

**CALENDAR ITEM
C09**

A 1
S 1

02/22/13
PRC 4317.9
R. Barham

**RESCISSION OF A RECREATIONAL PIER LEASE AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

APPLICANTS:

Kjell H. Qvale, Trustee of the Kjell H. Qvale Survivor’s Trust and Kjell H, Qvale, as Trustee of the Kathryn C. Qvale Nonexempt Marital Trust dated January 31, 2000

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4410 North Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier previously authorized by the Commission, and the use and maintenance of an existing boat lift and one mooring buoy not previously authorized by the Commission.

LEASE TERM:

10 years, beginning February 22, 2013.

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

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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. Applicants own the upland adjoining the lease premises.
2. On April 17, 2006, the Commission authorized a 10-year Recreational Pier Lease, beginning on May 18, 2005, with Kjell H. Qvale, Trustee of the Kjell H. Qvale Survivor's Trust, and Kjell H. Qvale, Trustee of the Kathryn Qvale Administrative Trust, each as to an undivided 50% interest. That lease was never executed. After Commission authorization, it came to staff's attention that the pier was improved with an existing boat lift.
3. On August 21, 2006, Kjell H. Qvale, Trustee of the Kathryn Qvale Administrative Trust deeded his 50% ownership interest in the upland parcel to Kjell H. Qvale, Trustee of the Kathryn C. Qvale Nonexempt Marital Trust dated January 31, 2006. Staff is requesting that the authorization made by the Commission at its April 17, 2006 meeting be rescinded and a new General Lease – Recreational Use be issued. The Applicants have agreed to the new lease.
4. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became effective on January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which 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.

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Because the application was 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 this lease.

5. The Applicants' boat lift and mooring buoy have been in Lake Tahoe for many years, but were not previously authorized by the Commission. Staff recommends bringing the placement of the Applicants' boat lift and mooring buoy under lease, subject to the Applicants obtaining TRPA permit authorization.
6. **Rescind Authorization of a Recreational Pier Lease:** The staff recommends that the Commission find that the subject lease rescission does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical 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.

7. **Issuance of a General Lease – Recreational Use:** The staff recommends that the Commission find 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.

8. 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

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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

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

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 rescission of Recreational Pier Lease No. PRC 4317.9 approved by the Commission on April 17, 2006, issued to Kjell H. Qvale, Trustee of the Kjell H. Qvale Survivor's Trust, and Kjell H. Qvale, Trustee of the Kathryn Qvale Administrative Trust, as to an undivided 50% interest.
2. Authorize issuance of a General Lease – Recreational Use to Kjell H. Qvale, Trustee of the Kjell H. Qvale Survivor's Trust, and Kjell H. Qvale, as Trustee of the Kathryn C. Qvale Nonexempt Marital Trust dated January 31, 2006, beginning February 22, 2013, for a term of 10 years, for the continued use and maintenance of an existing pier previously authorized by the Commission and use and maintenance of an existing boat lift and one mooring buoy 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; 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

PRC 4317.9

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 21, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and boat lift lying adjacent to that parcel described in Grant Deed recorded May 18, 2005 as Document Number 2005-0063134 in Official Records of said County.

TOGETHER WITH a ten foot impact area.

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

PARCEL 2 – BUOY

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Grant Deed recorded May 18, 2005 as Document Number 2005-0063134 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 09/05/2012 by the California State Lands Commission Boundary Unit.



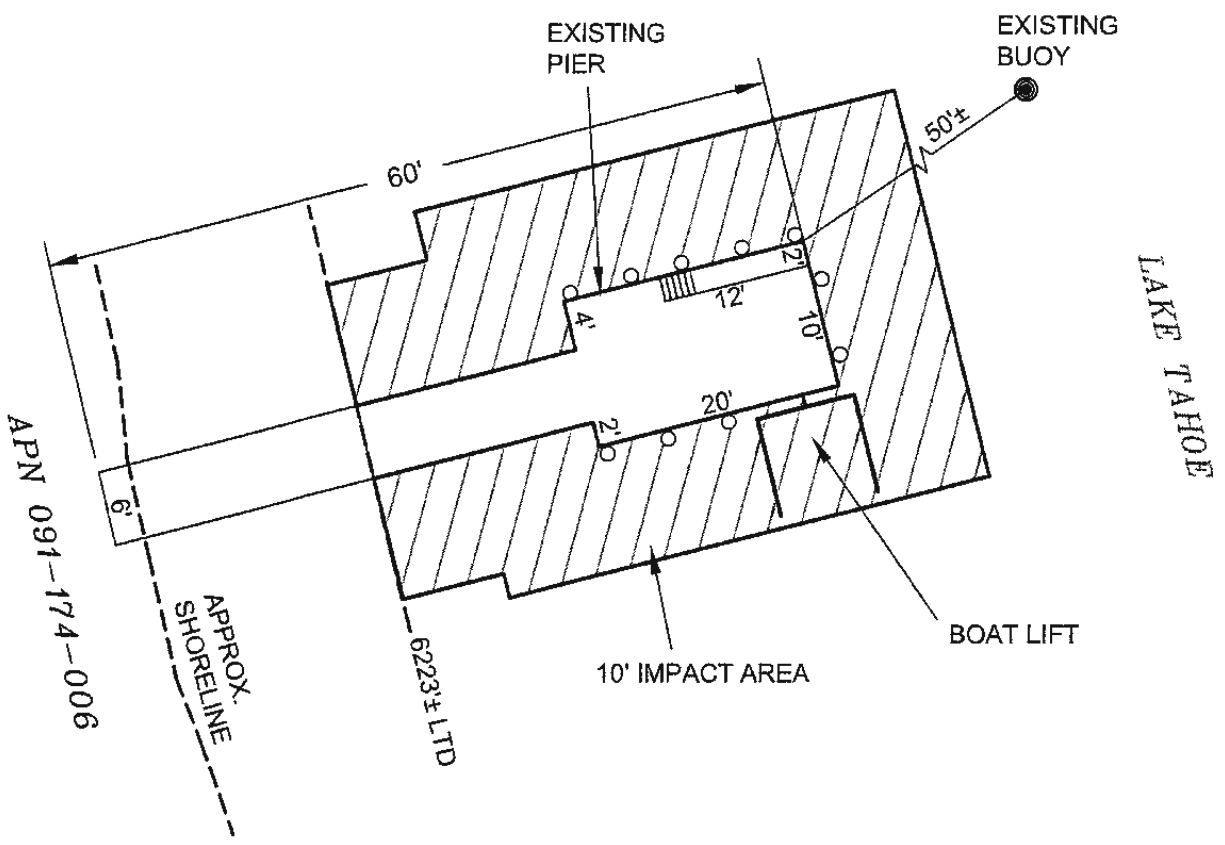


EXHIBIT A

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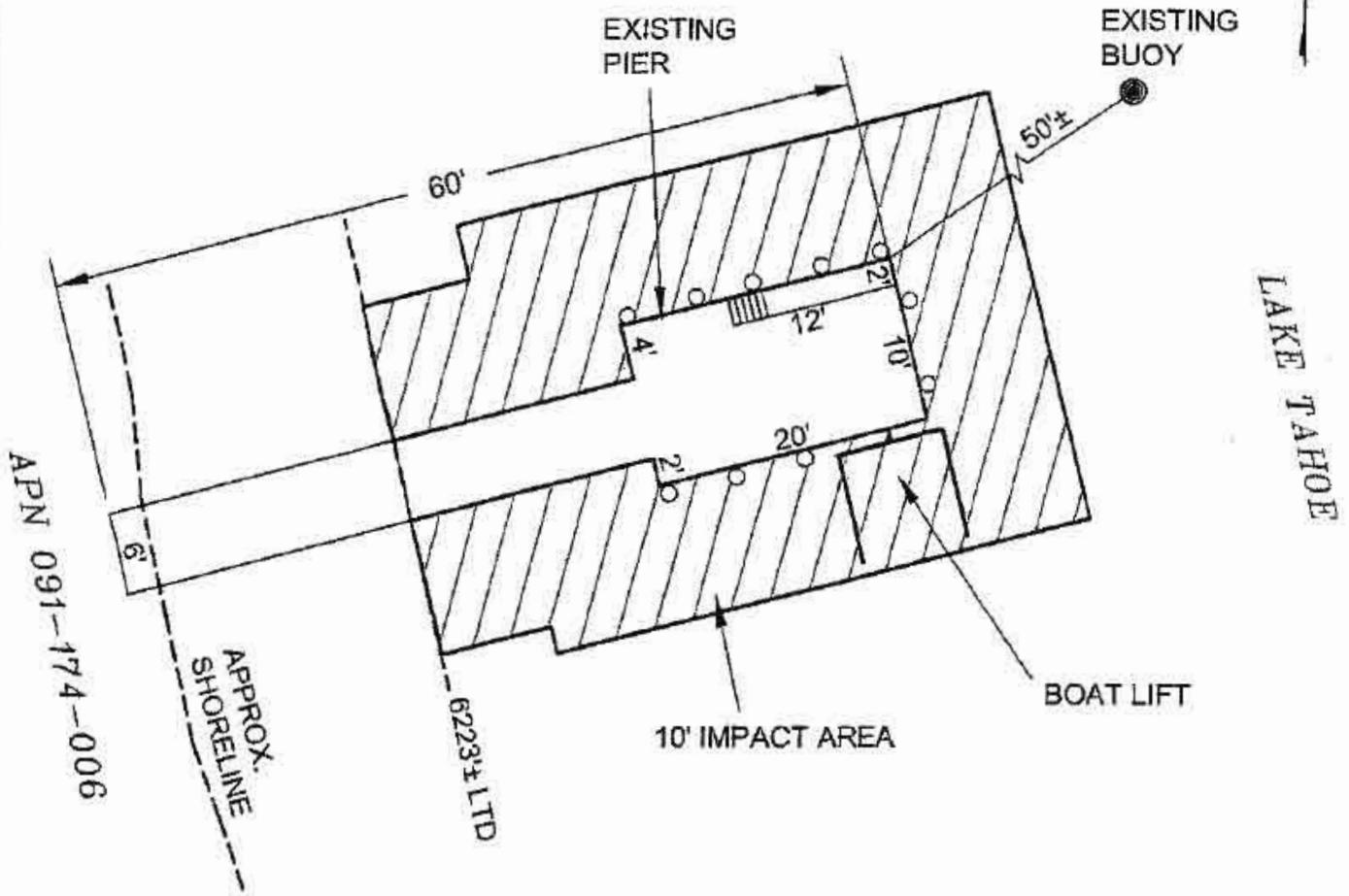
LAND DESCRIPTION PLAT
 PRC 4317.9, QVALE
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

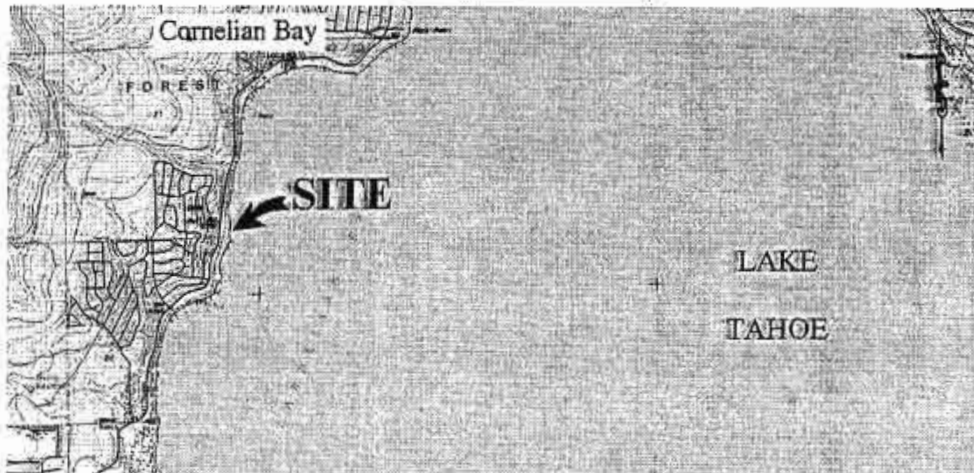
SITE



4410 NORTH LAKE BOULEVARD, TAHOE CITY

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

RRC 4317.9
 QVALE
 APN 091-174-006
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY

SITE



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