

**CALENDAR ITEM
C27**

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S 1

04/23/14
W 26729
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Edward D. Pike, III, Trustee of the Pike Family Trust dated November 17, 1984 and amended and restated March 11, 1999

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8335 Meeks Bay Avenue, near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

Use and maintenance of an existing pier and two mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years, beginning April 23, 2014.

CONSIDERATION:

\$1,114 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

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

Other:

1. The lease contains a provision requiring the Applicant remove all existing unauthorized mooring buoys by May 31, 2014, and provide proof of removal within 10 days of removal.
2. 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 after 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

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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 amended ordinance issues.

3. 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.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. Applicant is applying for a General Lease – Recreational Use for an existing pier and two mooring buoys not previously authorized by the Commission. The Applicant's pier and buoys have been in Lake Tahoe for many years. Staff recommends bringing the placement of the Applicant's existing pier and mooring buoys under lease.
4. In the lease application, the Applicant requested Commission authorization for a third existing buoy and provided a copy of a letter from the U.S. Army Corps of Engineers dated October 2012 "grandfathering" an existing pier and three mooring buoys.
5. There have been no permits issued by TRPA for the buoys. As background, TRPA adopted new shorezone ordinances in 2008 which allowed permitting of up to three existing private mooring buoys located adjacent to a lakefront parcel if the owner could verify that the buoy had been placed in the lake prior to 1972, or had an existing valid lease for a third buoy from the Commission, or a valid permit from the U.S. Army Corps of Engineers.

Prior to 2008, TRPA ordinances allowed only two existing private mooring buoys per littoral parcel. Commission staff commented to TRPA several times prior to adoption of the 2008 TRPA ordinances that there was no analysis of the need for a third buoy and the ordinance was giving recognition for previously unpermissible buoys. In 2010, the TRPA buoy permits issued under the 2008 TRPA ordinances were found to be invalid

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by the U.S. District Court. The invalidity of these buoy permits was upheld by the 9th Circuit U.S. Court of Appeals. Because of the court decision, TRPA is now operating under the pre-2008 Code of Ordinances which does not have a third-buoy grandfather clause.

6. In March 2014, staff wrote to the Applicant advising that staff would not recommend including authorization for more than two buoys in the new lease because of the conflict with TRPA's current code and the Commission's standard lease provisions. Staff requested that one of the three existing buoys be removed.
7. The 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.

8. 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.

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).

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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:

1. Authorize issuance of a General Lease – Recreational Use to Edward D. Pike, III, Trustee of the Pike Family Trust dated November 17, 1984 and amended and restated March 11, 1999, beginning April 23, 2014, for a term of 10 years, for the use and maintenance of an existing pier and two mooring buoys not previously authorized by the Commission, 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 \$1,114 with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance in an amount no less than \$1,000,000 per occurrence.

2. In the event Edward D. Pike, III, Trustee of the Pike Family Trust dated November 17, 1984 and amended and restated March 11, 1999, does not comply with removal of the buoy, anchor and chain by May 31, 2014, authorize staff of the California State Lands Commission and the Office of the Attorney General to take all steps necessary, including litigation, to remove the unauthorized buoy, including the anchor and chain, from State sovereign land in Lake Tahoe, adjacent to 8335 Meeks Bay Avenue, near Rubicon Bay, El Dorado County; to restore the sovereign lands at this location in its condition prior to placement of the unauthorized improvements to the satisfaction of the Commission; and to recover the Commission's damages and costs.

EXHIBIT A

W 26729

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 29, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of El Dorado, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier lying adjacent to those parcels described in Grant Deed recorded December 7, 2012 as Document Number 2012-0064651-00 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.

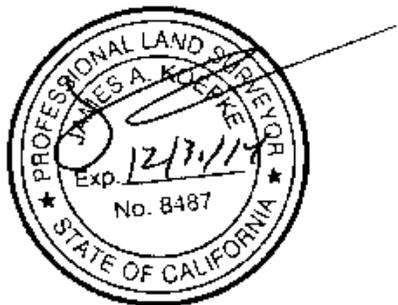
PARCEL 2 & 3 – BUOYS

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded December 7, 2012 as Document Number 2012-0064651-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

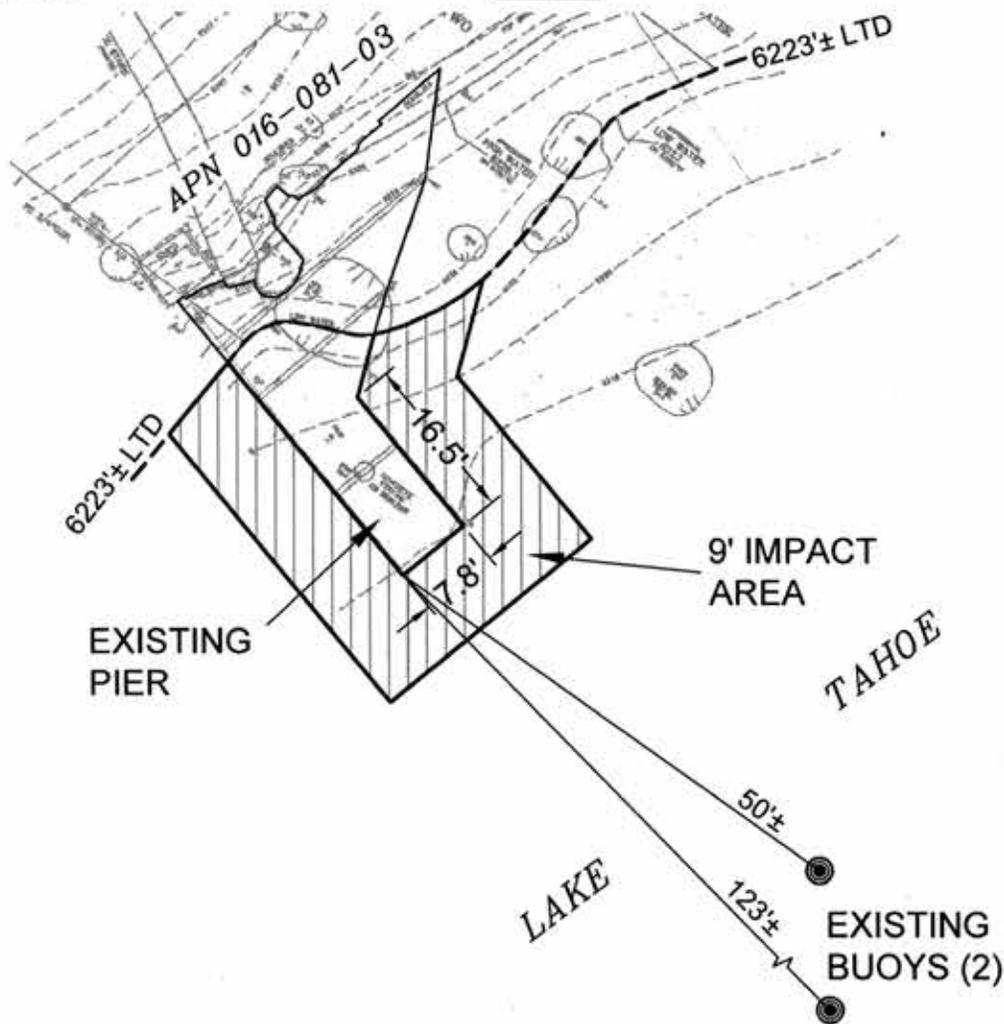
END OF DESCRIPTION

Prepared 02/20/2014 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE



8335 MEEKS BAY AVENUE, NEAR RUBICON BAY

NO SCALE

LOCATION

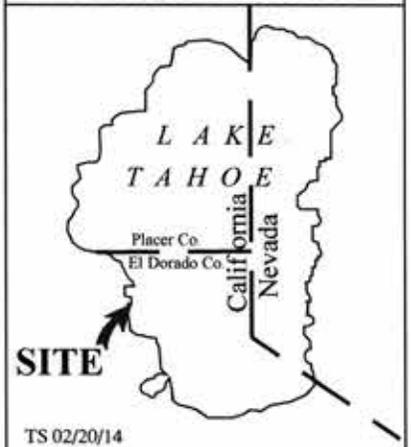


MAP SOURCE: USGS QUAD

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

W 26729
 PIKE TRUST
 APN 016-081-03
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



SITE

TS 02/20/14