

MINUTE ITEM

This Calendar Item No. C56 was approved as Minute Item No. 56 by the California State Lands Commission by a vote of 3 to 0 at its 12/9/04 meeting.

**CALENDAR ITEM
C56**

A 35
S 9

12/09/04
PRC 8588 W 40802
D.Sanders
D. Brown

CONSIDER ACCEPTANCE, AS TRUSTEE OF THE KAPILOFF LAND BANK FUND, OF \$210,000 FROM ARCO, AS THE RESPONSIBLE PARTY, FOR THE MAINTENANCE OF THE APPROVED BIRD ISLAND ROOSTING/NESTING PLATFORMS AND AUTHORIZE STAFF TO ENTER INTO AN INTERAGENCY AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF FISH AND GAME TO EXPEND SAID FUNDS FOR THAT PURPOSE.

PARTIES:

California State Lands Commission, in its capacity as the Kapiloff Land Bank Trustee, ARCO, and the California Department of Fish and Game.

BACKGROUND:

At its meeting of June 7, 2004, the California State Lands Commission (CSLC): 1) certified EIR, No. 724, State Clearinghouse No. 2001021119, 2) approved the Pier Removal Project (Project) affecting State Lease PRC-421, and 3) authorized the issuance of a General Lease-Public Agency Use, to the California Department and Fish and Game (CDFG). The CDFG lease will provide for the maintenance of four pilings and associated bird roosting/nesting platforms and hard bottom substrate that would constitute wildlife habitat upon the completion of the Project.

The projected cost of maintenance of the habitat structures over the life of the proposed lease (49 years) to the CDFG has been established by Fairweather Pacific, LLC, Arco's engineering consultant. The projected cost, considering an inflation rate of four percent (4%), is \$210,000. Maintenance activities are not continuous, but occur at set points in the life of the structures, the first occurring in year eight after installation.

Funding for such costs would be provided by ARCO in consideration of a sharing, between the CDFG and ARCO, of the construction costs of the hard bottom substrate proposed as a component of the proposed Project.

CALENDAR ITEM NO. C56 (CONT'D)

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 purposes of specified or unspecified projects to provide for management and improvement of real property held by the trustee to provide open space, habitat for plants and animals, and public access."

ARCO has proposed that the maintenance monies described above be deposited in the Fund until the Project has been granted all of its necessary permits and authorizations, at which time such funds would be transferred to an interest bearing account specified by the CDFG pursuant to an Interagency Agreement between the CSLC and the CDFG. Should the Project not receive all necessary permits and authorizations, such monies would be refunded to ARCO to be used for any alternative project that may be approved by the CSLC to enable ARCO to fulfill its obligations regarding the removal of the remaining pier structure and associated subsea debris on PRC-421.

SUMMARY:

Staff recommends that the Executive Officer be authorized:1) to accept funds from ARCO, under the conditions described above, in the amount of \$210,000 into the Kapiloff Land Bank Fund, and 2) to enter into an Interagency Agreement with the CDFG to provide, upon the Project obtaining all necessary permits and authorizations, the transfer of such monies to the CDFG for its maintenance of the authorized habitat structures during the term of its General Lease with the CSLC. Should the Project fail to obtain all necessary permits and authorizations, such monies shall be refunded to ARCO.

OTHER PERTINENT INFORMATION:

1. The funds from ARCO would be deposited into the Kapiloff Land Bank Fund as habitat maintenance funds under Public Resources Code sections 8600 et seq.
2. 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.

CALENDAR ITEM NO. C56 (CONT'D)

PERMIT STREAMLINING ACT DEADLINE;

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

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.

AUTHORIZATION:

AS TRUSTEE OF THE KAPILOFF LAND BANK FUND, AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO:

1. ACCEPT FUNDS FROM ARCO, UNDER THE CONDITIONS DESCRIBED ABOVE, IN THE AMOUNT OF \$210,000, AND
2. ENTER INTO AN INTERAGENCY AGREEMENT WITH THE CDFG TO PROVIDE, UPON THE PROJECT OBTAINING ALL NECESSARY PERMITS AND AUTHORIZATIONS, THE TRANSFER OF SUCH MONIES TO THE CDFG FOR ITS MAINTENANCE OF THE AUTHORIZED HABITAT STRUCTURES DURING THE TERM OF ITS GENERAL LEASE WITH THE CSLC.