

**STAFF REPORT
C03**

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04/05/19
PRC 8850.1
S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Steven Lee Brown and Michele Content Brown, as Trustees of the Thorson Hays Family Trust dated 8-1-00

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1278 West Lake Boulevard, near Tahoe City, Placer County

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boathouse with two boat lifts, boat hoist, and two mooring buoys.

LEASE TERM:

10 years beginning October 1, 2019.

CONSIDERATION:

\$2,900 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 shall provide proof of a Tahoe Regional Planning Agency (TRPA) buoy permit or proof that unpermitted buoys have been removed by October 23, 2020.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.
- Lessee shall not store any personal items or construct any

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improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing and lake-related recreational uses.

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 Analysis:

On October 22, 2009, the Commission authorized a Recreational Pier Lease, for the continued use and maintenance of an existing pier, boathouse with two boat lifts, boat hoist, and one individual piling to Steven Lee Brown and Michele Content Brown, as Trustees of the Thorson Hays Family Trust dated 8-1-00, ([Item C10, October 22, 2009](#)). On June 28, 2010, the Commission authorized an amendment of the lease to relocate and retain two existing mooring buoys ([Item C14, June 28, 2010](#)). The lease will expire on September 30, 2019. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing pier, boathouse with two boat lifts, boat hoist, and two mooring buoys. The Applicant has provided evidence of removal of the one individual piling.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and mooring buoys are used for the docking and mooring of boats. 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 pier and mooring buoys have existed for many years at this location. The pier is built on single pilings with the immediate area of the pier surrounded by gravel and small cobbles. The topography and location of upland structures provides access for the pier and public access for pedestrians and lake-related activities at varying water levels underneath the pier. 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 and does not grant the lessee exclusive rights to the lease premises and reserves an easement to the public for Public Trust-consistent uses. Upon

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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 the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

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; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to land along the State's inland and coastal waterways.
2. On October 24, 2018, the TRPA Governing Board certified a Final Environmental Impact Statement and adopted the Lake Tahoe Shorezone Ordinance Amendments.
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

STAFF REPORT NO. **C03** (CONT'D)

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:

Find that the proposed lease 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; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 1, 2019, for a term of 10 years, for the continued use and maintenance of an existing pier, boathouse with two boat lifts, boat hoist, 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 \$2,900, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8850.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 fractional Section 18, Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, boathouse, two boat lifts, stairs, and a boat hoist lying adjacent to that parcel as described in Exhibit One of that Grant Deed recorded March 14, 2002 as Document Number 2002-0028856-00 in Official Records of said County.

TOGETHER WITH any applicable use 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 said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared February 7, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE



APN 083-202-012
APPROX. SHORELINE

6223' ± LTD

EXISTING PIER
394.80'

EXISTING STAIRS

9' IMPACT AREA

EXISTING BOAT HOIST
& 9' IMPACT AREA

EXISTING BOATHOUSE
& 2 BOAT LIFTS

IMPACT AREA
6' X 9'

2 EXISTING BUOYS

L A K E
T A H O E

EXHIBIT A

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MJJ 2/11/19

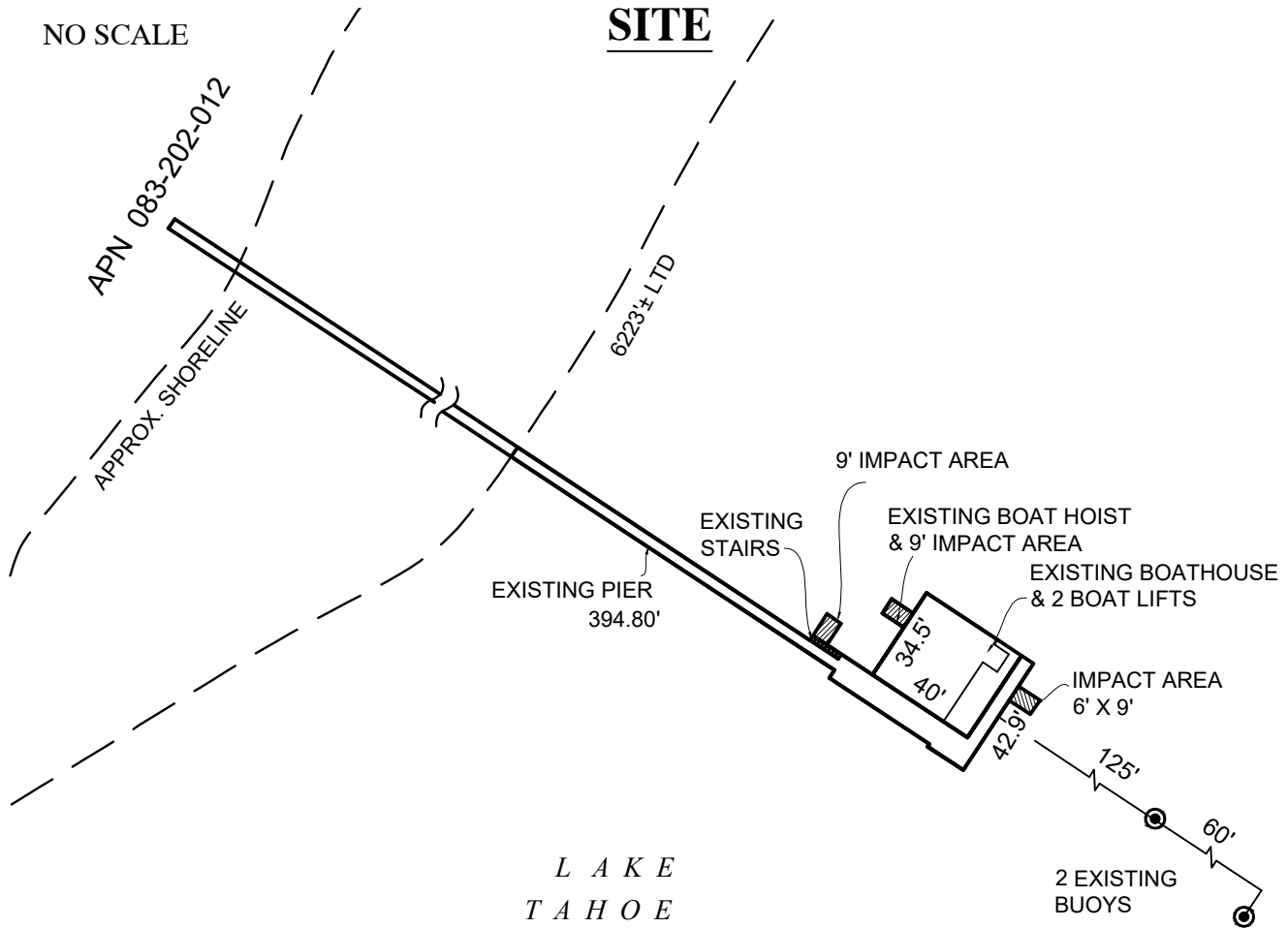
LAND DESCRIPTION PLAT
PRC 8850.1, THORSON HAYS TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



1278 WEST LAKE BLVD., NEAR TAHOE CITY

NO SCALE

LOCATION

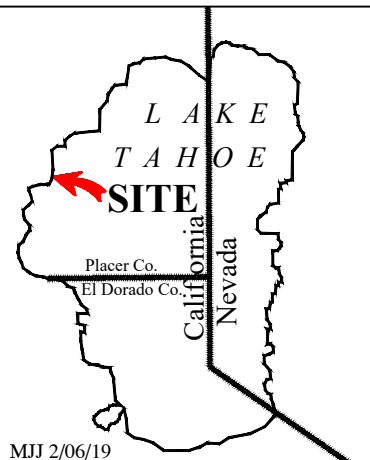


MAP SOURCE: USGS QUAD

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

PRC 8850.1
 THORSON HAYS TRUST
 APN 083-202-012
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 2/06/19