

**CALENDAR ITEM
C01**

A 4
S 1

12/05/12
PRC 4357.1
R. Barham

**TERMINATION OF A RECREATIONAL PIER LEASE AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEES:

Faye D. Heldoorn, Sandra S. Loewen, and Dolores J. Scott

APPLICANTS:

John A. McIntosh and Lynne B. McIntosh, Trustees under Revocable Trust Agreement dated May 27, 1988

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6740 Powderhorn Lane, near Tahoma, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and one mooring buoy.

LEASE TERM:

10 years, beginning December 5, 2012.

CONSIDERATION:

\$1,177 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 Applicants to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoy 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

CALENDAR ITEM NO. **C01** (CONT'D)

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.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On December 8, 2005, the Commission approved a 10-year Recreational Pier Lease with Faye D. Heldoorn, Sandra S. Loewen, and Dolores J. Scott. That lease will expire on November 13, 2014. On September 24, 2010, the upland was deeded to John A. McIntosh and Lynne B. McIntosh, Trustees under Revocable Trust Agreement dated May 27, 1988. The Applicants are now applying for a new General Lease – Recreational Use.
3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law took effect on 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.

The Applicants do not qualify for an exception and the lease is subject to rent because the application and fees were received after March 31, 2011.

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).

CALENDAR ITEM NO. **C01** (CONT'D)

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 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.

CALENDAR ITEM NO. **C01** (CONT'D)

AUTHORIZATION:

1. Authorize termination effective December 4, 2012, of Lease No. PRC 4357.9, a Recreational Pier Lease, issued to Faye D. Heldoorn, Sandra S. Loewen, and Dolores J. Scott.

2. Authorize issuance of a General Lease – Recreational Use to John A. McIntosh and Lynne B. McIntosh, Trustees under Revocable Trust Agreement dated May 27, 1988, beginning December 5, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier and one mooring buoy 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 \$1,177, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance with coverage of no less than \$1,000,000.

EXHIBIT A

PRC 4357.1

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 7, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk, lying adjacent to those parcels described in Grant Deed recorded September 24, 2010 as Document Number 2010-0075765-00 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– BUOY

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to those parcels described in Grant Deed recorded September 24, 2010 as Document Number 2010-0075765-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 10/26/2012 by the California State Lands Commission Boundary Unit.



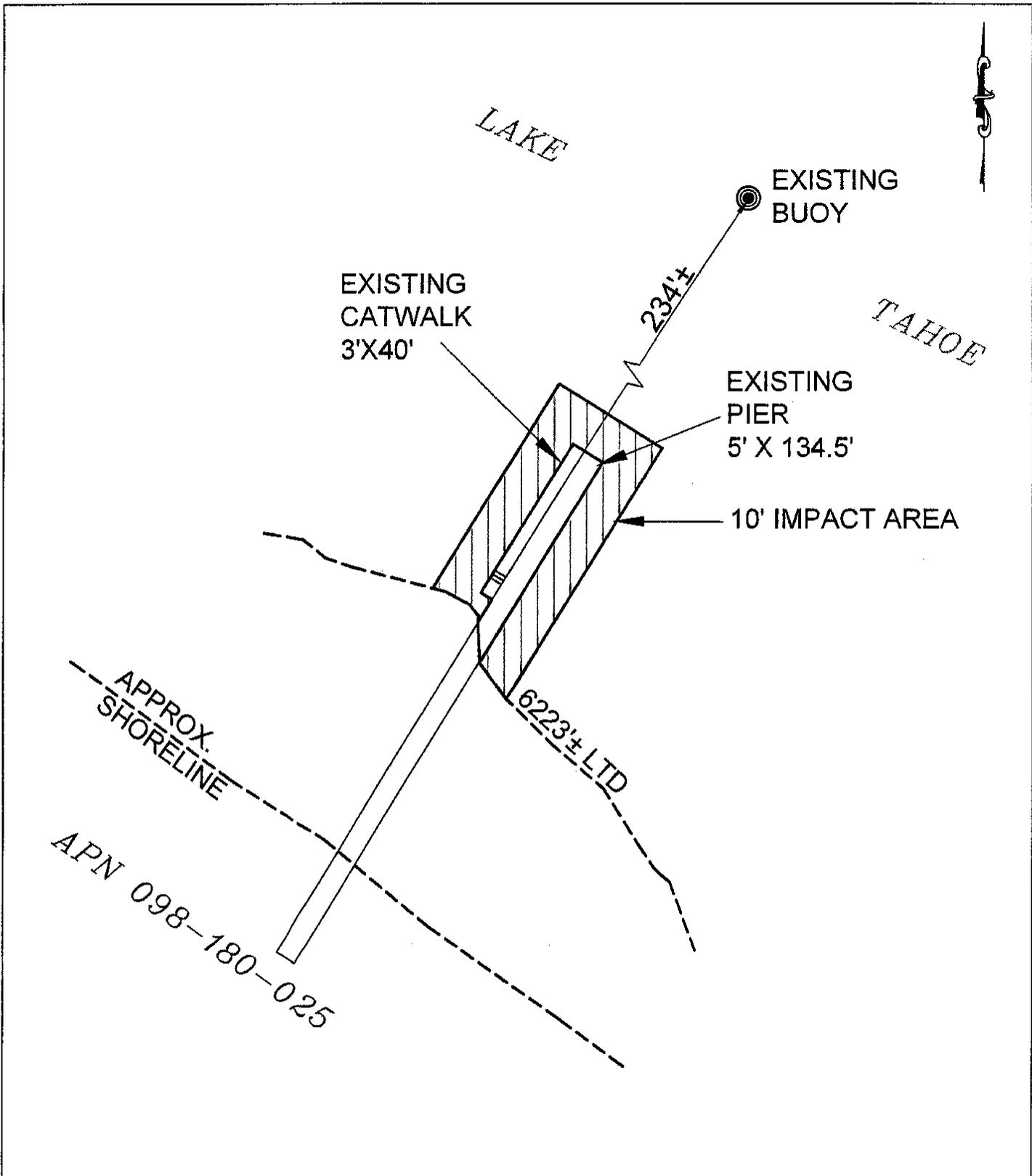


EXHIBIT A

Page 2 of 2

TS 10/26/12

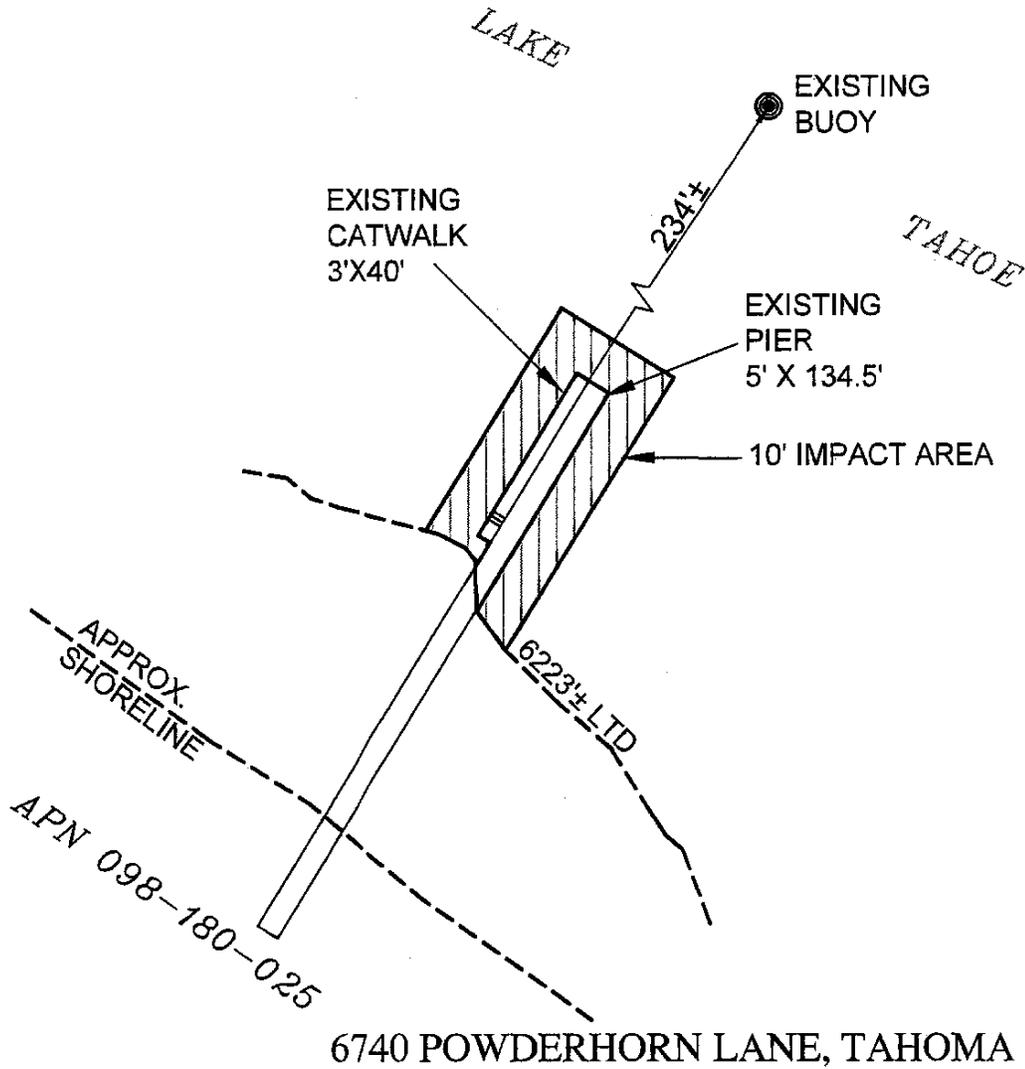
LAND DESCRIPTION PLAT
 PRC 4357.1, MCINTOSH
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



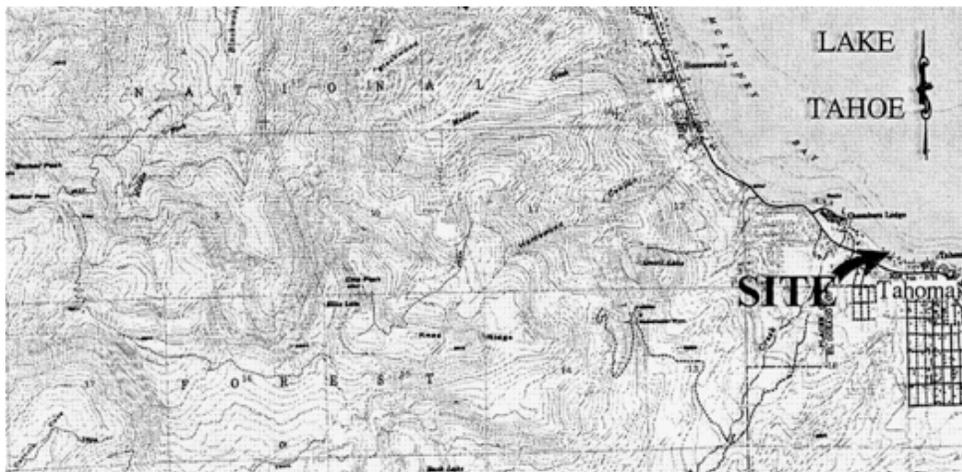
NO SCALE

SITE



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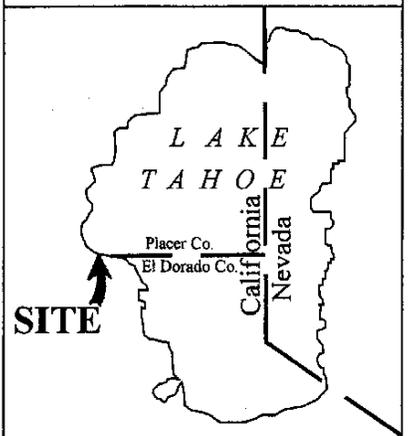
LOCATION



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 4357.1
 MCINTOSH
 APN 098-180-025
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



TS 10/26/12