

**CALENDAR ITEM
68**

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**CONSIDER A PROPOSED TITLE SETTLEMENT AND LAND EXCHANGE
AGREEMENT PURSUANT TO PUBLIC RESOURCES CODE SECTION 6307
INVOLVING CERTAIN PARCELS ADJACENT TO QUEENSWAY BAY, WITHIN THE
COLORADO LAGOON AND ADJACENT TO THE PACIFIC OCEAN, WITHIN THE
CITY OF LONG BEACH, LOS ANGELES COUNTY**

INTRODUCTION:

Commission staff and City of Long Beach (City) staff have been in discussions regarding a proposed title settlement and land exchange agreement concerning certain parcels adjacent to Queensway Bay, within and adjacent to the Colorado Lagoon and adjacent to the Pacific Ocean. The purpose of this staff report is to update the Commission on the status of the negotiations for the title settlement and land exchange agreement.

BACKGROUND:

The City is the State's trustee of public trust lands within the City of Long Beach granted to it by the Legislature pursuant to Chapter 676 of the Statutes of 1911, Chapter 102 of the Statutes of 1925, Chapter 158 of the Statutes of 1935, and Chapter 138 of the Statutes of 1964, First Extraordinary Session, as amended ("trust grant").

Certain filled parcels within the former Queensway Bay Development (since renamed "The Pike at Rainbow Harbor") were the subject of a previous land exchange agreement ("Queensway Bay Parcels"). On September 17, 2001, the Commission approved Minute Item #89, the Queensway Bay Land Exchange Agreement (Queensway Bay exchange) with the City. The Commission's action terminated the common law and statutory public trust on the Queensway Bay Parcels and exchanged those parcels for certain other parcels along the Los Angeles River on which it imposed the public trust.

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In October 2001, the California Earth Corps (“CEC”) filed a petition for writ of mandate (*California Earth Corps. v. City of Long Beach, California State Lands Commission and the Developers Diversified Realty Corporation, as a Real Party in Interest*, Sacramento Superior Court No. 01SC01556) challenging the Commission’s approval of the Queensway Bay exchange. The CEC contested, among other things, the validity of the exchange under Public Resources Code (PRC) section 6307.

The Sacramento Superior Court ruled in favor of the Commission, holding, in part, that the land exchange was valid under PRC section 6307. CEC appealed the Superior Court’s decision, and on April 21, 2005, the Court of Appeal for the Third Appellate District held that the exchange violated PRC section 6307 and granted the petition for writ of mandate. The California Supreme Court granted review on August 24, 2005.

Following the Supreme Court’s decision to grant review, the California Legislature clarified the intent of PRC section 6307 by repealing PRC section 6307 and replacing it with Chapter 585, Statutes of 2005 (SB 365, Ducheny), also designated PRC section 6307. The Supreme Court dismissed review on January 4, 2006, because of the passage of SB 365. The Court of Appeal then issued its remittitur on January 17, 2006, sending the case back to the Sacramento Superior Court. On June 9, 2006, the Superior Court, as directed by the Court of Appeal, issued a peremptory writ of mandate ordering the Commission to “vacate and set aside the exchange approved by the Commission on September 17, 2001 and its termination of the public trust of the parcels that were part of the Exchange Agreement.”

The Commission complied with the order on March 4, 2008 (Minute Item #1). The consequence of setting aside the exchange and restoring the public trust to the Queensway Bay Parcels is that there are non-public trust related uses located on public trust lands. At the March 2008 meeting Commission staff represented that it would report back to the Commission on the progress of discussions with the City to resolve the conflict over the uses of the Queensway Bay Parcels.

STATUS UPDATE ON THE NEGOTIATIONS FOR A PROPOSED TITLE SETTLEMENT AND LAND EXCHANGE:

Commission staff believes that the most appropriate mechanism to resolve the conflict over the uses of the Queensway Bay Parcels is a title settlement and land exchange agreement pursuant to Public Resources Code section 6307, whereby the State’s public trust interest would be terminated in the Queensway Bay Parcels in exchange for the impressing the public trust on other lands more beneficial to and in furtherance of the public trust.

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Commission staff and City staff have been involved in cooperative and extensive negotiations over the past three years on such a title settlement and land exchange. The City has nominated certain parcels for acquisition by the State including Colorado Lagoon, Bixby Park, Bluff I Park and Bluff II Park. Commission staff has analyzed these parcels and believes that a combination of Bixby Park, a portion of Bluff 1 Park, and Colorado Lagoon would be appropriate parcels for the State to receive, subject to the public trust, in a title settlement and exchange. As part of the agreement, Commission staff would then seek legislation to include these parcels in the City's trust grant.

Commission staff had anticipated that negotiations and details on the title settlement and land exchange would be completed by the Commission's April 6th meeting. However, there are some additional technical details, such as finalizing legal descriptions, which remain incomplete. While Commission staff believes that it is therefore premature to bring the subject agreement to the Commission for its final consideration at this time because of these minor final details, Commission staff and City staff are very close to finalizing agreement terms that provide benefits to the public trust, the City, and the State. Therefore, staff recommends that the Commission direct staff to continue working with City staff on finalizing details of a title settlement and land exchange with the objective of presenting a proposed agreement to the Commission for consideration at its next meeting.

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

Find that the activity is not subject to the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15060(c)(3) because the activity is not a project as defined by Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

AUTHORIZATION:

Direct staff to continue working with City of Long Beach staff on a title settlement and land exchange agreement with the objective of presenting a proposed title settlement and land exchange agreement to the Commission for consideration at its next meeting.