

**CALENDAR ITEM
C06**

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03/29/12
WP 4267.1
R. Barham

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

LESSEES:

Richard M. Lonergan and Mary Halsted Lonergan, Trustees of the Richard M. Lonergan and Mary Halsted Lonergan Trust dated September 30, 1983

APPLICANT:

Adjidaumo, LLC, a California Limited Liability Company

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 7087 West Lake Boulevard, near Tahoma, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, two mooring buoys, and swim float.

LEASE TERM:

10 years, beginning March 29, 2012.

CONSIDERATION:

\$2,103 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 the amount of no less than \$1,000,000.

Other:

The proposed lease contains a provision requiring the Applicant to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoy(s) 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

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1995 to October 2008 when TRPA adopted an FEIS and Ordinance Amendments supported by the FEIS. In September 2010, the U.S. District 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 uplands adjoining the lease premises.
2. On December 9, 2004, the Commission authorized a 10-year General Lease - Recreational Use with Richard M. Lonergan and Mary Halsted Lonergan, Trustees of the Richard M. Lonergan and Mary Halsted Lonergan Trust Dated September 30, 1983. That lease will expire on May 18, 2014. On November 23, 2010, the upland property was transferred to Adjidaumo, LLC, a California Limited Liability Company.
3. The Applicant is now applying for a new General Lease – Recreational Use. In addition, staff will recommend termination of existing lease since the Lessee has not responded to a request for execution of a lease quitclaim deed.
4. Staff is recommending that the Commission accept back rent in the amount of \$2,803 for the period beginning November 23, 2010, which is when the upland property was transferred to the Applicant, to March 28, 2012, the day before the beginning date of the new lease. The Applicant did not qualify for rent-free status pursuant to the original definition of a littoral owner in Public Resources Code section 6503.5 in effect during this period of time.
3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned land by certain private parties for their recreational piers. The new section 6503.5 provides that the State lands Commission “shall charge rent for a private recreational pier constructed on state lands.” The Applicant does not qualify for rent-free status under the new law.
4. **Termination of Existing Lease** The staff recommends that the Commission find that the termination of lease does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical

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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 New Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061), the staff has determined 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.

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:

Termination of Existing Lease: Find that the subject termination of lease is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060(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 New 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).

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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 termination, effective March 28, 2012, of Lease No. PRC 4267.9, a General Lease - Recreational Use, issued to Richard M. Lonergran and Mary Halsted Lonergran, Trustees of the Richard M. Lonergran and Mary Halsted Lonergran Trust Dated September 30, 1983.
2. Authorize acceptance of back rent in the amount of \$2,803 for the period of November 23, 2010 through March 28, 2012.
3. Authorize issuance of a General Lease – Recreational Use to Adjidaumo, LLC, a California Limited Liability Company, beginning March 29, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier, two mooring buoys, and a swim float 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 \$2,103, 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 the amount of no less than \$1,000,000.

EXHIBIT A

PRC 4267.1

LAND DESCRIPTION

Four parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 17, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of El Dorado, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier lying adjacent to that parcel described in Grand Deed recorded November 23, 2010 as Document Number 2010-0056951 in Official Records of said County.

TOGETHER WITH a ten foot use area.

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCEL 2 & 3 – BUOYS

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grand Deed recorded November 23, 2010 as Document Number 2010-0056951 in Official Records of said County.

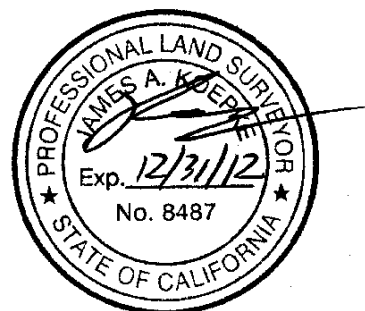
PARCEL 4 – SWIM FLOAT

A parcel of land underlying an existing swim float lying adjacent to that parcel described in Grand Deed recorded November 23, 2010 as Document Number 2010-0056951 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 01/17/2012 by the California
State Lands Commission Boundary Unit.



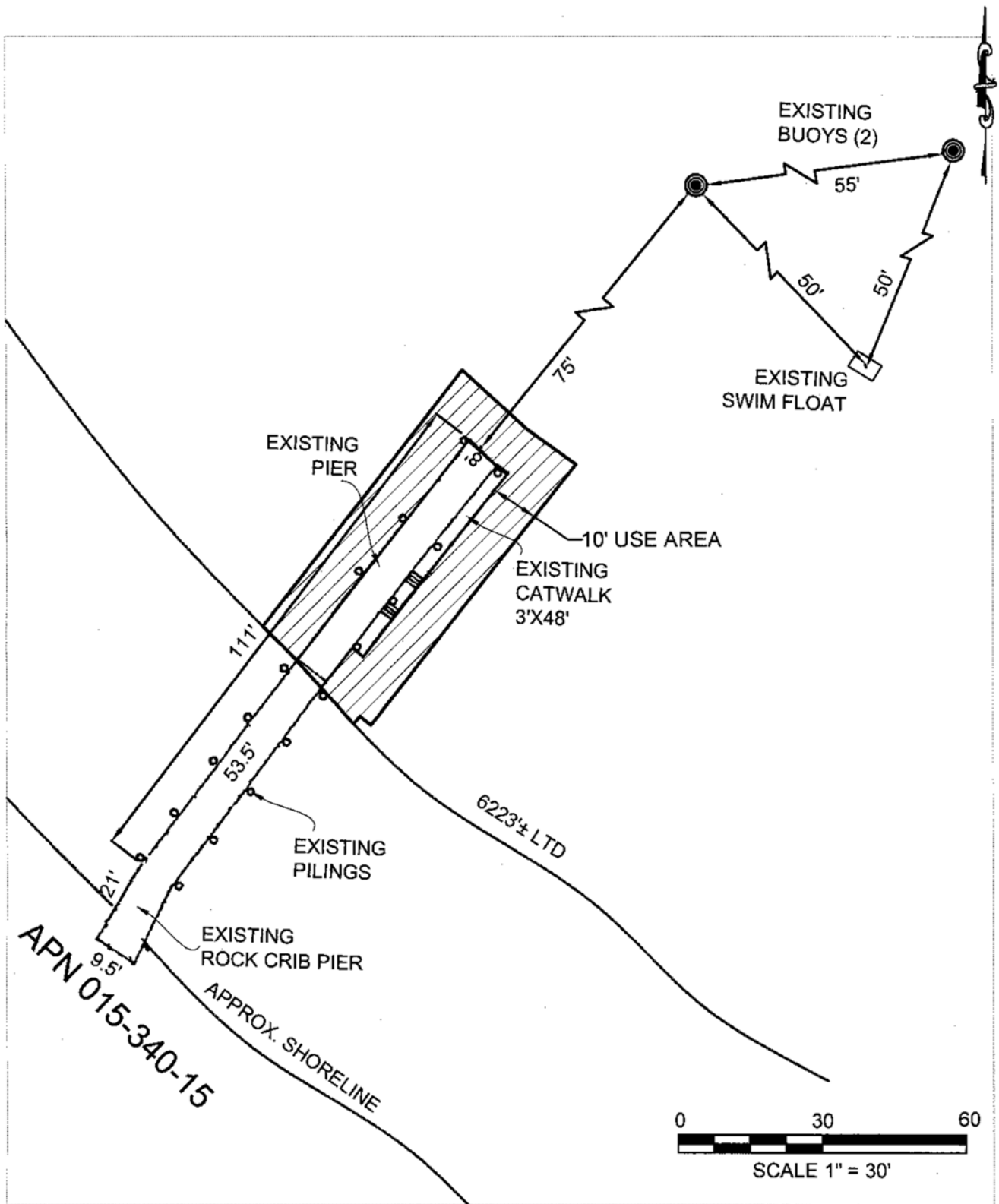


EXHIBIT A

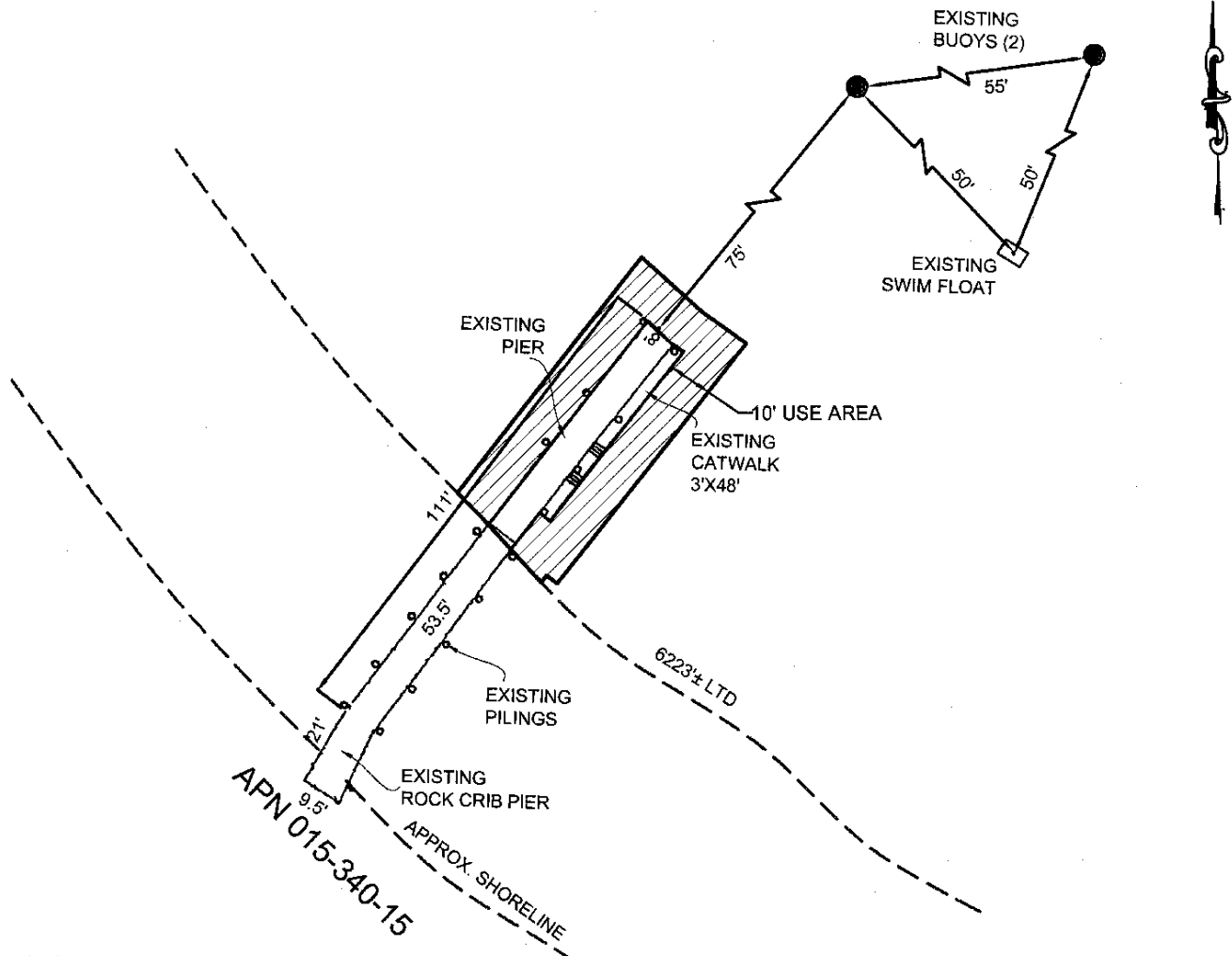
LAND DESCRIPTION PLAT
 PRC 4267.1, ADJIDAUMO, LLC
 EL DORADO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



7087 WEST LAKE BLVD.

NO SCALE

LOCATION

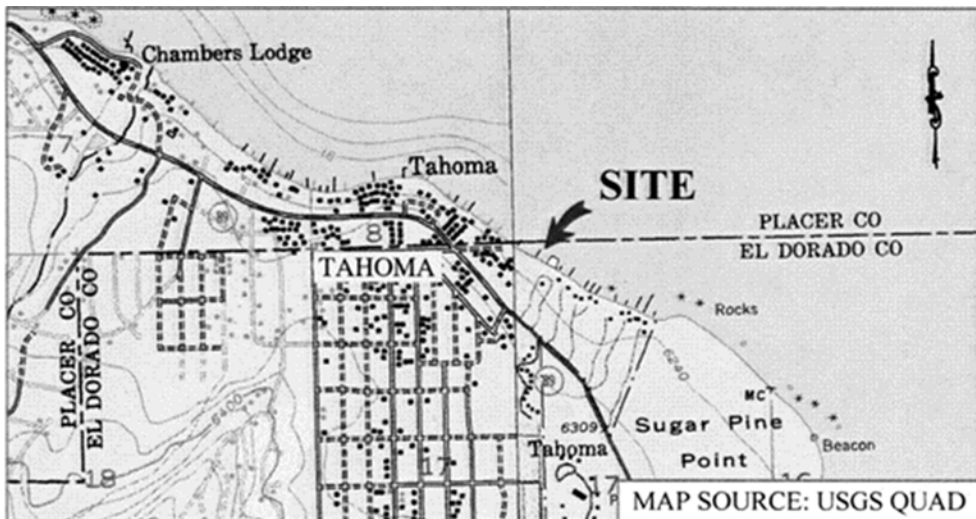
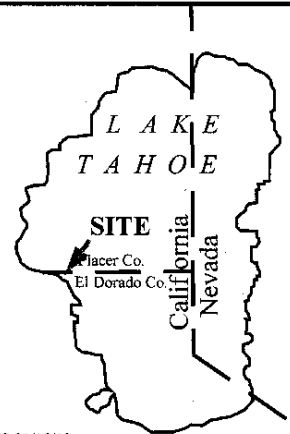


Exhibit B

PRC 4267.1
 ADJIDAUMO, LLC
 APN 015-340-15
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



TS 01/17/12

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.