

MINUTE ITEM

This Calendar Item No. C05 was approved as Minute Item No. 05 by the California State Lands Commission by a vote of 2 to 0 at its 10/06/04 meeting.

**CALENDAR ITEM
C05**

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10/06/04

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PRC 7067 WP 7067.1
L. Burks

**APPROVAL OF AGREEMENT AND CONSENT
TO ENCUMBRANCING OF LEASE**

LESSEE:

Delta Bay Club, Inc.

SECURED-PARTY LENDER:

Bank of Rio Vista
101 Main Street
Rio Vista, California 94901

AREA, LAND TYPE, AND LOCATION:

1.58 acres, more or less, of tide and submerged lands in the San Joaquin River, at Andrus Island, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of a commercial marina.

LEASE TERM:

42 years, beginning April 23, 1987.

CONSIDERATION:

A Minimum Annual Rent of \$2,990 against six percent (6%) of the Gross Income, whichever is greater, derived from the rental of boat docks and moorings on the Lease Premises. Subject to modification by the Lessor, as specified in Paragraph 2(b) of Section 4.

PROPOSED ENCUMBRANCE OF LEASE:

Lessee is requesting that the Commission approve a new Agreement and Consent to Encumber the Lease with the Bank of Rio Vista, as secured party lender, in an amount not to exceed \$2,500,000. Currently, Lionel Goetz owns

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100% of the stock in Delta Bay Club, Inc. Thomas Reynolds and the Harko Family Trust (Robert K. Ostengaard) are each purchasing 50% of Lionel's stock in Delta Bay Club, Inc. They are obtaining a loan to purchase the leasehold interest in the marina.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On April 23, 1987, the Commission authorized issuance to Jerrold J. Smith, Mitzi E. Smith, and George M. Brady, General Lease – Commercial Use No. PRC 7067.1 for a commercial marina. On September 23, 1987, the Commission authorized assignment of this Lease from Jerrold J. Smith, et al. to Delta Bay Club, a California Corporation. On April 5, 2004, the Commission authorized amendment to the lease to extend the lease term twelve (12) years so that they could obtain refinancing for the marina.
3. 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.

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. Site Plan
- B. Location Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

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RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

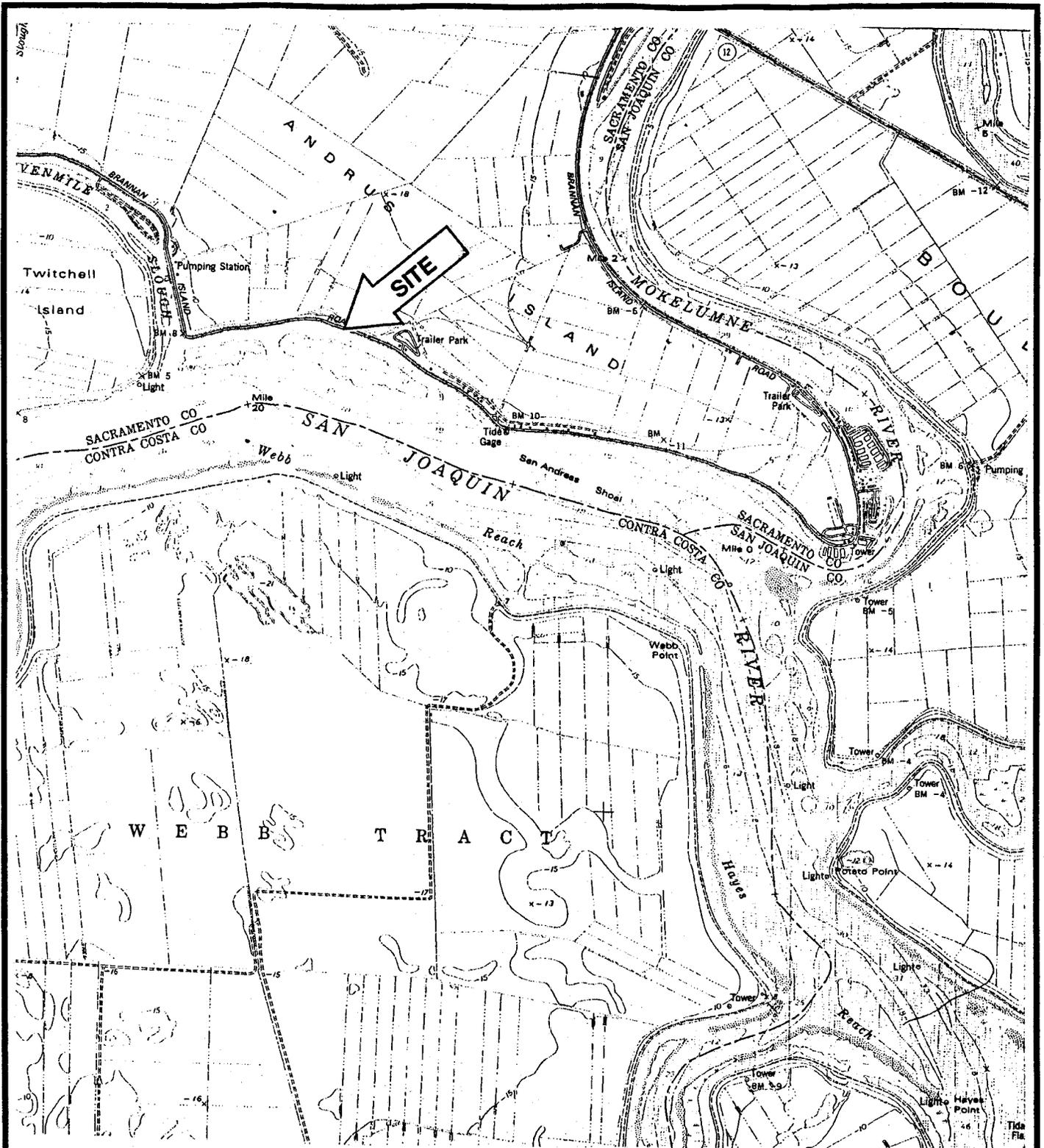
FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

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:

AUTHORIZE STAFF EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE" IN AN AMOUNT NOT TO EXCEED \$2,500,000, ON FILE IN THE OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION, IN FAVOR OF THE BANK OF RIO VISTA, AS SECURED PARTY LENDER.



Bouldin Island Quad

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 B
WP 7067