MINUTE ITEM
This Calendar Item No. C16
was approved as Minute Item
No. 16 by the State Lands
Commission by a vote of 3
to 0 at its 7-19-93
meeting.

CALENDAR ITEM

C16

A 4

S 1

07/19/93
PRC 5134
J. Ludlow

TERMINATE LEASE AND ACCEPT QUITCLAIM DEED
FOR GENERAL PERMIT - RECREATIONAL USE PRC 5134 AND CONSIDER
APPLICATION FOR RECREATIONAL PIER PERMIT PRC 5134

APPLICANT:
Philip J. Fagan, Jr. and
Dianne E. Fagan
11441 Ayshire Drive
Los Angeles, CA 90049

AREA, TYPE LAND AND LOCATION:
A parcel of submerged land located in Lake Tahoe at Jameson Beach, South Lake Tahoe, El Dorado County.

LAND USE:
Continued use and maintenance of an existing recreational pier and one mooring buoy.

TERMS OF PROPOSED PERMIT:
Initial period: Five years beginning May 1, 1990.

CONSIDERATION:
Rent-free pursuant to Section 6503.5 of the P.R.C.

BASIS FOR CONSIDERATION:
Pursuant to 2 Cal. Code Regs. 2003

APPLICANT STATUS:
Applicant is owner of the upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:
Filing and processing costs have been received.

STATUTORY AND OTHER REFERENCES:
A. P.R.C.: Div. 6, Parts 1 and 2: Div. 13.

B. Cal Code Regs.: Title 3, Div. 3: Title 14, Div. 6.

AB 884:
N/A

OTHER PERTINENT INFORMATION:

1. As to the termination of the existing General Permit - Recreational Use, pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061) the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

   Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

2. As to the issuance of the new Recreational Pier Permit, pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The Project is exempt under Class 1, Existing Facilities, 2 Cal. Code Regs. 2905(a)(2).

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

3. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

4. On July 25, 1985, the Commission authorized the issuance of General Permit - Recreational Use PRC 5134 to American Savings and Loan Association (now New West Federal Savings and Loan Association) for the use and maintenance of a recreational pier and one mooring buoy. The property was sold on May 1, 1990 and the property's title was transferred to Philip and Dianne Fagan.

5. New West Federal Savings and Loan Association has executed a quitclaim deed which transfers all right, title and interest in the leasehold back to the State of California.

6. This property will be physically inspected by staff for purposes of evaluating the impact of the proposed activity on the public trust.

7. The proposed Recreational Pier Permit includes specific provisions by which the Permittee agrees to protect and replace or restore, if required, the habitat of Rorippa subumbellata, commonly called the Tahoe Yellow Cress, a State-listed endangered plant species.

8. The Permit is conditioned on Permittee's conformance with the Tahoe Regional Planning Agency's Shorezone Ordinance. If any structure hereby authorized is found to be in nonconformance with the Tahoe Regional Planning Agency's Shorezone ordinance, and if any alterations, repairs, or removal required pursuant to said ordinance are not accomplished within the designated time period, then this Permit is automatically terminated, effective upon notice by the State, and the site shall be cleared pursuant to the terms thereof.

   If the location, size, or number of any structure authorized by this Permit is to be altered, pursuant to order of the Tahoe Regional Planning Agency, Permittee shall request the consent of the State to make such alteration.

9. The Permit is conditioned on the public's right of access along the shorezone below the high water line (Elevation 6228.75 feet, Lake Tahoe Datum) pursuant to the holding in State v. Superior Court (Fogerty), 2 Cal. 3d. 240 (9181), and provides that the Permittee must provide a reasonable means for public passage along the shorezone, including, but not limited to, the area occupied by the authorized improvements.

10. Permittee agrees to conserve the natural resources on the subject property and to prevent pollution and harm to the environment.

11. The issuance of this Permit supersedes any prior authorization by the State Lands Commission at this location.

EXHIBIT:

A. Site Map

IT IS RECOMMENDED THAT THE COMMISSION:

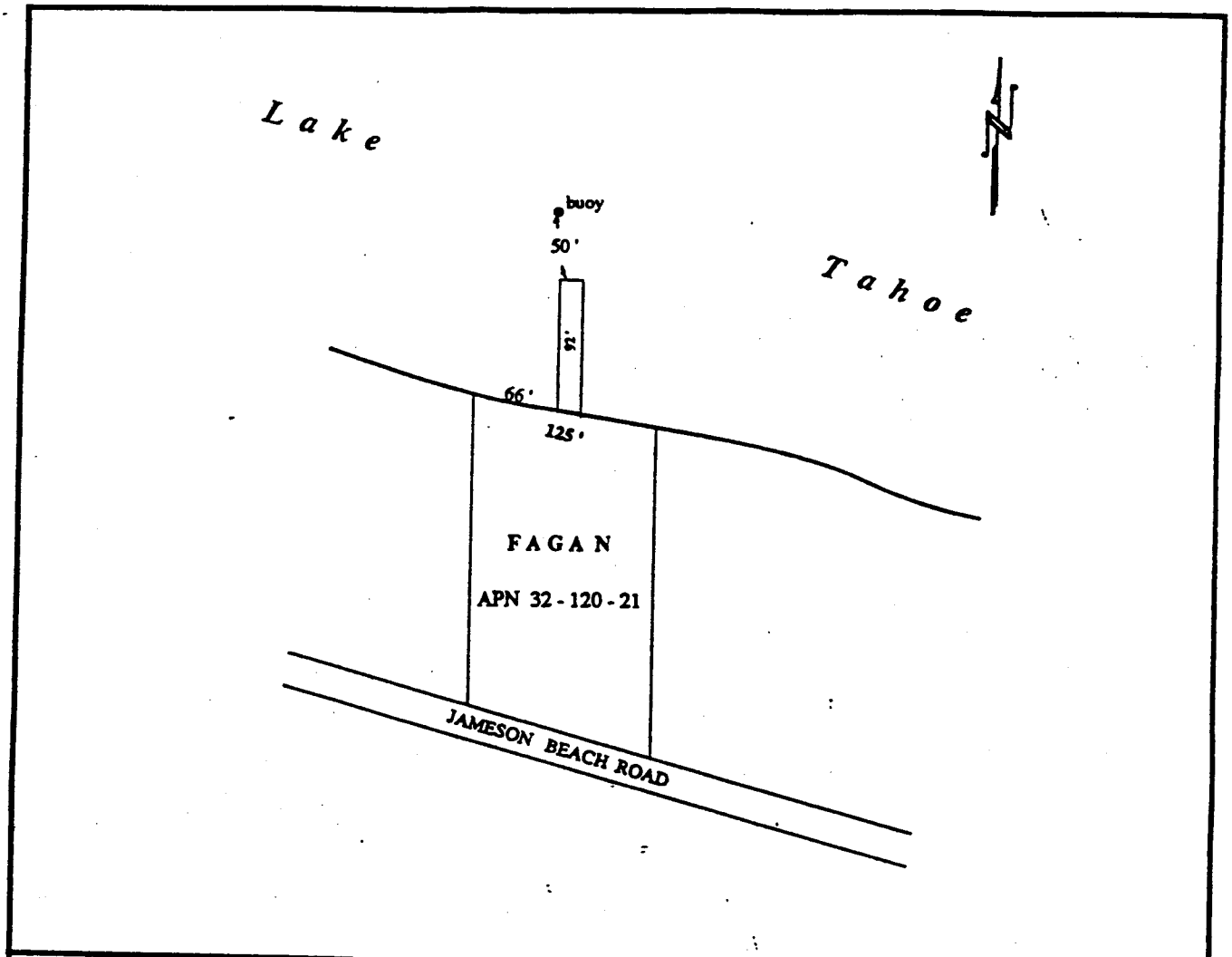
1. FIND, AS TO THE TERMINATION OF THE EXISTING GENERAL PERMIT - RECREATIONAL USE, THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.

2. TERMINATE GENERAL PERMIT - RECREATIONAL USE PRC 5134 ISSUED TO AMERICAN SAVINGS AND LOAN APPROVED BY THE COMMISSION ON JULY 25, 1985, MINUTE ITEM 4, AND ACCEPT A QUITCLAIM DEED TRANSFERRING ALL RIGHT, TITLE AND INTEREST IN THE LEASEHOLD FROM AMERICAN SAVINGS AND LOAN/NEW WEST FEDERAL SAVINGS AND LOAN ASSOCIATION BACK TO THE STATE OF CALIFORNIA.

3. FIND, AS TO THE ISSUANCE OF RECREATIONAL PIER PERMIT, THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A CATEGORICAL EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES, 2 CAL. CODE REGS. 2905(a)(2).

4. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.

5. AUTHORIZE ISSUANCE TO THE PHILIP J. FAGAN, JR. AND DIANNE E. FAGAN, OF A FIVE-YEAR RECREATIONAL PIER PERMIT EFFECTIVE MAY 1, 1990 FOR THE CONTINUED USE AND MAINTENANCE OF AN EXISTING RECREATIONAL PIER AND ONE MOORING BUOY ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED, AND BY REFERENCE MADE A PART HEREOF.



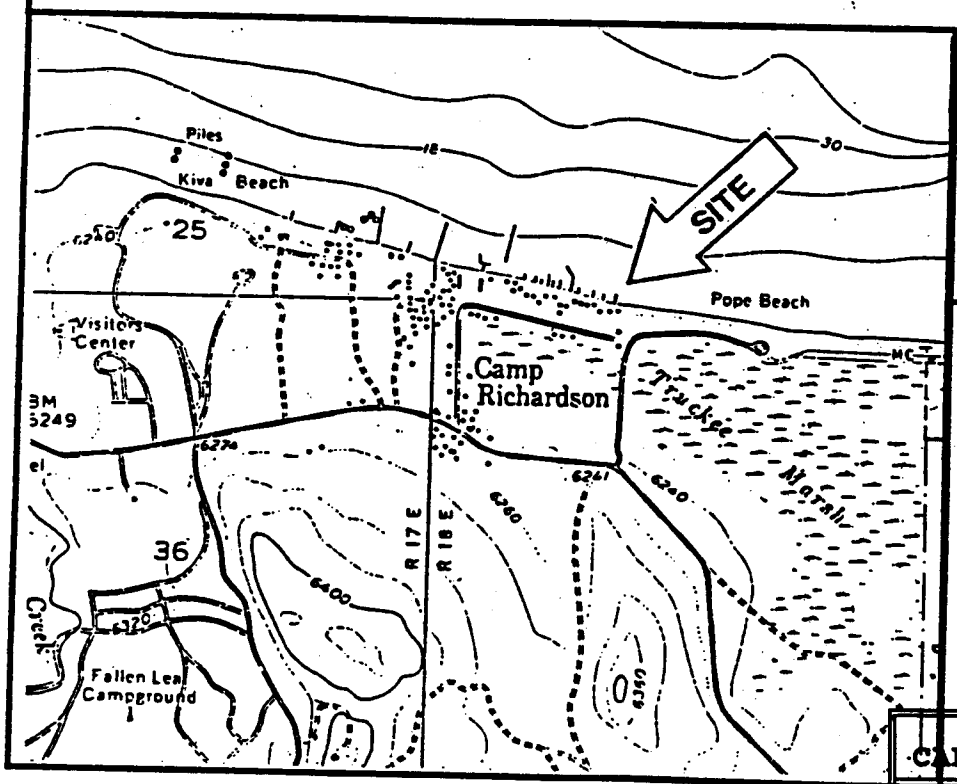


EXHIBIT "A"
LAND DESCRIPTION
PRC 5134
APN 32- 120 - 21
EL DORADO COUNTY
LAKE TAHOE

CALENDAR PAGE 197
MINUTE PAGE W. 1.355