

Staff Report 06

LESSEE:

Barbara B. Corneille, Trustee of the Corneille Living Trust dated March 19, 1990

APPLICANT:

Quiet Walk LLC, a California limited liability company

PROPOSED ACTION:

Termination and Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION

Sovereign land in Lake Tahoe, adjacent to 135 Quiet Walk Road, near Tahoma, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, catwalk, stairs, and ladder.

TERM:

10 years beginning April 27, 2021.

CONSIDERATION:

\$277 per year, with an annual Consumer Price Index adjustment; and \$834 to compensate for the unauthorized occupation of state sovereign land for the period beginning April 26, 2018 through April 26, 2021.

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 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:

On April 26, 2013, the Commission authorized a General Lease – Recreational Use for an existing pier to Barbara B. Corneille, Trustee of the Corneille Living Trust dated March 19, 1990 ([Item C41, April 26, 2013](#)). The lease expires on April 25, 2023.

On June 12, 2017, upland ownership was transferred to Quiet Walk LLC, but the previous lessee failed to seek an assignment of the General Lease. The Applicant has assumed ownership and control of the pier and related infrastructure and is now applying for a General Lease – Recreational Use for the continued use and maintenance of the pier, catwalk, stairs, and ladder. The catwalk, stairs, and ladder have existed for many years, but were not called out in the previous lease.

Staff recommends termination of the existing lease because the Lessee abandoned the lease, sold the upland property without notifying staff, failed to execute a lease quitclaim, and defaulted on lease payments. The Lessee paid annual rent through April 25, 2018. On February 12, 2018, staff discovered that the upland property had been sold and therefore stopped billing invoices for rent to the prior lessee.

The Applicant has agreed to pay compensation for the unauthorized occupation of state land from April 26, 2018 through April 26, 2021, the day before the April Commission meeting when the new lease begins. Staff believes it is not in the State's best interests to pursue the unpaid rent from the Lessee since the Applicant was the upland owner as of June 12, 2017, has applied for a lease to assume responsibility for the improvements, and has agreed to pay compensation for the unauthorized occupation of state land for the period in question. Staff further recommends the Commission accept compensation from the Applicant in the amount of \$834 for the unauthorized occupation of state land prior to the commencement of the proposed lease.

On September 9, 2020, TRPA approved the replacement of a 30-inch by 28-foot-long section of the pier decking that was removed by the previous owner. The replaced section was constructed of natural cedar to match the existing pier. All work was completed by the Applicant by hand from the existing pier to avoid impacts to Tahoe Yellow Cress.

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 improvements have existed for many years at this location. The pier is built on pilings with the immediate area of the pier being flat and rocky. The topography and location are difficult to navigate, however public access for pedestrians and lake-related activities is available at varying water levels underneath the pier and by passing through the upland parcel within the Public Trust easement.

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 removal all improvements from State land and restore the lease premises to their original condition.

The proposed lease requires the lessee to ensure 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 Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant also maintains another existing pier, boat hoist, catwalk, sundeck with stairs, water line, and two mooring buoys adjacent to the same upland parcel at 135 Quiet Walk Road, authorized under Lease 3654.
2. 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 Lessee may be required to remove the pier, catwalk, stairs, and ladder 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.

3. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
4. Termination of the lease 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).

5. 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 termination of the lease 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. Terminate, effective June 12, 2017, Lease No. PRC 9056, a General Lease – Recreational Use, issued to Barbara B. Corneille, Trustee of the Corneille Living Trust dated March 19, 1990.
2. Authorize acceptance of compensation from the Applicant in the amount of \$834 for unauthorized occupation of State land for the period beginning April 26, 2018 to April 26, 2021.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 27, 2021, for a term of 10 years, for the continued use and maintenance of an existing pier, catwalk, stairs, and ladder, 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 \$277, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 9056

LAND DESCRIPTION

A parcel of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 17, 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, more particularly described as follows:

All those lands underlying an existing pier and catwalk lying adjacent to those parcels described in Grant Deed recorded August 29, 2019 in Document 2019-0035722-00 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.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 02/17/2021 by the California State Lands Commission Boundary Unit



NO SCALE



LAKE TAHOE

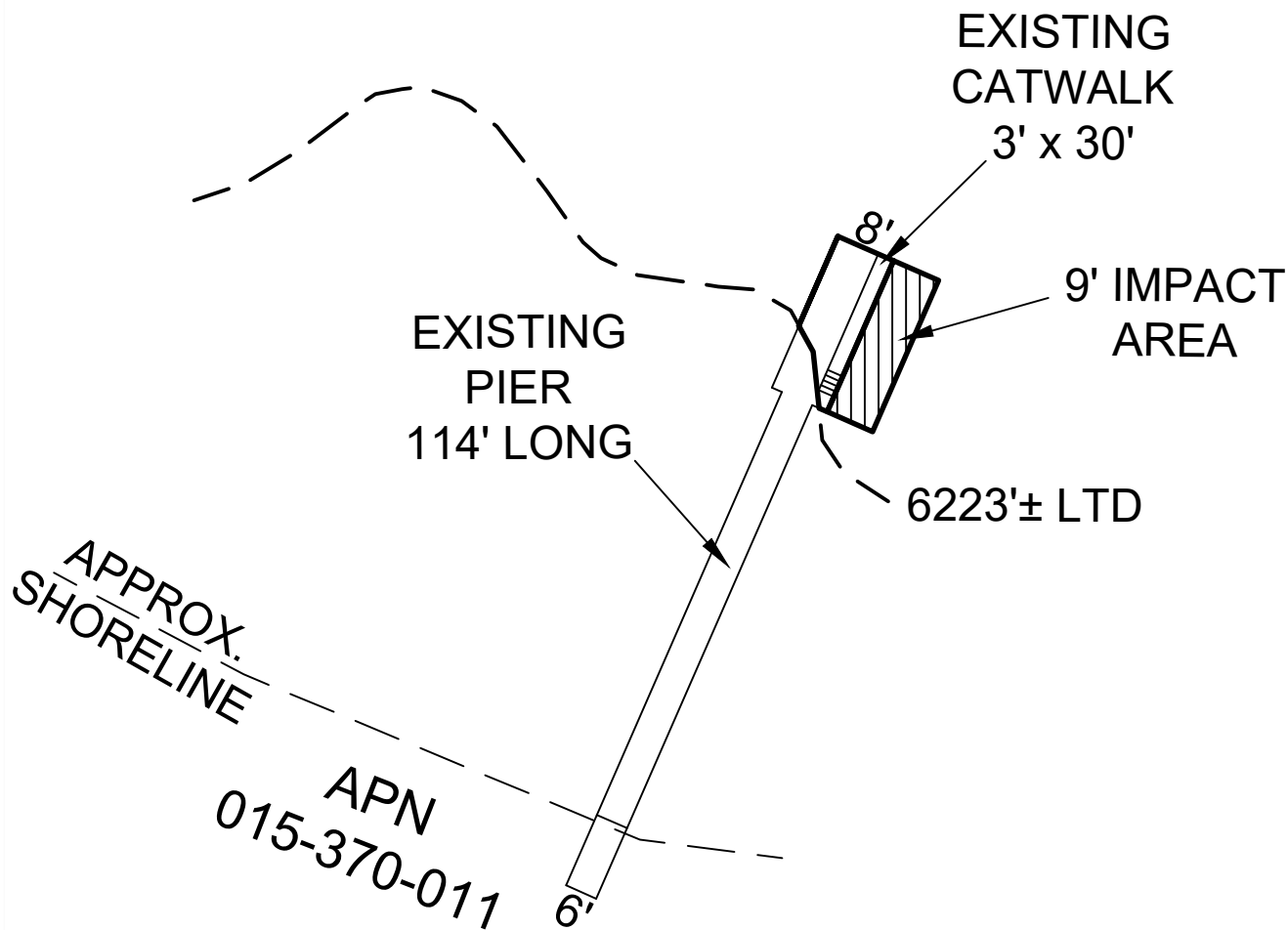


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 9056, QUIET WALK LLC
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

LAKE
TAHOE

EXISTING
CATWALK
3' x 30'

9' IMPACT
AREA

EXISTING
PIER
114' LONG

6223'± LTD

APPROX.
SHORELINE

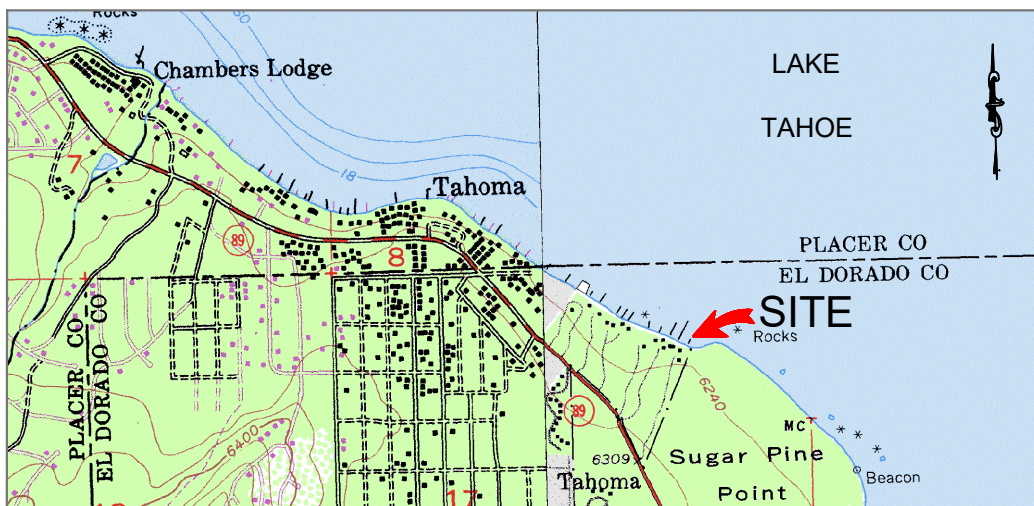
APN
015-370-011

6'

135 QUIET WALK ROAD, TAHOMA

NO SCALE

LOCATION

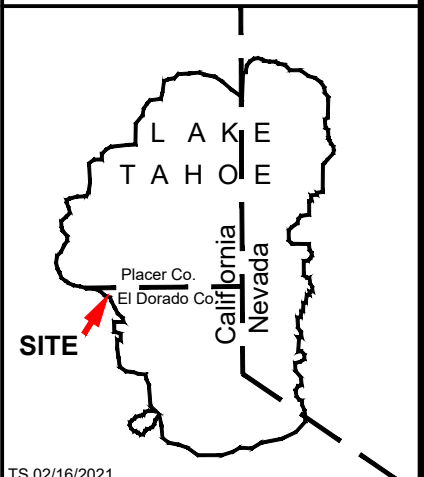


MAP SOURCE: USGS QUAD

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 9056
QUIET WALK LLC
APN 015-370-011
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



TS 02/16/2021