

MINUTE ITEM

This Calendar Item No. C17 was approved as Minute Item No. 17 by the California State Lands Commission by a vote of 2 to 0 at its 11-21-06 meeting.

CALENDAR ITEM

C17

A	5, 9		11/21/06
		PRC 5167	WP 5167.1
S	6		D. Jones

APPROVAL OF ASSIGNMENT, AMENDMENT, AND SUBLEASE OF LEASE

LESSEE/ASSIGNOR:

Buffer Properties, LLC
1577 Garden Highway
Sacramento, CA 95833

ASSIGNEE/SUBLESSOR:

VEP VS, LLC
1107 Kentucky Street
Fairfield, California 94533

SUBLESSEE:

Sacramento Yacht Charters, LLC
110 L Street
Sacramento, CA +6925

AREA, LAND TYPE, AND LOCATION:

One acre, more or less, of sovereign lands in the Sacramento River, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Commercial marina and restaurant.

LEASE TERM:

Originally issued for 15 years, beginning June 18, 1976, with one ten year renewal option. Ten year renewal option approved, effective June 18, 1991; lease extended to terminate June 17, 2025.

CONSIDERATION:

Minimum annual rental of \$250 against a percentage of gross income per year, whichever is greater, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

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PROPOSED AMENDMENT:

The lease will be amended to include provisions that the Lessee 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 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 amendment of the lease and triennially thereafter, a report on compliance with all BMPs. All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Assignee is purchasing the uplands adjoining a portion of the lease premises and is the best qualified Applicant as to the remainder of the lease premises. Assignee is the best qualified Applicant because the improvements on the sovereign lands have provided recreational opportunities to the public for over 20 years.
2. The current lessee, Buffer Properties, LLC, is selling its business to VEP VS, LLC, and the sale is going through escrow. No changes are proposed to be made within the lease premises. VEP VS, LLC, has agreed to amend the lease to include "Best Management Practices for Marina Owners/Operators" and the Commission's "Best Management Practices for Berth Holders and Boaters". The effective date of the proposed assignment and amendment will be the date of the close of escrow, but no later than January 31, 2007.
3. The proposed Assignee, VEP VS, LLC, proposes to sublease the property to Sacramento Yacht Charters, LLC, which will hold the assets of the current ongoing business, which is The Virgin Sturgeon Restaurant and commercial marina. Staff has reviewed the sublease and has determined it is consistent with Lease PRC 5167.1.
4. 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.

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Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060(c)(3) and 15378.

5. 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

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

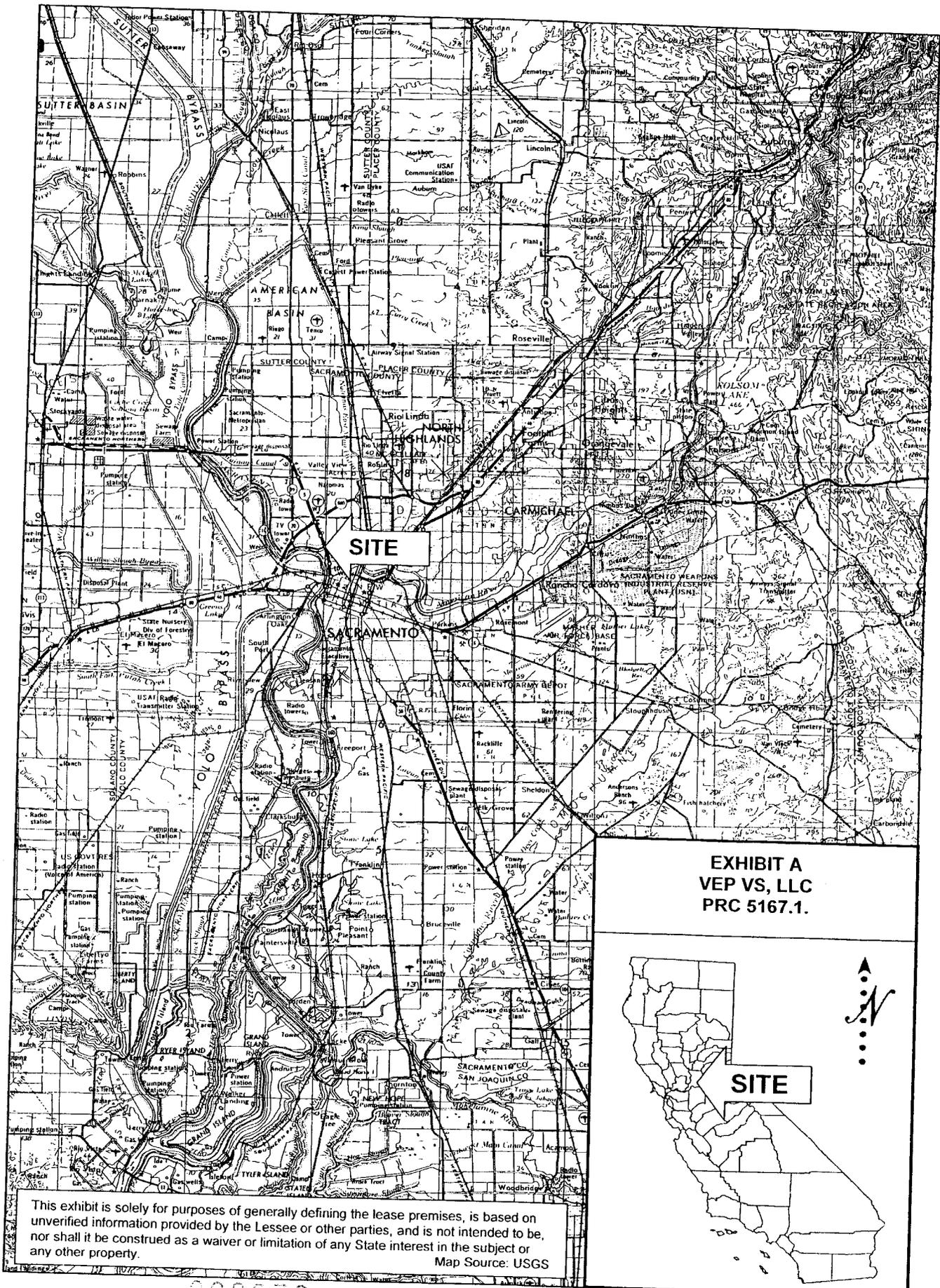
FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

AUTHORIZATION:

1. AUTHORIZE THE ASSIGNMENT OF LEASE NO. PRC 5167.1, A GENERAL LEASE - COMMERCIAL USE, OF SOVEREIGN LANDS AS SHOWN ON EXHIBIT A, ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, FROM BUFFER PROPERTIES, LLC, TO VEP VS, LLC; EFFECTIVE ON THE DATE OF THE CLOSE OF ESCROW, BUT NO LATER THAN JANUARY 31, 2007.
2. AUTHORIZE, BY ENDORSEMENT, A SUBLEASE FROM VEP VS, LLC, TO SACRAMENTO YACHT CHARTERS, LLC OF LEASE PRC 5167.1, AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; SAID SUBLEASE IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.

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3. AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 5167.1, A GENERAL LEASE – COMMERCIAL USE, OF LANDS SHOWN ON EXHIBIT A ATTACHED AND BY REFERENCE MADE A PART HEREOF, EFFECTIVE AT THE CLOSE OF ESCROW, BUT NO LATER THAN JANUARY 31, 2007, TO ADD PROVISIONS INVOLVING BEST MANAGEMENT PRACTICES; ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.



SITE

**EXHIBIT A
VEP VS, LLC
PRC 5167.1.**



SITE



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.
Map Source: USGS

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