

**CALENDAR ITEM
C57**

A 1
S 1

04/26/13
PRC 5561.1
B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Helio A. Fialho and Therese S. Fialho, Trustees of the Fialho Family Trust; and
Brian J. Mettler

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1600 and 1620 North Lake Boulevard,
Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier and one mooring
buoy previously authorized by the Commission and use and maintenance of an
existing boat lift and three mooring buoys not previously authorized by the
Commission.

LEASE TERM:

10 years, beginning August 16, 2012.

CONSIDERATION:

\$4,461 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

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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 upland parcels, Assessor's Parcel Numbers (APN) 094-160-009 and 094-160-010, adjoining the lease premises.
2. On January 29, 1999, the Commission authorized a Recreational Pier Lease with Peggy A. White, Martin A. Davis, and Brian Mettler. That lease expired on March 22, 2009. Since the issuance of that lease, the upland parcel, APN 094-160-010, was sold and subsequently went into foreclosure. On August 16, 2012, APN 094-160-010 was deeded to Helio A. Fialho and Therese S. Fialho, Trustees of the Fialho Family Trust. Applicants are now applying for a new General Lease – Recreational Use.
3. On October 9, 1980, the Tahoe Regional Planning Agency (TRPA) permitted one of the four existing mooring buoys. However, three of the four mooring buoys have been in Lake Tahoe for many years but have never been authorized by the Commission. Staff recommends bringing the existing three additional mooring buoys under lease, subject to the Applicants obtaining TRPA permit authorization. Each upland parcel has two mooring buoys. The U.S. Army Corps of Engineers verified existence of buoys at this location since 1966.
4. 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

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.

CALENDAR ITEM NO. **C57** (CONT'D)

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 Helio A. Fialho and Therese S. Fialho, Trustees of the Fialho Family Trust; and Brian J. Mettler beginning August 16, 2012, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier and one mooring buoy previously authorized by the Commission and use and maintenance of an existing boat lift and three 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 \$4,461 with the State reserving the right to fix a different rent periodically during the lease terms, as provided in the lease; and liability insurance with coverage of no less than \$1,000,000.

EXHIBIT A

PRC 5561.1

LAND DESCRIPTION

Five parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 5, Township 15 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and boat lift lying adjacent to those parcels described in Grant Deed recorded September 28, 2006 as Document Number 2006-0103344 and Grant Deed recorded August 16, 2012 as Document Number 2012-0074778-00 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.

PARCELS 2 through 5 – BUOYS

Four circular parcels of land, each being 50 feet in diameter, underlying four existing buoys lying adjacent to those parcels described in Grant Deed recorded September 28, 2006 as Document Number 2006-0103344 and Grant Deed recorded August 16, 2012 as Document Number 2012-0074778-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 12/06/2012 by the California State Lands Commission Boundary Unit.



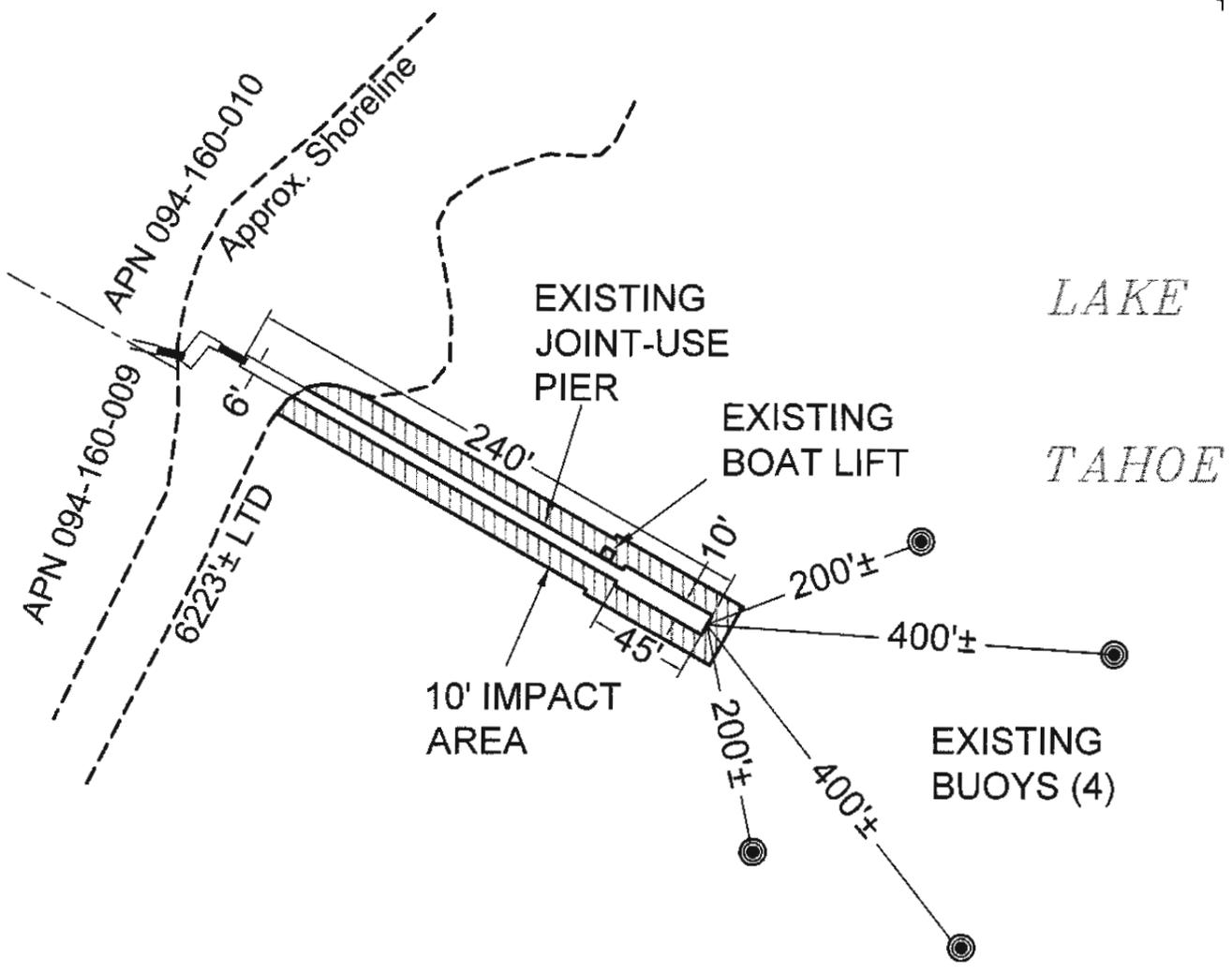


EXHIBIT A

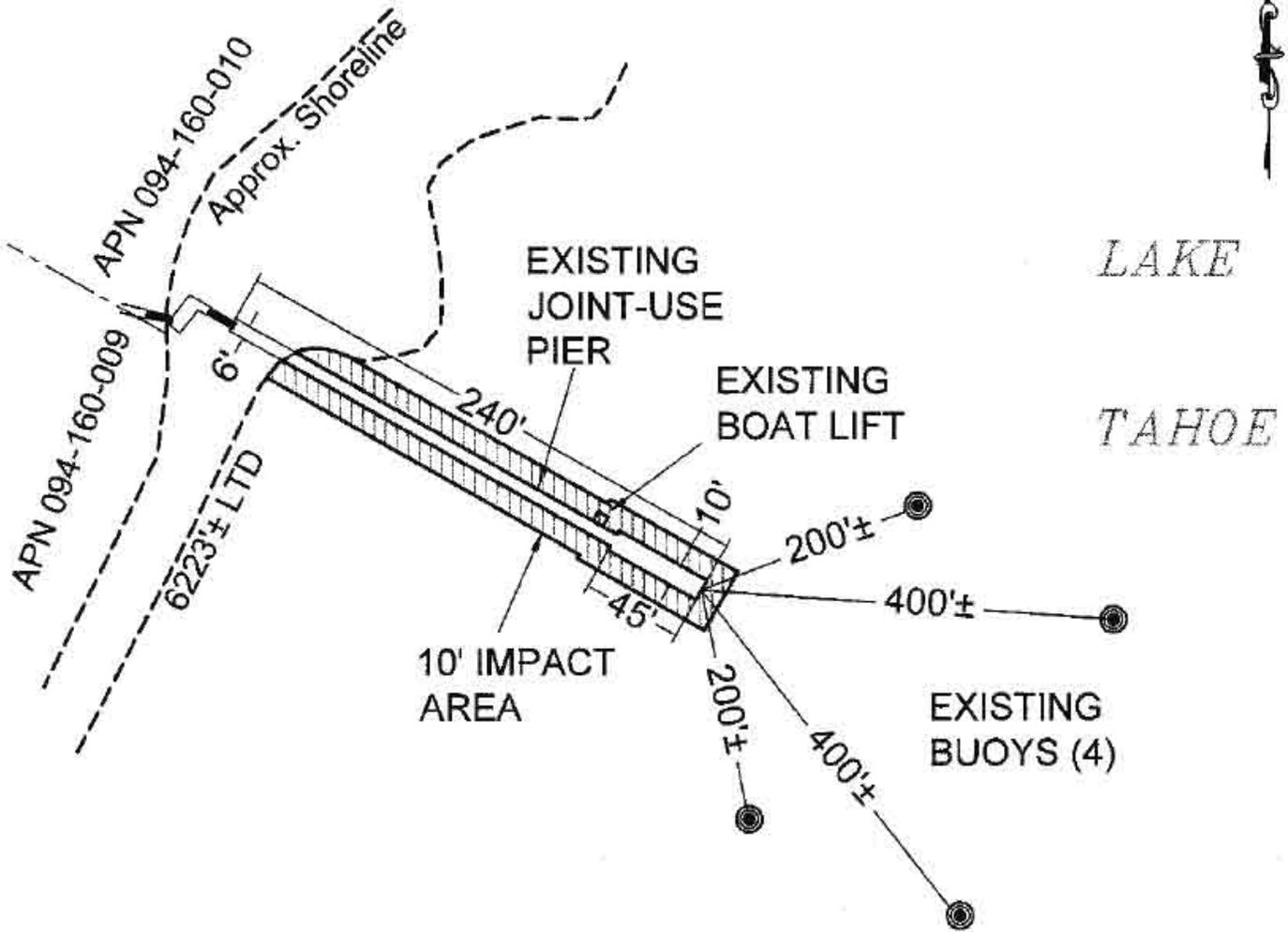
LAND DESCRIPTION PLAT
PRC 5561.1, FIALHO/METTLER
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

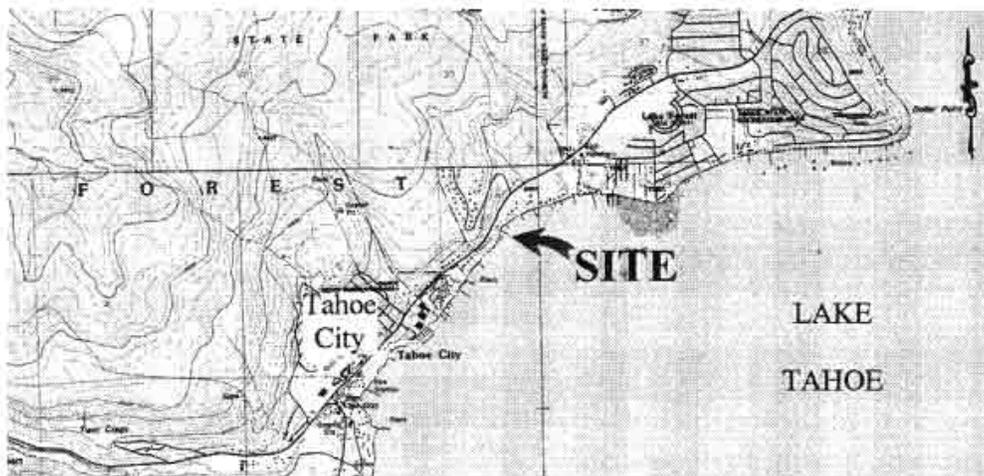
SITE



1610 & 1620 NORTH LAKE BLVD., TAHOE CITY

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 5561.1
FIALHO/METTLER
APN 094-160-009; -010
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



TS 12/06/12