

**CALENDAR ITEM
C17**

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S 1

10/19/12
PRC 4132.1
R. Barham

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Ray Dolby and Dagmar Dolby, as Trustees of the Dolby Family Trust dated May 7, 1999

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2550 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, open-sided boathouse with stairs, pumphouse/shed, and one mooring buoy previously authorized by the Commission; and the use and maintenance of an existing boat lift and one mooring buoy not previously authorized by the Commission.

LEASE TERM:

10 years, beginning October 19, 2012.

CONSIDERATION:

Pier, Open-Sided Boathouse with Stairs, Boat Lift, and Two Mooring Buoys:
No monetary consideration pursuant to Public Resources Code section 6503.5.

Pumphouse/Shed: \$77 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 with coverage of no less than \$1,000,000.

Other:

1. The proposed lease contains a provision requiring the Applicants agree 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 a FEIS and Ordinance Amendments supported by

CALENDAR ITEM NO. C17 (CONT'D)

the FEIS. In September 2010, the U.S. District Court invalidated the FEIS and nullified the ordinances. 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 ordinance issues.

2. The lease contains provisions that the existing pumphouse/shed, as shown on the attached Exhibit B, cannot be expanded, and if repairs to any portion of the existing pumphouse/shed cost more than 50% of the base value of the pumphouse/shed, then the pumphouse/shed must be removed from the lease premises

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On July 6, 1995, the Commission authorized a Recreational Pier Lease with William D. Walsh and Jane Walsh, Trustees. That lease expired on July 5, 2005. On February 29, 2008, title to the upland property was deeded to Ray Dolby and Dagmar Dolby, as Trustees of the Dolby Family Trust dated May 7, 1999. Applicants are now applying for a new General Lease – Recreational Use for the continued use and maintenance of an existing pier, open-sided boathouse with stairs, pumphouse/shed, and one mooring buoy; and use and maintenance of an existing boat lift and one mooring buoy not previously authorized
3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law took effect on January 1, 2012. This statute repealed section 6503.5 of the Public Resources Code which, as originally enacted, allowed rent-free use of State-owned land by qualified private parties for their recreational piers. The new section 6503.5 of the Public Resource Code provides that the State Lands Commission “shall charge rent for a private recreational pier constructed on state lands.” The law provides the two following exceptions to the imposition of rent:
 - 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 was submitted to the Commission prior to

CALENDAR ITEM NO. C17 (CONT'D)

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. However, because the pumphouse/shed is not used for the docking and mooring of boats, it is not exempt from annual rent pursuant to the original definition of section 6503.5 of the Public Resources Code.

4. The Applicants' boat lift and one additional mooring buoy have been in Lake Tahoe for many years, but were not previously authorized by the Commission. Staff recommends bringing the placement of the Applicants' existing boat lift and additional mooring buoy under lease, subject to the Applicants obtaining TRPA permit authorization.
5. Staff is recommending that the Commission accept back rent for the pumphouse/shed in the amount of \$358 for the period beginning from the date ownership transferred to the Applicants, February 29, 2008, through October 18, 2012.
6. The staff recommends that the Commission find 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.

7. 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

CALENDAR ITEM NO. **C17** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that this 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:

1. Authorize acceptance of back rent in the amount of \$358 for the period of February 29, 2008 through October 18, 2012.
2. Authorize issuance of a General Lease – Recreational Use to Ray Dolby and Dagmar Dolby, as Trustees of the Dolby Family Trust dated May 7, 1999, beginning October 19, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier, open-sided boathouse with stairs, pumphouse/shed, and one mooring buoy previously authorized by the Commission; and the use and maintenance of an existing boat lift and one mooring buoy not previously authorized by the Commission, 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 \$77 for the pumphouse/shed, 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 the pier, open-sided boathouse with stairs, boat lift, and two mooring buoys; and liability insurance with coverage of no less than \$1,000,000.

EXHIBIT A

PRC 4132.1

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 24, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, pumphouse/shed and open-sided boathouse with stairs lying adjacent to that parcel described in Grant Deed recorded February 29, 2008 as Document Number 2008-0016103-00 in Official Records of said County.

TOGETHER WITH a ten foot impact area.

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

PARCEL 2 & 3 – BUOYS

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded February 29, 2008 as Document Number 2008-0016103-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 08/17/2012 by the California State Lands Commission Boundary Unit.



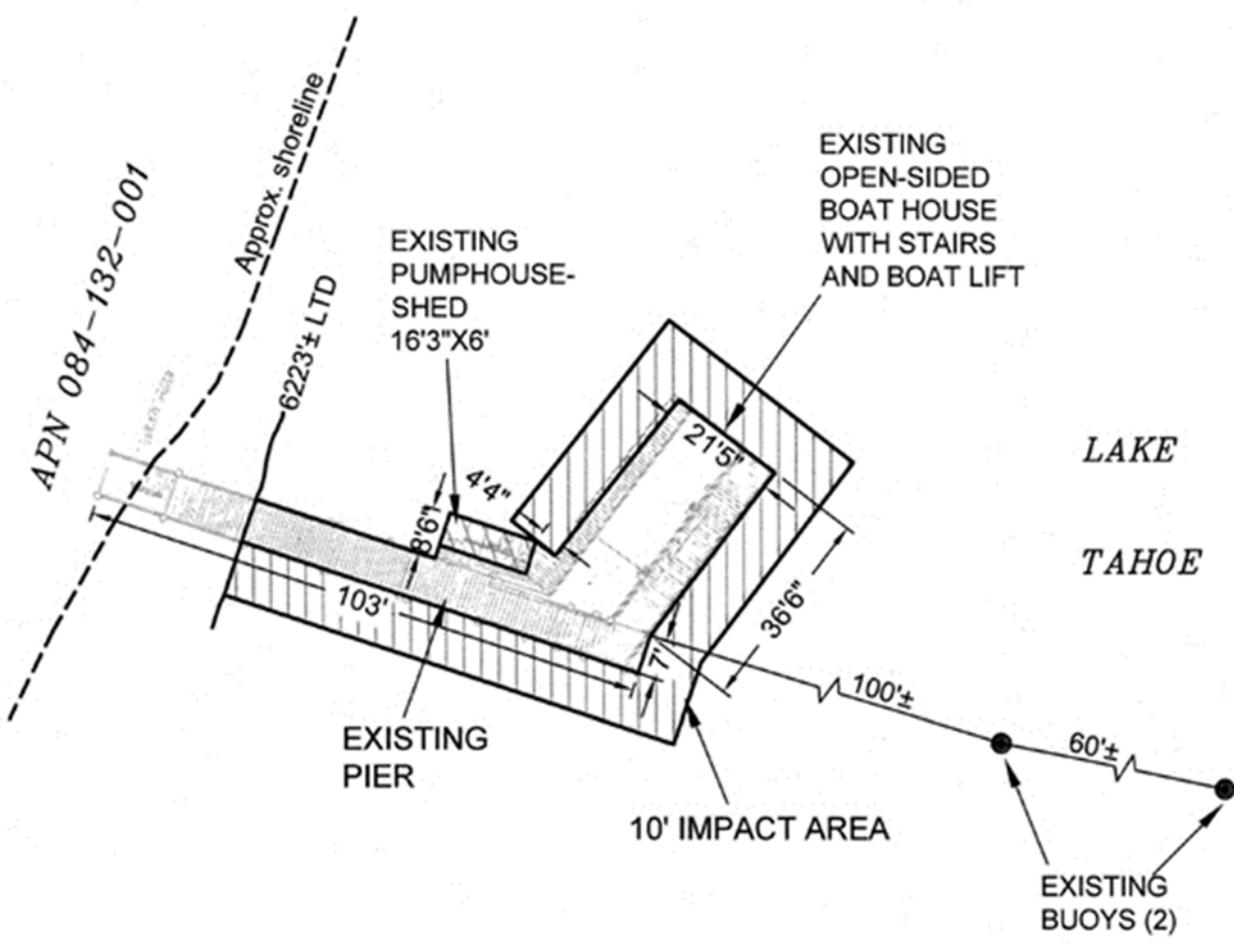


EXHIBIT A

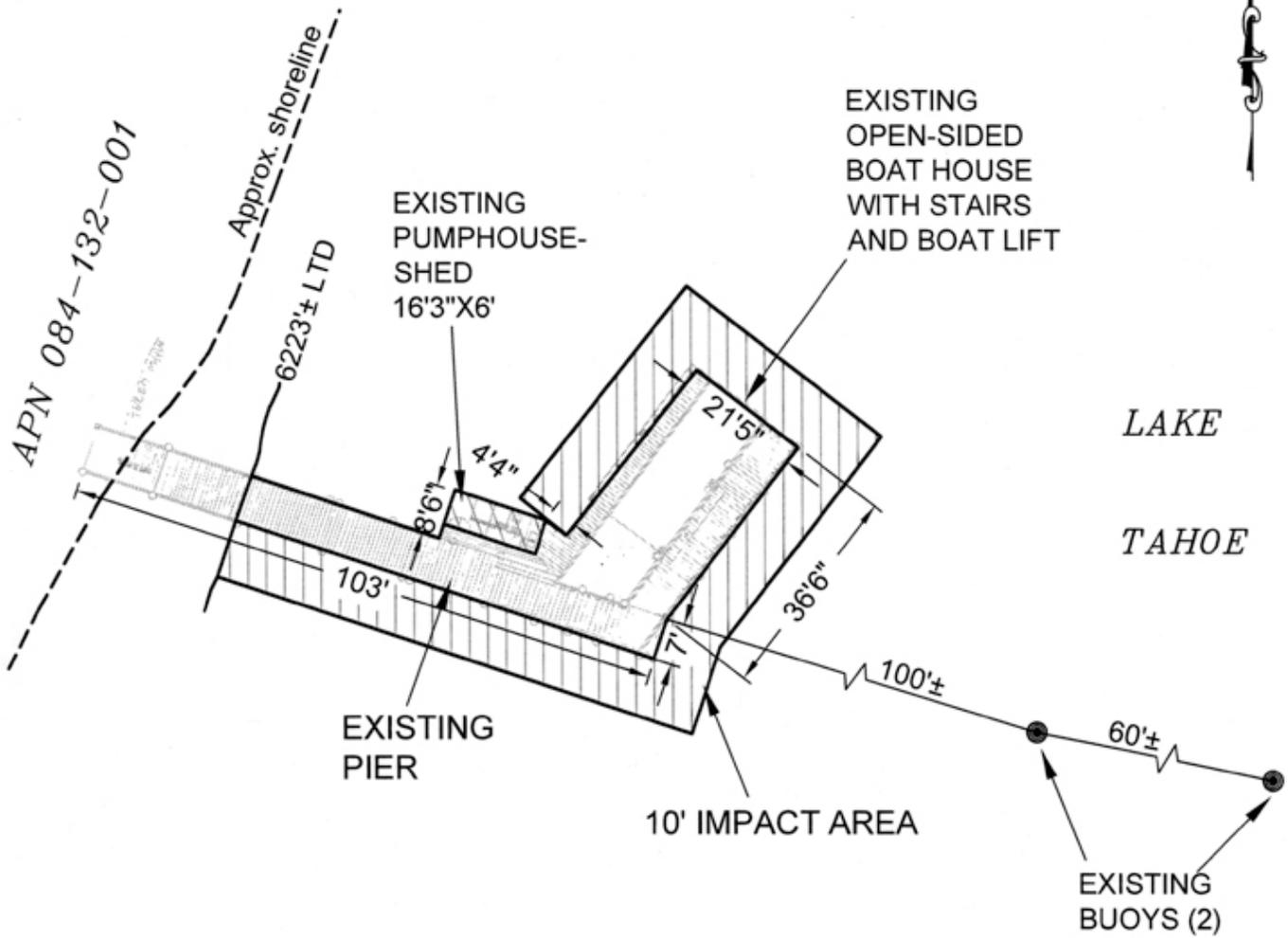
LAND DESCRIPTION PLAT
PRC 4132.1, DOLBY TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



2550 WEST LAKE BLVD., TAHOE CITY

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 4132.1
DOLBY TRUST
APN 084-132-001
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY

SITE



TS 08/17/12