CALENDAR ITEM

C31

A 4 02/22/13

PRC 3094.1

S 1 C. Hudson

GENERAL LEASE - RECREATIONAL USE

APPLICANTS:

Albert S. Weaver, III and Katherine Weaver Barnett, as Successor Co-Trustees of the Albert S. Weaver, Jr. and Emily Baker Weaver Trust dated December 31, 1969

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 8797 Rubicon Drive, near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier previously authorized by the Commission; and the use and maintenance of two existing mooring buoys not previously authorized by the Commission

LEASE TERM:

10 years, beginning February 22, 2013.

CONSIDERATION:

$1,501 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 of 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 ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.

2. On February 5, 2001, the Commission authorized a Recreational Pier Lease with Albert S. Weaver, III and Katherine Weaver Barnett. That lease expired on November 30, 2010. On March 30, 2012, ownership of the upland was deeded to Albert S. Weaver, III and Katherine Weaver Barnett, as Successor Co-Trustees of the Albert S. Weaver, Jr. and Emily Baker Weaver Trust dated December 31, 1969. The 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 took effect on 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 application fees were 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.

4. The Applicants' mooring buoys have been in Lake Tahoe for many years, but have not been previously authorized by the Commission. Staff recommends bringing the placement of the Applicants' existing mooring

buoys under lease, subject to the Applicants obtaining TRPA permit authorization.

5. 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.

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 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 Albert S. Weaver, III and Katherine Weaver Barnett, as Successor Co-Trustees of

the Albert S. Weaver, Jr. and Emily Baker Weaver Trust dated December 31, 1969, beginning February 22, 2013, 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 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 $1,501, 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 3094.1

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 32, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, 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 described in Grant Deed recorded March 30, 2012 as Document Number 2012-0015264-00 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, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded March 30, 2012 as Document Number 2012-0015264-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 05/07/2012 by the California State Lands Commission Boundary Unit.

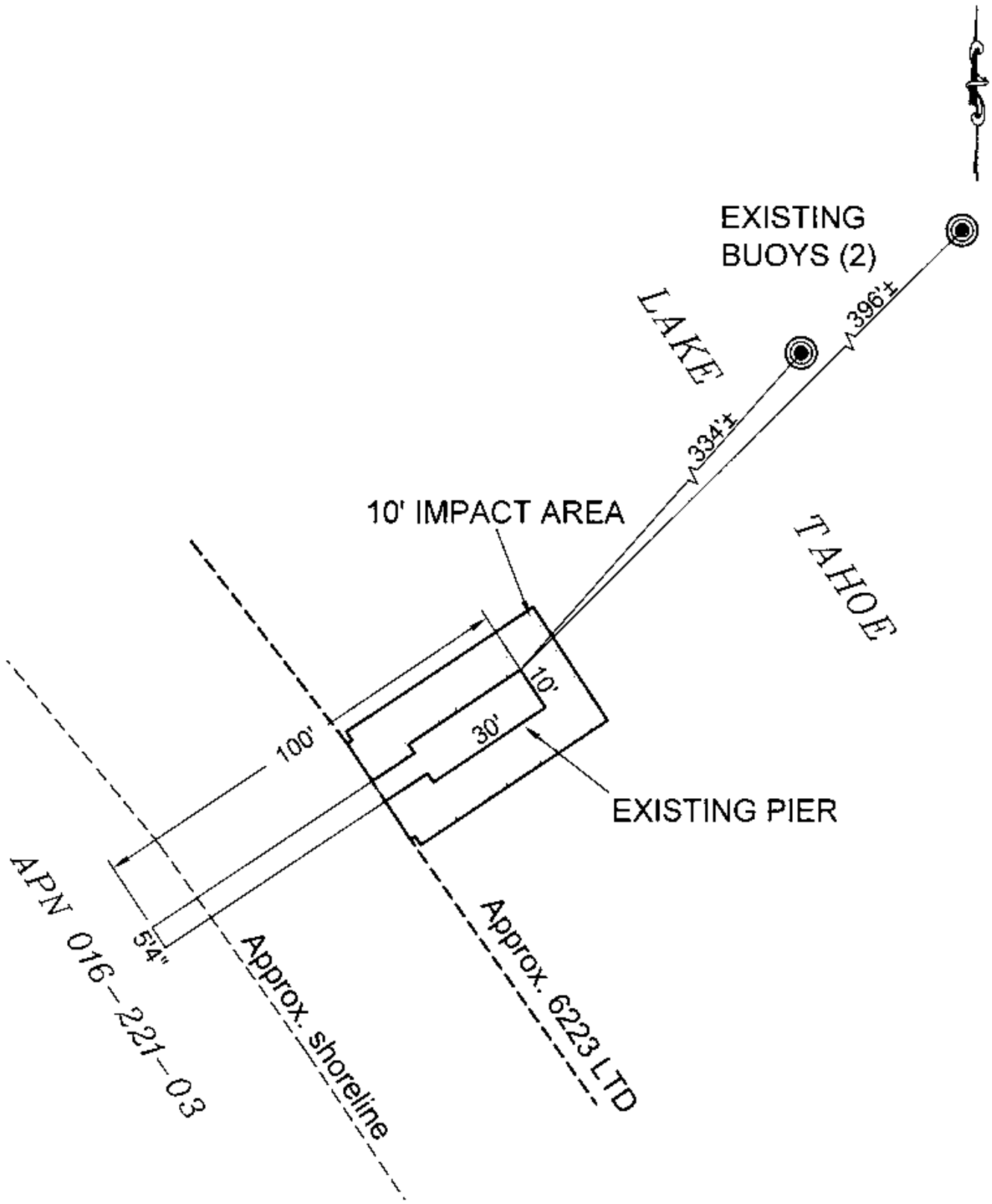


EXHIBIT A

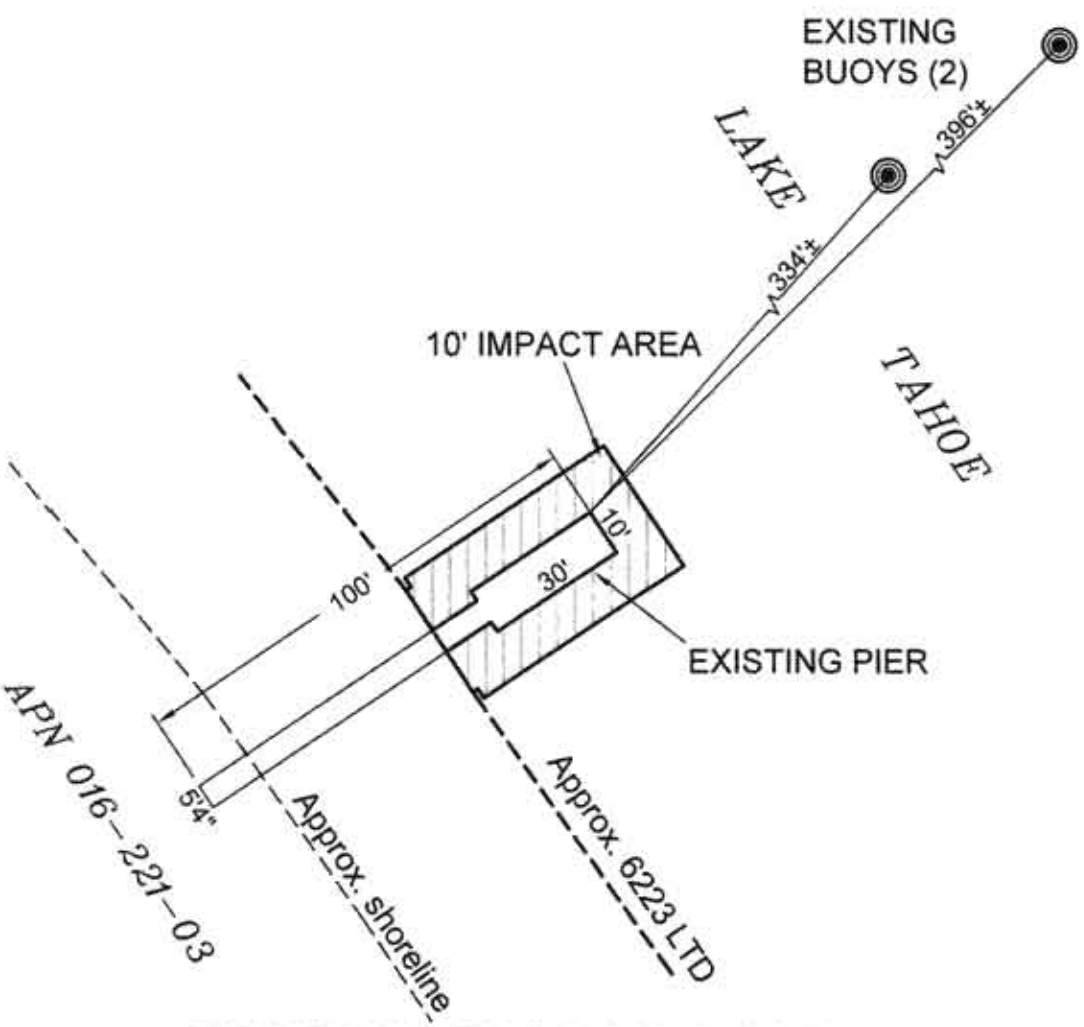
Page 2 of 2

TS 05/07/12

LAND DESCRIPTION PLAT PRC 3094.1, WEAVER EL DORADO COUNTY	CALIFORNIA STATE LANDS COMMISSION

NO SCALE

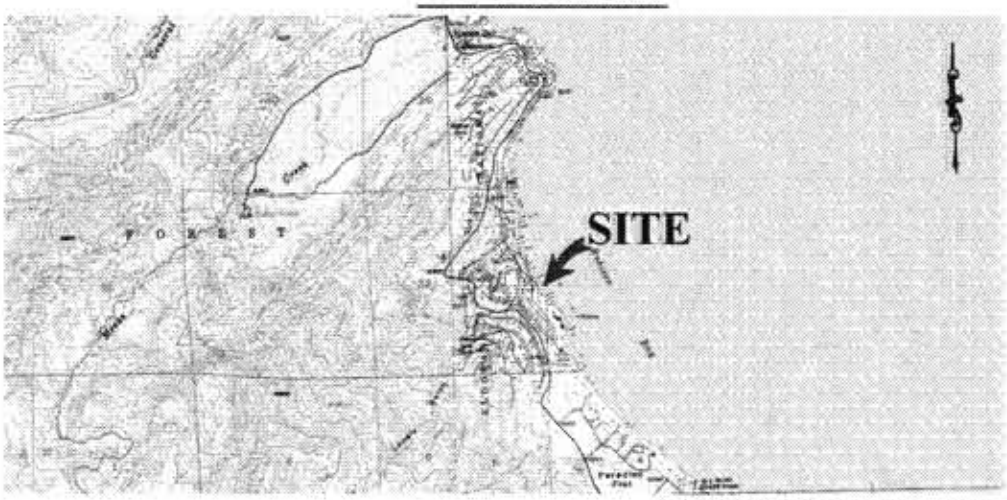
SITE



8797 RUBICON DRIVE, NEAR SOUTH LAKE TAHOE

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 3094.1
WEAVER
APN 016-221-03
GENERAL LEASE-
RECREATIONAL USE
EL DORADO COUNTY

TS 05/07/12