

CALENDAR ITEM

C39

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02/22/13

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PRC 6120.1

N. Lee

GENERAL LEASE - RECREATIONAL USE

APPLICANTS:

PS Tahoe, LLC; William E. Hagler and Jean E. Hagler, as Trustees of The Hagler Trust dated January 28, 1975, for the benefit of William E. Hagler and Jean E. Hagler; Jack B. Hagler and Elizabeth Kohl Hagler, as Trustees of The Hagler Family Trust UAD August 21, 2007; Richard W. Hagler; and Kathryn Hagler Taylor

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8559 and 8565 Meeks Bay Avenue, near Tahoma, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier and four mooring buoys.

LEASE TERM:

10 years, beginning February 1, 2012.

CONSIDERATION:

\$2,975 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 buoys 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

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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, Assessor's Parcel Numbers (APN) 016-101-88 and 016-101-90 adjoining the lease premises.
2. On January 30, 2002, the Commission authorized a Recreational Pier Lease with Terry R. Peets and Diane M. Peets as Trustees of the Terry R. Peets and Diane M. Peets Trust dated March 9, 1989; Michael C. Scroggie and Kathleen J. Scroggie as Trustees of the Scroggie Family Trust dated September 13, 1995; and Jean E. Hagler, Trustee under that Certain Amended Trust Agreement dated May 26, 1983. Ownership of the upland parcels has since been deeded to PS Tahoe, LLC; William E. Hagler and Jean E. Hagler, as Trustees of The Hagler Trust dated January 28, 1975, for the benefit of William E. Hagler and Jean E. Hagler; Jack B. Hagler and Elizabeth Kohl Hagler, as Trustees of The Hagler Family Trust UAD August 21, 2007; Richard W. Hagler; and Kathryn Hagler Taylor. That lease expired on January 31, 2012. Applicants are now applying for a new General Lease – Recreational Use for the continued use and maintenance of an existing joint-use pier and four mooring buoys.
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

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- B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

Because the lease expired after January 1, 2012 and the application was not submitted to the Commission prior to March 31, 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.

4. On January 13, 2004, ownership of APN 016-101-90 was deeded to PS Tahoe, LLC. PS Tahoe, LLC did not qualify for rent-free status pursuant to the original definition of Public Resources Code section 6503.5 in effect at this time. Staff is recommending that the Commission accept rent based on PS Tahoe, LLC's 50 percent interest in the joint-use pier and ownership of two of the four mooring buoys for the period beginning February 1, 2007 through January 31, 2012. Total amount due for this period is \$7,133.
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:

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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:

1. Authorize acceptance of rent in the amount of \$7,133 for the period of February 1, 2007 through January 31, 2012.

2. Authorize issuance of a General Lease – Recreational Use to PS Tahoe, LLC; William E. Hagler and Jean E. Hagler, as Trustees of The Hagler Trust dated January 28, 1975, for the benefit of William E. Hagler and Jean E. Hagler; Jack B. Hagler and Elizabeth Kohl Hagler, as Trustees of The Hagler Family Trust UAD August 21, 2007; Richard W. Hagler; and Kathryn Hagler Taylor beginning February 1, 2012, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier and four mooring buoys as shown on Exhibit A attached and by this reference made a part hereof; annual rent in the amount of \$2,975, 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 6120.1

LAND DESCRIPTION

Five (5) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to fractional Section 29, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk lying adjacent to Parcel 2 as described in Quitclaim Deed recorded January 13, 2004 as Document Number 2004-0002329 and that parcel described in Exhibit "A" of that Grant Deed recorded August 31, 2007 as Document Number 2007-0056781-11 in Official Records of said County.

ALSO 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, 3, 4 & 5 – BUOYS (4)

Four (4) circular parcels of land, being 50 feet in diameter, underlying four (4) existing buoys lying adjacent to Parcel 2 as described in Quitclaim Deed recorded January 13, 2004 as Document Number 2004-0002329 and that parcel described in Exhibit "A" of that Grant Deed recorded August 31, 2007 as Document Number 2007-0056781-11 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared September 12, 2012 by the California State Lands Commission Boundary Unit.



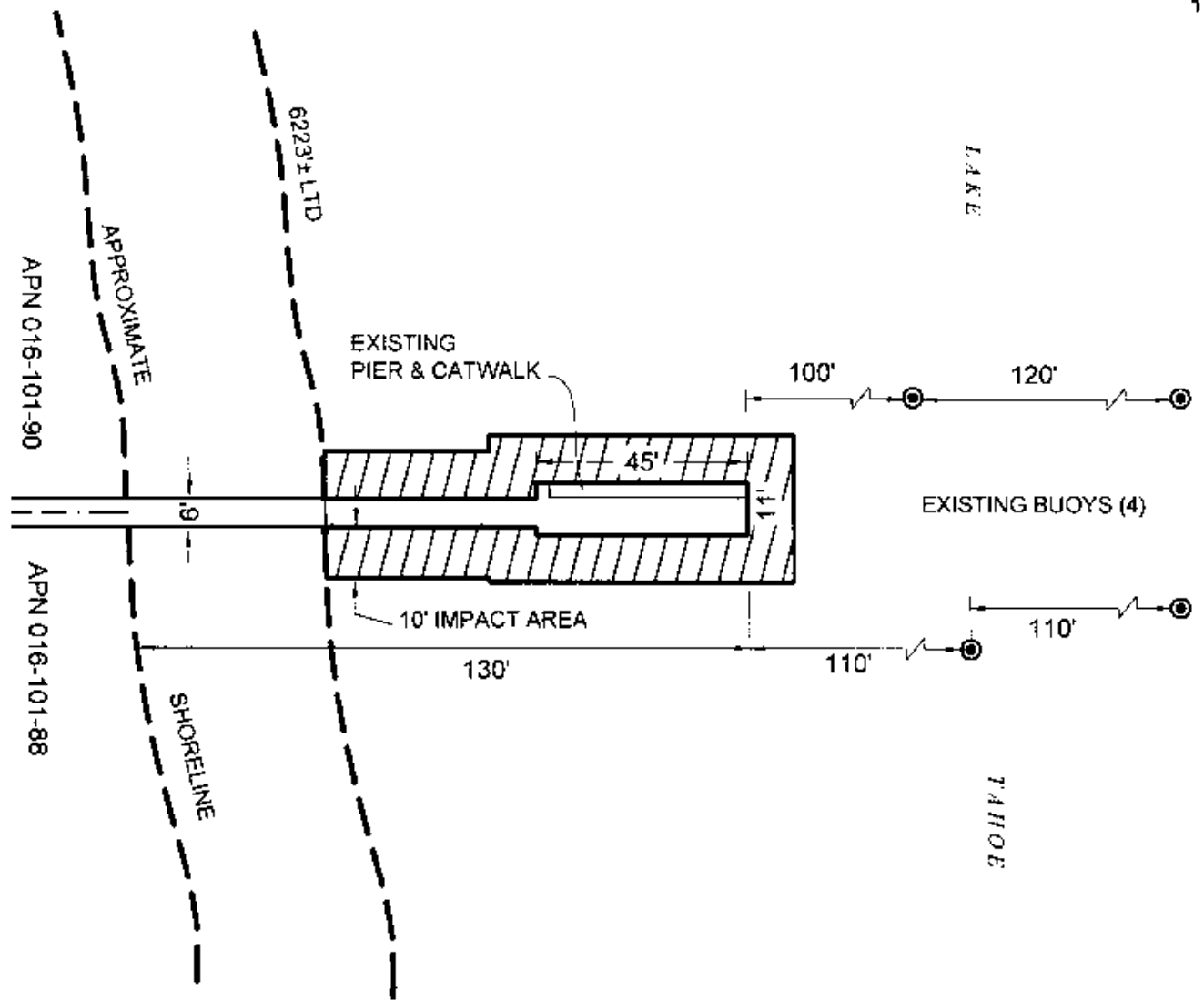


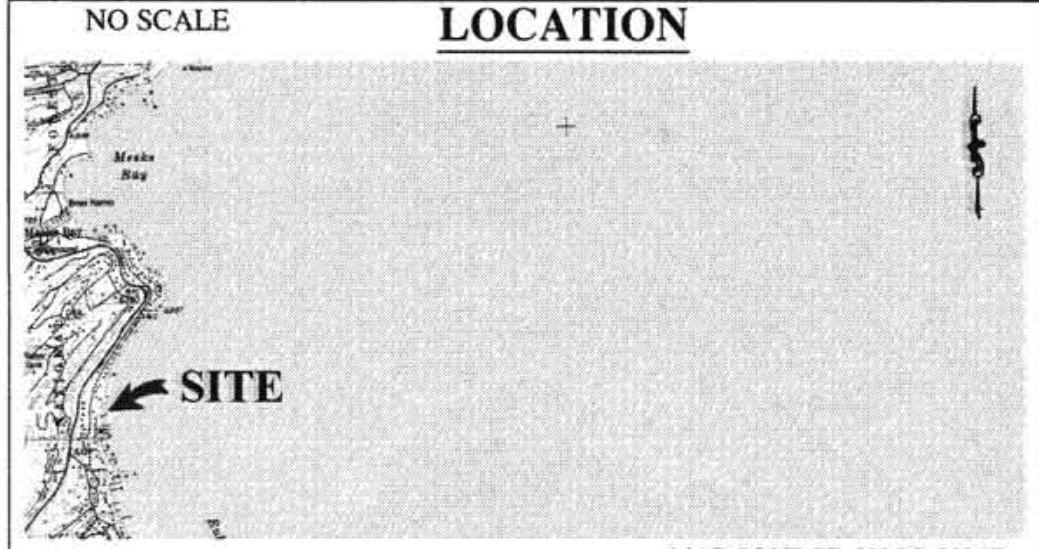
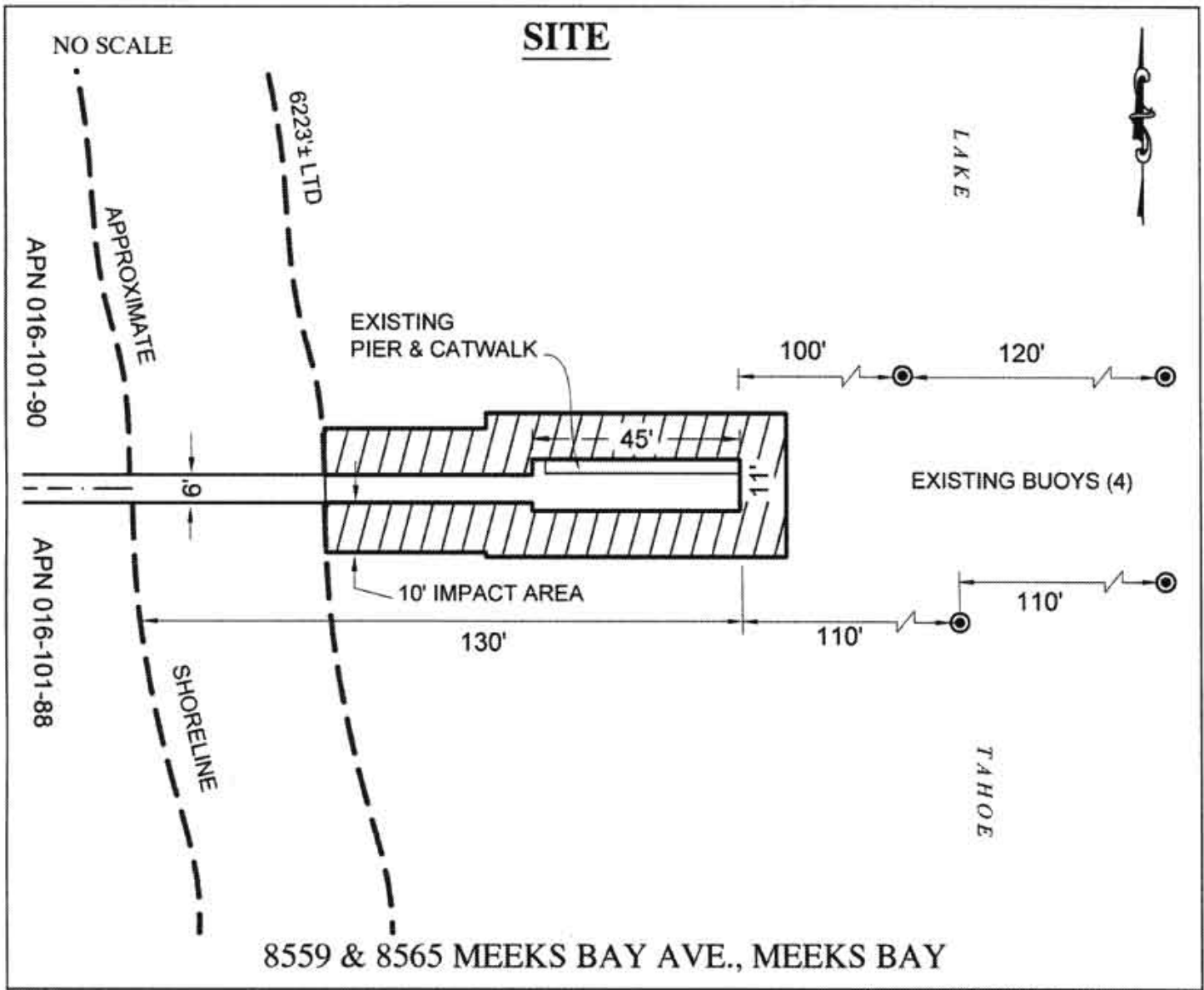
EXHIBIT A

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LAND DESCRIPTION PLAT
 PRC 6120.1, PS TAHOE, LLC/HAGLER
 EL DORADO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION

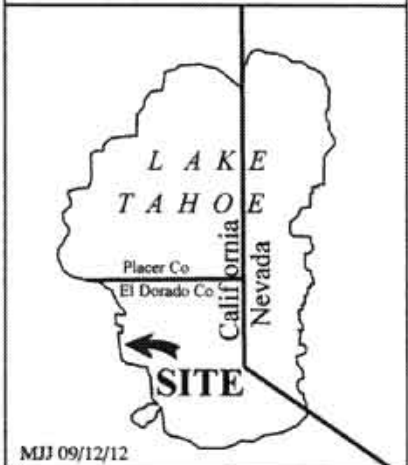




MAP SOURCE: USGS QUAD

Exhibit B

PRC 6120.1
 PS TAHOE, LLC / HAGLER
 APN 016-101-88 &
 APN 016-101-90
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



MJJ 09/12/12

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.