

**CALENDAR ITEM
C05**

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02/09/16
PRC 8622.1
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Linda Nelson Davis and Robert Webster, Trustees of the Linda Nelson Davis Revocable Trust No. 2 U/A 9/22/1988, as amended 11/1/04

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 80 Lassen Drive, Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of one existing mooring buoy.

LEASE TERM:

10 years, beginning August 1, 2015.

CONSIDERATION:

\$377 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 valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization 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. If Lessee is unable to obtain such authorization within the time limit, they must remove the buoy.
2. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining

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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:

The subject mooring buoy is used for the mooring of boats. Recreational boating is a water-dependent use that 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 land. (Public Resources Code 6503.5). The subject mooring buoy is privately owned and maintained.

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 subject mooring buoy has existed for many years at this location. The subject mooring buoy does 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 conditions. The mooring buoy occupies a relatively small area of the lake. Commission staff believe the mooring buoy does 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 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 August 8, 2005, the Commission authorized a 10-year Recreational Pier Lease to Linda Nelson Davis and Robert L. Webster, Trustees under

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trust agreement dated September 22, 1998 [sic], as amended for two existing mooring buoys, one mooring buoy adjacent to 80 Lassen Drive and the second mooring buoy adjacent to 76 Lassen Drive. That lease expired on July 31, 2015. Since issuance of the lease, ownership of 76 Lassen Drive has transferred to Linda Nelson Davis, Robert L. Webster, and Patricia Louise Nelson Atassi, as Co-Trustees of the Jennifer Joanna Davis Revocable Trust dated July 20, 2001, as amended and restated on July 3, 2012. The Applicant is now applying for the continued use and maintenance of the one mooring buoy adjacent to 80 Lassen Drive. The owners of 76 Lassen Drive have also applied for a new General Lease – Recreational Use for the other mooring buoy, which is also on the February 9, 2016 meeting agenda for the Commission’s consideration.

3. Staff recommends the issuance of this lease as it promotes Strategy 1.1 of the Commission’s Strategic Plan to deliver the highest level of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission’s jurisdiction.
4. 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.

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

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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 Linda Nelson Davis and Robert Webster, Trustees of the Linda Nelson Davis Revocable Trust No. 2 U/A 9/22/1988, as amended 11/1/04, beginning August 1, 2015, for a term of 10 years, for the continued use and maintenance of one existing mooring buoy 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 \$377 with an annual Consumer Price Index adjustment; and liability insurance in the amount of no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8622.1

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 fractional Section 32, 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:

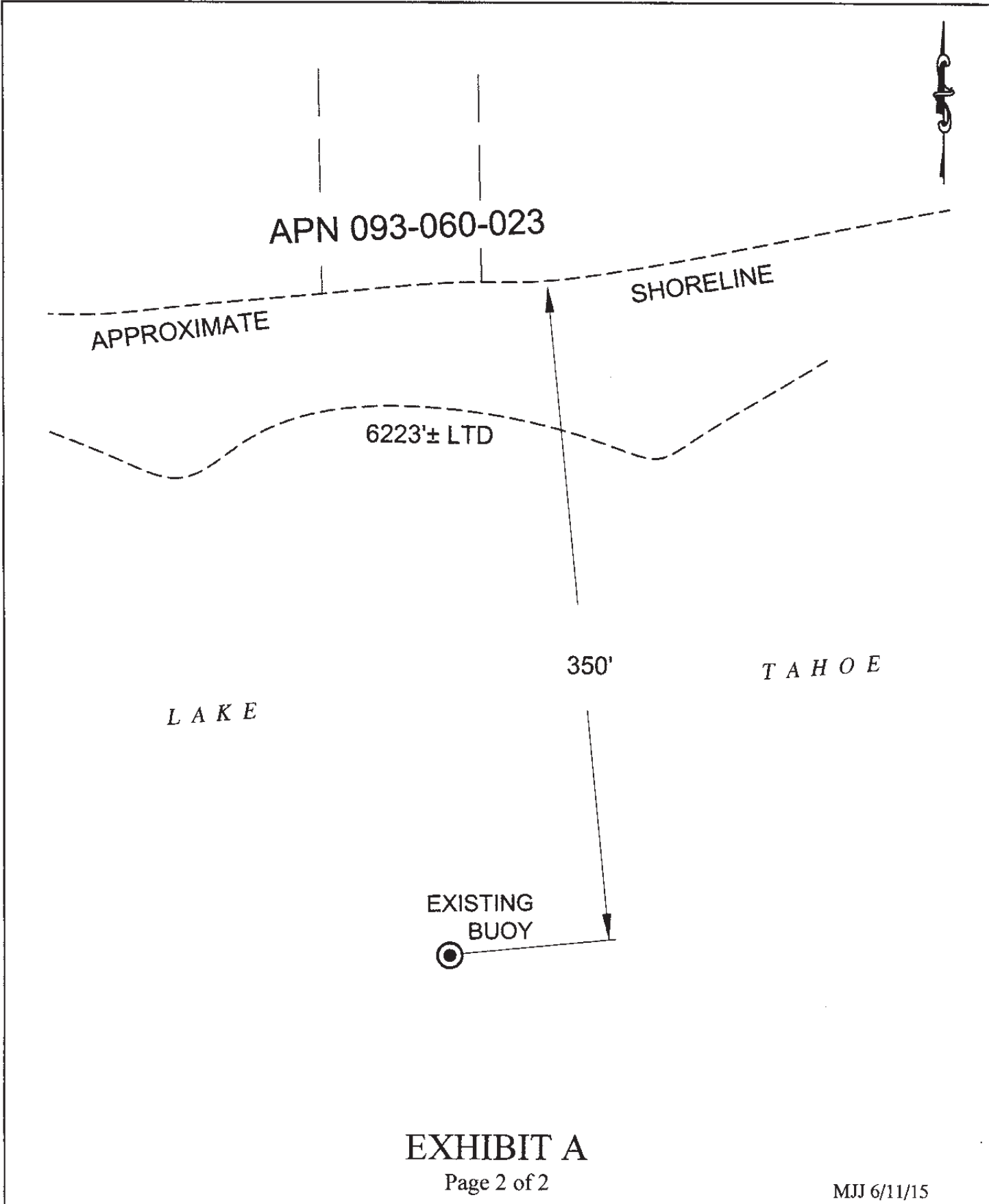
One (1) circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to those parcels as described in Exhibit A of that Grant Deed recorded June 25, 2015 as Document 2015-0054233 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 5, 2016 by the California State Lands Commission Boundary Unit.





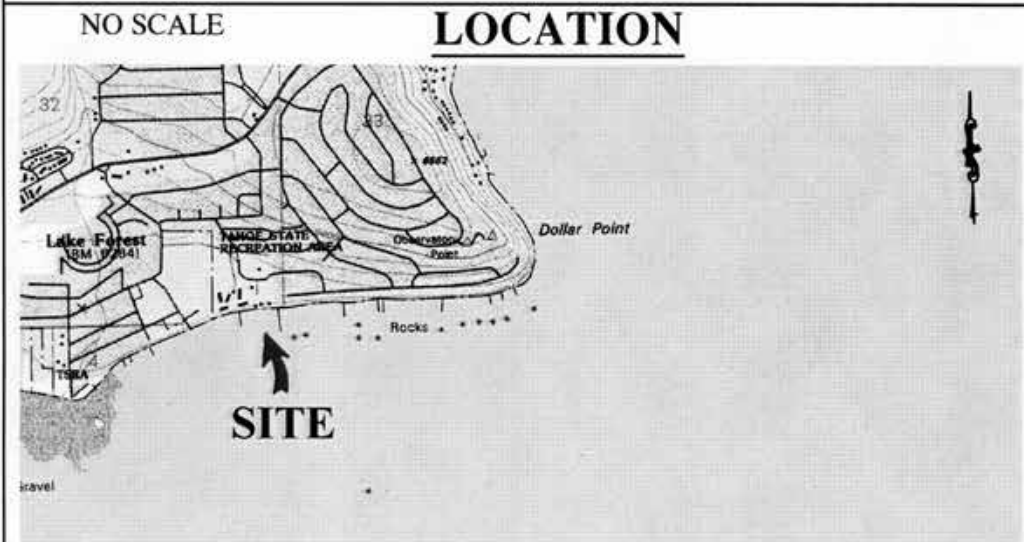
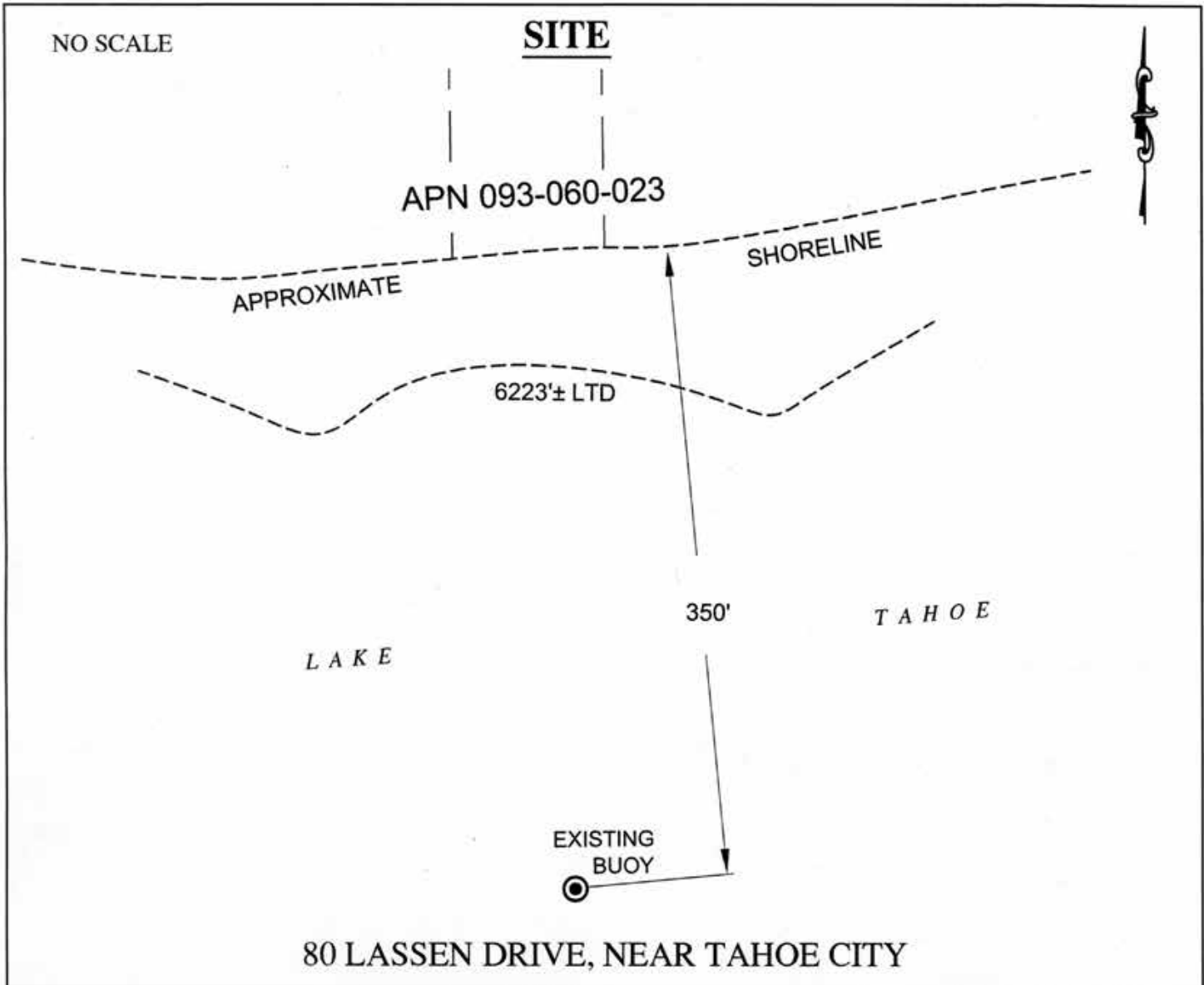
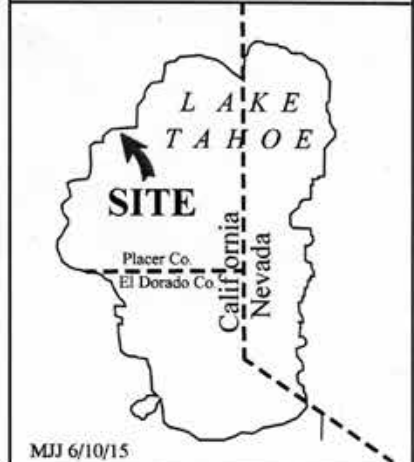


Exhibit B

PRC 8622.1
 NELSON DAVIS TRUST
 APN 093-060-023
 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.