

**CALENDAR ITEM  
C46**

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04/06/10  
W 26166, C2010-07  
J. Trout, J Brown  
D. Brown

**REQUEST AUTHORITY FOR THE EXECUTIVE OFFICER TO EXECUTE  
INTERAGENCY AGREEMENT FOR MANAGEMENT OF  
BOLSA CHICA LOWLANDS RESTORATION PROJECT AND EXPENDITURE OF  
KAPILOFF LAND BANK FUNDS**

**PARTIES:**

California Department of Fish and Game  
1416 Ninth Street, 12<sup>th</sup> Floor  
Sacramento, CA 95814

California State Lands Commission  
100 Howe Avenue, Suite 100 South  
Sacramento, CA 95825

**PROPOSED ACTION:**

In 2006, the Bolsa Chica Lowlands Restoration Project (Project) was leased for 33 years to the Department of Fish and Game (DFG) for long-term operation and management. In conjunction with the lease, the Commission also entered into an Interagency Agreement with DFG to provide funding from the Kapiloff Land Bank Fund for DFG to perform the responsibilities of land manager for the Project (Calendar Item C18, August 24, 2006).

The term of the current Interagency Agreement will expire on June 30, 2010. A new Interagency Agreement is now necessary to continue providing funds to DFG. The proposed agreement would be for 3 years ending on June 30, 2013, to provide additional funding of approximately \$750,000 from the Kapiloff Land Bank Fund.

DFG land manager responsibilities will include, but not be limited to: preparation of an annual management and budget plan for each fiscal year; preparation of an annual year-end management report; coordination with the oil field operator (Aera Energy LLC) on day-to-day site operations affecting oil operations; checking for evidence of trespass; performing monthly checks on Project

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features and functions; conducting monthly and quarterly mechanical functions of equipment; assisting with bird nest site maintenance; monitoring trails; managing predators; conducting annual nest site preparation and monitoring of threatened and endangered species; conducting weed removal; and preparing a public access plan.

**BACKGROUND:**

In 1996, the Commission and seven other State and federal agencies (the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service (USFWS), the U.S. Environmental Protection Agency, the National Marine Fisheries Service, the California Resources Agency, California Coastal Conservancy and the California Department of Fish and Game (DFG)) signed an Interagency Agreement to buy, plan, design, construct and maintain the Bolsa Chica wetlands to mitigate the impacts of expanding facilities for the Ports of Los Angeles and Long Beach (Ports). The Ports contributed \$79.6 million for the purchase of the Bolsa Chica lowlands and for the Restoration Project (Project), and in exchange, the Ports received environmental mitigation credits. The California Coastal Conservancy contributed an additional \$1.5 million (which includes a \$500,000 grant from the USFWS). A grant of \$10 million from Proposition 40 funds was provided by the Wildlife Conservation Board and an additional \$10 million was been approved by the California Coastal Conservancy. The Ports purchased additional mitigation credits for a further \$22.8 million. Funding of the Project from all sources is more than \$148 million including earned interest. These funds were placed in the Kapiloff Land Bank Fund for the purpose of completing the Project. The Project has been directed by a federal/state agency steering committee of representatives from each of the Interagency Agreement participants mentioned above.

There is currently about \$15 million available for long-term operation and maintenance. This amount is held in the Kapiloff Land Bank Fund.

**OTHER PERTINENT INFORMATION**

1. The DFG manages an additional 327.5 acres of the Bolsa Chica Lowlands under the jurisdiction of the Commission under a separate lease authorized by the Commission in 1973. This area was designated as the Bolsa Chica Ecological Reserve after its restoration. The DFG owns and manages an adjacent area known as the lower bench or mesa. The DFG-owned land and the newly restored Project area have been included in the Bolsa Chica Ecological Reserve; however, the funding provided by this Interagency Agreement may be expended only on the Project area. DFG provides its own funding for the other areas.
2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15025), the staff

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prepared an EIR/EIS identified as CSLC EIR/EIS No. 712, State Clearinghouse No. 2000071068. Such EIR/EIS was prepared and circulated for public review pursuant to the provisions of the CEQA.

3. The Commission certified the Bolsa Chica Lowlands Restoration Project (Project) Final Environmental Impact Report/Environmental Impact Statement, adopted Findings, adopted a Mitigation Monitoring Program, adopted a Statement of Overriding Considerations, and approved the Project on January 30, 2002. The NEPA lead agencies issued the Record of Decision in the second quarter of 2002.
4. The Bolsa Chica lowlands were acquired for the specific purpose of restoring the area as tidal wetlands as mitigation for development at the Ports of Los Angeles and Long Beach. The lowlands acquired for the Project are adjacent to the 327+ acre Bolsa Chica Ecological Reserve that has been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370-6377. The Reserve is already leased to DFG and includes Inner Bolsa Bay which is not a part of this project.
5. Although the Commission considers all lands "significant" by nature of their public ownership, use classifications, specifically designed to protect the significant environmental values of the area designated, are not assigned unless such lands have been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370-6377. The Bolsa Chica lowlands have been subjected historically to intensive modifications that eliminated its wetlands function, including, but not limited to, elimination of its access to the ocean and oil and gas production. Accordingly, the area was neither identified pursuant to Public Resources Code sections 6370-6377 nor assigned use classification; therefore, the finding of the project's consistency with the use classification as required by Title 2, California Code of Regulations, section 2954 is not applicable.

**STATUTORY AND OTHER REFERENCES:**

- A. Public Resources Code Section 6106 (Delegation to execute written instruments)
- B. Government Code Div 3, Part 1, Chapter 3; Interagency Services and Transactions.
- C. Public Resources Code Section 8600; Kapiloff Land Bank Act

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**RECOMMENDED ACTION**

It is recommended that the Commission:

**CEQA FINDING:**

Re-adopt the Findings for the 2001 Bolsa Chica Lowlands Restoration Project on file in the Sacramento office of the Commission, made in conformance with title 14, California Code of Regulations, section 15091.

Re-adopt the Mitigation Monitoring Program prepared for the 2001 Bolsa Chica Lowlands Restoration Project on file in the Sacramento office of the Commission, in conformance with the provisions of the CEQA (Public Resources Code section 21081.6).

Re-adopt the Statement of Overriding Considerations for the 2001 Bolsa Chica Lowlands Restoration Project on file in the Sacramento office of the Commission, made in conformance with title 14, California Code of Regulations, section 15093.

**AUTHORIZATION:**

1. Find that the Commission is acting in its capacity as Land Bank Trustee under the Kapiloff Land Bank Act, Public Resources Code sections 8600 et seq.
2. Authorize the Executive Officer or his designee to execute on behalf of the Commission, acting in its capacity as Land Bank Trustee an Interagency Agreement #C2010-07 with the California Department of Fish and Game as contractor who shall provide necessary staffing, supervision, management and support, to perform the responsibilities of Land Manager of the Bolsa Chica Lowlands Restoration Project, as specified within the agreement, on file in the Sacramento office of the Commission.
3. Authorize expenditures from the Kapiloff Land Bank Fund for the purposes of restoration and management of the Bolsa Chica Lowlands Restoration Project using the funds held in trust for such purposes, and such other funds as may from time to time become available for the same purposes.

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