

Staff Report 07

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:

Consider Waiver of Rent, Penalty, and Interest; and 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, boat hoist, sundeck with stairs, and two mooring buoys previously authorized by the Commission and a water intake line not previously authorized by the Commission.

TERM:

10 years beginning April 27, 2021.

CONSIDERATION:

\$3,008 per year, with an annual Consumer Price Index adjustment; and \$10,728 to compensate for the unauthorized occupation of state sovereign land for the period beginning October 1, 2017 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.
- The lease contains provisions that the existing sundeck with stairs, as shown on the attached Exhibit B, cannot be expanded, and if repairs of any portions of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck with stairs must be removed from the lease premises.

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, 2016, the Commission authorized a General Lease – Recreational Use for an existing pier, boat hoist, sundeck with stairs, and two mooring buoys to Barbara B. Corneille, Trustee of the Corneille Living Trust Dated March 19, 1990 ([Item C03, June 28, 2016](#)). The lease expires on September 30, 2025. 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 existing pier, boat hoist, sundeck with stairs, and two mooring buoys previously authorized by the Commission, and an existing water intake line not previously authorized by the Commission. 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 September 30, 2017, but did not pay invoice number 42956 for the period of October 1, 2017 to September 30, 2018. On February 12, 2018, staff discovered that the upland property had sold and therefore stopped billing invoices for rent.

The Applicant has agreed to pay compensation for the unauthorized occupation of State land from October 1, 2017 through April 26, 2021, the day before 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 \$10,728 for the unauthorized occupation of state land prior to the commencement of the proposed lease.

The Applicant owns the upland adjoining the lease premises. The pier, boat hoist, and mooring buoys 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 pier, boat hoist, water intake line, and mooring buoys have existed for many years at this location. The pier is built on pilings with the immediate area of the pier being relatively 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 buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The Applicant has registered their moorings with TRPA (No. 11297, dated February 14, 2020).

The sundeck with stairs and water intake line, are not a trust consistent use. While new sundecks are not generally approved, sundecks that have been in place for years have been permitted if they do not significantly interfere with Public Trust needs or activities. However, lease provisions prohibit the sundeck from being expanded or rebuilt if substantially destroyed. There is evidence of the existence of the water intake dating back to 1965. While not consistent with public trust doctrine, the intake does not negatively impact the surrounding area and will not impede public access.

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 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. Applicant also maintains another existing pier, catwalk, stairs, and ladder adjacent to the same upland parcel at 135 Quiet Walk Road, authorized under Lease 9056. Both leases are being considered at this Commission meeting.
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, boat hoist, sundeck with stairs, water intake line, and two 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.
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 lease; waiver of rent, penalty, and interest; 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

Find that the existing and continuing use and maintenance of the water intake line and sundeck with stairs is not consistent with the Public Trust Doctrine, but the current use does not and is not anticipated to substantially interfere with Public Trust needs and values at this location for the approved term; and

Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Waive annual rent, penalty, and interest due for the period of October 1, 2017 through September 30, 2018, and void annual rent invoice number 42956 issued to Barbara B. Corneille, Trustee of the Corneille Living Trust dated March 19, 1990.
2. Terminate, effective June 12, 2017, Lease No. PRC 3654, a General Lease – Recreational Use, issued to Barbara B. Corneille, Trustee of the Corneille Living Trust dated March 19, 1990.
3. Authorize acceptance of compensation from the Applicant in the amount of \$10,728 for unauthorized occupation of State land for the period beginning October 1, 2017 to April 26, 2021.
4. 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, boat hoist, sundeck with stairs, water line, and two 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 \$3,008, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 3654

LAND DESCRIPTION

Four parcels 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:

PARCEL 1 – PIER WITH SUNDECK

All those lands underlying an existing pier, catwalk, boat hoist and sundeck with stairs 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.

PARCELS 2 & 3 – BUOYS

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded August 29, 2019 in Document 2019-0035722-00 in Official Records of said County.

PARCEL 4 – WATER LINE

All those lands underlying an existing two inch water line lying adjacent to those parcels described in Grant Deed recorded August 29, 2019 in Document 2019-0035722-00 in Official Records of said County.

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 02/16/2021 by the California
State Lands Commission Boundary Unit



NO SCALE

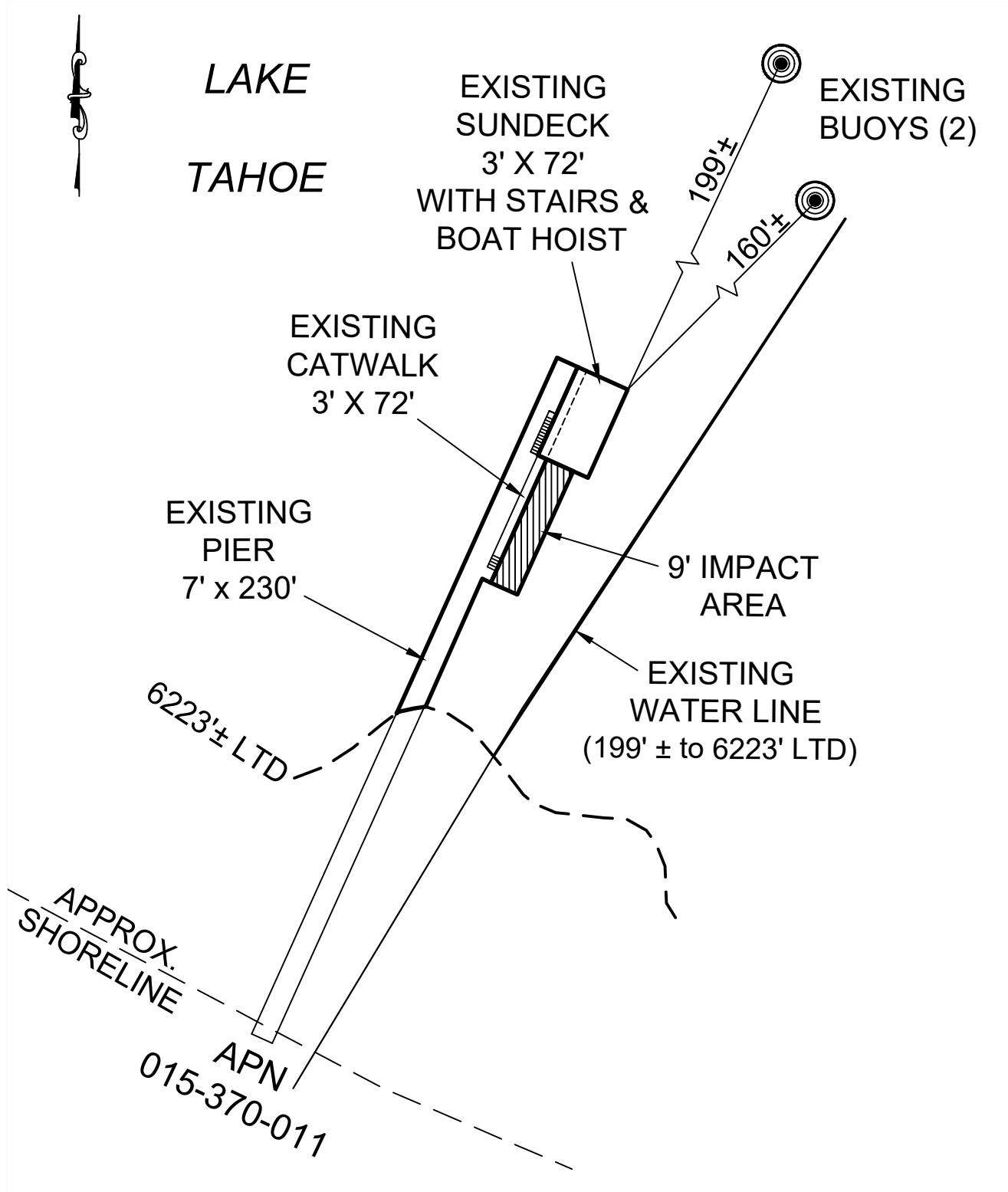


EXHIBIT A

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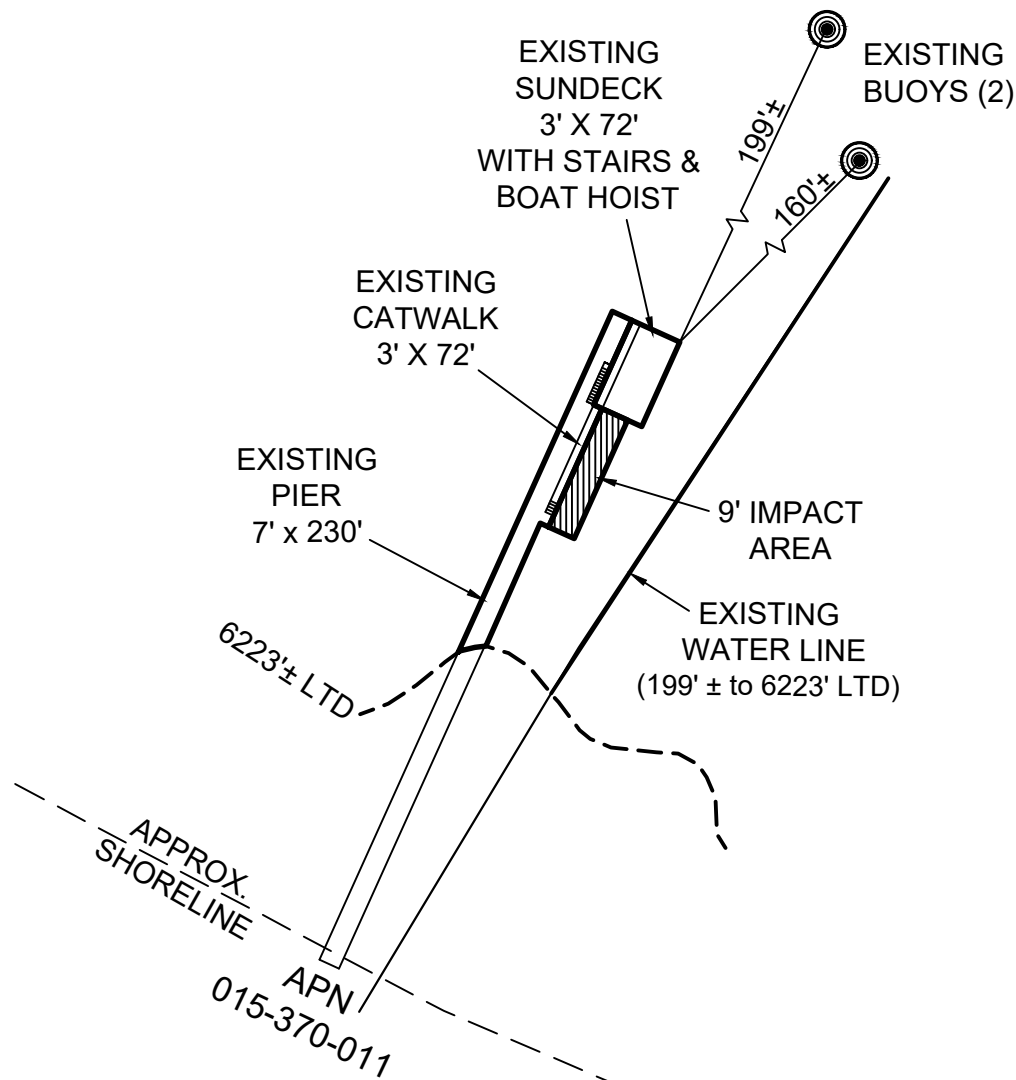
LAND DESCRIPTION PLAT
LEASE 3654, QUIET WALK LLC
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



LAKE
TAHOE

135 QUIET WALK ROAD, TAHOMA

NO SCALE

LOCATION

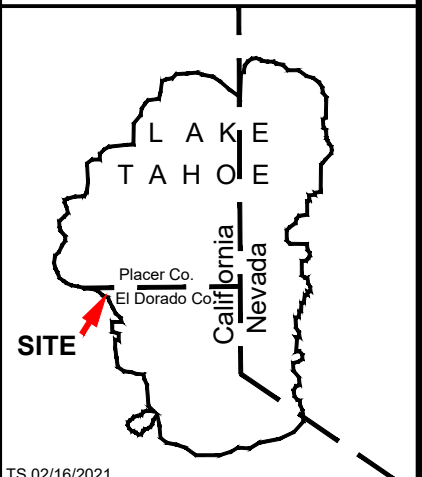


MAP SOURCE: USGS QUAD

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 3654
QUIET WALK LLC
APN 015-370-011
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



TS 02/16/2021