

**STAFF REPORT
C11**

A 5
S 1

02/04/19
PRC 4853.1
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Bryan H. Hillstrom, Trustee of the Bryan H. Hillstrom Trust dated June 19, 2014;
and Tony Weir Industries, LLC, a Texas Limited Liability Company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 214 Four Ring Road (APN 017-021-21) and 226 Four Ring Road (APN 017-021-33), near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier and one mooring buoy.

LEASE TERM:

10 years, beginning February 4, 2019.

CONSIDERATION:

\$1,034 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.
- If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoys within 2 years after the certification of a Final Environmental Impact Statement for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such

STAFF REPORT NO. C11 (CONT'D)

authorization within the time limit, then Lessee may be required to remove the buoys.

- 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 17, 2006, the Commission authorized a 10-year Recreational Pier Lease for an existing joint-use pier and two mooring buoys to Susan H. Hillstrom, Bryan Hillstrom, and Linda Catron ([Item C13, April 17, 2006](#)). That lease expired on September 26, 2015. The lease authorized a pier shared between the two upland parcels adjoining the lease premises with one parcel at 214 Four Ring Road, owned by the Hillstroms, and the other parcel at 220 Four Ring Road, owned by Linda Catron. Since issuance of the lease, 214 Four Ring Road was transferred to Bryan Hillstrom, Trustee of the Bryan H. Hillstrom Trust dated June 19, 2014. On January 30, 2015, 220 Four Ring Road was deeded to Tony Weir Industries, LLC.

Shortly before Tony Weir Industries, LLC, (Weir) took ownership of 220 Four Ring Road, the LLC also acquired two additional neighboring lakefront parcels. Upon Weir's purchase of the three parcels staff understood Weir planned to consolidate the three parcels into one parcel. Therefore, staff kept the lease in holdover until the consolidation was complete. In 2015, the upland owners were made aware they would be responsible for compensation. The consolidation of the parcels is now complete. In May 2018, one of the two mooring buoys was removed. The Applicant is applying for a new lease for the continued use and maintenance of the existing joint-use pier and one mooring buoy.

The Applicant has agreed to be responsible for rent from the time of the ownership change. Therefore, staff recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$4,937 for the period beginning January 30, 2015 through February 3, 2019, the day before the proposed new lease would become effective.

STAFF REPORT NO. C11 (CONT'D)

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The joint-use pier and one mooring buoy 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 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, which allows the public to navigate or walk next to and, at lower water levels, under the pier. The immediate area of the existing pier is relatively flat with sandy surroundings.

The subject facilities do not significantly alter the land and the lease does not alienate the State's fee simple interest or permanently impair public rights. The buoy has existed for many years at this location. The buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake.

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. Based on the foregoing, staff believes that the subject facilities will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease.

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. 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.

STAFF REPORT NO. **C11** (CONT'D)

2. On October 24, 2018, the TRPA Governing Board certified a new Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
3. 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.

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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the 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.

AUTHORIZATION:

1. Authorize acceptance of compensation in the amount of \$4,937 for unauthorized occupation of State lands for the period beginning January 30, 2015 through February 3, 2019, from the Applicant.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 4, 2019, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier and one mooring buoy as described in Exhibit A and shown on Exhibit B

STAFF REPORT NO. **C11** (CONT'D)

(for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,034, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4853.1

LAND DESCRIPTION

Two parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to fractional Section 4, Township 13 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved April 11, 1884, County of El Dorado, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing joint-use pier and two catwalks lying adjacent to those parcels described in Grant Deed recorded June 25, 2014 as Document Number 2014-0023633-00 and Certificate of Merge recorded November 9, 2015 as Document Number 2015-0051846-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

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

PARCEL 2– BUOY

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to those parcels described in Grant Deed recorded June 25, 2014 as Document Number 2014-0023633-00 and Certificate of Merge recorded November 9, 2015 as Document Number 2015-0051846-00 in Official Records of said County.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared 11/21/2018 by the California State Lands Commission Boundary Unit.



NO SCALE



LAKE
TAHOE

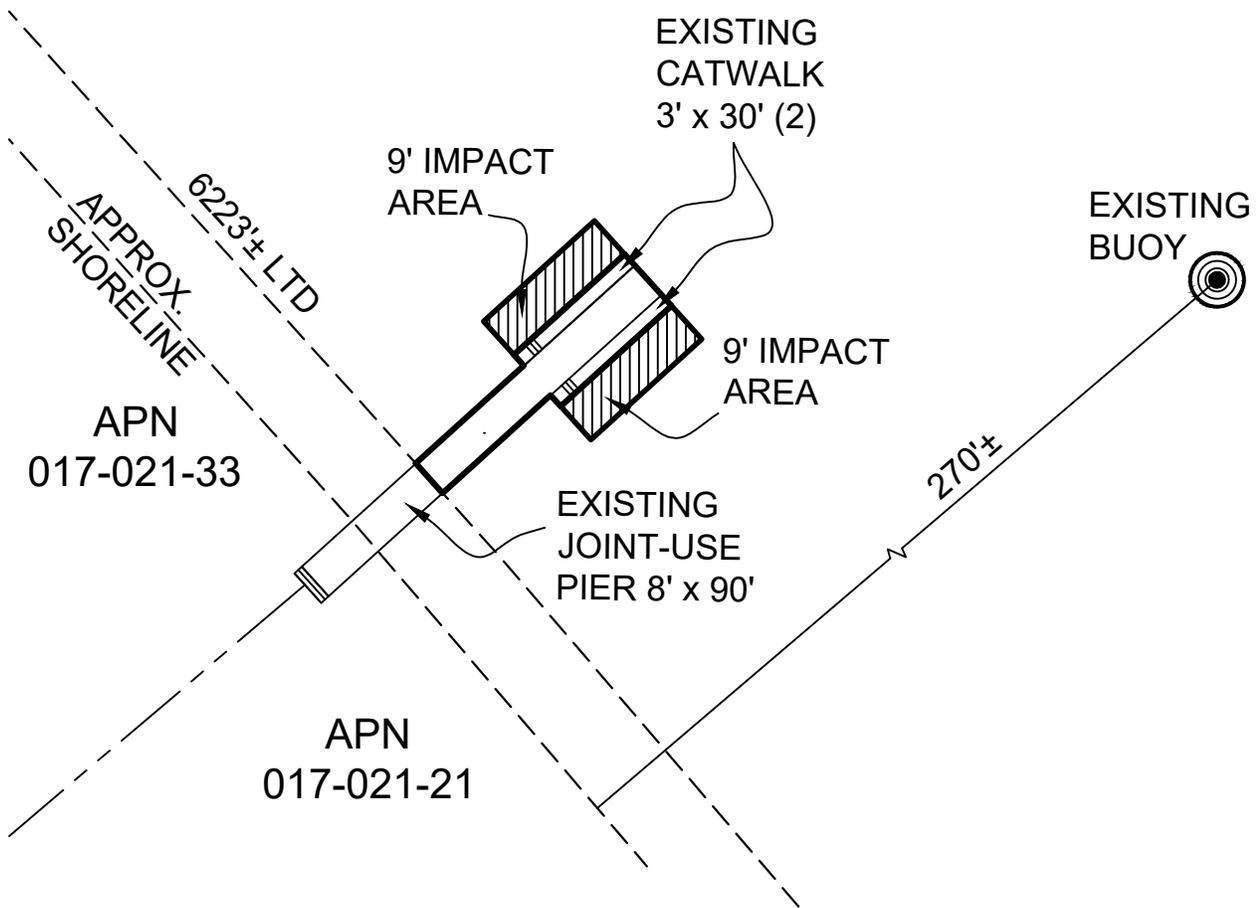


EXHIBIT A

Page 2 of 2

TS 11/21/18

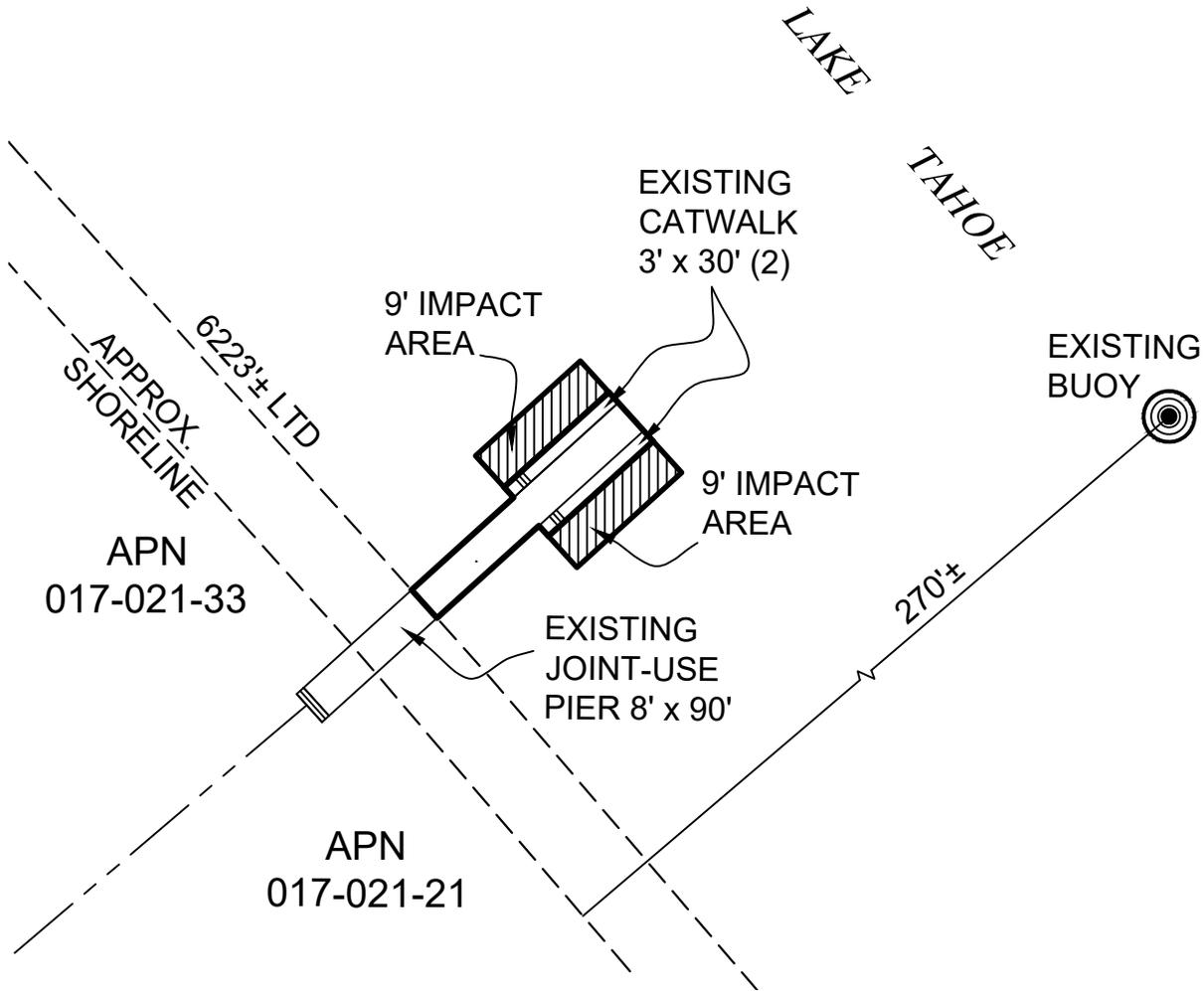
LAND DESCRIPTION PLAT
PRC 4853.1, HILLSTROM, ET. AL.
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

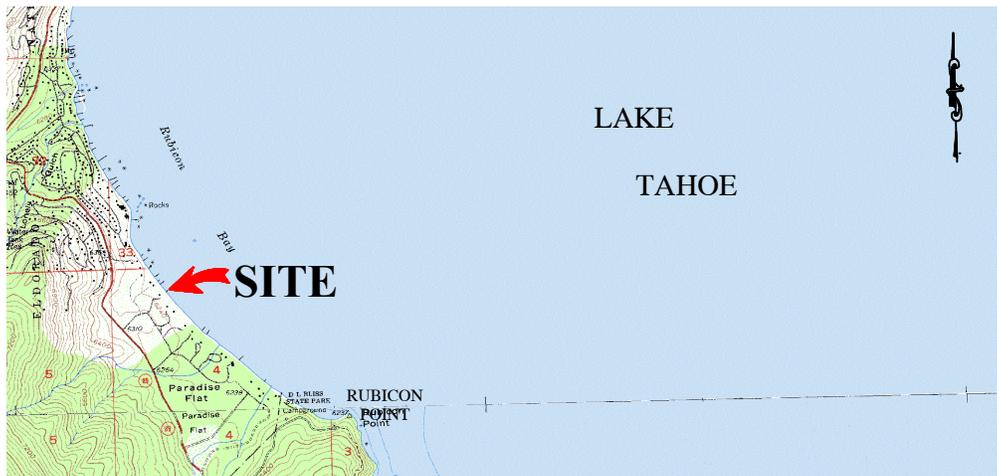
SITE



214 & 226 FOUR RING ROAD, NEAR RUBICON BAY

NO SCALE

LOCATION

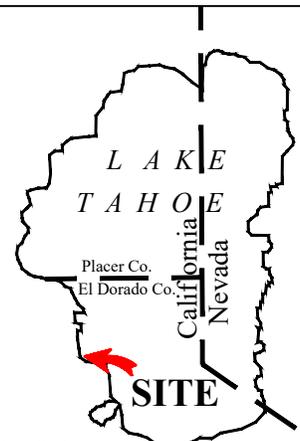


MAP SOURCE: USGS QUAD

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

PRC 4853.1
 HILLSTROM, ET. AL.
 APN 017-021-21 & 33
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



TS 11/21/18