

**CALENDAR ITEM
C23**

A 4
S 1

12/05/12
PRC 3546.1
C. Hudson

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Brian Johnson Trust; and Gary Steven Pleau and Vivian M. M. Pleau, Trustees under the Pleau Living Trust dated August 29, 1996, fbo Gary Steven Pleau and Vivian M. M. Pleau

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5460 and 5480 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier, two boat lifts, and four mooring buoys.

LEASE TERM:

10 years, beginning December 5, 2012.

CONSIDERATION:

\$2,938 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 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 FEIS. In September 2010, the U.S. District Court invalidated the FEIS and nullified the Amendments. When

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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 parcels, Assessor's Parcel Numbers (APN) 097-164-004 and 097-164-005, adjoining the lease premises.
2. On April 24, 2001, the Commission authorized a Recreational Pier Lease with Brian Johnson Trust; and Gary Steven Pleau and Vivian M. M. Pleau, Trustees under the Pleau Living Trust dated August 29, 1996, fbo Gary Steven Pleau and Vivian M. M. Pleau. That lease expired on March 31, 2011. The Applicants are now applying for a new General Lease – Recreational Use.
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 and application fees were submitted to the Commission after 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.

4. The staff recommends that the Commission find that this activity is exempt from the requirements of 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).

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

5. 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Brian Johnson Trust; and Gary Steven Pleau and Vivian M. M. Pleau, Trustees under the Pleau Living Trust dated August 29, 1996, fbo Gary Steven Pleau and Vivian M. M. Pleau, beginning December 5, 2012, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier, two boat lifts, and four 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 \$2,938, 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 the amount of no less than \$1,000,000.

EXHIBIT A

PRC 3546.1

LAND DESCRIPTION

Five (5) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 12, Township 14 North, Range 16 East, MDM., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, two catwalks and two existing boat lifts lying adjacent to those parcels as described in those Grant Deeds recorded January 27, 1997 as Document Number 97-0004856-00 and recorded November 19, 1997 as Document Number 97-0072265-00 of 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.

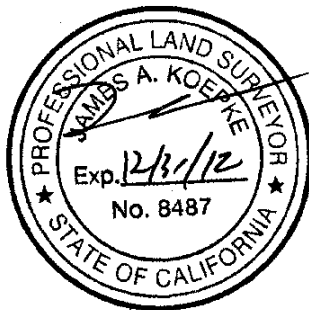
PARCELS 2, 3, 4 & 5 – BUOYS

Four (4) circular parcels of land, each being 50 feet in diameter, underlying four (4) existing buoys lying adjacent to those parcels as described in said Grant Deeds.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared October 4, 2012 by the California State Lands Commission Boundary Unit.



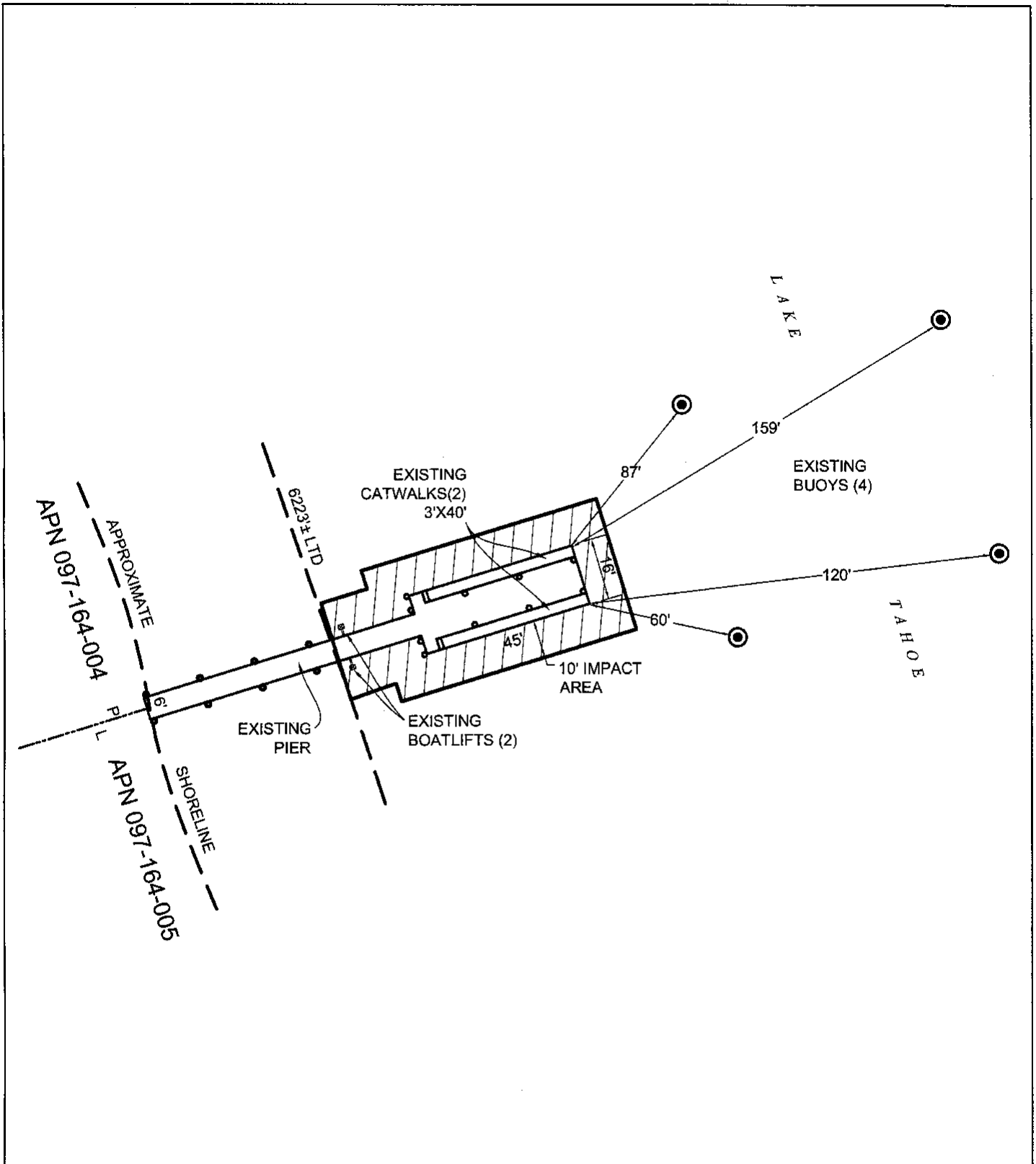


EXHIBIT A

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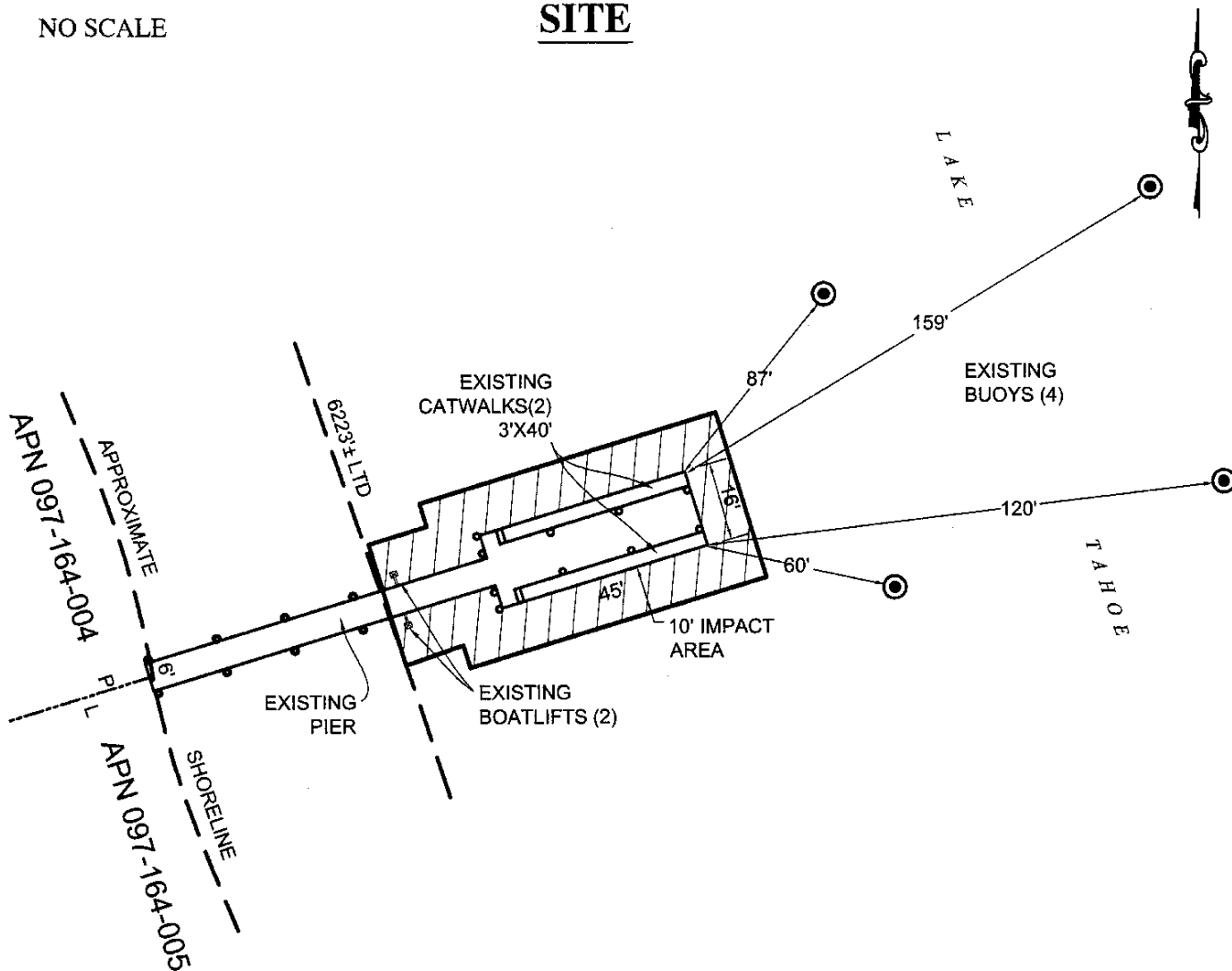
LAND DESCRIPTION PLAT
 PRC 3546.1, PLEAU & JOHNSON
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

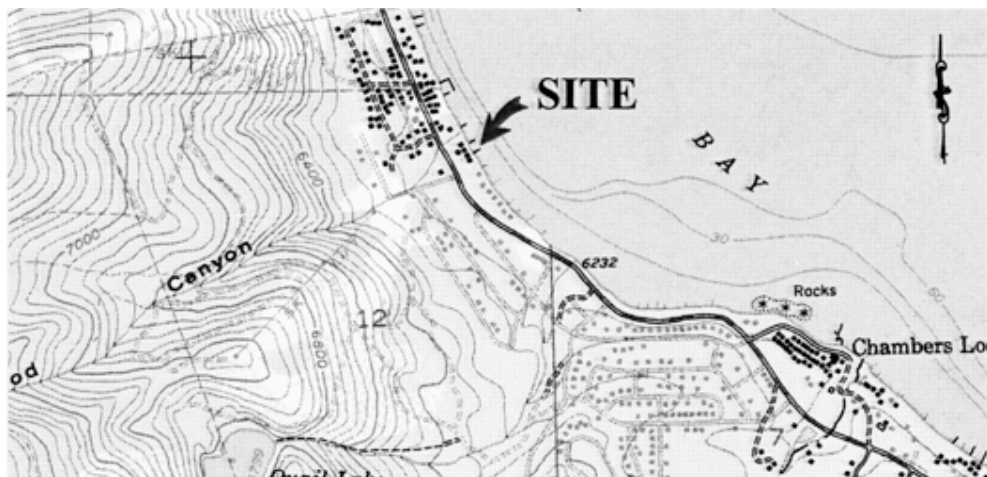
SITE



5460 & 5480 WEST LAKE BLVD., NEAR HOMEWOOD

NO SCALE

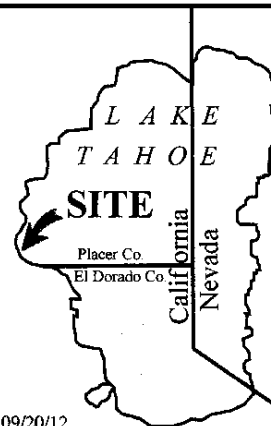
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3546.1
 PLEAU & JOHNSON
 APN 097-164-004 &
 APN 097-164-005
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 09/20/12

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.