

**STAFF REPORT
C14**

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02/04/19
PRC 7959.1
S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Charles E. McCarl and Suzanne McCarl as Trustees of the Charles E. McCarl and Suzanne McCarl Family Trust.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3047 Jameson Beach Road, near South Lake Tahoe, El Dorado County.

AUTHORIZED USE:

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

LEASE TERM:

10 years beginning February 4, 2019.

CONSIDERATION:

\$1,149 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 June 24, 2008, the Commission authorized the issuance of a Recreational Pier Lease, Lease No. PRC 7959.9, for the continued use and maintenance of an existing pier and two mooring buoys to Charles E. McCarl and Suzanne McCarl as Trustees of the Charles E. McCarl and Suzanne McCarl Family Trust, for a term of 10 years beginning May 1, 2007 ([Item C04, June 24, 2008](#)). That lease expired on April 30, 2017. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing pier and two mooring buoys.

Staff recommends issuance of a new lease beginning February 4, 2019, and that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$2,028 for the period beginning May 1, 2017 through February 3, 2019, the day before the new lease becomes effective.

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 being flat with small pebbles. The topography and the location of upland structures provide access for the pier and allow the public to navigate around or walk next to and, at low water levels, under the pier

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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 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 issuance of the lease 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.

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EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the 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 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:

1. Authorize acceptance of compensation from the Applicant in the amount of \$2,028 for unauthorized occupation of State land for the period beginning May 1, 2017 through February 3, 2019;
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 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 \$1,149 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7959.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 6, Township 12 North, Range 16 East, MDM., as shown on Official Government Township Plat approved May 16, 1863, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk lying adjacent to that parcel as described in that Trust Transfer Deed recorded July 6, 1951 as Book 3567 Page 452 and that parcel of 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 existing circular parcels of land, being 50 feet in diameter, underlying two existing buoys, lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

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



L A K E
T A H O E

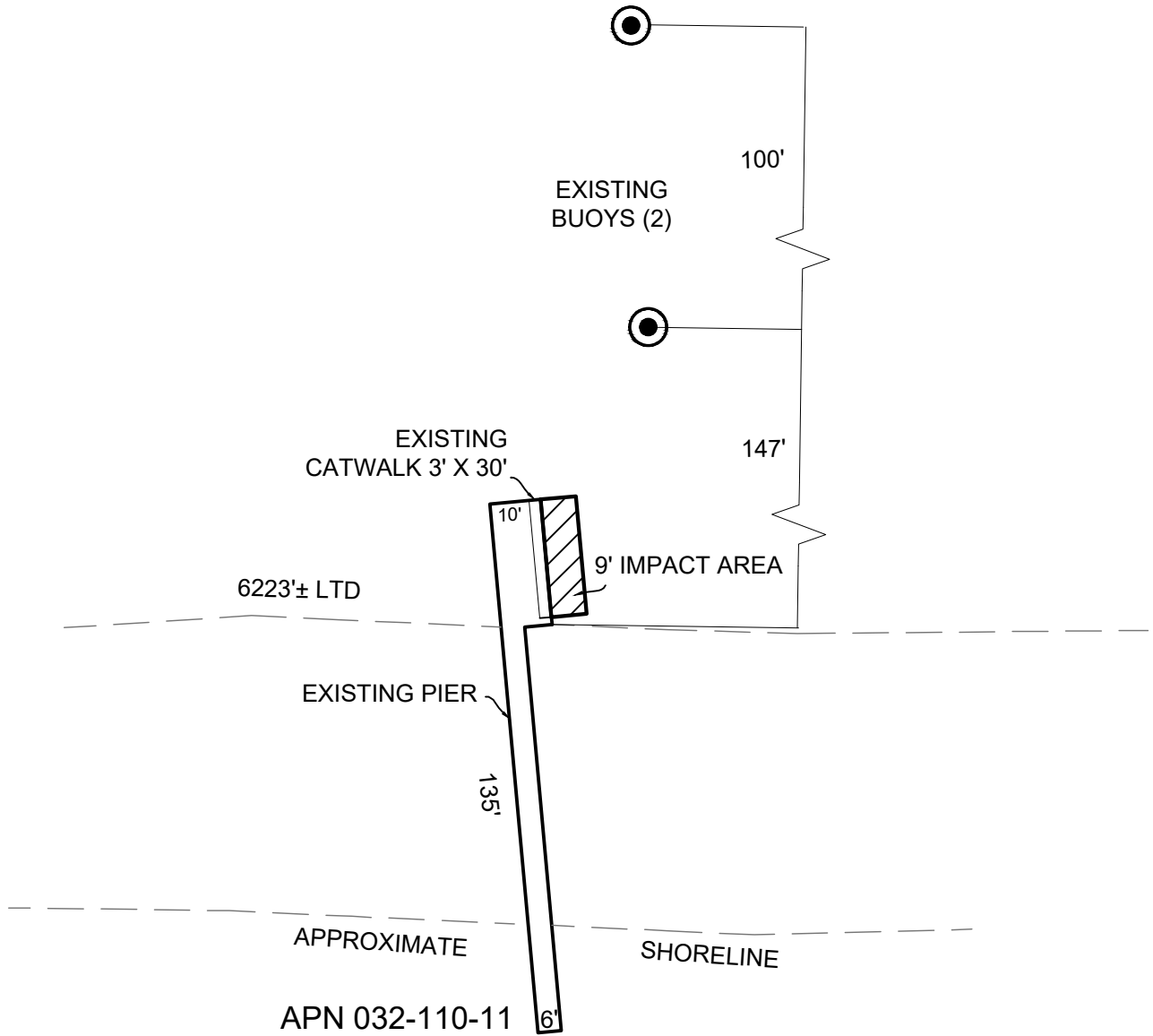


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 7959.1, McCARL TRUST
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

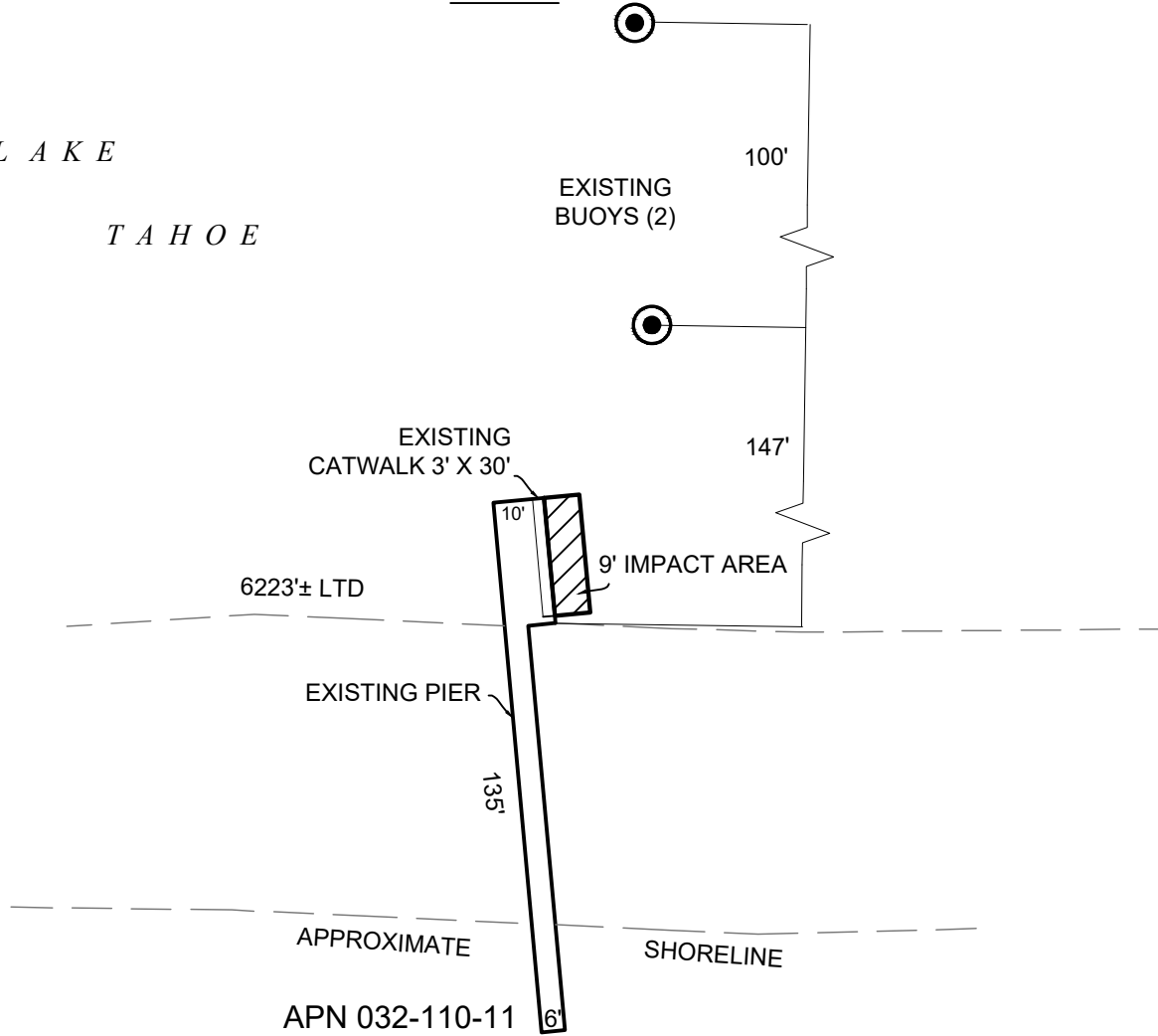


NO SCALE

SITE

L A K E

T A H O E



3047 JAMESON BEACH ROAD, SOUTH LAKE TAHOE

NO SCALE

LOCATION

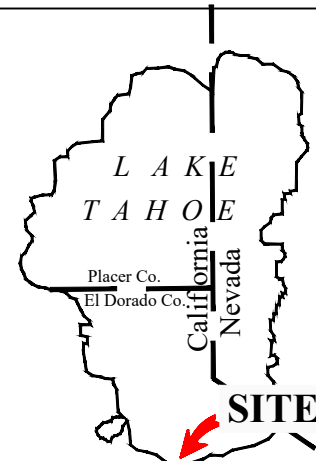


MAP SOURCE: USGS QUAD

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 7959.1
 McCARL TRUST
 APN 032-110-11
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



MJ 10/25/18