

**CALENDAR ITEM
C27**

A 8, 15
S 5, 14

06/01/09
WP 7620.1
V. Caldwell

**TERMINATION AND ISSUANCE OF A GENERAL LEASE - COMMERCIAL USE
AND TERMINATION AND ISSUANCE OF THE AGREEMENT AND CONSENT
TO ENCUMBRANCING OF LEASE**

LESSEE:

Vollman Clark Ranch, a General Partnership

APPLICANTS:

Wallace G. Clark and Carolyn Sue Clark, Trustee of the Wallace G. Clark and Carolyn Sue Clark Trust Dated February 18, 1997, Wallace Bradly Clark, Brian Marchini Clark, Dennis Edward Vollman and Ginger Lee Vollman as Trustees of the Dennis E. Vollman and Ginger L. Vollman 2006 Revocable Trust, Joanne Vollman, James B. Morey and Patricia J. Morey, and Marilyn A. Vollman, Trustee of the Mav Revocable Trust Dated July 8, 1997

SECURED-PARTY LENDER:

California Department of Boating and Waterways
2000 Evergreen Street, Suite 100
Sacramento, California 95815-3888

AREA, LAND TYPE, AND LOCATION:

A 1.139 acre parcel, more or less, of sovereign lands in the Sacramento River, adjacent to 14180 River Road, city of Walnut Grove, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing commercial marina, known as Dagmar's Landing, consisting of 30 covered berths, 27 pilings, two gangways, sewage pump out, public fishing dock, and public accommodation dock.

LEASE TERM:

26 years, beginning June 1, 2009.

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CONSIDERATION:

Annual rent of five percent of the gross annual income derived from the berthing, docking, and mooring of boats; and ten percent of all other gross income generated on the Lease Premises; with a minimum annual rent of \$4,251; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability Insurance of no less than \$2,000,000

Bond:

\$20,000

Other:

1. The lease contains provisions regarding the public fishing pier and transient dock, which shall be available to the public during daylight hours. Access shall be provided to and through the lease premises for the general public, including non-paying visitors. Access will be from the Sacramento River and across the Applicant's upland to assure public access from the first public road and to provide for public fishing access to this area of the Sacramento River.

2. This lease contains provisions that the Lessee must implement the Commission's "Best Management Practices for Marina Owners/Operators" and encourage implementation of the Commission's "Best Management Practices for Guest Dock Users and Boaters", including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.

2. On March 2, 1992, the Commission authorized a General Lease - Commercial Use to Vollman Clark Ranch, a General Partnership, for operation of Dagmar's Landing. The lease will expire on March 1, 2017. On September 23, 1992, the Commission authorized an Agreement and Consent to Encumbrancing of the Lease with the Department of Boating and Waterways, in the amount of \$600,000.

3. On March 1, 2005, Vollman Clark Ranch transferred ownership of the upland property to Wallace G. Clark and Carolyn Sue Clark, Trustee of the Wallace G. Clark and Carolyn Sue Clark Trust Dated February 18, 1997, Wallace Bradley Clark, Brian Marchini Clark, Dennis Edward Vollman and

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Ginger Lee Vollman as Trustees of the Dennis E. Vollman and Ginger L. Vollman 2006 Revocable Trust; Joanne Vollman, James B. Morey and Patricia J. Morey, and Marilyn A. Vollman, Trustee of the Mav Revocable Trust Dated July 8, 1997. Staff and the above Applicants/owners and the Secured-Party Lender have agreed to terminate the existing lease and the Agreement and Consent to Encumbering the Lease. The Applicants have applied for a new General Lease - Commercial Use and a new Agreement and Consent to Encumbering the Lease.

4. The Applicants are requesting the Commission approve an Agreement and Consent to Encumbering of Lease in favor of the California Department of Boating and Waterways, the secured-party lender.

In approving Encumbering Agreements, the Commission retains the right to approve any transfer from the lending institution to a prospective lessee, should any foreclosure of the loans occur.

5. **TERMINATION OF LEASE AND THE AGREEMENT AND CONSENT TO ENCUMBERANCING OF LEASE:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], 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. **ISSUANCE OF LEASE AND A NEW AGREEMENT AND CONSENT TO ENCUMBERANCING OF LEASE:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

7. 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

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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. Site And Location Map
- B. Land Description

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF LEASE AND THE AGREEMENT AND CONSENT TO ENCUMBERANCING OF LEASE: 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.

ISSUANCE OF LEASE AND A NEW AGREEMENT AND CONSENT TO ENCUMBERANCING OF LEASE: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

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 TERMINATION OF GENERAL LEASE – COMMERCIAL USE, LEASE NO. PRC 7620.1, EFFECTIVE MAY 31, 2009.
2. AUTHORIZE THE TERMINATION OF THE AGREEMENT AND CONSENT TO ENCUMBRANCING THE LEASE, DATED MARCH 2, 1992, EFFECTIVE MAY 31, 2009.

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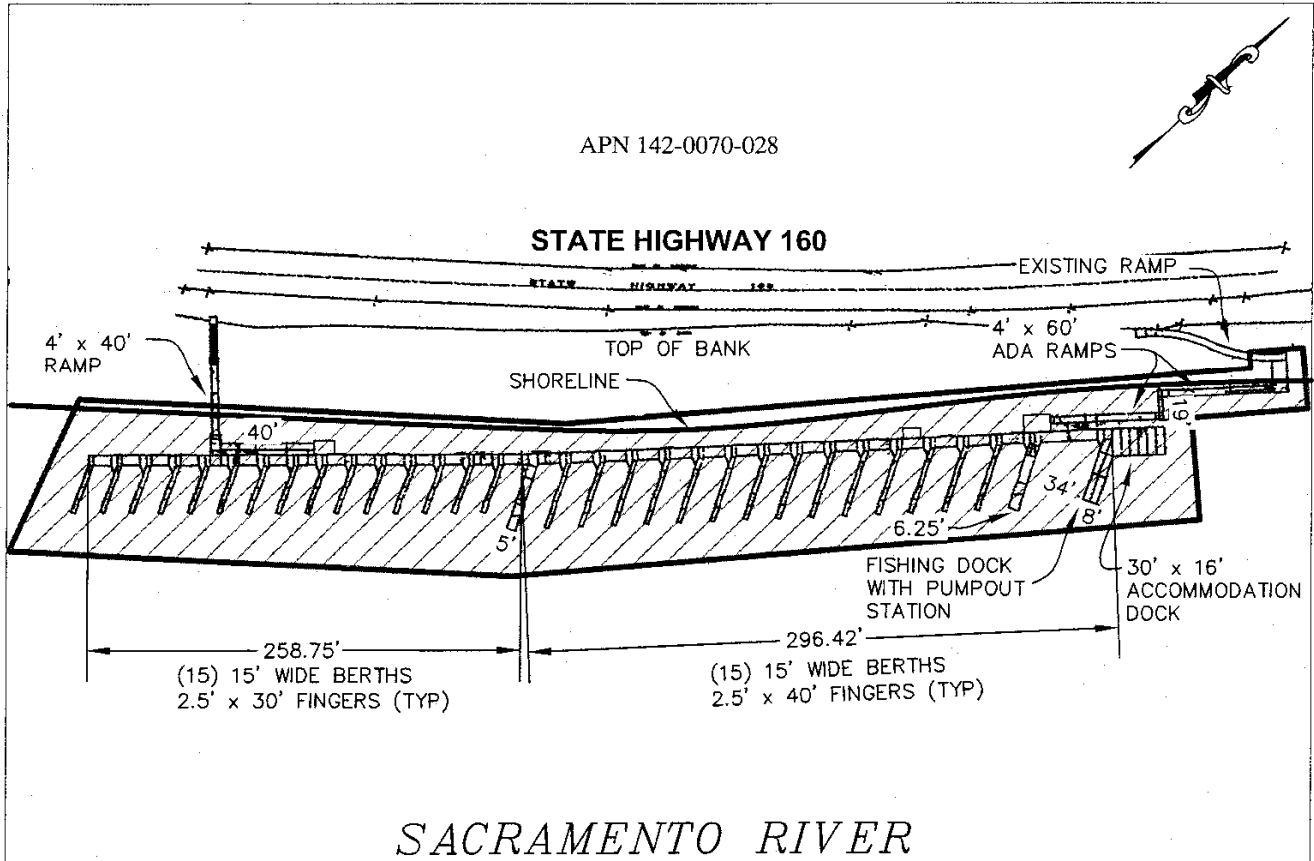
3. AUTHORIZE ISSUANCE OF A GENERAL LEASE – COMMERCIAL USE TO WALLACE G. CLARK AND CAROLYN SUE CLARK, TRUSTEES OF THE WALLACE G. CLARK AND CAROLYN SUE CLARK TRUST DATED FEBRUARY 18, 1997; WALLACE BRADLY CLARK, BRIAN MARCHINI CLARK, DENNIS EDWARD VOLLMAN AND GINGER LEE VOLLMAN AS TRUSTEES OF THE DENNIS E. VOLLMAN AND GINGER L. VOLLMAN 2006 REVOCABLE TRUST; JOANNE VOLLMAN, JAMES B. MOREY AND PATRICIA J. MOREY, AND MARILYN A. VOLLMAN, TRUSTEE OF THE MAV REVOCABLE TRUST DATED JULY 8, 1997, BEGINNING JUNE 1, 2009, FOR A TERM OF 26 YEARS, FOR THE CONTINUED USE AND MAINTENANCE OF AN EXISTING COMMERCIAL MARINA, KNOWN AS DAGMAR'S LANDING, AS SHOWN ON EXHIBIT A ATTACHED (FOR REFERENCE PURPOSES ONLY) AND AS DESCRIBED ON EXHIBIT B AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT OF FIVE PERCENT OF THE GROSS INCOME DERIVED FROM THE BERTHING, DOCKING, AND MOORING OF BOATS AND TEN PERCENT FROM ALL OTHER GROSS INCOME; WITH A MINIMUM ANNUAL RENT IN THE AMOUNT OF \$4,251; WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$2,000,000; AND A SURETY BOND IN THE AMOUNT OF \$20,000.

4. AUTHORIZE EXECUTION OF THE DOCUMENT ENTITLED "AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE", AND CONSENT OF THE STATE LANDS COMMISSION TO THE ENCUMBRANCING OF NEW LEASE PRC 7620.1 EFFECTIVE JUNE 1, 2009.

NO SCALE

SITE

APN 142-0070-028



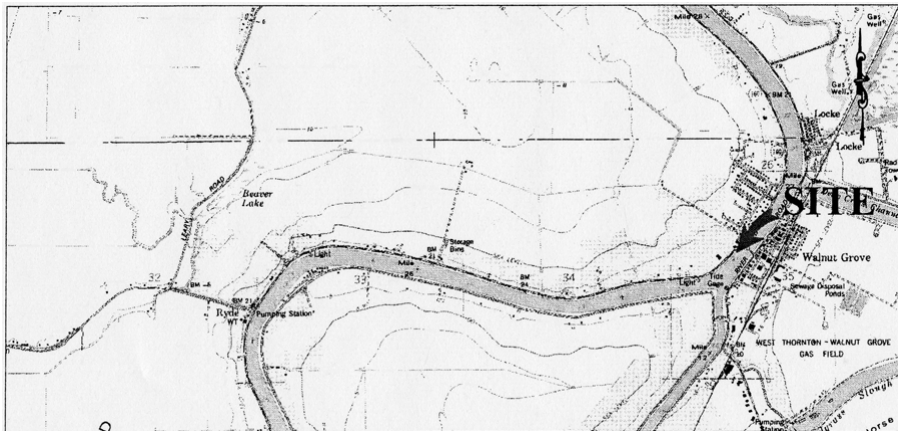
SACRAMENTO RIVER

NOTE: ALL STRUCTURES SHOWN ARE EXISTING.

DAGMAR'S LANDING 14180 RIVER ROAD, WALNUT GROVE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

WP 7620.1

CLARK, VOLLMAN,
ET AL

APN 142-0070-028

GENERAL LEASE
COMMERCIAL USE

SACRAMENTO COUNTY



DJF 04/09

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.