MINUTE ITEM

This Calendar Item No. C10 was approved as Minute Item No. 10 by the California State Lands Commission by a vote of 3 to 0 at its 12-9-04 meeting.

CALENDAR ITEM
C10

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12/09/04
PRC2851 WP 2851.1
D. Jones

TERMINATION OF GENERAL LEASE – COMMERCIAL USE, AND ISSUANCE OF NEW GENERAL LEASE - COMMERCIAL USE

APPLICANTS:

Alan and Peggy Martin, as co-tenants
1100 W. Brannan Island Road
Isleton, California 95641

AREA, LAND TYPE, AND LOCATION:

1.14 acres, more or less, of tide and submerged lands in Seven Mile Slough, near the city of Isleton, Sacramento County.

AUTHORIZED USE:

The continued use and maintenance of an existing commercial marina accommodating approximately 40 covered and uncovered berths and side ties.

LEASE TERM:

20 years, beginning December 1, 2004.

CONSIDERATION:

A minimum annual rental of $1,312 against a percentage of gross receipts for the first three years after which the Minimum Annual Rental shall be recalculated based on actual gross income at that time:

5% of gross income for berthing, mooring and launching of boats;
25% of gross income from vending and electronic game machines; and
10% of all other gross income.

SPECIFIC LEASE PROVISIONS:

Insurance:

$1,000,000 Combined Single Limit.

Bond:

$80,000

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.

2. On March 27, 1962, the Commission approved the original lease to Bruno Giovannoni for a commercial marina. Since that time, various parties have owned the adjacent uplands and the marina. Some of the purchasers have come under lease; others have refused to come under lease.

   In 1994, Build America Affordable Housing, Inc., purchased the marina and applied to the Commission for a lease. The Commission authorized a 25-year lease to Build America on December 21, 1994. However, Build America never fulfilled the terms of its lease and subsequently went bankrupt. Staff recommends the termination of this lease.

   In 1999, Alan and Peggy Martin purchased the marina. The marina currently consists of approximately 40 covered and uncovered berths and side ties. The Martins have submitted an application to the Commission for a new lease.

   When the Martins purchased the marina, they also purchased and then sold a 40 foot x 100 foot vessel known as the "Island Queen". However, the purchaser has defaulted on the terms of the sales agreement and has failed to remove it from the lease premises. The vessel is not in good repair and is incapable of being navigated. The Martin's are currently in litigation with the purchaser over these issues.

   The proposed Commission action would authorize a new lease to Alan and Peggy Martin. The lease requires the payment of $8,750 as full payment of back rent over a five year period. Because the "Island Queen" is not capable of being used for navigation or water-related activities, and is still located within the lease premises, the lease requires that the Martins submit a $80,000 surety bond or other form of collateral until it is removed or certified to be capable of navigation. The lease also requires execution of a phased marina repair plan which includes, within the first year barricading the portion of the dock berthing the "Island Queen", routine maintenance of the docks, including, but not limited to, repairing all the decking and making them safe for use, and repair of the "Island

Queen" or removal from the lease premises.

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 exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 14, California Code of Regulations, section 15300.

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

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

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

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 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15301.

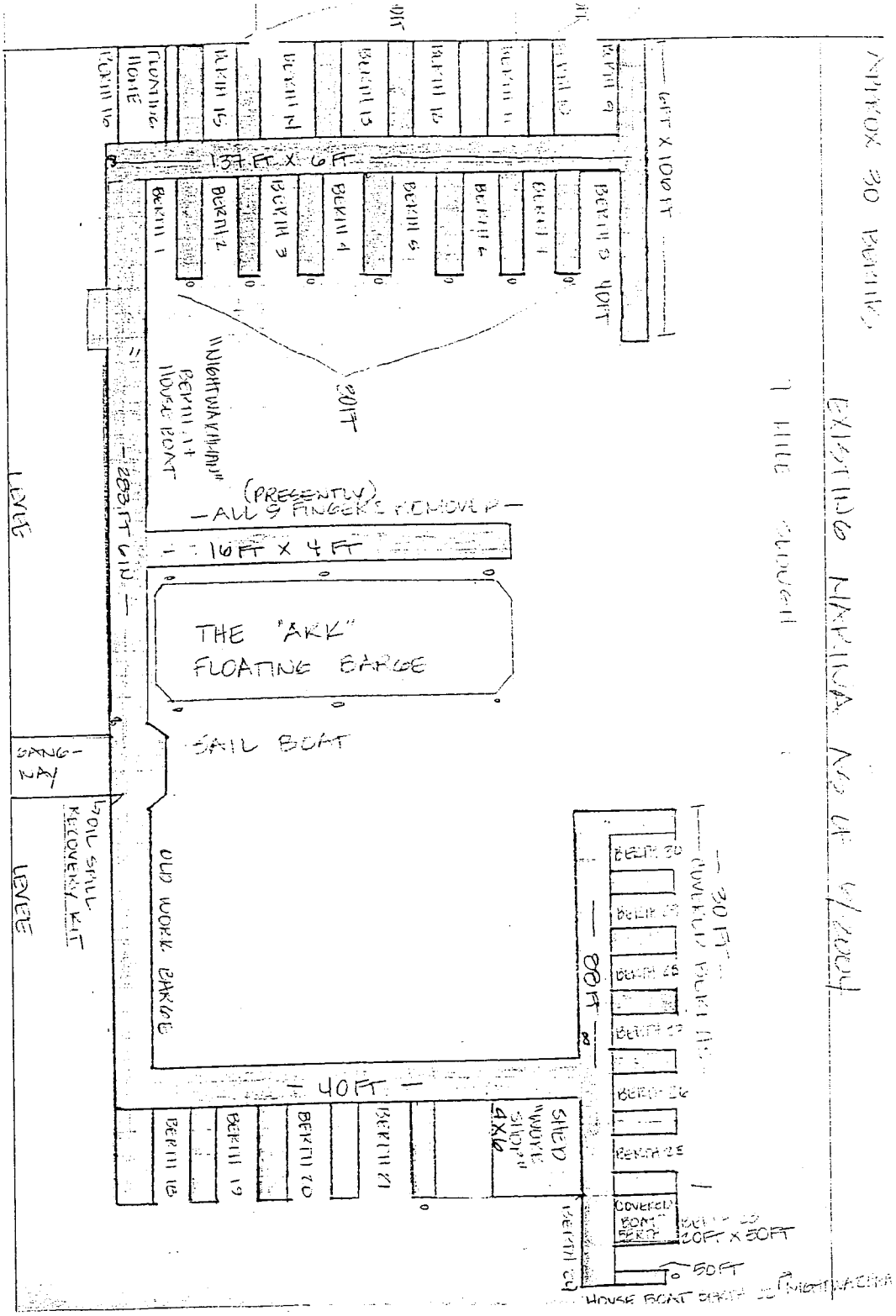
SIGNIFICANT LANDS INVENTORY FINDING:

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 TERMINATION OF GENERAL LEASE – COMMERCIAL USE, ISSUED TO BUILD AMERICA AFFORDABLE HOUSING, INC. ON DECEMBER 21, 1994.

2. AUTHORIZE ISSUANCE OF A GENERAL LEASE - COMMERCIAL USE TO ALAN AND PEGGY MARTIN, BEGINNING DECEMBER 1, 2004, FOR A TERM OF TWENTY (20) YEARS, FOR THE CONTINUED USE AND MAINTENANCE OF A COMMERCIAL MARINA CONSISTING OF APPROXIMATELY 40 COVERED AND UNCOVERED BERTHS AND SIDE TIES AS REPRESENTED ON THE LAND SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION: A MINIMUM ANNUAL RENTAL OF $1,312 AGAINST A PERCENTAGE OF GROSS RECEIPTS, 5 PERCENT OF GROSS INCOME FOR BERTHING, MOORING AND LAUNCHING OF BOATS, 25 PERCENT OF GROSS INCOME FROM VENDING AND ELECTORNIC GAME MACHINES, AND 10 PERCENT OF GROSS INCOME FOR ALL OTHER INCOME; INSURANCE: $1,000,000 COMBINED SINGLE LIMIT; $80,000 BOND UNTIL THE VESSEL "ISLAND QUEEN" IS REMOVED OR CERTIFIED TO BE CAPABLE OF NAVIGATION AND NOT A THREAT TO THE HEALTH AND SAFETY OF THOSE WHO MIGHT BOARD IT, AT WHICH TIME THE BOND SHALL BE REDUCED TO $20,000; BACK RENT IN THE AMOUNT OF $8,750.



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 2851.1

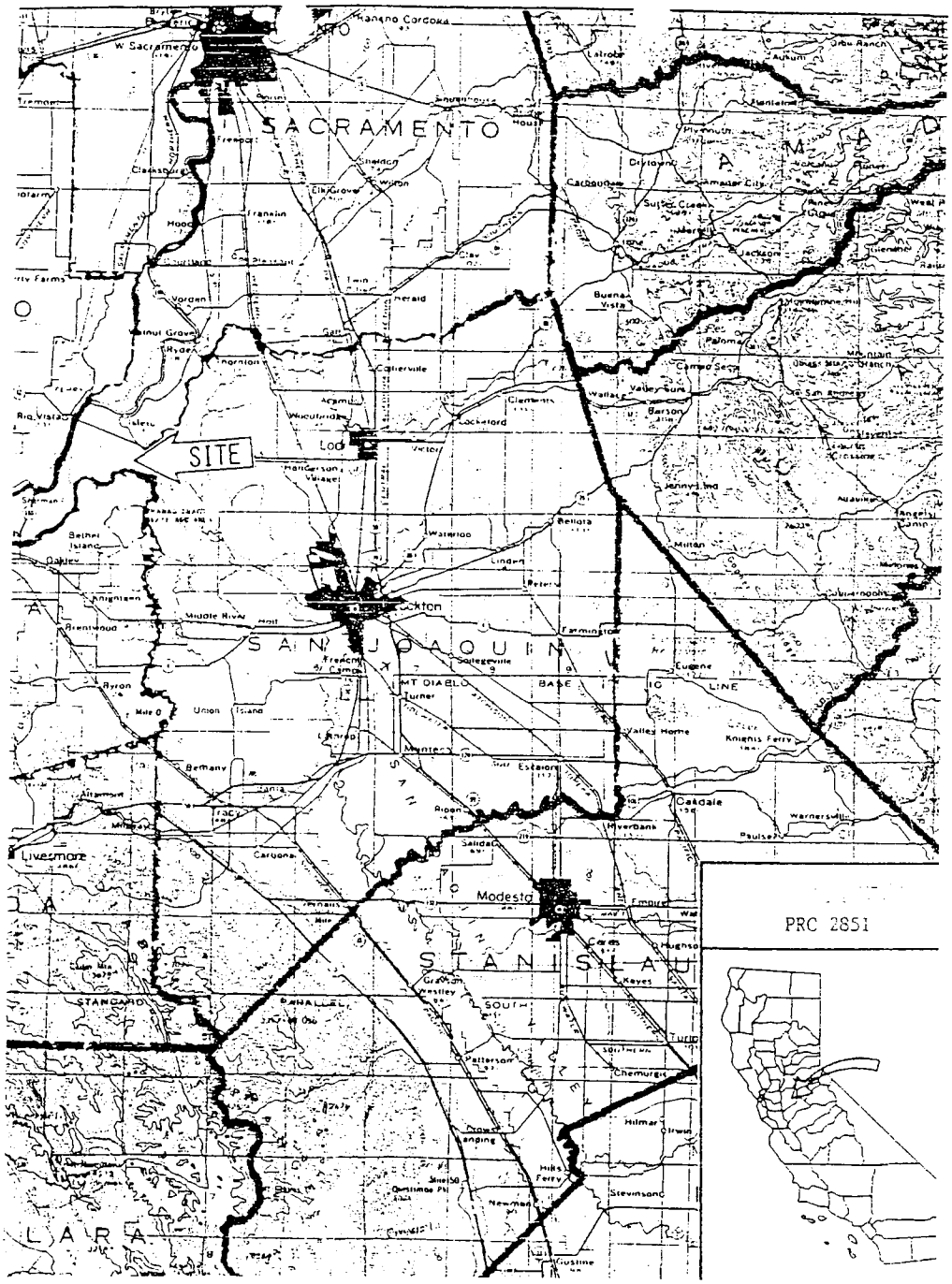


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Exhibit B
PRC 2851.1