

# Staff Report 54

## **PARTY:**

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California State Lands Commission

## **PROPOSED ACTION:**

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Consider amendment of the Delegation of Authority to update the ability of and language for the Executive Officer to issue letters of non-objection and emergency authorizations; delegate to the Executive Officer authority to execute certain CAL FIRE forms; and delegate to the Executive Officer authority to approve certain non-controversial and routine surface lease applications or assignments.

## **BACKGROUND:**

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The California State Lands Commission (Commission), in accordance with law, provides for the delegation of certain responsibilities and authority to the Executive Officer and staff of the Commission. The Comprehensive Delegation of Authority (Delegation) was most recently amended at the June 5, 2023 Commission meeting ([Item 82, June 5, 2023](#)). The purpose of that amendment was to update division names and authorize staff to extend construction-related deadlines in leases that contain project completion dates.

## **PROPOSED AMENDMENT**

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The Commission has previously delegated to the Executive Officer the ability to issue emergency authorizations where the need for immediate action is necessary to avoid harm to the public. The Commission has also delegated to the Executive Officer the ability to issue a letter of non-objection for the use of state land when the action is temporary, minor, or short-term and certain other conditions are met. These authorizations must contain carefully drafted language to protect the environment, to protect the state, and to ensure fairness and consistency. There are, however, situations where the mandated language creates an impasse that may cause delays to the need for timely action. Most notably, this occurs when

other public agencies are unable to agree to the broad indemnity language required by the current delegation.

In order to give staff flexibility to issue emergency authorizations and letters of non-objection for the types of projects they were intended to address, staff are recommending the required language be modified. The amendments are set forth in track change format as Exhibit A. The delegation continues to be specific and narrow, while allowing some latitude to adjust the specific terms if necessary. The proposed delegation will continue to be protective of the State and ensure the applicant bears the liability for their actions. Additional edits were made to reorganize and clarify the language of the delegation.

The second area being amended relates to the management of the Commission's forested lands. The numerous recent wildfires in California have brought attention to the necessity of actively caring for and managing forested lands. The California Department of Forestry and Fire Protection (CAL FIRE) has multiple ministerial permits staff might need to execute to help manage the forested lands within our jurisdiction. For example, the Forest Fire Prevention form is used when timber is cut down to reduce fuel for fires, or the Notice of Emergency Timber Operations form is used when a fire is already active and firebreaks need to be cut. In the listed forms, as well as other forms, Commission staff, as the designated land management agency with jurisdiction over these lands, may need to sign on behalf of the landowner, the State of California, or the timber owner, or both. The proposed delegation authorizes the Executive Officer to execute these forms, further enhancing staffs' ability to be responsive to emergent needs and proactive in ongoing management of the State's forested lands.

Additionally, staff are recommending an amendment to the Delegation of Authority to the Executive Officer to authorize the issuance or assignment of certain categories of non-controversial surface leases. The Commission previously delegated to the Executive Officer the authority to authorize approval of any assignment of a mooring buoy within Tomales Bay. In addition, the Executive Officer was delegated authority to approve applications for recreational structures when at least two officers on the Commission recuse themselves from voting due to a conflict of interest. The Executive Officer was also delegated the ability to approve continuations of rent. Where such approvals take place, the Executive Officer will report or make public these actions to comply with Bagley-Keene and provide public notice of the actions in the Commission's regular scheduled meeting agendas.

Building on these prior delegations, the proposed delegation will authorize the Executive Officer to approve or deny assignments of leases for private recreational

structures, or private recreational structure leases in combination with protective structures when a CEQA exemption applies. The leases in question are issued to upland owners, and do not automatically pass to the new owner when the upland property is sold. It is important to maintain contractual privity with the new owner of the structures. As owner of the improvements on state land, the new upland owner is almost always the best qualified lessee. Assignments in conjunction with an upland sale are almost never denied. Staff also propose a delegation to authorize the Executive Officer to approve leases for private recreational structures where there are no changes from the prior lease and the lessee is in good standing with no defaults.

Finally, staff are proposing a delegation to authorize the Executive Officer to approve encumbrancing agreements. Commercial operations, such as marinas, require financing to operate. Commercial lenders finance the purchase and renovations of these facilities. The lenders require a security interest in the lease as collateral for the loan. The Commission's standard encumbrancing agreement allows the lender to step into the shoes of the lessee and cure breaches of the lease. Although this might be seen to limit the Commission discretion to terminate a lease for breach, the reality is that it gives the State a second, highly-solvent party with a substantial financial interest in the operation who can act to cure a breach of the lease. Should the lender fail to cure the breach, the Commission retains discretion to terminate the lease. Moreover, the lender never acquires any interest in state land.

Together, this group of delegations will allow staff to be more responsive and act more quickly to changes outside of staff's control and will reduce delays addressing the assignment of appropriate liability to new Lessees of existing facilities. The proposed delegations should allow staff to respond to changes in a timeframe that is more reflective of real estate market exchanges. The full text of these proposed amendments is set forth in track change format as Exhibit A.

## **OTHER PERTINENT INFORMATION:**

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1. This action is consistent with addressing the challenges and opportunities described in the Commission's 2021-2025 Strategic Plan to maintain fiscal integrity through transparency, accountability, and efficient and effective management of the revenue-generation portfolio.
2. The amendment to the Delegation is not a project as defined by the California Environmental Quality Act because it is an organizational action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378 subdivision (b)(5).

**EXHIBIT:**

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A. Proposed Revised Comprehensive Delegation of Authority (Amended December 5, 2023)

**RECOMMENDED ACTION:**

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It is recommended that the Commission:

**AUTHORIZATION:**

Amend the Comprehensive Delegation of Authority as set forth in Exhibit A, Effective December 5, 2023.

## EXHIBIT A

### COMPREHENSIVE DELEGATION OF AUTHORITY (AMENDED DECEMBER 5 2023 JUNE 5, 2023)

#### I. GENERAL

##### A. EXECUTIVE OFFICER

1. The Executive Officer shall represent the California State Lands Commission (“the Commission”), when it is not in session, in all matters under its jurisdiction, subject, however, to the limitations hereinafter expressed. The Executive Officer shall be the chief administrative officer of the staff of the Commission and shall supervise all personnel, property, equipment, bank accounts, funds, and records assigned to the Commission. The Executive Officer shall direct all operations and management of lands and interests in land under the Commission’s jurisdiction, including but not limited to, administering the sale and leasing of lands in compliance with the provisions of law, the rules and regulations of the Commission and the Commission’s expressed policies and approvals. The Executive Officer shall also direct all operations and administer the regulatory programs assigned to the Commission as set forth in the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 (Public Resources Code, Division 7.8) and the Marine Invasive Species Control Act (Public Resources Code, Division 36). The Executive Officer shall make the determination whether a lease is necessary for dredging on granted tide and submerged lands wherein the right to minerals is reserved to the state, pursuant to Public Resources Code section 6707, subdivision (d), as added by Statutes 2013, chapter 104, section 3.
2. Emergency Action - In the event of an emergency whereby immediate action is necessary to avoid substantial harm to public health and welfare, to the environment, or to private or public property, where the emergency exists through no fault of the owner of any private property threatened, and where approvals from the Commission are needed that cannot be delayed until the Commission holds a regularly noticed meeting, the Executive Officer may give the emergency approval needed, provided that:
  - a) The Executive Officer may approve only such action as is minimally necessary to avoid or respond to the emergency; and
  - b) The applicant agrees to the following:

- 1) That the State of California, its officers, agents, and employees shall not be liable for any claims, damages, or injuries of any kind and from any cause, arising out of or connected in any way with the proposed action, and that the applicant shall indemnify, hold harmless, and, at the option of the State, defend the State, its officers, agents, and employees, against and for any and all liability for any claims, damages, or injuries of any kind and from any cause, arising out of ~~or~~ and connected in any way with the proposed action; and
  - a. Commission staff may agree to alternative methods of indemnification only if the alternative option protects the Commission and the state as well as or better than the term above.
- 2) That the applicant shall comply with all terms and conditions imposed by the Commission staff; and
- 3) That the applicant shall obtain and secure, prior to commencement of work, all approvals necessary or appropriate from all other agencies or governmental entities having jurisdiction; and
- 4) That disturbance of the property under the Commission's jurisdiction shall be kept to a minimum area consistent with the nature and purpose of the ~~event~~ emergency action, and that the applicant shall take all necessary and appropriate precautions to prevent littering or pollution on State lands, waterways, and adjoining properties; and
- 5) That the applicant shall be responsible for any damage, destruction, or loss occurring to State lands, waterways, adjoining property, the State's lessees, or other members of the public; and
- 6) That the applicant shall provide the Commission staff notice ~~prior to any actual work or activity taking place pursuant to the approvals given and~~ of the proposed response time and work windows and shall provide to the Commission staff any information requested as to the work completed; and
- 7) That the applicant shall provide the Commission staff satisfactory evidence of insurance coverage as requested by the Commission staff with the Commission named as an additional insured; and

- c) If the approval requires a finding that the project is exempt from the California Environmental Quality Act (CEQA) and that exemption would properly apply, the Executive Officer is authorized to make that finding.
3. Letter of Non-Objection - ~~Additionally, t~~ The Executive Officer may issue a ~~letters~~ of non-objection for an activity activities requiring immediate or minor, nonexclusive, short-term use of State-owned land under the jurisdiction of the Commission, provided that: ~~the Executive Officer determined that an exemption from CEQA applies, pursuant to authority granted in section IV of this Comprehensive Delegation of Authority, and when the project proponent agrees in writing to all of the provisions in 2.b) above.~~
- a. The Executive Officer determines that a CEQA exemption applies, pursuant to authority granted in section IV of this Comprehensive Delegation of Authority;
- b. The applicant agrees to the following:
- i. That the State of California, its officers, agents, and employees shall not be liable for any claims, damages, or injuries of any kind and from any cause, arising out of or connected in any way with the proposed action, and that the applicant shall indemnify, hold harmless, and, at the option of the State, defend the State, its officers, agents, and employees, against and for any and all liability for any claims, damages, or injuries of any kind and from any cause, arising out of and connected in any way with the proposed action; and
1. Commission staff may agree to alternative methods of indemnification only if the alternative option protects the Commission and the state as well as or better than the term above.
- ii. That the applicant shall comply with all terms and conditions imposed by the Commission staff; and
- iii. That the applicant shall obtain and secure, prior to commencement of work, all approvals necessary or appropriate from all other agencies or governmental entities having jurisdiction; and

- iv. That disturbance of the property under the Commission's jurisdiction shall be kept to a minimum area consistent with the nature and purpose of the event, and that the applicant shall take all necessary and appropriate precautions to prevent littering or pollution on State lands, waterways, and adjoining properties; and
- v. That the applicant shall be responsible for any damage, destruction, or loss occurring to State lands, waterways, adjoining property, the State's lessees, or other members of the public; and
- vi. That the applicant shall provide the Commission staff notice prior to any actual work or activity taking place pursuant to the approvals given and shall provide to the Commission staff any information requested as to the work completed; and
- vii. That the applicant shall provide the Commission staff satisfactory evidence of insurance coverage as requested by the Commission staff with the Commission named as an additional insured.

Types of activities for which a letter of non-objection may be issued include those shown below, followed by examples:

- Activities necessary for the processing of a lease application, the preparation of a CEQA analysis, or other research related to the Commission managed property that do not result in a serious or major significant disturbances to an environmental resource, such as:
  - Information collection,
  - Scientific, biological, or cultural resource surveys,
  - Research, or Rresource evaluation activities;
- Activities to abate or prevent a nonemergent nuisance or threat to public health or safety, or to public navigation, such as:
  - Fuel management activities including creation of fire breaks and vegetation removal,
  - Removal of nonindigenous or invasive species,



- Removal of abandoned vessels, mooring tackle, and mooring structures,
- Removal of derelict or hazardous structures on State waterways, school lands, and other lands under the jurisdiction of the Commission,
- Trash clean-up involving private volunteers and/or government agencies, or
- U.S. Army Corps of Engineers surveys on Formerly Used Defense Sites (FUDS) for unexploded ordnance;
- Activities to protect property under the jurisdiction of the Commission, such as:
  - Preservation or stabilization of previously unknown cultural or other resources accidentally discovered through human or natural processes;
- Activities that involve minor alterations to land, such as:
  - Well-capping projects involving abandoned water wells,
  - Non-commercial seed or plant collecting as part of a mitigation monitoring program,
  - Collection of small amounts of “live rock” for public aquarium exhibits, or
  - Off-highway vehicle events where the participants stay on existing trails and the events are subject to permitting and monitoring by a government agency;
- Activities involving minor temporary use of land having negligible or no permanent effects on the environment, such as:
  - Regattas or other short-term water-related events involving the temporary placement of marker buoys,
  - Temporary use of existing access roads,
  - Tree surveys to monitor the health and growth rates of timber,

- Research projects, or
  - Educational activities.
4. Lease Required – If ~~the~~ Commission staff deems a lease is ultimately required for those activities authorized under the provisions of I.A.2. or 3, ~~Above~~, then the applicant shall apply at the earliest opportunity to the Commission for authorization for the action taken, and the action is subsequently approved and ratified by the Commission at its next noticed public meeting.
  5. The Executive Officer is authorized to execute ministerial California Department of Forestry and Fire Protection permit forms including, but not limited to: (1) Forest Fire Prevention Exemption forms; (2) 10% Dead, Dying or Diseased Trees or Fuelwood or Split Products or Removal of Slash & Woody Debris Not Located Within a WLPZ Exemption form (Timber Harvesting Permit); or (3) a Notice of Emergency Timber Operations form, provided that:
    - a. The Executive Officer determines that a CEQA exemption applies to the proposed forested land management action, pursuant to authority granted in section IV of this Comprehensive Delegation of Authority;
  6. Scrivener's Errors – The Executive Officer is authorized to correct scrivener's errors in contracts, leases, and other entitlements issued by the Commission. A scrivener's error is a mistake made by the scrivener or person drafting a document that does not reflect the intention and understanding of both parties to the contract, lease, or other entitlement, where the error is clearly unintentional and the true intent can be clearly obtained through other documentation. The Executive Officer is also authorized to correct scrivener's errors in staff reports, exhibits to staff reports, and in the Commission's meeting minutes.
  7. Construction Deadlines – Where the Commission has authorized a lease that contains a date certain where a construction project must be completed, the Executive Officer is authorized to extend the deadline for the completion of such construction on the conditions that:
    - The revised project completion deadline does not exceed the term of the lease; and

- The applicant is showing diligent effort to complete the construction; and
  - The applicant continues to conform to all other regulatory and work window requirements.
8. Commissioner Recusal – The Executive Officer is authorized to review, authorize, authorize with revisions, or deny an application for an existing recreational structure(s) when at least two officers on the Commission recuse themselves from participating in a decision at a properly noticed public Commission meeting due to a conflict of interest, unless a member of the public requests a public hearing on the item. In making such determination, the Executive Officer must act in accordance with the best interests of the State, establish rent according to the applicable benchmark, ensure that the action is consistent with the common law Public Trust Doctrine, and ensure that the action complies with ~~the California Environmental Quality Act~~ CEQA. This delegation will be limited to routine, non-controversial leases for existing structures which would otherwise be on the Commission’s Consent Agenda.

9. Assignments for General Lease: Recreational Use

- a. The Executive Officer is authorized to review, approve, approve with revisions, or deny an application for assignment of a lease issued pursuant to California Code of Regulations, title 2, section 2000, subdivision (c), which states that leases or permits for tide or submerged lands shall generally only be issued to riparian or littoral upland owners, provided that:
  - i. The lease is issued in conjunction with the riparian or littoral property;
  - ii. The riparian or littoral property has been sold;
  - iii. The new owner has submitted an application to take on the responsibilities of the lease;
  - iv. Commission staff finds that the assignee has the ability to comply with the terms of the lease;
  - v. A CEQA exemption applies.
- b. In making such determinations, the Executive Officer must act in accordance with the best interests of the State, ensure that the action

is consistent with the Commission's leasing practices, the common law Public Trust Doctrine, and ensure that the action complies with CEQA. This delegation will be limited to routine, non-controversial lease assignments for existing structures which would otherwise be on the Commission's Consent Agenda.

#### 10. Assignments for General Lease: Recreational and Protective Structure Use

- a. The Executive Officer is authorized to review, approve, approve with revisions, or deny an application for assignment of a lease issued pursuant to California Code of Regulations, title 2, section 2000, subdivision (c), which states that leases or permits for tide or submerged lands shall generally only be issued to riparian or littoral upland owners, provided that:
  - i. The lease is issued in conjunction with a riparian property adjacent to an inland waterway;
  - ii. The riparian property has been sold;
  - iii. The new owner has submitted an application to take on the responsibilities of the lease;
  - iv. Commission staff finds that the assignee has the ability to comply with the terms of the lease;
  - v. A CEQA exemption applies.
- b. In making such determinations, the Executive Officer must act in accordance with the best interests of the State, ensure that the action is consistent with the Commission's leasing practices, the common law Public Trust Doctrine, and ensure that the action complies CEQA. This delegation will be limited to routine, non-controversial lease assignments for existing structures which would otherwise be on the Commission's Consent Agenda.

#### 11. Lease applications for GL: Recreational Use

- a. The Executive Officer is authorized to review, approve, approve with revisions, or deny an application for a General Lease: Recreational Use where the following conditions apply:

- i. Either the current lease is in good standing or there were no defaults of the prior lease; and
    - ii. There will be no substantive changes to the structures on, or uses of, state land from the prior lease; and
    - iii. A CEQA exemption applies.
  - b. In making such determinations, the Executive Officer must act in accordance with the best interests of the State, ensure that the action is consistent with the Commission's leasing practices, the common law Public Trust Doctrine, and ensure that the action complies with CEQA. This delegation will be limited to routine, non-controversial leases for existing structures which would otherwise be on the Commission's Consent Agenda.
- 12. Encumbrance of Lease - The Executive Officer is authorized to review, approve, approve with revisions, or deny an application to Encumber an existing lease. In making such determination, the Executive Officer must:
  - a. find that the Encumbrance is necessary to secure financing for the operation of facilities on state land consistent with the state lease approval;
  - b. act in accordance with the best interests of the State,
  - c. ensure that the action is consistent with the common law Public Trust Doctrine, and
  - d. ensure that the action complies with CEQA.
  - e. This delegation will be limited to routine, non-controversial encumbrance of leases for existing structures which would otherwise be on the Commission's Consent Agenda.

## **B. DELEGATION IN ABSENCE OF EXECUTIVE OFFICER**

During any period when the Executive Officer is absent from the State or is unable to carry out his or her duties as delegated or when there is no Executive Officer, all authority delegated to the Executive Officer is hereby delegated to the officer highest on the following list who is not absent from the State and is able to carry out the duties of the Executive Officer:

1. The Assistant Executive Officer
2. The Chief Counsel
3. The Chief, Land Management Division
4. The Chief, Administrative Services Division
5. The Chief, External Affairs Division
6. The Chief, Division of Environmental Science, Planning, and Management
7. The Chief, Mineral Resources Management Division
8. The Chief, Marine Environmental Protection Division
9. The Assistant Chief Counsel
10. The Assistant Chief, Land Management Division
11. The Assistant Chief, Administrative Services Division
12. The Assistant Chief, Division of Environmental Science, Planning, and Management
13. The Assistant Chief, Mineral Resources Management Division
14. The Assistant Chief, Marine Environmental Protection Division

**C. RE-DELEGATION BY EXECUTIVE OFFICER**

The Executive Officer may re-delegate authority delegated to him or her only as provided below in subsection D and in sections II, III, IV, V, VI, VII, and VIII. Such re-delegations and revocations thereof may be made at the discretion of the Executive Officer and shall be in writing. Any such re-delegation is subject to all limitations and conditions provided by law.

**D. DELEGATE, SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION, DELTA PROTECTION COMMISSION, SAN JOAQUIN RIVER CONSERVANCY, SEAGRANT, AND OTHER BOARDS, COMMISSIONS, AND PANELS**

The Executive Officer shall serve as the delegate or representative on behalf of the Commission to the San Francisco Bay Conservation and Development Commission; to the Ocean Resources Task Force; and to any other boards, commissions, and councils upon which a representative of the Commission is to serve. The Executive Officer may re-delegate the authority to serve as his or her alternate on or as the delegate on behalf of the Commission or Chair to any of the boards, commissions, and councils listed herein to any one or more other members of the Commission's staff.

## **II. ADMINISTRATION**

### **A. BUDGET AND FISCAL**

The Executive Officer shall prepare, or cause to be prepared, all budgets, budget revisions, contracts and other fiscal documents necessary for the Commission to carry out its activities subject to the following express provisions:

1. All contracts requiring approval of the Department of General Services shall be first approved by a resolution of the Commission, except for contracts for environmental consultants that will be paid for entirely by the Applicant or with other non-public monies, and except for reimbursement agreements. The Executive Officer may solicit proposals for, negotiate price, and award and enter into contracts for environmental consultants that will be funded entirely by the Applicant or with other non-public monies. This authority may not be re-delegated.
2. All actions taken shall comply with statutory authority and the State Administrative Manual.
3. Budget revisions involving program changes or augmentation of funds from those budgets which are reportable to the Joint Legislative Budget Committee must be reviewed by the Executive Officer before being signed.

The Executive Officer may re-delegate the above authority, or such of it as he or she may deem appropriate, to one or more of the following officers:

- The Assistant Executive Officer
- The Chief, Administrative Services Division
- The Assistant Chief, Administrative Services Division

The Executive Officer may also re-delegate to the Chief, Administrative Services Division, Assistant Chief, Administrative Services Division, and to the Fiscal Officer, Accounting Administrator, or Accounting Officers, authority to sign purchase estimates, sub-purchase orders, supply orders, position changes (607s), claim schedules, vouchers, and contracts; counter-sign checks drawn against any bank accounts maintained in the name of the Commission; or counter-sign for release or deposit of securities held by the State Lands Commission.

## **B. PERSONNEL**

The Executive Officer shall supervise all personnel and payroll matters for the Commission and its staff, subject to the limits of the approved budget and all statutes, rules, and regulations governing State civil service employees. He or she may act as appointing power and take adverse actions against any employee of the Commission as provided for in statute and applicable State Personnel Board laws and regulations.

The Executive Officer may re-delegate any of the above functions to one or more of the following officers:

- The Assistant Executive Officer
- The Chief, Administrative Services Division
- The Assistant Chief, Administrative Services Division
- The Personnel Officer.

## **C. LABOR RELATIONS**

The Executive Officer shall oversee the handling of grievances arising out of labor agreement administration and activities associated with all phases of the collective bargaining process on behalf of the Commission. These activities may include making recommendations to Commission management on the interpretation and application of labor agreement provisions; ensuring State compliance with laws, regulations, policies, and labor agreements; investigating, recommending, and making decisions regarding disposition of grievances arising out of labor agreement administration, or grievances and complaints filed outside of the labor agreements; and participating in the development and presentation of State positions on matters within the scope of bargaining. The Executive Officer may re-delegate these functions to the Assistant Executive Officer; the



Chief, Administrative Services Division; the Assistant Chief, Administrative Services Division; or the Labor Relations Officer.

### **III. LEGAL**

The Executive Officer, in collaboration with the Chief Counsel for the Commission and the Office of the Attorney General, shall supervise all litigation brought by or against the Commission and shall, as deemed advisable, request the Chief Counsel and/or the Office of the Attorney General to consider instituting actions to protect the interests of the State that are under the jurisdiction of the Commission. Such authority includes, but is not limited to, accepting legal process served upon the Commission, requesting opinions from the Attorney General, administering oaths, issuing subpoenas, and conducting hearings as authorized by various statutes. The Executive Officer is also authorized to respond to questions and inquiries about federal legislative jurisdiction, to appear on behalf of the Commission and testify about federal legislative jurisdiction matters in any appropriate judicial or administrative proceedings, and to maintain an index or record of documents with descriptions of the lands over which the United States has jurisdiction and the degree of jurisdiction, pursuant to Government Code section 127.

The Executive Officer may re-delegate the above authority, or such of it as he or she may deem appropriate, to one or more of the following officers:

- The Assistant Executive Officer
- The Chief Counsel
- The Assistant Chief Counsel
- Any Commission Attorney

In addition to those officers listed above, the Executive Officer may re-delegate the authority to certify copies of minutes and other documents in the custody of the Commission (including, but not limited to, certifications as required under Section 12276 of the Government Code in connection with the reproduction of records of the Commission) to any one or more of the following:

- Any Commission Attorney
- The Chief, Administrative Services Division
- The Assistant Chief, Administrative Services Division

- Supervising Boundary Determination Officer
- Public Land Management Specialist IV – Title Unit
- The Records Manager

#### **IV. ADMINISTRATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The Executive Officer shall be responsible for ensuring the Commission's compliance with the provisions of CEQA and shall be authorized to carry out all responsibilities that may be delegated under the provisions of CEQA and Section 15025(a) of the State CEQA Guidelines, including, but not limited to: determining whether a project is exempt and filing notices for such projects; conducting an initial study and, if a project is not exempt, determining what environmental document would be required for the project; holding public hearings to receive comments on environmental documents prepared under the authority of the Commission; requesting shortened public review periods for such documents if deemed necessary; and filing notices of determination after the Commission approves or determines to carry out a project subject to CEQA. He or she shall also be authorized to take all actions necessary and appropriate to cause the preparation of such documents. Such authority includes, but is not limited to, the ability to: solicit proposals, negotiate a fair and reasonable price, award and execute contracts for environmental documentation and mitigation monitoring in accordance with State policies and procedures; and accept fees from project proponents/applicants to recover all costs incurred in the preparation of environmental documents and the monitoring of resultant mitigation measures directly or by contract. He or she shall also be authorized to take all actions necessary and appropriate to review and comment on other public agencies' environmental documents when the Commission is acting as a Responsible Agency (Guidelines Section 15096) and/or Trustee Agency (Guidelines Section 15386) under CEQA.

The Executive Officer may re-delegate the above authority to one or more of the following officers:

- The Assistant Executive Officer
- The Chief, Division of Environmental Science, Planning, and Management
- The Chief, Administrative Services Division

- The Assistant Chief, Division of Environmental Science, Planning, and Management

## **V. MINERAL RESOURCES, INCLUDING GEOTHERMAL RESOURCES, OIL AND GAS, AND LONG BEACH OPERATIONS**

The Executive Officer shall have jurisdiction over all matters pertaining to operations of all kinds in all areas now subject to or available for State mineral resources leases, and to hold public hearings in connection with the consideration of oil and gas lease offers by the Commission as provided in Section 6873.2 of the Public Resources Code or successor provisions. He or she shall not have power, except as herein provided, to modify, amend, or abrogate any lease or agreement without specific authorization in each case.

The Executive Officer is authorized to execute all documents required for Commission-approved actions in connection with mineral resources, including, but not limited to, geothermal resources and oil and gas, and may make technical or clerical corrections thereto.

The Executive Officer may re-delegate the above authority, or such as he or she may deem appropriate, to one or more of the following officers:

- The Assistant Executive Officer
- The Chief, Mineral Resources Management Division
- The Assistant Chief, Mineral Resources Management Division

The Executive Officer may also designate any of those officers listed above to serve as the "Acting Executive Officer" for purposes of acting pursuant to the provisions of Section 5(g) of Chapter 138, Statutes of 1964, First Extraordinary Session, when and if this section is operative under Section 3(h) of Chapter 941, Statutes of 1991. The Executive Officer may also prescribe conditions under which each shall act if and when so designated.

## **VI. LAND MANAGEMENT**

The Executive Officer shall supervise all matters pertaining to the management, sale, exchange, and leasing of lands and interests in lands under the jurisdiction of the Commission. This delegation shall include authority to execute indemnity selections and exchange applications for School and Lieu Lands, filed by the State in accordance with federal laws, rules and regulations.

The Executive Officer is authorized to execute all documents required to give effect to Commission-approved actions in connection with land transactions and may make technical or clerical corrections thereto. The Executive Officer is also authorized to approve all Continuation of Rent actions if annual rent or other consideration is not being modified and no other Commission action on the lease is being considered.

The Executive Officer shall not have power, except as herein provided, to modify, amend or abrogate any lease or agreement without specific authorization from the Commission in each case.

The Executive Officer is authorized to approve any assignment of a mooring buoy within Tomales Bay which has been issued by the Commission under permit from the Greater Farallones National Marine Sanctuary.

The Executive Officer may re-delegate the above authority, or such of it as he or she may deem appropriate, to one or more of the following officers:

- The Assistant Executive Officer
- The Chief, Land Management Division
- The Assistant Chief, Land Management Division

## **VII. OIL SPILL PREVENTION AND RESPONSE AND MARINE INVASIVE SPECIES**

The Executive Officer shall have authority over all matters pertaining to prevention of and response to pollution of lands under the jurisdiction of the Commission as provided under the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (the LKS Act), amendments thereto, associated regulations, and similar successor provisions of law or statute. The Executive Officer shall represent the Commission and its Chair on all panels and committees convened for the purposes of pollution prevention and response.

The Executive Officer shall have authority over all matters pertaining to the prevention of marine invasive species introductions as provided under the Marine Invasive Species Act (MISA), amendments thereto, associated regulations, and similar successor provisions of law or statute, including, but not limited to, the authority to issue any approval or authorization that would otherwise require action by the Commission pursuant to the MISA. The Executive Officer shall represent the Commission and its Chair on all panels and committees convened for the purposes of invasive species prevention and control. At any time, the Chair of the Commission may direct that, this delegation notwithstanding, one or more specific requests for

approval or authorization, as described under this paragraph, be submitted directly to the Commission for consideration and that no action upon that request be taken by the Executive Officer, Chief, Marine Environmental Protection Division, or Chief, Division of Environmental Science, Planning, and Management, pursuant to this delegation. Any approval, authorization, order, or any other action taken pursuant to this paragraph shall be reported to the Commission at the earliest Commission meeting for which legal notice can be provided. Notice of any action taken pursuant to this delegation shall be forwarded to any person or entity that has requested it.

At his or her discretion, the Executive Officer may re-delegate the above authority, or such of it as he or she may deem appropriate, or any authority given directly to the Executive Officer under the LKS Act and the MISA, except for those pertaining to the Mineral Resources Management Program, to one or more of the following:

- The Assistant Executive Officer
- The Chief, Marine Environmental Protection Division
- The Assistant Chief, Marine Environmental Protection Division
- The Chief, Division of Environmental Science, Planning, and Management
- The Assistant Chief, Division of Environmental Science, Planning, and Management

## **VIII. REMOVAL OF VESSELS FROM STATE WATERWAYS**

The Executive Officer shall have authority to undertake any activity necessary to remove or dispose of abandoned, derelict or trespassing vessels as permitted under the provisions of Public Resources Code sections 6302.1, 6302.3, and 6302.4, provided that the Executive Officer has determined that an exemption from CEQA applies pursuant to authority granted in section IV of this Comprehensive Delegation of Authority.

The Executive officer may re-delegate the above authority, or such of it as he or she may deem appropriate, to one or more of the following:

- The Assistant Executive Officer
- The Chief Counsel
- The Assistant Chief Counsel

- Any Commission Attorney
- The Chief, Land Management Division
- The Assistant Chief, Land Management Division
- Any Public Land Manager
- Any Public Land Management Specialist III or IV