

**CALENDAR ITEM
C19**

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04/05/16
PRC 8696.1
C. Singleton

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

LESSEE:

Anthony Green

APPLICANT:

William Michael Andersen and Marilyn H. Andersen

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 4180 Ferguson Avenue, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of one existing mooring buoy.

LEASE TERM:

10 years, beginning April 5, 2016.

CONSIDERATION:

\$377 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization 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. If Lessee is unable to obtain such authorization within the time limit, they must remove the buoy.
3. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from

CALENDAR ITEM NO. **C19** (CONT'D)

TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

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

Public Trust and State's Best Interests Analysis:

The subject mooring buoy is used for the mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law public trust doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Resources Code, § 6503.5).

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a lease term limited to 10 years, a non-exclusive use provision, and a reservation to the people of the State of an easement for access to and across the lease area.

The subject mooring buoy has existed for many years at this location. The subject facility does not significantly alter the land and the lease does not alienate the State's fee simple interest or permanently impair public rights. Upon termination of the lease, the Lessee may be required to remove all improvements and restore the lease premises to its original condition. Additionally, the mooring buoy occupies a relatively small area of the lake. Based on the foregoing, Commission staff believes that the buoy will not substantially interfere with public trust needs at this location, at this time, or for the foreseeable term of the proposed lease.

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 occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On August 24, 2006, the Commission authorized a Recreational Pier Lease to Anthony Green. This lease will expire July 31, 2016. Since then,

CALENDAR ITEM NO. C19 (CONT'D)

ownership of the upland was deeded to William Michael Andersen and Marilyn H. Andersen. The Applicant is now applying for a General Lease – Recreational Use.

3. Staff recommends terminating the lease issued to Anthony Green because the Lessee abandoned the lease by transferring the property and facility without executing a quitclaim deed.
4. 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.
5. 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.

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

6. 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.

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. **C19** (CONT'D)

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, will not substantially interfere with the public trust needs and values at this location, is consistent with the common law public trust doctrine, 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.

AUTHORIZATION:

1. Authorize termination, effective April 4, 2016, of Lease No. PRC 8696.9, a Recreational Pier Lease, issued to Anthony Green.
2. Authorize issuance of a General Lease – Recreational Use to William Michael Andersen and Marilyn H. Andersen beginning April 5, 2016, for a term of 10 years, for the continued use and maintenance of one existing 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 \$377 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8696.1

LAND DESCRIPTION

One (1) parcel of submerged land situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 28, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – BUOY

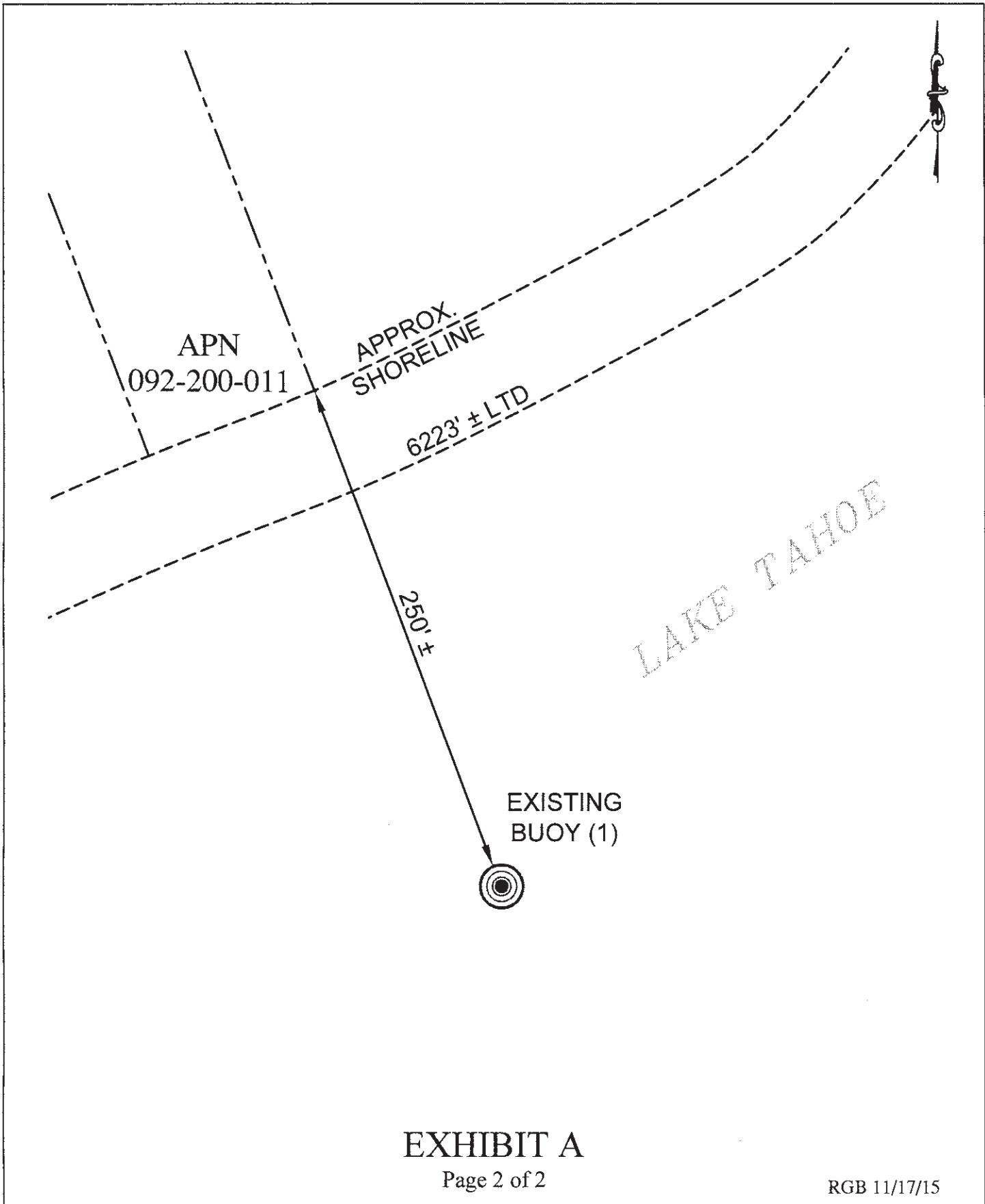
One circular parcel of land, being 50 feet in diameter, underlying one existing buoy lying adjacent to that parcel described in Grant Deed recorded October 31, 2008 as Document Number 2008-0084956 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 11/17/2015 by the California State Lands Commission Boundary Unit.

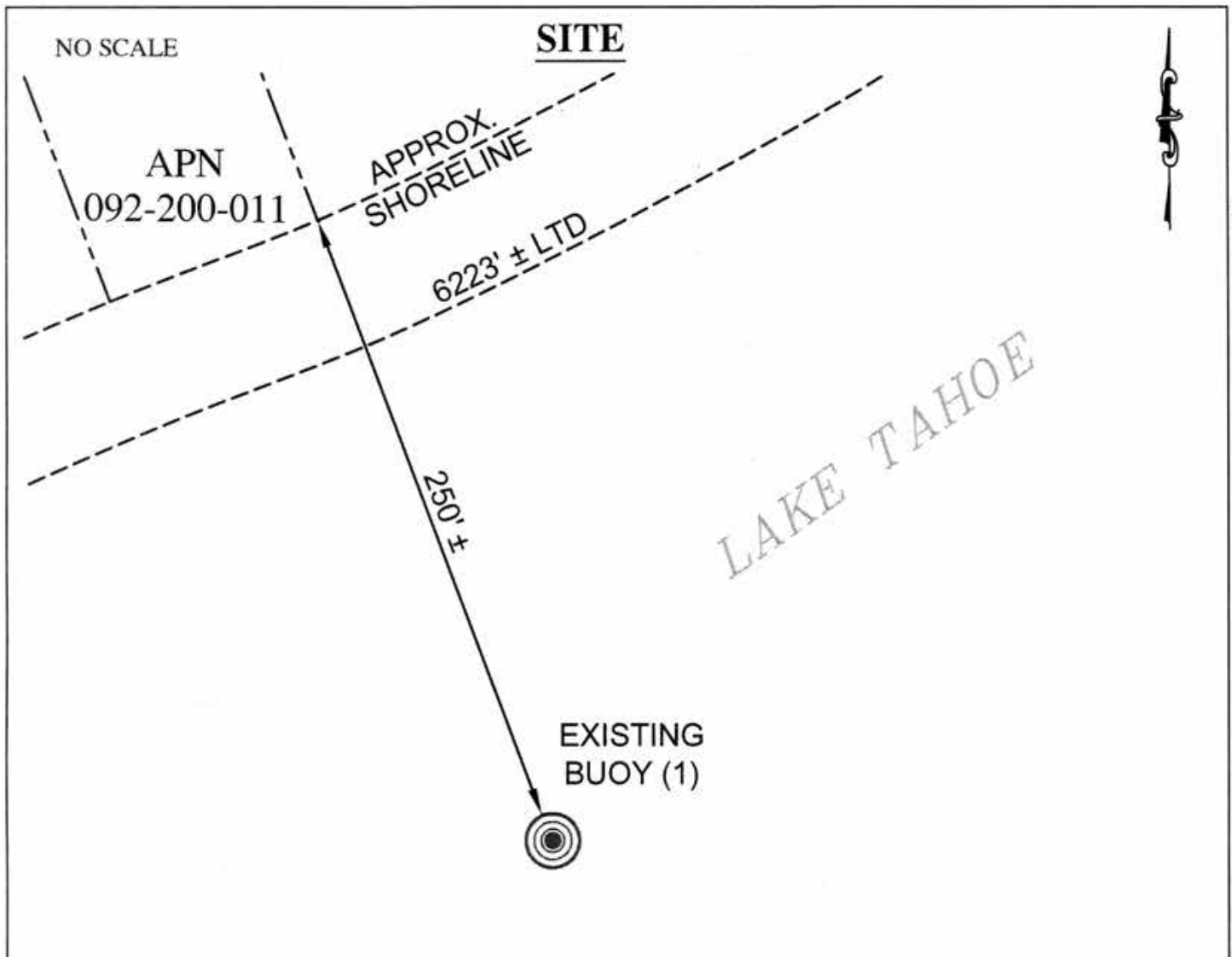




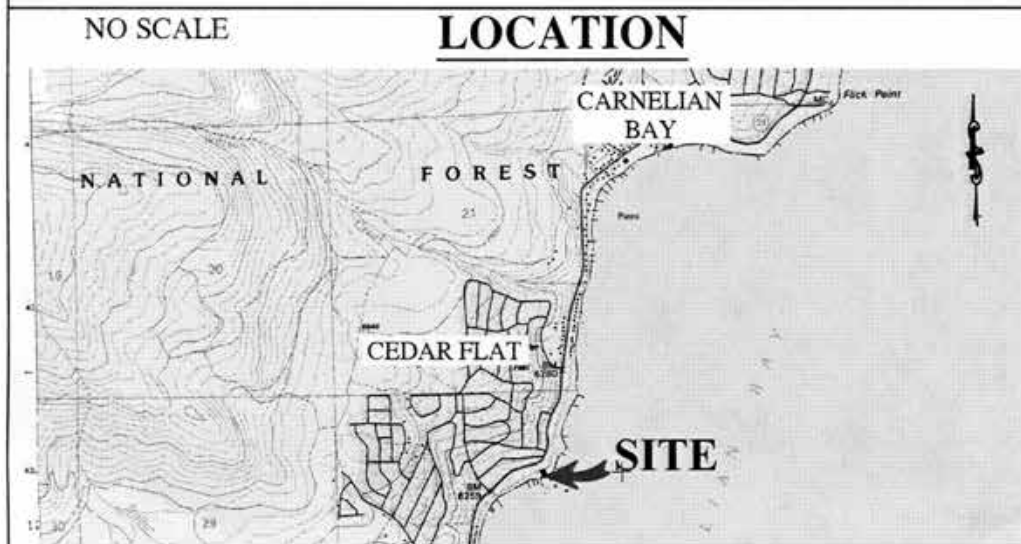
LAND DESCRIPTION PLAT
PRC 8696.1, ANDERSON
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION





4180 FERGUSON AVENUE., CARNELIAN BAY, CA.



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8696.1
 ANDERSEN
 APN 092-200-011
 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.