

MINUTE ITEM

This Calendar Item No. 25
was approved as Minute Item
No. 25 by the State Lands
Commission by a vote of 2
0 at its 3/2/92
meeting.

CALENDAR ITEM

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02/02/92
W 23677 PRC 7620
Simmons

GENERAL LEASE - COMMERCIAL USE

APPLICANT:

Vollman-Clark Ranch, a general partnership
953 Keith Drive
Roseville, California 95661

AREA, TYPE LAND AND LOCATION:

A 1.139-acre parcel of tide and submerged land in the
Sacramento River, Sacramento County.

LAND USE:

Commercial boat storage marina.

TERMS OF PROPOSED LEASE:

Initial period:
Twenty-five (25) years beginning June 1, 1991.

Surety bond:
\$10,000.

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

Special:

Lessee to provide and maintain appropriate waste
receptacles for benefit of lease premises.

CONSIDERATION:

\$2,500 per annum; minimum rent or five percent (5%) 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.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003.

CALENDAR ITEM NO. 25 (CONT'D)

APPLICANT STATUS:

Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES, AND EXPENSES:

Filing fee has been received.

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:

09/29/91

OTHER PERTINENT INFORMATION:

1. A Negative Declaration was prepared and adopted for this project by the County of Sacramento on August 31, 1987. The County determined that the project, as amended, would not have a significant effect on the environment. The State Lands Commission's staff has reviewed such document.
2. The application submitted to the Commission proposes a facility which would include two access ramps, a header float, pilings, and 30 berths, as shown on the marina plan attached hereto as Exhibit "C".
3. The State Department of Fish and Game, in 1985, recommended denial of the marina project on the premise that the project would interfere with established striped bass trolling, and related boat movements, by fishermen in this area. The Applicant subsequently engaged Mr. George Bruns, licensed by Fish and Game as a guide between 1977 and 1985, who concluded, in a written statement, that the subject area has very little to offer to recreational fishermen and who has repeatedly advised anglers that the most popular and productive trolling areas are downstream of this site. Mr. Bruns has served on the Board of Directors of the California Striped Bass Association, helped in the founding of the Executive Council of the California Striped Bass Association, and founded the Lodi Chapter of the California Striped Bass Association.

By Memorandum to Commission staff, dated December 11, 1990, the Department reiterated its opposition to the project, again on the grounds that the marina and the boat traffic associated with it would significantly interfere with recreational striped bass fishing at the subject location.

4. The United States Army Corps of Engineers (Corps) has permitting authority over the proposed project. On January 20, 1987, the Corps issued permit no. 9407, which gave Corps approval to the proposed marina. This permit expired on November 15, 1989; however, the Applicant received a renewal until June 30, 1992. "An environmental assessment prepared by the Corps noted concerns by the Department of Fish and Game, but concluded that impact on the fishing area would be minimal and would be outweighed by the public's need for additional berthing." (EIS Initial Study, 85-UP-830)
5. In Calendar Item 25, which was heard by the Commission on April 2, 1991, staff discussed the potential competition between public trust interests at this location, specifically, recreational fishing vs. the berthing of pleasure craft. The Commission has the discretion to determine whether its lands will be left in an undeveloped state or to allow development subject to appropriate conditions. Accordingly, it may preclude or modify any development which might negatively affect a known public trust use or uses, either now or in the future. During the consideration of Calendar Item 25, the Commission heard extensive testimony from representatives of the Department and the applicants and their representatives on the potential of the proposed facility or its use to interfere with trolling associated with striped bass fishing in the Sacramento River. At the conclusion of the hearing, the applicants indicated their willingness to withdraw their application for immediate resubmittal. Staff was directed to work toward a resolution of the concerns of the Department, to investigate further the compatibility of the project with land use planning regulations and guidelines, to further investigate means by which

conflicts between public trust uses might be reduced or eliminated and to bring the matter back to the Commission at its meeting of May 1, 1991. At its meeting of May 1, the matter was briefly discussed and staff was given additional time to negotiate with the affected parties.

Issues

Land Use

As provided in Chapter 35, Article 8 of the Zoning Code (Code) of the County of Sacramento, "The DW Delta Waterways Land Use Zone is designed to regulate property in the unincorporated area of the County along the Sacramento River and along the Waterways in the area commonly known as the 'Delta area'." The Sacramento River at the location of the proposed project is designated DW-R under the Code, R denoting "Restricted Area". Restricted areas are defined as:

"..those portions of waterways which are restricted for through navigation by existing docks, marinas, or other development, or are located adjacent to the Delta urban communities; but are located such that expansion of such facilities or additions of similar water-orientated facilities will be compatible with the purpose and standards of this zone.."

Within this zone, "boat harbors, marinas, and incidental accessory uses" are allowed. The upland portion of the project would be located in an area zoned "commercial". While it is the position of the staff of the Commission that the use of State lands under the Commission's jurisdiction is not governed by local land use designations of such land, such designations are the result of public processes at the local level. The County's regulations also embody the land use "guidelines" contained within the Delta Master Recreation Plan (1976) prepared under the auspices of the Resources Agency of the State of California.

Staff also, within the context of the existing land use designations and ownerships of littoral parcels, examined other potential locations for the project. Although the DW-R designation is assigned to the

Sacramento River within the vicinity of the community of Walnut Grove, the upland zoning within the same area would not allow the developments which are ancillary to the proposed project, e.g. required parking, and the applicant's ownership of upland parcels is limited to the area adjacent to proposed location of the facility.

Demand For And Economic Viability Of Proposed Project

The stated purpose of applicant's proposed marina is to provide a moorage or storage facility for vessels of 30 and 40 foot length. As indicated at page 10 of the "Sacramento River Marina Carrying Capacity Study" prepared for the Commission (August, 1986), "Vessels over 26 feet are not easily trailered, and are largely dependent on moorage." The Study, at page 11, subsequently concludes:

"..that present marina capacity in Sacramento and Yolo counties for boats in the 40 foot category is significantly less than the 2-county vessel registration--and that existing space is fully described. Registration of vessels between 26 feet and 39 feet also considerably exceeds capacity; but that capacity is presently underused in the off peak period. On this basis, it is our conclusion that if the factors affecting usership do not change radically, a sufficient market exists, or will shortly exist, to support further expansion in marina capacity to handle larger size classes of boats." (emphasis added)

This conclusion appears to be borne out by comments received by staff contacts to existing marina facilities in the vicinity of the proposed project and by financial information and projections submitted by the applicant in response to staff requests. From this latter information, a marina of the size and function proposed for this location appears to be economically viable.

Area Trust Uses And Needs

Staff has examined the trust needs and uses of the affected area and believes that the project will be, on balance, compatible with such needs and uses if it is modified as discussed below. The modifications described have been agreed to by the applicants.

Recreational Fishing

At present, the project's configuration would have the larger 40 foot vessels located in that portion of the facility nearest the confluence of the Sacramento River and Georgiana Slough. It is from this area, as indicated in the previous testimony of the Department of Fish and Game, that trollers originate. Such trolling would be less constrained if the available width of the river area available for maneuvering is increased to the maximum extent feasible. To accomplish this, the marina configuration will be changed to place the smaller 30 foot berths in the downstream portion of the facility. This change will provide an additional 10 feet to the unconstrained width of the River at this critical area. Using the information provided in the Commission's meeting of April 2, approximately 430 feet of 480 feet will be subsequently be available for maneuvering.

Additional opportunities for recreational fishing by the general public, particularly those which do not own or have access to a boat, will be provided at the facility. These opportunities do not presently exist. Specifically, the applicants have agreed to add a public fishing platform to the upstream end of the marina, i.e. that portion nearest the bridge. This platform will be designed to provide both near shore and mid-stream recreational fishing opportunities to the general public, including the handicapped for which access is anticipated by the current design of the access ramp at the upstream end of the marina. To maintain such access and security for that portion of the proposed marina which will not be open to the general public, i.e. the berths themselves, the addition of the fishing platform and another public access facility described below, the marina will extend further downstream than at present. Such extension will not, however, affect the designated

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emergency access at the downstream end of the facility and will therefore not affect the riparian habitat which must be preserved as a condition of the project. Further, such modification should not further adversely affect the Available width of the River as it continues to widen in the affected area. Further, staff will ensure, through its review and approval of the final, amended design of the facility, that the downstream extension will be the minimum necessary.

Public Access

Public access and services not now available to the general public will also be made available as a result of project modifications. The only public accommodation dock presently available for transitory use is across the River from the location of the proposed facility and available primarily to individuals patronizing the businesses located on the east side of the River. An additional public accommodation berth for transitory use will be added adjacent to the public fishing platform. This berth will be available free of charge and will enable the general boating public to patronize a general purpose market on the adjacent upland. This berthing area can also provide a safe haven in the event of a boating emergency in the vicinity.

Public Health And Safety

As indicated above, the new public accommodation berth could contribute to the health and safety of the general boating public. Additional public health and safety measures have been incorporated into the proposed project. State Highway 160 lies between the proposed facility and its associated parking lot. The highway curves sharply at the downstream end of the facility and visibility is restricted both to motorists and those who would be crossing the highway from the parking lot. Although the access point at the downstream end of the proposed marina is meant to function only as an emergency exit, those having vessels at the facility may try to access the facility at this point, thus jeopardizing their safety. The applicant will: 1) ensure that a one way gate, exit only, is installed at this location; 2) post a sign to this effect at the gate that will be visible on the

landward side of the highway; 3) seek the approval of Caltrans to paint a prominent crosswalk at the upstream access to the facility and to post a sign which will alert motorists to that crosswalk at an appropriate distance before same; and 4) post a sign at the parking lot which will direct people to the appropriate crossing.

Environmental Considerations

One of the existing conditions under which the facility was approved by the County of Sacramento is that "The existing riparian vegetation along the Sacramento River shall be preserved." This is a point also of primary concern to staff. As previously indicated, none of the modifications to the proposed facility will cause a violation of this condition. In furtherance of the condition, the applicant will enter into an agreement to reimburse staff expenses which would result from staff's monitoring of that portion of the construction activities which could effect the existing riparian vegetation. Staff is also concerned that lighting associated with security and public health and safety considerations and/or facility operations, e.g. activities occurring on vessels berthed at the facility could indirectly affect wildlife which may use or reside in such habitat. This latter point was a stated concern of the Department of Fish and Game at the Commission's April 2, 1991 meeting. In these regards, the staff will review and approve both the final design of the facility, which will address lighting requirements, and the plan of operations for the facility.

6. Staff believes, on the basis of the information available to the Commission as to need for and economic viability of the proposed facility and the modifications made thereto and as described herein, that, on balance, the facility, as modified, is consistent with and in furtherance of the public interest and the public trust needs of the area.

APPROVALS OBTAINED:

County of Sacramento, State Reclamation Board, and United States Army Corps of Engineers.

FURTHER APPROVALS REQUIRED:

State Lands Commission.

EXHIBITS:

- A. Land Description.
- B. Location Map.
- C. Marina Plan (SLC)
- D. Notice of Determination with accompanying Negative Declaration.
- E. Use Permit, County of Sacramento.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT A NEGATIVE DECLARATION (SCH NO. 87061514) WAS PREPARED AND ADOPTED FOR THIS PROJECT BY THE COUNTY OF SACRAMENTO AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. REQUIRE VOLLMAN-CLARK RANCH TO EXECUTE A REIMBURSEMENT AGREEMENT TO COVER STAFF COSTS ASSOCIATED WITH MONITORING ANY CONSTRUCTION ACTIVITY WHICH COULD AFFECT, EITHER DIRECTLY OR INDIRECTLY, THE RIPARIAN VEGETATION ON SITE.
3. APPROVE A 25-YEAR GENERAL LEASE - COMMERCIAL USE FOR VOLLMAN-CLARK RANCH, A GENERAL PARTNERSHIP, BEGINNING JUNE 1, 1991 OR UPON RECEIPT OF THE SIGNED REIMBURSEMENT AGREEMENT REQUIRED IN NO. 2 ABOVE, WHICHEVER IS LATER; IN CONSIDERATION OF A BASE ANNUAL RENT IN THE AMOUNT OF \$2,500 OR FIVE 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 \$10,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; FOR A 30-BERTH MARINA, WITH MODIFICATIONS, AS DESCRIBED HEREIN AND IN EXHIBIT "E", ALL ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF CONTINGENT ON THE SUBMITTAL TO STAFF FOR REVIEW AND APPROVAL, OF FINAL DESIGN PLANS WHICH INCORPORATE ALL MODIFICATIONS DISCUSSED HEREIN AND A PLAN OF OPERATION FOR SUCH FACILITY.
4. AUTHORIZE THE EXECUTIVE OFFICER TO TAKE ALL STEPS NECESSARY TO IMPLEMENT ITS ACTION.

EXHIBIT "A"

LAND DESCRIPTION

W 23677

A parcel of tide and submerged land in the bed of the Sacramento River, Walnut Grove, Sacramento County, California, said parcel lying immediately beneath a dock TOGETHER WITH a necessary use area extending 10 feet from the extremities of said dock, said dock, being adjacent to the land described in the document recorded April 17, 1957, in Book 3283, page 563, of Official Records said County.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Sacramento River.

END OF DESCRIPTION

PREPARED AUGUST 24, 1989 BY BIU 1.

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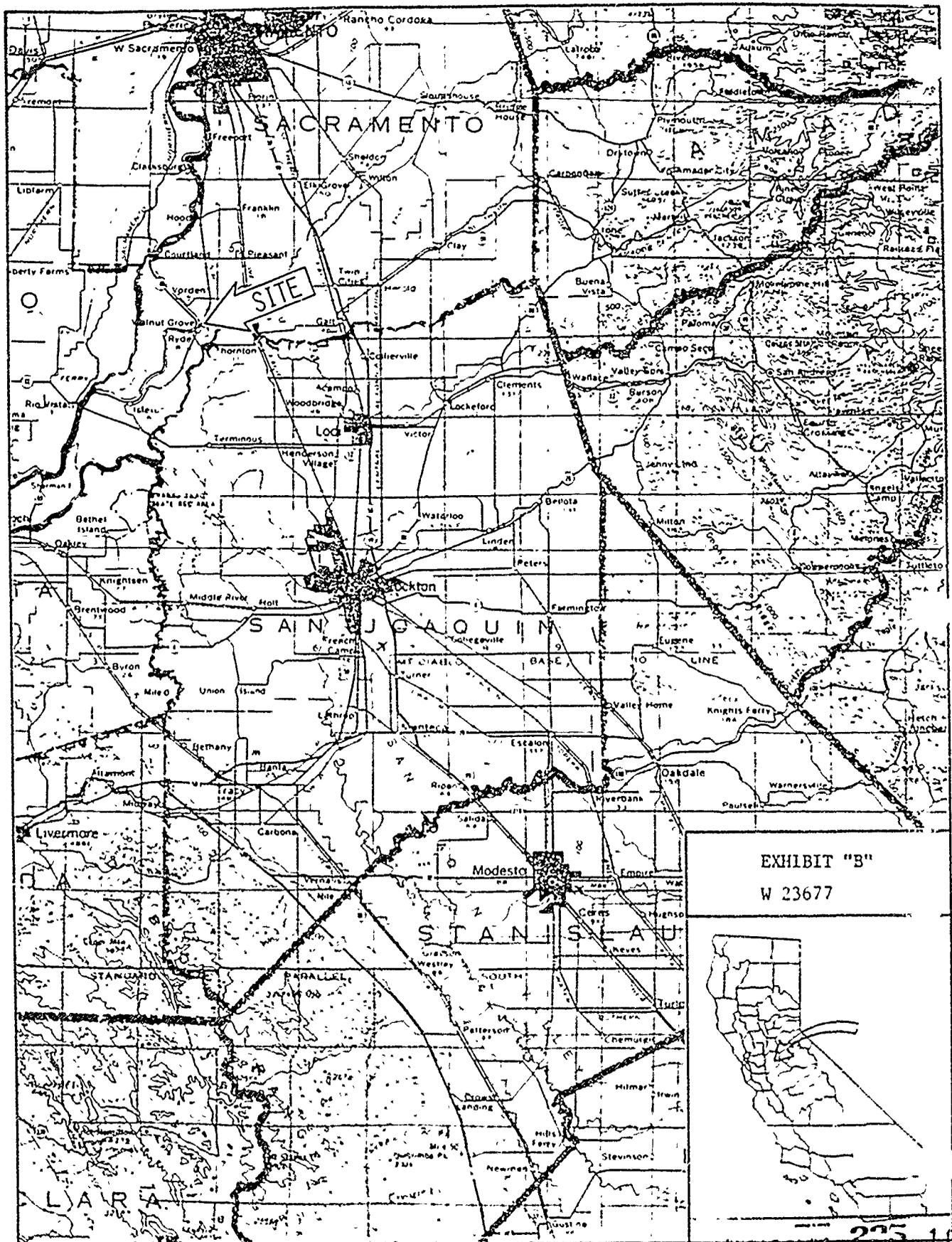


EXHIBIT "B"

W 23677



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EXHIBIT "D"
NOTICE OF DETERMINATION

TO: State of California
OFFICE OF PLANNING AND RESEARCH FROM: Environmental Impact Section
1400 Tenth Street County of Sacramento
Sacramento, CA 95814 827 - 7th Street, Rm. 101
Sacramento, CA 95814

County Clerk
County of Sacramento
720 - 9th Street, Rm. 103
Sacramento, CA 95814

SUBJECT: Filing of Notice of Determination in compliance with Section 21103 or 21152 of the Public Resources Code.

Project Title: VOLLMAN CLARK RANCH USE PERMIT		Control No.: 85-UP-830
State Clearinghouse No.: (If submitted) 87061514	Contact Person Alcides Freitas	Phone No.: 440-7914
Project Location: The project is located on the west and east sides of State Highway 160, just south of the Walnut Grove Bridge, in Walnut Grove.		
Assessor's Parcel No.: 142-0070-028 & 029		
Project Description: The proposed project consists of a request for a use permit to allow a 30 berth marina in the DW-R zone. Parking would occur on the landside of the levee road (State Highway 160) within the GC zone.		

This is to advise that the County of Sacramento has made the following determination regarding the above described project:

- The project has been approved by: Project Planning Commission
 disapproved on: August 31, 1987
(date)
- The project will* *(Findings of overriding considerations attached.)
will not have a significant effect on the environment.
- An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
- Mitigation measures were made a condition of the approval
 were not of the project.

Date Received for Filing
ENDORSED
SEP 10 1987
JOYCE RUSSELL SMITH, CLERK
M. ANDREWS, Deputy

Environmental Coordinator of
Sacramento County, State of
California

By Robert J. DeMaio
for Alcides Freitas
Environmental Coordinator

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NEGATIVE DECLARATION

Pursuant to Division 6, Title 14, Chapter 3, Article 6, Sections 15070 and 15071 of the California Administrative Code and pursuant to the Procedures for Preparation and Processing of Environmental Impact Reports adopted by the County of Sacramento pursuant to Sacramento County Ordinance No. SOC-116, the Environmental Coordinator of Sacramento County, State of California, does prepare, make, declare, publish, and cause to be filed with the County Clerk of Sacramento County, State of California, this Negative Declaration re: The Project described as follows:

1. Title and Short Description of Project:
VOLLMAN CLARK RANCH USE PERMIT

The proposed project consists of a request for a Use Permit to allow a 30 berth marina in the DW-R zone. Parking would occur on the landside of the levee road (State Highway 160) within the GC zone.

2. Location of Project and Assessor's Parcel Number:

The project is located on the west and east sides of State Highway 160 just south of the Walnut Grove Bridge in Walnut Grove.

APN: 142-0070-028 and 142-0070-029

3. Project Proponent: Gilbert Labrie

4. Said project will not have a significant effect on the environment for the following reasons:

- a) It will not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.
- b) It will not have the potential to achieve short-term, to the disadvantage of long-term, environmental goals.
- c) It will not have impacts which are individually limited, but cumulatively considerable.
- d) It will not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

5. As a result thereof, the preparation of an environmental impact report pursuant to the Environmental Quality Act (Division 13 of the Public Resources Code of the State of California) is not required.

6. The attached Initial Study has been performed by the Sacramento County Environmental Impact Section in support of this Negative Declaration. Further information may be obtained by contacting the Section at 827 Seventh Street, Room 101, Sacramento, California, 95814, or phone (916) 440-7914.

ENDORSED

JUN 13 1987

JOYCE RUSSELL SMITH, CLERK
By V. ANDREWS, Deputy

Environmental Coordinator of
Sacramento County, State of
California

By *Alcides Freitas*
Alcides Freitas
Environmental Coordinator

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