

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.

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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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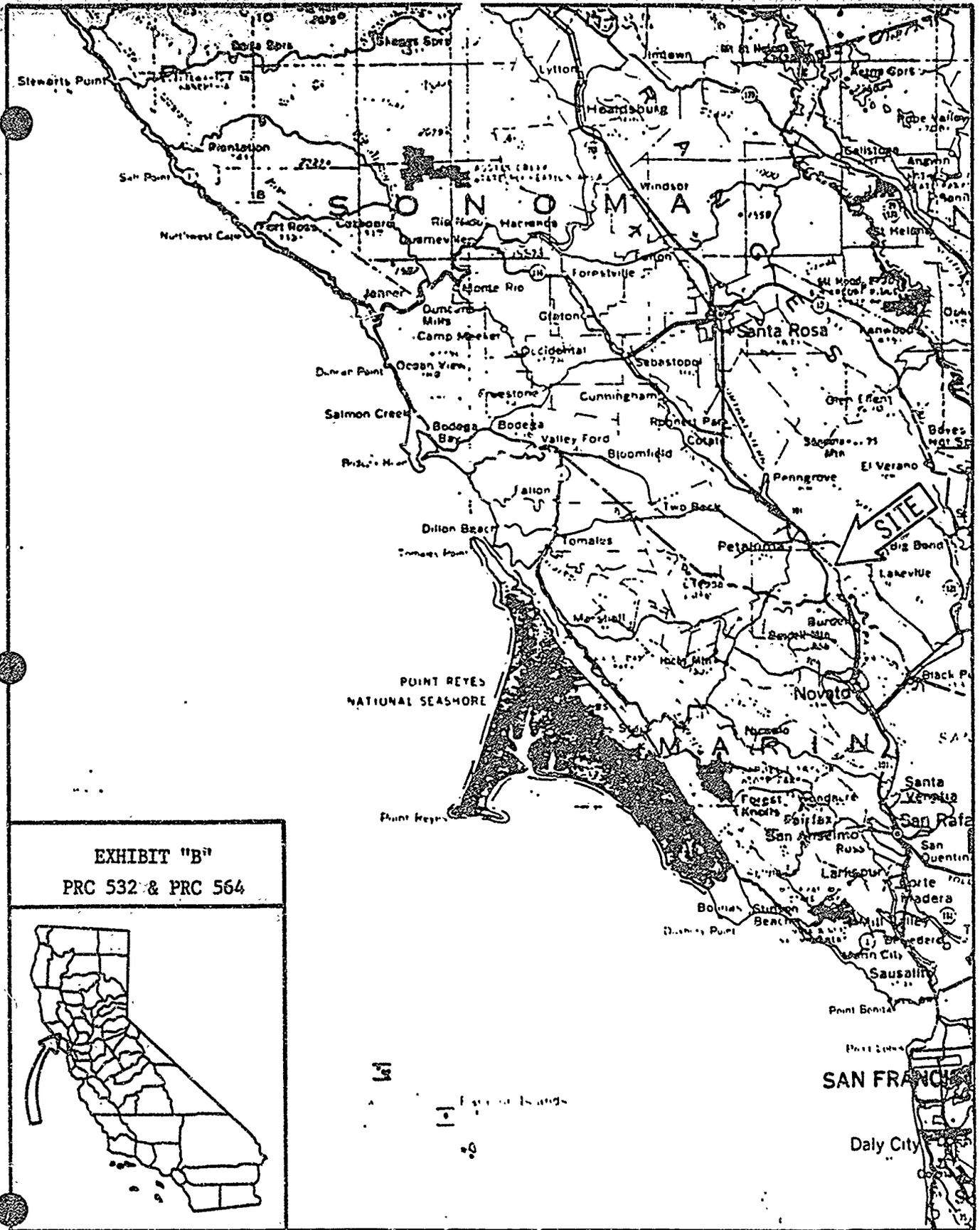


EXHIBIT "B"
 PRC 532 & PRC 564



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 G. Henris
Dorothy G. 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:*

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

STATE OF CALIFORNIA
STATE LANDS COMMISSION

BY Robert A. Zuercher
Title Division of Land
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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(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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(Form 51.15 4/76)