

MINUTE ITEM

This Calendar Item No. 15
was approved as Minute Item
No. 15 by the State Lands
Commission by a vote of 2
to 0 at its 3/6/86
meeting.

MINUTE ITEM

15

02/27/86
WP 3905
PRC 3905
Omand

RESCISSION OF GENERAL PERMIT - RECREATIONAL USE,
AND ISSUANCE OF GENERAL PERMIT - RECREATIONAL USE

During consideration of Calendar Item 15, attached, Lance Kiley, Chief, Land Management and Conservation, read into the record permit language agreed upon by all concerned parties. That language is as follows:

"Non-prejudicial Nature of Permit

1. Other property owners claim an interest in the ownership and/or use of the pier which is the subject matter of this permit. This permit is issued to Holland and Mercurio without prejudice to those claims.

Amendment to Permit:

2. This permit shall be amended by the State Lands Commission to include as co-permittees either by both of the immediately adjacent littoral property owners who shall establish ownership, use or other rights in the pier by the final judgment of a court of competent jurisdiction or by agreement with Holland and Mercurio."

Mr. Bruce Kaminski, Attorney representing Mr. George Montgomery, one of the parties involved, appeared to State that Mr. Montgomery officially protested the issuance of the lease as presently proposed, but would not object based on the language worked out between all parties.

Upon motion duly made by Commission-Alternate Ordway and seconded by Commission-Alternate Wallace, the Resolution in Calendar Item 15 was approved, as amended, by a vote of 2-0.

Attachment: Calendar Item 15.

CALENDAR ITEM

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02/27/86
 WP 3905 PRC 3905
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RESCISSION OF GENERAL PERMIT - RECREATIONAL USE
 NO. PRC 3905, AND ISSUANCE OF GENERAL PERMIT -
 RECREATIONAL USE NO. PRC 3905

BACKGROUND:

On July 25, 1985, the Commission authorized the issuance of a General Permit - Recreational Use (Minute Item No. C-07) to Holland & Mercurio, a Nevada General Partnership; James Balsdon and George Montgomery, for the reconstruction of an existing pier and the maintenance of six mooring buoys in Lake Tahoe at Tahoe Pines, Placer County. Balsdon and Montgomery own improved lots on each side of the Holland & Mercurio lot from which the pier extends. There is apparently a dispute between Holland & Mercurio and the adjacent owners regarding ownership and use rights to the subject pier. Staff believes that it should be up to the three private parties to resolve their dispute through agreement or litigation and that pending such a resolution the Commission should simply deal with the owner of record of the subject property (Holland & Mercurio) taking no position on the issue of whether other parties may have ownership or use rights in the subject pier or buoys. This would be consistent with the Commission's regulations (Section 2000(c) Art. Title II) which calls for leases or permits to generally be issued to riparian or upland owners. An additional factor is that the applicant has already secured liability insurance for the pier with the State listed as an additional insured. The policy was issued in the summer of 1985 in anticipation of a permit being issued. The company has warned that it will drop the State as an insured party if the applicant does not secure a permit from the State. It is therefore recommended that the Commission rescind its July 25, 1985 action, and authorize the issuance of a General Permit - Recreational Use to Holland & Mercurio for the pier and two adjacent buoys. Should Balsdon and Montgomery establish an ownership interest in the pier then they may be added as co-permittees.

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It is further recommended that a provision be included in the permit that its issuance be non-prejudicial to the issue of possible ownership and use rights to the pier held by other parties. This action will delete four of the six buoys previously authorized. Separate applications have been filed by Mr. Balsdon and Mr. Montgomery for those buoys which adjoin their respective lots.

The terms and conditions of the proposed permit will remain the same. The consideration will change from \$531.30 per annum to \$331.30 per annum.

AB 84: N/A.

OTHER PERTINENT INFORMATION:

1. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. but will not affect those significant lands.
2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorical exempt project. The project is exempt under Class 1, Existing Facility (Buoy) and Class 2, Reconstruction (Pier), 2 Cal. Adm. Code 2905(a)(2) and 2905(b).

Authority: P.R.C. 21084, 14 Cal. Adm. Code 15300, and 2 Cal. Adm. Code 2905.

EXHIBITS: A. Land Description.
 B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A CATEGORICAL EXEMPT PROJECT, CLASS 1, EXISTING FACILITY (BUOY) AND CLASS 2, RECONSTRUCTION (PIER), 2 CAL. ADM. CODE 2905(a)(2) AND 2905(b).

CALENDAR ITEM NO. 15 (CONT'D)

2. FIND THAT THIS ACTIVITY WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO P.R.C. 6370, ET SEQ., BUT THAT SUCH ACTIVITY WILL HAVE NO DIRECT OR INDIRECT EFFECT ON SUCH LANDS.
3. RESCIND THE COMMISSION'S AUTHORIZATION OF JULY 25, 1985, MINUTE ITEM C-07.
4. AUTHORIZE ISSUANCE TO HOLLAND & MERCURIO, OF A TEN-YEAR GENERAL PERMIT - RECREATIONAL USE BEGINNING JULY 25, 1985; IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF \$331.30, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE PERMIT; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$100,000; FOR RECONSTRUCTION AND MAINTENANCE OF AN EXISTING PIER AND MAINTENANCE OF TWO MOORING BUOYS ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
5. AUTHORIZE THE INCLUSION OR A PROVISION STATING THE ISSUANCE OR THE PERMIT IS NOT MEANT TO BE PREJUDICIAL TO POSSIBLE OWNERSHIP OF USE RIGHT TO THE SUBJECT PIER IN OTHER PARTIES.
6. AUTHORIZE THE ADDITION OF ONE OR BOTH OF THE OWNERS IMMEDIATELY ADJACENT TO THE SUBJECT PROPERTY AS CO-PERMITTEES TO THE SUBJECT PERMIT UPON ESTABLISHMENT BY AGREEMENT OR JUDICIAL DECLARATION OF OWNERSHIP AND USE RIGHTS OF ONE OR BOTH OF SUCH OWNERS IN THE SUBJECT PIER:

EXHIBIT "A"

LAND DESCRIPTION

W# 3905

Three parcels of submerged land in the bed of Lake Tahoe, Placer County, California, said parcels being described as follows:

PARCEL 1 - Pier

All that land lying immediately beneath a pier TOGETHER WITH a necessary use area extending 10 feet from the extremities of said pier, said pier being adjacent to and easterly of Lot 4A, Block 2, as shown on the map entitled "Resubdivision of a part of Tahoe Pines" filed for record in Book "D" of Maps, Page 37, Placer County Records.

EXCEPTING THEREFROM any portion thereof lying landward of the ordinary low water mark of Lake Tahoe.

PARCELS 2,3 - Buoys

Two circular parcels of submerged land, each 40 feet in diameter, adjacent to and easterly of above described Parcel 1.

END OF DESCRIPTION

REVISED AUGUST 22, 1985, BY BOUNDARY SERVICES UNIT, M. L. SHAFER, SUPERVISOR.

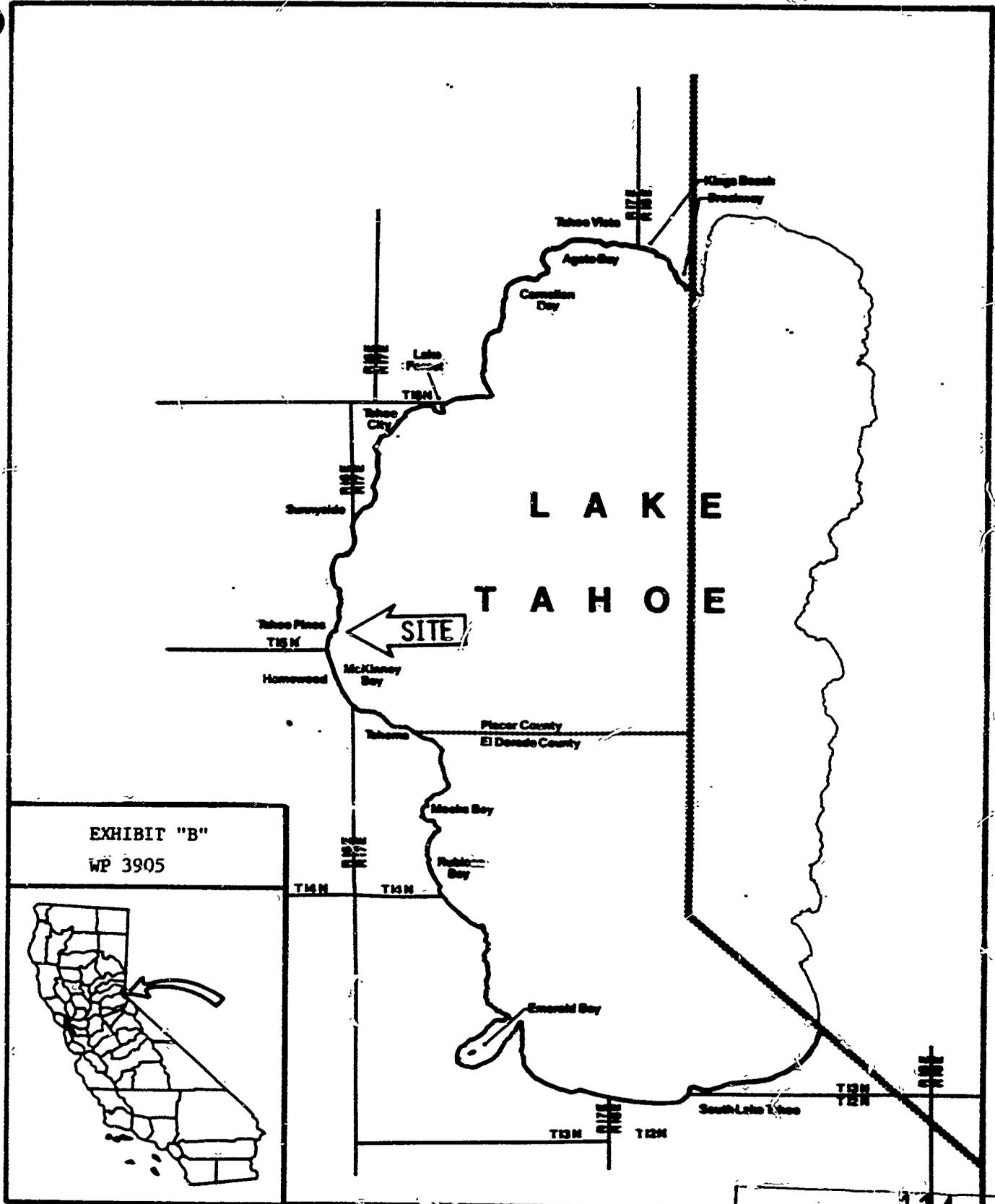


EXHIBIT "B"
WP 3905

