

~ MINUTES ~
CALIFORNIA STATE LANDS COMMISSION
MEETING OF DECEMBER 17, 2009

HOLIDAY INN ON THE BAY
1355 NORTH HARBOR DRIVE
SAN DIEGO, CALIFORNIA 92101

APPEARANCES

COMMISSIONERS PRESENT

John Chiang, Controller, Chair, also represented by Ms. Marcy Jo Mandel,
Deputy State Controller
Mona Pasquil, Acting Lieutenant Governor
Tom Sheehy, Chief Deputy Director for Policy, Department of Finance,
represented Michael C. Genest, Director, Department of Finance

STAFF MEMBERS IN ATTENDANCE

Paul Thayer, Executive Officer
Curtis Fossum, Chief Counsel

REPRESENTING THE OFFICE OF THE ATTORNEY GENERAL

Jamee Patterson, Deputy Attorney General

NOTE: *A list of individuals making statements before the Commission and the entities they represent, along with the Executive Officer's Report, are included in a complete transcript of the proceedings, which is on file in the Sacramento offices of the Commission and posted on the Commission's website at www.slc.ca.gov. Also included on the website is the voting record of the meeting with the staff report for each agenda item linked to the respective consent or regular item number.*

**RECORD OF ACTION TAKEN BY THE
CALIFORNIA STATE LANDS COMMISSION
MEETING OF DECEMBER 17, 2009**

State Controller John Chiang, Chair, called the meeting of the California State Lands Commission to order at 10:05 A.M. at the Holiday Inn on the Bay, 1355 North Harbor Drive, San Diego, California 92101; also present were Commissioner Mona Pasquil and Commissioner Alternate Tom Sheehy.

Minutes of the November 16, 2009 meeting were approved as presented by a vote of 3-0.

EXECUTIVE OFFICER'S REPORT

Executive Officer Paul Thayer provided a summary of the status of enforcement actions regarding trespasses, lease violations, follow-up actions regarding public trust rights at Lake Tahoe and status of court proceedings against the Blue Whale Sailing School. The Executive Officer, Chairman Chiang, Commissioner Sheehy and Commissioner Pasquil each offered congratulatory comments and thanks to Barbara Dugal, Chief of the Land Management Division on her retirement after 21 years of State service.

CONSENT CALENDAR

Consent items C13 and C38 were removed from the agenda and not considered.
Consent items C01-C12 and C14-C37 were approved as presented by a vote of 3-0.

REGULAR CALENDAR

ITEM 39: A staff presentation was made to the Commission regarding a report entitled *A Report on Sea Level Preparedness*. This report was prepared by staff in response to the Commission's June 1, 2009 direction to conduct a survey to assess the extent to which all major legislative grantees and Commission lessees that are operating on public trust lands had considered the potential impacts of sea level rise on their operations. Bill Workman, the City Manager of the City of Newport Beach spoke to the importance of involving local governments in providing feedback, the difficulty in funding any projects, the importance of reviewing potential environmental impacts, and coordination amongst local, state and federal agencies in responses. The Commission members discussed various aspects of the report and the need for follow-up. The Commission modified the staff's recommendations by amending recommendation 6 and adding a 16th action, as set forth below:

6. ADOPT ENGINEERING DESIGN STANDARDS, WHERE AUTHORIZED, REQUIRING MAJOR FACILITIES TO WITHSTAND A DEFINED STORM EVENT, SUCH AS A 100-YEAR STORM, TAKING INTO ACCOUNT SEA LEVEL RISE OVER THE LIFE OF THE PROJECT.

16. DIRECT STAFF TO REVIEW THE RESULTS OF THE “SEA LEVEL RISE ASSESSMENT REPORT” REQUIRED TO BE COMPLETED BY DECEMBER 1, 2010, PURSUANT TO THE GOVERNOR’S EXECUTIVE ORDER S-13-08, AND, AS SOON AS FEASIBLE AFTER THE REPORT IS RELEASED, TO MAKE RECOMMENDATIONS TO THE COMMISSION AS TO APPROPRIATE SEA LEVEL RISE ESTIMATES THAT SHOULD BE ACCOMMODATED BY NEW DEVELOPMENT ON SOVEREIGN LANDS. AS PART OF THESE RECOMMENDATIONS, STAFF WILL EVALUATE PHASING PROCEDURES AND MAKE RECOMMENDATIONS AS APPROPRIATE.

The Commission approved the amended item by a vote of 3-0

ITEM 40: A staff report regarding a violation of a geophysical survey permit was presented to the Commission. The vessel involved, the Pacific Star, struck and killed a blue whale north of Ft. Bragg on October 19, 2009. The permittee, Fugro Pelagos, had failed to notify staff prior to the survey and failed to have a marine wildlife monitor aboard, each a violation of the terms of the permit. After testimony by Fugro Pelagos as to the circumstances involved, the Commission amended the recommended action as follows:

2. SUSPEND REVOCATION OF THE FUGRO PELAGOS, INC. NON-EXCLUSIVE GENERAL PERMIT TO CONDUCT LOW ENERGY GEOPHYSICAL SURVEYS ON TIDE AND SUBMERGED LANDS OF THE STATE OF CALIFORNIA CONDITIONED UPON FUGRO PELAGOS, INC.’S COMPLIANCE WITH:
 - A) PAYMENT OF STAFF EXPENSES FOR INCIDENT RESPONSE AND INVESTIGATION COSTS
 - B) ACKNOWLEDGEMENT IN WRITING THAT:
 - 1) OCEAN FLOOR SURFACE MAPPING USING MULTIBEAM SONAR EQUIPMENT IS AN ACTIVITY THAT IS COVERED BY THE ISSUED PERMIT
 - 2) ACKNOWLEDGMENT THAT FUGROS PELAGOS, INC. WILL COMPLY WITH ALL PROVISIONS OF THE PERMIT, INCLUDING PRIOR NOTICE OF SURVEYS AND THE PRESENCE OF A MARINE WILDLIFE MONITOR DURING SURVEY OPERATIONS
3. – 5. DELETED
6. STAFF OF THE COMMISSION SHALL NOTIFY ALL GEOPHYSICAL PERMITTEES OF THE WHALE COLLISION INCIDENT AND REINFORCE THE NEED FOR SPECIFIC PERMIT PROVISION COMPLIANCE

The Commission approved the amended item by a 3-0 vote

ITEM 41: The Commission was given a staff presentation on an application by the City of Los Angeles, Department of Water and Power (LADWP) to amend its existing lease for dust control measures on the bed of Owens Lake to include the construction of a Moat and Row project on an additional 3.5 square miles. Staff recommended that the Commission deny approval of the proposed amendment. The Commission heard testimony from LADWP staff on its obligations to comply with regulatory requirements of the Great Basin Unified Air Pollution Control District, and on the status of other dust control options, including photovoltaic solar arrays. The Commission did not approve or reject the entire Moat and Row project and may schedule its further consideration at a future meeting. The Commission adopted the Alternate CEQA Findings and amended Authorization for Approval of Lease Amendment Prepared by Commission Staff as set forth in Exhibit E, and added direction to LADWP and the Commission staff as follows:

AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 8079.9, A GENERAL LEASE-PUBLIC AGENCY USE, TO INCLUDE THE AREA OF LAND LOCATED ON OWENS LAKE DESCRIBED ON PAGES EX-5 AND EX-6 OF EXHIBIT B, AS PARCEL D21 (AREA T1A-01) FOR THE CONSTRUCTION OF SAND FENCING AND IRRIGATION FACILITIES.

EXHIBIT D, SECTION 2 SPECIAL PROVISIONS, IS AMENDED AS FOLLOWS:

- (a) (i): ADD "SHALL BE SUPPLIED WITHIN 90 DAYS OF COMMISSION APPROVAL" AT THE END, FOLLOWING "RESOURCES"
- (a) (ii): STRIKE "IN PERPETUITY" AND SUBSTITUTE "FOR THE TERM OF THE LEASE OR UNTIL A MASTER PLAN IS APPROVED BY THE DEPARTMENT OF FISH AND GAME AND THE STATE LANDS COMMISSION"
- (c): STRIKE "(E.G., SHALLOW FLOODING OR MANAGED VEGETATION) AS WILL BE DETERMINED BY" AND SUBSTITUTE "ACCEPTABLE TO"

LADWP SHALL PROVIDE A REPORT TO COMMISSION STAFF BY JANUARY 31, 2010, THAT INCLUDES INFORMATION ON CONSTRUCTION PROGRESS UNDER THE LEASE AMENDMENT, ON NEGOTIATIONS WITH THE GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT CONCERNING DUST MITIGATION ON OWENS LAKE, AND ON PROGRESS IN DEVELOPING A PILOT PROJECT FOR DUST CONTROL USING PHOTOVOLTAIC SOLAR PANELS.

COMMISSION STAFF SHALL REPORT TO THE COMMISSION AT THE NEXT MEETING ON PROGRESS OF ACTIVITIES AND NEW INFORMATION REGARDING DUST CONTROL MEASURES AT OWENS LAKE.

The Commission approved the amended item by a 2-0 vote (Finance not present).

ITEM 42: The Commission was given a staff presentation and comments by proponents of AB 634.

The Commission voted 2-0 to put the item over to a subsequent Commission meeting.

ITEM 43: The Commission was given a staff presentation requesting support for legislation regarding land exchanges, ballast water, the legislative grant to the City of Pittsburg, and authority for the imposition of administrative penalties for trespass on state lands.

The Commission approved the item by a 2-0 vote (Finance not present).

The Commission meeting public session was adjourned at 2:45 P.M.

**STAFF AND PUBLIC ADDRESSING
THE FOLLOWING CALENDAR ITEMS
CALIFORNIA STATE LANDS COMMISSION MEETING**

DECEMBER 17 2009

REGULAR ITEM 39 – SEA LEVEL RISE REPORT

Jane Smith, Public Land Management Specialist, Land Management Division,
State Lands Commission

- Bill Workman, City Manager of Redondo Beach

REGULAR ITEM 40 – GEOPHYSICAL SURVEY PERMIT TO FUGRO PELAGOS

Greg Scott, Division Chief, Mineral Resources Management Division, State
Lands Commission

- David Millar, President, Fugro Pelagos, Inc. of San Diego

REGULAR ITEM 41 – LADWP OWENS LAKE MOAT AND ROW PROJECT

Judy Brown, Public Land Manager, Land Management Division, State Lands
Commission

Steve Mindt, Staff Environmental Scientist, Division of Planning and
Environmental Management

- Martin Adams, Los Angeles Department of Water and Power
- William Van Wagoner, Los Angeles Department of Water and Power
- Julie Riley, City of Los Angeles Department of Water and Power

REGULAR ITEM 42 – AB 634 (HARKEY) SCUBA DIVING LIABILITY

Mario De Bernardo, Legislative Liaison, Executive Office

- Dean Rewertz, California Ships to Reefs Inc.

REGULAR ITEM 43 – SPONSORSHIP OF PROPOSED LEGISLATION

Mario De Bernardo, Legislative Liaison, Executive Office

PUBLIC COMMENT

No Speakers