

Staff Report 60

PARTIES:

Claus Von Wendel

PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Mayberry Slough, near Donlon Island, Sacramento County.

BACKGROUND:

Claus Von Wendel has maintained a substantial, unauthorized presence in Mayberry Slough for over 10 years. Von Wendel owns a portion of the upland Donlon Island (sometimes spelled Donlan Island) but has illegally moored large commercial and recreational vessels, barges, and docks in the Slough. In 2011, the Commission authorized staff and the Office of the Attorney General to take action against Von Wendel ([Item 71, September 1, 2011](#)). Despite this authorization, staff and allied agencies could not find an economically feasible way to dispose of Von Wendel's property or encourage Von Wendel to remove his property at that time. State, federal, and local agencies have kept in touch with Von Wendel and encouraged him to dispose of unused vessels and equipment voluntarily. Those efforts have been unsuccessful.

The *Bosco Baby*, USCG No. 653963, is an approximately 50-foot-long fishing vessel that has remained on site for at least 10 years. Several other commercial vessels are on site, including a sunken crane barge and six to eight former military LASH barges, one of which is burnt and one or more of which is sunk. Staff recommend disposing of only the *Bosco Baby* at this time because that vessel is still floating. Removing a vessel while floating is more economical and prevents adverse environmental threats that may occur once a vessel sinks.

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:

Staff visited Mayberry Slough on June 30, 2023. Von Wendel was present and confirmed that the *Bosco Baby* had fuel on board. He claims that the vessel is operable but admitted that he had not moved it in several years. Staff affixed a tag to the vessel and provided another directly to Von Wendel pursuant to Public Resources Code section 6302.1, 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 it 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. Further, removing the vessel will prevent it from sinking and negatively impacting a navigable waterway, public access within the waterway, marine life, and potentially other public trust resources.

CONCLUSION:

Staff believes that taking title to the vessel, if it has not been removed from state waters within the statutory period, and directing their 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 posted notice on the vessel on June 30, 2023, and mailed notice to Von Wendel 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:

- A. Photos of the *Bosco Baby* (all pictures taken by staff)

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 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 the *Bosco Baby*, 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 of the Commission's on-call abandoned vessel services contractors to remove and dispose of the vessel.
3. 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 – Bosco Baby



