

**STAFF REPORT  
C11**

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10/18/18  
PRC 3907.1  
J. Toy

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Edward F. Mills, Trustee, or any successors in trust, of the Horseshoe Trust dated April 6, 2017; and Frank Drake Mills

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 7141 West Lake Boulevard, near Tahoma, El Dorado County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing pier.

*LEASE TERM:*

10 years, beginning June 14, 2018.

*CONSIDERATION:*

\$652 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.

**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 29, 2010, the Commission authorized a Recreational Pier Lease for an existing pier to Edward Freeman Mills and Frank Drake Mills

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[\(Item C09, October 29, 2010\)](#). On August 4, 2017, upland ownership was transferred to Edward F. Mills, Trustee, or any successors in trust, of the Horseshoe Trust dated April 6, 2017; and Frank Drake Mills. The lease expired on June 13, 2018. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier.

The Applicant owns the upland adjoining the lease premises. The subject facility is privately owned and maintained. The pier is used for the docking and mooring of boats and to 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 facility has existed for many years at this location. The pier is built on pilings, which allows the public to navigate or walk next to and, at lower water levels, under the pier. The immediate area of the existing pier is sandy and gently sloped.

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. 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.

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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

**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 June 14, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier 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 \$652, with an annual Consumer Price Index adjustment, and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 3907.1**

**LAND DESCRIPTION**

One parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 17, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California and more particularly described as follows:

All those lands underlying an existing pier laying adjacent to a parcel as described in that Exhibit "A", Article 15 of Horseshoe Trust of that Trust Transfer Deed recorded August 4, 2017 as Document Number 2017-0032667 in Official Records of said County.

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

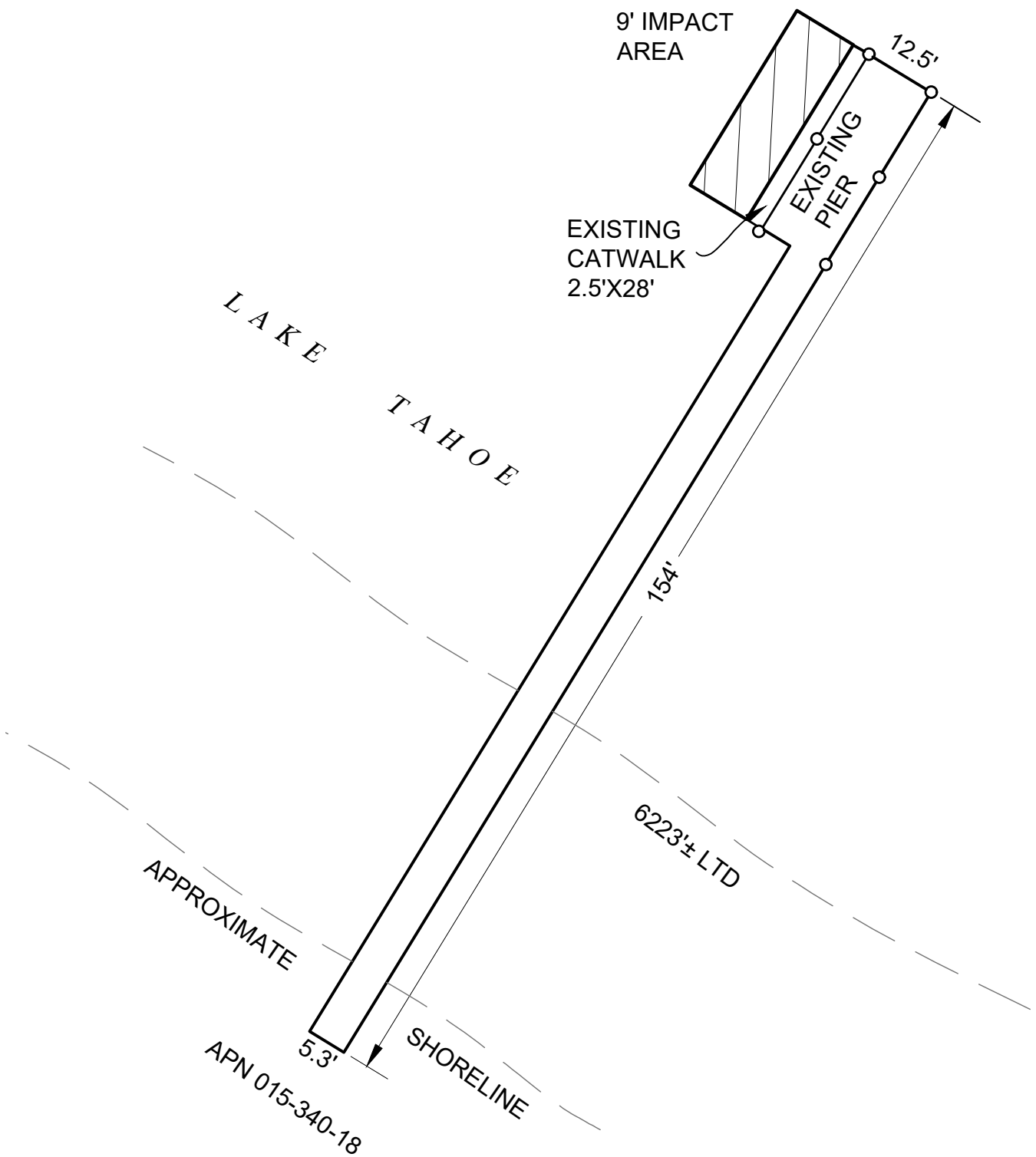
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared August 24, 2018 by The California State Lands Commission Boundary Unit.



NO SCALE



### EXHIBIT A

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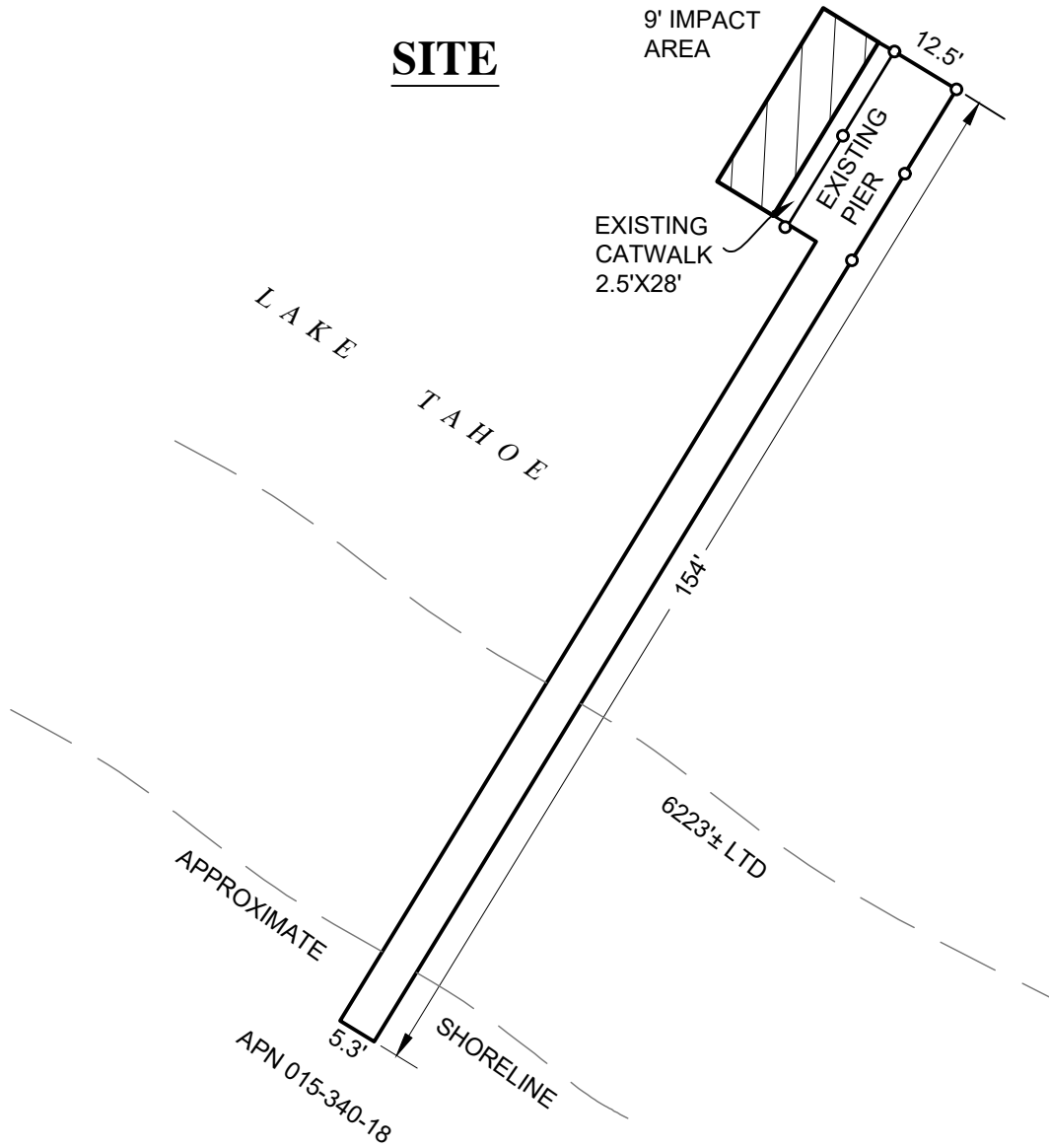
LAND DESCRIPTION PLAT  
PRC 3907.1, HORSESHOE TRUST, ET. AL  
EL DORADO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE



7141 WEST LAKE BLVD., NEAR TAHOMA

NO SCALE

# LOCATION

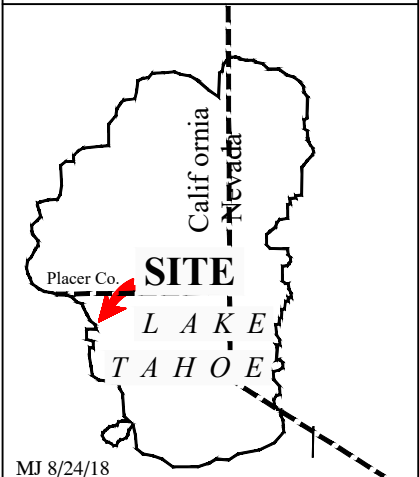


MAP SOURCE: USGS QUAD

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 3907.1  
 HORSESHOE TRUST, ET. AL  
 APN 015-340-18  
 GENERAL LEASE -  
 RECREATIONAL USE  
 EL DORADO COUNTY



MJ 8/24/18