CALENDAR ITEM

C11

A 8 12/17/09

PRC 2409.1

S 4, 5 V. Caldwell

REVISION OF RENT

LESSEE:

Key Lease Corporation, Inc.

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the San Joaquin River, adjacent to 841 W. Brannan Island Road, city of Isleton, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing commercial marina with 93 covered berths, and 23 uncovered berths with pilings and walkways, as shown on Exhibit A.

LEASE TERM:

30 years, beginning April 1, 1989.

CONSIDERATION:

This lease provides that Lessor may modify the method, amount, or rate of consideration periodically during the lease term. Pursuant to this provision, staff has conducted a review of the rent under this lease, and recommends that the rent be revised from an annual rent of $3,150 to a minimum annual rent of $5,033 against five percent of gross income for boat berthing, ten percent of all other gross income, 1½ cents per gallon for fuel sales under 100,000 gallons, and two cents per gallon for fuel sales over 100,000 gallons, effective April 1, 2010.

OTHER PERTINENT INFORMATION:

1. On April 26, 1989, the Commission authorized a General Lease – Commercial Use, to Harry C. Schilling and Harry W. Schilling. Subsequently, on July 10, 1989, the Commission authorized an assignment to Key Lease Corporation, Inc. The lease will expire on March 31, 2019.

2. Pursuant to the terms of the Lease, staff notified the Lessee that the rent was being revised from a fixed annual rent plus rent based on fuel sales to a minimum annual rent against a percentage of the gross income generated on the Lease Premises plus the rent based on fuel sales. The proposed revision is consistent with current Commission leasing practices for commercial marinas. For existing commercial leases, rent revisions are typically based on a review of past reported income generated on the lease premises. Because income levels can fluctuate, the gross income from the past three to five years is averaged. The applicable percentage of gross income is then applied to the average gross income. Lastly, a factor of 75% is applied to represent the new minimum annual rent. The percentages of gross income for the various activities (boat berthing, restaurants/bars, etc.) are in line with what other agencies, municipalities, and facility operators are charging for similar uses as determined through periodic surveys.

3. For this revision, staff reviewed the reported annual income statements submitted by the Lessee for the past three years. The percentage of gross income applied to the average gross income is 5% because that is the percentage rent that applies to income from boat berthing, which is the source of the reported income. In this case, an additional discount was made to the estimated percentage rent to account for the percentage of the marina berthing facilities that are located on sovereign land. To the estimated minimum annual rent based on percentage rent is added the average proceeds from the reported fuel sales to arrive at the new minimum annual rent.

4. The Lessee has requested reconsideration from the revision in rent due to the current economic conditions of the recreational boating industry in the Delta, including higher than normal vacancies and uncollected rents. Staff is recommending the revision in rent because the rent for the Lease was last set when the Lease was originally issued in 1989 with no adjustments since that time. In addition, the minimum annual rent against a percentage of gross annual income provides for the reporting of all revenues generated on the Lease Premises and fair market rent for the activities, operations and use of sovereign lands. The revision is consistent with the Commission's practices with other commercial marinas leasing sovereign land.

EXHIBIT:

A. Site and Location Map

RECOMMENDED ACTION:
IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

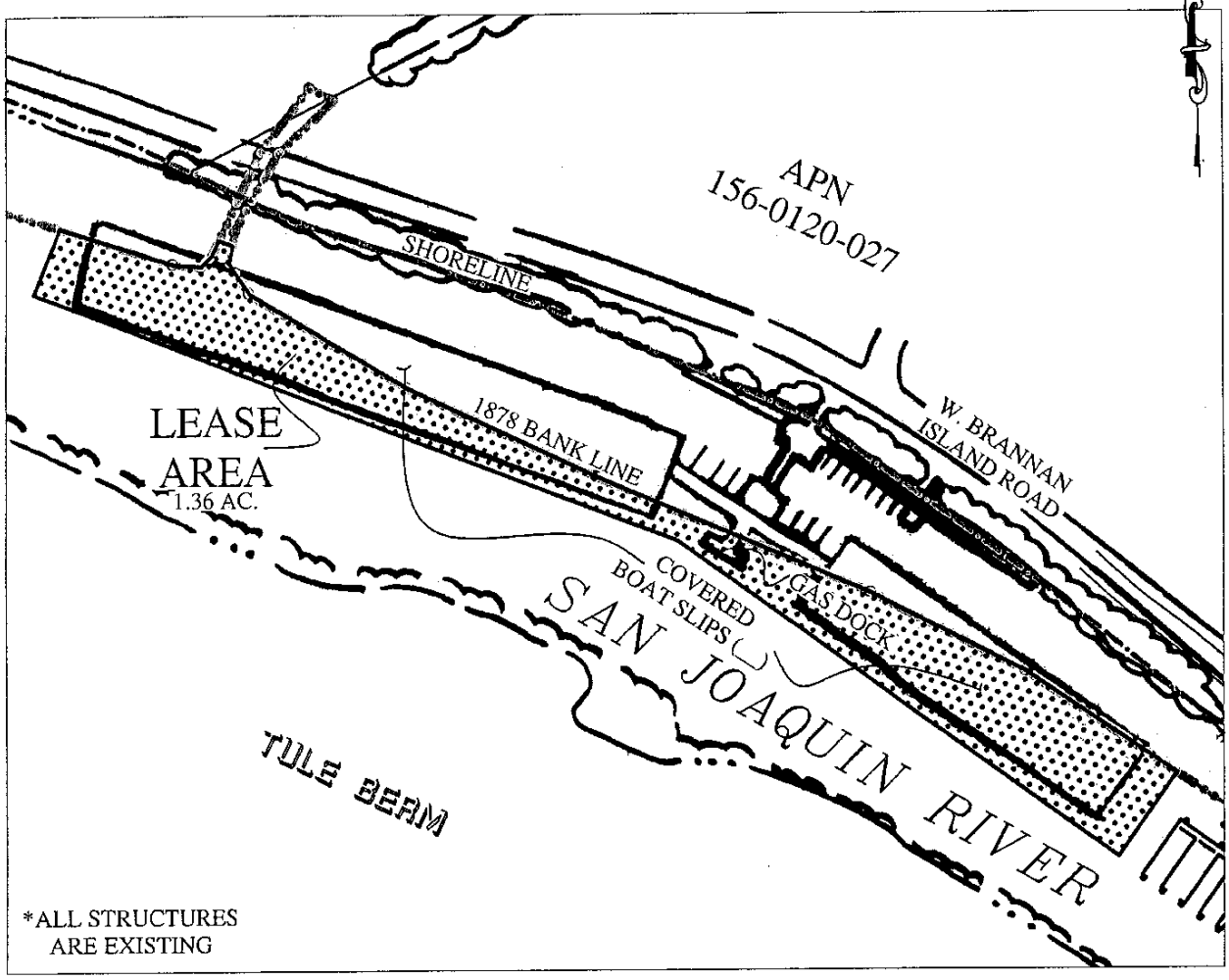
FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

AUTHORIZATION:

APPROVE THE REVISION OF RENT FOR LEASE NO. PRC 2409.1 FROM $3,150 PER YEAR, TO A MINIMUM ANNUAL RENT OF $5,033 AGAINST FIVE PERCENT OF GROSS INCOME FOR BOAT BERTHING, TEN PERCENT OF ALL OTHER GROSS INCOME, 1½ CENTS PER GALLON FOR FUEL SALES UNDER 100,000 GALLONS AND TWO CENTS PER GALLON FOR FUEL SALES OVER 100,000 GALLONS; EFFECTIVE APRIL 1, 2010.

NO SCALE

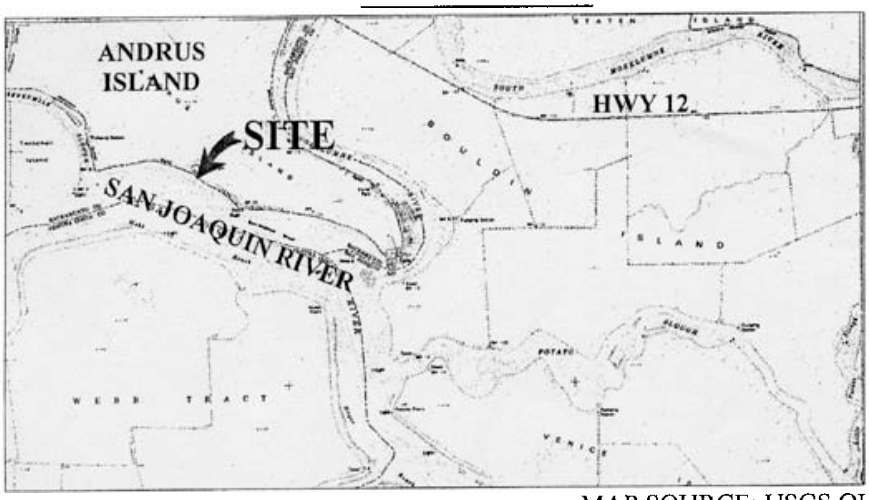
SITE



841 W. Brannan Island Road

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

PRC 2409.1
KEY LEASE CORPORATION, INC.
DBA SPINDRIFT MARINA
APN 156-0120-027
GENERAL LEASE
COMMERCIAL USE
SACRAMENTO COUNTY

MJF 9/01/09