

**CALENDAR ITEM  
C67**

A 8, 15

12/02/13

S 5, 14

PRC 6726.1

R. Boggiano

**TERMINATION AND ISSUANCE OF A GENERAL LEASE – COMMERCIAL USE  
AND ENDORSEMENT OF A SUBLEASE**

**LESSEE:**

Applegate Properties, Inc., a Nevada Corporation

**APPLICANT/SUBLESSOR**

New Hope Landing Mobile Home Park, LLC

**SUBLESSEE**

J & H Property Management Inc.

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

Sovereign land located in the Mokelumne River, adjacent to 13945 West Walnut Grove Road, near the town of Thornton, San Joaquin County.

**AUTHORIZED USE:**

LEASE: Continued operation, use, and maintenance of an existing commercial marina, known as New Hope Landing, consisting of two boat docks, two gangways, and bulkhead previously authorized by the Commission, and an existing launch ramp not previously authorized by the Commission.

SUBLEASE: Operation and maintenance of a commercial marina.

**LEASE TERM:**

LEASE: 20 years, beginning July 1, 2013.

SUBLEASE: Month-to-month, beginning January 1, 2013

**CONSIDERATION:**

\$2,731 per year, with the rent adjusted annually using the Consumer Price Index, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

CALENDAR ITEM NO. **C67** (CONT'D)

**SPECIFIC LEASE PROVISIONS:**

Insurance:

Liability insurance in an amount no less than \$2,000,000 per occurrence.

Bond:

\$20,000

Other:

The lease contains provisions that require implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and encourage implementation of the Commission's "Best Management Practices for Berth Holders and Boaters", including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.

**OTHER PERTINENT INFORMATION:**

1. The Applicant owns the upland adjoining the lease premises.
2. On February 27, 1998, the Commission authorized a General Lease - Commercial Use with Donald E. Deckert and Jennifer C. Deckert dba New Hope Landing for a commercial marina. On November 21, 2006, the Commission authorized the assignment of Lease No. PRC 6726.1 to Applegate Properties, Inc., a Nevada Corporation (Applegate). On April 28, 2009, ownership of the property transferred to New Hope Landing Mobile Home Park, LLC. Because the existing lease will expire on June 30, 2020, the Applicant is applying for a new long-term lease.
3. The Applicant has delegated the day-to-day operation of the marina through a lease to J & H Property Management Inc. The one-year agreement became effective January 1, 2012, and is now currently a month-to-month agreement cancelable by either party on not less than 60 days advanced notice. Staff has reviewed the operating agreement between New Hope Landing Mobile Home Park, LLC and J & H Property Management Inc., and recommends approval of a sublease.
4. The existing launch ramp has been in the Mokelumne River for many years but was not previously authorized by the Commission.
5. Applegate is no longer a business entity; however, the Applicant was previously the owner of Applegate. Beginning July 25, 2008, the Lessee (Applegate) and the Applicant, after occupying the marina, failed to pay the portion of rent due in excess of the minimum annual rent stated in the lease. The previous rent was based on a minimum annual rent of \$860

CALENDAR ITEM NO. **C67** (CONT'D)

against five percent (5%) of Gross Income derived from boat berthing and mooring spaces, and 10 percent (10%) of gross income from all other sources. The Applicant has paid the minimum annual rent of \$860 to date, but failed to remit their reports of gross income or additional rent owed. As a condition of the new lease, staff negotiated back rent in the amount of \$16,094.05 and agreed to a one-year payment plan in four equal installments of \$4,023.52 for the period from July 1, 2008 through June 30, 2013. Back rent will be made in four equal payment installments of \$4,023.52. The first payment is due January 1, 2014 and each of the succeeding three equal payments will be made within one year, on or before April 1, July 1, and October 1, 2014.

6. **Termination of Lease and Endorsement of a Sublease:** The staff recommends that the Commission find that the subject termination of lease and endorsement of a sublease do not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and are, therefore, not projects in accordance with the California Environmental Quality Act (CEQA).

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

7. **Issuance of New Lease:** The staff recommends that the Commission find that the subject issuance of a new General Lease – Commercial Use is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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

8. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

CALENDAR ITEM NO. **C67** (CONT'D)

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Termination of Lease and Endorsement of a Sublease:** Find that the subject termination of lease and the endorsement of a sublease are not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activities are not projects as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

**Issuance of New Lease:** Find that the subject issuance of a new General Lease – Commercial Use is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

1. Authorize acceptance of back rent for the period of July 01, 2008 to June 30, 2013 in the total amount of \$16,094.05. Payment of back rent will be made in four equal payments of \$4,023.52 on a quarterly basis due on or before January 1, April 1, July 1, and October 1, 2014.
2. Authorize termination of Lease No. PRC 6726.1, a General Lease – Commercial Use, effective June 30, 2013, issued to Applegate Properties, Inc., a Nevada Corporation.
3. Authorize issuance of a General Lease – Commercial Use to New Hope Landing Mobile Home Park, LLC, beginning July 1, 2013, for a term of 20 years, for the continued operation, use, and maintenance of an existing commercial marina facility known as

CALENDAR ITEM NO. **C67** (CONT'D)

New Hope Landing consisting of two boat docks, two gangways, and bulkhead previously authorized by the Commission, and an existing launch ramp not previously authorized by the Commission as described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$2,731, adjusted annually using the Consumer Price Index, as provided in the lease; liability insurance with coverage in an amount no less than \$2,000,000 per occurrence; and a surety in the amount of \$20,000.

4. Approve by endorsement a sublease between New Hope Landing Mobile Home Park, LLC, and J & H Property Management Inc., effective January 1, 2013.

**EXHIBIT A**

**PRC 6726.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Mokelumne River, San Joaquin County, State of California and more particularly described as follows:

BEGINNING at a point that bears South 89° 58' 00" West 66.00 feet from the 2 inch iron pipe as shown on the Plat of Survey Portion of Section 1 T.4 N., R.4 E., M.D.B. & M., filed on February 9, 1955 in Book of Surveys Volume 10 at Page 56 San Joaquin County Records; thence along the northwesterly line as shown on said Plat of Survey South 41° 58' 00" West 436.15 feet; thence leaving said line South 41° 58' 00" West 58.85 feet; thence North 48° 02' 00" West 63.00 feet; thence North 39° 46' 12" East 275.36 feet; thence North 37° 41' 19" East 220.46 feet; thence South 48° 02' 00" East 90.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of the Mokelumne River.

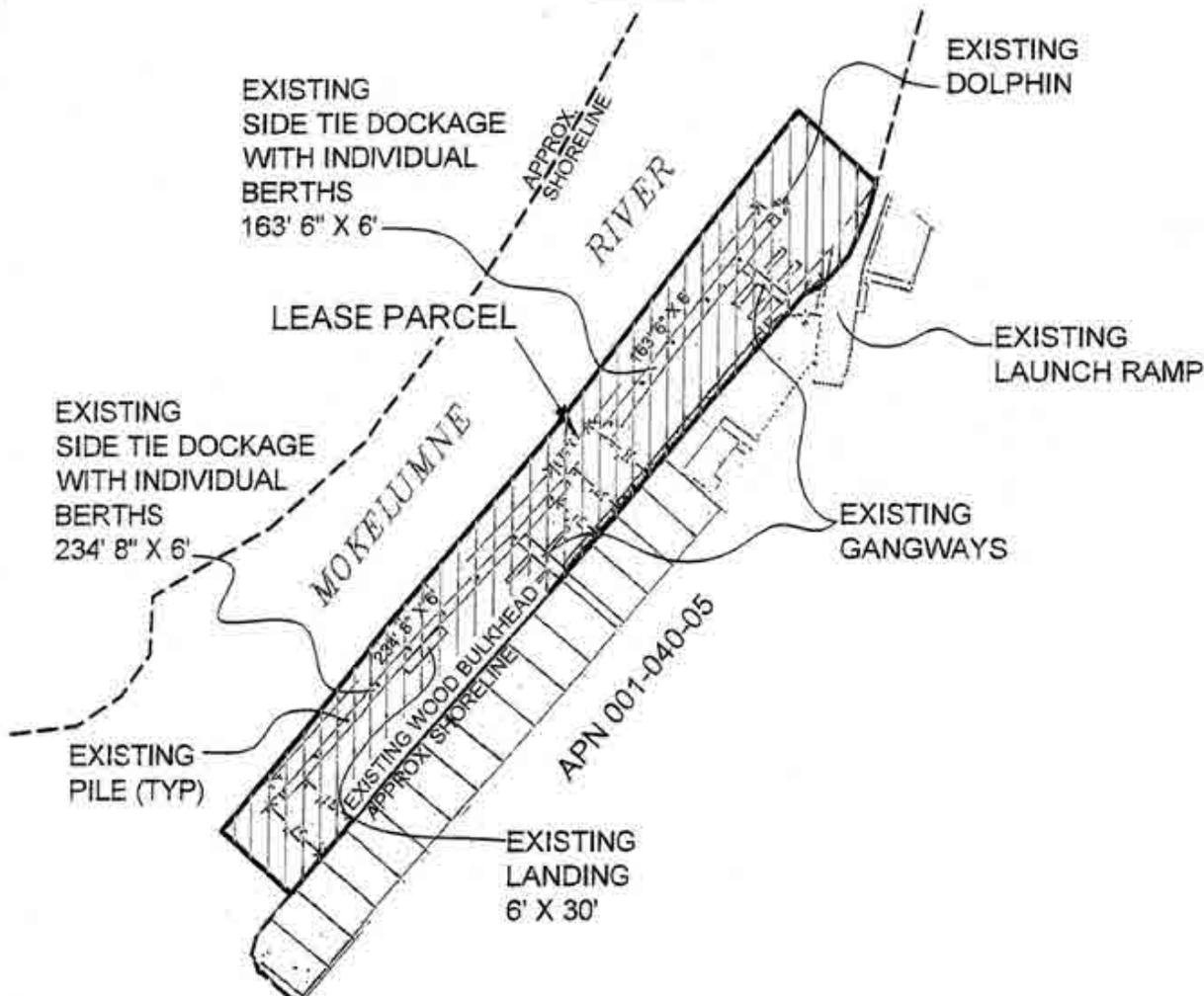
**END OF DESCRIPTION**

Prepared 08/07/13 by the California State Lands Commission Boundary Unit



NO SCALE

### SITE



13945 WEST WALNUT GROVE ROAD, TOWN OF THORNTON

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 B

PRC 6726.1  
 NEW HOPE LANDING MOBILE HOME PARK, LLC  
 APN 001-040-05  
 GENERAL LEASE - COMMERCIAL USE  
 SAN JOAQUIN COUNTY



TS 08/07/13