

**CALENDAR ITEM
C52**

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S 1

10/19/12
PRC 8471.1
B. Terry

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

LESSEES:

Rick L. Antle and Tonya Antle, Brian R. Antle, Jeffrey Lester Antle; Stan Pura and Jane Pura, Trustees of the Pura Revocable Trust dated June 8, 1994; and Michael D. Cling and Mary Jean Cling

APPLICANTS:

Michael D. Cling and Mary Jean Cling; and Rick L. Antle and Tonya Antle

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8833 Winston Way, near Rubicon Bay, El Dorado 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:

\$1,538 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 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

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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 amended ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On August 19, 2003, the Commission approved a 10-year Recreational Pier Lease with Rick L. Antle and Tonya Antle, Brian R. Antle, Jeffrey Lester Antle; Stan Pura and Jane Pura, Trustees of the Pura Revocable Trust dated June 8, 1994; and Michael D. Cling and Mary Jean Cling. That lease will expire on April 17, 2013. On September 16, 2011, the upland was deeded to Michael D. Cling and Mary Jean Cling; and Rick L. Antle and Tonya Antle. The 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.

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.

4. **Lease Termination:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in

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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.

5. **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. For the existing facilities, 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:

Lease Termination: Find that the subject lease termination 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.

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).

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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 8471.9, a Recreational Pier Lease, issued to Rick L. Antle and Tonya Antle, Brian R. Antle, Jeffrey Lester Antle; Stan Pura and Jane Pura, Trustees of the Pura Revocable Trust dated June 8, 1994; and Michael D. Cling and Mary Jean Cling.

2. Authorize issuance of a General Lease – Recreational Use to Michael D. Cling and Mary Jean Cling; and Rick L. Antle and Tonya Antle, 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 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 \$1,538 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 8471.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 32, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1-PIER

All those lands underlying an existing pier, catwalk and boat lift lying adjacent to Parcel One as described in that Grant Deed recorded September 16, 2011 in Document Number 2011-0043210 in 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 3 & 4 - BUOYS

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that Parcel as described in said Grant Deed.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared September 19, 2012 by the California State Lands Commission Boundary Unit.



APN 016-401-21

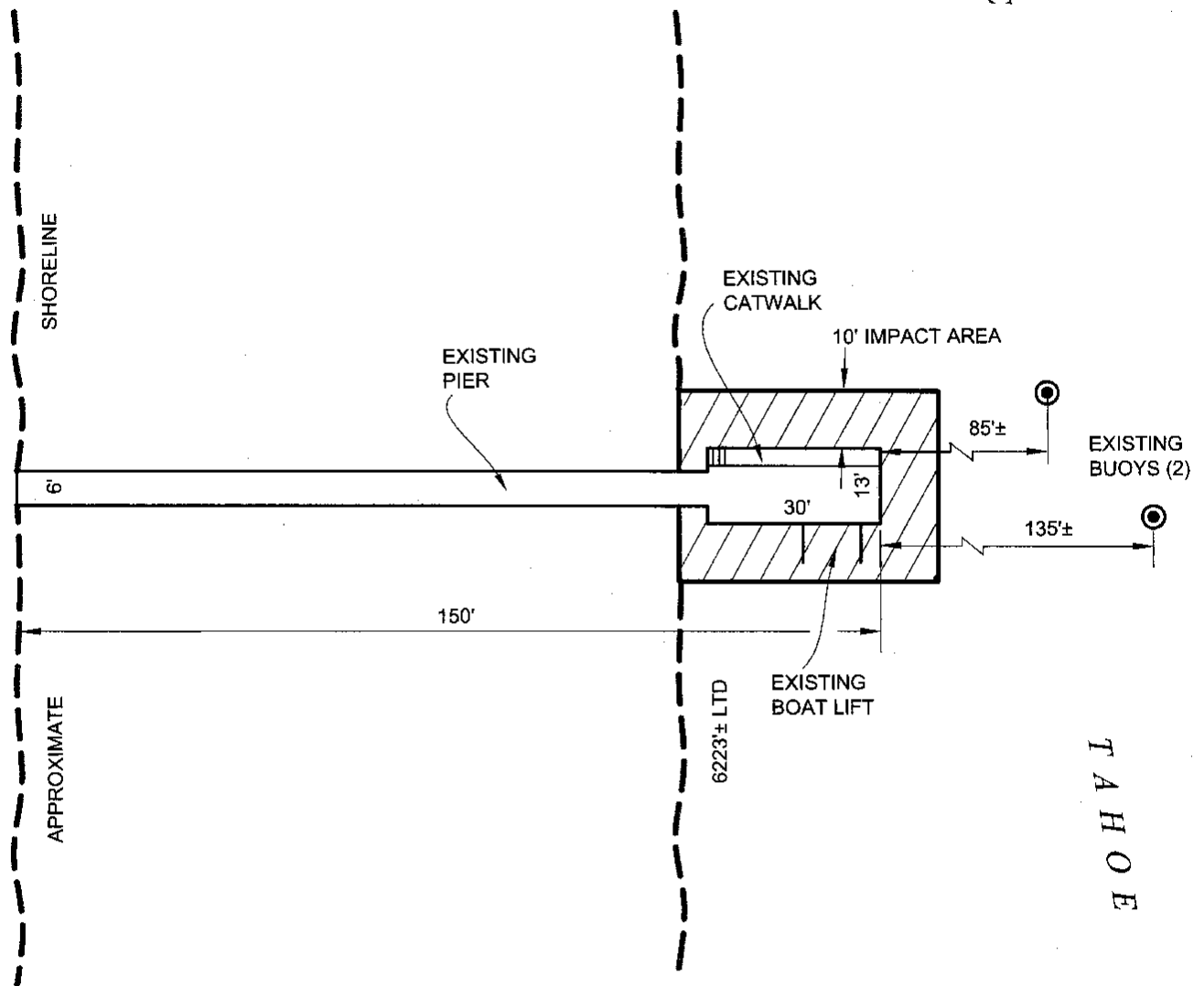


EXHIBIT A

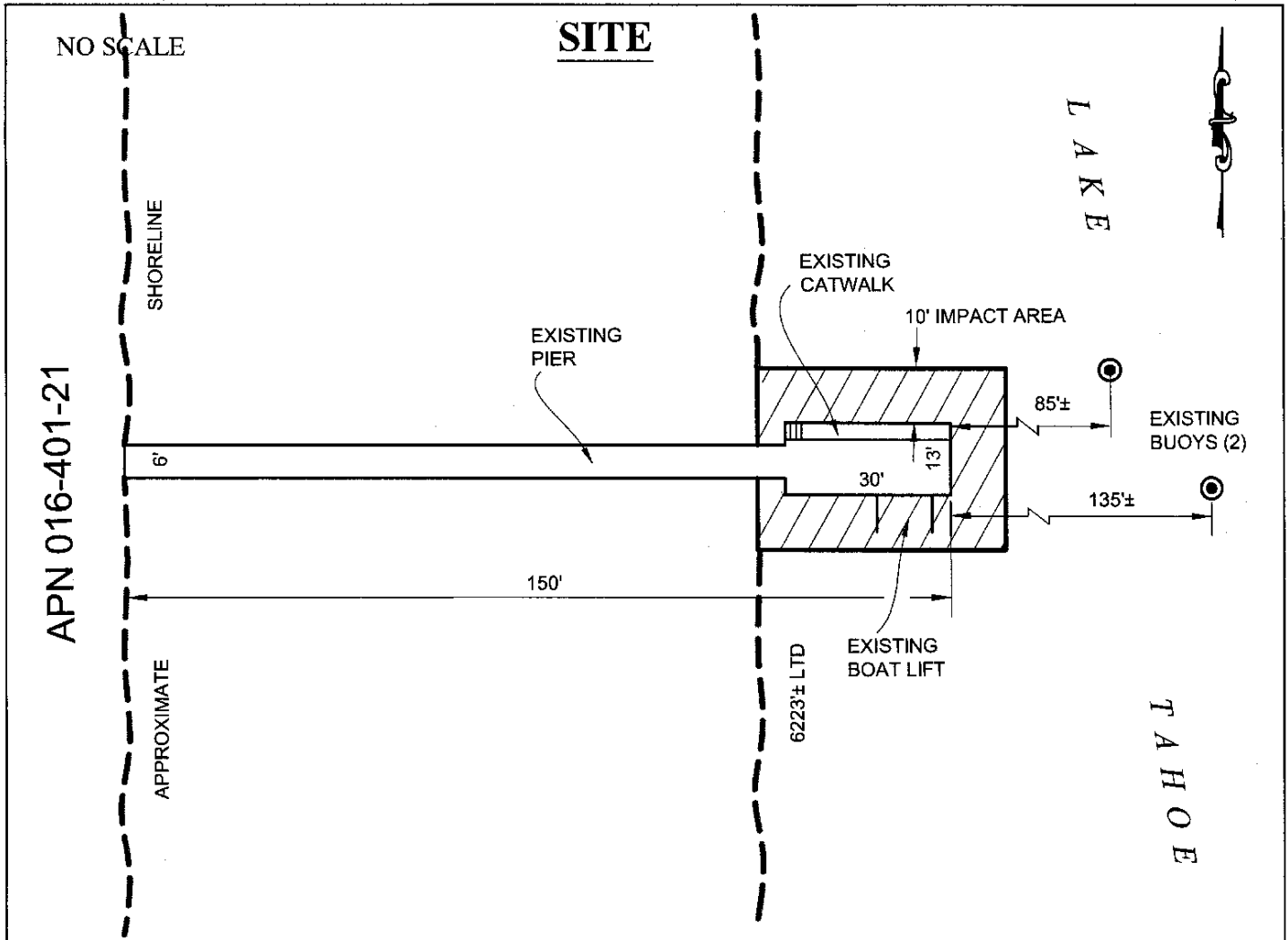
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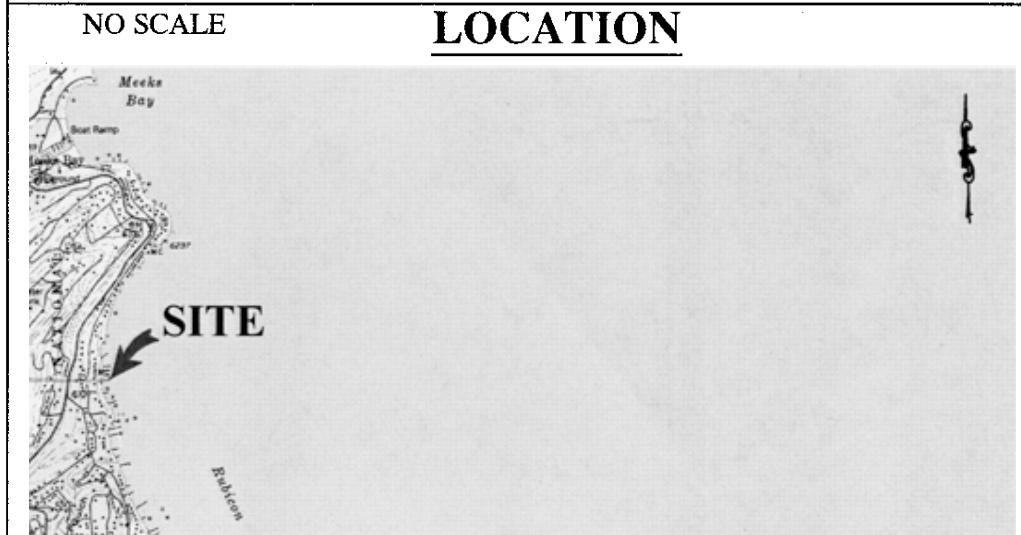
LAND DESCRIPTION PLAT
PRC 8471.1, CLING / ANTLE
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



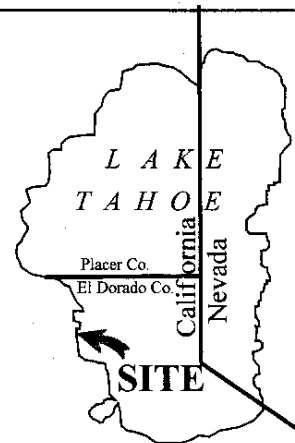


8833 WINSTON WAY, NEAR RUBICON BAY



MAP SOURCE: USGS QUAD

Exhibit B
 PRC 8471.1
 CLING / ANTLE
 APN 016-401-21
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



MJ 09/11/12

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.