

**CALENDAR ITEM
C54**

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PRC 5122.1

M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

C. Henry Veit, Trustee of the Warren H. Sichel Testamentary Trust dated August 11, 1993

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4190 Ferguson Avenue, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and boat house previously authorized by the Commission; and use and maintenance of an existing boat lift, boat hoist, sundeck with stairs, and two mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years, beginning August 23, 2013.

CONSIDERATION:

Pier, Boathouse with Boat Lift, Boat Hoist, and Two Mooring Buoys: No monetary consideration pursuant to Public Resources Code section 6503.5.

Sundeck with stairs: \$877 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 Applicant 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

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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 amended ordinance issues.

2. The lease contains provisions stating that the existing sundeck with stairs, as shown on the attached Exhibit B, cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck with stairs must be removed from the lease premises.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On February 27, 1998, the Commission authorized a 10-year Recreational Pier Lease for an existing pier and boathouse to Shirley P. Sichel, Trustee of the Warren H. Sichel Testamentary Trust dated August 11, 1993. That lease expired on April 11, 2008. C. Henry Veit is the Successor Trustee of the Warren H. Sichel Testamentary Trust dated August 11, 1993. The Applicant is now applying for a General Lease – Recreational Use for the pier and boathouse previously authorized by the Commission and a boat lift, boat hoist, sundeck with stairs, and two mooring buoys not previously authorized.
3. 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

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- 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 the enacted changes to section 6503.5 of the Public Resources Code for the term of this lease. Therefore, the sundeck with stairs is the only improvement subject to rent.

4. The sundeck with stairs, boat lift in the boat house, boat hoist, and mooring buoys have been in Lake Tahoe for many years, but were not previously authorized by the Commission. Staff recommends bringing the Applicant's sundeck with stairs, boat lift, boat hoist, and mooring buoys under lease, subject to the Applicant obtaining TRPA permit authorization for the buoys.
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

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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 issuance of a General Lease – Recreational Use, to C. Henry Veit, Trustee of the Warren H. Sichel Testamentary Trust dated August 11, 1993, beginning August 23, 2013, for a term of 10 years, for the continued use and maintenance of an existing pier and boathouse previously authorized by the Commission; and use and maintenance of an existing boat lift, boat hoist, sundeck with stairs, and two mooring buoys 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 for the pier, boathouse with boat lift, boat hoist, and two mooring buoys pursuant to Public Resources Code section 6503.5; annual rent for the sundeck with stairs in the amount of \$877 per year, 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 5122.1

LAND DESCRIPTION

Three parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 28, 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, boathouse with sundeck and stairs, catwalk and two boat lifts lying adjacent to that parcel described in Affidavit of Trustee And Certification of Trust recorded June 30, 2008 as Document Number 2008-0053123-00 in Official Records of said County.

TOGETHER WITH a ten foot impact area.

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

PARCELS 2 & 3 – BUOYS

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Affidavit of Trustee And Certification of Trust recorded June 30, 2008 as Document Number 2008-0053123-in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 07/08/2013 by the California State Lands Commission Boundary Unit.



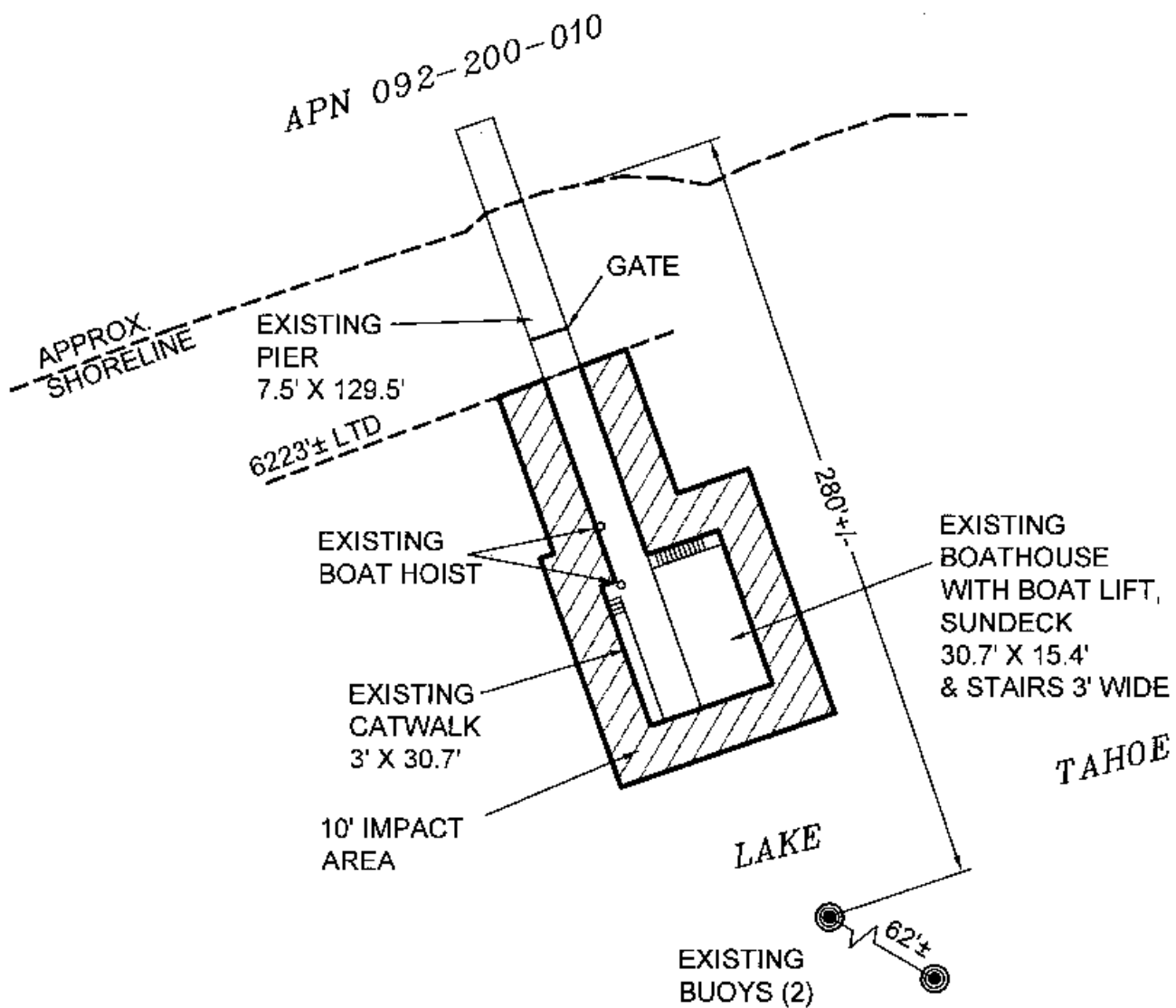


EXHIBIT A

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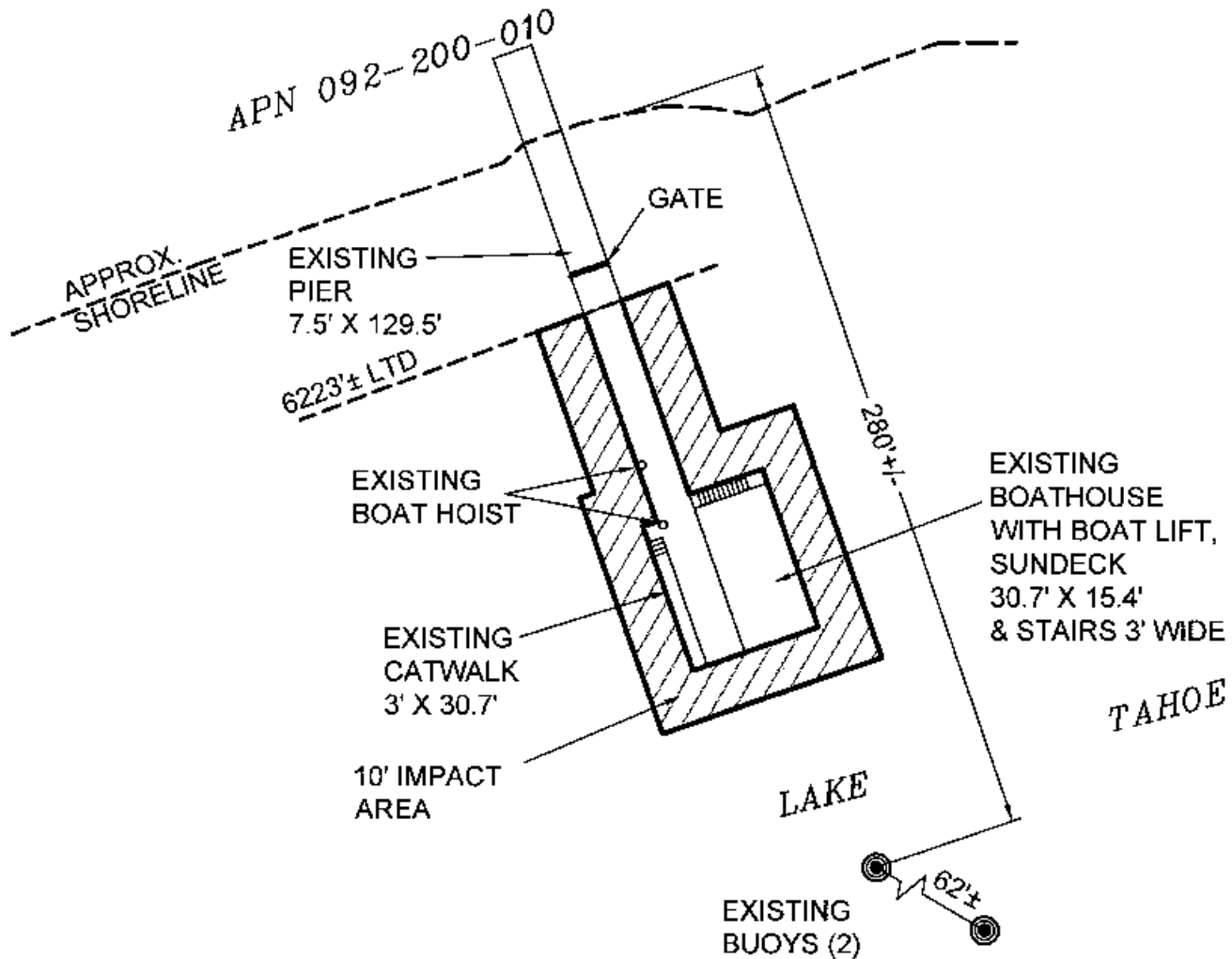
LAND DESCRIPTION PLAT
PRC 5122.1, SICHEL TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

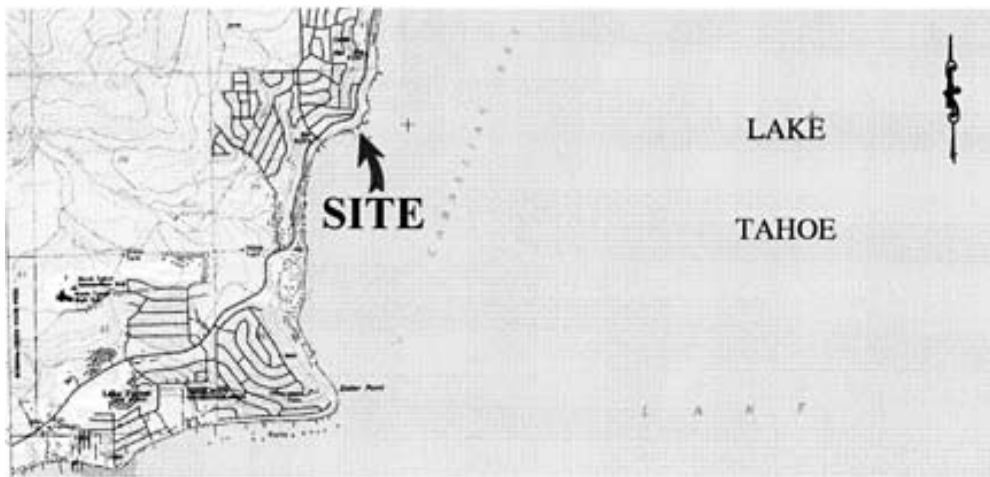
SITE



4190 FERGUSON AVENUE, CARNELIAN BAY

NO SCALE

LOCATION



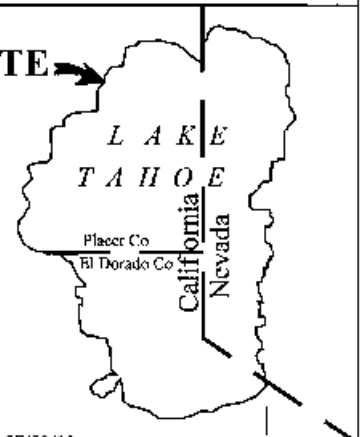
MAP SOURCE: USGS QUAD

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 5122.1
SICHEL TRUST
APN 092-200-010
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



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