

Jones
04/06/94

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

W21216

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 withdrew 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 Raveney. 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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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

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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.

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,

CALENDAR ITEM NO. 54 (CONT'D)

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

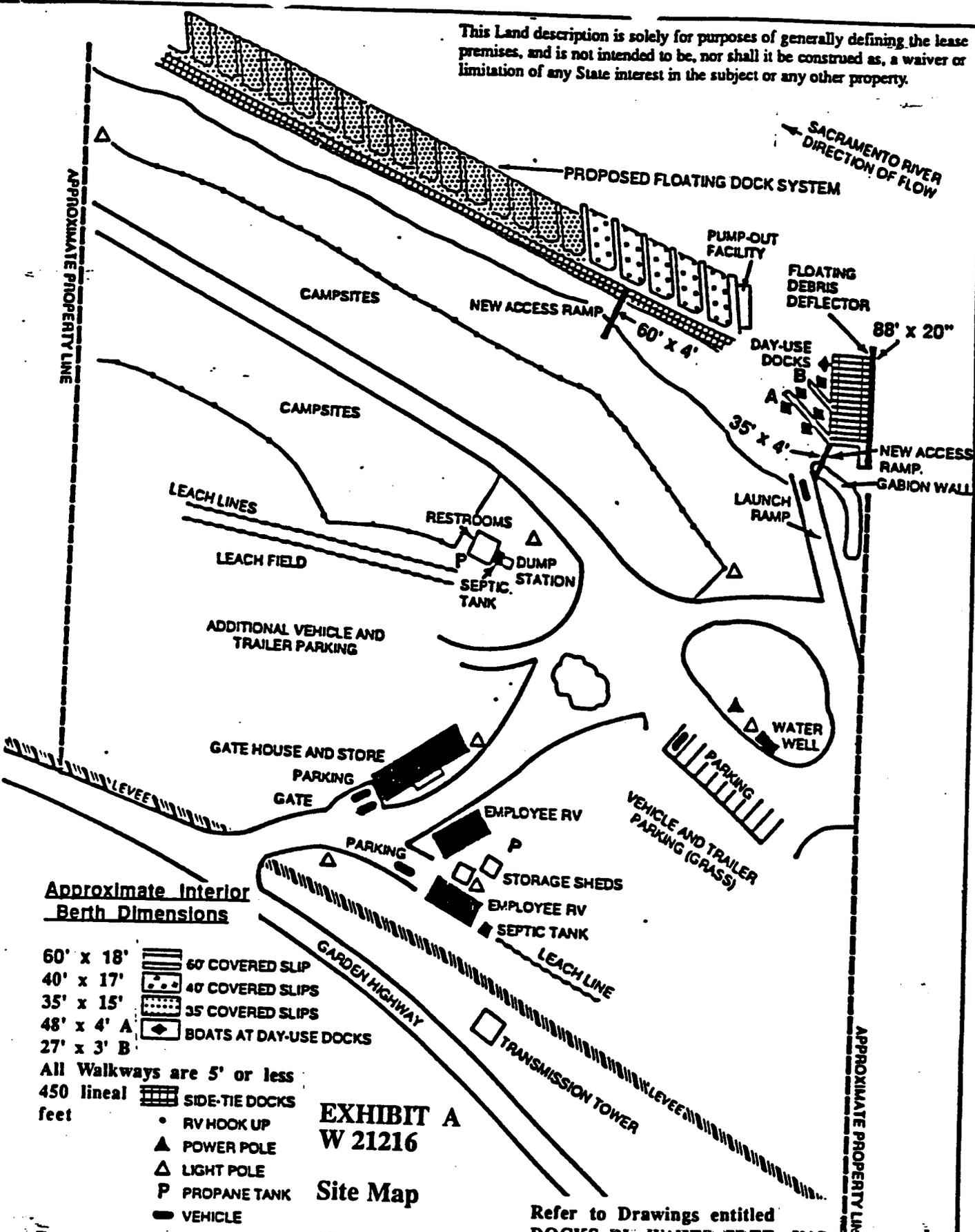
CALENDAR ITEM NO. 54 (CONT'D)

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.

SACRAMENTO RIVER
DIRECTION OF FLOW

APPROXIMATE PROPERTY LINE



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 A
W 21216**

**Site Map
Gary Kaveney**

Refer to Drawings entitled
DOCKS BY WATER FREE, INC
Dated 8/5/99 on file in the office
of the SLO **CALENDAR PAGE**

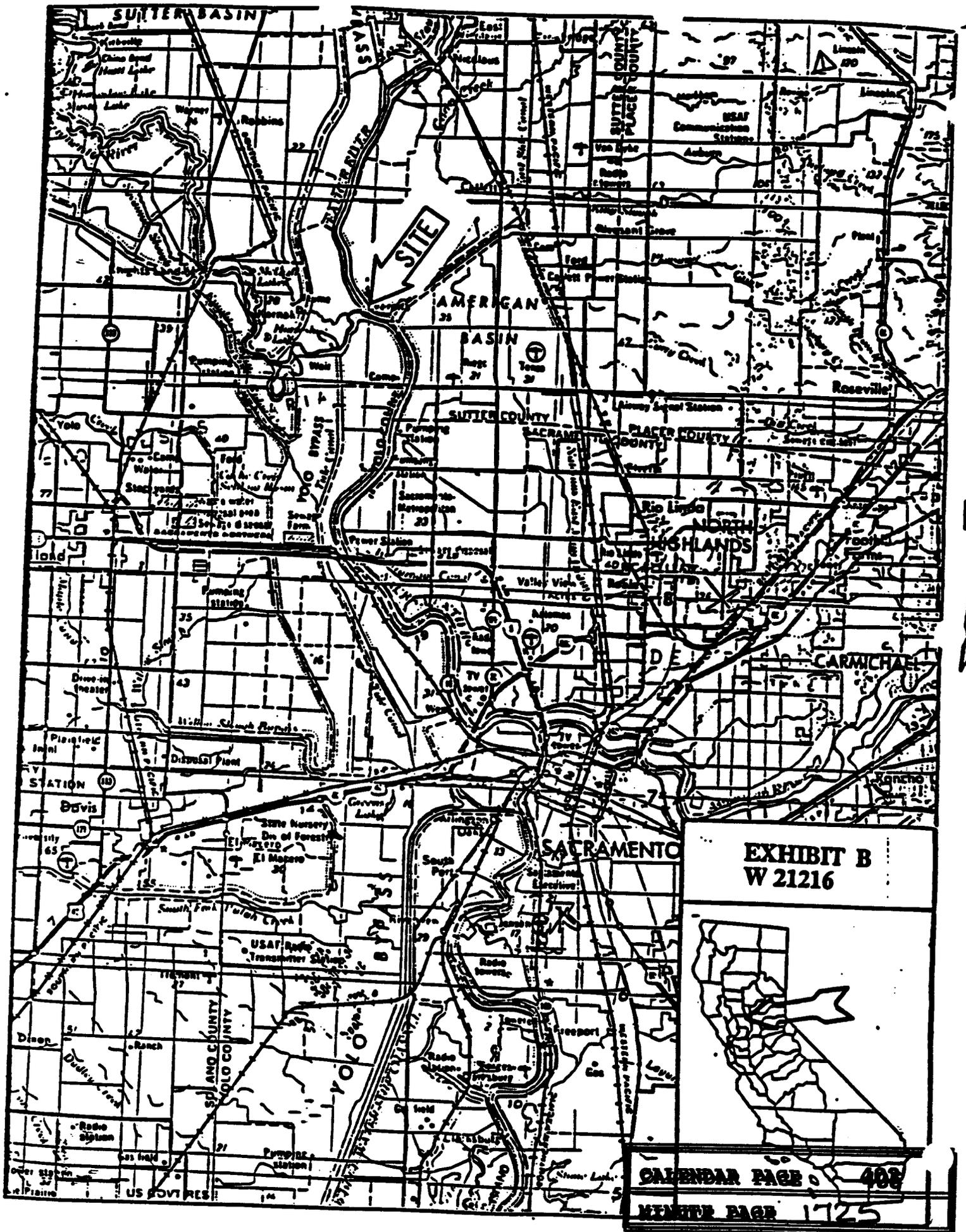
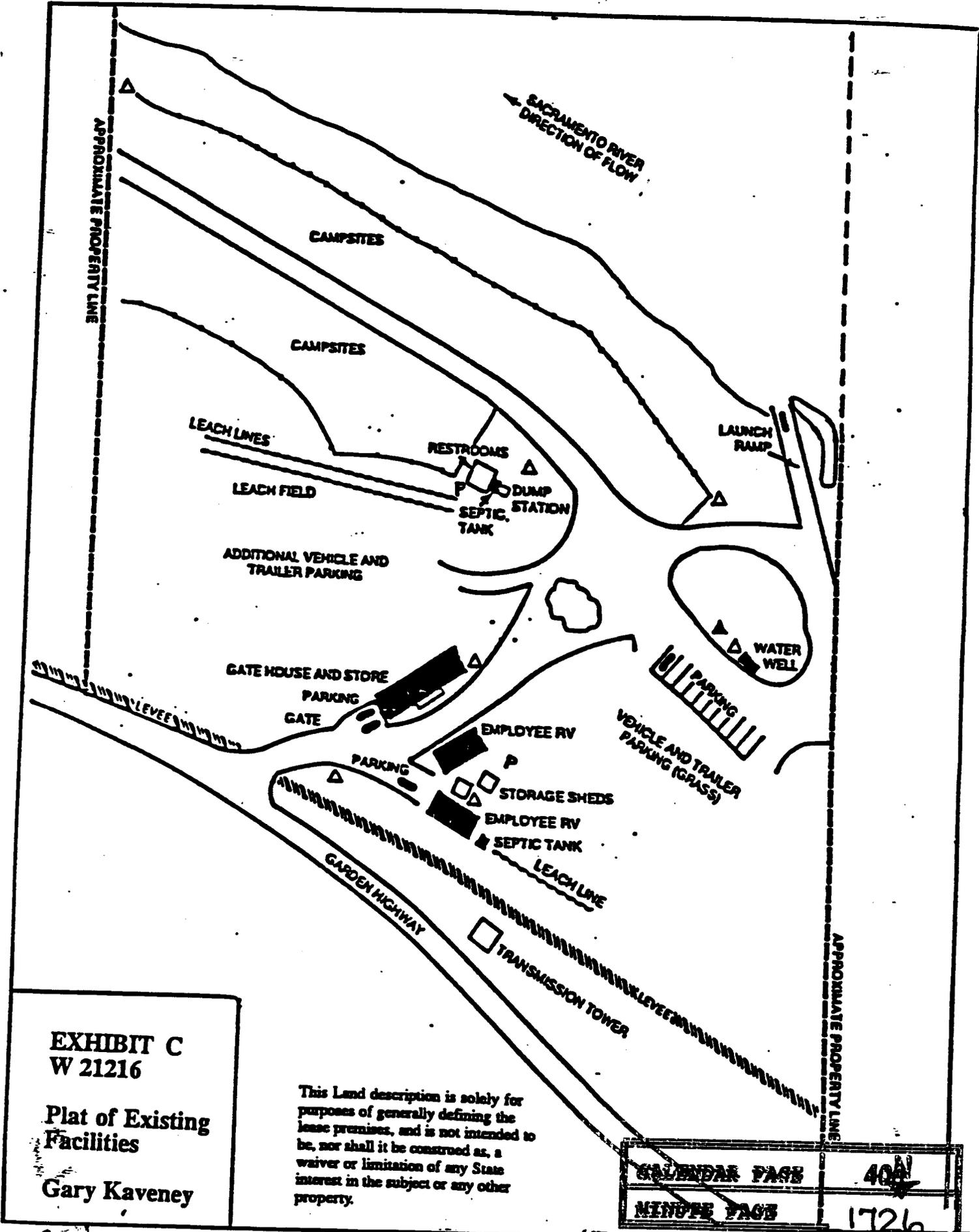


EXHIBIT B
W 2126



CALENDAR PAGE 408
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**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.

CALENDAR PAGE
MINUTE PAGE

400

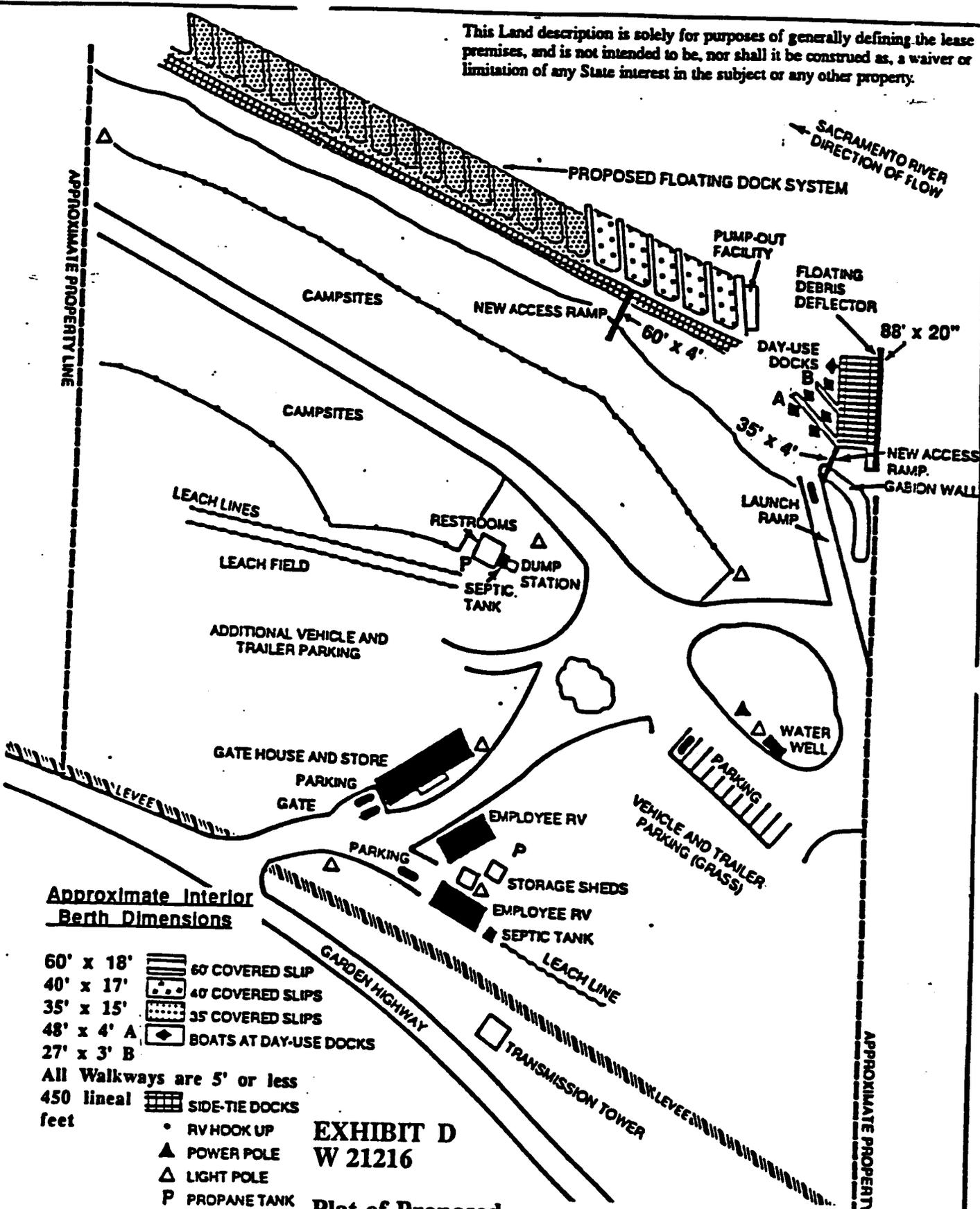
1726

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.

SACRAMENTO RIVER
DIRECTION OF FLOW

APPROXIMATE PROPERTY LINE

APPROXIMATE PROPERTY LINE



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 8/5/94 on file in the office
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)

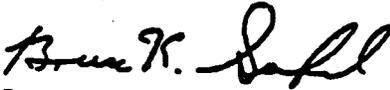
We have reviewed the Draft Environmental Impact Report (EIR) and have the following comments:

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

CALENDAR PAGE	408
MINUTE PAGE	1728

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.

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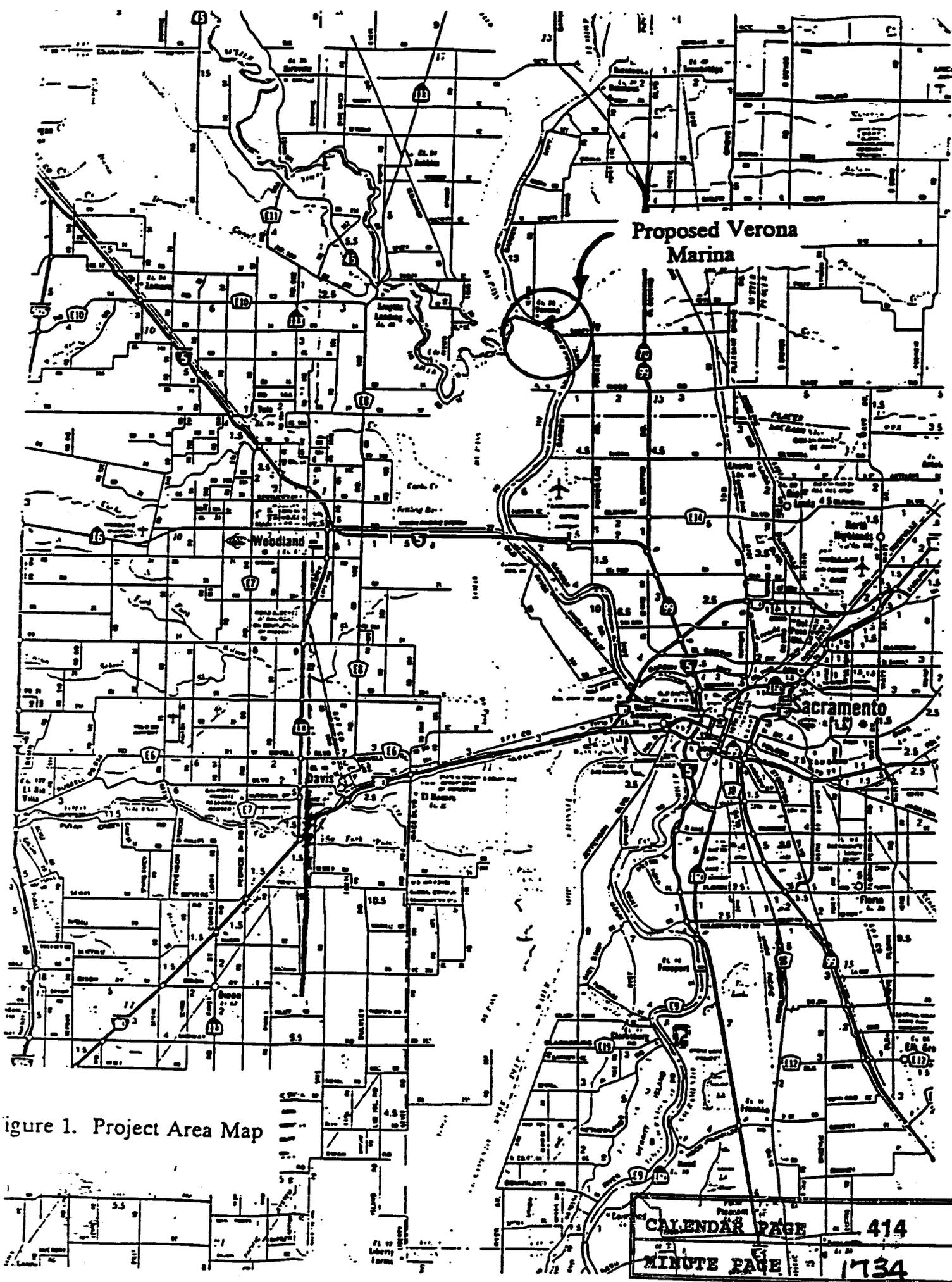
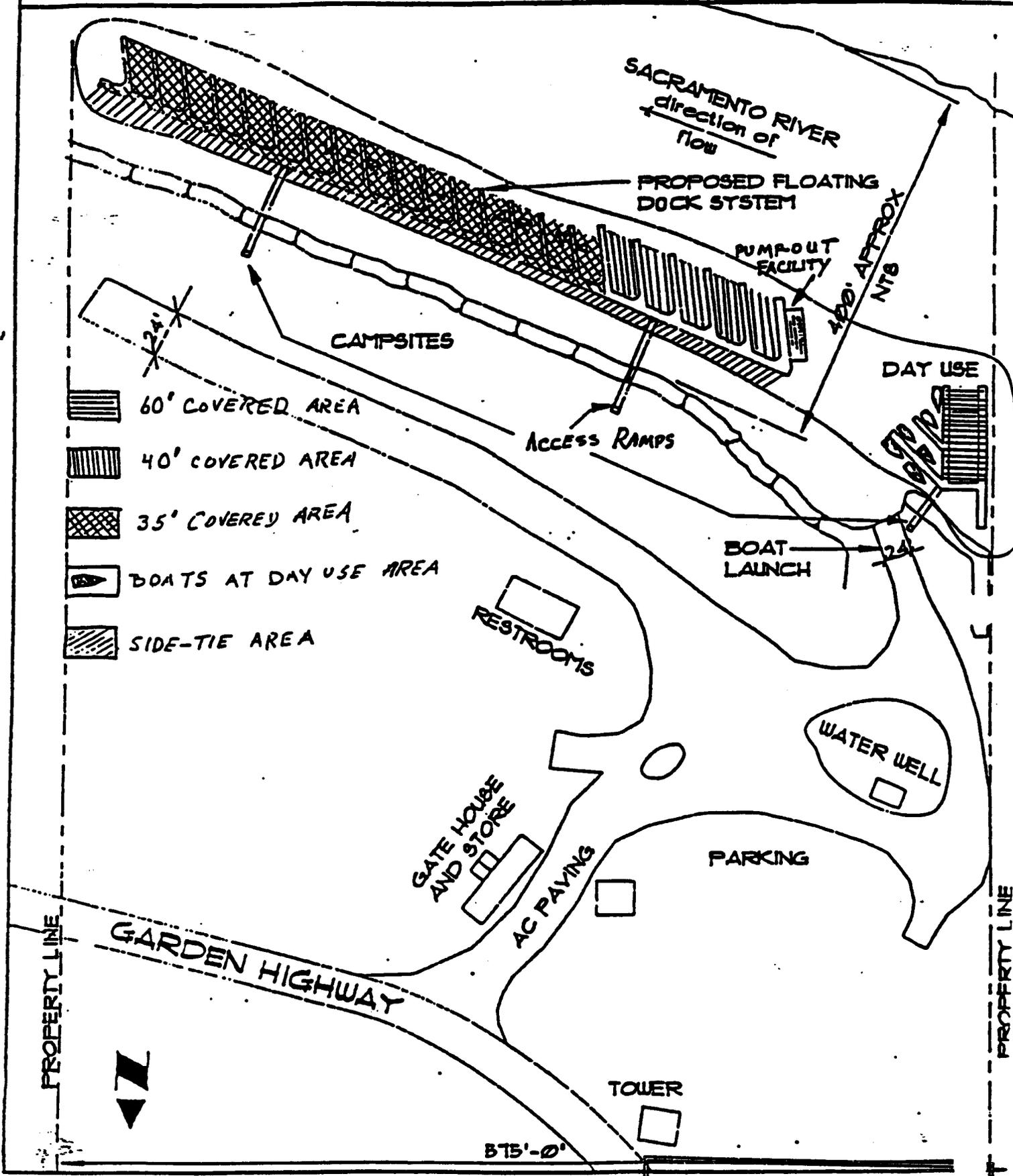


Figure 1. Project Area Map

SITE LAYOUT

FIGURE 2



-  60' COVERED AREA
-  40' COVERED AREA
-  35' COVERED AREA
-  BOATS AT DAY USE AREA
-  SIDE-TIE AREA

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VERONA MARINA
FINANCIAL ANALYSIS

Figure 3

PROJECTIONS FOR:	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
INCOME										
Dockage	\$11,723	\$70,338	\$70,338	\$73,855	\$77,548	\$81,425	\$85,498	\$89,771	\$94,260	\$98,973
Launching	\$30,000	\$32,100	\$34,347	\$36,761	\$39,324	\$42,076	\$45,022	\$48,173	\$51,548	\$55,154
Camping	\$52,000	\$55,640	\$59,535	\$63,702	\$68,181	\$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
TOTAL INCOME	\$97,581	\$162,708	\$169,775	\$180,975	\$193,033	\$206,034	\$220,076	\$235,269	\$251,740	\$269,533
Cost of Sales	(\$2,894)	(\$3,472)	(\$4,167)	(\$5,000)	(\$6,000)	(\$7,200)	(\$8,640)	(\$10,368)	(\$12,441)	(\$14,930)
GROSS INCOME	\$94,687	\$159,236	\$165,608	\$175,975	\$187,033	\$198,834	\$211,436	\$224,901	\$239,299	\$254,703
EXPENSES										
Rent	(\$9,080)	(\$5,122)	(\$5,234)	(\$5,530)	(\$5,844)	(\$6,175)	(\$6,526)	(\$6,897)	(\$7,290)	(\$7,706)
Payroll	(\$15,166)	(\$16,983)	(\$18,352)	(\$20,197)	(\$22,205)	(\$24,428)	(\$26,968)	(\$29,655)	(\$32,511)	(\$35,762)
Other	(\$73,324)	(\$45,935)	(\$49,950)	(\$53,700)	(\$57,820)	(\$62,947)	(\$67,923)	(\$73,394)	(\$80,013)	(\$86,635)
TOTAL EXPENSES	(\$97,560)	(\$67,740)	(\$73,536)	(\$79,417)	(\$85,869)	(\$92,548)	(\$101,317)	(\$109,646)	(\$119,814)	(\$130,103)
NET INCOME (LOSS)	\$33,137	\$91,496	\$92,072	\$96,558	\$101,164	\$105,286	\$110,119	\$115,055	\$119,485	\$124,600
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)
CASH FLOW OPERATIONS	\$10,195	(\$323)	\$253	\$4,739	\$9,345	\$13,467	\$18,300	\$23,236	\$27,666	\$32,781

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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
INCOME										
LAUNCHING	330,000	632,100	634,347	636,761	638,324	642,077	645,022	646,173	651,646	655,184
DOCKAGE *	111,722	170,338	170,338	172,855	177,848	181,428	185,498	188,771	194,250	198,973
TOTAL INCOME	441,722	802,438	804,685	809,616	816,172	823,505	830,520	834,944	845,896	854,157
EXPENSES										
PAYROLL	(87,883)	(88,341)	(88,178)	(88,003)	(88,102)	(88,232)	(88,434)	(88,777)	(89,266)	(89,800)
RENTALS	(13,060)	(15,122)	(15,334)	(15,530)	(15,844)	(16,175)	(16,526)	(16,897)	(17,280)	(17,706)
INSURANCE	(15,467)	(16,014)	(16,615)	(17,277)	(18,004)	(18,806)	(19,685)	(20,654)	(21,719)	(22,891)
TAXES	(14,486)	(14,721)	(14,967)	(15,205)	(15,466)	(15,738)	(16,028)	(16,326)	(16,643)	(16,978)
ADVERTISING	(1,000)	(1,760)	(1,760)	(1,760)	(1,760)	(1,760)	(1,760)	(1,760)	(1,760)	(1,760)
SUPPLIES	(8,332)	(1,277)	(8,236)	(8,236)	(8,100)	(8,100)	(8,100)	(8,100)	(8,100)	(8,100)
MANAGEMENT	(64,223)	(64,223)	(64,522)	(64,522)	(64,522)	(64,522)	(64,522)	(64,522)	(64,522)	(64,522)
TELEPHONE	(12,771)	(12,800)	(13,117)	(13,339)	(13,662)	(14,022)	(14,422)	(14,822)	(15,222)	(15,622)
UTILITIES	(16,000)	(16,600)	(17,260)	(17,889)	(18,589)	(19,363)	(20,199)	(21,099)	(22,062)	(23,009)
OFFICE	(12,000)	(12,200)	(12,420)	(12,660)	(12,920)	(13,200)	(13,500)	(13,820)	(14,160)	(14,520)
REPAIR & MAINTENANCE	(11,100)	(11,210)	(11,331)	(11,464)	(11,611)	(11,772)	(11,949)	(12,144)	(12,358)	(12,591)
TOTAL EXPENSES	(334,939)	(338,334)	(341,280)	(344,403)	(347,883)	(351,929)	(356,662)	(362,089)	(368,147)	(374,901)
NET INCOME (LOSS)	106,783	464,104	463,405	465,213	468,090	471,576	473,952	472,855	477,749	479,256
LESS:										
PRINCIPAL & INTEREST	(117,642)	(120,889)								
CASH FLOW OPERATIONS	(10,859)	(253,785)	(57,484)	(79,190)	(82,799)	(80,313)	(82,937)	(89,234)	(90,398)	(95,645)

* From construction completion, it is anticipated that by the end of 1993 67% of the marina space will be occupied and, by March of 1994, space occupancy should be 85%, 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 "G"

those certain lands described in Section 3 sub, st 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.

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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.

- 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

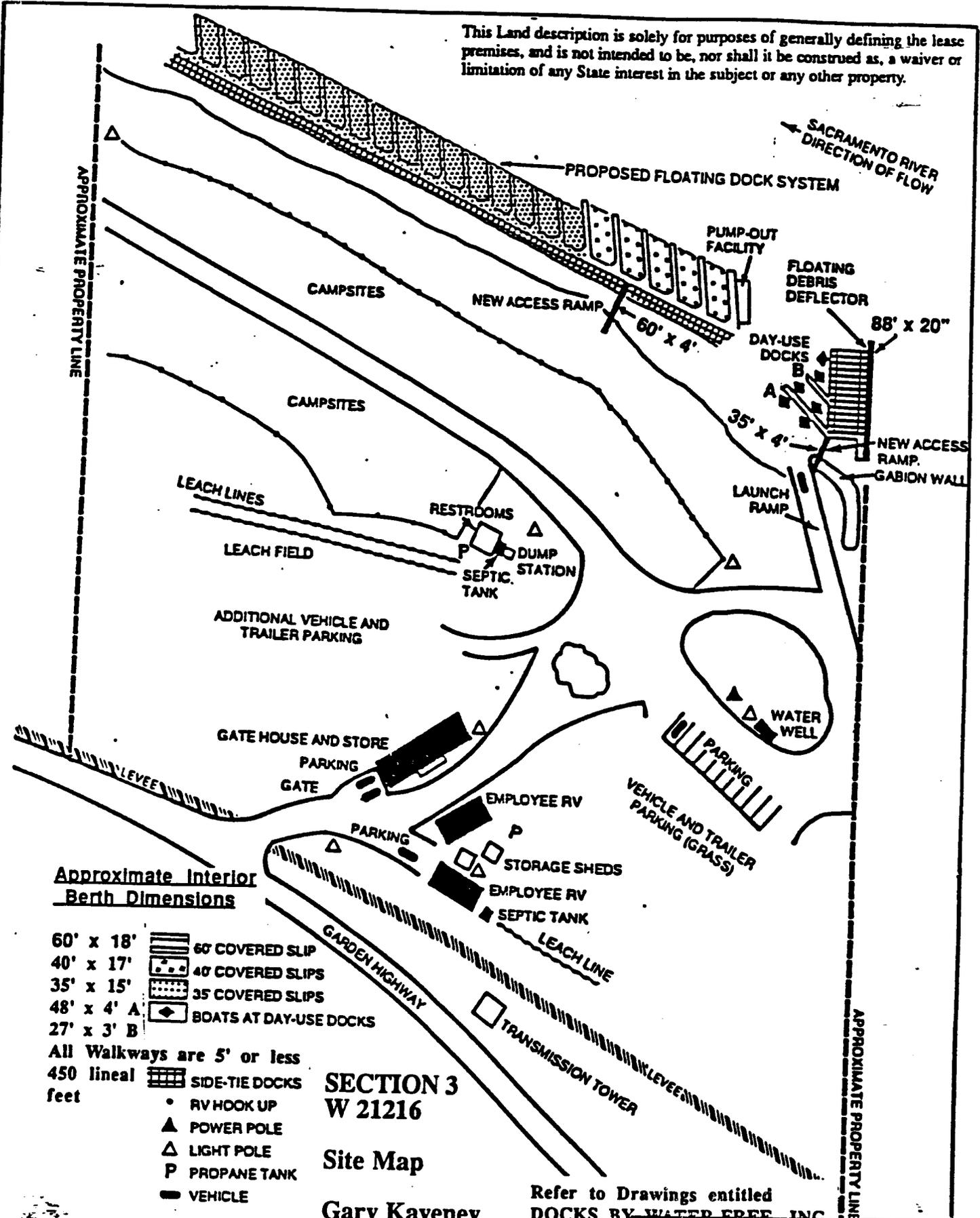
Section 4, Paragraph 10(g) is deleted and replaced with the following:

- (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.

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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

**SECTION 3
 W 21216**

Site Map

Gary Kaveney

Refer to Drawings entitled
DOCKS BY WATER FREE, INC
 Dated 8/5/91 on file in the office
 of the SLO **CALENDAR PAGE**

MINUTE PAGE

431.2

1754

DRAFT

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
Mulcat <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.

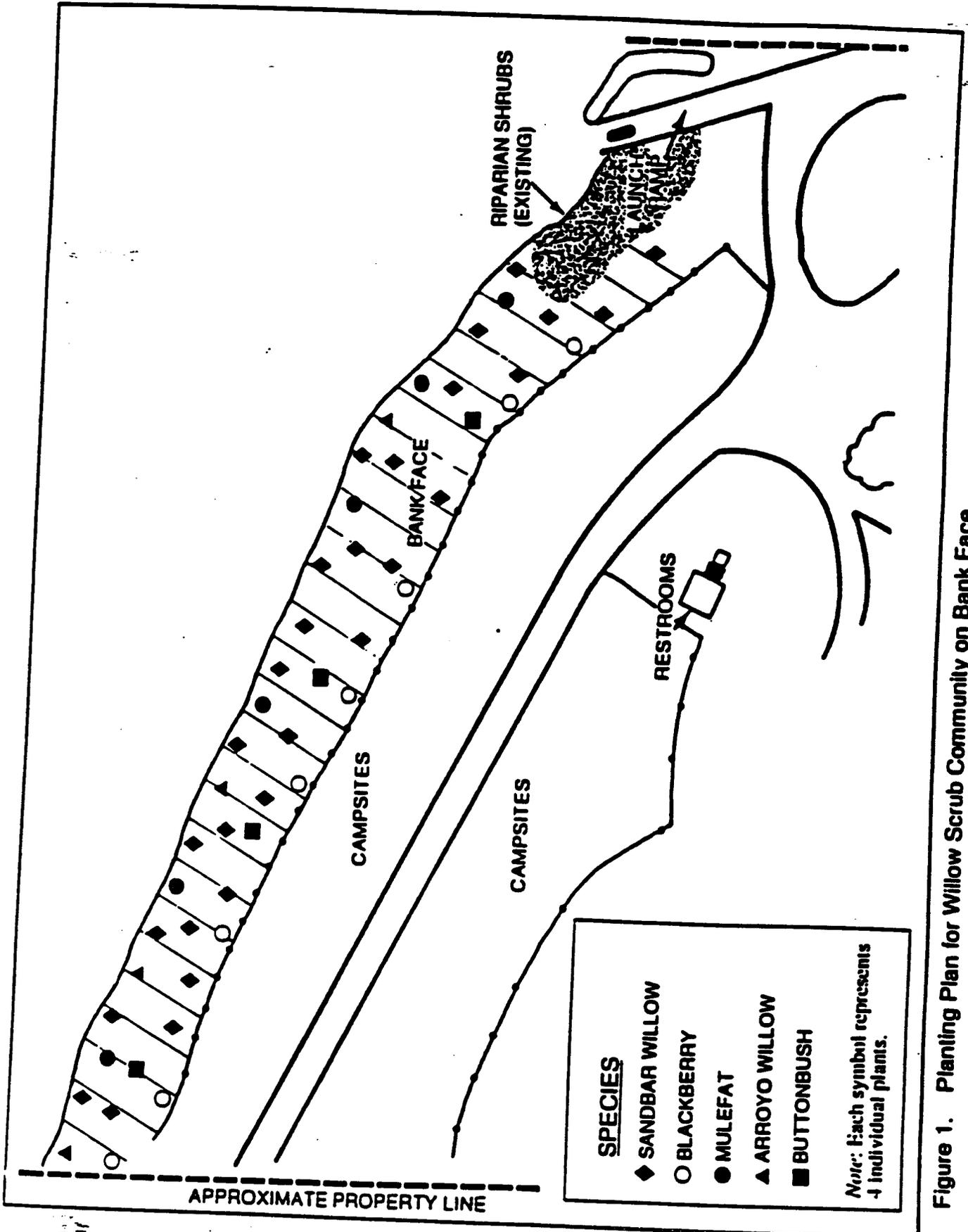


Figure 1. Planting Plan for Willow Scrub Community on Bank Face

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.

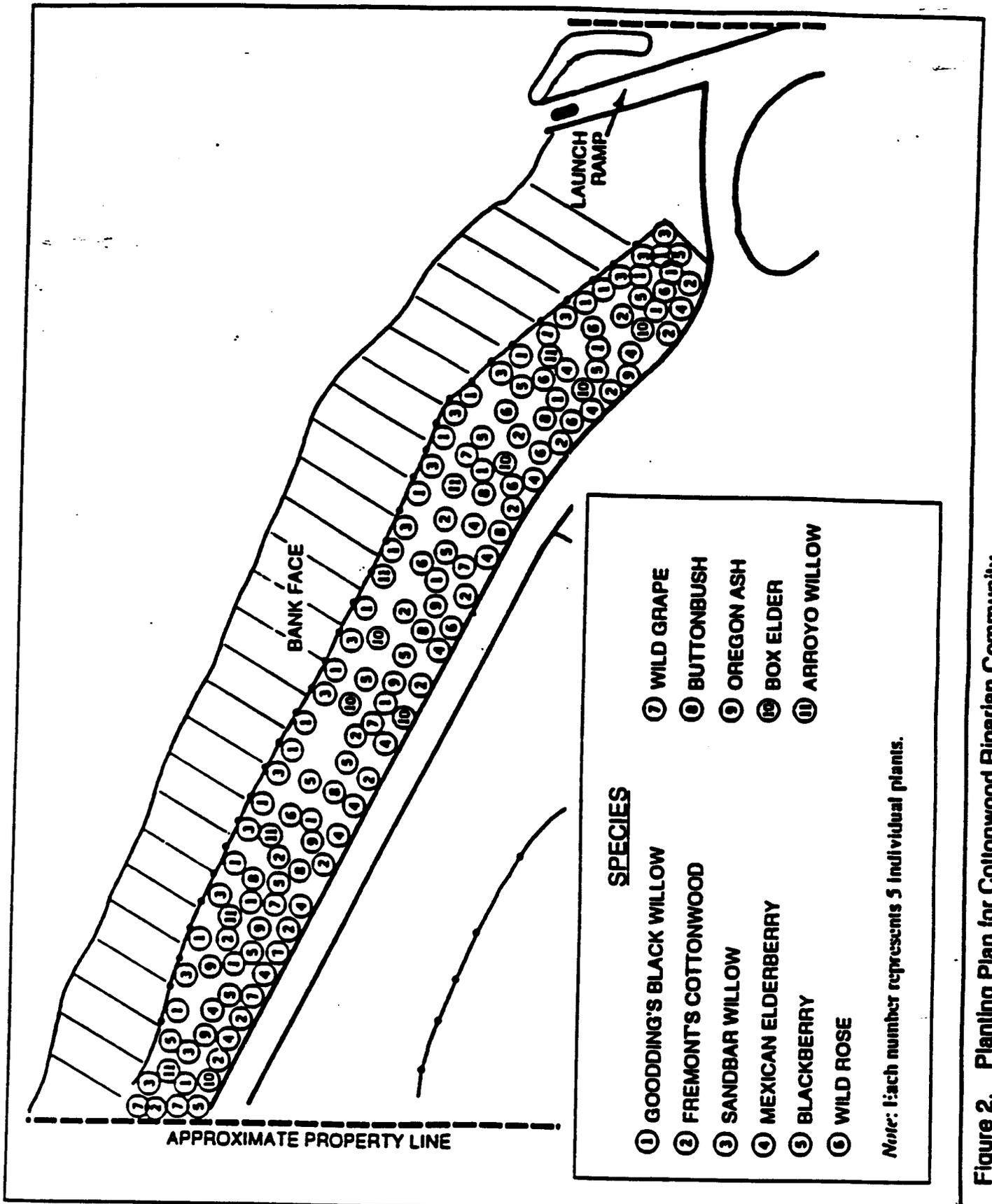


Figure 2. Planting Plan for Cottonwood Riparian Community

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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

Species	Installation Method
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