

Staff Report 27

LESSEE:

Virginia K. Stock and George Johannessen

PROPOSED ACTION:

Amendment of Lease

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5568 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Use and maintenance of two existing mooring buoys.

TERM:

10 years, beginning June 1, 2019.

CONSIDERATION:

\$754 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Authorize the construction, use, and maintenance of a pier, boat lift, and catwalk; and removal of one existing mooring buoy.
- Include special provisions related to construction.
- Include a special provision requiring that the public be allowed to pass and repass 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.
- Revise the annual rent from \$754, with an annual Consumer Price Index adjustment, to \$985, with an annual Consumer Price Index adjustment, effective December 8, 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, 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 read: This lease is for a fixed term of years and contains no options or rights of renewal. If Lessee desires to occupy the Lease Premises beyond the term of this Lease, Lessee shall submit an application and minimum expense deposit for a new lease at least one year prior to the expiration of this Lease. Submission of an application does not guarantee a new lease will be granted to Lessee. 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:

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, 2019, the Commission authorized a General Lease – Recreational Use to Virginia K. Stock and George Johannessen, for two existing mooring buoys ([Item 20, June 28, 2019](#)). That lease will expire on May 31, 2029. The Lessee registered the subject buoys with the Tahoe Regional Planning Agency (TRPA) under Permit Number 10476. On April 29, 2021, TRPA issued a conditional permit to the Lessee, for the construction of a new single-parcel pier as referenced under ERSP2020-0074. The Lessee is now applying for an amendment of their General Lease –

Recreational Use for the construction, use, and maintenance of a pier, boat lift, and catwalk; and the removal of one existing mooring buoy in Lake Tahoe.

The proposed project involves a single-use pier located lakeward of the upland residence. The subject pier will be approximately 108-feet long by 6-feet wide, with a pierhead of 30-feet long by 10-feet wide. The pier will have a single-pile, open-pier design, supported by 11 single steel pilings (10.75-inch diameter), spaced 15 feet on-center. The proposed pier will contain two sets of access stairs to ensure public access, attached and supported by two 2.5-inch pipes. The proposed catwalk will be approximately 30 feet long by 3 feet wide and located on the north side of the pier. The proposed boat lift will be located on the south side of the pier. Further, the Lessee will remove one existing mooring buoy with anchor and tackle in exchange for installation of the proposed boat lift. The Lessee will retain one existing mooring buoy, as previously authorized by the Commission.

The proposed project will be performed on-site with access to the site from the lake. The project will be constructed with the use of a floating/amphibious barge, and materials will be transported via barge to the site. Caissons will be installed around the pilings during installation to reduce sediment resuspension from escaping the project area. The caissons will not be removed until sediment has settled. Construction materials will be stored within the barge, rather than on the shoreline, and protected from discharge into the lake. Materials, equipment storage, and fabrication will take place in a shop and on the barge. Construction of the beams, joists, and decking will take place above the surface of Lake Tahoe. Construction may take place only after all required approvals have been obtained from the appropriate regulatory bodies. The Lessee will follow all construction methods and timeframes provided by TRPA, Lahontan Regional Water Quality Control Board, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers. All moorings will be registered with TRPA. The proposed project received a conditional permit from TRPA. TRPA conducted a Tahoe Yellow Cress Survey (TYC) on July 14, 2021. The survey showed no TYC present at the proposed site. The Lessee has exhibited due diligence by applying for permits with all applicable regulatory agencies.

The Lessee owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The subject improvements 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 pier's design will allow for public access laterally across the shoreline. The public may use the access stairs at the landward end of the pier within the Public Trust easement. The lease requires the Lessee to post signs on both sides of the pier at the designated public access passageway that reads "Public Passage Allowed Over Stairs." In exchange for approval to install the boat lift, the Lessee will remove one existing mooring buoy to comply with TRPA regulations.

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 and restore the lease premises to their original condition.

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.

CLIMATE CHANGE:

Climate change significantly affects inland non-tidal lakes such as Lake Tahoe. The frequency and severity of natural disasters like flooding, wildfire, drought, extreme heat, and storms is increasing throughout the state of California, including the Sierra Nevada mountains, and will continue to accelerate through the end of the century. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events and shifts in seasonal characteristics. According to California's Fourth Climate Change Assessment, released in 2018, the most significant impacts of climate change in the Sierra Nevada Region are more intense heat, precipitation extremes, declining snowpacks, and changes in streamflow timing. The long-term warming trend will lead to warmer and shorter winters, and longer and dryer summers. Successive dry and warm winters are resulting in minimal snowpack, increased winter stream flows and floods, and decreased spring and summer runoff. Prolonged low lake levels will become normal. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions interfere with boat launching and mooring facilities. This impact is most noticeable where the facilities are sited on shallow, low gradient lake bottom locations.

Dry winters will be punctuated with exceedingly wet years where prolonged and excessive precipitation can produce flash floods. High precipitation in these years will result in higher lake levels, causing beaches to narrow and reducing public access. Extra saturation of the soil can increase erosion, especially following intense

wildfire seasons. Surface runoff water may carry more sediment into the lake, adversely impacting water quality and clarity. Climate change may also lead to more intense and unpredictable winds and storm events. These storms may deviate from prevailing wind patterns for the region. These winds can accelerate shoreline erosion in some areas or cause erosion in areas not typically subject to erosion. Additionally, these winds can increase wave damage on structures and boats along the lake. Shoreline structures authorized under this lease may require more frequent inspection and maintenance to ensure they are not displaced during storm events. Watercraft moored to buoys, piers, or docks are also vulnerable to damage from high wind events and excessive waves.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease amendment will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the lease; 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 Lessee could not construct the new proposed improvements and may be required to remove all existing improvements. Upon expiration or prior termination of a 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" and "Leading Climate Change Activism" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. **Construction of Pier, Boat Lift, and Catwalk:** 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).
4. **Removal of Mooring Buoy:** 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.

Authority: Public Resources Code section 21084, California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

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:

Construction 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Removal of Mooring 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the construction, use, and maintenance of the new pier, boat lift, and catwalk; the removal 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 7949, a General Lease - Recreational Use, effective December 8, 2021, for the construction, use, and maintenance of a pier, boat lift, and catwalk; use of one existing mooring buoy; and removal of one existing mooring buoy, to include special lease provisions related to construction and public access; to revise rent from \$754 per year, with an annual Consumer Price Index adjustment, to \$985 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

LEASE 7949

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 15, 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 a proposed pier with catwalk and boat lift lying adjacent to those parcels described in Grant Deed recorded December 21, 2012 as Document Number 2012-0123274-00 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.

PARCEL 2– BUOY

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to those parcels described in Grant Deed recorded December 21, 2012 as Document Number 2012-0123274-00 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 plan for 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 10/11/2021 by the California
State Lands Commission Boundary Unit.



NO SCALE

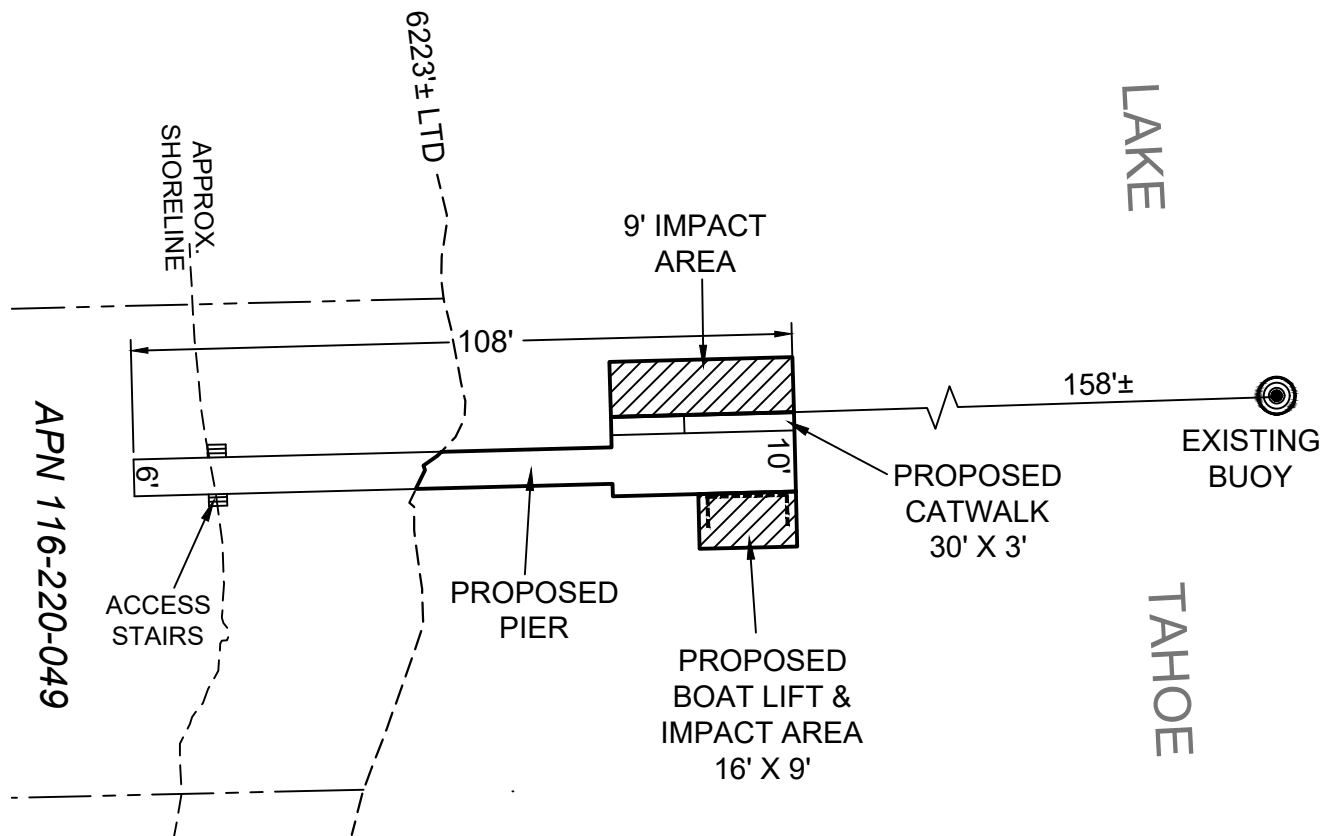


EXHIBIT A

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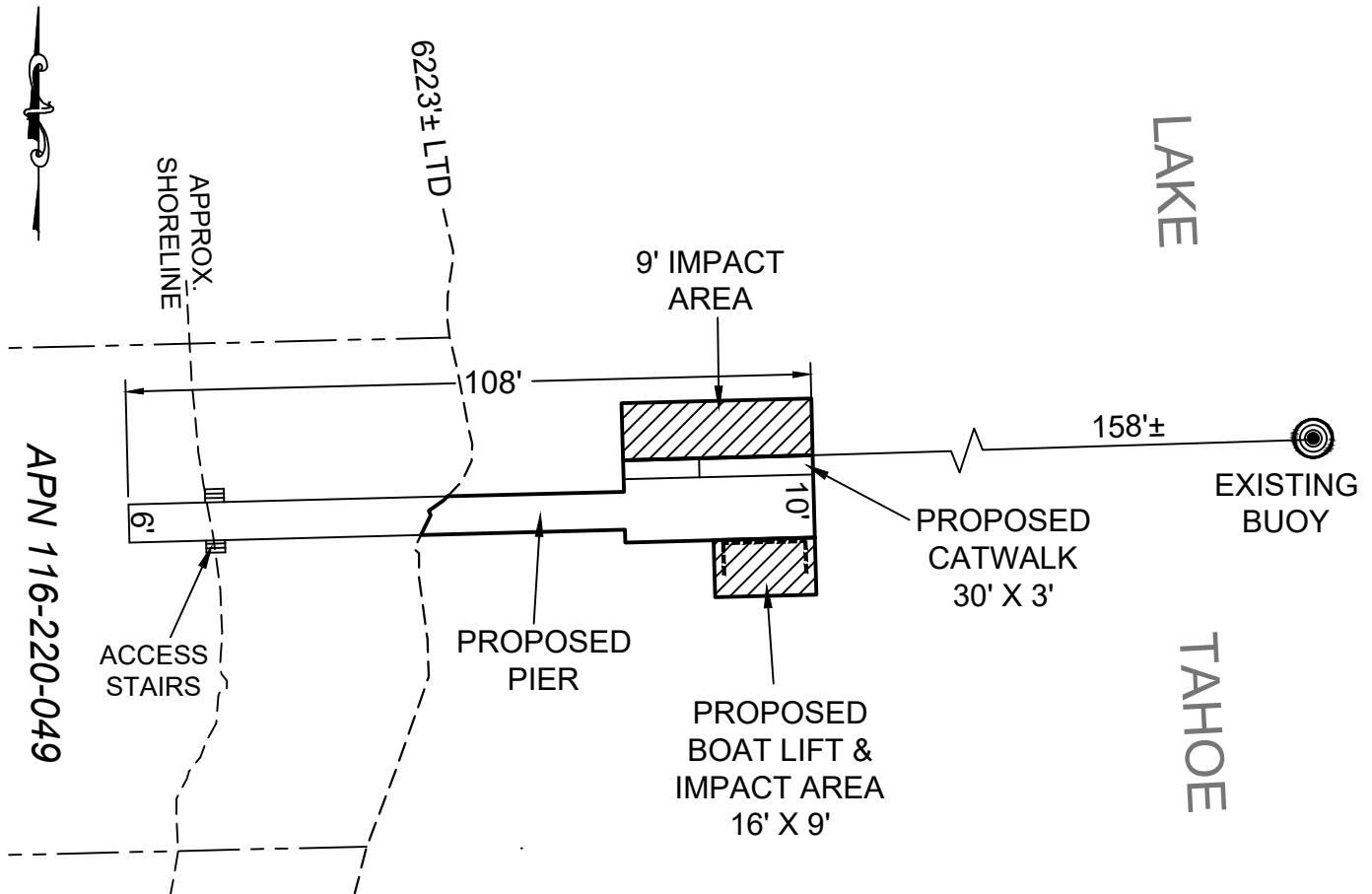
LAND DESCRIPTION PLAT
LEASE 7949, STOCK & JOHANNESSEN
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

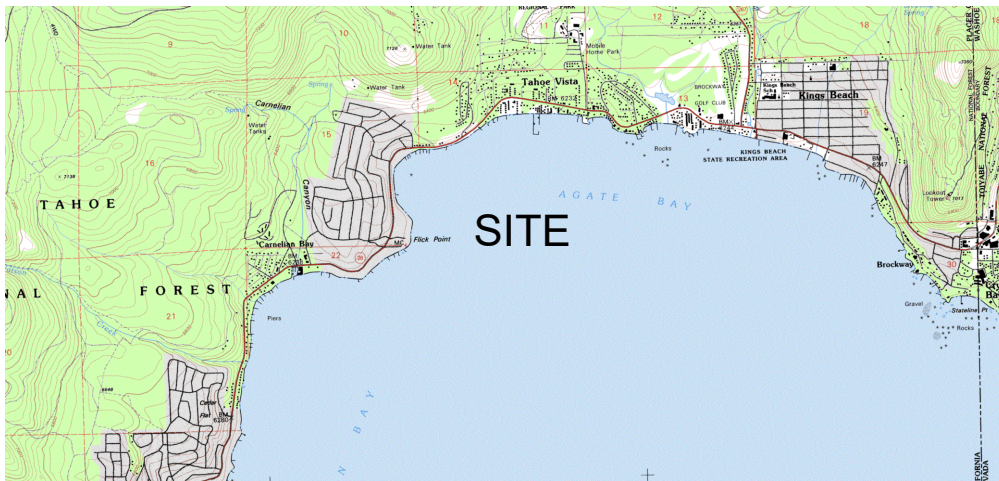
SITE



5568 NORTH LAKE BLVD., NEAR CARNELIAN BAY

NO SCALE

LOCATION

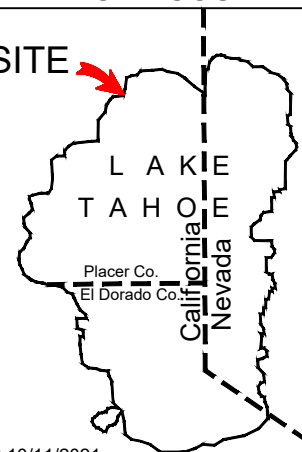


THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.

Exhibit B

LEASE 7949
STOCK & JOHANNESSEN
APN 116-220-049
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



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