MINUTE ITEM

This Calendar Item No. C65 was approved as Minute Item No. 65 by the California State Lands Commission by a vote of 3 to 0 at its 4-26-05 meeting.

CALENDAR ITEM
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CONSIDER ACCEPTANCE, AS A TRUSTEE OF THE KAPILOFF LAND BANK FUND, OF UP TO $250,000 FROM THE "COMMAND" NATURAL RESOURCE DAMAGE ACCOUNT WITHIN THE NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION FUND, AND AUTHORIZATION TO THE EXECUTIVE OFFICER TO TRANSFER UP TO $250,000 FROM THE KAPILOFF LAND BANK FUND TO THE COUNTY OF SAN MATEO.

PARTIES:

California State Lands Commission (CSLC), in its capacity as the Kapiloff Land Bank Trustee, US Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG), National Oceanic and Atmospheric Administration (NOAA), California Department of Parks and Recreation (State Parks), and the San Mateo County Parks and Recreation Foundation.

BACKGROUND:

On the evening of September 26, 1998, the tanker Command left San Francisco Bay bound for Panama. As it traveled in the southbound traffic lane off the San Francisco and San Mateo County coasts, it released an estimated 3,000 gallons of Intermediate Bunker Fuel (IBF) 380, also known as Fuel Oil No. 6. Due to light winds and fair weather, the oil moved little in the first few days, primarily staying in the vicinity of the southbound traffic lane. On September 30, however, oil began to wash ashore, largely in the form of scattered tarballs, over 15 miles of beaches, mainly in San Mateo County.

The Federal government and the State of California reached a settlement with the parties responsible for the Command spill. The terms of the settlement were memorialized in a Consent Decree, which was reviewed by a U.S. District Court and was subject to public comment prior to being entered by the Court on March 31, 2000. The natural resources damages portion of the settlement, together with interest earned on the entire settlement amount while held in escrow pending final Court approval of the settlement, was deposited into the Natural Resource Damage Assessment and

Restoration Fund created pursuant to 43 U.S.C. § 1474b ("NRDAR Fund") and has been maintained in a segregated account within the NRDAR Fund ("the *Command* NRD Account").

The USFWS, NOAA, CDFG, CSLC, and State Parks are Trustees for the natural resources injured by the spill (Command Trustees). The Trustees have jointly developed a Restoration Plan/Negative Declaration/Environmental Assessment to address restoration of the resources injured by the spill. The Trustees have authorized the expenditure of the NRD money for the design, implementation, permitting (as necessary), monitoring, and oversight of restoration projects, and for the costs of complying with the requirements of the law to conduct a restoration planning and implementation process. The public has had extensive opportunities to comment on the proposed restoration projects. The Trustees share responsibilities for the injured seabirds, habitat, and human use losses.

Section 8625 (c) of the Public Resources Code provides, as to the Kapiloff Land Bank Fund (Fund), "Any party may deposit moneys into the fund for the purpose of specified or unspecified projects to proved for management and improvement of real property held by the trustee to provide open space, habitat for plants and animals, and public access."

PROPOSED ACTIVITY:
Utilizing the aforementioned Kapiloff Land Bank Fund, staff proposes to accept funds from the "Command" Natural Resource Damage Account within the Natural Resource Damage Assessment And Restoration Fund and transfer it to San Mateo County Parks and Recreation Foundation to implement two of the human use loss restoration projects proposed in the Command Oil Spill Final Restoration Plan/Negative Declaration/Environmental Assessment. Those projects are:

1) Seal Cove Beach Access: At the Fitzgerald Marine Reserve, the project involves replacement of a heavily worn walkway/staircase to Seal Cove Beach, an intertidal area where guided interpretive walks are conducted. This walkway/staircase, which consists of older decomposing railroad timbers, traverses an 80-foot change in elevation. The proposed project would greatly enhance public access and public health and safety at this heavily used area.

2) Mirada Surf Improvements: Mirada Surf is a 49-acre parcel located at the south end of El Granada, a community in the unincorporated mid-coast area of San Mateo County. The Mirada Surf parcel has been identified for open space and park land on the local

coastal plan maps for over 20 years, but it was privately owned. Its mixed terrain supports numerous habitats, including coastal bluff, a creek with healthy native willows, seasonal wetlands, grasslands and forested hillsides. The Mirada Surf property is the missing link of the Coastal Trail between Pillar Point Harbor and Half Moon Bay. On August 4, 2003, the County of San Mateo took title to the Mirada Surf Oceanside parcel. The site will remain in permanent public ownership and is dedicated for open space and recreational activities. The Trustees propose to contribute funds to the implementation of the next phase of the project, specifically, the completion of the missing link of the coastal trail and coastal access improvements.

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, sections 8600, et seq.

   Authority: Public Resources Code section 8631.

2. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT 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 CODE SECTIONS 8600, ET SEQ.

2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION: AS TRUSTEES OF THE KAPILOFF LAND BANK

1. ACCEPT UP TO $250,000 FROM THE "COMMAND" NATURAL RESOURCE DAMAGE ACCOUNT WITHIN THE NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION FUND, UNDER THE CONDITIONS DESCRIBED ABOVE, AND

2. AUTHORIZE THE EXECUTIVE OFFICER TO TRANSFER UP TO $250,000 FROM THE KAPILOFF LAND BANK FUND TO THE COUNTY OF SAN MATEO FOR THE DESIGN AND IMPLEMENTATION OF THE TWO RESTORATION PROJECTS DESCRIBED ABOVE.