

**CALENDAR ITEM
C16**

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04/05/16
PRC 4058.1
M. Schroeder

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

LESSEE:

Lloyd T. Rochford and Carol A. Rochford, Trustees of the Rochford Living Trust dated December 1, 1999

APPLICANT:

Skylandia, LLC, a California Limited Liability Company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3740 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boathouse, boat hoist, sundeck with stairs, and two mooring buoys.

LEASE TERM:

10 years, beginning April 5, 2016.

CONSIDERATION:

\$2,174 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization 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. If Lessee is unable to obtain such authorization within the time limit, they must remove the buoys.

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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.

The lease contains provisions stating that the existing sundeck with stairs, as shown on the attached Exhibit B, cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck with stairs must be removed from the lease premises.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The subject facilities, except for the sundeck with stairs, are for the docking and mooring of boats. The sundeck and stairs are built onto the existing boathouse. Recreational boating is a water-dependent use that is generally consistent with the common law public trust doctrine. The sundeck with stairs is not associated with traditional public trust uses. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier and sundeck with stairs are built on a relatively flat part of the shore consisting of sandy gravel with cobbles. Although the sundeck with stairs is a private use of public property, the sundeck is built into the existing boathouse and does not expand the footprint of the dock. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

While new sundecks are generally not favored, sundecks that have been in place for years have been permitted if, as is the case in this instance, they do not significantly interfere with trust activities. However, the sundeck may not be expanded nor rebuilt if substantially destroyed.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the Lessee exclusive rights to the lease premises, and reserves an easement to the public for public trust consistent uses. The

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lease also contains provisions preventing storage of items under the pier to block public access. Upon termination of the lease, the Lessee may be required to remove all improvements from State land.

The proposed lease requires the Lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. For all the reasons above, Commission staff believes the issuance of this lease will not substantially interfere with the public trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On June 28, 2010, the Commission authorized a 10-year General Lease – Recreational Use to Lloyd T. Rochford and Carol A. Rochford, Trustees of the Rochford Living Trust dated December 1, 1999. That lease expires on June 27, 2020. On April 15, 2015, the upland was deeded to Skylandia, LLC, a California Limited Liability Company. The Applicant is now applying for a General Lease – Recreational Use.
3. Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the property and facility without executing a quitclaim deed.
4. Staff recommends the Commission accept compensation in the amount of \$2,014, for the period beginning April 15, 2015, when the Applicant took ownership, through April 4, 2016, for the Applicant's unauthorized occupation of state land.
5. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
6. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

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Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378, subdivision (b)(5).

7. The staff recommends that the Commission find that issuance of the lease 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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease 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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the public's public trust needs and values at this location, and is in the best interests of the State.

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.

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AUTHORIZATION:

1. Authorize termination, effective April 4, 2016, of Lease No. PRC 4058.1, a General Lease – Recreational Use, issued to Lloyd T. Rochford and Carol A. Rochford, Trustees of the Rochford Living Trust dated December 1, 1999.
2. Authorize acceptance of compensation in the amount of \$2,014 for the unauthorized occupation of state land beginning April 15, 2015, through April 4, 2016.
3. Authorize issuance of a General Lease – Recreational Use to Skylandia, LLC, a California Limited Liability Company, beginning April 5, 2016, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse, boat hoist, sundeck with stairs, 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 \$2,174, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4058.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 fractional Section 28, 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, one (1) boathouse with sundeck and stairs and one (1) boat hoist lying adjacent to Parcel One described in Exhibit “A” of that Grant Deed recorded April 15, 2015 in Document Number 2015-0029843 in Official Records of said County.

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

PARCELS 2 & 3 – BUOYS (2)

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared June 17, 2015 by the California State Lands Commission Boundary Unit.



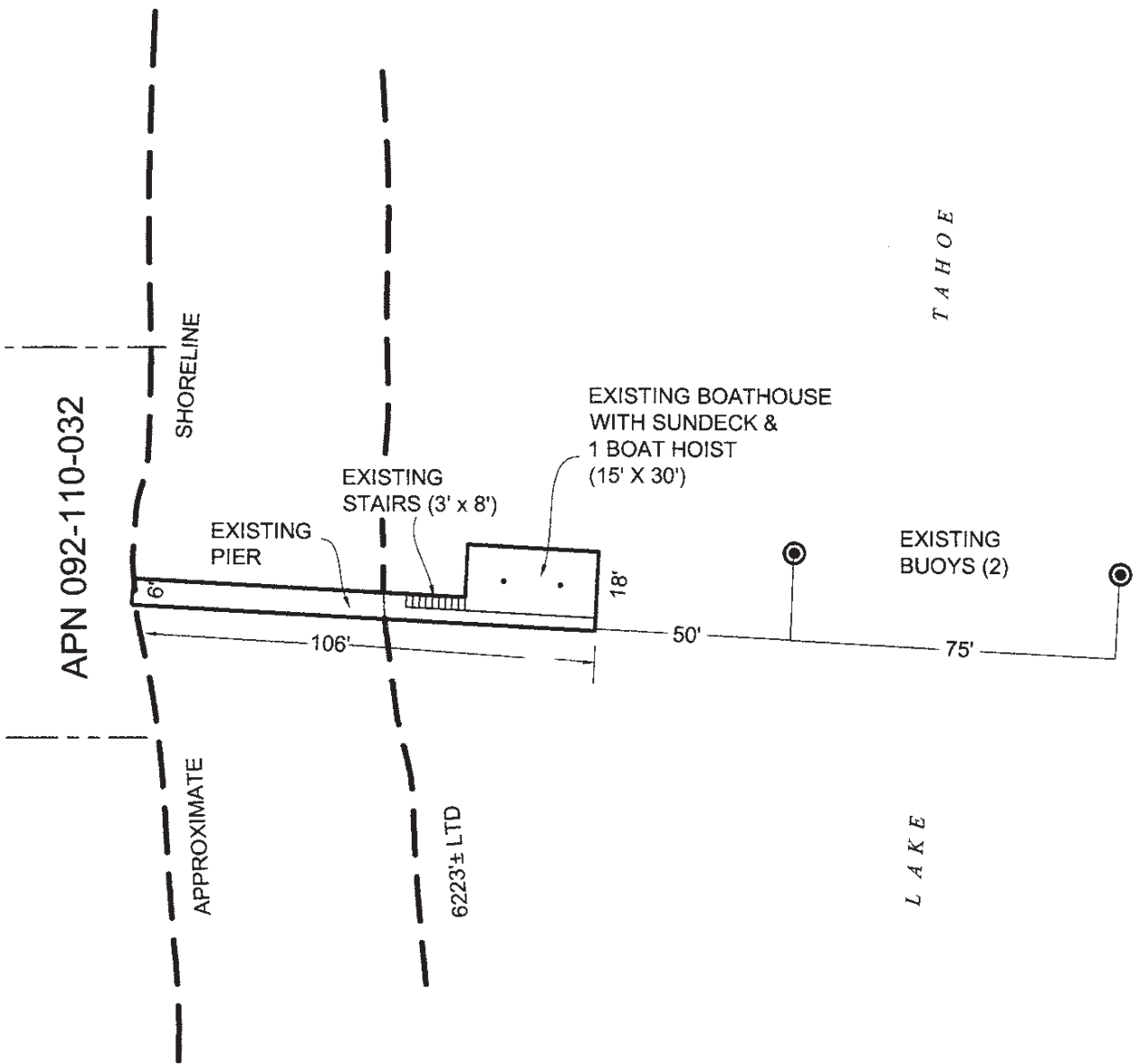


EXHIBIT A

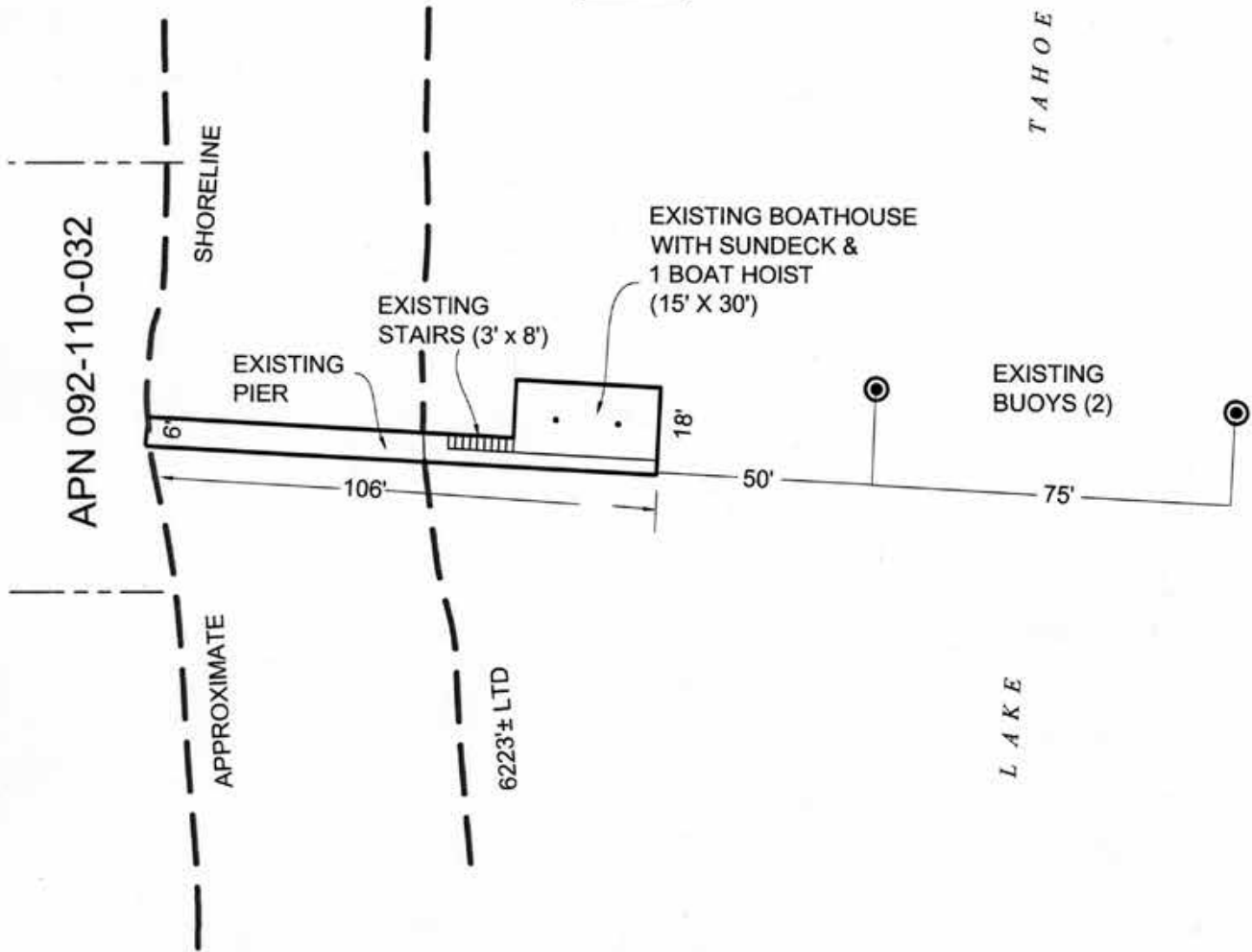
LAND DESCRIPTION PLAT
 PRC 4058.1, SKYLANDIA, LLC
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

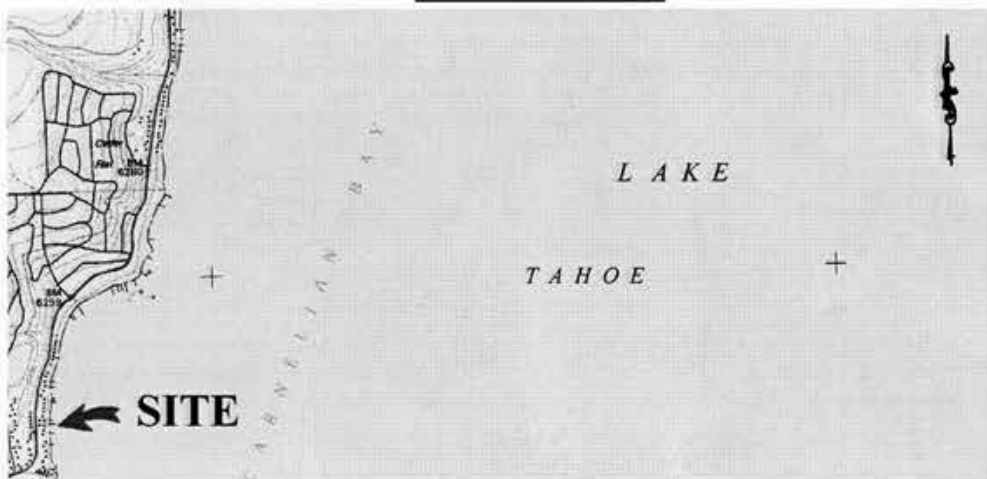
SITE



3740 NORTH LAKE BLVD., NEAR CARNELIAN BAY

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 4058.1
 SKYLANDIA, LLC
 APN 092-110-032
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 12/21/15