

ATTACHMENT B

LAND CONSERVATION CONTRACT NO. AP15-0002
ASSESSOR PARCEL NUMBERS: 003-150-004, 003-160-006, and 003-160-007

1. Parties. BY THIS CONTRACT, made and entered into _____, 2015 Coelho Machado Family Limited Partnership, hereinafter referred to as "Owners," and the County of Contra Costa, a political subdivision of the State of California, hereinafter referred to as "County," do mutually agree and promise as follows:

2. Property Description. Owners possess certain real property located within the County, which property is presently devoted to agricultural and compatible uses. The "Property" is described in Exhibit A, attached hereto and made a part of this contract.

3. Purpose. Both Owners and County desire to limit the use of said Property to agricultural uses and to compatible uses specified in this agreement in order to discourage premature and unnecessary conversion of such lands from agricultural uses, recognizing that such land has definite public value as open space and that the preservation of such land in agricultural production constitutes an important physical, social, aesthetics and economic asset to County to maintain the agricultural economy of County and the State of California.

4. Intent of Parties: Enforceable Restriction. Both Owners and County intend that the term, conditions and restrictions of this Contract be in accordance with the California Land Conservation Act of 1965, as amended, so as to be an enforceable restriction under the provisions of Division 1, Part 2, Chapter 3, Article 1.5 of the California Revenue and Taxation Code (Rev. & Tax Code § 421 et. seq.).

5. Intent of Parties: Effect on Property Value. It is the intent of the County and Owners that this Contract is conditioned upon the continued existence of legislation implementing Article XIII, § 8 of the California Constitution so the effect of the terms, conditions and restrictions of the Contract on property values for taxation purposes is substantially as favorable to Owners as the legislation existing on the last renewal date.

6. Governing Statutes and Ordinances. This Contract is made and entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 of Part 1 of Division 1 of Title 5 of the California Government Code commencing with Section 51200). This Contract further is made pursuant to and subject to Contra Costa County Ordinance Code, Chapter 84-42 and Chapters 810-2 through 810-4, and Resolutions of the Contra Costa County Board of Supervisors Numbers 68-635 and 69-763.

7. Land Use Restrictions. During the term of this Contract or any renewals thereof, the above described land shall not be used for any purpose, other than the production of food and fiber

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and compatible uses as listed in Contra Costa County Ordinance Code Chapter 84-42, which is hereby incorporated by reference as if fully set forth herein; provided, however, that such additional agricultural or compatible uses as are set forth in Exhibit B, which is attached hereto and is hereby incorporated by reference, shall also be permitted subject to the terms and conditions set forth herein. In case of conflict or inconsistency between the uses allowed in this Contract and those specified in said zoning ordinance, the provisions of the Contract as set forth in Exhibit B shall prevail.

8. Modification of Restrictions. The Board of Supervisors of County may from time to time and during the term of this Contract or any extensions thereof, by amendment to Contra Costa County Ordinance Code Chapter 84-42, add to those uses listed in said ordinance. Such additional uses shall be limited to commercial agriculture and compatible uses and be subject to the density restrictions of Government Code § 51220.5. Said board shall not eliminate, without written consent of the Owners, their heirs, successors or assigns, a compatible use during the term of this Contract or any renewals thereof.

9. Term and Renewal. This Contract shall be effective commencing on the last day of _____, 2015, and shall remain in effect for a period of ten (10) years therefrom.

This Contract shall be automatically renewed and its terms extended for a period of one (1) year on the last day of _____ of each succeeding year during the term hereof, unless notice of non-renewal is given in the manner provided by section 51245 of the Government Code. At all times during the continuance of this Contract, as from time to time renewed, there shall be a ten (10) year term of restriction unless notice of non-renewal is given in the manner provided by Section 51245 of the Government Code. Under no circumstances shall a notice of renewal be required of either party to effectuate the automatic renewal of this paragraph.

10. Cancellation. (a) Except as provided in Section 11, the provisions of this Contract whereby Owners agree to restrict the use of the land described in Paragraph 2 may be canceled as to all or a portion of said land by mutual agreement of the County and Owners after a public hearing has been held in the manner provided by Section 51284 of the Government Code and upon a finding by the Board of Supervisors that such cancellation is not inconsistent with the purposes of the Land Conservation Act, or in the public interest, pursuant to Government Code Section 51282. It is understood by the parties that the existence of an opportunity for another use of said land shall not be sufficient reason for cancellation of the land use restrictions imposed herein and that the uneconomic character of the existing use will be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

(b) Upon cancellation of said portions of this Contract, Owners shall pay to the County Treasurer, as deferred taxes, a cancellation fee in an amount equal to the greater of twelve and one-half (12 ½%) percent or the current fee provided by state law of the cancellation value of the property being released from the terms of this Contract. Said cancellation value shall be determined in accordance with the provisions of Government Code Section 51283 (a) and (b). Under no circumstances shall the payment of said cancellation fee be waived, deferred, or made subject to any contingency whatever.

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(c) Final cancellation shall be effectuated in accordance with the provisions of Government Code Section 51283.4.

11. Cancellation Upon Substitution of New Restrictions. This Contract may be canceled by mutual agreement of County and Owners without payment of deferred taxes or public hearing if it is replaced by an enforceable restriction authorized by Article XIII, § 8 of the California Constitution.

12. Eminent Domain Proceedings. (a) In accordance with the provisions of Government Code Section 51295, incorporated by reference herein, upon the filing of any action in eminent domain for the condemnation of the fee title of the land or any portion thereof subject to this Contract or upon acquisition of such land in lieu of eminent domain by public agency for a public improvement, the provisions of this Contract shall be null and void as to the land so condemned or acquired.

(b) If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned as to all or a portion of the land subject to the Contract, the restrictions on land use set forth in this Contract shall, without further agreement of the parties herein, be reinstituted and the terms of this contract shall be in full force and effect, subject to the cancellation provisions of Government Code Section 51295.

13. Remedies for Breach of Contract. (a) In the event that Owners fail to comply with the terms and conditions of this Contract and the effect of said breach is to render the use of land or a substantial portion thereof unfit for agricultural use, thereby negating the purpose and effect of this Contract, Owners shall pay to the County a sum equal to One Hundred Per Cent (100%) of the equalized assessed value of the real property described in Exhibit A, as established by the County Assessor on the lien date next following the date of breach, as liquidated and agreed damages, it having been agreed that actual damages will be impractical and extremely difficult to ascertain and that said measure of damages is a reasonable measure of the harm which would result from such failure of compliance. If, after the date the Contract was initially entered into, the publicly announced county ratio of assessment to full cash value is changed, the percentage payment in this subdivision shall be changed so no greater percentage of full cash value will be paid than would have been paid had there been no change of ratio.

(b) It is understood that nothing herein contained shall constitute a waiver of any right which the County may now or in the future have to seek specific performance of this Contract or other injunctive relief. The enforcement provisions of the Contra Costa County zoning ordinance shall also apply if the land which is the subject of this contract is used for purposes other than those provided in Ordinance Code Chapter 84-42 or this Contract.

14. Effect of Division of Property. Owners agree that division of the Property described in Exhibit A into two (2) or more parcels, whether by sale, gift, by operation of law or by any other means, upon a finding by the Board of Supervisors that said division is detrimental to the ultimate preservation of said property for exclusive agricultural use, be construed by the County as notice of non-renewal by the property owner as provided in Section 9 of this Contract.

15. New Contracts Upon Division. In the event the property that is subject to this contract is divided, the owner of any subdivided parcel may exercise, independent of any owner of any other subdivided parcel, any of the rights of Owners under this Contract. Upon division of the Property a Contract identical to the Contract then covering the original parcel shall be executed by Owners on each parcel created by the division at the time of the division. Any agency making an order of division or the County which has jurisdiction shall require, as a condition of the approval of the division, the execution of the Contracts provided for in this section, provided, however, that failure of Owners to execute Contracts upon division shall not affect the obligations of the heirs, successors and assigns of Owners as established in Section 16.

16. Contract to Run with Land. The within Contract shall run with the land described herein, and upon division, to all parcels created therefrom; and it shall be binding upon, and inure to the benefit of, the heirs, successors, and assigns of the Owners.

17. Consideration. Owners shall not receive any payment from County in consideration of the obligations imposed hereunder, it being recognized and agreed that the consideration for the execution of the within Contract is the substantial public benefit to be derived therefrom and the advantage which will accrue to Owners as a result of the effect on the method of determining the assessed value of land described herein and any reduction therein due to the imposition of the limitations on its use contained herein.

18. Income and Expense Information. The Owners shall annually furnish the County Assessor with such information as the Assessor may require to determine the valuation of the Owners' land.

19. Effect of Removing Preserve or Zoning Classification. Removal of any land under this Contract from an agricultural preserve or removing the agricultural preserve zoning classification thereof shall be the equivalent of notice of non-renewal by the County for purposes of Section 422 of the Revenue and Taxation Code.

ATTEST: COUNTY OF CONTRA COSTA

By:

Chair, Board of Supervisors

DAVID TWA, County Administrator
and Clerk of the Board of Supervisors

By:

Deputy Clerk

OWNERS

Robert Coelho, General Partner, Coelho Machado Family Limited Partnership
Antoinette Machado, General Partner, Robert Coelho
Antoinette Machado

Approved as to Form:

Sharon L. Anderson, County Counsel

By:


Deputy County Counsel

NOTE: All signatures for Owners must be acknowledged.

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California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Joaquin

s.s.

On 8/21/15 before me, Jana Elizabeth Omstead, Notary Public
Name of Notary Public, Title

personally appeared Robert John Coelho and

Antoinette Jennifer Machado
Name of Signer (1)

Name of Signer (2)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Jana Elizabeth Omstead
Signature of Notary Public



Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Land Conservation

Contract NO AP15-0002
containing pages, and dated 8/21/15

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
☐ Attorney-in-fact
☐ Corporate Officer(s)

Title(s)

- ☐ Guardian/Conservator
☐ Partner - Limited/General
☐ Trustee(s)
☐ Other:

representing:

Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- ☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # Entry #

Notary contact:

Other

- ☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐

CONTRA COSTA COUNTY LAND CONSERVATION CONTRACT NO. AP15-0002

EXHIBIT A / PROPERTY DESCRIPTION

Pursuant to Paragraph 2 of the Land Conservation Contract to which this exhibit is attached, the land described below is designated as the subject of said Contract. Said land is described as follows:

ASSESSOR PARCEL NUMBERS: 003-150-004, 003-160-006 and 003-160-007

LEGAL DESCRIPTION

PARCEL ONE:

All that portion of Section 9, Township 1 South, Range 3 East, Mount Diablo Base and Meridian, lying within the parcel of land described as follows:

Beginning at an iron pipe on the South line of the County Road leading from Byron to Marsh Creek at a point which bears South 30 feet from a point on the North line of Section 9 said Township and Range which bears North 89° 51' 50" East 2038.13 feet along said North line from the Northwest corner of Section 9; thence from said point of beginning along the South line of said County Road, North 89° 51' 50" East 597.63 feet to a point which bears South 0° 34' West 30.00 feet from the North quarter corner of said Section 9; thence continuing along said South line of said County Road, North 89° 58' 30" East 1487.78 feet to a point at the intersection of said South line of said road with the East line of Parcel Five as described in the Deed to Evo G. Coelho, et al, recorded April 3, 1942, Book 667, Official Records, Page 291; thence along the exterior boundary line of said Parcel Five in Southerly and Easterly directions, the following courses and distances, to-wit:

South 300.00 feet, South 89° 46' East 161.93 feet, South 1° 43' West, 967.60 feet, East 150.00 feet, South 1° 43' West 328.50 feet and South 67° 08' East 944.00 feet to a point on the East line of said Section 9, which bears South 1994.80 feet along said East line from the corner common to Sections, 3, 4, 9 and 10, Township 1 South, Range 3 East; thence along said East line South 655.46 feet to the East quarter corner of said Section 9; thence leaving said exterior boundary line of said Parcel Five and continuing along said East line of said Section 9, South 1° 01' 30" West 2650.31 feet to the Southeast corner of said Section 9; thence along the East line of said Section 16, South 0° 06' 50" East 5317.42 feet to the Southeast corner of said Section 16; thence along the South line of said Section 16, South 89° 57' West 3448.84 feet to an iron pipe which bears North 89° 57' East 1812.13 feet from the Southwest corner of said Section 16; thence North 10168.35 feet; thence North 85° 44' East 255.42 feet to an iron pipe; thence North 0° 27' East 400.66 feet to the point of beginning.

EXCEPTING FROM PARCEL ONE:

That parcel of land described as Parcel 1 of Exhibit A-2 in the Final Order of Condemnation awarded to Contra Costa Water District, recorded November 29, 1994 in Official Records under Recorders' Series No. 94-284667.

ALSO EXCEPTING FROM PARCEL ONE:

So much as lies within the North Half of Said Section 9.

PARCEL TWO:

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All that portion of Section 16, Township 1 South, Range 3 East, Mount Diablo Base and Meridian, lying within the parcel of land described as follows:

Beginning at an iron pipe on the South line of the County Road leading from Byron to Marsh Creek at a point which bears South 30 feet from a point on the North line of Section 9 said Township and Range which bears North 89° 51' 50" East 2038.13 feet along said North line from the Northwest corner of Section 9; thence from said point of beginning along the South line of said County Road, North 89° 51' 50" East 597.63 feet to a point which bears South 0° 34' West 30.00 feet from the North quarter corner of said Section 9; thence continuing along said South line of said County Road, North 89° 58' 30" East 1487.78 feet to a point at the intersection of said South line of said road with the East line of Parcel Five as described in the Deed to Evo G. Coelho, et al, recorded April 3, 1942, Book 667, Official Records, Page 291; thence along the exterior boundary line of said Parcel Five in Southerly and Easterly directions, the following courses and distances, to-wit:

South 300.00 feet, South 89° 46' East 161.93 feet, South 1° 43' West, 967.60 feet, East 150.00 feet, South 1° 43' West 328.50 feet and South 67° 08' East 944.00 feet to a point on the East line of said Section 9, which bears South 1994.80 feet along said East line from the corner common to Sections 3, 4, 9 and 10, Township 1 South, Range 3 East; thence along said East line South 655.46 feet to the East quarter corner of said Section 9; thence leaving said exterior boundary line of said Parcel Five and continuing along said East line of said Section 9, South 1° 01' 30" West 2650.31 feet to the Southeast corner of said Section 9; thence along the East line of said Section 16, South 0° 06' 50" East 5317.42 feet to the Southeast corner of said Section 16; thence along the South line of said Section 16, South 89° 57' West 3448.84 feet to an iron pipe which bears North 89° 57' East 1812.13 feet from the Southwest corner of said Section 16; thence North 10168.35 feet; thence North 85° 44' East 255.42 feet to an iron pipe; thence North 0° 27' East 400.66 feet to the point of beginning.

EXCEPTING FROM PARCEL TWO:

Those parcels of land described as Parcel 1 of Exhibit A-1 and Parcel 1 of Exhibit A-3 in the Final Order of Condemnation awarded to Contra Costa Water District recorded November 29, 1994 in Official Records under Recorders' Series No. 94-284667.

ALSO EXCEPTING FROM PARCEL TWO:

Rights reserved in the Deed executed by William L. McLaine and C. H. Lamberton as Executors of the Last Will and Testament of Mary Ives Crocker, deceased, recorded April 1, 1947 in Book 1077, Page 282, Official Records, as follows:

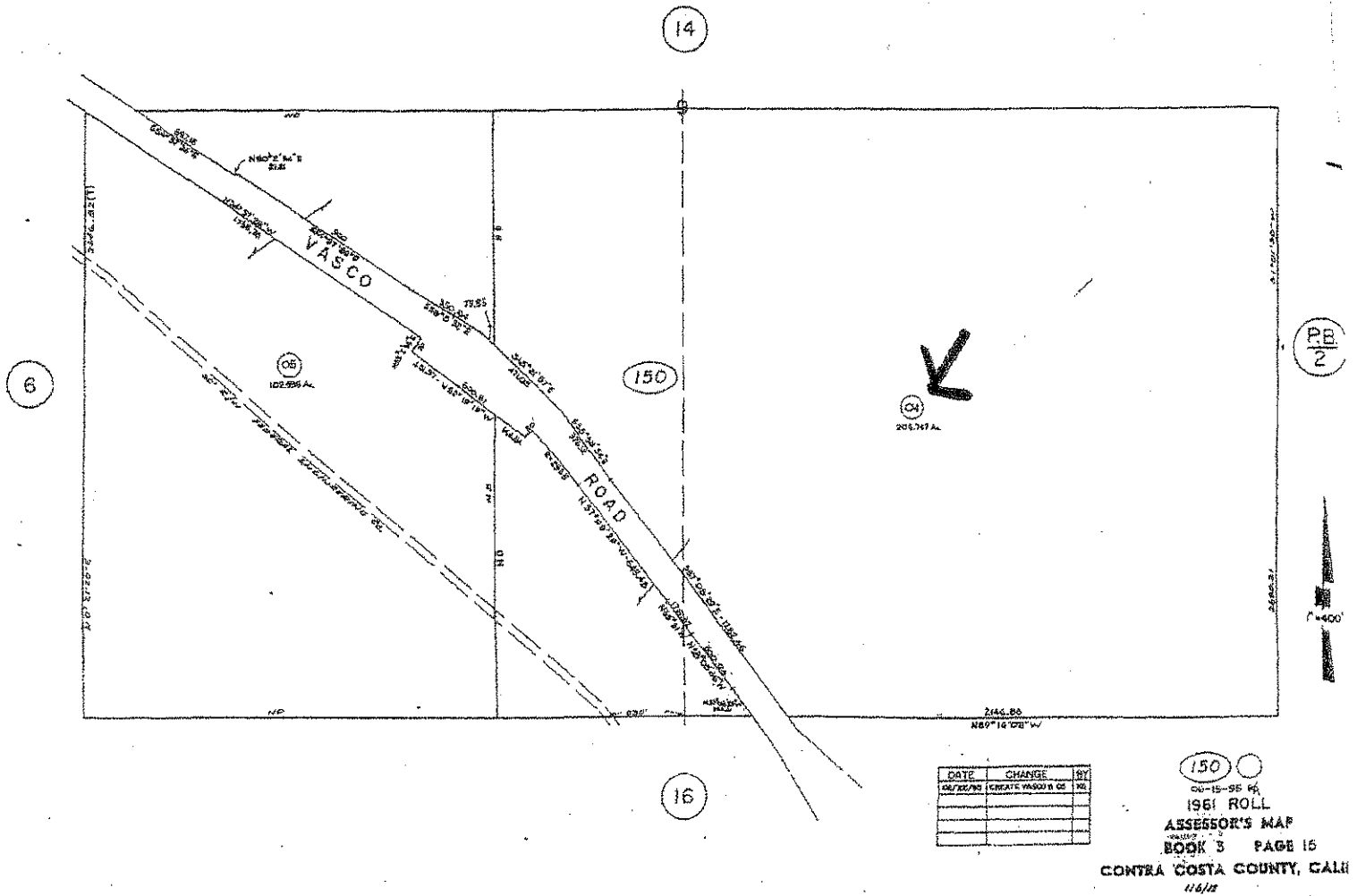
"All oil, gas and mineral existing on said premises with right-of-way and other easements necessary to the commercial exploitation of any or all said oil, gas or minerals, it being understood, however, that the said Grantees, their heirs, executors, administrators and assigns are to be reimbursed for actual damages suffered through operations, and it being further understood that said reservation shall last only for a period of twenty years from the date hereof, except that Grantors, their successors and assigns shall have the privilege of working to exhaustion any mine or well which is being worked at the termination of said period."

(Being APN: 003-150-004, 003-160-006, 003-160-007)

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S 1/2 SEC. 9 T 1 S R 3 E M.D.B. & M.

TAX CODE AREA



DATE	CHANGE	BY
01/01/90	CREATE PARCEL 04	NR

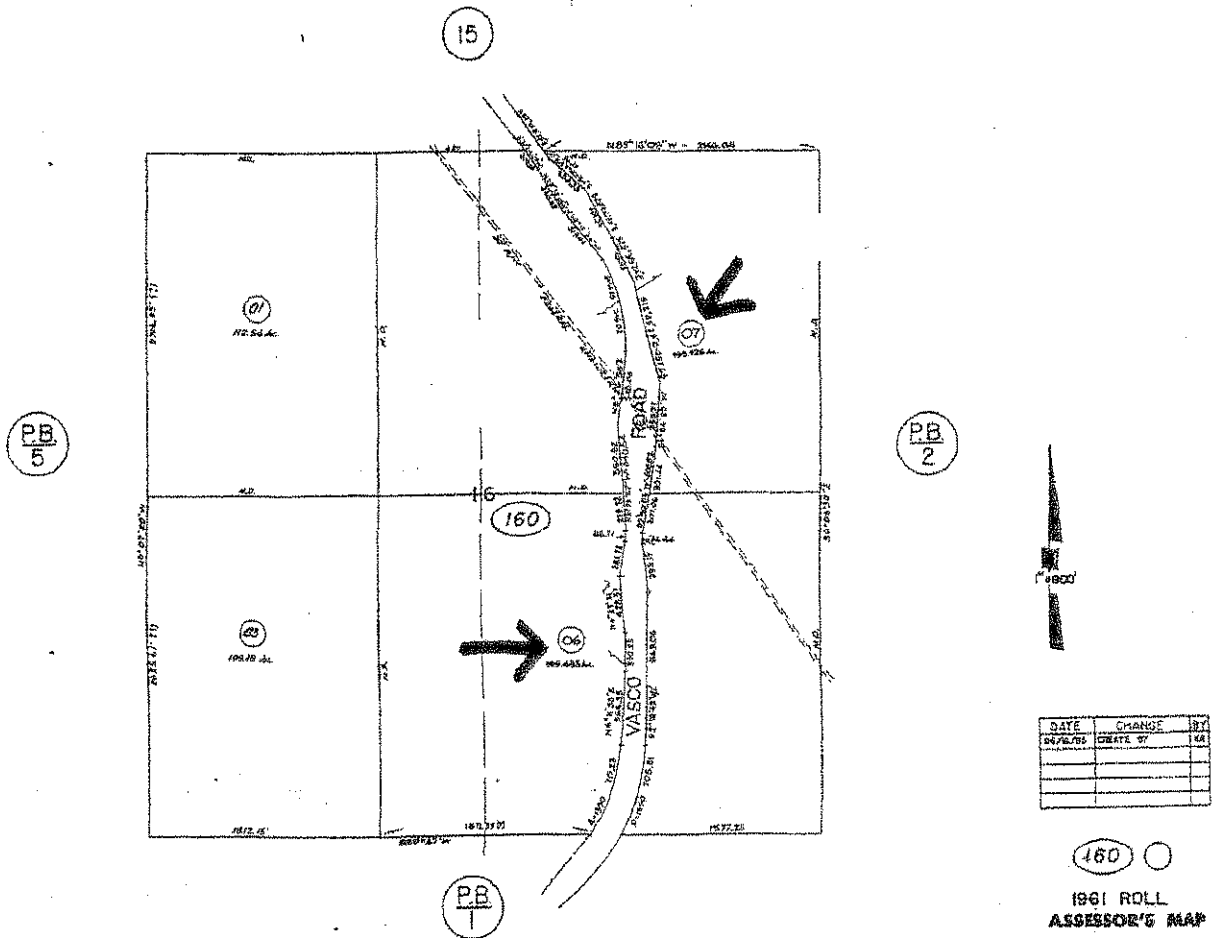
150
 00-15-95 R5
 1961 ROLL
 ASSESSOR'S MAP
 BOOK 3 PAGE 15
 CONTRA COSTA COUNTY, CALIF
 11/6/11

NOTICE...This is neither a plat nor a survey, it is furnished merely as a convenience to aid you in locating the land indicated hereon with reference to streets and other land. No liability is assumed by reason of any reliance hereon.

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SEC. 16' T.1S., R.3E., M.D.B.&M.

TAX CODE AREA



160

1961 ROLL
ASSESSOR'S MAP
BOOK 3 PAGE 16
CONTRA COSTA COUNTY, CALIF.
11/6/01/22

NOTICE...This is neither a plat nor a survey, it is furnished merely as a convenience to aid you in locating the land indicated hereon with reference to streets and other land. No liability is assumed by reason of any reliance hereon.

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EXHIBIT B

ALLOWABLE LAND USES

Pursuant to the provisions of Section 84-42.402 (2) of the Contra Costa County Ordinance Code and Paragraph 7 of the Land Conservation Contract, of which this exhibit is made a part, the land uses and structures described below are authorized without a land use permit subject to the terms and conditions set forth below. Said uses and structures shall be in conformance to those authorized by Section 84-42.402 (1) and Section 84-42.404 but shall be subject to Section 84-42.602 through Section 84-42.1402.404 of Chapter 84-42 of the County Ordinance Code.

1. Existing Non-conforming Structures

The following non-conforming structures are permitted, subject to the provisions of County Ordinance Code Chapter 82-8:

None.

2. Existing Conforming Structures

None.

3. Proposed Structures

None.

4. Existing Land Use

Grazing

5. Proposed Land Use

Grazing