

**CALENDAR ITEM
C02**

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04/09/09
WP 4314.9
N. Lee

TERMINATION AND ISSUANCE OF A RECREATIONAL PIER LEASE

LESSEES/APPLICANTS:

Alan D. Harley and JoAnn W. Harley, Trustees of the Alan D. Harley and JoAnn W. Harley Trust, initially created April 12, 1995; and Marilyn Belk Wallis and Edward James Wallis, Co-Trustees of the 1996 Jamee Gray Wallis Trust; Marilyn Belk Wallis and Edward James Wallis, Co-Trustees of the 1996 Charlotte Pierce Wallis Trust; and Edward James Wallis, Trustee of the Edward James Wallis Trust dated September 26, 1989

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 2490 West Lake Boulevard, near Sunnyside, Placer County.

AUTHORIZED USE:

Removal of an existing pier, boat house and boat hoist; construction of a new joint-use pier and two boat lifts; and continued use and maintenance of two existing mooring buoys as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning April 9, 2009.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$1,000,000.

Other:

1. The proposed project is located in an area identified as Tahoe Yellow Cress (TYC) habitat. The TYC is an endangered plant species statutorily protected by the California Endangered Species Act. TYC was found during the site-specific survey performed during the 2008 growing season. Should the demolition,

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construction or continuation of construction on the site extend into a subsequent growing season after June 14, 2009, the Lessee is required to contact staff of the Commission to determine if the site should be re-surveyed (survey to be conducted between June 15-September 30, 2009) for the presence of TYC.

2. The lease provides that the public will be allowed to pass and re-pass around the landward end of the pier to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 Lake Tahoe datum.

OTHER PERTINENT INFORMATION:

1. Lessees/Applicants own the upland properties adjoining the lease premises.
2. On November 27, 2000, the Commission authorized a Recreational Pier Lease with Alan D. Harley and JoAnn W. Harley, Trustees of the Alan D. Harley and JoAnn W. Harley Trust initially created April 12, 1995; and Marilyn Belk Wallis and Edward James Wallis, Co-Trustees of the 1996 Jamee Gray Wallis Trust; Marilyn Belk Wallis and Edward James Wallis, Co-Trustees of the 1996 Charlotte Pierce Wallis Trust; and Edward James Wallis, Trustee of the Edward James Wallis Trust dated September 26, 1989. That lease will expire on November 30, 2010. Rather than amend the current lease, the Lessees have agreed to terminate the lease and have applied for a new Recreational Pier Lease for the removal of an existing single use pier, boat house and boat hoist; the construction of a new joint-use pier and two boat lifts; and continued use and maintenance of two existing mooring buoys.
3. In 2006, the upland property, Assessor Parcel Number (APN) 084-121-003, owned by the Lessees/Applicants was divided into two separate parcels, APNs 084-121-012 and 084-121-013. At the same time, ownership of APN 084-121-012 was deeded to the Harley Family and APN 084-121-013 was deeded to the Wallis Family. The existing pier, boat house and boat hoist is adjacent to APN 084-121-012. Lessees/Applicants are proposing to remove the pier, boat house and boat hoist and construct a new 205-foot pier with two boat lifts adjacent to the shared boundary line between the two parcels. Removal and construction staging and access will occur solely by amphibious vehicle or barge.

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4. Lessees/Applicants qualify for a rent-free Recreational Pier Lease because they are natural persons who own the littoral lands that are improved with single-family dwellings.
5. The Tahoe Yellow Cress (TYC) is listed under the provisions of the California Endangered Species Act as an endangered plant species subject to special protection. On October 1, 2002, the Commission authorized the Executive Officer to sign a Memorandum of Understanding to implement the "Conservation Strategy For Tahoe Yellow Cress (*Rorippa subumbellata*) in conjunction with the Tahoe Regional Planning Agency, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Nevada Division of Forestry, the Nevada Division of State Lands, the Nevada Division of State Parks, the Nevada Natural Heritage Program, the California Department of Fish and Game, the California Department of Parks and Recreation, the California Tahoe Conservancy, the Tahoe Lakefront Owners' Association and the League To Save Lake Tahoe. The proposed project is located in suitable TYC habitat. The project site was surveyed/evaluated by a Commission biologist on July 8, 2008. The site does support TYC. A site-specific management plan to protect and enhance existing plants and habitat has been prepared, submitted by the Applicant, approved by staff, and incorporated into the project description. Special provisions have been incorporated into the lease for the protection of TYC.
6. **Termination of an Existing Lease:** Pursuant to the Commission's delegation of authority and the 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 the CEQA because it is not a "project" as defined by the 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:**
Mooring Buoys: Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the 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).

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

Construction of Pier with Boat Lifts: Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the 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 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(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 sections 6370, et seq. 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.

APPROVALS OBTAINED:

Removal and Construction of Pier with Boat Lifts:
California Department of Fish and Game
Lahontan Regional Water Quality Control Board
Tahoe Regional Planning Agency
U.S. Army Corps of Engineers

Buoys:
Tahoe Regional Planning Agency

EXHIBITS:

- A. Site and Location Map
- B. TYC Site-Specific Management Plan

PERMIT STREAMLINING ACT DEADLINE:

June 8, 2009

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

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CEQA FINDING:

TERMINATION OF AN EXISTING LEASE: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE 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 A NEW LEASE:

MOORING BUOYS: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE 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).

CONSTRUCTION OF PIER WITH BOAT LIFTS: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE 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)(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 SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE TERMINATION, EFFECTIVE APRIL 9, 2009, OF LEASE NO. PRC 4314.9, A RECREATIONAL PIER LEASE, ISSUED TO ALAN D. HARLEY AND JOANN W. HARLEY, TRUSTEES OF THE ALAN D. HARLEY AND JOANN W. HARLEY TRUST INITIALLY CREATED APRIL 12, 1995; AND MARILYN BELK WALLIS AND EDWARD JAMES WALLIS, CO-TRUSTEES OF THE 1996 JAMEE GRAY WALLIS TRUST; MARILYN BELK WALLIS AND EDWARD JAMES WALLIS, CO-TRUSTEES OF THE 1996 CHARLOTTE PIERCE WALLIS TRUST; AND EDWARD JAMES WALLIS, TRUSTEE OF THE EDWARD JAMES WALLIS TRUST DATED SEPTEMBER 26, 1989.

CALENDAR ITEM NO. **C02** (CONT'D)

AUTHORIZE ISSUANCE OF A TEN-YEAR RECREATIONAL PIER LEASE TO ALAN D. HARLEY AND JOANN W. HARLEY, TRUSTEES OF THE ALAN D. HARLEY AND JOANN W. HARLEY TRUST INITIALLY CREATED APRIL 12, 1995; AND MARILYN BELK WALLIS AND EDWARD JAMES WALLIS, CO-TRUSTEES OF THE 1996 JAMEE GRAY WALLIS TRUST; MARILYN BELK WALLIS AND EDWARD JAMES WALLIS, CO-TRUSTEES OF THE 1996 CHARLOTTE PIERCE WALLIS TRUST; AND EDWARD JAMES WALLIS, TRUSTEE OF THE EDWARD JAMES WALLIS TRUST DATED SEPTEMBER 26, 1989, BEGINNING APRIL 9, 2009, FOR THE REMOVAL OF AN EXISTING PIER, BOAT HOUSE AND BOAT HOIST, THE CONSTRUCTION OF A NEW JOINT-USE PIER AND TWO BOAT LIFTS, AND THE CONTINUED USE AND MAINTENANCE OF TWO EXISTING MOORING BUOYS AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$1,000,000.

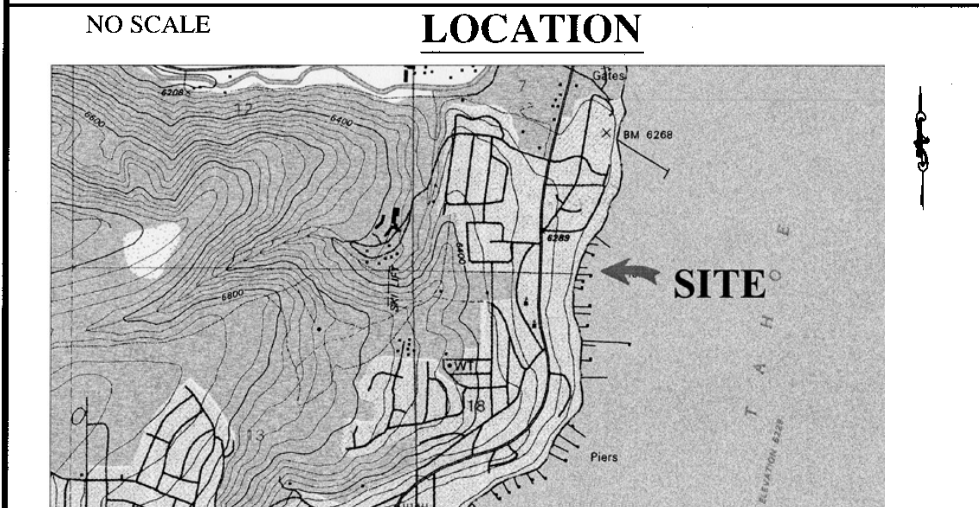
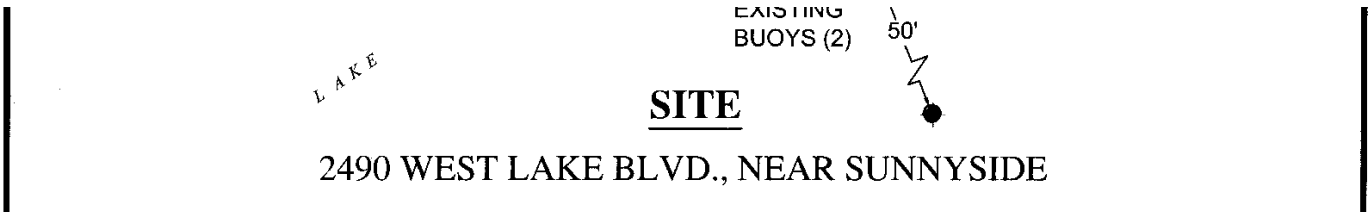
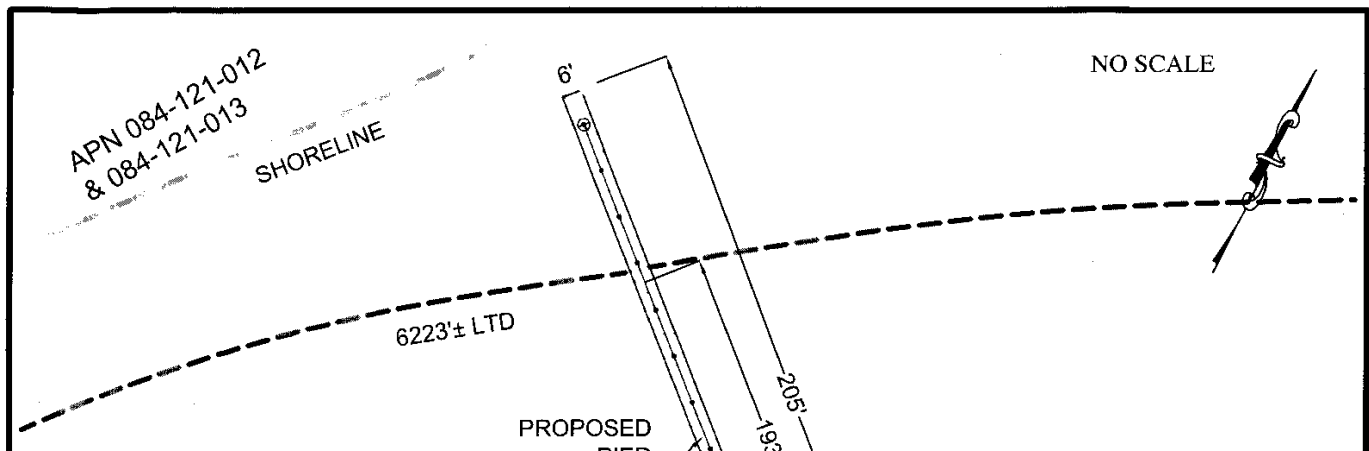
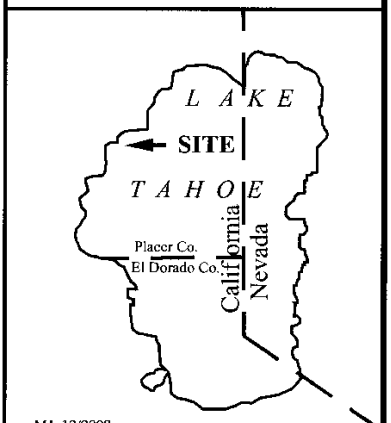


Exhibit A
 WP 4314.9
 WALLIS/HARLEY
 APN 084-121-012&013
 RECREATIONAL PIER LEASE
 PLACER COUNTY



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

Tahoe yellow cress (*Rorippa subumbellata* Rollins) Management Plan

Application for a Recreational Pier Lease for the Removal of an Existing Pier and Construction of New Joint-Use Pier with Two Boat Lifts in Lake Tahoe, Adjacent to 2490 West Lake Blvd, Sunnyside, Placer County, California; APN 084-121-012 and -013 Mr. and Mrs. Edward Wallis and Mr. and Mrs. Alan Harley, owners.

Prepared by Stanford L. Loeb

During the survey (July 8, 2008) of the shoreline adjacent to the Wallis and Harley properties by the Eric Gilles of the California States Land Commission (CSLC), several specimens of the Tahoe yellow cress (*Rorippa subumbellata* Rollins) were discovered growing in sand on the beach (Figure 1) (the CSLC survey form is attached to this plan). The lake water level at the time of the survey was 6,225.3 feet (USGS National Water Information System). As required in the Tahoe Regional Planning Agency (TRPA) permit (Special Condition 3. F.), a site specific management plan is required to identify measures to fully protect these plants from construction activities prior to approving the removal of the existing pier and construction of the new joint-use pier.

Purpose of the Plan

The California Endangered Species Act (CESA) prohibits the "take" of plant species designated by the California Fish and Game Commission as "threatened" or "endangered". Tahoe yellow cress (*Rorippa subumbellata*) (TYC) is found only along the shores of Lake Tahoe and is California State-listed endangered. There is currently no federal Endangered Species Act protection for this species at this time. Because of the sensitivity of TYC and subsequent State laws protecting this species, the primary goal is to educate private land users about TYC and its ecological significance and ensure its protection from shorezone construction activities.

Project Description

The proposed project would involve the removal of the existing pier and relocating/replacing it with a multiple-use pier (Figure 2). The existing pier is very poorly situated in that it is located extremely close (ca. 10 to 15 feet) to the pier on the adjacent property to the south. This close proximity to the adjacent pier virtually eliminates all access/use of one side of both those piers.

The proposed multiple-use pier will be located on the property line separating the Wallis and Harley property (ca. 111 feet northeast of the existing pier). The proposed pier will extend from the shoreline lakeward to the TRPA approved pierhead line (205 feet total length). The new pier will be a single metal piling pier from the shoreline lakeward ca. 144 feet (width of 6 feet) totaling 10, 10 inch diameter, metal pilings. The lakeward terminus of the pier will be a double-piling structure (10 metal pilings) extending to the TRPA pierhead line (61 feet total length). A total of 20 pilings will be involved in this new pier. These pilings will cover approximately 11 square feet of benthic substratum.

Two boatlifts are proposed for the lakeward terminus which would involve two additional support pilings. These pilings are estimated to cover 2 square feet of benthic substratum.

The proposed new multiple-use pier will reduce the footprint of the existing pier by nearly 50% (reduction in benthic substrate coverage of approximately 15 – 17 square feet). The new pier will also enable the use of the northern side of the pier to the south of the existing pier. Structurally, the new multiple-use pier will be more compliant with the TRPA regulation regarding piers in general.

On-site Plan to Protect TYC from Construction Activities (Avoidance Measures)

The following site-specific efforts have been, and will be, taken to provide adequate avoidance and protection of the TYC. This site-specific plan shall remain on-site with the Contractor through the duration of the project. The Contractor responsible for the removal of the existing pier and the construction of the new joint-use pier will be informed about the sensitivity of TYC and its legal protection.

Prior to any construction activity, all the TYC plants will be protected with fencing surrounding them. A buffer of at least 5 feet around the plant will be established. The fencing will be placed so that the plants are not excessively shaded. No work, access, or disturbance shall occur within the enclosure. Educational signage will be affixed to the fencing as recommended by the TRPA (Figure 3).

The nearest TYC plant is approximately 35 feet from the location where the new joint-use pier will be constructed. There would not appear to be a need to conduct weekly monitoring during the construction as the TYC plants will be enclosed by fencing and there will be no activity that will occur near these plants. However, if the TRPA staff deems it necessary to ensure the plants are protected and the enclosure fencing is being maintained, such monitoring could be conducted. Should any disturbance occur within the enclosure or any damage occurs to TYC, it will be reported to the permitting agency immediately.

Long-term Stewardship

In addition to the avoidance measures during construction, the property owner will be advised and encouraged to participate in the stewardship program being developed that will help protect TYC on their property. Contact person for more information about the stewardship program is Eileen Carey, Vegetation Program, TRPA (ecarey@trpa.org, 775 589-5270).

Figure 1. Photograph indicating the approximate locations of the TYC observed by Eric Gilles, CSLC, on July 8, 2008.



Figure 2. Approximate locations of the Tahoe Yellow Cress observed on July 8, 2008, on the shoreline adjacent to the Wallis property (red X). The pier on the left is to be removed and a new joint-use pier is to be constructed (pier in the center)

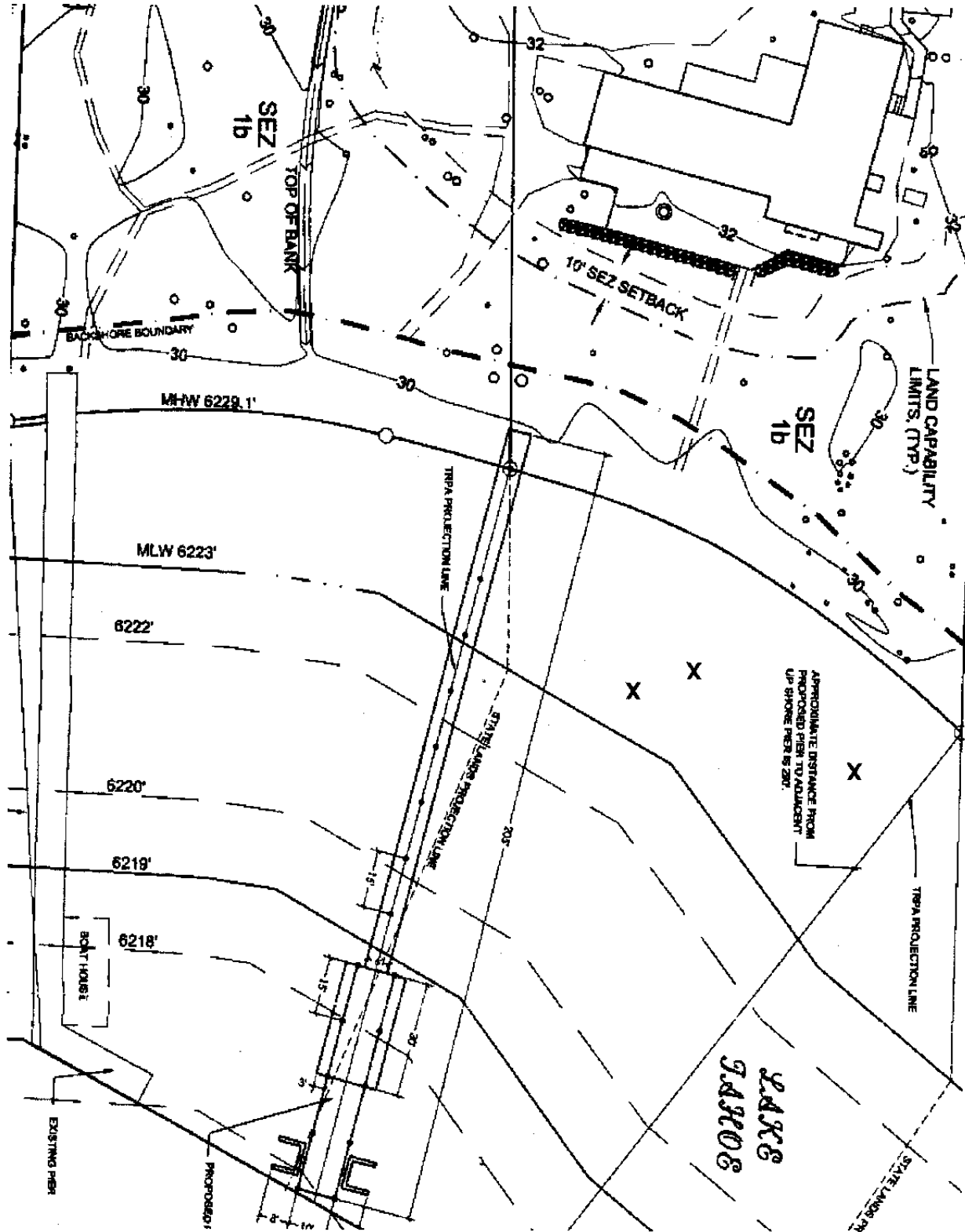


Figure 3. Signage to be placed on the fencing that will be surround TYC specimens on the shoreline.



Copy of the TYC survey report conducted by the CSLC.

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CSLC project status sheet for the protection of Taloe yellow cross and habitat along Lake Tahoe shoreline (July 2008).

Landowner/ Ward/Parley (Ward Creek)	APN	County	WPA or PIC	RA#/ Invoice#	Permission Form**	LMD Negotiator	Project Description	1993 survey	CSLC on-site survey	Data Sheet	% sand
	084-121-012 084 121-013	Placer	TRC0114	R20107	Yes	N. Lee	Pier Relocation	Yes	7/8/03	Yes	35

* Properties with names in bold italics are TYC named locations as part of Conservation Strategy

** Minimum Information Needed for Field Site Survey Unless Consulted Guides Site Visit: Location Map with Address and APN, Landowner Permission Form, Site Plan and Project Design Plans and Drawings

*** Construction notification required for sites with TYC and Site Specific Plans

Habitat Quality	Project Review: Note/Instructions ***
High: 1 plants found	Requires site specific plan to avoid plants

Notes of the Shoreline, Project Description,