

Staff Report 12

APPLICANT:

Herbert H. Hooper, D.D.S., Surviving Trustee of the 2007 Hooper Family Revocable Trust

PROPOSED ACTION:

Issuance of a General Lease -Recreational Use

AREA, LAND TYPE, AND LOCATION

Sovereign land in Lake Tahoe, adjacent to 6073 North Lake Boulevard, near Tahoe Vista, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, open-sided boathouse with boat hoist, sundeck with stairs, and one mooring buoy.

TERM:

10 years, beginning April 1, 2022

CONSIDERATION:

\$2,965 per year, with an annual Consumer Price Index adjustment; and \$2,289 for unauthorized occupation of State land for the period beginning October 1, 2020 to March 31, 2022

SPECIAL 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 recreational uses.
- 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 this lease.

- The lease contains a provision that the existing sundeck with stairs as shown on the attached Exhibit B cannot be expanded or improved, and if repairs to any portion of the existing sundeck or stairs cost more than 50% of the base value of the sundeck and stairs, then the sundeck and stairs must be removed from the lease premises.

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 June 23, 2011, the Commission authorized a General Lease-Recreational Use for the continued use and maintenance of an existing pier, boat hoist, one mooring buoy and a boathouse and sundeck with stairs to Herbert H. Hooper, D.D. S., and Darlene Hooper, as Co-trustee of the 2007 Hooper Family Revocable Trust ([Item C109, June 23, 2011](#)). On October 6, 2010, Darlene Hooper died and Herbert H. Hooper became the surviving Trustee.

The lease expired on September 30, 2020. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier, open-sided boathouse with boat hoist, sundeck with stairs, and one mooring buoy. On March 3, 2022, the Applicant registered the mooring buoy and a boat hoist with TRPA (Registration No. R22-13212).

The Commission's accounting records show the annual rent for the sundeck with stairs is paid through March 31, 2022. No rent was charged for the pier, boathouse, and buoy at the time of the issuance of the prior lease due to the then-in-effect provisions of Public Resources Code 6503.5. Staff recommends the Commission accept compensation from the Applicant in the amount of \$2,289 for the unauthorized occupation of state land for the existing pier, mooring buoy, and boat hoist, for the period beginning October 1, 2020, the day after the lease expired through March 31, 2022, the day preceding issuance of the proposed lease.

The Applicant owns the unimproved littoral land adjacent to Lake Tahoe and the parcel directly across Highway 28. The pier, boathouse with boat hoist, and mooring buoy, are privately owned and maintained, and 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 pier is built on steel pilings with the immediate area of the pier being flat with cobbles, small boulders, and gravel. The topography and location of the upland structure provides access for the pier. Public access for pedestrians and lake related activities is available at varying water levels underneath the pier within the Public Trust easement. The buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake.

The sundeck with stairs is not a trust consistent use. Sundecks that have been in place for years have been permitted if they do not significantly interfere with Public Trust needs or activities. However, lease provisions prohibit the sundeck from being expanded or rebuilt if substantially destroyed.

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.

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 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, Commission staff believes the issuance of this lease does not substantially interfere with the common law Public Trust Doctrine 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 Applicant may be required to remove the pier, boathouse with boat hoist, sundeck and stairs, and one mooring buoy 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. 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 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:

1. Find that issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; and
2. Find that the pier, boathouse, boat hoist, and mooring buoy, used for the docking and mooring of boats, facilitate recreational boating which is a water-dependent use that is generally consistent with the common law Public Trust Doctrine; and
3. Find that the existing and continuing use and maintenance of the sundeck with stairs is not consistent with the Public Trust Doctrine, but the current use does not substantially interfere with Public Trust needs and values at this location for the approved term; and
4. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$2,289 for unauthorized occupation of State land for the period beginning October 1, 2020 to March 31, 2022.
2. Authorize issuance of a General Lease-Recreational Use to the Applicant, beginning April 1, 2022, for a term of 10 years, for an existing pier, boathouse with boat hoist, sundeck with stairs, and one mooring buoy, as described on 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 \$2,965 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4056

LAND DESCRIPTION

Two (2) parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 14, 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 an existing pier, boat house, boat hoist, sundeck, and stairs lying adjacent to that parcel described in Quitclaim Deed recorded September 10, 2018 as Document Number 2018-0065294-00 in Official Records of said County.

PARCEL 2 – BUOY

One circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Quitclaim Deed recorded September 10, 2018 as Document Number 2018-0065294-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 07/08/2020 by the California State Lands Commission Boundary Unit.



APN 117-020-007

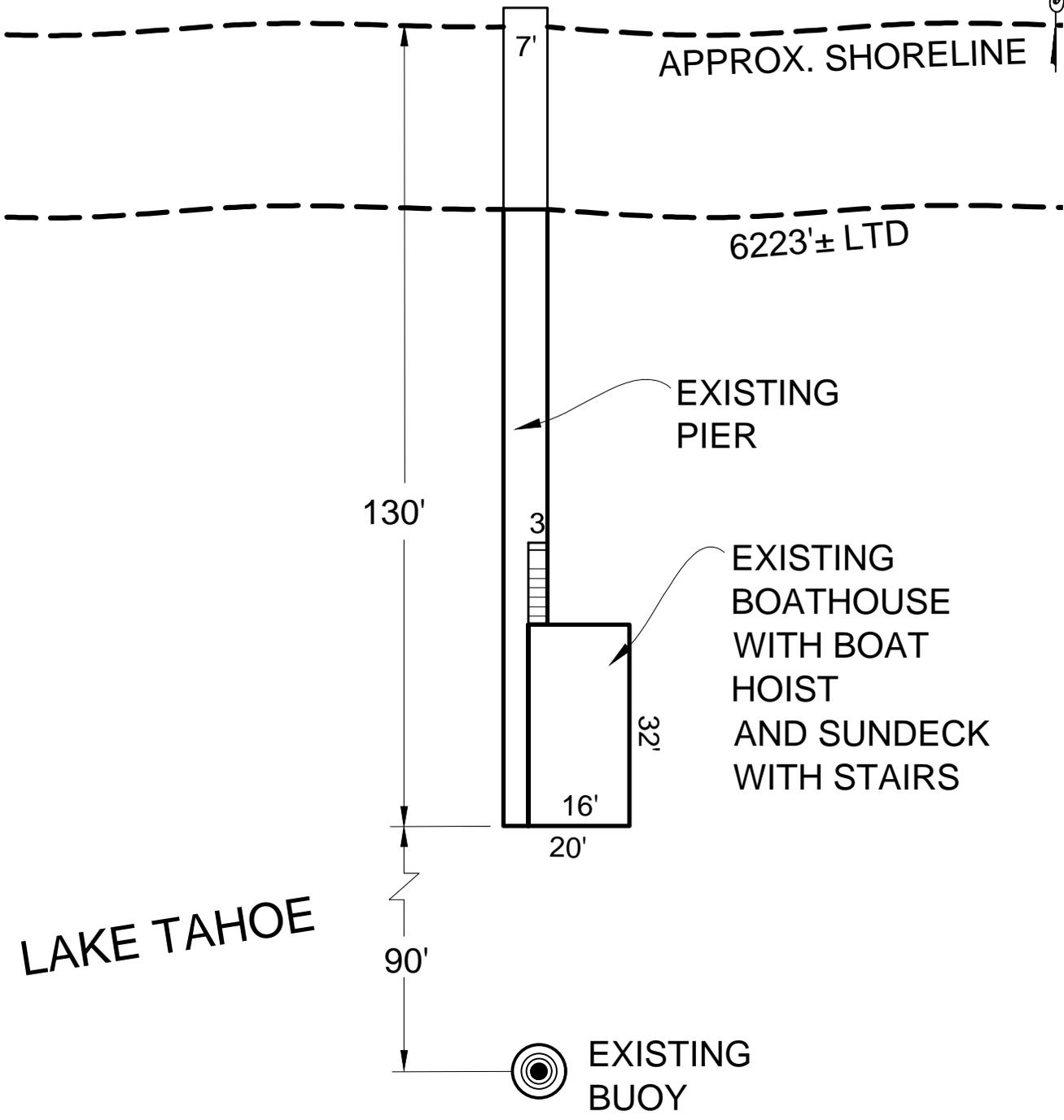


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 4056, HOOPER FAMILY
REVOCABLE TRUST
PLACER COUNTY

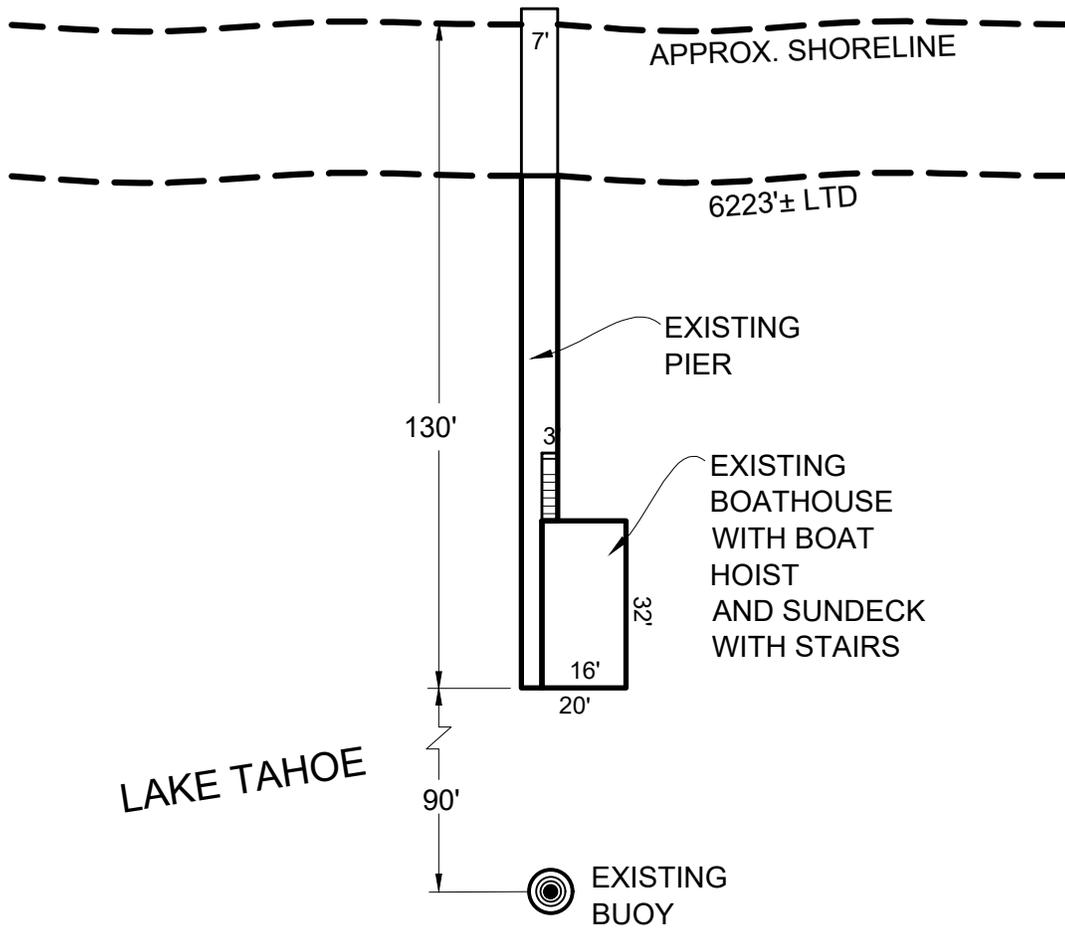
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN 117-020-007



LAKE TAHOE

6073 NORTH LAKE BLVD., NEAR TAHOE VISTA

NO SCALE

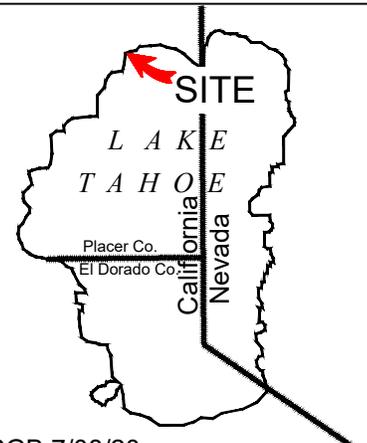
LOCATION



MAP SOURCE: USGS QUAD

EXHIBIT B

LEASE 4056
 HOOPER FAMILY
 REVOCABLE TRUST
 APN 117-020-007
 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.

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