

CALENDAR ITEM

C50

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MINUTE ITEM  
This Calendar Item No. C50  
was approved as Minute Item  
No. 50 by the State Lands  
Commission by a vote of 3  
to 0 at its 11/15/94  
meeting. 11/15/94  
WP 4306  
PRC 7784  
Jones

ISSUANCE OF GENERAL LEASE - COMMERCIAL USE PRC 7784.1  
AND AUTHORIZATION OF AN  
AGREEMENT AND CONSENT TO ENCUMBRANCING AGREEMENT

APPLICANT:

Willow Berm Phase II Ltd.,  
a California Limited Partnership  
834 Francisco Boulevard, West  
San Rafael, California 94901

AREA, TYPE LAND AND LOCATION:

An 11.65-acre parcel of tide and submerged land in the  
Mokelumne River, at Andrus Island, Sacramento County.

LAND USE:

Construction, operation and maintenance of a 95-berth  
commercial marina.

PROPOSED LEASE TERMS:

Lease period:  
25 years, beginning November 1, 1994.

Surety bond:  
\$20,000

Liability insurance:  
\$1,000,000 combined single limit.

CONSIDERATION:

Lessee shall pay a minimum annual rental as follows:

\$11,745 for the first year in advance on November 1, 1994,  
the beginning and lease anniversary date of the lease;

A minimum annual rental of \$11,745 for the second year  
beginning on November 1, 1995;

and beginning on November 1, 1996, a minimum annual rental  
of \$19,759 for the third year and every year thereafter on  
the lease anniversary date, with the State reserving the  
right to fix a different rental on each fifth anniversary of  
the lease.

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**BASIS OF CONSIDERATION:**

Pursuant to 2 Cal. Code Regs. 2003.

**APPLICANT STATUS:**

Applicant is owner of upland.

**PREREQUISITE CONDITIONS, FEES AND EXPENSES:**

Filing fee and processing costs have been received.

**STATUTORY AND OTHER REFERENCES:**

A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

**AB 884:**

Complete

**OTHER PERTINENT INFORMATION:**

1. Horst Hanf is the current Lessee of PRC 4306.1, a 211-berth commercial marina which is located immediately adjacent to the site of the proposed project. Mr. Hanf is proposing to amend PRC 4306.1 to, among other things, delete from the lease description that portion of the lease premises which encroaches onto the subject new lease premises (see Exhibit "B").
2. The proposed project involves constructing 95 new covered berths consisting of 75 berths each measuring 50 feet in length, 11 berths each measuring 60 feet in length, five berths each measuring 36 feet in length, and four berths each measuring 80 feet in length; an "L"-shaped floating concrete breakwater measuring 12 ft. wide X 796 ft. long and 12 ft. wide X 405 ft. long containing: 1) a fuel dock with five double-pump dispensers, 2) "5 mile per hour" speed signs, 3) "No wake" signs, and 4) two sewage pump-out stations.

The proposed project also involves dredging a maximum of 5,000 cubic yards of material, with disposal of the dredged material (approximately 1/3 acre) on an existing berm located within the lease premises which consists of State-owned land. The purpose of disposing the dredged material at this location is to create an expanded berm to accommodate County mandated parking for the marina berthholders and to provide access. Furthermore, the applicant proposes: 1) to place approximately 700 cubic yards of clean quarry stone and

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800 yards of clean stone fill to construct a containment dike which will be located at the outer bank of the expanded berm area into which the dredged material will be placed, and 2) to submit a Landscape Revegetation Plan which involves planting within the berm area. Pursuant to a mitigation measure adopted in the Final Environmental Impact Report (FEIR) for the Willow Berm Marina Expansion Use Permit (SCH #94012051) dated October 1994, the applicant will submit to the County of Sacramento, a filter-drainage plan for the berm area to minimize the water quality impacts from surface runoff from the parking area. Two above-ground gasoline storage tanks will also be located on the berm.

3. Another mitigation measure specified in the above-referenced FEIR requires that the applicant implement a landscaping plan which involves planting sprigs from native Willow trees within the berm area, monitoring their survival and growth rate over a five year period, and replacing those which have not survived, thus ensuring a 90% survival rate. In addition to these plantings, the applicant has agreed to install additional Willows along the waterside periphery of the berm, as well as installing cuttings of Willows within the stone to be placed on the slope of the berm to create Shaded Riverine Aquatic cover.

Shaded Riverine Aquatic (SRA) cover is the habitat formed by the interface between woody riparian vegetation and water, including trees growing on the bank as well as submerged roots, branches, and snags. It provides important habitat for many wildlife species such as river otter, herons, and egrets which utilize river shorelines. SRA cover is also important habitat for aquatic organisms, especially fish. SRA cover provides food sources, shelters from the current, refuge from predators, and shade. Such riparian vegetation along the banks of the Delta rivers is regarded as an essential component of Critical Habitat for the winter-run chinook, as designated by the National Marine Fisheries Services under the Federal Endangered Species Act.

To implement these required plantings, Lessee is required to submit to the Commission, a finalized Landscape and Revegetation Plan, which is conceptually

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shown on Exhibit "D", no later than six months following the commencement of construction of the facility or July 1, 1995.

4. To reduce impacts to the Delta Smelt, the Winter-run chinook salmon, and other Delta fish species, the applicant is restricted to constructing its facilities within the river between August 1 through September 15, each year, unless all other agencies with permit authority over the proposed project authorize a different time period for instream construction.
5. The annual rental for this commercial marina will be valued at six percent of the gross receipts, with the applicant required to submit a minimum annual rental on the lease anniversary date. Due to the above-described construction time constraints, the marina will not be in operation during the first year (November 1, 1994 to October 31, 1995). The applicant has indicated it will take approximately six months to construct the facility and six months from the completion of construction to obtain optimum revenue from the lease premises. Thus, it is assumed the second year of the lease (November 1, 1995 to October 31, 1996) will only realize six months of full operation. Therefore, it is proposed to base the minimum annual rental on an escalated basis: The minimum annual rental will be \$11,745 for the first year, \$11,745 for the second year, and \$19,759 for the third year and each year thereafter with the remainder due at the end of each calendar year, the rental being subject to five year rent reviews.
6. The applicant has applied to the State Department of Boating and Waterways (DB&W) for a \$1.6 million loan in connection with the construction of the new marina. As a condition of the loan, the DB&W has requested that it be named as a Secured-Party Lender under the subject lease. DB&W, the applicant and SLC staff will execute an "Agreement and Consent to Encumbrancing of Lease", which document is substantially similar to the document on file in the office of the Commission.
7. **General Lease - Commercial Use**

An EIR was prepared and adopted for this project by the County of Sacramento and the Commission has reviewed and considered the information contained therein.

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Findings were made in conformance with Section 15096(h) of the State CEQA Guidelines, as contained in Exhibit "G", attached hereto.

**Encumbrancing Agreement**

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 CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

8. This activity is consistent with the use classification designated for the land pursuant to P.R.C. 6370, et seq.

**EXHIBITS:**

- A. Land Description
- B. Site Plan
- C. Location Map
- D. Conceptual Landscape Revegetation Plan
- E. County of Sacramento Use Permit and CEQA Findings

**IT IS RECOMMENDED THAT THE COMMISSION:**

1. AS TO THE GENERAL LEASE:

FIND THAT AN EIR WAS PREPARED AND ADOPTED FOR THIS PROJECT BY THE COUNTY OF SACRAMENTO AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN. ADOPT THE FINDINGS MADE IN CONFORMANCE WITH SECTION 15096(h) OF THE STATE CEQA GUIDELINES, AS CONTAINED IN EXHIBIT "E", ATTACHED HERETO.

2. AS TO THE ENCUMBRANCING AGREEMENT:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.

3. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.

CALENDAR ITEM NO. C50 (CONT'D)

4. AUTHORIZE ISSUANCE TO WILLOW BERM PHASE II LTD., A CALIFORNIA LIMITED PARTNERSHIP, OF A 25 YEAR GENERAL LEASE - COMMERCIAL USE, BEGINNING NOVEMBER 1, 1994; IN CONSIDERATION OF A MINIMUM ANNUAL RENTAL OF \$11,745 FOR THE FIRST YEAR IN ADVANCE ON NOVEMBER 1, 1994; A MINIMUM ANNUAL RENTAL OF \$11,745 FOR THE SECOND YEAR BEGINNING ON NOVEMBER 1, 1995, AND BEGINNING ON NOVEMBER 1, 1996, A MINIMUM ANNUAL RENTAL OF \$19,759 FOR THE THIRD YEAR AND EVERY YEAR THEREAFTER ON THE LEASE ANNIVERSARY DATE, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; FOR A 95 COVERED BERTH COMMERCIAL MARINA CONSISTING OF 75 BERTHS MEASURING 50 FEET IN LENGTH EACH, 11 BERTHS MEASURING 60 FEET IN LENGTH EACH, FIVE BERTHS MEASURING 36 FEET IN LENGTH EACH, AND FOUR BERTHS MEASURING 80 FEET IN LENGTH EACH; AN "L"-SHAPED FLOATING CONCRETE BREAKWATER MEASURING 12 FT. WIDE X 796 FT. LONG AND 12 FT. WIDE X 405 FT. LONG CONTAINING 1) A FUEL DOCK WITH FIVE DOUBLE-PUMP DISPENSERS, 2) "5 MILE PER HOUR" SPEED SIGNS, 3) "NO WAKE" SIGNS, AND 4) TWO SEWAGE PUMP OUT STATIONS; DREDGING A MAXIMUM OF 5,000 CUBIC YARDS OF MATERIAL, WITH DISPOSAL OF THE DREDGED MATERIAL WITHIN THE LEASE PREMISES TO CREATE AN EXPANDED BERM TO ACCOMMODATE PARKING; THE PLACEMENT OF APPROXIMATELY 700 CUBIC YARDS OF CLEAN QUARRY STONE AND 800 YARDS OF CLEAN STONE FILL TO CONSTRUCT A CONTAINMENT DIKE TO BE LOCATED AT THE OUTER BANK OF THE EXPANDED BERM AREA INTO WHICH THE DREDGED MATERIAL WILL BE PLACED; INSTALLATION OF A FILTER/DRAIN IN SPECIFIED AREAS ALONG THE BERM; AND INSTALLATION OF TWO ABOVE-GROUND GASOLINE TANKS LOCATED ON THE BERM; ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
5. AUTHORIZE STAFF EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE" IN THE AMOUNT OF \$1,000,000 ON FILE IN THE OFFICE OF THE COMMISSION, IN FAVOR OF THE STATE DEPARTMENT OF BOATING AND WATERWAYS, AS A SECURED-PARTY LENDER.

Oct. 20, 1994

**EXHIBIT "A"**  
**WP-4306**

**LEASE PARCEL ONE**  
**PROPOSED MARINA EXPANSION**

A parcel of land located in the County of Sacramento, State of California, lying approximately three-quarters of a mile upstream from the confluence of the Mokelumne and San Joaquin Rivers, more particularly described as follows:

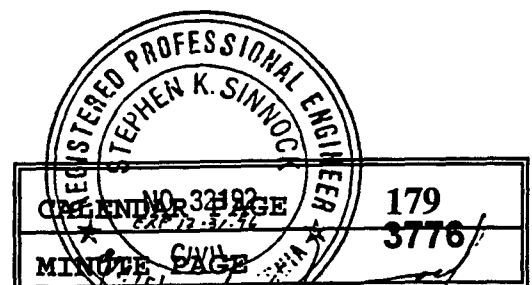
Commencing at a point on the boundary of that tract of land described in Amended Judgement No. 81526, recorded in Book 2279 at Page 98, Sacramento County Records, which bears North 31°35' East 210.00 feet from an iron pipe marked "LS 1818" as described in said Amended Judgement; thence along the boundary of said Amended Judgement North 35°21'10" West 362.94 feet to the TRUE POINT OF BEGINNING of the herein described parcel; thence leaving the boundary of said Amended Judgement and continuing along the following fourteen (14) courses:

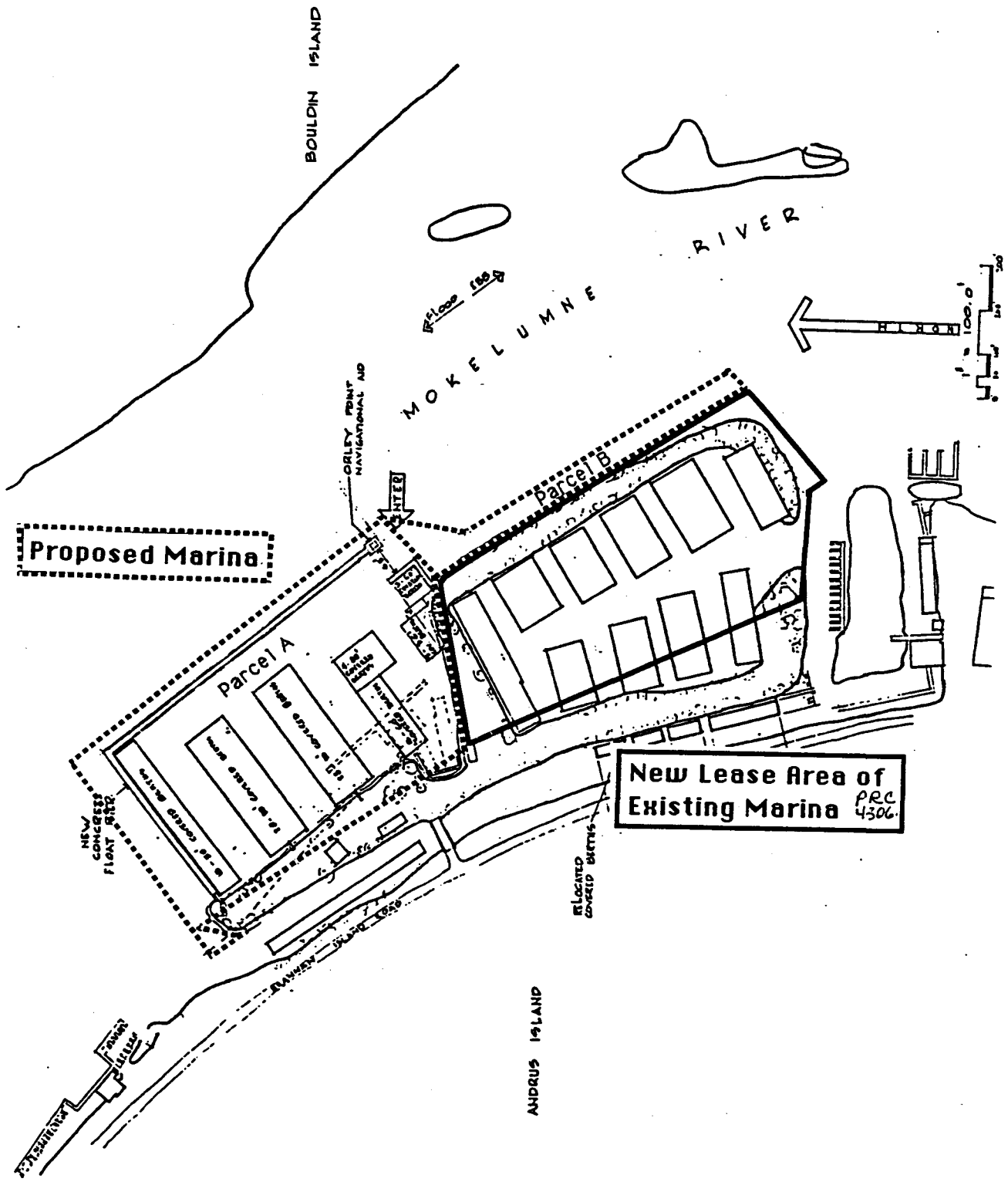
- (1) North 46°36'14" West 125.00 feet;
- (2) thence North 43°23'46" East 105.00 feet;
- (3) thence North 43°23'46" East 426.81 feet;
- (4) thence South 43°05'00" East 941.21 feet;
- (5) thence South 03°06'00" West 114.16 feet;
- (6) thence South 35°03'14" East 934.67 feet;
- (7) thence South 60°56'46" West 92.51 feet;
- (8) thence North 35°03'14" West 242.10 feet;
- (9) thence North 25°43'49" West 71.31 feet;
- (10) thence North 34°44'06" West 456.32 feet;
- (11) thence North 43°23'11" West 97.28 feet;
- (12) thence North 35°03'14" West 174.96 feet;
- (13) thence South 64°19'46" West 170.00 feet;
- (14) thence South 63°43'55" West 199.11 feet

to a point on the boundary of said Amended Judgement; thence along the boundary of said Amended Judgement the following five (5) courses:

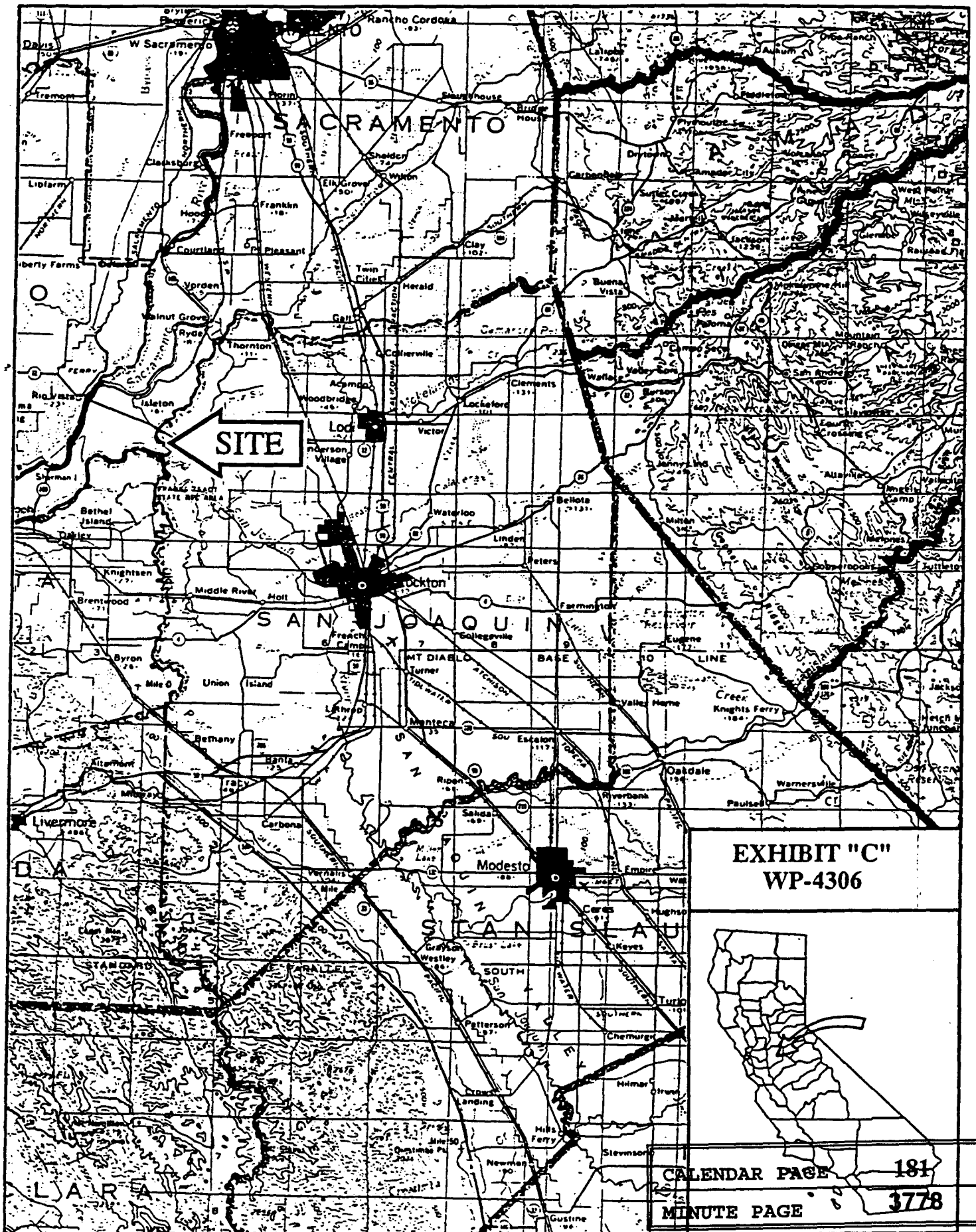
- (1) North 30°00'00" West 160.00 feet;
- (2) thence North 45°00'00" West 310.00 feet;
- (3) thence North 41°00'00" West 210.00 feet;
- (4) thence North 77°00'00" West 32.54 feet;
- (5) thence South 22°26'00" East 80.04 feet

to the TRUE POINT OF BEGINNING of the herein described parcel. Containing 11.65 acres, more or less.







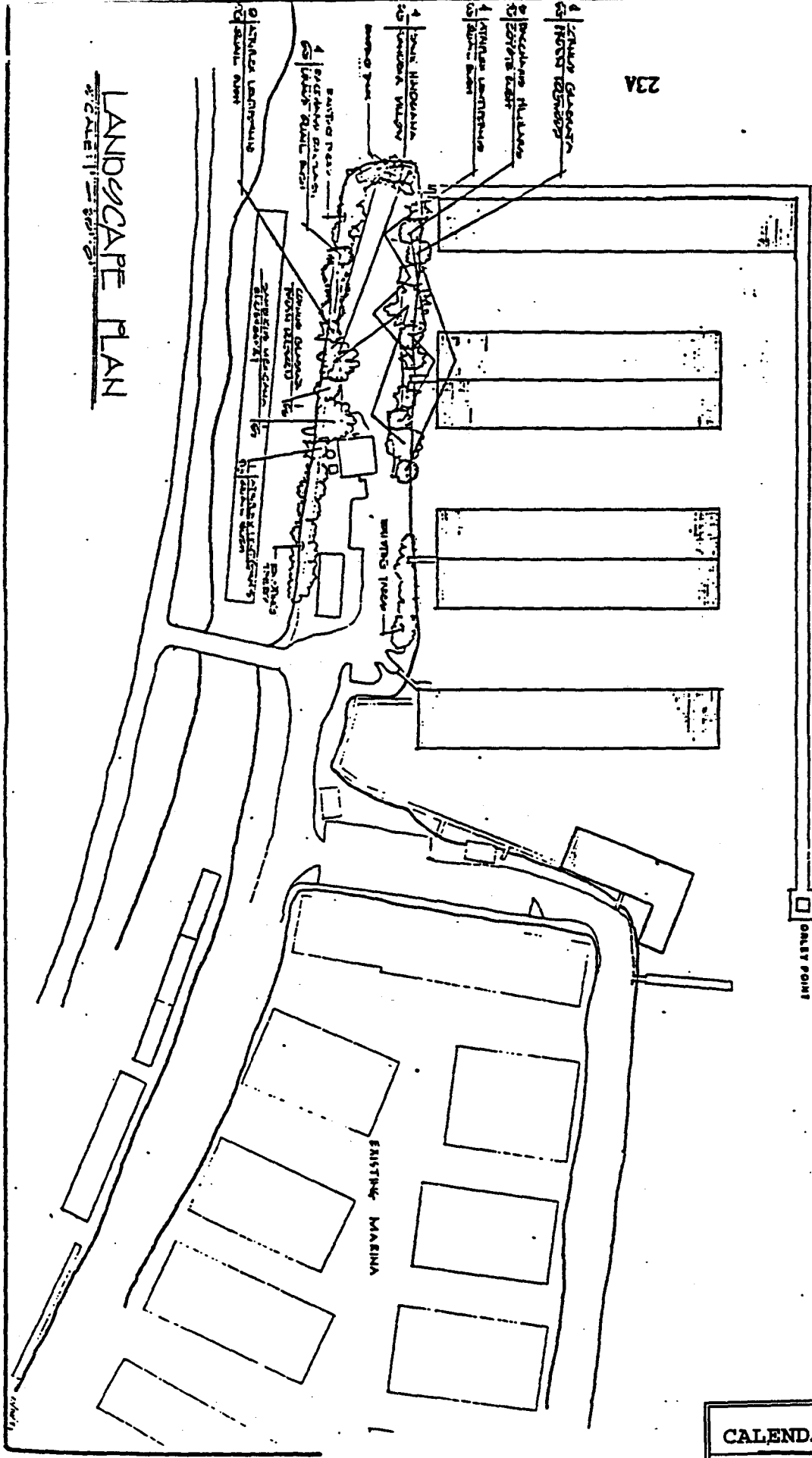


**EXHIBIT "C"**  
**WP-4306**



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LANDSCAPE PLAN



23A

- NOTE:
1. CONTRACTOR TO CHECK ALL PROPOSED PLANTING
  2. ALL PLANTING LOCATIONS TO BE APPROVED BY ARCHITECT
  3. TREE REMOVAL (IF ANY) SHALL BE AS DIRECTED BY ARCHITECT
  4. CONTRACTOR TO PROVIDE ALL DESIRED PLANTING
  5. ALL PLANTING SHALL BE MONITORED FOR 1 YEAR
  6. CONTRACTOR SHALL PROVIDE A 10% SURVIVAL RATE AFTER 1 YEAR
  7. CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING TREES AND PLANTS
  8. CONTRACTOR SHALL PROVIDE A 10% SURVIVAL RATE AFTER 1 YEAR
  9. CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING TREES AND PLANTS

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HOLM

EXHIBIT "D"

6

ADD

DATE

BY

REVISION

EXHIBIT "E"

COUNTY OF SACRAMENTO  
INTER-OFFICE CORRESPONDENCE

October 26, 1994

TO: Planning Department

FROM: KATHY ROGERS, Secretary *KR*  
PROJECT PLANNING COMMISSION

SUBJECT: 90-UPP-0855 - (DELTA/FERRARIO)  
**HORST HANF** - Engineer: Murray, Burns & Kienlan - Assessor's Parcel No. 140-0110-026, located on the east side of Andrus Island 1500± feet north of the confluence of the Mokelumne and San Joaquin Rivers, in the Delta community.

The Project Planning Commission, meeting in regular session on October 17, 1994, voted unanimously (Commissioner Martinez absent) to approve the following requests:

**Use Permit**

A Use Permit to allow the expansion of an existing marina, in the DW land use zone. The expansion includes the construction of 95 covered berths contained within a concrete floating pier approximately 405 feet x 750 feet, new gas dock, relocation of the 700 square foot office and addition of two new restrooms to an existing workshop project is known as **Willow Berm Marina**, subject to conditions set forth in the staff report and amended by the Department of Environmental Review and Assessment and the Planning Department in their memos dated October 17, 1994.

**Special Review of Parking**

A Special Review of Parking to allow the off-street parking area to be completely paved for the Willow Berm Marina.

The Commission adopted the Findings of Fact and Statement of Overriding Considerations; and certified the Final Environmental Impact Report as adequate and complete.

cc: In House  
Owner/applicant.

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USE PERMIT  
SACRAMENTO COUNTY

90-UPP-0855  
Control Number

Hearing Date: October 17, 1994

140-0110-026  
Assessor's Parcel No.

ENGINEER:

Murray, Burns & Kienlan  
1616 29th Street, Suite 300  
Sacramento, CA 95816  
Attn.: Scott Morris

OWNER/APPLICANT:

Horst Hanf  
823 Francisco Boulevard, West  
San Rafael, CA 94901

PERMISSION IS GRANTED TO USE THE SUBJECT PREMISES FOR THE FOLLOWING DESCRIBED USE: To allow the expansion of an existing marina, in the DW land use zone. The expansion includes the construction of 95 covered berths contained within a concrete floating pier approximately 405 feet x 750 feet, new gas dock, relocation of the 700 square foot office and addition of two new restrooms to an existing workshop. A special review of parking to allow the off-street parking area to be completely paved for the Willow Berm Marina.

**DESCRIPTION OF PREMISES:** The property is located on the east side of Andrus Island, 1500+ feet north of the confluence of the Mokelumne and San Joaquin Rivers, in the Delta community.

**CONDITIONS OF APPROVAL:**

1. This action does not relieve the applicant of the obligation to comply with all ordinances, statutes, regulations and procedures. Any required subsequent procedural actions shall take place within 36 months of the date on which the permit became effective or this action shall automatically be null and void.
2. The proposed development shall be limited to 95 additional berths and the relocation of 40 existing covered berths, the fuel station, well pump and tank and built in substantial compliance with Exhibit "G".

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**CONDITIONS OF APPROVAL: (Continued)**

3. Construct two (2) loading spaces (10 feet X 20 feet each) and 5 feet of back up space in between, as shown on Exhibit "G".
4. No sign shall be allowed on the proposed lighthouse.
5. The project proponent shall contribute a fair share amount, as determined by the Agency Administrator of the Sacramento County Public Works Agency, for the following off-site traffic improvements:
  - a. Construct a connector ramp north and south of State Route 12 at Brannan Island Road as shown on Figure 15 of the Final EIR. The recommended improvements include the following. The existing eastbound left turn lane and approach tapers would be striped as a median. Use of a curbed center median is prohibited due to traffic safety hazard concerns. The new eastbound connector road would be accessed via a right turn lane. The right turns to and from the connector road would be on separate roadways with 60 foot turning radii. The existing intersection would be modified to the same design. (Consult with Caltrans during design phase to assure that required improvements are properly located with respect to future roadway improvements.)
6. To reduce impact to Delta smelt and other Delta fish species, in-stream construction must take place from August 1 through September 15, each year, unless all other agencies with permit authority over the proposed project authorize a different time period for in-stream construction. If other in-stream construction time periods are approved by all other permitting agencies for the project, the applicant shall inform the County's Planning Director and Environmental Coordinator in writing and provide a copy of all applicable permit(s) authorizing such construction.
7. Prior to the issuance of building permits, final development plans shall be reviewed by the Planning Department during the plan check process to assure compliance with all ordinance requirements and the following:
  - a. Tree removal shall be limited to a 8 to 10 inch double trunked alder, a 28 inch cottonwood and a 37 inch cottonwood.
  - b. Implement the project landscaping plan as depicted on Exhibit "J".

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**CONDITIONS OF APPROVAL: (Continued)**

8. Prior to issuance of a building permit, submit a drainage plan to be reviewed by the Sacramento County Department of Environmental Review and Assessment and the Sacramento County Water Resources Division. In order to minimize water quality impacts, surface runoff from the new paved areas of the marina shall be directed to perimeter infiltration areas consisting of sand and crushed rock. No piped outfall to the river shall be allowed.
9. Prior to issuance of a Building Permit, the marina owner shall prepare and submit a fuel spill clean-up plan to be reviewed and approved by the Sacramento County Department of Environmental Review and Assessment in consultation with the State Lands Commission. The marina operator shall be responsible for implementation of the Plan in the event of a spill. The marina must have needed fuel containment equipment as specified in the clean-up plan, such as containment booms and absorbent materials located on the site.
10. Trash receptacles shall be placed in convenient locations to encourage their use by patrons of the project. The marina operator shall make available at no cost, litter bags for use by all boaters using the project facilities.
11. Provide signs and markings for boat traffic entering the marina and signs to alert boaters of the presence of a fuel dock. This shall also include illumination for boaters operating at night.
12. Provide speed limit signs with "5 MPH ZONE" and "NO WAKE ZONE" painted in black and red on a white background and posted along the fuel dock so that they are visible to boaters going in either direction on the river as well as within the confines of the berthing area.
13. The parking area shall have minimum maintained illumination of 1.0 footcandles.
14. Walkways and covered berths shall have minimum maintained illumination of 0.50 footcandles.
15. The walkways to the berths shall be gated and locked when the marina is closed.
16. Provide minimum pad/floor elevations or floodproofing pursuant to the Sacramento County Floodplain Management Ordinance (Chapter 6, Sections 906-03 and 03).

**CONDITIONS OF APPROVAL: (Continued)**

17. Prior to the issuance of the building permit, the developer shall prepare and submit a Flood Evacuation Plan. The evacuation plan shall first be reviewed for adequacy by the County Emergency Services Officer and the Sheriff's Department. Once, this plan has been certified as complete by the Planning Director, copies of the evacuation plan and map shall be posted permanently at one or more of the following locations:
  - a. At the main entrance to the facility;
  - b. Any other location identified by the County Emergency Services Officer, Sheriff, or Director of the Planning Department.
  
18. The Evacuation Plan required by Condition 17 above, shall include the following:
  - a. A description of the number, location, size, elevation and construction of staging areas associated with the development. The evacuation areas designated in the immediate vicinity shall be large enough to accommodate relocation of stored vehicles to high ground;
  - b. Number, location, and desirability of all land based evacuation routes;
  - c. Designate an evacuation Coordinator who will be responsible for assuming that appropriate emergency measures are taken at the marina site.
  - d. Develop and post evacuation routes. Routes should be posted in several conspicuous places around the marina.
  - e. Designate an area for temporary recreational vehicle parking for owners that are not at the resort during the early evacuation stage.
  - f. Designate a caretaker who has authority to move vehicle/boats prior to owner notification of emergency.
  - g. List of emergency phone numbers of Evacuation Coordinator.
  - h. Location of on-site emergency equipment:
    - First aid kit
    - Life jackets
    - Ropes and other equipment deemed necessary
    - Small boats

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**CONDITIONS OF APPROVAL: (Continued)**

- i. Alarm system to be used for notifying the public of an emergency. This could include a public address system around the perimeter of the marina and/or a bull horn for use by the caretaker.
  - j. Post location of utility shut-offs for employees.
  - k. Any other information as required by the Planning Director, the Office of Emergency Services, or the Sheriff.
19. Comply with the Mitigation Monitoring and Reporting Program (MMRP) for this project as follows:
- a. The project proponent shall comply with the MMRP for this project, including the payment of 100% of the Department of Environmental Review and Assessment staff costs, and the costs of any technical consultant services incurred during implementation of the MMRP. The initial estimate of these costs is \$2,500.00. If the initial estimate of these costs exceeds the actual monitoring costs, the balance shall be refunded to the proponent, and if the actual monitoring costs exceed the initial estimate, the proponent shall be responsible for paying the additional amount.
  - b. Until the MMRP has been recorded and the estimated MMRP fee has been paid, no final parcel map or final subdivision map for the subject property shall be approved; and no encroachment, grading, building, sewer connection, water connection or occupancy permit from Sacramento County shall be approved.

**FINDINGS:**

1. The request is consistent with County General Plan Map and Text policies for development within the Delta community in that no policy conflicts are identified.
2. Identified environmental effects and suggested mitigation measures have been taken into consideration in the recommended actions and conditions of approval.
3. The granting of the use permit will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood of such proposed uses or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County, in that:

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**FINDINGS: (Continued)**

- a. The use is already established and the expansion is compatible with the surrounding land uses.
  - b. The environmental impacts may be mitigated if the conditions of this report are adopted.
4. The project is consistent with the Delta Protection Act in that the required findings can be made in the affirmative. The following are the findings as required by the Act:
- a. The development will not result in wetland or riparian loss in that no wetland vegetation have been identified on site and riparian loss will be compensated by the on-site planting program.
  - b. The development will not result in the degradation of water quality in that erosion control measures will be in place; the dredging activity will be monitored by the State Regional Water Quality Control Board; in water construction will be limited to the period when the delta fish species are non-vulnerable; a fuel spill clean-up plan will be prepared; and the sewage pump-out station will be connected to the on-shore septic system.
  - c. The development will not result in increased non-point source pollution or soil erosion, including subsidence or sedimentation in that erosion control measures will be in place; and trash receptacles will be available to marina patrons.
  - d. The development will not result in the degradation or reduction of the Pacific Flyway habitat in that the project does not propose to reclaim tidal marsh land.
  - e. The development will not result in reduced public access, provided that access does not infringe upon private property rights in that the project is a commercial use.
  - f. The development will not expose the public to increased flood hazards in that the proposed berths will be contained within a concrete floating pier which will adjust to varying water levels; the proposed structures (restroom and office) will be subject to Floodplain Management Ordinance and an Emergency Evacuation Plan will be prepared.

**FINDINGS: (Continued)**

- g. The development will not adversely impact agricultural lands or increase the potential for vandalism, trespass, or the creation of public or private nuisances on private or public lands in that the project is contained within the water side; thus, does not impact agricultural land. The project will not create nuisances because security is already provided by the management and adequate illumination will be provided for the parking lot, walkways and covered berths.
  - h. The development will not result in the degradation or impairment of levee integrity in that no prediction models exist to assess levee stability; thus, there is no evidence that the project will impact the integrity of the levee.
  - i. The development will not adversely impact navigation, in that signs will be posted to control speed limits and alert the boaters of the presence of a fuel dock. The addition of 94 berths will not significantly impact the carrying capacity of the river; and the proposed beacon will facilitate nighttime navigation.
  - j. The development will not result in any increased requirements or restrictions upon agricultural practices in the primary zone in that this project is a water-oriented use.
5. Pursuant to Section 235-156 of the Zoning Code, the development will not significantly;
- a. limit the diversity of public uses appropriate in the waterway in that the project promotes recreational activities for the public.
  - b. result in a substantial adverse environmental impact to natural habitat in that in-water construction shall be limited to the period when the delta fish species are non-vulnerable; and riparian loss will be compensated by the on-site planting program.
  - c. impede the natural flow of the channel in that the project consists of a floating breakwater design.
  - d. adversely affect the stability of the levee or lands adjacent to the waterway or formation of sandbars or shoals in that no evidence exist that the project will impair the stability of the levee system.

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**FINDINGS: (Continued)**

- e. create a safety or navigation hazard in that signs will be posted to control speed limits and alert boaters of the presence of the fuel dock; and the addition of the 94 berths will not significantly impact the carrying capacity of the river; the proposed beacon will facilitate nighttime navigation.
- f. cause increased flood heights in that the development will be contained on the waterside of the levee. No development is proposed on the land side of the levee.
- g. cause additional threats to public safety in that the proposed berths will be contained within a concrete floating pier which will adjust to varying water levels; structures on land will be subject to the Floodplain Management Ordinance and an Emergency Evacuation Plan will be prepared.
- h. reduce the ecological or scenic value of an existing or approved State or local ecological preserve or wildlife management area in that the subject site is not located adjacent to a local ecological or wildlife preserve.
- i. cause excessive disturbance, dredging, filling or bulkheading to the shoreline, and be incompatible with the existing natural and man-made features in that erosion control measures will be in place and the dredging activity will be monitored by the State Regional Water Quality Control Board.

ENVIRONMENTAL DOCUMENT: Final Environmental Impact Report

**CAUTION: THIS USE PERMIT IS OF NO FORCE AND EFFECT UNTIL THE EXPIRATION OF A 10-DAY APPEAL PERIOD FROM AND AFTER THE DATE OF THE HEARING ON THE USE PERMIT.**

**THIS ACTION DOES NOT RELIEVE THE APPLICANT OF THE OBLIGATION TO COMPLY WITH ALL ORDINANCES, STATUTES, REGULATIONS AND PROCEDURES. ALL COSTS INCURRED BY THE COUNTY TO ENFORCE THE CONDITIONS LISTED IN THIS PERMIT SHALL BE THE RESPONSIBILITY OF THE PERMIT HOLDER AND/OR PROPERTY OWNER. THE ABOVE USE WILL NOT BE CONDUCTED TO CONSTITUTE EITHER A PUBLIC OR PRIVATE NUISANCE. VIOLATION OF ANY OF THE FOREGOING CONDITIONS WILL CONSTITUTE GROUNDS FOR REVOCATION OF THIS PERMIT. BUILDING PERMITS ARE REQUIRED IN THE EVENT ANY BUILDING IS PLANNED. A CONDITIONAL USE PERMIT, IF NOT USED FOR THE PURPOSE FOR WHICH IT WAS GRANTED, SHALL LAPSE AND SHALL BECOME VOID THREE YEARS FOLLOWING THE DATE ON WHICH THE PERMIT BECAME EFFECTIVE, UNLESS BY CONDITION OF THE PERMIT A GREATER TIME IS ALLOWED, OR UPON THE EXPIRATION DATE OF A VALID BUILDING PERMIT OBTAINED AFTER THE GRANT OF THE CONDITIONAL USE PERMIT, WHICHEVER DATE IS LAST TO OCCUR.**

**SACRAMENTO COUNTY PROJECT PLANNING COMMISSION**

BY: \_\_\_\_\_

*Kathleen Rogers*  
**KATHLEEN ROGERS, Secretary**

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BEFORE THE PROJECT PLANNING COMMISSION  
OF THE  
COUNTY OF SACRAMENTO

Control Nos. 90-UPP-PRP-0855

RE: Application of Horst Hanf by )  
Scott Morris of Murray, Burns and )  
Kienlan for a Use Permit and Special )  
Review of Parking for a project known )  
as Willow Berm Marina. )

FINDINGS OF FACT  
AND  
STATEMENT OF OVERRIDING CONSIDERATIONS

I. GENERAL INFORMATION AND DESCRIPTION OF THE PROJECT

The application of Horst Hanf, by Scott Morris of Murray Burns and Kienlan for a Use Permit and Special Review of Parking came before the Project Planning Commission for consideration at a regular meeting held on October 17, 1994. The project contemplated by the applicant and discussed in the Final Environmental Impact Report (FEIR), consists of:

1. A Use Permit to allow the expansion of an existing marina, in the DW land use zone. The expansion includes the construction of 95 covered berths contained within a concrete floating pier approximately 405 x 750 feet, new gas dock, relocation of 700 square foot office and addition of two new restrooms to an existing workshop.
2. A Special Review of Parking to allow the off-street parking area to be completely paved.

The marina currently contains 218 berths and the expansion will result in a total of 313 berths. The subject property consists of 8.23± acres and is located on the east side of Andrus Island, 1500 feet north of the confluence of the Mokelumne River and San Joaquin Rivers, in the Delta community. The expansion will be located north of the existing marina.

The Environmental Coordinator for the County, after reviewing the application and completing an Initial Study for the project, determined that the

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Environmental Impact Report (EIR) was required. A Draft Environmental Impact Report (DEIR) was released in July 1993, and a Final Environmental Impact Report was released in October 1994.

The DEIR was scheduled for hearing by the Project Planning Commission on September 26, 1994. Public notice of the hearing for the DEIR had been given as required by law and County regulations. The Commission heard comments on the DEIR and took the following actions on a unanimous vote.

1. Recognized the DEIR as adequate and appropriate with conclusions of significant impacts upon traffic and air quality, and directed staff to prepare the FEIR, including responses to comments received;

The proposed project was then set for hearing at a regular meeting of the Project Planning Commission on October 17, 1994 at which time, after receipt of oral and documentary evidence, the Project Planning Commission took the following actions:

1. Certified the Final Environmental Impact Report as adequate and complete with findings that there are significant adverse impacts to traffic and air quality;
2. Approved the Use Permit and Special Review of Parking with these Findings of Fact and Statement of Overriding Considerations as required by Public Resources Code Section 15091 and 15092.

## II. THE RECORD

For the purposes of CEQA and these Findings the record of the proceedings for the project includes but is not limited to the following:

1. The application package consisting of the original application filed by the applicant, Horst Hanf, including written documents and maps;

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2. All environmental documents prepared by the Environmental Coordinator of Sacramento County, including the Initial Study, Draft EIR and Final EIR prepared for the project;
3. All staff reports, memoranda, maps, letters, minutes of meetings, referrals, and other planning documents prepared by County staff relating to the project;
4. All testimony, documents, and other evidence presented by the applicant or the applicant's agents relating to the project;
5. The proceedings before the Planning Commission relating to the subject project, including testimony and documentary evidence introduced at the public hearings;
6. Matters of common knowledge to the Project Planning Commission which it considers, including but not limited to, the following:
  - a. The Sacramento County General Plan, including the Land Use Map and elements thereof;
  - b. The Air Quality Attainment Plan, a basic strategy adopted by the Board implementing mandated programs of the State of California Clean Air Act;
  - c. The text and land use plan of the Delta Community Plan;
  - d. The Zoning Code of Sacramento County;
  - e. The Sacramento County Code;
  - f. The Delta Protection Act of 1992;
  - g. Other formally adopted policies and ordinances.

Items listed under 1, 3, 4, and 6 (a, c, d and f) are in the custody of the Sacramento County Planning and Community Development Department, located at 827 7th Street, Room 230, Sacramento, California 95814.

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Item 2 is in the custody of the Sacramento County Department of Environmental Review and Assessment, located at 827 7th Street, Room 220, Sacramento, California 95814.

Item 5 is in the custody of the Sacramento County Board of Supervisors Office, located at 700 H Street, Suite 2450, Sacramento, California 95814.

Item 6(b) is in the custody of the Sacramento Air Quality Management District, located at 8411 Jackson Road, Sacramento, California 95826.

Item 6(e) is in the custody of the Sacramento County Counsel Office, located at 700 H Street, Suite 2650, Sacramento, California 95814.

### III. SIGNIFICANT ADVERSE IMPACTS

The Final EIR prepared for this project certified by the Project Planning Commission identifies the following significant adverse impacts which cannot be avoided:

1. Potential traffic impacts: In that the current traffic situation is already at unacceptable levels (Levels of Service F) and that the traffic projections indicate that the expansion will aggravate somewhat existing unacceptable levels of service.
2. Air Quality impacts: Potential to exceed the National and State Ambient Quality Standards for carbon monoxide at project area during worst case conditions. It should be noted that the project's singular contribution is not significant; however, cumulative air quality impacts are considered significant and unavoidable.
3. Flood Hazard impacts: In that the project site is located within the 100-year flood plain; thus, a flood event would affect property and safety of the employees and patrons of the marina.

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4. Water Quality/Aquatic Resources: In that the project will impact the water quality through siltation associated with construction activities including dredging, littering from additional marina users, urban runoff from the parking area, fuel spills and sewage disposal.

IV. FINDINGS AND STATEMENTS OF FACTS SUPPORTING THE FINDINGS

Notwithstanding the identification of the above significant adverse impacts, the Project Planning Commission hereby approves the project as authorized by Public Resources Code, Section 21081; and Title 14, California Code of Regulations, Sections 15091 and 15092. As required by the aforementioned references, the Project Planning Commission makes the following findings for which there is substantial evidence in the record:

1. With regard to the adverse impact on air quality, the Project Planning Commission finds that the air quality problem is unmitigable as it relates to the project alone.

Supporting Fact: Local air quality planning is the responsibility of the local Air Pollution Control District (APCD) and the regional planning agency, the Sacramento Area Council of Governments (SACOG). The Air Pollution Control Division of the Sacramento County Environmental Management Department, also known as the Sacramento Metropolitan Air Quality Management District (SMAQMD), serves as the local APCD and has responsibility for the implementation of the California Clean Air Act (CCAA). The SMAQMD has prepared an Air Quality Attainment Plan, approved by the Board of Supervisors in July of 1991. This plan outlines programs that will comply with the mandates of the CCAA. SACOG responds to the requirements of federal legislation and offers a regional focus. The

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Regional Air Quality Plan, prepared by SACOG in 1990, recommends actions that should be taken by local government and other regulatory agencies in the Sacramento air basin. The County of Sacramento has included an Air Quality Element in the General Plan. Adoption of this element will serve to define the responsibilities of the County in the attainment of clean air and will identify programs that will be implemented to achieve that goal.

2. With regard to the adverse impact on traffic, the Project Planning Commission finds that the traffic problem is significant and unavoidable.

Supporting Fact:

- a) In an effort to alleviate areawide traffic congestion the applicant has agreed to help fund roadway and intersection improvements via contribution of a fair share amount which shall be used to construct a two way connector roadway ramp described in Use Permit condition of approval number 5.
  - b) The expansion is not expected to generate new travellers or add a substantial amount of new traffic to the project site because according to the applicant's survey, 90% of the new patrons will be people transferring from other existing local marinas.
3. With regard to the impact during a potential flood event , the Project Planning Commission finds that the applicant has agreed to conditions of approval that if properly implemented will reduce the identified impacts to a less than significant level.

Supporting fact:

- a) The proposed berths are contained within floating structures which will adjust to varying water levels during a flood event and the minor structural improvements are subject to minimum floor elevations or floodproofing pursuant to the Floodplain Management Ordinance.

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- b) The applicant has agreed to prepare an Emergency Flood Evacuation Plan.
4. With regard to the water quality/aquatic resources impact, the Project Planning Commission finds that the applicant has agreed to conditions of approval that if properly implemented will reduce the identified impacts to a less than significant level.

Supporting Fact:

- a) The dredging activity shall be monitored by the State Regional Water Quality Control Board and in-water construction shall be limited to a period when the Delta fish species are not-vulnerable (August 1 to September 15).
- b) A drainage plan shall be prepared for the parking area to minimize urban runoff into the river.
- c) A fuel spill clean-up plan shall be prepared.
- d) Trash receptacles shall be placed in convenient locations to encourage their use by patrons of the project.
- e) Sewage disposal will be processed through on-shore septic system and shall be subject to approval of the Sacramento County Health Division. Sewage from the boats will be handled through a sewage pump-out station and connected to the on-shore septic system.

V. ALTERNATIVES

1. No Project: Under this alternative, the northerly portion of the site and the would would leave the site in its present land use. As no changes would occur, the adverse impacts would be avoided. However, given that the site is already developed as a marina and zoned for commercial recreational uses, the "No Project" alternative would not meet the objectives of the applicant to expand the marina. Further, any beneficial effects such as

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economics and increased recreational opportunities which might be attributed to the project will not occur.

2. Reduced Density Alternative: This alternative specified in the FEIR, proposes to reduce the number of proposed berths by 50% (47 berths). As indicated in the Final EIR automobile traffic impacts are considered to be significant and unavoidable even with the adoption of fair share mitigation recommended for the proposed project. However, the identified traffic and air quality impacts would remain significant and unavoidable under either the "reduced density" or "proposed project" alternatives. For these reasons, the Project Planning Commission chose to approve the proposed density requested by the project proponent.
3. Other Site(s) Alternative: As described in the FEIR, relatively few sites could be considered prime due to the specific locational criteria required for developing a marina. However, the Project Planning Commission did not choose this alternative because the off-site alternative does not meet the project proponent's objective to expand the existing Willow Berm marina.

#### VI. STATEMENT OF OVERRIDING CONSIDERATIONS

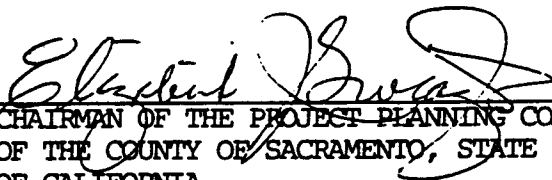
Notwithstanding the disclosure of the significant adverse impacts and their mitigation described, supra, the Project Planning Commission has determined pursuant to Section 15093 of the State CEQA Guidelines that the benefits of the proposed project outweigh the adverse impacts, and the project should be approved. With reference to the above findings and in recognition of those facts which are included in the record, the Project Planning Commission has determined that the project will contribute to adverse local and regional traffic and air quality impacts which are considered significant.

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The Project Planning Commission specifically finds and makes this Statement of Overriding Considerations that there are special social, economic, and other reasons for approving this project, notwithstanding the substantial adverse cumulative impacts disclosed in the EIR prepared for the project. The reasons are as follows:

1. The proposed project would provide additional water-based recreational opportunities in the Delta area, the need for which is recognized in many reports (Cajucam, E.J., March 1980; California Department of Recreation, June 1988; Ebasco Services Inc., March 1988; and the Sacramento County Planning Department, March 1983).
2. The use is already established and compatible with adjacent Lower Andrus Island Special Planning Area which permits water-oriented commercial recreational uses.
3. The project is consistent with the Delta Protection Findings and pursuant to Section 235-136 of the Sacramento County Zoning Code.

DATED: October 17, 1994

BY:   
CHAIRMAN OF THE PROJECT PLANNING COMMISSION  
OF THE COUNTY OF SACRAMENTO, STATE  
OF CALIFORNIA

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