

**CALENDAR ITEM  
C63**

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12/02/13  
PRC 8624.1  
B. Terry

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

**LESSEES:**

Frank Berlogar III and Barbara Berlogar

**APPLICANTS:**

Joseph P. Colmery and Laurie W. Colmery

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Lake Tahoe, adjacent to 632 Olympic Drive, Tahoe City, Placer County.

**AUTHORIZED USE:**

Continued use and maintenance of two existing mooring buoys.

**LEASE TERM:**

10 years, beginning December 2, 2013.

**CONSIDERATION:**

\$754 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:

1. The proposed lease contains a provision which requires 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

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2008 when TRPA adopted a FEIS and Ordinance Amendments supported by the FEIS. In September 2010, the US District Court invalidated the FEIS and nullified the ordinances. TRPA is presently evaluating its response. At such time as 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 EIS and ordinance issues.

2. Lessee expressly acknowledges and agrees that issuance of a Lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

**OTHER PERTINENT INFORMATION:**

1. Applicants own the upland adjoining the lease premises.
2. On August 8, 2005, the Commission authorized a 10-year Recreational Pier Lease with Frank Berlogar III and Barbara Berlogar. That lease will expire on August 7, 2015. On October 28, 2009, the upland parcel was deeded to Joseph P. Colmery and Laurie W. Colmery. Applicants are now applying for a General Lease – Recreational Use. Staff is recommending termination of the existing lease because the Lessees cannot be located for execution of a lease quitclaim deed.
3. **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.

4. **Issuance of Lease:** 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.

**Issuance of Lease:** Find that the activity is exempt from the requirements of the 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 December 1, 2013, of Lease No. PRC 8624.9, a Recreational Pier Lease, issued to Frank Berlogar III and Barbara Berlogar.
2. Authorize issuance of a General Lease – Recreational Use to Joseph P. Colmery and Laurie W. Colmery beginning December 2, 2013, for a term of 10 years, 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

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the amount of \$754 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 an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 8624.1**

**LAND DESCRIPTION**

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 6 of fractional Section 7, Township 15 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, more particularly described as follows:

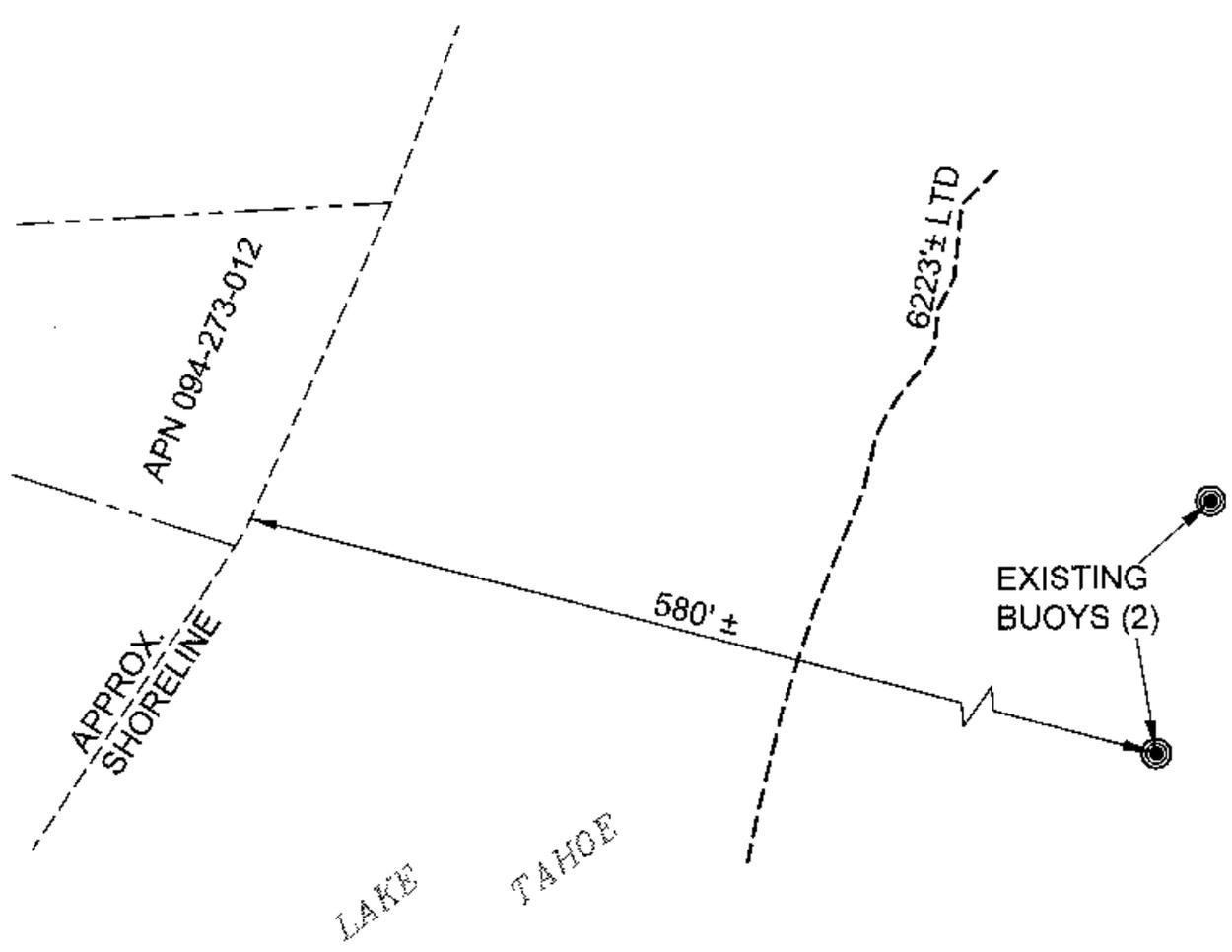
Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded October 28, 2009 as Document Number 2009-0092348-00 in Official Records of said County.

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

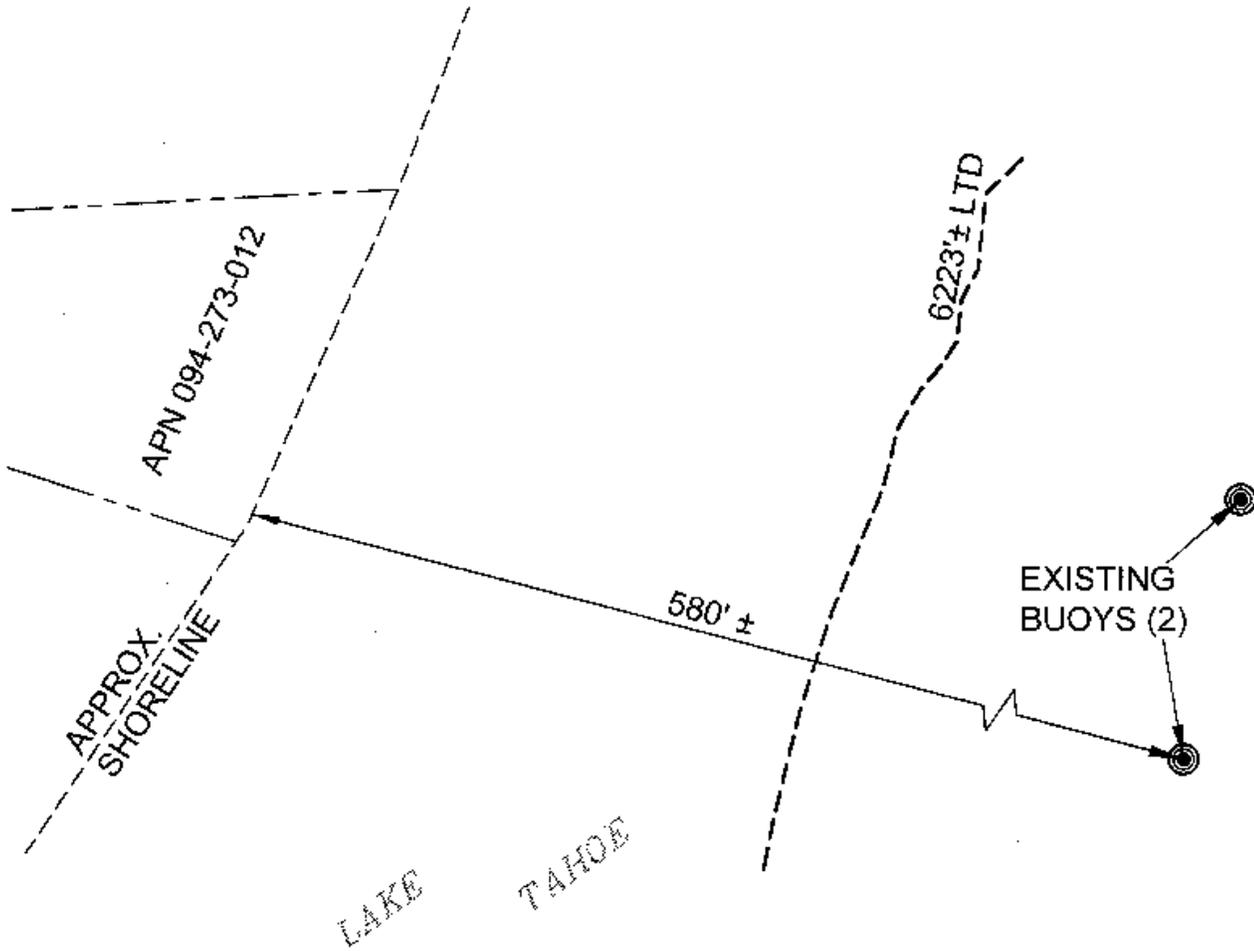
LAND DESCRIPTION PLAT  
PRC 8624.1, COLMERY  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE



632 OLYMPIC DRIVE, 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 8624.1  
COLMERY  
APN 094-273-012  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY

# **SITE**



TS 08/15/13