

**CALENDAR ITEM
C41**

A 4
S 1

08/14/12
W 26521
B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Susan Diekman, Trustee of the Nathan Johnson Trust; Susan Diekman; Sally D. Ryan, as Trustee of the Wife's Trust under the Ryan Family Trust Under Agreement dated July 1, 1991, as Amended and Restated; and Richard D. Diekman and Ruth W. Diekman, Co-Trustees of the Richard D. and Ruth W. Diekman Trust UAD 9/24/2009

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 845 Stateline Avenue, city of South Lake Tahoe, El Dorado County.

AUTHORIZED USE:

Use and maintenance of one existing mooring buoy.

LEASE TERM:

10 years, beginning August 14, 2012.

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 \$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 buoy 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

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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. Applicants own the upland adjoining the lease premises.

2. 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. 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 and fees were submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently-enacted changes to Section 6503.5 of the Public Resources Code for the term of the lease.

3. The Applicants are applying for a General Lease – Recreational Use for an existing mooring buoy that has been in Lake Tahoe for many years but has not been previously authorized by the Commission. Staff recommends authorizing existing mooring buoy, subject to the Applicants obtaining Tahoe Regional Planning Agency permit authorization.

4. 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).

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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 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:

Authorize issuance of a General Lease – Recreational Use to Susan Diekman, Trustee of the Nathan Johnson Trust; Susan Diekman; Sally D. Ryan, as Trustee of the Wife's Trust under the Ryan Family Trust Under Agreement dated July 1, 1991, as Amended and Restated; and Richard D. Diekman and Ruth W. Diekman, Co-Trustees of the Richard and Ruth W. Diekman Trust UAD 9/24/2009, beginning August 14, 2012, for a term of 10 years, for the use and maintenance of one existing mooring buoy as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; no monetary consideration pursuant to Public Resources Code section 6503.5; and liability insurance with coverage of no less than \$1,000,000.

EXHIBIT A

W 26521

LAND DESCRIPTION

One (1) parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of the NW ¼ of Section 27, Township 13 North, Range 18 East, MDM as shown on Official Government Township Plat approved February 18, 1954, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 - BUOY

One (1) circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to Parcel I and Parcel II described in that Trust Transfer Deed recorded October 7, 2009 as Document Number 2009-0050428-00 in Official Records of said County.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared April 13, 2012 by the California State Lands Commission Boundary Unit.



EXISTING
BUOY



123'

6223' ± LTD

SHORELINE

APN 029-010-17

APPROXIMATE

EXHIBIT A

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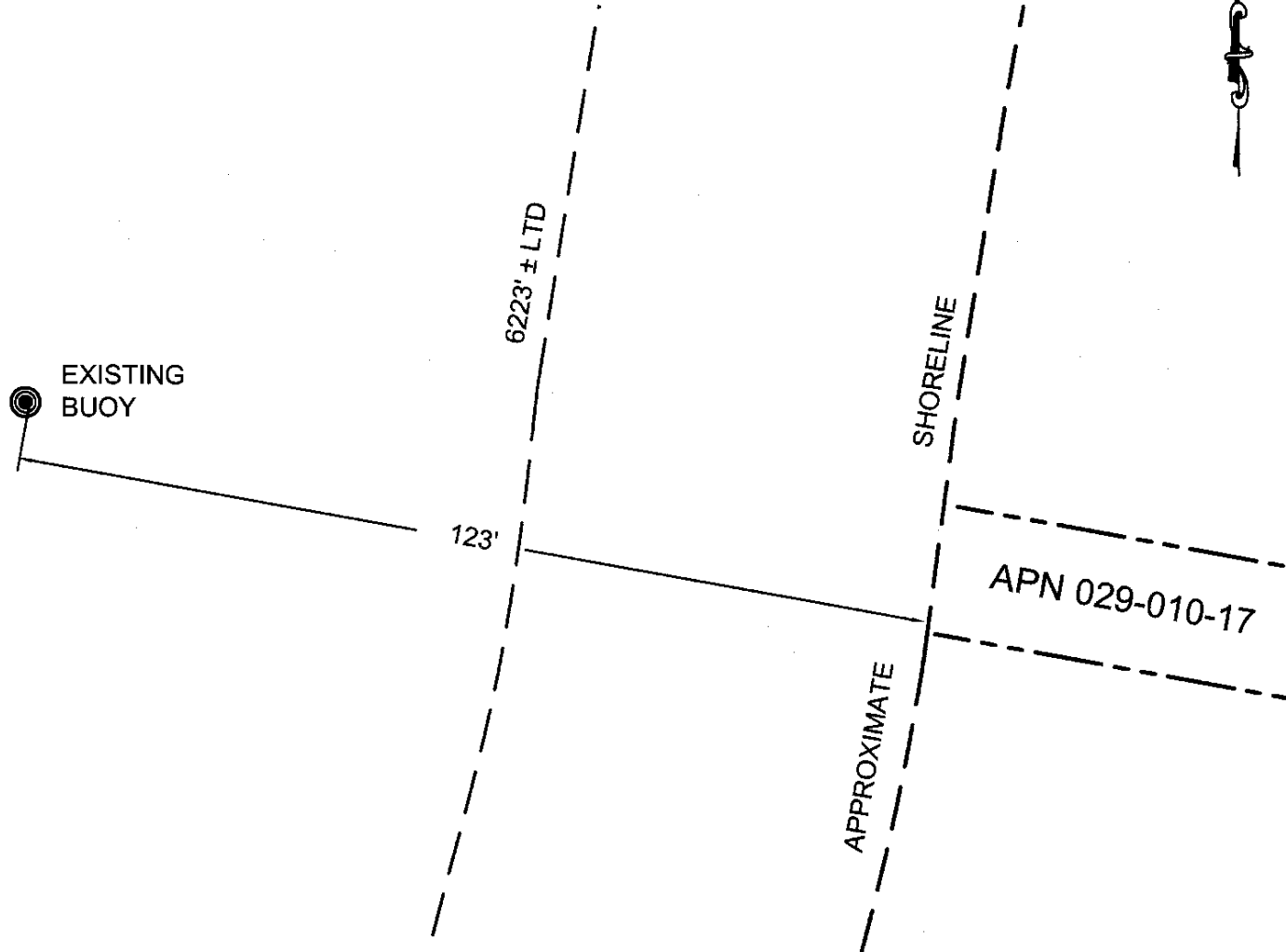
LAND DESCRIPTION
W 26521, DIEKMAN/RYAN
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



845 STATELINE AVENUE, SOUTH LAKE TAHOE

NO SCALE

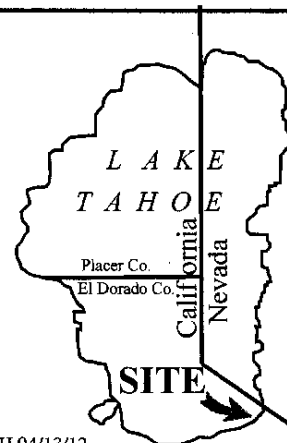
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 26521
 DIEKMAN/RYAN
 APN 029-010-17
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



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.

MJJ 04/13/12