

**CALENDAR ITEM
C18**

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06/21/13
PRC 5786.9
M.J. Columbus

AMENDMENT OF A RECREATIONAL PIER LEASE

LESSEE:

William Albert Shaw

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 730 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier.

LEASE TERM:

10 years, beginning May 1, 2007.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

PROPOSED AMENDMENT:

Amend Lease No. PRC 5786.9 to:

1. Amend the authorized improvements to exclude an existing pier and to include two existing mooring buoys not previously authorized by the Commission.
2. Include special lease provisions related to the mooring buoys.
3. Replace Exhibit A (Site and Location Map) with the attached Exhibit A (Land Description) and add the attached Exhibit B (Site and Location Map).

All other terms and conditions of the lease shall remain in effect without amendment.

CALENDAR ITEM NO. **C18** (CONT'D)

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$300,000 per occurrence.

Other:

The proposed amendment contains a provision requiring the Lessee 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 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 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. Applicant owns the upland adjoining the lease premises.
2. On May 10, 2007, the Commission authorized a Recreational Pier Lease with William Albert Shaw for an existing pier. That lease will expire on April 30, 2017. The Applicant is now applying to amend the Recreational Pier Lease to remove the pier from the authorized improvements and include two existing mooring buoys not previously authorized by the Commission.
3. While reviewing the application, Commission staff confirmed that the length of the pier is not 200 feet as indicated in the lease and is rather 123 feet. The existing pier does not extend waterward of elevation 6,223 feet, Lake Tahoe Datum, and, therefore, is not within the Commission's leasing jurisdiction. As a result, staff recommends amending the lease to exclude the pier and add two existing mooring buoys to the authorized improvements.
4. The Applicant's two mooring buoys have been in Lake Tahoe for many years but have not been previously authorized by the Commission. Staff recommends bringing the placement of the Applicant's existing mooring buoys under lease, subject to the Applicant obtaining TRPA permit authorization.

CALENDAR ITEM NO. C18 (CONT'D)

5. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became effective 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.

Because the application was submitted to the Commission prior to March 31, 2011, the amendment meets the statutory requirements for an exception to changes to section 6503.5 of the Public Resources Code for the term of the lease.

6. 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.

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

CALENDAR ITEM NO. **C18** (CONT'D)

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 the Amendment of Lease No. PRC 5786.9, a Recreational Pier Lease, effective June 21, 2013, to exclude the existing pier and include two existing mooring buoys not previously authorized by the Commission; to include special provisions related to the buoys; and to delete Exhibit A in its entirety and replace with Exhibit A and Exhibit B (for reference purposes only) attached and by this reference made a part hereof; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 5786.9

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 fractional Section 7 Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, and more particularly described as follows:

PARCELS 1 & 2 – BUOYS

Two (2) circular parcels of land, each being 50 feet in diameter underlying two (2) existing buoys lying adjacent to that parcel as described in that Quitclaim Deed, recorded May 4, 2001 as Document Number 2001-0042884 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared May 17, 2013 by the California State Lands Commission Boundary Unit.



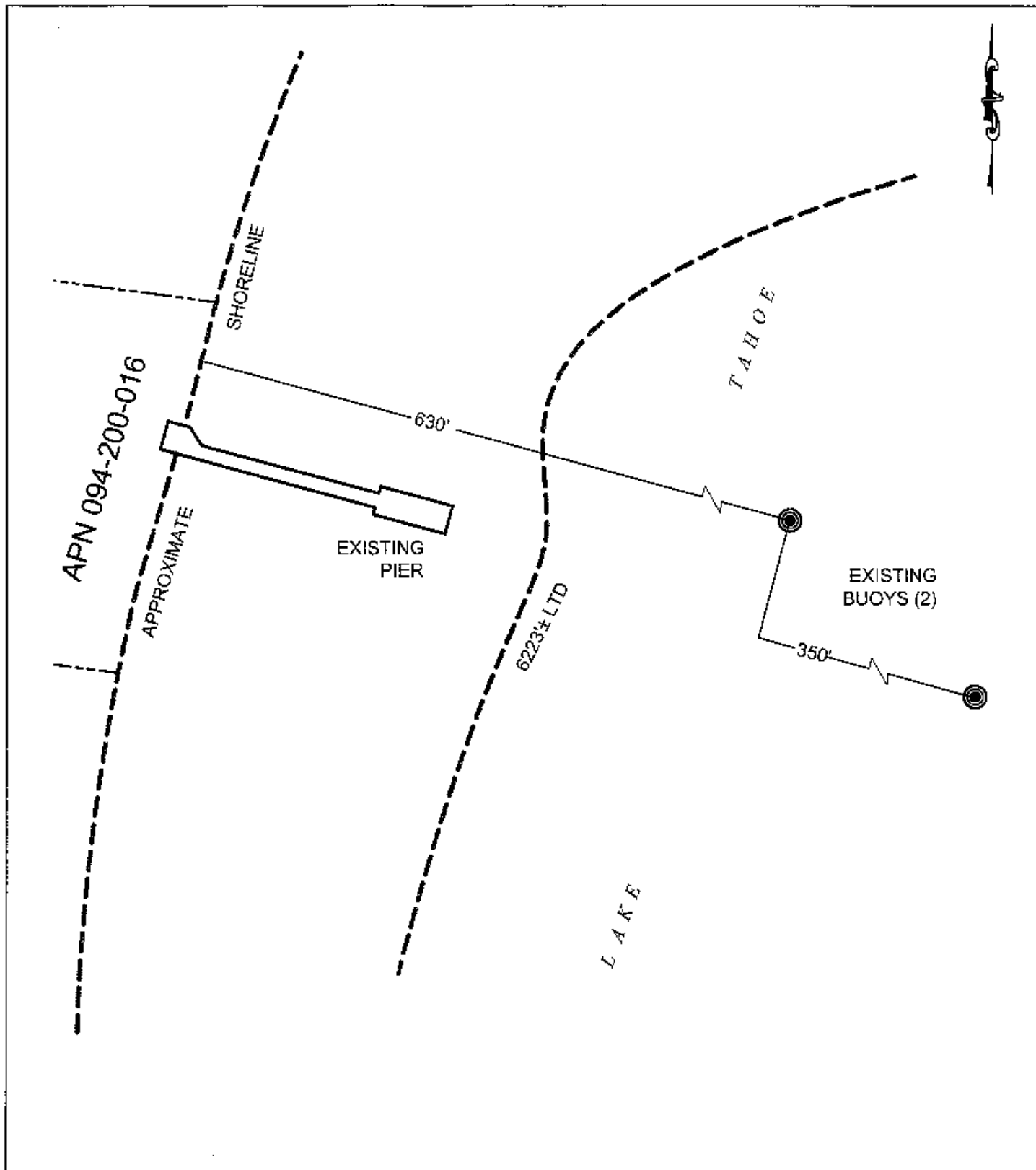


EXHIBIT A

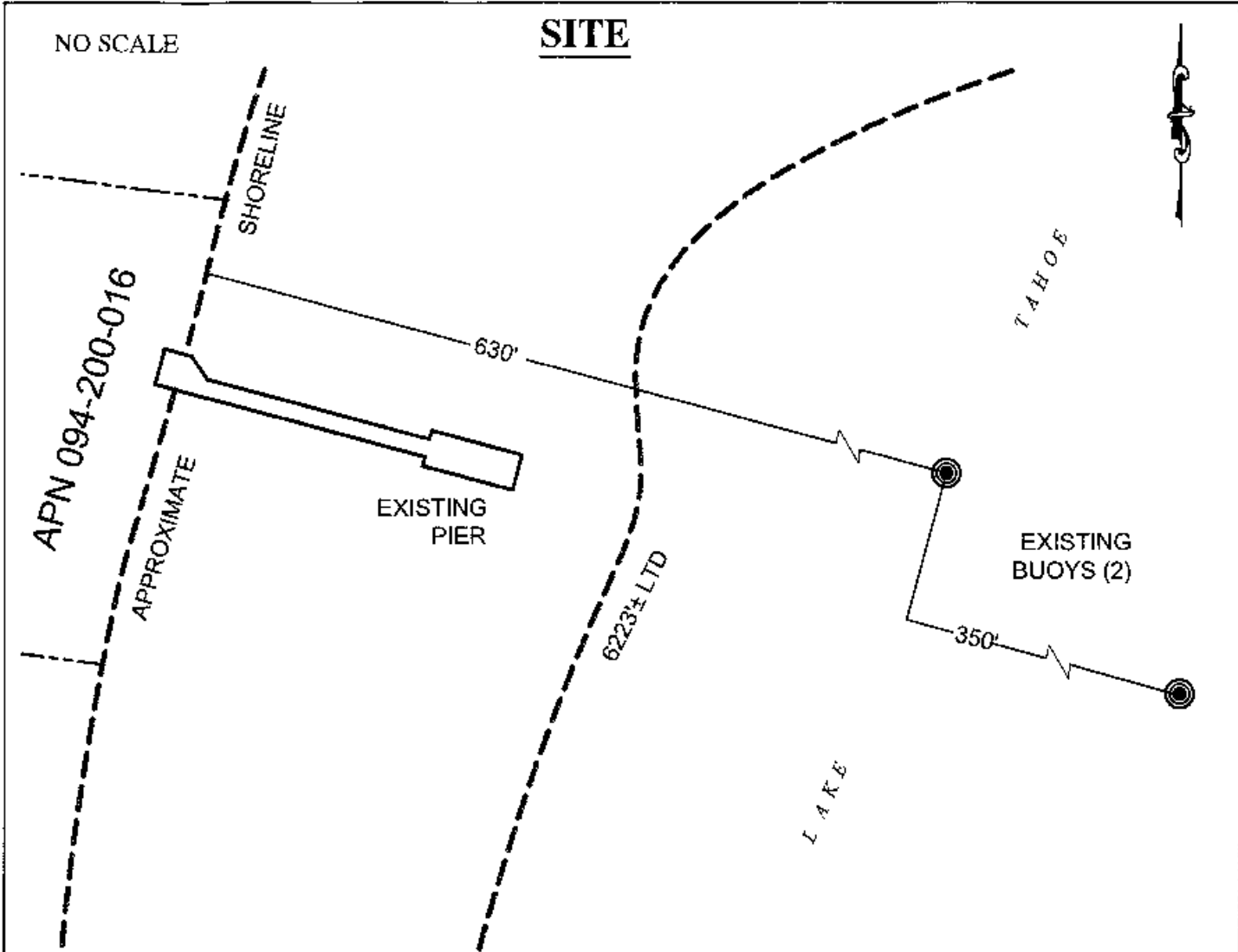
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LAND DESCRIPTION PLAT
 PRC 5786.9, SHAW
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION





730 WEST LAKE BLVD., NEAR TAHOE CITY

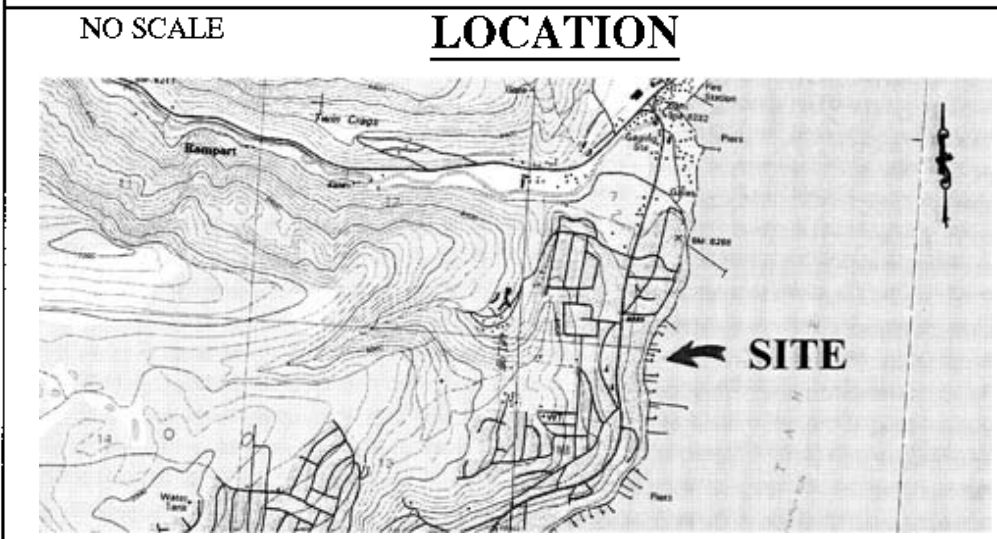
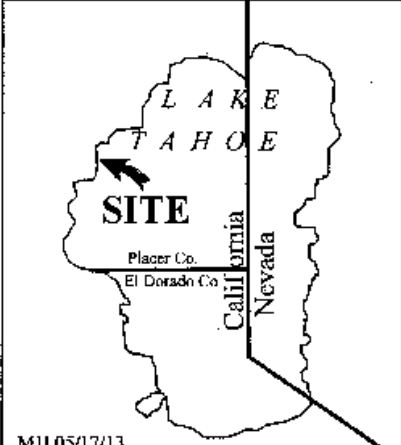


Exhibit B

PRC 5786.9
 SHAW
 APN 094-200-016
 RECREATIONAL PIER LEASE
 PLACER COUNTY



MJ 05/17/13

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.