

**CALENDAR ITEM
C01**

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02/09/16
PRC 3580.1
M.J. Columbus

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

LESSEE:

Neil R. Bonke and Karen L. Bonke

APPLICANT:

Charles E. Seufferlein and Sylvia L. Seufferlein, Trustee of The Seufferlein 1990 Revocable Trust dated November 13, 1990 amended and restated on November 9, 2004

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe adjacent to 3266 Edgewater Drive, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boathouse, boatlift, and two mooring buoys.

LEASE TERM:

10 years, beginning July 21, 2015.

CONSIDERATION:

\$1,469 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

Other:

1. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization 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. If

CALENDAR ITEM NO. **C01** (CONT'D)

Lessee is unable to obtain such authorization within the time limit, they must remove the buoys.

2. 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:

Statutory Authority:

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

Public Trust and State's Best Interests Analysis:

Recreational boating is water-dependent and 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 lands (Public Resources Code 6503.5). The Subject Facilities are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence.

The lease includes certain provisions protecting the public use of the proposed lease area, including a lease term limited to 10 years, a non-exclusive use provision, and a reservation to the people of the State of an easement for access to and across the lease area. The pier is built on pilings, meaning the public may navigate next to, and at certain water levels, under the pier. This construction also permits lateral access across the beach area. The proposed lease will allow the public to walk or otherwise use the beach and shore area below high water for uses consistent with the public trust easement. The pier is passable in the public trust easement closer to low water.

The subject facilities have existed for many years at this location. The subject facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the Lessee may be required to remove all improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the pier will not substantially interfere with public trust needs at this time and at this location. The mooring buoys occupy a relatively small area of the lake. Commission staff believe the mooring buoys do not substantially interfere with public trust needs at this time and at this location.

CALENDAR ITEM NO. **C01** (CONT'D)

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 into the state's general fund to compensate the people of the State for the use of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On May 10, 2007, the Commission authorized a 10-year Recreational Pier Lease to Neil R. Bonke and Karen L. Bonke. That lease expires on January 31, 2017. On July 21, 2015, the upland was deeded to Charles E. Seufferlein and Sylvia L. Seufferlein, Trustee of The Seufferlein 1990 Revocable Trust dated November 13, 1990 amended and restated on November 9, 2004. The Applicant is now applying for a General Lease – Recreational Use.
3. Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the property and facility without executing a quitclaim deed.
4. Staff recommends the issuance of this lease as it promotes 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.
5. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378, subdivision (b)(5).

6. The staff recommends that the Commission find that issuance of the lease 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).

CALENDAR ITEM NO. **C01** (CONT'D)

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 issuance of the lease 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 the public's public trust needs and values at this location, 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:

1. Authorize termination, effective July 20, 2015, of Lease No. PRC 3580.9, a Recreational Pier Lease, issued to Neil R. Bonke and Karen L. Bonke.
2. Authorize issuance of a General Lease – Recreational Use to Charles E. Seufferlein and Sylvia L. Seufferlein, Trustee of The Seufferlein 1990 Revocable Trust dated November 13, 1990

CALENDAR ITEM NO. **C01** (CONT'D)

amended and restated on November 9, 2004, beginning July 21, 2015, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse, boatlift, and 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 \$1,469, with an annual Consumer Price Index adjustment; and liability insurance with coverage in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3580.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 6 fractional Section 33, 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, boat house, boatlift and catwalk lying adjacent to those parcels described in Exhibit "A" of that Grant Deed recorded July 21, 2015 in Document Number 2015-0062579 of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCELS 2, 3 – BUOYS (2)

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcels as described in said Grant Deed.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared November 3, 2015 by the California State Lands Commission Boundary Unit.



APN 093-094-040

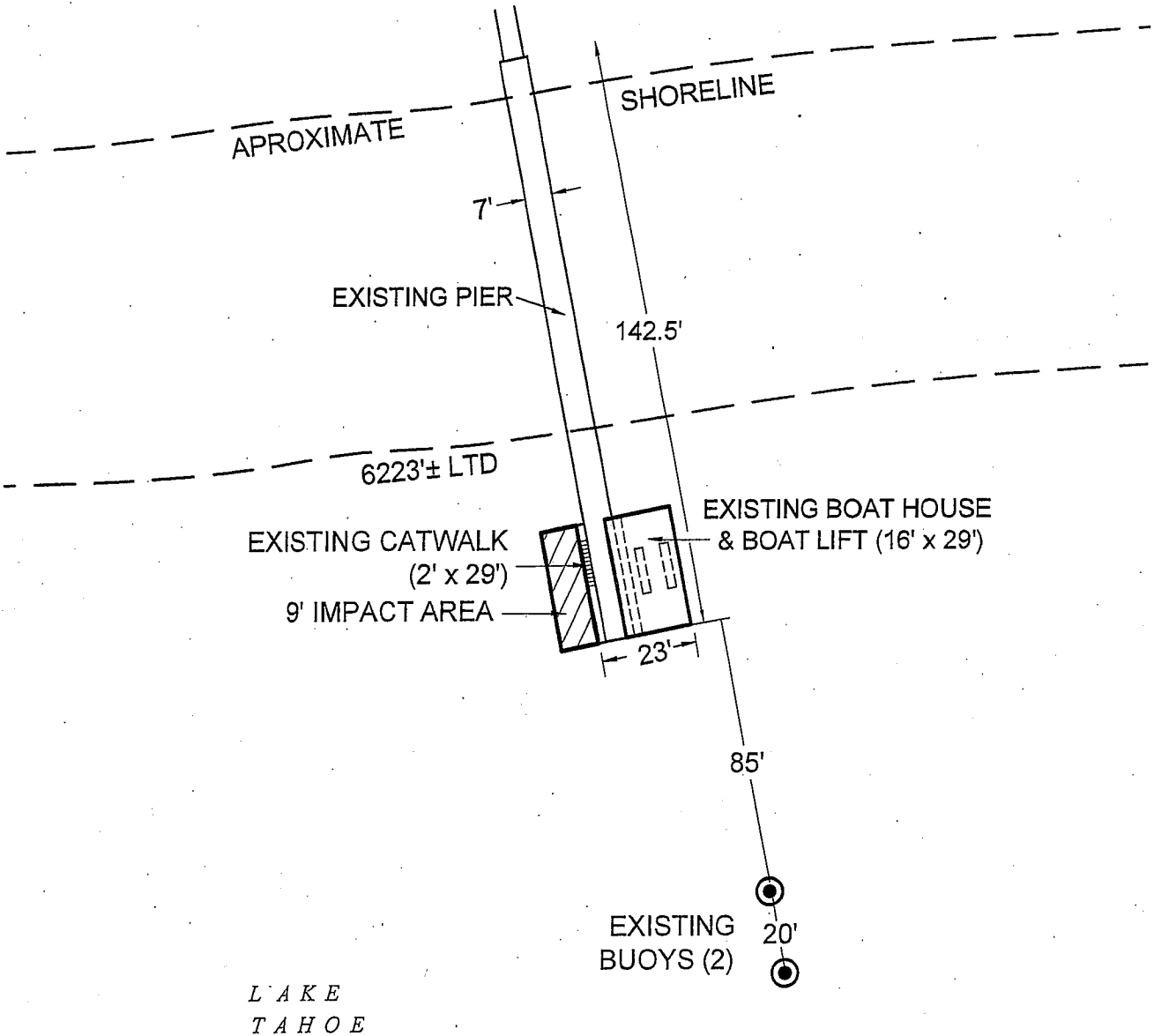


EXHIBIT A

Page 2 of 2

MJJ 11/17/2015

LAND DESCRIPTION PLAT
 PRC 3580.1, SEUFFERLEIN
 PLACER COUNTY

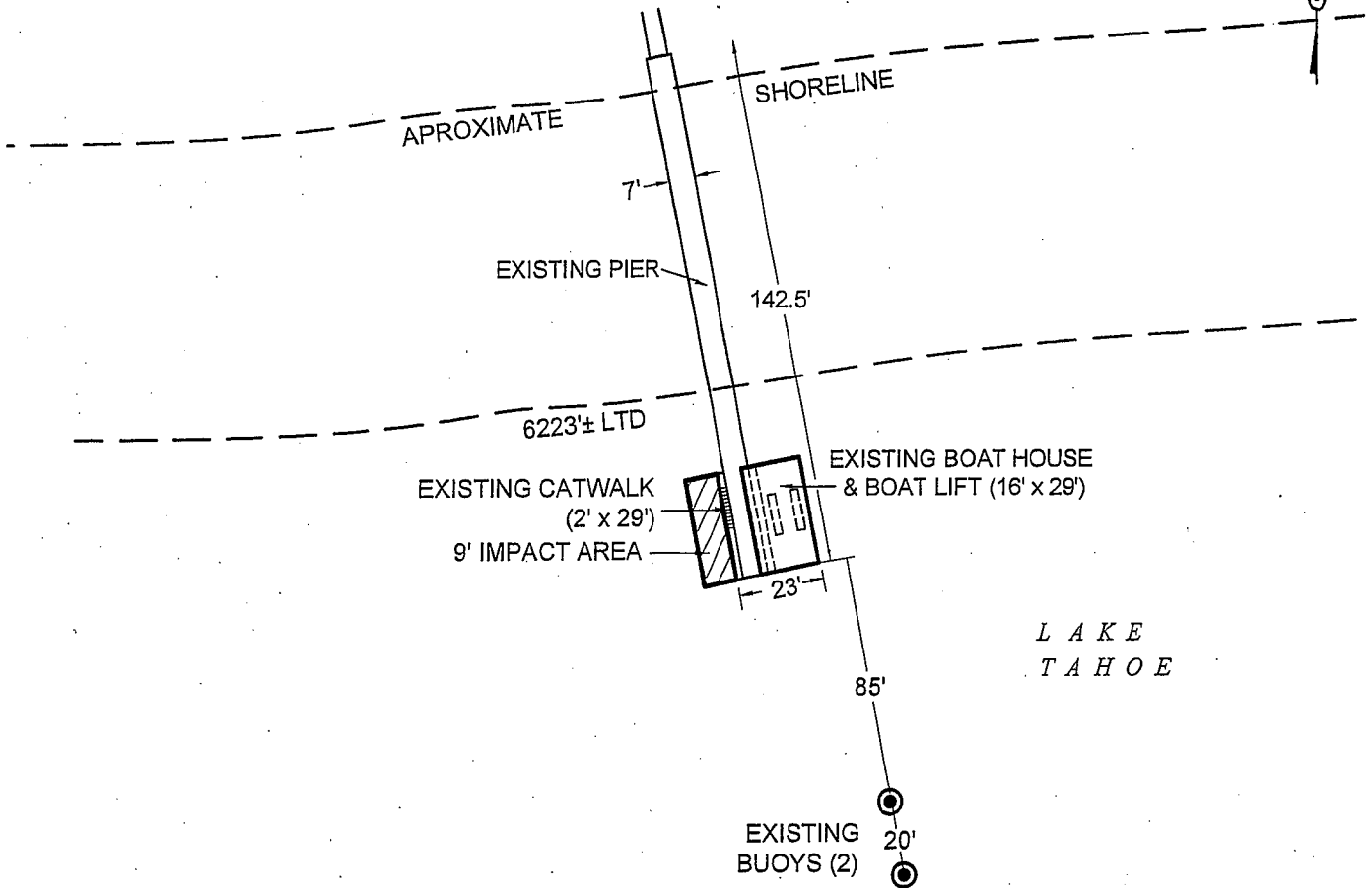
CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

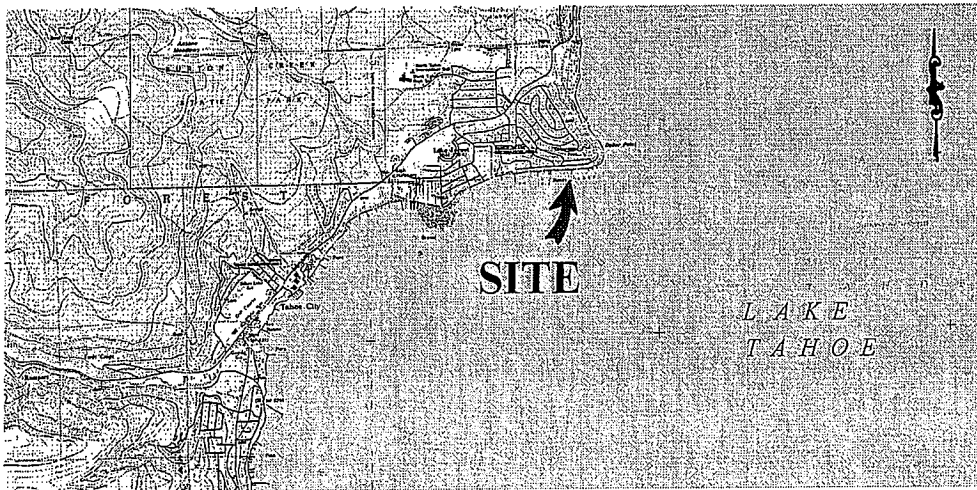
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3266 EDGEWATER DRIVE, NEAR TAHOE CITY

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.

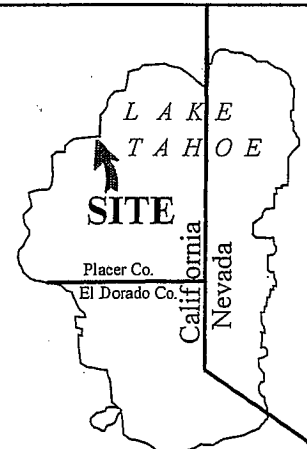
Exhibit B

PRC 3580.1

SEUFFERLEIN

APN 093-094-040

GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJJ 11/17/2015