

Staff Report 84

PARTY:

Marcus Felton

PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Calaveras River, adjacent to 2929 Calariva Drive, Stockton, San Joaquin County.

BACKGROUND:

Staff have been aware for several years of a houseboat, registration CF 2664 SH, moored without authority against the Calaveras River levee adjacent to 2929 Calariva Drive, Stockton. This houseboat is owned by Marcus Felton, who has a relationship with the upland ownership. Staff have sent six letters since 2019 to the upland owner requesting an application for a lease. No response has been received.

In March 2023, staff of the San Joaquin County and Central Valley Flood Protection Board (CVFPB) contacted Commission staff with concerns that the improper mooring of the houseboat endangers levee integrity. The County District Attorney staff has charged Mr. Felton with misdemeanor criminal charges for illegal mooring. CVFPB staff are preparing a civil enforcement action for encroachment on the levee. Commission staff agreed to participate in a coordinated response.

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:

CVFPB staff believes that the houseboat is moored in such a way that it could uproot trees, compromising levee integrity. CVFPB staff also states that they could not permit the vessel at this location with this style of mooring. County Sheriff staff believe that the houseboat is presently used for storage and fishing and not as a residence. County Sheriff staff have also agreed to accept title to the vessel, either from Mr. Felton or from the Commission, and then to use state grant funds to remove and dispose of the vessel. There will be no cost to the Commission other than staff time and costs of legal notice.

Recreational boating is consistent with the Public Trust Doctrine, but the Commission has authority to manage sovereign lands for the benefit of all Californians and may abate unpermitted storage of a recreational vessel or the maintenance of a nuisance vessel on state sovereign lands. Doing so promotes a safe environment for other boaters and prevents marine pollution and environmental damage. This vessel also threatens levee integrity, endangering upland property, according to CVFPB staff.

The houseboat was tagged, pursuant to Public Resources Code section 6302.1, on April 21, 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 immediately deliver title, control, and liability for the vessel and its contents to San Joaquin County Sheriff staff. This will minimize liability to the Commission and state and allow the County to remove or dispose of the vessel quickly.

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:

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 caused notice to be posted on the houseboat on April 21, 2023, and mailed notice to Marcus Felton on April 24, 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 to minimize the period of state ownership.
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).

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

EXHIBIT:

- A. Photos of houseboat CF 2664 SH

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 14, section 2905, subdivision (d)(3).

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 houseboat, registered as CF 2664 SH, on or after July 5, 2023, unless before that date the houseboat has been removed from state lands and not returned or has been moved to a permitted location.
2. Authorize the Executive Officer, or designee, to transfer all of the Commission's right, title, and interest in the houseboat and its contents to the San Joaquin County Sheriff's Office.
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



LEGAL NOTICE

THIS VESSEL HAS BEEN POSTED AS TRESPASSING
pursuant to Public Resources Code Section 6302.1.

If this vessel is not claimed or removed by the legal owner **within 30 days** of the date below, it will be abandoned property and the State Lands Commission may remove and dispose of it. The Commission may also take legal or administrative action to recover its costs and damages.

To claim this vessel or for additional information, contact:
California State Lands Commission
100 Howe Ave.
Suite 100-South
Sacramento, CA 95825
(916) 574-1900

DATE POSTED 04-21-23 C1221

BY Deputy B. Merritt

