California's Granted Lands and The Public Trust Doctrine

Presented by the Staff of

CALIFORNIA STATE LANDS COMMISSION

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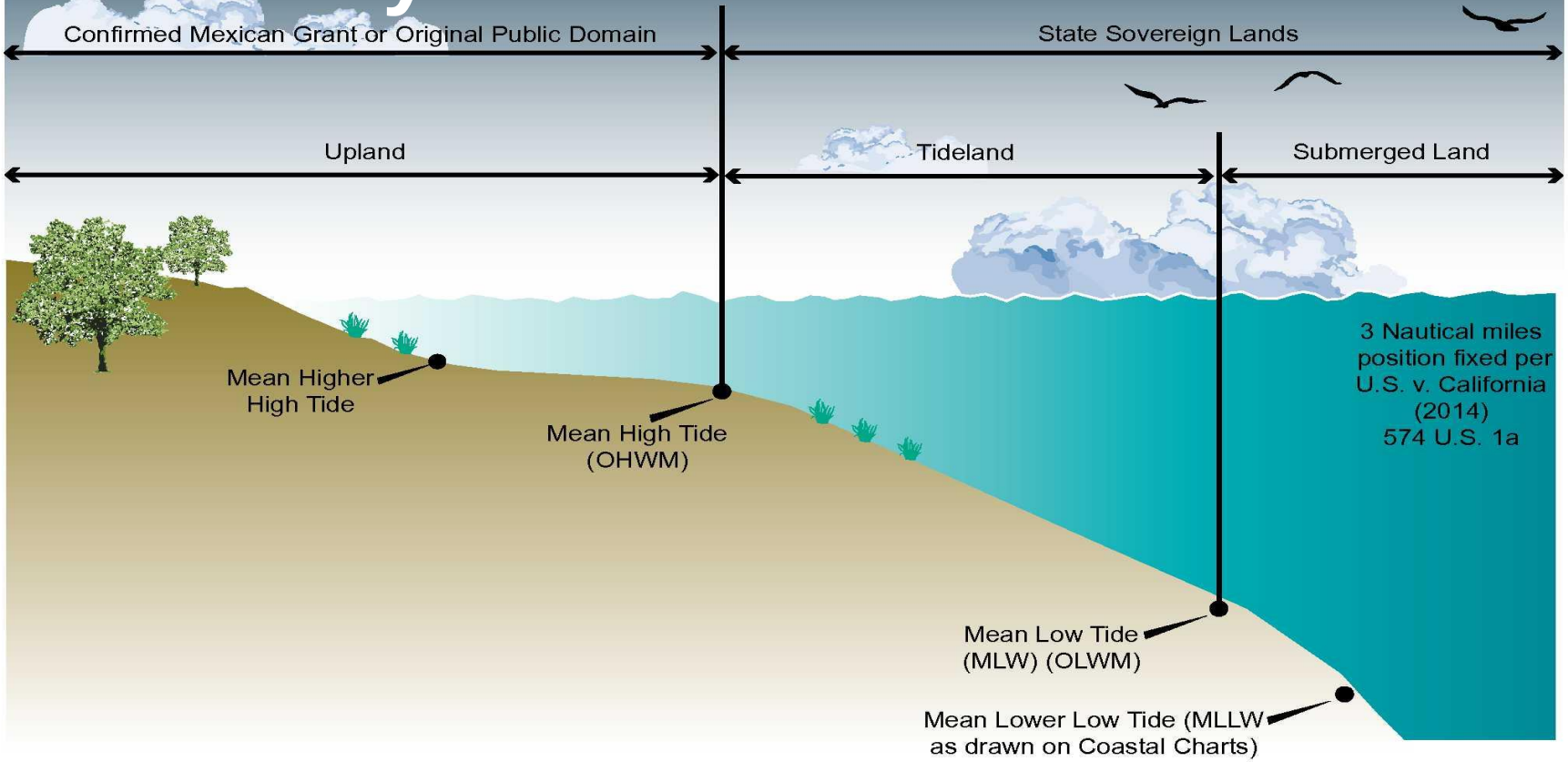
Boundary



General Land Title and Tide Line Cross Section Along the Pacific Ocean

Granted Lands Overview

CHAPTER 1884

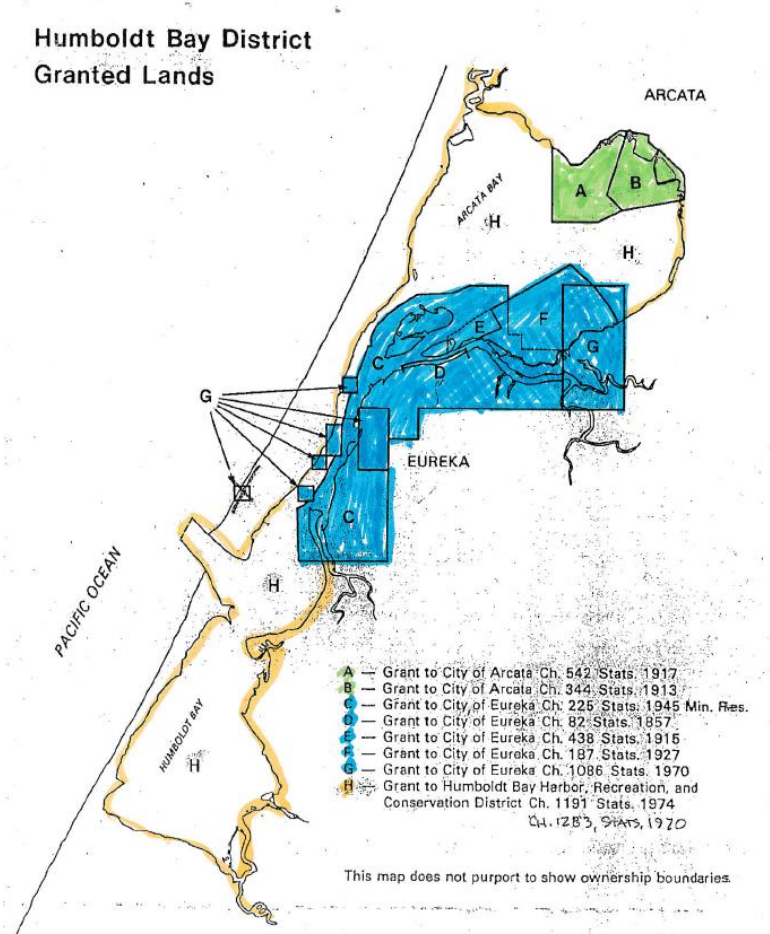
An act to amend Section 1 of Chapter 303 of the Statutes of 1943, relating to tidelands, submerged lands and filled tidelands of the City of Avalon.

Section 1. There is hereby granted to the City of Avalon, a municipal corporation of the State of California, and to its successors, all the right, title and interest of the State of California held by said State by virtue of its sovereignty, in and to all of the tidelands, submerged lands and filled tidelands lying within the corporate limits of the City of Avalon and bordering upon, in and under the Pacific Ocean, situated below the line of mean high tide of the Pacific Ocean, to be forever held by the City of Avalon and its successors in trust for the uses and purposes and upon the express conditions following, to wit:

(a) Said lands shall be used by said city and by its successors solely for purposes in which there is a general statewide interest as follows:

(1) For the establishment, improvement and conduct of a harbor and for the establishment and construction of bulkheads, or breakwaters for the protection of lands within its boundaries, or for the protection of its harbor, and for the construction, maintenance and operation thereof of wharves, docks, piers, slips, quays, ways and streets and other utilities, structures and appliances necessary or convenient for the promotion or accommodation of commerce and navigation, and for the protection of the lands within said city. And said city or its successors shall not at any time grant, convey, give or alien said lands or any part thereof to any individual, firm or corporation, for any purpose whatever; provided, that said city or its successors may grant franchises thereon for a period not exceeding 50 years for wharves and other public uses and purposes, and may lease said lands or any part thereof for limited periods, in any event not to exceed 50 years for any and all purposes which shall not interfere with commerce or navigation and are not inconsistent with the trusts upon which said lands are held by the State of California or with the requirements of commerce or navigation at said harbor.

Humboldt Bay Granted Lands



Grantee's Primary Role

- Grantee has primary responsibility and fiduciary duty for managing the trust lands
- Required to maintain accurate records of all revenues and expenditures
- Any use of trust lands or revenues for non-public trust purposes is a violation of the trustees fiduciary

State Lands Commission's Primary Role

- Residual oversight to monitor administration of grant
- Ensure compliance with grant statues and Public Trust doctrine
- Supportive Role
- Meet informally with staff to discuss projects
- Reviews grantee's financial statements
- Legislative assistance

Legislature's Primary Role

- The ultimate trustee of sovereign land.
- May create, amend, or revoke a trust grant so that tidelands are administered in a manner most suitable to the needs of the people.

Public Trust Overview

Commerce, Navigation, and Fishing

Trustor

State of California

Trustee

State of California and Grantees

Legislature is Ultimate Trustee

Beneficiary

People of the State of California

State is representative for the people

Public Trust Doctrine

Uses of the Land

Traditionally Public Trust uses were limited to:

- Water-related Commerce
- Navigation
- Fishing

Photo courtesy of the Port of Oakland

Public Trust Doctrine

Uses of the Land

- As a common law doctrine, which is continuously evolving, the courts have found that other water-oriented uses that benefit the public are also consistent with the trust:
  - Open Space
  - Ecological Preservation
  - Scientific Study
  - Water-dependent or water-oriented recreation

Marks v. Whitney (1971) 6 Cal.3d 251

Photo courtesy of Angelo Garcia, CA Dept. of Water Resources

Photo courtesy of the Port of San Diego

Public Trust Doctrine

Uses of the Land

- Commercial facilities:
  - Warehouses
    Oakland v. Williams (1929) 206 Cal. 315
  - Container cargo storage
  - Convention and Trade Facilities
    Haggerty v. Oakland (1958) 161 Cal.App.2d 407

- Facilities to serve waterfront visitors:
  - Hotels
  - Restaurants
  - Parking lots

  Martin v. Smith (1960) 184 Cal.App.2d 571

Public Trust Doctrine

Uses of the Land

- Uses that are generally not permitted on Public Trust lands are those that:
  - Are not water-dependent or water-related
  - Do not serve a statewide public purpose
  - Examples:
    - Residential
    - General Commercial
    - Non-visitor Serving Retail
    - Public Schools, Hospitals, etc.
      Mallon v. City of Long Beach (1955) 44 Cal.2d 199

Public Trust

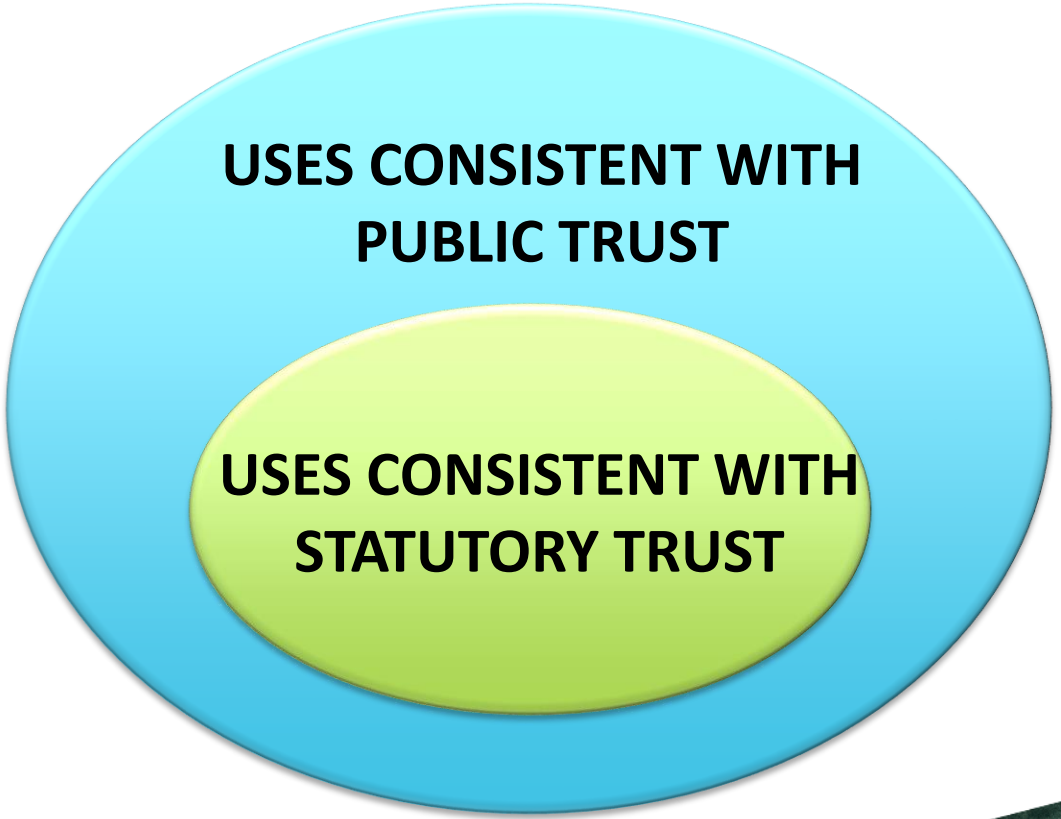
General Guidelines

- Water-dependent or water-related.
- Promote or support uses authorized by the common law Public Trust Doctrine.
- Accommodate or enhance the statewide public's enjoyment or benefit from the trust lands and not merely provide a local or municipal public benefit.

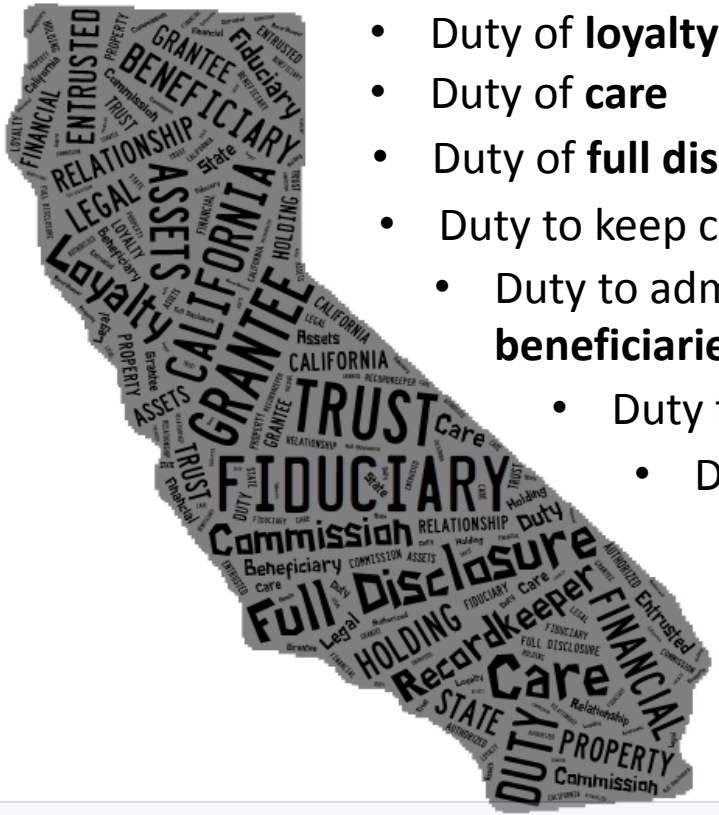
Public Trust Spectrum

Consistent ⟷ **Inconsistent**

Public Trust vs. Statutory Trust



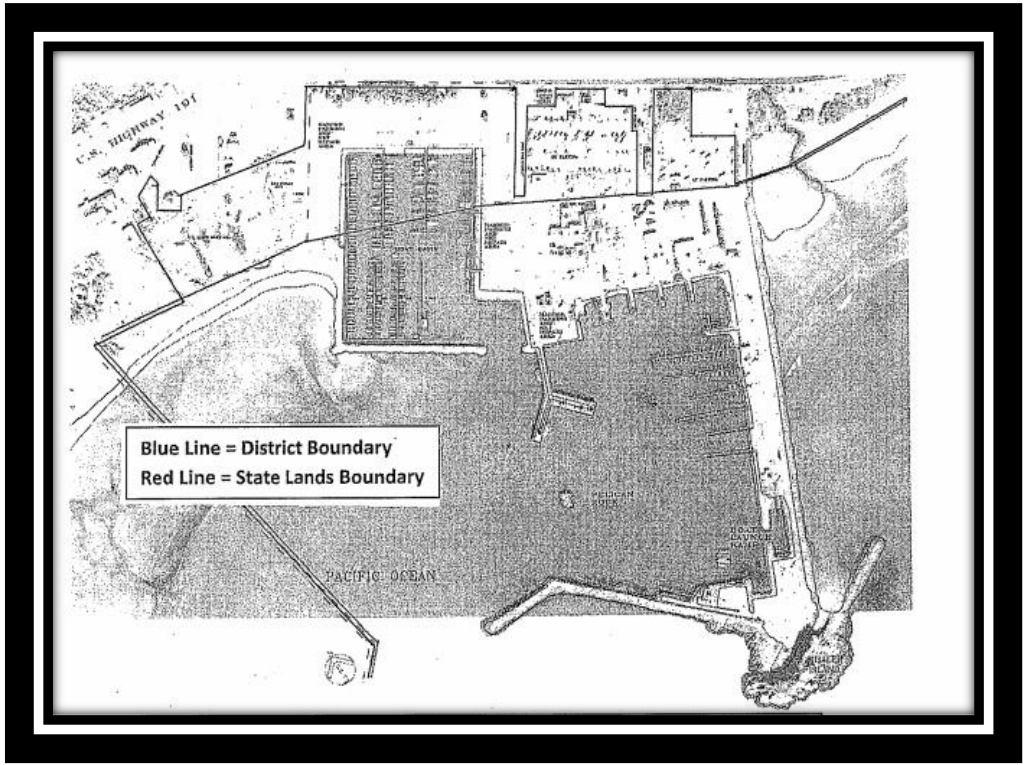
Trustee Obligations – Fidicuary Duties



- Duty of **loyalty**
- Duty of **care**
- Duty of **full disclosure**
- Duty to keep clear and adequate **records and accounts**
- Duty to administer the trust solely in the interest of the **beneficiaries**
- Duty to act **impartially** in managing the trust
- Duty to make trust property **productive**
- Duty to keep trust property **separate** from other property
- Duty **not to delegate** trust responsibilities
- Duty to not use trust property for **trustee's own profit**

Financial Considerations

REVENUES		
INTEREST	$ 42,162.25	$ 33,178.09
RENTS AND CONCESSIONS	3,641,402.77	3,597,504.26
OTHER GOVERNMENTAL AGENCIES	11,730.34	-
PARK AND RECREATION FEES	111,946.56	95,771.71
OTHER CHARGES FOR SERVICES	384,923.55	318,832.63
MISCELLANEOUS REVENUE	20,391.16	48,415.96
OPERATING TRANS IN - FROM FUNDS 400-499	-	-
TOTAL REVENUES	$4,212,556.63	$ 4,093,702.65
EXPENDITURES		
SALARIES AND WAGES	$ 408,207.02	$ 431,616.68
RETIREMENT	104,257.99	96,352.72
RETIREE MEDICAL	15,351.83	15,303.93
PENSION PREPAYMENT DISCOUNT	(7,174.49)	(6,412.00)
UNEMPLOYMENT INSURANCE	(40.32)	1,161.15
SALARY CONTINUANCE INSURANCE	327.40	63.18
HEALTH INSURANCE	61,485.48	59,313.65
DENTAL INSURANCE	1,483.88	-
LIFE INSURANCE	283.93	44.01
ACCID DEATH & DISMEMBERM'T INS	27.31	4.23
OTHER INSURANCE	4,946.54	5,714.02
WORKERS COMPENSATION - GENERAL	45,836.00	30,684.00
MEDICARE	5,921.32	6,068.75
OBP	10,791.67	-
CLOTHING AND PERSONAL SUPPLIES	1,634.28	119.90
ENTERPRISE TELEPHONE SERVICE CHARGE	4,642.72	3,578.28
HOUSEHOLD EXPENSE	52,360.10	28,976.82
HOUSEHOLD EXPENSE-TRASH	2,524.30	288.40
INSURANCE	12,365.00	12,906.78
MAINTENANCE EQUIPMENT - NON - IT MAINTENANCE	-	1,057.30
IT HARDWARE MAINTENANCE & SUPPORT	-	495.00
MAINTENANCE - BLDGS & IMPRVMTS	131,903.94	156,358.12
MINOR ALTERATIONS AND IMPRVMTS	31,496.03	77,733.64
MEMBERSHIPS	310.00	145.00
OFFICE EXPENSE	3,476.04	4,069.44
DUPLICATING SERV'S	1,147.01	6,143.45
MIN OFFICE EQ TO BE CONTROLLED	555.59	-
IT HARDWARE PURCHASES (PURCHASE UNDER $5,000)	379.04	2,954.50
PROFESSIONAL/SPECIALIZED SERVICES	2,330,632.31	2,155,806.02
CWCAP CHARGES	106,131.76	66,924.00
INVESTMENT ADMINISTRATIVE FEES	3,520.56	3,741.85
MERCHANT FEES	2,328.61	2,240.46
RENTS AND LEASES - EQUIPMENT	5,344.22	4,368.97
SOFTWARE LEASES & LICENSES	5,828.41	-
SMALL TOOLS & INSTRUMENTS	9,358.98	5,174.14
MIN SM TOOLS/INSTR TO BE CONTROLLED	978.77	-
SPECIAL DEPARTMENTAL EXPENSE	19,794.30	22,854.68
MINOR SPEC DEPT EQ TO BE CONTROLLED	-	375.00
PRIVATE AUTO MILEAGE	-	570.57
GARAGE EXPENSE	8,485.71	10,629.68
TRANS & TRAVEL - MTGS/CONFER'S	6,442.52	5,700.91
UTILITIES-PURCHASED ELECTRICITY	58,401.29	47,144.65
UTILITIES-PURCHASED GAS	1,344.18	3,904.31
UTILITIES-PURCHASED WATER	12,244.14	17,357.88
CONTRIBUTIONS TO NON-COUNTY GOVT AGENCIES	0.29	1,244,493.85
TAXES AND ASSESSMENTS	3,447.70	5,446.19
EQUIPMENT	-	(0.01)
CAPITAL ASSET DISPOSITION	-	164,193.84
DEPRECIATION	339,130.13	337,990.78
TOTAL EXPENDITURES	$3,808,313.49	$ 5,030,458.72
NET INCOME/(LOSS)	404,243.14	(936,756.07)
NET CHANGE IN FUND BALANCE	404,243.14	(936,756.07)
* FUND BALANCE, BEGINNING OF THE YEAR	8,108,134.05	9,044,890.12
FUND BALANCE, END OF THE YEAR	$8,512,377.19	$ 8,108,134.06

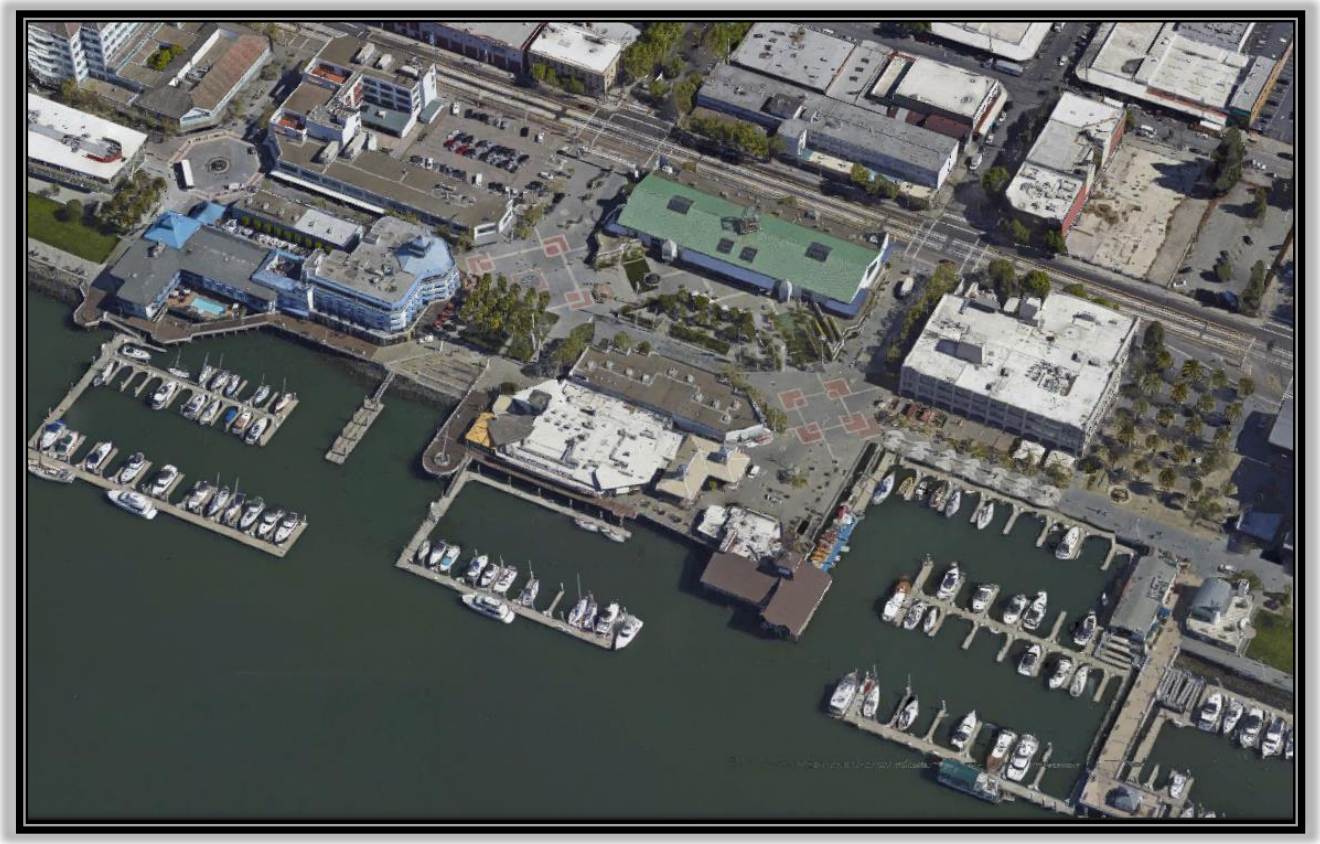


Other Grantee Responsibilities

No alienation of tidelands

No gift of public funds

After-Acquired Lands



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THANK YOU & QUESTIONS

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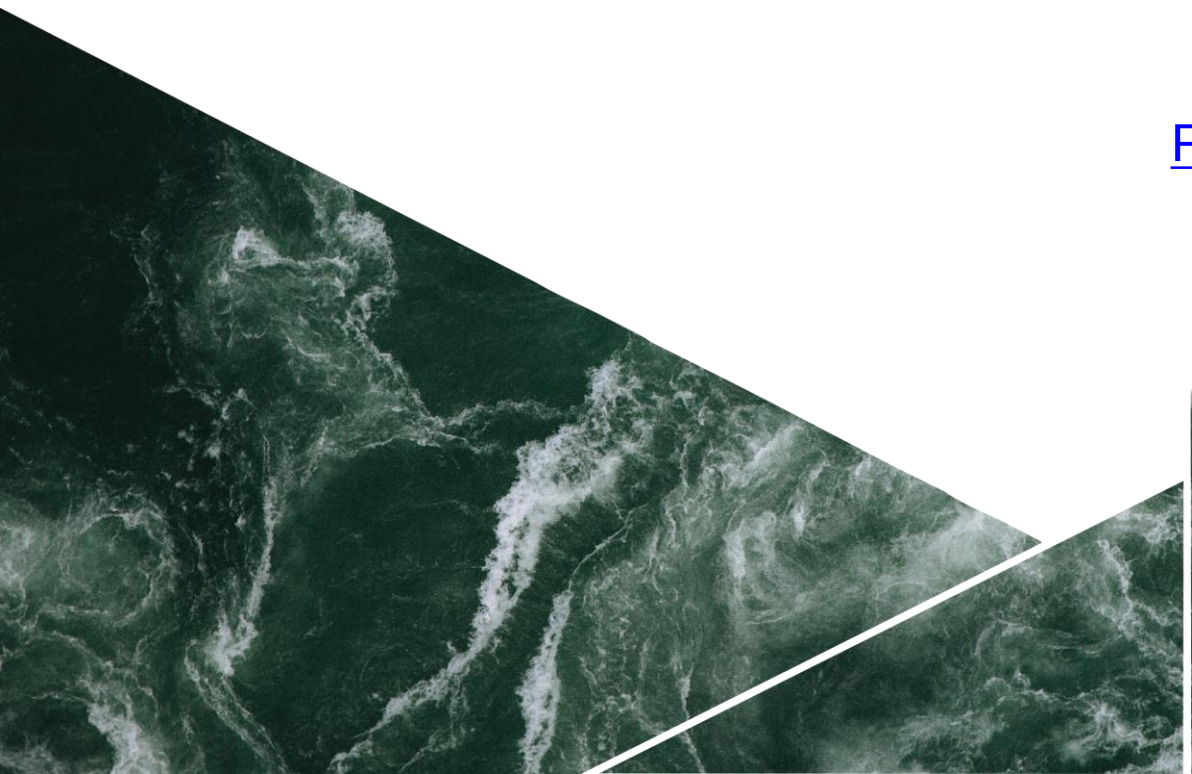
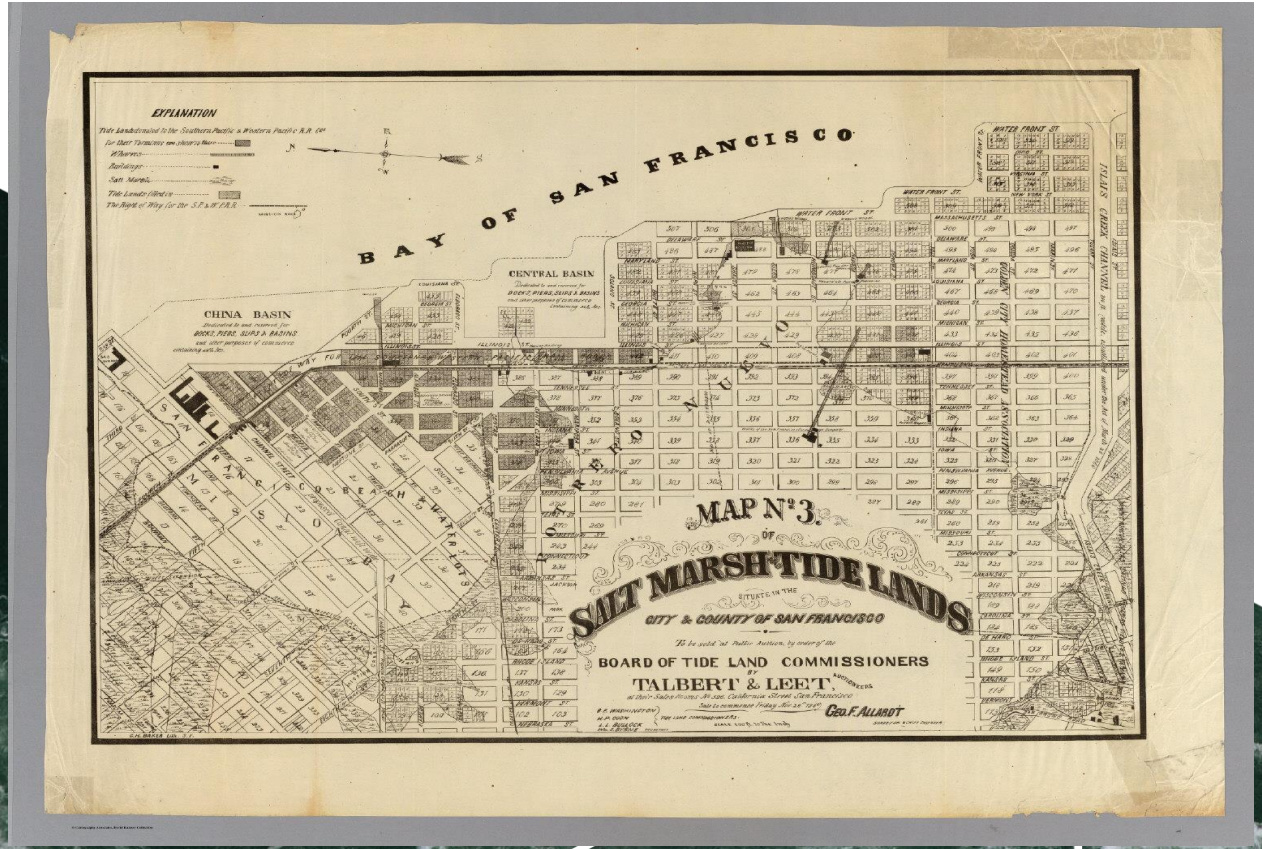


California State
Lands Commission

Public Trust Easement vs. Underlying Fee Title



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