

**CALENDAR ITEM
C15**

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02/22/13
PRC 5356.9
R. Boggiano

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

John W. Ward, as trustee of the Exemption Trust set forth in the Third Amended Trust Agreement of John W. Ward and Katherine Ward dated August 16, 1989; Michael J. Ward, Trustee of the Michael J. Ward Family Trust U/A dated October 31, 2007; and John W. Ward Jr., Edward B. Ward III, and Pamela C. W. Cooper

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3300 Edgewater Drive, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of one existing mooring buoy previously authorized by the Commission and one existing 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 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

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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 June 30, 1987, the Commission authorized a Recreational Pier Permit for an existing buoy with John W. Ward and Kay Ward. That permit expired on June 30, 1997. Ownership has since been transferred to John W. Ward, as trustee of the Exemption Trust set forth in the Third Amended Trust Agreement of John W. Ward and Katherine Ward dated August 16, 1989; Michael J. Ward, Trustee of the Michael J. Ward Family Trust U/A dated October 31, 2007; and John W. Ward Jr., Edward B. Ward III, and Pamela C. W. Cooper. The Applicants are now applying for a new General Lease – Recreational Use.
3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law took effect on 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. One of the Applicants' mooring buoys has been in Lake Tahoe for many years, but was not previously authorized by the Commission. Staff recommends bringing the placement of the Applicants' existing mooring buoy under lease, subject to the Applicants obtaining TRPA permit authorization.
5. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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:

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.

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AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to John W. Ward, as Trustee of the Exemption Trust set forth in the Third Amended Trust Agreement of John W. Ward and Katherine Ward dated August 16, 1989; Michael J. Ward, Trustee of the Michael J. Ward Family Trust U/A dated October 31, 2007; and John W. Ward Jr., Edward B. Ward III, and Pamela C. W. Cooper, beginning February 22, 2013, for a term of 10 years, for the continued use and maintenance of one existing mooring buoy previously authorized by the Commission and one existing 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 5356.9

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 6 of fractional Section 33 Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

PARCELS 1 & 2 – BUOYS

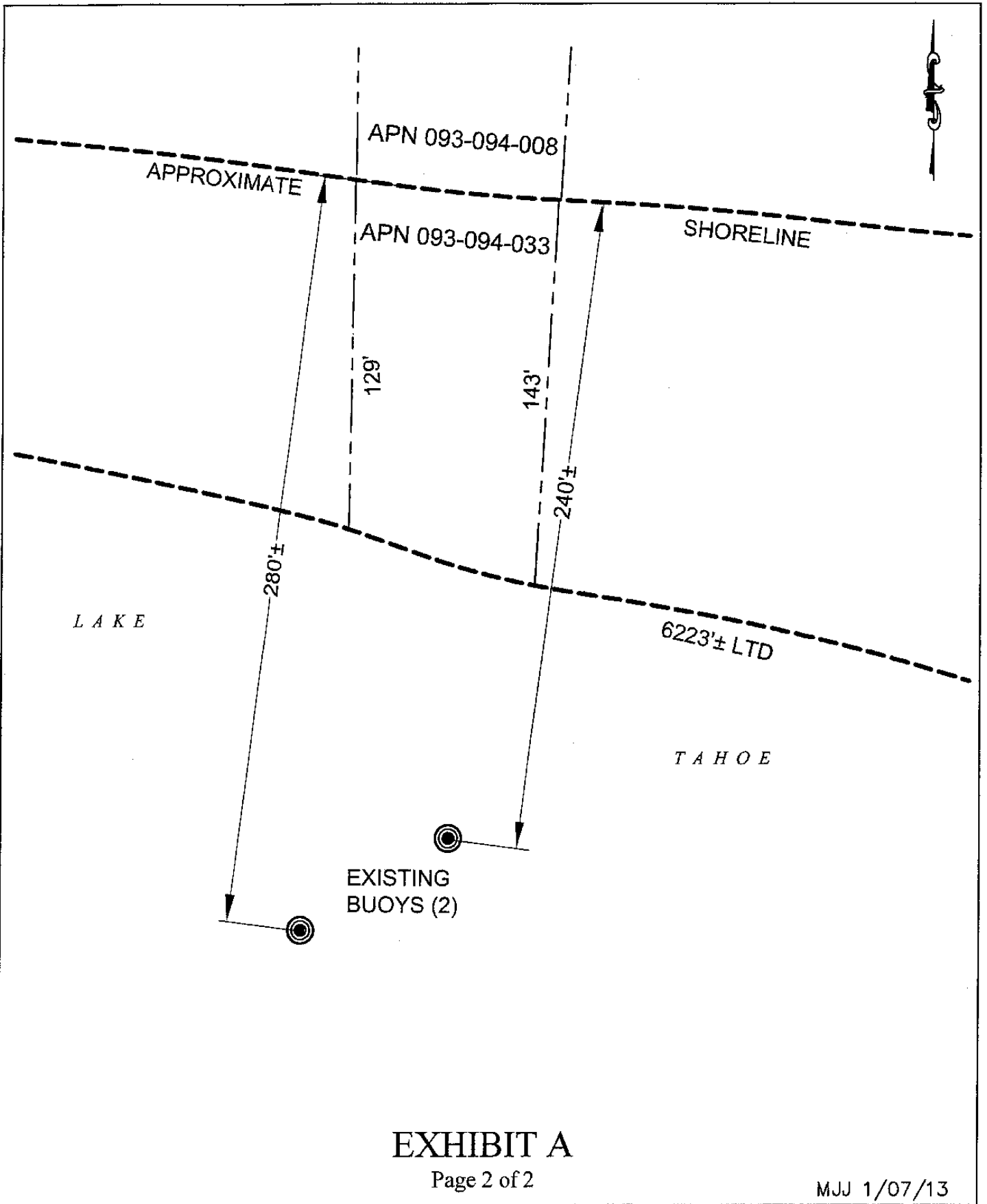
Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to those Parcels as described in Exhibit "A" of that Grant Deed recorded December 15, 2004 as Document Number 2004-0167126 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 7, 2013 by the California State Lands Commission Boundary Unit.

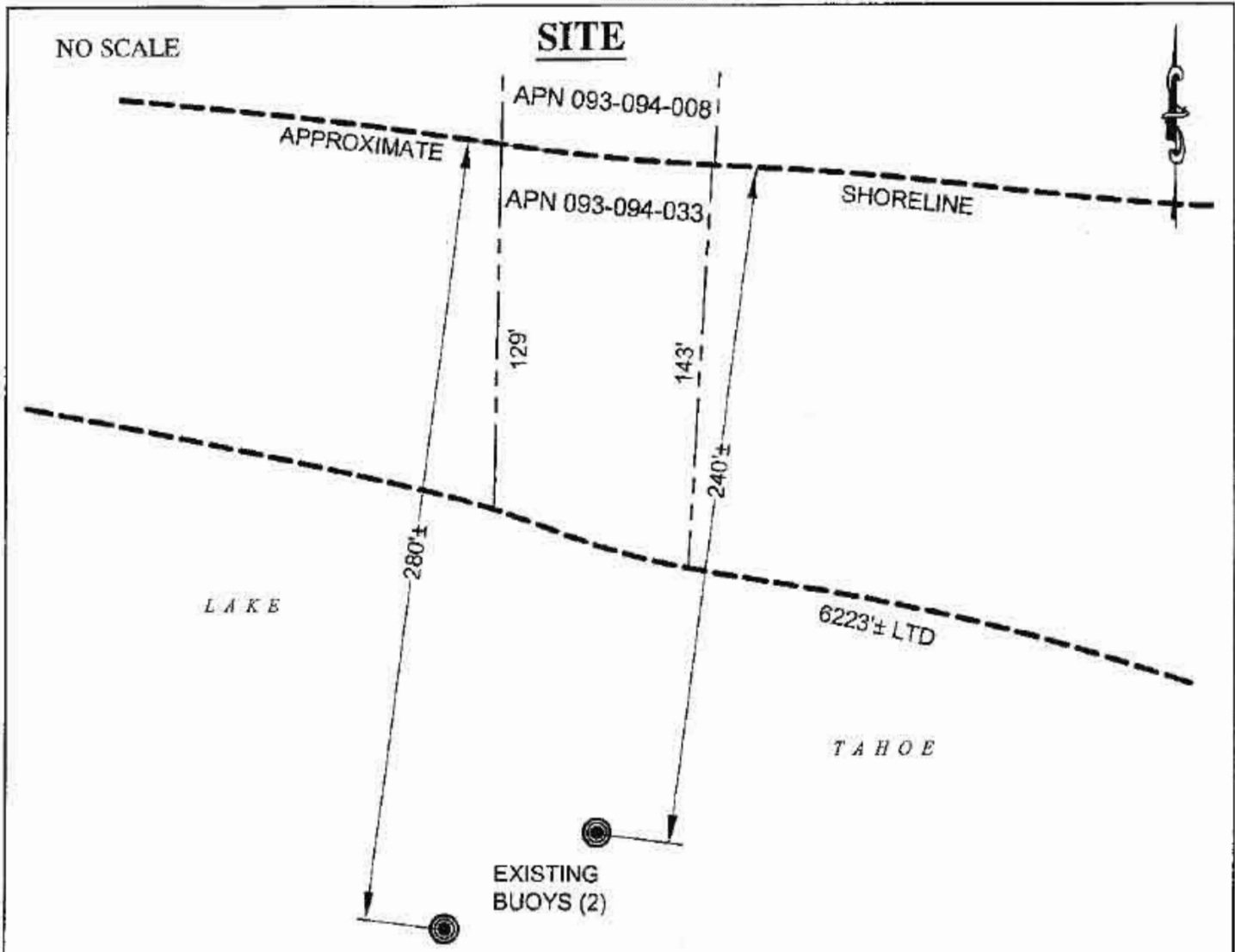




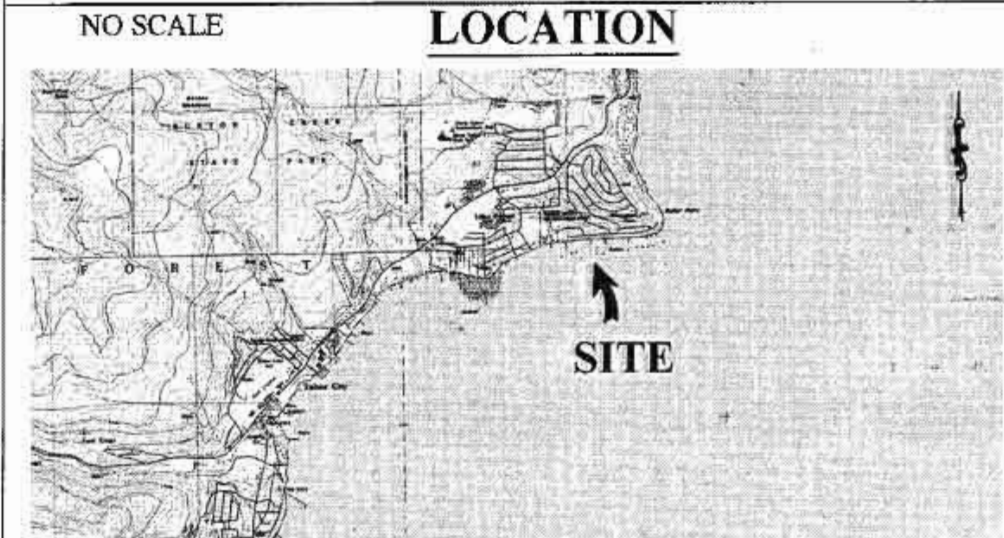
LAND DESCRIPTION PLAT
 PRC 5356.9, WARD
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION





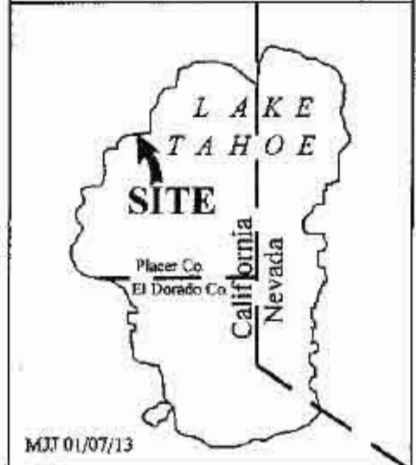
3300 EDGEWATER DRIVE, NEAR TAHOE CITY



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
 PRC 5356.9
 WARD
 APN 093-094-008, 033
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJT 01/07/13