

**CALENDAR ITEM
C07**

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10/29/10
WP 4476.9
B. Terry

**RESCISSION OF APPROVAL AND ISSUANCE OF A NEW
RECREATIONAL PIER LEASE**

LESSEE:

Barbara H. Magee

APPLICANTS:

Ann Magee, Susan M. Brandt, and Jerome Magee, Jr.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5372 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, gantry, and two mooring buoys as shown on the attached Exhibit A.

LEASE TERM:

10 years, beginning July 22, 2008.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$500,000.

Other:

The proposed lease contains a provision that requires the Applicants 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 a FEIS and Ordinance

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Amendments supported by the FEIS. In September 2010, the U.S. District Court invalidated the FEIS and nullified the ordinances. TRPA is presently evaluating its response. 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 ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On November 26, 2001, the Commission authorized a General Lease – Recreational Use with Barbara H. Magee for a pier, two mooring buoys, and one swim float. However, the Lessee passed away and the lease documents were never executed. The estate went into probate and, on July 22, 2008, it was deeded to Ann Magee, Susan M. Brandt, and Jerome Magee, Jr. Applicants are now applying for a Recreational Pier Lease. Staff is requesting that the authorization made by the Commission at its November 26, 2001 meeting be rescinded and that a new Recreational Pier Lease be issued to the Applicants.
3. The Applicants qualify for a Recreational Pier Lease because the Applicants are natural persons who own the littoral land that is improved with a single family dwelling.
4. The previously authorized swim float was removed several years ago and is not part of the new lease application.
5. **Rescind Issuance of a General Lease – Recreational Use:** Pursuant to the Commission’s delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], staff has determined this activity is not subject to the provisions of CEQA because it is not a “project” as defined by CEQA and the State CEQA Guidelines.

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

6. **Issuance of a Recreational Pier Lease:** Pursuant to the Commission’s delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined this activity is exempt from the requirements of 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).

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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. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon 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.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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

Issuance of a New Lease: Find that the activity is exempt from the requirements of CEQA pursuant to 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).

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:

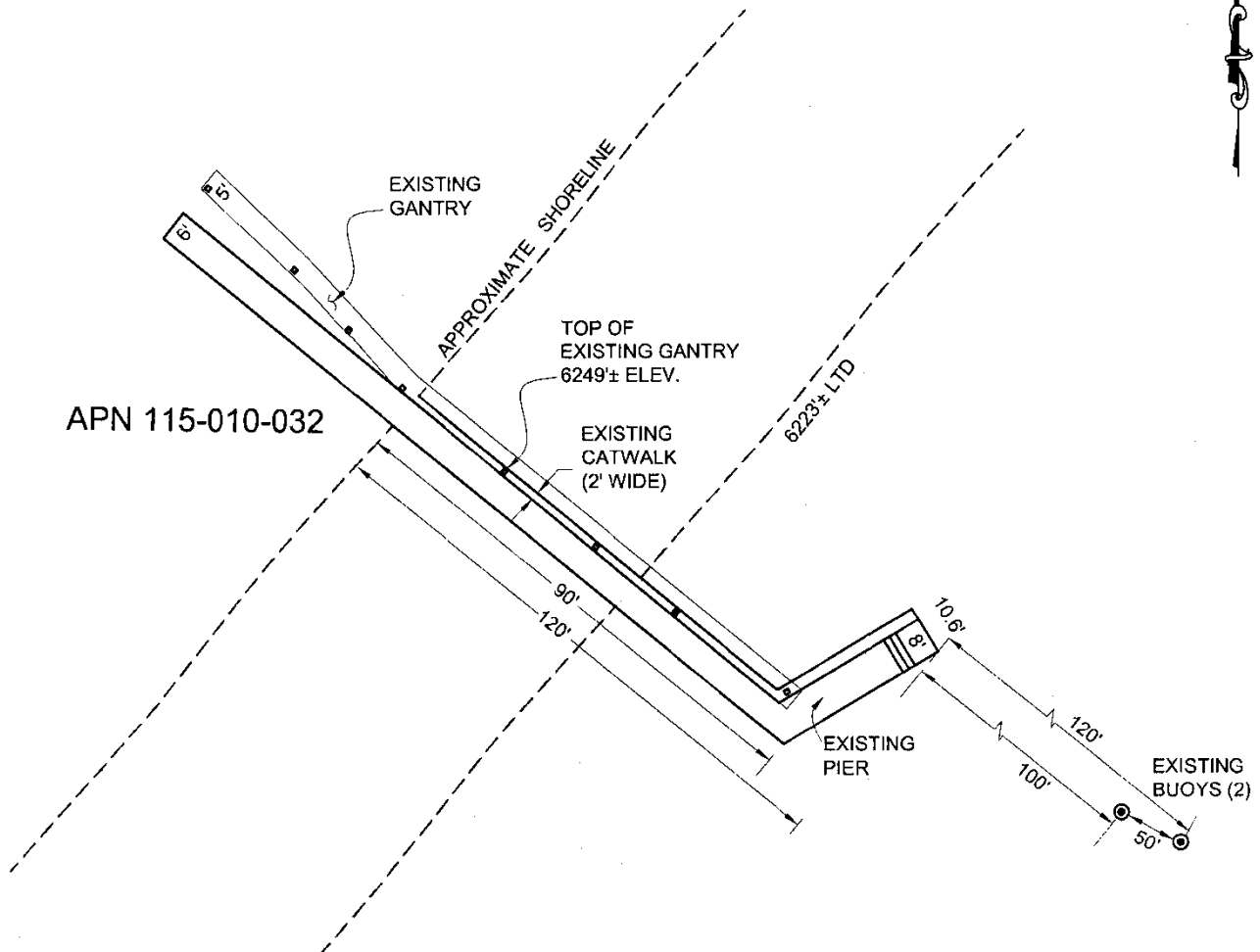
1. Authorize rescission of Lease No. PRC 4476.1, a General Lease - Recreational Use, approved by the Commission on November 26, 2001, issued to Barbara H. Magee.
2. Authorize issuance of a 10-year Recreational Pier Lease to Ann Magee, Susan M. Brandt, and Jerome Magee, Jr., beginning July 22, 2008, for the continued use and maintenance of an existing pier, gantry, and two mooring buoys as shown on Exhibit A

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attached and by this reference made a part hereof; no monetary consideration pursuant to Public Resources Code section 6503.5; and liability insurance in the amount of no less than \$500,000.

NO SCALE

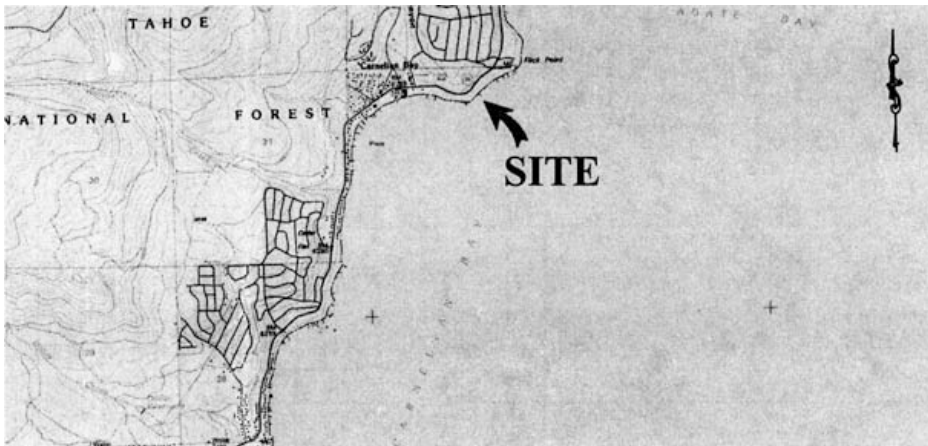
SITE



5372 NORTH LAKE BLVD., NEAR CARNELIAN BAY

NO SCALE

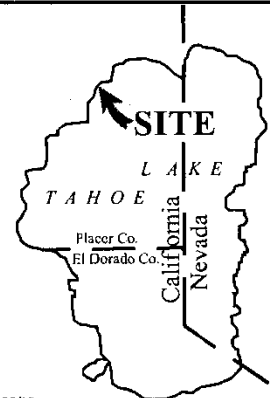
LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

PRC 4476.9
 BRANDT & MAGEE
 APN 115-010-032
 RECREATIONAL PIER LEASE
 PLACER COUNTY



MJJ 03/10

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.