

CALENDAR ITEM

C49

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MINUTE ITEM
This Calendar Item No. C49
was approved as Minute Item
No. 49 by the State Lands
Commission by a vote of 3
to 0 at its 11/15/94
meeting.

11/15/94
WP 4306
Jones
PRC 4306

AMENDMENT OF GENERAL LEASE - COMMERCIAL USE PRC 4306.1
AND AUTHORIZATION OF AGREEMENT AND CONSENT TO ENCUMBRANCING

APPLICANT:

Willow Berm Ltd.,
a California Limited Partnership
834 Francisco Boulevard, West
San Rafael, California 94901

AREA, TYPE LAND AND LOCATION:

A 10+acre parcel of tide and submerged land in the Mokelumne
River, at Andrus Island, Sacramento County.

LAND USE:

Continued operation and maintenance of an existing
commercial marina, including floating docks, covered berths,
walkways, fuel pumps and appurtenant facilities and
breakwater.

CURRENT LEASE TERMS:

Lease period:
25 years, beginning January 1, 1978.

Renewal options:

Two successive periods of ten years each.

Surety bond:

\$5,000

Liability insurance:

\$500,000/\$1,000,000 per occurrence for bodily injury
and \$500,000 for property damage, or combined single
limit coverage of \$1,000,000.

CONSIDERATION:

Five percent of gross income from berthing on State land,
plus one cent per gallon of fuel sales up to 100,000 gallons
and 1.5 cents per gallon thereafter, with the State
reserving the right to fix a different rental on each fifth
anniversary of the lease.

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BASIS OF CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003.

APPLICANT STATUS:

Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee and processing costs have been received.

STATUTORY AND OTHER REFERENCES:

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

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

AB 884:

N/A

OTHER PERTINENT INFORMATION:

1. The Commission entered into a General Lease - Commercial Use with Willow Berm Corporation in 1979 for a 212-slip commercial marina (PRC 4306.1). The lease was assigned to Horst Hanf in 1987. Mr. Hanf is proposing to amend this lease to delete from the lease description a portion of the lease premises which encroaches onto the lease premises of a new 95-berth marina he proposes to construct, and which is the subject of a current application with the Commission, immediately adjacent to the subject lease, and to assign the lease to Willow Berm Ltd., a California Limited Partnership.
2. On December 12, 1987, the Commission approved an encumbrancing agreement for this lease in the amount of \$1,350,000 for a term of seven years; on August 22, 1990, the Commission approved another leasehold encumbrancing agreement in the amount of \$150,000 for a term of 90 days. The former encumbrancing agreement matured on January 1, 1994 and has been extended on a short-term basis pending refinancing. Lessee has applied to the Bank of America and it has agreed to provide financing in the amount of \$2,000,000 to retire the existing debt. The bank requested that it be named as a Secured-Party Lender under the subject lease. The bank and the present lessee will execute an "Agreement and Consent to Encumbrancing of Lease", which document is substantially similar to the document on file in the office of the Commission.

3. CEQA
(Amendment to and Assignment of General Lease -
Commercial Use)

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

Authority: 14 Cal. Code Regs. 15061 (b) (3).

(Encumbrancing Agreement)

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

4. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq., but based upon the staff's consultation with the persons nominating such lands and through the CEQA process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. New Legal Description
- B. Site Plan
- C. Location Map

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THERE IS NO POSSIBILITY THAT THE ACTIVITY MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT (14 CAL. CODE REGS. 15061 (b) (3)).

2. **SIGNIFICANT LANDS INVENTORY FINDINGS:**

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.

3. AUTHORIZE AN AMENDMENT TO GENERAL LEASE - COMMERCIAL USE PRC 4306.1 TO DELETE A PORTION OF THE LEASE PREMISES, SAID NEW LEASE DESCRIPTION IS DESCRIBED ON EXHIBIT "B" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
4. AUTHORIZE AN ASSIGNMENT OF GENERAL LEASE - COMMERCIAL USE PRC 4306.1 FROM HORST HANF TO WILLOW BERM LTD., A CALIFORNIA LIMITED PARTNERSHIP, EFFECTIVE NOVEMBER 15, 1994.
5. AUTHORIZE STAFF EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE" IN THE AMOUNT OF \$2,000,000 IN A FORM SUBSTANTIALLY SIMILAR TO THAT ON FILE IN THE OFFICE OF THE COMMISSION, IN FAVOR OF THE BANK OF AMERICA AS SECURED PARTY LENDER.

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EXHIBIT "A"

WP-4306

Oct. 20, 1994

**LEASE PARCEL TWO
EXISTING MARINA**

A parcel of land located in the County of Sacramento, State of California, lying approximately three-quarters of a mile upstream from the confluence of the Mokelumne and San Joaquin Rivers, more particularly described as follows:

Commencing at a point on the boundary of that tract of land described in Amended Judgement No. 81526, recorded in Book 2279 at Page 98, Sacramento County Records, which bears North 31°35' East 210.00 feet from an iron pipe marked "LS 1818" as described in said Amended Judgement; thence along the boundary of said Amended Judgement the following six (6) courses:

- (1) North 35°21'10" West 362.94 feet;
- (2) thence North 22°26'00" West 80.04 feet;
- (3) thence South 77°00'00" East 32.54 feet;
- (4) thence South 41°00'00" East 210.00 feet;
- (5) thence South 45°00'00" East 310.00 feet;
- (6) thence South 30°00'00" East 160.00 feet

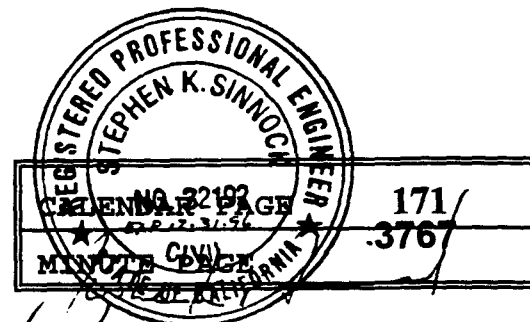
to the TRUE POINT OF BEGINNING of the herein described parcel; thence continuing along the boundary of said Amended Judgement the following five (5) courses:

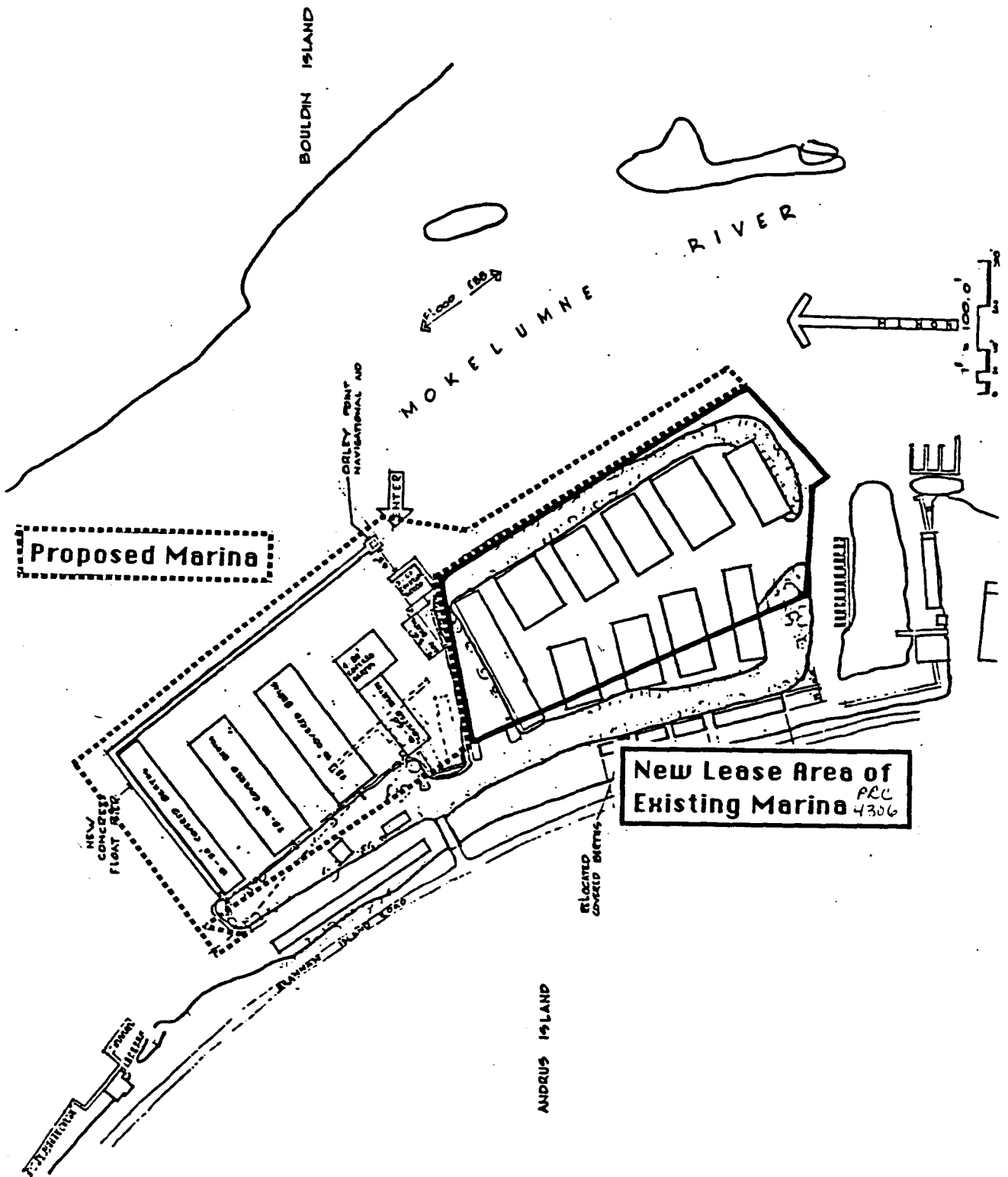
- (1) South 38°00'00" East 350.00 feet;
- (2) thence South 18°00'00" East 150.00 feet;
- (3) thence South 25°00'00" East 350.00 feet;
- (4) thence South 76°00'00" East 230.00 feet;
- (5) thence South 10°30'50" East 57.91 feet;

thence leaving the boundary of said Amended Judgement and continuing along the following eight (8) courses:

- (1) North 60°56'46" East 326.72 feet;
- (2) thence North 35°03'14" West 242.10 feet;
- (3) thence North 25°43'49" West 71.31 feet;
- (4) thence North 34°44'06" West 456.32 feet;
- (5) thence North 43°23'11" West 97.28 feet;
- (6) thence North 35°03'14" West 174.96 feet;
- (7) thence South 64°19'46" West 170.00 feet;
- (8) thence South 63°43'55" West 199.11 feet

to the TRUE POINT OF BEGINNING of the herein described parcel. Containing 9.32 acres, more or less.

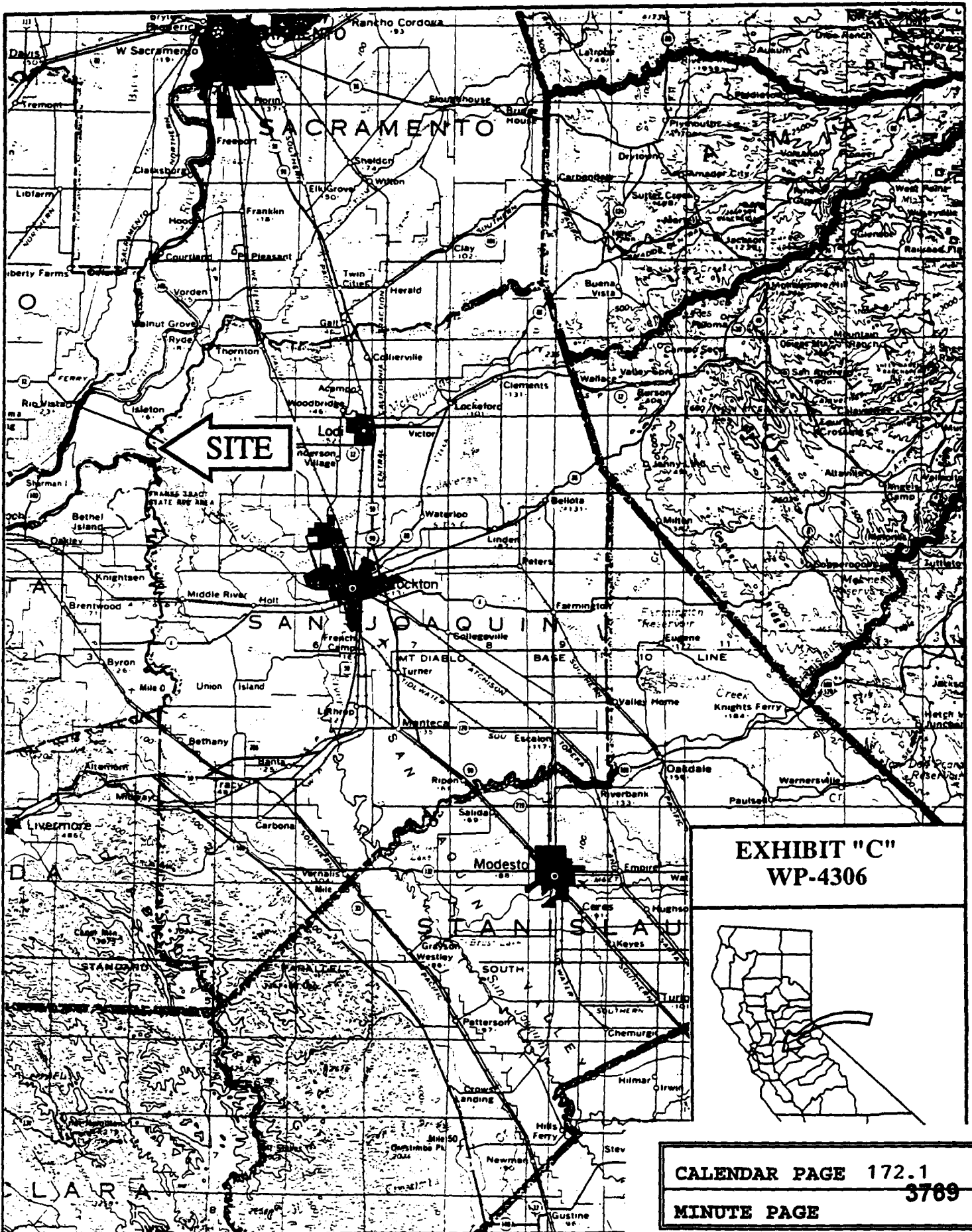




Proposed Marina

New Lease Area of Existing Marina
 REC
 4306

EXHIBIT "B"
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SITE

EXHIBIT "C"
WP-4306



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