

**MINUTE ITEM**  
This Calendar Item No. C01 was approved as  
Minute Item No. 01 by the California State Lands  
Commission by a vote of 2 to 0 at its  
5/31/05 meeting.

**CALENDAR ITEM**  
**01**

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05/31/05  
PRC 8229 WP 8229.1  
L. Burks

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

**LESSEE:**

Willow Berm Nexgen, LLC

**SECURED-PARTY LENDER:**

Bank of Marin  
9 Commercial Boulevard  
Novato, CA 94949

**AREA, LAND TYPE, AND LOCATION:**

20.97 acres, more or less, of sovereign lands in the Mokelumne River, adjacent to Andrus Island, Sacramento County.

**AUTHORIZED USE:**

Continued use and maintenance of a commercial marina.

**LEASE TERM:**

30 years, beginning May 8, 2001.

**CONSIDERATION:**

\$50,400 Minimum Annual Rent to be paid in twelve equal monthly installments, against five percent (5%) of gross income derived from berthing plus one and one-half cents per gallon of fuel sales up to 100,000 gallons, and two cents per gallon of fuel sales over 100,000 gallons, and the percent (10%) of all other income.

**PROPOSED ENCUMBRANCE OF LEASE:**

Lessee is requesting that the Commission approve a new Agreement and Consent to Encumber the Lease with the Bank of Marin, as secured party lender, in an amount not to exceed \$8,000,000. They are obtaining a loan to refinance existing debt.

CALENDAR ITEM NO. 01 (CONT'D)

**OTHER PERTINENT INFORMATION:**

1. Applicant owns the uplands adjoining the lease premises.
2. On February 5, 2001, the Commission authorized issuance to Willow Berm Ltd, a California Limited Partnership, and subsequently assigned to Willow Berm Nexgen, LLC, General Lease – Commercial Use No. PRC 8229.1 for a commercial marina. On April 24, 2001, the Commission approved an Agreement and Consent to Encumbrancing of Lease for purchase of the marina. Lessee is now requesting to encumber the leasehold in order to refinance the existing debt. The requested loan amount does not appear to exceed the market value of the leasehold. In addition, staff has determined the Bank of Marin to be a qualified lender.
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 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.

**EXHIBIT:**

- A. Location Map

**PERMIT STREAMLINING ACT DEADLINE:**

N/A

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

CALENDAR ITEM NO. 01 (CONT'D)

**CEQA FINDING:**

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 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.

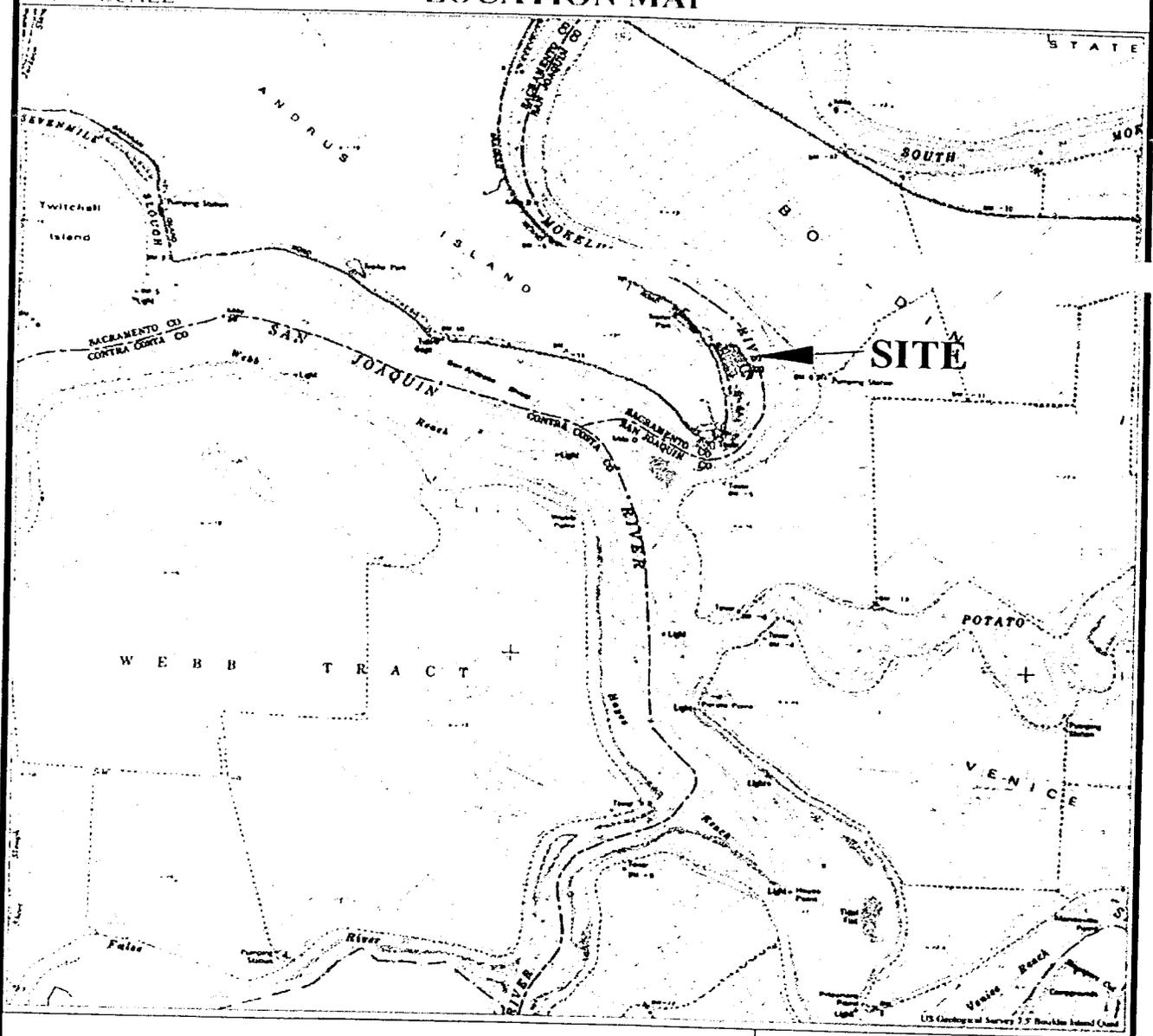
**AUTHORIZATION:**

AUTHORIZE STAFF EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE" IN AN AMOUNT NOT TO EXCEED \$8,000,000, ON FILE IN THE OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION, IN FAVOR OF THE BANK OF MARIN, AS SECURED PARTY LENDER.

EXHIBIT A

LOCATION MAP

NO SCALE



PRC 8229.1  
 Willow Berm Nexgen, LLC  
 Mokelumne River  
 Andrus Island  
 SACRAMENTO COUNTY



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 to as a waiver or limitation of any state interest in the subject or any other property.

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