

**STAFF REPORT  
C10**

A 1  
S 1

12/03/18  
PRC 2284.1  
J. Toy

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Ken Field and Margaret Field Trustees of the Ken Field and Margaret Field Revocable Trust dated February 22, 2012; Robert W. Field, Jr.; and James L. Field

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 3900 North Lake Boulevard, near Carnelian Bay, Placer County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing pier, covered cabana, boat lift, and two mooring buoys.

*LEASE TERM:*

10 years, beginning September 26, 2018.

*CONSIDERATION:*

\$1,663 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 the Lessee is unable to obtain such

## STAFF REPORT NO. C10 (CONT'D)

authorization within the time limit, they 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.
- The lease contains provisions stating that the existing covered cabana, as shown on the attached Exhibit B, cannot be expanded, and if repairs to any portion of the existing covered cabana cost more than 50 percent of the base value of the covered cabana, then the covered cabana must be removed from the lease premises.

### **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 December 10, 2010, the Commission authorized a General Lease - Recreational Use for an existing pier, covered cabana, boat lift, and two mooring buoys to Robert W. Field, Jr.; James L. Field; and Kendall J. Field ([Item C20, December 10, 2010](#)). On February 27, 2012, the portion of the property owned by Kendall J. Field was deeded to Ken Field and Margaret Field Trustees of the Ken Field and Margaret Field Revocable Trust dated February 22, 2012. The lease expired on September 25, 2018. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier, covered cabana, boat lift, and two mooring buoys.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. Other than the covered cabana, 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 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,

STAFF REPORT NO. **C10** (CONT'D)

at lower water levels, under the pier. The immediate area of the existing pier is rocky and gently sloped. The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The existing covered cabana is not associated with traditional Public Trust uses. While covered cabanas are generally not favored, covered cabanas that have been in place for years have been permitted if, as in this case, they do not significantly interfere with trust activities. However, the lease contains provisions that the covered cabana may not be expanded or rebuilt if substantially destroyed.

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, Commission 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.
2. On October 24, 2018, the Tahoe Regional Planning Agency's Governing Board certified a new Final Environmental Impact Report and adopted Lake Tahoe Shorezone Ordinance Amendments. These Amendments are anticipated to take effect on December 23, 2018.
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,

STAFF REPORT NO. **C10** (CONT'D)

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:**

1. Find that the existing and, for a limited period, continuing use and maintenance of the pier, boat lift, and two mooring buoys will not substantially interfere with Public Trust needs and values at this location and are consistent with the common law Public Trust Doctrine; and,
2. Find that the existing and, for a limited period, continuing use and maintenance of the covered cabana is not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust; and,
3. Find that issuing the proposed lease is in the best interests of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning September 26, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier, covered cabana, boat lift, and two 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 \$1,663, with an annual

STAFF REPORT NO. **C10** (CONT'D)

Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 2284.1**

**LAND DESCRIPTION**

Three parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 28, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865 County of Placer, State of California, and more particularly described as follows:

**PARCEL 1 - PIER**

All those lands underlying an existing pier with covered cabana, one boat lift and 2 catwalks lying adjacent to that parcel as described in Exhibit "A" of that Grant Deed recorded February 27 2012 as Document Number 2012-0016859 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.

**PARCEL 2 & 3 - BUOYS**

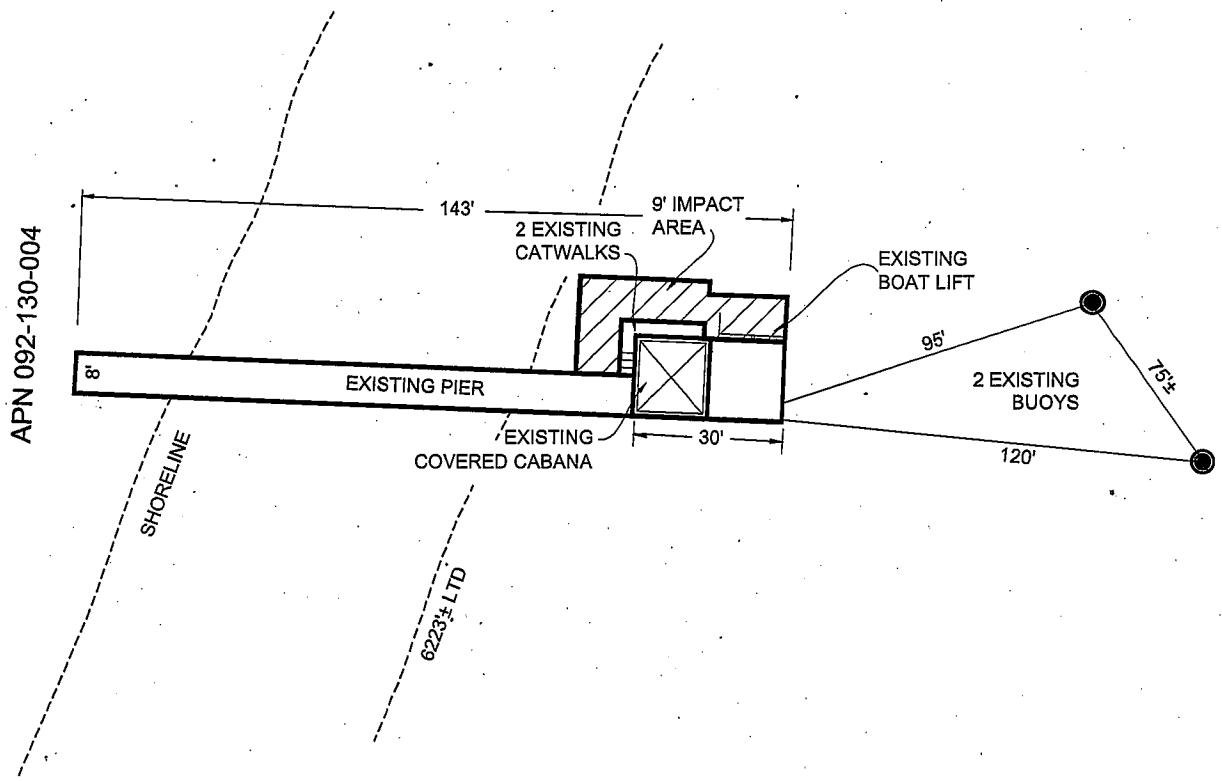
Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that said parcel.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared October 15, 2018 by the California State Lands Commission Boundary Unit.





# EXHIBIT A

Page 2 of 2

MJJ 10/10/18

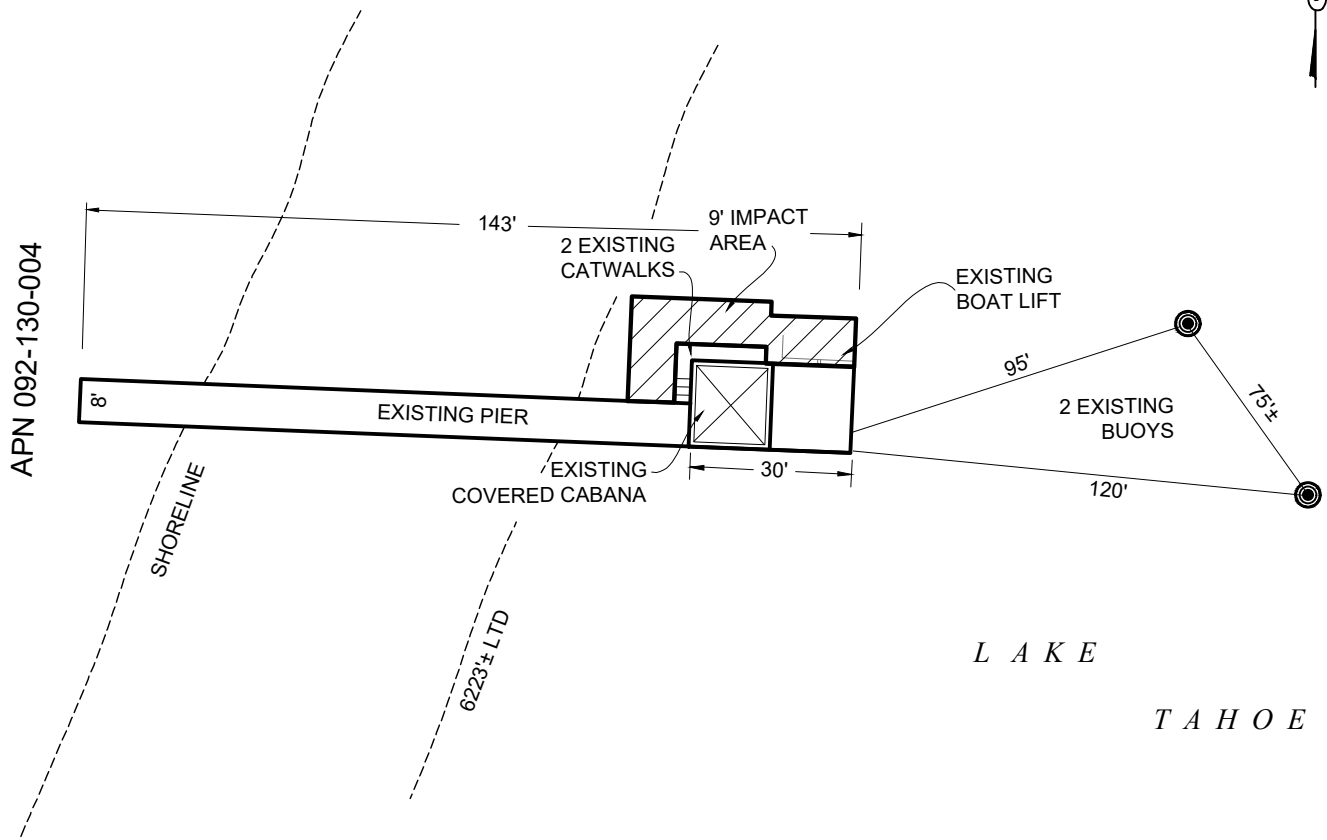
LAND DESCRIPTION PLAT  
PRC 2284.1, FIELD TRUSTEES  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE



3900 NORTH LAKE BLVD., NEAR CARNELIAN BAY

NO SCALE

# LOCATION

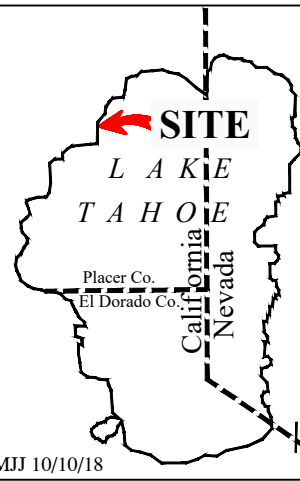


MAP SOURCE: USGS QUAD

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 2284.1  
 FIELD TRUSTEES  
 APN 092-130-004  
 GENERAL LEASE -  
 RECREATIONAL USE  
 PLACER COUNTY



MJ 10/10/18