

**STAFF REPORT  
C14**

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08/17/17  
PRC 3676.1  
K. Connor

**ACCEPTANCE OF A LEASE QUITCLAIM DEED AND  
ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

**LESSEE/APPLICANT:**

R. Allen Ennis and Jill N. Ennis, Trustees of the Allen and Jill Ennis Family Trust dated August 2, 2011

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 3965 Belleview Avenue, near Homewood, Placer County.

*AUTHORIZED USE:*

Removal and reconstruction/extension of an existing pier and continued use and maintenance of two existing mooring buoys.

*LEASE TERM:*

10 years beginning August 17, 2017.

*CONSIDERATION:*

\$1,351 per year, with an annual Consumer Price Index adjustment.

*SPECIFIC LEASE PROVISIONS:*

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements within the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreational uses.
3. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoys within 2 years after the certification of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such

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authorization within the time limit, they may be required to remove the buoys.

4. 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.
5. The upland portion of the pier construction area (beach zone) is located in Tahoe yellow cress (TYC) habitat. A TYC Construction Avoidance Plan (Plan) was prepared by Commission staff, in consultation with the California Department of Fish and Wildlife and TRPA, and made a part of the lease. Lessee will ensure that the approved Plan is fully implemented by the construction contractor.
6. The lease provides that the public will be allowed shoreline access to the Public Trust easement below elevation 6229.75 feet, Lake Tahoe Datum, by passing through the upland parcel.

### **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 June 28, 2010, the Commission authorized a Recreational Pier Lease with Warren Fallat; Darcy Blessing Porter; Kellae Blessing; and Margaret D. Boyden, as sole trustee of the Nola Dillon Blessing Testamentary Trust C, for an existing pier and two mooring buoys ([Item C09, June 28, 2010](#)). On April 26, 2013, the Commission authorized an Assignment of Lease to R. Allen Ennis and Jill N. Ennis, Trustees of the Allen and Jill Ennis Family Trust dated August 2, 2011 ([Item C02, April 26, 2013](#)). That lease will expire on June 27, 2020.

The Applicant is now applying for a General Lease – Recreational Use for the proposed removal and reconstruction/extension of the pier, and for the continued use, and maintenance of the two existing mooring buoys. The Applicant has executed a quitclaim deed releasing their interest in the Recreational Pier Lease. Staff recommends that the Commission accept the lease quitclaim deed and approve the new lease effective on August 17, 2017.

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The proposed pier removal and reconstruction includes extending the length of the current pier from 132 feet to 201 feet (a 52 percent increase) to an elevation of 6219.7 feet Lake Tahoe Datum. The proposed reconstruction will consist of using the current piling row on the northerly side of the existing pier. Moreover, the proposed reconstruction will convert the pier to a single piling foundation, with double piling support for the pierhead. The southerly row of pier pilings will be removed.

Proposed reconstruction and extension will be performed on-site with access to the pier being from Lake Tahoe with the use of a floating/amphibious barge. All material will be transported to the site from the barge. Construction materials will be stored on the barge and will be protected from any release into Lake Tahoe. Furthermore, the pilings will be installed with the use of a drop hammer pile driver. To minimize any potential fish habitat disturbance, construction will be limited to between October 1 and May 1.

The proposed pier reconstruction and two mooring buoys are for water-related recreational activities including swimming and boating. Recreational swimming and boating are water-dependent activities and 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 lands (Pub. Resources Code, § 6503.5). The adjacent upland parcel is privately owned and developed with a residence.

The proposed reconstruction of the pier will be a more open design, allowing greater public access laterally across the beach. The Applicant has agreed to allow the public to walk around the landward end of the pier to facilitate lateral access across the beach. The two buoys are privately owned and maintained. The mooring buoys do not significantly alter the land and the lease does not alienate the State's fee simple interest or permanently impair public rights. The buoys have existed for many years at this location. Upon termination of the lease, the lessee may be required to remove all improvements and restore the lease premises to their original condition. Additionally, the buoys occupy a relatively small area of the lake. Based on the foregoing, Commission staff believes that the pier and mooring buoys will not substantially interfere with Public Trust needs at this location, at this time, or for the foreseeable term of the proposed lease.

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

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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 is consistent with the common law Public Trust Doctrine and 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 and along the State's inland and costal waterways.

2. Acceptance of the quitclaim deed 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).

3. **Pier Replacement and Reconstruction:** 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 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

4. **Existing Buoys:** 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).

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

5. 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

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staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

**APPROVALS REQUIRED:**

California Department of Fish and Wildlife  
Lahontan Regional Water Quality Control Board

**APPROVALS OBTAINED:**

Tahoe Regional Planning Agency  
U.S. Army Corps of Engineers

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Pier Replacement and Reconstruction:** 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 2, Replacement or Reconstruction; California Code of Regulations, title 2, section 15302.

**Existing Buoys:** 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 or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

**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.

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**AUTHORIZATION:**

1. Authorize acceptance of a quitclaim deed, effective August 16, 2017, for Lease No. PRC 3676.9, a Recreational Pier Lease, issued to R. Allen Ennis and Jill N. Ennis, Trustees of the Allen and Jill Ennis Family Trust dated August 2, 2011.
  
2. Authorize issuance of a General Lease – Recreational Use to the Applicant; beginning August 17, 2017, for a term of 10 years, for removal and reconstruction of an existing pier with expansion and continued use maintenance of two existing 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 \$1,351, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 3676.1**

**LAND DESCRIPTION**

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 36, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

**PARCEL 1 – PIER**

All those lands underlying a proposed pier extension and catwalk lying adjacent to that parcel described in Grant Deed recorded October 29, 2012 as Document Number 2012-0101202-00 in Official Records of said County.

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

**PARCELS 2 & 3 – BUOYS**

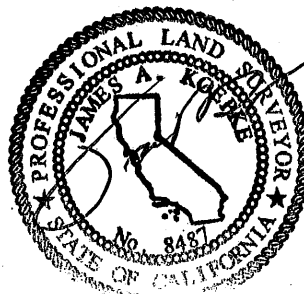
Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded October 29, 2012 as Document Number 2012-0101202-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

This description is based on Applicant provided design plans for a proposed pier, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

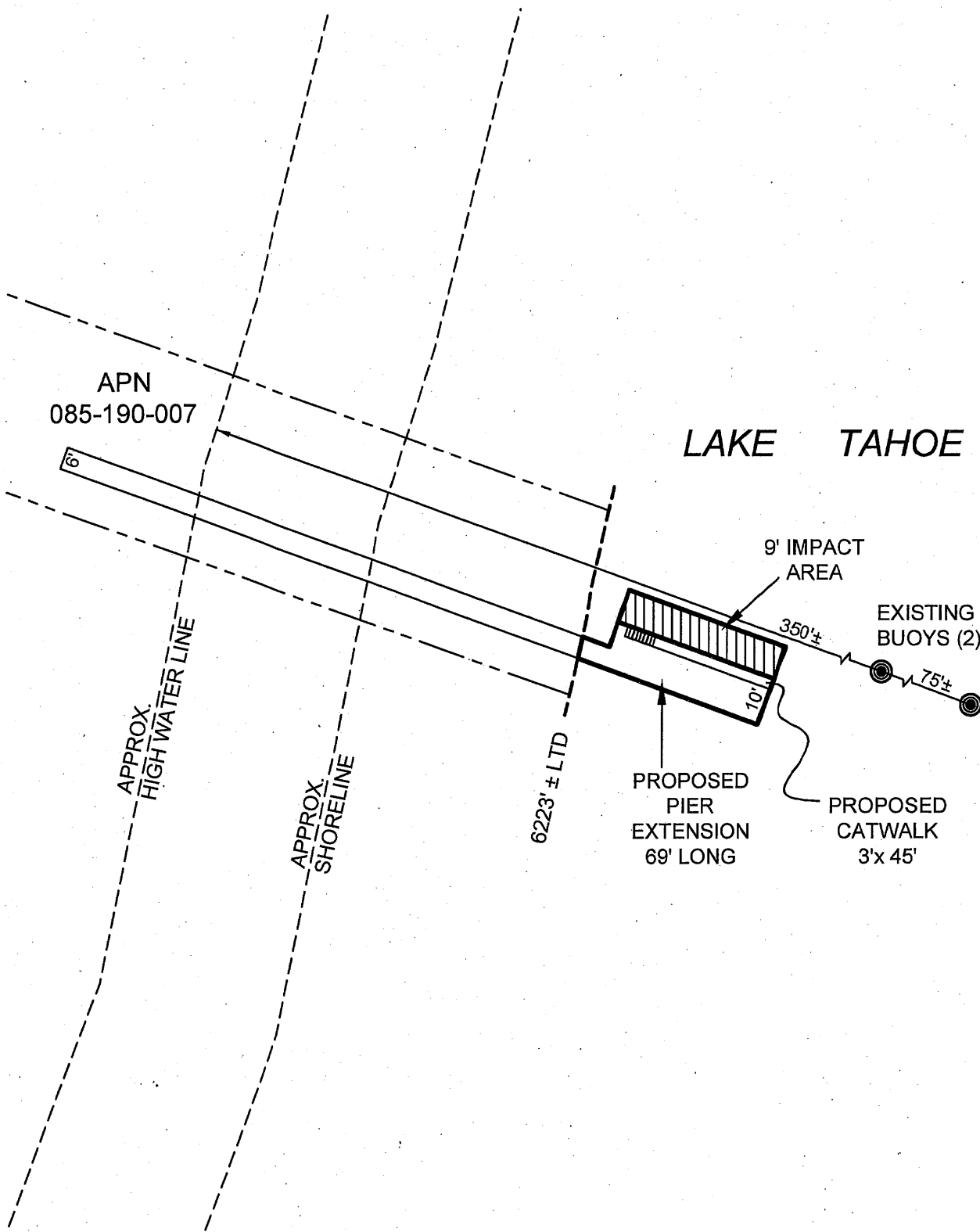
Prepared 07/20/2017 by the California State  
Lands Commission Boundary Unit.





APN  
085-190-007

LAKE TAHOE



### EXHIBIT A

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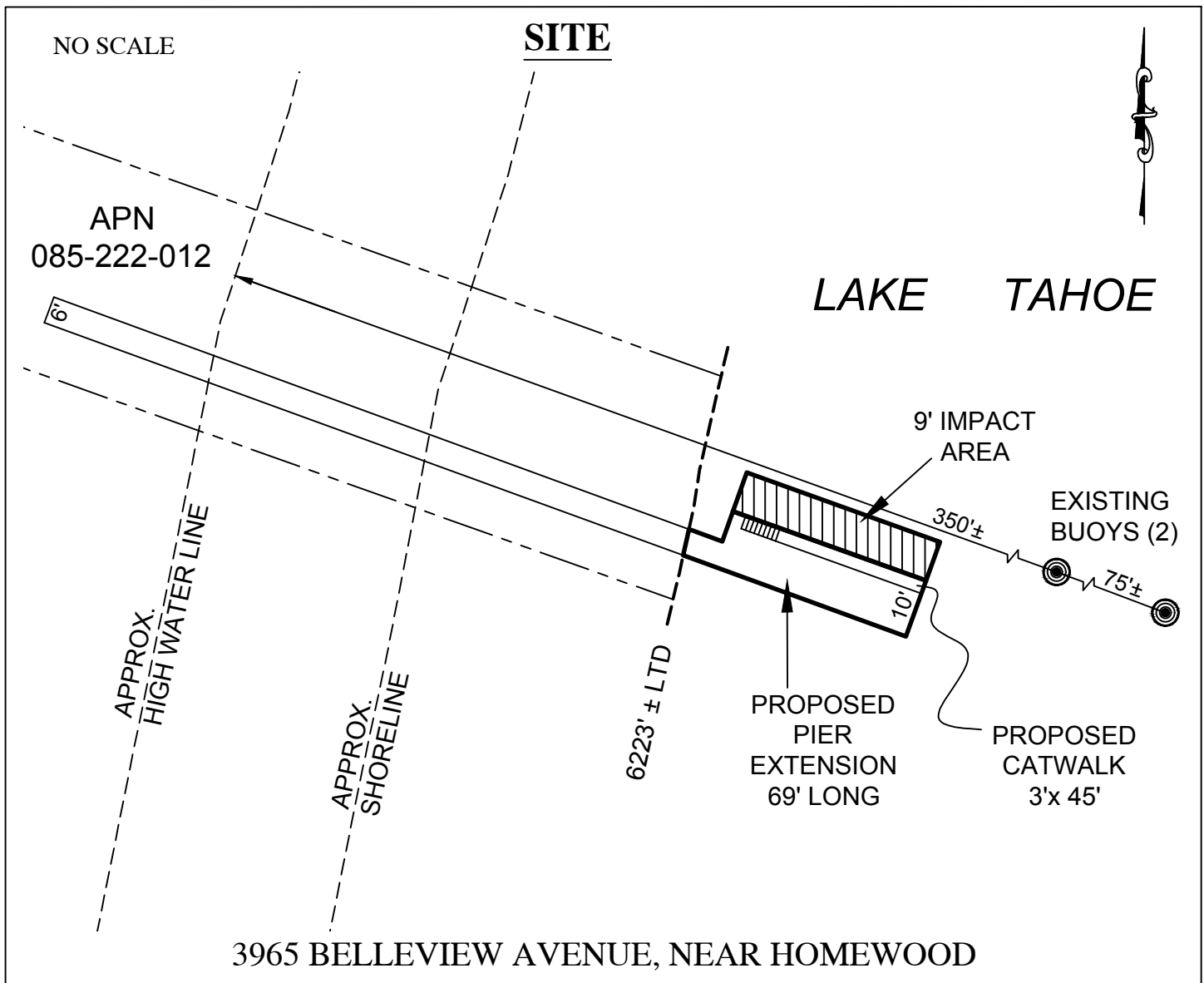
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LAND DESCRIPTION PLAT  
PRC 3676.1, ENNIS FAMILY TRUST  
PLACER COUNTY

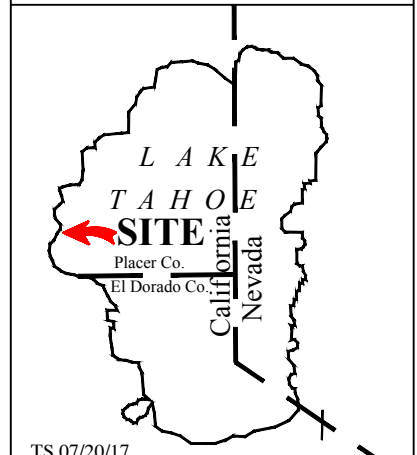
CALIFORNIA STATE  
LANDS COMMISSION





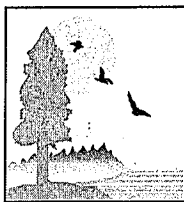


**Exhibit B**  
 PRC 3676.1  
 ENNIS FAMILY TRUST  
 APN 085-222-012  
 GENERAL LEASE-  
 RECREATIONAL USE  
 PLACER COUNTY



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.

**CALIFORNIA STATE LANDS COMMISSION**  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



*Established in 1938*

JENNIFER LUCCHESI, *Executive Officer*  
(916) 574-1800 Fax (916) 574-1810  
California Relay Service TDD Phone 1-800-735-2929  
from Voice Phone 1-800-735-2922

**Contact Phone: (916) 574-0343**  
**Contact FAX: (916) 574-1925**

July 27, 2017

File Ref: PRC 3676.1

Gary Furumoto  
Sagan Design Group  
P.O. Box 6214  
Tahoe City, CA 96145

**Subject: Tahoe Yellow Cress Protection Plan requirements for pier relocation and extension in Lake Tahoe, adjacent to 3965 Belleview Ave., APN 085-222-012, Tahoe Pines.**

Dear Mr. Furumoto:

This letter serves as a follow up to the June 15, 2017, Tahoe yellow cress (TYC) survey performed by Commission staff, as described in the Commission's July 7, 2017 TYC survey letter.

On July 24, 2017, Commission staff performed a second survey for the presence of Tahoe yellow cress (TYC) along the shoreline of the subject property. Commission staff has confirmed that the TYC stems adjacent to the first and second most landward pilings (pilings one and two) on the south side of the existing pier, are no longer present. The ground elevation of pilings one and two were still submerged within the depressional swale, as observed during the June 15, 2017 survey.

However, new TYC stems were observed south of the existing pier just upland of piling one. At 2 feet landward of piling one, and 53 inches directly south of the pier decking, approximately six different clusters of small TYC stems were present, just above the upland water surface boundary of the depressional swale.

The following TYC Protection Plan (Plan) was developed in consultation with Sagan Design Group, and staff from the Tahoe Regional Planning Agency and California Department of Fish and Wildlife. The Plan consists of the following requirements:

#### **Phase One Construction**

- Remove the existing upland portion of the pier landward of the water surface elevation of Lake Tahoe, and not lakeward of the third set of pilings.

- All work is to be conducted landward of the water surface elevation of Lake Tahoe. Lake bottom disturbance is prohibited prior to October 1, 2017, and all work lakeward of elevation 6,223 LTD is prohibited prior to Commission approval of the subject lease application, PRC 3676.1. Maintain a minimum 3-foot landward setback from the water surface elevation of Lake Tahoe for upland pier removal construction activity. If piling removal will occur up to 3 feet from the water surface of Lake Tahoe, install turbidity fencing on the lakeward side of the piling a minimum of 2 feet from the water surface elevation of Lake Tahoe, or the greatest distance possible from the water surface for construction feasibility, to ensure that lake bottom disturbance is avoided.
- Construction shall be conducted during calm lake conditions, with negligible wave run-up.
- Complete construction activity by August 11, 2017.
- Install TYC protective fencing parallel to the south side of the existing pier from the landward end of the pier to 1 foot lakeward of piling one, and installed 2 feet from the south side of the pier (see attachment for TYC Protective Fencing Detail). No construction activity (removal of pier components, staging, access, etc.) shall occur on the south side of the protective fencing. Signage shall be placed on the fencing to identify the construction boundary limits.
- Install a sign 10 feet south of the north lot line at the approximate 6,229.1 elevation contour, identifying that all construction activity is prohibited north of the sign due to presence of TYC stems.

### Phase Two Construction

- Prior to any additional pier construction activity in TYC habitat after August 11, 2017, contact Commission staff to conduct an additional TYC survey. The survey must be conducted by September 30, 2017. If additional TYC stems are found, an update to the Plan will be required prior to commencement of construction activity.
- Maintain the TYC protective fencing and signage areas as required with Phase One construction, unless changes to fencing and signage areas are authorized by Commission staff.

In addition to the above requirements, this Plan may be subject to other requirements from other agencies with discretionary approval over the project. Please contact Jason Ramos at (916) 574-1814 or Jason.Ramos@slc.ca.gov, with any questions or to schedule a TYC survey.

Sincerely,

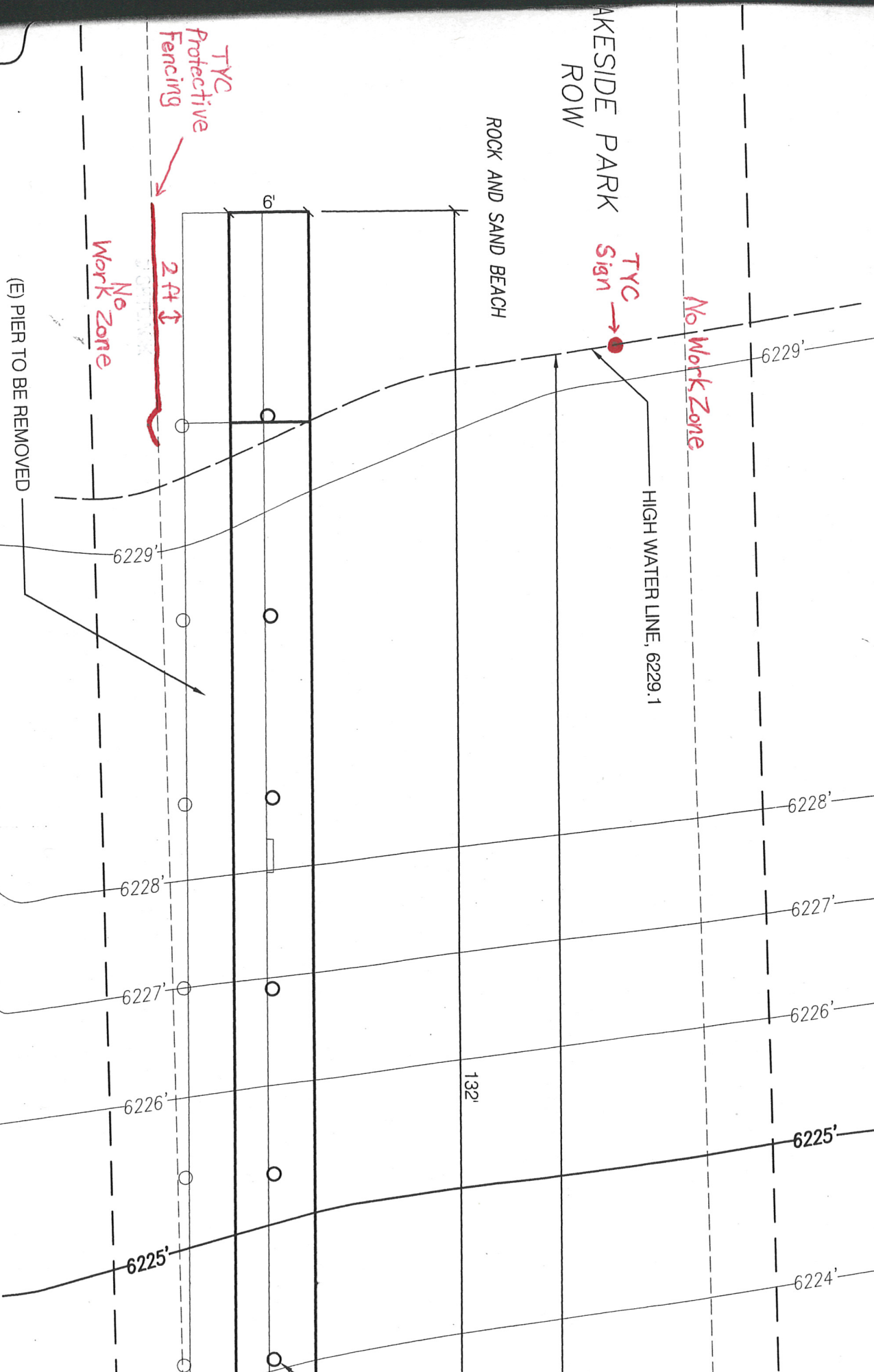
Kelly Connor

Public Land Management Specialist

CC: J. Ramos, CSLC  
T. Good, TRPA  
M. Vollmer, TRPA  
B. Hosea, CDFW

Attachment: TYC Protective Fencing Detail

# TYC Protective Fencing Detail



(E) PIER TO BE REMOVED

No Work Zone

No Work Zone

HIGH WATER LINE, 6229.1

AKESIDE PARK ROW

ROCK AND SAND BEACH

TYC Protective Fencing

TYC Sign

2 ft

132'

N65

2

6224'

6225'

6226'

6227'

6228'

6229'

6229'

6228'

6227'

6226'

6225'

6224'