

MINUTE ITEM
This Calendar Item No. C39
was approved as Minute Item
No. 39 by the State Land
Commission by a vote of 3
to 0 at its 10/28/96
meeting.

CALENDAR ITEM

C39

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PRC3821

10/28/96

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WP 3821

N. Smith

**TERMINATION OF LEASE NO. PRC 3821 AND
ISSUANCE OF A GENERAL LEASE - COMMERCIAL USE**

APPLICANT:

Mira Monte Marina, Inc.
583 Martin Avenue
Rohnert Park, California 94928

AREA, TYPE LAND AND LOCATION:

A 0.855 acre parcel, more or less, of tide and submerged land located in the San Antonio Creek just east of Highway 1, between the cities of Novato and Petaluma, Marin County.

LAND USE:

A commercial thirty-berth marina, along with a fuel pump and boat launching ramp.

CURRENT LEASE TERMS:

Lease period:

Thirty-years beginning January 1, 1981.

Surety bond:

\$1,000.

Public liability insurance:

Combined single limit coverage of \$300,000.

Consideration:

\$990 per annum; five-year rent review.

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PROPOSED LEASE TERMS:

Lease period:

Twenty-five years beginning January 1, 1994.

Surety bond:

\$5,000.

Public liability insurance:

Combined single limit coverage of \$1,000,000.

CONSIDERATION:

\$1,262 per annum; or 5% percent of gross income derived from berthing, 10% of gross income from all other sources of income in the lease area, and 1.5 cents per gallon of fuel sold to a maximum of 100,000 gallons and 2 cents per gallon thereafter per annum, whichever is greater, with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003.

APPLICANT STATUS:

Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee and processing costs have been received.

STATUTORY AND OTHER REFERENCES:

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

AB 884:

N/A

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OTHER PERTINENT INFORMATION:

1. Mira Monte Marina, Inc. has had several different owners since 1989, and has been in bankruptcy and receivership during the period 1989 until September 1993, when the current applicant acquired the marina business and adjacent upland property. Staff has been unable to locate the original owners. Staff has determined it is in the Commission's best interest to terminate the existing lease now in effect and issue a new lease to the new owner.

2. 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 as a categorically exempt project. The project is exempt under Class 1, existing facilities, 2 Cal. Code Regs. 2905(a)(2).

Authority: Public Resources Code Section 21084, 14 Cal. Code Regs. 15300, and 2 Cal. Code Regs. 2905.

3. 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 proves it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

N/A

FURTHER APPROVALS REQUIRED:

California State Lands Commission.

EXHIBITS:

- A. Land Description
- B. Location Map

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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 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES, 2 CAL. CODE REGS. 2905(a)(2).
2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.
3. TERMINATE LEASE NO. PRC 3821, EFFECTIVE DECEMBER 31, 1989.
4. AUTHORIZE ISSUANCE TO MIRA MONTE MARINA, INC. OF A 25-YEAR GENERAL LEASE-COMMERCIAL USE BEGINNING JANUARY 1, 1994; IN CONSIDERATION OF A BASE ANNUAL RENT IN THE AMOUNT OF \$1,262 OR 5% PERCENT OF GROSS INCOME DERIVED FROM BERTHING, AND 10% OF GROSS INCOME FROM ALL OTHER SOURCES OF INCOME IN THE LEASE AREA PER ANNUM, AND 1.5 CENTS PER GALLON OF FUEL SOLD TO A MAXIMUM OF 100,000 GALLONS AND 2 CENTS PER GALLON THEREAFTER PER ANNUM, WHICHEVER IS GREATER, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF A \$5,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; FOR A THIRTY-BERTH MARINA, FUEL PUMP, AND BOAT LAUNCHING RAMP ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

EXHIBIT "A"
LAND DESCRIPTION

WP 3821

A parcel of tide and submerged land in San Antonio Creek, Marin County, State of California, situated approximately six miles southeasterly from the City of Petaluma, more particularly described as follows:

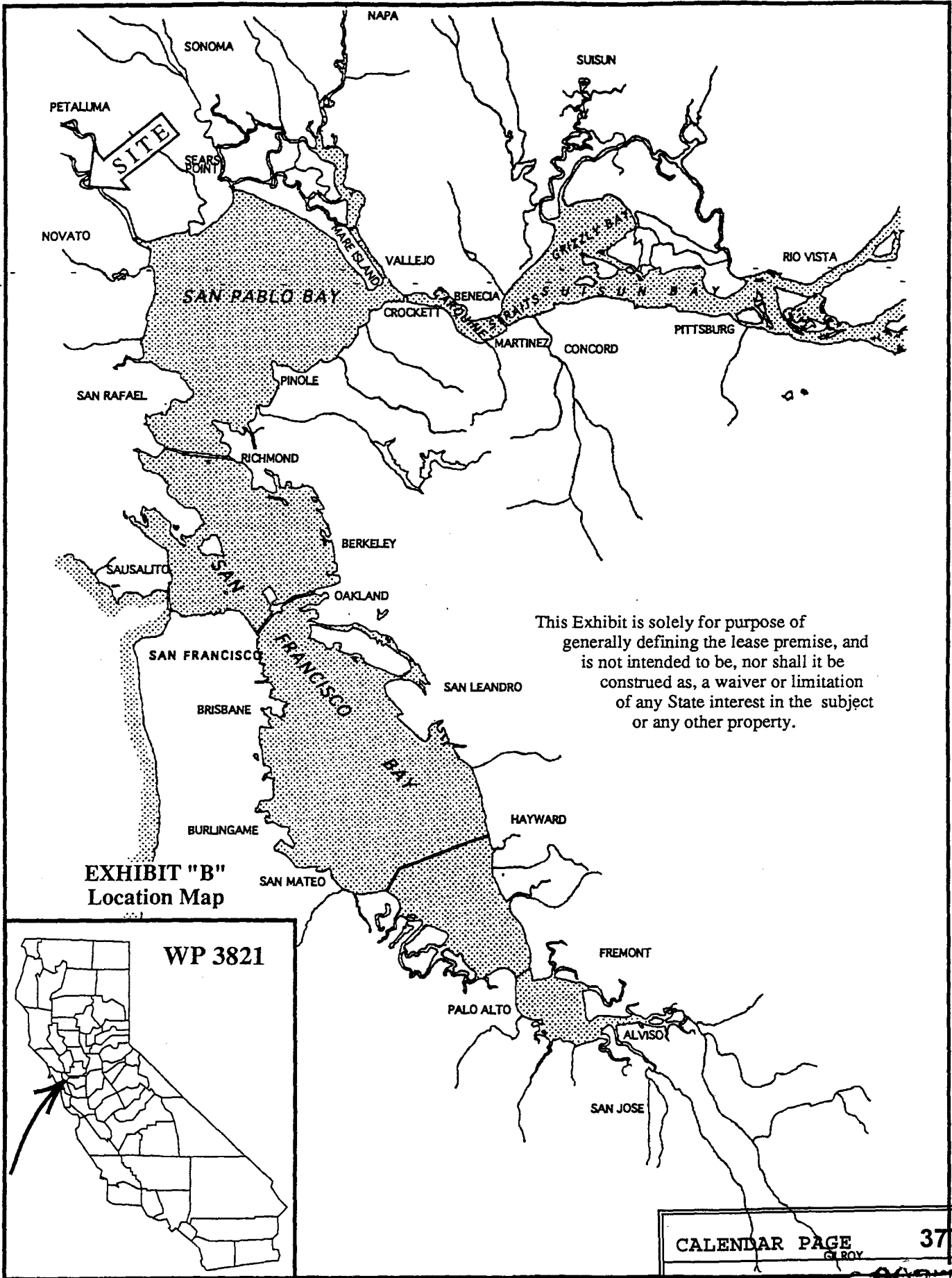
BEGINNING at a point on the south bank of San Antonio Creek, which bears S 74°08'38" W, 1421.84 feet more or less from California State Lands Commission Triangulation Station, "SAN 2, 1958," said station having California Coordinate System Zone 3 coordinates of X=1,412,431.02 and Y=610,148.21; thence from said point of beginning along the southerly bank of San Antonio Creek the following 3 courses:

1. N 73°07' W, 362.56 feet;
2. N 64°37' W, 245.30 feet
3. N 76°12' W, 322.40 feet; thence leaving the southerly bank of San Antonio Creek the following 5 courses:

4. N 13°48' E, 40.00 feet;
5. S 76°12' E, 322.40 feet;
6. S 64°37' E, 247.52 feet;
7. S 73°07' E, 362.56 feet;
8. S 16°53' E, 40.00 feet to the point of beginning.

END OF DESCRIPTION

REVIEWED AND TRANSCRIBED BY OR UNDER THE DIRECTION OF
RAND LA FORCE, SENIOR BOUNDARY DETERMINATION OFFICER
CALIFORNIA STATE LANDS COMMISSION
OCTOBER 24, 1995



This Exhibit is solely for purpose of generally defining the lease premise, 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.

EXHIBIT "B"
Location Map

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