

**STAFF REPORT
C02**

A 1
S 1

06/21/18
PRC 3994.1
M. Schroeder

GENERAL LEASE – COMMERCIAL USE

APPLICANT:

Agate Pier and Swim Club, Inc.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5690 North Lake Boulevard, near Agate Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, 21 mooring buoys, and one marker buoy.

LEASE TERM:

20 years, beginning July 1, 2018.

CONSIDERATION:

\$9,944 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent on the 10th anniversary of the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$2,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement or on state land that may impair the public uses of access, navigation, fishing, and lake-related recreational uses.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

STAFF REPORT NO. C02 (CONT'D)

Public Trust and State's Best Interests Analysis:

On December 16, 1998, the Commission authorized a 20-year General Lease – Commercial Use to Agate Bay Properties, Inc., for the use and maintenance of an existing pier, swim float and 14 mooring buoys ([Item C102, December 16, 1998](#)). On April 7, 2003, the Commission authorized an assignment of the lease to Agate Bay Pier and Swim Club, Inc. ([Item C02, April 7, 2003](#)). On October 20, 2003, the Commission authorized an amendment of the lease to relocate and retain 21 mooring buoys and one marker buoy and exclude the swim float, ([Item C06, October 20, 2003](#)). On August 20, 2010, the Commission authorized a revision of rent to revise the annual rent from \$3,220 per year to \$11,720 per year ([Item C25, August 20, 2010](#)). On February 20, 2015, the Commission authorized an amendment of the lease to reflect a reduced lease area and a revision of rent to revise the annual rent from \$11,720 per year to \$9,869 per year ([Item C24, February 20, 2015](#)). The lease expires on June 30, 2018. The Applicant is applying for a new lease.

The Applicant owns the upland adjoining the lease premises. The Applicant is a non-profit private corporation and operates as an optional private membership club limited to property owners of the upland development, Agate Bay Shores Subdivision. The corporation allows member use of the recreation facilities within the development including use of the pier and mooring buoys. Members and guests of Agate Bay Shores Subdivision pay fees for use of the buoys.

The subject facilities are privately owned and maintained. The pier and 21 mooring buoys accommodate, promote, and support recreational boating and provide access to the adjacent State waterway. The pier is built on pilings, meaning the public may navigate or walk next to and, at lower water levels, under the pier. The area around the existing pier is sloped with small boulders, cobbles, and a sandy portion of the shore. The buoys are located directly lakeward of the upland property and each one occupies a relatively small area of the lake. The marker buoy is an aide to navigation on the waterway. 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 proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 20 years, and a non-exclusive use provision. The facilities have existed for many years

STAFF REPORT NO. **C02** (CONT'D)

at this location; they do not significantly alter the land, they do not permanently alienate the State's fee simple interest in the underlying land, and they do not permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

The proposed lease requires the lessee 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,; 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 protect, expand, and enhance appropriate public use and access to and 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. **C02** (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 the Public Trust needs and values at this location at this time, and for the foreseeable term of the proposed 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 – Commercial Use to Agate Pier and Swim Club, Inc., beginning July 1, 2018, for a term of 20 years, for the continued use and maintenance of an existing pier, 21 mooring buoys, and one marker 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 \$9,944, with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent on the 10th anniversary of the Lease term, as provided in the Lease; and liability insurance in an amount no less than \$2,000,000 per occurrence.

EXHIBIT A

PRC 3994.1

LAND DESCRIPTION

Twenty-three (23) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of 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 and two (2) catwalks lying adjacent to those parcels as described in that Grant Deed recorded July 15, 2003 in Document 2003-0115363 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 2-23 – 21 BUOYS & 1 COAST GUARD MARKER BUOY

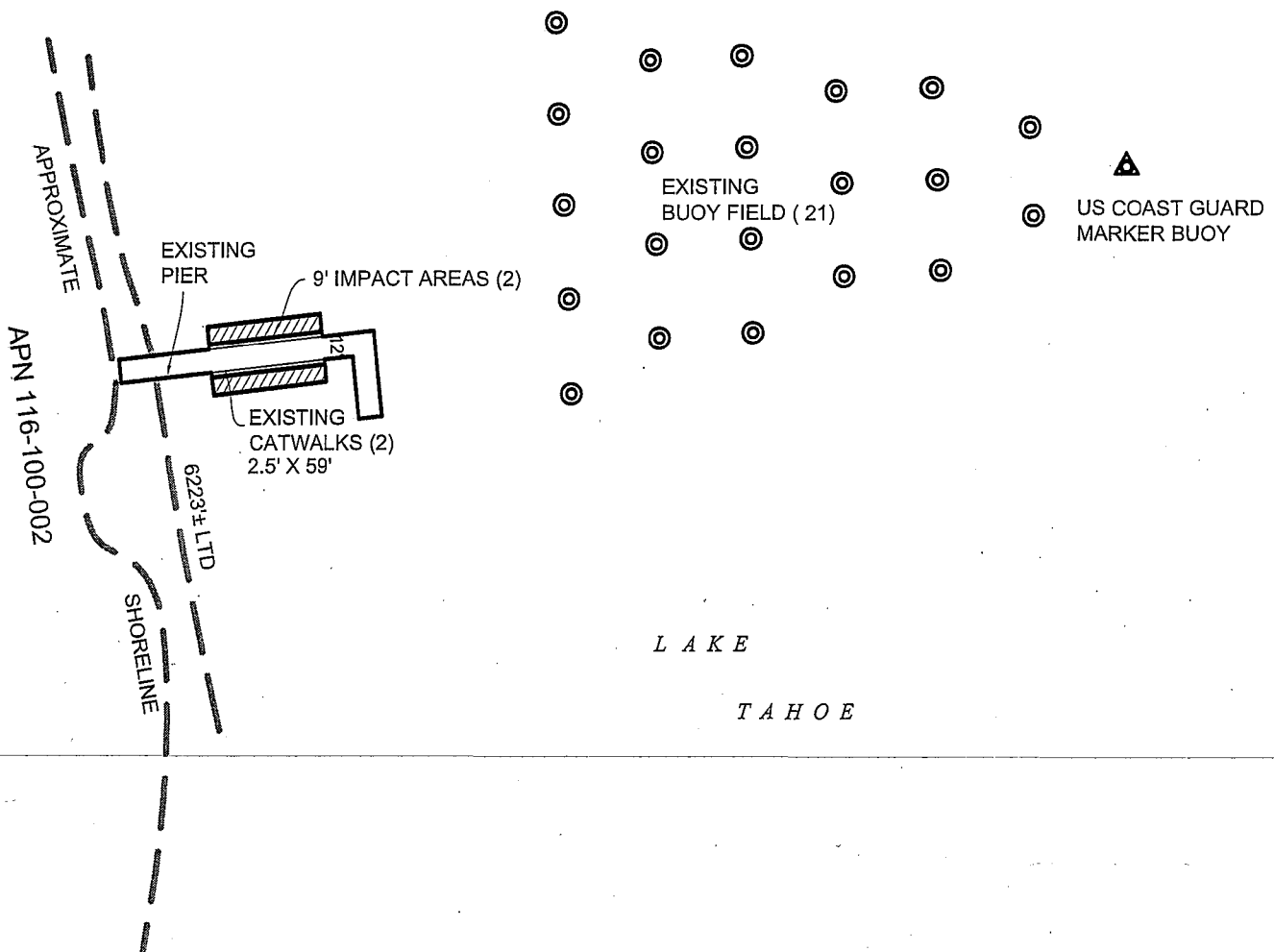
Twenty-two circular parcels of land being 50 feet in diameter, underlying twenty-two (22) existing buoys and one US Coast Guard Marker Buoy adjacent to said parcels.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared December 23, 2014 by the California State Lands Commission Boundary Unit.





L A K E
T A H O E

EXHIBIT A

Page 2 of 2

MJJ 3/19/18

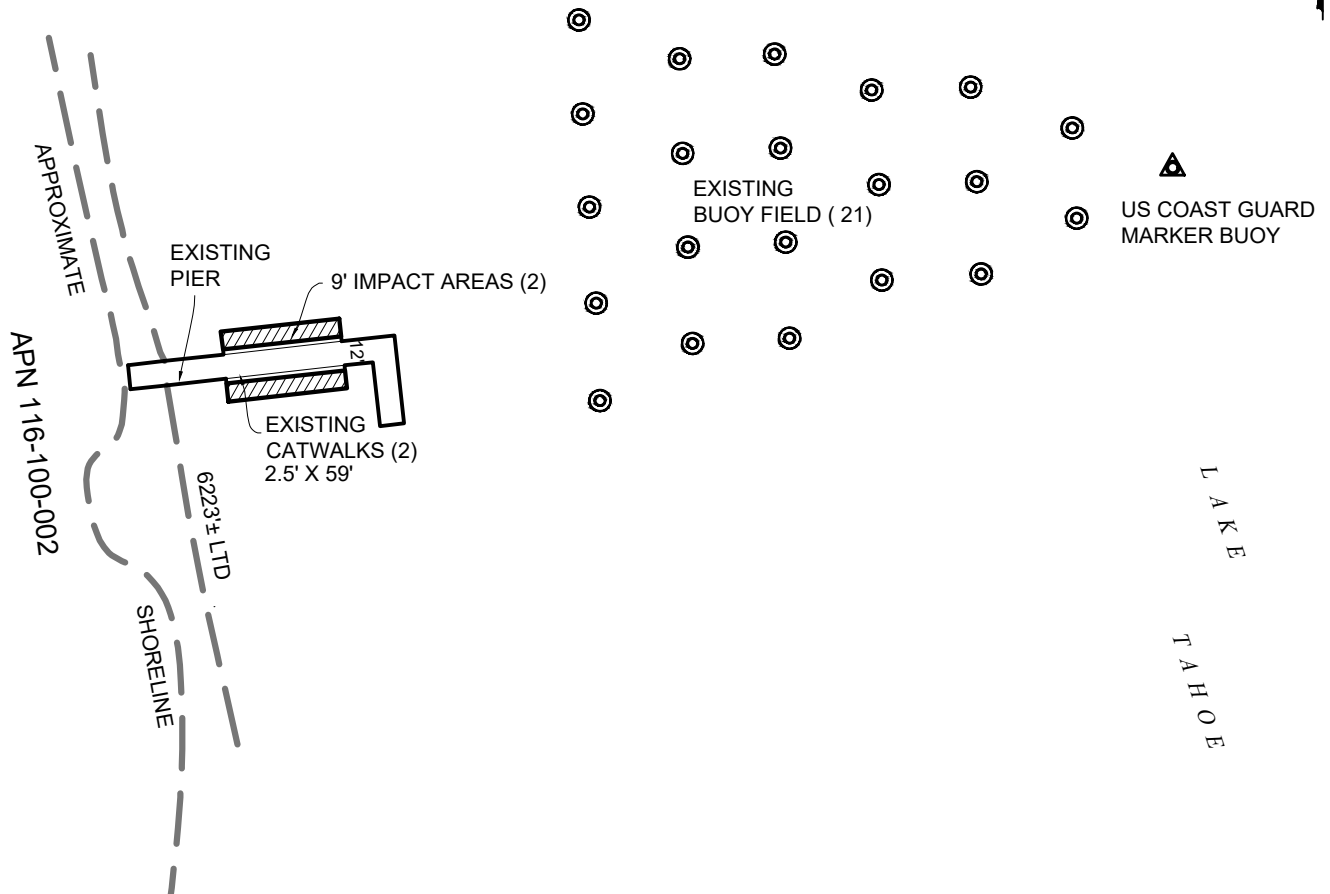
LAND DESCRIPTION PLAT
PRC 3994.1, AGATE PIER & SWIM CLUB
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



5690 NORTH LAKE BLVD., NEAR AGATE BAY

NO SCALE

LOCATION

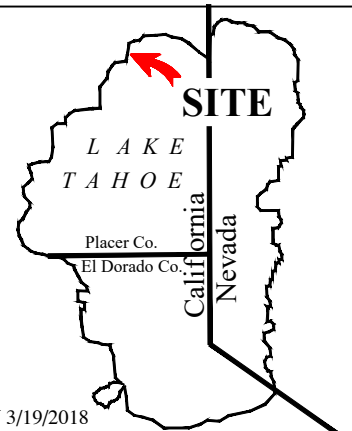


MAP SOURCE: USGS QUAD

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

PRC 3994.1
 AGATE PIER & SWIM CLUB
 APN 116-100-002
 GENERAL LEASE -
 COMMERCIAL USE
 PLACER COUNTY



MIJ 3/19/2018