

**CALENDAR ITEM  
C89**

A Statewide

04/23/14

S Statewide

S. Pemberton

**CONSIDER ADOPTING A RESOLUTION HONORING PROFESSOR JOSEPH  
LAWRENCE SAX; A SEMINAL ENVIRONMENTAL AND PUBLIC TRUST SCHOLAR  
AND AUTHOR WHOSE WORK HAS BEEN FOUNDATIONAL IN THE  
DEVELOPMENT OF PUBLIC TRUST LAW**

Professor Sax was born Feb. 3, 1936, in Chicago and grew up in that city. He earned his undergraduate degree from Harvard University and his law degree from the University of Chicago. He taught at the University of Colorado and the University of Michigan before joining the University of California Berkeley law school faculty in 1986, where he served creditably for many years and positively influenced the work of many students. Professor Sax also served as a special advisor to Interior Secretary Bruce Babbitt in the mid-90s, where he helped establish needed flexibility in the landmark Environmental Species Act.

Professor Sax wrote numerous articles and books that broke new ground on topics such as the Public Trust Doctrine, management of public lands, western water law, regulatory takings, citizen enforcement of environmental law and cultural property protection. He received many awards and accolades for his work, including the 2013 Defender of the Trust Award from the Mono Lake Committee, the U.S. Environmental Protection Agency's Environmental Quality Award, the Audubon Society's Conservationist of the Year Award, the Sierra Club's William O. Douglas Legal Achievement Award, and the Environmental Law Institute Award.

Many have said that it would be impossible to overstate Professor Sax's influence on environmental and natural resources law over the last half century. His work has been widely recognized as "seminal" in the development of public trust law. In California, one of the primary inspirations for the development of the Public Trust Doctrine and its role in judicial intervention to define and protect public trust resources has been the work of Professor Sax. The State Lands Commission, as the principal agency charged with responsibility for implementing the public trust in California and safeguarding public trust resources, has benefitted enormously from Professor Sax's work.

Professor Sax died March 9, 2014, at the age of 78. He was preceded in death by his beloved wife of 55 years, Eleanor Sax, who died on December 24, 2013. He is survived

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by his three daughters, Katherine Dennett, Valerie Sax, and Amber Rosen, and four granddaughters.

The attached resolution expresses the State Lands Commission's appreciation for Professor Sax's groundbreaking work in the development of public trust law, and sends its condolences to his family on his untimely death.

**RECOMMENDED ACTION:**

It is recommended that the Commission:

1. Adopt the resolution attached hereto being Exhibit A.

## Exhibit A

### **RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION HONORING PROFESSOR JOSEPH LAWRENCE SAX; A SEMINAL ENVIRONMENTAL AND PUBLIC TRUST SCHOLAR AND AUTHOR WHO'S WORK HAS BEEN FOUNDATIONAL IN THE DEVELOPMENT OF PUBLIC TRUST LAW**

**WHEREAS**, ever since Roman times, the seashore and the navigable waters have been held to be common to all; and,

**WHEREAS**, the people of California are guaranteed the right to enjoy these waters by the State Constitution and common law; and,

**WHEREAS**, All of these waterways are held by the State as trustee of a public trust for the benefit of the people; and,

**WHEREAS**, this public trust initially included such uses as commerce, navigation and fisheries; and,

**WHEREAS**, in more recent years the courts have recognized that in light of changing needs the protected use of trust lands encompassed preservation of these waters in a natural state, as ecological units for scientific study, open space, environments providing food and habitat for birds and marine life and favorably affecting the scenery and climate; and,

**WHEREAS**, in *National Audubon Society v Superior Court*, the California Supreme Court held that the public trust extended to protect navigable waters from harm caused by the diversion of feeder streams; and,

**WHEREAS**, California's highest court has held that the public trust is "{A}n affirmation of the duty of the state to protect the people's common heritage of streams, lakes, marshlands and tidelands;" and,

**WHEREAS**, one of the primary inspirations for the development of the Public Trust Doctrine in California and its role in judicial intervention to define and protect public trust resources has been the work of Professor Joseph Sax; and,

**WHEREAS**, Professor Sax's work has been widely recognized as "seminal" in the development of public trust law; and,

**WHEREAS**, Professor Sax served creditably for many years on the faculty of the School of Law at the University of California at Berkeley; and,

## Exhibit A

**WHEREAS**, The State Lands Commission, as the principal agency charged with the responsibility for implementing the public trust in California and safeguarding public trust resources has benefitted enormously from Professor Sax's work; now therefore, be it

**RESOLVED BY THE CALIFORNIA STATE LANDS COMMISSION** that it express its appreciation for Professor Sax's groundbreaking work in the development of public trust law, and sends its condolences to his family on his untimely death; and,

**RESOLVED**, that the Commission's Executive Officer transmit copies of this resolution to the Governor of California, to the Attorney General of California, to Senator Mark Leno, Senator Loni Hancock, Assembly Member Tom Ammiano, and Assembly Member Nancy Skinner.