

# Staff Report 85

## **PARTIES:**

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John Stubbe; Eric Isaacson; Eugene Isaacson

## **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 the Sacramento River, near Freeport, Sacramento County.

## **BACKGROUND:**

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John Stubbe has anchored the sailboat *Gray Finn*, U.S. Coast Guard Doc. No. 976442, without authority since at least February 2018 in the Sacramento River, just south of Cliff's Marina. Mr. Stubbe lived on the vessel at least part time and stored possessions and household hazardous waste there. The *Gray Finn* sank in early 2023, releasing fuel, hazardous waste, and trash into the Sacramento River. Mr. Stubbe now occupies another vessel sometimes anchored next to the *Gray Finn*.

Sacramento County Sheriff's staff have been in contact with Mr. Stubbe before and after the *Gray Finn* sank. Mr. Stubbe claims to be salvaging the *Gray Finn* but has made no progress over several months. Mr. Stubbe has refused to voluntarily turn the vessel over to Sheriff staff for disposal.

## **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:**

The sunk *Gray Finn* contains fuel, oil, and household hazardous waste, such as paints and solvents, and trash. All these contaminants are actively leaching into the Sacramento River. The mast of the sunk vessel protrudes from the water, presenting an unmarked navigational hazard. Sacramento County Sheriff staff have agreed to accept title to the vessel 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 generally 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, the maintenance of a nuisance vessel on state sovereign lands, and environmental hazards. Doing so promotes a safe environment for other boaters and prevents marine pollution and environmental damage.

The houseboat was tagged, by the Sacramento County Sheriff, pursuant to Public Resources Code section 6302.1 on May 1, 2023, starting a 30-day 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 moved 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 Sacramento County Sheriff staff. This will minimize liability to the Commission and the 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:**

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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 caused notice to be posted on the houseboat on May 1, 2023, and mailed notice to John Stubbe and Eric and Eugene Isaacson, two other possible owners or former owners identified during records searches, on May 2,

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), 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 the *Gray Finn*

## **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 *Gray Finn*, USCG Doc. No. 976442, 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, to transfer all of the Commission's rights, title, and interest in the vessel and its contents to the Sacramento 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**



