

**CALENDAR ITEM
C78**

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S 36

08/19/15
G 09-00
R. Boggiano

REVIEW THE PROPOSED ACQUISITION OF REAL PROPERTY BY THE COUNTY OF ORANGE FOR A TEMPORARY VESSEL STORAGE FACILITY LOCATED OUTSIDE THE BOUNDARY OF LEGISLATIVELY GRANTED SOVEREIGN LAND IN THE COUNTY OF ORANGE

TRUSTEE:

County of Orange
Brad Gross, Director
Orange County Dana Point Harbor

The County of Orange (County) is trustee of sovereign tide and submerged lands granted by the Legislature pursuant to Chapter 321, Statutes of 1961, and as amended by section 4 of Chapter 512, Statutes of 2014 (Chapter 321), with minerals reserved to the state.

BACKGROUND:

Pursuant to section 1, subdivision (h) of Chapter 321, the County submitted written notice to the California State Lands Commission (Commission) on June 8, 2015, of a proposed acquisition of real property for review of its consistency with Chapter 321.

Orange County Dana Point Harbor (OCDPH) is the County agency responsible for the day-to-day operation of the harbor. Portions of the harbor occupy lands legislatively granted to the County of Orange.

The Embarcadero Marine Facility, located in the harbor and within the County's granted lands, will undergo construction later this year for a new dry vessel storage unit. OCDPH thus needs to temporarily relocate approximately 500 vessels currently located at the proposed construction site to a temporary location while the new storage unit is under construction. OCDPH has secured seven acres of property from Orange County Waste & Recycling (OCWR) for the construction of a temporary vessel storage facility. The temporary facility will be located on OCWR's Prima Deshecha Landfill. The term of the acquisition will be for 5 years or until the vessels are relocated to the new dry storage unit, whichever is later.

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No rent will be charged to OCDPH for the use of the temporary facility; however, the OCDPH will be required to fund the improvements to make the facility ready for dry vessel storage. Under the agreement between OCWR and OCDPH, OCDPH will be responsible for funding all costs for the design, construction, and maintenance of the temporary facility. At the conclusion of the construction for the new dry vessel storage unit at the Embarcadero Marine Facility, OCDPH will completely remove the temporary facility from the OCWR site. OCDPH's engineers estimate the total cost to the tideland's trust for the facility to be \$750,000.

STAFF ANALYSIS:

Chapter 321 prohibits the County from spending trust funds outside of the geographic boundary of the legislative grant, except in limited circumstances, including the acquisition of real property necessary for or incidental to the development and operation of a harbor. If the proposed acquisition is not located adjacent to the geographic boundary of the grant and the expenditure exceeds \$50,000, the County must provide written notice to and obtain approval for the expenditure from the Commission. The notice must include the total proposed expenditure from the tideland's trust, the location of the real property, the purpose of the acquisition, and an explanation of how the acquisition is consistent with the terms of the trust grant.

The proposed acquisition is located at the Prima Descheca Landfill, which is not adjacent to the geographic boundary of the trust grant. The expenditure of tideland's trust revenue will thus require approval from the Commission.

Chapter 321 allows the County to use tideland's trust funds to purchase, lease, or otherwise acquire real property necessary for or incidental to the development and operation of a harbor. The County has proposed to acquire an interest in real property in order to facilitate harbor improvements. The County states that the acquisition is necessary to continue operation of dry dock storage during reconstruction of the harbor.

The property acquired must be held as an asset of the trust and used for purposes consistent with the terms of the statutory trust grant. Chapter 321 allows the County to expend trust funds for uses consistent with the statutory trust grant, which are specified as "the establishment, improvement, and conduct of a harbor, and for the construction, maintenance, and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures, facilities, and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and for recreational use, public park, parking, highway, playground, and business incidental thereto..." (sec. 1, subd. (a),

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Chapter 321, as amended.) The use of the proposed real property acquisition as a temporary vessel storage unit is consistent with Chapter 321.

OTHER PERTINENT INFORMATION:

1. The staff recommends that the Commission find that the subject consistency determination of a proposed acquisition of real property does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with CEQA.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

2. This activity involves lands statutorily exempted from Public Resources Code section 6370 et seq., pursuant to Public Resources Code section 6377.

EXHIBIT:

- A. Location and Site Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

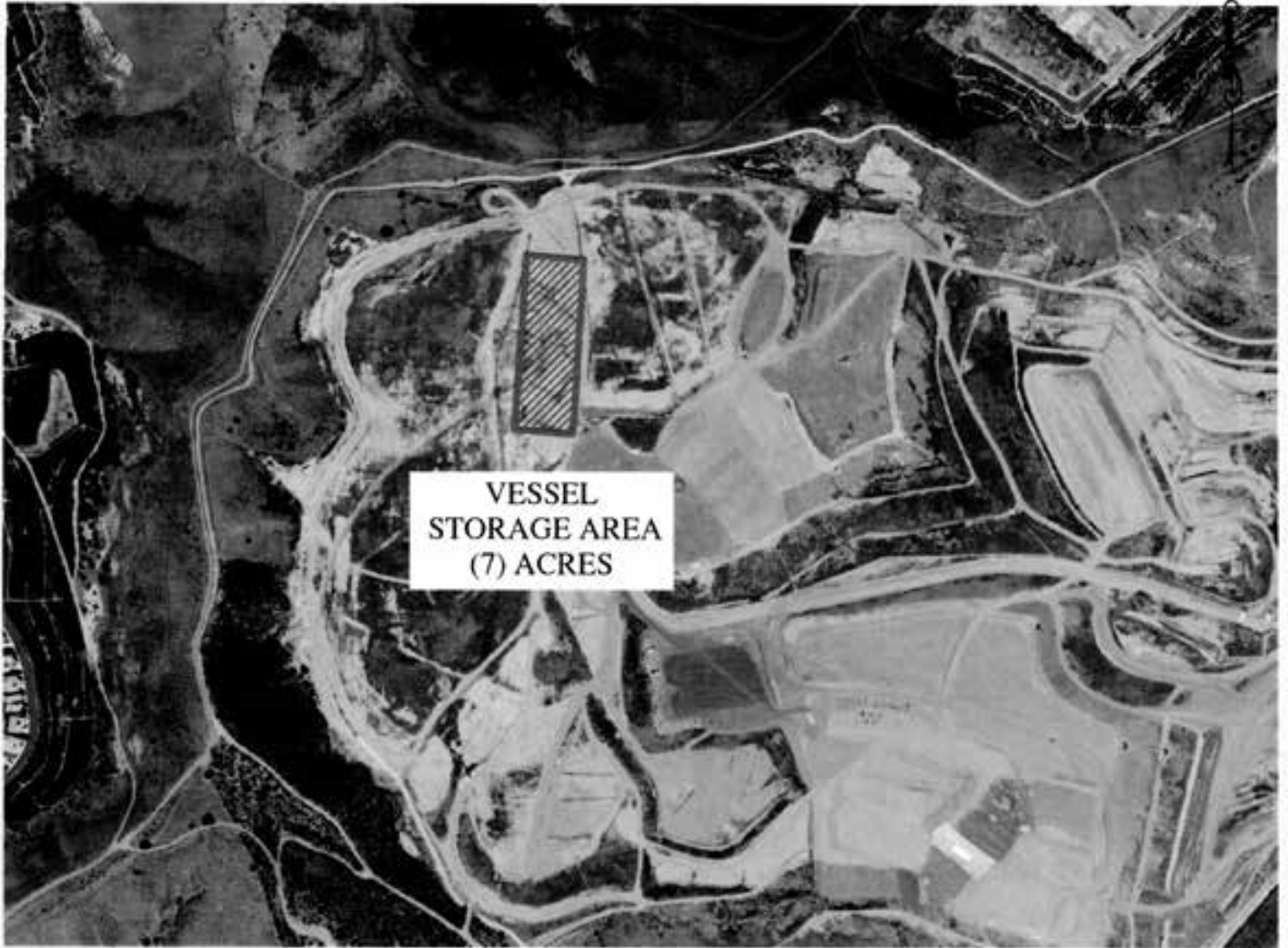
Find that the subject consistency determination of a proposed acquisition of real property is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

AUTHORIZATION:

Find that, based on the information provided by the County for acquisition of real property, the proposed acquisition of real property necessary for the development and operation of the Dana Point Harbor is consistent with the terms of Chapter 321, Statutes of 1961, as amended by Section 4 of Chapter 512, Statutes of 2014.

NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the subject premises, is based on unverified information provided by the 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.

Exhibit A

G 09-00
COUNTY OF ORANGE
ACQUISITION OF REAL
PROPERTY
ORANGE COUNTY



TS 07/30/15