

**CALENDAR ITEM
C22**

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06/24/08
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B. Dugal
P. Pelkofer

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**CONSIDER AUTHORIZATION OF
LITIGATION FOR TRESPASS AND EJECTMENT**

PARTY:

State Lands Commission

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Horseshoe Bend located near Decker Island, downriver from the city of Rio Vista, Solano County.

UNAUTHORIZED USES:

Mooring improvements and the vessel Faithful and the ferryboat San Diego.

GENERAL INFORMATION:

On April 30, 2008, staff of the State Lands Commission (Commission) was contacted by the Solano County Sheriff's office regarding the vessel Faithful. The Sheriff's office contacted the Commission to advise that the Faithful had been moored adjacent to Decker Island since sometime in February 2008 and wanted to know if the Commission had authorized the mooring of the Faithful at that location. The Sheriff's office also provided information as to who claimed to be the owner of the Faithful as well as some background information on the vessel.

On May 9, 2008, the Solano County Sheriff's office accompanied Commission staff on a site inspection to verify the location of the vessel. During the site inspection, it was learned that the Faithful was moored alongside another large vessel, the ferryboat San Diego. Staff obtained GPS information on the vessels and took photographs, attached as Exhibit B, to document the vessels locations and their conditions. Upon analyzing the GPS information and reviewing in-house records and data, staff determined that in their present location the Faithful and San Diego are anchored on lands owned by the State of California and under the jurisdiction and control of the State Lands Commission. The mooring of the vessels is without the permission of the Commission and as such constitutes a trespass. Staff is now requesting authorization from the

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Commission to take all necessary steps, including litigation, for trespass, ejection and removal of all of the unauthorized improvements.

BACKGROUND INFORMATION ON THE FAITHFUL:

The Faithful is a 293-foot vessel that had been moored at Alameda Point within the city of Alameda's jurisdiction for many years. During this time, a group was attempting to purchase it from its owner at the time, Al Borqa Aviation, Inc. The City considered the Faithful a derelict and wanted it moved. After conducting a maritime survey, which determined the vessel had no value (and may have been polluting the water), the Alameda Reuse and Redevelopment Authority, a Joint Powers Authority of the city of Alameda, exercised its jurisdiction under Harbors and Navigation Code Section 522 and 523 and declared it abandoned and contracted with a boat salvager, Mr. Curt Lind, to remove it and a barge.

The Agreement with the Authority provided Mr. Lind remove and dispose of the vessel and the barge for \$200,000. He advised the Authority that he would be taking the vessel to an anchorage or marina he owned or controlled. At some point, the vessel was then moved to Horseshoe Bend. It is unknown what happened to the barge, but it is not moored with the Faithful. On April 30, 2008, Commission staff contacted Mr. Lind who claimed ownership of the Faithful and argued that he had a right to anchor the vessel where it is.

No lease or other authorization has been issued for the use of sovereign lands to moor the Faithful.

BACKGROUND INFORMATION ON THE SAN DIEGO:

Staff has learned that from 1931 to 1969, the San Diego was used to transport people between Coronado and San Diego. In the mid-80's, there was a proposal to place the San Diego on Glorietta Bay to be used as a floating dinner theatre, but that proposal was not pursued.

Sometime after that, the San Diego was then towed north to the city of Antioch which expressed an interest in using the ferryboat as a floating dinner theater; however, that proposal also was never completed. Staff does not know how long the San Diego has been moored at its present location, but it appears to be since at least 2002 and possibly longer. Commission staff continues to gather information in order to determine who owns the San Diego.

No lease or other authorization has been issued for the use of sovereign lands to moor the San Diego.

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OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA under the general rule that the CEQA applies only to projects which have the potential for causing a significant effect on the environment. The staff believes, based on the information available to it, that there is no possibility that this project may have a significant effect on the environment.

Authority: Title 14, California Code of Regulations, section 15061 (b)(3).

2. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. 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. Location Map
- B. Photograph of the Vessel Faithful and Ferryboat San Diego

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THERE IS NO POSSIBILITY THAT THE ACTIVITY MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 (b)(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 SECTIONS 6370, ET SEQ.

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AUTHORIZATION:

1. RATIFY STAFF'S FINDING THAT THE MOORING TACKLE, THE VESSEL FAITHFUL AND FERRYBOAT SAN DIEGO ARE IN TRESPASS ON STATE-OWNED SOVEREIGN LAND LOCATED IN HORSESHOE BEND AS SHOWN ON THE ATTACHED EXHIBIT A.

2. AUTHORIZE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO REMOVE ALL MOORING TACKLE, THE VESSEL FAITHFUL, AND FERRYBOAT SAN DIEGO FROM SOVEREIGN LANDS IN THE BED OF HORSESHOE BEND AS SHOWN ON THE ATTACHED EXHIBIT A, SOLANO COUNTY; AND TO RESTORE THE SOVEREIGN LANDS AT THIS LOCATION TO THEIR CONDITION PRIOR TO PLACEMENT OF THE UNAUTHORIZED PROPERTY AND TO RECOVER THE COMMISSION'S DAMAGES AND COSTS.