

## Memorandum 2017-45

**Fish and Game Law: Funding Analysis**

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In this study, the Commission<sup>1</sup> is developing a proposed recodification of the Fish and Game Code. In connection with that work, the Legislature directed the Commission to “clarify ... funding sources.”<sup>2</sup>

On July 31, 2017, the Commission received a letter from Secretary for Natural Resources John Laird.<sup>3</sup> Secretary Laird explained that the Department of Fish and Wildlife (“Department”) is currently undergoing a comprehensive budgetary review, conducted by the Department of Finance. He requested that the Commission temporarily suspend its recodification work and instead expedite its review of the Fish and Game Code’s statutory funding provisions.

The Commission agreed to do as Secretary Laird requested, directing the staff to “[c]omplete an informational report on the funding specified in the Fish and Game Code (including the identification of mandates for which there is no dedicated funding source)” before doing further work on recodification.<sup>4</sup>

This memorandum describes the methods that the staff intends to use to prepare the report. A component of the report is attached.

**Informational Report**

The resolution language that assigned the Commission this study directs the Commission to recommend revisions to the Fish and Game Code, to achieve certain goals (including the clarification of funding sources), “without making any significant substantive change to the effect of the law.”<sup>5</sup>

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1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See 2016 Cal. Stat. res. ch. 150.

3. See First Supplement to Memorandum 2017-38, Exhibit p. 1.

4. Minutes (Aug. 2017), p. 9.

5. See 2016 Cal. Stat. res. ch. 150.

The requirement that the Commission not recommend any significant substantive changes sharply limits the Commission's ability to clarify the funding structures in the Fish and Game Code. The Commission cannot recommend the establishment or elimination of funding sources, narrow or broaden the permissible use of existing funding sources, or otherwise change the way that funds are received or expended.

**To avoid any risk of overstepping the boundary set by the Legislature, the staff recommends that the informational report be purely descriptive.** It should not include any normative conclusions about the adequacy of the existing funding scheme or how it might be improved. Otherwise, it could be argued that the Commission is impliedly recommending substantive statutory change.

Unless the Commission directs otherwise, the report will simply identify statutory funding sources, note how those funds may be expended, and identify duties for which there is no specially-designated source of funds.

The staff has informally discussed this issue with Department leadership. They understand the limitations described above and believe that a purely descriptive report would still be helpful. A clear exposition of the Fish and Game Code's funding structure would assist the Department and the Department of Finance as they analyze and address any substantive deficiencies that may exist.

### **Scope**

Consistent with the Commission's decision at the August meeting, the staff only intends to analyze funding provisions within the Fish and Game Code.

The staff does not intend to review any revenue or expenditure provisions in budget bills. Such provisions are ephemeral, subject to change from year to year as part of the annual budget process.

Nor will the staff search for funding language in uncodified statutes. Comprehensively searching the uncodified session laws would be impracticably difficult and would be unlikely to produce anything useful. Statutes that establish ongoing funding or duties are likely to have been codified.

The staff will also not be examining regulations or other administrative material. Such material should be well-known to the Department, having been created by the Department or Fish and Game Commission. If those materials are unclear, the problems can be cured through administrative action. Statutory law reform would not be required.

Finally, the staff is not analyzing funding provisions that affect local entities (most notably counties) or other state agencies. The focus is on the Department and the Fish and Game Commission.

**Does the Commission agree with that approach?**

### **Stages of Preparation**

The staff anticipates that the report will be prepared in four stages.

#### *(1) Funds*

In Stage #1, the staff will identify the “funds” and “accounts” that are established in the Fish and Game Code.

Funds are accounting structures, used to reserve specific revenues for a particular purpose. Some funds are subdivided into accounts (some of which contain “subaccounts”). These accounts and subaccounts serve the same purpose as funds, but at a finer level of specificity.

The attached draft presents this first stage of the report. It lists all of the funds, accounts, and subaccounts that are established in the Fish and Game Code.

For each of the funds and accounts, the report lists Fish and Game Code sections that designate sources of revenue to be deposited into the fund or account, expenditures that may be made from the money on deposit in the fund or account, or both. These provisions are preceded by the headings “Revenue,” “Expenditures,” and “Linked Revenue and Expenditures,” respectively.

In some cases, there are revenue and expenditure provisions that apply to the fund as a whole, as well as revenue and expenditure provisions that apply to particular accounts within the fund. The former provisions are preceded by the heading “Fund Generally.” The latter are preceded by the name of the account.

The preparation of this stage of the report necessarily required the use of extensive computerized term searching. It is simply not practicable to read every word of the code in search of references to funds and accounts.

Any computer search can miss relevant material, if that material is expressed in an idiosyncratic or erroneous way (e.g., a misspelling of the word “account”). The staff will watch for such gaps throughout the remainder of this project and will correct any omissions that are discovered. **In addition, the staff requests that the Department and other knowledgeable parties review the attached**

**draft (and other materials as they are released) and report any material omissions.**

*(2) Revenue Without a Designated Fund*

In Stage #2 of the process, the staff will search for statutes that establish revenue sources, but do not designate a particular fund or account for the deposit of that revenue. For example, Section 3472.2 provides:

A public use airport certificated by the Federal Aviation Administration shall provide to the department any federal depredation permit and all federal reports required pursuant to any federal depredation permit or wildlife hazard management plan, or both, and shall also provide reasonable access to the department for purposes of ensuring compliance with this article. *The department shall seek reimbursement from the public use airport for any reasonable costs associated with activities resulting from any violations of this article.*<sup>6</sup>

*(3) Programs Without a Specially-Designated Revenue Source*

In Stage #3 of the work, the staff will identify every program mandated by the Fish and Game Code that does not have a specially-designated funding source.

The staff will begin this work by setting aside all programs that have specifically-identified funding sources (i.e., the programs identified in Stage #1 and Stage #2, described above). For example, Section 1352 provides that the money in the Wildlife Restoration Fund is available for expenditure under any provision of the Wildlife Conservation Law of 1947. Because every provision of that law has an identified funding source, it will be excluded from the search for unfunded<sup>7</sup> programs.

Once the programs with designated funding have been set aside, the staff will review the remainder of the code to identify programs that lack designated funding sources.

*(4) Explanation and Presentation*

Finally, once all of the relevant information has been collected in the first three stages of the work, the staff will compile that information into a complete

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6. Emphasis added.

7. See "Important Caveat" *infra*.

report (Stage #4). The report will include a narrative explaining the methods used to prepare the report.

When preparing the report, the staff will also check for relevant statutory changes made in 2017 (including any urgency legislation that took effect during 2017) and adjust the content of the report to reflect those changes.

The staff is not yet sure of the best organization for the data in the report. The attached excerpt is organized by fund and account, which seems sensible for content relating to statutory funds and accounts. For the later material, which will not be tied to specific funds or accounts, it would probably make sense to organize by subject matter (e.g., all fishing-related provisions grouped together). In any event, the staff intends to postpone any final decision on the organization of the data until we have a more concrete sense of the character of the information that will be presented.

At that time, the Commission can also decide what degree of procedural formality to use in promulgating the report. With a purely descriptive background report of this type, which contains no recommendations or other policy conclusions, it might be appropriate to issue an informal staff-level report. This would expedite release, increasing the likelihood that the work will be done in time to be most useful to the Department of Finance in its inquiry.

### **Important Caveat**

The Fish and Game Code includes some general provisions that establish broad funding principles. These provisions draw a distinction between fish and game programs and “nongame” fish and wildlife programs (a distinction that likely has its source in the California Constitution<sup>8</sup>).

First, Section 13220(b) provides that the money in the Fish and Game Preservation Fund is generally available to the department, upon appropriation by the Legislature, “for expenditure in accordance with law for the payment of all necessary expenses incurred in carrying out this code and any other laws for the protection and preservation of birds, mammals, reptiles, amphibians, and fish.” On its face, that seems to authorize the use of money in the Fish and Game Preservation Fund to pay for *any* program conducted pursuant to the Fish and Game Code.

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8. Cal. Const. art. XVI, § 9 (“Money collected under any state law relating to the protection or propagation of fish and game shall be used for activities relating thereto.”).

However, Sections 711(a)(1) and 712 make clear that money in the Fish and Game Preservation Fund cannot be used to pay for “nongame” fish and wildlife programs:

711. (a) It is the intent of the Legislature to ensure adequate funding from appropriate sources for the department. To this end, the Legislature finds and declares that:

(1) The costs of nongame fish and wildlife programs shall be provided annually in the Budget Act by appropriating money from the General Fund, through nongame user fees, and sources other than the Fish and Game Preservation Fund to the department for these purposes.

...

712. It is the intent of the Legislature that the Department of Finance shall include in the Governor’s Budget sufficient moneys from the General Fund and sources other than the Fish and Game Preservation Fund to pay the costs of the department’s nongame programs, including those necessary for the protection and enhancement of California’s nongame fish and wildlife and their habitat, the free hunting and fishing license programs, and special repairs and capital outlay.

It is the intent of the Legislature that the Department of Finance shall not include in the Governor’s Budget any appropriation from the Fish and Game Preservation Fund for any program or project which is not expressly found to be an activity relating to the protection or propagation of fish and game, except to the extent that moneys have been deposited in that fund from collections under a law which is not related to the protection or propagation of fish and game.

Any study relating to funding of programs administered or conducted by the department shall include express findings of whether the program is related to the protection or propagation of fish and game and shall describe the relationship.

Read together, these provisions appear to provide funding for *all* Fish and Game Code programs. Nongame programs are to be funded through the annual budget process, with a “sufficient” appropriation from the General Fund (in combination with “nongame user fees” and other unidentified sources that are not drawn from the Fish and Game Preservation Fund). All fish and game programs are to be funded from the Fish and Game Preservation Fund and other specially-designated sources.

Thus, it would be technically incorrect to speak of “unfunded” mandates or “programs that lack an identified funding source.”

However, as a practical matter, the Governor and Legislature need to determine how large a General Fund appropriation is “sufficient” to fund all of the nongame programs, and how much revenue needs to be deposited into the Fish and Game Preservation Fund to adequately finance all of the fish and game programs. To make those determinations, it is necessary to know what specific streams of revenue are assigned to specific programs and which programs do not have specifically-dedicated funding sources. That inquiry appears to be the main purpose of the informational report that the staff is preparing.

It would undoubtedly be helpful if the staff were also to determine, for every Fish and Game Code program, whether it is a “nongame” program or an “activity relating to the protection or propagation of fish and game.” That distinction determines whether the program can be funded from the Fish and Game Preservation Fund, or must instead be funded by a General Fund appropriation.

**However, the staff does not believe that it would be feasible or appropriate for the Commission to make such determinations as part of this study.** The Commission has no special expertise for making such determinations, and the staff sees no obvious bright line standard that could be applied. Moreover it seems likely that many programs would involve a blending of game and nongame elements. For example, if the Department is charged with protecting wetland habitat that supports migratory game birds, but the same land also supports fully protected birds, is the program a game or nongame program? A mix of both?

As a practical matter, any line-drawing that the Commission might do on these matters could be controversial. It seems likely that there will sometimes be strong disagreement, involving substantial consequences, as to whether a particular program is entitled to funding from the Fish and Game Preservation Fund. This seems particularly likely if different programs are competing for limited resources. And, as discussed earlier, any normative judgment that the Commission might make on a disputed question of law could be argued to violate the Legislature’s directive that the Commission not recommend significant substantive reforms in this study.

Recall too that the distinction between the funding of game and nongame programs is constitutional in origin. “Money collected under any state law relating to the protection or propagation of fish and game shall be used for

activities relating thereto.”<sup>9</sup> It appears that such funds cannot be lawfully used for other purposes.<sup>10</sup> This adds extra weight to any opinion that the Commission might express about the game or nongame character of any program.

The staff has informally discussed this issue with Department leadership, and provisionally indicated that the Commission would not be making such determinations in preparing this report. The Department understood the staff’s concern and seemed to accept the staff’s conclusion.

**Does the Commission agree with the staff’s position on this issue?**

### **Conclusion**

Unless the Commission directs otherwise, the staff intends to proceed as described above. For the December meeting, the staff should be able to present Stage #2 of the report and some or all of Stage #3.

**The staff invites public comment on the methods described above and the content of the attached draft.**

Respectfully submitted,

Brian Hebert  
Executive Director

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9. Cal. Const. art. XVI, § 9 (“Money collected under any state law relating to the protection or propagation of fish and game shall be used for activities relating thereto.”).

10. See 75 Ops. Cal. Atty. Gen. 106 (1992); see also *Dittus v. Cranston*, 53 Cal. 2d 284 (1959) (construing predecessor constitutional provision of similar effect).

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**GENERAL FUND**

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***Expenditures***

- 711(a)(1) .....The costs of nongame fish and wildlife programs shall be provided annually in the Budget Act by appropriating money from the General Fund, through nongame user fees, and sources other than the Fish and Game Preservation Fund.
- 712 .....It is the intent of the Legislature that the Department of Finance shall include in the Governor’s Budget sufficient moneys from the General Fund and sources other than the Fish and Game Preservation Fund to pay the costs of the department’s nongame programs, including those necessary for the protection and enhancement of California’s nongame fish and wildlife and their habitat, the free hunting and fishing license programs, and special repairs and capital outlay.
- 15512 .....If aquatic plants or animals are destroyed pursuant to Section 15505(e), the owner shall be promptly paid from the General Fund an amount equal to 75 percent of the replacement value of the plants or animals, less the value determined by the department of any replacement stock provided by the department.

**FISH AND GAME PRESERVATION FUND**

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**FUND GENERALLY**

***Revenue***

- 1050.8(b) .....Sale of commemorative licenses.
- 2125(b) .....Civil penalties relating to importation and possession of wild animals.
- 2150.1 .....Fees for permits, permit applications, and facility inspections relating to importation and possession of wild animals.
- 2588 .....Proceeds from forfeitures relating to illegal take.

- 5991 .....Payment by owner of cost to construct fish screen.
- 8630 .....Proceeds from sale of forfeited net or trap.
- 12025(f) .....Administrative penalties collected pursuant to the section.
- 12025.1(f) .....Administrative penalties collected pursuant to the section.
- 12157.5 .....Proceeds from sale of forfeited motor vehicle.
- 12160, 12163 .....Proceeds from sale of seized organisms.
- 13001 .....Unless otherwise provided, all money collected under this code or other law that relates to the protection and preservation of birds, mammals, fish, reptiles, or amphibians.
- 13003 .....Unless otherwise provided, one half of all fines and forfeitures for violation of this code or other law that provides for the protection and preservation of birds, mammals, fish, reptiles, or amphibians.
- 13005(a).....Two-thirds of the proceeds from sale of lifetime hunting and sport fishing licenses and privileges.
- 13005(b) .....Proceeds from sale of lifetime hunting issued pursuant to Section 3031.2 .

***Expenditures***

- 103 .....Commissioner compensation.
- 1011 .....Liability insurance.
- 1502 .....Feeding animals when natural food unavailable.
- 5986 .....Money paid to owner of conduit under specified provisions.
- 6028 .....Money paid to owner of conduit under specified provisions.
- 10502.6(b) .....Prohibition on use of state funds to pay compensation or expenses of Director of the Dana Point Marine Life Refuge.
- 13220(a).....Refund of sums erroneously deposited in the fund.
- 13220(b) .....All necessary expenses incurred in carrying out this code and any other laws for the protection and preservation of birds, mammals, reptiles, amphibians, and fish.

13220(c).....Compensation and expenses of the commissioners and employees of the commission.

***Linked Revenue and Expenditures***

1065(d) .....Promotion of conservation nonprofit on ALDS website.

1225, 1226(a).....Gifts or bequests, municipal or county appropriations or donations, used for purposes relating to conservation programs, projects, and activities by the department.

1355 .....Proceeds from sale of fish hatchery, used for acquisition, enhancement, restoration, or construction projects for the benefit of wildlife

1526.4(d) .....Lease revenue from Lower Sherman Island, used for management of that land.

1609(a).....Streambed alteration fees, for costs of regulation.

1615(f) .....Civil penalties relating to streambed alteration, for costs of legal action or law enforcement.

2022(i) .....Administrative penalties relating to ivory and rhino horn, for costs of legal action and law enforcement.

2078(b) .....Annual fee on persons requesting mailed notices, for administration of the notice process.

2099.5(d) .....Permit application fees under Endangered Species Act, for expenditure pursuant to Section 2080.1 and 2081(b).

5650.1(h) .....Civil penalties relating to water pollution, for costs of legal action and law enforcement.

6595 .....Fees and expenditures for California Ocean Resources Enhancement and Hatchery Program.

6618 .....Cost savings from the partial removal of an offshore oil structure, for related purposes.

7151(g) .....Appropriation from the General Fund relating to issuance of free sport fishing license, for related purposes.

7380-7381 .....Fees for steelhead trout fishing report-restoration cards, for monitoring, restoring, and enhancing steelhead trout resources, and administering card program.

- 8051.4 .....Landing tax collected pursuant to former Section 8051.3, solely for the Abalone Resources Restoration and Enhancement Program.
- 8552.7 .....Herring permit transfer fee, for research and management to maintain and enhance herring resources.
- 8586.1, 8587, .
- 8589.5, 8589.7 .....Specified fees and fines, for purposes of Nearshore Fisheries Management Act.
- 8587, 8589 .....Specified fees, for preparation of fishery management plan pursuant to Section 7072.
- 12006(b) .....Proceeds from sale of forfeited commercial fishing gear, for support of Special Operations Unit and law enforcement.
- 12006.6(d), .
- 12012(g) .....Specified fine and forfeiture revenue, for support of Special Operations Unit and law enforcement.
- 12021(a).....Additional \$15 added to every assessment, fine, penalty, or forfeiture, for the purposes of Section 13006 (secret witness program).
- 12025(d) .....Civil penalties collected pursuant to the section, for reimbursement of investigative costs.
- 12025.1(b)-(c).....Civil penalties collected pursuant to the section, for reimbursement of investigative costs.

**ABALONE RESTORATION AND PRESERVATION ACCOUNT**

***Revenue***

- 12009(b) .....One-half of fine or forfeiture for unlawful take of abalone for non-commercial purpose.

***Linked Revenue and Expenditures***

- 7149.8, 7149.9 .....Specified fees, for the Recreational Abalone Management Program.

**BAY-DELTA SPORT FISHING ENHANCEMENT STAMP “SEPARATE ACCOUNT”**

***Expenditures***

- 7364 .....Prohibition on payment of unrelated payroll costs.

***Linked Revenue and Expenditures***

7361 .....Proceeds from sale of Bay–Delta Sport Fishing Enhancement Stamp, for long–term, sustainable benefit of the primary Bay–Delta sport fisheries.

**BIG GAME MANAGEMENT ACCOUNT**

***Revenue***

13205 .....The Augmented Deer Tags Account, Bighorn Sheep Permit Account, and Wild Pig Account, shall be consolidated and any remaining funds in these accounts transferred to the Big Game Management Account.

***Linked Revenue and Expenditures***

331(b)-(c).....Proceeds from sale of antelope tags, for purposes specified in Section 3953.  
332(c)-(d).....Proceeds from sale of elk tags, for purposes specified in Section 3953.  
3953 .....All revenues from the sale of antelope, elk, deer, wild pig, bear, and sheep tags, including any fundraising tags, for specified purposes.  
4332(e), 4334.....Proceeds from sale of deer tags, for purposes specified in Section 3953.  
4656 .....Proceeds from sale of wild pig tags, for purposes specified in Section 3953.  
4751 .....Proceeds from sale of bear tags, for purposes specified in Section 3953.  
4902(c)-(d).....Proceeds from sale of Nelson bighorn ram tags, for purposes specified in Section 3953.  
4903 .....Proceeds from sale of Nelson bighorn ram tags, for purposes specified in Section 3953.  
12013.3(c), (e) .....Fines imposed pursuant to this section for deer, elk, antelope, and bighorn sheep violations, for purposes specified in Section 3953.  
12013.5(b)-(c).....Fine for specified violation involving bear, for purposes specified in Section 3953.

**CALIFORNIA WATERFOWL HABITAT PRESERVATION ACCOUNT**

***Expenditures***

3467 .....California Waterfowl Habitat Program.

**COHO SALMON RECOVERY ACCOUNT**

***Expenditures***

6954(d) .....For purposes of Coho Salmon Habitat Enhancement Leading to Preservation Act.

***Linked Revenue and Expenditures***

6954(b) .....Donations, for projects and programs that enhance the recovery of coho salmon.  
6954(c).....Project fees, for administration and implementation costs relating to the project.

**COMMERCIAL FISHERIES CAPACITY REDUCTION ACCOUNT**

***Linked Revenue and Expenditures***

8125 .....Capacity reduction fee, to repay fishermen's share of federal loans used in the federal West Coast Groundfish Fishery Capacity Reduction Program.

**COMMERCIAL SALMON STAMP DEDICATED SUBACCOUNT**

***Revenue***

7862.5(f) .....Sale of salmon-related art.

***Linked Revenue and Expenditures***

7861-7861.5 .....Commercial fishing salmon stamp fees, for salmon restoration and enhancement programs.

**DUNGENESS CRAB ACCOUNT**

***Revenue***

8276.5(b)(3).....Monetary judgments for violations of Dungeness crab trap limit program.

***Linked Revenue and Expenditures***

8276.5(e)-(f) .....Specified fees, for administering and enforcing Dungeness crab trap limit program.

**ENDANGERED AND RARE FISH, WILDLIFE, AND PLANT SPECIES**

**CONSERVATION AND ENHANCEMENT ACCOUNT**

***Revenue***

1771-1772 .....These provisions appear to be obsolete. They refer to funding pursuant to provisions of the Revenue and Taxation Code that no longer exist.

***Expenditures***

1771 .....Support of programs for endangered and rare

animals and native plant species, related conservation and enhancement programs, and programs for those species which may be candidates for determination as endangered or rare.

1772 .....Dissemination of information to the public concerning the status of endangered and rare species.

2098 .....Cost of administration of Endangered Species Act.

***Linked Revenue and Expenditures***

2081.5(c).....Fee paid by surface mining operator, for department's actual costs incurred in preparing interim management measures and developing and finalizing a memorandum of understanding for the protection of the newly added or newly discovered plant species and for implementation of section.

**ENDANGERED SPECIES PERMITTING ACCOUNT**

***Revenue***

12008.1(b) .....One half of all fines and forfeitures imposed or collected for violating Chapter 1.5 (commencing with Section 2050) of Division 3.

***Expenditures***

2081.2(g) .....Funds in the account shall be available to the department, upon appropriation by the Legislature, for the purposes of administering and implementing this chapter, except that fee moneys collected pursuant to this section shall only be used for the purposes of this article.

***Linked Revenue and Expenditures***

2081.2(b) .....Permit application fees for all or a portion of the department's cost of processing permit applications, permit development, and compliance monitoring pursuant to this article.

**FISH AND GAME WARDEN STAMP ACCOUNT**

***Linked Revenue and Expenditures***

860 .....All revenues from sales of Fish and Game Warden Stamp, for support of the department's fish and game wardens.

**FISH AND WILDLIFE POLLUTION ACCOUNT**

***Revenue***

2014(f) .....Any recovery or settlement of money damages, including, but not limited to, civil penalties, arising out of any civil action filed and maintained by the Attorney General in the enforcement of this section [re unlawful or negligent take or destruction of protected animal].

5656 .....Any recovery or settlement of money damages, including, but not limited to, civil penalties arising out of any civil action filed and maintained by the Attorney General in the enforcement of this article [re water pollution].

13010 .....All money in the Fish and Wildlife Pollution Cleanup and Abatement Account on January 1, 1996, shall be transferred to the Fish and Wildlife Pollution Account.

13011-13013,

13231 .....The state portion of any recovery or settlement of money damages received pursuant to any citation or charges brought pursuant to specified sections shall be deposited in specified subaccounts.

***Expenditures***

12015(c).....For water pollution clean-up, when other specified funding is unavailable.

***Linked Revenue and Expenditures***

12017 .....Any recovery or settlement of money received pursuant to specified sections, for (1) Abatement, cleanup, and removal of pollutants from the environment; (2) Response coordination, planning, and program management; (3) Resource injury determination; (4) Resource damage

assessment; (5) Economic valuation of resources; (6) Restoration or rehabilitation at sites damaged by pollution.

**FISHERIES RESTORATION ACCOUNT**

***Expenditures***

- 2762 .....Appropriated to the department for expenditure in fiscal years 1991–92 to 1993–94, inclusive, for construction, operation, and administration of projects designated in the plan developed by the department in accordance with the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act (Ch. 8 (commencing with Sec. 6900), Pt. 1, Div. 6), and projects designed to restore and maintain fishery resources and their habitat that have been damaged by past water diversions and projects and other development activities.
- 2762.5 .....Administrative costs of the Advisory Committee on Salmon and Steelhead Trout.

**HABITAT RESTORATION AND ENHANCEMENT ACCOUNT**

***Linked Revenue and Expenditures***

- 1655(b) .....The department may enter into an agreement to accept funds from any public agency, person, business entity, or organization to achieve the purposes of this chapter.
- 1655(c).....The department shall assess an application fee for a project submitted to the department pursuant to Section 1652 or 1653 consistent with the fees adopted by the department pursuant to Chapter 6 (commencing with Section 1600), but the application fee shall not exceed the reasonable administrative and implementation costs of the department relating to the project.

**HERRING RESEARCH AND MANAGEMENT ACCOUNT**

***Revenue***

- 8558.1, 8558.2 .....Proceeds from sale of herring stamps.
- 8558.2 .....Proceeds from sale of San Francisco Bay herring permit transfers.
- 8558.3 .....One-half of all royalties collected by the

department from the roe-on-kelp fishery collected pursuant to 14 Cal. Code Regs. § 164(f)(2).

***Linked Revenue and Expenditures***

8558 .....Funds deposited pursuant to Sections 8558.1, 8558.2, and 8558.3, and the funds derived from herring landing taxes allocated pursuant to Section 8052(a), for department evaluations of, and research on, herring populations in San Francisco Bay and those evaluations and research that may be required for Tomales Bay, Humboldt Bay, and Crescent City and assisting in enforcement of herring regulations.

**LIFETIME LICENSE TRUST ACCOUNT**

***Revenue***

13005 .....Specified funds from the sale of lifetime hunting licenses and lifetime hunting privileges issued pursuant to Section 3031.2, and lifetime sport fishing licenses and lifetime privileges issued pursuant to Section 7149.2.

**MARINE RESOURCES PROTECTION ACCOUNT**

***Linked Revenue and Expenditures***

8610.9 .....Any funds remaining in the Marine Resources Protection Account in the Fish and Game Preservation Fund on or after January 1, 1995, for grants to colleges, universities, and other bona fide scientific research groups to fund marine resource related scientific research within the ecological reserves established by Section 8610.14. An amount, not to exceed 15 percent of the total funds remaining in that account on or after January 1, 1995, may be expended for the administration of this section.

**NATIVE SPECIES CONSERVATION AND ENHANCEMENT ACCOUNT**

***Revenue***

1760, 1761 .....Donations from persons or organizations for the support of nongame and native plant species conservation and enhancement programs.

1765(b) .....There shall be appropriated in the annual Budget Act from the General Fund, for transfer

to the Native Species Conservation and Enhancement Account, a sum equal to two dollars (\$2) for each free annual wildlife area pass issued pursuant to this subdivision during the preceding calendar year.

***Expenditures***

- 711(a)(4) .....The costs of managing lands managed by the department and the costs of wildlife management programs shall be supplemented out of revenues in the Native Species Conservation and Enhancement Account.
- 1763 .....Promotion of donations to the account.

***Linked Revenue and Expenditures***

- 1745(i) .....Proceeds from sale of entry permits. To the extent that the department is able to identify the source of the fee revenue collected, the department shall provide no less than 35 percent of the funds generated pursuant to this section to the department–managed lands from which the fee revenues were collected.
- 1767.5, 1768 .....The revenues from fees and sales under this article and Section 1055.3, for: (1) Repayment of any loan to the account from the Fish and Game Preservation Fund. (2) The costs of ongoing wildlife management programs incurred at any lands managed by the department alone or cooperatively with other governmental agencies, irrespective of their designation pursuant to Section 1764, that are not adequately funded under subdivision (a) or (c) of Section 711. (3) The costs of natural history education and recreational programs and improvements at areas designated pursuant to Section 1764. (4) Augmentation of wildlife management programs and acquisition of additional lands at areas designated pursuant to Section 1764.

**SHARE ACCOUNT**

***Linked Revenue and Expenditures***

- 1572(c).....User fees, existing hunting and fishing license stamp or tag fees from the Fish and Game

Preservation Fund, grants, federal funds, or other contributions from other sources for the purposes set forth in this article. [re SHARE program]. Funds may also be used for wildlife conservation purposes on lands subject to an agreement under the program.

**STATE DUCK STAMP ACCOUNT**

***Revenue***

3701 .....All funds derived from the sale of state duck hunting validations and state duck stamps, and related items authorized by subdivision (e) of Section 3700 or subdivision (g) of Section 3700.2.

***Expenditures***

3701 .....An amount not to exceed 6 percent of the amount annually deposited in the account may be used for administrative overhead related to the use of funds in the account and for implementation of the federal Migratory Bird Harvest Program.

3702 .....For projects or endowments approved by the commission for the purpose of protecting, preserving, restoring, enhancing, and developing migratory waterfowl breeding and wintering habitat, evaluating habitat projects, and conducting waterfowl resource assessments and other waterfowl related research. These funds may be used to reimburse nonprofit organizations for completed habitat projects. Subject to Section 3704, the department may make grants or enter into contracts with nonprofit organizations for the use of these funds when it finds that the contracts are necessary for carrying out the purposes of this article.

**UPLAND GAME BIRD ACCOUNT**

***Linked Revenue and Expenditures***

3684 .....All funds derived from the sale of upland game bird hunting validations and upland game bird stamps, expended solely for acquiring land,

completing projects and implementing programs to benefit upland game bird species, and expanding public hunting opportunities and related public outreach, including, but not limited to, enhancing upland game bird habitat. The department may also use the funds to pay administrative and enforcement costs of the programs and activities described in this section.

12013.3(d)-(e).....All revenue from fines imposed pursuant to this section for wild turkey violations, for purposes described in Section 3684.

**UNNAMED ACCOUNT (RE AQUACULTURE PROGRAM)**

***Linked Revenue and Expenditures***

15105 .....All moneys collected by the department pursuant to this division [re aquaculture], shall be expended solely on the department's aquaculture program pursuant to this division.

**UNNAMED ACCOUNT (RE CONSERVATION AND MITIGATION BANKING)**

***Revenue***

1799.1(b) .....Moneys received pursuant to this chapter [re Conservation Bank and Mitigation Bank Applications and Fees].

***Expenditures***

711(a)(6), .  
1799.1(d) .....The costs of a conservation and mitigation banking programs shall be reimbursed from revenues of conservation and mitigation bank application fees imposed pursuant to Sections 1798.5, 1798.6, and 1799.

**ANIMAL TRUST FUND**

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***Linked Revenue and Expenditures***

2201-2202 .....Grants and donations, for care and shelter of mammals for hire.

**CALIFORNIA ENERGY EXTENSION SERVICE OF THE OFFICE  
OF PLANNING AND RESEARCH, REVOLVING LOAN FUND**

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*Expenditures*

9100 .....Fuel conservation assistance program.

**CIGARETTE AND TOBACCO PRODUCTS SURTAX FUND**

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**PUBLIC RESOURCES ACCOUNT**

*Expenditures*

2762.6 .....Advisory Committee on Salmon and Steelhead  
Trout.

**FISH AND WILDLIFE HABITAT ENHANCEMENT FUND**

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*Expenditures*

2620 .....(1) The acquisition, enhancement, or development of lands located outside the coastal zone for the preservation of resources and the management of wildlife and fisheries; (2) the acquisition, enhancement, or development of lands for habitat for rare, endangered, and fully protected species; (3) the acquisition, enhancement, or development of marshlands and associated and adjacent lands and the development of associated facilities and for grants to local public agencies for those purposes; (4) the acquisition, enhancement, or development inside the coastal zone of marshlands and adjacent lands for habitat for wildlife benefitted by a marsh or aquatic environment.

*Linked Revenue and Expenditures*

2640-2651 .....Bonds in the total amount of eighty-five million dollars (\$85,000,000), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

## **HABITAT CONSERVATION FUND**

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### ***Revenue***

- 2795 .....The Controller shall annually transfer 10 percent of the funds in the Unallocated Account in the Cigarette and Tobacco Products Surtax Fund to the Habitat Conservation Fund.
- 2796 .....Funding from specified sources, including the General Fund; the Public Resources Account in the Cigarette and Tobacco Products Surtax Fund to the extent authorized by the Tobacco Tax and Health Protection Act of 1988; the California Environmental License Plate Fund; the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund; other non-General Fund accounts and funds created by the Legislature or the people for purposes which are consistent with the purposes of this act; authorized bonds; the Wildlife Restoration Fund.

### ***Expenditures***

- 2786 .....(a) The acquisition of habitat, including native oak woodlands, necessary to protect deer and mountain lions. (b) The acquisition of habitat to protect rare, endangered, threatened, or fully protected species. (c) The acquisition of habitat to further implement the Habitat Conservation Program pursuant to Article 2 (commencing with Section 2721) excepting Section 2722 and subdivision (a) of Section 2723, and Sections 2724 and 2729. (d) The acquisition, enhancement, or restoration of wetlands. (e) The acquisition, restoration, or enhancement of aquatic habitat for spawning and rearing of anadromous salmonids and trout resources. (f) The acquisition, restoration, or enhancement of riparian habitat.
- 2787, 2788 .....Appropriations to specified entities.

**HATCHERY AND INLAND FISHERIES FUND**

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***Revenue***

13005(a).....One-third of the proceeds from sale of lifetime hunting and sport fishing licenses and privileges.

***Linked Revenue and Expenditures***

13007 .....One-third of the proceeds from sale of specified sport fishing licenses, for management, maintenance, and capital improvement of California’s fish hatcheries, the Heritage and Wild Trout program, related enforcement activities, and other activities eligible to be funded from revenue generated by sport fishing license fees.

**OAK WOODLANDS CONSERVATION FUND**

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***Revenue***

1363 .....Funds from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa–Keeley Act (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public Resources Code)), but not including funds dedicated as matching funds for the federal Forest Legacy Program.

***Linked Revenue and Expenditures***

1363 .....Gifts, donations, funds appropriated by the Legislature for the purposes of this article, or from federal grants or loans or other sources, for the purpose of implementing this article [re conservation of oak woodlands], including specified purposes and administrative costs.

1364 .....Money in the fund shall be available to local government entities, park and open–space districts, resource conservation districts, private landowners, and nonprofit organizations for the purposes set forth in Section 1363(d).

**RENEWABLE ENERGY RESOURCES DEVELOPMENT FEE  
TRUST FUND**

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***Linked Revenue and Expenditures***

2099 .....Fees and other moneys received for mitigation under Section 2069 [re Desert Renewable Energy Conservation Plan], solely for the purposes of that section, applicable permit or certification requirements for eligible projects, and any contractual agreement between the Energy Commission or department and the owner or developer of an eligible project.

**SALTON SEA RESTORATION FUND**

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***Revenue***

2081.7(c)(4)-(6) .....Proceeds from specified water sales.

***Expenditures***

2932 .....(a) Environmental and engineering studies related to the restoration of the Salton Sea and the protection of fish and wildlife dependent on the sea. (b) Implementation of conservation measures necessary to protect the fish and wildlife species dependent on the Salton Sea, including adaptive management measurements pursuant to Section 2081.7. These conservation measures shall be limited to the Salton Sea and lower Colorado River ecosystems, including the Colorado River Delta. (c) Implementation of the preferred Salton Sea restoration alternative. (d) Administrative, technical, and public outreach costs related to the development and selection of the preferred Salton Sea restoration alternative.

2932.5 .....Moneys deposited in the fund shall not be expended for mitigation except for mitigation undertaken by the State of California.

**SPECIAL DEPOSIT FUND**

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**FISH AND GAME MITIGATION AND PROTECTION ENDOWMENT**

**PRINCIPAL ACCOUNT**

*Linked Revenue and Expenditures*

13014(a)(1), (b) .....Endowment funds received by the department pursuant to specified types of agreements and all earnings generated from those funds. The earnings shall be available to the department, upon appropriation by the Legislature, to fund long-term management, enhancement, monitoring, and enforcement activities on habitat lands in a manner consistent with the terms of the underlying agreement.

**FISH AND GAME MITIGATION AND PROTECTION EXPENDABLE FUNDS**

**ACCOUNT**

*Linked Revenue and Expenditures*

13014(a)(2), (b) .....Funds received by the department pursuant to specified types of agreements that are not endowments and are designated for expenditure, for: (1) Mitigating the adverse biological impacts of a specific project, activity, spill, or release. (2) Protecting, conserving, restoring, enhancing, managing, and maintaining fish, wildlife, native plants, or their habitats.

**UPPER NEWPORT BAY ECOLOGICAL RESERVE**

**MAINTENANCE AND PRESERVATION FUND**

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*Expenditures*

1586 .....The maintenance and preservation of the Upper Newport Bay Ecological Reserve.

**WILDLIFE AND NATURAL AREAS CONSERVATION FUND**

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*Expenditures*

2728 .....Specified expenditures in in the 1988–89 through 1998–99 fiscal years.

*Linked Revenue and Expenditures*

2720 .....Moneys available for the purposes of this chapter pursuant to Chapter 4 (commencing

with Section 5930) of Division 5.8 of the Public Resources Code, for specified programs, including: (a) Preservation of highly rare examples of the state's natural diversity through the acquisition, enhancement, restoration, or protection of lands supporting California's unique, fragile, threatened, or endangered plants, animals, and natural communities. (b) The acquisition, enhancement, restoration, or protection of critical habitat areas for fish, game mammals, and game birds. (c) The acquisition, enhancement, restoration, or protection of lands providing habitat for threatened, endangered, or fully protected species.

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## **WILDLIFE RESTORATION FUND**

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### **FUND GENERALLY**

#### ***Revenue***

1348,

1350(b)-(c).....Federal grants, gifts, donations, subventions, rents, royalties, and other financial support from public or private sources; proceeds from specified sales, leases, rentals, and other transactions.

#### ***Expenditures***

1322 .....Travel expenses of Wildlife Conservation Board members.

1350(c).....Grants or loans to nonprofit organizations, local governmental agencies, federal agencies, and state agencies for the purposes of fish and wildlife habitat restoration, enhancement, management, protection and improvement of riparian resources, and for development of compatible public access facilities.

1352 .....Expenditure under any provision of the Wildlife Conservation Law of 1947.

#### ***Linked Revenue and Expenditures***

1355 .....Proceeds from sale of fish hatchery, used for acquisition, enhancement, restoration, or construction projects for the benefit of wildlife.

1745.1 .....Proceeds from agricultural leases on department-managed lands, for management, maintenance, restoration, and operations of department-managed lands.

**SAN FRANCISCO BAYLANDS RESTORATION PROGRAM ACCOUNT**

***Expenditures***

1352.5 .....Acquiring and restoring wetlands and lands that may be enhanced to support wetlands in the San Francisco Bay area in order to achieve the objectives of the Baylands Ecosystem Habitat Goals Report (Goals Report).

**UNNAMED ACCOUNT [RE ACQUISITION OF CARGILL PROPERTY]**

***Linked Revenue and Expenditures***

1352.5 .....If the board determines to acquire all or a portion of the Cargill property, a matching federal appropriation for the acquisition of the Cargill property shall be deposited into an account solely for the acquisition of the Cargill property or a portion thereof.

**UNNAMED FUND [RE ARTIFICIAL PROPAGATION OF FISH]**

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***Linked Revenue and Expenditures***

6590 .....Funding for research pertaining to enhancement and artificial propagation, rearing, and stocking are most appropriately borne by a special fund derived from user fees on recreational and commercial fishermen who stand to directly benefit from the resurgence of depressed marine fisheries.

**UNNAMED FUND [RE INLAND WETLANDS CONSERVATION PROGRAM]**

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***Revenue***

1415 .....Proceeds from any lease, rental, sale, exchange, or transfer of land, or any interest therein, or option thereon, acquired pursuant to this chapter for the purposes of carrying out the program.

1416 .....Proceeds from repayment of specified loans and the interest thereon.

- 1417 .....Proceeds from specified lease or rental and interest thereon.
- 1418 .....Proceeds from specified sales or exchanges.
- 1419 .....Any funds remaining after an eligible acquisition, restoration, or enhancement of any project under this article.

***Expenditures***

- 1416 .....Grants or loans to nonprofit organizations, local governmental agencies, and state departments and agencies for the purpose of wetland and associated upland habitat acquisition, restoration, or enhancement.
  - 1430 .....The money in the fund shall be solely used to carry out the Inland Wetlands Conservation Program, including the administrative costs of the program.
  - 1431 .....All allocations made to the Wildlife Conservation Board pursuant to Section 2791(f).
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