

**CALENDAR ITEM
C07**

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06/28/16
PRC 3491.1
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Six Bar C, LLC, a California Limited Liability Company; Robert C. Cook, Jr., as Trustee under the Will of Robert C. Cook, Sr., deceased, for benefit of Kristen A. Cook; and Robert C. Cook Jr., as Trustee under the Will of Robert C. Cook, Sr., deceased, for benefit of Mark A. Chrisler

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 770 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning September 25, 2015.

CONSIDERATION:

\$2,524 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

2. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, 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 Lessee is unable to obtain such authorization within the time limit, they must remove the buoys.

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3. 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:

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 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 lands (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on a sandy area of the shore with scattered cobble. The topography and upland structures provide ample space for the pier while still leaving open space for other public trust-related activities. Depending on the water level, the construction of the pier allows the public to walk or navigate under or around the pier. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the Lessee exclusive rights to the lease premises, and reserves an easement to the public for public trust consistent uses. Upon termination of the lease, the Lessee may be required to remove all improvements from State land.

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 use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with public trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

CALENDAR ITEM NO. **C07** (CONT'D)

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On April 26, 2005, the Commission authorized a Recreational Pier Lease to Robert C. Cook. That lease expired on March 31, 2015. Robert C. Cook is now deceased. On September 25, 2015, ownership of the upland parcel transferred to Six Bar C, LLC, a California Limited Liability Company; Robert C. Cook, Jr., as Trustee under the Will of Robert C. Cook, Sr., deceased, for benefit of Kristen A. Cook; and Robert C. Cook Jr., as Trustee under the Will of Robert C. Cook, Sr., deceased, for benefit of Mark A. Chrisler. The Applicant is now applying for a General Lease – Recreational Use.
3. This action is consistent with 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 and Strategy 1.3 of the Commission's Strategic Plan to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways, and.
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

CALENDAR ITEM NO. **C07** (CONT'D)

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 trust needs and values at this location at this time, 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 Six Bar C, LLC, a California Limited Liability Company; Robert C. Cook, Jr., as Trustee under the Will of Robert C. Cook, Sr., deceased, for benefit of Kristen A. Cook; and Robert C. Cook Jr., as Trustee under the Will of Robert C. Cook, Sr., deceased, for benefit of Mark A. Chrisler; beginning September 25, 2015, for a term of 10 years, for the continued use and maintenance of an existing pier 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 \$2,524 with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000 per occurrence.

EXHIBIT A

PRC 3491.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 fractional Section 18, Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 9, 1866 County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and two catwalks adjacent to that parcel described in that Grant Deed recorded September 25, 2015 in Document 2015-0084172 of Official Records of said County.

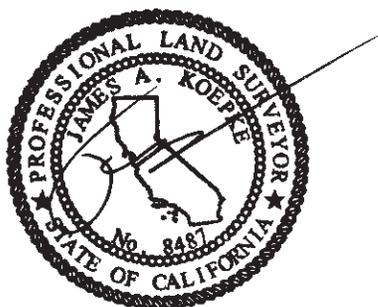
PARCELS 2, 3 – BUOYS (2)

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared February 12, 2016 by the California State Lands Commission Boundary Unit.



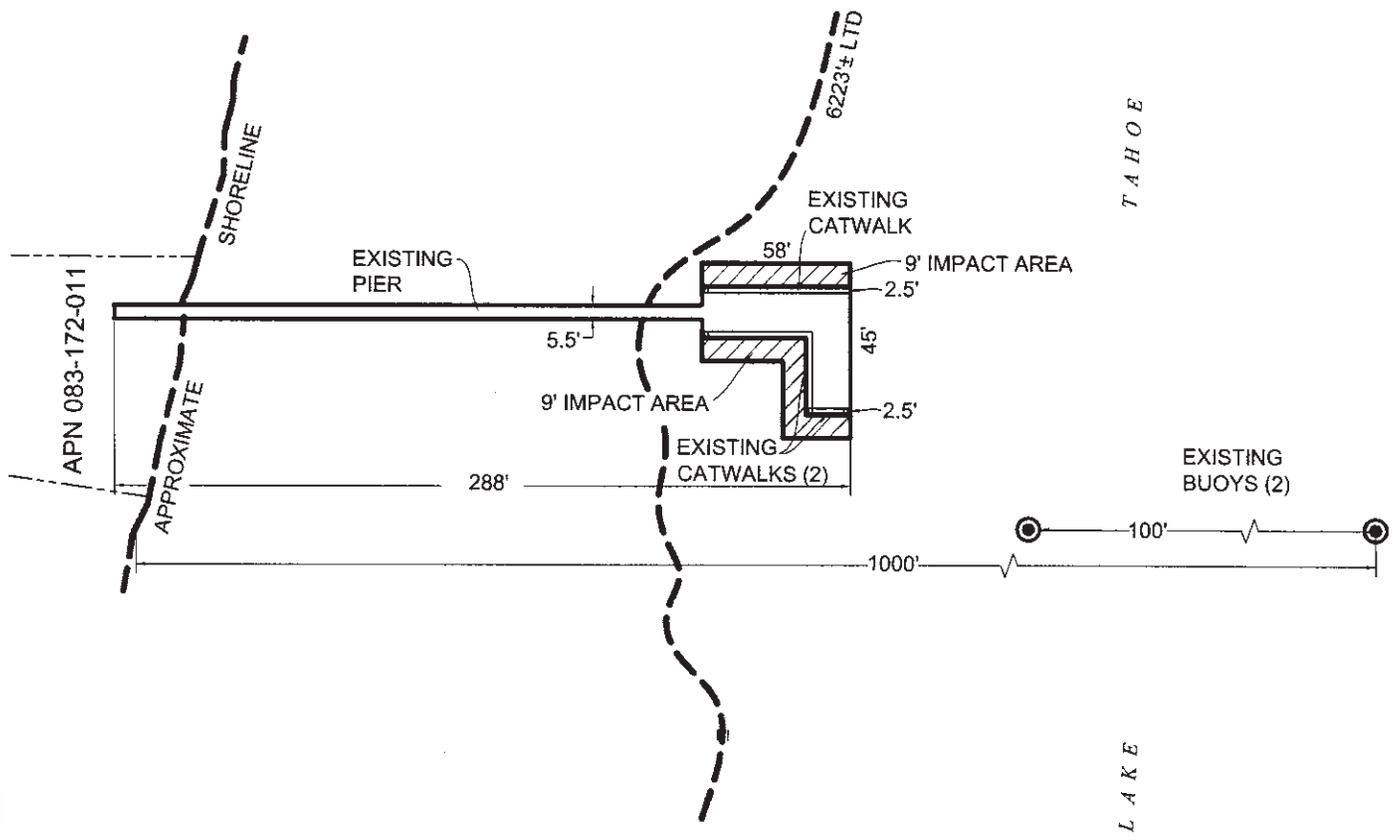


EXHIBIT A

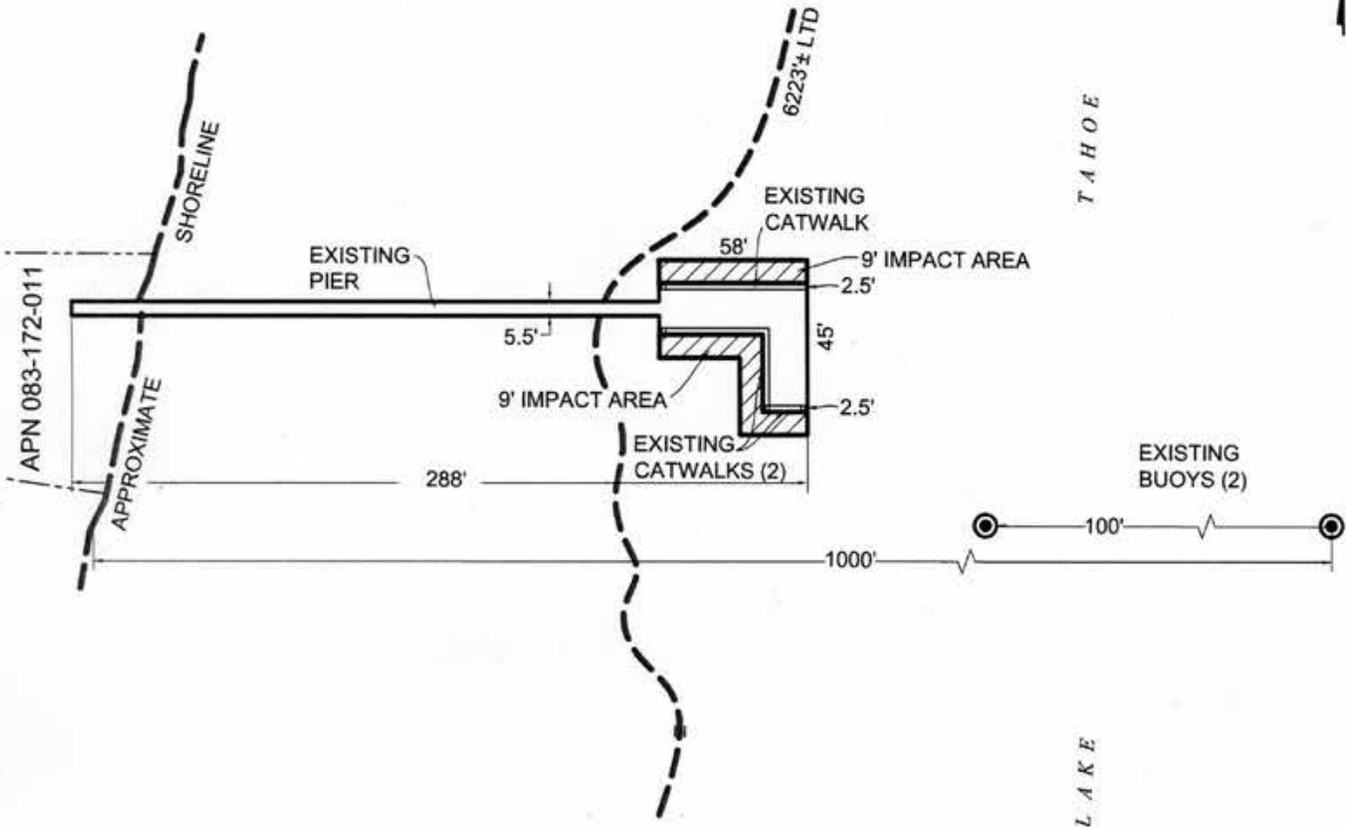
LAND DESCRIPTION PLAT
 PRC 3491.1, SIX BAR C, LLC, ET AL.
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



770 WEST LAKE BLVD., NEAR TAHOE CITY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3491.1
 SIX BAR C, LLC, ET AL.
 APN 083-172-011
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 3/04/16

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.