

Staff Report 02

LESSEE:

6M, LLC, a Washington limited liability company

APPLICANT:

John A. Hohman and Jennifer S. Hohman, Trustees of the Hohman Family Trust
dated June 14, 2005

PROPOSED ACTION:

Termination and Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4480 North Lake Boulevard, Carnelian Bay, Placer County.

AUTHORIZED USE:

Use and maintenance of an existing pier, boathouse, boat hoist, sundeck with stairs, and two mooring buoys.

TERM:

10 years, beginning December 9, 2022.

CONSIDERATION:

\$2,748 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- 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 the lease.

- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public's right of access for navigation, fishing, and public trust consistent recreational uses.
- 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, 2020, the Commission authorized a waiver of rent, penalty, and interest and termination and issuance of a General Lease – Recreational Use to 6M, LLC, a Washington limited liability company for the use and maintenance of an existing pier, boathouse, boat hoist, sundeck with stairs, and two mooring buoys ([Item 03, June 23, 2020](#)). The lease expires on June 22, 2030. The Applicant took ownership of the upland property on January 19, 2021. The Applicant is applying for a General Lease – Recreational Use for the use and maintenance of the existing facilities. On April 23, 2021, the Applicant registered moorings with TRPA (Registration No. 104720).

Staff recommends termination of the lease because the upland was transferred without a lease quitclaim deed and notification to Commission staff as required in the lease. The proposed termination date is January 19, 2021, the day of the upland transfer. Staff proposes issuance of a new lease to the Applicant, effective December 9, 2022, the day of the Commission meeting during which this item will be presented. The Applicant paid invoices 52593 and 55335 from the time applicant took ownership of the upland to the start of the new lease. Invoices cover annual rent from June 23, 2021 to June 22, 2023. Therefore, staff is recommending a credit of \$1,379.20 to be applied for the period December 9, 2022, to June 23, 2023.

Additionally, the new lease will require the Applicant to indemnify the State for the entire period of occupation, ensuring the State is fully protected.

The pier, boathouse, boat hoist, and 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 sundeck with stairs is not a Public Trust consistent use. While new sundecks are generally not authorized, sundecks that have been in place for years have been permitted if, as long as they do not significantly interfere with Public Trust needs or activities. However, the sundeck may not be expanded or rebuilt if substantially destroyed.

The subject facilities have existed for many years at this location. The pier and boathouse with boat hoist are built on pilings, meaning the public may navigate or walk next to and, at lower water levels, under the pier. Although the sundeck with stairs is a private use of public property, the sundeck is built into the existing boathouse and does not expand the footprint of the subject facilities. The immediate area of the existing pier is relatively flat beach with coarse sand mixed with pebbles, and small boulders. 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 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 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 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:

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 improvements and restore the premises to their original condition. The lessee 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 Areas of the Commission's 2021-2025 Strategic Plan.
3. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) 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).

4. Staff recommends that the Commission find that issuance of the lease 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 the existing and continuous use of the pier, boathouse, boat hoist and two buoys 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 lease; are consistent with the common law Public Trust Doctrine; and
2. 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
3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Terminate, effective January 19, 2021, Lease 4857, a General Lease – Recreational Use, issued to 6M, LLC, a Washington limited liability company.
2. Authorize proration of annual rent paid under existing Lease Number PRC 4857, with the \$1,379.20 in rent paid for the period December 9, 2022 through June 23, 2023 to be credited to annual rent due under the proposed lease.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 9, 2022, for a term of 10 years, for the use and maintenance of a pier, boathouse, boat hoist, sundeck with stairs, and two mooring buoys 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 \$2,748, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4857

LAND DESCRIPTION

Three parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to fractional Section 21, 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, catwalk, boathouse, boat hoist and sundeck with stairs lying adjacent to that parcel described in Grant Deed recorded January 19, 2021 as Document Number 2021-0007080-00 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 January 19, 2021 as Document Number 2021-0007080-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 09/27/2021 by the California State Lands Commission Boundary Unit.



NO SCALE

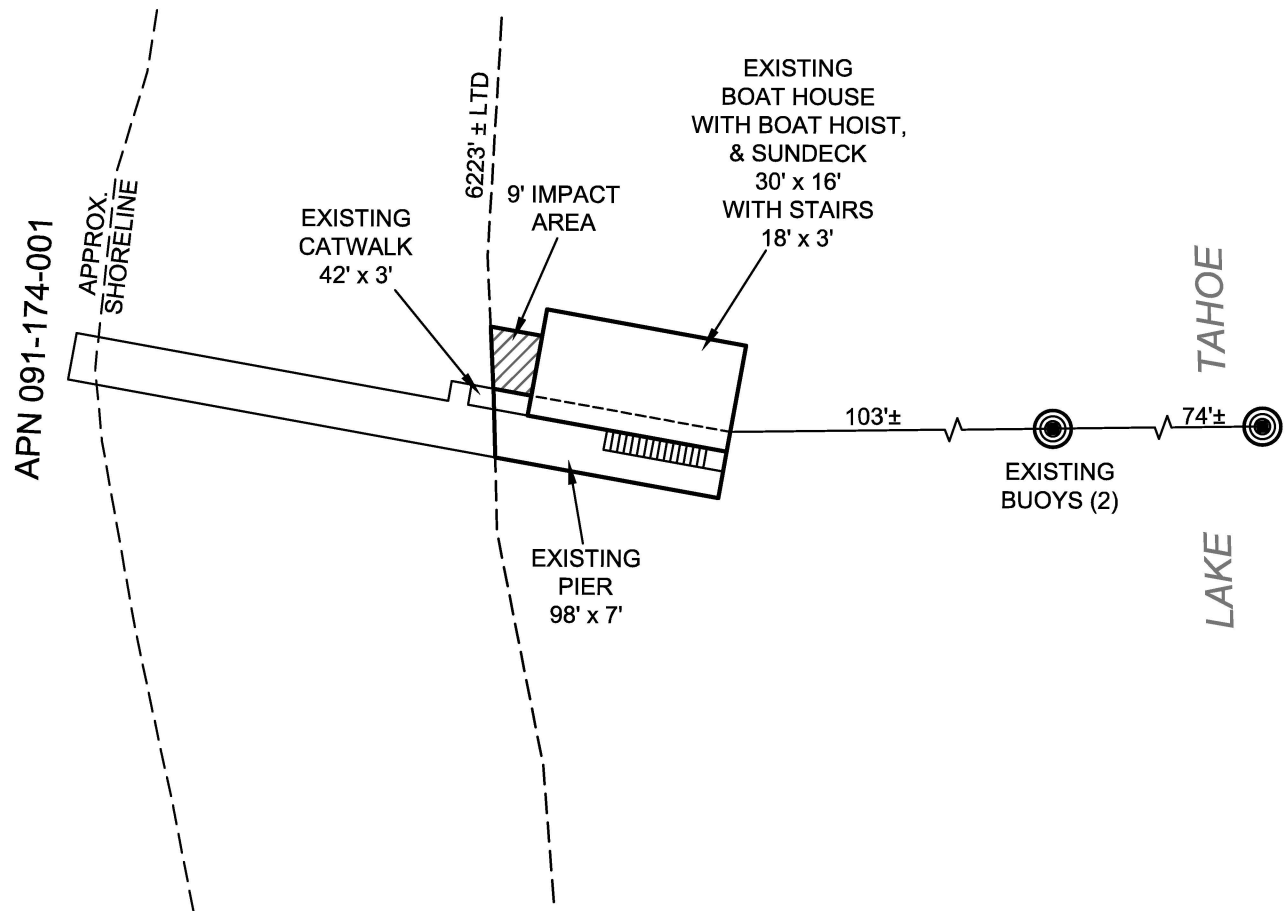


EXHIBIT A

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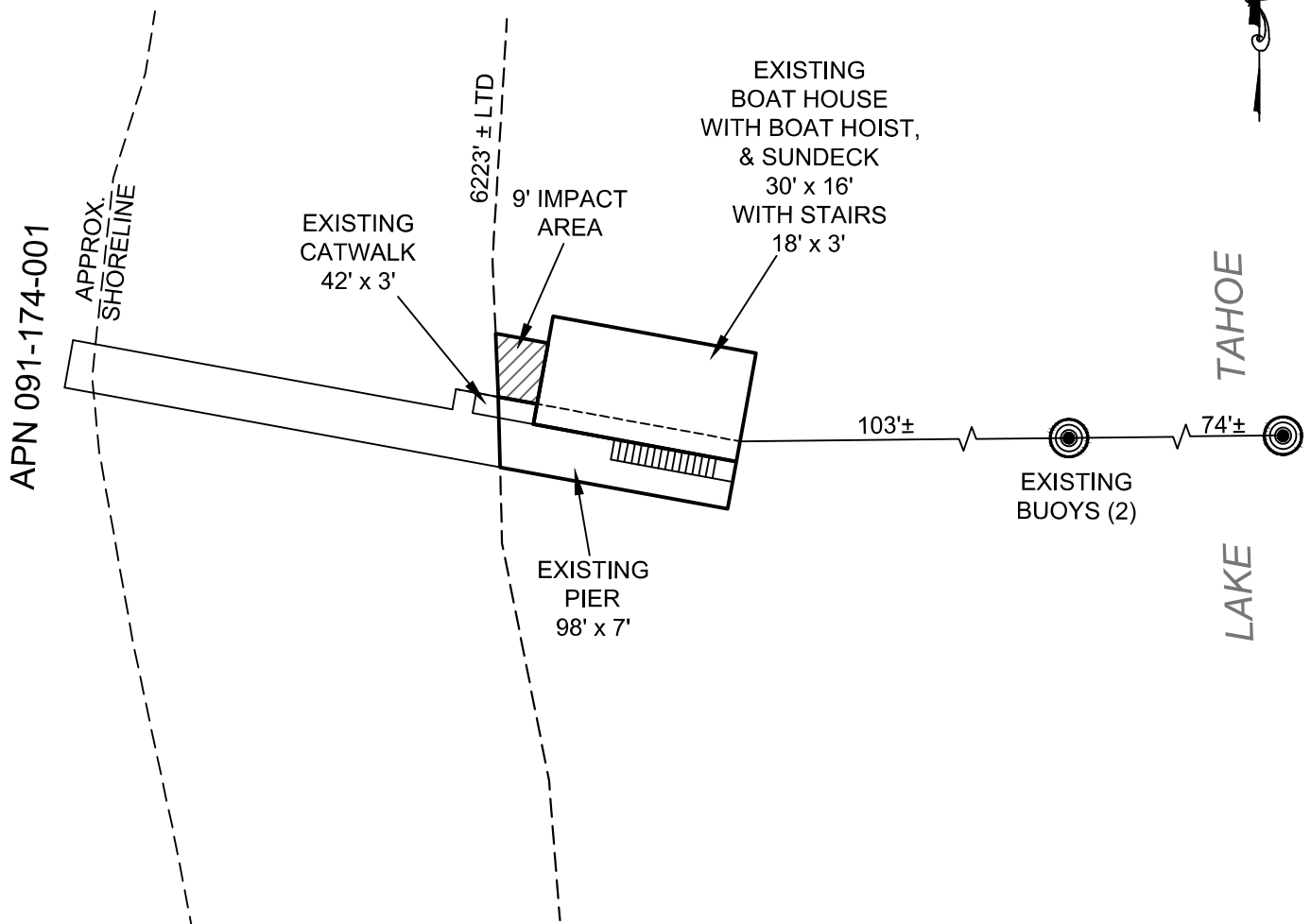
LAND DESCRIPTION PLAT
LEASE 4857, HOHMAN FAMILY TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



4480 NORTH LAKE BLVD., CARNELIAN BAY

NO SCALE

LOCATION



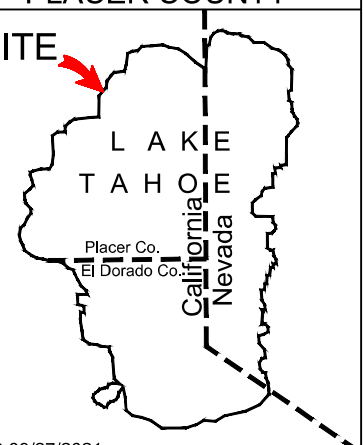
MAP SOURCE: USGS QUAD

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 4857
HOHMAN FAMILY TRUST
APN 091-174-001
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



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