

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting February 26-27, 2003

Reference No.: 2.4d.  
Action Item

From: ROBERT L. GARCIA  
Chief Financial Officer

Prepared by: Brice D. Paris  
Division Chief  
Right of Way

Ref: **DIRECTOR'S DEED**

The Department is presenting a Director's Deed for the sale of 20.57 acres of excess State-owned real property, adjacent to State Route 14 in Kern County. This item was discussed during the October 2002 California Transportation Commission (Commission) meeting. The Commission had questions regarding the location of the parcels and the settlement by Right of Way Contract - in lieu of a condemnation action - that includes a property exchange with the purchaser. Because of these questions, the Commission instructed the Department to resubmit this item at a later meeting with additional information.

## **ACTION:**

The Commission's approval of the attached Director's Deed would allow the sale of the property, in accordance with Section 118 of the Streets and Highways Code, for the approved appraisal value of \$55,000. Under the terms of the Right of Way Contract, State is receiving the full amount of the appraised market value in a combination of cash and real property.

## **RECOMMENDATION:**

The Department of Transportation is presenting this conveyance and Director's Deed to the Commission pursuant to the district-approved Right of Way Contract that specifies the required Commission approval.

## **BACKGROUND:**

06-KER-14-18.20  
Disposal Unit DD3153-01-01  
Convey to Flying J, Inc., a Utah Corporation

Mojave  
20.57 ac  
\$55,000 (Appraisal \$55,000)

The parcel being disposed is located adjacent to State Route 14, in Kern County near the new alignment of State Route 58 (Mojave Bypass) north of the City of Mojave. The property was purchased for the Mojave Bypass Project. Both the State's excess and the adjoining Flying J properties are vacant and unimproved desert land. About 9.5 acres of the State's excess property is substantially encumbered by eroded arroyos, which will require the installation of large culverts, and a significant amount of fill material, compaction, and grading before it can be developed. The parcel has been identified as excess and is no longer needed for completion of the Mojave Bypass Project.

The proposed sale of this property is at full fair market value through cash payment and property exchange pursuant to a Right of Way Contract, dated December 21, 2001, in settlement of the eminent domain condemnation action filed against the Flying J owners. The eminent domain action was for the purchase of 4.426 acres of property from Flying J for the construction of a frontage road as part of the Route 58 Mojave Bypass Project. The owners of Flying J claimed severance damages of \$175,000 due to reduction in size of the remainder of their property and future lost development potential. The settlement and exchange eliminates their claims of damages, and will replace the lost development potential of the Flying J property. Although the size of their parcel will increase substantially in area from 18.8 acres to 34.9 acres in the after condition, it is important to note as mentioned above that about 9.5 acres of the State's excess parcel is substantially encumbered by eroded arroyos. The settlement agreement is conditioned on the Commission's approval of the Director's Deed.

The State is receiving payment from the buyer, Flying J, in the form of cash (\$40,200) and the conveyance of 4.426 acres of property required for State's highway project - the value of which is \$14,800, including statutory interest - for a total consideration of \$55,000. The agreement with Flying J also provided for Flying J to reimburse the Department for a construction change order affecting the proposed exchange property, in the amount of \$48,000.

The appraisal of the market value of the excess property, dated September 18, 2001, was based on a 'before and after' value analysis by an independent contract appraiser, which was reviewed and approved by Department appraisal staff. The appraisal concluded that in the 'before' condition, Flying J's remaining adjoining property was valued at \$79,000, and when combined with State's excess in the 'after' condition, the entire property was valued at a total of \$134,000. The additional State excess property will, in the appraiser's opinion, add a value of \$55,000 to the remaining Flying J property when the two properties are combined.

Based on the settlement agreement, the department has dismissed its condemnation action. Therefore, if the Director's Deed is not approved, the Department will have to refile the condemnation action with Flying J to acquire the property needed for the Mojave Bypass frontage road.

The appraisal was based on existing sales in the vicinity, but excluded Flying J's purchase of their property from consideration on the basis the sales price was not supported by market data. The Department is aware of a possible perception of a financial windfall to the buyer based on the perceived speculative trends after completion of the State's highway project. Subsequent to the October 2002 Commission meeting, Department staff attempted to renegotiate the settlement agreement with Flying J, and offering to exchange property on an equal basis, 4.426 acres for 4.426 acres, which would, in our opinion represent like value and preserve the before functional utility of their parcel. The remaining state excess property (16.14 acres) would have then be made available by public auction. Because this offer did not include the portion of the property that was the subject of the construction change order, Flying J would not have been required to make reimbursement to the Department for the change order expense as part of the exchange. Flying J has deferred the Department's offers of renegotiation pending the Commission's action on the original proposed settlement.

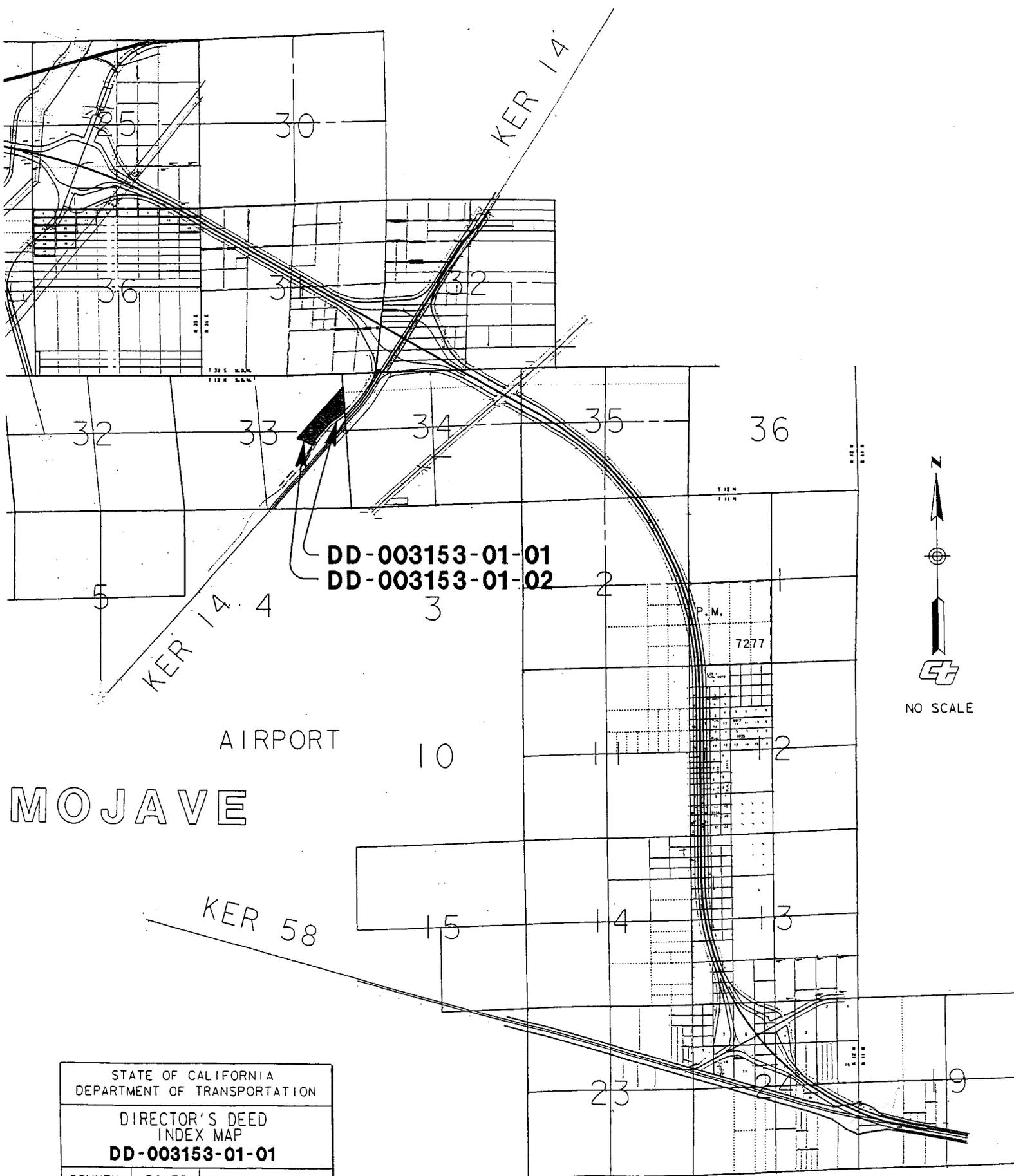
**SUMMARY OF DIRECTOR'S DEEDS  
PRESENTED TO CALIFORNIA TRANSPORTATION COMMISSION - FEBRUARY 2003**

Table I - Volume by Districts

District	Direct Sales	Public Sales	Non-Inventory Conveyances	Other Funded Sales	Total Items	Current Estimated Value	Return From Sales	Recovery %	
								% Return	From Sales Current Value
01					0	\$0	\$0		
02					0	\$0	\$0		
03					0	\$0	\$0		
04					0	\$0	\$0		
05					0	\$0	\$0		
06	1				1	\$55,000	\$55,000		100%
07					0	\$0	\$0		
08					0	\$0	\$0		
09					0	\$0	\$0		
10					0	\$0	\$0		
11					0	\$0	\$0		
12					0	\$0	\$0		
<b>Total</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>\$55,000</b>	<b>\$55,000</b>		<b>100%</b>

Table II - Analysis by Type of Sale

Type of Sale	# of Items	Current Estimated Value	Return From Sales	Recovery %	
				% Return From Sales	Current Value
Direct Sales	1	\$55,000	\$55,000		100%
Public Sales	0	\$0	\$0		
Non-Inventory Conveyances	0	\$0	\$0		
<b>Sub-Total</b>	<b>1</b>	<b>\$55,000</b>	<b>\$55,000</b>		<b>100%</b>
Other Funded Sales	0	\$0	\$0		
<b>Total</b>	<b>1</b>	<b>\$55,000</b>	<b>\$55,000</b>		<b>100%</b>



MOJAVE

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION		
DIRECTOR'S DEED INDEX MAP <b>DD-003153-01-01</b>		
COUNTY	ROUTE	POST MILE/KP
<b>KER</b>	<b>14</b>	<b>18.50/29.77</b>

1/4 COR.  
3.5" CDOT  
ALU CAP ON  
2" ALU PIPE  
N 676,998.854  
E 1,985,713.376

M.

M.

-1

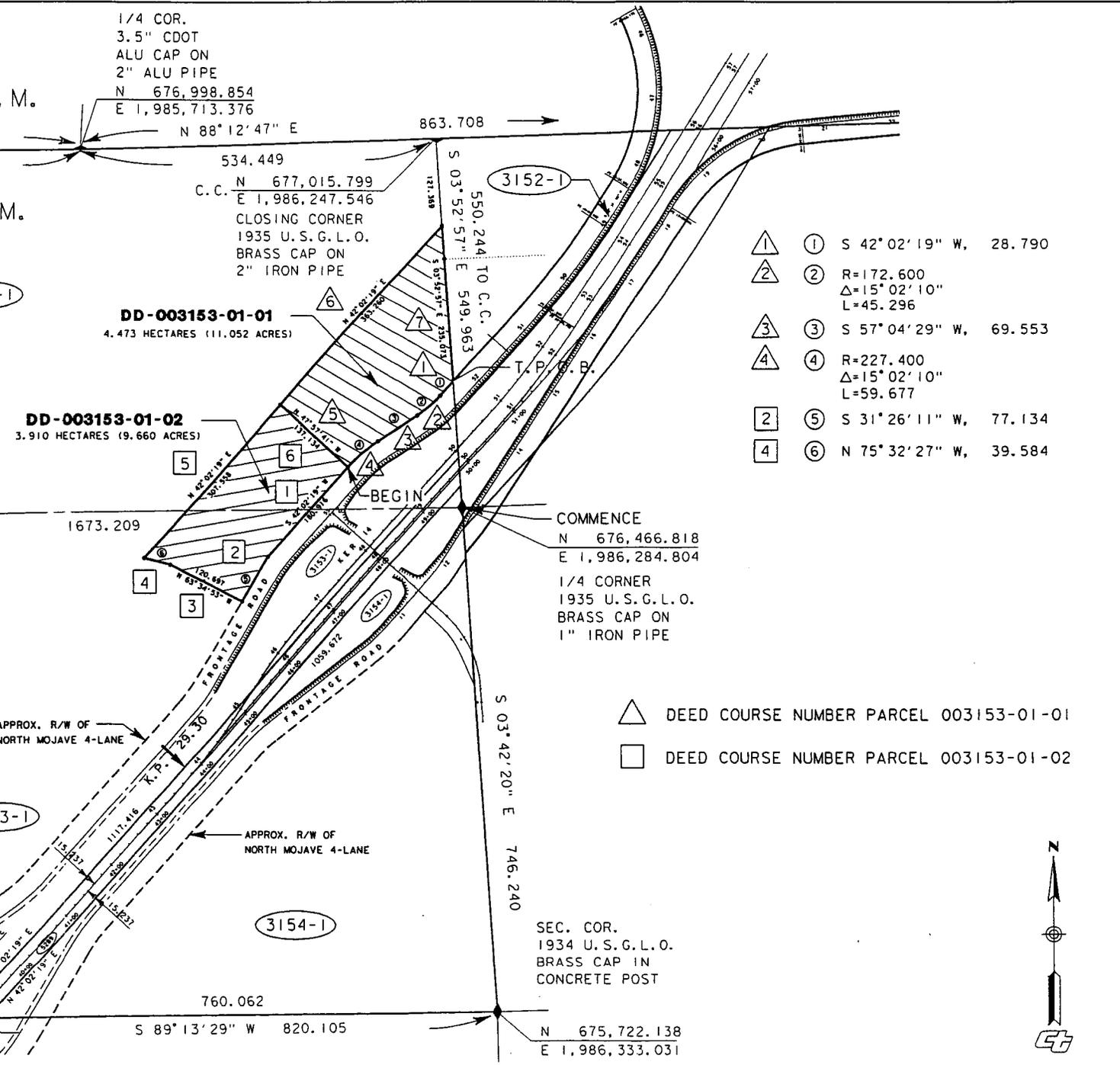
**DD-003153-01-01**  
4.473 HECTARES (11.052 ACRES)

**DD-003153-01-02**  
3.910 HECTARES (9.660 ACRES)

APPROX. R/W OF  
NORTH MOJAVE 4-LANE

APPROX. R/W OF  
NORTH MOJAVE 4-LANE

S. B. M.



- ① S 42° 02' 19" W, 28.790
- ② R=172.600  
Δ=15° 02' 10"  
L=45.296
- ③ S 57° 04' 29" W, 69.553
- ④ R=227.400  
Δ=15° 02' 10"  
L=59.677
- ⑤ S 31° 26' 11" W, 77.134
- ⑥ N 75° 32' 27" W, 39.584

- △ DEED COURSE NUMBER PARCEL 003153-01-01
- DEED COURSE NUMBER PARCEL 003153-01-02



1673.209  
760.062  
820.105  
S 89° 13' 29" W  
N 675,722.138  
E 1,986,333.031

COMMENCE  
N 676,466.818  
E 1,986,284.804  
1/4 CORNER  
1935 U.S.G.L.O.  
BRASS CAP ON  
1" IRON PIPE

SEC. COR.  
1934 U.S.G.L.O.  
BRASS CAP IN  
CONCRETE POST  
N 675,722.138  
E 1,986,333.031

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF ELECTRONIC COPIES OF THIS MAP SHEET.

STATE OF CALIFORNIA BUSINESS, TRANSPORTATION AND HOUSING AGENCY DEPARTMENT OF TRANSPORTATION					
DIRECTOR'S DEED MAP DD-003153-01-01 & DD-003153-01-02					
DIST.	COUNTY	ROUTE	POST MILE / KILDMETER	SHEET NO.	TOTAL SHEETS
09	KER	14	18.20/29.30	18A	41
10-92 AERIAL MAPPING				LAST REV. 10-04-02	

COORDINATES, BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983(1991.35), ZONE 5. DISTANCES ARE IN METERS UNLESS OTHERWISE NOTED. DIVIDE DISTANCES BY THE COMBINED GRID FACTOR TO OBTAIN GROUND LEVEL DISTANCES. TO CONVERT METERS TO THE U.S. SURVEY FOOT, MULTIPLY DISTANCES BY 3937/1200.

PARCEL	GRANTOR	INST
3153-1	SF PACIFIC PROPERTIES, INC.	F
3154-1	SF PACIFIC PROPERTIES, INC.	F
5289	SOUTHERN PACIFIC LAND COMPANY	E
<del>003153-01-01</del>	STATE TO	DD
<del>003153-01-02</del>	STATE TO	DD
3152-1	FLYING J, INC.	F



SOURCE 06-308 CHARGE 09 E. A. 243402

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# KERNEDC

KERN ECONOMIC DEVELOPMENT CORPORATION

February 26, 2003

Mr. Terrence Bride  
Project Director  
Flying J - Mojave Travel Plaza  
1104 Country Hills Drive  
Ogden, UT 74403

Dear Mr. Bride:

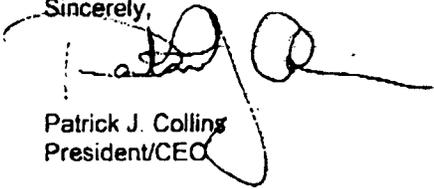
On behalf of the Kern Economic Development Corporation (Kern EDC) we are genuinely excited about the prospect of your new facility at Highway 58 in Mojave. The project's ability to create up to one hundred jobs in an area that clearly needs them, as well as the potential sales tax dollars to help support Kern County communities, is a clear benefit.

Another major benefit to the area is the commitment to assist in the development and provision of infrastructure to the location. Acting as an anchor to site, along with the infrastructure, will allow for a further attraction of a variety of business to consider the site for their own location.

The Kern EDC is the lead agency in Kern County for business attraction, expansion and retention, i.e. job growth. The job growth engine and capital investment is what drives the economy and we look forward to having this facility contribute to the economic vitality of the region.

Please call for any assistance as the project moves forward.

Sincerely,



Patrick J. Collins  
President/CEO