

**CALENDAR ITEM
C28**

A 1
S 1

09/20/13
PRC 4128.9
W. Hall

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Paul R. Malone and Virginia M. Malone, and Harold S. Penney and Charlotte C. Penney as Trustees of the Harold S. Penney and Charlotte C. Penney Living Family Trust, Dated November 6, 2002.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2865 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning September 20, 2013.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On September 3, 1999, the Commission authorized a 10-year Recreational Pier Lease with Robert G. Malone and C. Celeste Malone, Paul R. Malone, Virginia M. Malone, Charlotte C. Penney, and Harold S. Penney for a pier and one mooring buoy. The lease expired on December 29, 2008. Ownership has since transferred to Paul R. Malone and Virginia M. Malone, and Harold S. Penney and Charlotte C. Penney as Trustees of the Harold S. Penney and Charlotte C. Penney Living Family Trust, Dated November 6, 2006. The Applicants are now applying for a new General Lease – Recreational Use.

CALENDAR ITEM NO. **C28** (CONT'D)

3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law took effect on 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 qualify for an exception and the lease is not subject to rent because the application and fees were received prior to March 31, 2011.

4. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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

CALENDAR ITEM NO. **C28** (CONT'D)

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 Paul R. Malone and Virginia M. Malone, and Harold S. Penney and Charlotte C. Penney as Trustees of the Harold S. Penney and Charlotte C. Penney Living Family Trust, Dated November 6, 2002, beginning September 20, 2013, for a term of 10 years, for the continued use and maintenance of an existing pier 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, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance with coverage of no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4128.9

LAND DESCRIPTION

Two parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 25, 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 lying adjacent to that parcel described in Grant Deed recorded January 14, 1999 as Document Number 99-0003250 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– BUOY

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Grant Deed recorded January 14, 1999 as Document Number 99-0003250 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 08/15/2013 by the California State Lands Commission Boundary Unit.



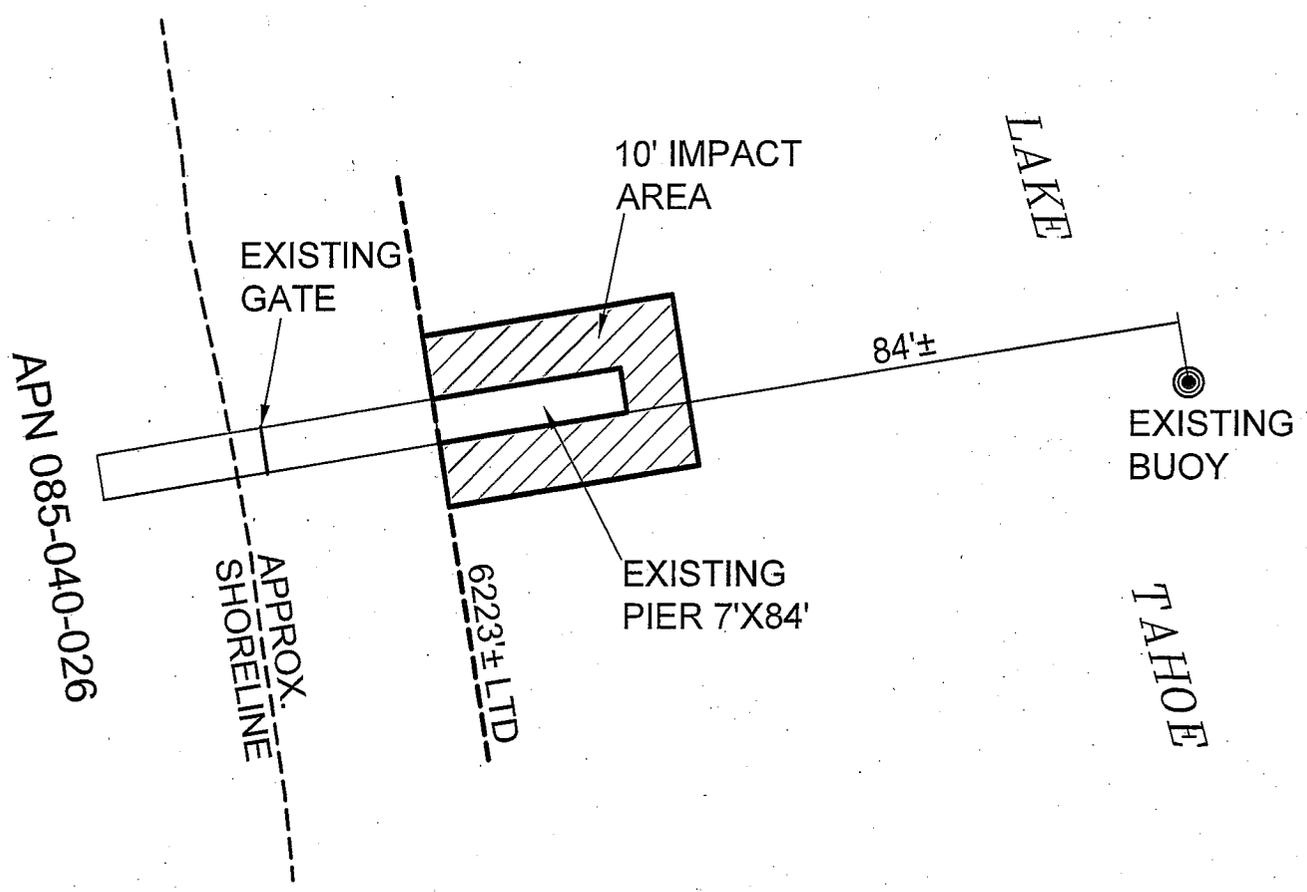


EXHIBIT A

Page 2 of 2

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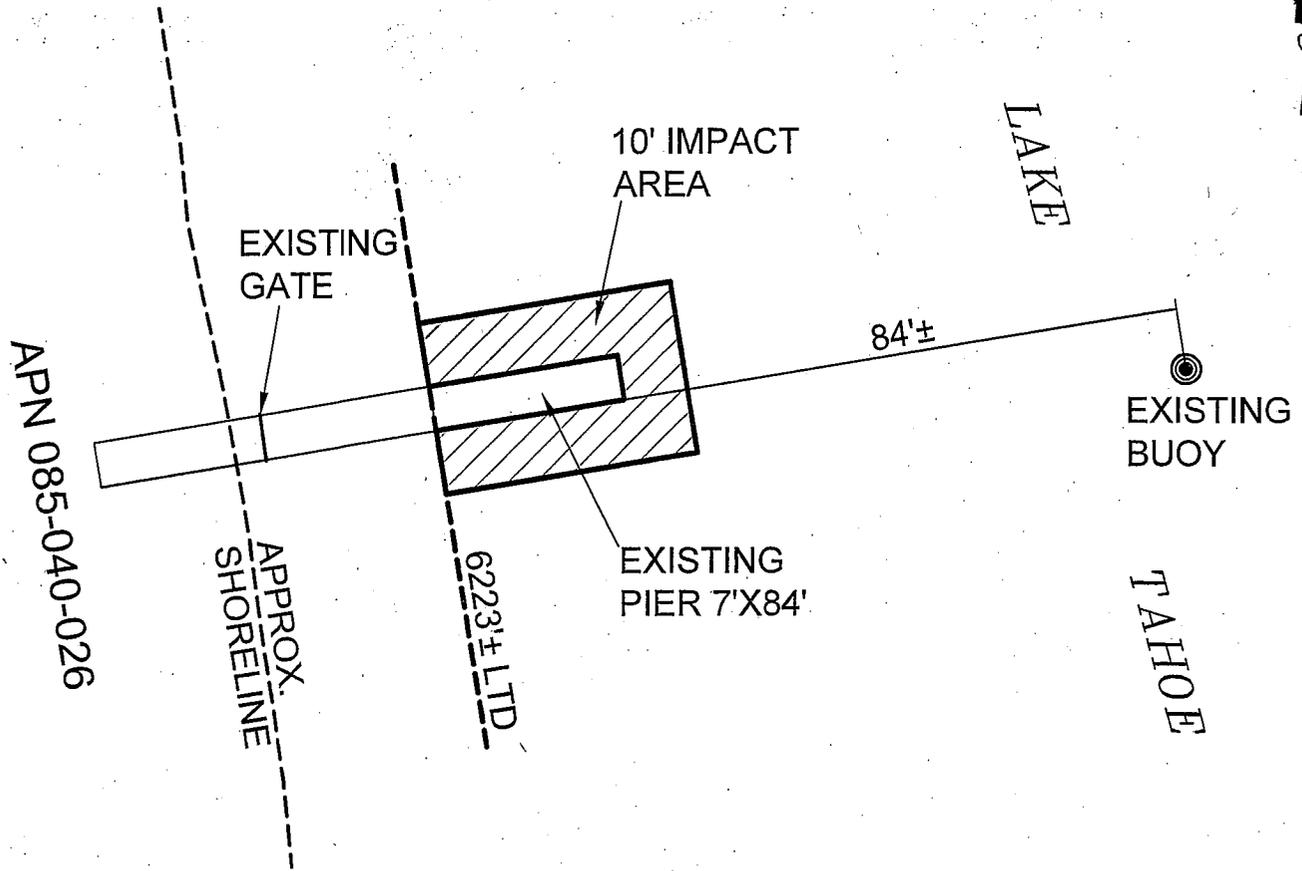
LAND DESCRIPTION PLAT
PRC 4128.9, MALONE
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

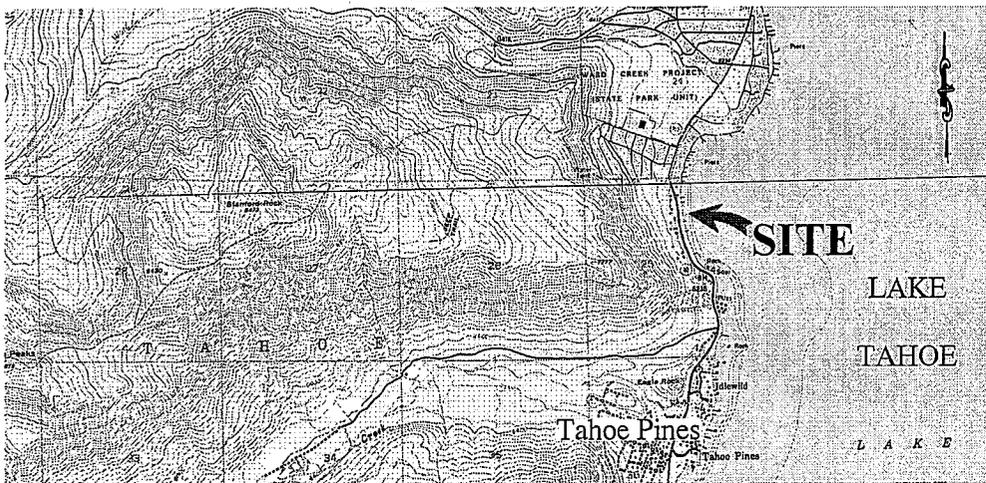
SITE



2865 WEST LAKE BOULEVARD, 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 4128.9
 MALONE
 APN 085-040-026
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY

