

1. Suction Dredging Budget

Background. Background: The Department of Fish and Game is responsible for administering Section 5653 of the Fish and Game Code which requires a permit from DFG to conduct recreational motorized suction dredge mining in state waters. The Department's existing suction dredge mining regulations, which were adopted in 1994, were the subject of a court order in 2006 which found that the regulations could result in environmental impacts harmful to coho salmon or other fish species listed as threatened or endangered under state or federal law, and ordered DFG to conduct a new environmental impact review and update the regulations as necessary. The Department was ordered by the court to complete the EIR by July of 2008.

After the Department failed to meet that deadline, the court in July 2009 prohibited DFG from issuing any suction dredge mining permits as long as the related litigation was pending. At the same time, the Legislature passed and the Governor signed into law SB 670 (Wiggins, c. 62, Statutes of 2009) on August 6, 2009. SB 670 imposed an immediate moratorium on suction dredge mining until three specified actions occur: 1)DFG completes the court-ordered environmental review of its permitting program; 2) DFG updates the existing regulations governing the program as necessary; and 3)The updated regulations take effect. DFG's draft EIR for suction dredge mining and new proposed revised regulations were released for public comment in February 2011. The draft EIR identifies a number of significant and unmitigated environmental impacts.

DFG has acknowledged in previous years that the current fees for suction dredge mining permits are inadequate to cover the full costs of the program. The current statutory base fee for a permit is \$25, which when adjusted for inflation equates to approximately \$40. The base fee is \$130 if an onsite inspection is required. Nonresident base fees are \$100 for a basic permit and \$220 for onsite inspection. The Senate policy committee analysis for SB 670 notes that DFG "has previously estimated that the permits cost an average of \$450 to process and to cover the costs of the program, which if extrapolated to the approximate 3,000 permits would result in an expenditure of about \$1.3 million."

Under the new proposed regulations DFG proposes to issue up to 4,000 permits. DFG's new estimate of revenue from 4,000 permits and onsite inspection fees is \$373,000. If the department's previous cost estimates are accurate, the program will cost \$1.8 million, not counting the additional costs of onsite inspections, potential legal defense costs if anticipated lawsuits challenging the regulations are filed, and costs for SWRCB permitting since the proposed regulations acknowledge that suction dredging in mercury impaired waters will cause significant unmitigated environmental impacts, but do not propose to limit suction dredging in such waters, leaving that problem to the SWRCB. The department has used 27 DFG employees in the development of the regulations so far. DFG wardens would also be required to enforce the regulations. The gap between the current fees and the costs of the program result in an estimated \$2 million subsidy of the program from the Fish and Game Preservation Fund and/or the General Fund.

Trailer Bill CA Budget FY 11-12

Subcommittee No. 2

May 12, 2011

Staff Recommendation: Approve the following:

- (1) Trailer bill language to continue the moratorium on issuance of suction dredge permits for an additional five years, or until such time as new regulations that fully mitigate all identified significant environmental impacts, and a proposed fee structure that will fully cover all program costs, are in place.
- (2) Approve Budget Bill Language prohibiting any funding at the department from being used for suction dredge mining regulation, permitting or other activities.

VOTE:

Approve Staff Recommendation with the following modification:

- (2) Approve Budget Bill Language prohibiting any funding at the department from being used for suction dredge mining regulation, permitting or other activities with the exception of enforcement and legal defense.

Vote: 2-1 (Fuller)