

# Staff Report 59

## **PARTIES:**

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Salt River Construction Corporation

## **PROPOSED ACTION:**

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Consider taking title to and authorizing the removal and disposal of three abandoned vessels, and authorizing staff to enter a settlement agreement.

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

Sovereign land in Fraser Shoal, Broad Slough, Sacramento County.

## **BACKGROUND:**

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Salt River Construction Corporation (Salt River) is a marine construction and dredging company headquartered in Marin County. Salt River and its president, Richard Moseley, moved a fleet of commercial vessels, including barges, dredgers, tugs, and other work vessels, into Fraser Shoal without authorization in late 2016. Staff and agency partners, including the United States Coast Guard, California Department of Fish and Wildlife – Office of Spill Prevention and Response, and adjacent county sheriff's offices, have attempted to bring Salt River under lease or require Salt River to move its fleet to an authorized location beginning in March 2017. The fleet now comprises approximately 20 vessels, many or most of which appear to be unseaworthy, inoperable, and resting on the shallow bottom.

## **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:**

Fraser Shoal is a shallow area on the Sacramento County side of Broad Slough, near the confluence of the Sacramento and San Joaquin Rivers, and a federally designated anchorage (Anchorage No. 28, [33 C.F.R. § 110.224](#)). Federal anchorages are intended to promote waterborne commerce by, among other things, providing safe anchoring grounds for vessels in transit. Permanently mooring a vessel or maintaining a sunk vessel are violations of federal anchorage regulations. And, notwithstanding the federal designation, Fraser Shoal remains state property under the jurisdiction of the Commission. Any long-term use of the property requires a lease, including rent and lease provisions to protect the state and the public. Salt River has refused to engage staff on these matters.

Staff visited the site on June 30, 2023, partially at the request of the Sacramento County Sheriff's Marine Patrol Unit. Sheriff staff had stated concerns about one derelict vessel, *Coyote*, which was known to have fuel on board. On site, staff identified three vessels with onboard engines or components that may contain fuels and oil. These vessels are *Coyote*, a former U.S. Army Corps of Engineers debris collector; an approximately 120-foot-long crane barge, possibly named *Mink*; and an approximately 95-foot-long tugboat, possibly named *Double Eagle*. (See Exhibit A) Staff selected these vessels for immediate action because of the potential threat of release of petroleum products and other hazardous materials into the environment. The remaining vessels on site do not appear to have integral engines and may be addressed later.

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

- After receiving staff's notice of proposed actions, Mr. Moseley contacted staff to discuss voluntarily removing the Salt River vessels from Broad Slough. Commission legal and enforcement staff reached a tentative outline for a settlement agreement with Mr. Moseley on July 27. The Agreement would contain the following terms among others: Salt River would remove all of its vessels from Broad Slough according to an agreed upon timeline, beginning on December 15, 2023, after the close of the dredging season, at a rate of no fewer than 3 vessels per month;

- Salt River would scrap all vessels that are no longer commercially useful; if Salt River retains or sells any vessels, Salt River will provide information about the proposed uses, mooring location, and buyer of the vessels; and
- Salt River will provide financial assurance for compliance with the agreed schedule.

In exchange, Commission staff would agree not to exercise the Commission's authorization pursuant to this staff report or to take any other action against Salt River related to its vessels in Broad Slough, so long as Salt River complies with the agreed removal schedule. Staff believes that a settlement including these terms would result in clearing all of Salt River's vessels from Broad Slough more quickly and at less cost to the State than adverse action between the Commission and Salt River.

### **CONCLUSION:**

Staff believes that taking title to the vessels, if they have not been removed from state waters within the statutory period, and directing their disposal or entering into a settlement agreement that will result in removal of the vessels 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 vessels on June 30, 2023, and mailed notice to Salt River Construction Corporation on July 13, 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 Alterations 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 Coyote, unnamed crane barge, and unnamed 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 her designee, to take title to any of Coyote; an approximately 120-foot-long crane barge, possibly named *Mink*; and an approximately 95-foot-long tugboat, possibly named *Double Eagle*, on or after September 18, 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 her designee, on or after September 18, 2023, to direct one or more of the Commission's on-call abandoned vessel services contractors to remove and dispose of any vessel taken by the Commission and all of its contents.
3. Authorize staff to negotiate and enter a settlement agreement with Salt River Construction that incorporates the terms described in this Staff Report and to take all further actions which may be necessary or appropriate to carry out the provisions of said agreement.
4. 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 prudent.

## EXHIBIT A - COYOTE

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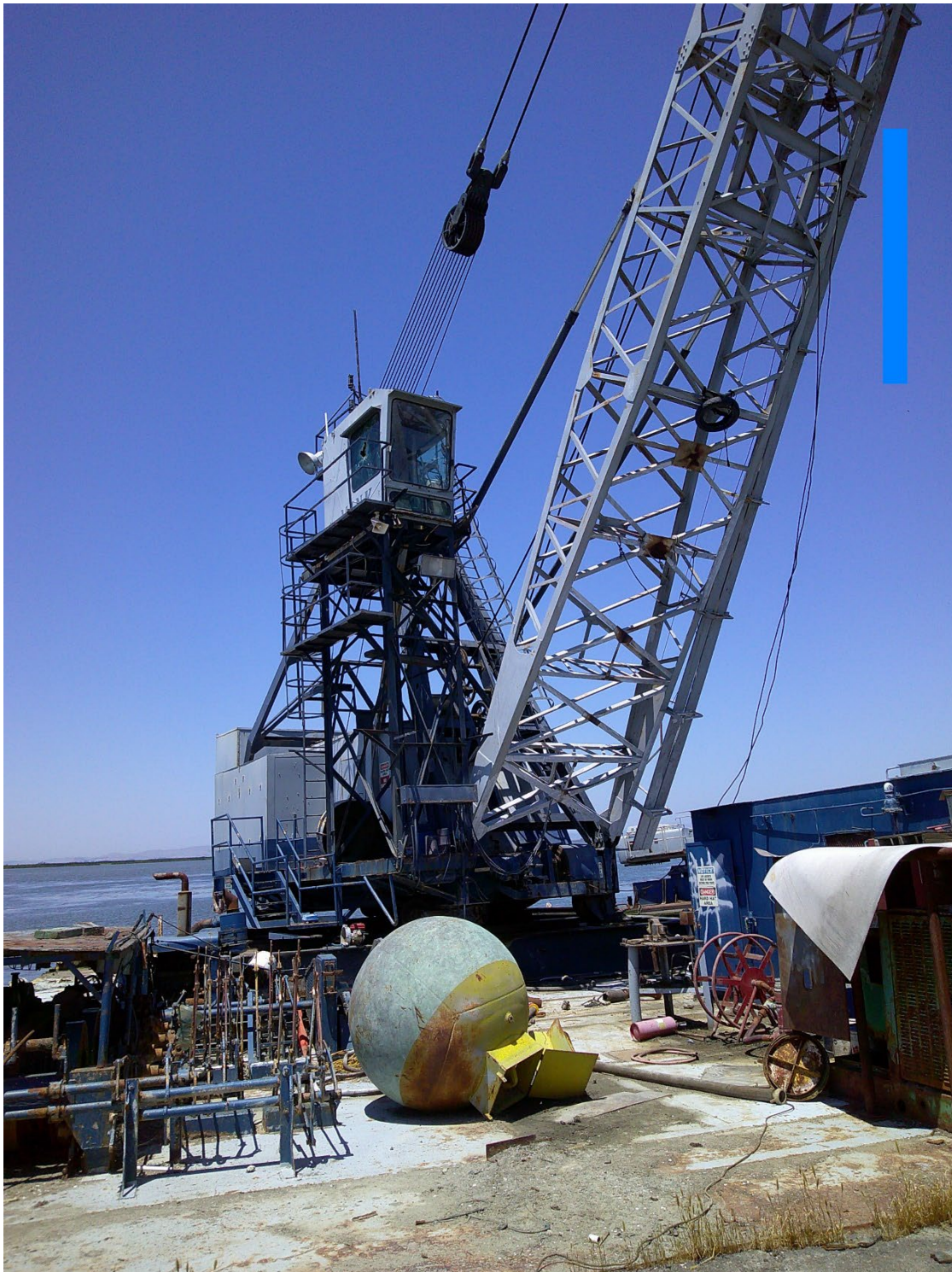




unnamed crane barge, possibly *Mink*











**unnamed tugboat, possibly *Double Eagle***



