MINUTE ITEM

This Calendar Item No. C51 was approved as Minute Item No. 51 by the California State Lands Commission by a vote of 3 to 0 at its 12/9/04 meeting.

CALENDAR ITEM
C51

A 15

S 5

PRC 8587

12/09/04
W 40900
M. Le Clair

CONSIDER APPLICATION FOR A NEGOTIATED SUBSURFACE (NO SURFACE USE) OIL AND GAS LEASE AND CONSENT TO THE POOLING OF 8.75 ACRES OF LEASED LANDS, GEORGIANA SLOUGH, SACRAMENTO COUNTY

APPLICANT:

Towne Exploration Company
Attn.: Mr. Clifford L. Conkle
582 Market Street, Suite 515
San Francisco, CA 94104

AREA, LAND TYPE, AND LOCATION:

Approximately 8.75 acres of tide and submerged land in Georgiana Slough, Sacramento County, California.

BACKGROUND:

Towne Exploration Company (Towne) has submitted a complete application for a negotiated subsurface (no surface use) oil and gas lease on about 8.75 acres in Georgiana Slough, Sacramento County (Exhibit A, attached hereto). Towne has also requested that, simultaneously with the issuance of the oil and gas lease, approval be granted to include the lease in a pooled unit. Because the State land is a waterway, surface locations for oil and gas operations (drill sites) are not available. However, oil and gas resources that may underlie the State land can be developed and protected pursuant to the California State Lands Commission's (Commission) negotiated subsurface (no surface use) oil and gas lease which would permit Commission-approved slant drilling from a county-approved drill site and would permit inclusion of the leased lands in a Commission-approved pooled area or unit. Paragraph 22 of the proposed lease provides the Lessee, with the consent of the State and under terms and conditions approved by the State, to pool or unitize all or part of the leased lands with lands held by the Lessee or others.

Public Resources Code section 6815(a) authorizes the Commission to negotiate and enter into oil and gas leases on State lands if any of the following exists: wells drilled on private or public lands are draining or may drain oil and gas from the State lands, the Commission determines the State lands to be unsuitable for competitive bidding because of such factors as their small size or irregular configuration or their inaccessibility from surface drill sites reasonably available or obtainable, the State owns a fractional mineral interest in the lands, or the Commission determines the lease to be in the best interests of the State.

Because the Applicant controls, by lease and agreement, all of the private property adjacent to the State land described in Exhibit A, attached hereto, and because the Applicant has county (Lead Agency) approval to drill a well near the State land, and has drilled that well, Commission staff has concluded that the criteria of Public Resources Code section 6815(a) have been satisfied. A negotiated subsurface (no surface use) oil and gas lease with the Applicant will protect oil and gas resources that may underlie the State land which is unsuitable for competitive bidding because surface drill sites are not available and wells drilled on the adjacent private property may drain State oil and gas resources.

Towne has drilled and completed the Transamerica 1-20 well. The well is capable of commercial natural gas production. Towne has proposed an operating unit containing approximately 96.64 acres of State and private leased land (described in Exhibit B, attached hereto). The proposed unit would be called "Transamerica 20-1 Unit" and would be created for the development and production of natural gas. Towne has requested that the entire 8.75 acres of State land (under the proposed lease) be included in the unit. The State's unit share will include the entire lease being applied for, and represent approximately 9.06 percent (9.06%) of the unit. Staff has evaluated the geology and reviewed the proposed unit and has determined that the share of the State's pooled acreages appear to be fair and equitable. Commission staff has determined that it will be economically advantageous to the State to share in the production from the proposed unit.

BASIS FOR CONSIDERATION:

1. Public Resources Code section 6829.2, Public Resources Code section 6832 and Paragraph 22 of the proposed oil and gas lease (Exhibit C, attached hereto).

OTHER PERTINENT INFORMATION:

1. On October 30, 2003, the Department of Conservation, Division of Oil, Gas and Geothermal Resources issued Permit 603-446 to Conduct Well Operations at the project location. The construction of the well pad and subsequent construction of a short gathering line to an existing meter station is located within existing agricultural areas.

2. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. However, the Commission has declared that all state school lands and submerged lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code sections 6370, et seq., use classifications for such lands have not been designated. 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.

3. 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 because the CEQA applies only to projects, which have the potential for causing a significant effect on the environment. The staff believes, based on the information available to it, that there is no possibility that this project may have a significant effect on the environment.

   Authority: Title 14, California Code of Regulations, section 15061 (b) (3).

4. Drilling term of five (5) years. However, if all or part of the leased lands are included in a Commission-approved pooled area or unit, then drilling operations on and production from lands pooled or unitized with the leased lands shall be deemed to be drilling operations on and production from the leased lands that are included in the Commission-approved pooled area or unit.

5. Annual rental of $25 per acre ($225.00 for approximately 8.75 acres).

6. Royalty of 22 percent on gas and oil.

7. Performance bond or other security in the sum of $10,000.00.

PERMIT STREAMLINING ACT DEADLINE:
April 18, 2005

EXHIBITS:
A. Site Map
B. Land Description
C. Proposed Declaration of Pooling

RECOMMENDED ACTION:
IT IS RECOMMENED THAT THE COMMISSION:

CEQA FINDING:
1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUNT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THERE IS NO POSSIBILITY THAT THE ACTIVITY MAY HAVE A SIGNIFICAN EFFECT ON THE ENVIRONMENT; TITLE 14, CALIFORNIA CODE OF REGULATION, SECTION 15061 (b) (3).

OTHER FINDING:
1. DETERMINE THAT THE CRITERIA OF PUBLIC RESOURCES CODE SECTION 6815(a) HAVE BEEN MET, THAT A NEGOTIATED SUBSURFACE (NO SURFACE USE) OIL AND GAS LEASE IS THE BEST INSTRUMENT TO DEVELOP AND PROTECT OIL AND GAS RESOURCES THAT MAY UNDERLIE THE STATE LAND DESCRIBED IN EXHIBIT A, ATTACHED HERETO, AND THAT THE STATE LAND IS UNSUITABLE FOR COMPETITIVE BIDDING BECAUSE SURFACE DRILL SITES ARE NOT AVAILABLE AND WELLS DRILLED ON THE ADJACENT PRIVATE PROPERTY MAY DRAIN STATE OIL AND GAS RESOURCES.

AUTHORIZATION:
1. PURSUANT TO PUBLIC RESOURCES CODE SECTION 6815(a), ENTER INTO A NEGOTIATED SUBSURFACE (NO SURFACE USE) OIL AND GAS LEASE WITH TOWNE EXPLORATION COMPANY. THE LEASE WILL CONTAIN THE STATE LAND

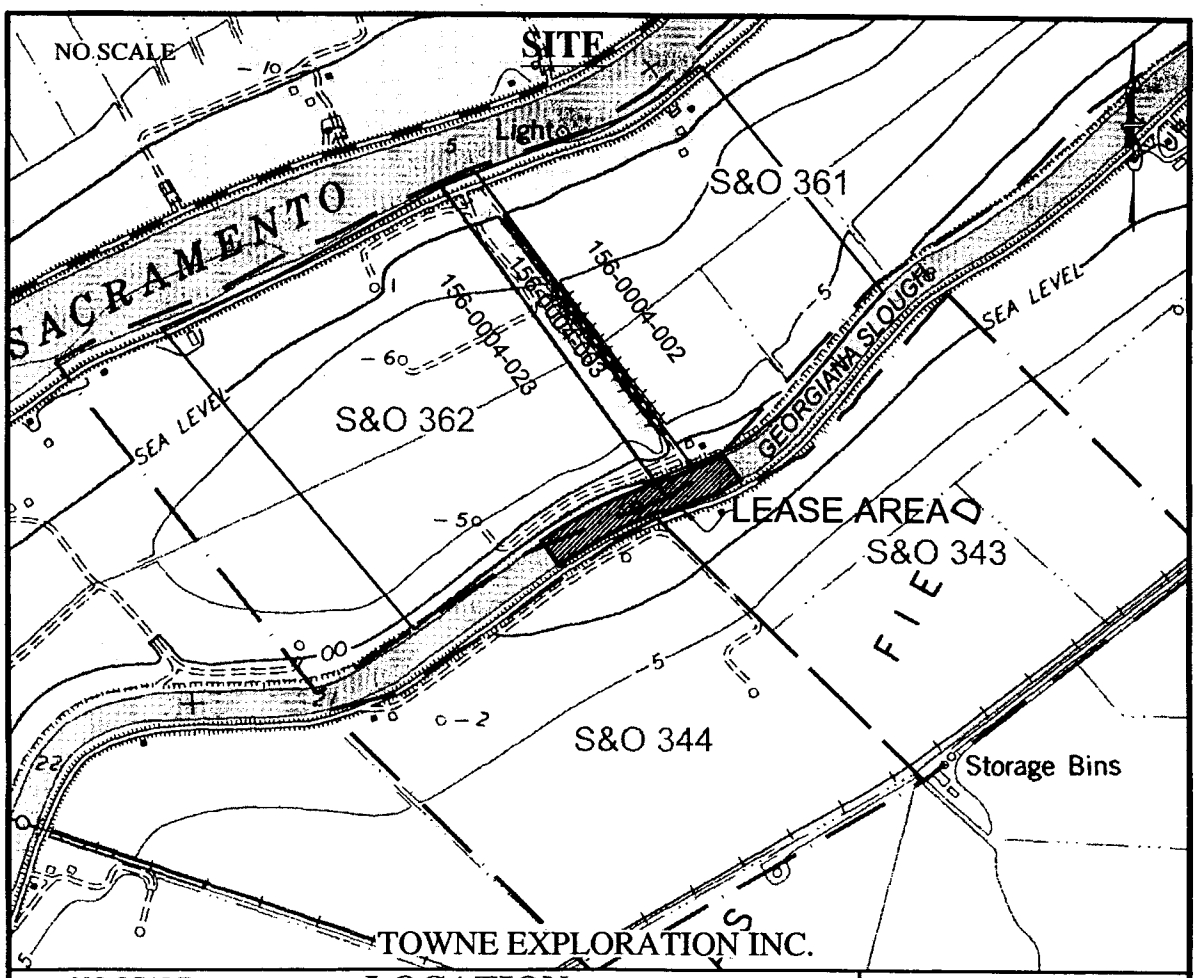
DESCRIBED IN EXHIBIT A, ATTACHED HERETO, (APPROXIMATELY 8.75 ACRES), A DRILLING TERM OF FIVE (5) YEARS, ANNUAL RENTAL OF $25.00 PER ACRE ($225.00 FOR APPROXIMATELY 8.75 ACRES), ROYALTY ON GAS SUBSTANCES AND OIL FIXED AT 22 PERCENT AND PERFORMANCE BOND OR OTHER SECURITY IN THE SUM OF $10,000.

2. CONSENT TO THE POOLING OF THE LEASED LANDS (8.75 ACRES UNDER THE PROPOSED OIL AND GAS LEASE) WITH OTHER PRIVATE LANDS HELD BY TOWNE EXPLORATION COMPANY. CONSENT IS GIVEN BY APPROVING TOWNE'S PROPROSED DECLARATION OF POOLING, WHICH CREATES THE "TRANSAMERICA 1-20 UNIT" DESCRIBED IN EXHIBIT C, ATTACHED HERETO, (APPROXIMATELY 96.64 TOTAL ACRES, INCLUDING 8.75 ACRES OF STATE LAND). THE UNITIZED LEASED LANDS SHALL BE SUBJECT TO THE PROVISIONS OF THE PROPOSED OIL AND GAS LEASE, ANY CONDITIONS IN THE DECLARATION OF POOLING TO THE CONTRARY NOTWITHSTANDING.

3. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENT NECESSARY TO IMPLEMENT THE COMMISSION'S ACTION.

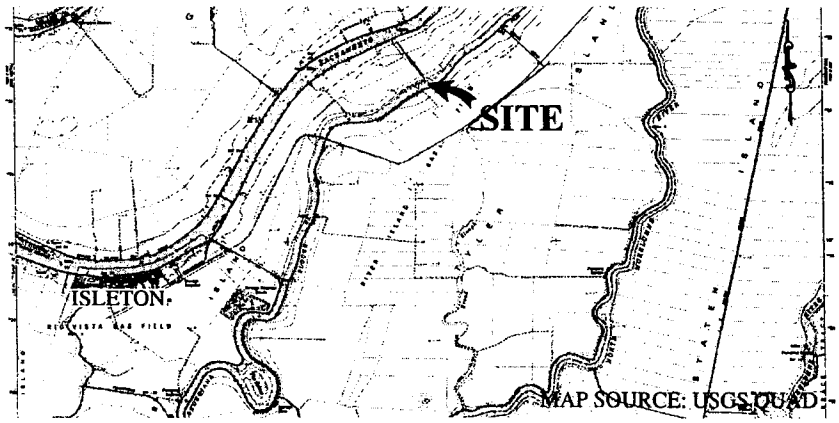
Exhibit A

W 40900



NO SCALE

LOCATION



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties 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.

W 40900
OIL AND GAS LEASE
GEORGIANA SLOUGH
SACRAMENTO COUNTY

Exhibit B

W 40900

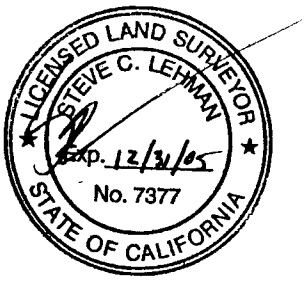
LAND DESCRIPTION

A parcel of tide and submerged land in the bed of Georgiana Slough, County of Sacramento, State of California, lying adjacent to portions of three parcels of land as recorded in; Book 261 official records Page 361 recorded November 6, 1907, Book 20041015 official records Page 655 recorded October 15, 2004, and in Book 20020822 official records Page 895 recorded August 22, 2003, and more particularly described as follows:

> Said parcel being bounded on the northeast by a line lying 500 feet northeast of and parallel with the southeasterly prolongation of the southwest line of said parcel deeded to Reclamation District 556 in Book 261 official records Page 361; bounded on the southwest by a line lying 900 feet southwest of and parallel to the southwesterly prolongation of the southwest line of said parcel; bounded on the northwest by the right bank of Georgiana Slough; bounded on the southeast by the left bank of Georgiana Slough.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of said Georgiana Slough.

Prepared by the California State Lands Commission Boundary Unit November 17, 2004



W 40900

Exhibit C

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO
TOWNE EXPLORATION COMPANY
582 MARKET STREET, SUITE 515
SAN FRANCISCO, CA 94104

PROPOSED

(AGREEMENT/DECLARATION)

DECLARATION OF POOLING

(Transamerica 20-1 Unit)

DECLARATION OF POOLING

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, TOWNE EXPLORATION COMPANY, a California limited partnership, hereinafter referred to as "Towne", and CAPITOL OIL CORPORATION, a California corporation, hereinafter referred to as "Capitol", are the present Lessees under the following Oil and Gas Leases ("said leases"), to wit:

1. Oil, Gas and Mineral Lease dated July 15, 2004, a Short Form of which was recorded in the Official Records of Sacramento County on July 22, 2004, Document Number 200407221421, by and between Edward B. Towne, as "Lessor", and Towne Exploration Company, as "Lessee";

2. Oil and Gas Lease dated May 15, 2004, a Memorandum of which was recorded in the Official Records of Sacramento County on June 14, 2004, Document Number 200406042247, by and between Transamerica Minerals Company, a California corporation, as "Lessor", and Towne Exploration Company, as "Lessee";

3. Oil and Gas Lease dated August 6, 2003, a Short Form of which was recorded in the Official Records of Sacramento County, Document Number, by and between Reclamation District 556, as "Lessor", and Capitol Oil Corporation, as "Lessee";

4. Oil, Gas and Mineral Lease dated April 1, 2004, a Memorandum of which was recorded in the Official Records of Sacramento County on, Document Number _____, by and between Lavenson Properties as "Lessor", and Towne Exploration Company, as "Lessee";

5. State Oil and Gas Lease issued December ___, 2004, made effective December ___, 2004, by and between the State of California acting through the State Lands Commission, "State", and Towne Exploration Company, "Lessee";

WHEREAS, said leases cover lands situated in Sacramento County, California, being more particularly described therein;

WHEREAS, by written agreement or by virtue of the provisions of said leases, the Lessee thereunder has been granted the right to combine all or any part of the land covered thereby with other lands so as to form the Transamerica 20-1 Operating Unit:

WHEREAS, Towne and Capitol deem it advisable to pool and combine certain of the lands covered by said leases in order to operate the premises for exploration for and production of natural gas and associated hydrocarbons substances;

NOW THEREFORE, Towne and Capitol, each to the extent of its interests in said leases or any of them and by virtue and in exercise of the rights granted therein, hereby consolidate, pool, unitize and combine each and every of said leases insofar and only insofar as the same cover those lands described in Exhibit "A" attached hereto and incorporated herein, into an operating unit for exploration for and production of natural gas and associated hydrocarbon substances, such unit to be comprised of 96.64 acres, more or less.

IN WITNESS WHEREOF, Towne and Capitol respectively have executed this Declaration of Pooling as of the dates set forth below.

TOWNE EXPLORATION COMPANY	**CAPITOL OIL CORPORATION**
_____	_____
By: Edward B. Towne, General Partner	By: Stephen D. Brooks, President
Dated: _____	Dated: _____

EXHIBIT "A"

Unincorporated area, County of Sacramento and State of California;

Those portions Swamp and Overflowed Land Surveys Numbered 343, 361 and 362 located within said county and state, and a portion of Georgiana Slough adjacent thereto, described as a whole as follows:

Beginning at a point on the Northwesterly line of Swamp and Overflowed Survey No. 361 and on the bank of the Sacramento River distant North 65° East 250.8 feet and North 71° 15' East 251 feet from a stake on the bank of the Sacramento River marked "Hensley Sharp", said stake being at the most Westerly corner of Survey No. 361; thence meander downstream South 71° 15' West 251 feet, South 65° West 250.8 feet, South 60° 45' West 446.82 feet, South 61° 30' West 325.38 feet, and South 67° 30' West 86.42 feet to a line parallel with and distant Southwesterly 900 feet from the Southwesterly line of said Swamp Land Survey No. 361; thence leaving said bank, South 36° 00' East 2556 feet along said line distant 900 feet from and parallel to the Southwesterly line of said Swamp Land Survey No. 361, to the Northerly or right bank of Georgiana Slough; thence continuing South 36° 00' East 270.50 feet, more or less to the Southerly or left bank of said Slough on the Northwesterly line of Swamp and Overflowed Land Survey No. 344 of said county and state; thence along said left bank, North 53° 21' 10" East 16.03 feet, North 57° 44' 40" East 288.53 feet, North 62° 52' 40" East 230.33 feet and North 69° 12' 10" East 177.43 feet to the most Northerly corner of said Swamp Land Survey No. 344; thence along the line between said Swamp Land Surveys Numbered 343 and 344, South 45° East 941.53 feet; thence North 46° 21' 06" East 567 feet to a point; thence North 37° 12' 29" West 3433 feet, more or less, to the point of beginning.

LEASE UNIT PARTICIPATION

1. Oil, Gas and Mineral Lease dated July 15, 2004, a Short Form of which was recorded in the Official Records of Sacramento County on July 22, 2004, Document Number 200407221421, by and between Edward B. Towne, as "Lessor", and Towne Exploration Company, as "Lessee"

   Unit Participation: 13.96 acres, more or less

2. Oil and Gas Lease dated May 15, 2004, a Memorandum of which was recorded in the Official Records of Sacramento County on June 14, 2004, Document Number 200406042247, by and between Transamerica Minerals Company, a California corporation, as "Lessor", and Towne Exploration Company, as "Lessee"

   Unit Participation: 48.52 acres, more or less

3. Oil and Gas Lease dated August 6, 2003, a Short Form of which was recorded in the Official Records of Sacramento County, Document Number _____, by and between Reclamation District 556, as "Lessor", and Capitol Oil Corporation, as "Lessee"

   Unit Participation: 13.94 acres, more or less

4. Oil, Gas and Mineral Lease dated April 1, 2004, a Memorandum of which was recorded in the Official Records of Sacramento County on, Document Number _____, by and between Lavenson Properties as "Lessor", and Towne Exploration Company, as "Lessee"

   Unit Participation: 11.47 acres, more or less

5. State Oil and Gas Lease issued December ___, 2004, made effective December ___, 2004, by and between the State of California acting through the State Lands Commission, "State", and Towne Exploration Company, "Lessee"

   Unit Participation: 8.75 acres, more or less

CALENDAR ITEM
C48

A
Statewide

12/9/2004
~~Bid Log~~C2004-044
W9777.234

S

M. Falkner, D. Brown

AS TRUSTEE OF THE KAPILOFF LAND BANK FUND, AUTHORIZE THE EXPENDITURE OF $200,000 FOR THE PURPOSE OF CONDUCTING RESEARCH INTO BALLAST WATER EXCHANGE VERIFICATION METHODOLOGY AND AUTHORIZE THE EXECUTIVE OFFICER TO AWARD AND EXECUTE AGREEMENTS AS NECESSARY TO CONDUCT SUCH STUDIES.

PARTY:

California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202

BACKGROUND:

In coastal marine ecosystems, ships are considered the transfer mechanism responsible for most historical and recent invasions by nonnative aequatic species (Cranfield et al. 1998, Hewitt et al., 1999, 2004; Ruiz et al., 2000, Fofonoff et al. 2003). Today, ballast water is considered the largest single vector whereby organisms are transported from points of origin and released variously at subsequent ports of call (e.g., Carlton and Geller 1993, Carlton et al. 1995).

In recent years, several policies have emerged that require ballast water treatment. California passed the Marine Invasive Species Act of 2003, which established a program for the management and control of ballast water carried into the State. The Act requires ballast water exchange (BWE) or an alternate approved treatment for all vessels intending to discharge ballast from foreign and some coastwise sources. The U.S. Coast Guard recently advanced mandatory regulations for treatment of ballast for all vessels delivering foreign ballast to any U.S. port. In addition, similar regulations exist in several countries, and the International Maritime Organization (IMO) has a convention awaiting ratification that specifies standards for the maximum concentrations of organisms allowed in ballast water discharge, as a target for ballast water treatment.

Although existing legislation and the IMO convention focus on ballast water treatment, especially new technologies, no alternatives to BWE have been approved for widespread application. Most technologies are now in a development and testing

phase, and it is likely to be a decade or more before such technologies can be implemented on many ships beyond a "demonstration" scale. Thus, BWE will remain a dominant treatment mode, and its use is being promoted by existing legislation.

Despite the widespread and growing application of BWE, there are several critical gaps in both understanding and verification of this management strategy including: a tool to verify whether ships have conducted BWE, a significant obstacle for enforcement, and resolving the issue of BWE effectiveness.

The Marine Invasive Species Act of 2003 (the Act) establishes a program for the management and control of ballast water carried into the State. Its purpose is to move the ~~s~~State expeditiously toward elimination of the discharge of nonindigenous species into the waters of the ~~s~~State or into waters that may impact the waters of the ~~s~~State, based on the best available technology economically achievable.

The Act requires the State Lands Commission (SLC) to

" . . .. identify and conduct any other research determined necessary to carry out the requirements of this division. The research may relate to the transport and release of nonindigenous species by vessels, the methods of sampling and monitoring of the nonindigenous species transported or released by vessels, the rate or risk of release or establishment of nonindigenous species in the waters of the state and resulting impacts, and the means by which to reduce or eliminate a release or establishment . . .." (Public Resources Code Section 71213).

PROPOSED ACTIVITY:

To meet this mandate, the Commission's Marine Facilities Division, has determined that research addressing methodology development for ballast water exchange verification was necessary.

In October 2003, the Commission, acting as Trustee for the Kapiloff Land Bank Fund ("the Fund"), accepted funds in the amount of $200,000 from Carnival Cruise Lines, a division of Carnival Corporation, and deposited in the Fund as settlement for certain questions regarding compliance with ballast water management requirements under Public Resources Code Sections 71200 *et seq.* ("the Act"). These funds were designated for projects relating to ballast water management under Public Resources code Section 71200 through 71271 and successor statutes.

Utilizing the aforementioned Kapiloff Land Bank Funds, Staff proposes entering into an agreement with the Smithsonian Environmental Research Center (SERC) to test explicitly the application of a Ballast Water Exchange verification (BWEv) methodology to vessel traffic arriving to ports along western North America.

In 2000, SERC initiated research for the US Coast Guard to investigate techniques that may be used to verify that a vessel has undertaken mid-ocean exchange. The preliminary results of that research have been extremely encouraging and provided an important 'proof-of-concept', suggesting that several trace elements, colored dissolved organic matter (CDOM), and radium isotopes can distinguish between open-ocean (exchanged) and coastal (unexchanged) water (Murphy et al. 2002, 2004).

The Commission's Marine Facilities Division has assisted the U.S. Coast Guard, Smithsonian Environmental Research Center, and Dakota Technologies since early 2001 on this research to identify repeatable indicators for verification of BWE.

The proposed research builds on this previous work by testing the application of the BWEv chemical tracer method for western North America. The tracer method relies upon consistent differences between oceanic and coastal (port) waters that are present both outside the ship (shipside) and inside ballast tanks. The tracers largely originate from land, declining in concentration with distance from shore, but this decay function is not well defined for western North America. Thus, for several key chemical tracers that are present in seawater, the specific goals are to: measure changes in shipside tracer concentration as a function of distance from shore, using voyages to and from west coast ports; and measure seasonal stability (variation) in tracer concentration as a function of distance from shore and also in several key west coast ports

STATUTORY AND OTHER REFERENCES:

A. Public Resources Code Section 6106 (Delegation to Execute written instruments)
B. Marine Invasive Species Act of 2003, Chapter 491, Statutes of 2003
C. Public Resources Code Section 8600 et seq.
D. State Administrative Manual Section 1200
E. State Contracting Manual (rev 11/04)

OTHER PERTINENT INFORMATION:

1. 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 because it involves an action taken pursuant to the Kapiloff Land Bank Act, Public Resources Code 8600, et seq.

Authority: Public Resources Code Section 8631.

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS,

SECTION 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTION 8631. AN ACTION TAKEN PURSUANT TO THE KAPILOFF LAND BANK ACT, PUBLIC RESOURCES SECTION 8600, ET. SEQ.

2. AS TRUSTEE, AUTHORIZE THE KAPILOFF LAND BANK FUNDS RECEIVED FOR THIS PURPOSE BE AVAILABLE FOR EXPENDITURES FOR BALLAST WATER EXCHANGE VERIFICATION RESEARCH AND OVERSIGHT ACTIVITES NOT TO EXCEED $200,000.

3. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO AWARD AND EXECUTE CONTRACT IN ACCORDANCE WITH STATE POLICIES AND PROCEDURES