

CALENDAR ITEM

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MINUTE ITEM
This Calendar Item No. 91
was approved as Minute Item
No. 91 by the State Lands
Commission by a vote of 3
to 0 at its 3/8/94
meeting. 03/08/94

W 30085
Patterson
PRC7753

**AUTHORIZE EXECUTIVE OFFICER TO
ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU)
FOR THE PREPARATION OF A
CARQUINEZ STRAIT RESOURCE MANAGEMENT PLAN**

PARTY:

State Lands Commission
1807 13th Street
Sacramento, California 95814

AREA, TYPE LAND AND LOCATION:

Carquinez Strait in the San Francisco Bay-Delta Estuary:
from Point Pinole to Point Edith in Contra Costa County, and
from Sonoma Creek at San Pablo Bay to confluence of Goodyear
Slough and Montezuma Slough in Solano County.

LAND USE:

Shorelands, marsh, tide, submerged and open space lands
adjacent to such lands. Land use includes water related
commerce, recreation, shipping and aquatic and wildlife
habitat.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 884:
N/A

OTHER PERTINENT INFORMATION:

- 1. In May 1993, SLC completed an extensive review of the
Crockett Cogeneration proposal and determined that the
project would have significant effects on the scenic
resources of the region. A Memorandum of Agreement
(MOA) between Crockett Cogeneration and SLC within the
lease conditions provides \$375,000 funding for a four
part program: a status and trends report on the
history, commerce and natural resources of the Strait;
a plan to coordinate and integrate recreation, public
access and public trust resource management; a
Carquinez Strait Preservation Trust to establish a non-
profit corporation with governmental, business and
public interest groups members to seek funding for

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implementing existing and future recreation and restoration management plans; an intergovernmental initiative involving local agencies - cities, counties, regional park districts - in the comprehensive planning and implementation for the Strait management plan.

2. The parties to the proposed Memorandum of Understanding (MOU) include the City of Benicia, City of Vallejo, City of Martinez, City of Hercules, Contra Costa County, Solano County, East Bay Regional Park, Greater Vallejo Recreation District and State Lands Commission. The MOU is in furtherance of the provision of the SLC/Crockett Cogeneration MOA and establishes a Carquinez Strait Resource Coordinating Council; coordinates the preparation of a Carquinez Strait Resources Plan (Plan) consistent with the goals and objectives of the MOU and the Memorandum of Agreement (MOA) between Crockett Cogeneration and SLC; and provides for the parties to participate in the formation and organization of the Carquinez Strait Preservation Trust which would, among other responsibilities, assist in the preparation of the Plan, facilitate public participation in Plan development and assist in Plan implementation.
3. The governmental organizations that have adopted the MOU as of February 22, 1994 include the City of Benicia, City of Vallejo, City of Martinez, City of Hercules, Contra Costa County, East Bay Regional Park, Greater Vallejo Recreation District and State Lands Commission.
4. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. but will not affect those significant lands.
5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutorily exempt project. The project is exempt because it involves a feasibility or planning study for possible future action which the Commission has not approved, adopted, or funded.

CALENDAR ITEM NO. 91 (CONT'D)

Authority: P.R.C. 21102 and 14 Cal. Code Regs. 15262.

EXHIBITS:

- A. Location Map/Carquinez Strait Resource Management Plan Area: Carquinez Strait in the San Francisco Bay-Delta Estuary: from Point Pinole to Point Edith in Contra Costa County, and from Sonoma Creek at San Pablo Bay to confluence of Goodyear Slough in Solano County.

Shorelands, marsh, tide, submerged and open lands adjacent to such lands. Land use includes public trusts resources and uses such as water related commerce, recreation, shipping and aquatic and wildlife habitat.

- B. Memorandum of Understanding (MOU).

- C. Supporting Documents

1. Proposed Articles of Incorporation/By Laws - Carquinez Straits Preservation Trust.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21102 AND 14 CAL. CODE REGS. 15262, FEASIBILITY OR PLANNING STUDY FOR POSSIBLE FUTURE ACTION WHICH THE COMMISSION HAS NOT APPROVED, ADOPTED, OR FUNDED.
2. FIND THAT THIS ACTIVITY WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO P.R.C. 6370, ET SEQ., BUT THAT SUCH ACTIVITY WILL HAVE NO DIRECT OR INDIRECT EFFECT ON SUCH LANDS.
3. AUTHORIZE THE EXECUTIVE OFFICER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF BENICIA, THE CITY OF VALLEJO, THE CITY OF MARTINEZ, THE CITY OF HERCULES, THE COUNTY OF CONTRA COSTA, THE COUNTY OF SOLANO, THE EAST BAY REGIONAL PARK DISTRICT AND THE GREATER VALLEJO RECREATION DISTRICT FOR THE PREPARATION OF A CARQUINEZ STRAIT RESOURCE PLAN.

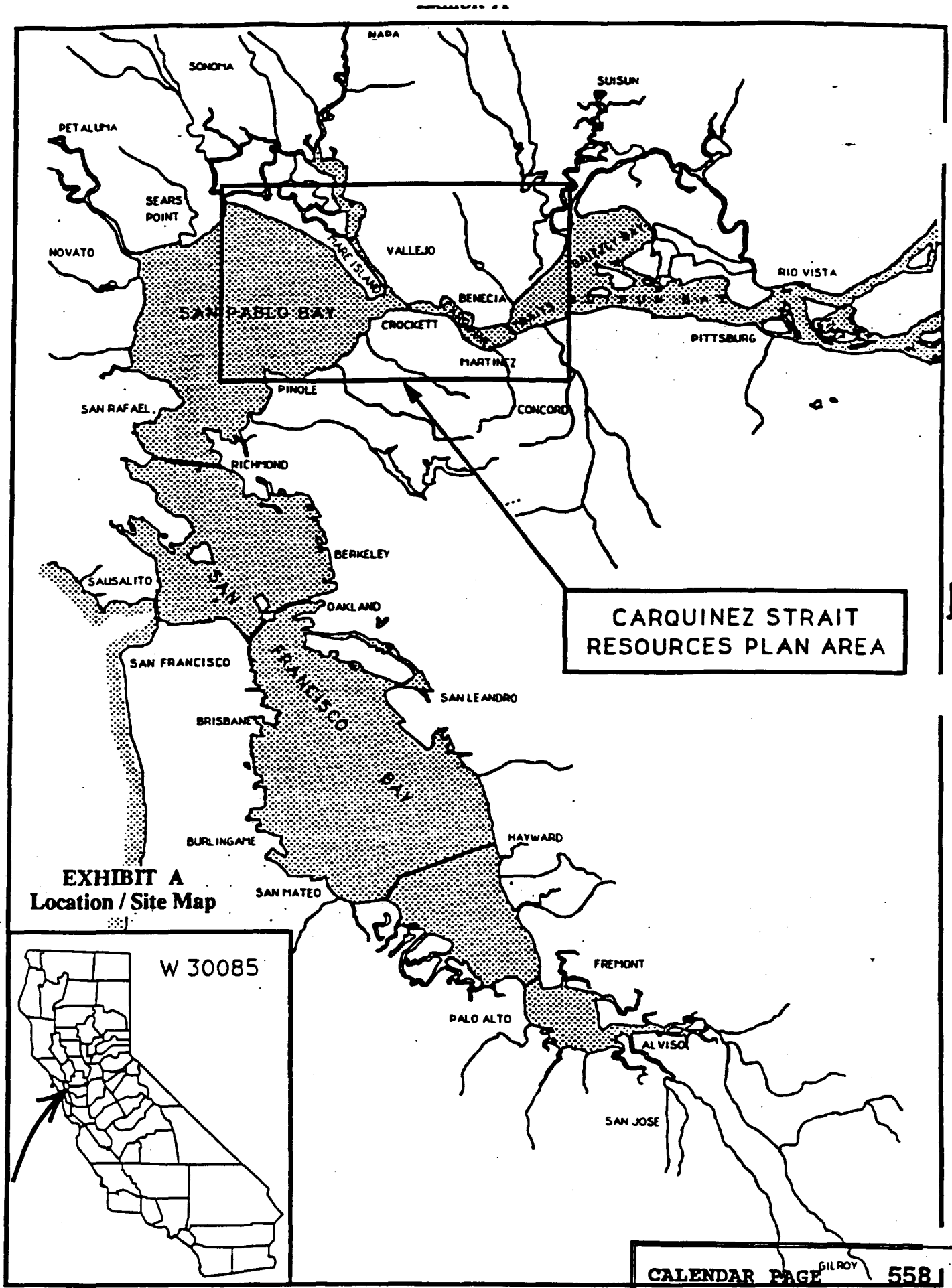
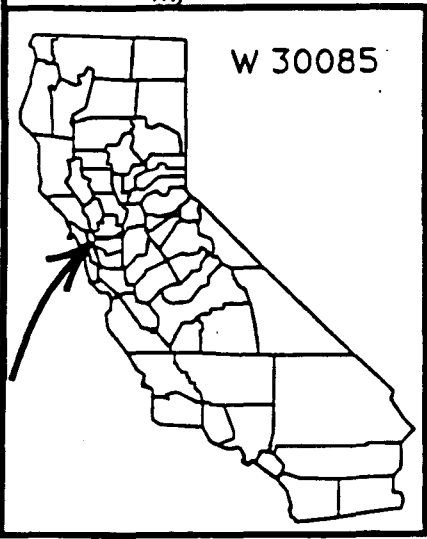


EXHIBIT A
Location / Site Map



Carquinez Strait Resource Plan

Memorandum of Understanding

This Memorandum of Understanding (MOU), dated for reference only as of _____, 1993, is made and entered into by and among the City of Vallejo, the City of Benicia, the City of Martinez, the City of Hercules, the County of Solano, the County of Contra Costa, the Greater Vallejo Recreation District, the East Bay Regional Park District, and the State Lands Commission.

Findings

This MOU is based on and reflects the following findings of fact:

1. The Carquinez Strait Area would benefit from the preparation of coordinated, multiagency resource plan and a collaborative implementation program for the protection, restoration and enhancement of resources, balanced with other public trust uses of recreation, public access, commerce, navigation and shipping which will contribute to the long-term economic vitality of the Strait.
2. The Carquinez Strait and its surroundings (referred to in this MOU as the "Strait Area") is a resource of statewide and national significance. It has many important points of historic interest; relatively whole and intact historic neighborhoods and interesting maritime related commercial and industrial activities. The Strait Area is distinguished by its unique characteristics, dramatic land forms and as a waterway corridor between the San Francisco Bay and the Sacramento-San Joaquin Delta.
3. The Strait Area presents significant opportunities for the Parties to develop the region as a 'destination' and to enhance its outdoor recreational public access potential to develop significant visitor serving facilities for local, regional, out-of-state and international visitors.
4. Local, regional, state and federal public agencies own or manage public lands in the Strait Area and have separately or jointly studied and planned various aspects of the recreational potential and natural resources of the Strait Area. These plans reflect a high degree of commitment to preserve scenic views, wildlife habitat and historical features and to provide for

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outdoor recreation in the Strait Area and are in various stages of implementation. Some of these plans are suitable for integration into a comprehensive and coordinated vision for the Strait Area and its natural resources, recreational opportunities and economic assets.

5. Inventories and assessments of the status and health of terrestrial and aquatic natural resources of the Strait Area could be completed or updated as necessary. Plans for outdoor recreation and other visitor serving facilities in the Strait Area need to be consistent with each other and with the protection, restoration and maintenance of the quality and diversity of the natural resources and consistent with plans for appropriate and suitable development.
6. Each of the Parties has the authority to seek mitigation measures for project impacts in their respective jurisdictions. There is no plan or process, however, for coordinating and assisting a mitigation strategy that will benefit and enhance the natural and commercial resources of the Strait Area while continuing to meet local mitigation requirements.

Purpose

The parties to this MOU agree to the following statement of purpose:

1. To establish a Carquinez Strait Resources Coordinating Council. The principal purpose of the Council is to coordinate the preparation of a Carquinez Strait Resources Plan consistent with the goals and objectives of this MOU and the Memorandum of Agreement (MOA), entered into on July 29, 1993 between Crockett Cogeneration and the State Lands Commission, and the respective policies of the Parties. The creation of the Council does not explicitly nor implicitly commit the Parties to a financial obligation for the Plan, but the Parties agree to assist one another in identifying potential sources of funds.
2. To provide for the development of a Carquinez Strait Resource Plan, which coordinates and integrates outdoor recreational facilities that exist or have already been planned with the following:
 - a. Provision of additional public access.
 - b. Existing destination attractions and visitor serving facilities.
 - c. Places which are not currently functioning as a destination, but which could attract or serve visitors if enhanced or improved.
 - d. Additional outdoor recreational facilities to meet increasing public demands and needs.
 - e. Projects and programs to protect, enhance, or restore the natural, scenic, historical, and cultural resources of the Strait.
 - f. Existing and future economic development.

3. To participate in the formation, management and operation of the Carquinez Strait Preservation Trust, referenced in section 8 of this document.
4. To collaborate on a voluntary and consensual basis with and among themselves and to coordinate their actions as necessary and reasonable to the maximum feasible extent, so that the Plan will address regional conservation, recreation, economic vitality and other issues as comprehensively and effectively as possible.

Therefore, in pursuit of this common purpose, the Parties mutually agree as follows:

1. **Initial Planning Area.** This MOU applies to a conservation and recreation plan to be prepared for the Carquinez Strait and the water areas of San Pablo Bay and Suisun Bay leading to the Carquinez Strait; adjacent areas of Contra Costa County from the common boundary of the Cities of Hercules and Pinole to Edith Point east of Pacheco Creek and of Solano County from Sonoma Creek to the eastern bank of Montezuma Slough, and lands including tidelands, managed wetlands, marshes, and diked lands and other public recreation land, state sovereign or public trust lands, or other lands deemed appropriate by the city or county having jurisdiction and as necessary to achieve the purposes of this MOU. Nothing herein prohibits additional area or lands being included or excluded within the Initial Planning Area during the preparation of the Plan and supporting documentation.

Because of the imminent closure of Mare Island Naval Shipyard (Shipyard), the City of Vallejo has established the Mare Island Futures Project (Futures Project) to plan the conversion and reuse of this significant part of the Vallejo community. This planning process is ongoing, and it is unique in the Carquinez Strait Area. For these reasons, the MOU Council will consider the Shipyard as a special studies area to be mapped and described for its history and existing conditions only. Other planning tasks described in the MOU will not be applied to this special study area during the Futures Project process. The reuse plan may be incorporated at a later time. The special studies area includes those lands and waters utilized by the federal government on Mare Island Naval Shipyard subject to conversion.

2. **Plan Goals and Policies.** The Plan may include but not be limited to goals and policies which:
 - a. Recommend policies and implementation programs for the protection, restoration, and maintenance of the quality and diversity of the natural resources of the Strait Area which may contribute to

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its economic vitality.

- b. Recommend policies for facilities for public recreation and public access in the Strait Area compatible with the protection of its natural resources.
 - c. Recommend objectives for the use of the natural, historical, and cultural resources of the Strait Area for education, interpretation, study and scientific research.
 - d. Recommend objectives that seek the enhancement of the Strait Area, to make it a more desirable place to live, work, or visit.
3. **Plan Content.** The Plan and Background Reports may include but not be limited to the following:
- a. **Plan Elements**
 - i. A description and assessment of the Strait Area's natural resources.
 - ii. A description and inventory of public and quasi-public lands in the Strait Area.
 - iii. A description of the existing land uses, facilities, activities and other relevant conditions in the Strait Area.
 - iv. Recommendations for acquisition and restoration of areas consistent with local planning goals.
 - v. A description of Native American and other cultural and historical sites and structures and recommendations for their protection, restoration and interpretation.
 - vi. A Plan map depicting the Plan boundaries determined as necessary or desirable to accomplish the Plan's goals and objectives and provide a diagram of comprehensive recreation and resource land use designations based on and integrating existing plans and showing adopted land use designations; proposed trails and trailheads; parks; interpretive and educational facilities and displays; ferry and excursion boat routes and landings; fishing access; launching and mooring areas for boats, kayaks and canoes; and other recreation areas and facilities, and showing the relationship of those proposed facilities to existing trails and recreational facilities, existing and proposed public transportation facilities and historic sites.

vii. Policies that carry out the purpose and goals of the MOU.

b. Background Reports

- i. Existing and potential funding sources for land acquisition, construction of public access and other facilities, restoration of historic sites and structures and implementation of other aspects of the Plan.
- ii. A process or program to assist governmental agencies with regulatory authority to optimize their choices among potential mitigation strategies.
- iii. A program or process for implementing the Plan, including the identification of responsibilities to be assumed by particular public agencies and private entities and the methods of implementation including possible further agreements among the Parties.

4. **Changing Conditions.** During the preparation of the Plan, each Party agrees to advise the Council of any new data and proposed projects or other actions within their area of jurisdiction in the Strait Area to assist in the preparation of the Plan. -

5. **Other Authority.** This MOU is not intended, and shall not be construed to modify or curtail the Parties' legal authority and responsibilities.

6. **Carquinez Strait Resource Coordinating Council.** To enhance coordination among the parties during the development of the Plan, the Carquinez Strait Resource Coordinating Council (Council) is hereby created. The initial membership of the Council shall be a representative of the named local agencies and the Executive Officer of the State Lands Commission.

Each representative may designate an interim or permanent alternate at any time, so long as written notice of that designation is provided to all other representatives. Each member of the Council shall have an equal vote, and except as otherwise provided in this MOU, all decisions shall be made by majority vote of those representatives present and voting at a meeting of the Council where a quorum is present. Meeting procedures shall follow Robert's Rules of Order.

7. **Meetings and Officers.** The Carquinez Strait Resource Coordinating Council may meet from time to time to oversee the Plan and to provide input to the planning process and review and comment on drafts of the Carquinez Plan and may form a technical committee for those purposes. The Council shall establish a schedule of regular meetings and shall elect

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from its membership a chairperson, who shall convene and preside at meetings and may call special meetings as needed. All meetings of the Council and any committee shall be open to the public. The first meeting of the Council shall be called by the representative of the State Lands Commission.

8. **Carquinez Strait Preservation Trust (Trust).** In furtherance of Article II of the MOA referenced in section 1 of this document, the Parties to this MOU agree to participate in the formation, management and operation of and the selection of the initial directors and officers for the Carquinez Strait Preservation Trust created to: Provide advice and direction regarding a Carquinez Strait Public Trust Resources Status and Trends Report and Plan; Assist in the preparation of the Plan; Facilitate public participation and intergovernmental cooperation and coordination; Obtain funding for Plan preparation from grants and donations, and such other funds provided in satisfaction of environmental mitigation requirements; Assist in a public outreach program; Support intergovernmental cooperation and coordination; And assist in the implementation of the Plan upon its acceptance by the Council.

The Council shall advise and assist the Executive Officer of the State Lands Commission in the selection of the initial membership and officers of the Executive Committee of the Trust. All actions of the Trust undertaken for the purpose of implementing the Plan shall be consistent with the Plan as accepted by the Council and with the goals and objectives of this MOU, as adopted or as hereafter amended as provided in section 10.

The MOU Parties shall be members of and shall constitute not less than one-third representation of the Executive Committee. The remaining Executive Committee members shall be broadly representative of the two-county Strait Area. In addition to the Parties, the Trust membership shall include members from public agencies with jurisdiction in the Strait Area; community-based organizations with interests in the environment, recreational opportunities, culture, or history of the Strait Area; and the business community of the Strait Area.

9. **Acceptance of Plan.** Upon the approval of a majority of the members of the Council, the Plan shall be deemed accepted. Acceptance of the Plan does not constitute approval of the Plan by the member agency whose representative has voted to accept it as a member of the Council. Upon acceptance of the Plan, each representative shall, however, submit the plan to the member agency's governing body to be considered for adoption as an official planning document, such as a general plan amendment, specific plan or master plan.
10. **Amendment.** This MOU may be amended only by a written instrument executed by all of the parties.

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11. **Term.** This MOU shall become effective upon execution by at least six of the parties. The parties agree, concurrently with their consideration of the final draft of the plan, to consider whether this MOU should be amended to extend the life of the Council to coordinate implementation of and ongoing oversight over the Plan or to make other arrangements that will accomplish the Parties' goals.
12. **Changes in Membership.** Any member agency may withdraw from the Council at any time upon providing written notice to all other representatives. Withdrawal of member agencies shall not have the effect of terminating this MOU so long as at least five signatories remain members of the Council. Additional public agencies may join the Council with the consent of two-thirds of the representatives.
13. **Counterparts.** This MOU may be executed in one or more counterparts, each of which shall be deemed an original and such counterparts shall together constitute but one and the same MOU. It shall not be necessary in making proof of this MOU to produce or account for more than one such counterpart.

Exhibit C

**ARTICLES OF INCORPORATION
OF THE
CARQUINEZ STRAIT PRESERVATION TRUST, INC.**

**ARTICLE I
NAME**

The name of the corporation is CARQUINEZ STRAIT PRESERVATION TRUST, INC.

**ARTICLE 2
TERM**

The duration of the corporation shall be perpetual.

**ARTICLE 3.
PURPOSES, POWERS & LIMITATIONS**

Section 1. Purposes: This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the California State Nonprofit Public Benefit Corporation Law for public or charitable purposes.

The corporation is organized exclusively for the following charitable purposes: to operate for benefit of and to carry out the purposes of: (1) studying the recreational, scenic, habitat and other public trust resources and uses of the Carquinez Strait; (2) prepare plans, for the purpose of providing guidance and direction to the State Lands Commission and other public agencies and bodies, for the protection, restoration and enhancement of such uses and resources; (3) raise funds from private, corporate, foundation or trust donations, or from appropriations from public agencies, for the purposes herein provided; (4) provide education and public information about the recreational, scenic, water-related commerce, habitat and other public trust resources and uses of the Strait Area; (5) implement by direct or indirect action, a program of protection, preservation, conservation, and enhancement of the uses and resources herein described, including, but not limited to, the design and construction of public access and recreation facilities along or near the Carquinez Strait which provides access to the Carquinez Strait and the waters of San Pablo Bay and Suisun Bay leading to the Strait, consistent with the protection, conservation, use and enjoyment by the public of wildlife and habitat areas located therein, including tidelands, managed wetlands, marshes and diked lands, balanced with access to the public to

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enjoy the same as is consistent with such protection and preservation purposes; (5) such other public purposes and uses as may be permitted by law and not inconsistent with the restrictions or limitations to fully qualify as an organization that is (i) a California nonprofit corporation and (ii) a public charity organized and operating pursuant to Section 501(c)(3) of the Internal Revenue Code.

The corporation may substitute another public charity organized and operating pursuant to Section 501(c)(3) of the Internal Revenue Code for any funds raised and remaining in the corporation if it ceases to have the ability to continue to perform the functions and charitable purposes for which it is organized and which qualify it for its charitable tax exemption.

Section 2. Powers: The corporation shall be empowered to do any and all acts or things authorized by the California State Nonprofit Public Benefit Corporation Law defining the general powers of nonprofit corporations, provided, that the corporation shall be operated exclusively for charitable purposes as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or corresponding provisions of any future United States revenue law, and provided further that these powers shall be limited to the furtherance of the purposes described in Section 1 above.

Section 3. Limitations.

3.1 The corporation is nonprofit, shall have no capital stock, and no part of its net earnings shall inure to the benefit of any trustee or officer of the corporation, or any private individual.

3.2 No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

3.3 Notwithstanding any other provision of these Articles, the corporation shall not conduct or carry on activities not permitted to be conducted or carried on by an organization exempt from tax under Section 501(c)(3) of the Internal Revenue Code of 1986 as now stated, or as it may be hereafter amended, or by an organization to which contributions are deductible under Section 170(c)(2) of such Code as now stated, or as it may be hereafter amended.

3.4 The corporation shall distribute its income for each tax year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax law.

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3.5 The corporation shall not:

(a) engage in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws;

(b) retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws;

(c) make any investments in such manner as to subject the corporation to tax under Section 4944 of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws; or

(d) make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

**ARTICLE 4.
REGISTERED OFFICE & AGENT**

The address of the initial registered office of the corporation is 1455 Response Road, Suite 250, Sacramento, CA 95815. The name of the original registered agent of the corporation at the above address is Prentice-Hall Corporation System, Inc., a Delaware corporation.

**ARTICLE 5.
NO MEMBERS**

The corporation shall not have members. It shall be directed by a Board of Directors who shall elect officers of the corporation in accordance with the provisions of the Bylaws hereafter to be adopted.

**ARTICLE 6.
BOARD OF DIRECTORS**

The authorized number of directors shall be as set by resolution of the directors and until otherwise set by the Board of Directors, shall number one.

The first meeting of the initial Board of Directors shall be designated as the Executive Committee of the Board of Directors until Bylaws are adopted by resolution of the directors. Not less than one-third of the initial Board of Directors (the Executive Committee) shall consist of individuals designated by parties to the Carquinez Strait Resource Plan Memorandum of Understanding (the "MOU Parties"), and the

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remaining two-thirds shall be broadly representative of the Strait Area divided roughly evenly between private citizens resident of the Strait Area (including federal elected officials) and representatives of industry and commerce having business locations in the Strait Area, including a member to be designated by the President of Pacific Crockett Energy, Inc. The incorporator shall after consultation with the MOU Parties, notify each of the above individuals, ten (1) days in advance thereof, of the date, time and place of the initial organizational meeting of the corporation and invite the designation of a Director by each MOU Party and recommendations for other potential Directors to represent citizens and industry and commerce. In the absence of any response by such individual, the incorporator may proceed to elect the initial Directors. Upon the occurrence of vacancies in the office(s) of the Board of Directors such that there is no Director qualified and serving as a Director, the Incorporator may elect and appoint one or more Directors to fill the vacancy(ies).

ARTICLE 7.
INDEMNIFICATION OF DIRECTORS AND OFFICERS

To the full extent permitted by the California Nonprofit Public Benefit Corporation Law, including Section 5239 thereof, or any successor statutes, (i) there shall be no personal liability to a third party for monetary damages on the part of a volunteer director or volunteer executive officer of the corporation, and (ii) the corporation shall indemnify any person who was or is a party, or is threatened with being made a party, to any civil, criminal, administrative or investigative action, suit or proceeding (whether brought by or in the right of the corporation or otherwise) by reason of the fact that he or she is or was a director, officer of the corporation, or is or was serving at the request of the corporation as a director or an officer of another affiliated or related corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such suit or proceeding; and the Board of Directors may, at any time, approve indemnification of any other person which the corporation has the power to indemnify under said statute or any successor statute.

The corporation shall have the power to purchase and maintain insurance on behalf of any person described in the preceding paragraph against any liability asserted against such person and/or incurred by such person by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation or is or was serving in such capacity at the request of the corporation.

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which a person may be entitled as a matter of law or by contract.

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**ARTICLE 8.
DISSOLUTION**

In the event of liquidation or dissolution of the corporation, whether voluntarily or involuntarily or by operation of law, the remaining assets of the corporation, after payment of all its debts and obligations, shall be used or distributed *for public purposes within the Carquinez Strait Area and such other purposes as provided in Article 3 hereof, but in no event shall any remaining assets be used other than exclusively for purposes described in Section 501(c)(3) of the Internal Revenue Code of 1986 as now stated, or as it may hereafter be amended.*

**ARTICLE 9.
AMENDMENT**

The corporation reserves the right to amend, alter, change or repeal any provision contained in these Articles of Incorporation in the manner now or hereafter prescribed by statute.

**ARTICLE 10.
INCORPORATOR**

The name and street address of the Incorporator is:

David Lloyd
Stoel Rives Boley Jones and Grey
900 S.W. Fifth Avenue #2300
Portland, OR 97204

**ARTICLE 11.
IRREVOCABLE DEDICATION TO CHARITABLE PURPOSES**

The property of this corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or to the benefit of any private person. Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

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IN WITNESS WHEREOF, the undersigned person has executed these Articles of Incorporation this ___ day of _____, 1994.

David Lloyd, Incorporator

STATE OF _____)
) : ss.
COUNTY OF _____)

On _____, 1994, before me _____, a Notary Public in and for the State of _____, personally appeared David Lloyd, the signer of the within instrument, and acknowledged to me that he executed the same.

Notary Public

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**BYLAWS OF THE
CARQUINEZ STRAIT PRESERVATION TRUST, INC.**

ARTICLE I

NAME AND PURPOSE

- A. The name of this organization is "Carquinez Strait Preservation Trust, Inc." (hereinafter the "Trust").
- B. Its purpose is stated in the Articles of Incorporation of the Trust.
~~corporation.~~

ARTICLE II

GOVERNANCE

- A. The Board of Directors shall be as set by resolution of the directors, but unless these Bylaws are otherwise amended shall be not less than twenty one or more than thirty-three; provided, however, that vacancies caused by resignation or otherwise shall not render the Trust ~~corporation~~ incapable of acting until additional directors are selected and are qualified. Until the adoption of these Bylaws, the initial directors shall be known as the Executive Committee. The Board of Directors may amend these Bylaws to change the number from time to time as provided in the Articles of Incorporation of the Trust. ~~corporation.~~ Directors shall be deemed elected when approved by the Board.
- B. The Board of Directors may appoint and direct non-Board individuals to serve as voting members of corporate committees not holding Board powers, or as advisors to the Board, as deemed necessary to the business of the Board. Such persons serve at the pleasure of the Board.
- C. The Board and its advisory committees may include members selected from communities and from corporations or businesses having facilities bordering the Carquinez Strait, California.
- D. The Board shall perform all duties of the Board of a non-membership nonprofit corporation but its predominant orientation shall be direction of current, ongoing, and long-term fund development for the purposes of the organization.

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E. A director selected by the governing board of an MOU Party to represent an MOU Party (an "MOU Director") shall automatically be a director of the Trust ~~ex officio~~ and need not be nominated by the Nominations Committee. An MOU Party may also designate an alternate director (an "MOU Alternate Director") to serve in the MOU Director's absence who may represent the absent MOU Director for any voting matters to come before the Board. The Alternate MOU Director shall not be entitled to vote on any matter if the MOU Director is present at a meeting, but may attend such meeting and have such participation in discussion as the MOU Director may designate. In the absence of an appointment of a director by an MOU Party, the Nominations Committee may nominate a director to represent the MOU Party in accordance with Article VI.

F. Except as determined by the Board by resolution, in votes of the Board for any matters relative to budgets, programs, policy and election of directors, the Board of Directors may not adopt a resolution against the negative vote of 2/3 (whether present or absent) of the MOU Directors (or an MOU Alternate Director).

ARTICLE III

TERM OF OFFICE

A. Subject to the provisions of Section B, Directors shall serve a three-year term and until their successors are elected, qualified and assume office, unless earlier removed. There shall be no maximum number of terms a Director may serve.

B. To facilitate the establishment of staggered terms, so that in any given year there will be experienced Directors serving on the Board, during the initial Board development process, and by lottery, one-third of the Directors shall be appointed for one year, one-third for two years, and one-third for three years. Any person selected, as provided in Article VII, to replace an existing member shall be deemed elected to fill the remainder of the unexpired term.

C. Directors shall actively participate in conducting the business of the Board. Active participation is defined in a Statement of Understanding to be included in Board-member recruitment materials. A majority vote of the Board may declare a vacancy whenever, in its sole judgment, a Director does not fulfill his/her responsibility.

D. Board vacancies shall be filled by action of the Board as provided in Article VII upon recommendation of the Nominations Committee in the same manner as the original selection.

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ARTICLE IV

OFFICERS AND DUTIES

A. The *Trust's* ~~corporation's~~ officers shall consist of its President, Vice-President, Secretary, Treasurer and Past President. The President, Vice President, Secretary and Treasurer shall be elected for two-year terms at the annual meeting of the Board.

B. The duties of the officers are as follows:

1. President. The President shall oversee all activities of the *Trust*, ~~corporation~~, execute all instruments on its behalf unless delegated to some other person, preside at all Board and Management Committee meetings, call such meetings as shall be deemed necessary, serve as an ex-officio member of all committees of which he/she is not a voting member, supervise the Administrator, and perform other duties usually incident to the office.

2. Vice President: The Vice-President shall act for the President in the President's absence, resignation, inability to act or as the President may direct.

3. Secretary: The Secretary shall keep minutes of all meetings of the Board and Management Committee and arrange for and maintain minutes for all other *Trust* ~~corporate~~ committees, give notices required by these Bylaws, sign and authenticate *Trust* ~~corporation~~ documents and perform other duties as the President may direct.

4. Treasurer. The Treasurer shall oversee accounting of all funds belonging to the *Trust*, ~~corporation~~, provide financial reports as requested by the Board of Directors, provide annual financial reports to the Board of Directors, and serve as chair of the Finance Committee.

5. Past President: The immediate Past President shall serve as a member of the Management Committee for the year immediately following completion of his/her term as President, and if he/she declines to serve, resigns or is removed, shall be replaced by the immediately prior Past President.

ARTICLE V

MANAGEMENT COMMITTEE

A. The Management Committee shall consist of the four elected officers, the Past President and the chairs of each committee provided in Article VI. The

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Management Committee may also be referred to as the Board of Affairs Committee.

B. The duties and functions of the Management Committee shall include any of the powers and authority of the board in the management of the business and affairs of the *Trust, corporation*, including:

1. Recommending organizational procedures for the Board of Directors;
2. Performing all necessary acts of the Board between meetings, subject to such limitations as the Board may impose from time to time;
3. Guiding and assisting the officers of the *Trust, corporation*, according to policies approved by the Board;
4. Such other such duties not assigned the officers or committees, as directed by the Board.

ARTICLE VI

OTHER COMMITTEES

A. Nominating Committee.

The *Trust corporation* shall have a Nominations Committee which shall be responsible for preparing a slate of officers *that reflects the expectation for rotating officers* for the Board's annual election and to fill any vacancies during the interim, and for preparing a slate of candidates to submit to the Board for its consideration as the nominees for appointment to the Board to fill any vacancies pursuant to Article VII. The Nominations Committee shall have three subcommittees, one entitled the Industry and Commerce Subcommittee, one entitled the Governmental Subcommittee, and one entitled the Citizens Subcommittee.

For filling vacancies, each subcommittee will be responsible for nominating candidates from its particular area of representation, and Board members on each subcommittee shall be restricted to those representing that particular constituency. A subcommittee is restricted to nominating individuals who are representative of its constituency. For example, the Industry and Commerce Subcommittee may only nominate individuals who are employed in a substantial management or labor position of a firm that is engaged in manufacturing or commercial activities in the Carquinez Strait Area. Further, the subcommittees must nominate individuals from a diverse cross-section of its constituency. For example, of the seven to eleven Board members from Industry and Commerce, it would be inappropriate for the subcommittee to nominate only plant managers from oil

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refineries, or only motel operators, and similarly, the Governmental Subcommittee may not nominate a slate that would result in only mayors from cities from the south of Suisun Bay to serve as Directors. Unless agreed to otherwise by the parties signatory to a Memorandum of Understanding dated as of _____, among various local governments and agencies in the Carquinez Straits area (an "MOU Party"), each MOU Party shall select a person as an MOU Director, and if desired, an MOU Alternate Director, as provided in Article I hereof, or shall provide candidates for, and shall be entitled to the selection therefrom, one nominee per MOU Party as a nominee of the Governmental Subcommittee for a Director position representing such MOU Party.

Except for MOU Directors serving *ex officio*, nominations for new Directors may only be made by the above described subcommittees. Each Director's seat shall be designated as belonging to one of the three areas of representation, Industry and Commerce, Governmental, and Citizens. A Director holding a seat representing the interests of such area of representation shall preserve a seat if he or she leaves that area of interest, but only if no obvious conflicts of interest are apparent.

B. Other Committees.

The Trust corporation shall have such other committees as may from time to time be designated by resolution of the Board of Directors. Such other committees may consist of persons who are not also members of the Management Committee. These additional committees shall act in an advisory capacity only to the board and shall be clearly titled as "advisory" committees. The Board may also establish civic and professional advisory committees on a standing or ad hoc basis, and provide the criteria for selection of members and assign such topics as may be determined by the Board to be of interest to receive advice in performing its public purposes.

C. Associates Advisory Committee

The Board of Directors may establish an "Associates Advisory Committee" to meet from time to time with the Board of Directors as the Board of Directors may determine. The Board of Directors may establish criteria for membership in a society to be known as the Friends of the Carquinez Strait Preservation Trust or such other name as the Board may from time to time designate, and to provide for the members to select representatives to participate as members of the Associates Advisory Committee. The Board may establish categories of associate membership for participation in contributions (in cash or in kind) to the public and charitable purposes of the Trust.

ARTICLE VII

MEETINGS, QUORUMS, ATTENDANCE AND RECORDS

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A. Meetings of the Board shall be held *publicly, annually and at such additional times and places to be determined as are established by Board resolution* to accomplish the mission of the *Trust. corporation.* Special meetings may be called by the President and shall be called at the written request of at least five (5) Board members. The object of the special meeting shall be stated in the call, and unless otherwise directed by the Board, shall include an agenda which shall establish all matters to be considered by the Board at the special meeting. Unless otherwise established by resolution of the directors, meetings of the Board of Directors shall be held at the principal office of the *Trust. corporation.*

B. Notices of Board meetings shall be given to all voting members of the Board at least ten (10) days by first-class mail or ninety-six (96) hours if delivered personally or by telephone or facsimile telecopy, prior to special meetings. Notices sent by mail addressed to the director at his or her address as shown on the books of the *Trust corporation* shall be deemed to be delivered upon its deposit in the U.S. Mail.

C. The Board shall hold an annual meeting in January of each year following confirmation of new Board appointees, at which time elections of officers shall occur.

D. At all meetings of the Board, a majority of the voting Directors then in office shall constitute a quorum; ~~provided, however, that the Bylaws may not be amended without one third of the minimum authorized number of Directors as set out in Article II hereof present at such meeting.~~ A quorum of any committee shall be a majority of voting members thereof.

E. There shall be no voting by proxy.

F. All actions of the Board may be taken by written consent resolutions signed by a majority of the Board of Directors. ~~Meetings of the Board may be held by telephone conference or similar communications equipment so long as all directors participating in such meeting can hear one another, with minutes of the meetings kept in normal course by the Secretary or acting secretary of the meeting.~~

G. For elections of new Board members, and for elections of officers, whether at the expiration of a term or to fill a vacancy, each Board member entitled to vote in accordance with the terms and provisions of the certificate of incorporation and these by-laws shall be entitled to one vote for each director or officer. All elections for directors and officers shall be decided by majority vote of those present. The results of each election shall be by resolution duly adopted by the Board. *MOU Directors and MOU Alternate Directors shall establish their credentials as*

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ex officio directors by presenting a certificate of selection from the governing officer of the agency represented or the clerk or secretary thereof.

ARTICLE VIII

ADMINISTRATOR

The Board may hire an executive director or other appropriate administrator and other staff or contract for staff services to manage the affairs of the Trust corporation and implement the policies and objectives of the Board.

The specific duties and authority of the Administrator shall be determined by the Board, and the person shall serve at the pleasure of the Board. The Administrator need not devote full time to the activities of the Trust corporation. The Administrator may also serve as an unpaid volunteer, if so determined by the Board. If an Executive Director is appointed, the Executive Director may ~~shall be~~ an *ex officio*, non-voting, member of the Board of Directors and the Management Committee.

Among other duties, the Administrator shall: inform the public, individuals and community of the work and progress of the Trust corporation and act as a spokesperson for the Trust, corporation, provide appropriate staff support and information to all committees and distribute minutes of all Board and committee meetings to the Board and members of the relevant committee.

ARTICLE IX

RULES OF ORDER

Roberts Rules of Order Revised shall be followed in all meetings unless the Board determines otherwise.

ARTICLE X

AMENDMENTS AND RATIFICATIONS

Subject to the provisions of Article VII, these Bylaws may be amended in any manner consistent with the Articles by affirmative act of *two-thirds* a majority of the voting Directors Board members then in office at any regular or special meeting, provided that all Board members then in office have been notified, in writing, of the proposed amendment(s) no less than *ten (10)* five (5) days before the meeting at which such amendment(s) are voted upon.

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ARTICLE XI

FRIENDS ADVISORY COMMITTEE

~~The Board of Directors may establish a "Friends Advisory Committee" to meet from time to time with the Board of Directors as the Board of Directors may determine. The Board of Directors may establish criteria for membership in a society to be known as the Friends of the Carquines Strait Preservation Trust, and to provide for the members to select representatives to participate as members of the Friends Advisory Committee. The Board may establish categories of participation in contributions (in cash or in kind) to the public and charitable purposes of the corporation. The Board may also establish civic and professional advisory committees, and provide the criteria for selection of members and assign such topics as may be determined by the Board to be of interest to receive advice in performing its public purposes.~~

Enacted by the Board of Directors at the organizational meeting of the Board on _____, 1994 following due notice.

President

Secretary

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