

**CALENDAR ITEM
C74**

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G. Gregory
M. Meier

CONSIDER ACCEPTANCE OF A DONATION OF \$98,200 TO THE KAPILOFF LAND BANK FUND IN SETTLEMENT REGARDING INTERNATIONAL-MATEX TANK TERMINALS' FAILURE TO COMPLY WITH PIPELINE TESTING REQUIREMENTS

PROPOSAL:

The Staff of the California State Lands Commission proposes that the Commission, acting as Trustee for the Kapiloff Land Bank Fund ("the Fund"), accept funds in the amount of \$98,200 from International-Matex Tank Terminals (IMTT) to be deposited in the Fund as settlement for failures to comply with pipeline testing requirements under Title 2 of the California Code of Regulations (2 C.C.R.) Sections 2564 and 2565.

BACKGROUND:

IMTT operates a marine oil terminal in the Port of Richmond. Included within that facility are eight pipelines used for transferring oil to and from tank vessels. During a period from August 20, 2007, through November 28, 2007, IMTT failed to comply with governing Commission regulations requiring periodic static liquid pressure tests on those pipelines. IMTT also continued to use those untested pipelines for transfers and failed to mark those pipelines as out of service, all of which were also violations of Commission regulations.

After some discussion with IMTT, the operator has agreed to donate the following amounts: For each of 191 transfers not in compliance with Title 2 of the California Code of Regulations (2 C.C.R.) Section 2564(a)(1) prior to November 27, 2007, \$200 would be paid, for a total of \$38,200. For each of the four transfers made using untested pipelines after November 17, 2007, on which date Commission Staff discovered and expressly notified IMTT of the violations, \$10,000 would also be paid, for a total of \$40,000. \$10,000 would also be paid each for the failure to test the subject pipelines in a timely fashion and for the failure to mark untested pipelines as out of service. The total amount therefore comes to \$98,200. Payment would be made as a donation to the Kapiloff Land Bank Fund.

IMTT has also agreed to undertake Safety Assessment of Management Systems (SAMS) in order to determine why, given IMTT's management practices and

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structure, the required tests were not made in a timely fashion. The assessment would be completed within 180 days of the date of settlement.

It should be noted that, while IMTT failed to test the subject pipelines as required, there does not appear, in retrospect, to have been any substantial risk of pipeline failure during the period in question. The issue is purely a question as to requirements to test pipelines periodically. The integrity of the pipelines could not have been verified without performing the required tests. All eight pipelines have since been properly tested, and all eight appear to be currently in compliance.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code, Division 7 (*Sections 8600 et seq.*)
- B. Public Resources Code, Division 7.8 (*Sections 8750 et seq.*)

PERMIT STREAMLINING ACT DEADLINE:

N/A

OTHER PERTINENT INFORMATION:

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 10561), the Commission Staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code Section 21084 and 14 Cal. Code Regs. 15300.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.
2. ACTING AS TRUSTEE FOR THE KAPILOFF LAND BANK, ACCEPT A DONATION OF \$98,200 FROM INTERNATIONAL-MATEX TANK TERMINALS TO BE DEPOSITED IN THAT BANK FOR UNSPECIFIED PROJECTS TO PROVIDE FOR THE IMPROVEMENT OF REAL PROPERTY HELD BY THE COMMISSION TO PROVIDE HABITAT FOR PLANTS AND ANIMALS IN CONJUNCTION WITH THE COMMISSION'S RESPONSIBILITIES UNDER DIVISION 6 OF THE PUBLIC RESOURCES CODE.

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3. DIRECT STAFF TO TAKE NO FURTHER ACTION WITH RESPECT TO ANY FAILURE PRIOR TO MARCH 25, 2008 BY IMTT TO COMPLY WITH APPLICABLE COMMISSION REGULATIONS.
4. DIRECT STAFF TO TAKE WHATEVER ACTION IS NECESSARY AND APPROPRIATE TO IMPLEMENT THE DIRECTION GIVEN HERERWITH BY THE COMMISSION.