

**CALENDAR ITEM
C01**

A 4
S 1

01/26/12
WP 5113.9
R. Barham

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Carolyn B. Hiller, Trustee of that certain trust agreement dated September 23, 1983 and amended and restated on September 16, 1988

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6850 and 6860 West Lake Boulevard, near Tahoma, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, marine railway, three boat lifts, and four mooring buoys previously authorized by the Commission.

LEASE TERM:

10 years, beginning June 1, 2009.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$1,000,000.

Other:

The proposed lease contains a provision requiring the Applicant to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoys within two years of the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. This is a continuation of the process the Commission used from approximately 1995 to October 2008 when TRPA adopted an FEIS and Ordinance Amendments supported by the FEIS. In September 2010, the U.S. District Court invalidated the FEIS and nullified the Amendments. When additional information is available, Commission staff will advise the Commission on any suggested modifications to the process used by the Commission pending resolution of the TRPA FEIS and ordinance issues.

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OTHER PERTINENT INFORMATION:

1. Applicant owns the upland parcels, Assessor's Parcel Numbers: 098-200-036 and 098-200-006, adjoining the lease premises.
2. On June 14, 1999, the Commission authorized a Recreational Pier Lease with Stanley Hiller, Jr. and Carolyn B. Hiller, Trustees u/t/a dated September 23, 1983 and amended and restated on September 16, 1988, for a pier, marine railway, three boat lifts, and four mooring buoys. Mr. Hiller passed away in 2006 and the lease expired on May 31, 2009. Mrs. Hiller is now applying for a new General Lease – Recreational Use.
3. For purposes of this Lease, staff recommends approval of two mooring buoys adjacent to APN 098-200-036 and two mooring buoys adjacent to APN 098-200-006. The pier with three boatlifts and the marine railway are located on, and adjacent to, APN 098-200-036. Each of the upland parcels are improved with a residence and both are owned and used by the Applicant and their family members.
4. The marine railway is an historic system used for boat launching and haul-out. It typically consists of a parallel set of rails, a cart for the boat, and a cable powered by a winch or motor.
5. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law is effective January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned land by certain private parties for their recreational piers. It replaced the former section with a new section 6503.5 which provides that the State Lands Commission "shall charge rent for a private recreational pier constructed on state lands." The law provides for two exceptions to the imposition of rent. Those exceptions are for:
 - a. A lease in effect on July 1, 2011, through the remaining term of that lease. If a lease in effect on July 1, 2011, expires or is otherwise terminated, any new lease will be subject to rent; and
 - b. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

Because the application was submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently-enacted changes to Section 6503.5 of the Public Resources Code for the term of this lease.

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6. Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061), the staff has determined 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).

Authority: Public Resources Code section 21084 and, California Code of Regulations, Title 14, section 15300 and, California Code of Regulations, Title 2, section 2905.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- 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).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Carolyn B. Hiller, Trustee under that certain trust agreement dated September 23, 1983 and amended and restated on September 16, 1988, beginning June 1, 2009, for a term of 10 years, for the continued use and maintenance of an existing pier, marine railway, three boat lifts, and four mooring buoys described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part

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hereof; no monetary consideration pursuant to Public Resources Code section 6503.5; and liability insurance in the amount of no less than \$1,000,000.

EXHIBIT A

PRC 5113.9

LAND DESCRIPTION

Six parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 8, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier lying adjacent to that parcel described in that certain Grant Deed recorded October 7, 1983 in Volume 2630 Page 357 Official Records of said County.

TOGETHER WITH a ten foot use area.

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

Parcel 2 – MARINE RAIL

All those lands underlying existing marine rails lying adjacent to that parcel described in that certain Grant Deed recorded October 7, 1983 in Volume 2630 Page 357 Official Records of said County.

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

PARCEL 3, 4, 5, & 6 - BOUYS

Four circular parcels of land, each being 50 feet in diameter, underlying four existing buoys lying adjacent to that parcel described in that certain Grant Deed recorded October 7, 1983 in Volume 2630 Page 357 Official Records of said County, and also adjacent to that parcel described in that certain Grant Deed recorded September 4, 1990 as Document Number 90-057626 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 01/03/2012 by the California State Lands Commission Boundary Unit.



NO SCALE



APN 098-200-006

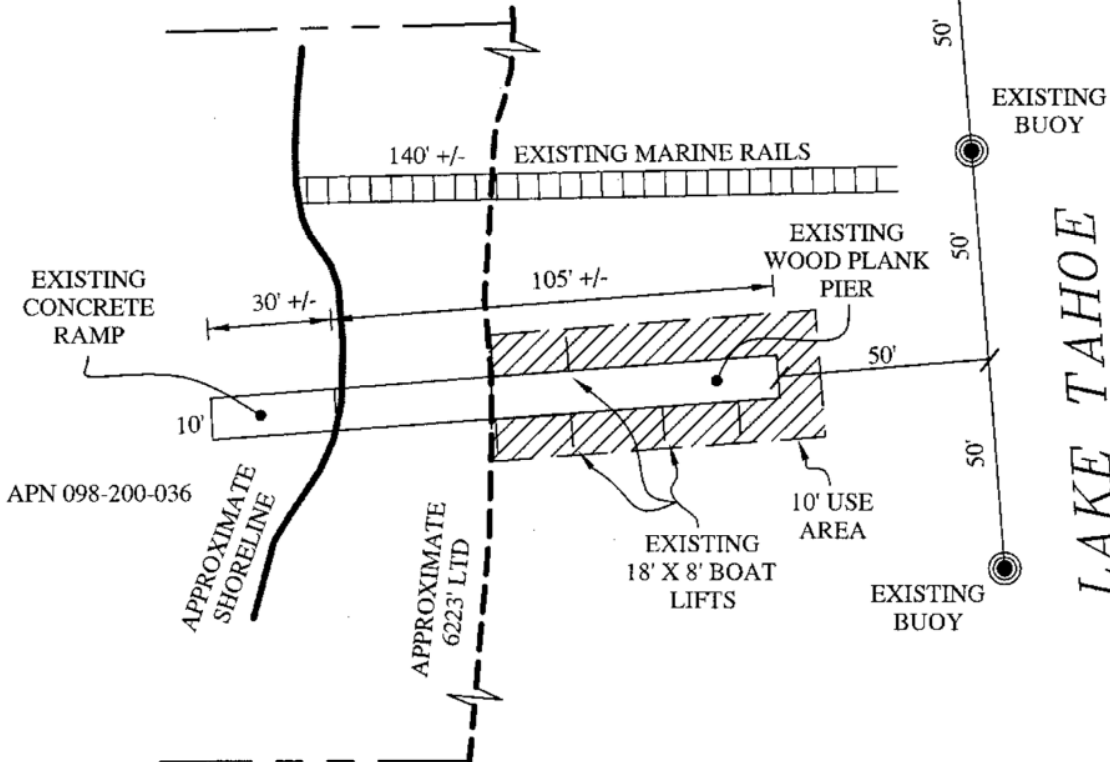


EXHIBIT A

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LAND DESCRIPTION PLAT
 PRC 5113.9, HILLER
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

APN 098-200-006

APN 098-200-036

EXISTING
CONCRETE
RAMP

APPROXIMATE
SHORELINE

140' +/- EXISTING MARINE RAILS

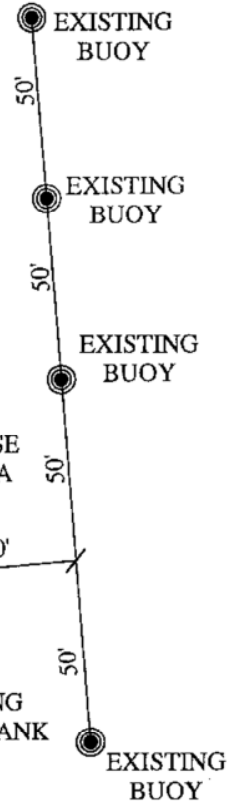
105' +/-

EXISTING
18' X 8' BOAT
LIFTS

EXISTING
WOOD PLANK
PIER

10' USE
AREA

APPROXIMATE
6223' LTD

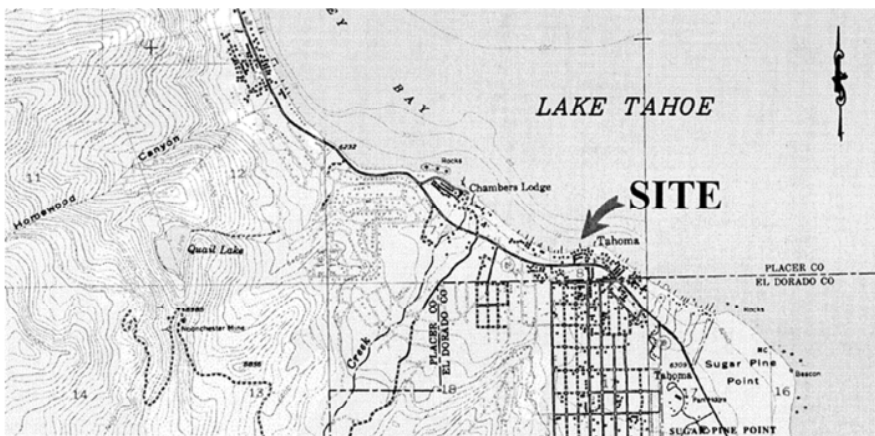


LAKE TAHOE

6850 & 6860 WEST LAKE BLVD., TAHOMA

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 5113.9

HILLER

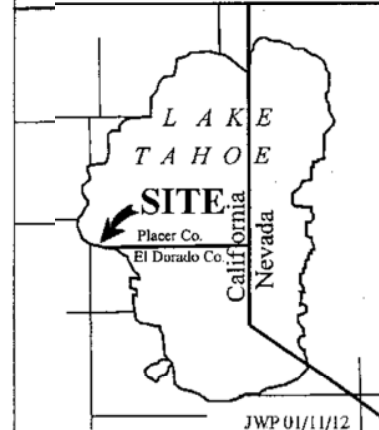
APNs 098-200-036 &

098-200-006

GENERAL LEASE -

RECREATIONAL USE

PLACER COUNTY



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