

CALENDAR ITEM

C34

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06/23/11

WP 2289.1

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R. Barham

**RESCISSION AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

RESCINDING APPLICANT:

Susan F. Hill, Trustee of the 1996 Susan F. Hill Revocable Trust

APPLICANT:

NASUS Partnership, a California Limited Partnership

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3650 North Lake Boulevard, near Kings Beach, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing open pile pier, a rock crib pier with breakwater, and two existing seasonal floating boat docks previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission as shown on Exhibit A.

LEASE TERM:

10 years, beginning May 24, 2010.

CONSIDERATION:

\$3,491 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 the amount of no less than \$1,000,000.

Other:

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The proposed lease contains a provision requiring the Applicant to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoy within two years of 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 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 ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicant owns the land adjoining the lease premises.
2. On October 22, 2009, the Commission authorized a 10-year General Lease – Recreational Use with an effective date of October 30, 2009, with Susan F. Hill, Trustee of the 1996 Susan F. Hill Revocable Trust. That lease with an effective date of October 30, 2009, was never executed. On May 24, 2010 the upland was deeded to NASUS Partnership, a California Limited Liability Partnership. The Applicant has now applied for a General Lease – Recreational Use.
3. Staff is requesting that the authorization made by the Commission at its October 22, 2009 meeting be rescinded and recommends approval of a new lease to NASUS Partnership, a California Limited Liability Partnership.
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. The Applicant's existing mooring buoy has been in Lake Tahoe for many years but has not been previously authorized by the Commission. Staff is recommending approval of the existing mooring buoy within the lease premises.

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6. **Rescission of Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], 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 the 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 a New Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined that this activity is exempt from the requirements of the 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.

8. 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.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Rescission of Lease: Find that the activity is not subject to the requirements of CEQA pursuant to Title 14, California Code of

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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: 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).

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 rescission of a General Lease – Recreational Use, with an effective date of October 30, 2009 and issued on to Susan F. Hill, Trustee of the 1996 Susan F. Hill Revocable Trust, effective May 23, 2010.
2. Authorize issuance of a General Lease – Recreational Use to NASUS Partnership, a California Limited Liability Partnership, beginning May 24, 2010, for a term of 10 years, for the continued use and maintenance of an existing open pile pier, rock crib pier with breakwater, and two seasonal floating boat docks previously authorized by Commission, and one existing mooring buoy not previously authorized by the Commission as shown on Exhibit A attached and by this reference made a part hereof; annual rent in the amount of \$3,491, 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.

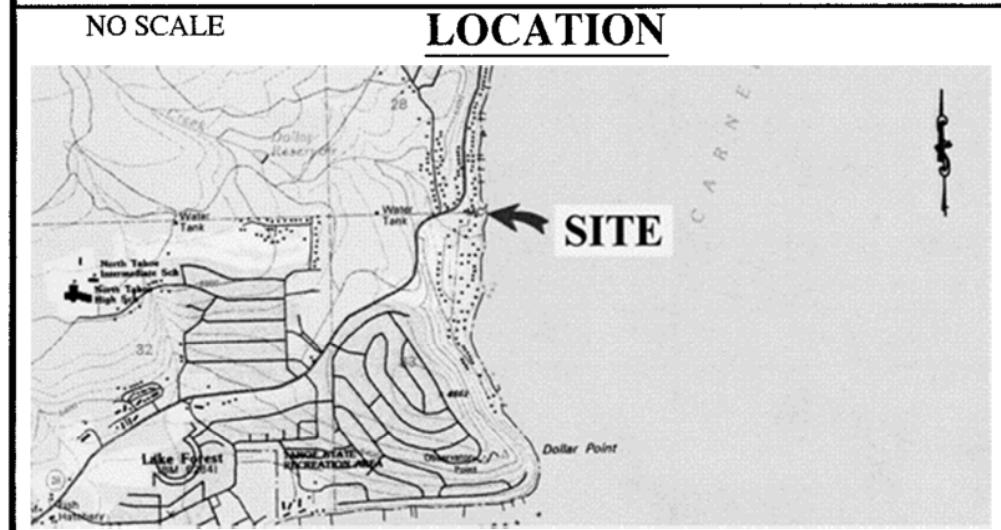
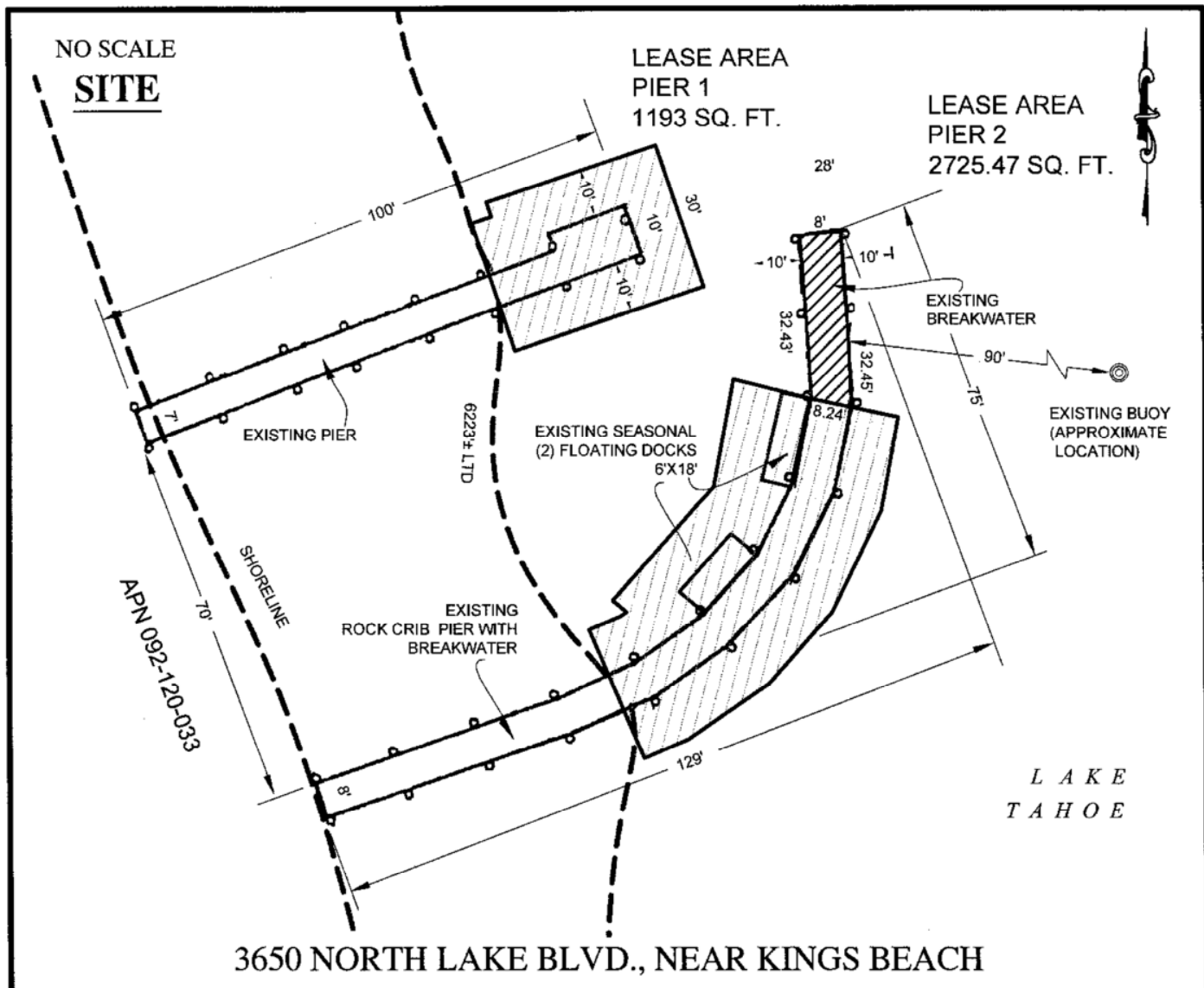
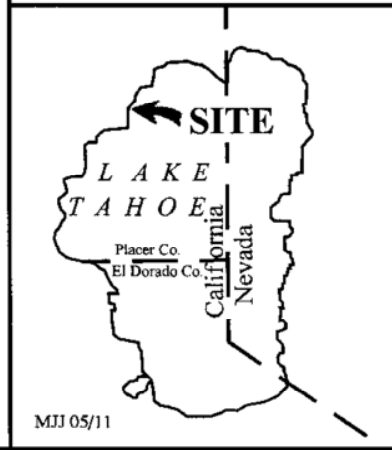


Exhibit A
 PRC 2289.1
 NASUS PARTNERSHIP
 APN 092-120-033
 GENERAL LEASE
 RECREATIONAL USE
 PLACER COUNTY



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.