Frequently Asked Questions Regarding the Department of Fish and Game's Land Management Endowment Proposed Policy Change

July 2, 2010

The following are frequently expressed concerns and questions received from stakeholders including California land trust organizations, non-profit foundations and land managers, the conservation banking community, and members of the Legislature in response to the Department of Fish and Game's (DFG) proposed policy change for California Endangered Species Act (CESA) and conservation bank land management endowments. To further clarify the scope of the change and address some inaccuracies expressed by stakeholders regarding the proposed policy, we offer the following responses.

Question: *What is the change in policy?*

Answer: The staff report contains detailed information on the policy change. In summary, the change consists of three components:

1) DFG will now direct endowments for CESA permits and conservation banks to either the state Special Deposit Fund (SDF) or the National Fish and Wildlife Foundation (NFWF),

2) DFG is clarifying its policy on which entities may hold endowments for implementing a Natural Community Conservation Plan (NCCP). The policy will provide additional flexibility in who may hold these endowments, and

3) DFG is implementing a local government endowment alternative pilot program that provides additional flexibility in how local government and similar entities pay for land management costs typically funded through an endowment.

Question: *Which endowments would be affected by this policy?*

Answer: Only those endowments required under a CESA permit or for a conservation bank would be subject to the policy change. Of the hundreds of endowments required of applicants under the California Environmental Quality Act (CEQA) and other state laws annually, the change would affect the roughly 40 endowments required annually as a result of a CESA action and a small number of conservation banks (about five annually).

Question: *Will the policy change apply to endowments already being held by third parties?*

Answer: No. Third party endowment holders already holding an endowment required under CESA or as part of a conservation bank would continue to hold and manage these funds. The policy only affects future endowments.

Question: *Would the DFG's proposed policy changes create additional hurdles in the project approval process?*

Answer: The proposed policy is intended to streamline project approval by creating consistent, clear processes for establishing and directing endowment fund disposition.

Question: *Why is DFG considering this policy change?*

Answer: For years, DFG has been struggling to clarify how and when third parties would hold endowments on behalf of the state. While land trusts and non-profit land managers are an important conservation partner, they hold state money with little or no oversight by the state. In a few instances, third parties holding endowments for the state have either failed completely or lost a significant part of the endowment principal. Since DFG is responsible for these state funds, it has a duty to ensure they are secure.

Question: *Why the National Fish and Wildlife Foundation as the sole non-state alternative to hold these endowments?*

Answer: The NFWF is a quasi-federal organization with strict transparency and oversight requirements imposed by Congress and has more than 25 years of experience as fiduciary in public- and private-sector conservation partnerships specifically managing mitigation funds on the behalf of public agencies. NFWF has the capacity to manage the 40 or so annual transactions and has in place an efficient system for dispersing management funding. In April 2010, DFG, California Energy Commission and U.S. Fish and Wildlife Service signed a Memorandum of Understanding with NFWF to manage CESA mitigation and endowment funding for desert renewable energy projects in California based on their capacity and security. This model provided the basis for selecting NFWF as the clear choice from among several non-profit third parties capable of holding state endowments.

Question: *Why not continue to evaluate and conditionally approve other third parties to hold endowments?*

Answer: There are many land trusts, foundations, and others that have done a good job of managing endowments on behalf of the state. Unfortunately, there have also been a few that have not exercised fiscal responsibility in managing state funds. Developing criteria, the expertise to evaluate and monitor third parties, and accepting the liability for these qualifications would require an investment in positions and infrastructure somewhere in the state system. DFG lacks the expertise and infrastructure to effectively conduct this kind of program. Based on our experience in evaluating third parties for this purpose for the last 16 months, there could easily be hundreds of partners that would qualify for holding state endowments requiring a significant investment in state infrastructure to manage.

Question: *Under the new policy, how would DFG ensure that interest generated by these endowments and intended for use by third parties to conduct required land management activities be efficiently dispersed?*

Answer: DFG has implemented a few key process changes that would result in a net 45 day payment of invoices received by third party land managers. In the past, the system of disbursements from the Special Deposit Fund (SDF) was hampered by ineffective invoice processing and disbursement practices. Upcoming changes to a more streamlined and efficient electronic disbursement system will correct these problems.

The NFWF supports a very efficient web-based disbursement system that is capable of invoice payment within weeks or less. Also, in many cases, NFWF can provide advanced management funding in the form of an annual payment.

Question: *What is NFWF's expected rate of return, administrative fees, and assumed inflation?*

Answer: NFWF has related the "cap rate" will be built by first constructing an investment policy statement based on acceptable levels of risk and concomitant return with respect to CESA and conservation bank endowment funds that revolves around managing the funds to a certain projected return. This is still in development, however, the cap rate will be competitive with cap rates now in play and will be higher than the historic SDF rates.

Question: *Will funds now held in the Special Deposit Fund be transferred to NFWF?*

Answer: No. Funds in the SDF will remain there and be managed by DFG to realize a yield comparable to any third party fund manager under similar risk scenarios.