MINUTE ITEM
This Calendar Item No. C61 was approved as Minute Item No. 61 by the California State Lands Commission by a vote of 3 to 0 at its 8-17-04 meeting.

CALENDAR ITEM
C61

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08/17/04
AD 487 W 25306
J. Trout
P. Griggs
J. Smith

CONSIDER A TRANSFER OF JURISDICTION OF RIGHT OF WAY PARCELS NECESSARY FOR THE NEW BRIDGE AND APPROACH ROADWAY FOR PACIFIC COAST HIGHWAY TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION TO ACCOMMODATE THE BOLSA CHICA LOWLANDS RESTORATION PROJECT AND AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE AGREEMENTS TO IMPLEMENT THE TRANSFER OF JURISDICTION

PARTIES:

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

California Department of Parks and Recreation
1416 Ninth Street
Sacramento, CA 94296-0001

California Department of Transportation
District 12
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8894

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 $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 (the Metropolitan Water District parcel) for inclusion in the Restoration Project.

The Project consists of two key phases. Phase I, which is scheduled to begin later his 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.

The Commission has previously approved acquisition of the necessary rights-of-way; however, the approved means of transferring the rights-of-way to Caltrans was under Section 101.5 of the Streets and Highways Code. Caltrans has requested that it be given the option of acquiring the rights-of-way through a transfer of jurisdiction under Government Code section 14673 as an alternative to a transfer as provided by Section 101.5.

To facilitate construction of the project, staff recommends that the Commission authorize a transfer of jurisdiction to Caltrans for the rights-of-way as an alternative to the previous authorizations to transfer the rights-of-way as provided by Section 101.5 of the Streets and Highways Code.

The following authorizations are affected:

April 5, 2004, Calendar Item 62, General Lease – Public Agency Use, Pursuant to Section 101.5 of the Streets and Highways Code: that portion of Authorization 1 approving a transfer under Section 101.5 of the Streets and Highways Code.

June 7, 2004, Calendar item C50, Consider Acceptance of an Easement for the Tidal Inlet and Construction Staging Area for the Inlet, a Transfer of Jurisdiction for Right of Way Needed for the Future Pacific Coast Highway Bridge Across the Tidal Inlet from the Department of Parks and Recreation, and Subsequent Transfer of the Right-of-Way Area to the California Department of Transportation under Section 101.5 of the Streets and Highways Code, to Accommodate the Bolsa Chica Lowlands Restoration Project using Project Mitigation Funds: that portion of Authorization 5 approving a transfer under Section 101.5 of the Streets and Highways Code.

June 7, 2004, Calendar Item C49, 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 Hearthside 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: that portion of Authorization 4 approving a transfer under Section 101.5 of the Streets and Highways Code.

OTHER PERTINENT INFORMATION:

1. Government Code section 14673 provides, in part: "The jurisdiction of real property owned by the state may be transferred from one state

agency to another state agency with the written approval of the director [of the Department of General Services]."

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.

APPROVALS OBTAINED:

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

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 MADE 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, PUBLIC RESOURCES CODE SECTIONS 8600 *ET SEQ.*

2. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE AN AGREEMENT(S) FOR A TRANSFER OF JURISDICTION AS PROVIDED BY GOVERNMENT CODE SECTION 14673 TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR THE RIGHTS OF WAY NEEDED FOR THE PACIFIC COAST HIGHWAY BRIDGE AND APPROACH ROADWAY AS DESCRIBED HEREIN AND TO EXECUTE ALL OTHER DOCUMENTS AND TO TAKE SUCH OTHER ACTIONS AS ARE REASONABLY REQUIRED OR MAY BE NECESSARY TO COMPLETE THE TRANSFER. THIS AUTHORIZATION IS AN ALTERNATIVE (AT THE DISCRETION OF THE EXECUTIVE OFFICER OR HIS DESIGNEE) TO THE PREVIOUS AUTHORIZATIONS LISTED BELOW TO TRANSFER THE RIGHTS OF WAY AS PROVIDED BY SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE:

   A. APRIL 5, 2004, CALENDAR ITEM 62, GENERAL LEASE – PUBLIC AGENCY USE, PURSUANT TO SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE: THAT PORTION OF AUTHORIZATION 1 APPROVING A TRANSFER UNDER SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE.

   B. JUNE 7, 2004, CALENDAR ITEM C50, CONSIDER ACCEPTANCE OF AN EASEMENT FOR THE TIDAL INLET AND CONSTRUCTION STAGING AREA FOR THE INLET,

A TRANSFER OF JURISDICTION FOR RIGHT OF WAY NEEDED FOR THE FUTURE PACIFIC COAST HIGHWAY BRIDGE ACROSS THE TIDAL INLET FROM THE DEPARTMENT OF PARKS AND RECREATION, AND SUBSEQUENT TRANSFER OF THE RIGHT-OF-WAY AREA TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION UNDER SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE, TO ACCOMMODATE THE BOLSA CHICA LOWLANDS RESTORATION PROJECT, USING PROJECT MITIGATION FUNDS: THAT PORTION OF AUTHORIZATION 5 APPROVING A TRANSFER UNDER SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE.

C. JUNE 7, 2004, CALENDAR ITEM C49, 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 HEARTHSIDE 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: THAT PORTION OF AUTHORIZATION 4 APPROVING A TRANSFER UNDER SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE.

3. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE ALL OTHER DOCUMENTS AND TO TAKE ANY OTHER ACTIONS CONSISTENT WITH THIS AUTHORIZATION.

4. 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.