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 03-03-07 meeting.

CALENDAR ITEM
C01

A 5, 9

S 6

PRC 6427

03/30/07
WP 6427.1
D. Jones

APPROVAL OF AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE

LESSEE:

Riverbank Holding Company, LLC
P. O. Box 340658
Sacramento, California 95834

AREA, LAND TYPE, AND LOCATION:

Five acres, more or less, of sovereign lands in the Sacramento River, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

The continued use and maintenance of an existing commercial marina, restaurant and floating offices.

TERM:

25 years, beginning September 1, 2002.

CONSIDERATION:

A minimum annual rental of $41,658, paid quarterly, against a percentage of gross receipts:

6% of gross income for the berthing, mooring of boats;
1.5% of gross income for the operation of restaurants and bars;
0.5% of the total sales price derived from boat sales and servicing of new and used yachts, boats, personal watercraft and related equipment by Lessee or sublessees of Lessee regularly engaged in the business of selling boats on or by consignment;
25% of gross income from coin operated vending and electronic game machines;
10% of all other Gross Income generated from the Lease Premises

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining a portion of its lease premises and has a use right and/or is the best-qualified applicant as to the remainder of the lease premises. Riverbank Holding Company, LLC is the best qualified applicant for the lease premises that adjoin the uplands because it has long-standing improvements on the sovereign lands which have provided recreational opportunities to the public for over 20 years.

2. On July 12, 1984, the Commission issued a 20-year General Lease – Commercial Use to Riverbank Holding Company for a commercial marina. On October 1, 2002, the Commission terminated the existing lease and issued a new lease to Riverbank Holding Company, LLC (Riverbank) for a term of 25 years. The commercial marina consists of 159 berths, 1,238 feet of side tie dockage, sewage pumpout, debris deflector, two speed signs, a restaurant with an accommodation dock and two floating offices. At the October 1, 2002 meeting, the Commission also authorized an Agreement and Consent to Encumbrancing of Lease in favor of Ohio National Life Insurance Company (Ohio National) in the amount of $5,000,000.

   At its meeting of August 17, 2004, the Commission approved new supplemental financing in the amount of $1,150,000 from the same lender, Ohio National. The total balance due on the loans previously approved is $5,549,000.

   Lessee is currently seeking new additional supplemental financing in the amount of $1,900,000 from the same lender, Ohio National. The new loan will be used to make repairs to the marina, including replacing the floating systems under the dock areas. Riverbank has requested that the Commission enter into another Encumbrancing Agreement with Ohio National for $1,900,000. If the Commission approves the additional financing, the total amount owed for all three Encumbrancing Agreements will be $7,449,000. The marina complex was recently appraised as part of Riverbank's application to Ohio National. The total of the loans is significantly below the property's market value.

   In approving Encumbrancing Agreements, the Commission retains the right to approve any transfer from the lending institute to a prospective lessee, should any foreclosure of the loans occur.

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 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
B. Site 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.

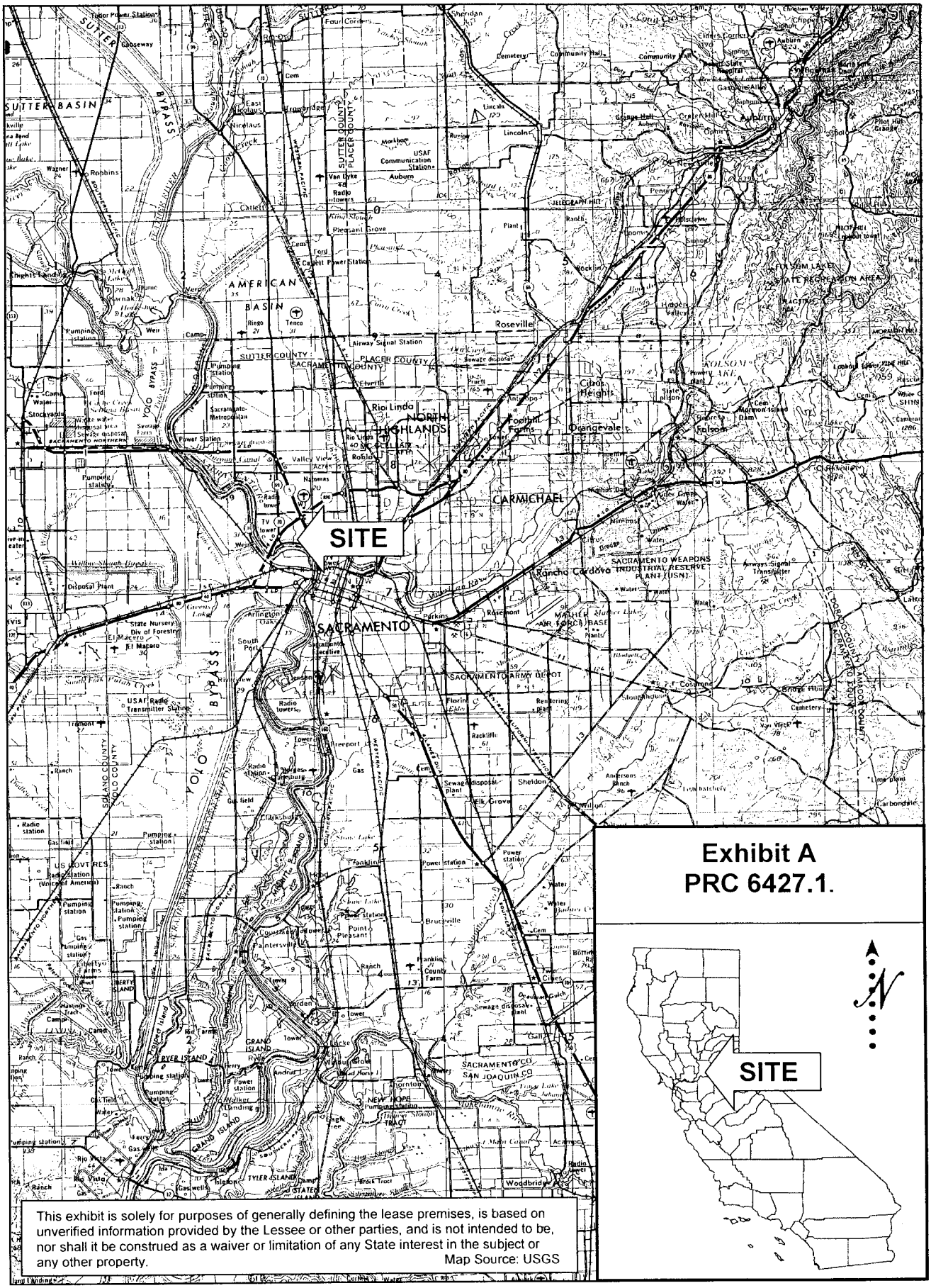
SIGNIFICANT LANDS INVENTORY FINDING:

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 EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE" IN THE AMOUNT OF $1,900,000 ON FILE IN THE OFFICE OF THE COMMISSION BETWEEN THE COMMISSION, RIVERBANK HOLDING

COMPANY, LLC, AND OHIO NATIONAL LIFE INSURANCE COMPANY, EFFECTIVE UPON APPROVAL OF THE NEW LOAN BY OHIO NATIONAL LIFE INSURANCE COMPANY, BUT NO LATER THAN DECEMBER 31, 2007.

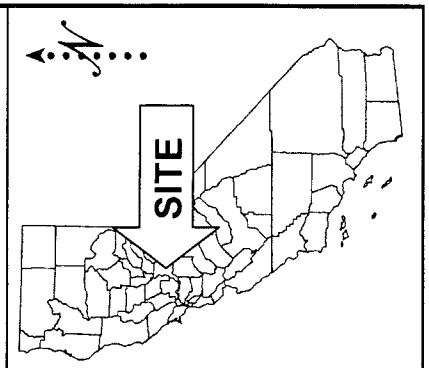


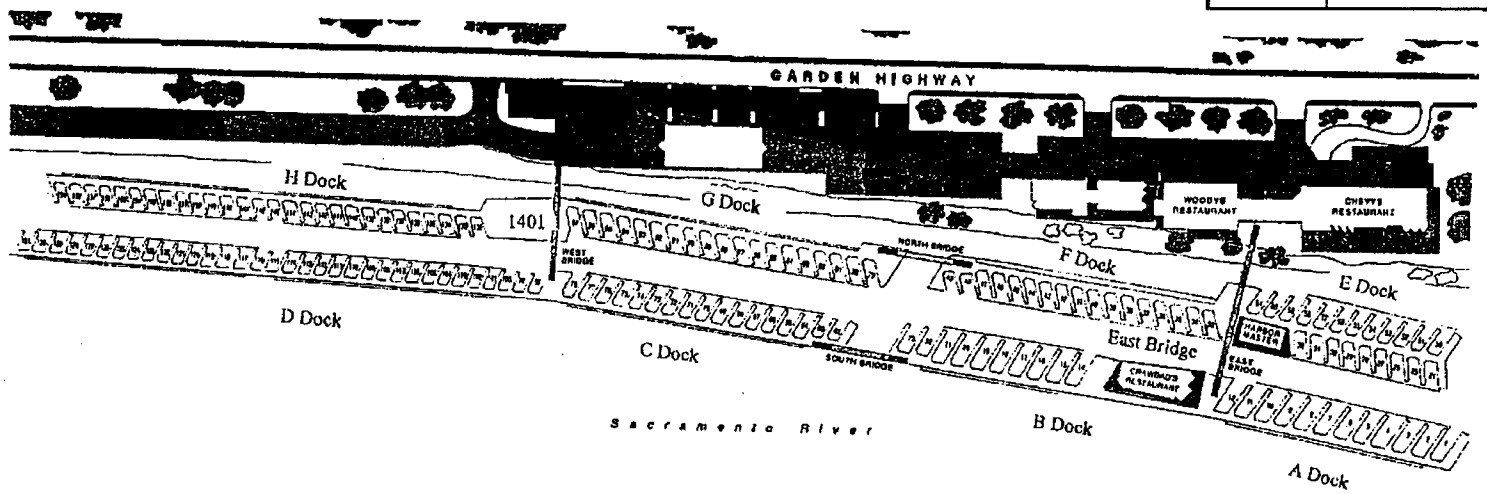
This exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties, and is not intended to be, nor shall it be construed as a waiver or limitation of any State interest in the subject or any other property.

Map Source: USGS

DJ 3/07

Exhibit B
PRC 6427.1





SLIP #	SIZE	SLIP #	SIZE	SLIP #	SIZE	SLIP #	SIZE
1	U40'	24-47	C30'	78-79	U30'	117-130	C24'
2-11	C40'	48-49	U24'	80-96	C30'	132-133	U24'
12	U40'	50-58	C30'	97	U30'	134-144	C24'
14	U40'	59-61	U30'	98-100	U24'	145-146	U24'
15-21	C40'	62-63	U24'	101-114	C24'	147-158	C24'
22-23	U33'	64-77	C30'	115-116	U24'	159	U24'

C = Covered U = Uncovered

RIVERBANK MARINA
1371 Garden Highway, Sacramento, CA 95833
(916) 922-0720

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

DJ 3/07