

MINUTE ITEM

This Calendar Item No. 63 was approved as Minute Item No. 63 by the California State Lands Commission by a vote of 3 to 4 at its 10/20/03 meeting.

MINUTE ITEM

63

10/20/03
PRC 5676.1
B. DUGAL
J. FREY

RUBICON TAHOE OWNERS, INC.
(APPLICANT)

Regular Calendar Item 63: This item was moved to the consent calendar and approved as presented.

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10/20/03
PRC 5676.1
B. Dugal
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ISSUANCE OF GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Rubicon Tahoe Owners, Inc.
c/o Nicholas Castner
601 Ingleside Drive
Manhattan Beach, CA 90266

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, near Rubicon Bay, El Dorado County.

PROPOSED LEASE PROVISIONS:

AUTHORIZED USE – NORTH FIELD:

Continued use and maintenance of one existing pier, one swim area, one swim float and one buoy field containing 22 association-owned mooring buoys, and one U. S. Coast Guard marker buoy.

AUTHORIZED USE – SOUTH FIELD:

Continued use and maintenance of one existing pier, one swim area, one swim float and one buoy field containing 75 association-owned mooring buoys, and installation, use and maintenance of two U. S. Coast Guard marker buoys.

CONSIDERATION:

\$1,442 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

LEASE TERM:

Ten years, beginning February 1, 2002.

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SPECIFIC LEASE PROVISIONS:

Insurance:

Combined single limit coverage of no less than \$1,000,000 per occurrence for bodily injury and property damage.

Other:

Lessee agrees to provide written evidence to Lessor that the buoy fields are authorized by the Tahoe Regional Planning Agency (TRPA) within two years after the adoption of the Lake Tahoe Shorezone Amendments – Draft Environmental Impact Statement (EIS) and approval of the ordinances based on the EIS. At all times, the buoy grid patterns shall meet the requirements of the U.S. Army Corps of Engineers, the TRPA and all other agencies having regulatory jurisdiction.

OTHER PERTINENT INFORMATION:

1. The Applicant, Rubicon Tahoe Owners, Inc., (RTO) is a voluntary organization representing approximately 280 of 330 lot owners in the Rubicon Subdivision adjacent to Lake Tahoe. This subdivision dates back to the mid-1940s. Lease No. PRC 5676.1 was originally granted in 1969 and was reissued to RTO effective April 23, 1984, for a term of 15 years. The lease has been in holdover status since 1999 pending resolution of litigation to which the Commission was a party. The litigation concerned placement of buoys in front of littoral parcels and is now settled. The Commission was dismissed from the litigation.
2. The Lease originally authorized the use of four parcels of land that are contained in two geographic locations. Two parcels each contain one pier, one swim float and one swim area. One parcel was authorized for 77 mooring buoys and one parcel was authorized for 20 mooring buoys. Parcels 3 and 4 are located in what is referred to as the "South Field" and Parcels 1 and 2 are situated approximately a mile north of this field in what is referred to as the "North Field". Of the 77 mooring buoys initially authorized in the south field, two buoys were subsequently transferred to the North Field.
3. The proposed lease is adjacent to ten littoral properties, two of the littoral parcels are owned by RTO. RTO will arrange the existing buoys in a grid pattern approved by the Corps of Engineers and the TRPA. The grid pattern will also provide two buoy positions for each of the littoral owners. Two of the littoral owners currently have Recreational Pier Leases from the Commission and several other littoral owners have submitted

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application for buoys and piers that require processing.

4. Under Section 2000 of the California Code of Regulations, "Leases or permits for tide or submerged lands shall generally only be issued to riparian or littoral upland owners or use right holders, provided, however, that such respective leases or permits may be granted to the best qualified applicant irrespective of riparian or littoral status." RTO is a littoral owner and the Applicant for these submerged lands. Staff believes RTO is the best-qualified Applicant because of its littoral ownership, its ability to provide water-oriented recreational opportunities to a large number of the public, and its willingness to provide buoy sites to adjacent littoral owners.
5. The annual rent for the lease has been prorated according to the number of lots/members qualifying for "rent-free" status pursuant to section 6503.5 of the Public Resources Code. 97 percent of the parcels are owned by natural persons and qualify for the rent-free status while the remaining three percent do not qualify for the rent-free status under section 6503.5.
6. **Existing Buoys, Piers, Swim Areas, Swim Floats and One U.S. Coast Guard Marker Buoy:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

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

7. **Two Existing Buoys Transferred From the South Buoy Field:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(3).

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

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Regulations, section 2905.

8. **Two U. S. Coast Guard Marker Buoys:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(5).

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

9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 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 project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

North Field Buoys: Tahoe Regional Planning Agency

FURTHER APPROVALS REQUIRED:

South Field Buoys: Tahoe Regional Planning Agency

EXHIBITS:

- A. Site/Location Map for the North and South Field
- B. Land Description

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

EXISTING BUOYS, PIERS, SWIM AREAS, SWIM FLOATS, AND ONE U. S. COAST GUARD MARKER BUOY: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO

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TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

TWO EXISTING BUOYS TRANSFERRED FROM THE SOUTH FIELD: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 10561 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (c)(3)

TWO U. S. COAST GUARD MARKER BUOYS: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (c)(3).

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 SECTIONS 6370, ET SEQ.

AUTHORIZATION:

- 1) FIND THAT RUBICON TAHOE OWNERS, INC., MEETS THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS SECTION 2000 BECAUSE IT IS A LITTORAL OWNER AND THE BEST QUALIFIED APPLICANT TO HOLD A LEASE AT RUBICON BAY, EL DORADO COUNTY, BECAUSE OF ITS OWNERSHIP OF TWO LITTORAL PARCEL, ITS ABILITY TO PROVIDE WATER-ORIENTED RECREATIONAL OPPORTUNITIES TO A LARGE NUMBER OF THE PUBLIC, ITS WILLINGNESS TO PROVIDE BUOY SITES TO ADJACENT LITTORAL OWNERS, AND THE CONSISTENCY OF RUBICON TAHOE OWNERS, INC., ACTIVITIES WITH THE COMMISSION'S STATUTORY AND REGULATORY STRUCTURE AND THE PUBLIC TRUST DOCTRINE; AND,

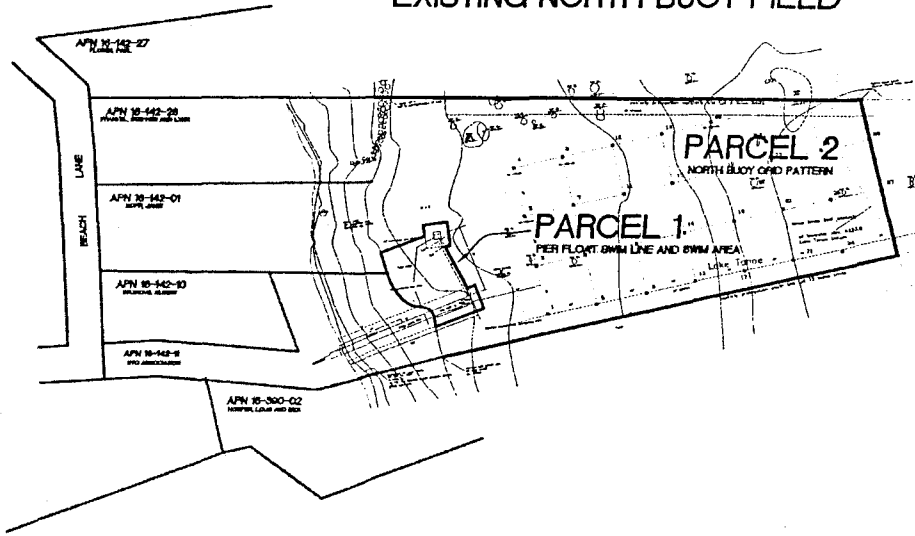
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- 2) AUTHORIZE ISSUANCE TO RUBICON TAHOE OWNERS, INC., OF A GENERAL LEASE - RECREATIONAL USE, BEGINNING FEBRUARY 1, 2002, FOR A TERM OF TEN YEARS, FOR THE CONTINUED USE AND MAINTENANCE OF THE FOLLOWING IMPROVEMENTS LOCATED IN THE NORTH FIELD: ONE PIER, ONE SWIM AREA, ONE SWIM FLOAT AND ONE BUOY FIELD CONTAINING 22 ASSOCIATION-OWNED MOORING BUOYS, AND ONE U. S. COAST GUARD MARKER BUOY ON THE LAND SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; AND THE FOLLOWING EXISTING IMPROVEMENTS LOCATED IN THE SOUTH FIELD: ONE PIER, ONE SWIM AREA, ONE SWIM FLOAT AND ONE BUOY FIELD CONTAINING 75 ASSOCIATION-OWNED MOORING BUOYS AND THE INSTALLATION, USE AND MAINTENANCE OF TWO U. S. COAST GUARD MARKER BUOYS ON THE LAND SHOWN ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$1,442 WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF NO LESS THAN \$1,000,000.

NO SCALE

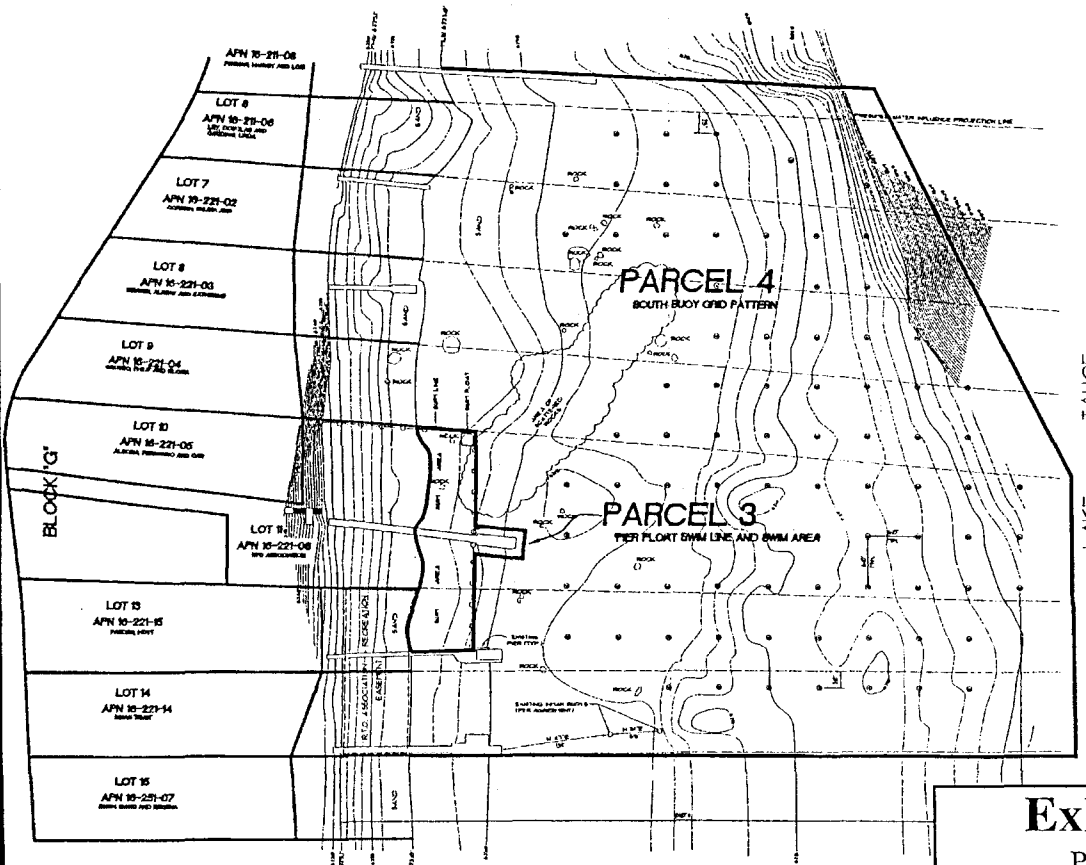
SITE PLAN

EXISTING NORTH BUOY FIELD



NORTH BUOY FIELD NOTE:
 THE DRAWING DEPICTS THE SOUTH BUOY FIELD AND 26 BUOYS, HOWEVER, ONLY 22 BUOYS ARE OWNED/MAINTAINED BY RTO THE REMAINING 4 BUOYS ARE DEDICATED TO THE TWO LITTORAL PEOPERTY OWNERS.

EXISTING SOUTH BUOY FIELD



SOUTH BUOY FIELD NOTE:
 THE DRAWING DEPICTS THE SOUTH BUOY FIELD AND 87 BUOYS, HOWEVER, ONLY 75 BUOYS ARE OWNED/MAINTAINED BY RTO THE REMAINING 12 BUOYS ARE DEDICATED TO THE SIX LITTORAL PEOPERTY OWNERS.

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.

Exhibit A
 PRC 5676
 GENERAL LEASE
 RECREATIONAL USE
 LAKE TAHOE
 EL DORADO COUNTY

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**EXHIBIT B
LAND DESCRIPTION**

PRC 5676

Four parcels of land in the bed of Lake Tahoe, EL Dorado County, California situated in fractional Sections 32 and 33, T14N, R17E, MDM, said parcels being more particularly described as follows:

NORTH BUOY FIELD AREA

PARCEL 1 – Pier, Float, Swim Line and Swim Area

All that land lying immediately beneath an existing pier and 9 feet by 9 feet swim float lying easterly of Lots 10 and 12, Block A as said lots are shown on that certain Map of Rubicon Properties, filed in Book A of Maps, Page 52, El Dorado County Records, TOGETHER WITH a necessary use area extending no more than 10 feet from said pier and said swim float, ALSO TOGETHER WITH all that land lying 2.5 feet on each side of a swim line extending 80 feet northerly from the northerly side of the 10 foot use area of said pier to the southerly side of swim float. ALSO TOGETHER WITH a swim area bounded on the west by the contour of elevation 6223.0 feet Lake Tahoe Datum (LTD) on the shore of Lake Tahoe; bounded on the south by the north side of said 10 foot wide necessary use area for said pier; bounded on the east by the west side of the 5 foot use area of said swim line and the south and west sides of the 10 foot necessary use area of said swim float; bounded on the north by a line intersecting the northwest corner of said swim float and parallel with said pier.

EXCEPTING THEREFROM and portion of Parcel 1 lying landward of elevation 6223.0 feet Lake Tahoe Datum on the shore of Lake Tahoe.

PARCEL 2 – Buoy Grid Pattern

Twenty two (22) circular parcels of submerged land sized and configured according to approved permits from the U.S. Army Corps of Engineers and the Tahoe Regional Planning Agency and lying within a parcel bounded on the west by the contour of elevation 6223.0 feet Lake Tahoe Datum on the shore of Lake Tahoe; bounded on the east by a straight line with its southerly terminus located on the easterly prolongation of the south line of Lot 12, Block A, as shown on said Rubicon Properties map distant 705 feet easterly along said south line from the 6223.0 feet LTD elevation, and a northerly terminus of said straight line located on

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the easterly prolongation of the north line of Lot 9, Block A, as shown on said Rubicon Properties map distant 732 feet easterly along said north line from 6223.0 feet LTD elevation; bounded on the north by easterly prolongation of the north line of Lot 9, Block A, as shown on said Rubicon Properties map; bounded on the south by the easterly prolongation of the south line of Lot 12, Block A, as shown on said Rubicon Properties Map.

TOGETHER WITH one (1) circular parcel of submerged land 20 feet in diameter lying at or near the easterly line of the above described parcel 2; said parcel to be used for the location of U.S. Coast Guard marker buoy only.

EXCEPTING THEREFROM any portion of Parcel 2 lying landward of elevation 6223.0 feet Lake Tahoe Datum on the shore of Lake Tahoe.

SOUTH BUOY FIELD AREA

PARCEL 3 – Pier, Float, Swim Line, Swim Area

All that land adjacent to Lots 10, 11, and 13, as shown on that certain map of the Rubicon Tahoe Owners Association fronting Lots 6 thru 15, Block G Rubicon Properties, filed in Book A of Maps, Page 52, El Dorado County Records, bounded on the northwest by the prolongation of the northerly line of Lot 10, Block G as shown on said map of Rubicon Properties; bounded on the southwest by the 6223.0 foot contour, Lake Tahoe Datum (LTD); bounded on the southeast by the northwesterly edge of the existing pier that lies within and extends waterward from Lot 13, Block G, as shown on said map of Rubicon Properties; and bounded on the northeast by a line generally parallel with said 6223.0 foot contour, LTD and 47.0 feet landward from the end of the existing pier that lies within and extends waterward from Lot 11, Block G, as shown on said map of Rubicon Properties.

TOGETHER WITH the necessary use area extending 10.0 feet beyond the extremities of said pier lying within and extending waterward from Lot 11, Block G.

EXCEPTING THEREFROM any portion of land lying landward of said 6223.0 foot contour, LTD.

PARCEL 4 – Buoy Grid Pattern

Seventy Five (75) circular parcels of submerged land sized and configured according to approved permits from the U.S. Army Corps of Engineers and the Tahoe Regional Planning Agency and lying within a parcel bounded on the southwest by the contour of elevation 6223.0 feet Lake Tahoe Datum on the shore

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of Lake Tahoe; bounded on the northwest by a straight line with its terminus located on the northeasterly prolongation of the northwesterly line of Lot 6, Block G, as said lot is shown on said map of Rubicon Properties map distant 516 feet northeasterly along said northwestern line of Lot 6, Block G, from the contour of elevation 6223.0 feet LTD; bounded on the southeast by a straight line with its terminus located on the northeasterly prolongation of the southeasterly line of Lot 14, Block G, shown on map of said Rubicon Properties map distant 790 feet northeasterly along said southeasterly line of Lot 14, Block G, from the contour of elevation 6223.0 feet LTD; bounded on the northeast by two lines intersecting at a common angle point, the north line bears S 61° 37' 58" E from said terminus of the northeasterly line of Lot 6, Block G, and the south line bears N 35° 03' 03" W from said terminus of the northeasterly line of Lot 14, Block G, to said intersection.

TOGETHER WITH two (2) circular parcels of submerged land 20 feet in diameter lying at or near the north corner and the southeast corner of the above described parcel 4; said parcels to be used for the location of U.S. Coast Guard marker buoys only.

EXCEPTING THEREFROM any portion of Parcel 4 lying landward of elevation 6223.0 feet Lake Tahoe Datum on the shore of Lake Tahoe.

END OF DESCRIPTION



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