

MINUTE ITEM
This Calendar Item No. C26 was approved as
Minute Item No. 26 by the California State Lands
Commission by a vote of 3 to 0 at its
8-19-03 meeting.

**CALENDAR ITEM
C26**

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08/19/03
PRC 4194 WP 4194.1
D. Jones

**APPROVAL OF AMENDMENT OF GENERAL – LEASE- COMMERCIAL USE AND
APPROVAL OF AGREEMENT AND CONSENT TO ENCUMBRANCING
AGREEMENT**

LESSEE:

Tower Park Marina Investors, LP
16633 Ventua Blvd., Sixth Floor
Encino, California 91436-1835

AREA, LAND TYPE, AND LOCATION:

13.93 acres, more or less, of tide and submerged 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.

PROPOSED AMENDMENT:

The proposed amendment will change the lease term from 25 years, beginning
January 1, 1999, to 30 years beginning January 1, 1999. It will also provide that
Lessor is authorized to increase the surety bond or any other security device
when the lease is scheduled for a rent review. The existing surety bond is in the
amount of \$20,000. All other terms and conditions of the lease shall remain in
effect without amendment.

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OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On June 14, 1999, the Commission approved a 25 year General Lease – Commercial Use with Tower Park Marina Investors, L.P. for a commercial marina. At that meeting, the Commission also approved an Agreement and Consent to Encumber the Lease with Nations Credit Commercial Corporation as secured party lender in the amount of \$2.5 million.
3. Lessee is now requesting that the Commission approve a new Agreement and Consent to Encumber the Lease with Telesis Community Credit Union as secured party lender in the amount of \$4 million. The purpose of the loan is to refinance the existing debt and to pay back a portion of the money which the Lessee borrowed from the General Partners, Westrec Investors, Inc. and Tower Park Marina Operating Corporation, when the General Partners purchased the facility. In order to obtain the loan, the lender requires that the lease term be for a full 25 year term. The proposed amendment will change the lease term to accommodate this request. The new lease term will be 30 years beginning January 1, 1999. The Nations Credit loan will be fully paid off with the proceeds from the new loan. The lease will also be amended to provide the Lessor with the authority to increase the surety bond or any other security device when the lease is scheduled for a rent review. The existing surety bond is in the amount of \$20,000.
4. Encumbrancing Agreement and Surety Bond Increase
Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it 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, sections 15060 (c)(3) and 15378.

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Lease Term Extension

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 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

5. 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.

EXHIBIT:

- A. Site Map and Location Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

ENCUMBRANCING AGREEMENT AND SURETY BOND INCREASE
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.

LEASE TERM EXTENSION

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

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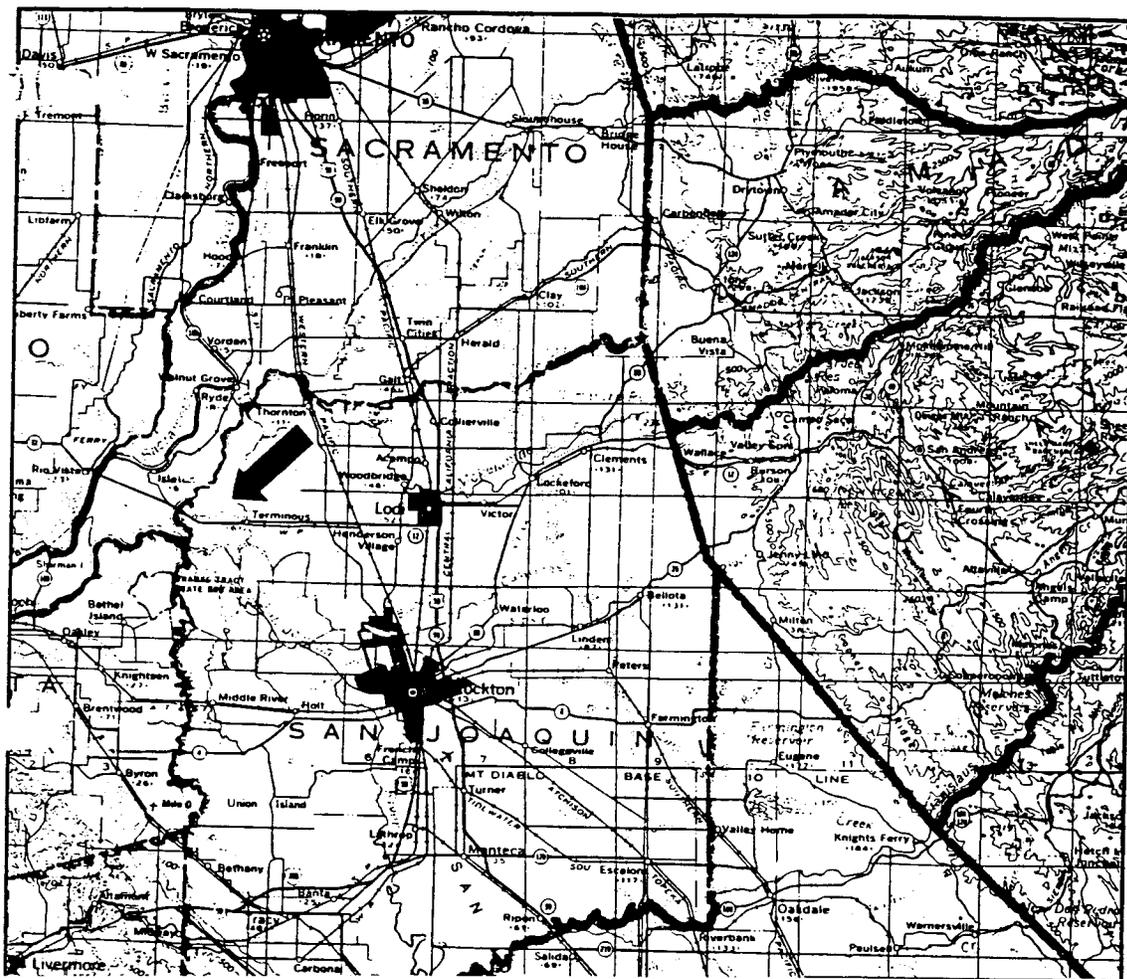
PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

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 4194.1, A GENERAL LEASE - COMMERCIAL USE, OF LANDS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, EFFECTIVE SEPTEMBER 1, 2003, TO CHANGE THE TERM OF THE LEASE TO BEGIN JANUARY 1, 1999 FOR A PERIOD OF 30 YEARS; AND TO PROVIDE THAT LESSOR MAY INCREASE THE SURETY BOND OR ANY OTHER SECURITY DEVICE WHEN THE LEASE IS SCHEDULED FOR A RENT REVIEW; ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.
2. AUTHORIZE STAFF EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE" IN THE AMOUNT OF \$4 MILLION ON FILE IN THE OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION, IN FAVOR OF TELESIS COMMUNITY CREDIT UNION, AS SECURED PARTY LENDER.



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

Exhibit A
PRC 4194.1

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