

**STAFF REPORT
C21**

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04/19/18
PRC 4286.1
K. Connor

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Karen Katherine Olin and Robert Lawrence Olin, Trustees of the 1992 L. Olin Family Trust Dated 3/23/1992; and Marcus Monte, Trustee of The Marcus Monte Living Trust Dated April 23, 2002

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6085 and 6100 North Lake Boulevard, near Tahoe Vista, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier with boat lift, boathouse with boat lift, and one mooring buoy.

LEASE TERM:

10 years beginning March 6, 2018.

CONSIDERATION:

\$1,390 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 in the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreational uses.
3. Marcus Monte was granted authorization to cross the Olin's property to access the pier as part of a Pier Shared Use Agreement. This authorization must be maintained over the term of the lease. In the event the authorization is terminated, the Lease will also terminate.

STAFF REPORT NO. C21 (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 August 11, 2009, the Commission authorized a Recreational Pier Lease for the existing joint-use pier with boat lift, boathouse with boat lift, and one mooring buoy to Karen Katherine Olin and Robert Lawrence Olin, Trustees of the 1992 L. Olin Family Trust Dated 3/23/1992; and Marcus Monte, Trustee of the Marcus Monte Living Trust dated April 23, 2002 ([Item C08, August 11, 2009](#)). The lease expired on March 5, 2018. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing joint-use pier with boat lift, boathouse with boat lift, and one mooring buoy.

On September 23, 1993, the Tahoe Regional Planning Agency (TRPA) issued a permit for the existing mooring buoy adjacent to the upland parcel. The Applicant's TRPA permit is currently valid.

On February 1, 2009, the Olins entered into a Pier Shared Use Agreement with the owner of the adjacent littoral property (6100 North Lake Boulevard), Marcus Monte, Trustee of the Marcus Monte Living Trust dated April 23, 2002. Both parties share responsibility for the maintenance and repair of the pier. The Olins have exclusive use of the boathouse with boat lift and the mooring buoy. Mr. Monte has exclusive use of the uncovered boat lift located on the pier.

The pier with boat lift, boathouse with boat lift, and one mooring buoy have been in Lake Tahoe for many years at this location. The pier is built on pilings with the immediate area of the pier being slightly sloped and made up of gravel and cobble. The topography and the location of upland structures do not impede access to the lake and the pier height allows the public to navigate under the pier within the Public Trust easement. The one mooring buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake.

The improvements 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).

STAFF REPORT NO. C21 (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, 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. The proposed lease was previously scheduled for Commission consideration at the February 27, 2018 meeting. At that meeting, the Commission considered updates to the Lake Tahoe benchmarks ([Item C90, February 27, 2018](#)). The Commission deferred action on revising the existing Lake Tahoe benchmark and directed staff to identify funding options to conduct a thorough evaluation of the various methodologies available to the Commission to assess rent for piers, buoys and other structures located on state property in Lake Tahoe. The Commission further directed staff to continue applying the 2012 Lake Tahoe benchmarks for the next 5 years. Consequently, this item was removed from the February agenda, revised to reflect the current benchmark rates, and rescheduled for the Commission's consideration at the Commission's April meeting.
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. 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).

STAFF REPORT NO. **C21** (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 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 common law 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 March 6, 2018, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier with boat lift, boathouse with boat lift, and one mooring buoy 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 \$1,390, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4286.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 14, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing joint-use pier, a boathouse, two boat lifts, and a catwalk lying adjacent to those parcels as described in Exhibit "A" of that Grant Deed recorded March 6, 2008 as Document Number 2008-0017857 and that parcel as described in Exhibit "A" of that Grant Deed recorded October 3, 2005 as Document 2005-0132997 Official Records of said County.

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.

PARCEL 2 – ONE BUOY

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

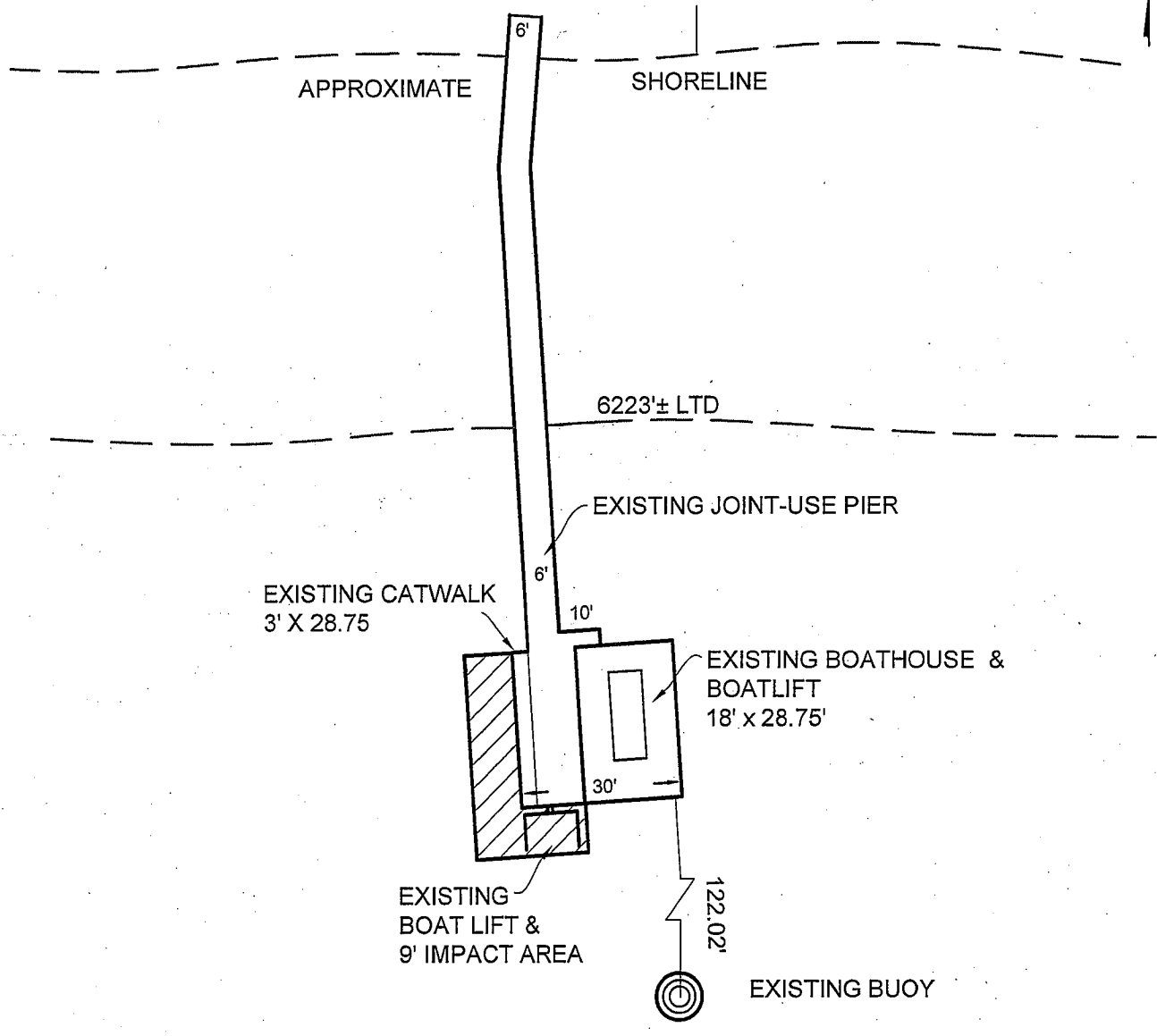
Prepared May 31, 2017 by the California State Lands Commission Boundary Unit.





APN 117-020-021

APN 117-020-017



L A K E T A H O E

EXHIBIT A

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LAND DESCRIPTION PLAT
 PRC 4286.1, OLIN / MONTE
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

APN 117-020-021

APN 117-020-017

APPROXIMATE

SHORELINE

6223'± LTD

EXISTING JOINT-USE PIER

EXISTING CATWALK
3' X 28.75'

EXISTING BOATHOUSE &
BOATLIFT
18' X 28.75'

EXISTING
BOAT LIFT &
9' IMPACT AREA

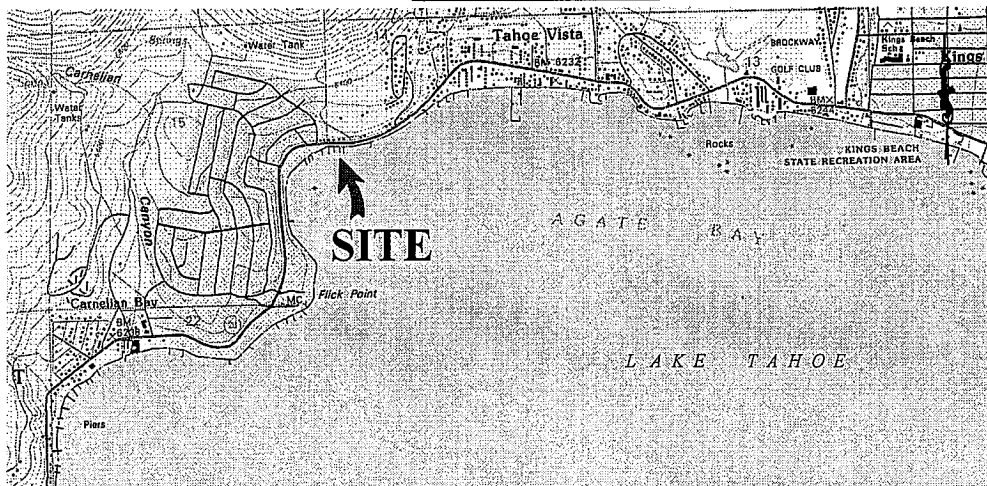
EXISTING BUOY

LAKE TAHOE

6085 AND 6100 NORTH LAKE BLVD., NEAR TAHOE VISTA

NO SCALE

LOCATION

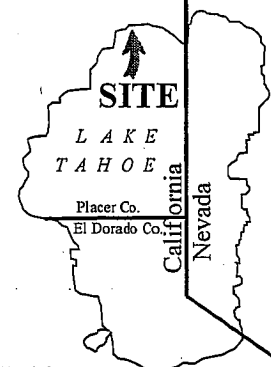


MAP SOURCE: USGS QUAD

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 4286.1
OLIN / MONTE
APN 117-020-017 &
APN 117-020-021
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJJ 05/29/2017