

MINUTE ITEM
This Calendar Item No. C45 was approved as
Minute Item No. 45 by the California State Lands
Commission by a vote of 3 to 0 at its
8-17-04 meeting.

CALENDAR ITEM

C45

A 15

08/17/04

S 5

PRC 2610

WP 2610.1

N. Quesada

**AUTHORIZE NOTIFICATION OF DEFAULT FOR FAILURE TO COMPLY WITH
GENERAL LEASE – COMMERCIAL USE LEASE OBLIGATIONS, PRC NO. 2610.1**

LESSEE:

Sycamore Park, Inc.
601 Brannan Island Road
Isleton, CA 95641

Hans W. Schulz, Trustee of the
Schulz Family Trust
P. O. Box 19682
Irvine, CA 92623

AREA, LAND TYPE, AND LOCATION:

1.054 acres of sovereign lands in the Mokelumne River, Andrus Island, near the city of Isleton, Sacramento County.

BACKGROUND INFORMATION:

On June 21, 1984, the Commission authorized issuance of a General Lease – Commercial Use to Sycamore Park, Inc., for a commercial marina. The marina includes a 323 foot by 55 foot open berth dock system with 43 berths located in the Mokelumne River, Andrus Island, near the city of Isleton in Sacramento County. This lease was issued for 30 years effective April 1, 1984, and ending March 31, 2014.

Beginning in 1993, a series of events occurred, resulting in multiple transfers of title to the uplands adjacent to the State lease. In 1993, Sycamore Park was involved in a bankruptcy, and it is unclear whether the State lease was rejected or assumed during the bankruptcy proceedings. Subsequently, it appears that Sycamore Park was dissolved in 1997 and that there were several sales of the uplands with title vesting in the Schulz Family Trust and ultimately in Old West Annuity and Life Insurance Co. in 2004. Even though there were changes in ownership of the upland parcel, the lease was never assigned from Sycamore Park, Inc. with approval of the Commission. However, the lease has allegedly

CALENDAR ITEM NO. C45 (CONT'D)

become an asset of the Schulz Family Trust. Old West Annuity and Life Insurance Co. has now requested that the Commission assign the lease to it or, in the alternative, issue it a new lease.

In March of 2001, Hans W. Schultz, on behalf of the Schulz Family Trust, submitted an application requesting an assignment of Lease PRC 2610.1 from the Trust to Delta Isle Resort and Marina Club. The application was deemed incomplete on March 27, 2001. Despite several attempts by Commission staff to complete the process, the Trust has not completed its application and no assignment has been approved by the Commission. Staff has advised Sycamore Park, Inc. and the Schulz Family Trust that in order to continue to hold this lease, it must present the Commission with evidence that it has reacquired the uplands or that it has a lease or management agreement for the marina from Old West Annuity and Life Insurance Co. Currently, the marina is fenced and is no longer operated as a Commercial Marina.

Commission staff has completed a review of the lease covenants and has determined that the following requirements of the lease are not being met:

1. The lease and the adjacent uplands are not held by the same party as required by Paragraph 10(b) of Section 4 – General Provisions. The lease is currently in the name of Sycamore Park Inc., and the adjacent uplands are owned by Old West Annuity and Life Insurance Company.
2. A \$1,000,000 combined insurance policy covering the lease premises is required by Section 1 and Paragraph 8 of Section 4 – General Provisions of the Lease. The Lessee has not provided evidence of current coverage.
3. A \$5,000 bond securing the Lessee's performance is required by Section 1 and Paragraph 9 of Section 4 – General Provisions of the Lease. The Lessee has not provided evidence to the Commission of the placement of the bond.
4. Section 2 of the lease requires payment of annual rent in the amount of \$1,200 on or before April 1 of each lease year. Lessee has not made payment of rent for the lease year commencing April 1, 2004.
5. Lessee has not submitted Annual Gross Income reports as required by Paragraph 18 of Section 4 – General Provisions of the Lease.

CALENDAR ITEM NO. C45 (CONT'D)

On May 25, 2004, by certified letter with return receipt, staff notified the Lessee of the above deficiencies and requested that the deficiencies be cured and to contact the staff. Staff has not received any response to the letter and telephone calls have been unsuccessful. Therefore, staff recommends that the Lessee be declared in default of the above recited lease obligations and be given 60 days to cure them as provided by the lease terms.

OTHER PERTINENT INFORMATION:

1. 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.

EXHIBIT:

- A. Location Map

PERMIT STREAMLINING ACT:

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.

AUTHORIZATION:

1. FIND THAT SYCAMORE PARK, INC./ HANS W. SCHULZ TRUSTEE OF THE SCHULZ FAMILY TRUST DATED 1/1/88 IS IN DEFAULT OF ITS OBLIGATIONS UNDER LEASE PRC 2610.1 FOR FAILURE TO: 1) SIMULTANEOUSLY HOLD AN INTEREST

-3-

000222

CALENDAR PAGE

001337

MINUTE PAGE

CALENDAR ITEM NO. C45 (CONT'D)

IN THE LEASE PREMISES AND THE ADJACENT UPLANDS AS REQUIRED BY PARAGRAPH 10(b) OF SECTION 4 OF THE LEASE; 2) PROVIDE A CERTIFICATE OF INSURANCE EVIDENCING CURRENT INSURANCE ON THE LEASE PREMISES AS REQUIRED BY SECTION 1 AND PARAGRAPH 8 OF SECTION 4 OF THE LEASE; 3) PROVIDE A BOND CERTIFICATE AS REQUIRED BY SECTION 1 AND PARAGRAPH 9 OF SECTION 4 OF THE LEASE; 4) PAY RENT FOR THE LEASE YEAR BEGINNING APRIL 1, 2004, AS REQUIRED BY SECTION 2 PARAGRAPH 1(a)(1) OF THE LEASE AND 5) SUBMIT ANNUAL GROSS INCOME REPORTS AS REQUIRED BY PARAGRAPH 18 OF SECTION 4 OF THE LEASE.

2. AUTHORIZE 1) STAFF TO NOTIFY SYCAMORE PARK, INC./ HANS W. SCHULZ TRUSTEE OF THE SCHULZ FAMILY TRUST DATED 1/1/88, OF THE ABOVE RECITED DEFAULTS AND 2) ALLOW THE LESSEE 60 DAYS AFTER RECEIPT OF THE NOTICE OF DEFAULT TO CURE THEM AS PROVIDED FOR IN PARAGRAPH 11(a)(4) OF THE LEASE AND 3) NOTIFY SYCAMORE PARK, INC./ HANS W. SCHULZ TRUSTEE OF THE SCHULZ FAMILY TRUST DATED 1/1/88 THAT FAILURE TO CURE THESE DEFAULTS WITHIN 60 DAYS OF RECEIPT OF THE NOTICE MAY CAUSE CANCELLATION AND TERMINATION OF THE LEASE.

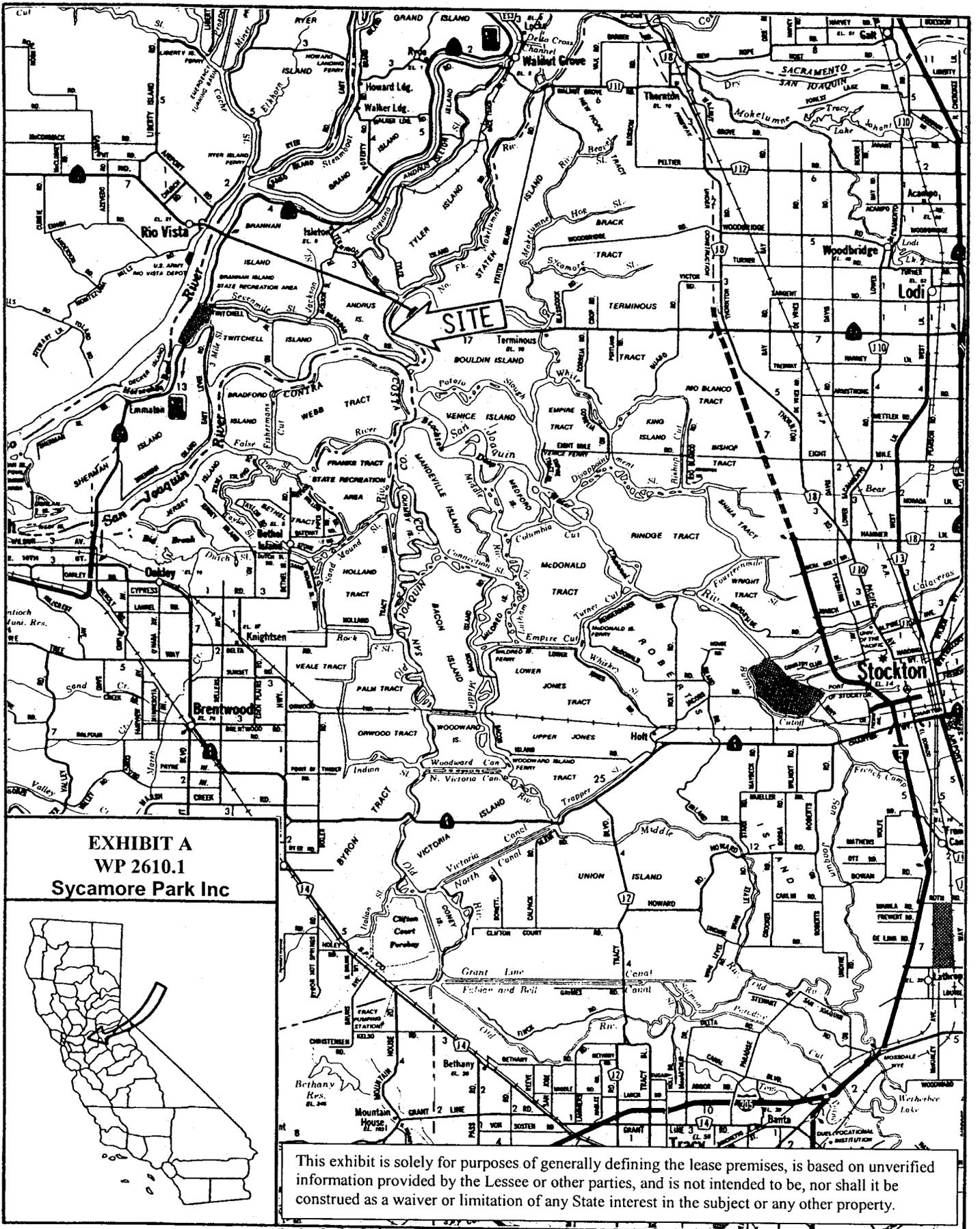


EXHIBIT A
WP 2610.1
Sycamore Park Inc



This exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the 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 any other property.

000224

001339