

**CALENDAR ITEM
C10**

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02/07/17
PRC 3506.1
K. Connor

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Sloss Tahoe Property, a California general partnership

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 7117 Highway 89, near
Tahoma, El Dorado County.

AUTHORIZED USE:

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

LEASE TERM:

10 years beginning March 1, 2017.

CONSIDERATION:

\$926 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements within the Public Trust easement which may impair the public uses.
3. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the mooring buoys within 2 years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such

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authorization within the time limit, they may be required to remove the buoys.

4. 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.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On October 30, 2007, the Commission authorized a Recreational Pier Lease for the existing pier and one mooring buoy to Sloss Tahoe Property, a California general partnership ([Calendar Item C13, October 30, 2007](#)). That lease will expire on February 28, 2017.

The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier and one mooring buoy previously authorized by the Commission as well as one existing mooring buoy not previously authorized by the Commission. The Applicant's pier and two mooring buoys have been in Lake Tahoe for many years, but the one mooring buoy had not previously been brought under lease. Staff became aware of the additional mooring buoy when the prior lease application was submitted in 2007 but, at that time, was not recommending authorization to the Commission for any previously unauthorized mooring buoys without TRPA permits. The Applicant applied for a TRPA Conditional Buoy permit in 2009 and obtained a permit for both mooring buoys.

The pier and buoys facilitate recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on pilings and the immediate area of the pier is slightly sloped and sandy with large rocks. The topography and the location of upland

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structures provides access for the pier and allows the public to walk or navigate under the pier within the Public Trust easement. The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. 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.

3. 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

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staff's consultation with the persons nominating such lands and through the CEQA review process, it is 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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

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 Sloss Tahoe Property, a California general partnership, beginning March 1, 2017, for a term of 10 years, for the continued use and maintenance of an existing pier and one mooring buoy previously authorized by the Commission, and use and maintenance of one existing 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 \$926, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3506.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to the North ½ of fractional Section 17, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved January 17, 1866, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1- PIER

All those lands underlying an existing pier and catwalk lying adjacent to that parcel described in Exhibit A of Grant Deed recorded April 29, 1986 in Book 2561 Page, 282 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

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

PARCELS 2 & 3 (BUOYS)

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that parcel described in Exhibit A of Grant Deed recorded April 29, 1986 in Book 2561, Page 282 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 10/13/2016 by the California State Lands Commission Boundary Unit.



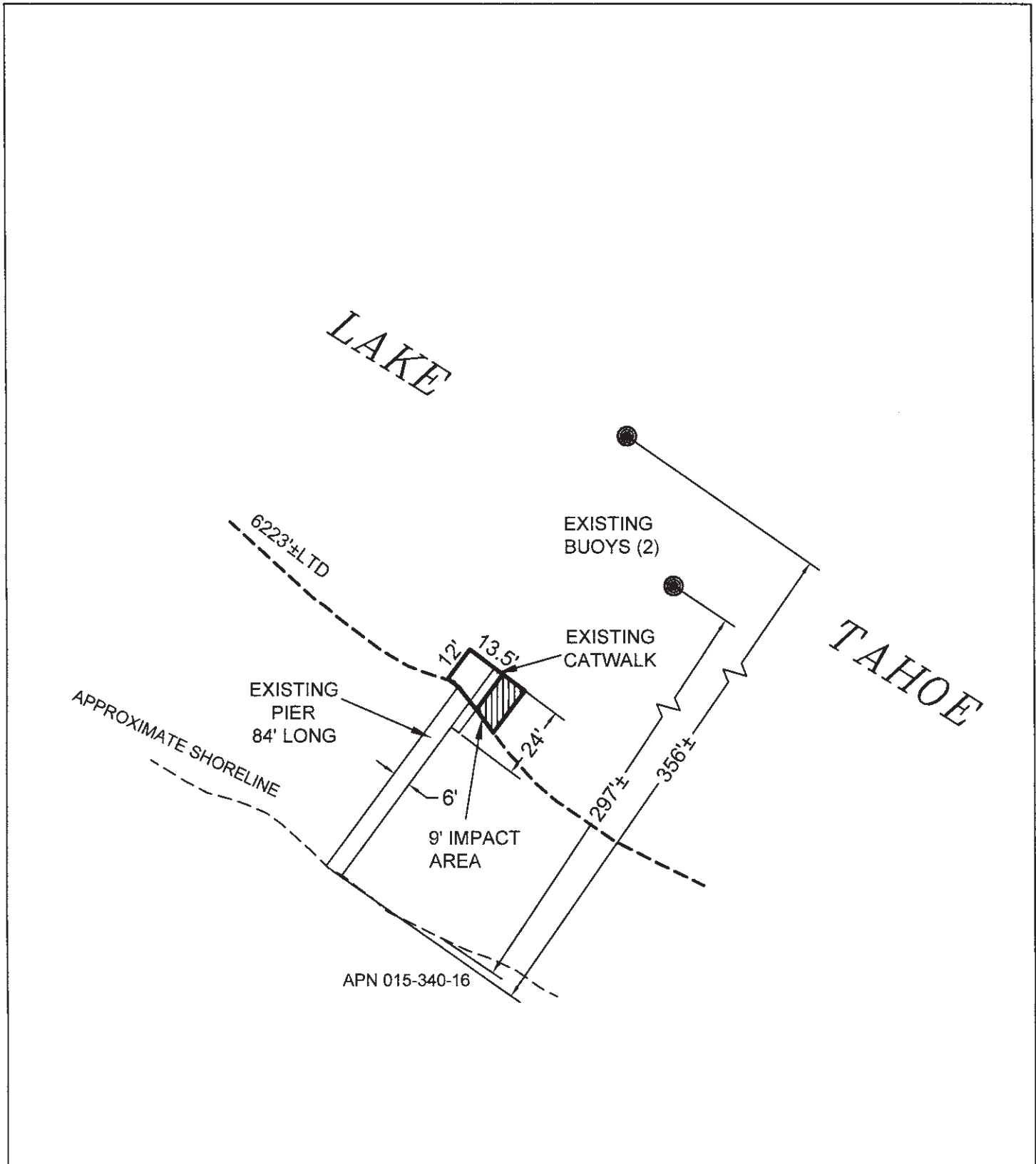


EXHIBIT A

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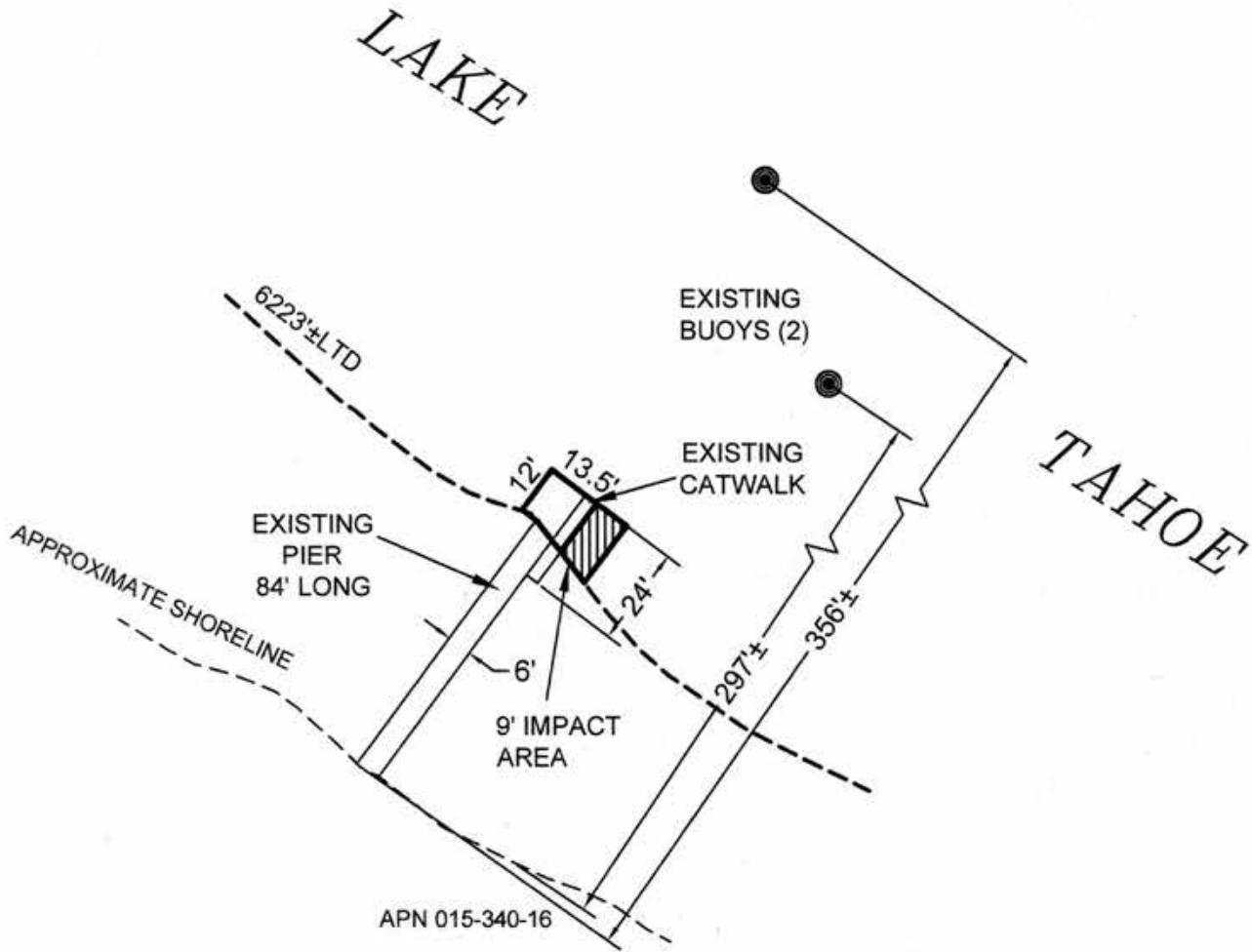
LAND DESCRIPTION PLAT
 PRC 3506.1, SLOSS TAHOE PROPERTY
 EL DORADO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



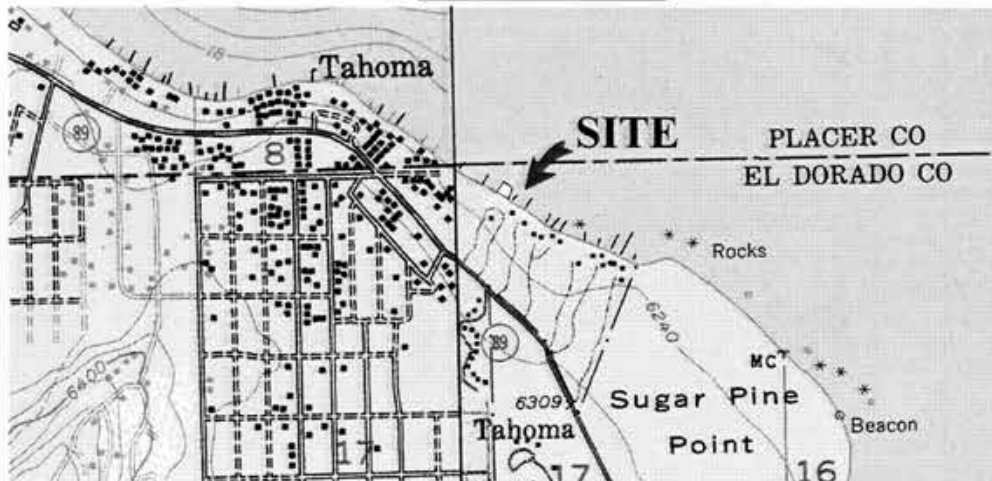
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SITE



NO SCALE

LOCATION

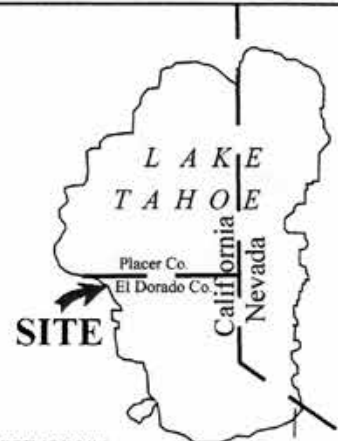


MAP SOURCE: USGS QUAD

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 3506.1
 SLOSS TAHOE PROPERTY
 APN 015-340-16
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



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