

Staff Report 51

PARTIES:

California State Lands Commission (Commission) in its independent capacity and as Trustee of the Kapiloff Land Bank Fund; California Department of Fish and Wildlife (CDFW)

PROPOSED ACTION:

The Parties propose to enter into an Interagency Agreement for CDFW to fund work to be performed, and to reimburse the Commission for management of the solicitation and administration of a contract for the maintenance dredging of the Batiquitos Lagoon, and the transfer and receipt of funds to administer the contract and reimburse staff time.

The Commission owns, on behalf of the State, the majority of the land leased to CDFW, is one of the signatory agencies of the Project, and holds authority and experience in contracting for large scale dredging projects, such as those previously completed at the Bolsa Chica Ecological Reserve and Batiquitos Lagoon.

An Interagency Agreement between the Commission and CDFW would facilitate the transfer of funds to the Commission. Staff would place the funds in an interest-bearing account within the Kapiloff Land Bank Fund pursuant to [Public Resources Code section 8625, subdivision \(b\)](#) for disbursement as needed to pay contractors and recover Commission staff costs as authorized by [Public Resources Code section 8613, subdivision \(b\)](#). Commission staff would solicit proposals and execute a Public Works contract for the maintenance dredging.

The dredge project proposes to remove approximately 180,000 cubic yards of sand from the lagoon and place it on Carlsbad South Ponto State Beach and a nesting site known as W2, for the California Least Tern and Western Snowy Plover. Additionally, the project will include the replacement of five thousand (5000) linear feet of protective fencing for all nesting sites (W1, W2, E1, and E2). CDFW estimates

a total cost of \$1,500,000, with a possibility of reaching \$1,800,000. The Least Tern nesting period is generally March through the end of August. Thus, dredging and nesting site work would take place beginning in the fall of 2025 with work concluding in February of 2026.

AREA, LAND TYPE, AND LOCATION:

The Batiquitos Lagoon Ecological Reserve is a 544-acre property, located between the California coastal cities of Carlsbad, to the north, and Encinitas, to the south. It is one of the few remaining tidal wetlands in Southern California and is a habitat for numerous species of threatened and endangered plants and animals. It is managed as a preserve by CDFW (as shown in Figure 1).

Figure 1. Location



The dredging will occur at the Central Basin of Batiquitos Lagoon and removed sand will be placed at South Ponto Beach (as shown in Figures 2 and 3, below).

Figure 2. Site Map – Dredge Area



Figure 3. Site Map – Placement Area



BACKGROUND:

In 1987, the Commission authorized the Executive Officer to enter into a Habitat Restoration Agreement (Agreement) with the City of Los Angeles, the City of Carlsbad, CDFW, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service (collectively, the Parties) to enhance marine habitat in Batiquitos Lagoon to compensate for marine habitat losses caused by land filling associated with development at the Port of Los Angeles. Batiquitos Lagoon is located near the city of Carlsbad in San Diego County ([Item 39, September 23, 1987](#)).

The Batiquitos Lagoon Enhancement Project was undertaken as mitigation for the loss of deep-water fish habitat due to channel improvements and placement of fill for cargo terminals at the Port of Los Angeles. As part of that Agreement, compliance with the California Environmental Quality Act (CEQA)/National Environmental Policy Act (NEPA) was required and a Final Environmental Impact Report/Statement was certified for the [Batiquitos Lagoon Enhancement Project \(State Clearinghouse \[SCH\] No. 88080328\)](#) by the City of Carlsbad and U.S. Army Corps of Engineers in 1990.

In 1996, after 7 years of planning, nearly 3 years of construction, and total expenditures of \$55 million by the Port of Los Angeles, the Lagoon was dredged, Least Tern nesting sites were created, and the mouth of Batiquitos Lagoon was permanently opened.

Pursuant to the Agreement, CDFW assumed management responsibilities for the Batiquitos Lagoon Enhancement Project. The Commission leased its interest in Batiquitos Lagoon to CDFW for management as part of the Batiquitos Lagoon Ecological Reserve ([Item 15, September 14, 1988](#)).

The restoration of Batiquitos Lagoon has been a success. Numerous species of marine fish use the Lagoon for shelter, feeding, and as a nursery. Habitats and communities that had not been seen in the Lagoon for years appear to be thriving. In addition, many species of birds, including special status species, use the Lagoon for foraging and nesting.

The Batiquitos Lagoon Enhancement Project requires routine dredging to maintain tidal prism, salt marsh, and marine fish nursery habitat within the Batiquitos Lagoon Ecological Reserve. The Commission previously approved maintenance dredging in the Batiquitos Lagoon on October 22, 2009 ([Item 52, October 22, 2009](#)) and again on August 23, 2018 ([Item 104, August 23, 2018](#)).

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections [6106](#) (Delegation to execute written instruments), [6306.1](#), [8613](#) & [8625](#); Public Contract Code sections [1101](#) & [10108](#); [State Contracting Manual Chapter 10](#) (Rev. 6/23).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

The proposed dredging is required to maintain the ecological values for the continued success of the Batiquitos Lagoon Ecological Reserve, which preserves and enhances Public Trust resources in the lagoon. Preservation of land for scientific study, open space, and wildlife habitat is consistent with the Public Trust Doctrine. The proposed Interagency Agreement will facilitate the maintenance dredging and help preserve the Ecological Reserve. Further, staff believes the proposed activity will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed activity; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This proposed action is consistent with strategies outlined in the [Commission's 2021-2025 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 to foster, improve, and enhance relationships to engage the Legislature, public, local, state, and federal agencies, legislative grantees, Commission lessees, potential applicants, non-governmental organizations, and the regulated community.
2. Authorization to execute an Interagency Agreement, accept funds as trustee of the Kapiloff Land Bank Fund, solicit proposals, obtain quotes, negotiate a fair and reasonable price, and award and execute an agreement is not a project as defined by CEQA because the authorization is for administrative actions 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, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

3. Staff recommends that the Commission find that the maintenance dredging, supported by the executed Interagency Agreement, is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the maintenance dredging is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed Interagency Agreement to facilitate maintenance dredging, agreement to recover costs, and use of the Kapiloff Land Bank Fund to facilitate maintenance dredging will enhance Public Trust resources in the Batiquitos Lagoon and is in the State's best interest.

AUTHORIZATION:

1. Authorize the Executive Officer or her designee to enter into an agreement with the California Department of Fish and Wildlife (CDFW) to recover Commission staff costs incurred in contracting for services to perform maintenance dredging at Batiquitos Lagoon, in accordance with [Public Resources Code section 6218](#).
2. Authorize Commission staff, as Trustee of the Kapiloff Land Bank Fund, to accept funds from CDFW for deposit into the Kapiloff Land Bank Fund and expend funds for the contracting of maintenance dredging at the Batiquitos Lagoon and recovering staff expenses.
3. Authorize the Executive Officer or her designee to solicit proposals for contractor services, negotiate fair and reasonable prices, and award and execute a Public Works agreement for maintenance dredging of the Batiquitos Lagoon, in

accordance with Public Contracts Code sections [1101](#) and [10108](#), and [Government Code section 19130](#).

4. Authorize the Executive Officer or her designee to take whatever action is necessary and appropriate to implement the terms of the agreements described in Proposed Actions, thereof.