

**CALENDAR ITEM
C43**

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06/28/10
WP 5648.1
N. Lee

**TERMINATION OF A RECREATIONAL PIER LEASE AND ISSUANCE OF A NEW
GENERAL LEASE - RECREATIONAL USE**

LESSEES:

Otis Russell Johnson, III, Forrest Lowell Jones, and Daniel George Volkmann, III,
as Co-Trustees u/t/a dated 12/20/84

APPLICANT:

Brockway Property LLC

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 9820 Lake Street, near Brockway,
Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and boat hoist and the
retention of two existing mooring buoys as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning April 6, 2010.

CONSIDERATION:

\$2,851 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:

Liability insurance with coverage of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On April 5, 2004, the Commission authorized a Recreational Pier Lease with Otis Russell Johnson, III, Forrest Lowell Jones, and Daniel George Volkmann, III, as Co-Trustees u/t/a dated 12/20/84. That lease will expire September 30, 2013. On November 14, 2006, the ownership of the

CALENDAR ITEM NO. C43 (CONT'D)

uplands was deeded to Brockway Property LLC. Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of an existing pier and boat hoist and the retention of two existing mooring buoys.

3. The existing mooring buoys have not been previously authorized by the Commission. However, the Applicants obtained a Tahoe Regional Planning Agency mooring buoy permit on September 29, 2009. Staff is recommending approval of the retention of the existing mooring buoys within the lease premises.
4. Applicant does not qualify for rent-free status because the Applicant does not own the littoral property as a natural person pursuant to Public Resources Code section 6503.5.
5. Staff is recommending that the Commission consider accepting rent in the amount of \$9,329 for the period from November 14, 2006, the date ownership of the upland parcel transferred to the Applicant, through April 5, 2010, and waive any penalty and interest that may have occurred.
6. **Termination of Lease:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and State CEQA Guidelines.

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

7. **Issuance of New Lease:**
Pier and Boat Hoist: Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

Buoys: Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section

CALENDAR ITEM NO. **C43** (CONT'D)

15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(3).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

8. This activity involves land identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such land and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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

Issuance of New Lease:

Pier and Boat Hoist: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Buoys: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(3).

CALENDAR ITEM NO. **C43** (CONT'D)

SIGNIFICANT LANDS INVENTORY FINDING:

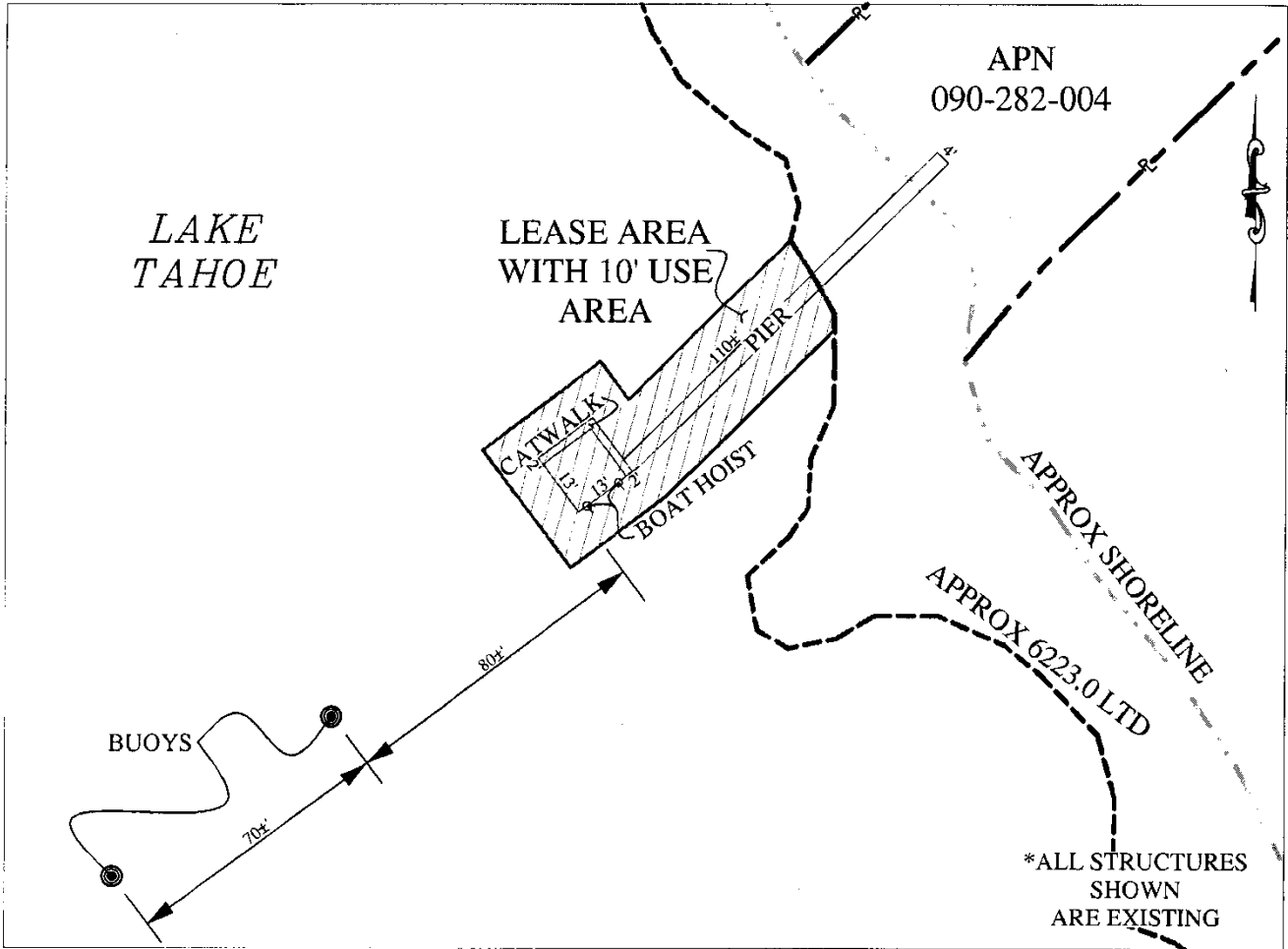
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

AUTHORIZATION:

1. Authorize termination of Lease No. PRC 5648.9, a Recreational Pier Lease, effective April 5, 2010, issued to Otis Russell Johnson, III, Forrest Lowell Jones, and Daniel George Volkmann, III, as Co-Trustees u/t/a dated 12/20/84.
2. Authorize acceptance of rent in the amount of \$9,329 for the period of November 14, 2006 through April 5, 2010, and waive any penalty and interest that may have accrued.
3. Authorize issuance of a General Lease – Recreational Use to Brockway Property LLC beginning April 6, 2010, for a term of ten years, for the continued use and maintenance of an existing pier and boat hoist and the retention of two existing mooring buoys as shown on Exhibit A attached and by this reference made a part hereof; annual rent in the amount of \$2,851 with the State reserving the right to fix a different rent periodically during the lease term; and liability insurance in the amount of \$1,000,000.

NO SCALE

SITE



9820 Lake Street, near Brockway

NO SCALE

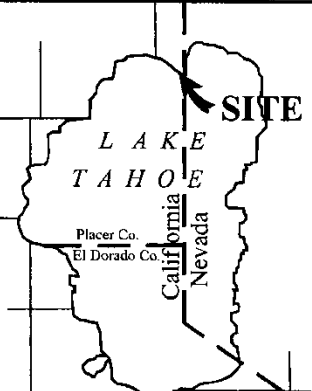
LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

PRC 5648.1
 APN 090-282-004
 BROCKWAY PROPERTY LLC
 GENERAL LEASE
 RECREATIONAL USE
 PLACER COUNTY



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.