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.

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) 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 Commission’s 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.

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

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 Commissions overview responsibilities and efforts to guard against the misuse of trust lands and assets, as intended by the Legislature.