

Summary of 9-27-12 interview of Daphne Greene

Interview and summary by Thomas M. Patton, Deputy Attorney General

Daphne Greene served on the Off-Highway Motor Vehicle Recreation Commission from 2000 to 2003. In 2004 then-Governor Schwarzenegger appointed Greene to be Deputy Director of the Department of Parks and Recreation's Off-Highway Motor Vehicle Recreation Division. Greene served in that role until December 31, 2011. (Daphne Greene transcript (DGtr), p. 2.)

When asked about financial disparities in fund balance reports to the State Controller's Office (SCO) and Department of Finance (DOF) concerning the Off-Highway Vehicle (OHV) fund, Greene first noted the OHV fund was designated a trust fund in 1982. (DGtr, p. 5.) Greene also noted that the OHV trust fund had been audited some eleven times over the years, and Greene produced a copy of an August 2005 Bureau of State Audits report regarding the OHV recreation program and trust fund. (DGtr, pp. 5-7.) She observed that the audit report did not mention any disparities in financial reports going to the SCO versus the DOF concerning the OHV fund. Greene pointed out that the audit, at page 61, did highlight the use by the Parks Department of some \$3.6 million in OHV dollars for activities not adequately supported as appropriate expenditures of OHV trust fund dollars. (DGtr, p. 8.)

Greene regularly attended weekly executive committee meetings at the Parks Department. Greene stated that she was never apprised of any issues regarding discrepancies in balances reported to the SCO and DOF for the State Parks and Recreation Fund (SPRF), and did not recall any discussion about not disclosing all SPRF monies to the DOF. Greene noted that there was much discussion about the SPRF and ways the Department could "hold onto" that fund. (DGtr, pp. 11, 14-17.) Greene recalled that with the Department facing possible park closures, the executive team sought to increase fee revenues generated by the SPRF, and there was discussion about seeking continuous appropriation authority from the Legislature so the Department could spend such increased revenue. (DGtr, p. 12.) Greene also recalled a comment about "trying to wash money through SPRF," but neither Greene nor her OHV chief deputy, Phil Jenkins, understood or ever figured out what that meant. (DGtr, p. 15.)

When shown a DOF spreadsheet reflecting year-to-year discrepancies in reported fund balances for OHV, Greene observed that the timing of reports to the SCO and DOF could impact the balances being reported. Greene specifically noted that various future proposed expenditures for land and facility acquisition may have been reflected in the DOF fund condition statement, and not reflected in the actual cash balance report to the SCO. (DGtr, pp. 17-19.)

Greene recalled a number of projects where OHV monies for land acquisition and development were appropriated and encumbered, but which ultimately did not go through. Such proposed projects included a \$45 million project in Riverside County, and a project known as Deer Creek Hills. Greene believed the failed Riverside County project and reversion of funds occurred in 2005. This interviewer and Greene noted what might be a related \$35,145,000 comparative over-report of funds to DOF for fiscal year ending 2006. (DGtr, pp. 19-22.) Greene recalled another approved expenditure and appropriation of \$22 million for an acquisition in Kern County which ultimately was not consummated. (DGtr, pp. 48-49.) Greene postulated that in such circumstances monies could be reflected in DOF budget reports as future proposed expenditures and encumbrances, and not be reflected as actual expenditures that would reduce the cash balance reported to the SCO. (DGtr, p. 49.)

Greene remarked that such reversions resulted in massive swings in the OHV budget fund balance, and on a given day her division would be told one minute that there was no money in the OHV fund, and the next minute that the fund was brimming over. Greene found this very frustrating as she believed the OHV Division tracked its expenditures to a tee. (DGtr, pp. 22-23.) She recalled that one day, in the span of two hours, OHV was informed they were operating in the red and then later informed there was approximately \$70 million in the OHV account. Greene believed that incident occurred in fiscal year 2010-11. (DGtr, pp. 42-43.)

Greene recalled that Manuel Lopez was frustrated as well by the disparity in reports to the SCO and DOF. Greene was never able to understand the disconnect between the numbers and Lopez was unable to explain it. When asked again whether she had any idea what could cause a \$70 million swing, Greene recalled that there had been a \$90 million loan taken from the OHV trust fund in 2008. Greene also believed the massive swing in dollars could have been the result of a large influx of funds coming from the gas tax. (DGtr, pp. 43-45.)

Other large expenditures that Greene recalled which could contribute to major swings in the OHV's reported fund balance included a \$22 million loan in 2009-2010 and a \$21 million loan in or about 2010-2011. Greene stated that to her knowledge none of the monies had been repaid. Greene then produced an Off-Highway Motor Vehicle Recreation Commission 2011 program report which reflects, at page 9, that \$160,585,000 in loans have been made to the general fund over the years which have not been repaid. The report also reflects a \$3,000,000 loan to the Department of Fish and Game which has been repaid. (DGtr, pp. 50-51.)

Greene noted that the OHV division itself did not provide reports to the SCO and DOF--such reports were handled by Department's administrative services division—and she was not privy to what exactly was in the reports provided to the SCO and DOF. (DGtr, p. 23.) Green also stated she was aware at one point that there were disparities in balance reports for the OHV fund going to SCO and DOF, and found it very frustrating. (DGtr, p. 41.)

Greene noted grant monies would occasionally revert to OHV, but OHV was unable to track such monies, and did not receive accountings to show the funds were credited back to the trust fund. Greene relied on the administrative services division to track such matters. (DGtr, pp. 24 and 27.) OHV did receive at least one detailed report from administrative services, but OHV did not regularly receive accountings for the OHV funds. (DGtr, pp. 30-31.)

Greene proposed that the OHV division be given more authority to track its own dollars, and Greene included such proposal in a draft OHV strategic plan. Greene reports that the proposal became a point of contention, with then-administrative services deputy director Manuel Lopez expressing concern that it would result in a duplication of effort. The final language of the strategic plan issued 2009 was changed from what Greene originally proposed, and recommended at page 47 that the OHV division develop a better tracking system, rather than perform its own administrative services. Greene stated that the change was ordered by then-Director Coleman, and was a “dual-tracking” compromise in light of concerns about duplicating effort and taking the function from the administrative services division. (DGtr, pp. 33-40.)

When asked if anyone at the OHV division ever looked at the budget fund condition statement worked up by OHV personnel and compared it to what was ultimately submitted by the Parks Department to the DOF, Greene indicated “No, we didn't.” (DGtr, p. 55.)