

STAFF REPORT

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Lease 8227.1
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ACCEPTANCE OF A LEASE QUITCLAIM DEED AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE

LESSEE/APPLICANT:

Richard J. Boyle, Jr. and Catherine M. Boyle, Trustees of the Boyle Family Trust
Dated April 13, 2006

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8789 Rubicon Drive, near
Tahoma, El Dorado County.

AUTHORIZED USE:

Removal and reconstruction of an existing pier with an extension, and use
and maintenance of two existing mooring buoys.

LEASE TERM:

10 years, beginning December 6, 2019.

CONSIDERATION:

\$1,443 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from the Tahoe Regional Planning Agency (TRPA) or any other regulatory agency for the Authorized Improvements in this Lease.
- 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.

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- The lease provides that the public will be allowed to pass and re-pass underneath the pier with signs posted on each side of the pier to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 feet, Lake Tahoe Datum.

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 June 21, 2013, the Commission authorized a General Lease – Recreational Use for an existing pier and two mooring buoys to Richard J. Boyle, Jr. and Catherine M. Boyle, Trustees of the Boyle Family Trust Dated April 13, 2006 ([Item C38, June 21, 2013](#)). On August 17, 2017, 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 \$1,040 to \$823 per year ([Item C29, August 17, 2017](#)). The lease will expire on August 14, 2022.

The Applicant is now applying for a General Lease – Recreational Use for the proposed removal, reconstruction and extension of the existing pier and continued use and maintenance of the two existing mooring buoys. The existing pier extends to 6,222 feet, Lake Tahoe Datum, and is set on two concrete piles on boulders in addition to double pier pilings. The Applicant proposes to construct the pier on single pilings toward the TRPA pier headline from the existing upland access point but at a southerly angle from the existing pier projection.

The project will be performed on-site with waterward access to the pier from a barge or amphibious vehicle. All materials will be stored and transported to the site from the lake. The access confinement for the barge will be adjacent to the existing pier location in order to minimize shoreline and lake bottom disturbance.

Construction will take place after all required approvals have been obtained. The Applicant will follow all construction methods and timeframes provided by TRPA, the Lahontan Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the U.S. Army Corps of Engineers.

The Applicant has requested issuance of a new lease and has executed a quitclaim deed releasing their interest in the current lease. Staff

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recommends the Commission accept the lease quitclaim deed, effective December 5, 2019, and approve the new lease, effective December 6, 2019.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained, 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 California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The proposed pier will have a clearance of about 6 feet underneath and 14 feet between the pilings, providing public access for pedestrians and lake-related activities at varying water levels within the Public Trust easement. The immediate area of the proposed pier is a flat sandy beach. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. TRPA permitted the two mooring buoys and the reconstruction and expansion of the pier in 2019.

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. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the lessee may be required to remove the pier and two mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease,

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the lessee also has no right to a new lease or to renewal of any previous lease.

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. On October 24, 2018, the TRPA Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. Acceptance of a quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

5. **Pier Reconstruction:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).
6. **Two Existing Buoys:** Staff recommends that the Commission find that this activity is exempt from the requirements of 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

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Pier Reconstruction: 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Two Existing Buoys: 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 acceptance of a lease quitclaim deed and issuance of 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:

1. Authorize acceptance of a lease quitclaim deed, effective December 5, 2019, of Lease No. PRC 8227.1, a General Lease – Recreational Use, issued to Richard J. Boyle, Jr. and Catherine M. Boyle, Trustees of the Boyle Family Trust Dated April 13, 2006.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 6, 2019, for a term of 10 years, for the removal and reconstruction of a pier with an extension, and use and maintenance of two existing mooring buoys, 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 \$1,443, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8227.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 32, 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:

PARCEL 1 – PIER

All those lands underlying a proposed pier and catwalk lying adjacent to that Lot as described in Exhibit “A” of that Grant Deed recorded August 15, 2012 as Document Number 2012-0040511 in Official Records of said County.

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

PARCELS 2 & 3 – BUOYS (2)

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said Lot.

Accompanying plat is hereby made part of this description.

This description is based on Applicant provided design plans by found in the Applicant for Lease of State Lands for a proposed pier and catwalk, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This is to be updated once final as-built plans are submitted.

END OF DESCRIPTION

Prepared October 30, 2019 by
the California State Lands Commission Boundary Unit.



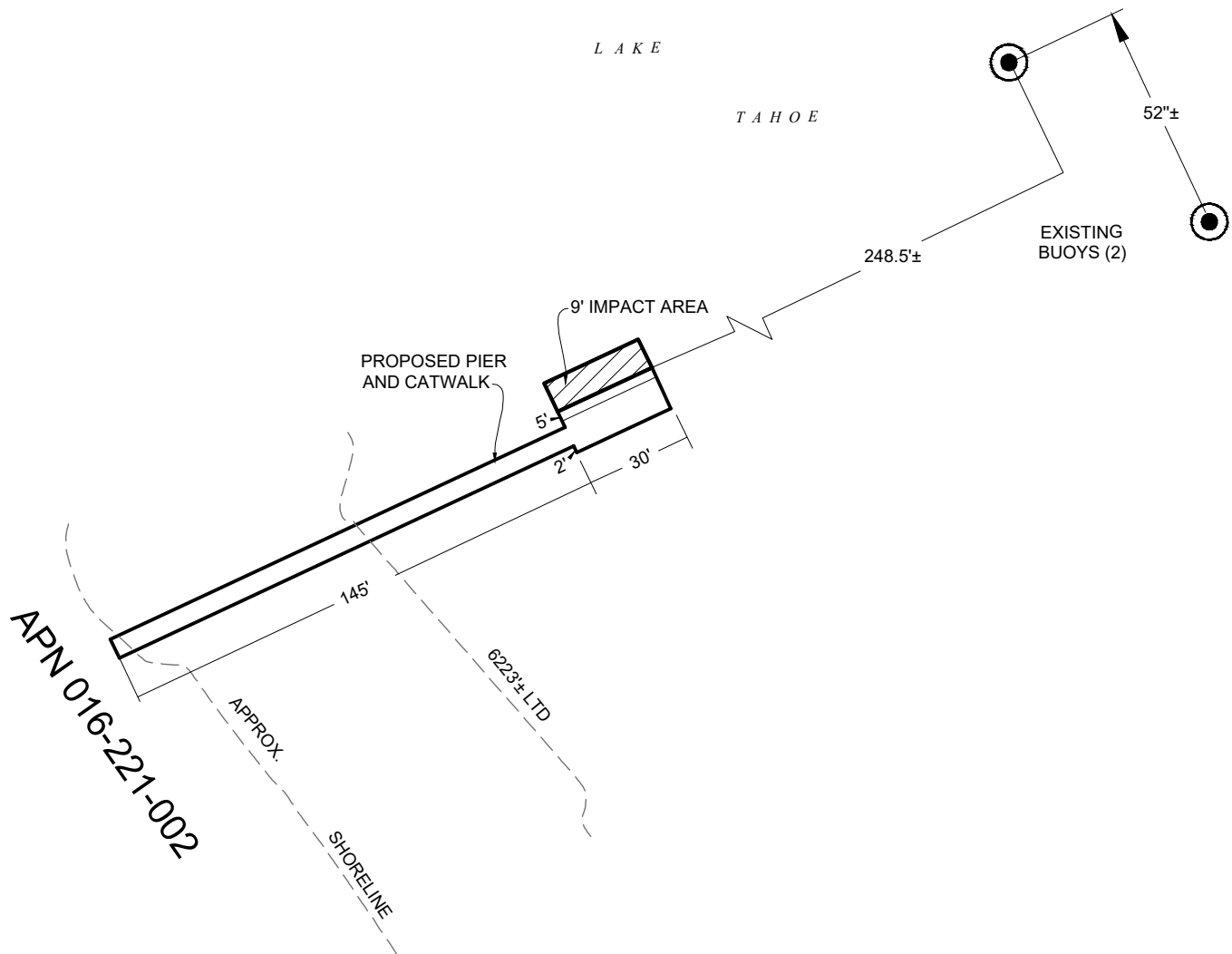


EXHIBIT A

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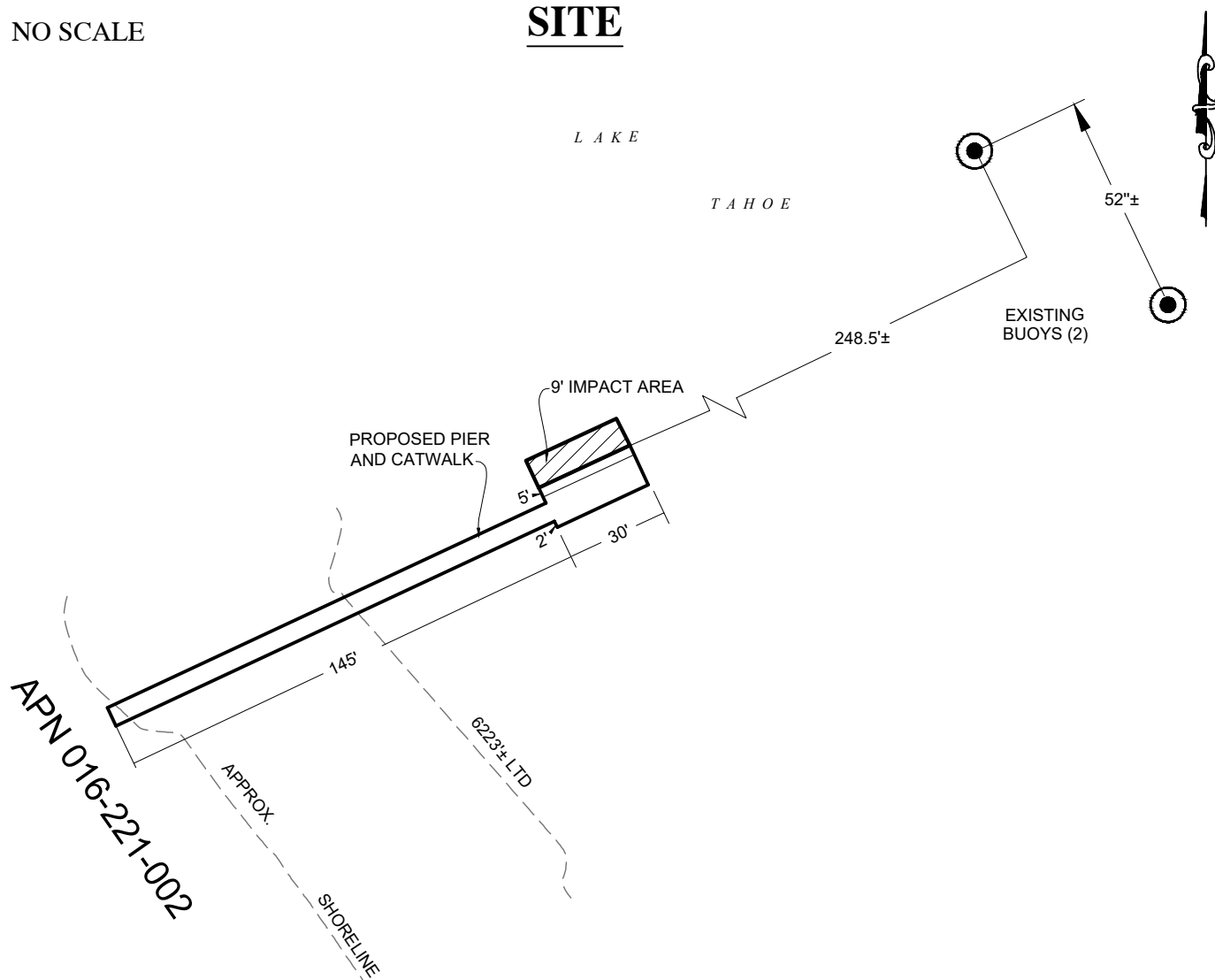
LEASE 8227.1 , BOYLE FAMILY TRUST
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

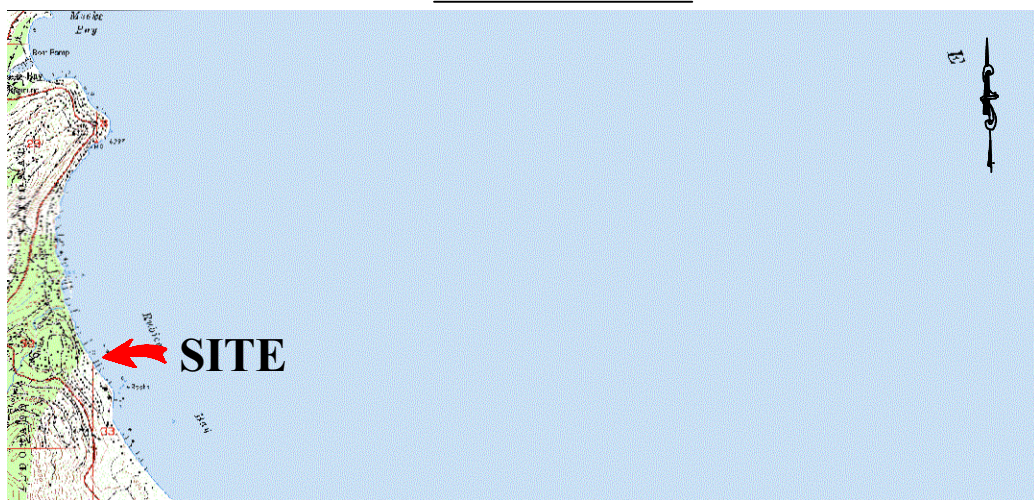
SITE



8789 RUBICON DRIVE, NEAR TAHOMA

NO SCALE

LOCATION

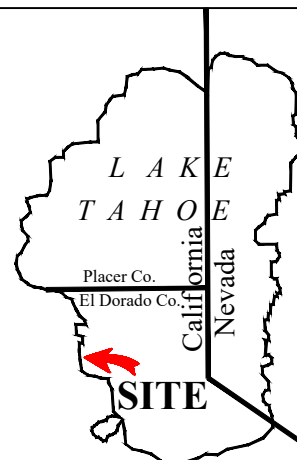


MAP SOURCE: USGS QUAD

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

LEASE 8227.1
BOYLE FAMILY TRUST
APN 016-221-002
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



MJJ 10/29/19