

**STAFF REPORT  
C81**

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02/27/18  
W 27162  
D. Simpkin

**REAUTHORIZATION FOR THE USE  
OF KAPILOFF LAND BANK FUNDS**

**INTRODUCTION AND BACKGROUND:**

On June 14, 1999, the Commission authorized the issuance of Lease No. PRC 8079.9, a General Lease – Public Agency Use, to the City of Los Angeles Department of Water and Power (City) for a period of 20 years, for the Owens Lake South Sand Sheet Air Quality and Sand Fence Effectiveness Monitoring System on Owens Lake (Lake) in Inyo County ([Item C06, June 14, 1999](#)). Since that time, the Commission has authorized 20 amendments to the lease for the construction, operation, and maintenance of additional components of dust control.

On December 10, 2010, the Commission authorized an amendment to the Lease, authorizing the City to implement the Owens Lake Dust Control Project Phase 8 (Phase 8) ([Item C50, December 10, 2010](#)). Phase 8 included the placement of 2.03 square miles of gravel cover dust control. The Commission has found that the use of gravel cover does not enhance, but rather diminishes the Public Trust values on Owens Lake. In order to offset the loss of Public Trust values due to the use of gravel cover, the City was required to deposit \$500,000 into the Kapiloff Land Bank Fund for the acquisition, management, maintenance, and improvement of real property located adjacent to or within the bed of Owens Lake for the Public Trust purposes of ecological preservation, open space, wildlife habitat and public access.

The opportunity to acquire real property adjacent to or within the bed of the Lake is limited. The majority of the Lake is sovereign land under the Commission's jurisdiction. The City owns a number of parcels on and around the Lake, as does the Bureau of Land Management. Privately owned parcels available on the real estate market are rare. Commission staff believes that the acquisition of real property is not impossible, but is unlikely, due to the already consolidated ownership around the Lake.

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**THE PUBLIC TRUST DOCTRINE:**

As the Legislature's delegated trustee over the State's sovereign lands and resources at Owens Lake, the Commission has the responsibility to manage the dry lakebed in the best interests of the State and consistent with the common law Public Trust Doctrine, taking care to protect the identified Public Trust resources and values. For years, the City has been diverting water from Owens Lake, which has forever changed and almost eliminated the Public Trust resources at Owens Lake. However, since the City began implementing dust control measures at Owens Lake with shallow flooding and managed vegetation, the bird population of the Lake has increased significantly. The identified Public Trust resources at Owens Lake include wildlife, habitat, public access, recreation, and aesthetic enjoyment, among others. The broadened authority to expend funds received into the Kapiloff Land Bank as proposed in this staff report will not negatively impact existing Public Trust resources and will provide additional opportunities to promote actions that will enhance or protect Public Trust resources on Owens Lake.

**STAFF RECOMMENDATION:**

Staff recommends the reauthorization of Kapiloff Land Bank Funds deposited by the City to be expanded to include the expenditure of funds for any lawful purpose related to Owens Lake or adjacent real property. The reauthorization will complement a second deposit into Kapiloff for any lawful purpose related to Owens Lake or adjacent real property made by the City as part of the Owens Lake Dust Mitigation Program Phase 9/10 in the amount of \$700,000 ([Item C61, August 19, 2015](#)). Combined, the \$1.2 million will allow more opportunities to improve and enhance Public Trust values, including ecological preservation, open space, wildlife habitat and public access on the Lake.

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Reauthorizing the use of Kapiloff Land Bank Funds is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

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**RECOMMENDED ACTION:**

It is recommended that the Commission, as Trustee of the Kapiloff Land Bank Fund:

**AUTHORIZATION:**

Reauthorize the use of \$500,000 in Kapiloff Land Bank Funds, deposited by the City of Los Angeles Department of Water and Power as originally authorized by the Commission on December 10, 2010 ([Item C50, December 10, 2010](#)), to any lawful purpose related to Owens Lake or adjacent real property, pursuant to the Kapiloff Land Bank Act, Public Resources Code section 8600 et seq.