CALENDAR ITEM
C18

A 4 | 12/05/12
PRC 1985.1
S 1 | W. Hall

TERMINATION AND ISSUANCE OF A GENERAL LEASE - RECREATIONAL USE

LESSEE/APPLICANT:
Carswell Partners, L.P., a California Limited Partnership

AREA, LAND TYPE, AND LOCATION:
Sovereign land in Lake Tahoe, adjacent to 4840 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:
Continued use and maintenance of an existing pier previously authorized by the Commission, and use and maintenance of two existing mooring buoys not previously authorized by the Commission.

LEASE TERM:
10 years, beginning December 5, 2012.

CONSIDERATION:
$1,291 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 $1,000,000
Other:
The proposed lease contains a provision requiring the Applicant 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 the FEIS and Ordinance Amendments supported by 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

Commssion on any suggested modifications to the process used by the Commssion pending resolution of the TRPA FEIS and amended ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

2. On October 16, 2008, the Commission authorized a 10-year General Lease - Recreational Use for an existing pier, with Carswell Partners, LP, a California Limited Partnership. That lease expires on July 25, 2018.

3. The Lessee is now applying for termination of the existing lease and issuance of a new General Lease - Recreational Use for continued use and maintenance of the existing pier previously authorized by the Commission and use and maintenance of two existing mooring buoys not previously authorized by the Commission.

4. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law became 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 after March 31, 2011, the lease does not meet the statutory requirements for an exception to recently enacted changes to Section 6503.5 of the Public Resources Code and is subject to rent.

5. The Lessee's existing mooring buoys have been in Lake Tahoe for many years but were not previously authorized by the Commission. Staff recommends bringing the placement of the Lessee's existing mooring buoys under lease, subject to the Lessee obtaining TRPA permit authorization.

6. **Lease Termination:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

   Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

7. **Issuance of Lease:** The staff recommends that the Commission find 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.

8. 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:

Lease Termination: Find that the subject lease termination is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of Lease: 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:

1. Authorize termination, effective December 4, 2012, of Lease No. PRC 1985.1, a General Lease – Recreational Use, issued to Carswell Partners, L.P., a California Limited Partnership.

2. Authorize issuance of a General Lease - Recreational Use to Carswell Partners, L.P., a California Limited Partnership, beginning December 5, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier previously authorized by the Commission and use and maintenance of two existing mooring buoys not previously authorized by the Commission described in Exhibit A and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of $1,291, 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 1985.1

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 1, Township 14 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk lying adjacent to those parcels described in Grant Deed recorded September 19, 2002 as Document Number 2002-0111006 in Official Records of said County.

TOGETHER WITH a ten foot impact area.

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

PARCEL 2 & 3 – BUOYS

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded September 19, 2002 as Document Number 2002-0111006 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 06/27/2012 by the California State Lands Commission Boundary Unit.

Revised 12/03/12

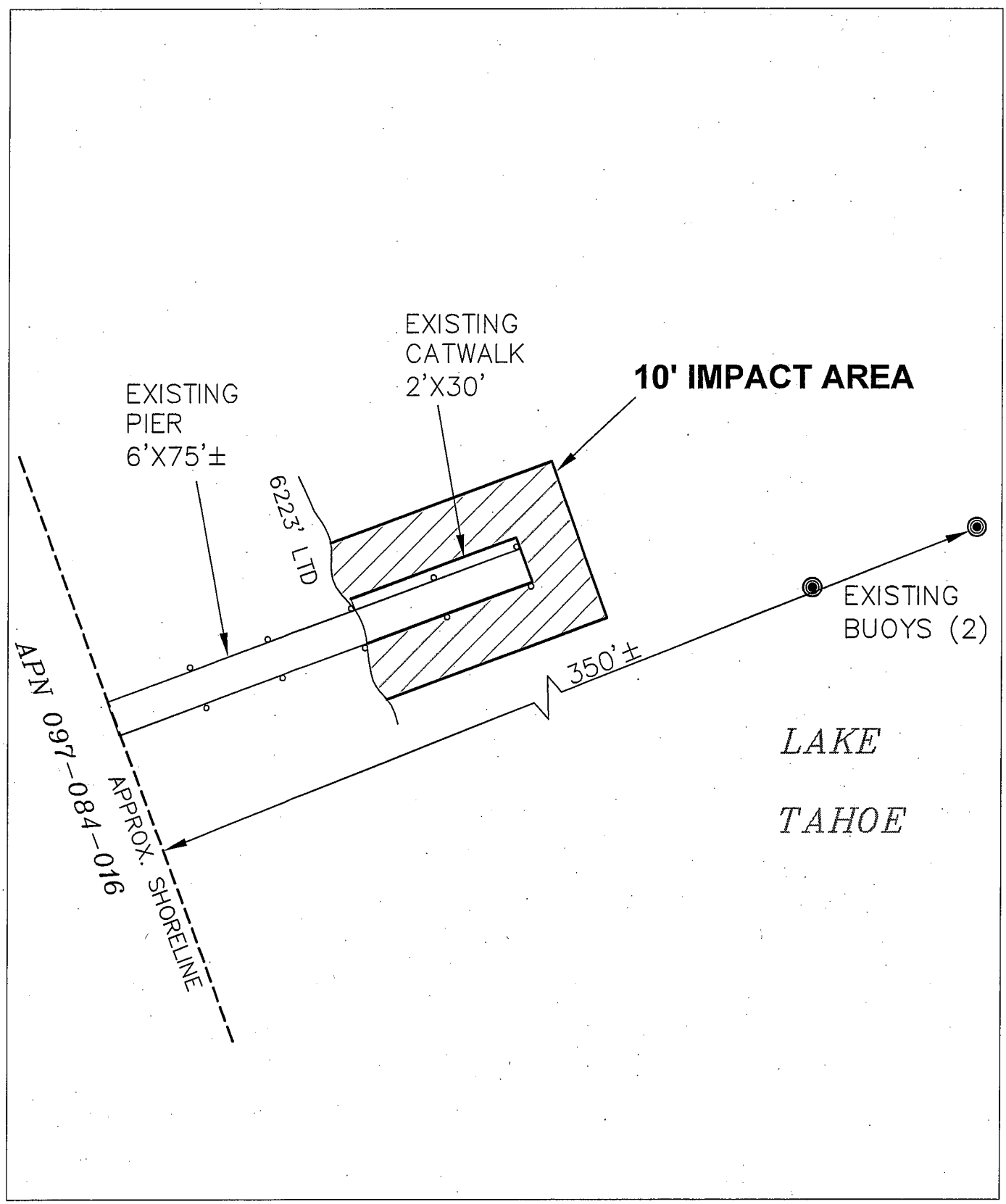


EXHIBIT A

Revised 12/03/12

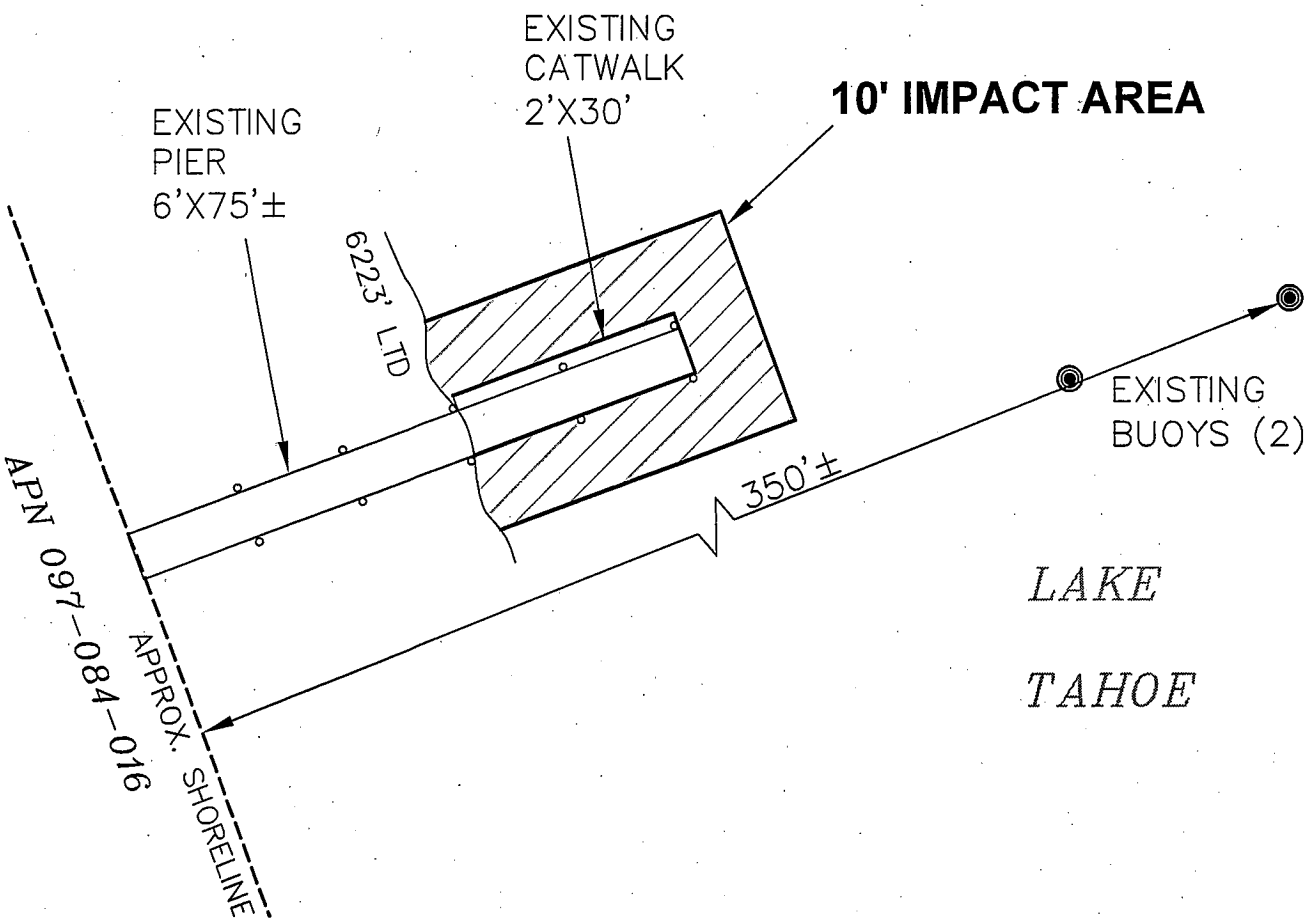
TS 06/27/12

LAND DESCRIPTION PLAT
PRC 1985.1, CARSWELL PARTNERS
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION

NO SCALE

SITE

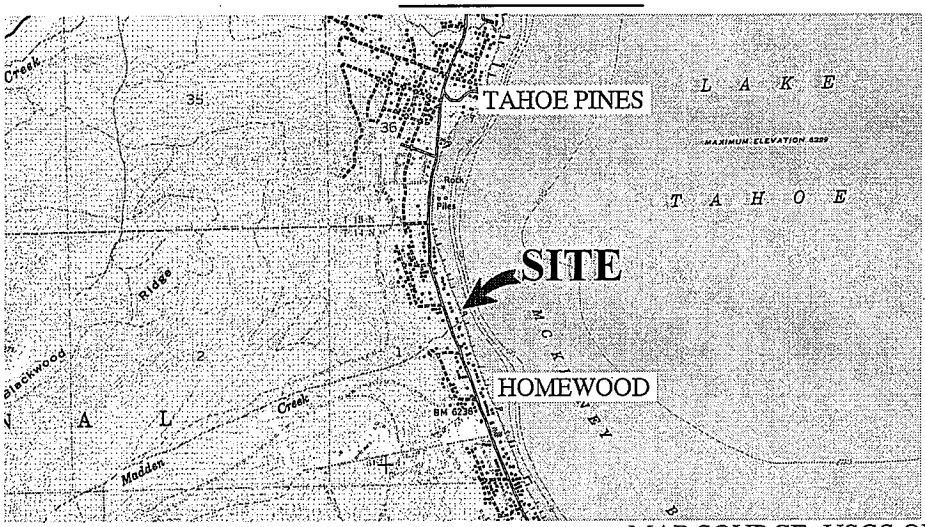


4840 West Lake Blvd., Near Homewood

Revised 12/03/12

NO SCALE

LOCATION

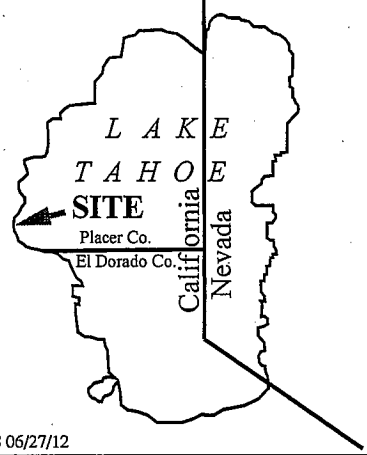


MAP SOURCE: USGS QUAD

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

PRC 1985.1
CARSWELL PARTNERS
APN 097-084-016
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY



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