



CALIFORNIA STATE
PUBLIC WORKS BOARD

GRAY DAVIS, GOVERNOR

915 L STREET ■ NINTH FLOOR ■ SACRAMENTO CA ■ 95814-3706 ■ (916) 445-9694

STATE PUBLIC WORKS BOARD

May 28, 2002

MINUTES

PRESENT:

Ms. Annette Porini, Chief Deputy Director, Department of Finance

Mr. Dennis Dunne, Chief Deputy Director, Department of General Services

ADVISORY MEMBER:

Director, Employment Development Department

LEGISLATIVE ADVISORS:

Assembly Member, Darrell Steinberg

Assembly Member Kevin Shelley

Assembly Member Sally Havice

Senator Richard G. Polanco

Senator Betty Karnette

Senator Wesley Chesbro

STAFF PRESENT:

James Tilton, Administrative Secretary, State Public Works Board, Department of Finance

Cindy Shamrock, Principal Program Budget Analyst, Department of Finance

Jim Lombard, Principal Program Budget Analyst, Department of Finance

Madelynn McClain, Executive Secretary, State Public Works Board

Chris Holtz, Budget Analyst, Department of Finance

Genevieve Frederick, Budget Analyst, Department of Finance

OTHERS PRESENT:

Marcia Grimm, State Coastal Conservancy

Sam Schucat, State Coastal Conservancy

Peter Brand, State Coastal Conservancy

Chris Vance, State Treasurer's Office

Aaron Todd, State Treasurer's Office

CALL TO ORDER AND ROLL CALL:

Ms. Porini, Chairperson, Chief Deputy Director, Department of Finance at 10:05 am called the meeting to order. Mr. Tilton, Administrative Secretary for the State Public Works Board called the roll. A quorum was established.

BOND ISSUES:

Mr. Tilton reported that there were no bond items.

CONSENT CALENDAR:

Mr. Tilton noted that there was one Consent Item. Item #1, Department of General Services, State Coastal Conservancy, Ormond Beach. However, we are pulling this item and moving it to the Action Calendar.

ACTION ITEMS:

Mr. Tilton noted that there was one Action Item. Item #1, Department of General Services, State Coastal Conservancy, Ormond Beach. This item will authorize acquisition of 265 acres of beach wetlands from Southern California Edison. The State Coastal Conservancy has the first right of refusal on this property and must exercise that right by May 30, 2002. There are two outstanding issues for you to consider. First, the property is being purchased "as is" with the knowledge that there is existing contamination on the property from underground tanks and pipelines serving a nearby power plant. Second, the purchase agreement indemnifies Southern California Edison in the event of future remediation is required as a result of hazardous materials on the property or previously removed from the property. The Executive Officer of the State Coastal Conservancy, and members of his staff are here to answer any questions you might have.

Mr. Sam Schucat, Executive Officer, State Coastal Conservancy, introduced himself. Last week on May 23rd, the Board unanimously approved the acquisition of Southern California Edison's 265-acre Ormond Beach property and authorized putting money into escrow, subject to the Public Works Board meeting today. This is the most important wetland restoration opportunity in Southern California. When and if this wetland is restored and combined with the Lagoon system, we will have 9 miles of wetland stretching along the coast. It will be the largest coastal wetland in Southern California. There is a great deal of public support for this acquisition. Mr. Tilton explained our right of first refusal, so you understand that this is not a situation where we could negotiate the purchase contract, it is not the preferred deal. With the assistance of Real Estate Services, we are satisfied that the price represents the fair market value. In making the decision, our Board took a look at some of the issues that we know that you share, that you probably want to talk about this morning. We don't know what is there on site in the way of possible contamination. We have not been able to look under every grain sand, although we have been able to do a survey and we know a great deal of what is present on the site. We have estimated conservatively the cost of additional remediation on site and we have set aside the funds to accomplish that remediation. Finally, are we covered for potential liability. Yes, we have an insurance policy in hand that covers our liability for the existing conditions, for any unknown conditions, and for all the conditions that we are required to indemnify Southern California Edison for.

I want to thank your staff. This has been a very frantic month for us and for them and we appreciate their ability to work hand in hand with us on this project. We also appreciate your willingness to schedule a special meeting to talk about it.

Ms. Porini said that she had a few questions. Generally, the Public Works Board does not acquire property on behalf of the state where there is contamination that is unknown, and that there is no plan for cleanup. I recognize that due to the time constraints, those things did not fall into place. I appreciate the work your staff has done with the Public Works Board staff over this month, but I really need to completely understand the specifics of the discoveries and different aspects of this acquisition.

Mr. Schucat noted that they had hired a consulting firm, and they took a number of soil samples at the site.

Peter Brand, Project Manager, State Coastal Conservancy introduced himself. Two years ago when we looked at it and Edison had looked at a very substantially during the decommissioning. In July of 2000, we took 14 soil, 2 ground water, and 2 surface samples. When Edison was doing the decommissioning, they took 79 samples and discovered nothing in the way of soil contamination above the standard set by the LA Regional Water Quality Control Board and none of us have found any groundwater contamination. In May 2002, we took another 20 soil, 10 ground, and 10 ground water samples. What we found in that second look was that one boring

under tank 6 there were some TPH, elevated above the cleanup level that the Regional Board had set. Then there were some by the former hazardous waste material storage shed and we have taken that into account. I would add that the Regional Board has stated that the groundwater on the site is not for drinking water purposes. They have confirmed that no ground water contamination has been found and the TPH is the only thing that needs to be sampled. Given what they found out there, wetland restoration is a perfectly appropriate use of the site. That is what we know, limited contamination in two of the areas on site. We didn't turn over every grain of sand on the lot, but it is conceivable that something else might be found later, it is very unlikely. One of the reasons for our confidence is that TPH and the type of carbons that are out there are generally considered in the wetland restoration field easily remediated. If for some reason we needed to take soil off site, what is the most conservative estimate we could come up with? Our consultant said that Edison took 30,000 tons of impacted soil. If we ever had to do anything close to that same amount, using a conservative estimate of \$100 per ton, it normally takes \$50 per ton. Then that would cost \$3 million and that is something well within the amount of money that we set aside for this project. We have a \$4 million fund that is continuously appropriated called the Habitat Conservation Fund.

There is also a small former tank/pipeline that has not been used for years near the generating plant. That is something we have tested around and there is no visible contamination on the site. We will take that off and if we find anything else, we take the soil offsite and we have set aside \$300,000 for that. The various people have looked around this area and have found no visible contamination. If there is some, it is small fraction of the 100-acre site.

Mr. Dunne asked if during the record searches, was there was any indication of accidents or spills. Mr. Brand noted that there were two different Phase 1 searches and all in Phase 2 have been done. Nothing of concern, if we had found something, we would have targeted certain areas. Mr. Dunne asked Mr. Brand in his opinion, how would you characterize what you found here? Where the soil samples consistent with this type of property? Mr. Brand said that it was expected. We were told if you were going to find something, these would be the types of things that you would find and they found a little bit. Our consultant said that even though those tanks had not been used for a while, the type of fuel that was in them, is a fuel that is a lot less volatile and less soluble than you would find in other petroleum situations.

Ms. Porini asked when the letters from the Regional Board were sent to Edison. Mr. Brand replied that one was sent on June 6, 2000 and July 21, 2000. Ms. Porini asked if they had anything more current from the Regional Board. Mr. Brand said that they had another letter that they sent last week. We asked them to look at everything we have and tell us what your reaction is. Is there something that jumps out at you that we will have to take off site and might be a problem as part of the wetland restoration. They wrote back and said we have reviewed everything and don't see a problem with you acquiring the site and proceeding with wetland restoration and will work with you on any remediation required.

Ms. Porini stated that normally these things comes to us in a coordinated effort between the Regional Water Quality Control Board and Department of Toxic Substances Control (DTSC) with regard to any contamination, do you currently have DTSC working with you?

Mr. Brand replied that they have not been involved so far. Ms. Porini asked if DTSC would be involved with any remediation? Mr. Brand said yes.

Mr. Schucat noted that the Conservancy had the money to remove the remaining tank and pipes and if we need to, completely redo the cleanup that Edison did. Mr. Dunne wanted to know the overall financial plan to do the remediation if necessary.

Mr. Brand said that they would want to take some of the soils offsite, we don't think that there is going to be that much to take offsite. That might be the fastest, easiest, most cost effective way of dealing with that. In terms of the TPH, we have several options. We can avoid inundation of that area, encapsulate it, bio-remediate it or take it offsite. Wetland restoration costs that we deal with are a wide range of costs. Typically a large area like this, it could cost tens of millions of dollars to just restore it. Moving dirt around and re-vegetate. That funding is handled within our annual budgetary process. But we have Prop 40 that is refilling our coffers. I can't give you an exact statement of how much it is going to cost, but it is a situation that we have dealt with a number of times.

Ms. Porini asked how much the Conservancy had set aside for this. Mr. Brand said that for the moment, they had \$800,000 set aside for this. We are willing to commit Prop 40 funds.

Mr. Schucat said the Legislature has appropriated \$130 million of Prop 40 funds to the Conservancy. If we need to take a million or two of that to finish cleanup before we go into the wetland remediation process, then we can do that. What we are going to do, we will come up with a plan for recreating the wetlands that were once there and we will decide if we need to remove specific toxic problems or will the wetlands themselves remediate the problem. Mr. Brand noted that even though we don't have a letter of commitment, there are two other very large, well funded entities that are eager to help pay for restoration process.

Mr. Dunne noted that his concern was how are you going to assure that the funds will be available? Mr. Schucat noted that the funds that his Board set aside last week will cover the removal of the remaining tank and pipes and any cleanup and any cleanup that has to happen around that. Plus, the removal of about 12,000 or 15,000 tons of dirt if we needed to. That is authorized in reserve by the Board now.

Mr. Tilton noted that normally what we would have done in this situation is hire an independent consultant, had a thorough review of the property, get an estimate for remediation, and then sit down with Water Quality and DTSC and develop a remediation plan so you have a good handle of what we are going to do and then fund that. This has not been done yet and it seems to me that our expectations as staff is that we follow through and develop a remediation plan that involves both of those control agencies to make sure that we just don't buy this and have this liability hanging out there forever.

Marcia Grimm, Staff Counsel, State Coastal Conservancy, introduced herself. She wanted to make a clarification regarding the site conditions. That the contaminate issues that we have identified are all associated with this tank farm that was decommissioned and removed by Southern California Edison and were it not for the circumstances of the purchase agreement, Edison would have completed that. Edison has taken out the tanks, done confirmation sampling, and they have documentation to provide to the Water Board that in their view is adequate to get a clean closure letter. What is preventing that, other than timing, is the fact that our consultants did additional sampling and found two additional isolated areas. So I think that we have fairly widely characterized the site and most likely because of the nature of these tanks, I don't think that anyone is recommending that we go out and do additional sampling prior to remediation. What you would do is take out the tank and check what is underneath and in the time that you are doing the wetland restoration plan, you would do the additional removal and take what you find as you go.

Ms. Grimm said that primarily because we have an agreement that we would have to enter into that is one-sided that indemnifies Edison, much more extensively than we would have wanted. So we explored the possibility of insurance to cover our liabilities under that agreement and for any unknown conditions exist on the site. We have a very good proposal now that will cover those things, and in addition the underwriters have reviewed all of the studies and documents

that we have, including our consultants report that included the additional contamination. They are not uncomfortable with that. They are willing to cover the remediation costs of everything other than the removal of the remaining tank and contaminated soil under that tank, which we said we can cover. We have a proposal that has been reviewed by myself, the Insurance and Risk Management Department at General Services, which has felt comfortable with the company and with the terms of the policy and we have independent counsel that has taken a look at this and has said that you have everything under this policy covered that we would be concerned about under the agreement with Edison and what we know about the condition of the property today. It is a 10-year policy with extension and renewal provisions, although most of these types policies are good for 10 years and you have to see what happens after that. We can get coverage up to \$20 million of liability, both for known and unknown conditions on site and off site and at disposal locations were we would be indemnifying Edison for the work that they had done.

Mr. Dunne asked when they would purchase this policy? Ms. Grimm replied that they would want to purchase the policy at the time that they took title to the property. Under the conditions that the Conservancy Board imposed, we need to be comfortable that we have a reasonable insurance policy to go forward. We have until Thursday to exercise our rights, so we would want to have a pretty firm commitment at that point and we would propose to buy the insurance at the time we took title.

Ms. Porini asked if someone General Services come forward and tell the Board their view of the insurance policy.

Ms. Sanchez, with the General Service's Office of Risk and Insurance Management, introduced herself. We were asked to look Indian Harbor Insurance Company. They are rated A+, which means that they are an excellent carrier. Their financial size is 15, which is the highest category that the private industry will recognize as far as their financial solvency. Ms. Porini asked if she felt that the insurance policy suggested was appropriate for the purchase. Ms. Sanchez replied that to the best of her knowledge, yes. Between three of us, we have looked at the policy and it does look like it is adequate and meets the needs of what the Conservancy would be looking for.

Mr. Tilton said that we would normally not be moving forward with this acquisition with these two issues outstanding. Staff from the Conservancy and the PWB have attempted to is to identify some issues, first of all, on the existing site remediation, we would recommend that the approval be contingent upon the Conservancy following through on both the cleanup and that is has been signed off by the Water Quality Control Board and DTSC. The approval of the Conservancy was contingent upon getting some insurance that would mitigate the risk of the onsite contamination and the indemnification for anything that has been removed from the site in the past. One of the frustrations is we have no idea what that could be. That is something that through staff work, we could attempt to identify, through records, what has been transported offsite to get a sense of if there is a liability there. If you did move forward, it would be contingent on two things. That he Conservancy move forward with remediation of the existing site, as well as doing appropriate staff work and due diligence on exploring what records exist, because the indemnification is for toxic materials that have been moved offsite under manifest. There should be documentation of that. The insurance policy is only good for 10 years; so that it is important that we get a clear handle of what the liability is there and get a commitment that the Conservancy will address whatever costs are there. They are coming forward with this project recommending that you approve it, but there is a responsibility on their part to cover the cost of these issues. Normally, we would have these all funded and identified up front and we don't have that today.

Mr. Dunne asked if someone could explain the offsite situation.

Ms. Grimm responded to Mr. Dunne's question. We have actually sought to find records of manifests that disclose material that had been removed from the property in the past. We have

not got much cooperation from Edison. There isn't information out there that specifically relates to the property that we would be buying as distinguished from the adjacent generating plant that was owned by Edison previously and is not the subject of the indemnity agreement. I want to make sure that you understand that the insurance policy would cover our liability with respect to those types of materials and that the insurance company has done its own due diligence in making this proposal. They have told us that they are prepared to cover our costs as a result of this indemnity agreement we or Edison have some liability from material that has been removed offsite. So that is covered under the policy. I would not recommend that we do additional searching for information that we may not be able to find, if we do go forward and if we get this insurance coverage, this will take care of that. Mr. Dunne asked that Edison removed 30,000 tons of soil and given that what we know now, in other situations where this sort of removed soil has caused problems, and is there any indication that the amount of that problem could start approaching the policy limits. Ms. Grimm replied that the soil was removed, according to the documentation that Edison provided and the certificates of recycling, the material was non hazardous. It is petroleum-impacted soil, it is not hazardous materials under the applicable statutes. Most of that type of soil is at a recycling facility and there are not major concerns about that. It is the stuff we don't know about that we are worried about that might be there. We don't have any information indicating that there have been hazardous materials removed from this site, but, given that we can't establish that with a 100% certainty, this is why we wanted to go with the insurance policy.

Ms. Porini then asked what the Conservancy what language they adopted at their Board meeting.

Ms. Grimm read the resolution that was adopted by the Conservancy.

The State Coastal Conservancy authorizes the dispersement of an amount not to exceed \$9,700,000 for the acquisition of approximately 265 acres of Southern California Edison property at Ormond Beach, as shown and described in the accompanying staff recommendation. On terms and conditions substantially equipped to those set forth in the purchase and sales agreement December 21, 2001, as amended between Southern California Edison Company and Occidental Petroleum Corporation, subject to authorization of the purchase by the State Public Works Board, pursuant to the property acquisition law. This authorization is further subject to obtaining insurance, which in the Executive Officer's determination, will provide reasonable protection from liabilities assumed in this acquisition and subject to reservation of any funds excess to this acquisition for insurance and necessary remediation.

There is an additional authorization for us to accept funds from outside sources to contribute to the costs.

Ms. Porini stated that they have not set aside a specific dollar amount for remediation. Ms. Grimm replied that we have internally set aside/reserved from appropriations available to the Conservancy and funds contributed from outside sources \$10.5 million, which is \$800,000 in excess of the amount of the purchase price that is authorized. That would not typically be subject of a Board resolution.

Mr. Schucat said that he had signed a document that the Conservancy is reserving this amount of money. Ms. Porini said that she wanted to make sure that there was money set aside specifically for cleaning up this property. Ms. Grimm said that the \$10.5 million is from current appropriations to the Conservancy. That information has been provided to your staff and the Department of Finance has concurred that we do have available funding from current appropriations to pay the costs of the acquisition and these additional costs that we have mentioned. There isn't any additional step other than the authorization by the Conservancy Board and the director's approval and the approval of the accounting staff to make these funds

available for those purposes. They have been internally reserved and our staff cannot use them for some other purpose.

Mr. Brand stated that the cost of remediation is covered by the insurance policy. Mr. Dunne asked that the \$800,000 is set aside for the removal of the tank and remediation. Ms. Grimm noted that the \$800,000 is for tank removal and purchase of the insurance policy. We have additional funds, if for some reason, we wanted to pay those costs, rather than charge them to the insurance policy. Mr. Dunne asked if the insurance policy was \$300,000 to buy it. What you have reserved is \$500,000 for the tank and \$300,000 for the purchase of the insurance policy.

Ms. Kathy Long, Ventura County Board of Supervisors, 3rd District, introduced herself. The Board held a special meeting on Friday to discuss the acquisition, as we participated in the Conservancy hearing on Thursday, and we reaffirmed our commitment to work as a partner in whatever way possible along with the City of Oxnard and a broad coalition of farmers, business people, environmental advocates for both the acquisition, remediation and restoration of valuable wetlands in our county. The Board's resolution speaks to the willingness to work with the Conservancy providing our own resources in the form of in kind services for remediation and restoration of the wetlands. Another piece that we acted on was to send a letter to John Bryson, CEO of Edison, to ask that they cooperate fully with any information gathering that is needed in the future for manifest identification of activity on the property both in the past. We also authorized that a letter be sent to Occidental Petroleum asking them for cooperation, in fact the concern we have with public policy is the indemnification issue related to post and prior actions, suggesting that they might assist with pulling an offer off the table, which would allow for Edison to reconsider that part of the contractual agreement. We also have two military bases in our county that are under one uniform, Naval Base Ventura County. We have the pleasure of having the CB's, one of the largest in the United States, in our county. They do great community outreach projects. They have committed to assist in any way they can with the removal of dirt for remediation. So there is great community support for this. We are willing to do whatever is needed.

Mr. Saeed Ali, Chief of Staff, Senate Majority Leader Richard Polanco's Office, introduced himself. Senator Polanco wanted to convey his apologies for not being able to come personally to this meeting. Senator Polanco wanted to emphasize that wetlands are a very scarce and declining resource, very difficult to find because they can't be manufactured. Usually you will find some degradation, if not, a very high level of degradation. I think that there is a commitment by the voters of California to try to see what we could do to rejuvenate our beaches and wetlands to the extent that you can assure that the taxpayers are protected, he would very much like to see this project move forward. Senator Polanco would like to offer his support to you and to the Conservancy and the county to make the wetlands available. Thank you.

Ms. Marilyn Miller, Planning and Environmental Services Manager, City of Oxnard, introduced herself. I am here to personally to pass along the City Counsel's commitment to supporting this acquisition. They have been on record since February of 2000 in support of the Conservancy's acquisition of about 600 acres of wetland area out there. This represents close to half of that amount. It is a very important piece of this wetland restoration project. We are faced with a fork in the road on how this area is going to develop in the future. We have an Occidental Petroleum is looking to purchase this property to develop a facility next to an existing Edison plant. While, it might be a good location, it is not a facility that is supported by the community there. The vision for that area is to have this restored in some semblance of what it once was, a huge wetland area. I would just like to add our support as a community for this acquisition.

Mr. Dunne stated that he would be very hesitant to go forward, given the unknown liability for the State, but I am persuaded by the importance of this project and the good work that has been done by the Conservancy. They obviously have community support and the willingness to do

things. I hope that this not setting a precedent, this is a unique case. With that, I would offer a motion to approve this item consistent with the recommendation made by Mr. Tilton. Motion to approve with the understanding that after acquisition (including purchase of the appropriate insurance) the Conservancy will complete due-diligence on the toxic issues and develop and complete an environmental remediation plan approved by the Water Quality Control Board and DTSC. Ms. Porini noted that she will second that motion with the strong admonition to our staff, DGS staff, and any other state agency that comes before the PWB, that this be considered the exception to the rule. Given the fact that you have the money, support from the community and the City of Oxnard and the Insurance Policy, we have a unanimous vote to adopt this resolution.

Mr. Dunne made a motion, Seconded by Ms. Porini, to adopt Action Item #1. The motion passed by a 2-0 vote.

OTHER BUSINESS:

Mr. Tilton noted that there were no items of other business.

REPORTABLES:

Mr. Tilton indicated there were no reportables.

NEXT MEETING:

Mr. Tilton noted that the next PWB meeting is scheduled for Friday, June 14, 2002, at 10:00 am in Room 112.

Having no further business, the meeting was adjourned at 10:55 a.m.

BOND ITEMS

BOND – ITEM

No Bond Items.

BOND ITEMS

STAFF ANALYSIS – ITEM

No Bond Items.

CONSENT ITEMS

CONSENT – ITEM 1

DEPARTMENT OF GENERAL SERVICES (1760)
STATE COASTAL CONSERVANCY (3760)
ORMOND BEACH ACQUISITION
VENTURA COUNTY

Project Number SCC 001.4, DGS Parcel No. 10108

*Authority: Public Resources Code Sections 31105 and 31251-31270
Chapter 162/96, Item 3760-301-0262
Chapter 282/97, Item 3760-301-0262
Chapter 324/98, Item 3760-301-0262
Chapter 50/99, Item 3760-301-0262
Chapter 52/00, Item 3760-301-0262
Chapter 52/00, Item 3760-301-0748
Chapter 106/01, Item 3760-301-0005(1)
Chapter 106/01, Item 3760-301-0262*

a. Authorize acquisition consistent with the staff analysis

PULLED AND MOVED TO THE ACTION CALENDAR.

CONSENT ITEMS

STAFF ANALYSIS – ITEM 1

Department of General Services
State Coastal Conservancy
Ormond Beach, Ventura County

Action Requested

The requested action will authorize acquisition consistent with the staff analysis.

Scope Description

This project is within scope. This project provides for the acquisition of approximately 265 acres at Ormond Beach, Ventura County, to implement a portion of the Wetland Resources Enhancement Plan for Southern California Edison Properties approved by the State Coastal Conservancy (SCC) on February 24, 2000.

Funding and Cost Verification

This project is within cost. The property can be acquired in accordance with Legislative intent using funds from the Habitat Conservation Fund, as appropriated by Chapter 162/96, Item 3760-301-0262; Chapter 282/97, Item 3760-301-0262; Chapter 324/98, Item 3760-301-0262; Chapter 50/99, Item 3760-301-0262; Chapter 52/00, Item 3760-301-0262; Chapter 52/00, Item 3760-301-0748; Chapter 106/01, Item 3760-301-0005(1); and Chapter 106/01, Item 3760-301-0262. There are sufficient remaining funds in these accounts to acquire the property.

CEQA

A Notice of Exemption was filed with the State Clearinghouse on April 27, 2000, and the waiting period expired on June 1, 2000.

Project Schedule

The project schedule is as follows:

The anticipated close of escrow is June 2002.

Condition of Property

Department of General Services (DGS), Environmental Services Section (ESS) staff conducted a site visit to the property on May 19, 2002, and reviewed all or portions of various preliminary site assessment and related special studies provide by the SCC and seller, Southern California Edison (Edison) on the Ormond Beach property.

The objective of this proposed purchase by the Conservancy is to secure beachfront access, to provide an opportunity for coastal marsh restoration, and preserve open space. The parcel meets all these objectives.

The proposed purchase involves property adjacent to an electrical generating station situated on the beach in Ventura County. The land to be purchased is a combination of beachfront, coastal lagoon, back beach dunes, and the site of a former petroleum tank farm with one remaining tank. Portions of the acquisition contain features related to the adjacent power plant including piping, vaults, a storage tank, and various surface debris.

ESS staff was not able to determine the remaining liabilities that result from the earlier industrial uses. Information was provided that indicates a portion of the former petroleum tank farm was removed, but both surface and subsurface features remain. An independent hazards consultant reported areas of potential contamination, but there survey was not comprehensive. Edison has not made full disclosure of all available documentation and provides no warranties.

While the materials were not available at the time this report was prepared, the Conservancy has indicated they are preparing a estimate of the potential future remediation costs for the use and restoration of this parcel. They are also proposing to secure environmental liability insurance to address the potential unknown remediation costs for this parcel. There is no clear indication either the regional water quality control board and/or other state/local health agencies have certified the site as in compliance with state and federal hazardous standards.

While the materials were not available at the time this report was prepared, the Conservancy has indicated they are preparing a estimate of the potential future remediation costs for the use and restoration of this parcel. They are also proposing to secure environmental liability insurance to address the potential unknown remediation costs for this parcel.

The transaction is "as is" and results in the state assuming liability for known and unknown conditions.

ESS staff concludes that insufficient information currently exists to fully assess the condition of this parcel, to accurately estimate future remediation costs, or to assess future liabilities to the state. However, it is recognized by ESS staff that this parcel represents a unique opportunity to secure additional beachfront access on the Ventura coastline and there are opportunities within the property for marsh restoration.

Other

- This property was approved for site selection by the State Public Works Board on July 14, 2000 as part of a larger acquisition.
- The SCC has a contractual “First Right of Refusal” to buy the property from Edison in the event it is to be sold. The first right of refusal derives from a 1966 Agreement between Edison and the Resources Agency, which subsequently delegated authority to the SCC to exercise these rights.
- The property is currently subject to a purchase offer by Occidental Petroleum (OXY). The purchase agreement provides for sale of the property for a total purchase price of \$9.7 million, subject to agreements that would release and indemnify Edison for all environmental conditions on the property except those that are caused by Edison after the close of escrow.
- If the Conservancy fails to exercise its right within the Refusal Period and acquire the property within the specified periods, the right would expire. However, the right would revive and be reinstated if Edison did not consummate its sale to Occidental or another buyer on substantially the same terms and conditions within a period of 180 days.
- OXY is proposing to build a \$250 million Liquefied Natural Gas (LNG) terminal on the property next to the Reliant Energy power plant. The proposal would include a pipeline or pier for importing LNG by tanker to the proposed receiving terminal.
- The purchase contract provides for an “as is” purchase. Edison would be fully indemnified by the buyer for any release of hazardous materials on the property (unless caused by Edison after the close of escrow) as well as for any claims associated with hazardous materials removal activities as shown on a “manifest”. No manifests have been made available by Edison for review by the State prior to purchase.
- DGS appraisal staff analyzed the pending OXY transaction and found that the purchase offer by OXY appears to be representative of a genuine “arms length transaction” and that the offered price of \$9.7 million is realistic when the prospects and potential of the proposed special purpose LNG terminal use is considered.
- Remediation costs and funding sources for remediation remain to be quantified and/or specified.

Staff Recommendation: **Authorize acquisition consistent with the staff analysis, contingent upon reasonably accurate remediation estimates and identification of funding source for future anticipated remediation and liability.**

ACTION ITEMS

ACTION – ITEM

DEPARTMENT OF GENERAL SERVICES (1760)
STATE COASTAL CONSERVANCY (3760)
ORMOND BEACH ACQUISITION
VENTURA COUNTY

Project Number SCC 001.4, DGS Parcel No. 10108

*Authority: Public Resources Code Sections 31105 and 31251-31270
Chapter 162/96, Item 3760-301-0262
Chapter 282/97, Item 3760-301-0262
Chapter 324/98, Item 3760-301-0262
Chapter 50/99, Item 3760-301-0262
Chapter 52/00, Item 3760-301-0262
Chapter 52/00, Item 3760-301-0748
Chapter 106/01, Item 3760-301-0005(1)
Chapter 106/01, Item 3760-301-0262*

a. **Authorize acquisition consistent with the staff analysis**

APPROVED. MOVED FROM CONSENT CALENDAR.

ACTION ITEMS

STAFF ANALYSIS – ITEM

Department of General Services
State Coastal Conservancy
Ormond Beach, Ventura County

Action Requested

The requested action will authorize acquisition consistent with the staff analysis.

Scope Description

This project is within scope. This project provides for the acquisition of approximately 265 acres at Ormond Beach, Ventura County, to implement a portion of the Wetland Resources Enhancement Plan for Southern California Edison Properties approved by the State Coastal Conservancy (SCC) on February 24, 2000.

Funding and Cost Verification

This project is within cost. The property can be acquired in accordance with Legislative intent using funds from the Habitat Conservation Fund, as appropriated by Chapter 162/96, Item 3760-301-0262; Chapter 282/97, Item 3760-301-0262; Chapter 324/98, Item 3760-301-0262; Chapter 50/99, Item 3760-301-0262; Chapter 52/00, Item 3760-301-0262; Chapter 52/00, Item 3760-301-0748; Chapter 106/01, Item 3760-301-0005(1); and Chapter 106/01, Item 3760-301-0262. There are sufficient remaining funds in these accounts to acquire the property.

CEQA

A Notice of Exemption was filed with the State Clearinghouse on April 27, 2000, and the waiting period expired on June 1, 2000.

Project Schedule

The project schedule is as follows:

The anticipated close of escrow is June 2002.

Condition of Property

Department of General Services (DGS), Environmental Services Section (ESS) staff conducted a site visit to the property on May 19, 2002, and reviewed all or portions of various preliminary site assessment and related special studies provide by the SCC and seller, Southern California Edison (Edison) on the Ormond Beach property.

The objective of this proposed purchase by the Conservancy is to secure beachfront access, to provide an opportunity for coastal marsh restoration, and preserve open space. The parcel meets all these objectives.

The proposed purchase involves property adjacent to an electrical generating station situated on the beach in Ventura County. The land to be purchased is a combination of beachfront, coastal lagoon, back beach dunes, and the site of a former petroleum tank farm with one remaining tank. Portions of the acquisition contain features related to the adjacent power plant including piping, vaults, a storage tank, and various surface debris.

ESS staff was not able to determine the remaining liabilities that result from the earlier industrial uses. Information was provided that indicates a portion of the former petroleum tank farm was removed, but both surface and subsurface features remain. An independent hazards consultant reported areas of potential contamination, but there survey was not comprehensive. Edison has not made full disclosure of all available documentation and provides no warranties.

While the materials were not available at the time this report was prepared, the Conservancy has indicated they are preparing a estimate of the potential future remediation costs for the use and restoration of this parcel. They are also proposing to secure environmental liability insurance to address the potential unknown remediation costs for this parcel. There is no clear indication either the regional water quality control board and/or other state/local health agencies have certified the site as in compliance with state and federal hazardous standards.

While the materials were not available at the time this report was prepared, the Conservancy has indicated they are preparing a estimate of the potential future remediation costs for the use and restoration of this parcel. They are also proposing to secure environmental liability insurance to address the potential unknown remediation costs for this parcel.

The transaction is "as is" and results in the state assuming liability for known and unknown conditions.

ESS staff concludes that insufficient information currently exists to fully assess the condition of this parcel, to accurately estimate future remediation costs, or to assess future liabilities to the state. However, it is recognized by ESS staff that this parcel represents a unique opportunity to secure additional beachfront access on the Ventura coastline and there are opportunities within the property for marsh restoration.

Other

- This property was approved for site selection by the State Public Works Board on July 14, 2000 as part of a larger acquisition.
- The SCC has a contractual “First Right of Refusal” to buy the property from Edison in the event it is to be sold. The first right of refusal derives from a 1966 Agreement between Edison and the Resources Agency, which subsequently delegated authority to the SCC to exercise these rights.
- The property is currently subject to a purchase offer by Occidental Petroleum (OXY). The purchase agreement provides for sale of the property for a total purchase price of \$9.7 million, subject to agreements that would release and indemnify Edison for all environmental conditions on the property except those that are caused by Edison after the close of escrow.
- If the Conservancy fails to exercise its right within the Refusal Period and acquire the property within the specified periods, the right would expire. However, the right would revive and be reinstated if Edison did not consummate its sale to Occidental or another buyer on substantially the same terms and conditions within a period of 180 days.
- OXY is proposing to build a \$250 million Liquefied Natural Gas (LNG) terminal on the property next to the Reliant Energy power plant. The proposal would include a pipeline or pier for importing LNG by tanker to the proposed receiving terminal.
- The purchase contract provides for an “as is” purchase. Edison would be fully indemnified by the buyer for any release of hazardous materials on the property (unless caused by Edison after the close of escrow) as well as for any claims associated with hazardous materials removal activities as shown on a “manifest”. No manifests have been made available by Edison for review by the State prior to purchase.
- DGS appraisal staff analyzed the pending OXY transaction and found that the purchase offer by OXY appears to be representative of a genuine “arms length transaction” and that the offered price of \$9.7 million is realistic when the prospects and potential of the proposed special purpose LNG terminal use is considered.
- Remediation costs and funding sources for remediation remain to be quantified and/or specified.

Staff Recommendation: **Authorize acquisition consistent with the staff analysis, contingent upon reasonably accurate remediation estimates and identification of funding source for future anticipated remediation and liability.**

OTHER BUSINESS

REPORTABLES

To be presented at meeting.

Respectfully Approved,

JAMES E. TILTON
Administrative Secretary

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