

**CALENDAR ITEM
C19**

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S 1

12/06/16
PRC 4176.1
M. Schroeder

ASSIGNMENT OF LEASE

LESSEE:

Paul D. Flores and Marilyn J. Flores, Trustees of the Paul D. Flores Qualified Personal Residence Trust #1, dated June 9, 1999; Paul D. Flores and Marilyn J. Flores, Trustees of the Marilyn J. Flores Qualified Personal Residence Trust #1, dated June 9, 1999; and Stephen W. Frankel and Lynn Frankel, Trustees of the Frankel Family Revocable Trust, dated January 3, 1986

ASSIGNOR:

Paul D. Flores and Marilyn J. Flores, Trustees of the Paul D. Flores Qualified Personal Residence Trust #1, dated June 9, 1999; Paul D. Flores and Marilyn J. Flores, Trustees of the Marilyn J. Flores Qualified Personal Residence Trust #1, dated June 9, 1999

APPLICANT/ASSIGNEE:

Thomas P. Jackovics and Judit M. Jackovics, Trustees of the Egung Living Trust dated June 27, 1991

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 8669 and 8675 Beach Lane, near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier, boathouse with boat lift, breakwater, and four mooring buoys.

LEASE TERM:

10 years, beginning March 29, 2012.

CONSIDERATION:

Pier, Boathouse with Boat Lift, and Four Mooring Buoys: No monetary consideration pursuant to Public Resources Code section 6503.5, subdivision (b)(2).

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

Breakwater: \$328 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:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses.
3. 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 2 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 may be required to remove the buoys.
4. 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.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On March 29, 2012, the Commission authorized a General Lease – Recreational Use to Paul D. Flores and Marilyn J. Flores, Trustees of the Paul D. Flores Qualified Personal Residence Trust #1, dated June 9, 1999; Paul D. Flores and Marilyn J. Flores, Trustees of the Marilyn J. Flores Qualified Personal Residence Trust #1, dated June 9, 1999 (collectively Flores); and Stephen W. Frankel and Lynn Frankel, Trustees of the Frankel Family Revocable Trust, dated January 3, 1986 (Frankel), for an existing joint-use pier, boathouse with boat lift, breakwater, and four mooring buoys ([Calendar Item C3, March 29, 2012](#)) The lease will expire on March 28, 2022.

CALENDAR ITEM NO. C19 (CONT'D)

On October 16, 2015, ownership of the upland identified as Assessor Parcel Number (APN 016-142-27) was transferred from Flores to Thomas P. Jackovics and Judit M. Jackovics, Trustees of the Egung Living Trust dated June 27, 1991 (Jackovics). The Applicant is now applying for an assignment of Flores' interest in the lease. Upon authorization of the assignment, the new lessees will be Frankel, owner of APN 016-142-28, and Jackovics, owner of APN 016-142-27.

The facilities authorized by Lease No. PRC 4176.1 are used by and appurtenant to the adjacent upland parcels. It is the intent and agreement of the parties that the assignment of Flores' interest in the lease coincide with the transfer of parcel APN 016-142-27 to the Jackovics. Accordingly, the effective date of the assignment shall be October 16, 2015.

On October 8, 2011, Chapter 585, Statutes of 2011 became law and repealed section 6503.5 of the Public Resources Code, which allowed rent-free use of State-owned land by certain private parties for their recreational piers. The new section 6503.5 provides that the State Lands Commission "shall charge rent for a private recreational pier constructed on state lands." The law provided for two exceptions to the imposition of rent. Lease No. PRC 4176.1 met one exception and, therefore, only the existing breakwater is subject to rent.

Assignment of Flores' interest in this lease to the Jackovics will not result in a change in the use of Public Trust resources or the impacts thereto. Commission staff believes approval of this assignment is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. 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.
2. Assignment of the lease is not a project as defined by the California Environmental Quality Act 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).

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

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment will not impact the public rights to navigation and fishing or 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.

AUTHORIZATION:

Authorize the assignment of the interest in Lease No. PRC 4176.1, a General Lease – Recreational Use, of sovereign land as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof, held by Paul D. Flores and Marilyn J. Flores, Trustees of the Paul D. Flores Qualified Personal Residence Trust #1, dated June 9, 1999; Paul D. Flores and Marilyn J. Flores, Trustees of the Marilyn J. Flores Qualified Personal Residence Trust #1, dated June 9, 1999 to Thomas P. Jackovics and Judit M. Jackovics, Trustees of the Egung Living Trust dated June 27, 1991; effective October 16, 2015.

EXHIBIT A

PRC 4176.1

LAND DESCRIPTION

Six (6) 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, boathouse, and catwalk lying adjacent to Lot 8 as described in that Grant Deed recorded June 30, 1999 as Document Number 99-0040974-00 and Lot 9 as described in that Grant Deed recorded June 10, 1992 as Document Number 92-0036148 in Official Records of said County.

TOGETHER WITH a ten foot use area.

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

PARCEL 2 –BREAKWATER

All those lands underlying an existing breakwater lying adjacent to said Lots 8 and 9 as described in said Grant Deeds of said County.

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

PARCEL 3, 4, 5 & 6– BUOYS

Four (4) circular parcels of land, being 50 feet in diameter, underlying four (4) existing buoys lying adjacent to said Lots 8 and 9 as described in said Grant Deeds of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared February 16, 2012 by the California State Lands Commission Boundary Unit.





L A K E

T A H O E

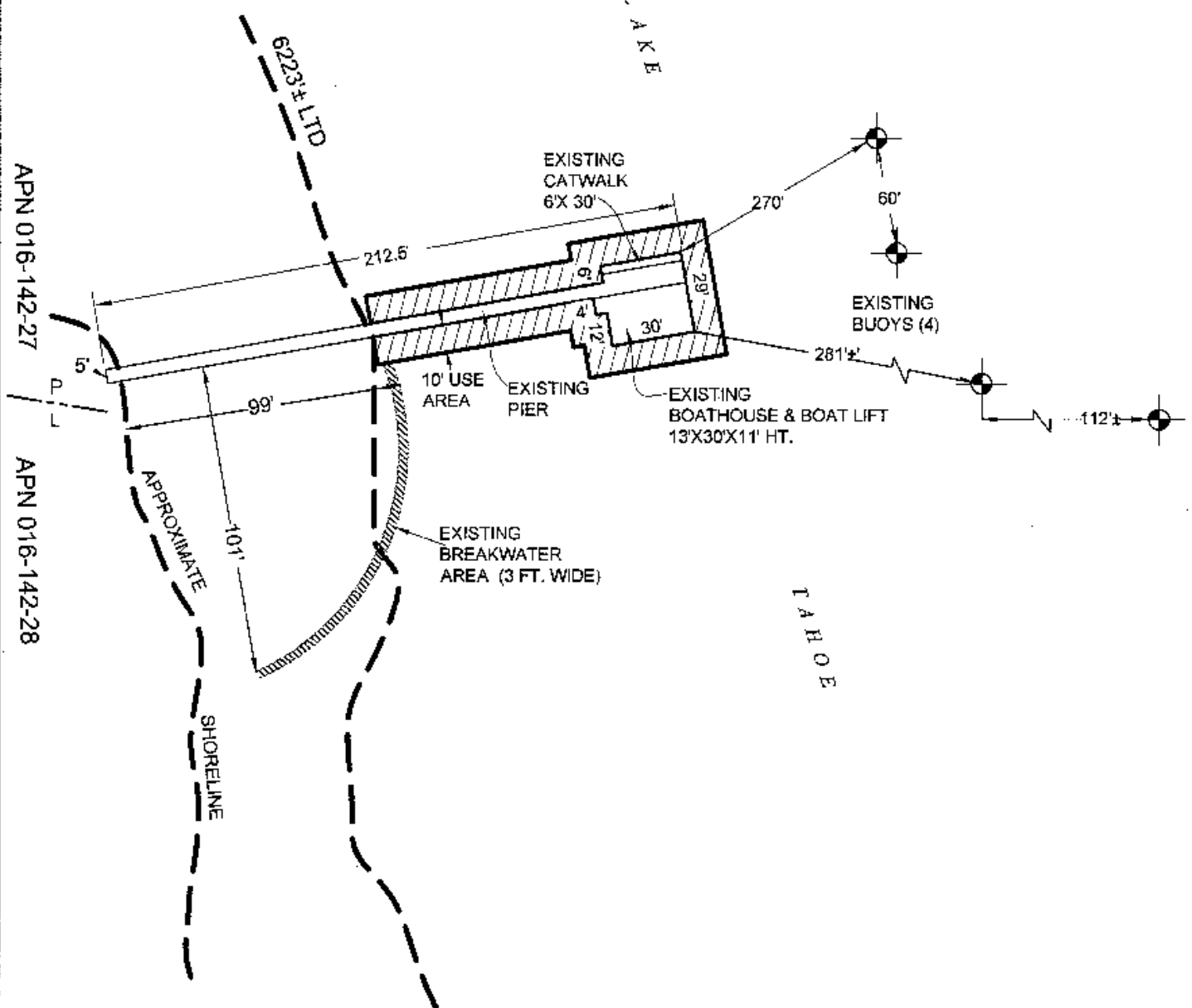



EXHIBIT A

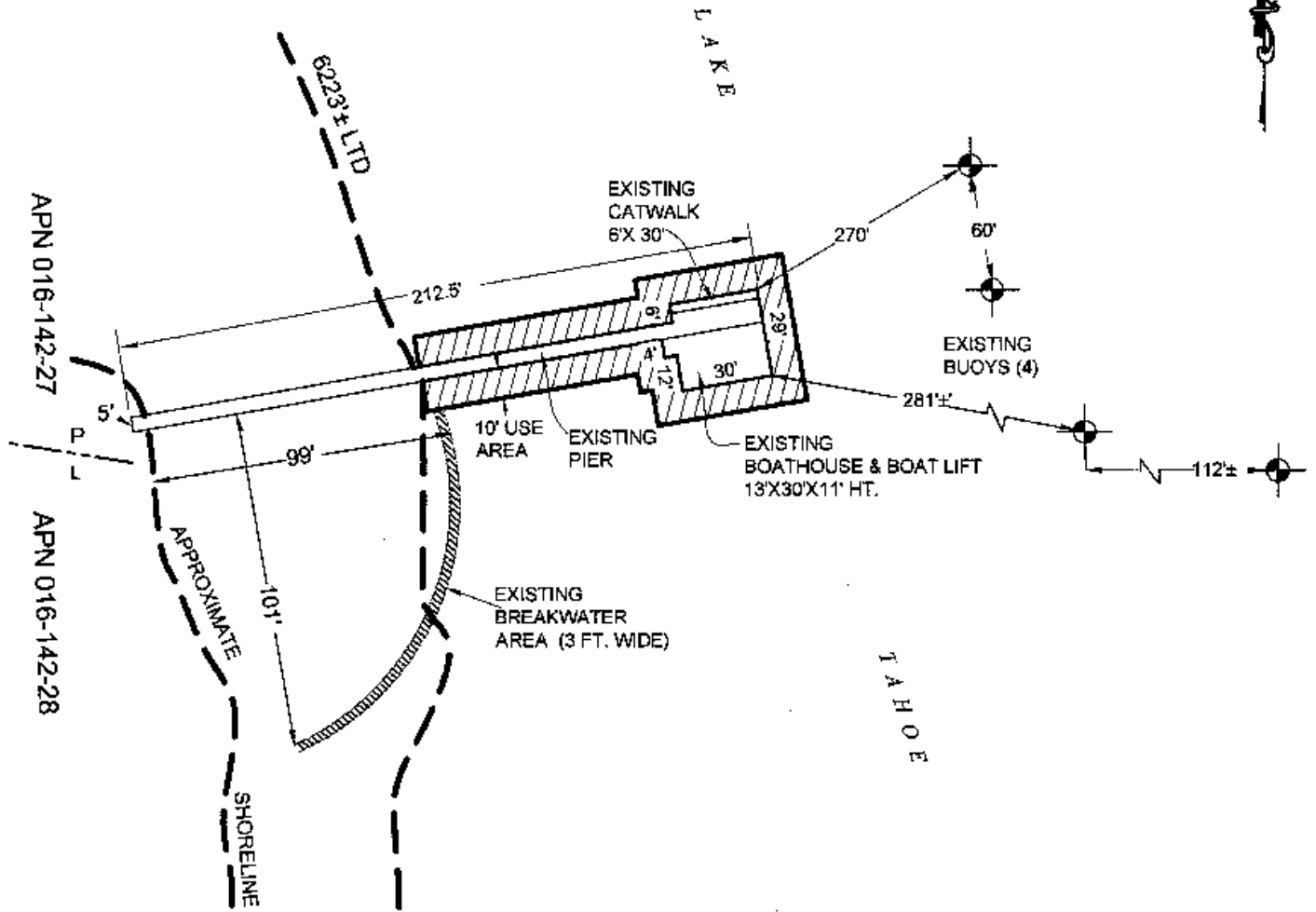
LAND DESCRIPTION PLAT
 PRC 4176.1, JACKOVICS & FRANKEL TRUSTEES
 EL DORADO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

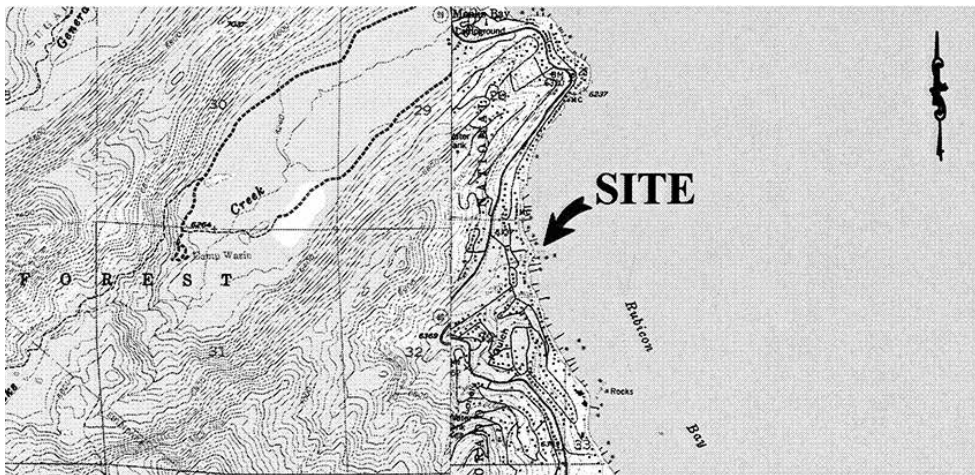
SITE



8675 & 8669 BEACH LANE, RUBICON BAY

NO SCALE

LOCATION

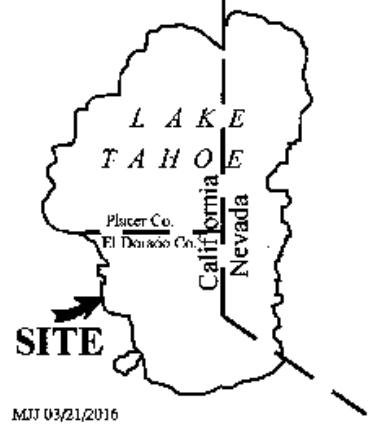


MAP SOURCE: USGS QUAD

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 4176.1
 JACKOVICS & FRANKEL TRUSTEES
 APN 016-142-27 & 28
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



MJJ 03/21/2016