

MINUTE ITEM

This Calendar Item No. C58 was approved as Minute Item No. 58 by the California State Lands Commission by a vote of 3 to 0 at its 06/26/06 meeting.

CALENDAR ITEM  
**C58**

A 15  
S 5

06/26/06  
PRC 301.1  
J. McComas

**ASSIGNMENT AND AMENDMENT OF LEASE**

**LESSEES/ASSIGNORS:**

Harold M. McCabe and Rebecca A. McCabe

**ASSIGNEES:**

Applegate Properties, Inc.  
P. O. Box 1110  
Meadow Vista, CA 95722

Diamond Head Oil, Inc.  
2120 Carey Ave.  
Cheyenne WY 82801

**AREA, LAND TYPE, AND LOCATION:**

Sovereign lands in the Mokelumne River, Andrus Island, Sacramento County.

**AUTHORIZED USE:**

Continued use and maintenance of a commercial marina known as Rancho Marina as shown on the attached Exhibit A.

**LEASE TERM:**

20 years, beginning January 8, 1996.

**CONSIDERATION:**

\$857 per annum, 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:

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

Bond:

\$5,000.

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**PROPOSED AMENDMENT:**

The lease will be amended to include the following provisions: **1)**The Assignee/Lessee will implement the Commission's "Best Management Practices for Marina Owners/Operators" and incorporate the Commission's "Best Management Practices for Berth Holders and Boaters" into Assignee/Lessee's berth rental agreements, including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. In addition to the inclusion of the BMPs for Berth Holders and Boaters into the berth rental agreements, the Lessee shall post such publication in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease and on each successive third anniversary of the lease thereafter, a report on compliance with all BMPs; **2)** The surety amount is \$10,000. At any time during the term of the Lease, the Commission may, with good reasonable cause, increase the amount of the surety bond, letter or credit or other security device to reflect economic inflation or to cover any additionally authorized improvements, alterations, or purposes or any modification of rental; and **3)** Prior to any reconstruction of the Marina, the Assignees will submit to the Commission staff reconstruction plans for review and approval and copies of all permits obtained from all federal, state, and local agencies having jurisdiction over said reconstruction. All reconstruction must be completed no later than October 31, 2013. All other terms and conditions of the lease shall remain in effect without amendment.

**OTHER PERTINENT INFORMATION:**

1. Assignees own the uplands adjoining the lease premises.
2. On February 27, 1996, the Commission authorized a General Lease - Commercial Use with Harold M. McCabe and Rebecca A. McCabe, DBA Rancho Marina. That lease will expire on January 7, 2016. On January 31, 2002 the Lessees transferred ownership of the uplands to Applegate Properties, Inc., a Nevada Corporation and Diamond Head Oil, Inc., a Wyoming Corporation. However, the assignment of the lease to Applegate Properties, Inc. and Diamond Head Oil, Inc. was not approved by the Commission. Assignees are now applying for an assignment of General Lease - Commercial Use No. PRC 301.1, effective February 1, 2002.

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3. The Assignees purchased the Marina from the Lessees in a "as-is" condition. The Assignees propose to reconstruct the Marina to its original configuration and condition within the next five to seven years. The lease is being amended to include provisions that require the Assignees to provide the reconstruction plans for Commission staff's review and approval prior to any reconstruction activities taking place and that the reconstruction activities must be completed by October 31, 2013.
4. The Assignees have paid the rent, as outlined in the lease, since acquiring the upland property.
5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

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

**EXHIBITS:**

- A. Site Map
- B. Location Map

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

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.

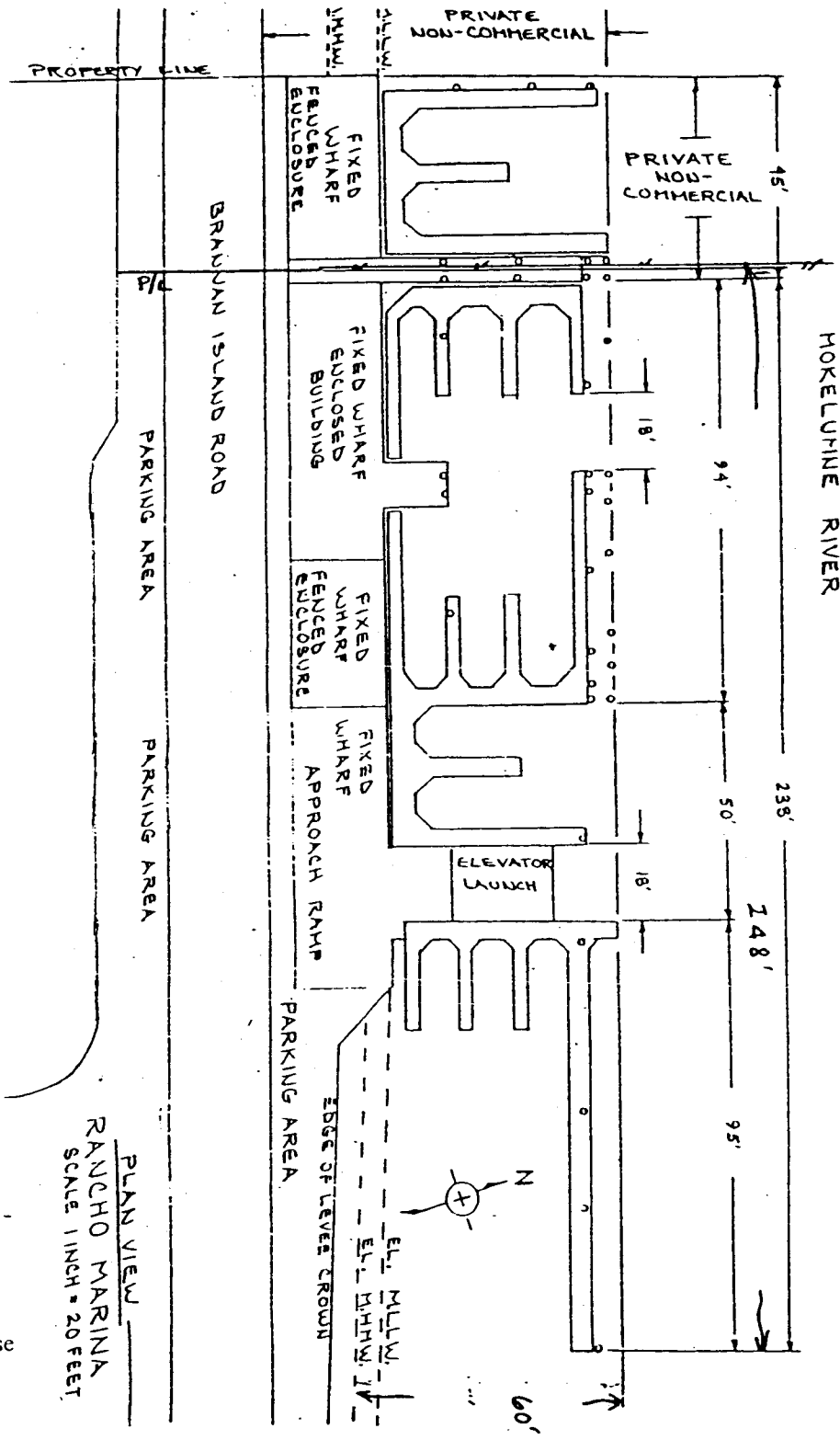
**AUTHORIZATION:**

AUTHORIZE THE ASSIGNMENT OF LEASE NO. PRC 301.1, A GENERAL LEASE – COMMERCIAL USE, OF SOVEREIGN LANDS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, FROM HAROLD M. MCCABE AND REBECCA A.

CALENDAR ITEM NO. C58 (CONT'D)

MCCABE, TO APPLGATE PROPERTIES, INC., A NEVADA CORPORATION, AS TO AN UNDIVIDED 74.5 % INTEREST AND DIAMOND HEAD OIL, INC., A WYOMING CORPORATION, AS TO AN UNDIVIDED 25.5% INTEREST EFFECTIVE FEBRUARY 1, 2002.

AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 301.1, A GENERAL LEASE – COMMERCIAL USE, AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, TO 1) INCREASE THE SURETY BOND TO \$10,000; 2) TO ADD PROVISIONS INVOLVING BEST MANAGEMENT PRACTICES; 3) PRIOR TO ANY RECONSTRUCTION OF THE MARINA, THE ASSIGNEES WILL SUBMIT TO COMMISSION STAFF RECONSTRUCTION PLANS FOR REVIEW AND APPROVAL AND COPIES OF PERMITS OBTAINED FROM ALL FEDERAL, STATE, AND LOCAL AGENCIES HAVING JURISDICTION OVER SAID RECONSTRUCTION. RECONSTRUCTION MUST BE COMPLETED NO LATER THAN OCTOBER 31, 2013; ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.

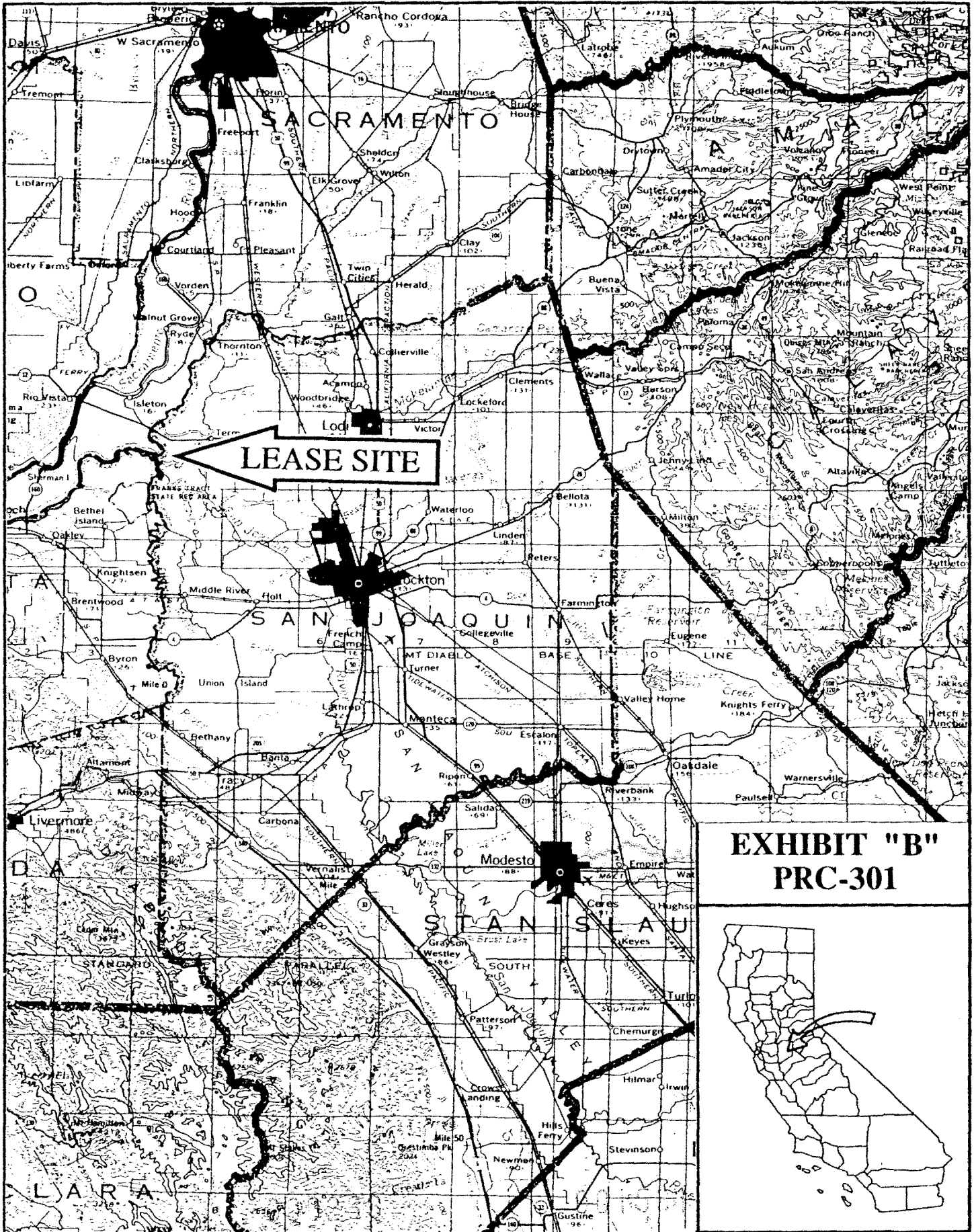


PLAN VIEW  
 RANCHO MARINA  
 SCALE 1 INCH = 20 FEET

General Lease-Commercial Use  
 Applegate Properties  
 APN: 156-0110-065  
 Sacramento County

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

**Exhibit A**  
**WP 301.1**



**LEASE SITE**

**EXHIBIT "B"**  
**PRC-301**