MINUTE ITEM
This Calendar Item No. 20
was approved as Minute Item
No. 20 by the State Lands
Commission by a vote of 3
to 0 at its 6-30-80
meeting.

CALENDAR ITEM
20.

6/80
W 8715
Poe/Hadly
PRC 5860

GENERAL LEASE - COMMERCIAL USE

APPLICANT: John and Barbara Kearns
P.O. Box 42
Tahoe City, California 95730

AREA, TYPE LAND AND LOCATION:
A parcel of submerged land in Lake Tahoe at Tahoe City, Placer County.

LAND USE: Operation and maintenance of commercial boating facilities.

TERMS OF PROPOSED LEASE:
Initial period: 20 years from July 1, 1980.

Public liability insurance: combined single limit coverage of $500,000 or more.

CONSIDERATION: $225 per annum, or 5% of gross income per annum plus 1¢ per gallon of fuel sold to a maximum of 100,000 gallons and 1½¢ per gallon thereafter, whichever is greater.

BASIS FOR CONSIDERATION:
Minimum or percent of gross income pursuant to 2 Cal. Adm. Code 2005.

PREREQUISITE TERMS, FEES AND EXPENSES:
Applicant is permittee of upland owner.

Filing fee has been received.

STATUTORY AND OTHER REFERENCES:
A. P.R.C.: Div. 6, Parts 1 & 2.

B. Cal. Adm. Code: Title 2, Div. 3.

OTHER PERTINENT INFORMATION:
1. An EIR is not required. This transaction is within the purview of 2 Cal. Adm. Code 2907, Class 1(B), which exempts

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an existing structure or facility that is in an acceptable state of repair and there is no evidence of record to show injury to adjacent property, shoreline erosion, or other types of environmental degradation.

2. This project is situated on State land identified as possessing significant environmental values pursuant to P.R.C. 6370.1, and is classified in a use category, Class B, which authorizes Limited Use.

   Staff review indicates that there will be no significant effect upon the identified environmental values. This is an existing facility for which no adverse comments have been received.

3. Section 2 of the proposed Lease contains the following special provisions:

   1. Where Lessor's consent is required under the lease provisions, such consent shall not be unreasonably withheld.

   2. Wording with regard to Boundaries has been supplemented to clarify that the States claim of ownership extends to the ordinary high water line, but that the lease premises for purposes of this lease consist of submerged lands waterward of elevation 6223 feet Tahoe datum. The lease is to be entered into by both parties without prejudice to their respective ownership claims, and the lease shall be amended if necessary, upon the rendering of a final court judgement on the boundary and public trust questions to reflect the findings of the court in such decision.

   3. The applicants have a lease for the pier and appurtenant uplands

from the upland owner, Sierra Pacific Power Company, Inc. Sierra Pacific Power would like to be able to take over the lease in event of a default or breach by the Kearns of their State lease or a default or breach by the Kearns of their Sierra Pacific Power lease. The proposed lease provides for consent to an assignment to Sierra Pacific Power in the event of such a default or breach.

4. A "force majeure" clause has been included at the request of Lessee.

5. Consent for leasehold encumbrance, a provision incorporated into the seven other commercial marina leases calendared for the month has not been included in this lease.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF P.R.C. 21085, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.

2. FIND THAT GRANTING OF THE LEASE WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE P.R.C.

3. AUTHORIZE ISSUANCE TO JOHN AND BARBARA KEARNS OF A 20-YEAR GENERAL LEASE - COMMERCIAL USE AS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION FROM JULY 1, 1980; IN CONSIDERATION OF A BASE ANNUAL RENT IN THE AMOUNT OF $225.00 OR 5% OF GROSS INCOME PER ANNUM PLUS 1¢ PER GALLON OF FUEL SOLD TO A MAXIMUM OF 100,000 GALLONS AND 1½¢ PER GALLON THEREAFTER, WHICHEVER IS GREATER, PROVISION OF PUBLIC LIABILITY INSURANCE IN AMOUNTS OF NOT LESS THAN $500,000; LESSOR'S PRECONSENT TO AN ASSIGNMENT OF THIS LEASE TO SIERRA PACIFIC POWER COMPANY, INC., IN THE EVENT OF BREACH OF THIS LEASE BY THE APPLICANT NAMED HEREIN FOR OPERATION AND MAINTENANCE OF A COMMERCIAL BOATING PIER WITH SMALL OFFICE BUILDING AND FUEL PUMPS ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

4. AUTHORIZE THE LEASE PREMISES FOR PURPOSE OF SAID LEASES TO CONSIST OF ALL SUBMERGED LANDS UTILIZED BY THE APPLICANT WATERWARD OF ELEVATION 6223 LAKE TAHOE DATUM WITH THE EXPRESS STIPULATION THAT THE LEASE SHALL BE AMENDED UPON THE RENDERING OF A FINAL COURT JUDGEMENT ON THE BOUNDARY AND PUBLIC TRUST QUESTION TO REFLECT THE FINDINGS OF THE COURT IN SUCH DECISION.

EXHIBITS: A. Land Description
B. Location Map

EXHIBIT "A"

LAND DESCRIPTION W 8715

A parcel of land lying within protracted Section 7, T16N, R17E, MDM, Placer County, State of California, and more particularly described as follows:

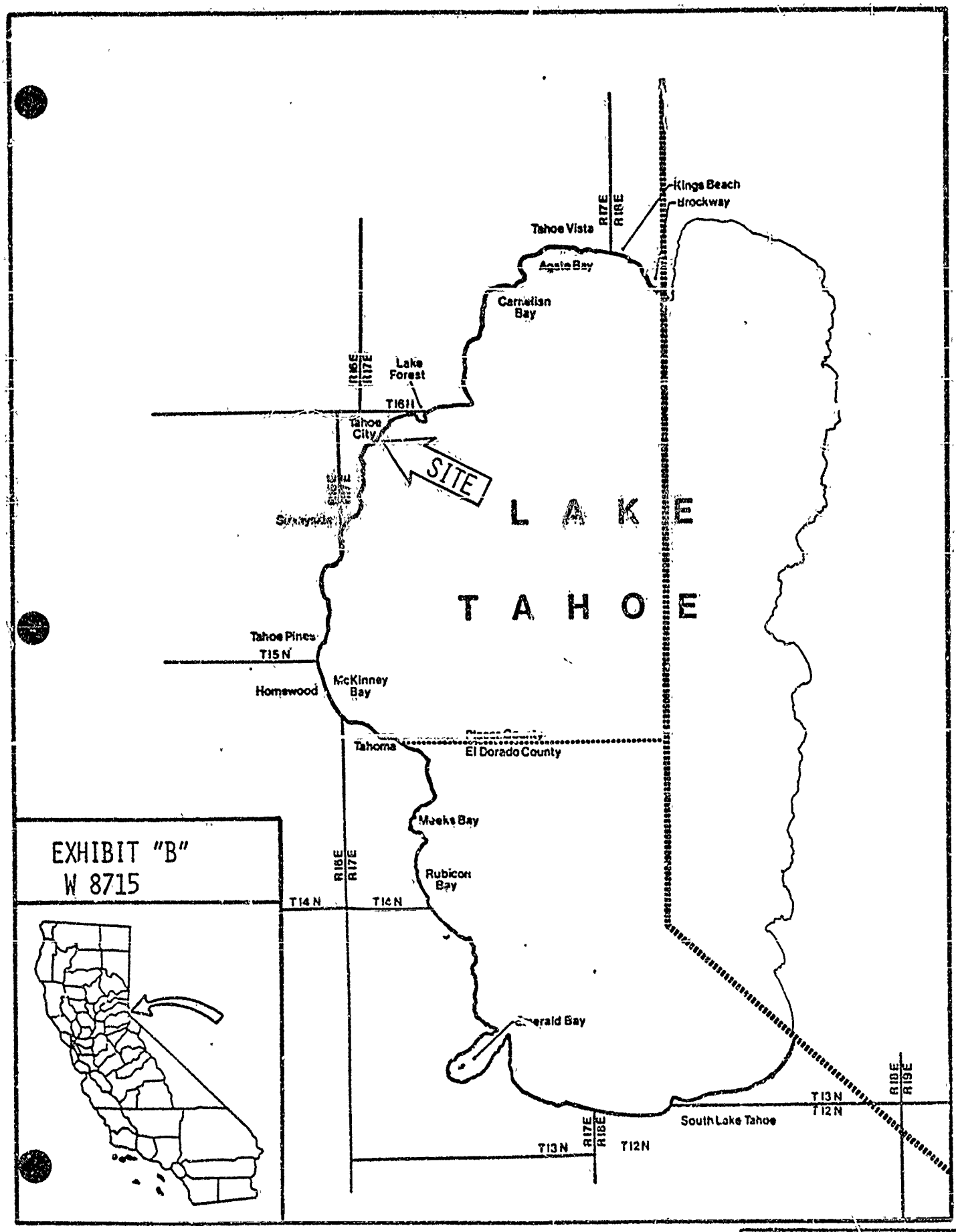
COMMENCING at a point designated as "195" that has coordinates of X = 2,527,185 and Y = 552,313 conforming to the California Coordinate System, Zone II, as shown on map sheet 11 of 22 of the survey performed by the State of California, State Lands Commission, State Lands Division, filed in Book 2 of Surveys, page 71, records of said County, said point lying S 69°30'E 854 feet, more or less, from the quarter corner common to said Sections 6 and 7; thence S 30°52'47"W 79.00 feet to the TRUE POINT OF BEGINNING; thence the following 11 courses:

1. S 70°10'13"E 221.07 feet;
2. N 19°49'47"E 2.00 feet;
3. S 70°10'13"E 86.00 feet;
4. S 19°49'47"W 55.00 feet;
5. N 70°10'13"W 46.00 feet;
6. N 19°49'47"E 21.00 feet;
7. N 70°10'13"W 40.00 feet;
8. N 19°49'47"E 2.00 feet;
9. N 70°10'13"W 462.00 feet;
10. N 19°49'47"E 30.00 feet;
11. S 70°10'13"E 240.93 feet to the true point of beginning.

EXCEPTING THEREFROM any portion lying landward of the 6223 foot elevation, Tahoe Datum.

END OF DESCRIPTION

PREPARED JUNE 2, 1980 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.



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