

STAFF REPORT

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10/24/19

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Lease 5884.1

J. Toy

**ACCEPTANCE OF A LEASE QUITCLAIM DEED AND
ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

LESSEE:

Hawkins Insulation Company, Inc., and Lyon Investments, LP, a California Limited Partnership

APPLICANT:

Hawkins Insulation Company, Inc., and 5620 West Lake Partners, LLC, a Texas limited liability company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5620 and 5650 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier, boat lift, and four mooring buoys.

LEASE TERM:

10 years, beginning January 1, 2020.

CONSIDERATION:

\$2,208 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreational uses.
- Lessee shall provide proof of a Tahoe Regional Planning Agency (TRPA) permit and registration for all moorings, or proof that any

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unregistered and unpermitted mooring(s) have been removed on or before October 23, 2020.

- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On April 26, 2013, the Commission authorized a General Lease – Recreational Use for an existing joint-use pier, boat lift, and four mooring buoys to Hawkins Insulation Company, Inc., and Lyon Investments, LP, a California Limited Partnership ([Item C40, April 26, 2013](#)). The lease authorized a pier shared between the two upland parcels adjoining the lease premises, Assessor's Parcel Number (APN) 097-182-008 owned by Hawkins Insulation Company, Inc., and APN 097-182-007 owned by Lyon Investments, LP, a California Limited Partnership. On November 29, 2017, the Commission authorized an amendment to the lease to reflect a reduced lease area and a revision of rent to revise the annual rent from \$2,669 per year to \$2,208 per year ([Item C24, November 29, 2017](#)). The lease will expire on December 31, 2022. On August 14, 2018, APN 097-182-007 was deeded to 5620 West Lake Partners, LLC, a Texas limited liability company.

The Applicant is applying for issuance of a new lease for the continued use and maintenance of the existing joint-use pier, boat lift, and four mooring buoys. The Lessee executed a lease quitclaim deed releasing their interest in the lease. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease. The Lessee paid the current annual rent through December 31, 2019; therefore, staff recommends acceptance of the quitclaim deed effective on December 31, 2019, and issuance of a new lease beginning one day later, on January 1, 2020.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The facilities are used for the docking and mooring of boats and facilitate recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has

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identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on pilings, providing public access for pedestrians and lake-related activities at varying water levels underneath the pier. The immediate area of the existing pier is gently sloped with small rocks. The four buoys are located directly lakeward of the upland parcels and occupy a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the joint-use pier, boat lift, and four mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.

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3. On October 24, 2018, the TRPA Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. Acceptance of a lease quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

5. Staff recommends that the Commission find that issuance of the lease 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.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease 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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the acceptance of a lease quitclaim deed and issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

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AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, effective December 31, 2019, of Lease No. PRC 5884.1, a General Lease – Recreational Use, issued to Hawkins Insulation Company, Inc., and Lyon Investments, LP, a California Limited Partnership.

2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning January 1, 2020, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier, boat lift, and four mooring buoys, 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 \$2,208, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 5884.1

LAND DESCRIPTION

Five (5) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 12, Township 14 North, Range 16 East, MDM., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 — PIER

All those lands underlying an existing pier, two catwalks and one boat lift lying adjacent to that Lot as described in that Grant Deed recorded January 28, 2003 in Document Number 2003-0013404 in Official records of said County.

TOGETHER WITH any applicable impact area(s).

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

PARCELS 2, 3, 4 & 5 — 4 BUOYS

Four (4) circular parcels of land, being 50 feet in diameter, underlying four (4) existing buoys lying adjacent to said Lot.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared September 25, 2017 by the California State Lands Commission Boundary Unit.



NO SCALE

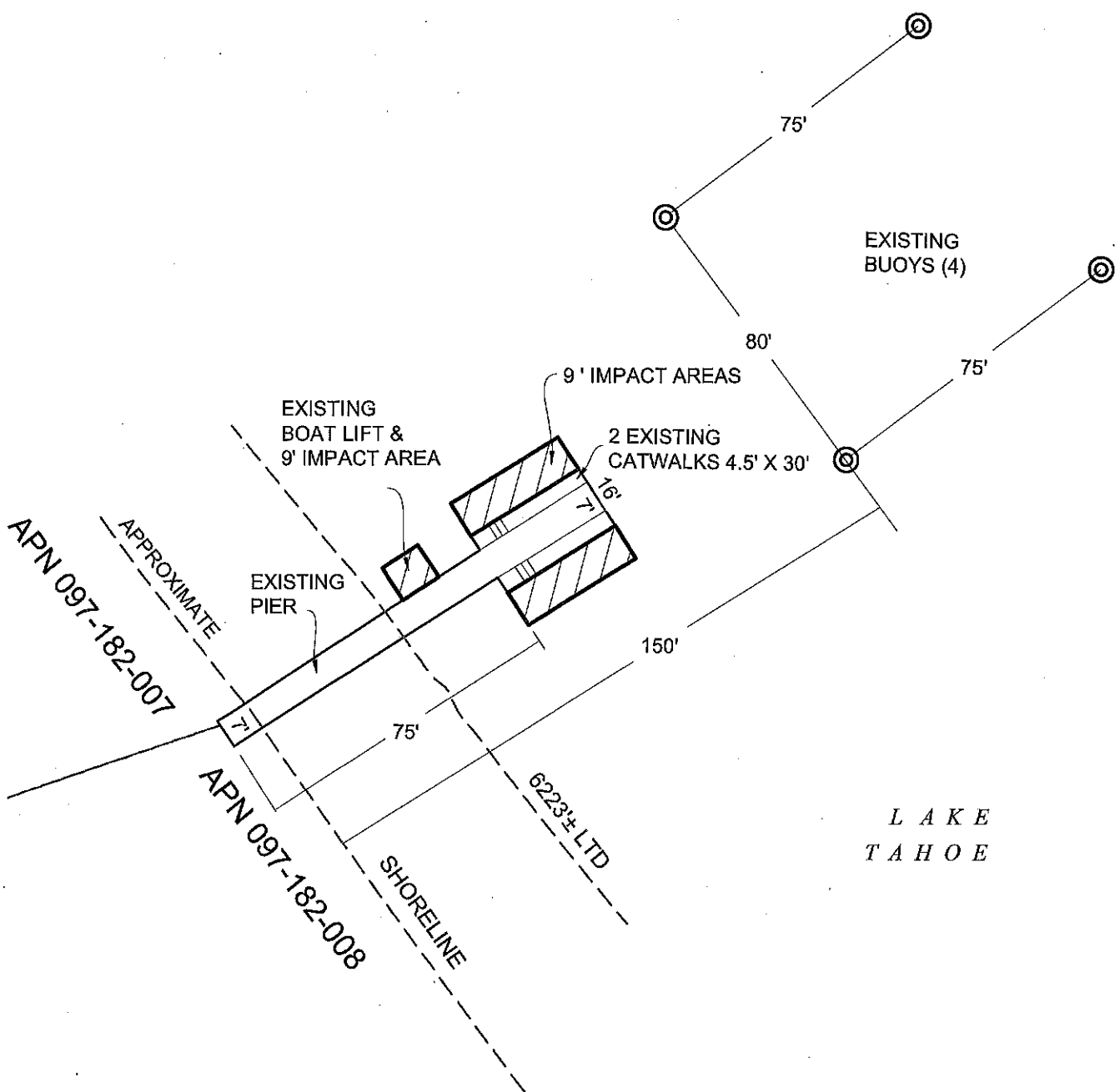


EXHIBIT A

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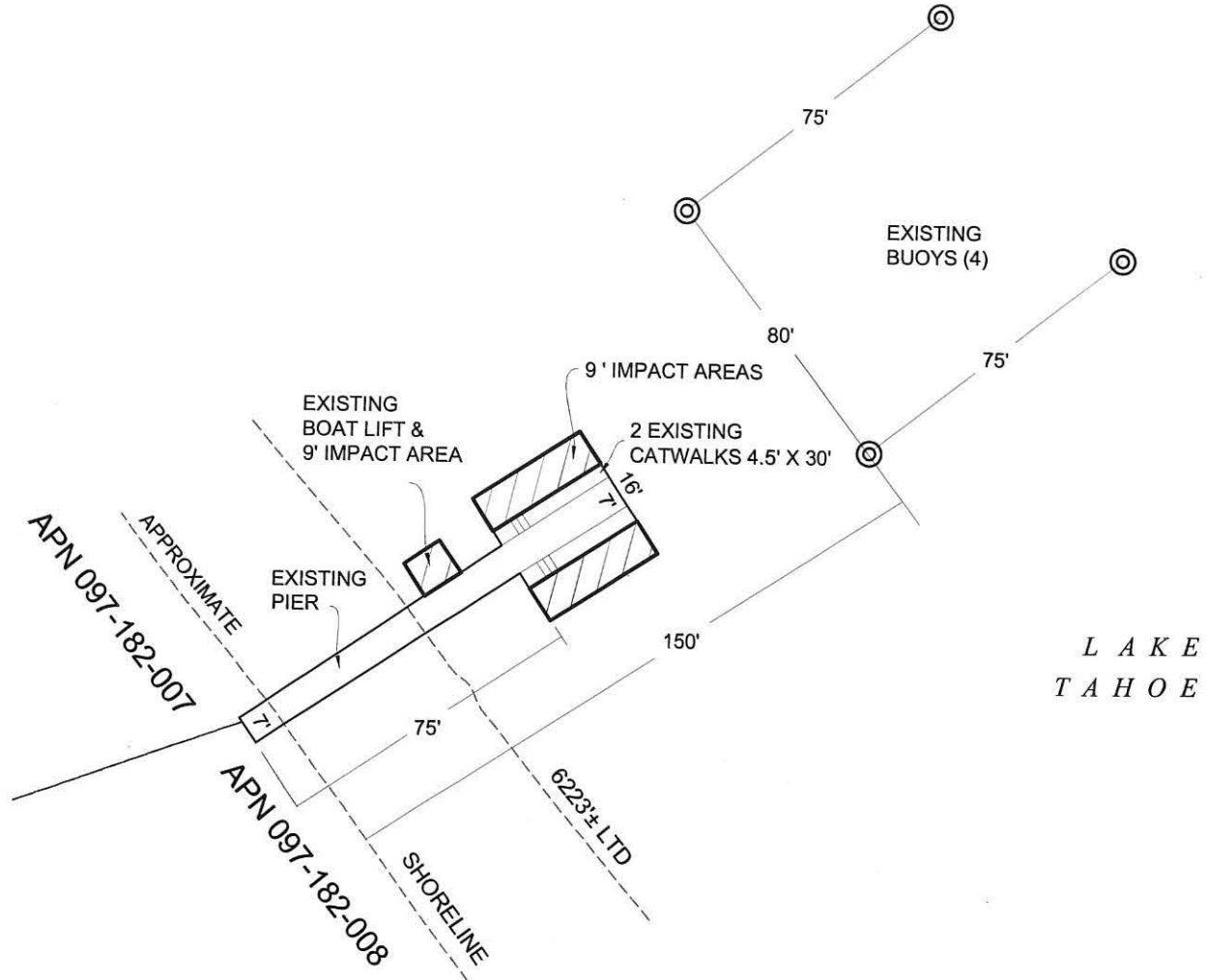
LAND DESCRIPTION PLAT
 LEASE 5884.1, HAWKINS INSULATION
 COMPANY INC., ET AL.
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

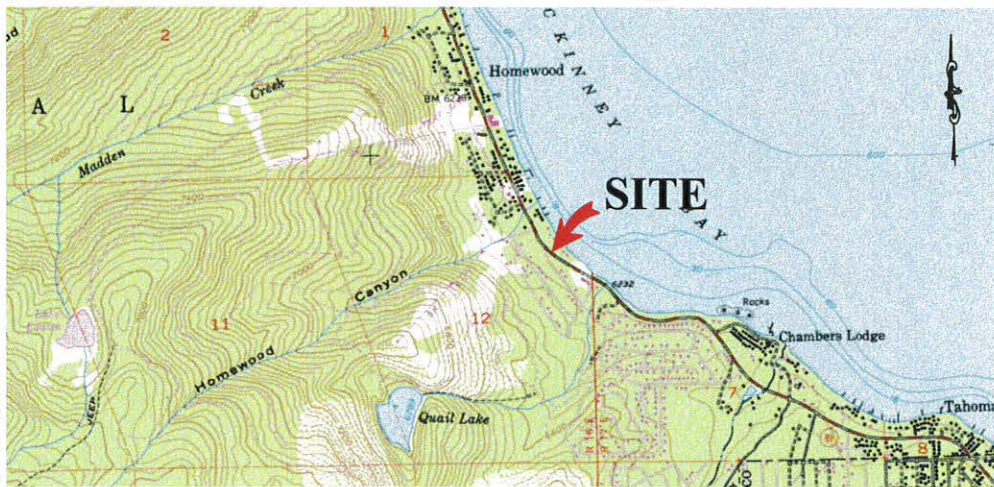
SITE



5620 & 5650 WEST LAKE BLVD., NEAR HOMEWOOD

NO SCALE

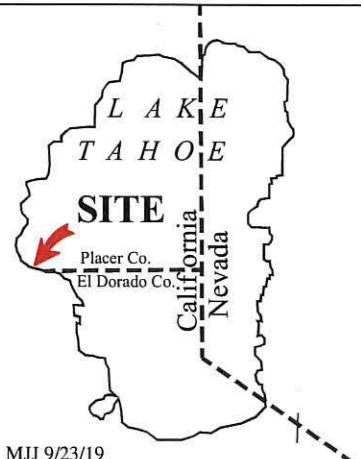
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

LEASE 5884.1
 HAWKINS INSULATION
 COMPANY INC., ET AL.
 APN 097-182-007 & 008
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.