DEPARTMENT OF FINANCE
ARNOLD SCHWARZENEGGER, GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

February 1, 2010

Mr. John McCamman, Director
California Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95816

Dear Mr. McCamman:

Final Report—Audit of California Department of Fish and Game's Proposition 13 and 50 Bond Funds

The Department of Finance, Office of State Audits and Evaluations (Finance), has completed its audit of the California Department of Fish and Game's Proposition 13 and 50 bond funds for the period ending June 30, 2008.

The enclosed report is for your information and use. The California Department of Fish and Game's response to the report findings and our evaluation of the response, are incorporated into this final report.

In accordance with Finance's policy of increased transparency, this report will be placed on our website. Additionally, pursuant to Executive Order S-20-09, please post this report in its entirety to the Reporting Government Transparency website at http://www.reportingtransparency.ca.gov within five working days of this transmittal.

We appreciate the assistance and cooperation of the California Department of Fish and Game. If you have any questions regarding this report, please contact Frances Parmelee, Manager, or Sherry Ma, Supervisor, at (916) 322-2985.

Sincerely,

Original signed by:

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

Enclosure

cc: Mr. Kevin Hunting, Chief Deputy Director, California Department of Fish and Game
Ms. Helen Carriker, Deputy Director, Administration, California Department of Fish and Game
Mr. Bryan Kwake, Chief, Audits Branch, California Department of Fish and Game
Ms. Harriet Kiyan, Assistant Deputy Director, Fiscal Operations, California Department of Fish and Game
Mr. Patrick Kemp, Assistant Secretary for Administration and Finance, Natural Resources Agency
Mr. Bryan Cash, Deputy Assistant Secretary, Natural Resources Agency
Ms. Julie Alvis, Deputy Assistant Secretary, Natural Resources Agency

An Audit of Bond Funds

California Department of Fish and Game
Propositions 13 and 50

RD 108 Combined Pumping Plant/Fish Screen Project

Prepared By:
Office of State Audits and Evaluations
Department of Finance

093600080

October 2009

MEMBERS OF THE TEAM

Frances Parmelee, CPA
Manager

Sherry Ma, CRP
Supervisor

Staff
Brian Dunham
Kylie Le
Alex Tu
Charles White

Final reports are available on our website at http://www.dof.ca.gov

You can contact our office at:

Department of Finance
Office of State Audits and Evaluations
300 Capitol Mall, Suite 801
Sacramento, CA 95814
(916) 322-2985

TABLE OF CONTENTS

Executive Summary 1

Background, Scope, and Methodology 2

Results 5

Response 8

Evaluation of Response 14

EXECUTIVE SUMMARY

In accordance with the Department of Finance's (Finance) bond oversight responsibilities, we have audited the California Department of Fish and Game's (Department) funding under Propositions 13 and 50 as of June 30, 2008. Specifically, our scope included a review of the following:

- The Ecosystem Restoration Program (ERP) grant management practices, including the ERP Project Tracking database (database) information system access controls.

- Proposition 13's Yuba River Flood Protection Program funding awarded to the Three Rivers Levee Improvement Authority.

- A limited review of the land acquisition process as a follow-up to Finance's previous audit of the California Wildlife Conservation Board.

The primary objectives of this audit were to determine whether bond funds were awarded and expended in compliance with applicable legal requirements and established criteria, and to determine if the Department had adequate monitoring processes in place to ensure projects are within scope and costs.

Overall, the Department awarded bond funds in compliance with applicable legal requirements and established criteria, and has adequate monitoring processes in place, except in the following instances:

- Bond funds were used to acquire property through eminent domain, which violates Section 79068.14(b) of the Water Code stipulating land shall be acquired from willing sellers. Additionally, the Department overpaid the grantee $534,153 for other services related to the same project.

- The Department over-relies on an outsourced vendor to perform database administration, limiting its access to its own data. In addition, project status is not always updated in the database.

- The Department does not comply with Section 1019 of the Fish and Game Code and Section 5096.520 of the Public Resources Code, requiring draft management plans to be prepared within 18 months after each acquisition and conservation easements to be reported to the Natural Resources Agency's Conservation Easement Registry, respectively.

The Department's fiscal and administrative controls over bond funds would be strengthened if it develops a corrective action plan to address the observations and recommendations noted in this report.

BACKGROUND, SCOPE, AND METHODOLOGY

BACKGROUND

In March 2000 and November of 2002, California voters passed two bond measures totaling $5.41 billion. The Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (Proposition 13), was passed on the March 2000 ballot. The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50) was passed on the November 2002 ballot. These propositions authorized the sale of bonds to finance a variety of water programs.

Administered by a number of state departments, agencies, boards, and conservancies, the bond proceeds support a broad range of programs that protect, preserve, and improve California's water quality and resources. Bond proceeds are expended directly by the administering departments on various capital outlay projects, and are also disbursed to federal, state, local, and nonprofit entities in the form of grants, contracts, and loans.

California Department of Fish and Game

The California Department of Fish and Game's (Department) mission is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public.[1] The Department was allocated $45 million and $136 million from Propositions 13 and 50, respectively, to support programs that help meet its mission.

The Department is divided into seven regions. With the Department's Wildlife and Fisheries Division's and Ecosystem Conservation Division's assistance, the regions administer various projects within different programs. We selected the following programs to audit:

- *Ecosystem Restoration Program:* The Department's Water Branch administers Ecosystem Restoration Program (ERP) projects focusing on fish passage issues, species assessment, sedimentation, and habitat restoration. In late 2006, the CALFED Bay-Delta Authority disbanded and the Department's Water Branch absorbed the CALFED Bay-Delta Program. ERP and CALFED Bay-Delta Program projects are tracked in the ERP Project Tracking Database (database). Proposition 50 funding provided $136.4 million for this program.

- *Assisting Farmers in Integrating Agricultural Activities:* This Proposition 50 program is within the ERP and provides at least $20 million to farmers integrating agricultural activities with ecosystem restoration. The Department's Water Branch oversees these projects and uses the database to track project status.

[1] Excerpt from the California Department of Fish and Game website: *www.dfg.ca.gov*.

- *Yuba River Flood Protection Program*: This program provides Proposition 13 funding for projects to protect, improve, restore, and create fish, wildlife, or riparian habitat. The Department was appropriated $20 million for this program and it awarded the entire amount to the Three Rivers Levee Improvement Authority (TRLIA). The TRLIA was responsible for overseeing restoration and mitigation activities.

SCOPE

The audit was conducted to determine whether bond funds were awarded and expended in compliance with applicable legal requirements and established criteria, and to determine if the Department had adequate project monitoring processes in place as of June 30, 2008.

Our scope was limited to the three programs described in the *Background* section because they had significant amounts of bond awards and expenditures. Three phases of the grant life cycle (the pre-award, award, and interim monitoring stages) were reviewed because the majority of the projects were still open and ongoing. We also reviewed the Department's land acquisition process due to reported issues in our previous audit of the California Wildlife Conservation Board.

The audit did not include an assessment of the bond authorization, issuance, and sale processes, or an examination of the efficiency or effectiveness of program operations. Further, no assessment was performed for the reasonableness of the land acquisition costs or the conservation value of the land acquired or projects completed.

METHODOLOGY

To determine whether bond funds were awarded and expended in compliance with applicable legal requirements and established criteria, and whether the Department's ERP had adequate monitoring processes, we performed the following procedures:

- Reviewed the Bond Acts, grant management policies, procedures, program guidelines, and applicable legal provisions and regulations.

- Gained an understanding of the relevant internal controls to design adequate audit procedures.

- Interviewed key personnel responsible for the TRLIA project administration, project oversight, and the land acquisition process.

- Examined a sample of project files to determine pre-award, award, and interim-monitoring efforts, and to verify expenditures were reasonable, accurate, and appropriately reported.

- Assessed the reliability of the database's information system access controls and verified the information's adequacy.

- Reviewed a sample of land acquisition files to verify established processes and procedures.

- Conducted a follow-up of Finance's prior audit performed in fiscal year 2005-06.

- Evaluated the outsourced project management services provided by GCAP Services, Inc., and reviewed its related ERP project files.

- Verified the information reported to the California Natural Resources Agency's Awards website.

- Reviewed the cost allocation methodology for reasonableness.

- Performed limited grantee reviews and site visits to verify monitoring practices and project existence.

- Conducted a web-based survey of 59 grantees regarding the ERP's award and project monitoring practices.

Recommendations were developed based on review of documentation made available to us and interviews with Department management and key staff directly responsible for administering bond funds. This review was conducted during the period January 2009 through October 2009.

Except as discussed below, this audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

In connection with this audit, there are certain disclosures required by *Government Auditing Standards*. The Department of Finance is not independent of the Department, as both are part of the State of California's Executive Branch. As required by various statutes within the California Government Code, the Department of Finance performs certain management and accounting functions. These activities impair independence. However, sufficient safeguards exist for readers of this report to rely on the information contained herein.

RESULTS

The California Department of Fish and Game (Department) awarded funds in compliance with applicable legal requirements and established criteria. Although there are observations noted below, the design and implementation of the projects awarded through the Ecosystem Restoration Program (ERP) are consistent with the applicable requirements. Staff are enthusiastic about the projects and the preservation of species and habitat. The results of our grantee web-based survey confirmed the Department's administration and oversight of ERP projects are satisfactory. However, our audit identified the following observations requiring the Department's attention.

Land Acquired Through Eminent Domain Violates the Bond Act

For the Yuba River Flood Protection Program, the Department entered into a grant agreement with the Three Rivers Levee Improvement Authority (TRLIA). The TRLIA provided restoration and mitigation activities along the Yuba River, Feather River, Bear River, and Western Pacific Interceptor Canal. To carry out those activities, the TRLIA acquired the Danna property from an unwilling seller through condemnation proceedings. Approximately $3 million of Proposition 13 bond funds was paid for this property even though the grant agreement stipulated land shall be acquired from willing sellers.

To acquire the property, the Department applied the California Department of Water Resources' (DWR) Program Regulations, California Code of Regulations, Division 2, Title 23, Section 499.5(g) (1). Under these Program Regulations, acquisition by condemnation is an eligible implementation cost. However, Section 79068.14(b) of the Water Code—a higher level of law in comparison to Program Regulations—prohibits acquiring land from an unwilling seller.

Additionally, the TRLIA submitted invoices containing mathematical errors, resulting in an overpayment of $534,153. Because the submitted source documents were not thoroughly reviewed, the errors went undetected.

Recommendations

The Department should:

- Consult legal counsel regarding the eminent domain issue to develop an appropriate course of action. Also, implement procedures and provide adequate training to ensure staff responsible for bond funds are knowledgeable of Bond Act requirements.

- Work collaboratively with the TRLIA to resolve the overpayment issue. A portion of the overpayment can be recovered from the retention amount still due to the TRLIA.

- Revise procedures to include a thorough review and reconciliation of source documents prior to payment.

Noncompliance with Reporting Requirements

We performed a limited review of the ERP land processes and identified two easements not reported on the Natural Resources Agency's Conservation Easement Registry. Section 5096.520 of the Public Resources Code states all departments with resource-related conservation easements must report to this registry. The requirement was created to meet the objectives of facilitating better conservation and resource planning between state agencies, local government entities, non-profit organizations, and the public. When easements are not reported on the registry, these objectives cannot be met. The Department was unaware of this requirement.

Furthermore, we identified two properties—Ballona Wetlands Ecological Reserve and Bolsa Chica Ecological Reserve—not having draft management plans. Section 1019 of the Fish and Game Code states draft management plans must be prepared within 18 months after each acquisition. Without management plans, properties may not be adequately managed for use, habitat, and conservation purposes. This is a finding previously identified by the Bureau of State Audits[2].

Recommendations

- Ensure easements are reported to the Natural Resources Agency's Conservation Easement Registry.

- Prepare draft management plans in a timely manner.

ERP Project Tracking Database Weaknesses

The Department contracted with the Pacific States Marine Fisheries Commission (Commission) to develop the ERP Project Tracking Database (database) and provide database administration. The database was designed for grant managers to update a project's fiscal and program information, and to track progression. The database is relied on for various purposes: (1) to provide a monitoring tool for management, (2) to address the Legislature's inquiries about projects, and (3) a source to populate the California Natural Resources Agency's (Agency) Awards website. During our audit, we identified the following weaknesses:

- *Over-reliance on the Commission to perform system administrative duties:* The Department cannot perform basic functions such as adding, deleting, or changing user access without the Commission's assistance. For example, we requested read-only access to the database; however, it was not provided. The Commission performs this basic function but because the recent state cash situation delayed its payment, the Commission denied our request. Currently, the Department does not have staff with knowledge to adequately perform these duties, and continues to rely on the Commission.

  Access Controls Need Improvement: Our review of the ERP user access list identified two former Department employees that still had access to the database. Department staff indicated the user access list is reviewed on an annual basis.

- *Grant managers do not always keep the project status current on the database:* The Department states database information is relied on by senior management to make

[2] The Bureau of State Audits June 2000 report titled *California's Wildlife Habitat and Ecosystem: The State Needs to Improve Its Land Acquisition Planning and Oversight.*

decisions and to provide the Legislature updates. However, the database did not contain invoice information and status updates for 7 of 17 ERP projects tested. Of the seven projects, two did not have any information entered in the database at all. It is critical to include a project's fiscal information in the database because the Department's Accounting System only tracks expenditures by vendor and not by project. Because vendors can have multiple projects, grant managers need to closely monitor each project's fiscal status. The method used by grant managers to ensure a project is within scope and cost vary. Some use the database exclusively or partially while others maintain individual spreadsheets. Because no formal procedures exist to ensure consistent application of the database, it may not always reflect accurate information. As a result, the Department does not comply with Section 79575 of Water Code requiring it to report balances of available project funds.

Recommendations

- Train the Department's Information Technology Unit staff on Structured Query Language (SQL) server procedures to minimize reliance on the Commission. Consider amending the Commission's contract to include such training sessions. A cost benefit analysis may also be warranted to determine if it is more feasible to hire staff with SQL server knowledge.

- Review the user access list more frequently and ensure system access changes are made timely. The Department's current exit/separation procedures should incorporate a step to remove an exiting employee's database access.

- Implement procedures requiring grant managers to update the database regularly with invoice data, project status, and grantee communications.

California Natural Resources Agency
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
1416 Ninth Street, 12th floor
Sacramento, CA 95814

ARNOLD SCHWARZENEGGER, Governor
John McCamman, Director

January 13, 2010

Mr. David Botelho, CPA
Chief, Office of State Audits and Evaluations
California Department of Finance
300 Capitol Mall, Suite 801
Sacramento, CA 95814

Subject: Response to Draft Report –*Audit of California Department of Fish and Game's Proposition 13 and 50 Bond Funds*

Dear Mr. Botelho:

Thank you for the opportunity to comment on your draft report, *Audit of the California Department of Fish and Game's Proposition 13 and 50 Bond Funds*, for the period ending June 30, 2008. DFG appreciates the efforts of your office to help us improve our processes and procedures to ensure accountability and transparency of the bond funds.

The enclosed is our response to your recommendations. Please contact Helen Carriker, deputy director of administration, at 916-653-4325, if you have any questions.

Sincerely,

Original signed by:

Kevin Hunting
Chief Deputy Director

Enclosure

cc: on next page

cc: California Natural Resources Agency
Bryan Cash, Deputy Assistant Secretary, Bonds and Grants
Julie Alvis, Deputy Assistant Secretary, Bonds and Grants

Department of Finance
Frances Parmelee, Manager
Sherry Ma, Supervisor

Department of Fish and Game
Helen Carriker, Deputy Director of Administration
Sandra Morey, Acting Deputy Director of Ecosystem Conservation Division
Harriet Kiyan, Assistant Deputy Director of Administration
Brian Kwake, Branch Chief, Audits Branch
Will Fong, Branch Chief, Accounting Branch
1416 Ninth Street, 12th floor, Sacramento, CA 95814

Carl Wilcox, Branch Chief, Water Branch
Carolyn Murata, Supervisor, Water Branch
Dave Zezulak, Water Branch
830 S Street, Sacramento, CA 95814

Eric Loft, Branch Chief, Wildlife Branch
Kari Lewis, Lands Program Manager
1812 Ninth Street, Sacramento, CA 95814

DFG Response to *Draft Report – Audit of California Department of Fish and Game's Proposition 13 and 50 Bond Funds*

Issue 1: Land acquired through eminent domain violates the Bond Act

The audit report recommends that the Department of Fish and Game (DFG) should:

a) Consult with legal counsel regarding the eminent domain issue to develop an appropriate course of action. Also, implement procedures and provide adequate training to ensure staff responsible for bond funds is knowledgeable of Bond Act requirements.

   Response: DFG does and will continue to consult with legal counsel and the Wildlife Conservation Board (FGC 1348) to ensure bond-funded Ecosystem Restoration Program (ERP) projects are consistent with regulations and requirements. DFG provides regular staff training on policies reflected in the Fish and Game Code, the DFG Strategic Plan, and the CALFED Record of Decision. The training gives clear direction on Bond Act requirements, including those pertaining to eminent domain.

b) Work collaboratively with Three Rivers Levee Improvement Authority (TRLIA) to resolve the overpayment issue. A portion of the overpayment can be recovered from the retention amount still due to the TRLIA.

   Response: DFG has resolved the overpayment issue. Both DFG and TRLIA agree on the amount of overpayment made to TRLIA. However, DFG owes TRLIA the retention amount now that the contract is complete. The retention amount covers the amount of the overpayment and leaves a balance due. DFG will pay TRLIA the balance and close the contract.

c) Revise procedures to include a thorough review and reconciliation of source documents prior to payment.

   Response: DFG has procedures in place that require program staff to thoroughly review invoices and reconcile supporting documentation to ensure the accuracy and appropriateness of expenditures. Staff has been provided these procedures and trained accordingly. In addition, the ERP Program Manager holds monthly meetings with grant managers on issues related to bond funds and resources are made available through the DFG intranet, which links to bond information posted on the Web sites of the Natural Resources Agency, the Department of Finance, California Department of Parks and Recreation and the Department of Water Resources.

Issue 2: Noncompliance with Reporting Requirements

The audit report recommends DFG should:

a) Ensure easements are reported to the Natural Resources Agency's Conservation Easement Registry.

   Response: A DFG department contact posts easement information to the easement registry. In order to ensure all easements are posted in a timely manner, DFG will clarify roles and responsibilities and implement a check-off process.

b) Prepare draft management plans in a timely manner.

   Response: Fish and Game Code Section 1019 requires DFG to prepare draft management plans for public review within 18 months of a property's recordation date, subject to an appropriation of funds by the Legislature for that purpose. Although the Legislature has not specifically appropriated funds for the purpose of preparing management plans for DFG properties, the DFG and WCB have allocated grant funding and DFG has allocated significant staff time to develop plans for many department properties. For the specific areas cited in the audit report, management plans are currently in the scoping stages. The major limiting factor in preparing management plans for DFG properties is inadequate staffing to conduct the in-depth research, assessment, scoping, outreach, writing and contract oversight required for the development of sound management plans for all of the properties wholly under the department's jurisdiction.

   DFG will complete management plans for properties wholly under its jurisdiction with the staff resources currently available. Because existing resources are not adequate to meet the FGC 1019 requirement, plans for many properties will not be completed within 18 months of acquisition.

Issue 3: ERP Project Tracking Database Weaknesses

The audit report recommends the DFG should:

a) Train the Department's Information Technology Unit staff on Structured Query Language (SQL) server procedures to minimize reliance on the Pacific States Marine Fisheries Commission (Commission). Consider amending the Commission's contract to include such training session. A cost benefit analysis may also be warranted to determine if it is more feasible to hire staff with SQL server knowledge.

   Response: The ERP Program recognizes the need to rely less on the Commission for database administration. DFG will determine the best

approach to bringing the needed technical expertise in-house, whether accomplished through additional staff training or pursuing the addition of new staff with the appropriate skills.

b) Review the user access list more frequently and ensure system access changes are made timely. The Department's current exit/separation procedures should incorporate a step to remove an exiting employee's database access.

   Response: DFG reviews the user access list more frequently to keep it up to date. The administrative office for the DFG Water Branch has provided a copy of the Exit Clearance Form to all supervisors and managers, which is used to request an exiting employee's removal from the system. Supervisors and managers are reminded of this process at monthly staff meetings.

c) Implement procedures requiring grant managers to update the database regularly with invoice data, project status and grantee communications.

   Response: ERP grant managers have been reminded of the importance in keeping grant information up to date in the ERP project tracking database. It is a priority for ERP staff to add or update project data more regularly.

EVALUATION OF RESPONSE

We have reviewed the California Department of Fish and Game's (Department) response to the draft audit report. We acknowledge the Department's willingness to implement the recommendations and take corrective action, and its commitment to effectively manage the bond funds. Although the Department generally agrees with our observations, we provide the following comments:

Land Acquired Through Eminent Domain Violates the Bond Act

The Department indicates it does and will continue to consult with legal counsel and the Wildlife Conservation Board (WCB) regarding the eminent domain issue. However, a written course of action should be documented to ensure this issue is resolved timely.

Additionally, we commend the Department's actions to resolve the overpayment issue and its procedures requiring staff to thoroughly review invoices and reconcile supporting documentation. The Department should ensure those procedures are implemented by program staff.

Noncompliance with Reporting Requirements

The Department indicates that due to limited staff resources, management plans may not be completed within 18 months of acquisition, in which case it will still violate Section 1019 of the Fish and Game Code. Although legislation did not specifically appropriate funds for the purpose of drafting management plans, the Department should continue to request funding to ensure compliance.

ERP Project Tracking Database Weaknesses

We commend the Department's efforts to ensure the data within the ERP Project Tracking Database is sound. To strengthen those efforts, the Department should further define the term "more frequently", when reviewing user access.