

**STAFF REPORT
C81**

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CONSIDER AUTHORIZATION TO EXPEND MONEYS FROM THE KAPILOFF LAND BANK FUND FOR REMOVAL AND DISPOSAL OF ABANDONED VESSELS, MARINE DEBRIS, NAVIGATIONAL HAZARDS OR OBSTRUCTIONS, AND DERELICT STRUCTURES IN THE SAN FRANCISCO BAY AREA

PARTY:

California State Lands Commission

PROPOSED ACTION:

Staff proposes to use the funds in certain Kapiloff Land Bank subaccounts to remove and dispose of abandoned vessels, marine debris, navigational hazards or obstructions, and derelict structures in the San Francisco Bay area. The use of the funds would initially target abandoned vessels, marine debris, and dangerous unmaintained structures in the Crockett Marine Service marina in Crockett, Contra Costa County, and assist the East Bay Regional Park District in the removal of an abandoned vessel located at Point Richmond, also in Contra Costa County. Any remaining funds would be used for similar activities located in the area.

BACKGROUND:

Since the Great Recession, the state has experienced an increase in the number of watercraft being abandoned in State waterways, especially in the San Francisco Bay area and the Sacramento-San Joaquin Delta. In 2017, the California Department of Fish and Wildlife conducted an aerial survey of abandoned vessels in the Delta. The survey conservatively identified 250 abandoned vessels in the Delta. There are also many in tideland areas of the San Francisco Bay. If an abandoned vessel capsizes, settles, or sinks, toxic materials—petroleum products, antifreeze, batteries, hydraulic fluid, lead-based paint—can enter the waterway. In addition to the abandoned vessels, there is a significant amount of marine debris and dangerous unmaintained structures, including but not limited to, the remains of old piers, wharves, pilings, boathouses, sheds, breakwaters, bulkheads, and bank protection. These abandoned vessels, marine debris, and structures are a hazard to navigation and a threat to public health and safety and carry potentially significant liabilities to the State.

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Staff is currently working with other State and local agencies to address these hazards, but they are difficult to address due to the limited funding and lack of resources available. However, the Commission, as Trustee of the Kapiloff Land Bank Fund, currently has certain, limited moneys available to it to assist in the cleanup of these hazards.

The Kapiloff Land Bank Act (Act), Public Resources Code sections 8600 et seq., was enacted in 1982 with the Commission designated as the Land Bank Fund Trustee (Trustee). Pursuant to Public Resources Code section 8612.5, the Trustee is authorized to manage and improve real property for purposes of providing open space, habitat for plants and animals, and public access. Public Resources Code section 8613 subdivision (b) states that moneys deposited in the fund “shall be available for expenditure by the trustee for management and improvement of real property held by the trustee to provide open space, habitat for plants and animals, and public access.” Public Resources Code section 8625 subdivision (c) states that any party may deposit moneys into the fund for purposes of specified or unspecified projects to provide for access to or management and improvement of real property held by the Trustee to provide open space, habitat for plants and animals, and public access.

In March 1992, the Commission, in settlement of a dispute with Unocal, accepted money to be used for the promotion and enhancement of Public Trust purposes and resources in the local shoreline area of Rodeo in western Contra Costa County ([Item C18, March 2, 1992](#)). With accrued interest, the fund now totals \$511,710.29. Additionally, in March 2008, the Commission accepted a Kapiloff donation of \$98,200 from International–Matex Tank Terminals for regulatory violations at its marine oil terminal in Port Richmond ([Item C74, March 25, 2008](#)). The funds in this subaccount now total \$105,988.24. Lastly, staff proposes to use \$87,554.02 held in the Fund in lieu of a bond for the Crockett Marine Service, Inc., lease (Lease No. PRC 2546.1). As was intended, this money will go directly towards the cleanup in the marina.

The funds from these three subaccounts currently totals \$705,252.55. Since they came from the operation of facilities in the San Francisco Bay area, staff believes that they should be used to improve tidelands in the same geographic area through the removal of abandoned vessels, marine debris, and dangerous structures. Staff proposes to use some or all of the funds on the following activities:

- Removal of abandoned vessels, marine debris, and dangerous and derelict structures from the Crockett Marine Service marina in the community of Crockett, adjacent to the Nantucket Restaurant. The lease with Crockett Marine Service, Inc., includes the restaurant, marina, and

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boat repair facility. The existing marina and boat-repair facility have not been well maintained, are beyond repair, and have experienced an increased number of abandoned vessels as a result. Staff has been contacted by, and continues to work with, the Contra Costa County Sheriff's department regarding a list of derelict facilities identified by the County as hazards. The list of abandoned vessels includes sunken vessels, sunken barges littered with debris, and four vessels posted by the Sheriff as marine debris. Several of the vessels are endangering existing piers and a building associated with a neighboring lessee, the Crockett Striped Bass Club (Lease No. PRC 659.1). The vessels need a hazardous materials assessment and debris removed; some can be towed away for disposal, while others will need to be taken apart to be removed from sovereign land. Other existing marina facilities, such as deteriorated pilings, docks, and a boat repair building need to be removed in the interest of public safety.

- The demolition and disposal of an abandoned vessel known as the *Black Kite* currently moored to the historic Ferry Point Pier, at Point Richmond, within the Miller/Knox Regional Shoreline. The historic Ferry Point Pier was used for land-sea transfer of freight cars from the transcontinental railroad network to the international shipping wharves of the Port of San Francisco. The pier is currently under lease (Lease No. PRC 5617.9) to the East Bay Regional Park District (District) and is available for the public to view, but is not safe for mooring or use. The District is very concerned that the vessel could sink, as it has at least once, and could damage the historical resources unique to Ferry Point. The vessel needs hazardous materials removed as soon as possible, and the vessel needs to be towed to a site appropriate for demolition and disposal. Staff proposes to provide financial assistance to the District in removing the vessel.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6224.3, 6301, 6302.1, 6302.3, 8610, 8612.5, 8613, 8615, 8617, and 8625; Harbors and Navigation Code section 551.

Public Trust and State's Best Interests Analysis:

Removal of abandoned vessels and marine debris is considered to be an improvement of real property that enhances both open space and public access. Such removal also improves navigability and recreational use while reducing impacts to public health and safety and the associated liabilities. Navigation, recreation, open space, and public access are all uses recognized as being consistent with the common law Public Trust

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Doctrine. Additionally, the proposed action will not substantially interfere with, and will actually improve and enhance, other Public Trust uses and values at these locations, at this time, and for the foreseeable future. Therefore, staff believes the proposed action is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction; and with Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways; and Key Action 1.1.4 to identify and abate hazards and associated liability on sovereign and school lands.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(3); and Class 30, Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances; California Code of Regulations, title 14, section 15330.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(3); and Class 30, Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances; California Code of Regulations, title 14, section 15330.

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed action will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at these locations, at this time, and for the foreseeable future; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Find that the Commission is acting in its capacity as Land Bank Fund Trustee under the Kapiloff Land Bank Act, Public Resources Code section 8600 et seq.
2. Authorize expenditure of moneys from the Unocal Corporation, International-Matex Tank Terminals, and Crockett Marine Services subaccounts in the Kapiloff Land Bank, pursuant to the Kapiloff Land Bank Act, Public Resources Code section 8600 et seq., for removal and disposal of abandoned vessels, marine debris, navigation hazards or obstructions, and derelict structures in the San Francisco Bay Area.