

# KAPILOFF LAND BANK REPORT



CALIFORNIA  
**STATE LANDS**  
COMMISSION

FISCAL YEAR 2018-2019



# KAPILOFF LAND BANK REPORT

## FISCAL YEAR 2018-2019

This report summarizes the status of the Kapiloff Land Bank Fund for fiscal year 2018-19<sup>1</sup>

## BACKGROUND

The Kapiloff Land Bank Fund (Fund) enables the Commission to hold money in trust to acquire certain property or to expend money for project-specific mitigation or restoration projects.<sup>2</sup> The Fund was created to facilitate real property title settlements and land exchanges as an extension of the Commission's authority under Public Resources Code section 6307. The Commission accepts cash deposits when substitute parcels of land of equal value are not available for exchange. Money from title settlements may only be expended to purchase outstanding interests in tide and submerged lands, lands that have been or may be converted to wetlands, or adjoining or nearby lands where the public use and ownership of the land is necessary or extremely beneficial for Public Trust purposes.<sup>3</sup> The Commission holds the acquired lands as sovereign Public Trust lands with the same legal character as tide and submerged lands.

Money may also be deposited into the Fund to manage and improve real property held by the Commission and to provide open space, habitat for plants and animals, and public access.<sup>4</sup> If a deposit is made into the Fund for mitigation purposes, the money is subject to a statutory trust that limits its use to the identified mitigation. Any person or entity may donate money into the Fund for projects, whether specified or not, that provide for public access to or management and improvement of real property held by the Commission for open space, plant and animal habitat, and public access.

The Fund is organized into two categories. The first is Title Settlements, which includes money received from title settlements (deposits) and expended on property acquisitions (expenditures). The second category is Special Mitigation and Management Projects and includes money set aside for specific mitigation, management, and/or improvement projects. The Fund began the fiscal year with a balance of \$14,228,276 and received deposits of \$2,525,013, with subaccounts earning \$336,584 in interest over the fiscal year; there was also a transfer of \$1,000,000 between two of the subaccounts. The Commission spent \$587,099 across all subaccounts. Most of this spending was on activities associated with the Bolsa Chica Lowlands Restoration project and implementing the Coastal Hazard and Legacy Oil and Gas Well Removal and Remediation Program (SB 44, Jackson, Chapter 645, Statutes of 2017)—both of which are within the Special Mitigation and Management Projects category. The Fund ended the fiscal year with a balance of \$16,502,774, a net increase of \$2,274,498. Below is a summary of Fund activity.



<sup>1</sup> This report complies with the annual reporting requirement in Public Resources Code section 8618.

<sup>2</sup> Public Resources Code sections 8600, et seq.

<sup>3</sup> Pub. Res. Code §§ 8613 (a), 8625(a).

<sup>4</sup> Pub. Res. Code §§ 8613(b), 8625.

# TITLE SETTLEMENTS

The Title Settlements portion of the Fund began with a balance of \$7,808,334 and ended with a balance of \$6,953,986, a net decrease of \$854,347. The decrease reflects interest earnings of \$145,653, along with a \$1,000,000 transfer to the Martins Beach subaccount within the Fund, as authorized by SB 854, a trailer bill to the 2018-19 Governor's Budget (for more information, see the Martins Beach subheading under Special Mitigation and Management Projects, following).

## Approved Title Settlement (Deposits)

The Commission did not approve any title settlements.

## Property Acquisitions (Expenditures)

The Commission did not authorize any property acquisitions.

# SPECIAL MITIGATION AND MANAGEMENT PROJECTS

The Special Mitigation and Management Projects part of the Fund contains money received for specific settlement or mitigation actions. The use of these funds may be limited to specific mitigation or, if not specified, may be used for public access, acquisitions, management, and property improvement. The Fund began with a balance of \$6,419,942. A total of \$2,525,013 in deposits was received, plus a \$1,000,000 transfer from Title Settlements, while expenses totaled \$587,099. This part of the Fund ended with a balance of \$9,548,787, a net increase of \$3,128,845. The increase is largely attributed to the \$2,000,000 deposit pursuant to SB 44 and the \$1,000,000 transfer from the Title Settlements account to the Martins Beach subaccount. Notable activity involving this part of the Fund is summarized below.

## Bolsa Chica Lowlands Restoration

The Bolsa Chica Lowlands Restoration Project consists of 880 acres of lowlands in Orange County adjacent to the Pacific Ocean and 327 acres of historic wetlands acquired in 1973. Most of the property has been transformed into a full tidal basin, with the remainder into other wetland habitat. The primary source of the original funding was the Ports of Los Angeles and Long Beach and was provided in exchange for mitigation credits necessary for port expansion.

The Bolsa Chica subaccount began the fiscal year with a balance of \$3,488,825. Of this, \$2,581,098 is reserved by binding agreement for the future full tidal basin restoration, leaving a balance of \$907,727 for operating expenses, including site management, inlet dredging, environmental and other consultant contracts, and engineering or facility repairs. The annual operating budget for Bolsa Chica is approximately \$2,000,000 per year. Mindful that the account balance was becoming perilously low, the



Commission requested and received an appropriation in the 2018-19 Budget Act for \$2,000,000 per year for two years. Because the appropriation is from the Environmental License Plate Fund, expenses do not appear in the Kapiloff Fund and, therefore, are not reflected in this report. Operating expenses (\$297,672) for Bolsa Chica in 2018-19 appear lower than in years past due to the change in the paying fund. The Bolsa Chica subaccount ended the year with a balance of \$3,260,692, with the decrease reflecting the above expenditures, plus \$69,539 in interest earned. However, to reiterate, excluding the funds reserved for restoration of the full tidal basin leaves an operational balance of \$624,836, which in the absence of the ELPF augmentation would not be enough to maintain the restoration project for even one year. Staff continues to seek grants and other opportunities for ongoing funding.

## Owens Lake

Between 2010 and 2015, the Commission accepted \$1,200,000 from the City of Los Angeles Department of Water and Power to offset losses to Public Trust values caused by the City's dust control activities at the dry bed of Owens Lake ([February 27, 2018, Item 81](#) and [August 19, 2015, Item 61](#)). In October 2018, the Commission authorized the expenditure of some of those funds to hire a consultant to study the City's proposed use of groundwater beneath Owens Lake for dust mitigation purposes ([October 18, 2018, Item 80](#)). The Commission subsequently entered into an interagency agreement with the University of California, Santa Barbara for \$48,142 to conduct the groundwater study, which is ongoing. The study should be completed in 2020.

Another Owens Lake-related Kapiloff expenditure was a Commission authorization in April 2019 to install a fence at the California Department of Fish and Wildlife's Cartago Wildlife Area ([April 5, 2019, Item 46](#)). The purpose of this \$135,000 authorization is to prevent cattle grazing on an adjoining Commission lease area from roaming on to the wildlife area and spreading an invasive species (pepperweed).

## Granted Lands Program

Local governments that manage legislatively granted state owned lands are trustees of the State. These trustees are required to manage the granted lands and resources consistent with their legislative trust grant, the common law Public Trust Doctrine and in the best interest of the state. Trustees must also ensure that revenue generated from the use of these lands is used for purposes consistent with their legislative trust grant and that further the Public Trust. The Commission is responsible for overseeing the management of these granted lands and resources. Revenue generated on certain granted Public Trust lands is deposited in the Fund to administer the granted lands program.

The trustees that are required to deposit revenue into the Fund are the Cities of Newport Beach, Pittsburg, Eureka, and Martinez.<sup>5</sup> In June 2018, the Commission granted the City of Martinez temporary relief of its obligation to transmit 20 percent of the revenue generated from its granted lands to the State for the fiscal years ending June 30, 2017, and June 30, 2018.

---

<sup>5</sup> City of Newport Beach (Chapter 728, Statutes of 1994; Chapter 317, Statutes of 1997); City of Pittsburg (Chapter 422, Statutes of 2011); City of Martinez (Chapter 628, Statutes of 2014); City of Eureka (Chapter 891, Statutes of 2014).

The Granted Lands Program began the fiscal year with a balance of \$414 and ended with a balance of \$457,046. A total of \$489,682 was received from the trustees (excluding Martinez) during the fiscal year. This is a substantial increase over the prior fiscal year, during which \$344,667 was received. Revenues received from the trustees are generally specified by agreements or tied to formulas (percentages of revenues) in the granting statutes.

In most years, expenses for maintaining the Granted Lands Program (i.e., staff costs) are roughly \$450,000 per year. However, due to changes in tracking funds with the State's new Fi\$Cal accounting system, the actual amount to maintain the program for the 2018-19 fiscal year is unknown. The Granted Lands Program ended the fiscal year with a balance of \$463,704.

## Martins Beach

In August 2018, the Commission delegated authority to its Executive Office to accept donations and make deposits to the Martins Beach subaccount ([August 23, 2018, Item 107](#)). This action comported with SB 854 (Committee on Budget and Fiscal Review, Chapter 51, Statutes of 2018), a trailer bill to the 2018-19 Governor's Budget that established a subaccount in the Kapiloff Land Bank Fund for money received from public and private sources, including nonprofit sources, for the acquisition and creation of a public access route to and along the shoreline, including the sandy beach, at Martins Beach in San Mateo County. A total of \$331.50 in donations was remitted to the State Controller's Office during the fiscal year.

SB 854 also authorizes the transfer of up to \$1,000,000 from the Fund (the Title Settlements side of the Fund) to the Martins Beach subaccount. The transfer was made July 1, 2018. The Martins Beach subaccount ended the fiscal year with a balance of \$1,021,632.

## Coastal Hazard and Legacy Oil and Gas Well Removal and Remediation Program

On October 10, 2017, the SB 44 (Jackson) was signed into law. This law, which took effect on January 1, 2018, authorizes the transfer, upon appropriation in the Budget Act, of \$2,000,000 from tideland oil and gas revenues to the Fund to implement the Commission's coastal hazard and legacy oil and gas well removal and remediation program. This new law also authorizes the transfer, upon appropriation in

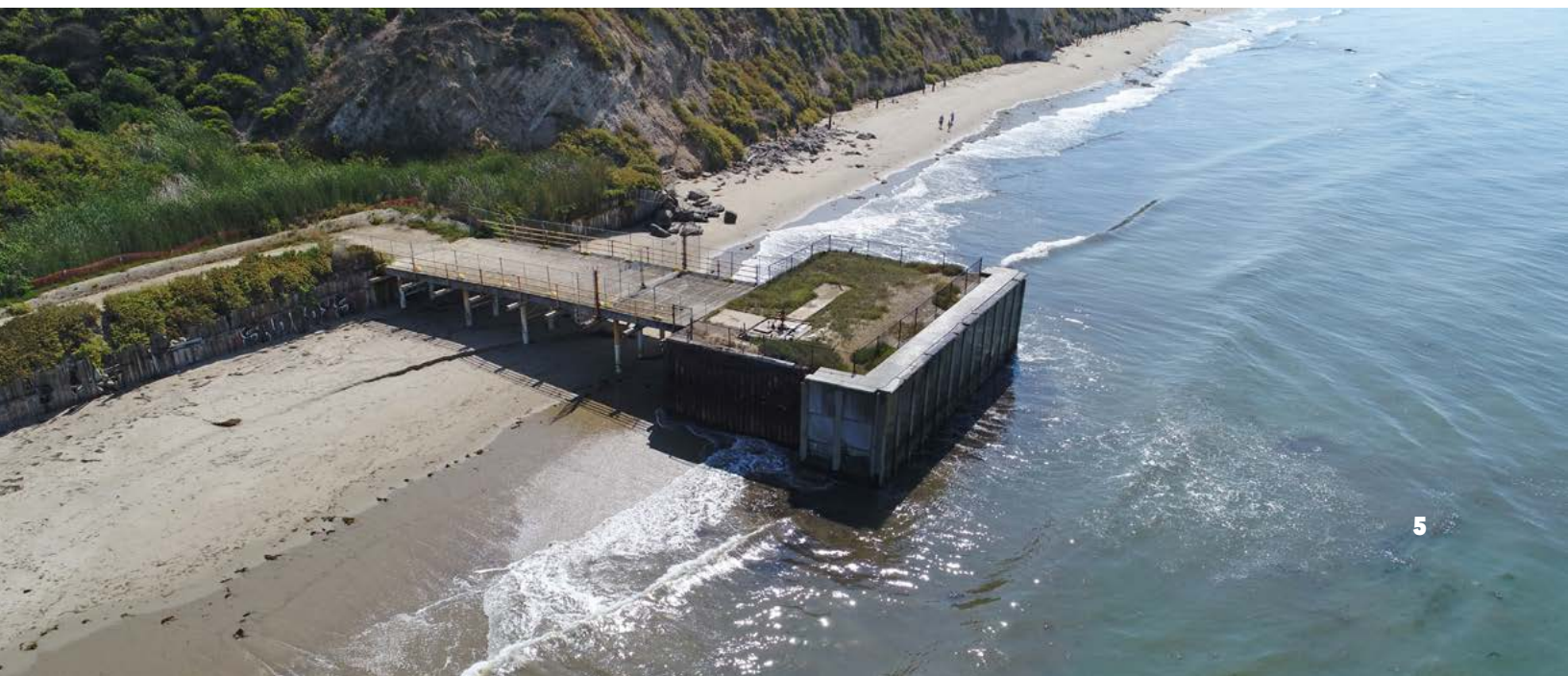


the Budget Act, of an amount sufficient to bring the unencumbered balance of the Fund to \$2,000,000 for each fiscal year from the 2019-20 fiscal year to the 2027-28 fiscal year to implement this program. The law requires the Commission to do the following within two years:

1. Complete an assessment of legacy oil and gas wells and other coastal hazards along the California coastline, including conducting aerial surveys and dives, and determine high-priority hazards and legacy oil and gas wells to remediate.
2. Survey, study, and monitor oil seepage in state waters and tidelands under the Commission's jurisdiction to determine oil seepage locations, rates, and environmental impacts; and partner with experts to facilitate innovative solutions.
3. In cooperation with the Division of Oil, Gas, and Geothermal Resources (DOGGR), begin the process of remediating improperly abandoned legacy oil and gas wells that have a high risk of leaking oil and are hazardous to public health and safety and the environment.

During FY 2018-19, the Commission retained InterAct PMTI, Inc., an oil and gas engineering consulting firm to conduct field investigations and develop plans and cost estimates for the abandonment of legacy oil and gas wells. Commission staff and InterAct surveyed and investigated three legacy oil and wells in the Summerland Beach area offshore Santa Barbara County for possible future plugging and abandonment. They are the Treadwell #10 well, the CH Olsson #805 well, and the Duquesne #910 well. As a result of the investigations, the Commission developed engineering assessments for abandoning the wells. The assessments analyze plug and abandonment options for each well, with a recommended approach based on the relative safety, efficacy, and cost. The Commission is the process of preparing an addendum to the earlier "Becker & Legacy Wells Abandonment & Remediation Project" Environmental Impact Report for these well abandonments. It is anticipated that the Commission will retain a contractor and execute the actual plug and abandonment of one to three of these wells in 2020. The actual number of wells abandoned will depend on project cost, permitting, and weather constraints.

The Commission was also active in removing coastal hazards during the 2018-19 fiscal year. Coastal hazards are the remnants of structures that have been abandoned and orphaned (i.e., no known responsible party). These hazards are typically buried in the coastal surf zone and include wood or



steel pilings, H piles and H beams, railroad irons, cables, angle bars, ties, pipes, pipelines, seep tent related structural remnants of rip rap structures, wood structures, groins, jetties, piers, and oil and gas related infrastructure located along the California coastline. Many hazards are only exposed during the high tidal erosion that occurs during winter. During the fiscal year, the Commission removed 193 steel H beams, 36 railroad irons, 40 wooden sheet pilings, and two pipeline pieces about 81 feet in length from two sites at Ellwood Beach in Goleta, Santa Barbara County.

The total cost incurred during the fiscal year was \$230,897, leaving a balance in the SB 44 subaccount of \$1,799,627. More information on the work conducted by the Commission is contained in a separate report from the Commission to the Legislature, which is attached as Exhibit A to this report.

The Commission will continue its activities under SB 44, including finalizing plans, developing cost estimates, completing an Addendum to its Environmental Impact Report, and contracting for the ultimate plugging and abandonment of one to three legacy wells at Summerland Beach in Santa Barbara County in 2020. The Commission will continue its investigatory work with respect to known legacy well locations and to oil seeps in the area to determine if they are natural or the result of improperly abandoned legacy wells. This will allow planning for future abandonments in 2021. The Commission will also continue its coastal hazard removal program.

## OTHER FUND ACTIVITY

In October 2018, the Commission authorized the expenditure of \$705,252.55 from three Special Mitigation and Management Project subaccounts to remove and dispose of abandoned vessels, marine debris, navigation hazards or obstructions, and derelict structures in the San Francisco Bay Area ([October 18, 2018, Item 81](#)). The expenditure was intended to address, abandoned vessels, marine debris, and dangerous and derelict structures in the Crockett Marine Service Marina in the community of Crockett, Contra Costa County and the demolition and disposal of an abandoned vessel known as the Black Kite moored to the historic Ferry Point Pier at Point Richmond, also in Contra Costa County.

The Black Kite was removed through a partnership with the East Bay Regional Parks District at a cost of \$50,000. The Gretchen E, a sunken vessel at the Crockett Marine Services Marina, was removed by Parker Driving Services at a cost of \$25,441. Staff plans to have a contract in place by July 2020 to remove five



sunken vessels at the Crockett Marine Services Marina, an abandoned boat repair facility, and the remaining debris along the shoreline. However, that project is not anticipated to begin until FY 2020-21 because of the constraints of in-water work windows to limit negative impacts on listed species.

In December 2019, the Commission accepted a \$250,050 deposit to conduct mitigation activities on sovereign land at the Burton Mesa Ecological Reserve in Santa Barbara County ([December 6, 2019, Item 30](#)). The donor, Oak Hills Estate, LLC, is a developer seeking to build a residential subdivision on land adjoining the Reserve. As part of the County approval process, the developer was required to mitigate for the loss of habitat on the subdivision land by restoring habitat offsite. Because the only suitable restoration land is in the Reserve, the developer applied to lease 33.34 acres from the Commission for the restoration. This one-time payment to the Fund represents the land acquisition cost the Applicant would otherwise incur in a private transaction to acquire the 33.34 acres to restore the lost habitat.

## FUTURE FUND ACTIVITY

SB 507 (Atkins, Chapter 372, Statutes of 2019) will transfer all the state’s right, title, and interest in the tide and submerged lands in the San Diego Bay, which the State Lands Commission manages, to the San Diego Unified Port District to hold and manage in trust. Chapter 372 requires the Port to transfer \$412,903 to the Commission by June 30, 2020. Of that sum, the Commission will receive 20 percent, or \$82,500 in the first year, to fund its granted lands oversight responsibilities, with the remaining revenue going to the General Fund.

## FUND BALANCE

The balance of the Fund as of July 1, 2019 is summarized below.

### FUND BALANCE SUMMARY 07/01/2019

Title Settlements (Pub. Res. Code § 8625 (a))	\$6,808,334
Special Mitigation and Management Projects	
Bolsa Chica Lowlands Restoration	\$ 3,191,153
Granted Lands	\$ 457,046
Martins Beach	\$ 1,001,332
Coastal Hazards (SB 44)	\$ 1,769,103
Other Projects	\$ <u>2,940,222</u>
Subtotal	\$ 9,357,856
Interest	\$ <u>336,584</u>
Total Fund Balance	\$ 16,502,774

For further information, please contact Colin Connor, Assistant Executive Officer, at [colin.connor@slc.ca.gov](mailto:colin.connor@slc.ca.gov) or (916) 574-1800.