

Staff Report 13

LESSEE:

Wayne D. Jordan and M. Quinn Delaney, as Trustees, or the Successor Trustee or Trustees, U/A/D April 29, 1996, as amended, creating the Jordan/Delaney Family Trust

PROPOSED ACTION:

Amendment of Lease

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 7127 West Lake Boulevard, near Tahoma, El Dorado County.

AUTHORIZED USE:

Use and maintenance of an existing pier, boat lift, water intake line, and two mooring buoys.

TERM:

10 years, beginning July 1, 2017.

CONSIDERATION:

\$1,184 per year, with an annual Consumer Price Index adjustment

SPECIFIC LEASE AMENDMENT PROVISIONS:

- Authorize the construction of a pier extension, relocation of an existing boat lift, installation of an adjustable catwalk, and removal of an existing catwalk.
- Include special provisions related to construction.
- Revise the annual rent from \$1,184, with an annual Consumer Price Index adjustment, to \$1,384, with an annual Consumer Price Index adjustment.
- 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).

- The public will be allowed to pass and repass over the pier using stairs, with signs posted on each side of the pier, to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 Lake Tahoe datum. Lessee shall post signs identifying the designated public passageway.
- 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 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 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.
- Construction activities will be performed pursuant to the specific terms identified in the Lease Amendment, and Lessee shall obtain and submit all necessary permits and authorizations prior to commencing work including requirements pertaining to construction.

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, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On August 17, 2017, the Commission authorized a General Lease – Recreational Use to Wayne D. Jordan and M. Quinn Delaney, as Trustees, or the Successor Trustee or Trustees, U/A/D April 29, 1996, as amended, creating the Jordan/Delaney Family Trust for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys previously authorized by the Commission, and use and maintenance of an existing water intake line not previously authorized by the Commission ([Item 07, August 17, 2017](#)). The boat lift and mooring buoys are registered with the Tahoe Regional Planning Agency (TRPA) (Registration No. 10219). Lessee submitted an application to amend the lease to allow construction of a pier extension, relocation of the existing boat lift, installation of an adjustable

catwalk, and removal of an existing catwalk. During recent droughts, lower lake water levels have made access to the piers inaccessible by boats. The proposed pier extension will provide access to the pier during low water conditions.

The Lessee owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The 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 lands (Pub. Resources Code, § 6503.5).

The existing pier is built on pilings over a rock jetty with the immediate area of the pier being slightly sloped with decomposed granitic sands and small cobbles. The topography and the location of upland structures provide access for the pier and allow the public to walk or navigate over the pier within the Public Trust easement. 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."

The proposed pier extension consists of removing and replacing deck joists, beams, and decking; installing steel pilings; constructing the pier extension; relocating the existing boat lift; removing an existing catwalk; and installing an adjustable catwalk. All construction will be from a barge.

The proposed lease 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 lease 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 amendment 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 amendment will not substantially interfere with Public Trust needs at this location, at this time, or 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 proposed pier extension, relocate the existing boat lift; remove an existing catwalk; or install an adjustable catwalk. 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" and "Leading Climate Change Activism" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. **Removal and Reconstruction of a Catwalk and Boatlift:** 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 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

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

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

APPROVAL OBTAINED:

TRPA Conditional Pier Extension Permit

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:

Removal and Reconstruction of a Catwalk and Boatlift: 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.

Pier Extension: 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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease amendment 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, or for the foreseeable term of the lease, and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the amendment of Lease Number PRC 3598, a General Lease – Recreational Use, effective April 26, 2022, to allow construction of a pier extension, relocation of an existing boat lift, installation of an adjustable catwalk, and removal of an existing catwalk; to include special lease provisions related to construction and public access; to revise rent to \$1,384 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 leases shall remain in effect without amendment.

2. Authorize the Executive Office or designee to replace the 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.

EXHIBIT A

PRC 3598

LAND DESCRIPTION

Four parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 17, 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 proposed pier extension with catwalk and boat lift lying adjacent to that parcel described in Grant Deed recorded December 9, 1996 in Book 4819 at Page 727 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 that parcel described in Grant Deed recorded December 9, 1996 in Book 4819 at Page 727 in Official Records of said County.

PARCEL 4 – WATER LINE

All those lands underlying an existing two inch water line lying adjacent to that parcel described in Grant Deed recorded December 9, 1996 in Book 4819 at Page 727 in Official Records of said 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

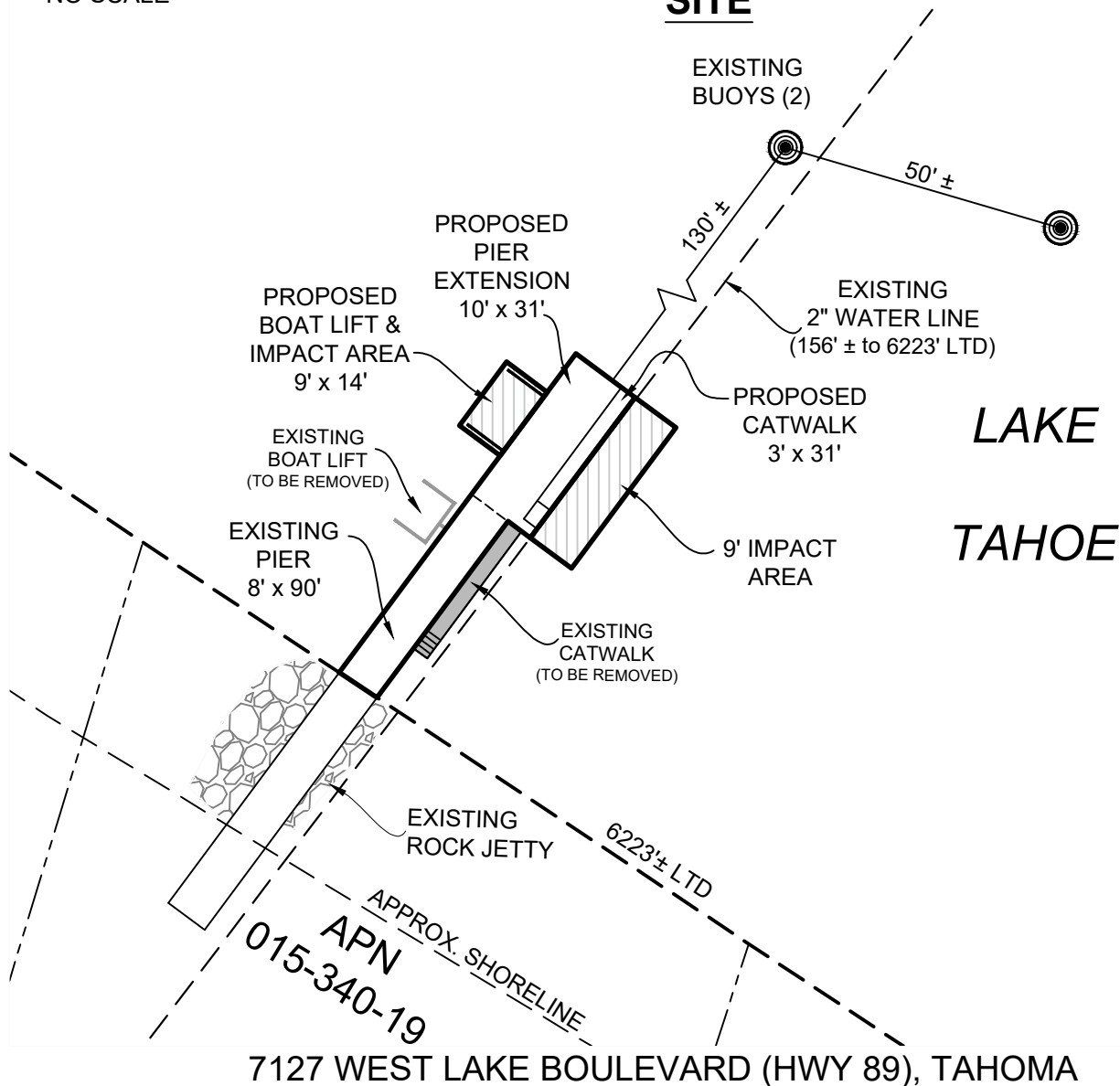
This description is based on Applicant provided design plans for an existing pier and proposed pier extension, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 04/13/2021 by the California State Lands Commission Boundary Unit.



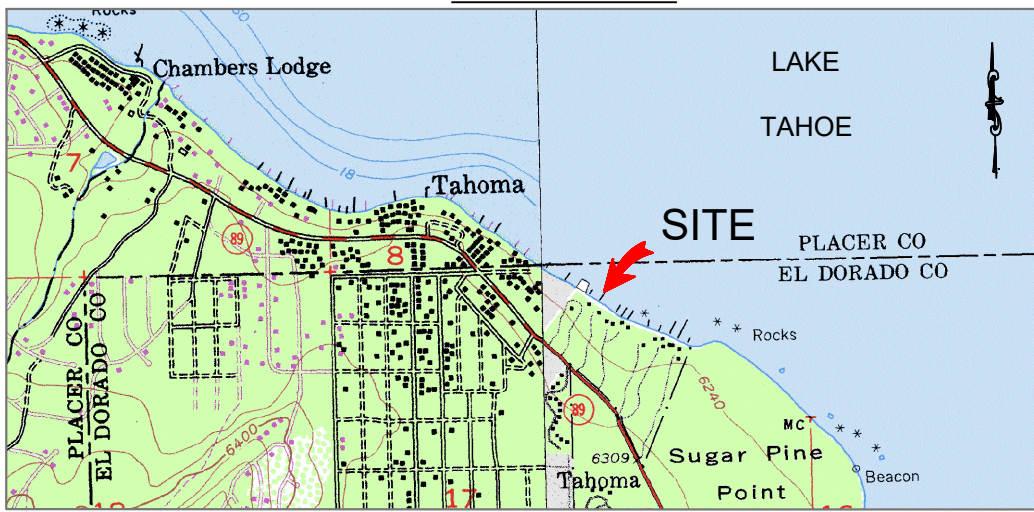
NO SCALE

SITE



NO SCALE

LOCATION

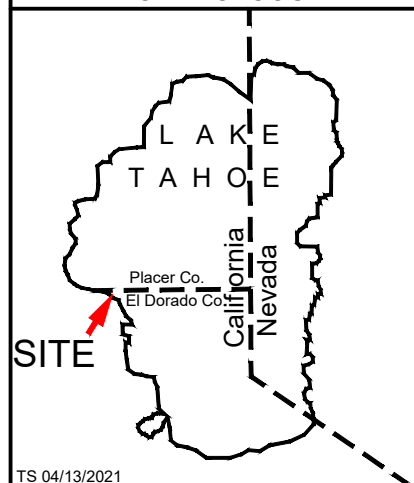


MAP SOURCE: USGS QUAD

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

PRC 3598
JORDAN/DELANEY
FAMILY TRUST
APN 015-340-19
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



TS 04/13/2021