**CALENDAR ITEM**

# C26

A 4 01/26/12

WP 8137.9

S 1 B. Terry

## GENERAL LEASE – RECREATIONAL USE

**APPLICANT**:

Brian J. Cereghino, Trustee of the Brian J. Cereghino Living Trust dated November 13, 2009

**AREA, LAND TYPE, AND LOCATION**:

Sovereign land in Lake Tahoe, adjacent to 2161 Cascade Road, South Lake Tahoe, El Dorado County.

**AUTHORIZED USE**:

Continued use and maintenance of an existing pier, boat lift, and one mooring buoy.

**LEASE TERM**:

10 years, beginning January 26, 2012.

**CONSIDERATION**:

No monetary consideration pursuant to Public Resources Code section 6503.5.

**SPECIFIC LEASE PROVISIONS**:

Insurance:

Liability insurance in the amount of no less than $1,000,000.

Other:

The proposed lease contains a provision requiring the Applicant to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoy within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. This is a continuation of the process the Commission used from approximately 1995 to October 2008 when TRPA adopted an FEIS and Ordinance Amendments supported by the FEIS. In September 2010, the U.S. District Court invalidated the FEIS and nullified the Amendments. When additional information is available, Commission staff will advise the Commission on any suggested modifications to the process used by the

Commission pending resolution of the TRPA FEIS and amended ordinance issues.

**OTHER PERTINENT INFORMATION:**

1. Applicant owns the upland adjoining the lease premises.

2. On December 3, 1999, the Commission authorized a Recreational Pier Lease with John Schue and Julie Helms Schue. That lease expired November 30, 2009. Ownership of the upland parcel was transferred to Wells Fargo Bank in a foreclosure and on March 23, 2011, ownership was granted to the Applicant. Applicant is now applying for a new General Lease – Recreational Use.

3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned land by certain private parties for their recreational piers. It replaced the former section with a new section 6503.5 which provides that the State Lands Commission "shall charge rent for a private recreational pier constructed on state lands." The law provides for two exceptions to the imposition of rent. Those exceptions are for:

   A. A lease in effect on July 1, 2011 through the remaining term of that lease. If a lease in effect on July 1, 2011 expires or is otherwise terminated, any new lease will be subject to rent; and

   B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

   Because the application and fees were submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently-enacted changes to Section 6503.5 of the Public Resources Code for the term of the lease.

4. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 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; California Code of Regulations, Title 2, section 2905 subdivision (a)(2).

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

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. 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.

**EXHIBITS:**

A. Land Description
B. Site and Location Map

**RECOMMENDED ACTION**:
It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905 subdivision (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 section 6370 et seq.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to Brian J. Cereghino, Trustee of the Brian J. Cereghino Living Trust dated November 13, 2009, beginning January 26, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and one mooring buoy as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; no monetary consideration pursuant to Public Resources Code section 6503.5; and liability insurance with coverage of no less than $1,000,000.

**EXHIBIT A**

**PRC 8137**

**LAND DESCRIPTION**

Two (2) parcels of submerged land, situate in the bed of Lake Tahoe, lying adjacent to Lot 6, fractional Section 26, Township 13 North, Range 17 East, MDM, as shown on the Official Township Plat, approved April 11th, 1884, County of El Dorado, State of California, and more particularly described as follows:

**Parcel 1 - Pier**

All those lands underlying an existing pier, catwalk, and boatlift adjacent to that parcel as described in "Exhibit A" of that Grant Deed recorded April 29, 2011 as Document Number 2011-0019768-00 in Official Records of said County.

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

TOGETHER WITH a ten (10) foot use area.

**Parcel 2 - Buoy**

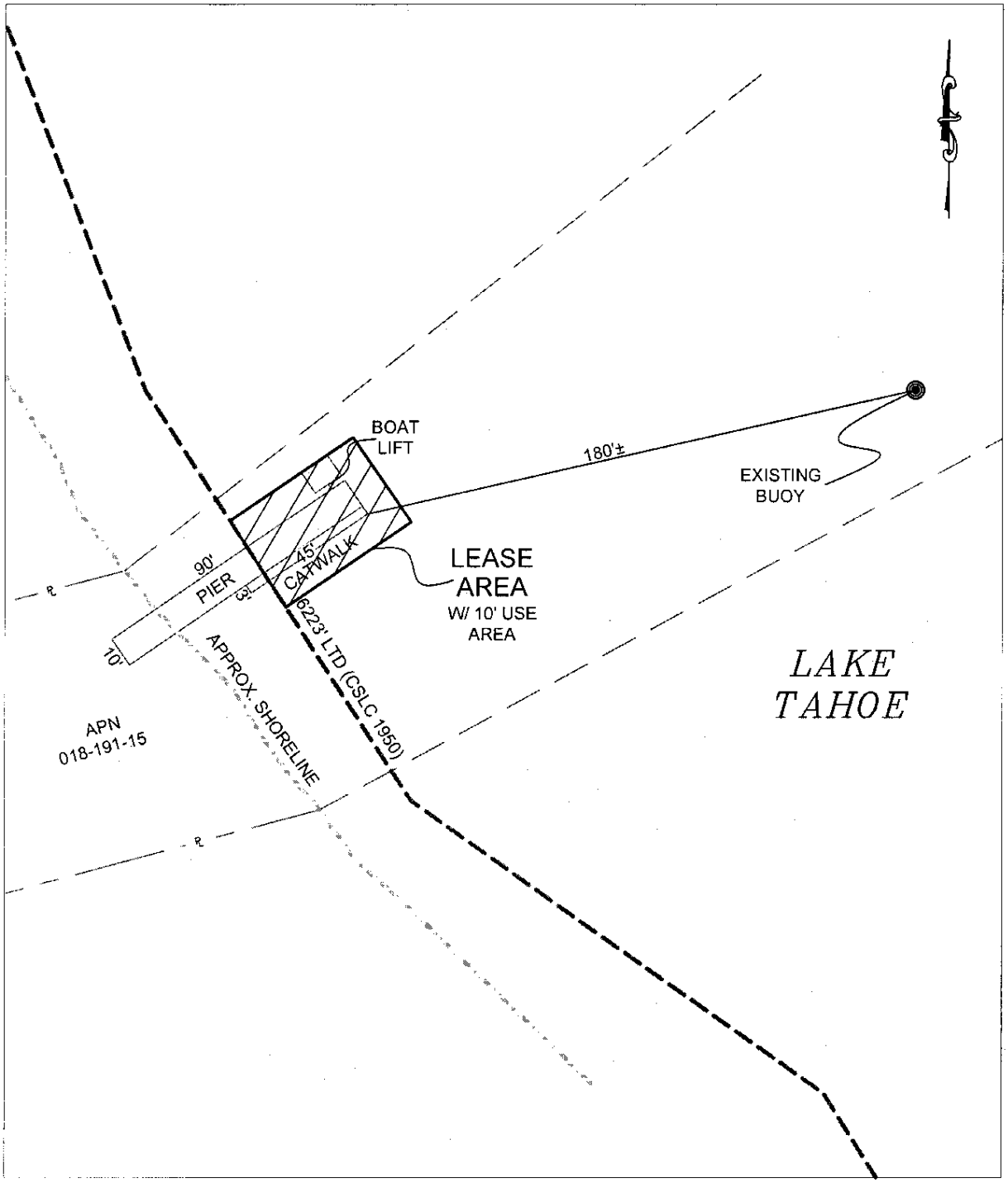
A circular parcel of land, being 50 feet in diameter, underlying an existing buoy, adjacent to that parcel as described in "Exhibit A" of that Grant Deed recorded April 29, 2011 as Document Number 2011-0019768-00 in Official Records of said County.

Accompanying plat is hereby made a part of this description

**END OF DESCRIPTION**

PREPARED 11/21/11 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT

NO SCALE




# EXHIBIT A

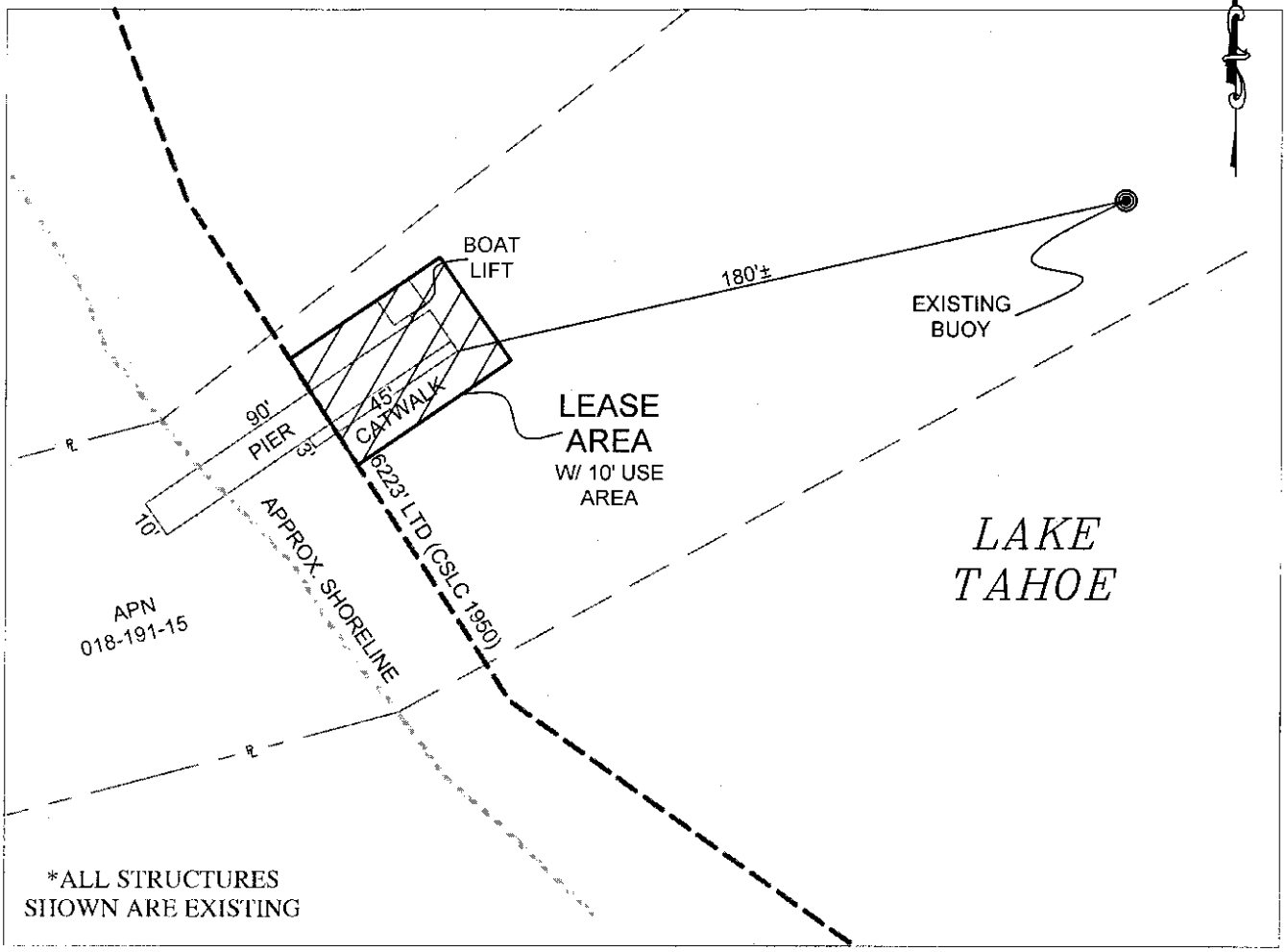
Page 2 of 2

MJF 11/8/11

| | |
|---|---|
| LAND DESCRIPTION PLAT<br>PRC 8137, CEREGHINO<br>PLACER COUNTY | CALIFORNIA STATE<br>LANDS COMMISSION |

NO SCALE

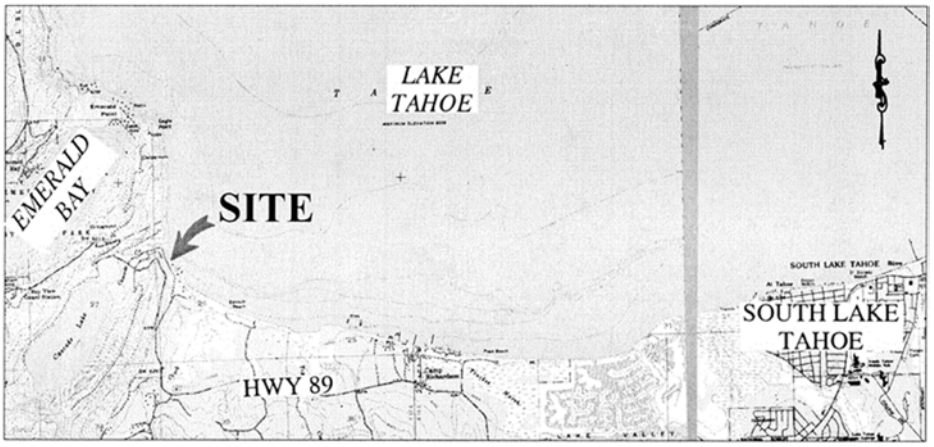
## SITE




2161 Cascade Rd, South Lake Tahoe

NO SCALE

## LOCATION

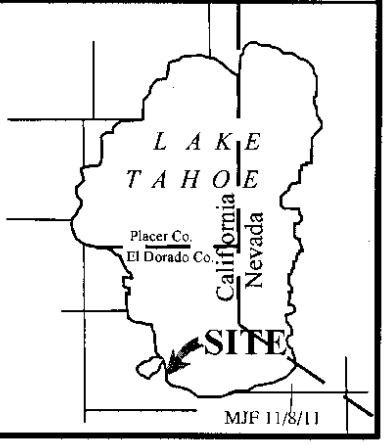



MAP SOURCE: USGS QUAD

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 B

PRC 8137.9
CEREGHINO
APN 018-191-15
GENERAL LEASE - RECREATIONAL USE
EL DORADO COUNTY




MJF 11/8/11