

Staff Report 08

ASSIGNOR:

Brian J. Mettler, through Debra Suzanne Mettler as his heir

ASSIGNEE:

Willis K. Polite Jr., Trustee of the Willis K. Polite Jr. Trust dated April 18, 2014

PROPOSED ACTION:

Assignment of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION

Sovereign land in Lake Tahoe, adjacent to 1600 and 1620 North Lake Boulevard, Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier, two boat lifts, and three mooring buoys.

TERM:

10 years, beginning December 3, 2018.

CONSIDERATION:

\$3,361 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 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 recreational uses.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 3, 2018, the Commission authorized a General Lease – Recreational Use, Lease No. PRC 5561, for the removal and reconstruction of an existing joint-use pier with expansion and two adjustable catwalks; installation of two boat lifts; removal of one existing mooring buoy; and continued use and maintenance of three existing mooring buoys to Helio A. Fialho and Therese S. Fialho, Trustees of the Fialho Family Trust dated July 3, 2002; and Brian J. Mettler ([Item C09, December 03, 2018](#)). That lease will expire on December 2, 2028.

In 2019, Brian J. Mettler died. Debra Suzanne Mettler is Brian J. Mettler's heir and served as his Attorney-in-Fact. In these roles, Debra Suzanne Mettler transferred ownership of the upland parcel, APN 094-160-009, to the B&S Mettler Family Trust dated March 25, 2019. This transfer occurred on April 5, 2019. This transfer occurred without the staff's knowledge. Transfer of the upland property does not transfer interest in Lease No. PRC 5561. Accordingly, Debra Suzanne Mettler will act in her capacity as Brian J. Mettler's heir to assign the lease to the Applicant.

On August 3, 2020, the Mettler Family Trust transferred the upland parcel APN 094-160-009 to Willis K. Polite Jr., Trustee of the Willis K. Polite Jr. Trust. The adjacent upland parcel, APN 094-160-010, and co-lessee for the joint use pier and moorings are still owned by Helio A. Fialho and Therese S. Fialho, Trustees of the Fialho Family Trust dated July 3, 2002.

On October 23, 2020, the removal and reconstruction of the pier were completed and passed a final inspection by TRPA. One mooring buoy has been registered with TRPA (No. 10580) and two moorings have been permitted by TRPA (File No. 2020-1209). The two boat lifts that also require registration with TRPA as moorings are registered under Registration No. 11519.

In coordination with Mr. Mettler's heir, Mr. Polite is applying for an assignment of the lease. The Assignee agrees to perform and be bound by the terms, conditions,

covenants, and agreements contained in the lease. Assignment of the lease will not change the use or impacts to the Public Trust. Staff recommends an assignment of the lease to reflect the change in ownership from Assignor to the Assignee. The effective date of the assignment will be August 3, 2020, in order to coincide with the Assignee's purchase of the upland property.

OTHER PERTINENT INFORMATION:

1. The Commission cannot unreasonably deny an assignment to a qualified party. The Assignee is qualified to hold the lease and no information has been discovered that would provide a basis for withholding the assignment. Upon expiration or prior to termination of the lease, neither the lessee nor the Assignee has any right to a new lease or a renewal of any previous lease. If no new lease is granted, the lessee may be required to remove the joint-use pier, two boat lifts, and three mooring buoys and restore the premises to their original condition.
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. Assignment of the lease is not a project as defined by the California Environmental Quality Act 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).

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the 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 the assignment of Lease No. PRC 5561, a General Lease – Recreational Use, of sovereign land, as described in Exhibit A, Land Description and as shown on Exhibit B, Site and Location Map (for reference purposes only) attached and by this reference made a part hereof, from Brian J. Mettler through Debra Suzanne Mettler as his heir, to Willis K. Polite Jr., Trustee of the Willis K. Polite Jr. Trust dated April 18, 2014, effective August 3, 2020.

EXHIBIT A

PRC 5561

LAND DESCRIPTION

Four parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 5, 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 and with two catwalks and two boat lifts lying adjacent to those parcels described in Grant Deed recorded August 3, 2020 as Document Number 2020-0080105 and Grant Deed recorded August 16, 2012 as Document Number 2012-0074778-00 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.

PARCELS 2 through 4 – BUOYS

Three circular parcels of land, each being 50 feet in diameter, underlying three existing buoys lying adjacent to those parcels described in Grant Deed recorded August 3, 2020 as Document Number 2020-0080105 and Grant Deed recorded August 16, 2012 as Document Number 2012-0074778-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 10/14/2020 by the California
State Lands Commission Boundary Unit.



NO SCALE

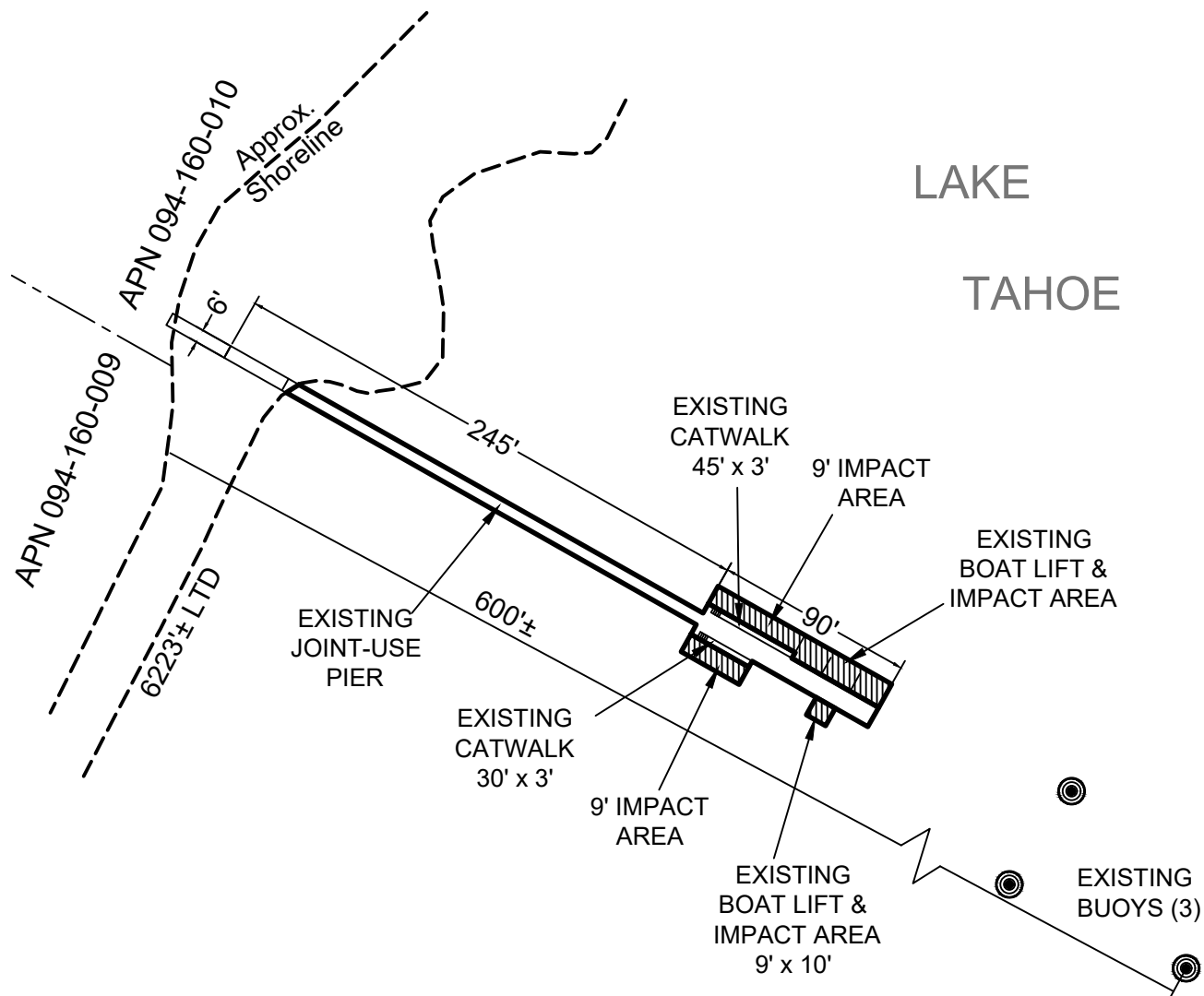


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 5561, FIALHO AND POLITE, JR., TRUSTEE
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



SITE



LOCATION



Exhibit B

SITE

