

MINUTE ITEM
This Calendar Item No. 43
was approved as Minute Item
No. 43 by the State Lands
Commission by a vote of 3
to 0 at its 7/10/89
meeting.

CALENDAR ITEM
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07/10/89
PRC 1691
Gordon

**THIRD AMENDMENT OF NONCOMMERCIAL LEASE PRC 1691
AND ASSIGNMENT OF
COMMERCIAL LEASE PRC 1691**

APPLICANT: The Brockway Club
c/o Joseph N. Tilem, Esq.
9454 Wilshire Boulevard, Suite 209
Beverly Hills, California 90212

ASSIGNEE: Glenn A. Storek
484 Ninth Street
Oakland, California 94607

AREA, TYPE LAND AND LOCATION:
A 0.182-acre parcel, a 0.036-acre parcel,
a 0.347-acre parcel, and 15 circular parcels,
each 40 feet in diameter that together total
0.433 acre, which compose an aggregate of 0.998
acre of submerged lands in Agate Bay, Lake Tahoe
at Brockway, Placer County.

LAND USE: Maintenance and operation of one pier with
three floating docks, a hot spring deck and
breakwater, a swim area with a swim line and
swim float, and 15 mooring buoys, respectively.

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TERMS OF ORIGINAL LEASE:

Initial period: 15 years beginning April 20, 1956.

Renewal options: Two successive periods of ten years each.

Surety bond: \$1,000,000.

Consideration: \$30 per annum for pier and breakwater.

TERMS OF FIRST AMENDMENT OF LEASE DURING FIRST RENEWAL PERIOD:

Initial period: Ten years beginning April 20, 1971.

Renewal options: One successive period of ten years.

Surety bond: \$3,000.

Public liability insurance: \$800,000 per occurrence for bodily injury and \$200,000 for property damage, or combined single limit coverage of \$1,000,000.

Special:

1. The amendment increased the rental, insurance coverage, area of use, and brought the provisions for monetary consideration and standard covenants into conformance with current regulations and policies.
2. The amendment was entered into by both parties without prejudice to their respective claims of boundary.
3. All other terms and conditions of the lease remained in full force and effect.

CONSIDERATION: One pier - \$70 per annum; other structures and buoys - no fee pursuant to the provisions of PRC Section 6503.5, with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

TERMS OF LEASE DURING SECOND RENEWAL PERIOD:
Initial period: Ten years beginning April 20, 1981.

Surety bond: \$3,000.

Public liability insurance: \$800,000 per occurrence for bodily injury and \$200,000 for property damage, or combined single limit coverage of \$1,000,000.

CONSIDERATION: One pier - \$70 per annum; other structures and buoys - no monetary fee pursuant to the provisions of PRC Section 6503.5, with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

TERMS OF SECOND AMENDMENT OF LEASE:
Initial period: Ten years beginning April 20, 1981.

Surety bond: \$3,000.

Public liability insurance: \$800,000 per occurrence for bodily injury and \$200,000 for property damage, or combined single limit coverage of \$1,000,000.

Special: 1. The amendment added a hot spring deck and breakwater, a swim area, a swim line, a swim float and four mooring buoys. It also increased the rental and brought the standard covenants into conformance with current regulations and policies.

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2. All other terms and conditions of the lease and first amendment remained in full force and effect.

CONSIDERATION: \$141.75 per annum as to a hot spring deck and a breakwater, and \$600 per annum as to a swim area and related swim facilities; no monetary fee for a pier, three floating docks, and 15 mooring buoys pursuant to the provisions of PRC Section 6503.5, with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

TERMS OF PROPOSED THIRD AMENDMENT OF LEASE:

Initial period: Ten years beginning April 20, 1981.

Surety bond: \$3,000.

Public liability insurance: \$800,000 per occurrence for bodily injury and \$200,000 for property damage, or combined single limit coverage of \$1,000,000.

- Special:**
1. The amendment changes the lease from noncommercial to commercial status, increases the annual rental and collects rents applicable to commercial usage of the mooring buoys from April 20, 1986 through April 19, 1989.
 2. The amendment restricts any residential use of the facilities.
 3. The amendment requires refuse containers for the disposal of vessel generated trash.

CONSIDERATION: \$3,681 per annum; with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

OTHER CONSIDERATION:

\$2,684.85; being rental for commercial usage of the mooring buoys from April 20, 1986 through April 19, 1989.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003.

APPLICANT STATUS:

Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee and processing costs have been received.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 2, Div. 3; Title 14, Div. 6.

AB 884:

N/A.

OTHER PERTINENT INFORMATION:

1. The lease facilities are utilized to benefit the owners, tenants, and guests of condominium complexes located on adjacent uplands. Applicant collects the payment of fees for utilization of the mooring buoys.
2. The assignment of this lease is occasioned by applicant's presently escrowed conveyance of the littoral upland to the Assignee.
3. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

4. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. 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 activity is consistent with its use classification.

EXHIBITS: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. AUTHORIZE THE THIRD AMENDMENT OF NONCOMMERCIAL LEASE PRC 1691.1, EFFECTIVE APRIL 20, 1989, TO CHANGE THE NONCOMMERCIAL USE CLASSIFICATION OF THE LEASE TO COMMERCIAL USE FOR MAINTENANCE AND OPERATION OF ONE PIER WITH THREE FLOATING DOCKS, A HOT SPRINGS DECK AND BREAKWATER, A SWIM AREA WITH A SWIM LINE AND SWIM FLOAT, AND 15 MOORING BUOYS; IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF \$3,681 WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; AND OTHER CONSIDERATION IN THE AMOUNT OF \$2,684.85 AS TO THE PERIOD APRIL 20, 1986 THROUGH APRIL 19, 1989, FOR THE COMMERCIAL USE OF 15 MOORING BUOYS; WITH PROVISION OF A \$3,000 SURETY BOND; AND WITH PROVISION OF PUBLIC LIABILITY INSURANCE IN THE AMOUNT OF \$800,000 PER OCCURRENCE FOR BODILY INJURY AND \$200,000 FOR PROPERTY DAMAGE, OR FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000.
3. APPROVE, EFFECTIVE JULY 10, 1989, THE ASSIGNMENT OF THE SUBJECT COMMERCIAL LEASE PRC 1691, COVERING ONE PIER WITH THREE FLOATING DOCKS, A HOT SPRING DECK AND BREAKWATER, A SWIM AREA WITH A SWIM LINE AND SWIM FLOAT, AND 15 MOORING BUOYS, FROM THE BROCKWAY CLUB TO GLENN A. STOREK.

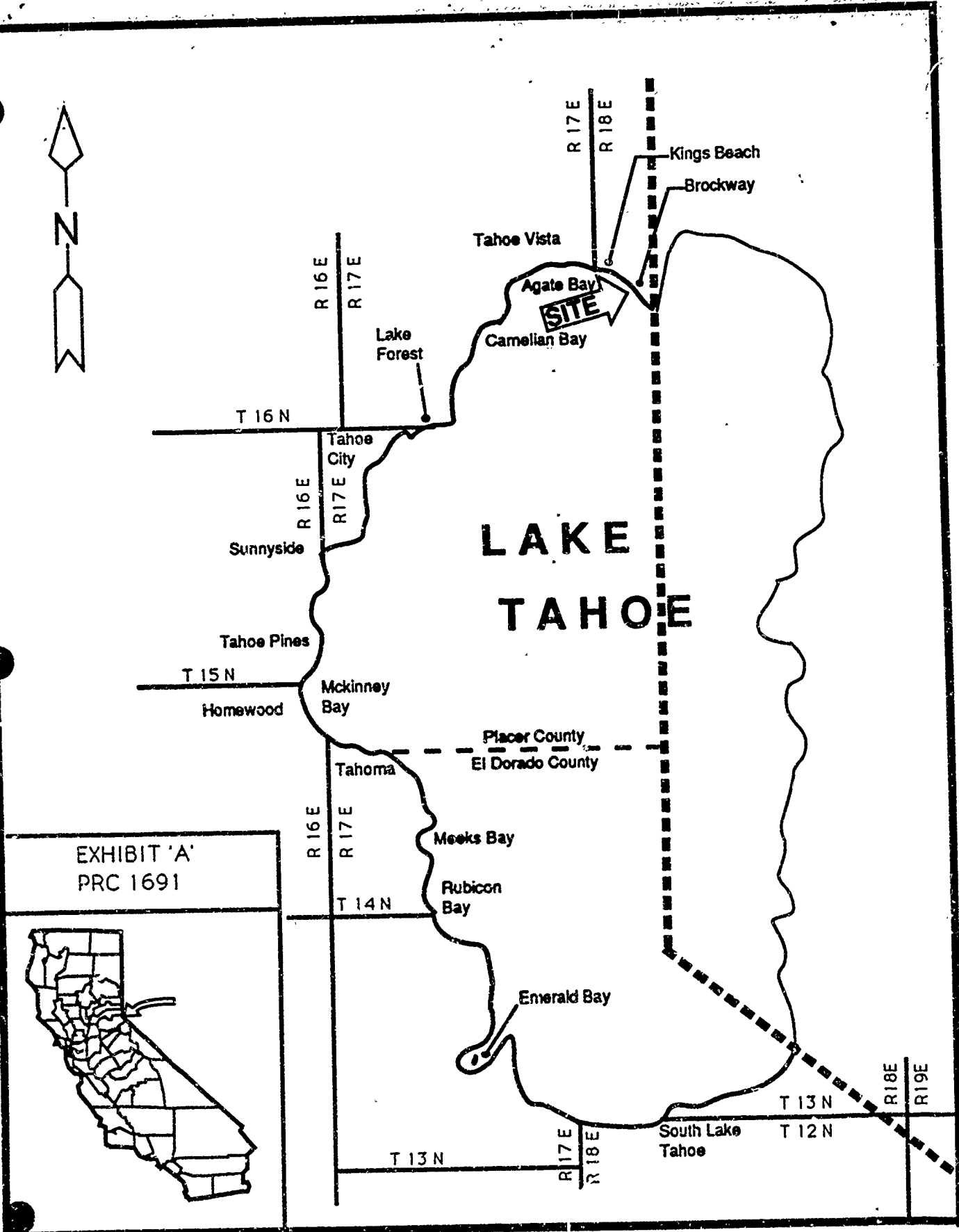


EXHIBIT 'A'
PRC 1691



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