

**CALENDAR ITEM
C21**

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06/22/17
PRC 5358.1
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Ronald M. Fadelli; The Fadelli Limited Partnership; William Dietz and Kelly Dietz, Trustees of the Dietz Family Trust of 2003, dated 4-20-2004

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5270 and 5274 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier, two boat lifts, and two mooring buoys previously authorized by the Commission and two existing mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years, beginning April 1, 2017.

CONSIDERATION:

\$1,889 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 valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the two additional mooring buoys not previously authorized by the Commission 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.
3. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining

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

4. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Beset Interests Analysis:

On June 1, 2009, the Commission authorized a 10-year General Lease – Recreational Use for an existing joint-use pier, two boat lifts, and two mooring buoys to Ronald M. Fadelli and Joan R. Fadelli; The Fadelli Limited Partnership; and William G. Combs and Norma L. Combs, Co-Trustees under Declaration of Trust dated December 13, 1990 ([Calendar Item C46, June 1, 2009](#)). On April 23, 2014, the Commission authorized an amendment of lease and revision of rent to reduce the impact area surrounding the pier ([Calendar Item C31, April 23, 2014](#)). That lease expired on March 31, 2017. Since issuance of the lease, Joan R. Fadelli, William G. Combs, and Norma L. Combs died. On September 29, 2015, the upland identified as 5270 North Lake Boulevard was deeded to William Dietz and Kelly Dietz, Trustees of the Dietz Family Trust of 2003, dated 4-20-2004. Ronald M. Fadelli and The Fadelli Limited Partnership own the upland identified as 5270 North Lake Boulevard. The Applicant is applying for a new lease for the continued use and maintenance of the existing joint-use pier, two boat lifts, and two mooring buoys previously authorized by the Commission as well as two existing mooring buoys not previously authorized by the Commission.

On May 3, 1977, TRPA issued a permit for two mooring buoys, one adjacent to each upland parcel. The TRPA permit is currently valid. The Applicant's two other mooring buoys, one adjacent to each upland, have been in Lake Tahoe for many years, but were not previously authorized by the Commission.

Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and four mooring buoys are used for the docking and 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

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identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The buoys have existed for many years at this location. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

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. 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 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 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. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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.

3. 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

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staff's consultation with the persons nominating such lands and through the CEQA review process, it is 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 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).

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 Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and 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:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 1, 2017, for a term of 10 years, for continued use and maintenance an existing joint-use pier, two boat lifts, and two mooring buoys previously authorized by the Commission and two existing mooring buoys not previously authorized by the Commission, 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 \$1,889, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5358.1

LAND DESCRIPTION

Five (5) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 22, Township 17 North, Range 16 East, MDM., shown on Official Government Township Plat approved November 10th 1865, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 –JOINT-USE PIER

All those lands underlying an existing pier, two (2) stairs and two (2) boatlifts lying adjacent to that parcel as described in Exhibit A of that Grant Deed recorded January 4, 2001 as Document Number 2001-0000809 and that parcel described in that Grant Deed recorded June 24, 1976 as Document 18861, Volume 1738 Page 147 and that parcel described in that Grant Deed recorded September 29, 2015 as Document Number 2015-0085212 of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

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

PARCEL 3, 4, 5 & 6 – BUOYS (4)

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared April 21, 2017 by the California State Lands Commission Boundary Unit.



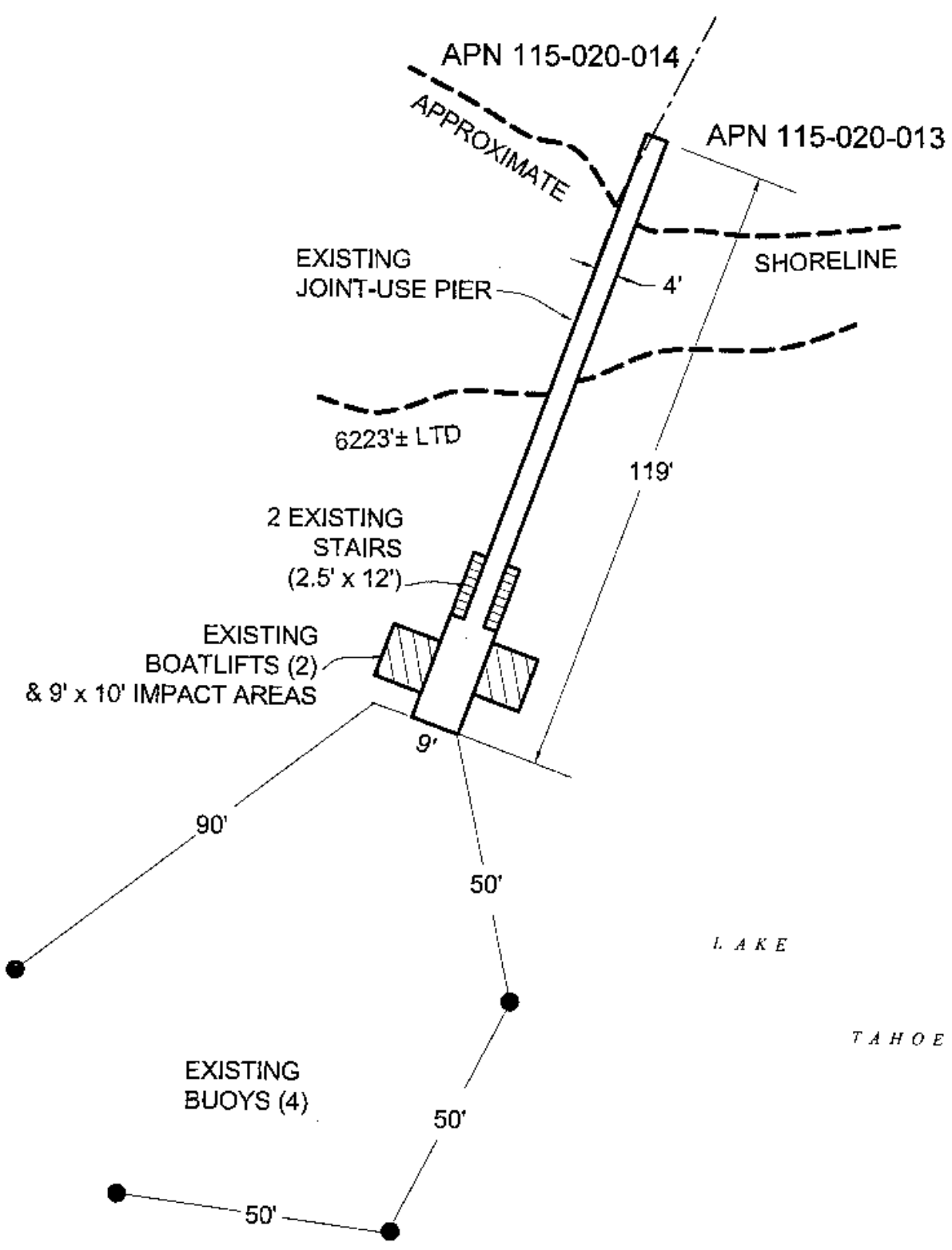
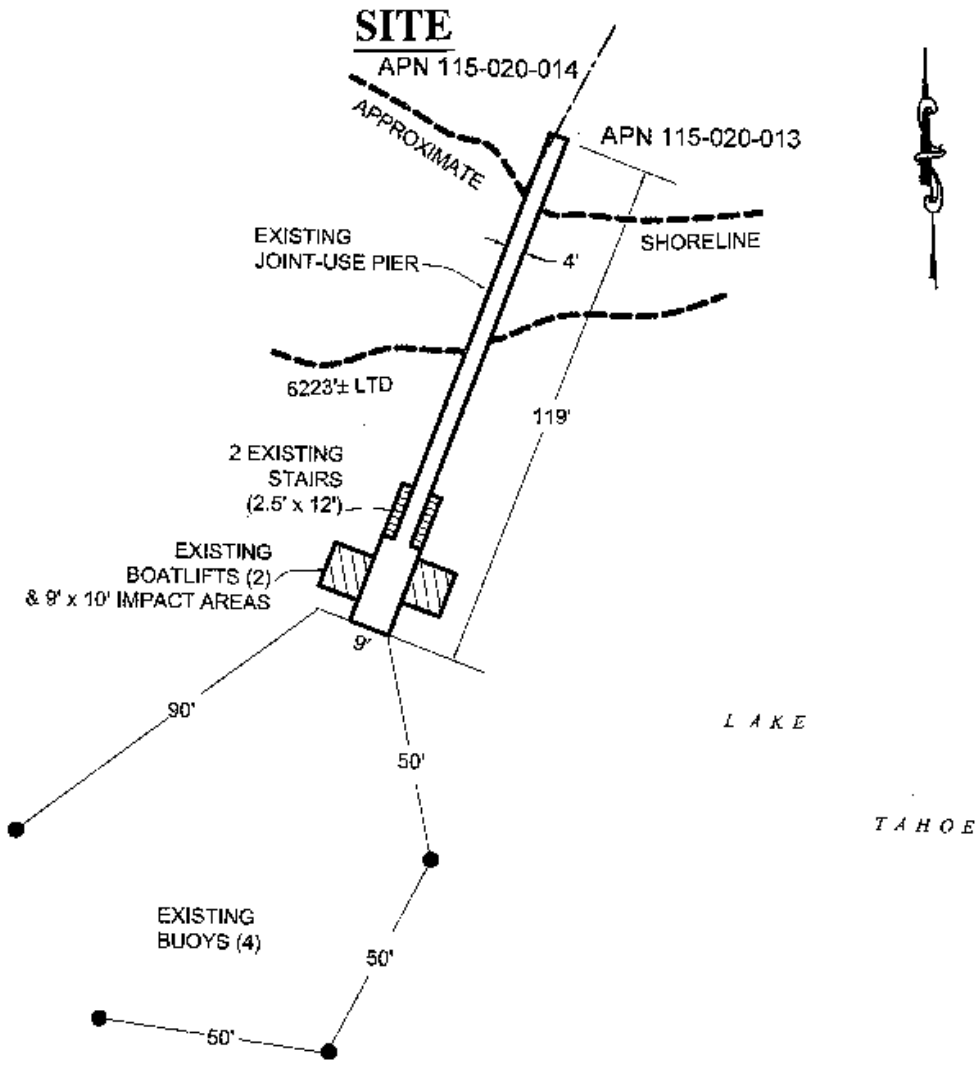


EXHIBIT A



NO SCALE



5270 & 5274 NORTH LAKE BLVD., NEAR CARNELIAN BAY

NO SCALE

LOCATION

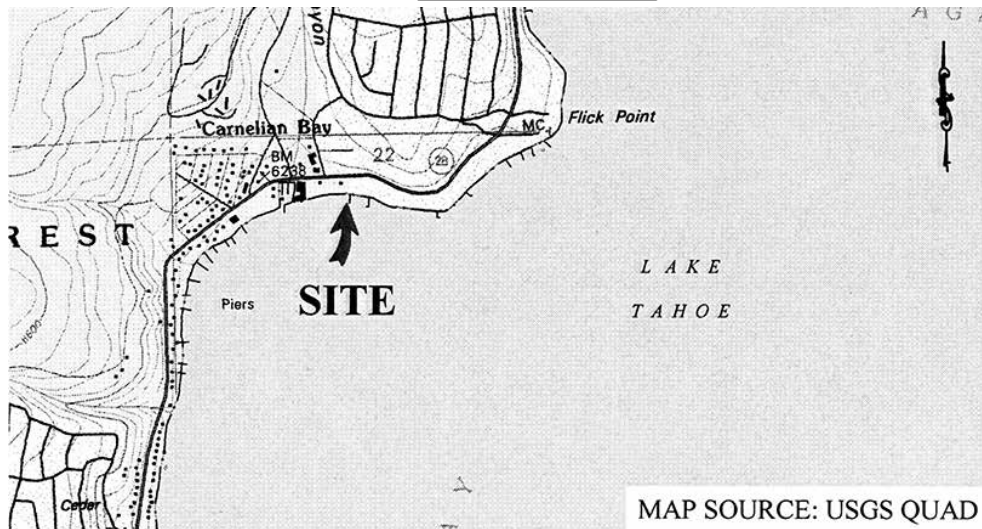
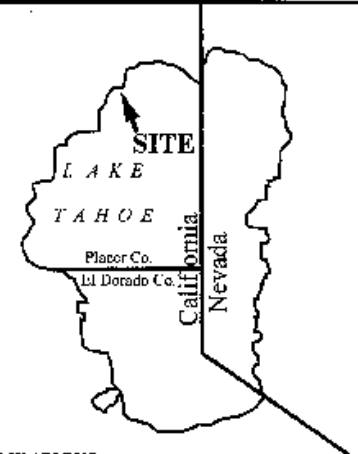


Exhibit B

PRC 5358.1
 FADELLI / FADELLI LP/DIETZ
 APN 115-020-013 & 014
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 4/28/2017

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.