

# Staff Report 06

## **LESSEE:**

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Robert L. Dumas and Sabrina E. Dumas, Trustees of the Dumas Family Trust dated December 2, 2015

## **PROPOSED ACTION:**

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Amendment of Lease to authorize the removal of the existing pier and one of the two existing mooring buoys; and the construction, use, and maintenance of a new pier, boat lift, and catwalk

## **AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Lake Tahoe, adjacent to 4500 North Lake Boulevard, Carnelian Bay, Placer County.

## **AUTHORIZED USE:**

Use and maintenance of an existing pier and two mooring buoys.

## **TERM:**

10 years, beginning April 19, 2018.

## **CONSIDERATION:**

\$788 per year, with an annual Consumer Price Index adjustment.

## **SPECIFIC LEASE PROVISIONS:**

- Authorize the removal of the existing pier and one existing mooring buoy; and the construction, use, and maintenance of a proposed pier, boat lift, and catwalk.
- Include special provisions related to construction.
- Include a special provision that construction cannot begin until after June 29, 2021.
- Include a special provision requiring that the public be allowed to pass and re-pass over the pier using stairs on the landward end of the pier, with signs posted

on each side of the pier, to provide continuous shoreline access to the Public Trust easement below elevation 6228.75 feet, Lake Tahoe Datum.

- Include special provisions related to protection of Tahoe Yellow Cress (TYC) requiring that, prior to construction, a current TYC survey must be conducted between June 15 and September 30 of the year in which construction is planned to commence and must be submitted to the Commission. If TYC is present, a Construction Impact Avoidance Plan must be submitted to the Commission for approval prior to construction to demonstrate no impact to the plant. The Plan must identify the location of TYC stems and include measures for ensuring no impact to the plant, including potential relocation of pilings, pier location, and construction and staging areas; use of protective fencing surrounding TYC stems; signage for no work zones; etc. Revision of the pier design may also require submittal of updated site plans illustrating pier design revisions.
- Revise the annual rent from \$788 with an annual Consumer Price Index adjustment to \$768, with an annual Consumer Price Index adjustment, effective April 19, 2021.
- Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of "as-built" plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A, Land Description, and Exhibit B, Site and Location Map, to the Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by the Lessor's Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The replaced Exhibits shall be incorporated in the Lease as though fully set forth therein.
- Lessee acknowledges annual consideration shall be adjusted based on the actual area of improvements as constructed should they vary from the plans submitted.
- Amend Section 3, paragraph 11(a) to add the following sentence to the end of the paragraph: Lessee has considered both the cost of construction and removal in light of these conditions.

All other terms and conditions of the lease to remain in effect without amendment.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

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

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

On April 19, 2018, the Commission authorized a 10-year General Lease – Recreational Use, Lease Number PRC 5557, for continued use and maintenance of an existing pier and two mooring buoys in Lake Tahoe to Robert L. Dumas and Sabrina E. Dumas, Trustees of the Dumas Family Trust dated December 2, 2015 ([Item C35, April 19, 2018](#)). The lease will expire on April 18, 2028.

On September 10, 2019, the Tahoe Regional Planning Agency (TRPA) registered the two mooring buoys under Permit Number 10991.

On February 23, 2021, under ERSP2020-0280, TRPA authorized the Lessee's removal and reconstruction of a single-use pier. The Lessee is now applying for an amendment to authorize removal of the existing pier and one of the two existing mooring buoys; and the construction, use, and maintenance of a proposed pier, boat lift, and catwalk.

The existing 59-foot by 5.5-foot pier will be completely removed. The proposed 92-foot pier will originate 8 feet north of the landward point of the existing pier and will extend easterly over the lake for 40 more feet than the existing pier. The pier will be 6 feet wide, will widen to 10 feet at the pierhead, and will include a 3-foot-wide by 30-foot-long adjustable catwalk on the north side of the pier. A 6,000-pound boat lift will be located on the south side of the pier.

The removal of one of the two existing mooring buoys and installation of the boat lift will result in the conversion of one registered mooring buoy into one registered boat lift. At the completion of the project, TRPA will re-register the parcel under Permit Number 10991 with one registered mooring buoy and one registered boatlift. No other new or additional buoys, boat lifts, slips, or any other shorezone structures are approved.

Public access within the Public Trust easement will be provided by access stairs at the landward side of the pier. Signage reading "Public Passage Allowed Over Pier" located at the designated public access stairs will be required to be in place at all times.

The Lessee conducted a TYC survey for the subject property on June 16, 2020, with no TYC noted as being present. Prior to construction, a current TYC survey is required, pursuant to the Lease amendment. It is anticipated that construction will occur between October 1, 2021 and May 1, 2022, but the TRPA permit is valid until February 23, 2024.

Construction of the proposed pier, boat lift, and catwalk will be performed primarily from a barge or amphibious vehicle departing from an approved launching facility (public marina or boat ramp). The existing pier will be demolished and removed using a front loader or other similar type of machinery. The material will be transported by barge to an approved offloading site, where it will be taken by dump trucks to a TRPA approved disposal facility.

Construction of the proposed pier will be performed from the lake and the existing pier will be removed by barge. The access for the barge will be limited to an area adjacent to the pier locations to minimize disturbance. Depending on the level of the lake, a turbidity curtain will be installed around the perimeter of the construction site.

Ten new pilings are proposed to support the new pier. Caissons will be installed around the new piling locations. The pilings will then be driven into the lakebed until refusal. Pier pilings may be pinned onto large existing boulders on the lakebed if pile driving is not feasible at the proposed location. The steel substructure will be installed by barge or amphibious vehicle. Decking will be installed atop the structure allowing for construction of the lighting and adjustable catwalk.

The storage and staging areas for the pier materials will be on the primary or a secondary barge. No storage of construction materials shall occur on the shoreline of the subject property unless the proper agency authorizations are secured. All construction wastes will be collected and disposed of at the nearest dumpster or sanitary landfill site.

The subject facilities are privately owned and maintained. The mooring buoy, proposed pier, boat lift, and catwalk will be 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 proposed amendment 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. The proposed amendment 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.

### **CONCLUSION:**

For all the reasons above, staff believes the issuance of this lease amendment will not substantially impair Public Trust uses or values and is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the application for a lease amendment 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 a trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the lessee could not construct the new proposed improvements and may be required to remove all the existing improvements. Upon expiration or prior termination of the lease, the lessee 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. **Existing Buoy:** 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).
4. **Demolition of Pier and Buoy Removal:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.
5. **Reconstruction of Pier, Boat Lift, and Catwalk:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

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:

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

## RECOMMENDED ACTION:

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It is recommended that the Commission:

### CEQA FINDING:

**Existing Buoy:** 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).

**Demolition of Pier and Buoy Removal:** 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

**Reconstruction of Pier, Boat Lift, and Catwalk:** 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 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

### PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the removal of the existing pier and one mooring buoy; and the construction, use, and maintenance of the new pier, boat lift, ramp, and catwalk; and the retention of one existing mooring buoy will not substantially interfere with Public Trust needs and values at this location, at this time and for the term of the lease and are consistent with the common law Public Trust Doctrine; and that the proposed amendment is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize the Executive Office or designee to replace Exhibits in the lease and adjust rent upon submission, review, and approval of as-built plans detailing the final location of the new improvements following construction."
2. Authorize the amendment of Lease Number PRC 5557, a General Lease - Recreational Use, effective June 29, 2021, for removal of an existing pier and one existing mooring buoy; construction, use, and maintenance of a pier, boat lift, and catwalk; and use and maintenance of one existing mooring buoy; to include special lease provisions related to construction and public access; to revise rent from \$788 per year with an annual Consumer Price Index adjustment to \$768 per year, with an annual Consumer Price Index adjustment; and to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); all other terms and conditions of the lease shall remain in effect without amendment.

## EXHIBIT A

PRC 5557

### LAND DESCRIPTION

Two parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to fractional Section 21, 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 to be replaced and proposed pier with catwalk and boat lift lying adjacent to that parcel described in Grant Deed recorded September 21, 2017 as Document Number 2017-0073401 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.

#### PARCEL 2 – BUOY

A circular parcels of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Grant Deed recorded September 21, 2017 as Document Number 2017-0073401 in Official Records of said County.

Accompanying plat is hereby made part of this description.

### END OF DESCRIPTION

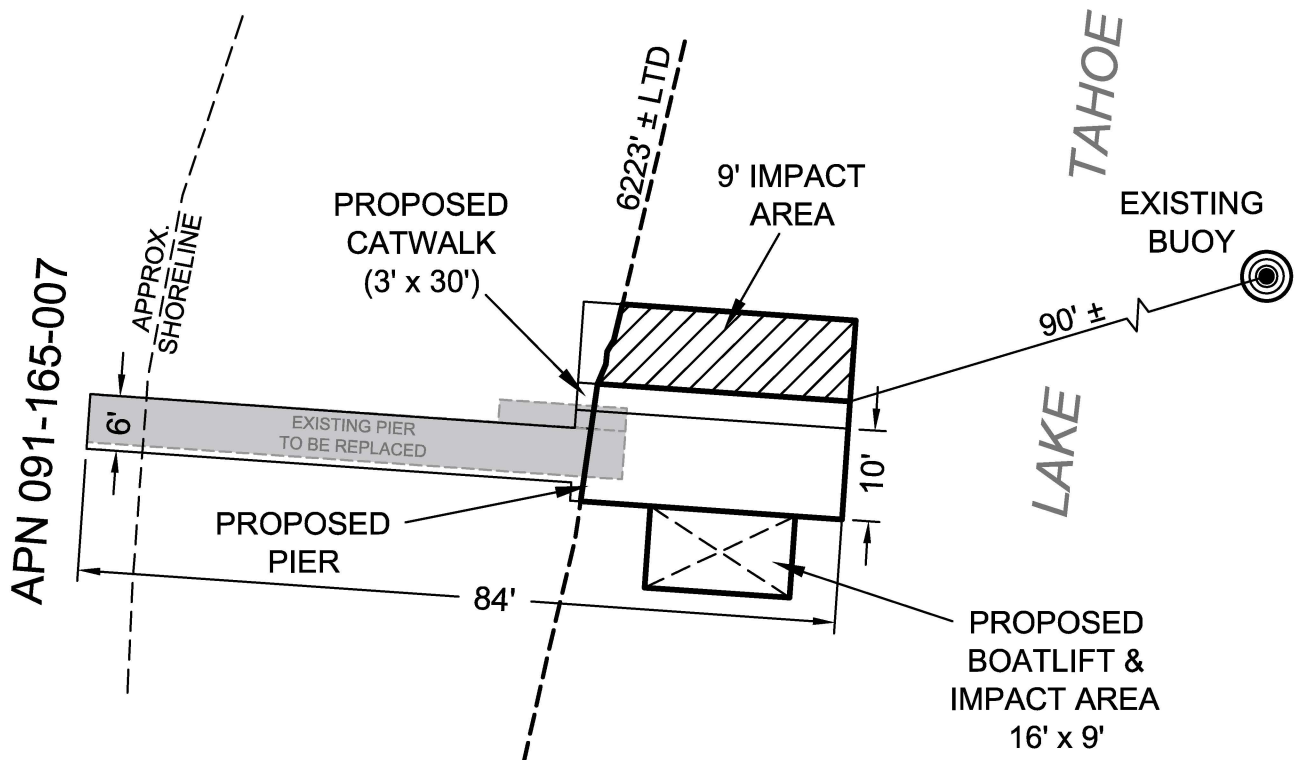
This description is based on Applicant provided design plans for an existing pier to be replaced with a proposed pier, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 01/25/2021 by the California  
State Lands Commission Boundary Unit.





NO SCALE



## EXHIBIT A

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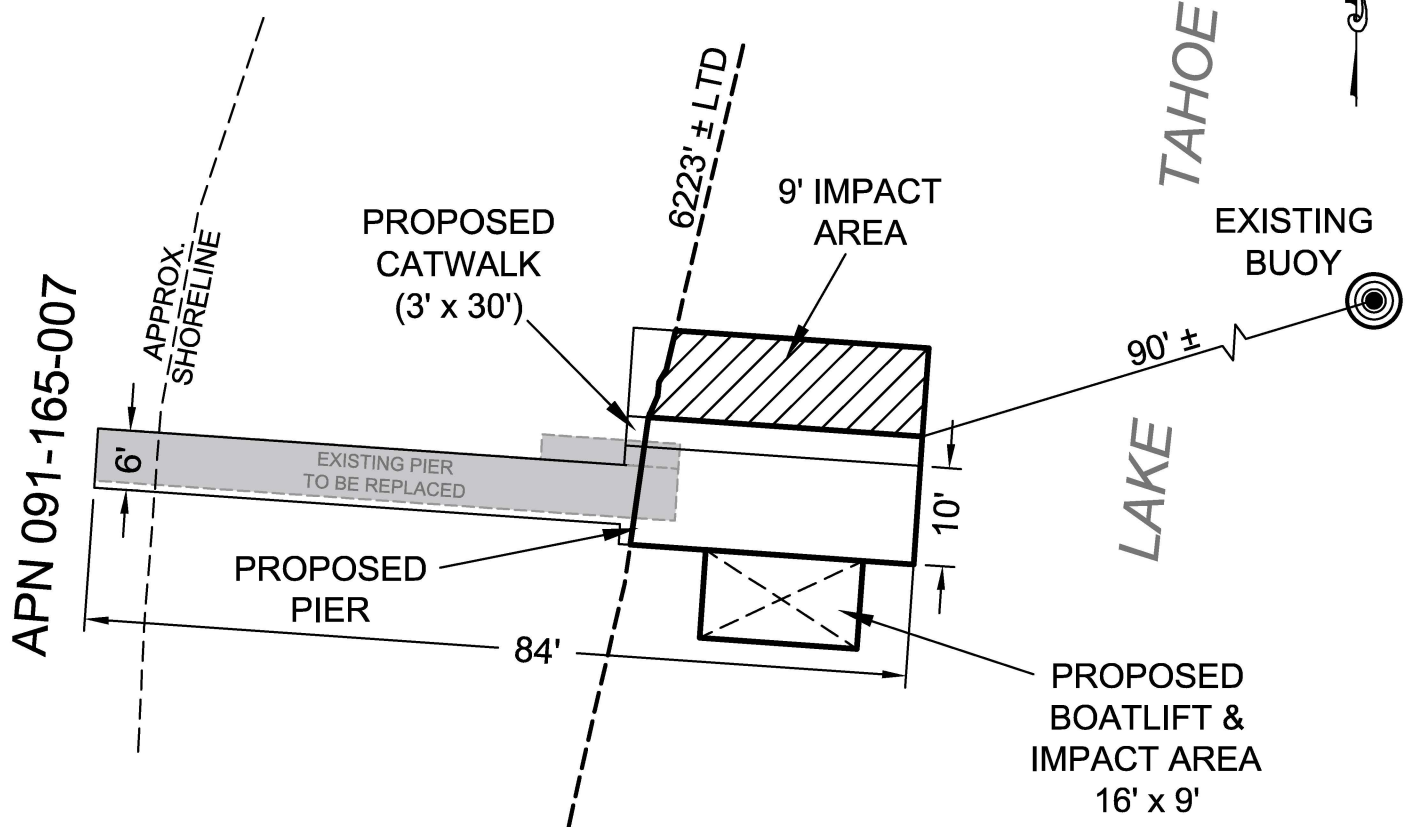
LAND DESCRIPTION PLAT  
PRC 5557, DUMAS FAMILY TRUST  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

## SITE



4500 NORTH LAKE BLVD., CARNELIAN BAY

NO SCALE

## LOCATION

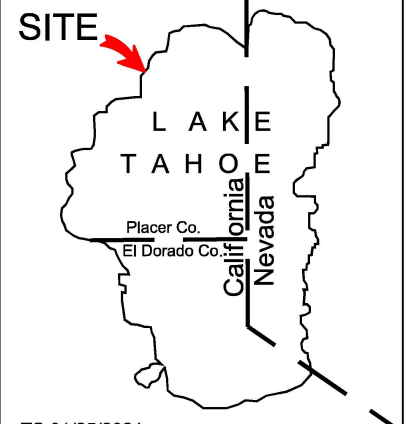


MAP SOURCE: USGS QUAD

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**

PRC 5557  
DUMAS FAMILY TRUST  
APN 091-165-007  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY



TS 01/25/2021