

**California Fish and Wildlife Strategic Vision Project**  
**Potential Recommendations for the Strategic Vision for Consideration by the**  
**SAG on March 28 and BRCC on March 30, 2012**

*Revised<sup>1</sup> March 26, 2012*

This document contains potential recommendations for the California Fish and Wildlife Strategic Vision (CFWSV) that were developed during workshops on March 8 and 9, 2012 and in subsequent homework completed by CFWSV Stakeholder Advisory Group (SAG) members for their March 15, 2012 meeting. In the March 15 discussions with a subset of SAG members, the potential recommendations fell into three categories, within which staff has organized this document:

1. Those that appeared to have unanimous support or little opposition to the proposed action (delete or include as a recommendation) from the meeting participants;
2. Those that had majority support from the meeting participants, with some suggested additional edits; and
3. Those that still required discussion and/or potential additional edits before meeting participants could consider support.

The potential recommendations discussed by participating SAG members were also presented to the CFWSV Blue Ribbon Citizen Commission at its March 15, 2012 meeting; while individual BRCC members provided feedback on some of the ideas under discussion, the BRCC did not take action to support or oppose any of the potential recommendations, but left open the possibility of adopting different recommendations at its final meeting.

Within this document, some potential recommendations are suggested for elimination, others are suggested to be amended, and still others are new based on homework requested during the March 15 SAG meeting. Suggested additional text is in underlined text (like this), while suggested deletions are in strikethrough text (~~like this~~).

These potential recommendations for the strategic vision will be discussed on March 28, 2012 during the final SAG meeting and again on March 30, 2012 during the final BRCC meeting.

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<sup>1</sup> Revisions to this document were made only to the introductory text to clarify the roles of the SAG and BRCC in developing the potential recommendations within this document and the types of support.

## Section 1: Potential Recommendations with Unanimous Support or Little Opposition to the Proposed Action

### Statutes and Regulations

#### **~~Potential Statutes and Regulations Recommendation: Perform a Comprehensive Review and Update of the California Fish and Game Code and Related Laws~~**

~~The BRCC recommends that a comprehensive review of state statutes, constitutional provisions and regulations concerning California Department of Fish and Game (DFG) and the California Fish and Game Commission (F&GC) be undertaken. That review, which should be of a technical, nonpartisan nature, should be initiated without further delay. The independent California Law Revision Commission is an ideal body to undertake the constitutional and statutory review, and to then make recommendations for curative amendments to the California State Legislature for consideration and enactment. After that process is completed, DFG and the Secretary for Natural Resources should undertake a conforming review process of California's regulations implementing those constitutional and statutory mandates.~~

~~California statutes affecting DFG and F&GC have evolved over 140 years. During that period, new and sometimes inconsistent legal mandates have been imposed via legislation. A technical, nonpartisan review would provide recommendations for curative amendments to address the inconsistencies.<sup>2</sup>~~

### California Fish and Game Commission

~~Proposed SAG statement: "The SAG deliberated the merits of realigning the power and duties of the F&GC and determined that a citizen's commission with today's powers and duties is preferable to changing it at this time. The committee/workshop process recommended in the interim strategic vision will allow for greater public input during the deliberative process and enhance informed decision-making by F&GC."~~

**~~Realignment of the Powers and Duties of the California Department of Fish and Game (DFG) and F&GC: The authority of F&GC should prospectively be focused on the setting of hunting and fishing seasons, bag and catch limits, and related functions. Other regulatory and land management responsibilities, including the administration of and listing decisions under the California Endangered Species Act, oversight of California's marine protected areas, and administration of the Oil Spill Prevention Act, should be centralized in DFG.~~**

~~Originally, the mission of both DFG and F&GC was to implement, administer and enforce the state's laws governing hunting and fishing. In more recent years, the mission of both entities has expanded~~

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<sup>2</sup> This recommendation concept already incorporated into the interim strategic vision.

~~dramatically, to include many other functions. The respective powers and duties of DFG and F&GC should be modified to reflect this modern reality, and to allocate between the two current legal responsibilities in a manner that is effective and efficient.~~

**Potential Fish and Game Commission Recommendation:** Increase the number of California Fish and Game Commission members from five to seven. ~~Drawing upon the successful experience of other state agencies whose decision-makers are required to reflect diverse and specific areas of expertise, the BRCC recommends statutory changes that expand the F&GC from five to seven members, and require that individual commissioners reflect particular, diverse professional qualifications. Currently, the five members of F&GC are required by law to have no particular professional backgrounds or qualifications.~~

Description: This recommendation is proposed to address existing and future workload for the F&GC members, including committee responsibilities. Implementing this recommendation also increases the ability to meet the need to reflect the diversity of the people of California.

Ties to the strategic vision:

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## Section 2: Potential Recommendations with Majority Support with Additional Suggested Edits

### Foundational Strategy #2: Commit to Formal and Informal Collaboration and Partnerships

**Potential Collaboration and Partnerships Recommendation:** Following the CFWSV process, the SAG recommends that a stakeholder group continue as an advisory body to DFG and F&GC. Membership would potentially include existing SAG members and others with an interest in DFG and F&GC activities. The purpose of the group would be to:

1. Facilitate enhanced communication among DFG, F&GC and the diverse stakeholder community;
2. Provide guidance and recommendations on issues of mutual interest and importance [mandates workshop participants suggest adding “including the DFG strategic planning effort;” here]; and
3. Serve as an advocate for DFG and F&GC to the legislature and other decision-making bodies.

The group could meet once or twice a year to discuss issues of importance, and to be convened as needed to present information on critical issues.

Description: This recommendation....

Ties to strategic vision:

### Statutes and Regulations

**Potential Statutes and Regulations Recommendation:** Evaluate potential statutory changes to the California Endangered Species Act (CESA) to improve the permitting process: Uniformity in permitting process, efficiency in permitting, consistency in the application of CESA standards, and opportunity for applicants to appeal DFG decisions.

Implementation actions include:

- Provide the ability for DFG to allow incidental take for threatened species through regulations (as opposed to individual permits), similar to federal 4(d) rule and incidental take for candidates.
- Create an internal appeals process that an applicant can invoke when unable to reach agreement on terms for an incidental take permit. Amend Title 14, Section 783.8, [Reconsideration and Appeal Procedures], to provide for appeals of proposed permit standards, terms or conditions.
- Allow arbitration similar to 1600 arbitration for incidental take permits issued under CESA (consistency of application of standards).

**Potential Statutes and Regulations Recommendation:** Seek statutory changes to the Fully Protected Species Act to allow the incidental take of fully protected species following review and under specified circumstances related to certain management activities.

Implementation actions include:

- ~~Only allow take for defined restoration projects or agreed upon beneficial projects.~~
- ~~Reviewing status of fully protected species to determine the need for protection.~~
- ~~Eliminate fully protected status or alternatively list under CESA depending on status review.~~
- ~~New bullet? Allow incidental take of fully protected species similar to CESA.~~

Description: The fully protected species statute is outdated and needs addressing. Until the statutory change made in 2011, there was no way to allow for take of fully protected species. This caused challenges for projects throughout California and deterred habitat improvement projects that could benefit fully protected species because of the risk of take during the restoration project. While some would support abolishing the fully protected species statutes completely, broader support could be gained by moving species needing protection to CESA and eliminating it for those that don't warrant protection. However, DFG has stated that its workload would be significantly less it would be much easier for DFG if the statutes were eliminated, rather than requiring the review and listing of current fully protected species.

Ties to Strategic Vision: Goal 3, Objective 3; Goal 4, Objective 2

## California Fish and Game Commission

**Potential F&GC Recommendation:** ~~The BRCC recommends that~~ Make [Keep] the title name of the California Fish and Game Commission be changed to consistent with any changes made to the name of DFG more accurately reflect the scope of its jurisdiction in the 21<sup>st</sup> Century; the SAG's strong preference is the "fish and wildlife" nomenclature. ["Clean" version: Keep the name of the California Fish and Game Commission consistent with any changes made to the name of DFG; the SAG's preference is the "fish and wildlife" nomenclature.]

Description: This recommendation....

Ties to strategic vision:

**Potential F&GC Recommendation:** The SAG deliberated the merits of requiring that individual commissioners reflect particular qualifications and decided against that approach in favor of the following: Amend California Fish and Game Code Section 101 et seq. to require ~~Request that~~ the Governor when making appointments and California State Senate when confirming said appointments to consider these criteria for potential members to the California Fish and Game Commission:

- A. The degree to which the appointee will enhance the diversity of background and geographic representation of the Commission**
- B. The appointee's demonstrated interest and background in wildlife and natural resources**
- C. The appointee's previous experience in public policy decision making**
- D. Potential conflicts of interest of the appointee with subject matter under the jurisdiction of the F&GC**
- E. A commitment by the appointee to both prepare for and attend meetings and subcommittee meetings of the F&GC**
- F. The diversity of knowledge of natural resource issues and related scientific disciplines, including wildlife-dependent recreational activities, whether consumptive or non-consumptive**

Description: The California State Constitution decrees the existence of FG&C, its size (five members), terms (six years), and appointment authority (Governor with California State Senate approval). [See California State Constitution, Article 4(b) below.] The California State Constitution and state law are is silent, however, regarding the qualifications of the appointed members. The scope and responsibilities of F&GC have significantly expanded over the years as the size and diversity of California's population has grown. The five volunteer F&GC members are expected to make complex public policy and biological decisions on behalf of all Californians based on volumes of often very technical information. Although the CFWSV Stakeholder Advisory Group considered €creating a defined set of qualifications including education, expertise, geographic origin, and experience, it determined that such a prescriptive approach would require a constitutional amendment and could stifle the governor's ability to find qualified people for appointment to the designated positions. However, creating a new statute to help guide the Governor's selection of appointees members and the senate's confirmation process could enhance commission membership may elevate the discussion and result in decisions that improve the public's and legislature's confidence. A Little Hoover Commission report [1990] specifically noted this lack in that there was "no clear publicly understood criteria for selection and appointment of Fish and Game Commissioners."

"CALIFORNIA CONSTITUTION, ARTICLE 4 (b) There is a Fish and Game Commission of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 6-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. The Legislature may delegate to the commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. A member of the commission may be removed by concurrent resolution adopted by each house, a majority of the membership concurring."

FISH AND GAME CODE Section 101 et seq. address items affecting the Commission that are not Constitutional , such as: It is in the Resources Agency; it shall elect one member as president and one as vice president; its members shall be paid per diem compensation; it shall form a marine resources subcommittee, etc.

New statutory language that suggests what the governor and Senate Rules Committee should “consider” when making and confirming appointments would reside appropriately in this area of law as guidance for the future appointment of Fish and Game Commissioners. The new language requires consideration but does not require that the criteria be used.

Ties to Strategic Vision: Goal 1 (Strong Relationships with Other Agencies, Organizations and the Public), Objective 5 (Embrace and support diversity among stakeholders and the public); Goal 3 (An Effective Organization), objective 6 (Develop knowledgeable, capable and experienced employees and commissioners) and objective 7 (Demonstrate credibility)

## Other Topics

**Potential new recommendation:** Request a report from DFG and F&GC to the legislature and governor by June 1, 2013 to identify progress in implementing recommendations within the strategic vision. Recommend that the chairs of those legislative committees with jurisdiction over fish and wildlife hold a joint hearing following the release of the report.

Description: This recommendation....

Ties to strategic vision:

### Section 3: Potential Recommendations that Require Discussion and/or Additional Potential Edits

#### Foundational Strategy #2: Commit to Formal and Informal Collaboration and Partnerships

**Potential New Collaboration and Partnerships Recommendation: Where appropriate, engage in meaningful consultation and collaboration with tribal officials of California Native American Tribes in decision-making processes that affect tribal lands, cultural resources and/or issues of mutual concern.**

Description: Tribes are a unique from other government agencies or organizations due to their status as dependent sovereign nations. Many tribes rely on what is commonly referred to as traditional or cultural resources that the United States is obligated to protect and maintain; these resources may include but are not limited to fish, water, burial sites, specific plants and ceremonial sites (historic and contemporary).

When federal agencies take an action that could affect tribal traditional or cultural resources, the agencies are obligated to consult with tribes in order to develop an understanding of what resources are affected and how to avoid or mitigate impacts. Often, DFG is tasked with regulating or permitting the use or harvest of tribal traditional or cultural resources or otherwise regulating activities that could in turn affect these resources. Although some state agencies, such as the California Environmental Protection Agency, acknowledge traditional and cultural beneficial uses of resources and consider these beneficial uses when making regulatory decisions, DFG does not.

Many tribes in California continue to occupy their traditional lands, practice traditional resource management activities, and other components of their traditional culture. This continual occupancy of lands and continued practice of cultural tradition means that many tribes have developed a deep understanding of local ecological relationships and biological processes than can only be developed by thousands of years' experience. This unique understanding of local ecosystem function and management is referred to as traditional ecological knowledge (TEK). TEK can be an important contribution to the understanding of ecological relationships and biological processes in conventional western terms and thus improve resource management decisions by state and federal agencies.

A well-crafted tribal consultation process would enable DFG to 1) identify tribes whose traditional and/or cultural resources would be impacted by a given action, 2) work with the affected tribe(s) to mitigate or avoid impacts to those traditional and/or cultural resources, and 3) better understand how local ecosystems work and the consequences and impacts of a particular action by drawing on TEK.

In some cases, DFG may need to provide financial resources to the affected tribe(s) to enable adequate participation by qualified staff and/or tribal members.

Ties to Strategic Vision: Goal 1 (Strong Relationships with Other Agencies, Tribes, Organizations and the Public), objective 2 (Proactively engage other agencies, organizations and stakeholders as partners and collaborators), objective 3 (Understand stakeholder challenges and expectations), objective 5 (Embrace and support diversity among stakeholders and the public), objective 6 (Share data, processes, tools, knowledge, expertise and information), and objective 9 (Find collaborative, place-based solutions)

## Mandates, Efficiencies and Funding

**Potential New Mandates, Efficiencies and Funding Recommendation<sup>3</sup>:** Pursue legislation that would become effective January 1, 2013 to create a future process to address the very important and interrelated issues of mandates, efficiencies, reorganization and funding at DFG and F&GC. The legislation would:

- Establish a stakeholder advisory group (SAG), the members of which would be appointed by the secretary for natural resources by February 1, 2013. This group, with the help and advice of DFG and F&GC staff, would review state laws that mandate action by DFG and F&GC for the purpose of recommending greater efficiencies and establishing priorities as follows:
  1. identify obsolete mandates that should be repealed;
  2. identify duplicative mandates that should be consolidated;
  3. identify mandates that should be performed by other agencies or departments instead of DFG or F&GC; and
  4. identify which mandates should be priorities of DFG and F&GC pursuant to limited fiscal resources.

The SAG would be required to report its findings and recommendations to the newly created Fish and Wildlife Mandates and Funding Task Force by December 31, 2013.

- Establish the Fish and Wildlife Mandates and Funding Task Force (Task Force) by September 1, 2013 (June 1, 2013?), which would include the following eight participants:
  1. a former director of the California Department of Finance who would serve as chair;
  2. a former chair of the Senate or Assembly Budget Committee;
  3. a current or former employee of the Legislative Analyst's Office with expertise in natural resource issues; and
  4. five additional members appointed to serve as representatives of, and liaisons to, the SAG, which would include one representing wildlife dependent recreation, one representing habitat conservation or related programs, one representing commercial

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<sup>3</sup> This new recommendation developed by homework volunteers at the request of SAG members during the March 15 meeting, and is intended to incorporate elements of other mandates and funding recommendations, as noted elsewhere in this document.

fishing, one representing landowners or related constituency interests, one representing local government.

The first three members of the Task Force would be appointed by the Secretary of Natural Resources and the last five would be selected by those serving on the SAG from among its membership). The Task Force would be required to reconcile the mandates/efficiencies findings and recommendations of the SAG with the current funding sources available to DFG and F&GC, explore ways to simplify the way programs are funded, and, if it found there was not adequate funding to support the remaining priorities and mandates, it would be tasked with recommending additional funding sources. The Task Force would be required to compile its findings and those of the SAG into a single package of recommendations for a final consultation with the SAG and subsequent presentation to the legislature and governor by July 1, 2014.

- The final recommendations of the Task Force would be legislative and administrative in nature (i.e., repealing and consolidating mandates, creating efficiencies, reshaping existing funding sources and establishing new ones). The final recommendations would be incorporated within a single piece of legislation that would be subject to an “up-or-down” vote of the California State Legislature (on a majority basis), without possibility of amendment. (NOTE: This means the originating legislation--the subject of this recommendation--would require a two-thirds vote of the legislature to pass.)

Description: There is widespread agreement within the SAG that the interrelated issues of mandates, operating efficiencies and funding are the most in need of change and reform, but the current, time-limited process and strategic vision-level expectations were not conducive to delving into “the weeds” of what really needs to be accomplished in these areas. Thus, rather than be silent and leave the biggest “elephant in the room” without resolution, the SAG is recommending a future process that can take the necessary time to focus on these extremely important issues. Additionally, while the diverse constituencies seek to initiate reforms that will enhance service and efficiency within DFG, the proposed provision seeking an “up or down” vote by the legislature is a necessary instrument in order for all interest groups to step back from their specific interests and promote a DFG that is more efficient and effective in meeting multiple interest group objectives.

Mandates: New legislative mandates (many unfunded) are regularly added to the workloads of DFG and F&GC (especially DFG) and none are removed, creating a disservice and adverse impacts to state employees, the public, and natural resources. So many mandates, especially during tough fiscal times, result in priorities being determined by annual budgets, short-term priorities, or crisis events, and are driven by judgment calls by individual employees. A stakeholder-deliberated and informed process should result in informed recommendations that will relieve some of the burden on DFG while streamlining and prioritizing its future work.

Efficiencies: When discussing potential new funding sources, most SAG members are concerned that the current process of funding and implementing programs should be better understood and streamlined to create efficiencies first; that, along with mandate relief, would inform future fiscal needs and potential new funding sources. Additionally, should additional resources be necessary, this proposed process shall serve to build public confidence and support for additional resources that may be necessary to perform the work of DFG and F&GC.

Funding: The recommendation places mandate relief and efficiencies first (through the SAG process), and then requires the Task Force, which includes funding experts and SAG representation, to meld those issues with funding recommendations, whether they be simplifying existing mechanisms and/or supporting new ones.

Up-or-down vote: There is general discomfort with this idea for varied reasons, but a majority believe that the public stakeholder-advised Task Force process will result in widely accepted recommendations that would ultimately improve the overall service of DFG and increase awareness and support for the work of DFG. Once fully vetted in a public process over 18 months, the recommendations should not be subject to cherry-picking of pet programs nor torpedoed by a vocal few in the legislative process. It would be incumbent upon all interested parties to participate in the public processes of the SAG and the Task Force, because the up-or-down legislative vote would be understood upfront, making participation in the process imperative. If, ultimately, a comprehensive reform of DFG's work, mandates, and streamlined funding is deemed too controversial, then such a measure would likely face defeat by the legislature. At the same time, this process is intended to complement the launch of DFG's administrative reform process and such other individual measures that may be supported in legislation.

## Funding and Efficiencies

**Vision: Successful natural resource stewardship depends upon stable, adequate funding.**

~~Potential New Funding and Efficiencies Recommendation: Establish legislation to create a commission to reconcile funding, statutory and regulatory mandates. The integrated reform plan for DFG's work would be subject to an up or down vote by the California State Legislature.~~<sup>4</sup>

- Reform and simplify DFG funding programs
- Identify program costs (noting funding authorities, and stability of funds over time, and implications of adequate versus optimal levels of service) and identify where current fees/funding does not cover costs.
- DFG should work with stakeholders to evaluate the potential stable funding options (see below/appendix for list of ideas that have been suggested in this process and/or used elsewhere).
- Require open and transparent accounting within DFG to build public confidence in how funds are managed.
- As part of its strategic planning effort, DFG Evaluate and implement program efficiencies, level of service delivery (adequate versus optimal), and viable funding, and share those program efficiencies with the proposed commission.

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<sup>4</sup> This recommendation has been replaced with the potential mandates, efficiencies, and funding recommendation that establishes a stakeholder advisory group as well as a fish and wildlife mandates and funding task force.

- Example of unfunded mandate: “The failure of DFG to meet its in lieu fee obligation to counties pursuant to California Fish and Game Code Section 1504 remains a major concern. This shortfall in funding from DFG to the counties has lead to frustration at the local level, where county officials continue to bear the burden of providing mandated services to public lands that are not subject to local property tax.”

DFG Sustainable Funding Overview (Proposed Description): DFG and F&GC have taken on increasingly important roles in the management and conservation of natural resources and their habitats. Initially, they were primarily responsible for administering the state’s hunting and fishing programs. However, habitat and non-game wildlife protection has become an important role of DFG in wildlife management and conservation. The transition to F&GC’s and DFG’s new roles has been difficult because funding has not kept pace with the expansion of responsibilities.

DFG has been underfunded for the last three decades, limiting the ability to meet its responsibilities (Treanor Report, 2009). The public and stakeholders recognize that DFG does not have the resources they need to meet its responsibilities. There is a need to review the adequacy of existing funding streams and broaden the base of funding. Disagreement over the extent of the DFG’s underfunding should also be resolved.

The proliferation of special funds within the DFG structure creates significant administrative burdens and limits the effective use of available resources. (See, for example, Legislative Analyst’s Office, A Review of the Department of Fish and Game (1991).) There are now literally scores of special funds imposing significant limitations on DFG’s ability to manage its fiscal resources effectively. Many of these funds are longstanding, single-focus programs that are outdated and often contrary to sound, state-of-the-art, ecosystem based management practices.

DFG’s funding is complex with multiple special funds and accounts that limit its ability to manage its fiscal resources. The convoluted funding sources undermine confidence in DFG to effectively use available resources to meet its responsibilities. Simplifying and consolidating accounts will help remedy these problems.

Current Funding: Fiscal Year 2012-13

DFG currently relies on funding from the general fund, the federal government and a number of special funding accounts:

FY2012-2013 California Department of Fish and Game Funding

<u>General Fund</u>	<u>\$62,141,000</u>
<u>Fish and Game Preservation Fund</u>	<u>\$109,096,000</u>
<u>Federal Trust Fund</u>	<u>\$ 78,461,000</u>
<u>Total Budget</u>	<u>\$390,885,000</u>

The Legislative Analyst’s Office has a number of reports that highlight the funding challenges of DFG and discussion of funding responsibility (A Review of the Department of Fish and Game [1991], A Ten-Year Perspective: California Infrastructure Spending [2011]):

- Proliferation of special funds within DFG's structure creates significant administrative burdens and limits the effective use of available resources.
- Growing backlog of deferred maintenance at DFG for maintaining the roads, parking lots, dams, water delivery systems, and buildings necessary to provide the public with access to its wildlife conservation sites.
- Over the last decade, the state has provided more than \$13 billion for state and local resources-related infrastructure. Most of this funding has come from bond funds—and funding from bond revenues now comprises approximately 20% of DFG's budget. [NOTE: Given the expiration of available general obligation bond funding by 2015, there will be a significant impact on the scope of work conducted by DFG.] About three-fourths of the \$13 billion in spending over the last decade came from general obligation bond funds.
- The California State Legislature has stated its policy intent that the costs of a resources-related program or project should, to the extent possible, be paid by its direct beneficiaries. Expenditures with broad public benefits, on the other hand, are appropriately funded with state public funds (such as General Fund monies and general obligation bond funds). Where the benefits of an activity are shared between public and private beneficiaries, the application of the beneficiary pays funding principle would allocate the funding responsibility for its costs proportionally between these two sets of beneficiaries.

#### Proposed Recommendation

The Nature Conservancy has one important clarifying additional recommendation to the BRCC and SAG proposals. "The BRCC recommends that the number of special funds be substantially reduced through elimination of particular accounts, consolidation of accounts, or both" with the goal of promoting wider understanding of DFG's funding/budget expenditures among direct user constituencies, policymakers, opinion leaders and the public. Additionally, we believe DFG should become less dependent on the general fund, consistent with the "beneficiary pays" principle from the LAO report.

The SAG proposals include identifying program costs, identifying potential stable funding options, and evaluating program efficiencies. However, to reform and simplify DFG funding programs, legislation should be introduced to reconcile the complex and poorly understood funding of DFG programs.

We would propose sponsoring legislation that would create a one year charter to produce a funding plan that identifies comprehensive fiscal reform across the DFG's budget. We believe that an appropriately chartered "DFG Budget Reform Commission" should undertake a detailed review of DFG's budget; recommend specific revenue sources aligned with program functions; and overall, simplify and streamline the DFG's budget and accounting.

In light of the multiple demands of different stakeholders, it is likely that this undertaking would fail unless viewed as a comprehensive reform and restructuring of DFG's functions. Consequently, we believe that this legislation should be designed to empower the DFG Budget Reform Commission to offer detailed reform proposals and simply allow the legislature to take a "direct vote" on the proposal—without considering amendments to the plan. Such an approach would encourage all constituencies to look towards a higher performing DFG overall.

~~The process could be based on the federal Defense Base Closure and Realignment Commission (or BRAC) process. In this process, the federal government directed the Department of Defense to realign inventory and reduce expenditures on operations aimed at achieving increased efficiency in line with Congressional and Department of Defense objectives. The BRAC commission prepared their recommendations with the condition that it could only be approved or disapproved in its entirety.~~

~~This recommendation combines recommendations 2, 3 and 4 in the funding and efficiencies document dated March 6, 2012. [NOTE: The proposed “DFG Budget Reform Commission” would be charged with development of a sustainable funding path that potentially incorporates the five following funding and efficiencies recommendations.]~~

**~~Potential Funding and Efficiencies Recommendation: Reform and Simplify Department of Fish and Game (DFG) Funding Programs<sup>5</sup>~~**

~~The BRCC recommends that the number of special funds be substantially reduced through elimination of particular accounts, consolidation of accounts, or both. In this way, for example, special funds meant for management of game species and hunting and fishing programs could be consolidated into one fund, thereby protecting the integrity of the funds, affording a measure of flexibility, and achieving substantial administrative efficiencies.~~

~~The proliferation of special funds within the DFG structure creates significant administrative burdens and limits the effective use of available resources. (See, for example, Legislative Analyst’s Office, *A Review of the Department of Fish and Game* (1991).) There are now literally scores of special funds imposing significant limitations on DFG’s ability to manage its fiscal resources effectively. Many of these funds are longstanding, single-focus programs that are outdated and often contrary to sound, state-of-the-art, ecosystem based management practices.~~

**~~Potential Funding and Efficiencies Recommendation: Identify program costs (noting funding authorities, and stability of funds over time, and implications of adequate versus optimal levels of service) and identify where current fees funding does not cover costs.<sup>6</sup>~~**

**~~Potential Funding and Efficiencies Recommendation: DFG should work with stakeholders to evaluate the potential stable funding options (see below appendix for list of ideas that have been suggested in this process and/or used elsewhere).<sup>7</sup>~~**

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<sup>5</sup> This recommendation has been replaced with the potential mandates, efficiencies, and funding recommendation that establishes a stakeholder advisory group as well as a fish and wildlife mandates and funding task force.

<sup>6</sup> This recommendation has been replaced with the potential mandates, efficiencies, and funding recommendation that establishes a stakeholder advisory group as well as a fish and wildlife mandates and funding task force.

<sup>7</sup> This recommendation has been replaced with the potential mandates, efficiencies, and funding recommendation that establishes a stakeholder advisory group as well as a fish and wildlife mandates and funding task force.

**Potential Funding and Efficiencies Recommendation: Require open and transparent accounting within DFG to build public confidence in how funds are managed.**

Description: As noted in the Treanor Report (page 26-27), the California State Legislature realizes that DFG has been underfunded for at least the last three decades. (See Fish and Game Code Sections 710, 710.5, 710.7). Fish and Game Code Section 711 states “It is the intent of the legislature to ensure adequate funding from appropriate sources for the department.” Unfortunately, while there appears to be near universal recognition that DFG and F&GC do not have the resources they need, increasing funding is politically challenging. There is a need to both review the adequacy/appropriateness of existing funding streams and broaden the base of funding for DFG to include additional funding sources to include all who benefit from DFG’s programs.

Specific funding streams each have their own limitations: general funds can vary from year-to-year, bonds are also variable and can only be spent on capital costs, and fees are typically constrained to very specific uses and can result in very high administrative costs. DFG staff identified the burden of administering multiple, highly specialized accounts and noted that it would be preferable to consolidate ~~them~~fees into relatively fewer accounts with more flexibility in terms of how monies can be spent. Public support for continued (or increased) DFG funding depends on both transparent accounting and the sense that funds are being used efficiently. SAG participants therefore believe it is important that the stable funding and efficiencies recommendations work in concert and be advanced together.

Implementation Assessment

- Method: Administrative, regulatory, statutory
- Timeline: Long term

Ties to Strategic Vision: Goal 4, Objective 3PROPOSED APPENDIX – FUNDING IDEAS<sup>8</sup>

This list includes Ppotential new funding mechanisms that have been suggested in this process or elsewhere but inclusion on this list does not imply SAG support. It should also be noted that that there was no detailed discussion by the SAG during any of its deliberations regarding any of the potential mechanisms listed below.~~include:~~

## General Funding

- Sales tax on outdoor gear (could be statewide or at local or regional level).
- Water fee or tax (all wildlife needs water, and water transport and delivery fuels development and associated wildlife impacts).

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<sup>8</sup> CFWSV Project staff notes that this proposed appendix is no longer referenced in any proposed recommendation.

- Wildlife tax on license plates, vehicles, or fuel due to mortality of wildlife on roadways and the impact on habitat.
- Boating or shipping fee (similar to above for cars).
- Dedicated portion of state sales tax.
- Real estate transfers fee.
- Develop campaign around nominal (\$1), voluntary (or opt out type fees) for hotels, aquaria, natural history museums, zoos, outdoor gear retailers (REI), etc. that focus on wildlife and/or habitat preservations. For example, ask each visitor to an aquarium if they'd like to contribute \$1 to help preserve California ocean habitat (or 50 cents, to be matched by aquarium!). Similar hotel room based programs have been successful in areas around national parks, the Smithsonian Museums use this approach in their gift shops, etc.
- Develop a mechanism whereby DFG can easily accept donations of money, land or equipment – potentially using the California Wildlife Foundation or other support foundation.

#### Fee Based Funding

- Fee for service to support the Conservation Banking Program.
- Develop fee to support Natural Communities Conservation Planning Act Program.
- Fee for California Endangered Species Act (CESA) compliance.
- Fee or tax on large vessels to help fund invasive species work.
- Fee to be paid by certain appropriate industries that generate spill response activities to fund DFG's water pollution investigation and cleanup program or authorize diversion of a portion of the Office of Spill Prevention and Response (OSPR) fees/funds to non-OSPR pollution cases (based on nexus of fuel as significant portion of inland spill responses). Note: SAG/DFG concerns raised about 'robbing Peter to pay Paul' and need for NEW funds versus redistributing existing insufficient funding.
- Develop a campaign to encourage non-hunters to purchase stamps (e.g. duck stamp) to support wetland conservation activities at DFG, even if they're not required to have the stamp on their person to conduct non-hunting activity (e.g. bird watching). Note: this may not be a major money maker and changing the name of the stamp to "wetland restoration stamp" might be necessary.
- Develop fee on bird seed/bird feeders and other non-consumptive wildlife type products. Could be a huge money maker but past attempt met with opposition from bird groups.
- Require users to pay for parking/use of wildlife areas or ecological reserves. The state of Washington passed legislation for a "Discover Pass" program ("Your ticket to Washington's great outdoors!) and expects to raise \$10-20 million annually. Georgia also recently instituted its Georgia Outdoor Recreational Pass, which is now required to access certain wildlife management areas. The most visited California-managed outdoor areas are likely to be state parks which also need stable funding, but the DFG share from such an initiative might still be significant. Might look at that model as an option (see <http://discoverpass.wa.gov/> for more information) or other state department's funding sources. Note, important to make it EASY to pay such fees. Requiring non-consumptives to provide a copy of their driver's license, purchase

such passes in person, etc. is a major disincentive. Such items must be easily available on-line and day passes must be available on-site.

- Create user fee of some kind (stamp, entry fee, fee on SCUBA tank refills, etc) to help fund marine protected areas (MPAs)/marine programs. Note: the challenge in obtaining fees from non-consumptive users is the cost necessary to assess fees or enforce the need for stamps or licenses on non-consumptive users.
- Fees on scientific collecting permits/research users.
- DFG is not funded for nuisance wildlife efforts. Consider a development fee or building permit fee in areas that are newly developed. (Given the new wildfire fee for urban/rural interface homes, this proposal could be politically challenging).
- Southern California has been hit hard in the recent past by wildfires. Consider an OSPR-type program that would include a team of experts to assess impacts associated with wildfires and tap fire related fees to fund (potential use of special assessment districts). Revisit Fish and Game Commission and Board of Forestry joint policy on pre-, during, and post-fire consultation and actions.
- Fines and/or legal settlements for harmful acts in marine environments should be directed to DFG for marine conservation.
- Costs to enhance marine life should be part of any new or renewed license or other regulatory permission for industrial activities with identified adverse impacts to the marine environment.
- Once-through cooling mitigation funds. (Note: this program was established by the State Water Resources Control Board).

Potential enhancements of existing funding streams:

- Continue to pursue federal conservation funding. Note: usually requires state match.
- Pursue additional bond funds.
- Raise California Environmental Quality Act (CEQA) fees to recover DFG costs.
- Adjust user-based fees to ensure they are set appropriately and structured to keep up with inflation. Note: some on SAG think this should be responsibility of DFG (administrative) others think it should be done legislatively.
- Ensure fees cover costs of administrating program.<sup>9</sup> For example, commercial fishing fees currently only cover an estimated 25% of the costs of managing commercial fisheries in California, scientific collecting fees do not cover management costs, non-consumptive users fund DFG through general funds monies but not directly via user fees, etc.

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<sup>9</sup> See Fish & Game Code, § 711 (2) The costs of commercial fishing programs shall be provided out of revenues from commercial fishing taxes, license fees, and other revenues, from reimbursements and federal funds received for commercial fishing programs, and other funds appropriated by the Legislature for this purpose. (3) The costs of hunting and sportfishing programs shall be provided out of hunting and sportfishing revenues and reimbursements and federal funds received for hunting and sportfishing programs, and other funds appropriated by the Legislature for this purpose. These revenues, reimbursements, and federal funds shall not be used to support commercial fishing programs, free hunting and fishing license programs, or nongame fish and wildlife programs.

- Review and adjust fines and develop fine schedule that automatically keeps up with inflation.
- Increased waste discharge fees, access State Water Resources Control Board pollution funds for DFG activities with a nexus to this fund.
- Increase use of big game fundraising tags.
- Mitigation bank contributions should provide adequate ongoing operation and management funds through endowment or otherwise.

Ties to Strategic Vision: Goal 2, objectives 2, 4, 5 and 7; Goal 4, Objective 5

**Potential Funding and Efficiencies Recommendation: As part of its strategic planning effort, DFG evaluate and implement program efficiencies, level of service delivery (adequate versus optimal), and viable funding, and share those program efficiencies with the proposed commission task force.**

Implementation actions include:

- Create workgroup of DFG/FGC staff and stakeholders to evaluate program efficiencies, level of service delivery, and viable funding.
- Implement new, innovative ways to improve program efficiencies.
- Work with other state and federal agencies to investigate coordination of programs to improve program efficiencies.

Description: DFG's broad mandates have, at times, prevented it from reviewing programs with the intent of improving efficiencies. It is necessary to review DFG's programs to improve efficiencies, determine the appropriate level of service for each program, and identify viable funding sources to operate these programs. Such an analysis should include identification of DFG/FGC capabilities given current resources, including staff and funding. These efficiencies could be found both through internal changes and through improved coordination with other agencies and departments.

Implementation Assessment

- Method: Administrative, regulatory, statutory
- Timeline: Mid-term, long-term

Ties to Strategic Plan: Goal 3, Objectives 1; Goal 4, Objectives 3 and 4

**Potential Funding and Efficiencies Recommendation: Increase efficiency of DFG science programs by improving processes for hiring and retaining seasonal employees within state government.**

**Potential New Funding and Efficiencies Recommendation: In the future, when the legislature enacts legislation, it identifies a specific means by which the new mandate can be paid for.**

Description: This recommendation....

Ties to strategic vision:

## Mandates

~~**Potential Mandates Recommendation: Review DFG/FGC responsibilities/mandates to determine whether or not they should be combined, eliminated or transferred elsewhere.**~~<sup>10</sup>

~~Implementation actions include:~~

- ~~• Create workgroup of DFG/FGC staff to review current responsibilities of DFG/FGC and make recommendations on potential transfer, combination, or elimination.~~
- ~~• Work with stakeholders to get their recommendations on potential transfer, combination, or elimination of responsibilities.~~
- ~~• Work with other state and federal agencies to investigate feasibility of transfer, combination, or elimination of responsibilities.~~
- ~~• Work with the legislature (members and staff) to gain support for transfer, combination, or elimination of responsibilities.~~

~~Description: DFG/FGC has an incredibly broad mandate, which creates challenges in efficiently implementing all the programs over which it has responsibility. With the current interest in reviewing Title 14 of the California Code of Regulations and the California Fish and Game Code to identify: (1) inconsistencies; (2) redundancies; (3) unused and outdated code sections; (4) sections creating parallel systems and processes to be consolidated; and (5) opportunities to restructure the codes to group similar statutes and regulations. It may be worth considering eliminating or transferring some responsibilities outside of DFG; some examples that have been raised in discussions are placement of OSPR within DFG, the role of the California Ocean Protection Council, and whether some of the water branch's activities may be more appropriate with the State Water Resources Control Board.~~

~~Ties to Strategic Vision: Goal 4, Objective 3.~~

~~**Potential Office of Spill Prevention and Response Recommendation: Reestablish that the OSPR administrator has autonomous control over hiring, personnel, budgeting, and funds regarding marine oil spill prevention and response activities, to ensure the ability to carry out "best achievable protection" of the coast from spills, pursuant to the California Government Code (Lempert-Keene-Seastrand Oil Spill Prevention and Response Act).**~~<sup>11</sup>

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<sup>10</sup> This recommendation has been replaced with the potential mandates, efficiencies, and funding recommendation that establishes a stakeholder advisory group as well as a fish and wildlife mandates and funding task force.

<sup>11</sup> This recommendation is proposed to be used as an example of the kinds of "mandates" questions that should be addressed in the proposed mandates, efficiencies and funding recommendation that establishes a stakeholder advisory group as well as a fish and wildlife mandates and funding task force.

~~**Potential Office of Spill Prevention and Response Recommendation: Use an existing civil service classification to hire a law enforcement pollution investigator with powers to enforce the provisions of the Government Code relevant to OSPR and the administrator.**~~<sup>12</sup>

~~**Potential Mandates Recommendation: Seek legislation that would create a stakeholder process to review state laws that mandate action by DFG and F&GC for the purpose of recommending: 1) which mandates should be repealed due to being obsolete, lacking a constituency or not benefiting natural resources; 2) which mandates should be consolidated with others to enhance potential efficiencies and effectiveness; 3) which mandates should be performed by other agencies/departments instead of DFG and/or F&GC; 4) which mandates should be priorities pursuant to limited fiscal resources. In this case, stakeholders must not be limited to various interest groups and the DFG/F&GC, but also include representation from the California State Legislature and other state agencies/departments that share mandates with DFG and F&GC.**~~<sup>13</sup>

~~Description: Over the years, the legislature has passed so many laws mandating action by DFG and F&GC (especially DFG) on so many different issues that there would never be adequate staff or resources to perform all of them. New mandates are regularly added and none are removed, creating a disservice and adverse impacts to state employees, the public and natural resources. So many mandates, especially during tough fiscal times, result in priorities being determined by annual budgets and judgment calls by individual employees. This recommendation will be a difficult and time-consuming task, but it is necessary to help create a more effective DFG and F&GC into the future.~~

Identify:

- ~~• Redundant mandates (those done by other agencies)~~
- ~~• Obsolete mandates~~
- ~~• Conflicting mandates (Hopefully the Law Review Commission will do this)~~

Evaluation should include:

- ~~• How each mandate pertains to DFG's mission~~
- ~~• How much funding there is for each mandate (source of the funding)~~
- ~~• Department's priorities in actually meeting the mandates~~

~~Budget requests indicate what priority DFG is giving to any particular mandate.~~

Evaluate what the sources of funding are for each mandate:

- ~~\_\_\_\_\_ Permits & fees~~
- ~~\_\_\_\_\_ Tags & licenses~~
- ~~\_\_\_\_\_ Bonds (expiring?)~~

<sup>12</sup> This recommendation is proposed to be addressed by DFG during its strategic planning effort.

<sup>13</sup> This recommendation has been replaced with the potential mandates, efficiencies, and funding recommendation that establishes a stakeholder advisory group as well as a fish and wildlife mandates and funding task force.

~~\_\_\_\_\_ Federal funds (Pittman-Robinson, NOAA, SFRA, etc.)(matching?)~~

~~\_\_\_\_\_ Grants~~

~~\_\_\_\_\_ General fund~~

~~\_\_\_\_\_ Funds borrowed from other dedicated sources~~

~~Can't really do this evaluation until:~~

~~\_\_\_\_\_ DFG does its mission statement in the strategic planning process~~

~~\_\_\_\_\_ Law Review Commission finishes its work~~

#### ~~Implementation Assessment~~

- ~~• Method: Administrative~~
- ~~• Timeline: Medium term~~
- ~~• Level of likely BRCC/SAG agreement: High~~