

STAFF REPORT

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06/23/20
PRC 9295.1
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AMENDMENT OF LEASE

LESSEE:

Christopher H. Legallet and Marie Legallet, Trustees of the Legallet Trust dated July 7, 2000 and amended and restated in 2009

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6956 Pomin Avenue, near Tahoma, Placer County.

AUTHORIZED USE:

Use and maintenance of two existing mooring buoys and one freshwater intake pipeline.

LEASE TERM:

10 years, beginning August 23, 2018.

CONSIDERATION:

\$766 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

Amend the lease to:

1. Authorize the construction, use, and maintenance of a proposed pier, boat lift, ramp, and catwalk and removal of one existing mooring buoy.
2. Include special provisions related to construction.
3. Include special provisions related to protection of Tahoe Yellow Cress (TYC) requiring that, prior to construction, a current TYC survey must be conducted between June 15 and September 30 during the year of construction, and must be submitted to the Commission. If TYC is present, a Construction Impact Avoidance Plan must be submitted to the Commission for approval prior to construction to demonstrate no impact to the plant. The Plan must identify the location of TYC stems and include measures for ensuring no impact to the plant, including potential relocation

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of pilings, pier location, and construction and staging areas; use of protective fencing surrounding TYC stems; signage for no work zones; etc. Revision of the pier design may also require submittal of updated site plans illustrating pier design revisions.

4. Include a special provision requiring that the public be allowed to pass and re-pass around the landward end of the pier with signs posted on each side of the pier to provide continuous shoreline access to the Public Trust easement below elevation 6228.75 feet, Lake Tahoe Datum.
5. Revise the annual rent from \$766 with an annual Consumer Price Index adjustment to \$1,071 with an annual Consumer Price Index adjustment, effective August 23, 2020.
6. Replace the existing Exhibit A, Land Description and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description and Exhibit B, Site and Location Map (for reference purposes only).
7. Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of "as-built" plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A (Land Description) and Exhibit B (Site and Location Map) to the Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by Lessor's Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The replaced Exhibits shall be incorporated in the Lease as though fully set forth therein.

All other terms and conditions of the lease to remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5; and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On August 23, 2018, the Commission authorized a 10-year General Lease – Recreational Use for two existing mooring buoys and one freshwater intake pipeline on Lake Tahoe to Christopher H. Legallet and Marie Legallet, Trustees of the Legallet Trust dated July 7, 2000 and amended

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and restated in 2009 ([Item C10, August 23, 2018](#)). That lease will expire on August 22, 2028.

The Lessee is now applying for a lease amendment to authorize the removal of one existing mooring buoy and the construction, use, and maintenance of a pier with one boat lift, catwalk, and access ramp. The Applicant has registered the moorings with TRPA (Permit No. 10287). The boat lift is registered as an exchange for the removal of one existing mooring buoy.

The proposed pier with one boat lift, catwalk, and access ramp would extend 118 feet into Lake Tahoe. The pier will be 10-feet wide and include an access ramp attached to an adjustable 30-foot long catwalk on the east side of the pier, with a 12,000 lb. boat lift to be located on the west side of the pier. Public access within the Public Trust easement will be provided by taking a step up onto the terrace patio located on the upland parcel, walking around the pier connection, and taking a step back down onto the beach. Signage reading "Public Passage Allowed Around Pier" located at the designated public access passageway will be required to be in place at all times.

Construction of the proposed pier, boat lift, ramp, and catwalk will be performed primarily by amphibious vehicle and barge with mounted crane. To minimize lake bottom disturbance and suspended materials, caissons may be utilized during the pile-driving process. A total of 18 steel pilings will be imbedded into the lakebed at a depth of at least 8 feet. Storage of pre-cut joists and decking will take place from the upland property and the barge and will not impact the lake.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The proposed pier, boat lift, catwalk, and access ramp will be 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 proposed amendment 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-

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consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed amendment 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 amendment will not substantially impair Public Trust uses or values and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application for a lease amendment 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 a trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the lessee could not construct the new proposed improvements. Upon expiration or prior termination of the lease, the lessee 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 and along the State's inland and coastal waterways.
3. **New Pier Construction:** Staff recommends that the Commission find that this activity is exempt from the requirements of California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).
4. **Removal of an Existing Buoy:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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:

New Pier Construction: Find that this activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Removal of an Existing Buoy: Find that this activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

1. Find that the existing and, for a limited period, continuing use and maintenance of the existing mooring buoy and the construction, use, and maintenance of the pier, boat lift, ramp, and catwalk will not substantially interfere with Public Trust needs and values at this location and are consistent with the common law Public Trust Doctrine; and,
2. Find that the existing and, for a limited period, continuing use and maintenance of the freshwater intake pipeline is not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust; and,
3. Find that the proposed amendment is in the best interests of the State.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 9295.1, a General Lease – Recreational Use, effective August 23, 2020, for the construction, use and maintenance of a pier with one boat lift, catwalk and access ramp, and the removal of one existing mooring buoy; to include special lease provisions related to construction, Tahoe Yellow Cress protection, and public access; to revise rent from \$766 to \$1,071 per year, with an annual Consumer

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Price Index adjustment; and to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); all other terms and conditions of the lease shall remain in effect without amendment.

EXHIBIT A

PRC 9295.1

LAND DESCRIPTION

Three (3) parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 8, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying a proposed pier, ramp, catwalk, and boat lift lying adjacent to those parcels described in Grant Deed recorded October 2, 2017 as Document Number 2017-0076445 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

PARCEL 2 – WATER IN-TAKE PIPE

All those lands underlying an existing water in-take pipe lying adjacent to said parcels.

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

PARCEL 3 – BUOY

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

This description is based on Applicant provided design plans for a proposed pier, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 1/21/2020 by the
California State Lands Commission Boundary Unit.





LAKE TAHOE

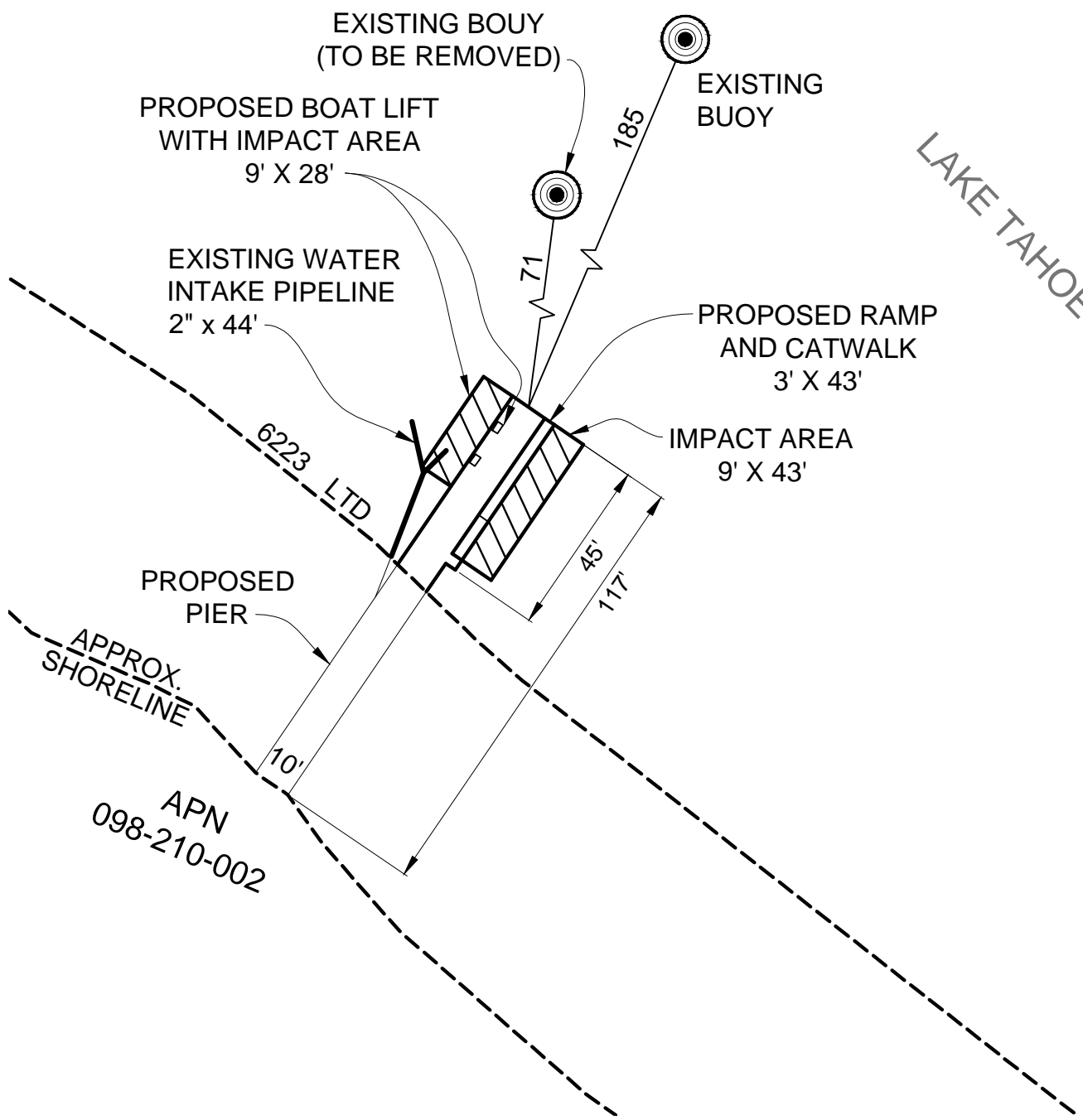
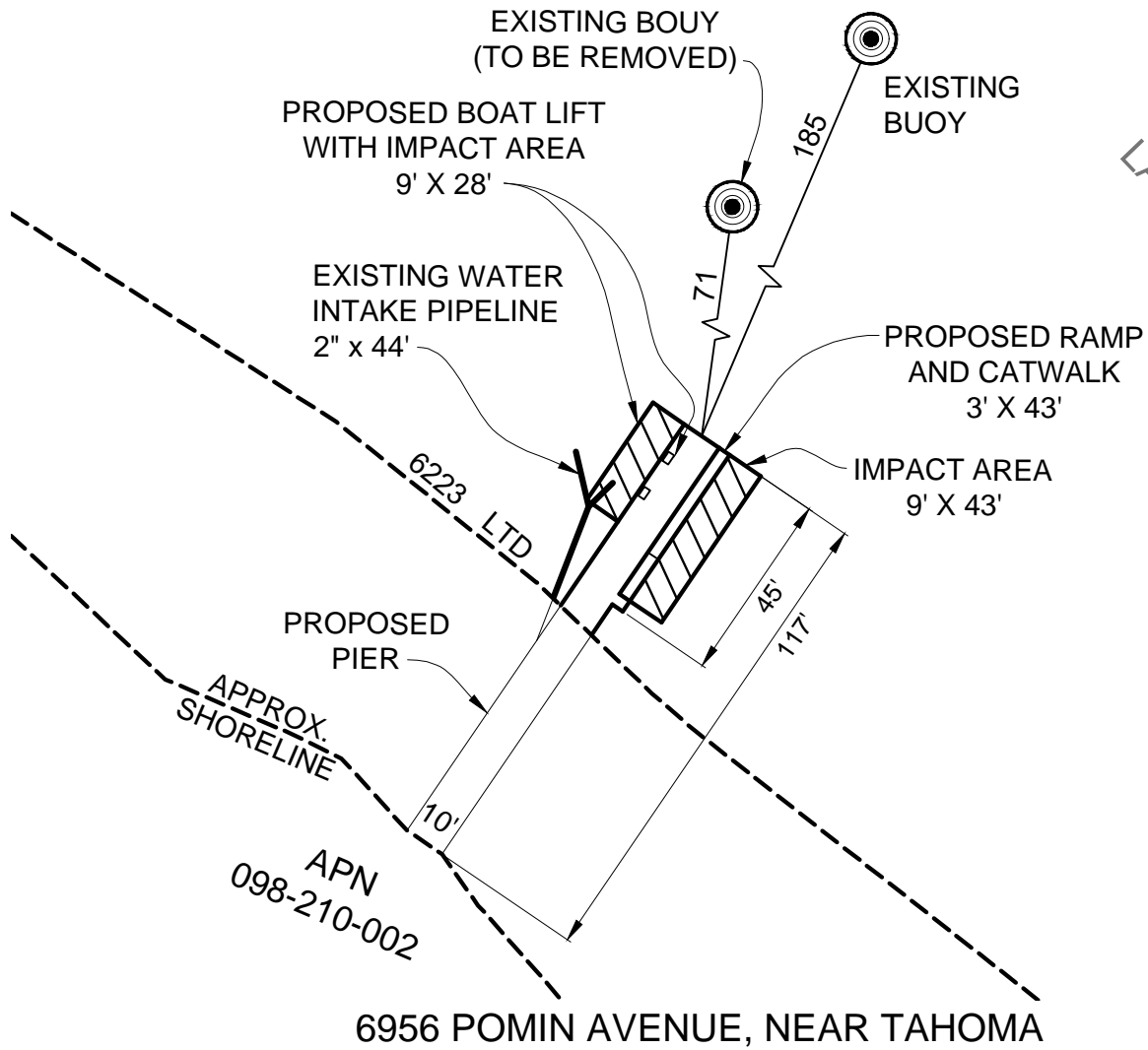


EXHIBIT A



NO SCALE

SITE



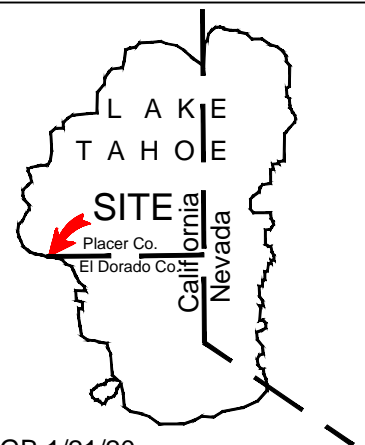
NO SCALE

LOCATION



EXHIBIT B

PRC 9295.1
 LEGALLET TRUSTEES
 APN 098-210-002
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.