

**STAFF REPORT
C23**

A 1
S 1

02/04/19
PRC 4185.1
S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

D. Russell Symon, Jr., Trustee of the Trust established by the Declaration of Trust dated July 24, 1986, amended and restated on March 30, 2010 as The D. Russell and Sally Moore Symon Family Trust dated July 24, 1986; Bonnie J. Symon, Trustee of the Symon Family Trust (Trust B) created U/D/T dated July 31, 1986; Margaret S. Donaldson, Trustee of the Donaldson Family Trust, which was created under a trust agreement executed with Dean R. Donaldson on August 28, 1985 and amended by a complete restatement of trust agreement on July 10, 2013; James R. Long, Trustee of the JRL Marital Trust, U/T/A dated December 29, 2010; Julie Ann White, Trustee of the JF Descendant Trust, created under the VML Trust Agreement dated December 20, 2010; and Jennifer Forbeck, Trustee of the JF Descendant Trust, created under the VML Trust Agreement dated December 20, 2010

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3735 Idlewild Way, near Homewood, Placer County.

AUTHORIZED USE:

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

LEASE TERM:

10 years beginning December 28, 2018.

CONSIDERATION:

\$1,544 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.

- If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such

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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 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.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing and lake-related recreational uses.
- The public will be allowed to pass and re-pass around the landward end of the pier to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 feet, Lake Tahoe Datum.

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 February 1, 2010, the Commission authorized a 10-year Recreational Pier Lease, No. PRC 4185.9, for the continued use and maintenance of an existing pier and two mooring buoys to D. Russell Symon, Jr., and Robert Norrie Symon, Successor Co-Trustees under declaration of trust dated March 26, 1984; James R. Long and Diana B. Long, Trustees of the James R. Long and Diana B. Long Trust dated July 27, 1988; and Vera M. Long, Trustee under declaration of trust dated December 30, 1989, for a term of 10 years beginning December 28, 2008 ([Item C05, February 29, 2010](#)). Since that time, ownership of the upland parcel transferred to the Applicant. That lease expired on December 27, 2018.

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 docking and mooring of boats. 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 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 gently sloped with a pebbly shoreline. 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 within the Public Trust Easement. Lessee acknowledges that a portion of the pier exists within the Public Trust Easement and agrees to allow the public to pass and re-pass around the landward end of the pier to allow access to and along 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, 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; is consistent with the common law Public Trust Doctrine; 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.

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2. On October 24, 2018, the TRPA Governing Board certified a new Final Environmental Impact Report and adopted Lake Tahoe Shorezone Ordinance Amendments.
3. The 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 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 December 28, 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 \$1,544 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4185.1

LAND DESCRIPTION

Three parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 fractional Section 36, Township 15 North, Range 16 East, MDM., as shown on Official Government Township Plat approved April 11, 1884, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 –PIER

All those lands underlying an existing pier and two catwalks lying adjacent to that parcel as described in that Grant Deed recorded June 4, 2015 as Document Number 2015-0046825 in Official Records of said County.

ALSO 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 – BUOYS

Two 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 December 12, 2018 by The California State Lands Commission Boundary Unit.



NO SCALE

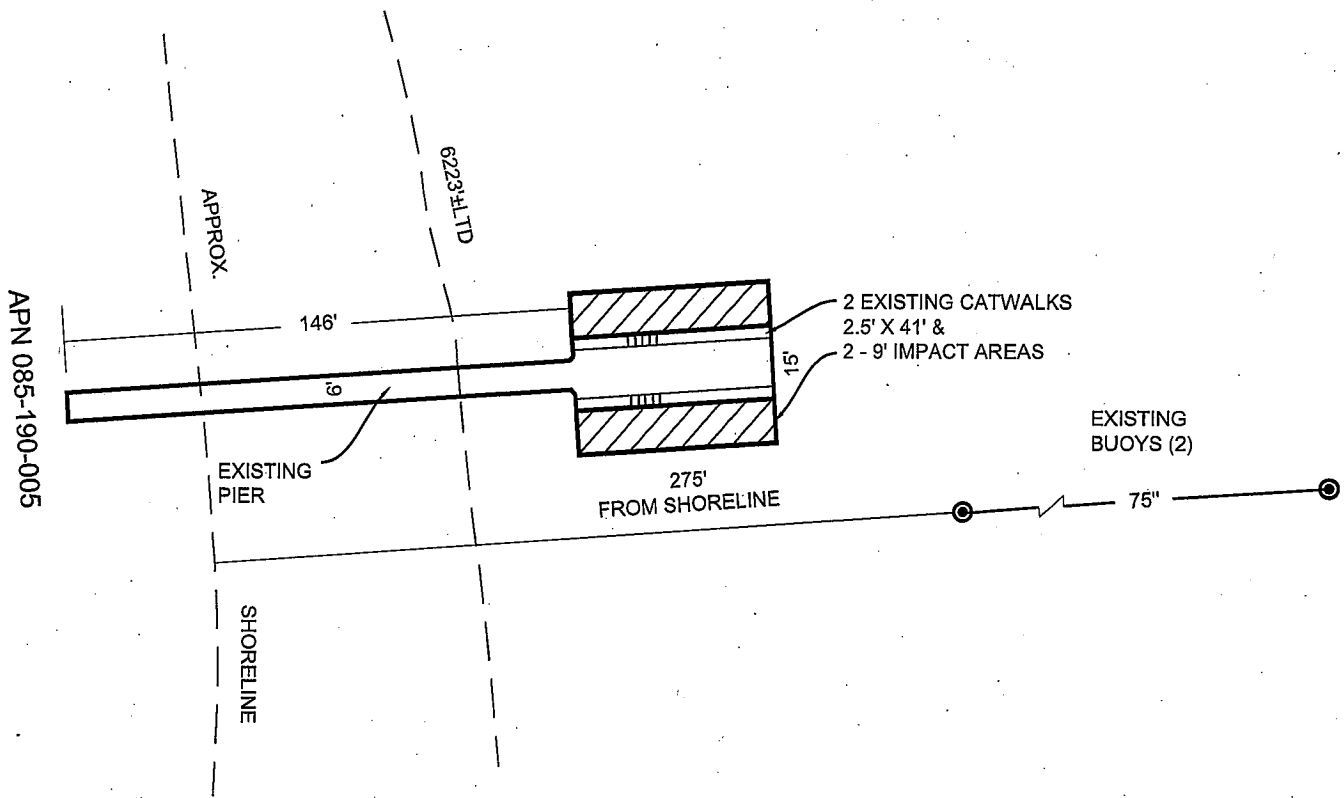


EXHIBIT A

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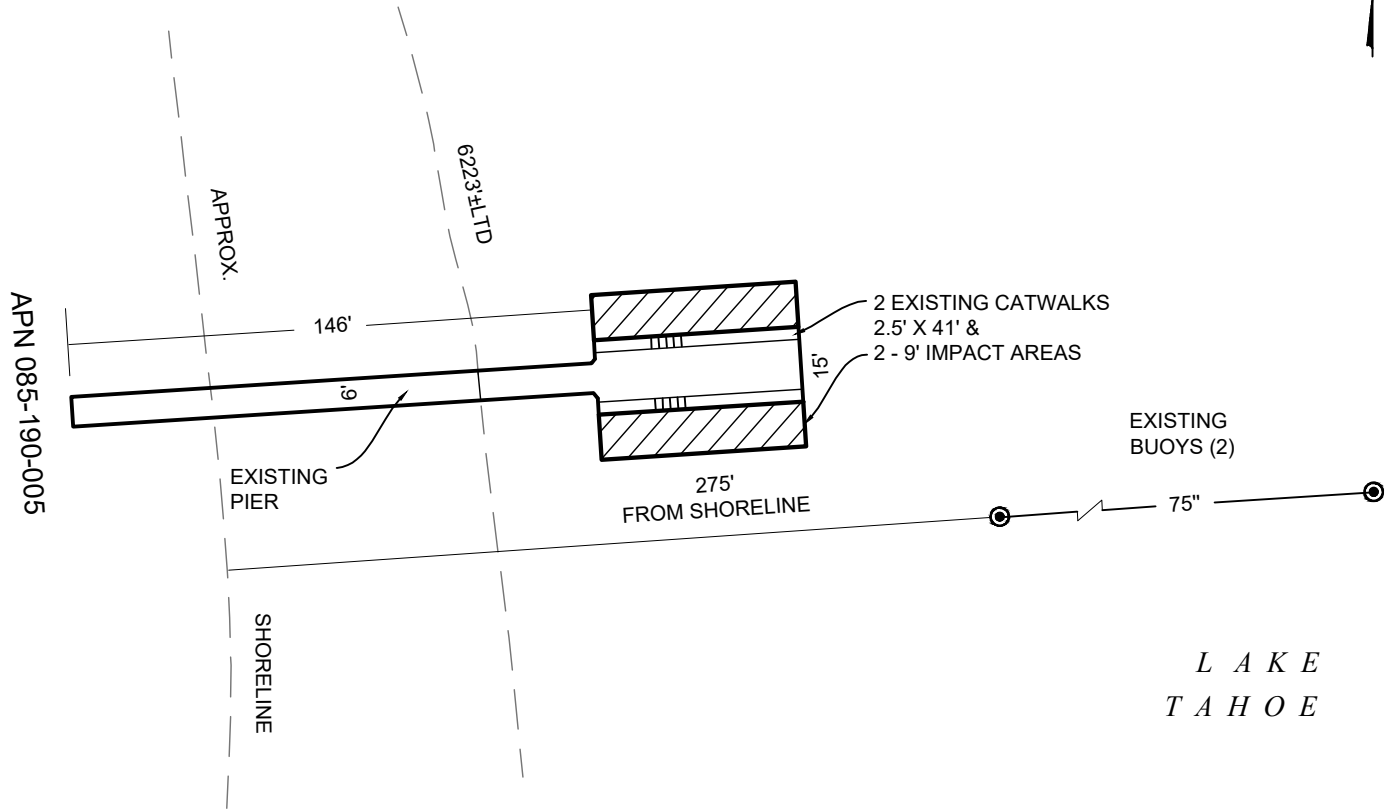
LAND DESCRIPTION PLAT
 PRC 4185.1, LONG TRUST, ET AL.
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

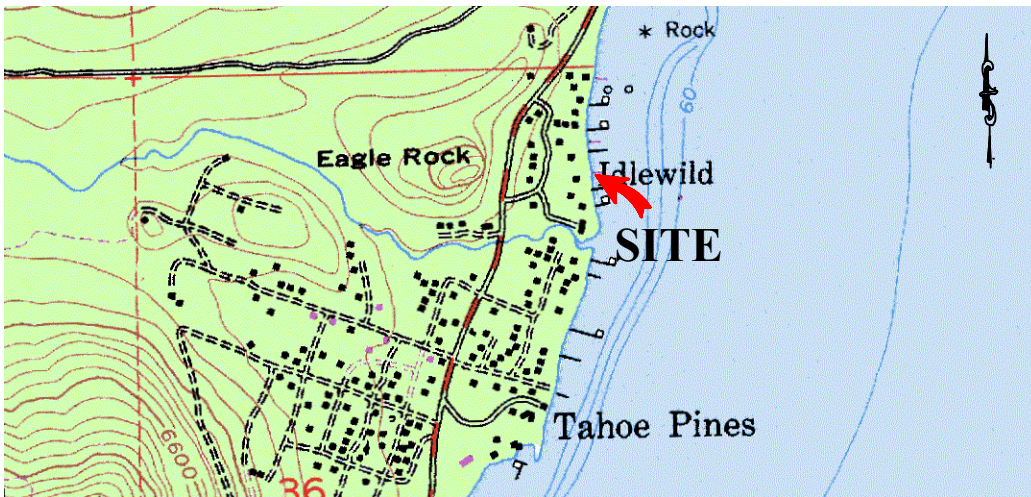
SITE



3735 IDLEWILD WAY, NEAR HOMEWOOD

NO SCALE

LOCATION

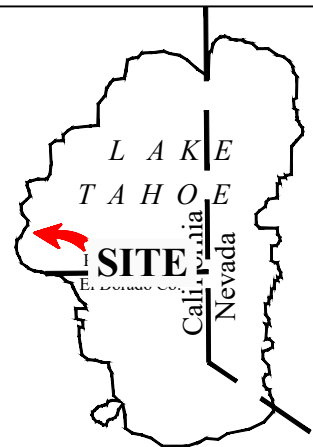


MAP SOURCE: USGS QUAD

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 4185.1
 LONG TRUST, ET AL.
 APN 085-190-005
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 12/10/2018