

# Staff Report 83

## **PARTY:**

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Melvin E Chaney; Charles Smith d/b/a Sacramento Tugboat; Greger Pacific Marine Inc.

## **PROPOSED ACTION:**

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Consider taking title to and authorizing the removal and disposal of an abandoned vessel.

## **AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Haypress Reach, San Joaquin River, near McDonald Island, San Joaquin County.

## **BACKGROUND:**

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In January 2023, staff became aware of the tugboat *Ruth Elaine*, U.S. Coast Guard Doc. No. 629866, grounded near the McDonald Island levee in Haypress Reach. Based on Google Earth images, the vessel has been moored without authority in this location since at least September 2020. No party has come forward to claim ownership of the vessel, and staff has given notice to all parties known or thought to be associated with the vessel. San Joaquin County Sheriff staff believe it had been owned or controlled by a person without other shelter, who has since moved to an unknown location in southern California.

Commission staff coordinated with the California Department of Fish and Wildlife, Office of Spill Prevention and Response (OSPR), to investigate the vessel. OSPR wardens boarded the vessel on January 24, 2023, and found the vessel full of household hazardous waste, without proper mooring or anchoring, and partly flooded with approximately 500 gallons of oily water in the engine room. OSPR staff did not determine that the vessel posed an imminent threat of significant harm to the environment, and Commission staff therefore did not take emergency action to remove the vessel. Staff are now preparing to remove the vessel.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

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

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

Although staff did not determine that the *Ruth Elaine* posed an emergency threat in January, the vessel still poses a threat to navigation and the environment. The vessel could drift or shift and sink in deeper water. The status of fuel and oil tanks on board is unknown. Unauthorized people have been boarding the vessel, putting themselves at danger, and the trash and debris should be removed from state lands.

Staff tagged the vessel pursuant to Public Resources Code section 6302.1 on April 26, 2023, starting a 30-day time period after which, the vessel will be abandoned according to law. Once abandoned, the Commission may take title to the vessel and direct its disposition at a public meeting. Staff recommends that, if the vessel is not removed from state lands or to a permitted location, the Commission authorize staff to take title and to direct one of its on-call contractors to assess the vessel, prepare a workplan, and remove and demolish the vessel and its contents. To minimize liability for the Commission and state, staff proposes to not take title until a contractor is prepared to perform the work.

### **CONCLUSION:**

Staff believes that taking title to the vessel, if it has not been removed from state waters within the statutory period, and directing its disposal, is consistent with the Public Trust and is in the best interests of the State.

## **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 on sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law.
2. Commission staff posted notice on the *Ruth Elaine* on April 26, 2023, and mailed notice to various parties on April 27, 2023, pursuant to Public Resources Code section 6302.1. Public Resources Code section 6302.3 requires that any action regarding the disposition of a vessel must be delayed by 30 days following

Commission action. Staff recommends that the authorization to take title be delayed until this period has passed and until a contractor is prepared to perform the work.

3. 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.
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), and Class 30, Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances; California Code of Regulations, title 14, section 15330.

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

## **EXHIBIT:**

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A. Photos of *Ruth Elaine* tugboat

## **RECOMMENDED ACTION:**

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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 Alterations to Land; California Code of Regulations, title 14, section 2905, subdivision (d)(3), and Class 30, Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances; California Code of Regulations, title 14, section 15330.

### **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 at

this location, at this time, and for the foreseeable future; 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 designee, to take title to the *Ruth Elaine*, U.S. Coast Guard Doc. No. 629866, on or after July 5, 2023, unless before that date the vessel has been removed from state lands and not returned or has been moved to a permitted location.
2. Authorize the Executive Officer, or designee, on or after July 5, 2023, to direct one of the Commission's on-call abandoned vessel services contractors to remove and dispose of the *Ruth Elaine* and all its contents.
3. Authorize the Executive Officer, or 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 prudent.

Exhibit A



