

MINUTE ITEM
This Calendar Item No. C 23
was approved as Minute Item
No. 23 by the State Land
Commission by a vote of 3
to 0 at its 10/28/96
meeting.

CALENDAR ITEM
C23

A 15
S 7

10/28/96
PRC 7917 W 23517
D. Jones

GENERAL LEASE - COMMERCIAL USE

APPLICANT:

Calvin Hotel Company
7350 East Evans Road, Suite D
Scottsdale, Arizona 95260

AREA, TYPE LAND AND LOCATION:

A 24.60 acre parcel, more or less, of tide and submerged land in the San Joaquin River, Sacramento County.

LAND USE:

The construction, operation and maintenance of a commercial marina facility including, but not limited to, 407-covered berths; the construction of approximately 14.50 acres of fishery shoal habitat; and the dredging and disposal of a maximum of 130,000 cubic yards of material.

PROPOSED LEASE TERMS:

Lease period:

25-years beginning January 1, 1997.

Performance deposit:

\$200,000

Surety bonds:

1. A sum of not less than 100% of the total estimated cost of construction work.
2. A sum not less than 50% of the total estimated cost of the contract or contracts for the construction guaranteeing the payment of all materials, etc.

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Public liability insurance:

Combined single limit coverage of \$2,000,000.

CONSIDERATION:

A Minimum Annual Rent, against a percentage of gross receipts, whichever is greater; said rent shall be paid as follows:

- A. For the period January 1, 1997, hereinafter referred to as the lease anniversary date, through December 31, 1997, the Minimum Annual Rent shall be \$1,000.
- B. For the period January 1, 1998 through December 31, 1998, the Minimum Annual Rent shall be \$1,000.
- C. For the period January 1, 1999 through December 31, 1999, the Minimum Annual Rent shall be \$20,000.
- D. Commencing on January 1, 2000 and every year thereafter on each subsequent lease anniversary date, the Minimum Annual Rent shall be \$54,000, with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

Dredging royalty:

A minimum of \$0.25 per cubic yard.

BASIS FOR 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.

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STATUTORY AND OTHER REFERENCES:

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

AB 884:

02/26/97

OTHER PERTINENT INFORMATION:

1. The applicant, Calvin Hotel Company, proposes to construct a commercial marina facility which includes, among other things, 407-covered berths, side ties, a launch ramp, a sewage pumpout facility, a fuel dock, a 400-acre Harbor Master's office, and the construction of a sediment-filled rocked berm enclosure to create a marina basin.
2. The applicant proposes to construct the marina over approximately 14 acres of existing fishery shoal habitat. These shoals provide habitat for juvenile salmon, Delta smelt, striped bass and sturgeon. To mitigate this adverse impact, the applicant is required to construct approximately 14 acres of new fishery shoal habitat immediately west of the proposed marina within the proposed Lease Premises, using pea gravel. Construction and monitoring of the new shoal habitat will be pursuant to the U.S. Army Corps of Engineers (Corps) Permit No. 199101037 and the Revised Mitigation and Monitoring Plan for "The Harbor" Marina dated November, 15, 1992 prepared by Ray B. Krone and Associates.

Provisions of the Mitigation and Monitoring Plan include, but are not limited to:

- a. A monitoring period of not less than ten years; should the Corps determine that significant remedial action is necessary, the applicant shall reinstate monitoring from the date corrective measures are completed, continuing for ten years (remediation period).
- b. Continued success of the mitigation site for two successive years without human intervention once the success criteria described in the Mitigation and Monitoring Plan have been met.

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- c. Deposit of \$250,000 into an escrow account established by the Corps, with the Corps and the California State Lands Commission participating in a joint power of appointment. Failure by the applicant to complete construction of the mitigation shall cause the escrow funds to be disbursed by the Corps and the State Lands Commission to complete the required construction.

Should the Corps in consultation with the California State Lands Commission determine that the mitigation has been completely constructed and 75% of the marina has been constructed, the applicant shall be refunded \$150,000, with a balance of \$100,000 remaining in the escrow account during the entire period of the mitigation or remediation period, whichever is longer, to provide for further mitigation should the original mitigation project fail in some way.

3. Construction of the marina basin will require the dredging of a maximum of 130,000 cubic yards of material to provide a basin floor at -8 foot elevation. Approximately 25,000 cubic yards of this material will be used 1) for the core of the newly constructed berm breakwater and 2) to enlarge the levee in the boat launch and unloading areas. The remaining 105,000 cubic yards will be used to raise the elevation of the adjacent upland site to an elevation above the 100 year floodplain and to create parking for the marina.
4. The applicant proposes to obtain the lease and then "sell" the Lease with all permits/leases in place to the actual builder/operator of the marina. The estimated cost of the proposed project is \$13,000,000. It is one of the largest commercial marina facilities which has come before the Commission for its approval.

In evaluating applications for commercial or industrial leases on the State's land, it is the practice of the staff of the Commission to require specific information concerning the demand needs of the project and its financial feasibility. The proposed project is the first time staff has been requested to approve a project without the actual

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builder/operator as the applicant. The staff has, therefore, placed the following provisions in the lease to protect the State against any potential risks inherent therein:

- a. Construction of the project shall not be commenced until Lessor provides prior written approval to Lessee of the financial feasibility of the project, as well as approval of the Assignee, Sublessee or Operator, if any, other than the Lessee.
 - b. Prior to commencement of any construction within the Lease Premises, the Lessee shall provide at its own cost and expense 1) a surety bond in a sum of not less than 100% of the total estimated cost of the construction work, and 2) a surety bond in a sum not less than 50% of the total estimated cost of the construction work guaranteeing the payment for all materials, provisions, supplies and equipment used in constructing the project.
 - c. A performance deposit in the amount of \$200,000 guaranteeing the faithful performance of the lease, including overdue rents, other sums due and payable to the State under the Lease, and to remedy a breach of this Lease.
 - d. As indicated in paragraph 2(c) above, the California State Lands Commission will participate with the U.S. Army Corps of Engineers in a grant power of appointment on the escrow account established for the mitigation project.
5. 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.

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APPROVALS OBTAINED:

U.S. Army Corps of Engineers, County of Sacramento, Brannan-Andrus Levee Maintenance District, State Reclamation Board.

EXHIBITS:

- A. Lease Description
- B. Site Map
- C. Location map
- D. Quarterly Report for Dredging
- E. CEQA Findings
- F. Mitigation and Monitoring Plan
- G. Notice of Determination
- H. Percentage of Gross Report

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT AN EIR AND MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE COUNTY OF SACRAMENTO AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED HEREIN.
2. ADOPT THE FINDINGS MADE IN CONFORMANCE WITH SECTION 15096(H) OF THE STATE CEQA GUIDELINES, AS CONTAINED IN EXHIBIT "E" ATTACHED HERETO.
3. ADOPT THE MITIGATION MONITORING PLAN AS CONTAINED IN EXHIBIT "F" ATTACHED HERETO.
4. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.
5. AUTHORIZE ISSUANCE TO CALVIN HOTEL COMPANY OF A 25-YEAR GENERAL LEASE - COMMERCIAL USE, BEGINNING JANUARY 1, 1997; SUBSTANTIALLY IN THE FORM ON FILE IN THE OFFICES OF THE COMMISSION, IN CONSIDERATION AS SET FORTH BELOW:

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A MINIMUM ANNUAL RENT, AGAINST A PERCENTAGE OF GROSS RECEIPTS, WHICHEVER IS GREATER, SAID RENT SHALL BE PAID AS FOLLOWS:

- A. FOR THE PERIOD JANUARY 1, 1997, HEREINAFTER REFERRED TO AS THE LEASE ANNIVERSARY DATE, THROUGH DECEMBER 31, 1997, THE MINIMUM ANNUAL RENT SHALL BE \$1,000.
- B. FOR THE PERIOD JANUARY 1, 1998 THROUGH DECEMBER 31, 1998, THE MINIMUM ANNUAL RENT SHALL BE \$1,000.
- C. FOR THE PERIOD JANUARY 1, 1999 THROUGH DECEMBER 31, 1999, THE MINIMUM ANNUAL RENT SHALL BE \$20,000.
- D. COMMENCING ON JANUARY 1, 2000 AND EVERY YEAR THEREAFTER ON EACH SUBSEQUENT LEASE ANNIVERSARY DATE, THE MINIMUM ANNUAL RENT SHALL BE \$54,000, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT ON EACH FIFTH ANNIVERSARY OF THE LEASE;

PROVISION OF A DREDGING ROYALTY OF A MINIMUM OF \$.25 PER CUBIC YARD; PROVISION OF A \$200,000 PERFORMANCE DEPOSIT; PROVISION OF A SURETY BOND IN A SUM OF NOT LESS THAN 100% OF THE TOTAL ESTIMATED COST OF CONSTRUCTION; PROVISION OF A SURETY BOND IN A SUM OF NOT LESS THAN 50% OF THE TOTAL ESTIMATED COST OF THE CONTRACT OR CONTRACTS FOR THE CONSTRUCTION WORK, GUARANTEEING THE PAYMENT OF ALL MATERIALS, PROVISIONS, SUPPLIES AND EQUIPMENT USED IN PERFORMING THE WORK; LIABILITY INSURANCE IN THE AMOUNT OF \$2,000,000 COMBINED SINGLE LIMIT; FOR A 407- COVERED BERTH MARINA CONSISTING OF: 123 - 34 FOOT X 13 FOOT COVERED BERTHS, 197 - 40 FOOT X 14 FOOT COVERED BERTHS, 71 - 50 FOOT X 16 FOOT COVERED BERTHS, AND 16 - 60 FOOT X 19 FOOT COVERED BERTHS, A LAUNCH RAMP, A SEWAGE PUMPOUT FACILITY, TWO FLOATING BATHHOUSES, TWO FLOATING RESTROOMS AND LAUNCH FACILITIES, A 260 LINEAL FOOT SIDE TIE LAUNCH DOCK, A 400 LINEAL FOOT SIDE TIE LOADING AND GUEST DOCK, A 380 LINEAL FOOT FUEL AND PUMPOUT DOCK, A 400 SQUARE FOOT HARBOR MASTER OFFICE, AND

CALENDAR ITEM NO. C23 (CONT'D)

ANCILLARY FACILITIES; CONSTRUCTION OF APPROXIMATELY 14.5 ACRES OF FISHERY SHOAL HABITAT; AND DREDGING A MAXIMUM VOLUME OF 130,000 CUBIC YARDS OF MATERIAL WITH 25,000 CUBIC YARDS OF THE MATERIAL TO BE DEPOSITED WITHIN THE LEASE PREMISES TO CREATE A FILLED ROCK BERM AND 105,000 CUBIC YARDS TO BE DEPOSITED ON THE ADJACENT UPLANDS OWNED BY LESSEE (APN 156-0110-039); ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

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All that certain real property situated in projected Section 13, T.3N., R.3E., and projected Section 20, T.3N., R.4E., M.D.B.&M Andrus Island in the County of Sacramento, State of California, described as follows:

Beginning at a point also being the Southeast corner of Parcel "C" as shown on Book 8 of Maps, Map No. 18, filed on August 20, 1984 in the office of the County Recorder of the County of Sacramento; thence from said point of beginning South 31°13'00" West 960.00 feet; thence North 66°00'00" West 1283.88 feet; thence North 18°04'00" East 948.58 feet to the Southwest corner of said Parcel C; thence along the Southerly line of said Parcel "C" the following bearing and distances; South 75°27'00" East 291.53 feet; South 75°18'00" East 298.93 feet; South 65°55'00" East 295.35 feet; South 60°21'00" East 384.74 feet; thence South 33°00'00" East 237.26 to said point of beginning.
Containing 32.428 Acres.



EXHIBIT 'A'

Page 1

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All that certain real property situated in projected Section 13, T.3N., R.3E., and projected Section 20, T.3N., R.4E., M.D.B.&M Andrus Island in the County of Sacramento, State of California, is described as follows:

Beginning at a point from which the Southwest corner of Parcel "C" as shown on Book 8 of Maps, Map No. 18, filed on August 20, 1984 in the office of the County Recorder of the County of Sacramento bears North 77°28'12" East 582.39 feet; thence from said point of beginning South 18°04'00" West 600.00 feet; thence North 66°00'00" West 1930.00 feet; thence North 18°04'00" East 335.00 feet; thence South 73°53'14" East 1920.78 feet to said point of beginning. Containing 20.602 Acres.

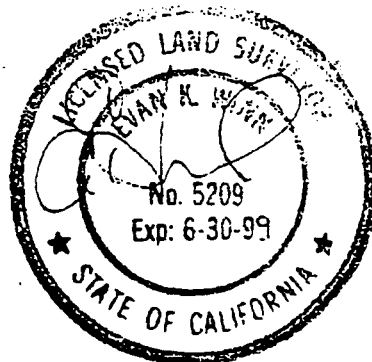
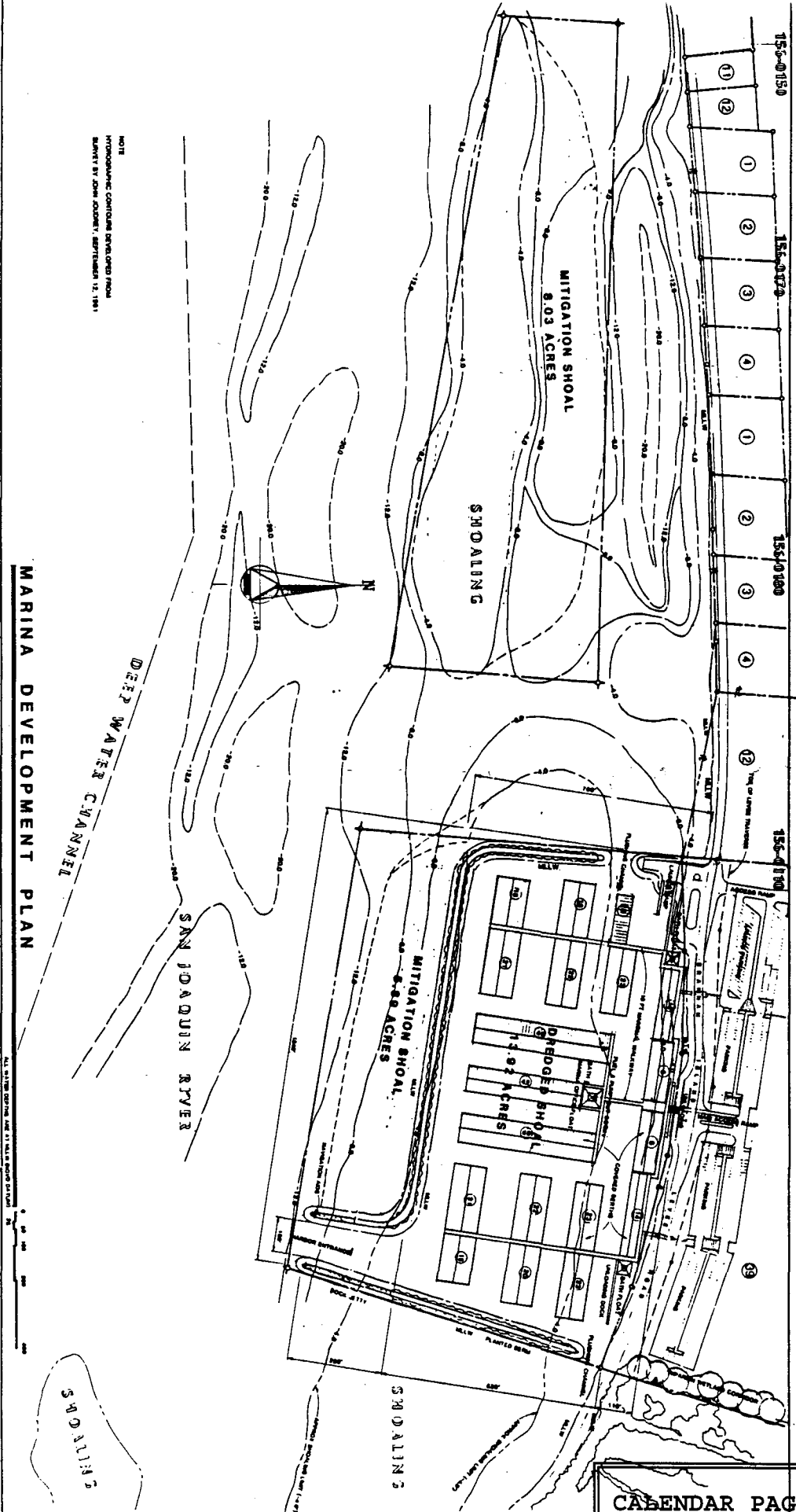


EXHIBIT 'A'

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NOTE:
HYDROGRAPHIC CONTOURS SUPERSEDED FROM
SHEET # 2000 ADJACENT, SEPTEMBER 17, 1961

MARINA DEVELOPMENT PLAN

SCALE: 1" = 100'

DATE: 10/1/61

SHEET: 1 OF 1

'THE HARBOR'
MARINA & DRY BOAT STORAGE
DEVELOPMENT

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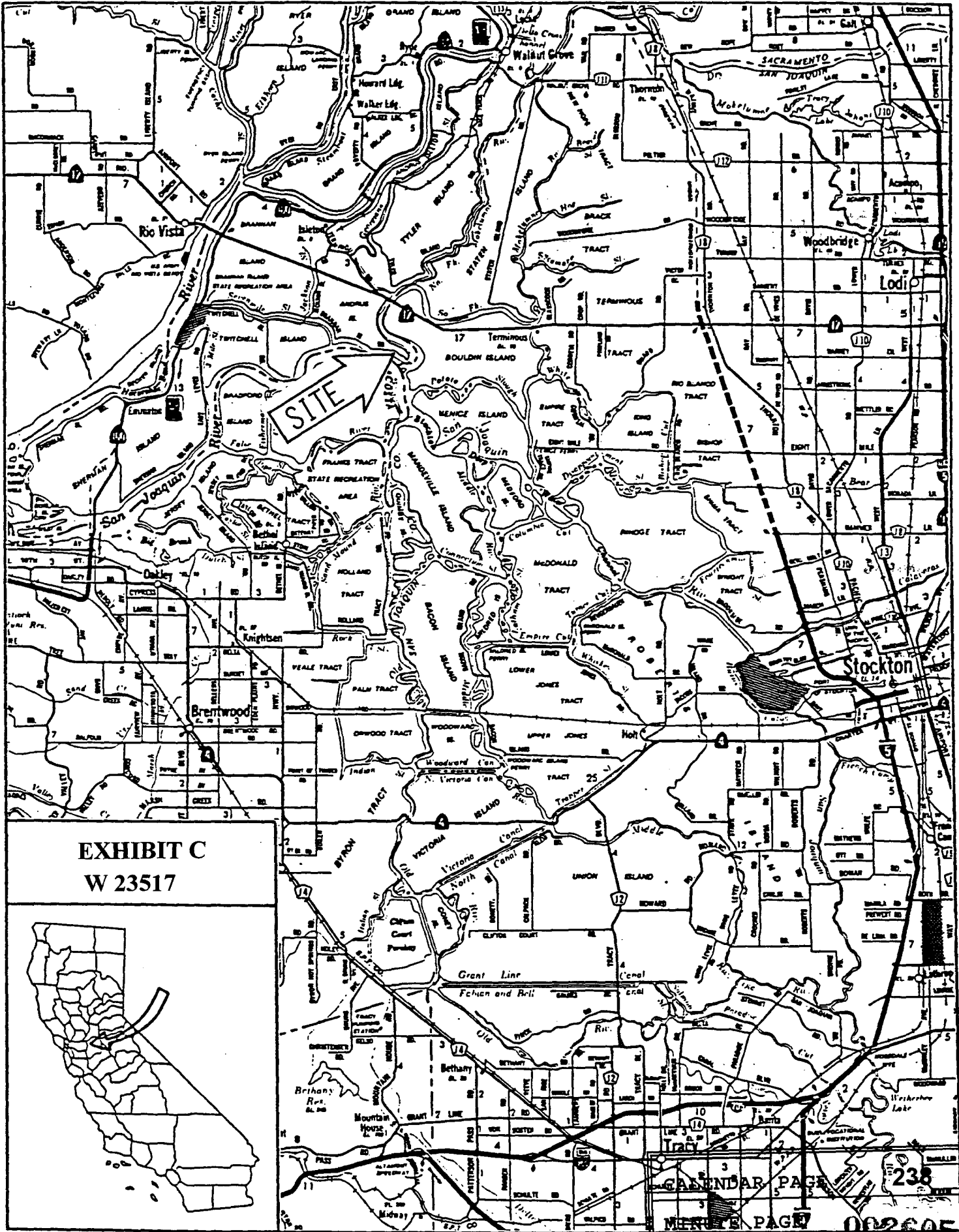


EXHIBIT C
W 23517



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EXHIBIT "E"

FINDINGS REGARDING THE ENVIRONMENTAL EFFECTS OF THE PROPOSED CALVIN HOTEL (DBA HARBOR MARINA) OF CERTAIN LANDS WITHIN THE SAN JOAQUIN RIVER, SACRAMENTO COUNTY, CALIFORNIA

Project Background:

On February 25, 1987, Sacramento County certified EIR SCH# 85040113, 84-UP-PAS-1275, for a 409-berth marina and ancillary uses on 35+ acres on Lower Andrus Island, San Joaquin River.

On November 27, 1991, the County approved Use Permit 90-UPP-0147 for a modified version of the project that was approved in 1987. The main differences were configuration of the rocked berm and the amount of shallows to be dredged. When the 1991 permit expired, the applicant proposed a modification of dredging plans in response to concerns expressed through the United States Army Corps of Engineers permitting process. Sacramento County then prepared a Supplement to the previously prepared EIR that focused on land use, plant and animal communities/water quality, flood hazard, and automobile and boat traffic impacts. The Final Supplement included the California Regional Water Quality Control Board's (Board) Monitoring and Reporting Program #91-814 (attached). Sacramento County concluded that the Draft Supplemental and the responses to comments received thereto did not constitute substantive changes to the EIR's previous information and did not change its conclusions as to the identification of significant impacts.

On December 11, 1995, Sacramento County found that the original EIR SCH# 85040113 and subsequent Final Supplement, dated November, 1995, complied with CEQA and conditionally approved Use Permit 94-UPP-0792. Sacramento County also adopted a Mitigation Monitoring and Reporting Plan for the project which identifies Sacramento County as the agency responsible for all monitoring aspects except for the construction of the fish habitat mitigation.

Sacramento County identified in their Findings, adopted pursuant to Section 15091 of the State CEQA Guidelines, that the United States Army Corps of Engineers, in conjunction with the United States Fish and Wildlife Service (USFWS), are the agencies responsible for overseeing the implementation of the identified fish habitat mitigation measure.

In addition, the California Department of Fish and Game has issued

Streambed Alteration Agreement #II-116-96, for this project (attached).

The following impacts will occur on, or directly affect lands under the jurisdiction of the State Lands Commission.

WATER QUALITY

IMPACT:

The proposed project may cause substantial siltation, resulting from dredging and filling activities, in the water column during the construction of the marina harbor and breakwater. In addition, the proposed project could result in discharges of contaminants due to the spillage of fuel and oil resulting from boating activities and boat sewage disposal, as well as discharges resulting from upland wastewater treatment and disposal.

FINDING:

Changes or alterations have been required in, or incorporated into, such project which mitigate or avoid the significant environmental effects thereof as identified in the completed Environmental Impact Report and subsequent Supplement.

Such changes or alterations are within the responsibility and jurisdiction of the Central Valley Regional Water Quality Control Board, and the United States Army Corps of Engineers, in conjunction with the United States Fish and Wildlife Service, and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

FACTS SUPPORTING THE FINDING:

Water quality impacts resulting from construction, operation and maintenance of the marina will be minimized by implementing the following mitigation measures as specifically described below:

(Construction)

1. A water quality monitoring program, as defined by the California Regional Water Quality Control Board, #08-12-91 (attached), will be conducted during the dredging and filling activities.
2. Monitoring of water quality impacts during the construction of the marina breakwater and mitigation shoals is specified by the Central Valley Regional Water Quality Control Board.
3. Harbor dredging will be conducted using both a suction dredge and a clamshell dredge. The entire harbor would be diked to reduce the turbidity impacts. The dike would include temporary plugs or

turbidity curtains across the harbor entrance and circulation openings. The dike material will remain in place as part of the harbor berm with the exception of the material removed for the harbor entrance and flushing openings.

4. Technologies available to control turbidity include the use of silt curtains and geotextiles. Instructions to the dredge operators and regular inspection will minimize the suspension of sediment. The requirements of the Regional Water Quality Control Board are clearly defined: the conditions set by the Board will be met or construction will cease until an acceptable alternative is found.
5. The Regional Water Quality Control Board's Monitoring and Reporting includes twice daily sampling within 300 feet up-and-down stream of construction and analysis of the samples for turbidity. If the increase in turbidity exceeds 10 percent of ambient turbidity, the Regional Board is to be contacted immediately and analyses of hardness, copper, lead, mercury, and zinc performed (SC 9). If turbidity in excess of 10 percent occurs in two consecutive samples, construction is to cease until laboratory analyses of heavy metals are reviewed by the Board.
6. Decant water from the upland disposal shall be allowed to clarify and be sampled, analyzed for hardness, copper, lead, mercury, and zinc, and be reviewed by the Regional Water Quality Control Board prior to being released to the island drainage system (SC 9). It will be necessary to allow the material to settle until the suspended sediment concentration is less than that in the river. The concentration of metals in the river water will be close to equilibrium with that sorbed on river sediments, and the same can be expected in the supernatant of the disposal ponds. Clarifying the supernatant to suspended solids concentrations to less than that in the river will provide acceptable heavy metals concentrations.

In addition to these requirements, a final report summarizing the monitoring data is to be submitted to the Board within 30 days of completing the construction.

(Operation)

7. The USFWS has required that no boater shall be allowed to pump their own fuel. Rather, a qualified individual educated in the effects on fuel spillage shall pump all fuel. Further, restrictions on bilge pumping within the marina area shall be posted and strictly

enforced.

8. Vessel sewage disposal:

- (a) Provide holding tank for vessel waste separate from the on-site WWTP or sewage disposal system, adequately sized and pumped regularly.
- (b) Provide pumpout facilities for vessel holding tanks, accessible to all boats using marina. Keep a daily log of pump out facility usage, including vessel registration numbers and date and time.
- (c) Monitor Dissolved Oxygen (DO) levels within the marina and, if a significant decrease occurs, provide adequate aeration to restore water to background levels.
- (d) Monitor fecal coliform levels within the marina to ensure that illegal waste disposal or spills are not occurring.
- (e) Provide a public information brochure to all marina users on waste disposal regulations and the importance of ensuring that oil and gas spills do not occur.

8. Sewage disposal (other than vessel sewage):

- (a) Evaluate the feasibility of utilizing an on-site waste disposal system (conventional septic tank system) instead of discharge. This option was strongly advised by the CVRWQCB; or
- (b) If a Package Treatment Plan is proposed, require operation of the Waste Water Treatment Plan (WWTP) by an acceptable public agency or other maintenance entity acceptable to the County Environmental Management Department and CVRWQCB, with a certified WWTP operator available at all times.
 - (1) Evaluate the capacities of the agricultural drainage ditch and pump to ensure adequate capacity is available in the drainage ditch and pump station.

- (2) Provide back-up effluent storage in case of pump failure.
- (3) Provide dechlorination of the WWTP effluent to meet EPA standards of 0.014 mg/l chlorine residual, if necessary.
- (4) Design the collection system to prevent infiltration and inflow.
- (5) Design the collection system and holding tanks to protect against leakage, provide an alarm system for all pumping facilities, and provide double piping or equivalent safety measures for piping extending over the marina waters.
- (6) Monitor water quality parameters using EPA aquatic life standards as maximum threshold limit throughout the project.
- (7) Provide an emergency plan including containment and disposal methods for potential spills on the ground or waterways.
- (8) If discharge to the drainage ditch is allowed, a study shall be conducted to analyze in depth the potential impacts of this discharge. This study shall identify the level of use of the drainage ditch for irrigation purposes, types of crops grown in the vicinity of the proposed project, possible methods of maintaining the separation of drainage and effluent flows and possible compensation to farmers and the local Reclamation District if use of the ditch is restricted or cropping patterns are altered as a result of the project implementation.
- (9) The wastewater treatment collection system shall be designed to maintain the maximum possible physical separation between the groundwater and the collection system piping.

FISHERIES IMPACT:

The project has the potential to adversely impact fisheries and their habitat which may result from:

1. Dredging material from the San Joaquin River to create the marina harbor and from placing rock fill around the perimeter of the harbor to create a breakwater for wave protection.
2. Increased boating traffic may create adverse impacts to fisheries and their habitat from excessive noise and erosion resulting from boat operation respectively.
3. Discharge of contaminants into the waterway resulting from spillage of fuel and oil and vessel sewage.

FINDING:

Changes or alterations have been required in, or incorporated into, such project which mitigate or avoid the significant environmental effects thereof as identified in the completed Environmental Impact Report and subsequent Supplement.

Such changes or alterations are within the responsibility and jurisdiction of the Central Valley Regional Water Quality Control Board, and the United States Army Corps of Engineers, in conjunction with the United States Fish and Wildlife Service, and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

FACTS SUPPORTING THE FINDING:

Impacts to fish and their habitat will be minimized through implementation of the following measures:

(Dredging)

1. Harbor dredging will be conducted using both a suction dredge and a clamshell dredge. The entire harbor would be diked to reduce the turbidity impacts. The dike would include temporary plugs or turbidity curtains across the harbor entrance and circulation openings. The dike material will remain in place as part of the harbor berm with the exception of the material removed for the harbor entrance and flushing openings. (Also included in Water Quality Impacts, above.)
2. Standards suitable for fish survival, as conditioned by the United States Fish and Wildlife Service, contained in their August 19,

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1996, consultation with the Corps of Engineers (attached), will be maintained throughout the construction period. These measures include:

- a. Minimizing the impacts on normal behavioral patterns of delta smelt including, but not limited to, feeding, breeding, and sheltering by conditioning in-water work associated with marina expansion to be confined to the following working "window": August 1 to September 14. This time frame has been identified based on when life stages of delta smelt and other species of concern are not likely to be present in the geographic zone where the proposed project is to be conducted. Further, suction dredges shall be cleaned in a manner that minimizes entrainment of fish.
 - b. Minimizing any additional impacts to delta smelt by contacting the Interagency Ecological Program's monitoring program in Stockton, California at (209) 948-7800, to obtain results of Summer Townet Survey or Fall Midwater Trawl Survey to determine distribution of delta smelt and potential presence in the project area. If delta smelt are not potentially present in the project area, construction activities may occur for a continuous period not to extend beyond November 30th. It should be noted that no modification of time windows is possible from December 1 through June 30 and additional months when ripe delta smelt are possibly present.
3. Minimizing the effects of habitat loss due to marina expansion by providing and maintaining replacement habitat suitable for spawning and refugia for delta smelt and the proposed Sacramento splittail at a 3:1 ratio. A survey shall be conducted prior to marina construction that details the extent of emergent and submersed vegetation affected by the proposed marina expansion. A plan that describes the acreage of proposed habitat replacement shall be submitted to the Service for approval at least 30 days prior to the project start-up date. Upon approval, the plan shall be implemented immediately following completion of the marina expansion. Further, to mitigate the disturbance to the 14.7 acres of shoal habitat, 14.7 acres of shoal habitat shall be recreated on-site.

Minimizing the effects on the existing and recreated shoals adjacent to the proposed marina resulting from water circulation

changes by requiring submittal of a monitoring plan to the USFWS 30 days prior to the project start-up date for review and approval, containing identified measures that will be taken if the marina causes the shoal areas to deteriorate.

Provisions of the State Lands Commission lease include conditions for establishing a surety bond and a performance deposit for constructing and maintaining the marina facilities and fish habitat mitigation area in a joint power of authority with the United States Sacramento District, Corps of Engineers which includes a monitoring period of not less than ten years.

4. A water quality monitoring program, as defined by the California Regional Water Quality Control Board #91-814(attached), will be conducted during the dredging and filling activities. (Previously described in Water Quality Impacts, above.)

(Boat Traffic)

5. Minimize the effects of increased boating traffic on listed and proposed species and their habitats by submitting a boater education program consisting of signs or flyers to be submitted to the USFWS for approval. Upon approval, the plan shall be implemented at least 30 days prior to the start of the proposed project to educate boaters about the effects of excessive noise and erosion from boat operation on resident fish and their habitats, including delta smelt and Sacramento splittail.

(Fuel/Sewage Contaminants)

6. Minimize the effects of discharge of contaminants into the waterway and to delta smelt due to spillage of fuel and oil resulting from boating activities by requiring that no boater shall be allowed to pump their own fuel. Rather, a qualified individual educated in the effects on fuel spillage shall pump all fuel. Further, restrictions on bilge pumping within the marina area shall be posted and strictly enforced. (Also refer to more detailed discussion in Water Quality Impacts, vessel sewage, as described above.)

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD—
CENTRAL VALLEY REGION3443 ROUTIER ROAD, SUITE A
SACRAMENTO, CA 95827-3098
PHONE: (916) 361-5600
FAX: (916) 361-5686RECEIVED AUG 14 1991
Patricia
Garcia

12 August 1991

Mr. Gilbert Labrie
P.O. Box 183
Walnut Grove, CA 95690**ISSUANCE OF MONITORING AND REPORTING PROGRAM AND RESPONSE TO SECTION 401 WATER QUALITY CERTIFICATION REQUEST, HARBOR MARINA PROJECT, SACRAMENTO COUNTY**

Thank you for submitting the draft Report of Waste Discharge, dated 29 December 1990, and the supplemental information dated 17 April 1991 and 8 July 1991. The supplemental information indicates that the potential water quality impacts associated with the construction of the Harbor Marina project have been significantly reduced by modifications to the project. As such, we no longer find it necessary to issue waste discharge requirements for the dredging portion of the project. In lieu of issuing waste discharge requirements, a monitoring and reporting program (enclosed) has been developed to assure that the modifications proposed in the above referenced documents are effective in minimizing water quality impacts.

The specific changes to the project that should reduce the water quality impacts are 1) the use of pea gravel from the Eel River for building the replacement shoals instead of dredge material as originally proposed, 2) the use of a clam shell dredge to place 25,000 cubic yard of dredge material in the core of the rock breakwater, and 3) the uplands disposal of the remaining 105,000 cubic yards of material that will be dredged to create the harbor.

Our decision to issue a monitoring and reporting program in lieu of waste discharge requirements is based on the changes proposed. Any further changes to the project will necessitate that we reconsider waste discharge requirements.

We are unclear of the status of your Section 404 permit application with the U.S. Army Corps of Engineers. The most recent documentation in our files of your application is a 25 September 1990 letter from you to the Corps requesting a 90 day suspension of action on the application, which was public noticed by the Corps as Public Notice Number 199000040. This letter and the issuance of Monitoring and Reporting Program No. 91-814 serves as our response to your Section 401 water quality certification request. You may also consider this letter and the monitoring and reporting program as our response to Section 401 certification if it is necessary for you to reapply to the Corps for a Section 404 permit provided no further changes are made to the construction of the proposed project.

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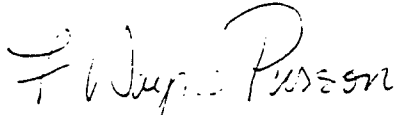
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Mr. Gilbert Labrie

2

12 August 1991

If you have any questions, please call me at (916) 361-5627.



F. WAYNE PIERSON
Senior Engineer

DLB

Enclosure

cc: Mr. Greg Rayner, U.S. Army Corps of Engineers, Sacramento
Ms. Cay Goude, U.S. Fish and Wildlife Service, Sacramento
Ms. Nancy Dubbs, U.S. EPA, Region IX, W-7, San Francisco
California Department of Fish and Game, Region II, Rancho Cordova
Mr. Ray Krone, Ray Krone and Associates, Davis

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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

MONITORING AND REPORTING PROGRAM NO. 91-814
FOR

HARBOR MARINA CONSTRUCTION PROJECT
SACRAMENTO COUNTY

All metals samples collected as part of this monitoring program must be collected and submitted for analysis at a certified laboratory under chain-of-custody protocol.

All metals samples must be analyzed and reported to the Regional Board no later than the two days after the samples were collected.

SHOAL AND BREAKWATER CONSTRUCTION

During construction of each of the two replacement shoals and the breakwater, water quality samples shall be collected at points no further than 300 feet upstream and 300 feet downstream of the construction activity. Water quality monitoring shall consist of the following:

<u>Constituent</u>	<u>Units</u>	<u>Type of Sample</u>	<u>Sampling Frequency</u>
Turbidity	NTUs	Grab	Twice Daily

If at any time during construction the turbidity at the downstream location is 10% or greater than the turbidity at the upstream location, the Regional Board shall be contacted immediately and the following samples shall be collected, at both locations:

<u>Constituent</u>	<u>Units</u>	<u>Detection Limit</u>	<u>Type of Sample</u>
Hardness	mg/l (as CaCO ₃)	—	Grab
Copper	ug/l	5.0	Grab
Lead	ug/l	1.0	Grab
Zinc	ug/l	10.0	Grab

If the turbidity increase remains at greater than 10% for any two consecutive samples, construction of the shoal must cease until laboratory results of metals samples can be analyzed and reviewed by the Regional Board.

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REPORTING

In reporting the monitoring data, the Discharger shall arrange the data in tabular form so that the date, the constituents, and the concentrations are readily discernable.

In addition to the monitoring results submitted as dictated by the monitoring requirements above, a final report summarizing the results of all monitoring done on the project, shall be submitted to the Regional Board within 30 days of the conclusion of dredging.

The Discharger shall implement the above monitoring program upon commencement of dredging.

Ordered by: William H. Crooks
WILLIAM H. CROOKS, Executive Officer

12 August 1991

(Date)

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Sacramento Field Office
2800 Cottage Way, Room E-1803
Sacramento, California 95825-1846

IN REPLY REFER TO

1-1-96-F-54

August 19, 1996

Mr. Jim Monroe, P.E., Esq.
Chief, Sacramento/San Joaquin
Delta Office
ATTN: K. Shaffer
Corps of Engineers
1325 J Street, Room 1444
Sacramento, California 95814-2922

Subject: Formal Endangered Species Consultation and Conference on the Proposed Harbor Marina, Adjacent to Andrus Island, San Joaquin River, Sacramento County, California (Regulatory Branch 199101037)

Dear Mr. Monroe:

The U.S. Fish and Wildlife Service (Service) has reviewed the proposed Harbor Marina project, Regulatory Branch Number 199101037, in the San Joaquin River adjacent to Andrus Island, Sacramento County, California. Your February 22, 1996, request was received on February 26, 1996. This document represents the Service's biological and conference opinions on the effects of that action on the delta smelt (*Hypomesus transpacificus*), its designated critical habitat, and the Sacramento splittail (*Pogonichthys macrolepidotus*), a species that has been proposed for Federal listing, in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act).

These biological and conference opinions are based on information provided in: (1) the letter initiating formal consultation; (2) telephone conversations between Ms. Karen Shaffer of the U.S. Army Corps of Engineers (Corps) and Mr. Matthew Vandenberg of my staff; (3) the Public Notice dated December 2, 1991 and accompanying Department of the Army Permit Evaluation and Decision Document; (4) other sources of information contained within our files. A complete administrative record of this consultation is on file in this office.

CONSULTATION HISTORY

Harbor Marina was originally issued permit number 199101037 on December 29, 1992, by the Corps to construct a commercial marina in the San Joaquin River at River Mile 21.75, adjacent to Andrus Island. The applicant has not yet begun any construction on the marina to date, and the time limit for completing the authorized work ended on December 31, 1995. As such, the applicant has now requested additional time to complete the work. Because the delta smelt was not listed and its critical habitat was not designated at the time the original permit was issued, the Corps is requesting formal consultation on the proposed project.

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BIOLOGICAL AND CONFERENCE OPINIONS

Description of the Proposed Action

The proposed Harbor Marina project is located in the San Joaquin River (River Mile 21.75) adjacent to Andrus Island in the Sacramento/San Joaquin Delta, Sacramento County, California (Figure 1). The proposed project would develop about 1340 linear feet of shoreline along Andrus Island, result in 367,000 square feet (8.43 acres) of shaded area that currently does not exist, and would excavate existing shoals.

An existing marina known as Korth's Pirate Lair is located in the Mokelumne River about 1100 feet upstream of the proposed project site, and several small private floating docks are located about one half mile downstream of the proposed project. The upland is an open field containing a small wetland area which is not within the project boundary. The waterside levee slope is covered with rock riprap to the top of the bank. Vegetation is sparse along this reach and confined to the upper portion of the bank.

The applicant proposes to construct a 22 acre marina harbor within a rock berm enclosure which would be built using dredge material and rock (Figure 2). Construction of the basin would require excavation of 130,000 cubic yards of sediment from the project site. The basin floor would be dredged to the -8 foot elevation.

The Harbor Marina project was originally proposed in 1984 (Corps Public Notice No. 8773). That application was withdrawn because of unresolved environmental concerns. Three subsequent applications, numbers 9036, 9540 and 199000040, were also withdrawn for similar reasons following public review. The main reasons for the withdrawals were the impacts on the San Andrus shoal in the project area, the dredging plans, and the mitigation plans. The applicant has attempted to resolve these issues within this application.

The marina development would provide 409 covered boat slips, 1000 feet of side tie-up docks, a launching ramp, fuel pumps, sewage pumpout facilities, two floating restrooms/laundry structures, a central two-story floating structure with similar sanitary facilities and marina services, and facilities for the harbor master. Dry-dock storage space for boats and parking will be provided on a portion of the upland property.

The applicant is planning on dredging the harbor area using both a suction dredge and a clamshell dredge. The entire harbor would be diked to reduce the turbidity impacts. The dike would include temporary plugs or turbidity curtains across the harbor entrance and circulation openings. The dike material will remain in place as part of the harbor berm with the exception of the material removed for the harbor entrance and flushing openings.

Approximately eight weeks of dredging will be required. During open water spoil activity, the applicant proposes to monitor the impacts through weekly sampling and analysis for suspended solids and partial depletion of dissolved oxygen. Sampling would be at mid-depth at locations of 100, 300, and 1000 feet downstream from the discharge point in the most turbid portion of the plume. An additional sample would be taken 200 feet upstream from the discharge point for comparison.

The clamshell dredge would be used to place rock for the berms and fill the lower portion of the berm's core. Approximately 2700 linear feet of levee berm would be constructed using about 25,000 cubic yards of dredged spoils for

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the core and 77,000 tons of stone riprap to contain and cover the spoil material. The berm would extend 700 feet into the waterway at the downstream project boundary, 740 feet at the mid-point, and 630 feet at the upstream project boundary measured from the Mean Low-Low Water elevation. Rock jetties at both ends of the harbor would extend an additional 280 feet into the waterway. Disposal of the 105,000 cubic yards of dredge material not used in the berm construction will be to an upland site.

A hydraulic dredge with a submerged discharge would be used for the open water placement of river washed aggregate (pea gravel from the Eel River) at spoil sites "A" and "B". These are designed mitigation areas where the applicant proposes to extend the San Andrus Shoal to offset the 14.7 acres of shallow water shoal habitat which would be displaced by the construction of the marina harbor. These sites would be brought to elevations similar to those now existing in the proposed basin area. Site "A" would be located downstream and about 400 feet from shore. Site "B" would be between the rock jetties on the riverside of the proposed berm. These two sites would total about 14.5 acres.

Status of The Species/Species Account

Delta smelt.

The delta smelt was Federally listed as a threatened species on March 5, 1993. Please refer to 58 FR 12854 for additional information on the biology and ecology of this species. The delta smelt is a slender-bodied fish with a steely blue sheen on the sides and seem almost translucent (Moyle 1976). The delta smelt, which has a lifespan of one year, has an average length of 60 to 70 mm (about 2 to 3 inches) and is endemic to Suisun Bay upstream of San Francisco Bay through the Delta in (1) Contra Costa, (2) Sacramento, (3) San Joaquin, and (4) Solano counties, California. Historically, the delta smelt is thought to have occurred from Suisun Bay upstream to at least the city of Sacramento on the Sacramento River and Mossdale on the San Joaquin River (Moyle et al. 1992, Sweetnam and Stevens 1993). The delta smelt is a euryhaline species (tolerant of a wide salinity range) that spawns in fresh water and has been collected from estuarine waters up to 14 ppt salinity (Moyle et al. 1992). For a large part of its annual life span, this species is associated with the freshwater edge of the mixing zone (saltwater-freshwater interface), where the salinity is approximately 2 ppt (Ganssle 1966, Moyle et al. 1992, Sweetnam and Stevens 1993).

Figure 3 shows the highly productive Estuary where the delta smelt is adapted to living in and where salinity varies spatially and temporally according to tidal cycles and the amount of freshwater inflow. Despite this tremendously variable environment, the historical Estuary probably offered relatively constant suitable habitat conditions for delta smelt, because they could move upstream or downstream with the mixing zone (Moyle, pers. comm., 1993). The final rule to list the delta smelt as threatened describes in detail the factors that have contributed to this species' decline (Service 1993).

Shortly before spawning, adult delta smelt migrate upstream from the brackish-water habitat associated with the mixing zone to disperse widely into river channels and tidally-influenced backwater sloughs (Radtke 1966, Moyle 1976, Wang 1991). Migrating adults with nearly mature eggs were taken at the CVP's Tracy Pumping Plant from late December 1990 to April 1991 (Wang 1991).

Delta smelt spawn in shallow, fresh or slightly brackish water upstream of the mixing zone (Wang 1991). Most spawning occurs in tidally-influenced backwater sloughs and channel edgewater (Moyle 1976; Wang 1986, 1991; Moyle et al.

1992). Although delta smelt spawning behavior has not been observed in the wild (Moyle et al. 1992), the adhesive, demersal eggs are thought to attach to substrates such as cattails, tules, tree roots, and submerged branches (Moyle 1976, Wang 1991).

Spawning locations appear to vary widely from year to year (Department and Bureau 1993). Sampling of larval delta smelt in the Delta suggests spawning has occurred in (1) the Sacramento River, (2) Barker, Lindsey, Cache, Georgiana, Prospect, Beaver, Hog, and Sycamore sloughs, (3) in the San Joaquin River off Bradford Island including Fisherman's Cut, (4) False River along the shore zone between Frank's and Webb tracts, and (5) possibly other areas (Dale Sweetnam, Fish and Game, pers. comm.; Wang 1991). Delta smelt also may spawn north of Suisun Bay in Montezuma and Suisun sloughs and their tributaries (Lesa Meng, Service, pers. comm.; Sweetnam, Fish and Game, pers. comm.).

The spawning season varies from year to year and may occur from late winter (December) to early summer (July). Moyle (1976) collected gravid adults from December to April, although ripe delta smelt were most common in February and March. In 1989 and 1990, Wang (1991) estimated that spawning had taken place from mid-February to late June or early July, with peak spawning occurring in late April and early May. A recent study of delta smelt eggs and larvae (Wang and Brown 1994 as cited in Department and Bureau 1994) confirmed that spawning may occur from February through June, with a peak in April and May. Spawning has been reported to occur at about 7° to 15° C. Initial results from a University of California at Davis (UCD) study (Cech and Swanson 1993 as cited in Department and Bureau 1994) indicate that although delta smelt tolerate a wide range of temperatures (<8° C to >25° C), warmer water temperatures restrict their distribution more than colder water temperatures.

Laboratory observations indicate that delta smelt are broadcast spawners that spawn in a current, usually at night, distributing their eggs over a local area (Lindberg 1992 and Mager 1993 as cited in Department and Bureau 1994). The eggs form an adhesive foot that appears to stick to most surfaces. Eggs attach singly to the substrate, and few eggs were found on vertical plants or the sides of a culture tank (Lindberg 1993 as cited in Department and Bureau 1994).

Delta smelt eggs hatched in 9 to 14 days at temperatures from 13° to 16° C during laboratory observations in 1992 (Mager 1992 as cited in Sweetnam and Stevens 1993). After hatching, larvae and juveniles move downstream toward the mixing zone where they are retained by the vertical circulation of fresh and salt waters (Stevens et al. 1990). The pelagic larvae and juveniles feed on zooplankton. When the mixing zone is located in Suisun Bay where there is extensive shallow-water habitat within the euphotic zone (depths less than four meters), high densities of phytoplankton and zooplankton may accumulate (Arthur and Ball 1978, 1979, 1980). In general, estuaries are among the most productive ecosystems in the world (Goldman and Horne 1983). Estuarine environments produce an abundance of fish as a result of plentiful food and shallow, productive habitat.

Observations of delta smelt in a swimming flume and in a large tank show that these fish are unsteady, intermittent, slow-speed swimmers. At low swimming flume velocities (<3 body lengths per second), and during spontaneous, unrestricted swimming in a 1-meter tank, delta smelt consistently swam with a "stroke and glide" behavior. This type of swimming is very efficient; Weihs (1974) predicted energy savings of about 50 percent for "stroke and glide" swimming compared to steady swimming. However, the maximum speed delta smelt are able to achieve using this preferred mode of swimming, or gait, was less

than 3 body lengths per second and the fish did not readily or spontaneously swim at this or higher speeds. Forced swimming at these speeds in a swimming flume was apparently stressful: Fish were prone to swimming failure and extremely vulnerable to impingement. Unlike fish for which this type of measurements have been made in the past, delta smelt swimming performance was limited by behavioral rather than physiological or metabolic constraints (e.g., metabolic scope for activity; Brett 1976).

Delta Smelt Critical Habitat.

Critical habitat for the delta smelt was designated on December 19, 1994. Please refer to 59 FR 65255 for additional information on delta smelt critical habitat. In determining which areas to designate as critical habitat, the Service considers those physical and biological features that are essential to a species' conservation and that may require special management considerations or protection (50 CFR §424.12(b)).

The Service is required to list the known primary constituent elements together with the critical habitat description. Such physical and biological features include, but are not limited to, the following:

- (1) space for individual and population growth, and for normal behavior;
- (2) food, water, air, light, minerals, or other nutritional or physiological requirements;
- (3) cover or shelter;
- (4) sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and
- (5) generally, habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

In designating critical habitat, the Service identified the following primary constituent elements essential to the conservation of the delta smelt: physical habitat, water, river flow, and salinity concentrations required to maintain delta smelt habitat for spawning, larval and juvenile transport, rearing, and adult migration. Critical habitat for delta smelt is contained within Contra Costa, Sacramento, San Joaquin, Solano, and Yolo counties (Figure 4).

Spawning habitat. Specific areas that have been identified as important delta smelt spawning habitat include Barker, Lindsey, Cache, Prospect, Georgiana, Beaver, Hog, Sycamore sloughs and the Sacramento River in the Delta, and tributaries of northern Suisun Bay (Figure 4). The spawning season varies from year to year and may start as early as December and extend until July.

Larval and juvenile transport. Adequate river flow is necessary to transport larvae from upstream spawning areas to rearing habitat in Suisun Bay and to ensure that rearing habitat is maintained in Suisun Bay (Figure 4). To ensure this, X2 must be located westward of the Confluence during the period when larvae or juveniles are being transported, according to historical salinity conditions (Figure 5). Habitat conditions suitable for transport of larvae and juveniles may be required as early as February 1 and as late as August 31.

Rearing habitat. Rearing habitat consists of an area extending eastward from Carquinez Straits, including Suisun, Grizzly, and Honker bays, Montezuma Slough and its tributary sloughs, up the Sacramento River to its confluence with Three Mile Slough, and south along the San Joaquin River including Big Break, defines the specific geographic area critical to the maintenance of suitable rearing habitat (Figure 4). Three Mile Slough represents the approximate location of the most upstream extent of tidal excursion when historical salinity conditions are implemented. Protection of rearing habitat conditions may be required from the beginning of February to the end of August.

Adult migration. Adequate flow and suitable water quality must be maintained to attract migrating adults in the Sacramento and San Joaquin river channels and their associated tributaries, including Cache and Montezuma sloughs and their tributaries (Figure 4). These areas also must be protected from physical disturbance and flow disruption during migratory periods.

Sacramento Splittail.

The Sacramento splittail was proposed for Federal listing as a threatened species on January 6, 1994. Please refer to 59 FR 862 for additional information on the biology and ecology of this species. The Sacramento splittail is a large cyprinid that can reach greater than 12 inches in length (Moyle 1976). Adults are characterized by an elongated body, distinct nuchal hump, and a small blunt head with barbels usually present at the corners of the slightly subterminal mouth. This species can be distinguished from other minnows in the Central Valley of California by the enlarged dorsal lobe of the caudal fin. Sacramento splittail are a dull, silvery-gold on the sides and olive-grey dorsally. During the spawning season, the pectoral, pelvic and caudal fins are tinged with an orange-red color. Males develop small white nuptial tubercles on the head.

Sacramento splittail are endemic to California's Central Valley where they were once widely distributed in lakes and rivers (Moyle 1976). Historically, Sacramento splittail were found as far north as Redding on the Sacramento River and as far south as the site of Friant Dam on the San Joaquin River (Rutter 1908). Rutter (1908) also found Sacramento splittail as far upstream as the current Oroville Dam site on the Feather River and Folsom Dam site on the American River. Anglers in Sacramento reported catches of 50 or more Sacramento splittail per day prior to damming of these rivers (Caywood 1974). Sacramento splittail were common in San Pablo Bay and Carquinez Strait following high winter flows up until about 1985 (Messersmith 1966, Moyle 1976, and Wang 1986 as cited in Department and Bureau 1994).

In recent times, dams and diversions have increasingly prevented upstream access to large rivers and Sacramento splittail have become restricted to a small portion of their former range (Moyle and Yoshiyama 1992). Sacramento splittail enter the lower reaches of the Feather and American rivers (Charles Hanson, State Water Contractors, in litt., 1993) on occasion, but Sacramento splittail are now largely confined to the Delta, Suisun Bay, and Suisun Marsh (Service 1994d). Stream surveys in the San Joaquin Valley reported observations of Sacramento splittail in the San Joaquin River below the mouth of the Merced River and upstream of the confluence of the Tuolumne River (Saiki 1984 as cited in Department and Bureau 1994).

Sacramento splittail are long-lived, frequently reaching five to seven years of age. Generally, females are highly fecund, producing over 100,000 eggs each year (Daniels and Moyle 1983). Populations fluctuate annually depending

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on spawning success. Spawning success is highly correlated with freshwater outflow and the availability of shallow-water habitat with submersed, aquatic vegetation (Daniels and Moyle 1983). Sacramento splittail usually reach sexual maturity by the end of their second year at a size of 180 to 200 mm. There is some variability in the reproductive period since older fish reproduce before younger individuals (Caywood 1974). The largest recorded Sacramento splittail have measured between 380 and 400 mm (Caywood 1974, Daniels and Moyle 1983). Adults migrate into fresh water in late fall and early winter prior to spawning. The onset of spawning is associated with rising temperature, lengthening photoperiod, seasonal runoff, and possibly endogenous factors from the months of March through May, although there are records of spawning from late January to early July (Wang 1986). Spawning occurs in water temperatures from 9° to 20° C over flooded vegetation in tidal freshwater and euryhaline habitats of estuarine marshes and sloughs and slow-moving reaches of large rivers. The eggs are adhesive or become adhesive soon after contacting water (Caywood 1974, and Bailey, University of California at Davis, pers. comm. 1994 as cited in Department and Bureau 1994). Larvae remain in shallow, weedy areas close to spawning sites and move into deeper water as they mature (Wang 1986).

Sacramento splittail are benthic foragers that feed on opossum shrimp, although detrital material makes up a large percentage of their stomach contents (Daniels and Moyle 1983). Additionally, (1) earthworms, (2) clams, (3) insect larvae, and (4) other invertebrates are found in the diet. Predators include striped bass and other piscivores. Sacramento splittail are sometimes used as bait for striped bass.

Sacramento splittail can tolerate salinity as high as 10 to 18 ppt (Moyle 1976, Moyle and Yoshiyama 1992). Sacramento splittail are found throughout the Delta, Suisun Bay, and Suisun and Napa marshes. They migrate upstream from brackish areas to spawn in freshwater. Because they require flooded vegetation for spawning and rearing, Sacramento splittail are frequently found in areas subject to flooding.

The 1985 to 1992 decline in Sacramento splittail abundance (Figure 6) is concurrent with hydrologic changes to the Estuary. These changes include increases in water diversions during the spawning period from January through July. Diversions, dams and reduced outflow, coupled with severe drought years, introduced aquatic species, and loss of wetlands and shallow-water habitat (Fish and Game 1992) have reduced the species' capacity to reverse its decline.

Environmental Baseline

Delta smelt.

Adult delta smelt spawn in central Delta sloughs from February through August in shallow water areas having submersed aquatic plants and other suitable substrates and refugia. These shallow water areas have been identified in the draft Delta Native Fishes Recovery Plan (Service 1994e) as essential to the long-term survival and recovery of delta smelt and other resident fish. A no net loss strategy is proposed in this draft Recovery Plan. The proposed action area contains a relatively vast expanse of shallow water shoal habitat, however, no emergent or submersed vegetation exists. Further, the surrounding banks have been heavily riprapped to protect other adjacent marinas which in turn further limits the functional value of the area. If the area were allowed to re-establish undisturbed, emergent and submersed vegetation would likely return and delta smelt would likely increase in and around the proposed

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action area. However, since the area is currently devoid of vegetation, has heavily rocked banks, and will continue to be utilized by boaters, water skiers, and other water enthusiasts, the possibility of the area being used by delta smelt for more than a temporary migration corridor is minimal.

Since the 1850's the amount and extent of suitable habitat for the delta smelt has declined dramatically. The advent in 1853 of hydraulic mining in the Sacramento and San Joaquin rivers led to increased siltation and alteration of the circulation patterns of the Estuary (Nichols et al. 1986, Monroe and Kelly 1992). The reclamation of Merritt Island for agricultural purposes, in the same year, marked the beginning of the present-day cumulative loss of 94 percent of the Estuary's tidal marshes (Nichols et al. 1986, Monroe and Kelly 1992).

In addition to the degradation and loss of estuarine habitat, the delta smelt has been increasingly subject to entrainment, upstream or reverse flows of waters in the Delta and San Joaquin River, and constriction of low salinity habitat to deep-water river channels of the interior Delta (Moyle et al. 1992). These adverse conditions are primarily a result of drought and the steadily increasing proportion of river flow being diverted from the Delta by the CVP and SWP (Monroe and Kelly 1992). Existing baseline conditions provide sufficient Delta outflows from February 1 through June 30 to transport larval and juvenile delta smelt out of the "zone of influence" of the pumps, and provide them low salinity, productive rearing habitat (Figures 7 and 8). This zone of influence has been delineated by DWR's Particle Tracking Model and expands or contracts with CVP and SWP combined pumping increases or decreases (Department and Bureau 1993). With the effects of tidal movement contributing additional movement, the influence of the pumps may entrain larvae and juveniles as far west as the Confluence. Placement of two parts per thousand isohaline (X2) downstream of the Confluence, Chipps and Roe islands provides delta smelt with protection from entrainment and low salinity, productive rearing habitat that increases both smelt abundance and distribution.

Delta Smelt Critical Habitat.

Critical habitat has been affected by dredging, pile driving, marina construction and other actions that destroy spawning and refugial areas. Critical habitat has also been affected by diversions that have shifted the position of X2 upstream. This shift has caused a decreased abundance of delta smelt. Existing baseline conditions and implementation of the Service's 1993 and 1994 biological opinions provide a substantial part of the necessary positive riverine flows and estuarine outflows to transport delta smelt larvae downstream to suitable rearing habitat in Suisun Bay outside the influence of marinas and Federal and State pumping plants.

Sacramento Splittail.

Sacramento splittail have experienced a decline in population as a result of hydrologic changes in the Estuary and loss of shallow water habitat due to dredging and filling. additional changes include increases in water diversions during the spawning period of January through July. Most of the factors that caused delta smelt to decline have also caused the decline of Sacramento splittail. These factors include (1) diversions, (2) dams and (3) reduced outflow, coupled with (4) severe drought years, (5) introduced aquatic species such as the Asiatic clam (Nichols et al. 1990), and (6) loss of wetlands and shallow-water habitat (DFG 1992) and appear to have perpetuated the species' decline.

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Effects of the Proposed Action

The Service is becoming increasingly concerned with marina construction and the use of rock riprap material to stabilize the banks of the levees. Marina construction and the use of traditional bank protection methods eliminate the long-term functional values of natural banks due to the absence of natural sediments, woody debris, and riparian plants that would normally accumulate. Further, marinas increase boat traffic in the area and cause erosion of surrounding banks. To prevent erosion, rip-rapping is often used. This traditional bank protection technique produces a rock-water interface which often fails to provide overhanging vegetation and in-stream woody materials that are key attributes of a unique habitat type termed Shaded Riverine Aquatic (SRA) cover. SRA habitat is defined as the aquatic area occurring along the edge of a stream or river where adjacent banks are composed of natural materials that support riparian vegetation which overhangs or protrudes into the water. Overhanging vegetation materials and downed woody debris provide variable habitat types, shade, and food items for in-stream biota. The benefits of SRA cover to fish and other aquatic species are well documented (USFWS, 1992). Loss of such SRA habitat is likely to contribute to the decline of fish and wildlife species, such as the delta smelt and Sacramento splittail, which depend heavily on such habitats.

Delta smelt

Construction and operation of Harbor Marina is likely to have several adverse effects on delta smelt. The construction of the Harbor Marina will occupy a total of 22 acres when completed. Approximately 15 of those 22 acres will span the San Joaquin River and result in the destruction of a shallow water, relatively un-vegetated shoal. Approximately 1340 linear feet of shoreline will be destroyed and then developed upon project completion. Structures that are built into and over the water shade submerged aquatic plants, thus decreasing spawning substrates and areas used by fish as refugia from predators. Harbor Marina would result in 367,000 square feet (8.43 acres) of shaded habitat that does not currently exist from the construction of various berths and floating docks. Such shading will eliminate the chances for emergent and submersed vegetation to grow in the area. Boating traffic associated with marinas cause increases in contaminants due to spillage of fuel and oil, increases in turbidity that interferes with the movement of delta smelt, and increases erosion of the surrounding banks and levees. The proposed fuel pump may further increase the effects of contaminants in the water if not handled appropriately.

The applicant has proposed mitigation to off-set some of the impacts to fish and wildlife and their associated habitat resulting from the proposed project: Placement of river washed aggregate (pea gravel from the Eel River) at two sites adjacent to the marina to replace the 14.7 acres of disturbed shoal and conducting all in-water work from June 1 through September 30. Because the shoal area was created mainly from riverine deposits and contains limited vegetation, the mitigation proposed seems adequate. However, the proposed work window may interfere with the down-stream migration of delta smelt because the start up time is within the critical time period of larval and juvenile transport.

Upon completion of the marina, an indirect effect of increased predation is likely to occur. Predatory fish, including striped bass (*Morone saxatilis*), are attracted to water associated structures (i.e., piles, docks, etc.) thus increasing the chances of direct losses of delta smelt that may be associating with the area. The proposed action will place pilings and docks in the area

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and, likely attract non-active predatory fish species. Because it is well known that predatory fish are attracted to large structures, such as piles and docks, delta smelt may experience increased predation in the proposed project area. Moreover, if it is determined that predatory fish populations increase without an increase in the delta smelt population, and such increase in the predatory fish population has a negative effect on the delta smelt, take that is incidental to the proposed project may occur.

Delta Smelt Critical Habitat

The Service has identified a list of activities that, depending on the season of construction and scale of the project, may result in the destruction or adverse modification of delta smelt critical habitat. Levee maintenance and bank-protection activities, such as rip-rapping, removal of vegetation, dredging and the placement of dredged materials on levees and banks and the construction of bridges and marinas have been specifically identified as activities likely to result in modification of delta smelt critical habitat. Because the proposed Harbor Marina expansion will be constructed within the boundaries of delta smelt designated critical habitat, modifications to critical habitat will occur.

Sacramento Splittail

The proposed project effects mentioned above for the delta smelt are similar to those likely to affect the Sacramento splittail.

Cumulative Effects

Cumulative effects include the effects of future State, local, or private actions affecting listed species and their critical habitat that are reasonably certain to occur in the area considered in this biological opinion. Future Federal actions not related to this proposed action are not considered in determining the cumulative effects, but are subject to separate consultation requirements pursuant to section 7 of the Act.

Cumulative effects on the delta smelt or its proposed critical habitat also include any continuing or future non-federal diversions of water that may entrain adult or larval fish or that may decrease outflows incrementally, thus shifting upstream the position of the delta smelt's preferred habitat. Water diversions through intakes serving numerous small, private agricultural lands and duck clubs in the Delta, upstream of the Delta, and in Suisun Bay contribute to these cumulative effects. These diversions also include municipal and industrial uses, as well as providing water for power plants. State or local levee maintenance and channel dredging activities also destroy or adversely modify critical habitat by disturbing spawning or rearing habitat. Delta smelt adults seek shallow, tidally-influenced, fresh water (i.e., less than 2 ppt salinity) backwater sloughs and edgewaters for spawning. To assure egg hatching and larval viability, spawning areas also must provide suitable water quality (i.e., low concentrations of contaminants) and substrates for egg attachment (e.g., submersed tree roots, branches, and emersed vegetation). Suitable water quality must be provided by addressing point sources of contaminants so that maturation is not impaired by pollutant concentrations. Levee maintenance disturbs spawning and rearing habitat, and re-suspends contaminants into these waters.

Additional cumulative effects result from the impacts of point and non-point source chemical contaminant discharges. These contaminants include selenium and numerous pesticides and herbicides associated with discharges related to

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agricultural and urban activities. Implicated as potential sources of mortality for delta smelt and Sacramento splittail, these contaminants may adversely affect delta smelt and Sacramento splittail reproductive success and survival rates. Spawning habitat may also be affected if submersed aquatic plants used as substrates for adhesive egg attachment are lost due to toxic substances.

Conclusion

Delta Smelt/Critical Habitat

Because the proposed Harbor Marina expansion, described in the Effects of the Proposed Action section above, is being conducted within the delta smelt's up-stream migration corridor and within the corridor needed by juveniles and larvae during their downstream migration, take that is incidental to the proposed action is expected. This take may include harm or harassment to all life stages of delta smelt found in the area. However, if the delta smelt are flushed out of the area during their down-stream migration or move out on their own during either their up or down-migration, and the applicant adheres to the work "window", in the terms and conditions below these impacts may be avoided.

After reviewing the current status of the threatened delta smelt and its designated critical habitat, the environmental baseline for the action area, the effects of the proposed action and the cumulative effects, it is the Service's biological opinion that the action, as proposed, is not likely to jeopardize the continued existence of the delta smelt, and is not likely to destroy or adversely modify designated critical habitat.

Sacramento Splittail

After reviewing the current status of the proposed as threatened Sacramento splittail, the environmental baseline for the action area, the effects of the proposed action and the cumulative effects, it is the Service's conference opinion that the action, as proposed, is not likely to jeopardize the continued existence of the proposed Sacramento splittail.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act prohibits take (i.e. to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct) of listed species of fish or wildlife without a special exemption. Harass is defined as an intentional or negligent act or omission which creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is defined to include significant habitat modification or degradation that results in death or injury to listed species by impairing behavioral patterns such as breeding, feeding, or sheltering. Incidental take is any take of listed animal species which results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or the applicant. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered a prohibited taking provided that such taking is in compliance with the terms and conditions of this incidental take statement.

The measures described below are non-discretionary and must be implemented by

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the Corps so that they become binding conditions of any grant or permit issued to the applicant, as appropriate, for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity that is covered by this incidental take statement. If the Corps (1) fails to require the applicant to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, and/or (2) fails to retain oversight to ensure compliance with these terms and conditions, the protective coverage of section 7(o)(2) may lapse.

Amount or Extent of Take

The Service anticipates that incidental take of delta smelt and Sacramento splittail will be difficult to detect for the following reasons: the small size of delta smelt and Sacramento splittail eggs and larvae and the unlikelihood of finding dead or impaired specimens. However, take of these species can be anticipated by the impacts to 1340 linear feet of shoreline and 14.7 acres of shallow water shoal habitat associated with the proposed expansion of the Harbor Marina project, the increase in predator accumulation, the degradation of water quality from fuel and oil spills and the increased boating traffic resulting from increased operation of the proposed project.

Reasonable and Prudent Measures

The Service determines that the following reasonable and prudent measures are necessary and appropriate to minimize the impact of incidental take of delta smelt.

1. Minimize the impacts on normal behavioral patterns of delta smelt including, but not limited to, feeding, breeding, and sheltering.
2. Minimize any additional impacts to delta smelt through coordination with ongoing Delta monitoring to further schedule marina construction times when delta smelt are or are not present.
3. Minimize the effects of increased boating traffic on listed and proposed species and their habitats through boater education.
4. Minimize the effects of contaminants on delta smelt due to spillage of fuel and oil resulting from boating activities.
5. Minimize the effects of habitat loss due to marina expansion.
6. Minimize the effects on the existing and recreated shoals adjacent to the proposed marina resulting from water circulation changes.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the ESA, the Corps must comply with the following terms and conditions, which implement the reasonable and prudent measures described above. The terms and conditions are non-discretionary.

1. To minimize the impacts on the normal behavioral patterns of delta smelt, in-water work associated with marina expansion shall be confined to the following working "window": August 1 to September 14. This time frame has been identified based on when life stages of delta smelt and other species of concern are not likely to be

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present in the geographic zone where the proposed project is to be conducted. Further, suction dredges shall be cleaned in a manner that minimizes entrainment of fish.

2. To minimize additional impacts to delta smelt, the Interagency Ecological Program's monitoring program in Stockton, California shall be contacted at 209-948-7800 to obtain results of Summer Towner Survey or Fall Midwater Trawl Survey to determine distribution of delta smelt and potential presence in the project area. If delta smelt are not potentially present in the project area, construction activities may occur for a continuous period not to exceed November 30th. It should be noted that no modification of time windows is possible from December 1 through June 30 and additional months when ripe delta smelt are possibly present.
3. To minimize the effects of increased boating traffic on listed and proposed species and their habitats, a plan for a boater education program consisting of signs or flyers shall be submitted to the Service for approval. Upon approval, the plan shall be implemented at least 30 days prior to the start of the proposed project to educate boaters about the effects of excessive noise and erosion resulting from boat operation has on resident fish and their habitats, including delta smelt and Sacramento splittail.
4. To minimize the effects of contaminants on delta smelt due to spillage of fuel and oil resulting from boating activities, no boater shall be allowed to pump their own fuel. Rather, a qualified individual educated in the effects on fuel spillage shall pump all fuel. Further, restrictions on bilge pumping within the marina area shall be posted and strictly enforced.
5. To minimize the effects of habitat loss due to marina expansion, habitat suitable for spawning and refugia for delta smelt and the proposed Sacramento splittail that is lost due to dredging, placement of dredge materials, and placement of stone shall be replaced and maintained for the lifespan of the marina at a 3:1 ratio. A survey shall be conducted prior to marina construction that details the extent of emergent and submersed vegetation affected by the proposed marina expansion. A plan that describes the acreage of proposed habitat replacement shall be submitted to the Service for approval at least 30 days prior to the project start-up date. Upon approval, the plan shall be implemented immediately following completion of the marina expansion. Further, to mitigate for disturbance to the 14.7 acres of shoal habitat, 14.7 acres of shoal habitat shall be recreated on-site.
6. To minimize the effects on the existing and recreated shoals adjacent to the proposed marina resulting from water circulation changes, a monitoring plan containing identified measures that will be taken if the marina causes the shoal areas to deteriorate shall be submitted to the Service 30 days prior to project start up date for review and approval.

The above terms and conditions for delta smelt should also remove the adverse effects of the proposed project on Sacramento splittail.

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Reporting Requirements

The Corps shall require personnel to report immediately any information about take or suspected take of delta smelt. Applicants shall immediately notify the Service within 1 working day of any such information. Notification must include the date, time, and precise location of the incident/specimen, and any other pertinent information. The Service contact shall be the Endangered Species Branch at 916-979-2725. Any killed specimens that have been taken shall be properly preserved in accordance with Natural History Museum of Los Angeles County policy of accessioning (10% formalin in quart jar or freezing). Information concerning how the fish was taken, length of the interval between death and preservation, the water temperature and outflow/tide conditions, and any other relevant information shall be written on 100% rag content paper with permanent ink and included in the container with the specimen. Preserved specimens shall be delivered to the Service's Division of Law Enforcement at 3310 El Camino Avenue, Suite 140 Sacramento, California 95821-6340 (916) 979-4861.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the ESA directs Federal agencies to use their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of endangered and threatened species and the ecosystems upon which they depend. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information.

- 1 Conduct studies, review pertinent literature, and explore options that protect banks near marinas without the use of traditional structural bank protection measures such as rock riprap.
- 2 Conduct studies to determine if delta smelt and Sacramento splittail continue to associate with areas that have undergone marina construction and have been modified by traditional bank protection measures.
- 3 Conduct studies on the use of rock riprap as a substrate for the attachment of delta smelt eggs to determine if artificial substrates can be utilized by delta smelt as spawning habitat.
- 4 Conduct a study to determine the effects of pilings and other artificial structures that attract and provide habitat for native and non-native predators.
- 5 Report to the Service the results of the above studies.

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefitting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

REINITIATION - CLOSING STATEMENT

This concludes formal consultation and conference on the proposed Delta Coves project located in Sandmound Slough on Bethel Island as outlined in the Public Notice, Number 199400393. As provided in 50 CFR 402.16, re-initiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is a CALENDAR PAGE 240.25

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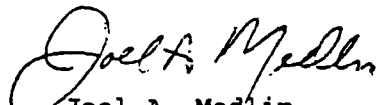
if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

You may ask the Service to adopt the conference opinion incorporated in this consultation as a biological opinion issued through formal consultation if the Sacramento splittail is listed. The request must be in writing. If the Service reviews the proposed action and finds that there have been no significant changes in the action as planned or in the information used during the conference, the Service will adopt the conference opinion as the biological opinion on the project. At that time no further section 7 consultation on the effects of the project on Sacramento splittail will be necessary, unless any of the thresholds in the above paragraph occur.

The incidental take statement provided with this conference opinion does not become effective until the species is listed and the conference opinion is adopted as the biological opinion issued through formal consultation. At that time, the project will be reviewed to determine whether any take of the Sacramento splittail has occurred. Modifications of the opinion and incidental take statement may be appropriate to reflect that take. No take of the Sacramento splittail may occur between the listing of the Sacramento splittail and the adoption of the conference opinion through formal consultation, or the completion of a subsequent formal consultation.

If you have any questions regarding these biological and conference opinions, please contact Matthew D. Vandenberg at the Sacramento Field Office at (916) 979-2752, for further discussion.

Sincerely,


Joel A. Medlin
Field Supervisor

cc: ARD-ES, Portland, OR
FWS, SFO-Wetlands Branch, Sacramento, CA
Diana Jacobs, State Lands Commission, Sacramento, CA
Pat Brantley, CDFG, Stockton, CA

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PERSONAL COMMUNICATIONS

- Moyle, P.B., University of California at Davis, Davis, CA 95
- Meng, Lesa, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-1803, Sacramento, CA 95825-1846
- Sweetnam, D., DFG, Bay-Delta and Special Water Projects Division, 4001 N. Wilson Way, Stockton, CA 95205-2424.

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REVISIONS

ADJACENT PROPERTY.

UPSTREAM : 156-0160-004
JOSEPHINE KORTH
169 W BRANNAN ISLAND ROAD
ISLETON, CALIFORNIA 95641

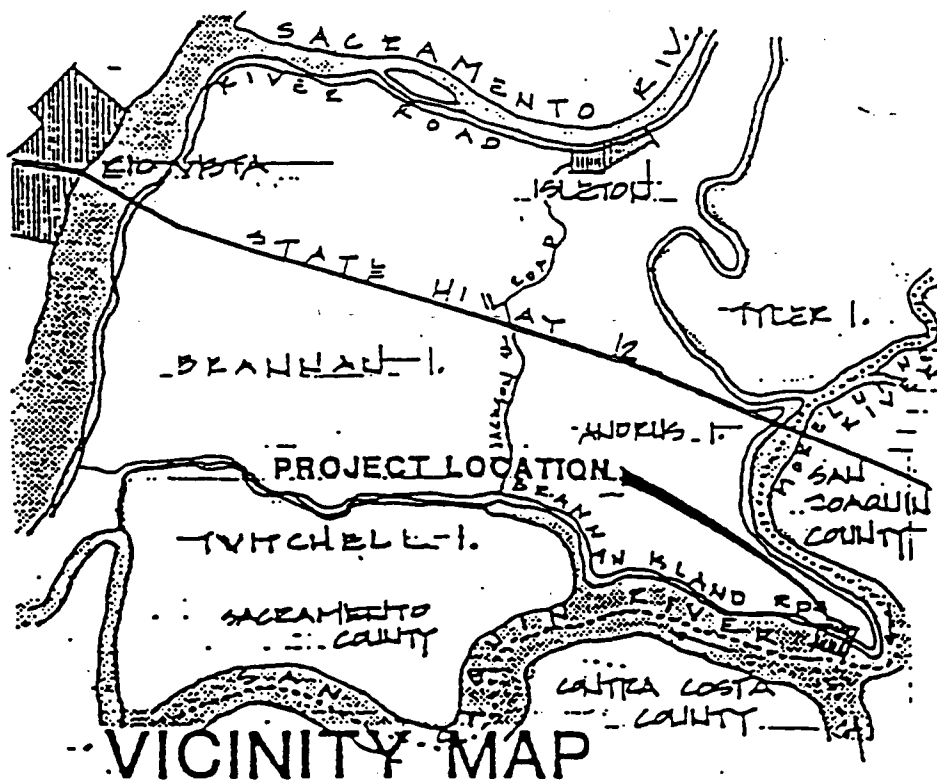
DOWNSTREAM : 156-0110-012
HAROLD & REBECCA McCABE
395 BRANNAN ISLAND ROAD
ISLETON, CALIFORNIA 95641

ASSESSORS PARCEL

156-0110-039

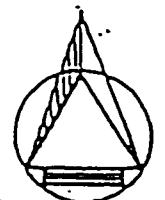
APPLICANT

CALVIN HOTEL COMPANY
7373 NORTH SCOTTSDALE ROAD
SCOTTSDALE, ARIZONA 85253



VICINITY MAP

HTS



NORTH

Figure 1

9187781161
COURT REPORTERS, INC.
APO 11ECT
PO Box 103 • Vallejo, CA 95680

PROJECT: THE HARBOR MARINA
ON THE SAN JOAQUIN RIVER

LOCATION: ANDRUS ISLAND
SACRAMENTO COUNTY

DATE: JANUARY 1990

CALENDAR PAGE: 240 OF 240
NGVD
MINUTE PAGE

SHT
240 OF 240
002636

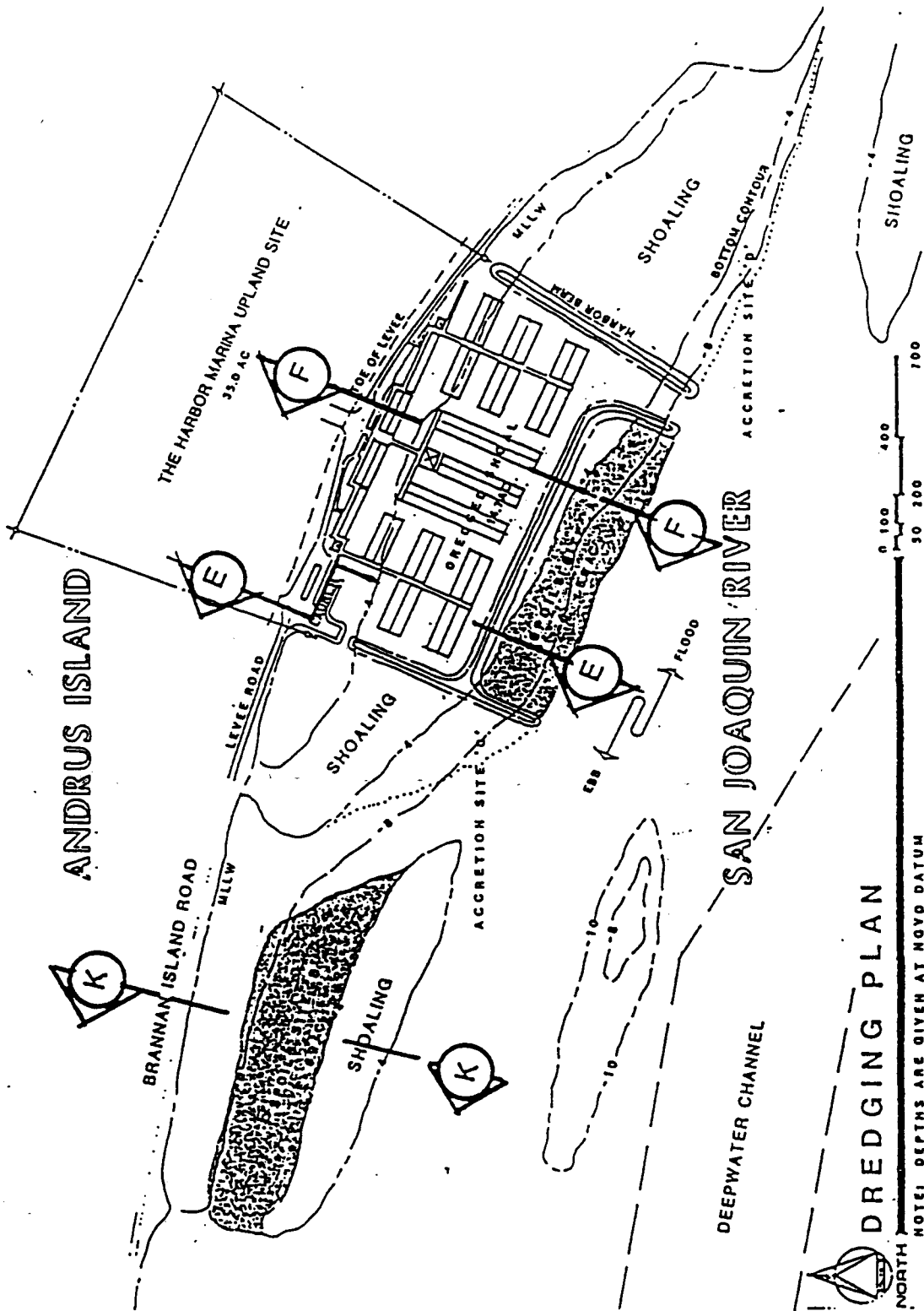


Figure 2



916-778-1181

Gilbert Lebrun, AIA

ARCHITECT

PO Box 183 • Walnut Grove, CA 95690

PROJECT: THE HARBOR MARINA
ON THE SAN JOAQUIN RIVER

DATE:
JANUARY 1990

LOCATION: ANDRUS ISLAND
SACRAMENTO COUNTY

CALENDAR PAGE:
NGVD
MINUTE PAGE

SHT

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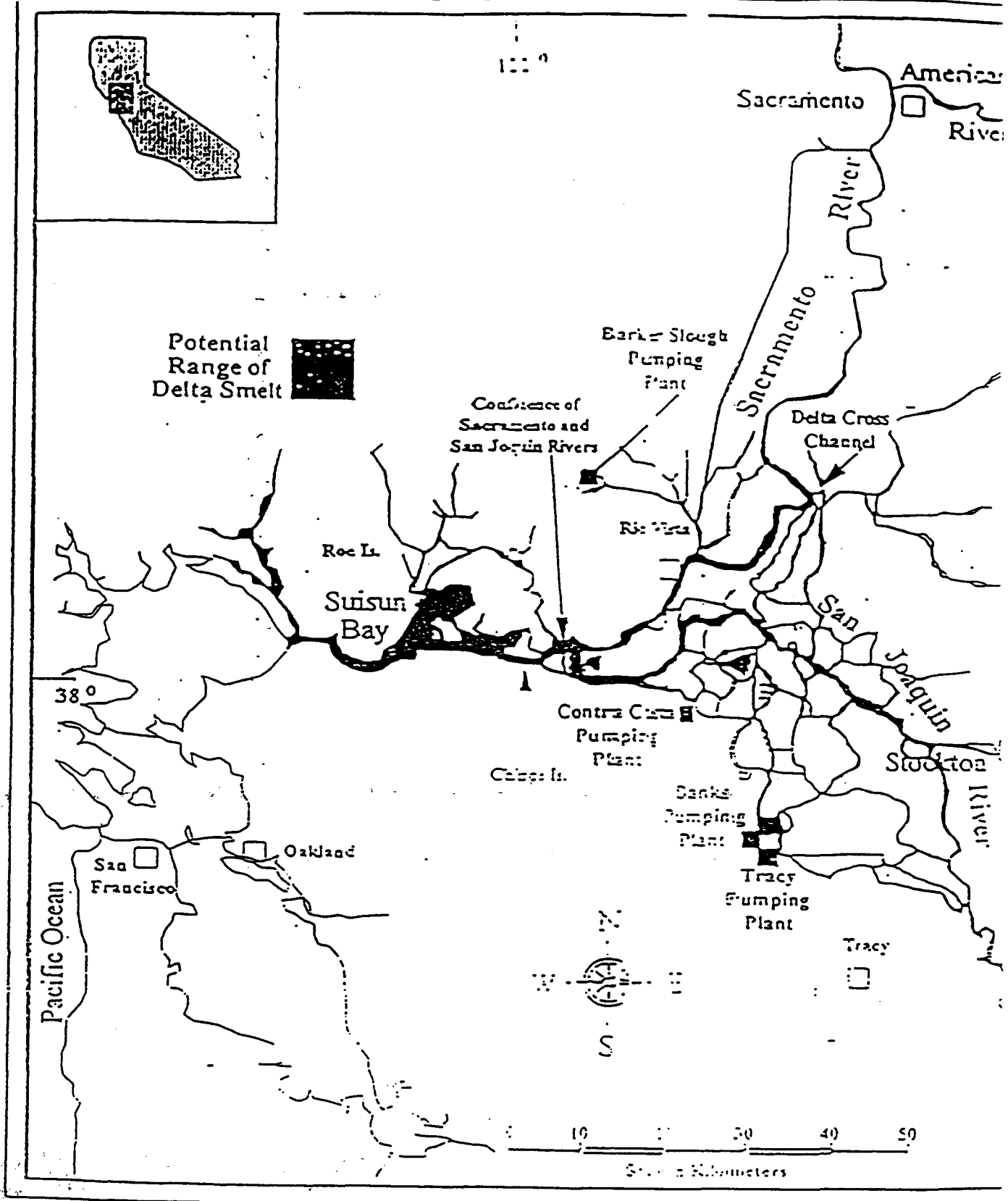


Figure 3

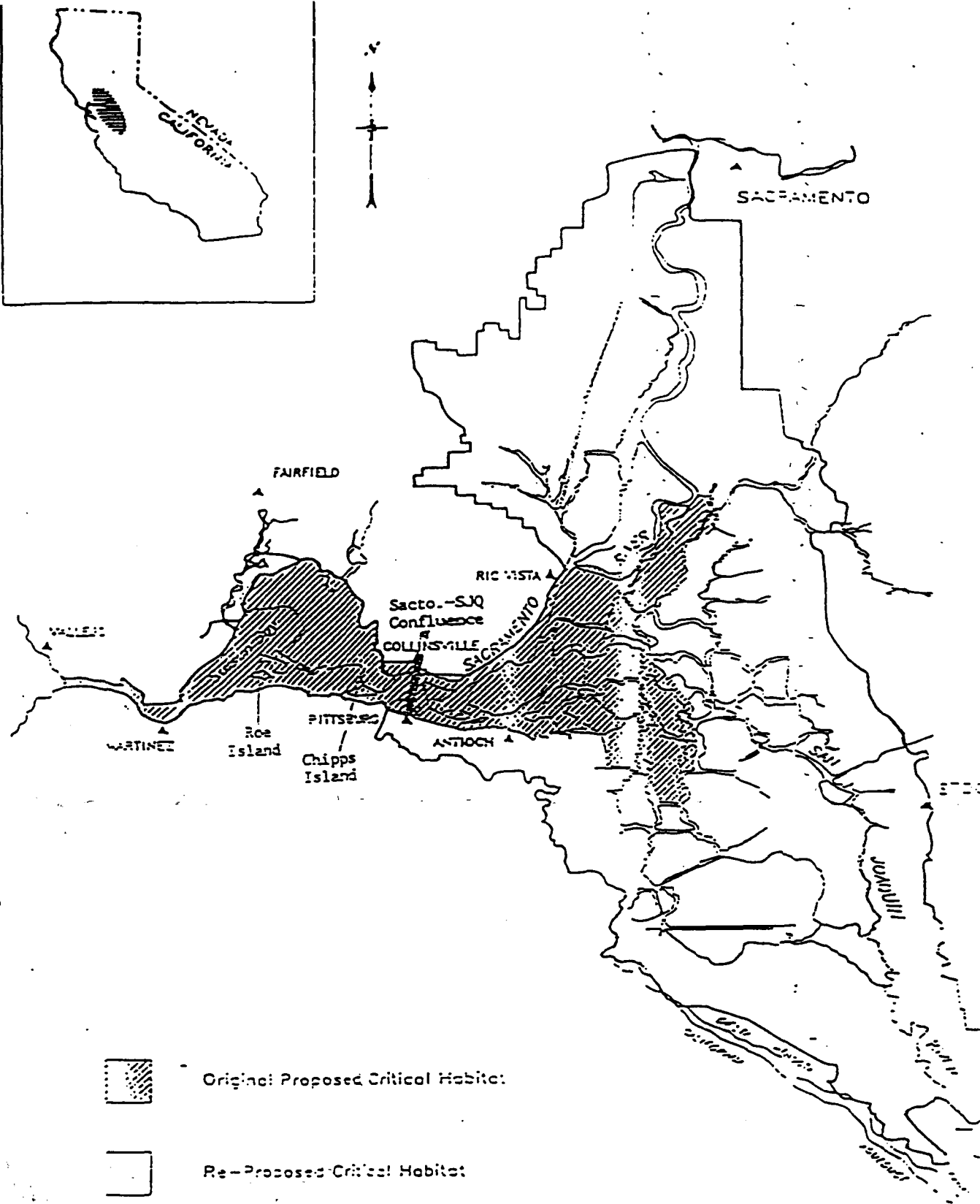


Figure 4 Delta smelt critical habitat. Please note the three areas of compliance.

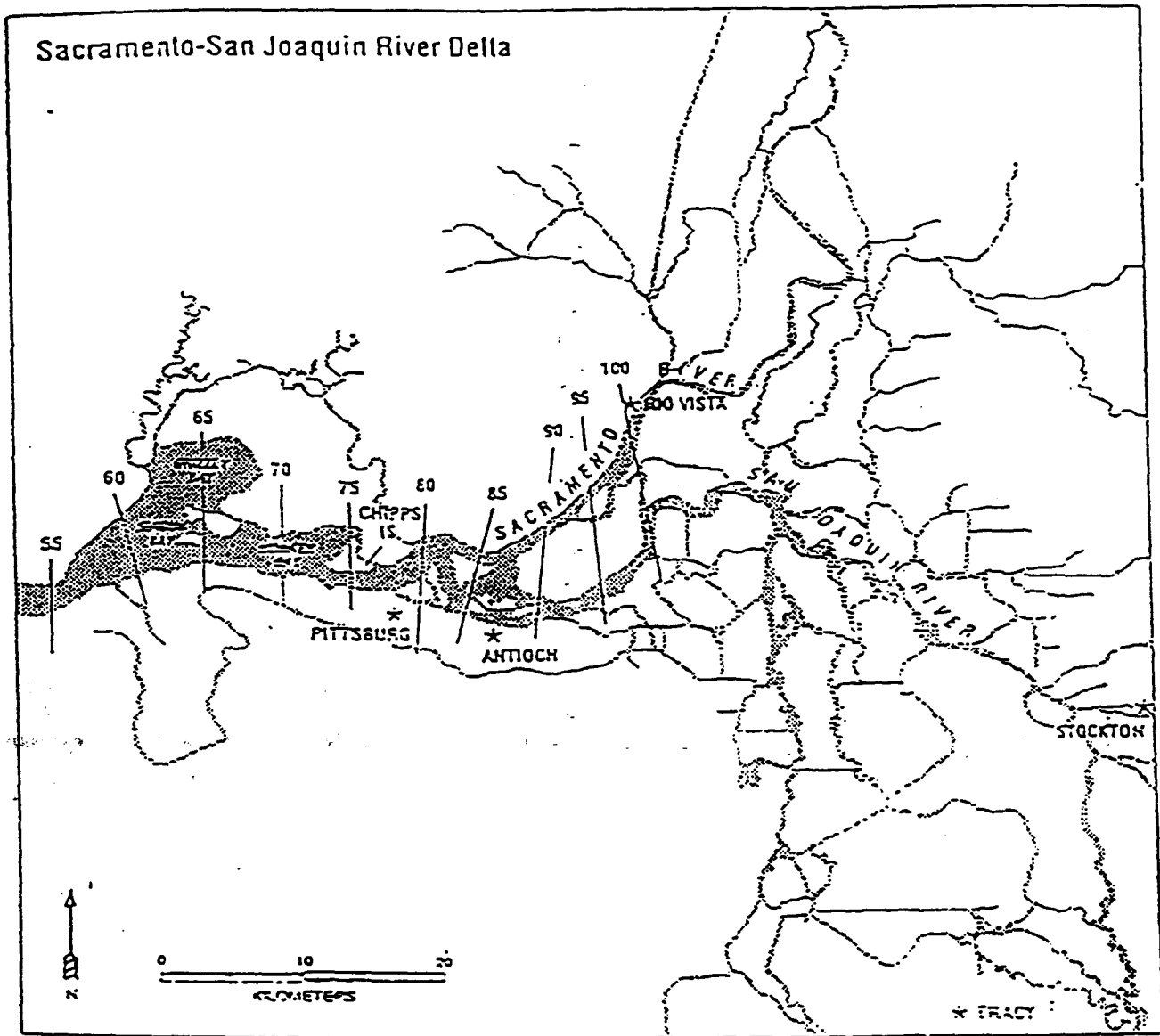
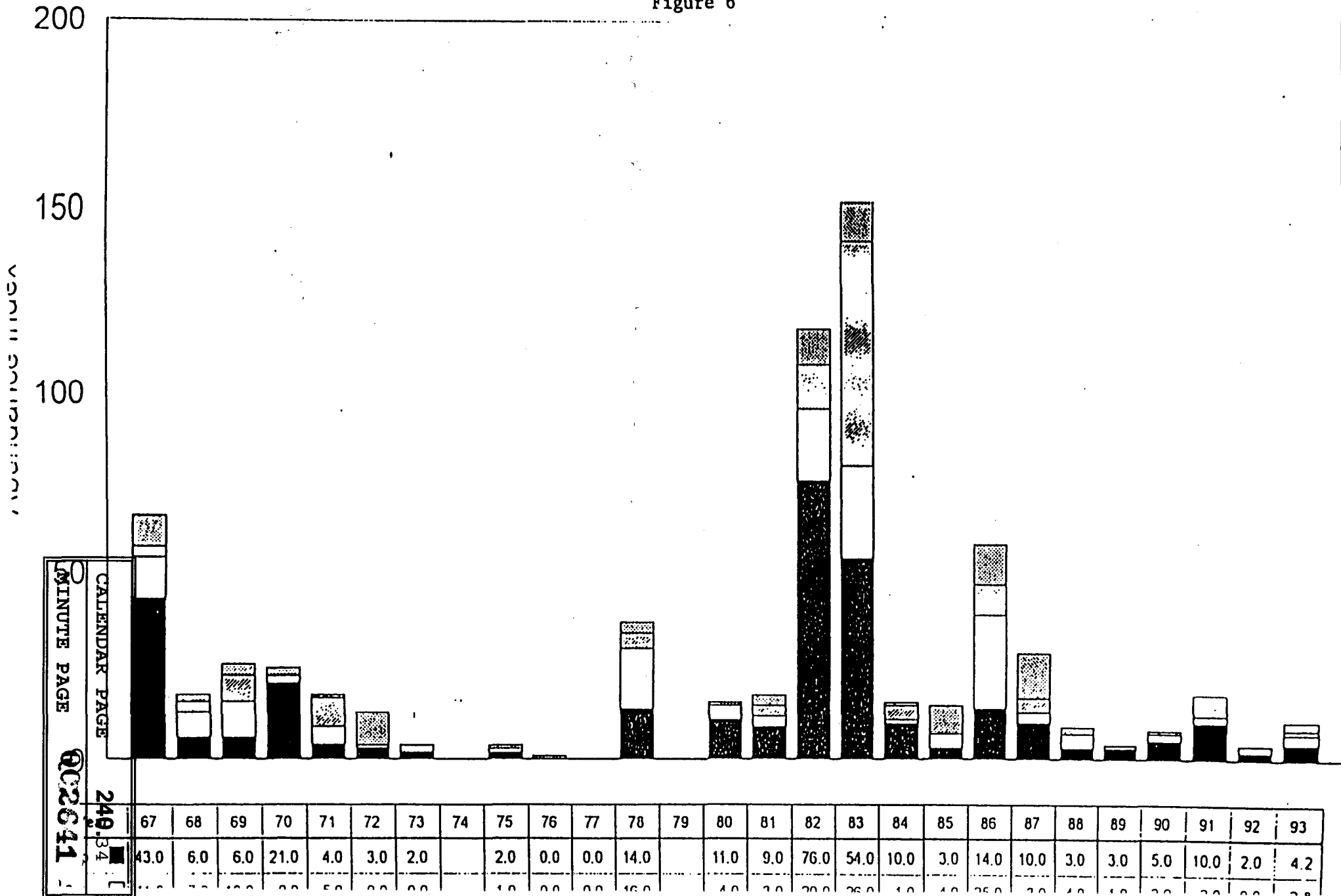


Figure 5 This map of the upper estuary displays sites of the continuous monitoring stations within the study area, and indicates hypothetical positions of a 2 ppt isohaline measured at five kilometer increments upstream from the Golden Gate Bridge.

Splittail Fall Midwater Trawl Abundance Index

Figure 6



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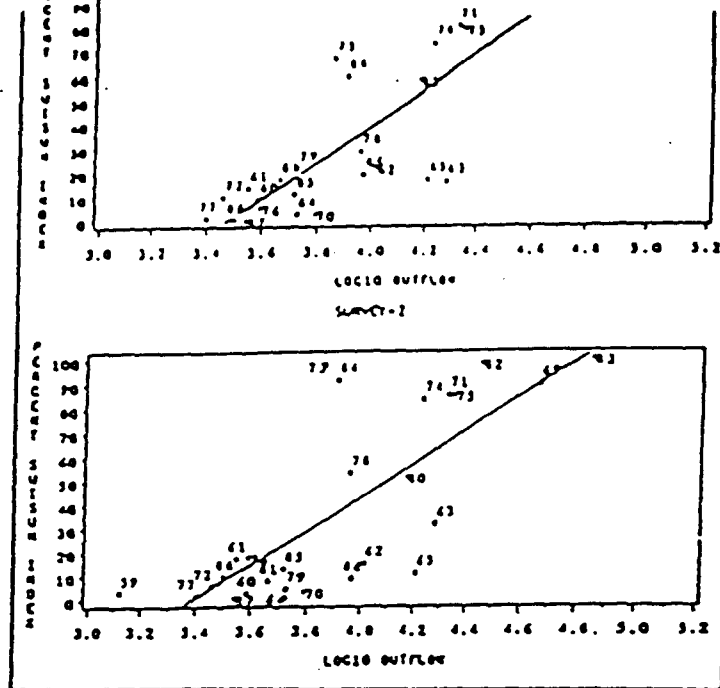


Figure 7
 RELATIONSHIP BETWEEN THE PORTION OF DELTA SMELT
 POPULATION WEST OF THE DELTA AND
 LOG DELTA OUTFLOW DURING THE SURVEY MONTH FOR
 SUMMER TOW-NET SURVEY, 1959 TO 1988

For arcsine transformed percentages, $r^2 = 0.74$ for survey 1 and
 $r^2 = 0.55$ for survey 2.

Source: Sweetnam and Stevens 1993.

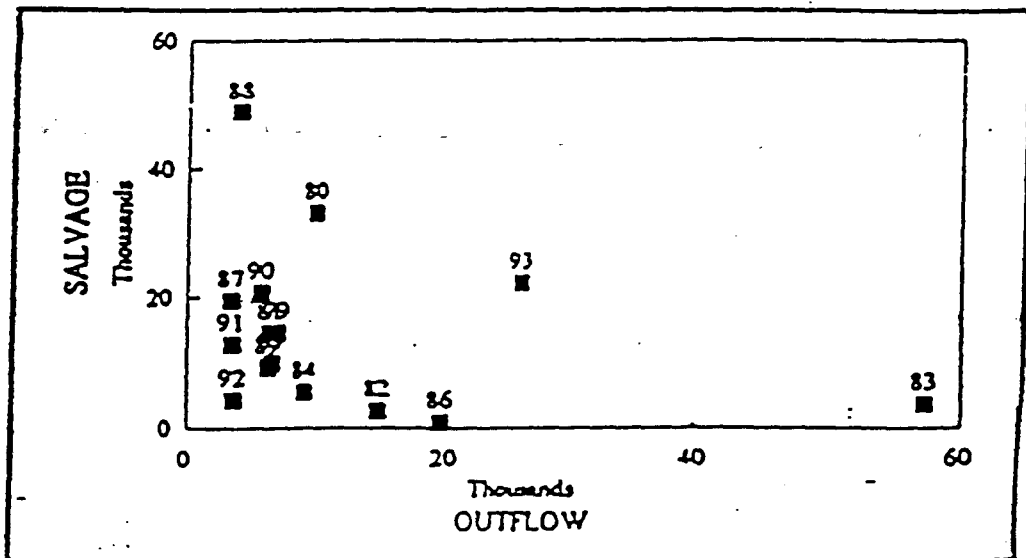


Figure 8
 RELATIONSHIP BETWEEN EXPANDED SALVAGE OF
 JUVENILE DELTA SMELT AT SKINNER FISH FACILITY AND
 TOTAL DELTA OUTFLOW, 1979-1993

AGREEMENT REGARDING PROPOSED STREAM ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and Gilbert Labrie, representing Calvin Hotel Company of Scottsdale, State of Arizona, hereafter called the Operator, is as follows:

WHEREAS, pursuant to Division 2, Chapter 6 of California Fish and Game Code, the Operator, on the 20th day of March, 1996, notified the Department that he intends to substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, or use material from the streambed of, the following water: San Joaquin River, in the County of Sacramento, State of California, Section , Township 3 North, Range 4 East.

WHEREAS, the Department (represented by Gary L. Hobgood has made an inspection of subject area on the 25th day of March, 1996, and) has determined that such operations may substantially adversely affect existing fish and wildlife resources including: Water quality, aquatic and terrestrial plant and wildlife species.

THEREFORE, the Department hereby proposes measures to protect fish and wildlife during the Operator's work. The Operator hereby agrees to accept the following recommendations as part of his work:

This agreement pertains to the development of the Harbor Marina. The project is located at Lower Andrus Island. Project activities include the construction of a sediment-filled rock berm enclosure, dredging of the harbor basin, construction of marina structures, and the creation of a shallow water habitat mitigation area.

1. This portion of the Sacramento-San Joaquin River Delta supports the Endangered Winter-run Salmon and proposed Delta Smelt. To protect Winter-run salmon and proposed Delta smelt, the Department of Fish and Game has developed guidelines for river construction projects. "In-water" work in this portion of the Sacramento-San Joaquin River Delta is limited to the period of June 1 through September 30. "In-water" work activities include, but are not limited to, pile driving, excavation, placement of fill, and the placement of stone revetment. Project activities outside this work period will require consultation with the Department under the California Endangered Species Act (CESA). If the Operator finds more time is needed to complete the authorized activity, the Operator shall submit a written request for a time extension to the Department 7 to 10 days before the above date is reached. The time extension request shall detail the extent of work already completed and the scope of work remaining and time required to complete operations within the stream zone. Time extensions are issued at the discretion of the Department.

Operator's Initials


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Notification Number II-116-96
The Harbor Marina Project
San Joaquin River, Sacramento County

2. All work shall be done in accordance to the plans attached to U.S. Army Corp of Engineers Permit Number 910137 and the REVISED MITIGATION AND MITIGATION PLAN FOR "THE HARBOR MARINA" (dated November 15, 1992). The Operator shall notify the Department of any modifications made to the project plans submitted to the Department. At the discretion of the Department, minor plan modifications may require an amendment to this agreement. At the discretion of the Department, if substantial modifications are made to the original plans, this agreement becomes void and the Operator must submit a new application. The Department, within 21 days of receipt of such plan modifications or within a time determined by mutual agreement, shall provide to the Operator its proposals as to measures necessary to protect fish and wildlife.
3. In the event that the project scope, nature, or environmental impact is altered by the imposition of subsequent permit conditions by any lead agency, special district or federal regulatory authority, the applicant may be required to resubmit a notification to the Department and seek a new agreement to proceed. See condition number 2 above for handling of modification made to the project plans.
4. The Operator shall notify the Department two working days prior to beginning work within the San Joaquin River. In addition, the Operator shall notify the Department within two working days of completing in-water work. Notification may be made by phone (916-983-5162), by FAX transmittal (FAX # 916-983-5162) or by mail (Department of Fish and Game, 1701 Nimbus Road, Suite A, Rancho Cordova, CA 95670). Refer to Notification Number II-116-96 when notifying the Department.
5. A copy of this agreement must be provided to the Contractor and all subcontractors who work within the stream zone and must be in their possession at the work site. The Contractor and subcontractors selected for this project shall sign this agreement prior to working within the stream zone. The Operator shall submit a copy of the signature page of this agreement bearing the Contractor's signature and subcontractor's signatures to the Department. Fax or mail the signature page to Warden Gary Hobgood. FAX # 916-983-5162 Mailing address, Department of Fish and Game, 1701 Nimbus Road, Suite A, Rancho Cordova, CA 95670.
6. Precautions to minimize turbidity/siltation outside the work area shall be taken into account during project planning and implementation. This may require that some work areas be isolated so that silt, or other deleterious materials are not allowed to pass outside the work area. The contractor must submit a detailed turbidity/siltation control plan to the Department. The Department will review the proposed turbidity/siltation control method. The turbidity/siltation control plan must be approved by the Department prior to work

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within the San Joaquin River. Siltation control curtains, working in enclosed areas, and tide movement should be considered when developing the turbidity/siltation control plan.

7. Water quality monitoring shall be done in accordance to Monitoring and Reporting Program No. 91-814, set by California Regional Quality Control Board - Central Valley Region. Sample results shall be provided to the Department upon request.
8. Upon Department determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation, shall be halted until effective Department approved control devices are installed, or abatement procedures are initiated.
9. Creosote-treated wood products shall not be used in State waters. Alternatives that may be appropriate include steel, concrete, plastic, or wood products treated with preservatives that do not contain creosote or other materials that are deleterious to aquatic life.
10. Any equipment or vessels operated within or adjacent to the San Joaquin River shall be checked and maintained daily, to prevent leaks of materials that if introduced to water could be deleterious to aquatic life. Petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter the river, by Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately. The cleanup of all spills will begin immediately. The Department will be notified by the Operator of any spills and will be consulted regarding cleanup procedures.
11. Spoil sites, material stockpiles, and/or construction equipment placement shall not be located within the water course or on the levee, where spoil shall be washed back into the water, or where it will cover aquatic or riparian vegetation.
12. Raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream or lake, by Operator or any party working under contract, or with the permission of the Operator, shall

Operator's Initials



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Notification Number II-116-96
The Harbor Marina Project
San Joaquin River, Sacramento County

be removed immediately.

13. The clean-up of all spills shall begin immediately. The Department shall be notified immediately by the Operator of any spills and shall be consulted regarding clean-up procedures.
14. During construction, the contractor shall not dump any litter or construction debris within the stream zone. All such debris and waste shall be picked up daily and properly disposed of at an appropriate site. All construction debris and associated materials shall be removed from the work site upon completion of this project.
15. The monitoring report required in the REVISED MITIGATION AND MITIGATION PLAN FOR "THE HARBOR MARINA" (dated November 15, 1992) shall be submitted to the Department annually beginning 30 days after the completion of the mitigation work. Refer to Notification Number II-116-96 when submitting the report to the Department.
16. All provisions of this Agreement remain in force throughout the term of the Agreement. Any provisions of the Agreement may be amended or the Agreement may be terminated at any time provided such amendment and/or termination is agreed to in writing by both parties.
17. Stream alteration construction work authorized by this agreement expires on December 31, 1997. This agreement shall remain in effect for that time necessary to satisfy the terms/conditions of the agreement including mitigation measures.
18. Requests for Renewals, Extensions, or Amendments must be submitted in writing to the Department prior to expiration of the agreement, conclusion of the work period, or commencement of changed work design, respectively. Renewals, Extensions, and Amendments are issued at the discretion of the Department.

Renewals - A renewal is a request to complete a project during next year's construction season. Renewals are for projects that have no changes in the work period (dates) or scope of work described in the original notification. The cost of a renewal is \$109.00.

Extensions - An extension is a request to allow work on the project to extend beyond the work period (dates) described in the agreement and there are no changes in the scope work described in the original notification. The Department may require changes or additions to the list of conditions in the original agreement to protect fish and wildlife. The cost of the extension is \$109.00

Operator's Initials



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Notification Number II-116-96
The Harbor Marina Project
San Joaquin River, Sacramento County

Amendments - An amendment is a modification to the original agreement that considers changes in the project's scope or design which would have impacts to fish and wildlife thereby requiring changes or additions to the list of conditions in the original agreement. The cost of an amendment is 50% of the fee of the original agreement.

19. The Department reserves the right to suspend and/or revoke this agreement if the Department determines that the circumstances warrant. The circumstances that could require a reevaluation include, but are not limited to, the following:
A) Failure to comply with the terms/conditions of this agreement. B) The information provided by the operator in support of the agreement/notification is determined by the Department to be incomplete, or inaccurate. C) When new information becomes available to the Department representative(s) that was not known when preparing the original terms/conditions of this agreement. D) The project as described in the notification/agreement has changed, or conditions affecting fish and wildlife resources change.
20. If, in the opinion of the Department, conditions arise or change in such a manner as to be considered deleterious to aquatic life, operations shall cease until corrective measures are taken.
21. This agreement is transferable to subsequent owners of the project property provided there is compliance with the following provisions:
a) The Department is provided a written statement from the original Operator detailing activities already begun or completed under authorization of this agreement.
b) The Department is provided a written statement from the new owner documenting acceptance of the conditions to agreed in this stream alteration agreement.
c) The Department is provided a written statement from the new owners documenting acceptance of activities already begun or completed under authorization of this agreement.
d) The new owner shall sign this agreement. This agreement will be available for the new owner's signature at the Department of Fish and Game's Region II Office located at 1701 Nimbus Road, Rancho Cordova. Refer to Notification Number II-116-96 when requesting to sign this agreement. Upon signature of this agreement, the new owner assumes the designation of Operator for the purposes of this agreement. Upon completion of all the requirements specified in this provision, the Original Operator is released from liability for future activities related to the agreement performed by the new operator or owner.
22. If this Agreement is found to be in conflict with any other provision of law or general conditions of public safety, the conflict will be resolved before work under this Agreement may continue.

Operator's Initials



Page 5 of 6 pages.

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SIGNATURE PAGE

The Operator, as designated by the signature on this agreement, shall be responsible for the execution of all elements of this agreement. A copy of this agreement must be provided to contractor and subcontractors and must be in their possession at the work site.

Failure to comply with the provisions of this agreement and with other pertinent Code Sections, including but not limited to Fish and Game Code Sections 5650, 5652 and 5948, may result in prosecution.

Nothing in this agreement authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of responsibility for compliance with applicable federal, state, or local laws or ordinances.

THIS AGREEMENT IS NOT INTENDED AS AN APPROVAL OF A PROJECT OR OF SPECIFIC PROJECT FEATURES BY THE DEPARTMENT OF FISH AND GAME. INDEPENDENT REVIEW AND RECOMMENDATIONS WILL BE PROVIDED BY THE DEPARTMENT AS APPROPRIATE ON THOSE PROJECTS WHERE LOCAL, STATE, OR FEDERAL PERMITS OR OTHER ENVIRONMENTAL REPORTS ARE REQUIRED.

This agreement becomes effective on receipt of signed agreement by all parties. This agreement terminates on December 31, 1997 for project construction activities only. This agreement shall remain in effect for that time necessary to satisfy the terms/conditions of the agreement including mitigation measures.

Operator Gilbert L. Labrie

Gary L. Hobgood
Gary L. Hobgood
Department Representative
Title Fish and Game Warden

Title PROJECT ARCHITECT
FOR CALVIN HOTEL CO

Organization GILBERT LABRIE
DIA, ARCHITECT

Department of Fish and Game
State of California

Date 4-22-96.

Date 4-17-96

Contractor _____

CONCURRENCE BY THE NEW OPERATOR
(if necessary)

Title _____

Operator _____

Title _____

Company _____

Organization _____

Date _____

Date _____

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**RECORDING REQUESTED BY
AND WHEN RECORDED
MAIL TO:**

NAME:

COUNTY MAIL CODE:

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**AGREEMENT
TO
MITIGATION MONITORING AND REPORTING PROGRAM
FOR
THE HARBOR MARINA USE PERMIT RENEWAL**

County Control Number: 94-UPP-0792

Assessor's Parcel Number: 156-0110-039

Project Description:

The project consists of a second renewal of a Use Permit to allow a 409 berth marina and ancillary uses on 35± acres in the Lower Andrus Island Special Planning Area (SPA) and Delta Waterways (DW) zones. The project represents a modified version of the original project approved by the County with a conditional Use Permit on February 25, 1987. The current project proposes the same facilities as those approved in a Use Permit renewal approved by the County on November 27, 1991.

Marina related facilities proposed include baths, harbor master's office, fuel dock and pump-out. Landward facilities will include approximately 124,000 square feet of covered dry storage area, office and maintenance area, and 449 improved parking spaces. The marina will extend 720± feet into the waterway. Construction of the 8 foot deep marina basin will require the removal of 130,000 cubic yards of sediment.

Location: The project is located approximately 35 miles south and west of Sacramento on Andrus Island at the confluence of the Mokelumme and San Joaquin Rivers. This is the point where Sacramento, San Joaquin and Contra Costa Counties meet.

No. text this page

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MINUTE PAGE 002650

Project Applicant: Gilbert Labrie
P.O. Box 183
Walnut Grove, CA 95690

Phone: (707) 374-6111

Type of Environmental Document:

Environmental Impact Report Prior Environmental Impact Report
 Negative Declaration Prior Negative Declaration
 Supplemental Environmental Impact Report

**Prepared by the Sacramento County Department
of Environmental Review and Assessment**

Date:
Revised: November 9, 1995

**Mitigation Monitoring and Reporting Program
Adopted By:**

Attest: _____
Clerk

DECLARATION OF AGREEMENT

This Mitigation Monitoring and Reporting Program applies to certain real property, a Legal Description of which is attached as Exhibit A. I (We) the undersigned agree that this Mitigation Monitoring and Reporting Program applies to the real property described in Exhibit A. I (We) the undersigned am (are) the legal owner(s) of that property, and agree to comply with the requirements of this Mitigation Monitoring and Reporting Program (Summary and Mitigation Measures attached).

IN WITNESS WHEREOF, this declaration is hereby executed by the undersigned named legal owner(s) of the subject property on this ____ day of _____, 19__.

OWNER(S) :

ALL-PURPOSE ACKNOWLEDGMENT

NO 209

State of _____ }
County of _____ }

On _____ before me, _____ (name, title of officer), personally appeared _____,

personally known to me — OR — proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

CAPACITY CLAIMED BY SIGNER

INDIVIDUAL(S) SIGNING FOR ONESELF/THEMSELVES

CORPORATE OFFICER(S) _____ TITLE(S) _____
COMPANY _____

PARTNER(S) _____ PARTNERSHIP _____

ATTORNEY-IN-FACT _____ PRINCIPAL(S) _____

TRUSTEE(S) _____ TRUST _____

OTHER _____ TITLE(S) _____

TITLE(S)

ENTITY(IES) REPRESENTED

ENTITY(IES) REPRESENTED

ALL-PURPOSE ACKNOWLEDGMENT

NO 209

State of _____ }
County of _____ }

On _____ before me, _____ (name, title of officer),
personally appeared _____ ,

personally known to me — OR — proved to me on the basis of satisfactory evidence to
be the person(s) whose name(s) is/are subscribed to the within instrument and acknowl-
edged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and
that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the
instrument.

WITNESS my hand and official seal.

Signature

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL(S) SIGNING FOR ONESELF/THEMSELVES
- CORPORATE OFFICER(S) _____ TITLE(S) _____
_____ COMPANY _____
- PARTNER(S) _____ PARTNERSHIP _____
- ATTORNEY-IN-FACT _____ PRINCIPAL(S) _____
- TRUSTEE(S) _____ TRUST _____
- OTHER _____ TITLE(S) _____
_____ TITLE(S) _____
_____ ENTITY(IES) REPRESENTED _____
_____ ENTITY(IES) REPRESENTED _____

ALL-PURPOSE ACKNOWLEDGMENT

NO 209

State of _____ }
County of _____ }

On _____ before me, _____ (name, title of officer),
personally appeared _____ ,

personally known to me — OR — proved to me on the basis of satisfactory evidence to
be the person(s) whose name(s) is/are subscribed to the within instrument and acknowl-
edged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and
that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the
instrument.

WITNESS my hand and official seal.

Signature

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL(S) SIGNING FOR ONESELF/THEMSELVES
- CORPORATE OFFICER(S) _____ TITLE(S) _____
_____ COMPANY _____
- PARTNER(S) _____ PARTNERSHIP _____
- ATTORNEY-IN-FACT _____ PRINCIPAL(S) _____
- TRUSTEE(S) _____ TRUST _____
- OTHER _____ TITLE(S) _____
_____ TITLE(S) _____
_____ ENTITY(IES) REPRESENTED _____

ENTITY(IES) REPRESENTED
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ATTORNEY PAGE

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

SUMMARY

Pursuant to Section 21081.6 of the Public Resources Code and Chapter 20.02 of the Sacramento County Code, a Mitigation Monitoring and Reporting Program has been established for the project entitled "THE HARBOR MARINA USE PERMIT RENEWAL" (**Control Number: 94-UPP-0792**).

The purpose of this program is to assure diligent and good faith compliance with the Mitigation Measures which have been recommended in the environmental document, and adopted as part of the project or made conditions of project approval, in order to avoid or mitigate potentially significant effects on the environment.

It shall be the responsibility of the project applicant to provide written notification to the Environmental Coordinator, in a timely manner, of the completion of each Mitigation Measure as identified on the following pages. The Department of Environmental Review and Assessment will verify, within ten (10) business days of notification, that the project is in compliance. Any non-compliance will be reported to the project applicant, and it shall be the project applicant's responsibility to rectify the situation by bringing the project into compliance and Revised-notifying the Environmental Coordinator. Any indication that the project is proceeding without good-faith compliance could result in the imposition of administrative, civil and/or criminal penalties upon the project applicant in accordance with Chapter 20.02 of the Sacramento County Code.

It shall be the responsibility of the project applicant to reimburse the County for all expenses incurred in the implementation of the Mitigation Monitoring and Reporting Program, including any necessary enforcement actions. The initial estimate of County monitoring costs for this project is **\$5,500.00**, which must be paid to the Department of Environmental Review and Assessment. If actual County monitoring costs are less than the initial estimate, the difference will be refunded to the applicant; and if the actual County monitoring costs exceed the initial estimate, a supplemental bill will be submitted to the applicant.

Pursuant to Section 20.02.060 of the Sacramento County Code, upon the determination of the Environmental Coordinator that compliance with the terms of the approved Mitigation Monitoring and Reporting Program has been achieved, and that there has been full payment of all fees for the project, the Environmental Coordinator shall issue and the Clerk of the Board shall record a Program Completion Certificate for the project.

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In order to record the adopted Mitigation Monitoring and Reporting Program with the County Recorder as required by Section 20.02.050(b)(2) of the Sacramento County Code, the project applicant shall provide to the Department of Environmental Review and Assessment a Legal Description for the real property that is the subject of the project.

The requirements of this adopted Program run with the real property that is the subject of the project, as described in Exhibit A. Successive owners, heirs and assigns of this real property are bound to comply with all of the requirements of the adopted Program.

Prior to any lease, sale, transfer or conveyance of any portion of the real property that is the subject of the project, the record owner(s) at the time of the application for the project, or his or her successor's in interest, shall provide a copy of the adopted Program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

Chapter 20.02 of the Sacramento County Code permits civil remedies and criminal penalties to be imposed in the event of non-compliance with an adopted Mitigation Monitoring and Reporting Program. The civil remedies, which are found in Section 20.02.090 of the Sacramento County Code, include injunctive relief, stop work orders, revocation of any special permit granted concurrently with the approval of a Program, and the abatement of any resulting nuisance. The criminal penalties, which are found in Section 20.02.080 of the Sacramento County Code, include a fine not to exceed five hundred dollars or imprisonment in the County jail not to exceed six months, or both.

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

STANDARD PROVISIONS

1. Any/all Preliminary Grading Plans, Improvement Plans and Building/Development Plans which are submitted to the Department of County Engineering and/or the Planning Department for this project, and any/all revisions to those Plans which are subsequently submitted, shall be in full compliance with the adopted Mitigation Monitoring and Reporting Program (MMRP). The project applicant shall submit one copy of all such Plans and/or revisions to the Department of Environmental Review and Assessment no later than 24 hours after the approval is obtained. If the Department of Environmental Review and Assessment determines that the approved Plans are not in full compliance with the adopted MMRP, the Plans shall be returned to the project applicant with a letter specifying the items of non-compliance, and instructing the applicant to revise the Plans, resubmit them to the approving department, and then resubmit one copy of the approved revised Plans to the Department of Environmental Review and Assessment no later than 24 hours after the approval is obtained.

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Mitigation Measure:

- A. Prior to the issuance of building permits, Final Development Plans shall be reviewed by the Planning Director and the Department of Environmental Review and Assessment during the plan check process to assure compliance with all ordinance requirements and the following:
1. Landscaping species and location shall comply with the requirements of the Brannan-Andrus Levee Maintenance District and the Sacramento County parking lot shading requirements.
 2. Structures within the project shall be constructed of materials, textures, and colors which are appropriate for an area with high visibility and low visual contrast, and building designs should fit into the rural character of the Delta.

Implementation and Notification (Action by Project Applicant):

1. Incorporate the above measure into any/all Building/Development Plans which are submitted to the Department of County Engineering and/or the Planning Department for this project, and any/all revisions to those Plans which are subsequently submitted.
2. Comply fully with item #1 in the Standard Provisions section of this Mitigation Monitoring and Reporting Program.
3. Regarding above measure A.1, submit written evidence to the Department of Environmental Review and Assessment from the Brannan-Andrus Levee Maintenance District which indicates the proposed Landscaping Plan complies with the requirements of the District. Include the name, address and phone number of the District representative who has reviewed the Landscaping Plan.
4. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to the start of (a) construction work and (b) installation of landscaping, and no later than 24 hours after their completion.
5. Comply fully with the above measure.

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

6. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to any/all Final Inspection(s) by the Department of County Engineering.

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the approved plans pursuant to item #1 in the Standard Provisions section of the Mitigation Monitoring and Reporting Program.
2. Review the required written evidence of approval of the Landscaping Plan from the Brannan-Andrus Island Levee Maintenance District.
3. Monitor compliance during periodic site inspections of the construction and landscaping work.
4. Participate in any/all Final Inspection(s), as necessary.

Comments:

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Signature: _____

Date: _____

Mitigation Measure:

B. The developer shall prepare and submit a Flood Evacuation Plan. That Plan shall first be reviewed for adequacy by the County Emergency Operations Coordinator and the Sheriff's Department. Once this Plan has been certified as complete by the Planning Director, copies of the Plan and map shall be posted permanently at one or more of the following locations:

1. At the main entrance to the facility:
2. Any other location identified by the County Emergency Operations Coordinator, Sheriff, or Director of the Planning Department.

In addition, a copy of the Plan and map shall be published at least once in a local newspaper of general circulation during the months of July and January of each year.

The Flood Evacuation Plan required by this measure shall include the following:

- A description of 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;

number, location, and desirability of all land-based evacuation routes;

any other information as required by the Planning Director, the Office of Emergency Services, or the Sheriff's Department; and

a map of all evacuation routes.

Implementation and Notification (Action by Project Applicant):

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

1. Prepare a proposed Flood Evacuation Plan that complies fully with the above Mitigation Measure, and submit copies of it to the Emergency Operations Coordinator, the Sheriff's Department and the Planning Department for review.
2. Submit a copy of the final Flood Evacuation Plan, as approved by the Planning Director, to the Department of Environmental Review and Assessment.
3. Notify the Department of Environmental Review and Assessment no later than 24 hours after the permanent posting of the Plan and map after the required locations has been completed.
4. During January and July of each year, submit a copy of the proof of publication of the Flood Evacuation Plan and Map to the Department of Environmental Review and Assessment.
5. Comply fully with the above measure.

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the approved Flood Evacuation Plan and the written evidence of its approval by the County Emergency Operations Coordinator, the Sheriff's Department and Planning Director.
2. Review the required proofs of publication of the Flood Evacuation Plan and map.
3. Monitor compliance of the permanent posting of the Plan and map via periodic site inspections.

Comments:

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

Signature: _____

Date: _____

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Mitigation Measure:

- C. Provide minimum floor elevations which are at least one-foot above the FEMA 100-year floodplain elevation, for the non-exempt structures developed on the project site to the satisfaction of the Water Resources Division of the Public Works Agency, or secure a FEMA variance from floor elevation requirements, if needed.

Implementation and Notification (Action by Project Applicant):

- 1. Comply fully with the above measure.
- 2. Submit written verification to the Department of Environmental Review and Assessment from the County Water Resources Division which indicates that the above measure has been complied with.

Verification (Action by the Department of Environmental Review and Assessment):

- 1. Review the written verification from the County Water Resources Division, and consult with that Division as necessary to verify compliance.

Comments:

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

Signature: _____

Date: _____

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Mitigation Measure:

- D. 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:
1. Construct a connector ramp north and south of State Route 12 at Brannan Island Road as shown on Figure 1 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 separator 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.
- E. The above fair share payment shall be made prior to the approval of Improvement Plans and shall be based upon a traffic analysis of the project and the cost of the required improvements. The information required for the fair share determination requires additional time under either of the following options:
- a. The fair share contribution can be determined by the Public Works Agency. The contribution would be determined within six weeks of receipt of a written request from the project proponent for such a determination. The project proponent would be required to reimburse the County for the time spent in making the determination in addition to paying their fair share, or
 - b. The project proponent can employ a consulting traffic engineer to develop a methodology and an expanded traffic analysis of the project and estimate the cost of the required improvements in order to determine the proponents' fair share. The Public Works Agency would require an additional four weeks to review the completed work of the consultant and provide a final determination of the fair share contribution.

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Implementation and Notification (Action by Project Applicant):

1. Comply fully with the above measures.
2. Submit written verification to the Department of Environmental Review and Assessment from the Public Works Agency which indicates that the above measures has been completed.

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the written verification from the Public Works Agency, and consult with that Agency as necessary to verify compliance.

Comments:

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

Signature: _____

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Date: _____

Mitigation Measure:

- F. The applicant shall establish a post-construction monitoring program which would monitor traffic conditions at the project site in order to detect potentially unsafe vehicle or pedestrian conditions.

Implementation and Notification (Action by Project Applicant):

1. Prepare the required post-construction traffic condition monitoring program for the project site in coordination with the County Transportation Division, and submit a copy of that program to the Transportation Division and to the Department of Environmental Review and Assessment for review.
2. If any potentially unsafe vehicle or pedestrian conditions are identified during the implementation of that program, the applicant shall submit written documentation to the Transportation Division and to the Department of Environmental Review and Assessment which indicates:
 - a. the potentially unsafe condition(s) which have been identified;
 - b. actions which the applicant proposes to take in order to alleviate such conditions; and
 - c. the date(s) during which the proposed actions would be taken.
3. Comply fully with the above measure.

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the submitted post-construction traffic condition monitoring program, and consult with the Transportation Division as necessary to determine compliance.
2. Review any subsequent documentation of potentially unsafe conditions and proposed

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

remedial actions, and consult with the Transportation Division as necessary to determine compliance.

3. Monitor compliance with the post-construction traffic condition monitoring program and any approved remedial actions necessary to alleviate potentially unsafe traffic conditions at the project site.

Comments:

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Signature: _____

Date: _____

Mitigation Measure:

- G. Should any cultural resources, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains be encountered during any development activities, work shall be suspended and the Department of Environmental Review and Assessment shall be immediately notified at 440-7914. At that time, the Department of Environmental Review and Assessment will coordinate any necessary investigation of the find with appropriate specialists as needed. The project applicant shall be required to implement any mitigation deemed necessary for the protection of the cultural resources. In addition, pursuant to Section 5097.97 of the State Public Resources Code and Section 7050.5 of the State Health and Safety Code, in the event of the discovery of human remains, all work is to stop and the County Coroner shall be immediately notified. If the remains are determined to be Native American, guidelines of the Native American Heritage Commission shall be adhered to in the treatment and disposition of the remains.

Implementation and Notification (Action by Project Applicant):

1. Include the above measure verbatim as a Construction Note on any/all Preliminary Grading Plans, Improvement Plans and Building/Development Plans which are submitted to the Department of County Engineering and/or the Planning Department for this project, and any/all revisions to those Plans which are subsequently submitted.
2. Comply fully with item #1 in the Standard Provisions section of this Mitigation Monitoring and Reporting Program.
3. If cultural resources are encountered, notify the Department of Environmental Review and Assessment immediately.
4. If human remains are encountered, notify the County Coroner and the Department of Environmental Review and Assessment immediately.
5. If no cultural resources are encountered, the applicant shall provide the Department of Environmental Review and Assessment with a signed statement to that effect.

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the approved plans pursuant to item #1 in the Standard Provisions section of the Mitigation Monitoring and Reporting Program.
2. If cultural resources are encountered, the Department of Environmental Review and Assessment will coordinate an investigation of the site with appropriate specialists as needed. After investigation, the applicant may be required to implement additional mitigation for the cultural resources.
3. Review the signed statement if no resources are encountered.

Comments:

Completion of Mitigation Verified:

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER 94-UPP-0792

Department of Environmental Review and Assessment

Signature: _____

Date: _____

Mitigation Measure

H: An effective program designed to limit litter in the marina area should be implemented. This program should include signs and handouts pinpointing the location of trash receptacles and, if necessary, a clean-up program will be implemented by the project applicant.

Implement and Notification (Action by Project Applicant):

1. Prepare written description of the required anti-litter program in coordination with the County Solid Waste Management Division and the County Recycling Coordinator. Elements of the anti-litter program, or plan, shall include signs and public information handouts, maps, and/or brochures pinpointing the locations of trash receptacles and/or recycling receptacles on the marina project.
2. Submit the required written description of the anti-litter program, along with the copies of the public information handouts, and an 8 1/2" X 11" exhibit of the anti-litter/receptacle signage (to be installed as part of the anti-litter program) to the Department of Environmental Review and Assessment for review.
3. Incorporate the anti-litter program measures, trash receptacle locations and recycling receptacle locations as appropriate into any/all Building/Development Plans which are submitted to the Department of County Engineering and/or the Planning Department for this project, and any/all revisions to those Plans which are subsequently submitted.
4. Comply fully with item #1 in the Standard Provisions section of this Mitigation Monitoring and Reporting Program.
5. Notify the Department of Environmental Review and Assessment no later than 24 hours after installing all anti-litter receptacles and signs.

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

6. Comply fully with the above measure.
7. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to any/all Final Inspection(s) by the Department of County Engineering.

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the submitted written description of the anti-litter program, and anti-litter program handouts and sign exhibits. Confirm that the program has been coordinated and/or reviewed by the County Solid Waste Management Division and the County Recycling Coordinator.
2. Review the approved plans pursuant to item #1 in the Standard Provisions section of the Mitigation Monitoring and Reporting Program.
3. Monitor compliance during periodic site inspections.
4. Participate in any/all Final Inspection(s), as necessary.

Comments:

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

Signature: _____

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Date: _____

Mitigation Measure:

- I. Provide written verification from the Sheriff's Department and Fire District that the lighting systems, security arrangements and fire protection are provided to their satisfaction prior to issuance of a building permit.

Implementation and Notification (Action by Project Applicant):

1. Prior to issuance of a building permit, submit written verification to the Department of Environmental Review and Assessment from the Sheriff's department and the Fire District which indicates that lighting systems, security arrangements and fire protection are provided to their satisfaction.
2. Comply fully with the above measure.

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the submitted written verification from the Sheriffs' Department and Fire District, and consult with those agencies as necessary to determine compliance.

Comments:

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

Signature: _____

Date: _____

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Mitigation Measure:

J. Provide a directory/locator board at the project entrance off Brannan Island Road.

Implementation and Notification (Action by Project Applicant):

1. Incorporate the above measure into any/all Building/Development Plans which are submitted to the Department of County Engineering and/or the Planning Department for this project, and any/all revisions to those Plans which are subsequently submitted.
2. Comply fully with item #1 in the Standard Provisions section of this Mitigation Monitoring and Reporting Program.
3. Notify the Department of Environmental Review and Assessment no later than 24 hours after completion of installation of the directory/locator board.
4. Comply fully with the above measure.
5. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to any/all Final Inspection(s) by the Department of County Engineering.

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the approved plans pursuant to item #1 in the Standard Provisions section of the Mitigation Monitoring and Reporting Program.
2. Monitor compliance during periodic site inspections after the completion of installation of the directory/locator board..
3. Participate in any/all Final Inspection(s), as necessary.

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Comments:

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

Signature: _____

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Date: _____

Mitigation Measure:

- K. Per Chapter 7 of the California Health and Safety Code, an adequate, potable water supply shall be provided. A small water system permit issued by the Environmental Management Department, Environmental Health Division is required. Plans and specifications for the water system shall be submitted to the Environmental Health Division for approval. The applicant must demonstrate financial responsibility as a condition of receiving the permit.

Prior to permit approval, a laboratory report on the quality of the water produced shall be submitted to the Environmental Health Division to determine if the water will meet the State Drinking Water Standards. If the concentration of any chemical exceeds the maximum contaminant level set forth in California Code of Regulations, Title 22, treatment facilities to remove these objectionable constituents shall be provided and a certified water treatment plant operator shall oversee the operation and maintenance of the treatment plant.

Implementation and Notification (Action by Project Applicant):

- 1. Include the above measure as a Construction Note on any/all Building/Development Plans which are submitted to the Department of County Engineering and/or the Planning Department for this project, and any/all revisions to those Plans which are subsequently submitted.
- 2. Comply fully with item #1 in the Standard Provisions section of this Mitigation Monitoring and Reporting Program.
- 3. Prior to the issuance of a small water system permit, submit written verification to the Department of Environmental Review and Assessment from the County Environmental Management Department, Environmental Health Division which indicates compliance with the above measure.

(The project applicant and the Environmental Health Division should note that if water quality laboratory reports identify concentrations of any chemical in excess of the maximum contaminant level set forth in California Code of Regulations, Title 22 and a water treatment facility will be required, the location and construction of a water treatment facility will be subject to additional and separate environmental review pursuant to the California Environmental Quality Act (CEQA).)

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

4. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to the start of construction of any water treatment facility, and no later than 24 hours after its completion.
5. Comply fully with the above measure.
6. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to any/all Final Inspection(s) for any water treatment facility by the Department of County Engineering.

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the approved plans pursuant to item #1 in the Standard Provisions section of the Mitigation Monitoring and Reporting Program.
2. Review the submitted written verification from the County Environmental Management Department, Environmental Health Division which indicates that state drinking water standards will be met and that a small water system permit was issued.
3. Monitor compliance during periodic site inspections of the water treatment facility construction work as necessary.
4. Participate in any/all Final Inspection(s), for any water treatment facility as necessary.

Comments:

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

Signature: _____

Date: _____

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Mitigation Measure:

- L. If a nonpotable water distribution system is used for irrigation, post warning signs regarding consumption of irrigation (nonpotable) water.

Implementation and Notification (Action by Project Applicant):

1. Submit to the Department of Environmental Review and Assessment a written statement which indicates whether or not a nonpotable water distribution system will be included in the project. If a nonpotable water distribution system is to be included, prepare and submit an 8 1/2" x 11 1/2" exhibit(s) of the nonpotable water supply warning sign(s) and a site plan which identifies the specific locations where these signs are to be posted.
2. Incorporate the above measure into any/all Building/Development Plans which are submitted to the Department of County Engineering and/or the Planning Department for this project, and any/all revisions to those Plans which are subsequently submitted.
3. Comply fully with item #1 in the Standard Provisions section of this Mitigation Monitoring and Reporting Program.
4. If warning signs are required, notify the Department of Environmental Review and Assessment no later than 24 hours after the completion of warning sign installation.
5. Comply fully with the above measure.
6. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to any/all Final Inspection(s) by the Department of County Engineering.

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the submitted written statement regarding whether or not a nonpotable water distribution system will be included in the project. If nonpotable water is to be used, review the submitted water supply warning sign exhibit(s) and the site plan indicating sign locations.
2. Review the approved plans pursuant to item #1 in the Standard Provisions section of the Mitigation Monitoring and Reporting Program.

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CONTROL NUMBER: 94-UPP-0792

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

3. If warning signs are required, monitor compliance during a site inspection after the completion of installation of the required warning signs.
4. Participate in any/all Final Inspection(s), as necessary.

Comments:

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

Signature: _____

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Date: _____

Mitigation Measure:

- M. Implement the following measures to protect and replace plant and animal communities.
1. The riparian corridor along the eastern boundary of the site shall be preserved, not only to maintain its value as wildlife habitat but to act as a visual buffer between the marina and its support facilities and the adjacent property. Maintaining this riparian zone also would help to preserve the wildlife value of the adjacent property.
 2. Following construction of the marina berm, the crown of the stabilized berm shall be planted with native endemic riparian vegetation to the satisfaction of the U.S. Fish and Wildlife Service (USFWS). A Landscape Plan shall be submitted to the USFWS for review prior to execution of the revegetation program.
 3. Native shrubs and trees shall be planted around the recreational facilities on the landward side of the levee. Native vegetation will help to minimize the introduction of exotic species into the area. Vegetational species should be capable of supporting a variety of native birds and other native wildlife once the vegetation matures. A Revegetation and Landscape Plan shall be submitted to the USFWS and/or the State Department of Fish and Game (DFG) for review.
 4. The proposed marina shall be constructed to minimize sedimentation and water quality problems in the river. Precautions shall be taken to minimize adverse effects on fish. It is expected that the terms of permits required by the DFG and the U. S. Army Corps of Engineers will partially mitigate water quality impacts.
 5. Dredging will not be allowed during the April 1 - June 1 striped bass spawning period, thus minimizing egg mortality caused by sedimentation.
 6. Conduct a water quality monitoring program during dredging and filling activities. Standards suitable for fish survival, as determined through coordination with the DFG and the USFWS, shall be maintained throughout the construction period. The following physical and chemical parameters shall be included in the monitoring program: dissolved oxygen, temperature, turbidity, heavy metals, and hydrocarbons. Gill epithelium tissue of several species of fish shall be monitored for sediment damage throughout the construction

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

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period.

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Implementation and Notification (Action by Project Applicant):

1. Prepare and submit a Riparian preservation and Revegetation Plan to the Department of Environmental Review and Assessment describing how the above Measures M.1, M.2 and M.3 will be implemented. Prior to the start of implementation of the Plan, submit written evidence of review and approval of the Plans by the USFWS and the DFG to the Department of Environmental Review and Assessment. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to the start of implementation of the Plan, and no later than 24 hours after its completion.
2. Prepare and submit a Water Quality Monitoring Program to the Department of Environmental Review and Assessment describing how above Measures M.4, M.5 and M.6 will be implemented. Subsequent to implementation of the Program, submit a report to the Department of Environmental Review and Assessment from a qualified water quality biologist/engineer verifying that water quality standards suitable for fish survival, as determined through coordination with the DFG and USFWS were maintained throughout the construction period. Submit a copy of DFG and Corps permits and/or agreements, including all required Conditions of Approval, to the Department of Environmental Review and Assessment.
3. Incorporate applicable measures from the required Riparian Preservation and Revegetation Plan and Water Quality Monitoring Program into any/all Preliminary Grading Plan, Improvement Plans and Building/Development Plans which are submitted to the Department of County Engineering and/or the Planning Department for this project, and any/all revisions to those Plans which are subsequently submitted.
4. Comply fully with item #1 in the Standard Provisions section of this Mitigation Monitoring and Reporting Program.
5. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to the start of implementing (a) Riparian Preservation and Revegetation Plan and (b) the Water Quality Monitoring Program, and no later than 24 hours after their completion. Notification shall include the name, address, and phone number of the revegetation/water quality specialist who will be responsible for overseeing implementation of the Riparian Preservation and Revegetation Plan and Water Quality Monitoring Program.
6. Comply fully with the above measures.

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

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7. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to any/all Final Inspection(s) for any water treatment facility by the Department of County Engineering.

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the submitted Riparian Preservation and Revegetation Plan and the Water Quality Monitoring Program. Review the required approval documentation from the DFG, USFWS and Corps.
2. Review the approved plans pursuant to item #1 in the Standard Provisions section of the Mitigation Monitoring and Reporting Program.
3. Monitor compliance during periodic site inspections of the implementation of the Riparian Preservation and Revegetation Plan and the Water Quality Monitoring Program.
4. Consult as necessary with the identified revegetation/water quality specialist(s) who will be overseeing implementation of the approved Plan/Program.
5. Participate in any/all Final Inspection(s) as necessary.

NOTE: The California Department of Fish and Game, the U. S. Fish and Wildlife Service and the U. S. Army Corps of Engineers shall be responsible for monitoring the conditions of any permits and/or agreements for this project which they may approve.

Comments:

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

Signature: _____

Date: _____

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Mitigation Measure:

N. Implement the following measures regarding water, subject to the approval of the County Water Quality Division, County Environmental Management Department, County Water Resources Division and the Central Valley Regional Water Quality Control Board.

1. Sewage disposal (other than vessel sewage):

a. Evaluate the feasibility of utilizing an on-site waste disposal system (conventional septic tank system) instead of discharge. (This mitigation was strongly advised by the CVWQCB); or

b. If a Package Treatment Plant is proposed, require operation of the Waste Water Treatment Plant (WWTP) by an acceptable public agency or other maintenance entity acceptable to the County Environmental Management Department and the CVRWQCB, with a certified WWTP operator available at all times.

- (1) Evaluate the capacities of the agricultural drainage ditch and pump to ensure that adequate capacity is available in the drainage ditch and pump station.
- (2) Provide back-up effluent storage in case of pump failure.
- (3) Provide dechlorination of the WWTP effluent to meet EPA standards of 0.0014 mg/l chlorine residual, if necessary.
- (4) Design the collection system to prevent infiltration and inflow.
- (5) Design the collection system and holding tanks to protect against leakage, provide an alarm system for all pumping facilities, and provide double piping or equivalent safety measures for piping extending over the marina waters.
- (6) Monitor water quality parameters using EPA aquatic life standards as a maximum threshold limit throughout the project.

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

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- (7) Provide an emergency plan including containment and disposal methods for potential spills on the ground or into waterways.

 - (8) If discharge to the drainage ditch is allowed, a study should be conducted to analyze in depth the potential impacts of the discharge. This study should identify the level of use of the drainage ditch for irrigation purposes, types of crops grown in the vicinity of the proposed project, possible methods of maintaining the separation of drainage and effluent flows, and possible compensation to farmers and the local Reclamation District if use of the ditch is restricted or cropping patterns are altered as a result of project implementation.

 - (9) The wastewater treatment collection system should be designed to maintain the maximum possible physical separation between the groundwater and the collection system piping.
2. Provide the following for vessel sewage disposal:
- a. Provide holding tank for vessel waste separate from the on-site WWTP or sewage disposal system, adequately sized and pumped regularly.

 - b. Provide pump-out facilities for vessel holding tanks, accessible to all boats using the marina. Keep a daily log of pump-out facility usage, including vessel registration numbers and date and time.

 - c. Monitor Dissolved Oxygen (DO) levels within the marina and, if a significant decrease occurs, provide adequate aeration to restore waters to background levels.

 - d. Monitor fecal coliform levels within the marina to ensure that illegal waste disposal or spills are not occurring.

 - e. Provide a public information brochure to all marina users on waste disposal regulations and the importance of ensuring that oil and gas spills do not occur.

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

NOTE: The location and construction of a Package Treatment Plant, or a Waste Water Treatment Plant (WWTP) will require additional and separate environmental review pursuant to the California Environmental Quality Act (CEQA).

Implementation and Notification (Action by Project Applicant):

1. Incorporate the above measures into any/all Building/Development Plans which are submitted to the Department of County Engineering and or the Planning Department for this project and any/all revisions to those Plans which are subsequently submitted.
2. Comply fully with item #1 in the Standard Provisions section of this Mitigation Monitoring and Reporting Program.
3. Prepare and submit sewage disposal plans to the identified responsible agencies for approval. Once approval has been obtained, submit written plan approval verification to the Department of Environmental Review and Assessment from the County Environmental Management Department, County Water Quality Division and/or the Central Valley Regional Water Quality Control Board and the Reclamation District (with regard to measures N.1.b.(1) & N.1.b.(8).)
4. Prepare and submit to the Department of Environmental Review and Assessment a public information brochure on waste disposal regulations and the importance of ensuring that oil and gas spills do not occur at the marina.
5. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to the start of construction of the sewage disposal facilities, and no later than 24 hours after its completion.
6. Comply fully with the above measures.
7. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to any/all Final Inspection(s) by the Department of County Engineering.

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the submitted documentation with regard to preferred method of sewage disposal (other than vessel sewage).
2. Review the submitted written verification of sewage disposal plan approval by the County Environmental Management Department, County Water Quality Division and/or Central Valley Regional Water Quality Control Board, and the Reclamation District (with regard to measures N.1.b.(1) and N.1.b.(8).
3. Review the waste disposal public information brochure.
4. Review the approved Plans pursuant to item #1 in the Standard Provisions section of this Mitigation Monitoring and Reporting Program.
5. Monitor compliance during periodic site inspections of the sewage construction work.
6. Participate in any/all Final Inspection(s), as necessary.

Comments:

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

Signature: _____

Date: _____

PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Mitigation Measure:

- O. Dikes should be constructed around the landslide perimeter of the project area to contain dredged material and water placed there. The containment dikes should be high enough and of sufficient cross-sectional area to contain the water until the material has settled out before the water is released into the Brannan-Andrus Island Levee Maintenance District's drainage canal system. This will prevent debris and silt from clogging the system.

Implementation and Notification (Action by Project Applicant):

- 1. Incorporate the above measure on any/all Preliminary Grading Plans, Improvement Plans and Building/Development Plans which are submitted to the Department of County Engineering and/or the Planning Department for this project, and any/all revisions to those Plans which are subsequently submitted.
- 2. Comply fully with item #1 in the Standard Provisions section of this Mitigation Monitoring and Reporting Program.
- 3. Submit written verification to the Department of Environmental Review and Assessment from the Reclamation District and/or the Brannan-Andrus Island Levee Maintenance District, which indicates that the dike containment measures included on the Improvement Plans have been reviewed and approved by the District.
- 4. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to the start of construction of the required containment dikes, and no later than 24 hours after its completion.
- 5. Comply fully with the above measure.
- 6. Notify the Department of Environmental Review and Assessment no later than 48 hours prior to any/all Final Inspection(s) by the Department of County Engineering.

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PROJECT TITLE: THE HARBOR MARINA USE PERMIT RENEWAL

CONTROL NUMBER: 94-UPP-0792

Verification (Action by the Department of Environmental Review and Assessment):

1. Review the submitted written verification from the Reclamation District and/or the Brannan-Andrus Island Levee Maintenance District which indicates approval of the containment dikes as indicated on the Plans
2. Review the approved plans pursuant to item #1 in the Standard Provisions section of the Mitigation Monitoring and Reporting Program.
3. Monitor compliance during periodic site inspections of the containment dike construction work.
4. Participate in any/all Final Inspection(s) as necessary.

Comments:

Completion of Mitigation Verified:

Department of Environmental Review and Assessment

Signature: _____

Date: _____

(940792.mm/jb)

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RECORDING REQUESTED

WHEN RECORDED MAIL TO:

County of Sacramento, Department of Environmental Review and Assessment
827 Seventh Street, Room 220
Sacramento, CA 95814

CONTACT PERSON: Dennis E. Yeast
TELEPHONE: (916) 440-7914

ENDORSED

DEC 20 1995

JOHN DARR
RECORDER

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

NOTICE OF DETERMINATION

SUBJECT: FILING OF NOTICE OF DETERMINATION IN COMPLIANCE WITH SECTION 21108 OR 21152 OF THE PUBLIC RESOURCES CODE

PROJECT TITLE: THE HARBOR MARINA USE PERMIT
CONTROL NUMBER(S): 94-UFP-0792 STATE CLEARINGHOUSE NUMBER (IF SUBMITTED): 95062051
PROJECT LOCATION: The proposed project is located approximately 35 miles south and west of Sacramento on Andrus Island at the confluence of the Mokelumne and San Joaquin Rivers, in the Delta community.
ASSESSOR'S PARCEL NUMBER(S): 156-0110-039
DESCRIPTION OF PROJECT: The proposed project consists of a second renewal of a Use Permit to allow a 409 berth marina and ancillary uses on 35± acres, in the Lower Andrus Island Special Planning Area (SPA) and Delta Waterways (DW) zones. The project represents a modified version of the original project approved by the County with a conditional Use Permit on February 25, 1987. The current project proposes the same facilities as those approved in a Use Permit renewal approved by the County on November 27, 1991.

This is to advise that the County of Sacramento (Lead Agency Responsible Agency) has approved the above described project on December 11, 1995 and has made the following determinations concerning the above described project:

- The project [will will not] have a significant effect on the environment.
- An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA. A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
- Mitigation measures [were were not] made a condition of the approval of the project.

This is to certify that the environmental document and record of project approval is available to the General Public at: 827 Seventh Street, Room 220, Sacramento, CA 95814.



ENVIRONMENTAL COORDINATOR OF
SACRAMENTO COUNTY
STATE OF CALIFORNIA

BY: Robert J. DeBorja
for Dennis E. Yeast
Environmental Coordinator

Copy To: State of California
Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814
 County of Sacramento
County Clerk
600 8th Street, Room 101
Sacramento, CA 95814

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EXHIBIT "C" MINUTE PAGE

002696

CALIFORNIA STATE LANDS COMMISSION
Report Of Annual Gross Income For January 1 through December 31, 1996

Please Note: If no percent of gross rental is due, reports are still required.

REPORT DUE ON OR BEFORE JANUARY 31ST OF EACH YEAR

LESSEE: Calvin Hotel

W 23517

MAILING ADDRESS: 7350 East Evans Road, Suite D, Scottsdale, AZ 85260

New Address

RENTAL BASED ON GROSS INCOME				
Type of Gross Income	\$ Amount of Gross Income	X % Allocable to State	X % Payable to State	RENTAL DUE STATE
Berthing, docking, moorings or launching of boats	\$	100%	9%	\$
Boat Brokerage			5%	
Other Income not itemized above		100%	10%	
TOTAL RENTAL BASED ON GROSS INCOME				\$

RENTAL BASED ON FUEL SALES			
Gallons (maximum of 100,000)		X \$.015 =	\$
Gallons (excess of 100,000)		X \$.02 =	\$
Total Gallons Sold During Year			
TOTAL RENTAL BASED ON FUEL SALES			\$

TOTAL RENTAL DUE BASED ON GROSS INCOME	\$
<i>Less Minimum rental paid in advance (Paid on or before "Anniversary Date")</i>	\$ < >

TOTAL RENTAL DUE	\$
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PLEASE ATTACH TO THIS REPORT A BALANCE SHEET OF YOUR OPERATIONS FOR THE ABOVE LEASE AND AN INCOME STATEMENT OF YOUR OPERATIONS FROM THE LEASE PREMISES.

Mail to: California State Lands Commission Attn.: Accounting Unit 100 Howe Avenue, Suite 100 South Sacramento, California 95825-8202	CERTIFICATION I certify (or declare) under penalty of perjury that the foregoing is true and correct, and that it is complete the best of my knowledge and belief.	VERIFICATION DO NOT WRITE IN THIS SPACE AMOUNT CREF DATE
	Signature Of Lessee Or Agent Title _____ Dated _____ At _____ (City and State)	CALCULATION BY STATE DIFFERENCE

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EXHIBIT "H"

CALIFORNIA STATE LANDS COMMISSION
Report Of Annual Gross ending December 31 (Year)

Please Note: If no percent of gross rental is due, report(s) is(are) still required.

REPORT DUE ON OR BEFORE JANUARY 31,

PRC:

MAILING ADDRESS: ~~7373 North Scottsdale Road, Suite 290A~~
~~Scottsdale, AZ 85253-3550~~

*7350 East Evans Road
 Suite 2
 Scottsdale, Calif
 85260*

New Address:

RENTAL BASED ON GROSS INCOME				
Type of Gross Income	\$ Amount of Gross Income	X % Allocable to State	X % Payable to State	RENTAL DUE STATE
Berthing, docking, mooring or launching of boats	\$	%	9%	\$
Boat Brokerage			.5%	
Other Gross Income			10%	
TOTAL RENTAL BASED ON GROSS INCOME				\$

RENTAL BASED ON FUEL SALES			
Gallons (maximum of 100,000)		X \$.015 =	\$
Gallons (excess of 100,000)		X \$.02 =	\$
Total Gallons Sold During Year			
TOTAL RENTAL BASED ON FUEL SALES			\$

TOTAL RENTAL DUE BASED ON GROSS INCOME	\$
<i>Less Minimum rental paid in advance(Paid on or before "Anniversary Date")</i>	\$ < >

TOTAL RENTAL DUE	\$
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PLEASE ATTACH TO THIS REPORT A BALANCE SHEET OF YOUR OPERATIONS FOR THE ABOVE LEASE AND AN INCOME STATEMENT OF YOUR OPERATIONS FROM THE LEASE PREMISES.