MINUTE ITEM

This Calendar Item No. C41 was approved as Minute Item No. 41 by the California State Lands Commission by a vote of 3 to 0 at its 04-05-04 meeting.

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J. Clark
D. Plummer

CONSIDER MEMORANDUM OF AGREEMENT REGARDING HONEY LAKE MANAGEMENT AND TRANSFER

PARTIES:

Honey Lake Conservation Team (consisting of the Trust For Public Lands, The Center For Urban Watershed Renewal, The Bioengineering Group, and Michael Baker, Jr., Engineering Inc.).

California State Lands Commission

PROPOSAL

Staff proposes that the Commission enter into a Memorandum of Agreement (MOA) with members of the Honey Lake Conservation Team (HLCT) to define the roles and responsibilities of State Lands and the HLCT and its respective members in order to: 1) manage and administer the Honey Lake Primary Parcel while such lands are in the interim possession and control of a HLCT member; and 2) identify the actions necessary to transfer the Primary Parcel to the Commission with the mutual goal of this transfer occurring on or before August 30, 2005.

BACKGROUND:

Honey Lake, located south of Susanville in Lassen County, is a shallow, alkaline lake with no outlet. It is considered a temporal lake, where lake levels can significantly fluctuate from season-to-season and year-to-year. In drought years, the lake may become completely dry, whereas in wet years, lake level can reach several feet in depth.

In 1933, the State of California ceded the lands comprising the bed of Honey Lake (approximately 62,100 acres) to the United States for military operations related to the

Sierra Army Depot. The transfer of the Honey Lake bed to the U.S. was subject to a reversionary interest in the State should the Army cease military operations there.

While in federal ownership, the Army utilized certain portions of Honey Lake during drought years for demolition of excess ammunition and munitions testing. As a result, approximately 4,500 acres, which includes a safety buffer, of the 62,100 acres of Honey Lake are potentially contaminated with ordnance and explosives. This parcel –called the OE Parcel–is not the subject of this Commission action, but does lie adjacent to the land addressed in the MOA. The U.S. Army, as the continuing owner, and the California Department of Toxic Substances Control (DTSC) --the state lead for OE remediation--are actively investigating the OE parcel and expect to select a remedy for this portion of the lakebed sometime in 2005. Large signs warning the public of the possible presence of submerged ordnance and explosives are set throughout the safety zone perimeter.

The remaining 57,632 or so acres, the "Primary Parcel", was used for limited aerial gunnery from 1931 to 1932. Subsequent investigation led the Army, DTSC, and the Lahontan Regional Water Quality Control Board to conclude "no further action" was necessary on the primary Parcel. This means that response actions are either complete or not required and no additional actions are warranted. If, in the future, hazardous substances attributable to the Army are discovered on the Primary Parcel, the Army is required, under federal law, to address this problem and the Army has provided a covenant to return and take appropriate remedial action.

In 2003, the Army declared it no longer utilizes the bed of Honey Lake for support of its missions, and advertised the opportunity for nonprofit conservation organizations to submit applications to take title to the bed of the Honey Lake, subject to the State's reversionary interest. On September 24, 2003, the Primary Parcel was conveyed by the United States to the HLCT consisting of the Trust for Public Lands, a nonprofit California public benefit corporation ("TPL"), the Center for Urban Watershed Renewal (CUWR) The Bioengineering Group, Inc., a Massachusetts corporation ("TBG"), and Michael Baker, Jr., Inc. ("Baker"), a Pennsylvania corporation.

Since that time, Commission staff and the HLCT have held numerous discussions on how the HLCT can manage and administer Honey Lake on an interim basis consistent with the State's public trust obligations. This MOA establishes the goals, roles and responsibilities of the Commission and the HLCT while the Primary Parcel is in the interim possession and control of CUWR Honey Lake LLC.

The MOA commits the HLCT to undertake several actions including: 1) the development of, and funding to implement, a comprehensive Honey Lake Management

Plan; 2) the development of, and funding to implement, a Cultural and Historical Resources Preservation Plan; 3) the development of, and funding to implement, a conservation strategy for the Carson Wandering Skipper, a federally listed endangered species; 4) confirmation through analytical testing that the Primary Parcel in fact does not require any environmental remediation; 5) funding to resolve any encroachments that may have occurred onto the Primary Parcel during federal ownership; 6) the hiring of a full-time land manager to investigate habitat improvement projects and serve as community liaison for the HLCT.

The MOA also identifies the necessary steps and actions that must occur for the Commission to consider the reversion of the Primary Parcel back to the State. The Commission's consideration for accepting fee ownership of the Primary Parcel will be a separate Calendar Item that will be presented at a later date. Staff intends to submit the Honey Lake Management Plan and associated CEQA documentation to the Commission for adoption at that time.

It is therefore proposed that the Commission authorize the Executive Officer to execute the MOA substantially as set forth in Exhibit A.

STATUTORY AND OTHER REGULATIONS

Senate Bill No. 573, Chapter 845 (1933).

OTHER PERTINENT INFORMATION:

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA staff has determined that this activity is exempt from the requirements of CEQA as a statutorily exempt project. The project is exempt because it involves a feasibility or planning study for possible future action which the Commission has not approved, adopted, or funded.

Authority: Public Resources Code section 21102 and Title 14 Cal. Code Regs., section 15262.

EXHIBIT:

A. Memorandum of Agreement

PERMIT STREAMLINING ACT DEADLINE:
N/A

RECOMMENDED ACTION:
IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIRMENTS OF CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21102 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15262. THE PROJECT IS EXEMPT BECAUSE IT INVOLVES A FEASIBILITY OR PLANNING STUDY FOR POSSIBLE FUTURE ACTION WHICH THE COMMISSION HAS NOT APPROVED, ADOPTED OR FUNDED.

AUTHORIZATION:

1. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE THE MEMORANDUM OF AGREEMENT SUBSTANTIALLY AS SET FORTH IN EXHIBIT A.

2. AUTHORIZE COMMISSION STAFF TO TAKE WHATEVER ACTION IS NECESSARY AND APPROPRIATE TO CARRY OUT THE PROVISIONS OF THE MEMORANDUM OF AGREEMENT.

EXHIBIT A

HONEY LAKE PRIMARY PARCEL
MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("Agreement") is made this _____ day of April, 2004 by and between the California State Lands Commission ('State Lands") and the Trust for Public Land, a nonprofit California public benefit corporation ("TPL"), CUWR Honey Lake, LLC, a California nonprofit limited liability company ("CUWR"), The Bioengineering Group, Inc., a Massachusetts corporation ("TBG"), and Michael Baker, Jr., Inc. ("Baker"), a Pennsylvania corporation. TPL, CUWR, TBG and Baker may be referred to hereinafter collectively as the Honey Lake Conservation Team ("HLCT").

SECTION I PURPOSE

This Agreement defines the goals, roles and responsibilities of State Lands and the HLCT and its respective members to: 1) manage and administer the Honey Lake Primary Parcel in a manner consistent with the HLCT's conservation obligations and not inconsistent with State Lands' public trust responsibilities while such lands are in the interim possession and control of CUWR Honey Lake LLC, and 2) identify the actions necessary to transfer the Primary Parcel to the State of California, acting by and through State Lands, with the mutual goal of this transfer occurring on or before August 30, 2005.

SECTION II DEFINITIONS

Access easement: Ingress and egress easement from Susanville Road to the Southeast boundary of the meander line of Honey Lake for the provision of public access to Honey Lake, dated September 22, 2003 as set forth in Exhibit 3.

Agreement: This Memorandum of Agreement by and between the California State Lands Commission ('State Lands") and the Honey Lake Conservation Team ("HLCT")

Army: United States Department of the Army

Army Deed: Deed conveying the Honey Lake Primary Parcel from the United States, acting by and through the Army, to CUWR Honey Lake, LLC, dated September 24, 2003, attached as Exhibit 1 hereto.

Army EA: Environmental Assessment performed by the Army to transfer the Primary Parcel to CUWR Honey Lake LLC dated September ___, 2003.

Baker: Michael Baker, Jr., Inc., a Pennsylvania corporation

CEQA: California Environmental Quality Act

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Conveyance Agreement: Agreement entered into by and between the Army, TPL, CUWR, TBG and Baker, dated on or about September 9, 2003, pertaining to the conveyance of the Primary Parcel.

CUWR: CUWR Honey Lake, LLC, a California nonprofit limited liability company.

DTSC: California Department of Toxic Substance Control.

Environmental Access Agreement: Easement reserved by the Army in the Army Deed to CUWR Honey Lake LLC in the event the Army needs to undertake response or correction action on the Primary Parcel.

FOST: Finding of Suitability to Transfer issued by the Army dated _____.

Historical Preservation Covenant: Historical Preservation Covenant, contained within the Army Deed, resulting from Army compliance with Section 106 of the National Historic Preservation Act.

HLCT: Honey Lake Conservation Team designation, for reference purposes, consisting of CUWR, and the contractors Baker, TBG, and TPL working on the Honey Lake Primary Parcel with CUWR; however, nothing contained herein is intended to or should be interpreted to suggest any relationship between these parties other than independent contractors, and said parties specifically disclaim any partner or joint venture relationship between themselves.

Honey Lake EA's: Phase I and limited Phase II Environmental Assessments of the Primary Parcel performed by Baker dated September ___, 2003.

Kapiloff Land Bank Fund: The fund created pursuant to California Public Resources Code section 8600 et seq. in which moneys from CUWR Honey Lake LLC will be deposited as set forth in this Agreement.

LIFOC: Lease in Furtherance of Conveyance by and between the Army and CUWR relative to the OE Parcel, dated September 30, 2003, attached as Exhibit 2 hereto.

Management Plan: Honey Lake Management Plan.

Primary Parcel: That certain portion of the bed of Honey Lake, comprising approximately 57,632 acres, more or less, as more particularly described in Exhibit A to Exhibit 1 of this Agreement.

OE parcel: That certain portion of the bed of Honey Lake containing ordnance and explosives, comprising approximately 4,868 acres, more or less, as more particularly described in Exhibit A to Exhibit 2 hereto.

Parties: The signatories to this Agreement.

State: State of California, acting by and through State Lands Commission.

State Lands: California State Lands Commission.

TBG: The Bioengineering Group, Inc., a Massachusetts corporation.

TPL: The Trust for Public Land, a nonprofit California public benefit corporation.

USFWS Agreement: Agreement reached with the United States Fish and Wildlife Service and the Army, dated August 15, 2003, as part of a required Section 7 consultation pursuant to the federal Endangered Species Act, attached as Exhibit 4 hereto.

SECTION III BACKGROUND

In 1933, the State of California ceded all right, title, and interest in the lands comprising the bed of Honey Lake, as set forth in Senate Bill 573, Chapter 845 of California Statutes of 1933, to the United States for aerial training, military camps, and other federal purposes. This legislation conditioned the cession of the bed of Honey Lake to the United States on the State being entitled to the immediate reversion of said lands, to reenter and take possession as if the cession had never been made, should the United States abandon the said lands or determine not to utilize said lands for the purposes specified in Senate Bill 573.

Since 1933, the Army has utilized portions of the bed of Honey Lake for multiple purposes including gunnery training, demolition of excess ammunition, and munitions testing. As a result, certain areas within the bed of Honey Lake may contain hazardous substances in the form of ordnance and explosives that remain from the Army's prior use of the property. In 2003, the Army declared it no longer utilizes the bed of Honey Lake for support of its missions, and declared the property excess subject to the provisions of the Federal Base Closure and Realignment Act (BRAC) of 1990. US Public Law 101-510; 10 U.S.C. § 2687 The Army identified no willing federal agency to accept a transfer of the bed of Honey Lake.

The Army then advertised the opportunity for nonprofit organizations to submit applications to take title to the bed of the Honey Lake, while preserving the State of California's reversionary interest. Section 2812 of US Public Law 107-314 allows the Secretary of a military department to convey excess property suitable for conservation

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purposes to a nonprofit organization that exists for the primary purpose of conservation of natural resources on real property.

Subsequently, the Army selected the HLCT which has consisted of the Trust for Public Lands, a nonprofit California public benefit corporation, The Center for Urban Watershed Renewal, a Connecticut nonprofit corporation whose designee and assignee for all purposes related to Honey Lake is CUWR Honey Lake, LLC, a California nonprofit limited liability company, The Bioengineering Group, Inc., a Massachusetts corporation, and Michael Baker, Jr., Inc., a Pennsylvania corporation, as the successful applicants for the conveyance of title and performance of certain tasks pertaining to those portions of Honey Lake that were in a condition for them to be successfully conveyed pursuant to 10 U.S.C. § 2694a.

While the HLCT was negotiating with the Army for the conveyance of the Primary Parcel, HLCT, acting by and through TPL primarily, periodically kept State Lands informed of its negotiations with the Army. On September 24, 2003, 57,632 acres, more or less, of Honey Lake (the "Primary Parcel") was conveyed by the United States to CUWR Honey Lake, LLC, pursuant to the Army Deed, the property description of which is attached hereto as Exhibit A of Exhibit 1 and incorporated herein by reference. The remaining 4,868 acres, more or less, of Honey Lake (the "OE Parcel"), constitutes the acreage of the bed of Honey Lake where the Army historically conducted munitions demolition activities, plus a safety buffer, which is the subject of the LIFOC and is described in Exhibit A of Exhibit 2 hereof.

CUWR, TBG, TPL and Baker entered into a Conveyance Agreement with the Army to perform certain services and functions in relation to the Primary Parcel. CUWR, Baker and TPL have also entered into an MOA and additional discussions on certain other agreements for the performance of certain services in connection with the Primary Parcel. Nothing contained in this Agreement is intended to or shall modify or affect any agreements between CUWR and Baker and TBG and TPL.

SECTION IV PRIMARY PARCEL MANAGEMENT

The Parties agree that the HLCT, while CUWR holds title to the Primary Parcel, has or will perform the following activities. The State agrees to consult with and provide cooperation and guidance to HLCT during its performance of the following activities.

Activities previously accomplished:

A. Investigate the presence, if any, of RCRA metals, TNT, RDX, and perchlorate, on surface and/or groundwater as appropriate, on the Primary Parcel. HLCT has provided State Lands with all final reports and analytical results prepared by the HLCT relative to these compounds.

B. Hire a full or part-time local land use manager to assist in the development and implementation of the aforementioned Management Plan, provide local land stewardship, and participate in community outreach activities relating to the Primary Parcel management. State Lands acknowledges and agrees that Baker has been retained and will serve as said manager.

Activities in process and to be accomplished

A. Develop a Honey Lake Management Plan ("Management Plan") to be considered for adoption by State Lands. This Plan is intended to guide State Lands in evaluating resource management activities on the Primary Parcel and fulfill its resource protection and land use mandates. This activity includes the development of appropriate CEQA environmental documents also for adoption by State Lands and will require HLCT participation with State Lands in community workshops and public meetings from time to time.

B. Develop a Carson Wandering Skipper conservation strategy plan ("Conservation Strategy") for approval by the United States Fish and Wildlife Service (USFWS). It is the Parties' intent and belief that this Conservation Strategy will be incorporated into the Management Plan, subject to Section V. B. below, for State Lands' consideration for adoption.

C. Develop a Historic and Cultural Resource Preservation Plan for approval by the Army. It is the Parties' intent and belief that this plan will be incorporated into the Management Plan, subject to Section V.E. below, for State Lands' consideration for adoption.

D. Investigate and undertake habitat restoration and/or enhancement projects on the Primary Parcel, or adjacent to the primary parcel with willing adjoining landowners to satisfy the conservation strategy actions approved by the USFWS and paid for from the existing USFWS Agreement funds. State Lands will be notified at least thirty days in advance of any on-the-ground restoration or enhancement activities occurring, including, but not limited to, installing or removing fencing, earth moving (i.e., levee creation or modification) surface or groundwater management activities, or exotic weed eradication, except if emergency action is necessary which can be undertaken immediately with notice to be provided as soon thereafter as reasonably practicable.

E. HLCT and State Lands will make good faith reasonable efforts to address and resolve any concerns raised by local authorities related to this Agreement, including issues related to civil and criminal jurisdiction. During the term of this Agreement, as part of the management of the Primary Parcel, HLCT will attend designated meetings of local and other constituencies. Written summaries of any such meetings attended shall be provided in a timely manner to State Lands. If there are particular meetings to be conducted that State Lands desires be attended, State Lands shall notify HLCT of said desire no less than two weeks prior to the

meeting, and HLCT shall make reasonable efforts to have said meeting attended and to provide a report to State Lands regarding said meeting.

F. Provide copies of keys, maps, and other reasonably available, relevant materials to State Lands upon request.

G. Manage and administer the Primary Parcel as set forth in its Conveyance Agreement with and Deed from the Army and at all times in a manner consistent with State Lands' public trust responsibilities, but in no case in contravention of the Army's Conveyance Agreement or Deed which otherwise binds the HLCT.

SECTION V CONVEYANCE REQUIREMENTS

The Parties agree that, unless otherwise agreed to in writing by the Parties, the following matters must be accomplished for the conveyance of the Primary Parcel from CUWR Honey Lake LLC to the State and agree to cooperate in good faith and use diligent efforts to accomplish the matters until completed:

A. Transfer Mechanism, Title and Deed Restrictions

The Parties contemplate that conveyance of the title to the Primary Parcel will be by Quitclaim Deed from CUWR to the State of California subject to the Environmental Access Easement. In addition to the Deed, there shall be conveyed to the State all of CUWR's right, title and interest in and to the Access Easement, provided, however, that CUWR shall be entitled to reserve for itself or its assigns the right to the non-exclusive use of the Access Easement for purposes of using same to access the OE Parcel. The Primary Parcel will be conveyed by Quitclaim Deed in an "As Is, Where Is" condition: (1) without any representation, warranty, or guarantee as to quantity, quality, title, character, condition, size, or kind, or that the same is in condition or fit to be used for the purpose for which it is intended by the State; (2) without obligation on the part of CUWR or the other HLCT members to make any alterations, repairs, response actions, or additions except as agreed upon by the Parties under this Agreement; (3) CUWR and the HLCT members shall not be liable for any latent or patent defects or conditions. Subsequent to the delivery and acceptance of the deed, CUWR and the HLCT members shall have no obligation whatsoever to warrant or defend title to the Primary Parcel with respect to any and all third party or State of California claims regarding easements, reservations, physical or environmental conditions, or restrictions encumbering or that potentially may encumber the Primary Parcel.

B. Assignment of USFWS Agreement

At the closing of the conveyance of the Primary Parcel from CUWR to the State there may be assigned to State Lands by CUWR, and assumed by State Lands all rights and obligations, along with any commensurate remaining monies, if any, under the terms

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and conditions of the USFWS Agreement. The Parties recognize and agree that the consideration of the USFWS-approved Carson Wandering Skipper Conservation Strategy plan by State Lands and its implementation is subject to CEQA and certain activities in the Strategy could be modified upon CEQA environmental review by State Lands. The Parties agree that upon any assignment of the USFWS Agreement and the receipt by State Lands of the commensurate remaining monies, if any, that CUWR and any other member of the HLCT shall have no further rights, duties or obligations thereunder and shall be fully released, exonerated and discharged therefrom unless agreed to in advance, in writing, by the Parties. The assignment and full release shall be in a form mutually agreeable to the Parties, and sufficient to fully and finally release and discharge CUWR, its parent, the HLCT entities and CUWR's predecessor in interest in the Primary Parcel from any and all duties, responsibilities, liabilities, claims, demands, causes of action, damages, costs, fees and other obligations, financial or otherwise, known or unknown, arising from or in connection with the USFWS Agreement.

C. Potential Title and Encroachment Issues

The Parties acknowledge and stipulate that there may exist certain boundary line definitional issues and potential encroachments by third parties on the Primary Parcel. The Parties desire to address these issues by the conveyance to the State of California by CUWR of certain funds which the State of California may, in its discretion, use to identify, review and resolve encroachment issues, or otherwise as it deems fit. At closing of the conveyance of the Primary Parcel to the State, or at such other time as the Parties may mutually agree to in writing, in exchange for the delivery of funds in the amount of $500,000 to State Lands, the State shall, in a form mutually agreeable to the Parties, fully and finally release, exonerate and discharge CUWR, its parent, the other HLCT entities, and CUWR's predecessor in interest from any and all duties, responsibilities, liabilities, claims, demands, causes of action, damages, costs, fees, and other obligations, known or unknown, arising from or associated with any and all such claims relating to title, the boundary of the Primary Parcel and any encroachments thereon. These funds will be deposited into the Kapiloff Land Bank Fund as further set forth in PRC 8625.

D. Creation and Adoption of a Honey Lake Management Plan and Associated CEQA Environmental Documentation

A Honey Lake Management Plan (the "Management Plan"), and the associated CEQA environmental documentation, for the Primary Parcel will be jointly prepared by the HLCT and State Lands. HLCT shall advise of the progress and status of the Management Plan, shall provide drafts of the Management Plan to State Lands, and shall consult and seek advice from State Lands regarding the content of the Management Plan. The State shall provide input and guidance to HLCT concerning the contents, requirements and adoption of the Plan and associated documentation.

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At the closing of the conveyance of the Primary Parcel from CUWR to the State, and the adoption of the Management Plan by State Lands, there shall be assigned to State Lands by CUWR, and assumed by State Lands, all rights and obligations of CUWR, and other HLCT entities under the terms and conditions of the Management Plan. The Parties agree that upon the adoption of the Management Plan by the State Lands Commission, that CUWR and all other HLCT entities shall have no further rights, duties or obligations thereunder and the State shall, in a form mutually agreeable to the Parties, fully and finally release, exonerate and discharge CUWR, its parent, the other HLCT entities, and CUWR's predecessor in interest from any and all duties, responsibilities, liabilities, claims, demands, causes of action, damages, costs, fees, and other obligations, known or unknown, arising from or associated with any and all such claims relating to said Management Plan

E. Cultural Resource Preservation

It is the Parties' intent and belief that, after conveyance of the Primary Parcel from CUWR to the State, the preservation of cultural resources by the State will continue in substantially the same form as the Historic Preservation Covenant in the Army Deed, and the approved Historic and Cultural Resource Preservation Plan, through a Memorandum of Understanding (MOU) between the California Office of Historic Preservation and State Lands. It is the also the Parties' intent and belief that this MOU will be incorporated into the Honey Lake Management Plan and agree to work together with all participants, as necessary, in order to develop and finalize this MOU. The Parties recognize and agree that the consideration of the approved Historic and Cultural Resource Preservation Plan by State Lands and its implementation is subject to CEQA and certain activities in said Plan could be modified upon CEQA environmental review by State Lands.

F. Allocation of Funds to State Lands

HLCT members have contractually undertaken certain obligations and duties in regard to the Primary Parcel, which, when performed over time, will result in the expenditure of funds to perform those various duties. To facilitate the conveyance of the Primary Parcel from CUWR to State Lands, CUWR will make certain funds available to State Lands as follows:

1. Within thirty (30) days of the execution of this Agreement by the Parties, CUWR shall cause the sum of One Hundred Twenty Five Thousand Dollars ($125,000) to be paid to State Lands in a manner dictated by State Lands, for use by State Lands in the performance of its various tasks and obligations under this Agreement. Additionally, CUWR shall cause an additional sum of One Hundred Twenty Five Thousand Dollars ($125,000) to be paid to State Lands in a manner dictated by State Lands, for use by State Lands in the performance of its various tasks and obligations under this Agreement, at some time during that period

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beginning September 24, 2004 and ending September 23, 2008, as determined by CUWR, but no later than the date of conveyance of the Primary Parcel from CUWR to State Lands, provided that and conditioned upon said conveyance occurring on or before September 23, 2008. These funds will be deposited into the Kapiloff Land Bank Fund as further set forth in Public Resources Code section 8625. To the extent that State Lands requires early release of half of the second $125,000 prior to the final conveyance of the Primary Parcel from CUWR to State Lands, a letter requesting the early release shall be submitted by State Lands to CUWR and CUWR will release $62,500 within 30 days of the receipt of said letter.

2. In recognition of the fact that the HLCT will have reduced certain obligations in connection with the management and other duties to be performed by them on the Primary Parcel for every year earlier than September 23, 2008, that State Lands has been conveyed the Primary Parcel and taken over the stewardship and responsibilities for same, CUWR shall pay, upon the conveyance of the Primary Parcel from CUWR to State Lands and the acceptance of State Lands of all responsibilities and obligations for the Primary Parcel, the sum of One Hundred Thousand Dollars ($100,000) for each full calendar year earlier than September 23, 2008, that State Lands is conveyed the Primary Parcel and accepts and undertakes all responsibilities and obligations for the Primary Parcel, as set forth in this Agreement. For instance, and only by way of example, if the Primary Parcel was conveyed to State Lands and State Lands accepted and undertook all responsibilities and obligations for the Primary Parcel on August 30, 2005, then upon the conveyance, a payment in the amount of Three Hundred Thousand Dollars ($300,000) would be made to State Lands; however, if the conveyance occurred and the responsibilities were accepted on September 30, 2005, then the payment would be in the sum of Two Hundred Thousand Dollars ($200,000). These funds will be deposited into the Kapiloff Land Bank Fund for the management and improvement of real property held by State Lands as further set forth in Public Resources Code section 8625.

G. Cooperation Between the Parties

The Parties agree to cooperate in good faith to resolve any issues that may arise during the course and scope of this Agreement. Additionally, HLCT shall provide reasonable cooperation to State Lands in attempting to resolve issues that may arise between State Lands and the United States in connection with the Primary Parcel and the OE Parcel, during the time before the Primary Parcel is conveyed to State Lands.

H. Documents To Be Provided to State Lands

The following final, executed and, if applicable, recorded documents have been provided to State Lands:

1. Conveyance Agreement between the Army and the HLCT members;

2. Army Quitclaim Deed;

3. Access Easement;

4. Army EA;

5. Honey Lake EA, which includes an analysis for lead;

6. Finding of Suitability for Transfer ("FOST");

7. USFWS Agreement;

8. Terms of the Historical Preservation Covenant;

9. Insurance policies evidencing State of California as an additional insured on the general liability and umbrella policies obtained for Honey Lake;

10. Analyses of the Primary Parcel for perchlorates and of various water samples

State Lands will review these documents within 120 days upon receipt from the HLCT

Section VI. Presentations to State Lands Commission

HLCT representatives will attend and make presentations at up to four meetings of the State Lands Commission to provide information on the status of all points of agreement contained herein on the Primary Parcel. One of the four meetings shall be for the Commission's consideration of the conveyance of the Primary Parcel and the adoption of the Management Plan.

Section VII. No Effect on Reversionary Interest of State

Nothing in this Agreement affects or modifies the State's reversionary interest in the bed of Honey Lake as a whole, including the Primary Parcel and the OE Parcel.

Section VIII. Meetings Between the Parties

In addition to the presentations set forth in Section VI, representatives of the Parties agree to engage in face-to-face meetings on a regular basis with regard to the status of performance under the terms of this Agreement and the readiness of State Lands to adopt the Management Plan and to accept conveyance of the Primary Parcel. The schedule for such meetings shall be established by the Parties, but in no event, not less than every calendar quarter unless otherwise agreed to by the Parties. The Parties acknowledge and agree that communications between the Parties shall be much more frequent whether by mail, email, telephone conference or other mechanisms.

Section IX. Reconveyance Conditions

The Parties agree that upon the performance and accomplishment of the activities set forth in Sections IV and V, and set forth below, the State will accept the conveyance of the Primary Parcel and all ancillary obligations associated therewith and the State shall execute and grant a release and discharge to CUWR, its parent, the other HLCT entities in the form mutually acceptable to the Parties, which instrument shall fully and finally release, exonerate and discharge CUWR, its parent, the other HLCT entities from any and all duties, responsibilities, liabilities, claims, demands, causes of action, damages, costs, fees, and other obligations, known or unknown, arising from or associated with any and all such claims relating to any further obligations and undertakings associated with the Primary Parcel unless otherwise contracted for:

A. Review by State Lands of all materials and documents provided to State Lands by HLCT entities, which review will be accomplished no later than 120 days upon receipt.

B. Negotiation, as applicable, and the final form of the following documents, which shall be accomplished by the Parties no later than July 2005.

   1. Quitclaim Deed of Conveyance

   2. Assignment of Access Easement

   3. Assignment of USFWS Agreement

   4. Assignment of Management Plan

   5. Completion of CEQA environmental documentation

C. Final State Lands approval of the conveyance and ancillary obligations shall be scheduled for the State Lands Commission meeting next following the accomplishment of the various tasks outlined and detailed above with the mutual goal of this approval occurring on or before August 30, 2005.

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Section X. Communications Between the Parties

In order to facilitate efficient and economical communications between the Parties, the Parties designate the following contact persons for purposes of conveying communications with the stipulation and understanding that each of the contact persons identified below shall be responsible for the timely delivery to all other persons associated with that party all communications so made, provided however, that any party may designate a substitute contact person or change its address by giving notice to each of the other parties:

CUWR Contact

CUWR Honey Lake LLC
3623 Leeds Manor Road
Markham, Va. 22643
Attn: Charles N. Steele
Tel: (540) 364-2117
Fax: (540) 364-1237
Email: csteele@cuwr.org and cnsteele@direcway.com

With a copy to:

Peter J. Feuerbach, Esquire
Rubin and Rudman, LLP
50 Rowes Wharf
Boston, Massachusetts 02110
Tel.: (617) 330-7136
Fax: (617) 439-9556
Email: pfeuerbach@rubinrudman.com

TPL Contact:

Michael J. Gage
Regional Director
The Trust for Public Land
418 Montezuma; Second Floor
Santa Fe, NM 87501
Tel: (505) 988-5922, Ext. 24
Mobile: (505) 670-8813
Fax: (505) 988-5967
Email: mike.gage@tpl.org

with a copy to:

Peter N. Ives
The Trust for Public Land
418 Montezuma; Second Floor
Santa Fe, NM 87501
Tel: (505) 988-5922, Ext. 24
Mobile: (505) 670-8813
Fax: (505) 988-5967
Email: peter.ives@tpl.org

TBG Contact:

Ms. Wendi Goldsmith
President
The Bioengineering Group, Inc.
18 Commercial Street
Salem, MA 01970
Tel: (978) 740-0096
Fax: (978) 740-0097

Baker Contact:

Mr. John D. Whiteford
Executive Vice President
Michael Baker Jr., Inc.
Airside Business Park
100 Airside Drive
Moon Township, PA 15108
Tel: 412/269-6300
Fax: 412/375-3982

State Lands Contact:

Jonathan W. Clark, Esq.
California State Land Commission
100 Howe Ave. Suite 100 South
Sacramento, CA 95825
Fax: (916) 574-1850

with a copy to:

Dave Plummer
California State Land Commission
100 Howe Ave. Suite 100 South

Sacramento, CA 95825
Fax: (916) 574-1925

Section XI. Term of this Agreement

The term of this Agreement shall be from the date of execution of this Agreement by all Parties to and through September 23, 2008. The Parties acknowledge and aver their intent and obligation to use diligent efforts to accomplish the conveyance of the Primary Parcel from CUWR to State Lands as soon as possible and well in advance of the termination date of this Agreement.

Section XII. Miscellaneous Provisions

A. Right to Inspect Primary Parcel. From the date that all Parties have executed this Agreement until 11:59 p.m. on August 30, 2008, unless the Primary Parcel is conveyed prior to that time, State Lands, by and through its employees, agents, or contractors, and at their sole cost and expense, may enter upon the Primary Parcel for the purpose of making inspections and investigations, regarding the Primary Parcel (the "Inspection Period"). All such inspections shall be coordinated with CUWR and its on-site manager at least one week in advance of the inspection. All samples or results of investigations and assessments shall be made available to CUWR, and release of information by State Lands that is the result of investigations and assessments shall be coordinated with CUWR in advance of release. The State Lands releases, indemnifies and holds harmless CUWR and its parent and the other HLCT members and their respective employees, directors, officers, members, shareholders and agents from any liability associated with damage or injury to State Lands and/or its employees, contactors, agents, or others during inspection period, except for damage or injury arising from the intentional or grossly negligent acts or omissions of CUWR, or the other HLCT entities and/or their employees, contactors or agents. The State Lands shall be liable for any releases of hazardous substances on the Primary Parcel solely caused by the activities of State Lands and/or its employees, contactors, or agents. The State Lands shall not damage the Primary Parcel while performing such inspections, investigations or testing and shall be responsible for restoring the Primary Parcel to its original condition if this transaction does not close. In the event that any investigation performed by State Lands prior to transfer identifies any issues or conditions relating to the Primary Parcel which are of concern or are unacceptable to State Lands, then State Lands shall bring said matters to the attention of HLCT immediately. The State Lands and HLCT shall negotiate in good faith to try to resolve said issues.

B. Risk of Loss. All risk of loss shall remain with CUWR until Closing.

C. Automatic Termination. In the event that the Primary Parcel is not conveyed by September 23, 2008 by a duly executed quitclaim deed, this Agreement shall terminate without further notice and without further recourse to the State or HLCT.

D. Closing Fees. The State Lands shall pay for the cost of any transfer or real property tax stamps, if any, associated with the conveyance of the Primary Parcel.

E. Notices. All notices pertaining to this Agreement shall be in writing and delivered pursuant to the communications provisions set forth above in Section X, by facsimile transmission, by commercial express courier service or by first class United States mail, postage prepaid, addressed to the persons to receive notice at the addresses set forth in Section X. Such notice shall be deemed timely if it is deposited in the mail, first class postage prepaid, telecopied or delivered personally by courier or Express Mail, or by facsimile transmission. All notices given personally, or by commercial express courier service shall be deemed given when delivered. All notices given by mail shall be deemed delivered when deposited in the mail, first class postage prepaid, addressed to the person to be notified. All notices transmitted by facsimile shall be deemed delivered when transmitted. Any entity designated to receive notice may, by notice as provided above, designate a different address to which notice shall be given.

F. Broker's Commission. All signatories to this Agreement warrant that other than the Parties hereto no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

G. Assignment and Binding on Successors. Except as set forth herein, this Agreement shall inure to and be binding, not only upon the signatories, but also upon their heirs, assigns, and other successors in interest. CUWR may assign its obligations and rights hereunder to a qualified nonprofit conservation entity acceptable to the State Lands and such acceptance shall not be unreasonably withheld, whereupon State Lands shall grant a release to CUWR and the other HLCT members from their respective obligations hereunder.

H. Additional Documents. The signatories agree to execute and/or provide such additional documents as may be reasonable and necessary to carry out the provisions of this Agreement.

I. Entire Agreement; Modification; Waiver. This Agreement constitutes the entire agreement between the signatories pertaining to the subject matter contained in it and supersedes all prior agreements, representations, and understandings. This Agreement shall be construed without regard to any presumption or other rule requiring construction against any person causing this Agreement to be drafted. No supplement, modification, waiver or amendment of this Agreement shall be binding unless specific and in writing executed by the signatory against whom such supplement, modification, waiver or amendment is sought to be enforced. No delay, forbearance, or neglect in the enforcement of any of the conditions of this Agreement or any rights or remedies hereunder shall constitute or be construed as a waiver thereof. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.

J. Dispute Resolution. Except as otherwise set forth herein, any dispute arising between the signatories to this Agreement concerning the applicability, interpretation, or implementation of any provision of this Agreement shall be resolved in accordance with the provisions of this paragraph.

1. Prior to initiating this dispute resolution process, representatives of the signatories who are responsible for implementation of this Agreement shall attempt to resolve the dispute in good faith. If no such resolution is possible, such representatives shall elevate the issue to their respective supervisors, who shall also attempt to resolve the dispute in good faith. The Parties agree to good faith mediation, if necessary, to resolve any outstanding disputes.

2. In addition to the rights and obligations arising under this Agreement, the signatories retain their rights and obligations under law. This Agreement shall be enforceable in accordance with applicable laws in any court of competent jurisdiction.

K. Anti-Deficiency Act. The Parties acknowledge that the United States retains certain rights and obligations in connection with the Primary Parcel. The signatories acknowledge that the United States' obligation to pay or reimburse any money under its obligations and rights is subject to the availability of appropriated funds, and nothing in this Agreement shall be interpreted to require obligations or payments by the United States in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

L. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same Agreement.

M. Severability. Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.

N. Governing Law. This Agreement shall be governed by and construed in accordance with California law.

O. Possession. Possession of the Primary Parcel shall be delivered on the date of Closing in substantially the same condition as it is on the date hereof and/or as required pursuant to the terms of this Agreement, except for changes arising out of work performed pursuant to this Agreement or other agreements and requirements including without limitation the Conveyance Agreement, Army Deed, LIFOC, USFWS Agreement, Management Plan, Conservation Strategy, laws and regulations, or acts of nature.

P. Headings. The headings used in this Agreement are for convenience of reference only and shall not operate or be construed to alter or affect the meaning of any of the provisions hereof.

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Q. Time is of the Essence. Time is of the essence in this Agreement.

R. Dates. In the event that any of the deadlines set forth herein end on a Saturday, Sunday or legal holiday, such deadline shall automatically be extended to the next business day which is not a Saturday, Sunday or legal holiday. The term "business days" if used herein shall mean all days that are not on a Saturday, Sunday, or legal holiday.

S. Nothing contained in this Agreement will make or will be construed to make the signatories partners or joint venturers with each other.

T. The State Lands acknowledges and agrees that, except as otherwise provided by law, no trustee, officer, director, shareholder, member, employee, agent, equity owner, attorneys, or representative of CUWR, or the other HLCT members shall have any personal liability under this Agreement.

U. No Third Party Rights. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the signatories hereto and their respective legal representatives, successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

V. Authority: Each of the undersigned warrants and represents that he/she is legally authorized to execute this Agreement on behalf of his/her entity and to legally bind his/her entity to the terms and conditions of this Agreement.

Section XIII. List of Exhibits.

Exhibit 1: Army Deed
Exhibit 2: LIFOC
Exhibit 3: Access Easement
Exhibit 4: USFWS Agreement

IN WITNESS of the foregoing provisions, the signatories have executed and delivered this Agreement as of the date set forth below.

STATE OF CALIFORNIA,
acting by and through the
California State Lands Commission

By: _____

Paul D. Thayer
Executive Officer:

Date: _____

CUWR Honey Lake LLC

By: _____
THE CENTER FOR URBAN WATERSHED RENEWAL, INC.

Charles N. Steele
Executive Director
Date: _____

THE BIOENGINEERING GROUP, INC.

By: _____
Wendi Goldsmith
President
Date: _____

MICHAEL BAKER, JR., INC.

By: _____
John D. Whiteford
Executive Vice President
Date: _____

THE TRUST FOR PUBLIC LAND,
a California non-profit, public benefit corporation:

By: _____
Michael J. Gage
Regional Director
Date: _____

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