

Staff Report for Item 7
“\$12 Million Appropriation for the San Diego River”
May 21, 2004

In late 2002, former Governor Davis signed the fiscal year 2002-03 budget bill which appropriated \$12 million in bond funds for the protection and restoration of the San Diego River. The remaining \$7.8 million (total available local assistance and capital outlay) must be encumbered by June 30, 2005 and fully expended by June 30, 2007. Essential information about the status of the \$12 million appropriation for the San Diego River is summarized below in question/answer format¹.

1. **What were the sources and total amount of the appropriation?**

Proposition 13:	\$ 2.0 Million
Proposition 40:	<u>\$ 10.0 Million</u>
Total Appropriation:	\$12.0 Million

2. **What is the remaining amount of the appropriation?**

Original Appropriation:	\$12.0 Million
Lakeside Conservancy CalMat Acquisition ² :	<u>(\$ 4.2 Million)</u>
Remaining Appropriation:	\$ 7.8 Million

3. **When and to whom was the appropriation made? / Where is the money now?**

The money was appropriated to the Resources Agency in the Budget Act of FY 02/03. The Appropriations from Propositions 13 and 40 to the Resources Agency included a line item for the San Diego River in the amounts shown above³. The appropriations currently appear as line items in Resources' budget.

4. **What are the deadlines for encumbering and expending the funds?**

The funds were three-year appropriations in Budget Act FY 02/03. This means the funds must be **encumbered no later than June 30, 2005** and **fully expended no later than June 30, 2007**. Eligible projects can be “phased” (e.g., acquisition can occur in the first year followed by development in subsequent years).

5. **Are the funds secure? / If not, how can we make them secure?**

Yes and No. It is *possible* to lose the funds, but unlikely since they are “Bond Funds” rather than “General Funds”. General Funds can be “swept” during a budget crisis. Although Bond Funds *can* theoretically be swept as well, they never have been.

Funds that are encumbered⁴ are safer than unencumbered funds. But no funds are totally safe since the Legislature *could* pass a bill sweeping all unexpended funds, including funds that are encumbered and for which a grant has already been awarded. Only expended funds are totally safe (i.e., spending the funds is the only certain way to ensure they will be used for their intended purpose). The line item allocations for the San Diego River are no more or less vulnerable than the line items for any other river in the State. If the monies earmarked for the San Diego River are swept, monies for all rivers in the State would likely also be swept.

The most significant current threat to the funds is the potential failure to encumber and expend them by the stated deadlines.

6. **How does the SDRC access the funds?**

To access the funds, the SDRC must apply for them by submitting a River Parkway grant application for a specific project to the Resources Agency. Grants are awarded by the Resources Secretary, Mike Chrisman, for eligible projects in accordance with the bond language and with Water Code section 78682.2 (River Parkway Subaccount Article). The funds are encumbered when a grant agreement between Resources Agency and the grantee is fully executed and recorded in the State's accounting system.

7. **What types of reviews are conducted by the Department of General Services and why?**

A grant agreement between two state agencies (e.g., Resources Agency and the SDRC) is called an Interagency Agreement (IAA). In general, an IAA is needed to pass money from one state agency to another. All IAAs must be reviewed by Department of General Services (DGS), regardless of their purpose⁵. This is strictly a contractual review.

In addition, for any proposed real estate transaction in which the State will hold title, DGS will also conduct a "full acquisition review" including a review of the appraisal, escrow, due diligence and indemnification provisions. If the State will hold title, DGS will also conduct its own appraisal of fair market value (State acquisitions may not exceed fair market value).

If the funds are granted for an acquisition to a nonprofit or local agency, then the grant agreement between the State and the grantee is not subject to DGS contractual review. The State agency granting the funds may, at its discretion, request/require DGS involvement in the acquisition to confirm that the appraisal reflects fair market value, or to review any other portion of the transaction. The Resources Agency has a policy of requiring DGS approval of the appraisal for all acquisition grants.

The purpose of all DGS reviews is to ensure that the State's interests (i.e., taxpayer monies) are protected. The DGS reviews provide additional assurances and expertise for the State's real estate transactions. DGS charges a fee for its reviews (e.g., the appraisal review fee is approximately \$1,500 and can be included in the amount of the grant). Acquisitions by State agencies also require approval by the State Public Works Board.

8. **Where does the money come from when a grant is paid?**

Grants are paid on an incremental "as needed" basis. Every department administering bond funds must periodically prepare "cash flow projections" of anticipated cash needs for their projects. The purpose of the cash flow projections is to guide the dollar amount of the incremental distributions⁶. The cash flow projections are combined into a consolidated loan from the "Pooled Money Investment Account" for all administering departments. After a grant is awarded, Resources Agency draws down on the loan for the amount of the grant in order to make payment to the grantee. The State Treasurer's office subsequently (at the

optimal time) sells tax-exempt bonds and commercial paper to the public to (in effect) retire the loan.

9. **What projects are eligible for funding?**

Pursuant to Water Code section 78682.2, the funds for River Parkways shall be made available for “the acquisition and restoration of riparian habitat, riverine aquatic habitat, and other lands in close proximity to rivers and streams and for river and stream trail projects”. Water Code section 78682.2(e) specifies that eligible projects include River Parkway projects undertaken by a state agency, city, county, city and county, or pursuant to a joint powers agreement between two or more of these entities⁷. Resources Agency has developed written guidelines for both the Proposition 13 and Proposition 40 River Parkways Grant Programs. The guidelines provide examples of eligible and ineligible types of projects.

10. **Who can apply for the San Diego River Appropriation?**

Although any public agency (local, state, or federal) or non-profit organization may apply for the funds, the Resources Agency has made a policy decision that it will not award any further grants from the San Diego River appropriation until the SDRC has established priorities for the remaining \$7.8 million. The Resources Agency has been waiting for the SDRC to set priorities for the remaining appropriation.

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1. Much of the information provided in this Staff Report came from Elaine Berghausen, Deputy Assistant Secretary of Bonds and Grants at the Resources Agency. Ms. Berghausen’s unit is responsible for reviewing River Parkway Grant applications.
 2. The Resources Agency awarded a grant of \$4.2 million to the State Coastal Conservancy. The State Coastal Conservancy subsequently awarded a grant of \$4.2 million to the San Diego River Park - Lakeside Conservancy for the CalMat property acquisition.
 3. Note that the appropriations to Resources Agency were for the “San Diego River”, not for the San Diego River Conservancy. The Resources Agency also received line item appropriations for several other rivers throughout the State.
 4. Encumbered is the technical term to describe that a fully executed grant agreement is in place between the State and the grantee and that the commitment is recorded in the State’s accounting system.
 5. The IAA review takes a minimum of four weeks to conduct.
 6. The timing of the distributions is governed by “payment requests” that are periodically submitted by the grantee as needed.
 7. Note that nonprofit organizations are not included in Water Code section 78682.2(e). In San Diego, where a “true river park” is defined, section (e) applies. Where section (e) applies, Resources Agency can not award grants directly to nonprofits. That is why the \$4.2 million grant for the CalMat Property was awarded to the State Coastal Conservancy, rather than to the San Diego River Park - Lakeside Conservancy directly. The State Coastal Conservancy subsequently re-granted the funds to the nonprofit.