

**CALENDAR ITEM
C02**

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02/09/16
PRC 5447.1
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Paula B. Bunting; and Gregory S. Bunting as Trustee of the Gregory S. Bunting 2015 Revocable Trust

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 4525 West Lake Boulevard, near Tahoe Pines, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and three mooring buoys.

LEASE TERM:

10 years, beginning March 1, 2016.

CONSIDERATION:

\$1,758 per year with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

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:

The subject facilities are for the docking and mooring of boats. Recreational boating is a water-dependent activity and is generally consistent with the common law public trust doctrine. The subject structures are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence. The California

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Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Public Resources Code 6503.5).

The proposed 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 that is subject to the public trust easement held by the State. 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 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 location and at this time and for the foreseeable term of the proposed lease. 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.

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 to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. The Commission first authorized a lease for this property on February 23, 1978, to California Gas Service. That lease authorized reconstruction of a pier and three mooring buoys. The Commission authorized new leases in 1992, 1997, and 2006, which included the pier and three mooring buoys.

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3. On June 26, 2006, the Commission authorized a 10-year Recreational Pier Lease to Gregory S. Bunting and Paula B. Bunting, Trustees of the Bunting Revocable Trust dated August 2, 1996. That lease expires on February 29, 2016. On September 28, 2015, the upland was deeded to Paula B. Bunting and Gregory S. Bunting as Trustee of the Gregory S. Bunting 2015 Revocable Trust. The Applicant is now applying for a General Lease – Recreational Use.
4. On October 6, 1977, the Tahoe Regional Planning Agency (TRPA) issued a permit for the reconstruction of the pier and three existing mooring buoys adjacent to the upland parcel. The Applicant's TRPA permit is currently valid.
5. This proposed action is consistent with Strategy 1.3 of the Commission's Strategic Plan to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways, and Strategy 1.1 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.
6. The staff recommends that the Commission find that this activity is exempt from the requirements of the 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).

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

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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).

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:

Authorize issuance of a General Lease – Recreational Use to Paula B. Bunting; and Gregory S. Bunting as Trustee of the Gregory S. Bunting 2015 Revocable Trust, beginning March 1, 2016, for a term of 10 years, for the continued use and maintenance of an existing pier and three 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 \$1,758, 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 5447.1

LAND DESCRIPTION

Four (4) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 fractional Section 36, Township 15 North, Range 16 East, MDM., as shown on Official Government Township Plat approved April 11, 1884 County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk lying adjacent to Parcel One described in Exhibit “A” of that Corporation Grant Deed recorded September 28, 2015 in Document Number 2015-0084662 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, 4 – BUOYS (3)

Three (3) circular parcels of land, being 50 feet in diameter, underlying three (3) existing buoys lying adjacent to said Parcel One as described in said Corporation 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.



L A K E

T A H O E

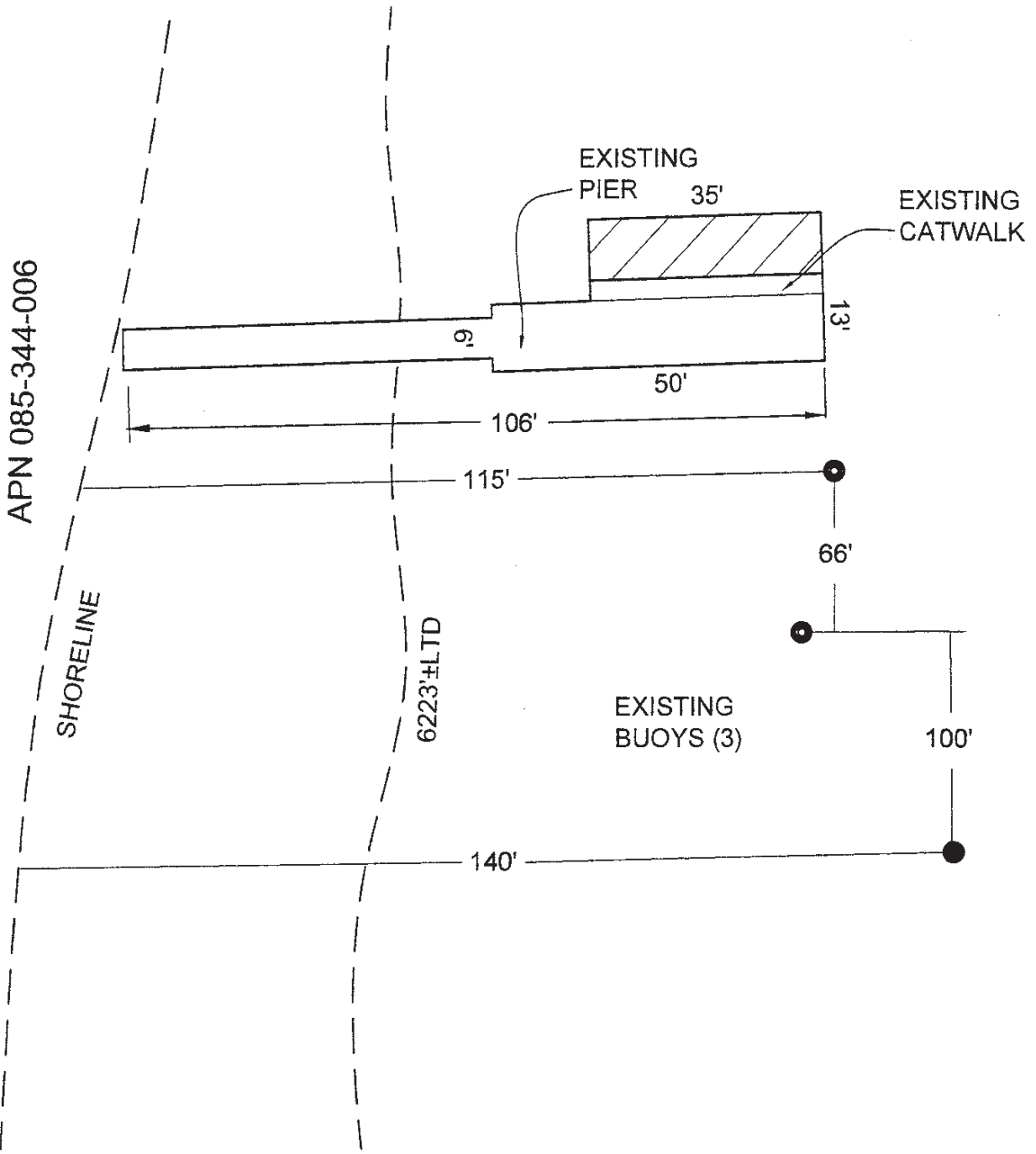


EXHIBIT A



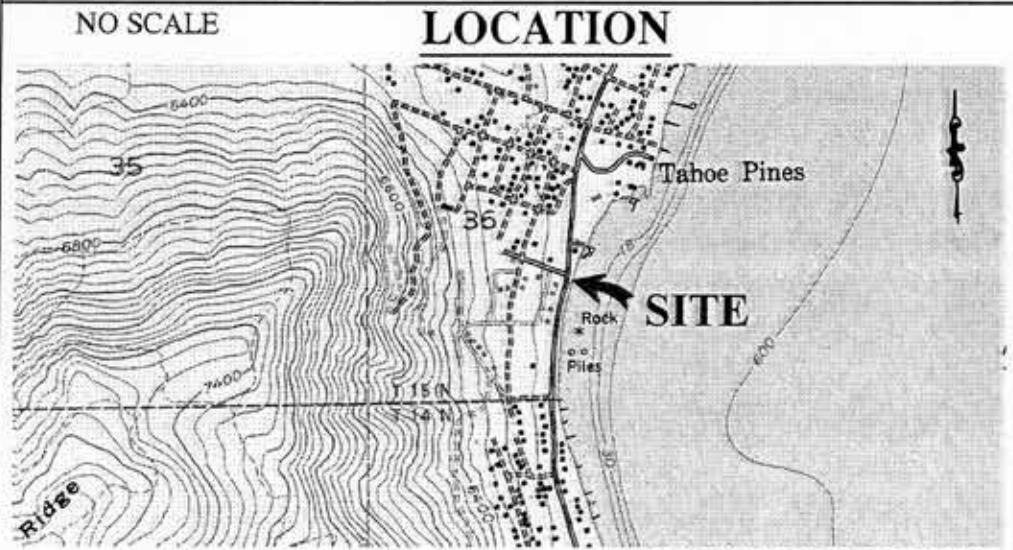
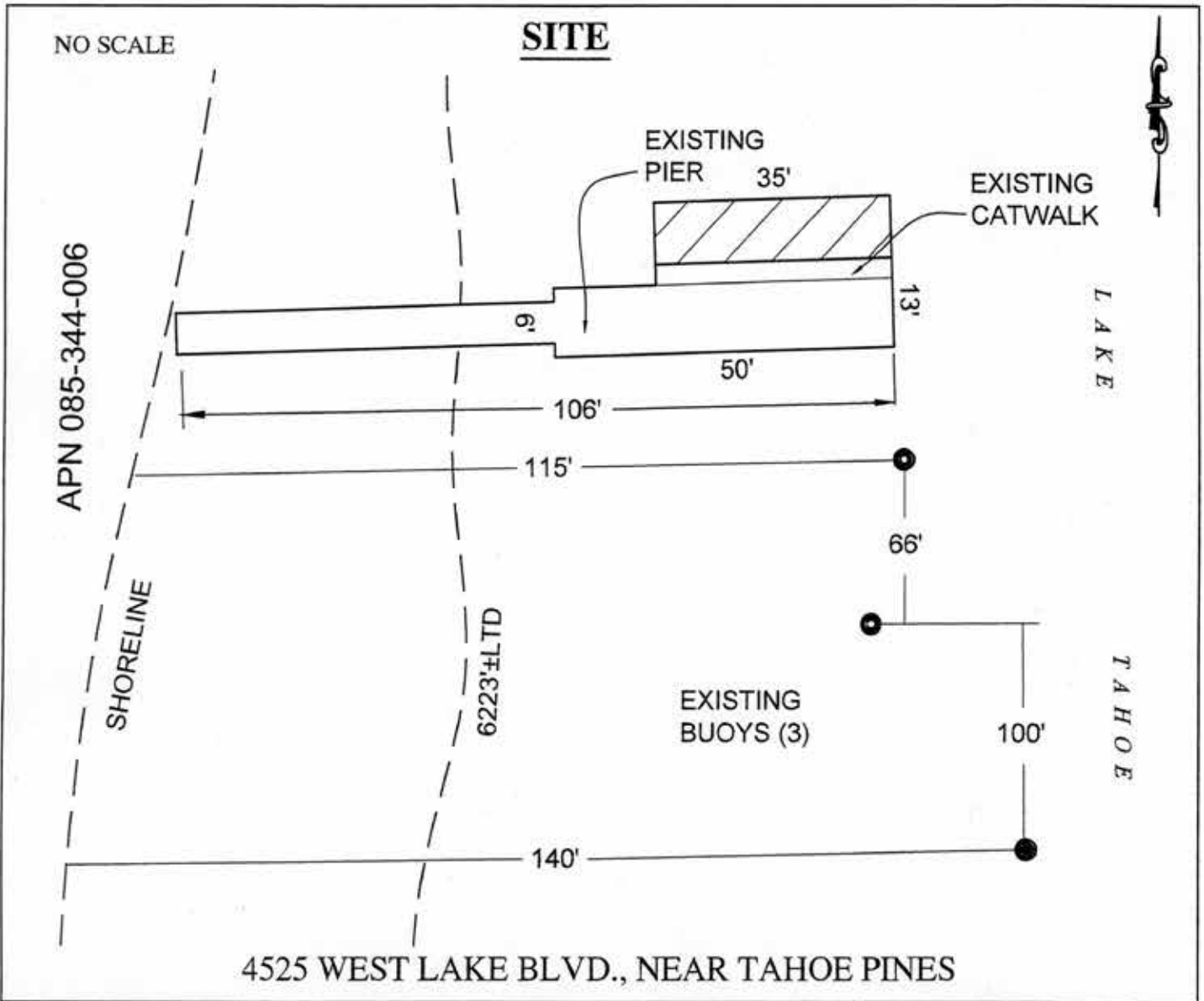
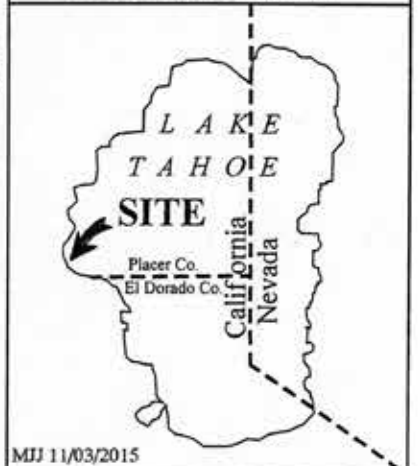


Exhibit B
 PRC 5447.1
 BUNTING
 APN 085-344-006
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.