CALENDAR ITEM

C13

A 2 02/01/10

WP 7165.1

S 4 M. Hays

CONSIDER RATIFICATION OF ASSIGNMENTS OF LEASE, AMENDMENT OF LEASE AND APPROVAL OF A SUBLEASE

APPLICANT/SUBLESSOR:

El Cajon Retirement Residence Limited Partnership

SUBLESSEE:

Greg F. Harlan dba Harlan Livestock

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the bed of Goose Lake, Modoc County.

AUTHORIZED USE:

Grazing

LEASE TERM:

25 years, beginning October 1, 1987, with the option to extend the Lease for an additional period of ten years, as provided in the Lease.

SUBLEASE TERM:

Five years beginning April 1, 2007

LEASE CONSIDERATION:

$5,500 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SUBLEASE CONSIDERATION:

$5,500 per year.

PROPOSED AMENDMENT:

Amend Lease No. PRC 7165.1 to replace Section 3 (Land Description) with a revised Section 3 as shown on Exhibit A to provide for the substitution of a portion of the existing Lease Premises with approximate equal acreage within an

adjacent portion of the bed of Goose Lake for a proposed total lease area of approximately 9,391 acres. All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. The Applicant owns a portion of the uplands adjoining the Lease Premises.

2. On January 21, 1988, the Commission authorized a 25-year Grazing Lease to Bank of America, N.T.& S.A (B of A), which also owned the adjoining uplands. Pursuant to the terms of the lease, B of A assigned the Lease to Treasure Island Trailer Park, LP (Treasure Island) sometime after 1988. Effective April 8, 1991, the Commission approved an assignment of the Lease from Treasure Island to Warren Hopkins who subsequently transferred his ownership in the uplands to his trust. Upon Mr. Hopkins death in 2005 his interest was transferred to Hopkins Ranches, LLC without the benefit of Commission approval of the assignments of the Lease. On April 13, 2007, the uplands were deeded to El Cajon Retirement Residence Limited Partnership (El Cajon). The Lease will expire on September 31, 2012.

3. In 2009, staff became aware that certain sovereign lands in Goose Lake under Lease No. PRC 7165.1 may overlap with adjacent grazing lands currently used by the Pit River Tribe (Tribe). El Cajon has agreed to substitute approximately 2,233 acres of leased lands on the western side of the bed of Goose Lake for approximately 2,342 acres on the eastern side of the bed of Goose Lake with similar grazing potential. This substitution provides El Cajon with a total of approximately 9,391 acres of leased lands in the bed of Goose Lake for their grazing operation. Commission boundary staff has reviewed the exchange of leased lands and prepared the revised Land Description as shown on the attached Exhibit A. Staff will work with the Tribe towards the submission of a grazing lease application for the Commission's consideration sometime in 2010.

4. El Cajon is requesting approval of a sublease to Greg F. Harlan, dba Harlan Livestock. Staff has reviewed the sublease agreement and it is consistent with the terms of the Lease.

5. Staff is recommending ratification of the prior assignments of lease; approval of an amendment to Lease No. PRC 7165.1 to revise the Land Description to provide for the substitution of a portion the Lease Premises;

and approval of a sublease from El Cajon to Greg F. Harlan, dba Harlan Livestock.

6. **Ratification of Assignments:** Pursuant to the Commission's delegation of authority and 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 CEQA because it is not a "project" as defined by CEQA and State CEQA Guidelines.

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

7. **Amendment of Lease:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alteration to Land; Title 2, California Code of Regulations, section 2905 (d) (1).

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

8. **Approval of Sublease:**
   Pursuant to the Commission's delegation of authority and 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 CEQA because it is not a "project" as defined by CEQA and State CEQA Guidelines.

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

9. 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 persons nominating such lands and through CEQA process, it is the staff's opinion that the project, as proposed is consistent with its use classification.

EXHIBITS:

A. Land Description
B. Site and Location Map

PERMIT STREAMLINING ACT DEADLINE:
n/a

RECOMMENDED ACTION:
It is recommended that the Commission:

CEQA FINDING:

Ratification of Assignments: Pursuant to the Commission's delegation of authority and 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 CEQA because it is not a "project" as defined by CEQA and State CEQA Guidelines.

Amendment of Lease:
Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, Section 15061, as a Categorically Exempt Project, Class 4, Minor Alteration to Land; Title 2, California Code of Regulations, section 2905 (d) (1).

Approval of Sublease:
Pursuant to the Commission's delegation of authority and 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 CEQA because it is not a "project" as defined by CEQA and State CEQA Guidelines.

SIGNIFICANT LANDS INVENTORY FINDING:
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resource Code sections 6370, et seq.

AUTHORIZATION:

1. Ratify the assignment from Warren Hopkins to the Warren Hopkins Trust Number Two dated September 29, 1995.

2. Ratify the assignment from Warren Hopkins Trust Number Two dated September 29, 1995 to Hopkins Ranches, LLC.

3. Ratify the assignment from Hopkins Ranches, LLC to El Cajon Retirement Residence Limited Partnership.

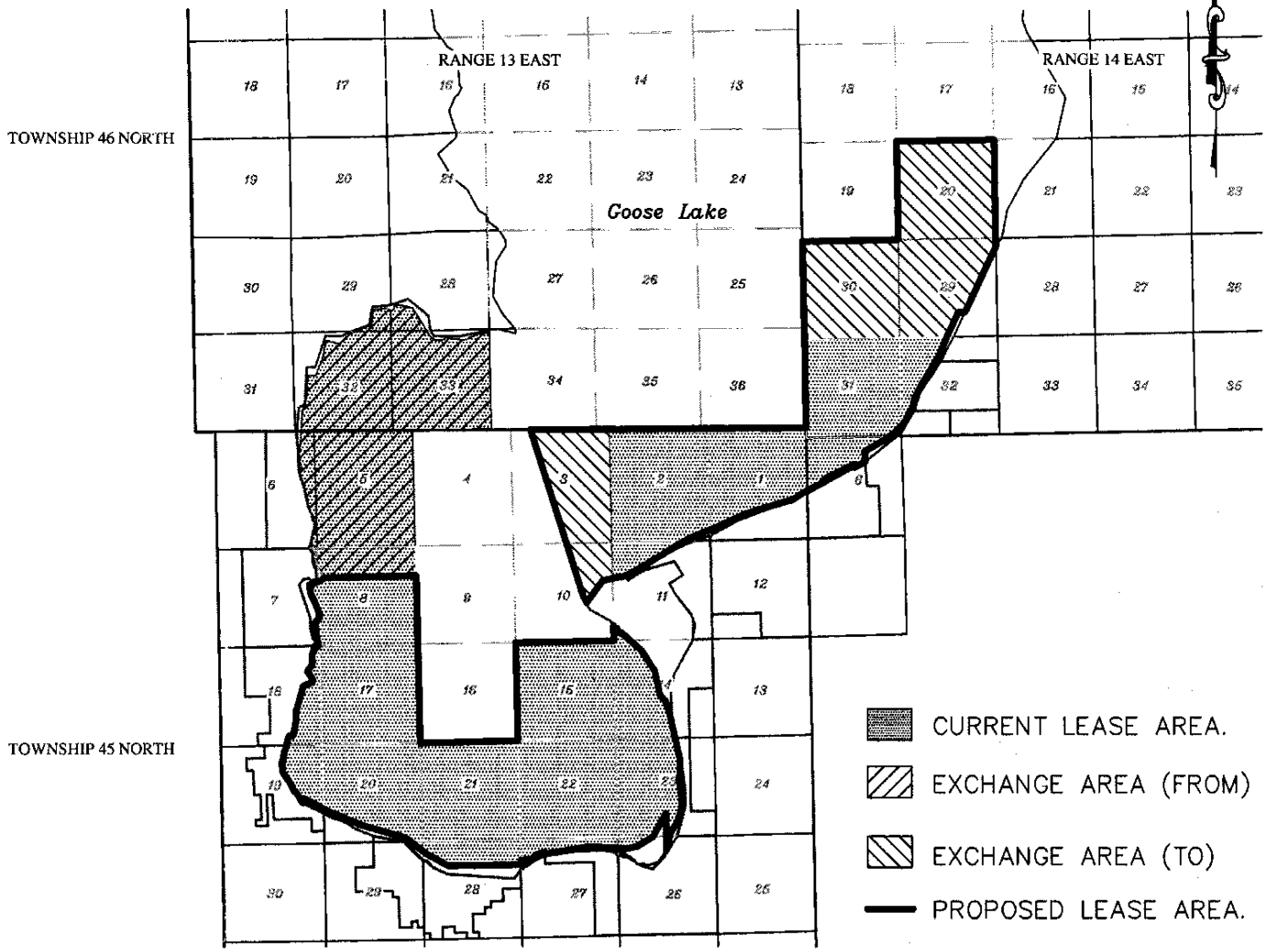
4. Authorize the amendment of Lease No. PRC 7165.1, a Grazing Lease, to replace Section 3 (Land Description) with a revised

Section 3 as shown on Exhibit A to provide for the substitution of a portion of the existing Lease Premises with approximate equal acreage within an adjacent portion of the bed of Goose Lake for a total lease area of approximately 9,391 acres, as described on Exhibit A attached and as shown on Exhibit B (for reference purposes only) and by this reference made a part hereof, effective February 1, 2010; and all other terms and conditions of the Lease will remain in effect without amendment.

5. Authorize a sublease from El Cajon Retirement Residence Limited Partnership to Greg F. Harlan, dba Harlan Livestock, of a portion of the Lease No. PRC 7165.1, more particularly shown on Exhibit B attached and by this reference made a part hereof, effective April 1, 2007, for a term of five years, for grazing purposes.

NO SCALE

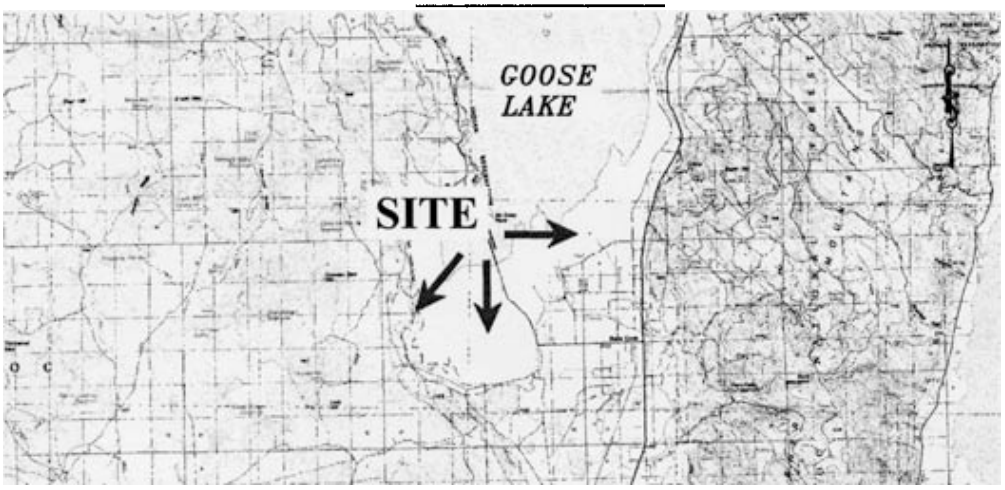
SITE



GOOSE LAKE LEASE LAND EXCHANGE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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

Exhibit A

PRC 7165
EL CAJON RETIREMENT RESIDENCE, LP
GRAZING LEASE
MODOC COUNTY

DJF 01/10