

**CALENDAR ITEM
C42**

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06/19/14
PRC 6937.1
M. Schroeder

**AUTHORIZE ACCEPTANCE OF A LEASE QUITCLAIM DEED AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEE:

MSM Tahoe Properties LLC, a California Limited Liability Company

APPLICANTS:

John M. Kruger and Ellen M. Kruger, Trustees of the John and Ellen Kruger Trust, U/A dated June 17, 1998, as amended; and Scott Littman, Trustee of the John M. Kruger 2008 Irrevocable Trust, U/A dated May 31, 2008

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1040 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning June 19, 2014.

CONSIDERATION:

\$1,194 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 an amount no less than \$1,000,000 per occurrence.

Other:

1. 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

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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. TRPA is presently evaluating its response. At such time as 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.

2. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On June 24, 2008, the Commission authorized a General Lease – Recreational Use, to MSM Tahoe Properties LLC, a California Limited Liability Company. That lease will expire on June 21, 2017. On January 5, 2011, the upland was deeded to John M. Kruger and Ellen M. Kruger, Trustees of the John and Ellen Kruger Trust, U/A dated June 17, 1998, as amended. Subsequently, on February 28, 2011, 90 percent of the upland was deeded to Scott Littman, Trustee of the John M. Kruger 2008 Irrevocable Trust, U/A dated May 31, 2008. The Applicants are now applying for a new General Lease – Recreational Use for the continued use and maintenance of the existing pier, boat lift, and two mooring buoys.
3. The Lessee executed a lease quitclaim deed releasing its interest in the lease to the state. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease.
4. **Acceptance of Lease Quitclaim Deed:** The staff recommends that the Commission find that the subject acceptance of a lease quitclaim deed 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).

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Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

5. **New Lease:** The staff recommends that the Commission find that the subject lease issuance 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.

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:

Acceptance of Lease Quitclaim Deed: Find that the subject acceptance of a lease quitclaim deed 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.

New Lease: Find that the subject lease issuance 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).

CALENDAR ITEM NO. **C42** (CONT'D)

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 acceptance of a lease quitclaim deed for Lease No. PRC 6937.1, a General Lease – Recreational Use, issued to MSM Tahoe Properties LLC, a California Limited Liability Company effective June 18, 2014.

2. Authorize issuance of a General Lease – Recreational Use to John M. Kruger and Ellen M. Kruger, Trustees of the John and Ellen Kruger Trust, U/A dated June 17, 1998, as amended; and Scott Littman, Trustee of the John M. Kruger 2008 Irrevocable Trust, U/A dated May 31, 2008, beginning June 19, 2014, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys, 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 \$1,194, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 6937.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 fractional Section 18, Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 9, 1866 County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, one boat lift and one catwalk lying adjacent to that parcel described in that Grant Deed recorded February 28, 2011, Document Number 2011-0016070 in Official Records of said County.

ALSO TOGETHER WITH any applicable impact area(s).

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

PARCEL 2, 3 – BUOYS (2)

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared April 4, 2014 by The California State Lands Commission Boundary Unit.





APN 083-183-004

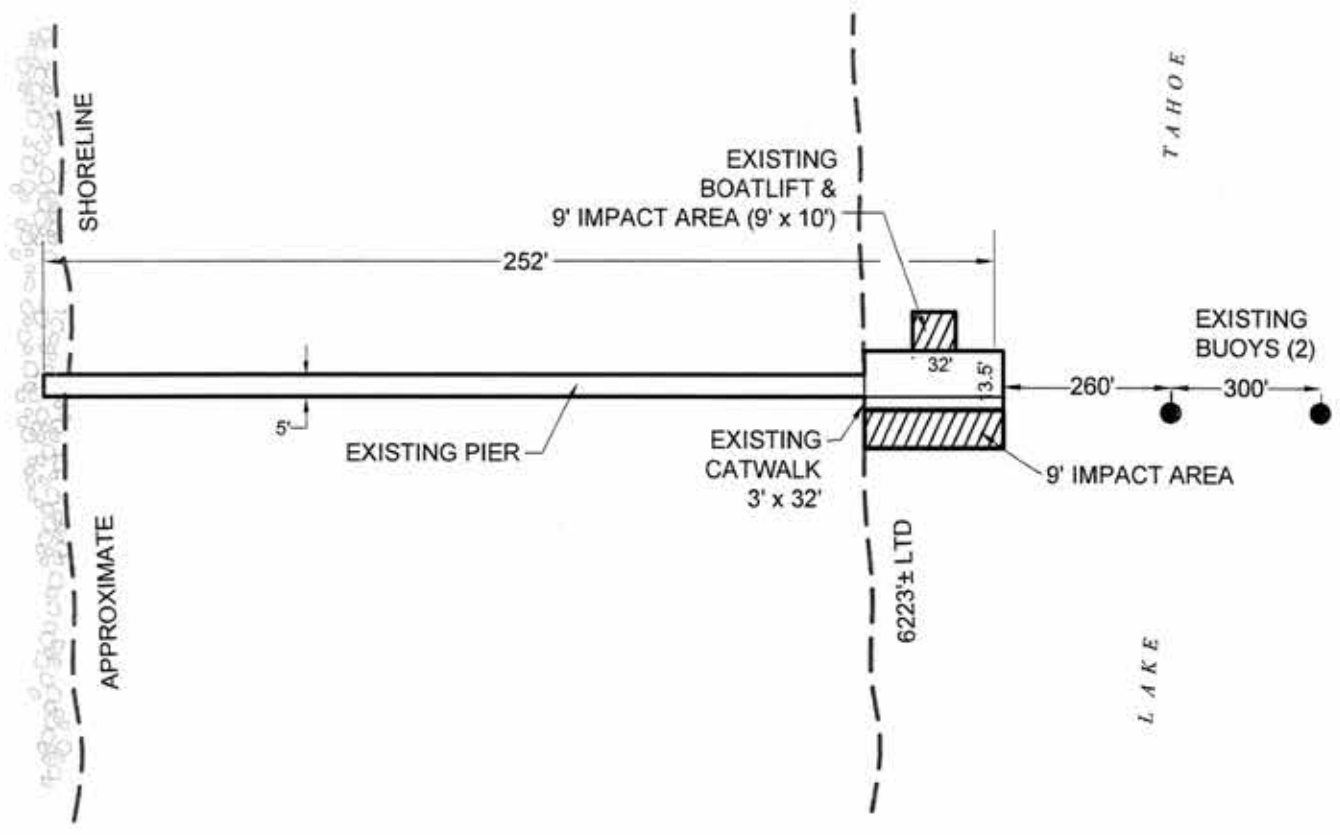


EXHIBIT A

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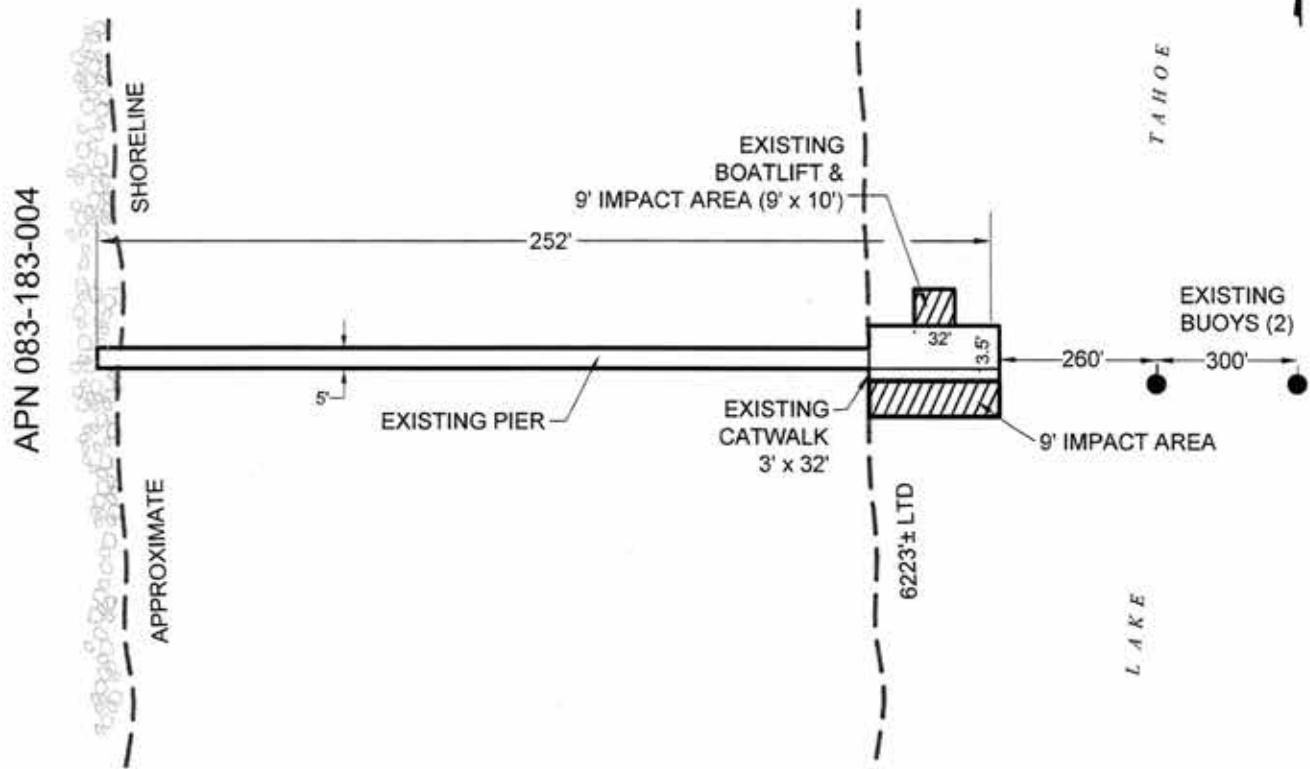
LAND DESCRIPTION PLAT
 PRC 6937.1, KRUGER TRUST
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

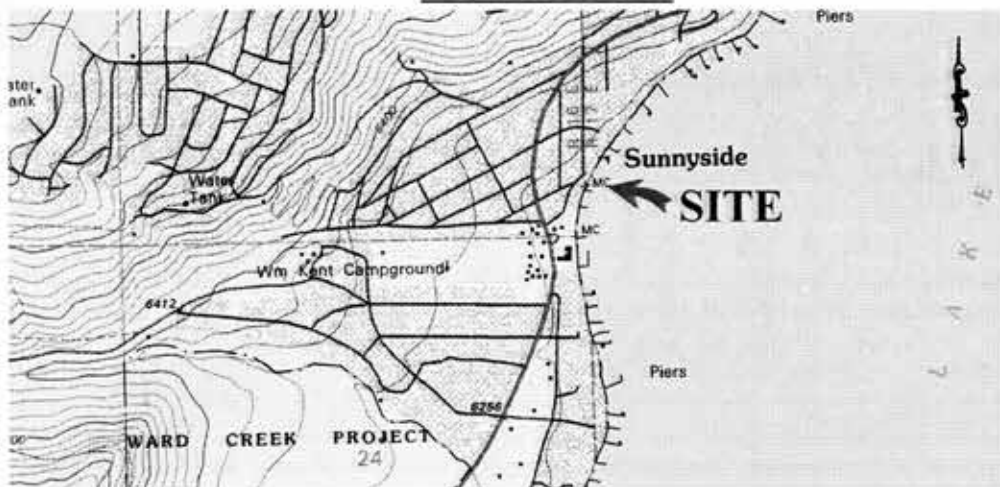
SITE



1040 WEST LAKE BLVD., NEAR TAHOE CITY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 6937.1
 KRUGER TRUST
 APN 083-183-004
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 04/03/14

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.