

**CALENDAR ITEM
C01**

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06/21/13
PRC 3545.1
G. Asimakopoulos

TERMINATION AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE

LESSEES:

Mark R. Freeman and Julie Bannon-Freeman, Trustees of the Freeman Family Trust, U.D.T., dated May 10, 2004

APPLICANT:

David Putnam, Trustee of the Martin and Anne Putnam 2010 Irrevocable Trust dated December 10, 2010

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5240 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring buoys previously authorized by the Commission, and use and maintenance of two existing freshwater intake pipelines not previously authorized by the Commission.

LEASE TERM:

10 years, beginning October 25, 2012.

CONSIDERATION:

\$2,430 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided for 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 requiring the Applicant 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.

2. The lease contains a provision acknowledging that two existing freshwater intake pipelines are located from the upland to below the low water mark of Lake Tahoe and that, if they become unserviceable or in disrepair at any time during the lease term, the Applicant shall submit a work plan to the Lessor for removal of the pipelines.
3. The lease contains a provision that the Lessee acknowledges that a portion of an existing raised sundeck and foundation exists within the State-administered Public Trust easement between the locations of the ordinary high water mark and the low water mark of Lake Tahoe as those locations existed prior to the installation of the existing structure. Lessee agrees not to block or otherwise prohibit the public from passing and re-passing across the Public Trust easement to access adjacent property subject to the Public Trust easement.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On December 10, 2010, the Commission approved a 10-year General Lease - Recreational Use, with Mark R. Freeman and Julie Bannon-Freeman, Trustees of the Freeman Family Trust, U.D.T., dated May 10, 2004. That lease will expire on September 7, 2020. On October 25, 2012, the upland was deeded to David Putnam, Trustee of the Martin and Anne Putnam 2010 Irrevocable Trust dated December 10, 2010. The Applicant is now applying for a new 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 and by sale of the upland property have abandoned the lease.
3. The two existing freshwater intake pipelines have been in Lake Tahoe for many years but were not previously authorized by the Commission. One pipeline is operational, the other is abandoned. Staff recommends bringing the pipelines under lease.

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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.

5. **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.

6. 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 CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing

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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 October 24, 2012, of Lease No. PRC 3545.1, a General Lease - Recreational Use, issued to Mark R. Freeman and Julie Bannon-Freeman, Trustees of the Freeman Family Trust, U.D.T., dated May 10, 2004.

2. Authorize issuance of a General Lease – Recreational Use to David Putnam, Trustee of the Martin and Anne Putnam 2010 Irrevocable Trust dated December 10, 2010, beginning October 25, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier and two mooring buoys previously authorized by the Commission, and use and maintenance of two existing freshwater intake pipelines not previously authorized by the Commission, 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 \$2,430, with the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3545.1

LAND DESCRIPTION

Five parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 22, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, ramp and catwalk lying adjacent to those parcels described in Grant Deed recorded October 25, 2012 as Document Number 2012-0100486-00 in Official Records of said County.

TOGETHER WITH a ten foot impact area.

PARCEL 2 & 3 – Freshwater Intake Pipelines

Two strips of land of varying length and width underlying two existing freshwater intake pipelines lying adjacent to those parcels described in Grant Deed recorded October 25, 2012 as Document Number 2012-0100486-00 in Official Records of said County.

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

PARCELS 4 & 5 – BUOYS

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded October 25, 2012 as Document Number 2012-0100486-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/21/2013 by the California
State Lands Commission Boundary Unit.



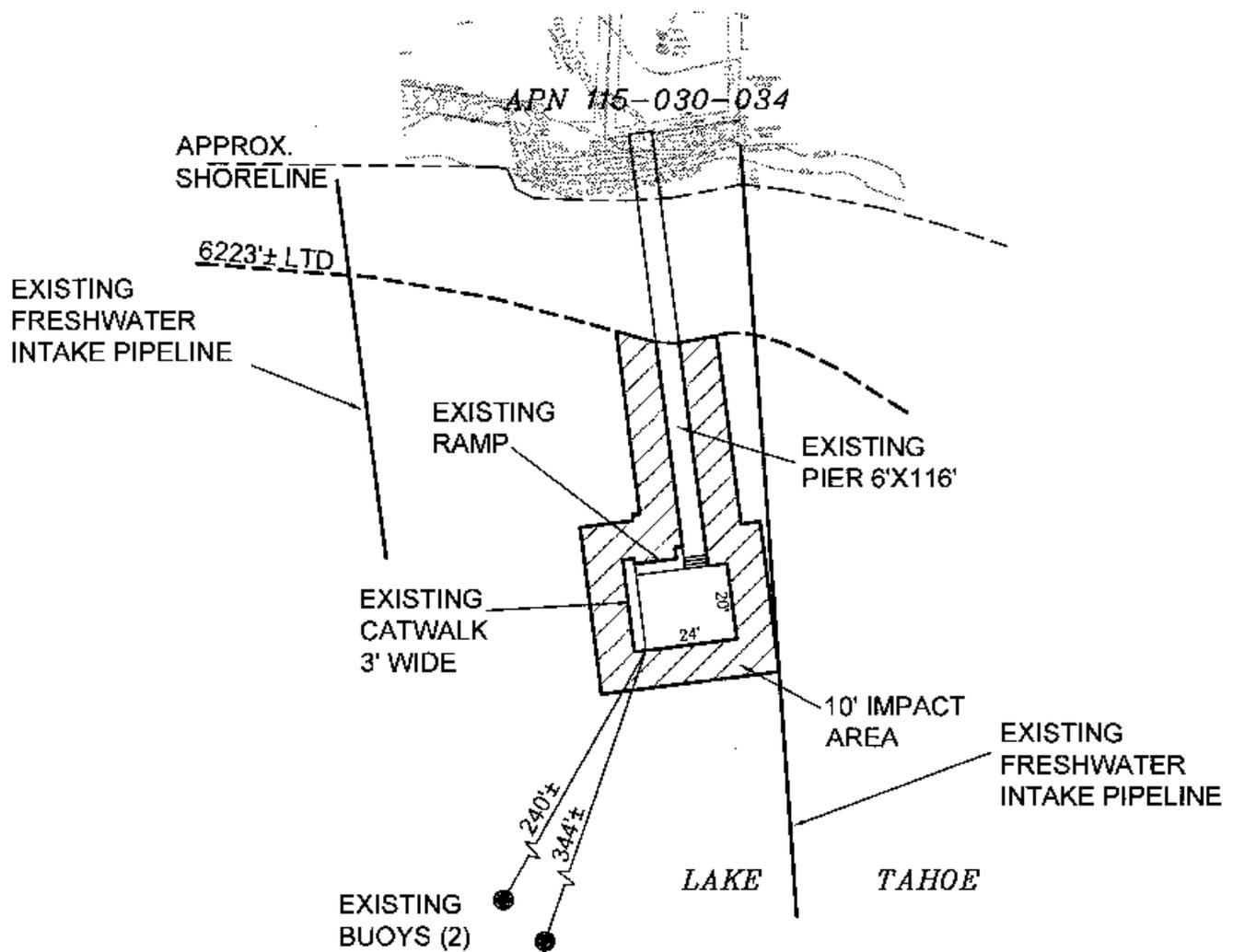
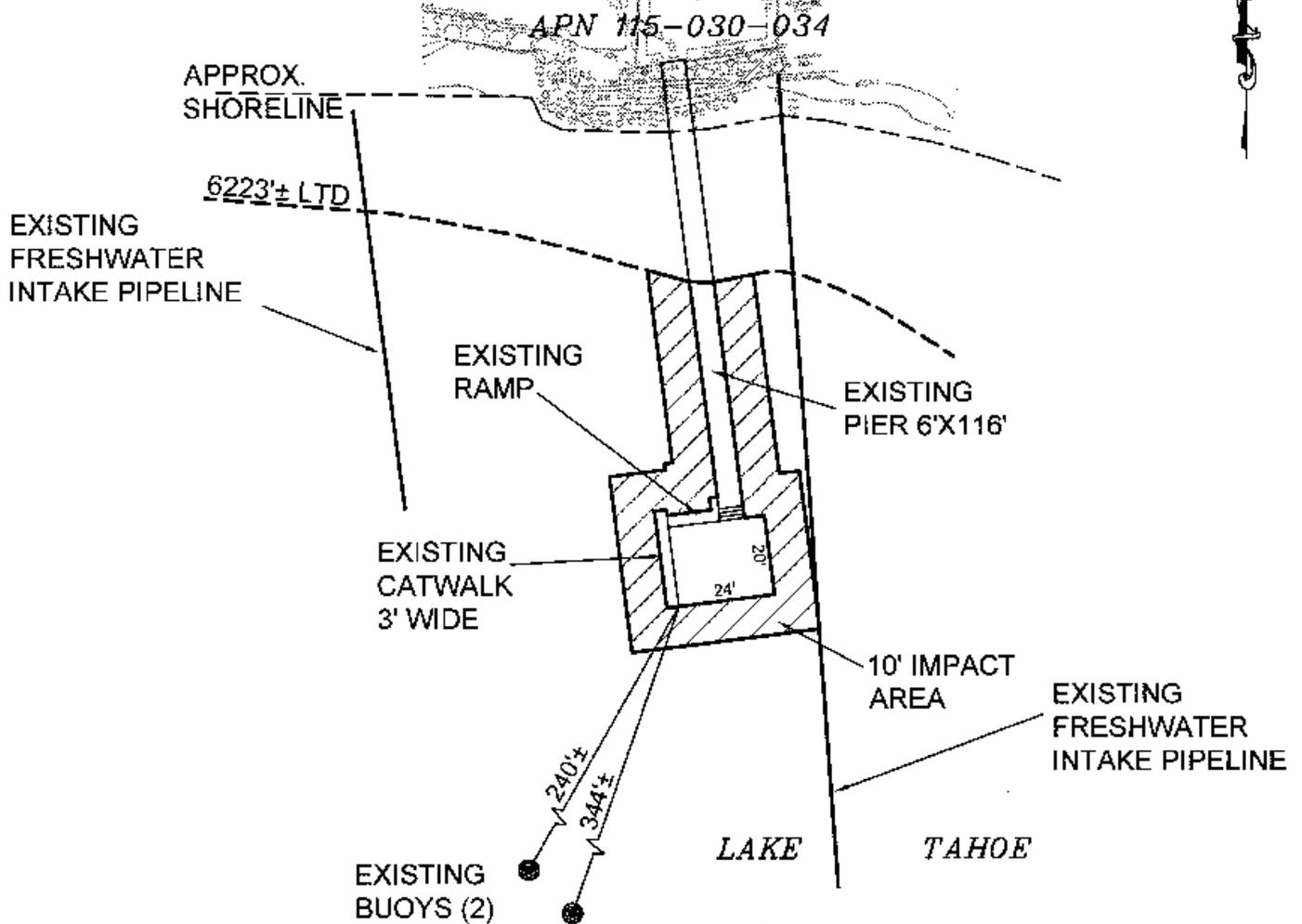


EXHIBIT A



NO SCALE

SITE



5240 NORTH LAKE BLVD., CARNELIAN BAY

NO SCALE

LOCATION



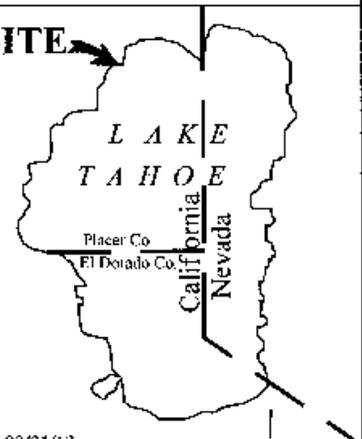
MAP SOURCE: USGS QUAD

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 3545.1
 PUTNAM 2010
 IRREVOCABLE TRUST
 APN 115-030-034
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY

SITE



TS 03/21/13