

CALENDAR ITEM

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12/02/13

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PRC 3094.1

M. Schroeder

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

APPLICANTS:

James Patrick Baker and Elizabeth R. Baker, as Trustees of the James Patrick Baker and Elizabeth R. Baker Family Trust U/A/D September 16, 2010

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8797 Rubicon Drive, near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier previously authorized by the Commission; and use and maintenance of two existing mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years, beginning November 5, 2012.

CONSIDERATION:

\$1,597 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 approximately 1995 to October 2008 when TRPA

CALENDAR ITEM NO. **C53** (CONT'D)

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 February 5, 2001, the Commission authorized a Recreational Pier Lease for an existing pier to Albert S. Weaver, III and Katherine Weaver Barnett. That lease expired on November 30, 2010.
3. On February 22, 2013, the Commission authorized a General Lease – Recreational Use to Albert S. Weaver, III and Katherine Weaver Barnett, as Successor Co-Trustees of the Albert S. Weaver, Jr. and Emily Baker Weaver Trust dated December 31, 1969. At the time of processing the lease application, it was staff's understanding that there were no changes in ownership. However, after the Commission's approval of the lease staff became aware that the Weavers had sold the upland on November 5, 2012 to James Patrick Baker and Elizabeth R. Baker, as Trustees of the James Patrick Baker and Elizabeth R. Baker Family Trust U/A/D September 16, 2010. The Weavers never executed the lease. Staff is therefore requesting that the authorization made by the Commission at the February 22, 2013 meeting be rescinded. The Applicants are now applying for a new General Lease – Recreational Use.
4. The Applicants' mooring buoys have been in Lake Tahoe for many years but have not been previously authorized by the Commission.
5. **Rescind Approval of Lease:** The staff recommends that the Commission find that the subject lease rescission does not have a potential for resulting in either a direct or a reasonably foreseeable indirect

CALENDAR ITEM NO. **C53** (CONT'D)

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.

6. **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.

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:

Rescind Approval of Lease: Find that the subject lease rescission 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

CALENDAR ITEM NO. **C53** (CONT'D)

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 3094.1, a General Lease – Recreational Use, at the February 22, 2013 meeting, issued to Albert S. Weaver, III and Katherine Weaver Barnett, as Successor Co-Trustees of the Albert S. Weaver, Jr. and Emily Baker Weaver Trust dated December 31, 1969.

2. Authorize issuance of a General Lease – Recreational Use to James Patrick Baker and Elizabeth R. Baker, as Trustees of the James Patrick Baker and Elizabeth R. Baker Family Trust U/A/D September 16, 2010, beginning November 5, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier previously authorized by the Commission; and use and maintenance of two existing 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; annual rent in the amount of \$1,597 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 3094.1

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 32, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of El Dorado, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk lying adjacent to that parcel described in Grant Deed recorded November 5, 2012 as Document Number 2012-0056696-00 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.

PARCEL 2 & 3 – BUOYS

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded November 5, 2012 as Document Number 2012-0056696-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 09/06/2013 by the California State Lands Commission Boundary Unit.





EXISTING BUOYS (2)

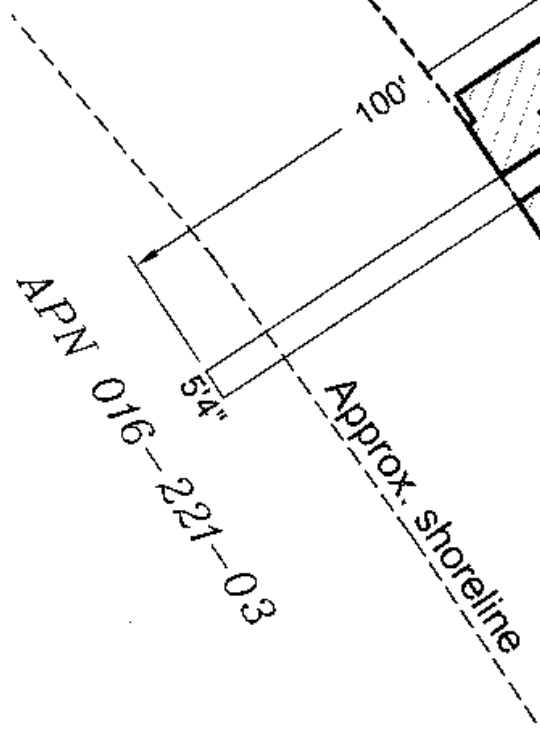
LAKE

TAHOE

EXISTING CATWALK
3' WIDE

10' IMPACT
AREA

EXISTING
PIER



100'

54"

APN 016-221-03

Approx. shoreline

Approx. 6223 LTD

334'±

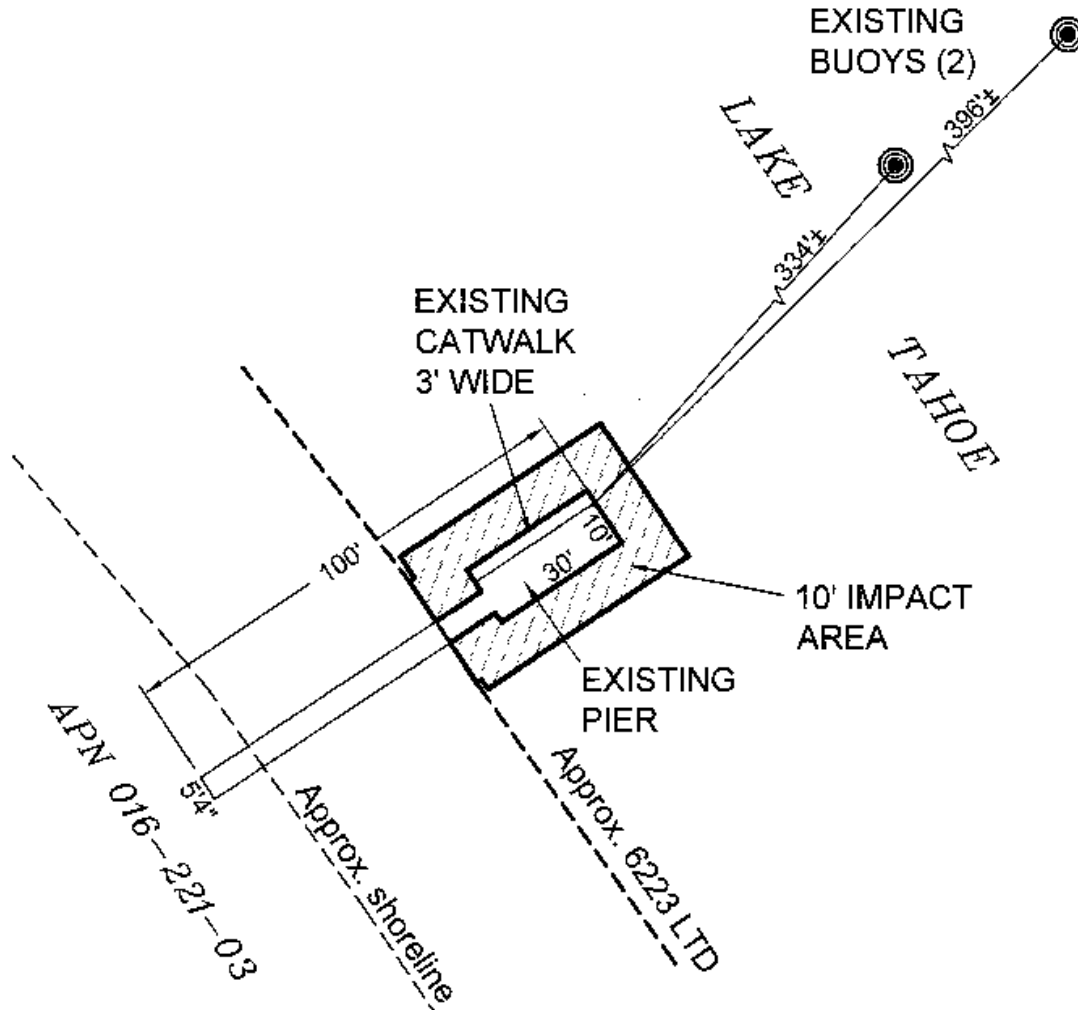
396'±

EXHIBIT A



NO SCALE

SITE



8797 RUBICON DRIVE, NEAR SOUTH LAKE TAHOE

NO SCALE

LOCATION

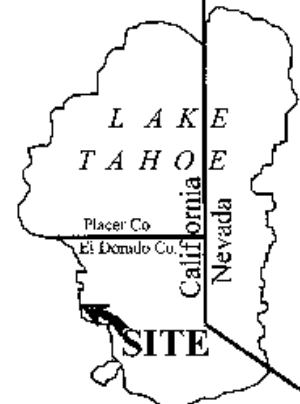


MAP SOURCE: USGS QUAD

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 3094.1
 BAKER TRUST
 APN 016-221-03
 GENERAL LEASE-
 RECREATIONAL USE
 EL DORADO COUNTY



TS 09/06/13