

# California Tidelands: Lands Held in the Public Trust

## *Understanding the Public Trust Doctrine*

- The California Legislature gave the California State Lands Commission authority over California's ungranted public trust lands (tidelands, submerged lands, and navigable waters) in 1938 and authority over California's granted public trust lands in 1941.
- The California Legislature, by statute, also conveyed public trust lands (granted lands), in trust, to more than 80 cities, counties, or other governmental agencies, including five (5) major ports (grantees).
- State and local tidelands grantees are administrators of their respective public trust lands and are required to manage tidelands through statute and implementation of the Public Trust Doctrine (the common law principles that govern use of these lands).
- Uses on public trust lands must serve statewide, as opposed to purely local, public purposes.
- Public trust uses are generally limited to water dependent or related, and include commerce, fisheries, navigation, ecological preservation, and recreation.
- Examples of uses include: ports, marinas, docks, piers, wharves, buoys, hunting, commercial, sportfishing, bathing, swimming, boating, warehouses, container cargo storage, facilities for the development and production of oil and gas, habitat, wildlife refuges, scientific study, open space, and visitor-serving facilities such as hotels, restaurants, shops, parking lots, and restrooms.
- Uses not permitted on public trust lands are those not trust use related, do not serve a public purpose, and can be located on non-waterfront property such as residential; non-maritime related commercial, including department stores; and certain office uses.
- The Port District's Port Master Plan is a document intended to provide the official planning policies, consistent with the Public Trust Doctrine, for the physical development of the tidelands and submerged lands conveyed and granted in trust to the Port District.
- Planning policy/criterion contained within the Port Master Plan was developed to evaluate the necessity of waterfront site selection for the below uses. The following categories are listed in order of importance:
  - 1) Water dependent uses – require waterside sites and direct access to the water to function. Examples include: boat and ship building and repair, marinas, marine terminals, fishing piers, swimming beaches, and commercial fishing and sportfishing berthing and tending areas.
  - 2) Water linked uses – do not require a waterside site but must be located in close proximity to the water. Examples include: boat sales, sailmaking, fish markets, canneries, fishing tackle sales, and marine hardware sales.
  - 3) Waterfront enhancing uses – do not require waterfront sites but can lend enhancement to the waterfront. Examples include: restaurants, hotels, and public recreation areas providing golf, field sports, and passive recreation.