

**CALENDAR ITEM
C75**

A 9
S 5

04/23/14
AD 346
E. Milstein
J. Koepke

**CONSIDER A LAND EXCHANGE AGREEMENT, INVOLVING APPROXIMATELY .74
ACRES OF LAND ALONG THE SOUTHERN BOUNDARY OF THE COSUMNES
RIVER PRESERVE, SACRAMENTO COUNTY**

PARTIES:

James Bradley Jones as Trustee of the J.B. Jones Trust Dated May 20, 2009

State of California, acting by and through the California State Lands
Commission

PROPOSED AGREEMENT:

On June 19, 1998, the California State Lands Commission ("Commission"), acting as the Kapiloff Land Bank Trustee, approved the purchase of a parcel of land adjacent to the Cosumnes River Preserve ("Preserve") with Kapiloff funds, pursuant to Public Resources Code section 8613. The parcel was duly purchased, and title to the property was taken "as lands having the legal character of tide and submerged lands." In 2011, J.B. Jones purchased the adjacent parcel and improvements. In late 2012, the County of Sacramento informed Mr. Jones that structures on his parcel were either encroaching onto the neighboring State parcel or close enough to the property line to violate County setback requirements. These encroachments were created by a previous owner and were not discovered by Mr. Jones until after his purchase of the property. Mr. Jones notified the Cosumnes River Preserve Manager ("Preserve Manager") who notified Commission staff immediately and requested assistance in resolving this matter.

Because title to the State parcel was taken as tide and submerged lands, simpler options such as a lot line adjustment are not available to resolve this matter, and Commission staff determined that a land exchange agreement pursuant to Public Resources Code section 6307 is the legally appropriate solution.

The parties to the proposed Land Exchange Agreement ("Agreement") are the State of California ("State"), acting by and through the Commission, and James Bradley Jones as Trustee of the J.B. Jones Trust Dated May 20, 2009 ("Private Party"). The

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Agreement concerns lands located within and adjacent to the Cosumnes River Preserve located in Galt, California. The proposed agreement will consist of two parcels, a Trust Termination Parcel (approximately .37 acres) which title will be transferred from the State to Private Party in exchange for the Public Trust Parcel (approximately .37 acres) which title will be transferred from Private Party to the State. These parcels are shown on Exhibit A. The Agreement settles and establishes certain boundary lines between these parcels.

Commission staff has reviewed the information supporting the proposed Agreement including site visits, appraisals, surveys, title reports, and other documents developed and other studies conducted for the proposed Agreement. Staff has also consulted with the Office of the Attorney General on this exchange agreement. In the interest of resolving this matter, the Parties have conducted independent studies and evaluations of the title and boundary evidence, applicable principles of law, and the merits of their legal positions. Staff concludes that requirements of Public Resources Code section 6307 have been met, specifically:

1. The exchange of lands contemplated in this agreement will be a benefit to the Preserve, and therefore the exchange is being made to preserve, enhance, or create wetlands, riparian or littoral habitat, or open space (Public Resources Code section 6307(c)(6)). The exchange will also enhance the physical configuration of the trust land ownership (Public Resources Code section 6307(c)(3)).

2. The exchange will provide a significant benefit to the public trust by clearly delineating the boundary between the Preserve and private lands and by resolving the conflict of land uses with neighboring landowners and the County regarding the state's parcel.

3. The exchange does not substantially interfere with public rights of navigation or fishing, as there will be no change in access to the Preserve or the Cosumnes River.

4. An appraisal and survey have been conducted and independently reviewed by staff and the monetary value and acreage of the lands or interests in lands received by the trust in exchange is equal to or greater than that of the lands or interests in lands given by the trust in exchange.

5. The lands or interest in lands given in exchange have been cut off from water access and no longer are in fact tidelands or submerged lands or navigable waterways, by virtue of having been filled or reclaimed, and are relatively useless for public trust purposes.

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6. After a thorough analysis staff believes that resolving the land use conflicts associated with the private encroachments on the state's parcel within the Preserve through the proposed exchange agreement is in the best interests of the state.

Under PRC section 6307(d), the Commission may release the mineral rights in lands or interest in lands given in exchange if it obtains the mineral rights in the lands or interest in lands received in exchange. Unless parties to a transaction intend otherwise, mineral rights normally follow transfer of the fee interests. In this case, staff is proposing transfer of the fee without addressing mineral rights separately. As such, the mineral rights for both the Trust Termination Parcel and the Public Trust Parcel would follow the transfer of the fee interest, as permitted under PRC section 6307(d).

Once the land exchange agreement is executed and the exchange is complete, staff will bring to the Commission an amendment to the lease with the Bureau of Land Management, which manages the Preserve, to add the Public Trust Parcel and remove the Trust Termination Parcel from the lease for its consideration. The Preserve Manager supports the exchange agreement.

STATUTORY AND OTHER REFERENCES:

A. Public Resources Code section 6307, et seq.

OTHER PERTINENT INFORMATION:

The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 14, section 15301, for transferring the encroached improvements from the State to private land; and Class 25, Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions; California Code of Regulations, Title 14, section 15325, for transferring private land to the State as part of the Cosumnes River Preserve.

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300.

EXHIBIT:

A. Site and Location Map

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IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDINGS:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 14, section 15301; and Class 25, Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions; California Code of Regulations, Title 14, section 15325.

AUTHORIZATION:

Based upon the terms and conditions in the Agreement, this calendar item, and all of the information contained in the Commission's files and presented at the public meeting related to the Agreement, the Commission hereby:

1. Finds that, with respect to the proposed Agreement:
 - A. The exchange is being made to preserve, enhance, or create wetlands, riparian or littoral habitat, or open space (Public Resources Code section 6307(c)(6) and to enhance the physical configuration of trust land ownership (Public Resources Code section 6307 (c)(3).
 - B. The exchange will provide a significant benefit to the public trust.
 - C. This exchange will not substantially interfere with public rights of navigation and fishing.
 - D. The monetary value of land received by the trust in exchange is of equal or greater value to the lands given by the trust in exchange.
 - E. The Trust Termination Parcel has been cut off from water access and no longer are in fact tidelands or submerged lands or navigable waterways, by virtue of having been filled or reclaimed, and are relatively useless for public trust purposes.
 - F. The exchange is in the best interests of the State.

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2. Approves and authorizes the execution, acknowledgment, and recordation of the Agreement and associated deeds and acceptances on behalf of the Commission, in substantially the form of the copy of such agreement on file with the Commission.
3. Authorizes and directs the staff of the Commission and/or the California Attorney General to take all necessary or appropriate action on behalf of the California State Lands Commission, including the execution, acknowledgment, acceptance, and recordation of all documents as may be necessary or convenient to carry out the Agreement; and to participate on behalf of the Commission in any legal proceedings relating to the subject matter the Agreement.

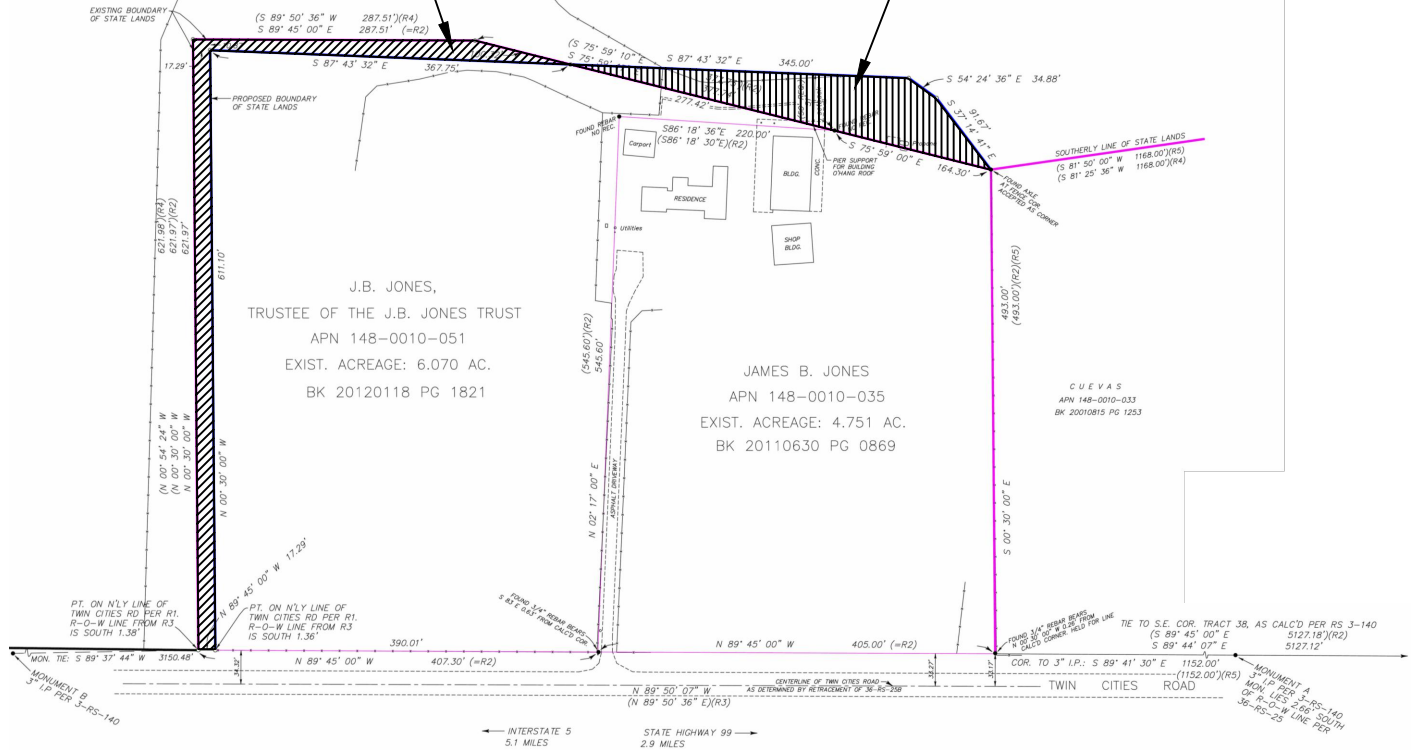
NO SCALE

SITE

PUBLIC TRUST PARCEL

STATE OF CALIFORNIA
STATE LANDS COMMISSION
APN 148-0010-052
197.67 Ac. +/-
BK 19980824 PG 1427

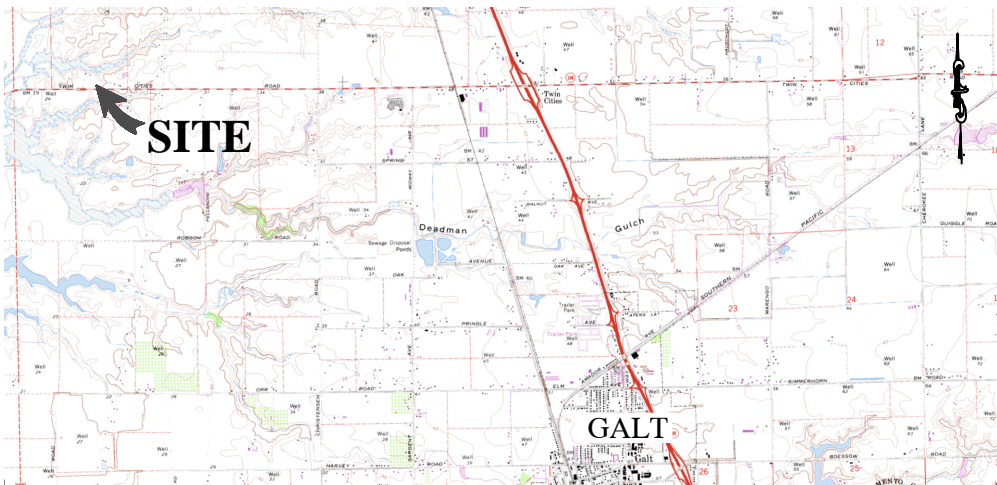
TRUST TERMINATION PARCEL



JB JONES LAND EXCHANGE (COSUMNES RIVER PRESERVE)

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

AD 346
JONES
APN 148-0010-035, 051
SACRAMENTO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

JAK 11/15/13