

**CALENDAR ITEM
C32**

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05/24/12
PRC 8380.1
B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Susan Schlicht; Dudley Gustav Schlicht, as Trustee of the Dudley Gustav Schlicht Trust under the Second Amended and Restated Declaration of Trust dated May 15, 2008; and Duncan Hallberg Schlicht, as Trustee of the Duncan Hallberg Schlicht Trust under the Second Amended and Restated Declaration of Trust dated September 19, 2007

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 160 Sierra Terrace Road, Tahoe City, Placer County

AUTHORIZED USE:

Continued use and maintenance of two mooring buoys.

LEASE TERM:

10 years, beginning April 1, 2012.

CONSIDERATION:

\$680 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 the amount of no less than \$1,000,000.

Other:

The proposed lease contains a provision requiring the Applicant(s) 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

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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.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On April 9, 2002, the Commission authorized a Recreational Pier Lease with Duncan Hallberg Schlicht Trust established December 14, 1993 and/or Dudley Gustav Schlicht Trust established December 14, 1993. That lease expired on March 31, 2012.
3. On June 17, 2010, ownership of the upland parcel was transferred to Susan Schlicht; Dudley Gustav Schlicht, as Trustee of the Dudley Gustav Schlicht Trust under the Second Amended and Restated Declaration of Trust dated May 15, 2008; and Duncan Hallberg Schlicht, as Trustee of the Duncan Hallberg Schlicht Trust under the Second Amended and Restated Declaration of Trust dated September 19, 2007. Applicants are now applying for a new General Lease – Recreational Use.
4. A pier and two mooring buoys are located adjacent to the upland parcel; however, the pier does not extend beyond elevation 6223 feet, Lake Tahoe Datum. Therefore, the pier is not subject to the Commission's leasing jurisdiction.
5. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became effective 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
 - B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

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Because the application was not submitted to the Commission prior to March 31, 2011, the lease does not meet the statutory requirements for an exception to recently enacted changes to Section 6503.5 of the Public Resources Code and is subject to rent.

6. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061), the staff has determined 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:

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.

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AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Susan Schlicht; Dudley Gustav Schlicht, as Trustee of the Dudley Gustav Schlicht Trust under the Second Amended and Restated Declaration of Trust dated May 15, 2008; and Duncan Hallberg Schlicht, as Trustee of the Duncan Hallberg Schlicht Trust under the Second Amended and Restated Declaration of Trust dated September 19, 2007, beginning April 1, 2012, for a term of 10 years, for the continued use and maintenance of two mooring buoys 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 \$680 with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance with coverage of no less than \$1,000,000.

EXHIBIT A

PRC 8380.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 5, Township 15 North, Range 17 East, MDM., County of Placer, State of California, and more particularly described as follows:

PARCELS 1 & 2 (BUOYS)

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that Lot as described in that Quitclaim Deed recorded December 31, 1993 as Document Number 93-099125 of 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 January 17, 2012 by the California State Lands Commission Boundary Unit.



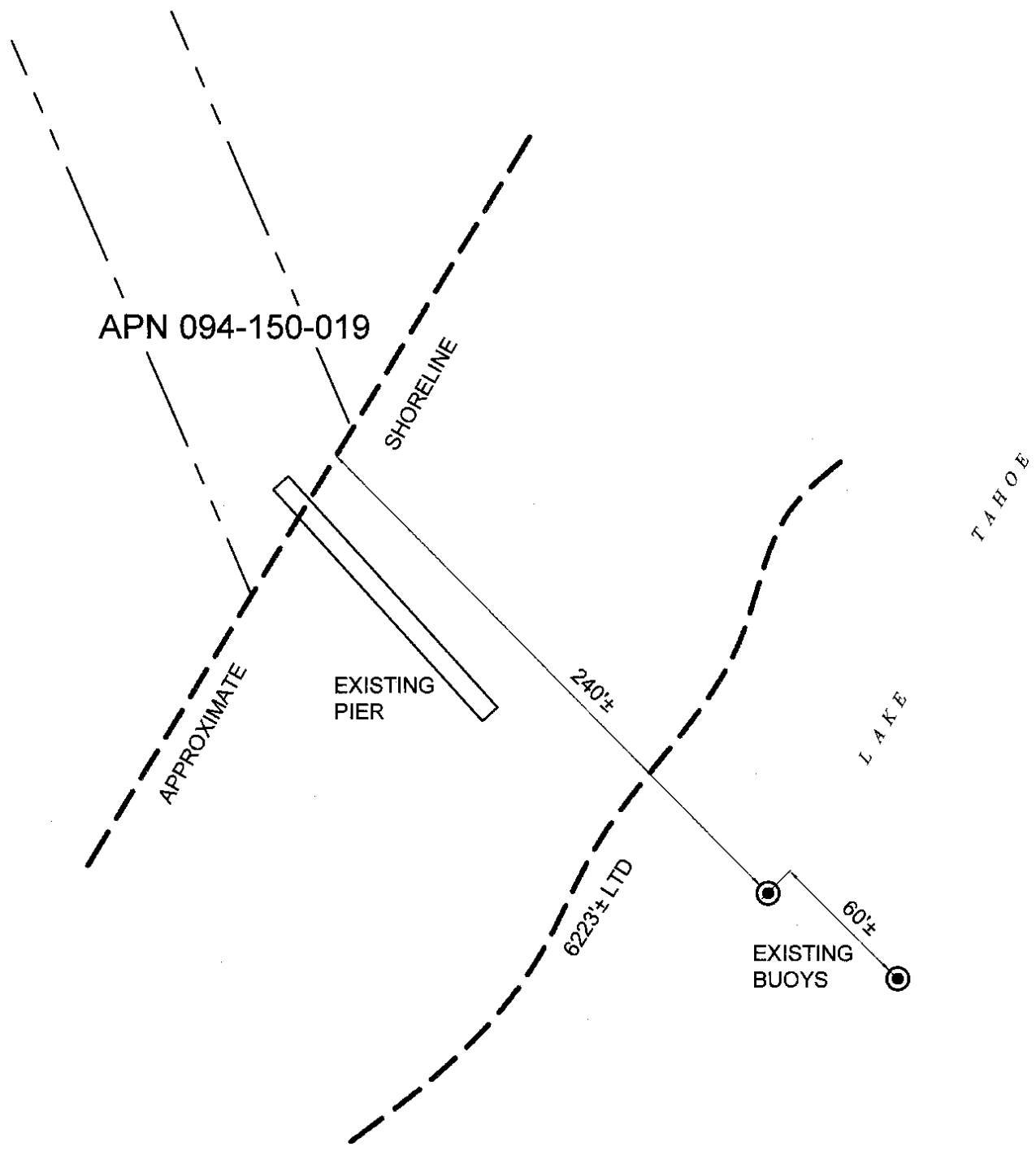


EXHIBIT A

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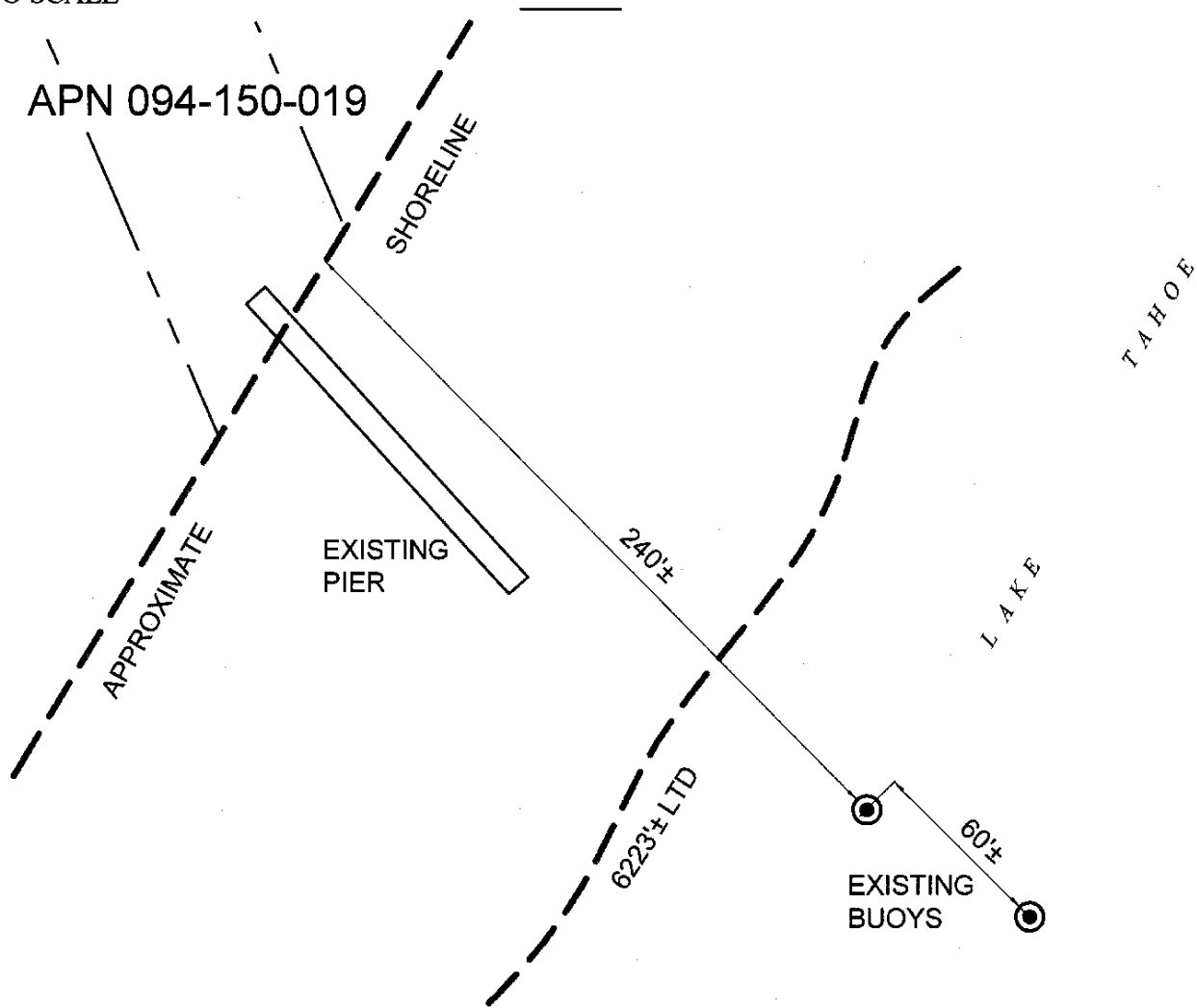
LAND DESCRIPTION PLAT
PRC 8380.1, SCHLICHT
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

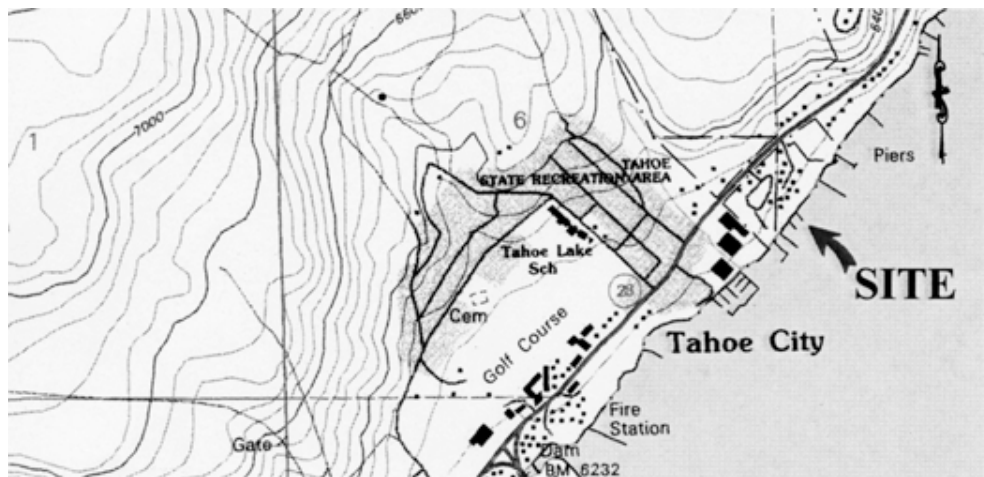
SITE



160 SIERRA TERRACE ROAD, TAHOE CITY

NO SCALE

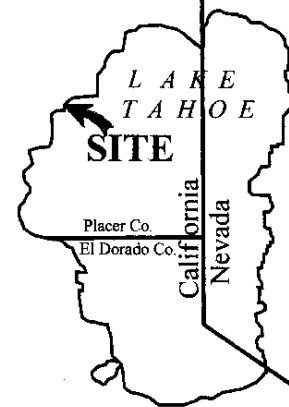
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8380.1
 SCHLICHT
 APN 094-150-019
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.