

**CALENDAR ITEM
C52**

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04/26/13
PRC 8512.1
M. Schroeder

**TERMINATION OF A RECREATIONAL PIER LEASE AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEES:

David W. Yancey and Michael H. Yancey

APPLICANT:

5490 West Lake Associates

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5490 West Lake Boulevard, near
Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of two existing mooring buoys.

LEASE TERM:

10 years, beginning April 26, 2013.

CONSIDERATION:

\$754 per year, with the State reserving the right to fix a different rent periodically
during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

Other:

The proposed lease contains a provision requiring the Applicant to obtain
authorization from the Tahoe Regional Planning Agency (TRPA) for the
mooring buoys within two years after the adoption of a Final
Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone
Ordinance Amendments and approval of the amended ordinances. This is
a continuation of the process the Commission used from approximately
1995 to October 2008 when TRPA adopted an FEIS and Ordinance
Amendments supported by the FEIS. In September 2010, the U.S. District

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Court invalidated the FEIS and nullified the Amendments. When additional information is available, Commission staff will advise the Commission on any suggested modifications to the process used by the Commission pending resolution of the TRPA FEIS and amended ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On February 2, 2004, the Commission authorized a 10-year Recreational Pier Lease to David W. Yancey and Michael H. Yancey for two existing mooring buoys. That lease will expire on February 1, 2014. On October 18, 2004, the upland was deeded to 5490 West Lake Associates. The lessees have executed a lease quitclaim deed releasing their interest in the existing lease. The Applicant is now applying for a new General Lease – Recreational Use.
3. Staff is recommending that the Commission accept rent in the amount of \$3,468 for the period beginning April 26, 2008 through April 25, 2013, for the Applicant's occupation without a lease. The Applicant did not qualify for rent-free status pursuant to the original definition of Public Resources Code section 6503.5 in effect at that time.
4. **Lease Termination:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

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

5. **Issuance of Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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

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

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Lease Termination: Find that the activity is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of Lease: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

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

AUTHORIZATION:

1. Authorize acceptance of rent from the applicant in the amount of \$3,468 for the period of April 26, 2008 through April 25, 2013.
2. Authorize termination (of lease No. PRC 8512.9), effective April 25, 2013 a Recreational Pier Lease, issued to David W. Yancey and Michael H. Yancey.
3. Authorize issuance of a General Lease – Recreational Use to 5490 West Lake Associates, beginning April 26, 2013, for a term of 10 years, for the continued use and maintenance of two existing

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mooring buoys as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$754, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8512.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 12, Township 14 North, Range 16 East, MDM., as shown on Official Government Township Plat approved July 8, 1875, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 & 2 – BUOYS

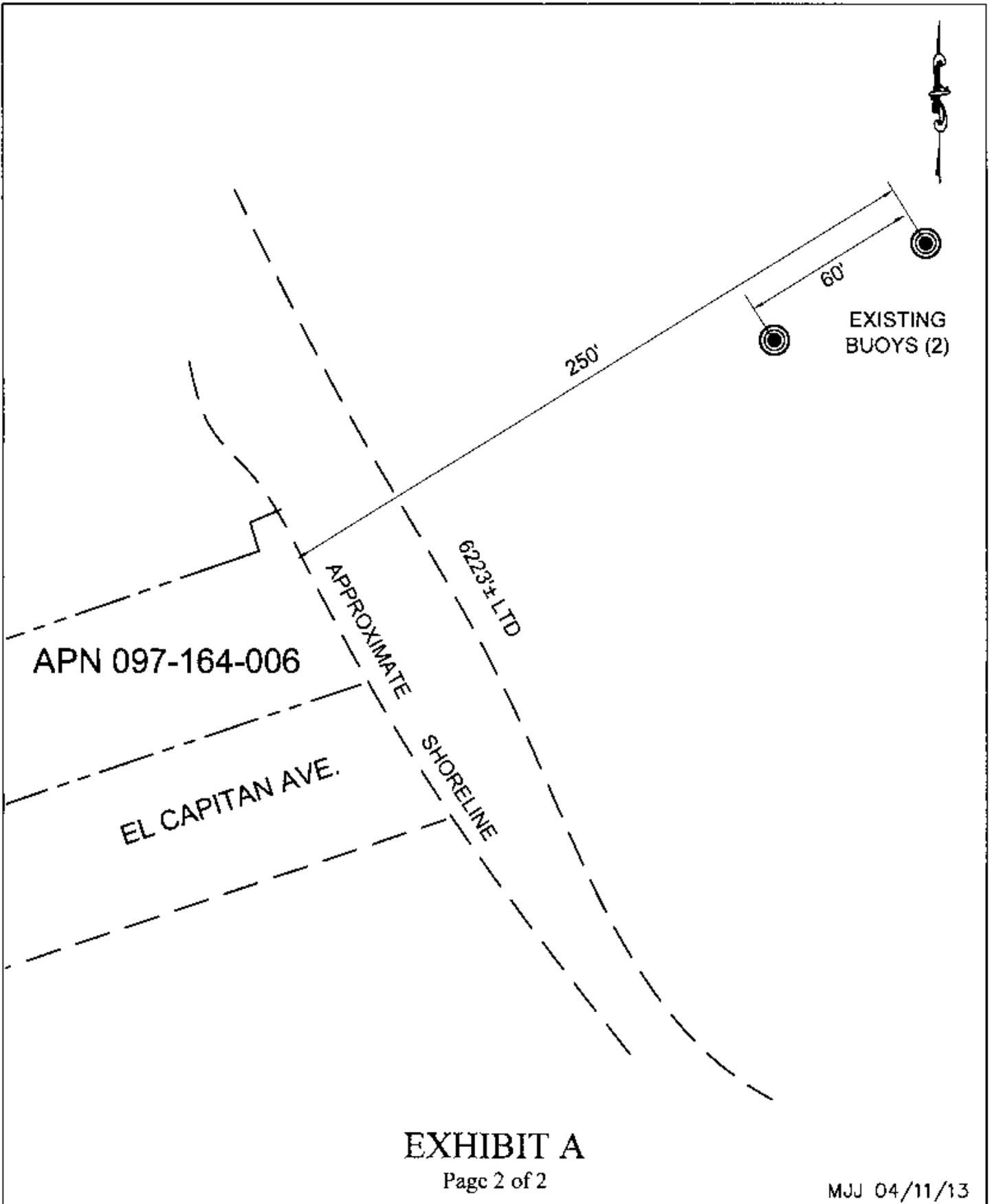
Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that parcel as described in that Grant Deed recorded October 18, 2004 as Document Number 2004-0137239 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared March 21, 2013 by the California State Lands Commission Boundary Unit.





LAND DESCRIPTION PLAT
 PRC 8512.1, 5490 WEST LAKE ASSOCIATES
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



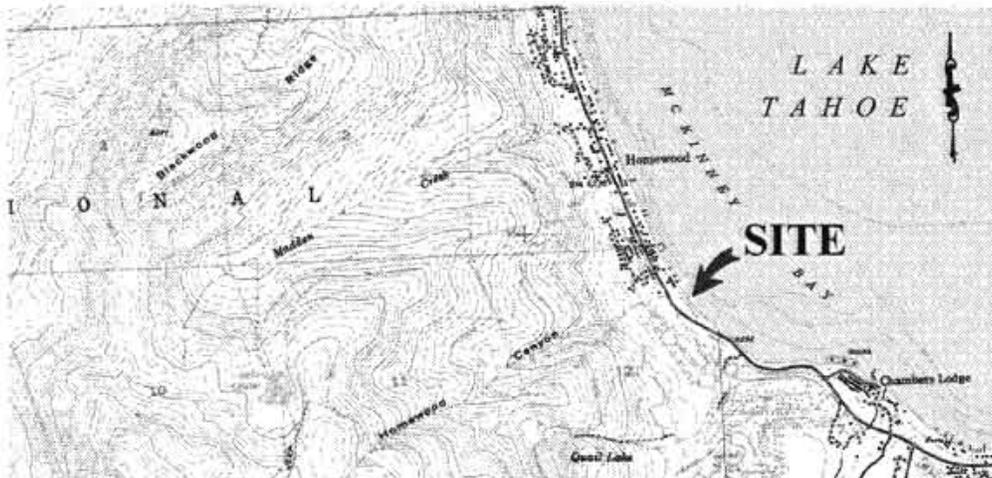
NO SCALE

SITE



NO SCALE

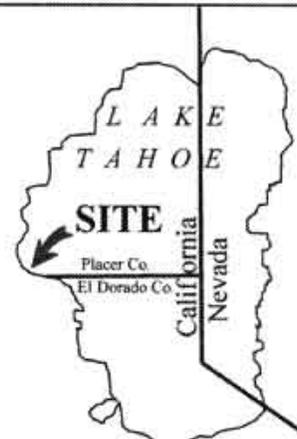
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8512.1
 5490 WEST LAKE ASSOCIATES
 APN 097-164-006
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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