

**CALENDAR ITEM
C23**

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09/20/13
PRC 4859.1
M. J. Columbus

**TERMINATION OF A RECREATIONAL PIER LEASE AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEE:

The Sol and Nettie Scherman Family Limited Partnership

APPLICANTS:

Mark A. Mariani and Melody Ann Mariani, Trustees of the Mark and Melody Ann Mariani Revocable Trust UAD 1/9/97

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2820 Lake Terrace Avenue, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, covered boathouse, and two mooring buoys.

LEASE TERM:

10 years beginning June 19, 2012.

CONSIDERATION:

\$1,815 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 an amount no less than \$1,000,000 per occurrence.

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

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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 upland adjoining the lease premises.
2. On December 9, 2003, the Commission authorized a 10-year Recreational Pier Lease with The Sol and Nettie Scherman Family Limited Partnership. That lease will expire on December 19, 2013. On June 19, 2012, the upland was deeded to Mark A. Mariani and Melody Ann Mariani, Trustees of the Mark and Melody Ann Mariani Revocable Trust UAD 1/9/97. The Applicants are now applying for a General Lease – Recreational Use.
3. Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the property and facility without executing a quitclaim deed and the Lessee cannot be located.
4. **Lease Termination:**
The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

Existing Pier, Covered Boathouse, and Two Mooring Buoys:

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.

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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:

Lease Termination:

Find that the subject lease termination is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Existing Pier, Covered Boathouse, and Two Mooring Buoys:

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:

1. Authorize termination, effective June 18, 2012, of Lease No. PRC 4859.9, a Recreational Pier Lease, issued to The Sol and Nettie Scherman Family Limited Partnership.
2. Authorize issuance of a General Lease – Recreational Use to, Mark A. Mariani and Melody Ann Mariani, Trustees of the Mark and Melody Ann Mariani Revocable Trust UAD 1/9/97, beginning June 19, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier, covered boathouse, and two

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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 \$1,815 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 in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4859.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 20, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, and covered boathouse lying adjacent to that parcel as described in that Grant Deed recorded June 19, 2012 as Document 2012-0054583 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 (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared July 15, 2013 by the California State Lands Commission Boundary Unit.



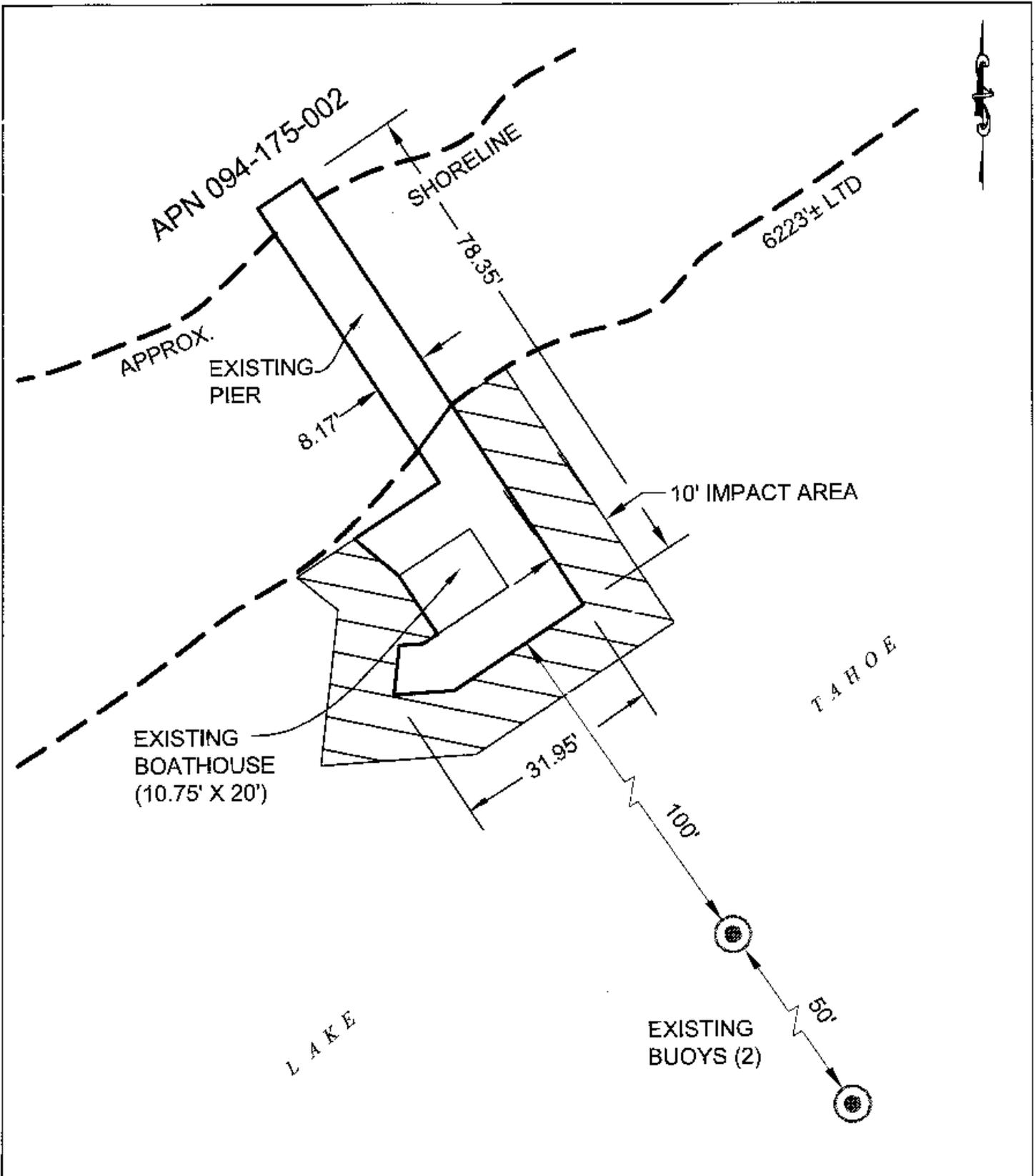


EXHIBIT A

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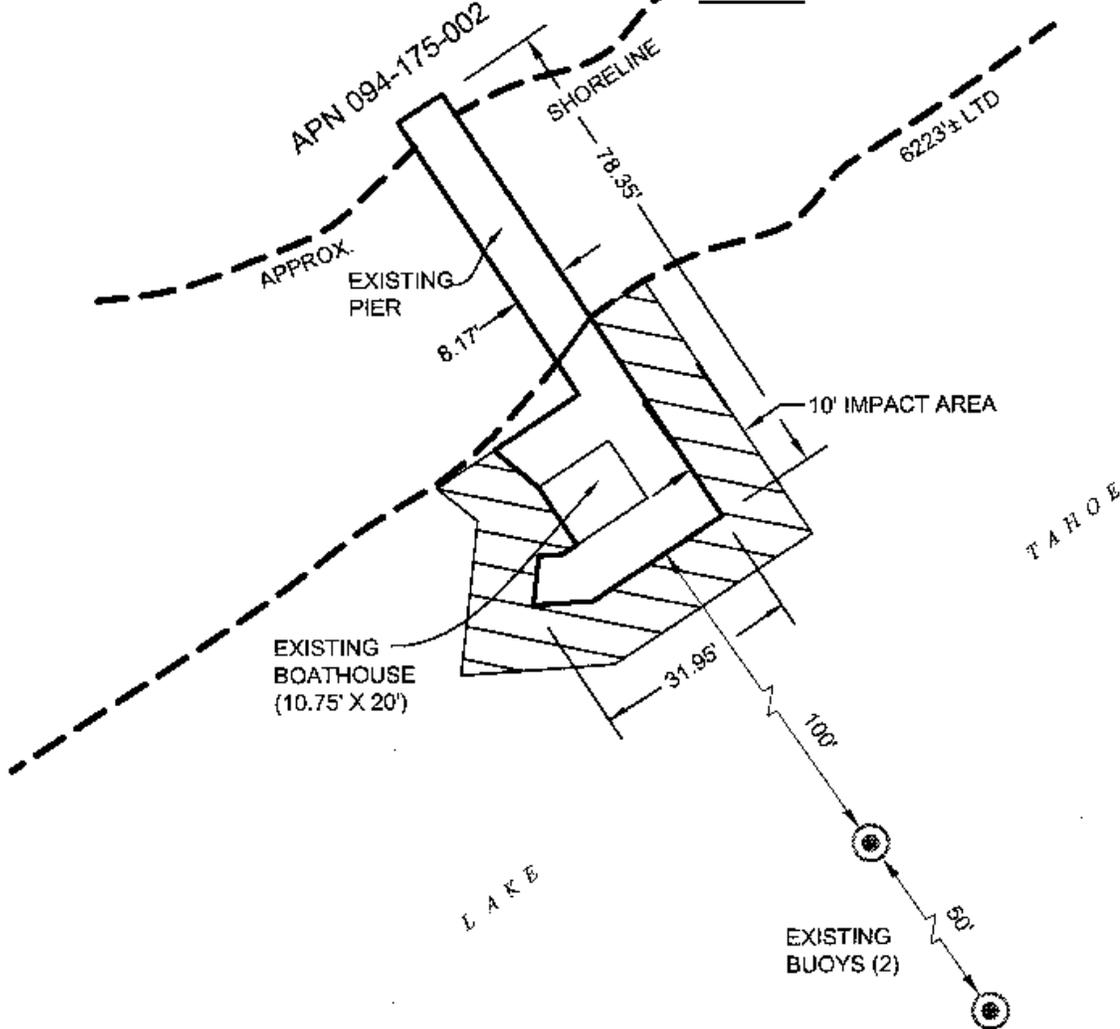
LAND DESCRIPTION PLAT
 PRC 4859.1, MARIANI
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

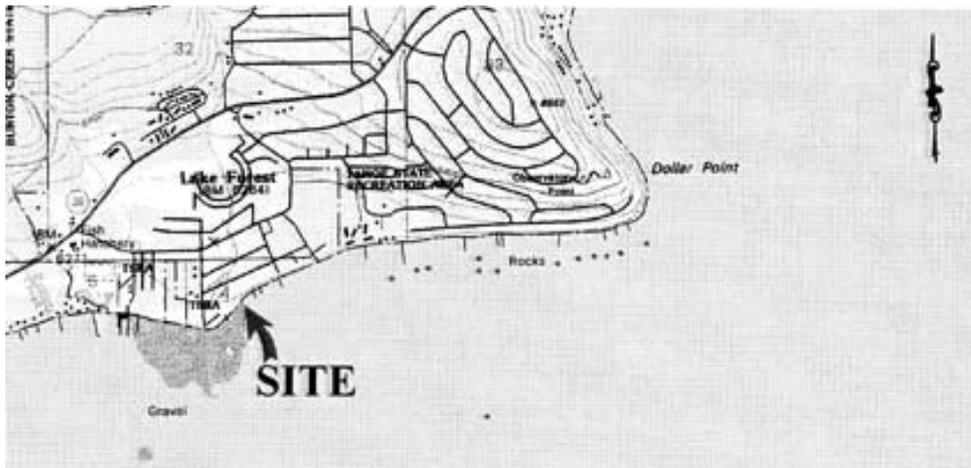
SITE



2820 LAKE TERRACE AVENUE, NEAR TAHOE CITY

NO SCALE

LOCATION

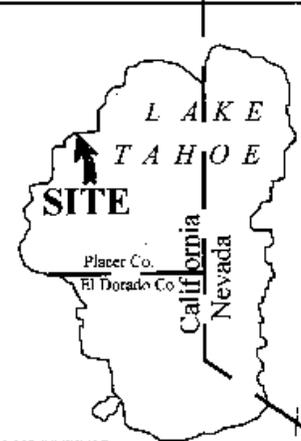


MAP SOURCE: USGS QUAD

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 4859.1
MARIANI
APN 094-175-002
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJT 09/09/13