

**CALENDAR ITEM
C35**

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04/23/14
PRC 3867.9
B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

William A. Hewlett, Richard Jaffe and James S. Hewlett, Trustees of the Cooper Property Trust of November 1, 1994

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2170 West Lake Boulevard, Tahoe City, 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 and three unattached pilings not previously authorized by the Commission.

LEASE TERM:

10 years, beginning April 23, 2014.

CONSIDERATION:

No consideration pursuant to Public Resources Code section 6503.5.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

Other:

1. 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 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

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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.

2. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorization from TRPA or any other regulatory agency for the improvements authorized by the Commission.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On March 23, 1989, the Commission authorized a Recreational Pier Permit for an existing pier with William R. Hewlett, Eleanor Hewlett Gimon, Walter Berry Hewlett, James Sterry Hewlett, William Albion Hewlett and Mary Hewlett Jaffee. That permit expired on December 19, 1998. On November 21, 1994, ownership of the upland was transferred to William A. Hewlett, Richard Jaffe, and James S. Hewlett, Trustees of the Cooper Property Trust of November 1, 1994. 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 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 prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently-enacted changes to Section 6503.5 of the Public Resources Code for the term of this lease.

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4. The Applicants' existing mooring buoy and three unattached pilings have been in Lake Tahoe for many years but were not previously authorized by the Commission.
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.

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AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to William A. Hewlett, Richard Jaffe, and James S. Hewlett, Trustees of the Cooper Property Trust of November 1, 1994, beginning April 23, 2014, for a term of 10 years, for the continued use and maintenance of an existing pier previously authorized by the Commission and use and maintenance of one existing mooring buoy and three unattached pilings 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; no monetary consideration pursuant to Public Resources Code section 6503.5; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3867.9

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 19, Township 15 North, Range 17 East, MDM., County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, two catwalks and 3 string line pilings lying adjacent to that parcel as described in Exhibit A of that Trust Transfer Deed recorded November 21, 1994 as Document Number 94-081204 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) 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 that parcel as described in Exhibit A of that Trust Transfer Deed recorded November 21, 1994 as Document Number 94-081204 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared March 08, 2014 by the California State Lands Commission Boundary Unit.



APN 084-160-004

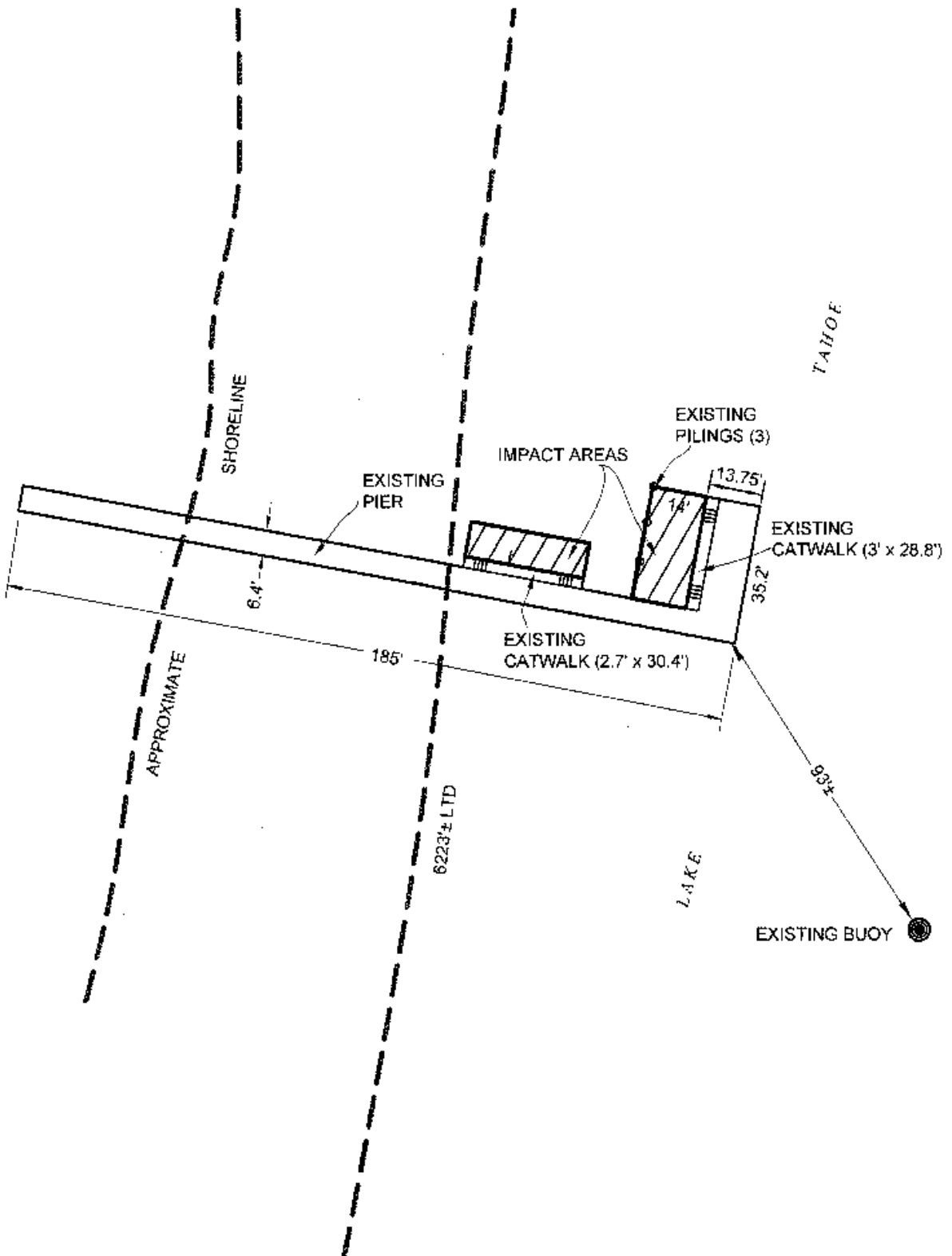


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 3867.9, COOPER TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



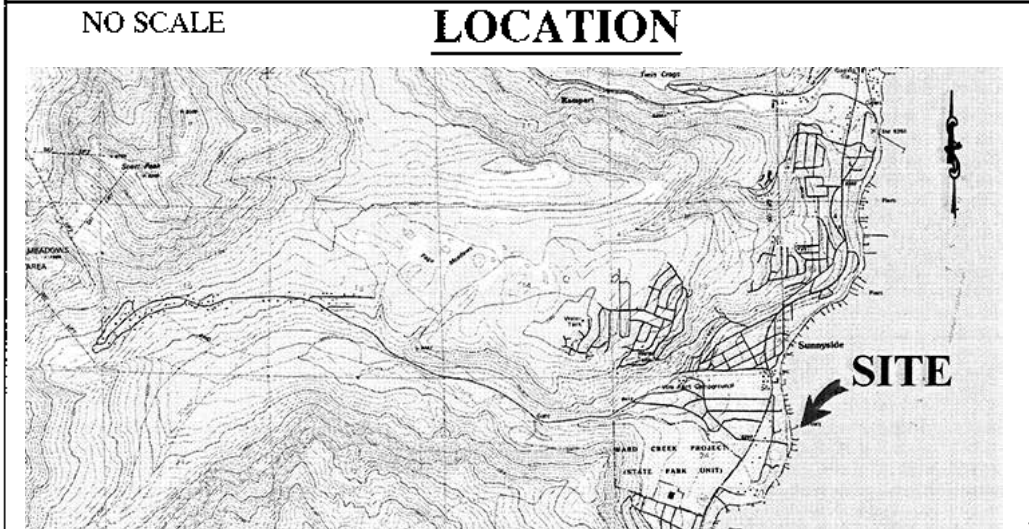
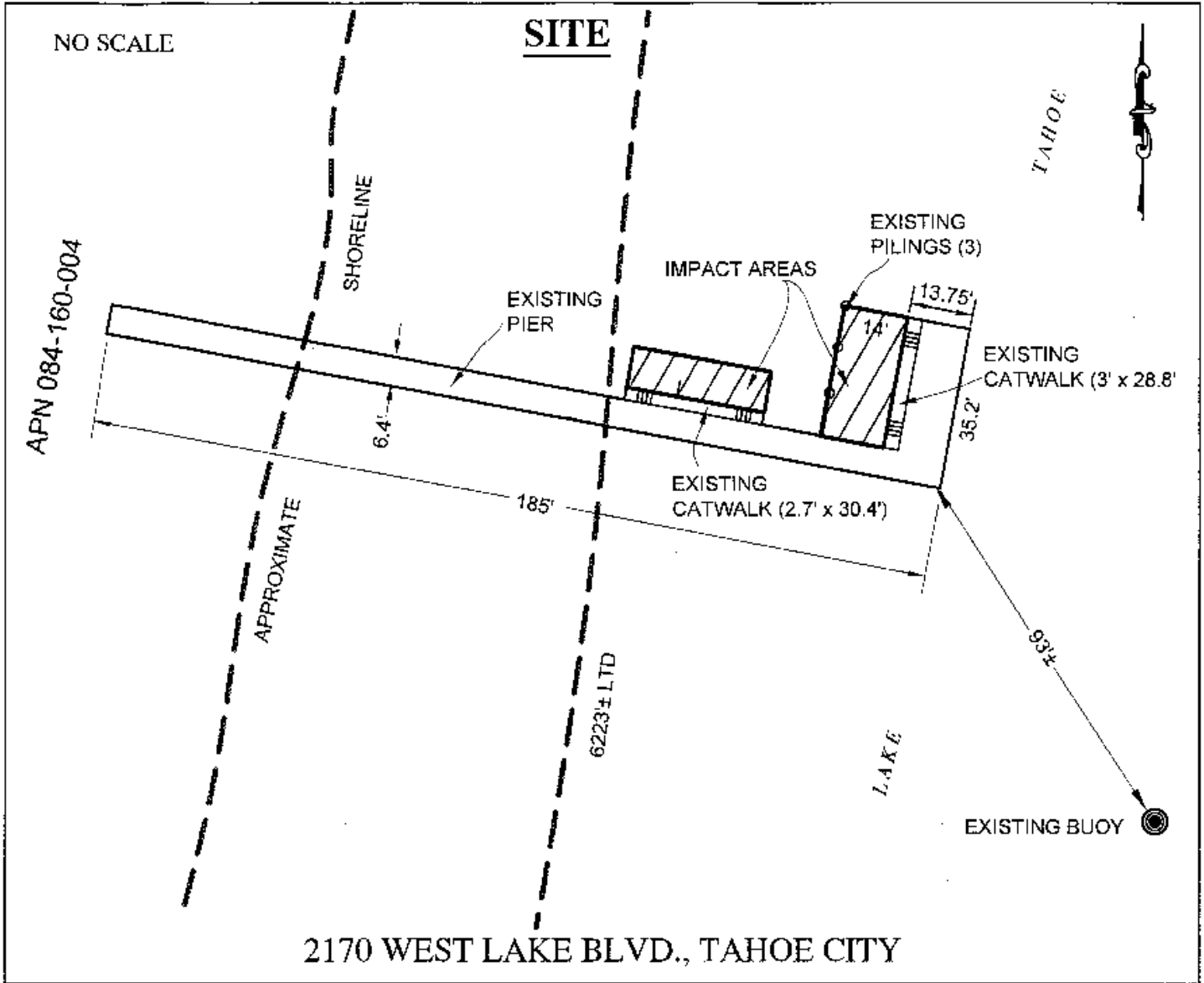
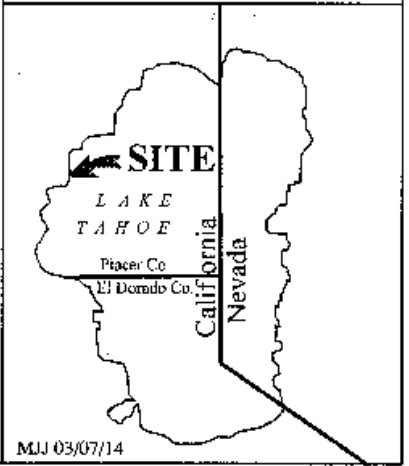


Exhibit B
 PRC 3867.9
 COOPER TRUST
 APN 084-160-004
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.