MINUTE ITEM
This Calendar Item No. C02 was approved as Minute Item No. 02 by the California State Lands Commission by a vote of 3 to 0 at its 8-17-04 meeting.

CALENDAR ITEM
C02

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PRC 6372

08/17/04
WP 6372.1
L. Burks

APPLICATION FOR A NEW GENERAL LEASE - COMMERCIAL USE, AND AUTHORIZATION OF AN AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE

APPLICANT:

Sherwood Harbor Marina, a Limited
Liability Company
P. O. Box 7874
Santa Rosa, California 95407

SECURED-PARTY LENDER:

First Northern Bank
SBA Loan Department
700 J Street, Suite M-102
Sacramento, California 95814

AREA, LAND TYPE, AND LOCATION:

1.77 acres, more or less, of sovereign lands in the Sacramento River, near the city of West Sacramento, Yolo County.

AUTHORIZED USE:

Continued use and maintenance of a commercial marina consisting of approximately 3,000 lineal feet of dockage, landing dock, gangway, bait shop/snack shed, one (1) gas pump, one (1) pumpout, two (2) portable restrooms, harbormaster residence, and three (3) storage sheds.

LEASE TERM:

Twenty (20) years, beginning at the close of escrow but not later than November 1, 2004.

CONSIDERATION:

A Minimum Annual Rent of $6,015, against five percent (5%) of the Gross Income derived from the rental of boat docks and moorings; one and one-half

percent (1½%) of the Gross Income derived from the operation of the bait shop/snack bar; one and one-half cents (1½ ¢) per gallon of fuel sold up to a maximum of 100,000 gallons and two cents (2¢) per gallon thereafter; and ten percent (10%) of the Gross Income derived from sources exclusive of those described above.

SPECIFIC LEASE PROVISIONS:

Liability insurance with coverage of no less than $1,000,000.

Bond: $20,000.

OTHER PERTINENT INFORMATION:

1. Applicant has a right to use the uplands adjoining the lease premises.

2. On October 25, 1984, the Commission approved a 14-year lease to Gene K. and Carrol A. Cartwright for a commercial marina. Sherwood Harbor Marina, a Limited Liability Company (LLC), entered into an option to purchase the property on June 1, 2004. Sherwood Harbor Marina, LLC, is applying for a new lease.

3. First National Bank is requesting that the Commission approve an Agreement and Consent to Encumbrancing of Lease, as secured party lender, in the amount of $385,000. The purpose of the loan is to purchase the marina facilities.

4. Sherwood Harbor is a large marina and has experienced vandalism, as well as other security problems, which required immediate action. These factors support a limited and controlled presence of occupied navigable vessels to provide onsite monitoring and security. Three vessels are believed to be necessary for this purpose. Such vessels will be located in strategically designated berths, with appropriate arrangements to prevent the discharge of any materials into the aquatic environment, subject to the approval of staff. These security vessels will be required to leave the marina waters at least once for a minimum of six hours in each ninety-day period and submit an annual log to the staff of the Commission.

5. The facility has a Permit to operate the aboveground fuel storage tank, which serves its gasoline dispenser, from the Yolo-Solano Air Pollution Control District; however, this permit is not transferable. The new owners will be required to apply for a new permit.

6. The State Water Resources Control Board requires a permit for the aboveground storage tank. The permit will expire on June 30, 2006. The Board does not require the owner to retain onsite a fuel spill and fire response plan, but the marina retains a copy of the plan at the Lease Premises. The plan is also on file in the office of the State Lands Commission.

7. Sherwood Harbor Marina has two (2) 1,000 gallon fuel tanks located landward of the Lease Premises, i.e., diesel and gasoline, and one (1) fuel dispenser on the dock. Both of the fuel tanks are inspected and permitted by the city of West Sacramento Fire Department. The marina is also required to prepare a total hazardous materials inventory for the city of West Sacramento. Last inspection was done in May, 2004.

8. New 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 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.

9. Encumbrance of Lease
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.

10. 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.

FURTHER APPROVALS REQUIRED:

Yolo-Solano Air Pollution Control District.

EXHIBITS:

A. Site Plan
B. Location Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

NEW 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 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

ENCUMBRANCE OF LEASE

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.

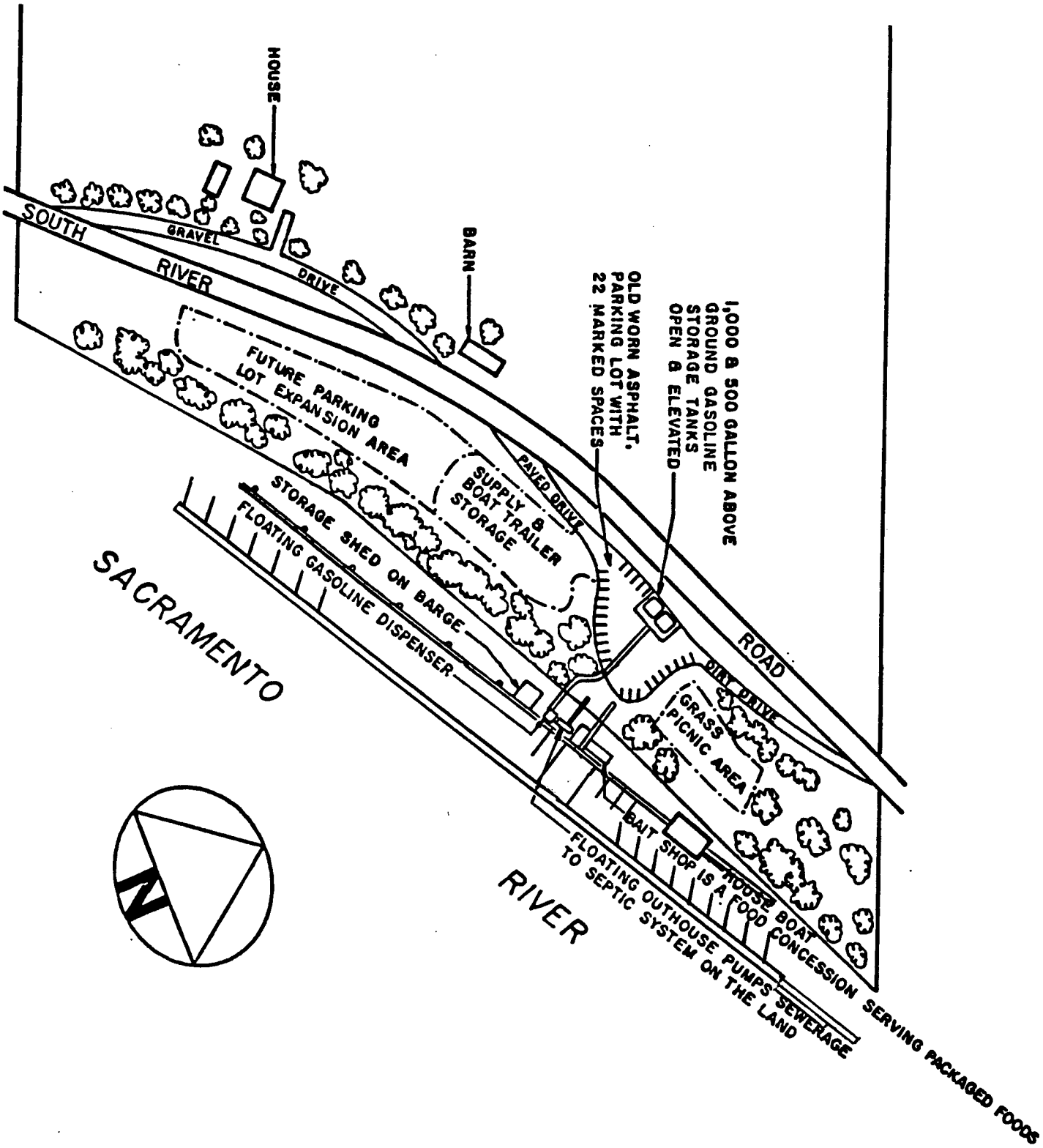
SIGNIFICANT LANDS INVENTORY FINDING:

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:

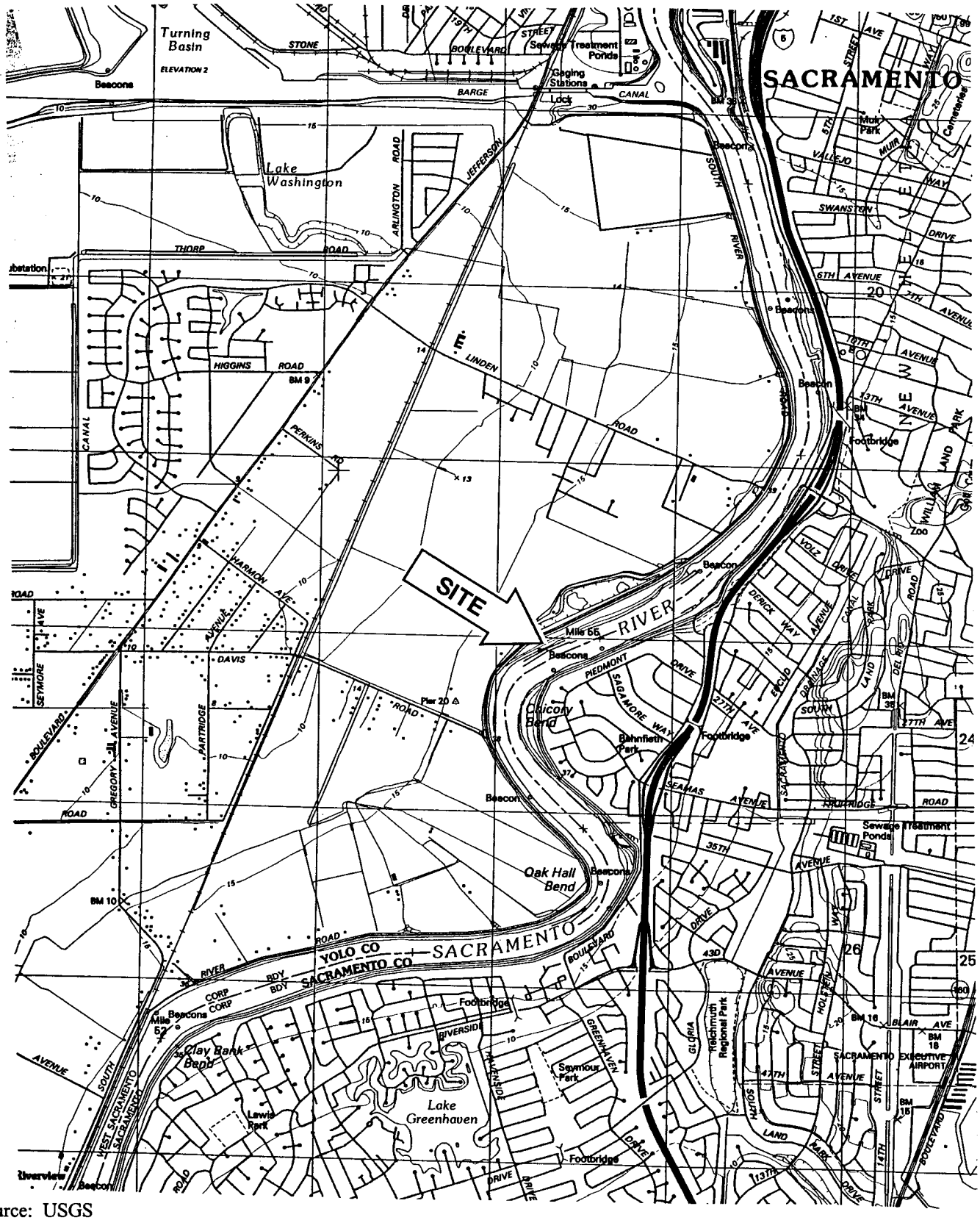
1. AUTHORIZE ISSUANCE TO SHERWOOD HARBOR MARINA, A LIMITED LIABILITY COMPANY, OF A GENERAL LEASE - COMMERCIAL USE, BEGINNING AT THE CLOSE OF ESCROW, BUT NOT LATER THAN NOVEMBER 1, 2004, FOR A TERM OF TWENTY (20) YEARS, FOR CONTINUED USE AND MAINTENANCE OF AN EXISTING MARINA AS REPRESENTED ON THE LAND SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; IN CONSIDERATION OF A MINIMUM ANNUAL RENT OF $6,015, AGAINST FIVE PERCENT (5%) OF THE GROSS INCOME DERIVED FROM THE RENTAL OF BOAT DOCKS AND MOORINGS; ONE AND ONE-HALF PERCENT (1½ %) OF THE GROSS INCOME DERIVED FROM THE OPERATION OF THE BAIT SHOP/SNACK BAR; ONE AND ONE-HALF CENTS (1 ½ ¢) PER GALLON OF FUEL SOLD UP TO A MAXIMUM OF 100,000 GALLONS AND TWO CENTS (2¢) PER GALLON THEREAFTER; TEN PERCENT (10%) OF THE GROSS INCOME DERIVED FROM SOURCES EXCLUSIVE OF THOSE DESCRIBED ABOVE; LIABILITY INSURANCE WITH A COVERAGE OF NO LESS THAN $1,000,000; SURETY IN THE AMOUNT OF $20,000.

2. AUTHORIZE EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING LEASE" IN THE AMOUNT OF $385,000 ON FILE IN THE OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION, IN FAVOR OF FIRST NORTHERN BANK AS SECURED PARTY LENDER, EFFECTIVE UPON THE CLOSE OF ESCROW.



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 A
WP 6372



Source: USGS

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Exhibit B
WP 6372

LMB 7/21/04