

**CALENDAR ITEM
C11**

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06/28/16
PRC 5556.1
N. Lee

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Dagmar Dolby, as Trustee of the Dagmar Dolby 2010 Homewood QPRT, dated October 26, 2010; and Dagmar Dolby, as Trustee of the Dagmar Dolby Trust established under the Dolby Family Trust Instrument, dated May 7, 1999

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2530 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 February 1, 2017.

CONSIDERATION:

\$800 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

If the Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoy within two years after the adoption of a Final Environmental Impact Statement for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they must remove the buoy.

Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from

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TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The subject facilities have existed for many years at this location and are used for the docking and mooring of boats. The pier is built on a flat and sandy part of the shore. The topography and upland structures provide sufficient space for both the pier and other trust activities. Construction of the pier allows the public to walk or navigate under or around the pier. The buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake.

Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust land (Pub. Resources Code, § 6503.5).

The proposed lease does not alienate the state's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the Lessee exclusive rights to the lease premises, and reserves an easement to the public for public trust consistent uses. Upon termination of the lease, the Lessee may be required to remove all improvements from state land.

The proposed lease requires the Lessee to insure the lease premises and indemnify the state for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the state for the use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with the public trust needs at this location, at this time, and for the

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foreseeable term of the proposed lease, and is in the best interests of the state.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On February 5, 2007, the Commission authorized a Recreational Pier Lease with Ray Dolby and Dagmar Dolby, as Trustees of the Dolby Family Trust dated May 7, 1999. That lease will expire on January 31, 2017. Ray Dolby is now deceased and ownership of the upland was subsequently transferred to Dagmar Dolby, as Trustee of the Dagmar Dolby 2010 Homewood QPRT, dated October 26, 2010; and Dagmar Dolby, as Trustee of the Dagmar Dolby Trust established under the Dolby Family Trust Instrument, dated May 7, 1999. The Applicant has applied for a General Lease – Recreational Lease.
3. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the state's inland and coastal waterways.
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.

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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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the public trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the state.

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 Dagmar Dolby, as Trustee of the Dagmar Dolby 2010 Homewood QPRT, dated October 26, 2010; and Dagmar Dolby, as Trustee of the Dagmar Dolby Trust established under the Dolby Family Trust Instrument, dated May 7, 1999, beginning February 1, 2017, 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 shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$800 with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000.

EXHIBIT A

PRC 5556.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 fractional Section 24, Township 15 North, Range 16 East, MDM., as shown on Official Government Township Plat approved April 11, 1884 County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk adjacent to that parcel described in that Grant Deed recorded August 15, 2000 in Document 2000-0059267 of Official Records of said County.

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

PARCEL 2 – BUOY

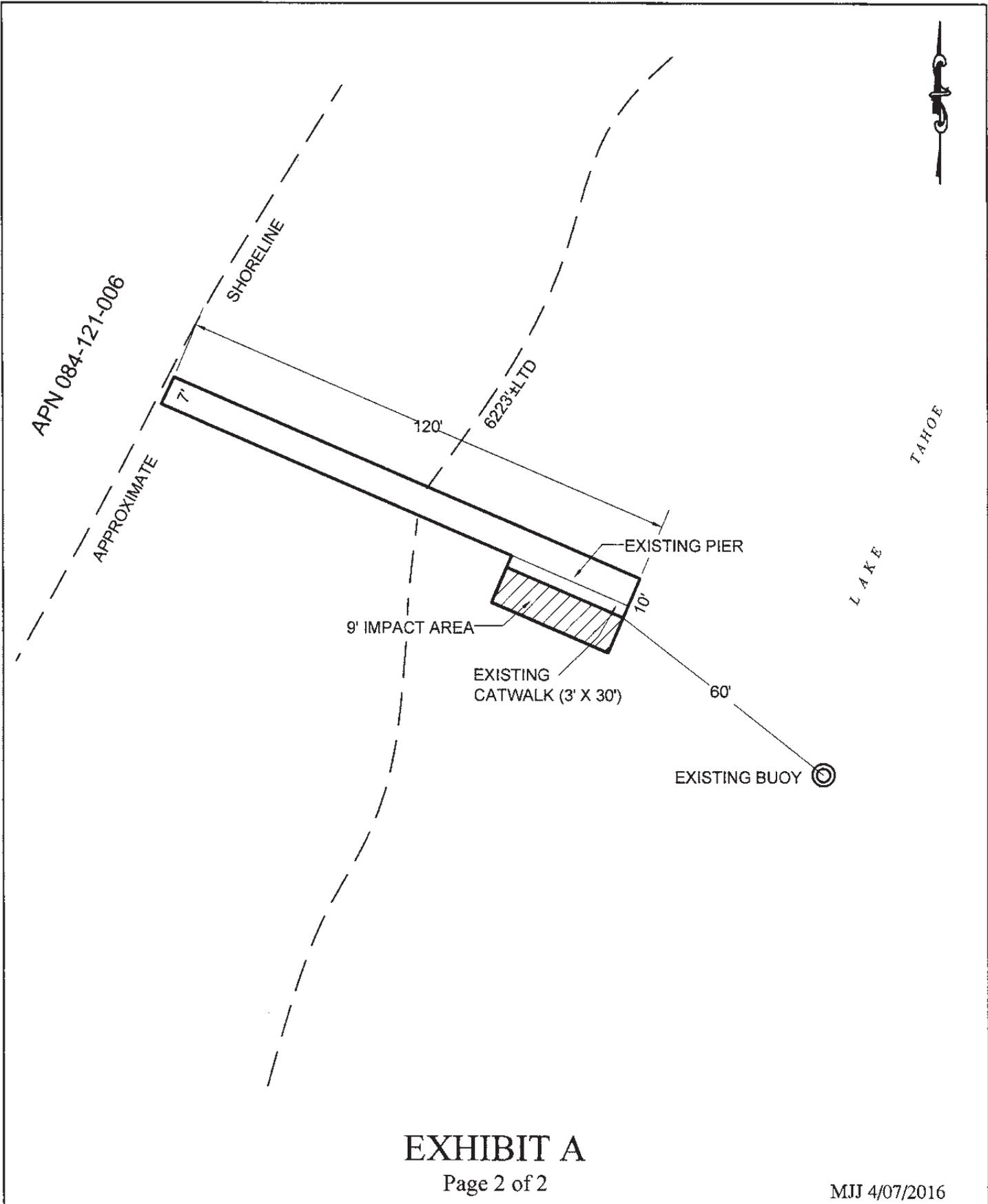
One (1) circular parcel of land, each being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to said parcel.

Accompanying plat is hereby made part of this description

END OF DESCRIPTION

Prepared April 7, 2016 by the California State Lands Commission Boundary Unit.





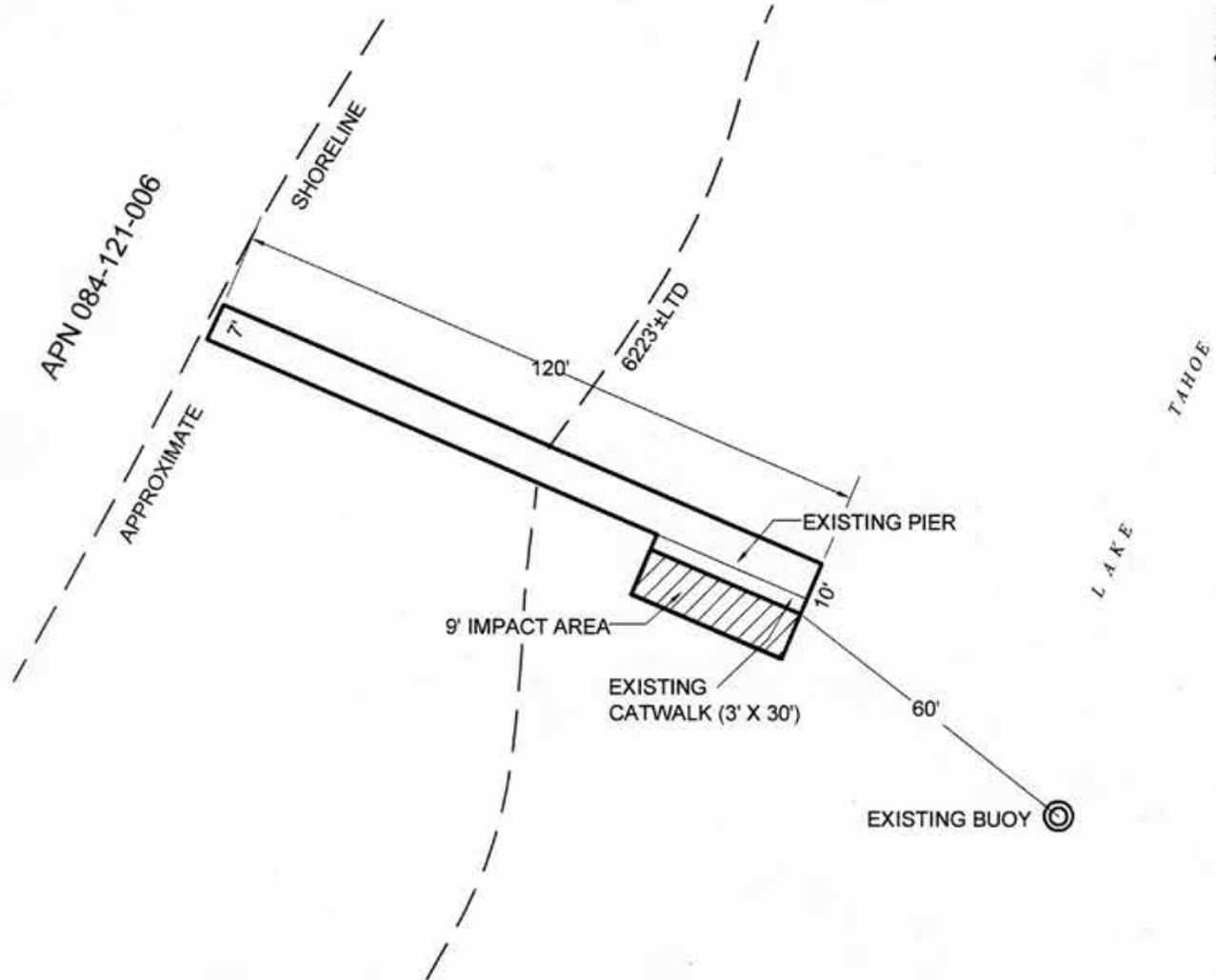
LAND DESCRIPTION PLAT
 PRC 5556.1, DOLBY
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

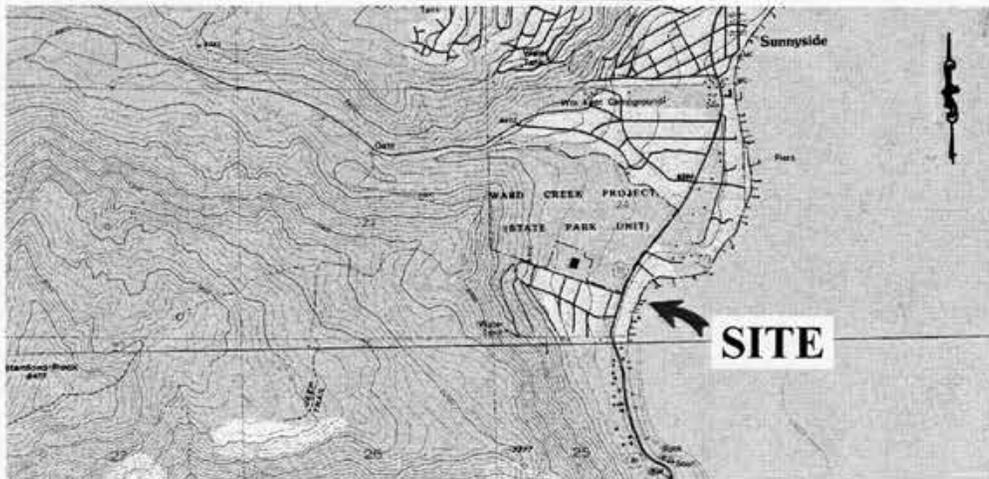
SITE



2530 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 5556.1
 DOLBY
 APN 084-121-006
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 4/08/2016