

**CALENDAR ITEM
C20**

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06/19/14
PRC 4315.1
W. Hall

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

APPLICANTS:

Harold M. Messmer, Jr. and Marcia N. Messmer, Trustees of the Messmer Family Trust dated 10/1/93

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe adjacent to 4420 North Lake Boulevard, Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat lift, and one mooring buoy previously authorized by the Commission, and use and maintenance of an existing wood marine rail, boat hoist, and one mooring buoy not previously authorized by the Commission.

LEASE TERM:

10 years, beginning June 19, 2014.

CONSIDERATION:

\$1,339 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 buoy 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

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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.

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

OTHER PERTINENT INFORMATION:

1. Applicants own the upland parcel adjoining the lease premises.
2. On June 19, 1998, the Commission authorized a 10-year Recreational Pier Lease with the John F. and Barbara M. Otto Family Trust Dated July 10, 1990, for an existing pier, boat lift and one mooring buoy. That lease expired on April 27, 2008.
3. On February 2, 2007, ownership of the littoral upland was conveyed to Harold M. Messmer, Jr. and Marcia N. Messmer, Trustees of the Messmer Family Trust dated 10/1/93. Applicants are now applying for a new General Lease – Recreational Use.
4. On December 2, 2013, the Commission authorized a General Lease – Recreational Use to Harold M. Messmer, Jr. and Marcia N. Messmer, Trustees of the Messmer Family Trust dated 10/1/93, for the continued use and maintenance of an existing pier, boat lift, and one mooring buoy previously authorized by the Commission, and use and maintenance of an existing wood marine rail, boat hoist, and one mooring buoy not previously authorized by the Commission.
5. 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 4315.1 be rescinded.

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6. The Applicants' existing boat hoist, wood marine rail, and one additional mooring buoy have been in Lake Tahoe for many years but were not previously authorized by the Commission. Staff recommends including the existing boat hoist, wood marine rail, and one additional mooring buoy as authorized improvements in the lease.

7. **Rescind Approval of New Lease:** The staff recommends that the Commission find that the subject rescission of lease 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).

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

8. **Issuance of New Lease:** 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.

9. 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. **C20** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Rescind Approval of New Lease: Find that the subject rescission of lease 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).

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 4315.1, a General Lease – Recreational Use, at the December 2, 2013, meeting.
2. Authorize issuance of a General Lease – Recreational Use to Harold M. Messmer, Jr. and Marcia N. Messmer, Trustees of the Messmer Family Trust dated 10/1/93, beginning June 19, 2014, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and one mooring buoy previously authorized by the Commission and use and maintenance of an existing wood marine rail, boat hoist, and one 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; annual rent in the amount of \$1,339, 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 an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4315.1

LAND DESCRIPTION

Four parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 21, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, catwalk, boat lift and boat hoist lying adjacent to that parcel described in Grant Deed recorded February 2, 2007 as Document Number 2007-0011755-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCEL 2 & 3– BUOYS

Two circular parcel of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded February 2, 2007 as Document Number 2007-0011755-00 in Official Records of said County.

PARCEL 4– WOOD RAILS

All those lands underlying existing wood rails lying adjacent to that parcel described in Grant Deed recorded February 2, 2007 as Document Number 2007-0011755-00 in Official Records of said County.

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 05/06/2014 by the California
State Lands Commission Boundary Unit.



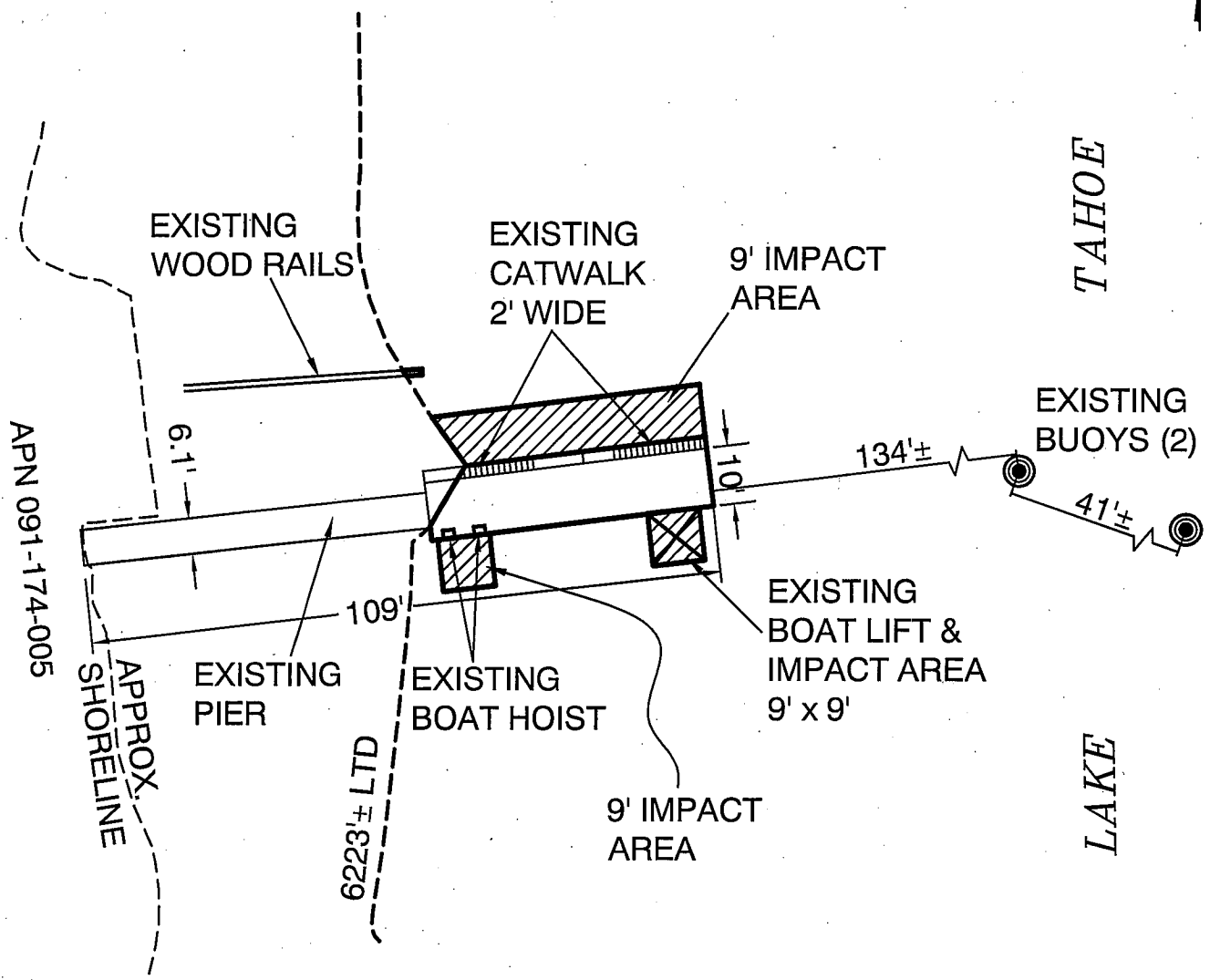


EXHIBIT A

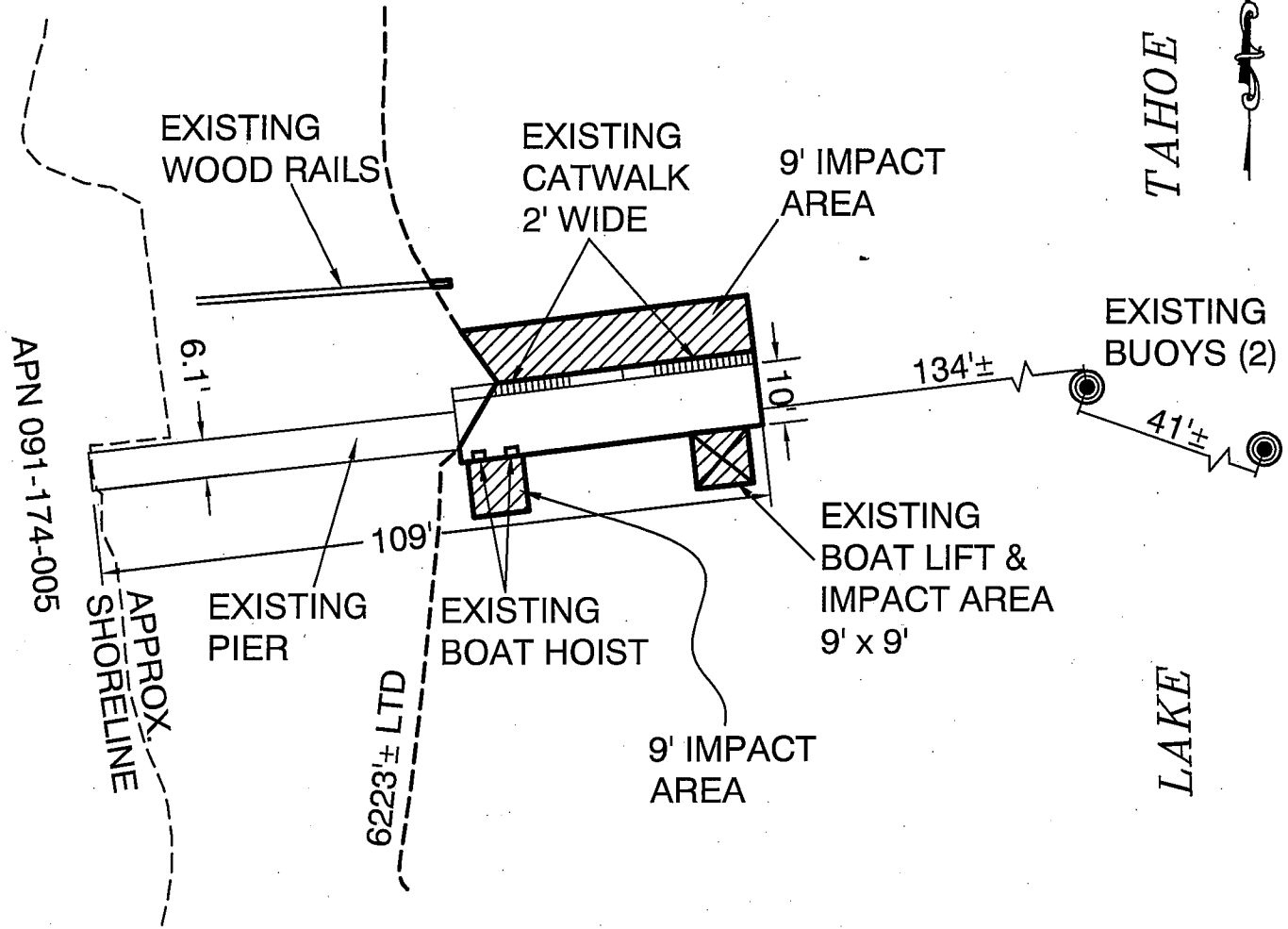
LAND DESCRIPTION PLAT
 PRC 4315.1, MESSMER TRUSTEES
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

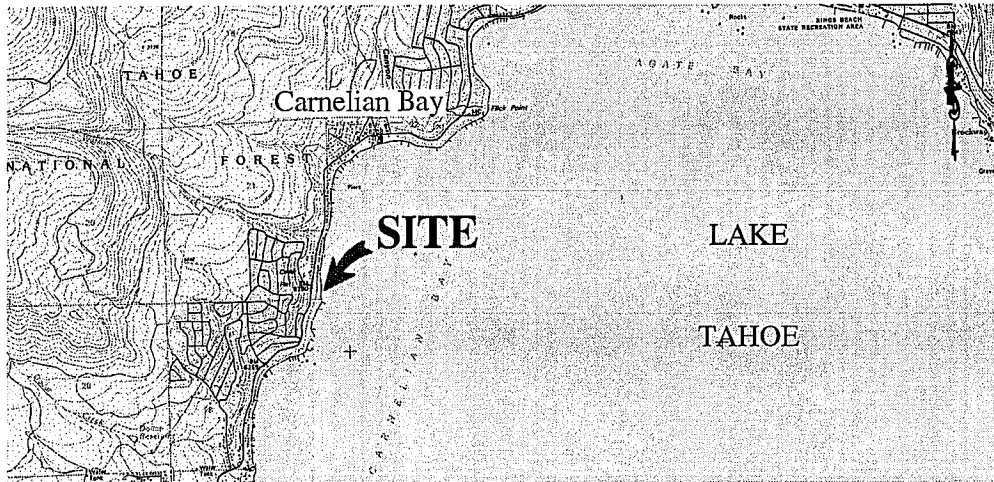
SITE



4420 NORTH LAKE BOULEVARD, CARNELIAN BAY

NO SCALE

LOCATION

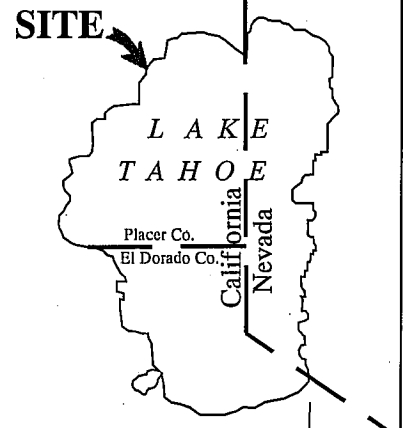


MAP SOURCE: USGS QUAD

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.

Exhibit B

PRC 4315.1
 MESSMER TRUSTEES
 APN 091-174-005
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



TS 05/06/14