

MINUTE ITEM

This Calendar Item No. C49 was approved as Minute Item No. 49 by the California State Lands Commission by a vote of 2 to 0 at its 06/07/04 meeting.

Minute Item
C49

06/07/04
PRC 8527, W25306
P. Griggs
J. Smith
J. Trout

CALIFORNIA STATE LANDS COMMISSION, IN ITS CAPACITY
AS THE KAPILOFF LAND BANK TRUSTEE,
AND HEARTHSIDE RESIDENTIAL CORP.
(APPLICANT)

Consent Calendar Item C49: Consideration of purchasing a temporary easement from Hearthside Residential Corp. The item was approved with the other consent items but the Executive Officer orally amended the cap from \$250,000 to \$75,000.

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AD 484

W 25306

S 35

PRC 8527

J. Trout

P. Griggs

J. Smith

CONSIDER PURCHASE BY THE CALIFORNIA STATE LANDS COMMISSION, IN ITS CAPACITY AS THE KAPILOFF LAND BANK TRUSTEE, AT NO MORE THAN FAIR MARKET VALUE, OF A TEMPORARY EASEMENT OF APPROXIMATELY 0.2555 ACRES AND, IN FEE, OF APPROXIMATELY 0.022 ACRES OF LANDS FROM HEARTHSEID RESIDENTIAL CORP. SITUATED IN ORANGE COUNTY, ADJACENT TO PUBLIC TRUST LANDS PREVIOUSLY PURCHASED FOR THE BOLSA CHICA LOWLANDS RESTORATION PROJECT, USING PROJECT MITIGATION FUNDS, FOR PACIFIC COAST HIGHWAY RIGHT OF WAY TO BE SUBSEQUENTLY TRANSFERRED TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION UNDER SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE, AND OF AN EASEMENT FOR A SUBSURFACE SEAWATER INTRUSION CUTOFF WALL, TO ACCOMMODATE THE RESTORATION PROJECT.

PARTIES:

California State Lands Commission, in its capacity as the Kapiloff Land Bank Trustee

Hearthside Residential Corp.
6 Executive Circle, Suite 250
Irvine, CA 92614

BACKGROUND: In 1996, the Commission, along with seven other State and federal agencies (the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, 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) signed an Interagency Agreement to buy, plan, design, construct and maintain the Bolsa Chica lowlands to mitigate the impacts of expanding facilities for the Ports of Los Angeles and Long Beach. The Ports of Los Angeles and Long Beach contributed \$79.7 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

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\$1,500,000 (which includes a \$500,000 grant from the U.S. Fish and Wildlife Service.) All these funds were placed in the Kapiloff Land Bank Fund for the purpose of completing the Restoration Project. The Restoration Project is directed by a federal/state interagency Steering Committee of representatives of each of the above listed agencies. The U.S. Fish and Wildlife Service will oversee construction of the project. The U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers were the lead agencies pursuant to the National Environmental Policy Act (NEPA) process and the Commission acted as Lead Agency for the California Environmental Quality Act (CEQA) review.

At its meeting on February 12, 1997, the Commission authorized the purchase of approximately 880 acres of the Bolsa Chica lowlands from the Signal Bolsa Corporation, a subsidiary of Koll Real Estate Group. At that same meeting, the Commission authorized the acceptance of an approximately 25-acre parcel from the Bolsa Chica Land Trust for inclusion in the Restoration Project.

The Project consists of two key phases. Phase I, which is scheduled to begin later this year, will restore the ecological function of the existing wetland area by increasing tidal influence and open water habitat by dredging a tidal basin within the existing wetlands and connecting it directly to the Pacific Ocean through a tidal inlet. Phase II is scheduled to occur in 2024, or at the time when the oil fields have reached their productive limit and are abandoned.

SUMMARY: As a requirement of the Project, it will be necessary to construct certain highway improvements for Pacific Coast Highway (State Route 1). Those improvements, between Warner Avenue and Seapoint Drive, consist of a new bridge and approach roadway to span the new tidal inlet to the Bolsa Chica Wetlands. Due to the configuration of the inlet, additional right-of-way is required by the California Department of Transportation (Caltrans) for the bridge and approach roadway. At its last meeting, the Commission approved transferring State-owned land for right-of-way to Caltrans pursuant to section 101.5 of the Streets and Highway Code.

Additional right of way is required for the bridge and approach roadway across private land owned by Hearthside Residential Corp. (Hearthside). Approximately 0.2555 acres of land are needed for a temporary detour of the highway during construction. Approximately 0.022 acres of land are needed for permanent right-of-way.

In addition, a right-of-way easement is required for a subsurface seawater intrusion cutoff wall across land known as the Fieldstone Property, also owned by Hearthside.

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Hearthside has agreed to provide a two-year easement to accommodate the highway detour, to sell, in fee, the parcel needed for the permanent highway right-of-way, and to provide the easement for the subsurface seawater intrusion cutoff wall to the State at a negotiated price not to exceed fair market value. Commission staff is currently performing appraisals of the property. The costs of these acquisitions, not to exceed \$250,000, would be paid from mitigation funds for the Bolsa Chica Lowlands Restoration Project held in trust in the Kapiloff Land Bank Fund for that purpose.

Although the State will be acquiring ownership of the minerals on the fee parcel, the property is subject to an oil and gas lease. The oil and gas royalty interests were severed by assignment long ago and the State will not receive royalties so long as the lease remains in effect. The existence of the lease will not affect the use of the property for its proposed highway right-of-way purposes.

OTHER PERTINENT INFORMATION:

1. Pursuant to section 101.5 of the Streets and Highway Code, the Commission is authorized to grant needed rights of way to the California Department of Transportation for highway purposes upon approval by the Commission of a map showing the area required. Approval of the right-of-way for this project is contingent upon proper filing of the 101.5 map showing the right of way in substantially the same location as the map on file in the Sacramento office of the Commission. In addition, the 101.5 map may show the temporary detour right-of-way while the permanent bridge is under construction if Caltrans chooses to acquire the detour right-of-way from the Commission. Construction of the bridge is expected to take about 18 months.
2. 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.

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15025), the staff 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.

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APPROVALS OBTAINED:

U. S. Army Corps of Engineers; Regional Water Quality Control Board; Coastal Commission.

EXHIBIT:

A. Location and Site Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

1. RE-ADOPT THE FINDINGS FOR THE 2001 BOLSA CHICA LOWLANDS RESTORATION PROJECT, MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15091, AND ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.
2. RE-ADOPT THE MITIGATION MONITORING PROGRAM PREPARED FOR THE 2001 BOLSA CHICA LOWLANDS RESTORATION PROJECT, IN CONFORMANCE WITH THE PROVISIONS OF THE CEQA (PUBLIC RESOURCES CODE SECTION 21081.6), AND ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.
3. RE-ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE 2001 BOLSA CHICA LOWLANDS RESTORATION PROJECT, MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15093, AND ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.

AUTHORIZATION:

1. FIND THAT THE COMMISSION IS ACTING IN ITS CAPACITY AS LAND BANK TRUSTEE UNDER THE KAPILOFF LAND BANK ACT.
2. FIND THAT THE PROPERTY BEING ACQUIRED IN FEE IS SUBJECT TO A CERTAIN PRE-EXISTING OIL AND GAS LEASE AND RELATED AGREEMENTS AND THEREFORE ADOPT THE

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FINDINGS CONTAINED IN PUBLIC RESOURCES CODE SECTION 8623:

- (1) A REASONABLE ATTEMPT HAS BEEN MADE TO ACQUIRE THE SUBSURFACE RIGHTS WITHOUT SUCCESS, (2) IT IS UNLIKELY THAT THE SUBSURFACE RIGHTS CAN BE ACQUIRED WITHIN THE PROVISIONS OF THIS DIVISION, (3) THE OUTSTANDING SUBSURFACE RIGHTS ARE NOT LIKELY TO UNREASONABLY DAMAGE OR INTERFERE WITH THE CONTEMPLATED PUBLIC TRUST USES FOR THE PARCEL, AND (4) THE PUBLIC BENEFITS TO BE DERIVED FROM ACQUISITION ARE SO SUBSTANTIAL THAT ACQUISITION OF THE PARCEL WITHOUT THE SUBSURFACE RIGHTS IS IN THE BEST INTERESTS OF THE STATE FOR THE PUBLIC PURPOSES SET FORTH IN THIS DIVISION
2. AUTHORIZE THE PURCHASE, NOT TO EXCEED \$250,000, OF THE INTERESTS IN LAND DESCRIBED HEREIN FROM MITIGATION FUNDS HELD IN TRUST IN THE KAPILOFF LAND BANK FOR THE BOLSA CHICA LOWLANDS RESTORATION PROJECT AT A PRICE NOT TO EXCEED THE FAIR MARKET VALUE AS DETERMINED BY THE COMMISSION'S STAFF APPRAISAL.
 3. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE AN AGREEMENT FOR THE PURCHASE OF THE INTERESTS IN LAND DESCRIBED HEREIN FROM HEARTHSIDE RESIDENTIAL CORP., SUBSTANTIALLY IN THE FORM ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION, AND TO EXECUTE ALL OTHER DOCUMENTS AND TO TAKE SUCH OTHER ACTIONS AS ARE REASONABLY REQUIRED OR MAY BE NECESSARY TO COMPLETE THE ACQUISITION AND TO CONVEY THE LANDS BEING ACQUIRED TO THE STATE TO COMPLETE THE RESTORATION.
 4. AUTHORIZE THE RIGHT-OF-WAY FOR THE PACIFIC COAST HIGHWAY DESCRIBED HEREIN TO BE INCLUDED IN THE PREVIOUSLY AUTHORIZED TRANSFER TO THE DEPARTMENT OF TRANSPORTATION UNDER SECTION 101.5 OF THE STREETS AND HIGHWAY CODE AS APPROVED ON APRIL 5, 2004. CONSIDERATION IS THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A

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MONETARY RENT IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST.

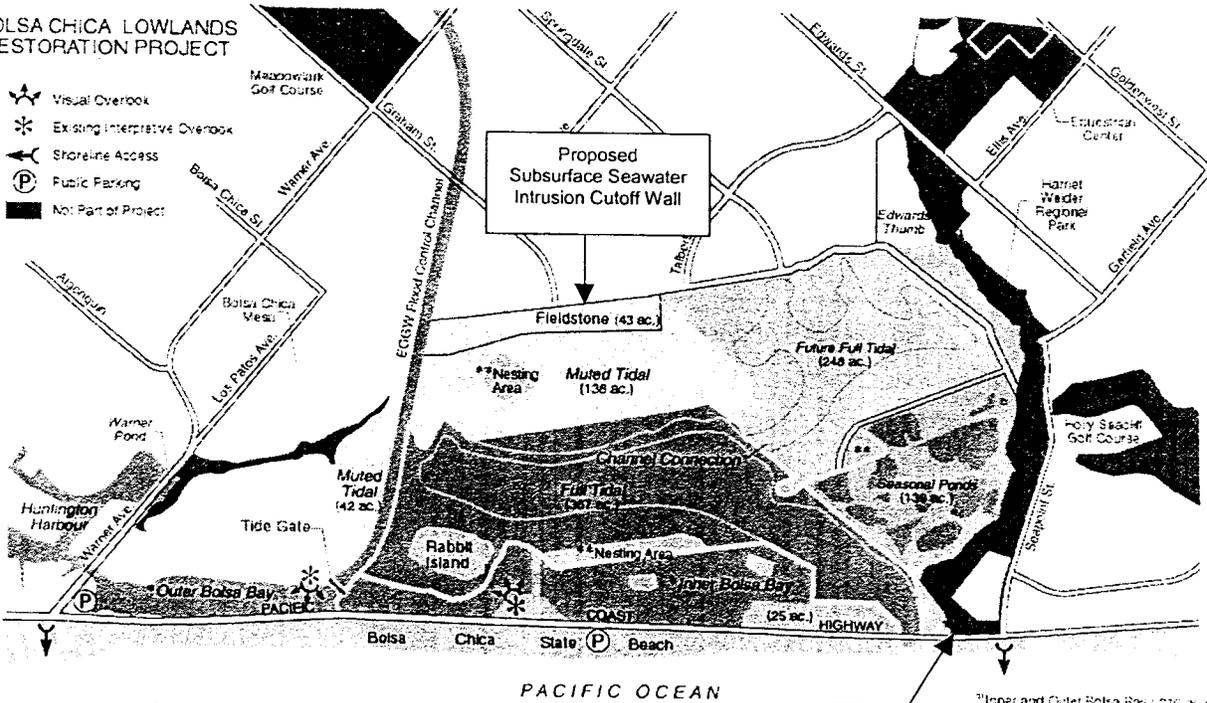
5. AUTHORIZE THE LEGAL STAFF OF THE COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ANY OTHER ACTIONS, INCLUDING LITIGATION, CONSISTENT WITH THIS AUTHORIZATION.

NO SCALE

SITE

BOLSA CHICA LOWLANDS RESTORATION PROJECT

- Visual Overlook
- Existing Interpretive Overlook
- Shoreline Access
- Public Parking
- Not Part of Project



Bolsa Chica Wetlands Steering Committee

Proposed Bridge Right-of-Way
 *Inner and Outer Bolsa Bay (200 ac.) Nesting Areas (20 ac.)
 July 2003

BOLSA CHICA LOWLANDS RESTORATION PROJECT

NO SCALE

LOCATION



Exhibit A
 W25306
 BOLSA CHICA
 ORANGE COUNTY



This exhibit is solely for purposes of generally showing the area, is based on unverified information, and is not intended to be, nor shall it be construed as a waiver or limitation of any State interest in the subject or any other property.

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