

# Staff Report 57

## **PROPOSED ACTION:**

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Consider authorizing the Executive Officer to expend up to \$37,500 from the Kapiloff Land Bank Fund and to enter into a Local Government Agreement with the County of Ventura to construct a bollard fence adjacent to the State-owned public access road and parking area for the La Jenelle fishing jetty, near Port Hueneme, Ventura County.

## **BACKGROUND:**

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In 1970, the retired passenger vessel La Jenelle broke loose from its anchorage offshore of the City of Port Hueneme and ran aground on State-owned land adjacent to the entrance channel to Port Hueneme. Pursuant to legislative direction, the Commission acquired ownership of the vessel and in 1973 authorized the use of the vessel's hull as a base to construct a rock and concrete-covered access pier or fishing jetty for public use ([Item 18, March 29, 1973](#)).

Starting in 1973, the Commission entered into a series of renewable licenses with the federal government for property to be used as an access road and parking area, adjacent to the Naval Construction Battalion Center at Port Hueneme, to enhance public access to the jetty. In 1974 pursuant to special statutory authority (Chapter 155, Statutes of 1973), the Commission and the County of Ventura (County) entered into an Operations and Management Agreement (CSLC File No. PRC 4951) which provided for the County to conduct "routine custodial tasks" for the jetty, road, and parking area in perpetuity ([Item 33, December 20, 1973](#)).

In 1986, the road and parking area parcel was declared excess by the federal General Services Administration. Pursuant to legislative direction detailed in Chapter 155, the Commission applied to the U.S. Department of the Interior to acquire the property and subsequently accepted its transfer, with the Operations and Management Agreement continuing ([Item 20, September 25, 1986](#)).

As originally constructed, the access road and parking area were separated from the adjacent County-owned Silver Strand Beach by a fence, which prevented

vehicles from traversing the beach. The fence deteriorated over time and was removed around or after 1999. The lack of a fence allowed off-road vehicles to drive on the beach unpermitted and illegally. More recently, the County received complaints from the public about illegal beach driving that has potentially endangered the beach-going public. In response, in 2018 the County closed the road and parking area access gate, located on County-owned property, to prevent off-road vehicle access. The California Coastal Commission (CCC) subsequently contacted the County and Commission staff to investigate the closure. Though La Jenelle jetty and Silver Strand Beach remain open and available for pedestrian access, the CCC identified the access road and parking area closure as a possible violation of the Coastal Act and advised the County that the gate must be reopened. The County has refused to reopen the gate until it is satisfied that public safety can be protected.

Commission, County, and CCC staffs discussed the viability of constructing a bollard fence along the perimeter of the access road and parking area to replace the previous structure. Staff from all three agencies are amenable to fence construction as a way to limit illegal off-road activities, satisfy the County's public-safety concerns, and reopen the gate to the La Jenelle beach parking area before the summer season. In November 2020, County staff obtained a bid from a licensed fencing contractor as a first step in the process, and on November 17, 2020, received authorization from the County Board of Supervisors for the project. The County submitted a Coastal Development Permit application to the CCC on November 30, 2020.

Because the access road and parking area are State-owned land, but the County is responsible for certain operations and maintenance activities and owns the adjacent upland beach area and access gate, Commission staff proposes reimbursing the County for a portion of the construction cost using moneys from the Kapiloff Land Bank Fund. Certain accounts in the Kapiloff Fund may be expended by the Commission, acting as Kapiloff Land Bank Trustee, for, among other statutorily allowed purposes, improvements to provide public access on Commission-held real property.

Staff has identified the Ticor Title/Las Tunas Groins subaccount as the best source for this expenditure. The funds in this subaccount originated in a 1989 litigation settlement related to hazardous legacy groins near Las Tunas State Beach, Malibu, Los Angeles County. Pursuant to that settlement, certain private parties agreed to remove legacy groins from private property and to contribute funds that the Commission agreed to use to remove or rehabilitate five nearby upcoast groins from State land, called the Buddwood Groins. This work was partially completed in 1995–96 and fully completed in late 2003, following Commission authorizations for

each project element ([Item 30, March 27, 1990](#); [Item 34, October 29, 1990](#); [Item 10, January 8, 1992](#); [Item 40, June 2, 2003](#)). Four groins were removed, and one was rehabilitated based on recommendations from an engineering study. The Commission removed an additional legacy groin, the “Call Groin,” from the same area with the funds. The settlement has been fulfilled, and no obligation remains for these funds ([Item 64, June 28, 2016](#)). The fund balance as of September 30, 2020, is \$278,632.81.

The County provided staff with a bid dated November 25, 2020, from a licensed fencing contractor in the amount of \$68,018, of which the Commission would reimburse the County for 50 percent of the bid amount, but not to exceed \$37,500. If the expenditure is approved, staff propose to enter into a Local Government Agreement contract with the County for reimbursement.

The proposed fence would be approximately 590 feet in length, with 4-foot-high bollards placed at 3-foot on center intervals along the perimeter of the road and parking area. The fence will have three ungated 4-foot-wide pedestrian access points and one gated 20-foot-wide emergency vehicle access point.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

Public Resources Code sections 6005, 6106, 6216, 6224.3, 6301, 8610, 8612.5, and 8613; Public Contract Code section 10340.

### **PUBLIC TRUST AND STATE’S BEST INTERESTS:**

Silver Strand Beach in Ventura County at this location is extremely wide. With the access road and parking area closed to vehicular access, the beach-going and fishing public must first find parking on adjacent residential streets and then travel approximately 600 feet to reach the nearest shoreline and approximately ¼-mile to reach the La Jenelle Beach Park and jetty. The access road and parking area improve overall public access by allowing vehicles to park significantly closer to the shoreline and jetty. With the parking area open, the pedestrian distance to the nearest shoreline decreases to approximately 125 feet, and the distance to the jetty decreases to approximately 700 feet. The parking area enhances access most for people with mobility issues or those who do not live near the beach. Protecting and enhancing public access to the State's Public Trust lands is a core interest of the Public Trust Doctrine, a key goal of the Commission, and a stated purpose of the Kapiloff Land Bank Act.

Because the fence construction will not substantially interfere with and will actually improve and enhance Public Trust uses and values at this location, at this time, and for the foreseeable future, staff believes that the proposed action is consistent with the Public Trust and in the State's best interests.

## **OTHER PERTINENT INFORMATION:**

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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 Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

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

## **RECOMMENDED ACTION:**

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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 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

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

**AUTHORIZATION:**

1. Find that the Commission is acting in its capacity as Land Bank Trustee under the Kapiloff Land Bank Act, Public Resources Code section 8600 et seq.
2. Authorize the Executive Officer or her designee to expend moneys from the Tigor Title/Las Tunas Groins subaccount in the Kapiloff Land Bank, pursuant to the Kapiloff Land Bank Act, Public Resources Code section 8600 et seq., and to enter into a Local Government Agreement for reimbursement to the County of Ventura for 50 percent of the bid amount, not to exceed \$37,500, for construction of a bollard fence adjacent to a State-owned access road and parking area for the La Jenelle Beach Park.