

Meeting Date: 12/17/24
Work Order Number: 27250
Staff: A. Kershen
V. Caldwell
J. Bryant

Staff Report 59

PARTIES:

California State Lands Commission

John McCubbin

U.S. Fish and Wildlife Service

Sonoma County Sheriff's Office

PROPOSED ACTION:

Consider taking title to and authorizing the removal and disposal of the sailboat *Perseverance*.

AREA, LAND TYPE, AND LOCATION:

A navigable waterway owned by the United States, Sears Point Wetlands Restoration Area, San Pablo Bay National Wildlife Refuge, Sonoma County (as shown in Figures 1 and 2, below).

Figure 1. Location

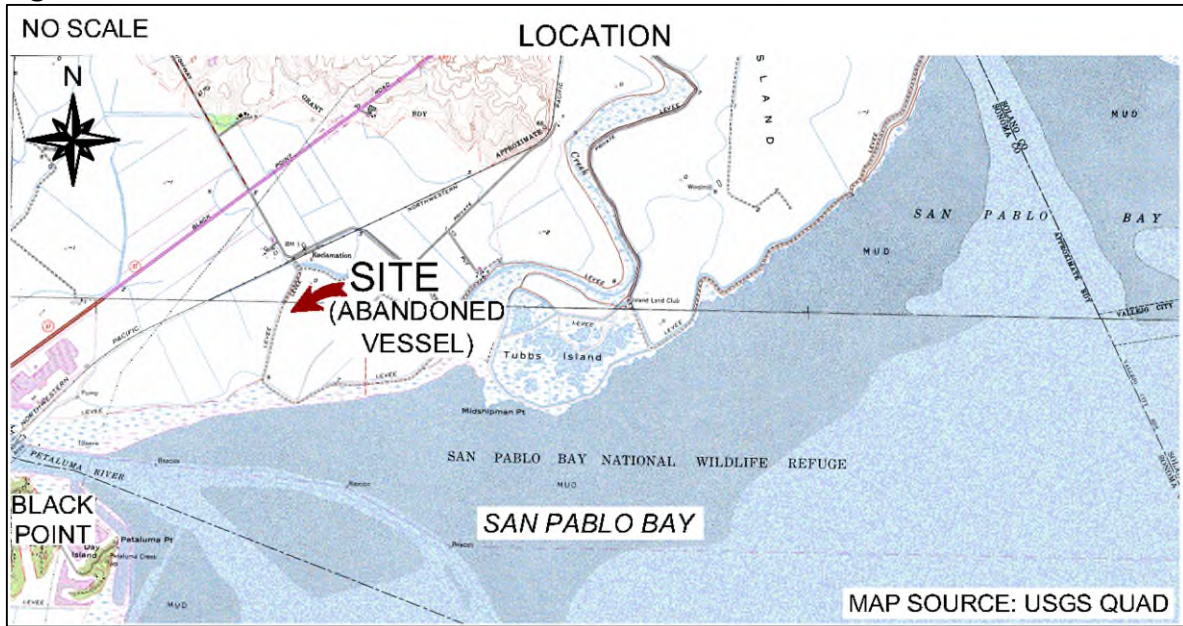
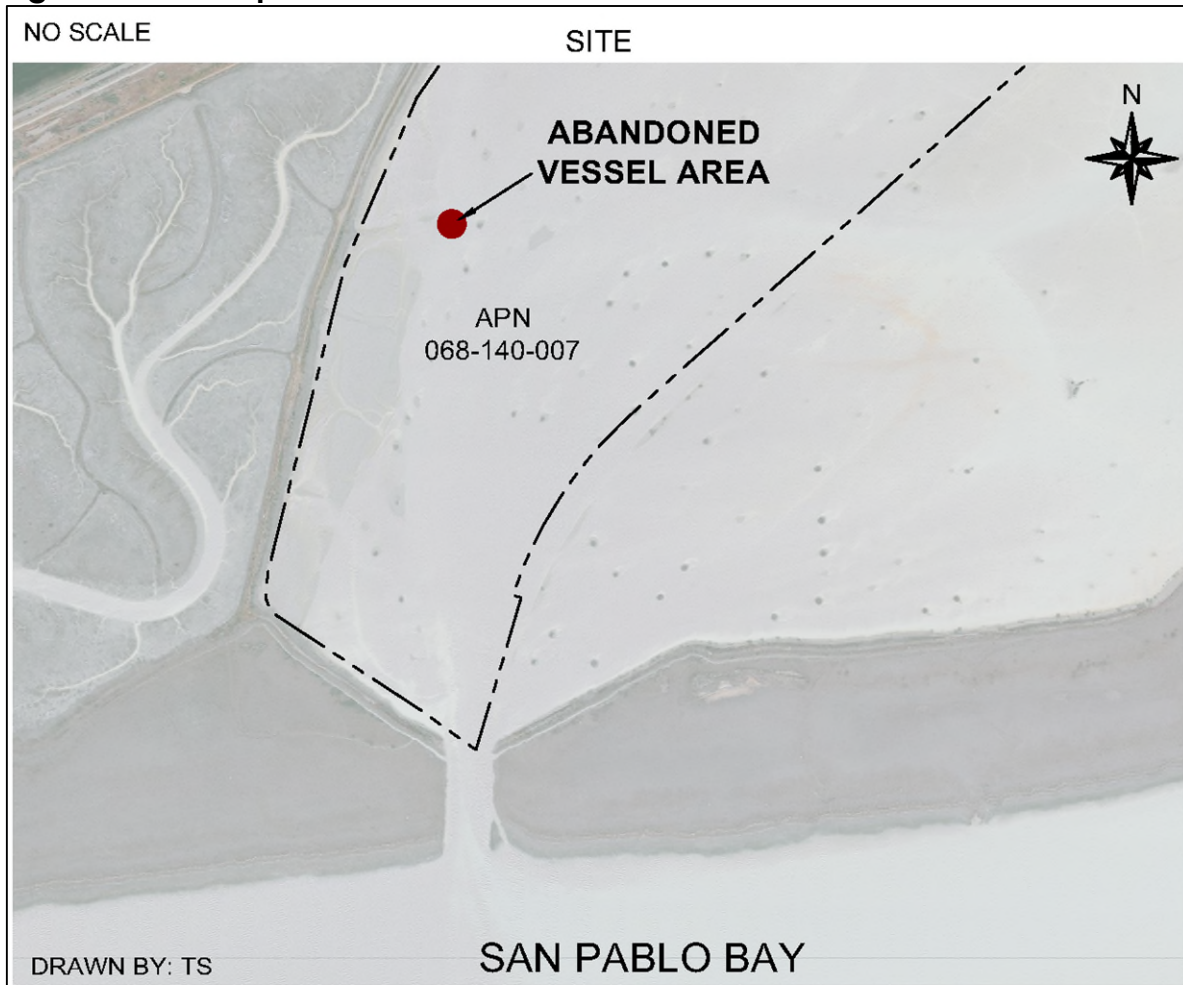


Figure 2. Site Map



BACKGROUND:

The *Perseverance*, a 70-foot-long steel-hulled sailboat, has been grounded in a shallow estuary since winter of 2023–24. The estuary is federal land operated by the United States Fish and Wildlife Service (USFWS) as part of the Sears Point Wetlands Restoration Area within San Pablo Bay National Wildlife Refuge.

John McCubbin is the only known potential owner of the vessel. According to staff's conversations with McCubbin and Sonoma County Sheriff's staff, the *Perseverance* was formerly owned by McCubbin's roommate, Bruce Sinclair. Sinclair died and Sinclair's siblings gifted the *Perseverance* to McCubbin. McCubbin lived on the vessel for a time but realized that he could not afford to maintain or dock the boat. McCubbin abandoned the *Perseverance*, which subsequently drifted into the Sears Point Wetlands.

McCubbin lived without shelter for a time and is now in supported housing. Staff believes that McCubbin does not have the ability or financial means to remove the *Perseverance* himself.

By letter dated October 10, 2024, USFWS requested that the Commission use its authority to take title to and dispose of the vessel.

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:

The *Perseverance* is grounded on a mudflat but likely floats at high tide. With a high tide and good weather, a marine contractor could tow the vessel out of the restoration area to deeper water, where it could be properly secured and relocated for deconstruction and disposal.

The vessel will likely be more difficult to remove the longer it sits in its present location. The vessel will naturally deteriorate, and it is also susceptible to vandalism, scavenging, and attempts to move the vessel. USFWS believes the vessel poses a safety issue for visitors. Sonoma County Sheriff's staff has observed signs of people boarding the vessel.

Sherriff's staff posted physical notice of trespass on the vessel on October 30, 2024, starting a 30-day period after which the vessel will be abandoned according to law. (Pub. Resources Code § 6302.1). The 30-day period to remove the vessel will expire on November 29th. At the time this staff report was drafted, the vessel had not been removed. Commission staff sent mail notice to McCubbin within the required notice period.

If the vessel is deemed abandoned, the Commission may take title to it and direct its disposition after the 30-day period required in Public Resources Code section 6302.3. Staff has coordinated with USFWS and Sonoma County Sheriff's Office on a removal plan. If the Commission takes title to the vessel, Sonoma Sheriff staff will accept the vessel from the Commission and remove and properly dispose of the vessel. The *Perseverance* will be removed from the Refuge at no cost to the Commission other than staff time.

CONCLUSION:

Staff recommends 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 authorizations are discretionary actions 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.
2. Public Resources Code section 6302.3 requires that any action regarding the disposition of a vessel must be delayed by 30 days following Commission authorization. Staff recommends that the authorization to take title be delayed until this period has passed to minimize liability to the state.
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 15061, and California Code of Regulations, title 2, section 2905.

EXHIBIT:

A. Photographs.

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 through the combination of the following exemptions: 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.

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 sailboat *Perseverance* on or after January 16, 2025, 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 January 16, 2025, to transfer all of the Commission's right, title, and interest in the *Perseverance* and its contents to the Sonoma County Sheriff's Office.
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



Photos courtesy of the Sonoma County Sheriff's Office.