

MINUTE ITEM

This Calendar Item No. C18 was approved as
Minute Item No. 18 by the California State Lands
Commission by a vote of 3 to 0 at its
8/24/06 meeting.

**CALENDAR ITEM
C18**

A	67		08/24/06
		PRC8704	W 26166
S	35		J. Trout
			J. Brown

**CONSIDER EXECUTION OF AN INTERAGENCY AGREEMENT,
ISSUANCE OF GENERAL LEASE - PUBLIC AGENCY USE, AND
EXPENDITURE OF KAPILOFF FUNDS**

APPLICANT/PARTIES:

California Department of Fish and Game
1416 Ninth Street, 12th Floor
Sacramento, CA 95814

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

AREA, LAND TYPE, AND LOCATION:

948 acres, more or less, of Public Trust lands in the Bolsa Chica lowlands,
Orange County.

AUTHORIZED USE:

Management, operation and maintenance of the Bolsa Chica Lowlands
Restoration Project.

LEASE TERM:

33 years, beginning August 24, 2006.

CONSIDERATION:

The public use and benefit with the state reserving the right to fix a different rent
periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Applicant shall comply with the provisions of the Interagency Agreement for the
management, operation and maintenance of the Bolsa Chica Lowlands
Restoration Project.

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OTHER PERTINENT INFORMATION:

1. On August 17, 1973, the Commission authorized a lease of 327.5 acres to the California Department of Fish and Game (DFG) to manage the Bolsa Chica Ecological Reserve (Reserve), which is adjacent to the proposed project.

2. In 1996, the Commission and seven other State and federal agencies (the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service (USFWS), 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 (DFG)) signed an Interagency Agreement to buy, plan, design, construct and maintain the Bolsa Chica wetlands to mitigate the impacts of expanding facilities for the Ports of Los Angeles and Long Beach (Ports). The Ports contributed \$79.6 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 \$1.5 million (which includes a \$500,000 grant from the USFWS). A grant of \$10 million from Proposition 40 funds was provided by the Wildlife Conservation Board and an additional \$10 million has been approved by the California Coastal Conservancy. The Ports purchased additional mitigation credits for a further \$22.8 million. Funding of the Project from all sources is more than \$148 million including earned interest. These funds have been placed in the Kapiloff Land Bank Fund for the purpose of completing the Project. The Project has been directed by a federal/state agency steering committee of representatives from each of the Interagency Agreement participants mentioned above. The USFWS is completing oversight management of the construction contract.

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. On June 7, 2004, the Commission authorized the purchase of a 43-acre parcel from the Hearthside Residential Corporation to complete the total acreage involved with this proposed project. Together with the 327.5 acres acquired in 1973, the Commission now holds in trust 1275+ acres of lands at Bolsa Chica.

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The Restoration Project consists of two key phases. Phase I involves restoration of 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. Phase II, which will be the subject of a separate lease in the future, will restore the remaining area, and is scheduled to occur in 2024, or at the time when the oil fields operated by Aera Energy LLC have reached their productive limit and are abandoned. A fund to develop the future full tidal area in the approximate amount of \$2.5 million will be held in the Kapiloff Land Bank Fund until it is needed.

At the end of construction this Fall, it is expected that about \$12 million will be available for long-term operation and maintenance. This amount, to be held in the Kapiloff Land Bank Fund, is expected to be sufficient for a period of about ten years depending on the frequency required for dredging to keep the inlet channel open.

3. As the construction contract, which is being managed by the USFWS, nears completion, the ocean inlet will be opened during an especially low tide in late August or the first part of September 2006. The USFWS will continue oversight of any remaining construction contract issues and warranty claims through the warranty period ending one year after the Project's completion.

As contemplated by the 1996 Interagency Agreement, long-term management was offered to the USFWS and the DFG. The offer was declined by the USFWS. The DFG accepted the offer and the Interagency Agreement and Lease will be executed pending Commission approval to conduct long-term onsite land manager responsibilities for the management, operation and maintenance of the Project with guidance from the Bolsa Chica Wetlands Steering Committee and oversight from the Commission's Land Management Division staff.

DFG land manager responsibilities will include, but not be limited to: preparation of an annual management and budget plan for each fiscal year; preparation of an annual year-end management report; coordination with the oil field operator (Aera Energy LLC) on day-to-day site operations affecting oil operations; checking for evidence of trespass; performing monthly checks on Project features and functions; conducting quarterly mechanical functions of equipment; assisting with bird nest site

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maintenance; monitoring trails; managing predators; conducting annual nest site preparation and monitoring of threatened and endangered species; conducting weed removal; preparing a public access plan; and inspecting the oil service bridge.

Commission staff are in the solicitation process to contract out specialized services needed for the Project. Presently, this includes the environmental and biological monitoring required under the Project's permits and in the future, will include dredging necessary to keep the Project functioning as intended.

4. 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.

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.

5. The Bolsa Chica lowlands were acquired for the specific purpose of restoring the area as tidal wetlands as mitigation for development at the Ports of Los Angeles and Long Beach. The lowlands acquired for the Project are adjacent to the 327+ acre Bolsa Chica Ecological Reserve that has been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370-6377. The Reserve is already leased to DFG and includes Inner Bolsa Bay which is not a part of this project.

Although the Commission considers all lands "significant" by nature of their public ownership, use classifications, specifically designed to protect the significant environmental values of the area designated, are not assigned unless such lands have been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370-6377. The Bolsa Chica lowlands have been subjected historically to intensive modifications that eliminated its wetlands function, including, but

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not limited to, elimination of its access to the ocean and oil and gas production. Accordingly, the area was neither identified pursuant to Public Resources Code sections 6370-6377 nor assigned use classification; 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.

APPROVALS OBTAINED:

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

EXHIBIT:

A. Location and Site Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

RE-ADOPT THE FINDINGS FOR THE 2001 BOLSA CHICA LOWLANDS RESTORATION PROJECT ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION, MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15091.

RE-ADOPT THE MITIGATION MONITORING PROGRAM PREPARED FOR THE 2001 BOLSA CHICA LOWLANDS RESTORATION PROJECT ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION, IN CONFORMANCE WITH THE PROVISIONS OF THE CEQA (PUBLIC RESOURCES CODE SECTION 21081.6).

RE-ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE 2001 BOLSA CHICA LOWLANDS RESTORATION PROJECT ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION, MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15093.

AUTHORIZATION:

1. FIND THAT THE COMMISSION IS ACTING IN ITS CAPACITY AS LAND BANK TRUSTEE UNDER THE KAPILOFF LAND

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BANK ACT, PUBLIC RESOURCES CODE SECTIONS 8600 ET SEQ. FOR AUTHORIZATIONS 1A AND 1B.

- A. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE ON BEHALF OF THE COMMISSION, AN INTERAGENCY AGREEMENT #C2006-14 WITH THE CALIFORNIA DEPARTMENT OF FISH AND GAME AS CONTRACTOR WHO SHALL PROVIDE THE EQUIVALENT OF ONE FULL-TIME STAFF, WITH THE NECESSARY SUPERVISION MANAGEMENT AND SUPPORT, TO PERFORM THE RESPONSIBILITIES OF LAND MANAGER OF THE BOLSA CHICA LOWLANDS RESTORATION PROJECT, AS SPECIFIED WITHIN THE AGREEMENT, ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.
 - B. AUTHORIZE EXPENDITURES FROM THE KAPILOFF LAND BANK FUND FOR THE PURPOSES OF RESTORATION AND MANAGEMENT OF THE BOLSA CHICA LOWLANDS USING THE MITIGATION FUNDS HELD EXPRESSLY IN TRUST FOR SUCH PURPOSES, AND SUCH OTHER FUNDS AS MAY FROM TIME TO TIME BECOME AVAILABLE EXPRESSLY FOR THE SAME PURPOSES.
2. FIND THAT THE COMMISSION IS ACTING IN ITS OWN CAPACITY AND NOT AS LAND BANK TRUSTEE UNDER THE KAPILOFF LAND BANK ACT FOR AUTHORIZATIONS 2A, 2B AND 2C.
- A. AUTHORIZE ISSUANCE TO THE CALIFORNIA DEPARTMENT OF FISH AND GAME OF A GENERAL LEASE – PUBLIC AGENCY USE, FOR A TERM OF 33 YEARS BEGINNING AUGUST 24, 2006; FOR THE MANAGEMENT, OPERATION AND MAINTENANCE OF THE BOLSA CHICA LOWLANDS RESTORATION PROJECT ON THE LANDS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION IS THE PUBLIC USE AND BENEFIT WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE.

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- B. AUTHORIZE THE EXECUTIVE OFFICER, OR HIS DESIGNEE, TO SIGN APPLICATIONS ON BEHALF OF THE COMMISSION AS A CO-APPLICANT WITH OTHER STATE AND FEDERAL AGENCIES FOR PERMITS TO MAINTAIN THE PROJECT AS DESCRIBED IN THE EIR/EIS.

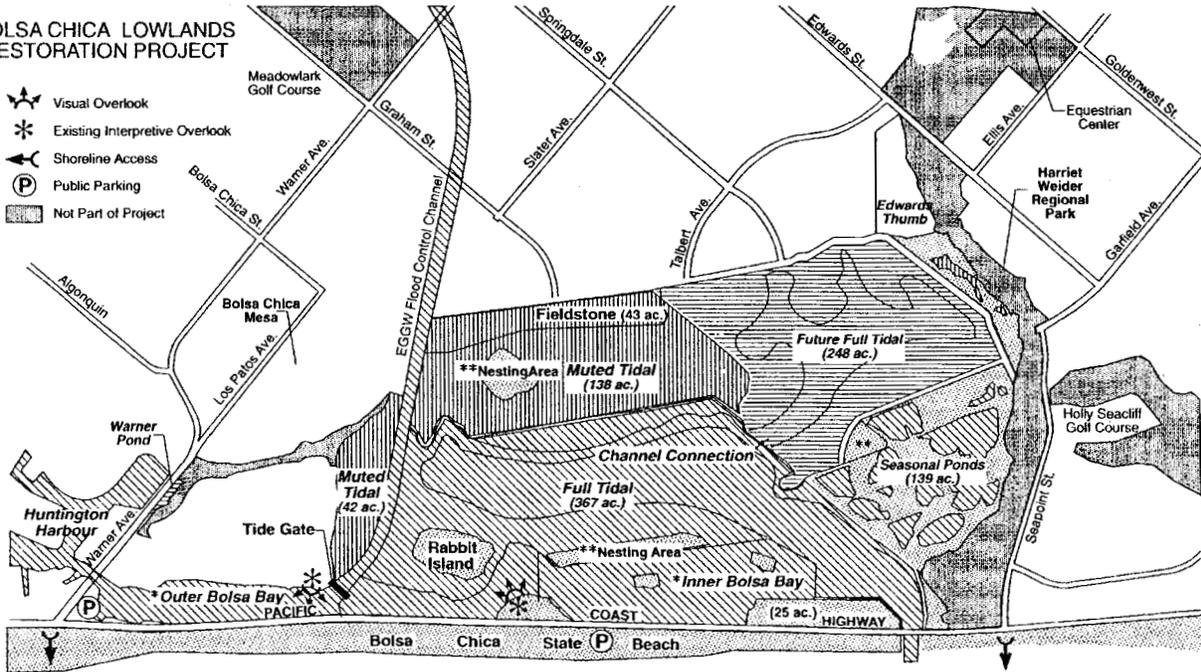
- C. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE ALL OTHER DOCUMENTS AND TO TAKE SUCH OTHER ACTIONS AS ARE REASONABLY NECESSARY TO ENSURE THE SUCCESSFUL OPERATION OF THE BOLSA CHICA LOWLANDS RESTORATION PROJECT.

NO SCALE

SITE

BOLSA CHICA LOWLANDS RESTORATION PROJECT

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



PACIFIC OCEAN *Inner and Outer Bolsa Bay (210 ac.)
 **Nesting Areas (20 ac.)

Bolsa Chica Wetlands Steering Committee

BOLSA CHICA LOWLANDS RESTORATION PROJECT

NO SCALE

LOCATION

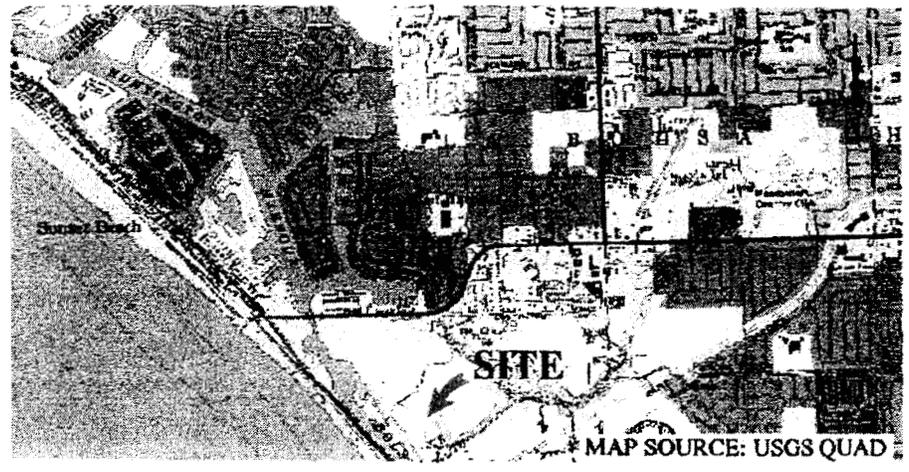


Exhibit A
W 26166
 CALIFORNIA DEPARTMENT
 OF FISH AND GAME
BOLSA CHICA
 ORANGE COUNTY



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.