

**CALENDAR ITEM  
C78**

A 11

09/01/11

WP 5736, R00411

S 7

D. Brown

**REQUEST AUTHORITY FOR THE EXECUTIVE OFFICER TO ACCEPT A  
TRANSFER OF FUNDS FROM THE CALIFORNIA DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL FOR PREPARATION OF AN ENVIRONMENTAL IMPACT  
REPORT AT SELBY SLAG SITE, CONTRA COSTA COUNTY**

**APPLICANT:**

California State Lands Commission  
100 Howe Avenue, Suite 100 – South  
Sacramento, CA 95825-8202

**PROPOSAL:**

The Executive Officer requests authority to accept a transfer of funds in the amount of \$420,000 from the California Department of Toxic Substances Control (DTSC) and to execute an interagency agreement with DTSC, for the preparation of an Environmental Impact Report (EIR) to evaluate the potential impacts of implementing cleanup at the Selby Slag Site.

**BACKGROUND INFORMATION:**

Between 1886 and 1970 a lead, gold, and copper smelter operated on a site, at Selby, Contra Costa County, which is commonly referred to as the Selby Slag Site. Beginning in the late 1940's, the State, apparently unaware of the toxic character of the smelter slag, negotiated leases of tidelands to the American Smelting and Refining Company (ASARCO) and its predecessors that directed placement of the remnant smelter slag on and into State-owned land. In 1983 the then-current leaseholder sued ASARCO and the State Lands Commission (Commission) under the Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to allocate liability for cleanup costs. The Commission entered into a settlement agreement with the other two parties in 1989. The Consent Judgment required the parties to pay the cost of remediating the site.

In August 2005, Asarco filed a petition for relief under Chapter 11 of the United States Bankruptcy Code. In 2008, Asarco filed a motion in the Bankruptcy Court

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for approval of a settlement whereby Asarco would transfer funds into a specially held DTSC account for Asarco's share of future remediation costs.

The Selby Slag Site remediation is entering the phase in which remedial alternatives will be developed and analyzed pursuant to the California Environmental Quality Act. DTSC desires to transfer \$420,000, to pay what would have been Asarco's share of the cost of preparation of the EIR.

**STATUTORY AND OTHER REFERENCES:**

- A. Public Resources Code § 6106 (Delegation to execute written instruments)
- B. Public Resources Code § 6826
- C. State Contracts Manual (rev. 10/05)

**IT IS RECOMMENDED THAT THE COMMISSION:**

1. Find that these activities are exempt from the requirements of CEQA pursuant to Title 14, California Code of regulations, section 15260 because these activities are considered to be feasibility and planning studies as defined by Title 14, California Code of Regulations, section 15262.
2. Authorize the Executive Officer or his designee to execute an Interagency Agreement in accordance with current State policies and procedures, for the preparation of California Department of Toxic Substance Control with an Environmental Impact Report.
3. Authorizing the Executive Officer or his designee to accept a transfer of \$420,000 from the California Department of Toxic Substance Control.