

**CALENDAR ITEM**

**C33**

A 5

09/20/13

PRC 5623.1

S 1

N. Lee

**GENERAL LEASE - RECREATIONAL USE**

**APPLICANT:**

Kristina Lessing Homer, as Trustee of the Michael James Homer QTIP Trust No. 2 UTD December 6, 1999, as amended

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

Sovereign land in Lake Tahoe, adjacent to 8833 Rubicon Drive, Rubicon Bay, El Dorado County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing pier, boathouse, and two mooring buoys previously authorized by the Commission; and use and maintenance of an existing boat lift not previously authorized by the Commission.

**LEASE TERM:**

10 years, beginning May 15, 2013.

**CONSIDERATION:**

\$2,406 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:

The proposed lease contains a provision requiring the Applicant 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 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

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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.

**OTHER PERTINENT INFORMATION:**

1. Applicant owns the upland adjoining the lease premises.
2. On June 7, 2004, the Commission authorized a Recreational Pier Lease with Michael J. Homer and Kristina L. Homer, Trustees of the Homer Family Living Trust U/T/D dated December 6, 1999. That lease expired on January 31, 2012.
3. At the time the prior lease was issued, the Homers indicated they were the owners of the upland. Staff was not made aware that ownership of the upland had transferred to Rubicon Bay LLC on September 11, 2001. On May 15, 2013, ownership of the upland was transferred from Rubicon Bay LLC to Kristina Lessing Homer, as Trustee of the Michael James Homer QTIP Trust No. 2 UTD December 6, 1999, as amended. Applicant is now applying for a General Lease – Recreational Use.
4. Rubicon Bay LLC did not qualify for rent-free status pursuant to the original definition of Public Resources Code section 6503.5 in effect at the time it obtained ownership of the upland. Staff recommends that the Commission accept rent for the period beginning May 15, 2008 through May 14, 2013. Total amount due for this period is \$11,861.
5. The existing boat lift has been in Lake Tahoe for many years but was not previously authorized by the Commission. Staff recommends bringing the Applicant's existing boat lift under lease.
6. 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.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et

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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:**

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).

**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 acceptance of rent in the amount of \$11,861 for the period of May 15, 2008 through May 14, 2013.
2. Authorize issuance of a General Lease – Recreational Use to Kristina Lessing Homer, as Trustee of the Michael James Homer QTIP Trust No. 2 UTD December 6, 1999, as amended, beginning May 15, 2013, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse, and two mooring buoys previously authorized by the Commission and use and maintenance of an existing boat lift 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 \$2,406, 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 5623.1**

**LAND DESCRIPTION**

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 33, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, and more particularly described as follows:

**PARCEL 1 - PIER**

All those lands underlying an existing pier, boathouse, one (1) boat lift and two (2) catwalks adjacent to those Parcels as described in Exhibit A of that Grant Deed recorded May 15, 2013 as Document Number 2013-0024606 in Official Records of said County.

TOGETHER WITH a ten foot impact area.

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

**PARCEL 2 & 3 - BUOYS**

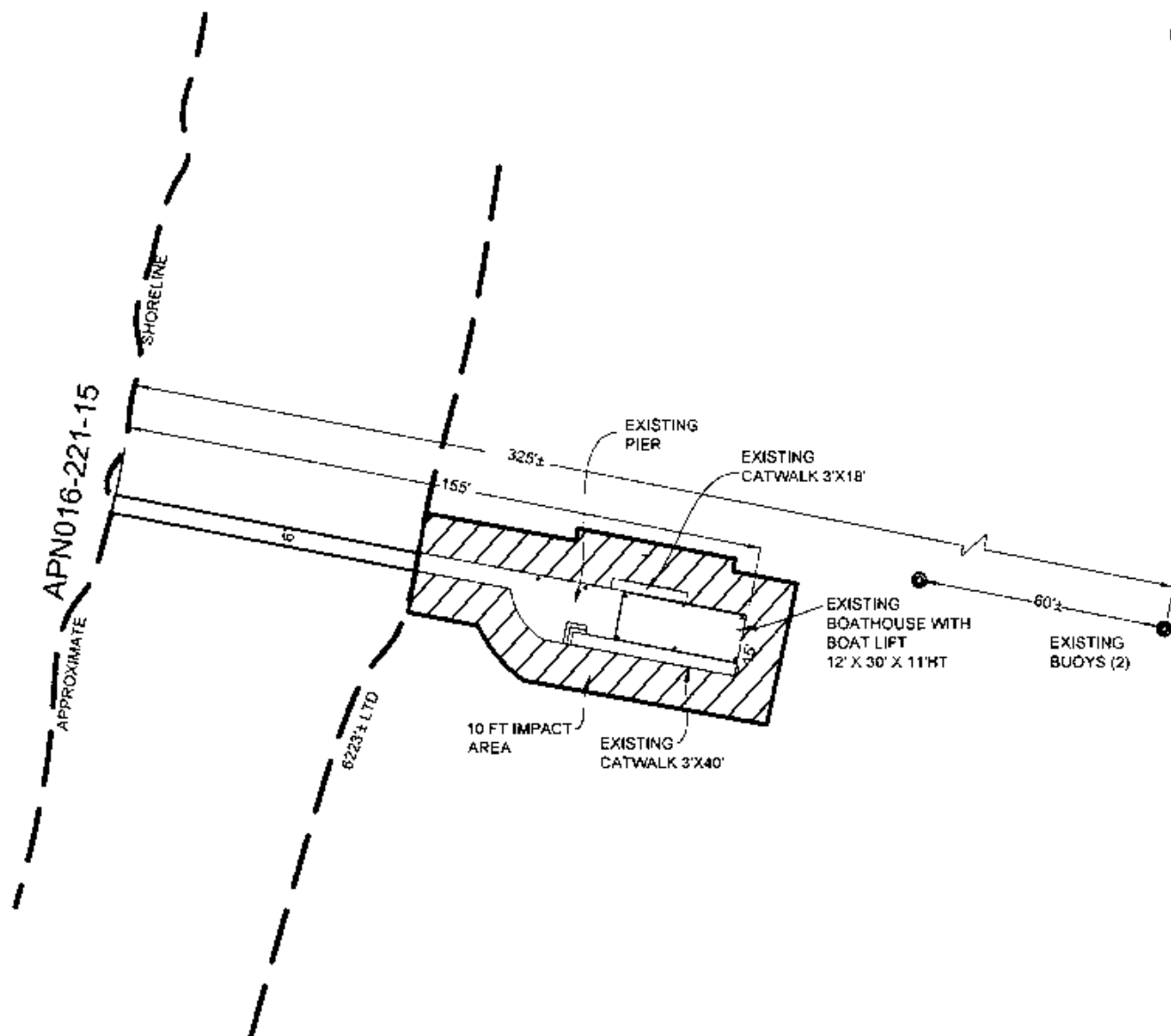
Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said Parcels.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared August 22, 2013 by the California State Lands Commission Boundary Unit.





## EXHIBIT A

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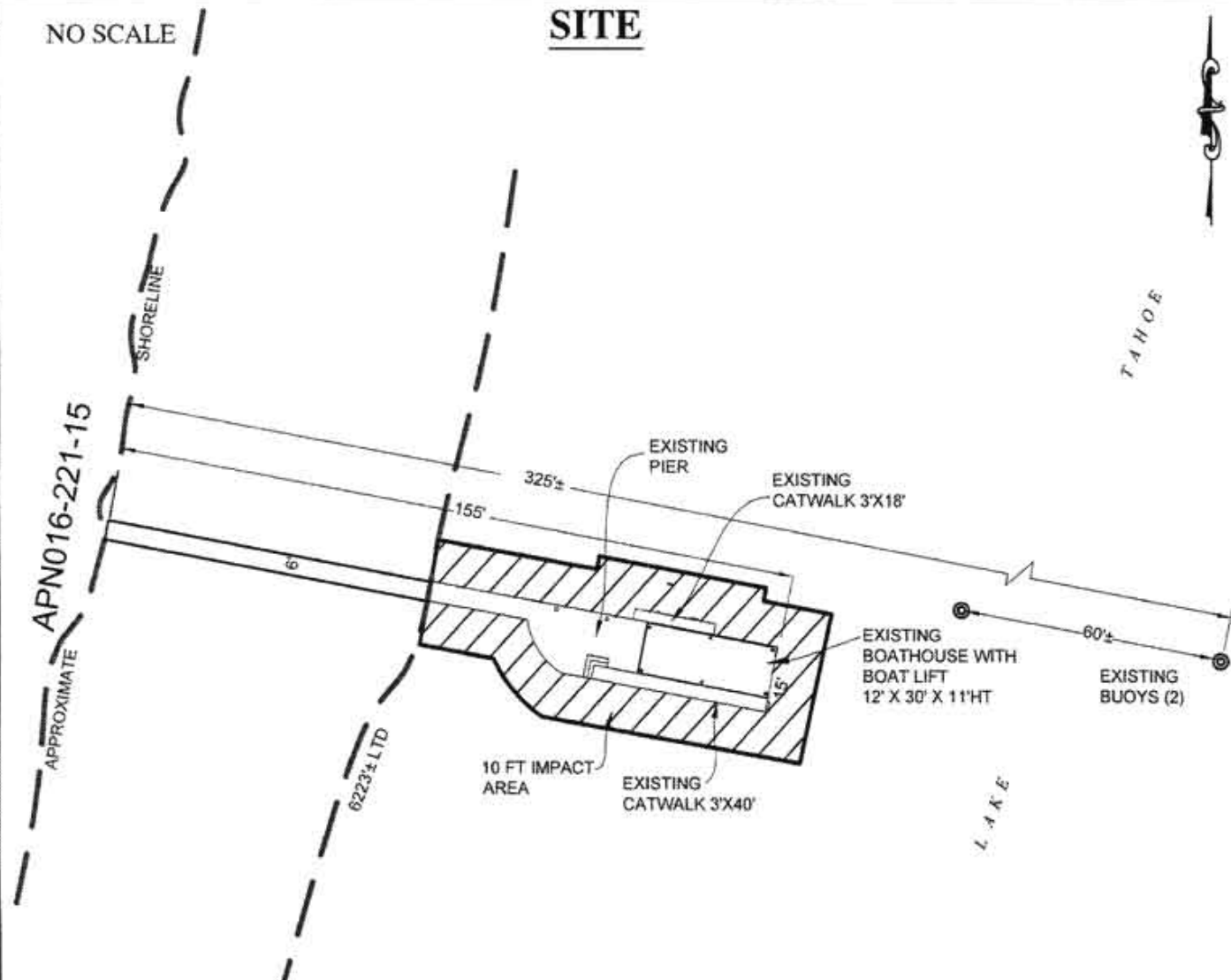
LAND DESCRIPTION PLAT  
PRC 5623.1, HOMER TRUST  
EL DORADO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

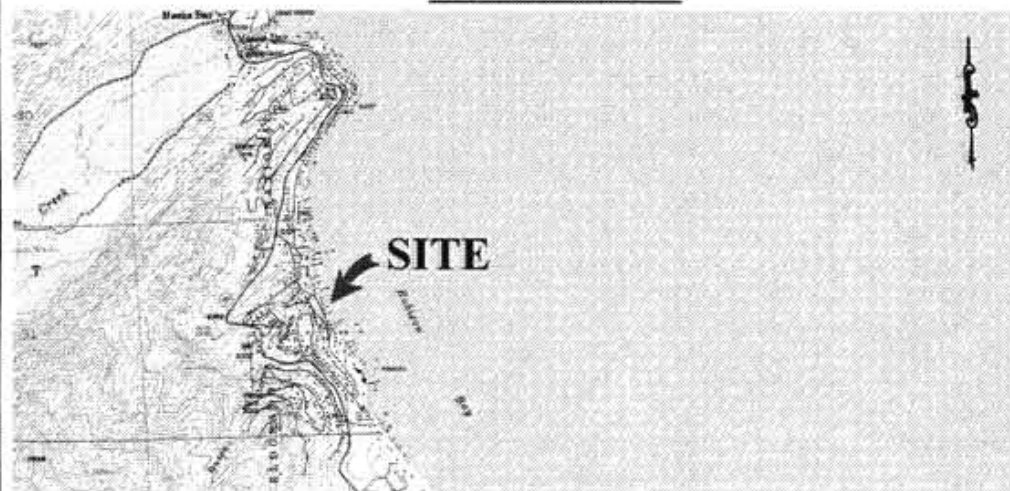
## SITE



8833 RUBICON DRIVE, RUBICON 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 5623.1  
HOMER TRUST  
APN 016-221-15  
GENERAL LEASE -  
RECREATIONAL USE  
EL DORADO COUNTY

