

Staff Report 04

APPLICANT:

Jonathan C. Corn, Trustee of the Folding Door Trust dated April 29, 2019 and Taylor Family Investments, LLC, a Nevada limited liability company

PROPOSED ACTION:

Issuance of a General Lease -Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2480 and 2490 West Lake Boulevard, near Sunnyside, Lake Tahoe, Placer County

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier, two boat lifts, and two mooring buoys previously authorized by the Commission, and two existing water intake pipelines with electrical conduits and submerged pumps not previously authorized by the Commission.

TERM:

10 years, beginning June 23, 2022.

CONSIDERATION:

\$2,063 per year, with an annual Consumer Price Index adjustment; and \$9,180 for the unauthorized occupation of state land through June 22, 2022.

SPECIFIC LEASE 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.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5;
California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 9, 2009, the Commission authorized a General Lease – Recreational Use to Alan D. Harley and JoAnn W. Harley, Trustees of the Alan D. Harley and JoAnn W. Harley Trust, initially created April 12, 1995 (6/12 interest); and Marilyn Belk Wallis and Edward James Wallis, Co-Trustees of the 1996 Jamee Gray Wallis Trust; Marilyn Belk Wallis and Edward James Wallis, Co-Trustees of the 1996 Charlotte Pierce Wallis Trust; and Edward James Wallis, Trustee of the Edward James Wallis Trust dated September 26, 1989, for removal of an existing pier, boathouse and boat hoist; construction of a new joint-use pier and two boat lifts; and continued use and maintenance of two existing previously authorized mooring buoys adjacent to 2490 West Lake Boulevard, near Sunnyside, Placer County ([Item 02, April 9, 2009](#)).

On April 10, 2009, the littoral parcel identified as Placer County Assessor Parcel Number (APN) 084-121-012 transferred from Alan D. Harley and JoAnn W. Harley Trust (Harley) to Frederic B. Luddy (Luddy). On October 22, 2009, the Commission authorized an assignment of lease from Harley to Luddy ([Item 05, October 22, 2009](#)). On January 22, 2018, Luddy transferred the parcel to Frederic B. Luddy, Trustee of the Frederic B. Luddy Family Trust dated October 17, 2013. On May 28, 2018, the parcel was transferred to Jonathan C. Corn, Trustee of the Folding Door Trust dated April 29, 2019. No notification was provided to the Commission regarding change of ownership after October 22, 2009.

On September 16, 2011, the upland parcel identified as APN 084-121-013 transferred from Marilyn Belk Wallis and Edward James Wallis to Taylor Family Investments, LLC. On September 30, 2015, Taylor Family Investments, LLC transferred the parcel to Taylor Family Investments, LLC, a Nevada limited liability company. No notification was provided to the Commission regarding change of ownership associated with APN 084-121-013.

The Applicant submitted an application in September 2021.

Staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$9,180 for the period through June 22, 2022.

The subject pier, two boat lifts, two mooring buoys, and water intake pipelines are privately owned and maintained. The pier and mooring buoys are used for the docking and mooring of boats and facilitates 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). Although the water intake pipelines are not related to Public Trust use, their presence and location do not interfere with public access and enjoyment of the lake. The facilities have existed at this location for many years.

The pier is a joint-use pier subject to a TRPA permit and perpetual reciprocal easement agreement that includes joint use of the pier and buoys. On January 25, 2006, a Grant of Reciprocal Easements, between Harley and Wallis for the joint use of the pier facilities was recorded. The buoys are located directly lakeward of the upland property and occupies a relatively small area of the Lake. The two mooring buoys and two boat lifts are registered with TRPA (Registration numbers 11298, 11489, and 11550).

The subject facilities have existed for many years at this location. The pier is built on pilings with a pier deck elevation of 6,232 feet providing public access for pedestrians and for lake related activities at varying water levels underneath the pier. The immediate area of the pier is gently sloped with sand and pebbles near the shoreline with large cobbles and pebbles lakeward.

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.

Improvements 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 Public Trust needs at this location, at this time, and for the foreseeable term of the proposed 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 joint-use pier with two boat lifts, two mooring buoys, and two water intake pipelines with conduits and submerged pumps 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 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 the California Environmental Quality Act (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 the existing joint-use pier, two boat lifts, and two mooring buoys used for the docking and mooring of boats, facilitate recreational boating which is a water-dependent use that is consistent with the common law Public Trust Doctrine; and
2. Find that the existing and, for a limited period continuing use and maintenance of two water intake pipelines with electrical conduits and submerged pumps is not generally 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 proposed term; and
3. 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 \$9,180 for unauthorized occupation of State land for the period beginning June 23, 2017 through June 22, 2022.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 23, 2022, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier, two boat lifts, and two mooring buoys previously authorized by the Commission; and two existing freshwater intake pipelines with electrical conduits and submerged pumps not previously authorized by the Commission, 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 \$2,063 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4314

LAND DESCRIPTION

Five parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 fractional Section 24, Township 15 North, Range 16 East, MDM., as shown on Official Government Township Plat approved April 11, 1884, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing joint-use pier and catwalk lying adjacent to that parcel as described in Exhibit “A” of that Grant Deed recorded June 13, 2019 as Document Number 2019-0040356 and Exhibit “A” of that Quitclaim Deed recorded October 6, 2015 as Document Number 2015-0087754 of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCEL 2 & 3 – BUOYS

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels as described in said Grant Deeds.

PARCEL 4 – EAST WATER INTAKE

All those lands underlying an existing galvanized steel water intake pipe, pvc electrical conduit, and submersible pump situated east of said existing joint-use pier and lying adjacent to those parcels as described in said Grant Deeds.

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCEL 5 – WEST WATER INTAKE

All those lands underlying an existing galvanized steel water intake pipe, pvc electrical conduit, and submersible pump situated west of said existing joint-use pier and lying adjacent to those parcels as described in said Grant Deeds.

EXCEPTING THEREFROM any portion(s) 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

Prepared May 27, 2022 by The California State Lands Commission Boundary Unit.



NO SCALE

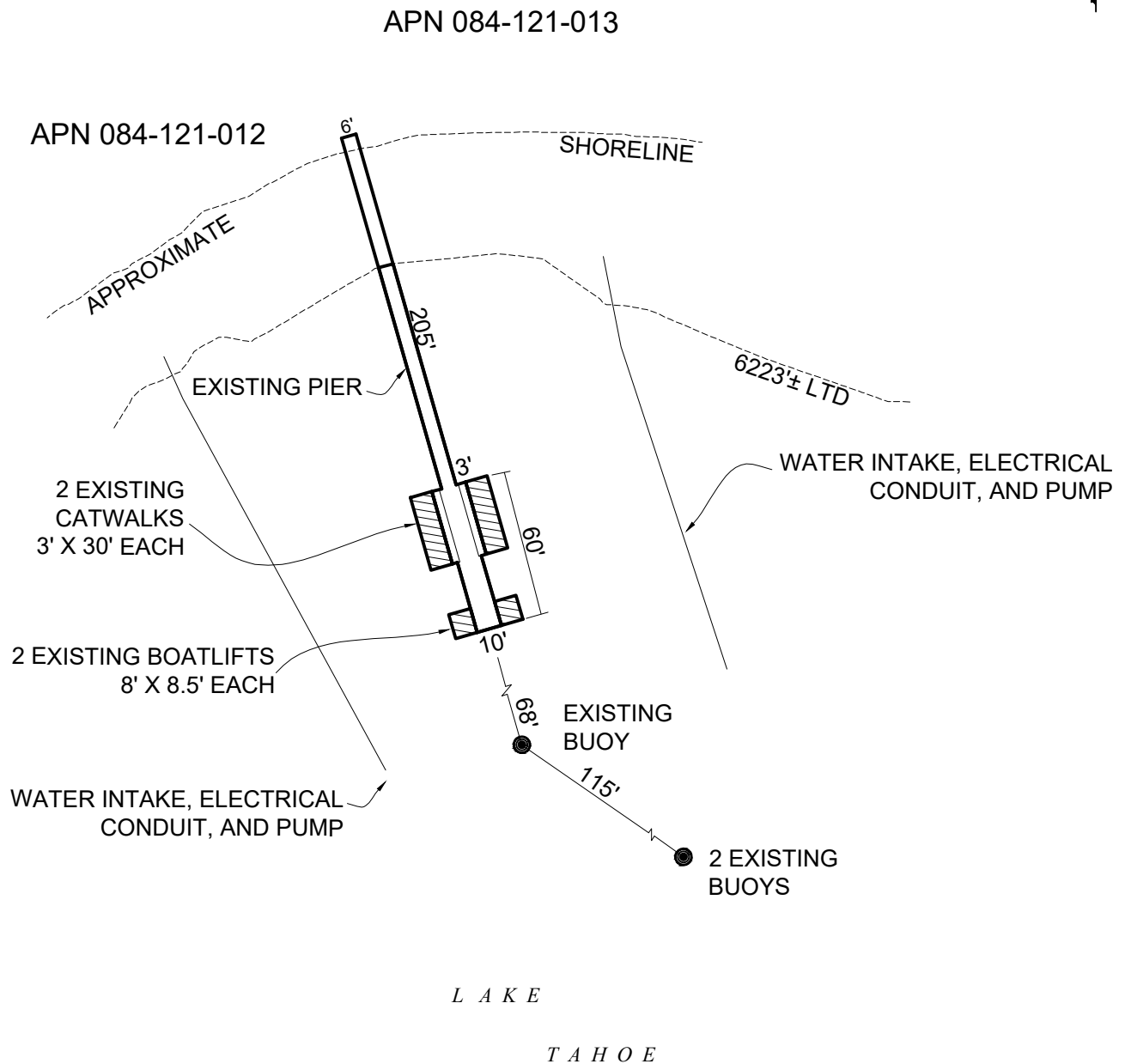


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 4314, CORN & TAYLOR
FAMILY INVESTMENTS
PLACER COUNTY

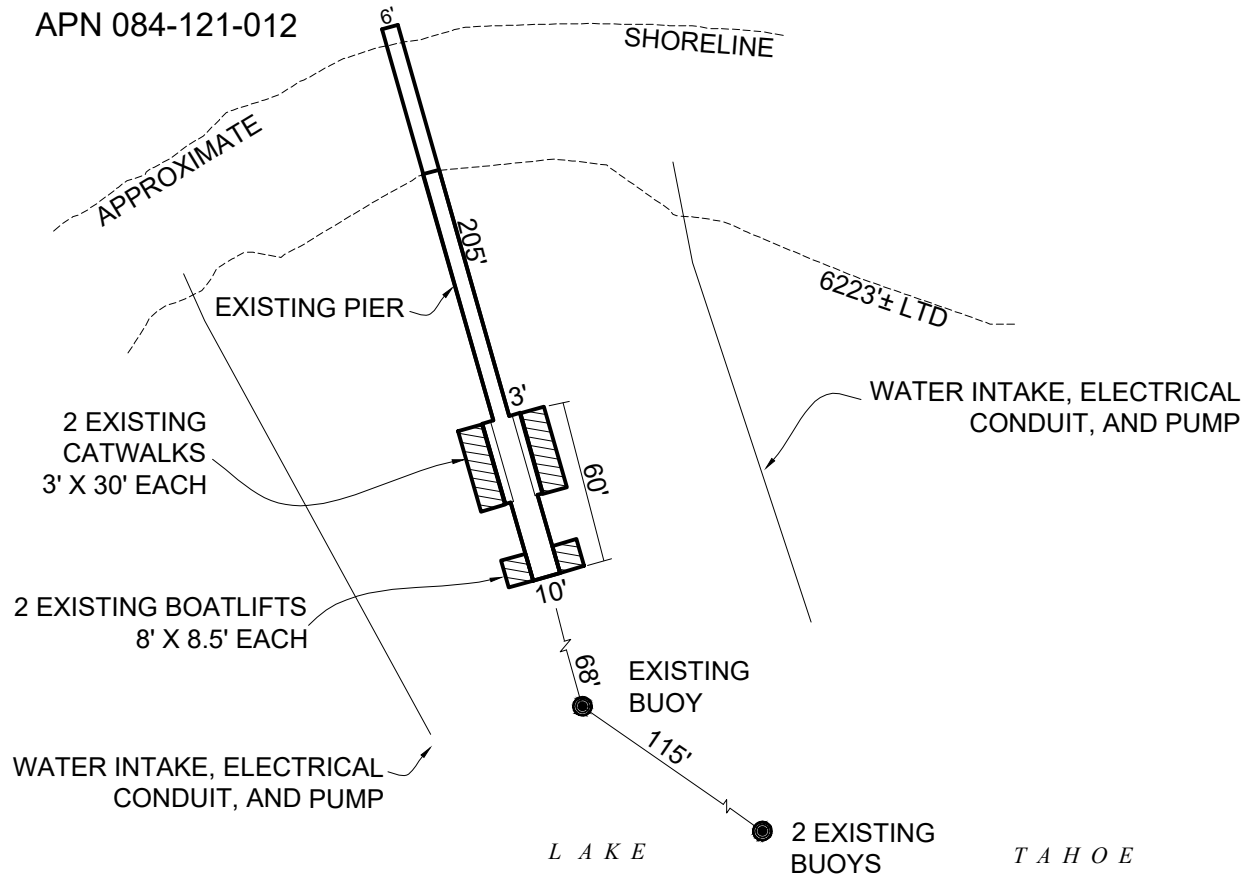
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

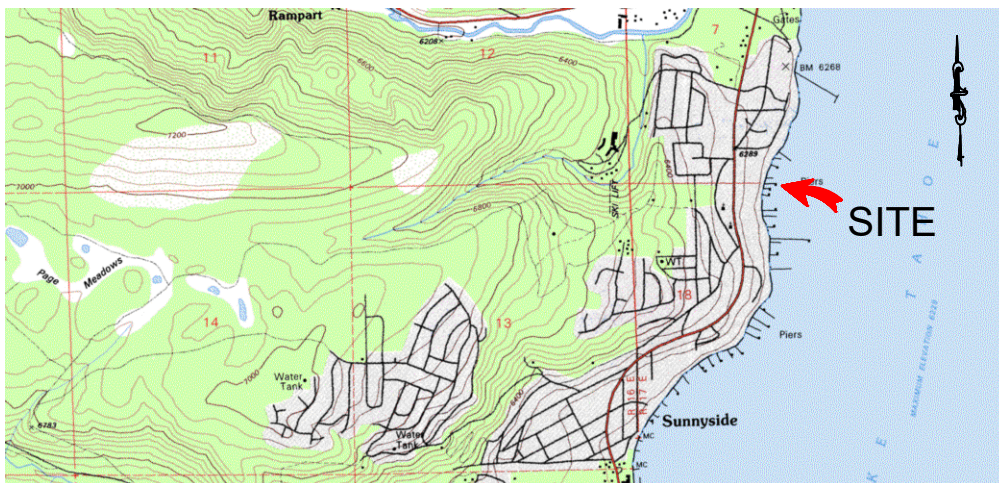
APN 084-121-013



2490 & 2480 WEST LAKE BLVD., NEAR TAHOE CITY

NO SCALE

LOCATION

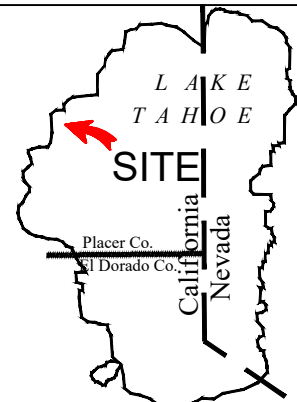


MAP SOURCE: USGS QUAD

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

LEASE 4314
CORN & TAYLOR FAMILY
INVESTMENTS
APN 084-121-012 & 013
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



JAK 5/22