

**STAFF REPORT
C15**

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04/05/19
PRC 3147.1
J. Toy

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Stephanie Mooers, Trustee of the Donald S. Mooers Decedent's Trust; and
Stephanie W. Mooers, Trustee of the Stephanie W. Mooers Qualified Personal
Residence Trust

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8661 Beach Lane, near Meeks
Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat lift, and one
mooring buoy.

LEASE TERM:

10 years, beginning October 7, 2018.

CONSIDERATION:

\$739 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.

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.

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Public Trust and State's Best Interests Analysis:

On January 29, 2009, the Commission authorized a Recreational Pier Lease for an existing pier, boat lift, and one mooring buoy to Stephanie W. Mooers ([Item C04, January 29, 2009](#)). On March 27, 2009, upland ownership was transferred to Stephanie Mooers, Trustee of the Donald S. Mooers Decedent's Trust. On December 28, 2012, a portion of the property was deeded to Stephanie W. Mooers, Trustee of the Stephanie W. Mooers Qualified Personal Residence Trust. The lease expired on October 6, 2018. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier, boat lift, and one mooring buoy.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. 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, providing public access for pedestrians and lake-related activities at varying water levels underneath the pier. The immediate area of the existing pier is gently sloped with sand and boulders. The buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake. On October 25, 1977, the Tahoe Regional Planning Agency (TRPA) issued a permit for the buoy. The Applicant's TRPA permit is currently valid.

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, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

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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. 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 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; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 7, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift and one mooring buoy, as described in Exhibit A and shown on Exhibit B (for

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reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$739, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3147.1

LAND DESCRIPTION

Two parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 of fractional Section 32, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, catwalk and boat lift lying adjacent to that parcel as described in Exhibit “A” of that Grant Deed recorded June 20, 1986 in Book 2582 Page 717 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 – BUOY

One existing circular parcel of land, being 50 feet in diameter, underlying one existing buoy, lying adjacent to said parcels.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared November 15, 2018 by The California State Lands Commission Boundary Unit.



NO SCALE



L A K E
T A H O E

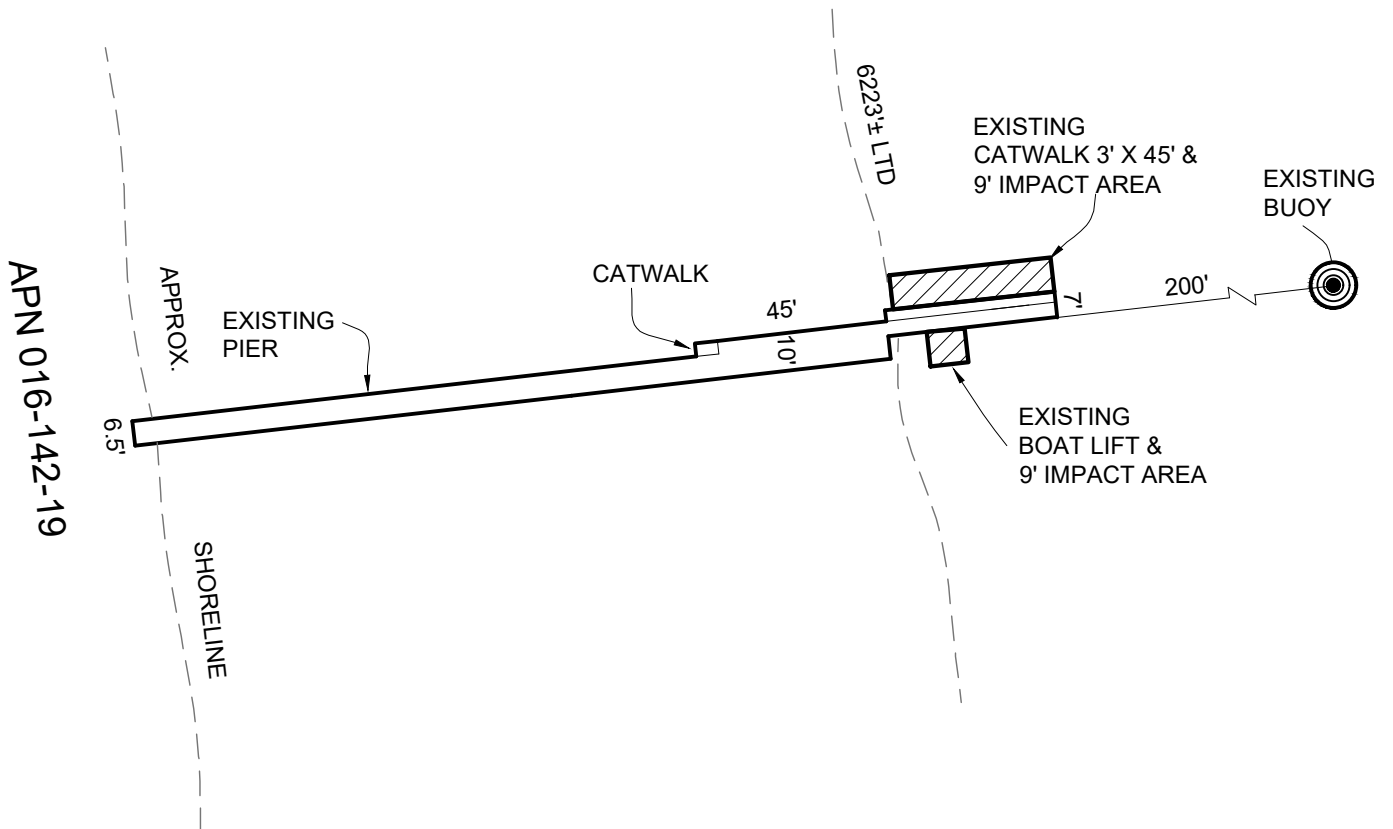


EXHIBIT A

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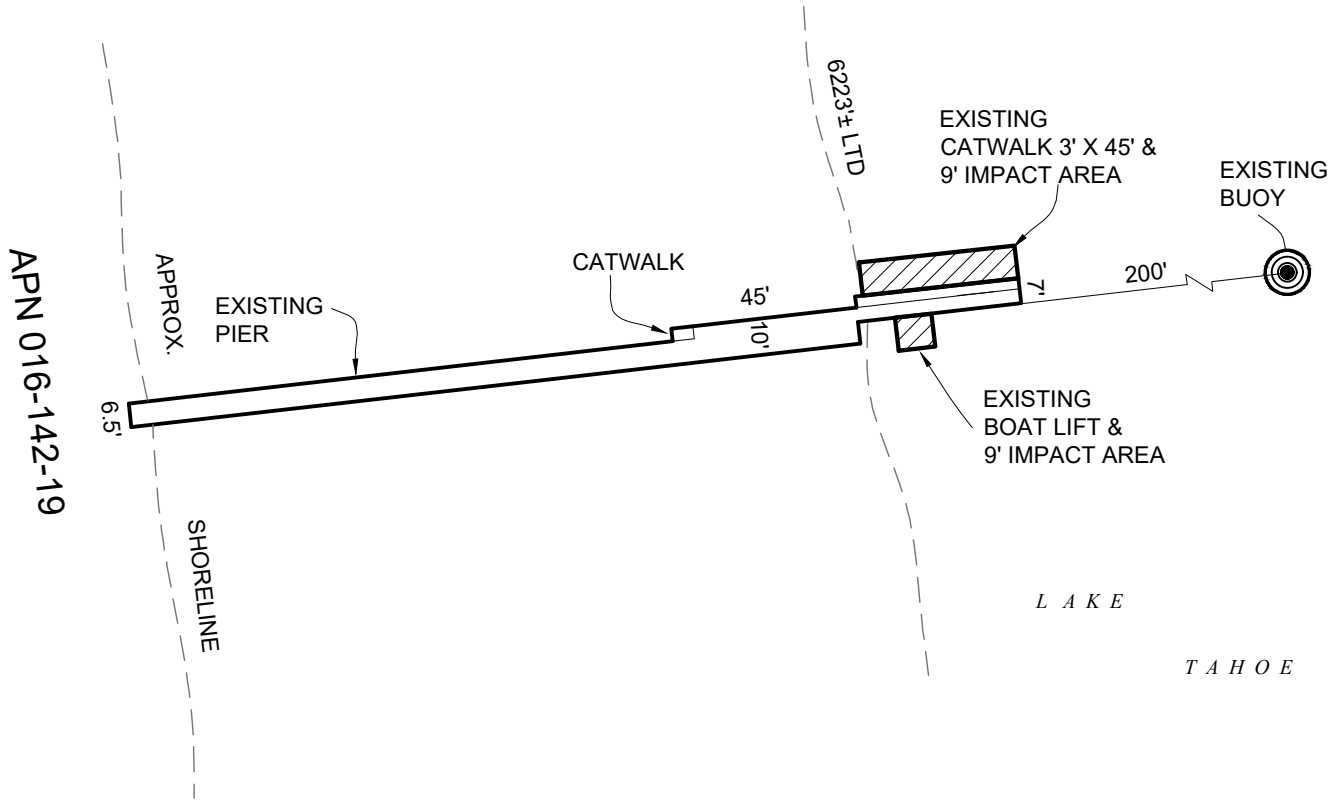
LAND DESCRIPTION PLAT
PRC 3147.1, MOOERS
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



8661 BEACH LANE, NEAR MEEKS 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.

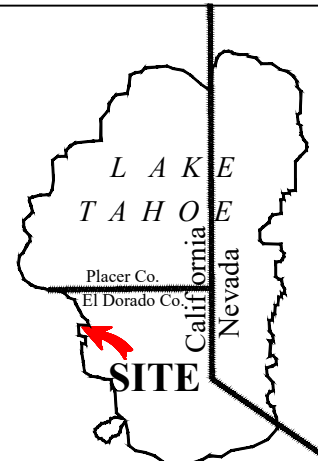
Exhibit B

PRC 3147.1

MOOERS

APN 016-142-19

GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



MJJ 11/15/18