CALENDAR ITEM

C52

A 4

03/29/12
W 26401
B. Terry

GENERAL LEASE - RECREATIONAL USE

APPLICANTS:

Barry L. Ludwig and Jenny S. Ludwig, Trustees of the Ludwig 1990 Revocable Trust Agreement

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8319 Meeks Bay Avenue, near Meeks Bay, El Dorado County.

AUTHORIZED USE:

Use and maintenance of an existing pier and two 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 Applicant(s) 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.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands 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 and fees 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.

3. The Applicants' pier and two mooring buoys have been in Lake Tahoe for many years but have not been previously authorized by the Commission. The pier has existed since 1968 and has been grandfathered by the U.S. Army Corps of Engineers. Staff recommends bringing the existing pier and mooring buoys under lease, with the buoys 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 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 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 Barry L. Ludwig and Jenny S. Ludwig, Trustees of the Ludwig 1990 Revocable Trust Agreement beginning March 29, 2012, for a term of 10 years for the use and maintenance of an existing pier and two 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 26401

LAND DESCRIPTION

Three parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 28, Township 14 North, Range 17 East, M.D.M., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, more particularly described as follows:

PARCEL 1 – PIER

> All those lands underlying an existing pier lying adjacent to that parcel of land described in Exhibit A of Trustee's Deed recorded April 20, 1999 as Document Number 99-0025329 in Official Records of said County.

TOGETHER WITH a ten foot use area.

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCEL 2 & 3 – BUOY

> Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel of land described in Exhibit A of Trustee's Deed recorded April 20, 1999 as Document Number 99-0025329 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 01/30/2012 by the California State Lands Commission Boundary Unit.

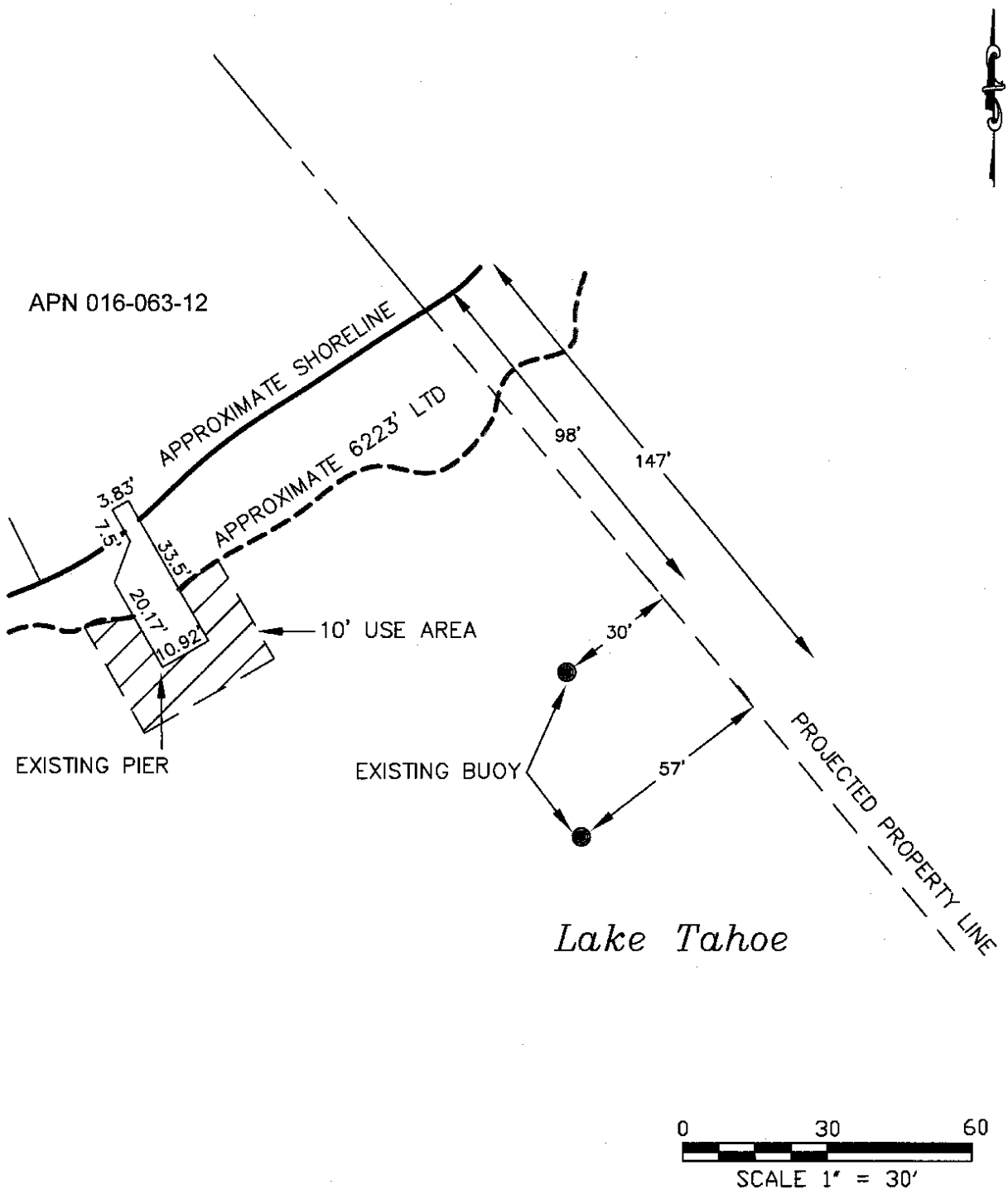

EXHIBIT A

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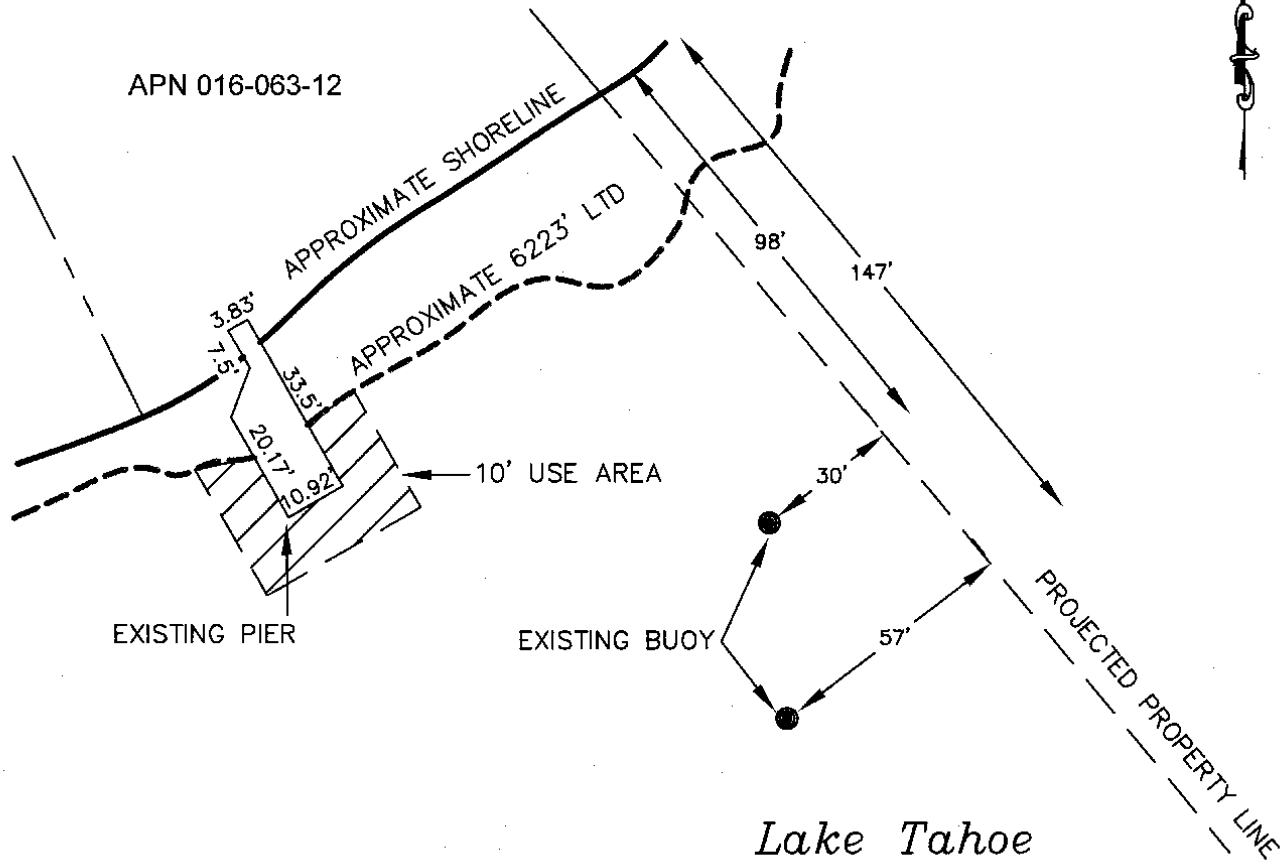
DJF 01/30/12

LAND DESCRIPTION PLAT W 26401, LUDWIG EL DORADO COUNTY	CALIFORNIA STATE LANDS COMMISSION

NO SCALE

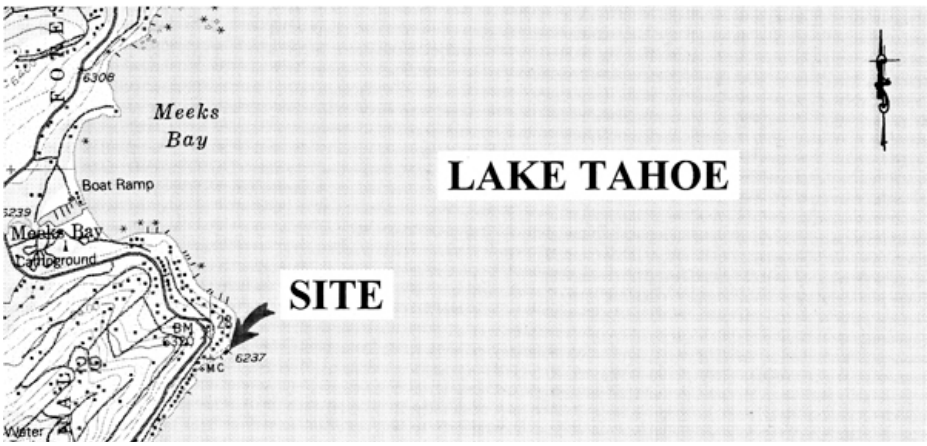
SITE



8319 MEEKS BAY AVENUE, NEAR MEEKS BAY

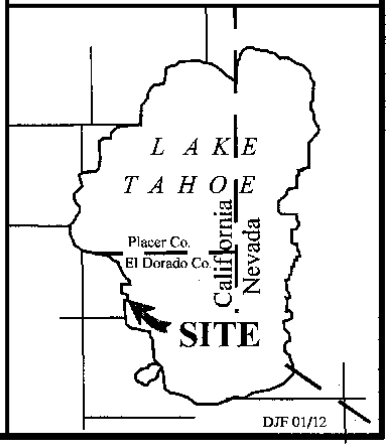
NO SCALE

LOCATION



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.

Exhibit B

W 26401
LUDWIG
APN 016-063-12
GENERAL LEASE - RECREATIONAL USE
EL DORADO COUNTY