



Transmitted via e-mail

April 15, 2013

Mr. John Laird, Secretary
Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Mr. Laird:

Review of the California Environmental License Plate Fund, Fund 0140

At the request of the Governor's Office, the Department of Finance (Finance) performed a review of the California Environmental License Plate Fund (environmental fund) used to fund the California Environmental Protection Program. The purpose of the review was to determine whether fees collected from sales of the personalized and special interest license plates are being used in accordance with the authorizing statutes.

Results Summary

Pursuant to Public Resources Code section 21193, the Natural Resources Agency (Agency) is responsible for administering the California Environmental Protection Program supported by the environmental fund. However, to carry out the program the funds are made available to several state and local entities. In fiscal year 2011-12, the Legislature appropriated over \$40 million from the environmental fund to 24 separate entities. We selected six entities for review representing 78 percent of the amount appropriated in 2011-12.

Pursuant to Public Resources Code section 21190, funds are to be used to support identifiable projects and programs that protect and preserve the environment. Based on our review, the majority of the selected entities do not identify which projects or programs are supported by the environmental fund. Except for the Department of Fish and Wildlife, most entities reviewed primarily use the environmental fund to support their operations. While appropriations have historically been approved to support departments' operations and the statutes governing the environmental fund do not specify administrative cost restrictions, the statutes make several references to funding *identifiable projects and programs*.

Additionally, not all reporting requirements are being met. The governing statutes require the Agency to submit specific reports for inclusion in the Governor's Budget and to the Legislature identifying the purpose of each project and program funded and the benefits realized. The reports have not been submitted as required.

Purchasers of the license plates expect the fees they paid to be used for identifiable projects and programs. Without identifying and reporting the specific projects or programs funded by the environmental fund, there is an increased risk that the environmental fund may not be used as intended.

We recommend all recipients of environmental fund revenues identify specific projects and programs funded to ensure they meet the authorized uses as outlined in Public Resources Code section 21190. Additionally, the Agency should submit the required reports to provide accountability and transparency.

We have reviewed the Agency’s response and have incorporated it into this report. With the exception of one issue, the Agency agrees with the report observations. The Agency disagrees that they discontinued the annual report to be included in the Governor’s Budget. Public Resources Code section 21193(b) requires a report listing recommended projects and programs for funding and also requires a statement of the purpose and benefits to be realized for each project or program. Based on our review of the Governor’s Budget, we found no report meeting these requirements. Our report remains unchanged.

Scope and Methodology

As highlighted in Table 1 below, we selected six entities for review representing \$31.3 million or 78 percent of the \$40.1 million appropriated in 2011-12.

Table 1: Fiscal Year 2011-12 Appropriations and Entities Selected for Review

Entity	2011-12 Appropriations
Natural Resources Agency	\$3,282,000
Special Resources Program - Sea Grant Program	\$200,000
Special Resources Program - Tahoe Regional Planning Agency	\$3,999,000
California Tahoe Conservancy	\$3,241,000
California Conservation Corps	\$312,000
Department of Forestry and Fire Protection	\$501,000
Department of Fish and Wildlife	\$13,473,000
Wildlife Conservation Board	\$272,000
State Coastal Conservancy	\$1,503,000
Department of Parks and Recreation	\$3,131,000
Santa Monica Mountains Conservancy	\$269,000
San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy	\$337,000
San Joaquin River Conservancy	\$277,000
Baldwin Hills Conservancy	\$348,000
Delta Protection Commission	\$940,000
San Diego River Conservancy	\$320,000
Coachella Valley Mountains Conservancy	\$272,000
Sierra Nevada Conservancy	\$4,149,000
Department of Water Resources	\$618,000
Sacramento-San Joaquin Delta Conservancy	\$165,000
Delta Stewardship Council	\$699,000
Department of Pesticide Regulation	\$469,000
Office of Environmental Health Hazard Assessment	\$922,000
Department of Education	\$406,000
Total	\$40,105,000

Source: 2011-12 Final Budget Summary

To determine if the environmental fund revenues are used in accordance with the authorizing statutes, we performed the following:

- Reviewed applicable laws, regulations, and criteria to identify authorized fund uses and restrictions.
- Interviewed key personnel at the selected entities and the Department of Motor Vehicles (DMV) to gain an understanding of the fund accounting and reporting processes.
- Reviewed accounting records at the selected entities to determine if expenditures were in compliance with authorizing statutes.
- Selected a sample of expenditures at the selected entities to determine if costs complied with authorizing statutes and were supported by appropriate source documentation.
- Selected a sample of grant agreements at the California Tahoe Conservancy to verify the scope of work was consistent with the fund's authorized uses.

Background

The Environmental License Plate Fund (environmental fund) was established under Public Resources Code section 21191 to support the California Environmental Protection Program. Public Resources Code section 21190 specifically requires all funds be used only to support identifiable projects and programs which have a clearly defined benefit and which have one or more of the purposes as outlined in the text box. To carry out the program, funds are available to various state agencies, local governments, the University of California, private nonprofit environmental and land acquisition organizations, and private research organizations.

The environmental fund derives the majority of its revenues from the sale of Environmental License Plates, which are standard design California plates that are personalized (personalized license plates). As noted in Table 2, the environmental fund also receives revenues from special interest license plates.

Each special interest license plate is governed by separate Vehicle Code sections which outline revenue allocation percentages. For example, the revenues derived from personalizing a special interest license plate, such as the Lake Tahoe License Plate, are deposited into the environmental fund. In addition, revenues from the sale of non-personalized Yosemite License Plates and the California Beach and Coastal License Plates, also known as the *Whale Tail Plate*, are divided equally between the respective programs and the environmental fund. However, all revenues from the sale of the California Memorial License Plates and the Child Health and Safety License Plates (*Kids Plates*) whether they are personalized or not are deposited into the respective program fund with no fees allocated to the environmental fund.

Types of Projects and Programs Authorized by Public Resources Code Section 21191

- Control and abatement of air pollution.
- Acquisitions, preservation, or restoration of natural areas or ecological reserves.
- Environmental education including formal school programs and informal public education programs.
- Protection of nongame species and threatened and endangered plants and animals.
- Protection, enhancement, and restoration of fish and wildlife habitat and related water quality.
- Purchase of real property consisting of sensitive natural areas for the state park system and for local and regional parks.
- Reduction or minimization of the effects of soil erosion and the discharge of sediment into the waters of the Lake Tahoe region.

Table 2: Distribution of Fees from Sale of Special Interest License Plates for 2011-12

License Plates	Fees Collected ^	Distributed to Special Interest License Plate Program	Distributed to Environmental License Plate Program
Commemorative Olympic	\$ 87,638*	\$ 84,683	\$ -
Collegiate	\$ 88,754**	\$ 41,348	\$ 6,059
CA Firefighters	\$ 791,545	\$ 748,476	\$ 43,069
Veterans	\$ 752,346	\$ 754,709	\$ (2,363)
Lake Tahoe	\$ 1,289,837	\$ 1,171,820	\$ 118,017
CA Memorial	\$ 1,434,972	\$ 1,434,972	\$ -
Yosemite	\$ 1,884,154	\$ 875,627	\$ 1,008,527
Graphic Design (Arts Plate)	\$ 2,530,842	\$ 2,340,969	\$ 189,873
CA Coastal (Whale Tail Plate)	\$ 3,916,792	\$ 1,745,150	\$ 2,171,642
Child Health/Safety (Kids Plate)	\$ 4,278,575	\$ 4,278,575	\$ -
Subtotal:			\$ 3,534,824
Environmental License Plate Fees (personalized license plates) Collected:			\$ 41,000,151
Total Environmental License Plate Fund ***			\$ 44,534,975

Source: Department of Motor Vehicles (DMV)

^ Excludes fees distributed to DMV for their administrative costs.

* Includes \$2,955 distributed to the Olympic Training Center Plates, Fund 0044.

** Includes \$41,347 distributed to the Resources Fund, Fund 0073.

*** Includes \$193 from other special license plates.

As a result, the environmental fund is significantly larger than any other special interest license plate fund. For comparison, the next largest special interest license plate fund is the *Kid's Plate* with \$4.66 million in license fees collected.

RESULTS

Environmental Fund Expenditures Do Not Identify Specific Projects and Programs

The statutes governing the environmental fund require entities to use the revenue to support identifiable projects and programs. As noted in Table 3, several departments reviewed did not identify specific projects or programs supported by the environmental fund.

Table 3: Environmental Fund Expenditures For Fiscal Year 2011-12

Entity	Personnel*	Operating & Equipment	Local Assistance/ Grants	Specified Projects or Programs?
Natural Resources Agency	\$1,792,000	\$ 564,000	\$0	Not Identified
Special Resources Program - Tahoe Regional Planning Agency		\$3,999,000**		Not Identified
California Tahoe Conservancy	\$1,897,000	\$ 902,000	\$792,000	Partially
Department of Fish and Wildlife	\$7,299,000	\$5,588,000	\$0	Yes
Department of Parks and Recreation	\$1,743,000	\$1,388,000	\$0	Not Identified
Sierra Nevada Conservancy	\$2,025,000	\$1,935,000	\$0	Not Identified

*Personnel costs included salaries and fringe benefits for administrative staff and program staff. For the Department of Fish and Wildlife, administrative staff costs are allocated.

**Environmental fund revenues are deposited (commingled) into agency's general fund. As a result, the \$3,999,000 noted above represents the amount appropriated from the environmental fund.

While the Department of Fish and Wildlife identifies specific programs funded, most entities reviewed primarily use the environmental fund to support their operations. For example, the Natural Resources Agency's (Agency) environmental fund expenditures included salaries and fringe benefits for approximately 12 executive staff and 3 program staff and other operating and administrative expenses. The Department of Parks and Recreation distributed all environmental fund revenues to their district office support. Although district office support may include program related costs, the department does not separately identify which projects or programs were funded.

Additionally, the following entities either commingled the environmental fund revenues with their general fund or used environmental fund revenue for unrelated program costs:

- The Tahoe Regional Planning Agency does not separately account for the environmental fund revenues received – it deposits all environmental fund revenues into its general fund. In 2011-12, the Tahoe Regional Planning Agency's general fund expenditures included salaries and fringe benefits, operating expenses, administrative costs, and contract services for measuring water clarity and stream monitoring activities in Lake Tahoe. Public Resources Code section 21191(f) requires all environmental fund appropriations be accounted for separately.
- While the California Tahoe Conservancy's (Conservancy) environmental fund expenditures include projects to implement the Lake Tahoe environmental improvement plan, the majority of the fund was used on salaries and fringe

benefits, operating expenses, and administrative costs. Additionally, the Conservancy allocates unrelated program costs to the environmental fund. The Conservancy uses the environmental fund as a clearing account. Therefore, the Conservancy initially posts all expenditures to the environmental fund and subsequently allocates the expenditures to various funding sources based on predetermined percentages. However, certain costs should not be allocated to the environmental fund. For example, the marketing and promotion expenditures for the Tahoe License Plate (a separate license plate) are partially allocated to the environmental fund rather than being directly charged to the Lake Tahoe Conservancy Account (Fund 0286), which is the designated fund for the Tahoe License Plate. Pursuant to Vehicle Code section 5060(g), the Tahoe License Plate is restricted to a 25 percent administrative cap, including costs for marketing or other promotional activities.

While appropriations have historically been approved to support departments' operations and the statutes governing the environmental fund do not specify administrative cost restrictions, the statutes make several references to funding *identifiable projects and programs*. Additionally, based on the statute's legislative history, it appears the intent was to increase budgetary control and fiscal accountability. As noted in the text box, purchasers of the license plates expect the fees they paid to be used for identifiable projects and programs. Without identifying specific projects or programs funded by the environmental fund, there is an increased risk that the environmental fund may not be used as intended.

Public Resources Code Section 21190

"...purchasers come to expect and rely that the moneys paid by them will be expended only for those particular purposes, which results in an obligation on the part of the state to expend the revenues only for those particular purposes. Accordingly, all funds expended pursuant to this division shall be used only to support identifiable projects and programs..."

We recommend all recipients of environmental fund revenues identify the specific projects and programs funded by separately accounting for the fund's revenues and expenditures. For several state departments, this can be accomplished through project or program tracking codes available within their existing accounting systems.

We also recommend the Conservancy directly charge marketing and promotion expenditures for the Tahoe License Plate to Fund 0286 and not allocate these costs to the environmental fund.

Reporting Requirements Have Not Been Consistently Met

Annual Report Listing Recommended Projects and Programs for Funding is Discontinued

The Agency discontinued the annual report required by Public Resources Code section 21193(b). This report was included in the Governor's Budget up until Fiscal Year 2009-10. According to the Agency, because no material changes had been made in several years and none were foreseen, the report was discontinued. However, based on a review of the 2009-10 report the data may not have been consistent with statute requirements. See Exhibit A attached to this report.

For example, while specific programs are listed for the Department of Fish and Wildlife, several other departments merely restate the department's name. For example, the Sierra Nevada Conservancy lists the Sierra Nevada Conservancy as the funded program. As noted in the text box, the report is required to list recommended projects and programs for funding and also requires a statement of the purpose and benefits to be realized for each project or program. Providing the types of programs and projects recommended for funding would provide the accountability and transparency intended by the statute.

Periodic Report Identifying Appropriateness of Funding Mix Is Not Submitted

Additionally, the Agency has not submitted the reports due to the Governor and the Legislature as required by Public Resources Code section 21193.5. The purpose of the report is to provide information on how the particular mix of funding sources, from the California Environmental License Plate Fund and other funds, is appropriate for each project or program in relationship to the benefits realized from the project or program.

To ensure fiscal accountability, we recommend the Agency submit the required reports pursuant to Public Resources Code sections 21193(b) and 21193.5.

The results in this report are based on our review performed from August 2012 through December 2012. We provided the results to the selected entities' management on February 28, 2013, and as necessary, updated the report to incorporate their responses.

We appreciate the assistance and cooperation of the selected entities. If you have any questions regarding this report, please contact Diana Antony, Manager, or Lisa Negri, Supervisor, at (916) 322-2985.

Sincerely,

Original signed by:

David Botelho, CPA
Chief, Office of State Audits and Evaluations

cc: On following page

Public Resources Code Section 21193 (b)

On or before November 1 of each year, the secretary shall forward those projects and programs recommended for funding to the Governor for inclusion in the Governor's Budget, together with a statement of the purpose of each project and program, the benefits to be realized, and the secretary's comments thereon.

Public Resources Code Section 21193.5

*Concurrently with the submittal of the Governor's Budget for the 2006-07 fiscal year and every third fiscal year thereafter, the Secretary of the Resources Agency shall report to the Governor and the Legislature on **how the particular mix of funding sources, from the California Environmental License Plate Fund and other funds, is appropriate for each project or program in relationship to the benefits realized from the project or program.***

cc: Mr. Patrick Kemp, Assistant Secretary for Administration and Finance, Natural Resources Agency
Mr. Bryan Cash, Deputy Assistant Secretary, Natural Resources Agency
Mr. Carlton H. Bonham, Director, Department of Fish and Wildlife
Mr. Kevin Hunting, Chief Deputy Director, Department of Fish and Wildlife
Ms. Helen Carriker, Deputy Director, Administration Division, Department of Fish and Wildlife
Ms. Harriet Kiyon, Assistant Deputy Director, Administration Division, Department of Fish and Wildlife
Mr. Will Fong, Chief, Accounting Services Branch, Department of Fish and Wildlife
Mr. Brian Kwake, Chief, Audits Branch, Department of Fish and Wildlife
Ms. Joanne Marchetta, Executive Director, Tahoe Regional Planning Agency
Mr. Chris Keillor, Finance Director, Tahoe Regional Planning Agency
Mr. Patrick Wright, Executive Director, California Tahoe Conservancy
Mr. Kevin Prior, Chief Administrative Officer, California Tahoe Conservancy
Mr. David Gregorich, Budget Officer, California Tahoe Conservancy
Major General Anthony L. Jackson, Director, Department of Parks and Recreation
Mr. Aaron Robertson, Deputy Director, Administration, Department of Parks and Recreation
Mr. Jim Branham, Executive Director, Sierra Nevada Conservancy
Ms. Joan Keegan, Assistant Executive Officer, Sierra Nevada Conservancy
Mr. Theresa Parsley, Chief, Administrative Services, Sierra Nevada Conservancy
Ms. Sue Johnsrud, Director of Operations, Office of the Governor

3210 Environmental Protection Program - Continued

Environmental Protection Program Expenditures

	<u>2007-08*</u>	<u>2008-09*</u>	<u>2009-10*</u>
0540 SECRETARY FOR RESOURCES			
Administration of the Resources Agency	\$2,965	\$3,246	\$3,326
0840 STATE CONTROLLER			
Human Resources Management System	\$61	\$40	\$0
3110 SPECIAL RESOURCES PROGRAMS			
Resources Enhancement Activities in the California Sea Grant Program	\$248	\$200	\$200
Tahoe Regional Planning Agency	\$3,921	\$4,094	\$3,999
3125 CALIFORNIA TAHOE CONSERVANCY			
Environmental Improvement Plan Implementation	\$3,218	\$3,356	\$3,373
3340 CALIFORNIA CONSERVATION CORPS			
Backcountry Trails Program	\$327	\$313	\$0
3540 DEPARTMENT OF FORESTRY AND FIRE PROTECTION			
Biological Diversity	\$217	\$294	\$280
Environmental Protection	\$123	\$170	\$162
Sierra Nevada Integrated Resources Assessment	\$0	\$41	\$10
3600 DEPARTMENT OF FISH AND GAME			
Habitat Conservation Planning	\$7,130	\$8,153	\$8,272
Species Conservation Management	\$2,055	\$1,062	\$1,060
Sport Hunting	\$724	\$297	\$302
Sport Fishing	\$185	\$615	\$622
Lands	\$2,377	\$2,369	\$2,407
Hatcheries and Fish Planting Facilities	\$0	\$24	\$22
Enforcement	\$3,853	\$3,465	\$1,152
Communications, Education, and Outreach	\$825	\$832	\$848
Fish and Game Commission	\$0	\$123	\$125
3640 WILDLIFE CONSERVATION BOARD			
Riparian Habitat Conservation	\$228	\$288	\$271
3760 STATE COASTAL CONSERVANCY			
Ocean Protection Council	\$1,438	\$1,393	\$1,168
3790 DEPARTMENT OF PARKS AND RECREATION			
Park and Recreation District Support	\$3,313	\$3,043	\$3,113
3810 SANTA MONICA MOUNTAINS CONSERVANCY			
Santa Monica Mountains Conservancy	\$229	\$280	\$247
3825 SAN GABRIEL AND LOWER LOS ANGELES RIVERS AND MOUNTAINS CONSERVANCY			
San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy	\$323	\$349	\$373
3830 SAN JOAQUIN RIVER CONSERVANCY			
River and Environs Management and Access Program	\$265	\$302	\$292
3835 BALDWIN HILLS CONSERVANCY			
Baldwin Hills Conservancy	\$334	\$345	\$339
3840 DELTA PROTECTION COMMISSION			
Delta Protection Program	\$172	\$165	\$163
3845 SAN DIEGO RIVER CONSERVANCY			
San Diego River Conservancy	\$298	\$333	\$340
3850 COACHELLA VALLEY MOUNTAINS CONSERVANCY			
Coachella Valley Mountains Conservancy	\$269	\$270	\$285
3855 SIERRA NEVADA CONSERVANCY			
Sierra Nevada Conservancy	\$3,888	\$4,025	\$3,732
3860 DEPARTMENT OF WATER RESOURCES			
Trinity River Restoration Program	\$303	\$330	\$270
3930 DEPARTMENT OF PESTICIDE REGULATION			
Toxic Air Contaminant Program	\$342	\$341	\$0
Surface Water Protection Program	\$123	\$123	\$0
3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT			
Risk Assessment Peer Review	\$545	\$548	\$550
Ecotoxicological Risk Assessment	\$337	\$335	\$343
6110 DEPARTMENT OF EDUCATION			
Environmental Education	\$395	\$407	\$408
7350 DEPARTMENT OF INDUSTRIAL RELATIONS			
Chapter 678, Statutes of 2008 (AB 2537): Volunteer Report	-	\$20	\$80

* Dollars in thousands



March 14, 2013

David Botelho, CPA
Chief, Office of State Audits and Evaluation
915 L Street
Sacramento, CA 95814

Dear Mr. Botelho:

Thank you for providing the Agency with an opportunity to respond to the Office of State Audits and Evaluation (OSAE) review of the California Environmental License Plate Fund (ELPF). In addition to the Natural Resources Agency, OSAE also reviewed ELPF expenditures in the California Tahoe Conservancy (CTC), The Department of Fish and Wildlife (DFW), The Department of Parks and Recreation (Parks), The Sierra Nevada Conservancy (SNC) and The Tahoe Regional Planning Agency (TRPA).

My staff and I have reviewed the report with staff from CTC, DFW, Parks, SNC and TRPA and discussed the issues identified. Our combined departmental response to your findings is as follows:

Finding 1 Environmental Fund Expenditures Do Not Identify Specific Projects and Programs

While we agree with the findings concerning TRPA and CTC, we note that OSAE did not report that any expenditures were used in a manner in violation of the statute. The Department of Finance, the Governor and the Legislature have consistently appropriated ELPF funds for administrative costs as allowed for in statute.

Finding 2 Reporting Requirements Have Not Been Consistently Met

We disagree with OSAE's finding that the Agency discontinued the annual report required by Public Resources Code section 21193(b). The Agency, in cooperation with the Department of Finance and the over twenty departments that receive ELPF, provide information used to produce the separate display in the Governor's budget, and provide required data through the Department of Finance's budget development process.

The Agency has not submitted the tri-annual report pursuant to Public Resources Code section 21193.5, which requires the Agency to describe why ELPF funding is an appropriate source in relationship to the benefits achieved by the programs and projects it supports. Although the Agency believes this report to be redundant of information already provided through the budget process, we agree with this finding and will provide the required information to start the 3-year cycle in conjunction with submittal of the Governor's budget.

1416 Ninth Street, Suite 1311, Sacramento, CA 95814 Ph. 916.653.5656 Fax 916.653.8102 <http://resources.ca.gov>



In closing, I would like to acknowledge the efforts of the OSAE audit team. They conducted the audit in a professional and courteous manner that was appreciated by my staff.

Sincerely,

Original signed by:

John Laird
Secretary for Natural Resources

cc: Patrick Kemp, Natural Resources Agency
Liane Randolph, Natural Resources Agency