

**STATE OF CALIFORNIA**  
**Department of General Services**  
**Real Estate Services Division**  
**Asset Planning and Enhancement**  
**1102 Q Street, Suite 6000**  
**Sacramento, CA 95814**



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**TO**

**Name:** Caitlin Bean  
Fish and Game

**FAX:** 653-2588

**FROM**

**Name:** Larry Buczyk  
**Company:** RESD - Asset Planning and Enhancement Branch  
**Address:** 1102 Q Street, Suite 6000  
Sacramento, CA 95814

**Phone:** (916) - 323-5528 **Fax:** (916) 327-9654

**TRANSMITTED:** **Date:** 01/26/00

**COMMENTS:** Here is the information you had asked about on DFG authority to lease and receive rents (RE: Byron grazing lease). Also included is a lease clause we use for insurance requirements.

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CALIFORNIA CODES  
FISH AND GAME CODE  
SECTION 1345-1355

1345. The board shall investigate, study, and determine what areas within the State are most essential and suitable for wildlife production and preservation, and will provide suitable recreation; and shall ascertain and determine what lands within the State are suitable for game propagation, game refuges, bird refuges, waterfowl refuges, game farms, fish hatcheries, game management areas, and what streams and lakes are suitable for, or can be made suitable for, fishing, hunting, and shooting.

1346. The board shall also ascertain what lands are suitable for providing cover for the propagation and rearing in a wild state of waterfowl, shore birds, and upland birds, and the possibilities of acquiring easements on such lands to provide such cover.

1347. As a result of the studies, the board shall determine what areas, lands, or rights in lands or waters should be acquired by the state in order to effectuate a coordinated and balanced program resulting in the maximum restoration of wildlife in the state and in the maximum recreational advantages to the people of the state.  
This section shall become operative on July 1, 1993.

→ 1348. (a) The board shall authorize the acquisition of such real property, rights in real property, water, or water rights as may be necessary to carry out the purposes of this chapter. The board may authorize acquisition by the department, but the department shall not acquire any of such property by eminent domain proceedings except such property as may be necessary to provide access roads or rights-of-way to areas to be used for fishing the coastal waters of the Pacific Ocean, and then only if the board of supervisors of the affected county has agreed by resolution to those proceedings for each parcel of land, and has further agreed by resolution to maintain the road or right-of-way. The board may authorize acquisition by the State Public Works Board, which may effect acquisitions pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code.

(b) For the purposes of this chapter and Chapter 4.1 (commencing with Section 1385), the board may authorize the acquisition of interests in real property and water rights by means of gifts, purchases, leases, easements, the transfer or exchange of property for other property of like value, transfers of development rights or credits, and purchases of development rights, conservation easements, and other interests.

(c) To further implement this chapter and Chapter 4.1 (commencing with Section 1385), the board may authorize the department to do any of the following:

(1) Accept federal grants and receive gifts, donations, subventions, rents, royalties, and other financial support from public or private sources. Proceeds received from any of these sources shall be deposited in the Wildlife Restoration Fund.

(2) Notwithstanding any other provision of law, lease, sell, exchange, or otherwise transfer any real property, interest in real property, or option acquired by or held under the jurisdiction of the board or the department. Except as provided in Section 1355, proceeds from transactions entered into pursuant to this paragraph shall be deposited in the Wildlife Restoration Fund.

(3) Lease degraded potential wildlife habitat real property to nonprofit organizations, local governmental agencies, or state and federal agencies if the lessee agrees to restore the real property to its highest possible wildlife habitat value and maintain the real property at that highest possible wildlife habitat value. Proceeds from any lease or rental and interest thereon shall be deposited in the Wildlife Restoration Fund.

(4) Acquire former wildlife habitat real property, including riparian habitat real property, restore and sell the real property, or any interest therein, to private owners, local governmental agencies, or state departments and agencies or exchange the property for other real property, if a written and recorded agreement is first secured to keep and maintain the real property as wildlife habitat in perpetuity. The agreement shall contain a reversion if the real property sold or exchanged is not maintained as wildlife habitat. The agreement containing the reversion shall be set forth in any conveyance transferring any real property, interest in real property, or option subject to this section. Proceeds from the sales shall be deposited in the Wildlife Restoration Fund.

1348.1. Before the board authorizes the purchase of any land, or any interest therein, the board shall notify all owners of record of adjacent parcels of land of the intent of the board to purchase the land. The notice to the adjacent owners of land and the public notice shall include an explanation of the proposed use of the land by the department.

1348.2. When the board acquires real property, other than by eminent domain, the purchase price for the real property shall not exceed the fair market value of the property, as defined in Section 1263.320 of the Code of Civil Procedure. The fair market value shall be set forth in an appraisal that is (a) prepared by a licensed real estate appraiser, and (b) approved by the Department of General Services.

1349. No farm lands may be acquired under the provisions of this chapter by proceedings in eminent domain except by specific authorization of the Legislature, notwithstanding any provision of Section 1348. Nothing in this section shall apply to any proceedings to acquire farm lands when the owner thereof has consented to, or requested the institution of, such proceedings.

1350. (a) The department shall, when authorized by the board, construct in accordance with law such facilities as are suitable for the purpose for which the real property or rights in real property or water, or water rights were acquired. Each completed project shall be managed and maintained by the department.

The department, with the approval of the board, may enter into agreements with any other department or agency of this state, any

local agency, or nonprofit organization, to provide for the construction, management, or maintenance of the facilities authorized by the board, and such other department or agency of this state, local agency, or nonprofit organization, and each of them may construct, manage, or maintain those facilities pursuant to the agreement. Work performed by a local agency or nonprofit organization under those agreements is exempt from Chapter 3 (commencing with Section 14250), of Part 5 of Division 3 of Title 2 of the Government Code. However, nothing in this section shall be construed to exempt any work from Part 7 (commencing with Section 1720) of Division 2 of the Labor Code.

(b) The department, when authorized by the board, may apply for and accept federal grants, and receive gifts, donations, and other financial support from public or private sources to be used for fish and wildlife habitat enhancement, including riparian habitat restoration projects on real property or waters for which the state obtains an interest. Funds received from any of those sources shall be deposited in the Wildlife Restoration Fund.

(c) The board may award grants or loans to nonprofit organizations, local governmental agencies, federal agencies, and state agencies for the purposes of fish and wildlife habitat restoration, enhancement, management, protection and improvement of riparian resources, and for development of compatible public access facilities in the same manner and subject to the same terms and conditions as prescribed in Section 31116 of the Public Resources Code. Proceeds from repayment of any loans and the interest thereon shall be deposited in the Wildlife Restoration Fund.

1351. Each recreational area shall be so managed and controlled that the public shall have access to and use of the area for all recreational purposes.

1352. (a) The money in the Wildlife Restoration Fund, as provided for by Section 19632 of the Business and Professions Code, is available for expenditure under any provision of this chapter.

(b) All federal moneys made available for projects authorized by the board shall be deposited in the Wildlife Restoration Fund. Any unexpended balances of such federal moneys remaining on or after June 30, 1979, in any other fund shall be transferred to the Wildlife Restoration Fund.

1353. The board may purchase such boats, aircraft, or equipment as it deems necessary for the use of the department for the improvement and protection of marine fisheries.

1354. The board may authorize the acquisition of such lands or rights in land as may be necessary for the purpose of furnishing public access to lands or waters open to the public for fishing, hunting and shooting. The board may authorize such acquisition by the department.

1355. The net proceeds of the sale or other disposition of real property used as a fish hatchery that has been acquired by or is under the jurisdiction of the board or the department, either in easement or in fee, shall be deposited in the Wildlife Restoration

Fund or the Fish and Game Preservation Fund, as determined by the board, and shall be available for acquisition, enhancement, restoration, or construction projects for the benefit of wildlife.

**INSURANCE REQUIREMENTS**

LESSEE shall furnish a certificate of insurance with the STATE's Lease Number indicated on the face of said certificate, issued to STATE with amounts of Commercial General Liability of at least \$1,000,000 per occurrence and Fire Legal Liability of at least \$500,000 naming the State of California, its officers, agents and employees as additional insureds. Said certificate of insurance shall be issued by an insurance company with a rating of not less than A15 as established by the Best Insurance Guide. Said certificate of insurance shall be issued by and insurance company that is acceptable to the Department of General Services Office of Insurance and Risk Management, and the STATE shall have the right to reconsider insurance requirements during the term of this Lease.

It is agreed that STATE shall not be liable for the payment of any premiums or assessments on the insurance coverage required by this paragraph. The certificate of insurance shall provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to STATE. LESSEE agrees that the insurance herein provided for shall be in effect at all times during the term of the Lease. In the event said insurance coverage expires at any time or times during the term of this Lease, LESSEE agrees to provide STATE at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than one (1) year. In the event LESSEE fails to keep in effect at all times insurance coverage as herein provided, STATE may, in addition to any other remedies it may have, terminate this Lease upon the occurrence of such event.

1-14-2000

Larry B.

Grazing lease  
info for  
mitigation property

Fish & Game

Thanks,

Cheryl