

Staff Report 19

APPLICANT:

Meeks Bay Lakeside, LLC, a California limited liability company

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8209 Meeks Bay Avenue, Meeks Bay, El Dorado County.

AUTHORIZED USE:

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

TERM:

10 years, beginning December 8, 2021.

CONSIDERATION:

\$1,253 per year, with an annual Consumer Price Index adjustment; and compensation for the unauthorized occupation of state land in the amount of \$623.

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 the 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.

STAFF ANALYSIS AND RECOMMENDATION:

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 May 24, 2012, the Commission authorized termination of a Recreational Pier Lease, Lease PRC 7353.1, issued to Joseph William May and Betty L. May, Trustees or their successors in trust under the Joseph William May and Betty L. May Declaration of Trust dated 05-28-93; and issuance of a General Lease – Recreational Use to Meeks Bay Lakeside, LLC, a California limited liability company, for the use and maintenance of an existing pier, boat lift, and two mooring buoys ([Item C07, May 24, 2012](#)).

On December 5, 2012, the Commission authorized a correction of its prior authorization to correct the termination date of Lease PRC 7353.1, a Recreational Pier Lease, from April 22, 2011, to June 15, 2011; and the start date of Lease 7353, a General Lease – Recreational Use, from April 23, 2011 to June 16, 2011 ([Item C07, December 5, 2012](#)).

On June 22, 2017, Commission staff conducted a review of the rent as called for in the lease. The Commission authorized an amendment of the lease and adjustment of rent from \$2,065 per year to \$1,432 per year, effective June 16, 2017 ([Item C26, June 22, 2017](#)). The lease expired on June 15, 2021. The Applicant has agreed to pay \$623 in compensation for the unauthorized occupation of state land from June 16, 2021 through December 7, 2021, the day before the Commission meeting when the proposed new lease begins.

The Applicant is now applying for a General Lease – Recreational Use for the use and maintenance of the existing pier, boat lift, and two mooring buoys previously authorized by the Commission and an existing antenna and conduit not previously authorized by the Commission. The Applicant was unaware that the existing antenna and conduit, both of which are located on the pier, were required to be separately identified in the lease and considered as authorized improvements by the Commission. The antenna and conduit provide the only internet service available to the Applicant and were approved by TRPA.

The Applicant holds a current TRPA permit for the existing boat lift and two mooring buoys (Registration No.10404) as of September 4, 2019.

The Applicant owns the upland parcel adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, boat lift, and two mooring buoys are 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 pilings, providing public access for pedestrians and for lake-related activities at varying water levels underneath the pier. The immediate area of the existing pier is gently sloped with boulders and cobble. The two mooring buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The conduit and antenna are installed directly on the pier, and so do not interfere with Public Trust uses in the area.

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, as the owner of the improvements on state land,

may be required to remove the pier, boat lift, two mooring buoys, antenna, and conduit, 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 Areas 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 \$623 for the unauthorized occupation of State lands for the period beginning June 16, 2021 through December 7, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 8, 2021, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys previously authorized by the Commission and an antenna and conduit 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 \$1,253, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 7353

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 29, 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

All those lands underlying an existing pier, catwalk and boat lift lying adjacent to those parcels described in Grant Deed recorded June 16, 2011 in Document Number 2011-0027676-00 in Official Records of said El Dorado 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 parcel of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded June 16, 2011 in Document Number 2011-0027676-00 in Official Records of said El Dorado County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 07/29/2021 by the California State Lands Commission Boundary Unit.



NO SCALE



LAKE

EXISTING
BUOYS (2)

TAHOE

EXISTING
CATWALK
30' x 3'

60'±

50'±

EXISTING
BOAT LIFT &
IMPACT AREA
9' x 20'

9' IMPACT
AREA

EXISTING
PIER
90' x 8'

6223'± LTD

APPROX.
SHORELINE

APN
016-051-035

EXHIBIT A

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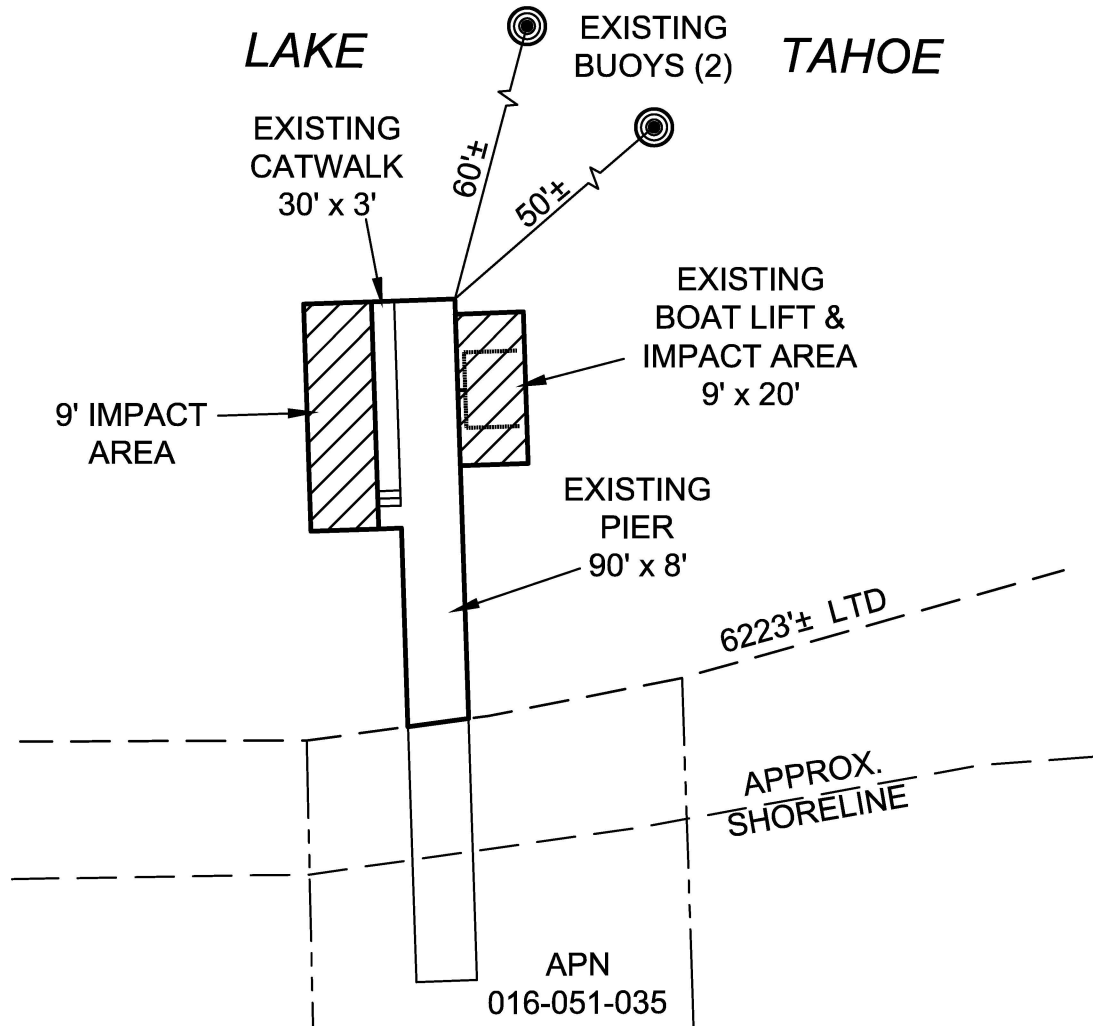
LAND DESCRIPTION PLAT
LEASE 7353, MEEKS BAY LAKESIDE, LLC
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



8209 MEEKS BAY AVENUE, MEEKS BAY

NO SCALE

LOCATION

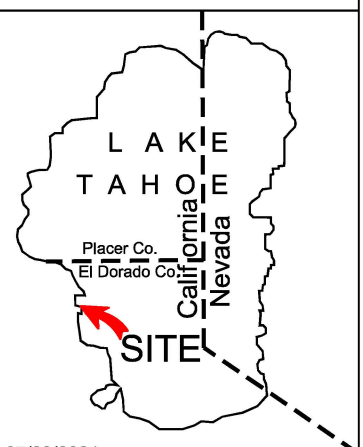


MAP SOURCE: USGS QUAD

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

LEASE 7353
MEEKS BAY LAKESIDE, LLC
APN 016-051-035
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



TS 07/29/2021