

**CALENDAR ITEM
C03**

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S 1

08/14/12
PRC 5609.1
R. Barham

TERMINATION AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE

LESSEE:

Gifford Investments, LTD, A California Limited Partnership

APPLICANTS:

James Goetz and Alicia Goetz

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2330 North Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring buoys.

LEASE TERM:

10 years, beginning January 1, 2012

CONSIDERATION:

\$3,097 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:

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 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 use 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.

CALENDAR ITEM NO. **C03** (CONT'D)

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On May 10, 2007, the Commission authorized a General Lease – Recreational Use with Gifford Investments, LTD, A California Limited Liability Company (Gifford Investments), for an existing pier and two mooring buoys. That lease will expire on December 15, 2016. On November 23, 2010, the upland property was transferred to James Goetz and Alicia Goetz. Applicants are now applying for a new General Lease – Recreational Use.
3. Gifford Investments contacted staff in December 2010 stating that the upland property was sold on November 23, 2010. Due to the ownership transfer, billing was stopped as of December 15, 2010. An application was received from the new owners, Mr. and Mrs. Goetz, in April 2011. From the date the Goetzes obtained ownership through December 31, 2011, the Goetzes qualified for rent-free status pursuant to the original definition of section 6503.5 of the Public Resources Code. As a result, staff instructed the Goetzes not to pay rent for the period of December 15, 2010 through December 31, 2011. Staff is recommending that rent, penalties, and interest be waived for the period from December 15, 2010 through December 31, 2011.
4. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned land by certain private parties for their recreational piers. It replaced the former section with a new section 6503.5 which provides that the State Lands Commission “shall charge rent for a private recreational pier constructed on state lands.” The law provides for two exceptions to the imposition of rent. Those exceptions are for:
 - A. A lease in effect on July 1, 2011 through the remaining term of that lease. If a lease in effect on July 1, 2011 expires or is otherwise terminated, any new lease will be subject to rent; and
 - B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

Because the application was submitted to the Commission on April 18, 2011, the lease does not meet the statutory requirements for an exception to recently enacted changes to Section 6503.5 of the Public Resources Code and is subject to rent.

CALENDAR ITEM NO. **C03** (CONT'D)

5. **Termination of Lease:** The staff recommends that the Commission find that the subject termination of lease 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.

6. **Issuance of Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061), the staff has determined 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.

7. 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:

Termination of Lease: Find that the subject termination of lease 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.

CALENDAR ITEM NO. **C03** (CONT'D)

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 31, 2011, of Lease No. PRC 5609.1, a General Lease – Recreational Use, issued to Gifford Investments, LLC, A California Limited Liability Company.
2. Waive annual rent, penalties and interest for the period beginning December 15, 2010 through December 31, 2011.
3. Authorize issuance of a General Lease – Recreational Use to James Goetz and Alicia Goetz, beginning January 1, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier and two mooring buoys 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 \$3,097, 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 the amount of no less than \$1,000,000.

EXHIBIT A

PRC 5609.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent of fractional Section 3, Township 15 North, Range 17 East, MDM., approved September 25, 1907, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, lying adjacent to Parcel One as described in that Grant Deed recorded November 23, 2010 as Document Number 2010-0097288-00 in Official Records of said County.

TOGETHER WITH a ten foot use 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 Parcel One as described in that Grant Deed recorded November 23, 2010 as Document Number 2010-0097288-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared February 10, 2012 by the California State Lands Commission Boundary Unit.





APN 094-140-020

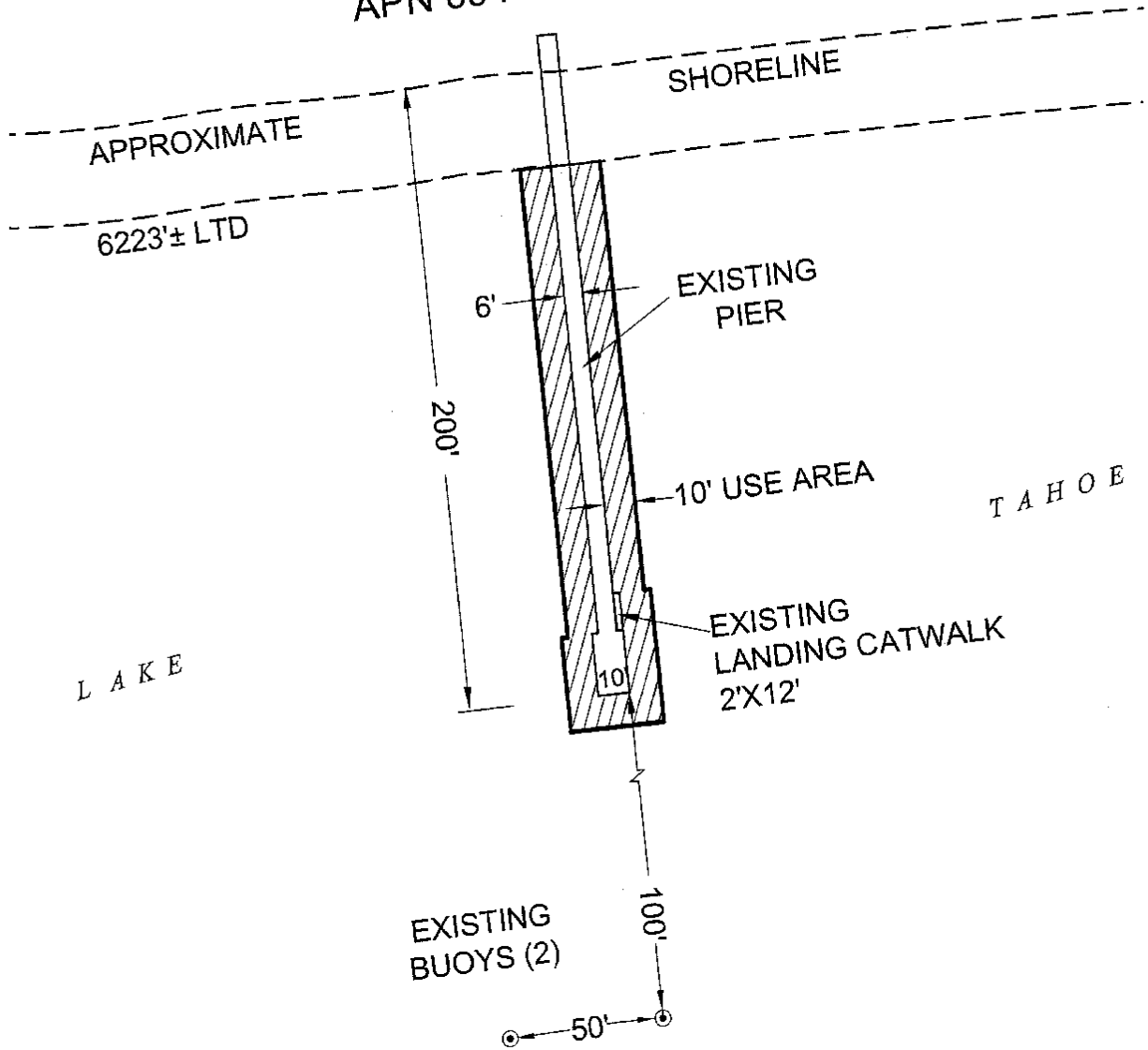


EXHIBIT A

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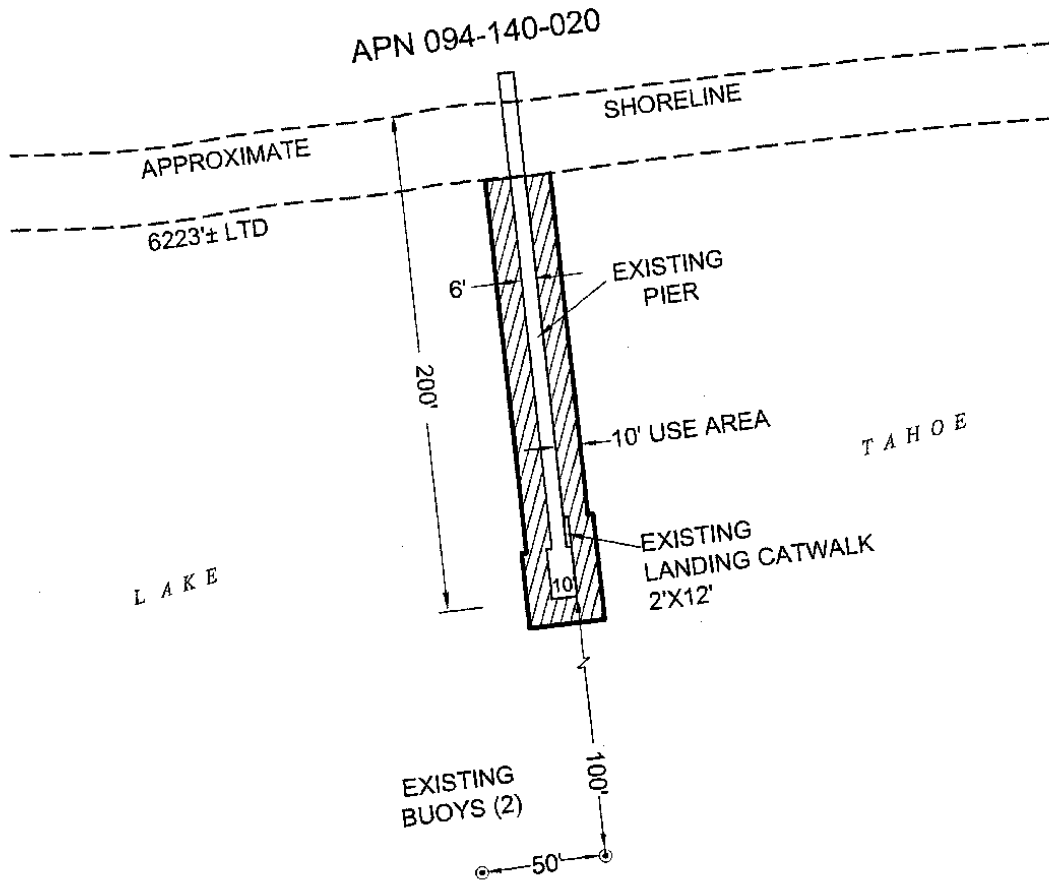
LAND DESCRIPTION PLAT
 PRC 5609.1, GOETZ
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

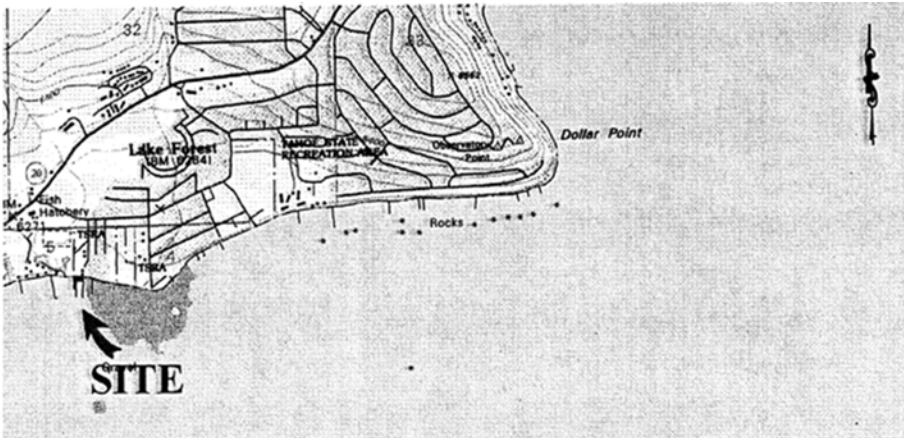
SITE



2330 NORTH LAKE BLVD., TAHOE CITY

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.

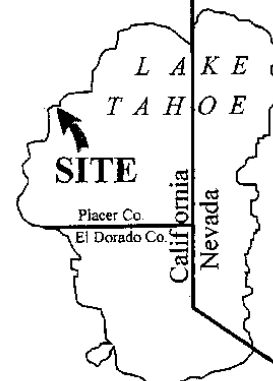
Exhibit B

PRC 5609.1

GOETZ

APN 094-140-020

GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJJ 02/12/12