

**CALENDAR ITEM  
C28**

A 4  
S 1

10/19/12  
PRC 3682.1  
W. Hall

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

**LESSEE:**

Tahoe III, LLC, a Nevada Limited Liability Company.

**APPLICANTS:**

David B. Kent and Darcie T. Kent, Trustees of the Kent Revocable Trust, dated June 8, 2005.

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

Sovereign land in Lake Tahoe, adjacent to 803 Stateline Avenue, South Lake Tahoe, El Dorado County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing pier previously authorized by the Commission and use and maintenance of an existing mooring buoy not previously authorized by the Commission.

**LEASE TERM:**

10 years, beginning April 16, 2012.

**CONSIDERATION:**

\$772 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 \$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 bouys 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

CALENDAR ITEM NO. **C28** (CONT'D)

1995 to October 2008 when TRPA adopted the FEIS and Ordinance Amendments supported by 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 amended ordinance issues.

**OTHER PERTINENT INFORMATION:**

1. Applicants own the upland adjoining the lease premises.
2. On October 30, 2007, the Commission authorized a 10-year General Lease - Recreational Use for an existing pier, with Tahoe III, LLC. That lease expires on April 15, 2017. On October 4, 2011, ownership of the upland parcel transferred to David B. Kent and Darcie T. Kent, Trustees of the Kent Revocable Trust, dated June 8, 2005.
3. On February 23, 2012, Tahoe III, LLC executed and delivered a Quitclaim Deed to the Commission releasing all interest in the existing lease. The annual rent was paid through April 15, 2012. The Applicants are now applying for issuance of a new General Lease - Recreational Use for continued use and maintenance of the existing pier previously authorized by the Commission and use and maintenance of an existing mooring buoy not previously authorized by the Commission.
4. 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 submitted to the Commission after March 31, 2011, the lease does not meet the statutory requirements for an exception

CALENDAR ITEM NO. **C28** (CONT'D)

to recently enacted changes to Section 6503.5 of the Public Resources Code and is subject to rent.

5. The Applicants' existing mooring buoy 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.

6. **Acceptance of Quitclaim:** The staff recommends that the Commission find that the acceptance of a quitclaim 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.

7. **Issuance of Lease:** The staff recommends that the Commission find that this activity 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.

8. 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

CALENDAR ITEM NO. **C28** (CONT'D)

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Acceptance of Quitclaim:** Find that the acceptance of a quitclaim 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. Accept a Quitclaim, effective April 15, 2012, of lease No. PRC 3682.1, a General Lease – Recreational Use, issued to Tahoe III, LLC, a Nevada limited liability company.
2. Authorize issuance of a General Lease - Recreational Use to David B. Kent and Darcie T. Kent, Trustees of the Kent Revocable Trust, dated June 8, 2005, beginning April 16, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier previously authorized by the Commission and use and maintenance of one existing mooring buoy not previously authorized by the Commission described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$772, 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 the amount of no less than \$1,000,000.

**EXHIBIT A**

**PRC 3682.1**

**LAND DESCRIPTION**

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 27, Township 13 North, Range 18 East, MDM., as shown on Official Government Township Plat approved October 4, 1907, County of El Dorado, State of California and more particularly described as follows:

**PARCEL 1 – PIER**

All those lands underlying an existing pier lying adjacent to that parcel as described in that Exhibit “A” of that Grant Deed recorded October 04, 2011 as Document Number 2011-0046087-00 in Official Records of said County.

TOGETHER WITH a ten (10) foot impact area.

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

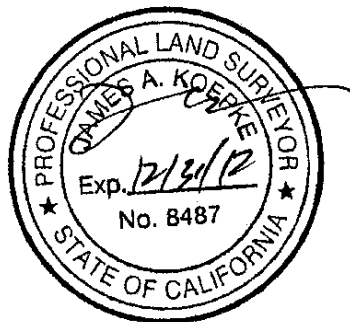
**PARCEL 2 – BUOY**

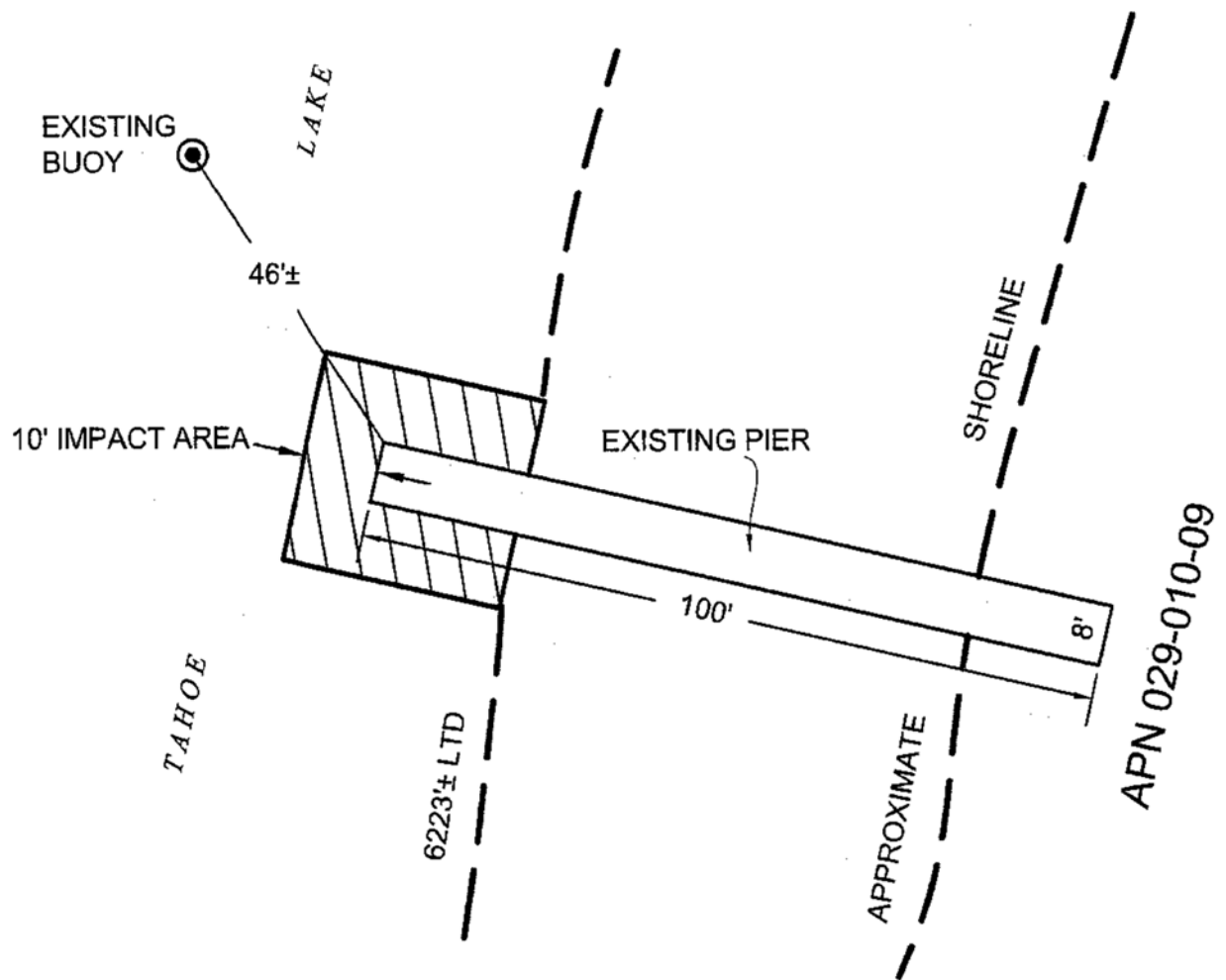
One (1) circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared September 12, 2012 by the California State Lands Commission Boundary Unit.





# EXHIBIT A

Page 2 of 2

MJJ 09/12/12

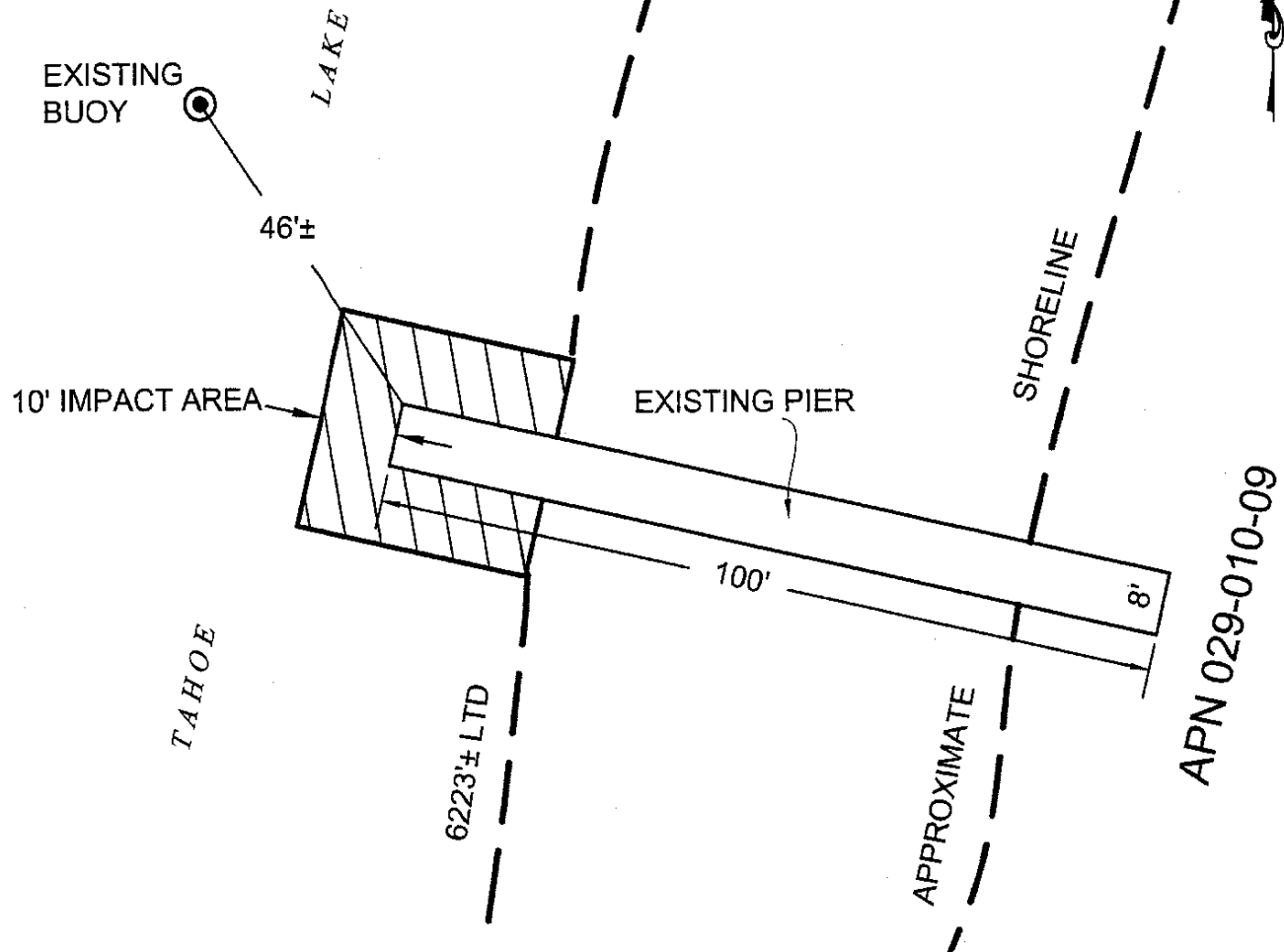
LAND DESCRIPTION PLAT  
PRC 3682.1, KENT  
EL DORADO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

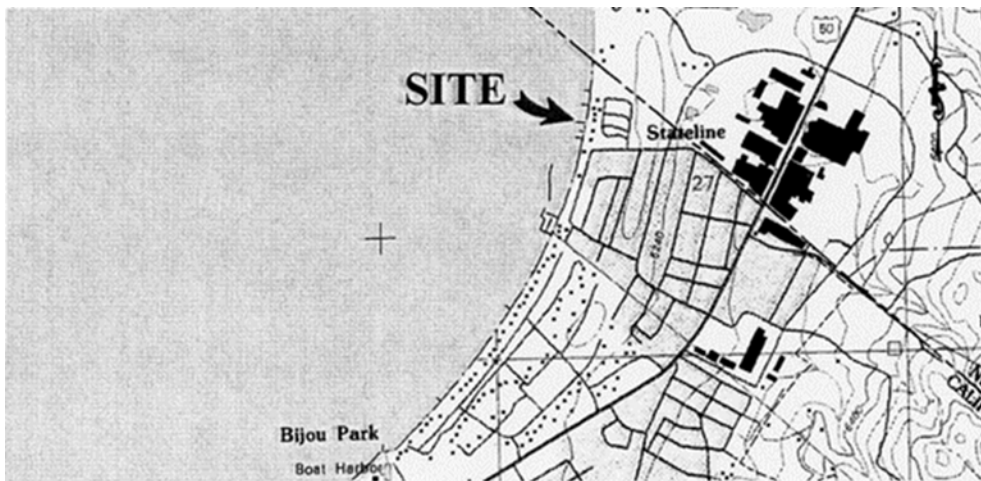
# SITE



803 STATELINE AVE., SOUTH LAKE TAHOE

NO SCALE

# LOCATION

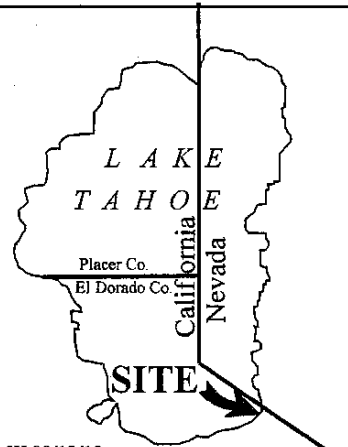


MAP SOURCE: USGS QUAD

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

PRC 3682.1  
 KENT  
 APN 029-010-09  
 GENERAL LEASE -  
 RECREATIONAL USE  
 EL DORADO COUNTY



MJJ 09/12/12