

Staff Report 13

APPLICANT:

Bruce W. Olson and Molly J. Olson, Trustees of the Family Olson Trust of 2006 U.D.T.
Dated September 27, 2006

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4246 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and boat lift previously authorized by the Commission and two existing mooring buoys not previously authorized by the Commission.

TERM:

10 years, beginning January 1, 2021.

CONSIDERATION:

\$1,169 per year, with an annual Consumer Price Index adjustment and \$118 to compensate for the unauthorized occupation of state sovereign land dating back to November 2020.

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 May 19, 2010, the property was deeded to Bruce W. Olson and Molly J. Olson, Trustees of the Family Olson Trust of 2006 U.D.T. Dated September 27, 2006. On April 6, 2011, the Commission authorized a General Lease - Recreational Use for an existing pier and boat lift to Bruce W. Olson and Molly J. Olson ([Item C52, April 6, 2011](#)). The lease expired on December 31, 2020. The prior application was submitted by Bruce W. Olson and Molly J. Olson and Commission staff was not made aware of the change in ownership to Bruce W. Olson and Molly J. Olson, Trustees of the Family Olson Trust of 2006 U.D.T. Dated September 27, 2006.

The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier and boat lift previously authorized by the Commission and two existing mooring buoys not previously authorized by the Commission. The Applicant registered the boat lift and two existing mooring buoys with TRPA on November 5, 2020 (registration number 10141). Staff recommends that the Commission accept compensation from the Applicant for the two buoy's unauthorized occupation of State land in the amount of \$118 for the period beginning November 5, 2020 (the date of the TRPA registration) through December 31, 2020 (the day prior to the beginning date of the new lease).

The Applicant also applied for renewal of Lease 3212, a General Lease – Recreational Use, for the continued use and maintenance of pier facilities adjacent to a neighboring littoral parcel, 4240 North Lake Boulevard, which is also being considered at the April 27, 2021 Commission meeting.

The Cedar Flat Improvement Association owns the upland property, Assessor's Parcel Number 092-190-010, adjoining the lease premises and granted the Applicant the right to access and maintain the facilities through the intervening strip parcel. 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 boulders occupying the surrounding area of the upland property and a rock crib under the pierhead. Public access for pedestrians and lake-related activities is available at varying water levels underneath the pier through an opening between the pierhead and boulders.

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, may be required to remove the pier and boat lift previously authorized by the Commission and two mooring buoys 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 the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.

3. 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.

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 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 compensation from the Applicant in the amount of \$118 for unauthorized occupation of State land for the period beginning November 5, 2020 through December 31, 2020.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning January 1, 2021, for a term of 10 years, for the continued use and maintenance of an existing pier and boat lift previously authorized by the

Commission and two existing mooring buoys 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 \$1,169, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4177

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 28, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, catwalk and boatlift lying adjacent to that parcel described in Grant Deed recorded May 19, 2010 as Document Number 2010-0037387-00 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.

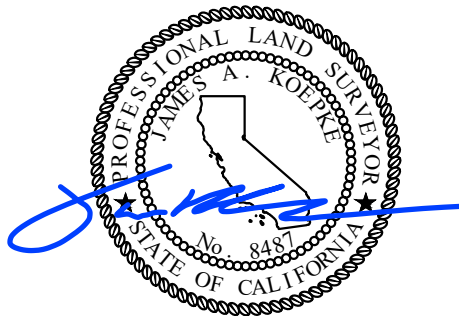
PARCELS 2 & 3 – BUOYS

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded May 19, 2010 as Document Number 2010-0037387-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 12/28/2020 by the California State Lands Commission Boundary Unit.



NO SCALE

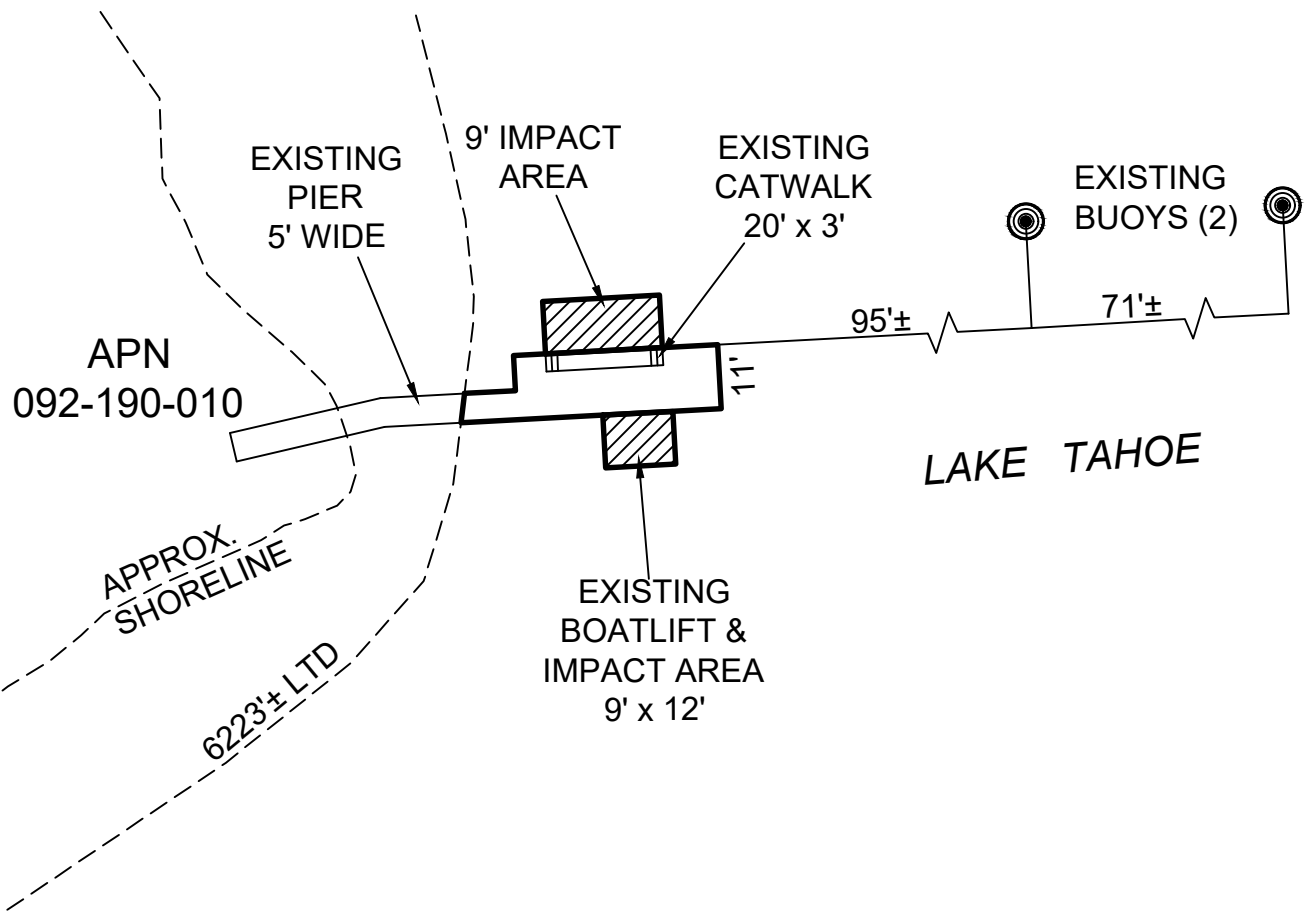


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 4177, FAMILY OLSON TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



