

**CALENDAR ITEM  
C49**

A 4  
S 1

10/19/12  
PRC 3209.1  
B. Terry

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

**LESSEE:**

Ettore S. Bertagnolli, Trustee of the Bertagnolli Family Trust, dated May 12, 2004

**APPLICANTS:**

Jason A. DiLullo and Sarah E.K. DiLullo

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

Sovereign land in Lake Tahoe, adjacent to 2620 West Lake Boulevard, near Sunnyside, Placer County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing pier, boathouse with boat hoist, and one mooring buoy.

**LEASE TERM:**

10 years, beginning August 14, 2012.

**CONSIDERATION:**

\$1,994 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

CALENDAR ITEM NO. **C49** (CONT'D)

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 amended ordinance issues.

**OTHER PERTINENT INFORMATION:**

1. Applicants own the upland adjoining the lease premises.
2. On May 10, 2007, the Commission authorized a Recreational Pier Lease No. PRC 3209.9, with Ettore S. Bertagnolli, Trustee of the Bertagnolli Family Trust, dated May 12, 2004, covering a pier, boathouse with boat hoist, and two mooring buoys adjacent to Assessor's Parcel Number (APN) 084-132-008. That lease will expire on April 30, 2017. On September 30, 2010, the above Assessor parcel was transferred to the Applicants.
3. On July 1, 2011, a minor boundary line adjustment was recorded with the Placer County Recorder's office which realigned the boundary between APN 084-132-008 and the adjoining lakefront parcel; subsequently, Placer County Assessor issued two new APN's for the adjoining lakefront lots. Because of the boundary line adjustment, one of the previously approved mooring buoys under PRC 3209.9 is now located adjacent to the adjoining lakefront property. The Applicants and the adjoining lakefront owner have agreed to transfer ownership of the buoy to the adjoining owner. The Applicants are now applying for a new General Lease – Recreational Use for a pier, boathouse with boat hoist and one mooring buoy. The adjoining owner has also applied for a new General Lease - Recreational Use for the one mooring buoy which is before the Commission as Calender Item 46 (Kiskis).
4. 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:

CALENDAR ITEM NO. **C49** (CONT'D)

- 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.

The Applicants do not qualify for an exception and the lease is subject to rent because the application and fees were received after March 31, 2011.

- 5. **Lease Termination:** The staff recommends that the Commission find that the subject lease termination 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.

- 6. **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.

- 7. 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. **C49** (CONT'D)

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Lease Termination:** 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 August 13, 2012, of Lease No. PRC 3209.9, a Recreational Pier Lease issued to Ettore S. Bertagnolli, Trustee of the Bertagnolli Family Trust, dated May 12, 2004.
2. Authorize issuance of a General Lease – Recreational Use to Jason A. DiLullo and Sarah E.K. DiLullo, beginning August 14, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse with boat hoist, and one mooring buoy 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 \$1,994, 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**

**PRC 3209.1**

**LAND DESCRIPTION**

Two (2) parcels of submerged land, situate in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 24, Township 15 North, Range 16 East, MDM, as shown on the Official Township Plat, approved April 11<sup>th</sup>, 1884, County of Placer, State of California, and more particularly described as follows:

**Parcel 1 - Pier**

All those lands underlying an existing pier and catwalks, and boathouse with boat hoist adjacent to that parcel as described in "Exhibit A" of that Grant Deed recorded September 30, 2010 as Document Number 2010-0078410-00 in Official Records of said County.

TOGETHER WITH a ten (10) foot impact area.

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

**Parcel 2 - Buoy**

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy, adjacent to that parcel as described in "Exhibit A" of that Grant Deed recorded September 30, 2010 as Document Number 2010-0078410-00 in Official Records of said County.

Accompanying plat is hereby made a part of this description.

**END OF DESCRIPTION**

PREPARED 5/8/12 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



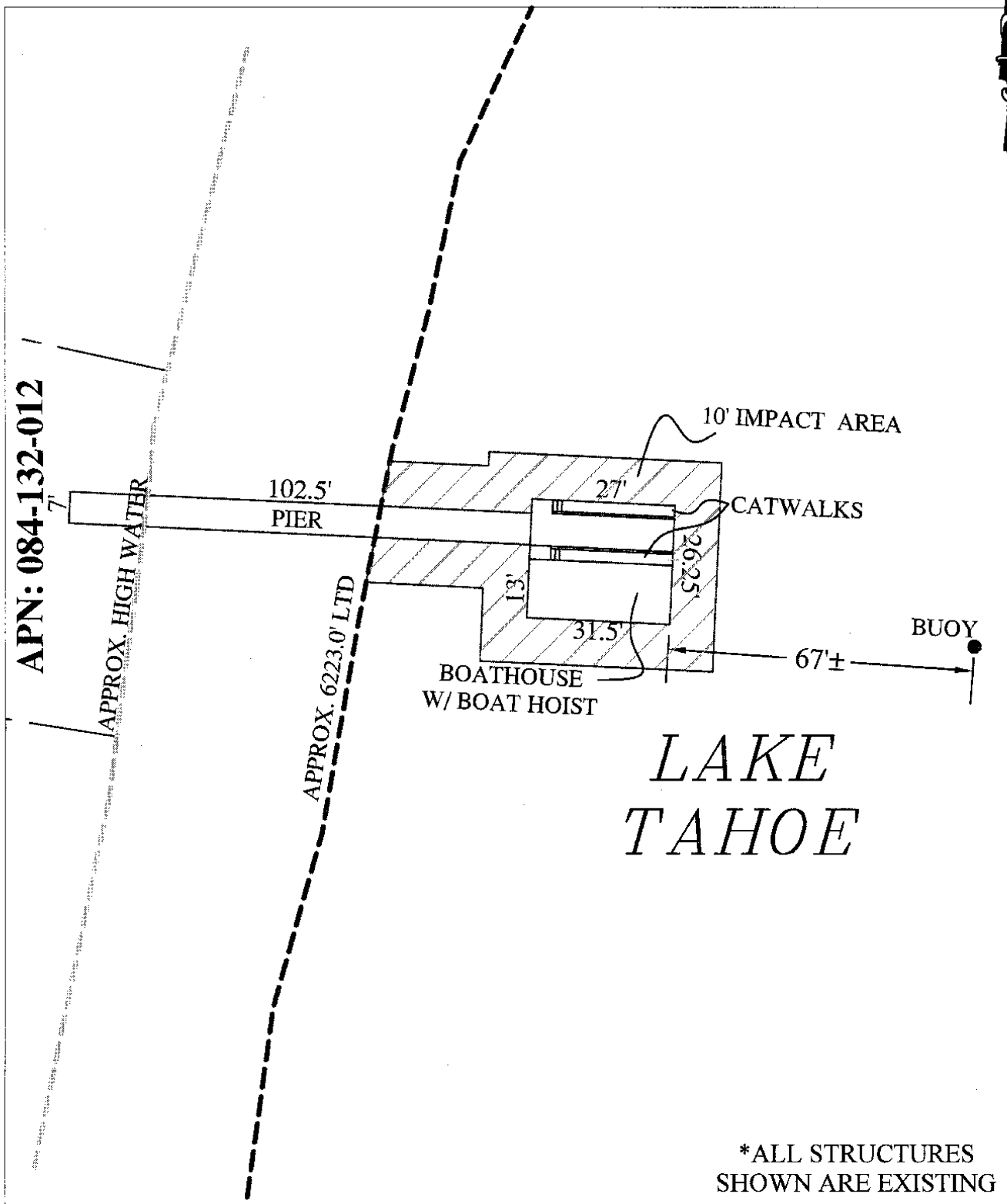


EXHIBIT A

Page 2 of 2

MJF 9/17/12

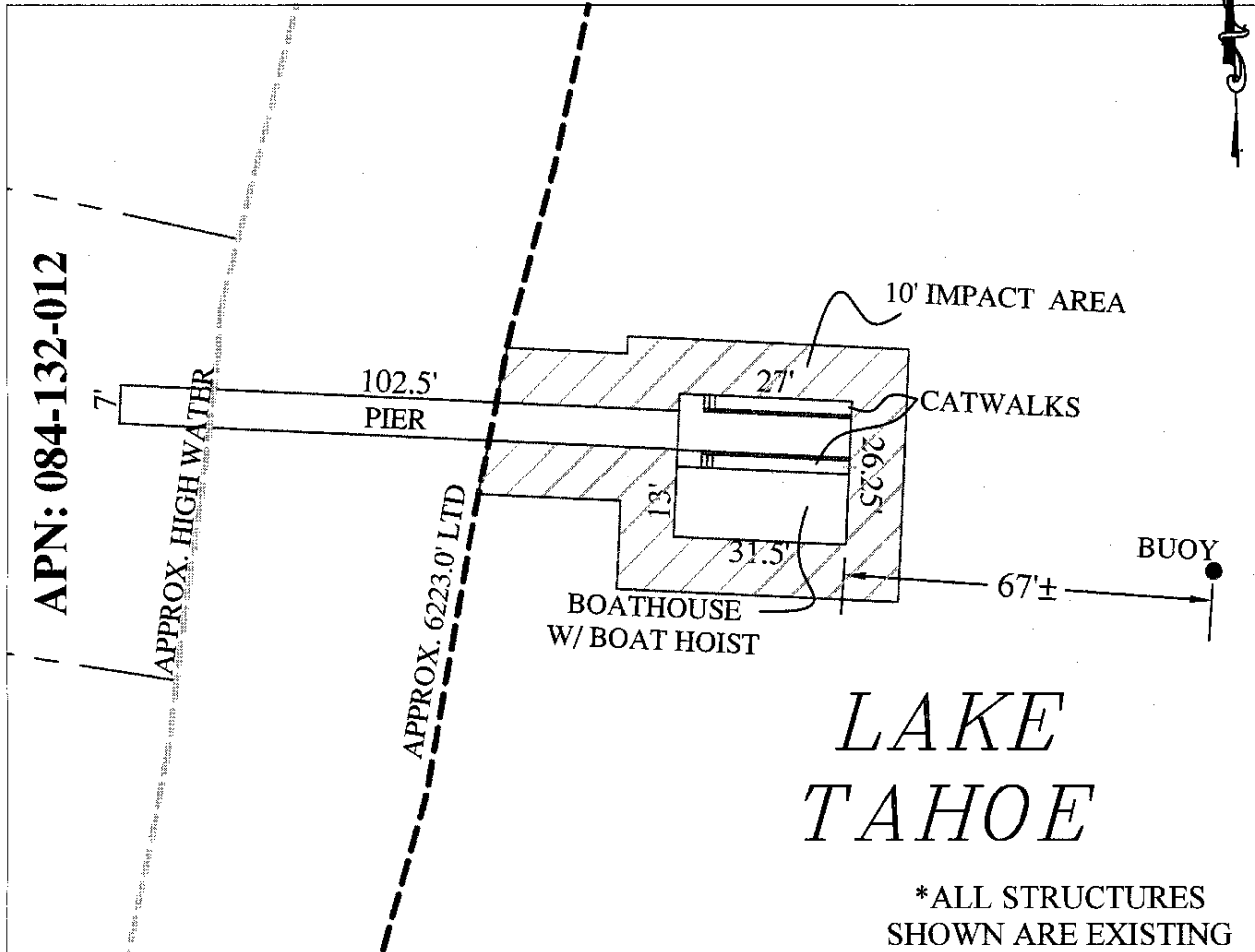
LAND DESCRIPTION PLAT  
 PRC 3209.1, DILULLO  
 PLACER COUNTY

CALIFORNIA STATE  
 LANDS COMMISSION



NO SCALE

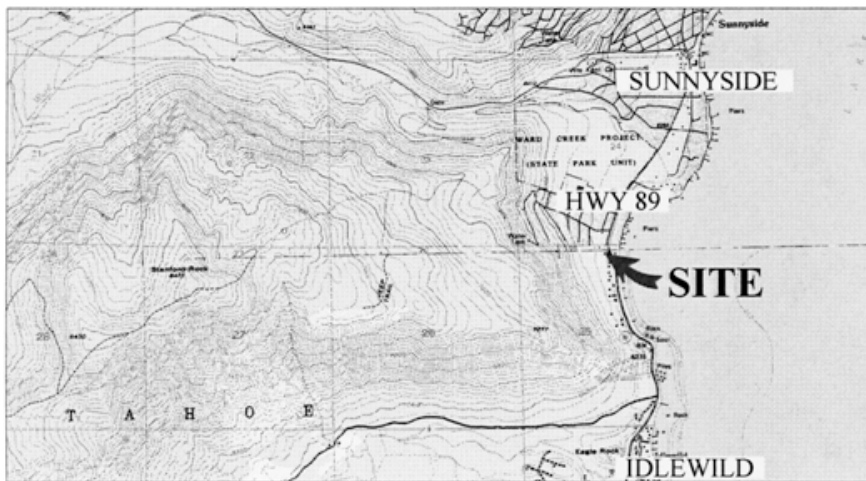
### SITE



2620 W. Lake Blvd., near Sunnyside

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

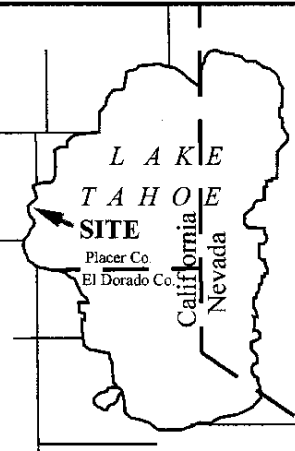
### **Exhibit B**

PRC 3209.1

DILULLO

APN: 084-132-012

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.