

**STAFF REPORT
C08**

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04/19/18
PRC 3705.1
S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Snow Water LP, a California limited partnership.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1300 West Lake Boulevard,
Tahoe City, Placer County

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat hoist, boat slip,
and sundeck with stairs.

LEASE TERM:

10 years beginning January 21, 2018.

CONSIDERATION:

\$1,849 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 which may impair the public uses of access, navigation, fishing, and lake-related recreational uses.
3. The lease contains provisions stating that the existing sundeck, as shown on the attached Exhibit B, cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck must be removed from the lease premises.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5;
California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On March 25, 2008 the Commission authorized a General Lease – Recreational Use, for an existing pier, boat hoist, boat slip, and sundeck, to William R. Timken and Judith P. Timken, Trustees of the 2007 William R. Timken Qualified Personal Residence Trust I B and Trust II B u/d/t dated September 10, 2007; and William R. Timken and Judith P. Timken, Trustees of the 2007 Judith P. Timken Qualified Personal Residence Trust I B and Trust II B u/d/t dated September 10, 2007 ([Calendar Item C40, March 25, 2008](#)). That lease expired on January 20, 2018. On June 7, 2016, ownership of the upland parcel transferred to Snow Water, LP, a California limited partnership. The Applicant is applying for a General Lease – Recreational Use, for the existing pier, boat hoist, boat slip, and sundeck with stairs.

Staff recommends issuance of a new lease beginning January 21, 2018. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$1,318 for the period beginning June 7, 2016, through January 20, 2018, the day before the new lease becomes effective.

The existing sundeck is not associated with traditional Public Trust uses. While sundecks are generally not favored, sundecks that have been in place for years have been permitted if, as is the case in this instance, they do not significantly interfere with trust activities. However, the lease contains provisions that the sundeck may not be expanded nor rebuilt if substantially destroyed.

Other than the sundeck, the subject facilities are used for 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 Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, boat hoist, and boat slip are used for the docking and mooring 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

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California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The pier and sundeck 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 gently sloped with a pebbly shoreline. The topography and the location of upland structures do not impede access to the Lake, and the pier height allows the public to navigate or to walk next to and, at lower water levels, under the pier within the Public Trust easement.

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 Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land 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, Commission 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. 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).

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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 the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$1,318 for the unauthorized occupation of State land for the period beginning June 7, 2016, to January 20, 2018.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning January 21, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier, boat hoist, boat slip, and sundeck with stairs, 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 \$1,849 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3705.1

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 fractional Section 18, Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved April 11, 1884 County of Placer, State of California, and more particularly described as follows:

All lands underlying an existing pier, boat hoist, boat slip, sundeck and stairs adjacent to those parcels as described in Exhibit "A" of that Grant Deed recorded June 7, 2016 in Document Number 2016-0043862 of Official Records of said County.

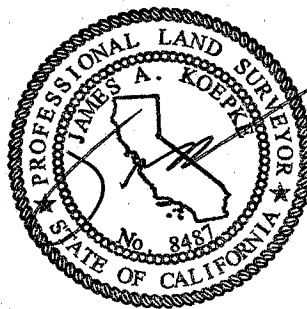
TOGETHER WITH any applicable use area(s).

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 November 14, 2017 by the California State Lands Commission Boundary Unit.



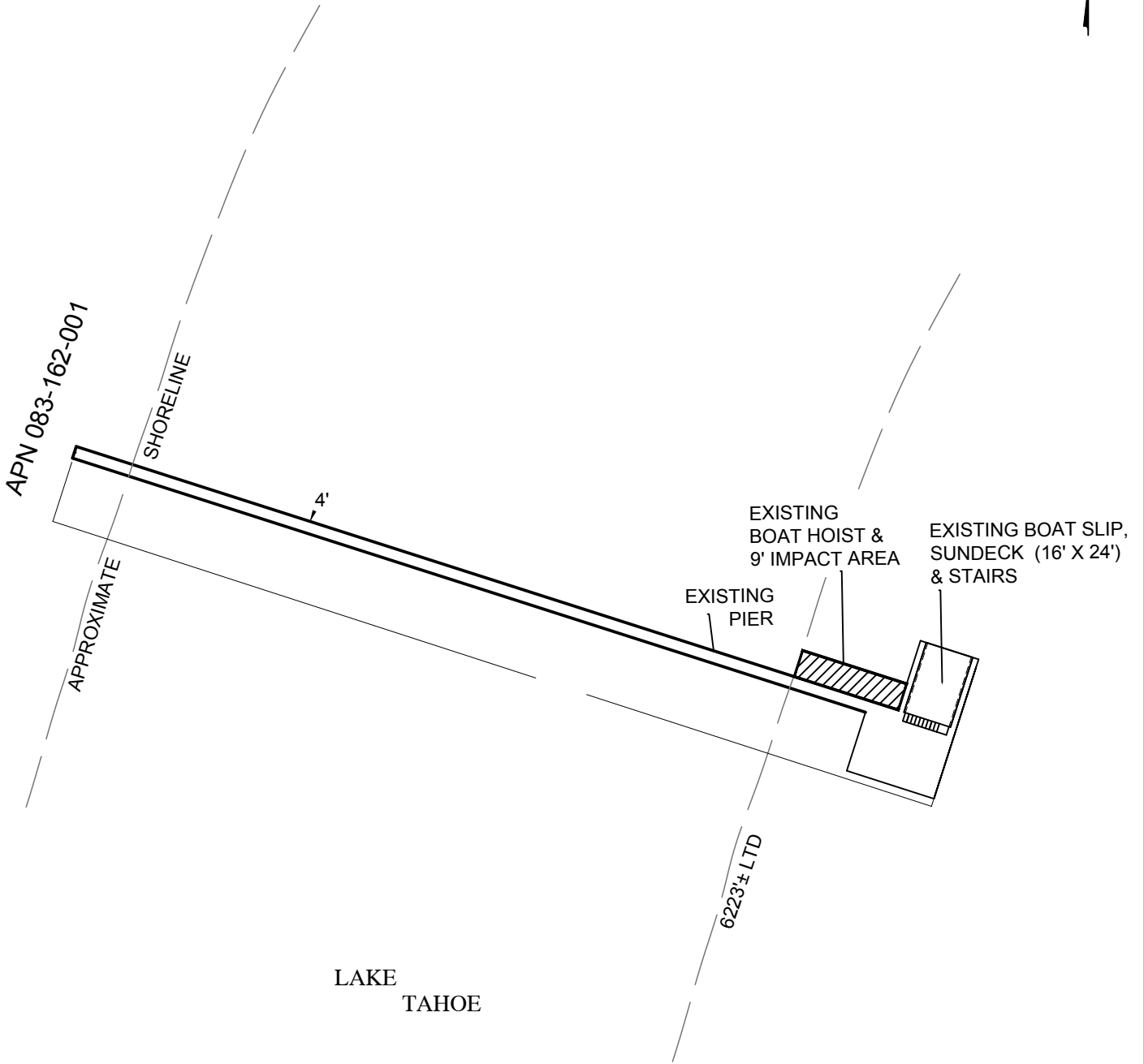


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 3705.1, SNOW WATER L.P.
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

L A K E
T A H O E

APN 083-162-001

SHORELINE

4'

APPROXIMATE

323'

EXISTING
BOAT HOIST &
9' IMPACT AREA

EXISTING BOAT SLIP,
SUDECK (16' X 24')
& STAIRS

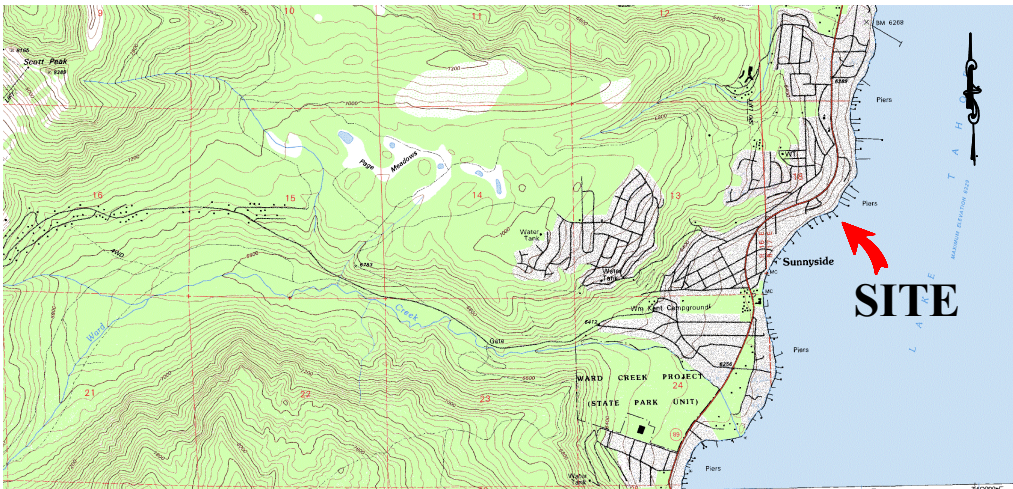
EXISTING
PIER

6223'± LTD

1300 WEST LAKE BLVD., TAHOE CITY

NO SCALE

LOCATION

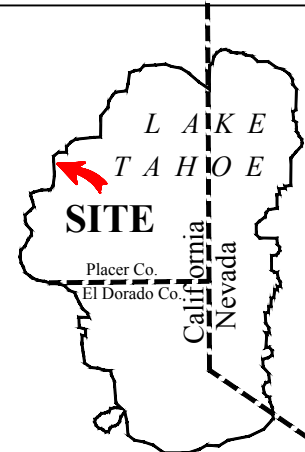


MAP SOURCE: USGS QUAD

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 3705.1
SNOW WATER L.P.
APN 083-162-001
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJJ 11/13/17