

MINUTE ITEM  
54

MINUTE ITEM  
This Calendar Item No. 54  
was approved as Minute Item  
No. 54 by the State Lands  
Commission by a vote of 3  
to 0 at its 4/6/94  
meeting.

Jones  
04/06/94

W21216

A 2 CONSIDERATION OF APPLICATION BY GARY KAVENEY  
FOR A COMMERCIAL LEASE TO CONSTRUCT AND OPERATE A MARINA  
S 4 AT VERONA, SUTTER COUNTY

During consideration of Calendar Item 54, Ms. Jane Sekelsky, Chief, Division of Land Management, presented the item to the Commission.

Ms. Sekelsky pointed out the four major issues raised by the application: The physical constraints of the project site; the potential adverse impacts on riparian and aquatic habitats as a result of the project, particularly on shaded marine aquatic habitat; the potential impacts on fishing activities; and the financial feasibility of the project. She referenced a letter from the State Department of Fish and Game which withdraw an earlier objection to the project solely because it is not the Department's policy to oppose projects on the basis of specific recreational opportunities at a single geographic location; however, she indicated the letter did not retract the earlier statements in the previous letter.

Ms. Sekelsky pointed out to the Commission that the staff had presented the Commission with three options which are set forth in the Calendar Item.

Mr. Robert Faber appeared on behalf of the applicant, Mr. Gary Kaveney. At the onset, Mr. Faber clarified the characteristics of the site; namely, that other marinas exist near the proposed site, that it is an area which contains rip-rap, that illegal camping takes place immediately downstream and upstream of the proposed site, that the applicant has attempted to increase the riparian values at the site, and that the applicant was not in opposition to a revegetation plan, but that he would propose biodegradable netting. Mr. Faber also indicated he had submitted an additional option to the staff (Option D) as an alternative proposal for the Commission to consider which the staff had not had time to analyze. He also had additional amendments to the Lease to propose.

Miriam Green, the environmental consultant responsible for drafting the Draft and Final Environmental Impact Reports, indicated that she felt staff's characterizations of the issues were not representative of the actual EIR and subsequently testified that mitigation measures were contained within the document to avoid or minimize any adverse effects.

Commissioner McCarthy questioned upon what basis could the Commission deny the project if the Commission were to assume all adverse impacts were mitigated. Ms. Sekelsky indicated there was the major issue of conflicting public trust uses: the public use of fishing at the site versus constructing a marina. A discussion ensued over the impacts to fishing in the area. Mr. Fred Meyer, biologist with the State Department of Fish and Game, appeared in response to Commissioner Davis's request. Mr. Meyer testified that in surveying use of the subject area for fishing, the right question must be posed at the right time, specifically at the time the best fishing is available for a certain type of species and to the people who fish for these species. He indicated angling in the area had decreased because of the last six years of drought, but that it may recover when it is over. He further indicated if a marina is placed at the proposed site, there would be potential conflicts between the angling and the boats trying to maneuver into the slips. In addition, he indicated the proposed marina site is a good fishing site since it contains the cold, clear water from the Feather River which fish inhabit and it would thus interfere with the angling opportunities at the site.

In response to Mr. Davis' request for advice from Mr. Meyer, Mr. Meyer indicated the day-use dock proposal would be acceptable or the location of the marina across the river would be acceptable.

Mr. Gary Kaveney, the applicant, appeared in support of the project.

At the conclusion of the hearing, Commissioner Davis indicated he would be inclined to approve the project subject to a resolution of the concerns raised by the Department of Fish and Game. He instructed the staff to work with the Department, and return to the Commission with a proposal for a marina within 60 days. In addition, it was agreed that the Environmental Impact Report would be certified.

Commissioner Parker indicated she wanted it clarified that although it is the Commission's desire to approve the project, the action at this meeting did not give the applicant the authority to proceed.

See April 6, 1994, transcript from Commission meeting for verbatim discussion.

Upon motion duly made and carried, the following resolution was adopted:

**THE COMMISSION:**

1. CERTIFIED THAT AN EIR NO. 569, STATE CLEARINGHOUSE NO. 91703087, WAS PREPARED FOR THIS PROJECT PURSUANT TO THE PROVISIONS OF THE CEQA AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

2. INSTRUCTED STAFF OF THE COMMISSION TO WORK WITH THE DEPARTMENT OF FISH AND GAME TO DETERMINE IF AGREEMENT COULD BE REACHED ON PROVIDING FISHING ACCESS AT THE SITE.
3. INSTRUCTED STAFF TO RETURN TO THE COMMISSION WITHIN SIXTY (60) DAYS WITH A PROPOSED MARINA PROJECT TO CONSIDER.

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CALENDAR ITEM

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Jones

CONSIDERATION OF APPLICATION BY GARY KAVENEY FOR A COMMERCIAL LEASE TO CONSTRUCT AND OPERATE A MARINA AT VERONA, SUTTER COUNTY

APPLICANT:

Gary Kaveney  
4201 Midas Avenue  
Rocklin, California 95677

AREA, TYPE LAND AND LOCATION:

A 1.329 acre parcel of tide and submerged lands in the Sacramento River, Sutter County.

PROPOSED LAND USE:

Construction and operation of a 48-boat capacity marina, including 22 covered berths, 450 lineal feet of side-tie dockage accommodating approximately 20 boats, and day-use docks for up to six (6) boats; a pump out; and continued use of a debris deflector, a two-lane concrete boat launching ramp, and existing but unauthorized gabion wall located at the upstream side of the launch ramp.

CURRENT LEASE TERMS:

Authorized Improvements:

Boat launching ramp and debris deflector.

Initial period:

20 years beginning January 1, 1979.

Surety bond:

\$1,000.

Public liability insurance:

Combined single limit coverage of \$200,000.

Consideration:

\$225 per annum; five-year rent review.

PROPOSED LEASE TERMS:

See discussion of Commission Options, below.

APPLICANT STATUS:

Applicant is the General Partner of Auburn Investors, record owner of the adjoining upland.

**PREREQUISITE CONDITIONS, FEES AND EXPENSES:**

The Applicant was not required to reimburse staff for its costs in processing the lease, but did pay \$23,850 toward completion of an Environmental Impact Report.

**STATUTORY AND OTHER REFERENCES:**

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

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

**AB 884:**

April 12, 1994.

**OTHER PERTINENT INFORMATION:**

**BACKGROUND**

The Applicant in this case, Gary Kaveney, is the General Partner in the Auburn Investors partnership. Auburn Investors holds record title to uplands adjoining the proposed project site, and operates an existing campground on the uplands.

In 1979, the Commission authorized a 20-year General Lease - Commercial Use to Auburn Investors for the construction of a marina at the now proposed project site, approximately 0.4 mile downstream from the confluence of the Sacramento and Feather Rivers. The lease was not executed because the Lessee was unable to fulfill certain requirements under the terms of the lease. In addition, because of financial problems, and in order to reduce rental payments, Auburn Investors requested that the lease use area be reduced to include only authorization of a debris deflector and boat ramp. In response, the Commission in 1981 rescinded its earlier authorization and authorized a 20-year General Lease - Commercial Use to Auburn Investors for a debris deflector and boat ramp, effective January 1, 1979.

In 1991, Gary Kaveney, as an individual, applied to the Commission to amend the lease to Auburn Investors to allow construction of a marina adjacent to the campground. The application was deemed complete pursuant to the State Permit Streamlining Act (PSA).

After performing an Initial Study (Study) for the proposal and in response to agency comments, staff determined that an Environmental Impact Report (EIR) would be necessary to address several potentially significant adverse environmental impacts that were identified in the Study. Mr. Kaveney disagreed with the staff over the need for and scope of the EIR. Because this dispute could not be resolved within the time constraints within which the Commission

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must act pursuant to the PSA, the Commission, at its December 17, 1992 meeting, denied Mr. Kaveney's application without prejudice to his right to re-apply.

Because of potential adverse impacts to critical habitat at and near the proposed project site, Staff advised Mr. Kaveney that serious concerns had been identified regarding the location of the project. Mr. Kaveney chose to proceed with the project, and on February 22, 1993, submitted an application for a marina accommodating 48 boats. Staff advised him that an EIR would be required and that the Commission would be the Lead Agency. The application was found to be complete as of April 13, 1993. By law, the Commission is required to act on the application by April 12, 1994.

On January 11, 1994, Staff circulated a draft (EIR) entitled "Draft Environmental Impact Report, Verona Marina, January 1994" through the State Clearinghouse. Comments were received (see discussion of "ISSUES," below), and a Finalizing Addendum to the EIR was completed and circulated to interested parties on March 21, 1994, in accordance with Commission regulations. The draft EIR and Finalizing Addendum are hereinafter collectively referred to as the EIR.

The project evaluated in the EIR includes two parts: 1) construction and operation of the proposed marina, and 2) the continued operation of existing upland facilities. The application before the Commission at this time is for use of the water covered lands only. The existing upland facilities are currently operated without the necessary Sutter County permits, the previous County permit having expired. The County requested that the EIR include an analysis of the continued operation of the upland facilities, so that the County may use the EIR in considering whether to issue the requisite permit(s). Staff concurred with the request to include evaluation of both waterway and upland uses in the EIR, to comply with requirements under the California Environmental Quality Act (CEQA) to evaluate a project in its totality.

Applicant's representative, Robert Faber, has twice addressed this Commission in support of the proposed project, and has expressed concern over Staff's handling of Mr. Kaveney's application. Specifically, he has argued: 1) Against Staff's application of AB884 to his client's application (he believes the item should have been heard by the Commission no later than December 3, 1993; 2) That an EIR is not necessary for this proposal; and 3) That Staff should not have required his client to submit a financial feasibility study for the project. Staff, on the other hand, continues to have serious concerns as to placement and operation of

the proposed project at the subject site.

In order to assure an orderly and objective analysis of the proposed project, this report will focus first on substantive issues inherent in this and other marina proposals; then will outline possible lease conditions which the Commission might conclude address each of these concerns should the Commission choose to authorize the proposed project.

**ISSUES**

Physical Constraints of Proposed Project Site

The proposed project site lies approximately 0.4 mile downstream from the confluence of the Sacramento and Feather Rivers, and approximately fifteen (15) miles north of the Sacramento city limits. Except for levees designed to protect surrounding upland agricultural uses, and Applicant's campground facilities adjoining the proposed project site, the banks of both rivers in the project area and for a considerable distance upstream are virtually unimproved.

The bank along the proposed project site is sandy and contains no riprap. Immediately downstream of the launch ramp, the bank is gently sloped, and supports a thin band of cottonwood trees along the top, at the edge of the campground. Riparian vegetation on the vertical slope of the bank consists of scattered cottonwood, box elder, willow and red mulberry trees whose roots have become exposed due to bank erosion.

Applicant estimates that the bank at the project location has receded between five and fifteen feet over the past seventeen years. Aerial photographs support this estimate. In addition, according to a geomorphic analysis done in 1991 for the USACOE, the bank at the site has migrated landward at a rate of 1.1 feet per year during the period 1949-1986. Applicant has not requested authorization for structural bank protection; nor do his cost projections include it. Continuing recession of the bank could reduce the area available for upland campsites, and could undermine the footings of the access ramp to the marina berths.

From an assessment of river flows since 1945, and information obtained during an August, 1993, bathymetric survey, Staff believes that some dredging may be necessary for year round operation of the marina, particularly the interior side tie docks. It is unclear whether ongoing maintenance dredging will be needed. Applicant has been advised of Staff's conclusions, but disagrees and has not applied for authorization to dredge; nor do his cost projections include dredging (see below). He indicates only that minor amounts of sediment will be periodically removed from around the end of the

launch ramp.

Because Applicant has not included dredging or bank protection in his project application, the EIR did not analyze possible impacts of those activities. Should Applicant find it necessary to implement either or both activities, he will need separate Commission authorization, subject to appropriate review under CEQA.

Environmental Impacts

This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. Among the reasons provided by nominating agencies are the river's significant fishery or wildlife attributes and the existence of resources that support wildlife.

Along the Sacramento River, probably less than three percent of riparian habitat remains from its historic extent. Habitat fragmentation is identified in the Commission's report on rivers and their resources, California's Rivers: A Public Trust Report (1993), as a major cause of continuing impacts to river corridor ecosystems. For the Sacramento River specifically, the Commission's report on marinas, the Sacramento River Marina Carrying Capacity (1986), and numerous recent studies by the U.S. Fish and Wildlife Service, all point out the serious threat to fish and wildlife from cumulatively degrading and splintering river habitats.

The riparian and shaded riverine aquatic habitats at and near the project site provide shelter and sustenance to numerous plant and animal species, including the Swainson's Hawk (a state-listed threatened species), and the winter-run chinook salmon (a state-listed endangered and federally listed threatened species). In addition, the majority of all upstream-migrating salmon and steelhead in the Sacramento River (except for the American River runs) probably migrate through the project site. The Sacramento River is the source for almost all of the commercial salmon catch caught off the coast of California.

The proposed activities at the project site would result in adverse impacts to the riparian and aquatic habitat values at the site through modification of vegetation and substrates. In addition, habitat values at or near the site will be diminished due to the direct disturbance of fish and wildlife by noise, lights, minute amounts of water pollutants, and human presence. While many of the impacts can be mitigated, the project will still have the effect of further fragmenting river habitats on the Sacramento River.

The EIR describes a major environmental impact as being a loss of

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Shaded Riverine Aquatic (SRA) cover. SRA cover is the habitat formed by the interface between woody riparian vegetation and water, including trees growing on the bank as well as submerged roots, branches, and snags. It provides important habitat for many wildlife species such as river otter, herons, and egrets which utilize river shorelines. SRA cover is also important habitat for aquatic organisms, especially fish. SRA cover provides food sources, shelters from the current, refuge from predators, and shade. Such riparian vegetation along the banks of the Sacramento River is regarded as an essential component of Critical Habitat for the winter-run chinook, as designated by National Marine Fisheries Service under the Federal Endangered Species Act.

Applicant indicates that several stumps and old tree snags will be removed from the proposed project site as part of the construction. In addition, continuing erosion of the bank face at the project site would eventually result in the toppling of riparian trees growing on the face and top of the bank. While this process would have the benefit of adding to SRA cover, the removal of fallen or leaning trees and snags, if necessary to assure boater access to inner berths, would once again result in loss of SRA cover.

In addition, the continued operation of the campground and other support facilities will also have adverse impacts on SRA cover values. Uncontrolled human access from the campground to the river over the bank could result in damage to existing bank vegetation, and would prevent growth of new plants. Even current use has adversely impacted SRA cover. Boaters wishing to access the campground often beach their boats and tie up to a tree on the bank. People walk up the steep slope, damaging the soil and vegetation.

Finally, continued and increased use of the site as a recreation area would reduce the habitat value of the site as well as upstream and downstream parcels due to the disturbance of animals by noise and other aspects of human presence.

Section 6370 of the P.R.C. requires the Commission to "adopt regulations necessary to assure permanent protection of these (environmentally significant) lands." In partial fulfillment of this requirement, the Commission adopted three land use classifications and attendant guidelines by which proposed uses of the environmentally significant lands might be considered. These are Class A - Restricted Use; Class B - Limited Use; and Class C - Multiple Use. The Sacramento River is classified as Class B - Limited Use which is further defined as, "Areas in which one or more closely related dominant, significant environmental values is present. Limited use compatible with and non-consumptive of such

values may be permitted." (emphasis added)

As illustrated by the EIR and the above discussion, the proposed project would result in direct and cumulatively significant potentially adverse impacts to fish and wildlife and the habitat, riparian and SRA, upon which they depend. As stated by Dr. Peter B. Moyle in "Fishes, Aquatic Diversity Management Areas, and Endangered Species: A Plan to Protect California's Native Aquatic Biota," 1992, "The number of endangered species in California is increasing rapidly, as is the number of confrontations on endangered species issues. The best way to avoid creating endangered species is to protect the habitats of native species before they decline to the point where emergency action is needed to keep them from becoming extinct." One species that depends on the habitat affected by the proposed project, the winter-run salmon, is already state-listed, endangered and federally listed, threatened.

The project, as proposed and analyzed in the EIR, will result, as above described, in significant impacts to riparian and SRA habitat. It is, therefore, not consistent with the use classification established by the Commission as it would not be compatible with and would be consumptive of the resources for which the area is found to be environmentally significant.

#### Fishing Impacts

In its comments to the DEIR, the California Department of Fish and Game stated that "... the area the proposed marina would occupy would significantly interfere with existing boat angling opportunities ... we cannot support the preferred project or any of the alternatives that contain boat storage docks." The Department comments then suggest that "... construction of day use docks waterward of the existing gabion wall would have lesser impact on boat angling use while still providing most of the described public benefits...the loss of boat angling resulting from the day use docks could be mitigated by providing access at the end of the docks either with a fishing pier or docks designated specifically for fishing." The full text of the Department's comments is attached hereto as Exhibit E.

The conflict between the proposed project and existing angling opportunities is one between competing public trust uses. Such conflicts require a balancing of public benefits to be furthered or compromised in either case.

The Department correctly identifies the more private nature of the marina as compared to public fishing activities.

Applicant, on the other hand, asserts a demand for berthing of the nature he proposes, for 35'- 40' boats. Staff has attempted to verify such a demand. The Department of Boating and Waterways has no current demand information for the subject area. Staff has conducted an informal telephone survey of eight marinas located between Verona and Sacramento, three of which indicated some demand for 35' - 40' berths. Two of the marinas indicated existing vacancies. The proposed project would be upstream or northerly of all of the marinas surveyed; the nearest commercial marina to the north of the proposed project site is approximately thirty (30) miles upstream.

Economic Feasibility

Over the past three to five years, an increasing number of Commission lessees operating commercial marinas on State land have fallen into default as to requirements for rental, bond, insurance, and/or adequate maintenance of facilities on State owned sovereign land. Of approximately 64 commercial marinas within the geographic area of the Delta that are or have been under lease, approximately 25% are currently in default, and approximately 10% are operating with expired Commission leases and are unwilling to come under lease. When approached to cure such defaults, the Commission's lessees have regularly indicated economic distress and requested waivers of the lease requirements.

Consideration of such requests requires the Commission to balance a desire to avoid putting the lessee in the position of losing his or her business against potential risk of liability to the State. In an effort to avoid such situations in the future, the Commission revised its application forms in 1992 to require financial feasibility analyses of all proposals for new or expanded facilities on State owned lands.

Applicant has provided financial feasibility analyses for the proposed project. Applicant's analyses treat the proposed marina as a part of the combined marina - campground project (Analysis 1), and as a separate function (Analysis 2). Copies of both analyses are attached hereto as Exhibit F.

As indicated above, neither analysis includes projected costs for dredging or bank protection, which Applicant asserts will not be necessary. Applicant indicates a payroll for Analysis 1 of \$15,166 in the first year of operation, increasing to \$35,762 in the tenth year. Note that these numbers include established employment at the existing campground facility. Applicant's projected costs for Analysis 2 include a payroll of \$7,583 in the first year of operation, escalating to \$17,880 in the tenth year.

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Applicant plans to invest up to \$450,000 of his own money in the proposed project. There does not appear to be a provision for recapture of the wasting asset (boat docks, etc.). This would add up to 5% to the expected rate of return. Staff feels a prudent investor would require this provision.

Applicant's analysis suggests an expected 7% annual increase in revenues, approximately 2+% over the average rate of inflation for the past five years, as measured by the Consumer Price Index. The income projections also assume full occupancy by 1997-1998, and 30 launchings and departures per day, at a charge of \$7 in and \$7 out. Staff believes the projections to be optimistic in today's economy, but perhaps not unreasonable should the economy recover.

Based upon Applicant's income and cost projections, which assumed 1993 construction, the marina/campground facility (Analysis 1) would break even in year 1994-95; the marina alone (Analysis 2) would break even in year 1997-98. Expenses under Analysis 2 would equal approximately 40% of estimated income; although high for a typical commercial marina business, this ratio is not unusual for a smaller operation.

In summary, Staff's analysis of Applicant's financial feasibility studies suggests the following.

1. Projected costs may be too low (e.g., dredging, bank protection).
2. Projected income may be too high (e.g., number of launchings, occupancy rate, reduction of campground area).
3. Applicant estimates payroll for Analysis 2 (the proposed marina project alone) during the first year of operation to be \$632/month (\$7583/year).
4. Assuming Applicant's projections are accurate, the marina operating as an independent entity poses a high risk of failure. Operating together with the existing upland campground facilities, the proposed project may be a reasonable financial risk.

**COMMISSION OPTIONS**

Staff believes that the concerns raised above (i.e., physical constraints, environmental impacts, public trust and access considerations, and financial feasibility), provide substantial grounds upon which to base denial of the Applicant's proposed project.

In the alternative, the Commission could authorize the revised project suggested by the Department of Fish and Game.

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Finally, should the Commission choose to authorize the proposed project, Staff recommends adoption of the following lease conditions to minimize environmental impacts, protect the State's public trust resources, and avoid potential liability to the State.

**LEASE CONDITIONS**

Lease conditions recommended by Staff are included in full in the Lease Form attached hereto as Exhibit G. Following is a summary of most, but not all, of those conditions, organized to reflect relevance to each of the issues outlined above.

Physical Constraints of the Project

Except for the gabion wall located upstream of the launch ramp which is authorized within the proposed lease, structural bank protection, i.e., the use of inert construction material such as rock or concrete, shall not be allowed under the lease. In addition, all new structural bank protection shall be subject to a new application to the Commission, subject to evaluation under the California Environmental Quality Act and shall be designed and analyzed by a licensed engineer.

In addition, except for approximately 15 cubic yards of material which Lessee is authorized to dredge annually at the base of the launch ramp by use of a front-end loader, Lessee shall be prohibited from any other dredging or form of dredging. All other dredging shall be subject to submittal of a new application to the Commission and subject to evaluation under the California Environmental Quality Act.

Environmental Impacts

Lessee will be required to construct the marina project in three phases as set forth in the EIR; shorezone preparation, installation of pilings, and marina installation.

Construction will not be permitted without prior approval of the Department of Fish and Game, to assure avoidance of damage to threatened or endangered species.

The lease form contains restrictions on materials to be used in construction of facilities on the proposed lease premises.

Lessee will be required to post signs and locate access ramps so as to minimize human disturbance to riparian vegetation on the bank face.

Lessee will be required to submit a Revegetation Plan for approval by Commission Staff no later than May 15, 1994, said Revegetation Plan being conceptually set forth in the Lease Form attached as

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Exhibit G. The plan shall be implemented by Lessee no later than six months following the beginning of construction of the marina.

Lessee will be required to submit to Commission Staff for its review and approval a fuel spill prevention and clean up plan prior to June 1, 1994.

Fishing Impacts

As indicated above, and in letters from the Department of Fish and Game attached hereto as Exhibit E, the proposed marina would interfere with existing angling opportunities. Neither the Department nor the EIR has identified any means of avoiding this conflict, given the proposed project design. The Department has suggested an alternative design of day use docks without boat storage capability, to minimize interference with boat angling.

Financial Provisions

Liability Insurance:\$1,000,000 Combined Single Limit  
Bond:\$20,000.

Consideration: Annual rental is percentage of gross income, with \$3,770 annual minimum rent, as set forth in the attached Exhibit G, Lease Form.

**APPROVALS OBTAINED:**

United States Army Corps of Engineers permit.

**FURTHER APPROVALS REQUIRED:**

State Lands Commission; Amendment of State Reclamation Board permit; County of Sutter.

**EXHIBITS:**

- A. Land Description
- B. Location Map
- C. Plat of Existing Facility
- D. Plat of Proposed Project
- E. Department of Fish and Game Comments
- F. Applicant's Financial Analysis
- G. Lease Form, Including Revegetation Plan
- H. CEQA Findings
- I. Mitigation Monitoring Plan

**BASED UPON THE FOREGOING, IT IS RECOMMENDED THAT THE COMMISSION ADOPT ONE OF THE FOLLOWING OPTIONS.**

**OPTION A. DENIAL OF LEASE APPLICATION**

1. CERTIFY THAT AN EIR NO. 569, STATE CLEARINGHOUSE NO. 91073087, WAS PREPARED FOR THIS PROJECT PURSUANT TO THE PROVISIONS OF THE CEQA AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED

CALENDAR ITEM NO. 54 (CONT'D)

THE INFORMATION CONTAINED THEREIN.

2. FIND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE POTENTIALLY SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND AVAILABLE MITIGATION THERETO, AS DESCRIBED IN THE EIR; THE CONFLICTS BETWEEN PUBLIC TRUST USES AT OR ADJACENT TO THE SITE, I.E., ACCESS, HABITAT PROTECTION, NAVIGATION, AND FISHING; AND THE FINANCIAL FEASIBILITY OF THE PROPOSED FACILITIES AND THE POTENTIAL ECONOMIC LIABILITY AND BENEFITS TO THE STATE, AND CONCLUDES THAT THE POTENTIAL ADVERSE IMPACTS OF THE PROPOSED PROJECT ARE IN EXCESS OF ANY POTENTIAL BENEFITS TO THE STATE.
3. ADOPT THE FINDINGS, MADE IN CONFORMANCE WITH SECTION 15091 OF THE STATE CEQA GUIDELINES, AS CONTAINED IN EXHIBIT "H(A)", ATTACHED HERETO.
4. ADOPT THE MITIGATION MONITORING PLAN, AS CONTAINED IN EXHIBIT "I", ATTACHED HERETO.
5. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.
6. BASED UPON THE FOREGOING, DENY THE APPLICATION OF GARY KAVENEY FOR A COMMERCIAL LEASE TO CONSTRUCT AND OPERATE A MARINA AT VERONA, SUTTER COUNTY.
7. AUTHORIZE ISSUANCE TO GARY KAVENEY OF A 25-YEAR GENERAL LEASE - COMMERCIAL USE BEGINNING APRIL 1, 1994; IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT, FOR AN EXISTING GABION WALL, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST, AND A BASE RENTAL IN THE AMOUNT OF \$1,128.75 OR FIVE (5) PERCENT OF GROSS INCOME PER ANNUM, WHICHEVER IS GREATER, FOR THE EXISTING BOAT LAUNCHING RAMP AND AN 88 FOOT X 4 FOOT DEBRIS DEFLECTOR WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISIONS OF A \$5,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$500,000; AS DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
8. TERMINATE LEASE PRC 5634.1, EFFECTIVE APRIL 1, 1994.

OPTION B. ADOPT ALTERNATIVE PROPOSED BY CALIFORNIA DEPARTMENT OF FISH AND GAME

1. CERTIFY THAT AN EIR NO. 569, STATE CLEARINGHOUSE NO. 91073087,

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WAS PREPARED FOR THIS PROJECT PURSUANT TO THE PROVISIONS OF THE CEQA AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

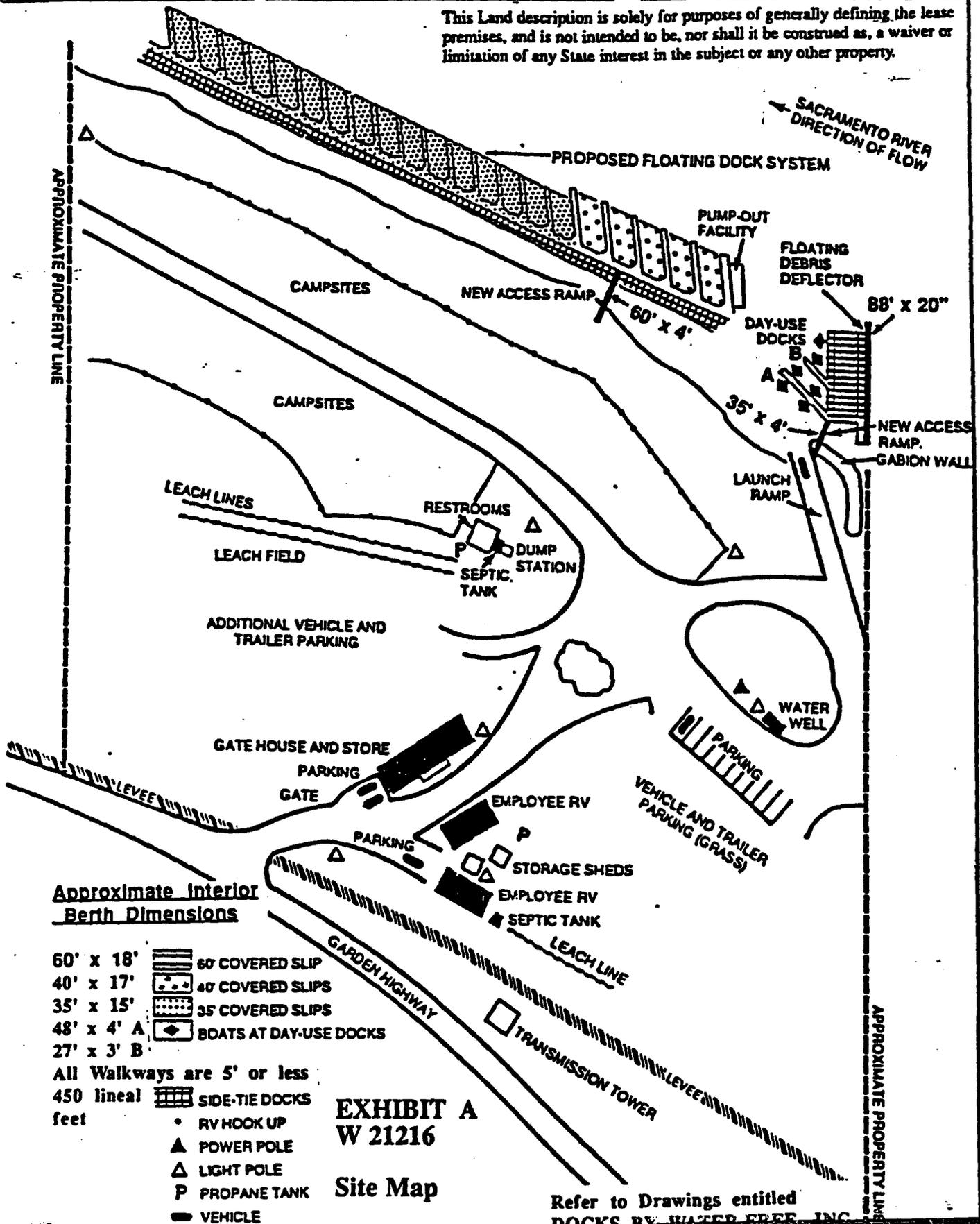
2. ADOPT THE FINDINGS, MADE IN CONFORMANCE WITH SECTION 15091 OF THE STATE CEQA GUIDELINES, AS CONTAINED IN EXHIBIT "H(B)", ATTACHED HERETO.
3. ADOPT THE MITIGATION MONITORING PLAN, AS CONTAINED IN EXHIBIT "I", ATTACHED HERETO.
4. FIND THAT THE ALTERNATIVE TO THE PROPOSED PROJECT DEFINED BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
5. FIND THAT THE ALTERNATIVE TO THE PROPOSED PROJECT DEFINED BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME WILL NOT HAVE AN ADVERSE EFFECT ON PUBLIC ACCESS TO THE PROPOSED PROJECT SITE FOR FISHING.
6. FIND THAT THIS ALTERNATIVE ACTIVITY IS CONSISTENT WITH ITS USE CLASSIFICATION.
7. AUTHORIZE ISSUANCE TO GARY KAVENEY OF A 25-YEAR GENERAL LEASE - COMMERCIAL USE BEGINNING APRIL 1, 1994; WHICH LEASE IS AN ALTERNATIVE TO THE PROPOSED PROJECT DEFINED BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME; IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT, FOR AN EXISTING GABION WALL, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST, AND A BASE RENTAL IN THE AMOUNT OF \$1,128.75 OR FIVE (5) PERCENT OF GROSS INCOME PER ANNUM, WHICHEVER IS GREATER, FOR THE EXISTING BOAT LAUNCHING RAMP, DAY-USE DOCKS TO ACCOMMODATE UP TO SIX (6) BOATS AVERAGING 20 FEET IN LENGTH; ONE UNCOVERED PEDESTRIAN ACCESS RAMP MEASURING 35 FEET IN LENGTH AND APPROXIMATELY 5 FEET IN WIDTH CONNECTING TO THE DAY-USE DOCKS, AN 88 FOOT X 4 FOOT DEBRIS DEFLECTOR, AND A 60 FOOT X 18 FOOT BOAT DOCK, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISIONS OF A \$5,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE IN THE AMOUNT OF \$500,000; SAID END OF DOCKS PROVIDING PUBLIC ACCESS FOR FISHING PURPOSES; AS DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
8. TERMINATE LEASE P.R.C. 5634.1, EFFECTIVE APRIL 1, 1994.

OPTION C. APPROVAL OF THE PROPOSED PROJECT

CALENDAR ITEM NO. 54 (CONT'D)

1. CERTIFY THAT AN EIR NO. 569, STATE CLEARINGHOUSE NO. 91073087, WAS PREPARED FOR THIS PROJECT PURSUANT TO THE PROVISIONS OF THE CEQA AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. ADOPT THE FINDINGS, MADE IN CONFORMANCE WITH SECTION 15091 OF THE STATE CEQA GUIDELINES, AS CONTAINED IN EXHIBIT "H(C)", ATTACHED HERETO.
3. ADOPT THE MITIGATION MONITORING PLAN, AS CONTAINED IN EXHIBIT I, ATTACHED HERETO.
4. FIND THAT THIS ACTIVITY, AS MODIFIED BY THE MITIGATION MEASURES ADOPTED BY THE COMMISSION WITHIN THE FINDINGS IN EXHIBIT H, IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C.6370, ET SEQ.
5. DETERMINE THAT THE PROJECT, AS APPROVED, WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
6. AUTHORIZE ISSUANCE TO GARY KAVENEY OF A 25-YEAR GENERAL LEASE - COMMERCIAL USE BEGINNING APRIL 1, 1994, IN THE FORM ATTACHED HERETO AS EXHIBIT G; IN CONSIDERATION OF A MINIMUM ANNUAL RENT IN THE AMOUNT OF \$3,770 OR FIVE (5) PERCENT OF GROSS INCOME PER ANNUM, WHICHEVER IS GREATER, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF A \$20,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; FOR AN EXISTING BOAT LAUNCHING RAMP; AN EXISTING GABION WALL LOCATED ON THE UPSTREAM SIDE OF THE LAUNCH RAMP; 22 COVERED BERTHS, INCLUDING ONE 60-FOOT SLIP, FIVE 40-FOOT SLIPS, AND SIXTEEN 35-FOOT SLIPS; CONSTRUCTION OF 450 LINEAR FEET OF SIDE-TIE DOCKAGE; DAY-USE DOCKS TO ACCOMMODATE UP TO SIX (6) BOATS AVERAGING 20 FEET IN LENGTH; TWO (2) UNCOVERED PEDESTRIAN ACCESS RAMPS, ONE RAMP MEASURING 50-60 FEET IN LENGTH CONNECTING THE CAMPGROUND TO THE MAIN DOCK; AND THE SECOND RAMP MEASURING 35 FEET IN LENGTH CONNECTING TO THE DAY-USE DOCKS AND 60-FOOT COVERED BERTH AND EXTENDING OVER THE GABION WALL ON THE UPSTREAM SIDE OF THE LAUNCH RAMP; AND 88-FOOT LONG FLOATING DEBRIS DEFLECTOR AT THE UPSTREAM END OF THE 60-FOOT COVERED BERTH; AND PLACEMENT OF A 500-GALLON PUMP-OUT FACILITY MOUNTED ON A FLOATING BARGE; ON THE LAND DESCRIBED ON EXHIBIT A ATTACHED AND BY REFERENCE MADE A PART HEREOF.
6. TERMINATE LEASE P.R.C. 5634.1, EFFECTIVE APRIL 1, 1994.

This Land description is solely for purposes of generally defining the lease 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.



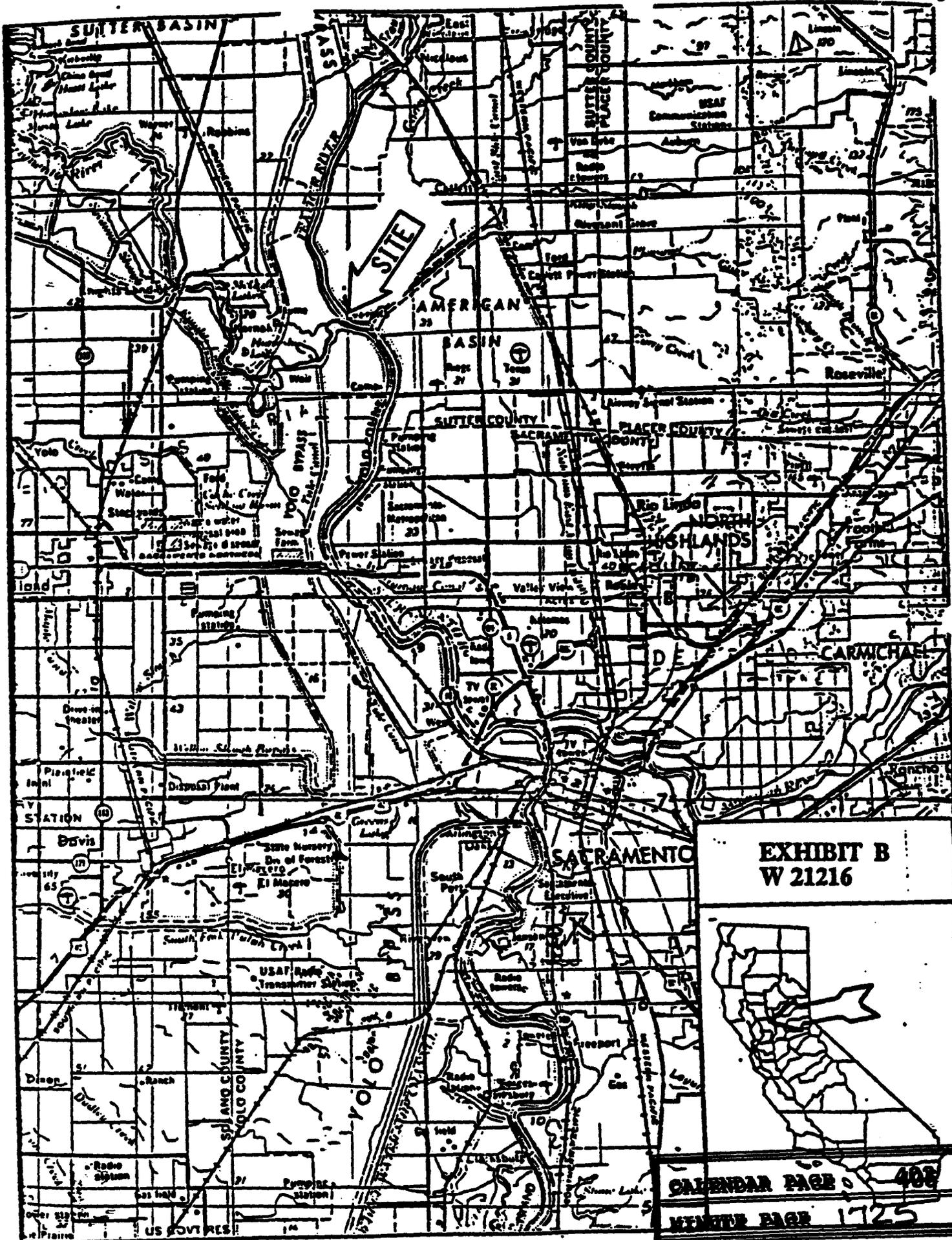
**Approximate Interior Berth Dimensions**

- 60' x 18'  60 COVERED SLIP
- 40' x 17'  40 COVERED SLIPS
- 35' x 15'  35 COVERED SLIPS
- 48' x 4' A  BOATS AT DAY-USE DOCKS
- 27' x 3' B
- All Walkways are 5' or less
- 450 lineal feet  SIDE-TIE DOCKS
-  RV HOOK UP
-  POWER POLE
-  LIGHT POLE
-  PROPANE TANK
-  VEHICLE

**EXHIBIT A  
W 21216**

**Site Map  
Gary Kaveney**

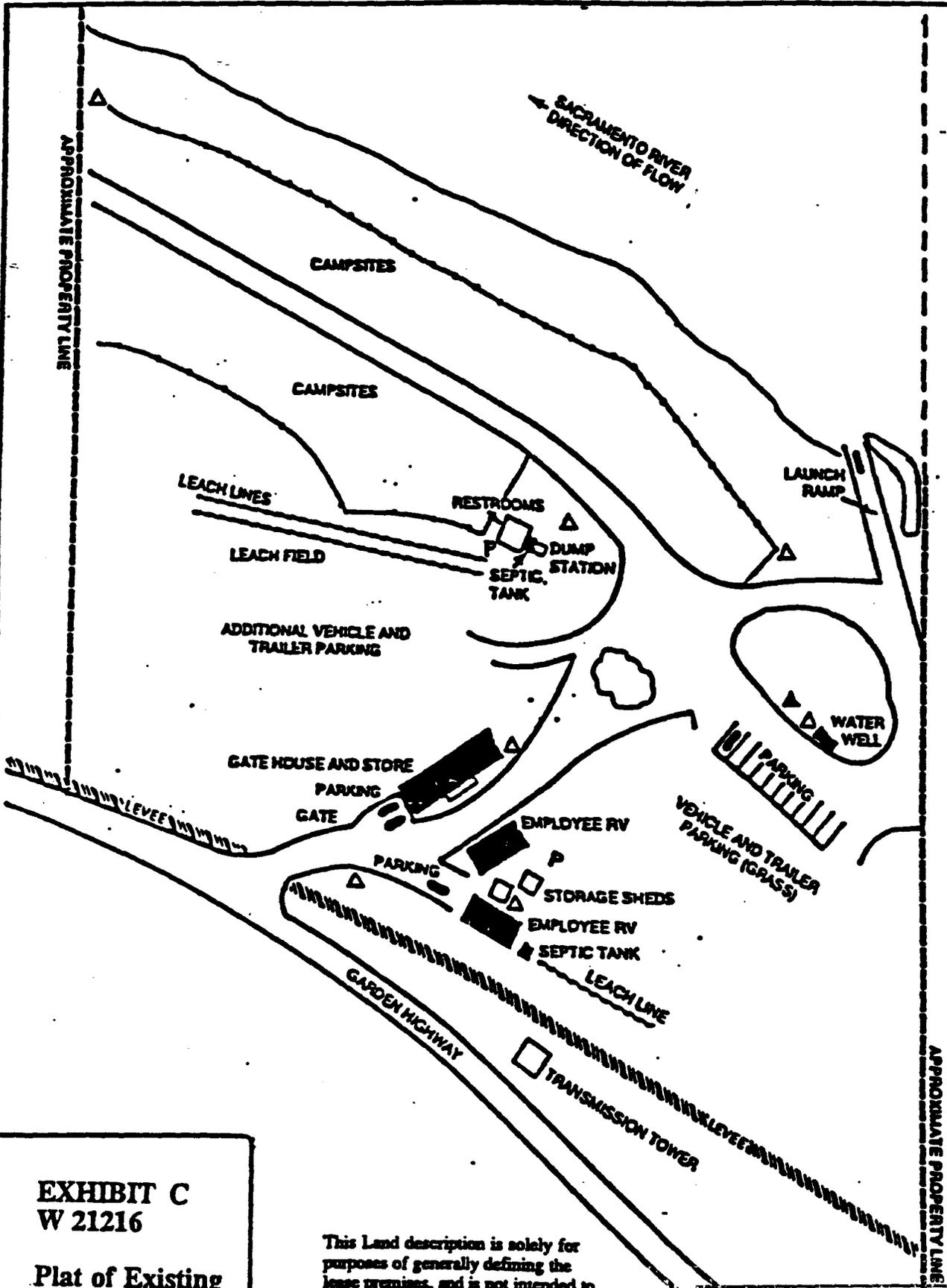
Refer to Drawings entitled  
**DOCKS BY WATER FREE, INC.**  
Dated 8/3/98 on file in the office  
of the SLO **CALENDAR PAGE**



**EXHIBIT B  
W 21216**



**CALENDAR PAGE 402  
MINUTE PAGE 1725**



**EXHIBIT C  
W 21216**

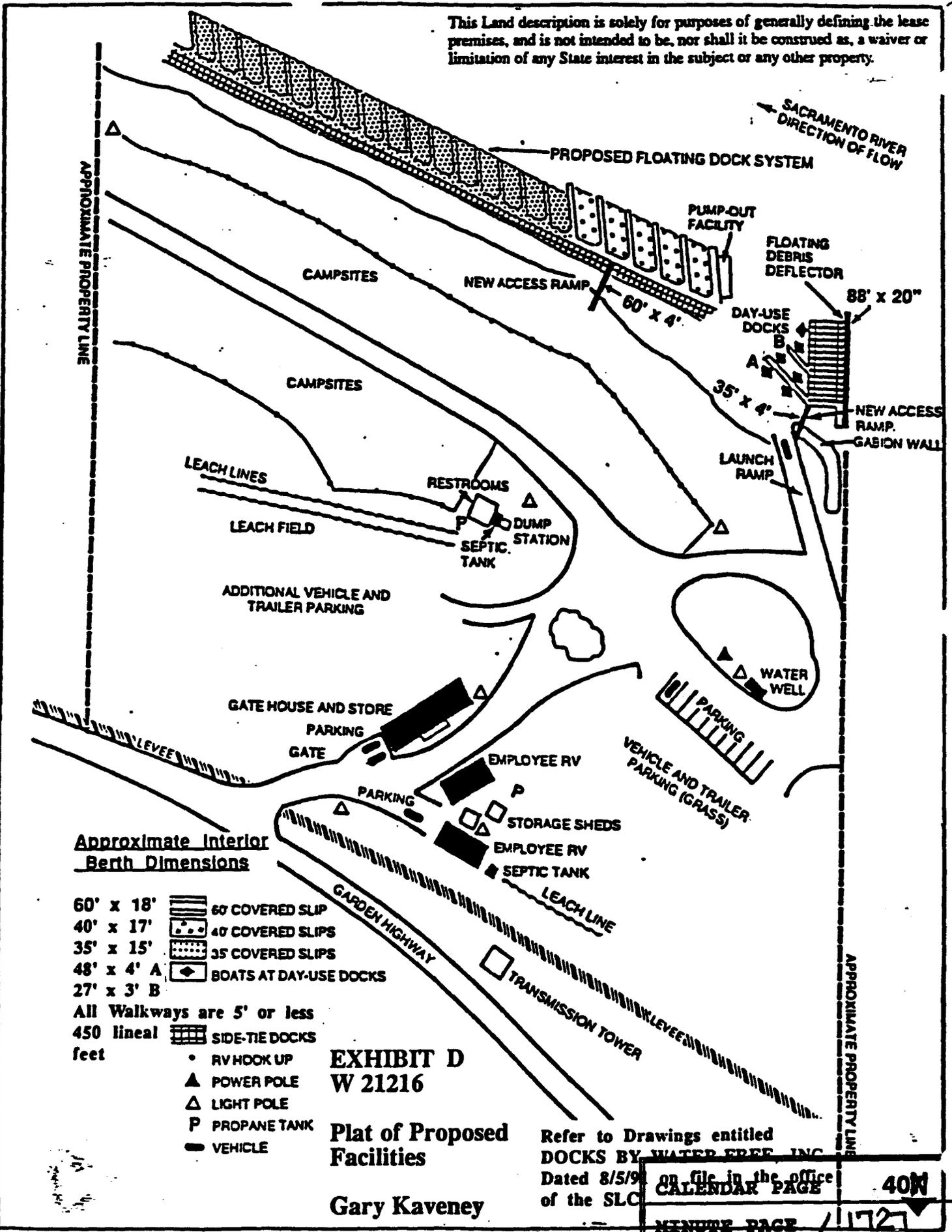
**Plat of Existing  
Facilities**

**Gary Kaveney**

This Land description is solely for purposes of generally defining the lease 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.

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This Land description is solely for purposes of generally defining the lease 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.



**Approximate Interior Berth Dimensions**

- 60' x 18'  60' COVERED SLIP
- 40' x 17'  40' COVERED SLIPS
- 35' x 15'  35' COVERED SLIPS
- 48' x 4' A  BOATS AT DAY-USE DOCKS
- 27' x 3' B
- All Walkways are 5' or less
- 450 lineal feet  SIDE-TIE DOCKS
- RV HOOK UP
- ▲ POWER POLE
- △ LIGHT POLE
- P PROPANE TANK
- VEHICLE

**EXHIBIT D  
W 21216  
Plat of Proposed  
Facilities  
Gary Kaveney**

Refer to Drawings entitled  
**DOCKS BY WATER FREE, INC.**  
Dated 8/5/91  
of the SLC

**Memorandum**

To : Ms. Mary Griggs  
State Lands Commission  
1807 13th Street  
Sacramento, California 95814

Date February 24, 1994

From : Department of Fish and Game - Region 2

Subject : Verona Marina Draft Environmental Impact Report (SLC EIR 569,  
State Clearinghouse Number 91073087)

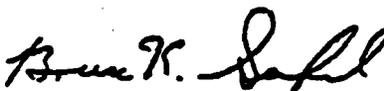
We have reviewed the Draft Environmental Impact Report (EIR) and have the following comments:

In our memorandum to you dated March 19, 1993 (attached), we requested that the EIR include several items. Items 2 and 3 were included and adequately addressed. Item 1, however, is only briefly discussed while no mitigation measures are described.

We believe the area the proposed marina would occupy would significantly interfere with existing boat angling opportunities, especially during seasons when adult anadromous fish are present. Replacing a heavily used public fishing area without acceptable mitigation into private use would be in direct conflict with the Public Trust Doctrine. For this reason, we cannot support the preferred project or any of the alternatives that contain boat storage docks.

We believe, however, that construction of the day-use docks waterward of the existing gabion wall would have lesser impact on boat angling use while still providing most of the described public benefits. This facility would alleviate congestion at the foot of the boat ramp and provide for a platform to place the 5 MPH sign. Further, the loss of boat angling resulting from the day-use docks could be mitigated by providing access at the end of the docks either with a fishing pier or docks designated specifically for fishing.

We appreciate the opportunity to comment on the Draft EIR. If you need further information, please contact Mr. Fred Meyer, Associate Fishery Biologist or Mr. Nick Villa, Senior Fishery Biologist at (916) 355-7090.

  
for L. Ryan Broddrick  
Regional Manager

Attachment

cc: See attached list

EXHIBIT E-1

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**Memorandum**

To : Ms. Mary Griggs  
State Lands Commission  
1807 13th Street  
Sacramento, California 95814

Date : March 19, 1993

From : Department of Fish and Game - Region 2

Subject: Verona Marina (SCH 91073087)

The Department of Fish and Game (DFG) has reviewed the Notice of Preparation of an Environmental Impact Report (EIR) for the Verona Marina.

The Draft EIR should also consider the following impacts.

1. Interference of the Marina and its use with the established recreational uses of the project site. The area is heavily used for fishing.
2. Impacts to threatened or endangered species including winter run chinook salmon and yellow billed cuckoo.
3. A consultation as per Fish and Game Code Section 2090 will be necessary.

If the DFG can be of further assistance, please contact Mr. Jerry Mensch, Environmental Services Supervisor, telephone (916) 355-7030.

  
L. Ryan Broddrick  
Regional Manager

cc: Mr. Jerry Mensch  
Rancho Cordova, California

EXHIBIT E-2

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1611 S Street, Suite 200 • Sacramento, California 95814 • (916) 552-7000

April 19, 1993

Diane Jones, Public Land Management Specialist  
State Lands Commission  
1807 13th St.  
Sacramento, CA 95814

Dear Diane:

Enclosed are materials provided by Mr. Kaveney which address the questions raised on the economics of the proposed Verona Marina project. This should wrap up the information you are anticipating from Mr. Kaveney.

Let me know if you have any other questions.

Sincerely,

Robert C. Faber

RCF/lmc

Enclosures

cc: Gary Kaveney

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EXHIBIT F-1

# VERONA MARINA ECONOMIC ASSESSMENT

## PROJECT LOCATION

The proposed project will be located adjacent to the east bank of the Sacramento River at River Mile 79.5, just south of the community of Verona, Sutter County, California (Figure 1). The immediate upland area next to the proposed project is currently used as an active 6.5 acre campground site with restrooms and a bait shop. Since both the proposed marina and existing campground will use certain facilities in common, the economics of both are considered in this document.

## PROJECT OWNER/MANAGEMENT

The proposed dock facility will be individually owned by Gary Kaveney. He is the majority owner and managing partner of the Auburn Investors Group, which owns the upland campground, restrooms, and bait shop.

## PROJECT DESCRIPTION

### Background

The proposed project involves the construction of a 22-berth marina adjacent to the existing campground and boat launch. The marina is Phase II of a previously-approved project. Phase I, completed in 1977, consisted of the construction of the campground, associated support facilities, and a boat launching ramp, including the installation of a gabion wall. A debris deflector was also authorized but has not yet been installed. All existing facilities are owned free and clear.

### Existing facilities

Existing facilities in the upland area adjacent to the proposed marina include a two-lane concrete boat launching ramp, 44 campsites, a small office, bait and tackle shop, a well, and a restroom housing four toilet stalls and four showers with hot and cold running water.

Parking facilities include day-use spaces for 10 vehicles, three employee/manager trailer spaces, two additional spaces for staff (including a two-vehicle carport), 60 vehicle parking spaces, and sufficient space for another 60 vehicles with boat trailers. The access road from the Garden Highway to the launch ramp and campground is paved.

The existing water and sewer systems were designed to accommodate Phases I and II of the project (i.e., the campground plus the additional requirements needed to service the marina).

### Proposed project

The following would be installed as Phase II of the project:

- The floating debris barrier at the upstream end of the new marina;
- Three pedestrian access ramps connecting the marina to the shore;

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- Day-use docks (uncovered) to accommodate up to six boats averaging 20 feet in length, and
- 22 covered berths including one 60-foot slip, five 40-foot slips, and sixteen 35-foot slips. This area would also provide 450 linear feet of side-tie dockage which could accommodate 19 or 20 boats averaging 20 feet in length.

Project components are shown in Figure 2. The access ramps will be constructed of hot-dipped galvanized steel frames and 2- by 6-inch pressure-treated wooden decking. Two ramps will provide access to the covered portion of the marina; a third ramp will provide access to the day-use area. Flexible connections at each end of the ramps will allow movement according to changing water levels.

The covered docks will have both water hookups and 30-amp 220-volt electrical power. Both the covered berths and day-use docks will be equipped with night lighting along the edge of the decking.

Construction of the marina will take place in three steps. The estimated time of completion is within 60 days from the onset of construction. The proposed construction schedule is from August 15 through October 15, 1993. A description of each step follows:

#### Step 1: Dredging/Shoreline Preparation

Due to the stable depths in the area, it is unlikely that dredging will be required for installation of a floating dock facility. The only location where maintenance may be required occasionally is in the vicinity of the launch ramp, where sand and silt accumulate along the edges.

Along the shoreline, a minimal amount of work will be required to remove a rock and concrete pile from the old boat launch ramp. The shoreline above the summer water level will be planted with an appropriate grass mixture; riparian tree seedlings will be planted along the bank at 20-foot intervals to provide shoreline protection and shade. Shoreline preparation will take approximately one week.

#### Step 2: Construction of Pilings

Sixteen 20-inch diameter steel pilings 60 to 65 feet in length with .281 inch wall thickness will be driven into the riverbed. Eleven piles will be required for the main dock and four piles, plus a batter pile, will be needed for the debris barrier and day-use docks. Step 2 will take approximately two to three weeks.

#### Step 3: Dock Assembly

Docks are constructed off-site of hot-dipped, galvanized truss frames with 2- by 6-inch pressure-treated Douglas fir or pine decking. Flotation will consist of 1.1-pound, high-density polystyrene blocks capable of supporting up to 60 pounds per cubic foot. All dock fingers will be tied together with an underwater truss and held in place to pilings with nylon roller pile rings. All roof framing purlins (cross-members of frame) and columns will be hot-dipped galvanized steel with metal roof sheeting.

The prefabricated docks will be stored and assembled in a portion of the campground that receives minimal use. Individual pieces will either be lifted into the water with a crane, or will

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be hauled down the launch ramp with a trailer and floated into place. Dock assembly and in-river placement will take approximately three to four weeks.

Materials and labor for the proposed project are estimated at approximately \$300 - 400k. Docks are anticipated to be the major expenditure, and they have already been purchased. It is anticipated that 75% of the budget (approximately \$225k) will be spent locally for manufacturing, installation, plumbing, and electrical services, giving the area's economy a needed boost. An additional \$5600 - 8700 in sales and property tax is also expected to be generated annually. In addition, \$15 - \$16,000 in personal property taxes will be paid annually by individual boat owners to Sutter County.

A large percentage of marina patrons are expected to be persons who previously have trailered their boats back and forth from the area. Many campers are also likely to dock their boats at the marina and would use existing trailer space for parking. Covered berths would be leased out on an annual basis. A significant number of local anglers, as well as existing camping and boat launching clients, have expressed a need for the installation of the marina facility.

#### NET INCOME/CASH FLOW CONSIDERATIONS

Since the proposed marina is being funded personally by Mr. Kaveney, there is no significant question as to loan repayment. The primary consideration becomes whether the marina can be sufficiently profitable to meet its lease obligations and provide a reasonable return to Mr. Kaveney.

Anticipated cash flow and net income figures for the marina are shown in Figure 3. Cash flow sources will be launching, camping, and dockage fees, and revenue from goods sold in the general store. The initial dockage fees used for this financial evaluation are \$4.50/foot for uncovered areas and \$5.75/foot for covered ones. Launch fees are assessed at \$7.00 with initial camping rates at \$16.00/day.

Dockage income figures allow for a 10% vacancy factor and a 7% per year increase in fees. Camping and launching revenues are also based on a 7% per year increase in fees. The projection incorporates planned camping and launching fee increases every few years. They reflect a \$450,000 10-year amortized mortgage at 9% interest to reflect the return on capital investment for Mr. Kaveney.

As the projections reflect very conservative estimates, the marina is likely to be more, rather than less, profitable than the projected figures. Projected dockage fees, for instance, are below the market rate per-foot cost at less updated facilities.

Based on income projection for 1993 - 2002, Verona Marina should maintain profitable cash flow over the period of the lease.

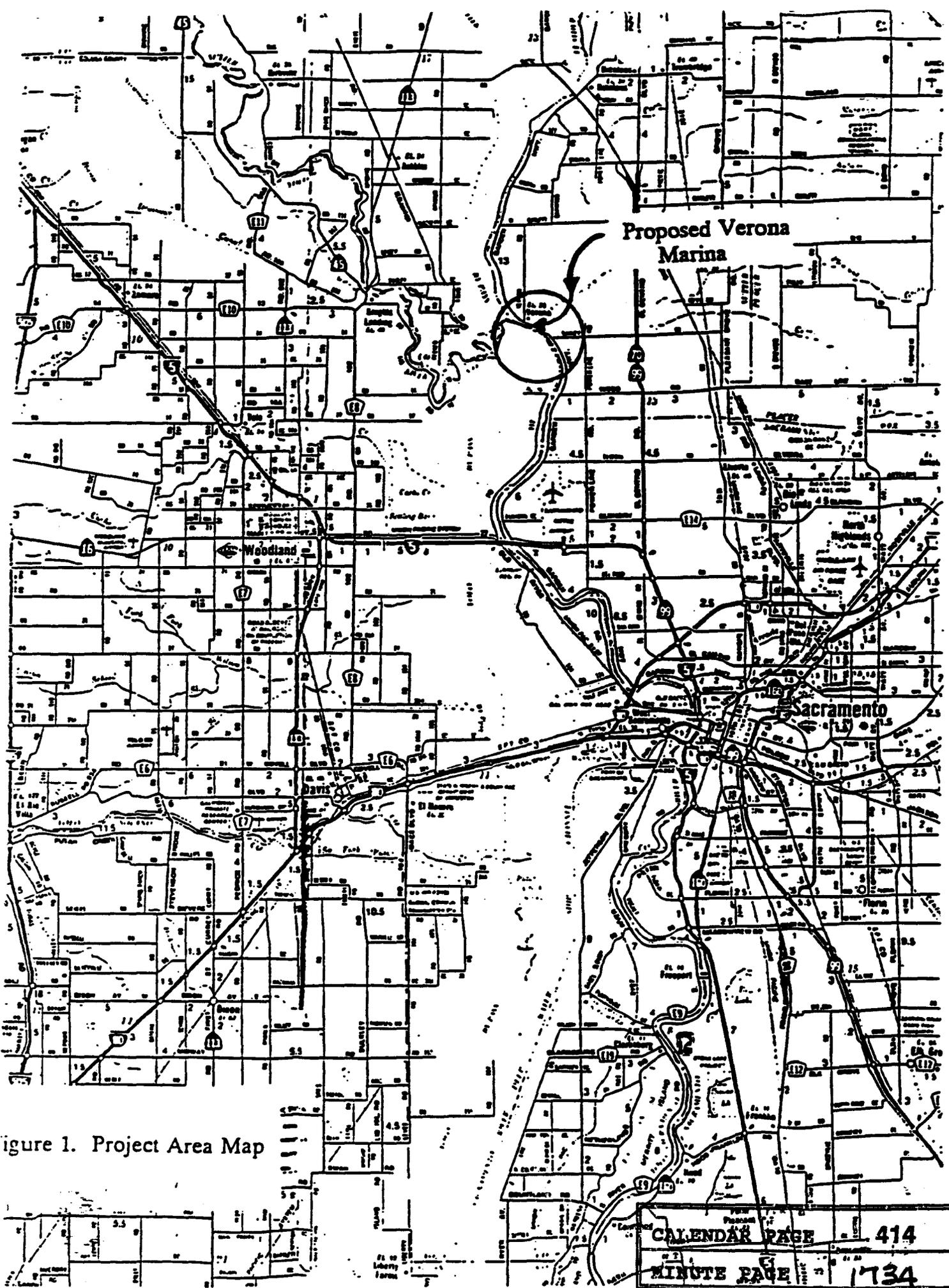


Figure 1. Project Area Map



VERONA MARINA  
FINANCIAL ANALYSIS

Figure 3

PROJECTIONS FOR:	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<b>INCOME</b>										
Dockage	\$11,723	\$70,338	\$70,338	\$73,855	\$77,548	\$81,425	\$85,496	\$89,771	\$94,260	\$98,973
Launching	\$30,000	\$32,100	\$34,347	\$36,751	\$39,324	\$42,076	\$45,022	\$48,173	\$51,546	\$55,154
Camping	\$52,000	\$55,640	\$59,535	\$63,702	\$68,161	\$72,933	\$78,038	\$83,501	\$89,345	\$95,600
Store	\$3,858	\$4,630	\$5,555	\$6,667	\$8,000	\$9,600	\$11,520	\$13,824	\$16,589	\$19,906
<b>TOTAL INCOME</b>	<b>\$97,581</b>	<b>\$162,708</b>	<b>\$169,775</b>	<b>\$180,975</b>	<b>\$193,033</b>	<b>\$206,034</b>	<b>\$220,076</b>	<b>\$235,269</b>	<b>\$251,740</b>	<b>\$269,833</b>
Cost of Sales	(\$2,894)	(\$3,472)	(\$4,167)	(\$5,000)	(\$6,000)	(\$7,200)	(\$8,640)	(\$10,368)	(\$12,441)	(\$14,930)
<b>GROSS INCOME</b>	<b>\$94,687</b>	<b>\$159,236</b>	<b>\$165,608</b>	<b>\$175,975</b>	<b>\$187,033</b>	<b>\$198,834</b>	<b>\$211,436</b>	<b>\$224,901</b>	<b>\$239,299</b>	<b>\$254,703</b>
<b>EXPENSES</b>										
Rent	(\$3,060)	(\$5,122)	(\$5,234)	(\$5,530)	(\$5,844)	(\$6,175)	(\$6,526)	(\$6,897)	(\$7,290)	(\$7,706)
Payroll	(\$15,166)	(\$16,663)	(\$18,352)	(\$20,167)	(\$22,205)	(\$24,426)	(\$26,666)	(\$29,555)	(\$32,511)	(\$35,762)
Other	(\$43,324)	(\$45,935)	(\$49,950)	(\$53,700)	(\$57,820)	(\$62,947)	(\$67,923)	(\$73,394)	(\$80,013)	(\$86,635)
<b>TOTAL EXPENSES</b>	<b>(\$61,550)</b>	<b>(\$67,740)</b>	<b>(\$73,536)</b>	<b>(\$79,417)</b>	<b>(\$85,869)</b>	<b>(\$93,548)</b>	<b>(\$101,317)</b>	<b>(\$109,846)</b>	<b>(\$119,814)</b>	<b>(\$130,103)</b>
<b>NET INCOME (LOSS)</b>	<b>\$33,137</b>	<b>\$91,496</b>	<b>\$92,072</b>	<b>\$96,558</b>	<b>\$101,164</b>	<b>\$105,286</b>	<b>\$110,119</b>	<b>\$115,055</b>	<b>\$119,485</b>	<b>\$124,600</b>
Replacement Reserves	(\$5,300)	(\$21,250)	(\$21,250)	(\$21,250)	(\$21,250)	(\$21,250)	(\$21,250)	(\$21,250)	(\$21,250)	(\$21,250)
Principal & Interest	(\$17,642)	(\$70,569)	(\$70,569)	(\$70,569)	(\$70,569)	(\$70,569)	(\$70,569)	(\$70,569)	(\$70,569)	(\$70,569)
<b>CASH FLOW OPERATIONS</b>	<b>\$10,195</b>	<b>(\$323)</b>	<b>\$253</b>	<b>\$4,739</b>	<b>\$9,345</b>	<b>\$13,467</b>	<b>\$18,300</b>	<b>\$23,236</b>	<b>\$27,666</b>	<b>\$32,781</b>

EXHIBIT F-7

LEASING  
MINUTE PAGE  
OPERATIONS PAGE  
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1611 S Street, Suite 200 • Sacramento, California 95814 • (916) 552-7000

May 10, 1993

Diane Jones, Public Land Management Specialist  
State Lands Commission  
1807 13th St.  
Sacramento, CA 95814

Dear Diane:

Thank you for taking time to answer some of the questions I raised when we spoke on May 4, 1993. I also want to pass along my appreciation for the assistance Steve Sekelsky provided in explaining some of the notes in the letter you sent to us.

As a follow-up to my phone conversation with you, I wish to reiterate Mr. Kaveney's request for the legal justification on the part of SLC staff to continue to require more detailed information concerning the project than was already provided. While there may be an interest in the soundness of the project, there is a limit to the amount of information that is reasonably required and legally permissible. Has the Commission adopted an Administrative Code Section specifying what marina operators must provide in an economic assessment?

Mr. Kaveney believes that the current request asks for excessive detail and overlooks information that was previously provided. He also believes that some of the inquiries are an invasion of his privacy and an unnecessary additional expense to the project. To expedite the process he is providing the following information, even though he continues to question the justification for portions of the inquiry.

Concerning the project description, various public agencies identify a distinction between berthing and mooring in the reports they prepare, although the letter we received from your office suggests that the two should be treated synonymously. Based on industry nomenclature, the proposed project consists of 22 berths and mooring space for 19-20 boats. The marina may have a capacity for 41-42 boats, but it would not be more accurate to describe it as a "48-berth marina." The distinction between berths and side ties is underscored by the difference in pricing structure.

In response to your request for more information, the following is submitted:

1. Preparer of the report:

Gary Kaveney. Mr. Kaveney is a property manager with over 30 years of experience in fiscal controls, budgets, capital acquisitions, and management. He is also an avid and long-time boater. He is a Certified Property Manager with the Institute of Real Estate Management.

2. An indication of the demand for the proposed marina:

Mr. Kaveney has a waiting list of 28 specific requests for covered berths ranging from 30 to 46 feet, and 19 requests for 16- to 20-foot uncovered spaces. Another ten requests for covered berths have been canceled due to the long delay in project completion at Verona.

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Contacts with local Sacramento marinas show a very high occupancy rate, with little availability in the 35- and 40-foot sizes that Verona is planning. The Department of Boating and Waterways (DB&W) has consistently found that there is greater unsatisfied demand for berth space in the over-30-foot size and in covered versus uncovered space. The City of Sacramento Marina at Miller Park indicates it has a 94% occupancy rate in their 553 berths. The 6% available is limited primarily to 25-foot berths, with only a couple of 30-foot ones available. Alamar Marina is full and has a waiting list. Cliff's Marina has zero availability in 22-foot and 30-foot berths, and has only a few 26-foot berths available out of 123. Freeport Marina has very few 20- to 36-foot vacancies out of 115 berths. Riverbank Marina is the same within their range of 24- to 40-foot berths. River View Marina also has few availabilities out of their 113 berths.

According to DB&W, vessel registration over the period 1988-1992 grew at an average rate of 2.5% for the counties of Sacramento, Sutter, and Yolo.

3. Construction cost analysis:

Soils testing	\$ 399
County use permit	825
County plan check	435
Pipe pilings	12,490
Pile driving	13,294
Roofing	20,000
SLC permit fees	14,500
EIR	28,730
Miscellaneous expenses	20,145
Professional fees	57,000
<u>Dock fabrication/installation</u>	<u>282,182</u>
TOTAL	\$450,000

Mr. Kaveney has indicated that repayment of the \$450,000, 10-year loan which he has made for the project represents his return on investment over that period.

4. Income breakdown:

Enclosed is a revised income and expense statement (Figure 3) regarding marina operations with an additional breakdown of expenses. On the income side, Mr. Kaveney anticipates full usage of the facility by early to mid-1994. This is based on the following considerations:

- The proposed project consists of 22 berths, including five 40-foot covered berths; sixteen 35-foot covered berths; and 450 linear feet of uncovered side-tie area (enough for approximately 20, 20-foot boats).

- According to his waiting list, Mr. Kaveney estimates that he will have 52% of the available space (or 13 slips and 180 side-tie feet) filled by December 1993, and 95% of the available space filled by March of 1994.
- All of the 35- and 40-foot berths should be filled by March 1994. He has side tie requests for all but approximately 90 feet by that time.
- An allowance of 5% vacancy thereafter should be realistic.
- Launching figures represent approximately 4,300 launches for 1993 and 4,600 launches for 1994.

5. A breakdown of expenses pertinent to the marina operation:

Please see Figure 3, which has been expanded to include a breakdown of expenses.

In response to the observations concerning expense ratios, there are several factors to bear in mind. There are economies of scale that come with the larger, 500-1000 berth marinas statewide which are included in general industry standards. Secondly, a marina operating in the Sacramento Valley does not enjoy the greatly increased per-foot dockage fees that some of the Bay Area and Southern California marinas can levy. Although the costs may be 20-100% higher in those areas, their ability to charge fees can exceed 500% more than local marinas. In addition, as observed, the higher costs are in the start-up period, and they are naturally more than can be expected in future years. Staff have indicated that an industry standard of 50% expense-to-income ratio is not uncommon and Mr. Kaveney has indicated that normal expenses should be within that percentage.

Lastly, the increased start-up fees, represented by expense items which will not occur in future years, are expanded in no small part by the requests by staff for additional information, some of which can be ascertained from existing information already provided. This has a cumulative impact on the economic viability of the project.

Let me know if you have any further questions.

Sincerely,



Robert C. Faber

RCF/lmc

Enclosure

cc: Gary Kaveney

VERONA MARINA  
FINANCIAL ANALYSIS

Figure 3

PROJECTIONS FOR	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
<b>INCOME</b>										
LAUNCHING	\$30,000	\$32,100	\$34,347	\$36,761	\$39,334	\$42,077	\$44,922	\$47,879	\$50,948	\$54,134
DOCKAGE *	\$11,723	\$70,338	\$70,338	\$72,855	\$77,848	\$81,425	\$85,498	\$89,771	\$94,260	\$98,972
<b>TOTAL INCOME</b>	<b>\$41,723</b>	<b>\$102,438</b>	<b>\$104,685</b>	<b>\$109,616</b>	<b>\$117,182</b>	<b>\$123,502</b>	<b>\$130,420</b>	<b>\$137,650</b>	<b>\$145,208</b>	<b>\$153,106</b>
<b>EXPENSES</b>										
PAYROLL	(\$7,803)	(\$9,341)	(\$9,179)	(\$10,003)	(\$11,102)	(\$12,212)	(\$13,434)	(\$14,777)	(\$16,259)	(\$17,800)
RENTALS	(\$5,000)	(\$5,122)	(\$5,334)	(\$5,530)	(\$5,844)	(\$6,175)	(\$6,528)	(\$6,907)	(\$7,300)	(\$7,700)
INSURANCE	(\$5,487)	(\$6,014)	(\$6,015)	(\$7,277)	(\$8,004)	(\$8,805)	(\$9,685)	(\$10,654)	(\$11,719)	(\$12,881)
TAXES	(\$4,488)	(\$4,721)	(\$4,967)	(\$5,205)	(\$5,465)	(\$5,738)	(\$6,025)	(\$6,326)	(\$6,643)	(\$6,976)
ADVERTISING	(\$1,000)	(\$780)	(\$780)	(\$780)	(\$780)	(\$780)	(\$780)	(\$780)	(\$780)	(\$780)
SUPPLIES	(\$832)	(\$727)	(\$838)	(\$881)	(\$1,108)	(\$1,271)	(\$1,462)	(\$1,681)	(\$1,933)	(\$2,223)
MANAGEMENT	(\$4,223)	(\$4,223)	(\$4,522)	(\$4,522)	(\$4,822)	(\$4,822)	(\$4,822)	(\$4,822)	(\$4,822)	(\$4,822)
TELEPHONE	(\$277)	(\$288)	(\$317)	(\$338)	(\$363)	(\$389)	(\$416)	(\$444)	(\$476)	(\$508)
UTILITIES	(\$8,000)	(\$8,000)	(\$7,260)	(\$7,880)	(\$8,788)	(\$9,863)	(\$10,620)	(\$11,922)	(\$12,882)	(\$14,148)
OFFICE	(\$200)	(\$220)	(\$242)	(\$266)	(\$293)	(\$322)	(\$354)	(\$390)	(\$429)	(\$472)
REPAIR & MAINTENANCE	(\$1,100)	(\$1,210)	(\$1,331)	(\$1,464)	(\$1,611)	(\$1,772)	(\$1,949)	(\$2,144)	(\$2,359)	(\$2,594)
<b>TOTAL EXPENSES</b>	<b>(\$34,939)</b>	<b>(\$38,224)</b>	<b>(\$41,880)</b>	<b>(\$44,403)</b>	<b>(\$47,893)</b>	<b>(\$51,929)</b>	<b>(\$56,662)</b>	<b>(\$60,989)</b>	<b>(\$65,947)</b>	<b>(\$71,201)</b>
<b>NET INCOME (LOSS)</b>	<b>\$7,784</b>	<b>\$64,214</b>	<b>\$62,805</b>	<b>\$65,213</b>	<b>\$69,290</b>	<b>\$71,573</b>	<b>\$73,758</b>	<b>\$76,661</b>	<b>\$79,260</b>	<b>\$81,905</b>
<b>LESS:</b>										
PRINCIPAL & INTEREST	(\$17,642)	(\$70,889)	(\$70,889)	(\$70,889)	(\$70,889)	(\$70,889)	(\$70,889)	(\$70,889)	(\$70,889)	(\$70,889)
<b>CASH FLOW OPERATIONS</b>	<b>(\$9,858)</b>	<b>(\$6,675)</b>	<b>(\$7,084)</b>	<b>(\$4,676)</b>	<b>(\$1,599)</b>	<b>\$1,684</b>	<b>\$3,869</b>	<b>\$5,772</b>	<b>\$8,371</b>	<b>\$11,016</b>

\* From construction completion, it is anticipated that by the end of 1993 85% of the marina space will be occupied and, by March of 1994, space occupancy should be 95%, representing an ongoing 5% vacancy allowance.

**RECORDED AT THE REQUEST OF**

State of California  
State Lands Commission  
Document entitled to free  
recording pursuant to  
Government Code Section 27383.

**WHEN RECORDED MAIL TO**

State Lands Commission  
1807 - 13th Street  
Sacramento, California 95814  
Attention: Title Unit

**LEASE NO. \_\_\_\_\_**

This Lease consists of this summary and the following attached and incorporated parts:

- Section 1            Basic Provisions
- Section 2            Special Provisions Amending or Supplementing  
                         Section 1 or 4
- Section 3            Description of Lease Premises
- Section 4            General Provisions
- Exhibit A            Plat of Facility
- Exhibit B            Conceptual Revegetation Plan

**SECTION 1**

**BASIC PROVISIONS**

THE STATE OF CALIFORNIA, hereinafter referred to as Lessor acting by and through the STATE LANDS COMMISSION (1807 13th Street, Sacramento, California 95814), pursuant to Division 6 of the Public Resources Code and Title 2, Division 3 of the California Code of Regulations, and for consideration specified in this Lease, does hereby lease, demise and let to:

**GARY KAVENEY**

hereinafter referred to as Lessee:

WHOSE MAILING ADDRESS IS:

4201 Midas Avenue  
Rocklin, California 95677

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EXHIBIT "C"

those certain lands described in Section 3 sub, et to the reservations, terms, covenants and conditions of this Lease.

**LEASE TYPE: GENERAL LEASE - COMMERCIAL USE**

**LAND TYPE: Tide and Submerged**

**LOCATION: Sacramento River, at Verona, Sacramento County**

**LAND USE OR PURPOSE:** Construction and operation of a 48-boat capacity marina, including 22 covered berths, 450 lineal feet of side-tie dockage, and day-use docks for up to six (6) boats, a debris deflector, a pump out facility, and the continued use of an existing gabion wall located at the upstream side of the launch ramp and a concrete boat launch as described under Section 2.

**TERM:** Twenty-five (25) years; beginning April 1, 1994 and ending March 30, 2019, unless sooner terminated as provided under this Lease.

**CONSIDERATION:** As set out in Section 2 of this Agreement; and as subject to modification by Lessor as specified in Paragraph 2(b) of Section 4.

**AUTHORIZED IMPROVEMENTS:**

X **EXISTING:** Boat launching ramp and the gabion wall located at the upstream side of the launch ramp.

X **TO BE CONSTRUCTED:**

Construction to be completed by December 31, 1995.

1. Construction of 22 covered berths, including one 60-foot slip, five 40-foot slips, and sixteen 35-foot slips; construction of 450 linear feet of side-tie dockage.
2. Construction of uncovered day-use docks to accommodate up to six (6) boats averaging 20 feet in length.
3. Construction of two uncovered pedestrian access ramps, one ramp measuring 50-60 feet in length connecting the campground to the main dock; and the second ramp measuring approximately 35 feet in length connecting to the day-use docks and 60-foot covered berth and extending over the gabion wall on the upstream side of the launch ramp.
4. Construction of an 88-foot long floating debris deflector at the upstream end of the 60-foot covered berth.
5. Placement of a 500-gallon pump-out facility mounted on a floating barge at the upstream end of the main dock.

Except as authorized herein as set forth in Section 4, Paragraph 4(d)(1)(2), and as depicted on attached Exhibit "A", no other additions, alterations or removal of improvements shall be undertaken without the prior written consent of the Lessor.

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**LIABILITY INSURANCE:** \$1,000,000 Combined single limit coverage, as further described in Section 4, Paragraph 8.

**SURETY BOND OR OTHER SECURITY:** \$20,000 as further described in Section 4, Paragraph 9.

-----  
**SECTION 2  
SPECIAL PROVISIONS**

BEFORE THE EXECUTION OF THIS LEASE, ITS PROVISIONS ARE AMENDED,  
REVISED OR SUPPLEMENTED AS FOLLOWS:

**1. CONSIDERATION**

- A. Lessee shall pay a minimum annual rental of \$3,770 in advance on the beginning date of this Lease and on the Lease anniversary date every year thereafter.
- B. In addition to the Minimum Annual Rent provided for in 1(A) above, Lessee shall pay Lessor percentage rent with respect to each Lease year equal to the amount by which five percent (5%) of Gross Income as defined in Section 2, Paragraph B (4) and ten percent (10%) of all other income as defined in Section 2, Paragraph B (1),(2),(3), (5) and (6), for such lease year exceeds Minimum Annual Rent for such Lease year.
- C. Annual rental as set forth in this Section is expressly subject to modification as set forth in Paragraph 2(b) of Section 4.
- D. Lessee agrees to pay the minimum annual rental stated in this Lease to Lessor without deduction, delay or offset, at such place as may be designed by Lessor from time to time, in accordance with the schedule as set forth in this Lease. Any rental stated in this Lease shall be due and payable on the same day that the annual report is due, and full payment shall accompany such report.
- E. It is specifically agreed that in the event of the termination of this Lease prior to its expiration date from any cause whatsoever, no portion of the minimum annual rental paid in advance shall be refundable.

**F. DEFINITIONS:**

**GROSS INCOME:**

"Gross Income", for the purpose of computing annual rental due to the State Lands Commission, shall include, but not be limited to, income generated from or on the leased area:

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1. The sales price of any type of food and/or beverages sold by Lessee, Lessee's subtenants or others whether for cash or credit.
2. The sales price of all other good, wares, merchandise or products sold by Lessee, or others whether for cash or credit.
3. All commissions received or earned from non-lessee owned coin-operated vending machines or other devices, and all sums deposited in Lessee owned coin-operated vending machines or other devices.
4. The charges made by the Lessee or others for the berthing, docking, mooring or launching of boats.
5. The charges made by the Lessee or others for the rental of any type of equipment or product, whether for cash or for credit.
6. Any other income, whether for cash or credit generated directly from, or on, the leased area by the Lessee's or any other person's operations, excluding all income derived from operation of the pumpout station.

**G. ALLOWABLE REDUCTIONS TO GROSS INCOME:**

Gross income shall not include any sales or excise taxes payable by the Lessee to Federal, State, County or municipal governments as a direct result of operations under this Lease, provided that these taxes are clearly segregated and identified in the Lessee's books and records.

**H. ALLOWABLE REDUCTIONS TO GROSS SALES:**

Gross sales may be reduced by returns and allowances on the theory that these "sales" were never made, and should not have been included as part of the gross sales, but gross income shall not be reduced by any other amount, except as provided herein and in Paragraph G supra.

**I. CASH:**

"Cash" includes currency, coin, checks, and money orders.

**J. CREDIT:**

"Credit" includes credit card transactions, and those transactions made on open account or for any oral or written promise to pay.

**K. REPORTS:**

The Lessee shall submit, on forms approved by the State Lands Commission, an annual report detailing their gross income from boat docks, moorings and launch ramp, and any other income generated from, or on, the Leased Premises. This report shall be accompanied by an Income Statement covering the results of Lessee's leased area operations for the year ended on the last day covered by the annual report. These reports shall be due on the sixtieth (60) day of the month following the end of the year covered by the annual report, unless the Lessee has received, in writing, permission from the State Lands Commission for later submission.

**L. BOOKS AND RECORDS:**

Lessee shall maintain books and records of all financial transactions relating to the Leased Premises in accordance with generally accepted accounting principles. These records shall be supported by source documents such as agreements with renters, copies of invoices, receipts, and other pertinent documents and shall be retained for no less than seven (7) years. If requested by the State, the Lessee shall allow representatives of the State Lands Commission to examine relevant copies of Federal and State Income Tax Returns, and Board of Equalization Tax Returns in order to corroborate information shown on reports to the State Lands Commission.

**M. EXAMINATION OF BOOKS AND RECORDS:**

All annual reports submitted to the State Lands Commission are subject to audit and revision by the State Lands Commission and Lessor may inspect all of Lessee's books, records, and documents relating to the operation of the Leased Premises at all reasonable times.

**2. PROJECT CONSTRUCTION**

- A. In order to avoid potential problems resulting from insufficient navigational depths beneath the marina facility and insufficient clearance between the marina facility and the river bank (including, but not limited to navigational obstructions, reduced revenues, environmental damage, and a need for dredging), Lessee shall provide to Lessor, prior to construction, documentation demonstrating that a minimum of three (3) feet clearance above the river bottom at the project will exist seventy-five (75) percent of the time during the low flow months of June through August, in a twenty (20) foot wide area to the landward side of the side-tie dock.

Prior to beginning construction, Lessee shall provide Lessor written evidence from the National Marine Fisheries Service, that the improvements authorized herein will not result in unauthorized "take" of the winter-run chinook salmon species or critical habitat, as defined under the Federal Endangered Species Act and regulations.

- B. Lessee shall construct the docks in three distinct phases, as generally described below:

**Phase I: Shorezone Preparation**

Lessee is authorized to remove submerged logs, rock and concrete remaining from the old launch ramp and two wooden piles. Lessee shall cut off said piles below the mud line during low flow within the construction windows as set forth under Section 2, Paragraph 3.

**Phase II: Installation of Pilings**

Beginning approximately 85 feet downstream of the launch ramp and approximately thirty (30) feet offshore as measured during low flows, install into the riverbed eleven (11) 20-inch diameter steel pilings 60 to 65 feet in length with .281 wall thickness to support the main dock. Upstream of the launch ramp, install five (5) pilings into the riverbed to support the 60-foot berth, day-use docks, and floating debris deflector, including a batter pile, which will be driven into the riverbed to reinforce the downstream end of the debris deflector. All pilings shall be painted with a neutral anti-rust coating.

**Phase III: Marina Installation**

Docks shall be constructed offsite of hot-dipped galvanized truss frames with 2-by 6-inch pressure-treated Douglas fir or pine decking. Floats shall consist of 1:1 pound high density polystyrene blocks capable of supporting a weight of up to 60 pounds per cubic foot. Floats shall be coated with a non-toxic coating. All dock fingers shall be tied together with an underwater truss and held in place to pilings with nylon roller pile rings. All roof framing purlines and columns shall be hot-dipped galvanized steel with metal roof sheeting. Marina roofs shall be painted pale blue to minimize glare.

The prefabricated docks shall be stored and assembled on the upland.

- C. **PUMP OUT FACILITY**

A pump-out facility shall be provided with no less than 500 gallon capacity.

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**D. DEBRIS DEFLECTOR**

A debris deflector shall be located at the upstream end of the 60-foot covered berth.

**E. ACCESS RAMPS**

Access ramps shall be provided and shall have dual hand rails for safety, and shall be located in existing breaks in the shoreline vegetation to minimize disturbance to riparian habitat.

**F. AS-BUILT PLANS**

Following the 60-day notification as required in Section 4, Paragraph 4(a), Lessee shall file with Lessor a copy of the "as-built" construction plans certified by the project contractor.

**3. REGULATORY REQUIREMENTS**

Lessee shall have or obtain a current "Streambed Alteration Agreement" issued by the Department of Fish and Game.

**4. DREDGING**

Except for minor maintenance dredging defined as less than 15 cubic yards annually, which Lessee is authorized to dredge at the base of the launch ramp by a front end loader or hand tools only, Lessee is prohibited from any other dredging or form of dredging. Except that which is authorized herein, all dredging shall be subject to submittal of a new application to Lessor and subject to review under the California Environmental Quality Act (Sections 21000, et seq. of the Public Resources Code.)

**5. HANDICAPPED ACCESS**

Lessee will provide handicapped access to the marina by use of the launch ramp.

**6. STRUCTURAL BANK PROTECTION**

A. Except for the gabion wall located upstream of the launch ramp which is authorized herein, structural bank protection, i.e. the use of inert construction material such as rock or concrete, is not allowed under this Lease.

B. All new structural bank protection shall be subject to a new application to Lessor, subject to evaluation under the California Environmental Quality Act (Sections 21000, et seq. of the Public Resources Code), and shall be designed and analyzed by a licensed engineer.

**7. SIGN POSTING**

- A. To eliminate human disturbance to the riparian vegetation growing on the bank face, Lessee shall post signs discouraging climbing and trampling of the bank, and requiring boats to stay off of the bank and to use the access ramps and/or boat launch to access their campsites. Signs shall be placed to be visible from both the river and the land. Lessee, through the site manager, shall provide enforcement through verbal warnings.
- B. Lessee shall post speed limit signs with "5 mph Zone" and "No Wake Zone" painted in black and red on a white background so that they are visible to boaters going in either direction on the river. Lessee shall be responsible for repainting existing signs.

**8. REFUSE AND RECYCLING CONTAINERS:**

Lessee shall provide containers on or immediately adjacent to the Leased Premises to receive trash and refuse and recyclable materials generated aboard vessels using Lessee's docking or launching facilities. Refuse and recycling containers shall be located so as to be conveniently used by occupants of vessels using Lessee's facilities and shall be of sufficient size and number to contain the refuse and recyclable materials generated aboard all vessels using Lessee's facilities. The containers shall be covered and emptied regularly enough to prevent them from overflowing or creating unhealthful, unsightly or unsanitary conditions. The contents of the containers shall be disposed of by Lessee or others acting pursuant to Lessee's direction at authorized land fills or other garbage reception areas as provided under law applicable at the time of collection.

**9. PLASTICS:**

- A. Lessee shall not provide for sale, or allow other parties to provide, any prepared food in polystyrene foam containers or packaging, nor shall Lessee, or other parties, keep on the Lease Premises any polystyrene foam containers or packaging of a type, design and condition appropriate to the preparation of food for consumption on or off the Lease Premises.
- B. All packaging for prepared food that is provided shall be degradable.
- C. For purposes of this lease, the following definitions are applicable.
  - 1. "Prepared food" means foods or beverages which are prepared on the Lease Premises by cooking, chopping, slicing, mixing, freezing or squeezing, and which require no further preparation to be consumed.

2. "Food packaging" means all bags, sacks, wrapping, containers, bowls, plates, trays, cartons, cups, straws and lids which are not intended for reuse on or in which any foods or beverages are placed or packaged on the lease premises.
3. "Takeout food" means prepared foods or beverages requiring no further preparation to be consumed and which are purchased in order to be consumed off the Lease Premises.
4. "Polystyrene foam" means any styrene or vinyl chloride polymer which is blown into a foam-like material, an example of which is marketed under the trade name "styrofoam".
5. "Degradable food packaging" means food packaging which within two years substantially reduces to its constituent substances through degradation processes initiated by natural organisms whose end products are substantially, but not necessarily entirely, carbon dioxide and water. Degradable food packaging does not include cellulose-based items which have a synthetic or plastic coating comprising more than 5% of the total volume of the item.

D. The above conditions shall be in effect until such time as the State Lands Commission adopts regulations and/or policies on the subject of plastic pollution. To the extent that such policies or regulations differ from the foregoing provisions and definitions, the parties hereby agree that the lease will be amended to incorporate the policies adopted by the State Lands Commission.

#### 10. REVEGETATION PLAN

Lessee shall submit a Revegetation Plan to Lessor for approval by the staff of Lessor no later than May 31, 1994, said Revegetation Plan being conceptually set forth under Exhibit "B" incorporated herein. Lessee shall implement the Plan no later than six months following commencement of construction.

#### 11. FUEL SPILL PREVENTION AND CLEAN UP PLAN

A. Lessee shall submit to staff of Lessor for its review and approval a fuel spill prevention and cleanup plan prior to June 1, 1994. Upon approval by Lessor, Lessee shall file a copy with the County of Sutter.

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- B. Lessee shall maintain fuel containment equipment, i.e. containment booms and absorbent materials, for use in case of an accident and instruct each berth holder on how to use said equipment. Lessee shall store coil containment netting at a specific location on the docks for use in case of an emergency. Lessee shall notify the U.S. Coast Guard and other emergency response agencies if such emergency occurred.
- C. Lessee shall notify and caution berth holders and employees on small scale fueling procedures and the importance of avoiding spills. Except for small, five (5) gallon or less size containers used by individual berth holders, fuel dispensing facilities are prohibited within the Lease Premises.

**12. CULTURAL RESOURCES**

Lessee shall stop all work if any previously unknown cultural resources, e.g. bone, shell, unusual quantities of rock, artifacts, or human skeletons are encountered during construction until a professional archaeologist can be consulted.

**13. MITIGATION PLAN**

Lessee agrees to properly implement all mitigation measures as adopted by the Commission or every other permitting agency.

**14. MARINA SUBLETTING**

Lessor hereby consents to Lessee's subletting of all or any portion of the Lease Premises for berthing or mooring purposes in conjunction with normal commercial marina subleasing practices for terms of one (1) year or less.

**15. AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE**

Lessee's mortgage or hypothecation of this Lease, if approved by Lessor, shall be subject to terms and conditions found in a separately drafted Agreement and Consent to Encumbrancing of Lease available from Lessor upon request.

**16. MISCELLANEOUS PROVISIONS**

A. In addition the provisions of Paragraph 4(c) of Section 4, Lessee shall incorporate into its berth rental agreements the following provisions:

1. A statement concerning the importance that berth holders maintain their boats in a safe operating condition, and the inclusion of suitable restrictions on maintenance activities performed at the marina by berth holders, specifically the prohibitions against any bottom paint application or removal and engine and hull washing;

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2. Boat engines shall be in compliance with all applicable pollution control measures and the berth holders shall exercise their best efforts to reduce individual and collective contributions to air pollution.
  3. The draining or dumping of petroleum products is prohibited. Lessee shall post notices and provide for enforcement against the draining or dumping of petroleum products, on or where it will enter the Lease Premises.
- B. Lessee shall require the contractor to ensure that all diesel engines used for construction of the marina shall be properly maintained and operated to reduce emissions of NOx.

**17. RESTORATION OF LEASE PREMISES**

- A. Section 4, Paragraph 12(a) is deleted and replaced with the following:

Upon expiration or sooner termination of this Lease, Lessor upon written notice may require Lessee to remove all or any such improvements at its sole expense and risk; or Lessor may itself remove or have removed all or any portion of such improvements at Lessee's sole expense.

- B. Section 4, Paragraph 12(c) is deleted and replaced with the following:

All plans for and subsequent removal and restoration shall be to the satisfaction of lessor and shall be completed within ninety (90) days after the expiration or sooner termination of the Lease or after compliance with Paragraph 12(d), whichever is greater.

**18. HOLDING-OVER**

Section 4, Paragraph 14 is deleted and replaced with the following:

Any holding-over by Lessee after the expiration of the Lease term, with or without the express or implied consent of Lessor, shall constitute a tenancy from month to month and not an extension of the Lease term and shall be on the terms, covenants, and conditions of the Lease. In that case, the annual rental then in effect shall be increased by twenty five percent (25%) unless the Lessor and Lessee are engaged in a good faith attempt to negotiate a new lease.

**19. RESIDENTIAL USE**

Section 4, Paragraph 4(i) is deleted and replaced with the following:

No portion of the Leased Premises shall be used as a location for a residence or for the purpose of mooring a structure which is used as a residence. For purposes of this Lease, a residence or floating residence includes but is not limited to boats, barges, houseboats, trailers, cabins or combinations of such facilities or other such structures which are used as a residence for the Lessee or others.

Occasional transient overnight use of the vessel moored at the slip which is truly incidental to the recreational or navigational use of the vessel shall be permissible, provided it is limited to no more than fourteen (14) nights in any calendar month and a maximum of forty (40) nights in any calendar year. Lessee agrees that vessels shall not be permanently attached to the dock or slip, and must leave the marina waters at least once for a minimum of six (6) hours in each ninety (90) day period.

The Lessee shall submit to the Lessor at the end of each calendar quarter a log of transient overnight use of the Lease Premises. The log shall state which berths have been so occupied and the dates of occupation.

The berth rental agreement between Lessee and each berth holder shall contain a notice of this paragraph including a verbatim copy of its terms and a provision requiring berth holders to advise Lessee of transient overnight use at the time of such use.

**20. RESTORATION OF LEASE PREMISES**

Section 4, Paragraph 12(e) is deleted in its entirety.

**21. INDEMNITY**

Section 4, Paragraph 7(a) is deleted and replaced with the following:

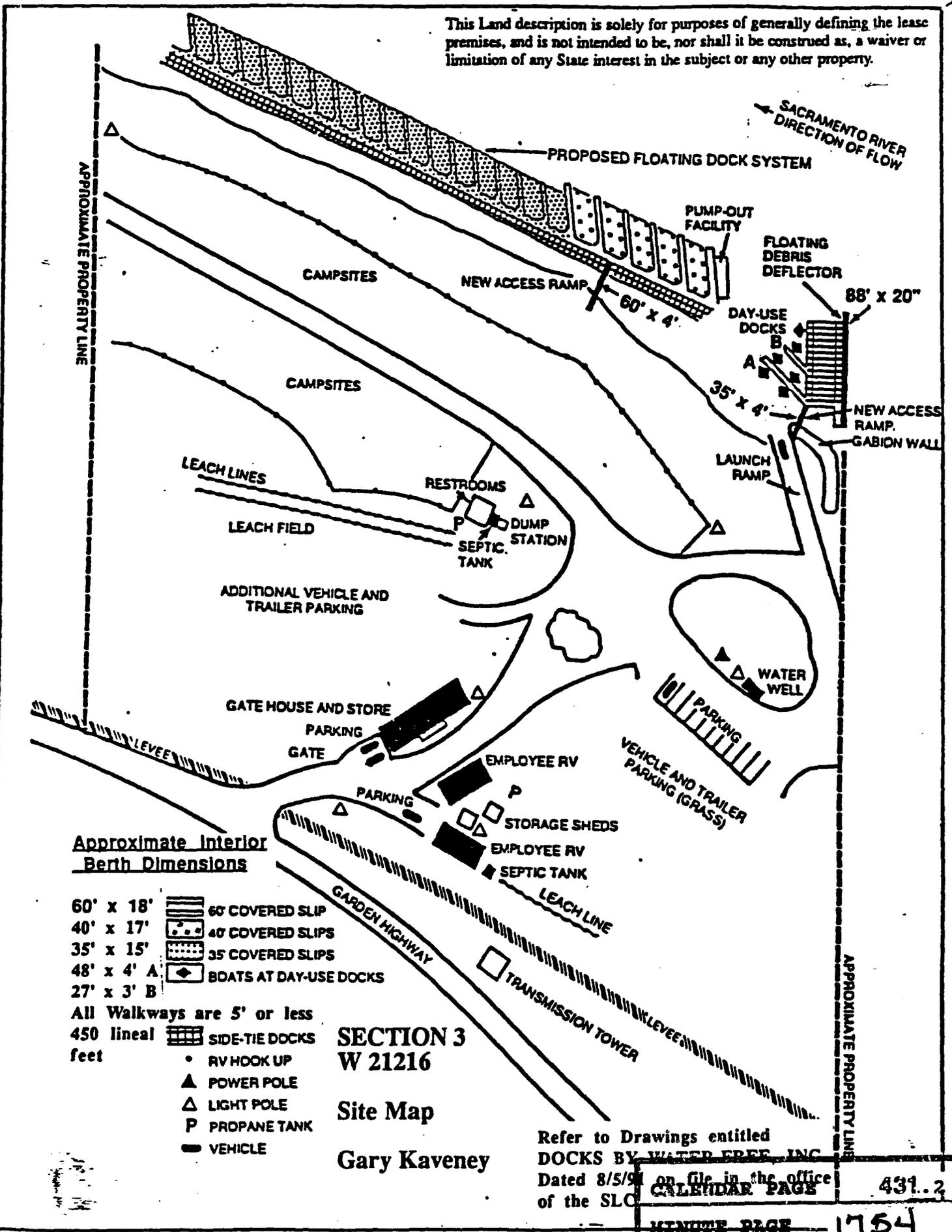
(a) Lessor shall not be liable and Lessee shall indemnify, hold harmless and at the option of Lessor, defend Lessor, its officers, agents, and employees against and for any and all liability, claims, damages or injuries of any kind and from any cause, arising out of or connected in any way with the issuance, enjoyment or breach of this Lease or Lessee's use of the Lease Premises except for any such liability, claims, damage, or injury solely caused by the intentional acts or negligence of Lessor, its officers, agents and employees.

**22. ASSIGNMENT, ENCUMBRANCING OR SUBLETTING**

Section 4, Paragraph 10(g) is deleted and replaced with the following:

- (g) Upon the express written assumption of all obligations and duties under this Lease by an assignee approved by Lessor, the Lessee may be released from all liability under this Lease arising after the effective date of the assignment and not associated with Lessee's use, possession or occupation of or activities on the Lease Premises; except as to any hazardous wastes, substances or materials as defined under federal, state or local law, regulation or ordinance manufactured, generated, used, placed, disposed, stored or transported on the Lease Premises during the time Lessee is in possession.

This Land description is solely for purposes of generally defining the lease 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.



**Approximate Interior Berth Dimensions**

- 60' x 18'  60' COVERED SLIP
- 40' x 17'  40' COVERED SLIPS
- 35' x 15'  35' COVERED SLIPS
- 48' x 4' A  BOATS AT DAY-USE DOCKS
- 27' x 3' B

All Walkways are 5' or less  
 450 lineal feet  SIDE-TIE DOCKS

- RV HOOK UP
- ▲ POWER POLE
- △ LIGHT POLE
- P PROPANE TANK
- VEHICLE

**SECTION 3  
 W 2126**

**Site Map**

**Gary Kaveney**

Refer to Drawings entitled  
**DOCKS BY WATER FREE, INC**  
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## CONCEPTUAL REVEGETATION PLAN for the VERONA MARINA PROJECT SITE

### Goals and Objectives

This conceptual revegetation plan describes the reestablishment of approximately 1.1 acres of native riparian forest at Sacramento River Mile 79.5L. Revegetation methods include planting native riparian species in two separate areas along with a five-year monitoring and maintenance program. The key goals of this plan are:

- To provide mitigation for the loss of riparian vegetation due to ongoing bank erosion and bank trampling caused by human use of the site;
- To provide mitigation for the continued use of the upland portion of the project site;
- To ensure that revegetated areas mimic, to the greatest degree possible, historic riparian communities at the site prior to construction of the campground and launch ramp; and
- To enhance the aesthetic and ecological value of existing riparian communities for wildlife.

Two distinct areas are proposed for revegetation under this plan: 1) the bank face from the river's edge at median low water to the top of the bank, and 2) the portion of the campground from the interior paved road to the top edge of the bank. The two areas can be revegetated independent of each other, i.e., the revegetation of the bank face does not depend upon the revegetation of the campground area and vice versa. For purposes of this plan, however, it is assumed that both areas are to be revegetated.

Two natural communities will be established: Willow Scrub, encompassing approximately 0.3 acre, and Cottonwood Riparian Forest, encompassing approximately 0.8 acre. These acreages are based on planimetered measurements from aerial photographs.

An approximately 500- x 25-foot area of the bank face fronting the river will be planted to a Willow Scrub community. All existing trees and woody vegetation on the bank face will be left in place with new plantings installed in gaps and open spaces. Once established, it is our goal that vegetation on the bank face will provide slope protection and surface erosion control under low to moderate velocity flow conditions.

An approximately 575- x 60-foot area of the upland zone between the top of the bank and the interior paved road will be revegetated to a Cottonwood Riparian community. Existing campsites, electrical hookups, and grass lawn will be removed prior to the planting of trees and shrubs. Species that have been selected for this area will not contribute to further deterioration of the bank.

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## Summary of Existing Communities

Native vegetation presently growing on the bank face, downstream of the launch ramp, includes components of a willow scrub community. This community is adapted to frequently flooded and frequently disturbed conditions. The majority of the bank face is steep and has been eroded during high winter flow years. Native species which grow on the bank face include sandbar and Goodding's black willow on the gentle slopes, and a mixture of mature and seedling box elder and cottonwood on the steeper slopes.

Native vegetation growing in the upland zone between the top of the bank and the interior paved road represents relicts of a cottonwood riparian forest. Seven mature cottonwood trees and one box elder still remain at the top of the bank. All other native woody vegetation has been removed in years past and has been excluded from this area by its conversion to a campground. As such, it is maintained by mowing and sprinkler irrigation. Prior to its conversion to a campground, the area supported components of a cottonwood riparian forest, including a mix of riparian shrubs and vines in the understory, a mid-story of various riparian trees, and an upper canopy of cottonwoods. Components of the cottonwood riparian forest are still present in refuge areas along the property boundaries, between the campground and lower parking area, and on adjacent upstream and downstream parcels.

## Planting Plan

### Plant Species Selection

Riparian community and plant species selection was based on particular goals of the revegetation project, site characteristics such as frequency and duration of flooding, hydrologic zones of planting areas, and an analysis of community composition of riparian communities both on-site and on adjacent upstream and downstream parcels.

Plantings on the bank face will replicate the species composition, as much as possible, of a willow scrub community, while the upland zone will replicate, as much as possible, a cottonwood riparian forest. However, the following modifications will be made:

- Fast growing shrub species will be favored for the bank face planting. Their extensive root systems may help reduce surface soil erosion and may contribute to slope stability.
- Riparian trees, such as cottonwoods, will not be planted on the bank face or in a 20-foot-wide zone adjacent to the bank. Tall trees are inappropriate for these areas because of the likelihood of their toppling should the bank continue to erode. Also, if trees such as cottonwoods fall they take with them large clumps of soil, resulting in further erosion.

### Density

Target goal densities and percent species composition are derived from specifications recommended in the Riparian Planting Design Manual for the Sacramento River, Chico Landing to Collinsville

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(U.S. Army Corps of Engineers 1986). These recommended densities have been modified for this plan to allow for exclusion of species not suitable for the Verona area and species not suitable for the project site. Numbers of plants to be installed have been calculated from target densities desired and an expected seedling and sapling mortality of 50 percent. In other words, twice the number of target plants desired will be planted. If target density is achieved, the plants will be on 5- to 10-foot centers. Total numbers of plants to be used in each community are provided in Tables 1 and 2. Totals are based on estimated acreages of revegetation areas and may change slightly as areas are more precisely measured. Relative density and percent species composition will remain the same.

**Table 1. Willow Scrub Community**

Initial planting: 198 trees and shrubs on 0.32 acre  
Target goal: 99 trees and shrubs on 0.32 acre

Species	No. of Plants To Be Installed	No. of Plants Expected After 5 Years	Relative Species Composition (percent coverage)
Sandbar willow <i>Salix exigua</i>	116	58	58
Blackberry <i>Rubus ursinus</i>	32	16	16
Mulefat <i>Baccharis viminea</i>	22	11	11
Arroyo willow <i>Salix lasiolepis</i>	14	7	7
Buttonbush <i>Cephalanthus occidentalis</i>	14	7	7

Figure 1 represents a conceptual drawing of the Willow-Scrub community based on the species composition identified above.

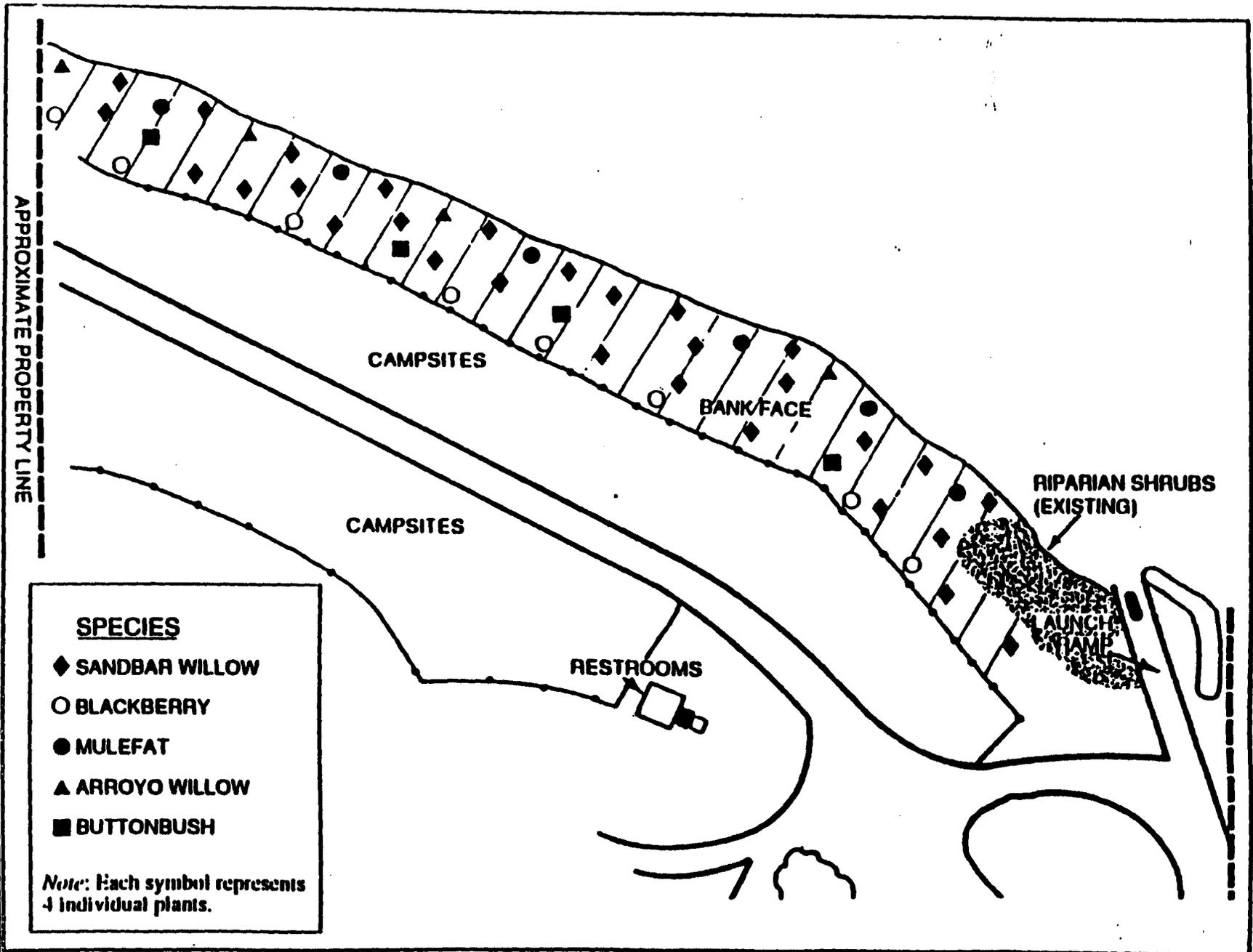


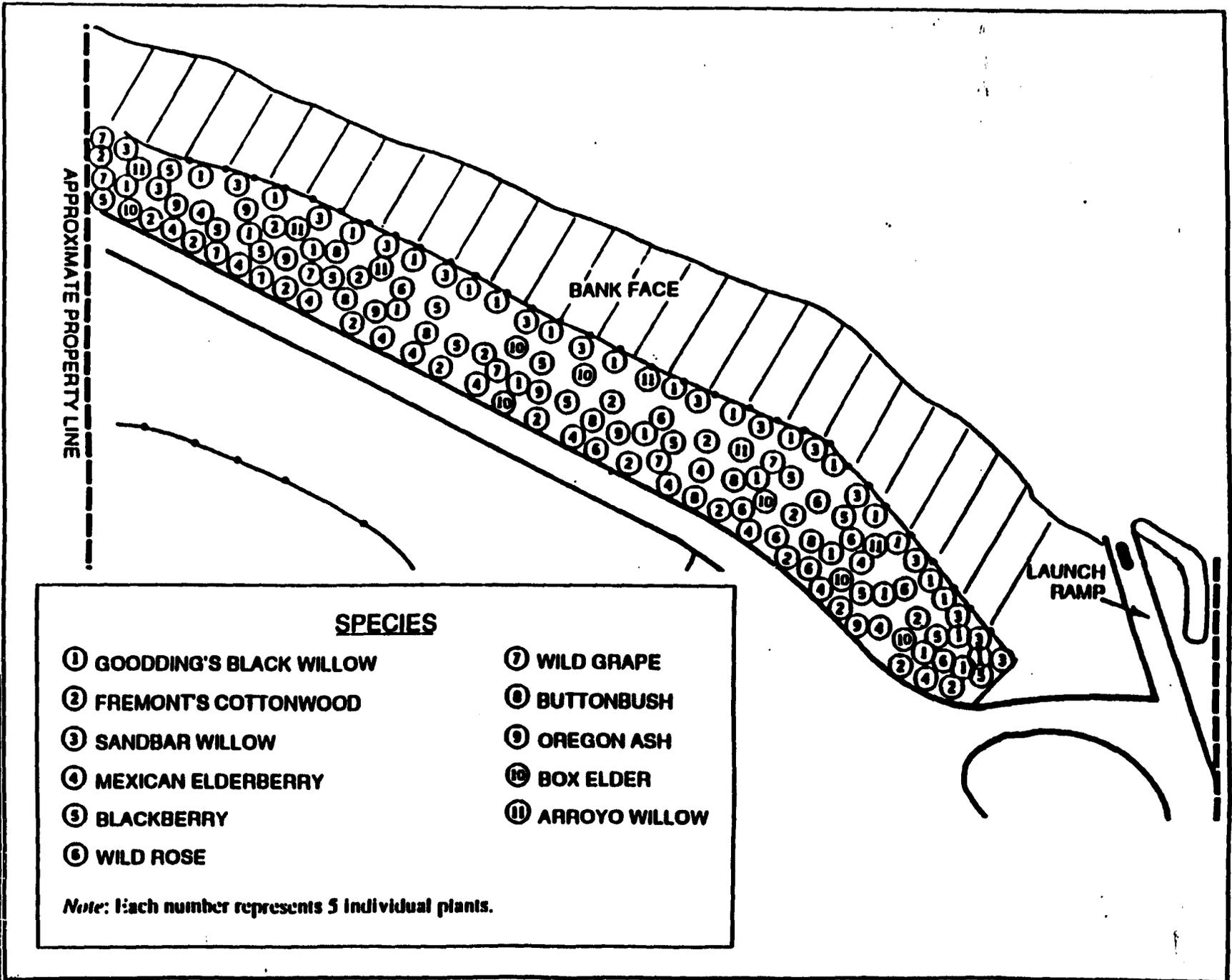
Figure 1. Planting Plan for Willow Scrub Community on Bank Face

**Table 2. Cottonwood Riparian Community**

Initial planting: 692 vines, shrubs, and trees on 0.8 acre  
 Target goal: 346 vines, shrubs, and trees on 0.8 acre

Species	No. of Plants To Be Installed	No. of Plants Expected After 5 years	Relative Species Composition (percent)
Fremont's cottonwood <i>Populus fremontii</i>	146	73	21
Goodding's black willow <i>Salix gooddingii</i>	98	49	14
Sandbar willow <i>Salix exigua</i>	76	38	11
Mexican elderberry <i>Sambucus mexicana</i>	76	38	11
Blackberry <i>Rubus ursinus</i>	76	38	11
Wild rose <i>Rosa californica</i>	48	24	7
Wild grape <i>Vitis californica</i>	42	21	6
Buttonbush <i>Cephalanthus occidentalis</i>	34	17	5
Oregon Ash <i>Fraxinus latifolia</i>	34	17	5
Box Elder <i>Acer negundo</i> var. <i>californicum</i>	34	17	5
Arroyo willow <i>Salix lasiolepis</i>	28	14	4

Figure 2 represents a conceptual drawing of the Cottonwood Riparian community based on the species identified above.



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Figure 2. Planting Plan for Cottonwood Riparian Community

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Specific species plantings in revegetated area will follow these guidelines:

- Prior to the implementation of the Willow Scrub planting plan, the bank face will be evaluated further for its suitability for planting. Site analysis of the bank face may indicate that some micro-sites are unsuitable for woody plantings and revegetation with native herbaceous plants such as a flood tolerant native grass, or no plantings, may be more appropriate.
- Species components of the Willow Scrub community will be placed on the bank face based on their ecological requirements. The bank face possesses discrete hydrologic zones: the lowest position on the slope, closest to the water, is the most hydrophitic. Mulefat and arroyo willow will be planted on the lower portion of the slope. Buttonbush will be planted in the middle to upper portion of the slope and blackberry will be planted on the upper portion of the slope. Sandbar willow can be planted at all positions on the slope, interspersed with other species.
- Where possible and appropriate, spacing patterns will be given a clumped and irregular natural appearance while not competing with one another.
- Tree species of the Cottonwood Riparian community will not be planted in the 20-foot-wide zone nearest the bank.
- Blackberry and wild grape are vigorous growth forms and compete with other trees and shrubs if planted too early. These species will be planted in the cottonwood riparian community 2 to 3 years after other plantings are installed.

## Methods of Plant Installation

Plants can be installed as root cuttings, pole cuttings, wattles, rooted cuttings, and containers. Table 3 lists the recommended installation type for each species.

Cuttings, including wattles and root cuttings will be taken during the winter months from November through January. Seeds can be collected on-site as they ripen, from September through November. Plant material to be planted in containers can be purchased from commercial sources or contract-grown using seeds or cuttings collected on-site or from adjacent parcels with permission from landowners. Lead time for preparation of plant materials is typically three months to two years depending on the species. Descriptions of various installation methods are as follows:

**Containerized Stock** - Container stock generally is not immediately available for large quantities and should be contract grown. Plant stocks should be grown in containers developed for use in revegetation work such as deepots or leach tubes. Plants grown in these types of containers tend to develop deep root systems.

**Cuttings** - Willows and cottonwoods can be planted directly in the ground as pole cuttings. Poles should be cut during the dormant season and should measure 5/8 to 1 1/2 inches in diameter and 3 to 4 feet in length. They should be installed 24 inches deep into pre-augured holes within 24 hours of being cut. Cuttings not installed immediately should be immersed in water.

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**Table 3. Recommended Method of Installation**

<b>Species</b>	<b>Installation Method</b>
Fremont's cottonwood	pole cuttings
Goodding's black willow	pole cuttings
Sandbar willow	pole cuttings, wattles
Arroyo willow	pole cuttings, wattles
Mulefat	cuttings
Box elder	container
Oregon ash	container
Wild rose	rooted cuttings, container,
Buttonbush	container
Mexican elderberry	containers
Blackberry	root cuttings
Wild grape	rooted cuttings

**Root Cuttings** - Root cuttings are taken in late winter before foliar growth resumes, i.e., when roots have sufficient stored foods. Root cuttings should be at least 4 inches in length with the diameter thickness of a pencil. They are planted right-side-up directly into the soil.

**Rooted Cuttings** - Rooted cuttings, used for such plants as wild rose and wild grape, are typically taken in winter or early spring. They should be long enough to have at least three buds. Rooted cuttings are placed in a rooting medium and planted after roots have formed.

**Willow Wattling** - Willow wattling is used on slopes to stabilize the slope by slowing the movement of water and surface material as it runs over the wattling. Wattling consists of placing tied bundles of willow stems into trenches along the slope contour. Willow stems 5 to 9 feet long and 1/2 inch in diameter, are cut and made into bundles with the stem butt ends alternating. A compressed bundle is 8 inches in diameter and is tied together with binder twine with ties spaced 1 foot apart. Compressed bundles should taper at both ends, that is, the thickest part should be in the middle. Wattling bundles are then placed in prepared trenches.

To prepare trenches, guide stakes are sunk 18 inches into the soil and placed parallel to the contour of the slope every 2 to 3 feet. Guide stakes can be made of thick willow cuttings or wedge-shaped wooden stakes. Above the guide stakes, a trench 4 inches wide is made and wattling bundles are placed flat in the trench with each bundle end overlapping about 12 inches with the next. Bundles are staked to the slope (trench) 2 to 3 feet apart. No more than one-third of the bundle should be above grade. The holding stakes are driven to a depth of 18 inches. Backfilled with native soil, the bundles are walked on to ensure that soil is worked into bundles. A small portion of the downhill

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lip of the wattling bundle, consisting of about 10 percent of the bundle volume, is left exposed. Wattling bundles should be irrigated immediately after installation. If wattling bundles are not planted immediately they can be stored in the shade and installed no later than 24 hours after the stems are cut.

## Site Preparation

### Bank Face

The only site preparation on the bank face will consist of spot removal of herbaceous weeds in a 2-foot radius at individual planting sites. All existing non-native and native woody plants will be left in place.

### Upland Area Between Interior Paved Road and Top Edge of Bank

Existing lawn in the planting area will be removed with a contact herbicide. Herbicide applications will be applied at the appropriate, most effective time of year, and in a manner that will not harm existing native vegetation or affect performance of newly-planted species.

The remaining grass areas on the project site will include the upper and lower parking areas and the campsites on the land side of the interior paved road. These will continue to be irrigated and mowed as necessary; however, no herbicide use will be permitted.

If the footing for the main access ramp is not installed prior to revegetation, the planting area in the vicinity of the access ramp will not be revegetated until after the footing is constructed. When the footing is constructed, care will be taken to not disturb adjacent areas that have already been planted. These areas will be clearly marked with wood stakes and flagging tape to prevent trampling and disturbance.

As plants are installed, 2-foot-diameter watering basins will be constructed at the base of each plant. Basins will function to direct rain and irrigation water to the root zone.

## Maintenance Program

A maintenance program with frequent checks is essential to ensure the success of new plantings. The 5-year maintenance program will include the following tasks:

### Watering Basins

Watering basins will be repaired and maintained, as necessary.

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## Irrigation

Good survival of plants can be achieved with no follow-up irrigation if plants are installed early in the rainy season and sufficient rainfall occurs. Withholding irrigation promotes strong root growth; however, watering may be necessary if drought conditions persist after planting. In this case, infrequent, but deep, irrigation of riparian plantings may be necessary. Plants in the upland zone will be irrigated immediately following planting, in any case. If follow-up watering is necessary, it should be either drip or flood irrigation. Care should be taken to ensure that irrigation water is contained in the watering basins and does not contribute to surface runoff over the bank face.

Irrigation is not recommended on the bank face due to the steep slope. Soils should still contain sufficient moisture following planting to promote growth.

## Weed Control

Weeds will be controlled to reduce competition for available nutrients, moisture, space, and sunlight. They will either be pulled by hand or cut below ground level in a 2-foot radius around each plant. In areas outside of plantings weeds will be mowed. If weeds become a serious problem around newly-planted seedlings, herbicides could be applied locally, as necessary.

## Plant Protection

Plant protection devices such as wire screens may be necessary to prevent animal damage. Any protection device installed will be kept functional and secure during the entire establishment period. Protection devices will be replaced as necessary.

## Monitoring Program

### During Installation

A Revegetation Specialist will be on-site during installation to insure that appropriate revegetation techniques are used, planting stocks are in healthy condition prior to planting, and that plants are installed as designated in the plan.

### During Growing Season

Monitoring of the revegetation plantings will be conducted during the active growing season to document the success of plantings. For any losses that occur, the revegetation specialist/maintenance contractor will determine the reason for loss, and when necessary, use a different species from the site or a different planting method as appropriate. The revegetation specialist/maintenance contractor will also evaluate the effectiveness of the maintenance program and determine if further maintenance activities are necessary. (Maintenance activities are discussed above).

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## Annual Report

Five reports will be submitted over the course of the 5-year monitoring program. The final report will summarize progress and results of the entire program, as well as for the fifth year. Annual reports will include photo documentation as well as a summary describing the results of revegetation performance, maintenance activities performed, and expected activities for the coming year.

## Performance Standards

The performance of the revegetation project will be measured in terms of plant establishment. Since each community will be planted with twice the target goal of desired plant species, a loss of no more than 50 percent of each target species in each plant community will constitute success. If wattling is used as a planting technique, success in terms of percent cover will be used.

## Remedial Actions

If monitoring indicates less than a 50 percent survival of the planting or a failure trend, i.e., approaching a 50 percent loss, corrective measures will be taken. Corrective measures may include erosion control measures, plant replacement, more aggressive weed control, installation of wire cages to guard against animal herbivory, fencing, and/or watering.

## Responsible Parties

The project proponent, Mr. Gary Kaveney, will be responsible for site preparation, planting, maintenance, and submittal of annual monitoring reports. Mr. Kaveney will have the option of hiring his own personnel or can contract with a Revegetation Specialist to ensure that all work is completed according to the approved mitigation plan. Annual reports will be submitted to the State Lands Commission and Sutter County Planning Department.

SECTION 4

GENERAL PROVISIONS

1. GENERAL

These provisions are applicable to all leases, permits, rights-of-way, easements, or licenses or other interests in real property conveyed by the State Lands Commission.

2. CONSIDERATION

(a) Contingents

(1) Rental

Lessee shall pay the annual rental as stated in this Lease to Lessor without deduction, delay or offset, on or before the beginning date of this Lease and on or before each anniversary of its beginning date during each year of the Lease term.

(2) Non-Monetary Consideration

If the consideration to Lessor for this lease is the public use, benefit, health or safety, Lessor shall have the right to review such consideration at any time and set a monetary rental if the State Lands Commission, at its sole discretion, determines that such action is in the best interest of the State.

(b) Modifications

Lessor may modify the method, amount or rate of consideration effective on each fifth anniversary of the beginning date of this Lease. Should Lessor fail to exercise such right effective on any fifth anniversary it may do so effective on any one (1) of the next four (4) anniversaries following such fifth anniversary, without prejudice to its right to effect such modification on the next or any succeeding fifth anniversary. No such modification shall become effective unless Lessee is given at least thirty (30) days notice prior to the effective date.

(c) Penalty and Interest

Any installments of rental accruing under this Lease not paid when due shall be subject to a penalty and shall bear interest as specified in Public Resources Code Section 624 and the Lessor's then existing administrative regulations governing penalty and interest.

3. BOUNDARIES

This lease is not intended to establish the State's boundaries and is made without prejudice to either party regarding any boundary claims which may be asserted presently or in the future.

4. LAND USE

(a) General

Lessee shall use the Lease Premises only for the purpose or purposes stated in this Lease and only for the operation and maintenance of the improvements expressly authorized in this Lease. Lessee shall commence use of the Lease Premises within sixty (60) days of the beginning date of this Lease or within sixty (90) days of the date set for construction to commence as set forth in this Lease, whichever is later. Lessee shall notify Lessor within ten (10) days after commencing the construction of substantial improvements and within sixty (60) days after completing them. Lessee's discontinuance of such use for a period of ninety (90) days shall be conclusively presumed to be an abandonment.

(b) Continuous Use

Lessee's use of the Lease Premises shall be continuous from commencement of the Lease until its expiration.

(c) Repairs and Maintenance

Lessee shall, at its own expense, keep and maintain the Lease Premises and all improvements in good order and repair and in safe condition. Lessor shall have no obligation for such repair and maintenance.

(d) Additions, Alterations and Removal

(1) Additions - No improvements other than those expressly authorized in this Lease shall be constructed by the Lessee on the Lease Premises without the prior written consent of Lessor.

(2) Alteration or Removal - Except as provided under this Lease, no alteration or removal of improvements on or access easements of the Lease Premises shall be undertaken without the prior written consent of Lessor.

(e) Construction

Lessee shall practice conservation of water, energy, and other natural resources and shall prevent pollution and harm to the environment. Lessee shall not violate any law or regulation whose purpose is to conserve resources or to protect the environment. Violation of this section shall constitute grounds for termination of the lease. The lessee, by its executive officer, shall notify the lessor, when in his or her opinion, lessee has violated the provisions of this section and lessee shall respond and discontinue the conduct or remedy of the violation within 30 days.

(f) Tinting

Lessee shall not manufacture or generate hazardous wastes on the Lease Premises unless specifically authorized under other terms of the Lease. Lessee shall be fully responsible for any hazardous wastes, substances or materials as defined under federal, state or local law, regulations, or ordinances that are manufactured, generated, used, stored, disposed, stored, or transported on the Lease Premises during the Lease term and shall comply with and be bound by all applicable provisions of such federal, state or local law, regulation or ordinance dealing with such wastes, substances or materials. Lessee shall notify Lessor and the appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances or materials.

(g) Easements

Subject to the provisions of paragraph 5 (a) (2) below, nothing in this Lease shall preclude Lessee from excluding persons from the Lease Premises when their presence or activity constitutes a material interference with Lessee's use and enjoyment of the Lease Premises as provided under this Lease.

(h) Discrimination

Lessee in its use of the Lease Premises shall not discriminate against any person or class of persons on the basis of race, color, creed, religion, national origin, sex, age, or handicap.

(i) Restricted Use

No portion of the Lease Premises shall be used as a location for a residence or for the purpose of mooring a structure which is used as a residence. For purposes of this Lease, a residence or floating residence includes but is not limited to house, barge, houseboat, trailer, cabin or combinations of such facilities or other such structures which provide overnight accommodations to the Lessee or others.

5. RESERVATIONS, ENCUMBRANCES AND RIGHTS-OF-WAY

(a) Reservations

(1) Lessor expressly reserves all natural resources in or on the Lease Premises, including but not limited to: timber and

oil and gas, and shall retain the right to grant leases in and on the Lease Premises for the extraction of such natural resources; however, such leasing shall be subject to the provisions of the Lease Premises and shall be consistent with the rights or privileges of Lessee under this lease.

(2) Lessor expressly reserves a right to go on the Lease Premises and all improvements for any purpose associated with this Lease or for carrying out any function required by law, or the rules, regulations or management policies of the State Lands Commission. Lessor shall have a right of reasonable access to the Lease Premises across Leasee owned or occupied lands adjacent to the Lease Premises for any purpose associated with this Lease.

(3) Lessor expressly reserves to the public an easement for convenient access across the Lease Premises to other State-owned lands located near or adjacent to the Lease Premises and a right of reasonable passage across and along any right-of-way granted by this lease; however, such easement or right-of-way shall be neither inconsistent nor incompatible with the rights or privileges of Leasee under this Lease.

(4) Lessor expressly reserves the right to lease, convey, or encumber the Lease Premises, in whole or in part, during the lease term for any purpose not inconsistent or incompatible with the rights or privileges of Leasee under this Lease.

(b) Encumbrances  
This Lease may be subject to pre-existing contracts, leases, licenses, easements, encumbrances and claims and is made without warranty by Lessor of title, condition or fitness of the land for the stated or intended purpose.

6. RULES, REGULATIONS AND TAXES

(a) Lessee shall comply with and be bound by all presently existing or subsequently enacted rules, regulations, statutes or ordinances of the State Lands Commission or any other governmental agency or entity having lawful authority and jurisdiction.

(b) Lessee understands and agrees that a necessary condition for the granting and continued existence of this Lease is that Lessee obtain and maintain all permits or other entitlements.

(c) Lessee accepts responsibility for and agrees to pay any and all possessory interest taxes, assessments, user fees or service charges imposed on or associated with the leasehold interest, improvements or the Lease Premises and such payment shall not reduce rental due Lessor under this Lease and Lessor shall have no liability for such payment.

7. INDEMNITY

(a) Lessor shall not be liable and Lessee shall indemnify, hold harmless and, at the option of Lessor, defend Lessor, its officers, agents, and employees against and for any and all liability, claims, damages or injuries of any kind and from any cause, arising out of or connected in any way with the issuance, enjoyment or breach of this Lease or Lessee's use of the Lease Premises except for any such liability, claims, damage or injury solely caused by the negligence of Lessor, its officers, agents and employees.

(b) Lessee shall notify Lessor immediately in case of any accident, injury or casualty on the Lease Premises.

8. INSURANCE

(a) Lessee shall obtain and maintain in full force and effect during the term of this lease comprehensive general liability insurance and property damage insurance, with such coverages and limits as may be reasonably requested by the State from time to time, but in no event for less than the sum(s) specified, insuring Lessee and Lessor against any and all claims or liability arising out of the ownership, use, occupancy, condition or maintenance of the Lease Premises and all improvements.

(b) The insurance policy or policies shall name the State of California, its officers, employees and volunteers as insureds as to the Lease Premises and shall identify the Lessee by its assigned number. Lessee shall provide Lessor with a certificate of such insurance and shall keep such certificate current. The policy (or endorsement) must provide that the insurer will not cancel insured's coverage without thirty (30) days prior written notice to the State. The State will not be responsible for any premiums or other assessments on the policy. The coverage provided by the insured (Lessee) shall be primary and non-contributing.

(c) The insurance coverage specified in this Lease shall be in effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved, by Lessor, or restored by Lessee.

9. SURETY BOND

(a) Lessee shall provide a surety bond or other security device acceptable to Lessor, for the specified amount, and naming the State of California as the assured, to guarantee to Lessor the faithful observance and performance by Lessee of all of the terms, covenants and conditions of this Lease.

(b) Lessor may require an increase in the amount of the surety bond or other security device to cover any additionally authorized improvements, alterations or purposes and any modification of consideration.

(c) The surety bond or other security device shall be maintained in full force and effect at all times during the Lease term and subsequently until all of the Lease Premises have been either accepted as improved, by Lessor, or restored by Lessee as provided elsewhere in this Lease.

10. ASSIGNMENT, ENCUMBRANCING OR SUBLETTING

(a) Lessee shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease and shall not sublet the Lease Premises, in whole or in part, or allow any person other than the Lessee's employees, agents, servants and invitees to occupy or use all or any portion of the Lease Premises without the prior written consent of Lessor, which consent shall not be unreasonably withheld.

(b) The following shall be deemed to be an assignment or transfer within the meaning of this Lease:

(1) If Lessee is a corporation, any dissolution, merger, consolidation or other reorganization of Lessee or sale or other transfer of a percentage of capital stock of Lessee which results in a change of controlling persons, or the sale or other transfer of substantially all the assets of Lessee.

(2) If Lessee is a partnership, a transfer of any interest of a general partner, a withdrawal of any general partner from the partnership, or the dissolution of the partnership.

(c) If this lease is for sovereign lands, it shall be appurtenant to adjoining littoral or riparian land and Lessee shall not transfer or assign its ownership interest or use rights in such adjoining lands separately from the leasehold rights granted herein without the prior written consent of Lessor.

(d) If Lessee desires to assign, sublet, encumber or otherwise transfer all or any portion of the Lease Premises, Lessee shall do all of the following:

(1) give	prior written notice to Lessor.	
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(2) provide	the name and complete business organization and	
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operational structure of the proposed assignee, sublessee, secured third party or other transferee; and the nature of the use of and interest in the Lease Premises proposed by the assignee, sublessee, secured third party or other transferee. If the proposed assignee, sublessee or secured third party is a general or limited partnership, or a joint venture, provide a copy of the partnership agreement or joint venture agreement, as applicable.

(3) provide the terms and conditions of the proposed assignment, sublease, or encumbering or other transfer;

(4) provide audited financial statements for the two most recently completed fiscal years of the proposed assignee, sublessee, secured party or other transferee; and provide pro forma financial statements showing the projected income, expense and financial condition resulting from use of the lease premises; and

(5) provide such additional or supplemental information as Lessor may reasonably request concerning the proposed assignee, sublessee, secured party or other transferee.

Lessor will evaluate proposed assignee, sublessee, secured third parties and other transferees and grant approval or disapproval according to standards of commercial reasonableness considering the following factors within the context of the proposed use: the proposed party's financial strength and reliability, their business experience and expertise, their personal and business reputation, their managerial and operational skills, their proposed use and projected rental, as well as other relevant factors.

(e) Lessor shall have a reasonable period of time from the receipt of all documents and other information required under this provision to grant or deny its approval of the proposed party.

(f) Lessee's mortgage or hypothecation of this Lease, if approved by Lessor, shall be subject to terms and conditions found in a separately drafted standard form (Agreement and Consent to Encumbering of Lease) available from Lessor upon request.

(g) Upon the express written assumption of all obligations and duties under this Lease by an assignee approved by Lessor, the Lessee may be released from all liability under this Lease arising after the effective date of assignment and not associated with Lessee's use, possession or occupation of or activities on the Lease Premises; except as to any hazardous wastes, substances or materials as defined under federal state or local law, regulation or ordinance manufactured, generated used, placed disposed, stored or transported on the Lease Premises.

(h) If the Lessee files a petition or an order for relief is entered against Lessee, under Chapters 7,9,11 or 13 of the Bankruptcy Code (11 USC Sect. 101, et seq.) then the trustee or debtor-in-possession must elect to assume or reject this Lease within sixty (60) days after filing of the petition or appointment of the trustee, or the Lease shall be deemed to have been rejected, and Lessor shall be entitled to immediate possession of the Lease Premises. No assumption or assignment of this Lease shall be effective unless it is in writing and unless the trustee or debtor-in-possession has cured all defaults under this Lease (monetary and non-monetary) or has provided Lessor with adequate assurances (1) that within ten (10) days from the date of such assumption or assignment, all monetary defaults under this Lease will be cured; and (2) that within thirty (30) days from the date of such assumption, all non-monetary defaults under this Lease will be cured; and (3) that all provisions of this Lease will be satisfactorily performed in the future.

## 11. DEFAULT AND REMEDIES

### (a) Default

The occurrence of any one or more of the following events shall immediately and without further notice constitute a default or breach of the Lease by Lessee:

- (1) Lessee's failure to make any payment of rental, royalty, or other consideration as required under this Lease.
- (2) Lessee's failure to obtain or maintain liability insurance or a surety bond or other security device as required under this Lease.
- (3) Lessee's vacation or abandonment of the Lease Premises (including the covenant for continuous use as provided for in paragraph 4) during the Lease term.
- (4) Lessee's failure to obtain and maintain all necessary governmental permits or other entitlements.
- (5) Lessee's failure to comply with all applicable provisions of federal, state or local law regulation or ordinance dealing with hazardous waste, substances or materials as defined under such law.
- (6) Lessee's failure to commence to construct and to complete construction of the improvements authorized by this Lease within the time limits specified in this Lease.
- (7) Lessee's failure to comply with applicable provisions of federal, state or local laws or ordinances relating to issues of Health and Safety, or whose purpose is to conserve resources or to protect the environment.

(b) Lessee's failure to observe or perform any other term, covenant or condition of this Lease to be observed or performed by the Lessee when such failure shall continue for a period of thirty (30) days after Lessor's giving written notice; however, if the nature of Lessee's default or breach under this paragraph is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default or breach if Lessee commences such cure within such thirty (30) day period and diligently proceeds with such cure to completion.

### (c) Remedies

In the event of a default or breach by Lessee and Lessee's failure to cure such default or breach, Lessor may at any time and with or without notice do any one or more of the following:

- (1) Re-enter the Lease Premises, remove all persons and property, and repossess and enjoy such premises.
- (2) Terminate this Lease and Lessee's right of possession of the Lease Premises. Such termination shall be effective upon Lessor's giving written notice and upon receipt of such notice Lessee shall immediately surrender possession of the Lease Premises to Lessor.
- (3) Maintain this Lease in full force and effect and recover any rental, royalty, or other consideration as it becomes due without terminating Lessee's right of possession regardless of whether Lessee shall have abandoned the Lease Premises.

(4) Exercise any other right or remedy which Lessor may have at law.

## 12. RESTORATION OF LEASE PREMISES

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**EXHIBIT H**  
**CEQA FINDINGS**  
**Options A - C**

**Introduction**

This document presents the findings made by the State Lands Commission (SLC), pursuant to Title 14, California Administrative Code, Section 15901, on the proposed Verona Marina Project in Sutter County, California. All potentially significant impacts of the project identified in the Final Environmental Impact Report (EIR) are included herein and organized according to individual resource topics, e.g., vegetation, wildlife, noise, and so forth.

For each significant impact, a finding has been made as to one or more of the following, as appropriate:

- (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- (b) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (c) Specific economic, social, and/or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

The appropriate findings are followed by a narrative of the facts supporting them. Specific mitigation measures, as presented in the Draft EIR, are identified. The CEQA Lead Agency has the responsibility to ensure that mitigation measures contained in an EIR are effectively implemented.

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# Option A

## Hydrology and River Geomorphology

**Impact:** Continued bank disturbance and erosion unless bank is revegetated or some type of bank protection is installed.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### *Facts Supporting the Finding:*

Without any type of protection, the bank at the project site will continue to erode during periods of high flows. Left unchecked, the steepest part of the bank will recede further into the campground.

A mitigation measure to halt ongoing erosion has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Non-erosive, native riparian trees and shrubs will be planted along the bank face according to the Revegetation Plan provided in Appendix V of the Draft EIR.

The type of vegetation proposed is native and indigenous that, if planted in the concentrations indicated, should help stabilize and protect the river bank and develop into shaded riverine aquatic (SRA) habitat which is necessary to the survival of wildlife, including the federally declared threatened and the state endangered winter-run chinook salmon.

## Vegetation

**Impact:** Impacts to riparian vegetation from shoreline tie-ups, tree cutting, trampling of vegetation and induced erosion along bank face.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### *Facts Supporting the Finding:*

During low flows, boat owners can beach their boats and tie up to the trees on the bank face, then walk up the bank to their campsites. Walking up the sandy bank results in damage to vegetation and induces bank erosion.

A mitigation measure to compensate for past disturbances to bank vegetation has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The project proponent will revegetate the bank with riparian trees and shrubs as outlined in Appendix V of the Draft EIR. Vegetation to be planted along the bank

face will include only those species which are helpful in controlling erosion and can withstand inundation and high flows.

The type of vegetation proposed is native and indigenous that, if planted in the concentrations indicated, should help stabilize and protect the river bank and develop into shaded riverine aquatic (SRA) habitat which is necessary to the survival of wildlife, including the federally declared threatened and the state endangered winter-run chinook salmon.

**Impact:** Continued use of the project site as a campground and parking area prevents the natural re-establishment of riparian vegetation.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

**Facts Supporting the Finding:**

The continued use of the upland portion of the site as a campground and parking area for the launch ramp requires maintenance activities that preclude the re-establishment of riparian vegetation on most of the site.

A mitigation measure to permit the re-establishment of riparian vegetation on a portion of the site has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The portion of the campground between the top of the bank and the interior paved road will be revegetated with riparian species per Appendix V of the Draft EIR.

The area proposed for planting is adjacent to the river and is designed to restore a continuous corridor of riparian vegetation between the up and down river parcels and thereby eliminate the fragmentation of wildlife habitat within this stretch of the river.

**Impact:** Continued use of the project site as a campground and parking area could adversely impact the riparian habitat both on-site and on the adjacent downstream parcel.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

***Facts Supporting the Finding:***

Campground patrons and their pets may wander onto the downstream riparian parcel from the project site.

Mitigation measures to reduce human disturbance to the downstream riparian parcel have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- "No Trespassing" signs will be placed at the edge of the campground adjacent to the downstream riparian corridor.
- A notice explaining the sensitivity of riparian habitat will be posted on the bulletin board to further educate campground patrons of the importance of keeping pets and children within the confines of the campground.

These measures are designed to prevent trespass from the public campground to the adjacent private parcels on which viable and valuable riparian habitat remains. As the areas are not fenced from one another, it is easy for campground patrons to venture onto the adjacent properties and disturb the existing habitat, thereby compounding the loss of such habitat in the area.

**Wildlife**

***Impact:*** Continued use of the site as a campground and parking area would continue human disturbance and prevent the natural re-establishment of riparian vegetation on most of the site, thereby limiting its value as wildlife habitat.

***Finding:*** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

***Facts Supporting the Finding:***

Because ongoing maintenance, such as grass mowing and irrigation, is required to maintain the upland portion of the site as a campground, the natural re-establishment of riparian trees and shrubs is prevented. The site's value as wildlife habitat is limited to species which do not require dense cover and are tolerant of human disturbance and open space.

A mitigation measure to increase the value of the upland portion of the site has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The project proponent will revegetate the portion of the campground between the top of the bank and the interior paved road with riparian species according to Appendix V of the Draft EIR.

The area proposed for planting is adjacent to the river and is designed to restore a continuous corridor of riparian vegetation between the up and down river parcels and thereby eliminate the fragmentation of wildlife habitat within this stretch of the river.

## **Fisheries**

**Impact:** Continued bank disturbance would decrease SRA cover.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### ***Facts Supporting the Finding:***

During low flows, boat owners can beach their boats and tie up to the trees on the bank face, then walk up the bank to their campsites. Walking up the sandy bank results in damage to vegetation and induces bank erosion.

A mitigation measure to compensate for past disturbances to bank vegetation has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The project proponent will revegetate the bank with riparian trees and shrubs as outlined in Appendix V of the Draft EIR. Vegetation to be planted along the bank face will include only those species which are helpful in controlling erosion and can withstand inundation and high flows.

The type of vegetation proposed is native and indigenous that, if planted in the concentrations indicated, should help stabilize and protect the river bank and develop into shaded riverine aquatic (SRA) habitat which is necessary to the survival of wildlife, including the federally declared threatened and the state endangered winter-run chinook salmon.

## **Land Use**

**Impact:** Potential use of the leach field and replacement area for vehicular parking.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County as well as the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

### ***Facts Supporting the Finding:***

Currently, the leach field and replacement area are not separated from the remainder of the lower parking area. During busy summer weekends, cars could inadvertently park over the

leach field potentially damaging it which could result in the release of sewage into the campground area or the river.

Mitigation measures to prevent parking in the leach field have been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Areas designated for vehicular parking will be indicated by appropriate markings. The leach field and replacement area will be roped off on a permanent basis and designated as a "No Parking" area.

The elimination of vehicular use of the leach field area will prevent the potential adverse impacts above identified.

## **Public Services and Utilities**

*Impact:* Continued use of existing septic system for two employee RV trailers.

*Finding:* (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County.

### *Facts Supporting the Finding:*

In January, 1993, the Sutter County Environmental Health Department requested that the inlet and outlet "T" be replaced by an ABS "T" and that the exit lines be changed from PVC to ABS Schedule 40 line.

A mitigation measure to reduce the impact to the existing septic system has been specified to reduce this impact to a less-than-significant level. This measure is as follows:

- The applicant will complete the necessary replacement work and have it verified and approved by Sutter County.

## **Risk of Upset and Human Safety**

*Impact:* Increased potential for fuel spills from portable containers.

*Finding:* (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

Minor fuel spills occur when owners bring their own fuel to small boats in portable containers.

Mitigation measures to reduce the occurrence of fuel spills have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- The owner will prepare a fuel spill prevention and cleanup plan and file it with the SLC for its review and approval. After approval, a copy of the plan will be filed with Sutter County.
- The owner will purchase fuel containment equipment for use in case of an accident. Coil containment netting will be stored at a specific location on the docks for use, as specified in the fuel prevention plan, in an emergency.
- Patrons and employees will be cautioned on small scale fueling procedures and the importance of avoiding spills.

Although the emphasis is on the prevention of oil or gasoline spills into the river, emergency procedures need to be in place to minimize the impacts of such spills on water quality and aquatic and riparian zone resources as well as to private property.

***Impact:*** Potential for fuel spills resulting from leakage of a boat's on-board fuel tank.

***Finding:*** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

Fuel spills could result from leakage of a boat's on-board fuel tank. This is not only damaging to water quality but it also constitutes a public health and safety impact.

A mitigation measure to reduce the occurrence of fuel spills has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- One of the provisions in the marina leases will require all lessees to maintain their boats in a safe operating condition.

Equipment that is maintained in good working order is less likely to leak or rupture, thus preventing the release of fuel into the river.

**Impact:** Large floating debris travelling downriver during high flows could become trapped in the debris deflector and damage boats.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

During high flows, large floating debris could become lodged in the debris deflector posing a threat to boats.

A mitigation measure to reduce the accumulation of large floating debris has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- A work boat with a grappling hook attached to it will be used to tow large debris that becomes lodged in the debris deflector to the launch ramp. It will then be cut up and removed from the site.

**Impact:** Excessive boat speed in this section of the river.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

Many boaters do not obey the 5 mph speed limit posted at the project site. This has resulted in unsafe situations, especially on busy summer weekends, and has resulted in accidents between idling boats and craft traveling up the river at high speeds.

A mitigation measure to reduce speeding in the vicinity of the project site has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Existing signs will be repainted to be more visible.

# Option B

## Vegetation

**Impact:** Loss of bank vegetation due to trampling, induced erosion, and hazard removal.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### *Facts Supporting the Finding:*

During low-flows, boat owners can beach their boats and tie up to the trees on the bank face, then walk up the bank to their campsites. Walking up the sandy bank results in damage to vegetation and induces bank erosion.

A mitigation measure to compensate for past disturbances to bank vegetation has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The project proponent will revegetate the bank with riparian trees and shrubs as outlined in Appendix V of the Draft EIR. Vegetation to be planted along the bank face will include only those species which are helpful in controlling erosion and can withstand inundation and high flows.

The type of vegetation proposed is native and indigenous that, if planted in the concentrations indicated, should help stabilize and protect the river bank and develop into shaded riverine aquatic (SRA) habitat which is necessary to the survival of wildlife, including the federally declared threatened and the state endangered winter-run chinook salmon.

**Impact:** Continued use of the upland portion of the project site prevents the natural re-establishment of riparian vegetation.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

### *Facts Supporting the Finding:*

The continued use of the upland portion of the site as a campground and parking area for the launch ramp requires maintenance activities that preclude the re-establishment of riparian vegetation on most of the site.

A mitigation measure to permit the re-establishment of riparian vegetation on a portion of the site has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The portion of the campground between the top of the bank and the interior paved road will be revegetated with riparian species per Appendix V of the Draft EIR.

The area proposed for planting is adjacent to the river and is designed to restore a continuous corridor of riparian vegetation between the up and down river parcels and thereby eliminate the fragmentation of wildlife habitat within this stretch of the river.

*Impact:* Continued use of the project site as a campground and parking area could adversely impact the riparian habitat both on-site and on the adjacent downstream parcel.

*Finding:* (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

*Facts Supporting the Finding:*

Campground patrons and their pets may wander onto the downstream riparian parcel from the project site.

Mitigation measures to reduce human disturbance to the downstream riparian parcel have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- "No Trespassing" signs will be placed at the edge of the campground adjacent to the downstream riparian corridor.
- A notice explaining the sensitivity of riparian habitat will be posted on the bulletin board to further educate campground patrons of the importance of keeping pets and children within the confines of the campground.

These measures are designed to prevent trespass from the public campground to the adjacent private parcels on which viable and valuable riparian habitat remains. As the areas are not fenced from one another, it is easy for campground patrons to venture onto the adjacent properties and disturb the existing habitat, thereby compounding the loss of such habitat in the area.

## **Wildlife**

**Impact:** Continued use of the site as a campground and parking area would allow human disturbance to continue and prevent the natural re-establishment of riparian vegetation on most of the site, thereby limiting its value as wildlife habitat.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

### ***Facts Supporting the Finding:***

Because ongoing maintenance, such as grass mowing and irrigation, is required to maintain the upland portion of the site as a campground, the natural re-establishment of riparian trees and shrubs is prevented. The site's value as wildlife habitat is limited to species which do not require dense cover and are tolerant of human disturbance and open space.

A mitigation measure to increase the value of the upland portion of the site has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The project proponent will revegetate the portion of the campground between the top of the bank and the interior paved road with riparian species according to Appendix V of the Draft EIR.

The area proposed for planting is adjacent to the river and is designed to restore a continuous corridor of riparian vegetation between the up and down river parcels and thereby eliminate the fragmentation of wildlife habitat within this stretch of the river.

**Impact:** Possible disturbance to documented Swainson's hawks nesting sites.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of the Department of Fish and Game (DFG) and the U.S. Army Corps of Engineers (Corps) and not the agency making the finding. Such changes have already been adopted by the Corps in its August 8, 1991 permit to the applicant.

### ***Facts Supporting the Finding:***

Construction of day use docks may result in disturbances to Swainson's hawks whose nesting within 0.5 mile of the project site have been documented. The most likely time of human disturbance of this type to adversely impact nesting pairs would be from April through early August.

A mitigation measure to prevent disturbance to nesting Swainson's hawks has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Construction will not take place during the Swainson's hawk's nesting period, from March 15 through August 15, per the DFG's specifications. Instream construction may begin earlier than August 15 with DFG concurrence and approvals.

The delay in project activities will ensure that the Swainson's hawks which nest in the immediate vicinity are not disturbed during their critical nesting period. The project activities will thus not have an adverse impact on the propagation of a state listed species.

## **Fisheries**

**Impact:** Potential impacts of pile driving to winter-run chinook salmon.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of the Department of Fish and Game (DFG) and U.S. Army Corps of Engineers (Corps) and not the agency making the finding. Such changes have already been adopted by the Corps in its August 8, 1991 permit to the applicant.

### ***Facts Supporting the Finding:***

Winter-run chinook salmon are present in the reach of the Sacramento River from San Francisco Bay to the Feather/Sacramento River confluence from mid-September through the end of May. Instream construction activities during these months could adversely impact individuals resulting in the unauthorized "take" of a federally threatened and state endangered species.

A mitigation measure to avoid impacts to winter-run chinook salmon has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Instream construction, i.e., pile driving, will occur between August 15 and September 15 to comply with 1993 DFG guidelines. Any extension of this time frame will require specific approval from DFG staff.

This time limitation will ensure that no salmon are in the area during construction activities, thus eliminating any potential disturbance or harm to a commercially valuable federal and state listed species.

**Impact:** Loss of shaded riverine aquatic (SRA) habitat.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

During low flows, boat owners can beach their boats and tie up to the trees on the bank face, then walk up the bank to their campsites. Walking up the sandy bank results in damage to vegetation and induces bank erosion. Also, construction and continued operation of the proposed marina will result in the removal of existing SRA habitat.

A mitigation measure to halt disturbances to bank vegetation have been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The project proponent will revegetate the bank with riparian trees and shrubs as outlined in Appendix V of the Draft EIR. Vegetation to be planted along the bank face will include only those species which are helpful in controlling erosion and can withstand inundation and high flows.

The type of vegetation proposed is native and indigenous that, if planted in the concentrations indicated, should help stabilize and protect the river bank and develop into shaded riverine aquatic (SRA) habitat which is necessary to the survival of wildlife, including the federally declared threatened and the state endangered winter-run chinook salmon.

## **Water Quality**

***Impact:*** Discharge of untreated sewage or gray water into the Sacramento River.

***Finding:*** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

Boaters could adversely impact water quality by discharging untreated sewage (human body waste) or gray water (kitchen, bath, and shower waste), into the river either accidentally or intentionally. Vessel wastes disposed of improperly can have significant impacts on water quality and public health, particularly if discharged into areas of minimal dispersion and flushing.

A mitigation measures to prevent illegal discharge of untreated sewage or gray water has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- A pump-out facility will have a clamp-on adaptor to fit over the boat outlet, forming an air-tight seal and creating a vacuum. The manger will assist boaters in its use and will lock the pump-out when not in use.

The provision of a facility into which boaters at the day use docks or those using the launch ramp may empty their holding tanks should reduce or eliminate the tendency to discharge sewage or gray water into the river environment.

**Impact:** Potential for increased litter in the river due to increased number of boats in the immediate area and the continuing use of the upland.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

**Facts Supporting the Finding:**

The project could contribute to increased litter in the Sacramento River due to the presence of a new instream marina, the introduction of additional vessels on the river, and continued use of the upland facilities.

A mitigation measure to prevent improper trash disposal has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Sufficient trash receptacles will be placed along the docks. The SLC lease will contain conditions to promote recycling efforts and requirements for refuse containers and frequency of garbage pickup.

The provision of a facilities into which boaters within the marina or those using the launch ramp may dispose of their trash should reduce or eliminate the tendency to throw refuse into the river environment.

**Impact:** Live-aboards at the day use docks would contribute to discharges.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

**Facts Supporting the Finding:**

The addition of day use docks at the project site could encourage "live-aboards". Residential use is not considered a public trust use because it is for a purely private purpose that is unrelated to, not dependent upon, and does not further the particular water dependent purposes for which tidelands are uniquely suited. Therefore, it is not an appropriate use of the State's sovereign lands.

A mitigation measures to prevent "live-aboards" has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Lease conditions prohibiting live-aboards and thus full-time residential use of state submerged lands will be included in the lease agreement between the lessor and the Applicant.

## Land Use

**Impact:** Potential use of the leach field and replacement area for vehicular parking.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County as well as the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

### *Facts Supporting the Finding:*

Currently, the leach field and replacement area are not separated from the remainder of the lower parking area. During busy summer weekends, cars could inadvertently park over the leach field potentially damaging it which could result in the release of sewage into the campground area or the river.

Mitigation measures to prevent parking in the leach field have been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Areas designated for vehicular parking will be indicated by appropriate markings. The leach field and replacement area will be roped off on a permanent basis and designated as a "No Parking" area.

The elimination of vehicular use of the leach field area will prevent the potential adverse impacts above identified.

**Impact:** Potential for live-aboards at the day use docks.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### *Facts Supporting the Finding:*

The addition of day use docks at the project site could encourage "live-aboards". Residential use is not considered a public trust use because it is for a purely private purpose that is unrelated to, not dependent upon, and does not further the particular water dependent purposes for which tidelands are uniquely suited. Therefore, it is not an appropriate use of the State's sovereign lands.

A mitigation measure to prevent "live-aboards" has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Lease conditions prohibiting full-time residential use of boats will be included in the lease agreement between the lessor and the Applicant.

## **Public Services and Utilities**

**Impact:** Potential for spills during the transfer of sewage from boats to the pump-out facility or from the pump-out to tank trucks.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### ***Facts Supporting the Finding:***

Sewage spills could occur in the river during the transfer of sewage from boats to the pump-out facility or from the pump-out to tank trucks that will remove the material from the site and dispose it at a local sewage treatment facility.

Mitigation measures to prevent accidental sewage spills have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- A licensed septic tank pumper will be retained to pump the sewage from a pump-out facility to approved septic pumper trucks and dispose of the contents in a sewage treatment plant operation under permit from the appropriate agency having jurisdiction.
- The manager will assist boaters in using the pump-out to minimize the potential for accidental spills. When not in use, the pump-out will be locked to prevent unauthorized use.

**Impact:** Increased volume of solid waste on-site.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### ***Facts Supporting the Finding:***

A larger volume of solid waste will result from the increase in the number of boats and patrons using the day use docks and launch ramp.

A mitigation measure to handle the increased volume of solid waste has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Sufficient containers will be provided on the docks for trash and recyclable materials. Containers will be covered and emptied regularly. The marina manager will promote recycling by having the appropriately-marked containers available.

The provision of a facilities into which boaters within the day use docks or those using the launch ramp may dispose of their trash should reduce or eliminate the tendency to throw refuse into the river environment.

**Impact:** Inadequacy of existing septic system capacity.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County as well as the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

***Facts Supporting the Finding:***

Without certain conditions the existing septic system capacity may not be adequate for the campground and proposed day use docks.

Mitigation measures to ensure that the existing septic system will be adequate for the continued use of the upland facilities and the new day use docks have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- A restriction will limit the use of the shower facilities to only persons renting any of the 44 RV campsites. The showers will be kept locked, with keys available only to campground patrons.
- The rest room/shower facility will be closed from November 1 - March 31 each year. The main septic tank will be pumped and filled with water upon the November 1 closing.

The restrictions are designed to ensure that the inflow into the septic system does not exceed its capacity.

**Impact:** Continued use of existing septic system for two employee RV trailers.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County.

***Facts Supporting the Finding:***

In January, 1993, the Sutter County Environmental Health Department requested that the inlet and outlet "T" be replaced by an ABS "T" and that the exit lines be changed from PVC to ABS Schedule 40 line.

A mitigation measure to reduce the impact to the existing septic system has been specified to reduce this impact to a less-than-significant level. This measure is as follows:

- The applicant will complete the necessary replacement work and have it verified and approved by Sutter County.

**Impact:** Need for additional rest rooms.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

**Facts Supporting the Finding:**

Additional site usage may overtax the existing toilet facilities.

A mitigation measure to ensure that the existing facilities are not overused has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- If the operation of the day use docks results in a need for additional rest rooms, portable, temporary toilets will be brought in and placed on the upland portion of the site according to conditions set forth by the Sutter County Health Department.

**Aesthetics**

**Impact:** Changes to the existing viewshed due to the installation of day use docks and the addition of a covered berth in existing open space.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

**Facts Supporting the Finding:**

Construction and operation of day use docks and a covered boat berth in an area where there are currently no in river facilities will alter the view of the river and shoreline from the river.

Mitigation measures to reduce visual impacts and minimize glare have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- The roof of the covered berth will be painted pale blue and coated with a silicon-modified polyester finish to minimize glare and blend with aquatic surroundings.

- Connections for new PG&E lines will run along the base of the access ramp.

## **Light and Glare**

**Impact:** New lighting sources and adverse effects on wildlife.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### ***Facts Supporting the Finding:***

Constructing day use docks at the project site could introduce new lighting sources in the river which may affect wildlife in the immediate and adjacent areas.

A mitigation measure to reduce the effects of new lighting have been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Dock lighting will be low-intensity in nature and will be directed downward toward the docks and not toward the adjacent riparian zone.

By limiting the intensity of the lighting and controlling its direction, the ability to access the marina after dark will be preserved and the adjacent riparian zone will remain relatively dark to the benefit of nocturnal wildlife in the adjacent riparian habitat.

## **Risk of Upset and Human Safety**

**Impact:** Increased potential for fuel spills from portable containers.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### ***Facts Supporting the Finding:***

Minor fuel spills occur when owners bring their own fuel to small boats in portable containers.

Mitigation measures to reduce the occurrence of fuel spills have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- The owner will prepare a fuel spill prevention and cleanup plan and file it with the SLC for its review and approval. After approval, a copy of the plan will be filed with Sutter County.
- The owner will purchase fuel containment equipment for use in case of an accident. Coil containment netting will be stored at a specific location on the docks for use, as specified in the fuel prevention plan, in an emergency.

- Patrons and employees will be cautioned on small scale fueling procedures and the importance of avoiding spills.

Although the emphasis is on the prevention of oil or gasoline spills into the river, emergency procedures need to be in place to minimize the impacts of such spills on water quality and aquatic and riparian zone resources as well as to private property.

**Impact:** Potential for fuel spills resulting from leakage of a boat's on-board fuel tank.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

**Facts Supporting the Finding:**

Fuel spills could result from leakage of a boat's on-board fuel tank. This is not only damaging to water quality but it also constitutes a public health and safety impact.

A mitigation measure to reduce the occurrence of fuel spills has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- One of the provisions in the lease will require all boaters using the day use docks to maintain their boats in a safe operating condition.

Equipment that is maintained in good working order is less likely to leak or rupture, thus preventing the release of fuel into the river.

**Impact:** Large floating debris travelling downriver during high flows could become trapped in the debris deflector and damage boats or to the day use docks.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

**Facts Supporting the Finding:**

During high flows, large floating debris could become lodged in the debris deflector posing a threat to boats or the day use docks.

A mitigation measure to reduce the accumulation of large floating debris has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- A work boat with a grappling hook attached to it will be used to tow large debris that becomes lodged in the debris deflector to the launch ramp. It will then be cut up and removed from the site.

**fact:** Excessive boat speed in this section of the river.

**inding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

Many boaters do not obey the 5 mph speed limit posted at the project site. This has resulted in a unsafe situations, especially on busy summer weekends, and has resulted in accidents between idling boats and craft traveling up the river at high speeds.

A mitigation measure to reduce speeding in the vicinity of the project site has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Speed limit signs with "5 MPH Zone" and "No Wake Zone" will be painted in black and red on a white background and posted on the docks so that they are visible to boaters going in either direction. Existing signs on the bank will be repainted to be more visible.

**Cultural Resources**

**Impact:** Possible discovery of previously unknown cultural resources during construction activities.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

Cultural materials may be buried on the site, leaving no surface indications of their presence.

A mitigation measure to reduce the possibility of disturbing cultural resources has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- If any previously unknown cultural resources are encountered during construction, work in the immediate area will be stopped until a professional archaeologist can be consulted.

# Option C

## Hydrology and River Geomorphology

**Impact:** Continued erosion of the bank could eventually threaten footings of the marina access ramps.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### *Facts Supporting the Finding:*

Without any type of protection, the bank at the project site will continue to erode during periods of high flows. Left unchecked, the steepest part of the bank will recede further into the campground.

A mitigation measure to halt ongoing erosion has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Non-erosive, native riparian trees and shrubs will be planted along the bank face according to the Revegetation Plan provided in Appendix V of the Draft EIR.

The type of vegetation proposed is native and indigenous that, if planted in the concentrations indicated, should help stabilize and protect the river bank and develop into shaded riverine aquatic (SRA) habitat which is necessary to the survival of wildlife, including the federally declared threatened and the state endangered winter-run chinook salmon.

## Vegetation

**Impact:** Loss of bank vegetation due to trampling, induced erosion, and hazard removal.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### *Facts Supporting the Finding:*

During low flows, boat owners can beach their boats and tie up to the trees on the bank face, then walk up the bank to their campsites. Walking up the sandy bank results in damage to vegetation and induces bank erosion.

A mitigation measure to compensate for past disturbances to bank vegetation has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The project proponent will revegetate the bank with riparian trees and shrubs as outlined in Appendix V of the Draft EIR. Vegetation to be planted along the bank

face will include only those species which are helpful in controlling erosion and can withstand inundation and high flows.

The type of vegetation proposed is native and indigenous that, if planted in the concentrations indicated, should help stabilize and protect the river bank and develop into shaded riverine aquatic (SRA) habitat which is necessary to the survival of wildlife, including the federally declared threatened and the state endangered winter-run chinook salmon.

**Impact:** Continued use of the upland portion of the project site prevents the natural re-establishment of riparian vegetation.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

**Facts Supporting the Finding:**

The continued use of the upland portion of the site as a campground and parking area for the launch ramp requires maintenance activities that preclude the re-establishment of riparian vegetation on most of the site.

A mitigation measure to permit the re-establishment of riparian vegetation on a portion of the site has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The portion of the campground between the top of the bank and the interior paved road will be revegetated with riparian species per Appendix V of the Draft EIR.

The area proposed for planting is adjacent to the river and is designed to restore a continuous corridor of riparian vegetation between the up and down river parcels and thereby eliminate the fragmentation of wildlife habitat within this stretch of the river.

**Impact:** Continued use of the project site as a campground and parking area could adversely impact the riparian habitat both on-site and on the adjacent downstream parcel.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

***Facts Supporting the Finding:***

Campground patrons and their pets may wander onto the downstream riparian parcel from the project site.

Mitigation measures to reduce human disturbance to the downstream riparian parcel have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- "No Trespassing" signs will be placed at the edge of the campground adjacent to the downstream riparian corridor.
- A notice explaining the sensitivity of riparian habitat will be posted on the bulletin board to further educate campground patrons of the importance of keeping pets and children within the confines of the campground.

These measures are designed to prevent trespass from the public campground to the adjacent private parcels on which viable and valuable riparian habitat remains. As the areas are not fenced from one another, it is easy for campground patrons to venture onto the adjacent properties and disturb the existing habitat, thereby compounding the loss of such habitat in the area.

**Wildlife**

***Impact:*** Continued use of the site as a campground and parking area would allow human disturbance to continue and prevent the natural re-establishment of riparian vegetation on most of the site, thereby limiting its value as wildlife habitat.

***Finding:*** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

***Facts Supporting the Finding:***

Because ongoing maintenance, such as grass mowing and irrigation, is required to maintain the upland portion of the site as a campground, the natural re-establishment of riparian trees and shrubs is prevented. The site's value as wildlife habitat is limited to species which do not require dense cover and are tolerant of human disturbance and open space.

A mitigation measure to increase the value of the upland portion of the site has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The project proponent will revegetate the portion of the campground between the top of the bank and the interior paved road with riparian species according to Appendix V of the Draft EIR.

The area proposed for planting is adjacent to the river and is designed to restore a continuous corridor of riparian vegetation between the up and down river parcels and thereby eliminate the fragmentation of wildlife habitat within this stretch of the river.

**Impact:** Possible disturbance to documented Swainson's hawks nesting sites.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of the Department of Fish and Game (DFG) and the U.S. Army Corps of Engineers (Corps) and not the agency making the finding. Such changes have already been adopted by the Corps in its August 8, 1991 permit to the applicant.

**Facts Supporting the Finding:**

Marina construction may result in disturbances to Swainson's hawks whose nesting within 0.5 mile of the project site have been documented. The most likely time of human disturbance of this type to adversely impact nesting pairs would be from April through early August.

A mitigation measure to prevent disturbance to nesting Swainson's hawks has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Construction will not take place during the Swainson's hawk's nesting period, from March 15 through August 15, per the DFG's specifications. Instream construction may begin earlier than August 15 with DFG concurrence and approvals.

The delay in project activities will ensure that the Swainson's hawks which nest in the immediate vicinity are not disturbed during their critical nesting period. The project activities will thus not have an adverse impact on the propagation of a state listed species.

**Fisheries**

**Impact:** Potential impacts of pile driving to winter-run chinook salmon.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of the Department of Fish and Game (DFG) and U.S. Army Corps of Engineers (Corps) and not the agency making the finding. Such changes have already been adopted by the Corps in its August 8, 1991 permit to the applicant.

***Facts Supporting the Finding:***

Winter-run chinook salmon are present in the reach of the Sacramento River from San Francisco Bay to the Feather/Sacramento River confluence from mid-September through the end of May. Instream construction activities during these months could adversely impact individuals resulting in the unauthorized "take" of a federally threatened and state endangered species.

A mitigation measure to avoid impacts to winter-run chinook salmon has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Instream construction, i.e., pile driving, will occur between August 15 and September 15 to comply with 1993 DFG guidelines. Any extension of this time frame will require specific approval from DFG staff.

This time limitation will ensure that no salmon are in the area during construction activities, thus eliminating any potential disturbance or harm to a commercially valuable federal and state listed species.

***Impact:*** Loss of shaded riverine aquatic (SRA) habitat.

***Finding:*** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

During low flows, boat owners can beach their boats and tie up to the trees on the bank face, then walk up the bank to their campsites. Walking up the sandy bank results in damage to vegetation and induces bank erosion. Also, construction and continued operation of the proposed marina will result in the removal of existing SRA habitat.

A mitigation measure to halt disturbances to bank vegetation have been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- The project proponent will revegetate the bank with riparian trees and shrubs as outlined in Appendix V of the Draft EIR. Vegetation to be planted along the bank face will include only those species which are helpful in controlling erosion and can withstand inundation and high flows.

The type of vegetation proposed is native and indigenous that, if planted in the concentrations indicated, should help stabilize and protect the river bank and develop into shaded riverine aquatic (SRA) habitat which is necessary to the survival of wildlife, including the federally declared threatened and the state endangered winter-run chinook salmon.

## **Water Quality**

**Impact:** Discharge of untreated sewage or gray water into the Sacramento River.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### ***Facts Supporting the Finding:***

Boaters could adversely impact water quality by discharging untreated sewage (human body waste) or gray water (kitchen, bath, and shower waste), into the river either accidentally or intentionally. Vessel wastes disposed of improperly can have significant impacts on water quality and public health, particularly if discharged into areas of minimal dispersion and flushing.

A mitigation measures to prevent illegal discharge of untreated sewage or gray water has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- A pump-out facility, consisting of a 500-gallon tank mounted on a floating barge, will be positioned at the upstream end of the main dock. It will have a clamp-on adaptor to fit over the boat outlet, forming an air-tight seal and creating a vacuum. The marina manger will assist boaters in its use and will lock the pump-out when not in use.

The provision of a facility into which boaters within the marina or those using the launch ramp may empty their holding tanks should reduce or eliminate the tendency to discharge sewage or gray water into the river environment.

**Impact::** Potential for increased litter in the river due to increased number of boats in the immediate area and the continuing use of the upland.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### ***Facts Supporting the Finding:***

The project could contribute to increased litter in the Sacramento River due to the presence of a new instream marina, the introduction of additional vessels on the river, and continued use of the upland facilities.

A mitigation measure to prevent improper trash disposal has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Sufficient trash receptacles will be placed along the docks. The SLC lease will contain conditions to promote recycling efforts and requirements for refuse containers and frequency of garbage pickup.

The provision of a facilities into which boaters within the marina or those using the launch ramp may dispose of their trash should reduce or eliminate the tendency to throw refuse into the river environment.

**Impact:** Live-boards at marina would contribute to discharges.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

**Facts Supporting the Finding:**

The addition of a marina at the project site could encourage "live-boards". Residential use is not considered a public trust use because it is for a purely private purpose that is unrelated to, not dependent upon, and does not further the particular water dependent purposes for which tidelands are uniquely suited. Therefore, it is not an appropriate use of the State's sovereign lands.

A mitigation measures to prevent "live-boards" has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Lease conditions prohibiting live-boards and thus full-time residential use of state submerged lands will be included in the lease agreement between the lessor and the Applicant.

**Impact:** Turbidity caused by boat props in near shore area where water depths during one third of the year may be 3 feet or less.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

**Facts Supporting the Finding:**

Water depths may not be adequate during low flow years for boats using the side-tie area.

Mitigation measures to prevent excessive turbidity have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- In order to avoid potential problems resulting from insufficient navigational depths beneath the marina facility and insufficient clearance between the marina facility and the bank (including, but not limited to navigational obstructions, reduced revenues, environmental damage, and a need for dredging), Lessee shall provide to Lessor, prior to construction, documentation demonstrating that a minimum of three (3) feet clearance above the river bottom at the project will exist seventy-five (75) percent of the time during the low flow months of June-August, in a twenty (20) foot wide area to the landward side of the side-tie dock.

- If necessary, limit boat size and operations within areas where water depths are 3 feet or less, e.g., restricting the use of engines within such areas of shallow water.

## Land Use

**Impact:** Potential use of the leach field and replacement area for vehicular parking.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County as well as the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

### *Facts Supporting the Finding:*

Currently, the leach field and replacement area are not separated from the remainder of the lower parking area. During busy summer weekends, cars could inadvertently park over the leach field potentially damaging it which could result in the release of sewage into the campground area or the river.

Mitigation measures to prevent parking in the leach field have been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Areas designated for vehicular parking will be indicated by appropriate markings. The leach field and replacement area will be roped off on a permanent basis and designated as a "No Parking" area.

The elimination of vehicular use of the leach field area will prevent the potential adverse impacts above identified.

**Impact:** Potential for live-aboards at the marina.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### *Facts Supporting the Finding:*

The addition of a marina at the project site could encourage "live-aboards". Residential use is not considered a public trust use because it is for a purely private purpose that is unrelated to, not dependent upon, and does not further the particular water dependent purposes for which tidelands are uniquely suited. Therefore, it is not an appropriate use of the State's sovereign lands.

A mitigation measure to prevent "live-aboards" has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Lease conditions prohibiting full-time residential use of boats will be included in the lease agreement between the lessor and the Applicant.

## **Public Services and Utilities**

*Impact:* Potential for spills during the transfer of sewage from boats to the pump-out facility or from the pump-out to tank trucks.

*Finding:* (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### *Facts Supporting the Finding:*

Sewage spills could occur in the river during the transfer of sewage from boats to the pump-out facility or from the pump-out to tank trucks that will remove the material from the site and dispose it at a local sewage treatment facility.

Mitigation measures to prevent accidental sewage spills have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- A licensed septic tank pumper will be retained to pump the sewage from the pump-out facility on the floating barge to approved septic pumper trucks and dispose of the contents in a sewage treatment plant operation under permit from the appropriate agency having jurisdiction.
- The marina manger will assist boaters in using the pump-out to minimize the potential for accidental spills. When not in use, the pump-out will be locked to prevent unauthorized use.

*Impact:* Increased volume of solid waste on-site.

*Finding:* (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

### *Facts Supporting the Finding:*

A larger volume of solid waste will result from the increase in the number of boats and patrons using the marina and launch ramp.

A mitigation measure to handle the increased volume of solid waste has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Sufficient containers will be provided on the docks for trash and recyclable materials. Containers will be covered and emptied regularly. The marina manager will promote recycling by having the appropriately-marked containers available.

The provision of a facilities into which boaters within the marina or those using the launch ramp may dispose of their trash should reduce or eliminate the tendency to throw refuse into the river environment.

**Impact:** Inadequacy of existing septic system capacity.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County as well as the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

**Facts Supporting the Finding:**

Without certain conditions the existing septic system capacity may not be adequate for the campground and proposed marina.

Mitigation measures to ensure that the existing septic system will be adequate for the continued use of the upland facilities and the new marina have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- A restriction will limit the use of the shower facilities to only persons renting any of the 44 RV campsites. The showers will be kept locked, with keys available only to campground patrons.
- The rest room/shower facility will be closed from November 1 - March 31 each year. The main septic tank will be pumped and filled with water upon the November 1 closing.

The restrictions are designed to ensure that the inflow into the septic system does not exceed its capacity.

**Impact:** Continued use of existing septic system for two employee RV trailers.

**Finding:** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County.

***Facts Supporting the Finding:***

In January, 1993, the Sutter County Environmental Health Department requested that the inlet and outlet "T" be replaced by an ABS "T" and that the exit lines be changed from PVC to ABS Schedule 40 line.

A mitigation measure to reduce the impact to the existing septic system has been specified to reduce this impact to a less-than-significant level. This measure is as follows:

- The applicant will complete the necessary replacement work and have it verified and approved by Sutter County.

***Impact:*** Need for additional rest rooms.

***Finding:*** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of Sutter County and not the agency making the finding. Such changes have been adopted by Sutter County or can and should be adopted by Sutter County.

***Facts Supporting the Finding:***

Additional site usage may overtax the existing toilet facilities.

A mitigation measure to ensure that the existing facilities are not overused has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- If the operation of the marina results in a need for additional rest rooms, portable, temporary toilets will be brought in and placed on the upland portion of the site according to conditions set forth by the Sutter County Health Department.

**Aesthetics**

***Impact:*** Changes to the existing viewshed due to the installation of marina facilities and the addition of covered berths in existing open space.

***Finding:*** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

Construction and operation of a marina and covered boat berths in an area where there are currently no in river facilities will alter the view of the river and shoreline from the river.

Mitigation measures to reduce visual impacts and minimize glare have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- Marina roofs will be painted pale blue and coated with a silicon-modified polyester finish to minimize glare and blend with aquatic surroundings.
- Connections for new PG&E lines will run along the base of the access ramps.

**Light and Glare**

***Impact:*** New lighting sources and adverse effects on wildlife.

***Finding:*** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

Constructing a marina at the project site would introduce new lighting sources in the river which may affect wildlife in the immediate and adjacent areas.

A mitigation measure to reduce the effects of new lighting have been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Dock lighting will be low-intensity in nature and will be directed downward toward the docks and not toward the adjacent riparian zone.

By limiting the intensity of the lighting and controlling its direction, the ability to access the marina after dark will be preserved and the adjacent riparian zone will remain relatively dark to the benefit of nocturnal wildlife in the adjacent riparian habitat.

**Risk of Upset and Human Safety**

***Impact:*** Increased potential for fuel spills from portable containers.

***Finding:*** (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

***Facts Supporting the Finding:***

Minor fuel spills occur when owners bring their own fuel to small boats in portable containers.

Mitigation measures to reduce the occurrence of fuel spills have been identified to reduce this impact to a less-than-significant level. These measures are as follows:

- The owner will prepare a fuel spill prevention and cleanup plan and file it with the SLC for its review and approval. After approval, a copy of the plan will be filed with Sutter County.
- The owner will purchase fuel containment equipment for use in case of an accident. Coil containment netting will be stored at a specific location on the docks for use, as specified in the fuel prevention plan, in an emergency.
- Marina patrons and employees will be cautioned on small scale fueling procedures and the importance of avoiding spills.

Although the emphasis is on the prevention of oil or gasoline spills into the river, emergency procedures need to be in place to minimize the impacts of such spills on water quality and aquatic and riparian zone resources as well as to private property.

*Impact:* Potential for fuel spills resulting from leakage of a boat's on-board fuel tank.

*Finding:* (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

*Facts Supporting the Finding:*

Fuel spills could result from leakage of a boat's on-board fuel tank. This is not only damaging to water quality but it also constitutes a public health and safety impact.

A mitigation measure to reduce the occurrence of fuel spills has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- One of the provisions in the marina leases will require all lessees to maintain their boats in a safe operating condition.

Equipment that is maintained in good working order is less likely to leak or rupture, thus preventing the release of fuel into the river.

*Impact:* Large floating debris travelling downriver during high flows could become trapped in the debris deflector and damage boats or to the marina itself.

*Finding:* (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

*Facts Supporting the Finding:*

During high flows, large floating debris could become lodged in the debris deflector posing a threat to boats or to the marina itself.

A mitigation measure to reduce the accumulation of large floating debris has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- A work boat with a grappling hook attached to it will be used to tow large debris that becomes lodged in the debris deflector to the launch ramp. It will then be cut up and removed from the site.

*Impact:* Excessive boat speed in this section of the river.

*Finding:* (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

*Facts Supporting the Finding:*

Many boaters do not obey the 5 mph speed limit posted at the project site. This has resulted in a unsafe situations, especially on busy summer weekends, and has resulted in accidents between idling boats and craft traveling up the river at high speeds.

A mitigation measure to reduce speeding in the vicinity of the project site has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- Speed limit signs with "5 MPH Zone" and "No Wake Zone" will be painted in black and red on a white background and posted on the docks so that they are visible to boaters going in either direction. Existing signs on the bank will be repainted to be more visible.

## **Cultural Resources**

*Impact:* Possible discovery of previously unknown cultural resources during construction activities.

*Finding:* (a) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

*Facts Supporting the Finding:*

Cultural materials may be buried on the site, leaving no surface indications of their presence.

A mitigation measure to reduce the possibility of disturbing cultural resources has been identified to reduce this impact to a less-than-significant level. This measure is as follows:

- If any previously unknown cultural resources are encountered during construction, work in the immediate area will be stopped until a professional archaeologist can be consulted.

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## MITIGATION MONITORING PLAN

Assembly Bill 3180, passed by the California Legislature in the 1987-88 session, added Section 21081.6 to the Public Resources Code as follows:

"When making the findings required by subdivision (a) of Section 21081 or when adopting a negative declaration pursuant to paragraph (2) of subdivision (c) of Section 21080, the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation."

This Mitigation Monitoring Program applies to environmental impact mitigation measures, adopted project alternatives, or project alterations which were required to reduce environmental impacts, as adopted as part of EIRs or Negative Declarations. These measures can be imposed either as conditions of project approval or through direct changes in the approved project plans. Mitigation monitoring is required on all projects approved after December 31, 1988.

The State Lands Commission (SLC) will be required by state law to establish a Mitigation Monitoring Program for the Verona Marina project. The program should, at a minimum, identify the following:

- What department is responsible for monitoring the mitigation?
- What is being monitored?
- How monitoring is conducted?
- What schedule is required to provide adequate monitoring?
- What identifies the monitoring as complete?

As part of the Draft EIR, a Mitigation Monitoring Program has been prepared which includes verification of each action required of the project proponent to meet the conditions of approval for each mitigation measure. This will enable the SLC to prepare a fully compliant Mitigation Monitoring Program as part of the Final EIR.

The mitigation monitoring recommendation follows each identified mitigation measure and is organized as follows:

Impact  
 Mitigation Measure  
 Responsible Party  
 Time of Implementation  
 Verified By

## PROJECT-RELATED IMPACTS AND MITIGATION MONITORING

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### HYDROLOGY AND RIVER GEOMORPHOLOGY

**Impact:** Continued erosion of the bank could eventually threaten footings of the marina access ramps.

**Mitigation:** Non-erosive, native riparian trees and shrubs will be planted along the bank face according to the Revegetation Plan provided in Appendix V.

**Responsible Party:** Project Applicant.

**Time of Implementation:** Spring following project approval, once high waters have subsided.

**Verified by:** State Lands Commission.

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### TOPOGRAPHY, GEOLOGY, SOILS, AND SEISMIC HAZARDS

**Impact:** Disturbance to upland soils to anchor the footings of the two access ramps.

**Mitigation:** To prevent erosion, ground cover (e.g. vegetation, gravel, or concrete) will be established on any areas that are disturbed during construction and do not revegetate naturally. This includes sites where access ramps are placed.

**Responsible Party:** Project applicant.

**Time of Implementation:** Immediately following construction.

**Verified by:** Reclamation District 1001.

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### AIR QUALITY

**Impact:** Although the proposed project will not result in any significant adverse impacts to air quality, the following are suggested to ensure best construction and operating practices.

**Mitigation:** The contractor will follow the standard dust control measures.

The contractor will ensure that all diesel engines used for construction of the new marina will be properly maintained and operated to reduce emissions of NO<sub>x</sub>.

**Responsible Party:** Construction contractor.

**Time of Implementation:** During marina construction.

**Verified by:** State Lands Commission.

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**Impact:** Air pollution from boats.

**Mitigation:** The Verona Marina will have a lease requirement, enforceable by the marina manager, to ensure that long-term lessees maintain their boat engines in compliance with all applicable pollution control measures and exercise their best efforts to reduce individual and collective contributions to air pollution.

**Responsible Party:** Marina manager.

**Time of Implementation:** Prior to berth occupation.

**Verified by:** State Lands Commission.

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**VEGETATION**

**Impact:** Loss of bank vegetation due to trampling, induced erosion, and hazard removal.

**Mitigation:** The project proponent will revegetate the bank with riparian trees and shrubs. Vegetation to be planted along the bank face will include only species with extensive root systems that are helpful in controlling erosion and can withstand inundation and high flows (see Appendix V).

Signs will be posted requesting boaters to stay off the bank and to use the access ramps and/or boat launch.

**Responsible Party:** Project applicant.

**Time of Implementation:** Immediately following marina construction.

**Verified by:** State Lands Commission.

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**Impact:** Continued use of the upland portion of the project site prevents the natural reestablishment of riparian vegetation.

**Mitigation:** The project proponent will revegetate that portion of the campground between the interior paved road and the top of the bank. A revegetation plan for this area is provided in Appendix V.

**Responsible Party:** Project applicant.

**Time of Implementation:** Following marina construction.

**Verified by:** State Lands Commission.

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**Impact:** Continued use of the project site as a campground and parking area could adversely impact the riparian habitat both on-site and on the adjacent downstream parcel.

**Mitigation:** "No Trespassing" signs will be placed at the edge of the campground adjacent to the downstream riparian corridor. These will explain the sensitivity of this habitat type for wildlife and a warning that it is private property.

Keeping pets on leashes is already included in the campground rules; however, a notice explaining the sensitivity of riparian habitat will be posted on the bulletin board to further educate campground patrons of the importance of keeping pets and children within the confines of the campground.

**Responsible Party:** Project applicant.

**Time of Implementation:** Immediately following marina construction.

**Verified by:** Sutter County and State Lands Commission (only where mitigation is applicable on lands within its jurisdiction).

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**WILDLIFE**

**Impact:** Wildlife associated with adjacent riparian corridors may be affected by increased noise, lighting and human presence resulting from the proposed marina and hazard tree removal.

**Mitigation:** New lighting contained in the roofs of the covered docks will be directed downward, toward the docks, and not toward the adjacent riparian zones. Task lighting mounted on the covered side-tie docks would be dim and would illuminate the immediate area only. The bank face will be revegetated and people kept off. (See Vegetation Mitigation Measures.)

**Responsible Party:** Marina contractor.

**Time of Implementation:** During marina construction.

**Verified by:** State Lands Commission.

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**Impact:** Possible disturbance to nesting Swainson's hawks.

**Mitigation:** No instream construction will take place during the Swainson's hawk's nesting period, March 15 through August 15, per Department of Fish and Game's specifications. Instream construction may begin earlier than August 15 with Department of Fish and Game concurrence and approvals.

**Responsible Party:** Project applicant.

**Time of Implementation:** Prior to project construction.

**Verified by:** Department of Fish and Game.

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**Impact:** Continued use of the site as a campground and parking area would continue human disturbance and prevent the natural reestablishment of riparian vegetation on most of site, thereby limiting its value as wildlife habitat.

**Mitigation:** The area between the top of the bank and the interior paved road will be revegetated with riparian species, as discussed in the Revegetation Plan (see Appendix V).

**Responsible Party:** Project applicant.

**Time of Implementation:** Immediately following marina construction.

**Verified by:** State Lands Commission.

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**FISHERIES**

**Impact:** Potential impacts of pile driving to winter-run chinook salmon.

**Mitigation:** Pile driving activities will be completed between August 15 and September 15 to comply with 1993 Department of Fish and Game guidelines. Any extension of this timeframe will require specific approval from Department of Fish and Game staff.

**Responsible Party:** Project applicant.

**Time of Implementation:** During marina construction and prior to September 15, 1994.

**Verified by:** Department of Fish and Game.

**Impact:** Loss of SRA cover.

**Mitigation:** Revegetation of bank and keeping people off. (See Vegetation Mitigation Measures.)

**Responsible Party:** Project applicant/marina manager.

**Time of Implementation:** Life of project.

**Verified by:** State Lands Commission.

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**WATER QUALITY**

**Impact:** Discharge of untreated sewage or gray water into the Sacramento River.

**Mitigation:** A pump-out facility, consisting of a 500-gallon tank mounted on a floating barge, will be placed at the upstream end of the main dock. The pump-out will have a clamp-on adaptor that will fit over the boat outlet, forming an air-tight seal, thereby creating a vacuum. Boaters will be assisted by the marina manager when using the pump-out to minimize the potential for accidental spills. The pump-out will be kept locked when not in use.

**Responsible Party:** Marina manager.

**Time of Implementation:** Throughout life of project.

**Verified by:** State Lands Commission.

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**Impact:** Potential for increased litter due to increased number of boats in the immediate area.

**Mitigation:** Sufficient trash receptacles will be placed along docks. The State Lands Commission lease will contain conditions to promote recycling efforts, requirements for refuse containers and frequency of garbage pickup, and conditions to curb the use of polystyrene foam containers and packaging in and around the marina. Trash will be disposed of in the 5-cubic-yard solid waste receptacle located on-shore for weekly pick-up by Yuba-Sutter Waste Disposal.

Live-aboards will not be permitted at the marina. Regulations prohibiting part-time and full-time residential use of boats docked at the Verona Marina shall be included in the lease agreement between lessees and management.

**Responsible Party:** Marina manager.

**Time of Implementation:** Throughout life of project.

**Verified by:** State Lands Commission.

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**Impact:** Accidental fuel spills, petroleum hydrocarbon spills, and leaks.

**Mitigation:** The owner will prepare a fuel spill cleanup plan and file it with the State Lands Commission for its review and approval. After approval, a copy of the plan shall also be filed with Sutter County.

Engine and hull washing will be prohibited in the marina. Berth rental agreements shall include restrictions on maintenance activities at the marina, including bottom paint removal or application. Maintenance activities will be limited to minor repairs.

**Responsible Party:** Project applicant.

**Time of Implementation:** Throughout life of project.

**Verified by:** State Lands Commission.

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**Impact:** Use of herbicides may degrade water quality in the river.

**Mitigation:** The use of herbicides will be discontinued on the upland portion of the project site.

**Responsible Party:** Project applicant and maintenance person.

**Time of Implementation:** Throughout life of project.

**Verified by:** Sutter County.

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**Impact:** Live-aboards at Marina would contribute to discharges.

**Mitigation:** Live-aboards will not be permitted. This will be included in lease agreement between lessees and Verona Marina.

**Responsible Party:** Project applicant.

**Time of Implementation:** Lease condition.

**Verified by:** State Lands Commission

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**Impact:** Turbidity caused by boat engines in near-shore area (less than 3 feet clearance).

**Mitigation:** Limit boat size and operations in side-tie area, based on engineered project design.

**Responsible Party:** Project applicant.

**Time of Implementation:** During operations.

**Verified by:** State Lands Commission.

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**Impact:** Turbidity caused by dredging at boat launch.

**Mitigation:** Dredging at boat launch will be by hand tools only - no use of front-end loader will be allowed.

**Responsible Party:** Project applicant.

**Time of Implementation:** During project operations.

**Verified by:** State Lands Commission.

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**LAND USE**

**Impact:** Potential use of the leach field and replacement area for vehicular parking.

**Mitigation:** All marina, launch ramp, and campground patrons shall use only those areas designated as parking spaces for vehicular and trailer parking. The leach field and replacement area shall be roped off on a permanent basis and designated as a "No Parking" area.

**Responsible Party:** Project applicant.

**Time of Implementation:** Prior to project approval.

**Verified by:** Sutter County Planning Department.

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**Impact:** Potential for live-aboards at the marina.

**Mitigation:** Marina regulations prohibiting full-time residential use of boats docked at the Verona Marina shall be included in the lease agreement between lessees and Verona Marina.

**Responsible Party:** Project applicant.

**Time of Implementation:** Prior to occupation of berths by new lessees.

**Verified by:** Sutter County Planning Department and State Lands Commission.

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**Impact:** Sutter County condition for project approval - Flood Damage Prevention Ordinance.

**Mitigation:** The project proponent shall provide evidence of the construction date for all existing structures in the floodplain, to the satisfaction of the Sutter County Flood Plain Administrator. The project proponent shall also be required to obtain any floodplain administration permits for structures constructed after April, 1968, as determined by the Flood Plain Administrator.

**Responsible Party:** Project applicant.

**Time of Implementation:** Prior to project approval.

**Verified by:** Sutter County Flood Plain Administrator.

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**Impact:** Housing and Community Development's condition for project approval - ABS Schedule 40 solid sewer line.

**Mitigation:** The project proponent shall demonstrate to the satisfaction to HCD and the Sutter County Environmental Health Department, that the two employee RV trailers are connected to an ABS Schedule 40 solid sewer line.

**Responsible Party:** Project applicant.

**Time of Implementation:** Prior to project approval.

**Verified by:** State of California Housing and Community Development Department and Sutter County Environmental Health Department.

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**NOISE**

**Impact:** Increased noise levels during construction phase.

**Mitigation:** Pile driving will be restricted to normal daytime working hours, from 8 a.m. to 6 p.m., on weekdays.

**Responsible Party:** Construction contractor.

**Time of Implementation:** During pile driving phase of construction.

Verified by: Sutter County Planning Department.

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**TRANSPORTATION/CIRCULATION**

Impact: Safety hazards along Garden Highway.

Mitigation: To reduce the potential of creating a safety hazard along Garden Highway during peak-use periods, a staff person will direct traffic at the entrance driveway. When all parking areas are full, vehicles will be directed to auxiliary parking areas across the levee, or directed to return at another time. Those persons wishing to launch their boats would be permitted to do so with the understanding that they would have to park in auxiliary parking areas. This would avoid the formation of queues along Garden Highway.

Responsible Party: Verona Marina staff.

Time of Implementation: During those times when campground and parking areas approach capacity (e.g., summer holiday weekends).

Verified by: Sutter County Planning Department.

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**PUBLIC SERVICES AND UTILITIES**

Impact: Spills during the transfer of sewage from boats to the pump-out facility, or from the pump-out to tank trucks.

Mitigation: A licensed septic tank pumper will be retained to pump the sewage from the pump-out facility on the floating barge to approved septic pumper trucks and dispose of the contents in a sewage treatment plant operating under permit from the appropriate agency having jurisdiction (Yuba-Sutter Waste Disposal).

The marina manager will assist boaters in using the pump-out facility to minimize the potential for accidental spills. When not in use, the pump-out will be locked to prevent unauthorized use.

Responsible Party: Marina manager.

Time of Implementation: Throughout life of project.

Verified by: Sutter County Environmental Health Department/State Lands Commission.

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**Impact:** A larger volume of solid waste will result from the increased number of boats on-site.

**Mitigation:** Verona Marina shall provide containers for trash, refuse, and recyclable materials. The containers shall be covered and emptied regularly. The marina manager shall be responsible for recycling. Signs on the trash receptacles shall indicate recycling for glass, aluminum, and paper. No prepared food in polystyrene foam containers or packaging of a type, design, and condition appropriate to the preparation of food for consumption on or off the premises shall be provided for sale at the Verona Marina. Additionally, the marina manager shall be responsible for arrangements with Yuba-Sutter Waste Disposal, if the marina should result in a need for additional or larger-capacity dumpsters, or more frequent pickup.

The marina manager shall not provide for sale, or allow other parties to provide, any prepared food in polystyrene foam containers or packaging, nor shall it keep on the premises any polystyrene foam containers or packaging of a type, design, and condition appropriate to the preparation of food for consumption on or off its premises.

**Responsible Party:** Marina manager.

**Time of Implementation:** Throughout the life of the project.

**Verified by:** Sutter County Environmental Health Department/State Lands Commission.

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**Impact:** Existing septic system capacity.

**Mitigation:** A restriction shall be placed on the use of the shower facilities to persons renting one of the 44 RV spaces. The showers will be kept locked, with keys available only to RV space renters.

The restroom/shower facility shall be closed from November 1 to March 31 each year, and the main septic tank is to be pumped and filled with water upon the November 1 closing.

The number of vehicle parking spaces available, exclusive of the 44 RV spaces shall be limited to 75.

**Responsible Party:** Project applicant.

**Time of Implementation:** Prior to project approval and November 1 of each year.

**Verified by:** Sutter County Environmental Health Department.

**Impact:** Continued use of existing septic system for two employee RV trailers.

**Mitigation:** The project proponent shall also demonstrate to the satisfaction of HCD and Sutter County Environmental Health Department, that the septic system serving the two employee RV trailers is connected to an ABS Schedule 40 sewer line.

**Responsible Party:** Project applicant.

**Time of Implementation:** Prior to project approval.

**Verified by:** Housing and Community Development Department and Sutter County Environmental Health Department.

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**Impact:** Need for additional restrooms.

**Mitigation:** If need arises, portable toilets will be brought in and placed on upland portion of site according to conditions set forth by Sutter County.

**Responsible Party:** Project applicant.

**Time of Implementation:** During operations.

**Verified by:** Sutter County

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#### **LIGHT AND GLARE**

**Impact:** Continued use of existing seven pole-mounted sodium lights in the upland portion of the project site.

**Mitigation:** Existing lighting on the upland portion of the project site will be directed downward to minimize the amount of illumination in the campground and adjacent vegetation. To reduce the brightness of the existing campground lights, the candlepower could be reduced from 100- and 150-foot to 60-foot.

**Responsible Party:** Project applicant.

**Time of Implementation:** Following marina construction.

**Verified by:** Sutter County Planning Department.

**Impact:** Introduction of new lighting sources in the river may affect wildlife.

**Mitigation:** Lighting contained in the roofs of the covered docks will be directed downward toward the docks and not toward the adjacent riparian zone and campground.

**Responsible Party:** Project applicant.

**Time of Implementation:** During dock construction.

**Verified by:** State Lands Commission.

---

**RISK OF UPSET AND HUMAN SAFETY**

**Impact:** Increased potential for fuel spills from portable containers.

**Mitigation:** The owner will prepare a fuel prevention and cleanup plan and file it with the State Lands Commission for its review and approval prior to the operation of the marina. After approval, a copy of the plan shall also be filed with Sutter County. The marina manager will be responsible for implementation of this plan in the event of a spill. Marina patrons and employees will be cautioned on small scale fueling procedures and the importance of avoiding spills.

Verona Marina will maintain fuel containment equipment, i.e., containment booms and absorbent materials, for use in case of an accident. Coil containment netting will be stored at a specific location on the docks for use in case of an emergency such as an explosion or severe boat damage. If a fuel spill occurs, containment netting would be placed in the river to prevent fuel from contaminating other boats docked at the marina. The U.S. Coast Guard and other emergency response agencies would be notified, as appropriate.

**Responsible Party:** Verona marina manager.

**Time of Implementation:** Prior to marina operation.

**Verified by:** State Lands Commission and Sutter County Planning Department.

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**Impact:** Potential for fuel spills resulting from leakage of a boat's on-board fuel tank.

**Mitigation:** Lease provision requiring all lessees to maintain their boats in safe operating condition.

**Responsible Party:** Marina manager.

Time of Implementation: Prior to marina occupancy.

Verified by: State Lands Commission.

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Impact: Speeding in this section of the river.

Mitigation: Speed limit signs with "5 mph Zone" and "No Wake Zone" will be painted in black and red on a white background and posted on the docks so that they are visible to boaters going in either direction on the river. Existing signs on the bank will be repainted.

Responsible Party: Project applicant.

Time of Implementation: Prior to marina operation.

Verified by: State Lands Commission.

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Impact: Large floating debris travelling down river during high flows could become trapped in the debris deflector and damage boats or the marina.

Mitigation: A work boat with a grappling hook attached would be used to tow large debris that becomes lodged in the debris deflector.

Responsible Party: Marina manager.

Time of Implementation: Throughout the life of the project, as necessary.

Verified by: State Lands Commission.

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#### CULTURAL RESOURCES

Impact: Although no significant impacts were identified, the following is recommended as a precaution.

Mitigation: If any previously unknown cultural resources are encountered during construction, work in the immediate area will be stopped until a professional archaeologist can be consulted.

Responsible Party: Construction contractor.

Time of Implementation: During construction.

Verified by: Sutter County Planning Department.