

# Staff Report 64

## **PARTIES:**

Salt River Construction Corporation

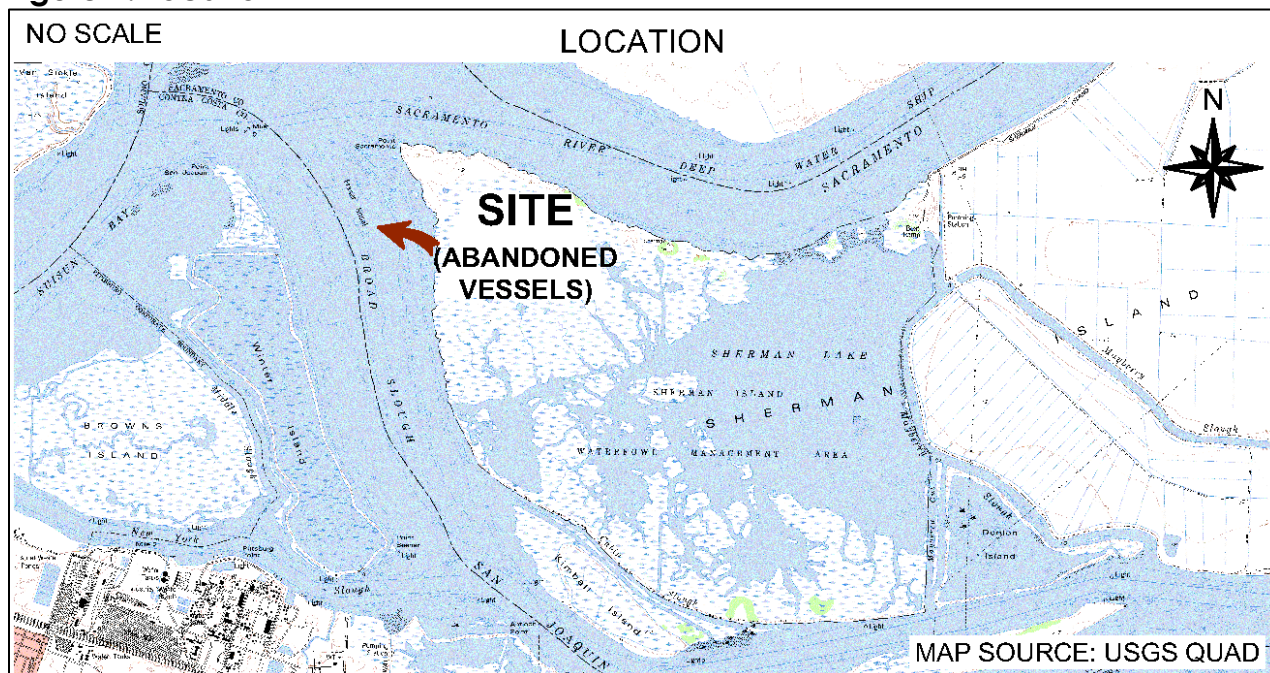
## **PROPOSED ACTION:**

Consider taking title to and authorizing the removal and disposal of twenty-two abandoned vessels.

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

Sovereign land in Fraser Shoal, Broad Slough, Sacramento County (as shown in Figure 1).

**Figure 1. Location**



## **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 since March 2017.

In August 2023, the Commission authorized staff to remove and dispose of three vessels and to negotiate and enter into a settlement agreement with Salt River. ([Item 59, August 17, 2023](#)). Subsequently, Salt River and the Commission entered into an agreement whereby Salt River would remove its vessels according to a schedule, with all vessels removed by July 2024 ([Executive Officer's Report, October 19, 2023](#)). Salt River has removed two vessels since then—the “BCDC barge” and the “Ferry barge”—and demolished only one of them fully. Salt River has been unable to maintain the agreed upon schedule of removal and has instead moved additional commercial vessels into Fraser Shoal. Staff estimates that cleanup could take several years at Salt River's current removal rate. Such a timeline is unacceptably long and increases the risks that these dilapidated vessels could both sink and leak pollutants into the surrounding environment.

## **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. 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 reasonable conditions to protect the state, the environment, and the public. Salt River has refused to enter into a lease or engage staff on these matters.

On April 4, 2024, staff visited the site and boarded and affixed tags to twenty-one commercial vessels and one recreational vessel pursuant to Public Resources Code section 6302.1. This started 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.

All the vessels pose an environmental threat due to flaking paint (often containing lead, copper, zinc, and other metals) and steel hulls with rusted decks and railings. At least two barges have metal tanks on deck that may contain fuel. The decks of many vessels are stacked with debris such as plastic and metal pipes, engine parts and inoperative machinery, timber, concrete, and building and landscaping materials. Removal from the water is the only complete solution to abate threats to the environment and navigation.

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 to direct one of its 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.

Removing and disposing of this large number of commercial vessels is a significant undertaking that could consume most or all of the Commission's vessel abatement funds. Staff intends to continue to encourage Salt River to dispose of its own property, while also removing selected vessels on staff's own timeline. None of the recommended actions are intended to or will limit Salt River's liabilities, and Salt River will remain responsible for reimbursing the Commission's full expenses. Staff will seek cost reimbursement consistent with the recommendation below.

The Commission's abandoned vessel abatement funds are limited to commercial vessels. Staff will work with a local agency to try to arrange disposal of the recreational vessel.

**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, 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 April 4, 2024, and mailed notice to Salt River Construction Corporation on April 19, 2024, 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. Aerial view of Salt River fleet

## **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 through the combination of the following exemptions: 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 promote public rights to navigation and fishing and improve Public Trust needs and values at this location; 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 or all of twenty-one commercial vessels and one recreational vessel on or after July 7, 2024, as a single action or through separate actions, 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 July 7, 2024, 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 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 actions or civil litigation, as needed.

# Exhibit A

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## Aerial view of Salt River fleet, Broad Slough, Sacramento County

