

MINUTE ITEM

C03

04/26/89
WP 2409
Grimmett

GENERAL LEASE - COMMERCIAL USE

In conjunction with the adoption of Consent Calendar Item No. 3, the Lieutenant Governor remarked that starting with this lease, the Commission began a new policy that all new leases granted by this Commission that include food service stands or operations within the lease being granted ban polystyrene containers, and also be required to package or contain food in material that is biodegradable within two years.

Attachment: Calendar Item C03.

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MINUTE ITEM
This Calendar Item No. C03
was approved as Minute Item
No. 3 by the State Lands
Commission by a vote of 3
to 0 at its 4/26/89
meeting.

CALENDAR ITEM

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04/26/89
WP 2409 PRC 2409
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GENERAL LEASE - COMMERCIAL USE

APPLICANT: Harry C. Schilling and Harry W. Schilling
841 W. Brannan Island Road
Isleton, California 95641

AREA, TYPE LAND AND LOCATION:
A 1.36-acre parcel of tide and submerged land
in the San Joaquin River at Andrus Island,
Sacramento County.

LAND USE: Operation and maintenance of a commercial
marina.

TERMS OF PROPOSED LEASE:
Initial period: Thirty (30) years beginning
April 1, 1989.

Surety bond: \$20,000.

Public liability insurance: Combined single
limit coverage of \$1,000,000.

CONSIDERATION: \$3,150 per annum; with the State reserving the
right to fix a different rental on each
fifth anniversary of the lease.

BASIS FOR CONSIDERATION:
Pursuant to 2 Cal. Code Regs. 2003.

APPLICANT STATUS:
Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:
Filing fee has been received.

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STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 2, Div. 3;
Title 14, Div. 6.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. This proposed lease is a replacement of a lease that expired May 27, 1979. Rental and lease negotiations for this lease were suspended, pending a sovereign land title study per the Attorney General's Office, following the San Joaquin River levee break and flooding of Andrus Island. A title study of this area, using maps dating back to the 1870's, has established what staff believes is the natural bank line of Andrus Island prior to reclamation and levee construction. This bank line is being used to determine the Commission's current leasable interest in the San Joaquin River at this site. Further study is under way to resolve the title issues for the area between the natural bank line and the present levee.
2. In compliance with Federal and State law, Section 2 of the proposed lease agreement provides that Lessee shall provide containers on or immediately adjacent to the lease premises to receive trash and refuse generated aboard vessels using Lessee's decking or launching facilities; also, the lease provides that the Lessee will not use polystyrene foam food packaging for its customers prepared food, but will purchase food containers that will degrade within two years to their constituent substances through processes initiated by natural organisms.
3. Lessor hereby consents to Lessee's subletting of all or any portion of the lease premises for berthing or mooring purposes in conjunction with normal commercial marina subleasing practices for terms of one year or less.

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4. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 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.
5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facility, 2 Cal. Code Regs 2905(a)(2).

Authority: P.R.C. 21084, 14 Cal. Code Regs. 15300, and 2 Cal. Code Regs. 2905.

- EXHIBITS:
- A. Land Description.
 - B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITY, 2 CAL. CODE REGS. 2905(a)(2).
2. AUTHORIZE ISSUANCE TO HARRY C. SCHILLING AND HARRY W. SCHILLING OF A THIRTY-YEAR GENERAL LEASE - COMMERCIAL USE, BEGINNING APRIL 1, 1989; IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF \$3,150, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF A \$20,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; EFFECTIVE ON THE FIFTH ANNIVERSARY OF THE LEASE TERM AND EACH FIVE-YEAR PERIOD DURING THE TERM OF THIS LEASE THEREAFTER, LESSOR RESERVES THE RIGHT TO CHANGE AND ALTERNATE THE METHOD OF FIXING ANNUAL RENT FROM EITHER A PERCENTAGE OF THE APPRAISED VALUE OF THE LEASED LAND OR A PERCENTAGE OF ANNUAL GROSS INCOME OR VICE VERSA. NO SUCH MODIFICATION SHALL BECOME EFFECTIVE UNLESS LESSEE IS GIVEN WRITTEN NOTICE AT LEAST SIXTY (60) DAYS PRIOR TO THE EFFECTIVE DATE OF SUCH MODIFICATION; PROVISION FOR CONTAINERS ON OR IMMEDIATELY ADJACENT TO THE LEASE PREMISES TO RECEIVE TRASH AND REFUSE GENERATED ABOARD VESSELS USING

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LESSEE'S DOCKING OR LAUNCHING FACILITIES; PROVISION THAT THE LESSEE WILL NOT USE POLYSTYRENE FOAM FOOD PACKAGING FOR ITS CUSTOMERS PREPARED FOOD BUT WILL PURCHASE FOOD CONTAINERS THAT WILL DEGRADE WITHIN TWO YEARS TO THEIR CONSTITUENT SUBSTANCES THROUGH PROCESSES INITIATED BY NATURAL ORGANISMS; FOR THE OPERATION AND MAINTENANCE OF A COMMERCIAL MARINA ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

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SECTION 3

LAND DESCRIPTION

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A parcel of tide and submerged land in the bed of the San Joaquin River adjacent to and southerly of Andrus Island, Sacramento County, California, more particularly described as follows:

BEGINNING at the southwest corner of lot 54, as shown on that certain subdivision map entitled "San Andreas Park Subdivision", recorded in Book 24 of Maps, Map No. 44, Official Records of Sacramento County; thence along the southerly line of San Andreas Park Subdivision the following four courses:

1. S 71° 38' 15" E 253.01 feet;
2. S 68° 35' 15" E 325.98 feet;
3. S 56° 15' 15" E 85.41 feet;
4. S 51° 03' 15" E 351.38 feet to the southwest corner of lot 34 of said subdivision; thence leaving said southerly line of said subdivision and running into the bed of the San Joaquin River the following eight courses:

5. S 33° 07' 40" W 30.57 feet;
6. S 34° 59' 36" W 137.99 feet;
7. N 54° 11' 16" W 390.82 feet;
8. N 55° 09' 18" W 83.55 feet;
9. N 69° 03' 14" W 596.23 feet;
10. N 21° 21' 18" E 93.09 feet;
11. S 69° 00' 41" E 32.80 feet;
12. N 64° 21' 46" E 95.11 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the San Joaquin River.

This description is based on the California Coordinate System of 1927, Zone 2.

END OF DESCRIPTION

PREPARED APRIL 26, 1988, BY BOUNDARY INVESTIGATION UNIT-3, EDWARD ZIMMERMAN, SUPERVISOR.

EXHIBIT."A"

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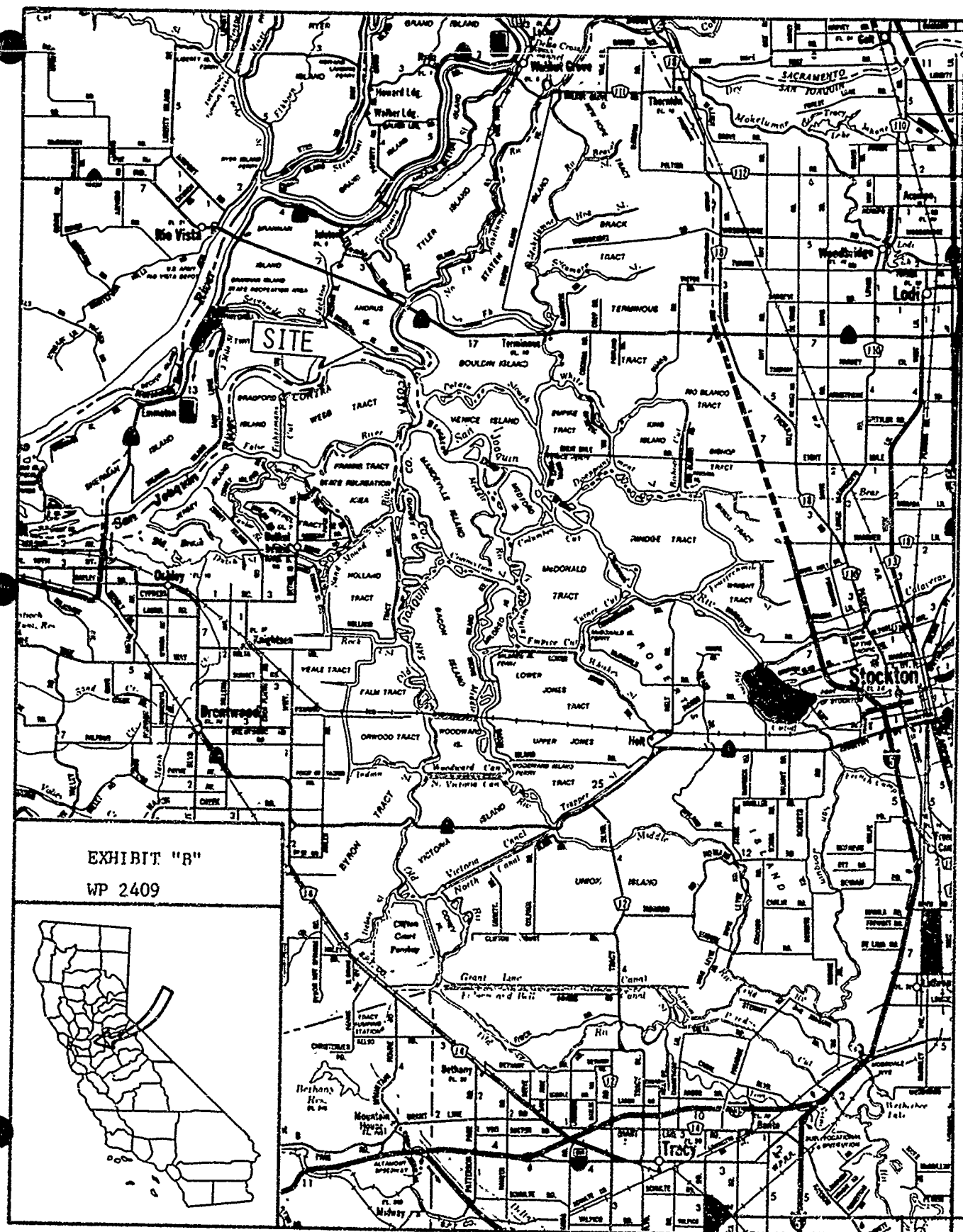


EXHIBIT "B"

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