

**STAFF REPORT
C46**

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**CONSIDER DELEGATING AUTHORITY TO THE EXECUTIVE OFFICER
TO EXPEND \$135,000 FROM THE KAPILOFF LAND BANK FUND
AND ENTER INTO AN INTERAGENCY AGREEMENT WITH THE
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE TO CONSTRUCT
A FENCE AROUND THE CARTAGO WILDLIFE AREA**

PARTIES:

California State Lands Commission, acting as Trustee of the Kapiloff Land Bank Fund and California Department of Fish and Wildlife

PROPOSED ACTION:

Staff proposes to use \$135,000 of funds from the Kapiloff Land Bank, which will be deposited by the City of Los Angeles Department of Water and Power (City) no later than April 5, 2019, for the construction of a fence around the Cartago Wildlife Area, to pay the California Department of Fish and Wildlife to construct the fence. Staff proposes to enter into an interagency agreement with the California Department of Fish and Wildlife (CDFW) to compensate CDFW for construction of the fence.

BACKGROUND:

The Owens Valley checkerbloom (*Sidalcea covillei*) is a rare pink flower with a lavender hue that grows in small clusters with crocus-shaped blooms.¹ A member of the mallow family, this California endangered plant is only known to grow in the Owens Valley.² The Cartago Wildlife Area (Wildlife Area), on the southwestern edge of Owens Lake is one of the few places where this plant has been identified. The Wildlife Area is a 218-acre swath of land between Highway 395 and the historic edge of Owens Lake.³ It is owned and managed by the CDFW and consists of freshwater wetland and springs. The area provides habitat to more than 144 species of birds and is designated as a Nationally Significant Important Bird Area by the National Audubon Society and the American Bird Conservancy.⁴ In addition, on December 6, 2016, the Commission authorized the

¹ <https://www.wildlife.ca.gov/Conservation/Plants/Endangered/Sidalcea-covillei>

² *Ibid.*

³ <https://www.wildlife.ca.gov/Lands/Places-to-Visit/Cartago-WA>

⁴ *Ibid.*

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Executive Officer to submit a letter of support regarding the nomination of Owens Lake as an international Western Hemisphere Shorebird Reserve Network site ([Item C46, December 6, 2016](#)).

This important Wildlife Area is adjacent to the dry lakebed of Owens Lake, which is sovereign land managed by the Commission. The Commission has issued grazing leases to cattle ranchers on the lands immediately adjacent to the Wildlife Area. The absence of fencing between sovereign land and the Wildlife Area allows cattle to roam onto the Wildlife Area from these adjacent sovereign lands. With this grazing activity comes the introduction of pepperweed (*Lepidium latifolium*), a highly invasive nonnative plant that originated from western Asia and southeastern Europe but has now invaded much of California.⁵ This plant spreads prolifically in riparian and wetland areas and competes with native plants in the area.⁶ Cattle are known to graze on pepperweed or consume feed that contains pepperweed roots or seeds.⁷ As cattle wander, they can transport and spread pepperweed seeds and roots in new areas. These invasive plants take root and often take over.

CDFW staff have found pepperweed plants in the area and have identified the grazing activities as the most likely cause. If this issue is not addressed, pepperweed threatens to choke out the rare checkerbloom and disrupt the important waterfowl habitat at the Wildlife Area. To prevent the spread of pepperweed and preserve a valuable Wildlife Area, CDFW and Commission staff determined that it was important to construct fencing around the Wildlife Area. This will create an effective barrier to wandering cattle and reduce the transfer of pepperweed.

At its last meeting on February 4, 2019, the Commission approved the 22nd Amendment to Lease No. PRC 8079.9 with the City for dust control on Owens Lake ([Item C58, February 4, 2019](#)). Among other things, the 22nd Amendment authorized the continued use of approximately 2.27 acres of sovereign land for gravel cover dust mitigation. This gravel was placed on sovereign land without the Commission's knowledge or permission. As such, the Commission was not able to identify and balance the Public Trust values of the area before it was covered with gravel. To offset for the loss of potential enhancement of Public Trust values in the areas of gravel cover, the City was required to deposit \$135,000 into the Kapiloff Land Bank Fund no later than April 5, 2019. The Commission determined that the protection of habitat at the Wildlife Area could help offset any potential losses to Public Trust values from the gravel.

⁵ <https://www.fs.fed.us/database/feis/plants/forb/leplat/all.html>

⁶ <http://ipm.ucanr.edu/PMG/PESTNOTES/pn74121.html>

⁷ <https://www.fs.fed.us/database/feis/plants/forb/leplat/all.html>;
<http://ipm.ucanr.edu/PMG/PESTNOTES/pn74121.html>

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Additionally, the fence would allow the Commission to continue its grazing leases while still being a responsible neighbor.

Under the Kapiloff Land Bank Act⁸, the Commission, as Trustee, may use funds deposited into the Kapiloff Land Bank Fund for “management and improvement of real property held by the trustee to provide open space, habitat for plants and animals, and public access.”⁹ Here, the construction of the fence will allow the Commission to better manage its land that is currently used for grazing. Additionally, by protecting the Wildlife Area, the fence will protect an important habitat for native plants and animals.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6106, 6216, 6301, 6501.1, 8600 et seq.; Public Contract Code section 10340 subdivision (b)(3)(A); State Contracting Manual volume 1, chapter 3; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State’s Best Interest Analysis:

Because the fence is on CDFW property it will not interfere with Public Trust resources managed by the Commission. Further, this fence would protect and preserve Public Trust resources, including the Owens Valley checkerbloom and waterfowl habitat, on CDFW lands. The Commission has previously determined wildlife habitat is a Public Trust use at Owens Lake. At its meeting on February 4, 2019, the Commission determined that the construction of an environmentally friendly livestock fence to protect the Wildlife Area and contain the Commission’s grazing lease areas would be in the best interests of the State. The proposed action facilitates the Commission’s previously approved lease condition that requires funding of the fence.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission’s Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission’s jurisdiction.
2. At its February 4, 2019 meeting, the Commission found that installation of the fence was exempt from the requirements of CEQA as a categorically exempt project. The Commission found that the project is exempt under

⁸ The Kapiloff Land Bank Act was authored by the late Assemblyman Lawrence Kapiloff (born September 22, 1929, died January 12, 2019).

⁹ Pub. Resources Code, §§ 8613 and 8625, subd. (c).

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Class 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302. Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300. Since this authorization is to expend Kapiloff Land Bank Funds to compensate the CDFW for construction of a fence, staff recommends the Commission find that the proposed authorization is also categorically exempt under the Replacement or Reconstruction exemption. Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

RECOMMENDED ACTION:

It is recommended that the Commission:

Find that the Commission is acting in its capacity as Trustee under the Kapiloff Land Bank Act, Public Resources Code section 8600 et seq.

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

1. Find that the construction of a fence around the perimeter of the Cartago Wildlife Area, owned and maintained by the California Department of Fish and Wildlife, will offset the loss of Public Trust uses and values from the unauthorized placement of 2.27 acres of gravel cover.
2. Find that the proposed interagency agreement and construction of a fence will not substantially interfere with the Public Trust needs and values at this location, at this time; and is in the best interests of the State.

AUTHORIZATION:

As Trustee of the Kapiloff Land Bank Fund, authorize the Executive Officer or her designee to enter into an interagency agreement with the California Department of Fish and Wildlife and expend up to \$135,000 for the construction of a fence around the perimeter of the Cartago Wildlife Area using the funds deposited into the Kapiloff Land Bank Fund by the City of Los Angeles Department of Water and Power for that purpose, and to execute all other documents and take such other actions as are reasonably required or may be necessary to accomplish these tasks.