

Staff Report 07

LESSEE/APPLICANT:

Joe Massolo and Sons Trucking Company, Inc., a California Corporation

PROPOSED ACTION:

Acceptance of a Lease Quitclaim Deed and Issuance of a General Lease –
Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8751 Rubicon Drive, near Rubicon Bay, El
Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boathouse, and two mooring
buoys previously authorized by the Commission and one existing mooring buoy not
previously authorized by the Commission.

TERM:

10 years, beginning February 23, 2021.

CONSIDERATION:

\$2,479 per year, with an annual Consumer Price Index adjustment, and \$630 to
compensate for the unauthorized occupation of state sovereign land dating back
to June 2019.

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 recreation.

- 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 Authorized Improvements in this lease.

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 November 29, 2017, the Commission authorized a General Lease - Recreational Use for an existing pier, boathouse, and two mooring buoys to Joe Massolo and Sons Trucking Company, Inc., a California Corporation ([Item C09, November 29, 2017](#)). The lease will expire on June 23, 2027.

The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier, boathouse, and two mooring buoys previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission. Based upon information provided in the application, the Applicant's third mooring buoy has existed in the lake for many years. Prior lease applications did not include a request to approve the third buoy. The Applicant registered the three existing mooring buoys and mooring space within the boathouse with TRPA on June 24, 2019, registration number 10490. Staff recommends that the Commission accept compensation from the Applicant for the third buoy's unauthorized occupation of State land in the amount of \$630 for the period beginning June 24, 2019 (the date of the TRPA registration) through February 22, 2021 (the day prior to the beginning date of the new lease).

The Applicant requested issuance of a new lease and executed a quitclaim deed releasing their interest in the current lease. Staff recommends the Commission accept the lease quitclaim deed and approve the new lease, effective February 23, 2021.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained, 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 for lake-related activities at varying water levels underneath the pier. The immediate area of the existing pier is gently sloped with cobble and the occasional boulder. The three 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, 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; is consistent with the common law Public Trust Doctrine; 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 the prior lessee, may be required to remove the pier, boathouse, and two mooring buoys previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission 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 and along the State's inland and coastal waterways.

3. Acceptance of a lease quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of 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 issuance of the lease 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 acceptance of a lease quitclaim deed and issuance of 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 common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, effective February 22, 2021, of Lease No. PRC 4063, a General Lease – Recreational Use, issued to Joe Massolo and Sons Trucking Company, Inc., a California Corporation.
2. Authorize acceptance of compensation from the Applicant in the amount of \$630 for the unauthorized occupation of State land for the period beginning June 24, 2019 through February 22, 2021.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 23, 2021, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse, and two mooring buoys previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission, 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 \$2,479, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4063

LAND DESCRIPTION

Four parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 32, Section 32, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of El Dorado, State of California and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, walkway, boathouse and two catwalks lying adjacent to that parcel as described in Grant Deed recorded July 18, 1977 in Book 1523 at Page 462 in 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, 3 and 4 – BUOYS

Three circular parcels of land, each being 50 feet in diameter, underlying three existing buoys lying adjacent to said parcel as described in Grant Deed recorded July 18, 1977 in Book 1523 at Page 462 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared November 18, 2020 by the California State Lands Commission Boundary Unit.



NO SCALE

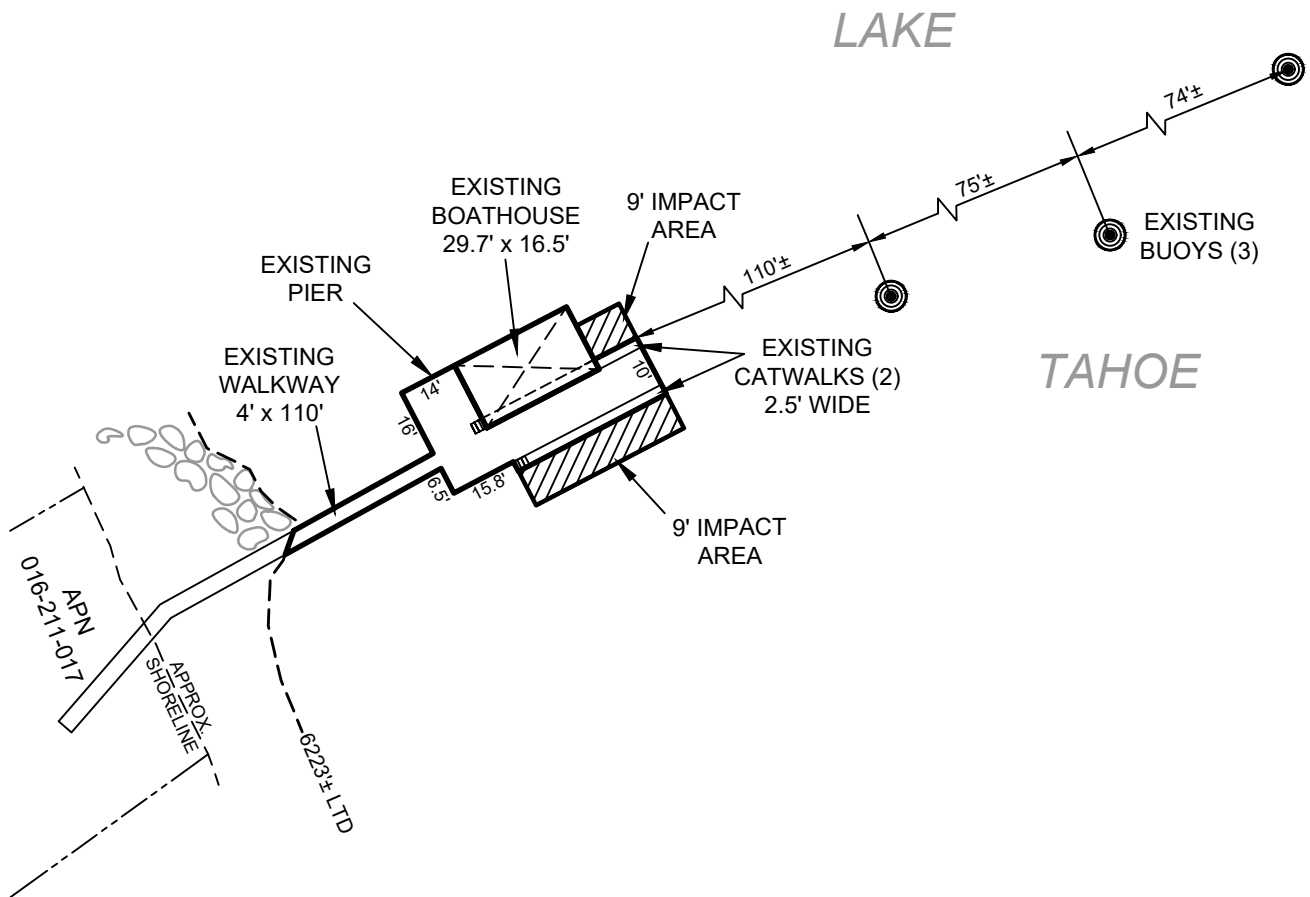


EXHIBIT A

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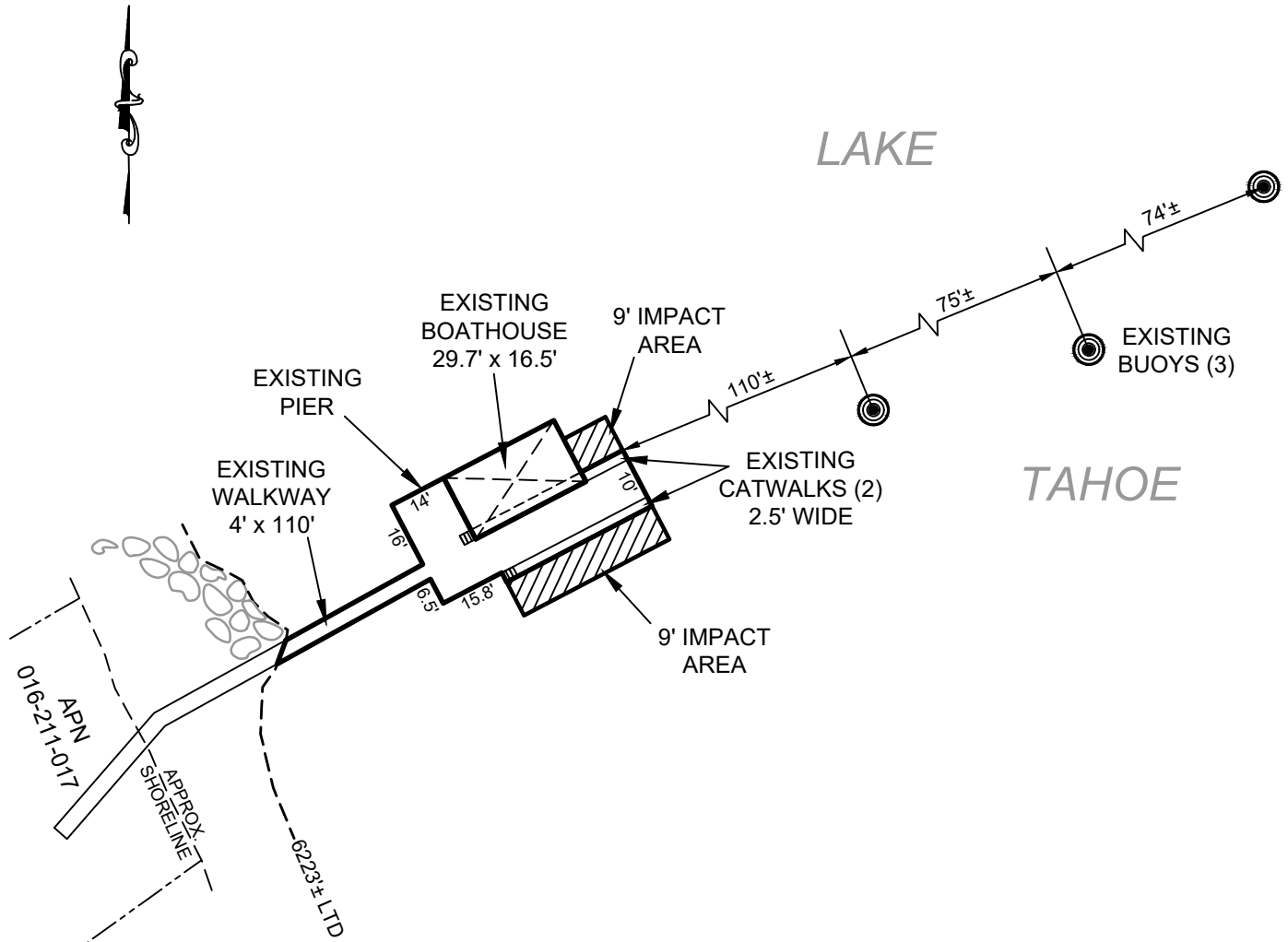
LAND DESCRIPTION PLAT
LEASE 4063, MASSOLO & SONS
TRUCKING COMPANY, INC.
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



8751 RUBICON DRIVE, RUBICON BAY

NO SCALE

LOCATION

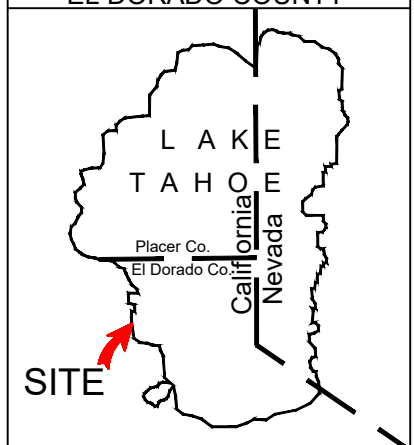


MAP SOURCE: USGS QUAD

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

LEASE 4063
MASSOLO & SONS TRUCKING
COMPANY, INC
APN 016-211-017
GENERAL LEASE-
RECREATIONAL USE
EL DORADO COUNTY



TS 11/18/2020