

CHAPTER 815

An act to convey in trust certain tide and submerged lands in the Straits of Carquinez, and in this connection to repeal Chapter 37 of the Statutes of 1851 and Chapter 442 of the Statutes of 1929.

[Approved by Governor September 8, 1976. Filed with
Secretary of State September 9, 1976.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares as follows:

(a) That the Martinez waterfront and adjacent marsh areas are of the utmost importance to the people of California because of the fish and wildlife which inhabit this region throughout the year.

(b) That the waters of the Straits of Carquinez and Suisun Bay are within the Pacific flyway and are of high importance to the preservation of migratory waterfowl populations.

(c) That nonmigratory waterfowl and shorebirds which inhabit the Straits of Carquinez and Suisun Bay are largely dependent on the

nearby marshlands for food and habitat.

(d) That the shallow water zones of the Martinez waterfront provide areas for shellfish culture.

(e) That the Martinez waterfront presents an opportunity for assuring balance between preservation and restoration of the coastal fish and wildlife resources and environment with nature study, appropriate recreational activities, public navigation, fishing, and selected development in accordance with the Environmental Quality Act of 1970, Division 13, (commencing with Section 21000) of the Public Resources Code.

(f) That certain lands on the Martinez waterfront, including lands referred to above, are encumbered under agreements between the City of Martinez and the State of California dated December 20, 1973, and October 27, 1964, and the lease of October 27, 1964, between the City of Martinez and the State Lands Commission, in which the city has agreed thereunder that revenues derived from the lands shall be paid to the state to meet the obligations of the agreements and lease. In addition, the development and operation of the lands for the protection thereof and for the security of sums due under the October 27, 1964, agreement are under the supervision of a committee made up of representatives from the city and the state, which is known as the "City-State Committee". In carrying out the purposes of this act, it is necessary to release the lands granted hereby to the East Bay Regional Park District from all encumbrances of the agreements and lease, while assuring that the obligations thereunder are otherwise preserved with respect to all lands granted to the city by this act and, in addition, assuring that the lands not granted to the district remain encumbered thereunder as security for the obligations.

(g) That fee title to the beds of all the waterways of the state below the ordinary high water mark (except those previously validly granted to private parties by the Spanish or Mexican governments on the date of statehood) passed from the federal government to the State of California at the time of statehood (September 9, 1850) by virtue of its sovereignty, on an equal footing with the original 13 colonies, to be held by the state in trust for the benefit of the public. Although, under a series of general statutes beginning shortly after statehood, the Legislature authorized the sale of tidelands by patent, sales of submerged lands below mean low tide were not authorized by these statutes. To the extent submerged lands were described in the state tideland patents, there was no valid conveyance; and the state remains the owner, holding title in trust for the public purposes of commerce, navigation, and fisheries and other trust purposes.

(h) That state patents of true tidelands between the mean high and low tide lines did not divest the public of its rights in the tidelands, the buyer of land under these statutes received the title to the soil, the *jus privatum*, subject to the public right of navigation, and in subordination to the right of the state to take possession, use, and improve them for that purpose; and, as it may deem necessary,

to pay for the taking of possession of improvements made in good faith.

(i) That, while the public tidelands trust easements are traditionally defined in terms of navigation, commerce, and fisheries, the public uses to which tidelands are subject still are sufficiently flexible to encompass changing needs. In administering the trust, the state is not burdened with an outmoded classification favoring one mode of utilization over another.

SEC. 2. (a) Therefore, based on the foregoing findings, the Legislature hereby formally exercises the public trust for the benefit of the public, for the purposes of commerce, navigation, fisheries, recreation, and for other trust purposes on, and upon a portion of lands at, the south shore of the Straits of Carquinez described as follows:

Lands of United Towing Co., a corporation, as recorded in Book 2873, page 171 and Book 2437, page 543, Official Records in the office of the Contra Costa County Recorder.

Lands of Rocco M. Costanza, et al., recorded as Parcels Nos. Two, Three and Four in Deed in Book 1446, page 356, Official Records in the office of the Contra Costa County Recorder.

Lands of Giuseppe Sparacino, et al., recorded as Parcel No. Three in Book 3462, page 286, Official Records in the office of the Contra Costa County Recorder.

Lands of Bartholomew Bisio as recorded in Book 6284, page 471, Official Records in the office of the Contra Costa County Recorder.

Lands of Doyle D. Hester, et al., as recorded in Book 5006, page 149, Official Records in the office of the Contra Costa County Recorder.

(b) Nothing contained in this act shall be deemed to preclude the application of provisions of Section 6312 of the Public Resources Code to the above described lands.

SEC. 3. (a) There is hereby granted to the City of Martinez, and to its successors, all right, title, and interest of the state held by virtue of its sovereignty in and to the three parcels of land situated in the County of Contra Costa and described as follows:

Parcel "A"

Commencing at the intersection of the north line of Tideland Survey No. 9 and the east line of North Court Street as shown on Map of "City of Martinez Waterfront Area" filed March 10, 1955, in Volume 16, Pages 39 to 43, Licensed Surveyor's Maps in the Office of the Contra Costa County Recorder; thence along said northerly line of Tideland Survey No. 9 North 76° 56' 53" East 488.36 feet; thence leaving said northerly line North 20° 03' 30" West 130.00 feet; thence North 63° 50' 00" East 85.00 feet to the true point of beginning; thence North 03° 30' 00" East 110.00 feet; thence North 12° 10' 00" East 660.00 feet; thence North 05° 05' 39" West 119.71 feet; thence North 88° 03' 16" East 242.85 feet; thence South

