

STAFF REPORT

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02/28/20
Lease 3871.1
A2313
S. Avila

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GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Sharon Jennings, Trustee of the Qualified Exempt Terminable Int. Property TR crt under the Bryan C. & Sharon Jennings RVOC Liv. TR dated 10/9/92; Sharon Jennings, Trustee of the Qualified Non-Exempt Term. Int. Property TR crt under the Bryan C. & Sharon Jennings RVOC Liv. TR 10/9/92; Sharon Jennings, Trustee of the Bypass Trust created under the Bryan C. & Sharon Jennings RVOC Living TR 10/9/92; Christopher B. Jennings, Trustee of the Christopher B. Jennings Irrevocable Trust dated 5/16/11; and Michael C. Jennings, Trustee of the Michael C. Jennings Irrevocable Trust dated 5/16/11

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8429 Meeks Bay Avenue, near Tahoma, El Dorado County

AUTHORIZED USE:

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

LEASE TERM:

10 years beginning November 15, 2019.

CONSIDERATION:

\$1,298 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 expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from Tahoe Regional Planning Agency (TRPA) or any other regulatory agency for the improvements authorized by the Commission.

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- 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 recreation.

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 December 10, 2010, the Commission authorized a Recreational Pier Lease for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys to Sharon J. Kearns, aka Sharon Jennings, Trustee of the Sharon Jennings Survivors Trust UDT dated October 9, 1992; Sharon Jennings, Trustee of the Qualified Exempt Terminable Int. Property TR CRT under the Bryan C. and Sharon Jennings Revocable Living Trust October 9, 1992; Sharon Jennings, Trustee of the Qualified Non-Exempt Terminable Int Property Tr CRT under the Bryan C. and Sharon Jennings Revocable Living Trust October 9, 1992; and Sharon Jennings, Trustee of the Bypass Trust created under the Bryan C. and Sharon Jennings Revocable Living Trust October 9, 1992 ([Item C01, December 10, 2010](#)).

Since that time, portions of the fee interest in the subject upland parcel transferred to trusts within the Applicant's family. The lease expired on November 14, 2019. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing pier, boat lift, and two mooring buoys. On October 31, 2019, the Lessee registered the moorings with TRPA (Permit No. 11343).

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, boat lift, 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, boat lift, 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 surrounded by pebbles and small boulders. The topography and location of upland structures allows for public access for pedestrians and

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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.

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, boat lift, 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.

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3. On October 24, 2018, the TRPA Governing Board certified a new 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) 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 November 15, 2019, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, 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 \$1,298, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 3871.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 29, 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, stairway and one boat lift lying adjacent to those parcels as described in Exhibit A of that Grant Deed recorded January 3, 2000 in Document Number 2000-0000144 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 – 2 BUOYS

Two (2) circular parcels of land being 50 feet in diameter, underlying two (2) existing buoys adjacent to said parcels.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared November 20, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE

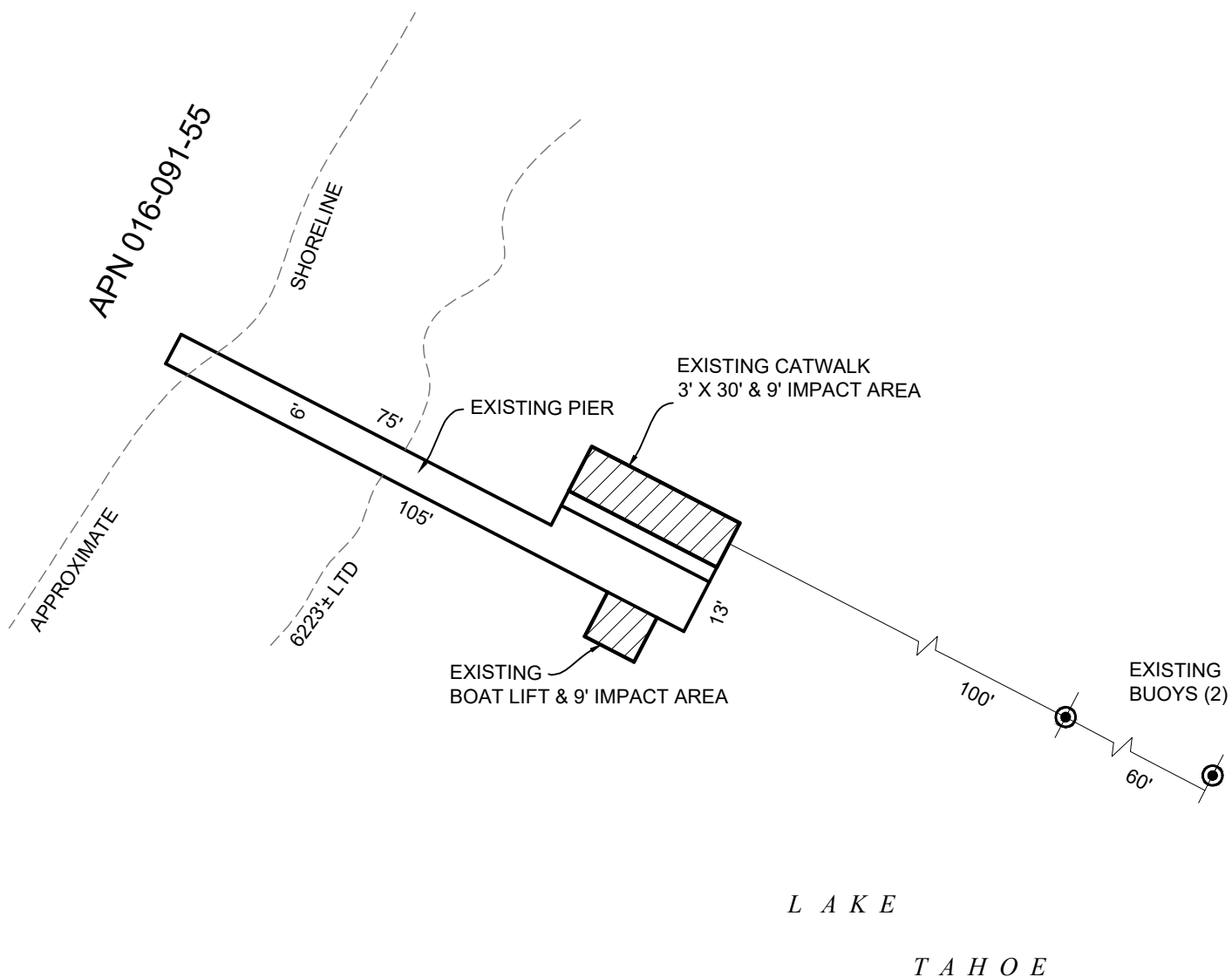


EXHIBIT A

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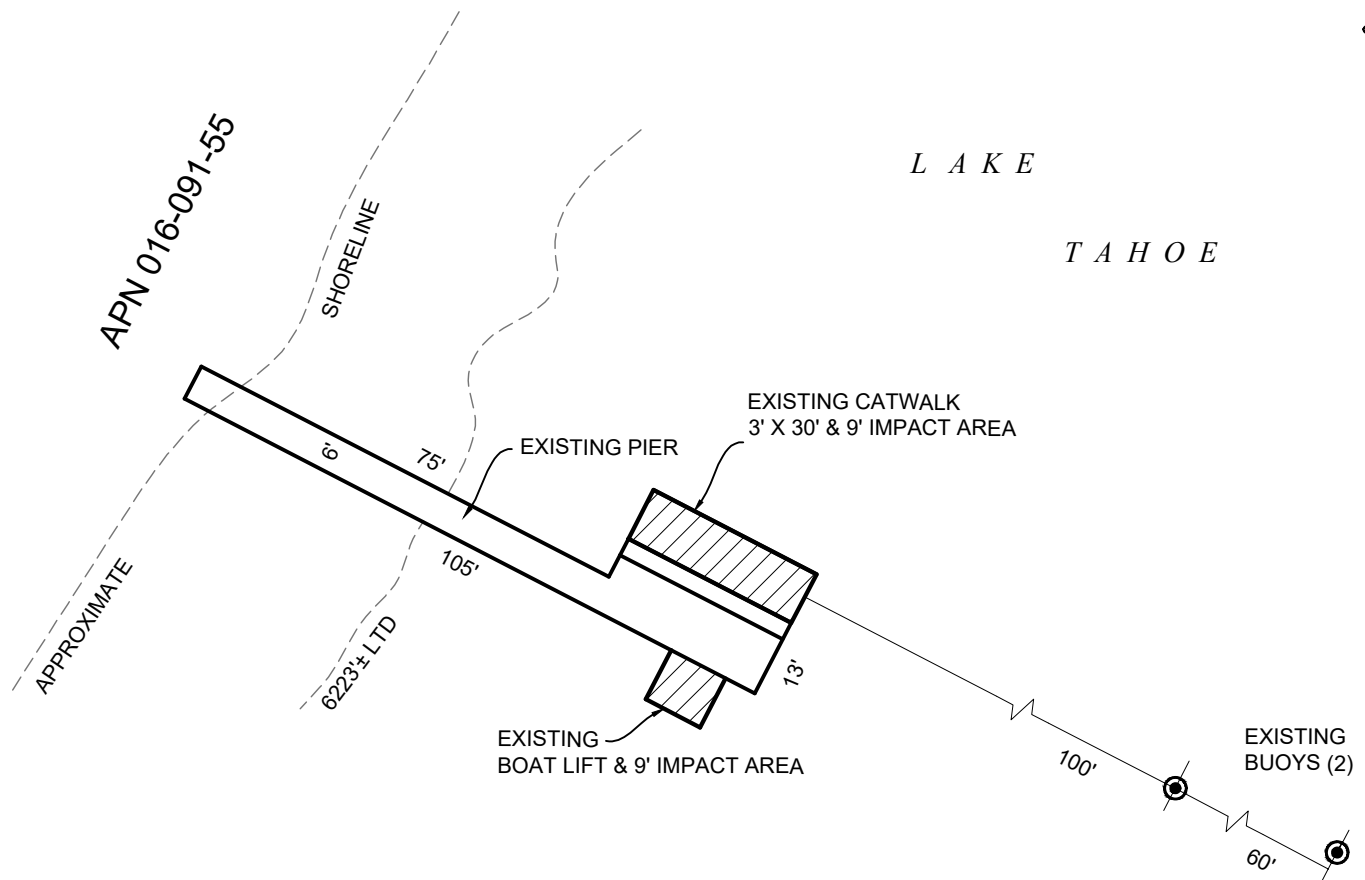
LAND DESCRIPTION PLAT
LEASE 3871.1, JENNINGS TRUST
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



8429 MEEKS BAY AVE., NEAR TAHOMA

NO SCALE

LOCATION

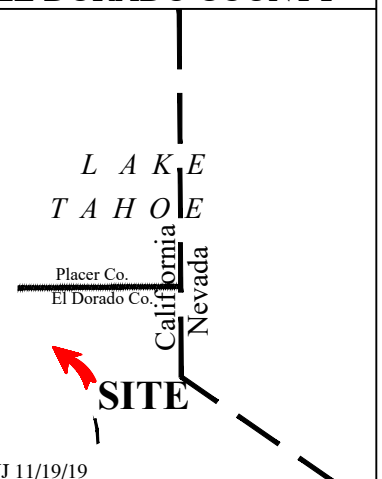


MAP SOURCE: USGS QUAD

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 3871.1
JENNINGS TRUST
APN 016-091-55
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



MJJ 11/19/19