Implementation of State Auditor's Recommendations

Audits Released in January 2005 Through December 2006

Special Report to

Senate Budget and Fiscal Review Subcommittee #2—Resources, Environmental Protection, and Energy

February 2007
Report No. 2007-406 S2

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CALIFORNIA STATE AUDITOR

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February 28, 2007 2007-406 S2

The Governor of California
Members of the Legislature
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

The Bureau of State Audits presents its special report for the Senate Budget and Fiscal Review Subcommittee No. 2—Resources, Environmental Protection, and Energy. This report summarizes the audits and investigations we issued during the previous two years that are within this subcommittee's purview. This report includes the major findings and recommendations, along with the corrective actions auditees reportedly have taken to implement our recommendations.

This information is also available in a special report that is organized by policy areas that generally correspond to the Assembly and Senate standing committees. This special policy area report includes appendices that summarize recommendations that warrant legislative consideration and monetary benefits that auditees could realize if they implemented our recommendations. This special policy area report is available on our Web site at www.bsa.ca.gov. Finally, we notify auditees of the release of these special reports.

Our audit efforts bring the greatest returns when the auditee acts upon our findings and recommendations. This report is one vehicle to ensure that the State's policy makers and managers are aware of the status of corrective action agencies and departments report they have taken. Further, we believe the State's budget process is a good opportunity for the Legislature to explore these issues and, to the extent necessary, reinforce the need for corrective action.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE
State Auditor

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INTRODUCTION

This report summarizes the major findings and recommendations from audit and investigative reports we issued from January 2005 through December 2006, that relate to agencies and departments under the purview of the Senate Budget and Fiscal Review Subcommittee No. 2—Resources, Environmental Protection, and Energy. The purpose of this report is to identify what actions, if any, these auditees have taken in response to our findings and recommendations. We have placed this symbol ➲ in the left-hand margin of the auditee action to identify areas of concern or issues that we believe an auditee has not adequately addressed.

For this report, we have relied upon periodic written responses prepared by auditees to determine whether corrective action has been taken. The Bureau of State Audits' (bureau) policy requests that the auditee provides a written response to the audit findings and recommendations before the audit report is initially issued publicly. As a follow-up, we request the auditee to respond at least three times subsequently: at 60 days, six months, and one year after the public release of the audit report. However, we may request an auditee provide a response beyond one year or initiate a follow-up audit if deemed necessary.

We report all instances of substantiated improper governmental activities resulting from our investigative activities to the cognizant state department for corrective action. These departments are required to report the status of their corrective actions every 30 days until all such actions are complete.

Unless otherwise noted, we have not performed any type of review or validation of the corrective actions reported by the auditees. All corrective actions noted in this report were based on responses received by our office as of January 2007.

To obtain copies of the complete audit and investigative reports, access the bureau's Web site at www.bsa.ca.gov or contact the bureau at (916) 445-0255 or TTY (916) 445-0033.

DEPARTMENT OF FISH AND GAME

Investigations of Improper Activities by State Employees, July 2005 Through December 2005

INVESTIGATION I2004-1057 (REPORT I2006-1), MARCH 2006

Department of Fish and Game's response as of February 2006

Investigative Highlights . . .

The Department of Fish and Game:

- ☑ *Provided gifts of free rent of more than $87,000 to employees and volunteers.*
- ☑ *Failed to report housing fringe benefits totaling almost $3.5 million over a four-year period.*
- ☑ *Deprived state and federal taxing authorities of as much as $1.3 million in potential tax revenues for tax years 2002 through 2005.*

Other state departments:

- ☑ *May have failed to report housing fringe benefits of as much as $7.7 million.*
- ☑ *May have failed to capture as much as $8.3 million in potential rental revenue.*

We investigated and substantiated the allegation, as well as other improper acts. The Department of Fish and Game (Fish and Game) allowed several state employees and volunteers to reside in state-owned homes without charging them rent. Consequently, Fish and Game violated the state law prohibiting state officials from providing gifts of public funds.

Finding #1: Fish and Game provided free housing to employees and volunteers and failed to report housing fringe benefits.

Fish and Game allowed several state employees and volunteers to reside in state-owned homes without charging them rent. Consequently, Fish and Game violated the state law prohibiting state officials from providing gifts of public funds. We identified seven volunteers and six employees who resided in state-owned homes in Fish and Game's North Coast Region but were not required to pay rent for a total of 718 months between January 1984 and December 2005. Because Fish and Game provided free rent to some employees and volunteers, the State did not receive more than $87,000 in rental revenue to which it was entitled between January 1984 and December 2005.[1] Therefore, that amount represents a gift of state funds to the employees and volunteers residing in the state-owned homes and a loss in revenue to the State. State regulations provide that departments shall review the monthly rental and utility rates of state-owned housing every year and report those rates to the Department of Personnel Administration (DPA).

Based on a review of state-owned housing conducted by DPA, as well as on information provided by the departments to DPA, it appears that Fish and Game understated its employees' wages by more than $867,000 each year from 2002 through 2005 because it did not report any fringe benefits for its employees who reside on state property at below-market rates. As a result, over the four-year period, state and federal tax authorities were unaware of the potential $1.3 million in taxes associated with a total of nearly $3.5 million in potential housing fringe benefits.

[1] This conservative amount is based on the nominal rents Fish and Game charges when it requires its employees to pay rent. However, if fair market value, as determined by the Department of Personnel Administration, were applied to the 718 months of free rent, this figure could be greater.

Fish and Game's Action: None.

➔ Fish and Game reported that it disagrees with the amount we show as being reportable housing fringe benefits and the associated potential tax revenues. Specifically, Fish and Game believes our report overstates the alleged taxable fringe benefits and associated potential tax revenues because it has determined that a majority of its resident employees meet the condition-of-employment test, and that the fair market values used in the DPA review do not accurately reflect the values of its properties.[2]

Based on our review of applicable tax law and the records we reviewed at Fish and Game's North Coast Region, we determined Fish and Game did not properly document and demonstrate that a majority of its employees met the condition-of-employment test. Further, although we acknowledge that the fair market values used in DPA's review may not reflect the actual value of all department holdings, DPA was unable to use actual fair market values because Fish and Game failed to determine and report to DPA the fair market value rates for any of its properties—rates it also needed to fulfill its responsibility to accurately report the housing fringe benefits realized by its employees. Fish and Game also reported that current budget constraints prohibit it from obtaining appraisals to determine the most accurate fair market values, but that it is considering requesting funding to do so. However, Fish and Game charges its employees rent at less than 25 percent of the fair market rates used by DPA. If current appraisals were to value the properties at half the values used by DPA, and if it were to raise rental rates to those fair market values, it appears that Fish and Game could recover the cost of such appraisals within one or two months.

In addition, Fish and Game reported that it disagrees with our conclusion that certain personnel received gifts of state funds because our report incorrectly presumes that Fish and Game is obligated to charge fair market rates for all of its housing and it is Fish and Game's understanding that rental rates are fixed and limited by state law, regulations, and employee collective bargaining agreements.

Our conclusion in the report that Fish and Game provided gifts of state funds of over $87,000 to specific personnel is not based on a comparison to fair market values as Fish and Game asserts. Rather, the amount we report is based on a comparison of free rent, versus the nominal rate Fish and Game charges when it requires its employees to pay rent, which appears to be well below fair market value. Additionally, we disagree with Fish and Game's assertion that rental rates are fixed by state law, regulations, and employee collective bargaining agreements. DPA is the agency responsible for administering state housing regulations, and state law provides that the director of DPA shall determine the fair and reasonable value of state housing. Using information reported by Fish and Game for DPA's 2003 survey, DPA directed Fish and Game to raise rental rates to fair market value and acknowledged that it should do so in accordance with employee collective bargaining agreements, which allow Fish and Game to raise rental rates by 25 percent annually. Additionally, our review of records in the North Coast Region found that Fish and Game has in fact adjusted the amount of rent it charges residents on numerous occasions in the past, thus demonstrating that the rates it charges its residents are not "fixed."

Finally, Fish and Game reported that it has been working with DPA for several years as part of its commitment to ensure that it is in compliance with laws and regulations applicable to its properties and is committed to continuing to do so. Fish and Game added that part of this commitment included providing updated information regarding housing-related reporting and withholding requirements to its employees and administrative personnel in July 2002 and again in August 2003. However, as we previously mentioned, Fish and Game has not reported a state-housing fringe benefit for any of its employees since 2001 and it appears it is not in compliance with IRS regulations governing reportable housing fringe benefits despite Fish and Game's assertion that it is committed to doing so.

[2] The difference between the fair market value and the rental amount paid by the resident represents a taxable fringe benefit to the resident unless residing on state property is a condition of employment. To meet the conditions of employment test, Internal Revenue Service guidelines provide that the employee's residence must be the same place in which he or she conducts a significant portion of his or her workday. The guidelines add that the employee must be required to accept on-site lodgings to perform their duties because the housing is indispensable to the proper discharge of their assigned duties.

Finding #2: Other state departments have also failed to report housing fringe benefits.

Although we focus on Fish and Game's management of state-owned housing in this report, the housing review conducted by DPA shows that all 13 state departments that own employee housing may be underreporting or failing to report housing fringe benefits. For example, the Table shows that in 2003 state departments may have failed to report housing fringe benefits totaling as much as $7.7 million, depriving state and federal tax authorities of as much as $3 million annually in potential tax revenues. Additionally, because state departments have chosen to charge employees rent that is well below market rates, the State may have lost as much as $8.3 million in potential rental revenue in that year.[3]

TABLE

Potential Income and Benefits Related to Rental Housing Units Held by State Departments, 2003

Department	Rental Units	Annual Income If Rented at Fair Market Value (FMV)	Annual Rent Charged	Lost State Revenue (Difference Between FMV and Rent Charged)*	Taxable Fringe Benefit Reported	Unreported Taxable Fringe Benefits†
Department of Parks and Recreation	487	$ 4,778,496	$ 763,488	$4,015,008	$373,198	$3,641,810
Department of Corrections and Rehabilitation	176	2,139,972	909,732	1,230,240	0	1,230,240
Department of Developmental Services	99	1,254,360	309,240	945,120	5,728	939,392
Department of Fish and Game	168	1,124,532	257,316	867,216	0	867,216
Department of Forestry and Fire Protection	72	559,332	218,400	340,932	53,078	287,854
Department of Mental Health	40	366,720	125,472	241,248	34,031	207,217
Division of Juvenile Justice	51	371,760	136,740	235,020	69,152	165,868
Department of Transportation	42	294,984	144,324	150,660	17,300	133,360
Department of Veterans Affairs	22	235,224	97,512	137,712	9,240	128,472
Santa Monica Mountains Conservancy‡	9	82,512	0	82,512	0	82,512
California Highway Patrol	6	41,184	12,732	28,452	0	28,452
Department of Food and Agriculture	5	29,18	5,844	23,340	0	23,340
California Conservation Corps	4	36,888	20,748	16,140	3,058	13,082
Totals	**1,181**	**$11,315,148**	**$3,001,548**	**$8,313,600**	**$564,785**	**$7,748,815**

Source: 2003 Department of Personnel Administration Departmental Housing Survey.

* This amount represents what should have been reported to taxing authorities as a taxable fringe benefit.

† Taxable housing fringe benefits exist when the rental rate charged is less than the fair market rate. Thus, no taxable fringe benefit exists when employees pay fair market rates.

‡ No rent was charged for any department properties.

[3] Taxable fringe benefits exist when the rental rate charged is less than the fair market rate. Thus, no fringe benefit exists when employees pay fair market rates.

Department of Parks and Recreation's Action: None.

➔ The Department of Parks and Recreation (Parks and Recreation) believes that the state regulations relevant to state-owned housing for employees not represented by collective bargaining agreements (non-represented employees) do not allow it to raise rental rates beyond those listed in the regulations and stated that non-represented employees reside in approximately one-third of its properties. However, after reviewing the information Parks and Recreation submitted to DPA, it appears that non-represented employees reside in less than one-tenth of its inhabited properties. Regardless, Parks and Recreation believes that in order for it to raise rental rates for its non-represented employees and not violate state regulations, DPA must update the rates listed in state regulations. Parks and Recreation added that many of the collective bargaining agreements, under which most of its remaining employee residents work, limit its ability to raise rental rates. However, DPA, the agency responsible for administering state housing regulations, has specifically given Parks and Recreation direction to raise rental rates to fair market value and acknowledges that it should do so in accordance with employee collective bargaining agreements. These agreements generally allow Parks and Recreation to raise rental rates by 25 percent annually up to fair market value. After receiving this direction, Parks and Recreation responded to DPA, requesting that DPA provide clear authority and policy direction to departments, and inform employee unions of this direction; however, DPA has not responded to this request.

Parks and Recreation also reported that it believes the fair market values used in DPA's review do not fairly represent the true value of its homes. We acknowledge that the fair market values used in DPA's review may not reflect the actual value of all department holdings; however, DPA was unable to use the actual fair market values because Parks and Recreation failed to determine and report to DPA accurate fair market value rates for all of its properties—rates it also needed to fulfill its responsibility to accurately report the housing fringe benefits realized by its employees. After reviewing the information it submitted to DPA, it appears that it provided fair market determinations for only 298 of the 817 properties it owns. Moreover, Parks and Recreation failed to indicate when the last appraisal was conducted for all but 90 of the 298 properties and had conducted appraisals on only 14 of those properties in the previous 10 years, thus demonstrating that it did not report accurate, up-to-date fair market rates to DPA.

Parks and Recreation also takes issue with the amounts identified by DPA as losses in state revenue and underreported fringe benefits because many of its employees live on state property as a condition of employment and therefore, there is no loss in rental revenue to the State or fringe benefit to report. However, after reviewing the information provided to DPA, it appears that Parks and Recreation did not clearly indicate which, if any, of its residents resided on state property as a condition of employment. Specifically, even though the survey guidelines instructed Parks and Recreation to indicate the reason for occupancy for each of its properties, it did not list as a reason condition of employment for any of its properties.

Department of Corrections and Rehabilitation's Action: Pending.

The Department of Corrections and Rehabilitation (Corrections) reported that it last established fair market value rates for all its properties in 1999 and that it subsequently raised rents to the 1999 fair market value rates for properties at all but one of its institutions. Corrections added that it has since raised rates at the remaining institution and is committed to hiring a consultant within six months to begin obtaining current fair market value appraisals.

Corrections reported that it attempted to obtain the services of a consultant to perform fair market appraisals for its properties through the state procurement process; however, Corrections decided not to contract with the lone responsive bidder because it believes that the consultant's fees were too high. Corrections added that it plans to use housing appraisal services through a master services agreement initiated by DPA that is projected to be in place in April 2007.

Department of Developmental Services' Action: Pending.

The Department of Developmental Services (Developmental Services) reported that it believes the fair market rates used by DPA do not accurately reflect the true value of its properties because many of its units are single rooms without kitchens and in some cases residents share bathrooms. We acknowledge that the fair market rates used in the DPA review may not reflect the actual value of all department holdings; however, DPA was unable to use the actual fair market rates because Developmental Services failed to determine and report to DPA the fair market value rates for any of its properties—rates it also needed to fulfill its responsibility to accurately report the housing fringe benefits realized by its employees.

Developmental Services also reported that it has initiated steps to obtain fair market appraisals for all its properties and will follow provisions in applicable collective bargaining agreements to increase rental rates commensurate with the fair market appraisals once they are established.

Department of Forestry and Fire Protection's Action: Partial corrective action taken.

The Department of Forestry and Fire Protection (Forestry) reported that it has taken several steps to resolve state housing issues since it reported information to DPA for its review in 2003. Specifically, Forestry reported that it now reviews rental rates each year and rents that are below fair market value will be raised by 25 percent annually in accordance with applicable collective bargaining agreements. It also reported that it currently reports taxable fringe benefits for residents in Forestry housing on a monthly basis. In addition, Forestry reported that the fair market rates used by DPA do not accurately reflect the true values of its properties because most are located within the boundaries of conservation camps primarily occupied by prison inmates; however, it acknowledged that annual appraisals are necessary to document the accurate value of each unit. Finally, due to increased rental rates and additional vacancies, Forestry reported that the difference between fair market value and actual rental income for all of its properties in 2005 was $32,805 and that by increasing rents 25 percent each year, the difference will continue to decline.

Department of Mental Health's Action: Partial corrective action taken.

The Department of Mental Health (Mental Health) reported that it believes the fair market rates used in DPA's review do not accurately represent the values of its properties but acknowledged that many, if not all, of its state hospitals have been using outdated fair market values. Mental Health also reported that it will update its special order concerning employee housing to include performing annual fair market value determinations and promptly reporting housing fringe benefits. The special order will be distributed to each of its four state hospitals and Mental Health will monitor the hospitals for ongoing compliance. Mental Health added that for certain purposes, such as the recruitment and retention of interns, its state hospitals charge less than fair market value and in these instances Mental Health will ensure that the hospitals report the housing fringe benefits in accordance with state and federal regulations.

Division of Juvenile Justice's Action: None.

The Division of Juvenile Justice reported that it last obtained fair market value appraisals for all of its properties in 1995 and that it subsequently raised rental rates to the 1995 fair market value rates.

Department of Transportation's Action: Corrective action taken.

The Department of Transportation (Caltrans) reported that it believes the fair market rates used by DPA do not accurately reflect the true value of its properties because all of its properties are located in remote areas situated within Caltrans maintenance facilities. Caltrans also reported that its policies require that it charge fair market value for all employee housing and that it update fair market values annually; however, Caltrans was unable to explain why it did not report fair market values to DPA. Although we did not validate its analysis, Caltrans reported that based on its most recent fair market value determinations, the loss of state revenue in 2003 was only $19,356 and the amount of underreported fringe benefits was much less than what DPA identified in its review.

Department of Veterans Affairs' Action: Corrective action taken.

The Department of Veterans Affairs (Veterans Affairs) reported that it conducted fair market assessments of its properties in September 2005 and that it submitted its corrected housing information to DPA in October 2005. Veterans Affairs also reported that it established new rental rates based on the assessments and informed its residents that the new rates would take effect March 1, 2006.

Santa Monica Mountains Conservancy's Action: Corrective action taken.

The Santa Monica Mountains Conservancy reported that it has only six employees, none of whom live on state property. It added that in lieu of rent, it currently allows non-state employees to reside on eight of its properties to provide and ensure resource protection, site management, facilities security and maintenance, and park visitor services.

California Highway Patrol's Action: Partial corrective action taken.

The California Highway Patrol (Highway Patrol) reported that it determines rental rates in accordance with applicable state regulations and that because all of its employees reside on state property as a condition of employment, it has not underreported housing fringe benefits. The Highway Patrol added that it is in the process of obtaining appraisal reviews for its properties and is updating its policies and procedures to reflect that assignments to its resident posts are classified as "condition of employment."

Department of Food and Agriculture's Action: Corrective action taken.

The Department of Food and Agriculture (Food and Agriculture) reported that its employees currently reside on two state properties as a condition of employment. As a result, there is no fringe benefit to report for those residents. Food and Agriculture added that because these properties are located near popular resort areas, fair market values are not comparable to values of homes in surrounding communities.

California Conservation Corps' Action: Pending.

The California Conservation Corps (Conservation) reported that it will be conducting new appraisals to determine updated fair market values for its properties and that rental rates will be increased to the extent allowed by law and applicable collective bargaining units. Conservation also stated it would report on the fringe benefit amount—the difference between the rent charged and the fair market value determined by these new appraisals—for employees residing on its properties, and has informed affected employees of this fact.

DEPARTMENT OF FISH AND GAME

The Preservation Fund Comprises a Greater Share of Department Spending Due to Reduction of Other Revenues

Audit Highlights . . .

Our review of the Department of Fish and Game's (Fish and Game) administration of its preservation fund disclosed the following:

- ☑ *The preservation fund together with the General Fund pays for many of Fish and Game's programs.*
- ☑ *Although revenues to the preservation fund have increased due to fee increases that took effect in fiscal year 2003–04 for sport fishing licenses, Fish and Game has had its General Fund appropriation reduced by over $20 million between fiscal years 2001–02 and 2003–04.*
- ☑ *Also, between fiscal years 2001–02 and 2003–04, Fish and Game spent down its preservation fund reserves significantly.*
- ☑ *The amount Fish and Game spent on its hatcheries declined less than 3 percent from fiscal years 2001–02 to 2003–04 while spending of other programs declined more significantly.*

continued on next page . . .

REPORT NUMBER 2004-122R, JUNE 2005

Department of Fish and Game's response as of September 2006

At the request of the Joint Legislative Audit Committee we reviewed the Department of Fish and Game's (Fish and Game) handling of the preservation fund as well as the funding of the State's fish hatcheries from fiscal year 2001–02 through 2003–04. The audit examined Fish and Game's setting, collecting, and spending of and accounting for revenue generated by the sale of sport fishing licenses. Also, the audit examined Fish and Game's allocation of revenue to program activities, their allocation of indirect costs, and their assessment of the sufficiency of funding levels. Finally, we determined trends in the funding of the hatcheries.

Finding #1: Fish and Game has not established written spending priorities, nor has it identified sufficient funding levels for preservation fund programs.

Because it has not measured the sufficiency of funding levels, Fish and Game is at a disadvantage in accurately projecting the funding necessary to operate programs at their intended capacities. This affects the department's ability to justify program funding allocations as it is difficult to build a convincing case for a given level of funding without having first defined a target service level and the associated costs. Further, Fish and Game never adopted a formal set of priorities to guide its spending. While Fish and Game has had to address frequent budget reductions, it has done so without the benefit of a written list of funding priorities for its activities. Because of recent reductions of General Fund support, and because Fish and Game did not reduce its expenditures to the same degree that revenues declined, the department spent down the reserves that existed in the preservation fund. Fish and Game projects that at the end of fiscal year 2004–05, it will have a balance of only $665,000 in the preservation fund. This is in comparison to the $24.5 million fund balance at the beginning of fiscal year 2001–02.

We recommended that Fish and Game update its strategic plan and develop annual operational plans with specific goals and then determine the funding necessary to meet these goals allowing it to better measure the sufficiency of funding for its programs.

- ☑ *Although, a long-range spending plan could serve as a useful tool to guide department decisions, especially in times of fluctuating funding, the department lacks such a tool.*
- ☑ *Finally, Fish and Game failed to follow its own procedures for properly allocating its indirect costs, resulting in overcharges to some programs and undercharges to others.*

Fish and Game's Action: Partial corrective action taken.

In September 2006, Fish and Game reported to us that it had completed the update of its strategic plan. According to Fish and Game, its strategic plan identifies the core fundamental priorities and its executive office has initiated a restructuring of the department in order to operate more effectively. In addition, Fish and Game stated that a complete review of its time reporting methodology and budget structure is underway. Activity codes are scheduled for realignment to better correlate to Fish and Game's funding priorities and mandates. Fish and Game stated it is also in the midst of developing a priority-based budget process for managing its funds and activities. When this process is complete, targeted for July 2007, Fish and Game stated it will be able to develop team action plans to execute more new strategies that will improve performance.

Finding #2: Fish and Game spent more for both dedicated and non-dedicated programs than it collected in revenue.

All revenue collected and deposited into the preservation fund can be spent only to support preservation fund programs. Within the fund, certain revenues are restricted to specific purposes established in statute; Fish and Game holds such dedicated money in separate accounts of the preservation fund. For example, Fish and Game Code, Section 7149.8, requires persons taking abalone to purchase an abalone report card in addition to a standard sport-fishing license. Section 7149.9 requires that abalone report card revenue be deposited into the abalone restoration and preservation subaccount within the preservation fund. This section further stipulates that the funds received by this subaccount are to be expended for abalone research, habitat, and enforcement activities. In fiscal year 2003–04, the preservation fund contained 26 of these dedicated accounts, representing 15 percent of the total expenditures from the fund.

Although dedicated programs have revenue streams to support them, from fiscal years 2001–02 through 2003–04, Fish and Game expended more on dedicated programs in total than these programs generated in revenue. For example, the streambed alteration agreement program carried forward a negative beginning balance ranging from $1.4 million to more than $4.4 million during these three fiscal years. The program annually expended close to $3 million, although it only collected between $1.3 million and $1.6 million in annual revenues. Fish and Game told us that the streambed alteration agreement program and similar dedicated programs used existing account balances to make up for these over-expenditures.

In fiscal years 2001–02 and 2002–03, the non-dedicated portion of the preservation fund incurred even more expenditures in excess of revenues. Non-dedicated expenditures exceeded non-dedicated revenues by $4.3 million in fiscal year 2001–02 and by $11.6 million in fiscal year 2002–03.

We recommended that Fish and Game take measures to ensure that revenues streams are sufficient to fund each of its programs, which may require that fees be adjusted or that the department's General Fund be augmented to sustain dedicated and non-dedicated program operations.

Fish and Game's Action: Partial corrective action taken.

Fish and Game reported it addressed this issue through a complete review of its revenues and expenditures. Fish and Game stated that this action, adopted in the fiscal year 2006–07 Governor's Budget, includes a combination of appropriately aligning expenditures to revenues, program adjustments, fee increases, and a General Fund offset of the deficit in its preservation fund. According to Fish and Game, effective November 12, 2005, a fee increase was approved by the Office of Administrative Law for the lake and streambed alteration (dedicated) account and, along with an infusion from the General Fund, this fund is now aligned.

Finding #3: Fish and Game has not demonstrated that it uses allowable resources to cover certain deficit spending.

It is not clear that Fish and Game always uses dedicated resources in the preservation fund for their intended purposes. Two of the preservation fund's dedicated accounts, as well as the non-dedicated account, had negative overall balances as of June 30, 2004, and some of these deficits have persisted for several years. In essence, accounts with positive balances, whose revenues have exceeded expenditures over the lives of the accounts, are subsidizing the excess expenditures of the accounts with deficits. No problem would exist if the non-dedicated account was covering these deficits because its resources can be used for a broad range of preservation purposes, including any of the purposes for which the dedicated accounts were created. However, with the non-dedicated account itself running a deficit, the only resources available in the preservation fund to cover deficit spending are those dedicated accounts with positive balances. In addition to the non-dedicated account, the lake and streambed alteration account, and the bighorn sheep dedicated account had negative overall balances as of June 30, 2004. For the three accounts, the deficit was $14.7 million in fiscal year 2003–04.

Fish and Game agrees that three of its dedicated accounts have negative overall balances. As a response to these negative funding issues, Fish and Game indicates it has reduced its planned spending by over $1 million in an effort to bring the preservation fund "into balance." However, it did not specify the impact of the proposed reduction on the individual dedicated accounts. Furthermore, Fish and Game has submitted an increased fee proposal for the lake and streambed alteration account to improve the fund condition.

We are still concerned that Fish and Game's responses to these negative balance issues are insufficient. The revenues that flow into the dedicated accounts are restricted to the purpose for which the program and the account were established. Therefore, using the resources of one account to pay for the expenses of another account may not be appropriate. For example, the enabling legislation for the Bay-Delta sport fishing enhancement stamp dedicated account makes it clear that funds collected from the sale of this stamp are for the long-term benefit of Bay-Delta sport fisheries, not to pay for the expenses of another program. We believe it is not sufficient for the department to address these issues by simply going forward with reductions in spending where necessary and increases in fees, although this is a good first step.

We recommended that Fish and Game avoid borrowing from its dedicated accounts to fund expenditures of other accounts. If this is temporarily unavoidable, the department should track those accounts that were the source of the borrowed resources and ensure that the

law establishing the account that was borrowed from allows for such borrowing. We further recommended that Fish and Game identify those dedicated accounts that have been used to pay for expenditures of other accounts and pay back these lending accounts.

Fish and Game's Action: Partial corrective action taken.

Fish and Game reported it addressed this issue through a complete review of its revenues and expenditures. Fish and Game stated that this action, adopted in the fiscal year 2006–07 Governor's Budget, includes a combination of appropriately aligning expenditures to revenues, program adjustments, fee increases, and a General Fund offset of the deficit in its preservation fund. According to Fish and Game, effective November 12, 2005, a fee increase was approved by the Office of Administrative Law for the lake and streambed alteration (dedicated) account and, along with an infusion from the General Fund, this fund is now aligned.

Finding #4: Fish and Game advanced $1.4 million from the preservation fund to the Native Species Conservation and Enhancement Account that may not be paid back.

As of June 30, 2004, Fish and Game's preservation fund showed a loan of $1.4 million to the Native Species Conservation and Enhancement Account (native species account). The loan was formalized in 1989. Fish and Game recorded payments from the native species account to the preservation fund in fiscal years 2001–02, 2002–03, and 2003–04, but Fish and Game could not provide to us an amortization schedule that would demonstrate when the loan would be repaid.

The native species account's revenue sources are donations received for the support of nongame and native plant species conservation and enhancement programs, an appropriation in the annual budget act from the General Fund, and revenues from the sale of annual wildlife area passes and native species stamps, as well as promotional materials and study aids.

Fish and Game told us that it will continue to make annual payments on this loan, but only to the extent of revenues received into the native species account. Unfortunately, revenues to the native species account have not been sufficient to pay down the loan. Therefore, unless revenues to the native species account increase significantly, this loan may never be paid back. When the loan is not collected, the resources are not available for preservation fund programs.

We recommended that Fish and Game resolve the advance from the preservation fund to the native species conservation and enhancement account through administrative or legislative means.

Fish and Game's Action: Corrective action taken.

Fish and Game stated that it had been tracking all postings to the interfund loan, established by statute in 1988, between the preservation fund and the native species conservation and enhancement account. According to Fish and Game any payments, interest, adjustments, and revenue posted to the preservation fund have been closely monitored for the ongoing repayment of the loan.

Fish and Game stated that, as of June 30, 2005, the loan balance was $1,150,950. However, the department also stated that revenues and income for the native species conservation and enhancement account have dwindled over the past four years, from approximately $100,000

per year to $19,000 per year. Because of the insufficient revenues in the account, Fish and Game requested that a General Fund repayment of the loan be made and, according to the fiscal year 2006–07 Governor's Budget, the loan to the preservation fund has now been repaid with interest.

Finding #5: Fish and Game failed to allocate indirect costs in accordance with its cost allocation plan.

Several of Fish and Game's activities have been created for the benefit of all the divisions of the department. These activities, which it calls "shared services," are the license revenue branch, legal services, air services, and geographic information systems. Fish and Game did not adjust the percentages used in allocating the indirect costs associated with these shared services to the divisions that benefited. It used the same percentages for allocating these indirect costs for fiscal years 2001–02, 2002–03, and 2003–04. As a result, some programs were overcharged, while others were undercharged for these costs. Fish and Game has not updated the percentages it used since prior to fiscal year 2001–02, the first year examined by this audit.

According to Fish and Game's own guidelines for allocating shared costs, percentages are to be adjusted annually based on either the governor's budget for the prior year or the actual services provided. Because annual adjustments were not made to the allocation ratios from fiscal years 2001–02 through 2003–04, Fish and Game inaccurately charged these programs for indirect costs. Our comparison showed that from fiscal year 2001–02 through 2003–04, the department's calculations overcharged the hatcheries and fish planting facilities a total of $1.3 million of the license revenue branch's and legal service's indirect costs. During the same time period that some programs were overcharged, Fish and Game's outdated percentages undercharged other programs for license revenue branch and legal service costs.

To prevent inequitable distributions of indirect costs and administrative expenses, we recommended that Fish and Game review and update the percentages used in its allocations method annually.

Fish and Game's Action: Corrective action taken.

Fish and Game stated that it has completed its review and update of the indirect cost charge percentages used in the annual allocation methods to ensure correct charges are made against various fund sources.

DEPARTMENT OF FORESTRY AND FIRE PROTECTION

Investigations of Improper Activities by State Employees, January 2006 Through June 2006

INVESTIGATION I2006-0663 (REPORT I2006-2), SEPTEMBER 2006

Department of Forestry and Fire Protection's response as of September 2006

Investigative Highlights . . .

An employee with the Department of Forestry and Fire Protection:

- ☑ *Submitted false claims to receive $17,904 in wages for 672 hours he did not work.*
- ☑ *Submitted a majority of his false claims to a supervisor with little or no knowledge of his actual attendance.*

We investigated and substantiated an allegation that Employee A, an employee of the Department of Forestry and Fire Protection (Forestry) submitted false time sheets and took time off without charging his leave balances.

Finding #1: Employee A fraudulently claimed hours he did not work.

Between January 2004 and December 2005, Employee A improperly claimed and received $17,904 in wages for 672 hours he did not work. He submitted nine false claims over this two-year period. Because these false claims were submitted on numerous occasions over a significant period of time and under a variety of different circumstances, we believe it is reasonable to infer that this individual acted intentionally when submitting these false claims. Employee A's supervisor told us that having accurate staffing information is critical, and that he reviews daily staffing reports each morning to ensure that he has sufficient staff to respond to emergencies. We found numerous instances in which Employee A's time sheets conflicted with these reports.

For example, Employee A received $9,884 by claiming he worked 372 hours when he was not present at work. During these hours, Employee B reported working to provide vacation coverage for Employee A. When questioned, Employee B stated that he worked all the hours he indicated for the purpose of covering for Employee A's vacation and that Employee A was not present during those hours. Furthermore, staffing reports confirm that Employee B was present for work and that Employee A was not.

Conversely, we identified 108 hours for which Employee A claimed he was providing vacation coverage for Employee B, even though Employee B's time sheet indicates he did not take leave and was at

work during all these hours. Staffing reports confirm that Employee B was present for work and that Employee A was not present. When asked about these hours, Employee B asserted he did not charge his vacation balances because he was at work. He added that he did not know why Employee A claimed to work these hours because Employee A was not present during any of the hours claimed. Employee A received $2,906 for claiming these hours.

Finally, Employee A claimed to work 192 hours for which he received $5,114, but staffing reports indicate Employee A was not present during this time. Neither Employee A's nor Employee B's time sheet indicates that Employee A was providing vacation coverage during these hours. Employee A claimed that he worked his regular work schedule on his time sheet, but staffing reports indicate that he was not at work during any of these hours.

Forestry's Action: Pending

➲ Forestry has requested to review our work papers to pursue corrective action. No action as of December 27, 2006.

Finding #2: The employee took advantage of poor supervision and weak controls to receive payments for hours not worked.

By claiming wages for hours he did not work, Employee A took advantage of his supervisor's lack of effective oversight and communication among the various staff with the authority to sign time sheets. Simply comparing Employee A's time sheets and daily staffing reports with those of Employee B would have shown that Employee A was submitting inaccurate time sheets. Although we acknowledge that efficient and effective firefighting is one of Forestry's critical responsibilities, responding to emergency situations does not relieve Forestry of its responsibility to maintain adequate payroll controls or to keep complete and accurate attendance records, as required by state law.

The supervisor acknowledged that he had not been as diligent in verifying the authorization and hours worked for his employees as he should have been and when one employee claimed he was providing vacation coverage for the other, he did not always compare time sheets for both employees when approving them for payment.

The supervisor also pointed out that other supervisors may approve these time sheets. Because employees and supervisors may work in the field or at headquarters at any given time, Forestry's practice is to allow individuals other than an employee's direct supervisor to sign time sheets. Up to nine people have the authority to approve Employee A's and Employee B's time sheets. As a result, it is possible that the direct supervisor may sign one, both, or neither Employee A's or Employee B's time sheets for that month. Four individuals other than his direct supervisor signed a total of eight of Employee A's time sheets for the two-year period we reviewed. We believe Employee A was able to claim wages for hours not worked without being detected because he took advantage of a lack of oversight and communication among those with the authority to sign his time sheets. Additionally, it appears Employee A may have exploited this relaxed management practice by frequently having supervisors other than his direct supervisor sign his time sheets when he claimed hours he did not work.

For example, a battalion chief who rarely works in the field approved 240 of the 672 hours Employee A improperly claimed. With multiple approving authorities available, Employee A had the opportunity to have his time sheets approved by someone who, at best, would have limited firsthand knowledge of the hours he claimed. Most of the false claims Employee A submitted were signed by someone other than his direct supervisor.

Forestry's Action: Partial corrective action taken.

Forestry issued a memo on December 1, 2006, to all stations in the unit in which the employee worked, outlining several steps intended to address the findings in the investigative report.

Supervisors with direct supervisory responsibility over a given employee are the only supervisors authorized to sign time reports for that employee. Program managers will compare each employee's work time with the appropriate daily staffing report. Employee's requesting time off that is not part of their annual vacation request process will be required to forward their request to a Division Chief or Duty Chief for approval per the "Master Schedule" for the unit. The memo includes a reminder to Battalion Chiefs to ensure that station log books, which are legal documents used to record and verify personnel transactions at the station level, are complete, accurate, and secure.

Management will also have the ability to access the department's personnel database to review staffing and personnel transactions, as well as recorded phone lines and radio transmissions to review conversations related to staffing and personnel decisions.

Finally, the memo reminds recipients that Battalion Chiefs will have the primary oversight responsibility for all personnel in their Battalions, and that Division Chiefs will conduct audits to ensure that all policies and procedures are followed and report their findings to the Unit Chief.

DEPARTMENT OF FORESTRY AND FIRE PROTECTION

Investigations of Improper Activities by State Employees, July 2005 Through December 2005

INVESTIGATIONS I2005-0810, I2005-0874, I2005-0929 (REPORT I2006-1), MARCH 2006

Department of Forestry and Fire Protection's response as of November 2006

Investigative Highlights . . .

- ☑ *A Department of Forestry and Fire Protection (Forestry) supervisor approved improper overtime resulting in payments totaling more than $58,000.*
- ☑ *A Forestry employee took advantage of a lack of oversight and improperly received $3,445 for time he did not work.*

We investigated and substantiated an allegation that several Department of Forestry and Fire Protection (Forestry) employees improperly received overtime payments.

Finding #1: A Forestry supervisor authorized improper overtime for his employees.

The State's collective bargaining agreement with the firefighters' union provides for around-the-clock compensation when certain employees are assigned to a fire, but does not include air operations officers among those eligible for this type of compensation. Rather, air operations officers should be compensated only for actual hours worked instead of the duration of a fire incident. Further, department policy limits the number of work hours per day that its pilots are able to work to 14 hours. Because the air operations officers' reported overtime hours involved pilot coverage, these employees were subject to Forestry's 14-hour workday for pilots.

From January 2003 through July 2005, five air operations officers working as pilots received more than $58,000 for 1,063 overtime hours charged in violation of either department policy or their union agreement. In addition, two air operations officers working in maintenance received nearly $3,890 for overtime hours that it is not clear they actually worked. Specifically, we found that one air operations officer working in maintenance claimed five consecutive 24-hour workdays and the other maintenance officer claimed three consecutive 24-hour workdays, resulting in 80 total hours of overtime.

The supervisor of the air operations officers indicated that he mistakenly believed they were all entitled to around-the-clock pay when assigned to a fire.

Finding #2: A lax control environment allowed another Forestry employee to charge excessive and questionable overtime.

Between January 2004 and December 2005, Forestry paid a heavy fire equipment operator approximately $87,000 for 3,919 overtime hours, of which we identified $12,588 that is questionable and $3,445 that is improper.

As opposed to the air operations officers we discussed previously, heavy fire equipment operators are entitled to around-the-clock compensation when they are assigned to a fire. The State's collective bargaining agreement with the firefighters' union provides that heavy fire equipment operators working this employee's schedule work a 12-hour day on the last day of their duty week. This employee improperly claimed 120 hours of overtime by reporting 24-hour shifts on the last day of his duty week, despite being counseled by his supervisor and being specifically told that he should report only 12 hours on the last day of his duty week. As a result, this employee improperly received $2,769. In addition, this employee improperly claimed 27 hours related to training, receiving $676 for hours he did not work. The aggregate amount of these improper payments totaled $3,445.

Additionally, we question $12,588 paid for 549 hours in which this employee reported hours for covering the shift of another employee who was also scheduled to work these same hours or reported hours for working the shift of another employee who was not scheduled to work.

Although this employee's direct supervisor acknowledged that he was not as diligent as he could have been when approving time sheets, he pointed out that when other battalion chiefs approve this employee's time sheets, he does not review those time sheets for accuracy.

Forestry's Action: Pending.

Forestry reported that it is taking steps to recover these overpayments. It also reported that it has taken steps to inform supervisors and managers of any significant changes to Bargaining Unit 8 agreements that would impact rank and file salary, benefits, or classification status.

OFF-HIGHWAY MOTOR VEHICLE RECREATION PROGRAM

The Lack of a Shared Vision and Questionable Use of Program Funds Limit Its Effectiveness

Audit Highlights . . .

Our review of the Off-Highway Motor Vehicle Recreation Program (OHV program) revealed that:

- ☑ *The Off-Highway Motor Vehicle Recreation Commission (commission) and the Off-Highway Motor Vehicle Recreation Division (division) have not developed a shared vision to implement an OHV program that is balanced between OHV recreation and the environment.*
- ☑ *The division's recent strategic plan is incomplete and does not include some important elements such as a comprehensive evaluation of the external and internal factors that could affect the OHV program.*
- ☑ *In the absence of a formally adopted strategy, the commissioners voted to approve grants and cooperative agreements based on their individual interests rather than on a strategy to achieve a balanced program.*

continued on next page . . .

REPORT NUMBER 2004-126, AUGUST 2005

Department of Parks and Recreation, Off-Highway Motor Vehicle Division, and Off-Highway Motor Vehicle Commission combined response as of August 2006

The Joint Legislative Audit Committee requested that we review the Department of Parks and Recreation's (department) administration and allocation of moneys in the Off-Highway Vehicle Trust Fund (OHV trust fund).

The Off-Highway Motor Vehicle Recreation Program (OHV program) was created to better manage the growing demand for off-highway vehicle (OHV) recreation while protecting California's natural and cultural resources from the damage that can occur from indiscriminate or uncontrolled OHV recreation. The department's Off-Highway Motor Vehicle Recreation Division (division) administers the OHV program. The division operates eight state vehicular recreation areas (SVRAs) and administers the grants and cooperative agreements program (grants program), which provides funding to local and federal government agencies for OHV recreation.

The OHV program is funded primarily through collection of the fuel tax, registration fees for off-highway vehicles, and SVRA entrance fees. The Off-Highway Motor Vehicle Recreation Commission (commission) provides for public input, offers policy guidance to the division, and approves grants and cooperative agreements. The commission also approves the division's capital outlays. The governor and the Legislature appoint the commissioners, who represent varying interests in OHV recreation and serve staggered four-year terms.

- ☑ *Recent legal requirements to spend designated portions of OHV program revenue for conservation, restoration, and law enforcement have not been met and because the division has not set aside the cash, a growing unfunded obligation exists.*
- ☑ *The division and the Department of Parks and Recreation (department) have spent or earmarked $38 million for three land acquisition projects—one completed and two under consideration—that offer little or no additional OHV recreation.*
- ☑ *Based on a questionable legal interpretation and inadequately supported cost estimates, the department is using Off-Highway Trust Fund money—$3.6 million during fiscal year 2003–04—to support state parks that do not have OHV recreation.*
- ☑ *The division made questionable purchases of goods and services using contracts paid with OHV funds and in numerous instances violated state contracting rules.*
- ☑ *The division's management of the funds expended through grants and cooperative agreements needs improvement.*

Finding #1: The commission and the division have not formally adopted a shared vision for the OHV program, nor have they developed the goals and strategies necessary to meet that vision.

The commission and the division have not formally adopted a shared vision for the OHV program to balance OHV recreation and protection of California's natural and cultural resources, nor have they developed the goals and strategies necessary to meet that vision. In addition, the division and the commission do not collaborate on the planning for the SVRAs and grants program. In the absence of a shared vision and goals, the commissioners, the division, and stakeholders in the OHV program compete for the more than $50 million collected from OHV recreationists each year to serve their diverse interests and further individual agendas, potentially resulting in an inefficient use of funds and discord among the interested parties.

To ensure that the OHV program is adequately balanced between OHV recreation opportunities and environmental concerns as the Legislature intended, we recommended that the division and the commission develop a shared vision that addresses the diverse interests in the OHV program. Once developed, the division and the commission should implement their vision by adopting a strategic plan that identifies common goals for the grants program and the SVRAs, taken as a whole, and specifies the strategies and action plans to meet those goals.

Department's and Commission's Action: Partial corrective action taken.

The department states that the commission discussed and approved a draft shared vision statement for the OHV program in its September 2006 meeting. However, the department indicates that additional information is needed to finalize the shared vision statement, including public comment on it and completion of the fuel tax study, which occurred in December 2006. The department anticipates that the final version of the shared vision statement will be ready for the commission's review at its January 2007 meeting.

Finding #2: Although required by law to do so by January 1, 2005, the division has not yet completed its strategic planning process to identify future OHV recreation needs.

The division prepared a final draft of a strategic plan in March 2005, but it used an abbreviated planning process that did not include some important elements such as a comprehensive evaluation of the external and internal factors that could affect its ability to successfully implement the OHV program. In addition, the commission and the division have not collected the necessary data or prepared the required

reports to successfully complete its strategic planning. For example, the division has begun but has not yet completed a new fuel tax study that will provide information on the number and types of off-highway vehicles engaged in OHV recreation and the destinations and types of recreation sought by OHV enthusiasts. Without a comprehensive strategic plan, the division's budgets are not guided by agreed-upon goals and strategies for achieving them but rather on historical spending levels and available funds.

We recommended the division complete its strategic plan for the SVRA portion of the OHV program by performing a thorough assessment of external and internal factors; collecting the necessary data; completing the required reports; and developing the action, spending, and performance monitoring plans to implement its strategic plan.

Department's and Commission's Action: Partial corrective action taken.

The department reports that the division has been taking steps to develop the final strategic plan. These steps include hiring additional staff to work on it, surveying other states about issues their OHV programs face, and obtaining public input. However, the department states that several activities still need to occur, including developing a formal land acquisition process, assessing best management practices for the SVRA, finalizing new grant procedures and regulations, and completing the fuel tax study, which occurred in December 2006. Therefore, the department anticipates completing the strategic plan for the OHV program by March 2007.

Finding #3: The commission has not formally adopted a strategy for grants program funding.

In the absence of a formally adopted strategy, the grants program lacks direction, and commissioners vote to approve grants and cooperative agreements based on their individual interests. As a result, the applicants for the grants program are often unaware of the commission's priorities, and the funding issued by the grants program is not done to achieve a balanced OHV program. According to the recipients that receive the largest grants and cooperative agreements, unclear guidance on the commission's priorities presents challenges for them when applying for funds from the grants program.

To make efficient use of division staff's time and provide guidance to grants program applicants, we recommended the commission develop and communicate priorities based on a strategy for using the grants program to promote a balanced OHV program.

Commission's Action: Partial corrective action taken.

The department indicates that for the fiscal year 2005–06 grant application cycle, the commission identified, voted, and set priorities for funding that were subsequently communicated to grant applicants. In addition, the division is working with the Office of Administrative Law to obtain approval for the temporary regulations it and the commission used during the fiscal year 2005–06 grant application cycle.

Finding #4: The commission's accountability for its funding decisions could be improved.

The law currently requires the commission to provide a biennial report on certain elements of the OHV program, including the status of the program and its natural and cultural resources and the results of the division's strategic planning process. However, the law does not require the commission to report its strategies and priorities, and how it awards OHV trust fund money to meet the legislative intent of the OHV program. In addition, the commission has not yet prepared the biennial report that was due to the Legislature on July 1, 2005.

To improve accountability, we recommended the Legislature consider amending state law to require the commission to annually report the grants and cooperative agreements it awards by recipient and project category, and how the awards work to achieve the shared vision that it and the division develop. We also recommended that the commission prepare and submit the required biennial program reports when they are due.

Commission's Action: Pending.

➲ The department states the commission's biennial program report has not been completed as of December 2006, but it expects to complete a draft for the commission's review in spring 2007.

Legislative Action: None.

Finding #5: Some spending requirements in the law may impede the ability of the commission and the division to implement a vision for the OHV program.

Based on a stakeholders' consensus reached in 2002 that was adopted into the law, the division is required to spend the portion of fuel tax revenue attributable to unregistered off-highway vehicles and deposited in the Conservation and Enforcement Services Account (conservation account) for restoration, conservation, and enforcement activities. That portion was $28.4 million, or 61 percent, of the OHV program's fiscal year 2003–04 revenues. However, there is disagreement among the commission, the division, and the stakeholders about whether this spending requirement contributes to a balanced OHV program. Further, because the division has not been able to satisfy the spending requirement, since January 2003 it has accumulated an obligation to use unspent conservation account funds of $15.7 million, including $8.3 million designated for restoration activities. The department indicates the unspent cash to pay for this future obligation is not reserved; thus, it may present a substantial financial burden.

We recommended that the division and commission evaluate the current spending restrictions in the law to determine whether they allow for the allocation of funds necessary to provide a balanced OHV program and, if necessary, seek legislation to adjust those restrictions.

Department's and Commission's Action: Pending.

The department states that the division is working with consultants to better assess the OHV program's funding needs. However, to complete this assessment, the division is waiting for the completion of the fuel tax study, which was released in December 2006, and the OHV program strategic plan, which it believes will be completed in March 2007.

Finding #6: The law is not clear on the use of restoration funds.

The present practice of the commission and division is to require areas and trails to be permanently closed to OHV recreation before restoration funds are used to repair damage from OHV recreation. However, the law does not support this practice, especially with respect to restoration funds that are used on federal lands. Rather, it states that when soil conservation standards or wildlife habitat protection standards are not being met in any portion of an OHV recreation project area that is supported by a cooperative agreement, the area that is out of compliance must be temporarily closed until those standards are met.

We recommended that the Legislature consider amending the Public Resources Code to clarify whether using OHV trust fund money to restore land damaged by OHV recreation requires that the land be permanently closed to off-highway vehicles.

Legislative Action: None.

Finding #7: The division and the department have used money from the OHV trust fund for questionable purposes with respect to land acquisition.

For three recent land acquisition projects, with planned costs totaling $38 million, the division and the department could not provide analyses that showed the benefit of these purchases to the OHV program. The division has purchased Deer Creek Hills, and Onyx Ranch and Laborde Canyon are still under consideration. However, based on the available documentation, these projects do not appear to be the best use of the funds in implementing the OHV program. In each case, project land will be devoted largely to protecting or preserving natural or cultural resources with a relatively small portion or no portion at all available for OHV recreation.

We recommended the division develop and implement a process of evaluating land acquisition projects to ensure that they provide a strategic benefit to the OHV program. This process should include appropriate analysis of the costs and benefits of a proposed land acquisition, including an assessment of the need for additional land for OHV recreation.

Department's Action: Pending.

The department states it believes that a comprehensive land acquisition strategy should be linked to the development of the strategic plan; findings from the fuel tax study; and input and collaboration from interested communities, organizations, and stakeholders. Because the fuel tax study was only recently released and the OHV program strategic plan will not be completed until March 2007, the department estimated the earliest date that a comprehensive land acquisition strategy would be completed is March 2007.

Finding #8: The department made questionable and inadequately supported charges to the OHV trust fund to help pay for state park operations and departmental overhead costs.

In fiscal year 2003–04 the department began using the OHV trust fund to pay for some of the costs to operate park districts that are not SVRAs because it interprets the law to mean vehicle use on any unpaved road in the state park system is eligible for OHV program funding. However, we believe the department's interpretation is inconsistent with the Legislature's clear intent for the OHV program and with provisions of law that limit the use of the OHV trust fund. These costs, which we found were inadequately supported, totaled $3.6 million for fiscal year 2003–04 and $2.7 million during the first three quarters of fiscal year 2004–05. The lack of adequate support for these costs is disconcerting because the department plans to use these costs as a basis for its future charges to the OHV trust fund for these activities. Moreover, because the department allocates its overhead costs based on direct costs to programs, the OHV trust fund was charged an additional $437,000 in fiscal year 2003–04 alone for the questionable costs we found.

In addition, the department charged approximately $72,000 of the director's office costs in fiscal year 2003–04 to the OHV trust fund, even though the law expressly forbids those charges.

To ensure that money from the OHV trust fund is used appropriately, we recommended the Legislature amend the law to clarify the allowable uses of the OHV trust fund. Such clarification should specify whether the department's broad interpretation that any road that is not defined as a highway but is open for public use in a state park qualifies for funding by the OHV trust fund is correct, or whether state law restricts the use of OHV trust fund money to areas where non-street-licensed vehicles can engage in traditional OHV activity.

We also recommended that the department either discontinue charging the director's office costs to the OHV trust fund or seek a statutory change to remove this restriction.

Department's Action: Partial corrective action taken.

Although the department has discontinued charging the director's office costs to the OHV program, it continues to budget costs of $3 million annually to the OHV trust fund for the operation of non-SVRA parks. The department states that it holds firm to the position that it has broad discretion when interpreting the law, and thus it believes that using OHV trust funds for the partial support of parks outside of the traditional SVRAs is appropriate given the level of OHV activities occurring in those parks. The department took the same position in its initial response to our audit report, which we disagree with because, while recognizing the department's broad discretion to interpret the statutes it is charged with carrying out, we believe that in this case the department's interpretation is so broad that it may be inconsistent with the goals of the statutes governing the OHV program.

Legislative Action: None.

Finding #9: The division's contracting practices often violate state contracting rules, and it has not explored less costly alternatives to these contracts.

For various reasons the division has increased its use of contracts over the past five years, with a peak in contracting occurring in fiscal year 2002–03. However, the division has used contracts paid from the OHV trust fund for questionable purchases and it also violated rules that govern the use of contracts, including 80 instances of splitting a series of related tasks into multiple contracts to avoid competitive bidding and oversight. Further, the division has not adequately analyzed its operations to determine if either using existing staff or hiring additional employees would be less expensive than contracting for staff-related work and ongoing needs. Most of these contracting problems occurred in fiscal years 2001–02 and 2002–03, but some were more recent.

We recommended the division take the following steps:

- Comply with state contracting requirements.
- Contract only for services that are an allowable use of the OHV trust fund and provide a clear value to the OHV program.
- Analyze its operations to determine if using existing staff or hiring additional staff would be a less expensive alternative to contracting for staff-related work and for ongoing needs.

We also recommended that the department increase its oversight of the division's contracting practices.

Department's Action: Implemented.

The department reports that the division now requires the division chief review and approve all headquarters contracts and district superintendents have been counseled and trained on the review and approval of contracts.

The department also states that some work previously performed by contractors has been permanently transferred to state employees. In particular, division staff are now taking an active role in organizing and setting up commission meetings.

The department states that its Contracts Service Unit reviews all small dollar contracts to ensure compliance with state contracting requirements and alerts the appropriate managers should it identify multiple small contracts to the same vendor.

Finding #10: Administration of the grants program lacks accountability.

The division needs to better track funds it advances to grantees to ensure that advanced funds are used only for allowable activities and that unused funds are returned. Specifically, we identified $881,000 in outstanding advances, including $566,000 advanced to Los Angeles County, which were either not returned or that the division had been unable to determine how the funds were spent. In addition, the division does not ensure that all completed grants and cooperative agreements are audited, and in our review of 12 audit reports the division had not collected ineligible costs of $598,000 related to three audits. The division also circumvented state budget controls and its regulations when it reallocated unspent grant funds totaling $2.2 million among U.S. Forest

Service districts. Further, the commission and the division sometimes use the OHV grants program to fund questionable activities. Finally, the division's grants database does not meet its information needs and contains numerous errors and inaccuracies that limit its value.

We recommended that the division keep track of funds advanced to recipients, ensure that all grants and cooperative agreements receive annual fiscal audits and performance reviews, follow-up on audit findings and collect ineligible costs, discontinue its practice of reallocating unspent grant funds among Forest Service districts, and improve its grants database. Additionally, we recommended that the commission allocate funds only for purposes that clearly meet the intent of the OHV program.

Department's and Commission's Action: Partial corrective action taken.

The department reports the division is working to implement policies that provide tracking, monitoring, and recovery of OHV program funds. Further, the division is working to recover portions of the grants and cooperative agreements owed to it by the grantees that we identified in our audit. Of the $566,000 we identified as outstanding from Los Angeles County, the division reports receiving a $226,000 refund and determining that the remaining $340,000 was used in accordance with grant guidelines. Of the $711,000 outstanding from the Bureau of Reclamation, the division reports receiving appropriate supporting documentation for $611,000, and although it did not receive documentation to support the remaining $100,000, its research indicates that these funds were used for their intended purposes. In regards to the $598,000 of ineligible costs that the department's auditors identified on three grants, the division's research indicates that two grants to Sacramento County were used for the intended purposes, and for the third grant, it is verifying that the advances to the Bureau of Land Management were refunded.

The department states that the division is committed to performing site visits and it is developing site review guidelines to include in the OHV program regulations. In addition, the department indicates that the division is working to ensure grants are audited, audit findings promptly scheduled and resolved, and ineligible costs recovered. The department indicates it has halted all reallocations of unspent grant funds among U.S. Forest districts or among other grantees. Also, the department reports the division is working with the department's Information Technology Division to improve the grants database, including development of an online grant application. Finally, the department indicates that the division will follow a competitive process to ensure that funds allocated through grants and cooperative agreements are spent only on projects that meet the intent of the OHV program.

DEPARTMENT OF PARKS AND RECREATION

Lifeguard Staffing Appears Adequate to Protect the Public, but Districts Report Equipment and Facility Needs

REPORT NUMBER 2004-124, AUGUST 2005

Department of Parks and Recreation's response as of October 2006

Audit Highlights . . .

Our review of the sufficiency of the Department of Parks and Recreation's (Parks) staffing levels and other resources at state beaches necessary to protect the public found that:

- ☑ *Even though Parks reported a significant increase in estimated beach attendance and lifeguard workload from 2000 to 2004, it did not report an increase in drownings where there was a staffed lifeguard tower or station.*
- ☑ *We noted instances in which Parks' aquatic safety statistics were incomplete or inaccurate.*
- ☑ *Although we estimate that Parks' lifeguards worked slightly fewer hours in 2004 than in 2000, its lifeguard staffing patterns and its mix of permanent and seasonal lifeguards seem reasonable.*

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The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the sufficiency of the Department of Parks and Recreation's (Parks) staffing levels and other resources necessary to protect the public at state swimming beaches. Specifically, the audit committee asked the bureau to review and evaluate the method Parks uses to determine what constitutes a sufficient number of lifeguards at state swimming beaches. As part of an assessment of whether Parks has a sufficient number of lifeguards at state swimming beaches, the audit committee asked us to determine how Parks' lifeguard staffing levels compare with those of cities, counties, and other states, if possible. The audit committee also asked us to evaluate whether Parks has sufficient equipment for lifeguards at state swimming beaches and whether Parks adequately budgeted for lifeguards and equipment to protect the public at those beaches. Finally, the audit committee requested that we determine the number of drowning incidents reported at state, county, and city beaches and whether there is a correlation between the number of drownings and either the number of lifeguards or the resources available to lifeguards stationed at state swimming beaches. Our review revealed the following:

Finding #1: Lifeguard staffing levels have been sufficient to prevent an increase in drownings at guarded waters despite a reported increase in beach attendance and lifeguard workload.

Despite a reported increase in beach attendance and lifeguard workload, Parks reported a total of seven drownings in guarded waters at state beaches within its lifeguard districts over the five-year period from 2000 through 2004. Parks defines guarded water as a location within the viewing area of a staffed lifeguard tower or station. The three local governments we surveyed reported similar results. This suggests that the presence of lifeguards has been effective at state and local beaches in minimizing drownings in guarded waters. These trends are similar to a national trend discussed in a 2001 report by the Centers for Disease Control and Prevention (CDC), which concluded that the

- ☑ *While Parks has reported an increasing number of drownings in unguarded waters over the last five years, adding more lifeguards may not be an appropriate response.*
- ☑ *Parks' districts with aquatic safety programs have significantly decreased their spending on the equipment and facility operations portion of their support costs from fiscal years 1999–2000 to 2003–04.*
- ☑ *Even though lifeguard sectors report a need for additional resources to maintain and add to their lifeguard equipment and facilities, Parks' management believes that the department has allocated sufficient funds to provide adequate aquatic safety.*

total number of reported drownings at lifeguard-staffed beaches has remained relatively stable since 1960 although both beach attendance and rescues by lifeguards have risen steadily.

Based on the data Parks reported, attendance at state beaches and lifeguard workload increased significantly from 2000 to 2004. Specifically, Parks' lifeguard districts reported that attendance at state beaches increased from 23.4 million in 2000 to 41.4 million in 2004, an increase of nearly 77 percent. Parks and the three local beaches we surveyed use various methods involving some level of estimation to calculate their reported attendance. Therefore, it is difficult to closely compare the attendance data they reported. Consistent with its reported increase in beach attendance, Parks reported that the overall workload of lifeguards at state beaches increased significantly from 2000 to 2004. The most dramatic increase was in the number of warnings issued and preventive actions taken. Parks indicated that it issued almost four times the number of warnings and took almost twice the number of preventive actions in 2004 as it did in 2000. In comparison to its other workload statistics, Parks reported more modest increases in aquatic rescues and medical aids of 27 percent and 18 percent, respectively, from 2000 to 2004.

Finding #2: In certain instances, Parks' aquatic safety statistics were incomplete or inaccurate.

Our review of Parks' aquatic safety data for the five-year period ending in 2004, identified instances in which the data were incomplete or inaccurate. For example, we found that one lifeguard district failed to report most of its aquatic safety statistics for 2001. In addition, we found three other lifeguard districts that did not report swimmer-related rescues for 2001 and another that reported certain duplicate statistics for 2001 and 2002. In addition, Parks originally reported to us that 36 unguarded-water drownings occurred within state park boundaries in 2004. Unguarded water is an area where Parks either has no lifeguard assigned at all or has a lifeguard assigned but the waters are outside the immediate view of the lifeguard. After we reviewed a summary of these incidents and a sample of the related public safety reports it provided, Parks revised the number to 31.

These kinds of problems raise questions about the reliability of the aquatic safety data that Parks reported. Although we did not find an instance where the inaccurate data caused Parks to make an inappropriate management decision, if it is going to spend the time and effort to collect statistics regarding aquatic safety, it is reasonable to expect the information to be as accurate as possible. In addition, ensuring the completeness and accuracy of its aquatic safety statistics will help Parks make better management decisions regarding the allocation of its aquatic safety resources.

We recommended that Parks should:

- Make certain its districts that are required to track and report aquatic safety statistics are submitting them as required.

- Require its staff to review the statistics for accuracy and completeness.

Parks' Action: Corrective action taken.

According to Parks, its current policy for reporting on aquatic safety statistics is identified in the department's operation manual (manual). The manual outlines the process for collecting data from field staff and makes each supervisor responsible for ensuring the information is reported in a monthly activity report and reported through each district's chain-of-command. In addition, to help the accuracy of data tabulation, Parks updated its daily log and monthly activity reports into a spreadsheet that automatically tabulates into a year-end summary. Also, to emphasize the need for accuracy, completeness, and adherence to reporting requirements, a memo requesting aquatic statistics reporting is sent out each November to all district superintendents with aquatic safety programs. Parks reported that the outcome of the 2005 aquatic safety statistics reports showed improvement. Finally, in addition to follow-up on errors by the aquatic specialist, the department reinforced requirements through training in March 2006.

Finding #3: Although we estimate that Parks' lifeguards worked slightly fewer hours in 2004 than in 2000, its lifeguard staffing patterns and its mix of permanent and seasonal lifeguards seem reasonable.

Parks' lifeguards worked slightly fewer hours in 2004 than they did in 2000. Based on payroll data we obtained from the State Controller's Office, we estimate that in 2000, lifeguards worked about 376,000 hours compared with 357,000 in 2004.

Parks appears to adjust its lifeguard staffing levels to deal with changes in beach attendance and to use a reasonable mix of permanent and seasonal lifeguards to provide public protection at state beaches. Parks indicated that it attempts to increase the staffing levels of lifeguards in the summer months to cope with increased attendance at state beaches. According to Parks, the peak attendance season generally runs between April and October each year. For example, we found that the total number of hours lifeguards worked in the San Diego North sector during 2004 generally fluctuated with changes in reported attendance. In addition, this sector appeared to keep pace with increasing attendance, because the four months with the most hours worked by lifeguards (June through September) coincided with the four months in which the reported levels of attendance were highest.

In addition, we found that, based on the average number of hours lifeguards worked each month over the last five years, Parks used seasonal staff to augment the number of lifeguards on duty during the peak season. Permanent lifeguards worked a relatively steady number of hours each month on average over the five-year period, whereas seasonal lifeguards worked a great deal during the summer months but very little during the nonpeak season. This staffing pattern indicates that Parks relies on permanent lifeguards to protect the public in nonpeak months, while this task falls primarily to seasonal lifeguards during the peak attendance season.

Although seasonal lifeguards contribute heavily during the peak attendance season, 94 percent of seasonal lifeguards worked fewer than 1,000 hours in 2004, with 70 percent working fewer than 500 hours. Given that Parks set 1,778.5 as its standard measure of the annual hours a full-time employee works, it apparently does not need to convert any of its seasonal lifeguards to permanent status.

Finally, Parks requires all its permanent lifeguards to be peace officers. Parks reported that the workload levels related to the law enforcement aspects of a lifeguard's job have increased dramatically. Since Parks relies primarily on permanent lifeguards for about five months of the year during the nonpeak attendance season, it seems important for Parks' permanent lifeguards to be peace officers.

Finding #4: While Parks has reported an increasing number of drownings in unguarded waters, adding more lifeguards may not be an appropriate response.

Parks' lifeguard districts have reported an increasing number of drownings in unguarded waters over the last five years. The majority of the 31 unguarded-water drownings in 2004 occurred in north coast and inland lifeguard districts that generally receive less beach attendance than the south coast lifeguard districts. Overall, given the low number of drownings in guarded waters discussed earlier and the increasing number occurring in unguarded waters, one might conclude that adding more lifeguards would decrease the number of drownings in unguarded waters. However, although every drowning is a tragedy, based on the circumstances surrounding the 31 reported drownings in unguarded waters during 2004, we believe that adding more lifeguards may not be an appropriate response. In particular, for more than half these incidents, the level of lifeguard staffing did not appear to be an issue. Further, at the locations of the remaining incidents, it is not clear that Parks would choose to add more lifeguards if it received additional resources.

We recommended that Parks monitor the circumstances surrounding drowning incidents that occur in unguarded waters to help it determine the amount and best allocation of resources sufficient to protect the public.

Parks' Action: Corrective action taken.

According to Parks, the aquatic specialist follows up on all reported drowning incidents and analyzes the surrounding circumstances to consider possible actions to take regarding the amount and best allocation of aquatic safety resources. Based on this type of review, the aquatic specialist indicated that there were 24 drowning deaths in California state parks during calendar year 2005, a decrease of about 22 percent from 2004. Parks attributed the decrease to lower attendance driven by such factors as numerous foggy days during months that are normally busy because of warm weather and record numbers of jellyfish stings during July and August. After reviewing the circumstances surrounding the 2005 drowning incidents, Parks concluded that reallocating current lifeguard and aquatic safety resources within the department would not be a reasonable approach to decrease the number of drowning incidents. Nevertheless, Parks indicated that it received a budget augmentation for aquatic safety programs and it is identifying where increasing seasonal staff will have the greatest benefit for public safety. It is also pursuing the purchase of additional personal watercraft to support lifeguard programs and is developing a comprehensive brochure on aquatic safety to assist in educating the public.

Finding #5: Continued deferral of equipment repair and maintenance may eventually have a negative impact on Parks' ability to adequately protect the public.

Lifeguard districts significantly decreased their spending for equipment and facility operations costs from fiscal years 1999–2000 to 2003–04. As a result, according to the sectors within the lifeguard districts that operate aquatic safety programs (lifeguard sectors), some of their lifeguard equipment and facilities are in poor condition and in need of repair or replacement. Staff at Parks indicated that it generally cuts back on equipment and maintenance expenses when faced with budget cuts for operating expenses because they are nonfixed or discretionary expenses. This is consistent with responses to our survey, in which many lifeguard sectors expressed a need for additional resources to maintain and add to their lifeguard equipment and facilities. These sectors indicated needing primarily vehicles, rescue boats, and portable towers. In addition, although Parks plans to replace two of its permanent lifeguard facilities and expand another, lifeguard sectors reported that several other facilities are in need of repair or replacement. However, management at Parks believes that it has allocated sufficient funds to provide adequate aquatic safety while balancing the needs of all its programs. In contrast, the three local governments we surveyed reported having sufficient and operable equipment.

Although no instances came to our attention in which the poor condition of equipment affected the lifeguard sectors' ability to provide aquatic safety, we observed a few examples of equipment in poor condition. However, we were unable to assess whether the additional equipment needs reported by the lifeguard sectors were necessary, because we are not aware of any standard that specifies the amount of equipment lifeguards must have to perform their duties. Finally, although most lifeguard districts said they need additional funds to maintain their equipment, we are uncertain they would spend the additional funds to fulfill those needs. According to Parks' budget office, the lifeguard districts have some control over their spending for nonfixed or discretionary costs, such as equipment and facilities maintenance, overtime, and temporary staffing.

We recommended that Parks monitor how long it can continue to curtail spending on lifeguard districts' equipment and facilities to avoid a potentially negative impact on its ability to protect the public. In addition, if Parks decides to allocate additional funding to its aquatic safety programs in the future, either for equipment expenses or for additional lifeguards, it should work closely with its lifeguard districts to clarify the intended purposes of any proposed changes in spending. For example, if Parks decides to allocate additional funding to augment its lifeguard staff, it should carefully consider whether to expand coverage into unguarded waters in districts with existing aquatic safety programs or to implement new aquatic safety programs in districts at coastal or inland waterways without lifeguard coverage.

Parks' Action: Pending.

According to Parks, its 2006–07 budget contains an augmentation for lifeguard aquatic safety programs. As a result, it is identifying the programs with the highest needs to determine its priorities and where the augmentation will have the greatest benefit for public safety. Parks also expects to receive $250 million for the repair of critical infrastructure in state parks in 2006–07 and plans to address the need for replacement and repair to districts' lifeguard facilities through this allocation. Finally, Parks stated that given the department's need to balance limited resources across all core programs, it is apparent that even critical need programs and facilities cannot always be fully funded in the manner it would prefer.

Finding #6: Lifeguard sectors lack evidence to support their reported need for automatic external defibrillators.

Although 15 of the 19 lifeguard sectors we surveyed said they need additional automatic external defibrillators (AEDs), Parks does not presently capture data that would be sufficient to assess its need for these devices. An AED is a piece of medical equipment that lifeguards can use to rescue victims of sudden cardiac arrest. For instance, lifeguard sectors reported that they used AEDs in six cases in 2004, which is the year they began reporting the number of times AED units were used. However, these reported cases might understate Parks' need for AEDs because they may not indicate the number of instances in which AEDs should have been used. A more relevant statistic would be to track the number of times in which a rescue required the use of an AED, but one was not available. Parks could then use these data to assess whether it needs additional AEDs and, if so, how many.

We recommended that, to clarify to what extent it needs AEDs, Parks should track not only its actual usage of AEDs but also the number of times it needed them but they were unavailable. Similar procedures could apply to demonstrating the need for other equipment.

Parks' Action: Corrective action taken.

In the November 2005 memorandum to district superintendents, the chief of Parks' public safety division instructed staff to record the number of medical cases in which AEDs were needed, but were unavailable, by using one of the boxes marked "OTHER" at the bottom of the form used to gather statistics with the heading "AED needed/unavailable."

DEPARTMENT OF PARKS AND RECREATION

It Needs to Improve Its Monitoring of Local Grants and Better Justify Its Administrative Charges

REPORT NUMBER 2004-138, APRIL 2005

Audit Highlights . . .

Our review of the Department of Parks and Recreation's (Parks) administration of local grants revealed the following:

- ☑ *Parks principally relies on certifications by recipients that they complied with grant requirements and expended grant funds for allowable purposes.*
- ☑ *Parks has not consistently followed its procedures for monitoring recipients' progress on projects, and such monitoring is inconsistently documented.*
- ☑ *Parks could not always demonstrate that specific project objectives for grants were met.*
- ☑ *The expected results from the use of General Fund grants are at times not specifically defined in legislation and are subject to Parks' interpretation.*
- ☑ *Parks does not separately track its actual costs of administering local grants, creating the risk that bond funds have subsidized the cost of administering General Fund grants.*

Department of Parks and Recreation's response as of April 2006

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits review Department of Parks and Recreation's (Parks) process for administering local grants. Specifically, the audit committee asked us to assess whether Parks' oversight activities ensure that recipients are fulfilling the terms of their grants and spending the funds only on allowable purposes. The audit committee also asked us to determine how Parks defines administrative activities and related expenses, identifying the amounts charged to bond and other funds for administrative expenses.

Finding #1: The Office of Grants and Local Services (grants office) could strengthen its ongoing monitoring of recipients.

The grants office has not consistently followed its procedures for monitoring recipients' progress on projects. As a result, it has not been in a strong position to identify recipients who are not complying with grant requirements. According to its database, the grants office has disbursed $215 million as advance payments between July 1996 and mid-October 2004. Given the significant amount of funds advanced and the fact that recipients are allowed as much as five or eight years to complete their projects, we expected the grants office to periodically assess recipients' compliance with grant requirements.

The grants office indicated that its project officers have historically conducted annual agency reviews, generally over the telephone, to obtain updates on recipients' progress. However, our review of project files found that annual agency reviews were mentioned in only seven of 14 instances. Further, for these seven, it was generally unclear exactly what information project officers gathered from the recipients during the reviews. In some instances the files gave no indication of the information obtained or the specific projects discussed.

Parks asserted that, in addition to annual agency reviews, project officers maintain continual contact with recipients, obtaining up-to-date information on the status of projects. However, our review revealed a lack of consistent interaction. For 12 of 18 projects, the files indicated that the grants office went more than 10 months without discussing the status of projects with recipients. For two of the 12 projects, the grants office went longer than two years without obtaining updates. Recognizing its need for improvement, the grants office in December 2004 implemented a new policy requiring recipients to report the status of their projects every six months. However this new requirement is essentially nothing more than another self-certification by grant recipients.

Parks should continue its efforts to more consistently monitor recipients' use of grant funds, including its efforts to implement the new six-month reporting requirement. Additionally, Parks should require recipients to submit evidence of project progress and inform Parks about significant project developments. Finally, Parks should revise its policies to ensure that project officers consistently document their interaction with recipients, providing sufficient detail regarding projects for effective future monitoring.

Parks' Action: Corrective action taken.

Parks indicated that it requires grant recipients to submit a Progress Status Report twice a year for all active projects. Parks' revised policy requires that it stop payment on projects where this report is past due for more than 15 days. Along with each report, grant recipients will submit photos of work in progress, report on project status, and report on significant project developments and potential obstacles to project completion. Further, recipients sign under penalty of perjury that the information provided in the report is accurate. Finally, Parks states that it continues to contact all recipients that currently have active grant contracts via telephone to conduct annual agency reviews.

Finding #2: The grants office cannot always demonstrate that the public benefited from its local grants as intended.

Because it uses a monitoring process that relies heavily on recipients self-certifying their appropriate use of grant funds, it is important that the grants office conduct thorough final inspections of projects to ensure that the public benefited as intended from the grants. However, our review of project files revealed that the project officers could not always demonstrate that they performed final inspections or that they ensured specific project objectives were met during inspections they did perform. The grants office indicated that it has waived its requirements for final inspections under unusual circumstances, such as small grant amounts and when photographs are available to document the work. However, Parks has not developed procedures outlining when it will waive this requirement, potentially resulting in an inconsistent approach.

Such inconsistency was noted for one $500,000 grant where the grants office waived the final inspection requirement, accepting photographs instead. Given the significant amount of the grant, it would have been prudent to visit the site to ensure that the facilities mentioned in the contract were built as planned. For two other projects of 23 we reviewed, the grants office contended that the projects were visited but a final inspection not documented, including one grant for $985,000. Further, we noted that when final inspections were documented, project officers could not always demonstrate that specific project objectives were met before considering the projects

complete. By not documenting that a final inspection was performed, or not documenting that specific objectives were met, the grants office is less able to demonstrate that the public benefited as intended from the grant.

Parks should develop procedures describing the circumstances under which the grants office will conduct final inspections, ensuring that all recipients who expend significant grant funds are consistently reviewed. Additionally, it should continue with its efforts to better document its final inspections, ensuring that it demonstrates that specific project objectives were met.

Parks' Action: Corrective action taken.

Parks has revised its policies regarding final inspections. Specifically, Parks' new policy requires its staff to document, among other things, that project scope items are complete and that the facilities are open to the public. Further, Parks has established policies regarding when final payments on projects can be made before a final inspection has occurred. Parks will permit final payment of a project before a final inspection when certain conditions are met, such as when the dollar amount of the grant is relatively small or when circumstances exist which make timely inspection impractical. Parks' policy states that when a final payment has occurred without a final inspection, a final inspection should nonetheless be conducted as soon as practical. Parks indicated that it is conducting final inspections on all construction projects and verifying documents to confirm work was completed on all other projects. Parks states that final inspection reports and photos are being filed in the project file and in its computer system as appropriate.

Finding #3: The expected results from the use of General Fund grants are not always clear.

Between July 1996 and mid-October 2004, the grants office disbursed more than $106 million in local grants from the General Fund. However, sometimes the intended uses of these grant funds are not specifically defined. In fact, in our review of the fiscal year 2000–01 budget act, we noted many instances of the Legislature appropriating General Fund grants with only the recipients' names, grant amounts, and project names specified; the budget act provided no information on what was to be accomplished with the funds. The grants office states that in the absence of clear guidance, it works with the recipient to clarify the project scope. However, the lack of specific legislative direction on the intended use of funds could allow the recipient to potentially submit multiple scope change requests, and the grants office may have little authority to deny the requests.

Sometimes when working with a recipient to identify a project's scope, the grants office interprets what is to be accomplished by the award. For example, the budget act might specify that the purpose of a General Fund grant is to complete construction of a new facility. However, Parks maintains that the legislative intent behind such a grant may not be as clear as it initially appears, questioning whether the Legislature intended the grant to result in a completed facility that would be open to the public or simply to help pay for construction. In such cases the grants office makes decisions as to when it considers a recipient has met its project objectives. However, the grants office does not always clearly establish at the beginning of the grant what the scope of the project is to be and what type of deliverable it expects to see before it makes final payment. Parks indicated that in the future, it will stop action on any General Fund grant when direction is less than perfectly clear in sponsoring legislation. It will ask for further statutory direction from the Legislature before moving forward on the grant.

Should it choose to appropriate General Fund grants in the future, the Legislature should specifically define what is to be accomplished with the funds. In cases where Parks is unclear as to the expected results or deliverables from grant funds appropriated by the Legislature, Parks should continue with its new policy of stopping action on these grants and seeking further statutory language clarifying the intended use of these funds. Finally, to ensure that it is in a stronger position to hold recipients accountable, Parks should clearly document its expectations as to what is to be accomplished with these funds in its grant contracts.

Legislative Action: None.

It appears that the Legislature did not appropriate any General Fund grants to Parks within the Budget Act of 2005. Thus, no legislative action is needed.

Parks' Action: Corrective action taken.

Parks has revised its policies regarding how its grant contracts will document Parks' expectations as to what is to be accomplished with grant funds. Specifically, Parks' new policy requires project scope language in grant contracts to be "sufficiently specific so that the product to be provided by the project is clearly defined." Further, Parks' new policy requires recipients to submit project scope change requests that include a new cost estimate, application, and evidence that the revised project still complies with the law or budget language that established the grant. Further, Parks asserts that it has provided training to its staff regarding its new policies. Finally, Parks provided evidence that it has sought legislative approval for project scope changes for three grants, indicating that it will seek legislative guidance on the intended use of grant funds. Parks indicates that it will advise grant recipients, along with Senate and Assembly members representing the area, whenever there is a question as to the project's scope or applicant.

Finding #4: Parks does not track its actual costs for the grants office's administration of Propositions 12 and 40 programs.

Although Propositions 12 and 40 require Parks to charge only its actual costs of administering each bond's programs to the respective bond fund, Parks does not track its actual administrative costs incurred by the grants office relative to each of the bonds. We focused on the grants office's costs because it is the office that has primary responsibility for monitoring local grants. In general, the actual cost of the grants office is initially charged to a single program cost account, which is funded by Propositions 12 and 40 as well as other funding sources. Although the amounts charged to the account reflect the total cost of the grants office, the costs cannot be directly attributed to Propositions 12, 40, or other funding sources. They typically reflect the total personnel and operating costs of the grants office. Similarly, the sources and amounts funding the single program cost account are not based on the actual work of project officers on programs funded by those sources. The amounts are appropriated by the Legislature based on Parks' administrative cost plan, as modified by statutorily authorized adjustments. Once the program cost account is funded, actual administrative costs are charged to each funding source based on its share of the total funding received by the grants office.

We question whether Parks' methodology for charging the cost of the grants office to bond funds based on the share of funding the grants office receives is valid. Parks' methodology, in effect, allocates more costs to the administration of large grants than that of small grants. However, according to a grants office manager, grant procedures are the same for administering large grants

as they are for small grants, and the level of effort necessary to administer a grant does not depend on a dollar amount as much as it does on other variables, such as the experience and knowledge of the recipient and complexity of the project. Further, for federal funds, Parks is required to periodically assess the reasonableness of its cost allocation methodology to actual costs incurred. Following a similar approach for Propositions 12 and 40 funds would be a prudent practice.

To ensure that it is reasonably charging administrative costs to the appropriate funding sources, Parks should perform quarterly comparisons of its actual administrative costs to the costs it recorded and adjust its methodology and recorded costs as necessary.

Parks' Action: Partial corrective action taken.

Parks indicates that it has completed three separate week-long time reviews where all grants office staff tracked the time they spent on activities. According to Parks, the time reviews illustrated significant fluctuations between sample weeks and were not predictive of the future. As a result, Parks believes that charging its costs to grant funds based on a time study methodology is unworkable. Parks indicates that it is currently in discussions with the Department of Finance to develop a new methodology based on project counts and program characteristics that would equitably distribute program costs.

STATE WATER RESOURCES CONTROL BOARD

Its Division of Water Rights Uses Erroneous Data to Calculate Some Annual Fees and Lacks Effective Management Techniques to Ensure That It Processes Water Rights Promptly

REPORT NUMBER 2005-113, MARCH 2006

State Water Resources Control Board's response as of September and November 2006

Audit Highlights . . .

Our review of the operations of the State Water Resources Control Board's Division of Water Rights (division) revealed the following:

- ☑ *Because the division's database does not always contain the correct amount of annual diversion authorized, some of the annual fees the division charged over the past two fiscal years were wrong.*
- ☑ *The division's method of charging annual fees may disproportionately affect holders of multiple water rights that authorize them to divert small amounts of water.*
- ☑ *Because the division does not factor in certain limitations on permits and licenses, it charges some fee payers based on more water than they are authorized to divert.*
- ☑ *The number of permits and licenses the division has issued over the past five fiscal years has significantly decreased.*

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The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits conduct an audit of the operations of the Division of Water Rights (division) within the State Water Resources Control Board (water board). Specifically, the audit committee requested that we (1) examine the division's policies and procedures for carrying out its roles and responsibilities, including those for complying with the California Environmental Quality Act and other relevant laws; (2) evaluate the timeliness and effectiveness of the division's processing of applications for new water rights permits and petitions to change existing water rights permits (petitions); (3) determine how the division allocates its resources to fulfill its responsibilities and determine if the division uses those resources to address matters other than the processing of applications and permits—including enforcement, complaint resolution, and board-initiated amendments—of the terms of permits and licenses; (4) identify the extent of any demands placed on the division's resources by other agencies, including the Department of Fish and Game, and by other interested parties that have not filed applications and petitions; (5) determine how the division established its new fee structure and assess its reasonableness and fairness, including the validity of the data the division used when it established its fees; and (6) determine what procedures and mechanisms the division has in place to review the fee structure and modify the fees when necessary. We found that:

Finding #1: The division uses erroneous data to determine some of its annual fees for permits and licenses.

The California Water Code (Water Code), Section 1525, requires the water board to implement a fee-based system so the total amount it collects each year equals the amount necessary to support the program's costs. It specifies that the division is to develop a fee schedule that consists of annual fees and filing fees and also requires the division to review and revise its fees each year to conform to the revenue levels set

- ☑ *Although the process of approving a water right is complex and can be legitimately time-consuming, the division may cause unnecessary delays because it has a poor process for tracking its pending workload and is sometimes slow to approve documents to be sent to applicants.*
- ☑ *The data in the division's electronic tracking systems related to applications and petitions are unreliable for the purpose of tracking the progress and status of those files.*
- ☑ *The electronic bar-code system the division uses to track the location of its files has limited usefulness as a management tool because more than 5,200 of its permit and license files are not present in the system.*

forth in the annual budget act and to make up for undercollection or overcollection of revenues from the previous fiscal year. The division's annual fees for permits, licenses, and certain pending applications consist of a $100 minimum fee plus a fixed rate per acre-foot (which is about 326,000 gallons) of water authorized for beneficial use in excess of 10 acre-feet. The division assesses other annual fees for petitions, water leases, and certain hydroelectric projects. Holders of riparian water rights, which usually come with ownership of land bordering a water source, or other water rights obtained before 1914 are not under the water board's jurisdiction and are not assessed fees.

The division relies on its Water Rights Information Management System (WRIMS) to calculate the annual fees it charges for permits and licenses. However, we found that the WRIMS data fields that the division uses to calculate the fees did not always contain the correct amount of annual diversion authorized by permits or licenses. Because this information is necessary to calculate annual fees accurately, the fees that the division charged over the past two fiscal years for 18 of the 80 water rights we tested were wrong. Specifically, during this period the division undercharged the holders of 10 of the water rights in our sample by a total of $125,000, and it overcharged the holders of eight of the water rights by a total of $1,300. In addition, the division did not bill two water rights a total of $406 because WRIMS did not list them as active in the system. Furthermore, the division could potentially be setting its rate per acre-foot too high or too low by not having the correct amount of annual authorized diversion for all the permits and licenses in the system.

Contributing to the problem, the invoice the Board of Equalization (Equalization) sends on the division's behalf does not contain sufficient detail for fee payers to recalculate the annual fee. Specifically, critical details of the terms of the permit and license, such as the total annual amount of acre-feet of authorized diversion and the rate the division charges for each acre-foot, are not included. By relying on fee payers to identify billing errors, the division assumes that permit and license holders are able to recalculate their fees based on the terms of their water rights and the division's fee schedule. Furthermore, the largest problems we found related to undercharging rather than overcharging, and fee payers who are undercharged do not have a monetary incentive to report that their bills are too low.

At a cost of $3.2 million, the water board is seeking to replace the division's current WRIMS with a new system that purportedly will deliver a variety of enhanced features. However, the division must first ensure that its current system contains key data that are accurate and complete, such as the maximum annual diversion amounts that are specified on permits and licenses, before it implements a new system. If it does not ensure the accuracy of its current data, the division is at risk of continuing to assess incorrect annual fees. Further, the division's

new system would not be implemented for more than one year, so ensuring that its current system has accurate and complete data would greatly enhance its ability to bill fee payers accurately before converting to the new system.

We recommended that the division review all the water rights files for those that pay annual fees and update WRIMS to reflect all the necessary details specified on a permit or license, such as the maximum authorized diversion and storage and the applicable seasons and rates of diversion to ensure that its WRIMS contains all the necessary information needed to calculate annual fees accurately for the next billing cycle. We recommended this be completed before the division's conversion to any new database system, so that the data are accurate and complete.

To ensure that fee payers have sufficient information to review the accuracy of their bills, we recommended that the division work with Equalization to include more detail on its invoices, such as listing all the water rights identification numbers or application numbers for which the fee payer is subject to fees, along with the corresponding maximum amount of authorized diversion and the cost per acre-foot. Alternatively, the division could provide this information as a supplement, using its own resources, by sending out a mailer at about the same time that Equalization sends the invoice to fee payers, or by providing the information on its Web site.

Water Board's Action: Partial corrective action taken.

The water board stated that it has developed a plan to update its WRIMS data associated with annual fee calculations. The water board indicated that its plan has seven priority groups of water right records, with a goal of correcting all necessary data before the water board implements its final conversion to its new database system in September 2007. The water board asserts that, as of September 2006, it has reviewed and corrected 880 of the 12,571 water right files and it intends to review another 3,756 by September 7, 2007. However, the water board stated that it believes the marginal returns of completing the work associated with the remaining 7,935 water right files do not warrant redirecting staff to complete those reviews.

The water board also stated that it intends to work with Equalization to include more detail on its invoices and until that time, it intends to provide the recommended information on its Web site. In addition, the water board stated that it intends to send a letter to all of the fee payers providing instructions on how to read the bill and directions to Web site locations for more detailed information.

Finding #2: The division's method for calculating annual fees may disproportionately affect certain holders of multiple water rights.

We also found that the division's method for calculating annual fees may disproportionately affect some fee payers who divert small amounts of water under multiple water rights. The division's approach is to generally distribute the fees among its fee payers in proportion to their overall authorized diversion of water. However, because the division charges a $100 minimum fee for each individual water right, fee payers who have multiple water rights with small authorized diversion amounts pay proportionately more than those holding a single water right with the same, or in some cases an even greater, amount of diversion. Although we agree that assessing a minimum fee is reasonable, the division could address this issue by charging a single minimum fee for each fee payer rather than for each water right. Our suggested modification to the division's current approach would continue to use existing data sources but would require the division to change the way it sorts the data. In addition, such a change would require a slight increase in the fee rate per acre-foot to offset the reduction in revenues from the minimum fees. Nevertheless, we believe this approach

would more precisely distribute the fees in proportion to the authorized diversion of water. We recognize that there may be a variety of ways to structure valid regulatory fees. Therefore, this change is not required in order for this fee to retain its validity as a regulatory fee.

To more precisely distribute the fees in proportion to the annual fee payers' authorized diversion, we recommended that the division consider revising its emergency regulations to assess each fee payer a single minimum annual fee plus an amount per acre-foot for the total amount of authorized diversion exceeding 10 acre-feet, or other specified threshold.

Water Board's Action: None.

The water board stated that it met with its Fee Stakeholder Group (stakeholder group) on April 11, 2006, to explain and discuss our recommendation. The water board stated that to date, there has been no support for the recommended change from members of the stakeholder group.

Finding #3: Some fee payers are charged based on more water than they are authorized to divert.

Some fee payers hold multiple water rights that include a term limiting their combined authorized diversion to an amount that is less than the total diversion authorized for their individual rights. Their annual fees are calculated in a manner that is inconsistent with the calculation of annual fees for fee payers who hold a single water right that includes a term limiting the authorized diversion.

The California Code of Regulations, Title 23, Section 1066(b)(3), states that if a person or entity holds multiple water rights that contain an annual diversion limitation that is applicable to a combination of those rights, but may still divert the full amount authorized under a particular right, the fee shall be based on the total annual amount for that individual right. For example, a person may hold five water rights, each with a face value of 200 acre-feet, for a total of 1,000 acre-feet, but the overall authorized diversion on those five water rights may be limited by one of the rights to 800 acre-feet. The division implements the regulation just described by charging holders of multiple water rights annual fees based on the face value of each permit or license and does not take into account the overall limitation on authorized diversion. Consequently, the fee charged to the holder of these five water rights would be based on 1,000 acre-feet rather than the 800 acre-feet the fee payer actually is authorized to divert. The division does take a diversion limitation into account when it is a specific term on a single permit or license. Although the division has considerable discretion in interpreting its regulations, we find this inconsistency in the treatment of single and multiple water rights holders particularly noteworthy, given that the division may bring an enforcement action against a water right holder who violates the terms and conditions of a permit or license by exceeding the annual use limitation applicable to combined water rights. Consequently, the holder of multiple water rights may be required to pay an annual fee for an amount of water that, if actually diverted, could subject the holder to an enforcement action.

We recommended that the division revise its emergency regulations to assess annual fees consistently to all fee payers with diversion limitations, including those with combined limitations, so fee payers are not assessed based on more water than their permits and licenses authorize them to divert.

Water Board's Action: None.

The water board stated that it met with its stakeholder group on April 11, 2006, to explain and discuss our recommendation. The water board stated that to date, there has been no support for the recommended change from members of the stakeholder group. The water board stated that this

is because the water board and its stakeholder group were unable to determine the effect of this recommended change on each stakeholder's fee without a manual review and calculation of the fees for a significant number of water rights.

Finding #4: The division has weaknesses in its process of tracking applications and petitions.

The division does not have an effective method of tracking its pending workload. The division has two independent electronic systems designed to track information pertaining to pending applications: the application tracking system, which tracks general information relating to an application; and the environmental tracking system, which tracks information more specific to the application's environmental review process. The division uses another system to track information pertaining to pending petitions. Our review of these systems found the information to be unreliable because the division failed to ensure that the systems contain accurate and complete data necessary to track pending workload. As a result, the division cannot rely on these systems as an effective management tool to track the progress and status of its pending workload, which may contribute to delays in processing applications and petitions.

Of the 615 pending applications in the division's application tracking system, 41 percent were assigned to supervisors who no longer are employed by the division and 44 percent did not have any staff assigned to them. Furthermore, we found that the "next step date" field in the application tracking system, used to track upcoming stages of the application process, such as the dates the division expects to send public noticing instructions or issue a permit, was not always updated or was blank. The division identified future action for fewer than 30 applications. The remaining applications indicated activity that was long past due, and 189 applications did not have any "next step date." Therefore, the application tracking system is incomplete and inaccurate for the purpose of tracking the progress and status of applications. The division's environmental tracking system is unreliable as well because it too is incomplete and inaccurate for the purpose of tracking applications. For example, 74 percent of the applications in the environmental tracking system did not have any staff assigned to them, and 85 percent of the applications did not contain any data in the "activity target date" field, which could be used to identify when the division is supposed to complete a certain activity. When a tracking system does not accurately reflect the staff assigned to process an application, it cannot be used to monitor staff progress or to ensure that workload is distributed in a manner that facilitates efficient and timely processing. Moreover, a tracking system that lacks reliable dates cannot be used to determine workload status or to monitor processing times.

Similar to the division's application and environmental tracking systems, we found that its petition tracking system does not contain accurate or complete data in some fields necessary for effective management. Specifically, of the 530 active petitions in the petition tracking system as of December 2005, 44 petitions did not show what action has been taken, 65 petitions did not include the date that the last action occurred, and 219 petitions did not include information regarding which staff members were assigned. In addition to finding that critical information was missing, we found inaccuracies in some of the populated fields. Namely, for three of the six petitions we examined, the information regarding the last action taken by staff and when that action occurred was incorrect.

We recommended that the division ensure that its tracking systems for pending applications and petitions are complete and accurate by reviewing its pending workload and updating the systems to reflect current information before it upgrades to a new system. The division also should strengthen its procedures to ensure that staff maintain the accuracy of the data in the systems.

Water Board's Action: Pending.

The water board stated that to ensure the applications, petitions, and environmental tracking systems are complete and accurate, it is in the process of reviewing each of these tracking databases. It further stated that the information is being updated by designated staff and will be reviewed by the division's management for accuracy. The water board also stated that it has implemented procedures to ensure staff maintains the accuracy of the tracking systems.

Finding #5: Unexplained delays exist between various phases of water rights processing.

In our sample of 15 recently issued permits and licenses, we found significant and sometimes unexplained delays between various phases of the water rights application process. The California Code of Regulations (regulations) requires the division to review permit applications for compliance with the requirements of the Water Code and the regulations. The regulations also specify that an application will be accepted for filing when it substantially complies with the requirements, meaning the application is made in a good faith attempt to conform to the rules and regulations of the water board and the law. Generally, the Water Code does not specify the length of time in days within which the division must complete each step of processing an application. In November 2003, the division directed staff to accept permit applications in one working day. However, we question whether this goal is realistic because the division would not have met it for any of the 12 permits and licenses for which we could determine the number of days. Specifically, in 11 of the 12 cases, the division took 29 to 622 days to accept the applications. Moreover, the division stated that its goal is to send noticing instructions to applicants within 30 days after it accepts an application. However, it did not meet this goal for 14 of the 15 recently issued permits and licenses we tested.

Contributing to some of the delays in the water rights application process was the time taken by the division's management to approve and issue some of the documents it sent to applicants. In one example, the division took 85 days to approve a permit and cover letter, and it did not send them for an additional 56 days. The permitting section chief stated that it took about three months to review the file to ensure technical accuracy, but he did not know why it took 56 days to mail the final permit after the chief approved the letter. In another example, the division issued a permit cover letter to an applicant 60 days after it approved the letter for issuance. According to the permitting section chief, this delay occurred because the division's file room had a backlog of assignments. However, we are uncertain why a backlog of assignments would delay for 60 days the issuance of a letter that was ready for mailing.

We recommended that the division consider establishing more realistic goals that are measurable in days between the various stages of processing an application and implement procedures to ensure that staff adhere to these goals. In addition, the division should develop procedures for improving the timeliness of management review and issuance of documents.

Water Board's Action: Pending.

The water board stated that it has a number of efforts underway to address this recommendation, such as reviewing its business practices to identify needed improvements, updating the procedures manual, revising route slips, and revising templates, as appropriate. Further, the water board stated that the chief of the division (division chief) directed all of the division's staff to identify where the "log jams" occur in processing. The program managers have been tasked to set a realistic goal measurable in days to complete each step in each process. Furthermore, the water board stated that the division chief has started a review of current delegations to determine if certain actions that are currently performed by division management should instead be delegated to lower level staff.

Finding #6: Weak file tracking causes inefficiency.

The division does not effectively track water rights files, causing its staff to spend valuable time searching for files when they could be involved in more productive activities. The division uses an electronic bar-code scanning system to track the location of several types of water rights files. The files scanned into the system as of September 2005 generally were related to permits, licenses, and small domestic use registrations. Ideally, scanning allows the division to identify the location of the file and the individual who possesses it. However, when we compared the data in the bar-code system to application numbers that were billed in fiscal year 2005–06, we found that more than 5,200 permit and license files did not appear to have been scanned into the division's bar-code system. We selected a random sample of 30 of these files to determine whether they in fact had a bar-code label and to see if we could readily locate the files in the division's records room. From this sample, we found 28 of the files in the records room and each file had a bar-code label. One of the remaining two files was in the records room, but it did not have a bar-code label. We could not locate the last file, and since it was not in the bar-code system we could not determine its location using the system. Thus, the division's bar-code system as currently implemented is not as effective a management tool as it could be for tracking the location of its files.

Moreover, we found that the bar-code system does not have the necessary controls over data entry, resulting in invalid entries in the system. The system is designed to capture an employee's name and the file number that the employee is trying to scan. However, some scanning errors can occur if an employee scans a file number before scanning his or her name, or if the employee simply scans a file number too quickly, which results in the system capturing the file number more than once in the same field. The system does not have controls to reject these incorrect entries. For example, we queried the list of files that had been checked out to a staff member and found instances where there were employee names in the application number field for several files and multiple application numbers in a single entry.

We recommended that the division continue to work with the water board's Office of Information Technology to improve the controls over data entry in its bar-code system. We also recommended that the division conduct a complete physical inventory of its files and ensure that each file has a bar-code label and is scanned into the system.

Water Board's Action: Pending.

The water board stated that it plans to replace the existing bar coding system with a wireless bar coding feature in the data system currently under development. In addition, the water board stated that its Office of Information Technology will ensure that proper controls are in place to provide quality assurance in the data. The water board stated that, in the meantime, it has informed staff of common scanning problems and will provide training to its staff. Moreover, the water board stated that it has developed a workplan and procedure to check for the presence of bar codes on all files and to scan files into the system that are not currently scanned. However, it will not begin this work until it has made sufficient progress in its review and correction of water rights data in its database.