CALENDAR ITEM

C11

A	8, 15	08/11/09
		WP 7620.1
S	5, 14	V. Caldwell

THE TERMINATION AND APPROVAL OF
AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE

LESSEE:

Wallace G. Clark and Carolyn Sue Clark, Trustee of the Wallace G. Clark and Carolyn Sue Clark Trust Dated February 18, 1997, Wallace Bradly Clark, Brian Marchini Clark, Dennis Edward Vollman and Ginger Lee Vollman as Trustees of the Dennis E. Vollman and Ginger L. Vollman 2006 Revocable Trust, Joanne Vollman, James B. Morey and Patricia J. Morey, and Marilyn A. Vollman, Trustee of the Mav Revocable Trust Dated July 8, 1997

CURRENT SECURED-PARTY LENDER:

California Department of Boating and Waterways
2000 Evergreen Street, Suite 100
Sacramento, California 95815-3888

SECURED-PARTY LENDER:

Bank of Sacramento
1750 Howe Avenue, Suite 100
Sacramento, California 95825

AREA, LAND TYPE, AND LOCATION:

A 1.139 acre parcel, more or less, of sovereign lands in the Sacramento River, adjacent to 14180 River Road, Walnut Grove, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing commercial marina, known as Dagmar's Landing, consisting of 30 covered berths, 27 pilings, two gangways, sewage pump out, public fishing dock, and public accommodation dock.

LEASE TERM:

26 years, beginning June 1, 2009.

CONSIDERATION:

Annual rent of five percent of the gross annual income derived from the berthing, docking, and mooring of boats; and ten percent of all other gross income generated on the Lease Premises; with a minimum annual rent of $4,251; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability Insurance of no less than $2,000,000

Bond:

$20,000

Other:

The lease contains provisions requiring the public fishing pier and transient dock, to be available to the public during daylight hours. Access shall be provided to and through the lease premises for the general public, including non-paying visitors. Access will be from the Sacramento River and across the Applicant's upland property to assure public access from the first public road and to provide for public fishing access to this area of the Sacramento River.

PROPOSED ENCUMBRANCE OF LEASE:

Lessee is requesting that the Commission approve a new Agreement and Consent to Encumbrancing of Lease in favor of the Bank of Sacramento, as a secured-party lender in the amount not to exceed $1,200,000.

OTHER PERTINENT INFORMATION:

1. Lessees own the uplands adjoining the lease premises.

2. On September 23, 1992, the Commission approved an Agreement and Consent to Encumber the Lease in favor of the Department of Boating and Waterways, in the amount of $600,000 in order to secure financing for the marina. That Agreement was terminated and replaced on June 1, 2009 with a new Agreement and Consent to Encumbrancing of Lease in the amount of $600,000 in favor of the Department of Boating and Waterways. The new Agreement was approved by the Commission simultaneously with the issuance of a new 26 year General Lease - Commercial Use at its meeting on June 1, 2009.

3. The existing Agreement and Consent to Encumbrancing of Lease in favor of the Department of Boating and Waterways will be terminated upon receiving the new loan from the Bank of Sacramento. The Lessee will provide a copy of the reconveyance document showing the encumbrance

to the lease, approved by the Commission on June 1, 2009, has been paid.

4. The Lessees are in the process of obtaining new financing in an amount not to exceed $1,200,000 for the purpose of paying off the existing loan from Boating and Waterways, personal loans, and for repairs to adjacent upland property, and have requested to encumber the lease as a portion of the security for the new loan. The marina was recently appraised as part of the loan process with the Bank of Sacramento, the proposed Secured Party Lender. Review of the appraisal indicates that the Lessees have significant equity in the marina and the adjacent lands and cash flow adequate to meet debt servicing.

   In approving the Encumbrancing Agreement, the Commission retains the right to approve any transfer from the lending institution to a prospective lessee, should any foreclosure of the loan occur.

5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], 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.

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.

EXHIBITS:

A**.** Site And Location Map
B**.** Land Description

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.

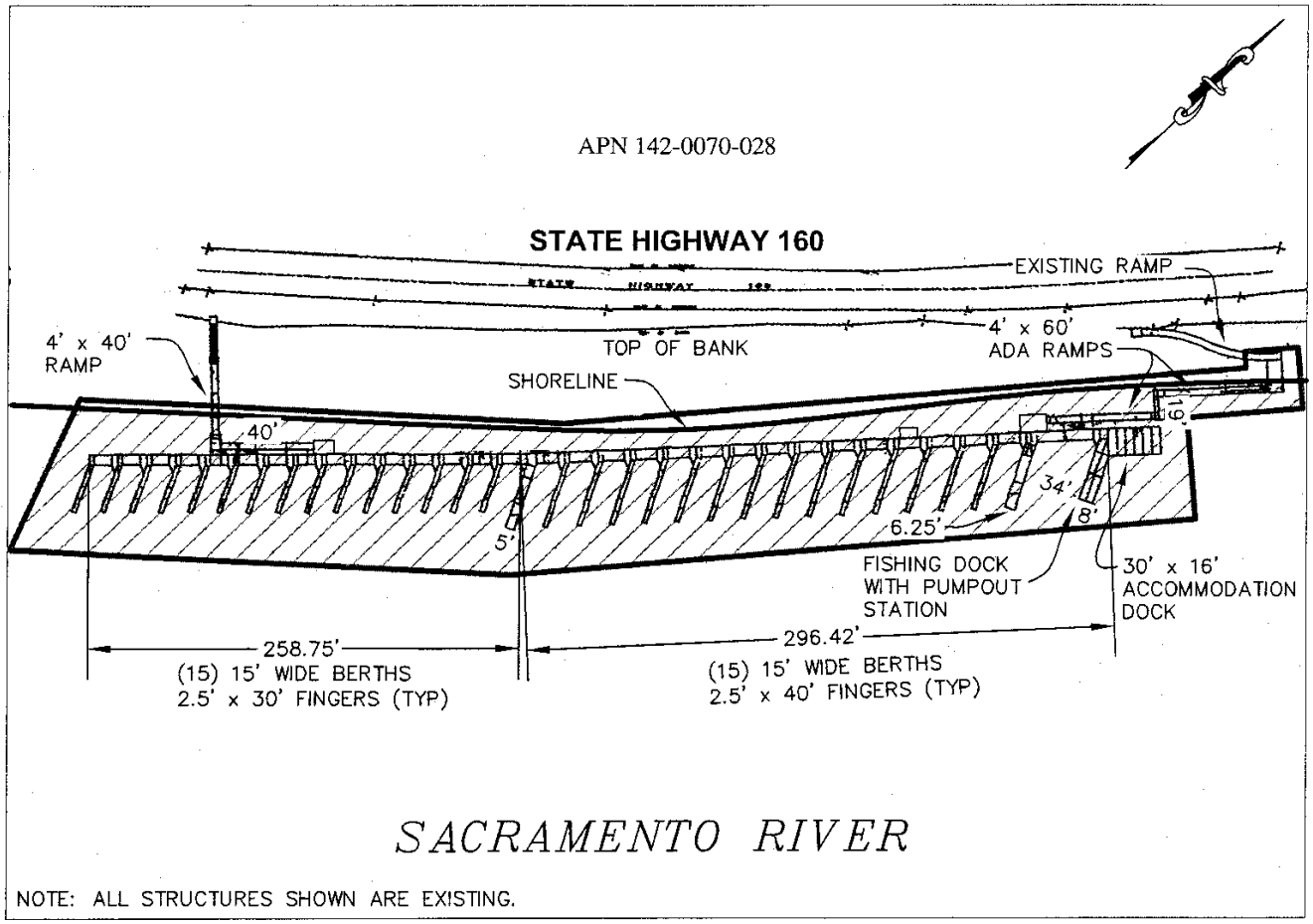
AUTHORIZATION:

1. TERMINATION OF THE AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE AUTHORIZED BY THE COMMISSION ON JUNE 1, 2009, BETWEEN THE STATE LANDS COMMISSION, WALLACE G. CLARK AND CAROLYN SUE CLARK, TRUSTEE OF THE WALLACE G. CLARK AND CAROLYN SUE CLARK TRUST DATED FEBRUARY 18, 1997, WALLACE BRADLY CLARK, BRIAN MARCHINI CLARK, DENNIS EDWARD VOLLMAN AND GINGER LEE VOLLMAN AS TRUSTEES OF THE DENNIS E. VOLLMAN AND GINGER L. VOLLMAN 2006 REVOCABLE TRUST, JOANNE VOLLMAN, JAMES B. MOREY AND PATRICIA J. MOREY, AND MARILYN A. VOLLMAN, TRUSTEE OF THE MAV REVOCABLE TRUST DATED JULY 8, 1997, AND THE DEPARTMENT OF BOATING AND WATERWAYS, EFFECTIVE UPON RECEIPT OF RECONVEYANCE DOCUMENT.

2. AUTHORIZE EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE" IN THE AMOUNT NOT TO EXCEED $1,200,000 ON FILE IN THE OFFICE OF THE COMMISSION BETWEEN THE STATE LANDS COMMISSION, WALLACE G. CLARK AND CAROLYN SUE CLARK, TRUSTEE OF THE WALLACE G. CLARK AND CAROLYN SUE CLARK TRUST DATED FEBRUARY 18, 1997, WALLACE BRADLY CLARK, BRIAN MARCHINI CLARK, DENNIS EDWARD VOLLMAN AND GINGER LEE VOLLMAN AS TRUSTEES OF THE DENNIS E. VOLLMAN AND GINGER L. VOLLMAN 2006 REVOCABLE TRUST, JOANNE VOLLMAN, JAMES B. MOREY AND PATRICIA J. MOREY, AND MARILYN A. VOLLMAN, TRUSTEE OF THE MAV REVOCABLE TRUST DATED JULY 8, 1997, AND THE BANK OF SACRAMENTO, EFFECTIVE AUGUST 11, 2009.

NO SCALE

SITE

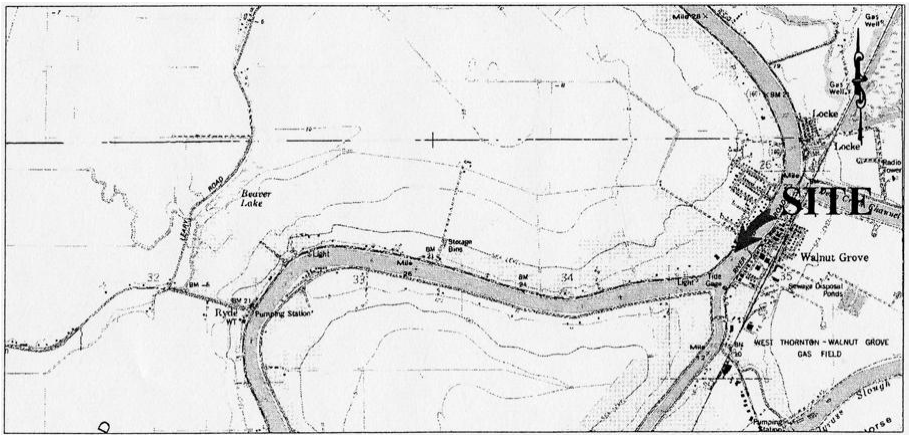


NOTE: ALL STRUCTURES SHOWN ARE EXISTING.

DAGMAR'S LANDING 14180 RIVER ROAD, WALNUT GROVE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit A

WP 7620.1
CLARK, VOLLMAN, ET AL
APN 142-0070-028
GENERAL LEASE
COMMERCIAL USE
SACRAMENTO COUNTY

DJF 04/09