CALENDAR ITEM

C30

A 4 03/29/12

WP 7554.1

S 1 C. Hudson

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Thomas W. Berry and Theresa A. Berry

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4040 North Lake Boulevard, near Cedar Flat, Placer County.

AUTHORIZED USE:

Continued use and maintenance of two existing mooring buoys.

LEASE TERM:

10 years, beginning February 1, 2012.

CONSIDERATION:

$680 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 $1,000,000.

Other:

The proposed lease contains a provision requiring the Applicants to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoys 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. Applicants own the uplands adjoining the lease premises.

2. On April 9, 2002, the Commission authorized a Recreational Pier Lease with Thomas W. Berry and Theresa A. Berry. That lease expired on January 31, 2012. The Applicants are 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.

   The Applicants do not qualify for an exception and the lease is subject to rent because the application was received after March 31, 2011.

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 Thomas W. Berry and Theresa A. Berry, beginning February 1, 2012, for the continued use and maintenance of two existing mooring 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 $680, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance in the amount of no less than $1,000,000.

EXHIBIT A

PRC 7554.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to fractional Section 28, Township 16 North, Range 17 East, MDM, as shown on the Official Township Plat, approved November 2, 1903, County of Placer, State of California, and more particularly described as follows:

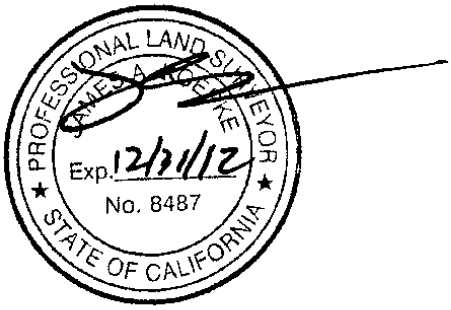
PARCELS 1 & 2 (Buoys)

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) two existing buoys lying adjacent to that parcel of land as described in that Grant Deed as recorded document 92-025296 filed March 15, 1992 in Official Records in said County.

Accompanying plat is hereby made a part of this description

END OF DESCRIPTION

PREPARED 2/17/12 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



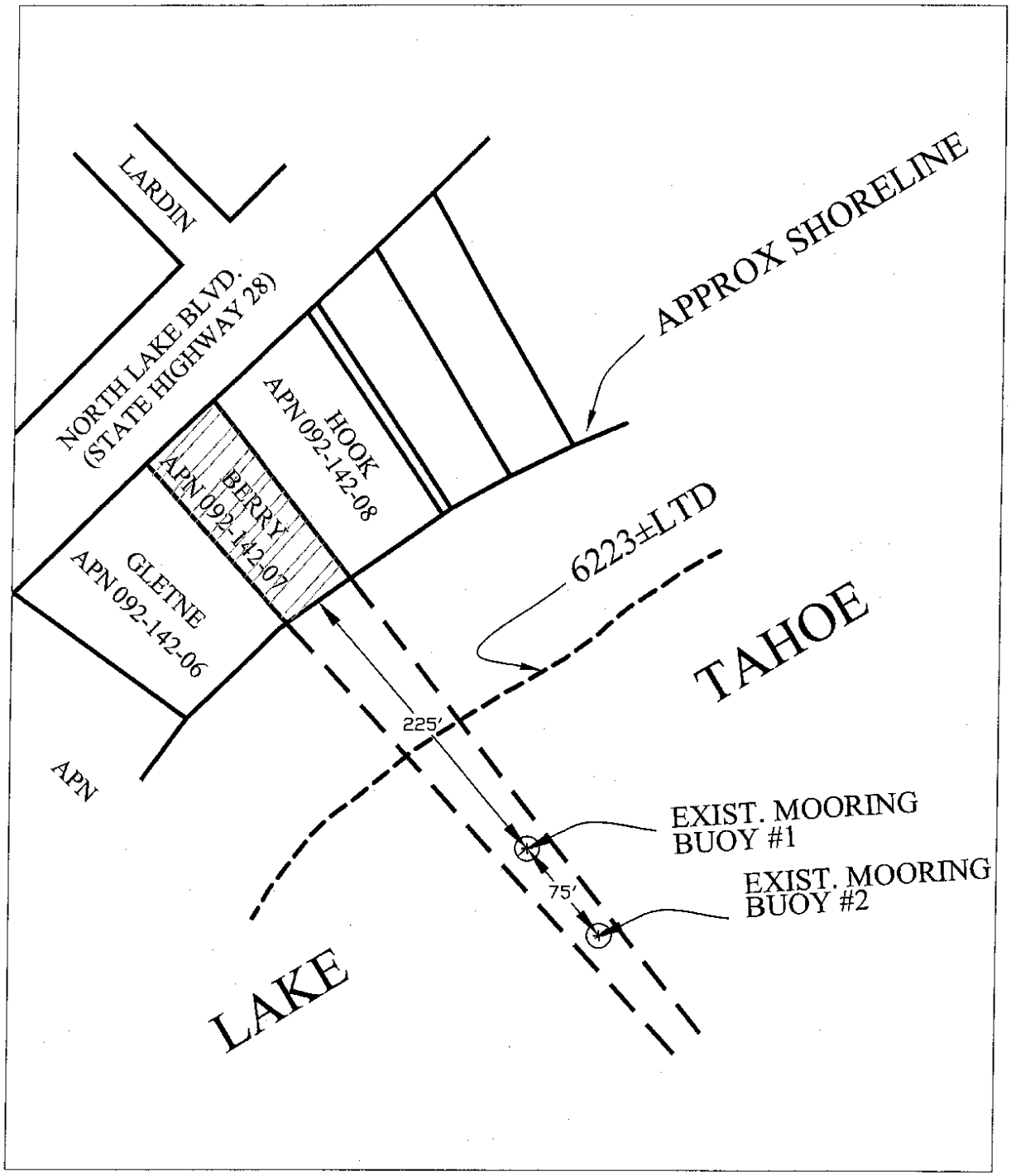


EXHIBIT A

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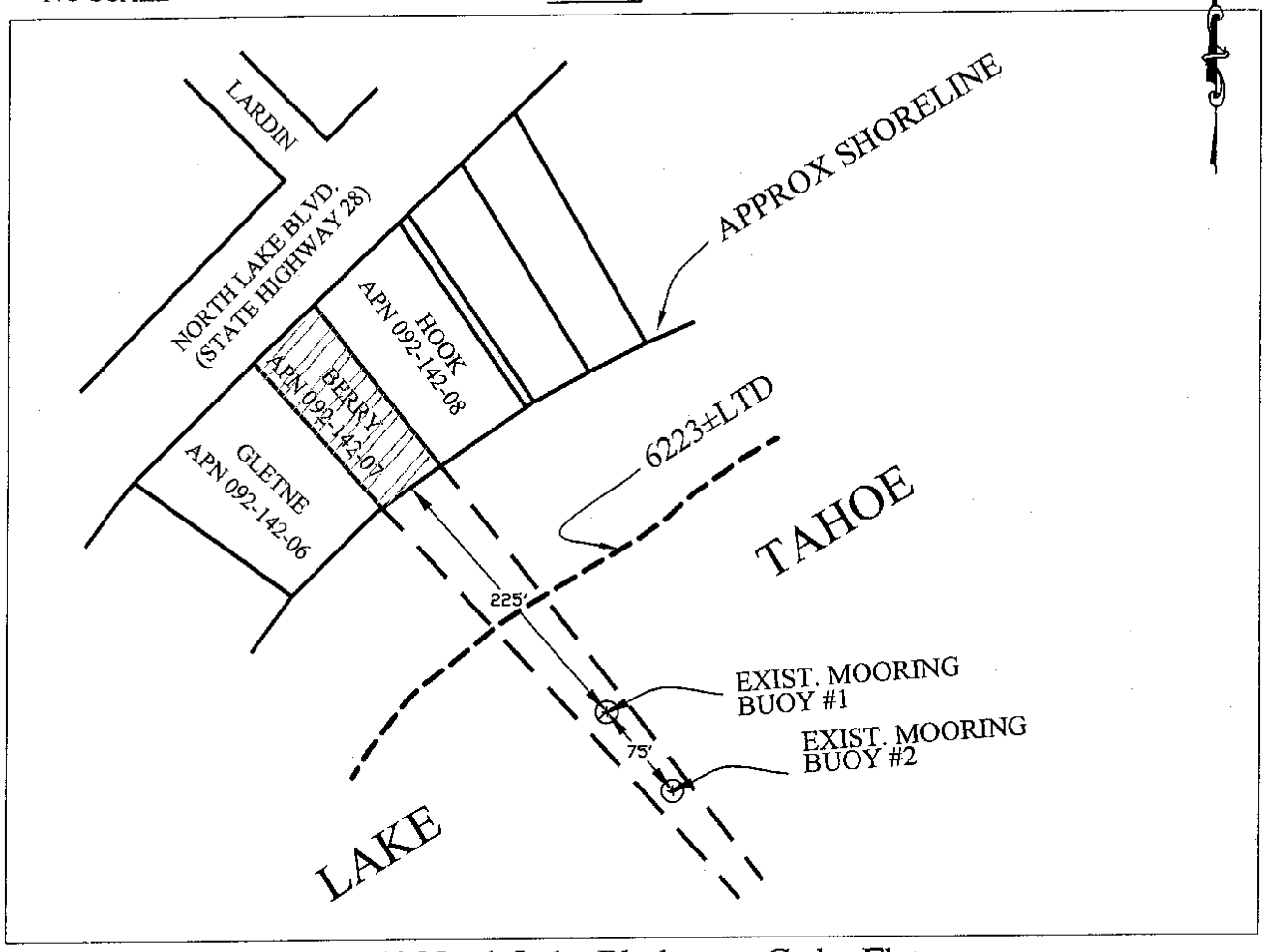
Date 2/17/12

LAND DESCRIPTION PLAT PRC 7554.1, BERRY PLACER COUNTY	CALIFORNIA STATE LANDS COMMISSION

NO SCALE

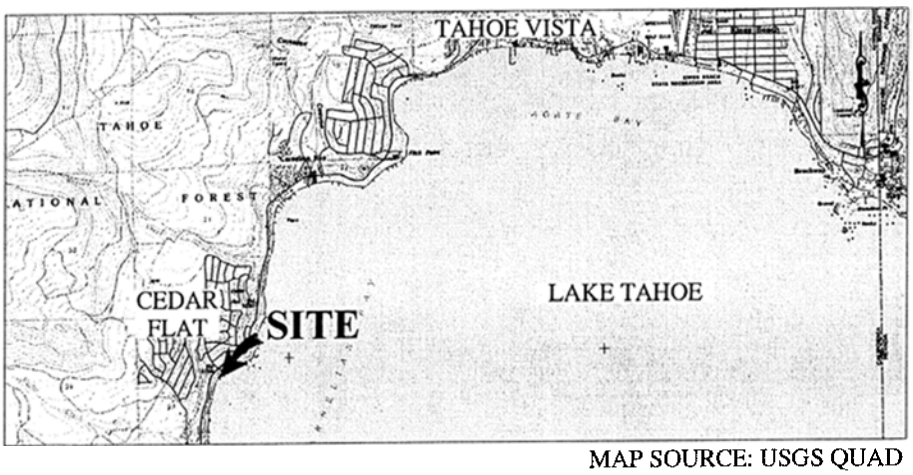
SITE



4040 North Lake Blvd., near Cedar Flat

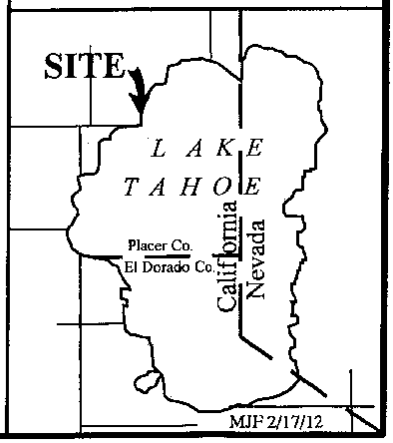
NO SCALE

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 7554.1
BERRY
APN 092-142-007
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY