

**CALENDAR ITEM
107**

A 4
S 1

08/14/12
W 26565
M. Hays

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Ronald T. Vanderbeek and Billie J. Vanderbeek

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1620 Sequoia Avenue, near Tahoe City, Placer County.

AUTHORIZED USE:

Use and maintenance of two existing mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years, beginning August 14, 2012.

CONSIDERATION:

\$754 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 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 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

CALENDAR ITEM NO. 107 (CONT'D)

Commission pending resolution of the TRPA FEIS and amended ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. The Applicants' two existing mooring buoys have been in Lake Tahoe for many years but were not previously authorized by the Commission. Staff recommends bringing the existing mooring buoys under lease, subject to the Applicants obtaining TRPA permit authorization.
3. In addition to the lease application for the Applicant's mooring buoys; a separate lease application is before the Commission as Calendar Item # 106 to consider the use and maintenance of a joint-use pier with a boathouse and boat lift in Lake Tahoe adjacent to the same upland parcel. This pier facility has not been previously authorized by the Commission. The Applicants for Item # 106 are the Vanderbeeks, the upland owners, and two backshore owners, Robert S. Marston and John Burdette Gage and Linda Joan Schacht, Co-Trustees of the Kalalau Revocable Inter Vivo Trust Dated October 4, 1986. The use of the pier facilities is subject to a 1975 Declaration of Restrictions. The Vanderbeeks have requested a separate lease for their mooring buoys because the use of the buoys is not subject to the 1975 Declaration of Restrictions.
4. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became 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. It replaced the former section with a new section 6503.5, which provides that the State Lands Commission "shall charge rent for a private recreational pier constructed on state lands." The law provides for two exceptions to the imposition of rent. Those exceptions are for:
 - A. A lease in effect on July 1, 2011 through the remaining term of that lease. If a lease in effect on July 1, 2011 expires or is otherwise terminated, any new lease will be subject to rent; and
 - B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

Because the application was submitted to the Commission after March 31, 2011, the lease does not qualify for an exception to recently enacted

CALENDAR ITEM NO. **107** (CONT'D)

changes to Section 6503.5 of the Public Resources Code and is subject to rent.

5. 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.

5. 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:

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).

SIGNIFICANT LAND 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:

Authorize issuance of a General Lease – Recreational Use to Ronald T. Vanderbeek and Billie J. Vanderbeek, beginning August 14, 2012, for a term of 10 years, for the use and maintenance of two existing mooring

CALENDAR ITEM NO. **107** (CONT'D)

buoys not previously authorized by the Commission as 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 \$754 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

W 26565

LAND DESCRIPTION

Two (2) parcels of submerged land, situate in the bed of Lake Tahoe, lying adjacent to Lot 3, fractional Section 18, Township 15 North, Range 17 East, MDM, as shown on the Official Township Plat, approved November 9th, 1866, County of Placer, State of California, and more particularly described as follows:

Two (2) circular parcels of land, being 50 feet in diameter, underlying two existing buoys, adjacent to that "Resultant Parcel 1" of "Exhibit A" of that Grant Deed recorded August 6, 2008 as Document Number 2008-0063470-00 in Official Records of said County.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

PREPARED 4/19/12 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

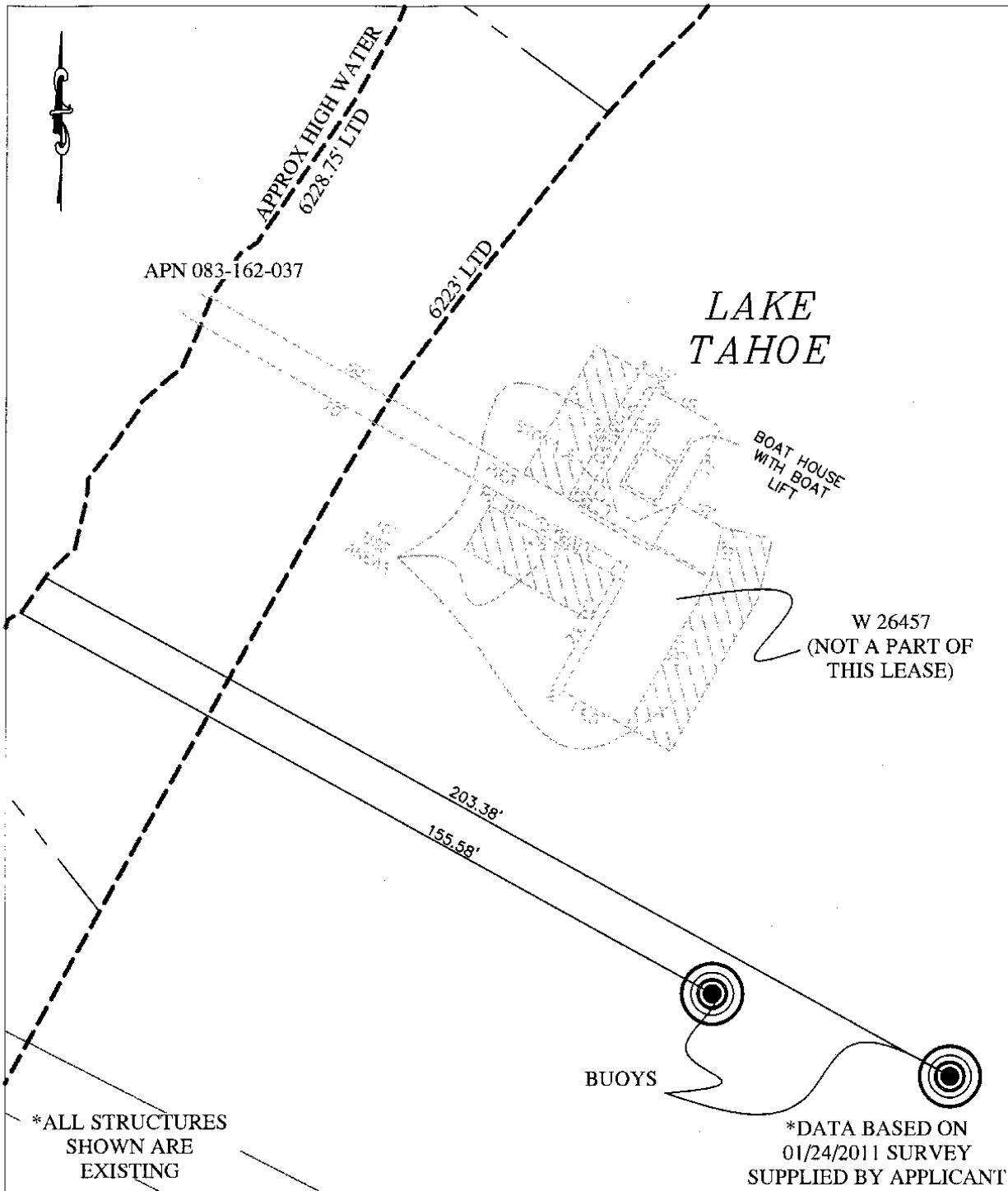


EXHIBIT A

Page 2 of 2

MJF 4/19/12

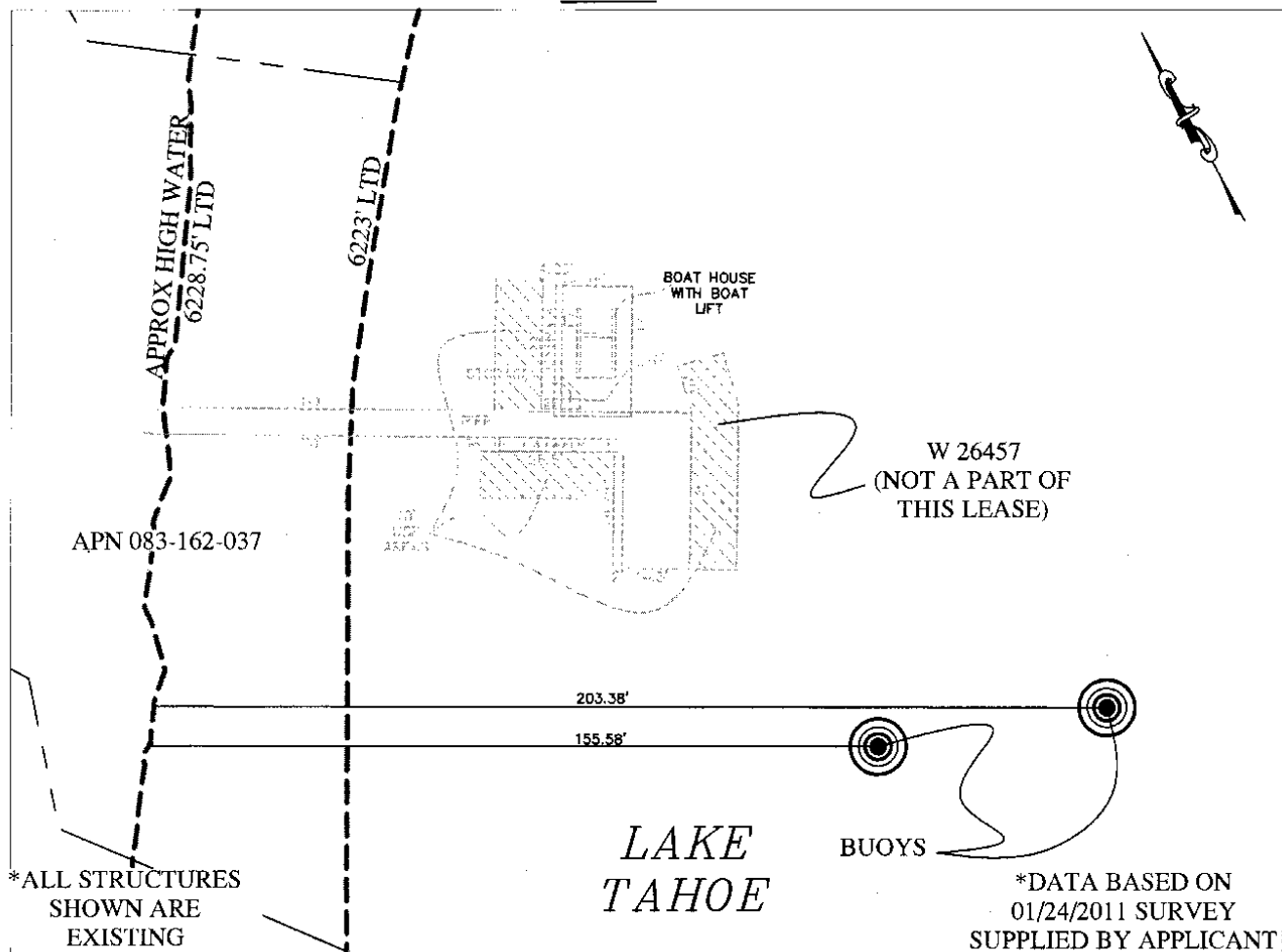
LAND DESCRIPTION PLAT
 W 26565, VANDERBEEK
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



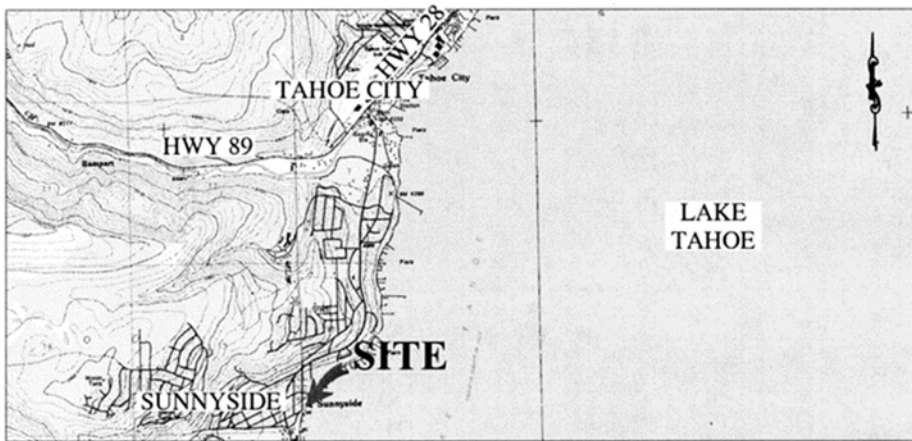
*ALL STRUCTURES SHOWN ARE EXISTING

*DATA BASED ON 01/24/2011 SURVEY SUPPLIED BY APPLICANT

1620 Sequoia Ave, Tahoe City - BUOYS ONLY

NO SCALE

LOCATION

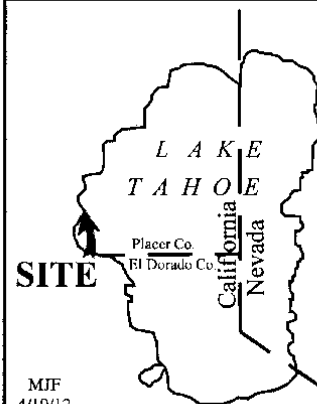


MAP SOURCE: USGS QUAD

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 B

W 26565
VANDERBEEK
APN 083-162-037
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJF
4/19/12