

**CALENDAR ITEM
C35**

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S 1

03/29/12
W 26484
N. Lavoie

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Robert J. Ernst III and Katherine R. R. Ernst

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3310 Edgewater Drive, near Tahoe City, Placer County.

AUTHORIZED USE:

Use and maintenance of two existing mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years, beginning March 29, 2012.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

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. When 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.

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OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. 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 that 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 of 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.

Because the application was 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 this lease.

3. The Applicants' two existing mooring buoys have been in Lake Tahoe for many years but have not been previously authorized by the Commission. Staff recommends bringing the existing mooring buoys under lease, subject to the Applicants obtaining TRPA permit authorization.
4. 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.

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

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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 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).

SIGNIFICANT LAND 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 Robert J. Ernst III and Katherine R. R. Ernst, beginning March 29, 2012, for a term of 10 years, for the use and maintenance of two existing mooring buoys not previously authorized by the Commission as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; no monetary consideration pursuant to Public Resources Code section 6503.5; and liability insurance in the amount of no less than \$1,000,000.

EXHIBIT A

W 26484

LAND DESCRIPTION

Two (2) circular parcels of submerged land, in the bed of Lake Tahoe, lying adjacent to Lot 6, fractional Section 33, Township 16 North, Range 17 East, Mount Diablo Base & Meridian, as shown on the Official Government Township Plat approved September 25, 1907, County of Placer, State of California, and more particularly described as follows:

PARCELS 1 & 2 – BUOYS

Two (2) parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to Parcel Two as described in Exhibit "A" of that Grant Deed recorded December 21, 1989 in Book 3790, Page 20 of Official Records of said County.

END OF DESCRIPTION

Prepared December 23, 2011 by the California State Lands Commission Boundary Unit.



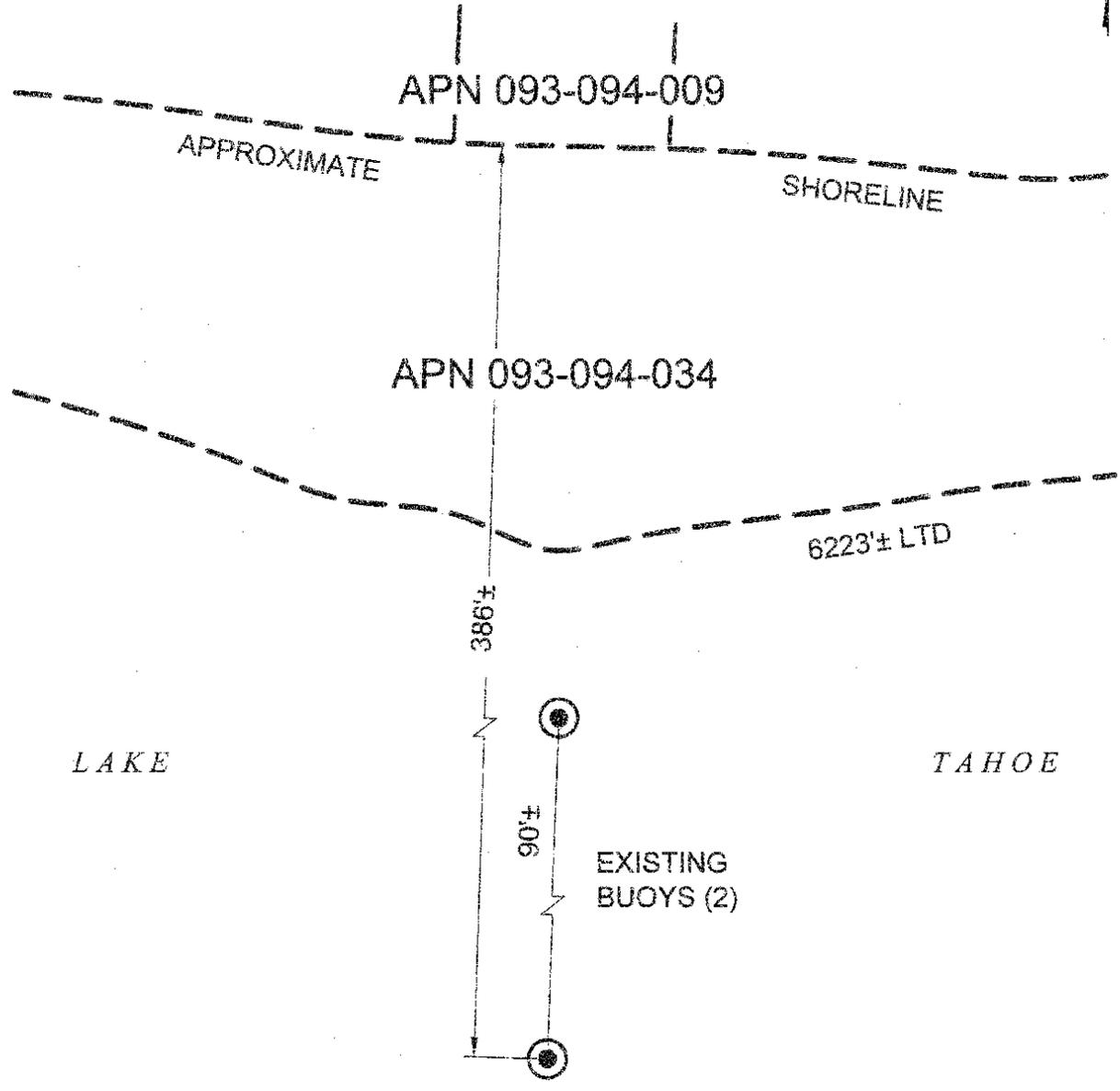


EXHIBIT A

MJJ 01/3/12

LAND DESCRIPTION PLAT
W 26484, ERNST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



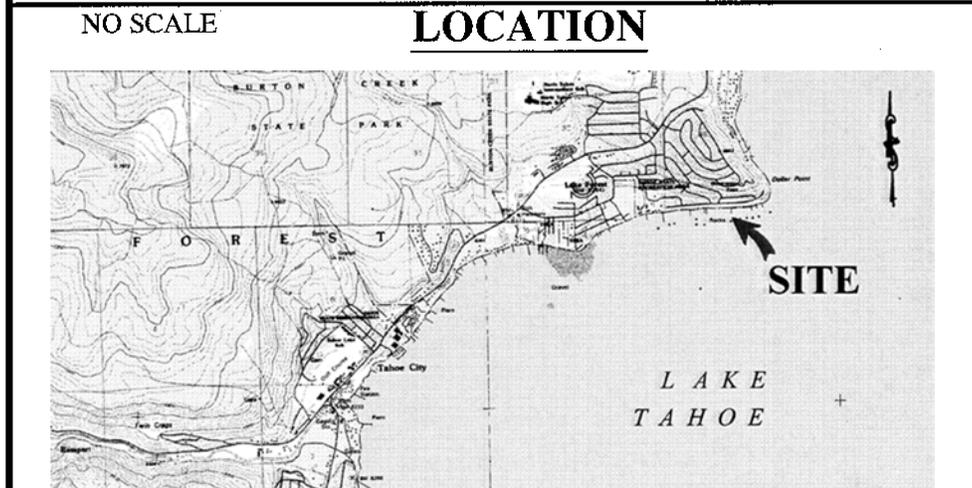
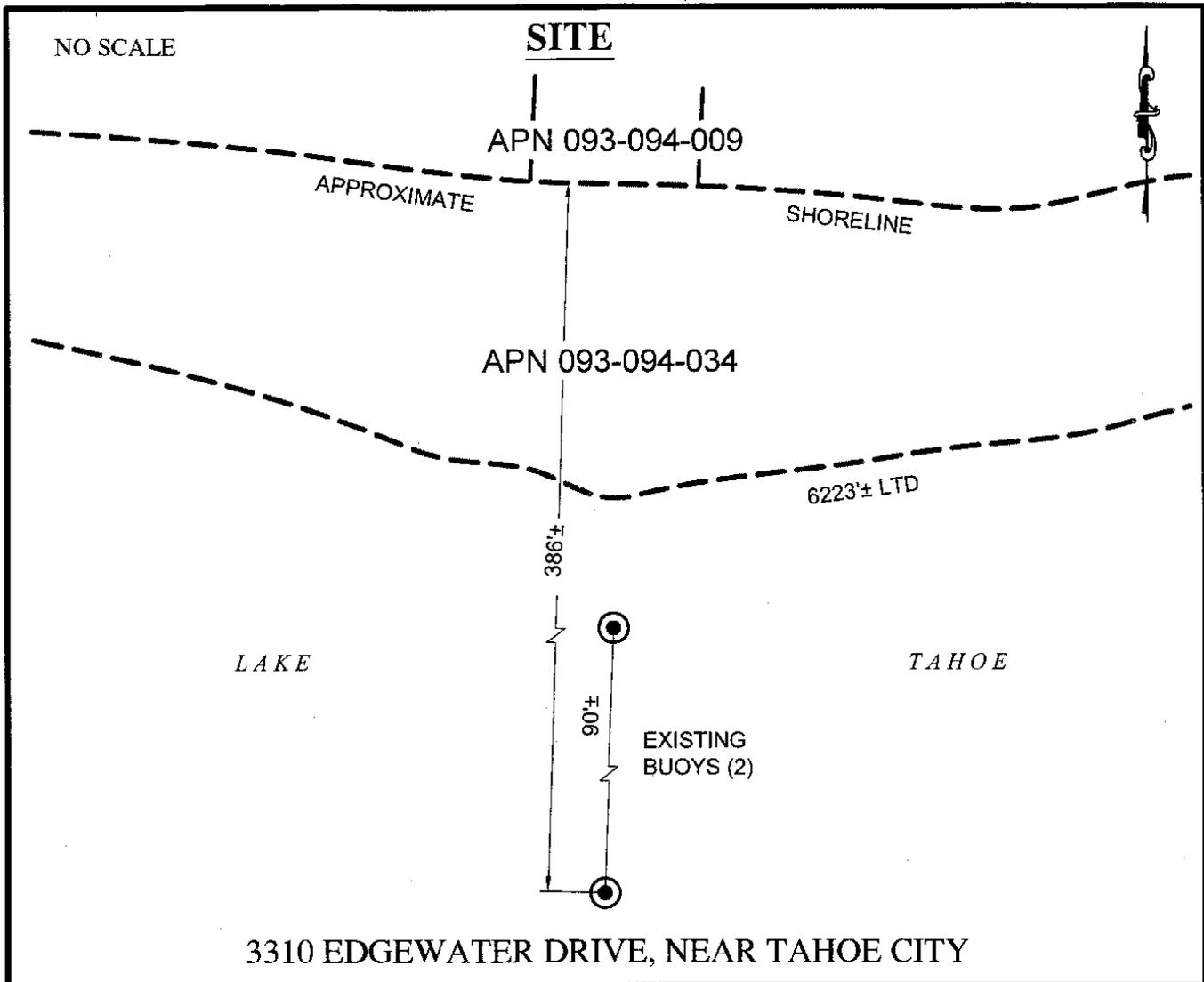
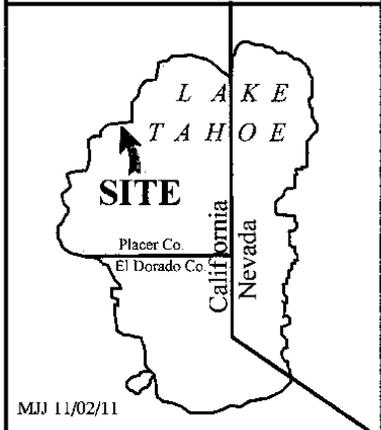


Exhibit B
 W 26484
 ERNST
 APN 093-094-009 &
 APN 093-094-034
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.