

STAFF REPORT

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10/24/19

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Lease 4124.1

S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Warren S. Bray and Darlene Pearson Bray, as Trustees of the Bray Family 2008 Trust, dated March 3, 2008; and Douglas E. Read and Laura B. Read, Trustees of the Read Family Trust dated 2001.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2880 Lake Terrace Avenue, near Tahoe City, Placer County.

AUTHORIZED USE:

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

LEASE TERM:

10 years beginning February 6, 2019.

CONSIDERATION:

\$957 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 provide proof of a Tahoe Regional Planning Agency (TRPA) permit and registration for all moorings, or proof that any unregistered and unpermitted mooring(s) have been removed on or before October 23, 2020.
- 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

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improvements in the Public Trust easement which 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.

Public Trust and State's Best Interests Analysis:

On October 22, 2009, the Commission authorized a Recreational Pier Lease, Lease 4124.9, for an existing pier and two mooring buoys, adjacent to 2880 Lake Terrace Avenue, to Warren S. Bray and Darlene Pearson Bray, as Trustees of the Bray Family 2008 Trust dated March 3, 2008 ([Item C11, October 22, 2009](#)). The lease expired on February 5, 2019.

On January 30, 2019, staff received the Lessee's application for a joint-use pier, in conjunction with Douglas E. Read and Laura B. Read, Trustees of the Read Family Trust dated 2001. The Applicants are applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier and two mooring buoys. The Applicants recorded a joint-use pier agreement with Placer County in 2010.

The Bray Trust owns the uplands adjoining the lease premises and extend a use easement to the Read Trust, whose upland parcels are located on either side of the Bray Trust upland parcel. The subject facilities are privately owned and maintained. The pier and 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 identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The pier and 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 sand and pebbles. The topography and location of upland structures allows for public access for pedestrians and lake-related activities at varying water levels underneath the pier. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

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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. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the pier and two mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. 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.
3. On October 24, 2018, the TRPA Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA)

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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 February 6, 2019, for a term of 10 years, for the continued use and maintenance of an existing joint-use 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 \$957, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4124.1

LAND DESCRIPTION

Three parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 4, Township 15 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier lying adjacent to that parcel described in Grant Deed recorded September 20, 2010 as Document Number 2010-0074086 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

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

PARCEL 2 & 3 – BUOYS

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded September 20, 2010 as Document Number 2010-0074086 in Official Records of said County.

Accompanying plat is hereby made part of this description.

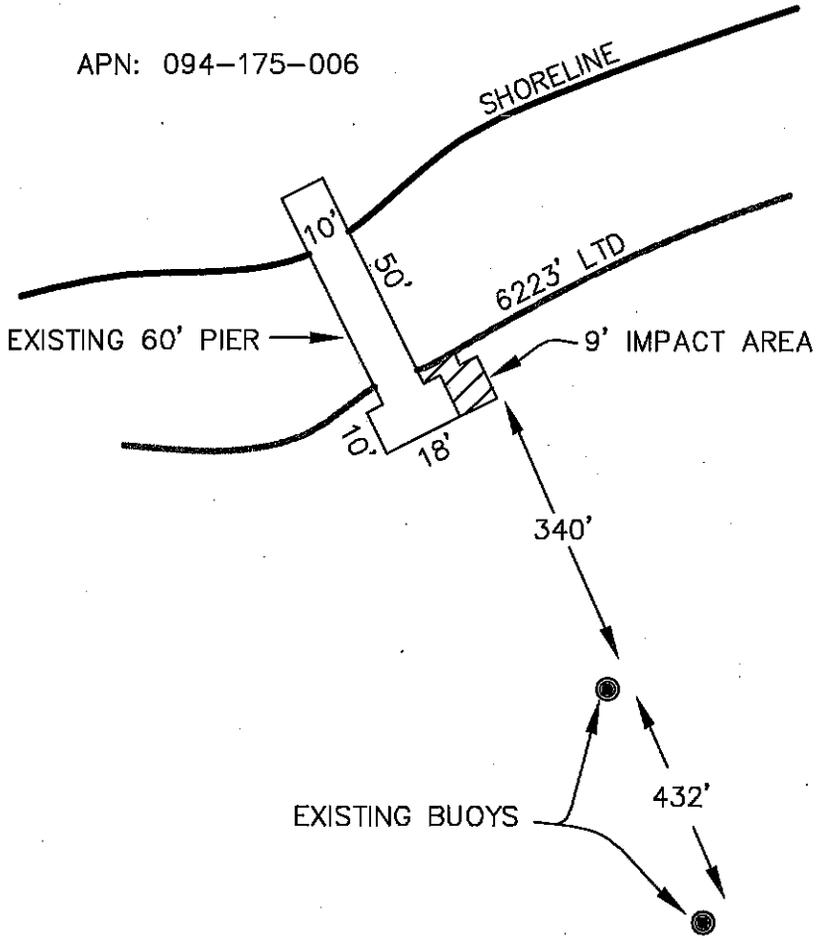
END OF DESCRIPTION

Prepared 9/10/2019 by the California State Lands Commission Boundary Unit.





APN: 094-175-006



LAKE TAHOE

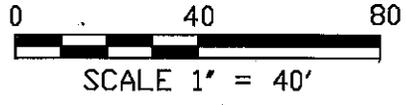


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 4124.1, BRAY & READ
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION

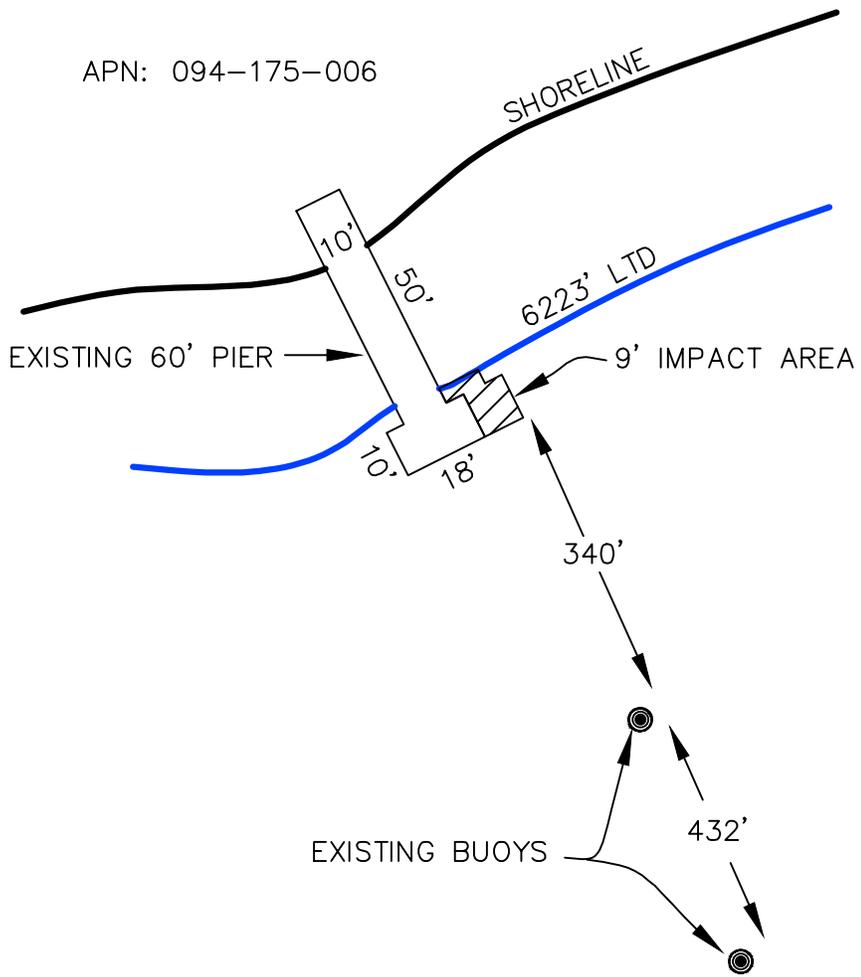


NO SCALE

SITE



APN: 094-175-006

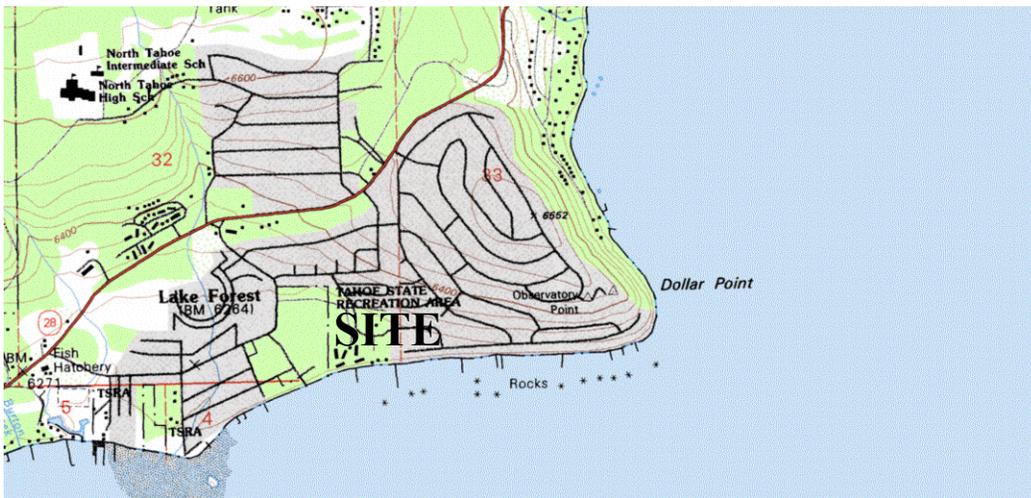


LAKE TAHOE

2880 LAKE TERRACE AVENUE, NEAR TAHOE CITY

NO SCALE

LOCATION

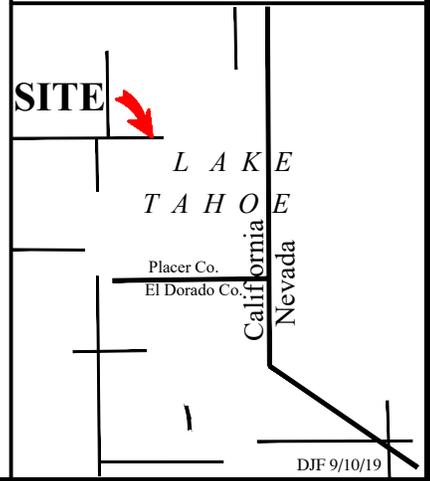


MAP SOURCE: USGS QUAD

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

LEASE 4124.1
 BRAY & READ
 APN 094-175-006
 GENERAL LEASE
 RECREATIONAL USE
 PLACER COUNTY



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