

MINUTE ITEM

This Calendar Item No. 19
was approved as Minute Item
No. 19 by the State Lands
Commission by a vote of 3
to 0 at its 6-26-80
meeting.

CALENDAR ITEM

19.

	6/80
PRC 653	WP 653
PRC 706	WP 706
PRC 5858	N 144
PRC 5856	W 20493
PRC 5859	W 1124.96
PRC 3953/PRC 5857	WP 3953
	Poe/Hedly

GENERAL LEASES - COMMERCIAL USE

APPLICANTS AND ADDRESSES:

1. Roundhouse Limited Partnership
John V. Kearns and Barbara J. Kearns
General Partners (WP 706) (Tahoe Boat Co.)
P.O. Box 45
Tahoe City, California 95730
2. Byron F. West and M. Stanley Rundel
d.b.a. Alpine Marina (W 20493)
7360 No. Lake Blvd.
P.O. Box 19
Tahoe Vista, California 95732
3. Peter Topol, Nathan Topol and Stephen Topol
d.b.a. Homewood High and Dry Marina (WP 3953)
P.O. Box 1613
Tahoe City, California 95730
4. Peter Topol, Nathan Topol and Stephen Topol
d.b.a. Homewood Resort (WP 3953)
P.O. Box 1613
Tahoe City, California 95730
5. Sunnyside Sailing Center Company (N 144)
P.O. Box 5609
Tahoe City, California 95730
6. Obexer and Son, Inc. (WP 653)
P.O. Box 186
Homewood, California 95718
7. Blaine O. Bender, Helen E. bender,
Darryl O. Bender, Beverly J. Bender,
Robert I, Bender and Roxie L. Bender
d.b.a. Bender's Camp Richardson Marina
(W 1124.96)
P.O. Box 7586
South Lake Tahoe, California 95731

A 3, 7

S 1, 13

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CALENDAR ITEM NO. 19. (CONTD)

AREA, TYPE LAND AND LOCATION:

Various parcels of submerged land as shown on Exhibits A thru A-6 attached hereto, within the bed of Lake Tahoe, El Dorado and Placer Counties.

LAND USE:

Operation and maintenance of existing commercial marinas, including ancillary services and maintenance dredging.

TERMS OF PROPOSED LEASES:

Initial period: Forty (40) years from July 1, 1980.

Public liability insurance: Combined single limit of not less than \$500,000 per occurrence for bodily injury and property damage coverage.

CONSIDERATION: See Exhibit "C".

BASIS FOR CONSIDERATION:

Minimum annual rental, or 5% of gross income, as defined in each specific lease document.

PREREQUISITE TERMS, FEES AND EXPENSES:

Applicants are owners of uplands.

Filing fees have been received.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 & 2.

B. Cal. Adm. Code: Title 2, Div. 3.

OTHER PERTINENT INFORMATION:

1. An EIR is not required. These transactions are within the purview of 2 Cal. Adm. Code 2907, Class 1(B), which exempts existing structures or facilities that are in an acceptable state of repair and there is no evidence of record to show injury to adjacent property, shoreline erosion, or other types of environmental degradation.

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2. These projects are situated on State land identified as possessing significant environmental values pursuant to P.R.C. 6370.1, and are classified in a use category, Class B, which authorizes Limited Use.

Staff review indicates that there will be no significant effect upon the identified environmental values. These are existing facilities for which no adverse comments have been received.

3. The marina owners formed an informal association for purposes of negotiating with Commission staff on a united front. Staff agreed that if acceptable Leases could be negotiated with all members of the owners association, staff could recommend that back rental be forgiven in the interest of securing acceptable current Leases. Staff is therefore recommending that any past rentals be forgiven and that prior agreements be superceded by the leases as proposed herein.

4. Certain Standard Lease provisions are proposed for amendment, revision or supplement as explained below:

- a. Lessor's consent, where required shall not be unreasonably withheld.
- b. A statement that the ownership claims of the State extend landward to the ordinary high water line of Lake Tahoe, but that the Leases are being entered into by all parties without prejudice to respective claims of fee ownership. Pending final resolution of claims of ownership by the courts, the Lease premises for purposes of these Leases shall consist of submerged lands waterward of elevation 6223 feet Tahoe datum. Upon final resolution of the boundary and public trust questions all leases will be amended to reflect applicable court findings.

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- c. Certain minor modifications to the Standard lease covenants have been made, that in staff's opinion have no material effect on Commission lease policy; said modifications are incorporated within the proposed lease documents referred to herein and on file in the Office of the Commission.
- d. The proposed leases provide Lessor's consent to Lessee's mortgaging or encumbering the lease pursuant to an Agreement and Consent to Encumbrancing of Lease, attached to each lease. Said Agreements are on file in the Office of the Commission, and will not become effective until a Secured Party-Lender is designated by Lessee and approved by the Commission.
- e. A "force majeure" clause has been added at the request of the applicants.
- f. A Right of Renewal provision has been included which gives the lessee right to extend the lease for an additional period to be specified at time of renewal (but no less than 9 years), subject to such rental and other terms, covenants and conditions as negotiated between the parties. It further requires that Lessee give notice prior to expiration of the lease term and that it not fall into a hold over or trespass status.

EXHIBITS: A to A-6. Land Descriptions.
 B. Location Map.
 C. Consideration Chart.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF P.R.C. 21085, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.

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2. FIND THAT GRANTING OF THE LEASES WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE P.R.C.
3. WAIVE ANY BACK RENTALS DUE PRIOR TO JULY 1, 1980, INCLUDING PENALTY AND INTEREST IF ANY, FROM THE APPLICANTS AS NAMED HEREIN; FURTHER THAT ANY PRIOR AGREEMENTS WITH SAID APPLICANTS ARE CONSIDERED SUPERCEDED BY THE LEASES AS PROPOSED, AND UPON EXECUTION OF SAID LEASES BY THE STATE.
4. AUTHORIZE ISSUANCE OF FORTY (40) YEAR GENERAL LEASES - COMMERCIAL USE AS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION FROM JULY 1, 1980 TO THE FOLLOWING APPLICANTS:
 1. Roundhouse Limited Partnership
John V. Kearns and Barbara J. Kearns
General Partners (WP 706) (Tahoe Boat Company)
 2. Byron F. West and M. Stanley Rundel
d.b.a. Alpine Marina (W 20493)
 3. Peter Topol, Nathan Topol and Stephen Topol
d.b.a. Homewood High and Dry Marina (WP 3953)
 4. Peter Topol, Nathan Topol and Stephen Topol
d.b.a. Homewood Resort (WP 3953)
 5. Sunnyside Sailing Center Company (N 144)
 6. Obexer and Son, Inc. (WP 653)
 7. Blaine O. Bender, Helen E. Bender, Darryl O. Bender,
Beverly J. Bender, Robert I. Bender and Roxie L. Bender
d.b.a. Bender's Camp Richardson Marina (W 1124.96)

IN CONSIDERATION OF:

- a. SPECIFIED MINIMUM ANNUAL RENTALS, OR FIVE PERCENT (5%) OF GROSS INCOME, AND WHERE APPROPRIATE SPECIFIED FUEL SALES CHARGES, AS SET FORTH UNDER CONSIDERATION HEREIN AS SHOWN ON EXHIBIT "C" ATTACHED AND BE REFERENCE MADE A PART HEREOF.
- b. PROVISION OF PUBLIC LIABILITY INSURANCE IN THE AMOUNT OF COMBINED SINGLE LIMIT COVERAGE OF NOT LESS THAN \$500,000.

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- c. LESSOR CONSENTING TO LESSEE'S MORTGAGING OR ENCUMBERING THE LEASE PURSUANT TO AN AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE, ATTACHED TO EACH LEASE, ON FILE IN THE OFFICE OF THE COMMISSION, AND BY REFERENCE INCLUDED HEREIN.
 - d. INCLUSION OF A "FORCE MAJEURE" PROVISION.
 - e. PROVISION FOR LESSEES RIGHT OF RENEWAL OF THE LEASE AT EXPIRATION OF INITIAL TERM SUBJECT TO SUCH RENTAL, TERMS, COVENANTS AND CONDITIONS AS NEGOTIATED BETWEEN THE PARTIES FOR THE OPERATION AND MAINTENANCE OF EXISTING COMMERCIAL MARINAS, INCLUDING ANCILLARY SERVICES AND MAINTENANCE DREDGING, ON THE LAND DESCRIBED ON EXHIBITS A-1 THROUGH A-7 ATTACHED AND BY REFERENCE MADE A PART HEREOF.
4. AUTHORIZE THE LEASE PREMISES FOR PURPOSE OF SAID LEASE TO CONSIST OF ALL SUBMERGED LANDS UTILIZED BY THE APPLICANT WATERWARD OF ELEVATION 6223 LAKE TAHOE DATUM INTO THE EXPRESS STIPULATION THAT THE LEASE SHALL BE AMENDED UPON THE RENDERING OF A FINAL COURT JUDGEMENT ON THE BOUNDARY AND PUBLIC TRUST QUESTIONS TO REFLECT THE FINDINGS OF THE COURT.

EXHIBIT "A"

WP 706

A parcel of land in the State owned bed of Lake Tahoe, adjacent to fractional Section 6, T15N, R17E, M.D.M., said parcel being situated near the community of Tahoe City, Placer County, California, and being more particularly described as follows:

BEGINNING at the intersection of the northeasterly line of Lot 4 with the southeasterly line of Lake Street as said Lot and Street are shown on that certain map entitled "Plat of Bittencourt Tract", dated October 16, 1874, and filed in Placer County Records in Volume A at Page 84 of Field Notes; thence from said point of beginning along the northeasterly line of said Lot 4, S 46° 30' E, 740 feet; thence S 43° 30' W, 186.5 feet; thence S 16° 30' W, 59.61 feet; thence S 70° 53' 20" W, 69.70 feet; thence S 43° 30' W, 101 feet; thence N 46° 30' W, 255 feet; thence S 43° 30' W, 215 feet, more or less, to a point on the southeasterly prolongation of the southwesterly line of that certain 0.55 acre portion of Lot 1 as shown on above said Bittencourt Plat; thence along said line N 46° 30' W, 480 feet, more or less, to the aforementioned southeasterly line of Lake Street; thence along said southeasterly line N 43° 30' E, 617.5 feet, more or less, to the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the 6223 foot elevation, Tahoe datum.

END OF DESCRIPTION

Prepared John R. Leising Checked R. L. Blake
Reviewed John R. Leising Date 5/11/76

REVIEWED MAY 28, 1980 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR

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PARCEL 1 - Marina

A parcel of submerged land lying in the bed of Lake Tahoe, Placer County, State of California, said parcel being adjacent to Lots 28, 29 and 30, in Block "B" as shown on the map entitled "Tahoe Vista-Subdivision No. 1" filed in Book B of maps at page 10, records of said county described as follows:

BEGINNING at the intersection of the low water mark of Lake Tahoe between stations 462 and 463, as said low water mark is shown on map entitled "Survey of the Low Water Mark on the Shore of Lake Tahoe Vicinity of Tahoe Vista" filed for record in Book 2 of Survey at page 71, Placer County Records, with the southerly prolongation of the westerly line of said Lot 28; thence along said low water mark to a point which bears S 79°43'44"W, 37.02 feet from said station 463; thence S 27°E, 69.71 feet; thence N 83°18'10"E, 23.00 feet; thence S 14°02'10"E, 115.00 feet; thence N 75°57'50"E, 170.00 feet; thence N 13°W, 110 feet to the southerly prolongation of the easterly line of said Lot 30; thence along last prolongation and said easterly line N 21°18'20"W, 380 feet, more or less, to the northeast corner of said Lot 30, being on the southerly line of ACATAHOE BOULEVARD as shown on said map entitled "Tahoe Vista Subdivision No. 1"; thence along said southerly line S 68°41'40"W, 150.00 feet to said westerly line of Lot 28; thence along last said line and its southerly prolongation S 9°03'50"E, 276 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the 6223 foot elevation, Tahoe Datum.

Bearings used herein are based on the California Coordinate System Zone 2.

PARCEL 2 - Buoys

Nineteen circular parcels of land, each being 40 feet in diameter and lying adjacent to the land described in the above-described Parcel 1.

END OF DESCRIPTION

PREPARED MAY 28, 1980 BY TECHNICAL SERVICES UNIT, ROY MENNICK, SUPERVISOR.

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Thirty-one (31) parcels of land in the State-owned bed of Lake Tahoe, Placer County, California, lying adjacent to Section 1, T14N. R16E, MPM, and also lying adjacent to Lots 89, 90, 91, 92 and 93 as shown on the map of Lakeside on Lake Tahoe recorded in Book A of Maps at page 13, Placer County Records, described as follows:

PARCEL 1 - Area of Marina and Buoys

BEGINNING at a point on the easterly line of said Lot 93 which bears N 20°10'W 0.73 feet from the southeasterly corner of said Lot 93, thence along the easterly lines of Lots 93, 92, 91, 90 and 89, the following four courses:

1. N 20°10'W 520 feet
2. N 69°50'E 450 feet
3. S 20°10'E 520 feet
4. S 69°50'W 450 feet to the easterly line of Lot 93 and the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the 6223 foot elevation, Tahoe Datum.

PARCELS 2-31

Thirty (30) circular parcels of submerged land 40 feet in diameter located within the area described in Parcel One above.

END OF DESCRIPTION

PREPARED MAY 28, 1980 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.

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EXHIBIT "A-3"

WP 3953

A parcel of land in the State-owned bed of Lake Tahoe, Placer County, California, lying adjacent to Section 1, T14N, R16E, MDM, and also lying adjacent to Lots 93 and 94 as shown on the map of Lakeside on Lake Tahoe, recorded in Book A of Maps at page 13, Placer County Records, and more particularly described as follows:

BEGINNING at the southeasterly corner of said Lot 94, thence S 20°10'E 23.47 feet along the southerly prolongation of the easterly line of said Lot 94, thence the following five courses:

1. N 69°50'E 105.00 feet
2. S 20°10'E 16.00 feet
3. N 69°50'E 300 feet
4. N 20°10'W 145.8 feet
5. S 69°50'W 405 feet to the easterly line of said Lot 93, thence S 20°10'E along the easterly lines of Lots 93 and 94, 106.33 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the 6223 foot elevation, Tahoe Datum.

END OF DESCRIPTION

PREPARED MAY 28, 1980 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.

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EXHIBIT "A-4"

N 0144

Twenty-five parcels of land in the bed of Lake Tahoe, Placer County, California, situated adjacent to and easterly of fractional Section 24, T15N, R16E, MDM, said parcels more particularly described as follows:

Parcel 1 Marina

All that land lying immediately beneath an existing marina, TOGETHER WITH a necessary use area extending no more than 10 feet from the extremities of said marina, said marina being adjacent to and easterly of Lot 5 and Lot 6 as shown on "Map No. 2 Sunnyside", filed in Placer County Recorder's Office March 4, 1935, Book D of Maps, page 53.

EXCEPTING THEREFROM any portion lying landward of the 6223 foot elevation, Tahoe Datum.

Parcels 2-25 Buoys

Twenty-four circular parcels of land lying in the bed of Lake Tahoe, each having a diameter of 40 feet, said parcels lying easterly of Lot 5, Lot 6, Lot 7, and Lot 8, of said Sunnyside Tract Map No. 2.

END OF DESCRIPTION

PREPARED MAY 28, 1980 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.

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Sixteen (16) parcels of land in Lake Tahoe, Placer County, California, described as follows:

PARCEL 1 - Marina

A parcel of submerged land in the State-owned bed of Lake Tahoe, lying easterly of a portion of McKinney Tract, Subdivision No. 1, as per the plat filed in Book C of Maps, page 13, Placer County Records, Section 12, T14N, R16E, MDM, and also easterly of a portion of Lakeside on Lake Tahoe, as per the map filed in Book A of Maps, page 13, Placer County Records, Section 1, T14N, R16E, MDM, said parcel being more particularly described as follows:

COMMENCING at Station 55 of the survey filed in Book 2 of Records of Survey at page 71 et seq., Placer County Records, from which a 5/8" iron pin set by L.S. 2515 to mark the retraced southwest corner of the intersection of South Street and Lake Boulevard, as per said plat of the McKinney Tract, bears S19°19'09"W, 131.13 feet; thence S 26°12'E, 76.88 feet to the TRUE POINT OF BEGINNING; thence N 63°48'E, 87.27 feet; thence S 24°30'E, 345.27 feet; thence S 64°05'03"W to the westerly boundary of the aforementioned Lake Boulevard; thence northerly along said westerly boundary of Lake Boulevard to a point from which the true point of beginning bears N 63°48'E; thence N 63°48'E, to the true point of beginning.

EXCEPTING THEREFROM any portion lying landward of the 6223 foot elevation, Tahoe Datum. Bearings used in this description are based on the California Coordinate System, Zone 2.

PARCELS 2-16 - Buoys

Fifteen (15) circular parcels of land 40 feet in diameter, said buoys being easterly of and adjacent to the aforesaid marina.

END OF DESCRIPTION

PREPARED MAY 28, 1980 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.

EXHIBIT "A-6"

LAND DESCRIPTION

W 1124.96

Ninety-one (91) parcels of submerged land in Lake Tahoe, at Camp Richardson, El Dorado County, California, described as follows:

PARCEL 1

COMMENCING at GLO brass cap marking the southeast corner of Section 25 and the northeast corner of Section 36, T13N, R17E, MDM, and the west line of Section 6, T12N, R18E, MDM: thence N 00° 27' E 409.77 feet; and S 77° 48' E 470.6 feet to a point designated "A" being also the TRUE POINT OF BEGINNING, thence the following eight courses:

1. N 00° 30' E 245.00 feet;
2. S 89° 30' E 25.00 feet;
3. S 00° 30' W 60.00 feet;
4. S 89° 30' E 25.00 feet;
5. S 00° 30' W 70.00 feet;
6. S 89° 30' E 96.87 feet;
7. S 00° 30' W 145.41 feet;
8. N 77° 48' W 149.98 feet to the point of beginning.

PARCELS 2-91

Ninety (90) circular parcels of submerged land 40 feet in diameter (for buoys), located within the following described area:

From the point designated "A" being also the TRUE POINT OF BEGINNING, thence the following four courses:

1. N 00° 30' E 1,150.00 feet;
2. S 89° 30' E 146.87 feet;
3. S 00° 30' W 1,180.43 feet;
4. N 77° 48' W 150.00 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying landward of the 6223 foot elevation,
Tahoe Datum.

END OF DESCRIPTION

Prepared *A. H. Spurr* Checked *Garry A. Weldon*
Reviewed *R. S. Schuman* Date *Aug 13, 1979*



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W 20493

WP 706

N 144

WP 653
WP 3953

W 1124.96

L A K E T A H O E

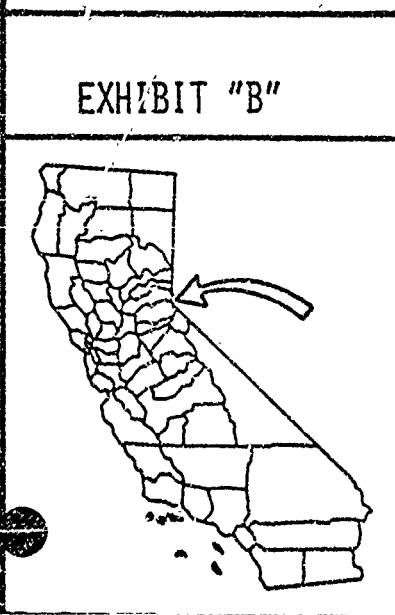


EXHIBIT "B"

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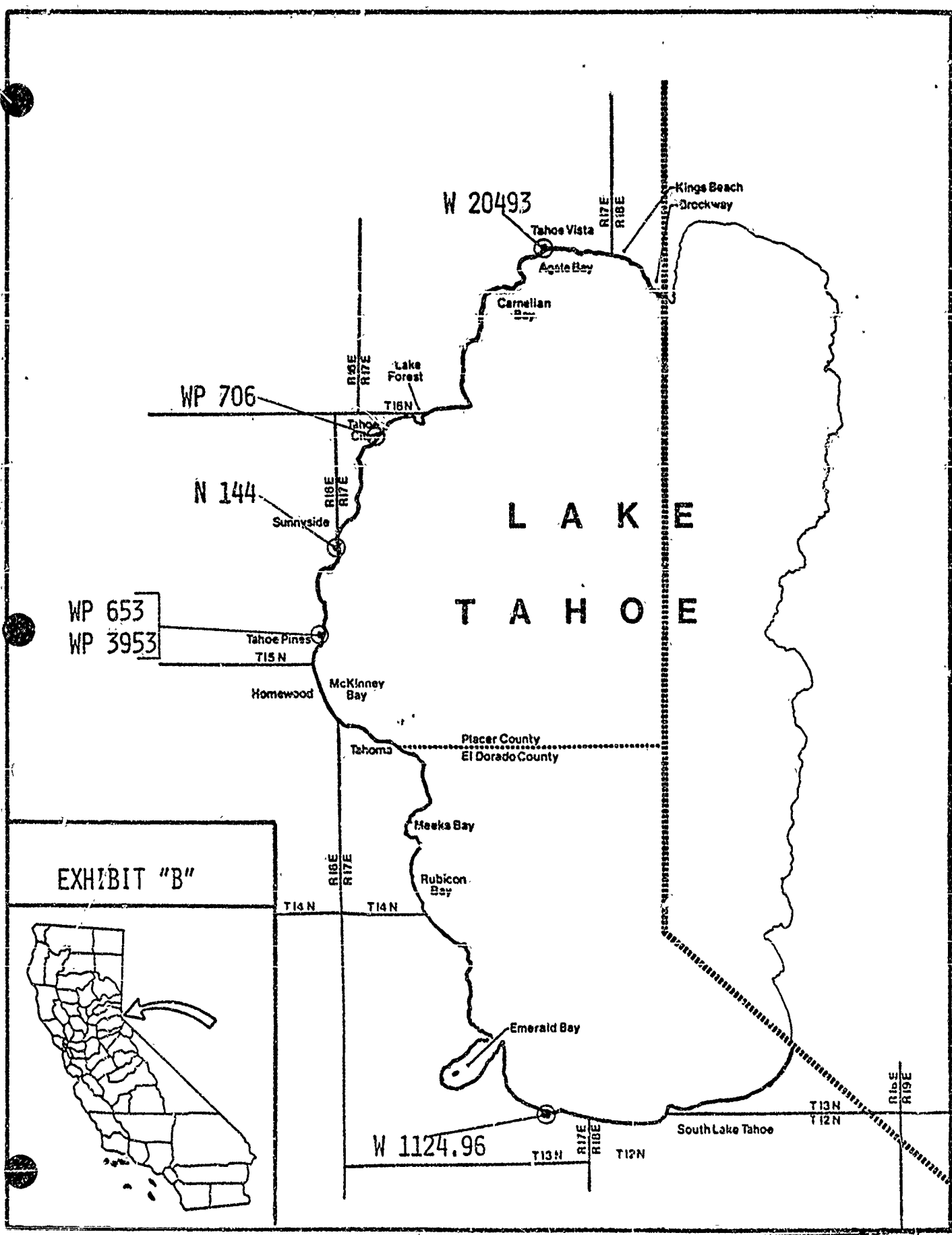


EXHIBIT "C"

<u>FILE</u>	<u>MARINA NAME</u>	<u>EXISTING FACILITIES</u>	<u>PROPOSED ANNUAL MINIMUM RENTAL</u>	<u>ANNUAL RENTAL BASIS IN LIEU OF MINIMUM</u>
WP 706	Tahoe Boat Company	piers, docks, boat berths, 31 mooring buoys and 2 fuel pumps	\$3,000.00	5% of gross income, plus 1¢ per gallon of fuel sold up to 100,000 gallons, and 1.5¢ per gallon thereafter.
W 20493	Alpine Marina	Boat berths, pier, 19 mooring buoys and 1 fuel pump	\$ 680.00	5% of gross income, plus 1¢ per gallon of fuel sold up to 100,000 gallons, and 1.5¢ per gallon thereafter.
WP 3953	Homewood High and Dry Marina	pier/breakwater, and 16 mooring buoys	\$ 225.00	5% of gross income
WP 3953	Homewood Resort	pier and 30 mooring buoys	\$ 300.00	5% of gross income
N 0144	Sunnyside Sailing Center	pier, berthing and 24 mooring buoys	\$ 750.00	5% of gross income
WP 653	Obexer's Marina	pier, 25 boat berths, 15 mooring buoys and 2 fuel pumps	\$ 750.00	5% of gross income, plus 1¢ per gallon of fuel sold up to 100,000 gallons, and 1.5¢ per gallon thereafter.
W 1124.96	Benders Marina	pier and loading dock, 2 fuel pumps and 90 mooring buoys	\$ 750.00	5% of gross income, plus 1¢ per gallon of fuel sold up to 100,000 gallons, and 1.5¢ per gallon thereafter.

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