

This Calendar Item No. C24 was approved as Minute Item No. 24 by the California State Lands Commission by a vote of 3 to 0 at its 04-05-04 meeting.

CALENDAR ITEM  
**C24**

A 70

4/05/04

S 35

G09-00.5  
J. Lucchesi  
S. Nelson

**CONSIDER APPROVAL OF THE DEDICATION OF ORANGE COUNTY'S UPPER NEWPORT BAY NATURE PRESERVE AS PUBLIC TRUST LANDS TO BE HELD BY THE COUNTY OF ORANGE, IN TRUST, PURSUANT TO CHAPTER 526, STATUTES OF 1919, AS AMENDED**

**BACKGROUND**

The County of Orange has requested that the California State Lands Commission (CSLC or Commission) review and approve the permanent dedication of the County's Upper Newport Bay Nature Preserve (depicted in green on Exhibit A, which involves those properties described in documents recorded as 85-138036; 85-138037; 89-388787; 90-395556 Official Records Orange County) as lands subject to the Public Trust Doctrine, to be held by the County, in trust, as an asset of the statutory trust created by Chapter 526, Statutes of 1919, as amended by Chapter 415, Statutes of 1975.

Pursuant to Chapter 415, Statutes of 1975, the County of Orange granted a portion of its tidelands and submerged lands to the CSLC, subject to certain reversionary rights. The CSLC subsequently leased (PRC 5091) these lands to the California Department of Fish and Game. The California Department of Fish and Game currently manages the Upper Newport Bay Ecological Reserve (depicted in yellow on Exhibit A), for the preservation, maintenance and enhancement of the Reserve in its natural state so that the Reserve may serve as ecological units for scientific study and as open space. The Reserve also serves to provide food and habitat for birds and marine life and allows certain passive recreational pursuits by the public.

**AUTHORITY**

Pursuant to Public Resources Code §6301, et seq., the Commission has certain residual and review authority for tide and submerged lands legislatively granted in trust to local jurisdictions. As such, the Commission has broad discretion to review activities of local trustees to ensure compliance with the granting statutes and the Public Trust Doctrine.

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**ANALYSIS**

The County's Upper Newport Bay Nature Preserve consists of lands lying adjacent to the state's Ecological Reserve, which are essential components of the ecological system that constitutes Upper Newport Bay. By dedicating these lands to the trust, the County will be assuring that these lands remain as an open space buffer to the Ecological Reserve and allow the County to use revenues from other granted trust lands (e.g. Newport Dunes) to maintain these lands. Staff believes that it is in the statewide public's best interest to permanently dedicate the Upper Newport Bay Nature Preserve as Public Trust lands to be held by the County, in trust, thereby allowing for public use, enjoyment and protection of this property, as well as, supporting the Upper Newport Bay Ecological Reserve, with its unique natural resources.

Staff has reviewed the lands proposed by the County to be dedicated as Trust lands and recommends those lands, as shown on Exhibit A, be approved for dedication as lands permanently subject to the Public Trust Doctrine, to be held by the County, in trust, as an asset of the statutory trust, created by Chapter 526, Statutes of 1919, as amended.

**OTHER PERTINENT INFORMATION**

1. The County of Orange is the Trustee of certain legislatively granted sovereign lands, pursuant to Chapter 526, Statutes of 1919 and as amended by Chapter 415, Statutes of 1975, with minerals reserved to the State.
2. On December 16, 2003, the Orange County Board of Supervisors approved Resolution No. 03-385 dedicating Upper Newport Bay Nature Preserve permanently as Public Trust Lands. The County determined that this activity is Categorically Exempt from the provisions of the California Environmental Quality Act pursuant to Section 15307, Class 7: Actions by Regulatory Agencies for Protection of Natural Resources.
3. A Hazardous Materials Assessment (on file at the CSLC Sacramento Office), prepared by the Environmental Resources Section of the Public Facilities and Resources Department, County of Orange, was completed on March 12, 2003, for the Upper Newport Bay Nature Preserve. The Hazardous Materials Assessment found no evidence of environmental degradation to the property as a result of hazardous materials

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contamination. Staff has reviewed this assessment and concurs in its findings.

**EXHIBITS:**

- A. Location and Site Map
- B. Orange County Board of Supervisors' Resolution No. 03-385

**RECOMMENDED ACTION**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

CONCUR WITH THE DETERMINATION MADE BY THE COUNTY OF ORANGE THAT THE ACTIVITY IS EXEMPT FROM FURTHER ENVIRONMENTAL REVIEW PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT CLASS 7, ACTIONS BY REGULATORY AGENCIES FOR PROTECTION OF NATURAL RESOURCES; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15307.

**AUTHORIZATION:**

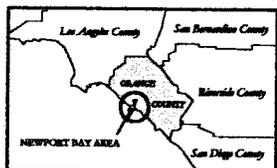
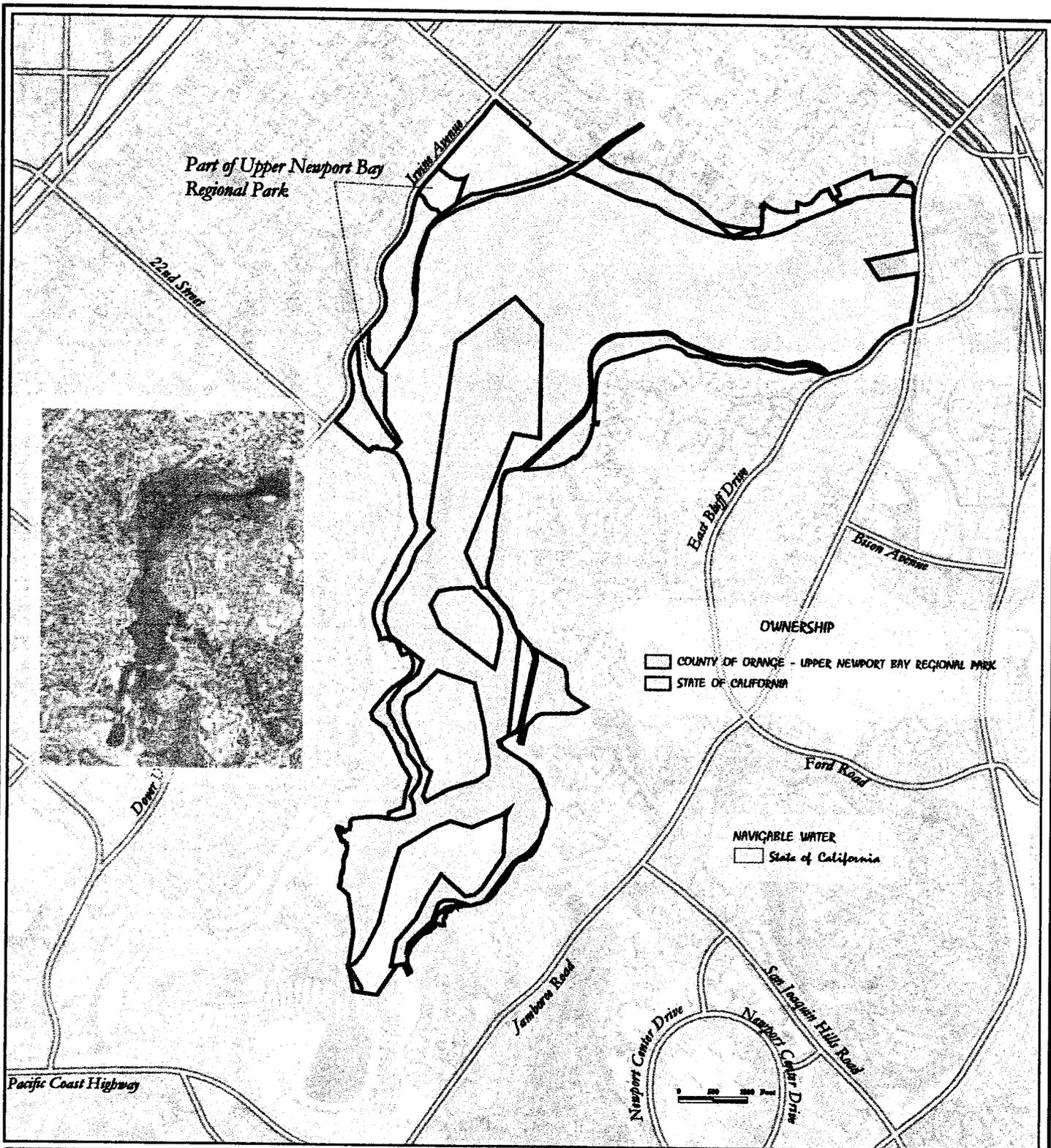
APPROVE THE PERMANENT DEDICATION OF THE SUBJECT LANDS, AS SET FORTH IN ORANGE COUNTY BOARD OF SUPERVISORS' RESOLUTION NO. 03-385, AND AS SHOWN FOR REFERENCE PURPOSES ONLY ON EXHIBIT A, WHICH INVOLVES THOSE PROPERTIES DESCRIBED IN DOCUMENTS RECORDED AS 85-138036; 85-138037; 89-388787; 90-395556 OFFICIAL RECORDS ORANGE COUNTY, AS PUBLIC TRUST LANDS TO BE HELD BY THE COUNTY OF ORANGE, IN TRUST, AS AN ASSET OF THE STATUTORY TRUST CREATED BY CHAPTER 562, STATUTES OF 1919, AS AMENDED, SUBJECT TO THE FOLLOWING ACTIONS:

1. THE EXECUTIVE OFFICER OF THE CALIFORNIA STATE LANDS COMMISSION SHALL REVIEW AND APPROVE THE FORM OF THE DEEDS CONVEYING THE SUBJECT LANDS AS PUBLIC TRUST LANDS TO BE HELD BY THE COUNTY OF ORANGE, IN TRUST, AS AN ASSET OF THE STATUTORY TRUST CREATED BY CHAPTER 562, STATUTES OF 1919, AS AMENDED PRIOR

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TO EXECUTION AND RECORDATION OF THE DEEDS BY THE COUNTY OF ORANGE.

2. AUTHORIZE AND DIRECT THE STAFF OF THE CALIFORNIA STATE LANDS COMMISSION TO COOPERATE WITH THE COUNTY OF ORANGE IN PURSUING LEGISLATION TO AMEND CHAPTER 562, STATUTES OF 1919, AS AMENDED BY CHAPTER 415, STATUTES OF 1975, TO INCLUDE THE SUBJECT LANDS.



# UPPER NEWPORT BAY

County of Orange, California

<p><b>DESIGNED AND PRODUCED BY:</b> Public Utilities and Business Department 200 Westfield Mall Orange, CA 92668</p>	
<p><b>DATA SOURCE:</b> Countywide Land Information System (CLIS) High Accuracy Ortho-Rectified, 2008</p>	
<p><b>DATE:</b> March 11, 2010</p>	

EXHIBIT B  
ORANGE COUNTY BOARD OF SUPERVISORS  
MINUTE ORDER  
December 16, 2003

Submitting Agency/Department: PUBLIC FACILITIES AND RESOURCES DEPARTMENT

Adopt resolution dedicating Upper Newport Bay Nature Preserve as Public Trust Lands; and make related findings - District 2

**The following is action taken by the Board of Supervisors:**

APPROVED AS RECOMMENDED  OTHER

Unanimous  (1) SMITH: X (2) SILVA: X (3) CAMPBELL: Y (4) NORBY: Y (5) WILSON: Y

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- Resolution(s) 03-385
- Ordinances(s)
- Contract(s)

Item No. 60

Special Notes:

Copies sent to:

CEO  
PFRD: Bob Hamilton  
Auditor

1-5-04



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.  
DARLENE J. BLOOM, Clerk of the Board

By: \_\_\_\_\_

Deputy

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2  
3 RESOLUTION OF THE BOARD OF SUPERVISORS OF  
4 ORANGE COUNTY, CALIFORNIA

5 December 16, 2003

6 WHEREAS, the State of California by Chapter 526 of the Statutes of 1919 as amended  
7 by Chapter 415 of the Statutes of 1975, granted certain tidelands and submerged lands in trust to  
8 the County of Orange to be held by the County in trust for the purpose and upon the conditions  
9 enumerated in the granting statutes; and

10 WHEREAS, pursuant to Chapter 415 of the Statutes of 1975 the County of Orange  
11 granted a portion of those tidelands and submerged lands to the California State Lands  
12 Commission, subject to certain reversionary rights; and

13 WHEREAS, the California State Lands Commission subsequently leased said lands to  
14 the State's Department of Fish and Game for the preservation, maintenance and enhancement of  
15 said lands in their natural state and the reestablishment of the natural state of said lands so that  
16 they may serve as ecological units for scientific study, as open space and as environments which  
17 provide food and habitat for birds and marine life, and which favorably affect the scenery and  
18 climate of the area; and

19 WHEREAS, the County of Orange continues to manage certain public trust lands in  
20 Upper and Lower Newport Bay, subject to Chapter 526 of the Statutes of 1919, as amended; and

21 WHEREAS, the California Department of Fish and Game currently manages the Upper  
22 Newport Bay Ecological Preserve; and

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25  
26 Resolution No. 03-385; Item No. 60  
27 Dedicating Land Within the County's  
28 Upper Newport Bay Nature Preserve  
as Public Trust Lands  
CMD:azs

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1 WHEREAS, the County of Orange believes that the Upper Newport Bay Nature Preserve  
2 (formerly known as Upper Newport Bay Regional Park), as described and generally depicted in  
3 Exhibit "A", attached hereto, in an integral part of the ecological system that constitutes Upper  
4 Newport Bay; and

5 WHEREAS, the County of Orange believes it is in the statewide public's best interest to  
6 permanently dedicate the Upper Newport Bay Nature Preserve as public trust lands to be held by  
7 the County in trust pursuant to Chapter 526 of the Statutes of 1919, as amended, thereby  
8 allowing for public use and enjoyment of this property, a well as supporting the Upper Newport  
9 Bay Ecological Preserve, with its unique natural resources.

10 NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the  
11 County of Orange, California, that:

12 1. The County hereby finds that the Upper Newport Bay nature Preserve is now, and  
13 in the future will be, needed for public trust purposes.

14 2. The County hereby dedicates the Upper Newport Bay Nature Preserve to the  
15 Public Trust and the uses and purposes set forth in Chapter 526 of the Statutes of 1919, as  
16 amended.

17 3. The County Counsel shall prepare a deed or deeds to be recorded in the Official  
18 Records of Orange County setting forth the dedication of the lands described in Exhibit "A"  
19 hereto.

20 4. The County Director, Public Facilities and Resources Department shall seek  
21 approval of the dedications of these lands from the California State Lands Commission and  
22 upon their approval see that the deed or deeds are properly executed and recorded and that a  
23 copy of the recorded deed(s) are conveyed to the California State Lands Commission.

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The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on December 16, 2003, to wit:

AYES: . Supervisors: THOMAS W. WILSON, CHRIS NORBY, BILL CAMPBELL  
NOES: Supervisor(s):  
EXCUSED: Supervisor(s): CHARLES V. SMITH, JAMES W. SILVA  
ABSTAINED: Supervisor(s):

CHAIRMAN

STATE OF CALIFORNIA )  
COUNTY OF ORANGE )

I, DARLENE J. BLOOM, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chairman of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors.

IN WITNESS WHEREOF, I have hereto set my hand and seal.



DARLENE J. BLOOM  
Clerk of the Board  
County of Orange, State of California

Resolution No: 03-385  
Agenda Date: 12/16/2003  
Item No: 60



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors, Orange County, State of California

DARLENE J. BLOOM, Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

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