

**CALENDAR ITEM
C32**

A 1
S 1

12/02/13
PRC 7107.1
W. Hall

TERMINATION AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE

LESSEE:

Ernest E. Pestana and Irene Pestana

APPLICANTS:

Irene Pestana and Michael J. Kelly, Jr., Co-Trustees of the Survivor's Trust established under the Pestana 1986 Family Trust Agreement dated May 15, 1986, as amended.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5570, 5588 and 5590 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, two boathouses, one boat hoist, one boat lift and two sundecks with stairs.

LEASE TERM:

10 years, beginning December 2, 2013.

CONSIDERATION:

\$2,385 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 in an amount of no less than \$1,000,000 per occurrence.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On April 17, 2006, the Commission approved a General Lease - Recreational Use with Ernest E. Pestana and Irene Pestana. That lease will expire on August 20, 2015.

CALENDAR ITEM NO. **C32** (CONT'D)

3. On May 10, 2011, the upland was deeded to Irene Pestana and Michael J. Kelly, Jr., Co-Trustees of the Survivor's Trust established under the Pestana 1986 Family Trust Agreement dated May 15, 1986, as amended. The Applicants are now applying for a new General Lease – Recreational Use. Staff recommends termination of the existing lease and issuance of a new lease to the Applicants.

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

CALENDAR ITEM NO. **C32** (CONT'D)

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 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 December 1, 2013, of Lease No. PRC 7107.1, a General Lease - Recreational Use, issued to Ernest E. Pestana and Irene Pestana.
2. Authorize issuance of a General Lease – Recreational Use to Irene Pestana and Michael J. Kelly, Jr., Co-Trustees of the Survivor's Trust established under the Pestana 1986 Family Trust Agreement dated May 15, 1986, as amended beginning December 2, 2013, for a term of 10 years, for the continued use and maintenance of an existing pier, two boathouses, one boat hoist, one boat lift and two sundecks with stairs, 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 \$2,385, 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 7107.1

LAND DESCRIPTION

One (1) parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 15, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, two (2) boathouses, one (1) boat hoist, one (1) boat lift, two (2) sundecks with stairs lying adjacent to Parcel Two as described in Exhibit "A" of that Grant Deed recorded May 10, 2011 as Document Number 2011-0036396-00 in Official Records of said County.

TOGETHER WITH a ten (10) foot use area.

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared June 11, 2012 by the California State Lands Commission Boundary Unit.



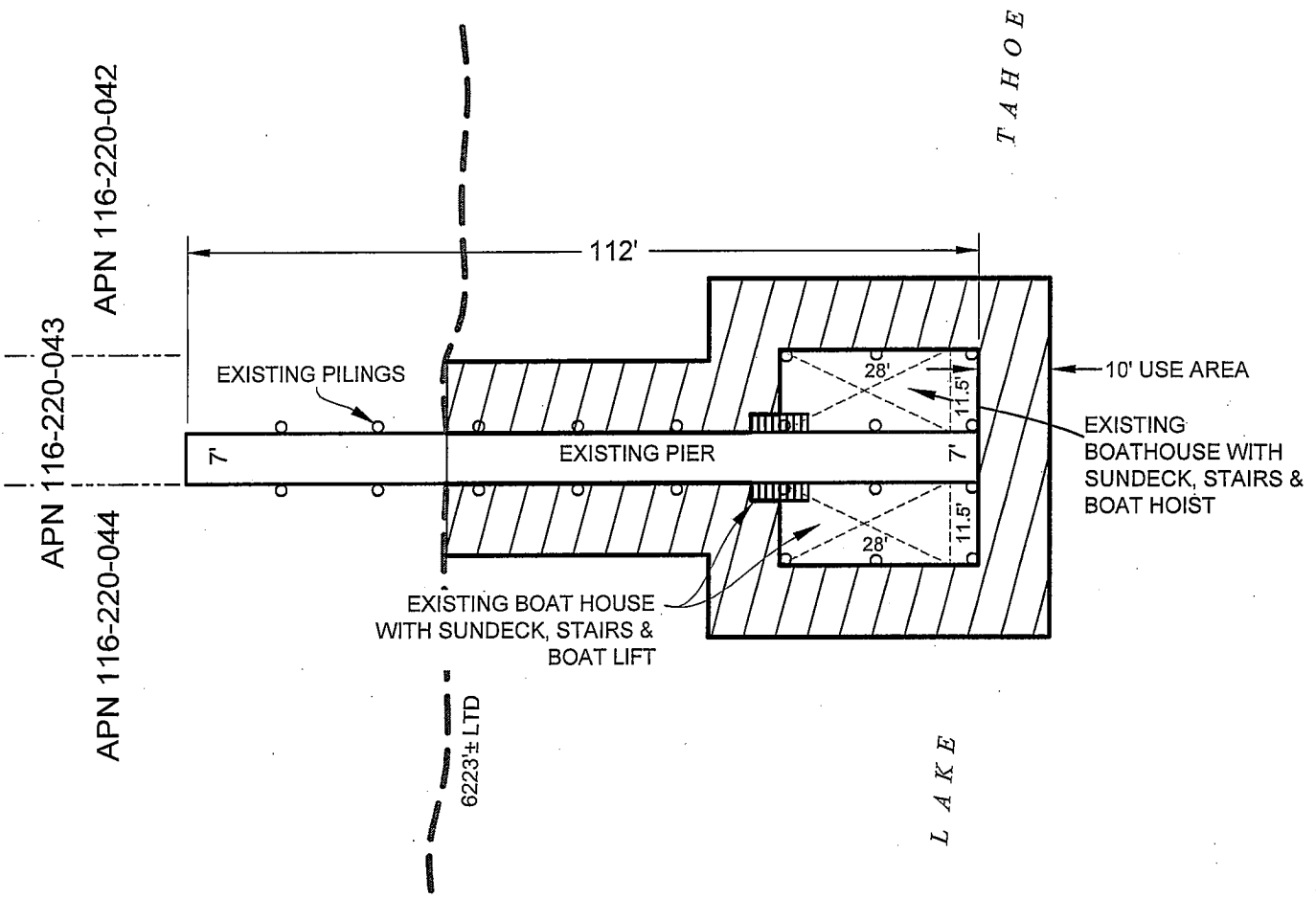


EXHIBIT A

Page 2 of 2

MJJ 10/14/13

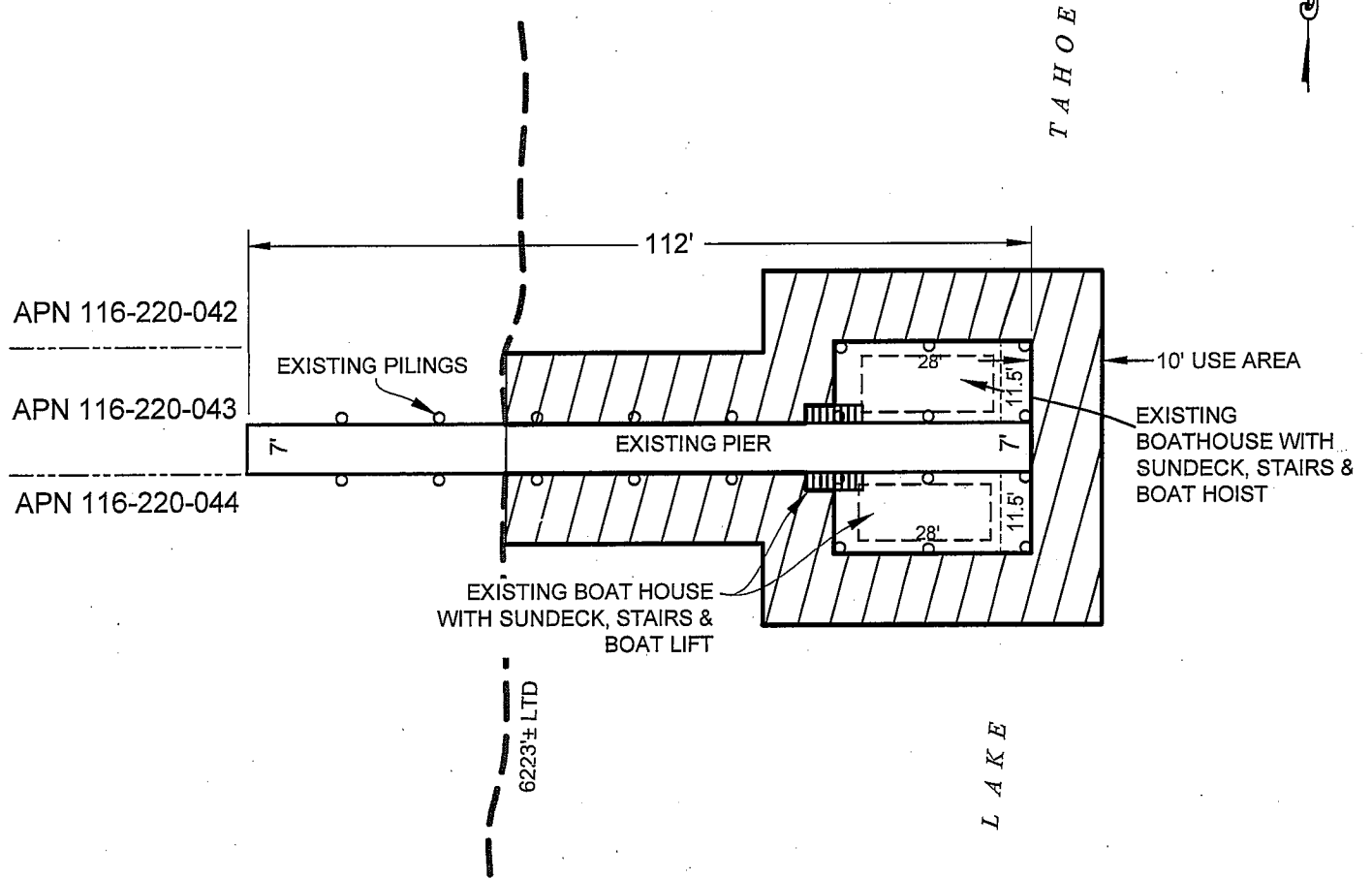
LAND DESCRIPTION PLAT
PRC 7107.1, PESTANA
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

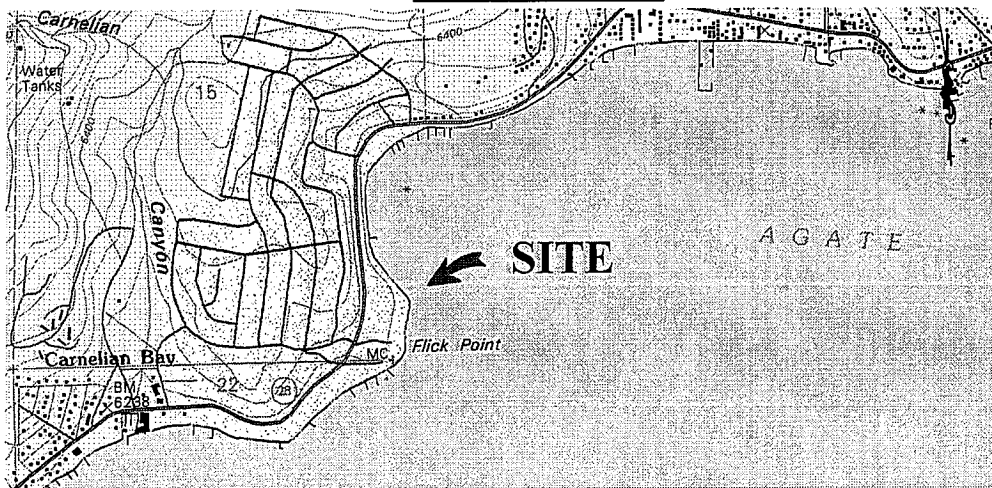
SITE



5588 NORTH LAKE BLVD., NEAR AGATE BAY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

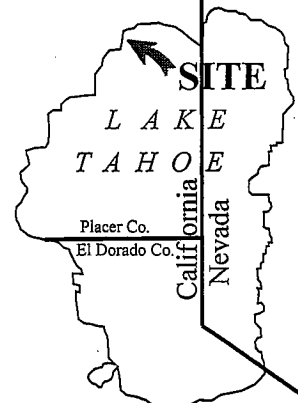
Exhibit B

PRC 7107.1

PESTANA

APN 116-220-043

GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJJ 10/13/13

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.