

**CALENDAR ITEM
C107**

A 15
S 5

03/29/12
W 26410
P. Pelkofer
V. Caldwell

CONSIDER AUTHORIZATION FOR STAFF AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING EJECTION AND LITIGATION, TO CAUSE: 1) THE REMOVAL OF TWO VESSELS, *THE FRESNO* AND *THE SAN LEANDRO*, ILLEGALLY OCCUPYING STATE LANDS LOCATED IN THE SAN JOAQUIN RIVER AT HAYPRESS REACH, ADJACENT TO SPUD ISLAND, SAN JOAQUIN COUNTY; AND 2) THE REMOVAL OF THE SUNKEN REMAINS OF A LANDING SHIP TANK (LST) ILLEGALLY OCCUPYING STATE LANDS LOCATED IN THE OLD RIVER AT BEAVER ISLAND, CONTRA COSTA COUNTY

PARTIES:

California State Lands Commission

Parker Oceanic

David Parker

AREA, LAND TYPE, AND LOCATION:

State sovereign land located within Haypress Reach adjacent to Spud Island in the San Joaquin River and State sovereign land located within the Old River adjacent to Beaver Island in Contra Costa County.

BACKGROUND

At its June 28, 2010 meeting, the California State Lands Commission (Commission), by approval of Calendar Item 80, authorized staff and the Office of the Attorney General to take all necessary steps, including ejection and litigation, to remove and dispose of the vessels Fresno and San Leandro then occupying State lands in Haypress Reach adjacent to Spud Island in the San Joaquin River. At that time, the vessels, which consisted of steel hulls, were owned by NYMET Industrial Solutions, Inc. (NYMET), a New York scrap metal dealer. NYMET purchased these vessels from David Parker of Parker Oceanic as part of a complex agreement.

These vessels were to be salvaged and scrapped by NYMET with Mr. Parker acting as a consultant. In discussions with staff after the Commission's authorization in June 2010, NYMET agreed to remove the vessels and staff withheld further action awaiting removal. Prior to commencing removal activities, the County of San Joaquin placed a stop work order on the scrapping location

and the price of scrap steel dropped sharply. These actions led to disagreement and litigation between NYMET and Mr. Parker over the terms of their agreement and title to the vessels. The litigation ended last year with NYMET abandoning any claim to the vessels. Mr. Parker subsequently agreed to remove them but failed to do so after repeated demands by Commission staff. The vessels continue to illegally occupy State lands in Haypress Reach.

Many years ago, the then owner of the Holland Riverside Marina purchased an LST (Landing Ship Tank), which is a surplus military craft and moved it into a location on the Old River to act as a breakwater and current diverter for his marina. It was sunk adjacent to Beaver Island and remains in that location to this date. Mr. Parker obtained the salvage rights to the LST vessel and removed the upper portions of the vessel to the water line. After some attempts to raise and remove the hull, Mr. Parker ceased all activities. During a number of discussions with staff about completing removal of the submerged portions of the vessel, Mr. Parker indicated he was awaiting lifting bags to raise it and would complete the removal job when he obtained the lifting bags. The salvage company that he employed ceased work after a disagreement with him, and no progress has been made since. While Mr. Parker has offered repeated assurances that the work would be completed, nothing has been done for more than six months. The LST vessel continues to occupy State lands illegally.

OTHER PERTINENT INFORMATION:

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Reg., tit.14, § 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations of Land; California Code of Regulations, Title 2, section 2905, subdivision (d) (3).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

This activity involves lands identified as possessing significant environmental value pursuant to Public Resources Code section 6370, et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. M/V Fresno and M/V San Leandro Location Map
- B. LST Vessel Location Map

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 Alteration to Land; California Code of Regulations, Title 2, section 2905, subdivision (d)(3).

SIGNIFICANT LANDS INVENTORY FINDING:

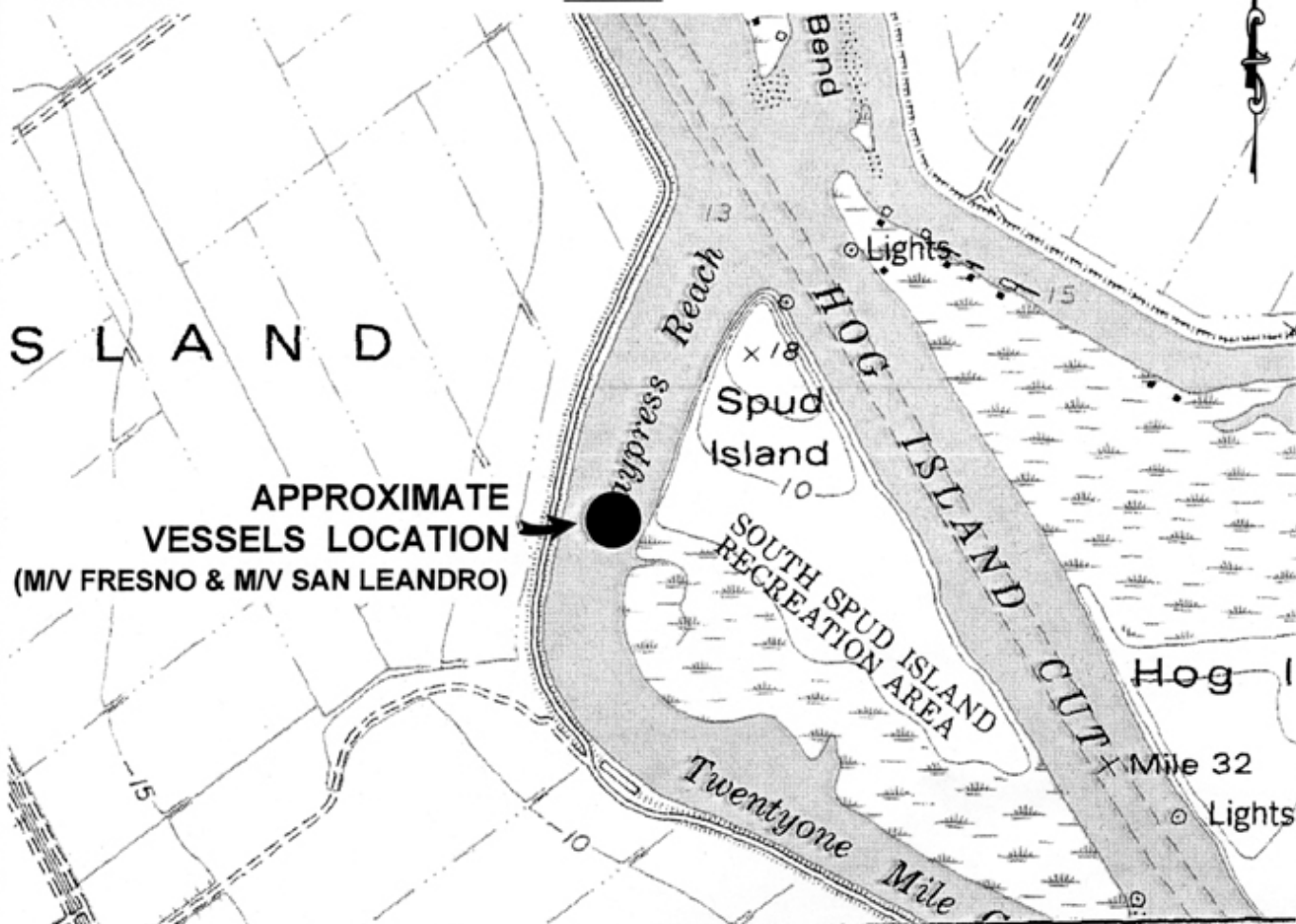
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources' Code Section 6370. et seq.

AUTHORIZATION:

Authorize staff and the Office of the Attorney General to take all steps necessary, including ejectment and litigation, to cause the removal of *the Fresno* and *the San Leandro* from Haypress Reach in the San Joaquin River and the LST from the Old River in Contra Costa County and to recover any costs and damages.

NO SCALE

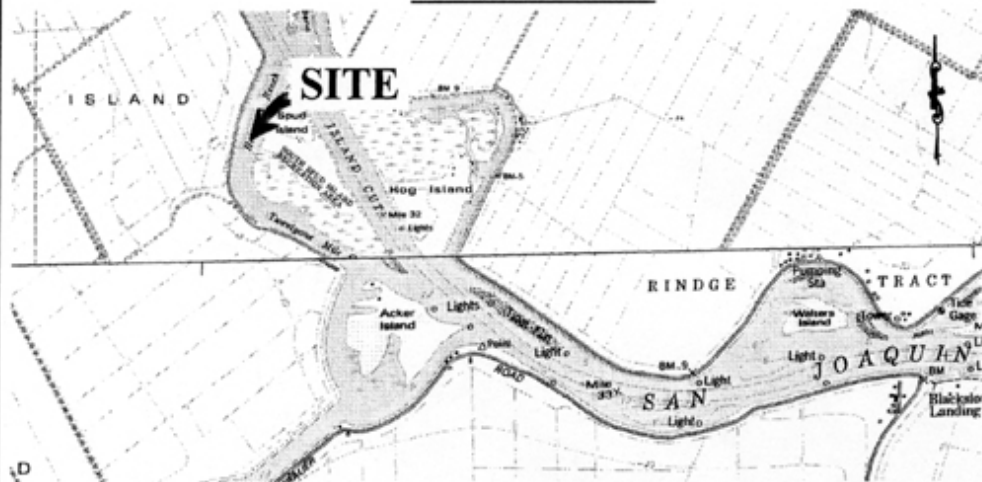
SITE



SOVEREIGN LANDS IN HAYPRESS REACH
NEAR SPUD ISLAND IN THE SAN JOAQUIN RIVER

NO SCALE

LOCATION



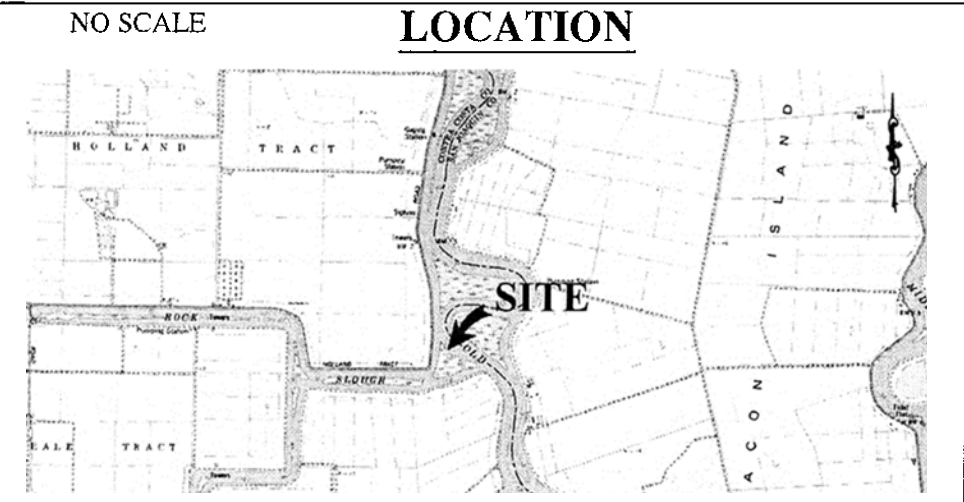
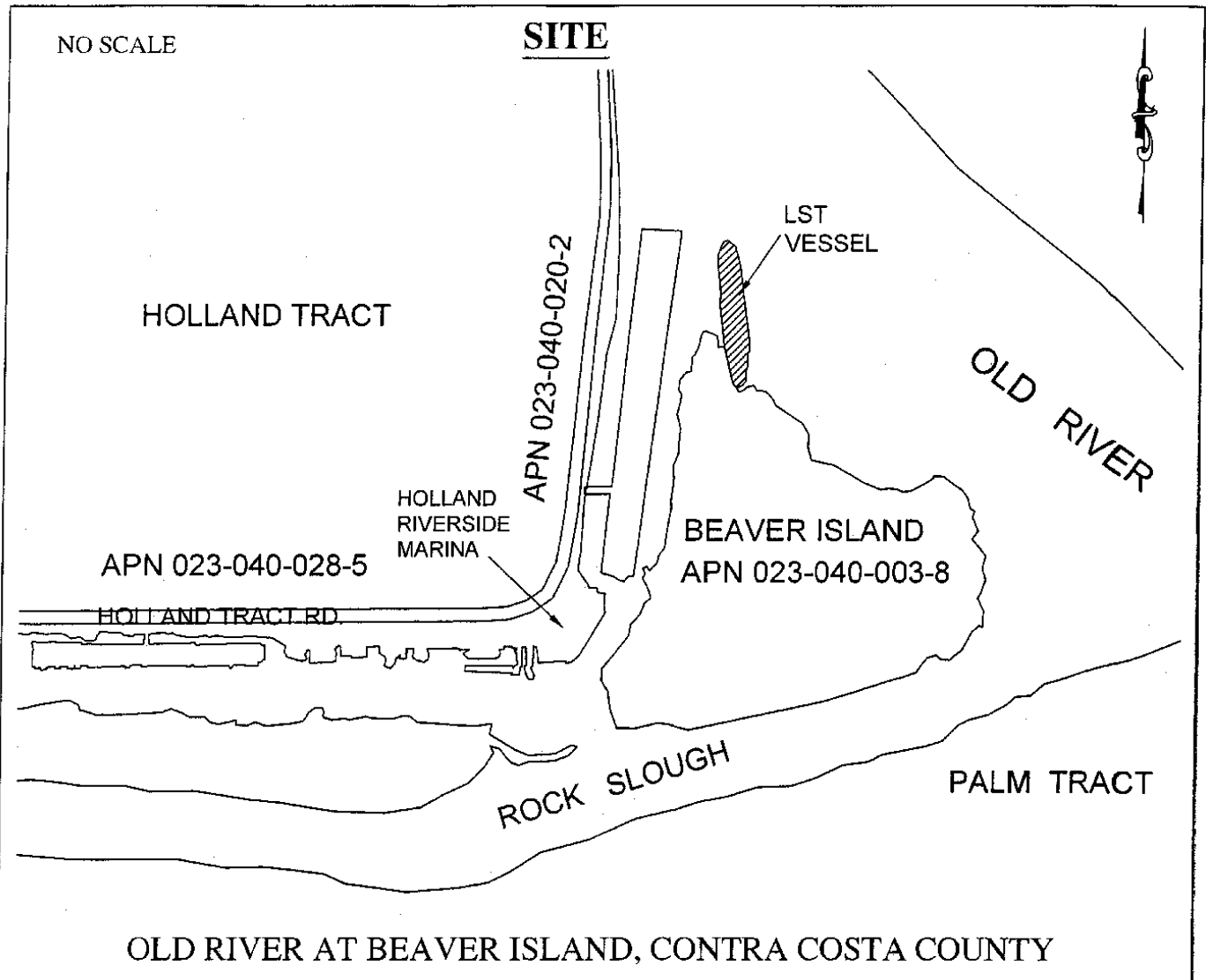
MAP SOURCE: USGS QUAD

Exhibit A

W 26410
DAVID PARKER
TRESPASS & EJECTMENT
SAN JOAQUIN COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.



MAP SOURCE: USGS QUAD

Exhibit B

W 26410
 DAVID PARKER
 APNs 023-040-003-8,
 023-040-028-5 & 023-040-020-2
 TRESPASS / LITIGATION
 CONTRA COSTA COUNTY



This Exhibit is solely for purposes of generally defining the premises and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.