MINUTE ITEM
This Calendar Item No. C31 was approved as Minute Item No. 31 by the California State Lands Commission by a vote of 3 to 0 at its 6-14-99 meeting.

CALENDAR ITEM
C31

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06/14/99
PRC 4194.1
D. Jones

AUTHORIZATION OF A GENERAL LEASE - COMMERCIAL USE; AGREEMENT AND CONSENT TO ENCUMBRANCING AGREEMENT; AND AN ENDORSEMENT OF TWO SUBLEASES

LESSEE:

Tower Park Marina Investors, L.P.
a California Limited Partnership
16633 Ventura Boulevard, Sixth Floor
Encino, Califonia 91436-1835

AREA, LAND TYPE, AND LOCATION:

13.93 acres, more or less, of sovereign lands in Little Potato Slough, near the city of Stockton, San Joaquin County.

AUTHORIZED USE:

A commercial marina which accommodates approximately 365 boats, a restaurant, sewage pumpout, boat elevator/launch ramp, banquet room, canvas shop, six fuel pumps, offices, and ancillary facilities.

LEASE TERM:

25 years, beginning January 1, 1999.

CONSIDERATION:

A minimum annual rental of $40,172, against a percentage of gross receipts:

5.5% of gross income for the berthing, mooring and launching of boats.
1.5% of gross income for the operation of a restaurant, bar and banquet room.
5% of gross income for retail business/store, boat rental and boat repair.
0.5% percent of the total price from boat sales.
25% of the gross income from vending and electronic game machines.
10% of all other gross income, including office use.

Fuel Sales: 1-1/2 cents per gallon for fuel sales under 100,000 gallons; 2 cents per gallon for fuel sales over 100,000 gallons.

SPECIFIC LEASE PROVISIONS:

Insurance:

$1,000,000 Combined Single Limit.

Bond:

$20,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.

2. On January 1, 1979, the Commission entered into a lease with Tower Park, Inc. for 20 years. The lease contained a provision that the Lessee could renew the lease for two ten-year periods. The lease authorized floating covered berths, open slips, docks, walkways, fuel pumps, boat ramps, sewage pumpout, buildings on piles, and other facilities associated with a commercial marina. By mesne assignments, the lease is now held by Tower Park Marina Investors, L.P.

3. Rather than renewing the existing lease, the Lessee has asked that the Commission issue a new lease for a term of 25 years. In addition to the previously approved improvements, the new lease will also include a store, restaurant, bar, portion of a banquet room, boat broker's shop, retail business/store, boat rental, boat repair/canvas shop, and office space. The office space will be used for purposes consistent with the public trust.

4. The Lessee requests that the Commission approve an encumbrance of the lease so that it may be used as security for financing.

5. The Lessee has two subleases which operate businesses within the lease premises: Curtis Grant Page who operates a boat repair/canvas shop under the name of West Coast Canvas; and L. Robert Shillings who operates a boat brokerage business under the name of Tower Park Sales. Staff of the Commision has reviewed these subleases and has concluded they are consistent with the terms of the proposed lease.

6. **As to the General Lease**

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 as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 14, California Code of Regulations, section 15301.

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300.

As to the Encumbrancing Agreement and Subleases

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.

7. 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.

EXHIBITS:

A. Lease Description
B. Site Map
C. Location Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

AS TO THE GENERAL LEASE:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15301.

AS TO THE ENCUMBRANCING AGREEMENT AND SUBLEASES:

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.

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 ISSUANCE TO TOWER PARK MARINA INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP, OF A GENERAL LEASE - COMMERCIAL USE, BEGINNING JANUARY 1, 1999, FOR A TERM OF 25 YEARS, FOR A COMMERCIAL USE ON THE LAND DESCRIBED ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION: MINIMUM ANNUAL RENTAL OF $40,172, AGAINST A PERCENTAGE OF GROSS RECEIPTS: 5.5% OF GROSS INCOME FOR THE BERTHING, MOORING AND LAUNCHING OF BOATS; 1.5% OF GROSS INCOME FOR THE OPERATION OF A RESTAURANT, BAR AND BANQUET ROOM; 5% FOR RETAIL BUSINESS/STORE, BOAT RENTALS AND CANVAS SHOP/BOAT REPAIR; 0.5% OF THE TOTAL PRICE DERIVED FROM BOAT SALES; 25% OF THE GROSS INCOME FROM VENDING AND ELECTRONIC GAME MACHINES; AND 10% OF ALL OTHER GROSS INCOME, INCLUDING OFFICE USE; FUEL SALES: 1-1/2 CENTS FOR FUEL SALES UNDER 100,000 GALLONS AND 2 CENTS FOR FUEL SALES OVER 100,000 GALLONS; INSURANCE: LIABILITY INSURANCE WITH COVERAGE OF NO LESS THAN $1,000,000; BOND: $20,000 SURETY BOND.

2. AUTHORIZE STAFF EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE" IN THE AMOUNT OF $2.5 MILLION ON FILE IN THE OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION, IN FAVOR OF NATIONS CREDIT COMMERCIAL CORPORATION, AS SECURED PARTY LENDER.

3. AUTHORIZE, BY ENDORSEMENT, THE SUBLEASE BETWEEN CURTIS GRANT PAGE AND TOWER PARK MARINA INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP; SAID SUBLEASE IS ON FILE IN THE OFFICE OF THE COMMISSION AND BY REFERENCE MADE A PART HEREOF.

4. AUTHORIZE, BY ENDORSEMENT, THE SUBLEASE BETWEEN L. ROBERT SHILLINGS AND TOWER PARK MARINA INVESTORS, L.P., A CALIFORNIA LIMITED PARTNERSHIP; SAID SUBLEASE IS ON FILE IN THE OFFICE OF THE COMMISSION AND BY REFERENCE MADE A PART HEREOF.

EXHIBIT A
LAND DESCRIPTION

PRC 4194

A parcel of tide and submerged land in the bed of Little Potato Slough, San Joaquin County, California, being a portion of Section thirteen (13), Township three (3) North, Range four (4) East, Mount Diablo Base and Meridian, said parcel being further described as lying waterward of the ordinary high water mark immediately beneath existing and proposed structures, together with the area of necessary use and immediately adjacent to that parcel of land described in Grant Deed, recorded May 20, 1971, in Book 3529 at page 258, and more particularly described as follows:

PHASE I

A strip of land, one hundred and fifty (150) feet in width, lying westerly of the following described line:

> **COMMENCING** at a concrete monument located on the East bank of Little Potato Slough at Terminous, 25.0 feet North of the centerline of Terminous Road and 200.6 feet South and 9933.8 feet West of the Northeast corner of Section eighteen (18), Township three (3) North, Range five (5) East, Mount Diablo Base and Meridian, thence from said point of commencement South 12° 21'30" East, 535.75 feet; thence North 67°18' East, 199.8 feet; thence South 22°42' East, 100 feet; thence southeasterly along a curve to the left, having a radius of 666.78 feet, an arc length of 214.0 feet to a point herein designed "A"; thence South 23°52' West, 498.2 feet; thence North 88°50' East, 242.51 feet; thence South 23°43' West, 576.81 feet; thence South 41°34'30" West, 575.44 feet; thence South 16°10' West, 246.79 feet; thence South 25°41'26" East, 205 feet to a point hereinafter designated Point "B"; thence South 64°18'34" West, 450 feet more or less to the ordinary high water mark and the **POINT OF BEGINNING** of the herein described line; thence from said point of beginning running northerly along the ordinary high water mark of the east bank of Little Potato Slough 2400 feet more or less to a point from which aforesaid Point "A" bears East, and the end of the herein described line.

PHASE II

A strip of land ,one hundred and fifty (150) feet in width, lying southwesterly of the following described line:

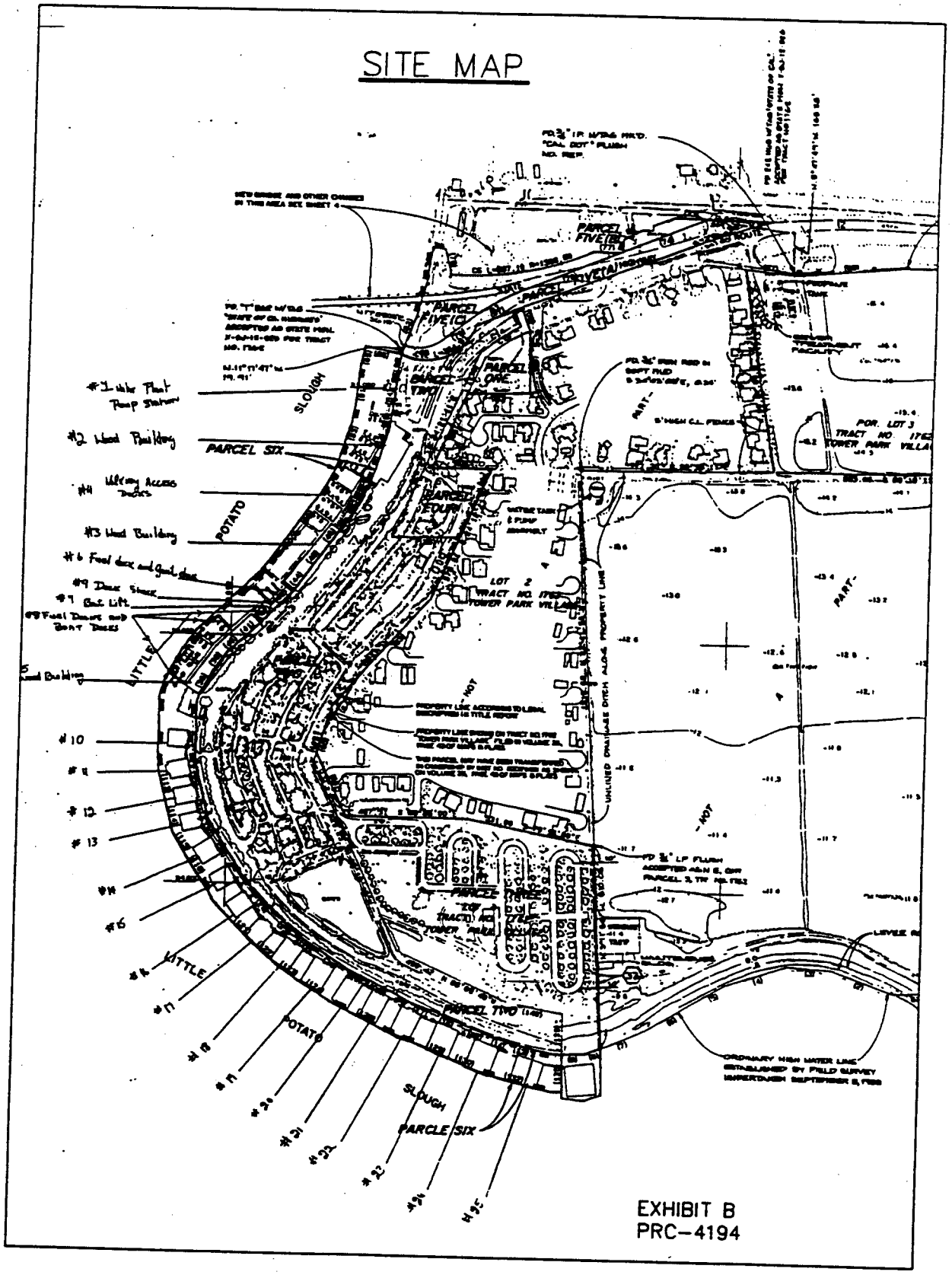
> **COMMENCING** at aforementioned Point "B"; thence South 25°41'26" East, 624.22 feet; thence South 66°35' East, 490.43 feet; South 80°00' East, 388.87 feet, more or less to a point on the easterly line of lot 4 Tract No. 1762, as shown on the map filed for record on August 19, 1982 in Book of Maps and Plats, Volume 26 Page 43, San Joaquin County Records; thence southerly along said easterly line, and the southerly prolongation thereof, 107 feet, more or less to the ordinary high water mark and the **POINT OF BEGINNING** of the herein described line; thence from said point of beginning running Northwesterly along the ordinary high water mark of the east bank of Little Potato Slough 1600 feet, more or less, to a point from which aforesaid point "B" bears North 64°18'34" West, and the end of the herein described line.

TOGETHER WITH a strip of land, thirty (30) feet in width, lying adjacent to, and southwesterly of, the above described one and fifty (150) wide strip of land, bounded on the east by the southerly prolongation of said easterly line of Lot 4 of Tract No. 1762, and bounded on the west by the southerly prolongation of that certain course in the westerly line of said Lot 4 shown as having a bearing and distance of North 00°29'11"East, 157.00 feet on said map.

END DESCRIPTION

Reviewed March, 1999 by CSLC boundary staff.

NO SCALE



This Exhibit is solely for purposes of generally defining the lease premises, and is not intended to be, nor shall it be construed as, a waiver of limitation of any state interest in the subject or any other property.

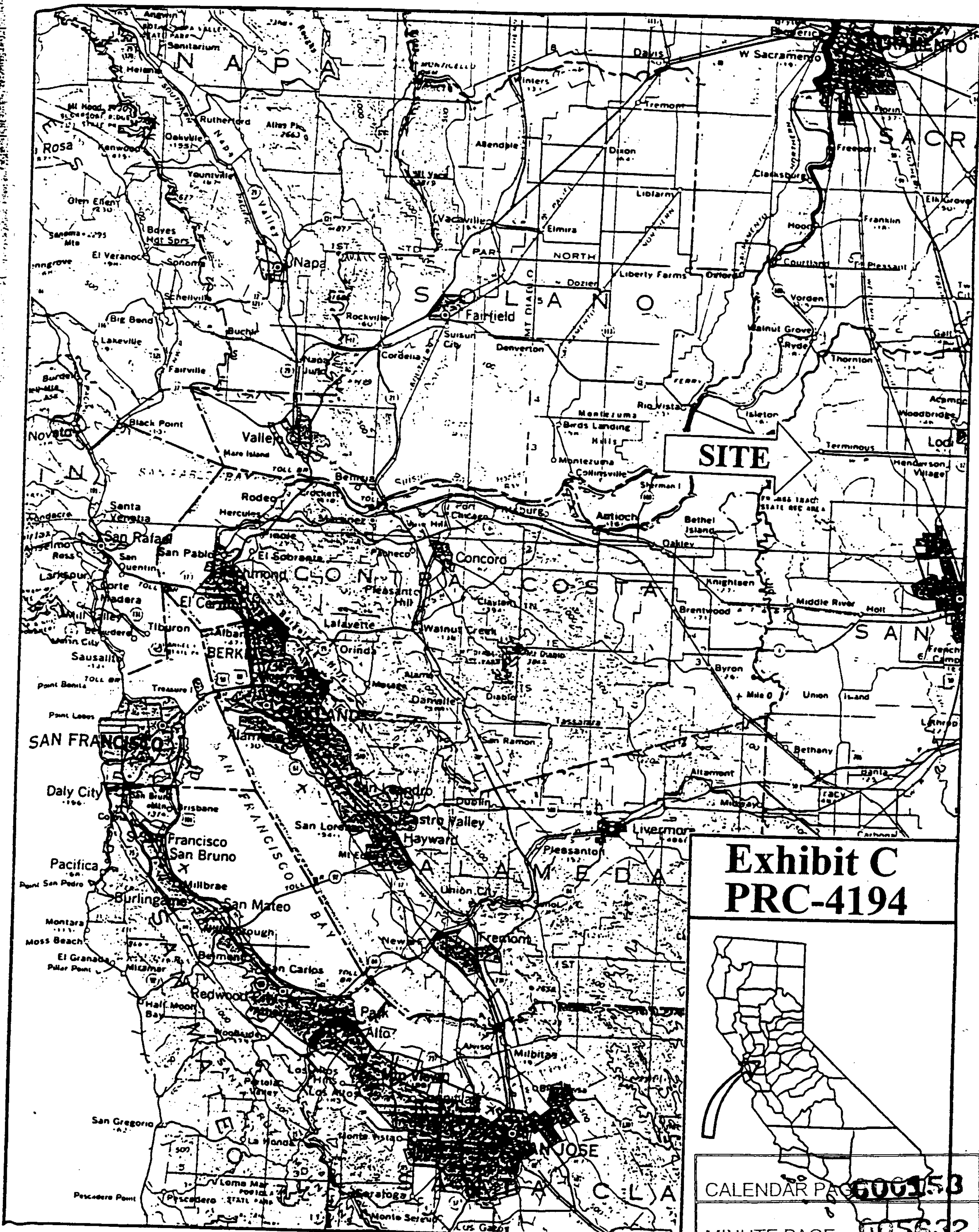


Exhibit C
PRC-4194

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