

MINUTE ITEM

This Calendar Item No. C12 was approved as Minute Item No. 12 by the California State Lands Commission by a vote of 3 to 0 at its 06/18/02 meeting.

**CALENDAR ITEM
C12**

A 5

06/18/02
PRC 5167.1
PRC 6427.1

S 6

D. Jones
J. Frey

**ACCEPTANCE OF PARTIAL LEASE QUITCLAIM DEED;
AND CONSIDER AMENDMENTS OF GENERAL LEASES – COMMERCIAL USE,
PRC LEASE NOS. 5167.1 AND 6427.1**

LESSEES:

Lease No. PRC 5167.1
Virgin Sturgeon, Inc.
1577 Garden Highway
Sacramento, California 95833

Lease No. PRC 6427.1
Riverbank Holding Company, LLC
P. O. Box 340658
Sacramento, California 95834

AREA, LAND TYPE, AND LOCATION:

Lease No. PRC 5167.1
One (1) acre, more or less, of sovereign lands in the Sacramento River, along the Garden Highway, Sacramento County.

Lease No. PRC 6427.1
Five (5) acres, more or less, of sovereign lands in the Sacramento River, along the Garden Highway, Sacramento County.

AUTHORIZED USE:

Lease No. PRC 5167.1
Commercial marina and restaurant.

Lease No. PRC 6427.1
Commercial marina, floating restaurant, harbor master office, boat sales office, debris deflector, and all appurtenant facilities.

CALENDAR ITEM NO. C12 (CONT'D)

LEASE TERM:

Lease No. PRC 5167.1

Originally issued for 15 years, beginning June 18, 1976, with one ten year renewal option. Ten year renewal option approved, effective June 18, 1991; lease extended to terminate June 17, 2025.

Lease No. PRC 6427.1

Originally issued for 20 years, beginning August 1, 1984; lease extended to terminate December 31, 2025.

CONSIDERATION:

Lease No. PRC 5167.1

Minimum annual rental, against a percentage of gross income per year, whichever is greater, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

Lease No. PRC 6427.1

Minimum annual rental, against a percentage of gross income per year, whichever is greater, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

PROPOSED AMENDMENTS:

Lease No. PRC 5167.1

Virgin Sturgeon wishes to delete tide and submerged lands described in Exhibit A from its leasehold and quitclaim them to the State. These lands were most recently subleased to Riverbank Holding Company, LLC. (PRC 6427.1) The sublease expired on June 17, 2001.

Lease No. PRC 5167.1 will also be amended to delete references to the payment and reporting of rent for the sublease area, described in Exhibit A, which were enumerated in the lease.

Lease No. PRC 6427.1

This amendment will add tide and submerged lands described in Exhibit A to the Riverbank Holding Company's lease (PRC 6427.1). These lands were previously leased by the State to Virgin Sturgeon under Lease No. PRC 5167.1 and sublet to Riverbank. The Sublease has expired and Virgin Sturgeon is quitclaiming the sublease lands to the State in this action.

CALENDAR ITEM NO. C12 (CONT'D)

Lease No. PRC 6427.1 will also be amended to delete references to the payment and reporting of rent for the sublease area, described in Exhibit A, which were enumerated in the lease.

Lease Nos. PRC 5167.1 and PRC 6427.1 - Navigation and Access

Lease Nos. PRC 5167.1 and PRC 6427.1 will be amended to provide that neither Virgin Sturgeon nor Riverbank shall impair the right of patrons of either of them and the public at large to freely navigate and access the facilities of each of them in that entire area of open water, as it exists on the effective date of this amendment, on either side of the common lease line that separates the facilities of Virgin Sturgeon from that of Riverbank. Virgin Sturgeon and Riverbank have agreed that this open water area shall not be encroached upon with improvements except with the prior written consent of Lessor and the provision of a navigable access way that will service both Virgin Sturgeon and Riverbank.

Lease Nos. PRC 5167.1 and PRC 6427.1

Except for the aforesaid amendments, all terms and conditions of Lease Nos. PRC 5167.1 and PRC 6427.1 will remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. **Lease No. PRC 5167.1**
Lessee, Virgin Sturgeon, Inc. owns the uplands adjoining a portion of its lease premises and is the best qualified applicant as to the remainder of the lease premises.
2. **Lease No. PRC 6427.1**
Lessee, Riverbank Holding Company, LLC, owns the uplands adjoining a portion of its lease premises, and has a use right and/or is the best-qualified applicant as to the remainder of the lease premises.
3. **Lease Nos. PRC 5167.1 and PRC 6427.1**
Riverbank and the Virgin Sturgeon are the best qualified applicants for the lease premises that adjoin uplands that neither entity own because both have long-standing improvements on the sovereign lands, which have provided recreational opportunities to the public for over twenty years each. The amendments to leases PRC 5167.1 and PRC 6427.1 will result in no changes to the previously authorized improvements.

CALENDAR ITEM NO. C12 (CONT'D)

4. **Acceptance of Partial Quitclaim from Virgin Sturgeon, Inc., Lease No. PRC 5167.1**

The Virgin Sturgeon has executed a partial quitclaim for those tide and submerged lands previously sublet to Riverbank Holding Company, LLC, and more particularly described in Exhibit A. Virgin Sturgeon requests the Commission to accept the partial quitclaim.

5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060(c)(3) and 15378.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Sublease Area Description
- B. Amended Lease Description to Lease No. PRC 5167.1
- C. Amended Lease Description to Lease No. PRC 6427.1
- D. Site Map
- E. Location Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

CALENDAR ITEM NO. C12 (CONT'D)

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

ACCEPTANCE OF PARTIAL LEASE QUITCLAIM DEED FOR LEASE NO. PRC 5167.1 AND CONSIDERATION OF AMENDMENTS OF LEASE NOS. PRC 5167.1 AND PRC 6427.1:

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

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

1. AUTHORIZE THE ACCEPTANCE OF PARTIAL QUITCLAIM FROM VIRGIN STURGEON, INC., OF THOSE LANDS DESCRIBED IN EXHIBIT A HERETO AND INCLUDED WITHIN GENERAL LEASE – COMMERCIAL USE, LEASE NO. PRC 5167.1, EFFECTIVE JUNE 1, 2002.
2. AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 5167.1 IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION, A GENERAL LEASE – COMMERCIAL USE, SAID AMENDMENT EFFECTIVE JUNE 1, 2002, TO 1) DELETE THE LANDS DESCRIBED IN EXHIBIT A FROM THE LEASEHOLD; SAID NEW LEASE DESCRIPTION TO BE THAT FOUND IN EXHIBIT B ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF; AND 2) TO DELETE REFERENCES TO THE PAYMENT AND REPORTING OF RENT FOR THE SUBLEASE AREA, SAID SUBLEASE AREA DESCRIBED IN EXHIBIT A ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF, WHICH WERE ENUMERATED IN LEASE NO. PRC 5167.1.

CALENDAR ITEM NO. C12 (CONT'D)

3. AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 6427.1 IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION, A GENERAL LEASE – COMMERCIAL USE, SAID AMENDMENT EFFECTIVE JUNE 1, 2002, 1) TO ADD THE LANDS DESCRIBED IN EXHIBIT A TO THE LEASEHOLD; SAID NEW LEASE DESCRIPTION TO BE THAT FOUND IN EXHIBIT C ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF; AND 2) TO DELETE REFERENCES TO THE PAYMENT AND REPORTING OF RENT FOR THE SUBLEASE AREA, SAID SUBLEASE AREA DESCRIBED IN EXHIBIT A ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF, WHICH WERE ENUMERATED IN LEASE NO. PRC 6427.1.
4. AUTHORIZE THE AMENDMENTS OF LEASE NOS. PRC 5167.1 AND PRC 6427.1 1 IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION, GENERAL LEASES – COMMERCIAL USE, SAID AMENDMENTS EFFECTIVE JUNE 1, 2002, TO REQUIRE LESSEES, VIRGIN STURGEON AND RIVERBANK, TO MAINTAIN UNIMPAIRED ACCESS AND NAVIGABILITY IN THE ENTIRE AREA OF OPEN WATER, AS IT EXISTS ON THE EFFECTIVE DATE OF THIS AMENDMENT, ON EITHER SIDE OF THE COMMON LEASE LINE THAT SEPARATES THE FACILITIES OF LESSEE, VIRGIN STURGEON, FROM THAT OF LESSEE, RIVERBANK, AND THAT LESSEES SHALL NOT ENCROACH UPON SAID OPEN WATER WITH IMPROVEMENTS EXCEPT WITH THE PRIOR WRITTEN CONSENT OF LESSOR AND THE PROVISION OF A NAVIGABLE ACCESS WAY THAT WILL SERVICE BOTH LESSEES.
5. ALL OTHER TERMS AND CONDITIONS OF LEASE NOS. PRC 5167.1 AND 6427.1 WILL REMAIN IN EFFECT WITHOUT AMENDMENT.
6. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE STEPS AS MAY BE NECESSARY TO IMPLEMENT THE COMMISSION'S DECISION.

**Exhibit A
Land Description**

PRC 5167.1

Sublease Area

A parcel of Tide and Submerged lands in the State-Owned bed of the Sacramento River, Sacramento County, California, described as follows:

BEGINNING at the northwest corner of that parcel of land described in Individual Grant Deed from Jane E. McGrew to Vernon J. McGrew and Jane E. McGrew, his wife, as joint tenants, Recorded in Book 71-08-25, Page 364, Official Records of Sacramento County; thence South 215.00 feet, along the west line of said parcel and its southerly prolongation; thence S 78° 48' 30" E, 590.00 feet; thence North 215.00 feet; thence N 78° 48' 30" W, 590.00 feet to the point of beginning.

EXCEPTING AND RESERVING THEREFROM all that portion of the above described parcel lying westerly of the following described line:

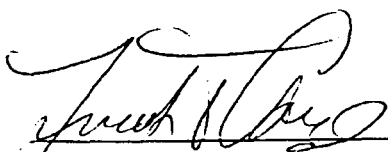
COMMENCING at the northwest corner of that parcel of land described in above mentioned Individual Grant Deed from Jane E. McGrew to Vernon J. McGrew and Jane E. McGrew, his wife, as joint tenants, Recorded in Book 71-08-25, Page 364, Official Records of Sacramento County; thence along the center line of the Garden Highway S 78° 54' 49" E, 453.82 feet to the **TRUE POINT OF BEGINNING** of said line; thence S 13° 49' 05" W, 243.78 feet to the southwesterly corner of the Riverbank Holding Company Lease (PRC 6427.1) and the end of said line, said lease is on file in the Official Records of the California State Lands Commission and described in Exhibit C of this agreement.

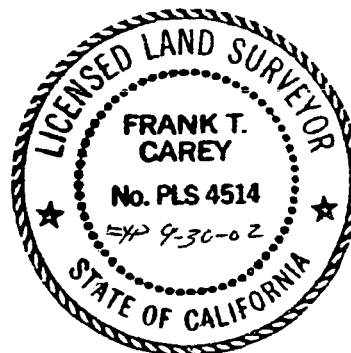
ALSO EXCEPTING THEREFROM any portion of said parcel lying landward of the Ordinary High Water Mark of the Sacramento River.

END OF DESCRIPTION

Prepared from Record Information and Data provided by JTS Engineering Consultants Inc.

Prepared 5/23/02 by the Boundary Staff of the California State Lands Commission.


Frank T. Carey L.S. 4514 5-28-02 Date



**Exhibit B
PRC 5167.1**

VIRGIN STURGEON LEASE

A PARCEL OF TIDE AND SUBMERGED LAND LYING IN THE SACRAMENTO RIVER ADJACENT TO SWAMP AND OVERFLOWED LAND SURVEYS NO. 184 AND 907, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THAT PARCEL OF LAND DESCRIBED IN GRANT DEED FROM JANE E. MCGREW TO VERNON J. MCGREW AND JANE E. MCGREW, HIS WIFE, AS JOINT TENANTS, RECORDED IN BOOK 71-08-25, PAGE 364, OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG THE WEST LINE OF SAID PARCEL AND ITS SOUTHERLY PROLONGATION, SOUTH 225 FEET; THENCE SOUTH 78° 54' 49" EAST 400.02 FEET PARALLEL WITH THE CENTERLINE OF GARDEN HIGHWAY TO A POINT, FROM WHICH THE NORTHWEST CORNER OF LOT A OF THAT CERTAIN MAP RECORDED IN BOOK 226 OF MAPS, MAP NO. 1, IN THE OFFICE OF THE RECORDER OF SAID COUNTY BEARS THE FOLLOWING TWO COURSES (1) NORTH 15° 49' 05" EAST 201.03 FEET; (2) NORTH 78° 54' 49" WEST 323.95 FEET; THENCE FROM SAID POINT, NORTH 15° 49' 05" EAST 201.03 FEET TO THE NORTHERLY LINE OF SAID LOT A, ALSO BEING THE SOUTHERLY RIGHT OF WAY OF GARDEN HIGHWAY; THENCE CONTINUING NORTH 15° 49' 05" EAST 20.02 FEET TO THE CENTERLINE OF GARDEN HIGHWAY; THENCE ALONG SAID CENTERLINE, NORTH 78° 54' 49" WEST 455.82 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION THEREOF LYING LANDWARD OF THE ORDINARY HIGH WATER MARK OF THE SACRAMENTO RIVER.

ALSO EXCEPTING THEREFROM ANY PORTION OF LOT A OF THAT CERTAIN MAP RECORDED IN BOOK 226 OF MAPS, MAP NO. 1, IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

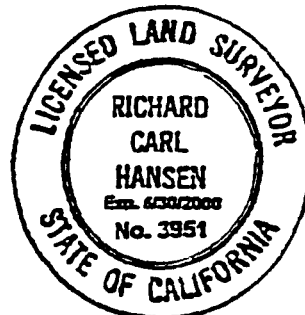
END OF DESCRIPTION

PREPARED FROM RECORD DATA BY JTS ENGINEERING CONSULTANTS, INC.

REVISED 3/12/98 BY THE STAFF OF THE CALIFORNIA STATE LANDS COMMISSION.


RICHARD C. HANSEN L.S. 3951

3/12/98
DATE



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CALENDAR PAGE

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MINUTE PAGE

Exhibit C
PRC 6427.1

RIVERBANK LEASE

A PARCEL OF TIDE AND SUBMERGED LAND LYING IN THE SACRAMENTO RIVER, ADJACENT TO SWAMP AND OVERFLOWED LAND SURVEYS NO. 184 AND 907, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:


BEGINNING AT THE NORTHEASTERLY CORNER OF THAT PARCEL OF LAND DESCRIBED AS PARCEL B OF THAT CERTAIN CERTIFICATE OF COMPLIANCE, RECORDED APRIL 2, 1985 IN BOOK 85-04-02, PAGE 1162, OF OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG THE EAST LINE OF SAID PARCEL AND ITS PROLONGATION SOUTH 00° 23' 30" WEST 327.42 FEET; THENCE LEAVING THE PROLONGATION OF SAID LINE SOUTH 23° 01' 00" WEST 92.38 FEET; THENCE NORTH 66° 59' 00" WEST 291.84 FEET; THENCE NORTH 70° 04' 56" WEST 638.52 FEET; THENCE NORTH 76° 10' 55" WEST 634.86 FEET TO A POINT FROM WHICH THE NORTHWEST CORNER OF LOT A OF THAT CERTAIN MAP RECORDED IN BOOK 226 OF MAPS, MAP NO. 1, IN THE OFFICE OF THE RECORDER OF SAID COUNTY BEARS THE FOLLOWING TWO COURSES: NORTH 13° 49' 05" EAST 223.76 FEET; (2) NORTH 78° 54' 49" WEST 323.95 FEET; THENCE FROM SAID POINT, NORTH 13° 49' 05" EAST 223.76 FEET TO THE NORTHERLY LINE OF SAID LOT A, ALSO BEING THE SOUTHERLY RIGHT OF WAY OF GARDEN HIGHWAY; THENCE ALONG SAID SOUTHERLY RIGHT OF WAY SOUTH 78° 54' 49" EAST 1498.29 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION THEREOF LYING LANDWARD OF THE ORDINARY HIGH WATER MARK OF THE SACRAMENTO RIVER.

ALSO EXCEPTING THEREFROM ANY PORTION OF LOT A OF THAT CERTAIN MAP RECORDED IN BOOK 226 OF MAPS, MAP NO. 1, IN THE OFFICE OF THE RECORDER OF SAID COUNTY AND PARCEL B OF THAT CERTAIN CERTIFICATE OF COMPLIANCE, RECORDED APRIL 2, 1985 IN BOOK 85-04-02, PAGE 1162 OF OFFICIAL RECORDS OF SAID COUNTY.

END OF DESCRIPTION

PREPARED FROM RECORD DATA BY JTS ENGINEERING CONSULTANTS, INC.


L.A. KNEEDLER, L.S.4380 11-17-97 Date
License Expires 9-30-2001



Plat of The Virgin Sturgeon (PRC 5167.1) and Riverbank (PRC 6427.1) Leases
Sacramento County, California

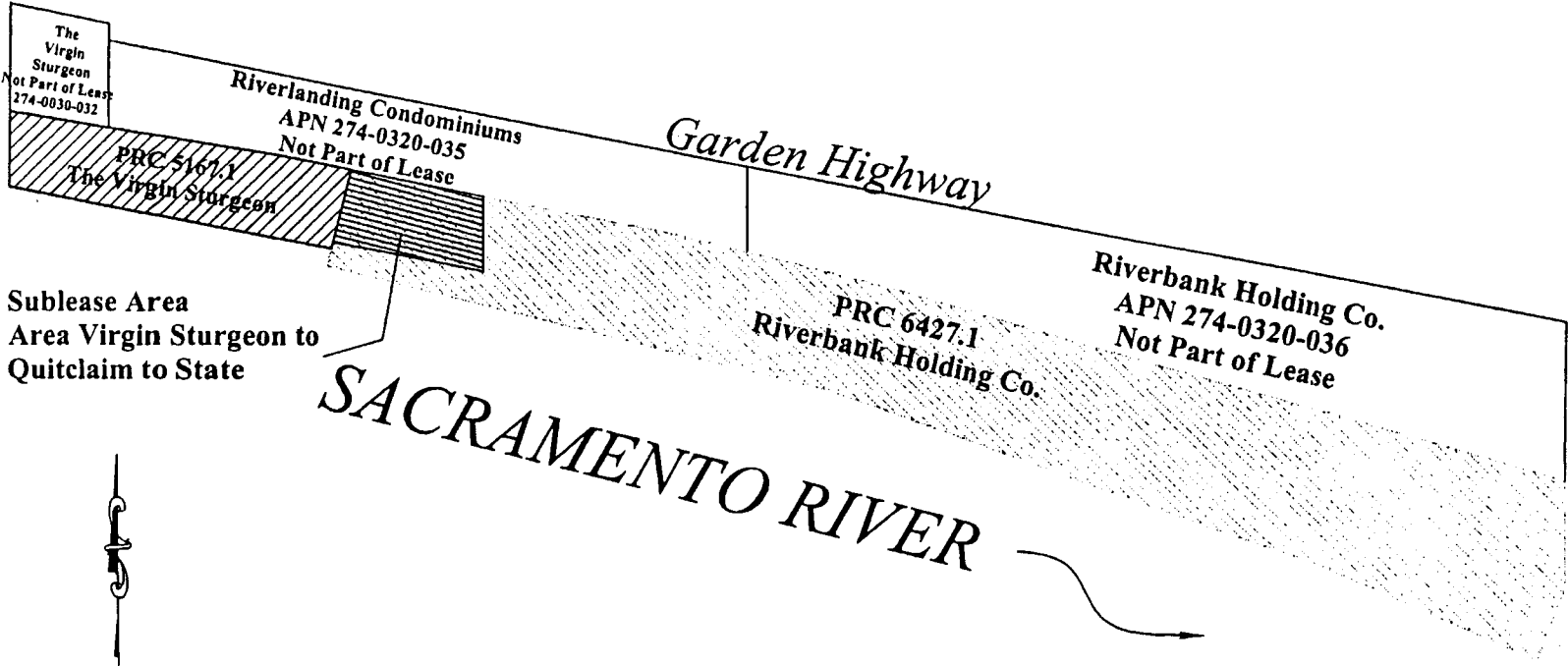
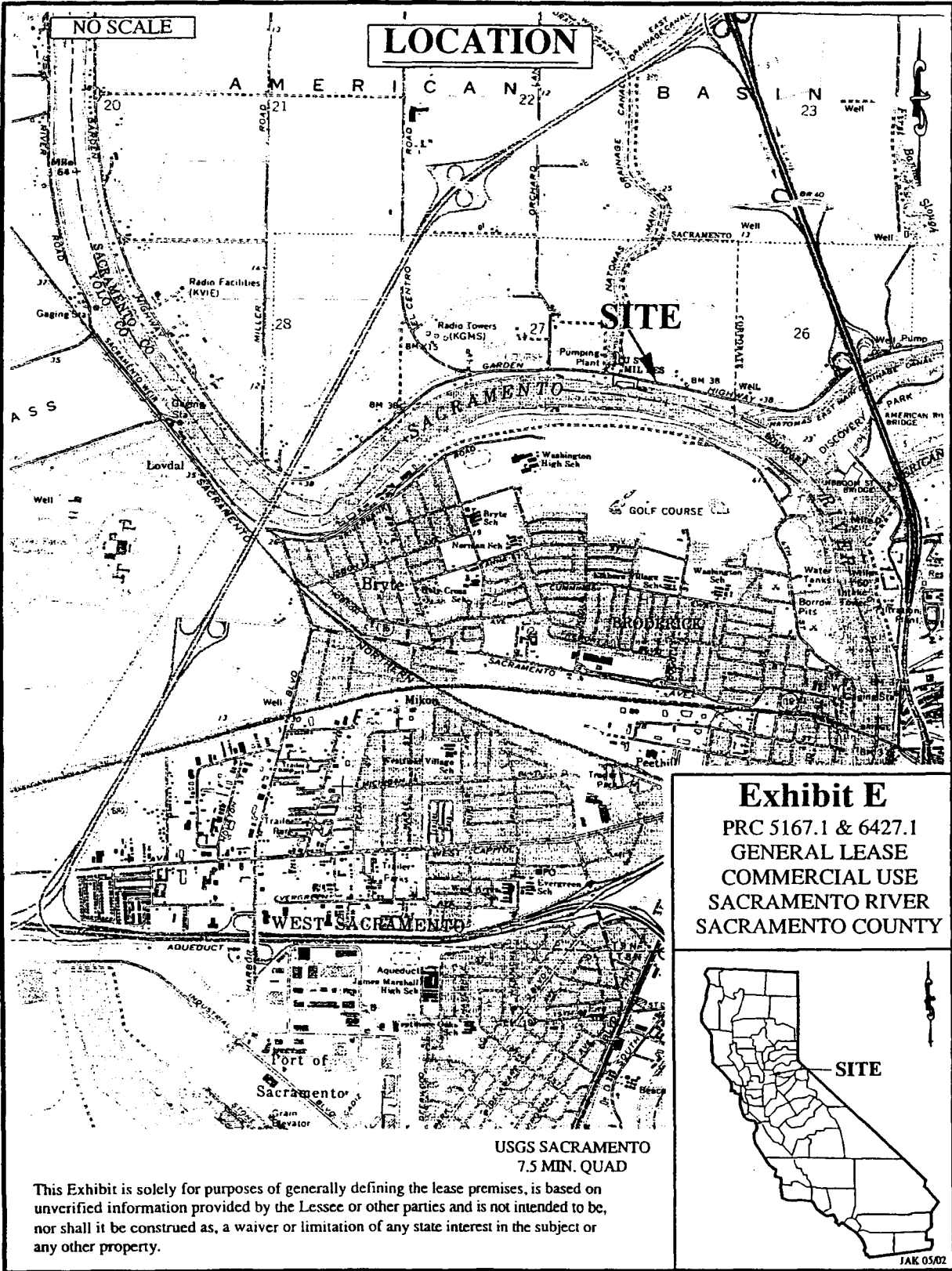


EXHIBIT D
PRC 5167.1 & PRC 6427.1

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CALENDAR PAGE
001099
MINUTE PAGE



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