

Staff Report 20

LESSEE/ASSIGNOR

William M. Sears and Audrey M. Sears, Trustees of the Amendment and Restatement of the William and Audrey Sears Living Trust; and George Tyler Marsh, as Trustee of the George Tyler Marsh Revocable Trust established February 19, 2015

APPLICANT/ASSIGNEE:

Bradley Tyler Marsh, Todd Sears and Scott Sears

PROPOSED ACTION:

Assignment and amendment of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8519 Meeks Bay Avenue, near Meeks Bay, El Dorado County.

AUTHORIZED USE:

Use and maintenance of a pier and two mooring buoys.

TERM:

10 years, beginning April 29, 2020.

CONSIDERATION:

\$1,273 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

Revise the annual rent from \$1,273, with an annual Consumer Price Index adjustment to \$1,168, with an annual Consumer Price Index adjustment, effective April 29, 2023.

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, 6321.2, 6501.1, 6503, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 29, 2020, the Commission authorized a General Lease – Recreational Use to William M. Sears and Audrey M. Sears, Trustees of the Amendment and Restatement of the William and Audrey Sears Living Trust; and George Tyler Marsh, as Trustee of the George Tyler Marsh Revocable Trust established February 19, 2015, for the continued use of an existing pier and two mooring buoys ([Item 22, April 29, 2020](#)) The lease expires on April 28, 2030. The Lessee transferred the upland property to the Applicant on February 8, 2021. The Lessee paid annual rent through April 28, 2023. Therefore, the revised annual rent in the amount of \$1,168, with a Consumer Price Index adjustment will take effect on April 29, 2023.

The Applicant is applying for an assignment and amendment of a General Lease – Recreational Use for the use and maintenance of a pier and two mooring buoys authorized by the Commission. On August 03, 2019, the moorings are registered with TRPA (Registration No. 10629).

The pier and buoys have existed for many years at this location. The pier is built on pilings with the immediate area of the pier being sloped with many rocks and small boulders. The topography and location are navigable. Public access for pedestrians and lake-related activities are available at varying water levels underneath the pier within Public Trust easement. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The pier 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 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 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.

Staff is recommending an assignment of the lease to reflect the change in ownership of the upland property from the current Lessor to the Applicant. If the assignment is approved, the new upland owner will be required to comply with all the existing lease conditions. The revised rent will reflect the recently adopted Tahoe Benchmark, ensuring consistent and fair rates in the Tahoe area. The lease assignment and amendment will not result in a change in the use of, or impacts to, Public Trust resources.

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.

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:

Approval of this lease assignment and amendment will not result in a change in the use of, or impacts to Public Trust resources at this location, at this time, and for the remaining term of the lease. For these reasons, staff recommends finding that approval of this assignment and amendment of lease is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application for assignment and amendment of lease 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.
2. The Applicant is qualified to hold the lease and staff has not discovered any information that would provide a basis for withholding the assignment. Upon expiration or termination of the lease, neither the Lessee nor the Applicant has any right to a new lease or to renewal of any previous lease.
3. 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.
4. Assignment of lease is not a project as defined by the California Environmental Quality Act 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).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment and amendment will not result in a change in the use of, or impacts to, Public Trust resources for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize assignment from William M. Sears and Audrey M. Sears, Trustees of the Amendment and Restatement of the William and Audrey Sears Living Trust; and George Tyler Marsh, as Trustee of the George Tyler Marsh Revocable Trust established February 19, 2015, to Bradley Tyler Marsh, Todd Sears and Scott Sears, effective February 8, 2021.
2. Authorize amendment of Lease 3656, a General Lease – Recreational Use, effective April 29, 2023, to revise rent from \$1,273 per year, with an annual Consumer Price Index adjustment to \$1,168 per year with an annual Consumer Price Index adjustment; all other terms and conditions of the lease shall remain in effect without amendment.

EXHIBIT A

LEASE 3656

LAND DESCRIPTION

Three parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 fractional Section 29, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880 County of El Dorado, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and one catwalk adjacent to that parcel as described in that Gift Deed recorded February 11, 2021, as Document Number 2021-0009947 and that Trust Transfer Deed recorded February 8, 2021 as Document Number 2021-0008771 in Official Records 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.

PARCELS 2 & 3 – BUOYS (2)

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared May 11, 2022 by The California State Lands Commission Boundary Unit.



NO SCALE



L A K E

T A H O E

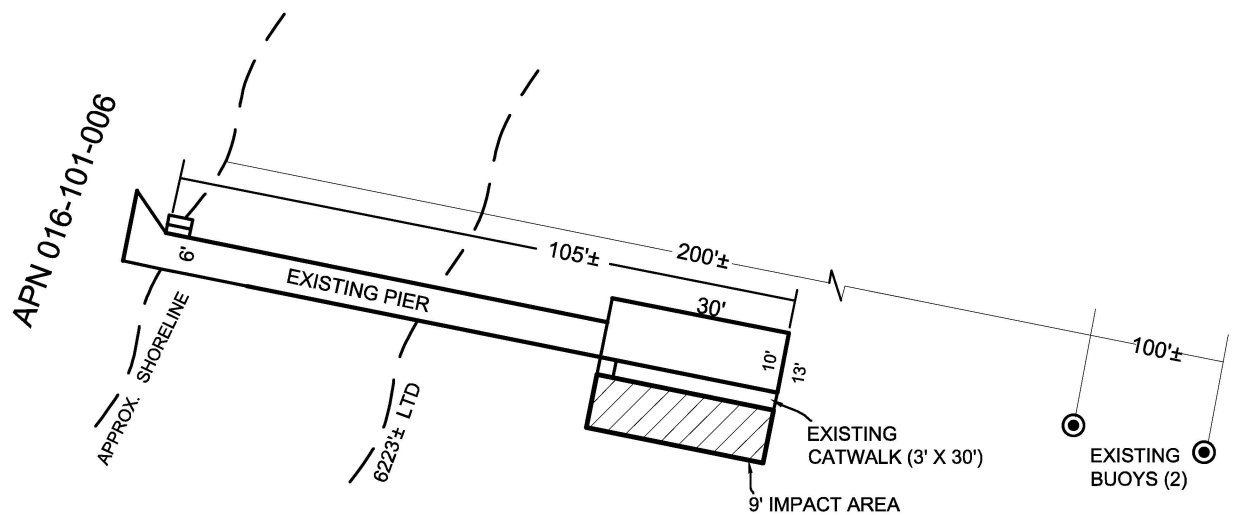


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 3656, MARSH AND SEARS
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

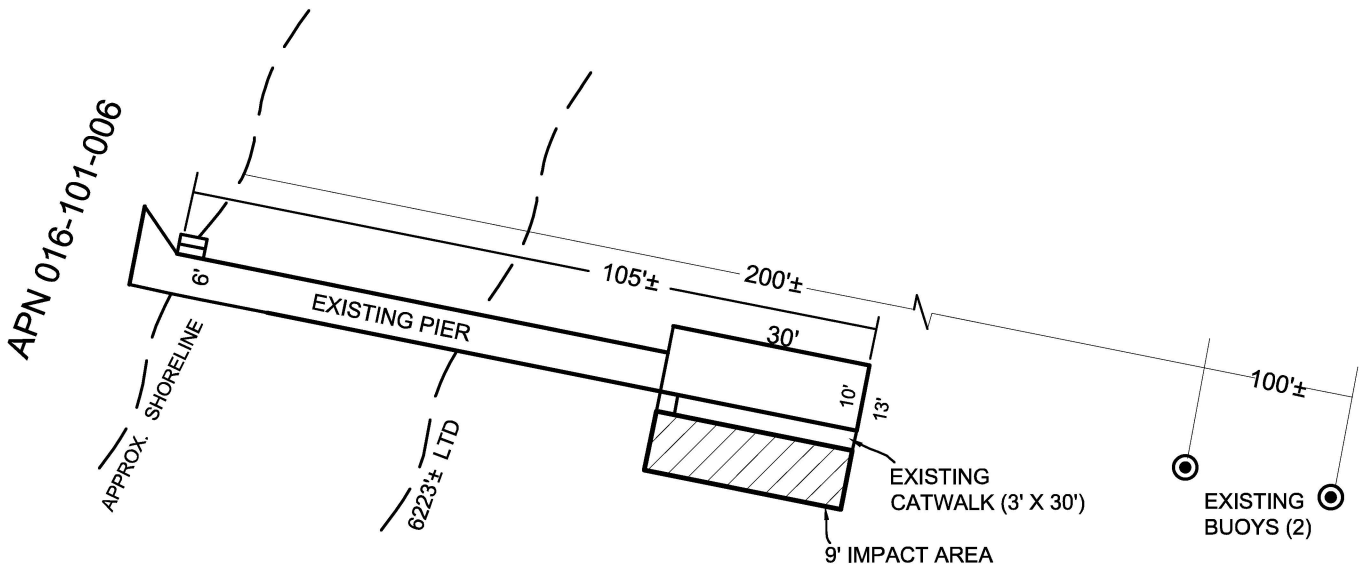


NO SCALE

SITE

L A K E

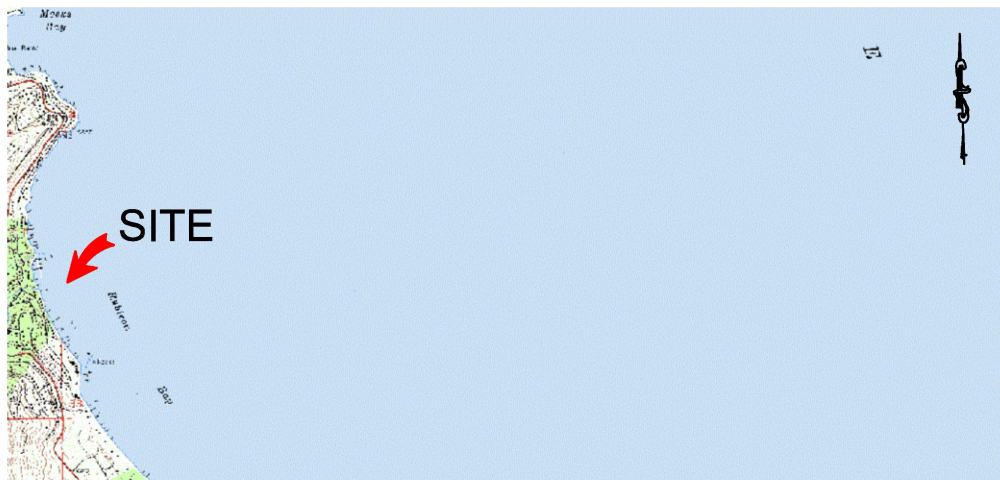
T A H O E



8519 MEEKS BAY AVE., NEAR MEEKS BAY

NO SCALE

LOCATION

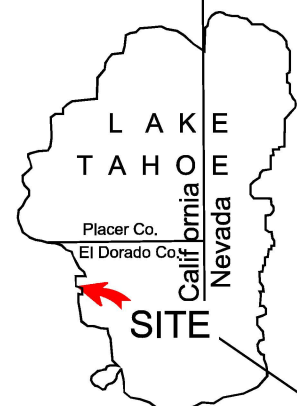


MAP SOURCE: USGS QUAD

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 3656
MARSH AND SEARS
APN 016-101-006
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



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