

**CALENDAR ITEM  
C114**

A	Statewide	09/20/13
S	Statewide	S. Scheiber

**CONSIDER APPROVING A WORKLOAD ANALYSIS AND ADOPTING A  
STANDARDIZED REPORTING FORM, PURSUANT TO AB 2620 (ACHADJIAN)  
CHAPTER 206, STATUTES OF 2012**

The California State Lands Commission (Commission) staff has created a workload analysis, attached as Exhibit A, and has developed a new standardized reporting form, attached as Exhibit B, pursuant to Assembly Bill 2620 (Achadjian) Chapter 206, Statutes of 2012 (Chapter 206). The standardized reporting form requires a local legislative trustee to submit certain summarized financial information, along with its previous detailed financial statement. The workload analysis summarizes the resources necessary for the Commission to fulfill its oversight responsibilities with respect to all legislatively granted public trust lands.

**ANALYSIS:**

Upon admission to the United States, and as incident of its sovereignty, the State of California received title to the tidelands, submerged lands, and beds of navigable waterways within its borders to be held subject to the public trust doctrine for statewide public purposes. Since statehood, the Legislature has granted the right, title, and interest of the State in and to certain tide and submerged lands to over 80 local public entities to be held in trust for the benefit of the people of California. The Commission retained all jurisdiction and authority remaining in the State as to these granted lands.

Standardized Reporting Form

Each grantee manages the public trust lands as trustee pursuant to the public trust doctrine, legislative grants, the California Constitution, and other laws governing the trust and the trustee's fiduciary responsibilities. As one of a trustee's many obligations, Public Resources Code (PRC) section 6306 requires local trustees to annually file with the Commission a detailed statement of all revenues and expenditures relating to its trust lands and assets covering the fiscal year preceding submission of the statement. Chapter 206 authorized the Commission to develop a supplemental standardized reporting form that local trustees must submit in addition to the detailed financial

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statement required by PRC 6306. The purpose of the standardized reporting form is to aid in the Commission's review of the grantee's trust lands and assets.

Pursuant to Chapter 206, the Commission shall use an existing reporting form previously developed if a finding is made by the Commission that it is generally responsive to the needs of the Commission. Alternatively, the Commission may develop a reporting form that requires a local trustee of granted public lands to report on all of the following:

1. A summary of all funds received or generated from trust lands or trust assets
2. A summary of all spending of funds received or generated from trust lands or trust assets
3. Any other disposition of funds received or generated from trust lands or trust assets or of the trust lands or trust assets themselves
4. A description of the manner in which the statement required by this subdivision and accompanying the reporting form is organized
5. Any other information that the Commission deems to be included in an accounting of granted public trust lands.

Commission staff has developed a new standardized reporting form that complies with the aforementioned reporting requirements.

### Workload Analysis

The Commission is vested with all jurisdiction and authority remaining in the State as to the management of granted public trust lands. In general, the Commission ensures that the grantees comply with their various trustee responsibilities and duties, including the obligations to use the trust land for purposes consistent with the Public Trust and the trustee's granting statute(s). The Commission also has various express responsibilities mandated in the Public Resources Code and certain granting statutes.

Pursuant to Chapter 206, the Commission will need to prepare and submit a workload analysis to the Assembly Committee on Natural Resources, the Senate Committee on Natural Resources and Water, the joint Legislative Budget Committee, and the Department of Finance. Commission staff has prepared a workload analysis that summarizes the resources necessary for the Commission to fulfill its oversight responsibilities with respect to all legislatively granted public trust lands.

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The staff recommends that the Commission find that the subject adoption of the standardized reporting form and approval of the workload analysis do not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and are, therefore, not projects in accordance with the California Environmental Quality Act (CEQA).

**EXHIBITS:**

- A. Workload Analysis
- B. Standardized Reporting Form

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

1. Find that the subject adoption of the standardized reporting form and approval of the workload analysis are not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3) because the subject activities are not projects as defined by PRC section 21065 and California Code of Regulations, Title 14, section 15378.
2. Approve the workload analysis, in substantial form, attached hereto as Exhibit A.
3. Adopt the standardized reporting form, in substantial form, attached hereto as Exhibit B.

## EXHIBIT A

# CALIFORNIA STATE LANDS COMMISSION WORKLOAD ANALYSIS

### Introduction

This workload analysis is being prepared in response to Assembly Bill 2620 (Achadjian) Chapter 206, Statutes of 2012. The document summarizes the resources necessary for the California State Lands Commission (Commission) to fulfill its oversight responsibilities with respect to all legislatively granted public trust lands. The report is intended to provide: 1) a description of granted lands and the duties of trustees of those lands; 2) the Commission's statutory obligations and other duties with respect to granted lands; 3) the goals and objectives of the Commission with respect to granted lands; and 4) an analysis of the resources necessary to meet the Commission's objectives and statutory requirements relating to granted lands.

### **1) Description of Granted Lands and Trustee Duties**

#### **Description of Granted Lands**

Upon its admission to the United States of America on September 9, 1850, the State acquired by virtue of its sovereignty and in trust for the purposes of commerce, navigation, and fisheries, all right, title, and interest in tide and submerged lands and beds of navigable waterways within its borders. These lands are sovereign, not proprietary, and have unique restrictions in their management and use. Unlike proprietary lands, the California Constitution, California statutes and the common law Public Trust Doctrine prohibit the sale or alienation of sovereign lands except in very limited circumstances. All sovereign lands are held in trust for the benefit of the people of California.

Since statehood, the Legislature has enacted more than 300 statutes granting sovereign public trust lands to over 80 local municipalities (generally referred to as either grantees or trustees) to manage in trust for the people of California. The terms and conditions of statutory trust grants vary and are governed by the specific granting statute(s), the common law Public Trust Doctrine, the California Constitution, and case law. The specific uses permitted in each granting statute vary. For example, some statutory trust grants authorize the construction of ports, harbors, airports, wharves, docks, piers, slips, quays and other structures necessary to facilitate commerce and

navigation, while others allow only recreational and visitor oriented uses. All grants reserve to the people of the State of California the right to fish in the waters over the trust lands and the right to convenient access to those waters over the trust lands for that purpose.

Revenues generated by a trustee arising out of the use or operation of its granted lands are public trust assets of the State and must be reinvested back into the trust. These revenues must be kept separate from the general funds of a local government and may not be used for any municipal purpose, or any purpose unconnected with the trust. Expenditures of trust funds by a trustee must be consistent with the common law Public Trust Doctrine and the statutory trust grant.

While granted public trust lands and assets are managed locally, the Legislature delegated the State's residual and review authority for granted lands to the Commission. The Commission is responsible for monitoring administration of each statutory grant by the trustee to ensure compliance with provisions of the granting statute and the Public Trust Doctrine. The Commission has the authority to investigate, audit, and review the administration of all statutory trust grants. The Commission also has the authority to investigate specific allegations of maladministration, to seek corrective measures by trustees, and make recommendations to the Legislature; the ultimate trustee of public trust lands.

### **General Duties of Legislative Trustees**

Each trustee must ensure that the use of granted lands is consistent with the common law Public Trust Doctrine and the requirements of the individual granting statute. Traditionally, these uses were restricted to statewide or regional water-dependent or related activities such as navigation, commerce, and fishing. Over the years, the courts have recognized that the common law Public Trust Doctrine is sufficiently flexible to encompass changing public needs and have found uses such as, but not limited to, environmental preservation, visitor-serving facilities and amenities, and water-oriented recreation to be trust consistent. *See Exhibit A.* While there are some commonalities between granting statutes, each grant has its own specific requirements relating to allowable uses, expenditures, and Commission approvals.

Because a trustee must manage tidelands consistent with the terms and obligations of the public trust; it therefore has the affirmative fiduciary duties of a trustee. These fiduciary duties are codified in Public Resources Code section 6009.1 and include the duty to keep clear and adequate records and accounts, the duty to not use or deal with the trust property for the trustee's own profit or for any other purpose unconnected with

the trust, and to not take part in a transaction in which the trustee has an interest adverse to the beneficiaries. As part of their trustee duties, and pursuant to Public Resources Code section 6306, each trustee must annually file with the Commission a detailed statement of all revenues and expenditures relating to its trust lands and trust assets as well as a standardized reporting form prepared by the Commission that summarizes certain financial data. The detailed financial report and standardized reporting form assist the Commission in its review of granted lands to ensure that trustees are complying with their fiduciary duties.

Under the Public Resources Code, trustees may be subject to additional approval requirements from the Commission involving the use of granted lands. Examples include the development of oil and gas, title and boundary settlements, and litigation addressing the trust consistency of proposed uses or expenditures.

## **2) The Commission's Duties with Respect to Granted Lands**

The Commission administers the State's interests in tide and submerged lands granted by the Legislature to cities, counties, and other government entities. It also ensures that trustees are complying with their various fiduciary duties and the requirements of their granting statutes. This includes ensuring that trustees are reinvesting revenues from granted lands back into the corpus of the trust and improving the granted lands in a trust consistent manner that protects public access and provides a statewide benefit. In addition to having residual oversight authority for the State to protect the public interest in granted lands, the Commission has specific oversight responsibilities mandated in the Public Resources Code and express responsibilities mandated in the State's over 300 individual granting statutes, which vary greatly in scope and complexity.

The Commission strives to protect the public trust by ensuring that trustees are using their public trust lands and assets consistent with their granting statutes, the common law Public Trust Doctrine and the California Constitution. Fluency and understanding of the Public Trust Doctrine and all applicable laws, as well as a comprehensive understanding of the nature and character of the granted lands themselves, are necessary to effectively and competently assist grantees and protect the public trust.

Further, Commission staff is instrumental in assisting grantees with items such as litigation involving title to tide and submerged land, legislation, project review for trust consistency, title settlements and boundary line agreements, and jurisdictional review. The amount of Commission staff time required for an individual grant at any given time is difficult to predict. For example, a grantee may not require Commission staff assistance for many years but within a short period of time may need assistance with a

variety of issues. These issues often include jurisdictional reviews, review of certain development projects, leases, proposed capital expenditures of tidelands trust funds in excess of \$250,000, land exchanges, and boundary line or title settlement agreements, all of which require a substantial amount of Commission staff time. It is crucial for the Commission to provide review and assistance to trustees in an efficient manner so as to not delay any redevelopment of waterfront maritime facilities that will provide economic benefits to the State and promote and further public trust purposes. At the same time, proficient review is required to ensure that projects are trust consistent and will provide a statewide benefit to the people of California.

Not only are there fluctuating needs of trustees at various and unpredictable times, but the individual trustees have different needs by the very nature of the grant. For example, the three major container ports of California, including the ports of Oakland, Los Angeles, and Long Beach, are situated on granted lands and subject to the Commission's oversight authority. These major ports include irreplaceable water-dependent maritime facilities that help make California one of the largest economies in the world. Further, the ports of San Francisco and San Diego are also located on granted lands and are of equal importance to the State's economy due to not only their maritime trade and commerce contributions but also their world renowned visitor-serving and public access amenities.

The Legislature has unequivocally expressed the importance of maritime navigation and commerce at California ports as constituting one of the state's primary economic and coastal resources and an essential element of the national maritime network. Thus, the needs of these major ports are unique and require staff with special expertise and sophistication with the management of granted lands, water boundaries, and public trust law. In addition to the ports, there are other trustees, such as the City of Newport Beach, the City of Vallejo, Orange County, and the City of Redondo Beach that, due to the unique nature and history of the land and granting statutes, require frequent assistance from the Commission. This requires a substantial amount of Commission staff time and requires staff to gain specific knowledge of the history of the grant and character of the land. Other grants may need less consistent assistance from Commission staff but all grants require Commission action or assistance in some manner.

### **3) Goals and Objectives of the Commission with Respect to Granted Land**

The Bureau of State Audits California State Audit Report 2010-125, released in August 2011, addressed the Commission's management of leases on state property and

oversight of granted lands. The Audit found that “[t]he Commission appears to have taken a reactive approach to carrying out its oversight responsibilities of granted lands by only responding to allegations of improper use of funds, rather than proactively identifying and preventing misuse through periodic monitoring.” The Audit further found that “without oversight of Granted Lands, the Commission risks having to address additional ongoing abuses of Public Trust funds and is neglecting its responsibility to protect the Public Trust.” The Audit recommended that the Commission establish a monitoring program to ensure that the funds generated from granted lands are expended in accordance with the California Constitution, statutory provisions and the Public Trust Doctrine.

In response, the Commission has created a new Division that is directly responsible for the oversight of granted lands: the External Affairs Division. The goal of this Division is to address deficiencies identified in the Audit and ensure the Commission is fulfilling its granted public trust land oversight duties, including carefully reviewing and analyzing annual financial statements submitted by each trustee. To accomplish this goal, the Commission needs adequate resources to not only meet its statutory obligations, but also to be proactive and increase efficiency and effectiveness when responding to trustees’ inquiries and requests for assistance. The Commission also needs adequate resources for the specific approvals required by individual granting statutes, such as reviewing capital expenditures of \$250,000 or more and approving leases.

One of the most important tasks for the Commission is to serve as a resource for trustees, particularly as it relates to providing boundary, title and legal expertise to resolve disputes or facilitate redevelopment. Trustees regularly contact the Commission for assistance. An example is the Port of San Francisco where complex trust issues in development projects such as AT&T Park, Pier 1, the renovated Ferry Building, the Piers 15-17 Exploratorium Museum, and Piers 1½-3-5 required extensive collaboration with and input from the Commission. Another example includes facilitating redevelopment and public access through title settlements and land exchanges. Specifically, the Port of San Diego, City of Newport Beach, City of Long Beach, Port of San Francisco and the Port of Oakland all received assistance and support from the Commission in order to facilitate the Chula Vista Bayfront redevelopment project, the Marina Park project, the Queensway Bay development project, the Hunters Point/Candlestick Point and Treasure Island projects, and the Brooklyn Basin projection (formerly known as the Oak to Ninth project), respectively.

Accordingly, the Commission’s primary granted lands goals are: 1) to be a resource and provide timely and effective assistance to facilitate appropriate development and protection of granted lands consistent with the Public Trust Doctrine and in the State’s



best interests; and 2) to fulfill its residual and express oversight duties to ensure that granted public trust lands and their revenues are used in accordance with the public trust and the terms of the statutory grants.

Specific goals include: maintaining regular communication with trustees to facilitate and ensure compliance with the terms of their grant and the public trust, including California's major ports and harbor districts; providing guidance and making trust consistency determinations for major projects proposed on granted lands; providing boundary and title information to trustees when requested; responding to allegations of misuse of tideland trust revenue; ensuring trustees submit annual financial statements as required by law, and reviewing financial statements to ensure expenditures and revenues are trust consistent.

Other goals include protecting, restoring, enhancing and preserving resources on granted lands; creating greater transparency and better understanding of fiduciary responsibilities as a trustee; providing guidance to trustees regarding proper use of trust revenues; and providing guidance to trustees about trust consistency as it relates to emerging development projects proposed on granted lands not previously considered in the context of the public trust, such as renewable energy projects and projects intended to facilitate the State's climate change preparedness goals.

#### **4) Resources Necessary to Meet the Objectives and Statutory Requirements Relating to Granted Lands**

Please see Table 1 below for the projected hours and full time employees needed to efficiently and competently address the needs of trustees and meet the Commission's statutory obligations.

Table 1. Required Hours and Employees Necessary for Granted Lands Program

Workload Measures	Specific Tasks	Avg. No. of Events	Required length of time to complete item (hours)	Total Hours
<b>Financial Review</b>				
<p>Review annual financial statements and, if necessary, investigate possible abuses in the use of tideland revenues as indicated by the annual financial statement.</p> <p>Ensure that all grantees submit annual financial statements and forms detailing all revenues and expenditures related to its granted lands pursuant to Public Resources Code section 6306</p> <p>Place financial reporting forms on the website to provide transparency and comply with Public Resources Code section 6306</p> <p>Perform ongoing review of accounting procedures to ensure that trust funds are properly segregated and not used for municipal purposes</p>	Annual Financial Statements/Fiscal Accountability	85	PLMS 24 Hours Legal 8 Hours	PLMS 2040 Hours Legal 680 Hours <b>Total Hours: 2720</b>
	Review Allegations of Non Trust Use	8	PLMS 26 Hours Legal 40 Hours Boundary 7 Hours	PLMS 208 Hours Legal 320 Hours Boundary 56 Hours <b>Total Hours: 584</b>
<b>Oversight of Granted Lands</b>				
<p>Be a resource and provide timely and effective assistance to facilitate appropriate development and protection of granted lands consistent with the Public Trust Doctrine</p> <p>Fulfill its residual and express oversight duties to ensure that granted public trust lands and their revenues are used in accordance with the Public Trust Doctrine and the terms of the statutory trust grants</p>	Jurisdictional Determinations	12	PLMS 5 Hours Legal 2 Hours Boundary 1 Hour	PLMS 60 Hours Legal 24 Hours Boundary 12 Hours <b>Total Hours: 96</b>
	Dredging Notice Review/Leases	5	PLMS 24 Hours Legal 4 Hours	PLMS 120 Hours Legal 20 Hours <b>Total Hours: 120</b>
	Interpret and Provide Advice for Statutory Grants	142	PLMS 8 Hours Legal 6 hours Boundary 2 Hours	PLMS 1136 Hours Legal 852 Hours Boundary 284 Hours <b>Total Hours: 2272</b>
	Commission Approvals	12	PLMS 48 Hours Legal 16 Hours Boundary 6 Hours	PLMS 576 Hours Legal 192 Hours Boundary 72 Hours <b>Total Hours: 840</b>

Workload Measures	Specific Tasks	Avg. No. of Events	Required length of time to complete item (hours)	Total Hours
<b>Facilitate Waterfront Redevelopment</b>				
Provide boundary and title information to trustees when requested  Provide guidance and advice and make trust consistency determinations for projects proposed on granted lands  Provide guidance about trust consistency as it relates to emerging projects not previously considered in the context of the public trust, such as renewable energy projects and other projects intended to facilitate the State's climate change preparedness goals	Public trust Analysis	24	Legal 18 Hours	Legal 432 Hours <b>Total Hours: 432</b>
	Land Exchange/Title Settlement/Boundary Line Agreement	2	PLMS 40 Hours Legal 600 Hours Boundary 400 Hours	PLMS 80 Hours Legal 1200 Hours Boundary 800 Hours <b>Total Hours: 2080</b>
	Legislation	3	PLMS 20 Hours Legal 40 Hours Boundary 16 Hours	PLMS 60 Hours Legal 120 hours Boundary 48 Hours <b>Total Hours: 228</b>
<b>Protect Existing Maritime Uses/ Education and Outreach</b>				
Maintain regular communication with trustees to ensure compliance with the terms of their grant and public trust, including California's major ports and harbor districts  Protect, restore, enhance, and preserve resources on granted lands  Create and maintain trustee understanding of their fiduciary responsibilities as a trustee	Explanation/Interpretation of Public Trust	72	PLMS 1 Hours Legal 3 Hours	PLMS 72 Hours Legal 216 Hours <b>Total Hours: 288</b>
	Litigation	2	PLMS 20 Hours Legal 800 Hours Boundary 600 Hours	PLMS 40 Hours Legal 1600 Hours Boundary 1200 Hours <b>Total Hours: 2840</b>
	Public Trust Workshops	30	PLMS 60 Hours	PLMS 1800 Hours <b>Total Hours: 1800</b>
<b>Management and Support</b>		3		Manager: 1800 Support Staff: 3600 <b>Total Hours: 5400</b>

<b>Workload Measures</b>	<b>Specific Tasks</b>	<b>Avg. No. of Events</b>	<b>Required length of time to complete item (hours)</b>	<b>Total Hours</b>
<b>Administration</b>		0.5		Administrative Support: <b>900</b>
<b>TOTAL HOURS</b>				PLMS: 6192 Legal: 5656 Boundary: 2472 Management/Support: 5400 Administrative: 900  <b>Total Hours:</b> <b>20620</b>
<b>Total Full Time Employees (FTE) Required Based on Total Hours</b>				PLMS: 3.5 Legal: 3 Boundary: 1.5 Management/Support: 3 Administrative: 0.5  <b>Total FTE:</b> <b>11.5</b>
<b>Existing Funding</b>				<b>3.5 FTE</b>
<b>Current Program Needs (Required FTEs less Existing Funding)</b>				<b>8 FTE</b>

As shown in Table 1 above, the Commission estimates approximately 20,000 staff hours, or 11.5 full time staff are required to effectively and efficiently oversee the State's legislatively granted public trust lands. In fiscal year 2012/2013, the Commission has only 3.5 Full-Time Employees (FTE) funded for this work, consisting of two full time employees and the assistance of various attorneys, boundary staff, title staff, and appraisers as needed on an ad hoc basis as time is available. To bridge the gap necessary to comply with the Legislature's delegation of authority to the Commission to oversee the administration of granted lands based on this analysis, the Commission will require the equivalent of 8 additional full time employees.

At the current staffing level, which includes one dedicated Attorney and one dedicated Public Land Management Specialist, the Commission simply cannot meet its statutory oversight obligations or provide trustees with title, boundary, legal, jurisdictional and other specialized assistance in a timely fashion. This results in untimely and ineffective assistance in facilitating public access and appropriate development of trust lands, maintaining and promoting port and maritime operations, and protection of state assets, which does not benefit the State.

With the number of grantees and broad range of grants and granting statutes, and the scope and complexity of the Commission duties as related to granted lands, it is virtually impossible for staff to maintain relationships with all grantees, provide requested assistance, and review revenues and expenditures to ensure trust consistency and fiscal accountability and transparency. Currently, time required but not fulfilled by granted lands program staff is satisfied by redirecting staff from other projects, most of which are revenue generating, as needed. This approach is inefficient and often requires granted lands staff to spend additional time to provide the information and specialized knowledge necessary for staff with no granted lands experience to work on the unique granted lands projects, while also hindering outside staff's ability to work on other existing projects that also require timely action.

Due to limited resources, Commission staff cannot effectively protect and promote the public trust and its assets and instead responds only to the most egregious allegations of improper use of funds and lands. Such a reactive approach has a panoply of negative consequences, including diverting the time and efforts of other staff members from work, and can be difficult, frustrating, and disruptive to the ongoing efforts of the trustee to improve and develop the lands and resources they manage in trust. If the Commission were able to take a more proactive approach with dedicated staffing, it could provide assistance, identify and prevent misuse before it happens through better communication, assistance, or participation when requested, and ensure fiscal accountability, public access, and protection of maritime uses. The Commission's dual

role of protecting the State's assets and promoting their lawful and productive use is integral to California's management of its public trust lands and assets.

As discussed below, with the addition of Boundary Determination Officers, Public Land Management Specialists, and Staff Attorneys, the Commission would be able to meet these duties as intended by the Legislature through its delegation of oversight authority of granted public trust lands.

### **Boundary Determination Officers**

Boundary Determination Officers (BDOs) are licensed land surveyors who specialize in water boundaries and historic sovereign claims. BDOs review and analysis is required to properly respond to trustee inquiries and determine if the State has a sovereign interest in a particular property and whether that property is located within a grant. BDOs perform a multitude of tasks at the Commission including researching the historic physical and legal title of an area, analyzing all significant artificial influences since 1850 to determine their effect on the legal boundary, compiling maps and plats showing all surveys of an area, and opining as to the extent of state ownership. In addition, BDOs prepare and review legal descriptions, review title reports, and prepare exhibits and maps.

A BDOs review and analysis is essential for land exchanges, title settlement and boundary line agreements, or land acquisitions. BDOs also assist staff attorneys in researching and analyzing the title and boundary history of the area, assist staff attorneys and the Attorney General's Office in litigation, and act as expert witnesses at trial. BDOs are instrumental in litigation involving title and boundary claims to granted lands and trustees rely on the expertise in understanding and determining water boundaries. In addition, BDOs prepare or review legal descriptions necessary for legislation involving statutory trust grants.

There are currently five BDOs employed with the Commission and two assistant BDOs who are land surveyors in training, as compared to nearly fourteen BDOs employed by the Commission in the early 1990s. These seven positions are dedicated to meeting the boundary/survey needs for the management of over 4 million acres of land located throughout all 58 counties. At present, the priorities of BDOs are revenue-generating leases and litigation. BDOs are redirected to the granted lands program only when it is urgent. This often causes a delay in the response time for Commission action, which in turn can cause delays in necessary project approvals for the trustee.

BDOs are frequently unable to allocate time for granted lands work, which has become apparent in the past two fiscal years. In fiscal year 2010/2011, BDOs spent 839 hours

towards the resolution of granted lands issues. Comparatively, in fiscal year 2011/2012 and 2012/2013, BDO's allocated less than 400 hours to granted lands issues. As a result, there are matters left unresolved until further resources can be obtained.

### **Public Land Management Specialists**

Public Land Management Specialists (PLMS) are the primary points of contact with the trustees and the public and are ultimately responsible for coordinating the review of all projects and approvals required by the Commission for granted land items. They are also responsible for all of the work that is not completed by a specialized position such as a legal, appraisal, or boundary position. PLMS are responsible for proactively providing education and outreach to trustees, citizens, and municipalities about the purpose and limitations of the public trust.

Of the 24 PLMS employed by the Commission, only one is dedicated to granted lands. Due to the learning curve and the unique responsibilities associated with work in granted lands, it is often difficult to work effectively in both granted and ungranted lands (sovereign lands that the Commission manages directly). Not only are there significant differences between ungranted and granted sovereign lands but, as mentioned above, to best oversee the grants, specific knowledge of the nature and history of the land within the grant is required. In addition, since the PLMS are often the primary point of contact with the trustee, PLMS that do not work predominantly in granted lands will not have the contacts and experience to work as effectively with trustees. Due to these inefficiencies and the time necessary to train other PLMS who rarely, if ever, work with granted lands, dedicated PLMS staff are necessary for the Commission to fulfill its oversight responsibilities with respect to granted public trust lands.

In fiscal years 2010/2011 and 2011/2012, PLMS spent over 1,500 hours in each year on granted lands matters. When the External Affairs Division was established in fiscal year 2012/2013, PLMS assistance outside the new division dropped to only 451 hours. Although more PLMS assistance within the division was greatly needed, due to the substantial time commitment involved in directly managing the State's more than 4 million acres of sovereign land, and other difficulties to train temporary division staff, assistance from PLMS outside the division was rarely available.

### **Staff Attorneys**

Legal expertise and analysis by staff legal counsel is also crucial to the effective oversight of granted lands. Staff attorneys act as the Commission's in-house counsel and facilitate the legal work required for all land exchanges, title settlements/boundary line agreements, and land acquisitions, including drafting legal documents, researching

historic title and boundaries, and ensuring that agreements meet the requirements of the Public Resources Code and case law. Their expertise is also required for interpreting statutes and case law to determine whether a project or action is consistent with the law and to provide guidance to trustees and developers on how to ensure proposed projects are consistent with the public trust. They advise trustees regarding the intricacies of the granting statutes and the common law Public Trust Doctrine. They also review leases, land use plans, and other items to ensure that projects on granted lands are compatible with the public trust and are the highest and best use of a site. In addition, they assist the Attorney General's Office with any litigation involving granted lands.

The Commission currently has nine full time staff attorneys. At the current staffing level, staff attorneys outside of the External Affairs Division can only support the granted lands program when there are urgent issues, such as litigation, boundary disputes, or title settlements. In fiscal year 2010/2011 and 2011/2012, legal staff spent 2,509 and 2,178 hours respectively on granted lands issues. Even with the establishment of the External Affairs Division in fiscal year 2012/2013, 1,505 hours of legal assistance for critical granted lands matters was necessary. Together, the Legal and External Affairs Divisions are still unable to address all of the legal issues stemming from granted lands. Without additional legal staff, as more urgent items arise that need to be addressed, these and other matters will continue to remain unresolved.

## **Conclusion**

The Legislature has delegated to the Commission the responsibility to ensure that California's granted trust lands and assets are used productively and in a manner that protects the State's natural resources. It is imperative that the Commission have adequate staff to facilitate use of public trust lands, promote the statewide benefits of those lands and their uses, oversee trustee activities, and ensure that granted public trust lands, assets, and resources are managed for the benefit of the people of California.



# The Public Trust Doctrine

California State Lands Commission

## **I. Origins of the Public Trust**

The origins of the public trust doctrine are traceable to Roman law concepts of common property. Under Roman law, the air, the rivers, the sea and the seashore were incapable of private ownership; they were dedicated to the use of the public.<sup>1</sup> This concept that tide and submerged lands are unique and that the state holds them in trust for the people has endured throughout the ages. In 13<sup>th</sup> century Spain, for example, public rights in navigable waterways were recognized in *Las Siete Partidas*, the laws of Spain set forth by Alfonso the Wise.<sup>2</sup> Under English common law, this principle evolved into the public trust doctrine pursuant to which the sovereign held the navigable waterways and submerged lands, not in a proprietary capacity, but rather “as trustee of a public trust for the benefit of the people” for uses such as commerce, navigation and fishing.<sup>3</sup>

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<sup>1</sup>Institutes of Justinian 2.1.1.

<sup>2</sup>*Las Siete Partidas* 3.28.6 (S. Scott trans. & ed. 1932).

<sup>3</sup>*Colberg, Inc. v. State of California ex rel. Dept. Pub. Works* (1967) 67 Cal.2d 408, 416.

After the American Revolution, each of the original states succeeded to this sovereign right and duty. Each became trustee of the tide and submerged lands within its boundaries for the common use of the people.<sup>4</sup> Subsequently admitted states, like California, possess the same sovereign rights over their tide and submerged lands as the original thirteen states under the equal-footing doctrine.<sup>5</sup> That is, title to lands under navigable waters up to the high water mark is held by the state in trust for the people. These lands are not alienable in that all of the public's interest in them cannot be extinguished.<sup>6</sup>

## **II. Purpose of the Public Trust**

The United States Supreme Court issued its landmark opinion on the nature of a state's title to its tide and submerged lands nearly 110 years ago, and although courts have reviewed tidelands trust issues many times since then, the basic premise of the trust remains fundamentally unchanged. The Court said then that a state's title to its tide and submerged lands is different from that to the lands it holds for sale. "It is a title held in trust for the people of the State that they may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing" free from obstruction or interference from private parties.<sup>7</sup> In other words, the public trust is an affirmation of the duty of the

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<sup>4</sup>*Martin v. Waddell* (1842) 41 U.S. (16 Pet.) 367, 410.

<sup>5</sup>*Pollard=s Lessee v. Hagen* (1845) 44 U.S. (3 How.) 212, 228-29.

<sup>6</sup>*People v. California Fish Co.* (1913) 166 Cal. 576, 597-99; *City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515, 524-25.

<sup>7</sup>*Illinois Central R.R. Co. v Illinois* (1892) 146 U.S. 387, 452.

state to protect the people's common heritage of tide and submerged lands for their common use.<sup>8</sup>

But to what common uses may tide and submerged lands be put? Traditionally, public trust uses were limited to water-related commerce, navigation, and fishing. In more recent years, however, the California Supreme Court has said that the public trust embraces the right of the public to use the navigable waters of the state for bathing, swimming, boating, and general recreational purposes. It is sufficiently flexible to encompass changing public needs, such as the preservation of the lands in their natural state for scientific study, as open space and as wildlife habitat. The administrator of the public trust "is not burdened with an outmoded classification favoring one mode of utilization over another."<sup>9</sup>

The Legislature, acting within the confines of the common law public trust doctrine, is the ultimate administrator of the tidelands trust and often may be the ultimate arbiter of permissible uses of trust lands. All uses, including those specifically authorized by the Legislature, must take into account the overarching principle of the public trust doctrine that trust lands belong to the public and are to be used to promote public rather than exclusively private purposes. The Legislature cannot commit trust lands irretrievably to

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<sup>8</sup>*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 441.

<sup>9</sup>*Marks v. Whitney* (1971) 6 Cal.3d 251, 259-260.

private development because it would be abdicating the public trust.<sup>10</sup> Within these confines, however, the Legislature has considerable discretion.

The Legislature already may have spoken to the issue of the uses to which particular tide and submerged lands may be put when making grants of these lands in trust to local government entities. Statutory trust grants are not all the same--some authorize the construction of ports and airports, others allow only recreational uses and still others allow a broad range of uses.

A further and often complicating factor is that granted and ungranted lands already may have been developed for particular trust uses that are incompatible with other trust uses or may have become antiquated. Some tidelands have been dedicated exclusively to industrial port uses, for example, and in these areas, recreational uses, even if also authorized by the trust grant, may be incompatible. Similarly, tidelands set aside for public beaches may not be suitable for construction of a cannery, even though a cannery may be an acceptable trust use. Piers, wharves and warehouses that once served commercial navigation but no longer can serve modern container shipping may have to be removed or converted to a more productive trust use. Historic public trust uses may have been replaced by new technologies. Antiquated structures on the waterfront may be an impediment rather than a magnet for public access and use of the waters. Public trust uses may and often do conflict with one another. The state and local tidelands grantees, as administrators of their

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<sup>10</sup>*Illinois Central Railroad v. Illinois, supra*, at 452-53.

respective public trust lands, are charged with choosing among these conflicting uses, with the Legislature as the ultimate arbiter of their choices.

For all these reasons, a list of uses or a list of cases without more may not be as useful as an analysis of public trust law applied to a specific factual situation.

### **III. The Leasing of Tidelands**

A few principles established by the courts are instructive in analyzing under the public trust doctrine the leasing of public trust lands for particular uses. For example, it was settled long ago that tidelands granted in trust to local entities may be leased and improved if the leases and improvements promote uses authorized by the statutory trust grant and the public trust. Leases for the construction of wharves and warehouses and for railroad uses, i.e., structures that directly promote port development, were approved early in the 20<sup>th</sup> century.<sup>11</sup> Later, leases for structures incidental to the promotion of port commerce, such as the Port of Oakland's convention center, were held to be valid because although they did not directly support port business, they encouraged trade, shipping, and commercial associations to become familiar with the port and its assets.<sup>12</sup> Visitor-serving facilities, such as restaurants, hotels, shops, and parking areas, were also approved as appropriate uses because as places of public accommodation, they allow broad public

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<sup>11</sup>*San Pedro etc. R.R. Co. v. Hamilton* (1911) 161 Cal. 610; *Koyner v. Miner* (1916) 172 Cal. 448; *Oakland v. Larue Wharf & Warehouse Co.* (1918) 179 Cal. 207; *City of Oakland v. Williams* (1929) 206 Cal. 315.

<sup>12</sup>*Haggerty v. City of Oakland* (1958) 161 Cal.App.2d 407, 413-414.

access to the tidelands and, therefore, enhance the public's enjoyment of these lands historically set apart for their benefit.<sup>13</sup>

These cases provide three guidelines for achieving compliance with the public trust when leasing tidelands for construction of permanent structures to serve a lessee's development project: (1) the structure must directly promote uses authorized by the statutory trust grant and trust law generally, (2) the structure must be incidental to the promotion of such uses, or (3) the structure must accommodate or enhance the public's enjoyment of the trust lands. Nonetheless, when considering what constitutes a trust use, it is critical to keep in mind the following counsel from the California Supreme Court: The objective of the public trust is always evolving so that a trustee is not burdened with outmoded classifications favoring the original and traditional triad of commerce, navigation and fisheries over those uses encompassing changing public needs.<sup>14</sup>

#### **IV. Promotion of Trust Uses and Public Enjoyment of Trust Lands**

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<sup>13</sup>*Id.* at p. 414; *Martin v. Smith* (1960) 184 Cal.App.2d 571, 577-78.

<sup>14</sup>*National Audubon Society v. Superior Court, supra*, at p. 434.

Installations not directly connected with water-related commerce are appropriate trust uses when they must be located on, over or adjacent to water to accommodate or foster commercial enterprises. Examples include oil production facilities, freeway bridges and nuclear power plants.<sup>15</sup> Hotels, restaurants, shops and parking areas are appropriate because they accommodate or enhance the public's ability to enjoy tide and submerged lands and navigable waterways. The tidelands trust is intended to promote rather than serve as an impediment to essential commercial services benefiting the people and the ability of the people to enjoy trust lands.<sup>16</sup>

Nevertheless, the essential trust purposes have always been, and remain, water related, and the essential obligation of the state is to manage the tidelands in order to implement and facilitate those trust purposes for all of the people of the state.<sup>17</sup> Therefore, uses that do not accommodate, promote, foster or enhance the statewide public's need for essential commercial services or their enjoyment tidelands are not appropriate uses for public trust lands. These would include commercial installations that could as easily be sited on uplands and strictly local or "neighborhood-serving" uses that confer no significant benefit to Californians statewide. Examples may include hospitals, supermarkets, department stores, and local government buildings and private office

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<sup>15</sup>See *Boone v. Kingsbury* (1928) 206 Cal.148, 183; *Colberg, Inc. v. State of California ex rel. Dept. Pub. Work*, *supra*, at pp. 421-22; and *Carstens v. California Coastal Com.* (1986) 182 Cal.App.3d 277, 289.

<sup>16</sup>*Carstens v. California Coastal Com.*, *supra*, at p. 289.

buildings that serve general rather than specifically trust-related functions.

**V. Mixed-Use Developments**

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<sup>17</sup>Joseph L. Sax, A The Public Trust in Stormy Western Waters, @ October 1997.



Mixed-use development proposals for filled and unfilled tide and submerged lands have generally consisted of several structures, including non-trust use structures or structures where only the ground floor contains a trust use. While mixed-use developments on tidelands may provide a stable population base for the development, may draw the public to the development, or may yield the financing to pay for the trust uses to be included in the development, they ought not be approved as consistent with statutory trust grants and the public trust for these reasons. These reasons simply make the development financially attractive to a developer. Projects must have a connection to water-related activities that provide benefits to the public statewide, which is the hallmark of the public trust doctrine. Failure to achieve this goal, simply to make a development financially attractive, sacrifices public benefit for private or purely local advantage. A mixed-use development may not be compatible with the public trust, not because it may contain some non-trust elements, but because it promotes a “commercial enterprise unaffected by a public use”<sup>18</sup> rather than promoting, fostering, accommodating or enhancing a public trust use.<sup>19</sup> That use, however, need not be restricted to the traditional triad of commerce, navigation and fishing. It is an evolving use that is responsive to changing public needs for trust lands and for the benefits

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<sup>18</sup>*City of Long Beach v. Morse* (1947) 31 Cal.2d 254, 261.

<sup>19</sup>*Haggerty v. City of Oakland, supra*, at pp. 413-14.

these lands provide.<sup>20</sup>

Moreover, commercial enterprises without a statewide public trust use may violate the terms of statutory trust grants. Typically, grants allow tidelands to be leased, but only for purposes “consistent with the trust upon which said lands are held.” This term is not equivalent to “not required for trust uses” or “not interfering with trust uses.” Since leases of tidelands must be consistent with statutory trust grant purposes, leases which expressly contemplate the promotion of non-trust uses rather than trust uses would not comply with the terms of the trust grants.

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<sup>20</sup>*National Audubon Society v. Superior Court, supra*, at p. 434.

For these reasons, non-trust uses on tidelands, whether considered separately or part of a mixed-use development, are not mitigable. That is, unlike some environmental contexts where developments with harmful impacts may be approved so long as the impacts are appropriately mitigated by the developer, in the tidelands trust context, mitigation of a non-trust use has never been recognized by the courts. To the contrary, the California Supreme Court has said that just as the state is prohibited from selling its tidelands, it is similarly prohibited from freeing tidelands from the trust and dedicating them to other uses while they remain useable for or susceptible of being used for water-related activities.<sup>21</sup>

#### **VI. Incidental Non-Trust Use**

All structures built on tide and submerged lands should have as their main purpose the furtherance of a public trust use. Any structure designed or used primarily for a non-trust purpose would be suspect. Mixed-use development proposals, however, frequently justify non-trust uses as “incidental” to the entire project. The only published case in California in which a non-trust use of tidelands has been allowed focused on the fact that the real or main purpose of the *structure* was a public trust use and that the non-trust use would be incidental to the main purpose of the structure.<sup>22</sup> In this context, the court noted that because the real or main purpose of the structure was to promote public trust uses, non-trust groups could also use the facility, but the non-trust uses must remain *incidental* to the

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<sup>21</sup>*Atwood v. Hammond* (1935) 4 Cal.2d 31, 42-43.

<sup>22</sup>*Haggerty v. City of Oakland, supra*, at p. 413.

main purpose of the structure.<sup>23</sup> This is the state of the law, and it is supported by good policy reasons as well. If the test for whether a non-trust use is incidental to the main purpose of a development were not applied on a structure-by-structure basis, pressure for more dense coastal development may increase as developers seek to maximize the square feet of allowable non-trust uses. Disputes may arise as to how to calculate the square footage attributable to the proper trust uses versus non-trust uses, with open waterways and parking garages likely being the dominant trust uses and structures being devoted to non-trust uses.

It is beyond contention that the state cannot grant tidelands free of the trust merely because the grant serves some public purpose, such as increasing tax revenues or because the grantee might put the property to a commercial use.<sup>24</sup> The same reasoning applies to putting tidelands to enduring non-trust uses by building structures on them. Accordingly, the only enduring non-trust uses that may be made of tidelands without specific legislative authorization are those incidental to the main trust purpose applied on a structure-by-structure basis. Each structure in a mixed-use development on tidelands must have as its primary purpose an appropriate public trust use. If its real or main purpose is a trust use, portions of the structure not needed for trust purposes may be leased temporarily to non-trust tenants, provided that the non-trust use is incidental to the main purpose of the structure.

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<sup>23</sup>*Ibid.*

## **VII. The Role of the Legislature**

The Legislature is the representative of all the people and, subject to judicial review, is the ultimate arbiter of uses to which public trust lands may be put. The Legislature may create, alter, amend, modify, or revoke a trust grant so that the tidelands are administered in a manner most suitable to the needs of the people of the state.<sup>25</sup> The Legislature has the power to authorize the non-trust use of tidelands. It has done so rarely, and then on a case-specific basis.<sup>26</sup> Many of its actions have been a recognition of incidental non-trust uses or of a use that must be located on the tidelands. When these legislative actions have been challenged in court, the courts, understandably, have been very deferential, upholding the actions and the findings supporting them.<sup>27</sup>

The Legislature has provided a statutory framework for the leasing of tidelands for non-trust uses by the cities of Long Beach and San Francisco grounded on findings that the tidelands are *not required for* (San Francisco) or *not required for and will not interfere*

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<sup>24</sup>*National Audubon Society v. Superior Court*, *supra*, at p. 440.

<sup>25</sup>*City of Coronado v. San Diego Unified Port District* (1964) 227 Cal.App.2d 455, 474.

<sup>26</sup>For example, in Chapter 728, Statutes of 1994, the Legislature authorized tidelands in Newport Beach to continue to be put to non-trust uses for a limited term after it was determined that the tidelands had been erroneously characterized and treated as uplands by the city due to incorrect placement of the tidelands boundary.

<sup>27</sup>See, e.g., *Boone v. Kingsbury*, *supra*, at p. 183 and *City of Coronado v. San Diego Unified Port District*, *supra*, at pp. 474-75; but see *Mallon v. City of Long Beach* (1955) 44 Cal.2d 199, 206-07, 212.

*with* (Long Beach) the uses and purposes of the granting statute.<sup>28</sup> Where, as in these two statutes, the Legislature has authorized in general terms the use of tidelands for non-trust purposes, the statutes' provisions must be interpreted so as to be consistent with the paramount rights of commerce, navigation, fishery, recreation and environmental protection. This means that the tidelands may be devoted to purposes unrelated to the common law public trust to the extent that these purposes are incidental to and accommodate projects that must be located on, over or adjacent to the tidelands. These non-trust uses are not unlimited, for there are limits on the Legislature's authority to free tidelands from trust use restrictions.<sup>29</sup>

To ensure that the exercise of the Long Beach and San Francisco statutes is consistent with the common law public trust, the tidelands to be leased for non-trust uses must have been filled and reclaimed and no longer be tidelands or submerged lands and must be leased for a limited term. The space occupied by the non-trust use, whether measured by the percentage of the land area or the percentage of the structure, should be relatively small. Finally, any structure with a non-trust use should be compatible with the overall project. Findings such as these are necessary because legislative authorizations to devote substantial portions of tidelands to long-term non-trust uses have generally been considered by the

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<sup>28</sup>Ch. 1560, Stats. 1959; Ch. 422, Stats. 1975. These statutes also provide for, *inter alia*, the lease revenues to be used to further trust uses and purposes.

<sup>29</sup>*Illinois Central R.R. Co. v. Illinois, supra*, at pp. 452-54.

courts as tantamount to alienation.<sup>30</sup>

In several out-of-state cases, specific, express legislative authorizations of incidental leasing of publicly-financed office building space to private tenants solely for the purpose of producing revenue have been subject to close judicial scrutiny, although they did not involve tidelands trust use restrictions.<sup>31</sup> One case involved construction of an international trade center at Baltimore's Inner Harbor with public financing where legislation expressly permitted *portions* of the structure to be leased to private tenants for the production of income. Another was a condemnation case where the statute authorizing the New York Port Authority to acquire a site on which to build the World Trade Center was challenged on the basis that it allowed *portions* of the new structure to be used for no other purpose than the raising of revenue. In both cases, opponents of the projects argued that a publicly financed office building should not be permitted to have *any* private commercial tenants even though the respective legislatures had expressly allowed incidental private use of each building. The state courts in both Maryland and New York held that so long as the primary purpose of the office building was for maritime purposes connected with the port, legislation authorizing the leasing to private tenants was valid.<sup>32</sup> Although both cases involve challenges to financing and condemnation statutes and do not involve the public

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<sup>30</sup>*Atwood v. Hammond, supra*, at p. 42; see also *Illinois Central R.R. Co. v. Illinois, supra*, at pp. 454-53.

<sup>31</sup>*Lerch v. Maryland Port Authority* (1965) 240 Md. 438; *Courtesy Sandwich Shop, Inc. v. Port of New York Authority* (1963) 12 N.Y.2d 379.

<sup>32</sup>*Ibid.*

trust, they are instructive because they demonstrate the importance to the courts, even in the context of public financing and condemnation, that when a portion of a structure is to be leased for the purpose of raising revenues to offset expenses, this incidental non-public leasing must have been legislatively authorized.

### **VIII. Exchanges of Lands**

Situations where a local government or a private party acquires a right to use former trust property free of trust restrictions are rare.<sup>33</sup> In order for such a right to be valid, the Legislature must have intended to grant the right free of the trust and the grant must serve the purpose of the trust. Public Resources Code section 6307 is an example of the rare situation where abandonment of the public trust is consistent with the purposes of the trust. Section 6307 authorizes the Commission to exchange lands of equal value, whether filled or unfilled, whenever it finds that it is “in the best interests of the state, for the improvement of navigation, aid in reclamation, for flood control protection, or to enhance the configuration of the shoreline for the improvement of the water and upland, on navigable rivers, sloughs, streams, lakes, bays, estuaries, inlets, or straits, and that it will not substantially interfere with the right of navigation and fishing in the waters involved.” The lands exchanged may be improved, filled and reclaimed by the grantee, and upon adoption by the Commission of a resolution finding that such lands (1) have been improved, filled, and reclaimed, and (2) have thereby been excluded from the public channels and are no longer

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<sup>33</sup>*National Audubon Society v. Superior Court*, *supra*, at p. 440.



available or useful or susceptible of being used for navigation and fishing, and (3) are no longer in fact tidelands and submerged lands, the lands are thereupon free from the public trust. The grantee may thereafter make any use of the lands, free of trust restrictions.

In order for such an exchange of lands to take place, the Commission must find that the lands to be exchanged are no longer available or useful or susceptible of being used for navigation and fishing, taking into consideration whether adjacent lands remaining subject to the trust are sufficient for public access and future trust needs; that non-trust use of the lands to be freed of the public trust will not interfere with the public's use of adjacent trust lands; and that the lands that will be received by the state in the exchange not only are of equal, or greater, monetary value but also have value to the tidelands trust, since they will take on the status of public trust lands after the exchange. Only then can the Commission find that the transaction is in the best interests of the state, that the exchange of lands will promote the public trust and that it will not result in any substantial interference with the public interest in the lands and waters remaining.

## **A Sample of Applicable Public Resources Code**

The Commission has express responsibilities relating to granted lands mandated in the Public Resources Code (PRC). While this Exhibit is meant to provide examples of applicable PRC sections as an illustration of the vast number of express Commission responsibilities relating to granted lands found in the PRC, it is not meant to be an exhaustive list.

### **PRC § 6009 – Tidelands and submerged lands**

The Legislature finds and declares all of the following:

**(a)** Upon admission to the United States, and as incident of its sovereignty, California received title to the tidelands, submerged lands, and beds of navigable lakes and rivers within its borders, to be held subject to the public trust for statewide public purposes, including commerce, navigation, fisheries, and other recognized uses, and for preservation in their natural state.

**(b)** The state's power and right to control, regulate, and utilize its tidelands and submerged lands when acting within the terms of the public trust is absolute.

**(c)** Tidelands and submerged lands granted by the Legislature to local entities remain subject to the public trust, and remain subject to the oversight authority of the state by and through the State Lands Commission.

**(d)** Grantees are required to manage the state's tidelands and submerged lands consistent with the terms and obligations of their grants and the public trust, without subjugation of statewide interests, concerns, or benefits to the inclination of local or municipal affairs, initiatives, or excises.

**(e)** The purposes and uses of tidelands and submerged lands is a statewide concern.

Summary: Key concepts for both ungranted and granted tide and submerged lands. The Commission retains oversight authority for granted lands.

### **PRC § 6009.1 – Grantee's Fiduciary Duties**

**(a)** Granted public trust lands remain subject to the supervision of the state and the state retains its duty to protect the public interest in granted public trust lands.

**(b)** The state acts both as the trustor and the representative of the beneficiaries, who are all of the people of this state, with regard to public trust lands, and a grantee of public trust lands, including tidelands and submerged lands, acts as a trustee, with the granted tidelands and submerged lands as the corpus of the trust.

**(c)** A grantee may fulfill its fiduciary duties as trustee by determining the application of each of the following duties, all of which are applicable under common trust principles:

**(1)** The duty of loyalty.

**(2)** The duty of care.

**(3)** The duty of full disclosure.

**(4)** The duty to keep clear and adequate records and accounts.

**(5)** The duty to administer the trust solely in the interest of the beneficiaries.

**(6)** The duty to act impartially in managing the trust property.

**(7)** The duty to not use or deal with trust property for the trustee's own profit or for any other purpose unconnected with the trust, and to

not take part in a transaction in which the trustee has an interest adverse to the beneficiaries.

**(8)** The duty to take reasonable steps under the circumstances to take and keep control of and to preserve the trust property.

**(9)** The duty to make the trust property productive under the circumstances and in furtherance of the purposes of the trust.

**(10)** The duty to keep the trust property separate from other property not subject to the trust and to see that the trust property is designated as property of the trust.

**(11)** The duty to take reasonable steps to enforce claims that are part of the trust property.

**(12)** The duty to take reasonable steps to defend actions that may result in a loss to the trust.

**(13)** The duty to not delegate to others the performance of acts that the trustee can reasonably be required to perform and to not transfer the administration of the trust to a cotrustee. If a trustee has properly delegated a matter to an agent, the trustee has a duty to exercise direct supervision over the performance of the delegated matter.

**(d)** All duties endowed upon a trustee of state lands shall depend upon the terms of the trust, and if there is no provision, express or implied, within the terms of the trust, a statute, or a grant, the trustee's duties shall be interpreted and determined by principles and rules evolved by courts of equity with respect to common trust principles.

**(e)** Common trust principles do not nullify an act of the Legislature or modify its duty under the California Constitution to do all things necessary to execute and administer the public trust.

Summary: As a trustee, a grantee must treat the trust land and assets with a fiduciary's care. This section codifies the fiduciary duties of a grantee and describes the trust relationship.

### **PRC § 6301- Remaining Jurisdiction and Authority over Granted Lands**

The commission has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the State, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits, including tidelands and submerged lands or any interest therein, whether within or beyond the boundaries of the State as established by law, which have been or may be acquired by the State (a) by quitclaim, cession, grant, contract, or otherwise from the United States or any agency thereof, or (b) by any other means. All jurisdiction and authority remaining in the State as to tidelands and

submerged lands as to which grants have been or may be made is vested in the commission.

The commission shall exclusively administer and control all such lands, and may lease or otherwise dispose of such lands, as provided by law, upon such terms and for such consideration, if any, as are determined by it.

The provisions of this section do not apply to land of the classes described in Section 6403, as added by Chapter 227 of the Statutes of 1947.

Summary: This section is the Commission's primary enabling statute. It vests the Commission with all jurisdiction and authority remaining in the State over tide and submerged lands granted to local jurisdictions. This is an enormous responsibility because granted tide and submerged lands are state assets and their preservation and accessibility is a matter of statewide concern. The Commission is the only state entity ensuring that legislatively granted public trust lands are being managed properly.

## **PRC § 6306 – Detailed Financial Statement Filed with the Commission**

**(a)** For purposes of this division, “local trustee of granted public trust lands” means a county, city, or district, including a water, sanitary, regional park, port, or harbor district, or any other local, political, or corporate subdivision that has been granted, conveyed, or transferred by statute, public trust lands, including tidelands, submerged lands, or the beds of navigable waters, through a legislative grant. A local trustee of granted public trust lands is a trustee of state lands.

**(b)** Notwithstanding any other law, every local trustee of granted public trust lands shall establish and maintain accounting procedures, in accordance with generally accepted accounting principles, providing accurate records

of all revenues received from the trust lands and trust assets and of all expenditures of those revenues. If a trust grantee has several trust grants of adjacent lands and operates the granted lands as a single integrated entity, separation of accounting records for each trust grant is not required.

**(c)** All revenues received from trust lands and trust assets administered or collected by a local trustee of granted public trust lands shall be expended only for those uses and purposes consistent with the public trust for commerce, navigation, and fisheries, and the applicable statutory grant.

**(d)** All funds received or generated from trust lands or trust assets shall be segregated in separate accounts from nontrust received or generated funds.

**(e)**

**(1)** Unless otherwise prescribed by an applicable statutory grant, on or before October 1 of each year, each local trustee of granted public trust lands shall file with the commission a detailed statement of all revenues and expenditures relating to its trust lands and trust assets, including obligations incurred but not yet paid, covering the fiscal year preceding submission of the statement.

**(2)** The statement shall be prepared in accordance with generally accepted accounting

principles and may take the form of an annual audit prepared by or for the local trustee of granted public trust lands.

**(3)**

**(A)** The detailed statement shall be submitted along with a standardized reporting form developed by the commission.

**(B)** The commission shall use an existing reporting form previously developed for purposes of this paragraph, if a finding is made by the commission that it is generally responsive to the needs of the commission as prescribed in this section. Alternatively, the commission may develop a reporting form that requires a local trustee of granted public lands to report on all of the following:

**(i)** A summary of all funds received or generated from trust lands or trust assets.

**(ii)** A summary of all spending of funds received or generated from trust lands or trust assets.

**(iii)** Any other disposition of funds received or generated from trust lands or trust assets or of the trust lands or trust assets themselves.

**(iv)** A description of the manner in which the statement required by this subdivision and accompanying the reporting form is organized.

**(v)** Any other information that the commission deems to be included in an accounting of granted public trust lands.

**(C)** The adoption of the form by the commission pursuant to this subdivision is the prescription of a form for purposes of subdivision (c) of Section 11340.9 of the Government Code.

**(4)** All forms and supporting statements submitted pursuant to this section shall be public records and be made available on the commission’s Internet Web site.

**(f)**

**(1)** The costs that may be incurred by a local trustee of granted public trust lands that

result from any new duties imposed upon that trustee by the act amending this section in the 2011–12 Regular Session of the Legislature, including the requirement to submit a standardized reporting form required by paragraph (3) of subdivision (e), shall be paid from the revenues derived from its granted public trust lands and assets specified in subdivision (b).

(2) If the revenues derived from the granted public trust lands and assets specified in subdivision (b) are not sufficient to pay the costs for the duties specified in paragraph (1), the commission shall exempt the local trustee of granted public trust lands from performing those duties for which the revenues are not sufficient, or grant a deadline extension from the performance of those duties until sufficient funds are available.

Summary: This section directs trustees to establish and maintain accounting procedures, in accordance with generally accepted accounting principles, providing accurate records of all revenues received from the trust lands and assets and of all expenditures of those revenues. All revenues received from trust lands and assets shall be expended only for uses and purposes consistent with the Public Trust Doctrine and the applicable statutory grant. Trustees must annually file with the Commission a detailed statement of all revenues and expenditures relating to its trust lands and assets covering the fiscal year preceding submission of the statement. The Commission's thorough review of the complex financial data submitted by the grantees in the detailed financial reports assist in the Commissions overview responsibilities and efforts to guard against the misuse of trust lands and assets, as intended by the Legislature.

## **PRC §§ 6307 and 6357 - Title Settlements, Boundary Line Agreements or Land Exchanges**

### **PRC § 6307**

(a) The commission may enter into an exchange, with any person or any private or public entity, of filled or reclaimed tide and submerged lands or beds of navigable waterways, or interests in these lands, that are subject to the public trust for commerce, navigation, and fisheries, for other lands or interests in lands, if the commission finds that all of the following conditions are met:

(1) The exchange is for one or more of the purposes listed in subdivision (c).

(2) The lands or interests in lands to be acquired in the exchange will provide a significant benefit to the public trust.

(3) The exchange does not substantially interfere with public rights of navigation and fishing.

(4) The monetary value of the lands or interests in lands received by the trust in

exchange is equal to or greater than that of the lands or interests in lands given by the trust in exchange.

(5) The lands or interest in lands given in exchange have been cut off from water access and no longer are in fact tidelands or submerged lands or navigable waterways, by virtue of having been filled or reclaimed, and are relatively useless for public trust purposes.

(6) The exchange is in the best interests of the state.

(b) Pursuant to an exchange agreement, the commission may free the lands or interest in lands given in exchange from the public trust and shall impose the public trust on the lands or interests in lands received in exchange.

(c) An exchange made by the commission pursuant to subdivision (a) shall be for one or more of the following purposes, as determined by the commission:

(1) To improve navigation or waterways.

(2) To aid in reclamation or flood control.

(3) To enhance the physical configuration of the shoreline or trust land ownership.

(4) To enhance public access to or along the water.

(5) To enhance waterfront and nearshore development or redevelopment for public trust purposes.

(6) To preserve, enhance, or create wetlands, riparian or littoral habitat, or open space.

(7) To resolve boundary or title disputes.

(d) The commission may release the mineral rights in the lands or interests in lands given in exchange if it obtains the mineral rights in the lands or interests in lands received in exchange.

(e) The grantee of any lands or interests in lands given in exchange may bring a quiet title action under Chapter 7 (commencing with Section 6461) of Part 1 of Division 6 of this code or Chapter 4 (commencing with *Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure.*

### **PRC § 6357**

The commission may establish the ordinary high-water mark or the ordinary low-water mark of any of the swamp, overflowed, marsh, tide, or submerged lands of this State, by agreement, arbitration, or action to quiet title, whenever it is deemed expedient or necessary. The

amendment hereby made is declaratory of the existing law and any such agreements heretofore made establishing the ordinary high-water mark or the ordinary low-water mark of any of the swamp, overflowed, marsh, tide, or submerged lands of this State hereby are ratified and confirmed.

Summary: PRC Sections 6307 and 6357 authorize the Commission to enter into land exchanges and boundary line agreements on behalf of the State. As this authority was never delegated to the grantees, the Commission must formally approve all such agreements. The Commission has the expertise to understand the requirements of section 6307 along with the prohibition of sale of any public trust land. The Commission staff expertise is relied on for all the parts of an exchange agreement. The boundary staff is necessary to determine any sovereign claims in the lands to be exchanged. Legal, appraisal and land management staff are also necessary to draft any agreements and review backup documentation so that the Commission may make the necessary findings.

### **PRC § 6308 - Litigation Involving Quiet Title Actions or Land Boundaries**

When an action or proceeding is commenced by or against a county, city, or other political subdivision or agency of the state involving the title to or the boundaries of tidelands or submerged lands that have been or may hereafter be granted to it in trust by the Legislature, the State of California shall be joined as a necessary party defendant in the

action or proceeding. Service of summons shall be made upon the chair of the State Lands Commission and upon the Attorney General, and the Attorney General shall represent the state in all the actions or proceedings. If judgment is given against the state in the action or proceeding, costs shall not be recovered from the state.

Summary: This section requires that Commission be joined as a party to any litigation involving the title or boundaries of tide or submerged lands that have been granted to the local municipality. The

Commission is regularly included in litigation involving the boundaries of granted lands and with the help of the California Attorney General's Office helps grantees defend or assert any state sovereign claims in land. Typically the Commission's boundary staff is critical to providing the necessary expertise in the complicated field of water boundaries.

### **PRC § 6359 – Survey and Recordation of Granted Tidelands**

Whenever by legislative enactment tide or submerged lands of the State are granted or conveyed or authorized to be granted or conveyed or whenever a previous enactment is amended, and no prior survey has been made, and such act does not contain a description of such lands by metes and bounds, the commission shall within two years following the effective date of such act survey, monument, and record a plat and a metes and bounds description of such lands in the office of the

county recorder in the county or counties in which such lands are located. Upon recordation, the survey, monuments, plat and description shall be binding upon the State, the grantee, and their successors in interest.

No such grant or conveyance or amended grant or conveyance shall be effective until completion of the survey and recordation. The cost of such survey and recordation shall be paid by the person or entity to which the grant or conveyance is made.

Summary: This section requires the Commission to survey a new or amended grant at the cost of the grantee within two years of the grant or amendment. The survey is meant to assist in both the grantees future management of the trust lands as well as the Commission's oversight of the grant.

### **PRC § 6707 – Maintenance Dredging Requirements on Granted Lands**

**(a)** The Legislature finds and declares that to promote and accommodate public trust uses, including commerce, navigation, and fisheries, proper management of granted public trust lands may require the local trustee to conduct dredging of navigational channels and vessel berths on granted lands, including on those granted lands in which the state reserves mineral interests, and that those dredging activities are consistent with the public trust.

**(b)** A local trustee of tide and submerged lands or an applicant for dredging on granted tide and submerged lands that intends to commence dredging on granted public trust lands, upon which any right to minerals on those lands is reserved by the state, shall notify the commission, in writing, no later than 120 days prior to the time dredging is commenced. The notice shall contain all of the following information:

**(1)** A description of the dredging to be conducted on those lands, including a map and land description showing the area and project site.

**(2)** A description of the amount of material to be dredged, disposal amount, location, and means of disposal, if available.

**(3)** The time and manner in which dredging is to occur.

**(4)** The relevant permits, authorizations, and approvals that exist or must be obtained to complete dredging, or, if applicable, demonstration of compliance with a dredged materials management office plan that is administered by the United States Army Corps of Engineers.

**(5)** A declaration that the dredging is necessary for the proper management of the grant consistent with the public trust for commerce, navigation, and fisheries, or a statement of why the dredging is necessary to be undertaken for other purposes and a

declaration that the dredging is consistent with the statutory grant.

**(6)** A statement with supporting documents that explains whether the trustee anticipates receipt of any revenues from the materials to be dredged, and, if so, in what amounts.

**(c)** After submission of the written notice required by this section, a local trustee or applicant for dredging may presume that a dredging lease is not required if all of the following conditions are met:

**(1)** The dredging is maintenance dredging consistent with the proper management of the granted lands.

**(2)** The dredged material is not sold or used for a private benefit.

**(3)** The dredged material is disposed of at an approved onshore or offshore disposal site.

**(d)** The commission may require a lease for any dredging on granted tide and submerged lands wherein the right to minerals is reserved to the state if the proposed dredging does not meet the conditions set forth in subdivision (c). The commission may delegate the authority to determine whether a lease is necessary to its executive officer. If the commission determines that a lease is required, the commission shall provide the grantee or applicant for dredging with written notification of that determination within 30 days after the commission receives notification of the proposed dredging. All applicable reimbursement costs shall be

submitted with the application for a lease, if a lease is necessary.

**(e)** This section shall apply only to dredging operations that are commenced on or after January 1, 2014.

**(f)** This section does not exempt a local trustee of tide and submerged lands or other person or entity dredging on those lands from any permit or other approval necessary to carry out dredging operations that may be required by another local, state, or federal law.

**(g)**

**(1)** Any revenue that is earned by a local trustee from the dredging of granted lands shall be held or spent in a manner consistent with the trustee's existing obligations under the public trust and the specific terms of its grant of lands.

**(2)** If a local trustee receives any revenue from the dredged materials not otherwise disclosed in the notice required by this section, the local trustee shall immediately notify the commission in writing. The commission may require the grantee to pay a reasonable royalty and enter into a lease for the dredging. If a grantee fails to notify the commission, the commission may require the local trustee to remit all revenues to the state.

**(h)** Nothing in this section shall be construed to limit the authority of the commission to enter into a lease, at its discretion, for dredging activity on granted tide and submerged lands wherein the right to minerals is reserved to the state.

Summary: This section is describing the Commission's review and oversight obligations and a grantees notice requirements relating to maintenance dredging on granted lands.

### **PRC § 7058 – Unit or Cooperative Agreements**

Any city, county, city and county, or district, in the interest of increasing the ultimate recovery of oil or gas, or of the protection of oil or gas from unreasonable waste, or of the possible arresting or amelioration of land subsidence, may enter into unit or co-operative agreements with respect to all or any part or parts of land owned, possessed, controlled, held in trust by, or otherwise under the jurisdiction of, such city, county, city and county or district, for the purpose of bringing about the co-operative development and operation of all or a part or parts of the oil and gas field in which such lands

are located, or for the purpose of bringing about the development or operation of all or a part or parts of such field as a unit, or for the purpose of fixing the time, location, and manner of drilling and operating of wells for the production of oil or gas, or providing for the return or injection of gas, water or other substances into the subsurface of the earth for the purpose of storage or the repressuring of such oil or gas field. If any such unit or co-operative agreement includes tide and submerged lands which have been granted to a city, county, or city and county by a grant which does not reserve to the State



the right to produce oil and gas therefrom, then the agreement shall comply with the requirements of Section 6879 of this code, and shall bind the State only if approved by the State Lands Commission pursuant to the provisions of Section 6879. Subject to the foregoing, and notwithstanding any competitive bidding requirements or restriction on term contained in this chapter, or any other statute, including but not limited to *Section 718 of the Civil Code, Sections 37383 and 37384 of the Government Code* and Chapter 29 of the 1956 Statutes, First Extraordinary Session, any such city, county, city and county, or district may negotiate and execute all agreements necessary to effectuate, implement or modify any such unit or co-operative agreement, including the power to bind and commit lands, including tide and submerged lands, or any interest in lands, to the

co-operative or unit agreement for the full term thereof, irrespective of whether the term thereof is for a period extending over the life of the field or for any other indefinite period, and irrespective of the termination date of any lease, contract or other agreement then in effect as to such lands. The power of any such city, county, city and county, or district to enter into unit or co-operative agreements shall include the power to do such other acts or things and to incur such other commitments and obligations as are customary in unit or co-operative agreements.

This section shall apply to any city, county, city and county, or district, irrespective of whether they are authorized by this chapter or any other statute to lease or develop lands for the production of oil, gas, and other hydrocarbon substances.

Summary: The Commission has additional oversight responsibilities if the grantee proposes to enter into a cooperative or unitized agreement.

### **PRC § 7058.5 - Oversight of Oil and Gas Contracts**

Before a lease or any operating agreement or other type of agreement for the production of oil, gas, or other hydrocarbons is entered into after the effective date of this section, the governing body of a city shall in open meeting adopt a resolution declaring its intention to take such action. The resolution shall describe the property involved in such manner as to identify it, specify the minimum rental, royalty, or other consideration, and the term of the lease or agreement, the form of the lease or agreement, and one variable, biddable factor, on which bids will be received, and fix a time not less than 30 days thereafter and place for a public meeting of said governing body, at which meeting sealed proposals to lease or contract will be received and considered. The resolution shall, before the date of such meeting, be published once a week

for four successive weeks in one or more newspapers of general circulation in the city where the property is situated, or, if there is no newspaper of general circulation in such city, in one or more newspapers of general circulation in the county where the property is situated.

This section shall not apply to the renewal of leases or operating agreements issued for a fixed term; provided, that such renewals shall be subject to State Lands Commission approval as provided in Section 7060.

As used in this section, governing body of a city means the city council, or other city board or agency having jurisdiction by charter or law over the property involved.

Summary: In some grants, the Legislature did not reserve the mineral interests. In certain of those grants, there are valuable minerals that a grantee is interested in developing. The Commission must approve a grantee's proposed resolution for bids before the grantee may enter into an agreement

for the development of oil and gas on tide and submerged lands (see PRC section 7060). This section states the requirements for the proposed resolution.

### **PRC § 7060 – Approval of Resolution by Commission**

**(a)** No such lease or agreement shall be effective unless prior to adopting the resolution provided for by Section 7058.5 the city shall have petitioned the State Lands Commission for approval of the proposed resolution, and the proposed resolution shall have been approved by the State Lands Commission.

**(b)** No city shall consent to the modification or amendment of any such lease or agreement without the advance consent of the State Lands Commission to such modification or amendment.

Summary: In some grants, the Legislature did not reserve the mineral interests. In certain of those grants, there are valuable minerals that a grantee is interested in developing. Under this section, the Commission must approve a grantee's proposed resolution for bids before the grantee may enter into an agreement for the development of oil and gas on tide and submerged lands.

### **PRC § 7062 – Financial and Operating Records relating to Production and Sale**

**(a)** On or before October 1st of each year, each city shall cause to be made and filed with the State Lands Commission a detailed statement of all revenue and expenditures thereof from any operating agreement or other type of lease or agreement for the production of oil, gas, or other hydrocarbons, including obligations incurred but not yet paid. Said statement shall cover the fiscal year preceding its submission and shall show the project or operation for which each such expenditure or obligation is made or incurred.

examine financial and operating records of any city relating to the production and sale of oil, gas, and other hydrocarbons under any operating agreement or other type of lease or agreement for the production of oil, gas, or other hydrocarbons and to conduct such other investigations and studies as it may deem necessary in connection therewith.

**(b)** In addition to the other powers and duties specifically delegated to it, the State Lands Commission shall have authority to

The provisions of this section shall be applicable only with respect to tide or submerged lands granted in trust to cities by the State. The provisions of this section shall not apply to activities regulated by Chapter 29 of the Statutes of the 1956 First Extraordinary Session.

Summary: This section states that the Commission has express review authority for financial statements relating to the operation and production of oil and gas. The grantees must file the statements with the Commission and the Commission has the authority to examine the financial statements and conduct investigations and studies as it deems necessary. Similar to PRC section 6306, the Commission's review of this financial data assists in the Commission's overview responsibilities and efforts to guard against the misuse of trust lands and assets, as intended by the Legislature.

**EXHIBIT C: Overview of Current Grants and a Snapshot of their Terms**

Disclosure: This document provides a concept level summary for select current grants. For specific detailed terms and requirements of each grant, the specific granting statutes and any amendments should be reviewed. All granting statutes are located on the Commissions website at [www.slc.ca.gov](http://www.slc.ca.gov).

County	Grant/File No.	Grantee	Minerals Reserved	Statutory Limits for Issuing Leases	Specific Financial Statements Requirement	Notice and/or Approval of Capital Expenditures	Approval of Trust Lands Use Plan	Approval of Utilization Plan	Approval of Changes and/or Amendments to Plan	Approval of Specific Leases	Authorization of Capital Outlay Projects, etc.	Special Exchange Requirements	Unique Conveyances & Settlement Requirements	Approval of Accounting Procedures	Approval of the Structure of the Tideland Trust Fund
Los Angeles	G05-01	City of Avalon	Yes	50 Years											
Los Angeles	G05-02	City of Hermosa Beach	No	40 Years											
Los Angeles	G05-03	City of Long Beach	No : State receives a share of net profits from oil and gas production	50 years w/ 25 year option	Yes	Yes						Yes	Yes		
Los Angeles	G05-04	City of Los Angeles	No	Varies	Yes	yes									
Los Angeles	G05-05	City of Manhattan beach	Yes	50 Years											
Los Angeles	G05-06	City of Palos Verdes Estates	Yes	66 Years											
Los Angeles	G05-07	City of Redondo Beach	No	Yes - limited periods	Yes	Yes									
Marin	G06-00	County of Marin	55 years	Yes (Sec. 6401 of the PRC)	Yes							Yes	Yes		
Marin	G06-02	City of Mill Valley	50 years	Yes											
Marin	G06-03	City of San Rafael	50 years w/ 25 year option	Yes	Yes								Yes		
Marin	G06-04	City of Sausalito	50 years	Yes											
Marin	G06-05	Point Reyes National Seashore		Yes											
Mendocino	G07-01	Noyo Harbor District	Yes	50 years											
Monterey	G08-01	Carmel Area Wastewater District													
Monterey	G08-02	City of Monterey		66 years no > 300' out											
Monterey	G08-03	Moss Landing Harbor District	Yes	50 years	Yes										
Monterey	G08-04	City of Pacific Grove		25 years or less											

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Orange	G09-02	City of Newport Beach	No : State receives revenue from minerals on Parcel A, B, C and after acquired parcels	50 Years	Yes	Yes							Yes		Yes
Orange	G 09-03	Orange County	Yes	50 Years	Yes	Yes							Yes		Yes
Orange	G09-04	Metropolitan Water District	yes	66 Years (to municipals for 99 Years)											
San Diego	G10-06	City of Oceanside	Yes	50 Years	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	
San Diego	G10-07	City of San Diego	Varies	Varies	Yes										
San Diego	G10-08	San Diego Unified Port District	Yes	66 Years	Yes	Yes - notice and approval requirements						Yes	Yes		
San Diego	G10-09	University of California (Scripps Institute of Oceanography)													
San Francisco	G11-00	City & County of San Francisco	Varies	Varies	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes		
San Francisco	G11-01	San Francisco Port District	Yes	66 Years	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes		
San Joaquin	G12-01	City of Stockton	Yes		Yes										
San Luis Obispo	G13-00	County of San Luis Obispo													
San Luis Obispo	G13-01	Port San Luis Harbor District	Yes	50 years											
San Luis Obispo	G13-02	City of Morro Bay	Yes	50 years											
San Mateo	G14-00	County of San Mateo	Yes	66 years	Yes										
San Mateo	G14-01	San Mateo County Harbor District	Yes	50 years											
San Mateo	G14-03	City of Redwood City	Yes	50 years											

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San Mateo	G14-04	City of San Mateo	Yes (Sec. 6407 of the PRC)	66 years	Yes		Yes by January 1, 1980					Yes		Yes	
San Mateo	G14-05	City of South San Francisco		25 years w/ 25 year option											
San Mateo	G14-06	City of Brisbane	Yes (Sec. 6407 of the PRC)	66 years	Yes	\$ 250,000	Yes	Yes	Yes		Yes			Yes	
Santa Barbara	G15-00	County of Santa Barbara	Yes	66 years	Yes										
Santa Barbara	G15-01	City of Santa Barbara		66 years 10 acres or < to indiv.	Yes	\$ 250,000			Yes						
Santa Barbara	G15-02	City of Carpinteria	Yes (Sec. 6407 of the PRC)	66 years	Yes	\$ 250,000					Yes				
Santa Cruz	G16-00	County of Santa Cruz	Yes	50 years w/ 25 year option	Yes	\$ 250,000					Yes				
Santa Cruz	G16-01	City of Santa Cruz	Yes	66 years	Yes						Yes				
Santa Cruz	G16-02	Santa Cruz Port District	Yes	66 years	Yes										
Santa Cruz	G16-03	City of Capitola	Yes	50 years w/ 25 year option	Yes	\$ 250,000					Yes				
Solano	G17-01	City of Benicia	Yes	66 years	Yes										
Solano	G17-02	City of Vallejo	Yes (Sec. 6401 of the PRC)	66 years	Yes								Yes on conditions		
Solano	G17-04	Department of Education-- California Maritime Academy													
Sonoma	G18-00	County of Sonoma	Yes Special Reservation	50 years											
Ventura	G19-01	City of San Buenaventura	Yes Special Reservation	10 years longer if approved by 2/3 vote											

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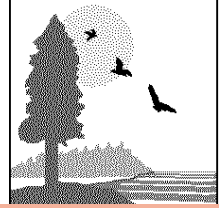
County	Grant/File No.	Grantee	Minerals Reserved	Statutory Limits for Issuing Leases	Specific Financial Statements Requirement	Notice and/or Approval of Capital Expenditures	Approval of Trust Lands Use Plan	Approval of Utilization Plan	Approval of Changes and/or Amendments to Plan	Approval of Specific Leases	Authorization of Capital Outlay Projects, etc.	Special Exchange Requirements	Unique Conveyances & Settlement Requirements	Approval of Accounting Procedures	Approval of the Structure of the Tideland Trust Fund
Sacramento	G21-01	City of Sacramento	Yes	66 years	Yes	\$ 250,000									
Lake	G22-00	County of Lake	Yes	66 years	Yes	\$ 250,000			Yes		Yes	Yes	Yes	Yes	

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**DUE OCTOBER 1**

Pursuant to Public  
Resources Code § 6306

# Granted Public Trust Lands Standardized Reporting Form



**Fiscal/Calendar Year:** \_\_\_\_\_

**Grantee Name:** \_\_\_\_\_

Contact Person: \_\_\_\_\_

Contact Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

## 1. Funds

a. Is a separate fund maintained for trust assets, liabilities, revenues and expenditures?

YES  NO

If "No", under what fund are they accounted for? If "Yes," please list the name(s) of the fund(s)

b. Are separate financial statements prepared for the trust?

YES  NO

If "No," in which financial statements are they included? (Name of the document(s) and the applicable page number(s)) If "Yes," describe the organization of the separate financial statement.

## 2. Revenue

a. What was the gross revenue received or generated from trust land or trust assets during the past fiscal year?

b. Please list all sources of revenue and the amount of revenue generated from each source (e.g. permits, rentals, percentage of lease)

## 3. Expenses

a. What was the total expenditure of funds received or generated from trust land or assets during the past fiscal year?

b. What expenses were allocated or charged directly to the trust? Please list the source of the expenditure and the amount expended.

c. Have there been any capital improvements over \$250,000 within the current fiscal year? Are any capital improvements over \$250,000 expected in the next fiscal year?

d. Describe any other disposition of trust funds or assets or any other disposition of the trust lands or trust assets themselves. Include any internal funds that were transferred to other grantees, to the management of another entity or under the management of another political subdivision of the grantee per an agreement, settlement, or Memorandum of Understanding.

## 4. Beginning and Ending Balance

Please list the beginning and ending balances for the tidelands trust fund(s) for this past fiscal year.

**For all questions, please give the page number where the information can be found in your accompanying financial document. Please use additional pages as necessary.**