

December 29, 2017

John Laird, Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Mr. John Laird,

In accordance with the State Leadership Accountability Act (SLAA), the State Lands Commission submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2017.

Should you have any questions please contact Colin Connor, Assistant Executive Officer, at (916) 574-1800, colin.connor@slc.ca.gov.

BACKGROUND

The California Legislature established the California State Lands Commission in 1938. The Legislature, in forming the Commission, determined that fiscal integrity and accountability in managing the land and resources entrusted to the Commission's care together with necessary checks and balances could be assured by selecting, as Commissioners, the Lieutenant Governor and the two principal financial officers of the State – the State Controller and Governor's Director of Finance. Transparency through public engagement is assured in that all Commission actions and decisions are made at properly noticed public meetings.

The Commission is primarily a land and resource trust manager. The Commission has the same concerns as any landowning trustee in the preservation and protection of its assets, while making sound policy, economic and environmentally responsible judgments in the best interest of the State's beneficiaries, the People of California. The Commission employs a variety of management and regulatory tools to ensure a sustainable, balanced, deliberative approach to protect and enhance the State's resources while allowing the use of those lands and resources for the benefit of all Californians. These include identifying boundaries between public and private lands, issuing leases for the protection, use or development of State lands and resources, and using cooperative management agreements, regulatory compliance programs, and when necessary litigation to enforce the protections of the Public Trust Doctrine, the State's property rights, and important environmental quality and marine pollution prevention laws.

The Commission has jurisdiction and management authority over all tidelands and submerged lands and the beds of natural and navigable lakes and waterways in the State. These lands include the beds of more than 120 navigable rivers and sloughs, nearly 40 navigable lakes, and the 3-mile-wide band of tide and submerged lands adjacent to California's 1,100-mile coast and offshore islands, totaling nearly 4 million acres. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. The protections of the common law Public Trust Doctrine apply to all these lands.

The Commission also manages State-owned school lands granted to the State in 1853 by the federal government to support public schools. Today, the Commission manages approximately 459,000 acres of school lands held in fee ownership by the State and reserved mineral interests on approximately 790,000

acres of school lands where the surface estate was sold.

Additionally, the Commission protects state waters from marine invasive species introductions and prevents oil spills by providing the best achievable protection of the marine environment at all marine oil terminals in California and offshore oil platforms and production facilities.

The Commission carries out its responsibilities in accordance with its Strategic Plan. The Commission's 2016-2020 Strategic Plan includes the following:

Vision Statement

The California State Lands Commission is a recognized leader that champions environmentally-sustainable public land management and balanced resource protection for the benefit and enjoyment of all current and future generations of Californians.

Mission Statement

The California State Lands Commission provides the people of California with effective stewardship of the lands, waterways, and resources entrusted to its care through preservation, restoration, enhancement, responsible economic development, and the promotion of public access.

Guiding Principles and Values

The Commission's core purpose is to protect the lands and resources entrusted to its care through balanced management, marine pollution prevention and protection, adaptation to climate change and ensuring public access to these lands and waterways for current and future generations of Californians. The Commission's principles and values shape its culture and serve as a foundation to achieve its mission in accordance with its vision.

- Accountability – Seek balance among competing uses with long-term protection of lands and resources.
- Integrity – Adhere to the highest ethical standards in all aspects of our work and service to the public.
- Engagement – Ensure robust and transparent public engagement.
- Quality – Provide superior public service through our expansive and unique professional staff expertise.
- Solution-oriented – Commit to making decisions in the public's best interest through collaboration, education, and use of the best science and technology.

Strategic Goals

1. Lead innovative and responsible land and resource management;
2. Meet the challenges of the future;
3. Engage Californians to help safeguard their trust lands and resources; and
4. Cultivate operational excellence by integrating technology.

Commission staff operates under the direction of an Executive Officer who is appointed by the Commission. Staff is organized into eight divisions: Land Management, Mineral Resources Management, Marine Environmental Protection, Environmental Planning and Management, Legal, External Affairs, Information Services, and Administrative Services. As of fiscal year 2017-18, the Commission has 211 authorized positions and a budget of \$49.945 million.

The Commission's main program areas are:

1. Land and mineral leasing, including renewable and geothermal energy – The Commission issues leases for the use of the sovereign and school lands and development of the state's minerals under its jurisdiction. Leases may be issued for uses such as industrial wharves; commercial marinas; agriculture and grazing; bridges and utility rights of way; shoreline protective structures, public uses for recreation, restoration or wildlife refuge; private recreational docks, piers, and buoys; oil, gas, and mineral extraction; and wind, solar, and geothermal energy projects. The Commission currently manages approximately 4,000 leases.
2. Oil spill prevention – The Commission issues leases for offshore oil production facilities within three nautical miles of the coast, including oil-producing islands and offshore platforms. The Commission also regulates every marine oil terminal in California. Both functions form the Commission's oil spill prevention program, which is designed to provide the best achievable protection of public health, safety, and the environment and to prevent an oil spill in state waters. The Commission's prevention program has successfully limited the number and severity of oil spills in state waters. The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 covers all aspects of marine oil spill prevention and response and divides enforcement between the Commission and the Office of Spill Prevention and Response, a division of the Department of Fish and Wildlife. The Commission is responsible for the prevention aspects of the program.
3. Marine oil terminal engineering and maintenance standards – There are 34 marine oil terminals in California where nearly two million barrels of oil and petroleum products are transferred over water (between ship and shore) daily. The Commission regulates all marine oil terminals in California, including enforcement of state building standards. Most marine oil terminals in California were built in the early 1900s when oil was carried by ships much smaller than the size of today's tankers, and before modern seismic safety standards and environmental requirements were established. The Marine Oil Terminal Engineering and Maintenance Standards, known as MOTEMS, are building standards (California Building Code, *Chapter 31F - Marine Oil Terminals*) that apply to all marine oil terminals in California. MOTEMS establish minimum engineering, inspection, and maintenance criteria for marine oil terminals to protect public health, safety and the environment, and govern the upgrade and design of terminals to ensure better resistance to earthquakes and reduce the potential of oil spills.
4. Marine invasive species program (MISP) – In coastal environments, commercial shipping is the most common vector for non-indigenous species (NIS) invasion. Ships are responsible for almost 80% of the NIS introductions to North America. Commercial ships transport organisms through two mechanisms: ballast water discharge and vessel hull biofouling. Commission staff board and inspect vessels to ensure compliance with ballast water management requirements by interviewing ship's officers and reviewing paperwork, including Ballast Water and Hull Husbandry Reporting Forms, ballast water management plans, and engine room logbooks. Staff also educates vessel crews about the requirements of California's Marine Invasive Species Act and distributes educational materials directly to vessels. The MISP is also active in research and coordinates with the regulated shipping industry, other public agencies (state, federal, and international), leading scientists, and other stakeholders. Through these activities, the Commission has become a world leader in NIS management. The goal is to move the state expeditiously towards the elimination of the discharge of nonindigenous species into California waters.

ONGOING MONITORING

As the head of State Lands Commission, Jennifer Lucchesi, Executive Officer, is responsible for the overall establishment and maintenance of the internal control and monitoring systems.

EXECUTIVE MONITORING SPONSOR(S)

The executive monitoring sponsor responsibilities include facilitating and verifying that the State Lands Commission internal control monitoring practices are implemented and functioning as intended. The responsibilities as the executive monitoring sponsor(s) have been given to: Colin Connor, Assistant Executive Officer.

MONITORING ACTIVITIES

The Commission's senior management staff holds weekly management meetings. Meeting topics include discussion of a wide range of current and potential internal control issues that need to be addressed, including Strategic Plan progress and issues related to the risks identified in this report. These meetings also allow management to discuss issues they have been made aware of by line staff and decide what steps are needed to monitor or address the issues that arise.

The Commission's Strategic Plan is monitored on an ongoing basis. Key staff members ("champions") from each division are responsible for each Strategic Plan action item. Staff's Strategic Plan activities are overseen by the Division Chiefs. The Assistant Executive Officer with the assistance of an experienced staff person monitors the progress of the Strategic Plan implementation on a regular basis. The Assistant Executive Officer provides updates to the Executive Officer. The Executive Office prepares an annual Strategic Plan update for the Commissioners. The annual update is a public document that is posted on the Commission's website. Executive staff presents the annual update to the Commissioners at a regularly-scheduled public meeting either at the end of the calendar year or at the beginning of the following calendar year, depending on the time of these meetings. The annual update is used as an opportunity to review internal control processes and prioritize activities over the next year. Senior staff seeks input from all staff members on evaluating progress on Strategic Plan action items prior to publishing the annual update, and all staff is encouraged to review the completed update.

In addition to the annual Strategic Plan update to the Commissioners, the Commission holds regularly-scheduled public meetings approximately every two months. These meetings are an opportunity for the public to provide input to the Commissioners and staff on topics that may represent risks to the department. The meetings also allow the Commissioners to give direction to staff on how such matters should be addressed and monitored.

ADDRESSING VULNERABILITIES

Vulnerabilities may be identified by any level of staff up to senior management, including the Executive Office. Once identified, the issue is agendized by that Division for discussion at a weekly senior staff meeting. The Executive Officer may determine that it is necessary to assign staff to study the issue and report back to senior staff or the Executive Office with recommendations to address the issue. The timeframe and manner for addressing the issue may vary depending on what is needed to correct it. Based on that decision, a new procedure may be put into place with a notification (email or memo) going to affected staff. The notification will detail who is responsible for monitoring the procedure and the timeline and the method of reporting to the Assistant Executive Officer.

COMMUNICATION

Monitoring of Strategic Plan action items is performed by key staff members (“champions”) from each division. While the work on these action items is overseen by the Division Chiefs, the Assistant Executive Officer with the assistance of an experienced staff person monitors the overall progress on an approximate monthly basis. The mid-level manager, at the direction of the Assistant Executive Officer, provides feedback to the Division Chiefs and champions through in-person meetings, conference calls, or emails.

Outside of the Strategic Plan process, vulnerabilities or control inefficiencies may be identified by any level of staff up to senior management, including the Executive Office. Once identified, the issue is agendized by that Division for discussion at a weekly senior staff meeting. Depending on what is needed to address the issue, a written notification (email or memo) will be prepared and communicated to the affected staff.

ONGOING MONITORING COMPLIANCE

The State Lands Commission is in the process of implementing and documenting the ongoing monitoring processes as outlined in the monitoring requirements of California Government Code sections 13400-13407. These processes include reviews, evaluations, and improvements to the State Lands Commission systems of controls and monitoring.

RISK ASSESSMENT PROCESS

The following personnel were involved in the State Lands Commission risk assessment process: Executive Management, Middle Management, and Front Line Management.

RISK IDENTIFICATION

The Commission updated and adopted its Strategic Plan in 2015. Through the strategic planning process, the Commission identified its vision, mission, guiding principles and values, and adopted strategic goals with strategies, key actions, and targeted outcomes. The Commission actively uses its Strategic Plan to monitor progress and address risks to the agency that were identified as part of that process, and to ensure that the agency is adhering to its mission. Staff reports annually to the Commission on its progress in implementing its strategic goals.

The Commission’s senior staff members, which include the Executive Officer, Assistant Executive Officer, and division chiefs and assistant chiefs, meet weekly to identify and discuss issues, priorities, and risks to the agency. At these meetings, managers raise and discuss issues related to all aspects of the agency, including information technology and administration.

As part of the SLAA reporting process, upper and mid-level managers were surveyed as to the risks they perceived. A small team of staff, including the Executive Officer and Assistant Executive Officer, completed the risk identification process by aggregating the risks, including those raised during weekly management meetings, risks identified in the ongoing Strategic Plan process, and risks identified in the survey. The risks that were selected are those that may affect the Commission's ability to adhere to its Strategic Plan.

RISK RANKING

The team then ranked the risks based on their likelihood to occur, severity of impact, and how soon the impact could happen (velocity). Once the risks were identified and ranked, the team identified the

controls in place to lessen or eliminate the risks and discussed the effectiveness of those controls.

RISKS AND CONTROLS

RISK: OPERATIONS -INTERNAL-STAFF—KEY PERSON DEPENDENCE, WORKFORCE PLANNING

As staff leave the State Lands Commission, a gap in critical institutional knowledge and technical competence can occur unless careful workforce and succession planning, and knowledge transfer strategies are in place.

The Commission is a small entity with 211 authorized PYs in fiscal year 2017-18. As such, many of its staff have developed specialized and in-depth knowledge of certain programs or administrative areas that is not replicated in other staff members. The State Lands Commission has seen over the last five to ten years, and will continue to see over the next five years, numerous Baby Boomers retiring. This wave of retirements will include a large percentage of staff members with extensive experience working in the Commission's programs. As these vacancies have been backfilled with the more mobile Gen X and Millennial staff, the Commission has been experiencing higher rates of staff turnover due to transfers and separations.

The Commission's 2016-2020 Strategic Plan recognizes Workforce and Succession Planning as a key action associated with the strategic goal of "Meeting the Challenges of Our Future." Unless properly mitigated, a lack of workforce planning combined with a dependence on key people could result in significant loss of institutional knowledge, decreased efficiency, and a decline in the Commission's ability to effectively execute its programmatic and administrative responsibilities as positions are vacated.

CONTROL A

The Commission's current Strategic Plan has identified the need for workforce and succession planning. In 2016, the Commission began the workforce planning process and has committed to participating in a Workforce Planning Cohort offered by CalHR in 2018 to complete this planning document. This effort requires focused engagement by human resources and senior staff over a four-to-five-month period during which the Commission, with guidance and assistance from CalHR, will produce a relevant Workforce Plan that will subsequently be used to guide efforts in training/development, examining, and recruiting. The Workforce Plan will identify areas where demographics suggest the Commission is most likely to lose staff, strategies to enhance recruitment and retention, gaps in knowledge that would be left by departing staff, and will develop needed training and knowledge transfer strategies.

CONTROL B

Upon completion of the Workforce Plan, the Commission will embark upon the development of its Succession Plan. This plan will also be accomplished through the cohort model offered by CalHR. The Succession Plan will look specifically at strategies designed to develop potential leaders to ensure that leadership positions will remain filled with knowledgeable and competent leaders who can engage staff in meeting the Commission's strategic goals.

CONTROL C

The Commission has reduced the number and hours of working Retired Annuitants to reduce its reliance on key people who have already left the permanent workforce. This has forced programs to work with the Retired Annuitants and other staff to ensure that the institutional knowledge is being transferred to the permanent staff allowing them an opportunity to develop professionally. This

reduction is also beneficial to the Commission's budget as it reduces its temporary help costs.

RISK: OPERATIONS -EXTERNAL-STAFF—RECRUITMENT, RETENTION, STAFFING LEVELS

A major risk that can impact achievement of the State Lands Commission's strategic goals and objectives is the potential inability to quickly recruit and retain a skilled, trained workforce.

The Commission has experienced increased recruiting activity over the last five to ten years due to Baby Boomer retirements and anticipates a steady flow of retirements over the next five years as 40% of its staff are currently age 55+. Transfers and separations of Generation X and Millennial staff members, who seem less content to stay with a single employer over a long period of time, have also been on the upswing. In addition to increased recruiting activity, the amount of staff time (both Human Resources and Supervisors) to conduct a recruitment has significantly increased since the State Personnel Board began conducting compliance audits approximately five years ago and making regulatory changes affecting recruitment. The Commission has doubled the number of PY engaged in recruiting activities yet still has an on-going backlog equivalent to another PY of work. These factors are amplified in recruitments for department-specific classifications which continue to be challenging due to the length of time and amount of staff time involved in conducting both examinations and recruitments.

Frequent turnover results in an increased vacancy rate, that combined with the length of time and number of hours involved in recruiting results in long periods of vacancy, reduced production, increased reliance upon key personnel, loss of institutional knowledge, and a negative impact to the succession plan.

CONTROL A

The Human Resources Office is in the process of reviewing its Hiring Process to identify any opportunities to decrease the amount of time involved in filling a division's request to fill a vacancy. The process will be revised to include any efficiencies that are identified.

CONTROL B

The Human Resources Office has started to utilize more TAU (temporary authorization) appointments to fill positions where department specific examinations are required but no current list exists. A TAU appointment allows the Commission to recruit to fill the position before an examination is administered if the examination is subsequently administered within nine months of the appointment date. This reduces the timeframe to hire in these situations by three to six months.

CONTROL C

The Human Resources Office will be piloting its first Training and Experience, Continuous File examination in 2018. This exam is in development. It is anticipated that this type of examination could be utilized for several of the Commission's department specific classifications. Administration of these examination would occur in close to real time and would have the potential to produce relatively up-to-date lists with significantly less time and effort on the Commission's part to administer.

RISK: OPERATIONS -INTERNAL-NEW SYSTEM IMPLEMENTATION (OTHER THAN FI\$CAL)

The Commission is currently in Stage 3 of the PAL (Project Approval Lifecycle) for its SIRMS (Spatially Indexed Records Management System) Project which will house and make accessible Commission records as they become available in digitized form. The new system will provide the Commission with an enhanced capability to manage pending projects and provide current information regarding the Commission's activities and ownership interests to staff and eventually the public. While the PAL process requires very careful risk identification, analysis, prioritization, response and control, the Commission is still concerned with the

ultimate level of user acceptance within the organization. Low user acceptance could affect the degree to which project objectives are met and reduce the Commission's return on investment.

The Commission has operated in a paper-based environment and relies heavily on paper records to conduct its daily programmatic business. The transition to SIRMS will result in dramatic changes to how and where employees routinely access records to perform their work. Some previous efforts to utilize technology at the Commission have not been fully embraced.

If SIRMS is not embraced, the Commission could end up needing to maintain both a paper-based and electronic-based system of records. Failure to fully utilize the SIRMS would result in continued workflow and process inefficiencies and render some processes, such as fulfilling Public Records Act requests and subpoenas, ineffective.

CONTROL A

The SIRMS project team is working cooperatively with the California Department of Technology and the California Natural Resources Agency to follow the state's PAL (Project Approval Lifecycle) process. This process is designed to increase the likelihood of project success and requires that project risks be identified, tracked, and regularly reviewed during the life of a project.

CONTROL B

The SIRMS project team has sought and will continue to seek to mitigate this risk by engaging Commission division management and executive staff as Stakeholders from the beginning. This commitment will allow the SIRMS team to effectively employ staff members as Subject Matter Experts (SMEs) throughout the remaining PAL Stages, increasing staff involvement and efficiency throughout the technical solution's rollout. This will help to ensure that the new system meets the needs and expectations of its users.

CONTROL C

The SIRMS project team will ensure that the project implementation, planned to begin in FY 2018-19, addresses the need for user training so that all staff will can utilize the new system when it becomes available.

CONTROL D

The Records Management Unit is responsible for digitizing record groups for incorporation into SIRMS. Once those paper records are digitized and checked for quality control, Records Management will explore off-site storage options, destruction, or movement to the State Archives as appropriate. The lack of easy access to the paper records will encourage use of the new SIRMS system.

RISK: OPERATIONS -EXTERNAL-LITIGATION

The Commission can be sued in a quiet title action potentially resulting in loss of title to sovereign lands or school lands; loss of leasing revenue; tort liability resulting in monetary damages for failure to remove hazards to public health and safety or to the environment; and for failure to comply with the California Environmental Quality Act (CEQA) resulting in loss of revenue pending approval of an amended CEQA document.

The Commission is charged by the Legislature with the management of the State's sovereign and school lands of the State. The most serious legal risks facing the Commission in its administration of these lands are: 1) challenges to the State's ownership due to the difficulty in locating the nature and extent of the State's sovereign land interest; 2) the failure of State lessees to meet their financial obligations (e.g.

payment of rent, bond/security, environmental mitigation, restoration of lease premises); 3) challenges to environmental documents prepared under the California Environmental Quality Act (CEQA) for the Commission; and 4) the failure to remove or mitigate human-made hazards on lands under the Commission's jurisdiction (e.g. leaking legacy oil wells; remnants of docks, piers, jetties, dams, and old oil production facilities; abandoned mines).

Depending on the cause of action, the State could lose valuable property and/or the State's general fund could be impacted on the order of hundreds of millions of dollars through litigation costs (defend against or pursue litigation), damages and settlement costs. Two recent bankruptcies of offshore oil and gas lessees will cost the state over \$100 million to safely abandon offshore oil and gas wells because of lessee insolvency. If a CEQA document for a proposed project is challenged and a court issues an injunction against the State, the General Fund will lose leasing revenue pending approval of a new environmental document.

CONTROL A

Litigation over the nature and extent of the State's sovereign interest is always present but managed by the coordination and support of the Commission's legal staff with its line divisions. The Commission provides its attorneys with extensive training regarding its jurisdiction and strives to resolve disagreements through settlements to reduce the threat of litigation.

CONTROL B

In recent years Commission staff have been reviewing the financial strength of its major lessees and their ability to meet their financial obligations. Whenever there is an opportunity to reopen a lease (e.g. assignment of lease, amendment, etc.), staff will renegotiate the terms to increase bond or surety or include other terms to reduce the financial and potential litigation risks to the state.

CONTROL C

The Commission reduces the potential for CEQA litigation by employing highly trained scientists and CEQA consultants and by providing legal review of the Commission's environmental documents from the Commission's legal staff.

CONTROL D

The Commission has a program to remove hazards from sovereign lands; however, the program activities are contingent on funding, which has been intermittent. Additionally, the Commission has also partnered for several years with the Abandoned Mine Unit of the Department of Conservation to plug and abandon mines on state property thereby reducing the potential for personal injury to the public.

RISK: OPERATIONS -INTERNAL-RESOURCE MANAGEMENT—ALLOCATION, LEAVE BALANCE

The Commission could be negatively impacted if expenditures in any given fiscal year exceed the budgeted amount. Unanticipated expenses in the area of leave balance payouts could leave the Commission unable to meet its payroll and other operational expense obligations.

When employees retire with large leave balances, the Commission is responsible for paying out those balances either in a lump sum or by allowing the employee to exhaust their leave over the months leading up to their retirement. The Commission does not have the ability to control when these expenses occur and often doesn't have enough advanced notice to plan for the expense.

When an employee with a large leave balances retires, the Commission must absorb those pay out costs from its budget. This results in either leaving a position vacant for a period of time to cover the leave costs

(which does not harm the budget but can have negative impacts on transfer of knowledge and productivity) or paying the cost out of the blanket so that the position can be filled (which negatively impacts the budget).

CONTROL A

The Commission undertakes an annual process to identify employees whose leave balances exceed allowable amounts. These employees are asked to develop a leave reduction plan and their supervisor is responsible for monitoring compliance with the plan. The Human Resources Office also monitors CTO and VPLP balances to ensure that maximums are not exceeded. These efforts minimize the accumulation of large leave balances and help to reduce already large leave balances over time.

CONCLUSION

The State Lands Commission strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising controls to prevent those risks from happening. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Jennifer Lucchesi, Executive Officer

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency