

MINUTE ITEM
This Calendar Item No. C23
was approved as Minute Item
No. 23 by the State Lands
Commission by a vote of 2
to 0 at its 12/13/88
meeting.

CALENDAR ITEM

A 10

C.23

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12/13/88
WP 4049 PRC 4049
Maricle

I: ASSIGNMENT OF COMMERCIAL LEASE

ASSIGNOR: Mr. F. Roy Gustavson
P.O. Box 14085
Santa Rosa, California 95402

ASSIGNEE: Albert R. Marcotte and Annette
Marcotte
36500 Mission Boulevard
Fremont, California 94536

II: AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE

PURPOSE: Loan of funds for the purchase of the leasehold
interest in Lease PRC 4049.

LESSEE: Albert R. Marcotte and Annette
Marcotte
36500 Mission Boulevard
Fremont, California 94536

SECURED-PARTY LENDER:
Owens Financial Group, Inc.
and/or Assignees
Attn: Kathey Sherwood
P.O. Box 1225
Lafayette, California 94549

AREA, TYPE LAND AND LOCATION:
A 6.198-acre parcel of tide and submerged land,
located in Seven-Mile Slough, Sacramento County.

CALENDAR ITEM NO. C 23 (CONT'D)

LAND USE: Commercial Marina.

TERMS OF EXISTING LEASE:

Initial period: 30 years beginning
November 9, 1978.

Surety bond: \$5,000.

Public liability insurance: Combined single
limit coverage of \$500,000.

Consideration:

- a) \$6,650 minimum annual rental or five percent of gross income derived from the rental of boat docks and moorings, one cent (0.01¢) per gallon of fuel to maximum of one hundred thousand (100,000) gallons and one and one-half cents (1.5¢) per gallon thereafter per reporting period, whichever is greater.

APPLICANT STATUS:

Applicant is owner of upland.

STATUTORY AND OTHER REFERENCES:

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

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

AB 884:

N/A.

OTHER PERTINENT INFORMATION:

1. Lease PRC 4049 was originally issued to F. Roy Gustavson, as authorized under Minute Item No. 23, on December 17, 1981.

2. In 1984, the Commission approved an Agreement and Consent to Encumbrancing of the leasehold interest of the Assignor (Gustavson) in favor of the California State Department of Boating and Waterways (Secured-Party Lender); the approval was granted on November 29, 1984, under Minute Item No. 7. The Department of Boating and Waterways recently confirmed that the money loaned in that transaction has been fully repaid.

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3. Subsequent to the foregoing, staff billed Mr. Gustavson for penalty and interest charges relative to deferred rental payments. Recent discussions however, with Mr. Gustavson, along with additional file review of the circumstances involved, have led the staff to conclude that it is reasonable to support the waiver of all penalty and interest charges, and such is included with the recommended findings herein.
4. The proposed Assignee (Marcotte) will operate the existing marina (Owl Harbor), as the State's new lessee. His purchase of the Assignor's leasehold interest is being financed in connection with the 'Agreement and Consent to Encumbrancing of Lease', presented herein for approval.
5. Owens Financial Group, Inc. (Secured-Party Lender) anticipates an assignment of its interest in the lease encumbrance agreement to the investors listed on Exhibit "B". Staff has no objection, and recommends that approval of the lease encumbrance agreement include such right of assignment.

In its relationship with the investors, Owens Financial Group advised on April 6, 1988, that it is authorized to act for each investor, if the proposed assignee does not pay rental to the State.

6. 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 because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

CALENDAR ITEM NO. C 23 (CONT'D)

APPROVALS OBTAINED:

None.

FURTHER APPROVALS REQUIRED:

None.

EXHIBITS:

- A. Location Map.
- B. List of Investors (Owen's Assignees).

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 THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. WAIVE ALL INTEREST AND PENALTY CHARGES.
3. APPROVE THE ASSIGNMENT OF LEASE PRC 4049, EFFECTIVE MAY 27, 1987, FROM F. ROY GUSTAVSON, ASSIGNOR, TO ALBERT R. MARCOTTE AND ANNETTE MARCOTTE, ASSIGNEE.
4. AUTHORIZE STAFF EXECUTION OF THE DOCUMENT ENTITLED 'AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE' BETWEEN ALBERT R. MARCOTTE AND ANNETTE MARCOTTE (LESSEE/TRUSTOR) AND OWENS FINANCIAL GROUP, INC. AND/OR ASSIGNEES (SECURED-PARTY LENDER), IN CONNECTION WITH THE LESSEE'S PURCHASE OF THE LEASEHOLD INTEREST IN SAID LEASE PRC 4049.

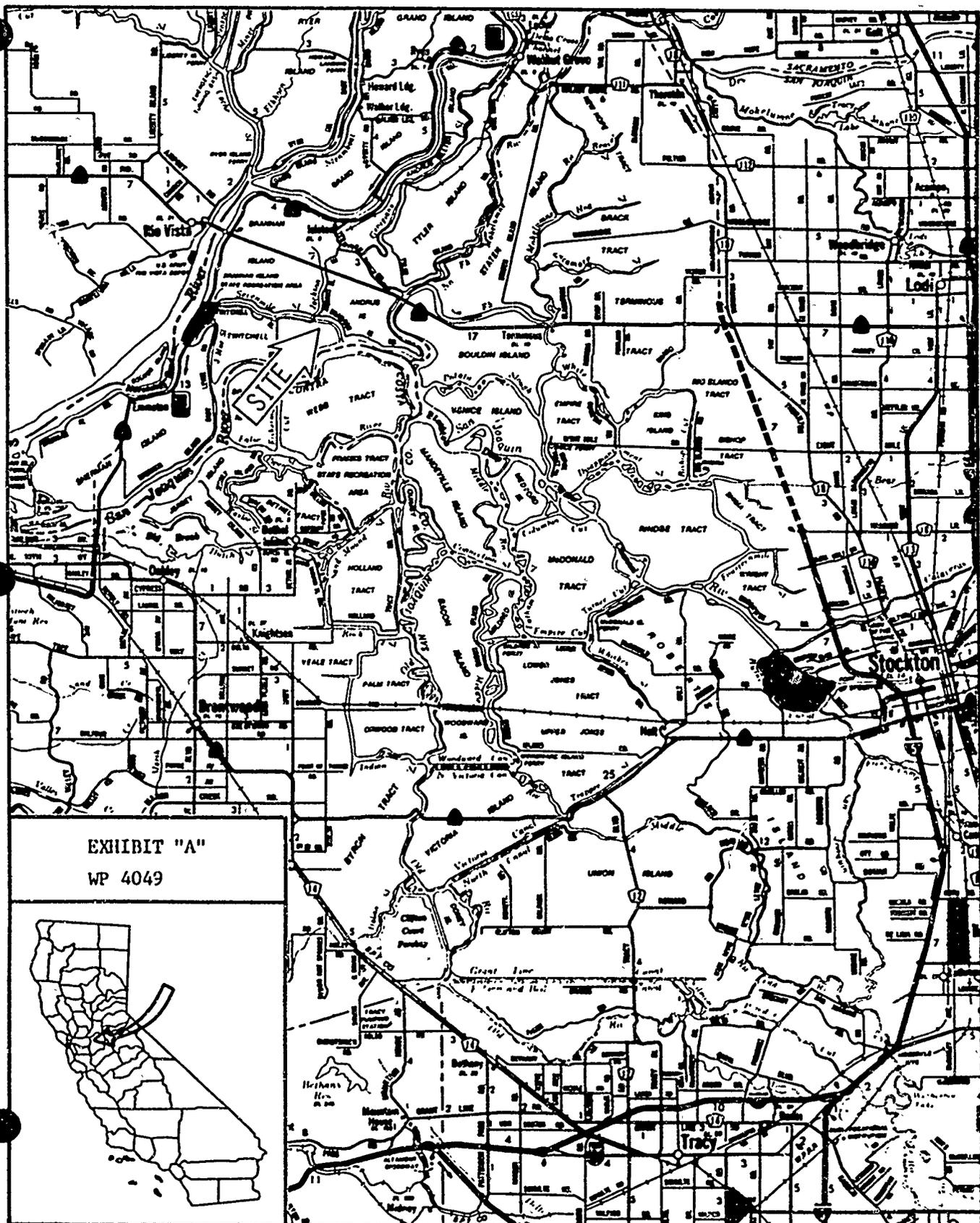


EXHIBIT "A"
WP 4049



EXHIBIT "B"

(Owens Assignees)

OWENS MORTGAGE INVESTMENT FUND II, a California Limited Partnership, as to an undivided 361/600th interest;

ESTHER DOMINGUEZ & BETTE MAC LEOD, as joint tenants, as to an undivided 60/600ths interest;

1ST NATIONWIDE BANK, TRUSTEE FOR THE BENEFIT OF WILBERT J. LAWLER, IRA #100105166, as to an undivided 179/600th interest.