

**CALENDAR ITEM
C12**

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S 1

02/22/13
PRC 4147.9
R. Barham

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

LESSEE:

Ronald Schwarcz, as Trustee of the Ronald Schwarcz Revocable Living Trust Agreement dated July 7, 1993, as amended and restated

APPLICANT:

Dominic A. Iannitti, Trustee of the Dominic Iannitti Trust dated November 13, 2002

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3099 Jameson Beach Road, city of South Lake Tahoe, El Dorado County.

AUTHORIZED USE:

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

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 Applicant to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoys within two years of 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

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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 ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On April 26, 2005, the Commission authorized a Recreational Pier Lease with Ronald Schwarcz, as Trustee of the Ronald Schwarcz Revocable Living Trust Agreement dated July 7, 1993, as amended and restated for a pier and two mooring buoys. That lease will expire on November 20, 2014. On April 3, 2008, the upland property was deeded to Dominic A. Iannitti, Trustee of the Dominic Iannitti Trust dated November 13, 2002. Applicant is now applying for a new General Lease – Recreational Use and staff recommends termination of the existing lease because the Lessee cannot be located.
3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law took effect 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 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.

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4. **Termination of Lease** The staff recommends that the Commission find that the subject termination of lease 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.

Issuance of Lease: 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.

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:

Termination of 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, 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 Lease: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title

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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:

1. Authorize termination, effective February 21, 2013, of Lease No. PRC 4147.9, a Recreational Pier Lease, issued to Ronald Schwarcz, as Trustee of the Ronald Schwarcz Revocable Living Trust Agreement dated July 7, 1993, as amended and restated.

2. Authorize issuance of a General Lease – Recreational Use to Dominic A. Iannitti, Trustee of the Dominic Iannitti Trust dated November 13, 2002, beginning February 22, 2013, for a term of 10 years, for the continued use and maintenance of an existing pier and two mooring buoys 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 in the amount of no less than \$1,000,000.

EXHIBIT A

PRC 4147.9

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 6, Township 12 North, Range 18 East, MDM., as shown on Official Government Township Plat approved November 9, 1866, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 -- PIER

All those lands underlying an existing pier, and two (2) catwalks adjacent to that Parcel as described in Exhibit "A" of that Grant Deed recorded April 3, 2008 as Document Number 2008-0015661 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.

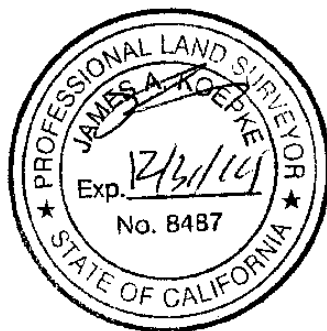
PARCEL 2 & 3 -- BUOYS

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said Parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 23, 2013 by the California State Lands Commission Boundary Unit.





L A K E

EXISTING
BUOYS (2)

T A H O E

10' IMPACT AREA

EXISTING
CATWALKS (2)
3' x 16'

6223'± LTD

EXISTING PIER

APPROXIMATE

APN 032-120-25

SHORELINE

EXHIBIT A

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MJJ 1/31/13

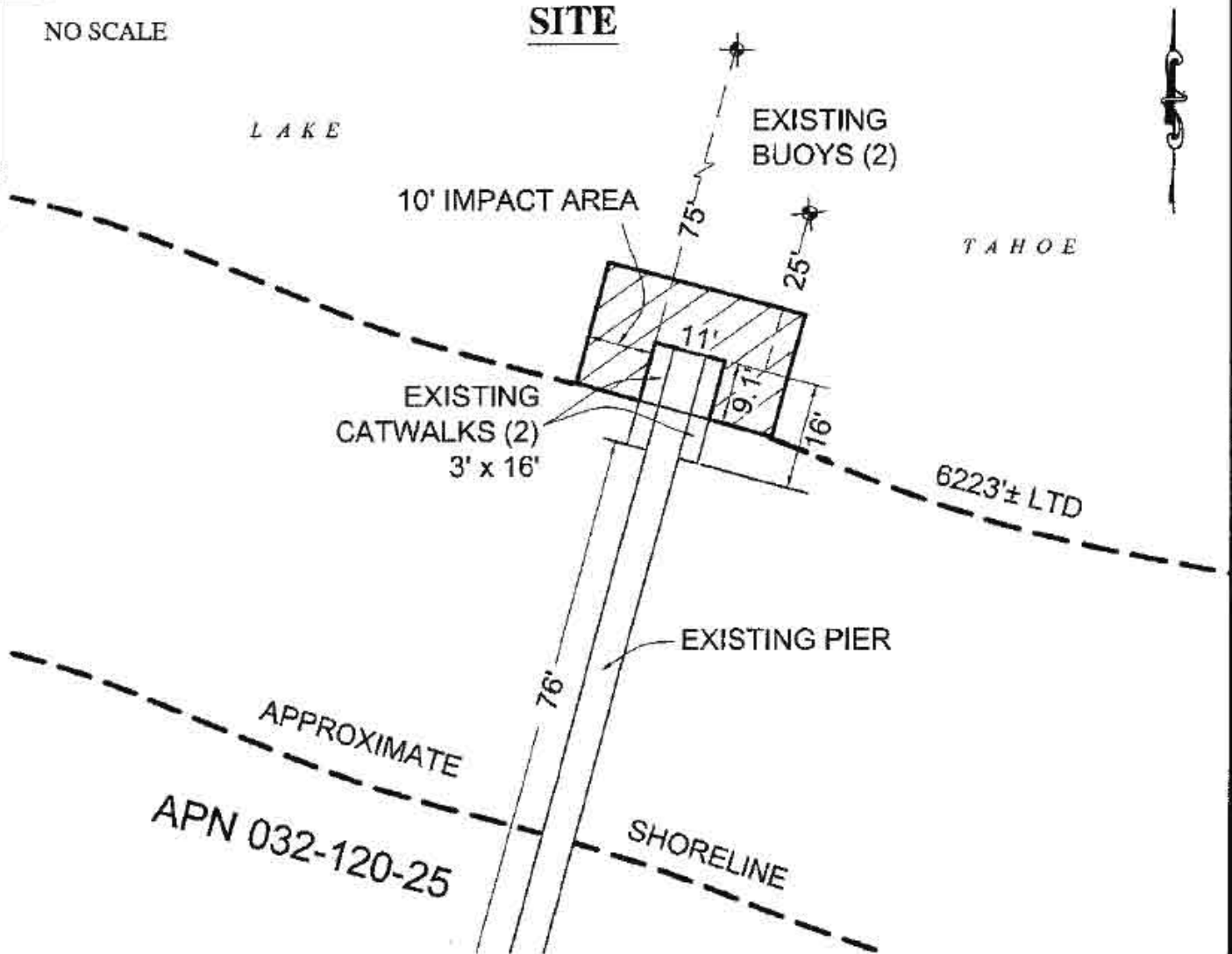
LAND DESCRIPTION PLAT
PRC 4147.9, IANNITTI
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

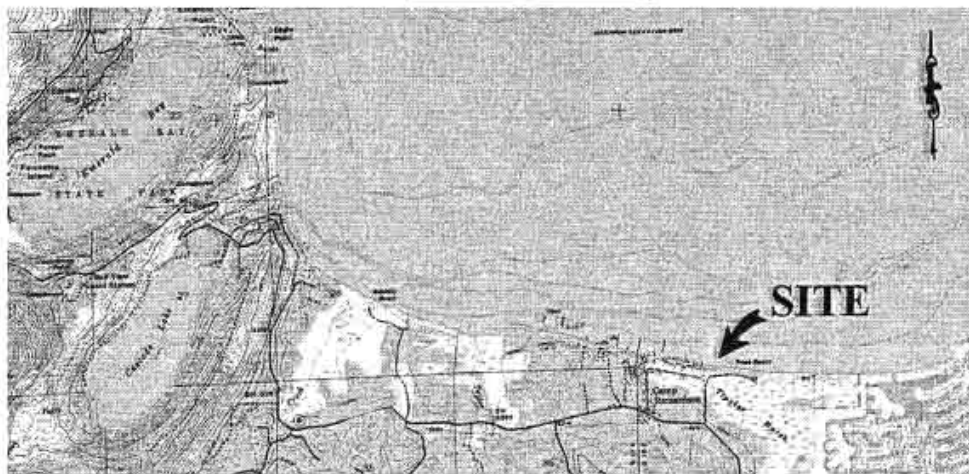
SITE



3099 JAMESON BEACH ROAD, SOUTH LAKE TAHOE

NO SCALE

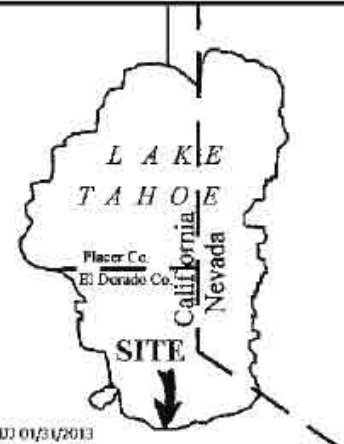
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 4147.9
 IANNITTI
 APN 032-120-25
 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.

MOJ 01/31/2013