

MINUTE ITEM

This Calendar Item No. C17 was approved as Minute Item No. 17 by the California State Lands Commission by a vote of 3 to 2 at its 2-17-05 meeting.

**CALENDAR ITEM
C17**

A 15, 17, 26

S 5, 14

02/17/05
PRC 4082 WP 4082.1
D. Jones

APPROVAL OF TERMINATION OF GENERAL LEASE – COMMERCIAL USE, PRC 4082.1, ISSUANCE OF NEW GENERAL LEASE – COMMERCIAL USE, PRC 4082.1, TERMINATION OF “AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE”, AND APPROVAL OF AN “AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE”

APPLICANT/LESSEE:

Tiki Lagun Partners, LLC
6243 Embarcadero Drive
Stockton, California 95219

AREA, LAND TYPE, AND LOCATION:

Eight acres, more or less, of tide and submerged lands in Whiskey Slough, near the city of Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of approximately 212 berths (four covered boathouses), gas dock and gas pump, sewage pumpout facility, and ancillary facilities.

LEASE TERM:

Current Lease: 35 years, beginning January 1, 1985, terminating December 31, 2020.

Proposed New Lease: 25 years, beginning January 1, 2005.

CONSIDERATION:

A minimum annual rental of \$21,085, against a percentage of gross receipts. The minimum annual rent is paid on a monthly basis in twelve equal installments of \$1,757 each.

5% of gross income for berthing, mooring and launching of boats
25% of the gross income from vending and electronic game machines

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10% of all other gross income

Fuel Sales: \$0.15 per gallon up to 100,000 gallons and \$.02 per gallon thereafter.

SPECIFIC LEASE PROVISIONS:

Insurance:

\$1,000,000 Combined single Limit.

Bond:

\$25,000.

OTHER PERTINENT INFORMATION:

1. The Commission issued a 35-year General Lease – Commercial Use to Horst Hanf, beginning January 1, 1985, ending December 31, 2020, for a commercial marina. On August 21, 1996, the Commission approved an assignment between Horst Hanf and Tiki Lagun, Ltd., a California Limited Partnership.
2. At its April 5, 2004, meeting, the Commission approved the assignment of the lease to Tiki Lagun Partners, LLC. At its July 12, 2004, meeting the Commission approved an Agreement and Consent to Encumbrancing of Lease in the amount of \$2.2 million between County Bank, as secured party lender, Tiki Lagun Partners, LLC, and the Commission. County Bank agreed to loan that amount to the Lessee based on the stipulation that it would obtain a longer lease from the Commission. The proposed action authorizes a new 25-year lease to Tiki Lagun beginning January 1, 2005. Since the lease is being terminated and a new lease issued, the Encumbrancing Agreement in the amount of \$2.2 million between the Commission, Tiki Lagun Partners, LLC, and County Bank approved on July 12, 2004, will need to be terminated and again approved by the Commission.
3. The facility has a Permit to Operate the gasoline dispensing facility and aboveground fuel storage tank, which serves its gasoline dispenser, from the San Joaquin Valley Air Pollution Control District.
4. The lease contains provisions that the Lessee must implement the Commission's "Best Management Practices for Marina Owners/Operators" and incorporate the Commission's "Best Management Practices for Berth Holders and Boaters" into Lessee's berth rental agreements, including additional Best Management Practices (BMPs) the

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Commission subsequently deems appropriate for either of the above categories. In addition to the inclusion of the BMPs for Berth Holders and Boaters into the berth rental agreements, the Lessee shall post such publication in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease and tri-annually thereafter, a report on compliance with all BMPs

5. 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.

6. 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:

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).

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SIGNIFICANT LANDS INVENTORY FINDING:

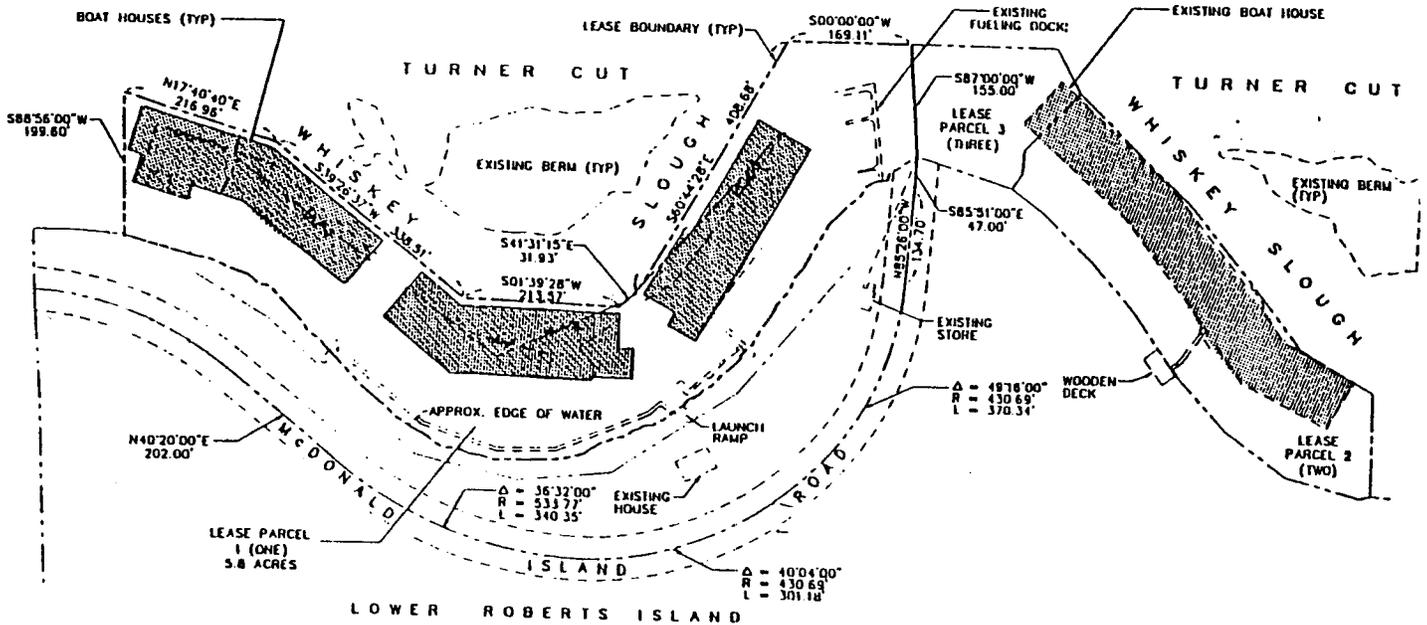
FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

1. AUTHORIZE TERMINATION OF GENEAL LEASE – COMMERCIAL USE, PRC 4082.1, EFFECTIVE DECEMBER 31, 2004.
2. AUTHORIZE ISSUANCE TO TIKI LAGUN PARTNERS, LLC, OF A GENERAL LEASE – COMMERCIAL USE, BEGINNING JANUARY 1, 2005, FOR A TERM OF TWENTY-FIVE (25) YEARS, FOR A COMMERCIAL LEASE ACCOMMODATING APPROXMIATELY 212 BERTHS, A GAS DOCK AND GAS PUMP, AND SEWAGE PUMPOUT ON THE LAND SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION: MINIMUM ANNUAL RENT IN THE AMOUNT OF \$21,085, AGAINST A PERCENTAGE OF GROSS INCOME, 5% OF GROSS RECEIPTS FOR THE BERTHING, MOORING AND LAUNCHING OF BOATS; 25% OF GROSS INCOME FROM COIL OPEATING VENDING AND ELECTRONIC GAME MACHINES; AND 10% OF OTHER GROSS INCOME; INSURANCE: \$1,000,000 COMBINED SINGLE LIMIT; SURETY BOND IN THE AMOUNT OF \$25,000.
3. AUTHORIZE TERMINATION OF THE DOCUMENT ENTITLED “AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE” IN THE AMOUNT OF \$2.2 MILLION ON FILE IN THE OFFICE OF THE COMMISSION BETWEEN THE COMMISSION, TIKI LAGUN PARTNERS, LLC. AND COUNTY BANK AND AUTHORIZE APPROVAL OF EXECUTION OF THE DOCUMENT ENTITLED “AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE” IN THE AMOUNT OF \$2.2 MILLION ON FILE IN THE OFFICE OF THE COMMISSION

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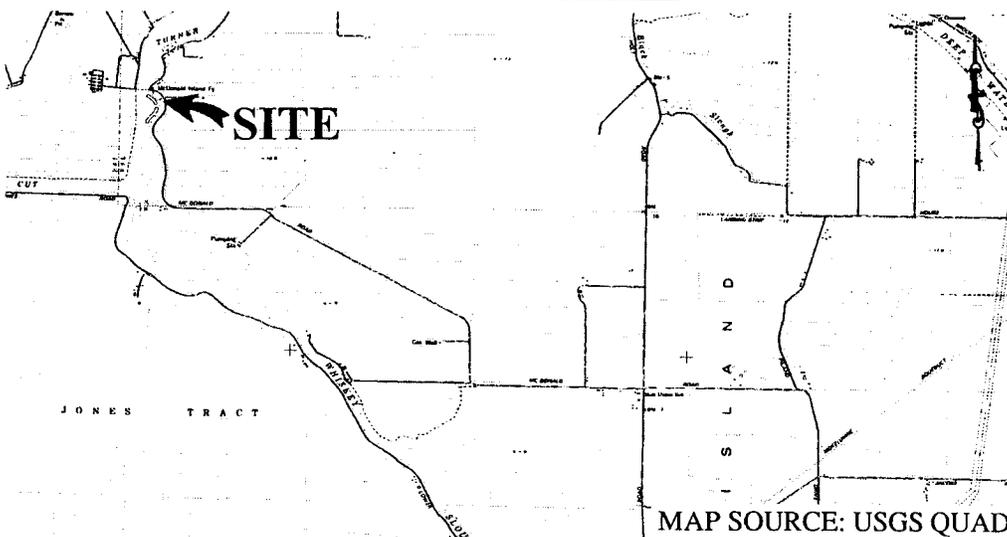
BETWEEN THE COMMISSION, TIKI LAGUN PARTNERS, LLC.
AND COUNTY BANK, EFFECTIVE JUNE 30, 2005.



WHISKEY SLOUGH, SAN JOAQUIN COUNTY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A
TIKI LAGUN PARTNERS
 PRC 4082
 APN 131-020-26
COMMERCIAL LEASE
WHISKEY SLOUGH
SAN JOAQUIN COUNTY



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.

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