

**CALENDAR ITEM
C18**

A	1	06/19/14
S	1	PRC 3346.1 M.J. Columbus

**RESCISSION OF APPROVAL AND ISSUANCE OF GENERAL LEASE –
RECREATIONAL USE**

APPLICANTS

John M. Kelly, as Trustee of the John M. Kelly Revocable Trust, dated March 31, 1997; John M. Kelly As Trustee of the John M. Kelly Exempt Generation-Skipping Trust under The Paul B. Kelly Revocable Trust, dated November 2, 1981; John M. Kelly, Jr.; Elizabeth K. D'Ambrosia, and Matthew F. Kelly

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3390 Edgewater Drive, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boathouse with boat lift, and two existing mooring buoys.

LEASE TERM:

10 years, beginning October 1, 2013.

CONSIDERATION:

\$1,641 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 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

CALENDAR ITEM NO. C18 (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 authorizations 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 October 20, 2003, the Commission authorized a 10-year Recreational Pier Lease with John M. Kelly, as Trustee of the John M. Kelly Revocable Trust, dated March 31, 1997; John M. Kelly As Trustee of the John M. Kelly Exempt Generation-Skipping Trust under The Paul B. Kelly Revocable Trust, dated November 2, 1981; John M. Kelly, Jr.; Elizabeth K. D'Ambrosia, and Matthew F. Kelly. That lease expired September 30, 2013. On December 2, 2013, the Commission authorized a General Lease – Recreational Use to the Applicants.
3. On January 23, 2014, the Commission adopted amendments to Sections 1900, 2002, and 2003 of the California Code of Regulations pertaining to its leasing regulations, which resulted in a change to the Commission's practice in terms of assessing rent and the impact area surrounding piers. The Applicants did not execute the lease approved on December 2, 2013 and are now requesting that the lease be revised to change the rent and impact area. Therefore, staff recommends that the authorization for issuance of Lease No. PRC 3346.1 be rescinded. The lease start date in the original Commission approval on December 2, 2013, which is continuous with the expiration of the previous lease, will remain.
4. **Rescind Approval of Lease:** The staff recommends that the Commission find that the subject rescission of lease approval does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

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

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

5. **Issuance of New Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of 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:

Rescind Approval of Lease: Find that the subject rescission of lease approval is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of New Lease: 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. **C18** (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:

1. Authorize rescission of the Commission's approval of Lease No. PRC 3346.1, a General Lease – Recreational Use, at the December 2, 2013 meeting.
2. Authorize issuance of a General Lease – Recreational Use to John M. Kelly, as Trustee of the John M. Kelly Revocable Trust, dated March 31, 1997; John M. Kelly As Trustee of the John M. Kelly Exempt Generation-Skipping Trust under The Paul B. Kelly Revocable Trust, dated November 2, 1981; John M. Kelly, Jr.; Elizabeth K. D'Ambrosia, and Matthew F. Kelly beginning October 1, 2013, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse with boatlift, and two mooring buoys 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 \$1,641 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 in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3346.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 fractional Section 33, 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, boathouse, boat lift and catwalk lying adjacent to those parcels as described in Exhibit “A” of that Grant Deed recorded July 1, 2003 as Document Number 2003-0108598 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 & 3 – BUOYS (2)

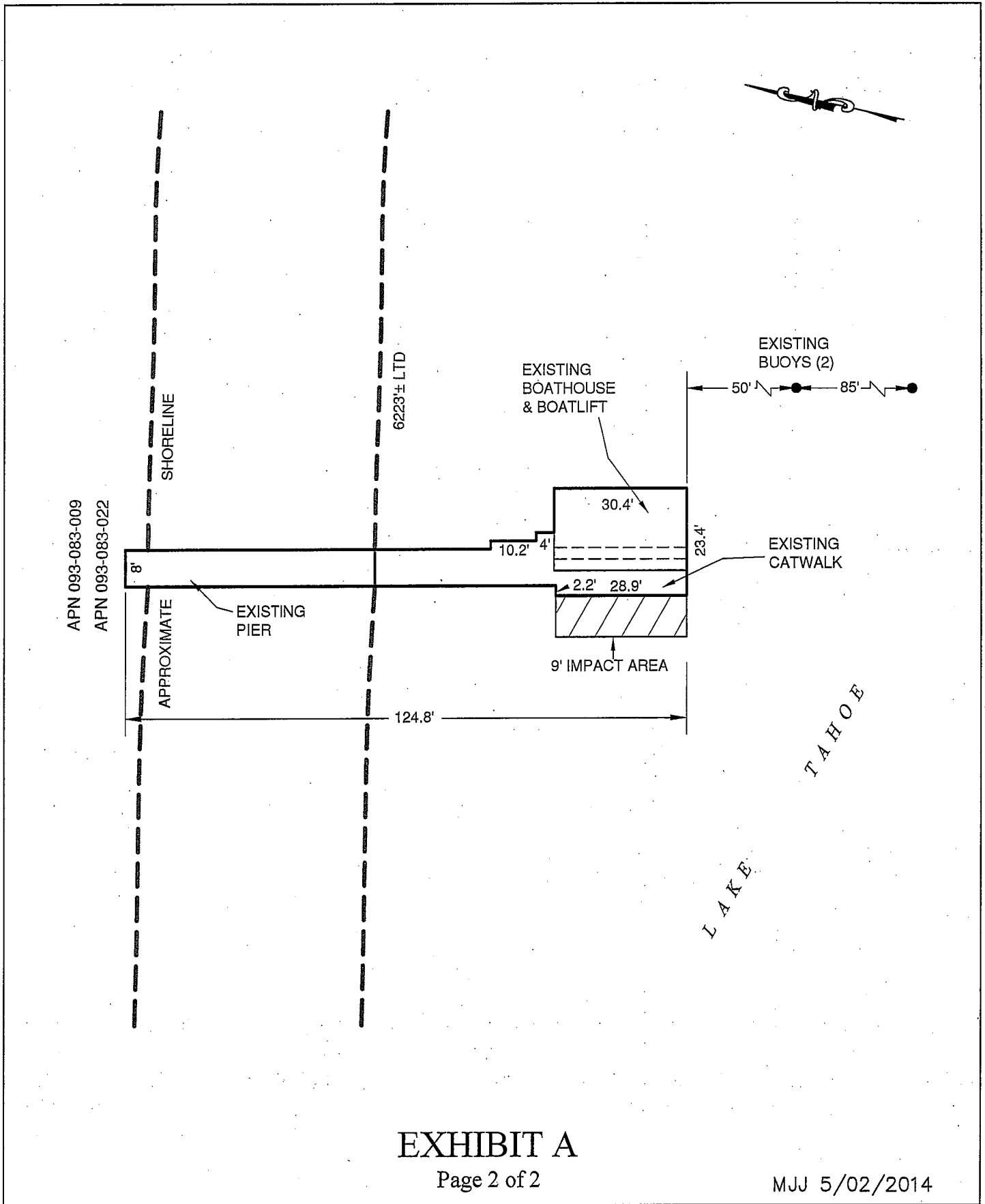
Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcels.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared May 1, 2014 by the California State Lands Commission Boundary Unit.

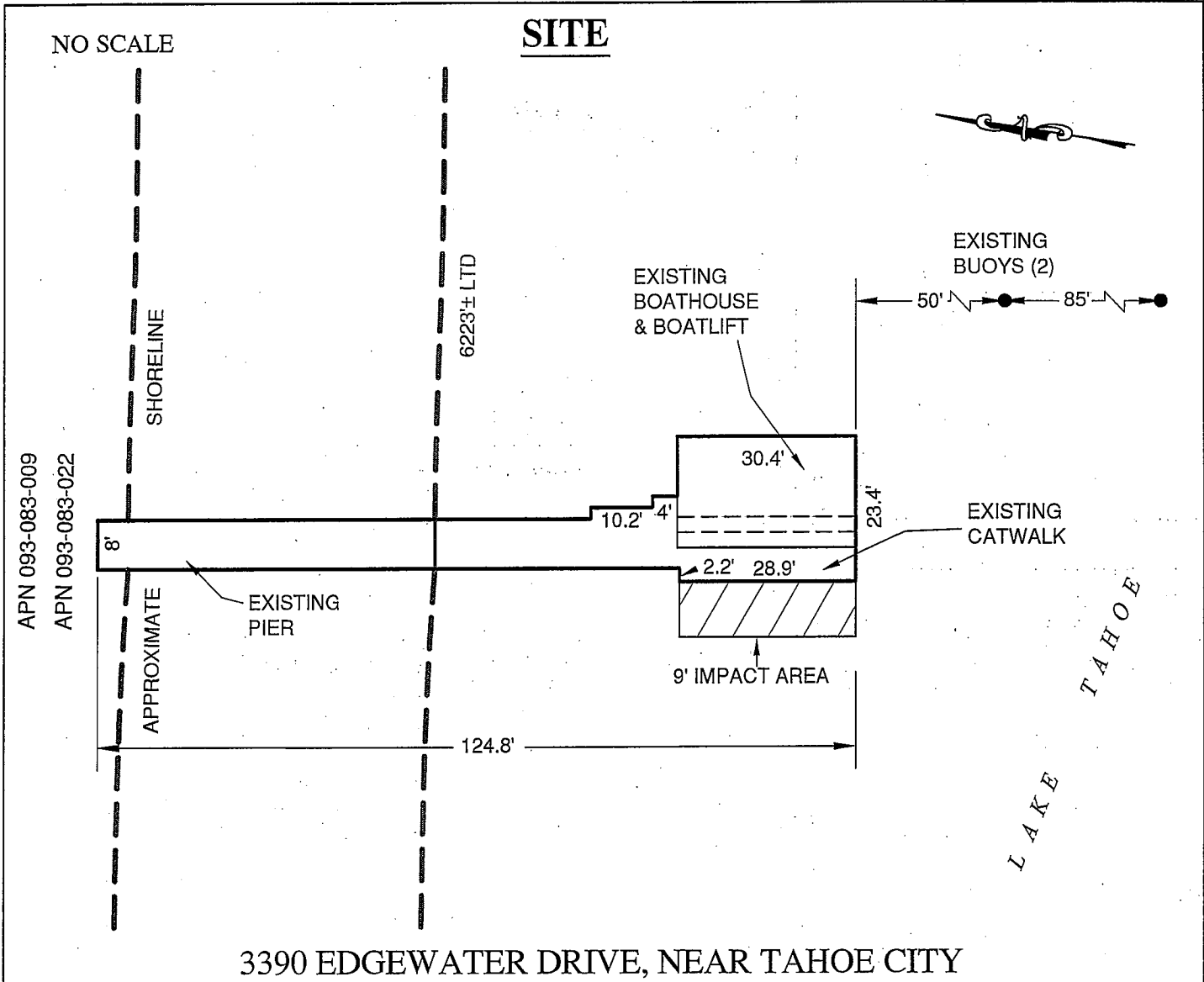




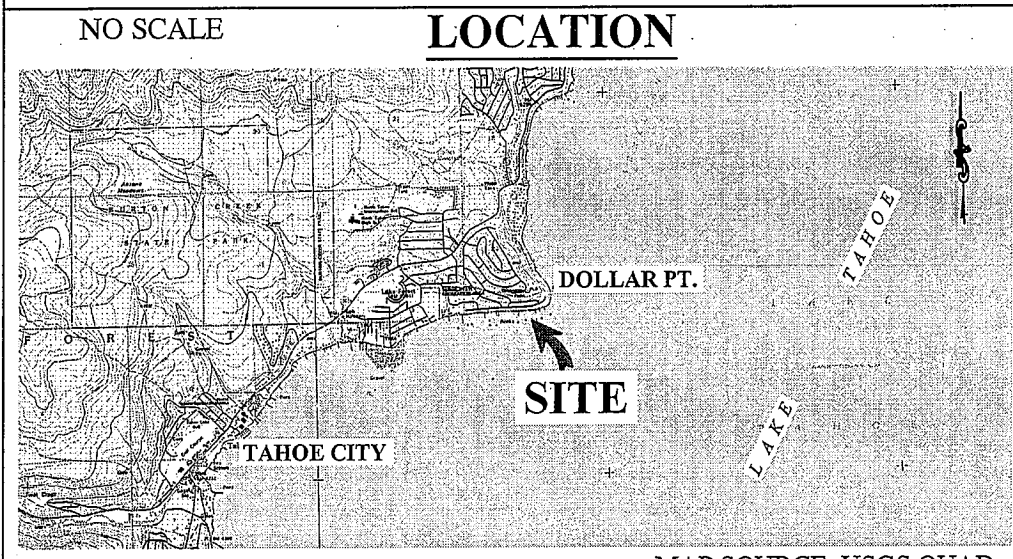
LAND DESCRIPTION PLAT
PRC 3346.1, KELLY
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



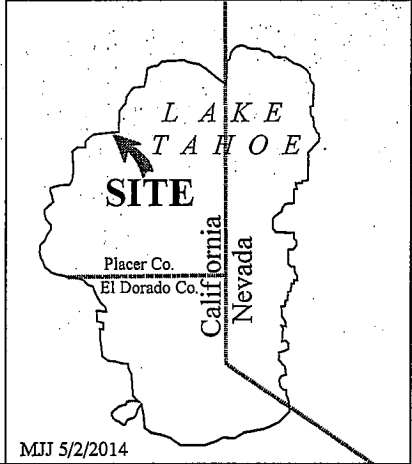


3390 EDGEWATER DRIVE, NEAR TAHOE CITY



MAP SOURCE: USGS QUAD

Exhibit B
 PRC 3346.1
 KELLY
 APN 093-083-009 & 022
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MIJ 5/2/2014

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.