

**CALENDAR ITEM
C06**

A Statewide

05/23/13

S Statewide

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**CONSIDER SUPPORTING STATE LEGISLATION THAT WOULD REPEAL THE
SUNSET ON THE TEMPORARY INCREASE OF THE STATE'S OIL SPILL
PREVENTION AND ADMINISTRATION FUND PER BARREL FEE,
INCREASE THE FEE LIMIT BY \$.015, ESTABLISH A \$3,500 FEE LIMIT ON
NONTANK VESSELS, AND ALLOCATE A PORTION OF THE REVENUE TO THE
OILED WILDLIFE CARE NETWORK**

INTRODUCTION:

State Lands Commission (Commission) staff has been reviewing various legislative proposals introduced in the 2013-14 legislative session that involve lands under the Commission's jurisdiction. This report describes proposed legislation (AB 881 – Chesbro) that would: 1) remove the sunset on the temporary increase of the per barrel fee on imported oil; 2) increase the per barrel fee limit by \$.015 and authorize the Office of Spill Prevention and Response (OSPR) to adjust the maximum fee annually based on the percentage increase in the California Consumer Price Index; 3) establish a maximum limit on the nontank vessel fee at the amount of \$3,500 and allow OSPR to adjust the fee annually based on the percentage increase in the California Consumer Price Index; and, 4) allow the Administrator to transfer up to \$2,000,000 in funds from the Oil Spill Prevention and Administration Fund (OSPAF) to the Oil Spill Response Trust Fund (Trust Fund) to fund specified activities of the Oiled Wildlife Care Network (OWCN). This report further proposes that the Commission consider adopting a support position on this legislation.

LEGISLATIVE PROPOSAL:

AB 881 (Chesbro): Oil Spill Prevention and Administrative Fee

SUMMARY:

AB 881 would ensure that the State has sufficient funding to continue its highly successful oil spill prevention, preparedness, and response programs, and to fund the OWCN, an organization that rescues and rehabilitates oil-affected wildlife in the State.

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BACKGROUND:

The Department of Fish and Wildlife's OSPR was created in 1991 by the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act). The Act establishes the position of the Administrator to direct activities relating to oil spill prevention and response, including drills and preparedness and oil spill containment and cleanup. The Act also created the OSPAF, which funds OSPR's prevention and response activities and oil spill prevention programs at the Commission. OSPAF is funded through (1) a \$0.65 maximum fee on each barrel of crude oil or petroleum products piped in from a marine production facility or imported to a marine facility (a sunset provision will reduce the maximum to \$.05 per barrel on January 1, 2015), and (2) a fee on nontank vessels. There is currently no statutory cap on the nontank vessel fee; however, recent regulations set a fee limit of \$3,250 for the largest class of nontank vessels.

In 2011, the maximum per barrel fee was revised from \$.05 per barrel of imported oil to \$.065 until January 1, 2015, at which time the fee will return to a maximum of \$.05 per barrel. This revision was necessary to temporarily address the OSPAF structural deficit resulting from an imbalance of revenues versus expenditures. Current projections show that the OSPAF, at the \$.05 per barrel amount, will reduce the State's annual oil spill prevention and preparedness program by \$10.5 million. This reduction will result in insufficient funding to support the State's oil spill prevention and preparedness responsibilities.

Within the Commission, the Marine Facilities Division has responsibility for oil spill prevention at marine terminals, while the Mineral Resources Management Division has responsibility for prevention related to offshore drilling and production platforms and other facilities. The Marine Facilities Divisions oil spill prevention and preparedness responsibilities include: 1) regularly inspecting and monitoring the operations of all marine terminals; 2) adopting rules and regulations for reviewing the location, performance standards, and other characteristics of all existing and proposed marine terminals; 3) developing rules and regulations for the content of marine terminal Operations Manuals to ensure protection against oil spills; and, 4) ensuring the best achievable protection of the public health and safety and the marine environment in the regulation of all marine oil terminals.

The Commission programs work as a system to provide for the best achievable protection of public safety, health, and the environment. The Commission requires and approves operations manuals at all marine terminals. A highly experienced marine safety staff of expert engineers monitors compliance in the field, observing oil transfers seven days a week. Monitoring is prioritized so the highest risk terms oil transfers are

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attended. Additionally, staff monitors all first time tank vessel visits to California and inspects transfer operations to protect against spills.

AB 881 provides sufficient funding to support existing oil spill prevention programs at the Commission and Department of Fish and Wildlife's OSPR. It will correct a structural annual deficit in the OSPAF and align revenues to sustain current program levels. Without these fee adjustments, program reductions of over 20% will be required, eliminating over 20 positions and undermining the Commission's ability to carry out its oil spill prevention programs and provide best achievable protection of the State's coastal marine resources.

OWCN:

The OWCN is a State program that rescues and rehabilitates oiled wildlife in California. It is an integrated system of more than 30 organizations and facilities strategically sited throughout California that is considered the most proactive response organization in the world dedicated to wildlife affected by catastrophic oil spills. The OWCN's focus includes all aspects of oiled wildlife response, including extensive training and preparedness, fostering inter-agency cooperation, refining emergency response procedures, and supporting research activities to improve oiled wildlife response efforts.

Since 1995, the OWCN has responded to over 75 oil spills and cared for nearly 8,000 oiled birds and mammals.

The OWCN's annual budget is approximately \$2 million, which is funded from interest earned from the Oil Spill Response Trust Fund. In 2011, the State transferred \$40 million from the Trust Fund as a loan to the General Fund. This loan was made to help backfill the revenue loss caused by the cancelation of the sale-for-leaseback of 11 office buildings that were included in the previous year's budget. As a result, the Trust Fund is generating virtually no money for OWCN's budget. The Trust Fund loan is intended to be repaid on June 30, 2014. However, as stated in a 2012 audit by the Department of Finance, there is no assurance of repayment. Additionally, the Department's audit states that even if the money is repaid, the interest earned is no longer sufficient to support the cost of the program.

OTHER PERTINENT INFORMATION:

The Commission supported legislation in 2011 to revise the maximum \$.05 per barrel fee to \$.065 until January 1, 2015, and to require the Commission to contract with the

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Department of Finance for an analysis and report of the oil spill prevention program financial basis and effectiveness.

AB 881 was approved by the Assembly Natural Resources Committee on April 1, 2013, and the Assembly Water, Parks and Wildlife Committee on April 16, 2013. It is currently on the Assembly Appropriations Committee Suspense File.

AB 881 is supported by the Pacific Merchant Shipping Association, Aquarium of the Pacific, California Academy of Sciences, California Association of Zoos and Aquariums, California Coastal Protection Network, California Coastkeeper Alliance, Channel Islands Marine and Wildlife Institute, Environmental Action Committee of West Marin, Heal the Bay, Marine Mammal Center, Monterey Bay Aquarium, Natural Resources Defense Council, Ocean Conservancy, Orange County Coastkeeper, PRBO Conservation Science, Russian RiverKeeper, San Francisco Bay Bird Observatory, San Francisco BayKeeper, SPCA for Monterey County, Surfrider Foundation and the University of California Santa Cruz Marine Stranding Network.

AB 881 is opposed by the California Independent Petroleum Association, California Manufactures and Technology Association and the Western States Petroleum Association.

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. Adopt a support position on AB 881 (Chesbro).