

# Staff Report 11

General Lease – Recreational Use

## **APPLICANT:**

---

Jonathan D. Ruggiero and Laurie L. Ruggiero, as Trustees of the Ruggiero Trust dated 4/1/2013; and Gregory H. St. Claire and Anne L. St. Claire, Trustees of the St. Claire Family Trust

## **PROPOSED ACTION:**

---

### **AREA, LAND TYPE, AND LOCATION**

Sovereign land located in Lake Tahoe, adjacent to 3135 and 3145 West Lake Boulevard, near Homewood, Placer County.

### **AUTHORIZED USE:**

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

### **TERM:**

10 years, beginning June 28, 2020.

### **CONSIDERATION:**

\$2,282 per year, with an annual Consumer Price Index adjustment.

### **SPECIFIC 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 the Tahoe Regional Planning Agency (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 recreation.
- Lessee is bound by a recorded successor pier agreement dated August 15, 1979, identified as "Agreement Establishing Easements and Common Ownership of Pier".

This agreement provides authorization to the owner of APN #085-280-046 to cross APN #085-280-045 in order to access the pier and share in the maintenance of said pier. This document must remain in force over the term of the lease. In the event the agreement is terminated, both lessees remain fully responsible for their mutual responsibilities under the lease. The Lessee shall notify Lessor in writing thirty (30) calendar days prior to the termination of the successor pier agreement. Such notice must include a copy of new agreement granting the owner of APN #085-280-046 access to the pier or must be submitted concurrently with an application to amend the lease to accurately reflect the changed circumstances.

## **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:**

On June 28, 2010, the Commission authorized a Recreational Pier Lease for the continued use and maintenance of an existing joint-use pier and four mooring buoys to Mick Vorbeck and David Saca ([Item C01, June 28, 2010](#)). The lease authorized a pier shared between the two upland parcels adjoining the lease premises, APN 085-280-045 owned by Mick Vorbeck, and APN 085-280-046 owned by David Saca. When the lease was issued the Lessee qualified for rent-free status pursuant to section 6503.5 of the Public Resources Code in effect at the time. The code section was revised, with an effective date of January 1, 2012, to authorize charging rent for private recreational facilities on State land.

On April 23, 2015, the Commission authorized a lease assignment where Mick Vorbeck assigned his interest in the lease to Jonathan D. Ruggiero and Laurie L. Ruggiero, as Trustees of the Ruggiero Trust dated 4/1/2013 ([Item C22, April 23, 2015](#)). This assignment was in conjunction with transfer of the upland property at APN 085-280-045.

On June 8, 2015, the upland parcel owned by David Saca (APN # 085-280-046) was transferred to Gregory H. St. Claire and Anne L. St. Claire, Trustees of the St. Claire Family Trust. The new owner did not apply for an assignment of the lease in 2015. Staff was unaware of the change in ownership until September 2019, upon receipt of an application for renewal of the lease. The lease expired on June 27, 2020.

The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing joint-use pier and four mooring buoys. In June

and October 2019, the Applicant registered the mooring buoys with TRPA (Permit Nos. 10182 and 10831).

The Applicant owns the uplands adjoining the lease premises. 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 (Public Resources Code section 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 surrounded by pebbles and gravel. 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.

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 (as prior lessee) may be required to remove the pier and four 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) 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.

## **APPROVAL OBTAINED:**

---

Tahoe Regional Planning Agency

## **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 June 28, 2020, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier and four 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 \$2,282, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

## EXHIBIT A

LEASE 5529

### LAND DESCRIPTION

Five (5) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 25, 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 lying adjacent to those parcels as described in that Grant Deed recorded September 11, 2014 in Document Number 2014-0062896-00 and that Grant Deed recorded June 8, 2015 in Document Number 2015-0048059-00 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.

#### PARCELS 2 - 5 – 4 BUOYS

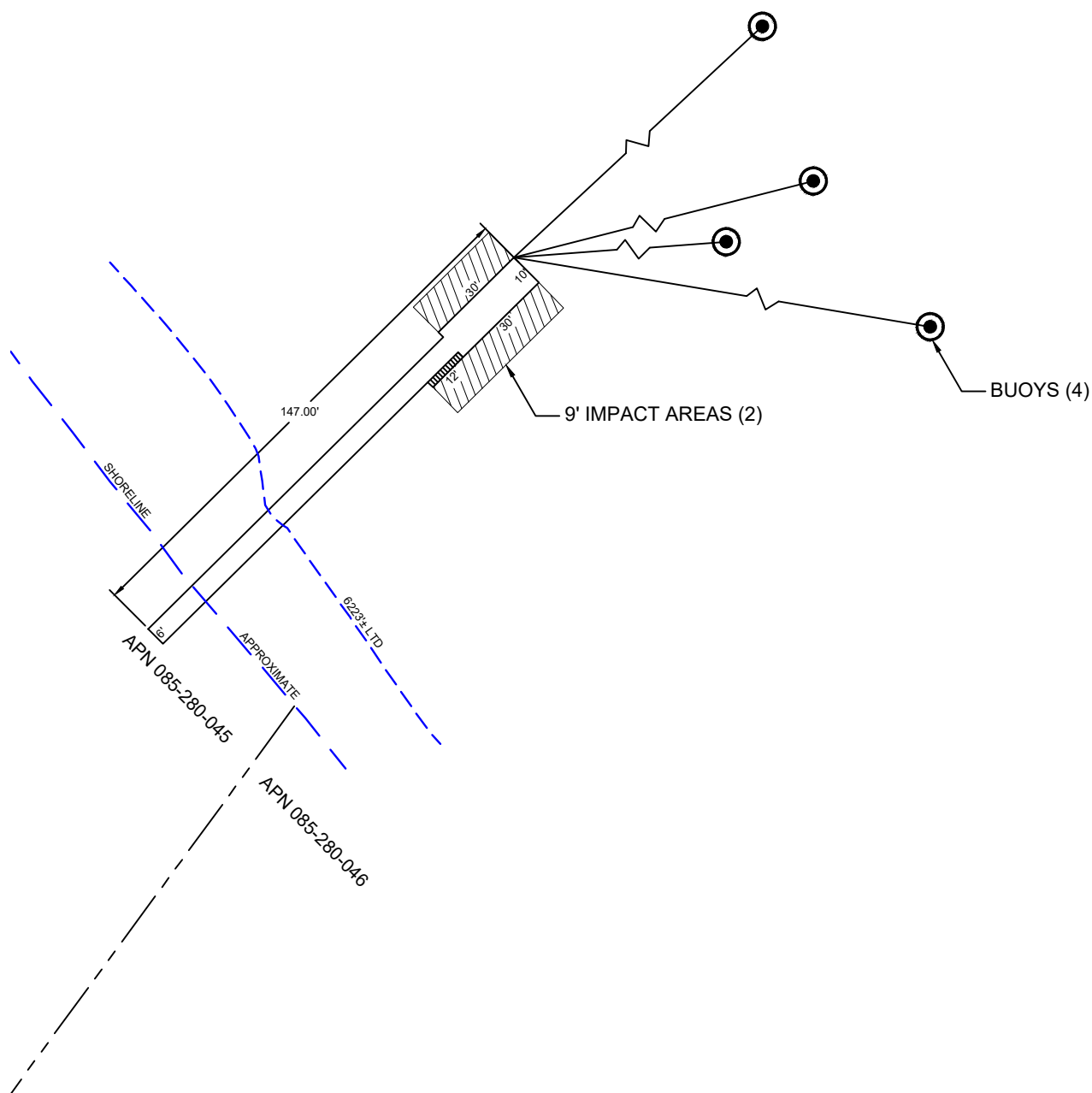
Four (4) circular parcels of land being 50 feet in diameter, underlying four (4) existing buoys adjacent to said parcels.

Accompanying plat is hereby made part of this description.

### END OF DESCRIPTION

Prepared April 8, 2020 by the California State Lands Commission Boundary Unit.





## EXHIBIT A

PAGE 2 OF 2

JAK 4/8/2020

LAND DESCRIPTION PLAT  
LEASE 5529, RUGGIERO &  
ST. CLAIRE TRUSTS, PLACER COUNTY

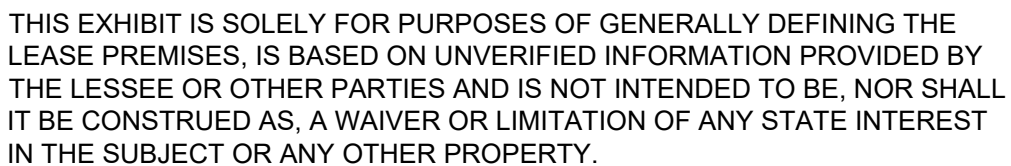
CALIFORNIA STATE  
LANDS COMMISSION



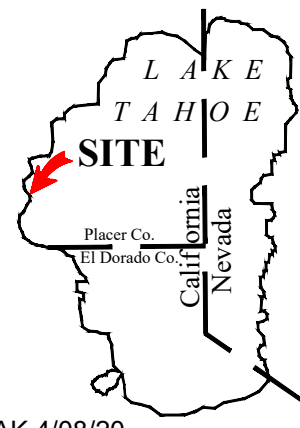
# SITE



LOCATION



LEASE 5529  
RUGGIERO &  
ST. CLAIRE TRUSTS  
APN 085-280-045, 046  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY



JAK 4/08/20