

**CALENDAR ITEM  
C27**

A 4  
S 1

01/26/12  
WP 8217.1  
B. Terry

**GENERAL LEASE - RECREATIONAL USE**

**APPLICANTS:**

Christopher David Plona and Anne L. Hoffman, as Trustees of the Plona Hoffman Trust, under agreement dated 13 February 2007; and William M. Johnson, Jr.

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Lake Tahoe, adjacent to 8632 and 8634 Brockway Vista Avenue, near Kings Beach, Placer County.

**AUTHORIZED USE:**

Continued use and maintenance of a joint-use pier, boat lift, and four mooring buoys.

**LEASE TERM:**

10 years, beginning January 26, 2012.

**CONSIDERATION:**

\$1,156 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. TRPA is

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presently evaluating its response. At such time as 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) 090-141-036 and 090-141-037, adjoining the lease premises.
2. On September 19, 2000, the Commission authorized a Recreational Pier Lease with David Samuel and William M. Johnson, Jr. That lease expired on May 31, 2010. On June 1, 2011, the ownership of APN 090-141-036 was deeded to Christopher David Plona and Anne L. Hoffman, as Trustees of the Plona Hoffman Trust, under agreement dated 13 February 2007. 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 is effective 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 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 or 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.
4. Because the application and fees for William M. Johnson, Jr., were submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently-enacted changes to Section 6503.5 of the Public Resources Code for the term of the lease. However, the application and fees for Christopher David Plona and Anne L. Hoffman, as Trustees of the Plona Hoffman Trust, under agreement dated 13 February 2007, were received after March 31, 2011, and therefore, do not meet the exception to the above. As a result, the rent is pro-rated based on the Plona Hoffman Trust's 50 percent ownership of the

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pier and boat lift, and 100 percent ownership of two of the four mooring buoys.

5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061) the staff has determined that this activity 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).

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

6. 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 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 Christopher David Plona and Anne L. Hoffman, as Trustees of the Plona Hoffman Trust, under agreement dated 13 February 2007; and William M. Johnson,

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Jr., beginning January 26, 2012, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier, boat lift, 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 \$1,156, 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 8217.1**

**LAND DESCRIPTION**

Five (5) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 6 of fractional Section 19, Township 16 North, Range 18 East, MDM., as shown on Official Government Township Plat approved January 29, 1875, County of Placer, State of California, and more particularly described as follows:

**PARCEL 1 – PIER**

All those lands underlying an existing pier, stairs and one existing boat lift lying adjacent to that parcel as described in Exhibit “A” of that Grant Deed recorded June 1, 2011 as Document Number 2011-42442-00 and of that Grant Deed recorded August 11, 1995 as Document Number 95-041605 in Official Records of said County.

TOGETHER WITH a ten (10) foot use 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**

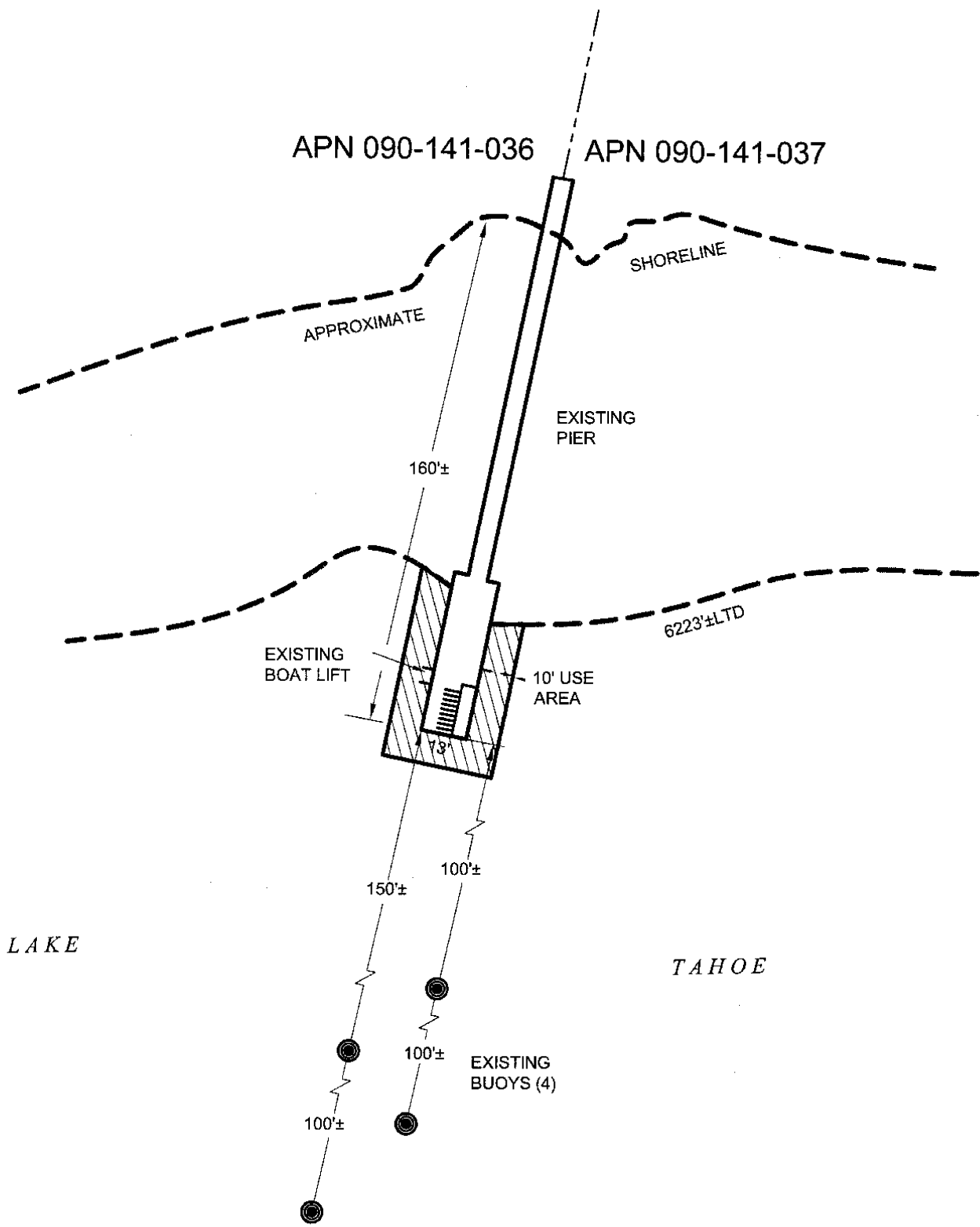
Four (4) circular parcels of land, each being 50 feet in diameter, underlying four (4) existing buoys lying adjacent to that parcel as described in Exhibit “A” of that Grant Deed recorded June 1, 2011 as Document Number 2011-42442-00 and that Grant Deed recorded August 11, 1995 as Document Number 95-041605 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared December 21, 2011 by the California State Lands Commission Boundary Unit.





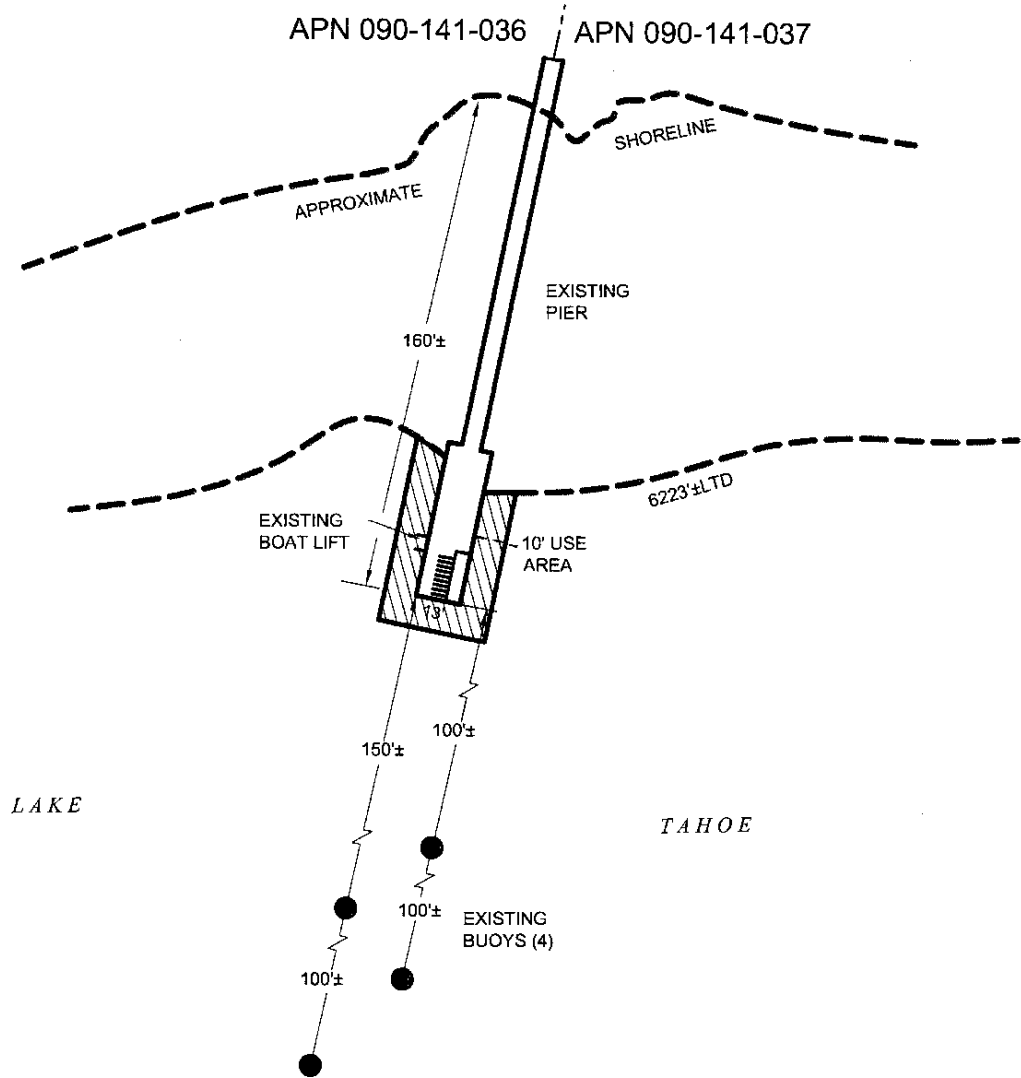
**EXHIBIT A**

MJJ 12/21/11



NO SCALE

**SITE**



8632 & 8634 BROCKWAY VISTA AVE., NEAR KINGS BEACH

NO SCALE

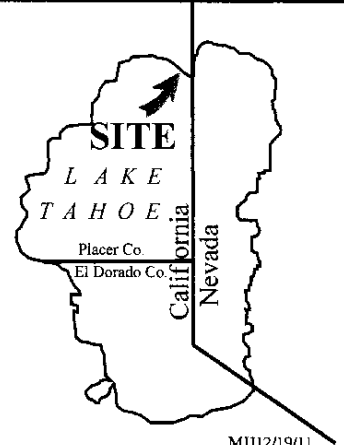
**LOCATION**



MAP SOURCE: USGS QUAD

**Exhibit B**

PRC 8217.1  
 HOFFMAN, PLONA &  
 JOHNSON  
 APN 090-141-036 & 037  
 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.