

Staff Report 26

APPLICANT:

Sara Skinner

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 227 Drum Road, near Meeks Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring buoys; removal of one 4-inch-diameter freshwater intake pipeline with electrical conduit and pump; and placement of one 6-inch-diameter freshwater intake pipeline with electrical conduit and pump.

TERM:

10 years, beginning December 8, 2021.

CONSIDERATION:

\$1,264 per year, with an annual Consumer Price Index adjustment; and \$4,752 to compensate for the unauthorized occupation of state sovereign land for the period beginning May 1, 2018 through December 7, 2021.

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 improvements authorized by the Commission.

- 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 this Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by 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 revised Exhibits shall be incorporated in this Lease as though fully set forth herein.
- Construction activities will be performed pursuant to the specific terms identified in the Lease, including that the Lessee obtain all necessary permits and authorizations prior to commencing work, requirements pertaining to construction equipment, debris, and the provision to Lessor of specified documents related to the construction activities.

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 5, 2008, the Commission authorized a Recreational Pier Lease for a pier and two mooring buoys to Sara Skinner ([Item C08, May 5, 2008](#)). The lease expired on April 30, 2018. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier and two mooring buoys; removal of one 4-inch-diameter freshwater intake pipeline with electrical conduit and pump; and placement of one 6-inch-diameter freshwater intake pipeline with electrical conduit and pump.

Staff recommends issuance of a new lease beginning December 8, 2021. Staff further recommends the Commission accept compensation from the Applicant for the unauthorized occupation of state land in the amount of \$4,752 for the period beginning May 1, 2018, the day after the Applicant’s lease expired, through December 7, 2021, the day before the proposed lease begins. The proposed lease provides for application of the lease’s indemnity provisions to this period of unauthorized occupation.

The 4-inch-diameter freshwater intake pipeline has existed in the lake since 1957 and the Applicant has domestic use water rights under a riparian claim established in 1957 that has been continuous to date. The Applicant's California State Water Resources Control Board Water Right ID number is S021179. The North Tahoe Fire District requested the Applicant replace the current pipeline with a 6-inch-diameter pipeline with an adjacent 2-inch-diameter electrical conduit and pump to accommodate an expansion of the upland residence. TRPA permitted the 4-inch-diameter pipeline, pier, and two mooring buoys and issued a permit to the Applicant to re-size the pipeline as part of a larger permit to rebuild the residence in March 2020.

The 4-inch-diameter pipeline will be removed and the 6-inch-diameter pipeline will be laid on the bed of Lake Tahoe in the same location. The removal and placement of the pipelines is not expected to cause significant suspension of sediment. Any disturbance to prime fish habitat will be mitigated at a 1:1 ratio. A Tahoe yellow cress inspection will be performed during the growing season directly before the activities take place. If any is found, an avoidance and mitigation plan will be required. The water will be pumped upland to supply the residence with domestic water and fire suppression sprinklers and the pipeline will terminate at a fire hydrant adjacent to the Applicant's driveway.

The proposed activities will take place after all required approvals have been obtained. The Applicant will follow all construction methods and timeframes provided by TRPA, the Lahontan Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the U.S. Army Corps of Engineers. The proposed lease provides that work is required to be completed by December 8, 2024.

The Applicant owns the upland parcel adjoining the lease premises. The pier and two 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 freshwater intake pipeline with electrical conduit and pump is not associated with traditional Public Trust uses. However, they occupy a small area of the lakebed, do not interfere with Public Trust activities, and there is not a feasible alternate water source for domestic or fire suppression use.

The pier and two mooring buoys 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 a gently sloped pebble beach. The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The Applicant registered the buoys with TRPA on September 19, 2019 (Registration #11155).

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 prior lessee, may not place the 6-inch-diameter freshwater pipeline with electrical conduit and pump and may be required to remove the pier, two mooring buoys, and the 4-inch-diameter freshwater intake pipeline with electrical conduit and pump 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. **Existing Pier and Buoys:** 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.

4. **Replacement of Intake Pipeline with Electrical Conduit and Pump:** Staff recommends that the Commission find that this activity is exempt from the requirements of the 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.

APPROVAL OBTAINED:

Tahoe Regional Planning Agency

APPROVALS REQUIRED:

U.S. Army Corps of Engineers
California Department of Fish and Wildlife
Lahontan Regional Water Quality Control Board

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Pier and Buoys: 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).

Replacement of Intake Pipeline with Electrical Conduit and Pump: 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 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 \$4,752 for unauthorized occupation of state land for the period beginning May 1, 2018 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 and two mooring buoys; removal of one 4-inch-diameter freshwater intake pipeline with electrical conduit and pump; and placement of one 6-inch diameter freshwater intake pipeline with electrical conduit and pump, 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 \$1,264, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 3849

LAND DESCRIPTION

Four parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 20, 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 and catwalk lying adjacent to that parcel described in Quitclaim Deed recorded December 11, 2006 in Document Number 2006-0084615-00 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 parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Quitclaim Deed recorded December 11, 2006 in Document Number 2006-0084615-00 in Official Records of said El Dorado County.

PARCEL 4 – WATER LINE

All those lands underlying an existing 6 inch fire and domestic water line lying adjacent to that parcel described in Quitclaim Deed recorded December 11, 2006 in Document Number 2006-0084615-00 in Official Records of said El Dorado 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 07/30/2020 by the California State Lands Commission Boundary Unit.



NO SCALE

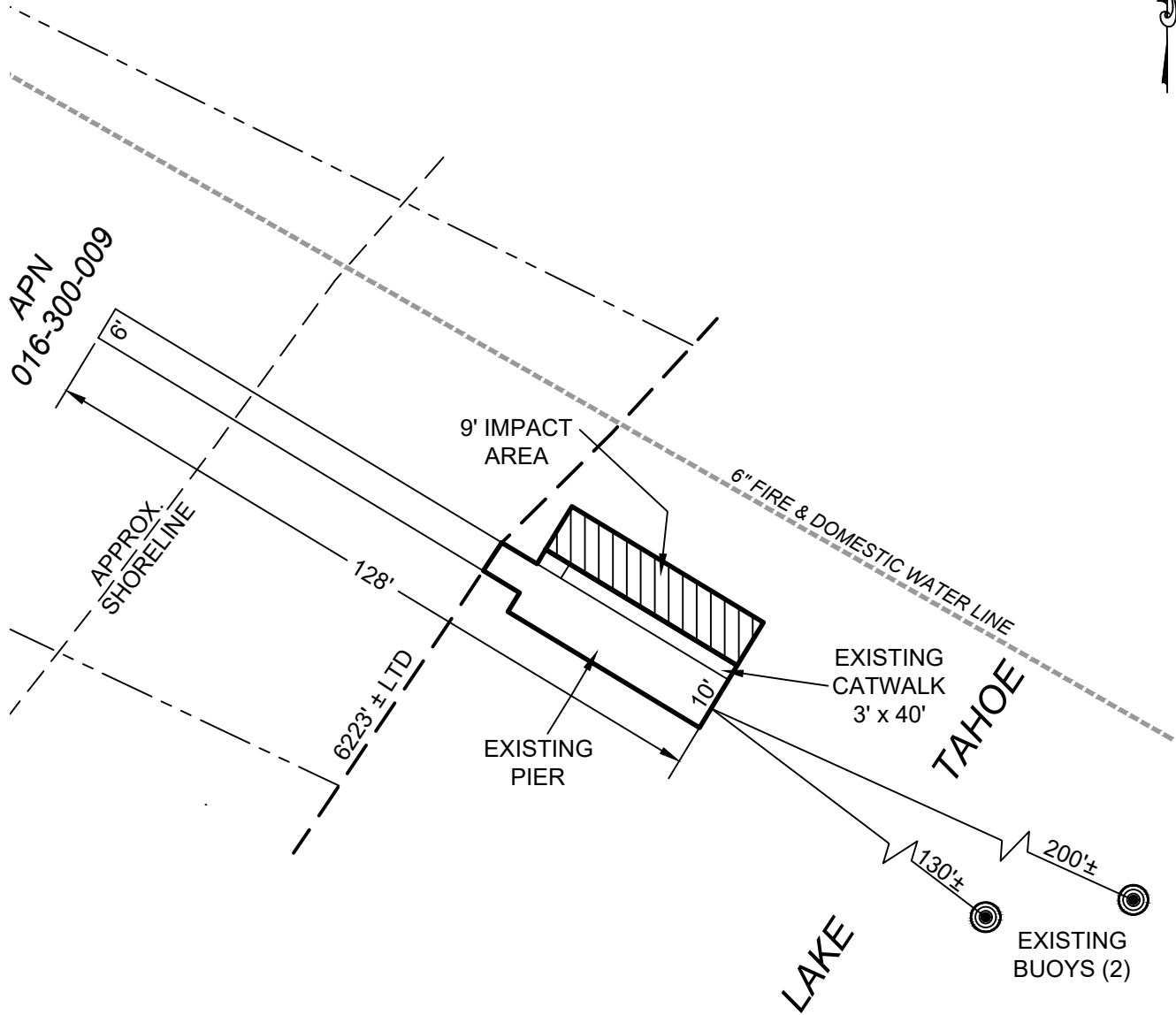


EXHIBIT A

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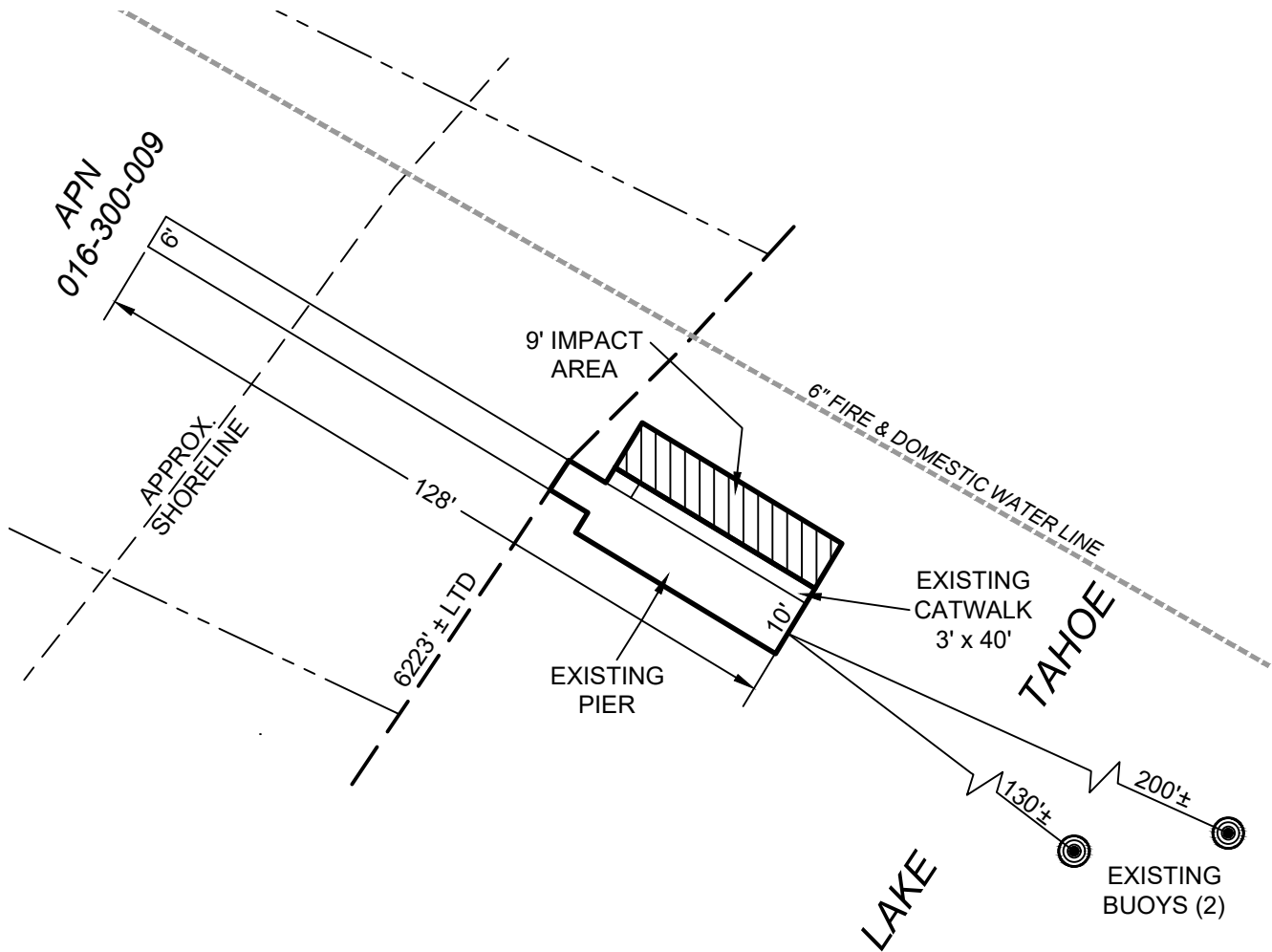
LAND DESCRIPTION PLAT
LEASE 3849, SKINNER
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



227 DRUM ROAD, NEAR 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.

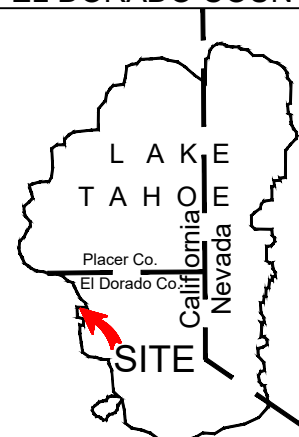
Exhibit B

LEASE 3849

SKINNER

APN 016-300-009

GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



TS 07/30/2020