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## **PUBLIC LANDS: Calif. lacks adequate appraisal standards for resource acquisitions, says state analyst** (10/25/2007)

Arthur O'Donnell, *Land Letter* editor

California resource agencies have spent more than \$2 billion since 2000 to acquire rights or ownership of property for parks, wildlife habitats or other conservation purposes, and voters last year approved a \$1 billion bond issue for new land acquisitions. According to the state's Legislative Analyst Office, however, the agencies involved in these transactions lack standardized policies for determining the market value of such properties and are inconsistent in what they reveal to the public before approving such deals.

In a **report** issued this week, legislative analyst Elizabeth Hill recommended instituting a systematic appraisal approach to resource acquisitions and suggested that rather than having individual agencies and commissions conduct appraisals, the task should be turned over to the Department of General Services.

Besides inconsistency in practices, Hill's report also questioned the independence of property valuations. "Without a sound process in place to guide the appraisal functions for these acquisitions, the state may be paying too much," she noted, and that "lacking a consistent set of standards to guide them, state resource agencies vary in the extent to which the appraisal function is conducted independently from parties (including themselves) that have a strong interest in the outcome of the acquisition."

There are several state boards that actively acquire lands or easements for resource conservation purposes, many of which operate below the general public's radar. For example, the Wildlife Conservation Board next month is slated to consider nearly \$11.5 million for a wide variety of projects. Many of these are small-scale grants or contributions of a few thousand dollars to help local agencies or nonprofit conservation groups secure rights or properties. But there are a few mid-sized grants on the agenda, including \$650,000 to buy 100 acres of private land in the Santa Rosa Mountains area of Riverside County for wildlife habitat, and \$641,000 to buy 7.5 acres to expand the Elkhorn Slough Ecological Reserve. At the top end of the scale, WCB is also considering a \$5 million grant to the Trust for Public Land to assist in buying 260 acres of improved properties in Los Angeles County for open space and wildlife habitat additions to the Bluebird Preserve.



In several cases, the state board is leveraging federal funding or money that derives from public bond issues.

The Cargill salt ponds on San Francisco Bay, as seen from a satellite. The state/federal purchase of 16,500 acres for wildlife habitat led to questions about how its value was determined. Photo courtesy of NASA.

Some recent land deals noted in the report include:

- Ahmanson Ranch (Ventura County), involved \$150 million for acquisition of 2,900 acres by the Santa Monica Mountains Conservancy, assisted by the Wildlife Conservation Board (WCB) and the State Coastal Conservancy (SCC).
- Bellona Wetlands (Los Angeles County), a \$140 million purchase of 193 acres by WCB and SCC for wildlife habitat.
- Hearst Ranch (San Luis Obispo County), a \$92 million acquisition of 1,500 acres and easements for another 80,000 acres for wildlife habitat, farmland conservation and public recreation, funded by WCB, SCC and Department of Transportation.
- Bolsa Chica Ecological Reserve (Orange County) involved \$65 million to buy 103 acres of vacant land to expand the Department of Fish and Games ecological reserve, funded by WCB.
- Mendocino Highlands State Park, Big River Unit (Mendocino County), was a \$30 million acquisition of 7,300 acres by the Department of Parks and Recreation to create a wildlife corridor; joint funding came from a number of state and

federal agencies and nonprofit organizations.

There is an interrelationship among several of the state agencies cited in the report. For example, the chairman of the board, Richard C. Rogers, is also president of the California Fish and Game Commission. Another board member is Michael Genest, director of the state's Department of Finance.

Neither was available for comment on the report this week, nor was any other WCB official, but Trust for Public Land spokesman Tim Ahearn said he was unaware of any inconsistencies in appraisal practices. "We follow whatever appraisal standards are in place," he said. "The federal government standards are as thick as a telephone book, and in California, we follow the standards we are required to follow. Our goal is the same as LAO's, to get the most efficient price for properties."

Exactly how state lawmakers or agencies will use the LAO report is uncertain. One federal legislator, Palo Alto's Rep. Anne Eschoo (D) has announced she is drafting a bill that would require public vetting of appraisals before acquisitions are approved.

Assemblymember Lois Wolk (D-Davis) is on the legislative advisory board for WCB, and chairs the Assembly's Water, Parks and Wildlife Committee. She told *Land Letter* that the LAO report "raises a lot of questions" that bear some further investigation. "There have been concerns over the years that we overpaid for some properties, and there are so many agencies involved in these acquisition that there may be some economies of scale," she said. "It would be a good idea to have hearings on it."

## **Role of appraisals unclear**

According to the LAO report, the role of appraisals is most clearly defined in cases where a public agency is acquiring property under eminent domain than in acquisitions from willing sellers. In the first instance, fair market value is the standard, however, there is no statutory provision applicable to acquiring or funding an acquisition from a willing seller. While there is in effect a constitutional provision prohibiting paying more than fair market value, there might be cases when the state pays less, triggering a tax benefit for the seller, the report noted.

There is also some confusion about use of fair market value or "public interest value" (PIV), the LAO said, noting, "the acquisition of resources lands may be for purposes such as conservation which cannot or are not easily measured in terms of their economic uses." In those cases, some argue for basing appraisals on PIV, which could be a premium value to market value or a component of market value, but the LAO said PIV should not be the basis for estimating value of resource acquisitions.

"While PIV may not play a role in the appraisal process, there is a potential role for it to play in the public decision making process that determines which properties to purchase in the first place," the report held.

## **Cargill controversy**

The report cited as an example of the problems that can arise from the current appraisal process the state and federal government's 2003 purchase of 16,500 acres of the Cargill salt ponds in the San Francisco Bay Area as an addition to the regional wildlife refuge system. In the Cargill transaction, the state paid \$72 million toward a \$100 million purchase price of the salt ponds. The state and federal resource agencies involved in the transaction relied on a 28-month-old appraisal – at \$243 million – conducted by two private appraisers at the request of the U.S. Fish and Wildlife Service.

The report noted that the difference between the actual selling price and the \$243 million appraisal value used by the seller for tax purposes – \$143 million – was later claimed by the seller as a charitable contribution and provided a federal tax deduction.

According to the report, "this case shows the potential complexity and inherent uncertainty of issues faced by appraisers in resources-related acquisitions. In the case of this transaction, these issues relate particularly to two matters – an assessment of the property's economic development potential and an assessment of its value if it were purchased by parties seeking an environmental restoration project."

Also, the two appraisers involved in the deal were later charged with misconduct by the state attorney general. An administrative law judge early this year determined that the appraisal was based on "extraordinary assumptions and hypothetical conditions," and he assessed a \$36,500 fine against one of the appraisers and revoked the man's license for three years. The other appraiser had previously agreed to accept public censure and a \$4,000 fine.

[Click here](#) to read a copy of the LAO report.