

**CALENDAR ITEM
C50**

A 4
S 1

10/19/12
PRC 8368.1
B. Terry

**TERMINATION OF A RECREATIONAL PIER LEASE AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEES/APPLICANTS:

Antony C. Evans and Carol Ross Evans, Trustees of the Tony and Carol Evans
2000 Revocable Trust, established April 20, 2000

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8547 Meeks Bay Avenue, near
Rubicon Bay, El Dorado County

AUTHORIZED USE:

Continued use and maintenance of two existing mooring buoys previously
authorized by the Commission and the proposed reconstruction and expansion of
an existing pier onto sovereign land.

LEASE TERM:

10 years, beginning October 19, 2012.

CONSIDERATION:

\$1,768 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:

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 adopted an FEIS and Ordinance Amendments supported by the

CALENDAR ITEM NO. **C50** (CONT'D)

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 proposed project is located in an area identified as Tahoe Yellow Cress (TYC) habitat. The TYC is an endangered plant species statutorily protected by the California Endangered Species Act. TYC was not found during the site-specific survey performed June 21, 2012, and staff determined that construction prior to June 14, 2013 would not have an effect on TYC. Should the demolition, construction, or continuation of construction on the site extend into a subsequent TYC growing season, the Lessees are required to contact Commission staff to determine if the site should be re-surveyed for the presence of TYC. If a new survey is required, construction activities shall cease starting June 15, 2013, until the TYC survey has been completed.
3. The lease provides that the Lessee agrees to allow the public to pass and repass under or over the pier between high water (elevation 6228.75 feet, Lake Tahoe Datum (LTD)) and low water (elevation 6223 feet, LTD); and will provide stairs on the south side and a ladder on the north side of the proposed pier to provide continuous shoreline access to the Public Trust easement below elevation 6228.75 feet, LTD during high water periods.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On June 26, 2006, the Commission approved a 10-year Recreational Pier Lease with Antony C. Evans and Carol Ross-Evans, Trustees of the Tony and Carol Evans 2000 Revocable Trust for two existing mooring buoys. That lease will expire on January 30, 2016. Applicants are requesting to terminate the lease and obtain a new longer term new General Lease – Recreational Use.
3. Applicants have applied to expand an existing pier onto State sovereign land. The existing 17-foot long pier does not extend past the low water mark, elevation 6,223 feet, LTD, and therefore, does not occupy State sovereign land. The Applicants are proposing to remove the existing pier and reconstruct and expand the pier to a length of 147 feet which will

CALENDAR ITEM NO. **C50** (CONT'D)

allow better access to the lake. The proposed pier will have a pier head of 10 feet x 30 feet with an adjustable catwalk, and thirteen new steel pilings will be installed. The entire project will be constructed from the lake via barge or amphibious vehicle. Construction is to be completed by April 30, 2014.

4. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law took effect 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.

Because the application and application fees were 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.

5. **Lease Termination:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect 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. **Two Mooring Buoys:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. For the existing facilities, the project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

CALENDAR ITEM NO. **C50** (CONT'D)

7. **Pier Reconstruction and Expansion:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. For the pier reconstruction and expansion, the project is exempt under Class 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

8. 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.

APPROVALS OBTAINED:

Tahoe Regional Planning Agency
California Regional Water Quality Control Board
California Department of Fish and Game.

FURTHER APPROVALS REQUIRED:

U.S. Army Corps of Engineers

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Lease Termination: Find that the subject lease termination 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.

Two Mooring Buoys: 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. **C50** (CONT'D)

Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Pier Reconstruction and Expansion: 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 3, New Construction of Small Structures, California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

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 termination, effective October 18, 2012, of Lease No. PRC 8368.9, a Recreational Pier Lease, issued to Antony C. Evans and Carol Ross Evans, Trustees of the Tony and Carol Evans 2000 Revocable Trust, established April 20, 2000.
2. Authorize issuance of a General Lease – Recreational Use to Antony C. Evans and Carol Ross Evans, Trustees of the Tony and Carol Evans 2000 Revocable Trust, established April 20, 2000, beginning October 19, 2012, for a term of 10 years, for the continued use and maintenance of two existing mooring buoys previously authorized by the Commission, and the reconstruction and expansion of an existing pier onto sovereign land 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 \$1,768 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 8368.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 of fractional Section 29, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying a proposed pier lying adjacent to Parcel Two as described in Exhibit “A” of that Grant Deed recorded January 31, 2006 in Document Number 2006-0006684-00 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 (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said Parcel Two.

Accompanying plat is hereby made part of this description.

This description is based on Applicant provided design plans found in the Application for Lease of State Lands for a proposed pier, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

END OF DESCRIPTION

Prepared September 14, 2012 by the California State Lands Commission Boundary Unit.



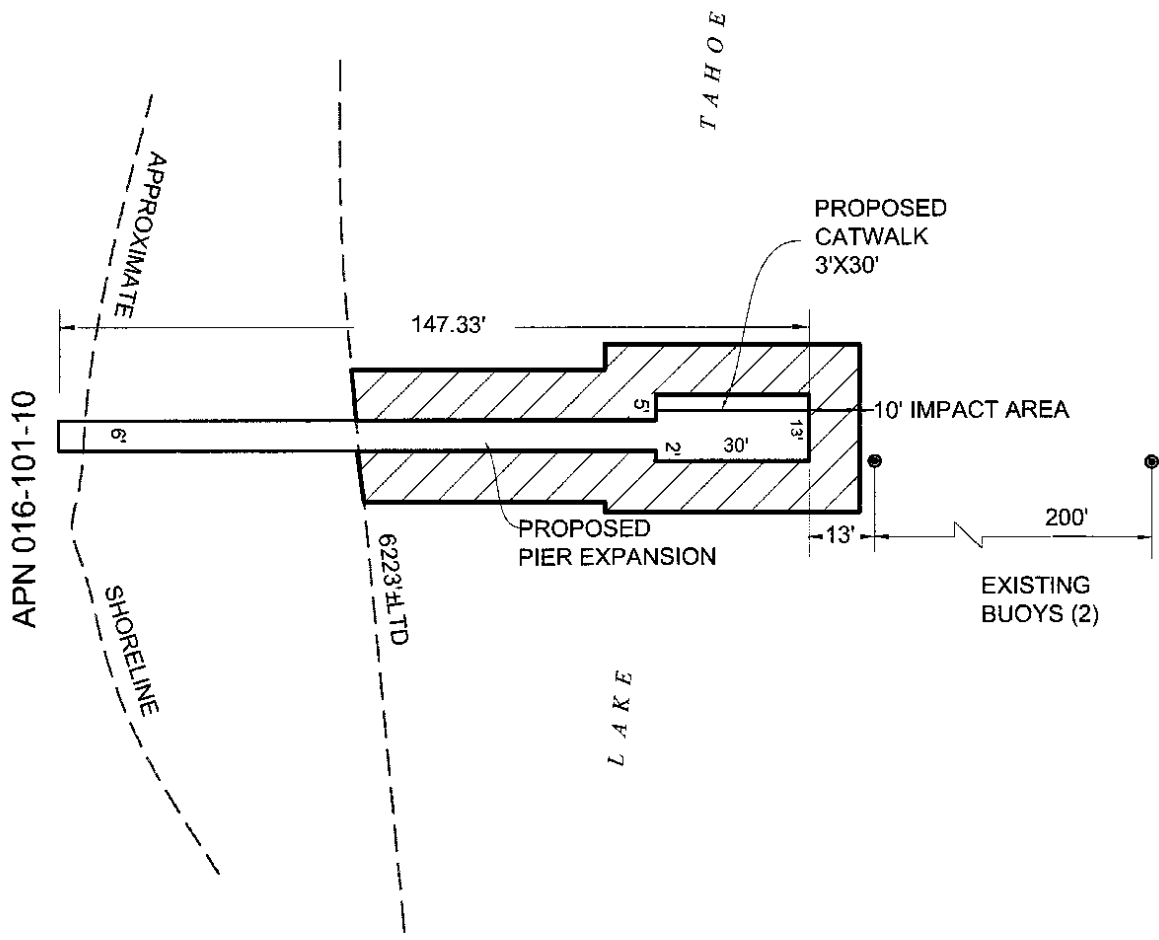


EXHIBIT A

Page 2 of 2

MJJ 09/14/12

LAND DESCRIPTION PLAT
 PRC 8368.1, EVANS
 EL DORADO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



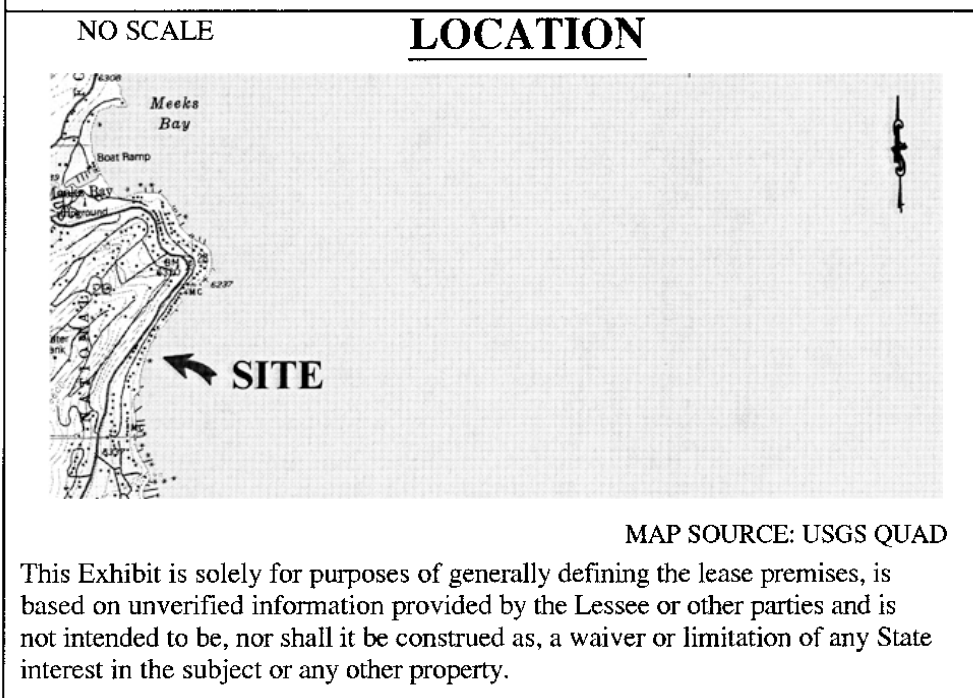
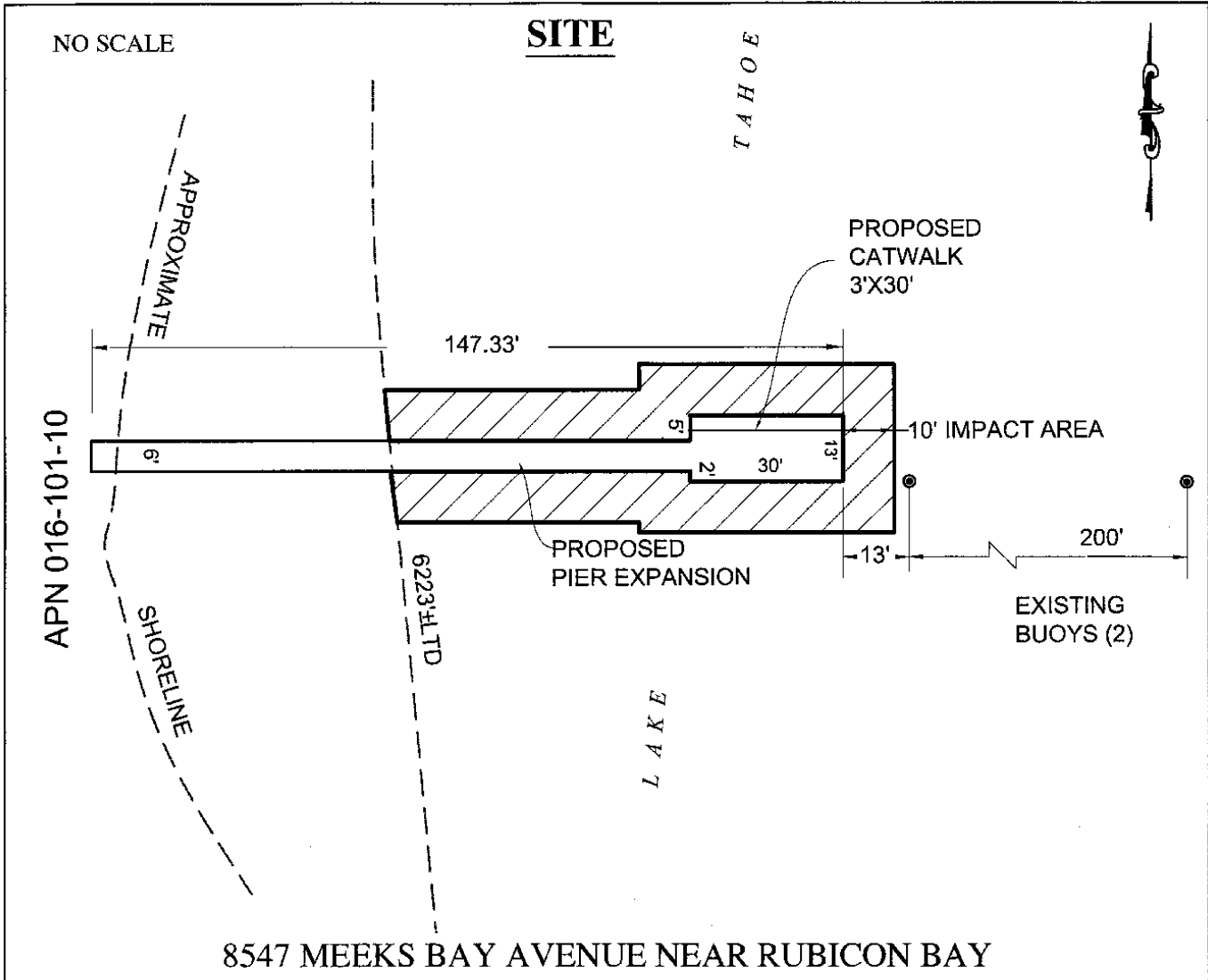


Exhibit B

PRC 8368.1

EVANS

APN 016-101-10

GENERAL LEASE - RECREATIONAL USE

EL DORADO COUNTY

L A K E T A H O E

Placer Co El Dorado Co

California Nevada

SITE

MJJ 09/14/12