

**CALENDAR ITEM
C46**

A 4
S 1

02/22/13
W 23330
B. Terry

GENERAL LEASE - RECREATIONAL USE

APPLICANT:

Cottonwood Estates Owners Association, Inc.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to Assessor's Parcel Number 117-072-021 (near 6548 North Lake Boulevard), Tahoe Vista, Placer County.

AUTHORIZED USE:

Use and maintenance of three existing mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years, beginning February 1, 2013.

CONSIDERATION:

No monetary consideration, 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:

1. 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 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 additional information is available, Commission staff will advise the Commission on any

CALENDAR ITEM NO. **C46** (CONT'D)

suggested modifications to the process used by the Commission pending resolution of the TRPA FEIS and amended ordinance issues.

2. Buoy Allotment Program: The use of the three buoys will be made available to all members of the Cottonwood Estates Owners Association, Inc. (Association) in a fair and equitable manner. A buoy allotment program must be maintained during the lease term that will identify how the buoys will be managed, maintained, and distributed for use by the Association's members.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. 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 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 Applicant is now applying for a General Lease – Recreational Use for three existing mooring buoys that have been in Lake Tahoe for many years, but have not been previously authorized by the Commission. Staff recommends bringing the Applicant's existing mooring buoys under lease, subject to the Applicant obtaining TRPA permit authorization. A pier is located adjacent to the upland parcel; however, the pier does not extend

CALENDAR ITEM NO. **C46** (CONT'D)

beyond elevation 6,223-feet, Lake Tahoe Datum and therefore does not require a lease as the pier does not encroach onto State sovereign land.

4. The Applicant is an owners association consisting of three members, all of whom are natural persons and qualify for rent-free status pursuant to the original definition of Public Resources Code section 6503.5.
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 Location
- 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:

CALENDAR ITEM NO. C46 (CONT'D)

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 Cottonwood Estates Owners Association, Inc., beginning February 1, 2013, for a term of 10 years, for the use and maintenance of three existing mooring buoys 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, 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 23330

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 14, 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:

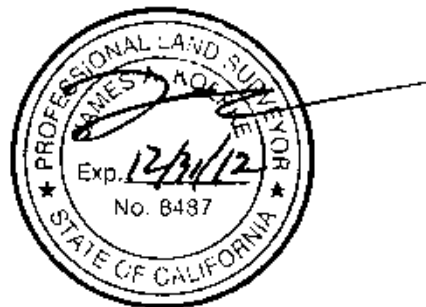
PARCELS 2, 3 & 4 – BUOYS (3)

Three (3) circular parcels of land, each being 50 feet in diameter, underlying three (3) existing buoys lying adjacent to Parcel A as described in that Grant Deed recorded July 17, 2001 as Document Number 2001-0071969 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared July 7, 2012 by the California State Lands Commission Boundary Unit.





APN 117-072-021

APPROXIMATE

SHORELINE

6'

EXISTING
PIER

136'

6223'± LTD

200'±

L A K E

T A H O E

EXISTING
BUOYS (3)



EXHIBIT A

Page 2 of 2

MJJ 07/03/12

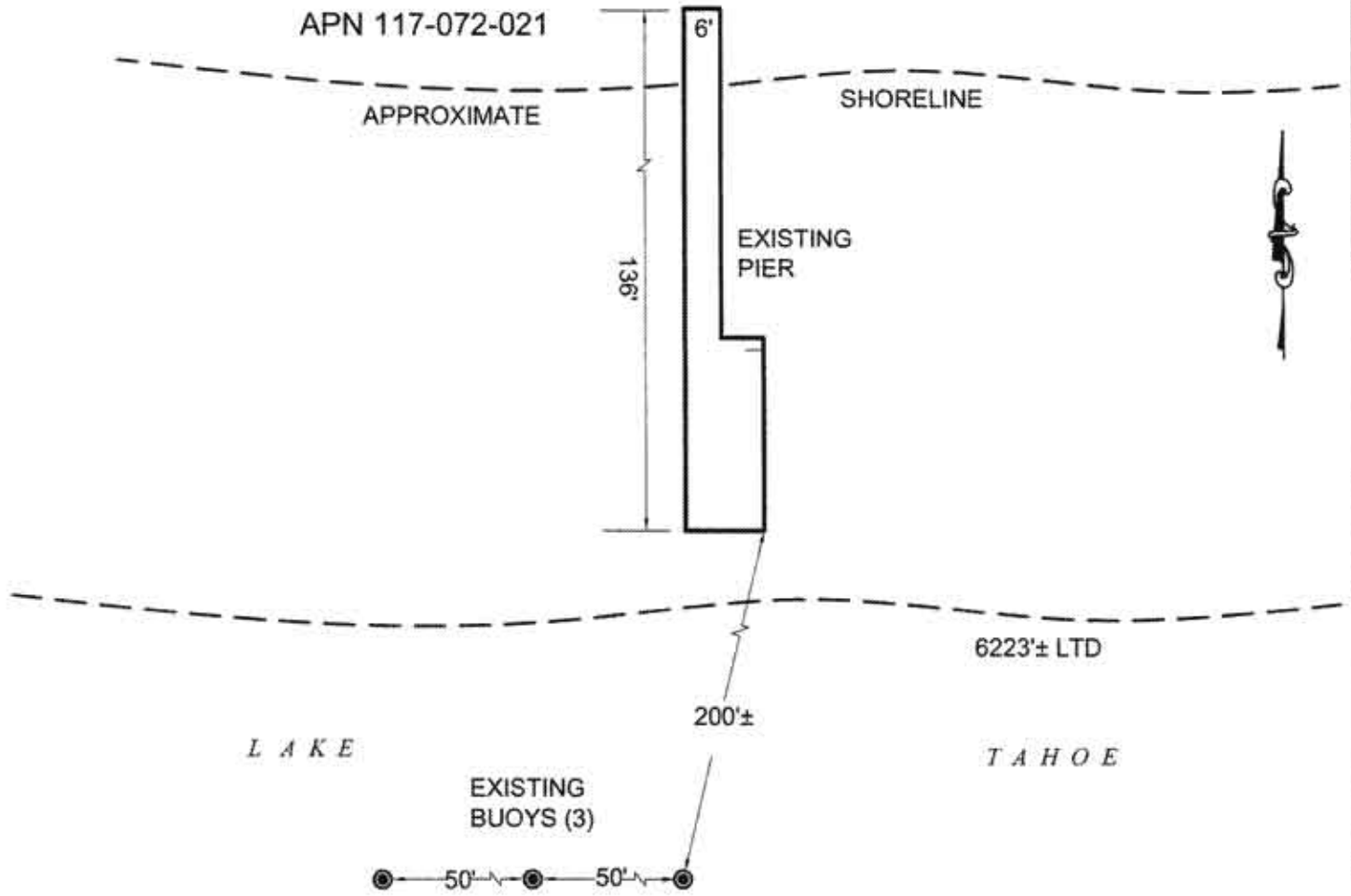
LAND DESCRIPTION PLAT
W 23330 COTTONWOOD ESTATES
OWNERS ASSOCIATION
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

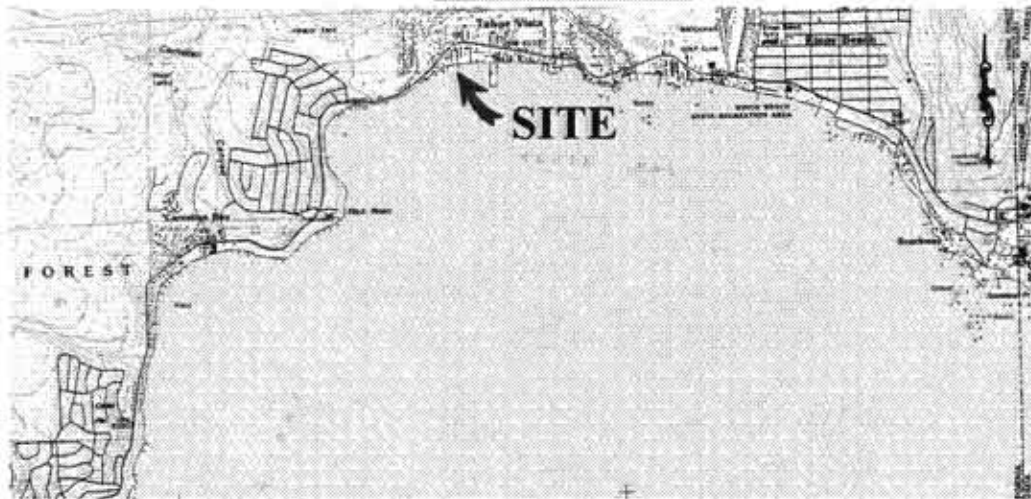
SITE



ADJACENT TO APN 117-072-021, TAHOE VISTA

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

W 23330
 COTTONWOOD ESTATES
 OWNERS ASSOCIATION
 APN 117-072-021
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MDT 01/19/12