, determining if and how DOC's comments were addressed requires labor-intensive review of adopted documents. Second, and more importantly, DOC argues that the question of whether its recommendations were addressed is largely an academic point, since the department cannot require adoption of its recommendations. Even if DOC believes that a reclamation plan fails to substantively comply with

SMARA regulations, the approval of that plan is granted by the lead agency and not DOC.

Because DOC is ultimately responsible for overseeing SMARA, and since the state has an interest in ensuring that SMARA is enforced fairly and evenly for all the mines of the state, we believe that DOC should have the ability to take action when a SMARA document is clearly deficient. Therefore, we recommend enactment of legislation authorizing the department to revoke a lead agency's approval of a reclamation plan or financial assurance that the department deems to substantively fail to comply with SMARA. This would provide both an incentive to lead agencies to respond to DOC's recommendations and a tool for DOC to respond directly to certain SMARA violations. We emphasize that DOC should *not* be responsible for developing or approving a new reclamation plan or financial assurance; rather, it should simply be authorized to reject such documents that do not comply with state law.

Lead Agencies Frequently Fail to Conduct Inspections

Hundreds of mines are not inspected by lead agencies. We recommend the enactment of legislation that authorizes the State Mining and Geology Board to conduct required mine inspections where lead agencies fail to do so, and which requires that lead agencies pay the cost of such inspections.

Lead agencies often do not conduct annual inspections of mines under their jurisdictions, despite statutory requirements that they do so. The OMR's October 2000 report finds that 224 mines, or about 15 percent of those required to be inspected, had not been inspected since December 31, 1998. The actual number may be higher once DOC completes its review of additional mine files. Lead agencies frequently cite lack of staff and financial resources as the reasons for their failure to conduct annual inspections. However, SMARA requires that the cost of inspections be borne solely by the mine operator. Thus, the lead agency's costs should be covered by fees paid by mine operations.

The DOC's work plan for addressing SMARA compliance problems (included as part of its October SMARA report) makes no mention of how the department might address lead agencies' failure to conduct annual inspections. Neither has SMGB taken action on this issue. Yet the performance of regular mine inspections is critical for ensuring that mine operations in fact are abiding by their approved reclamation plans.

We believe that the state should ensure that annual inspections are performed. We therefore recommend the enactment of legislation authorizing SMGB to perform inspections of mines when the lead agency fails

to do so. The SMGB, like the lead agencies themselves, should be authorized to hire a qualified consultant to do this work. The SMGB should also have clear authority to gain access to mine sites to perform inspections. We further recommend that the responsible lead agency, rather than the mine operator, be required to pay the cost of inspections conducted by SMGB. This would provide an incentive for lead agencies to conduct required inspections in the first place, rather than intentionally defer this responsibility to the state.

Funding for SMARA Enforcement Should Match Workload

Funding for the department's Surface Mining and Reclamation Act activities is subject to statutory caps. We recommend that (1) these caps be eliminated and (2) funding matched to workload needs be appropriated from the General Fund.

State administration of SMARA is funded from two sources: The Surface Mining and Reclamation Account (which receives a portion of federal payments from mining activities on federal lands) and the Mine Reclamation Account (which receives the annual reporting fees from mine operators). Statute limits the SMARA Account to \$2 million annually (or less, under certain conditions), with the remaining federal payments going to the General Fund. The Mine Reclamation Account is currently limited to \$1.4 million annually (\$1 million in 1991, subsequently adjusted for inflation per statute). The fees imposed on individual mine operators are also limited, depending on the size of the operation, to the range of \$50 to \$2,000.

We believe caps such as these unnecessarily restrict the Legislature's review of the program's budget. Given the expansion of mining operations over time, the increasing complexity of reclamation issues, and the enforcement concerns identified in DOC's October 2000 report, additional resources for SMARA enforcement may be justified. However, the administration indicated at last year's budget hearings that further staffing augmentations beyond the one new position could not be funded from currently available resources.

Therefore, we recommend that the Legislature remove these statutory caps for both accounts. Moreover, since the current fee schedule is already assessing most mines at the maximum amount permitted by statute, we believe that the statutory limits on fees should be adjusted for inflation.

As regards SMARA Account, we recommend that the Legislature abolish the account and deposit federal mining payments directly into the General Fund. Money could then be appropriated from the General

Fund as warranted by SMARA workload. We believe the Mine Reclamation Account should be retained since it allows mining fees to be directed exclusively to SMARA enforcement.

OTHER ISSUES

Abandoned Mines: Mapping Efforts Unneeded Without Cleanup Program

The department has spent \$1.8 million over the past four years to map the sites of abandoned mines in the state. The budget proposes \$399,000 to continue this effort in the budget year. However, the department does not propose to take any action to remediate the abandoned mines it has identified. Because there is limited value in continuing to map abandoned mines without addressing identified hazards, we recommend that funding for abandoned mine mapping be deleted. Any restoration of that funding should be made as part of an abandoned mine reclamation program. (Reduce Item 3480-001-0001 by \$399,000.)

Tens of thousands of abandoned mines pose physical and environmental hazards in the state. Many of these mines date back to the 1800s, and their locations and last owners are frequently unknown.

In its 1997-98 budget proposal, the department requested funds to begin locating, mapping, and evaluating the state's abandoned mines. The department also indicated that, at the end of three years, it would produce a report that (1) detailed the magnitude, scope, and location of the hazards posed by the state's abandoned mines and (2) recommended future actions to address these problems. (Please see our *Analysis of the 2000-01 Budget Bill*, pages B-80 and B-81.) Since 1997-98, DOC has expended \$1.8 million from various state funds to map abandoned mines.

Report Estimates That State Has 39,000 Abandoned Mines. The department's report, released in July 2000, estimates that the state has 39,000 abandoned mines. As summarized in Figure 3, the large majority of these mines pose physical safety hazards, environmental hazards (such as mercury leaching into groundwater), or both. The report also presents a number of options that the state could take in response to these findings, including the remediation of physical and environmental hazards and the enactment of legislation to provide funding for such remediation.

New Legislation Authorizes Mine Remediation. In budget hearings last year, the Legislature expressed its concern that the department's efforts concerning abandoned mines should not focus solely on *identifying* abandoned mines, but rather should also include efforts to *remediate* those

Figure 3**Department of Conservation
Abandoned Mines Report****Key Findings**

- There are an estimated 39,000 abandoned mines in the state. (The actual number could range between 29,300 and 69,800 abandoned mines.)
- Of these, 32,760 mines (84 percent) present physical safety hazards, and 4,290 mines (11 percent) present environmental hazards.
- Of the abandoned mines, approximately 50 percent are on private lands; 48 percent are on federal lands; and 1.5 percent are on state lands.

Options for Addressing Abandoned Mines^a

- Expand and enhance study of threats posed by abandoned mines.
- Develop programs to raise public awareness of dangers posed by abandoned mines.
- Implement state environmental review process for projects at or near hazardous mine sites.
- Provide grants to local governments to remediate abandoned mine hazards.
- Implement a state program to remediate abandoned mines, funded from state or federal funds, mining royalties, fees, or other sources.

^a Only a portion of the 20 options presented in the report are identified here. They represent the wide scope of options.

mines. The department responded that it was unclear whether existing statute permitted DOC to conduct mine remediation activities. Specifically, the department noted that Chapter 1094, Statutes of 1993 (AB 904, Sher) authorized such a program and an Abandoned Mine Reclamation and Minerals Fund (AMRMF), but made these provisions contingent on the enactment of anticipated federal legislation. Because federal legislation was never enacted, the relevant provisions of Chapter 1094 had not become operative.

To respond to this problem, the Legislature enacted Chapter 713 (SB 666, Sher) in September 2000. This legislation, among other things, removes the provision concerning enactment of federal legislation. As a result, Chapter 713 directly authorizes DOC to create an abandoned mine reclamation program when funds are appropriated for that purpose. The legislation also broadened potential funding sources for AMRMF, from which an abandoned mine reclamation program would be funded. To date, no money has been appropriated to that fund.

Proposed Budget Contains No Provision for Abandoned Mine Reclamation. Notwithstanding Chapter 713, as well as the department's ac-

knowledge in its abandoned mine report of the need to remediate abandoned mine hazards, the 2001-02 budget contains no proposal for the department to begin mine remediation activities. The budget also does not propose any money to be appropriated to AMRMF for mine remediation. The budget, however, proposes to continue DOC's abandoned mine mapping and requests \$399,000 in General Fund and special fund monies to do so.

Continuation of Mapping Program of Limited Value Without Efforts to Address Identified Hazards. We see little value in continuing the mapping of abandoned mines unless the information is utilized in some meaningful effort to address the hazards posed by those mines. Accordingly, we recommend that the Legislature delete the \$399,000 requested for the mapping program.

Initiation of Remediation Program Could Warrant Further Mapping Efforts. If the Legislature wishes that DOC begin an abandoned mine remediation program in 2001-02, it should provide funds to AMRMF and in turn appropriate funds for mine remediation from AMRMF. With an active remediation program in place, further mapping of abandoned mines might be warranted. If the Legislature wishes to fund further mapping, we would recommend that funding be provided from AMRMF as part of the remediation program.

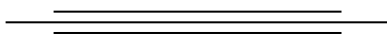
Replacement Vehicle Budget Overstated

The department's budget includes \$845,000 to replace 32 department vehicles. However, the department now indicates that it only intends to purchase seven vehicles in the budget year, at an estimated total cost of \$208,000. Accordingly, we recommend that the department's budget be reduced by \$636,000. (Reduce Item 3480-001-0001 by \$636,000.)

The budget proposes \$845,000 for the purchase of 32 replacement vehicles. Most of these would be four wheel drive utility vehicles.

In the course of our review, however, the department indicated that it actually intends to purchase only seven vehicles in the budget year. Based on data provided by the department, we estimate that the seven vehicles would cost \$208,000.

Based on information provided by the department, we estimate that the department is overbudgeted for the vehicle purchases by \$636,000. Accordingly, we recommend that the Legislature reduce the department's budget by \$636,000.



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 \$630.5 million for total departmental expenditures in 2001-02, including support and capital outlay expenditures. This is an increase of about \$51 million (or 9 percent) above estimated current-year expenditures. Most of this increase reflects higher expenditures related to fire protection services and improvement of fire protection facilities.

The General Fund will provide the bulk of CDFFP's funding—\$467.8 million (about 74 percent). The remaining funding will come from federal funds and reimbursements (\$137.4 million), the Forest Resources Improvement Fund (\$17.4 million), and various other state funds. Major budget proposals include: (1) \$10.2 million to acquire a new computer aided dispatching (CAD) system, (2) \$7 million for emergency communications system equipment, and (3) \$6.5 million for prefire projects.

Legislature Should Monitor CAD Progress

The budget requests \$10.2 million to acquire a new computer aided dispatching (CAD) system. While we concur with the need for a new CAD system, we think the size of the project and its importance to the mission of the California Department of Forestry and Fire Protection (CDFFP) warrant close monitoring by the Legislature. We therefore recommend supplemental report language requiring CDFFP to report to the Legislature

on a semiannual basis on the major milestones in the procurement, development, and implementation of CAD.

The budget requests \$10.2 million from the General Fund to acquire a new CAD system designed to assist CDFFP in responding to emergencies and dispatching the appropriate resources. Funding (\$13.8 million) for the same project was first provided in the 1999-2000 *Budget Act*. However, because the project did not proceed on schedule, most of the funds were reverted at the end of 1999-2000.

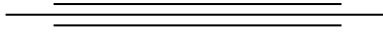
The CAD Is a Large Complex Project, Critical to the Mission of CDFFP. Due to the unique nature of CDFFP's activities, the department cannot buy a strictly off-the-shelf CAD system. Instead, the system must be designed to address the variety of incidents that CDFFP responds to, ranging from single incidents to large wildfires. In addition, the system must be able to handle a large fleet of resources (equipment and staff) that has to be mobilized in responding to some incidents. Furthermore, the CAD system will have to be integrated with other software applications the department uses in responding to incidents and managing information. The CDFFP estimates that a project of this scope and size will need to be implemented in phases and it may be seven years before the project is fully implemented.

Many Details of the Project Are Not Presently Available. The CDFFP is in the process of selecting a vendor for the CAD system using an "alternative procurement" process. The process allows the vendor to propose a "solution" to a stated business problem, rather than the department specifying a solution to be implemented by the vendor. This process is commonly used by state agencies implementing information technology and is considered a best practice because the risk related to determining the appropriate solution is predominantly shifted from the state to the vendor. However, with alternative procurement, actual costs and time lines for implementing a project will be proposed by the vendor rather than prescribed by the department. In the case of the CAD project, this means that key project information such as time lines, descriptions of major deliverables, and complete cost information will not be determined until a vendor is selected. As a consequence, this information is not currently available for the Legislature's review.

Recommend Reporting Requirements. We concur with CDFFP's request for a CAD system, and the use of an alternative procurement process to select a vendor. However, the alternative procurement process limits the Legislature's ability to assess the project's costs and details before approving the project. We think the project warrants close monitoring by the Legislature for several reasons. First, the project has already been delayed by two years. Second, it is a large, complex project anticipated to be

implemented in several stages over seven years. Third, the project is critical to the department's mission. In order that the Legislature can monitor the project's progress, we recommend the adoption of the following supplemental report language:

The Department of Forestry and Fire Protection shall report to the Joint Legislative Budget Committee and the fiscal committee of each house by December 1, 2001 and semiannually thereafter, on major milestones in the procurement, development, and implementation of its computer-aided dispatch system. The department shall include in each report the estimated cost of each identified segment of the project. The department shall include time lines and implementation dates for major phases of the project and explanations for any deviations in its estimates from the previous reports.



STATE LANDS COMMISSION (3560)

The State Lands Commission (SLC) is responsible for managing lands that the state has received from the federal government. These lands total more than four million acres and include tide and submerged lands, swamp and overflow lands, the beds of navigable waterways, and vacant state school lands.

For 2001-02, the budget proposes \$29.5 million for the support of the commission. The amount is funded from the General Fund (\$20.1 million), the Oil Spill Prevention and Administration Fund (\$5.8 million), the Exotic Species Control Fund (\$1 million), and reimbursements (\$2.7 million). The proposed budget is \$7.5 million, or 34 percent, above the commission's estimated current-year expenditures. Most of this increase is to fund the removal and mitigation of hazards along the Santa Barbara and Ventura Coast, and in the Sacramento River.

School Land Bank Fund Reserve Continues to Grow

The School Land Bank Fund (SLBF) is projected to have a reserve of \$42 million by the end of the budget year. Because the State Lands Commission has expended almost no money from the fund since its creation in 1984, we recommend that the fund balance be transferred to the State Teachers' Retirement Fund, the original intended beneficiary of SLBF investments.

The SLC manages lands that were given to the state by the federal government in order to help support public education. Some of these school lands are leased for commercial purposes (such as mining and oil drilling). Lease revenues (royalties) are deposited in the State Teachers' Retirement Fund (STRF) after SLC recovers its costs.

Under the School Land Bank Act of 1984, the commission may also sell school lands and use the proceeds to purchase other properties in order to consolidate school land parcels into continuous holdings. The

purpose of consolidating school lands is to facilitate the effective management of those lands for the purpose of generating lease revenue for STRF. Proceeds from land sales are deposited in the School Land Bank Fund (SLBF). These proceeds are available to SLC only for acquiring and enhancing school lands.

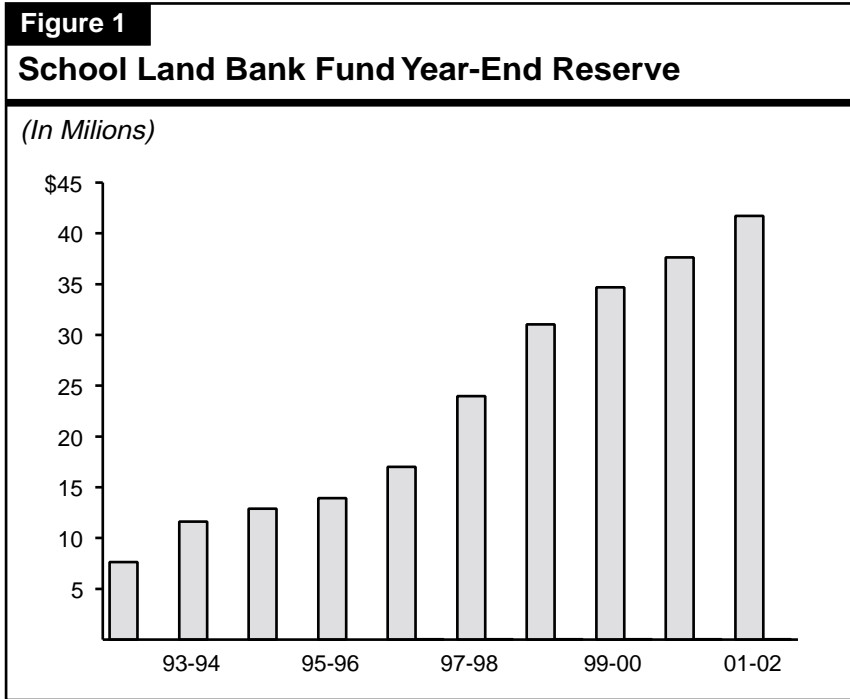
Imbalance of Sales and Purchases Has Caused Fund to Grow. Pursuant to the School Land Bank Act, SLC has sold school lands and deposited the proceeds in SLBF. However, because SLC has not expended SLBF monies to acquire new land holdings, the fund balance has mounted over the years.

Fund Balance Was an Issue at 1996 Legislative Hearings. During budget hearings in 1996, the Legislature examined the issue of the mounting reserve in SLBF. The balance was about \$15.6 million at the time. The reserve had accumulated because SLC had not made any purchases from the fund since its creation in 1984. Noting this, we recommended that the Legislature reevaluate the purpose of SLBF. (Please see our *Analysis of the 1996-97 Budget Bill*, pages B-56 through B-58.) In the end, the Legislature decided not to change the fund's statutory purpose, in part because of SLC's assurance that it expected to use the fund to purchase property in the near future.

Budget Projects \$42 Million Reserve for 2001-02. Since 1996, land sales have added another \$15.8 million to the fund, while the fund has earned an additional \$5.2 million in interest. However, at the time this analysis was prepared, SLC still had expended almost no money from SLBF for new investments. (The SLC has expended less than \$100,000 from the fund for its operating costs.) As shown in Figure 1 (see next page), the fund is expected to have a reserve of \$42 million at the end of 2001-02. This is almost triple the fund balance when the Legislature last examined the issue in 1996.

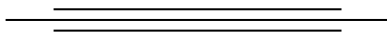
Legislative Intent Not Fulfilled. In enacting the School Land Bank Act in 1984, the Legislature expressed concern over a "significant depletion" of school lands, and stated its intent that all remaining school lands be "managed and enhanced" as a revenue-generating resource for STRF. The legislative goal of the program was to ensure that revenues from the sale of school lands would be reinvested in other land holdings that generate lease revenues for STRF. Maintaining a large fund balance for multiple years, however, does not achieve that goal.

Fund Balance Should Be Transferred to STRF. In view of SLC's inaction in purchasing new school lands with SLBF monies, as well as the significant reserve that continues to accumulate in the fund, we believe the Legislature should take action to ensure that its intent is fulfilled.



Specifically, we recommend that the balance of SLBF be transferred to STRF. In this way, the ultimate beneficiary of school lands proceeds—the State Teachers’ Retirement System (STRS)—could invest those funds directly for the benefit of teachers.

We note that STRS has a significant portfolio and the staff expertise and organizational structure for identifying investment opportunities and managing the investments more efficiently than SLC. We also note that, under this recommendation, SLC would continue to manage existing school lands, and lease revenues from those lands would continue to be deposited in STRF.



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 fishing and hunting. 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 \$281.4 million from various sources. This is a decrease of about \$15 million (5 percent) from the estimated current-year level. Of that amount, \$275.8 million is for support and \$5.6 million is for local assistance. The decrease reflects mainly a reduction in federally funded expenditures for salmon restoration and state-funded emergency cleanup of a state wildlife area.

FISHERIES RESTORATION GRANT PROGRAM LACKS STRATEGIC APPROACH

Since the 1950s, salmon and steelhead populations in California have significantly declined due in part to the degradation of their freshwater habitat. Since 1981, DFG has provided grant funds through the Fisheries Restoration Grant Program (FRGP) to landowners, public agencies, and nonprofit groups to restore salmon and steelhead population through improved habitat.

In the following sections, we review the implementation of FRGP by DFG. Specifically, we discuss:

- The planning and prioritization of restoration projects.
- The project application and review process.

- Requirements for restoration projects to meet the California Environmental Quality Act (CEQA).
- The department's efforts to monitor and evaluate FRGP effectiveness.
- Bond funding under Proposition 13 for salmon habitat.

In our review of FRGP, we found that DFG operates primarily as a grant administrator. In that role, it primarily processes grant applications submitted to it, instead of setting restoration priorities. We found that the program has successfully increased involvement by landowners and watershed groups in local watersheds and resulted in many projects designed to improve salmon habitat. We also conclude that the department should develop a strategic approach to restoration that includes identifying restoration priorities for more effective targeting of grant funds. Additionally, we make recommendations for streamlining the application process, establishing an evaluation program, and specifying the criteria under which Proposition 13 bond funds will be expended for salmon restoration. Several of our recommendations call for statutory changes that can be incorporated into one piece of legislation.

Background

Since 1981, more than \$89 million has been expended on the FRGP and over 2,000 grants have been awarded. Many of the grants fund habitat restoration projects such as removing fish passage barriers, stabilizing streambanks to control soil erosion, and repairing roads that are delivering sediments to nearby streams. The program also funds projects that do not involve direct habitat restoration such as watershed assessment, planning, and education efforts. Finally, FRGP provides support for watershed organizations.

Funding Increased in Recent Years. As shown in Figure 1, funding for FRGP has increased in recent years. Most notably, between 1999-00 and 2000-01, program funding increased by \$19.2 million, primarily as a result of additional federal and bond funds. With this increase, the number of grants awarded is expected to increase from 152 in 1999-00 to about 318 in the current year. Recognizing the growing workload for administering the program, the Legislature also increased the staffing of the program by 14 personnel-years in 2000-01. The budget proposes \$14.5 million for FRGP in 2001-02, a reduction of \$11 million.

For 2000-01, there are three primary sources of funding for FRGP: Salmon and Steelhead Trout Restoration Account (SSTRA), federal funds, and Proposition 13 bond funds. Specifically, Chapter 293, Statutes of 1997 (SB 271, Thompson) established SSTRA and provided six years of funds

Figure 1	
Funding for Fisheries Restoration Grant Program	
<i>(In Millions)</i>	
	Funding Level
1981-82 through 1996-97	\$44.8
1997-98	2.4
1998-99	10.0
1999-00	6.4
2000-01	25.6
2001-02	14.5

from 1997-98 through 2002-03 from tidelands oil revenues for fish restoration projects meeting specific criteria. In addition, the federal Pacific Coastal Salmon Recovery Program provided \$9 million. Chapter 715, Statutes of 2000 (SB 1087, Sher) requires that these federal funds be used in the same manner as SSTRAs funds. Lastly, Proposition 13, passed by the voters in March 2000, provides \$25 million in bond funds for improving salmon habitat, of which \$7.5 million is appropriated for the current year.

The FRGP Should Establish Restoration Priorities

We find that the Department of Fish and Game (DFG) should strategically target grant funds to the highest-priority fish restoration projects. We recommend the enactment of legislation that directs DFG to identify and establish restoration priorities. Additionally, we recommend that the department report at budget hearings on its plans to provide restoration information and assistance to potential project applicants.

Grants Not Targeted Strategically to Maximize Program Effectiveness. Our review finds that in implementing FRGP the department operates mainly as a grant administrator. This involves processing and evaluating applications and managing grant contracts. In some limited areas, DFG is able to provide information on restoration priorities based on staff work in particular watersheds, but such efforts are limited and priorities are not published as part of the request for proposal (RFP) process. These efforts, however, fall short of a strategic approach because the program is driven by the proposals submitted by grant applicants rather than being driven by an established set of restoration priorities.

Department Should Set Restoration Priorities. In order to move to a more strategic approach, the program should build upon its current efforts by identifying watersheds that are priorities for restoration; and within those watersheds, identifying the types of projects that are of the highest priority. For example, in certain priority watersheds, projects that address sediments delivered by roads may be a high priority, whereas in other watersheds where the initial assessment work has not been done, the priority for funding may be assessment.

We think that identifying priorities will have a number of benefits. First, identifying these priorities and making them known will encourage applicants to submit proposals for the highest-priority projects. This would result in more effective use of grant funds for fish restoration. Providing information on priorities could also facilitate larger projects. These projects are costly and risky for project proponents to develop without knowing whether they will be funded.

Second, identifying priorities for a watershed may encourage multiple projects to be proposed and funded in a watershed, thereby having a greater cumulative effect on the watershed. Third, the review and approval process could be expedited. This is because in identifying priorities, DFG will have already assessed the restoration needs of a particular area and, therefore, will be better able to judge whether the proposed project addresses those needs.

Department Should Provide Information and Assistance to Target Projects. In order to encourage proposals which reflect the department's priorities, we think the priorities should be published in the department's RFPs and proposals meeting the identified priorities should score higher in the evaluation process.

In addition, we think DFG should serve as a clearinghouse of restoration information for project proponents and should assist proponents in developing projects. We found that in areas where staff are available to provide resource information, the number of proposals is higher than in areas where no staff are available. Discussions with members of the program advisory committee, established under SB 271, also suggest that the quality of proposals is higher where departmental staff are available to provide assistance to project proponents.

Recommendation. In order to encourage funding of the highest-priority projects, we recommend the enactment of legislation that directs DFG to identify and establish restoration priorities to be applied in awarding grant funds under FRGP. Additionally, we recommend the department report at budget hearings on its plans to provide restoration information and assistance to potential project proponents.

Application Process Can Be More Efficient

In order to provide more flexibility to project applicants, we recommend the enactment of legislation directing the Department of Fish and Game (DFG) to accept grant proposals for the program more than once a year. We further recommend the adoption of supplemental report language requiring DFG to submit a report on streamlining the evaluation process.

Current Process Involves Multiple Reviews. Currently, proposals for FRGP funding are due once a year. Proposals are subject to at least four levels of review. First, a preevaluation team of DFG staff from across the state conducts a desk review of projects and provides focused questions for the field staff. Second, projects are then reviewed at the site by field staff and scored. It is during this stage where the actual substantive review occurs. Third, field scores are then reviewed by a technical team (often consisting of the same members as the pre-evaluation team). The technical team may assign a different score to projects. Finally, a citizen's advisory committee, established as required by SB 271, then convenes to review each project and recommend projects for funding. A final list of recommended projects is then forwarded to the Director for approval. Once selected, projects are reviewed again by contract managers to make sure they comply with environmental laws.

Applications Should Be Accepted Several Times a Year. Having applications due once a year can lead to several problems. First, it creates a workload peak problem for DFG staff because all of the projects must be evaluated at the same time. An annual process also means that project applicants often have to wait a year before they can apply even if restoration projects are identified early in the annual cycle. Projects that were not funded also have to wait a year before proposals can be resubmitted.

We think that accepting applications several times a year would even out the workload throughout the year and provide greater flexibility to applicants. We therefore recommend the enactment of legislation directing DFG to accept proposals for FRGP more than once each year, with equal amounts of grant funds to be made available for each application cycle.

Require Field Reviews and Streamline the Evaluation Process. Our review found that certain stages of the review process are more appropriate for streamlining than others. For example, during the latest round of funding, DFG tried to streamline the process by eliminating field reviews for projects funded by federal funds and bond funds because of staffing constraints. However, field reviews are essential for DFG staff to examine the conditions of the restoration site in order to determine if the proposed project is appropriate for the site. Additionally, field review com-

ments are important because they are used by the advisory committee to evaluate projects. Consequently, we conclude that the field reviews should not be eliminated. We therefore recommend legislation be enacted requiring all projects to be field reviewed. Exceptions could be made if the department can document it has sufficient knowledge of a project such that a field review would not be required.

Based on our review, we have identified other options for streamlining the review process. One option would be to eliminate the preevaluation team review as well as the technical review that occurs after the field review. Eliminating the preevaluation team review is an option worth considering because its contributions could be built into the project evaluation process in other ways. This could be achieved by the department providing staff training to ensure consistency in field reviews, and relying on comments of field reviewer supervisors. Eliminating the technical review is also an option because we found that in most cases comments from the review were relatively minimal. In fact, in almost 90 percent of the projects the last three years, the technical team concurred with the field scores. Furthermore, because most of the technical review team members attend the advisory committee meetings, any additional comments and input regarding projects can be provided at those meetings.

In order to address the need for streamlining the evaluation process, we recommend the Legislature adopt the following supplemental report language.

The Department of Fish and Game shall report to the Legislature on or before December 1, 2001, on how it plans to streamline the evaluation process for the Fisheries Restoration Grant Program. The report should identify how much time will be saved in the evaluation process by implementing the streamlining recommendations.

Establish a Better Approach to Meet CEQA Requirement

Under the California Environmental Quality Act (CEQA), the department must conduct an environmental review of restoration projects funded by the Fisheries Restoration Grant Program. The department is now considering a different approach to meet CEQA requirements. We recommend the Legislature adopt supplemental report language requiring the Department of Fish and Game to submit a report on the approach it will take to meet CEQA requirements and an explanation of why that approach is the most appropriate.

Restoration Projects Subject to CEQA. The CEQA requires agencies to evaluate the environmental impacts of projects and avoid or mitigate environmental impacts when feasible. Although projects funded under FRGP are intended to enhance natural resources, they are subject to CEQA

requirements and must be reviewed for their environmental impacts. While the projects may benefit fish, there are other species including amphibians and native plants that may be harmed by the changes to their habitat.

Department Response to CEQA Requirements. In order to simplify the CEQA process for FRGP projects and avoid the time-consuming process of preparing separate environmental documents for each project, DFG has adopted in recent years the practice of reviewing individual projects and then grouping projects together in each region and preparing one "negative declaration." A negative declaration states that no substantial evidence exists that the projects may have a significant environmental effect.

Although grouping projects has advantages, there are two main concerns with this approach. First, some projects are held up while waiting for the field review of other projects to be completed. Also, if the environmental review is delayed for one project, it could hold up other projects. Second, as larger, more complex projects are funded, a negative declaration may not be sufficient to adequately cover the environmental implications of these projects because negative declarations can only be used for projects with "no significant environmental effect."

The department recognizes the problems with its current approach to meeting CEQA requirements for FRGP-funded projects. Department staff indicate that DFG is considering developing a programmatic environmental impact review (EIR) which would examine the implications of the fish restoration program as a whole. The main advantage of this approach is that once certain types of projects are covered under the programmatic EIR, DFG would not have to conduct a separate environmental review process for each project. This could substantially reduce project review and approval time. However, discussions with CEQA experts suggest that developing a programmatic EIR that will be comprehensive enough may be complicated because it will have to address different types of projects in different habitats. Furthermore, if there are many projects that do not fit into the programmatic EIR (thereby requiring individual environmental review), then the costs of developing a programmatic EIR may not be justified.

LAO Recommendation. Given the concerns with DFG's current approach to CEQA and the concerns raised regarding the use of a programmatic EIR, the department should analyze how best to meet CEQA requirements for the restoration program. Accordingly, we recommend the Legislature adopt the following supplemental report language.

The Department of Fish and Game shall report to the Legislature, on or before December 1, 2001 on how it will meet its California Environmental

Quality Act requirements for the Fisheries Restoration Grant Program. The report shall provide an analysis justifying why the selected approach is the most appropriate to take, including its costs and benefits.

Evaluation and Monitoring Efforts Should Be Increased

Evaluating the effectiveness of the restoration projects is important for accountability and program planning purposes. To date, the Department of Fish and Game has made limited efforts in this area. We recommend that the Legislature statutorily include evaluation as an essential component of the Fisheries Restoration Grant Program and require the department to submit periodic evaluation reports to the Legislature. We further recommend the adoption of supplemental report language requiring the department to submit an evaluation plan by February 1, 2002.

Monitoring and evaluating funded restoration projects for their effectiveness is important for both accountability and program planning purposes. Project evaluation is necessary in order for the Legislature to know what has been achieved with grant funds. Evaluation is also important for program planning purposes because it identifies which kinds of projects are most effective. Such information can provide the basis for funding future projects.

Little Effort to Evaluate Project Effectiveness and Impact. Current law does not require project evaluation and DFG has dedicated limited efforts to this activity. Current evaluation efforts are limited to a small sampling of only one of three categories of restoration projects.

In order to ensure that monitoring and evaluation of project effectiveness is conducted, we recommend the enactment of legislation that explicitly makes evaluation a component of FRGP and requires the department to submit periodic evaluation reports to the Legislature.

Department Is Developing Evaluation Plan. Our review indicates that the department is in the process of developing an evaluation component for the program. In order to ensure that DFG develops, in a timely manner, an evaluation plan which identifies the methodology to be used as well as how evaluation efforts would be staffed, we recommend the adoption of the following supplemental report language:

The Department of Fish and Game shall submit to the Legislature by February 1, 2002 an evaluation plan for the Fisheries Restoration Grant Program (FRGP). The plan shall include the methodology to be used to evaluate various types of projects funded by FRGP. It shall also identify the staffing levels which the department deems necessary to conduct project evaluations using the identified methodology.

Programmatic Proposals Should Be Subject To Legislative Oversight

While we support the department's effort to develop an evaluation program for the Fisheries Restoration Grant Program, we are concerned that funding for the current-year efforts were secured without legislative review and oversight. We therefore recommend adoption of budget bill language to prohibit the use of any funds for program-wide evaluation efforts without legislative review and approval of the expenditure proposal.

Programmatic Evaluation Proposed Without Legislative Approval. In order to fund the development of an evaluation program, (as discussed above) the department acted as a grantee to the FRGP and submitted a proposal in the current year for \$2.9 million to develop an evaluation and monitoring program. The DFG was eventually granted \$600,000 for the development effort.

We concur that developing a project monitoring and evaluation program has merit. However, we find that proposals such as the evaluation request are programmatic in nature. As such, they should receive legislative review and approval because they have fiscal and policy implications for the overall program. Therefore, in order to prevent the department from redirecting FGRP or other funds to support an evaluation plan without legislative review and approval, we recommend the adoption of the following budget bill language:

No funds appropriated to the Department of Fish and Game shall be used for a program-wide evaluation of the Fisheries Restoration Grant Program without the review and approval of the Legislature.

Legislature Should Specify Use for Proposition 13 Bond Funds

Proposition 13 provides a total of \$25 million in bond funds to improve salmon habitat, but does not provide specific criteria on how the money is to be spent. We recommend adoption of budget bill language and the enactment of legislation directing the money to be spent in accordance with statutory provisions governing Department of Fish and Game grants for salmon restoration.

Proposition 13, passed by the voters in March 2000, provides a total of \$25 million to DFG for salmon restoration. These funds can be used directly by DFG for projects or to provide as grants to various entities for projects. However, other than limiting to 3 percent the amount of funds that can be used to pay administrative costs, Proposition 13 does not specify how the funds are to be used or the process and criteria by which grants are to be selected.

For the current year, \$7.5 million in Proposition 13 funds are appropriated, which DFG plans to spend in accordance with current statutory provisions relating to FGRP. For the budget year, \$5.5 million will be available, with additional amounts available in subsequent years. In order that these bond funds are expended in the budget and future years in a manner consistent with other state funds used for fish restoration, we recommend that DFG expend Proposition 13 bond funds as part of FGRP. This can be achieved through the adoption of budget bill language for 2001-02 and the enactment of legislation for subsequent years. Doing so would provide more accountability regarding how the bond funds are expended.

OTHER ISSUES

Budget Proposal Will Expand Natural Community Conservation Planning (NCCP) Efforts

The budget proposes \$3.3 million for habitat assessment and conservation planning. The proposal would in effect expand the state's Natural Community Conservation Planning (NCCP) efforts beyond Southern California to the Central Coast and the Sierra foothills. Because the Legislature has expressed concerns about expanding the NCCP program, we recommend the proposal not be funded until legislation is enacted providing further guidance on expanding the state's role in NCCP. (Reduce Item 3600-001-001 by \$2,327,000 and Item 3600-101-0001 by \$1 million.)

Chapter 765, Statutes of 1991 (AB 2172, Kelley)—known as the NCCP Act—authorized the department to assist public and private agencies in preparing and implementing natural community conservation plans. These plans are intended to balance economic development with wildlife and habitat protection.

The NCCPs Represent a Different Approach to Habitat Protection. The NCCP process is designed to provide an alternative to the more traditional project by project, single species habitat protection efforts by developing regional habitat protection plans to protect the numerous species inhabiting targeted regions. Typically, under NCCP, species are conserved on a habitat basis in designated preserve areas. Economic development is facilitated elsewhere, outside the preserves, by contributing to the establishment of the preserve as mitigation for the adverse impact on species caused by the development. This approach to habitat conservation has been somewhat controversial. In particular, questions have been raised as to whether there is scientific evidence that shows NCCP plans in fact provide species protection.

Existing NCCP Efforts Limited to Southern California. Since 1991, the department's NCCP activities have been confined to Southern California and have focused on the habitat of the coastal sage scrub. To date, the state has contributed significant funds toward land acquisitions to implement existing NCCPs. Although the Southern California NCCP effort was initially proposed as a pilot program, to date there has been no evaluation of the effectiveness of the program in conserving habitat and species.

Over the years, the Legislature has consistently expressed its intent through budget bill language that the state's NCCP program should be limited to existing efforts in Southern California. In large part, this is because the Legislature has raised several concerns regarding the program, including: the scientific standards used for developing NCCP plans, the lack of evaluation of the NCCP pilot making it difficult to determine the effectiveness of the NCCP approach, and the costs of state involvement in implementing NCCP.

Budget Proposes to Expand NCCP. For 2001-02, the department proposes to continue its existing NCCP functions in Southern California at a cost of \$2.7 million. In addition, it proposes \$3.3 million to expand conservation planning efforts into the Central Coast and the Sierra foothills.

The proposal has three components. First, \$1.6 million is requested for data collection and habitat assessment and monitoring efforts, most of which will be used to support conservation planning needs. Second, the proposal includes about \$667,000 for large scale conservation planning efforts. While the proposal does not specifically limit these efforts to NCCP, discussions with DFG indicate that the conservation planning efforts will focus on NCCP. Third, the proposal includes \$1 million for grants to local governments to develop NCCP plans.

Proposed Expansion Warrants Legislative Direction. The conservation planning activities proposed in the budget represent a significant expansion of the department's NCCP program. Based on the program's experience in Southern California, such expansion is likely to lead to additional future state expenditures for habitat acquisitions to implement adopted plans. Given the Legislature's concerns with expanding the NCCP program, we recommend the Legislature not fund the proposed expansion until legislation is enacted providing further guidance on the state's role in expanding NCCP efforts.

Policy direction should be provided regarding the following issues:

- The geographic scope of the program, including the criteria DFG should use to determine where to expand its NCCP efforts.

- The role of the state relative to the role of local agencies and the private sector, in terms of developing the plans, implementing and funding the plans (mainly in the form of habitat acquisition), and monitoring and evaluating the effectiveness of the plans in protecting species.

Moreover, to address the Legislature's concerns with establishing standards and evaluations for NCCP, the legislation should provide for: (1) specific conservation requirements that must be included for approval of NCCP plans and (2) an independent evaluation of the effectiveness of existing NCCP efforts with regards to species protection and habitat conservation.

Accordingly, we recommend the request for \$3.3 million for NCCP efforts be deleted from the budget.

Court Rules Environmental Filing Fees Constitutional

The environmental filing fees charged by Department of Fish and Game have been ruled to be constitutional. However, the department's efforts to collect the fees are minimal. We recommend the department report to the Legislature at budget hearings on actions it plans to take to more effectively collect the environmental filing fees.

Chapter 1706, Statutes of 1990 (AB 3158, Costa) required DFG to collect environmental filing fees for projects subject to CEQA in order to defray the cost of managing and protecting fish and wildlife resources. The intent is to extend the user-based funding system used by the department, that relies heavily on the revenue from fishing and hunting licenses. Specifically, costs of wildlife protection and management would be expanded to those who would consume those resources through urbanization and development. The costs include the costs of reviewing projects under CEQA, maintaining databases, conducting research, and managing and protecting California's fish and wildlife resources.

The collection of the fees is delegated to the county clerks, Office of Planning and Research, and state agencies that act as lead agencies for the CEQA process. The amount of the fee paid to DFG is determined by whether a negative declaration (\$1,250) or an EIR (\$850) is prepared for the project. All CEQA lead agencies can exempt a project from the fee by finding the project is *de minimis* in its impact on wildlife.

Court Rules Fees Constitutional. In 1991, a suit was filed against DFG alleging that the fees were unconstitutional taxes. The suit charged that there was no nexus between the services provided by DFG in reviewing environmental documents and the amount of the fee charged. As a consequence, the suit alleged amounts charged were not fees but rather they

were taxes. Further, because the State Constitution requires that new state taxes be enacted by a two-thirds vote of the Legislature, the suit argued that the fees violated the State Constitution in that they were enacted only with majority vote of the Legislature.

In April 2000, the Third District Court of Appeal ruled that the fees were constitutional. Specifically, the Court of Appeal found that DFG is a part of a regulatory system in the state to protect and sustain the environment, and it plays a vital regulatory role under CEQA. The fees charged under AB 3158 are imposed only to cover the reasonable cost of providing services necessary to implement CEQA. The court further found that DFG met its burden of proof showing that the amount of revenues generated by the AB 3158 fees was far less than the cost of the environmental reviews provided.

Department's Efforts to Implement AB 3158 Have Been Limited. The DFG suspended collection of AB 3158 fees during 1995 as a result of a settlement decision regarding AB 3158. Subsequently, that settlement was challenged and in 1996 DFG notified counties and lead agencies to resume collection. Because counties and state agencies act as collectors of the environmental filing fees, the department must work closely with them to ensure compliance with AB 3158. To date, DFG has only made limited efforts to encourage counties and state agencies to collect the fees. These efforts have consisted primarily of sending a letter to counties and state agencies informing them that they must collect the fees. The department also has not conducted a review of the fee as well as the adequacy of the revenues generated or recommended any changes be made to the fee statute, as required by AB 3158.

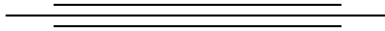
To address the Legislature's concern regarding the department's efforts to collect fees, the Legislature required, in the *Supplemental Report of the 1999 Budget Act*, DFG to report on a comprehensive plan to ensure AB 3158 fee collections consistent with law. In February 2000, the department submitted the required report. The report indicated that DFG would conduct an audit survey of selected noncompliance counties in order to identify the amount of fees not being collected. The report also indicated DFG planned to send a letter to all counties clarifying the AB 3158 statute. At the time this analysis was prepared, the department had not completed these activities and collection activities continue to be minimal.

Department Should Report on Its Fee Collection Plans. We think an effective collection of AB 3158 fees is important for two reasons. First, revenues collected can be an important source of funding for the department's environmental review activities which are a key responsibility of the department. These revenues can reduce the department's reliance on the General Fund. In the current and budget years, revenues

are projected to be \$1.8 million. However, the current projections assume the existing minimal collection effort by the department. We think AB 3158 has the potential of generating substantially more revenue with more effective implementation.

Secondly, in enacting AB 3158, the Legislature's intent was for the costs of managing and protecting the state's resources to be shared, in part, by those who would consume resources through urbanization and development. To the extent the fee is not consistently implemented throughout the state, the impact of urbanization and development is not equitably borne by those who caused it.

In view of the above, we recommend the department report to the Legislature at budget hearings on actions it plans to take to more effectively collect fees. The department should also advise the Legislature regarding any changes in the fee statute (such as fee schedule) it deems appropriate.



CALIFORNIA COASTAL COMMISSION (3720)

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

The Coastal Commission has its headquarters in San Francisco and six regional offices throughout the coastal zone. The commission proposes expenditures totaling \$15.8 million in 2001-02. This represents a decrease of \$571,000, or 3.5 percent, below estimated current-year expenditures.

Permit Activity Outpacing Staff Resources

Over the past decade, staffing for the Coastal Commission's coastal management program has grown by about 14 percent. However, the size and complexity of the workload associated with this program has increased even more.

As shown in Figure 1 (see next page), the primary workload of the Coastal Commission's coastal management program—which oversees planning and development in the coastal zone—has grown over the past decade. Specifically, the number of coastal development permits reviewed by the commission increased by about 15 percent and the number of permit appeals referred to the commission increased by about 230 percent since 1992-93.

The increase in permit activity is due in part to the strength of the state's economy in recent years. Moreover, with a shrinking amount of undeveloped land in many coastal communities, efforts to further de-



velop these coastal areas can be controversial and contentious. This, in turn, has contributed to the increasing number of local planning decisions that are appealed to the commission. The commission must devote substantial staff time to reviewing these often-complex permit applications and appeals. While the commission’s staffing has grown by about 14 percent over the same period, this growth has not kept pace with the increasing volume and complexity of this workload.

Commission Not Performing Required Local Coastal Program Reviews

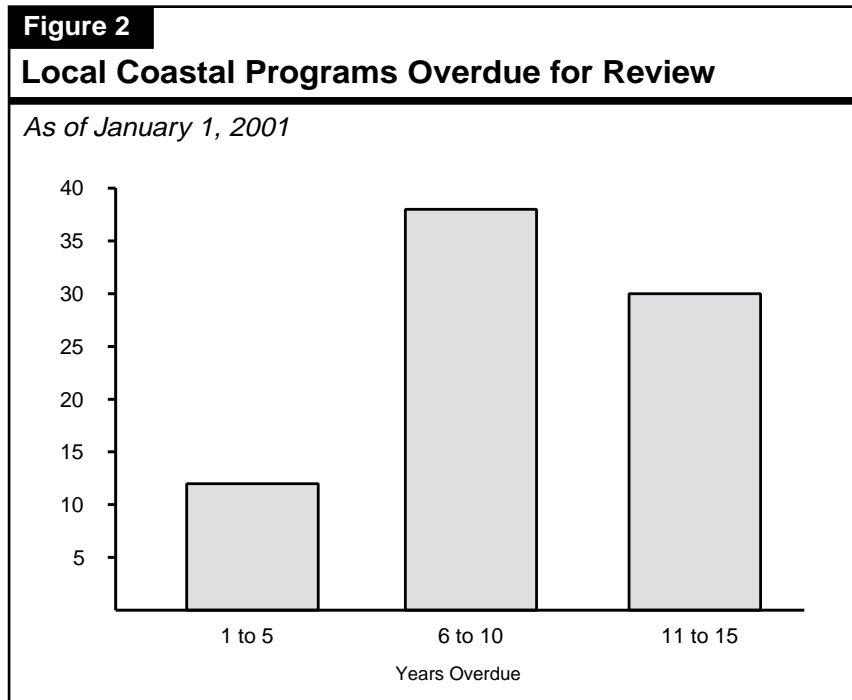
The commission has not performed a statutorily-mandated review of 91 percent of the state’s local coastal programs (LCPs) within the past five years. The failure to review LCPs leaves the state susceptible to lawsuits. We recommend an augmentation of \$1.4 million and 14.5 positions to reduce the backlog of LCP review.

Land use planning in the coastal zone, as in the rest of the state, is the primary responsibility of local governments. However, the Coastal Act imposes a number of requirements on land use in the coastal zone. Most

significantly, the act requires local governments to adopt LCPs to govern development of land in their jurisdictions that lie within the coastal zone.

The commission certifies LCPs for conformity with the Coastal Act when they are developed, and whenever they are amended. To date, LCPs for 88 segments of the coastal zone have been certified by the commission. In addition, statute requires the commission to review certified LCPs at least once every five years (1) to assess whether the LCPs are being implemented in conformity with the Coastal Act, and (2) if necessary, to make suggestions for corrective action.

Most LCP Reviews Overdue. Currently, 80 certified LCPs have not been reviewed within the past five years. This amounts to 91 percent of all certified LCPs. As Figure 2 shows, most LCPs are between six and ten years overdue for review.



The commission asserts that it lacks staff resources to perform LCP reviews at a rate that would meet the mandated five-year cycle. In 1999-00, the commission received baseline funding for two permanent positions dedicated to LCP review. Aside from these two positions, the department directs its staff first to meet its permit issuance workload, rather than

LCP review, because of the greater urgency of permit review deadlines, and the more immediate impact of permitted projects on coastal resources.

Failure to Review Can Weaken Coastal Protection. The LCPs provide an important link between local permit activity and coastal protection. The LCPs are intended to guide local planning in a way that balances economic, environmental, public access, and other needs. However, over time, the cumulative impact of development in and around the region, changes in laws and regulations, and advances in the understanding of ecosystems and watersheds, may cause LCPs to become outdated. Periodic reviews and updating of LCPs are intended to address this problem. To the extent the commission fails to conduct these five-year reviews, however, local permit actions, and consideration of appeals of those actions by the commission, can be based on outdated standards.

In addition, by reviewing LCPs every five years the commission would be able to assess the extent to which local development activity has in fact been consistent with the Coastal Act. These reviews thus can serve as an important oversight mechanism to monitor compliance with state law. By neglecting these reviews, the commission is less able to fulfill its responsibility as the state's planning and management agency for the coastal zone.

Failure to Review Leaves State Susceptible to Litigation. By not fulfilling its statutory obligation to review LCPs in a timely fashion, the commission becomes susceptible to litigation. Indeed, in 1999 the commission was sued for approving an amendment to an outdated LCP. The commission lost this case in superior court, and was ordered to reverse its approval. The department is currently party to another lawsuit relating to its failure to review an LCP within the statutory five-year time frame. Responding to lawsuits can require considerable staff time and expense. In addition, a series of losses in the courts could diminish the commission's credibility and effectiveness in enforcing the Coastal Act.

Failure to Review Can Impede Local Planning and Development. In the superior court case noted above, the court prevented the commission from approving an amendment to an LCP. The amendment was sought by a property owner who needed the amendment to proceed with a development. Although the commission had determined that the amendment was appropriate, the court decided that no amendment could be approved until the entire LCP had undergone the required five-year review. To the extent that the court's decision could be applied to other LCPs, the commission's failure to perform five-year LCP reviews could impede coastal planning efforts.

Legislature Calls for Workload Estimate. The commission's failure to conduct periodic reviews of LCPs was discussed during last year's budget hearings. (Please see pages B-94 through B-96 of our *Analysis of*

the 2000-01 Budget Bill.) As a result of those hearings, the Legislature required the commission to provide, by January 10, 2001, a report on the scope of work and resources required to eliminate the review backlog.

Work Plan Identifies Need for Additional Staff. As required, the commission's report identifies the staffing need for completing reviews of high-, medium-, and low-priority LCPs. These staffing estimates appear in Figure 3. The commission estimated that it would require an additional 83.5 personnel-years in order to eliminate its current backlog. However, the commission suggests that the backlog could be eliminated over a five-year period, requiring the dedication of only 16.5 positions.

Figure 3	
LCP Review Staffing Estimates	
Total Personnel-Years Needed To Eliminate Backlog	
All high-priority LCPs	50.5
All medium-priority LCPs	27.0
All low-priority LCPs	6.0
Total	83.5
Annual Staffing to Review All LCPs Over Five Years (positions):	
North Coast	4.5
North Central Coast	4.5
Central Coast	4.5
South Central Coast	3.0
South Coast	3.0
San Diego	2.0
Total	16.5
Source: Coastal Commission's January 10, 2001 LCP report.	

Eliminating Backlog Would Require Baseline Augmentation. Our review finds that the commission cannot redirect existing staff resources to the performance of five-year reviews of LCPs without impeding its ability to perform other statutorily-mandated activities. The commission does, however, currently have two positions dedicated to LCP review.

Therefore, we recommend that the Legislature augment the commission's budget by \$1.4 million and 14.5 positions. We further recommend the adoption of the following budget bill language to ensure that these new positions, as well as the two existing positions, are dedicated to LCP review.

3720-001-0001

Of the amount included in this item, \$1,560,000 shall be for support of 16.5 positions. These positions shall be dedicated exclusively to the review of local coastal programs as (LCPs) required by Public Resources Code 30519.5, and as outlined in the commission's LCP review work plan dated January 10, 2001. The review of LCPs shall follow the priorities established in the work plan. The department shall annually, on or before January 10, provide to the Legislature a report that updates the review status of all LCP segments.

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PARKS AND RECREATION (3790)

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

The state park system consists of 265 units, including 39 units administered by local and regional agencies. The system contains approximately 1.3 million acres, which includes 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 \$645.1 million in total expenditures for the department in 2001-02. This is an overall decrease of \$656 million (51 percent) below estimated current-year expenditures. The budget proposes about \$276.7 million in departmental support, about \$300 million in local assistance and \$68.5 million in capital outlay expenditures. (Please also see the "Capital Outlay" chapter of this *Analysis*.)

The reduction of \$656 million includes a decrease of (1) \$101.5 million in support expenditures, (2) \$352.3 million in local assistance, and (3) about \$202.1 million in capital outlay expenditures. The \$101.5 million net decrease in support expenditures reflects mainly the expenditure in the current year of the remaining funds (\$119 million) from the one-time appropriation provided in 1999-00 for deferred maintenance. The decrease in local assistance and capital outlay reflects mainly a decrease of Proposition 12 bond fund expenditures and one-time General Fund expenditures for various local park projects and state park improvements.

Of the total proposed expenditures in 2001-02, about \$149 million (23 percent) will come from the General Fund; about \$57 million will come from the State Parks and Recreation Fund; \$336.4 million from Proposi-

tion 12; and the remainder (\$103 million) from various other state funds, federal funds, and reimbursements.

Ongoing Maintenance Needs Still Largely Unknown

The department has not identified the level of funding required for an adequate ongoing maintenance program. Without this information, it is difficult for the Legislature to evaluate the appropriate funding level for ongoing maintenance. We recommend the Legislature adopt supplemental report language requiring the department to report on the funding level required for an adequate ongoing maintenance program.

The DPR oversees large and diverse natural and cultural heritage holdings. As a result, its maintenance needs are diverse and include buildings, grounds, trails, cultural resources, and natural resources. Funding ongoing maintenance activities at an adequate level is important to avoid a maintenance backlog, high repair costs, and the loss of resources.

Current Maintenance Program Inadequate. Since the 1980s, the department has accumulated a large backlog of deferred maintenance. This accumulation is primarily the result of inadequate funding for ongoing maintenance. To partially address this problem, funding for ongoing maintenance was increased for the current year to a total of about \$41 million. For 2001-02, the budget proposes to supplement the current-year level with an increase of \$11 million specifically dedicated to the maintenance of natural resources. The additional funding is for activities such as erosion control, prescribed fire, and exotic plant control. However, the department indicates that the current funding level is still not adequate, but it is unable to estimate at this time the level of funding needed for an adequate ongoing maintenance program because of an antiquated record-keeping system.

In order to better assess its maintenance needs, the department plans to purchase a computer software package currently in use by the National Park Service. The new system will require districts to identify and enter their maintenance needs into a database and send the data via the Internet to headquarters. This will help DPR to quickly compile information on all of the park districts. The system will also automatically estimate the costs of maintenance needs entered into the database. The department plans to have information on its current maintenance needs by October 2001. We note that it is important to collect this information on a consistent basis. Additionally, the department should establish criteria and standards to guide the prioritization of maintenance work to be included into the database.

Department Should Report on Maintenance Needs. Without information on DPR's ongoing maintenance needs, it is difficult for the Legislature and the administration to evaluate the appropriate level of funding for ongoing maintenance. As DPR expects to have this information by October, we recommend the adoption of the following supplemental report language directing DPR to provide the Legislature with that information.

On or before December 10, 2001, the department shall submit to the Chair of the Joint Legislative Budget Committee and the chairs of the fiscal committees of each house of the Legislature a report on its ongoing maintenance needs. The report shall include: (1) an update on implementation of the software package to help the department manage its ongoing maintenance activities; (2) a cost estimate of the ongoing maintenance needs, by category (buildings, grounds, miscellaneous structures, systems, trails, cultural resources, and natural resources); (3) an estimate of the required staffing or contracting needed for routine maintenance; (4) the current expenditure level of ongoing maintenance in each of the categories.

Update Needed on Deferred Maintenance

The Legislature has provided a total of \$187 million for the department to reduce a substantial backlog of deferred maintenance. The department is in the process of determining the amount of the remaining backlog. We recommend the department provide at budget hearings an updated estimate on the amount of deferred maintenance yet to be addressed.

As we discussed in our *1999-00 Analysis*, the department began to accumulate a backlog of deferred maintenance in the 1980s when the state's fiscal constraints led to the underfunding of the ongoing maintenance needs of the department. (Please see page B-74 in the *1999-00 Analysis* for a more detailed discussion of the department's deferred maintenance.)

In 1998-99, the Legislature provided \$30 million to begin to address the department's deferred maintenance needs. For 1999-00, the Legislature provided an additional \$157 million for the same purpose. The department estimated that the funding would address about half of the identified deferred maintenance projects. The department developed a plan to expend these funds over three years through 2001-02. Our review shows the department is on schedule for expending the funds. In addition, for 2001-02, the budget proposes \$10 million from the State Parks System Deferred Maintenance Account for DPR to continue to reduce its maintenance backlog.

Update Needed on Deferred Maintenance. While the department has been working to reduce the deferred maintenance backlog identified in 1998, it is also deferring other ongoing maintenance projects. This is be-

cause, as we discussed earlier, the department does not have an adequate ongoing maintenance program. Therefore, the original estimate of reducing the deferred maintenance by about half over three years may no longer be valid. In addition, DPR is in the process of recalculating its remaining deferred maintenance needs based upon its experience with the deferred maintenance work completed thus far. The department reports it will have an initial update on its deferred maintenance needs by April 2001. This information is important for the Legislature to review in considering whether it should allocate additional funding for the department's remaining deferred maintenance needs. Accordingly, we recommend that the department provide at budget hearings an update on its deferred maintenance needs.

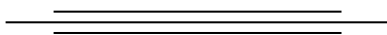
Proposal for New Concession Lacks Key Information

We recommend that the Legislature withhold authorizing the department to solicit proposals for a new concession contract for Hearst Castle until the department provides information on the terms of the proposal.

Hearst San Simeon State Monument. The concession at the Hearst San Simeon State Monument (popularly known as Hearst Castle) is among the top five park concessions in terms of gross sales and rent revenues. In 1999, about \$12 million in revenues were generated for the state, with over 800,000 visitors. The current concession expired in 1998, and is being continued on a month-to-month basis. The budget requests authority to solicit proposals for a new food, gift, and retail sales concession contract.

Our review of the request to solicit proposals found that the department has not finalized major provisions for the terms of the proposal. For example, the length of the contract, amount of capital investment, the rent, and provisions for sit down dining have not been established. The DPR is currently in the process of analyzing the costs and benefits to the state of three different concession options, as well as combinations of those options. The department expects to select a final option by spring 2001.

Recommendation. Without information on important elements of the proposal such as capital outlay investments, contract terms, rents, and services to be provided, the Legislature is not able to determine whether the proposal is in the state's best interest. The approval of the proposed concession at this time is premature. Accordingly, we recommend the Legislature withhold approval of the proposal until the department provides to the Legislature the terms of the concession that it deems most appropriate based on its current analysis.



AIR RESOURCES BOARD (3900)

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

The budget proposes \$308.3 million from various funds, primarily the Motor Vehicle Account and the General Fund, for support of ARB in 2001-02. This is an increase of about \$65 million, or 27 percent, from estimated 2000-01 expenditures. This increase reflects (1) \$100 million from the General Fund for grants to replace or retrofit older diesel engines with cleaner alternatives, (2) \$50 million from the General Fund for grants to subsidize the cost of zero-emission vehicles, and (3) an increase of \$8.5 million (various funds) for equipment, such as for air monitoring. The budget also reflects the elimination of a one-time expenditure in the current year of \$50 million to replace or retrofit older diesel school buses.

Diesel Emission Reduction Proposal Raises Policy Issues

We find that the Governor's proposal for a \$100 million grant program to replace and retrofit older diesel engines to offset emissions from proposed power generation plants raises a number of policy issues. Should the Legislature wish to fund this program, we recommend that funding be put in legislation that establishes the objectives for the program, sets grant criteria, and guides the sale of the emission offsets. Therefore, we recommend that the funding proposed for this program be deleted from the budget bill. (Reduce Item 3900-001-0001 by \$100 million.)

Federal Law Requires Pollution Offsets. Federal law requires that new producers of pollution—for example, a new business—take steps to offset the pollution which they generate. They can offset the pollution they produce in several ways, including purchasing emission reductions (often referred to as “credits”) that are made elsewhere by other businesses. Such an approach is intended to accommodate the development of businesses while mitigating pollution which they might generate.

Budget Proposal to Facilitate Siting of “Peaker” Power Plants. The budget proposes to establish such an emission reduction process in order to facilitate the development of specialized energy producers known as “peakers.” These are power plants that operate for limited hours during limited periods of peak demand, primarily during the summer months. Since they operate for limited periods, peaker plants have a much smaller generation capacity than the typical power generation plant.

Specifically, the budget proposes \$100 million in one-time General Fund monies for a grant program to encourage the replacement or retrofit of older diesel engines in trucks, farm and construction equipment, and marine vessels. Grants will be used to cover the incremental cost of retrofitting such engines or the purchase of a cleaner alternative. The replacement or retrofit of older diesel engines would reduce emissions of oxides of nitrogen (NOx) and fine particulate matter (PM). The budget intends that the emission reductions created would then be sold to peaker power generators who are required to offset air emissions they produce.

The Legislature recognized the role of peaker plants in addressing energy needs by enacting Chapter 329, Statutes of 2000 (AB 970, Ducheny). Among other things, Chapter 329 authorized local air districts to issue temporary permits for peaker plants with an expedited review process in order to facilitate the siting of these plants. Chapter 329 also required peaker plants to obtain air emission offsets, or pay an emission mitigation fee if offsets are unavailable.

Although only one application for siting a peaker power plant has recently been made to the State Energy Resources Conservation and Development Commission, as many as 50 may be in the planning stages throughout the state, mainly in urbanized areas.

Proposed Program Deviates From Existing Diesel Emission Reduction Grant Program. Since 1998-99, ARB has implemented a grant program to encourage the replacement of older diesel engines with cleaner alternatives. The Legislature established a number of criteria for the award of grants under this program—referred to as the Carl Moyer program—with the enactment of Chapter 923, Statutes of 1999 (AB 1571, Villaraigosa). The Carl Moyer program is funded at \$45 million in 2000-01. The budget proposes no funding for this program in 2001-02.

According to ARB, the proposed program would use Carl Moyer program criteria to the extent possible. However, our review found that the proposed program will deviate from the Carl Moyer program in a number of important respects. These include:

- ***Purpose of Program.*** The purpose of the Carl Moyer program is to create air emission reductions that count towards the state's commitments in the federally required State Implementation Plan (SIP). In contrast, the primary purpose of the proposed program is to create air emission offsets for the first two years of operation of new peaker plants. (However, emission reductions created under the proposed program in the third and later years would similarly count towards the SIP commitments.)
- ***Initial Allocation of Grant Funds.*** Under the Carl Moyer program, funds are allocated to the air districts (who would then award the grants to specific projects) based on population and the amount of air emission reductions in a district needed to attain air quality standards. In contrast, under the proposed program, grant funds would be allocated to the local air districts based primarily on where the new peaker plants would be located.
- ***Matching Requirements.*** Under the Carl Moyer program, local air districts are required to provide a 50 percent match for the grant funds. No matching requirement is planned for the proposed program.

Policy and Implementation Issues Raised. We think that there are a number of important policy and implementation issues that are raised by this proposal for the Legislature to consider. These issues fall into two broad categories. These include:

- The program's overriding goal.
- The administrative process for transferring emission offsets to the new power plants, including the setting of the price for the offsets.

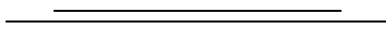
The Program's Overriding Goal: Balancing Power Plant Siting and Air Quality Improvements. Our review finds that the initial goal of the budget proposal is to create emission offsets for peaker plants (for two years), rather than to improve air quality. After two years, the emission reductions created by the program serve solely to improve air quality. Because funds will be allocated based on power plant siting needs (rather than a district's air quality), the proposed program will likely be significantly less cost-effective than the Carl Moyer program in achieving air quality improvements. According to ARB, the \$45 million for the Carl

Moyer program in the current year will likely result in 7 tons of NOx emission reductions per day. However, ARB anticipates that the \$100 million from this proposal will result in only 5 tons of NOx emission reductions per day beginning in the third year.

Transferring Offsets to the Power Plants. Our review finds that the administration has not yet determined how the “trading” (that is, the transfer and sale) of an emission offset to a power plant will be conducted. For example, while some local air districts have established rules for the generation and transfer of offsets, others have not. Therefore, it needs to be determined who will “own” the offsets generated by the grants, who will be responsible for overseeing the trading of the offsets, and what rules are to govern the trading.

In particular, the question of how the price for the offsets will be determined is not resolved. According to ARB, offsets may not necessarily be priced at fair market value in order to make the offsets affordable to the peaker plants.

Issues Should Be Addressed in Legislation. The proposed program is consistent with Chapter 329’s intent that the siting of peaker plants be expedited. However, we think that there are policy and implementation issues that should be addressed by the Legislature prior to approving funding for the program. Without prejudice to the merits of this proposal, we recommend that the \$100 million for this program be deleted, and that the program and its funding be established in legislation, should the Legislature wish to proceed with the program. Such legislation should establish clear objectives for the program, set grant criteria, and guide the sale of the emission offsets that are generated.



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. 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 carried out 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 \$93.9 million from various funds (primarily special funds) for support of CIWMB. This is a reduction of \$16.5 million, or 15 percent, from estimated 2000-01 expenditures. The net reduction reflects a decrease of \$12.3 million for (1) recycling market development loans and (2) promoting used oil recycling due to lower resources in the special funds supporting these programs. The budget proposes an increase of \$1.9 million to extend 23.5 limited-term positions for two years to increase the percentage of waste diverted from landfills.

Budget Does Not Implement Recent Tire Recycling Legislation

The budget fails to implement recent legislation—Chapter 838, Statutes of 2000 (SB 876, Escutia)—that expanded the tire recycling program. This failure is because the board has yet to adopt an expenditure plan for the program in the budget year. We recommend that the board submit its plan, consistent with Chapter 838, to the Legislature by the time of budget hearings.

Board's Tire Recycling Program Addresses An Environmental Problem. For about ten years, the board has administered a tire recycling pro-

gram which provides grants, loans, and contracts to public agencies and businesses for research, business development, tire pile cleanup, and other specified purposes to reduce landfill disposal of waste tires. In addition, the board regulates waste tire management facilities and waste tire haulers under this program. Currently, there are at least two to four million waste tires in illegal stockpiles that have been identified and investigated by the board. There is likely a significant number of waste tires in other stockpiles that remain to be identified or investigated. These sites pose substantial public health and safety concerns, including the risk of fires, mosquito breeding, and groundwater contamination. As an example of the risks posed, a major fire at an illegal waste tire stockpile erupted near the town of Westley in September 1999 that burned several million tires over a period of many months.

Legislature Enacted Changes to Tire Recycling Program. In 1999, the board reported to the Legislature on strategies and funding requirements to eliminate illegal waste tire stockpiles and increase markets for recycled waste tires. In response to this report, the Legislature enacted Chapter 838, Statutes of 2000 (SB 876, Escutia), to expand and make a number of improvements to the board's tire recycling program. The changes include:

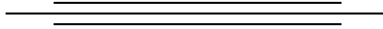
- Increasing the fee which funds the program from 25 cents to \$1 per tire on tire purchases.
- Requiring the board to implement a new system to track the transportation of used tires.
- Requiring that at least \$6.5 million annually, beginning in 2001-02, be appropriated from the tire fee revenues to clean up and take other remedial actions at waste tire stockpiles throughout the state.
- Requiring the board to adopt a five-year plan, to be updated every two years, to establish goals and priorities for the tire program.

Budget Does Not Implement Chapter 838. While the Governor's budget reflects higher revenues in the California Tire Recycling Management Fund due to the fee increases enacted by Chapter 838, the budget does not reflect any expenditure proposals to implement the requirements of Chapter 838. Rather, the budget proposes expenditures for the tire recycling program at exactly the same level as in the current year—\$5.2 million. Accordingly, the budget is contrary to Chapter 838's requirement that *at least* \$6.5 million be spent annually from the fund to clean up and remediate waste tire piles.

At the time this analysis was prepared, the board had not taken action to approve its expenditure plan for the tire recycling program in 2001-02. The board also had yet to approve the five-year plan for the program, as required by Chapter 838. According to the board, it hopes to

finalize the plan by April 2001. Without such a plan, the Legislature is unable to assess the board's priorities for the tire recycling funds and determine whether the budget proposal is consistent with Chapter 838 and other statutory requirements.

Board Should Submit Expenditure Plan by Budget Hearings. In order to enable the Legislature to evaluate the budget proposal for the tire recycling program, we recommend that the board submit its expenditure plan for this program to the Legislature by budget hearings. In particular, the plan should identify how it will implement the statutory direction for the program specified in Chapter 838.



DEPARTMENT OF PESTICIDE REGULATION (3930)

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

The budget proposes expenditures of about \$63.4 million in 2001-02 for the department, including \$40.9 million from the DPR Fund (funded mainly by an assessment on pesticide sales) and \$17.1 million from the General Fund. The proposed expenditures are \$1.4 million, or 2 percent, above estimated current-year expenditures.

Major Funding Shortfall Will Occur Beginning in 2002-03

The department will face substantial funding shortfalls beginning in 2002-03 due to the scheduled reduction of the mill assessment rate in January 2003. The Legislature will likely be called upon this session to determine a new assessment rate for future years.

Mill Assessment Is Primary Source of Funding for Department. The primary source of funding for DPR is an assessment levied on the sale of registered pesticides for use in the state (the mill assessment). The mill assessment is currently levied at a rate of 18.25 mills (1.825 cents) per dollar of sales. Of this amount, current law requires that 6 mills be distributed to the counties for enforcement activities and 0.75 mill be distributed to the Department of Food and Agriculture. The remaining 11.5 mills are available for support of DPR.

For 2001-02, revenues from the mill assessment are estimated to be about \$34 million, with about \$22 million available for the department's operations.

Current Mill Rate Will Revert to Lower Level in 2003. Up until the early 1990s, the regulation of pesticides in the state was funded primarily from the General Fund. In light of the General Fund condition in the early 1990s, funding for pesticide regulation was shifted largely to the mill assessment, which was increased temporarily from 9 mills to 22 mills for 1992 through 1997. During this time, the DPR Fund built up a substantial reserve. In view of the large reserve, Chapter 695, Statutes of 1997 (SB 1161, Costa) was enacted to lower the mill rate for five years from 1998 through 2002. The lower rate allowed the department to maintain its program level by drawing down the accumulated fund reserve.

Pursuant to Chapter 695, the mill rate will revert on January 1, 2003 to 9 mills—the rate that existed prior to 1991. Of the 9 mills, 6 mills will continue to be distributed to the counties for enforcement, with the remaining 3 mills available for DPR's operations.

Major Shortfall in DPR Fund Beginning in 2002-03. Figure 1 shows projected revenues and expenditures in the DPR Fund for 2002-03 and 2003-04, assuming that the mill assessment reverts to the 9 mill rate on January 1, 2003. The figure also assumes that state operations expenditures, and revenues from sources other than the mill assessment (mainly registration renewal and license fees), will remain the same as proposed for 2001-02. (Allocations of revenues to the counties will increase slightly given the formula that applies under current law.)

Figure 1

Department of Pesticide Regulation Fund Revenues and Expenditures

2001-02 Through 2003-04
(In Millions)

	2001-02 ^a	2002-03	2003-04
Revenues ^b	\$37.2	\$34.4	\$21.9
Expenditures	41.0	41.8	42.5
Difference	-\$3.8	-\$7.4	-\$20.6
Carryover reserve ^c	\$4.0	\$0.2	-\$7.2
Surplus/Deficit	\$0.2	-\$7.2	-\$27.8

^a Based on 2001-02 Governor's Budget.

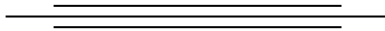
^b Mainly mill assessment.

^c From prior year.

As shown in the figure, expenditures are projected to exceed revenues by \$7.4 million in 2002-03 and by \$20.6 million in 2003-04, resulting in substantial funding shortfalls.

The shortfalls will be borne by DPR. This is because at the lower mill rate, counties will continue to receive revenues from 6 mills of the mill assessment, with revenues from the remaining 3 mills available for DPR. Assuming some increase in pesticide sales in future years, the department projects that annual mill assessment revenues available for its support will decline from \$22 million in 2001-02 to about \$6 million in 2003-04 (the first full fiscal year at the 9 mill rate). At current expenditure levels, this decrease would represent over 30 percent of the department's budget. The impact of a decrease of this magnitude would cut across most of the department's programs.

In order to address the impending funding shortfall in the DPR Fund, the Legislature will likely be called upon this session to determine the appropriate level of mill assessment rate for providing ongoing support of the state's pesticide regulation activities. As part of its evaluation, the Legislature should consider (1) the department's total funding requirements to support its currently mandated programs and (2) whether the range of current programs is the appropriate one for the future. The Legislature should also determine the appropriate mix of funding sources (General Fund versus fees) to support departmental activities.



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 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 \$872.9 million from various funds for support of SWRCB in 2001-02. This amount is a net increase of \$41.6 million, or about 5 percent, over estimated current-year expenditures. Major budget proposals include (1) \$100 million for the Clean Beaches Initiative, (2) an increase of \$8.1 million to control stormwater runoff, (3) \$3.2 million to improve information management, and (4) \$3 million for research and monitoring to improve Lake Tahoe water quality. In addition, the budget proposes \$9.6 million to continue, and augment, a one-time increase in the current year to reduce backlogs in permit updates and increase inspections. Finally, the budget proposes a

reduction of \$52.6 million for local projects funded from Propositions 13 and 204 bond funds.

THE TMDL PROGRAM: MAJOR CONSEQUENCES IF BOARD DOES NOT WORK BETTER AND FASTER

The Total Maximum Daily Load (TMDL) program implements a federal requirement to address pollution in the state's most seriously impaired water bodies. The state lags in developing TMDLs (plans that allocate responsibility for reducing pollution), has no long-term work plan, and is spending ten times the national average to develop each plan. The slow pace of developing TMDLs delays water quality improvements and may result in a loss of both federal funds and state control over aspects of water quality regulation.

We have identified a number of efficiencies and improvements that can be made in the TMDL program. We also recommend that the State Water Resources Control Board develop a long-term plan for the program in order that funding requirements can be evaluated.

Background

What Are TMDLs? Federal law enacted in 1972 requires states to periodically compile lists of water bodies that, in spite of controls on *point sources* of pollution, are failing to meet water quality standards. *Point sources* of pollution are those sources that discharge waste directly into water bodies (such as rivers, lakes, and streams), and include wastewater treatment plants and factory pipes. In contrast, *nonpoint source* pollution is created when water picks up contaminants from pesticide use, mining, logging, and other sources and deposits them in water bodies.

States are required to develop plans—called Total Maximum Daily Loads (TMDLs)—to meet water quality standards in the impaired water bodies that have been listed. A TMDL is developed for each pollutant contributing to the impairment of a listed water body. The development of a TMDL involves the following steps:

- Determination of how much of a particular pollutant a water body can receive from all sources and still meet water quality standards.
- Determination of how much of the existing level of pollution must be reduced to meet water quality standards.

- Allocation of responsibility for reducing pollution to the acceptable level among the various contributing sources, including both point and nonpoint sources.
- Development of a plan to implement the TMDL. While implementation plans are not currently a federal requirement, federal regulations effective later this year will require these plans.
- Adoption of a regulation (a “basin plan amendment”) to establish actions to implement a TMDL, such as revising permits to control waste discharges.

When a listed water body later meets water quality standards, it is “de-listed.” Neither state nor federal law specifies a time schedule for the development or implementation of TMDLs or for when listed water bodies should become de-listed. Only three of the 18 impaired water bodies on the state’s initial list from 1976 have been de-listed.

State Versus Federal Role. The state is primarily responsible for compiling the list of impaired water bodies and developing TMDLs. This is carried out by the nine regional water quality control boards, operating under SWRCB’s oversight. The regions’ lists and TMDLs are both submitted to SWRCB for its review and approval.

A number of other state agencies assist in the development of TMDLs, depending on the sources of pollution and beneficial uses of a particular water body. For example, the Department of Pesticide Regulation (DPR) would be involved if pesticides were the pollutants of concern, and the California Department of Forestry and Fire Protection (CDFFP) would comment on a TMDL if timber harvesting was contributing to the impairment of a water body. The Department of Fish and Game would be involved if fish and wildlife were beneficial uses of water that were impacted in an impaired water body.

The list of impaired water bodies and TMDLs are submitted to the U.S. Environmental Protection Agency (U.S. EPA) for its review and approval. If U.S. EPA rejects a particular TMDL, it must establish the TMDL itself. In some cases, the development of TMDLs is carried out under a federal court settlement. These TMDLs may be developed by U.S. EPA or delegated by U.S. EPA to the state to develop.

The TMDL Requirements Largely Ignored from 1972 to the Early 1990s. The requirement for TMDLs was largely ignored by federal and state water quality agencies until the early 1990s. Until then, water quality regulation had been focused on controlling point sources of pollution through state and federal permitting programs. Although water quality had been improving, over 40 percent of assessed water bodies nationwide remained too polluted for fishing or swimming. It became apparent that the re-

maining water pollution problems—largely associated with nonpoint source pollution—required different solutions. The activation of the TMDL program in the 1990s, in part instigated by lawsuits against the federal government to enforce the TMDL requirements, provides a planning framework to address these problems.

Current State List of Impaired Water Bodies. The most recent list of impaired water bodies in the state (1998) lists 509 impaired water bodies for which 1,471 TMDLs have to be developed. (The next list will be submitted to U.S. EPA in 2002.) As shown in Figure 1, there are impaired water bodies in every region of the state, with the largest number of impaired water bodies located in the Los Angeles region.

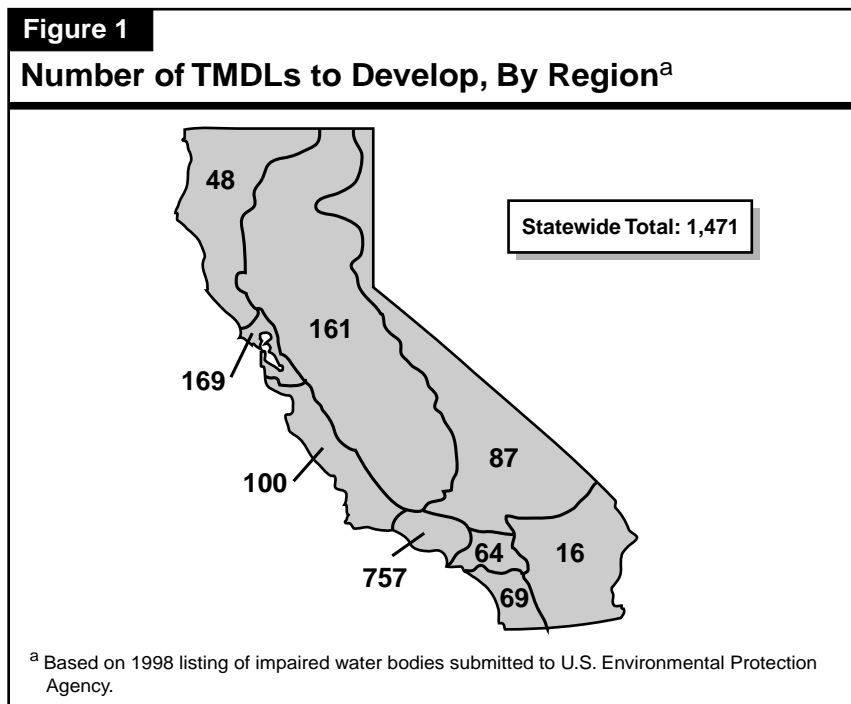
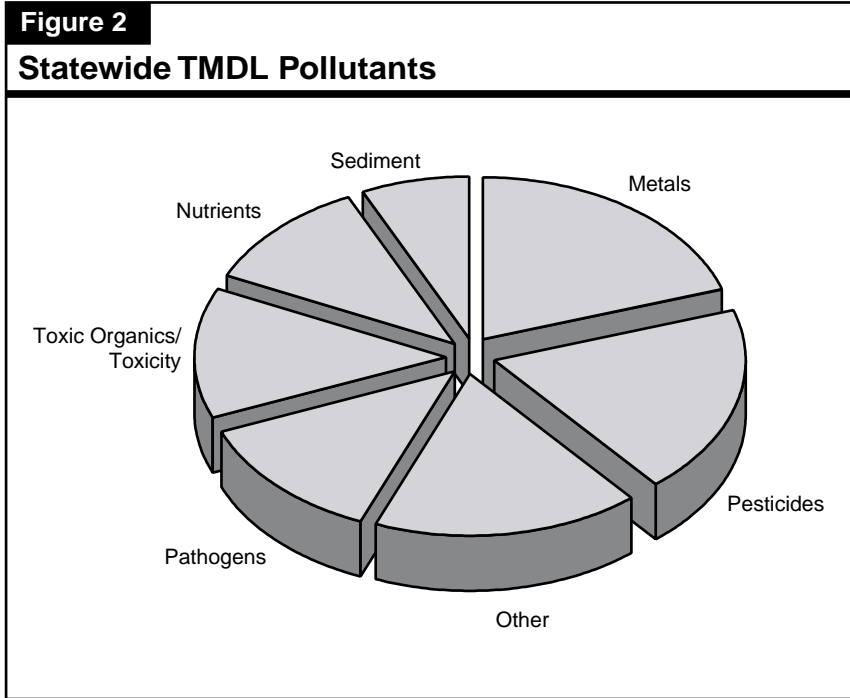


Figure 2 shows the breakdown of TMDLs to be developed based on pollutant. As shown, metals and pesticides are the leading contributors to impaired water bodies.

Expenditures for TMDL Development. Prior to 1997-98, no state or federal funds were targeted for TMDL development. Federal funds totaling \$800,000 for TMDLs were first made available in 1997-98 (currently \$3 million), and the first state funding was made available in 1999-00



(\$5.1 million). As shown in Figure 3, expenditures for TMDL development in 2000-01 are estimated to total \$13.5 million. A majority of these expenditures are from the General Fund, with the balance from federal funds and a tax on the sale of pesticides.

Figure 3

TMDL Development Expenditures^a

(In Millions)

	1997-98	1998-99	1999-00	2000-01
State Water Resources Control Board	\$0.8	\$1.5	\$6.4	\$11.9
Department of Pesticide Regulation	—	—	1.2	1.6
Totals	\$0.8	\$1.5	\$7.6	\$13.5

^a All funding sources. Does not include expenditures to develop mitigation measures or to implement TMDLs that have been developed.

Recent Legislative Direction. In recent years, the Legislature has expressed interest in the state’s TMDL program on a number of occasions.

For example, Chapter 495, Statutes of 1999 (AB 982, Ducheny) requires SWRCB to form a public advisory group (PAG) to evaluate the structure and effectiveness of the state's TMDL program. In preparing this analysis, we reviewed the advisory group's draft recommendations. The board has notified the Legislature that its first report to the Legislature on the TMDL program, due on November 30, 2000, will be submitted early in 2001.

In addition, the *1999-00 Budget Act* requires SWRCB to report to the Legislature by November 30, 2000 on various TMDL matters, including the process and criteria used to develop TMDLs and prioritize work, work products to date, and the activities undertaken to involve the public in TMDL development and implementation. The board has notified the Legislature that this report will also be submitted early in 2001.

Pace of TMDL Development Lags

We find that no matter what measure is used, the state lags in the development of Total Maximum Daily Loads (TMDLs). This causes delays in meeting water quality objectives and could result in a loss of federal funding and of state control over its water quality program. We recommend the enactment of legislation to require the State Water Resources Control Board to adopt in regulation a time schedule for completing all TMDLs required by the 1998 list of impaired water bodies. This time schedule should be based on the long-term work plan that we also recommend be developed.

As mentioned above, based on the 1998 list of impaired water bodies, there are currently 1,471 TMDLs to be developed. (Future water quality monitoring may result in additional water bodies being added to the list.) According to SWRCB, although it is possible to consolidate multiple listings by "bundling" TMDLs, at least 500 TMDLs will still have to be completed.

Board Is Not on Track to Complete TMDLs. At present, only eight TMDLs have been completed and adopted into basin plans. While neither state nor federal law specifies a time schedule for completing TMDLs, there are various measures that can be used to evaluate whether the state is "on track" in completing them. These measures include primarily commitments made to the Legislature and U.S. EPA, as well as court settlements, regarding the pace of TMDL development. Our review finds that no matter which measure is used, the board is lagging in its development of TMDLs. We discuss in sections which follow the reasons for this. In addition to insufficient resources, these reasons include a cumbersome approval process and inadequate policy direction from the state board to the regional boards to provide for efficient and consistent TMDL development.

For example, in budget proposals submitted to the Legislature, the board anticipated completing 18 to 20 TMDLs in 1999-00 with resources of about \$6.9 million. In fact, the board completed only three. While the SWRCB's budget for TMDLs is based on work plans of the nine regional boards, the regional boards have generally failed to meet the work plan commitments. The board is also lagging in completing TMDLs according to schedules found in its annual grant commitments to U.S. EPA. At the current pace, it is highly unlikely that the board will complete all TMDLs within the U.S. EPA time frame that TMDLs be completed by 2011 for *all* water bodies on the 1998 list.

Finally, court settlements dictate a schedule for the development of about 700 TMDLs. The board also appears to be lagging in completing TMDLs subject to these schedules. For example, U.S. EPA has had to step in to develop some TMDLs itself, rather than the state, to ensure compliance with these time schedules.

Consequences of Lagging Behind. Our review finds that there are a number of potential consequences if the state does not pick up the pace of TMDL development. These include:

- ***Water Quality Impairment.*** Water quality continues to deteriorate until TMDLs are developed and implemented.
- ***A Greater Federal Role That May Not Be to State's Benefit.*** There is the possibility of additional court-supervised schedules if the state continues to lag in developing TMDLs. This could result in U.S. EPA stepping in to develop TMDLs. The U.S. EPA-developed TMDLs typically involve much less public participation and local input than those developed by the state. Accordingly, the state runs the risk of losing control over addressing its water quality problems.
- ***A Reduction in Federal Funds.*** According to U.S. EPA, federal funds for TMDLs that might otherwise be made available to California this coming year may be less than they otherwise would be because it has been concerned about the slowness of TMDL development under past grants.

Recommend Enactment of Legislation Setting Time Schedule. According to U.S. EPA, other states are doing a much better job than California in meeting their TMDL development commitments. This is the case even though California's TMDL workload challenges are not out of line with those found in other states. In fact, California ranks thirteenth nationwide in terms of the number of TMDLs to be developed. (Illinois ranks first with 2,865 TMDLs to be developed.) In addition, other states are developing TMDLs that are as complex as ones being developed in California.

Specifically, U.S. EPA has expressed concern that there is a lack of urgency at many of the regional boards to develop TMDLs, and that the annual work plan commitments are not viewed by the boards as “firm” commitments.

Some state legislatures, including Montana’s, have exerted control over the TMDL process in their states by requiring that a schedule for TMDL development be set in statute or regulation. In order to make SWRCB more accountable for achieving specified results, we recommend that the Legislature enact similar legislation. This legislation should require SWRCB to establish, in regulation, a time schedule for completing all TMDLs from the 1998 list of impaired water bodies.

We discuss opportunities for improvements and the need for a long-term work plan in the sections that follow.

Efficiencies and Other Improvements Possible

We find that a number of improvements can be implemented to make the Total Maximum Daily Load (TMDL) program more effective and timely, and reduce costs. We recommend the enactment of legislation to (1) require greater policy direction from the State Water Resources Control Board to the regional water quality control boards and (2) streamline the TMDL approval process. We also recommend the adoption of budget bill language earmarking funds to streamline the boards’ contracting process. Finally, we recommend the adoption of supplemental report language to require (1) an evaluation of the effectiveness of certain interagency agreements and (2) a status report on the board’s implementation of organizational improvements.

Our review finds that a number of operational improvements can be made to make the program more effective and efficient. Some of these improvements should increase the pace of TMDL development and reduce costs. As discussed later, the state’s average costs to develop a TMDL are substantially higher than other states’ costs.

Provide Expanded Policy Direction. We find that the TMDL process would be significantly improved if the criteria to be used by the regional boards in making various TMDL-related decisions were more clearly articulated by SWRCB. Based on discussions with the regulated community, there is a general perception that regional board decisions are being made arbitrarily. If this perception is not addressed, further delays and costs in TMDL development are likely because TMDL decisions are more likely to be challenged in court.

While some policy guidance from SWRCB currently exists, including broad criteria regarding the listing of impaired water bodies, we think

that SWRCB should expand its policy guidance. Specifically, we think that SWRCB policy should address:

- **Data Standards.** There is a need for direction regarding how much and what type and quality of data are required for various decisions, such as the (1) listing and de-listing of impaired water bodies, and (2) the development of a particular TMDL and its implementation plan. Both U.S. EPA and PAG found that there is uneven use by the regional boards of outside data. We think that efficiencies can be gained by increased use of outside data that are available, but standards must be developed to ensure that these data are of acceptable quality.
- **Scientific Peer Review.** Scientific peer review can ensure that TMDL development work is being done correctly and consistently among regions, and could potentially reduce challenges to TMDL decisions. Currently, some components of the TMDL process, namely the adoption of a basin plan amendment, are subject to formalized scientific peer review; however, other components, such as listing decisions, are not. The policy should clarify peer review requirements for the various stages of the TMDL process.
- **Economic Analysis.** Currently, there is no clear state policy regarding whether regional boards should consider economic impacts on the regulated community when developing TMDLs and the implementation plans. Therefore, it is up to the regional boards to decide when to analyze these impacts. The policy should clarify when, and the extent to which, regional boards should analyze these impacts.
- **Stakeholder Participation.** A significant portion of the state's expenditures for TMDLs are being spent on stakeholder participation. While expenditures for this purpose have merit, the circumstances of each TMDL are unlikely to merit the same level of public involvement. Defining stakeholder involvement may help to improve the pace of TMDL development and reduce state costs. The SWRCB policy should establish criteria for stakeholder participation.
- **Listing Criteria.** A common concern expressed by the regulated community is that it is sometimes difficult to determine what criteria a regional board uses to list a water body as impaired. The lack of clearly articulated, detailed listing criteria raises issues about the credibility and fairness of the listing process, and has been the basis for legal challenges of TMDL decisions. In addition, without such criteria, it is uncertain whether state TMDL expenditures are addressing the most significant water problems

on a statewide basis. The concern has also been expressed that water bodies remain from year to year on the list of impaired water bodies without review of whether they are still impaired. The SWRCB policy should set requirements for a periodic reevaluation of the listing status of water bodies.

- ***Input From Other State Agencies.*** We find that the involvement of state agencies other than SWRCB in the TMDL process is frequently on an “ad hoc” basis. This is mainly because there are few policies, rules, or regulations to guide these other agencies’ role in the process. In general, state agencies await a specific request from the regional boards to become involved. According to CDFFP, its input is sometimes received belatedly by a regional board because the department had not been aware that the board was working on a TMDL implementation plan with a forestry component. We think that SWRCB policy should set standards to facilitate the receipt by the regional boards of input from other state agencies. Specifically, the policy should require regional boards to notify all appropriate state agencies on a timely basis of TMDL work that may require their input.

In order to ensure greater direction to the regional boards, we recommend the enactment of legislation requiring SWRCB to adopt policies that address the issues discussed above. The Florida Legislature enacted similar legislation in 1999, requiring that state’s water quality agency to adopt rules establishing methodologies for making various TMDL determinations.

Streamline TMDL Approval Process. According to a U.S. EPA report on the state’s TMDL program, California has a cumbersome and lengthy TMDL approval process. This helps to explain why the state is taking on average three years to develop a TMDL, while other states are taking significantly less time at substantially lower costs.

Specifically, U.S. EPA’s program review found that, unlike other states, the state’s TMDL adoption process involves the review and approval of several agencies. These agencies include the regional board, the state board, the Office of Administrative Law, and U.S. EPA. These agencies are involved because state law requires that a *regulation* (a “basin plan amendment”) be adopted to implement a TMDL. Both U.S. EPA and PAG have questioned the added benefit from SWRCB’s review of *all* TMDLs. The inclusion of SWRCB review appears to add many months to the time to complete TMDLs, as well as additional costs.

In its draft recommendations, PAG has recommended that statute be amended to eliminate the requirement for automatic SWRCB review and approval of *all* regional board-approved TMDLs, provided a right of appeal from the regional board action to SWRCB is maintained. We think

that this recommendation has merit, provided regional board development of TMDLs is thorough and adequate. Improved policy direction from SWRCB, as recommended above, should ensure this. Therefore, we recommend that the Legislature enact legislation to streamline the TMDL approval process as recommended by PAG. The recommended streamlining maintains safeguards by continuing to provide for SWRCB review of regional board decisions when these decisions are challenged.

Streamline Contracting Procedures. Our review finds that much of TMDL-related work, such as data modeling and monitoring data collection, can be contracted out. However, we find that SWRCB and the regional boards have a cumbersome contracting process. Generally, the boards create a new contract each time a contract is entered into. In contrast, other states such as Arizona rely much more on “master contracts” for their TMDL work. This streamlining measure has facilitated the use of contracts, and has helped these states complete their TMDL work on a more timely basis and at a lower cost. A master contract would allow the boards to rely largely on a predeveloped standard contract when they enter into new TMDL contractual relationships, rather than have the boards develop a new contract each time.

In order to realize the efficiencies from master contracts, we recommend that the Legislature direct SWRCB to establish a master contract for TMDL contract needs. According to SWRCB, it would require about one personnel-year to develop a master contract. We therefore recommend that the Legislature adopt the following budget bill language:

Item 3940-001-0001. Of the funds appropriated by this item, up to \$100,000 is to be expended by the board to develop a master contract for its Total Maximum Daily Load (TMDL) program.

Evaluate Coordination Efforts. In order to coordinate overlapping regulatory responsibilities, SWRCB has entered into interagency agreements (referred to as a management agency agreement [MAA]) with CDFFP and DPR. While these MAAs are not exclusively focused on TMDLs, the effectiveness of the TMDL program depends on the lead management agencies effectively exercising their responsibilities under the agreements. The DPR will be the lead management agency for pesticide-related water quality issues. Similarly, CDFFP will be the lead in handling forestry-related water quality issues (to be handled under the Forest Practices Rules).

Based on discussions with staff, U.S. EPA has expressed concern about the level of effort of the lead management agencies under these agreements in addressing water quality issues. For example, concern has been expressed that Forest Practice Rules are not being amended on a timely basis to implement TMDLs in the North Coast region. Accordingly, we

think that SWRCB should review its MAAs with DPR and CDFFP regularly to determine whether the agreements are working as intended. The SWRCB should revise these agreements if its evaluation finds that they are not serving to protect water quality. Therefore, we recommend that the Legislature adopt the following supplemental report language:

It is the intent of the Legislature that the State Water Resources Control Board regularly evaluate the effectiveness of its Management Agency Agreements (MAAs) with the Department of Pesticide Regulation and the California Department of Forestry and Fire Protection in addressing pesticide-related and forestry-related water quality issues, respectively, in the context of the state's Total Maximum Daily Load (TMDL) program. The board shall submit a report with its initial evaluation of these MAAs to the Legislature by January 1, 2002.

Make Organizational Improvements. Finally, PAG has made a number of recommendations for organizational changes in order for the state and regional boards to improve the program's accountability and efficiency. For example, SWRCB could establish "strike forces" of staff who are technical experts on some of the leading TMDL pollutants (such as metals and sedimentation). These strike forces could rotate among regional boards to assist with TMDL development.

To ensure that these organizational improvements are made, we recommend that the Legislature adopt the following supplemental report language:

The State Water Resources Control Board shall report to the Legislature by January 1, 2002 on the status of implementing organizational improvements to the Total Maximum Daily Load program recommended by the public advisory group formed pursuant to Chapter 495, Statutes of 1999 (AB 982, Ducheny).

Long-Term Work Plan and Funding Requirements Analysis

We recommend the enactment of legislation requiring the board to develop a ten-year work plan for Total Maximum Daily Load development, including an analysis of funding requirements.

In the previous sections, we have identified improvements that can be made to the TMDL program without additional resources. In this section, we have identified other improvements, specifically for ambient water quality monitoring and for staff training, that should be addressed if TMDLs are to be developed in a timely manner. Such improvements are likely to require additional funds. However, as discussed below, the lack of a long-term work plan for the TMDL program means that *total* long-term funding requirements for the TMDL program are not known.

Funding for Ambient Water Quality Monitoring. The TMDL program requires comprehensive, up-to-date water quality monitoring data for several reasons. Such data allow the boards to set credible water quality standards, to determine whether water quality standards are being met, to allocate responsibility for reducing pollution among those contributing to the pollution problem, and ultimately to monitor the effectiveness of TMDL implementation. The credibility of TMDL decisions depends on these data.

Unfortunately, according to SWRCB, the state has not assessed 43 percent of the state's coastal waters, 56 percent of the state's lakes and reservoirs, and 93 percent of the state's rivers and stream miles.

This lack of monitoring data is a very substantial barrier to speeding up the pace of TMDL development. This is because according to U.S. EPA, it will likely take several years in some cases to obtain sufficient data to complete TMDLs for many of the state's water bodies.

For the current year, SWRCB expenditures for ambient surface water monitoring are about \$7 million. Chapter 495 requires the board to report to the Legislature with a proposal for a comprehensive surface water quality monitoring program for the state. While the board expects to submit its report in early 2001, it has developed preliminary estimates of \$50 million to \$100 million annually to implement a comprehensive monitoring program.

Funding of Staff Training. The U.S. EPA's program review also found that existing regional board staff do not have the training or background to fully address a number of TMDL-related activities. These activities include modeling, data management, project management, and education/outreach. The review found that due to the lack of staff expertise, the regional boards sometimes developed TMDLs based on "overly simplistic approaches." The review also found that a lack of staff expertise resulted in major deficiencies in draft TMDLs that needed to be addressed to meet federal requirements.

Board Has Not Developed a Long-Term Work Plan. The SWRCB has not developed a comprehensive, long-term work plan for the TMDL program. Such a work plan is needed in order to evaluate how much work needs to be done each year to follow federal and state law and policy guidance, federal grant commitments, and court settlements. Without such a work plan, the program's total long-term funding needs, including for ambient water quality monitoring and staff training discussed above, are unknown.

State's Average Cost Per TMDL Far Exceeds Other States' Costs. Although a long-term work plan has not been developed, the board was able to provide a very rough estimate of its future annual costs over a

13-year period based on state and regional board cost experience to date. The board estimates these future annual costs at \$32 million, of which \$20 million is for staff and \$12 million for contracts. (This does not include the costs of a comprehensive ambient water quality monitoring program to support the TMDL effort.) This represents almost a tripling of current-year expenditures. The board's estimate assumes 800 TMDLs could reasonably be completed over this time period, with an average completion time of three years. Therefore, the board's estimate assumes an average cost of about \$500,000 to develop a TMDL.

Our review finds that the board's estimate of average costs to complete a TMDL far exceeds the cost experience in other states' TMDL programs. Specifically, SWRCB's average costs to develop a TMDL are more than ten times higher than the national average. Even when compared to states such as Virginia that also require TMDLs to include an implementation plan, SWRCB's average costs are still more than five times higher.

Board Should Prepare a Ten-Year TMDL Program Implementation Plan With Cost Estimates. As discussed above, without a long-term work plan for the TMDL program, the board is unable to provide a comprehensive estimate of the program's long-term funding requirements. Given the Legislature's concern about the state's lack of effectiveness and timeliness in meeting TMDL requirements, we think that the Legislature's oversight of the program would be improved if SWRCB developed a long-term plan for the program. Currently, the program is budgeted on a year-by-year basis, without knowing how far the expenditures will move the state to completing total TMDL workload over the long term.

The Virginia Legislature enacted legislation last year requiring the Virginia Department of Environmental Quality to submit a comprehensive ten-year plan for implementation of Virginia's TMDL program. The plan addresses the program's funding requirements, suggests ways to pay for the program, and provides a ten-year schedule for TMDL development. We recommend that the Legislature enact similar legislation, requiring SWRCB to develop a comprehensive long-term plan for implementing the state's TMDL program. We recommend that the plan cover the ten-year period from 2001-02 through 2010-11, to coincide with U.S. EPA guidance that all TMDLs from the 1998 list of impaired water bodies be complete by 2011.

Specifically, the plan should include:

- A summary of the workload to complete all TMDLs to be developed from the 1998 list of impaired water bodies. The workload should account for state and federal law and policy guidance, court settlements, legislative direction, and any other requirements.

- The funding requirements to implement the ten-year work plan, including recommendations and options for funding sources.
- A schedule to develop a formalized methodology to evaluate the effectiveness of TMDLs in improving water quality.
- A plan for monitoring the effectiveness of TMDLs, using the methodology to be developed.
- A schedule, including milestones, for achieving water quality objectives as a result of implementing each TMDL.
- Recommendations for statutory changes to improve the program.

With this type of work plan, SWRCB will be able to develop a schedule in regulation for initiating and completing work for each TMDL required to be developed from the 1998 list of impaired water bodies, as recommended previously.

CLEAN BEACHES INITIATIVE NEEDS BETTER DEFINITION

The Clean Beaches Initiative lacks sufficient detail to justify approval. We recommend that funding for the initiative be deleted from the budget bill and, instead, be put in legislation. (Reduce Item 3940-001-0001 by \$435,000 and 3940-101-0001 by \$99,565,000.)

Budget Proposal. The budget proposes \$100 million in one-time funding from the General Fund for the Governor's Clean Beaches Initiative. Of this amount, \$435,000 is for state staff to administer \$99.6 million of grants to local agencies. The budget proposes to allocate the grant funding as follows:

- About \$70 million for projects that prevent contaminated water from reaching the ocean. For example, these projects could include diverters installed in storm drains and catch basins to filter contaminated rainwater into the ground.
- About \$20 million to detect and identify the source of contamination in water reaching the ocean, and for technical assistance for local agencies to design management tools to reduce the identified contamination.
- About \$10 million to acquire and restore natural wetlands to filter flows of contaminated water into the ocean.

We have several concerns with the budget proposal as discussed below. Specifically, we find that more information is needed to justify the proposed funding level and source of funding and that details are lack-

ing on the selection criteria for the grants. In addition, it is not clear how the proposed program will work in conjunction with other programs that have similar objectives or are involved in similar activities.

No Basis for Proposed Funding Level. We recognize that there are major water quality problems to be addressed at the state's beaches. However, our review shows that the budget proposal does not contain information that details the extent of water quality problems at the state's beaches and the funding requirements necessary to improve beach water quality. In the absence of such information, it is not possible to determine if the proposed funding level is too much or too little to address beach water quality problems in the state.

Unclear How Proposal Relates to Existing Programs. The budget proposal also does not provide information regarding (1) the extent to which *existing* environmental programs address beach water quality problems and (2) how the budget proposal works in conjunction with these other programs.

For example, the budget proposes \$30 million (bond funds)—separate from the Clean Beaches Initiative—for local projects to improve coastal water quality in 2001-02. That proposal would leave a reserve of about \$50 million of bond funds for other projects to be spent in future years. Specifically, Proposition 13—the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (2000)—provides \$90 million for a Coastal Nonpoint Source Control program to administer grants and loans for sewage system improvements, water quality monitoring, stormwater runoff reduction, and other local projects that protect the water quality and environment of coastal and near-shore waters. Given that there are bond funds remaining from Proposition 13 yet to be expended, there is little justification for the proposed amount from the General Fund for the Clean Beaches Initiative.

In addition to the bond program, there are other existing SWRCB programs that aim to improve coastal water quality. Specifically, under the stormwater regulatory program, regional boards issue permits to control stormwater runoff, conduct related inspections, and take enforcement actions. It is not clear how the budget proposal will work in conjunction with this regulatory program. For example, it is uncertain whether the grants under the Clean Beaches Initiative could act as an incentive for compliance with stormwater permit requirements.

Similarly, it is not clear how the wetlands acquisition and restoration activities under the proposal would be coordinated with the programs of a number of Resources Agency departments—in particular the Wildlife Conservation Board—that are involved with similar activities.

Grant Selection Criteria Not Defined; Funding Priorities Not Clear.

The board has yet to develop criteria to award grants under this proposal. Even within the administration, there is some confusion about funding eligibility. For example, at a briefing on the budget proposal, administration representatives stated that funding would be limited to projects located in San Diego, Orange, Los Angeles, and Ventura Counties. However, according to the board, it is still performing analyses to determine where funding would be targeted. Without such information, the Legislature is unable to determine if the funds will be targeted to those beaches in most need of remediation.

Besides funding eligibility, other issues to be resolved include the maximum amount for any given grant and whether there should be a matching requirement for the grants. It is not clear from the proposal whether the board would adopt the same criteria to award grants as the Proposition 13 bond program discussed above. Proposition 13 also provides detailed criteria for the distribution of funds to improve coastal water quality, including the type of projects eligible for funding, the anticipated benefits from funded projects, maximum grant amounts, a tiered matching requirement based on the grant amount, and a cap on administrative costs. Proposition 13 also specifies a project evaluation requirement which requires grant recipients to monitor their project's impact on water quality and to report on the project's effectiveness in preventing or reducing pollution.

Board Is Only Now Developing Plan to Provide Basis for Budget Proposal. According to the board, it is currently developing a plan—the Clean Beaches Plan—that will serve as a “roadmap” for improving beach water quality over the next ten years. However, the board expects that this plan will not be completed until July 2001. Once this plan is available, the Legislature would be in a better position to evaluate whether a grants program is warranted, and what should be the appropriate funding level for such a program.

Recommend Deletion of Funding From Budget Bill. We think that funding the Clean Beaches Initiative is premature until the proposal is better defined as discussed above. Accordingly, we recommend the deletion of the \$100 million from the budget bill. We further recommend that funding for the initiative instead be put in legislation which defines the program, and provides selection criteria for the allocation of grant funds and project evaluation requirements similar to Proposition 13's Coastal Nonpoint Source Control program.

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 \$229 million from various funds for support of DTSC in 2001-02. This is an increase of about \$60 million, or 35 percent, from estimated current-year expenditures. Major budget proposals include (1) \$37.5 million from the General Fund to provide low-cost insurance for the cleanup of contaminated urban sites and (2) \$3.7 million (various funds) for increased operating equipment and expenses. The budget also includes \$21.3 million from the General Fund to repay a loan made from the Superfund Bond Trust Fund in 1991-92.

Funding for Low-Cost Environmental Insurance Proposal Premature

The budget proposes \$37.5 million from the General Fund for the state to provide low-cost insurance for private developers to clean up contaminated urban sites (“brownfields”). This funding proposal is premature until policy issues are resolved and the program’s structure is defined. We therefore recommend the deletion of the \$37.5 million. (Reduce Item 3960-014-0001 by \$37.5 million.)

Budget Proposal for Low-Cost Environmental Insurance. The budget proposes one-time funding of \$37.5 million from the General Fund for a new environmental insurance program. (The amount will be transferred to the proposed Financial Assurance and Insurance for Redevelopment Account.) The new program is intended to facilitate private de-

velopers in obtaining financing to clean up and develop contaminated urban properties referred to as brownfields.

Currently, in order to secure financing (such as getting a bank loan), developers are typically required to obtain “environmental insurance” that (1) protects the developer and the lender from liabilities resulting from pollution conditions at the property and (2) covers cost overruns in cleaning up the site. While such environmental insurance is available, it is often extremely expensive, especially for smaller redevelopment projects. The high cost of environmental insurance is seen as an impediment to the redevelopment of brownfields.

The budget proposal intends to make such insurance more affordable, by having the state negotiate and subsidize group environmental insurance for brownfield redevelopment. Specifically, the proposed funding would be allocated as follows:

- \$25 million to pay one-half of the anticipated premiums for state-negotiated, group insurance to cover lender and developer liabilities due to contamination at brownfield properties. Based on the department’s assumptions about premium costs, DTSC hopes to subsidize the insurance premium costs for about 500 brownfield properties—less than 1 percent of the estimated 100,000 brownfield properties statewide.
- \$12.5 million to pay up to \$500,000 towards the deductible paid by brownfield properties making a claim on their cost-override insurance.

The budget proposal is similar to a proposal in the *2000-01 Governor’s Budget* for a \$32.5 million low-cost environmental insurance program. The 2000-01 proposal was rejected by the Legislature, on the basis that the details of the program had yet to be worked out.

State-Negotiated Insurance Program Has Yet to Be Structured. As with the 2000-01 budget proposal, the specific details of how the environmental insurance would be structured have yet to be decided. Specifically, it is yet to be determined who would be eligible for a state subsidy, what criteria would be used in approving applicants, and how and by whom the program would be administered. While the budget proposal provides a general description of the type of insurance to be subsidized, it also recognizes that “there are numerous options for making such (environmental) insurance affordable” and that the department will be exploring those options with industry. The budget anticipates that the structure for the state-negotiated insurance will not be selected until at least the middle of 2001-02, following a competitive bidding process in response to a request for proposals from the insurance industry.

Policy Issues Need to be Addressed. We think that it is premature to provide funding for this proposal until a number of policy issues are addressed by the Legislature. First, there should be an analysis of the *extent* to which the apparent high cost of environmental insurance is impeding brownfield redevelopment. This analysis was not presented with the budget proposal. Second, the Legislature should evaluate the role for the state, if any, in making such insurance more affordable. This evaluation will determine if, and the *degree* to which, the state should subsidize environmental insurance premiums.

The resolution of the above issues will also help to structure the insurance program. Because the level of program funding will depend on the program structure, it is premature to propose a funding level before the policy issues are resolved and the program's structure is defined. Lacking specific information on insurance premium costs, it is not possible, for example, to assess how many brownfield properties would potentially benefit from the proposed program.

Proposed Program Lacks Statutory Authority. The budget proposal recognizes that legislation is needed to establish the insurance program because the department does not have the statutory authority to operate it. The budget proposes to introduce a budget trailer bill to provide this authority.

Recommend Deletion of Funding. Therefore, we recommend the deletion of \$37.5 million from the General Fund for the program, since the funding is premature until policy issues are resolved in legislation and the program's structure is defined.

General Fund Transfer for Hazardous Waste Management Program Not Justified

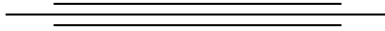
The budget proposes a transfer of \$1.2 million from the General Fund to support the Hazardous Waste Management Program. As a need for these funds in the budget year has not been justified, we recommend disapproval of the transfer. (Reduce Item 3960-015-0001 by \$1.2 million.)

Budget Proposal. The budget proposes a General Fund increase of \$1.2 million for the department's Hazardous Waste Management Program (HWMP). The \$1.2 million would be transferred annually into the Hazardous Waste Control Account (HWCA). The HWMP regulates the generation, storage, treatment, disposal, and transport of hazardous waste through permitting, inspections, enforcement, and oversight of local program implementation.

The program is funded mainly by hazardous waste control fees levied on parties that generate, store, treat, dispose, or transport hazardous waste. However, current law exempts state and local governments that clean up hazardous waste caused by another entity from one of the hazardous waste control fees. The department estimated that it loses about \$1.2 million annually in fee revenues as a result of this exemption. On this basis, the budget proposes \$1.2 million from the General Fund annually to make up this "loss."

Proposed Transfer Not Needed for Budget-Year Workload. Our review finds that the proposed transfer from the General Fund is not based on there being unfunded workload as a result of the fee exemption to state and local governments. In fact, the budget projects a 2001-02 ending reserve of \$5.4 million in HWCA even without the proposed General Fund transfer. Rather, the transfer is proposed solely as a means to address "potential" funding shortfalls in future years.

Because HWCA has ample resources to fund DTSC's workload, the proposed transfer from the General Fund into HWCA is not needed. Accordingly, we recommend disapproval of the transfer.



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Crosscutting Issues

CALFED Bay-Delta Program

- B-19 ■ **Record of Decision Guides CALFED Programs.** The August 2000 “Record of Decision” provides a seven-year planning framework to implement CALFED programs, at estimated total cost of \$8.5 billion.
- B-21 ■ **Substantial State Funding for CALFED Proposed.** The budget proposes \$414 million in various departments for CALFED-related programs in 2001-02.
- B-23 ■ **Approach to Enhance Legislative Review of CALFED Proposals.** Recommend joint policy/budget committee hearings to review CALFED’s budget proposal.
- B-25 ■ **New Governance Structure Needed.** Recommend enactment of legislation to establish CALFED governance structure to enhance accountability to the Legislature.
- B-26 ■ **Lack of Federal Funds a Major Concern.** Recommend CALFED advise the Legislature on programmatic implications, and the administration’s plans, if federal funds for CALFED do not materialize. Recommend adoption of budget bill language providing clear direction on expenditure priorities. Further recommend adoption of supplemental report language requiring status report on federal funding.

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- B-27 ■ **Environmental Water Account Raises a Number of Issues. Reduce Item 3600-001-0001 by \$261,000, Item 3860-001-0001 by \$1,752,000, and Item 3860-001-6027 by \$28,233,000.** Recommend deletion of funding for Environmental Water Account until a number of policy and implementation issues are resolved in legislation.
- B-28 ■ **Budget Allocates Water Storage Study Expenditures Among Nine Program Elements.** Recommend Legislature withhold action on funding request until overdue report is submitted.

Fund Conditions for Resources Programs

- B-31 ■ **Resources Special Funds.** The budget proposes to spend most of the special funds projected to be available for resource protection in 2001-02. This will leave about \$27 million for legislative priorities.
- B-36 ■ **Parks Bond.** The budget proposes to spend \$419 million from the 2000 Parks Bond (Proposition 12) for park acquisition and development.
- B-36 ■ **Water Bonds.** The budget proposes \$622 million in bond funds for various water-related projects. No bond funds are available in the budget year for the state's unmet share of costs for federally authorized local flood control projects. The budget proposes alternative funding from the General Fund for this purpose.

Resources Agency

- B-42 ■ **River Parkways Program Should Be Defined Statutorily. Reduce Item 0540-101-0001 by \$70 Million.** Recommend reduction because a significant expansion of the River Parkways Program should be defined in legislation that establishes a process and a set of criteria to prioritize funding of river parkway projects statewide.

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- B-44 ■ **Legislature Should Await Delivery of Products Before Extending Funds.** Withhold recommendation on \$2 million for the California Continuing Resources Investment Strategy Project pending receipt of interim reports on project methodology and data assessment.

Secretary for Environmental Protection

- B-47 ■ **Environmental Management Systems Initiative (EMS) Premature and May Lack Statutory Authority. Reduce Item 0555-001-0001 by \$1,272,000.** Recommend deletion of \$1,272,000 for EMS initiative because the proposal is premature until recently initiated EMS pilot test cases are evaluated and statutory authority is provided.

Department of Conservation

Surface Mining and Reclamation Act

- B-54 ■ **Inadequate Enforcement and Oversight Allow Many Violations.** Various provisions of the Surface Mining and Reclamation Act (SMARA) fail to be enforced at an unknown, potentially significant number of mines.
- B-55 ■ **Statewide Compliance Data Inadequate, Not Reliable.** Recommend enactment of legislation requiring annual reports from the department in order to monitor its efforts to improve data collection.
- B-57 ■ **Review Activities Should Be Geared Toward Improving Compliance.** Recommend that the department be required to provide at budget hearings a plan for reviewing certain mining documents.
- B-59 ■ **Department Lacks Authority to Reject Deficient Plans.** Recommend enactment of legislation authorizing department to revoke local approval of certain mining documents that do not meet state requirements.

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- B-60 ■ **Lead Agencies Fail to Conduct Inspections.** Recommend enactment of legislation authorizing the State Mining and Geology Board to conduct required mine inspections when lead agencies fail to do so.
- B-61 ■ **Funding for SMARA Enforcement Should Match Workload.** Recommend that statutory funding caps be eliminated, and funding based on workload needs be appropriated from the General Fund.

Other Issues

- B-62 ■ **Abandoned Mines Mapping Efforts Not Needed Without Cleanup Efforts. Reduce Item 3480-001-0001 by \$339,000.** Recommend reduction of funds for mapping because without efforts to remediate abandoned mines, there is little value in continuing multiyear efforts to identify abandoned mines.
- B-64 ■ **Replacement Vehicle Budget Overstated. Reduce Item 3480-001-0001 by \$636,000.** Recommend elimination of funding for vehicles the department does not intend to purchase.

Department of Forestry and Fire Protection

- B-65 ■ **Legislature Should Monitor Progress of Computer-Aided Dispatch System.** Recommend adoption of supplemental report language requiring the California Department of Forestry and Fire Protection to report to the Legislature on a semiannual basis on major milestones in the procurement, development, and implementation of a computer-aided dispatch system.

State Lands Commission

- B-68 ■ **School Land Bank Fund Reserve Continues to Grow.** Recommend balance of fund be transferred to the State Teachers' Retirement Fund.

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Department of Fish and Game

Fisheries Restoration Grant Program

- B-73 ■ **Program Should Establish Restoration Priorities.** Recommend the enactment of legislation that directs the Department of Fish and Game (DFG) to identify and establish restoration priorities for the Fisheries Restoration Grant Program (FRGP). Further recommend that the department report at budget hearings on its plans to provide restoration information and assistance to potential project applicants.
- B-75 ■ **Application Process Can Be More Efficient.** Recommend the enactment of legislation directing DFG to accept grant proposals for the program more than once a year. Further recommend the adoption of supplemental report language requiring the department to submit a report on streamlining the evaluation process.
- B-76 ■ **Establish Better Approach to Meet California Environmental Quality Act (CEQA) Requirement.** Recommend the adoption of supplemental report language requiring DFG to submit a report on the approach it will take to meet CEQA requirements.
- B-78 ■ **Evaluation and Monitoring Efforts Should Be Increased.** Recommend that the Legislature statutorily include evaluation as an essential component of FRGP and require DFG to submit periodic evaluation reports. Further recommend the adoption of supplemental report language requiring the department to submit an evaluation plan by February 1, 2002.
- B-79 ■ **Programmatic Proposals Should Be Subject to Legislative Oversight.** Recommend the adoption of budget bill language to prohibit the use of any funds for program-wide evaluation efforts without legislative review and approval of the expenditure proposal.

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- B-79 ■ **Legislature Should Specify Use for Proposition 13 Bond Funds.** Recommend adoption of budget bill language and enactment of legislation directing Proposition 13 bond money to be spent in accordance with statutory provisions governing DFG grants for salmon restoration.

Other Issues

- B-80 ■ **Proposal Will Expand Natural Community Conservation Planning (NCCP) Efforts. Reduce Item 3600-001-0001 by \$2,327,000 and Item 3600-101-0001 by \$1 Million.** Recommend reduction because the Legislature has raised concerns about expanding the NCCP program and funding for any expansion should be included in legislation that provides policy guidance on the state's role in NCCP.
- B-82 ■ **Court Rules Environmental Filing Fees Constitutional.** Recommend the department report to the Legislature at budget hearings on actions it plans to take to more effectively collect fees under AB 3158 and any recommendations for amending the fee statute.

California Coastal Commission

- B-85 ■ **Permit Activity Outpacing Staff Resources.** Over the past decade, the size and complexity of the commission's permit-related workload has grown more than staff resources.
- B-86 ■ **Commission Not Performing Required Local Coastal Program Reviews. Augment Item 3720-001-0001 by \$1.4 Million.** Recommend augmentation because additional staff is needed to eliminate over five years a backlog in the review of local coastal programs.

Parks and Recreation

- B-92 ■ **Ongoing Maintenance Needs Still Largely Unknown.** Recommend the Legislature adopt supplemental report

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language requiring the department to report on its ongoing maintenance needs.

B-93 ■ **Update Needed on Size of Deferred Maintenance Backlog.** Recommend the department report at budget hearings on an updated estimate for deferred maintenance.

B-94 ■ **Proposal for New Concession Lacks Key Information.** Recommend the Legislature withhold approval of the proposal until the Legislature receives and reviews the department's selected terms for a concession at the Hearst San Simeon State Monument.

Air Resources Board

B-95 ■ **Diesel Emission Reduction Proposal Raises Policy Issues. Reduce Item 3900-001-0001 by \$100 million.** Recommend deletion of \$100 million for grant program to create air emission offsets for new power plants because funding should be put in legislation that establishes clear program objectives, sets grant criteria, and guides the sale of the emission offsets.

California Integrated Waste Management Board

B-99 ■ **Budget Fails to Implement Recent Legislation.** Recommend board provide expenditure plan for tire recycling program, consistent with statutory direction for the program, by budget hearings.

Department of Pesticide Regulation

B-102 ■ **Major Funding Shortfall Projected Beginning in 2002-03.** Due to the scheduled reduction in the mill assessment rate, the Department of Pesticide Regulation Fund will experience major funding shortfalls beginning in 2002-03.

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State Water Resources Control Board

Total Maximum Daily Load (TMDL) Program

- B-110 ■ **Board Lags in TMDL Development.** Recommend enactment of legislation requiring State Water Resources Control Board (SWRCB) to adopt in regulation a time schedule to develop TMDL plans to address water pollution in seriously impaired water bodies.
- B-112 ■ **The TMDL Program Improvements Possible With Existing Resources.** Recommend enactment of legislation to (1) require greater policy direction from SWRCB to the regional boards and (2) streamline the TMDL approval process. Further recommend adoption of budget bill language to streamline the boards' contracting process. Also recommend adoption of supplemental report language requiring (1) an evaluation of certain interagency agreements and (2) a status report on the board's implementation of organizational improvements.
- B-116 ■ **Long-Term TMDL Plan Needed.** Recommend enactment of legislation requiring SWRCB to develop a comprehensive, ten-year plan for the TMDL program, including a funding requirements analysis.

Clean Beaches Initiative

- B-119 ■ **Initiative Needs Better Definition. Reduce Item 3940-001-0001 by \$435,000 and 3940-101-0001 by \$99,565,000.** Recommend deletion of \$100 million for the Clean Beaches Initiative because funding should be put in legislation that better defines the program.

Department of Toxic Substances Control

- B-122 ■ **Funding for Low-Cost Insurance Program Premature. Reduce Item 3960-014-0001 by \$37.5 million.** Recommend deletion of \$37.5 million for low-cost environmental

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insurance program because funding is premature until policy issues are resolved and the program's structure defined.

- B-124 ■ **General Fund Transfer for Hazardous Waste Management Not Justified. Reduce Item 3960-015-0001 by \$1.2 million.** Recommend deletion of funds since budget-year need for transfer has not been justified.

