

CALENDAR ITEM

49

A Statewide

12/10/10

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S Statewide

B. Bugsch

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SEA LEVEL RISE REPORT INFORMATIONAL UPDATE

PARTY:

California State Lands Commission

BACKGROUND:

At its meeting on December 17, 2009, the Commission considered and approved Minute Item 39 "A Report on Sea Level Rise Preparedness" (Report). The Commission's approval included 16 recommendations, one of which was to provide a one-year status update on implementation of the recommendations included in the Report. The Commission also directed staff to resurvey the major lessees and grantees within a year for an update on their efforts to address sea level rise.

On July 23, 2010, Commission staff resurveyed 110 major lessees and grantees. Twenty seven responses were received, of which 13 were first time responders. Of the 27 responses, thirteen respondents indicated that they have considered no action to address sea level rise. (See Exhibit A for a list of respondents to the August 2009 and July 2010 surveys.)

The 16 recommendations included in the Report are listed below and an update of their implementation follows:

Recommendation 1

Direct staff to continue giving careful consideration to the effects of sea level rise, including impacts to hydrology, soils, geology, transportation, recreation, and other resource categories in all environmental determinations. Direct staff to recommend feasible alternatives, project modifications, mitigation, or a combination of these measures, to avoid or reduce significant impacts.

Implementation: Staff developed language for environmental documents and includes the language when relevant. (See language in Exhibit B.)

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Recommendation 2

Direct staff to undertake an inventory of existing leases to identify improvements/infrastructure vulnerable to projected sea level rises of 16" and 55".

Implementation: Staff developed a list of leases and is in the process of assigning priority categories to facilitate review. See also implementation of Recommendation 6 below. Additional staff is needed to comply with this recommendation.

Recommendation 3

Direct staff to add a request for information concerning the potential effect of sea level rise on the proposed project to the Commission's Surface Leasing Application Form, Part III, Section B: Assessment of Environmental Impacts. If applicable, require applicants to indicate how they plan to address sea level rise and what adaptation strategies are planned during the projected life of the project.

Implementation: Staff developed language to include in the application package, which includes an assessment of sea level rise. (See language in Exhibit B.)

Recommendation 4

Consider amending the Commission's applicable package to require that all new coastal development projects consider the implications of and include adaptation strategies for project sea level rises of 16" and 55", depending on the projected life expectancy of the project.

Implementation: Staff developed language to include in the application package. (See language in Exhibit B.)

Recommendation 5

Where appropriate, staff should recommend project modifications that would eliminate or reduce potentially adverse impacts from sea level rise, including adverse impacts on public access.

Implementation: This is being done by staff, when applicable.

Recommendation 6

Adopt engineering design standards, where authorized, requiring major facilities to withstand a defined storm event, such as a 100 year storm, taking into account sea level rise over the life of the project.

Implementation: Staff uses current engineering standards to assess a facility's ability to withstand a defined storm event. For marine oil terminals, a new MOTEMS regulation to address sea level rise will take effect January 2011 (Section 3103F.5.3.4). For all other major facilities, staff developed language to

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include in the application package to ascertain what engineering standards are being relied on to address potential impacts from sea level rise on proposed or existing facilities throughout the life of the project. (See language in Exhibit B.)

Recommendation 7

Include a provision in future leases requiring Lessees to comply with any provisions or standards that may be adopted by any regulatory agency that addresses sea level rise.

Implementation: Staff developed language to include in the Special Provisions Section of the Lease. (See language in Exhibit B.)

Recommendation 8

Continue to monitor changes from sea level rise in California and coordinate with and seek advice and expertise from other federal, state, or local agencies on this issue.

Implementation: Staff is complying with this recommendation.

- SLC is a member of the California Ocean Protection Council's Coast and Ocean Climate Action Team (CO-CAT) and the State Sea Level Rise Task Force and participated in the creation of an Interim Sea-Level Rise Guidance Document
- Staff continues to participate in the State's Climate Action Team
- Staff continues to monitor amendments to the San Francisco Bay Conservation and Development Commission's Bay Plan
- Staff will review the State Sea Level Rise Assessment Report scheduled to be completed in 2012

Recommendation 9

Give careful consideration to future Boundary Line Agreements and Title Settlements. Include a standard provision in such agreements stating that the Public Trust easement will move with submergence or when subject to the ebb and flow of the tide.

Implementation: Staff is complying with this recommendation and has included this language in recent title settlement agreements. (See language in Exhibit B.)

Staff included the language in two approved settlement agreements:

1. A Compromise Title Settlement Agreement with the 22nd District Agricultural Association over lands in the San Dieguito River in Del Mar.
2. A Boundary Line and Land Exchange Agreement with Oakland Harbor Partners, LLC.

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Staff is proposing the language in three other draft agreements:

1. A Land Exchange Agreement with City of San Diego for lands located in the vicinity of Mission Bay.
2. A Title Settlement, Public Trust Exchange, and Boundary Line and Land Exchange Agreement with the Department of State Parks and Recreation, the Redevelopment Agency of the City and County of San Francisco, The City and County of San Francisco, the Port of San Francisco for lands located within Candlestick Point and Hunters Point Shipyard.
3. A Land Exchange Agreement with North C.V. Waterfront L.P. and the San Diego Unified Port District for lands located in Chula Vista, San Diego County.

Recommendation 10

Collect current information on the mean high tide line including, if necessary, conducting boundary surveys along the coastline and bays, and possibly some inland waterways.

Implementation: As discussed in the initial report, additional staff is needed to comply with this recommendation.

Recommendation 11

Evaluate structures (wharves, docks, levees, breakwaters, piers, seawalls, flood control structures, etc.) subject to the ocean environmental for structural integrity and potential hazards as sea levels rise.

Implementation: Staff has undertaken an inventory of existing leases to prioritize those having critical improvements/infrastructure vulnerable to projected sea level rises of 16" and 55". The first level of priority involves marine oil terminals. As discussed in the initial report, additional staff is needed to comply with this recommendation.

Recommendation 12

Continue to evaluate offshore platforms in state waters based on American Petroleum Institute Recommended Practices.

Implementation: All offshore platforms in California have been requalified based on American Petroleum Institute Recommended Practices within the last 15 years. As new standards are developed, they will be incorporated in SLC evaluations of platforms and included in future structural requalifications.

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Recommendation 13

Send the proposed changes to the Commission's application package addressing sea level rise to all grantees for their consideration and use.

Implementation: These will be mailed this month.

Recommendation 14

Provide copies of the Sea Level Rise Report to the survey recipients for their consideration and use and post the Report on the Commission's website.

Implementation: Completed on February 3, 2010.

Recommendation 15

Report back to the Commission in one year on the progress made by Commission staff and its grantees.

Implementation: Completed on December 10, 2010.

Recommendation 16

Direct staff to review the results of the "Sea Level Rise Assessment Report" required to be completed by 12/1/10, pursuant to Executive Order S-13-08, and, as soon as feasible after the report is released, to make recommendations to the Commission as to appropriate sea level rise estimates that should be accommodated by new development on sovereign lands. As part of these recommendations, staff will evaluate phasing procedures and make recommendations as appropriate.

Implementation: Awaiting the report, now scheduled to be completed in 2012.

In addition, on April 6, 2010, (Minute Item 54) the Commission supported legislation (AB 2598) which would require each local agency trustee of legislatively granted public trust lands to prepare a sea level action plan to prepare for sea level rise. AB 2598 passed the Assembly Natural Resources Committee, Assembly Appropriations Committee, Assembly Floor, and Senate Natural Resources and Water Committee. However, the bill was held on the Senate Appropriations Committee's suspense calendar at the very end of the legislative session.

EXHIBITS:

- A. List of Survey Respondents
- B. Implementation Language

EXHIBIT A

2009 Survey (40 Respondents)

City of Benicia
City of Capitola
Carmel Area Water District
City of Carpinteria
City of Hermosa Beach
City of Laguna Beach
City of Long Beach
Petro - Diamond Terminal, LB
Port of L.A.
Metropolitan Water District of SoCal
City of Monterey
City of Newport Beach
Port of Oakland
City of Oceanside
Orange County, Dana Point Harbor
Orange County (OC Parks)
City of Pittsburg
City of Richmond
San Diego - Mission Beach
Youth Tennis of San Diego
Port of San Francisco
Port of San Luis Harbor District
San Mateo Harbor District
City of Santa Barbara
City of Santa Monica
City of Vallejo
City of Ventura
Port of San Diego
Northrop Grumman
General Dynamics NASSCO
Aera Energy
BP
Chevron Estero Terminal
DCOR - Oil Platforms Eva & Esther
Greka Rincon Island
NRG Energy
Pacific Operators Offshore LLC
Tesoro - L.A. Refinery
Thums - Long Beach Harbor
Venoco, Inc.

2010 Survey (27 Respondents)

City of Mill Valley
City of Ventura*
City of Carlsbad
City of Carpinteria*
Palos Verdes Estates
Moss Landing Harbor District
City of Crescent City
Petro - Diamond*
Scripps Institute of Oceanography
City of Burlingame
City of Eureka
City of Newport Beach*
City of Coronado
City of San Mateo
Dana Point Harbor*
OC Parks*
Peter's Landing Marina
City of Chula Vista
City of Martinez
San Mateo Harbor District*
Northrop Grumman*
General Dynamics NASSCO*
BP*
DCOR, Inc.*
Vopak
Tesoro*
Venoco, Inc.*

* Responded to both surveys

EXHIBIT B

IMPLEMENTATION LANGUAGE

Recommendation 1

Language for inclusion in Environmental Documents:

Effects of Sea Level Rise. The EIR should consider the effects of sea level rise to any relevant resource categories of the proposed project. Please note that when applying for a lease from the CSLC, staff has been directed to request information concerning the potential effects of sea level rise on the proposed project; and, if applicable, require applicants to indicate how they plan to address sea level rise and what adaptation strategies are planned during the projected life of the project. For further information, please see "A Report on Sea Level Rise Preparedness," which was approved by the CSLC at its meeting on December 17, 2009 (the Report and accompanying Staff Report can be found on CSLC's website: <http://www.slc.ca.gov/>). One of the recommendations from the Report is to direct CSLC staff to consider the effects of sea level rise to hydrology, soils, geology, transportation, recreation, and other resource categories in all environmental determinations.

Recommendation 3

Language for the Application Package, Part III, Section B: Assessment of Environmental Impacts:

Section B.6. Will the project involve any feature subject to sea level rise or other effects associated with climate change over the life of the project? If so, please explain in detail and address any planned adaptation strategies.

Recommendation 4

Language for the Application Package, Part II, Section B: Project Description, Subsection 1.e.

Subsection 1.e. If the project involves development, in an area subject to tidal action, provide risk analysis, implications of failure, and adaptation strategies for, addressing projected sea level rise of 16 inches by year 2050 and 55 inches by year 2100, relative to the projected life expectancy of the project. Adaptation strategies may include alternate project designs to prevent impacts.

Recommendation 6

MOTEMS Regulations - New Section 3103F.5.3.4 (effective 01/2011):

All MOTs shall consider the predicted sea level rise over the remaining life of the terminal, due to subsidence or climate change combined with maximum high tide and storm surge. Consideration shall include but not be limited to variation in fender locations, additional berthing loads (deeper draft vessels) and any components near the splash zone.

Language for the Application Package, Part II, Section B: Project Description, Subsection 1.f.

Subsection 1.f. What engineering standards are being relied on to address potential impacts from sea level rise on proposed or existing facilities throughout the life of the project?

Recommendation 7

Language for Lease, Section 2, Special Provisions:

Lessee shall comply with and be bound by all rules, regulations, statutes or ordinances pertaining to sea level rise either presently existing or subsequently enacted by the State Lands Commission or any other governmental agency or entity having lawful authority and jurisdiction.

Recommendation 9

Language for Boundary Line and Title Settlement Agreements:

The boundaries and fee title are intended to be fixed and not subject to change by erosion, accretion, reliction or submergence whether due to natural or artificial causes. However, should lands freed of the Public Trust easement for commerce, navigation and fisheries become inundated from waters of the San Dieguito River or the Pacific Ocean, whether due to either erosion or sea level rise that results in the land being submerged or subject to the ebb and flow of the tide below the elevation of mean high water, the lands for so long as such conditions exist will be subject to the Public Trust easement. Nothing in this section limits the rights of either party pursuant to Civil Code Section 1015.