

**CALENDAR ITEM
C80**

A 22

02/09/16

G 14-05

R. Boggiano

S 13

D. Frink

**CONSIDER APPROVAL OF A RECORD OF SURVEY DEPICTING THE LOCATION
AND EXTENT OF FILLED TIDELANDS AS THEY EXISTED AROUND FEBRUARY 22,
1980, WITHIN OYSTER POINT MARINA IN THE CITY OF SOUTH SAN FRANCISCO,
SAN MATEO COUNTY**

GRANTEE:

City of South San Francisco
400 Grand Avenue
PO Box 711
South San Francisco, CA 94083

The City of South San Francisco (City) is trustee of sovereign tide and submerged lands granted to it by the Legislature pursuant to Chapter 345, Statutes of 1913, and as amended (Granting Statutes).

BACKGROUND:

In 1913, the Legislature granted all right, title and interest of the State's sovereign land within the City's boundaries to the City to hold in trust, including Oyster Point Marina. Portions of the grant were sold into private ownership by the State through its Board of Tide Land Commissioners (BTLC). These private lots are often referred to as BTLC lots. The majority of the waterfront in the legislative grant to the City was divided into BTLC lots and sold to private parties, including the entire area that is now Oyster Point Marina. Over time, but prior to 1980, portions of Oyster Point Marina were filled or partially filled, including BTLC Lots 3, 4, 5, 6, 7, 25, 26 and 27, as shown on Map No. 1 of Salt Marsh and Tide Lands.

In 1980, there was a court decision that affected the Commission's jurisdiction regarding these BTLC lots. By application of the decision in *City of Berkeley v. Superior Court* (1980) 26 Cal.3d 515 (Berkeley Decision), BTLC lots that were filled prior to February 22, 1980, to the extent they are not subject to tidal action, are no longer subject to the common law Public Trust Doctrine and any lands that remained submerged or subject to tidal action as of February 22, 1980, are subject to a Public Trust easement retained by the State or its legislative grantee.

CALENDAR ITEM NO. **C80** (CONT'D)

In March 2010, Commission staff sent the City a letter regarding the filled portion of Oyster Point Marina. The letter incorrectly stated that the area was located within the grant to the City and impressed with the common law Public Trust Doctrine. In September 2010, the Commission sent a second letter to the City clarifying that under the Berkeley case the public trust had been terminated on portions of tidelands that were filled prior to February 22, 1980. Because of the original incorrect statement regarding the filled former tidelands and the complicated title history for this location, the City and Commission staff would like to formally depict the filled tidelands at Oyster Point Marina, as of February 22, 1980, through a record of survey.

STAFF ANALYSIS:

Commission staff and City staff have worked cooperatively in attempts to formally depict the lands that were filled prior to February 22, 1980, at Oyster Point Marina. By application of the Berkeley decision, the portions of the grant that were filled prior to February 22, 1980, as depicted by the survey, are not currently subject to tidal action and are not impressed with the common law Public Trust Doctrine. The tidelands and submerged BTLC lots that comprise the water portion of Oyster Point Marina are subject to the Public Trust easement retained by the State. Any remaining state interest, including the Public Trust easement, was legislatively granted to the City under its Granting Statutes. The record of survey is not intended to represent a fixed boundary line or title settlement agreement between the State, City and adjacent landowners.

Commission staff has reviewed the record of survey and believes that the record of survey depicts the extent of filled tidelands that were not subject to tidal action as of February 22, 1980. The City has reviewed the record of survey and does not have any objections. The record of survey has also been reviewed by the San Mateo County Surveyor and will be recorded after approval by the Commission.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.2 of the Commission's Strategic Plan to provide that the current and future management of ungranted sovereign lands and resources and granted lands are consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-level rise, public access, and complex land use planning and marine freight transportation systems.

CALENDAR ITEM NO. **C80** (CONT'D)

2. Commission staff recommends that the Commission find that the subject approval of a record of survey does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

EXHIBIT:

- A. Location and Site Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that approval of a record of survey is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

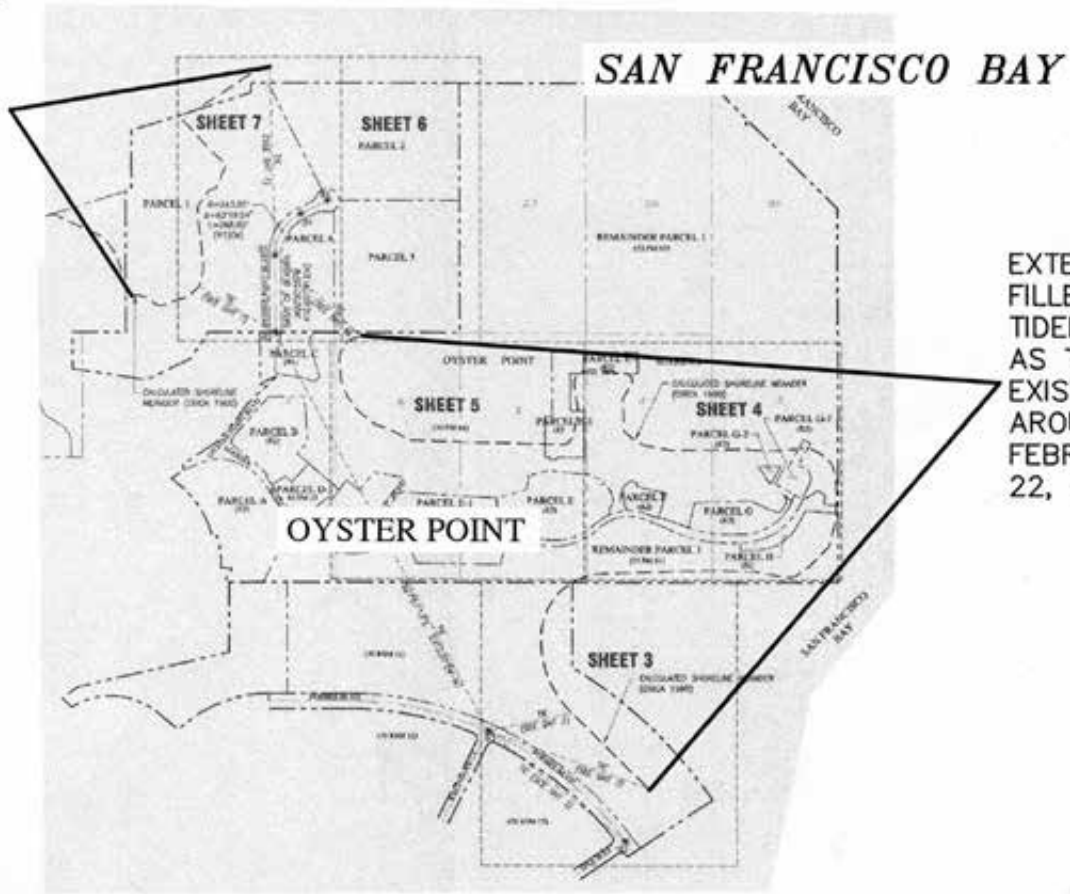
AUTHORIZATION:

Approve the record of survey, substantially in the form on file at the Commission's Sacramento Office, depicting the location and extent of filled tidelands as they existed around February 22, 1980, within Oyster Point Marina in the City of South San Francisco, San Mateo County.

NO SCALE

SITE

EXTENT OF FILLED TIDELANDS AS THEY EXISTED AROUND FEBRUARY 22, 1980

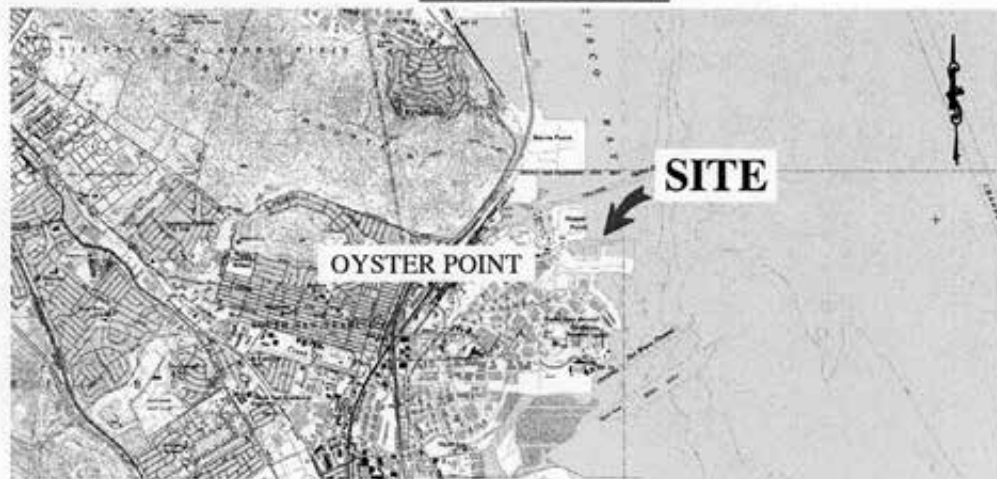


EXTENT OF FILLED TIDELANDS AS THEY EXISTED AROUND FEBRUARY 22, 1980

OYSTER POINT MARINA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

G 14-05
OYSTER POINT MARINA
APPROVAL OF RECORD
OF SURVEY
SAN MATEO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.