

Assembly Accountability and Administrative Review and Water, Parks & Wildlife Committees

Dickinson and Huffman, Chairs

November 1, 2011 – 9:00 a.m.
State Capitol, Room 437

JOINT OVERSIGHT HEARING: Impacts and Status of State Park Closures

BACKGROUND

The Department of Parks and Recreation (DPR) on May 13, 2011 released a plan to close 70 of California's 279 state parks to achieve \$11 million in savings in Fiscal Year 2011-12, another \$11 million in FY 2012-13 and ongoing savings of \$22 million a year. The Legislature authorized park closures in AB 95, which outlined criteria to be used by the Department to determine which parks to close. AB 95 also sought to release the state from liability for injuries or damages occurring in a "closed" state park. AB 95 was signed by Gov. Jerry Brown on March 24, 2011.

Closing state parks has never been done before in California.

In an effort to keep open some of the parks scheduled for closure, the Legislature approved AB 42, by Assemblyman Jared Huffman, D-San Rafael, which allows DPR to enter into operating agreements with non-profit groups who agree to run a state park. AB 42 was signed by Gov. Brown in October.

As the Department implements its park closure plan, it is simultaneously considering several alternatives to closures, including operating agreements with nonprofit organizations, offers of private donations and endowments to cover the costs of continued state operations at a few specific parks, and potential concession contracts at others. The National Park Service (NPS) also has agreed to assume operation of three parks that are on the closure list and adjacent to federal parks. The NPS takeover will enable those state parks to remain open for at least another year.

In preparation for this joint oversight hearing, the Assembly Committees on Accountability and Administrative Review and Water, Parks and Wildlife have reviewed the closure list and identified numerous issues and risks associated with closing these parks. Among those are:

- ***It is difficult to discern how the Department used the AB 95 criteria to determine which parks to close.*** AB 95 required the Department to select parks to be closed "based solely on all of" the 11 criteria outlined in the bill. Among the criteria was whether a park had statewide significance, visitation rates, the net savings of closing a park, the feasibility of closing a park and whether deed restrictions or grant requirements would prevent a closure.

The Department has told the Committees that it did use the criteria and did use data where it was available to make decisions. But there was no scoring system put in place to

determine which criteria were most important, so final decisions were subjective. Thus, it is unclear why some parks were selected. For example, AB 95 instructed the Department to consider the relative statewide significance of each park and preserve to the extent possible parks identified as "Outstanding or Representative Parks." Yet nine parks on the closure list were identified as either representative or outstanding parks in the Department's 2005 "Natural Parks Report," which was developed to help prioritize the Department's management resources.

Another of the AB 95 criteria is the feasibility of physically closing each unit. Several parks on the closure list are very large parks that may not be physically possible to close. One, Annadel State Park in Sonoma County, is near a large urban area and has 11 entrances, making it nearly impossible to truly close.

The criteria also include whether recent infrastructure investments were completed at a unit. The state recently completed ADA accessibility improvements at several parks on the closure list.

Another criterion is the estimated net savings from closing each unit so as to maximize savings to the system. This one is difficult to evaluate because the department has provided the Legislature with operational cost data for only the parks on the closure list, not for the other parks in the system.

- ***Costs of closing state parks may be higher than anticipated.*** The Department estimates it will spend \$3.5 million annually to close state parks, which includes posting closure signs, storing artifacts and other items in a Sacramento warehouse, and occasional patrols of closed parks. The Department acknowledges, however, that the figure is an estimate. Some parks may have significant costs associated with shutting down: Shasta State Park has more than 23,000 Gold Rush-era artifacts that may need to be brought to Sacramento for storage. One estimate there suggested it would take more than 5,000 hours to catalog all of the artifacts before they are stored.

Existing problems with vandalism, illegal marijuana growing and property destruction at parks already subject to reduced service levels may be exacerbated at parks that are closed. If significant damage occurs, it may be more expensive to reopen parks in the future. Water and sewer systems in closed parks also have to be maintained to prevent deterioration that would increase future costs.

- ***Risks to public safety may increase in closed parks.*** Although AB 95 and AB 107 provide qualified immunity to the state for injuries that may occur in closed parks, the Legislature still has an interest in protecting public safety. Particularly in more remote parks and state beaches, the lack of a ranger or lifeguard presence may pose significant public safety risks. Whether local law enforcement agencies are able to fill this gap, and what arrangements the Department may have negotiated with local entities to cover this need, is unclear.
- ***The California Coast Act limits the state's ability to close coastal parks.*** The California Coastal Act is predicated on the importance of public access to California's

coastline, and any move by the state that could limit access to public land along the coast could violate the act. The Department states that it plans to merely remove resources from coastal parks and not block access.

In a letter to the Committees, Charles Lester, executive director of the California Coastal Commission, said the commission "does not foresee any conflict" as long as park closures "do not fundamentally interfere" with access to public beaches and shoreline. Any closure-related barriers or signs intended to deter public use of coastal parks would require a permit from the Coastal Commission, Lester said.

- ***Closing some parks may violate agreements with the federal government and jeopardize future federal funding.*** Seventeen of the state parks on the closure list have received or are scheduled to receive money through the federal Land and Water Conservation Fund, which gives states money to buy or improve public parks. The state has received nearly \$15 million through this program since 2007, and about \$286 million since its creation in 1965. According to a 2009 NPS letter to former Gov. Arnold Schwarzenegger regarding proposed state park closures then, the grant contract between the federal government and the state requires continued public access to parks receiving money. The letter notes that a "significant decrease in both the quality and quantity of public outdoor recreation facilities" is "in conflict with the provisions of the contract between the state and the federal government." It also states that "the closure of state parks will jeopardize the state's future apportionment."

While the Department states that it is discussing this issue with officials at the National Park Service, the federal government so far has not provided any written assurance that it will not seek to enforce its contracts.

One park slated for closure, Samuel P. Taylor State Park in Marin County, is scheduled to receive \$175,000 in federal funds in December. An agreement the state has reached with NPS to operate Samuel P. Taylor for one year may have addressed the immediate vulnerability of federal funds for this particular park.

- ***Closing some parks could threaten legally protected species.*** At least four state beaches on the closure list – Morro Strand, Manchester, Moss Landing and Zmudowski State Beach – include habitat for the western snowy plover, a species listed as threatened under the federal Endangered Species Act and as a "species of special concern" by the state. While the Department states that it will continue to monitor and care for these habitat areas when the beaches are closed, it is unclear whether beaches without the current level of services will degrade, possibly affecting these habitats.
- ***The proposed closures appear to affect some regions more than others.*** Seven state parks in Mendocino County are slated for closure, while five parks in Sonoma County and four each in Marin and Monterey counties are on the closure list. These closures could have a significant impact in these counties, and appear to concentrate the closures in such a way that some local communities will be far more affected than others. For example, the Committees received a letter signed by over 40 local wineries and other businesses in the

Anderson Valley concerned with the impact that closing Hendy Woods State Park would have on the local economy.

- ***Closing certain parks could result in expensive litigation.*** The Committees are aware of at least two letters from local governments or groups warning that specific park closures may trigger legal action. The city of Whittier in Los Angeles County wrote to the Department in June to note that four cities and Los Angeles County had spent \$2.5 million in county bond money in 2000 to renovate Pio Pico State Historic Park. The letter notes that as part of the agreement between the local governments and the state, the contract requires the state to maintain the park, and closure of the park will violate the agreement.

An April letter from a law firm representing the Mono Lake Committee suggests closing Mono Lake Tufa State Natural Reserve may violate the lease between the Department and the land owner, the State Lands Commission, which requires the Department to maintain the reserve for "the public use and benefit." The letter suggests the Department could be sued by either the State Lands Commission or the public as a third party beneficiary.

State Lands Commission staff also has concluded that DPR would likely be in breach of the lease agreement if it closes the park. While the lease provides for termination upon agreement of the parties, termination would require the agreement of the Commission. Termination also would conflict with the statutes in the Public Resource Code that created the reserve and mandate that the Commission issue a lease to DPR for "occupancy" and that DPR manage "all resources within the reserve's boundaries." The Public Resources Code additionally directs DPR to provide enforcement staff to protect defacement or destruction of the tufa, which is a misdemeanor. If the park is closed and funding withheld, DPR could be in breach of the lease and in violation of the governing statute.

The Department acknowledges that it is still reviewing deeds, grant contracts and other documents that could present legal problems should it close some of the parks on its closure list.

- ***Some of the parks slated for closure have important historic and cultural relevance to California.*** Pio Pico State Historic Park memorializes Pio Pico, who was governor of California in the 19th century when California was under Mexican control. The site has been open to the public for more than 100 years, and became a state park in 1917.

In Northern California, the Weaverville Joss House State Historic Park is the last remaining wooden Chinese temple in California, and is still used occasionally for religious ceremonies. China Camp State Park on San Pablo Bay was the site of a historic Chinese shrimp fishing village that thrived in the mid-1800s.

- ***Closure of State Parks will have adverse economic impacts on state and local communities.*** A 2009 study by researchers at California State University Sacramento found that state parks more than pay for themselves with state and local tax revenue generated through state park visitation. According to the study, the more than 75 million annual visitors to state parks make \$4.3 billion in park-related expenditures and generate \$300 million in sales tax revenue for the state each year. Of that, \$122 million comes from

out of state visitors. The study estimated that each visitor on average spends \$24.63 per visit inside state parks, and \$33 outside, while out of state visitors spend an average of \$184.91 per person. An earlier study commissioned by the Department in 2002, "The Economic Impact of State Parks on California's Economy" by James R. King, found that in fiscal year 2001-02, 85 million visitors to state parks spent roughly \$2.6 billion in local communities, producing an estimated \$6.65 billion in total output and new sales, and supporting more than 100,000 jobs. The study found that for every \$1 spent on state parks, a conservative estimate of \$2.35 in state tax revenue is returned to the state's General Fund from spending in local communities. The overall economic return on state park budget expenditures was estimated at 30:1.

- ***Alternatives that might avoid or reduce the necessity to close parks may not have been fully explored.*** AB 95 directs DPR to achieve the required budget reductions by closing, partially closing, or reducing services at selected state park units. Addressing a budget deficiency requires either reducing expenditures or increasing revenue. The Department has struggled for years under declining budgets, and has been forced to reduce expenditures in many ways, including by deferring maintenance, which now totals more than \$1 billion. At the same time, some have argued that it is unclear whether all feasible alternatives to reduce expenses short of park closures have been fully explored. Potential options may include greater administrative efficiencies, elimination of bureaucratic redundancies, reductions in nonessential services and postponement of programs tangential to the core mission of operating state parks.

On the revenue side, it is also unclear whether DPR has fully explored all feasible options to maximize collection of existing fees at state parks. Many state parks either charge no entrance fees or have little or no enforcement of fee collection at the gate. Installation of new fee collection technologies may require some initial capital investment, but also may be fundable through infrastructure bonds. Other revenue ideas suggested include development and marketing new regional state park pass options, increased fees on high demand days, and installation of additional hook-ups at popular campgrounds that routinely fill up.

California voters in November 2010 rejected Proposition 21, which sought to impose a new \$18 vehicle registration fee to fund state parks in exchange for a free park access pass. The measure would have provided enough revenue to fully fund the state park system. Although voters defeated Proposition 21, there may be other new revenue options that voters would support. For example, other states collect parks funding from voluntary vehicle license fees and state tax check offs, specialized license plates and a dedicated sales tax on outdoor equipment.