

**CALENDAR ITEM
C45**

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S 1

06/28/10
WP 7449.1
N. Lee

**TERMINATION OF A RECREATIONAL PIER LEASE
AND ISSUANCE OF A NEW GENERAL LEASE - RECREATIONAL USE**

LESSEES:

Don Stuart Mashbir; Thomas R. Harry, Trustee of The Thomas R. Harry and Carolyn D. Harry Family Decedent's Trust, established October 23, 1997; Michael R. Harry; Anne L. Harry; Thomas J. Harry; Cynthia A. Harry; Debora D. Goehring; and Arden Goehring

APPLICANTS:

Selective Rubicon Property, LLC; Thomas R. Harry, Trustee of The Thomas R. Harry and Carolyn D. Harry Family Decedent's Trust, established October 23, 1997; Michael R. Harry; Anne L. Harry; Thomas J. Harry; Cynthia A. Harry; Debora D. Goehring; and Arden Goehring

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8579 Meeks Bay Avenue and 8581 North Lane, near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier and two mooring buoys as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning March 23, 2009.

CONSIDERATION:

One Mooring Buoy and 50 Percent of Joint-Use Pier: No monetary consideration pursuant to Public Resources Code section 6503.5.

One Mooring Buoy and 50 Percent of Joint-Use Pier: \$2,081 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

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SPECIFIC LEASE PROVISIONS:

Liability insurance with coverage of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On December 14, 2006, the Commission authorized a Recreational Pier Lease with Don Stuart Mashbir; Thomas R. Harry, Trustee of The Thomas R. Harry and Carolyn D. Harry Family Decedent's Trust, established October 23, 1997; Michael R. Harry; Anne L. Harry; Thomas J. Harry; Cynthia A. Harry; Debora D. Goehring; and Arden Goehring. That lease will expire on September 26, 2015. On March 23, 2009, Don Stuart Mashbir deeded his littoral parcel to Selective Rubicon Property, LLC. Applicants are now applying for termination of the current lease and issuance of a new General Lease – Recreational Use.
3. The two mooring buoys were permitted by the Tahoe Regional Planning Agency on September 30, 2009 and October 1, 2009.
4. The Harry/Goehring ownership qualifies for rent-free status because they are natural persons who own the littoral land that is improved with a single-family dwelling. Selective Rubicon Property, LLC does not qualify for rent-free status because it does not own the littoral land as a natural person pursuant to Public Resources Code section 6503.5 . Therefore, the annual rent is based on Selective Rubicon Property, LLC's ownership of one mooring buoy and 50 percent of the joint-use pier.
5. **Termination of Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

6. **Pier and Mooring Buoys:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

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Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

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

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Termination of Lease: Find that the activity is not subject to the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15060(c)(3) because the activity is not a project as defined by Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

Pier and Mooring Buoys: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

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 sections 6370, et seq.

AUTHORIZATION:

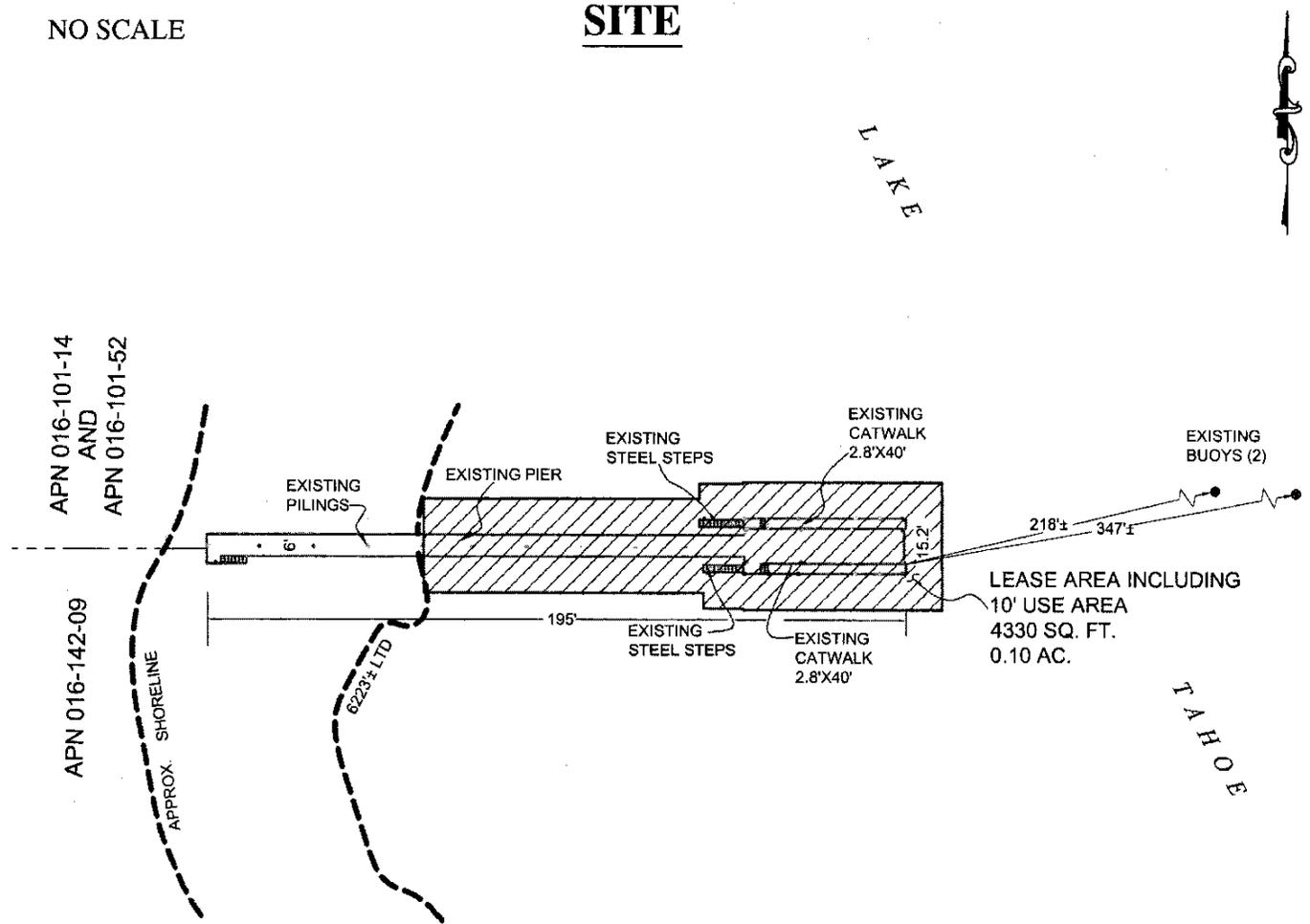
1. Authorize termination of Lease No. PRC 7449.9, a Recreational Pier Lease, effective March 22, 2009, issued to Don Stuart Mashbir; Thomas R. Harry, Trustee of The Thomas R. Harry and Carolyn D. Harry Family Decedent's Trust, established October 23, 1997; Michael R. Harry; Anne L. Harry; Thomas J. Harry; Cynthia A. Harry; Debora D. Goehring; and Arden Goehring.

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2. Authorize issuance of a General Lease – Recreational Use to Selective Rubicon Property, LLC; Thomas R. Harry, Trustee of The Thomas R. Harry and Carolyn D. Harry Family Decedent's Trust, established October 23, 1997; Michael R. Harry; Anne L. Harry; Thomas J. Harry; Cynthia A. Harry; Debora D. Goehring; and Arden Goehring, beginning March 23, 2009, for a term of ten years, for the continued use and maintenance of an existing joint-use pier and two mooring buoys as shown on Exhibit A attached and by this reference made a part hereof; annual rent in the amount of \$2,081 for one mooring buoy and 50 percent of the joint-use pier, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; no monetary consideration pursuant to Public Resources Code section 6503.5 for one mooring buoy and 50 percent of the joint-use pier; and liability insurance with coverage of no less than \$1,000,000.

NO SCALE

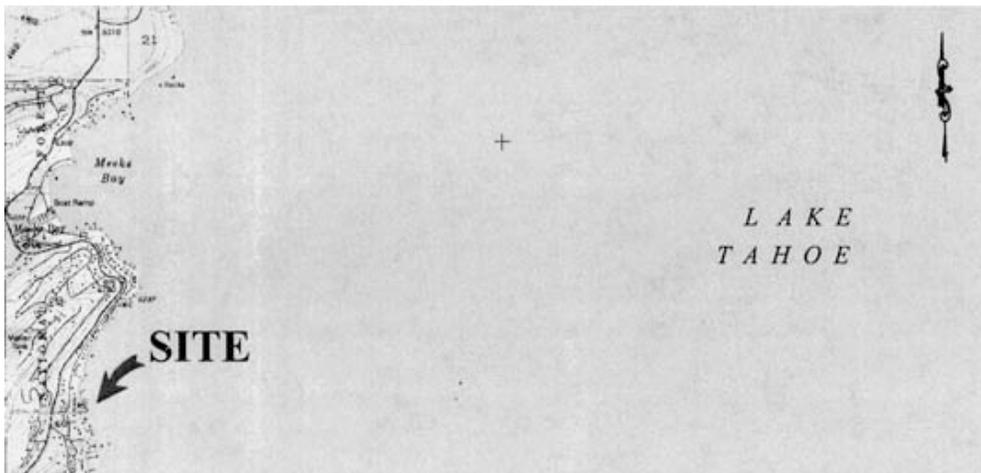
SITE



8579 MEEKS BAY AVE., & 8581 NORTH LANE, NEAR RUBICON BAY

NO SCALE

LOCATION

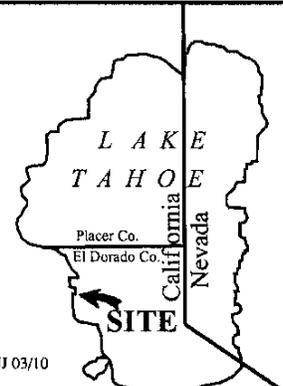


MAP SOURCE: USGS QUAD

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 A

PRC 7449.1
 SELECTIVE RUBICON
 PROPERTY LLC & HARRY
 APN 016-142-09,
 APN 016-101-14 &
 APN 016-101-52
 GENERAL LEASE
 RECREATIONAL USE
 EL DORADO COUNTY



MJJ 03/10