

**CALENDAR ITEM
C36**

A 1
S 1

04/23/14
PRC 4854.1
B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Eleanor Hewlett Gimon and Sally M. Hewlett, Trustees of the Hewlett Family Trust of January 1, 1992

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2050 West Lake Boulevard, Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing rock crib pier and breakwater 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 April 23, 2014.

CONSIDERATION:

Pier and One Mooring Buoy: No monetary consideration pursuant to Public Resources Code section 6503.5.

Breakwater: \$55 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 an amount no less than \$1,000,000 per occurrence.

Other:

1. The proposed lease contains a provision requiring the Applicants 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

CALENDAR ITEM NO. **C36** (CONT'D)

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 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 rock crib pier and breakwater with the Hewlett Family Trust; Sally M. Hewlett and Eleanor H. Gimon, Trustees. That permit expired on December 19, 2003. The Applicants are now applying for a new General Lease – Recreational Use.
3. The Applicants own three contiguous littoral parcels, Assessor's Parcel Numbers (APNs) 084-184-007, 084-184-008, and 084-184-009. The existing rock crib pier extends from APN 084-184-008. A portion of the pier on the north side extends out and is adjacent to APN 084-184-007. The breakwater extends from the south side of the pier and is adjacent to APNs 084-164-008 and 084-164-009.
4. 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

CALENDAR ITEM NO. **C36** (CONT'D)

- 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.

5. The Applicants' existing mooring buoy has been in Lake Tahoe for many years but was not previously authorized by the Commission.
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

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).

CALENDAR ITEM NO. **C36** (CONT'D)

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 Eleanor Hewlett Gimon and Sally M. Hewlett, Trustees of the Hewlett Family Trust of January 1, 1992, beginning April 23, 2014, for a term of 10 years, for the continued use and maintenance of an existing rock crib pier and breakwater 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; consideration for the rock crib pier and one mooring buoy: no monetary consideration pursuant to Public Resources Code section 6503.5; consideration for the breakwater: annual rent in the amount of \$55 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 per occurrence.

EXHIBIT A

PRC 4854.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 19, Township 15 North, Range 16 East, MDM., County of Placer, State of California, and more particularly described as follows:

PARCEL 1 (PIER)

All those lands underlying an existing pier lying adjacent to those Lots as described in Exhibit A of that Trust Transfer Deed recorded October 28, 1992 as Document Number 92-082449 of 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 (BREAKWATER)

All those lands underlying an existing breakwater lying adjacent to said Lots as described in said Trust Transfer Deed.

PARCEL 3 (BUOY)

One (1) circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to said Lots as described in said Trust Transfer Deed.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

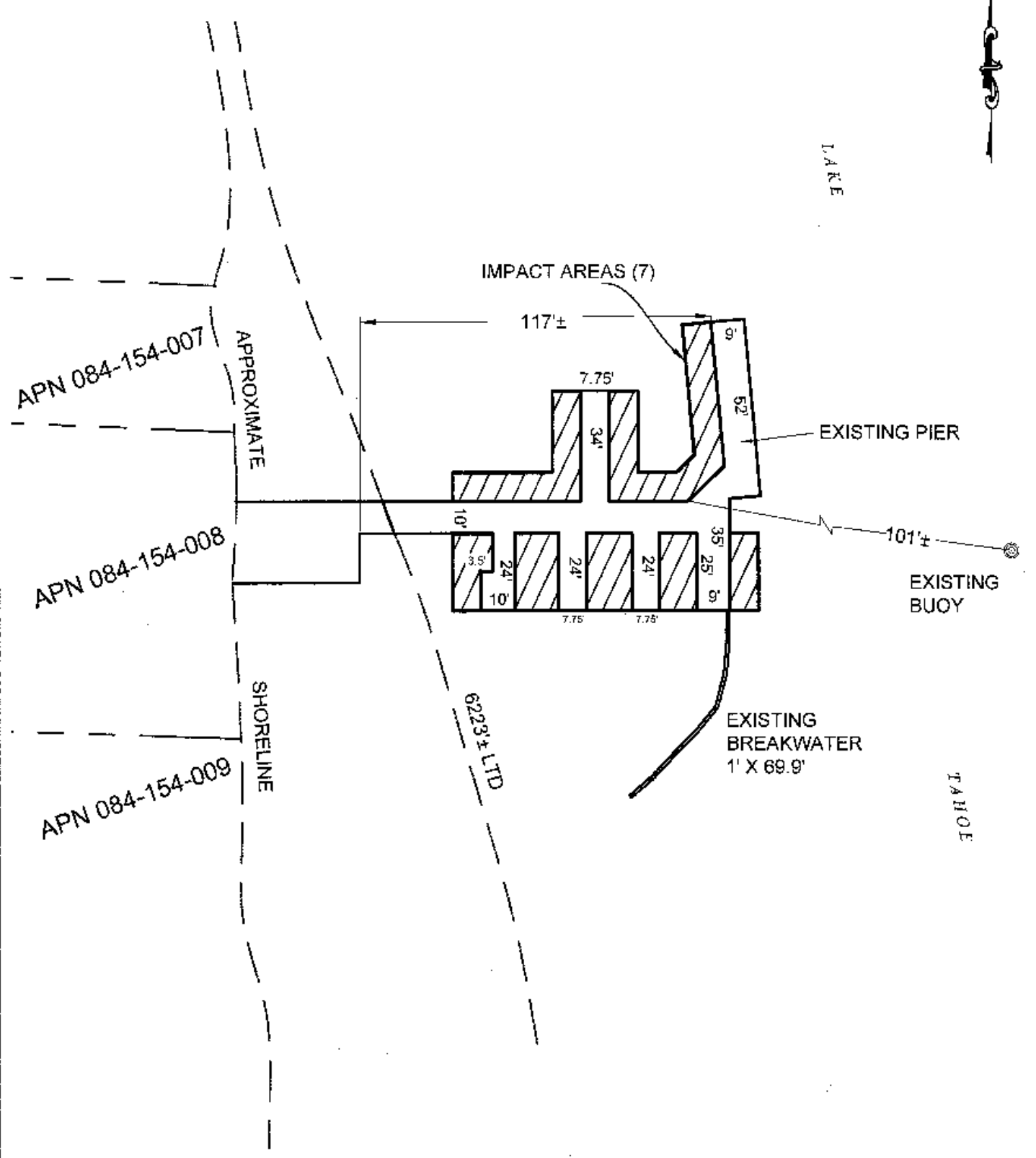
Prepared March 05, 2014 by the California State Lands Commission Boundary Unit.





LAKE

IMPACT AREAS (7)



LAKE

EXHIBIT A

Page 2 of 2

MJJ 03/05/14

LAND DESCRIPTION PLAT
 PRC 4854.1, HEWLETT FAMILY TRUST
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



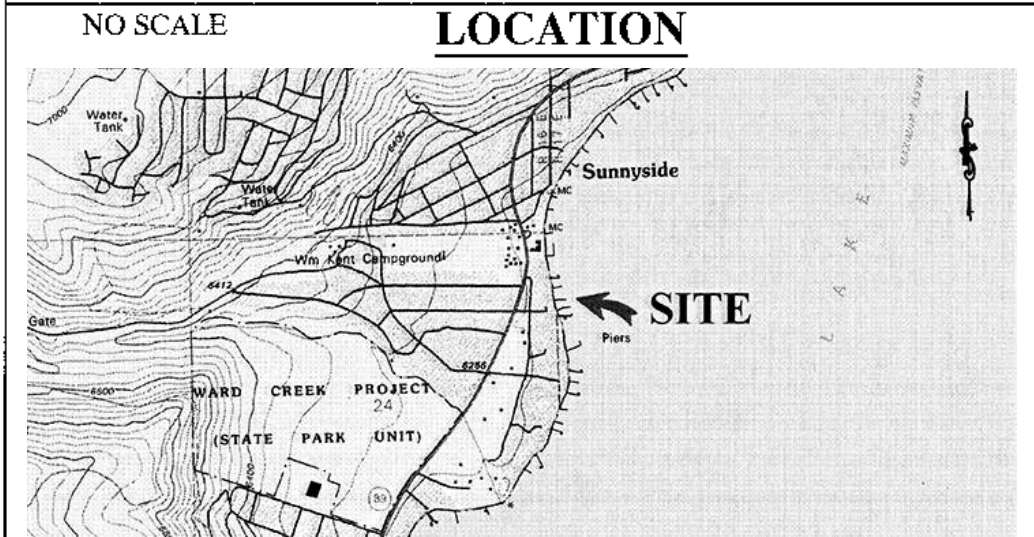
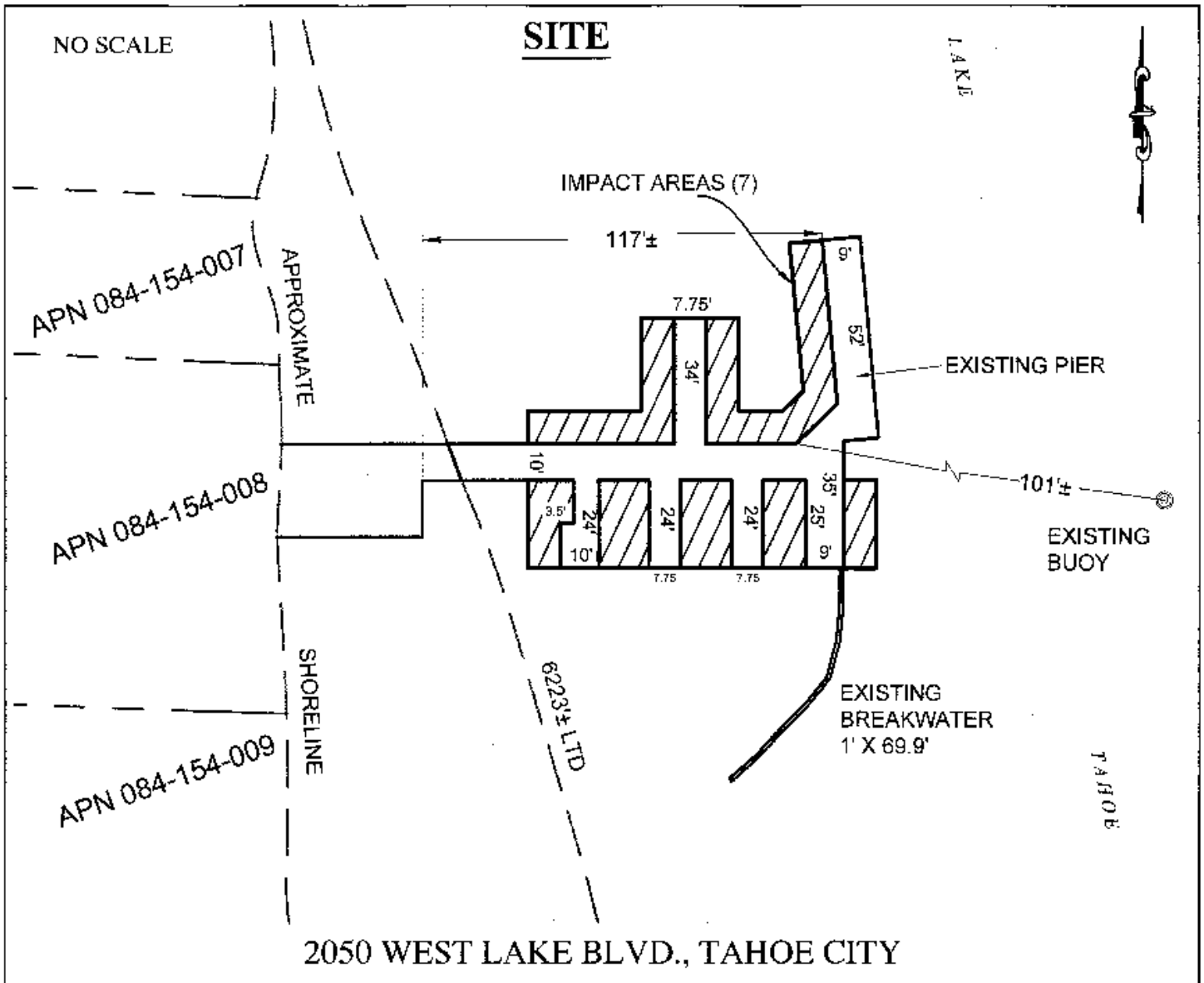
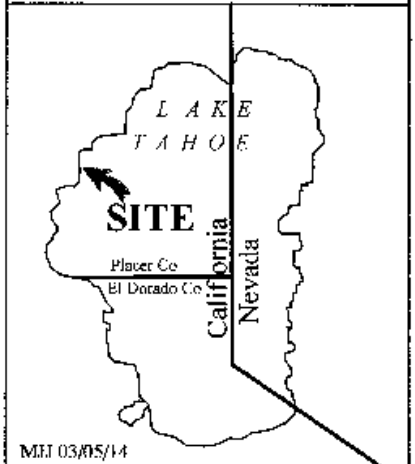


Exhibit B
 PRC 4854.1
 HEWLETT FAMILY TRUST
 APN 084-154-007, 008 & 009
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.