

# *The Public Trust Doctrine, Port of San Francisco's Statutory Trust Grant, and the Role of the California State Lands Commission*



Jennifer Lucchesi, Executive Officer  
*California State Lands Commission*

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# Mission



**Provide the people of California with effective stewardship of the lands, waterways, and resources entrusted to its care through preservation, restoration, enhancement, responsible economic development, and the promotion of public access.**

# California's Sovereign Lands



The Commission's jurisdiction over sovereign lands is rooted in the **Public Trust Doctrine**. Tide and submerged lands and the beds of lakes, streams, and other navigable waterways are held in trust by the State of California for the benefit of the people of California.



- 4 million acres
- 120 rivers and sloughs
- 40 lakes
- Thousands of miles of non-coastal shorelines
- 1100 miles of coastline
- 3 miles offshore

*California State Lands Commission*

# **Public Trust Doctrine**

Protecting tidelands, submerged lands and navigable waterways for the benefit of the People of California



Photo courtesy of the Port of San Diego

# Public Trust Doctrine



The state's title to its tide and submerged lands is a title held in trust for the people of the state so that those citizens may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing free from obstruction or interference from private parties.

*Illinois Central R.R. Co. v. Illinois* (1892) 146 U.S. 387, 452



# Origins of the Public Trust Doctrine



## Roman Civil Law

*The air, the rivers, the sea and the seashore were incapable of private ownership; they were dedicated to the use of the public (Institutes of Justinian, 534 CE)*



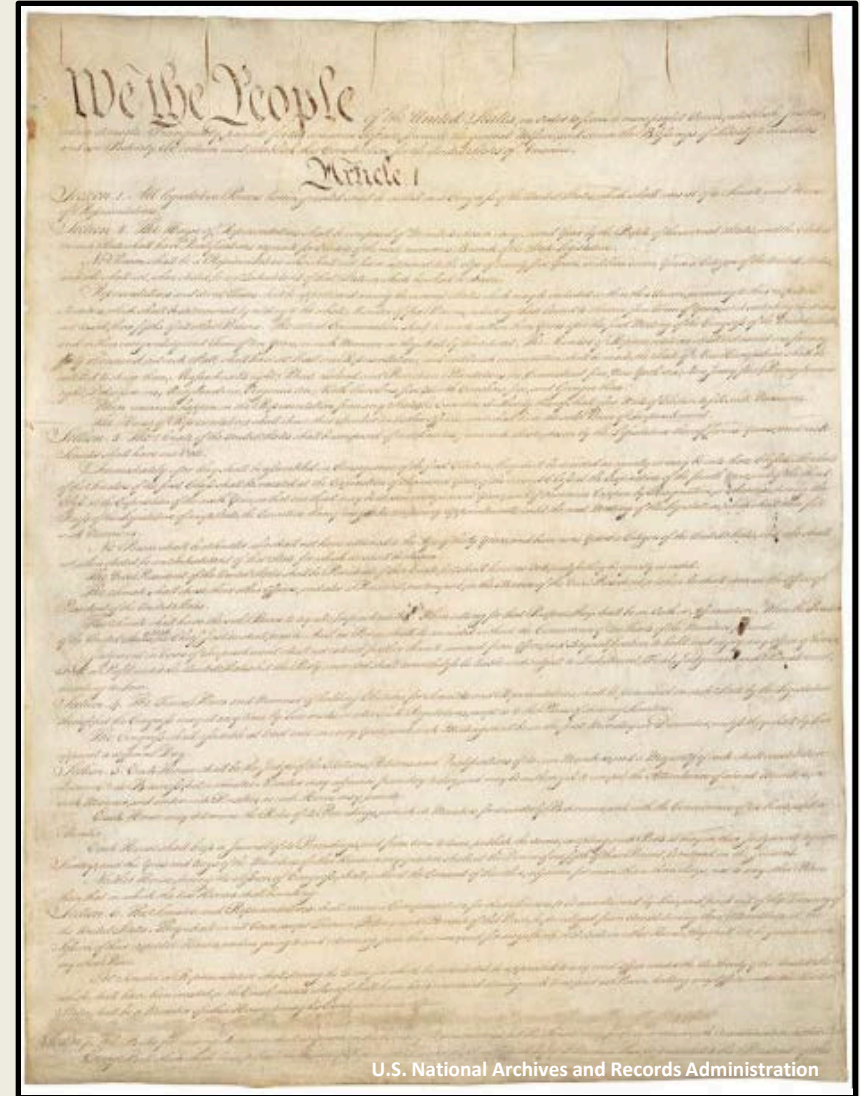
## English Common Law

*The sovereign held the tide and submerged lands, not in a proprietary capacity, but as trustee of a public trust for the benefit of the people of the realm (Magna Charta, 1215)*

# Origins of the Public Trust Doctrine in the U.S.

The precept that tide and submerged lands are unique and that the ruler of the people holds them in trust for the people was transplanted to the new world and when the U.S. broke free of the English sovereign; those former colonies became sovereign states.

- Post-American Revolution  
*Martin v. Waddell* (1842)
- Equal-Footing Doctrine  
*Pollard's Lessee v. Hagan* (1845)



# **Public Trust Doctrine: Limitations on State Powers**

## ***Illinois Central Railroad Co. v. Illinois (1892)***



## **Public Trust Doctrine: Uses of the lands**

**Traditionally Public Trust uses were limited to:**

- **Water-related Commerce**
- **Navigation**
- **Fisheries**



Photo courtesy of the Port of Oakland

## **Public Trust Doctrine: Uses of the lands**

- **Facilities for the Promotion of the Trust:**
  - Harbors
  - Ports
  - Marinas
  - Piers
  - Wharves



# Public Trust Doctrine: Uses of the lands

- **Commercial facilities:**

- **Warehouses**

*Oakland v. Williams* (1929) 206 Cal. 315

- **Container cargo storage**

- **Convention and Trade Facilities**

*Haggerty v. Oakland* (1958) 161 Cal.App.2d 407



- **Facilities to serve waterfront visitors:**

- **Hotels**

- **Restaurants**

- **Parking lots**

*Martin v. Smith* (1960) 184 Cal.App.2d 571



## Public Trust Doctrine: Uses of the lands

- **As a common law doctrine, which is continuously evolving, the courts have found that other water-oriented uses that benefit the public are also consistent with the Trust:**

- **Open Space**
- **Ecological Preservation**
- **Scientific Study**
- **Water-dependent or water-oriented recreation**

*Marks v. Whitney* (1971) 6 Cal.3d 251

Photo courtesy of Angelo Garcia, CA Dept. of Water Resources



Photo courtesy of the Port of San Diego



## Public Trust Doctrine: Uses of the lands

- Uses that are generally not consistent with Public Trust principles are those that:
    - Are not water-dependent or water-related
    - Do not serve a statewide public purpose
    - Examples:
      - Residential
      - General Commercial
      - Non-visitor Serving Retail
      - Public Schools, Hospitals, etc.
- Mallon v. City of Long Beach (1955) 44 Cal.2d 199*



# Public Trust Doctrine: Consistent/Inconsistent Uses

Recreation



Commerce



Public Schools



Consistent

Inconsistent

Fishing/Ports



Hospitals



Residential



# Public Trust Doctrine: General Guidelines

- Water-dependent or water-related.
- Promote or support uses authorized by the common law Public Trust Doctrine.
- Accommodate or enhance the statewide public's enjoyment or benefit from the trust lands and not merely provide a local or municipal public benefit.
- What are the public's Trust needs and values at this location, at this time and for the foreseeable future?



## Entities involved in Public Trust Issues

- People of California
- California State Legislature
- State Courts
- State Lands Commission
- Legislative Trustees
- Attorney General's Office
- Regulatory Agencies
  - Bay Conservation & Development Commission
  - California Coastal Commission
  - State Water Resources Control Board
  - Regional Water Quality Control Boards
  - Department of Fish and Wildlife
  - Tahoe Regional Planning Agency



# The Port of San Francisco's Statutory Trust Grant

