

**STAFF REPORT
02**

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06/28/19
PRC 8644.1
A. Franzoia

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Luis Robert Ubillus Adelman

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1590 North Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring buoys.

LEASE TERM:

10 years, beginning June 28, 2019.

CONSIDERATION:

\$963 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 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 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.

STAFF REPORT NO. **02** (CONT'D)

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 30, 2007, the Commission authorized a Recreational Pier Lease to Elias D. Bardis and Jane Ball-Bardis for the use and maintenance of a pier and two mooring buoys ([Item C02, October 30, 2007](#)). The lease expired on September 12, 2017. On September 25, 2018, the upland was deeded to Luis Robert Ubillus Adelman. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of an existing pier and two mooring buoys.

Staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$728 for the period beginning September 25, 2018, through June 27, 2019, the day before the proposed lease would begin.

The subject pier and two mooring buoys are privately owned and maintained. The pier and two mooring buoys are used for the docking and mooring of boats 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 pier has been in place since at least 1948 and is constructed of wood and wood pilings. The pier was repaired in 1984. Access to the pier from the upland is down wooden steps from elevation 6,244 feet to a structurally supported bridge at elevation 6,239.5 feet and connected to a wooden deck on top of a boulder with steps to the pier at elevation 6,231.1 feet. The boulder is within the Public Trust easement and there is approximately 10 feet of clearance beneath the bridge. Rocks and boulders near the shore are covered when the lake is full. Public access to the shore is impacted by exposed rocks and boulders. The Public could access the shore from the Tahoe City Marina during low water and may be able to avoid the rocks and boulders and would be able to walk beneath the pier.

STAFF REPORT NO. 02 (CONT'D)

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.

For all the reasons above, Commission staff believes the issuance of this lease does not substantially interfere with the common law Public Trust Doctrine 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 Applicant may be required to remove the pier and two mooring buoys 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 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 and along the State's inland and coastal waterways.
3. On October 24, 2018, TRPA's Governing Board certified a FEIS and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. 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 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

STAFF REPORT NO. 02 (CONT'D)

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:

Find that issuance of the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with 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 Luis Robert Ubillus Adelman beginning June 28, 2019, for a term of 10 years, for an existing pier and two mooring buoys, as described on 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 \$963 with an annual Consumer Price Index adjustment; compensation for unauthorized use in the amount of \$728, and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8644.1

LAND DESCRIPTION

Three parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 fractional Section 5 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 and stairway lying adjacent to that parcel as described in Exhibit “A” of that Grant Deed recorded June 30, 2009 as Document Number 2009-0056642 in Official Records of said County.

ALSO 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, – 2 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 December 12, 2018 by The California State Lands Commission Boundary Unit.



NO SCALE

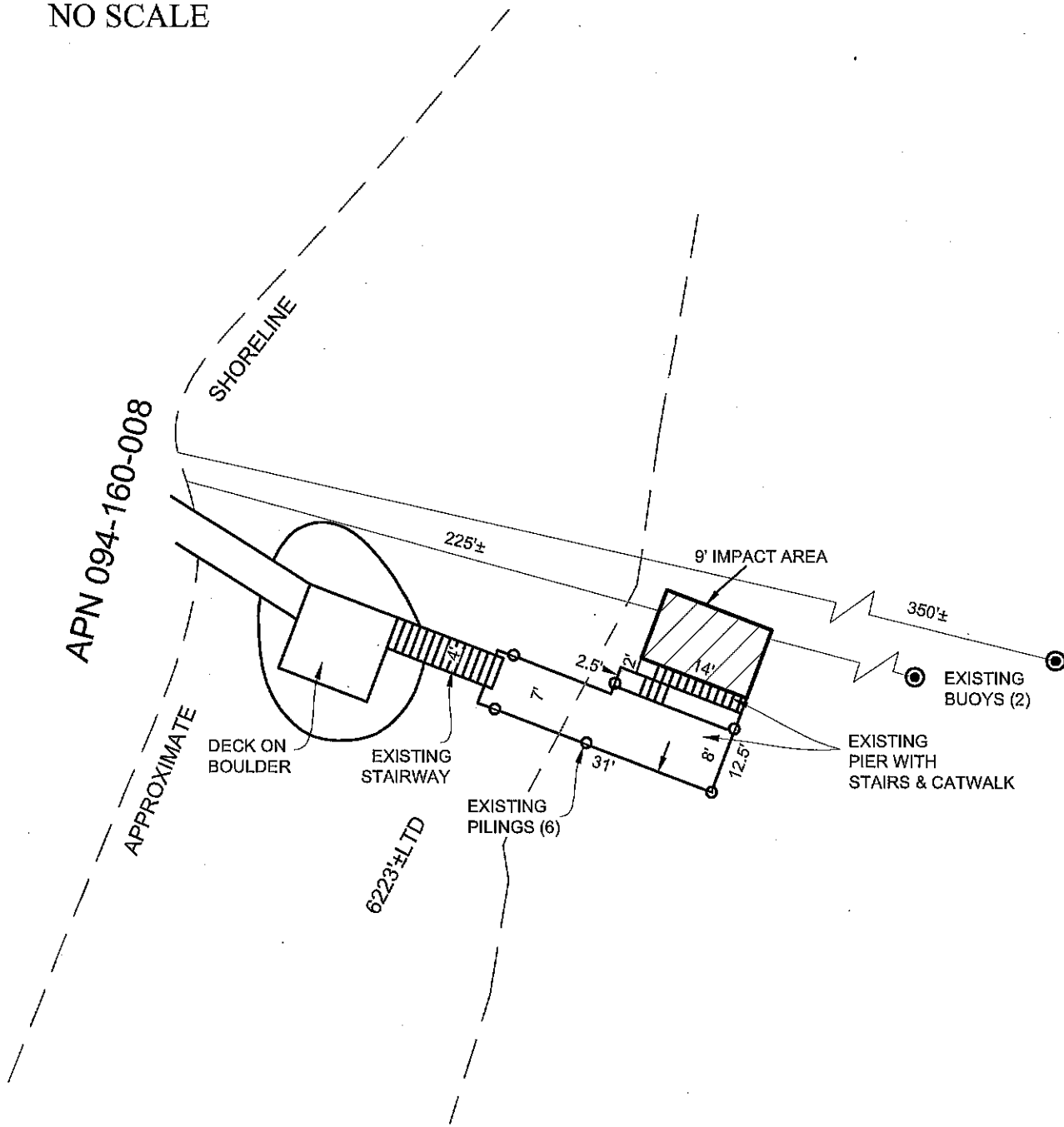


EXHIBIT A

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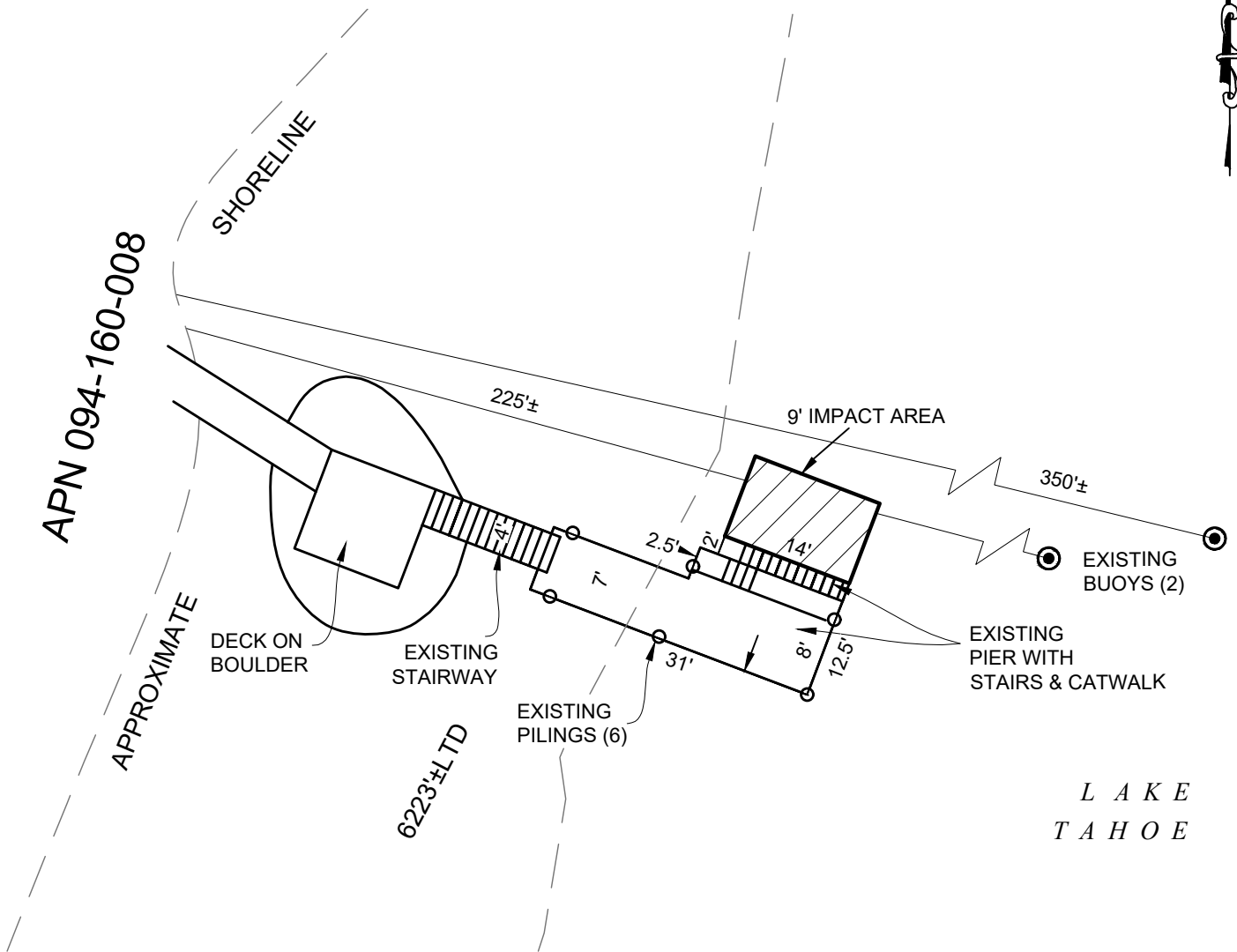
LAND DESCRIPTION PLAT
PRC 8644.1, ADELMAN
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



1590 NORTH LAKE BLVD., NEAR TAHOE CITY

NO SCALE

LOCATION

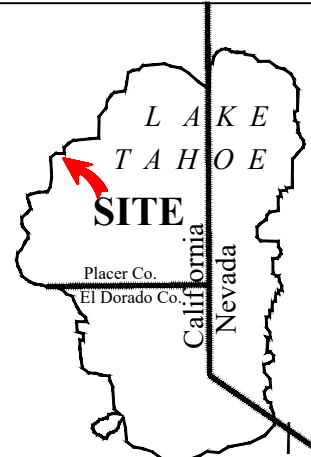


MAP SOURCE: USGS QUAD

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 8644.1
 ADELMAN
 APN 094-160-008
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 12/11/18