

# ABANDONED COMMERCIAL VESSEL REMOVAL PLAN

## SACRAMENTO-SAN JOAQUIN RIVER DELTA REGION

A REPORT TO THE LEGISLATURE BY THE  
CALIFORNIA STATE LANDS COMMISSION



PREPARED PURSUANT  
TO PUBLIC RESOURCES  
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## Executive Summary

Abandoned commercial vessels are a significant problem for California and its population. Neglected vessels are or can become navigation hazards, environmental hazards, and public health and safety hazards.

Abandoned commercial vessels are also costly to process, remove and dispose. Costs range from tens of thousands to several millions of dollars per vessel depending in part on its size, location, and condition. Millions of dollars have been spent in the greater San Francisco Bay and Sacramento – San Joaquin Delta regions since 2014 for hazardous substance removal alone.

In the Sacramento – San Joaquin Delta region, numerous overlapping jurisdictions make effective abandoned commercial vessel management difficult to coordinate, with no unifying program to address ongoing issues. Budget constraints coupled with significant costs of removing these typically large vessels are also obstacles to removal.

A 2017 aerial survey identified 55 abandoned commercial vessels in the five-county area that comprises the Sacramento – San Joaquin Delta region. A majority of the waterways in the Delta region are sovereign lands subject to the State Lands Commission's (Commission) jurisdiction.

Codified as Public Resources Code section 6302.2, Assembly Bill 2441 (Frazier), Chapter 540, Statutes of 2018, requires the Commission to develop an abandoned commercial vessel removal plan (Plan) and to implement it upon funding. The Commission is to develop the Plan by July 1, 2019, in consultation with other relevant state and local agencies directly involved in abandoned commercial vessel removal, and to prioritize removal based on risks to the Delta environment and public health and safety.

The Commission's Plan proposes to accomplish four objectives:

1. Develop a risk-based systematic approach for prioritizing vessels;
2. Develop the program infrastructure to facilitate ongoing removal efforts;
3. Develop a cost basis for budgeting; and
4. Provide recommendations for future Plan-related actions needed to prevent or minimize ongoing abandoned commercial vessel problems.

Plan implementation will represent a new program for the Commission, so additional staffing will be required for start-up and ongoing operations. At minimum, staff recommends adding position allocations for a boat captain, a support staff, and a supervisor.

The Plan includes various elements for successful implementation. Upon start-up, staff proposes to perform a year-long ground truthing survey to verify known abandoned commercial vessels and identify previously unknown vessels to obtain comprehensive data. Identified vessels will be prioritized for removal using a four-level risk-based matrix

ranging from “Priority 1 Emergency – Immediate or High Risk” to “Priority 4 Non-Emergency – No Immediate Risk.” Other factors can also be used to establish priority, including a vessel’s size, and whether vessels are clustered together, among others.

The Plan also proposes to include database development that can be used by staff, partner agencies, and the public. The database can allow for mobile data collection and field updates and can be configured to provide varying levels of access and configurable mapping.

Ownership identification will be an important part of the Plan’s required noticing process under either Harbors and Navigation Code sections 550 and 551, or Public Resources Code sections 6302.1, 6302.3, and 6302.4. Commission staff will make a reasonable attempt to identify owners of record to allow owners an opportunity to claim vessels, and to allow the Commission an opportunity to collect costs associated with a vessel’s identification and removal. Under the applicable codes, abandoned commercial vessels can be removed either as marine debris or as a trespassing vessel.

Plan estimates for staff time and program costs are divided by significant activity and whether allocated toward start-up or ongoing functions. Where each can be reasonably estimated, estimates are provided in Tables A through D. Table E provides a summary total of all estimated program staff time at 3,194 hours for the first year, with 1,480 hours for year two and ongoing years, and costs of \$2,208,700 for the first year. Ongoing costs are unknown but will depend primarily on a yearly vessel removal budget to be estimated based on an annually prioritized target vessel list. Staff time and costs are estimates only and may be revised to reflect new or better information not currently available, such as when contract requirements are determined.

The Plan would be implemented upon funding; therefore, no specific funding mechanism is identified. However, general funding sources are discussed, including Legislative appropriations, special fund allocations, the Budget Change Proposal process, or a combination of all three.

The Plan also proposes future program recommendations intended to help prevent additional commercial vessels from becoming a costly burden on the state and its citizens. Recommended future actions include: expanding to a state-wide program; delegating Commission authority to allow the Executive Officer to implement Plan functions to reduce the time required to effect vessel removal; consolidating applicable codes provisions under the Public Resources Code to help streamline the administrative process and provide uniformity for both marine debris and trespassing vessels; implementing ownership requirements for marginal and end-of-life vessels so they are less likely to be acquired by individuals who lack financial resources to adequately rehabilitate or dispose of them; and finally leveraging relationships with elected officials to help facilitate abandoned vessel removal and sponsor legislation to limit future abandonments.



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## Introduction

Abandoned commercial vessels are a significant problem for California and its population. Neglected vessels can break free from moorings and drift uncontrolled into navigation channels, becoming a threat to other vessels; they can sink, becoming hidden hazards to boaters and leach heavy metals into the environment; they can release hazardous wastes such as diesel fuel, hydraulic fluid, and asbestos and can be a vector for introducing non-native invasive species into California's waterways, causing environmental degradation; and they can become attractive nuisances or locations for illegal activities, putting the public at risk.

Abandoned commercial vessels are also costly to process, remove, and dispose. Costs range from tens of thousands to several millions of dollars per vessel depending in part on its size, location, and condition. The primary cost factors are whether a vessel is floating or sunk—sunken vessels are significantly more costly to remove—the vessel's size or tonnage, and the presence and extent of hazardous materials. Comprehensive information on accurate disposal costs does not exist, but individual examples are available to illustrate the magnitude. For instance, a coalition of public agencies recently removed and destroyed two vessels, the *Blackhawk* and *Black Kite*, twin 110-foot steel-hulled tugboats illegally abandoned near the City of Richmond.



*"Black Kite" at East Bay Regional Parks Historic Dock*

The cost for removal and destruction alone was close to \$400,000. This total does not include hazardous materials removal performed by the United States Environmental Protection Agency with federal funds. It also does not account for staff time of the state, federal, and local agencies that coordinated for more than a year to accomplish removal and destruction, nor does the total include over \$41,000 the United States Coast Guard spent for multiple spill responses to aid these vessels and protect the environment. Since 2014, the United States Coast Guard has spent almost \$4.8 million removing hazardous



*"Blackhawk" at Port of Richmond*



*"Black Kite" Demolition at Dry Dock, Mare Island*



substances from sunken and endangered abandoned commercial vessels in the greater San Francisco Bay and Sacramento – San Joaquin Delta regions. That figure does not include actual vessel removal and disposal; many of these vessels remain in the water.

Effective management for trespassing commercial vessels prone to abandonment is difficult to coordinate. The Delta area includes major bays and ship channels and a vast network of winding, interconnected rivers and sloughs cutting across county boundaries. At any given location a large number of agencies may be involved, each with different jurisdiction, authority, and mandates, but there is no unifying program to address ongoing issues. For example, a suspect vessel may be identified in one agency's jurisdiction, but before that agency can take action the vessel's owner moves it to another area under a different agency's jurisdiction, where the process of identification and removal efforts start all over again, assuming the agency has the necessary program, funding, and staffing in place to deal with the problem. Budget constraints coupled with the significant costs associated with removing these typically large vessels are also obstacles to removal.

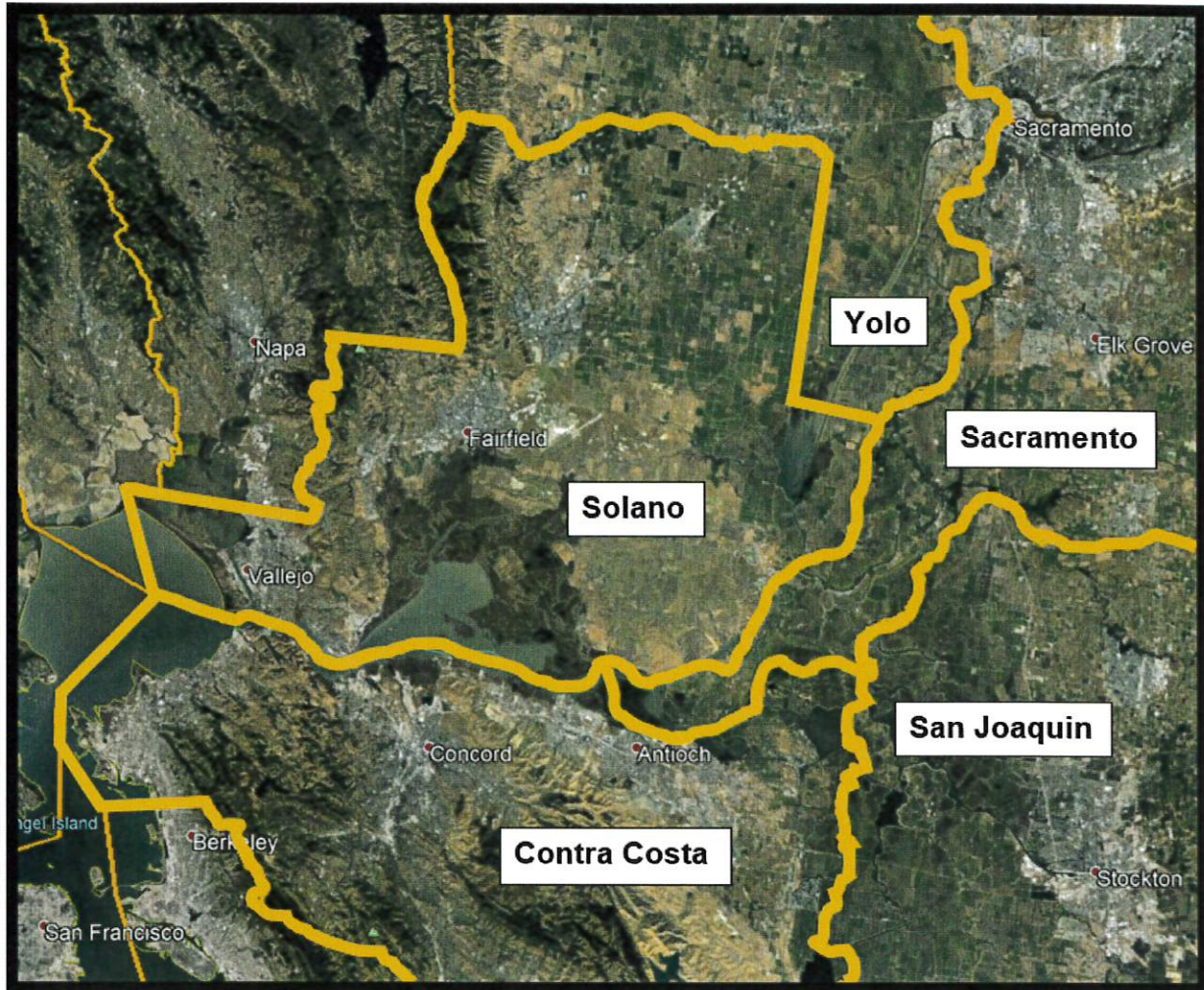
A 2017 survey performed by the Department of Fish and Wildlife's Office of Spill Prevention and Response (OSPR) found 55 abandoned commercial vessels in the five-county Plan area (Contra Costa, Sacramento, San Joaquin, Solano, Yolo) that encompasses the Sacramento – San Joaquin Delta region. A majority of the waterways in the Delta region are sovereign lands under the State Lands Commission's (Commission) jurisdiction.

Assembly Bill 2441 (Frazier), Chapter 540, Statutes of 2018, requires the California State Lands Commission to develop a removal plan and implement it upon program funding. The text of AB 2441, codified as Public Resources Code section 6302.2 follows:

- (a) The commission shall, in consultation with other relevant state and local agencies directly involved in the removal of abandoned vessels, by July 1, 2019, develop a plan for the removal of abandoned commercial vessels.*
- (b) The plan required to be developed pursuant to subdivision (a) shall prioritize the removal of vessels based on the risk an abandoned commercial vessel presents to the environment of the Sacramento-San Joaquin Delta and to the health and safety of the public.*
- (c) The commission shall implement the plan required to be developed pursuant to subdivision (a) upon receipt by the commission of funds appropriated by the Legislature and any federal or private funds for this purpose.*
- (d) For purposes of this section, "Sacramento-San Joaquin Delta" means the lands within the boundaries of the Counties of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo.*

The five-county Plan area is shown below in Figure 1.





**Figure 1 – Five-County Plan Area Map**

## **Plan Scope**

The Commission's Abandoned Commercial Vessel Removal Plan (Plan) proposes to accomplish four objectives:

1. Develop a systematic approach to prioritize abandoned commercial vessels in the five-county Sacramento – San Joaquin Delta region for removal purposes, based on the relative hazard each vessel or group of vessels pose to the environment, and to public health and safety.
2. Develop the program structure, processes, and procedures within the Commission and in coordination with agency partners to facilitate ongoing commercial vessel removal, including the current vessel inventory and vessels abandoned in the future.



3. Develop a cost basis for the Plan for budgeting purposes, to include one-time start-up costs and projected annual costs for vessel removal and regular Plan maintenance.
4. Provide recommendations for additional mechanisms to help prevent commercial vessels from becoming a problem in the future.

## **Strategic Plan Goals**

The Plan touches on aspects of all four of the Commission's 2016–2020 Strategic Plan goals including:

- *Leading Innovative and Responsible Land and Resource Management*
- *Meeting the Challenges of Our Future*
- *Engaging Californians to Help Safeguard Their Trust Lands and Resources*
- *Cultivating Operational Excellence by Integrating Technology*

The Commission's Strategic Plan can be viewed here: [State Lands Commission 2016-2020 Strategic Plan](#), or on its website at [www.slc.ca.gov](http://www.slc.ca.gov).

## **Commercial Vessel Definition**

For purposes of this Plan, a commercial vessel is generally defined as:

- A vessel of 30 feet or more in length, *and*
- That was manufactured for commercial or military purposes *or* that was used for all or some portion of its functional life for other than recreational purposes.

The State of California currently has an abandoned recreational vessel removal program administered by the California Department of Parks and Recreation, Division of Boating and Waterways (DBW). The program facilitates recreational vessel removal through the Surrendered and Abandoned Vessel Exchange program (SAVE), which includes the Abandoned Watercraft Abatement Fund (AWAF) and the Vessel Turn-In Program (VTIP). SAVE program funds may not be used to abate commercial vessels.



*Grounded & Abandoned Fishing Vessel near Pittsburg*



Generally, vessels eligible for abatement under the DBW program would not qualify for removal under this Plan, though there may be some overlap or borderline cases. Commission staff would work with DBW to eliminate gaps in program coverage and minimize overlap.

## **Abandoned Commercial Vessel Distribution**

The OSPR survey inventory of abandoned commercial vessels in the five-county Plan area is distributed throughout the region and its waterways as shown below in Table 1:

County	Vessel Numbers	Major Waterways
Contra Costa	14	San Joaquin River Broad Slough Old River San Pablo Bay
Sacramento	7	Sacramento River American River San Joaquin River Mokelumne River Georgiana Slough 3-Mile Slough 7-Mile Slough
San Joaquin	12	San Joaquin River Mokelumne River Stanislaus River Calaveras River Little Potato Slough Disappointment Slough Little Connection Slough 14-Mile Slough Middle River Turner Cut
Solano	19	Sacramento River Suisun Slough/Bay Grizzly Bay Carquinez Strait Steamboat Slough
Yolo	3	Sacramento River

**Table 1 - Plan Area Vessel Distribution by County**



The OSPR aerial survey was not intended to be comprehensive. The survey did not include any portion of San Pablo or San Francisco Bay within Contra Costa or Solano counties. Commission staff believes there are additional abandoned commercial vessels unaccounted for in the Plan area that will be discovered during a proposed ground-truthing survey. Vessels will be added to the outstanding list as they are documented. The general distribution of known abandoned commercial vessels within the Plan region is shown below in Figure 2.

### Figure 2 - Abandoned Commercial Vessel Distribution Map

## Staffing

Some start-up program activities can be handled under existing capacity, such as activities to hire appropriate program staff, including job posting preparations, conducting exams and interviews, and preparing duty statements and other human resources-related requirements. Some contracting and fiscal functions can also be handled under existing capacity as these are activities Commission staff already



performs. Coordinating the program's required environmental analysis under the California Environmental Quality Act (CEQA) can be handled under existing staff capacity. However, the preparation cost will be a significant one-time expenditure that must be factored into the Commission's budget or included in an initial program Budget Change Proposal (BCP), depending on how the program is funded.

Some new, start-up, and ongoing program activities will require assignment to existing staff or adding additional staff to the Commission's current budgeting and personnel needs as these will be new activities not currently handled by existing staff. Significant new start-up functions under the program will include performing a one-time ground truthing survey, prioritizing abandoned vessels for removal, developing and launching a vessel database and user interface, and developing and implementing the administrative process necessary to allow the Commission to legally remove and dispose of abandoned commercial vessels.

Additional ongoing staff functions will include conducting periodic site surveys to maintain the vessel database physical inventory, coordinating with other partner agencies and stakeholders, performing database maintenance, researching vessel ownership identification, posting and mailing removal notices, fund and budget management, contractor engagement and oversight, and conducting any follow-up actions such as cost recovery once removal and disposal are accomplished.

To successfully implement the program, staff recommends adding position allocations for a boat captain, a support staff, and a supervisor to oversee the new program unit.



*Sunk & Abandoned Spud Barge, New York Slough*



## Vessel Ground Truthing Survey

Recent efforts to document abandoned vessels in the Plan area have been conducted by OSPR using aerial surveys and the U.S. Coast Guard Auxiliary, while Commission staff have further documented some vessels on site visits. Efforts have thus far identified approximately 55 abandoned commercial vessels in the plan area, with limited vessel data identified, such as length, hull composition, and identification markings. For staff to effectively prioritize vessel removal and initiate the required administrative process, a thorough survey must be conducted to inspect each vessel on the list and fill in missing or incomplete information. An initial survey is expected to include field work conducted on average twice per week over a seven-month period. A full year will be allocated to complete the survey, to allow for variations in weather and local site conditions that may otherwise preclude safe site inspections.

In addition to field work, staff will also be responsible for entering collected data into the Abandoned Commercial Vessel Database, establishing a priority removal list once the vessel survey commences, coordinating with other agencies as needed, and engaging the administrative process. Staff time and costs for this one-time survey are discussed below in the plan's Cost Analysis and Budgeting section.



*Abandoned Former Military Lash Barge, San Joaquin River*

## Risk-Based Priority Matrix

The existing inventory of abandoned commercial vessels in the Delta region are dispersed over a large area and are in varying states of decay. The cost for vessel removal and the large number of vessels will require a systematic removal plan that will be executed over a period of years. To facilitate prioritizing vessel removal, the following Priority Matrix will be used to evaluate each vessel as the vessel survey is conducted, with vessels posing a higher actual or potential environmental and public health and safety hazard taking priority, within budgetary constraints and contractor capacity.



## **Priority 1**

### **Emergency – Immediate or High Risk**

#### General Description:

Vessel can be floating, in danger of sinking, breaking up, or already sunk or broken up, and is a navigation, environmental or public health and safety hazard, or is deemed by staff to be an imminent threat of becoming a navigation, environmental, or public health and safety hazard.

#### Evaluation criteria:

- **Seaworthiness state:** Vessel can be floating with very little freeboard, severely listing, or sunk.
- **Mooring condition:** Mooring lines separating or poorly anchored; dragging anchor; adrift; or grounded.
- **Hazard state:** Vessel is adrift in or grounded in a navigation channel or moderate to high traffic location; leaking fuel or other hazardous substances; or known to or likely to contain hazardous substances that pose an imminent threat of spill or release.
- **Public accessibility state:** Vessel can be easily accessed by the public.

## **Priority 2**

### **Non-Emergency – Moderate Risk**

#### General Description:

Vessel can be floating, sunk, or broken up, and poses a moderate navigational, environmental, or public health and safety threat; vessel could become a Priority 1 Emergency threat with a minor change in circumstances.

#### Evaluation criteria:

- **Seaworthiness state:** Vessel can be floating with moderate to minor reduction in freeboard, minor to moderate listing, or sunk.
- **Mooring condition:** Mooring lines old, worn, or weathered but otherwise adequately moored, anchored, or grounded; or moored to improper or inadequate structure.
- **Hazard state:** Vessel is located immediately adjacent to navigation channels or in or near moderate to high traffic areas but not currently a navigational hazard; may contain hazardous substances but no imminent threat of spill or release.
- **Public accessibility state:** Vessel is known to be or can be accessed easily by the public.



### **Priority 3**

#### **Non-Emergency – Low Risk**

##### General Description:

Vessel can be floating, sunk, or broken up, and poses a low navigational, environmental, or public health and safety threat; vessel could become a Priority 1 or 2 threat with a moderate change in circumstances.

##### Evaluation criteria:

- **Seaworthiness state:** Vessel can be floating with a normal to minor reduction in freeboard, minor listing, or sunk.
- **Mooring condition:** Mooring lines in good condition or otherwise securely moored, anchored, or grounded.
- **Hazard state:** Vessel is located away from navigation channels in low traffic areas or in trafficked area but well-marked; no known hazardous substances.
- **Public accessibility state:** Vessel could be accessed by the public, but access is limited by its location and seaworthiness state.

### **Priority 4**

#### **Non-Emergency – No Immediate Risk**

##### General Description:

Vessel is floating, does not pose an immediate navigational, environmental, or public health and safety threat; vessel could become a Priority 1, 2, or 3 threat with a significant change in circumstances.

##### Evaluation criteria:

- **Seaworthiness state:** Vessel is floating with normal freeboard.
- **Mooring condition:** Mooring lines or anchor in overall good condition and well-secured to a dock or anchorage.
- **Hazard state:** Vessel is located at a marina or anchored well away from navigation channels in low traffic areas; may contain hazardous substances, but overall vessel seaworthiness and mooring condition significantly reduces the threat of spill or release; or is known to have been previously boarded and hazardous substances abated.
- **Public accessibility state:** Vessel could be accessed by the public, but access is unlikely due to location.



Additional considerations to establish list priority include:

- Vessel size
- Visibility or proximity to populated area
- Land ownership
- Agency jurisdiction
- History of complaints and responses
- Other agency support and priorities
- Habitat restoration required
- Multiple vessels in same vicinity
- Blocking public access

Once a ground truthing survey is completed to verify the total number of abandoned commercial vessels subject to this Plan, staff will use the above matrix and additional considerations to rank each vessel for removal priority. When the program is fully funded and staffed, Commission staff estimates that removal and disposal of up to eight vessels per year can reasonably be accomplished. The priority list will be used to identify a group of vessels slated for removal during the next fiscal year and previously determined estimates for each will be used as the basis for funding requests, with a contingency amount added for emergency removals. The priority list will also be updated as vessels are removed, vessel status changes, or additional vessels are identified.

### **Abandoned Commercial Vessel Database and User Interface**

Commission staff has already created a mapped database of commercial and recreational abandoned vessels using the Esri ArcGIS Online Platform. This ArcGIS Platform includes, among other capabilities, the ability to publish and edit data, deploy mapping applications, publish public surveys, and make data available on mobile applications for editing in the field. Staff will utilize these capabilities to create an interactive Abandoned Commercial Vessel Database that can be used to identify and track abandoned vessels and provide a user interface for stakeholders.



*Abandoned Railroad Ferry "Fresno", San Joaquin River*



The public will have read-only access to the Database and can provide abandoned vessel data to help supplement program efforts. Collaborating with partner agencies that already work on abandoned vessel tracking and removal will also enhance the Commission's efforts, streamline staff efficiency, and make the overall program more effective. Developing these capabilities will add additional costs beyond what the Commission currently incurs. Staff anticipates the primary costs will be for:

- Licenses associated with users entering or accessing secure data.
- Staff time for creating and maintaining applications and data, as well as for coordinating with contributors and users.
- Purchase of additional mobile devices such as iPads or iPhones to facilitate data collection.



*Sunk & Abandoned Dredge, San Joaquin River*

### **Abandoned Commercial Vessel Database Potential Functionality**

Authorized system users, such as partner agencies, will be able to publish data to the database, which will be immediately available to the Commission's ArcGIS staff and can then in turn be made available to the public on a limited basis, other authorized users, or a specified group. Authorized users may also take data offline, edit in the field, and sync changes back to the original content for access by the rest of the group.



Field collection and edits can be accomplished more easily by an available mobile data collection app requiring a user license. Depending on frequency of use and demand, improving field collection capabilities may require purchasing additional mobile devices for Commission staff.

The Database can also be configured to create “views” of data, which only show certain features or only allow certain types of access or editing. This would allow for underlying data security without the need to update multiple versions.

For public use, Commission staff can create a simple form which can be accessed online through a browser without the need to provide credentials. The public would be able to submit data but would be unable to edit existing data.

The ArcGIS Platform also features configurable mapping applications that provide a user with a variety of mapping templates depending on individual needs. One template to be developed will be a mapping application showing the various agency jurisdictions covering the Plan area. This map will allow Commission staff and users to identify which regulatory agency has jurisdiction over a given abandoned vessel to facilitate courtesy noticing, agency coordination, and permitting as needed.

### **CEQA Analysis**

Based on known program elements, the Commission’s Legal staff and Division of Environmental Planning and Management staff believe the level of environmental analysis required for the overall program will be a Mitigated Negative Declaration. Appropriate Categorical Exemptions may also be applied in certain instances, such as when debris must be removed quickly in an emergency situation.

### **Vendor Contracting**

Contracting requirements are different depending on whether the vessel qualifies for removal under the Harbors and Navigation Code or the Public Resources Code. Under HNC sections 550 and 551, contracting must conform to the State Contracting Act, whereas under PRC section 6302, contracting is exempt from the Act. Since the Commission lacks the capability or expertise to move and destroy vessels regardless of which code



*“Black Kite” Demolition at Dry Dock, Mare Island*



sections apply, contracts for vessel removal with qualified dive and salvage companies will be required.

Contracting can be accomplished in several ways. One option for the Commission is a two-tiered contract system where a single contract is awarded to a qualified vendor for on-call purposes to remove vessels under emergency conditions where time is of the essence, with other contracts awarded on an as-needed basis for non-emergency removals to qualified vendors under a competitive low bid basis. All contracting activities would be handled by Commission staff.

Another possible approach would be to award a contract for a vendor to act as an agent for the Commission, where the vendor handles all duties related to contracting physical removal and disposal, including subcontractor coordination. Commission staff would still handle all other administrative tasks.

A third option to supplement the previous options would be to allow for reimbursements to local agencies for vessel removal on sovereign lands within their jurisdictions. Commission staff will identify the most appropriate mechanisms for contracting purposes once the Plan is funded and the pool of interested contractors and agency participants is developed and their capabilities are identified.



*"Gretchen E" Demolition, Mare Island*

### **Ownership Investigation and Notice**

Owner investigation and notice is a required step in legally disposing of abandoned commercial vessels. Where vessel identification is present, such as a hull identification number, California CF registration number, or vessel name, identifying and locating owners becomes an important step in the administrative process, both to protect the owner's rights and to provide the state an opportunity to recover costs.

Ownership investigation will include several facets to ensure staff conducts a thorough search. If a CF registration number is present, indicating the vessel is registered with the California Department of Motor Vehicles (DMV), staff will contact the DMV to obtain the most recent ownership information. Regardless of DMV registration, commercial vessels may also be registered and documented with the United States Coast Guard, another source for researching ownership contact information. Other possible research avenues include consultations with local law enforcement agencies, marina operators,



and vessel repair facilities that may have previously encountered a vessel, and online sources for possible current and historic references to a vessel. Staff time required to investigate ownership information is difficult to estimate without having complete vessel survey data. For those vessels that do have some form of identification, ownership investigation is expected to represent a relatively small percentage of the overall administrative process, so staff time required will be folded into that estimate.

### **Partner Agency Coordination**

Coordination with other partner agencies for vessel tracking, identification, and removal actions will be vital for program success. Other agencies Commission staff will coordinate with include:

- United States Coast Guard
- State Parks, Division of Boating and Waterways
- San Francisco Bay Conservation and Development Commission
- Department of Fish and Wildlife, Office of Spill Prevention and Response
- CalRecycle
- Delta Protection Commission
- Legislative Grantees
- Contra Costa County
- Sacramento County
- San Joaquin County
- Solano County
- Yolo County

Coordination efforts will include consultations for vessel history and ownership research information, data gathering and sharing, cost sharing, enforcement actions, courtesy removal notifications, and permit processing, among others.



*Sunk Vessel "Gretchen E", Crockett, Carquinez Strait*

### **Administrative Process - Vessel Removal, Disposal, and Cost Recovery**

Current California statutes that provide for abandoned vessel removal include Harbors and Navigation Code (HNC) section 550, which defines a *vessel* and *marine debris*; HNC section 551, which describes the administrative process for marine debris removal; and Public Resources Code (PRC) sections 6302.1, 6302.3 and 6302.4, which describe the administrative process for removing a vessel that does not fall under HNC section 550 but is located on sovereign land without permission or poses a hazard to



the public or the environment. Commission staff will use both processes as circumstances dictate.

### **Marine Debris Removal – Harbors and Navigation Code Sections 550 & 551**

Under HNC sections 550 and 551, a *vessel* is defined as “every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation by water.”<sup>1</sup> *Marine debris* is defined as “a vessel or part of a vessel, including a derelict, wreck, or part of a ship or other watercraft or dilapidated vessel, that is unseaworthy and not reasonably fit or capable of being made fit to be used as a means of transportation by water.”<sup>2</sup> The definition of *vessel* is broadly written to cover any type of commercial vessel that staff would encounter.

Any other law notwithstanding, marine debris may be removed from public waterways, or state tide or submerged lands by a public agency with either jurisdiction over the location, or authority to remove marine debris or solid waste.<sup>3</sup> HNC Section 551 further allows a public agency to destroy the debris. The Commission can remove and destroy marine debris from areas under its jurisdiction, under the following conditions:

1. The object meets the definition of marine debris *and* has no value or a removal and disposal cost that exceeds its value.<sup>4</sup>
2. If there is no discernable identification insignia (CF number, hull ID number, etc.), a peace officer or authorized public employee will securely attach a 10-day notice as described in paragraph 4 below.<sup>5</sup>
3. If there is discernable identification insignia, a 10-day notice, as described in paragraph 4 below, will be posted on the marine debris *and* a separate 10-day notice will be sent to the owner of record’s address by certified or first-class mail, if an owner can be identified.<sup>6</sup> The 10-day period runs from either the date the notice was posted or mailed, whichever is later.<sup>7</sup>
4. The 10-day notice attached to marine debris will include at minimum the Commission’s name, address, and telephone number<sup>8</sup>, the date of posting, and a statement that the California State Lands Commission may remove the debris if

*Clustered Trespassing Vessels, Broad Slough*



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<sup>1</sup> HNC section 550(a)

<sup>2</sup> HNC section 550(b)

<sup>3</sup> HNC section 551(a)(1)

<sup>4</sup> HNC section 551(a)(1)(A)

<sup>5</sup> HNC section 551(a)(1)(B)

<sup>6</sup> HNC section 551(a)(1)(C)

<sup>7</sup> HNC section 551(a)(1)(D)

<sup>8</sup> HNC section 551(a)(2)(A)



not claimed or removed within 10 days of the posting date.<sup>9</sup> The mailed notice will include the same information as that on the posted notice and will also include an additional statement that the marine debris may be claimed and recovered within 10 days of the notice mailing date upon payment to the Commission of its costs.

5. Marine debris may be removed and disposed of immediately if it is a public nuisance or a danger to navigation, health, safety, or the environment, unless the debris is whole or not demolished during removal. If the marine debris is whole or not demolished during removal and an owner can be identified, then the debris will be maintained or stored for 10 days to allow notice to be sent. If the marine debris is not identifiable, it may be immediately destroyed or disposed.<sup>10</sup>
6. If the Commission so elects, costs incurred for marine debris removal and disposal may be recovered through appropriate legal or administrative action from an owner or any other identifiable person or entity that placed the marine debris or caused it to be in or on public lands including waterways, beaches, state tidelands, and submerged lands.<sup>11</sup>

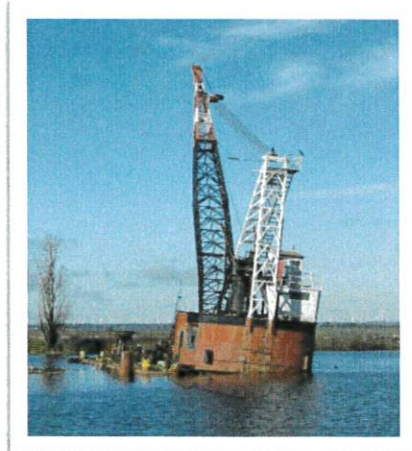
#### **Trespassing Vessel Removal – Public Resources Code sections 6302.1, 6302.3, and 6302.4**

Under the PRC sections, a vessel includes a vessel, boat, raft, or similar watercraft, and can physically be a hulk, derelict, wreck, or in pieces. Buoys, anchors, moorings, or other ground tackle used to secure a vessel are also included in this definition.<sup>12</sup> The Commission may act directly or through its staff or agents, and any other federal, state, or local agencies operating in concert with or under the Commission's direction.<sup>13</sup>

Like the HNC marine debris statutes, the PRC sections allow for both emergency and non-emergency removal. A vessel may be removed immediately and without notice if it is unattended in an area under the Commission's jurisdiction and is moored, beached, or made fast to lands in a position that obstructs normal traffic movement and meets any of the following descriptions:

- Is in a condition that creates a hazard to navigation, other vessels, or the property of another,<sup>14</sup>
- Poses a significant threat to public health, safety, or welfare,

*Sunk Crane Barge, 7-Mile Slough*



<sup>9</sup> HNC section 551(a)(1)(B) & (a)(1)(D)

<sup>10</sup> HNC section 551(b)

<sup>11</sup> HNC section 551(c)

<sup>12</sup> PRC section 6302.1(f)(4)

<sup>13</sup> PRC section 6302.1(f)(2)

<sup>14</sup> PRC section 6302.1(a)(1)



- Poses a significant threat to sensitive habitat, wildlife, or water quality, or
- Constitutes a public nuisance.<sup>15</sup>

After vessel removal, a 30-day notice will be mailed to the owner of record if known, and any known lienholders, and will include a statement that if the vessel remains unclaimed after 30 days from the date of the notice it will become abandoned property as provided in California Public Resources Code section 6302.1(a)(3) and the California State Lands Commission may dispose of it as provided in Public Resources Code section 6302.3.<sup>16</sup>

When a vessel does not warrant emergency removal regardless of its physical condition or occupation, the Commission may still remove any vessel placed without its permission in areas under its jurisdiction.<sup>17</sup> Prior to removal, the Commission will:

1. Attach a 30-day notice to the vessel in a clearly visible place advising that the vessel must be removed within 30 days<sup>18</sup> and
2. Make a reasonable attempt to identify and locate the owner and any lienholders and mail a notice to each one with a specified date for removal that is at least 15 days from the noticing date.<sup>19</sup>

Any vessel unclaimed at the end of the 30-day or 15-day notice periods, whichever is later, will become abandoned property and the Commission may take title and dispose of it. The Commission has the option to remove the vessel immediately or allow it to remain in place until such time as it takes action to effect disposal.<sup>20</sup>

An owner or lienholder may regain vessel ownership upon payment to the Commission of removal and storage costs.<sup>21</sup>

At its discretion, the Commission may remove and dispose of an abandoned or derelict vessel from a navigable waterway not under its jurisdiction at the request of another agency with jurisdiction over the area where the unpermitted vessel is located.<sup>22</sup>

As with the HNC marine debris statutes, the Commission may recover all costs, including administrative and CEQA compliance costs, incurred in removal actions under the PRC statutes through any appropriate state court action or administrative remedy.<sup>23</sup>

*Sunk & Abandoned Spud Barge, San Joaquin River*



<sup>15</sup> PRC sec.6302.1(a)(2)

<sup>16</sup> PRC sections 6302.1(a)(3) & (a)(4)

<sup>17</sup> PRC sec.6302.1(b)(1)

<sup>18</sup> PRC section 6302.1(b)(1)(A)

<sup>19</sup> PRC sec.6302.1(b)(1)(B)

<sup>20</sup> PRC section 6302.1(b)(2)

<sup>21</sup> PRC section 6302.1(c)

<sup>22</sup> PRC section 6302.1(d)

<sup>23</sup> PRC section 6302.1(e)



### **Taking Title to Abandoned Property – Public Resources Code section 6302.3**

The Commission may take title to an abandoned vessel subject to disposal pursuant to PRC section 6302.1 at a properly noticed public meeting for the sole purpose of abatement without satisfying any lien on the property. The property may be sold, destroyed, or otherwise disposed of in any manner the Commission determines is expedient or convenient.<sup>24</sup>

Known owners and lienholders will be provided notice of the public meeting, and along with other interested parties, have the right to address the Commission prior to a vessel's disposition.<sup>25</sup>

The public meeting may be informal pursuant to Government Code section 11445.20 unless designated as a formal hearing by the Commission.<sup>26</sup>

Any action the Commission directs for abandoned property disposal, other than returning the property to the owner, will be held for 30 days after the Commission's determination to allow the owner to pursue a cause of action in court.<sup>27</sup>

The Commission may recover costs associated with abandoned property disposal, including staff time and attorney's fees, by appropriate court action or by any available administrative remedy. If abandoned property is sold, the Commission's costs may be recovered from the proceeds with any additional funds deposited in the General Fund.<sup>28</sup>

### **Delegated Authority – Public Resources Code Section 6302.4**

At the Commission's request, any Commission staff or agent, a peace officer of any federal or state agency, or a peace officer of any other political subdivision of the state is granted the authority to board a vessel to carry out the purposes of Public Resources Code sections 6302.1 and 6302.3.<sup>29</sup>



*Abandoned Barge near Hog Island, San Joaquin River*

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<sup>24</sup> PRC section 6302.3(a)

<sup>25</sup> PRC section 6302.3(b)

<sup>26</sup> PRC section 6302.3(c)

<sup>27</sup> PRC section 6302.3(d)

<sup>28</sup> PRC section 6302.3(e)

<sup>29</sup> PRC section 6302.4(a)



## Other Considerations

The above information describes the functional aspects of abandoned vessel removal, but practical aspects will also be considered when determining appropriate actions, such as whether a vessel can be classified as marine debris, requires emergency removal, will be left in place or removed and stored, whether staff can identify an owner, and if so, whether the Commission pursues cost recovery.

Based on physical observations, staff expects the majority of abandoned commercial vessels will meet the factual requirements to be classified as *marine debris*, because the vessel is unseaworthy and not reasonably fit or capable of being made fit for use. For example, when a vessel is broken apart, it should be self-evident that the vessel is unseaworthy and incapable of being made fit for use and that its value as a vessel is less than the cost of removal and disposal. In instances where a vessel's physical condition is less deteriorated, qualified staff or contractors may be asked to survey the vessel condition and make a determination.

Staff observations indicate that most abandoned commercial vessels have been in place for some time and will not qualify for emergency removal. However, that status could change if a vessel's position or condition changes suddenly (e.g., an oil sheen appears, or a vessel breaks its mooring and becomes a navigational hazard).

Because costs of interim storage and equipment mobilization are significant, staff expects that most abandoned vessels will be left in place until the vessel's ultimate disposition is arranged.

Commission staff will assess on a case-by-case basis whether to recommend cost recovery, with a key question being whether a responsible party can be identified. As discussed earlier, staff will make every reasonable attempt to discern ownership.



*Sunk Landing Craft, Crockett, Carquinez Strait*



## **Cost Analysis and Budgeting**

### **Ground Truthing Survey**

Due to the size of the plan area coverage and limitations on where the Commission's patrol vessel can be launched in the Delta, the initial ground-truthing survey is expected to require three staff to perform field work two days per week over an approximately seven-month period. Staff needed for field work are a boat captain, a crew member, and an observation & data entry person. In addition, staff time will also be required to perform office work to track site visits and compile data.

The Commission's tow vehicle and patrol vessel will be used for the survey, which will add increased fuel and maintenance costs over what is already incurred. The Commission's aerial drone and underwater Remote Operated Vehicle capabilities may also be utilized during the survey if such use can be shown to be cost effective. Use of each would be considered on a case-by-case basis and are not included in this analysis.

Survey-related start-up staff requirements and cost estimates are summarized below in Table A.

Ground Truthing Survey	Program Year		
	Year 1 Start-up		
Activity	Hours	Times Performed	Total Hours
Field Work	48	30	1440
Office Work	8	30	240
Costs	\$8,000		
Total Hours			1680
Total Costs	\$8,000		

**Table A - Ground Truthing Survey Staff Time & Costs**

### **Abandoned Commercial Vessel Database Creation & Maintenance**

Authorized users requiring access to underlying data such as vessel coordinates will require an online account. Partner agencies with existing accounts can be added to the Commission's ArcGIS organization but those without existing accounts will need to acquire them.

#### **Start-Up Staff Time**

Initial setup for applications, groups, and appropriate permissions is estimated to require approximately 160 hours of staff time, not including additional time needed for appropriate outreach and buy-in to the platform. Staff time for these activities is difficult to estimate with any certainty as it will be contingent upon the number of stakeholders included, so is not included in this estimate.



### Ongoing Maintenance

Ongoing database maintenance is estimated to require approximately 30 hours of staff time per month or 360 hours per year allocated to ongoing training, quality control, troubleshooting issues, and collaborating with new providers and data users.

### Costs

For partner agencies and Commission staff updating data in the field, additional field worker licenses can currently be purchased for \$350/year. An editor license for partner agencies to review and edit incoming data is available for \$200/year, with simple viewer access available at \$100/year.

Purchasing additional mobile devices if required is expected to cost approximately \$700 per unit, with ongoing service packages costing approximately \$600 per unit per year. Program implementation will require purchasing an additional mobile device and service package for staff use.

Database staff requirements and cost estimates are summarized below in Table B.

Database Creation & Maintenance	Program Year					
	Year 1 Start-up			Year 2 & ongoing		
Activity	Hours	Times Performed	Total Hours	Hours	Times Performed	Total Hours
Initial Setup	160	1	160			
Recurring				30	12	360
Costs	\$700			\$600		
Total Hours	160			360		
Total Costs	\$700			\$600		

**Table B - Database Creation & Maintenance Staff Time & Costs**

### Administrative & Program Staff Requirements and Costs

#### CEQA Analysis

Staff estimates the cost for a consultant to prepare an MND will be \$200,000, which will require approximately 250 hours of staff time to coordinate preparation.

#### Administrative Process

Administrative tasks will require time allocations for existing Personnel, Accounting, and Contracting staff. Administrative staff time and cost estimates are not included here due to the significant variations in contracting processes that can require as little as eight to over 400 hours of staff time to complete a single contract.

#### Program Process

Staff responsibilities associated with the program process include vessel prioritization, owner research, engaging the contracting process, contractor coordination, responding to public inquiries, partner agency coordination, preparing Commission meeting agenda



items, and cost recovery actions. Because cost recovery will not be possible on every vessel and staff time could vary considerably, estimates for cost recovery time are not included here. Actual time and costs will vary depending on the vessel and available information, but anticipated average staff time and costs required to complete the administrative and program processes for one vessel are summarized below in Table C.

Administrative/ Program Tasks	Program Year					
	Year 1 Start-up			Year 2 & ongoing		
Activity	Hours	Times Performed	Total Hours	Hours	Times Performed	Total Hours
CEQA Analysis	250	1	250			
CEQA Recurring				2	8	16
Admin Tasks	TBD	TBD	TBD	TBD	TBD	TBD
Site Visits	24	22	528	24	22	528
Program Tasks	72	8	576	72	8	576
Cost Recovery	TBD	TBD	TBD	TBD	TBD	TBD
<b>Costs</b>	\$200,000					
Total Hours	1354			1120		
Total Costs	\$200,000					

**Table C - Administrative & Program Tasks Staff Time & Costs**

### Vessel Removal Costs

As discussed previously, costs per vessel removal will vary widely depending on a vessel's size, location, and condition, so providing accurate estimates without having more thorough data available is very difficult. Any budget prepared should also account for a contingency amount in the event an emergency removal is required. At this time staff estimates a 25% contingency amount will be sufficient for this program.

#### First Year's Removal Budgeting

Based on prior experience, staff estimates the average cost to remove a vessel is approximately \$200,000, with up to eight vessels scheduled for removal each year, assuming full program staffing is in place and funding is available.

Individual vessels with significantly higher removal costs will likely not be handled during the first year. The first year's removal efforts will be focused on establishing the process and will therefore concentrate on removing vessels that are more representative of the majority. Subsequent years' removal budgets will vary over time and may be considerably higher than the first year to account for the higher handling costs associated with removing larger vessels.

#### Subsequent Years' Removal Budgeting

Staff anticipates that future removal budgets will be based on a rolling schedule of cost estimates provided by contractors for groups of vessels prioritized for removal. Vessels



scheduled for removal during any given fiscal year will be identified the prior year, with cost estimates prepared. Those estimates will be used as the basis for the following year's budget, allowing for a 25% contingency amount to account for emergency removals. Estimated annual vessel removal costs are summarized below in Table D.

Vessel Removal Budget	Program Year	
	Year 1 Start-up	Year 2 & ongoing
<b>Costs</b>	\$1,600,000	TBD
<b>25% Contingency</b>	\$400,000	TBD
<b>Total Costs</b>	\$2,000,000	TBD

**Table D – Annual Vessel Removal Budget**

### **Total Estimated Plan Staff Time and Costs**

A summary of all Plan staff time and anticipated costs is shown below in Table E.

Staff Time & Cost Totals	Program Year	
	Year 1 Start-up	Year 2 & ongoing
<b>Staff Time</b>	3194	1480
<b>Costs</b>	\$2,208,700	TBD

**Table E - Total Estimated Staff Time & Costs**

## **Funding Sources**

PRC 6302.2 does not provide a funding source. Once determined, Plan funding could be structured several different ways, including Legislative appropriations, allocations from a special fund, through the Budget Change Proposal (BCP) process, or a combination of these sources.

Staff anticipates the initial program start-up costs and ongoing administrative costs will be funded through a Legislative appropriation to include those costs in the Commission's regular budget.

Ongoing funding will be dependent upon the identified source, whether it be enhanced allocation of the Commission's regular annual budget, a diversion of revenues from Commission leases in the plan area, allocations from a special fund as yet to be determined, the BCP process, or some other mechanism.



*Clustered Trespassing Vessels*

## Future Program Recommendations

Plan implementation should prove effective at reducing the existing numbers of abandoned commercial vessels in the Sacramento – San Joaquin Delta area, but staff believes more can and should be done beyond the current Plan scope. The following discussion provides recommendations to be considered for future action.

A large number of abandoned commercial vessels can be found within the five-county Plan area. However, abandoned commercial vessels exist throughout the state. Assuming the Plan is implemented and is shown to be successful, staff recommends legislation be sponsored expanding the program to include statewide coverage.

Some actions taken under this Plan will require Commission authorization, such as taking title to an abandoned vessel once noticing periods expire and no one has claimed ownership. Staff recommends requesting the Commission delegate authority to the Executive Officer to expedite Commission actions taken under the Plan.

As discussed previously, the Commission's actions for abandoned commercial vessel removal can occur under either the Harbors and Navigation Code (HNC) or the Public Resources Code (PRC). The HNC is generally applicable to any state agency undertaking marine debris or vessel removal, whereas the PRC is specific to the Commission for vessel removal but does not include marine debris. The code sections have differing applicability (marine debris versus trespassing vessels) and noticing requirements. For consistency and process streamlining, staff recommends legislation be sponsored revising PRC 6302 to include marine debris removal as defined and provided for in the HNC.

Developing a program to eliminate the existing problem is only helpful if it is also accompanied with a corresponding effort to prevent future abandoned commercial vessels. Incentivizing behaviors to prevent additional commercial vessels from being abandoned on the state's waterways in the future should be strongly considered for additional legislative actions.

End-of life or marginal former commercial vessels are often purchased for token amounts by individuals who lack financial resources to adequately rehabilitate or dispose of the vessels once acquired. Staff recommends legislation be sponsored for a multi-faceted preventive approach, including:



*"Blackhawk", Purchased for \$1 at Auction; Agency Removal & Disposal Costs Exceeded \$200,000*



1. Requiring buyers to provide proof of insurance, and vessel owners to verify that a buyer has appropriate insurance coverage at the time of transfer. Failure to verify coverage would subject a seller to ongoing liability if the vessel turns up as abandoned in the future.
2. Requiring a vessel be inspected by a qualified marine surveyor to verify its seaworthiness before ownership transfer occurs.
3. Requiring a vessel be inspected for the presence of invasive species and provide proof of inspection before it is allowed to enter California waters if entering the state from foreign waters.

California's elected state officials should be leveraged to help in facilitating abandoned commercial vessel removal and limiting future abandonments. As a former State Lands Commissioner, Governor Gavin Newsom is in a position to facilitate change on a statewide level. On a national level, Senator Diane Feinstein as her party's senior member in the Senate, Congresswoman Nancy Pelosi as Speaker of the House, and Congressman John Garamendi (also a former State Lands Commissioner) as the ranking member of the Coast Guard and Maritime Transportation Subcommittee under the House Transportation and Infrastructure Committee, are all in positions to influence federal laws on Coast Guard regulations and federally-owned commercial and surplus military vessel sales and transfers. Staff recommends federal legislation be sponsored requiring a sufficiently large minimum bid amount be set on federally-owned surplus vessels being sold at auction or sealed bid, and to require proof of insurance upon a vessel's transfer, to reduce the numbers of individuals making surplus vessel purchases who lack sufficient financial resources to adequately rehabilitate or dispose of them.



*Abandoned Former Military Lash Barge, San Joaquin River*

## **Questions and Comments**

Questions and comments about this Plan may be directed to Commission staff at the following contacts:

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