

CHAPTER 846

An act relating to tide and submerged lands in the City of Oceanside, and in this connection repealing Chapter 217 of the Statutes of 1963, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with
Secretary of State September 22, 1979]

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

SECTION 1. Chapter 217 of the Statutes of 1963 is repealed.

SEC. 2. There is hereby granted to the City of Oceanside, hereinafter referred to as "the trustee" all of the right, title, and interest of the State of California, held by the state by virtue of its sovereignty in and to all tide and submerged lands, whether filled or unfilled, situated in the County of San Diego and described in Section 14. Such lands shall be held by the trustee and its successors, in trust for the benefit of all the people of the state for purposes of commerce, navigation and fisheries, and for other public purposes, including, but not limited to, preservation of the lands in their natural state for scientific study, open space, or wildlife habitat, and recreational uses as more particularly provided in this act. This grant

is subject to the following express conditions:

(a) That the lands shall be used by the trustee and its successors, for purposes in which there is a general statewide interest. The use of the lands shall be in conformity with a general use proposal adopted by the trustee and reviewed and approved by the State Lands Commission. Changes or amendments to the general use proposal shall be reviewed and approved by the commission as provided under Section 4.

(b) That the trustee or its successors, shall not at any time grant, convey, give, or alienate the lands, or any part thereof, to any individual firm or corporation for any purposes whatsoever; except that the trustee or its successors may grant franchises thereon for limited periods not exceeding 66 years for wharves and other public uses and purposes, may lease the lands, or any part thereof, for limited periods not exceeding 66 years, for purposes consistent with the trusts upon which the lands are held; and may collect and retain rents and other revenues from such leases, franchises, and privileges under rules and regulations adopted in accordance with the provisions of Section 6.

Nothing contained in this subdivision shall be deemed to affect the validity or terms of any franchise granted by the trustee under Division 3 (commencing with Section 6001) of the Public Utilities Code, and any such franchise shall be effective with respect to the affected lands when title thereto passes to the trustee under this act.

(c) That in the management, conduct, operation and control of the lands or any improvement, betterments, or structures thereon, the trustee or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(d) That the state shall have the right to use without charge any transportation, landing, or storage improvements, betterments, or structures, other than those improvements or structures owned or operated by a public utility, constructed upon the lands for any vessel or other watercraft or railroad owned or operated by the state.

(e) That there is reserved to the people of the State of California the absolute right to fish in the waters over the lands, with the right of convenient access to such waters over the lands for such purpose.

(f) That there is excepted and reserved to the state all remains of archaeological and historical significance and all deposits of minerals, including, but not limited to, all substances specified in Section 6407 of the Public Resources Code, in the lands, and the right to prospect for, mine, and remove such deposits from the lands.

(g) That the trustee shall not authorize a capital outlay project, lease, or agreement, for port facilities such as marine terminals, pipelines, or other related energy facilities on state tide and submerged lands which have been granted in trust without first requesting and receiving the approval, in writing, of the State Lands Commission. Prior to approving any such capital outlay projects, leases, or agreements, the commission shall consult with other governmental agencies and shall determine that such project is in

the best interest of the people of the state and consistent with provisions of law, and that the allocation between the state and the trustee of any revenues generated as a result of such project, lease, or agreement, shall be in accordance with provisions for allocation of excess revenue contained in Section 11.

SEC. 3. On or before September 30 of the succeeding fifth year commencing on September 30, 1984, the trustee shall submit a report of its utilization of granted tidelands for each immediately preceding five-year period ending with June 30 of the calendar year in which the report is required to be submitted.

The report required by this section shall include all of the following:

(a) A general description of the uses to which the granted tidelands have been placed during the period covered by the report.

(b) A list of the owners and holders of leases, permits, and franchises granted or issued by the trustee, which list shall specify, as to each such owner or holder:

(1) The use to which the granted tidelands have been placed by the owner or holder.

(2) The consideration provided for in each such lease, permit, or franchise and the consideration actually received by the trustee for the lease, permit, or franchise granted or issued.

(3) An enumeration of the restrictions which the trustee has placed on the use of the granted tidelands and each area thereof for the period covered by the report.

SEC. 4. (a) The trustee shall submit to the State Lands Commission by January 1, 1982, a general use proposal indicating details of intended development, preservation, or other use of the granted tide and submerged lands, and covering a period of not less than five years.

(b) The general use proposal may consist of any plan, program, or other document which includes all of the following:

(1) A general description of the type of uses planned or proposed for the granted lands. The location of such land uses shall be shown on a map or aerial photograph.

(2) The projected statewide benefit to be derived from the planned or proposed uses of the tidelands, including, but not limited to, the financial benefit, the benefit to commerce, navigation and fisheries, and the recreational, educational, or industrial benefit.

(3) The proposed method of financing the planned or proposed uses of the requested tidelands, including estimated capital costs, annual operating costs, and anticipated annual revenues.

(4) An estimated timetable for implementation of the general use proposal or any phase thereof.

(5) A description of how the trustee proposes to protect and preserve natural and man-made resources in connection with the use of granted lands.

(c) The trustee shall submit to the commission all changes and amendments to the general use proposal.

(d) The commission shall review with reasonable promptness the general use proposal submitted by the trustee, and any changes or amendments, to determine that they are in accordance with the public trust obligation and the requirements of this act. On the basis of such review, the commission shall furnish the trustee with its formal recommendations.

SEC. 5. The trustee shall demonstrate good faith in carrying out the provisions of its general use proposal and amending it when necessary in accordance with Section 4. If the State Lands Commission determines that the trustee has substantially failed to improve, restore, preserve, or maintain the lands within its grant, as required by the general use proposal, or demonstrates unreasonable delay in adopting the proposal, all right, title, and interest of the trustee in and to all lands held by virtue of its granting shall cease and all right, title, and interest in the lands shall revert to the state. All improvements, restoration, preservation, or maintenance of the granted lands shall be effected in accordance with the general use proposal.

SEC. 6. (a) The governing body of the trustee shall, by July 1, 1980, submit to the State Lands Commission for its approval, a procedure, rules, and regulations to govern the issuance, renewal, or renegotiation of any lease of granted tide and submerged lands, or any development thereon. Such rules and regulations shall specify lease rates, the bases upon which such rates are established, lease terms and conditions, provisions for renegotiation of rates, terms, and assignments, and such other information as may be required by the commission

(b) All leases, franchises, or agreements proposed or entered into by any trustee after the effective date of this section shall be consistent with the provisions of the general use proposal submitted by the trustee.

(c) Upon request, the trustee shall submit to the commission a copy of all leases, franchises, and agreements entered into, renewed, or renegotiated.

SEC. 7. The trustee shall, with approval from the State Lands Commission, establish accounting procedures whereby an accurate record of all revenues derived from the use of granted lands and of all expenditures of any such revenues shall be maintained. The purpose of this requirement is to provide for the segregation of funds derived from the use of the granted lands in order to ensure that they are only expended to enhance such lands in accordance with the trust uses and purposes upon which the granted lands are held.

In addition to any other expenditure which may be permitted by this act, the trustee shall be permitted to expend revenues derived from granted lands to acquire or improve lands immediately adjacent to the lands granted by this act for the purposes authorized in this act. Any such acquisition or improvement shall become a part

of the trust created by this act and shall become subject to the provisions of the public trust for commerce, navigation, and fishing, from the time of the expenditure forward.

SEC. 8. Property acquired with such revenues shall be considered an asset of the trust and subject to the terms and conditions of this act.

SEC. 9. Notwithstanding any other provision of law, the trustee shall, on or before October 1 of each year, cause to be made and filed with the State Lands Commission a detailed statement of all revenue and expenditures thereof from the administration of the lands, including obligations incurred but not yet paid. The statement shall be in a form specified by the commission and shall cover the fiscal year preceding its submission.

SEC. 10. As to the expenditure of revenues for any single capital improvement on the granted lands involving an amount in excess of two hundred fifty thousand dollars (\$250,000) in the aggregate, the trustee shall file with the State Lands Commission a detailed description of the capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith. Within 90 days after the time of such filing, the commission shall determine whether such capital improvement is in the statewide interest and is consistent with the conditions of this act. The commission may request the opinion of the Attorney General on the matter. A copy of any opinion so requested shall be delivered to the trustee with the notice of its determination. In the event that the commission notifies the trustee that the capital improvement is not authorized, the trustee shall not disburse any revenue for or in connection with the capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The trustee is authorized to bring suit against the state for the purpose of securing such an order or judgment, which suit shall have priority over all other civil matters. Service shall be made upon the executive officer of the commission and the Attorney General, and the Attorney General shall defend the state in the suit. If judgment is given against the state, no costs may be recovered.

SEC. 11. On June 30, 1982, and at the end of every third fiscal year thereafter, that portion of the trustee's tideland trust revenues in excess of two hundred fifty thousand dollars (\$250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or maintenance of tideland trust activities, shall be deemed excess revenues; except that any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenue. Capital improvements of the granted lands made for purposes authorized by this act may be considered as expenditures for the purpose of determining excess revenues.

The excess revenues, as determined pursuant to this section, shall

be allocated as follows: 85 percent shall be transmitted to the State Treasurer for deposit in the General Fund in the State Treasury; and 15 percent to the trustee for expenditures consistent with the provisions of this act.

SEC. 12. The State Lands Commission shall, from time to time, institute a formal inquiry to determine if the terms and conditions of this act, and amendments thereto, have been complied with, and if all other applicable provisions of law concerning these specific granted lands are being complied with in good faith. In this regard, and in addition to the other powers and duties specifically delegated to it, the commission may examine any records and materials relating to the administration of the granted tidelands it deems necessary in connection therewith, including, but not limited to, financial records of the trustee.

SEC. 13. (a) The trustee may establish the ordinary high-water mark or the ordinary low-water mark of any of the lands hereby granted, by agreement, arbitration, or action to quiet title, whenever the trustee deems it expedient. Any establishment of an ordinary high-water mark or ordinary low-water mark by arbitration or agreement shall not be effective until approved by the State Lands Commission.

(b) Whenever it shall appear to the trustee to be expedient for the settlement of boundary and title disputes, and to be in the best interests of the state for the purposes specified in Section 2, and that no substantial interference with the trust uses and purposes would ensue, the trustee may exchange lands of equal or greater value with any state agency, political subdivision, person, or the United States or any agency thereof. In any such exchange, all right, title, and interest in and to all deposits of minerals, including oil and gas and geothermal resources, in the lands to be received by the trustee, and the right to prospect for, mine, and remove such deposits from such lands or to authorize persons to prospect for, mine, and remove such deposits, shall be transferred to the state. Any land so acquired shall have the same status as to administration, control, and disposition as the lands for which it was exchanged. No such exchange shall be effective unless and until the State Lands Commission (1) makes a finding that the lands to be acquired by the trustee and the mineral rights to be transferred to the state are of equal or greater value than the lands and mineral rights for which they are to be exchanged and (2) approves the exchange.

(c) The lands exchanged may be improved, filled, and reclaimed by the grantee, subject to all necessary approvals by local, regional, state, or federal entities. Upon the adoption of a resolution by the State Lands Commission finding and declaring that such lands have been improved, filled, and reclaimed, and have thereby been excluded from the public channels and are no longer available, useful, or susceptible of being used for navigation and fishing and for other trust uses and purposes, and are no longer in fact tidelands or submerged lands, such lands shall thereupon be free from the public

trust upon which they are held.

SEC. 14 The land granted in Section 2 is that parcel of sovereign tide and submerged land in the Pacific Ocean, in the Gulf of Santa Catalina, vicinity of the City of Oceanside, San Diego County, State of California, within the area more particularly described as follows:

COMMENCING at National Geodetic Survey monument "Side-1933" having California Zone VI Coordinates $X=1,650,194.05$, $Y=380,758.02$ as shown on the map of the State Grant to the City of Oceanside dated October 22, 1966, and recorded as Miscellaneous Map No. 493, Official Records San Diego County; thence N $61^{\circ} 03' 48''$ W 1199.71 feet to Station 1 as shown on such map, such point being the TRUE POINT OF BEGINNING; thence southeasterly to Station 22 as shown on such map; thence the following seven courses:

- 1 S $56^{\circ} 52' 16''$ W, 1,866.45 feet;
- 2 N $35^{\circ} 29' 20''$ W, 5,448.12 feet;
- 3 S $49^{\circ} 54' 49''$ W, 7,009.52 feet;
- 4 N $40^{\circ} 05' 11''$ W, 20.00 feet;
- 5 N $49^{\circ} 54' 49''$ E, 7,011.13 feet;
- 6 N $35^{\circ} 29' 20''$ W, 14,463.64 feet,
- 7 N $56^{\circ} 22' 16''$ E, 1,865.85 feet

to the true point of beginning; together with any sovereign lands lying landward of the line between Stations 1 through 22 shown on the above mentioned map, including the sovereign interests of the State of California in lagoons, estuaries, and rivers within the city limits of the City of Oceanside.

SEC. 15 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to those sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

SEC. 16 This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are

This act is necessary to ensure that the resources at the mouth of the San Luis Rey River are duly protected. In order to provide such protection at the earliest possible time it is necessary that this act go into immediate effect.