MINUTE ITEM
This Calendar Item No. C09 was approved as Minute Item No. 09 by the California State Lands Commission by a vote of 3 to 0 at its 12-16-02 meeting.

CALENDAR ITEM
C09

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12/16/02
PRC 7917.1
D. Jones

CONSIDER RATIFICATION OF ASSIGNMENT, ACCEPTANCE OF LEASE QUITCLAIM DEED AND TERMINATION OF GENERAL LEASE – COMMERCIAL LEASE, PRC 7917.1

LESSEE:

Calvin Hotel Company
7350 East Evans Road, Suite D
Scottsdale, Arizona 95260

AREA, LAND TYPE, AND LOCATION:

A 24.60 acre parcel, more or less, of tide and submerged lands in the San Joaquin River, near the town of Isleton, Sacramento County.

AUTHORIZED USE:

The construction, operation, and maintenance of a commercial marina facility including, but not limited to, 407-covered berths; the construction of approximately 14.50 acres of fishery shoal habitat; and the dredging and disposal of a maximum of 130,000 cubic yards of material.

LEASE TERM:

25 years, beginning January 1, 1997.

CONSIDERATION:

A minimum Annual Rent, against a percentage of gross receipts, whichever is greater; said rent shall be paid as follows:

A. For the period January 1, 1997, through December 31, 1997, the Minimum Annual Rent shall be $1,000.

B. For the period January 1, 1998, through December 31, 1998, the Minimum Annual Rent shall be $1,000.

C. For the period January 1, 1999, through December 31, 1999, the Minimum Annual Rent shall be $20,000.

D. Commencing on January 1, 2002, and every year thereafter on each subsequent lease anniversary date, the Minimum Annual Rent shall be $54,000, with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

Dredging royalty: A minimum of $0.25 per cubic yard.

SPECIFIC LEASE PROVISIONS:

Insurance:

Combined single limit coverage of $2,000,000.

Bond:

A sum of not less than 100% of the total estimated cost of construction work.

A sum not less than 50% of the total estimated cost of the contract or contracts for the construction guaranteeing the payment of all materials, etc.

Other:

Performance Deposit: $200,000

OTHER PERTINENT INFORMATION:

1. Applicant was the owner of the uplands adjoining the lease premises.

2. On October 28, 1996, the Commission approved a 25 year General Lease Commercial Use with Calvin Hotel Company for a commercial marina consisting of 407 berths, construction of approximately 14.50 acres of fishery shoal habitat to mitigate for similar lost habitat if the marina were constructed; and the dredging and disposal of a maximum of 130,000 cubic yards of material. The Lessee paid the annual rental of $1,000 each for the years 1997 and 1998. However, for the lease years beginning January 1, 1999, to present, the Lessee has not paid the annual rent. The 1999 annual rent was $20,000, and the minimum annual rental of $54,000, which was due beginning January 1, 2000, and every year thereafter, has never been paid. The commercial marina was never constructed.

On September 16, 1999, and October 28, 1999, staff wrote to the Lessee advising that the 1999 annual rent had not been paid. Calvin Hotel has never responded to these letters. In 1999, staff learned that Calvin Hotel had sold the upland property to Delta Dream, Inc. in 1998. On March 12, 1999, September 16, 1999, and February 14, 2001, staff wrote to Delta Dream to advise them of the lease for the commercial marina, which was associated with their property. In 2001, staff was advised that the owner of Delta Dream, Richard R. Brindle, had had a stroke. Richard R. Brindle died in the early part of 2002. The heirs to Richard R. Brindle's estate, Richard M. Brindle and Susan M. Brankov, have indicated they have no intention of building a commercial marina, have requested that the lease be terminated, and have executed a Lease Quitclaim Deed quitclaiming all right, title and interest in the lease to the State.

Since the commercial marina was never constructed; the Lessee, Calvin Hotel, has abandoned the leasehold; and Delta Dream has executed a Lease Quitclaim Deed, staff is recommending 1) that the lease be terminated, effective September 1, 2002; and 2) that all rents which are owing beginning January 1, 1999, and thereafter, be waived.

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 not subject to the requirements of the CEQA pursuant to Title 14, California Code of Regulations, Section 15060 (c)(3) because the activity is not a project as defined by Public Resources Code Section 21065 and Title 14, California Code of Regulations, Section 15378.

   Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 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.

EXHIBITS:

A. and
A-1. Lease Description
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 NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) 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. CONSIDER RATIFICATION OF ASSIGNMENT AND ACCEPTANCE OF A LEASE QUITCLAIM DEED AND AUTHORIZE THE TERMINATION OF GENERAL LEASE – COMMERCIAL LEASE, PRC NO. 7917.1 TO CALVIN HOTEL COMPANY, EFFECTIVE SEPTEMBER 1, 2002.

2. AUTHORIZE ALL RENTALS BE WAIVED BEGINNING JANUARY 1, 1999, AND THEREAFTER, FOR GENERAL LEASE - COMMERCIAL LEASE, PRC NO. 7917.1.

PRC 7917.1

All that certain real property situated in projected Section 13,T.3N.,R.3E., and projected Section 20,T.3N.,R.4E., M.D.B.&M Andrus Island in the County of Sacramento, State of California, described as follows:

Beginning at a point also being the Southeast corner of Parcel "C" as shown on Book 8 of Maps, Map No. 18, filed on August 20, 1984 in the office of the County Recorder of the County of Sacramento; thence from said point of beginning South 31°13'00" West 960.00 feet; thence North 66°00'00" West 1283.38 feet; thence North 18°04'00" East 348.53 feet to the Southwest corner of said Parcel C; thence along the Southerly line of said Parcel "C" the following bearing and distances; South 73°27'00" East 291.53 feet; South 75°18"00' East 299.93 feet; South 65°55'00" East 295.35 feet; South 60°22'00" East 394.74 feet; thence South 53°00'00" East 237.26 to said point of beginning.
Containing 32.428 Acres.

LICENSED LAND SURVEYOR
EVAN K. WINN
No. 5209
Exp. 6-30-99
STATE OF CALIFORNIA

EXHIBIT A

PRC 7917.1

All that certain real property situated in projected Section 13,T.3N.,R.3E., and projected Section 20,T.3N.,R.4E., M.D.B.&M Andrus Island in the County of Sacramento, State of California, described as follows:

Beginning at a point from which the Southwest corner of Parcel "C" as shown on Book 8 of Maps, Map No. 18, filed on August 20, 1984 in the office of the County Recorder of the County of Sacramento bears North 77°28'12" East 582.39 feet; thence from said point of beginning South 18°04'00" West 600.00 feet; thence North 66°00'00" West 1930.00 feet; thence North 18°04'00" East 335.00 feet; thence South 73°53'14" East 1920.78 feet to said point of beginning. Containing 20.602 Acres.

LICENSED LAND SURVEYOR
EVAN K. WYNN
No. 5209
Exp: 6-30-99
STATE OF CALIFORNIA

EXHIBIT A-1

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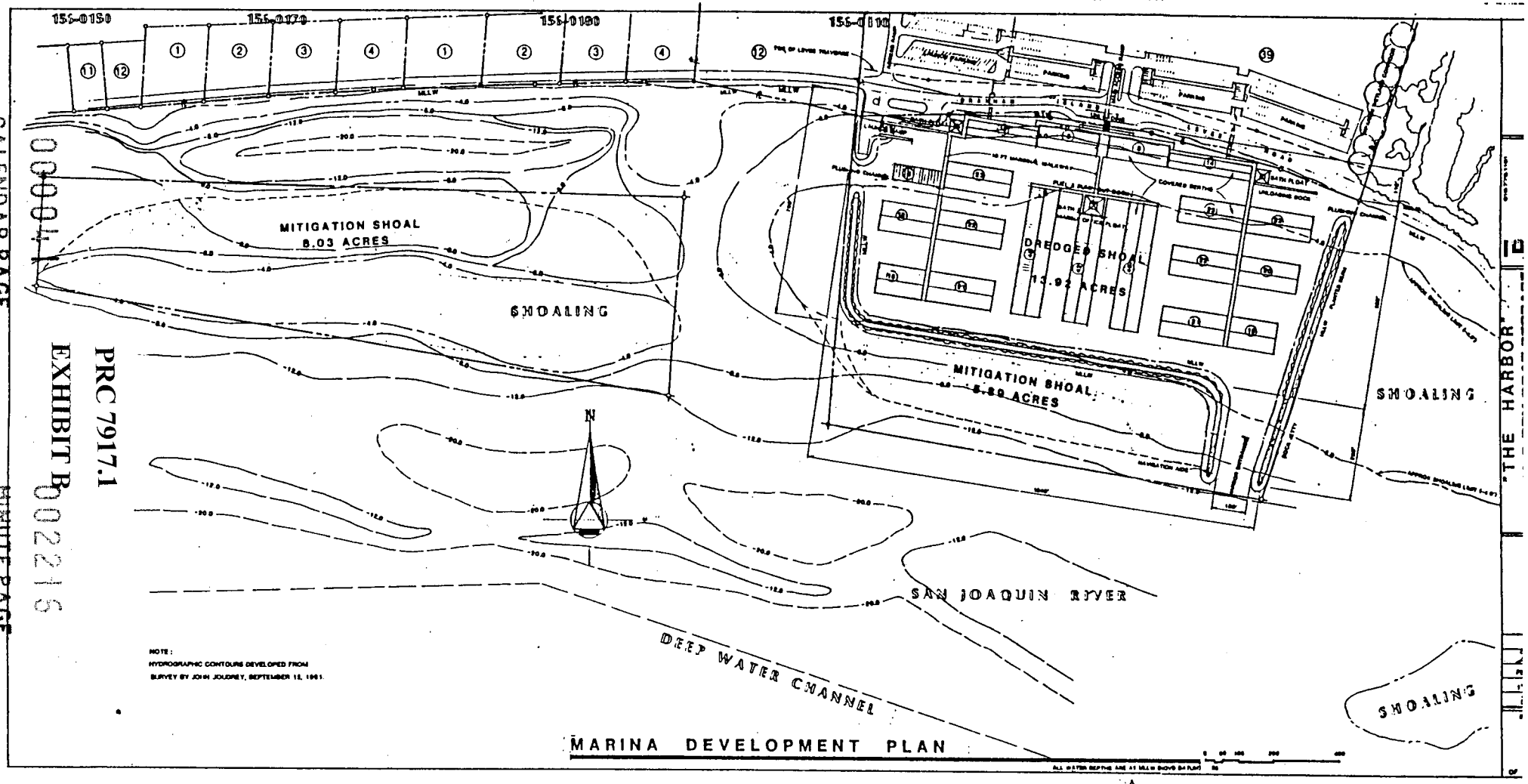

MARINA DEVELOPMENT PLAN

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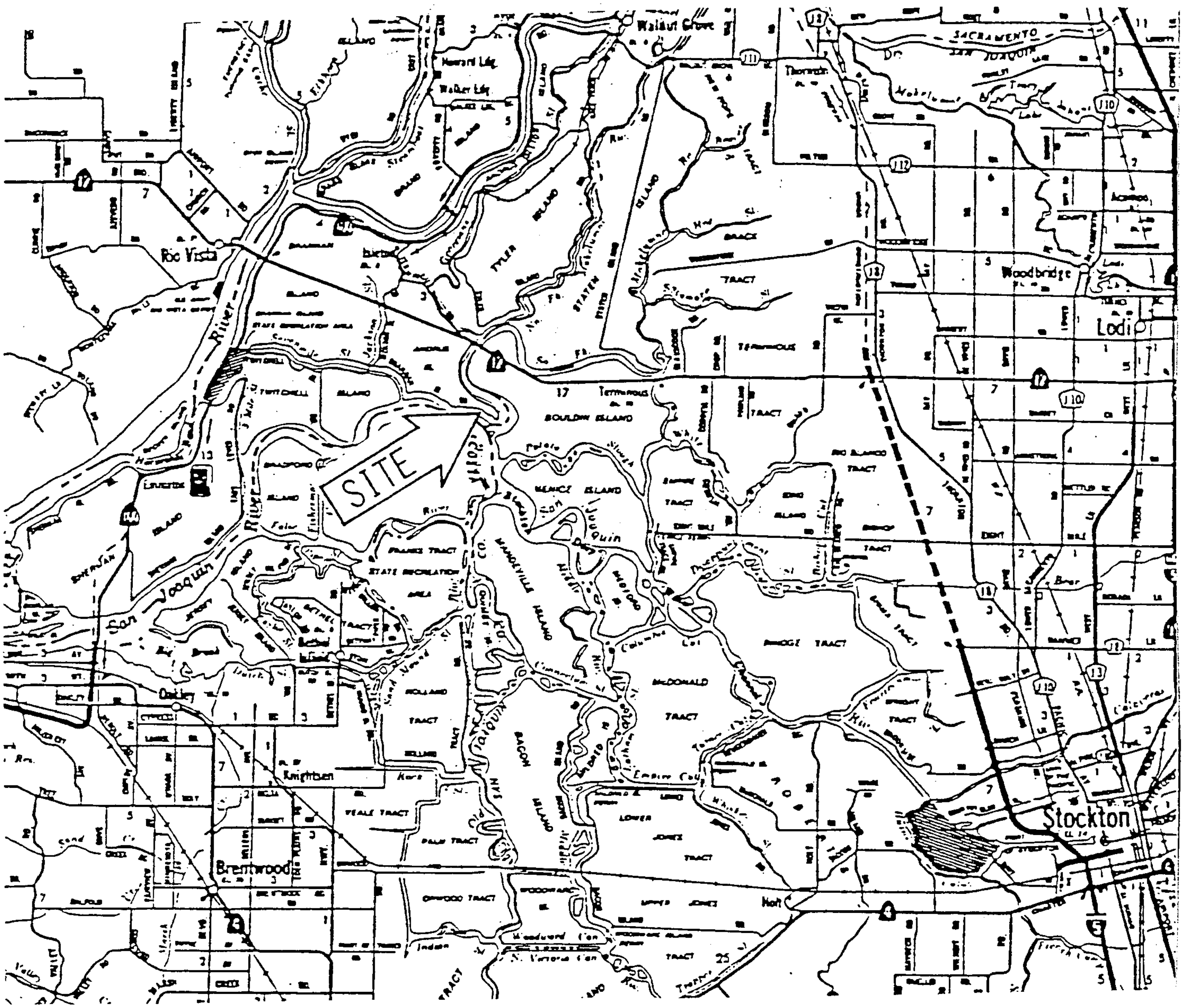
EXHIBIT B



This exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by Lessee or other parties, and is not intended to be, nor shall it be construed as, a waiver or limitation of any state interest in the subject or other property.

Exhibit C

PRC 7917.1

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