

Staff Report 36

LESSEE/ASSIGNOR:

Danelle James and Edward Kavalerchik

APPLICANT/ASSIGNEE:

Marie Louise Klemchuk, as Trustee of the Hen House Trust, dated September 29, 2017

PROPOSED ACTION:

Assignment of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 8645 Beach Lane, near Tahoma, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boathouse with boat lift, boat hoist, and two mooring buoys.

TERM:

10 years, beginning February 4, 2019

CONSIDERATION:

\$1,539 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- 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.

- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing, and lake-related recreation.

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 February 4, 2019, the Commission authorized the issuance of a General Lease – Recreational Use for the continued use and maintenance of an existing pier, boathouse with boat lift, boat hoist, and two mooring buoys to Danelle James and Edward Kavalerchik ([Item C02, February 4, 2019](#)). The lease expires on February 3, 2029.

On May 10, 2021, ownership of the upland parcel transferred to Marie Louise Klemchuk, as Trustee of the Hen House Trust, dated September 29, 2017. The Applicant is applying for assignment of a General Lease – Recreational Use, for the continued use and maintenance of the existing pier, boathouse with boat lift, boat hoist, and two mooring buoys. In April 2021, the Lessee registered the mooring buoys with TRPA (Permit Number 10835). The effective date of the assignment will be May 10, 2021, to coincide with the Applicant's acquisition of the upland property and dominion and control over the improvements on state sovereign land. Having acquired the upland, the Applicant will be better able to maintain the lease improvements and fulfill the lease obligations than the existing lessee.

Approval of this lease assignment will not result in a change in the use of, or impacts to, Public Trust resources at this location, at this time, and for the foreseeable term of the lease. For these reasons, staff recommends finding that approval of this assignment is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. The Commission cannot unreasonably deny an assignment to a qualified party. The Assignee is qualified to hold the lease and no information has been discovered that would provide a basis for withholding the assignment. Upon

expiration or prior termination of the lease, neither the lessee nor the assignee has any right to a new lease or to renewal of any previous lease. If no new lease is granted, the lessee may be required to remove the existing pier, boathouse with boat lift, boat hoist, and two mooring buoys and restore the premises to their original condition.

2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Assignment of the lease is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and the ongoing use of the infrastructure is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease PRC 3868, a General Lease – Recreational Use of sovereign land, as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map (for reference purposes only) attached and by this reference made a part hereof, from Danelle James and Edward Kavalerchik, to Marie Louise Klemchuk, as Trustee of the Hen House Trust, dated September 29, 2017, effective May 10, 2021.

EXHIBIT A

PRC 3868

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 32, 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 with a boat hoist, catwalk, boat house with a catwalk and boat lift lying adjacent to those parcels described in Grant Deed recorded May 10, 2021 in Document No. 2021-0031990 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, each being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded May 10, 2021 in Document No. 2021-0031990 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 10/13/2021 by the California State Lands Commission Boundary Unit.



NO SCALE

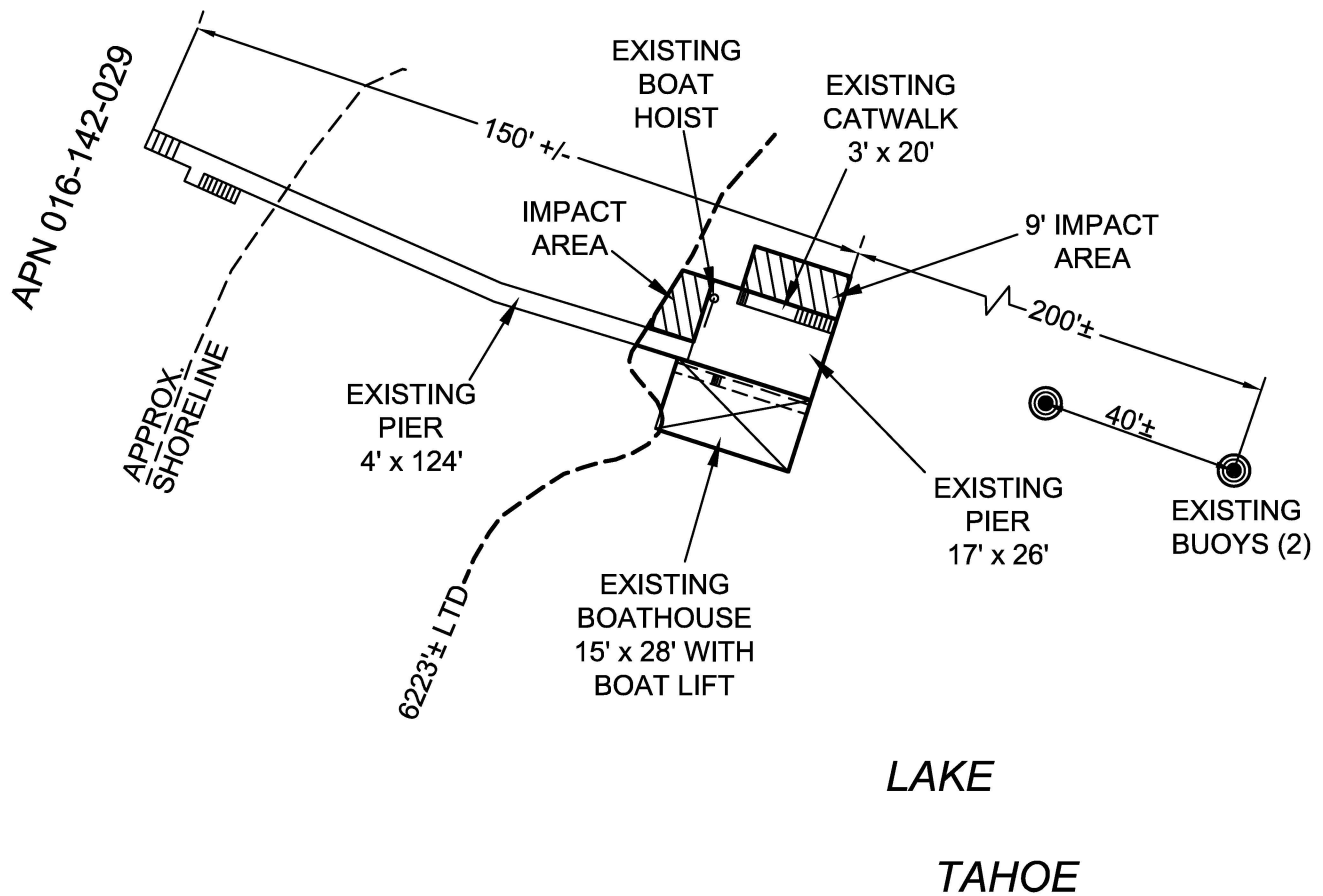


EXHIBIT A

Page 2 of 2

TS 10/13/2021

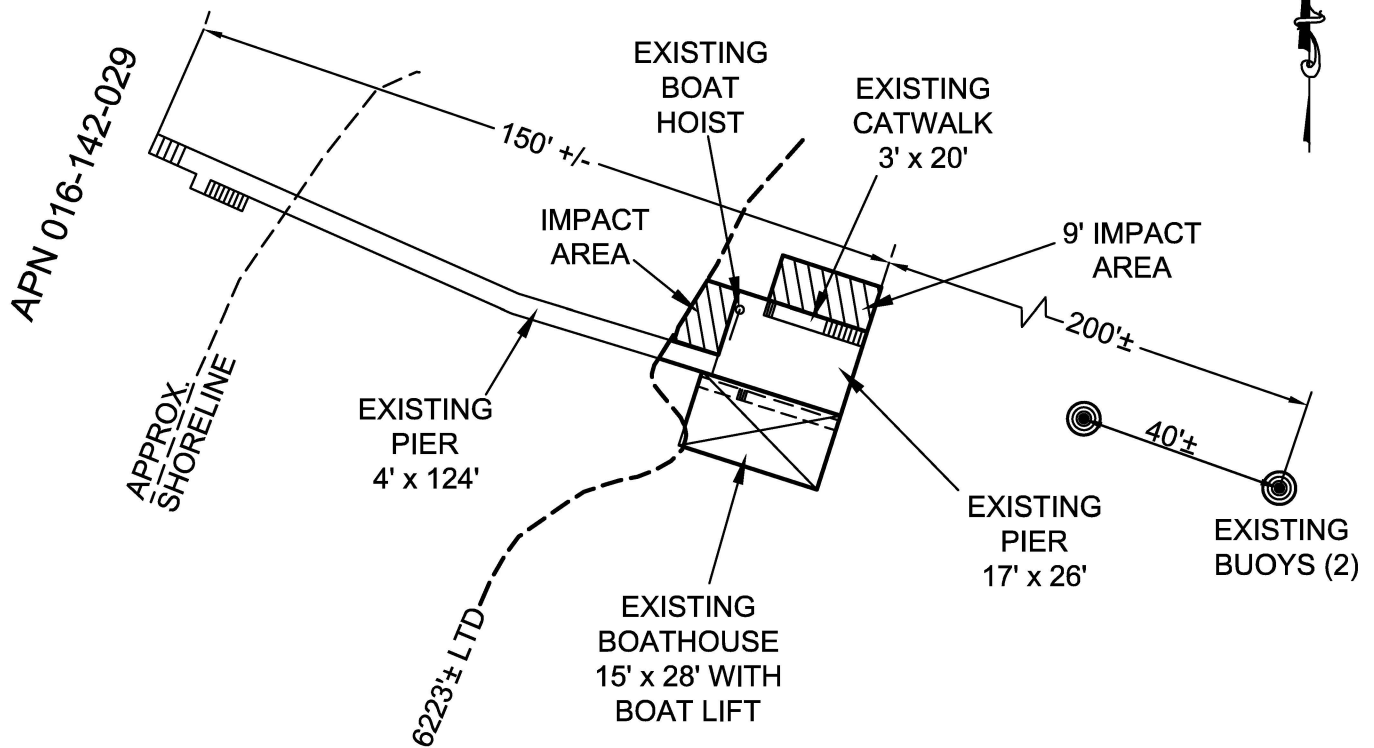
LAND DESCRIPTION PLAT
PRC 3868, HEN HOUSE TRUST
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



LAKE

TAHOE

8645 BEACH LANE, NEAR TAHOMA

NO SCALE

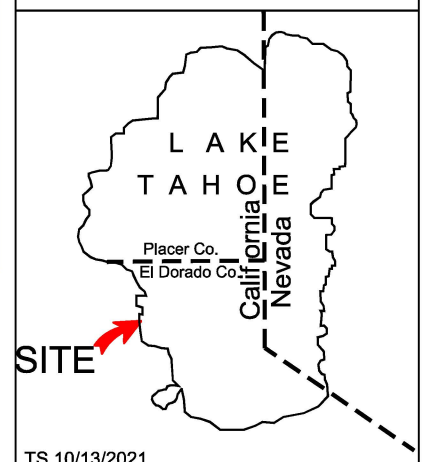
LOCATION



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

PRC 3868
HEN HOUSE TRUST
APN 016-142-029
GENERAL LEASE-
RECREATIONAL USE
EL DORADO COUNTY



TS 10/13/2021