

**STAFF REPORT
C09**

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02/04/19
PRC 5524.1
S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Terrie Hansen, Trustee of the Terrie Hansen Living Trust UAD 8/20/07 F/B/O
Terrie Hansen, and her heirs; and Oliver Carlton Phillips.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4527 West Lake Boulevard,
near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring
buoys.

LEASE TERM:

10 years beginning August 31, 2018.

CONSIDERATION:

\$1,209 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

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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.

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 October 16, 2008, the Commission authorized the issuance of a Recreational Pier Lease, Lease No. PRC 5524.9, for the continued use and maintenance of an existing pier and two mooring buoys to Terrie Lyn Hansen, for a term of 10 years beginning August 31, 2008 ([Item C08, October 16, 2008](#)). Since that time, ownership of the upland parcel transferred to the Applicant. That lease expired on August 30, 2018. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing pier and two mooring buoys.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and two mooring buoys are used for the mooring and docking of boats. 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 pier and two mooring buoys have existed for many years at this location. The pier is built on single pilings with the immediate area of the pier surrounded by small cobbles. The topography and the location of upland allow the public to navigate around or walk next to and, at low water levels, under the pier within the Public Trust easement. The buoys are located directly lakeward of the upland property 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 and does not grant the lessee exclusive rights to the lease premises and

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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 and restore the lease premises to their original condition.

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 will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is 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 land along the State's inland and coastal waterways.
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

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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 Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 31, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier 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 \$1,209 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5524.1

LAND DESCRIPTION

Three parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 1, 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, stairs lying adjacent to those parcels as described in Exhibit 'A' of that Grant Deed of Gift as Document Number 2007-01112575-00 recorded November 20, 2007 as in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

PARCEL 2, 3 – BUOYS

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

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

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared October 25, 2018 by the California State Lands Commission Boundary Unit.



NO SCALE



APN 085-344-003

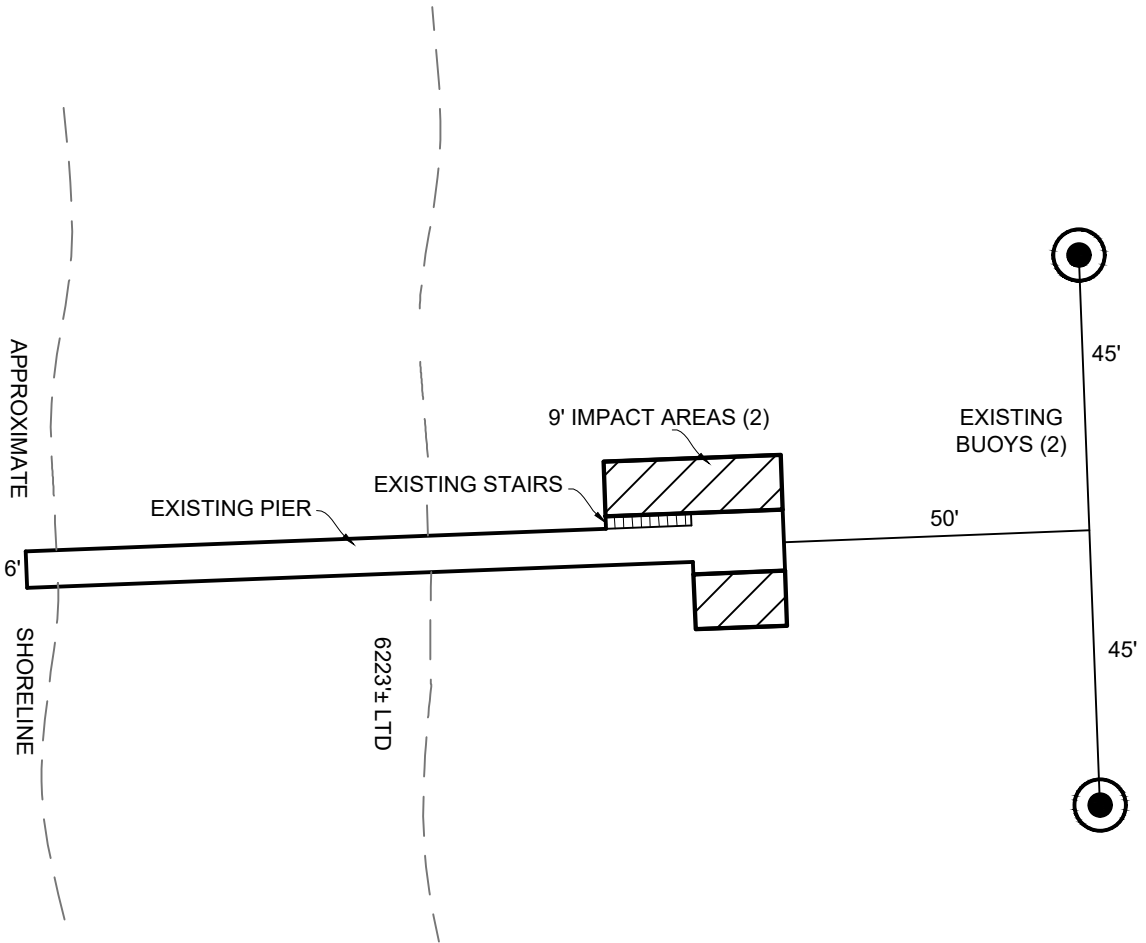


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 5524.1, HANSEN
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



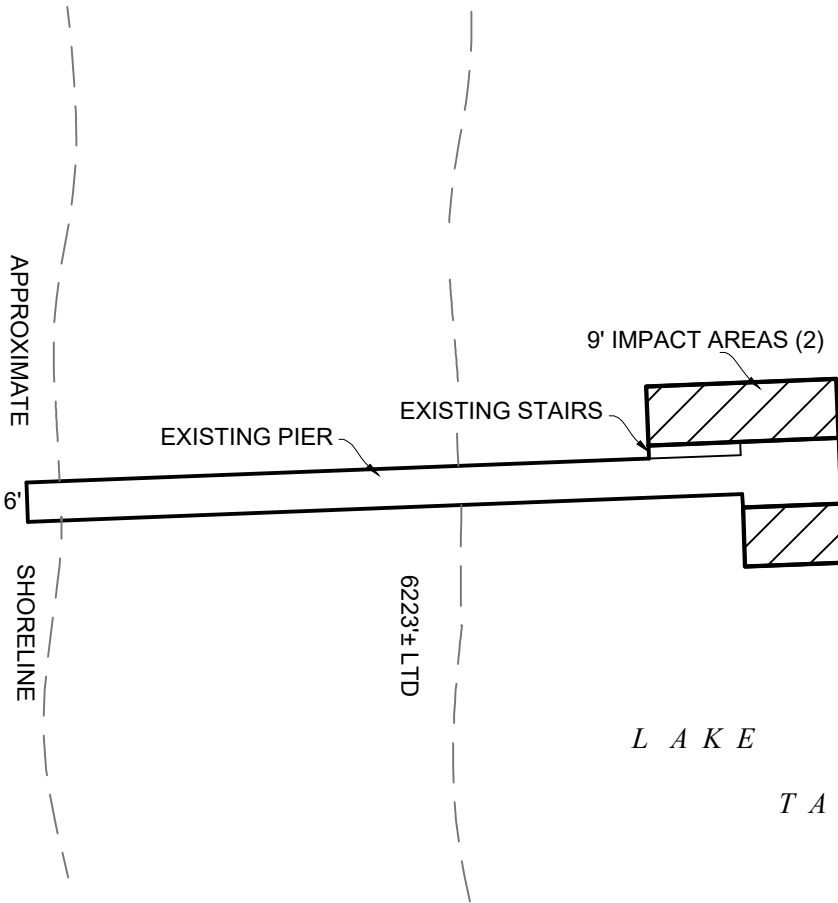
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SITE



APN 085-344-003

APPROXIMATE SHORELINE

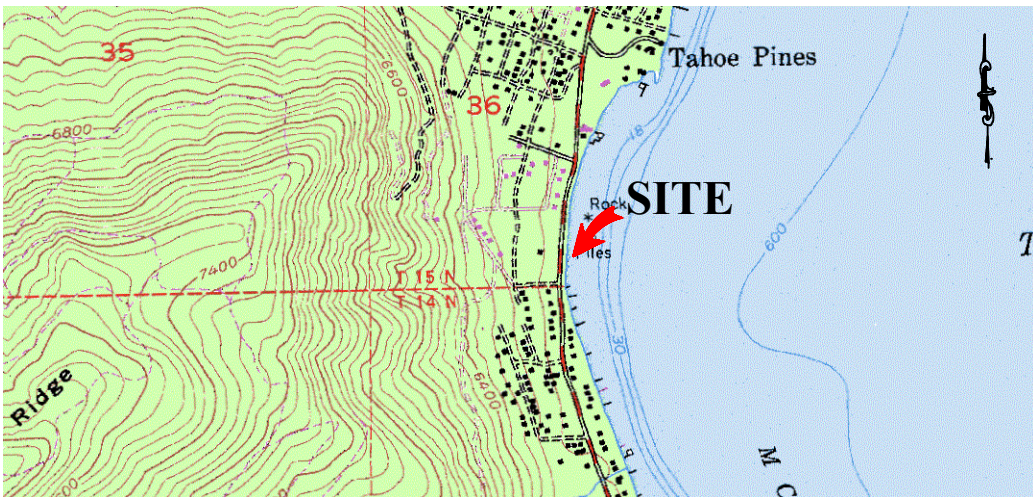


L A K E
T A H O E

4527 WEST LAKE BLVD., NEAR HOMEWOOD

NO SCALE

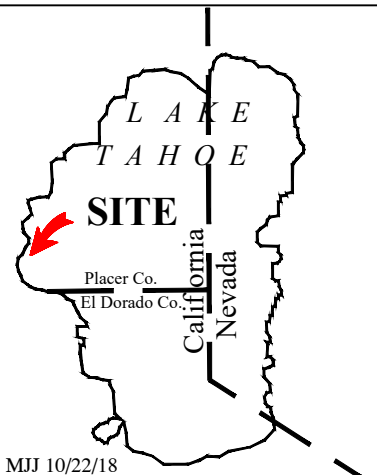
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5524.1
 HANSEN
 APN 085-344-003
 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.

MJJ 10/22/18