

MINUTE ITEM

This Calendar Item No. C27 was approved as Minute Item No. 27 by the California State Lands Commission by a vote of 3 to 0 at its 11/07/97 meeting.

CALENDAR ITEM

C27

A 17

11/07/97

S 5

PRC 4082.1

D. Jones

**AMENDMENT OF LEASE
AND CONSENT TO ENCUMBRANCING OF LEASE**

LESSEE:

Tiki Lagun, Ltd., a California Limited Partnership
834 Francisco Boulevard West
San Rafael, California 94901

AREA, LAND TYPE, AND LOCATION:

Eight acres, more or less, of tide and submerged lands in Whiskey Slough, near the city of Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of approximately 212 berths (Four covered boathouses), gas dock with gas pump, and ancillary facilities.

LEASE TERM:

35 years, beginning January 1, 1985.

CONSIDERATION:

The annual rent consists of a minimum annual rent and percentage rent beginning January 1, 1996. For the period January 1, 1996, through December 31, 1996, the minimum rental is \$8,775; for the period January 1, 1997, through December 31, 1997, the minimum annual rent is \$5,000; for the period January 1, 1998, through December 31, 1998, the minimum annual rent is \$10,000; and for the period beginning January 1, 1999, and thereafter, the minimum annual rent is \$20,054 against a percentage of gross receipts, whichever is greater. The minimum annual rent is to be paid on a monthly basis.

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CALENDAR ITEM NO. C27 (CONT'D)

PROPOSED AMENDMENT:

1. On April 1, 1996, the Tiki Lagoon commercial marina was substantially damaged by a severe windstorm (tornado). The lease premise is divided into Lease Parcels 1, 2 & 3. Two of the three existing covered boathouses within Lease Parcel 1 of the lease premises were damaged beyond repair. (The existing boathouse which is located in Lease Parcels 2 & 3 was not damaged.) The Commission approved the reconstruction of the marina at its August 21, 1996, meeting.

The land description for this lease must be amended because of two occurrences. Because of a difference in labeling and numbering of parcels in the original lease description and the new construction drawings, a portion of the original description was inadvertently deleted when the reconstruction of improvements was authorized in Minute Item C24 on August 21, 1996. Secondly, construction of the new improvements extended beyond the previously authorized lease description. Thus, it is now necessary to amend the description so that it reinstates the lands inadvertently deleted and to include the new lands upon which the improvements have been constructed. The new and corrected description is attached as Exhibit A hereto.

All other terms and conditions of the lease shall remain in effect without amendment.

2. The Amendment also revises the lease description in the Agreement and Consent to Encumbrancing of Lease. All other terms and conditions of the Consent to Encumbrancing of Lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the original lease premises and has the consent of the adjoining upland owner for that portion of the project which extends in front of the adjoining property.
2. The August 21, 1996, Commission action approved the construction of the marina under a Categorical Exemption, Class 2, Replacement-Reconstruction, under Title 14, California Code of Regulations section 15302. This action seeks to amend the lease area to coincide with the as-built drawings of the marina facilities.

CALENDAR ITEM NO. **C27** (CONT'D)

3. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by the CEQA and the State CEQA Guidelines. Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.
4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

U.S. Army Corps of Engineers, California Department of Fish and Game, The Reclamation District, San Joaquin County.

EXHIBITS:

- A. Amended Lease Description dated March 19, 1997
- B. Site Map
- C. Location Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

CALENDAR ITEM NO. C27 (CONT'D)

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

1. AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 4082.1, A GENERAL LEASE - COMMERCIAL USE, TO AMEND THE LEASE DESCRIPTION TO THAT SHOWN ON EXHIBIT A ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF, EFFECTIVE APRIL 1, 1997; ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.

2. AUTHORIZE THE AMENDMENT OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE" IN THE AMOUNT OF \$1.6 MILLION IN A FORM SUBSTANTIALLY SIMILAR TO THAT ON FILE IN THE OFFICE OF THE COMMISSION, IN FAVOR OF THE CALIFORNIA DEPARTMENT OF BOATING AND WATERWAYS, AS SECURED PARTY LENDER, TO AMEND THE LEASE DESCRIPTION TO THAT SHOWN ON EXHIBIT A ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF, EFFECTIVE APRIL 1 1997; ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT WILL REMAIN IN EFFECT WITHOUT AMENDMENT.

DESCRIPTION
Amended Lease Parcel 1 (One)

San Joaquin County, California

A portion of tide and submerged land in the bed of Whiskey Slough, situate within projected Section 31, Township 2 North, Range 5 East, Mount Diablo Base and Meridian, County of San Joaquin, State of California, located immediately adjacent to Reclamation District No. 684, commonly referred to as "Lower Roberts Island", and more particularly described as follows:

BEGINNING at the intersection of the centerline of McDonald Island Road (Road No. 610) with the ordinary high water line along the easterly bank of Whiskey Slough and the westerly boundary of said Reclamation District No. 684, described in Parcel VI (Six) of that certain Quitclaim Deed recorded as Instrument Number 88066484, on August 9, 1988, San Joaquin County Records, said point bearing North 69°03'23" West 529.54 feet, more or less, from the intersection of the centerline of said McDonald Island Road with the westerly corner of the 169.88 acre parcel designated as Point "D", as shown in Book 17 of Surveys, at Page 15, San Joaquin County Records; thence leaving said ordinary high water line and continuing westerly along the southerly line of said Parcel VI (Six), South 87°00'00" West 155.00 feet to a point in the bed of Whiskey Slough; thence in a general southerly direction within said bed of Whiskey Slough the following six (6) courses:

- 1) South 169.11 feet;
- 2) thence South 60°44'28" East 408.68 feet;
- 3) thence South 41°31'15" East 31.93 feet;
- 4) thence South 1°39'28" West 213.57 feet;
- 5) thence South 39°26'37" West 338.51 feet;
- 6) thence South 17°40'40" West 216.96 feet,

to a point on the westerly prolongation of the southerly line of Parcel III (Three), described in said Instrument Number 88066484 as the line extending from Point "E" to Point "F" as shown on said Book 17 of Surveys, at Page 15; thence easterly along said westerly prolongation of the southerly line of Parcel III (Three), North 88°56'00" East 199.60 feet, more or less, to the ordinary high water line along said easterly bank of Whiskey Slough, said point designated as Point "F" on said Book 17 of Surveys, at Page 15, and bearing South 88°56'00" West 105.00 feet from Point "E" on said map; thence

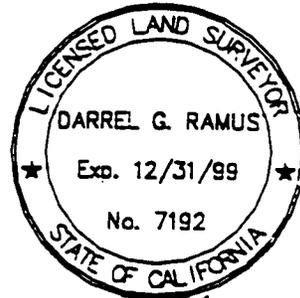
June 25, 1997

notherly along the ordinary high water line along said easterly bank of Whiskey Slough, 1400 feet, more or less, to the true point of **BEGINNING** of the herein described parcel.

Containing 5.8 acres, more or less, said acreage being determined by digitizing the edge of water as surveyed in 1985 by aerial photogrammetry.

EXCEPTING FROM above described Amended Lease Parcel 1 (One) any portion thereof lying landward of the ordinary high water line along said easterly bank of Whiskey Slough.

End of Description.



A handwritten signature in black ink, appearing to read "Darrel G. Ramus", written below the professional seal.

Parcel 2

COMMENCING at the 1 inch by 2 foot iron pipe set on the west side of the levee crown, as shown on that map recorded in Record of Surveys, Volume 8, San Joaquin County Records, at Page 109; thence S 0°20'00" E, 15.00 feet; thence S 89°17'00" W, 21.00 feet to a point on the east bank of Whiskey Slough and the TRUE POINT OF BEGINNING; thence leaving said east bank the following seven courses:

- 1. S 89°33'00" W 146.09 feet;
- 2. S 29°11'24" W 116.17 feet;
- 3. S 53°12'16" W 254.02 feet;
- 4. S 44°48'22" W 211.36 feet;
- 5. S 45°33'22" E 112.12 feet;
- 6. S 84°23'10" E 32.18 feet;
- 7. S 55°44'17" E 26.06 feet to a point on the easterly bank of Whiskey Slough; thence along said bank the following eight courses:

- 8. N 36°22'27" E 54.90 feet;
- 9. N 44°50'36" E 97.74 feet;
- 10. N 50°24'02" E 96.74 feet;
- 11. N 56°23'15" E 99.77 feet;
- 12. N 49°26'29" E 104.80 feet;
- 13. N 36°37'21" E 103.77 feet;
- 14. N 13°41'45" E 105.63 feet;
- 15. N 14°08'31" W 17.05 feet: to the point of beginning.

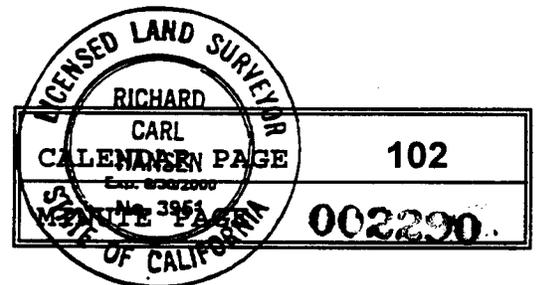
Parcel 3

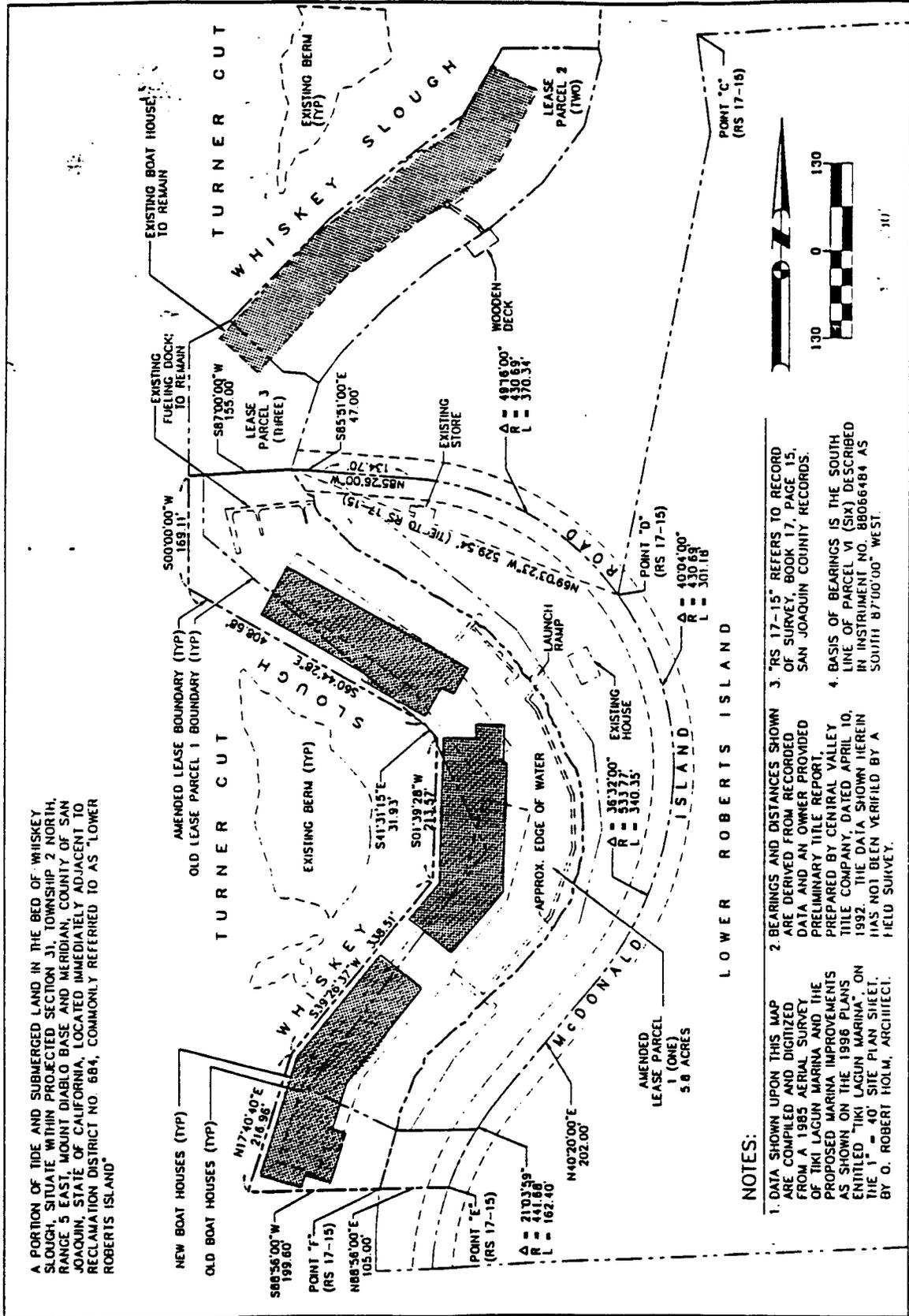
BEGINNING at the intersection of the centerline of the McDonald Island Road with the ordinary high water line comprising the westerly boundary of Roberts Island (in projected Section 31, T2N, R5E, MDM) which intersection was designated the "point of commencement" in the deeds from Marie Pezzi, et al, to Harold Claude Taylor, et ux, dated June 27, 1962, recorded in Book 2570, pages 273 through 276, Official Records of San Joaquin County, California; thence from said point of beginning S 87° W, 155 feet; thence North 203.37 feet; thence N 62° E, 70.04 feet; thence S 45°33'22" E, 112.12 feet; thence S 84°23'10" E, 32.18 feet; thence S 55°44' 17" E, 26.06 feet; thence S 17°08'38" W, 137.94 feet to the point of beginning.

EXCEPTING FROM above described Parcels 1, 2 and 3 any portion thereof lying landward of the ordinary high water line along said easterly bank of Whiskey Slough

END OF DESCRIPTION

REVISED BY RICHARD HANSEN PLS 3951





A PORTION OF TIDE AND SUBMERGED LAND IN THE BED OF WHISKEY SLOUGH, SITUATE WITHIN PROJECTED SECTION 31, TOWNSHIP 2 NORTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, LOCATED IMMEDIATELY ADJACENT TO RECLAMATION DISTRICT NO. 684, COMMONLY REFERRED TO AS "LOWER ROBERTS ISLAND"

- NOTES:**
1. DATA SHOWN UPON THIS MAP ARE COMPILED AND DIGITIZED FROM A 1985 AERIAL SURVEY OF TIKI LAGUN MARINA AND THE PROPOSED MARINA IMPROVEMENTS AS SHOWN ON THE 1996 PLANS ENTITLED "TIKI LAGUN MARINA" ON SHEET 1 - 40 SITE PLAN SHEET. BY O. ROBERT HOLM, ARCHITECT.
 2. BEARINGS AND DISTANCES SHOWN ARE DERIVED FROM RECORDED DATA AND AN OWNER PROVIDED PRELIMINARY TITLE REPORT PREPARED BY CENTRAL VALLEY TITLE COMPANY, DATED APRIL 10, 1992. THE DATA SHOWN HEREIN HAS NOT BEEN VERIFIED BY A FIELD SURVEY.
 3. "RS 17-15" REFERS TO RECORD OF SURVEY, BOOK 17, PAGE 15, SAN JOAQUIN COUNTY RECORDS.
 4. BASIS OF BEARINGS IS THE SOUTH LINE OF PARCEL VI (SIX) DESCRIBED IN INSTRUMENT NO. 88066484 AS SOUTH 87°00'00" WEST.



SURVEY NO. 1 DATE 11/17/01 SHEET NO. 117/101	TIKI LAGUN MARINA SAN JOAQUIN COUNTY, CALIFORNIA AMENDED LEASE BOUNDARY	KJELDSEN, SINNOCK & NEUDECK, INC. CONSULTING ENGINEERS AND LAND SURVEYORS 1100 S. FERRIS AVENUE SACRAMENTO, CALIFORNIA 95811	SHEET NO. 117/101 TOTAL SHEETS 117/101
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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.

CALENDAR PAGE: Exhibit B 103
 MINUTE PAGE: 4082902291

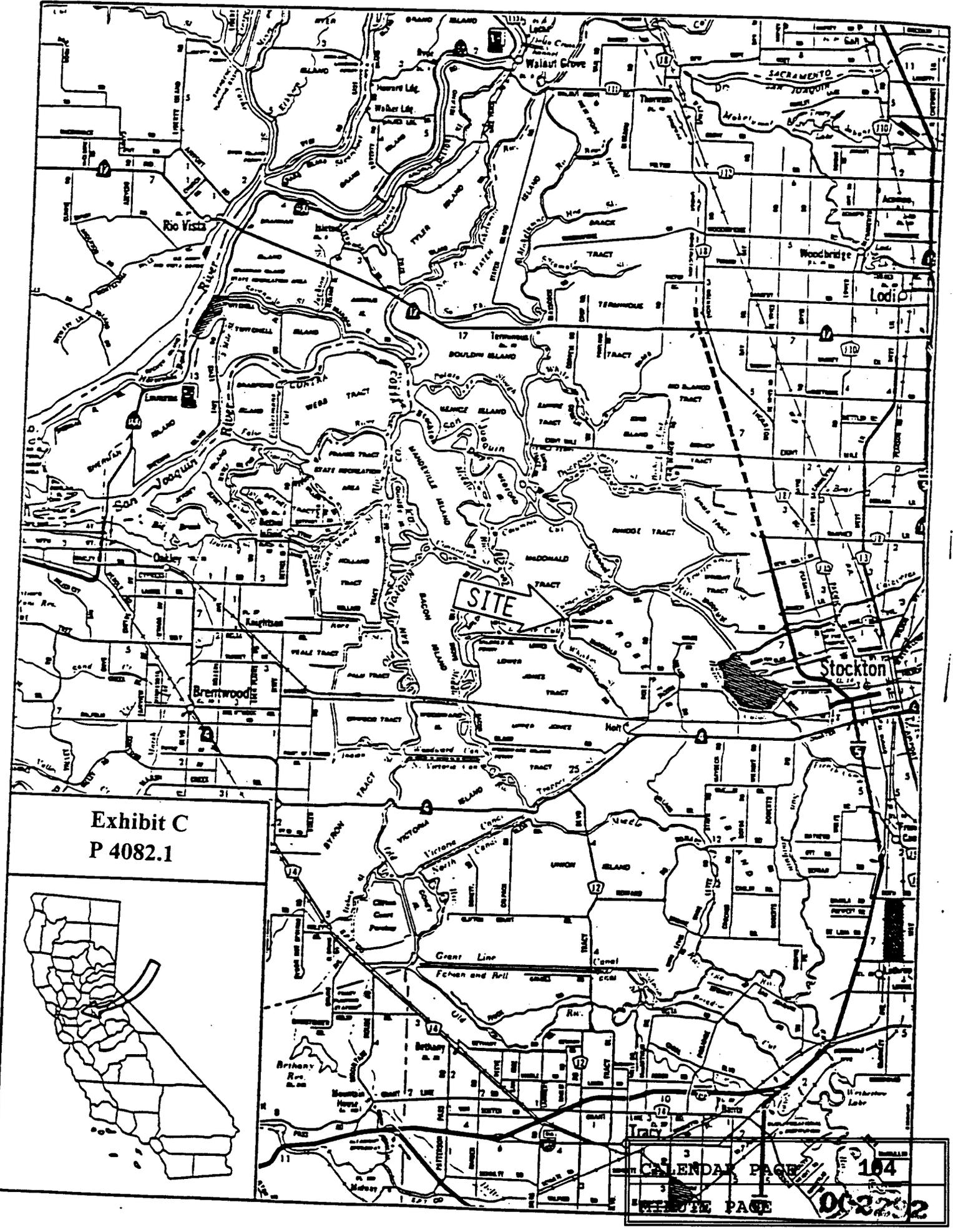


Exhibit C
P 4082.1

