

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/16)

Fiscal Year 2017-18	Business Unit 3600	Department California Department of Fish and Wildlife	Priority No.
Budget Request Name 3600-040-BCP- 2017-GB		Program VARIOUS	Subprogram

Budget Request Description
 Restructuring the Fish and Game Preservation Fund

Budget Request Summary

The California Department of Fish and Wildlife (Department) proposes revenue solutions through trailer bill language that would: (1) increase commercial fishing landing fees and (2) change the way revenue from lifetime licenses are accounted for to structurally balance the Fish and Game Preservation Fund- Non Dedicated Account. This proposal sustains the current level of service, acknowledging the need to implement more permanent measures in 2018-19.

Requires Legislation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed Various Fish and Game Code Sections and Government Code Section 7150.5	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.

Project No. Project Approval Document: Approval Date:

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By	Date	Reviewed By	Date
Department Director Original signed by G. Tiffany	Date	Agency Secretary Original signed by P. Kemp	Date

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Dept. of Technology

BCP Type: Policy Workload Budget per Government Code 13308.05

PPBA Original signed by A. Martin	Original Signed by Amanda Martin	Date submitted to the Legislature 1-10-17
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Analysis of Problem

A. Budget Request Summary

The California Department of Fish and Wildlife (Department) proposes revenue solutions through trailer bill language that would: (1) increase commercial fishing landing fees and (2) change the way revenue from lifetime licenses are accounted for to structurally balance the Fish and Game Preservation Fund (FGPF) Non Dedicated Account. This proposal sustains the current level of service, acknowledging the need to implement more permanent measures in 2018-19.

B. Background/History

The Fish and Game Preservation Fund (FGPF) was established in 1909 as a repository for all funds collected under the Fish and Game Code and any other law relating to the protection and preservation of birds, mammals, fish, reptiles and amphibia in California. These revenues are generated from the sale of licenses for hunting, recreational and commercial fishing, and numerous special permits. Over time, the Legislature has created various subaccounts within the FGPF, which have specified permit fees generating revenue for projects benefitting those species. For example, the taking of migratory waterfowl in California requires a state duck stamp validation in addition to a general hunting license. Revenues from the duck stamps are deposited into the Duck Stamp Account within the FGPF to be used for waterfowl protection and habitat restoration (Fish and Game Code Sections 3701-3702). There are currently 28 dedicated subaccounts within the FGPF.

Revenue from licenses, fees and permits that are not directed by statute to a dedicated account are accounted for in what is known as the non-dedicated Fish and Game Preservation Fund. This is the largest repository for department revenues, including sales of general fishing and hunting licenses. Approximately 75%-80% of total FGPF revenues are deposited into the non-dedicated account, with the remainder going to the various 28 dedicated subaccounts. This proposal focuses solely on a realignment of the revenues and expenditures in the non-dedicated account. All subsequent references to the FGPF in this proposal will refer to the non-dedicated account unless otherwise indicated.

Fish and Game Preservation Fund (Non-Dedicated) Revenues FY 2006-07 – 2014-15
(\$Millions)

License/Permit Type	2014-15	2013-14	2012-13	2011-12	2010-11	2009-10	2008-09	2007-08	2006-07
General Fishing Licenses	41.1	40.6	41.7	41.1	37.5	39.8	41.5	40.5	40.2
General Hunting Licenses	16.0	15.9	15.5	14.8	15.7	17.7	17.5	16.6	15.8
Commercial Fishing Licenses	4.4	4.4	4.8	4.5	4.6	4.2	4.2	4.0	3.9
CEQA Fees	5.3	5.7	5.5	5.5	6.1	6.9	8.5	9.7	6.3
Landing Fees	0.6	1.1	1.1	1.3	1.1	1.1	1.1	1.4	1.2
Other	6.0	5.9	6.8	5.7	5.1	4.6	5.2	4.8	2.7
Total	73.4	73.7	75.3	72.8	70.1	74.4	78.0	77.1	70.0

Program Activities Supported by the Fish and Game Preservation Fund

The FGPF is the department's largest single fund source and supports a multitude of program activities. Some of the main functions supported by the FGPF are:

- **Law enforcement.** Support for more than 400 wildlife officers positioned throughout the state to promote compliance with laws and regulations protecting fish and wildlife resources. Wildlife officers also investigate habitat destruction, pollution incidents and illegal commercialization of wildlife, and serve the public through general law enforcement, mutual aid and homeland security.
- **Lands management.** Management of department-owned lands including wildlife areas, ecological reserves, and public access areas to contribute to the conservation, protection, and management of fish and wildlife. Among other things, these activities support hunting opportunities and serve as required match for federal wildlife restoration grant funds.
- **Wildlife conservation.** Activities conducted by regional and field staff related to resource assessment and monitoring, conservation and management activities for game and nongame

Analysis of Problem

species, and public outreach related to those species. Funding for these activities also serves as required match for federal wildlife restoration grant funds.

- **Fisheries management.** Development and implementation of policies to address management, protection, and restoration of fish species and their habitats. Also promotes commercial and public recreational angling opportunities. These funds serve as required match for federal sport fish restoration grant funds.
- **Fish and Game Commission.** The commission establishes regulations for hunting, sport and commercial fishing, aquaculture, exotic pets, falconry, depredation control, listing of threatened or endangered animals, marine protected areas, public use of department lands, kelp harvest, and acts as a quasi-judicial appeal body.

Fish and Game Code Section 711

Fish and Game Code Section 711 outlines the Legislature's intent for the uses of license fees and the FGPF for commercial, game and nongame programs as follows:

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

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

(2) The costs of commercial fishing programs shall be provided out of revenues from commercial fishing taxes, license fees, and other revenues, from reimbursements and federal funds received for commercial fishing programs, and other funds appropriated by the Legislature for this purpose.

(3) The costs of hunting and sportfishing programs shall be provided out of hunting and sportfishing revenues and reimbursements and federal funds received for hunting and sportfishing programs, and other funds appropriated by the Legislature for this purpose. These revenues, reimbursements, and federal funds shall not be used to support commercial fishing programs, free hunting and fishing license programs, or nongame fish and wildlife programs.

The Fish and Game Code does not define commercial, game and nongame; therefore, this proposal relies on the following definitions utilized by the Department:

Game Program (Hunting and Sportfishing): A game program consists of those activities of the Department of Fish and Wildlife, or portions of such activities that do not otherwise fall within any of the other categories below and that are directed toward any species permitted to be taken or possessed pursuant to a Department of Fish and Wildlife entitlement authorizing hunting or recreational fishing. Species include game mammals, upland game birds, furbearers, resident game birds, migratory game birds and sportfish, reptiles and amphibians. Game program does not include free hunting and fishing license programs.

Commercial Fishing Program: A commercial fishing program consists of those activities of the Department of Fish and Wildlife, or portions of such activities directed toward (1) any fish species permitted to be taken or possessed for commercial purposes pursuant to a Department of Fish and Wildlife entitlement or (2) any commercial fishing activity licensed by Department of Fish and Wildlife.

Commercial Program (Other than Commercial Fishing): A commercial program consists of those activities of the Department of Fish and Wildlife, or portions of such activities directed toward any species, other than commercial fish species, permitted to be taken or possessed as part of any business or non-profit enterprise, or from which one may derive potential economic gain pursuant to a Department of Fish and Wildlife entitlement.

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Non-Game Program: A non-game program consists of those activities of the Department of Fish and Wildlife, or portions of such activities not covered by Game Program, Commercial Fishing Program or Commercial Program. Non-game programs do not include conservation and mitigation banks that must be funded by banking application fees.

This proposal uses Fish and Game Code Section 711 and the above definitions as guidance in restructuring revenues and expenditures from the FGPF and other sources to achieve the Department's mission and to fulfill its many legislative mandates.

C. State Level Considerations

While revenues in the FGPF have remained relatively stable in the last ten years, there has been significant volatility in the General Fund. In budget years when revenues have been strong, the Department has received General Fund augmentations for critical activities such as law enforcement, conservation planning, and marine fisheries management. Alternatively, during periods of statewide shortfalls in the General Fund and Environmental License Plate Fund, the FGPF has had to absorb many of these costs to continue these vital programs. This has contributed to the erosion of the fund's reserve. In 2016-17, FGPF-ND expenditure authority exceeds projected revenues by approximately \$18.6 million. The Department has been able to sustain FGPF program activities by utilizing the balance in the reserve and lower actual expenditures thereby creating savings. The current situation is not sustainable, however, as expenditures have increased and the fund balance has decreased, leading to a projected deficit in 2018-19 without action. The budget savings and fund balance have eroded in recent years. While revenues have remained relatively stable in recent years, costs to deliver these programs have increased considerably, due largely to employee compensation and operational needs.

In addition to the structural imbalance, pressures on the FGPF today in the 21st Century like endangered species management were not contemplated when the fund was established as a repository.

D. Justification

The following table summarizes the proposed adjustments and the fiscal impact of each. Further description of the individual proposals is presented below.

Proposal	Description	2017-18 FGPF Impact (\$1,000s)	2018-19/Ongoing FGPF Impact (\$1,000s)
1. Commercial Fish Landing Fee Increase	Change landing fee rates in statute to group species into a eleven-tier system with higher value species paying higher rates. Takes advantage of existing collection mechanisms and would not result in significant department costs.	12,400	12,400
2. Lifetime License Trust Account	Abolish the account, transfer the balance to the FGPF and deposit revenues from future sales in the FGPF.	8,725	750
Total		21,125	13,150

Analysis of Problem

1. Landing Fees

The Department proposes trailer bill language to increase commercial landing fees established in Fish and Game Code Section 8051, which will more closely align revenues from commercial fishing with Department activities related to management and oversight of commercial fishing programs, consistent with Fish and Game Code Section 711(a)(2). This proposal is estimated to increase commercial landing fee revenue by approximately \$12.4 million per year.

Commercial landing fees are established in statute as a fixed rate per pound. The rate was last amended in 1992 and currently generates revenue that is approximately 0.5% of the 3-year historical average value of the fishery. An evaluation by the Department in 2007 calculated that the total revenue from commercial fisheries (landing fee revenue and permit fees) covered approximately 22% of the total costs to manage, license, and enforce the fisheries. Since that evaluation was conducted, a number of proposed mechanisms to generate additional revenue from commercial fisheries have been evaluated over the years. The development of an ad valorem approach, which is used by other West Coast states, routinely rises to the top as a preferred approach. An ad valorem approach is advantageous as it is based on a set rate and reflects current market conditions. In addition, fishermen only pay the fee based on the landings (and income) they make.

Implementation of an ad valorem approach, however, can be extremely costly and difficult to track. Amending the statute to use an ad valorem collection approach would require establishing (and regularly amending) state regulations defining average market prices for each commercial fish species. It would also require new audits and collection processes, and law enforcement staff at the field level would need to develop new methods of investigating for compliance using business records in addition to commercial fish tickets. Costs of developing and implementing these new regulatory programs, internal business practices, and approaches to enforcement would offset a significant portion of the additional revenue generated.

The proposed approach uses an "Eleven-Tier System" principled on the ad valorem concept. While generating many of the same benefits of an ad valorem system, the proposed approach takes advantage of the current structure to set, implement, and enforce landing fees, eliminating the need to establish new mechanisms to set and collect landing fees. The proposal does not require new regulations to implement and there are minimal anticipated new costs associated with notification to payees of the new fee rates that CDFW can absorb. This proposal would utilize an eleven-tier system where fisheries that are the highest value per pound pay the highest rate. All fisheries would pay a higher rate than status quo under the proposal resulting in an average overall rate of 5% based on the three year historical average value of all California fisheries.

Implementing the proposed Eleven-Tier System is expected to generate an average of \$13.3 million in landing fee revenue annually, an increase of \$12.4 million over current levels. This proposal more appropriately assigns the costs of managing commercial fisheries to those participating in the industry.

If this proposal is not adopted, the Department will have to consider reducing commercial fishing program activity to operate within available commercial fishing revenues. The current program supports staff that perform enforcement, monitoring, management and regulatory activities to oversee commercial fisheries in California. Major program reductions in this area could have the following consequences:

- **Enforcement:**

- Reduced marine commercial fishing patrols, including marine protected area enforcement.
- Reduced participation in the Pacific Fishery Management Council rule making process. Input on the enforceability of new Federal Rules is critical in the overall success of any commercial fishery.
- Reduced patrols in federal waters, which may jeopardize federal funding for enforcing federal fishery regulations.

Analysis of Problem

- Decreased enforcement and monitoring of highly regulated commercial fisheries will provide the opportunity for overfishing and or underreporting of commercial catch.
- Significant decreases in commercial fish business inspections and monitoring of commercial fish landings will provide opportunity for under reporting of commercial fish landings, underpayment of commercial landing fees, and proliferation of illegal commercial fish species in markets.
- **Monitoring, management and regulatory:**
 - Department scientific staff perform a diverse array of activities to monitor, manage, and regulate California's commercial fisheries, including quota monitoring, processing and analyzing fish landing receipts, and recovery of endangered marine species such as white abalone.
 - Critical work on sustainable resource management and recovery could cease for many species and the loss of matching funds would exacerbate the impacts to work funded under federal dollars.
 - The State's inability to perform its mandated operations could result in federal preemption, precautionary closures of many economically important fisheries, and significant liability for the State.

2. Lifetime License Trust Account

The Department proposes trailer bill language to eliminate the Lifetime License Trust Account (Account). The balance of the Account, currently approximately \$12.5 million, would be transferred to the non-dedicated FGPF, to various dedicated accounts within the FGPF, and to the Hatchery and Inland Fisheries Fund. Beginning in 2017-18, annual revenues of approximately \$910,000 would instead be deposited into the FGPF. Of this amount, approximately \$750,000 would be deposited into the non-dedicated FGPF and approximately \$160,000 going to the appropriate dedicated accounts. In addition, there is approximately \$198,000 going to Hatchery and Inland Fisheries Fund.

Fish and Game Code Section 13005 established the Account as a repository for revenues generated from the sale of lifetime fishing and hunting licenses. These licenses range from \$700 to \$1,200, depending on the age of the buyer. The Account was established to hold these revenues, with a specified amount made available for expenditure by an annual transfer to the FGPF, effectively amortizing the revenues from lifetime licenses over the buyers' lifetimes.

Funds currently in the Account are derived from fishing and hunting licenses so it is appropriate to shift these funds to the FGPF. This proposal would make these funds available for expenditure for their intended purposes.

3. More Permanent Measures

The Department is continuing the discussion with stakeholders on exploring solutions to develop a more permanent solution.

E. Outcomes and Accountability

The Department will continue to monitor the revenue and expenditures during and after the implementation of this proposal to ensure the FGPF remains structurally balanced and the costs of managing fish and wildlife resources in California to the beneficiaries are appropriately assigned to those who are not currently bearing a proportional responsibility for these costs.

F. Analysis of All Feasible Alternatives

Alternative 1: Authorize trailer bill language to more appropriately align program activities and fund sources and assign the costs of managing fish and wildlife resources in California to the beneficiaries who are not currently bearing a proportional responsibility for these costs.

Analysis of Problem

Advantages:

- Provides a one-time influx and partial revenue solution to structurally balance the FGPF.
- More closely align revenues from commercial fishing with Department activities related to management and oversight of commercial fishing programs, Consistent with Fish and Game Code Section 711(a)(2). Continues improvement of water infrastructure, conveyance, and treatment on Department lands and hatcheries.
- More appropriately assigns the costs of managing fish and wildlife resources in California.

Disadvantages:

- This proposal increases landing fees which impact commercial fisheries' cost of doing business in California.

Alternative 2: Deny proposal

Cost: \$0

Advantages:

- Requires no action.

Disadvantages:

- The FGPF would remain structurally imbalanced.
- The Department would have to consider reducing commercial fishing program and other activities to operate within available revenues.

G. Implementation Plan

Implementation of this proposal would begin on July 1, 2017 and/or upon approval of the FY 2017-18 Budget.

H. Supplemental Information

None.

I. Recommendation

Alternative 1: Authorize trailer bill language to more appropriately align program activities and fund sources and assign the costs of managing fish and wildlife resources in California to the beneficiaries who are not currently bearing a proportional responsibility for these costs.