

**CALENDAR ITEM
C47**

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12/02/13
PRC 7857.1
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Smalls Creek, LLC, a Nevada Limited Liability Company

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 853 Stateline Avenue, city of South Lake Tahoe, El Dorado County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning November 1, 2013.

CONSIDERATION:

\$1,616 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:

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 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

CALENDAR ITEM NO. **C47** (CONT'D)

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.

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. Applicant owns the upland adjoining the lease premises.
2. On October 17, 1995, the Commission authorized a 10-year Recreational Pier Lease to Dennis McDonnell, Celeste B. McDonnell, and Kevin J. McDonnell for the relocation, reconstruction, and 45-foot extension of a recreational pier; and addition of a 3-foot-wide catwalk on the extended portion of the pier. That lease expired on July 31, 2005. On August 22, 2006, the upland property was transferred to Smalls Creek, LLC, a Nevada Limited Liability Company (Smalls Creek). The Applicant is now applying for a General Lease – Recreational Use.
3. Staff is recommending that the Commission accept rent in the amount of \$8,729 for the period beginning August 22, 2006, when Smalls Creek took ownership of the upland property, through October 31, 2013. Smalls Creek did not qualify for rent-free status pursuant to the original definition of Public Resources Code section 6503.5 in effect at that time.
4. The Applicant's boat lift and mooring buoy have been in Lake Tahoe for many years but have not been previously authorized by the Commission. Staff recommends including the boat lift and mooring buoy as authorized improvements in the proposed lease.
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).

CALENDAR ITEM NO. **C47** (CONT'D)

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.

AUTHORIZATION:

1. Authorize acceptance of rent in the amount of \$8,729 for the period of August 22, 2006, through October 31, 2013.
2. Authorize issuance of a General Lease – Recreational Use to Smalls Creek, LLC, a Nevada Limited Liability Company, beginning November 1, 2013, for a term of 10 years, for the continued use and maintenance of an existing pier previously authorized by the Commission, and the use and maintenance of an existing boat lift 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

CALENDAR ITEM NO. **C47** (CONT'D)

part hereof; annual rent in the amount of \$1,616 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 7857.1

LAND DESCRIPTION

Two (2) parcels of submerged lands, situate in the bed of Lake Tahoe, lying adjacent to fractional Section 27, Township 13 North, Range 18 East, MDM, as shown on the Official Township Plat, approved July 8th, 1875, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 – PIER, CATWALK & BOATLIFT

All those lands underlying an existing pier, catwalk and boatlift adjacent to "Parcel 2" as described in Exhibit A of that Grant Deed recorded August 22nd, 2006 in Document Number DOC-2006-0057088-00 in Official Records of said County.

TOGETHER WITH a ten (10) foot impact area.

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

PARCEL 2 – BUOY

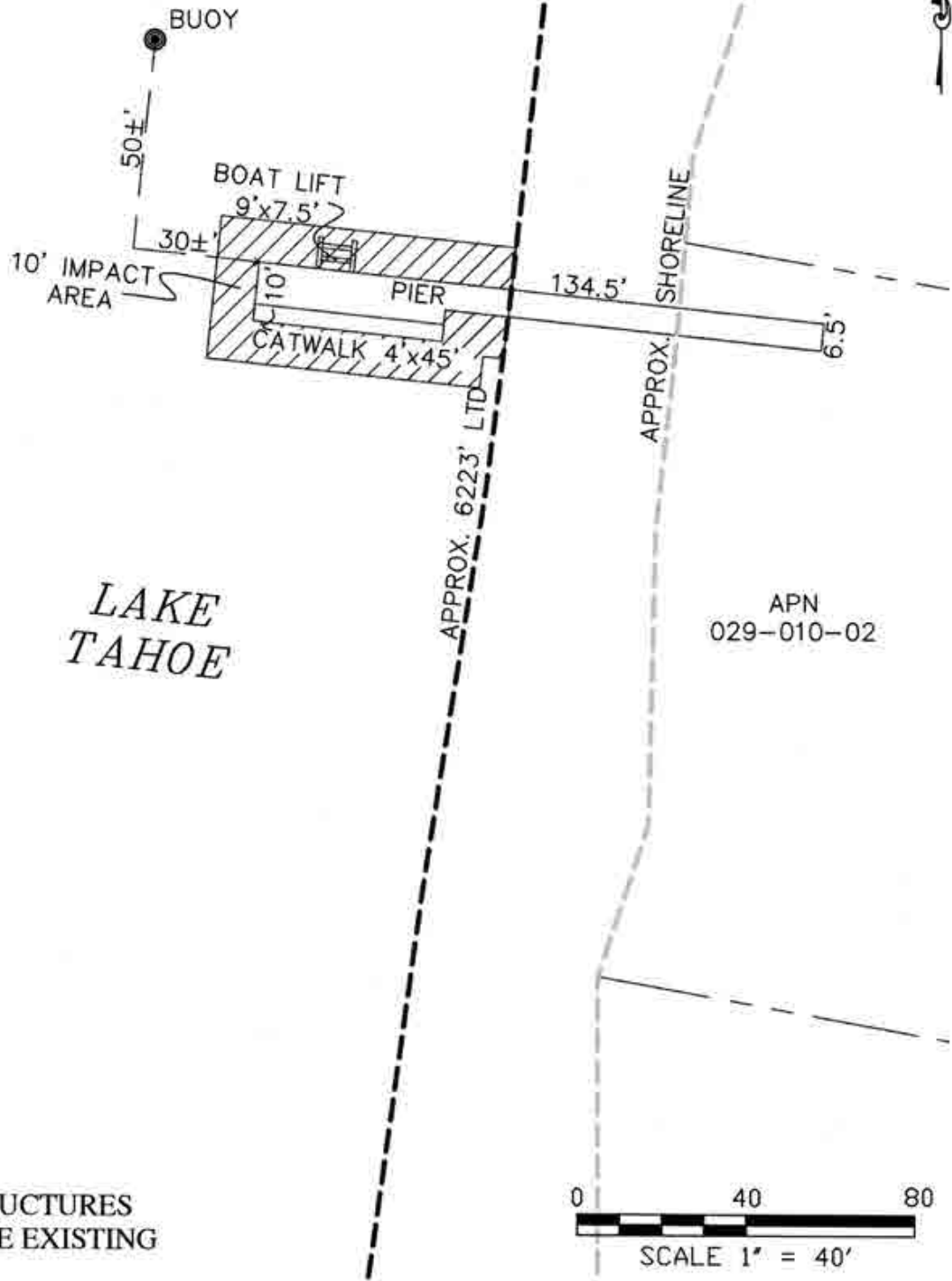
A circular parcel of land, being 50 feet in diameter, underlying a buoy, adjacent to "Parcel 2" as described in Exhibit A of that Grant Deed recorded August 22nd, 2006 in Document Number DOC-2006-0057088-00 in Official Records of said County.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

PREPARED 6/11/13 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





*ALL STRUCTURES SHOWN ARE EXISTING

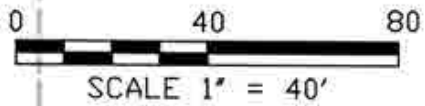


EXHIBIT A

Page 2 of 2

MJF 9/19/13

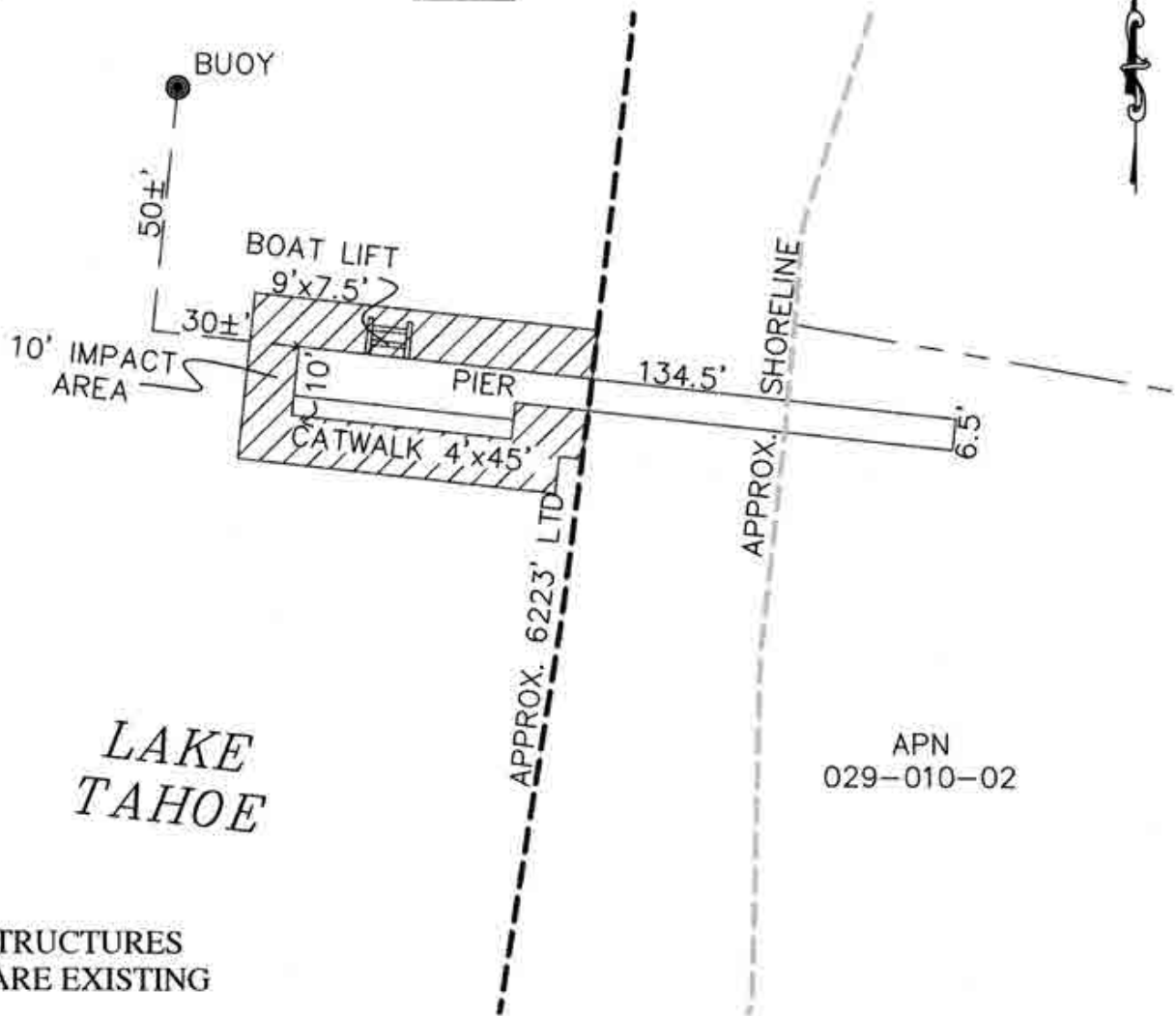
LAND DESCRIPTION PLAT
 PRC 7857.1, SMALLS CREEK LLC
 EL DORADO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



LAKE TAHOE

APN
029-010-02

*ALL STRUCTURES SHOWN ARE EXISTING

853 Stateline Avenue, South Lake Tahoe

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 7857.1
SMALLS CREEK LLC
APN 029-010-02
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



MJP 9/19/13