

STAFF REPORT

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A. Kershen

V. Caldwell

CONSIDER TAKING TITLE TO AND AUTHORIZING THE REMOVAL AND DISPOSAL OF AN ABANDONED VESSEL ON SOVEREIGN LAND IN THE SACRAMENTO RIVER

PARTIES:

Jerel D. Elliott, Jr.

Sacramento County Sheriff, Marine Enforcement Detail

California State Lands Commission

AREA, LAND TYPE, AND LOCATION:

State sovereign land in the Sacramento River, adjacent to Assessor Parcel Numbers 119-0230-042 and 119-0230-043, near Clarksburg, Sacramento County.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6302.1, 6302.3, and 6302.4.

Public Trust and State's Best Interests Analysis:

A 36-foot-long Tollycraft boat (registration number CF 5601 CK) has been anchored and tied off near the left bank of the Sacramento River outside Clarksburg in Sacramento County since at least August 2018. The vessel was tagged for trespass and removal on March 13, 2020. The registered owner of Vessel CF 5601 CK is Jerel D. Elliott, Jr. Staff attempted to contact Mr. Elliott by phone and mail but the calls and notice letter remain unanswered.

Staff does not believe that Mr. Elliott or anyone else lives aboard Vessel CF 5601 CK. Instead, Mr. Elliott or a non-registered owner has left or abandoned the boat on sovereign land under the Commission's jurisdiction. The boat appears to be used for occasional visits by the owner or the owner's acquaintances and as storage. An improvised gangway allows access to the vessel from the levee.

STAFF REPORT NO. **68** (CONT'D)

Sacramento County Sheriff's deputies have responded to the boat because of complaints about people coming and going from the boat and leaving trash on the levee and roadside. County ordinances specify a 2-week maximum anchorage without a permit and a maximum permitted anchorage of 30 days. (Sac. County Ord. 6.42.110.A.) Vessel CF 5601 CK has no permit and has long overstayed the allowable time period. County staff issued two citations to Mr. Elliott. He failed to respond or appear, leading to active warrants dated December 12 and 14, 2018.

County staff have reached out to the Commission for help within the Commission's authority. Staff conducted a site inspection of the vessel with County staff and posted notice on Vessel CF 5601 CK on March 13, 2020. This posting initiated a 30-day period after which the vessel will have been deemed abandoned property by operation of law. Once abandoned, the Commission may take title to the vessel and direct its disposition.

Vessel CF 5601 CK appears to be in fair condition but needs maintenance. The vessel contains a large amount of trash and personal property. Deck railings are in poor condition and are unlikely to support a person's weight. The improvised gangway and stepladder to the vessel are rotting and unstable. Staff found a large amount of trash on the levee at the site and a path worn into the steep levee face from the road down to the water.

The vessel still floats and can be removed from the area to an appropriate salvage or disposal facility without disturbing the surrounding water or land. But the vessel will not remain floating forever, and staff believes acting before the vessel sinks will be less expensive and more protective of public health and safety and of the environment.

Recreational boating is a recognized Public-Trust use of state lands. However, Vessel CF 5601 CK is not being used for recreation. Instead, it has been anchored for an extended period in an unpermitted location as a floating storage shed, with no known interest in the upland properties at this location. Long-term, unleased, private occupation of state land is not compliant with the Public Trust Doctrine or the California Constitution.

Staff recommends that the vessel be removed from the water and destroyed as quickly as feasible. The statewide Surrendered and Abandoned Vessel Exchange (SAVE) grant program, administered by California State Parks Division of Boating and Waterways, reimburses local public agencies for removal of abandoned vessels. The Commission,

STAFF REPORT NO. 68 (CONT'D)

as a state agency, is not eligible for the SAVE program. However, the Sacramento County Sheriff's Department, Marine Enforcement Detail, has agreed to use its SAVE grant funds to remove and destroy Vessel CF 5601 CK. If the Commission adopts the recommendation in this staff report, staff intends to transfer title to Sacramento County for disposal at no cost to the Commission.

Conclusion:

For the reasons stated above, staff believes that taking title to Vessel CF 5601 CK, registered to Jerel D. Elliott, Jr., if it has not been removed from the Commission's jurisdiction or to a permitted location within the statutory waiting period, and directing its disposal, is consistent with the Public Trust and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Pursuant to Public Resources Code section 6302.3, any action regarding the disposition of the vessel must be delayed for 30 days to allow the owner to pursue any other cause of action in law or equity. Staff recommends that the Commission not take title to Vessel CF 5601 CK until this period has passed to minimize its time in State ownership.
2. The proposed action is a discretionary decision by the Commission. Each time the Commission approves or rejects a proposed activity on sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law.
3. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and specifically with Key Action 1.1.4 of the Commission's Strategic Plan to identify and abate hazards and associated liability on sovereign and school lands.
4. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(3).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

STAFF REPORT NO. 68 (CONT'D)

EXHIBITS:

- A. Site and Location Map
- B. Photos of Vessel and Levee

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(3).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

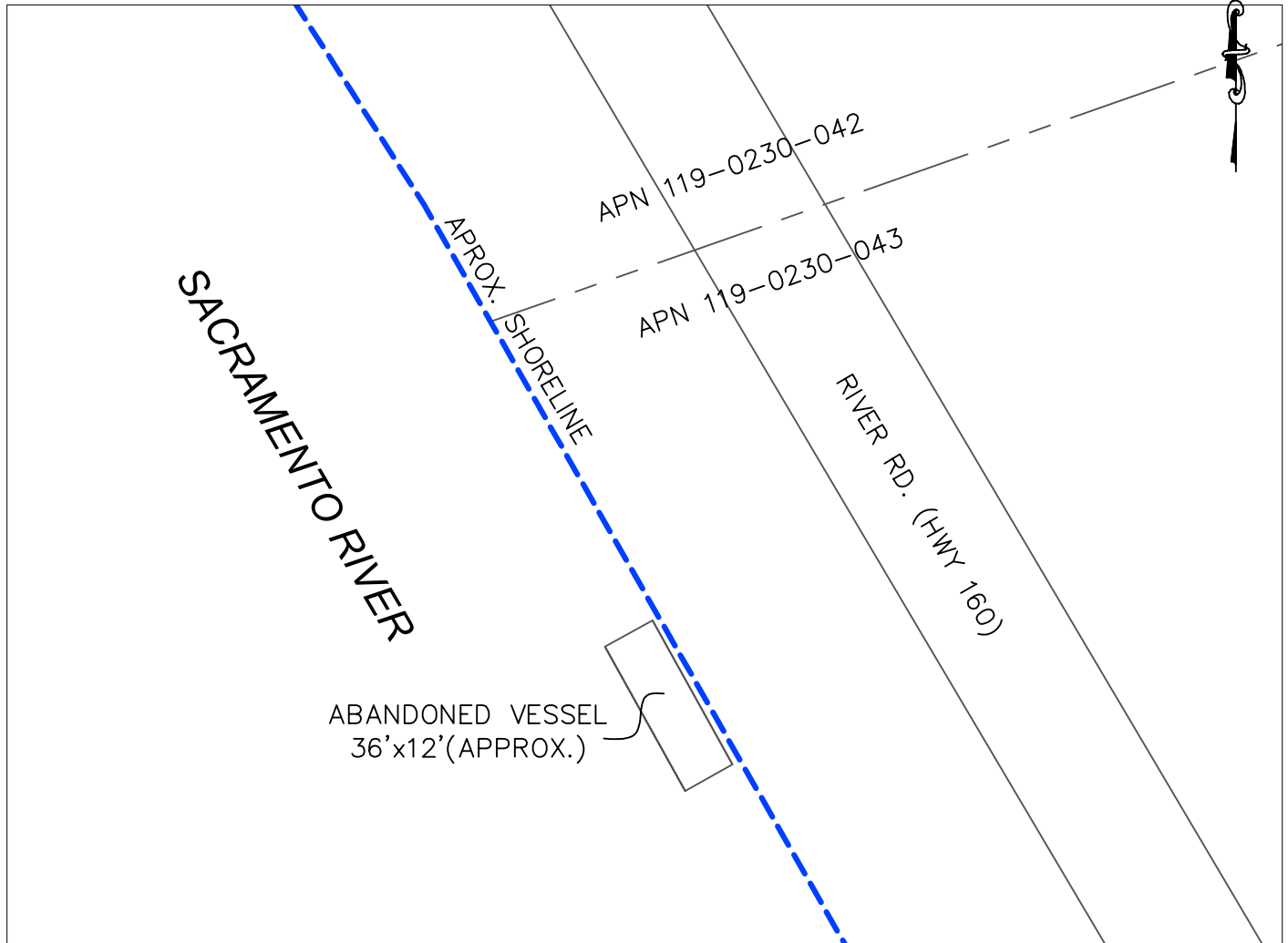
Find that the proposed action is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the Executive Officer, or her designee, to take title in the name of the Commission and pay necessary costs, if any, associated with taking title to Vessel CF 5601 CK, registered to Jerel D. Elliott, Jr., on or after May 29, 2020, unless before that date Vessel CF 5601 CK has been moved to a permitted location within the Commission's jurisdiction or removed from and not returned to a location within the Commission's jurisdiction.
2. If the Commission takes title to the vessel, authorize the Executive Officer, or her designee, to cause the removal and disposal of Vessel CF 5601 CK in any manner determined to be expedient or convenient, including transferring title to another entity that agrees to remove and dispose of the vessel.
3. Authorize the Executive Officer, or her designee, in cooperation with the Office of the Attorney General, to recoup the Commission's costs through any available administrative or civil means, if determined feasible and financially prudent to do so.

NO SCALE

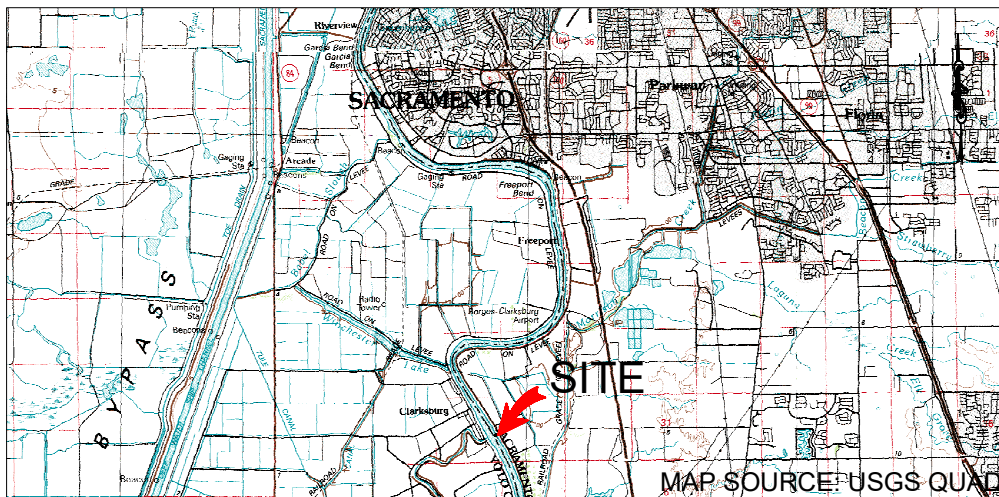
SITE



EAST BANK OF SACRAMENTO RIVER, NEAR CLARKSBURG

NO SCALE

LOCATION



THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.

EXHIBIT A

I 1752
APN 119-0230-042,-043
ABANDONED VESSEL
SACRAMENTO COUNTY



I 1752
EXHIBIT B

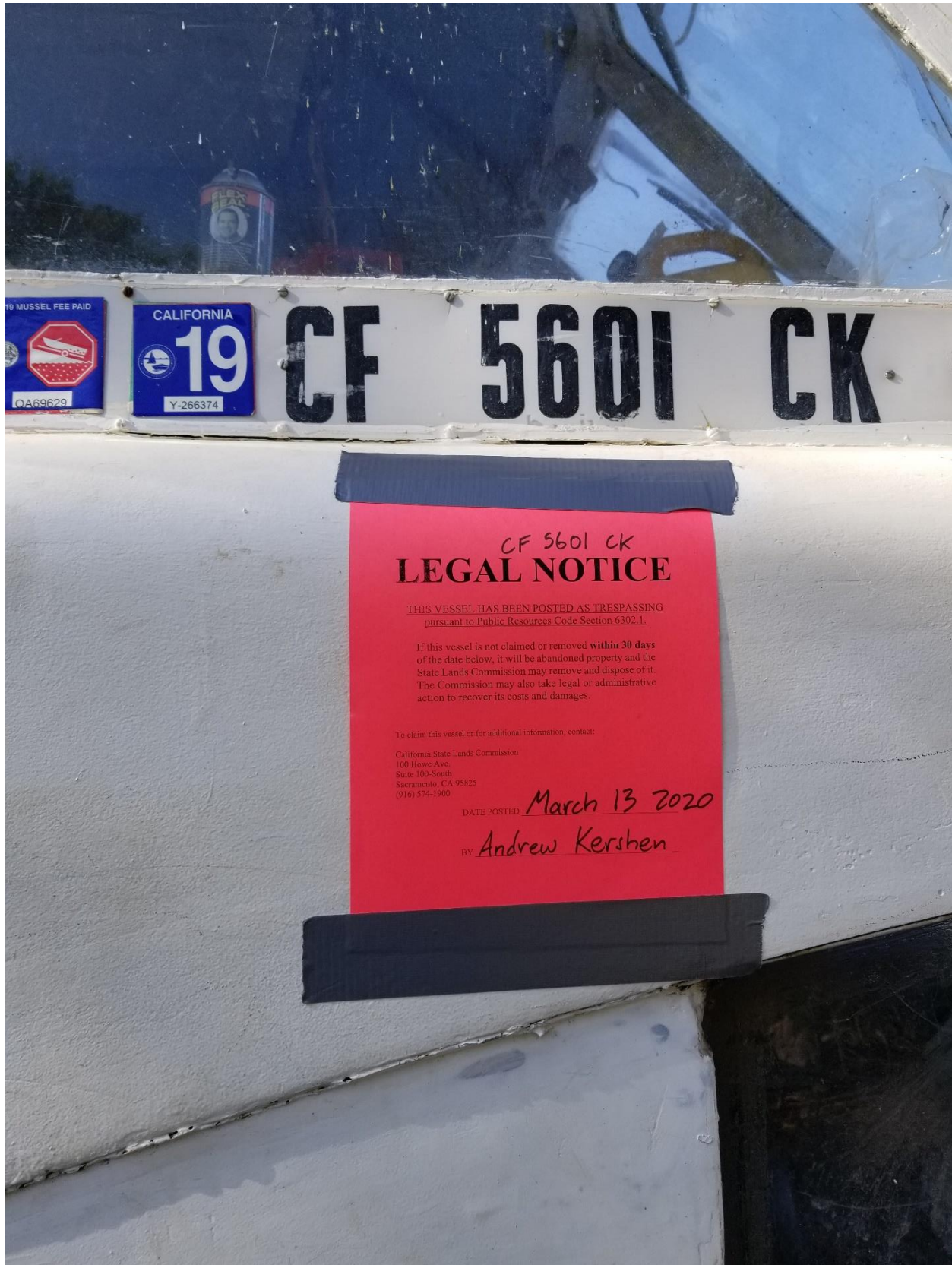


Vessel CF 5601 CK from levee, showing improvised gangway, Sacramento County Sheriff personnel on board



Trash on the levee near CF 5601 CK

I 1752
EXHIBIT B



30-day Notice posted on levee-side of vessel cabin