

CONCESSION LEASE AGREEMENT
FOR FLEMING MEADOWS RECREATION AREA, DON PEDRO PROJECT
LOCATED IN
TUOLUMNE COUNTY, CALIFORNIA

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LIST OF EXHIBITS

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| Exhibit A | Lake Don Pedro Marina Concession Area Map |
| Exhibit B | Lake Don Pedro Marina Concession Lease Agreement Boundary |
| Exhibit C | Performance Bond |
| Exhibit D | Preliminary Schedule and Estimated Costs for Property |
| Exhibit E | Lake Don Pedro Marina Fixed Fee Schedule |

CONCESSION LEASE AGREEMENT
FOR FLEMING MEADOWS RECREATION AREA, DON PEDRO PROJECT
LOCATED IN
TUOLUMNE COUNTY, CALIFORNIA

THIS AGREEMENT ("Agreement"), entered into in Stanislaus County, California, and made and executed in five originals on March 20, 2001, by and between the TURLOCK IRRIGATION DISTRICT and the MODESTO IRRIGATION DISTRICT, hereinafter referred to collectively as the DON PEDRO RECREATION AGENCY or "Agency" and Lake Don Pedro Marina, L.L.C., a Limited Liability Company, hereinafter referred to as "Concessionaire".

1. LEASE TERMS.

1-1. DESCRIPTION OF CONCESSION AREA.

1-1.01. Grant to Concessionaire. Agency grants to Concessionaire the right to develop, operate, and maintain for the convenience and safety of the public the concession area defined in Exhibits A and B which are attached hereto and incorporated herein by reference ("Concession Area").

- a. Fleming Meadows: The concession shall be located at the Fleming Meadows location so long as the lake level remains at or above a sufficient level for the concession to operate at the standards required by this Agreement.
- b. Lowest Water Level Location: If the lake level should drop below the Fleming Meadows area rendering it unusable, the Concessionaire would be permitted to move the installation to a location approved by the Agency as would be necessary to maintain protective buoyancy, solely to protect the facilities and then only for the duration of such low levels.
- c. Concessionaire acknowledges that the primary purpose of Don Pedro Lake waters are for irrigation and power generation. Agency has no obligation to maintain the water at any particular level nor to consider the interests of the Concessionaire when altering the water level.
- d. Blue Oaks: A boat repair shop/yard and dry storage area.

1-1.02. Ownership of Trading Post Facility and Swimming Lagoon Snack Shack.

- a. Concessionaire recognizes the Agency's ownership of the Trading Post and Snack Shack buildings and the equipment housed in those structures as listed below:

1. Trading Post structure, including all wiring, plumbing, decking, furnace, outside lighting, air conditioning, and inside countertops.
2. Snack Shack structure, including plumbing, wiring, and countertops.

b. The Trading Post and Snack Shack shall be part of the Concession Area and shall be operated and maintained, at Concessionaire's expense, to the standards required in this Agreement. Any Agency owned equipment housed in these structures shall be maintained, at Concessionaire's expense, to the standards required in this Agreement through its useful life, and then replaced, at Concessionaire's expense, with equipment of a grade that is equal to or better than the previous equipment, unless otherwise agreed to by the parties. Agency shall maintain ownership of the new equipment.

1-1.03. Exclusive Concession Rights. Concessionaire shall have the exclusive use of the property within the Concession Area for the authorized concession activities set forth herein.

1-2. TERM.

1-2.01. Term of Agreement. The term of this Agreement shall be for a period of thirty (30) years, commencing on the first day of the month following final Agency approval, and only so long as the Don Pedro Project continues to be licensed to the Districts by the Federal Energy Regulatory Commission. The current Don Pedro Project License is scheduled to terminate in the year 2016.

1-2.02. Option to Extend Term. Concessionaire is given the option to extend the term for a period of ten (10) years, so long as the Don Pedro Project continues to be licensed to the Districts by the Federal Energy Regulatory Commission, upon such conditions as may be mutually agreed upon by the parties, by giving written notice of exercise of the option to Agency at least six (6) months but not more than five (5) years before the expiration of the term.

1-2.03. Concessionaire Unable to Operate. In the event Concessionaire believes it is unable to feasibly operate its business as set forth herein due to government control, restriction, or failure to have use of the necessary ancillary facilities, such as, but not limited to, adequate utilities, waste disposal, ground access, or use of products required for business operations, the Parties agree to negotiate appropriate amendments to this Agreement. If the Parties fail to reach an agreement, the Parties agree to arbitrate under section 1-14 of this Agreement

with the intent to retain the balance of rights and duties set forth in this Agreement.

1-3. CONCESSION FEE.

1-3.01. Concession Fee Rate.

a. Concessionaire shall pay to Agency a sum equal to five percent (5%) of Concessionaire's annual Gross Receipts as defined in section 1-3.03, made from or upon the Concession Area during each concession year, except that Concessionaire shall pay Agency two percent (2%) for all sales of merchandise having a single value in excess of \$4,000.00.

b. The concession fee shall be computed each concession fee period. On or before the last day of the calendar month immediately following the close of each monthly concession fee period, Concessionaire shall pay to Agency the amount computed as the concession fee percentage of Concessionaire's Gross Receipts during the concession fee period.

c. Within sixty (60) days after the end of each concession year, Agency shall determine the amount of concession fees based on the Gross Receipts of Concessionaire during the concession year and the sums paid to Agency as concession fees for the concession year. If Concessionaire has paid to Agency an amount of concession fees greater than the concession fees it is in fact obligated to pay for the concession year as determined in this paragraph, the excess so determined shall be applied against the next concession fees due to Agency, except that if any unused excess exists at the expiration or termination of the term, as such term may be extended, the sum of the unused excess shall be paid by Agency to Concessionaire. If Concessionaire has paid to Agency an amount of concession fees less than Concessionaire is required to pay, Concessionaire shall immediately pay the difference to Agency.

d. Payments to Agency shall be made to the order of the Turlock Irrigation District, P. O. Box 949, Turlock, California 95381, or its designated successor.

1-3.02. Concession Fee Period; Accounting Periods Defined.

a. The concession fee period shall be monthly. The last concession fee period shall end on the date the term, as such term may be extended, expires or terminates.

b. A "concession year" is a calendar year, except that the first concession year shall commence on the date the term commences and last concession year shall end on the date the term, as such term may be extended, expires or this Agreement is terminated.

c. "Monthly" concession periods are calendar months within each concession year, except that the first monthly rent period shall commence on the date the term commences and the last monthly concession period shall end on the date the term, as such term may be extended, expires or this Agreement is terminated.

1-3.03. Gross Receipts Defined.

a. "Gross Receipts" of Concessionaire means the gross selling price of all merchandise or services sold, leased, licensed, or delivered in or from the Concession Area or within the Don Pedro Project boundaries by Concessionaire whether for cash, property, or any other thing of value, or on credit (whether collected or not), including the gross amount received by reason of orders taken within the Concession Area although filled elsewhere, other than houseboats that are to be moored off Don Pedro Lake, and whether made by Concessionaire personnel or vending machines. Any transaction on an installment basis, including, without limitation, any "lay-away" sale or like transaction, or otherwise involving the extension of credit, shall be treated as a sale for the full price at time of transaction, irrespective of the time of payment or when title passes. Gross Receipts also shall include any sums that Concessionaire receives from pay telephones, stamp machines, music machines, amusement machines, or the like, permitted by Agency.

b. Gross Receipts shall not include, or if included there shall be deducted (but only to the extent they have been included), the following:

(1) The selling price of all merchandise returned by customers and accepted for full credit, or the amount of discounts, refunds, and allowances made on such merchandise or rentals, and any amounts attributable to no shows, non-collectibles, bad debts, and food and lodging provided to employees of the Concessionaire.

(2) Sales and use taxes, so-called luxury taxes, consumers' excise taxes, Gross Receipts taxes, state gasoline taxes, and other similar taxes now or in the future imposed on the sale of merchandise or services, but only if such taxes are added to the selling price, separately stated, collected separately from the selling price of merchandise or services, and collected from customers.

(3) Any sum paid to the State of California representing proceeds from the sale of hunting and fishing licenses. Any commissions or fees received by Concessionaire for selling such licenses are included in Gross Receipts.

(4) Any revenue that is received from the Agency for goods and services sold to the Agency at Concessionaire's cost.

1-3.04. Statement of Gross Receipts.

a. Concessionaire shall furnish to Agency a statement of Concessionaire's Gross Receipts in the format specified by the Agency within thirty (30) days after the end of each monthly concession fee period, and an annual statement of Gross Receipts within sixty (60) days after the end of each concession year. Each statement shall be signed and certified to be correct by Concessionaire or its authorized representative, and if Concessionaire is a corporation the statement shall be signed and certified to be correct by an officer of Concessionaire.

b. Concessionaire shall keep at the Concessionaire's home office full and accurate books of account, records, cash receipts, and other pertinent data showing its Gross Receipts. Concessionaire shall install and maintain at its own expense accurate receipt-printing cash registers as may be deemed necessary by Agency. Such cash registers shall use and contain continuous registering tape. Such books of account, records, cash receipts, and other pertinent data shall be kept for the most recent seven years up until one year after the expiration or termination of this Agreement. The receipt by Agency of any statement, or any payment of concession fees for any period, shall not bind Agency as to the correctness of the statement or the payment.

c. Agency shall be entitled during the term and within one (1) year after expiration or termination of this Agreement to inspect and examine all Concessionaire's books of account, records, cash receipts, and other pertinent data. Concessionaire shall cooperate fully with Agency in making any such inspection. Agency shall also be entitled, once during each concession year and once after expiration or termination of this Agreement, to an independent audit of Concessionaire's books of account, records, cash receipts, and other pertinent data by a certified public accountant to be designated by Agency. The audit shall be conducted during usual business hours at Concessionaire's home office. If the audit shows that there is a deficiency in the payment of any concession fee, the deficiency shall become immediately due and payable. The costs of the audit shall be paid by Agency unless the audit shows that Concessionaire understated Gross Receipts by more than three and one half percent (3.5%) in any concession year, in which case Concessionaire shall pay all Agency's costs of the audit.

1-4. TAXES. Concessionaire agrees to pay all lawful taxes, assessments or charges which at any time may be levied by the State, Tuolumne County or any other tax or assessment levying body upon any interest in this Agreement or any possessory right which Concessionaire may have in or to the Concession Area covered hereby or the improvements thereon by reason of its use or occupancy thereof or otherwise as well as all taxes, assessments, and charges on goods, merchandise, fixtures, appliances, equipment and property owned by it in or about the Concession Area.

1-5. INDEMNITY; INSURANCE; WAIVER OF CLAIMS.

1-5.01. Indemnification and Hold Harmless.

Concessionaire agrees to indemnify, defend and hold harmless Agency, its governing board and its members, their directors, officers, employees, agents and representatives, and each of them, from and against any and all liabilities [actual or threatened], claims, actions, judgments, orders, damages [including, without limitation, foreseeable and unforeseeable consequential damages], costs, expenses, fines, penalties, and losses [including, without limitation, court costs, attorneys fees and sums paid in settlement of claims], and all consultants, experts, and legal fees and expenses [including, without limitation, all investigative costs] and all other losses or damages of any kind [including, without limitation, liability resulting from any injury or death of persons or damage to property of Concessionaire or any other person or to natural resources] to the extent such liabilities, claims, actions, judgments, orders, damages, costs, expenses, fines, penalties, and losses are attributable to Concessionaire's actions or failure to act.

Upon identifying any matter or incident to which this indemnity may apply or receiving a notice or claim from any third party of such matter or incident, Concessionaire shall notify Agency in writing of such matter or incident within twenty days.

Concessionaire's obligation to indemnify shall survive the expiration or termination of this Agreement. Concessionaire's covenants to indemnify Agency are not intended to and shall not be interpreted in any manner that limits Concessionaire's insurance obligations nor the obligations of any insurance carrier under the policies required to be carried by this Agreement.

1-5.02. Insurance.

Concessionaire shall at Concessionaire's sole cost and expense, without limiting any of its other obligations or liabilities, maintain in effect at all times

after the execution of this Agreement not less than the following coverages and limits of insurance, which shall be maintained with insurers and under forms of policies satisfactory to Agency.

A. Workers' Compensation

Workers Compensation Insurance as required by the State of California including Employers Liability limits of not less than one million dollars (\$1,000,000) per occurrence.

B. Commercial General Liability or Comprehensive General Liability

Commercial General Liability or Comprehensive General Liability Insurance which shall include, but not necessarily be limited to, coverage for premises and operations, contractual liability, personal injury liability, products/completed operations for the term of the Agreement, broad form property damage and independent contractors, in an amount not less than one million dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage, two million dollars (\$2,000,000) aggregate. Such insurance shall specifically insure the performance by Concessionaire of the indemnity agreement set forth herein.

C. Business Automobile

Business Automobile or Comprehensive Automobile Insurance including, as applicable, owned, non-owned, and hired motor vehicles, in an amount not less than one million dollars (\$1,000,000) per occurrence, combined single limit of bodily injury and property damage. If applicable, coverage shall include U.S. Department of Transportation Form MCS-90 (or comparable form required by other agencies) providing pollution coverage for transportation of hazardous waste.

D. Umbrella or Excess Liability

Umbrella or Excess Liability Insurance in an amount not less than five million dollars (\$5,000,000) over and above the underlying limits with the Umbrella or Excess exclusions and conditions substantially similar to the underlying policies.

E. Fire Insurance

Fire insurance with extended coverage endorsements on all Concessionaire improvements in an amount equal to ninety percent (90%) of the full

replacement cost and/or value thereof. The policy shall contain a replacement cost endorsement naming Concessionaire as the insured, provided, however, that if there is a lender on the security of the improvements so insured, the proceeds of any such policy or policies may be made payable to such lender. In either case, whether proceeds are paid to Concessionaire or to lender, the policy shall contain a special endorsement that such proceeds shall be used to repair or rebuild any Concessionaire improvements so damaged or destroyed.

F. Environmental Impairment Liability Insurance

Environmental Impairment Liability Insurance which shall include, but not necessarily be limited to, coverage for bodily injury, property damage, cost of defense, and on-site and off-site cleanup of Hazardous Materials and Substances, in an amount not less than two million dollars (\$2,000,000).

1-5.03. Insurance Policy Form.

All policies of insurance provided for herein shall be issued by insurance companies with a general policy holder rating of not less than A and a financial rating of not less than Class VIII as rated in the most current available "Best's Key Rating Guide," and shall be acceptable to the Agency. All such policies shall be issued in the name of Concessionaire with Agency named as an additional insured. All policies shall be for the mutual and joint benefit and protection of Agency and Concessionaire. All policies of insurance shall contain the following special endorsements:

1. "The Turlock Irrigation District and Modesto Irrigation District, the City and County of San Francisco, and Don Pedro Recreation Agency, their governing boards, directors, officers, employees, agents and representatives are hereby declared to be additional insureds under the terms of this policy, both as to the activities of the Concessionaire and as to the activities of the said insureds as related to the concession activity described herein."

2. "This insurance shall be primary insurance as respects the interests of the additional insureds and any other insurance maintained by the additional insureds shall be excess and not contributing insurance with this insurance."

3. "This insurance policy shall not be terminated, canceled or coverage reduced without thirty (30) days prior written notice to the Agency. The Agency is not liable for the payment of premiums or assessments on this policy."

All policies of insurance shall also contain provisions or endorsements stating that such insurance applies to the liability assumed by Concessionaire under this Agreement, including without limitation that set forth in 1-5.01, Indemnification and Hold Harmless, and that such insurance applies separately to each insured against whom claim is made or suit is brought, except with regards to the limits of the insurer's liability.

No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of Concessionaire to furnish insurance during the term of this Agreement. Said policy or policies shall be underwritten to the satisfaction of Agency. Signed complete duplicate policies shall be submitted to Agency concurrently with the execution of this Agreement. Signed complete duplicate policies showing that such insurance coverage has been renewed or extended shall also be filed with Agency. A certificate of memorandum of insurance does not, for Agency purposes, constitute a signed complete duplicate. Executed copies of renewal policies or certificates thereof shall be delivered to Agency within thirty (30) days after the renewal of the term of each such policy. All policies shall contain a provision that Agency, although named as an additional insured, shall nevertheless be entitled to recovery under said policies for any loss occasioned to it, its servants, agents and employees. The policies shall contain no special limitation on the scope of protection afforded to Agency, its governing board, directors, officers, employees, agents or representatives, or any of them. Any failure with reporting provisions of the policies, including breaches or warranties, shall not affect the indemnity or other obligations of Concessionaire to the Agency under the terms of this Agreement.

Any deductible and/or self-insured retention must be declared to and approved by Agency. Agency reserves the option to: (1) require the Concessionaire to reduce or eliminate such deductible or self-insured retention as to Agency, or (2) require Concessionaire to procure a bond guaranteeing the payment of any deductible or self-insured retention of losses, related investigations, claims administration and defense expenses.

The foregoing requirements as to the types, limits and Agency's approval of insurance coverages to be maintained by Concessionaire are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Concessionaire under the Agreement.

1-5.04. Additional Insurance.

If Agency reasonably concludes, justified by the industry standards, that the amounts of coverage required by Paragraph 1-5.02 are no longer adequate,

then Concessionaire shall increase or obtain the insurance coverage required by Agency.

1-5.05. Failure to Provide Required Insurance.

Concessionaire agrees that if Concessionaire fails to provide the insurance required with evidence thereof to Agency, then Agency, in addition to any other remedies, may obtain such insurance at Concessionaire's sole cost and expense and Concessionaire agrees to reimburse Agency for such insurance, within ten (10) days after Agency sends Concessionaire notice thereof.

1-5.06. Agency's Title to Real Property. Concessionaire acknowledges the jurisdiction and title of Agency to all roads leading to the lake and marina, and to the Concession Area, excepting removable improvements owned by Concessionaire, and Concessionaire agrees never to contest said title in any court or administrative proceeding.

1-6. ENVIRONMENTAL COMPLIANCE.

1-6.01. Compliance with Environmental Laws. It is the intent of both Agency and Concessionaire, and Concessionaire hereby agrees, that Concessionaire shall at all times be responsible and liable for, and shall be in complete compliance with all governmental laws, ordinances, rules and regulations, licenses, permits, orders, approvals, plans, authorizations, and similar items, and all applicable judicial, administrative and regulatory decrees, judgments and orders (all collectively referred to herein as "laws"), present and future; relating to environmental protection, Environmental Matters, and Industrial Hygiene, directly or indirectly affecting the use, occupancy, enjoyment or operation of the concession area being used or having been used ("Premises"). "Governmental" as used herein shall include, without limitation, federal, state, and local governments, and political subdivisions and agencies, departments, commissions, boards, bureaus and instrumentalities of the federal, state and local governments. "Hazardous Materials" as used herein shall include, without limitation, whether now or subsequently listed in any Governmental listing or publication defining hazardous materials, common household items containing substances now or subsequently listed as a hazardous material or substance, chemicals, drugs, any materials used for laboratory analysis, nuclear and/or radioactive materials, toxic substances, Hazardous Substances ("Hazardous Substance" means any substance, material or waste [including petroleum and petroleum products] which is or becomes designated, classified or regulated as being "toxic" or "hazardous" or a "pollutant," or which is or becomes similarly designated, classified or regulated, under any federal, state or local law, regulation or ordinance), hazardous wastes, contaminated or polluting

substances, materials or waste. "Environmental Matters" and "Industrial Hygiene" shall include, without limitation, any matter which affects the environment or which may affect the environment, the use of sophisticated electrical and/or mechanical equipment, chemical, electrical, radiological or nuclear processes, radiation, sonar and sound equipment, use of lasers, and laboratory analysis and materials. As between Concessionaire and Agency, Concessionaire shall be deemed to be (1) the person in control, (2) an operator of the Premises, and (3) the person in charge with respect to the Premises for purposes of reporting requirements under "The Comprehensive Environmental Response, Compensation and Liability Act of 1980" ("CERCLA") and as amended by the "Superfund Amendments and Reauthorization Act of 1986" ("SARA"), any subsequent amendments thereto, or replacement statutes or ordinances, any rules and regulations enacted with respect to CERCLA and SARA, and any state or local laws with respect to environmental protection, Environmental Matters, and Industrial Hygiene.

Concessionaire further agrees, at its sole expense, to procure, maintain in effect, and comply with all conditions of any and all permits, licenses, approvals, authorizations and similar items required by Governmental agencies for Concessionaire's use of the Premises. Concessionaire shall, prior to any use of the Premises affecting Industrial Hygiene or involving the use of Hazardous Materials or Substances, in, on or under the Premises, notify Agency of the intended use of such Hazardous Materials or Substances and provide Agency evidence of compliance with all Governmental agencies and laws pertaining to such use. Concessionaire shall in all respects handle, treat, deal with and manage any and all Hazardous Materials and Substances in, on, under or about the Premises in total conformity with all applicable Governmental laws, relating to Hazardous Materials and Substances, environmental protection, and Industrial Hygiene.

1-6.02. No Hazardous Materials or Substances on Premises. Except to the extent commonly and lawfully used in the day-to-day operation of the Premises, Concessionaire shall not cause, permit or suffer any Hazardous Materials or Substances to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath the Premises or any portion thereof by Concessionaire, its agents, employees, contractors, tenants or invitees, or any other person without the prior written consent of Agency. Any request by Concessionaire shall be in writing and shall demonstrate to the reasonable satisfaction of Agency that such Hazardous Materials or Substances are necessary to the business of Concessionaire and will be stored, used and disposed of in a manner that complies with all laws applicable to such Hazardous Materials and Substances. Such consent shall not be unreasonably withheld, but Agency shall in no case be

obligated to consent to the presence of any Hazardous Materials or Substances which will increase the likelihood or magnitude of liability for environmental damages or to any treatment, storage or disposal of which requires a permit or variance under the Federal Resource Conservation and Recovery Act (42 U.S.C. section 6901 et seq.), or state analogues thereto, and Concessionaire shall in no case be obligated to execute any application for such a permit or variance.

1-6.03. Concessionaire's Duty to Monitor; Disposal of Oil and Batteries. Concessionaire agrees to monitor the Concession Area to ensure compliance with environmental laws. Concessionaire shall, at its own cost, provide and maintain used oil recycling and battery disposal facilities.

1-6.04. Notice to Agency. Concessionaire shall not take any remedial action in response to the presence of Hazardous Materials or Substances in, on, under, or about the Premises, nor enter into any settlement agreement, consent decree or other compromise in respect to any investigations, claims or proceedings relating to Hazardous Materials or Substances in any way connected with the Premises, without first notifying Agency of Concessionaire's intention to do so and affording Agency a reasonable opportunity to appear, intervene or otherwise appropriately assert Agency's interest with respect thereto.

1-6.05. Environmental Assessment by Agency. At any time that Agency, in Agency's sole discretion, has reason to believe that any adverse environmental condition may be present on the Premises, Agency may conduct an environmental assessment of the Premises. If an adverse environmental condition is found on or about the Premises and is attributable to the acts or omissions of Concessionaire and/or its Authorized Representatives, and/or to events occurring within the Premises during the Term, Concessionaire shall immediately reimburse Agency for Agency's expenses in conducting the environmental assessment, in addition to Concessionaire's indemnification obligations with respect to the environmental condition as described in this Agreement.

1-6.06. Environmental Assessment by Concessionaire. Upon execution of this Agreement and every two years from the anniversary date of this Agreement, Concessionaire shall at its sole cost and expense engage a licensed certified Environmental Consultant acceptable to Agency to perform an environmental assessment of the Premises. The Environmental Consultant shall prepare a report of its assessment and the report shall be submitted to Agency within ten (10) days of its completion. The initial assessment and report shall be completed not later than sixty (60) days after execution of this Agreement and each assessment and report thereafter shall be completed not later than sixty (60) days after each applicable anniversary date. Each assessment and report must

adequately assess and report on the presence or non-existence of Hazardous Materials or Substances within the entire Concession Area. In addition, Concessionaire shall perform, or have performed at its cost and expense, any environmental assessments or other investigation of the Premises that may be required by any Governmental agency.

1-6.07. Environmental Remediation. In the event an environmental assessment or investigation discloses any condition reasonably related to Concessionaire's use of the Premises that requires remediation, Concessionaire shall, at its sole cost and expense, promptly take all actions to remediate the Premises which are required by any Governmental agency or which are reasonably necessary to mitigate the condition or to allow full economic use of the Premises. Such actions shall include but not be limited to preparation of a remedial action plan by the Environmental Consultant designed to correct all conditions of the property. Any proposed remedial action plan shall be submitted for approval to all Governmental agencies that have jurisdiction and also submitted to Agency for Agency's approval, which approval shall not be unreasonably withheld.

If Agency disapproves of any proposed Remediation Plan, Agency shall provide a written disapproval within sixty (60) days of Concessionaire's submittal to Agency. In the event Agency reasonably disapproves of the proposed Remediation Plan, the Concessionaire shall submit a revised Remediation Plan to Agency for approval pursuant to the terms of this section.

Upon approval of the Remediation Plan by Agency and Governmental agencies with jurisdiction over the Premises, Concessionaire shall remediate contaminants in accordance with the Remediation Plan. In addition Concessionaire shall conduct any necessary cleanup operations to remove hazardous waste contaminants or other contaminants that are attributable to Concessionaire's use occupancy or enjoyment of the Premises (including cleanup of groundwater) to levels acceptable by all appropriate Governmental agencies, and provide Agency with written certification thereof. Agency's approval shall not be deemed to create any obligation or responsibility on the part of Agency or to release Concessionaire from any obligation, responsibility or liability under this Agreement.

Concessionaire shall keep Agency fully informed of the status of all remedial actions taken and shall provide Agency with copies of all environmental tests, reports, correspondence and other documents delivered to and received from any Governmental agency, Environmental Consultant or other firm that views, inspects or performs work on site. Agency shall have the right to join and participate in, as a party if it so elects, any negotiations, settlements, remedial actions, legal proceedings or actions initiated in connection

with any investigations, claims or proceedings concerning the Premises or the Remediation Plan; provided, however, that Concessionaire may amend the Remediation Plan without the approval of Agency in the event any Governmental agency requires such modification of the Remediation Plan.

Concessionaire shall provide Agency with a copy of a written remediation report from the approved Environmental Consultant sent to the appropriate Governmental agency or agencies certifying that the levels of contamination are within acceptable levels. Concessionaire's final remediation report shall be submitted to Agency for approval in accordance with the procedures set forth for the Remediation Plan.

1-6.08. Additional Indemnity Regarding Hazardous Materials and Substances. In addition to the indemnity provisions of section 1-5.01, Agency and Concessionaire also agree that with regard to any and all matters that relate to Hazardous Materials and Substances on the Premises and remediation and cleanup by the Concessionaire, the following specific indemnity and notice provisions shall apply.

a. Concessionaire shall defend, indemnify and hold Agency, its governing board, its members, their directors, officers, employees, agents, and representatives, and each of them harmless from any and all liability [actual or threatened], claims, actions, administrative proceedings, judgments, orders, damages [including, without limitation, foreseeable and unforeseeable consequential damages], costs, expenses, Governmental charges, fines, penalties and losses [including, without limitation, sums paid in settlement of claims] and all consultant, expert and legal fees and expenses [including those incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work, whether of the property or Premises, or any other property], or any resulting damages, harm or injuries to the person or property of any third parties or to any natural resources, arising directly or indirectly out of or in connection with the violation of any laws relating to environmental protection, Environmental Matters or Industrial Hygiene, or any provision of this section 1-8, or the use, transportation, generation, storage, and/or disposal of Hazardous Materials and Substances by Concessionaire in, on, under, or about the Premises during Concessionaire's occupancy of the Premises, and arising out of or in connection with any Hazardous Materials or Substances being present in, on or around any part of the Premises, or in the soil, groundwater or soil vapor on or under the Premises. This obligation shall include, without limitation, the cost of any required or necessary repair, cleanup, or detoxification and the preparation of any closure or other required plans whether such action is required or necessary prior to or following the termination of this Agreement. Neither the written consent by Agency to the use, generation, storage, or disposal

of Hazardous Materials and Substances nor the strict compliance by Concessionaire with all laws and precautions pertaining to Hazardous Materials and Substances shall excuse Concessionaire from Concessionaire's obligation of indemnification pursuant to this section or section 1-5.01.

In addition, Concessionaire shall defend and indemnify and hold Agency, its governing board, its members, their directors, officers, employees, agents, and representatives, and each of them, harmless from any and all costs, expenses and damages, including clean up and remediation costs and expenses, fines and penalties arising from Concessionaire's failure to perform completely its clean up and remediation obligations set forth herein.

b. Agency and Concessionaire shall each promptly notify the other if either knows or has reason to know, suspects or believes that there may be any Hazardous Materials or Substances in, on, or around the Premises, or in the soil, groundwater or soil vapor on or under the Premises, or that Agency, Concessionaire or the Premises may be in violation of or subject to any threatened or pending investigation, inquiry, claim, proceeding, notice or order by any Governmental agency or any other person under any law pertaining to any Hazardous Materials or Substances.

1-7. PERFORMANCE BOND.

1-7.01. Performance Bond. So long as Concessionaire provides the Environmental Impairment Liability Insurance coverage as required by Section 1-5.02F, Concessionaire is not required to provide the Performance Bond under this Section 1-7.01. Otherwise, Concessionaire agrees to secure and maintain from the date the Concessionaire cannot comply with Section 1-5.02F and until such time as Agency has received certification from all appropriate Governmental agencies that remediation pursuant to section 1-6 has been completed, a performance bond or other form of surety in the amount of Two Hundred Thousand and NO/100 Dollars (\$200,000.00), which amount shall apply toward covering necessary clean up operations to remove hydrocarbons and/or Hazardous Materials or Substances that are directly attributable to Concessionaire's tenancy as described in section 1-6 herein. Such bond shall be in substantially the form prescribed by Agency and attached as Exhibit C to this Agreement and hereby incorporated by reference. Such bond shall be separate and apart from any other bond Concessionaire may provide to the Agency. Concessionaire may propose another form of surety which provides the same amount of security as a performance bond. Approval of such other form of surety shall be in the sole discretion of the Agency. Such bond or other form of surety shall be delivered to Agency not later than the date the Concessionaire can no longer comply with Section 1-5.02F, and maintained in Agency's possession at

all times during the term of this Agreement. If Concessionaire has unreasonably delayed or failed to perform all required remediation provided for in the Remediation Plan as described in sections 1-6 and 1-12.02, Agency may redeem the performance bond or other form of surety. Notwithstanding this form of surety, the amount of such surety does not fix the Concessionaire's maximum financial responsibility for any cleanup that is required pursuant to sections 1-6 and 1-12.02.

1-8. ASSIGNMENT AND SUBLEASE.

1-8.01 Agency Approval for Transfer or Assignment. Except as provided in section 1-8.02, no transfer or assignment by Concessionaire of this Agreement or any part thereof or interest therein, directly or indirectly, voluntarily or involuntarily, shall be made unless such transfer or assignment is first approved in writing by Agency. Agency approval shall not be unreasonably withheld. Should Concessionaire desire to enter into an assignment, Concessionaire shall request approval, in writing, at least sixty (60) days before the effective date of any such assignment, and provide the following:

a. The full particulars of the proposed transaction, including its nature, effective date, terms and conditions, and copies of any offers, draft agreements, subleases, letters of commitment or intent, and other documents pertaining to such proposed transaction;

b. A description of the identity, net worth, and previous business experience of the Assignee, including, without limitation, copies of Assignee's latest income, balance sheet and change-of-financial-position statements (with accompanying notes and disclosures of all material changes thereto) in audited form, if available, and certified as accurate by Assignee;

c. Any further information requested by the Agency; and

d. A statement that Concessionaire intends to consummate the transaction if Agency grants approval.

1-8.02. Assignment of Improvements for Security Purposes. The Concessionaire's possessory interest in Concessionaire's improvements, for the purpose of affording security only, may be assigned, transferred or encumbered only with prior written approval of the Agency. Any document by which an interest is granted to a third party, subject to approval of Agency, shall affirm that the person acquiring that interest has been advised of the terms of this Agreement, and expressly agrees that upon termination of the interest of Concessionaire granted by this Agreement, its interest shall also be terminated.

1-8.03. Assignee as Tenant upon Termination. In the event of termination of this Agreement, Agency at its sole option, may elect to treat any assignee, sub-tenant, or holder of any interest conveyed by Concessionaire as Agency's tenant, subject to the terms and conditions of this Agreement that would be applicable but for the termination.

1.8.04. Indebtedness upon Concessionaire's Assets. No mortgage shall be executed, and no bonds or other evidence of interest in, or indebtedness upon the assets or proposed assets of Concessionaire shall be issued except for the purposes of installing, enlarging, or improving plant and equipment and extending facilities for the accommodation of the public, and then only upon prior authorization in writing in each case obtained from Agency. In the event of default on such mortgage or such other indebtedness or of another assignment, transfer or encumbrance, and in the event that the creditor thereof shall succeed to the possessory interest of Concessionaire in Concessionaire's improvement, then under these circumstances, operating rights and privileges shall be as outlined in this Agreement; however, the right of any person or persons to actually operate the said concession is subject to the approval of Agency.

1.9. AGENCY'S RIGHT OF ENTRY.

1-9.01 Purposes of Entry. Agency and its authorized representatives, employees, and agents shall have the right to enter the Concession Area at any time for any of the following purposes:

a. To inspect, investigate, and survey the Concession Area, except that any inspection, investigation, or survey of any area which Concessionaire has locked shall only be conducted during Concessionaire's normal business hours.

b. To do any and all work of any nature necessary for the preservation, maintenance, and operation of the Don Pedro Recreation Area.

1-9.02. Notice of Entry. Agency may inspect, investigate, and survey the Concession Area without notice to the Concessionaire. Concessionaire shall be given reasonable notice when Agency intends to perform any work in the Concession Area that may impact the operation of the marina. Concessionaire shall adjust its operations such that the Agency's work may proceed expeditiously and Agency will conduct its activities within the Concession Area in a manner that will cause the least possible inconvenience, annoyance, or disturbance to Concessionaire.

1-9.03. No Liability for Agency Entry. Agency shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of Agency's entry into the Concession Area. However, Agency must use due diligence to protect the Concessionaire's interest and business during such entry.

1-10. DEFAULT.

1-10.01. Concessionaire's Performance. Concessionaire's performance under this Agreement is of prime material consideration to the Agency.

1-10.02. Concessionaire's Default. The occurrence of any of the following shall constitute a default by Concessionaire as determined by the Agency in the Agency's sole discretion:

a. Failure to pay any concession fee when due, if the failure continues for five (5) days after registered notice has been given to Concessionaire.

b. Abandonment and vacation of Concession Area, consisting of failure to operate the concession for at least five (5) consecutive days when scheduled to do so.

c. Failure to perform any other provision of this Agreement if the failure to perform is not corrected within fifteen (15) days after registered notice has been given to Concessionaire, except that Concessionaire shall be considered to be in default if it fails to correct immediately any problem presenting a hazard or emergency of which it has knowledge. If the default cannot reasonably be corrected within 15 days, Concessionaire shall not be in default if it commences to correct the default within the 15-day period and diligently and in good faith continues to correct the default.

d. Concessionaire becomes insolvent, makes an assignment for the benefit of creditors, institutes any proceedings under the Bankruptcy Act as the same now exists or under any amendment thereto which may hereafter be enacted, or under any other act relating to the subject of bankruptcy wherein Concessionaire seeks to be adjudicated a bankrupt, or to be discharged of its debts, or to effect a plan of liquidation, composition or reorganization, or an involuntary proceeding is filed against Concessionaire under any such bankruptcy laws. In any of these events, Concessionaire's interest in this Agreement shall not become an asset in any of such proceedings.

1-10.03. Agency's Remedies. Agency shall have the following remedies if Concessionaire commits a default. These remedies are not exclusive; they are cumulative and in addition to any remedies now or later allowed by law.

a. Termination of Agreement. Agency may terminate this Agreement, including Concessionaire's right to possession of the Concession Area. To this end, Concessionaire hereby irrevocably appoints the Agency as its agent to remove any and all persons or property within the Concession Area and place any such property in storage for the account of and at the expense of Concessionaire. Agency may re-let the Concession Area upon such terms and to whom it deems proper and Concessionaire shall be liable immediately to Agency for all costs Agency incurs in re-letting the Concession Area. However, Agency must use due diligence to not incur costs unreasonably.

b. Appointment of Receiver. Agency may have a receiver appointed to collect concession fees and conduct Concessionaire's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by Agency to terminate this Agreement.

c. Agency's Right to Cure Concessionaire's Default. Agency, during such time as Concessionaire is in default, may cure the default at Concessionaire's cost. If Agency at any time, by reason of Concessionaire's default, pays any sum or does any act that requires the payment of any sum (including payment of Agency's employees' salaries and related costs for work performed by them to cure the default), the sum paid by Agency shall be due immediately from Concessionaire to Agency at the time the sum is paid, and if paid at a later date shall bear interest at the rate of ten percent (10%) per annum or the maximum rate allowed by law, whichever is less, from the date the sum is paid by Agency until Agency is reimbursed by Concessionaire. The sum, together with interest thereon, shall be in addition to any concession fees.

d. Interest on Unpaid Concession Fees. Concession fees not paid when due shall bear interest at the rate of ten percent (10%) per annum or the maximum rate allowed by law, whichever is less, from the date due until paid.

1-10.04. Procedure for Termination of Agreement. If Agency elects to terminate this Agreement, as provided for in Sections 1-10.03, the following procedure shall be followed:

a. The decision to terminate shall be made by the Recreation Director of the Agency, pursuant to his or her authority to enforce the Rules and Regulations of the Agency.

b. If Concessionaire desires to appeal any such decision to terminate as made by the Recreation Director of the Agency, Concessionaire shall have the right to appeal to the Board of Control within 30 (thirty) days of the date of the Recreation Director's decision, pursuant to the duty of the Board of Control to act as an appeals review board on all appeals from Rules and Regulations enforcement actions by the Recreation Director.

c. If the Board of Control upholds any such termination made by the Recreation Director, and Concessionaire desires to appeal that decision by the Board of Control, Concessionaire shall submit the dispute between Concessionaire and Agency to mediation and complete the entire mediation process before resorting to court action. All mediation fees shall be divided equally between Concessionaire and Agency. Pursuant to Evidence Code Section 1152.5 all evidence and testimony offered in the course of mediation shall not be admissible in evidence or subject to discovery in any court action.

d. Before initiating any court action, Concessionaire must follow the requirements of this section. If Concessionaire fails to follow the provisions of this section before initiating a court action, it is hereby expressly agreed that any court action initiated in violation of this section shall be dismissed upon motion by the Agency pursuant to applicable statutes. Agency shall recover its attorneys' fees in defending the court action pursuant to this Agreement and as sanctions for bad faith litigation tactics pursuant to applicable statutes.

1-11. CONFLICT OF INTEREST.

1-11.01. Warranty of Concessionaire. Concessionaire warrants and covenants that no official or employee of the Turlock Irrigation District, the Modesto Irrigation District or the City and County of San Francisco:

a. Has been employed or retained to solicit or aid in the procuring of this Agreement;

b. Will be employed in the performance of this Agreement without the immediate divulgence of such fact to Agency.

c. Shares in any personal advantage of this Agreement or its operations

1-11.02. Incompatibility of Conflicting Employment. In the event Agency determines that the employment by Concessionaire of any official or employee of the Turlock Irrigation District, Modesto Irrigation District, or the City and County of San Francisco is not compatible with such official's or employee's

duties to any of the above agencies, Concessionaire, upon request of Agency, shall terminate such employment immediately.

1-11.03. Rights of Agency. For violation of this section 1-11, Agency shall have the right both to terminate this Agreement and, in its discretion, to recover the full amount of any compensation paid to such official, employee, or business entity by the Concessionaire.

1-12. SURRENDER OF CONCESSION AREA; PURCHASE OF IMPROVEMENTS BY AGENCY.

1-12.01. Surrender of Concession Area. Within ninety (90) days after the expiration or termination of this Agreement, Concessionaire shall surrender to Agency the Concession Area in good condition, except for ordinary wear and tear occurring after the last necessary maintenance performed by Concessionaire. Concessionaire shall remove all its personal property (including its trade fixtures) within the above stated time. Concessionaire shall perform all restoration within the above stated time made necessary by the removal of its personal property. All of its personal property shall be disposed of in a manner satisfactory to Agency. Should Concessionaire fail to remove or properly dispose of its personal property within the above stated time, Agency can elect to retain or dispose of that personal property at Concessionaire's expense.

1-12.02. Environmental Investigation and Remediation. Concessionaire shall upon termination of this Agreement at its sole cost and expense, engage a licensed/certified Environmental Consultant acceptable to Agency to perform an environmental investigation of the Premises. The environmental investigation shall, at a minimum, consist of those steps which are the normal and customary items done in an environmental investigation by qualified Environmental Consultants in similar circumstances. The results of such environmental investigation must be provided to Agency, in writing, not later than sixty (60) days after termination of this Agreement.

In the event the environmental investigation discloses any condition reasonably related to Concessionaire's use of the Premises that requires remediation, Concessionaire shall have a remedial action plan ("Remediation Plan") prepared by the Environmental Consultant designed to correct all conditions of the Premises. Any proposed remedial action plan shall be submitted for their approval to all Governmental agencies that have jurisdiction and also submitted to Agency for Agency's approval, which approval shall not be unreasonably withheld.

If Agency disapproves of any proposed Remediation Plan, Agency shall provide a written disapproval within sixty (60) days of Concessionaire's submittal to Agency. In the event Agency reasonably disapproves of the proposed Remediation Plan, the Concessionaire shall submit a revised Remediation Plan to Agency for approval pursuant to the terms of this section.

Upon approval of the Remediation Plan by Agency and Governmental agencies with jurisdiction over the Premises, Concessionaire shall remediate contaminants in accordance with the Remediation Plan. In addition Concessionaire shall conduct any necessary cleanup operations to remove Hazardous Materials and Substances or other contaminants that are attributable to Concessionaire's occupancy of the Premises (including cleanup of groundwater) to levels acceptable by all appropriate Governmental agencies, and provide Agency with written certification thereof.

Concessionaire shall keep Agency fully informed of the status of all remedial actions taken and shall provide Agency with copies of all environmental tests, reports, correspondence to and from any Governmental agency and to and from any and all Environmental Consultants or firms that view, inspect or perform work on site. Agency shall have the right to join and participate in, as a party if it so elects, any negotiations, settlements, remedial actions, legal proceedings or actions initiated in connection with any claims concerning contamination resulting from Concessionaire's tenancy or the Remediation Plan; provided, however, that Concessionaire may amend the Remediation Plan without the approval of Agency in the event any Agency requires modification of the Remediation Plan.

Concessionaire's obligation to cleanup all Hazardous Materials and Substances resulting from its occupancy of the Premises shall be satisfied when (i) Concessionaire has provided Agency with a copy of a written remediation report from the approved Environmental Consultant sent to the appropriate Governmental agency or agencies certifying that the levels of contamination are within acceptable levels and, (ii) the Agency approves Concessionaire's final remediation report in writing.

1-12.03. Purchase of Improvements by Agency upon Expiration or Termination of Agreement.

a. Upon expiration or termination of this Agreement, a third party that acquires or is assigned or awarded the concession operation, or the Agency if there is no such third party, shall acquire the then existing floating marina buildings and dock, the above ground fuel storage tanks, the houseboat mooring lines, all at Fleming Meadows, the buildings and improvements at the Blue Oaks

location, and any other improvements made and any merchandise, personalty, supplies and materials related to the business, at either location at the fair market value of such improvements and goods, but without regard to the location value of the improvements and of the concession lease.

b. The Concessionaire shall supply the Agency with an accurate inventory and documentation of all capital improvements made by Concessionaire and the initial costs thereof by January 1 of the year immediately following the date of this Agreement. Concessionaire shall update such inventory at least annually, by January 31 of each subsequent year. Not later than thirty (30) days before the expiration of this Agreement or not later than ten (10) days after any termination of this Agreement, any capital improvements not included on the most recent inventory shall not be provided to the Agency.

1-13. DURATION OF PUBLIC FACILITIES. By entering into this Agreement, Agency makes no representation, warranties, or stipulations as to the type, size, location, or duration of the public facilities to be maintained within the Don Pedro Recreation Area during the term of this Agreement.

1-14. DISPUTE RESOLUTION.

a. Unless otherwise specified in this Agreement, any dispute arising under this Agreement which is not disposed of by agreement shall be decided by the Recreation Director, who shall reduce his or her decision to writing and mail or otherwise furnish a copy thereof to Concessionaire.

b. The decision of the Recreation Director shall be final and conclusive unless, within 30 days from the date of receipt of the Recreation Director's decision, Concessionaire complies with the following:

(1) Concessionaire shall personally serve the Recreation Director with a demand for arbitration under the Arbitration Rules of the American Arbitration Association ("Rules") setting forth the nature of the dispute and the claim or relief sought (including the amount, if any)

The dispute shall be submitted to one (1) neutral arbitrator selected from the panels of arbitrators of the American Arbitration Association if Concessionaire and the Agency cannot mutually agree on a person to serve as the neutral arbitrator.

The Agency and Concessionaire agree that they will faithfully observe the Rules and will abide by and perform any award rendered by the neutral arbitrator and that a judgment of the court having jurisdiction may be entered on the award. Notwithstanding the Rules, discovery shall be permitted and the provisions of the California Code of Civil Procedure Section 1283.05 are incorporated herein by reference.

The arbitrator hearing shall be held in Sonora, California, unless the parties agree otherwise.

1-15. WAIVER.

1-15.01. No Waiver if Delay or Omission. No delay or omission in the exercise of any right or remedy of Agency on any default by Concessionaire shall impair such a right or remedy or be construed as a waiver.

1-15.02. No Waiver by Acceptance of Concession Fee. The receipt and acceptance by Agency of any delinquent concession fee payment shall not constitute a waiver of any other default; it shall constitute only a waiver of timely payment for the particular concession fee payment involved.

1-15.03. Notice for Termination. Only written notice from Agency to Concessionaire shall constitute acceptance of the surrender of the Concession Area and accomplish a termination of the Agreement. No other act or conduct of Agency shall constitute an acceptance of the surrender of the Concession Area by Concessionaire before the expiration of the term. Acceptance by the Agency shall not be unreasonably withheld.

1-15.04. No Waiver for Consent or Approval. Agency's consent to or approval of any act by Concessionaire requiring Agency's consent or approval shall not be deemed to waive or render unnecessary Agency's consent to or approval of any subsequent act by Concessionaire.

1-15.05. Written Waiver Required. Any waiver by Agency of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

1-16. NOTICE.

1-16.01. Written Notice Required. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be (1) in writing and either served personally or sent by prepaid, registered first-class mail and (2) faxed to the other party or person. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party shall be addressed and faxed to the other party as set forth below. Either party may change its address and fax number by notifying the other party of the change in writing.

a. Notices to Concessionaire shall be addressed to:

Senior Vice President / C.O.O.
Forever Resorts
7501 East McCormick Parkway
Scottsdale, AZ 85258
Fax number: (480) 998-9965

b., Notices to Agency shall be addressed to:

DON PEDRO RECREATION AGENCY
31 Bonds Flat Road
La Grange, CA 95329
Fax number: (209) 852-2780

1-16.02. Response to Written Notice. Unless this Agreement requires an earlier response or allows a later response, within thirty (30) days of receipt of any communication given pursuant to Section 1-16.01, the receiving party shall respond in writing to the sending party if this Agreement requires a response or if a response is requested by the sending party.

1-17. AGENT FOR SERVICE OF PROCESS. If Concessionaire is not a resident of this State, or is an association or partnership without a member or partner who is a resident of this State, or is a foreign corporation, then Concessionaire shall appoint the California Secretary of State as its agent for the purpose of service of process in any court action between it and the Agency arising out of or in connection with this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon Concessionaire. Concessionaire may also be personally served with such process out of this State, and such service shall constitute valid personal service upon Concessionaire; and it is expressly agreed that Concessionaire is amenable to the process so served, submits to the jurisdiction of the court so acquired, and waives any and all objection and protest thereto.

1-18. MODIFICATION OF AGREEMENT. The parties may by mutual consent agree in writing to any modification of or addition to this Agreement which is not prohibited by law. Agency may grant reasonable extensions of time to Concessionaire for the performance of any obligation by Concessionaire.

1-19. EFFECT OF CONSENT, APPROVAL OR INSPECTION.

No consent or approval of, or inspection by, Agency called for or permitted under this Agreement, or lack thereof, shall impose any duty or obligation on

Agency or relieve Concessionaire of any duty or obligation, contractual or otherwise.

1-20. MISCELLANEOUS PROVISIONS.

1-20.01. Time of Essence. Time is of the essence of each provision of this Agreement.

1-20.02. Successors. This Agreement shall be binding and inure to the benefit of the parties and their successors. As used in this Agreement, the word successor means assignee, transferee, personal representative, heir, or other person or entity succeeding lawfully, and pursuant to the provisions of this Agreement to the rights or obligations of either party.

1-20.03. California Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

1-20.04. Paragraph Titles; Table of Contents. The paragraph titles and the table of contents of this Agreement shall have no effect on its interpretation.

1-20.05. Singular and Plural. When required by the context of this Agreement, the singular shall include the plural, and the plural shall include the singular.

1-20.06. Severability. The unenforceability, invalidity, or illegality of any provision shall not render the other provisions unenforceable, invalid, or illegal.

1-20.07. Ambiguities. Each party and its counsel have had sufficient opportunity to and have fully reviewed this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement.

1-20.08. Entire Agreement. This Agreement constitutes the entire agreement between the parties and all prior negotiations, documents, memoranda, or writing are merged into this Agreement.

1-20.09. Negotiations to Extend Concession. At least one year prior to expiration of this Agreement, Concessionaire may request to negotiate a new agreement to extend this concession. Agency and Concessionaire agree to negotiate to develop mutually agreeable terms and conditions for a new agreement. If agreement is reached, Concessionaire shall be awarded the concession under the terms of that negotiated agreement. If Concessionaire and Agency are unable to reach agreement by the date six months prior to the

expiration of this Agreement, Agency may proceed to solicit bids for a new concessionaire and Concessionaire may submit a bid.

2. DEVELOPMENT.

2-1. CONCESSIONAIRE SCHEDULE. Concessionaire has submitted a Schedule and Estimated Costs for Property ("Schedule") which is attached as Exhibit D and is hereby incorporated by reference. The cost figures in the Schedule shall be considered estimates only and the Parties recognize that such figures may vary. The Schedule describes the improvements the Concessionaire shall make to the marina facilities.

2-2. TIME OF COMPLETION OF IMPROVEMENTS. Concessionaire must complete the improvements in accordance with the Schedule, as determined under Section 2-1, or as otherwise agreed upon in writing between the Concessionaire and the Agency.

2-2.01. Improvements Necessary Prior to Increased Services. Upon completion of the following improvements, Concessionaire shall be authorized to increase the number of rental houseboats allowed in section 2-3.01 from thirteen (13) to twenty (20):

a. Concessionaire shall improve and expand the public parking facilities at the marina to accommodate seventy-five (75) vehicles. Concessionaire shall provide Agency with engineered drawings of the proposed improvements for approval, and Agency shall approve the location of the facilities prior to commencing any work. In addition, the paved parking area in front of the Concessionaire housing area will be made available for public parking.

b. Concessionaire shall upgrade the existing sewage pumping system from the marina to the Sewage Treatment Facility to increase the rate of pumping so that it can adequately accommodate the demand placed upon it. Concessionaire shall submit a plan for Agency approval prior to commencing any work.

2-3. AUTHORIZED SERVICES.

2-3.01. Marina Services. Concessionaire shall, unless indicated as optional, at its own expense construct, maintain, and operate a boat marina and other facilities for the public offering the following services:

a. At the Fleming Meadows location:

(1) Floating marina facility providing at least one grade of fuel, ice, propane, fishing supplies, food service, beverages, groceries, telephone, and sewage pump out facilities.

(2) Marine services, repairs, and towing. This service may be contracted out by the Concessionaire upon approval of the Agency which will not be unreasonably withheld.

(3) Three-hundred thirty-six (336) boat slips.

(4) Houseboat slips and private houseboat mooring lines to accommodate up to one-hundred ninety-five (195) private houseboats.

(5) Thirteen (13) houseboat rentals, subject to the conditions in section 2-4 of this Agreement, and subject to the requirement that Agency permitted private houseboats assigned to Lake Don Pedro Marina be given preference for pumpout services. Upon completion of the improvements required in section 2-2.01, Concessionaire's authorized houseboat rentals shall be increased to twenty (20), subject to the conditions in section 2-4 of this Agreement.

(6) Fifty (50) water craft rentals consisting of any combination of the following, subject to the conditions in section 2-4 of this Agreement: fishing boats, deck boats, water ski boats, or personal water craft ("Wave Runners").

(7) Coin-operated ice facility at Agency's boat launch ramp (optional).

(8) Snack Bar facility at the swimming lagoon.

(9) Trading Post facility with gifts, camping supplies, and services, etc.

b. At the Blue Oaks location:

(1) 250 dry storage spaces.

(2) Repair and dry dock facilities.

2-3.02. Authorized Use of Spaces for Concessionaire Marina Employee Housing. The Concessionaire is authorized at no additional fee to use five (5) Agency-designated spaces adjacent to the marina within the Agency's Fleming Meadows area for housing for Concessionaire employees who work at the marina. Mobile

homes or other type manufactured residential housing used shall comply with all applicable laws. All housing units shall be subject to Agency approval of visual appearance, which shall not be unreasonably withheld. Agency has provided service hookups for four (4) housing units. Additional hookups may be installed at the Concessionaire's expense. In addition, Concessionaire is authorized to locate one (1) trailer at the Blue Oaks Houseboat Repair Yard and one (1) houseboat on the houseboat marina to house security personnel.

2-3.03. Authorized Houseboats. The maximum number of private houseboats (not including any rental houseboats authorized under Section 2-3.01) shall be 195 houseboats.

2-3.04. Repair of Concessionaire's Rental Boats and Crafts Authorized at Agency-Approved Land Location. Concessionaire is authorized to repair its own authorized rental boats and crafts at an Agency-approved land location or locations within the Concession Area.

2-3.05. Additional Services and Facilities. Additional services and facilities may be negotiated by the parties as situations demand.

2-4. CONDITIONS FOR BOAT AND WATER CRAFT RENTALS.

2-4.01. Conditions for Boat and Water Craft Rentals. Concessionaire may provide boat and water craft rentals as authorized in section 2-3.01 of this Agreement subject to the following conditions:

a. Prior to providing any boat and water craft rental services, Concessionaire shall establish written qualifications which must be met by all persons who wish to operate a boat or water craft. The qualifications shall be subject to the prior review and approval of the Agency. The qualifications shall be included in any advertising paid for or sponsored by the Concessionaire which mentions boat or water craft services.

b. Prior to providing any boat and water craft rental services, Concessionaire shall establish written safe operating instructions for boats and water craft. The instructions shall be subject to the prior review and approval of the Agency. Concessionaire shall have a program for educating renters about the safe operation of the boats and crafts.

c. If water ski boat and/or personal water craft rental services are provided, the Concessionaire shall additionally obtain an endorsement to its liability insurance policies which expressly covers the water ski boat and personal water craft rental services and any and all claims, lawsuits, and

liabilities arising therefrom. The water ski boat and personal water craft rental services and the activities related thereto shall not cause any increase in the cost of the liability insurance or in the insurance retention amount allocated by the Districts for Don Pedro Reservoir recreation-related activities.

2-4.02. Agency Review. Agency review and approval as required by this section shall not be construed as endorsing the qualifications or instructions, nor as any warranty as to the adequacy of the qualifications or instructions.

2-5. IMPROVEMENTS SUBJECT TO AGENCY APPROVAL. The location, design, and construction of improvements constructed or moved onto the Concession Area by Concessionaire shall be subject to Agency's prior approval.

2-6. MONTHLY REPORT. A monthly report of accounts due and payments made by Concessionaire during construction of improvements shall be furnished to Agency.

2-7. MODIFICATION OF IMPROVEMENTS. In the event that any modification, alteration, or addition to Concessionaire improvements are desired, the written approval of Agency must be obtained prior to commencement of any such work. Such approval will not be unreasonably withheld.

3. OPERATION AND MAINTENANCE.

3-1. QUALITY OF SERVICE.

3-1.01. Facilities and Services Provided in First-Class Manner. Concessionaire agrees to equip, operate, and manage the services and facilities offered in a first-class manner during the term. Where Concessionaire provides a food service, Concessionaire agrees that it shall furnish and dispense food and beverages of good quality and shall maintain a high standard of service at all times.

3-1.02. Personnel. The Concession Area shall be staffed with competent personnel at all times Concessionaire remains open for operation under this Agreement.

3-2. OPERATION OF CONCESSION AREA.

3-2.01. Agency Control of Rates, Charges, and Items Sold.

a. Concessionaire shall not charge the public a fee for the use of the land or Agency-owned public facilities within the Concession Area or for the use of

Don Pedro Lake or the right of access thereto. Concessionaire may charge for the use of its improvements within the Concession Area.

b. Concessionaire shall post rates and prices for all merchandise and services provided in such places as may be designated by Agency.

c. The Agency shall have access to and reserves the right to inspect and approve the schedule of prices and rates for all merchandise sold and all services rendered or performed within the Concession Area in accordance with Agency regulation 9000.002, Review of Concessionaire Fees by the Agency, as it may be amended from time to time, or any successive regulation. At the initiation of this Agreement, Concessionaire may charge for facilities and services provided at the rates included on the schedule included as Exhibit E to this Agreement.

d. Agency reserves the right to prohibit the sale or rental of any item which it deems objectionable or beyond the scope of merchandise deemed necessary for proper service to the public.

3-2.02. Days and Hours of Operation.

a. During the term, Concessionaire shall remain open every day, Sunday through Saturday, at the marina, except Agency approved days.

b. The hours of operation for the concession shall be as agreed upon with Agency.

c. Any requested changes in the days and hours of operation shall be submitted in writing to Agency for approval.

d. In the event of adverse weather or any other adverse operating conditions, Agency or its authorized representative may permit Concessionaire to temporarily close its operations.

3-2.03. Limitations on Use of Concession Area. Concessionaire shall not use or permit the Concession Area to be used in whole or in part, during the term of this Agreement, for any purpose other than as herein set forth, without the prior written consent of the Agency. Concessionaire shall at all times faithfully obey and comply with all laws, rules and regulations applicable thereto adopted by Federal, State, County, or other governmental bodies or departments or officers thereof, and this Agreement is expressly subject to the Rules and Regulations of the Agency, and its successor. Concessionaire has been provided a copy of, and has reviewed and understands, all Agency Rules and Regulations.

3-2.04. Advertising; Signs; Logo; Photography.

a. Advertising. Agency reserves the right to review and approve all advertising to be published or circulated by or on behalf of Concessionaire prior to publication or circulation. Approval shall not be unreasonably withheld. Concessionaire agrees to revise or delete any portions of the advertising that Agency deems to be false or misleading.

b. Signs. No sign, name or placard shall be posted, displayed or affixed upon any Concessionaire improvements or posted within the Concession Area without the prior written consent of Agency which approval will not be unreasonably withheld. Agency shall have the right to post appropriate Agency signs within the Concession Area at locations mutually agreed upon by the parties.

c. Logo. The Don Pedro Recreation Agency logo may only be used with the prior approval of the Agency.

d. Photography. Agency shall have the right to grant permission to persons or corporations engaged in the production of still or motion pictures and related activities for the use of the Concession Area for such still or motion picture purposes when such permission shall not interfere with Concessionaire's concession business.

3-2.05. Nondiscrimination.

a. Concessionaire and its employees shall not discriminate because of race, religious creed, color, ancestry, national origin, physical disability, mental disability, medical condition, marital status or sex against any person by refusing to furnish such person any accommodation, facility, service or privilege offered to or enjoyed by the general public. Nor shall Concessionaire or its employees publicize the accommodations, facilities, services or privileges in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any person because of race, religious creed, color, ancestry, national origin, physical disability, mental disability, medical condition, marital status or sex.

b. In the performance of this Agreement, Concessionaire will not discriminate against any employee or applicant for employment because of race, religious creed, color, ancestry, national origin, physical disability, mental disability, medical condition, marital status or sex. Concessionaire shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religious creed,

color, ancestry, national origin, physical disability, mental disability, medical condition, marital status or sex.

3-3. MAINTENANCE.

3-3.01. Maintain Improvements in Good Order and Repair. Concessionaire agrees to maintain its improvements in good order and repair during the term and to perform any required maintenance and repairs at its own expense.

3-3.02. Maintain Improvements in Clean Condition and in Compliance with Law. Concessionaire agrees at all times during the term and at its own expense to maintain and operate its improvements and immediately adjacent areas in a clean, safe, wholesome and sanitary condition, free of trash, garbage, rubbish or obstruction of any kind, and in compliance with any and all present and future laws, general rules or regulations of any governmental authority now or at any time during the term of this Agreement in force relating to sanitation or public health, safety or welfare.

3-3.03. Monitoring of Fuel Storage System. Concessionaire shall monitor the leak detection devices for the fuel storage tank(s), permanent or temporary, and any pipelines for leakage on a weekly basis and document each inspection. The record of all inspections shall be retained for three years by the Concessionaire who shall make the records available to the Agency upon request.

3-3.04. No Obligation On Agency to Repair. Agency shall not be responsible or obligated to make any repairs to or maintain any Concessionaire improvements within the Concession Area unless damage is caused by Agency necessitating repair. Concessionaire expressly waives the right to make any repairs or perform any maintenance at Agency's expense.

3-4. FACILITIES, ACCESS, UTILITIES, AND SERVICES.

3-4.01. Facilities and Access. Concessionaire shall at its own expense construct, maintain and operate the facilities within the Concession Area which must include a utility yard, roads, parking areas at the marina and the houseboat dock for at least 240 cars total, including the additional area to accommodate 75 cars that is required to be provided in section 2-2.01(a), above the 830' contour, a boat repair and storage facility at Blue Oaks, and safe and convenient access to the facilities at all times.

3-4.02. Concessionaire to Arrange and Pay for Utilities. Concessionaire shall make all arrangements for and pay for all utilities and services furnished to or

used by it, including, without limitation, gas, electricity, and telephone service, and for all connection charges.

3-4.03. Refuse Collection. Concessionaire may use the Agency's refuse containers and shall be responsible for the collection, removal and disposal of all rubbish, trash, and garbage resulting from the concession operations and activities at the marina, the Trading Post, and the Blue Oaks Houseboat Repair Yard. The rubbish, trash, and garbage shall be removed from the Concession Area by either the Concessionaire, private refuse disposal companies, or the Agency. If removal services are provided by the Agency, Concessionaire shall pay the Agency for these services at agreed upon rate which shall be reviewed every five years. Agency, however, will not remove any rubbish, trash, and garbage generated at the Blue Oaks Repair Yard. All such refuse collection, removal and disposal shall be performed to the satisfaction of Agency and Tuolumne County.

3-4.04. Sewage Disposal. Concessionaire shall be responsible for the proper disposal of all sewage within the Concession Area. Agency agrees to allow Concessionaire to dispose of the sewage at the Fleming Meadows Sewage Treatment Facility under the following conditions:

a. In no event shall the Agency be required to expand any part of the Fleming Meadows sewage system to accommodate Concessionaire's sewage.

b. At no time shall any Hazardous Material or Substance be introduced into the Sewage Treatment Facility. Cleanup of any Hazardous Material or Substance released into the Sewage Treatment Facility in violation of this section may be initiated by the Agency at the cost of Concessionaire.

c. Agency reserves the right to terminate Concessionaire's use of the Sewage Treatment Facility upon one year's notice to Concessionaire. If the sewage system is upgraded by the Agency, the Concessionaire will be responsible for a mutually agreed percentage of the cost of improvements that will be recovered as a sewage charge to Concessionaire until such costs of improvements are recovered. The sewage charge to Concessionaire shall be comparable with sewage charges by utility companies elsewhere. Concessionaire may increase prices for goods and services, except for pumpouts, as a result of increased sewage costs. Agency agrees to transport and dispose of Concessionaire's sewage until such time as the upgraded Sewage Treatment Facility is operational. Agency may terminate upon less than one year's notice if the Agency fails to meet or may fail to meet the regulatory requirements of its waste discharge permit for any reason, or if legislation or regulatory action requires the Agency to change its waste disposal practices or procedures. If

Concessionaire's deposit of sewage into the Sewage Treatment Facility partially or wholly causes the Agency to violate the terms of its waste discharge permit, Concessionaire shall be liable to the extent the Concessionaire's actions caused the violation. In such a case, the Agency shall provide Concessionaire notice of the violation and an opportunity to cure its portion of the violation.

3-5. SERVICES PROVIDED TO AGENCY.

3-5.01. Gasoline Provided at Cost. Concessionaire shall during its normal hours of operation provide gasoline to Agency at the marina for official Agency boats at Concessionaire's cost from the distributor to Agency's boats.

3-5.02. Boat Mooring. Concessionaire shall provide without cost to Agency mooring for one (1) Agency boat at all times during the term of this Agreement.


3-5.03. Attachment to Mooring Lines. Concessionaire shall provide without cost to Agency, one attachment to the houseboat mooring lines for Agency use. Agency shall provide its own mooring buoy.

3-5.04. Trading Post Use By Agency. Agency retains the right to use the Trading Post facility during periods when it is not being used on a day-to-day basis (such as the off-season) by Concessionaire for purposes authorized under this Agreement. Any alterations and/or improvements to the structure to accommodate the Agency's use of the facility will be made in consultation with Concessionaire. Agency shall be solely responsible for the costs of any such alterations or improvements, unless such alterations or improvements provide a benefit to Concessionaire in which case the parties agree to share the costs on a mutually agreeable basis.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

CONCESSIONAIRE

[All limited liability company members must sign Agreement.]

By 


By _____

By _____


FOR THE AGENCY


TURLOCK IRRIGATION DISTRICT

By 
President


By 
Secretary

MODESTO IRRIGATION DISTRICT

By 
President

By 
Secretary

APPROVED AS TO FORM


LEGAL

PERFORMANCE BOND

TITLE: _____

PROJECT NO. _____

KNOW ALL MEN BY THESE PRESENTS, that _____

_____ of _____

as Principal, and _____ as Surety, are jointly and severally held and

bound unto the Turlock Irrigation District in the sum of _____ Dollars

(\$_____) for the payment of which we jointly and severally bind ourselves, our heirs, executors,

administrators and assigns, and successors and assigns, firmly by these presents.

The condition of the foregoing obligations is such that, whereas on _____, 199_, the Principal executed a certain contract with the District, by the terms, conditions and provisions of which contract the Principal agreed to construct the above project in _____ County, California, all as set forth in the contract, which contract as so executed is incorporated herein by reference and made a part hereof as fully for all purposes as if here set forth at length.

NOW THEREFORE, if the Principal herein shall promptly and faithfully perform said contract in all respects, and shall well and truly and fully perform all work contracted to be done under said contract and within the time prescribed therein, then this obligation shall be void; otherwise to remain in full force and effect.

No prepayment or delay in payment and no change, extension, addition or alteration of any provision of the contract agreed to between the Principal and the District, and no forbearance on the part of the District shall operate to relieve the Surety from liability on this Bond, and consent to make such changes, extensions, additions and alterations without further notice to or consent by such Surety is hereby given, and the Surety hereby waives the provisions of Section 2819 of the California Civil Code.

In the event suit is brought upon this Bond by the District and judgment is entered in its favor, the Surety shall pay all costs incurred by the District in such suit, including reasonable attorney's fees to be fixed by the Court.

PERFORMANCE BOND (continued)

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their several seals this _____ day of _____, 199____, the name and corporate seal of each
(Date) (Month)
corporate party being hereto affixed and these presents duly signed by its authorized representative.

(Seal)

Principal

By: _____

Title:

(Seal)

Surety

By: _____

Title:

Title:

Note - Signatures of those executing for the surety must be properly acknowledged.

Lake Don Pedro Marina, L.L.C.
Preliminary Schedule and Estimated Costs for Property

	<u>Year 1-2001</u>	<u>Year 2-2002</u>	<u>Year 3-2003</u>	<u>Future</u>
A&E planning for master plan, parking existing conditions. Future	25,000	TBD	TBD	TBD
75 vehicle paved parking at the marina	50,000	50,000	TBD	TBD
Existing Sewage pumping System from marina increase Rate of pumping	20,000			TBD
Repair or replace cable, Winches, anchor as needed	25,000	TBD	TBD	TBD
Fuel system SPCC plan Safety material	30,000	TBD	TBD	TBD
Water system	2,500	TBD	TBD	TBD
Employee Housing upgrade Existing Housing as needed	40,000			TBD
Small Boatfleet expansion and replace	80,000	85,000	TBD	TBD
Propane system	TBD			TBD
Houseboats replace Existing & expansion	500,000	TBD	TBD	TBD
Electrical study repair as needed	10,000			TBD
Feasibility study for Cabin or rooms	TBD			TBD
Slip expansion	TBD			TBD
<u>TOTAL</u>	<u>\$782,500</u>	<u>\$135,000</u>		

FOREVER RESORTS

LAKE DON PEDRO MARINA FIXED FEE SCHEDULE

56' HOUSEBOAT		2000	2001	2002	2003
VALUE	3 day weekend / 4 day mid-week	\$995	\$995	\$995	\$995
	4 day weekend / 5 day mid-week	\$1,295	\$1,295	\$1,295	\$1,295
	7 day week	\$1,695	\$1,695	\$1,695	\$1,695
SPRING	3 day weekend / 4 day mid-week	\$1,395	\$1,395	\$1,395	\$1,395
	4 day weekend / 5 day mid-week	\$1,595	\$1,595	\$1,595	\$1,595
	7 day week	\$1,895	\$1,895	\$1,895	\$1,895
REGULAR	3 day weekend / 4 day mid-week	\$1,095	\$1,095	\$1,095	\$1,095
	4 day weekend / 5 day mid-week	\$2,495	\$2,495	\$2,495	\$2,495
	7 day week	\$2,995	\$2,995	\$2,995	\$2,995
FALL	3 day weekend / 4 day mid-week	\$1,595	\$1,595	\$1,595	\$1,595
	4 day weekend / 5 day mid-week	\$1,995	\$1,995	\$1,995	\$1,995
	7 day week	\$2,295	\$2,295	\$2,295	\$2,295
58' HOUSEBOAT		2000	2001	2002	2003
VALUE	3 day weekend / 4 day mid-week	\$1,495	\$1,495	\$1,495	\$1,495
	4 day weekend / 5 day mid-week	\$1,795	\$1,795	\$1,795	\$1,795
	7 day week	\$2,195	\$2,195	\$2,195	\$2,195
SPRING	3 day weekend / 4 day mid-week	\$1,895	\$1,895	\$1,895	\$1,895
	4 day weekend / 5 day mid-week	\$2,095	\$2,095	\$2,095	\$2,095
	7 day week	\$2,495	\$2,495	\$2,495	\$2,495
REGULAR	3 day weekend / 4 day mid-week	\$2,495	\$2,495	\$2,495	\$2,495
	4 day weekend / 5 day mid-week	\$2,895	\$2,895	\$2,895	\$2,895
	7 day week	\$3,495	\$3,495	\$3,495	\$3,495
FALL	3 day weekend / 4 day mid-week	\$2,095	\$2,095	\$2,095	\$2,095
	4 day weekend / 5 day mid-week	\$2,495	\$2,495	\$2,495	\$2,495
	7 day week	\$2,795	\$2,795	\$2,795	\$2,795
65' HOUSEBOAT		2000	2001	2002	2003
VALUE	3 day weekend / 4 day mid-week	\$1,995	\$1,995	\$1,995	\$1,995
	4 day weekend / 5 day mid-week	\$2,495	\$2,495	\$2,495	\$2,495
	7 day week	\$2,995	\$2,995	\$2,995	\$2,995
SPRING	3 day weekend / 4 day mid-week	\$2,195	\$2,185	\$2,195	\$2,195
	4 day weekend / 5 day mid-week	\$2,895	\$2,895	\$2,895	\$2,895
	7 day week	\$3,195	\$3,195	\$3,195	\$3,195
FALL	3 day weekend / 4 day mid-week	\$2,595	\$2,595	\$2,595	\$2,595
	4 day weekend / 5 day mid-week	\$3,495	\$3,495	\$3,495	\$3,495
	7 day week	\$4,295	\$4,295	\$4,295	\$4,295
70' HOUSEBOAT		2000	2001	2002	2003
VALUE	3 day weekend / 4 day mid-week	\$3,195	\$3,195	\$3,195	\$3,195
	4 day weekend / 5 day mid-week	\$3,895	\$3,895	\$3,895	\$3,895
	7 day week	\$4,695	\$4,695	\$4,695	\$4,695
SPRING	3 day weekend / 4 day mid-week	\$3,395	\$3,395	\$3,395	\$3,395
	4 day weekend / 5 day mid-week	\$4,095	\$4,095	\$4,095	\$4,095
	7 day week	\$4,895	\$4,895	\$4,895	\$4,895
REGULAR	3 day weekend / 4 day mid-week	\$4,095	\$4,095	\$4,095	\$4,095
	4 day weekend / 5 day mid-week	\$5,095	\$5,095	\$5,095	\$5,095
	7 day week	\$6,295	\$6,295	\$6,295	\$6,295
FALL	3 day weekend / 4 day mid-week	\$3,595	\$3,595	\$3,595	\$3,595
	4 day weekend / 5 day mid-week	\$4,195	\$4,195	\$4,195	\$4,195
	7 day week	\$5,195	\$5,195	\$5,195	\$5,195
EXISTING HOUSEBOATS		2000	2001	2002	2003
WINTER	3 nights	\$390	\$390	\$390	\$390
	4 nights	\$504	\$504	\$504	\$504
	7 nights	\$732	\$732	\$732	\$732
SPRING / FALL	3 nights	\$798	\$798	\$798	\$798
	4 nights	\$1,038	\$1,038	\$1,038	\$1,038
	7 nights	\$1,662	\$1,662	\$1,662	\$1,662
SUMMER	3 nights	\$1,075	\$1,075	\$1,075	\$1,075
	4 nights	\$1,400	\$1,400	\$1,400	\$1,400
	7 nights	\$2,270	\$2,270	\$2,270	\$2,270
FLOATEL	2 people	\$88	\$98 (\$5)	\$108	\$118
	Each additional person	\$13.50	\$13.50	\$13.50	\$13.50

LAKE DON PEDRO MARINA FIXED FEE SCHEDULE

MOORAGE		2000					2001					2002					2003				
Houseboat Buoy		\$95					\$105					\$115					\$125				
H.B. Marina Single 18 wide		\$148					\$183					\$174					\$185				
H.B. Marina Double 24 wide		\$216					\$230					\$243					\$255				
H.B. Marina Full Double		\$298					\$325					\$343					\$360				
Open Double		\$100					\$110					\$115					\$125				
Open Single		\$110					\$120					\$127					\$135				
Covered Single		\$130					\$145					\$160					\$175				
Nightly slip		\$11					\$15					\$18					\$18				
Weekly		\$85					\$75					\$80					\$85				
STORAGE		2000					2001					2002					2003				
Covered - Locked		\$79					\$90					\$105					\$125				
Open - boat & trailer < 22'		\$31					\$43					\$43					\$45				
Open - boat & trailer > 22'		\$33					\$45					\$47					\$50				
Boat trailer only		\$14					\$25					\$27					\$30				
MISCELLANEOUS		2000					2001					2002					2003				
Battery charge- shop / slip		\$5.50 / \$15					\$7 / \$15					\$7 / \$15					\$7 / \$15				
Jump start-shop / slip / ramp		\$5.50/\$8.50/\$30					\$15 / \$15 / \$32					\$15 / \$15 / \$34					\$15 / \$15 / \$36				
Salvage Barge- 1 man / 2 men per hr		\$189 / \$250					\$189 / \$250					\$189 / \$250					\$189 / \$250				
Tow - Bt & 1 man / Bt & 2 men p/hr		\$64 / \$128					\$64 / \$128					\$70 / \$140					\$72 / \$144				
Shop Rate		\$68					\$68					\$70					\$72				
SMALL CRAFT RENTALS		2000					2001					2002					2003				
		1/2 Day	Day	24Hr	WK	1/2 Day	Day	24Hr	WK	1/2 Day	Day	24Hr	WK	1/2 Day	Day	24Hr	WK				
Patio Boat Style #1 28' /48hp		\$100	\$150	\$225	\$800	\$100	\$150	\$225	\$800	\$100	\$150	\$225	\$800	\$100	\$150	\$225	\$800				
Patio Boat Style #2 24' /70hp		\$150	\$225	\$338	\$1,125	\$150	\$225	\$338	\$1,125	\$150	\$225	\$338	\$1,125	\$150	\$225	\$338	\$1,125				
Fishing Boat 13' /10hp		\$30	\$42	\$63	\$208	\$30	\$42	\$63	\$208	\$30	\$42	\$63	\$208	\$30	\$42	\$63	\$208				
Fishing Boat 14' /15hp		\$42	\$56	\$84	\$278	\$42	\$56	\$84	\$278	\$42	\$56	\$84	\$278	\$42	\$56	\$84	\$278				
Ski Boat 120hp I.O		\$175	\$300	\$450	\$1,800	\$175	\$300	\$450	\$1,800	\$175	\$300	\$450	\$1,800	\$175	\$300	\$450	\$1,800				
Ski Boat Inboard		\$225	\$350	\$525	\$2,100	\$225	\$350	\$525	\$2,100	\$225	\$350	\$525	\$2,100	\$225	\$350	\$525	\$2,100				
SMALL CRAFT RENTALS		2000					2001					2002					2003				
		Hourly	1/2 Day	Day	24 Hr	WK	Hourly	1/2 Day	Day	24 Hr	WK	Hourly	1/2 Day	Day	24 Hr	WK	Hourly	1/2 Day	Day	24 Hr	WK
PWC		\$50	\$125	\$200	\$300	\$1,750	\$50	\$160	\$250	\$375	\$1,250	\$50	\$160	\$250	\$375	\$1,250	\$50	\$160	\$250	\$375	\$1,250
28' Deck Cruiser 130 hp		\$40	\$90	\$150	\$225	\$750	\$40	\$140	\$225	\$338	\$1,125	\$40	\$140	\$225	\$338	\$1,125	\$40	\$140	\$225	\$338	\$1,125
16' Fishing Boat: 25 hp		\$15	\$50	\$70	\$105	\$350	\$15	\$50	\$70	\$105	\$350	\$15	\$50	\$70	\$105	\$350	\$15	\$50	\$70	\$105	\$350

**Lake Don Pedro - Moccasin Point Marina
Schedule & Cost Estimate for Marina Upgrade**

	<u>Year 1-May 1997</u>	<u>Year 2-May 1998</u>	<u>Year 3-May 1999</u>
Marina/Anchorage	\$30,000	\$30,000	\$30,000
Electric	\$20,000	\$20,000	
Pump Out - Sewer System	\$40,000		
Fuel and Water Lines	\$35,000		
Housing	\$40 000		
Houseboat Dock		\$15,000	\$15,000
Buoys - Tools		\$12,500	\$12,500
Propane		\$8,000	
Marina Store & Shop Bldg.		\$12,500	\$12,500
ADA Bathrooms		\$8,000	\$7,000
Planning A & E	\$15,000		
Environmental	\$5,000		
Investigation	_____	_____	_____
Total	\$185,000	\$106,000	\$77,000
Net Total			\$368,000
Old Estimate			\$164,000
Agency			\$327,000
Weller Construction			\$214,200

Exhibit E

Lake Don Pedro - Moccasin Point Marina Cost Estimates for Property Upgrade

Marina and Anchorage: \$90,000

- A. Repair or replace all Bebee winches as needed.
- B. Replace all cables as needed.
- C. Install spring blocks to all shore bound cables as needed.
- D. Construct dead men anchors for all shore bound cables as needed. Note: Some cables currently tie to trees and rocks.
- E. Install snatch blocks and clevis to all spring blocks and anchors as needed.
- F. Refoam dock as needed.
- G. Reweld and straighten dock as needed.
- H. Repair and replace all broken underwater truss frame systems as needed.
- I. Resurface all broken areas of dock.
- J. Repair gangway.

Electric: \$40,000

- A. Rewire dock to bring to code.
- B. Repair and rewire all dock lights on marina as needed.
- C. Install and rewire main panel on land as needed.
- D. Install marina approved electrical boxes to slips as needed.

Pump Out and Sewer System: \$40,000

- A. Install new pump out.
- B. Repair existing sewer lines on dock as needed.
- C. Repair sewer holding tank in dock to meet codes. (Alarm System)
- D. Tie into agency sewer system.

Fuel and Water Lines: \$35,000

- A. Replace all damaged or worn fuel lines and fittings as needed.
- B. Replace all worn and damaged water lines.

Housing: \$40,000

- A. Install 2 mobile homes at agency approved location for personnel.

Houseboat Dock: \$30,000

- A. Design and build dock to hold rental fleet.

Cost Estimates for Property Upgrade (Continued)

Buoys and Tools: \$25,000

- A. Purchase replacement buoys as needed.
- B. Sand blast, weld and repair existing buoys.
- C. Paint all existing buoys.
- D. Re-cable as needed all buoys.
- E. Tool purchases will include but not be limited to:
 - 1. Small hand tools
 - 2. Cable grabs
 - 3. Torch set
 - 4. Welder and equipment
 - 5. Electric testing equipment

Propane System \$8,000

- A. Paint tank and barge.
- B. Re-plumb as necessary.
- C. Re-foam barge as needed.
- D. Re-work electric to code.
- E. Install proper valving and quick disconnects.
- F. Install proper tie up system for barge.
- G. Inspect and replace line to store as needed.

Marina Store and Shop Building: \$25,000

- A. Paint both interior and outside.
- B. Roof repair.
- C. Remodel insides as needed for operations.

A.D.A. Store and Rest Rooms: \$15,000

- A. Provide handicap access to both rest rooms and store/cafe areas.

Architect and Engineering: \$15,000

- A. Planning for current and future improvements.

Environmental Investigation: \$5,000

- A. Environmental issues.

Net Total: \$ 368,000.00

These figures are based on the two previous inspections. Once repairs are started, and upon closer inspection, we believe additional deficiencies will be discovered and additional repairs needed.

PAYMENT BOND

TITLE: _____

PROJECT NO. _____

KNOW ALL MEN BY THESE PRESENTS, that _____

_____ of _____

as Principal, and _____

as Surety, are jointly and severally held and bound unto the Turlock Irrigation District in the sum of _____ Dollars (\$_____), for the payment of which we jointly and severally bind ourselves, our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

The condition of the foregoing obligations is such that, whereas on _____, 199__ the Principal executed a certain contract with the District, by the terms, conditions and provisions of which contract the Principal agreed to construct the above project in _____ County, California, all as set forth in the contract, which contract as so executed is incorporated herein by reference and made a part hereof as fully for all purposes as if here set forth at length.

NOW, THEREFORE, if the Principal herein or its subcontractors shall fail to pay for any material, services, supplies, implements or machinery, used in, upon, for or about the performance of all work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor as required by applicable statutory provisions, the Surety herein shall pay for the same in an amount not exceeding the sum specified in this Bond, otherwise the above obligations shall be void.

In the event suit is brought upon this Bond and judgment entered in the claimant's favor, the Surety shall pay all costs incurred by the claimant in such suit, including reasonable attorney's fees to be fixed by the court.

This Bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claim under applicable State Law, including but not limited to those persons, companies and corporations entitled to serve a stop notice under Section 3181 of the Civil Code so as to give a right of action to them or their assigns in any suit brought upon this Bond.

PAYMENT BOND (continued)

No prepayment or delay in payment and no change, extension, addition or alteration of any provision of the contract agreed to between the Principal and the District, and no forbearance on the part of the District, shall operate to relieve the Surety from liability on this Bond, and consent to make such changes, extensions, additions and alterations without further notice to or consent by such Surety is hereby given; and the Surety hereby waives the provisions of Section 2819 of the California Civil Code.

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their several seals this _____ day of _____, 199__, the name and corporate seal
(Date) (Month)
of each corporate party being hereto affixed and these presents duly signed by its authorized representative.

(Seal) _____
Principal

By: _____
Title:

(Seal) _____
Surety

By: _____
Title:

By: _____
Title:

Note - Signatures of those executing for the surety must be properly acknowledged.

RATES

1997

<u>Houseboats</u>	<u>3 Nights</u>	<u>4 Nights</u>	<u>7 Nights</u>
<i>Regular</i> June 9-August 31	\$1,900.00	\$1,900.00	\$2,950.00
<i>Spring</i> May 22-June 8	\$1,295.00	\$1,295.00	\$1,915.00
<i>Fall</i> September 1-October 19	\$1,475.00	\$1,475.00	\$2,150.00
<i>Value</i> January 1-May 21 October 20-December 31	\$795.00	\$795.00	\$1,100.00

Houseboat Buoy \$85.00 Monthly

Slip Rental \$95.00 Monthly

Slip Rental \$10.00 Daily

Houseboat Slip Rental <19' \$135.00 Monthly
>19' \$160.00 Monthly
>23' \$189.00 Monthly

Covered Dry Storage \$85.00 Monthly

Open Dry Storage \$40.00 Monthly

Deck Cruiser

Regular Season
May 8-October 20
\$40.00 Per Hour
\$140.00 Four Hours
\$225.00 All Day
\$325.00 24 Hours

Value Season
October 21-May 7
\$27.00 Per Hour
\$95.00 Four Hours
\$135.00 All Day
\$200.00 24 Hours

Fishing Boat Rental Rates

Regular Season

May 8-October 20

\$14.00 Per Hour

\$50.00 Four Hours

\$70.00 All Day

\$105.00 24 Hours

Value Season

October 21-May 7

\$8.00 Per Hour

\$28.00 Four Hours

\$40.00 All Day

\$60.00 24 Hours

Personal Water Craft

\$50.00 Per Hour

\$160.00 Half Day

\$250.00 All Day

\$185.00 Per day for three days or longer

Ski Boats

Regular Season

May 8-October 20

\$60.00 Per Hour

\$170.00 Four Hours

\$275.00 All Day

Value Season

October 21-May 7

\$50.00 Per Hour

\$125.00 Four Hours

\$195.00 All Day

1998

Houseboat Buoy

\$95.00 Monthly

Slip Rental

\$105.00 Monthly

Slip Rental

\$12.00 Daily

Houseboat Slip Rental <19'

\$145.00 Monthly

>19'

\$170.00 Monthly

>23'

\$199.00 Monthly

Covered Dry Storage

\$95.00 Monthly

Open Dry Storage

\$45.00 Monthly

**FIRST AMENDMENT TO THE CONCESSION LEASE AGREEMENT FOR
LAKE DON PEDRO MARINA**

This Amendment to that certain agreement entitled "Concession Lease Agreement for Fleming Meadows Recreation Area, Don Pedro Project, Located in Tuolumne County, California," dated March 20, 2001, is made as of November 25, 2003, between the TURLOCK IRRIGATION DISTRICT and MODESTO IRRIGATION DISTRICT (Districts) and LAKE DON PEDRO MARINA ("Concessionaire") who agree as follows:

1. The following shall be added to Section 2-3.02:

The Concessionaire is authorized to use a sixth space in the marina employee housing area to install a housing pad and housing unit with hookups subject to the following conditions:

- a) All work will be done at the Concessionaire's expense.
 - b) Pad will be no larger than 32' X 9' and be constructed with minimal disturbance to existing area.
 - c) Exact location and visual appearance of the housing unit and grounds must be approved in advance by the Agency.
2. Except as set forth in this amendment, all the provisions of the Agreement shall remain unchanged and in full force and effect.
 3. Districts' approval of this amendment does not remove any responsibility or liability of the Concessionaire for Concessionaire's work performed pursuant to this amendment.

CONCESSIONAIRE

LAKE DON PEDRO MARINA, LLC

[All limited liability company members must sign amendment]

By _____

By _____

FOR THE DISTRICTS

TURLOCK IRRIGATION DISTRICT

By Randy Fiorini
President

By Barbara A. Hestick
Secretary

MODESTO IRRIGATION DISTRICT

By Allen Short
General Manager

By _____
Secretary

Lake Don Pedro Marina
SECOND AMENDMENT TO CONCESSION LEASE AGREEMENT

THIS SECOND AMENDMENT TO CONCESSION LEASE AGREEMENT (the “**Second Amendment**”) is effective as of May 1, 2026 (the “**Execution Date**”), by and between the Turlock Irrigation District and Modesto Irrigation District (collectively, the “**Don Pedro Recreation Agency**” or “**Agency**”) and Don Pedro SMI, LP, a Delaware limited partnership, and Don Pedro SMI Opco, LP, a Delaware limited partnership (collectively, “**Concessionaire**”).

RECITALS

WHEREAS, Agency, as lessor, and Concessionaire (as successor-in-interest), as lessee, are parties to that certain Concession Lease Agreement dated March 20, 2001, as amended by that certain First Amendment to the Concession Lease Agreement dated November 25, 2003, as assigned by that certain Assignment and Memorandum of Concession Lease Agreement (the “**Assignment**”) (collectively, the “**Lease**” or the “**Agreement**”), which Lease is for that certain tract or parcel of land lying and being on and adjacent to Fleming Meadows, Recreation Area, Don Pedro Project located in Tuolumne County, California as more particularly described on Exhibit B-1 of the Assignment;

WHEREAS, Agency and Concessionaire desire to amend the Lease.

AGREEMENT

For good and valuable consideration which the parties acknowledge receiving, Agency and Concessionaire hereby agree, and the Lease is amended, as follows:

1. Recitals. The Recitals are confirmed to be true and correct and are incorporated into this Second Amendment.
2. Application of Lease Terms. Capitalized terms used in this Second Amendment and not defined herein shall have the meanings given to them in the Lease; provided, however, that all references in the Lease to “the Lease” or “this Lease” or similar references shall be a reference to the Lease as amended from time to time, including by this Second Amendment.
3. Temporary Mooring. Section 1-1.01(b) of the Lease is replaced in its entirety with the following:

Temporary Mooring: If the lake level of the Concession Area should drop below seven hundred and forty (740’) feet, as reasonably determined by Concessionaire, the Concessionaire is permitted to establish temporary mooring within the Concession Area where Concessionaire may relocate vessels for the duration of the lowered lake level. Prior to relocating any vessels Concessionaire will submit the proposed relocation plan to Agency Director for review and approval by Turlock Irrigation District Chief Dam Safety Engineer. The Chief Dam Safety Engineer retains authority to approve, revise, or reject the plan if it does not, in their sole judgment, adequately accommodate dam

operations to assure dam safety, or if required FERC approvals are denied. Notwithstanding the foregoing, the relocation plan attached hereto as Attachment 1 (incorporated by reference) to this Second Amendment (the “**Pre-Approved Relocation Plan**”) is approved by Agency Director and Chief Dam Safety Engineer as of the date hereof and Concessionaire may act in accordance with the Pre-Approved Relocation Plan without obtaining any further approvals.

4. Removal of Trading Post and Snack Shack. All references regarding the Trading Post Facility and Swimming Lagoon Snack Shack are deleted from the Lease as of the Effective Date of this Amendment and from and after the Effective Date Concessionaire shall have no rights, obligations or liability with respect thereto. Any reference to the Trading Post or Snack Shack in the Lease is of no further force and effect as of the Effective Date. In addition, Exhibit A to this Lease, "Lake Don Pedro Marina Concession Area Map," is deleted from the Agreement and replaced with Attachment 2 (incorporated by reference) the map titled “ALTA/NSPS LAND TITLE SURVEY, LAKE DON PEDRO, LAKE DON PEDRO MARINA, TUOLUMNE COUNTY, CALIFORNIA” which updates facilities, removes the Trading Post Facility and Swimming Lagoon Snack Shack from the Concession Area, and identifies areas referenced in the low water plan.

5. Term of Agreement. Section 1-2.01 of the Lease is replaced in its entirety with the following:

The term of this Agreement shall be for a period of thirty (30) years, commencing upon the Effective Date, and only so long as the Don Pedro Project continues to be licensed to the Districts by the Federal Energy Regulatory Commission. Following final agency approval, Agency and Concessionaire shall execute the Confirmation of Effective Date Certificate attached hereto as Attachment 3 to confirm the Effective Date and expiration of the term.

6. Option to Extend Term. For the avoidance of doubt, the option to extend the term for an additional period of ten (10) years as set forth in Section 1-2.02 of the Agreement remains in place.

7. Concession Fee Rates. Section 1-3.01(a) of the Lease is replaced in its entirety with the following:

Starting with the concession year beginning on January 1, 2026, and counting from the Effective Date forward, Concessionaire shall pay to Agency a sum equal to seven percent (7%) of Concessionaire’s annual Gross Receipts as defined in Section 1-3.03, made from or upon the Concession Area during each concession year, except that Concessionaire shall pay Agency two percent (2%) for all sales of merchandise having a single value in excess of \$4,000.00. However, if the concession fee for any year is less than \$300,000.00, Concessionaire will pay the difference to Agency within sixty (60) days following the date on which Agency reconciles the concession fees due versus paid as set forth in Section 1-3.01(c) of this Lease.

8. Environmental Assessment by Concessionaire. Section 1-6.06 of the Lease is replaced in its entirety with the following:

At any time during the term of the Agreement, Concessionaire may but is not required to,

at its sole cost and expense, engage a licensed certified Environmental Consultant to perform an environmental assessment of the Premises. In addition, Concessionaire shall perform, or have performed at its cost and expense, any environmental assessments or other investigation of the Premises that may be required by any Governmental agency.

9. Environmental Indemnity. The parties acknowledge and agree that Concessionaire's obligation to defend, indemnify and hold harmless the Agency as set forth in Section 1-6.08 of the Lease (1) does not extend to damages resulting from Hazardous Materials or Substances that migrate onto the Premises from an adjacent parcel, and (2) only applies to the extent that damages were caused by actions or inactions of Concessionaire.

10. Notices. The Concessionaire notice address set forth in Section 1-16.01 of the Lease shall be updated to the following:

To Concessionaire: Suntex Marinas
17330 Preston Road, Suite 100C
Dallas, TX 75252
Attn: General Counsel

With a copy to: Lake Don Pedro Marina
11500 Bonds Flat Road
La Grange, CA
Attn: General Manager

11. Development. Agency acknowledges that the improvements required to be made by Concessionaire in Sections 2-1 and 2-2.01 of the Lease have been performed and Concessionaire has no further obligations with respect thereto. As such improvements have been performed, Agency further acknowledges that Concessionaire may, but is not required, to have up to twenty (20) houseboat rentals.

12. Authorized Services. Section 2.3 of the Lease is amended as following:

- (a) The word "telephone" is deleted from Section 2-3.01(a)(1).
- (b) Section 2-3.01(a)(3) is replaced in its entirety to read: "At Concessionaire's sole discretion as to total number offered at any given time, up to three-hundred thirty-six (336) boat slips."
- (c) Section 2-3.01(a)(4) is replaced in its entirety to read: "At Concessionaire's sole discretion as to total number offered at any given time, up to one-hundred ninety-five (195) combined houseboat slips and private houseboat mooring lines to accommodate private houseboats."
- (d) Section 2-3.01(a)(5) is replaced in its entirety to read: "At Concessionaire's sole discretion as to total number offered at any given time, up to twenty (20) houseboat rentals, subject to the conditions in Section 2-4 of this Agreement and subject to the requirement that private houseboats assigned to Lake Don Pedro Marina be given preference for

pumpout services.”

- (e) Section 2-3.01(a)(6) is replaced in its entirety to read: “At Concessionaire’s sole discretion as to total number offered at any given time, up to fifty (50) watercraft rentals consisting of any combination of the following, subject to conditions in Section 2-4 of this Agreement: fishing boats, water ski boats, or personal water craft (“Wave Runners”).”
- (f) Section 2-3.01(b)(1) is replaced in its entirety to read: “At Concessionaire’s sole discretion as to total number offered at any given time, up to two hundred fifty (250) dry storage spaces.”

13. A new section 2-3.01(c) is added that reads:

At any time the Concessionaire desires to add new facilities or increase the number of boat slips, houseboat slips, private houseboat mooring lines, houseboat rentals, or watercraft rentals authorized under this Section 2-3.01 it must first conduct a study to evaluate the recreational carrying capacity of the Fleming Meadows Concession Area. The study will determine if any new facilities and/or the number of slips, boats, houseboats, and rental vessels and equipment that can be operated on the lake from the Concession Area without materially compromising safe recreational use and environmental quality thereof, or materially degrading the lake and facilities. The study will be submitted to the Agency for approval prior to implementing any changes, with such approval not to be unreasonably withheld or delayed. The study will be used by the Concessionaire to evaluate the range of options available in establishing the number and types of boating slips, and rental vessels and equipment to be offered.

Agency retains the right to require changes to Concessionaire’s lake operations including the boat slips and rental fleet as necessary to comply with governmental authorities and actions, or to accommodate dam operations to assure dam safety.

14. Operations and Maintenance.

- (a) Section 3-1.01 is deleted in its entirety.
- (b) Section 3-1.02 is replaced in its entirety with the following: “Standard of Service. The Concession Area shall be staffed with competent personnel at all times Concessionaire remains open for operation under this Agreement. Concessionaire will ensure that all personnel perform work in accordance with all standards of care and diligence consistent with recognized and sound marina operation practices, procedures, and techniques in practice at reservoir marinas and like facilities.

Concessionaire will ensure that work carried out under this Agreement is performed in compliance with all applicable statutes, acts, ordinances, laws, rules, regulations, codes and standards.

- (c) Section 3-2.01(d) of the Lease is amended to add the word “reasonably” before “deems.”

15. Contribution.

- (a) Concessionaire has agreed to make a contribution of four-hundred thousand (\$400,000) dollars toward the construction of a visitor center at the Fleming Meadows Campground (the “**Visitor Center**”) (the “**Contribution**”). The Contribution shall be made in two equal payments. The first two hundred thousand (\$200,000) dollar payment shall be made within thirty (30) days of written notice to Concessionaire of Construction Commencement. As used herein, “**Construction Commencement**” shall mean the commencement of continuous and on-going physical on-site construction activities for the construction of the Visitor Center, such as the installation of facilities or equipment or significant physical site preparation work such as excavation, clearing or grading. Construction Commencement shall not mean pre-commencement activities such as finalizing design plans, obtaining permits, or securing financing. The second two hundred thousand (\$200,000) dollar payment shall be made within six (6) months from the date the first payment is received.

16. Snack Shack Repairs. Within 30 days following the Effective Date, Concessionaire has agreed to perform or contract for, at Concessionaire’s sole cost, certain repairs to the Snack Shack as outlined in Attachment 4 (incorporated by reference) (the “**Snack Shack Repairs**”). Agency agrees to grant access to the Snack Shack to Concessionaire and its contractors so that the Snack Shack Repairs may be performed. Concessionaire will comply with all Tuolumne County permit and inspection requirements and complete the work to the standards of Attachment 5, Tuolumne County Environmental Health Division “Food Facility Plan Check Guide” (incorporated by reference). Upon completion of the Snack Shack Repairs to these standards, Concessionaire shall have fully performed its obligations under the Lease with respect to the condition of the Snack Shack at surrender and shall have no liability to Agency with respect to the condition of the Snack Shack. The Snack Shack Repairs will be completed on or before the date that is sixty (60) days after the Effective Date.

17. Houseboat Rules. Beginning on the Effective Date, DPRA Regulations and Ordinances Appendix A – Section 4.5.14 Houseboat Rules are hereby inapplicable to Concessionaire’s operations with the Concession Area, and Concessionaire must comply with and enforce the requirements in Attachment 6 (incorporated by reference) entitled “Houseboat Requirements,” pursuant to the policies and procedures set out in Attachment 8 (incorporated by reference, and including but not limited to the DPRA appeal process for permit revocation or non-renewal set forth therein), entitled (“Additional Procedures Governing Houseboating”).

18. Houseboat Permitting. Beginning on the Effective Date Concessionaire shall be responsible for

issuing and administering houseboat permits for the right of an individual to store a houseboat in the Concession Area (a “Houseboat Permit”), consistent with the terms of this Agreement and the attached Houseboat Requirements, and subject to the appeals process for revocation or non-renewal of Houseboat Permits set forth in Attachment 8, which process is incorporated herein by reference and shall not be amended or revoked without the prior written consent of the DPRA Board of Control. Concessionaire may determine whether to issue a Houseboat Permit in its sole discretion and may put in place any such policies and procedures as Concessionaire deems appropriate in processing applications for a Houseboat Permit. Concessionaire may also establish a fee to apply for, obtain and renew a Houseboat Permit and any fees collected with respect to the Houseboat Permit shall be Concessionaire’s property. Concessionaire is authorized to establish and enforce rules and regulations for holders of Houseboat Permits (“Houseboat Permit Holders”) and may collect fines in connection with the violation of such rules and regulations, which fines shall remain property of Concessionaire. Concessionaire shall have the right to revoke or choose not to renew a Houseboat Permit and cause the removal of the houseboat associated with such Houseboat Permit following such revocation or non-renewal, subject to the appeals process for revocation or non-renewal of Houseboat Permits set forth in Attachment 8. Concessionaire indemnifies and holds harmless the Agency from any and all claims related to Concessionaire’s exercise of permitting or enforcement authority under this Section. Agency represents and warrants that Agency has the authority to grant Concessionaire the authority and privileges conveyed in this Section 18 at the time this Second Amendment was executed. Attachment 8 outlines Suntex’s regulations and procedures governing houseboating.

19. Blue Oaks Repair Yard. The Concession Area includes the boat repair shop/yard and dry storage area commonly known as the Blue Oaks Repair Yard (“Blue Oaks”) that will continue to service houseboats from all concessions on Don Pedro Lake. From and after the date hereof, Concessionaire may conduct operations on Blue Oaks in its sole discretion, including but not limited to, the services provided by Concessionaire and pricing with respect to such services provided, the insurance requirements applicable to customers, vendors, and third party users of Blue Oaks, and the setting of any rules and regulations for customers and users of Blue Oaks. Notwithstanding the foregoing, but subject to the rules, regulations, and insurance requirements established by Concessionaire from time to time regarding the use of Blue Oaks, Concessionaire agrees that a portion of Blue Oaks shall remain available for use by houseboat owners on Don Pedro Lake and their vendors for the performance of houseboat services, repair, and maintenance.
20. Condition to Effectiveness. This Second Amendment shall become effective on the date (the “**Effective Date**”) on which the Agency Regulation related to review of concessionaire fees attached hereto as Attachment 7 (incorporated by reference) shall have been fully approved on the same terms as attached hereto by the Don Pedro Recreation Agency Board of Control and be in full force and effect (the “**Condition**”). The Condition must be satisfied in its entirety within thirty (30) days of the Execution Date (the “**Condition Deadline**”). For the avoidance of doubt, if the Condition is not satisfied in its entirety on or before the Condition Deadline this Second Amendment shall have no force or effect.
21. Ratification. As amended hereby, the Lease is ratified and confirmed as being in full force and effect. Each party agrees that, as amended hereby, the Lease is the binding and enforceable

obligation of such party. To the extent of any conflict or inconsistency between this Second Amendment and the terms of the Lease, the terms of this Second Amendment shall govern and control to the extent, but only to the extent, of such conflict or inconsistency. Nothing in this Second Amendment shall be deemed a waiver or release of any unperformed obligations of Landlord and Tenant under the Lease, including, without limitation. References in the original Lease to “this Lease,” “the Lease,” “this Agreement,” or “the Agreement” or similar shall be a reference to the original Lease as amended from time to time, including by this Second Amendment.

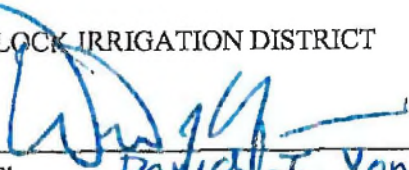
22. Counterpart Execution. This Second Amendment may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one instrument. Executed counterparts of this Second Amendment may be exchanged by electronic mail, which executed counterparts shall serve as originals for all purposes.
23. Execution and Delivery of Second Amendment. This Second Amendment will not be effective or binding on either party unless and until it has been executed by both Agency and Concessionaire, and a fully-executed Second Amendment has been delivered to Agency and Concessionaire.

[Signature on following page]

IN WITNESS WHEREOF, the Parties have executed this Second Amendment to be effective as of the Effective Date.

AGENCY:

TURLOCK IRRIGATION DISTRICT

By: 
Name: David J. Yanan
Title: President

MODESTO IRRIGATION DISTRICT

By: 
Name: Robert Frobose
Title: MID Board President

CONCESSIONAIRE:

DON PEDRO SMI, LP,
a Delaware limited partnership

By: SMI CA PropCo Holding, LLC,
a Delaware limited liability
company, its general partner

By: Thomas A. Tipton
Name: THOMAS TIPTON
Title: VICE PRESIDENT

DON PEDRO SMI OPCO, LP,
a Delaware limited partnership

By: SMI CA OpCo Holding, LLC,
a Delaware limited liability
company, its general partner

By: Thomas A. Tipton
Name: THOMAS TIPTON
Title: VICE PRESIDENT

Attachment 1

Pre-Approved Relocation Plan



Don Pedro Low Water Plan

PURPOSE: To provide guidance, controls, and shared information of marina adjustments when low water levels impact marina operations.

COVERAGE: This process applies Don Pedro Marina vessels

GUIDELINES: These guidelines will ensure plan accuracy for drought, extreme drought conditions, and extreme drought conditions below 670' water level.

RESPONSIBILITY: The General Manager will execute planning, organization, and facilitation of the plan after SMI Executive approval and review by DPRA.

Overview

Low water levels caused by irrigation district usage and lack of precipitation (snowpack / rain) feeding into Lake Don Pedro requires specialized adjustment of assets to accommodate the customer and facilities.

Each of the following steps should be assessed and approved by the Regional Director and reviewed by the SMI executive team along with DPRA sign off.

Low Water Plan – Drought Conditions 740' and above

Low Water Plan – Extreme Drought Conditions 740' to 670'

Low Water Plan – Extreme Drought Conditions Below 670'. No historical data to provide mooring accommodations or marina operations. Lowest water level recorded is 671.19.



DATE	RES ELE FEET	STORAGE AF	RES CHG AF	TOC AF	STO AF	ABV TOC AF	OUTFLOW CFS	INFLOW CFS	PPT INC INCHES
10/02/2015	673.19	639,823	-2,821	1,748,621	-1,108,798		2,220	798	0.00
10/03/2015	672.74	637,009	-2,814	1,736,896	-1,099,888		1,638	219	0.00
10/04/2015	672.58	636,447	-562	1,725,172	-1,088,725		984	700	0.00
10/05/2015	672.14	633,642	-2,805	1,713,448	-1,079,806		1,539	125	0.00
10/06/2015	671.62	630,845	-2,797	1,701,724	-1,070,879		1,994	584	0.00
10/07/2015	671.39	629,170	-1,675	1,690,000	-1,060,830		1,037	192	0.00
10/08/2015	671.33	628,612	-558	1,690,000	-1,061,388		628	347	0.00
10/09/2015	671.19	628,612	0	1,690,000	-1,061,388		849	849	0.00
10/10/2015	671.24	628,612	0	1,690,000	-1,061,388		153	153	0.00
10/11/2015	671.36	629,170	558	1,690,000	-1,060,830		113	394	0.00
10/12/2015	671.54	630,286	1,116	1,690,000	-1,059,714		115	678	0.00
10/13/2015	671.67	631,403	1,117	1,690,000	-1,058,597		119	683	0.00
10/14/2015	671.80	631,403	0	1,690,000	-1,058,597		114	114	0.00
10/15/2015	671.85	631,963	560	1,690,000	-1,058,037		392	674	0.00
10/16/2015	671.95	631,963	0	1,690,000	-1,058,037		229	229	0.00

Don Pedro Marina within Fleming Meadows can be adjusted without moving permanent structures (i.e., anchoring). Anchor cables have been extended to accommodate low water and extreme draught with marina adjustments.

Houseboat Marina within Fleming Meadows can be adjusted without moving permanent structures (i.e., anchoring). Anchor cables have been extended to accommodate low water and extreme draught with marina adjustments.

Private houseboats will be relocated to Lone Gulch and then temporary mooring lines when Lone Gulch is unable to accommodate them. The temporary mooring lines extend from Schoolhouse Point to the West Bay.

Low Water Plan - Drought Conditions (740' and above)

The plan is listed below on operational and maintenance aspects of low water drought conditions occurring at 740' and above.

Blue Oaks:

- Haul and Launch services will be available as long as the launch ramp remains open, as determined by the agency.
- Repair Yard fully operational.

Don Pedro Marina (Fleming Meadows):

- At or before 750' water level, private houseboats will need to relocate from the back of Gilman Gulch, Schoolhouse Cove, and Buzzard Cove to Lone Gulch mooring previously approved by DPRA. Lone Gulch can accommodate 30 private houseboats with current anchor points.
- At or above 750' water level, mooring lines will need to be connected to lower deadmen locations within Gilman Gulch, Schoolhouse Cove, and Buzzard Cove.
- Customer boats will be scheduled for customer movement from Gilman, Schoolhouse, and Buzzard to buoy field within previously DPRA board approved location in Lone Gulch. These will be individual phone calls to accommodate customer needs.
- The marina will be adjusted North and slightly West to accommodate low water level.
- Anchors have been dropped for outbound and inbound adjustment.
- Water taxi service will be available during normal business hours. Due to the increase in demand, reservations are requested through the office.
- Full operation of Lake Don Pedro Marina and Houseboat Marina.

Shoreline Deadman Anchor – West Bay 760' Water Level



Low Water Plan - Extreme Drought Conditions (740' and 670')

The plan is listed below on operational and maintenance aspects of extreme drought conditions occurring at 740' and 670'.

Blue Oaks:

- Haul and Launch will close in when water level reaches 720'. Third-party transportation companies will need to undergo a vetting process initiated by customers requesting this service.
- Repair Yard fully operational

Don Pedro Marina (Fleming Meadows):

- Customer boats will be scheduled for customer movement from Gilman, Schoolhouse, and Buzzard to buoy field within previously DPRA board approved location from Schoolhouse point to West Bay, shown below as "T Lines". These will be individual phone calls to accommodate customer needs.
- The marina will be adjusted North and slightly West to accommodate low water level.
- Anchors have been dropped for outbound and inbound adjustment.
- DPRA will establish 5MPH wake zone throughout the Fleming Meadows houseboat and marina area to accommodate for Temporary Lines. Starting at School House point and Lone Gulch point.
- 3 Pump out services will be provided:
 - Via barge service (additional fee)
 - Stationary docks (extension dock and rental dock, no fee)
- Water taxi service will be available during normal business hours. Due to the increase in demand, reservations are requested through the office.
- Full operation of Lake Don Pedro Marina and Houseboat Marina.

Fleming Meadows Launch Ramp – 755' Water Level



Low Water Plan - Extreme Drought Conditions (Below 670')

- Historical data is not available for water level below 671.19.
- There are currently no viable moorage options available for vessel relocation. Please refer to the section titled 'New Mooring Requirements' below for further details.
- All houseboats should be removed from the water by third-party over-the-road transport companies before the Fleming Meadows launch ramp transitions to a dirt surface.
- Houseboat storage is available at Blue Oaks Repair Yard on a first-come, first-served basis. Please note that the yard has limited capacity and may not be able to accommodate all 257 private houseboats. If storage at Blue Oaks Repair Yard is full, houseboat owners are encouraged to seek alternative storage options at other facilities.
- Don Pedro Marina cannot perform vessel haul-outs while the Blue Oaks launch ramp is closed at elevations below 720'. Additionally, the Don Pedro Marina transport truck designated for haul-outs is not registered for operation on California roadways.

New Mooring Requirements - Governing Agencies

To establish a new mooring field or temporary marina location, the following agencies must review and approve the submitted plan and issue the necessary permit.

- Army Corps of Engineers approval and permit for new mooring location
- California Water Boards NPDES permit and approval for new mooring location
- Bureau of Land Management approval and permit for new mooring location
- CEQA and NEPA documents for digging holes for deadman placement for new mooring location
- Archaeology study for new mooring/marina location.
- Fish and Wildlife approval and permit for new mooring location
- Tuolumne County Fire Marshal inspection and approval of new mooring location

Temporary Mooring Lines During Extreme Drought 2014



Pictures:

Don Pedro Marina Normal Water Level



Don Pedro Marina - HB Buoy Line Configuration for Low Water Moorage (Shoreside Deadman)



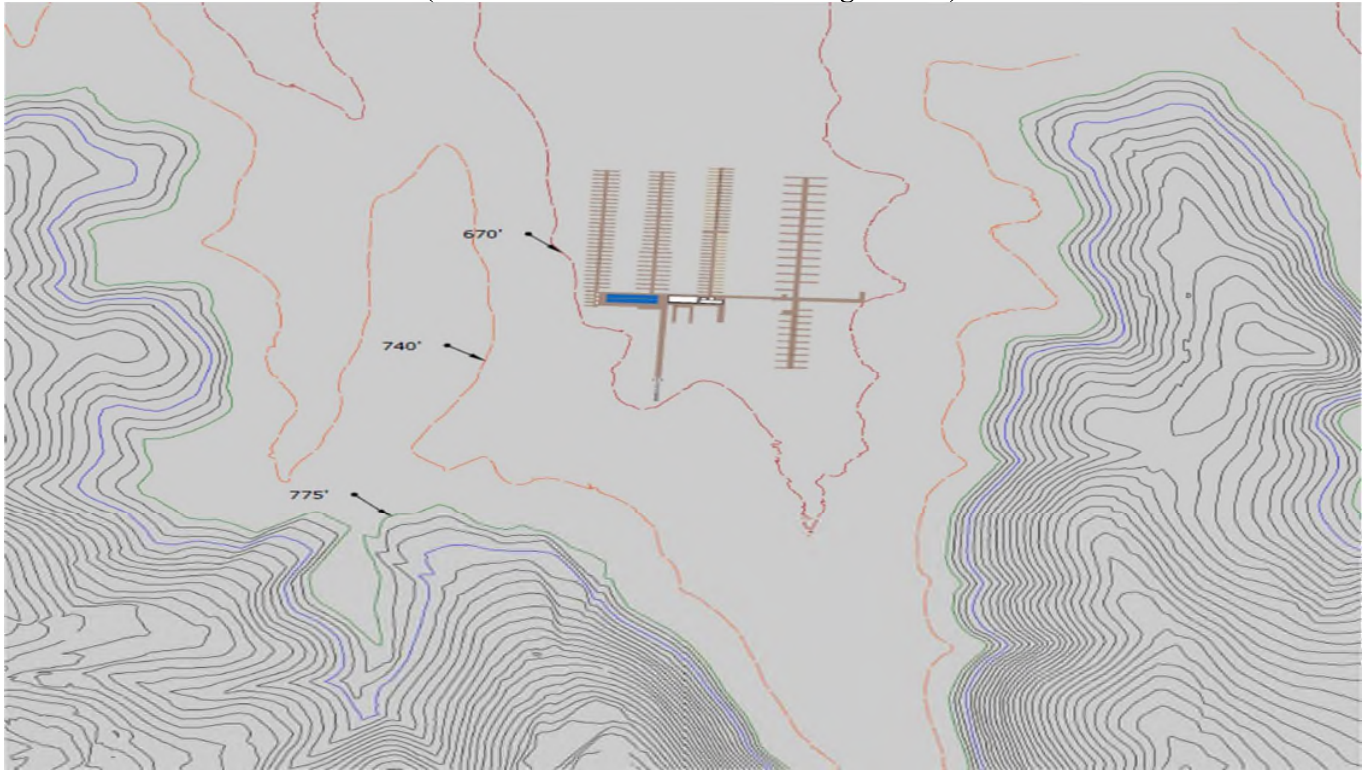
Don Pedro Marina 710' Water Level



Don Pedro Marina 730' Water Level



Don Pedro Marina Bathometric (775-670 levels and marina configuration)



Moccasin Point Low Water Plan (under Suntex Ownership)

PURPOSE: To provide guidance, controls, and shared information of marina adjustments when low water levels impact marina operations.

COVERAGE: This process applies Moccasin Point Marina vessels under Suntex ownership.

GUIDELINES: These guidelines will ensure plan accuracy for drought and extreme drought conditions.

RESPONSIBILITY: The General Manager will execute planning, organization, and facilitation of the plan after SMI Executive approval and review by DPRA.

Overview:

Low water levels caused by irrigation district usage and lack of precipitation (snowpack / rain) feeding into Lake Don Pedro requires specialized adjustment of assets to accommodate the customer and facilities.

Moccasin Point Marina cannot be adjusted for low water levels and will need to sit on dry land until water returns to the area. Adjustment is not optional due to the distance and PLR compliance concerns. The houseboats will need to be moved to the Fleming Meadows recreation area of Lake Don Pedro for temporary storage.

Don Pedro Marina within Fleming Meadows can be adjusted without moving permanent structures (i.e., anchoring).

The plan is listed below on operational and maintenance aspects of drought conditions occurring at 730'. Plan activates when current levels are at 765'.

Vessels will be put back into place once an 800' water elevation is reached, or water projections stay consistently above 780' for 12-months.

Moccasin Point Marina:

Plan at 765' water level:

- Schedule houseboat customer vessels for movement to buoy field outside of the houseboat dock that houses private boats within Fleming Meadows area. All boats MUST be relocated by 730' elevation.
 - These will be individual phone calls to accommodate customer needs.
 - Movement to take place over a period of days that will be communicated when water level projections are received from TID.
 - Small Boats can request slips at Don Pedro Marina. Accommodations based on availability.
 - Houseboats will be moored on buoy lines in the Fleming Meadows area.
- Pricing:
 - HB dock customers will be charged buoy line market rate of temporary site.
 - Cable diameter and hardware is greater than that utilized at Moccasin.
 - Labor expenses to install temporary lines.
 - Equipment and fuel use to install temporary lines.
 - SB dock customers will be charged market rate for slips based on availability.
- Begin prep work for adjusting to optimal resting pad and will be contingent upon water projections provided by TID.
 - This includes proper environmental shut down and utility / fuel line storage.
- Fuel/pump out/fresh water will be available at Don Pedro Marina.

Moccasin Point Low Water Plan (non-Suntex Ownership)

Extreme Drought Conditions Below 730'

PURPOSE: To provide guidance, controls, and shared information of marina adjustments when low water levels impact marina operations.

COVERAGE: This process applies Moccasin Point Marina vessels under non-Suntex ownership.

GUIDELINES: These guidelines will ensure plan accuracy for drought and extreme drought conditions.

RESPONSIBILITY: Owner of marina facility and review by DPRA.

Overview:

Low water levels caused by irrigation district usage and lack of precipitation (snowpack / rain) feeding into Lake Don Pedro requires specialized adjustment of assets to accommodate the customer and facilities.

The houseboats will need to be moved to the Fleming Meadows recreation area of Lake Don Pedro for temporary storage. Moccasin Point Marina owner to work with Lake Don Pedro Marina General Manager and Regional Manager on planning the temporary moorage location for 62 private houseboats.

The plan is listed below on operational and maintenance aspects of extreme drought conditions occurring at 730'. This plan must be activated 90-days before water level reaches 730' to provide Don Pedro Marina the time to order material, install lines and hardware, rent necessary equipment and communicate with customers.

Vessels will be put back into place once an 800' water elevation is reached, or water projections stay consistently above 780' for 12-months.

Moccasin Point Marina:

Plan at 90-days before 730' water level is reached:

The collaboration between Moccasin Point Marina and Lake Don Pedro Marina is set to initiate upon the indication from the Turlock Irrigation District (TID) that water levels are projected to attain 730 feet within a period of 90 days. Moccasin Point Marina will take on the financial obligation for all labor, materials, equipment rentals, and associated costs related to the temporary relocation of 62 private houseboats.

Don Pedro Marina can assist in material purchasing and installation for a fee.

- Schedule houseboat customer vessels for movement to buoy field outside of the houseboat dock that houses private boats within Fleming Meadows area. All Houseboats to be relocated by 730' elevation.
 - Movement to take place over a period of days that will be communicated when water level projections are received from TID.
 - Small Boats can request slips at Lake Don Pedro Marina. Accommodations based on availability.
 - Houseboats will be moored on buoy lines in the Fleming Meadows area from Schoolhouse Point to West Bay.
- Pricing:
 - HB dock customers will be charged buoy line market rate of temporary site.
 - Cable diameter and hardware is greater than that utilized at Moccasin due to how many vessels are on one line
 - Labor expenses to install temporary lines.
 - Equipment and fuel use to install temporary lines.
 - Equipment rental expenses
 - SB dock customers will be charged market rate for slips based on availability.

Lake Don Pedro Marina incurred all expenses in 2021 to install temporary moorage lines. The 2021 low water drought expense was \$700k.

Pictures:

Moccasin Point Marina Normal Water Level



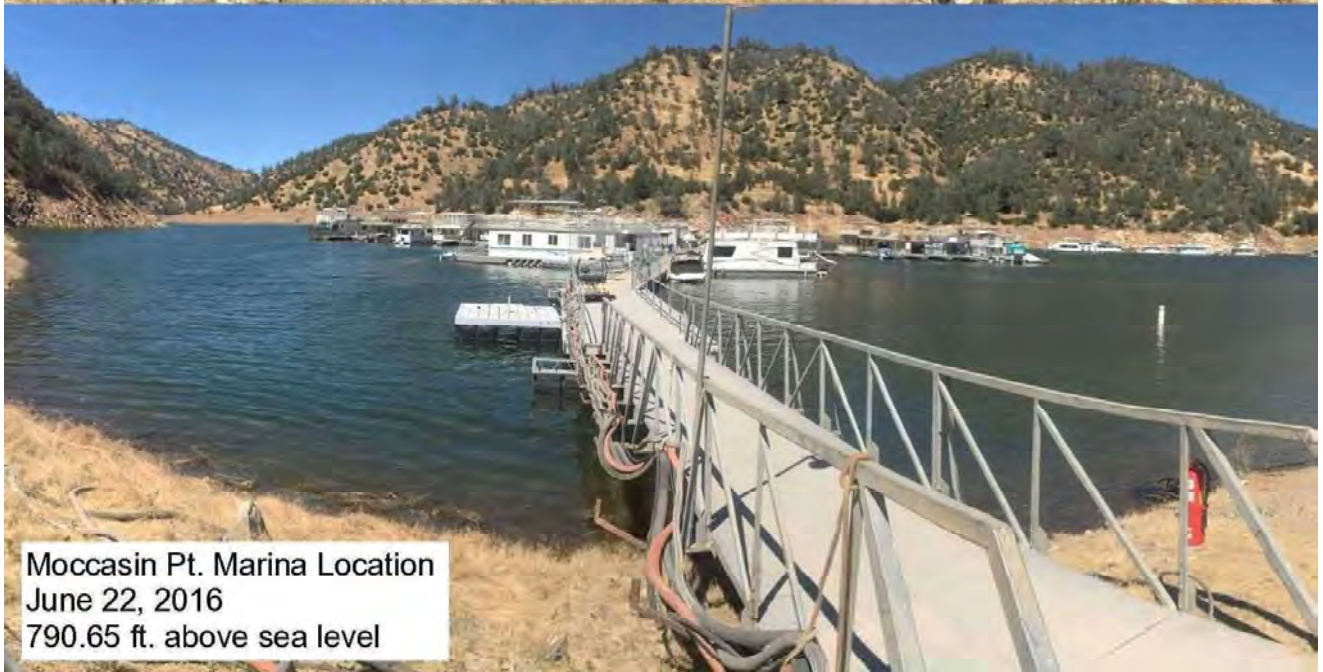
Moccasin Point Marina Low Water (720) - Expecting 30 feet lower and no access



Moccasin Point (DPRA Facebook post)

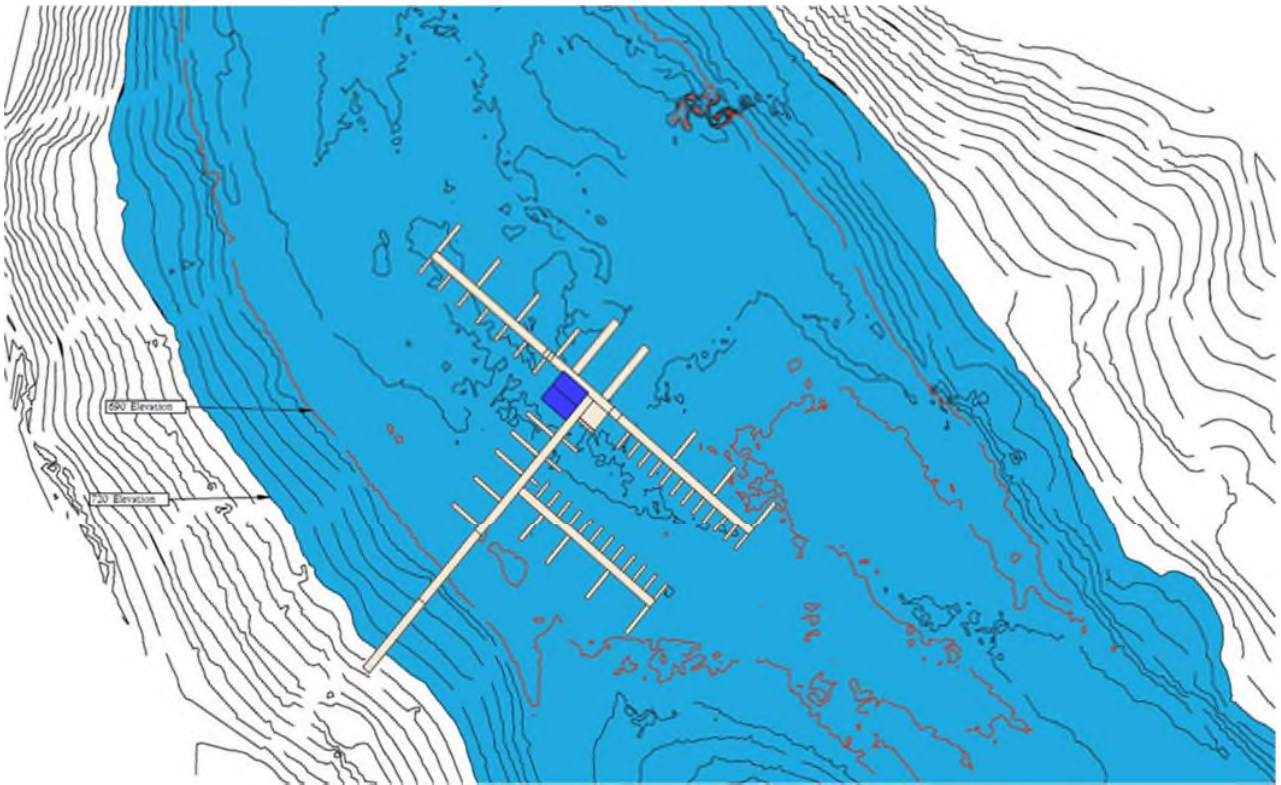


Moccasin Pt. Marina Location
July 27, 2015
683.99 ft. above sea level



Moccasin Pt. Marina Location
June 22, 2016
790.65 ft. above sea level

Moccasin Point Bathometric (720-690 levels and marina configuration)



Document Change Control			
Date	Author	Version	Changes
2/28/2025	Katie Linton	1.0	

Attachment 2

Lake Don Pedro Marina Concession Area Map

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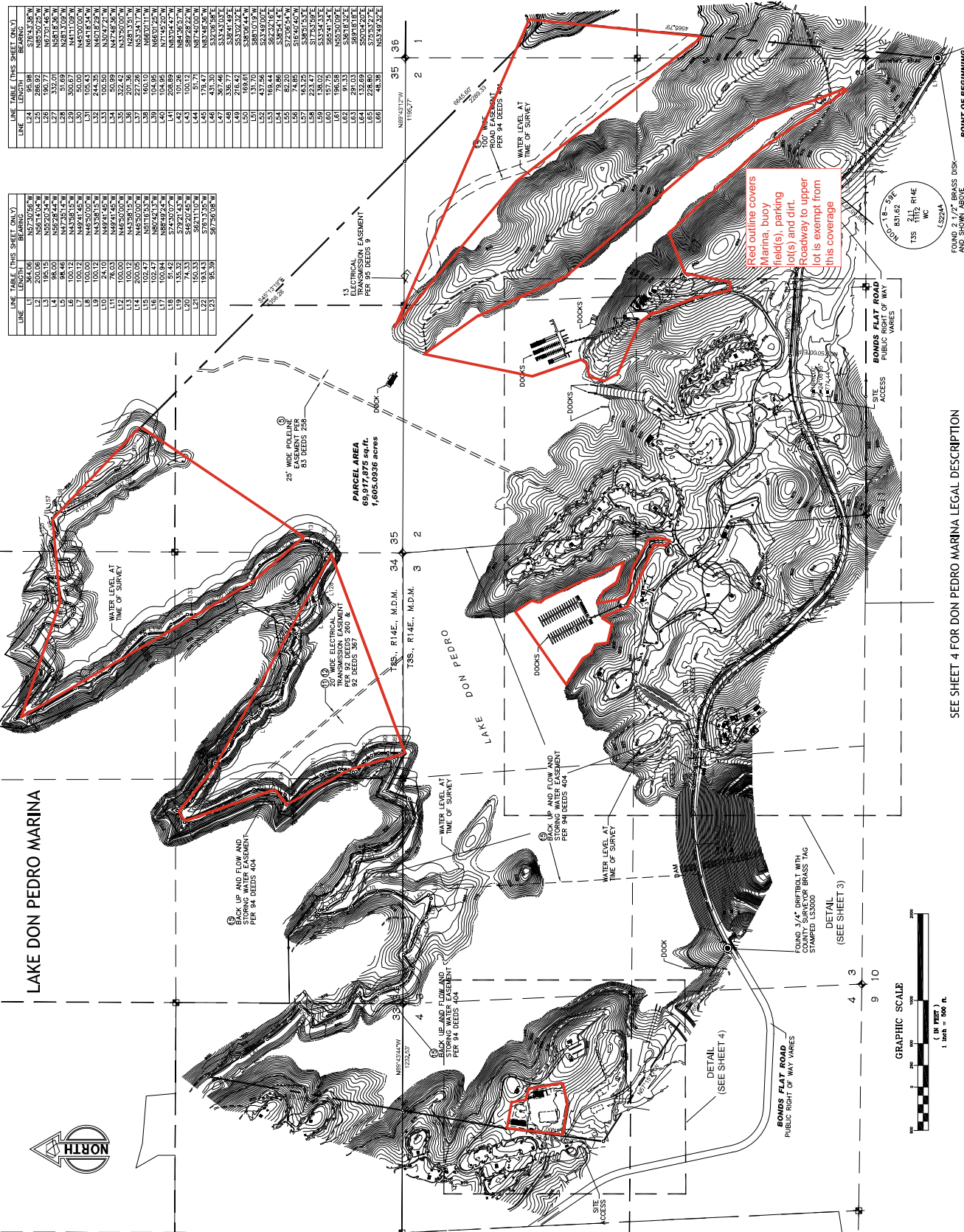
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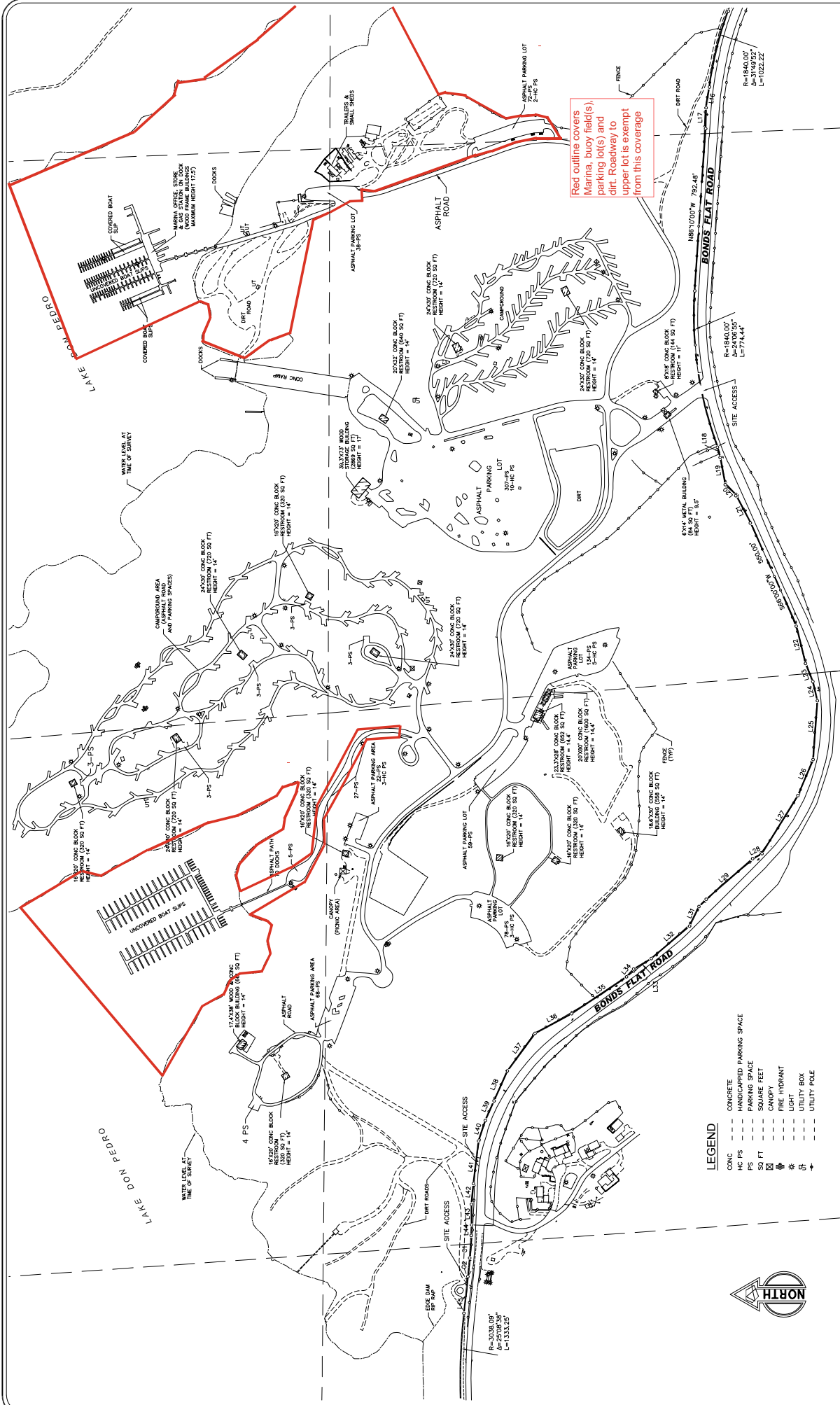
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12/17/15 10:00:00 AM 2015 Lake Don Pedro Marina Legal Description



LAKE DON PEDRO MARINA

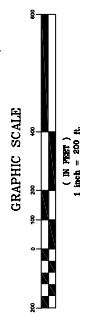




Red outline covers Marina, buoy field(s), parking lots) and dirt. Roadway to upper lot is exempt from this coverage

IMPROVEMENTS DETAIL
 SCALE 1"=200'

- LEGEND**
- CONC --- CONCRETE
 - HC PS --- HANDICAPPED PARKING SPACE
 - PS --- PARKING SPACE
 - SQ FT --- SQUARE FEET
 - CANOPY
 - FIRE HYDRANT
 - LIGHT
 - UTILITY BOX
 - UTILITY POLE



Attachment 3

CONFIRMATION OF EFFECTIVE DATE

_____, 20__

Re: SECOND AMENDMENT TO CONCESSION LEASE AGREEMENT dated _____, 202~~6~~⁵, between the Turlock Irrigation District and Modesto Irrigation District (collectively, the “Don Pedro Recreation Agency” or “Agency”) and Don Pedro SMI, LP, a Delaware limited partnership, and Don Pedro SMI Opco, LP, a Delaware limited partnership (collectively, “Concessionaire”). Capitalized terms used herein but not defined shall be given the meanings assigned to them in the Lease.

Agency and Concessionaire agree as follows:

1. **Effective Date.** The Effective Date as defined in the Second Amendment is _____, ~~2025~~²⁰²⁶.
2. **Expiration Date.** The term (subject to any options to extend in the Lease) is scheduled to expire on _____, 20__, which is the last day of the 30th year following the Effective Date.
3. **Binding Effect; Governing Law.** Except as modified hereby, the Lease shall remain in full effect and this letter shall be binding upon Agency and Concessionaire and their respective successors and assigns.

AGENCY:

TURLOCK IRRIGATION DISTRICT

By:
Name:
Title:

MODESTO IRRIGATION DISTRICT

By:
Name:
Title:

CONCESSIONAIRE:

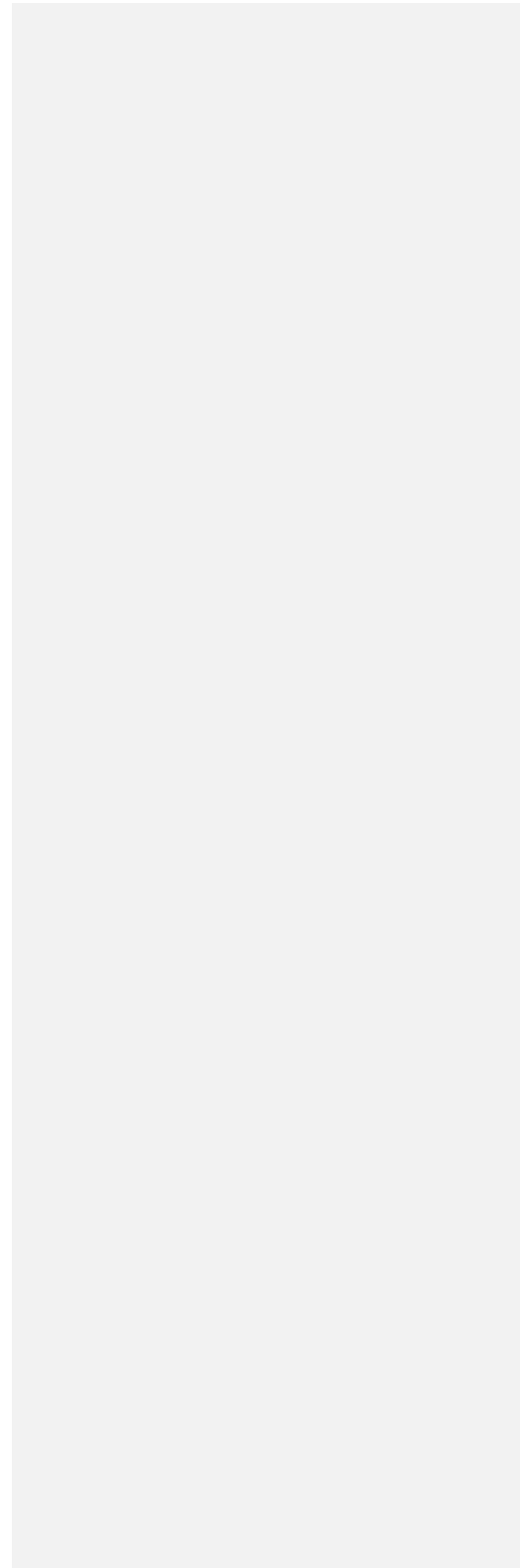
DON PEDRO SMI, LP,
a Delaware limited partnership
By: SMI CA PropCo Holding, LLC,

a Delaware limited liability
company, its general partner

By:
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Title:

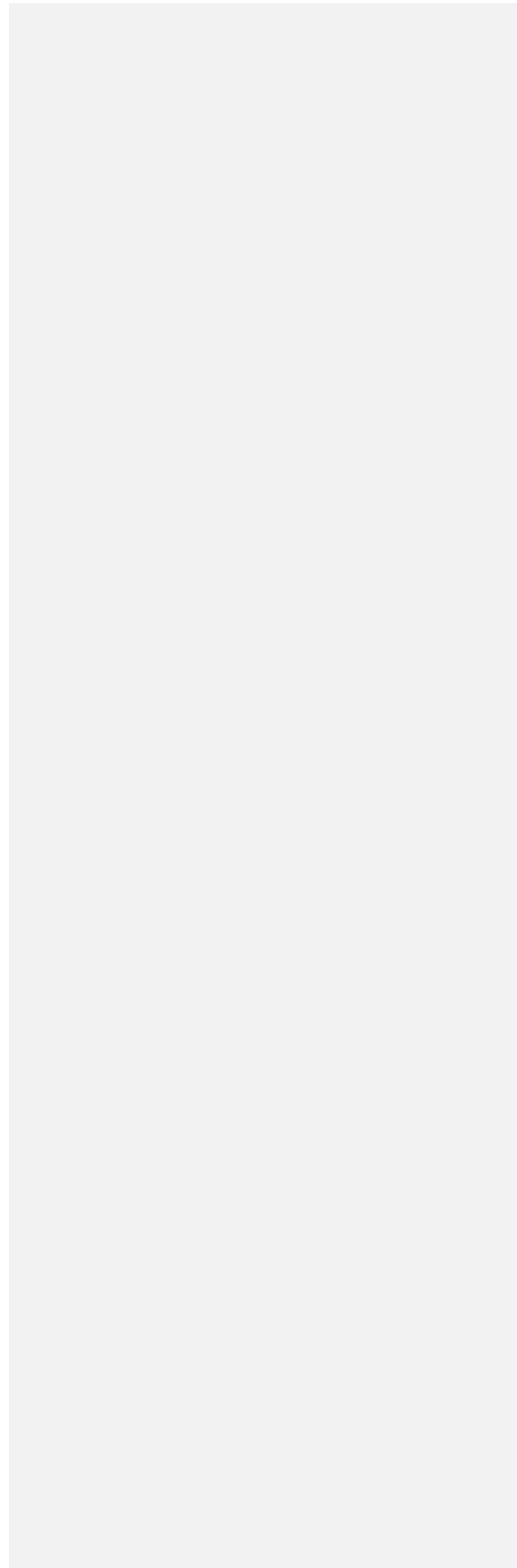
DON PEDRO SMI OPCO, LP,
a Delaware limited partnership
By: SMI CA OpCo Holding, LLC,
a Delaware limited liability
company, its general partner

By:
Name:
Title:



Attachment 4

Snack Shack Repairs Scope of Work



November 4, 2024

Lake Don Pedro Snack Shack

11500 Bonds Flats Road

LaGrange, CA 95329



WWW.TORRE REICHCONSTRUCTION.COM
 219 N. BROADWAY AVE. PHONE (209)668.8721
 TURLOCK, CA 95380 CSL # 625297

Job Walk 10/31/24

BUDGET

LINE ITEM DESCRIPTION		
	Sq. Ft.	658
Non-Work Stage/General Conditions		
Building permit	By Owner	
Plan Check	By Owner	
Plans (Design Docs)	By Owner	
Plans (Construction Docs)	By Owner	
Interior Design	NA	
Health Dept plan review fees	TBD	
Title 24	NA	
Elect. Conn.	Existing	
Title 24 Commissioning	By Owner	
Temporary Portable Restroom	Existing	
Scaffold set up and breakdown	\$1,000.00	
Rentals(Scaffold, generators lifts, etc.)	\$600.00	
Course of Construction ins.	\$0.00	
Demo	\$2,880.00	Siding, griddle, fryer, Non working appliances, Swamp Cooler
Dump fees	\$1,800.00	
Interior Windows (glass only)	\$0.00	
Exterior Siding and Trim Labor Install	\$5,040.00	Install new concrete board and back siding over existing wood siding damaged by woodpeckers
Exterior Siding and Trim Material	\$3,500.00	
Roofing (L&M)	\$0.00	
Plumbing	\$315.00	Pick up and install new Faucet
Plumbing Fixtures	\$120.00	New Hand Sink Faucet
Water heater	\$0.00	
Electrical	\$500.00	Run power to new Minisplit system.
HVAC	\$7,500.00	New Mini Split system with Two-12000 BTU units
Exterior Doors	\$0.00	
Exterior Door Hardware	\$0.00	
Exterior Doors/Hdwr install labor	\$0.00	
Insulation-S/W/R	\$0.00	
Sheet Rock	\$0.00	
Interior Trim and Doors	\$0.00	
Interior Door Hdwr	\$0.00	
Int Door/Hdwr install labor	\$0.00	
Cabinets/Millwork	\$1,100.00	Repairs to existing cabinets as discuss with Brooke at job walk 10/31/24
Counter Tops-Laminate	\$5,920.00	74 sq. ft. \$80 a sq. ft.
Lighting Material	\$0.00	
Appliances	\$5,500.00	36" Griddle, Double Fryer
Appliances Install	\$1,350.00	
Double Refrigerator Motor Replacement	\$1,345.00	Remove and Install new cooling unit in existing double refrigerator.
Paint - Int	\$3,500.00	
Paint - Ext	\$3,200.00	
ADA signage	TBD	
Fiberglass Reinforced Plastic(FRP)	\$0.00	
Floor Covering Materials	\$900.00	New Epoxy Paint
Floor Covering Labor	\$2,000.00	Sand, prime and install new epoxy floor coating.
New floor grate	\$150.00	Custom Made.
Fire Extinguishers	TBD	
Final Clean	\$750.00	
Dump Fees	\$1,500.00	
Detailing/Warranty	Included	
LINE ITEM SUBTOTAL	\$50,470.00	
Supervision	\$2,523.50	
Overhead	\$7,570.50	
Contractor Fee	\$5,047.00	
TOTAL COST	\$65,611.00	

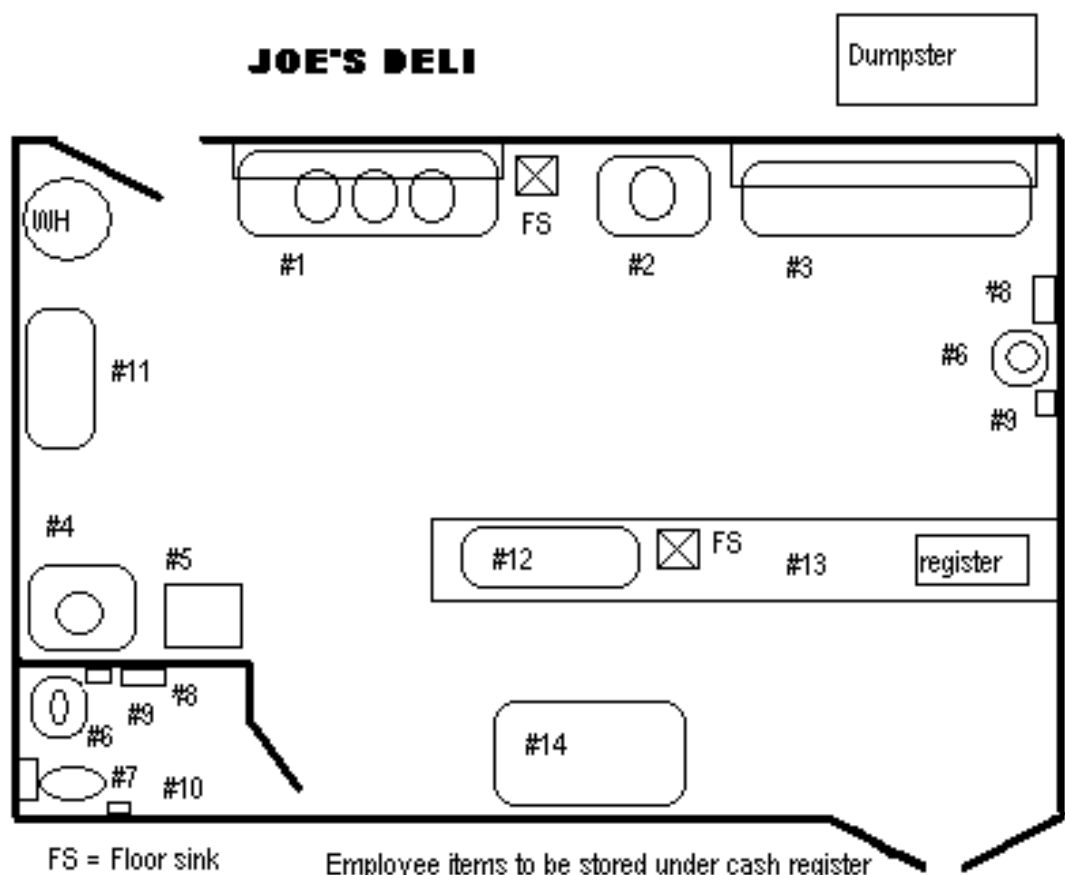
Attachment 5

Tuolumne County Environmental Health Division
Food Facility Plan Check Guide

Food Facility Plan Check Guide

(This is a sample only)

- #1 - 3-compartment sink
h&c water
indirect drain
- #2 - Prep sink
h&c water
indirect drain
- #3 - Deli refrigerator
indirect drain
- #4 - mop sink
h&c water
(vacuum breaker faucet)
- #5 - chemical storage
- #6 - hand sink
h&c water
- #7 - toilet
- #8 - paper towel dispenser
- #9 - soap dispenser
- #10 - toilet paper dispenser
- #11 - 2 door upright refrig.
self-contained
- #12 - undercounter freezer
indirect drain
- #13 - service counter
- #14 - upright 'Pepsi' refrig.
self-contained



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ENVIRONMENTAL HEALTH DIVISION
PLAN CHECK GUIDE
CONSTRUCTION REQUIREMENTS FOR RETAIL FOOD FACILITIES:

OVERVIEW:

This guide is based on requirements found in the California Retail Food Code (CRFC), Part 7 of the California Health and Safety Code. It is intended to serve as a general overview of the plan and construction requirements, and should not be considered all-inclusive. Please refer to the most current revision of CRFC for additional requirements and details. The most current revision of CRFC is under “Consumer Protection”, on our County website, www.tuolumnecounty.ca.gov. The website for The California Conference of Directors of Environmental Health, www.ccdeh.com, also has guidelines which may be of value to you.

This guide only encompasses the health aspects of construction, and should not be construed to include requirements of other agencies involved, such as the local Planning and Zoning Divisions, the local Building and Safety Division, the local Fire Prevention Division, and the local Water District. Contact the appropriate local agencies involved to obtain any permits and/or to clarify other local codes.

HOW LONG DOES THE PLAN REVIEW PROCESS TAKE?

Within twenty (20) working days (CRFC – 114380), you will be sent a letter indicating that the plans are approved or rejected. If the plans are rejected, the letter will include details on what needs to be changed or submitted in order to obtain approval.

Before commencing construction, approvals must be obtained from this Division, the local Building Official, and any other applicable authorities. If any changes to the approved plans become necessary, revised plans shall be submitted for review and approval prior to construction.

It is a misdemeanor to construct or remodel a food facility without approval from your local Environmental Health Division (CRFC – 114380), as it is to operate a food facility without a permit (CRFC – 114387).

Food is defined as “a raw, cooked, or processed edible substance, ice, beverage, an ingredient used or intended for use or for sale in whole or in part for human consumption, and chewing gum” (CRFC – 113781), and a food facility is “an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level...” **This definition includes giving food away free of charge.** Storage areas for food related utensils, equipment, and materials are also considered to be a food facility (CRFC – 113789) if these items are used by a food facility. The following are examples of food facilities: a school cafeteria (public and private), a bed and breakfast inn, a licensed healthcare facility serving food, a commissary, any type of mobile food facility, a temporary food facility, a farm stand (CRFC – 114375), a certified farmers’ market (CRFC – 114370), a vending machine which handles open food or potentially hazardous food, a restaurant, a deli, a grocery store, a bar, etc.

CONSTRUCTION PLAN APPROVAL PROCEDURE

BEFORE YOU BEGIN CONSTRUCTING, ENLARGING, ALTERING OR CONVERTING ANY BUILDING FOR USE AS A FOOD FACILITY, PLEASE BE ADVISED OF THE FOLLOWING:

1. Submit two (2) complete sets of plans to ¼" scale, menu and list of food purveyors, and equipment specifications sheets to this Division. Plans to other agencies may be submitted at the same time. However, other agencies will not approve the plans until Environmental Health approves the plans.
2. Incomplete plans will slow down approval.
3. Once the plans are approved, it is your responsibility to contact our Division to schedule a 75% inspection, which is when flooring and plumbing are complete. A set of approved plans is to be kept on the jobsite until the facility obtains our Division's final approval. It is your responsibility to come to our office to obtain the approved plans. Our Division keeps the other set of approved plans.
4. A final inspection will be conducted once construction is complete. At this inspection, the facility is to be ready to open though no food is to be onsite. All refrigerators and hot hold units are to be running and holding temperature; all soap and paper towel dispensers are to be full; hot and cold water are to be available; pass through windows are to function, etc. If the facility is not ready (e.g., a piece of equipment is not holding temperature), an additional inspection will have to be conducted at our current hourly fee.
5. Any revisions to the original approved plans, including a change in equipment, shall be submitted to this Division for approval prior to the change being done. This may also incur an additional fee if the changes were not required by our Division.
6. Once the facility is approved by this Division, other agencies then approve the facility. When all agencies have approved the facility, an Environmental Health Permit to Operate a Food Facility will be issued once a permit application is submitted with the permit fee.

Do NOT alter a food facility without approval from this Division.

Do NOT construct a food facility without approval from this Division.

Do NOT sell or give away food to the public without approval from this Division.

Do NOT install new equipment without approval from this Division.

CONSTRUCTION PLAN SUBMITTAL REQUIREMENTS

Plans shall be easily readable, drawn to ¼” scale, and shall include:

1. Complete floor plan with plumbing, electrical, lighting and equipment details. Demolition plans may be required for the proposed remodel of an existing facility.
2. Type of comfort cooling in the building, e.g. “building is cooled by refrigerated air conditioning,” or “evaporative cooling,” and locations of vents and restroom exhaust fans. (Note: The corresponding Building Official, not this Division, reviews the complete mechanical exhaust system and make up air).
3. Finish schedule for floors, walls, and ceilings that indicate the type of material, the surface finish, and the type and dimensions of covered base at the floor-wall juncture.
4. A site plan including proposed waste storage receptacle location. If applicable, this is to include location of common use restrooms, janitorial facilities, and the On-site Management office.
5. Equipment manufacturer’s specification sheets.
6. Copy of the proposed menu and list of food purveyors.
7. Source of potable water and method of sewage disposal.

CONSTRUCTION REQUIREMENTS

The plans shall show and specify the following in detail:

1. **FULL ENCLOSURE:** (CRFC – 114266)
 - Each permanent food facility shall be fully enclosed in a building consisting of permanent floors, walls, and an overhead structure that meet the minimum standards as prescribed by this document.
 - Remote storage rooms that do not open into the food facility are therefore not approved.
 - Doors to the outside are to be self-closing, open out, and close with gaps not to exceed 1/8” in order to exclude insects.
 - Refer to sections titled “Windows” and “Doors” for more information.
2. **FLOORS:** (CRFC – 114268) Refer to “Accepted Flooring Materials for Food Facilities”
 - Areas in a food facility requiring approved flooring are all areas in which food is prepared, prepackaged, or stored, where any utensil is washed, where refuse or garbage is stored, where janitorial facilities are located, in all toilet and hand washing areas, except with respect to areas relating to guestroom accommodations and the private accommodations of owners and operators in restricted food service facilities*, shall be smooth and of durable construction and nonabsorbent material that is easily cleanable. * Commonly referred to as a “bed and breakfast inn”.
 - At least 3 feet of approved flooring is required around buffets, salad bars, drink stations, etc. in dining areas.
3. **COVINGS:** (CRFC – 114268)
 - Coving is the floor material found at the base of the walls (wall/floor junctures) and equipment toe-kicks. Toe-kicks include the bases of counters, cabinets, salad bars, and other floor mounted equipment (including floor-mounted mop sinks) that is not placed on approved legs or casters.
 - The floor material must extend at least 4 inches with a minimum 3/8-inch radius at the wall/floor junctures.

- Areas that requires coving: food preparation, storage, handling, and packaging areas, utensil washing and storage areas, interior waste disposal areas (garbage, refuse, grease), restrooms, hand washing areas, janitorial facilities, walk-in refrigerator and freezer units (inside and outside), bars (employee side), customer self-serve area (salad bars, buffets, and beverage stations), service stations.
- Integral coving is not required in areas used exclusively for dining, point-of-sales, or the storage of utensils or foods contained in the original un-opened containers.

4. **FLOOR DRAINS:** (CRFC – 114269)

- Floor drains shall be installed in floors that are water-flushed for cleaning and in areas where pressure spray methods for cleaning equipment are used.
- Floor surfaces in these areas shall be sloped 1:50 toward the floor drains.
- Other agencies may also require floor drains, even in areas where floors are not water-flushed or where equipment is not pressure sprayed for cleaning.
- Please refer to section 15. Installation of Equipment, subsection Walk-In Refrigeration regarding trench drain requirements for diamond plate flooring.

5. **WALLS & CEILINGS:** (CRFC – 114271)

- Walls and ceilings shall be of a durable, smooth, non-absorbent, easily cleanable surface except: dining rooms, locker rooms, restrooms used only by consumers, offices, rooms holding only unopened foods or unopened utensils, and alcohol bar walls not adjacent to sinks or food preparation, are to be approved by this Division.
 - Though exempt from explicit approval, restrooms used by consumers and afore-mentioned storage rooms are to have walls and ceilings which are durable and cleanable.
- Acceptable wall and ceiling finishes include the following:
 - Gloss, semi-gloss, or epoxy paint
 - Fiberglass reinforced paneling (FRP)
 - Marlite paneling
 - Ceramic or porcelain tile
 - Steel
 - Clear acrylic panels (such as to allow original rock walls in older buildings to remain visible).
- Conduits of all types shall be installed within walls as practicable. When otherwise installed, they shall be mounted or enclosed as to facilitate cleaning (e.g., between 1/2-inch to 2 inches from the wall, and 6 inches above the floor surface)
- Paneling is not to be installed in walk-in refrigeration units with wood walls, or behind dishwashers or sinks, except for janitorial sinks.
- Ceilings requiring approval are not to have any beams which can accumulate dust. Acoustical ceiling tiles are to be installed at least 6 feet above the floor, and not have perforations which go through the panel.
- No ceiling fans, or equipment or ornamentation which can accumulate dust is to be on ceilings or walls requiring approval.

6. **LIGHTING:** (CRFC – 114252, 114252.1)

- In every room and area in which food is prepared, manufactured, processed or prepackaged, or in which utensils are cleaned, sufficient natural or artificial lighting shall be provided to produce the following light intensity while the area is in use:
 - At least 10-foot candles at a distance of 30 inches above the floor in walk-in refrigeration units and dry food storage areas.
 - At least 20-foot candles at a distance 30 inches above the floor where food is provided for customer self-service; where fresh produce or prepackaged foods are sold or offered for consumption; inside equipment such as reach-in and under-counter refrigerators; hand washing areas; ware washing areas; equipment and utensil storage areas; and in toilet rooms.

- At least 50-foot candles at surfaces where a food employee is working with food or with utensils, equipment such as knives, slicers, grinders, or saws where employee safety is a factor; and in other rooms during periods of cleaning.
- Light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there are non-prepackaged ready-to-eat foods, clean equipment, utensils and linens, or unwrapped single-use articles.

7. **VENTILATION and EXHAUST:** (CRFC – 114149-114149.3)

- Fume hoods are sized and required by the corresponding Building Official and Fire Prevention Division. They will ensure proper ventilation throughout the entire facility.
- Mechanical exhaust ventilation equipment shall be provided over all cooking equipment as required to effectively remove cooking odors, smoke, steam, grease, heat, and vapors. All mechanical exhaust ventilation equipment shall be installed and maintained in accordance with the California Mechanical Code, except that for units subject to Part 2 (commencing with Section 18000) of Division 13, an alternative code adopted pursuant to Section 18028 shall govern the construction standards
 - Cooking equipment which is fume hood exempt may be required to have a hood if a facility has more than three such pieces of equipment. Fume hood exempt equipment includes bread proofers, steam tables used only for hot holding, electric rice cookers, and electric convection ovens with less than 220v.
 - Fume hoods will be required for open flames and for certain equipment which generates oil/grease, and for ware washing machines which are not “hoodless, meaning that they condense steam through the use of cold water.
- Makeup air is to equal air mechanically exhausted.
- Restrooms are to have a light-switch-activated exhaust fan, an air shaft, or a screened window which can open, and has a sixteen (16) mesh per square inch screen. Venting is to be to the outside.

TEMPERATURE CONTROL:

- Ambient temperature of the facility shall be controlled to maintain employee comfort, to maintain refrigeration units functioning properly, and to maintain canned and jarred foods.
- Please note that commercial refrigerators are often rated to work in maximum ambient temperatures of 84°F, and the FDA states that canned and jarred foods are best kept at or below 85°F, but above freezing. A statement regarding how ambient temperature will be controlled is required, and the locations of vents is to be shown on the plans.

8. **WINDOWS:** (CRFC – 114259-114259.2)

- To prevent the entry of flies, dust, and other undesirable conditions into the food facility, all openable windows located anywhere in the facility opening to the outside are required to be screened.
 - All windows which can open to the outside shall be provided with approved screening not less than sixteen (16) mesh per square inch set-in tight-fitting frames.
- **Pass through window service openings:**
 - Service openings without an air curtain shall be limited to two hundred-sixteen (216) square inches each.
 - Each opening shall be provided with a solid or screened window, equipped with a self-closing device.
 - Screening shall be at least sixteen (16) mesh per square inch. Pass through windows up to four hundred thirty-two (432) square inches are approved if equipped with an air curtain device.
 - The air curtain shall produce an airflow of not less than eight (8) inches thick at the discharge opening, and not less than six hundred (600) feet per minute across the entire opening, as measured three (3) feet below the air curtain.

- The window openings must be closed when not in use, and the air curtain shall turn on automatically when the window or screen is opened.
- The minimum distance between any pass-through windows shall not be less than eighteen (18) inches.
- Food facilities with walk-up windows, rather than drive-up windows which have a speaker system, should consider having a screened window to speak to customers so that the window is open only while food and payment are exchanged.

9. **DOORS:** (CRFC – 114259, 114259.1)

- All food facilities must be constructed and equipped to prevent the entrance and harborage of animals, birds, and vermin including, but not limited to rodents and insects.
- All entrances leading to the outside shall be tight fitting, open outward and be self-closing to effectively prevent the entrance of insects and rodents.
 - These include 16 mesh or better screen doors, and shall be self-closing, tight-fitting with gaps no greater than one-eighth inch (1/8”), vermin proof, and open out. Air curtains may be used as auxiliary fly control but are **not** adequate substitute devices to permit a door to remain open
- Delivery doors leading to the outside shall open outward, be self-closing and be equipped with an air curtain.
- For delivery doors that are four feet in width or less, the air curtain must produce an airflow not less than eight inches thick at the nozzle and with an air velocity of not less than 750 feet per minute across the entire opening, as measured at a point three feet above the floor.
- For delivery doors wider than four (4) feet, the air curtain must produce an airflow not less than eight (8) inches thick at the nozzle and with an air velocity of not less than 1600 feet per minute across the entire opening, as measured at a point three feet above the floor.
- Large cargo-type doors shall not open directly into the food preparation or utensil washing area, and like all doors to the outside, are not to have any gaps greater than 1/8”. Cargo-type doors that open into any food warehouse or food facility may only be open during deliveries.

10. **VERMIN CONTROL:**

- In addition to the window and door requirements listed above, some facilities, because of their location, need additional fly control.
- Fly control can be accomplished by the use of a fly light with a pheromone. These lights enclose and adhere the fly, and the adhesive board is discarded and replaced. These lights are mounted to have a clear drop to the floor.
- A pest control professional can best assist in determining where to place these lights. The placement of electrical outlets for these lights has to be taken into account during the plan’s submittal process.
- Alternative vermin control methods may be approved.

11. **EXTERIOR VENTS and CONDUITS:** (CRFC – 114271)

- Gaps around conduits leading to the outside, or other such openings, shall be tightly sealed.
- This requirement is intended to facilitate cleaning and eliminate vermin harborage.
- Spaces around pipes, conduits, or hoses that extend through cabinets, floors, or outer walls shall be sealed. The closure shall be smooth and easily cleanable.

12. **GARBAGE AREA:** (CRFC – 114244, 114245-114245.5)

- Each food facility shall be provided with facilities and equipment necessary to store or dispose of all waste material.
- If provided, an outdoor storage area or enclosure used for refuse and recyclables, shall be constructed of nonabsorbent material such as concrete or asphalt and shall be easily cleanable, durable, and sloped to drain. Because spilled fryer oil digests asphalt, bins for used oil require a concrete pad.

- Check with local Zoning and Planning Division determine if an outdoor area may be use.
 - If an outdoor area is not available or not approved by the local Zoning and Planning Division, then an indoor area is to be designated away from food and food contact surfaces. This indoor area is to have approved flooring with coving, walls, and ceilings.
- A restroom or employee storage area may not be used for waste.

13. **TOILET FACILITIES:** (CRFC – 114250, 114276)

- Clean toilet rooms in good repair shall be provided and conveniently located and accessible for use by employees during all hours of operation.
 - In food facilities constructed on or after January 1, 2004, at least one public accessible restroom must be provided when there is on-site consumption of food or beverages.
- Public toilet facilities are also required for food facilities larger than 20,000 square feet.
- Toilet facilities shall be part of the building within the food facility.
- Each permanent food facility shall be provided with toilet rooms for employees. The number of toilet and handicapped facilities required shall be determined by the local Building Official. Toilet rooms shall have well-fitted, self-closing doors, and shall not open into areas of food or utensil handling or storage.
- Toilet tissue shall be provided in a permanently installed dispenser at each toilet.
- Toilet facilities are to have handwashing facilities, in good repair.
- Separate toilet facilities for men and women shall be provided for customers, guests, or invitees, when the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space (CRFC – 114276).
- Food facilities constructed **before January 1, 2004, in continuous operation since January 1, 2004**, which provide space for the consumption of food on the premises, shall provide toilet facilities for customers, guests or invitees, or prominently post a sign within the food facility in a public area stating that toilet facilities are not provided. These facilities, if provided, shall be located where customers, guests, and invitees do not pass through food preparation, food storage, or utensil washing areas to reach the toilet facilities. (CRFC – Chapter 9, Article 2).
- Signs directing employees to wash their hands after using toilet facilities must be conspicuously posted.

14. **EMPLOYEE STORAGE AREAS:** (CRFC – 114256, 114256.1)

- An area for employees to eat, drink, and store personal belongings is required.
- This area shall not be where contamination of food, equipment, utensils, linens, and single-use articles can occur.
- Employee storage may consist of shelves, coat hooks, and/or lockers.
- Dressing rooms or dressing areas shall be provided and used by employees if the employees regularly change their clothes in the facility.
- Because aprons are to be removed when entering the restroom or stepping outside, hooks are strongly recommended in these areas to encourage compliance. Facilities with more than 10 employees per shift are required to have at least a 20 square foot employee storage room, and 2 square feet for each additional employee.

15. **FIRST AID SUPPLIES:** (CRFC – 114256.5)

- These are to be stored in a kit or a container that is located to prevent the contamination of food and food related items, and are to have a legible manufacturer's label.

16. **EQUIPMENT STANDARDS:** (CRFC – 114130, 114130.1)

- All equipment shall be designed and constructed to be durable and to retain its characteristic qualities under normal use conditions.
- All new and replacement food- related and utensil-related equipment shall be certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program.

- In the absence of an applicable sanitation certification, unique or special equipment may be evaluated for approval by this Division.
 - All materials that are used in the construction of utensils and food contact surfaces of equipment shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food, and under normal use conditions shall be safe, durable, corrosion-resistant, nonabsorbent, sufficient in weight and thickness to withstand repeated washing, finished to have a smooth, easily cleanable surface, and resistant to pitting, chipping, crazing, scratching, scoring, distortion and decomposition.
 - All floor mounted equipment shall be placed on minimum six (6) inch high, metal legs or completely sealed in position on a four (4) inch high continuously-coved base or concrete curb, or on approved casters or cantilevered from the wall in an approved manner.
 - Counter top equipment shall be sealed to the countertop or elevated on four (4) inch high round metal legs unless equipment can be readily movable by an employee for cleaning.
17. **SINKS:** (CRFC – 113952, 113953-113953.5, 114192, 114192.1, 1142520, 114250.1, Chapter 7, Articles 1 and 2, 114163, 114099, 114103, 114101, 114103, 114279, 114281, 114282)
- Food facilities which handle only pre-packaged foods (sold to the customer without ever having been opened by the food facility staff), both potentially hazardous and non-potentially hazardous, are required to provide only hand washing sinks for toilet facilities, as outlined below. All other food facilities are required to provide hand sinks in addition to all other sinks as prescribed below.
 - All sinks are to be able to provide hot (at least 120°F, at a constant pressure for at least 15 seconds) and cold (not tempered) running water to each compartment, with the exception of hand sinks as described below.
 - Except for hand sinks and janitorial sinks, all sinks in a food facility are to drain into a floor sink through a one-inch air gap
 - Except for hand sinks in customer restrooms, sinks are not to be set into counters.
 - Stainless steel sinks may be integral with stainless steel counters.
 - Sinks are to be secured and sealed to a wall.
 - The gap between the wall and the sink is not to exceed one millimeter.
 - Handwashing sinks shall be separated from the ware washing sink by a metal splashguard with a height of at least six inches that extends from the back edge of the drainboard to the front edge of the drainboard, the corners of the barrier to be rounded. No splashguard is required if the distance between the sinks are 24 inches or more.
 - Janitorial sinks (described below) are to have a minimum 6-foot high partition when located in a room where contamination of food, linens, or utensils may occur.
 - As all equipment, all sinks, except for hand sinks in restrooms used by customers, are to meet ANSI standards or be ANSI approved.

Hand Washing Sinks:

- Food facilities constructed or extensively remodeled after January 1, 1996, which handle non-prepackaged food, shall provide facilities exclusively for hand washing in the food preparation areas and in ware washing areas which are not located within or immediately adjacent to food preparation areas.
- Hand washing sinks are to be provided for toilet facilities, as prescribed under section 11, titled “Toilet Facilities”, of this document.
- Hand washing facilities shall be sufficient in number and conveniently located, maintained clean, unobstructed and accessible at all times for use by food employees.
- Hand washing sinks are to be used exclusively for hand washing.
- Hand washing sinks shall have water provided from a combination or premixing faucet which supplies pressurized warm water for a minimum of fifteen (15) seconds while both hands are free for washing. Combination faucets are to provide cold and hot (at least 120°F) water, while premixing faucets are to be set to deliver warm (100°F to 108°F) water.

- Hand washing facilities shall be provided with hand washing cleanser in a pump dispenser, and sanitary single-use towels in an enclosed dispenser or a heated-air hand drying device.
- A sign or poster that notifies food employees to wash their hands shall be posted at all times at all hand lavatories used by food employees and shall be clearly visible to food employees.
- A separate, approved hand sink must be installed within each section of a food facility that handles unpackaged food (i.e. deli, meat, sushi bars, etc.)

Food Preparation Sink:

- Food facilities are required to have a separate stainless steel sink for washing, rinsing, soaking, thawing, or similar preparation of foods, if applicable, and this sink shall be located within the food preparation area.
- The sink tub dimensions shall be at least 18" x 18" by 12" deep. An 18" x 18" integral drain board is to be provided. An adjacent work table of similar dimensions may be substituted for the drain board.
- Food preparation sink is to be situated in a manner protected from potential sources of cross-contamination

Manual Ware Washing Sink:

- All food facilities in which food is prepared or in which multi-service utensils or equipment are used shall provide a three-compartment ware washing sink with two integral metal drain boards.
- The tub compartments shall be large enough to accommodate immersion of the largest piece of equipment and utensils.
- A sprayer may be provided in addition to or in place of a faucet.
- The manual ware washing sink shall be easily accessible and conveniently located to the food preparation area.
- Sinks requiring drain boards and ware washing machines with drain boards are to have the drain boards installed sloped to drain toward the sink or ware washing machine. Drain boards and adjacent racks or tables for air drying sanitized utensils or holding soiled utensils are to be adequate in size to accommodate the accumulation of utensils that will occur during peak demand.

Bar Sink (Ware Washing):

- A three-compartment bar sink with two integral metal drain boards shall be provided in bars, and are to be large enough to accommodate the largest utensil washed.
- This sink is to be installed in the same manner as prescribed above for a manual ware washing sink.
- A dishwasher may be installed at a bar in place of this three-compartment sink if the facility has a three-compartment sink elsewhere, such as in the kitchen.
- A bar sink is required not only at stand-alone bars, but at bars within a food facility if there is seating at the bar.

Sprayer Sinks:

- These are the only sinks which may have a garbage disposal attached.
- These sinks are installed as the first step in utensil washing and are installed at the entry point to a ware washing machine or before a drain board (not in the drain board) into the first compartment of a three-compartment sink. These sinks have a high-pressure nozzle on a hose
- When installed at the entry point to a ware washing machine, these sinks may be provided with metal bars over the sink compartment so that the ware washing machine racks rest on these bars while the utensils in the rack are rinsed before going into the ware washing machine.

Ware Washing Machines:

- All automatic ware washers (dishwashers and glass washers) must be commercial units that are certified for sanitation by an ANSI accredited certification program and must drain to a floor sink or

other approved method. Mechanical ware washing shall be accomplished by using an approved machine installed and operated in accordance with the manufacturer's specifications

- All spray dishwashers and glass washers which are designed for a hot water sanitizing shall be provided with a booster heater that meets sanitation standards by being cycled through equipment that is used in accordance with the manufacturer's specifications and achieving a utensil surface temperature of 160°F as measured by an irreversible registering temperature indicator.
- Ware washing machines are to have a passive hood or be "hoodless."
- The ware washer must also be provided with thermometers and pressure gauges to indicate the proper water flow pressures and temperatures.
- Sanitizing agents shall be provided with the appropriate testing methods such as color test strips.
- Ware washing machines shall have two integral drain boards that are of adequate size and construction to each accommodate at least one ware washing tray or be installed adjacent to a three-compartment sink so that this sink's drain boards can act as the ware washing machine's drain boards.
- **Installation of a mechanical ware washing machine does not eliminate the requirement for a three-compartment sink.**

Rinse/Work Sink:

- A single compartment rinse/work sink may be provided in service areas where blenders or similar equipment are rinsed, and the three-compartment sink is not located within the area.
- NOTE: A Rinse/work sink will not be a substitute for the requirement of a three-compartment sink.
- A rinse/work sink is not required, but if installed is to drain indirectly, and is not to be used as a dump sink (Please see below).

Dump Sink:

- A single compartment dump sink is generally installed in bars (coffee bars, smoothie bars, and alcohol bars) for the emptying of the contents of used pitchers and glasses.
- A dump sink differs from a rinse/work sink in that an assumption can be made that the beverage being disposed of has been handled by customers.
- A funnel with a tube leading to a floor sink may also be used for this purpose. A dump sink is not required, but if installed is to drain indirectly, and is not to be used as a rinse/work sink.

Janitorial Sink:

- Food facilities must provide a janitorial sink for general cleaning purposes and the disposal of mop bucket and other cleaning waste.
 - A one-compartment, wall-mounted janitorial sink or a floor mounted janitorial sink, or a curbed area (properly sloped to a drain) with an effective height of no more than thirty (30) inches, that has hot and cold running water through a mixing faucet, with an approved backflow-prevention device, shall be installed for general cleanup activities.
 - A slab, basin, or curbed cleaning facility constructed of concrete or equivalent material
 - A janitorial sink shall be located within the building, in a separate janitorial room or separated from the rest of the food facility by a solid-wall partition. The partition must be a minimum six feet high, durable, smooth and an easily cleanable surface.
 - A room, area, or cabinet separated from any food preparation, utensil washing, or food or utensil storage area shall be provided for the storage of cleaning equipment and supplies.
- In choosing one of the above types of janitorial sinks, it is important to keep in mind that floor mats washed onsite have to be washed in a janitorial sink, and may not be washed so that wastewater flows out onto the ground or into a storm drain.
- Mops are to be allowed to air dry without staining walls or affecting equipment or supplies.
- Janitorial facilities shall not be required within each food facility if the following conditions are met:
 - Approved common use, readily available janitorial facilities are located within 100 feet and on the same level as each food facility

- The On-site Management office is staffed with personnel responsible for the maintenance of the designated common use janitorial facilities
- Prior approval is obtained from this Division
- Approved common use janitorial facilities are not located in an area that is accessible through another business

Floor Sinks and Troughs:

- Floor sinks are to be installed where they are visible and readily accessible.
- In no instance is an overflow to go unnoticed or soil the floor in an area where it cannot be reached for cleaning.
- Floor sinks are to be partitioned off so that an overflow from the floor sink does not spill under a counter or refrigerator which cannot be readily moved for cleaning.
- This partition is to be made of a nonabsorbent material and be sealed to the floor to preclude the flow of liquid under the equipment or counter.
- A mop sink may act as a floor sink for walk-in refrigeration units and ice machines only.
- A walk-in refrigeration unit may drain onto the ground provided that puddling is prevented through the use of gravel, and there is no risk of freezing a walkway.
- The condensate line's point of discharge is to be screened with 16 mesh.
- No outdoor draining will be allowed in instances where it is determined that the liquid being drained may contact a body of water or any waterway.
- Elevated floor sinks will be considered, as will horizontal air gaps.
- A trough may be required outside of walk-in refrigeration units which have a non-skid floor, such as diamond plate, and in front of tilting soup kettles to facilitate cleaning water disposal.

18. **FOOD and UTENSIL PROTECTION:** (CRFC – 113980, 113990, 114117, 114060, 114065, 114167, 114171, 114077)

- Except for nuts in the shell and whole raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food and utensils (including cups) on display shall be protected from contamination by the use of packaging, counter, service line, dispensers, or sneeze guards that intercept a direct line between the customers' mouth and the food and utensils being displayed.
- Food displayed for customer self-service must be protected from contamination by the installation of a food shield (sneeze guard) or through other effective means.
 - Approved self-service containers are required to have tight-fitting individual lids.
 - Disposable beverage cups, straws or utensils on display for public self-service must be stored for use in sanitary dispensers.
 - The beverage and ice dispensing mechanism are to avoid contact with the beverage or ice once these are dispensed, and with the lip contact surface of the cup.
 - Self-service non-potentially hazardous beverage and ice enclosed dispensers may be on the outside of a food facility if contiguous with the facility, completely under overhead protection, and may be fully enclosed to be vermin proof when not in operation.
- Condiments shall be protected from contamination by kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.
- Beverage tubing and cold-plate beverage cooling devices shall not be installed in contact with stored ice intended to be used for food or beverages.
 - This section shall not apply to cold plates that are constructed integrally with an ice storage bin.
 - Liquid waste drain lines shall not pass through an ice machine or ice storage bin.
- Ice used to cool exterior surfaces, such as cans, bottles, produce, prepackaged foods, or fish, shall not be used in a beverage or in any other food or in contact with utensils to be used with food without first being washed, rinsed, sanitized, and fully air dried.

19. **INSTALLATION OF EQUIPMENT:** (CRFC – 114153, 114169)

- Equipment for cooling and heating food, and for holding cold and hot food shall be sufficient in number and capacity to ensure proper food temperature control during transportation and operation.
 - More than one refrigeration unit, on separate condensers, is strongly recommended, as a facility having only one refrigeration unit will be forced to close and dispose of all foods requiring refrigeration if that unit fails.
 - Facilities which cool foods cooked on site will be required to have more than one refrigeration unit.
- All equipment is to be installed in such a way that it allows for cleaning.
- Equipment that is fixed because it is not easily movable shall be installed so that it is:
 - Spaced to allow access for cleaning along the sides, behind, and above the equipment
 - Spaced from adjoining equipment, walls, and ceilings a distance of not more than one (1) millimeter or on thirty-second (1/32) inch.
 - Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.
- Floor Mounted:
 - All equipment shall be easily movable (e.g., on 4" casters), elevated on rounded legs that provide at least a six-inch (6") clearance between the floor and the equipment, or sealed to a minimum four inch (4") solid masonry island with minimum three-eighths inch (3/8") coved radius.
 - If on an island, it shall overhang the base at least two inches (2"), but not more than the height of the island.
 - Sealing to the floor is acceptable only if no other means are available.
 - Sealing may be done if no gaps between the equipment and the floor exceed one (1) millimeter.
 - Floor tile grout lines may produce larger gaps.
 - Floor-mounted equipment that is not easily moveable shall be sealed to the floor or elevated on legs that provide at least a six-inch (6") clearance between the floor and the equipment.
- Table Mounted:
 - Table-mounted equipment that is not easily movable (i.e., exceeds eighty (80) pounds or three (3) feet in any direction, does not have a utility connection which easily disconnects or is flexible and long enough to allow for cleaning) shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being sealed to the table or elevated on legs that provide at least a four-inch (4") clearance between the table and the equipment.
 - Gaps and spaces between equipment base and top of islands shall be sealed with a non-hardening silicone sealant.
- All equipment flashings and backsplashes are to be adequately sealed to the wall and to abutting equipment or moved away from the wall and each other at least six inches (6") for every four (4) linear feet of equipment frontal length.
- Soldering, welding, approved sealants, or "T" cap molding may be used to meet the requirement of sealing equipment which is exposed to spillage.

20. **REFRIGERATION:** (CRFC – 113885, 114130, 114193)

- Refrigerator and freezer units must be adequate in size to accommodate the storage needs and the proposed operation of the food facility. These needs should take into account the cooling and thawing process of potentially hazardous foods, and catering capacity, where applicable. An excess of capacity is recommended, as it is sometimes difficult to predict the long-term storage needs of a food business.
- Refrigerator and freezer units shall comply with the following requirements:
 - ANSI (American National Standards Institute) Certified for sanitation. Domestic household model refrigeration units will not be accepted.

- Be provided with an accurate, readily visible thermometer.
- Have shelving that is nonabsorbent and easily cleanable (wood not accepted).
- Have smooth, nonabsorbent and easily cleanable surfaces. All joints must be sealed.
- Condensate waste must drain to an approved evaporator or a floor sink with at least a one-inch air gap.
- Be located inside an approved area of the building.
- Refrigeration units may not open into the customer area or directly outside, with the exception of customer self-serve prepackaged refrigeration units.
- Walk-in refrigeration units shall comply with the following requirements:
 - Have an integrally coved base with a radius of at least 3/8 inch at the floor/wall juncture (both inside and outside the unit); the floor material shall extend up to a height of at least four inches on the walls. Four (4) inch approved metal topset coving with a minimum 3/8-inch radius is acceptable against metal wall surfaces. (Wood is not an acceptable interior finish).
 - Have shelving that is at least six inches off the floor with smooth, round, metal legs or be cantilevered, suspended directly from the wall, for ease of cleaning. Wood shelving is not acceptable. Shelving shall be noncorrosive and designed to allow for optimum flow of refrigerated air. Small, easily movable, casted dollies may be used in place of a lower shelf.
 - Have condensate waste drain to a floor sink via an air gap. Floor sinks, floor drains or trench drains are not permitted inside the walk-in refrigeration units.
 - Walk-in refrigeration units shall open into an area with approved finishes within the facility.
 - Be flashed or sealed to walls and/or ceiling as needed to prevent rodent and vermin harborage.
 - Diamond plated flooring is not acceptable unless a trench drain is provided just outside the walk-in refrigeration door, the walk-in floor slopes 1:50 towards the trench drain, and a power wash spray method of cleaning is provided.
 - Plumbing waste receptors, including floor drains, floor sinks, and evaporators are to be located outside of refrigeration units.

21. **STORAGE:** (CRFC – 114047)

- Adequate and suitable space shall be provided for the storage of food.
- Twenty-five percent (25%) of the food preparation area footprint or one (1) square foot per customer seat, whichever is greater, containing at least ninety-six (96) lineal feet of approved shelving for each 100 square feet of required storage area is considered adequate (excluding refrigeration).
- Shelving is to be at least eighteen (18) inches deep.
- Bars serving only alcohol are to have at least seventy-four (74) lineal feet of eighteen (18) inch deep shelving per 100 square feet of required storage area.
- When using racks as shelving, the racks are to have round legs with end caps, have four (4) inch casters or have a six (6) inch clearance, and be smooth and easily cleanable.
 - Racks not on casters are to be placed at least one (1) inch away from the wall.
 - All such shelving is to be ANSI approved.
 - Crates do not provide a six (6) inch clearance, are not easily cleanable, and are not acceptable shelving.
- When using wall mounted or recessed/built in shelving, which are often made of wood, these are to be made smooth and impervious to water through the use of paint or a wood seal such as polyurethane. The back of each shelf is to be sealed to the wall. The lowest shelf is to be no less than six (6) inches above the floor.
- If pallets are to be used, pallet jacks or forklifts should be available for ease of movement.
- Shelving may not be covered with liner or FRP to be made smooth and easily cleanable. Shelving may not be particle board or wafer board, even when sealed.

22. **WALKWAYS:**

- No conduits (electric cords, liquid discharge lines, etc.) are to cross a walkway.
- The corresponding Building Official will determine the width of the walkway, but a minimum of thirty-six (36) inches is currently required by the County of Tuolumne Building and Safety Division.

23. **ELECTRICAL SUPPLY:** (CRFC – 114182)

- Electrical power shall be supplied at all times to operate the approved exhaust, lighting, electric water heaters and refrigeration units, and any other accessories and appliances that may be installed in a food facility

24. **WATER SUPPLY:** (CRFC – 114192)

- An adequate, protected, pressurized, potable supply of hot water at least 120°F measured from the faucet, and cold running water shall be provided from an approved source.
- The potable water supply shall be protected with a backflow or back-siphon device, as required by the local Building Official. Facilities using a private well must meet applicable drinking water standards, which require that the water be tested.
- Any hose used for conveying potable water shall be constructed of nontoxic materials, shall be used for no other purpose, and shall be clearly labeled as to its use. The hose shall be stored and used so as to be kept free of contamination.
- A food facility may provide only warm water if the water supply is used only for handwashing, as required in Section 113953.

25. **WATER HEATER:** (CRFC – 114192, 114195)

- Each food facility shall be provided with its own dedicated water heater.
- Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food facility.
- Where fixtures are located more than sixty feet (60') from the water heater, a recirculation pump must be installed.
- In sizing the water heater, the peak hourly demands for all sinks, ware washing machines, etc., are added together to determine the minimum required recovery rate.
Please refer to our handout titled "Hot Water Heater Sizing Guidelines"

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26. **BACKFLOW PROTECTION:** (CRFC – 114192)

- **Carbonators:** These are to be protected with a reduced pressure principle assembly and a vented double check valve.
- **Janitorial Sinks:** These are to be protected with a permanently installed (non-removable) backflow preventer if the faucet has threads to which a hose can attach.
 - The corresponding Building Official may require this even when there are no threads on the faucet.
 - The faucet is to be installed above the flood rim of the janitorial sink, as directed by the corresponding Building Official.
- **Hose Bibs:** These are to be protected with a permanently installed backflow preventer.

27. **SEWAGE DISPOSAL:** (CRFC – 114193, 114193.1, 114197)

- All ware washing sinks, food preparation sinks, ice machines, dipper wells, and any food equipment which discharges liquid is to drain into a floor sink through a one (1) inch air gap.
- An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than one inch.
- The floor sink is to be within fifteen (15) feet of the equipment which drains into it per the current Universal Plumbing Code, and installed in the floor so that the grate cover fits flush with the floor.

- A mop sink may serve as a floor sink only for water discharge, such as from an ice machine, or for refrigeration condensate.
- Ware washing machines may drain into such a floor sink or may drain directly into the sewer system if a floor drain is provided adjacent to the fixture, and the fixture is connected on the sewer side of the floor drain, provided that no other drainage line is connected between the floor drain waste connection and the fixture drain.
 - The local Building Official may have different requirements, and his or her requirements may override our Division's requirements.
- Facilities which use an onsite wastewater treatment system (OWTS, also called a "septic system") are required to have this system evaluated and approved by an on-site sewage disposal consultant. Please refer to our handout titled "Non-Exclusive List of Environmental Consultants", which also lists excavating contractors, septic tank pumpers, water well drillers and pump installers, onsite service providers, and surveyors.

28. **Grease Traps/Interceptors:** (CRFC – 114190, 114201)

- All liquid waste, including sewage, generated by a food facility shall be disposed of in an approved manner into a public sewer system.
 - Grease interceptor sizing and installation shall conform to the requirements of the California Plumbing Code.
 - All new grease interceptor/trap units shall be installed outside the food facility in the ground.
 - Grease interceptors shall be installed at a location easily accessible for inspection, cleaning and removal of grease.
 - A grease interceptor shall not be installed in the food and utensil storage and food preparation area. A room or area such as that used for janitorial or mechanical equipment may be approved. Interceptor rooms must have adequate ventilation and may include floor drainage and a hose bib for cleaning.
 - Grease traps sizing and installation shall conform to the requirement of California Plumbing Code.
 - Food waste disposal unit or dishwasher shall not be connected to or discharge into any grease trap.
 - Wastewater in excess of 140°F shall not be discharged into a grease trap.
 - All grease waste must be stored in an approved leak proof container with a tight fitting lid. All grease waste must be removed from the premises and disposed in an approved manner.
- In instances where the footprint of the facility is the property line, or the facility is surrounded by other businesses and installing the grease trap or interceptor outside of the facility is not possible, then the grease trap or interceptor is not to be in a food or utensil handling area.
- Grease traps and interceptors are to be approved by the local water district, or an on-site sewage disposal consultant if the facility is connected to an onsite wastewater treatment system.
- If an indoor grease trap is installed, the one (1) inch air gap is to be between the sink (e.g., 3-compartment sink) and the trap.

SUMMARY OF THE GUIDELINES FOR PRE-PACKAGED FOOD ONLY FACILITIES

1. Building is to be rodent-proof. Doors leading to the outside are to be self-closing and have no more than 1/8-inch gap around the perimeter of the door. Holes and gaps in ceilings and walls are to be sealed, and windows are to be covered with sixteen (16) mesh per square inch screen.
2. There is to be at least one restroom with single-use soap and paper towels, 20 foot candles lighting, mechanical exhaust or a window that can open, and a self-closing door. Water is to be provided through a mixing valve, or premixed, allowing for hands to be washed with warm water. If hot and cold water are provided through a mixing valve, the hot water is to be at least 120°F; if the water is provided premixed, it is to be between 100°F and 108°F.
3. Janitorial facilities are to be provided, with a janitorial sink as described on page 12 of this document.
4. A minimum twenty (20)-gallon water heater is to be installed (5 for hand washing and 15 for janitorial purposes). Please refer to our handout titled "Water Heater Worksheet".
5. An employee storage area is to be provided, as described on page 9 of this document.
6. Equipment is to meet ANSI standards as described on page 10 of this document.
7. Plans are to be approved by this Division and all other required agencies, as for all other facilities.

PHONE NUMBERS

City of Sonora Building Official	(209) 532-3508
Groveland Community Services District (GCSD)*	(209) 962-7161
Jamestown Sanitary District	(209) 984-3536
Tuolumne County Building & Safety Division, Planning, Zoning <i>and Environmental Health</i>	(209) 533-5633
Tuolumne Utilities District (TUD)	(209) 532-5536, ext.517 or 511
Twain Harte Sanitary District (THSD)	(209) 586-3172

*Also serves Big Oak Flat

ADDITIONAL DOCUMENTS: For additional information, please refer to the following documents available from our Division:

- Water Heater Worksheet
- Backflow Prevention for Food Facilities
- Accepted Flooring Material for Food Facilities

SAMPLE FACILITY LAYOUT

This is to be drawn to ¼" scale

(This is a sample only)

#1 - 3-compartment sink
h&c water
indirect drain

#2 - Prep sink
h&c water
indirect drain

#3 - Deli refrigerator
indirect drain

#4 - mop sink
h&c water
(vacuum breaker faucet)

#5 - chemical storage

#6 - hand sink
h&c water

#7 - toilet

#8 - paper towel dispenser

#9 - soap dispenser

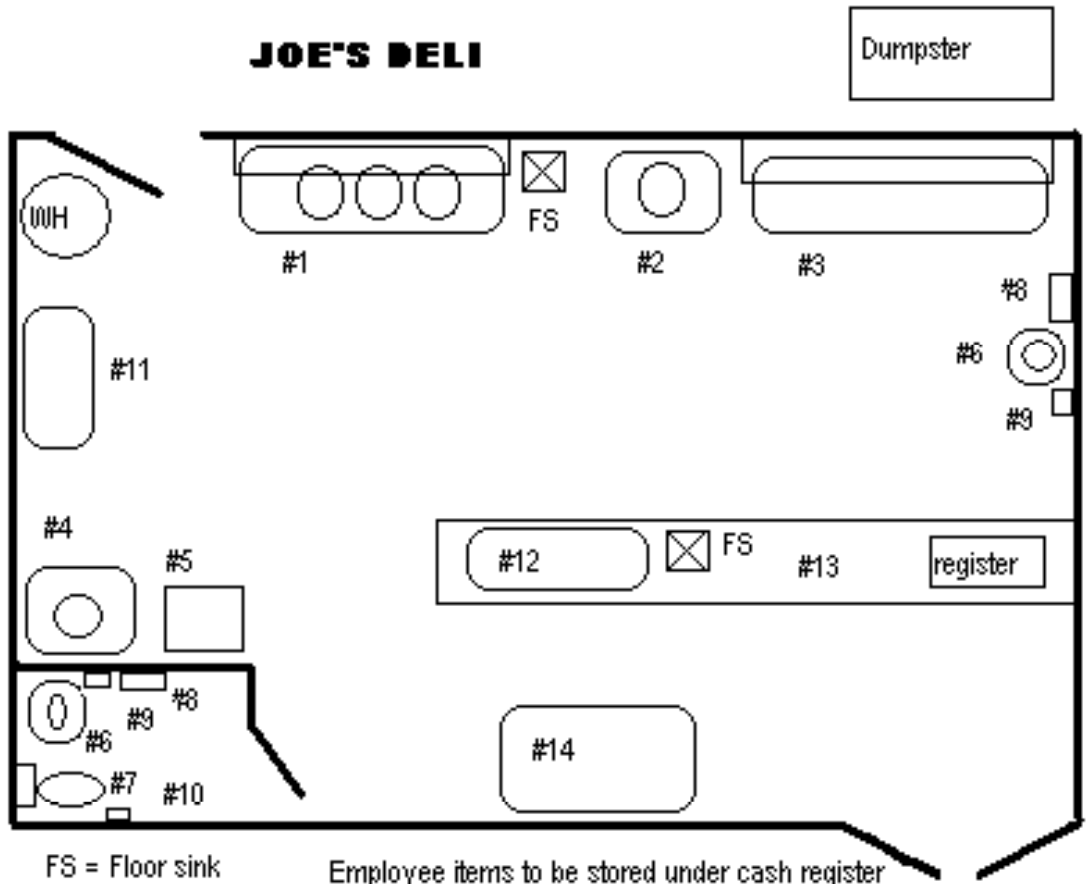
#10 - toilet paper dispenser

#11 - 2 door upright refrig.
self-contained

#12 - undercounter freezer
indirect drain

#13 - service counter

#14 - upright 'Pepsi' refrig.
self-contained



FS = Floor sink
WH = Water heater

Employee items to be stored under cash register
Dry storage on shelves above #3
Utensil storage above 3-compartment sink

SAMPLE ROOM FINISH SCHEDULE

ROOM OR AREA	FLOOR	FLOOR BASE OR COVE	WALLS	CEILING	REMARKS
A Dining / Customer Area					
B Wait Station					
C Kitchen					
D Ware Washing Room					
E Janitorial Station					
F Employee Storage Room					
G Restroom					
H Storeroom					
I Trash Enclosure					

Attachment 6

HOUSEBOAT REQUIREMENTS

1.0 GENERAL

The Primary Purpose for Houseboating on Don Pedro Lake shall be for Recreation.

- a. Any use of houseboats found to be contrary to this purpose will not be permitted.
- b. Houseboats shall not be used as a residence.
- c. Houseboat owners shall not rent, lease or assign the houseboat to others.

2.0 APPLICABLE LAW AND RESPONSIBILITY

Houseboat owners and people using or having charge, care or control of the houseboat must comply with applicable laws.

- a. Concessionaire shall inspect each houseboat prior to launch for compliance with applicable laws.
- b. Both Concessionaire and Agency maintain the right to inspect houseboats at any time for compliance with applicable laws.
- c. Houseboat owners may be held responsible for the actions of those people authorized to use or operate their houseboat.

3.0 INSURANCE REQUIREMENT

Houseboat owners shall procure and at all times maintain general liability insurance, which will provide coverage for limits of not less than the minimum requirements set in the Concessionaire mooring agreement.

- a. Such insurance shall be obtained from an insurer and in a form satisfactory to the Agency.
- b. The Don Pedro Recreation Agency, the Turlock Irrigation District, the Modesto Irrigation District, and their governing boards shall be named as additional insureds under the houseboat owner's insurance policy.
- c. Houseboat owners will provide a certificate of insurance evidencing coverage to the Concessionaire when the insurance is issued and renewed.
- d. Coverage shall not be canceled nor materially altered without at least thirty (30) Days written notice to the Concessionaire.

4.0 MAINTENANCE AND CONSTRUCTION STANDARDS

- a. All houseboats shall be maintained in a good and proper state of repair and shall be aesthetically neat in appearance.
- b. All houseboat propulsion systems shall be maintained in a safe and operable condition at all times.
- c. All houseboats shall be kept maintained, painted, stained, coated or otherwise protected so as to present a neat and well-kept appearance and to furnish protection against weathering and corrosion.
 1. Colors shall blend with the surroundings.

2. All houseboats shall be constructed and maintained in conformance with applicable laws.

5.0 REQUIRED EQUIPMENT

- a. Houseboats shall carry or be equipped with all equipment required by applicable laws. Houseboats shall be equipped with permanently and properly installed operable navigation and anchor lights.
- b. Houseboats shall display all required numbers, letters, names and stickers in accordance with applicable laws.
- c. All mechanical compartments used for propulsion of the houseboat that extend below the water line shall be equipped with an operable bilge pump and bilge absorbent material or filtration system that prevents pollutants from entering the lake when the bilge pump is operated.

6.0. SANITARY FACILITIES.

Each Houseboat's wastewater system shall be maintained in strict compliance with applicable laws.

- a. All wastewater shall be delivered into on-board holding tanks.
- b. All wastewater holding tanks shall be emptied only by pumping into an Agency approved wastewater system.
- c. No wastewater of any type shall at any time be in any way discharged into the lake.
- d. All houseboats shall be provided with a toilet facility and wastewater holding tank.
- e. The wastewater holding tank and connected plumbing shall be constructed and maintained in such a manner that the tank can be emptied only by pump-out equipment.
- f. No drain plugs shall be installed below the bottom of the toilet level.
- g. Any houseboat having a sink, shower, washbasin or other facility must provide plumbing so that all wastewater from these facilities is piped to the holding tank(s).
- h. Holding tanks shall be fully protected from rust, corrosion and weathering, shall be watertight and free of any leaks, and have a combined minimum total capacity of 100 gallons.

Attachment 7

Form of Concessionaire Fees Regulation

TURLOCK IRRIGATION DISTRICT
**DON PEDRO RECREATION AGENCY
BOARD OF CONTROL**

AGENCY REGULATION

RA 9000.200
Procedure Number

Effective Date/Approved

TITLE: REVIEW OF CONCESSIONAIRE FEES BY THE AGENCY

DEFINITIONS:

Consumer Price Index (CPI): An index of prices used to measure the change in the cost of basic goods and services in comparison with a fixed base period. For purposes of this regulation, the Consumer Price Index for All Urban Consumers (CPI-U) for the West Urban Region published by the Bureau of Labor Statistics will be used.

Direct Comparability: Method of rate administration that compares concession operations and rates to the external market using specific criteria.

Financial Analysis: Method of rate administration used when comparables are not available for unusual services.

Indexing: Method of rate administration that uses the consumer price index (CPI) to adjust prices.

PURPOSE:

Section 3-2.01 of the Concession Lease Agreements (“CLA”) for Lake Don Pedro and Moccasin Point Marinas provide that the Don Pedro Recreation Agency (“Agency”) has the right to inspect and approve the schedule of prices and rates for all goods sold and services rendered or performed on the premises.

The goal is to ensure that rates charged to the public are fair to the concessionaire and reasonable for its visitors. This regulation clarifies which services or supplies the Agency wishes to review and establishes the process for making the review.

REGULATION:

The Agency will review prices for supplies sold and services rendered or performed on the premises as follows:

Category 1

All Category 1 rate changes on items listed below must be approved in advance of implementation if the proposed rate change in any calendar year for such item would exceed the prior calendar year rate for such item by the Approval Threshold specified in the chart. Any rate change for these items that is below the Approval Threshold shall not require prior approval to be implemented by Concessionaire.

Item	Approval Threshold
All houseboat slip rates	The change in CPI-U from August of the previous year to August of the current year plus 2% of the current rate for the item.
All other mooring and slip rates	The change in CPI-U from August of the previous year to August of the current year plus 3% of the current rate for the item.

Category 1 Fee Review Process:

1. Concessionaires must request rate changes in writing. The requests must include sufficient detail and documentation to justify the requested rate. Documentation may include:
 - Information on the concessionaires proposed rate methods.
 - Proposed rates.
 - Rate comparables.
 - Financial analysis.
 - Other information the concessionaire believes should be considered.
2. The Agency will:
 - a. Provide the public access to the proposed fees via donpedrolake.com or upon request, so that the Agency can receive and review public comments and concerns.
 - b. Schedule a Board of Control meeting for concessionaire to present its fee proposal(s) as “Information Item.”
 - c. Review concessioner rate requests to determine if the requests are justified. Specific review procedures will vary depending on the type of rate method used and may include Direct Comparability, Financial Analysis, Indexing Analysis using CPI data, or other actions.
 - i. Comparability Study: A comparability study may be used to correlate the concessioner’s rates to similar operations in the competitive marketplace. This method involves – a) identifying comparable businesses similar to the concessioner’s operation and b) analyzing the concessioner’s rates against those of the comparable. A full comparability review of all Category 1 fees will be completed every five years by the Don Pedro Recreation Agency.
 - ii. Indexing: Indexing (CPI) may be used but is not a stand-alone method to determine rates. Indexing (CPI) should not exceed 4 years

before reestablishing the base rate (by a Comparability Study and/or updating the financial analysis) on the 5th year.

- d. The Agency will provide a written recommendation to the Board of Control stating whether the rate should be approved (rate request is justified) or denied (rate request is not justified). The Agency may recommend approval of a modified rate schedule.
- e. The Agency will work to complete the rate review within 60 days, except in unusual circumstances. If the Agency is unable to complete its review due to the concessioner providing insufficient information, the Agency will request additional information and reestablish an appropriate response schedule.
- f. Schedule follow-up Board of Control meeting for a date not less than 30 days from receipt of proposal submission for Board of Control action.

The addition of new services by the concessionaires requires advance approval by the Agency as described in the respective CLA and in some cases may require amendment of the CLA. The fee review process does not cover the approval process for addition of new services.

Category 2

Concessionaire will provide Agency with price schedules for the services listed below for monitoring purposes both annually and as they are modified. Advance approval is not required before implementation of price changes. Prices shall be displayed/marked appropriately on all items sold.

- Houseboat rentals
- Land storage and enclosed dry storage
- All labor and service rates
- All boat and personal watercraft rental rates
- Salvage and towing rates
- Boat lift rental rate
- Blue Oaks Houseboat Repair Yard monthly rate
- Blue Oaks Houseboat Repair Yard “Services Provided Area,” Daily Yard Use Fee
- Houseboat Launch and Retrieval rates

Category 3

Price schedules for supplies and goods stocked on shelves (e.g., canned goods, fishing tackle, packaged items, beverages, etc.) and/or items subject to frequent change due to fluctuations in wholesale costs (e.g., food services, ice, fire wood, gasoline, oils, etc.) shall be displayed/marked appropriately on all items sold.

End of Regulation

APPROVED BY: _____

Adopted: June 19, 1992

Amended: February 11, 1994

February 14, 2003

April 12, 2018

Attachment 8

Additional Procedures Governing Houseboating

This document outlines the regulations and procedures governing houseboat use, permits, maintenance, and enforcement at Lake Don Pedro Marinas, which comprise Lake Don Pedro Marina and Moccasin Point Marina. It establishes standards to ensure safe, recreational use of houseboats while maintaining environmental protection and compliance with applicable laws. For more detailed rules and regulations, see Appendix A – Houseboat permitting rules and regulations for Lake Don Pedro Marinas.

General Houseboat Use and Permitting

Houseboating on Don Pedro Lake is strictly for recreational purposes; houseboats cannot be used as residences, nor can permits be rented or assigned to others. Only registered owners may apply for or renew permits, and permits are non-transferable except upon ownership transfer. Houseboats must have valid permits to be in the recreation area, and permit holders must comply with applicable laws and maintain insurance coverage with Lake Don Pedro Marinas named as additional insureds. Inspection rights are reserved for the marina authorities at all times. Mooring agreements must be signed with an assigned concessionaire, and houseboats left unattended over 24 hours must be moored in assigned slips or buoys. Changing concessionaires requires prior approval. Permit holders must keep fees current to both Lake Don Pedro Marinas and concessionaires.

Insurance Requirements

Houseboat permit holders must maintain general liability insurance obtained from an insurer acceptable to Lake Don Pedro Marinas, which will provide coverage for limits of not less than the minimum requirements set in the Concessionaire mooring agreement. The Don Pedro Recreation Agency, the Turlock Irrigation District, the Modesto Irrigation District, and their governing boards shall be named as additional insureds under the policy. Certificates of insurance must be submitted upon permit issuance or renewal, and coverage changes require 30 days' notice.

Permit Restrictions and Waiting List

Generally, a permit holder and spouse may own interest in only one houseboat, with exceptions allowing a second houseboat for modification or sale under strict conditions and time limits (up to two years for remodeling, one year otherwise). Persons with revoked or non-renewed permits are ineligible to reapply. The marina manages a waiting list for permits, with priority based on application date and time. Current permit holders cannot be on the waiting list. Offers of permits must be accepted or declined in writing within 30 days, and fees paid promptly or the offer is forfeited. Positions on the waiting list are non-transferable.

New and Renewal Applications

New permit applicants must secure authorized mooring, pay three months' mooring fees in advance, pay the first-year permit fee, submit an approved application, provide current houseboat registration and insurance certificates, and place the houseboat on the lake within two years. Renewal requires fees in good standing, timely submission of renewal applications and fees before February 1, current registration, and insurance certificates by January 1. Late renewals incur a non-discounted fee.

Change of Ownership and Concessionaire

Owners must notify Lake Don Pedro Marinas within 14 days of ownership changes and provide relevant documentation including permit release forms, updated registrations, and insurance certificates. US Coast Guard documentation must be submitted within specified timeframes when applicable. Changes in assigned concessionaire require written requests and are managed via a relocation list prioritized by request date and permit seniority. Mooring agreements and fees must be updated accordingly.

Houseboat Maintenance, Repair, and Construction

Houseboats may only be removed or launched with prior written authorization and must notify the marina well in advance for inspections and scheduling. Repairs or replacements must begin within 90 days of damage or removal, with a maximum of 24 months allowed for re-launching. The marina operates designated repair facilities, and only valid houseboats may use them. Repair or construction plans require marina approval, and replacement houseboats must be removed from the lake before launching replacements. Liability insurance must be maintained during these processes.

Hazardous Materials and Environmental Protection

No structural alterations or repairs that risk introducing hazardous substances into lake waters are permitted without prior approval. Houseboat owners are responsible for proper disposal of hazardous waste, including batteries, with disposal facilities provided. Failure to remediate environmental violations can result in marina intervention at the owner's expense.

Use of Off-Site Vendors

Exclusive rights to services within marina concession areas are held by Lake Don Pedro Marinas. Outside vendors may be employed only when concessionaires cannot perform required work timely and must comply with permit and insurance requirements, provided, that pursuant to Section 30 of this Amendment, Concessionaire will make a portion of the Blue Oaks Repair Yard available for use by houseboat owners on Don Pedro Lake and their vendors for the performance of houseboat services, repair, and maintenance. Within this area, houseboat owners may, but are not required to, engage with Concessionaire to provide services. Any off-site vendors performing services in lieu of Concessionaire this area will continue to be subject to the rules, regulations, and

insurance requirements established by Concessionaire regarding the use of the Blue Oaks Repair Yard

Construction and Equipment Standards

Houseboats must be well maintained, neat, and in good repair, with propulsion systems safe and operable. Construction must comply with applicable laws, including weatherproofing decks and roofs. New construction requires submission of detailed plans and adherence to railing height and spacing standards. Existing non-compliant houseboats must be brought into compliance upon re-entry after takeout.

Flotation Devices

Flotation devices must provide watertight compartmentation for stability, be constructed of approved materials, and be structurally sound and securely fastened. New construction flotation devices must meet ventilation and pressure testing requirements. Metal flotation devices have minimum gauge thickness standards and must include anti-electrolysis protections. Plans for flotation device dimensions and capacity must be submitted for approval.

Sanitary Facilities

Wastewater systems must comply with laws, with all waste directed to onboard holding tanks emptied only at approved pump-out stations. Holding tanks must be watertight, corrosion-protected, and have a minimum capacity of 100 gallons (200 gallons for new construction), with fittings and attachments properly sealed and elevated above decks. New tanks have additional construction and lining requirements.

Size and Height Limitations

Houseboats must meet minimum size requirements of 12 feet width and 30 feet length, with absolute maximums of 22 feet width and 56 feet length (up to 24 feet width with designated mooring approval). Maximum enclosed structure height is 15 feet above waterline (16 feet with approval). Existing structures exceeding limits built before specified dates are exempt. Size limits cannot be exceeded upon reconstruction.

Mooring Requirements

Houseboats must use a primary mooring device to stay within 36 inches of assigned mooring buoys, with a secondary safety mooring device of chain, cable, or wire rope as backup. Slip-moored houseboats are exempt from these mooring devices while docked. Specific rear tie-up standards apply at Moccasin Marina.

Enforcement and Compliance

Lake Don Pedro Marinas enforces houseboat rules through inspections, warnings, fines, notices, orders, red tags, and permit revocations. Permit holders must allow inspection upon request. Warnings are documented and may lead to further action. Non-

compliance fines and restitution are assessed with formal notice procedures. Failure to comply with orders can lead to permit revocation or non-renewal. Red tags may prohibit operation or use of houseboats and are issued for serious violations including unsafe conditions, failure to maintain wastewater systems, or failure to begin required repairs timely. Upon revocation, all fees are forfeited, and owners must remove houseboats within 30 days or face disposal under lien laws.

Delinquency and Revocation Process

Permit holders receive escalating notices for delinquent payments starting at day 11, progressing through reminders, certified letters, vessel haul-out, and final collection notices by day 90. The revocation process involves multiple managerial approvals from the marina general manager through regional and senior vice presidents before final execution. Documentation of violations and warnings must be maintained.

Appeals Process

Concessionaire is responsible for developing and implementing rules to ensure houseboat safety, environmental protection, and orderly management within Lake Don Pedro Marinas, emphasizing compliance and accountability for permit holders. Concessionaire is responsible for the day-to-day enforcement and implementation of these rules.

Houseboat permit holders or interested parties may appeal revocation or non-renewal of permits to the Don Pedro Recreation Agency Board of Control (“Board”) by filing a written appeal within 21 days of service. During the hearing, the Board reviews evidence and decisions for compliance with laws but cannot impose new conditions. Hearings are conducted by the Board to allow presentation and cross-examination of evidence with procedural flexibility. The Board’s may reverse or uphold the revocation or non-renewal upon a 2/3 vote of the Board. The Board will issue a written decision with findings and effective dates, delivered to appellants and Concessionaire. Decisions of the Board are final.