

Staff Report 17

LESSEE:

Alice Russell-Shapiro, as Trustee, or the successor Trustee or Trustees, of the Alice Russell-Shapiro Qualified Personal Residence Trust of 1996, U/A/D May 13, 1996

APPLICANT:

Madeleine Nina Russell-Shapiro and William Haas Russell-Shapiro

PROPOSED ACTION:

Acceptance of a Lease Quitclaim Deed and Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3695 Idlewild Way, near Tahoe City, Placer County.

AUTHORIZED USE:

Use and maintenance of an existing pier, boat lift, two mooring buoys, and freshwater intake pipeline.

TERM:

10 years, beginning February 25, 2022.

CONSIDERATION:

\$1,558 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 that a permit from the Tahoe Regional Planning Agency (TRPA) is required for the Authorized Improvements and failure to obtain

a permit from TRPA and maintain compliance with that permit may result in TRPA imposing civil penalties and will constitute a breach of the lease.

- 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 October 16, 2015, the Commission authorized a General Lease – Recreational Use to Alice Russell-Shapiro, as Trustee, or the successor Trustee or Trustees, of the Alice Russell-Shapiro Qualified Personal Residence Trust of 1996, U/A/D May 13, 1996, for a pier, boat lift, two mooring buoys, and freshwater intake pipeline ([Item C07, October 16, 2015](#)). The lease expires on November 30, 2025, and the Lessee now wishes to execute a quitclaim deed to release their interest in the existing lease.

On February 10, 2021, upland ownership was transferred to the Applicant. The Applicant is applying for a General Lease – Recreational Use for the use and maintenance of a pier, boat lift, two mooring buoys, and freshwater intake pipeline. On December 31, 2020, the Applicant registered all moorings with TRPA (Registration No. 10711).

Staff recommends acceptance of a lease quitclaim deed from the current Lessee and issuance of a new lease to Applicant beginning February 25, 2022, to coincide with the date of the Commission meeting. The Commission's accounting records show the annual rent is paid through November 30, 2022. This rent will be prorated through February 24, 2022, and the remaining amount of \$1,437.70 paid for the period of February 25, 2022 through November 30, 2022, will be credited towards the rent owed for the new proposed lease.

The pier, boat lift, and two mooring buoys are privately owned and maintained 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 pier and boat lift are built on pilings with the immediate upland area of the pier being relatively flat with fine sands. Public access for pedestrians and lake-related activities is available at varying water levels underneath the pier and by passing through the upland parcel within the Public Trust easement.

The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. 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 freshwater intake pipeline is not associated with traditional Public Trust uses. However, it occupies a small area of the lakebed, does not interfere with Public Trust activities, and there is not a feasible alternate water source for domestic or fire suppression use.

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.

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 streamflows 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 will not substantially interfere with the 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 may be required to remove the pier, boat lift, two mooring buoys, and freshwater intake pipeline, 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 "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.

3. Acceptance of the quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) 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).

4. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of 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, 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 issuance of the lease 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:

1. Find that the existing and, for a limited period, continuing use and maintenance of the freshwater intake pipeline will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and,
2. Find that the existing and, for a limited period, continuing use and maintenance of the freshwater intake pipeline is not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust; and,
3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, dated October 29, 2021 and effective February 25, 2022, of Lease 4232, a General Lease – Recreational Use, issued to Alice Russell-Shapiro, as Trustee, or the successor Trustee or Trustees, of the Alice Russell-Shapiro Qualified Personal Residence Trust of 1996, U/A/D May 13, 1996, wherein the Lessee quitclaims to the State all right, title, and interest in the leased lands described in attached Exhibit A.
2. Authorize proration of annual rent paid under existing Lease Number PRC 4232.1, with rent paid for the period February 25, 2022 through November 30, 2022 to be credited to annual rent due under the proposed lease.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 25, 2022, for a term of 10 years, for the use and maintenance of a pier, boat lift, two mooring buoys, and freshwater intake pipeline, 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 \$1,558, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4232

LAND DESCRIPTION

Four (4) parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 36, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, catwalk, and a boat lift lying adjacent to that parcel described in Quitclaim Deed recorded May 15, 1996 as Document Number 96-027419 in Official Records of said County.

PARCEL 2 – WATER IN-TAKE PIPE

All those lands underlying an existing water in-take pipe lying adjacent to said parcel.

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 3 & 4 – 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 May 15, 1996 as Document Number 96-027419 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 5/19/2021 by the California State
Lands Commission Boundary Unit.





LAKE TAHOE

APN
085-190-003

APPROX.
SHORELINE

6223± LTD

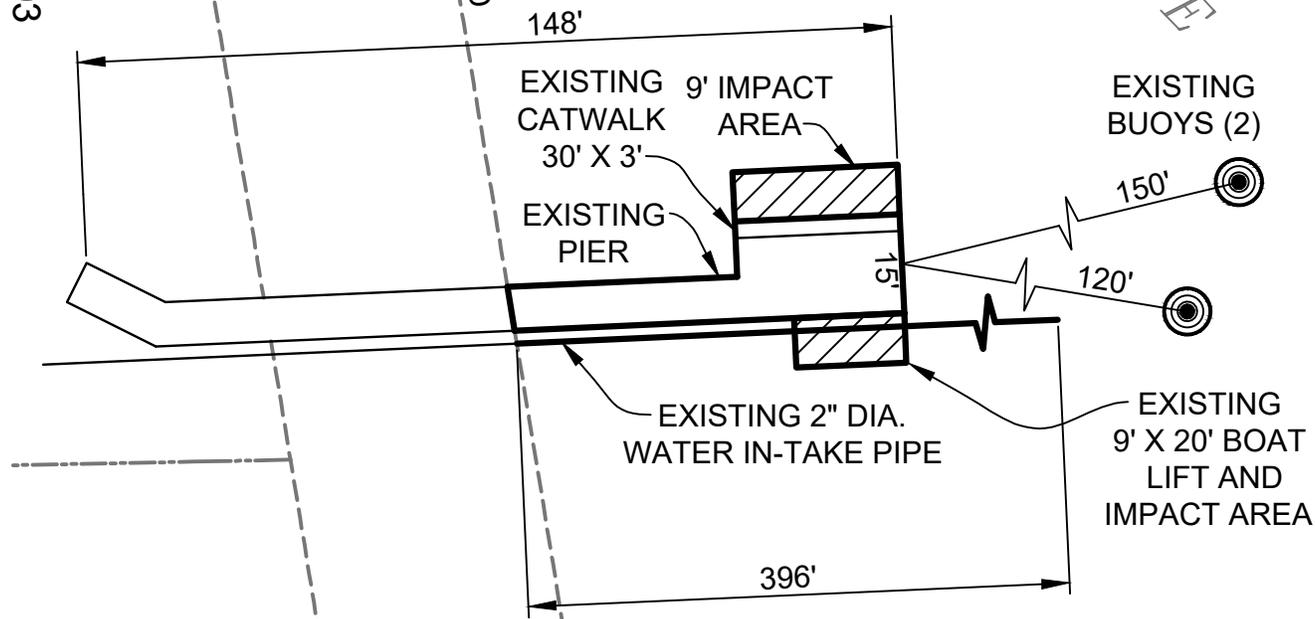


EXHIBIT A

LAND DESCRIPTION PLAT
LEASE 4232, RUSSELL-SHAPIRO TRUST
PLACER COUNTY

CALIFORNIA STATE LANDS
COMMISSION



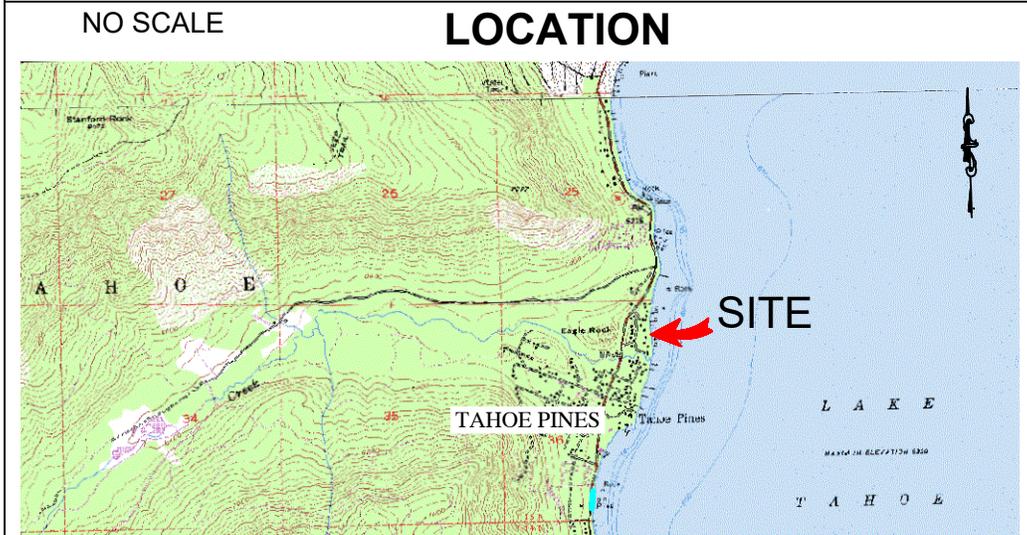
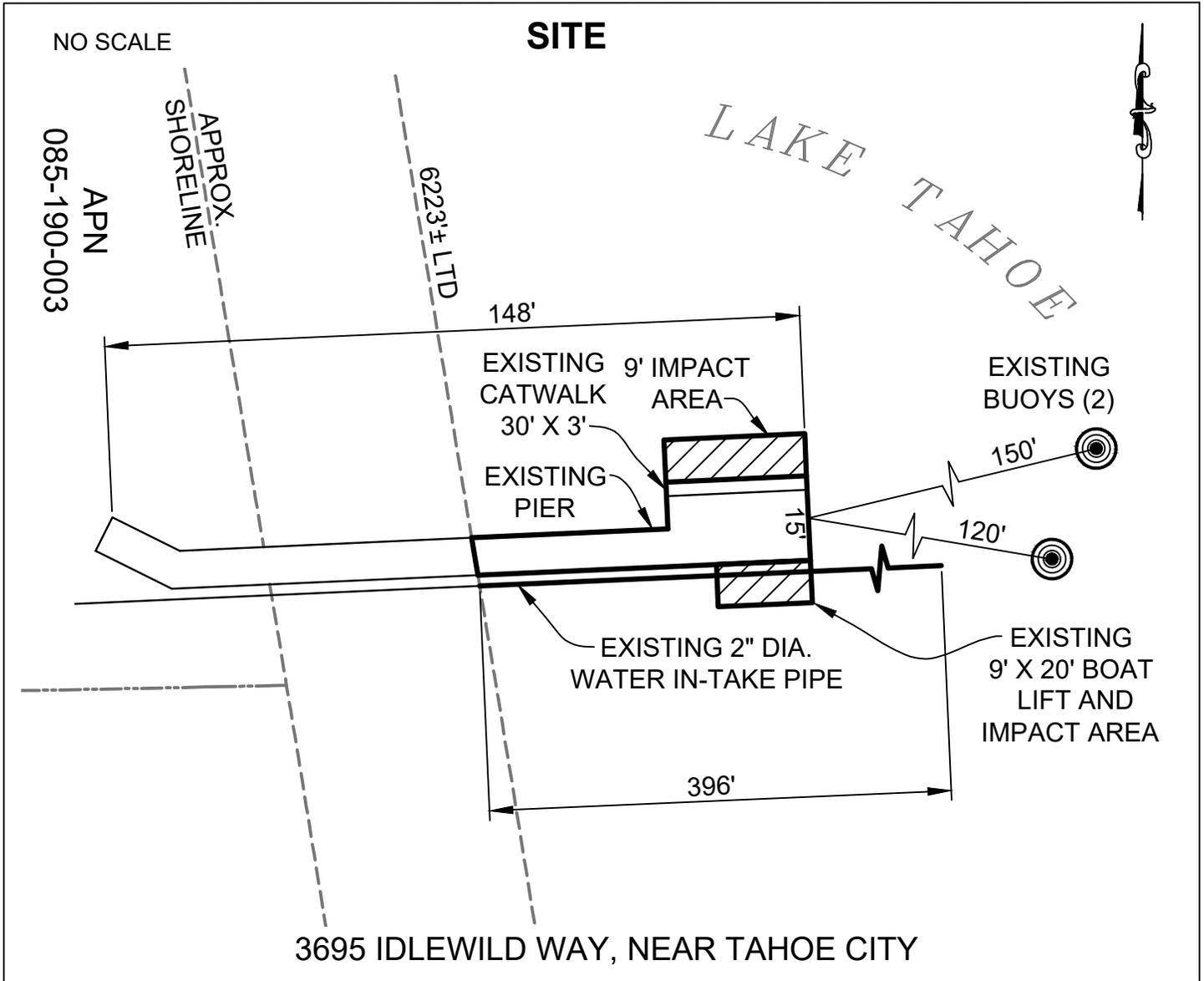


Exhibit B

LEASE 4232
 RUSSELL-SHAPIO TRUST
 APN 085-190-003
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.