

**CALENDAR ITEM  
C80**

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W 26410

Pelkofer

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

**PARTIES:**

State Lands Commission  
NYMET Industrial Solutions, Inc.

**AREA, LAND TYPE, LOCATION:**

Sovereign lands in Haypress Reach near Spud Island in the San Joaquin River,  
San Joaquin County.

**UNAUTHORIZED USE:**

Unauthorized mooring of two ferryboats, the Fresno and the San Leandro.

**GENERAL INFORMATION:**

The Ferryboats M/V Fresno and the M/V San Leandro (originally the Willapa) were built in 1927 and originally owned by the Southern Pacific Railroad system and served the San Francisco Bay Area, prior to the building of the bay bridges. In 2006 they were purchased by David Parker of Parker Oceanic and transported to their present location. He in turn sold them to NYMET in 2009 who commenced scraping them for their steel content. The vessels which are very similar are approximately 250 feet long and 60 feet wide.

NYMET began scraping them in late 2009 at their present location but ceased when cited by the County because of code violations at their unloading site and because of a dispute with Parker over the terms of the sale and a stock agreement. That dispute has led to litigation between Parker and NYMET in San Joaquin Superior Court.

Because the vessels are derelict and work to remove them has ceased, staff contacted Mr. James Gardner, Senior Vice President of NYMET on April 6, 2010 by e-mail and advised him that the vessels were trespassing on state sovereign lands and request information concerning plans to remove them. He responded that they had had delays but would begin work again shortly. After checking on the project with the Coast Guard and the Sheriff it was concluded that no further work had been done and on May 14<sup>th</sup> another e-mail was sent to Mr. Gardner. He responded that he was delayed because of a final quote from a contractor. I advised him that if no work had commenced in 30 days I would seek authorization to take legal action. As of this date no additional effort has been made to remove the vessels.

## **OTHER PERTINENT INFORMATION**

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).

This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 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.

## **EXHIBIT:**

A. Location Map/ pictures

## **RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

### **CEQA FINDINGS:**

FIND THAT THE ACTIVITY CONTEMPLATED IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA BECAUSE THERE IS NO POSSIBILITY THAT THE ACTIVITY MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

### **SIGNIFICANT LANDS INVENTORY FINDING:**

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND.

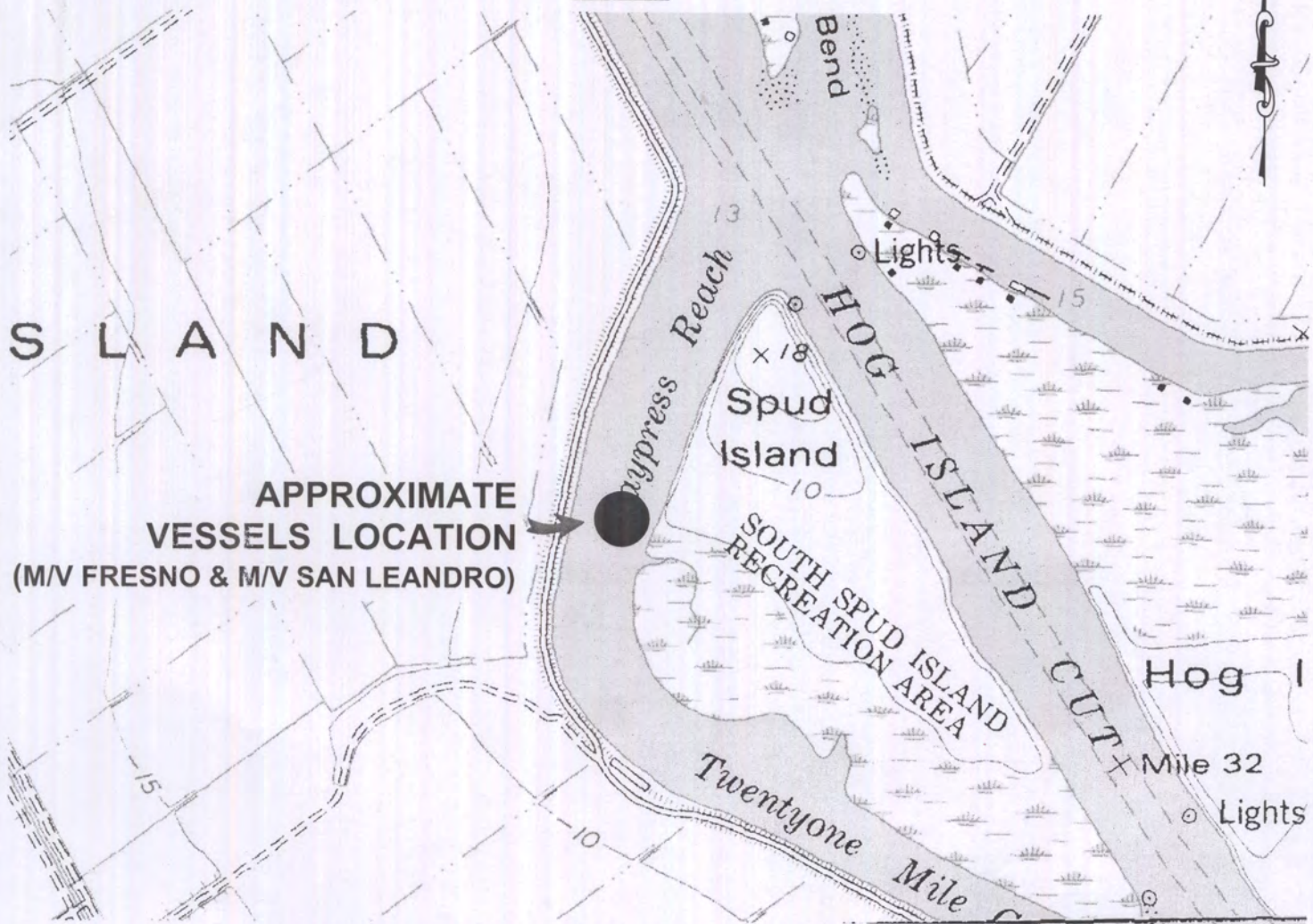
## **AUTHORIZATION:**

RATIFY STAFF'S DETERMINATION THAT THE VESSELS FRESNO AND SAN LEANDRO ARE IN TRESPASS ON STATE OWNED SOVEREIGN LAND LOCATED IN HAYPRESS REACH NEAR SPUD ISLAND IN THE SAN JOAQUIN RIVER AS SHOWN ON THE LOCATION MAP ATTACHED IN EXHIBIT A.

AUTHORIZE STAFF OF THE COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO REMOVE AND DISPOSE OF THE VESSELS FRESNO AND SAN LEANDRO FROM HAYPRESS REACH, NEAR SPUD ISLAND IN THE SAN JOAQUIN RIVER, SAN JOUQUIN COUNTY AND TO RECOVER THE COMMISSION'S DAMAGES AND COSTS.

NO SCALE

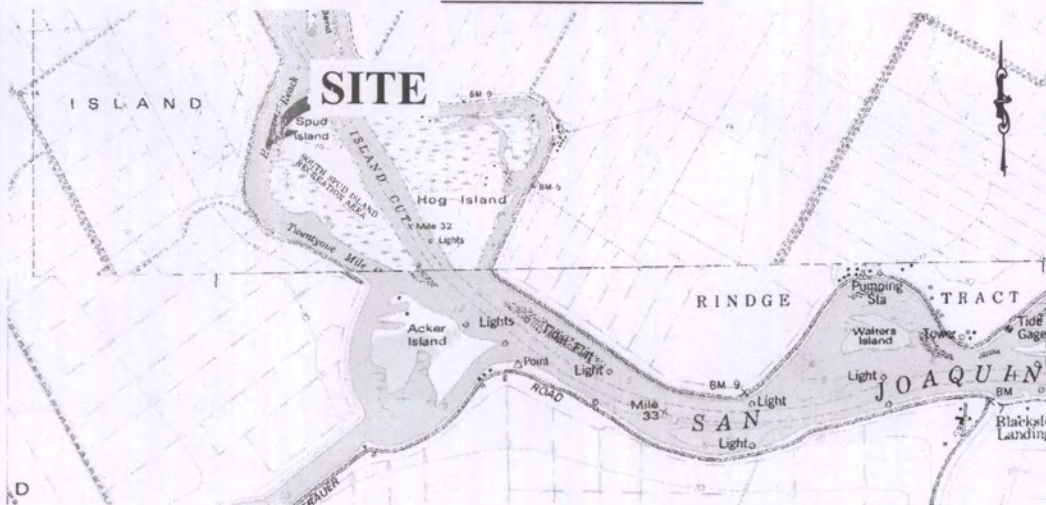
## SITE



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

NO SCALE

## LOCATION



MAP SOURCE: USGS QUAD

## **Exhibit A**

W 26410  
NYMET INDUSTRIAL  
SOLUTIONS, INC  
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.

MJJ 6/10