



MARINE ENFORCEMENT



**ABANDONED VESSEL
PROGRAM**

CALIFORNIA STATE LANDS COMMISSION

ABANDONED VESSEL PROGRAM

The State Lands Commission was created by the Legislature in 1938 as an independent body with three members, the Lieutenant Governor, the State Controller and the Director of the Department of Finance. It is responsible for the management and protection of the natural and cultural resources of public lands within the state. Those public lands consist of approximately 4 million acres and include the beds of all naturally navigable rivers and streams, its tide and submerged lands and 1100 miles of California's coastline from the shore line to three nautical miles offshore. CSLC's jurisdiction extends to more than 120 rivers and slough, 40 lakes and the state's coastal waters, in short almost anywhere there is navigable water in the state.

Although the Commission has the authority to remove any abandoned, derelict or trespassing vessel, because of limited staff and funding, it concentrates its efforts on large vessels or groups of vessels which are derelict and are trespassing on state lands. The Commission's vessel removal authority is set out in California Public Resources Code Sections 6302, 6302.1, 6302.3 and 6302.4.

The Abandoned Vessel Program, which has been in existence for only a few years, has successfully used legal action to remove the sunken *Spirit of Sacramento* a 100 foot paddle-wheel river boat from the Sacramento River, the *Underwood Junkyard Flotilla*, a large collection of barges and boats, from Lindsey Slough in the Delta and most recently, with the support of CalRecycle, the *San Diego* a derelict 190 foot former ferry moored at Decker Island. Currently the program is working to remove the rusting hulls of two large ferry boats from the San Joaquin River, a derelict mine sweeper and a converted fire boat from the Old River and a number of barges and boats from Mayberry Slough. The program has worked with and enjoyed the cooperation of the sheriff's marine patrols in each of the counties in which it has worked.

The CSLC program can assist local government entities in several ways. The PRC sections quoted above which became effective January 1, 2012 provide that the Commission may, if requested by another public agency with jurisdiction over an area, remove vessels from navigable waters of that area even if they are not under its direct jurisdiction. (6302.1 (d)) It may also, at the request of a local entity, take the steps necessary to declare a vessel legally abandoned which permits the requesting entity to remove and dispose of it expeditiously.

Attached is an outline of the Commissions procedures under PRC §§ 6302.1 and 6302.4 and a copy with a brief summary of the new provision of the law.

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July 18, 2012

Commission Procedures under PRC 6302.1 and 6302.3

Trespassing and abandoned vessels.

Identification, Verification of Jurisdiction and Notification.

1. Vessel (note definition) identified as probably abandoned and/or in trespass.
2. Location verified for State jurisdiction or on request from a Local Public Entity with jurisdiction.
3. Notice is posted and ownership is researched. (Note PRC 6302.4 - Right to board.)
4. Waiting period, 30 days or added 15 days if mailed notice to owners.
5. Owner responds, removes vessel or makes other arrangements.
6. No response - ABANDONED

Commission Procedure

7. Staff prepare calendar item with public notice of hearing.
8. Commission conducts hearing, owner or interested party may participate
9. Disposition by Commission, disposal in its discretion.

Post Commission Hearing

10. Staff carries out the Commissions disposition
11. Collect costs in appropriate cases.

INQUIRIES OR QUESTIONS TO:

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Chapter 595, Effective January 1, 2012

Public Resources Code Sections 6302.1

Jurisdiction: On lands under the commissions control or at request of regulatory authority (6302.1(d)) Underlying jurisdictional concept –TRESPASS.

Basis (reason) for removal of a vessel:

Immediate removal without notice

- 1) Left unattended and moored, docked, made fast in a position to create a hazard to navigation, other vessels or property.
- 2) Poses a significant threat to health, safety, or to sensitive habitat, wildlife, water quality or creates a public nuisance.

Removal after notice

- 3) Placed on lands under commission's jurisdiction without permission (straight trespass).

Notice: Posting on the vessel and when known written notice to owner.

Abandonment: A vessel that remains unclaimed for 30 days after a posted notice or 15 days after written notice vessel is abandoned as a matter of law.

An "Unclaimed vessel" is one which the owner has failed to contact the Commission and has not made adequate arrangements to remove the vessel.

Definition of vessel:

A vessel, boat, raft or similar watercraft;
A buoy, anchor, mooring or other ground tackle;
A hulk, derelict, wreck, or parts of a ship vessel, or other watercraft.

Public Resource Code Section 6302.3

Commission conducts hearing at regular scheduled and notice Commission meeting and makes disposition of the vessel. Notice to owner who may appear and participate.

May sell, destroy or otherwise dispose of it *in any manner it determines is expedient or convenient*. If transferred - free and clear of liens. Disposition delayed 30 days. Commission may recover costs.

Public Resources Code Section 6203.4

Authorizes Commission staff or any peace officer to board any vessel to carry out provision of the act.

Exempt actions with regard to vessels from the State Contracts Act. (requirement to bid contracts for removal or disposal)

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§ 6302.1. Removal of vessel from waterwayCitation: **Cal Public Resources code Section 6302.1***Cal Pub Resources Code § 6302.1*

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(All 2011 legislation)

PUBLIC RESOURCES CODE
Division 6. Public Lands
Part 1. Administration and Control of State Lands
Chapter 4. Administration and Control of Swamp, Overflowed, Tide, or Submerged Lands, and
Structures Thereon
Article 1. Administration and Control Generally

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Cal Pub Resources Code § 6302.1 (2012)

§ 6302.1. Removal of vessel from waterway

(a)

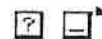
(1) The commission may take immediate action, without notice, to remove from areas under its jurisdiction a vessel that is left unattended and is moored, docked, beached, or made fast to land in a position as to obstruct the normal movement of traffic or in a condition as to create a hazard to navigation, other vessels using a waterway, or the property of another.

(2) The commission may take immediate action, without notice, to remove from areas under its jurisdiction a vessel that poses a significant threat to the public health, safety, or welfare or to sensitive habitat, wildlife, or water quality, or that constitutes a public nuisance.

(3) A vessel removed under this section that remains unclaimed for 30 days after notice of removal is abandoned property.

(4) After removal of the vessel pursuant to paragraph (1) or (2), the commission shall mail a

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notice to the owner, if known, and any known lienholder, that informs the owner and lienholder that if the vessel remains unclaimed for 30 days, it will be deemed abandoned property, and the commission may dispose of it pursuant to Section 6302.3.

(b)

(1) The commission may remove from areas under its jurisdiction a vessel that has been placed on state lands without its permission. Prior to removal of the vessel, the commission shall do both of the following:

(A) Give a 30-day notice to remove the vessel by attaching it to the vessel in a clearly visible place.

(B) Use reasonable means to identify and locate the owner and any lienholder. If the owner is located, the commission shall mail notice to the owner to remove the property by a date certain at least 15 days from the date of the notice.

(2) If a vessel remains unclaimed after the expiration of the 30 days' notice period and the 15 days' owner notice, if applicable, in accordance with paragraph (1), it is abandoned property and the commission may direct the disposition of the property pursuant to Section 6302.3. The commission may also either remove the vessel or allow it to remain in place until the commission takes action to dispose of the property.

(c) Upon request of the owner and after payment of the costs of removal and storage, the commission shall return to the owner a vessel removed under this section.

(d) The commission, at its discretion, may remove and dispose of an abandoned or derelict vessel on a navigable waterway in the state that is not under the jurisdiction of the commission pursuant to this section, if requested to do so by another public entity that has regulatory authority over the area where the vessel is located.

(e) The commission may recover all costs incurred in removal actions undertaken pursuant to this section, including administrative costs and the costs of compliance with the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)), through an appropriate action in the courts of this state or by use of any available administrative remedy.

(f) For purposes of this section the following definitions apply:

(1) "Appropriate action" means any cause of action available at law or in equity.

(2) "Commission" includes the staff or agents of the commission or other federal, state, or local agencies operating in concert with or under the direction of the commission.

(3) "Unclaimed" means that an owner or a lienholder of the vessel has not contacted the commission in response to a notice made pursuant to this section, if notice is required, and has not made adequate arrangements to take or remove the vessel to an authorized location.

(4) "Vessel" includes any of the following:

(A) A vessel, boat, raft, or similar watercraft.

(B) A buoy, anchor, mooring, or other ground tackle used to secure a vessel, boat, raft, or similar watercraft.

(C) A hulk, derelict, wreck, or parts of a ship, vessel, or other watercraft.

History:

Added Stats 1987 ch 969 § 3. Amended Stats 2011 ch 595 § 2 (SB 595), effective January 1, 2012.

Notes:

Amendments:

2011 Amendment:

Substituted the section for the former section which read: "(a) The commission may remove from areas under its jurisdiction any vessel, boat, raft, or other similar watercraft which is left unattended and is moored, docked, beached, or made fast to land in a position as to obstruct the normal movement of traffic or in a condition as to create a hazard to other vessels using a waterway, to public safety, or to the property of another. (b) The commission may remove from areas under its jurisdiction any vessel, boat, watercraft, raft, or other similar obstruction which seriously interferes with, or otherwise poses a critical and immediate danger to navigation or to the public health, safety, or welfare. (c) Through appropriate action in the courts of this state, the commission may remove or destroy any vessel, boat, watercraft, raft, or other similar obstruction which hinders navigation or otherwise creates a public nuisance in areas under the commission's jurisdiction. (d) The commission may recover costs incurred in removal actions undertaken pursuant to this section through appropriate action in the courts of this state. (e) For purposes of this section, 'appropriate action' means any cause of action available at law or in equity."

Related Statutes & Rules:

Similar provision: H & N C § 523.

Hierarchy Notes:

Div. 6 Note

Div. 6, Pt. 1 Note

Div. 6, Pt. 1, Ch. 4 Note

Div. 6, Pt. 1, Ch. 4, Art. 1 Note

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§ 6302.3. Commission may take title and sell abandoned vessels; Hearings; Notice; CostsCitation: **Cal Public Resources code Section 6302.3***Cal Pub Resources Code § 6302.3*

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Cal Pub Resources Code § 6302.3 (2012)

§ 6302.3. Commission may take title and sell abandoned vessels; Hearings; Notice; Costs

(a) The commission, at a properly noticed commission hearing, may take title to an abandoned vessel subject to disposal pursuant to Section 6302.1 for the sole purpose of abatement, without satisfying any lien on the property, and may cause the property to be sold, destroyed, or otherwise disposed of in any manner it determines is expedient or convenient. Those abandoned vessels shall not be considered surplus state property for the purposes of removal, disposal, or destruction. Title to property transferred by the commission by sale or otherwise to third parties shall be clear of any lien or encumbrance.

(b) Notice of that meeting shall be given to a known owner and known lienholder, and the known owner, lienholder, or other interested party shall be given the right to appear and be heard prior to disposition of the property.

(c) A hearing on the disposition of property held pursuant to this section shall be an informal hearing pursuant to Section 11445.20 of the Government Code, unless designated as a formal hearing by the commission.

(d) Any action with regard to the disposition of the property as directed by the commission, with the exception of returning the property to the owner, shall be delayed for 30 days after the date of the commission's determination, to allow the owner to pursue any other cause of action in law or equity.

(e) The commission's cost of disposing of abandoned property, including staff time and legal and attorney's fees, may be recovered by appropriate action in any court in which an action may be properly brought or by use of any available administrative remedy. If the property is sold, the commission may recover its costs from any proceeds of the sale and any additional funds received shall be deposited into the General Fund.

History:

Added Stats 2011 ch 595 § 3 (SB 595), effective January 1, 2012.

Hierarchy Notes:

Div. 6 Note

Div. 6, Pt. 1 Note

Div. 6, Pt. 1, Ch. 4 Note

Div. 6, Pt. 1, Ch. 4, Art. 1 Note

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§ 6302.3. Commission may take title and sell abandoned vessels; Hearings; Notice; Costs

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