

**CALENDAR ITEM  
C16**

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S 1

10/19/12  
PRC 3550.9  
R. Barham

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

**LESSEES:**

Gary D. Crosswhite and Lynn P. Crosswhite

**APPLICANTS:**

Lawrence McCullough and Jamie McCullough

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Lake Tahoe, adjacent to 4676 North Lake Boulevard, near Carnelian Bay, Placer County.

**AUTHORIZED USE:**

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

**LEASE TERM:**

10 years, beginning October 19, 2012.

**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 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.

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**OTHER PERTINENT INFORMATION:**

1. Applicants own the upland adjoining the lease premises.
2. On November 1, 2006, the Commission authorized a Recreational Pier Lease with Gary D. Crosswhite and Lynn P. Crosswhite, for a pier, boat lift, and two mooring buoys. That lease will expire on September 30, 2016. On October 18, 2010, the upland property was deeded to Lawrence McCullough and Jamie McCullough. 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.

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

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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 activity is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the 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 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 October 18, 2012, of Lease No. PRC 3550.9, a Recreational Pier Lease, issued to Gary D. Crosswhite and Lynn P. Crosswhite.

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2. Authorize issuance of a General Lease – Recreational Use to Lawrence McCullough and Jamie McCullough, beginning October 19, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, 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 3550.9**

**LAND DESCRIPTION**

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 6 of fractional Section 22, 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:

**PARCEL 1 – PIER**

All those lands underlying an existing pier and boatlift adjacent to that Lot as described in that Grant Deed recorded October 18, 2010 in Document Number 10-0083700 of 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.

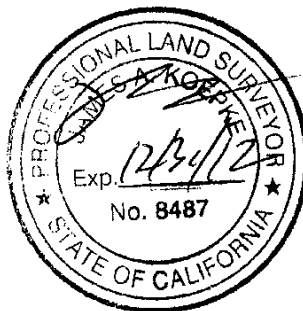
**PARCELS 2 & 3 – BUOYS**

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

Accompanying plat is hereby made part of this description.

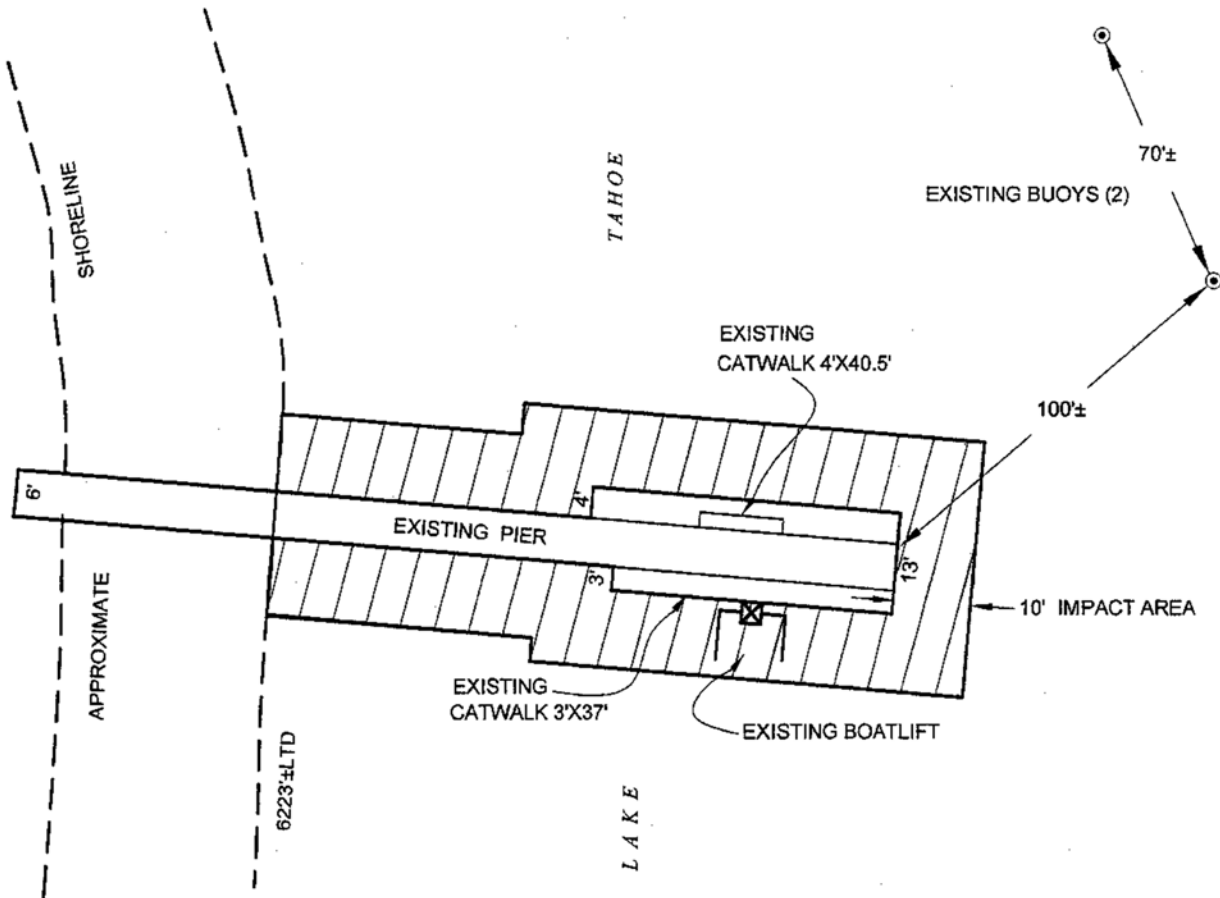
**END OF DESCRIPTION**

Prepared September 10, 2012 by the California State Lands Commission Boundary Unit.





APN 115-070-010



# EXHIBIT A

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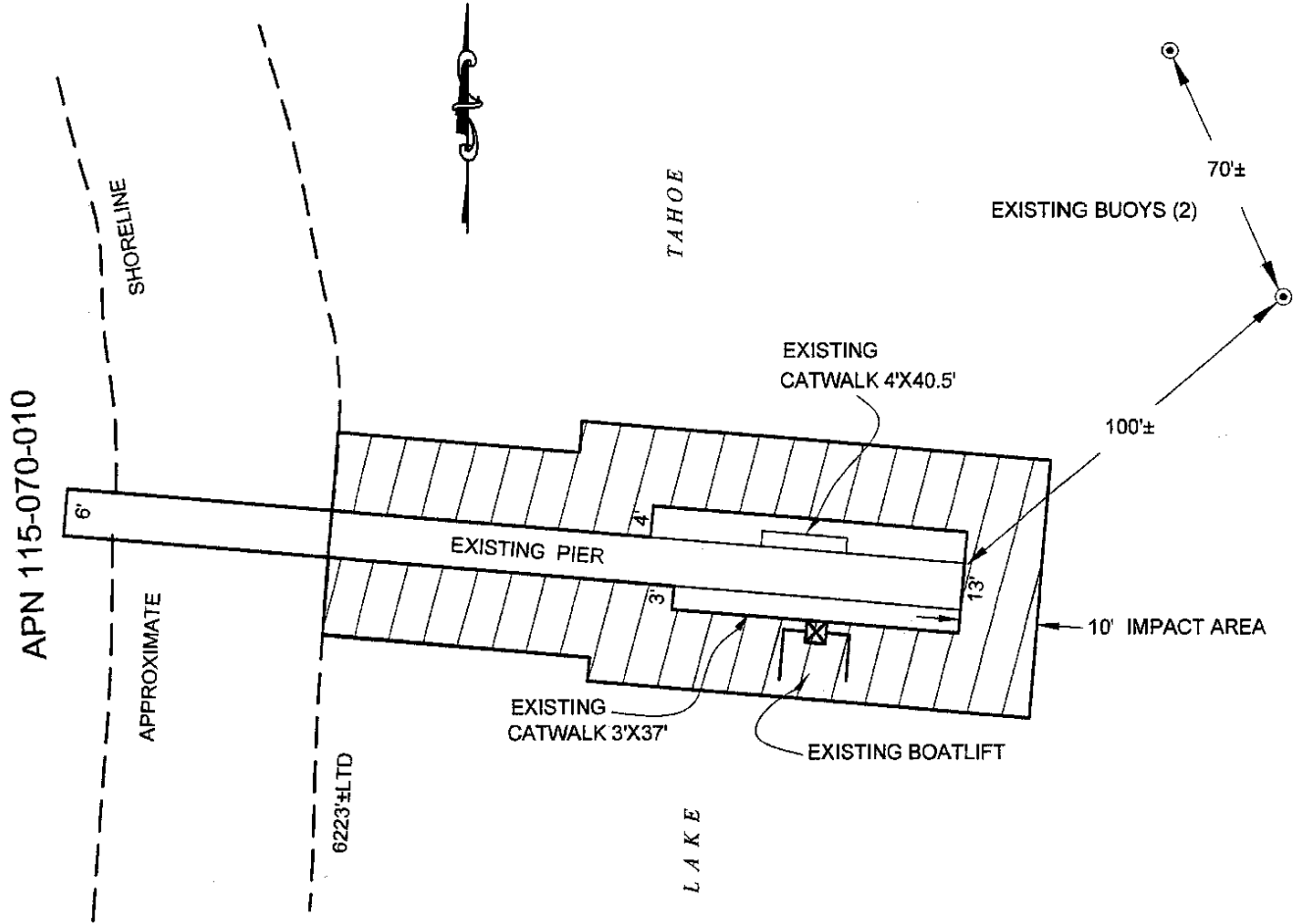
LAND DESCRIPTION PLAT  
 PRC 3550.9, McCULLOUGH  
 PLACER COUNTY

CALIFORNIA STATE  
 LANDS COMMISSION



NO SCALE

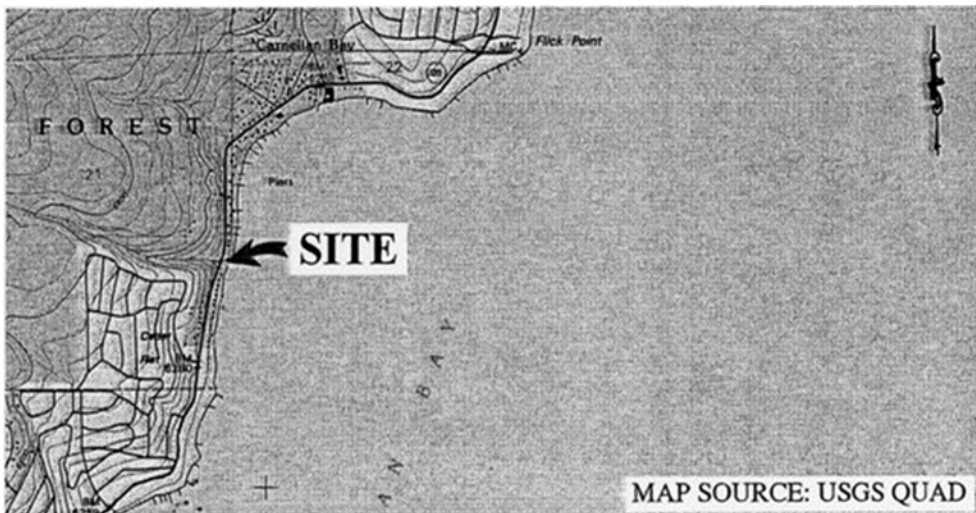
# SITE



4676 NORTH LAKE BLVD., CARNELIAN BAY

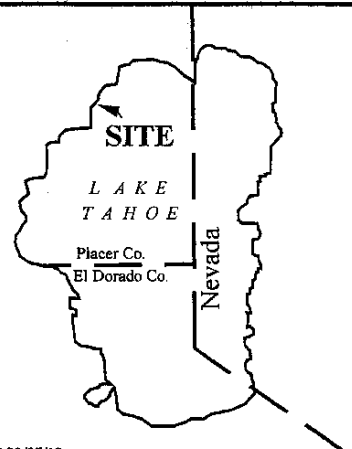
NO SCALE

# LOCATION



## Exhibit B

PRC 3550.9  
 McCULLOUGH  
 APN 115-070-010  
 GENERAL LEASE -  
 RECREATIONAL USE  
 PLACER 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.

MJ 09/07/12