



CALIFORNIA
STATE LANDS
COMMISSION

Kapiloff Land Bank Report

Fiscal Year 2023-2024



Photo courtesy: Katera Forbes

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This report summarizes the status of the Kapiloff Land Bank for fiscal year 2023-2024.¹

Background

The Kapiloff Land Bank Fund (Fund) enables the Commission to accept and hold money in trust to acquire certain property or to expend money for project-specific mitigation or restoration projects.² 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 may accept cash deposits when substitute parcels of land of equal value are unavailable 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.³ 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 for open space, habitat for plants and animals, and public access.⁴ If a deposit is made into the Fund for a specified mitigation purpose as a condition of a permit, lease, or other Commission action, 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, specified or not, that provide for public access to, or management and

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

² Kapiloff Land Bank Act (Chapter 1471, Statutes of 1982, as amended); Pub. Resources Code, § 8600, et seq.

³ Pub. Resources Code, §§ 8613, subd. (a), 8625, subd. (a).

⁴ Pub. Resources Code, §§ 8613, subd. (b), 8625, subds. (b) & (c).

improvement of, real property held by the Commission for open space, plant and animal habitat, and public access.

The Fund contains two account categories. The first is Title Settlements, which includes money received from title settlements (deposits) and money expended on property acquisitions (expenditures). The second is Special Mitigation and Management Projects, which includes money set aside for mitigation, land and resource management, or improvement projects. This second category contains an individual subaccount for each fund source.

The Fund began the fiscal year with a balance of \$19,528,438 and received deposits of \$6,784,856, with accounts earning \$770,110 in interest. The Commission spent \$4,729,680 across all accounts. As in prior years, most of this spending was on the Commission's Granted Lands Program and 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 \$22,353,724, a net increase of \$2,825,286. Below is a summary of significant Fund activity⁵.

Title Settlements

The Kapiloff Land Bank Act (Public Resources Code section 8600 et seq.) allows the Commission to enter into a title settlement and land exchange agreement with any person or private or public entity concerning filled or reclaimed tide and submerged lands or beds of navigable waterways, or interests in these lands, that are subject to the Public Trust for commerce, navigation, and fisheries, or other lands or interest in lands pursuant to Public Resources Code section 6307.

The Commission, acting as Trustee for the Kapiloff Land Bank, may accept a monetary deposit into the Kapiloff Land Bank Fund rather than land or interests in land. The monetary deposit must be used to purchase outstanding interests in tide and submerged lands, lands that have been or may be converted to

⁵ While the Fund's ending balance from FY 2022-23 is the same as the beginning balance for FY 2023-24, this annual report reflects interest allocation adjustments within the subaccounts that result in the ending and beginning balances of the subaccounts not correlating between FY 2022-23 and FY 2023-24.

wetlands or adjoining or nearby lands where the public use and ownership of the land is necessary or extremely beneficial for furtherance of Public Trust purposes (Public Resources Code sections 8613 and 8625).

The Title Settlements category began with a balance of \$9,117,980 and ended with a balance of \$10,811,181, a net increase of \$1,693,202. The net increase is attributed entirely to a \$1,325,000 deposit from a title settlement and \$368,202 in interest earned during the year.

Title Settlements (Deposits)

As noted above, the Commission entered into one title settlement agreement during the fiscal year, which is described below.

In October 2023, the Commission approved an Exchange Agreement between the Commission, acting as Trustee of the Kapiloff Land Bank Fund, and Amazon.com Services LLC ([Item 57, October 19, 2023](#)). The Agreement involves property interests in approximately 2 acres located at 900 7th Street in the City and County of San Francisco. The purpose of the exchange was to resolve a title dispute over the location, extent, and existence of public trust claims in the property. Because the property is filled, reclaimed, cut off from the water, and subject to substantial title uncertainty, it can no longer be used for commerce, navigation, or fisheries and is relatively useless for public trust purposes. The Commission agreed to terminate public trust claims in the property and in exchange Amazon deposited \$1,325,000 into the Fund's Title Settlement account.

Property Acquisitions (Expenditures)

While staff continue to explore potential land acquisitions consistent with the Kapiloff Land Bank Fund statute, the Commission did not authorize acquisitions in fiscal year 2023-24.

Special Mitigation and Management Projects

The Special Mitigation and Management Projects category contains funds received for mitigation or by agreements, judgments, penalties, or settlements other than as part of a title settlement. This category is maintained as individual subaccounts, some of which are limited to specific mitigation activities. If not expressly limited, the Commission may use a subaccount for public access, acquisitions, management, and property improvement.

The Special Mitigation and Management Projects category began with a balance of \$10,410,458. A total of \$5,861,765 in deposits, including interest, was received, while expenses totaled \$4,729,680. The category ended with a balance of \$11,542,543, a net increase of \$1,132,084.

Below is a discussion of the primary Special Mitigation and Management subaccounts in which most of the annual activity occurs, followed by a general discussion of the activity in the other subaccounts.

Bolsa Chica Lowlands Restoration Project

The Bolsa Chica Lowlands Restoration Project consists of approximately 950 acres of lowlands in Orange County adjacent to the Pacific Ocean.

Approximately 600 acres of the site have been restored. Much of the property has been transformed into a full tidal basin, with other portions converted into muted tidal areas or managed as wetland habitat.



Figure 1. American White Pelicans, a migratory species feeding over eelgrass, which is now abundant thanks to the restoration. Photo by Steven Eric Smith.

The site includes a not-yet-restored future full tidal area. The Ports of Los Angeles and Long Beach provided most of the original project funding in exchange for mitigation credits.

The Bolsa Chica subaccount began the fiscal year with a balance of \$3,292,051. Most of this amount—\$2,778,892—is reserved for the future full tidal basin restoration, leaving a balance of only a few hundred thousand dollars for

annual operations and maintenance (O&M) expenses, which include inlet dredging; facility/infrastructure repairs; and environmental, engineering, and other consultant contracts, non-contracted and unanticipated emergency maintenance or infrastructure repairs. The O&M budget for Bolsa Chica is approximately \$2.5 million per year, most of which goes toward dredging the inlet. Recognizing that the operations account was becoming perilously low, the Commission received a \$1 million General Fund appropriation in the 2017-2018 Budget Act. The Commission has since received \$2 million annual appropriations from the Environmental License Plate Fund (ELPF) for O&M, including the fiscal year covered by this report. Because the appropriation is from the ELPF, the money does not appear in the Kapiloff Land Bank Fund and is not reflected in this report.

Operating expenses were just \$2,594 during the year because, as noted above, most O&M expenses have been paid from the ELPF since 2018-19. Interest earned was \$123,653. The Bolsa Chica subaccount ended the year with a balance of \$3,413,110, an increase of \$121,059 that is attributable to interest offsetting expenses. While the Commission did receive a further appropriation of \$2,000,000 for an additional three years from the ELPF in the 2022-23 Budget Act, the actual cost for O&M in FY 2023-24 was greater than the appropriation. Considering the ELPF is facing potential funding shortfalls in coming years, staff continues to research opportunities for ongoing, stable operational funding.

Owens Lake

As in recent years, there was no Fund activity related to Owens Lake in the fiscal year.

Granted Lands Program

Local governments that manage legislatively granted state-owned lands are trustees for the State and the people of California. Trustees are required to manage their granted lands and resources consistent with their legislative trust grants and the common law Public Trust Doctrine. Trustees must ensure that revenue generated from granted lands is used for purposes consistent with their legislative trust grant and that further the Public Trust. The Commission oversees management of these granted lands and resources. Revenue generated on certain granted Public Trust lands is deposited in the Fund to administer the Commission's Granted Lands Program. Revenues the Commission receives from trustees are specified by agreement or granting statutes.

The trustees required to deposit revenue into the Fund are the Cities of Newport Beach, Pittsburg, Martinez, Eureka, and Sacramento, and the San Diego Unified Port District.⁶ The City of Albany, an historically non-revenue producing grant, was added in fiscal year 2020–21.⁷

The Granted Lands Program subaccount began the fiscal year with a balance of \$2,132,106 and ended with a balance of \$3,346,503, an increase of \$1,214,396. A total of \$1,444,856 was received from trustees, most of which - \$1,329,808 – was received from the City of Newport Beach and the San Diego Unified Port District. Interest earned on the subaccount was \$112,306. Expenses for administering the granted lands program (i.e., staff costs) totaled \$342,766.

Martins Beach

In 2018, the Commission delegated authority to its Executive Officer to accept donations and make deposits to the Martins Beach subaccount ([Item 107, August 23, 2018](#)). This action comported with Chapter 51, Statutes of 2018, that established a subaccount in the Fund for money received from public and private sources, including nonprofit sources, to acquire and create a public access route to and along the shoreline, including the sandy beach, at Martins Beach in San Mateo County. There were no receipts and no expenses in the subaccount during the fiscal year, but it did earn interest of \$40,200 and ended with a balance of \$1,109,894.

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

SB 44 (Jackson, Chapter 645, Statutes of 2017) authorizes up to \$2 million annually from the state's General Fund to the Fund beginning in fiscal year 2018-19 and through 2027-28, to administer the program. In July 2018, the Commission received the first \$2 million appropriation. SB 44 authorizes the transfer of an amount sufficient to bring the unencumbered balance of the program funds back up to \$2 million annually through 2027-28.

⁶ 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); City of Sacramento (Chapter 250, Statutes of 2018); San Diego Unified Port District (Chapter 372, Statutes of 2019).

⁷ City of Albany (Chapter 590, Statutes of 2016)

The SB 44 subaccount started the fiscal year with a balance of \$799,277. It received \$4 million during the year, \$2 million of which was a delayed fund transfer from fiscal year 2022-23. The other \$2 million is the normal annual fund transfer. The subaccount incurred expenses of \$4,369,270 and earned \$8,989 in interest, leaving a balance of \$438,996. Legacy oil and gas wells are wells that were drilled before current abandonment standards, where there is scant information on the well's abandonment procedure, and there is no viable company with the responsibility to re-abandon the well should it start leaking or threaten the environment or public health and safety. Based on the Commission's research, there are 200 high-priority legacy oil and gas wells that could, depending on their condition, leak oil into the marine environment, negatively affecting swimmers, surfers, recreational users, marine and coastal wildlife, as well as causing environmental degradation and public health and safety hazards.

In 2023, the Commission re-abandoned two offshore wells (Treadwell-1 and Treadwell-5) at Summerland Beach in Santa Barbara County. These re-abandonments are an essential part of the Commission's mandate under SB 44 to prevent oil from improperly abandoned legacy wells from leaking into surrounding waters and onto the beach.

The Commission continues to monitor the abandoned wells and survey the area to assess whether there are additional leaking wells to address in future SB 44 funded re-abandonments. The legacy well program team continues to meet with stakeholders and plan for future projects.

The Commission's legacy well re-abandonment contract with 2H Offshore California Inc. will expire in June 2025. The Commission plans to re-abandon two additional legacy wells at Summerland Beach in 2025 before the contract expires. The Commission plans to seek a new contractor in 2025 to address both its legacy well re-abandonment program and to conduct seep studies.

Coastal hazards are remnants of artificial coastal structures that have been abandoned and orphaned (i.e., there is no known responsible party). These hazards, typically buried in the coastal surf zone, 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. Hazard exposure depends on tide and beach erosion. Many hazards

are only exposed during the high tidal erosion that occurs in winter. The Commission responds to and removes hazards subject to permit conditions.



Figure 2. Removal of exposed H-beams from the beach. Photo by Commission staff.

In February 2024, the Commission awarded a coastal hazards removal contract to MP Environmental. The contractor will remove coastal hazards on an as-needed basis as they are identified. Hazards are usually removed with small excavators or loaders. No coastal hazards were identified or removed during this fiscal year.

More information is available in a separate report from the Commission to the Legislature, the SB 44 report, available at www.slc.ca.gov/publications. Please note that the information in the SB 44 report is based on the 2023 calendar year, while this report is based on the 2023-24 fiscal year, so specific data and monetary amounts may differ.

Other Special Mitigation and Management Fund Activity

The following discussion captures the activity in the other Special Mitigation and Management subaccounts.

Activity in the other subaccounts was limited in fiscal year 2023-24. The subaccount began with a balance of \$3,117,329. It received one deposit in the amount of \$15,000 to settle an encroachment issue with a beachfront landowner in the City of Bolinas.

There were three expenditures, totaling \$15,050, for planning and permitting to remove remnant pilings from a former industrial pier in the Carquinez Strait in Contra Costa County.

The Commission authorized a potential expenditure of \$297,022 from the Ticor Title/Las Tunas Groins subaccount for environmental studies, removal of coastal hazards, and removal and remediation of legacy oil and gas wells along the Santa Barbara and Ventura County coastlines in support of SB 44. The funds in the Ticor Title/Las Tunas Groins subaccount were originally intended to remove groins at Las Tunas Beach in the City of Malibu. The groins were removed in 2004. The original intent of the subaccount was satisfied and the remaining funds are surplus. The Commission decided that the best use of the funds was to remove coastal hazards in the same region, i.e., Southern California.

The subaccount received \$116,761 in interest this fiscal year, with a balance of \$3,234,040, an increase of \$116,711.

Looking ahead to 2025

The Commission is negotiating a land exchange and title settlement agreement involving a property in Fresno along the San Joaquin River known as Fig Garden. This property is a former golf course that the owner wants to subdivide and sell. The potential agreement involves relocating portions of a public trust easement to facilitate public access and to remove the remaining easement area. Staff anticipates the Fig Garden owners making a Kapiloff donation between \$400,000 and \$550,000 depending on the size of the removed easement area and expect the Commission to act on the item in the next fiscal year.

Fund Balance

The Fund balance as of July 1, 2024, is summarized below.

Title Settlements (Public Resources Code section 8625 subd. (a)).

<i>Title Settlements</i>	<i>Amount</i>
Principal	\$ 10,442,980
Interest	368,202
Subtotal	\$ 10,811,182

Special Mitigation and Management Projects (Public Resources Code section 8625, subdivisions (b), (c)).

<i>Subaccounts</i>	<i>Amount</i>
Bolsa Chica Lowlands Restoration	\$ 3,289,457
Granted Lands	\$3,234,197
Martins Beach	\$1,069,695
Coastal Hazards and legacy wells (SB 44)	\$43,008
Other Subaccounts	\$3,117,279
Interest	\$401,908
Subtotal	11,542,543
Total Fund Balance	\$ 22,353,724