

MINUTE ITEM

This Calendar Item No. C20  
was approved as Minute Item  
No. C20 by the State Lands  
Commission by a vote of 3  
to 0 at its 6/11/90  
meeting.

CALENDAR ITEM

A 9  
S 2

C 2 0

06/11/90  
PRC 532  
PRC 564  
Bancroft

APPROVAL OF SUBLEASE OF  
TWO GENERAL LEASES - INDUSTRIAL USE  
PRC 532 AND PRC 564

SUBLESSOR: Horace W. and Dorothy K. Henris  
P. O. Box 138  
Petaluma, California 94952

SUBLESSEE: Northern California Building Materials, Inc.  
P. O. Box 950  
Petaluma, California 94953  
c/o John Rosenberg  
Hoskins, Rosenberg, and Ropers  
P. O. Box 240  
San Rafael, California 94915.

AREA, TYPE LAND AND LOCATION:

PRC 532 - A 0.145-acre parcel of tide and  
submerged land in the Petaluma River, Sonoma  
County.

PRC 564 - A 0.210-acre parcel of tide and  
submerged land in the Petaluma River, Sonoma  
County.

LAND USE:

PRC 532 - Off-loading dock for sand and gravel.  
PRC 564 - Loading pier with dolphins for sand  
and gravel.

TERMS OF ORIGINAL LEASE PRC 532:

Initial period: 15 years beginning  
November 9, 1974.

(ADDED pgs. 105-105.53)

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Renewal options: Three (3) successive periods  
of ten (10) years each.

Surety bond: \$2,000.

Public liability insurance: \$300,000 per  
occurrence for bodily injury  
and \$50,000 for property  
damage.

TERMS OF FIRST TEN-YEAR RENEWAL  
(As authorized by the SLC 08/30/89, Item C05):

Initial period: Ten (10) years beginning  
November 9, 1989 through  
November 8, 1999.

Consideration: \$810 per annum.

TERMS OF ORIGINAL LEASE PRC 564:

Initial period: 15 years from February 28,  
1976.

Renewal options: Three (3) successive periods  
of ten (10) years each.

Surety bond: \$2,000.

Public liability insurance: \$300,000 per  
occurrence for bodily injury  
and \$50,000 for property  
damage.

Consideration: Minimum annual rental of  
\$450; five-year rent review.

TERMS OF PROPOSED SUBLEASES PRCS 532 AND PRC 564:

Initial period: March 5, 1990 through  
February 29, 2000.

Renewal options: One successive period of ten  
(10) years, subject to SLC  
renewal of master leases.

Surety bond: Same as master leases.

Public liability insurance: Same as master  
leases.

CALENDAR ITEM NO. C 20 (CONT'D)

Consideration: Same as master leases.

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

APPLICANT STATUS:  
Sublessee is lessee of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:  
Filing fees and processing costs have been received.

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

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

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

2. Mr. and Mrs. Henris have sold their building materials business to the Northern California Building Materials, Inc. and retained ownership of the real property. They have entered into a ten-year lease with Northern California Building Materials, (beginning March 5, 1990, with two ten-year renewal options)

3. The Henris' have also subleased PRC 532 and PRC 564 to Northern California Building Materials, Inc. and are requesting the Commission's consent to this sublease. The sublease is subordinate to leases PRC 532 and PRC 564 and requires compliance with all their terms and conditions, and terminates when, and if, they are terminated.

CALENDAR ITEM NO. C 20 (CONT'D)

4. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. but will not affect those significant lands.

EXHIBITS:

- A-1. Land Description (PRC 532).
- A-2. Land Description (PRC 564).
- B. Location Map.
- C. Sublease.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. APPROVE CONSENT TO THE SUBLEASE OF LEASES PRC 532 AND PRC 564 BY HORACE W. AND DOROTHY K. HENRIS TO NORTHERN CALIFORNIA BUILDING MATERIALS, INC. FOR THE PERIOD BEGINNING MARCH 5, 1990 THROUGH FEBRUARY 29, 2000, WITH ONE SUCCESSIVE RENEWAL OPTION OF TEN YEARS; AND SUBJECT TO ALL TERMS AND CONDITIONS OF LEASES PRC 532 AND PRC 564.

**EXHIBIT "A"**

**PRC 532**

**LAND DESCRIPTION**

A parcel of tide and submerged land located in the State owned bed and along the right bank of the Petaluma River, County of Sonoma, State of California, said parcel being immediately beneath and extending 40 feet on all sides of an existing pier, said pier being immediately adjacent to that land described as Parcel 1 in a deed recorded in Book 2861, pages 662 to 665 of Official Records of Sonoma County.

**EXCEPTING THEREFROM** any portion lying landward of the ordinary high water mark of the Petaluma River.

**END OF DESCRIPTION**

**REVIEWED MAY 22, 1990 BY SAS.**

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**EXHIBIT "A-1"**

**LAND DESCRIPTION**

**PRC 564**

A parcel of tide and submerged land in the State owned bed of the Petaluma River, County of Sonoma, State of California, said parcel being adjacent to and northeasterly of a parcel of land owned by Horace W. & Dorothy K. Henris, more particularly described as follows:

COMMENCING at Engineers Station 917+01.42 on State Highway Sonoma Route 1, Section 'C' as recorded in Book 2 of Highway Maps at page 61; thence N 35° 17' E, 310.02 feet; thence N 58° 47' W, 153.47 feet; thence N 60° 39' E to the ordinary high water mark of the right bank of the Petaluma River and the TRUE POINT OF BEGINNING; thence northwesterly along said ordinary high water mark to a point from which the most westerly corner of the aforementioned parcel of Henris bears S 60° 39' W; thence southeasterly on a line parallel with and 55 feet distance from said ordinary high water mark to a point from which the true point of beginning bears S 60° 39' W; thence S 60° 39' W to the true point of beginning.

**END OF DESCRIPTION**

**REVIEWED MAY 22, 1990 BY SAS.**

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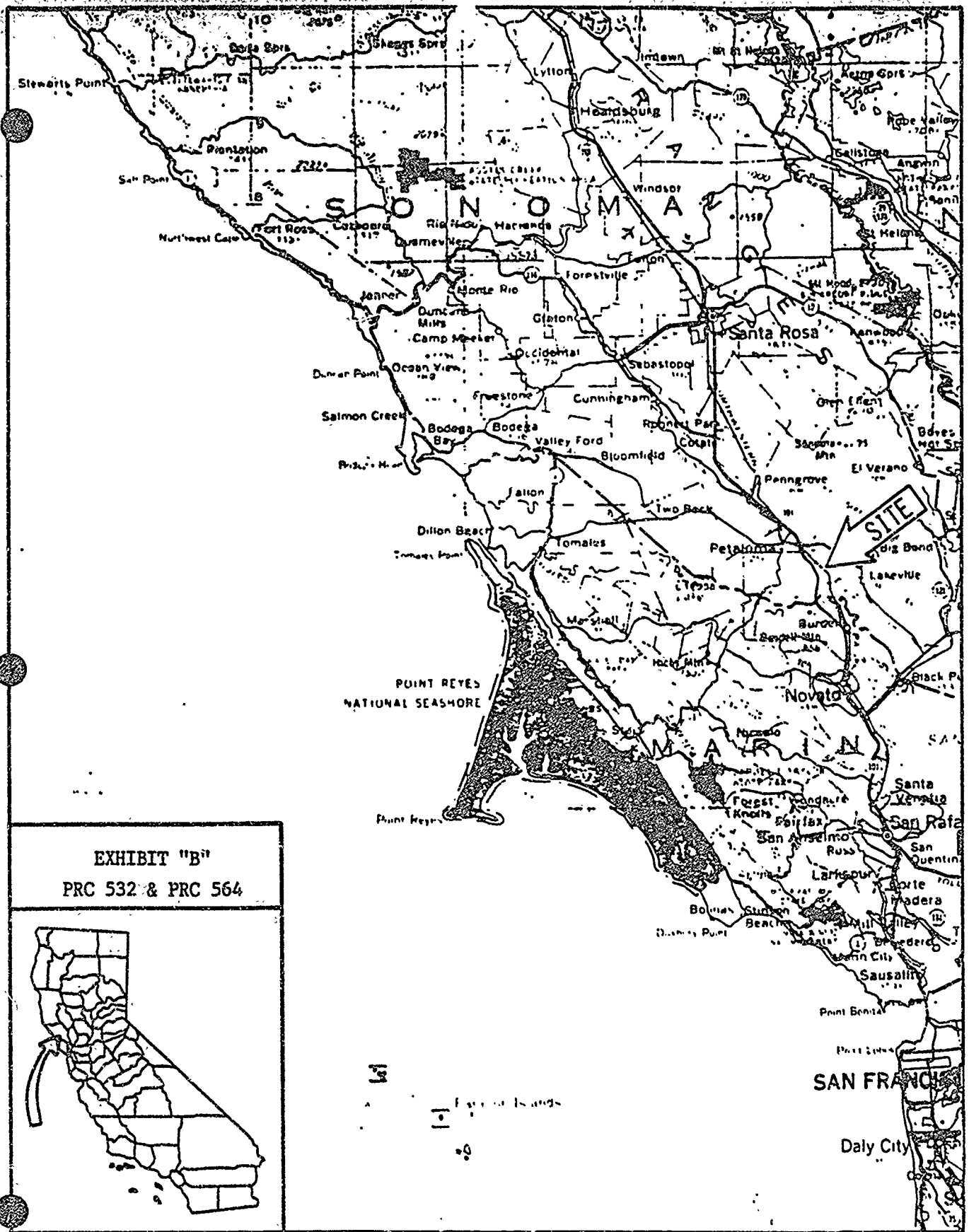


EXHIBIT "B"  
 PRC 532 & PRC 564



EXHIBIT 'C'

SUBLEASE

THIS SUBLEASE is executed this 5th day of March, 1990, by and between HORACE W. HENRIS and DOROTHY K. HENRIS, hereinafter "Sublessor", and NORTHERN CALIFORNIA BUILDING MATERIALS, INC., a California corporation, hereinafter "Sublessee."

A. The State Lands Commission of the State of California, as Lessor, and Sublessor, as Lessee, executed two leases on January 19, 1977, being identified as Lease PRC No. 564.1 and Lease PRC No. 532.1, hereinafter collectively "Master Lease." Both said leases were extended for an additional period of ten (10) years, commencing November 9, 1989. Copies of the Master Lease and extension of PRC 532.1 are attached hereto, marked Exhibit "A", and incorporated herein by reference.

B. Sublessor desires to sublease to Sublessee all of the property currently occupied by Sublessor under the terms of the Master Lease and Sublessee desires to lease that property from Sublessor.

C. The parties shall make a best-faith effort to obtain the consent of the Lessor under the Master Lease to this Sublease to be evidenced by a consent of Lessor in form reasonably satisfactory to both parties.

NOW, THEREFORE, SUBLESSOR AND SUBLESS AGREE AS FOLLOWS:

1. Subject to the approval of the State Lands Commission and further subject to the terms, conditions and covenants set forth in this Sublease, Sublessor hereby leases to Sublessee, and Sublessee hereby leases from Sublessor, the property located in Sonoma County, California, and further described in the Master Lease, hereinafter the "subleased premises."



2. This Sublease shall commence on March 5, 1990 and shall end on the date on which the Master Lease terminates or on February 29, 2000, whichever is earlier. However, if the State Lands Commission has not otherwise terminated the Master Lease, Sublessee has the option to extend this Sublease for an additional ten-year period, ending February 29, 2010, if Sublessee has exercised its right to renew its lease of Sublessor's premises at 150 Landing Way, Petaluma, California.

3. Sublessee shall pay to Sublessor as rent for the subleased premises rental equal to and in the manner required by the Master Lease of the Lessee therein. Additionally, Sublessee shall pay Sublessor all other amounts properly expended by Sublessor as Lessee under the Master Lease as therein required of Sublessor. Rent or other amounts due Sublessor shall be prorated for any beginning or ending period that does not coincide with the dates of the Master Lease or any extension thereof.

4. Sublessee shall use the subleased premises solely and exclusively for the purposes, and upon the limitations, as stated in the Master Lease, and for no other purpose or purposes whatsoever.

5. Sublessor covenants that Sublessee shall be entitled to quiet enjoyment of the premises, provided that Sublessee complies with the terms of this Sublease.

6. Sublessee agrees that its act of taking possession will be an acknowledgment that the subleased premises are in a tenantable and good condition.

7. This Sublease is subject and subordinate to the terms and conditions of the Master Lease. Sublessee hereby expressly assumes and agrees to perform and comply with all the obligations required to be kept or performed by the Lessee under the provisions of the Master Lease in each and every respect

required of Sublessor as Lessee under the Master Lease, to the extent that they are applicable to the subleased premises, with the exception of the obligation and covenant to pay rent to the Lessor. It is the intent of the parties that the only obligations of Sublessor hereafter will be to pay rent in accordance with the requirements of the Master Lease and to cooperate with Sublessee in obtaining the consent of the State Lands Commission to this Sublease.

8. Each party shall have the right at any time, at the expense of the other party, to take any action required to be taken, but not timely taken, by the other party, that may be necessary to prevent a default under the terms of the Master Lease. Any right which Sublessor or Sublessee has to terminate the Master Lease shall not be exercised without the consent of both parties unless the lease of the property at 150 Landing Way, Petaluma, California, has been terminated, in which case only Sublessor shall have the right to terminate the Master Lease prior to the expiration of its term.

9. Sublessor agrees to maintain the Master Lease during the entire term of this Sublease, subject, however, to any earlier termination of the Master Lease without the fault of Sublessor and to comply with or perform all obligations of the Lessor under the Master Lease that Sublessee has not assumed under this Sublease. Further, Sublessor agrees not to modify or surrender the Master Lease without the prior consent of Sublessee. Sublessor does not assume any obligations required to be kept or performed by the Lessor under the Master Lease, except as expressly provided herein.

10. If the Master Lease is terminated, this Sublease shall terminate simultaneously and the Sublessor and Sublessee shall thereafter be released from all obligations under this

Sublease and Sublessor shall refund to Sublessee any unearned rent or other amounts paid in advance, except as otherwise provided in this Sublease.

11. If the lease of the property at 150 Landing Way is terminated, this Sublease shall likewise terminate simultaneously therewith and the Sublessor and Sublessee shall thereafter be released from all obligations under this Sublease, and Sublessor shall refund to Sublessee any unearned rent or other amounts paid in advance, except as provided elsewhere in this Sublease.

12. If any action or other proceeding arising out of this Sublease is commenced by either party to this Sublease concerning the subleased premises, then as between Sublessor and Sublessee, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, reasonable attorney's fees, costs and expenses incurred in the action or other proceeding by the prevailing party.

13. The failure of either Sublessor or Sublessee to obtain the consent of the State Lands Commission to this Sublease, after having made a good-faith best effort to do so, will result in no liability of either party to the other and will allow Sublessee, at Sublessee's option, the right to terminate the Lease at 150 Landing Way, Petaluma, California.

Executed at Petaluma, California, on the date specified in the first paragraph of this Sublease.

*Horace W. Henris*  
Horace W. Henris

*Dorothy E. Henris*  
Dorothy E. Henris

Sublessor

NORTHERN CALIFORNIA BUILDING  
MATERIALS, INC., a California  
corporation

By: W. Bruce MacPhail  
President

By: [Signature]  
Secretary

Sublessee

GUARANTY

The performance hereof by NORTHERN CALIFORNIA BUILDING  
MATERIALS, INC. is hereby guaranteed.

McPHAIL'S, INC.

By: [Signature]  
John M. MacPhail, Jr.  
President

CONSENT OF LESSOR

The undersigned is the Lessor under the Master Lease  
described in the foregoing Sublease and hereby consents to the  
sublease of the premises described in this Sublease to NORTHERN  
CALIFORNIA BUILDING MATERIALS, INC. In granting this consent,  
the undersigned does not waive any of its rights under the Master  
Lease as to the Lessee or under the Sublease as to the Sublessee.

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

By: \_\_\_\_\_

Title \_\_\_\_\_

LESSOR

Execution of this document was authorized by the State Lands  
Commission on \_\_\_\_\_.

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

RENEWAL OF LEASE PRC 532.1

WHEREAS, the State of California, acting through the State Lands Commission, hereinafter called Lessor, and Horace W. and Dorothy K. Henris, hereinafter called the Lessee, have heretofore entered into an Agreement designated as Lease PRC 532.1 and dated December 15, 1976, whereby the Lessor granted to said Lessee a General Lease - Industrial Use covering certain described land situate in Sonoma County for a term of 15 years; and

WHEREAS, by terms of said Lease PRC 532.1, the right of renewal for three (3) additional periods of ten (10) years each was granted upon such reasonable terms and conditions as the State or any successor-in-interest thereto might impose; and

WHEREAS, the parties hereto desire to extend said Lease PRC 532.1 as hereinafter provided.

NOW THEREFORE, the parties hereto agree as follows:

- (1) Lease PRC 532.1 is hereby extended for a period of ten-years beginning November 9, 1989, and ending November 8, 1999.
- (2) The rental for said renewal period shall be \$810 per annum, subject to the condition that the first party shall have the right to reset the rental according to the terms of Paragraph 2(a) of Section 5 of Lease PRC 532.1.

This Agreement will become binding on the Lessor only when duly executed on behalf of the State Lands Commission of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date hereafter affixed.

LESSEE:\*

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

\* Horace W. Henris  
HORACE W. HENRIS

By Richard A. Henris  
Title Division of Land

\* Dorothy K. Henris  
DOROTHY K. HENRIS

Management and Conservation  
Execution of this document was authorized by the State Lands Commission on AUG 30 1989

\*In executing this document the following is required:  
Corporations.

1. Affixation of Corporate Seal.
2. A certain copy of the resolution or other document authorizing execution of this Agreement on behalf of the corporation.

\*Individuals.

Acknowledgement of signature is required.

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EXHIBIT "A"

CALENDAR PAGE	105.12
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STATE LANDS DIVISION

1807 13TH STREET  
SACRAMENTO, CALIFORNIA 95814

(916) 322-4124



January 18, 1977

File Ref.: WP 532  
WP 564

Horace W. and Dorothy K. Henris  
P. O. Box 138  
Petaluma, CA 94952

Dear Mr. and Mrs. Henris:

Enclosed are your fully executed Industrial Leases number PRC 532.1 and PRC 564.1, covering a loading dock for sand and gravel and a loading pier with dolphins for sand and gravel respectively, in the Petaluma River, Sonoma County.

Your cooperation in this transaction is appreciated.

Very truly yours,

DON HEESE  
Land Agent

/s

Enclosures

CERTIFIED - RETURN RECEIPT REQUESTED No. 548394

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STATE OF CALIFORNIA  
STATE LANDS COMMISSION

LEASE NO. PRC 564.1

Section 1

THE STATE OF CALIFORNIA, hereinafter referred to as "Lessor," acting through the State Lands Commission pursuant to Division 6 of the Public Resources Code and Title 2, Division 3, of the California Administrative Code, does hereby lease, demise and let unto:

LESSEE HORACE W. AND DOROTHY K. HENRIS

whose mail address is: P. O. Box 138

Petaluma, CA 94952

that certain land described in Section 4 of this Agreement, for such consideration, specific purposes and subject to the covenants, terms, conditions, reservations, restrictions and limitations as are set forth hereinafter:

LEASE TYPE: INDUSTRIAL

TERM: 15 Years; No Months; beginning February 28, 1976,  
ending February 27, 1991, unless sooner terminated as  
hereinafter provided.

RENEWAL OPTION: Three (3) successive periods of ten (10) years each.

COUNTY: SONOMA

LAND TYPE: Tide and Submerged.

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MINUTE PAGE 1108  
(Form 51.15 4/76)

STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. PRC 564.1

Section 1 (Continued)

LAND USE OR PURPOSE: Loading pier with dolphins for sand and gravel.

AUTHORIZED IMPROVEMENTS: Maintenance of existing pier and dolphins.

LIABILITY INSURANCE: Each Occurrence: \_\_\_\_\_ SURETY BOND: \$ 2,000

Divided Limits:  
Bodily Injury \$ 300,000

Property Damage: \$ 50,000

OR

Combined Single Limit: \$ NONE

CONSTRUCTION LIMITING DATES:

	MO.	DAY	YR.
Beginning	NONE		
Completion	NONE		

COMPOSITION OF AGREEMENT: This lease consists of the following parts all attached hereto and by reference made a part of the whole agreement:

Section 1 - Summary of basic terms, as above.

Section 2 - Special provisions amending or supplementing Section 1 or 5.

Section 3 - Consideration.

Section 4 - Land Description.

Section 5 - Standard covenants.

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STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. PRC 564.1

Section 3

CONSIDERATION:

- (a) The annual rental shall be computed by multiplying the number of tons of bulk commodities (sand and gravel) passing over the State's land by \$0.05.
- (b) The minimum annual rental shall be \$450.00 and shall be paid in advance by Lessee on or before each anniversary of this lease.
- (c) Lessee shall, with each rental payment under Paragraph (b) above, furnish Lessor with a full and complete statement, signed and certified, specifying the nature, quantity and ownership of commodities passing over the State's land; Lessee shall maintain for audit of statements and shall furnish of ten (10) days' written notice, source documents for such statements such as bills of sale, bills of lading, invoices, and other pertinent documents, sufficient to determine the nature, quantity, and ownership of commodities passing over the State's land. Lessor shall maintain and retain the above-mentioned statements for a period of not less than five (5) years.

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MINUTE PAGE	<u>1111</u>

(Form 51.15 4/76)

STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. PRC 564.1

Section 4

LAND DESCRIPTION

WP 564

A parcel of tide and submerged land in the State owned bed of Petaluma River, County of Sonoma, California, said parcel being adjacent to and northeasterly of a parcel of land owned by Horace W. & Dorothy K. Henris, more particularly described as follows:

COMMENCING at Engineers Station 917+01.42 on State Highway Sonoma Route 1, Section 'C' as recorded in Book 2 of Highway Maps at Page 61; thence N 35° 17' E, 310.02 feet; thence N 58° 47' W, 153.47 feet; thence N 60° 39' E to the ordinary high water mark of the right bank of Petaluma River and the TRUE POINT OF BEGINNING; thence northwesterly along said ordinary high water mark to a point from which the most westerly corner of the aforementioned parcel of Henris bears S 60° 39' W; thence N 60° 39' E to a point 55 feet distant at right angles to the ordinary high water mark; thence southeasterly on a line parallel with and 55 feet distant from said ordinary high water mark to a point from which the true point of beginning bears S 60° 39' W; thence S 60° 39' W to the true point of beginning.

END OF DESCRIPTION

Prepared M. L. Shaf Checked R. L. Blake  
Reviewed A. J. Farnesche Date 8/5/76

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Section 5

STANDARD COVENANTS - STATE LANDS COMMISSION LEASE

1. AGREEMENTS DEFINED: For the purposes of this lease, the terms "lease," "right of way," "easement," "permit," and "license" are interchangeable; where one term is used, it shall be deemed to include any one of the other terms, where appropriate.

2. MONETARY CONSIDERATION:

(a) Lessee agrees to pay the annual rental stated in Section 3 hereof to Lessor without deduction, delay or offset, at such place as may be designated by Lessor from time to time, in advance on or prior to the beginning date of this lease and anniversary of such beginning date during each year of the term hereof, except that Lessor, effective on each fifth anniversary of the beginning date of this lease, and at such other times as are hereinafter specified, may from time to time elect to change the amount of annual rental to be paid by Lessee hereunder. Any such change in rate shall be to the applicable rate, or by following the procedure for determining the applicable rate, of rental set forth in Title 2, California Administrative Code (now contained in Section 2006) at the time notice of any such change is given to Lessee. Such changed rate shall not become effective unless Lessor shall cause written notice of such change and of the new rate to be given to Lessee on or before ninety (90) days before the effective date of such rental rate change. Should Lessor fail to effect a change of such annual rental effective on any such fifth anniversary of the beginning date of this lease, the annual rental shall remain the same as the rental payable for each year during the immediately preceding five-year period, provided that for any years remaining before the next five-year anniversary of the beginning date of this lease the Lessor on written notice not less than ninety (90) days before the next rent becomes due, may fix a different rate of annual rental, which rate

shall be determined in the manner hereinbefore set forth, which rental at such new rate, unless thereafter changed in the manner herein provided, shall be payable each year thereafter by Lessee. Any change in the rate of rental effective on a date other than any fifth anniversary of the beginning date of this lease shall be without prejudice to Lessor's right to change said rental rate on each succeeding fifth anniversary of the beginning date of this lease as above provided. It is specifically agreed that in the event of the termination of this lease prior to its expiration date from any cause whatsoever, no portion of rental paid in advance shall be refundable.

(b) In the event that the parties to this lease are unable to agree upon a firm annual rental, quarterly royalty or other consideration at the expiration of the lease period agreed herein, and the Lessee remains in possession of the leased lands and continues to pay an interim rental, royalty or other consideration until a firm rental, royalty or other consideration is agreed upon by the parties, then at such time when the Lessee submits payment for any or all retroactive rentals, the State shall collect interest on said retroactive payments at the rate specified in Public Resources Code Section 6224. This shall not be construed as a limitation upon any other remedy which the State may have against a holdover Lessee.

(c) It is agreed by the parties hereto that any installments of rental, royalty or other monetary consideration accruing under the provisions of this lease that shall not be paid when due shall be subject to a penalty and shall bear interest at the specified rate from the date when the same was payable by the terms hereof, as provided in Public Resources Code Section 6224 and Subsection (d) of Paragraph 2 of this lease, until the same shall be paid by the Lessee.

(d) The failure to pay the rentals, royalties or other consideration specified in this lease shall subject the Lessee to a ten (10) percent penalty on the accrued and unpaid balances, for the rental, royalty or other consideration.

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payable after January 1, 1976.

3. ROYALTY: Lessee shall pay to Lessor, in addition to the annual rental or other consideration as stated herein, a royalty in the amount per cubic yard per ton, or other unit of measurement as set forth in Section 3 hereof for all materials removed from the land subject to this agreement and placed on lands not owned by Lessor, if authorized herein, according to the following schedule:

Within twenty-five (25) days following the end of each quarter ending on March 31, June 30, September 30 and December 31, Lessee shall pay said royalty for all materials removed from land subject to this agreement during the preceding quarter. Each payment shall be accompanied by a detailed statement subscribed and sworn to by Lessee or his agent attesting to the accuracy of the payment.

4. OTHER CONSIDERATION: Lessee agrees to pay other consideration in the amount, method and manner as provided for in Sections 2 and 3.

5. NON-MONETARY CONSIDERATION: If a monetary rental, royalty or other consideration is not shown in Section 3 of this Agreement, the sole and entire consideration to Lessor for the within lease or permit shall be the public use, benefit, health or safety, as appropriate. However, the Lessor reserves the right to review the consideration at any time and to set a monetary rental if the State Lands Commission shall at its sole discretion determine that such action is in the best interest of the State;

6. BOUNDARIES: The description of the land in Section 4 herein has been made without a survey and without a determination of boundaries of the land subject to this agreement. This lease is not intended to constitute the establishment of the State's boundaries and is made without prejudice to any boundary claims which may be asserted in the future;

7. LAND USE: Lessee agrees to use the land described in Section 4 only for the purpose or purposes stated in Section 1 or 2 and

for the	105.21
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operation and maintenance of the improvements listed in Sections 1 or 2, as appropriate. If such use is not commenced by Lessee on the land subject to this agreement within ninety (90) days of the beginning date of this lease or within ninety (90) days of the beginning construction limiting date, if such date is authorized in Section 1, or if such use on said land shall be discontinued for a period of ninety (90) days, this lease and the term thereof shall terminate upon notice to Lessee. No additional improvements shall be added without written consent of Lessor first had and obtained.

8. ADEQUACY OF CONSTRUCTION: All improvements shall be constructed and installed consistent with all applicable code requirements.

9. MARINA SANITARY FACILITIES: If this lease covers the operation of marinas, launching ramps or other like-facilities which are used by the public, whether for profit or not, Lessee shall provide on-shore sanitary facilities.

10. FLOATING RESIDENCE: The structure authorized by this lease shall not, at any time in the future, be converted for use as a residence, nor be used for the purpose of mooring a floating residence or ark.

11. REPAIRS:

(a) Lessee shall maintain and keep in good sound repair all improvements upon the property. The removal of, or substantial alteration to, any existing structure shall not be undertaken without prior written permission of Lessor first had and obtained. The failure to obtain the written permission of the Lessor shall be grounds for termination of this lease.

(b) If at any time subsequent to the beginning date of this lease the improvements authorized herein shall fall into a state of disrepair or otherwise become an environmental or aesthetic degradation, as determined

by Lessor, then upon written notice by Lessor, Lessee shall have sixty (60) days to repair and correct the conditions cited by Lessor. Failure to comply with the written notice of Lessor shall be grounds for termination of this lease and Lessee shall at the option of the Lessor remove all structures and fill located on lands covered by this lease;

12. RIGHT OF INSPECTION: Lessor through its authorized agents shall have the right at all reasonable times to go upon lands owned by the Lessee and upon the leased land for the purpose of inspecting the land and improvements or carrying out any function required by statutes or the rules and regulations of the State Lands Commission;

13. EXISTING ENCUMBRANCES: This lease is subject to existing contracts, leases, licenses, easements, encumbrances and claims which may affect the leased land, and this lease is made without warranty by Lessor of title, quiet enjoyment, condition or fitness of the land subject to this agreement for the intended use, or any other warranty or representation whatever, except that Lessee faithfully keeping all the terms, provisions and conditions of this lease on Lessee's part to be performed, Lessor agrees not to interfere with Lessee's possession of the land subject to this agreement, except as herein may otherwise be provided;

14. RESERVATION OF NATURAL RESOURCES: Unless the use or purpose of this agreement provides otherwise, there are hereby reserved to the State all natural resources, including but not limited to, timber, minerals, sand and gravel, geothermal resources, oil, gas and hydrocarbon products in or upon the land subject to this agreement, and the right to grant in, over, and across said lands, leases to extract or remove such natural resources, as provided by law and the rules and regulations of the State Lands Commission and without compensation to the Lessee;

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15. OTHER RESERVATIONS: Lessor expressly reserves the right to grant easements or crossings in, upon and under the demised premises. Nothing herein contained shall be construed as limiting the powers of the State to lease, convey or otherwise transfer or encumber, during the life of this agreement, the hereinbefore described lands subject to this agreement for any purpose whatsoever not inconsistent or incompatible with the rights of privileges granted to the Lessee by this agreement; provided, however, that nothing herein shall preclude the Lessee from excluding unauthorized persons from the lands subject to this agreement during any period where Lessee reasonably deems such exclusion necessary or desirable in connection with its authorized use of land subject to this agreement;

16. RULES AND REGULATIONS:

(a) Lessee shall observe and comply with all rules and regulations now or hereafter promulgated by any governmental agency having authority by law, including, but not limited to State Water Quality Control Board, State Department of Fish and Game, U. S. Army Corps of Engineers and the State Lands Commission.

(b) Lessee recognizes and understands in accepting this lease that his interest therein may be subject to a possible Possessory Interest Tax that the city or county may impose on such interest, and that such tax payment shall not reduce any rent due the Lessor hereunder and any such tax shall be the liability of and be paid by the Lessee.

(c) Lessee covenants that all reasonable precautions will be taken to prevent pollution and contamination of the environment.

17. MODIFICATIONS AND REMOVALS: Any modifications of natural or existing features of the real property described in this lease, including but not limited to the removal of timber and other flora, which are inconsistent with the authorized uses under this lease are expressly

prohibited without the prior written consent of the Lessor;

18. ACCESS TO OTHER STATE LANDS: If the leased premises abut or adjoin any other State owned lands which do not have a right of access for ingress and egress, Lessee shall provide adequate public vehicular and pedestrian access across, over and upon the lease premises for the benefit of said lands.

19. RIGHTS-OF-WAY:

(a) If the lease is for a right-of-way covering one or more pipelines or conduits, the property right granted herein applies only to land actually underlying the pipelines or conduits, and there is hereby granted a non-exclusive right to go into and upon the land subject to this agreement on either side of said lines or conduits and within the parcel described in Section 4 as reasonably necessary for installation, inspection and maintenance of the pipeline or conduits.

(b) Reasonable passage across and along any right of way granted by this agreement shall be reserved to the public.

20. INDEMNITY, BOND AND INSURANCE:

(a) Whether or not a bond or insurance as described herein is required, Lessee shall indemnify, save harmless and at the option of the State, defend, the State of California, its officers, agents and employees against any and all claims, demands, loss, action or liability of any kind which State of California, or any of its officers, agents or employees may sustain or incur or which may be imposed upon them or any of them arising out of or connected with the issuance of this lease, including, without in any way limiting the generality of the foregoing, any claim, demand, loss, or liability arising from any failure of title or any alleged violation of the property or contractual rights of any third person or persons in the leased lands.

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(b) If so specified in Section 1 or 2, Lessee shall file with Lessor and maintain in full force and effect at all times during the term of this lease or any extension thereof, and an additional period of one hundred twenty (120) days or until the State has accepted a quitclaim deed and sufficient evidences of removal of improvements requested to be removed, whichever is longer, a good and sufficient surety bond drawn in favor of the State of California in the penal sum stated in Section 1 or 2 hereof, to guarantee to Lessor the faithful performance and observance by the Lessee of all of the covenants and conditions implied or specified in this lease, and which specified or implied covenants and conditions are mandatory upon and are to be kept and performed by the Lessee.

(c) If so specified in Section 1 or 2, Lessee shall obtain at his own expense and keep in full force and effect during the term of this lease, for the protection of Lessee and the State in an insurance company acceptable to Lessor, comprehensive public liability insurance covering the leased premises and their surrounding area with limits of not less than the amounts stated in Section 1 or 2 hereof. The policy or policies shall specifically name the State as an insured party as to the land under lease; and the policy or policies shall specifically identify the lease by number, and a certificate or certificates of insurance must be provided by the Lessee to Lessor. Upon any increase in rental as provided in Paragraph 2, Lessor reserves the right to increase the sum of the penal bond.

(d) Lessee agrees that the liability insurance coverage herein provided for shall be in effect at all times during the term of this lease, and until said leased land is restored as nearly as possible to the condition existing prior to erection or placement of the improvements thereupon or until Lessor, in writing, elects to accept the leased land or any portion thereof as then improved with structures, buildings, pipelines, machinery,

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facilities and fills in place. If Lessor elects to accept only a portion of the leased land as then improved, Lessee's responsibility to insure the premises shall terminate as to those portions that the Lessor accepts intact, but shall continue in the remaining portions until said portions are restored as nearly as possible to the condition existing prior to the erection or placement of improvements thereupon. In the event said insurance coverage expires at any time or times during the term of this lease, Lessee agrees to provide at least fifteen (15) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for a period of not less than one (1) year, or for not less than the remainder of this lease, and until the leased land is restored or until Lessor, in writing, elects to accept the leased land or any portion thereof as then improved as provided for herein. New certificates of insurance are subject to the approval of the State Lands Division, and Lessee agrees that no construction, improvements, additions, work or services shall be performed prior to the giving of such approval. In the event Lessee fails to keep in effect at all times insurance coverage as herein provided, State may, in addition to any other remedies it may have, terminate this lease upon the occurrence of such event.

21. ASSIGNMENT, TRANSFER OR SUBLETTING:

(a) Lessee shall not assign, transfer, or sublet this agreement without the prior written approval of the Commission first had and obtained. Such written approval of the assignment, transfer or sublease shall be subject to any and all conditions required by the Commission, including, without limitation by reason of specification herein, the altering, changing or amending of this lease as deemed by the Commission to be in the best interests of the State.

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(b) The leasehold interest hereby described is created as an appurtenance to littoral land. The leasehold interest is not severable from the rights and interest of the Lessee in the littoral land without the express written approval of the State Lands Commission first had and obtained. Any such severance without State Lands Commission approval shall be grounds for termination of the lease by the State Lands Commission.

22. TERMINATION BY LESSEE: Lessee may terminate this agreement upon giving Lessor not less than sixty (60) days written notice prior to the date of such termination. Lessee agrees that on the day selected by lessee for termination of this agreement under this paragraph, to peaceably and quietly leave, surrender and yield up to Lessor the land subject to this agreement in good order, condition, and repair, reasonable use and wear thereof and damage by act of God and the elements excepted, and execute and deliver to Lessor a good and sufficient release of all rights under this lease. Should Lessee fail or refuse to deliver the release as aforesaid, a written notice by Lessor reciting the failure or refusal of the Lessee to execute and deliver said release as herein provided shall from the date of recordation of such notice be conclusive evidence against Lessee and all persons claiming under Lessee of the termination of this lease and any claims and rights of Lessee in the land and improvements subject to this lease. In the event Lessee elects to terminate this agreement, such termination does not release Lessee from any unpaid but accrued rent, royalty payments or equivalent consideration which may be owed to the Lessor;

23. CANCELLATION BY STATE: If this lease covers land obtained by Lessor from the United States as or in lieu of school lands, Lessor reserves the right and power to cancel this lease at any time during the term hereof upon notice in writing to the Lessee of not less than ninety (90) days next prior to

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the date such cancellation shall become effective, and Lessee hereby agrees, upon receipt of such written notice, that Lessee will vacate the demised premises on or before such cancellation date;

24. TERMINATION UPON SALE OR EXCHANGE: If this is a Grazing or Agricultural Lease, such lease is terminated by Lessor upon sale or exchange of the land subject to this agreement without advance notice to the Lessee as provided for by law and by the rules and regulations of the State Lands Commission;

25. PUBLIC AGENCY PERMITS: Where the sole and entire consideration to the Lessor for the within lease shall be the public use, benefit, health and safety, Lessee agrees and covenants to notify Lessor within ten (10) days in the event any monetary charge is made to the public for use of the leased land, either directly or indirectly.

26. OIL SPILL EMERGENCY: In the event of a spill or leak of oil or other liquid pollutants into waters over State lands, Lessee shall immediately notify the State Office of Emergency Services by telephone (800) 852-7550. Lessee shall subsequently send the State Lands Division a complete written report within thirty (30) days stating the source, cause, size of spill and action taken.

27. MARINE TERMINAL/WHARF OPERATIONS: If this lease is for a marine terminal or wharf operation handling petroleum, petroleum products, or any other potential pollutant, Lessee shall provide Lessor with an approved Oil Spill Contingency Plan/Spill Prevention Control and Countermeasure Plan and a Terminal Operations Manual in the form required by Federal and State Regulations and guidelines. Lessee shall periodically review such plans and advise Lessor of any changes to such plans.

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28. RESTORATION OF PREMISES: Upon expiration or sooner termination of this lease, Lessor may elect to accept the leased land or any portion thereof, as then improved with structures, buildings, pipelines, machinery, facilities and fills in place or Lessor may elect to have any such improvements or any portion thereof, removed by Lessee at Lessee's expense. All such improvements to be removed shall be salvaged and removed by Lessee at Lessee's sole expense and risk within ninety (90) days after the expiration or sooner termination of this lease. If Lessee fails to remove such improvements or portion thereof designated by Lessor, and restore the leased land as hereinafter provided, within ninety (90) days after the expiration date or sooner termination of the lease or notice by Lessor of his intention to accept a portion of the premises as then improved, whichever is shorter, Lessor may remove or have removed all or a portion of the improvements and charge the expense of such removal to Lessee. In making such removals, Lessee shall restore said leased land as nearly as possible to the condition existing prior to erection or placement of the improvements thereupon;

29. HOLDING OVER: Any holding over after the expiration of the term of this lease by the Lessee, with the consent of the State, shall be construed to be a tenancy from month to month, and shall otherwise be on the terms and conditions herein specified as far as applicable with rental at the rate of 1/12 of the annual rental stated in Section 3 payable in advance on the first day of each month;

30. REPOSSESSION: In the event of failure of the Lessee to pay rental, or in the event of a breach of any of the other covenants contained within this agreement, or failure of Lessee to observe the terms, conditions, restrictions or time limitations herein contained, to be kept, performed and observed, it shall be lawful for Lessor to re-enter into and upon the demised

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premises, and to remove all persons and property therefrom, and to repossess and enjoy the herein described demised premises as in the first and former estate of the State;

31. QUITCLAIM: Upon the natural expiration or termination of this lease by Lessor, in addition to any other remedy which Lessor may have, as provided by law or the terms of this lease, Lessee shall within ninety (90) days of the natural expiration or sooner termination of this lease by Lessor execute and deliver to Lessor a good and sufficient release of all rights under this lease. Should Lessee fail or refuse to deliver the release as aforesaid, a written notice by Lessor reciting the failure or refusal of the Lessee to execute and deliver said release as herein provided, shall from the date of recordation of such notice be conclusive evidence against Lessee and all persons claiming under Lessee of the termination of this lease and any claims and rights of Lessee in the lands and improvements subject to this lease.

32. RENEWAL: Lessee or his heirs or assigns, or any successor in interest thereto, shall have the right to renew this agreement for the additional periods and years stated in Section 1 hereof upon such reasonable terms and conditions as the Lessor, or any successor in interest thereto, might impose. Such option to renew must be exercised by Lessee by giving written notice to Lessor at least six (6) months prior to the termination date of the lease, or such option is waived by Lessee;

33. WAIVER OF BREACH: The waiver by Lessor of any default or breach of any term, covenant or condition shall not constitute a waiver of any other default or breach whether of the same or any other term, covenant or condition, regardless of Lessor's knowledge of such other defaults or breaches. The subsequent acceptance of monies hereunder by Lessor shall not constitute a waiver



of any preceding default or breach of any term, covenant or condition, other than the failure of Lessee to pay the particular monies so accepted, regardless of the Lessor's knowledge of such preceding default or breach at the time of acceptance of such monies, nor shall acceptance of monies after termination constitute a reinstatement, extension, or renewal of the lease or revocation of any notice or other act by Lessor.

34. NOTICES: All notices herein provided to be given shall be deemed to have been fully given when made in writing and deposited in the United States mail with postage prepaid and addressed to the principal office or headquarters of the State Lands Commission, or to the Lessee as addressed on Section 1 hereof, as appropriate;

35. CHANGES: This agreement may be terminated or the provisions changed, altered, or amended by mutual agreement of the parties hereto;

36. TIME - SUCCESSOR'S LIABILITY: Time is the essence of each and all the terms and provisions of this agreement, and the terms and provisions of this agreement shall extend to and be binding upon and inure to the benefit of the heirs, successors and assigns of the respective parties hereto; if more than one Lessee is named herein, the obligations of said parties herein contained shall be joint and several;

37. CAPTIONS: The captions of this lease are for convenience only and are not a part of this lease and do not in any way limit or amplify the terms and provisions of this lease.

38. SEVERABILITY: If any provision herein is judicially determined to be invalid, it shall be considered deleted herefrom, and shall not invalidate the remaining provisions.

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STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE P. R. C. No. 564.1

This lease will become binding upon the State only when duly executed on behalf of the State Lands Commission of the State of California;

IN WITNESS WHEREOF, the parties hereto have executed this lease as of the date hereinafter affixed.

*Horace W. Henris*  
HORACE W. HENRIS  
*Dorothy K. Henris*  
DOROTHY K. HENRIS

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

By *Robin W. Hurst*  
Title ASSISTANT MANAGER

Date: JAN 19 1976

The issuance of this lease was authorized by the State Lands Commission on DECEMBER 15, 1976.

STATE OF CALIFORNIA )  
County of Sonoma ) ss.

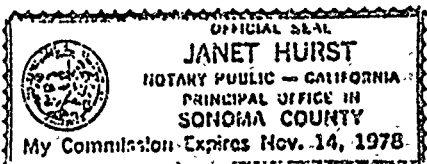
On this 4th day of November, in the year 1976  
before me, Janet Hurst, a Notary Public  
State of California, duly commissioned and sworn, personally  
appeared Horace W. Henris & Dorothy K. Henris

known to me to be the person s whose name s subscribed to t.  
within instrument, and acknowledged to me that they executed  
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixe  
my official seal in the County of Sonoma  
the day and year in this certificate first above written.

(General Acknowledgment-  
Individual)  
(C. C. Sec. 1139)

*Janet Hurst*  
Notary Public, State Of California  
My Commission Expires \_\_\_\_\_



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STATE OF CALIFORNIA  
STATE LANDS COMMISSION

LEASE NO. PRC 532.1

Section 1

THE STATE OF CALIFORNIA, hereinafter referred to as "Lessor," acting through the State Lands Commission pursuant to Division 6 of the Public Resources Code and Title 2, Division 3, of the California Administrative Code, does hereby lease, demise and let unto:

LESSEE HORACE W. AND DOROTHY K. HENRIS

whose mail address is: P. O. Box 138  
Petaluma, CA 94952

that certain land described in Section 4 of this Agreement, for such consideration, specific purposes and subject to the covenants, terms, conditions, reservations, restrictions and limitations as are set forth hereinafter:

LEASE TYPE: INDUSTRIAL

TERM: 15 Years; No Months; beginning November 9, 1974,  
ending November 8, 1989, unless sooner terminated as  
hereinafter provided.

RENEWAL OPTION: Three (3) successive periods of ten (10) years each.

COUNTY: SONOMA

LAND TYPE: Tide and Submerged.

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STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. PRC 532.1

Section 1 (Continued)

LAND USE OR PURPOSE: Loading dock for sand and gravel.

AUTHORIZED IMPROVEMENTS: Maintenance of existing loading dock.

LIABILITY INSURANCE: Each Occurrence SURETY BOND: \$2,000

Divided Limits:  
Bodily Injury \$ 300,000

Property Damage: \$ 50,000

OR

Combined Single Limit: \$ NONE

CONSTRUCTION LIMITING DATES:

	MO.	DAY	YR.
Beginning	NONE		
Completion	NONE		

COMPOSITION OF AGREEMENT: This lease consists of the following parts all attached hereto and by reference made a part of the whole agreement:

Section 1 - Summary of basic terms, as above.

Section 2 - Special provisions amending or supplementing Section 1 or 5.

Section 3 - Consideration.

Section 4 - Land Description.

Section 5 - Standard covenants.

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 ... PAGE 1129

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STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. PRC 532.1

Section 3

CONSIDERATION:

- (a) The annual rental shall be computed by multiplying the number of tons of bulk commodities (sand and gravel) passing over the State's land by \$0.05.
- (b) The minimum annual rental shall be \$450.00 and shall be paid in advance by Lessee prior to each anniversary of this lease.
- (c) Lessee shall, with each rental payment under Paragraph (b) above, furnish Lessor with a full and complete statement, signed and certified, specifying the nature, quantity and ownership of commodities passing over the State's land; Lessee shall maintain for audit of statements and shall furnish of ten (10) days' written notice, source documents for such statements such as bills of sale, bills of lading, invoices, and other pertinent documents, sufficient to determine the nature, quantity, and ownership of commodities passing over the State's land. Lessor shall maintain and retain the above-mentioned statements for a period of not less than five (5) years.

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STATE OF CALIFORNIA - STATE LANDS COMMISSION

LEASE NO. PRC 532.1

Section 4

LAND DESCRIPTION

WP 532

A parcel of tide and submerged land located in the State owned bed and along the right bank of the Petaluma River, County of Sonoma, State of California, said parcel being immediately beneath and extending 40 feet from all sides of an existing pier; said pier being immediately adjacent to that land described as PARCEL 1 in a deed recorded in Book 2861, pages 662 to 665 of the Official Records of Sonoma County.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of Petaluma River.

END OF DESCRIPTION

Prepared *M. S. Graf* Checked *R. L. Blake*

Reviewed *J. A. Bunncke* Date *7/29/76*

*JJB*

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Section 5

STANDARD COVENANTS - STATE LANDS COMMISSION LEASE

1. AGREEMENT DEFINED: For the purposes of this lease, the terms "lease," "right of way," "easement," "permit," and "license" are interchangeable; where one term is used, it shall be deemed to include any one of the other terms, where appropriate.

2. MONETARY CONSIDERATION:

(a) Lessee agrees to pay the annual rental stated in Section 3 hereof to Lessor without deduction, delay or offset, at such place as may be designated by Lessor from time to time, in advance on or prior to the beginning date of this lease and anniversary of such beginning date during each year of the term hereof, except that Lessor, effective on each fifth anniversary of the beginning date of this lease, and at such other times as are hereinafter specified, may from time to time elect to change the amount of annual rental to be paid by Lessee hereunder. Any such change in rate shall be to the applicable rate, or by following the procedure for determining the applicable rate, of rental set forth in Title 2, California Administrative Code (now contained in Section 2006) at the time notice of any such change is given to Lessee. Such changed rate shall not become effective unless Lessor shall cause written notice of such change and of the new rate to be given to Lessee on or before ninety (90) days before the effective date of such rental rate change. Should Lessor fail to effect a change of such annual rental effective on any such fifth anniversary of the beginning date of this lease, the annual rental shall remain the same as the rental payable for each year during the immediately preceding five-year period, provided that for any years remaining before the next five-year anniversary of the beginning date of this lease the Lessor on written notice not less than ninety (90) days before the next rent becomes due, may fix a different rate of annual rental, which rate

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shall be determined in the manner hereinbefore set forth, which rental at such new rate, unless thereafter changed in the manner herein provided, shall be payable each year thereafter by Lessee. Any change in the rate of rental effective on a date other than any fifth anniversary of the beginning date of this lease shall be without prejudice to Lessor's right to change said rental rate on each succeeding fifth anniversary of the beginning date of this lease as above provided. It is specifically agreed that in the event of the termination of this lease prior to its expiration date from any cause whatsoever, no portion of rental paid in advance shall be refundable.

(b) In the event that the parties to this lease are unable to agree upon a firm annual rental, quarterly royalty or other consideration at the expiration of the lease period agreed herein, and the Lessee remains in possession of the leased lands and continues to pay an interim rental, royalty or other consideration until a firm rental, royalty or other consideration is agreed upon by the parties, then at such time when the Lessee submits payment for any or all retroactive rentals, the State shall collect interest on said retroactive payments at the rate specified in Public Resources Code Section 6224. This shall not be construed as a limitation upon any other remedy which the State may have against a holdover Lessee.

(c) It is agreed by the parties hereto that any installments of rental, royalty or other monetary consideration accruing under the provisions of this lease that shall not be paid when due shall be subject to a penalty and shall bear interest at the specified rate from the date when the same was payable by the terms hereof, as provided in Public Resources Code Section 6224 and Sub-section (d) of Paragraph 2 of this lease, until the same shall be paid by the Lessee.

(d) The failure to pay the rentals, royalties or other consideration specified in this lease shall subject the Lessee to a ten (10) percent penalty on the accrued and unpaid balances, for the rental, royalty or other consideration:

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payable after January 1, 1976.

3. ROYALTY: Lessee shall pay to Lessor, in addition to the annual rental or other consideration as stated herein, a royalty in the amount per cubic yard per ton, or other unit of measurement as set forth in Section 3 hereof for all materials removed from the land subject to this agreement and placed on lands not owned by Lessor, if authorized herein, according to the following schedule:

Within twenty-five (25) days following the end of each quarter ending on March 31, June 30, September 30 and December 31, Lessee shall pay said royalty for all materials removed from land subject to this agreement during the preceding quarter. Each payment shall be accompanied by a detailed statement subscribed and sworn to by Lessee or his agent attesting to the accuracy of the payment.

4. OTHER CONSIDERATION: Lessee agrees to pay other consideration in the amount, method and manner as provided for in Sections 2 and 3.

5. NON-MONETARY CONSIDERATION: If a monetary rental, royalty or other consideration is not shown in Section 3 of this Agreement, the sole and entire consideration to Lessor for the within lease or permit shall be the public use, benefit, health or safety, as appropriate. However, the Lessor reserves the right to review the consideration at any time and to set a monetary rental if the State Lands Commission shall at its sole discretion determine that such action is in the best interest of the State;

6. BOUNDARIES: The description of the land in Section 4 herein has been made without a survey and without a determination of boundaries of the land subject to this agreement. This lease is not intended to constitute the establishment of the State's boundaries and is made without prejudice to any boundary claims which may be asserted in the future;

7. LAND USE: Lessee agrees to use the land described in Section 4 only for the purpose or purposes stated in Section 1 or 2 and

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construction, operation and maintenance of the improvements listed in Sections 1 or 2, as appropriate. If such use is not commenced by Lessee on the land subject to this agreement within ninety (90) days of the beginning date of this lease or within ninety (90) days of the beginning construction limiting date, if such date is authorized in Section 1, or if such use on said land shall be discontinued for a period of ninety (90) days, this lease and the term thereof shall terminate upon notice to Lessee. No additional improvements shall be added without written consent of Lessor first had and obtained.

8. ADEQUACY OF CONSTRUCTION: All improvements shall be constructed and installed consistent with all applicable code requirements.

9. MARINA SANITARY FACILITIES: If this lease covers the operation of marinas, launching ramps or other like-facilities which are used by the public, whether for profit or not, Lessee shall provide on-shore sanitary facilities.

10. FLOATING RESIDENCE: The structure authorized by this lease shall not, at any time in the future, be converted for use as a residence, nor be used for the purpose of mooring a floating residence or ark.

11. REPAIRS:

(a) Lessee shall maintain and keep in good sound repair all improvements upon the property. The removal of, or substantial alteration to, any existing structure shall not be undertaken without prior written permission of Lessor first had and obtained. The failure to obtain the written permission of the Lessor shall be grounds for termination of this lease.

(b) If at any time subsequent to the beginning date of this lease the improvements authorized herein shall fall into a state of disrepair or otherwise become an environmental or aesthetic degradation, as determined

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by Lessor, then upon written notice by Lessor, Lessee shall have sixty (60) days to repair and correct the conditions cited by Lessor. Failure to comply with the written notice of Lessor shall be grounds for termination of this lease and Lessee shall at the option of the Lessor remove all structures and fill located on lands covered by this lease;

12. RIGHT OF INSPECTION: Lessor through its authorized agents shall have the right at all reasonable times to go upon lands owned by the Lessee and upon the leased land for the purpose of inspecting the land and improvements or carrying out any function required by statutes or the rules and regulations of the State Lands Commission;

13. EXISTING ENCUMBRANCES: This lease is subject to existing contracts, leases, licenses, easements, encumbrances and claims which may affect the leased land, and this lease is made without warranty by Lessor of title, quiet enjoyment, condition or fitness of the land subject to this agreement for the intended use, or any other warranty or representation whatever, except that Lessee faithfully keeping all the terms, provisions and conditions of this lease on Lessee's part to be performed, Lessor agrees not to interfere with Lessee's possession of the land subject to this agreement, except as herein may otherwise be provided;

14. RESERVATION OF NATURAL RESOURCES: Unless the use or purpose of this agreement provides otherwise, there are hereby reserved to the State all natural resources, including but not limited to, timber, minerals, sand and gravel, geothermal resources, oil, gas and hydrocarbon products in or upon the land subject to this agreement, and the right to grant in, over, and across said lands, leases to extract or remove such natural resources, as provided by law and the rules and regulations of the State Lands Commission and without compensation to the Lessee;

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15. OTHER RESERVATIONS: Lessor expressly reserves the right to grant crossings in, upon and under the demised premises. Nothing herein contained shall be construed as limiting the powers of the State to lease, convey or otherwise transfer or encumber, during the life of this agreement, the hereinbefore described lands subject to this agreement for any purpose whatsoever not inconsistent or incompatible with the rights of privileges granted to the Lessee by this agreement; provided, however, that nothing herein shall preclude the Lessee from excluding unauthorized persons from the lands subject to this agreement during any period where Lessee reasonably deems such exclusion necessary or desirable in connection with its authorized use of land subject to this agreement;

16. RULES AND REGULATIONS:

(a) Lessee shall observe and comply with all rules and regulations now or hereafter promulgated by any governmental agency having authority by law, including, but not limited to State Water Quality Control Board, State Department of Fish and Game, U. S. Army Corps of Engineers and the State Lands Commission.

(b) Lessee recognizes and understands in accepting this lease that his interest therein may be subject to a possible Possessory Interest Tax that the city or county may impose on such interest, and that such tax payment shall not reduce any rent due the Lessor hereunder and any such tax shall be the liability of and be paid by the Lessee.

(c) Lessee covenants that all reasonable precautions will be taken to prevent pollution and contamination of the environment.

17. MODIFICATIONS AND REMOVALS: Any modifications of natural or existing features of the real property described in this lease, including but not limited to the removal of timber and other flora, which are inconsistent with the authorized uses under this lease are expressly

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prohibited without the prior written consent of the Lessor;

18. ACCESS TO OTHER STATE LANDS: If the leased premises abut or adjoin any other State-owned lands which do not have a right of access for ingress and egress, Lessee shall provide adequate public vehicular and pedestrian access across, over and upon the lease premises for the benefit of said lands.

19. RIGHTS-OF-WAY:

(a) If the lease is for a right-of-way covering one or more pipelines or conduits, the property right granted herein applies only to land actually underlying the pipelines or conduits, and there is hereby granted a non-exclusive right to go into and upon the land subject to this agreement on either side of said lines or conduits and within the parcel described in Section 4 as reasonably necessary for installation, inspection and maintenance of the pipeline or conduits.

(b) Reasonable passage across and along any right of way granted by this agreement shall be reserved to the public.

20. INDEMNITY, BOND AND INSURANCE:

(a) Whether or not a bond or insurance as described herein is required, Lessee shall indemnify, save harmless and at the option of the State, defend, the State of California, its officers, agents and employees against any and all claims, demands, loss, action or liability of any kind which State of California, or any of its officers, agents or employees may sustain or incur or which may be imposed upon them or any of them arising out of or connected with the issuance of this lease, including, without in any way limiting the generality of the foregoing, any claim, demand, loss, or liability arising from any failure of title or any alleged violation of the property or contractual rights of any third person or persons in the leased lands.

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(b) If so specified in Section 1 or 2, Lessee shall file with Lessor and maintain in full force and effect at all times during the term of this lease or any extension thereof, and an additional period of one hundred twenty (120) days or until the State has accepted a quitclaim deed and sufficient evidences of removal of improvements requested to be removed, whichever is longer, a good and sufficient surety bond drawn in favor of the State of California in the penal sum stated in Section 1 or 2 hereof, to guarantee to Lessor the faithful performance and observance by the Lessee of all of the covenants and conditions implied or specified in this lease, and which specified or implied covenants and conditions are mandatory upon and are to be kept and performed by the Lessee.

(c) If so specified in Section 1 or 2, Lessee shall obtain at his own expense and keep in full force and effect during the term of this lease, for the protection of Lessee and the State in an insurance company acceptable to Lessor, comprehensive public liability insurance covering the leased premises and their surrounding area with limits of not less than the amounts stated in Section 1 or 2 hereof. The policy or policies shall specifically name the State as an insured party as to the land under lease; and the policy or policies shall specifically identify the lease by number, and a certificate or certificates of insurance must be provided by the Lessee to Lessor. Upon any increase in rental as provided in Paragraph 2, Lessor reserves the right to increase the sum of the penal bond.

(d) Lessee agrees that the liability insurance coverage herein provided for shall be in effect at all times during the term of this lease, and until said leased land is restored as nearly as possible to the condition existing prior to erection or placement of the improvements thereupon or until Lessor, in writing, elects to accept the leased land or any portion thereof as then improved with structures, buildings, pipelines, machinery,

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facilities and fills in place. If Lessor elects to accept only a portion of the leased land as then improved, Lessee's responsibility to insure the premises shall terminate as to those portions that the Lessor accepts intact, but shall continue in the remaining portions until said portions are restored as nearly as possible to the condition existing prior to the erection or placement of improvements thereupon. In the event said insurance coverage expires at any time or times during the term of this lease, Lessee agrees to provide at least fifteen (15) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for a period of not less than one (1) year, or for not less than the remainder of this lease, and until the leased land is restored or until Lessor, in writing, elects to accept the leased land or any portion thereof as then improved as provided for herein. New certificates of insurance are subject to the approval of the State Lands Division, and Lessee agrees that no construction, improvements, additions, work or services shall be performed prior to the giving of such approval. In the event Lessee fails to keep in effect at all times insurance coverage as herein provided, State may, in addition to any other remedies it may have, terminate this lease upon the occurrence of such event.

21. ASSIGNMENT, TRANSFER OR SUBLETTING:

(a) Lessee shall not assign, transfer, or sublet this agreement without the prior written approval of the Commission first had and obtained. Such written approval of the assignment, transfer or sublease shall be subject to any and all conditions required by the Commission, including, without limitation by reason of specification herein, the altering, changing or amending of this lease as deemed by the Commission to be in the best interests of the State.

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(b) The leasehold interest hereby described is created as an appurtenance to littoral land. The leasehold interest is not severable from the rights and interest of the Lessee in the littoral land without the express written approval of the State Lands Commission first had and obtained. Any such severance without State Lands Commission approval shall be grounds for termination of the lease by the State Lands Commission.

22. TERMINATION BY LESSEE: Lessee may terminate this agreement upon giving Lessor not less than sixty (60) days written notice prior to the date of such termination. Lessee agrees that on the day selected by lessee for termination of this agreement under this paragraph, to peaceably and quietly leave, surrender and yield up to Lessor the land subject to this agreement in good order, condition, and repair, reasonable use and wear thereof and damage by act of God and the elements excepted, and execute and deliver to Lessor a good and sufficient release of all rights under this lease. Should Lessee fail or refuse to deliver the release as aforesaid, a written notice by Lessor reciting the failure or refusal of the Lessee to execute and deliver said release as herein provided shall from the date of recordation of such notice be conclusive evidence against Lessee and all persons claiming under Lessee of the termination of this lease and any claims and rights of Lessee in the land and improvements subject to this lease. In the event Lessee elects to terminate this agreement, such termination does not release Lessee from any unpaid but accrued rent, royalty payments or equivalent consideration which may be owed to the Lessor;

23. CANCELLATION BY STATE: If this lease covers land obtained by Lessor from the United States as or in lieu of school lands, Lessor reserves the right and power to cancel this lease at any time during the term hereof upon notice in writing to the Lessee of not less than ninety (90) days next prior to

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the date such cancellation shall become effective, and Lessee hereby agrees, upon receipt of such written notice, that Lessee will vacate the demised premises on or before such cancellation date;

24. TERMINATION UPON SALE OR EXCHANGE: If this is a Grazing or Agricultural Lease, such lease is terminated by Lessor upon sale or exchange of the land subject to this agreement without advance notice to the Lessee as provided for by law and by the rules and regulations of the State Lands Commission;

25. PUBLIC AGENCY PERMITS: Where the sole and entire consideration to the Lessor for the within lease shall be the public use, benefit, health and safety, Lessee agrees and covenants to notify Lessor within ten (10) days in the event any monetary charge is made to the public for use of the leased land, either directly or indirectly.

26. OIL SPILL EMERGENCY: In the event of a spill or leak of oil or other liquid pollutants into waters over State lands, Lessee shall immediately notify the State Office of Emergency Services by telephone (800) 852-7550. Lessee shall subsequently send the State Lands Division a complete written report within thirty (30) days stating the source, cause, size of spill and action taken.

27. MARINE TERMINAL/WHARF OPERATIONS: If this lease is for a marine terminal or wharf operation handling petroleum, petroleum products, or any other potential pollutant, Lessee shall provide Lessor with an approved Oil Spill Contingency Plan/Spill Prevention Control and Countermeasure Plan and a Terminal Operations Manual in the form required by Federal and State Regulations and guidelines. Lessee shall periodically review such plans and advise Lessor of any changes to such plans.

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28. RESTORATION OF PREMISES: Upon expiration or sooner termination of this lease, Lessor may elect to accept the leased land or any portion thereof, as then improved with structures, buildings, pipelines, machinery, facilities and fills in place or Lessor may elect to have any such improvements or any portion thereof, removed by Lessee at Lessee's expense. All such improvements to be removed shall be salvaged and removed by Lessee at Lessee's sole expense and risk within ninety (90) days after the expiration or sooner termination of this lease. If Lessee fails to remove such improvements or portion thereof designated by Lessor, and restore the leased land as hereinafter provided, within ninety (90) days after the expiration date or sooner termination of the lease or notice by Lessor of his intention to accept a portion of the premises as then improved, whichever is shorter, Lessor may remove or have removed all or a portion of the improvements and charge the expense of such removal to Lessee. In making such removals, Lessee shall restore said leased land as nearly as possible to the condition existing prior to erection or placement of the improvements thereupon;

29. HOLDING OVER: Any holding over after the expiration of the term of this lease by the Lessee, with the consent of the State, shall be construed to be a tenancy from month to month, and shall otherwise be on the terms and conditions herein specified as far as applicable with rental at the rate of 1/12 of the annual rental stated in Section 3 payable in advance on the first day of each month;

30. REPOSSESSION: In the event of failure of the Lessee to pay rental, or in the event of a breach of any of the other covenants contained within this agreement, or failure of Lessee to observe the terms, conditions, restrictions or time limitations herein contained, to be kept, performed and observed, it shall be lawful for Lessor to re-enter into and upon the demised

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premises, and to remove all persons and property therefrom, and to repossess and enjoy the herein described demised premises as in the first and former estate of the State;

31. QUITCLAIM: Upon the natural expiration or termination of this lease by Lessor, in addition to any other remedy which Lessor may have, as provided by law or the terms of this lease, Lessee shall within ninety (90) days of the natural expiration or sooner termination of this lease by Lessor execute and deliver to Lessor a good and sufficient release of all rights under this lease. Should Lessee fail or refuse to deliver the release as aforesaid, a written notice by Lessor reciting the failure or refusal of the Lessee to execute and deliver said release as herein provided, shall from the date of recordation of such notice be conclusive evidence against Lessee and all persons claiming under Lessee of the termination of this lease and any claims and rights of Lessee in the lands and improvements subject to this lease.

32. RENEWAL: Lessee or his heirs or assigns, or any successor in interest thereto, shall have the right to renew this agreement for the additional periods and years stated in Section 1 hereof upon such reasonable terms and conditions as the Lessor, or any successor in interest thereto, might impose. Such option to renew must be exercised by Lessee by giving written notice to Lessor at least six (6) months prior to the termination date of the lease, or such option is waived by Lessee;

33. WAIVER OF BREACH: The waiver by Lessor of any default or breach of any term, covenant or condition shall not constitute a waiver of any other default or breach whether of the same or any other term, covenant or condition, regardless of Lessor's knowledge of such other defaults or breaches. The subsequent acceptance of monies hereunder by Lessor shall not constitute a waiver

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of any preceding default or breach of any term, covenant or condition, other than the failure of Lessee to pay the particular monies so accepted, regardless of the Lessor's knowledge of such preceding default or breach at the time of acceptance of such monies, nor shall acceptance of monies after termination constitute a reinstatement, extension, or renewal of the lease or revocation of any notice or other act by Lessor.

34. **NOTICES:** All notices herein provided to be given shall be deemed to have been fully given when made in writing and deposited in the United States mail with postage prepaid and addressed to the principal office or headquarters of the State Lands Commission, or to the Lessee as addressed on Section 1 hereof, as appropriate;

35. **CHANGES:** This agreement may be terminated or the provisions changed, altered, or amended by mutual agreement of the parties hereto;

36. **TIME - SUCCESSOR'S LIABILITY:** Time is the essence of each and all the terms and provisions of this agreement, and the terms and provisions of this agreement shall extend to and be binding upon and inure to the benefit of the heirs, successors and assigns of the respective parties hereto; if more than one Lessee is named herein, the obligations of said parties herein contained shall be joint and several;

37. **CAPTIONS:** The captions of this lease are for convenience only and are not a part of this lease and do not in any way limit or amplify the terms and provisions of this lease.

38. **SEVERABILITY:** If any provision herein is judicially determined to be invalid, it shall be considered deleted herefrom, and shall not invalidate the remaining provisions.

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