

**CALENDAR ITEM
C02**

A 4
S 1

12/05/12
PRC 4065.9
R. Barham

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

LESSEES:

Gerald G. Swanson and Gail Swanson

APPLICANTS:

Gerald G. Swanson and Gail Swanson, Trustee, or its successor(s), of the Gerald and Gail Swanson Family Trust, dated March 17, 1993

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6049 North Lake Boulevard, near Tahoe Vista, Placer County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning April 10, 2012.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

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 Applicants to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoy 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

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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 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 October 6, 2004, the Commission authorized a Recreational Pier Lease with Gerald G. Swanson and Gail Swanson for a pier. That lease will expire on September 30, 2014. On April 10, 2012, the Lessees deeded the upland property to Gerald G. Swanson and Gail Swanson, Trustee, or its successor(s), of the Gerald and Gail Swanson Family Trust, dated March 17, 1993. Applicants are now applying for termination of the existing lease and issuance of a new General Lease – Recreational Use for the continued use and maintenance of the existing pier and use and maintenance of one existing mooring buoy not previously authorized by the Commission.
3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law took effect on 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 was submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently-enacted changes to Section 6503.5 of the Public Resources Code for the term of this lease.

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4. The Applicants' mooring buoy has been in Lake Tahoe for many years, but has not been previously authorized by the Commission. Staff recommends bringing the placement of the Applicant's existing mooring buoy under lease, subject to the Applicants obtaining TRPA permit authorization.
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. **Issuance of 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:

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

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not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of 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 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 termination, effective April 9, 2012, of Lease No. PRC 4065.9, a Recreational Pier Lease, issued to Gerald G. Swanson and Gail Swanson.

2. Authorize issuance of a General Lease – Recreational Use to Gerald G. Swanson and Gail Swanson, Trustee or its successor(s), of the Gerald and Gail Swanson Family Trust, dated March 17, 1993, beginning April 10, 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 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; no monetary consideration pursuant to Public Resources Code section 6503.5; and liability insurance with coverage of no less than \$1,000,000.

EXHIBIT A

PRC 4065.9

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 14, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved, November 10, 1865, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 (PIER)

All those lands underlying an existing pier lying adjacent to that portion of Lot 4 as described in Exhibit A of that Grant Deed recorded April 10, 2012 as Document Number 2012-0031739-00 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 (BUOY)

One (1) circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to that portion of said Lot.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared September 18, 2012 by the California State Lands Commission Boundary Unit.



APN 117-020-005

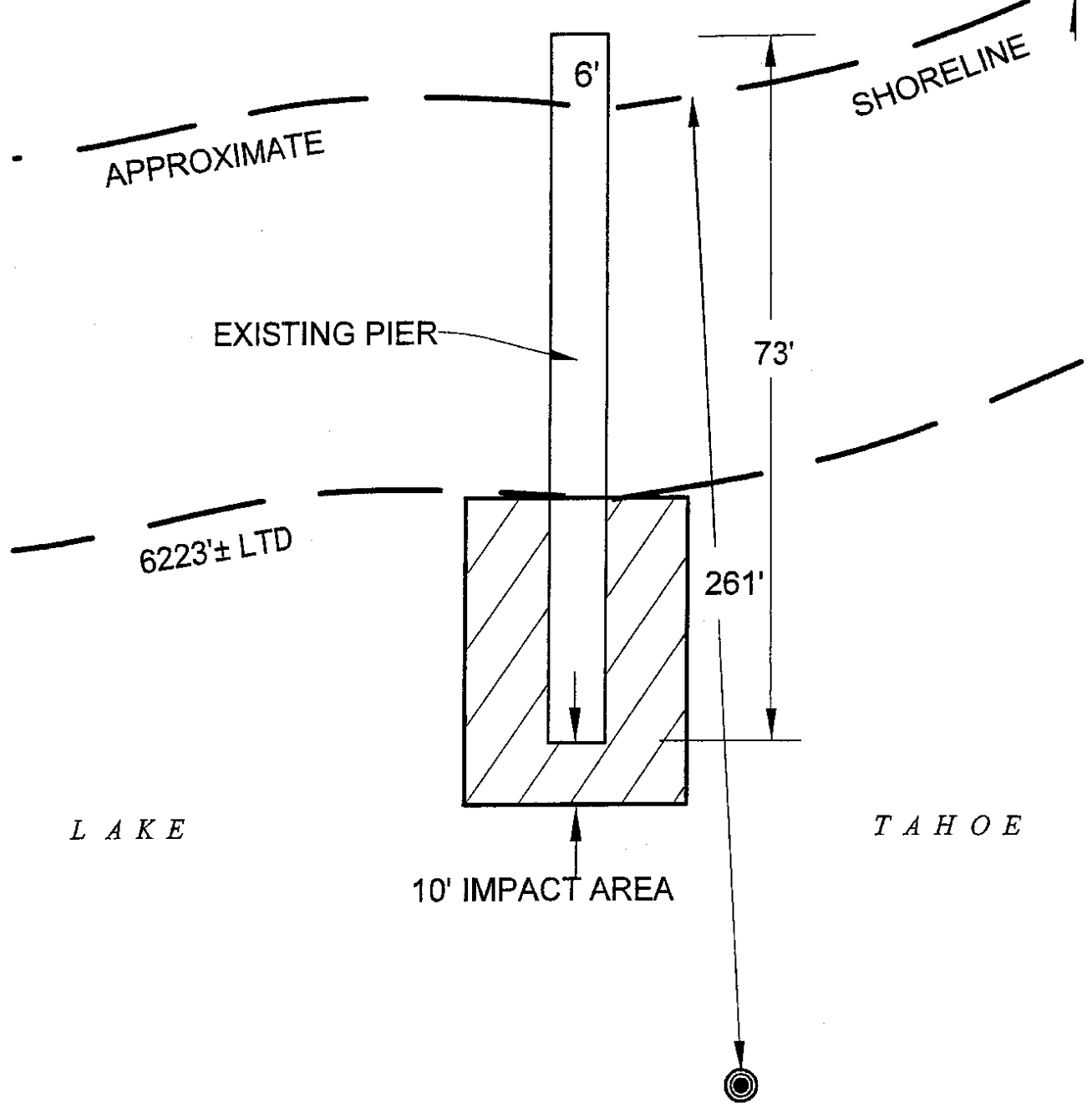


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 4065.9, SWANSON TRUSTEES
PLACER COUNTY

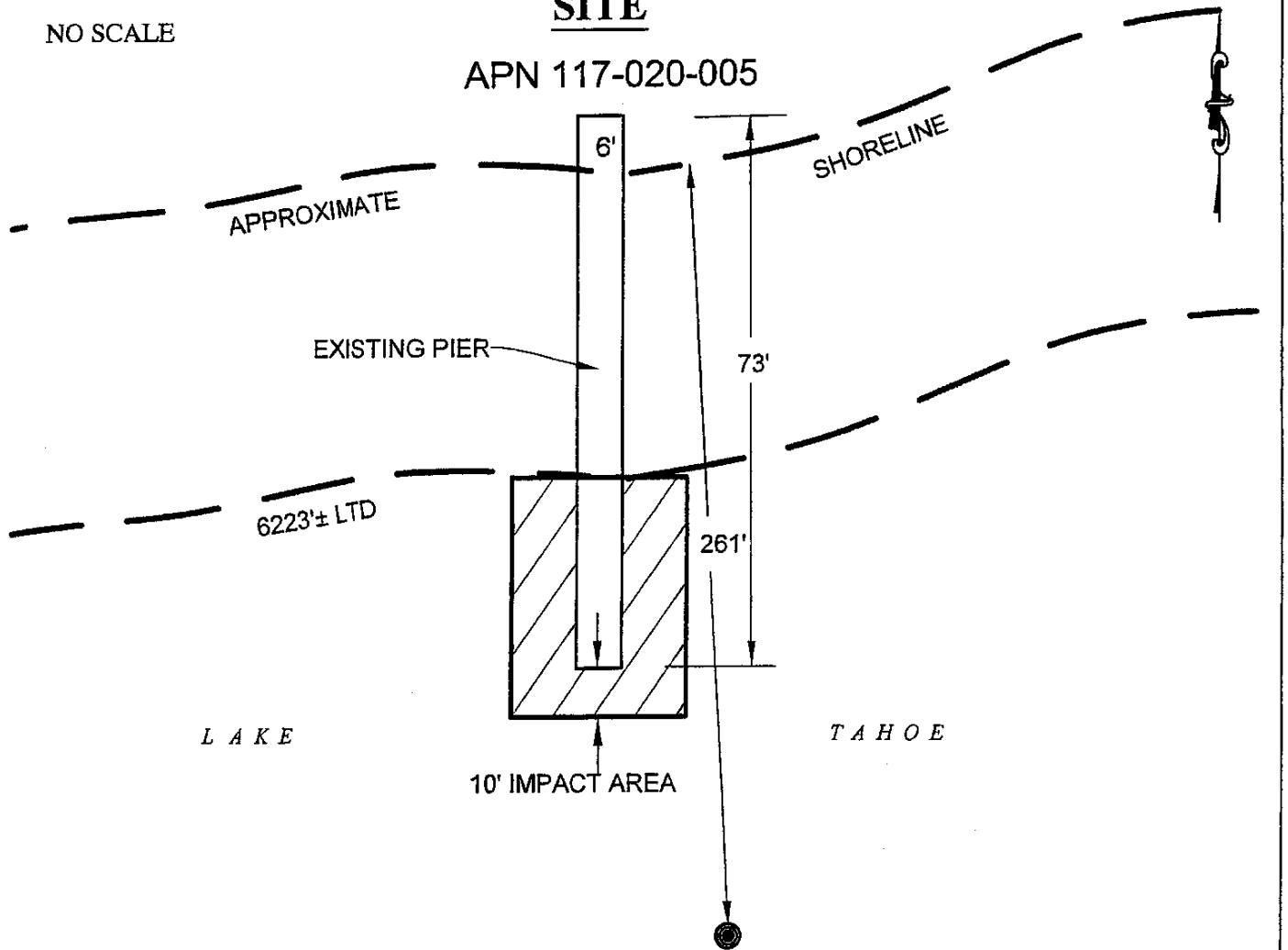
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN 117-020-005



6049 NORTH LAKE BLVD., NEAR TAHOE VISTA

NO SCALE

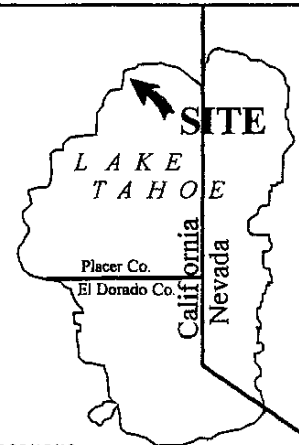
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 4065.9
 SWANSON TRUSTEES
 APN 117-020-005
 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.

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