

**STAFF REPORT
C18**

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06/21/18
PRC 7276.1
S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

James V. Lucas and Shari Lucas

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5754 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, catwalk, and boat lift previously authorized by the Commission and two existing mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years beginning April 1, 2018.

CONSIDERATION:

\$826 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. 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 for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such

STAFF REPORT NO. C18 (CONT'D)

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.

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 16, 2008, the Commission authorized a Recreational Pier Lease for an existing pier, catwalk, and boat lift, to James V. Lucas and Shari Lucas ([Item C03, October 16, 2008](#)). That lease expired on March 31, 2018.

The Applicant is applying for a new lease for the continued use and maintenance of the existing pier, catwalk, and boat lift previously authorized by the Commission and two existing mooring buoys not previously authorized by the Commission. The Applicant did not include the existing mooring buoys in the prior lease application because the Applicant believed only mooring buoys permitted by TRPA could be brought under lease with the Commission. Staff reviewed historic photographic evidence and it appears, based on the available evidence, the two mooring buoys have existed for many years.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, catwalk, boat lift, and two mooring buoys are used for the mooring and docking 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 subject facilities have existed for many years at this location. The pier is built on pilings, meaning the public may navigate, or walk next to, and at lower water levels, under the pier. The topography around the existing pier is sloped with a rocky shoreline consisting of cobblestones and boulders.

STAFF REPORT NO. **C18** (CONT'D)

The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

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 and does not grant the lessee exclusive rights to the lease premises and reserves an easement to the public for the Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements and restore the lease premises to their original condition.

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 will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is 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 land along the State's inland and coastal waterways.
2. 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.

EXHIBITS:

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

STAFF REPORT NO. **C18** (CONT'D)

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 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 April 1, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier, catwalk, and boat lift previously authorized by the Commission and two existing 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 \$826, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7276.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 fractional Section 15, 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 pier, catwalk and boatlift lying adjacent to that parcel as described in that Grant Deed recorded May 22, 1992 as Document 92-039898 of Official Records of said County.

PARCELS 2 & 3 – BUOYS (2)

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing mooring buoys lying adjacent to that parcel described in said Grant Deed.

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.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared March 28, 2018 by
The California State Lands Commission Boundary Unit.



NO SCALE

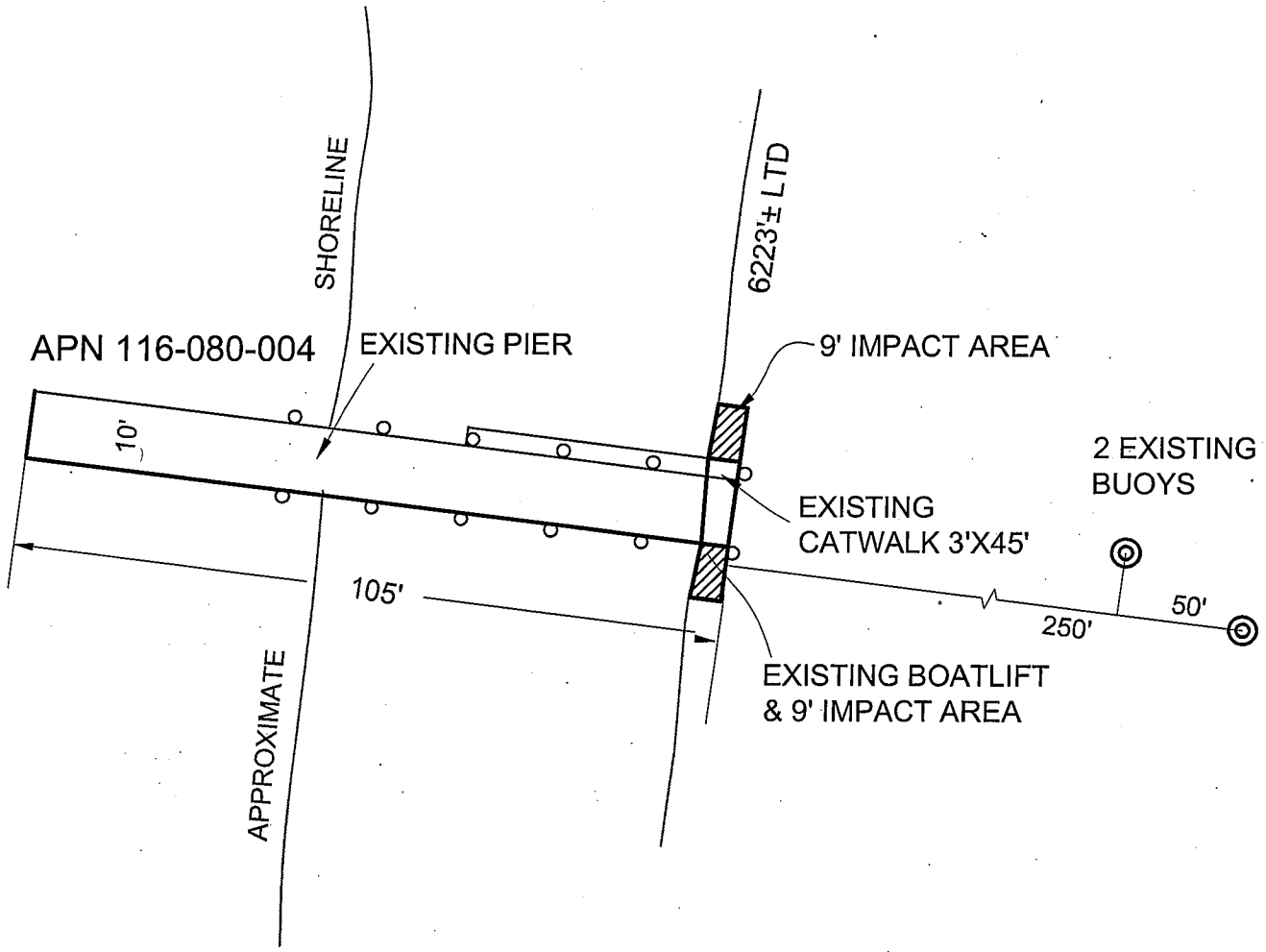


EXHIBIT A

Page 2 of 2

MJJ 3/26/2018

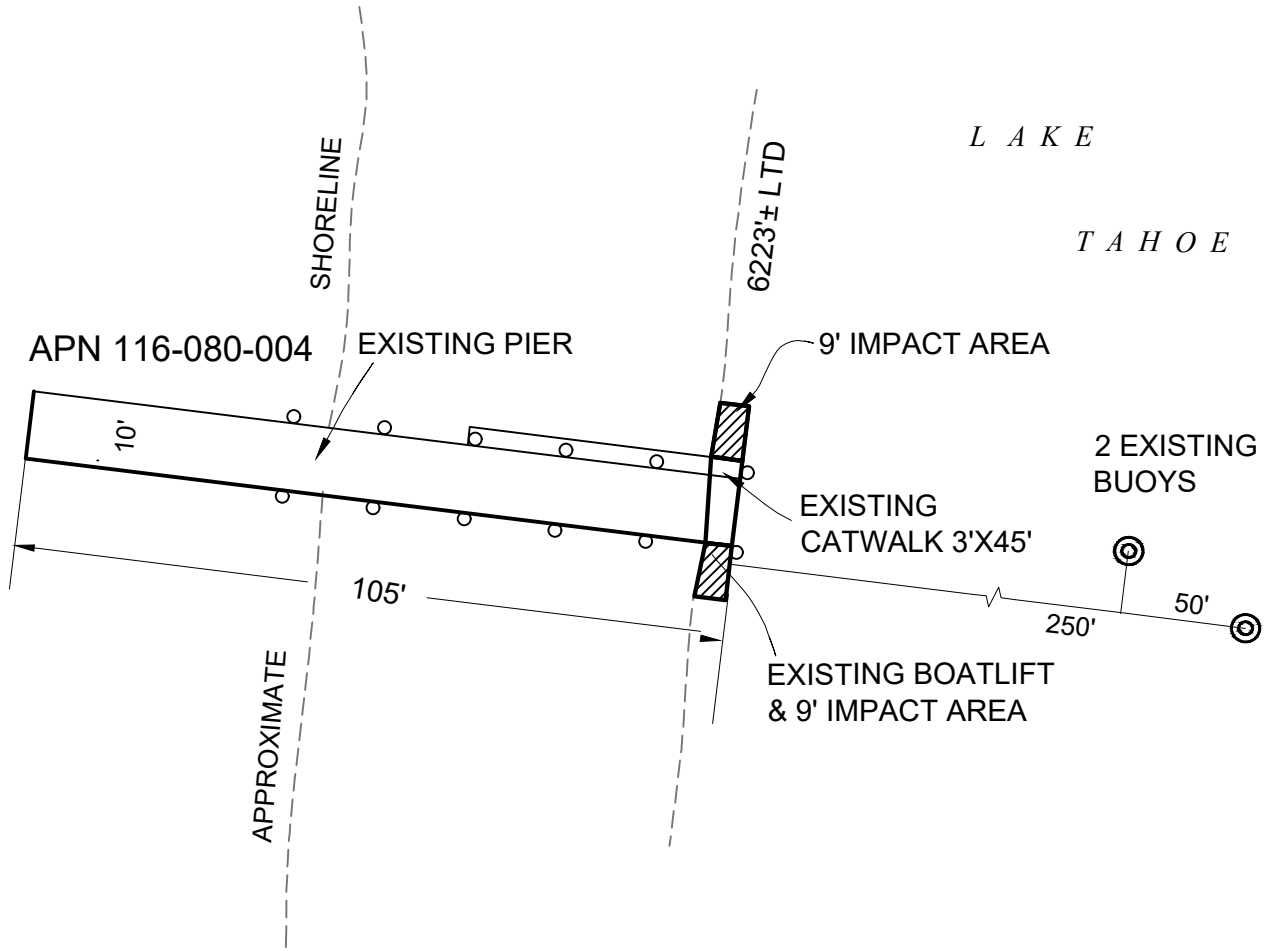
LAND DESCRIPTION PLAT
 PRC 7276.1, LUCAS
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



L A K E

T A H O E

5754 NORTH LAKE BLVD., CARNELIAN BAY

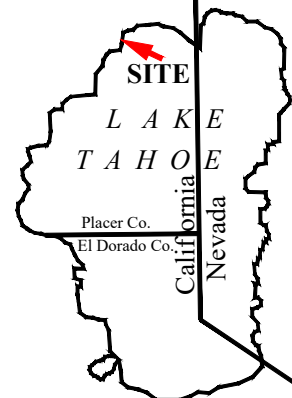
NO SCALE

LOCATION



Exhibit B

PRC 7276.1
 LUCAS
 APN 116-080-004
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER CO.



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.

MJJ 3/26/2018