

Oil Spill Prevention and Administration Fund

The Department of Fish and Game and the Office of Spill Prevention and Response Need to Improve Their Administration of the Spill Fund

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The Department of Fish and Game's¹ (Fish and Game) Office of Spill Prevention and Response (spill office) is responsible for preventing and responding to oil spills and the administrator of the spill office is responsible for administering the Oil Spill Prevention and Administration Fund (spill fund). The revenue for the spill fund is mostly derived from its per-barrel fees, which are charged to owners or operators of crude oil and petroleum products received in California, and the fees paid by certain vessels carrying cargo other than oil, known as nontank vessels. Combined, these fees fund the majority of the spill office's oil spill prevention activities.

This report concludes that Fish and Game misstated the financial condition of the spill fund appearing in the governor's budget for four of the five fiscal years during our audit period from fiscal years 2006–07 through 2010–11. These misstatements were, in part, a result of Fish and Game's budget branch not having written procedures directing staff to reconcile the spill fund's financial condition to the State Controller's Office records. Moreover, the analysts in Fish and Game's budget branch lacked experience and training regarding the preparation of fund condition statements.

State law requires the administrator to produce a three-year projection of the spill fund's future revenues and expenses. Relying at least in part on financial information prepared by the spill office in June 2011, the Legislature recently approved a temporary increase to the per-barrel fee to cover projected deficits in the spill fund. However, the spill office's three-year projection contained inaccuracies because the spill office did not take the steps necessary to verify the accuracy of the financial information included in the projection. A factor that may have affected the three-year projection is the method Fish and Game used to calculate the federal government's share of its indirect administrative costs, such as those costs associated with accounting, personnel services, and general administration. Fish and Game's method for calculating the federal government's share led to an undercharge of \$27.3 million to the Federal Trust Fund that was incurred by other funds administered by Fish and Game. The federal government has agreed to allow Fish and Game to recover this amount over the next three fiscal years. As a result, the spill office will need to consider the reduction in the spill fund's indirect administrative costs when projecting its fund balance and, if necessary, adjust the fees accordingly moving forward.

This report also follows up on recommendations issued in our August 2008 report titled *Office of Spill Prevention and Response: It Has Met Many of Its Oversight and Response Duties, but Interaction With Local Government, the Media, and Volunteers Needs Improvement*, Report 2008-102. In that report, we concluded that Fish and Game's restructuring of certain spill office positions appeared to have caused friction between the spill office and Fish and Game management. To help reduce friction, we recommended that the spill office and other Fish and Game units discuss their respective authority and better define their roles. This report concludes that some of these issues still exist and that they may be resolved with the development of written policies and procedures. Our 2008 report also raised concerns regarding certain employees' salaries being improperly charged to the spill fund; however, we found that Fish and Game has since resolved these issues by providing guidance to its employees and implementing a new time reporting system.

In the report, the California State Auditor (state auditor) made the following recommendations to Fish and Game. The state auditor's determination regarding the current status of recommendations is based on Fish and Game's response to the state auditor as of October 2012.

¹ As of January 1, 2013, the Department of Fish and Game became the Department of Fish and Wildlife.

Recommendation 1.1.a—See pages 17—19 of the audit report for information on the related finding.

To prepare and report accurate fund condition statements for inclusion in the governor's budget each year, Fish and Game should ensure that staff in its budget branch follow written procedures to develop fund condition statements.

Fish and Game's Action: Fully implemented.

Fish and Game developed written procedures for completing fund condition statements. It also stated that its budget branch has been following these procedures since fiscal year 2011–12. In addition, Fish and Game indicated that, as required by the Department of Finance, starting in fiscal year 2012–13, the budget branch is also completing the Prior Year Adjustments to Special Funds Worksheet (worksheet).

Recommendation 1.1.b—See pages 17—19 of the audit report for information on the related finding.

To prepare and report accurate fund condition statements for inclusion in the governor's budget each year, Fish and Game should train both new and existing staff on how to prepare fund condition statements for inclusion in the governor's budget.

Fish and Game's Action: Fully implemented.

Fish and Game stated that its budget branch has a primary analyst and back-up analyst assigned to develop fund condition statements and that both current analysts have been trained in using its new written procedures and the worksheet. Fish and Game explained that if staff change, either due to attrition or assignment changes, new staff will be trained in using the written procedures and the worksheet to ensure that the budget branch continues to follow these procedures when developing the fund condition statements.

Recommendation 1.2.a—See pages 20 and 21 of the audit report for information on the related finding.

To ensure that three-year projections of the spill fund's revenues, expenditures, and fund balances, all of which are used to determine fee rates, are based on accurate financial information, the spill office should develop written procedures directing staff on how to prepare the three-year projection, including steps to verify the accuracy of the financial information in the projection. In developing these procedures, the spill office should consult with Fish and Game's accounting branch and budget branch to confirm that these procedures are thorough and complete.

Fish and Game's Action: Fully implemented.

Fish and Game developed written procedures that direct staff on how to prepare the three-year projection of the spill fund's revenues, expenditures, and fund balances.

Recommendation 1.2.b—See pages 21—23 of the audit report for information on the related finding.

To ensure that three-year projections of the spill fund's revenues, expenditures, and fund balances, all of which are used to determine fee rates, are based on accurate financial information, the spill office should consider the reduction in the spill fund's costs, as a result of the recovery of indirect administrative costs, when projecting its fund balance moving forward.

Fish and Game's Action: Pending.

Fish and Game stated that its budget office will factor the recovery of indirect administrative costs in its determination of the spill fund's share of these recovered costs. It also indicated that the spill office will consider this recovery when estimating fund projections.

Recommendation 1.3—See pages 21—23 of the audit report for information on the related finding.

To prevent under- or over-recovery of federal funds, Fish and Game should regularly reassess whether using budgeted expenditures or actual expenditures will produce the most accurate results.

Fish and Game's Action: Pending.

Fish and Game stated that its accounting services branch (accounting branch) submits its Indirect Cost Rate Proposal annually to the U.S. Department of Interior and that in November 2012, the accounting branch will be preparing the new proposal for fiscal year 2013–14. Fish and Game asserted that it will reassess the method used at that time as well as make adjustments as needed.

Recommendation 1.4—See pages 23—26 of the audit report for information on the related finding.

To eliminate confusion about the authority of the spill office and its relationship with Fish and Game, the Legislature should consider amending state law to clarify its intent regarding the administrator's authority.

Legislative Action: Unknown.

The state auditor is not aware of any action taken by the Legislature as of December 18, 2012.

Recommendation 1.5.a—See pages 23—26 of the audit report for information on the related finding.

To ensure that the spill office continues to work consistently with other entities to resolve issues with the use of staff and equipment and that it has the necessary resources to carry out its operations, the spill office should develop written policies and procedures with Fish and Game enforcement regarding staffing decisions.

Spill Office's Action: Pending.

Fish and Game explained that it has completed draft guidelines regarding the coordination of the spill office and Fish and Game enforcement and the current target for adoption of these guidelines is January 1, 2013.

Recommendation 1.5.b—See pages 23—26 of the audit report for information on the related finding.

To ensure that the spill office continues to work consistently with other entities to resolve issues with the use of staff and equipment and that it has the necessary resources to carry out its operations, the spill office should develop written policies and procedures with Fish and Game's IT unit regarding the coordination of response to system outages.

Spill Office's Action: Pending.

Fish and Game stated that it has completed draft guidelines regarding the coordination of the spill office and Fish and Game's IT unit, and the current target for adoption of these guidelines is January 1, 2013.

Recommendation 1.5.c—See pages 23—26 of the audit report for information on the related finding.

To ensure that the spill office continues to work consistently with other entities to resolve issues with the use of staff and equipment and that it has the necessary resources to carry out its operations, the spill office should develop written policies and procedures with the State Lands Commission (State Lands) regarding its disclosure of budget change proposals affecting the spill fund.

Spill Office's Action: Fully implemented.

The spill office and State Lands have completed a memorandum of understanding (MOU) regarding the spill fund. State Lands stated that this MOU will ensure that the two entities share budget change concept proposals, budget change proposals, and the spill fund's fund condition and fund projection information.

Recommendation 1.6—See pages 26—29 of the audit report for information on the related finding.

To comply with state law, State Lands should develop time sheet review procedures to ensure that its employees charge the spill fund only for oil spill prevention activities and that those charges are accurate.

State Lands' Action: Fully implemented.

State Lands has updated its time reporting instructions, which are included in its employee information guide and are accessible by all State Lands' employees on its intranet. State Lands' executive officer also sent a memorandum to all State Lands' managers and supervisors emphasizing the importance of the time report review and approval process. Finally, it stated that administrative staff have also been directed to conduct time reporting training for all staff.