

MINUTE ITEM

This Calendar Item No. 3
was approved as Minute Item
No. 3 by the State Lands
Commission by a vote of 2
to 0 at its 7/26/88
meeting.

CALENDAR ITEM

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03

07/26/88
WP 4082
Gordon

AMENDMENT OF GENERAL LEASE - COMMERCIAL USE PRC 4082,
AND AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE

APPLICANT: Horst Hanf
P.O. Box 3178
San Rafael, California 94912

SECURED-PARTY LENDER:
Bank of Alex Brown
Attn: Mark Luke
P.O. Box 15860
1425 River Park Drive
Sacramento, California 95815

AREA, TYPE LAND AND LOCATION:
A 7.659-acre parcel of tide and submerged
land, located in the bed of Whiskey Slough,
San Joaquin County.

LAND USE: Construction, operation and maintenance of a
commercial marina.

TERMS OF ORIGINAL LEASE:
Initial period: 35 years beginning January 1,
1985.
Surety bond: \$15,000.
Public liability insurance: Combined single
limit coverage of \$1,000,000.

CONSIDERATION: \$11,745 per annum; with the State reserving the
right to fix a different rental on each
fifth anniversary of the lease.

CALENDAR ITEM NO. 03 (CONT'D)

Special:

1. The lease consents to Lessee's subletting the lease premises for berthing or mooring purposes for terms of one year or less.

TERMS OF PROPOSED AMENDMENT:

Initial period: 35 years beginning January 1, 1985.

Surety bond: \$25,000.

Public liability insurance: Combined single limit coverage of \$1,000,000.

Special:

1. The amendment increases the area of use and surety bond. It also modifies the original rental basis to a percentage of gross income method, prohibits any residential use of the facilities, and requires the consent of any littoral upland owner.
2. All other terms and conditions of the lease remain in full force and effect.

CONSIDERATION: Five percent of gross income annually, less a minimum annual rental payable in advance in the amount of \$14,650 for 1988; \$7,825 payable on January 1, 1989 and July 1, 1989; \$8,325 payable on January 1, 1990 and July 1, 1990; \$8,775 payable on January 1, 1991 and July 1, 1991, and semiannually thereafter; plus one and one-half cent per gallon of fuel sold annually to a maximum of 100,000 gallons, and two cents per gallon sold annually in excess of 100,000 gallons; with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Adm. Code 2003.

CALENDAR ITEM NO. 03 (CONT'D)

APPLICANT STATUS:

Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee and processing costs have been received.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Adm. Code: Title 2, Div. 3; Title 14, Div. 6.

AB 884:

10/27/88.

OTHER PERTINENT INFORMATION:

1. This project is located at the abandoned McDonald Island Ferry crossing site. The completed project will allow Lessee to provide berthing facilities for 18 large size recreational boats which will expand and enhance marina services.
2. To carry out the proposed project, Lessee has applied to the Bank of Alex Brown for a loan to finance this project and to refinance the improvements authorized by the State Lands Commission on January 31, 1985, in Minute Item 7. As a condition for the loan, the Bank of Alex Brown requests that it be named as a secured-party lender with respect to the Lessee's interest under the subject lease. The Lessee and the Bank of Alex Brown have executed an Agreement and Consent to Encumbrancing of Lease, of which a copy is on file in the office of the State Lands Commission.
3. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the Staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities, 14 Cal. Adm. Code 15301(e).

Authority: P.R.C. 21084 and 14 Cal. Adm. Code 15300.

CALENDAR ITEM NO. 03 (CONT'D)

4. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 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 this activity is consistent with its use classification.

APPROVALS REQUIRED:
None.

APPROVALS OBTAINED:
United States Army Corps of Engineers,
California Department of Fish and Game,
California Central Valley Regional Water
Quality Control Board, California Reclamation
Board, and the County of San Joaquin.

EXHIBITS: A. Land Description.
 B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES, 14 CAL. ADM. CODE 15301(e).
2. AUTHORIZE THE AMENDMENT OF GENERAL LEASE - COMMERCIAL USE PRC 4082, EFFECTIVE JANUARY 1, 1988, TO ADD BOAT BERTHS WHICH WILL ACCOMMODATE LARGER BOATS IN CONSIDERATION OF AN ANNUAL RENTAL BASED ON FIVE PERCENT OF GROSS INCOME, LESS A MINIMUM RENTAL PAYABLE IN ADVANCE IN THE AMOUNT OF \$14,650 FOR 1988; \$7,825 PAYABLE ON JANUARY 1, 1989 AND JULY 1, 1989; \$8,325 PAYABLE ON JANUARY 1, 1990 AND JULY 1, 1990; \$8,775 PAYABLE ON JANUARY 1, 1991 AND JULY 1, 1991, AND SEMIANNUALLY THEREAFTER; PLUS ONE AND ONE-HALF CENTS PER GALLON OF FUEL SOLD ANNUALLY TO A MAXIMUM OF 100,000 GALLONS, AND TWO CENTS PER GALLON SOLD ANNUALLY IN EXCESS OF 100,000 GALLONS; WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; WITH PROVISION OF A \$25,000 SURETY BOND; AND WITH PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; FOR CONSTRUCTION, OPERATION, AND MAINTENANCE OF COMMERCIAL MARINA FACILITIES ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

CALENDAR ITEM NO. 03 (CONT'D)

3. AUTHORIZE STAFF EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE", ON FILE IN THE OFFICE OF THE COMMISSION, IN FAVOR OF THE BANK OF ALEX BROWN FOR THE PURPOSE OF GRANTING A LOAN TO HORST HANF WHICH WILL FINANCE THE CONSTRUCTION OF LARGER BOAT BERTHS AND REFINANCE THE IMPROVEMENTS AUTHORIZED UNDER GENERAL LEASE - COMMERCIAL USE PRC 4082 ON JANUARY 31, 1985.

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EXHIBIT "A"

LAND DESCRIPTION

WP 4082

Three parcels of tide and submerged land in the bed of Whiskey Slough in San Joaquin County, California, located immediately adjacent to Roberts Island and more particularly described as follows:

PARCEL 1

BEGINNING at the intersection of the centerline of the McDonald Island Road with the ordinary high water line comprising the westerly boundary of Roberts Island (in projected Section 31, T2N, R5E, MDM) which intersection was designated the "point of commencement" in the deeds from Marie Pezzi, et al, to Harold Claude Taylor, et ux, dated June 27, 1962, recorded in Book 2570, pages 273 through 276, Official Records of San Joaquin County, California; thence from said point of beginning southerly along said ordinary high water line 1,280 feet, more or less, to the southerly boundary of the 4,287 acre parcel described in said deeds; thence, leaving said line, N 65° W, 150 feet; thence N 37° E, 450 feet; thence N 25° W, 200 feet; thence N 50° W, 450 feet; thence North 100 feet, more or less, to a point which bears S 87° W from said point of beginning hereof; thence N 87° E, 155 feet, more or less, to said point of beginning.

PARCEL 2

COMMENCING at the 1 inch by 2 foot iron pipe set on the west side of the levee crown, as shown on that map recorded in Record of Surveys, Volume 8, San Joaquin County Records, at Page 109; thence S 00°20'00" E, 15.00 feet; thence S 89°17'00" W, 21.00 feet to a point on the east bank of Whiskey Slough and the TRUE POINT OF BEGINNING; thence leaving said east bank the following seven courses:

1. S 89°33'00" W 146.09 feet;
2. S 29°11'24" W 116.17 feet;
3. S 53°12'16" W 254.02 feet;
4. S 44°48'22" W 211.36 feet;
5. S 45°33'22" E 112.12 feet;
6. S 84°23'10" E 32.18 feet;
7. S 55°44'17" E 26.06 feet to a point on the easterly bank of Whiskey Slough; thence along said bank the following eight courses:

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|-----|---------------|--|
| 8. | N 36°22'27" E | 54.90 feet; |
| 9. | N 44°50'36" E | 97.74 feet; |
| 10. | N 50°24'02" E | 96.74 feet; |
| 11. | N 56°23'15" E | 99.77 feet; |
| 12. | N 49°26'29" E | 104.80 feet; |
| 13. | N 36°37'21" E | 103.77 feet; |
| 14. | N 13°41'45" E | 105.63 feet; |
| 15. | N 14°08'31" W | 17.05 feet; to the point of beginning. |

PARCEL 3

BEGINNING at the intersection of the centerline of the McDonald Island Road with the ordinary high water line comprising the westerly boundary of Roberts Island (in projected Section 31, T2N, R5E, MDM) which intersection was designated the "point of commencement" in the deeds from Marie Pezzi, et al, to Harold Claude Taylor, et ux, dated June 27, 1962, recorded in Book 2570, pages 273 through 276, Official Records of San Joaquin County, California; thence from said point of beginning S 87° W, 155 feet; thence North 203.37 feet; thence N 62° E, 70.04 feet; thence S 45°33'22" E, 112.12 feet; thence S 84°23'10" E, 32.18 feet; thence S 55°44' 17" E, 26.06 feet; thence S 17°08'38" W, 137.94 feet to the point of beginning.

EXCEPTING FROM above described Parcels 1, 2 and 3 any portion thereof lying landward of the ordinary high water mark of Whiskey Slough.

END OF DESCRIPTION

REVISED FEBRUARY 8, 1988, BY BIU 1.

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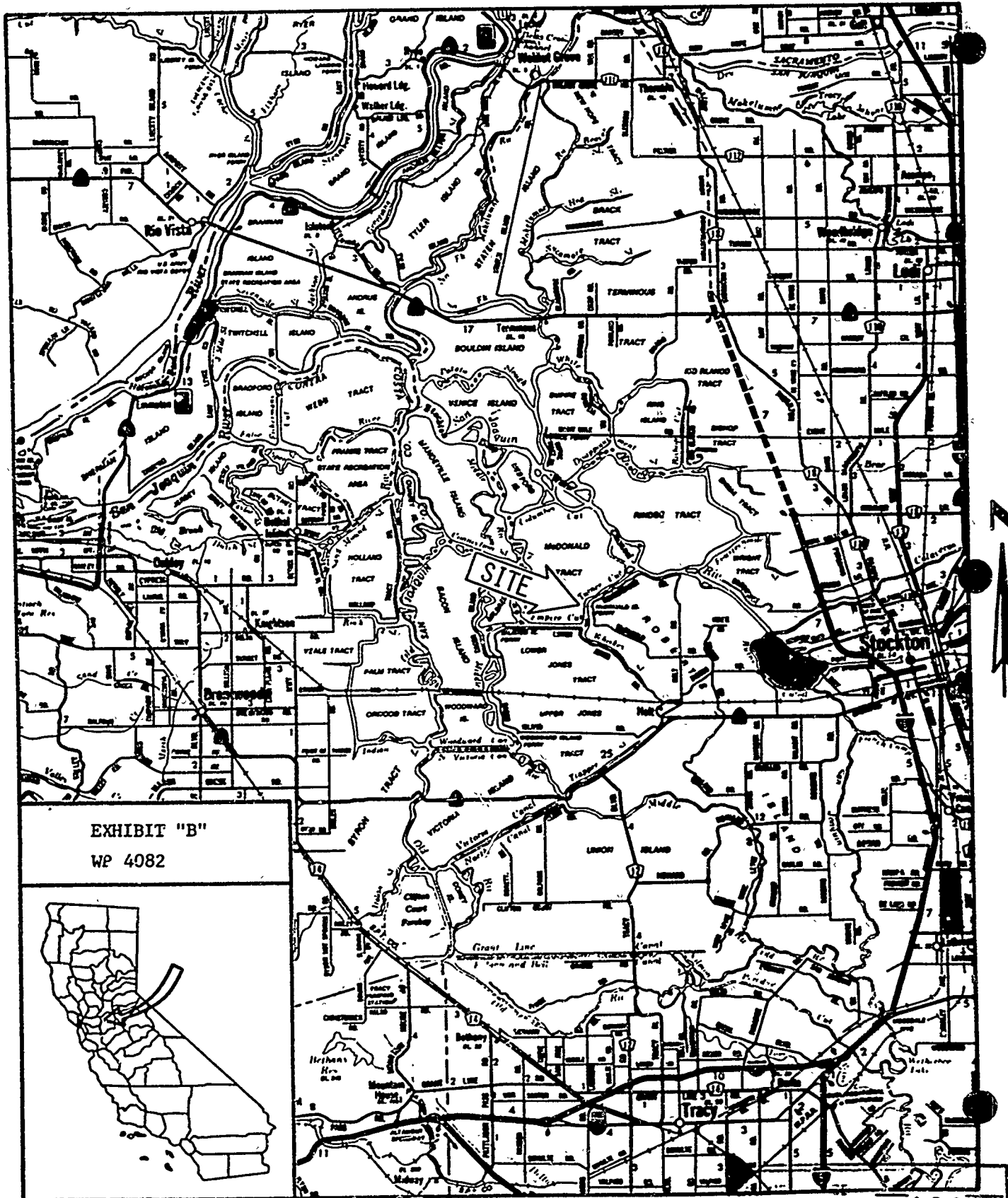


EXHIBIT "B"

WP 4082

