

**STAFF REPORT
C14**

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10/18/18
PRC 7107.1
S. Evans

**AMENDMENT OF LEASE AND
REVISION OF RENT**

LESSEE:

Irene Pestana and Michael J. Kelly, Jr., Co-Trustees of the Survivor's Trust established under the Pestana 1986 Family Trust Agreement dated May 15, 1986, as amended.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5570, 5588, 5590 North Lake Boulevard, Agate Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, two boathouses, one boat hoist, one boat lift and two sundecks with stairs.

LEASE TERM:

10 years, beginning December 2, 2013.

CONSIDERATION:

This lease provides that the Commission may modify the rent periodically during the lease term. Pursuant to this provision, staff reviewed the rent under this lease and recommends that rent be revised from \$2,385 per year to \$2,319 per year, effective December 2, 2018.

PROPOSED AMENDMENT:

Amend the lease to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only). All other terms and conditions of the lease shall remain in effect without amendment.

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.

STAFF REPORT NO. **C14** (CONT'D)

Public Trust and the State's Best Interests Analysis:

On December 3, 2013, the Commission authorized a 10-year General Lease – Recreational Use to Irene Pestana and Michael J. Kelly, Jr., Co-Trustees of the Survivor's Trust established under the Pestana 1986 Family Trust Agreement dated May 15, 1986, as amended, for an existing pier, two boathouses, one boat hoist, one boat lift and two sundecks with stairs ([Item C32, December 3, 2013](#)). The lease will expire on December 1, 2023.

Staff conducted the rent review called for in the lease and recommends the rent be revised from \$2,385 per year to \$2,319 per year based on changes to the lease (impact) area for the pier and application of the current Lake Tahoe Benchmarks, and current rate for non-water dependent uses. Staff also recommends the lease be amended to reflect the new reduced lease area.

The lease does not alienate the State's fee simple interest or permanently impair public rights. The recommended action will not substantially interfere with the Public Trust needs at this location, at this time, and for the foreseeable term of the lease. For these reasons, staff recommends finding the proposed action is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 2.2 of the Commission's Strategic Plan to ensure timely receipt of revenues and royalties from the use and development of State lands and minerals.
2. Amendment of the lease to make an adjustment in the lease area and approving the revision of the rent are not projects as defined by the California Environmental Quality Act because they are administrative actions 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).

EXHIBITS:

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

STAFF REPORT NO. **C14** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment of Lease No. PRC 7107.1 will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the amendment of Lease No. PRC 7107.1, a General Lease – Recreational Use, effective December 2, 2018, to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).
2. Approve the revision of rent for Lease No. PRC 7107.1 from \$2,385 per year to \$2,319 per year, effective December 2, 2018.

EXHIBIT A

PRC 7107.1

LAND DESCRIPTION

One (1) parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 15, 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:

All those lands underlying an existing pier, one boat hoist, one boat lift, two (2) sundecks and two boathouses with stairs lying adjacent to Parcels as described in Exhibit "A" of those Grant Deeds as Document Number 2011-0036395 and Document Number 2011-0036396-00 recorded May 10, 2011 as in Official Records of said County.

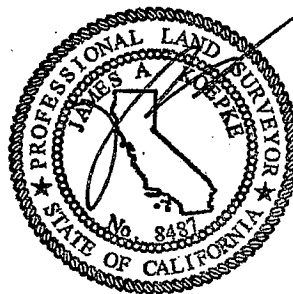
TOGETHER WITH any applicable impact area(s).

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared August 28, 2018 by the California State Lands Commission Boundary Unit.



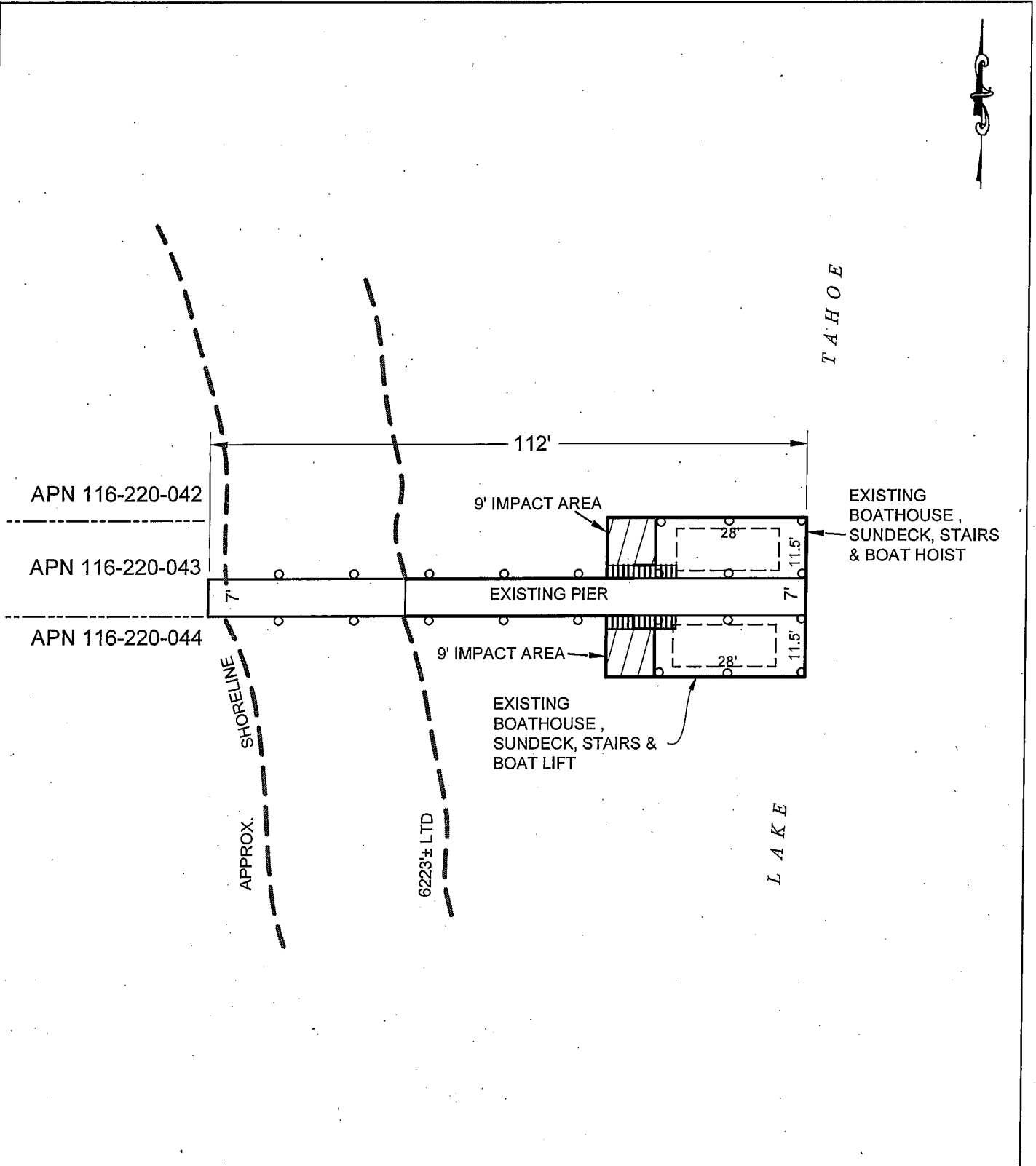


EXHIBIT A

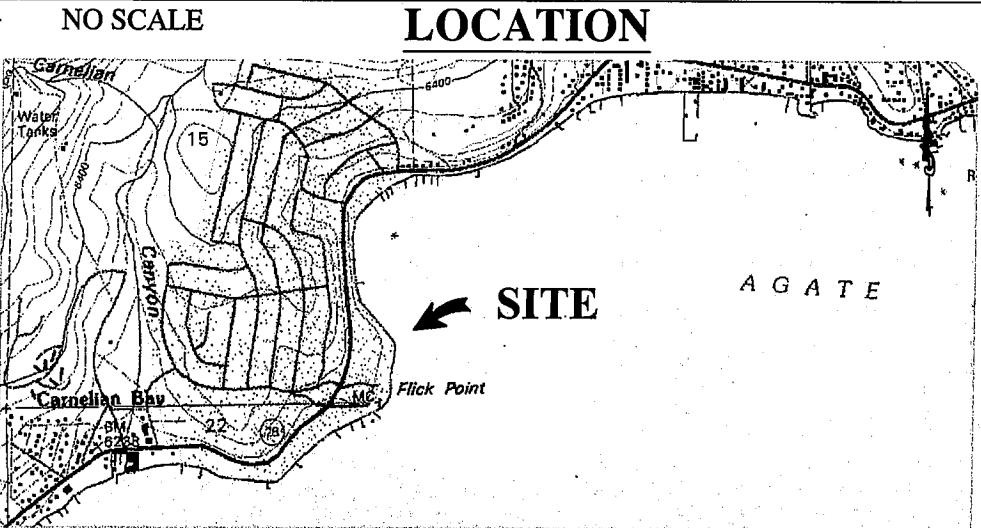
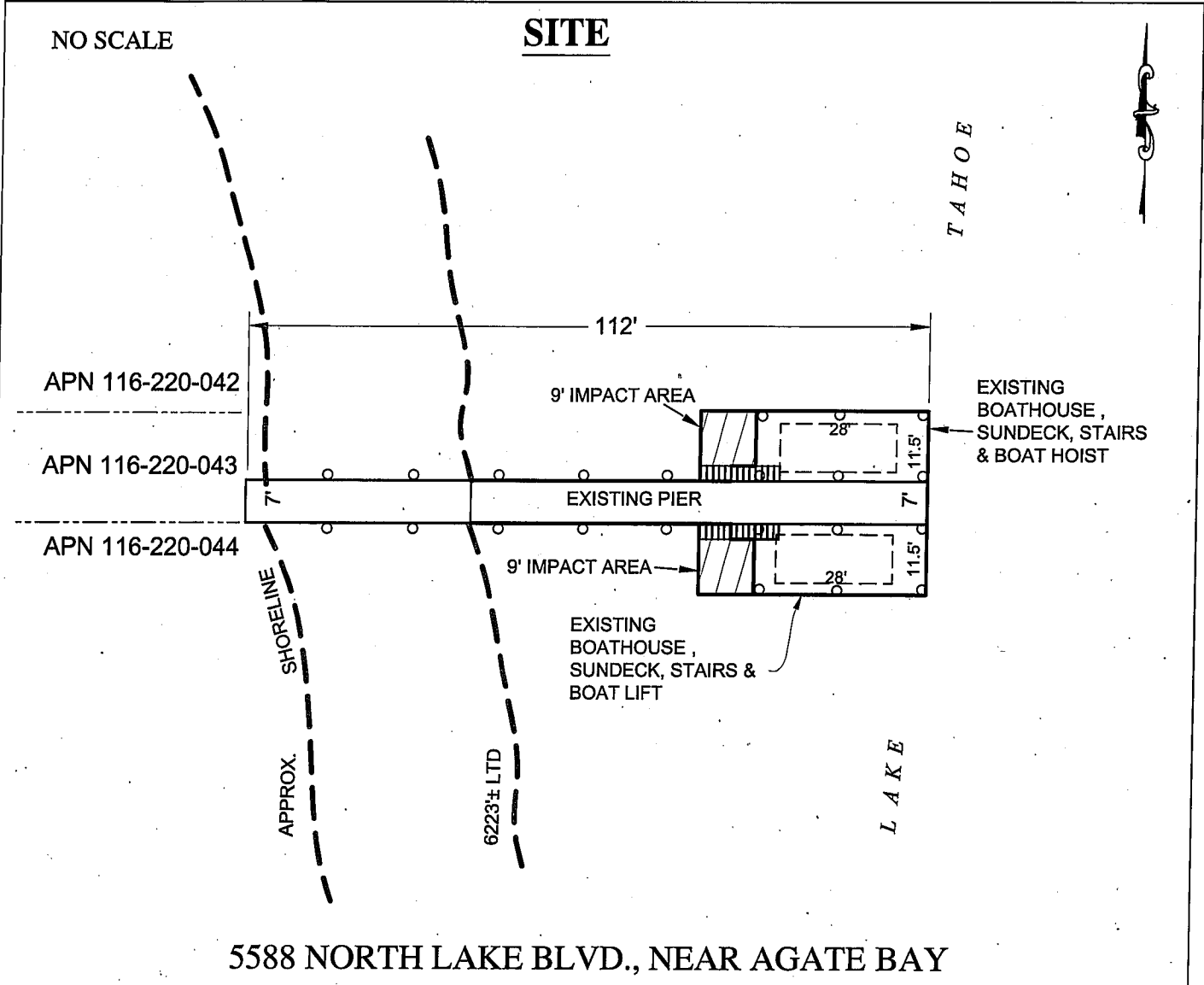
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MJJ 8/28/18

LAND DESCRIPTION PLAT
PRC 7107.1, PESTANA CO-TRUSTEES
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION

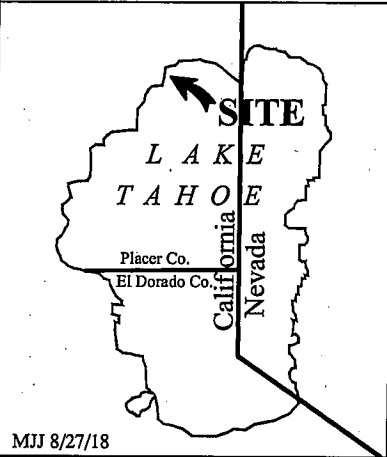




MAP SOURCE: USGS QUAD

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 7107.1
 PESTANA
 APN 116-220-042, 043 & 044
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 8/27/18