

CHAPTER 936

An act relating to harbor improvements, and to convey certain tide and submerged lands to the City of Trinidad.

[Approved by Governor September 20, 1986. Filed with Secretary of State September 22, 1986.]

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

SECTION 1. (a) There is hereby granted to the City of Trinidad, 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 City of Trinidad and as described in Section 13. The 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, wildlife habitat, and recreational uses, as more particularly provided in this act.

(b) This grant is subject to the following express conditions:

(1) The granted 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, hereafter referred to as the "commission." Changes or amendments to the general use proposal shall be reviewed and approved by the commission as provided under Section 3.

(2) The trustee or its successors shall not at any time grant, convey, give, or alienate the granted 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 those leases, franchises, and privileges under rules and regulations adopted in accordance with Section 5.

Nothing contained in this paragraph affects 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.

(3) In the management, conduct, operation, and control of the granted 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.

(4) The state shall have the right to use, without charge, any transportation, landing, or storage improvements, betterments, or structures constructed upon the granted lands for any vessel or other watercraft or railroad owned or operated by the state.

(5) There is reserved to the people of the State of California the absolute right to fish in the waters over the granted lands, with the right of convenient access to those waters over the lands for that purpose.

(6) 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 granted lands, and the right to prospect for, mine, and remove those deposits from the lands.

(7) 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 the granted lands without first requesting and receiving the approval, in writing, of the commission. Prior to approving any such capital outlay project, lease, or agreement, the commission shall consult with other governmental

agencies and shall determine that the project is in and for the best interest of the people of the state and consistent with provisions of law.

SEC. 2. (a) On or before September 30 of every succeeding fifth year, commencing on September 30, 1991, the trustee shall submit a report of its utilization of the granted lands for each immediately preceding five-calendar-year period ending with June 30 of the calendar year in which the report is required to be submitted.

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

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

(2) 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:

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

(B) 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.

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

SEC. 3. (a) On or before January 1, 1989, the trustee shall submit to the commission a general use proposal indicating details of intended development, preservation, or other use of the granted 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 these 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 granted lands, 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 granted lands, including estimated capital costs, annual operating costs, and anticipated annual revenues.

(4) 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 manmade resources in connection with the use of the 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 that review, the commission shall furnish the trustee with its formal recommendations.

SEC. 4. 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 3. If the commission determines that the trustee has substantially failed to improve, restore, preserve, or maintain the granted lands, as required by the general use proposal, or has unreasonably delayed adopting that proposal, all right, title, and interest of the trustee in and to the granted 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. 5. (a) The governing body of the trustee shall, within 180 days of the effective date of this act, submit to the commission for its approval, procedures, rules, and regulations to govern the issuance, renewal, or renegotiation of any lease of the granted lands, or any development thereon. These rules and regulations shall specify lease rates, the bases upon which the rates are established, lease terms and conditions, provision for renegotiation of rates and 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 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. 6. (a) The trustee shall, with the approval of the commission, establish and maintain accounting procedures, in accordance with generally accepted accounting principles, providing accurate records of all revenues received from the trust lands and trust assets and of all expenditures of those revenues.

(b) All revenues received from trust lands and trust assets shall be expended only for uses and purposes consistent with the public trust for commerce, navigation, and fisheries and with subdivision (a) of Section 1.

SEC. 7. Property acquired with those revenues shall be considered an asset of the trust and subject to the terms and conditions of this act.

SEC. 8. On or before October 1 of each year, the trustee shall file with the commission a detailed statement of all revenues and expenditures relating to its trust lands and trust assets, including obligations incurred, but not yet paid, covering the fiscal year preceding submission of the statement. This statement shall be prepared according to generally accepted accounting principles and may take the form of an annual audit prepared by or for the trust grantee.

SEC. 9. 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 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 that filing, the commission shall determine, whether the capital improvement is in the statewide interest and benefit and is consistent with the conditions of this act. The commission may request the opinion of the Attorney General on the matter; and if it does so, a copy of that opinion shall be delivered to the trustee with the notice of its determination. In the event 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 that suit. If judgment is given against the state in the suit, no costs may be recovered.

SEC. 10. On June 30, 1989, and at the end of every third fiscal year thereafter, that portion of the trustee's tidelands 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 tidelands 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 this act.

SEC. 11. The commission shall, from time to time, institute a formal inquiry to determine that the terms and conditions of this act, and amendments thereto, have been complied with, and that all other applicable provisions of law concerning the granted lands are being complied with in good faith.

SEC. 12. Section 6359 of the Public Resources Code does not apply to this act.

SEC. 13. The land granted in Section 1 is all that portion of Trinidad Bay adjacent to Fractional Section 26, Township 8 North, Range 1 West, Humboldt Meridian, described as follows:

Beginning at Monument 2 at the intersection of East Street and

View Avenue, as shown on the Map of the City of Trinidad prepared by Larson and MacMillan in 1961 and on file with the City Engineer for the City of Trinidad, California, the monument being 535.69 feet north and 786.95 feet west from the northeast corner of Section 26 and running thence south 4 degrees 28 minutes 30 seconds east along the southerly extension of the centerline of View Avenue 730 feet more or less to the ordinary high water mark of Trinidad Bay and the true point of beginning of the area herein described; thence from the true point of beginning westerly and southerly following the ordinary high water mark to its southernmost point on Trinidad Head; thence northeasterly along a straight line 1,600 feet more or less to the ordinary high water mark on the southernmost point on Prisoner Rock; thence east 1,850 feet more or less to the southerly extension of the east line of Fractional Section 26; thence north along the east line 1,350 feet more or less to the ordinary high water mark of Trinidad Bay; thence northwesterly along the ordinary high water mark 800 feet more or less to the true point of beginning, containing 100 acres more or less.

SEC. 14. (a) Notwithstanding Section 6084 of the Harbors and Navigation Code, the Crescent City Harbor District is exempt from the five-year loan limit specified in that section for the purposes of borrowing money to make improvements to accommodate the plan of the United States Coast Guard to station a new patrol boat in the Crescent City Harbor in January 1987.

(b) In order to protect the lives of Del Norte County residents and visitors, additional Coast Guard presence is vital. For the purposes of accommodating the Coast Guard's new 110-foot Island Class Cutter, numerous improvements to the harbor are necessary. A five-year loan term would force the district to charge prohibitively high rent to the Coast Guard. Therefore, a special exemption from Section 6084 of the Harbors and Navigation Code is granted to the district to allow up to a 20-year payback on loans necessary for these specific improvements.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.