

**CALENDAR ITEM
C06**

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02/22/13
PRC 4186.1
G. Asimakopoulos

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

John E. Warnock and Marva M. Warnock, as Trustees of The Warnock Family Trust dated August 27, 2012

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5470 North Lake Boulevard, near Carnelian Bay, Placer County

AUTHORIZED USE:

Continued use and maintenance of an existing pier previously authorized by the Commission; and use and maintenance of one existing mooring buoy not previously authorized by the Commission.

LEASE TERM:

10 years, beginning September 13, 2012.

CONSIDERATION:

\$1,722 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 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 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 ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland parcel adjoining the lease premises.
2. On November 26, 2001, the Commission authorized a 10-year Recreational Pier Lease with John E. Warnock and Marva M. Warnock, for an existing pier. The lease expired on September 30, 2011. On September 13, 2012, the upland parcel was deeded to John E. Warnock and Marva M. Warnock, as Trustees of the Warnock Family Trust dated August 27, 2012. The Applicants are now applying for a new General Lease – Recreational Use.
3. The Applicants' existing mooring buoy has been in Lake Tahoe for many years but has not been previously authorized by the Commission. Staff recommends bringing the placement of the Applicants' existing mooring buoy under lease, subject to the Applicants obtaining Tahoe Regional Planning Agency permit.
4. 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.

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5. 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.

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:

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:

Authorize issuance of a General Lease – Recreational Use to John E. Warnock and Marva M. Warnock, as Trustees of The Warnock Family Trust dated August 27, 2012, beginning September 13, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier

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previously authorized by the Commission, and use and maintenance of one existing mooring buoy 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 \$1,722, 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 4186.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 22, 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 and one catwalk adjacent to that Parcel described in Exhibit "A" of that Grant Deed recorded August 11, 1993 as Document Number 93-058085 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

One (1) circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to said Parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 1, 2013 by the California State Lands Commission Boundary Unit.



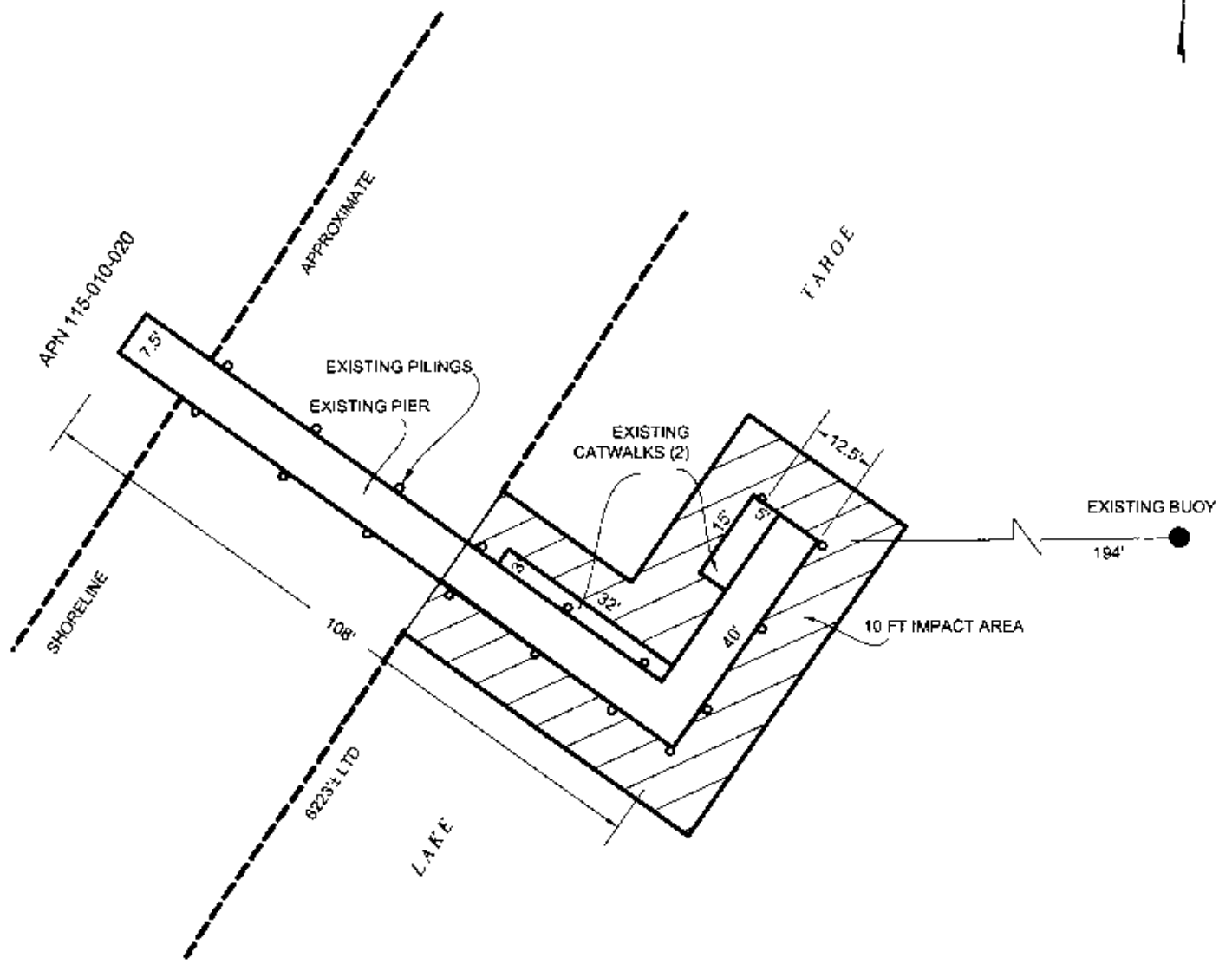


EXHIBIT A

MJJ 01/02/13

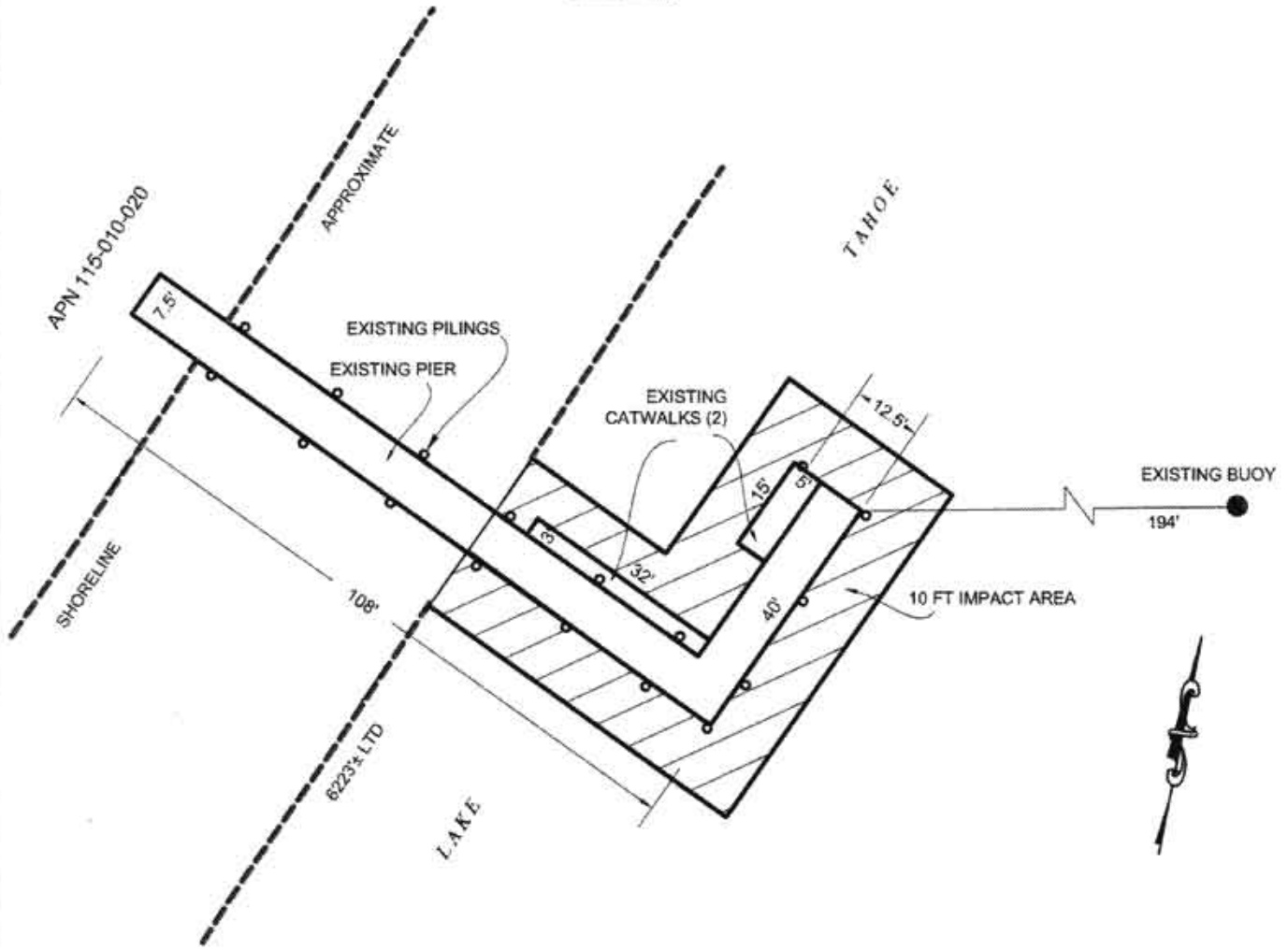
LAND DESCRIPTION PLAT
PRC 4186.1, WARNOCK TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

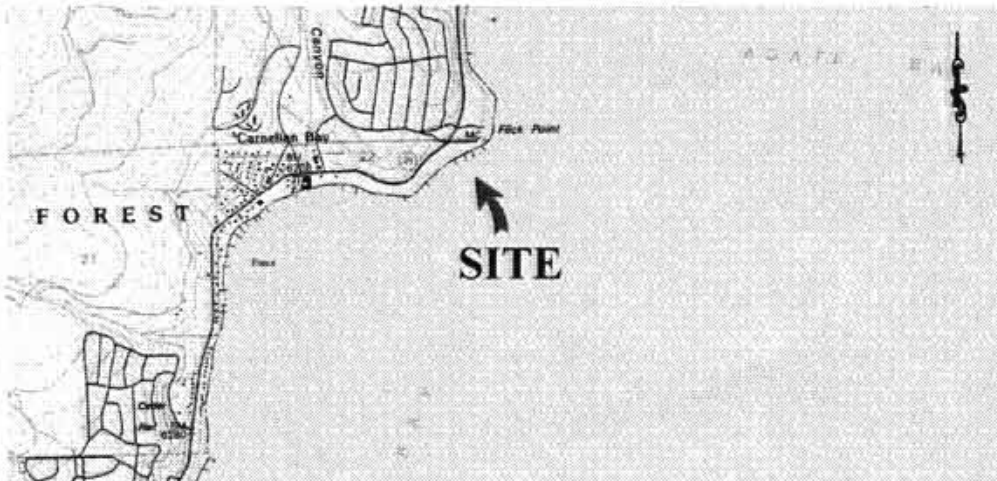
SITE



5470 NORTH LAKE BLVD., NEAR CARNELIAN BAY

NO SCALE

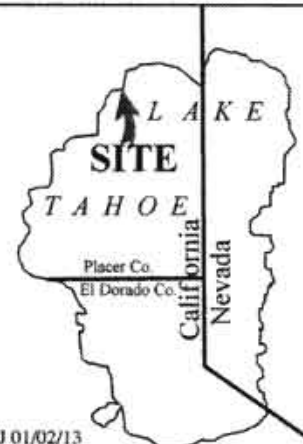
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 4186.1
 WARNOCK TRUST
 APN 115-010-020
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 01/02/13

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.