

# Staff Report 49

## APPLICANT:

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California State Lands Commission (Commission)

## PROPOSED ACTION:

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Request that the Commission delegate authority to the Executive Officer to retain a contractor to prepare an environmental document and to conduct studies to implement a Commercial Abandoned and Derelict Vessel (CADV) Removal Program in the Sacramento-San Joaquin Delta.

## BACKGROUND:

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In June, 2019, the Commission adopted an [Abandoned Commercial Vessel Removal Plan](#) (Plan) ([Item 100, June 28, 2019](#)). The Plan, required by AB 2441 (Frazier, 2018), outlined the elements required to establish a permanently funded commercial abandoned and derelict vessel removal plan for the Sacramento-San Joaquin Delta, including vessel identification, prioritization, budgeting, and staffing needs, among other components. The Legislature did not provide funding to develop or implement the Plan. Because the Commission lacks funding, it is restricted to participating in CADV removal operations when other agency funds are available, or in emergency situations when health and safety are paramount.

The outlook changed significantly with the [Budget Act of 2021](#), when the Legislature appropriated \$12 million to the Commission to remove CADVs from the Sacramento-San Joaquin Delta. On October 21, 2021, as its first action using this funding, the Commission authorized staff to take title to two CADVs in Sevenmile Slough, Sacramento County; contract for their removal and disposal; and seek to recoup costs ([Item 31, October 21, 2021](#)).

As the Commission's next CADV-related action, staff seeks a delegation of authority to solicit bids and award contracts for the preparation of an environmental document and for studies necessary to implement a limited short-

term Abandoned and Derelict Vessel Removal Program for commercial vessels in the Sacramento-San Joaquin Delta based on the 2019 Plan. Staff hopes that the Program will serve as a model of success on which a permanent, broader regional or statewide program could be built, dependent on additional funding.

The 2019 Plan assessed a broad five-county region of the Delta pursuant to statutory direction (Pub. Resources Code § 6302.2). Staff proposes to focus the CADV Program on state waterways (where the Commission has jurisdiction) in what is known as the legal Delta ([California Water Code section 12220](#)), an area that extends from the I-Street Bridge in Sacramento on the north, to upstream of the confluence of the San Joaquin River and Old River on the south, and to the confluence of the Sacramento River and San Joaquin River on the west. Consistent with the \$12 million appropriation, the Program will focus on commercial, not recreational vessels. Abandoned recreational vessel removal and disposal activities have a funding source through the California Department of Boating and Waterways, while abandoned commercial vessel removal does not. In some situations, however, staff may find it in the state's best interest to remove a non-commercial vessel.

The Commission has already achieved some success with this funding in addressing CADVs in the Delta. On January 12, 2022, a CADV previously authorized for removal, the tug Valiant, an abandoned WWII-era steel tugboat, broke free from its mooring and began drifting in the San Joaquin River navigation channel. An incident command team, comprised of staff members with extensive abandoned vessel removal-related experience from the Commission, Sacramento and San Joaquin County Sheriff's Offices, California Department of Fish and Wildlife Office of Spill Prevention and Response, U.S. Coast Guard, U.S. Army Corps of Engineers, and U.S. Environmental Protection Agency, was set up to quickly and effectively coordinate on stabilizing, removing, and demolishing the vessel.

A U.S. Army Corps of Engineers vessel secured the Valiant and towed it to Mare Island in Vallejo, where approximately 2,500 gallons of fuel and oil were removed while the Valiant was still floating. The Valiant was safely removed from the water on January 15, 2022, and on February 2, 2022, was sent to the scrap yard for final disposal. The agency partners then abated the remaining hazardous substances. The Commission will pay approximately \$100,000 of the total abatement costs for the Valiant.

## **PROGRAM DESCRIPTION:**

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Staff proposes to first implement foundational elements of the 2019 CADV Plan to focus the CADV Program and ensure public and agency engagement before

systematic removal operations begin. These elements include: a California Environmental Quality Act (CEQA) analysis to assess potential environmental impacts in the Delta associated with CADV abatement activities; studies, including a survey to locate and assess the current inventory of CADVs in state waterways in the Delta; and vessel prioritization to leverage the limited funding and Commission and agency partner resources for the greatest public benefit. Tribal Consultation and Environmental Justice outreach and engagement will also be an integral part of both the planning for, and implementation of, the CADV Program.

**CEQA:**

Commission staff would select a contractor and coordinate the preparation of a programmatic CEQA document. Because future vessel removals are unknown at this time, but the general geographic area and overall nature of possible removal methods are known, the document will identify and evaluate potential environmental effects at a “program” level, consistent with State CEQA Guidelines section 15168. The document will present a high-level analysis examining the environmental setting and current conditions that exist in the Delta, including the diversity of habitats and species, potential presence of cultural or historic resources, water quality, geology, and other issues, as well as the varied CADVs and potential removal and disposal methods. Staff believes that a programmatic level analysis will be appropriate to launch the CADV Program; future individual removals would be examined in light of the program level document to determine if additional CEQA analysis is required once specific vessels or locations are targeted for abatement.

**STUDIES:**

A contractor would be selected to conduct studies, including a survey to identify the number and location of CADVs in state waterways in the Delta and “ground-truth” existing GIS data. Among other tasks, the survey will pinpoint the locations, CADV physical characteristics (length, type, hull material, etc.), current condition (floating, sunk, visible hazardous materials, etc.), and any other relevant site conditions or physical factors that would assist with CADV removal prioritization. The contractor will attempt to gather identifying information, such as vessel name or registration number, that can be used to locate owners or responsible parties for removal notification and cost recovery. The survey would use, as a starting point, the Commission’s existing GIS database of CADVs, partly developed from 2017 aerial reconnaissance by the California Department of Fish and Wildlife’s Office of Spill Prevention and Response. The survey may be contracted separately or in conjunction with the CEQA contract.

**PRIORITIZATION:**

Following the survey, the contractor, in consultation with Commission staff and partner agencies, will prioritize CADVs and CADV sites for abatement. Prioritization will be based on the criteria developed for and described in the 2019 CADV Plan. This will focus removal on the most environmentally hazardous CADVs or those that pose the greatest danger to the public and to navigation. Economies of scale, where mobilization, equipment, and disposal cost savings can be realized, will also be considered for CADV clusters. An example is a location known as the Skarry debris site at Sevenmile Slough in Sacramento County where multiple CADVs exist, both floating and sunk. Environmental Justice considerations and Tribal Consultation will be incorporated into prioritization, consistent with the Commission's Environmental Justice and Tribal Consultation Policies. Staff will make the final prioritization decisions, subject to Commission approval, based on all the input discussed. Information and recommendations from contractors will be central to informing those decisions.

Staff anticipates contracting for the CADV Program elements described above in the first quarter of 2022, with the survey, prioritization, and CEQA analysis expected to be completed by early 2023. Staff will then develop an abatement schedule for targeted CADVs and CADV clusters. The schedule will be based on prioritization, partner-agency consultation, additional environmental analysis and permitting (as required), in-water work windows, legal process, staff and contractor capacity, environmental justice and tribal considerations, and available funding. The abatement schedule may be revised periodically if vessel prioritization and funding changes occur.

Legal due process noticing for the first targeted CADVs would begin following survey, prioritization, and CEQA analysis completion in early 2023, with abatement actions starting shortly thereafter. Staff expects the CADV Program to continue for approximately 3-5 years until the one-time budget allocation is spent.

If the Commission authorizes the requested delegation of authority, staff will return to the Commission with a recommended abatement schedule and request for authorization to begin removal actions at a later date.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6302.1, 6302.3, and 6302.4. 6890, 6895, 6897, 6898, and 6899; Harbors & Navigation Code sections 550 and 551; Government Code sections 4526 and 19130; Public Contract Code sections 6106

and 10335; State Contracting Manual, vol. 1, ch. 11; California Code of Regulations, title 2, section 2980 et seq., and title 14, section 15045.

**PUBLIC TRUST AND STATE’S BEST INTERESTS:**

The proposed Program will provide a means to identify, remove, and dispose of CADVs in the Delta. CADVs are potential threats to the physical environment and public health and safety while in the water. Some CADVs contain residual fuels and oils, in some cases thousands of gallons. Antifouling paint may contain toxic levels of metals, and CADV components may contain asbestos or other hazardous substances. CADVs tend to attract dumping of trash, debris, and other vessels and may also attract human attention in the form of scavengers or thrill seekers. Finally, CADVs may pose a threat to public navigation. By eliminating sources of environmental hazards, navigational hazards, and public nuisances, the proposed CADV Program will further Public Trust interests and protect Public Trust resources and the public.

If the requested delegation of authority is approved, the stakeholder and public outreach process would include early consultation with at-risk communities identified by the latest version of Cal EnviroScreen, environmental organizations, and Tribal Governments . Staff’s goal is to elicit ideas, facts, and opinions on the impacts of CADV activities and to reduce and minimize risk to Delta public trust resources. A prospective contractor would be expected to have local contacts or the ability to establish them, and expertise in organizing and managing an outreach process and meaningful engagement with stakeholders.

Contractor selection will be conducted pursuant to the requirements of the California Public Contract Code and current State policies and procedures, including those in the Commission’s regulations and the State Contracting Manual and will be based on demonstrated competence and professional qualifications necessary for the satisfactory performances of the services required. The solicitation will ensure that the process is fair and open to a wide applicant pool (including small business and veterans) and that successful applicants have the best qualifications to do the work in the best interests of the State.

The CEQA analysis would evaluate potential impacts to sensitive habitat of state and federally listed species, cultural resources, air quality, and all other potentially significant impacts from proposed CADV Program activities. If the proposed CADV Program activities would cause significant impacts that could not be avoided, the document would include proposed mitigation measures to reduce impacts to the extent feasible. Before taking any subsequent actions on CADV Program implementation, the Commission would consider certifying an environmental document, and adopting a mitigation and monitoring plan as needed pursuant to

CEQA (Pub. Resources Code, 21081.6) to ensure that any mitigation measures imposed to mitigate or avoid significant impacts will also be implemented.

**TRIBAL COORDINATION AND CONSULTATION:**

The Sacramento-San Joaquin Delta region has been inhabited by California’s indigenous people for over 10,000 years, long before the Delta was formed as we know it today. Native American tribes associated with the Delta include those of Miwok, Yokuts, Ohlone, and Patwin (Wintun) affiliation. These tribes have vast, valuable knowledge of their history and practices in the Delta over time and are critical partners for ensuring protection of cultural sites and resources as the CADV program is developed and implemented. Consistent with the Commission’s 2016 Tribal Consultation Policy and CEQA, staff will ensure that all geographically and culturally affiliated tribes are notified and invited to consult on a government-to-government basis during preparation of the CEQA document and implementation of the studies and prioritization.

**ENVIRONMENTAL JUSTICE:**

The principles of environmental justice call for the fair treatment of all people, regardless of race, culture, national origin, or income, in the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice also requires meaningful and transparent engagement opportunities for all community members to represent their concerns in the decision-making process. Commission staff will proactively and meaningfully engage with environmental justice communities in the Delta to incorporate their input into the CADV Implementation Program.

**CONCLUSION:**

For the reasons stated above, staff believes the requested delegation of authority is consistent with the Public Trust and in the State’s best interests.

**OTHER PERTINENT INFORMATION:**

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1. The recommended authorization is a discretionary action by the Commission. Each time the Commission approves or rejects an action related to sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State’s Public Trust lands as authorized by law.
2. This action is consistent with the “Meeting Evolving Public Trust Needs,” “Prioritizing Social, Economic, and Environmental Justice,” and “Committing to

Collaborative Leadership” Strategic Focus Areas of the Commission’s 2021–2025 Strategic Plan.

3. Authorization to solicit proposals is not a project as defined by CEQA because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that conducting studies necessary for CADV Program implementation is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 6, Information Collection, (Cal. Code Regs., tit. 14, § 15306).

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15306.

## **EXHIBIT:**

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- A. Map of Plan Area

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

Authorize the Executive Officer or her designee, in accordance with applicable State contracting laws and regulations, to take all necessary actions to enter into appropriate agreements for purposes herein, including but not limited to soliciting proposals from contractors, negotiating a fair and reasonable price, and awarding and executing an agreement.

## **CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15306 as a categorically exempt project, Class 6, Information Collection; California Code of Regulations, title 14, section 15306.

## **PUBLIC TRUST AND STATE’S BEST INTERESTS:**

Find that the proposed action will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values; is

consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

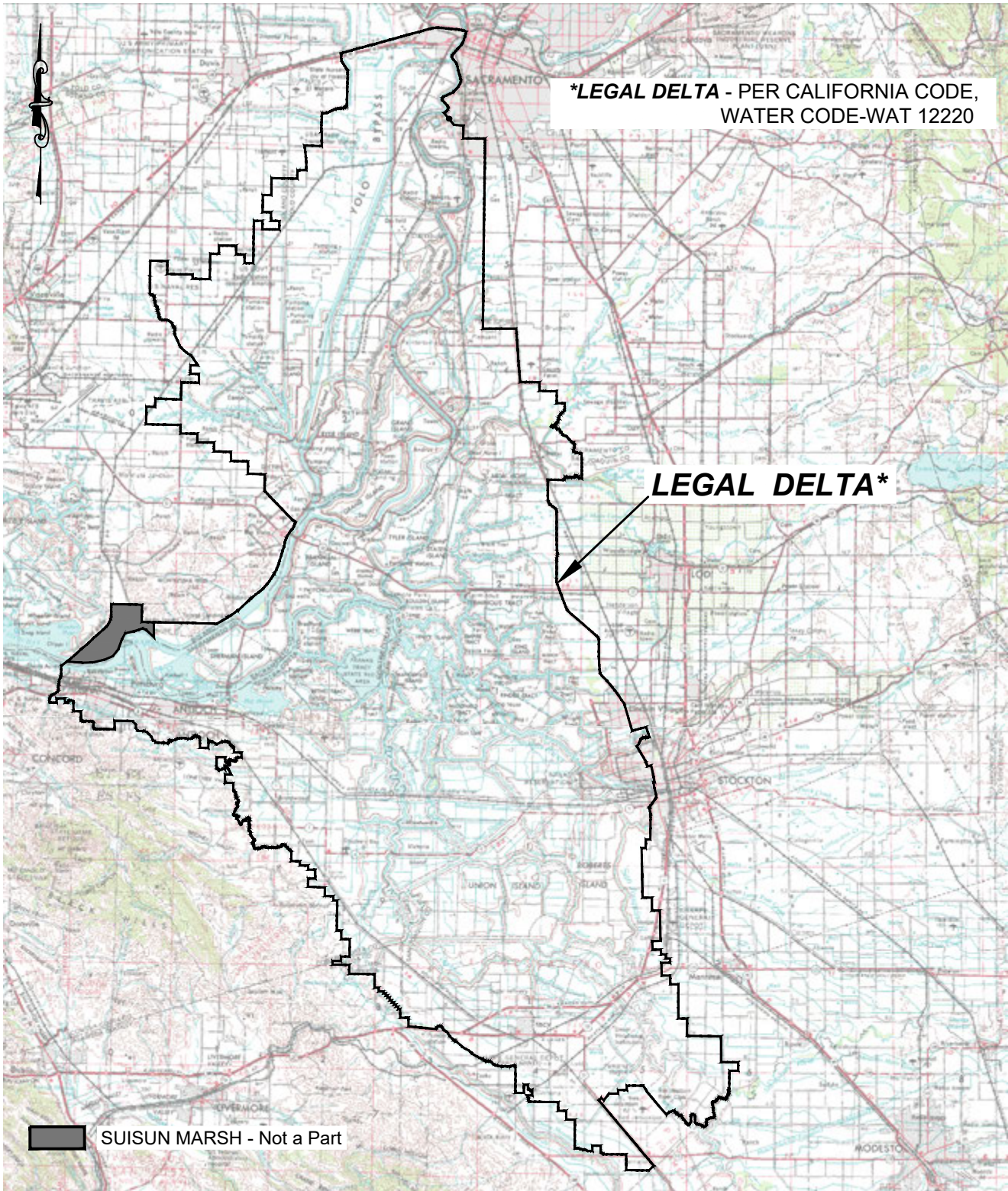
**AUTHORIZATION:**

Authorize the Executive Officer or her designee to solicit Request for Offers for contractor services, negotiate fair and reasonable prices, and award and execute agreements for the preparation of an environmental document, and for studies necessary to implement the proposed CADV Program, pursuant to the requirements of the Public Contract Code and current State policies and procedures.



NO SCALE

# EXHIBIT A



## ABANDONED DERELICT COMMERCIAL VESSEL IMPLEMENTATION PLAN

TS 02/03/2022

**W 27250**  
**THE SACRAMENTO - SAN JOAQUIN DELTA**  
SACRAMENTO, YOLO, SOLANO, CONTRA  
COSTA & SAN JOAQUIN COUNTIES

CALIFORNIA STATE  
LANDS COMMISSION

