

**CALENDAR ITEM
C28**

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01/26/12
WP 3391.1
B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Dollar Point Association, Inc.
P.O. Box 1490
Tahoe City, CA 96145

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3000 Edgewater Drive, near Dollar Point, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, 63 mooring buoys, a swim line, and two marker buoys.

LEASE TERM:

10 years, beginning September 1, 2011.

CONSIDERATION:

Pier and Mooring Buoys: \$1,025 per year; prorated pursuant to Public Resources Code section 6503.5; and

Marker Buoys and Swim Line: \$854 per year.

Total Rent: \$1,879 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$2,000,000.

Other:

Buoy Allotment Program: The use of the buoy fields will be made available to all members of Dollar Point Association, Inc., (Association) in a fair and equitable manner. A buoy allotment program must be

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maintained during the lease term that will identify how the buoys will be managed, maintained, and distributed for use by the Association's members.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On June 19, 1998, the Commission authorized a General Lease – Recreational Use with Dollar Point Subdivision Homeowners Association (Association) for a pier, 63 mooring buoys, two marker buoys, and a swim area. That lease expired on August 31, 2007.
3. The Applicant, a homeowners association consisting of 524 members is now applying for a new General Lease – Recreational Use. Starting with the 2012 summer season, the Association will no longer continue the use of a fully-enclosed swim area in order to reduce the annual rent. Instead the Association will install only one swim line parallel to the shore, thereby removing the swim line that extended from the shore to the parallel line. The swim line provides a visual barrier to alert boaters to the location of the swim area.
4. 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 this lease. Therefore, based on the Association's 524 members, 503 (96%) qualify for rent-free status and the annual rent for the pier and mooring buoys has been prorated according to

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the qualifying members. However, the swim line and marker buoys are subject to full rent.

5. After the prior lease expired, the Applicant continued to pay the annual rent in effect during the term of that lease. Pursuant to the expired lease, the annual rent in effect during any holding-over shall be increased by 25 percent. Staff is recommending that the Commission accept the additional 25 percent of holdover rent in the amount of \$2,366 for the period beginning September 1, 2007 through August 31, 2011.
6. In the fall of 2010, a member of the public brought to Commission staff's attention the presence of two chain link fences running down into the bed of Lake Tahoe below the high water mark, elevation 6228.75-feet, Lake Tahoe Datum (LTD) from the Applicant's upland property. The fences were located near the Applicant's east and west side property lines as those lines extend into Lake Tahoe and were blocking lateral public access along and into the Public Trust easement between high water mark and low water mark, elevation 6223-feet LTD. Staff contacted the Applicant and requested the removal of the fences. The Applicant agreed to the removal and Commission boundary staff assisted by surveying the high water mark in July 2011. On August 26, 2011, the Applicant confirmed to staff the removal of all but the fence footings. Due to the high water conditions, the Applicant was not been able to finalize the removal of the footings until December. The Applicant has now fully complied with staff's request in removing the obstructions to and along the Public Trust easement.
7. 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; Title 2, 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

8. 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

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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 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:

1. Authorize acceptance of additional holdover rent in the amount of \$2,366 for the period of September 1, 2007 through August 31, 2011.
2. Authorize issuance of a General Lease – Recreational Use to Dollar Point Association, Inc., beginning September 1, 2011, for a term of 10 years, for the continued use and maintenance of an existing pier, 63 mooring buoys, a swim line, and two marker buoys, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,879, with the State reserving the right to fix a different rent periodically during the least term; as provided in the lease; and liability insurance with coverage of no less than \$2,000,000.

EXHIBIT A

PRC 3391.1

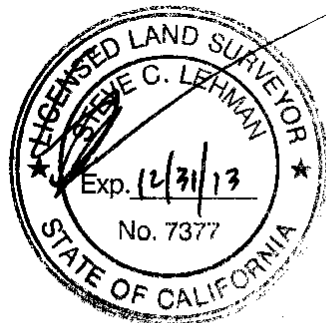
LAND DESCRIPTION

A parcel of submerged land lying in the bed of Lake Tahoe, adjacent to fractional Section 33, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

BEGINNING at a point on the line of the historic Low Water Mark, as depicted on sheet 13 of those maps entitled "Survey of the Low Water Mark on the Shore of Lake Tahoe", filed in Book 2 of Surveys at Page 71, Placer County Records, said point lying distant S 79°17'13" W 46.30 feet from Station 278 as shown on said map; thence along said line of Low Water Mark S 79°17'13" W 104.33 feet to Station 277 as shown on said map; thence S 87°41'27" W 248.20 feet to Station 276 as shown on said map; thence S 79°33'45" W 77.28 feet to Station 275 as shown on said map; thence S 86°27'31" W 36.37 feet; thence leaving said line of Low Water Mark S 4°44'30" E 650.57 feet; thence N 85°15'30" E 465 feet; thence N 4°44'30" W 657.80 feet to the POINT OF BEGINNING.

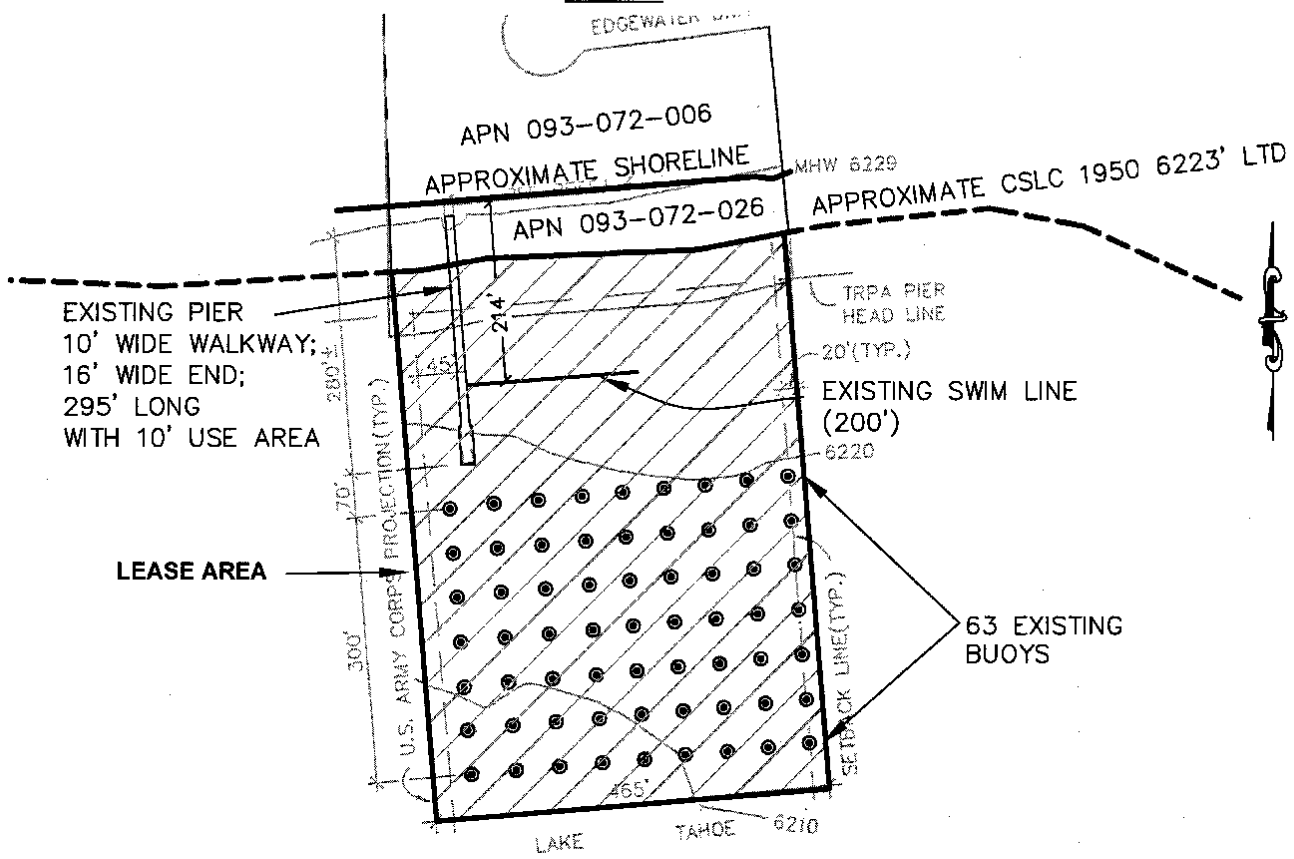
END OF DESCRIPTION

Prepared 1/3/2012 by the California State Lands Commission Boundary Unit.



NO SCALE

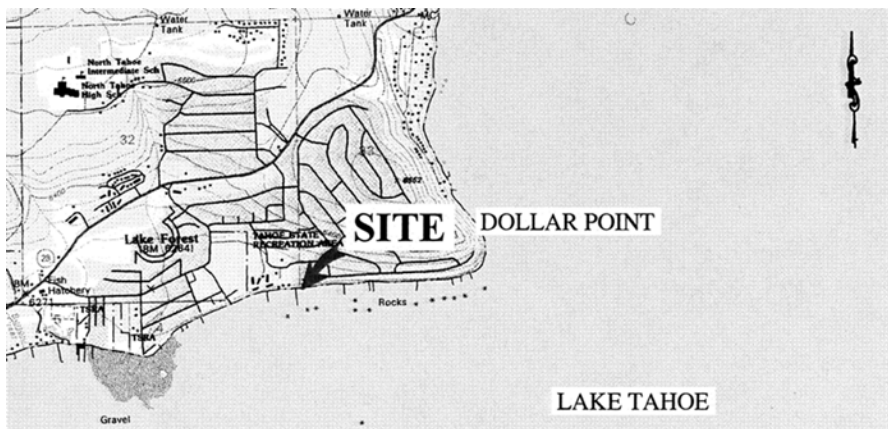
SITE



3000 EDGEWATER DRIVE, NEAR DOLLAR POINT

NO SCALE

LOCATION

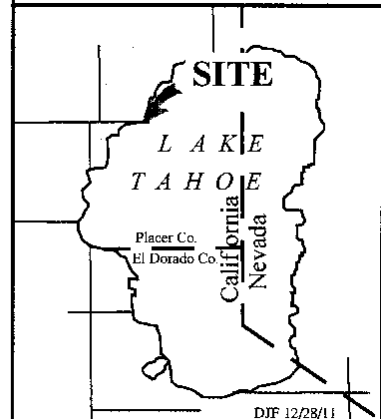


MAP SOURCE: USGS QUAD

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 3391.1
 DOLLAR POINT
 ASSOCIATION
 APN 093-072-006 & 093-072-026
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



DJF 12/28/11