

Staff Report 15

LESSEE:

Robert D. May and Judith T. May, Trustees of the May Family Trust as Amended and updated in 2013

PROPOSED ACTION:

Amendment of Lease

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8441 Meeks Bay Avenue, near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

Use and maintenance of an existing pier and three mooring buoys.

TERM:

10 years, beginning August 23, 2019.

CONSIDERATION:

\$1,641 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Authorize the installation of a boat lift and removal of one existing mooring buoy.
- Require that the public be allowed continuous shoreline access to the Public Trust easement over the pier, via stairs, below elevation 6228.75 feet, Lake Tahoe Datum.
- Revise the annual rent from \$1,641, with an annual Consumer Price Index adjustment, to \$1,266, with an annual Consumer Price Index adjustment, effective April 26, 2022.

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 28, 2019, the Commission authorized acceptance of a Lease Quitclaim Deed and issuance of a General Lease – Recreational Use to Robert D. May and Judith T. May, Trustees of the May Family Trust as Amended and Updated in 2013, for removal and reconstruction/extension of an existing pier; and continued use and maintenance of three existing mooring buoys ([Item C13, June 28, 2019](#)). That lease contained an expiration date of August 22, 2029. The Lessee is now applying

for an amendment of a General Lease – Recreational Use, for the installation of a boat lift and removal of one existing mooring buoy in Lake Tahoe. On January 14, 2022, the Lessee registered the moorings with the Tahoe Regional Planning Agency (TRPA) under registration number 10094. In March 2022, TRPA expressed its intent to move forward with permit issuance for the proposed project. The Commission's accounting records show that annual rent is paid current.

The proposed project involves the removal of one existing mooring buoy in exchange for installation of a boat lift located lakeward of the upland residence. The proposed boat lift will be installed on the southeastern side of the pier and facilitate waterborne activities which are consistent with Public Trust use. The Lessee will remove one mooring buoy to comply with TRPA regulations.

The Lessee owns the upland parcel 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 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 are 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 storm events and winds. 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 install a boat lift or remove one existing buoy. 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 and may be required to remove all existing improvements.

2. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. **Installation of a Boat Lift:** Staff recommends that the Commission find that this activity is exempt from the requirements of California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.
4. **Removal of One 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 and California Code of Regulations, title 14, section 15300.

APPROVALS OBTAINED:

California Department of Fish and Wildlife
Lahontan Regional Water Quality Control Board

APPROVALS REQUIRED:

Tahoe Regional Planning Agency
U.S Army Corps of Engineers

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Installation of a Boat Lift: 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 or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

Removal of One 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 installation of a boat lift and 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 amendment of Lease Number PRC 8983, a General Lease - Recreational Use, effective April 26, 2022, for the installation of a boat lift and removal of one existing mooring buoy, to include provisions related to construction and public access; to revise rent from \$1,641 per year, with an annual Consumer Price Index adjustment, to \$1,266 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.
2. 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.

EXHIBIT A

LEASE 8983

LAND DESCRIPTION

Four parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 29, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier with catwalk and a proposed boat lift lying adjacent to those parcels described in Grant Deed recorded August 23, 2016, as Serial Number 2016-39281 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 & 4 – BUOYS

Three circular parcels of land, each being 50 feet in diameter, underlying two existing buoys and one existing buoy (to be removed) lying adjacent to those parcels described in Grant Deed recorded August 23, 2016, as Serial Number 2016-39281 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 plans for an existing pier and proposed boat lift, 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 01/28/2022 by the California
State Lands Commission Boundary Unit.



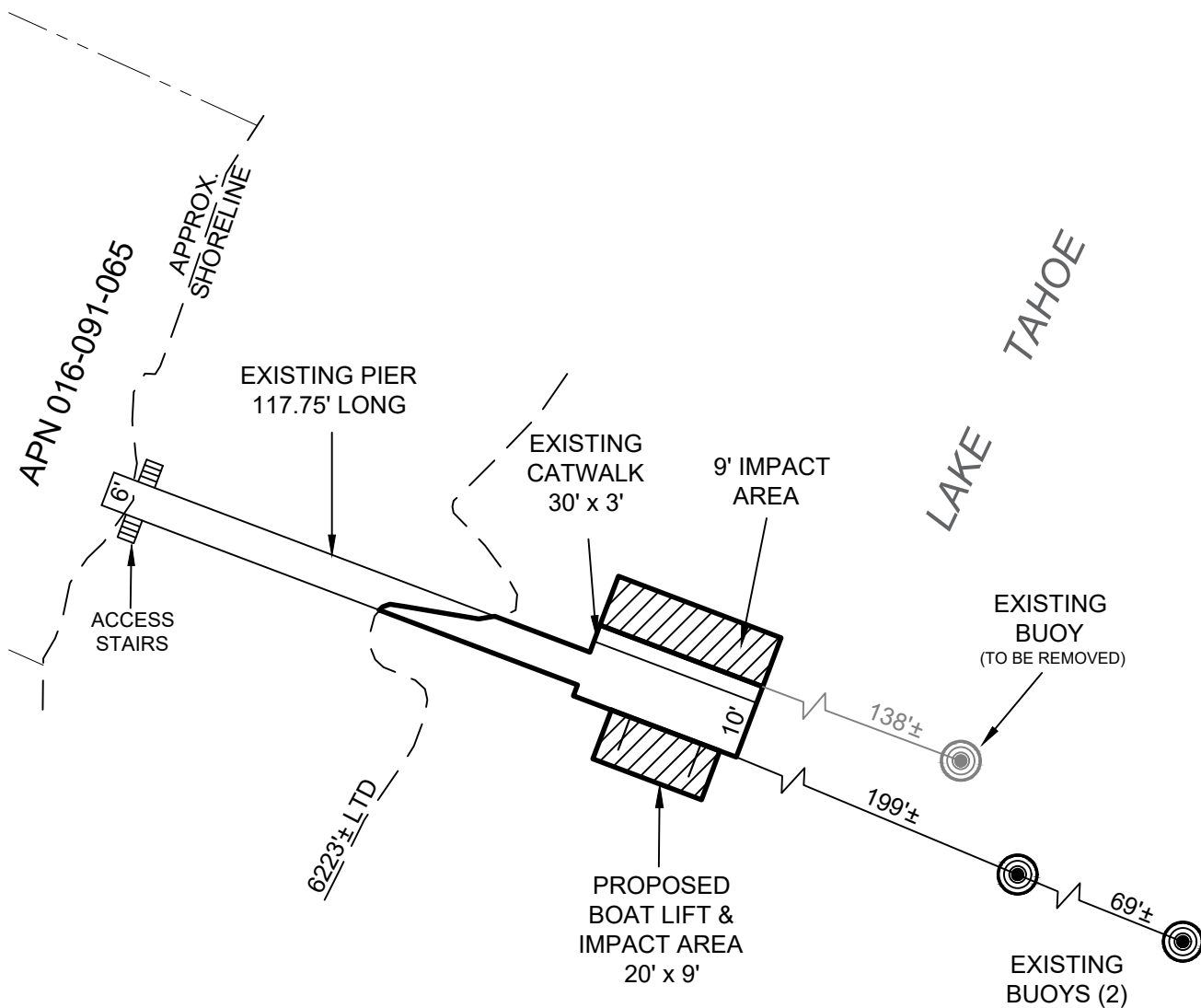


EXHIBIT A

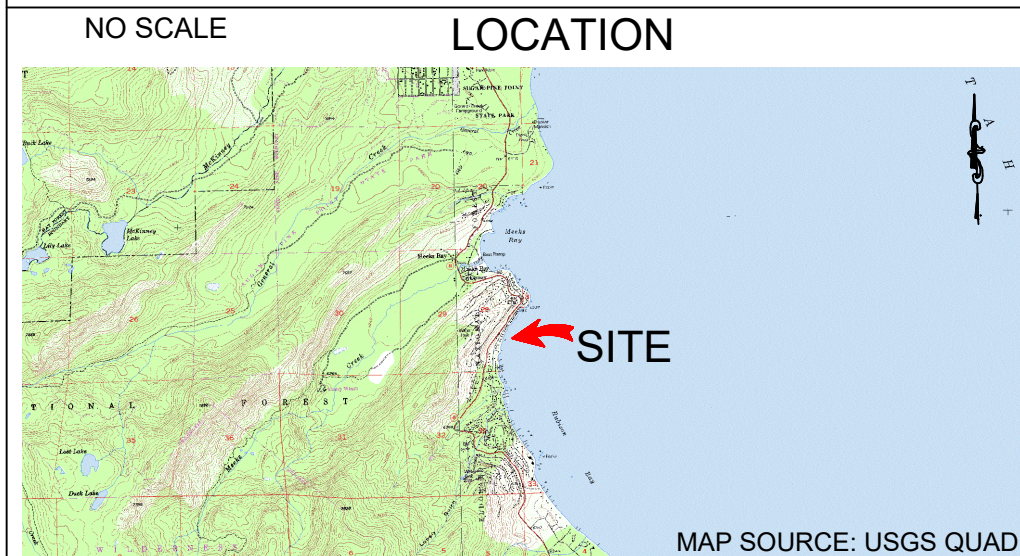
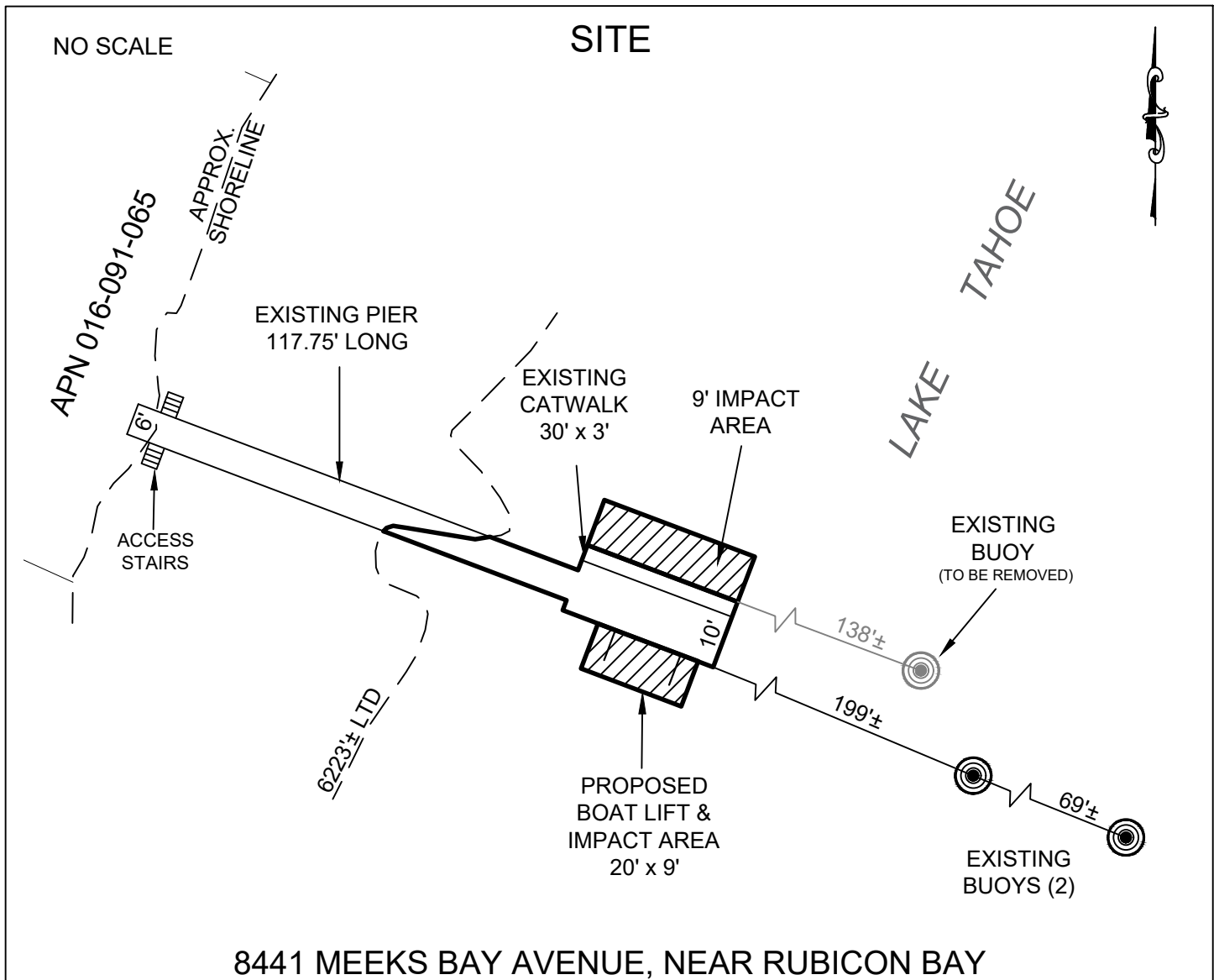
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DT 01/28/2022

LAND DESCRIPTION PLAT
LEASE 8983, MAY FAMILY TRUST
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION





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.

