

**CALENDAR ITEM
C45**

A 32
S 2

02/22/13
W 26611
B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Christian P. Erdman; and Carol Franc Buck, as Trustee under the Carol Franc Buck Family Trust Agreement (As Restated) dated August 25, 2004

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, Placer County, adjacent to and offshore of an upland property located within the State of Nevada known as 53 Somers Loop, Washoe County and immediately adjacent to the State line; for one existing mooring buoy not previously authorized by the Commission.

AUTHORIZED USE:

Use and maintenance of one existing mooring buoy not previously authorized by the Commission.

LEASE TERM:

10 years, beginning February 22, 2013.

CONSIDERATION:

\$377 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 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 property which is situated just over the State line in Nevada on the North Shore of Lake Tahoe and adjoining the lease premises which is in Placer County.
2. The Applicants' buoy has been in Lake Tahoe for many years and previously permitted by the Nevada State Lands Commission. However, it was recently determined through aerial photos and a Global Positioning System that the anchor and buoy are actually located across the State Line line in Placer County, California. The Applicants are now applying for a General Lease – Recreational Use from the Commission because the remaining area offshore of their upland parcel in the State of Nevada cannot accommodate the buoy use due to boulder outcroppings. Staff recommends bringing the Applicants' existing mooring buoy under lease, subject to the Applicants obtaining Tahoe Regional Planning Agency permit authorization
3. 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 not submitted to the Commission prior to March 31, 2011, the lease does not meet the statutory requirements for an

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exception to recently-enacted changes to Section 6503.5 of the Public Resources Code.

4. 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.

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 Christian P. Erdman; and Carol Franc Buck, as Trustee under the Carol Franc Buck

CALENDAR ITEM NO. **C45** (CONT'D)

Family Trust Agreement (As Restated) dated August 25, 2004, beginning February 22, 2013, for a term of 10 years, for the use and maintenance of 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; annual rent in the amount of \$377, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance with coverage of no less than \$1,000,000.

EXHIBIT A

W 26611

LAND DESCRIPTION

A parcel of submerged lands situated in the bed of Lake Tahoe, Placer County, State of California lying adjacent to Lot 2 of fractional Section 30, Township 16 North, Range 18 East, M.D.B.&M., as shown on Official Government Township Plat approved April 19, 1866, County of Washoe, State of Nevada, more particularly described as follows:

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Quitclaim Deed recorded December 9, 1996 as Document Number 2054626 in Official Records of Washoe County, State of Nevada.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 10/17/2012 by the California State Lands Commission Boundary Unit.



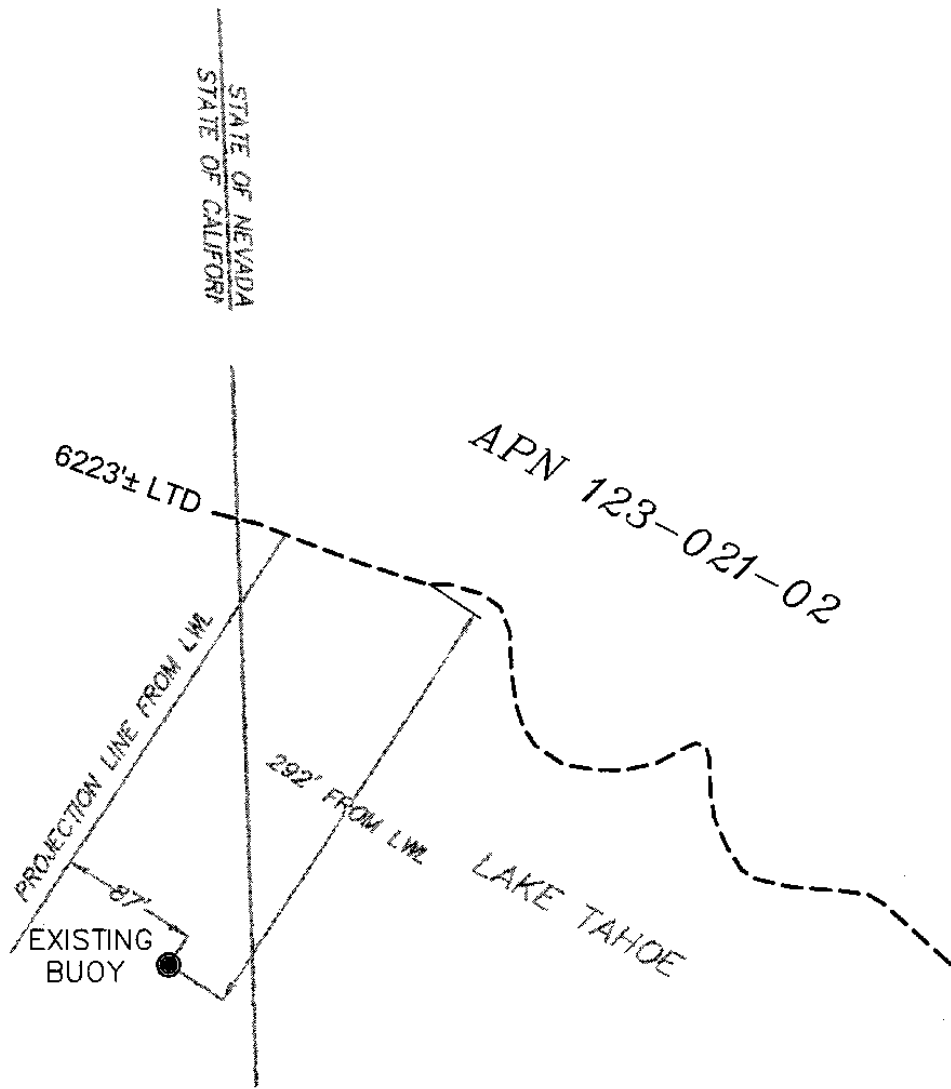


EXHIBIT A

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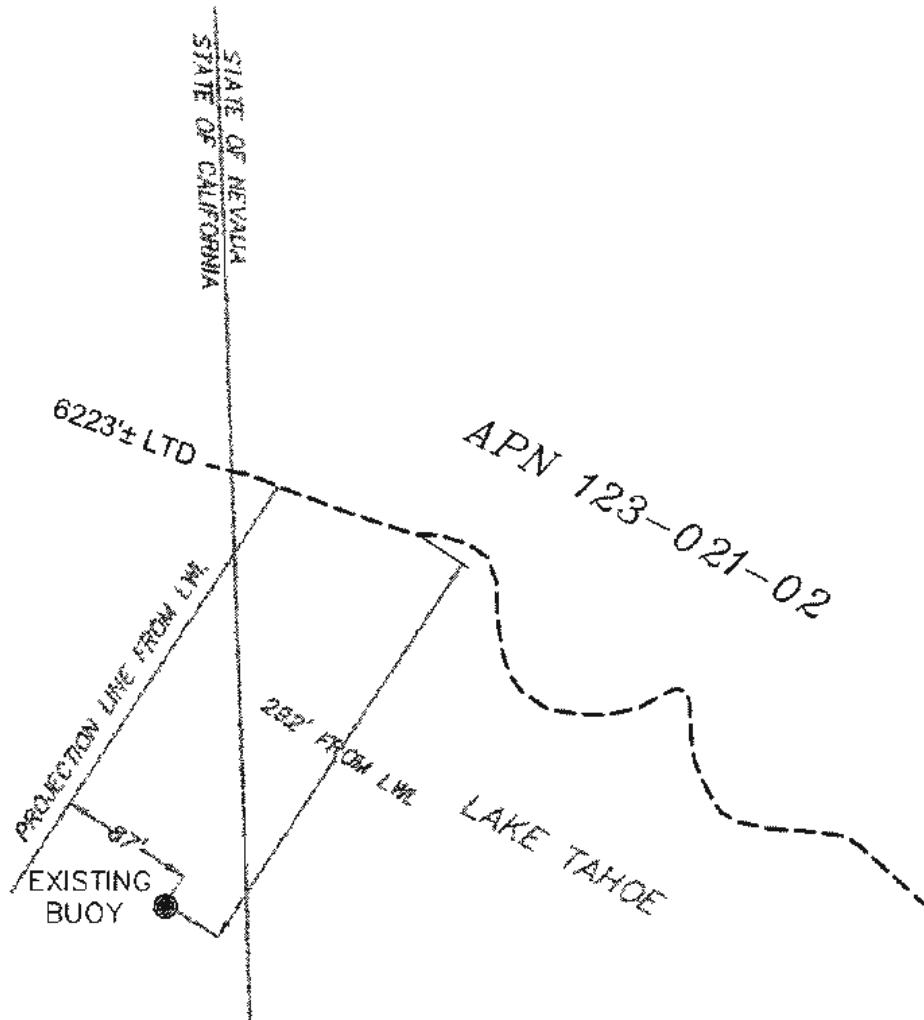
LAND DESCRIPTION PLAT
W 26611, BUCK & ERDMAN
PLACER & WASHOE COUNTIES

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

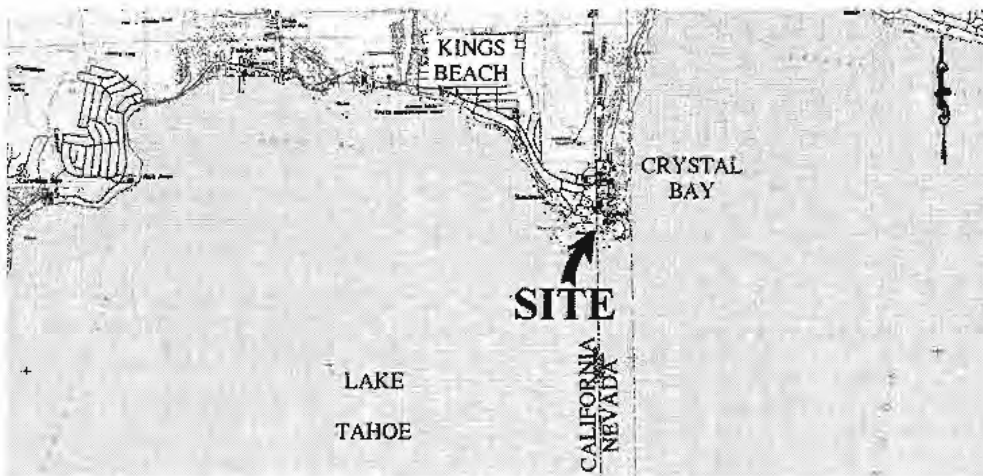
SITE



53 SOMERS LOOP, CRYSTAL BAY, STATE OF NEVADA

NO SCALE

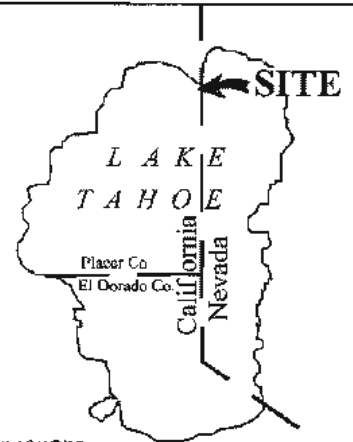
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 26611
 BUCK & ERDMAN
 APN 123-021-02
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER & WASHOE COUNTY



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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.