

**STAFF REPORT
05**

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12/06/19
PRC 5491.1
A2272
S. Avila

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ASSIGNMENT OF LEASE

LESSEE:

Richard Ghilotti, Trustee of the Richard and Nancy Ghilotti Family Trust under declaration of trust dated July 11, 1997; and Michelle Ghilotti Mandel, Trustee of the Joseph and Stella May Residence Trust dated May 18, 1992; and Dale L. Marcellini and Jill A. Marcellini, Co-Trustees, or any successor Trustee, of the Dale L. Marcellini and Jill A. Marcellini Revocable Living Trust, executed on November 1, 2005

ASSIGNOR:

Richard Ghilotti, Trustee of the Richard and Nancy Ghilotti Family Trust under declaration of trust dated July 11, 1997; and Michelle Ghilotti Mandel, Trustee of the Joseph and Stella May Residence Trust dated May 18, 1992.

APPLICANT/ASSIGNEE:

Loraine Lee Simpson and William Braxton Simpson, Trustees of the Simpson Living Trust dated 12/10/2004

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to Assessor's Parcel Number (APN) 085-344-008, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and three mooring buoys.

LEASE TERM:

10 years, beginning December 1, 2015.

CONSIDERATION:

\$1,837 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.

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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 February 9, 2016, the Commission authorized a General Lease - Recreational Use to Richard Ghilotti, Trustee of the Richard and Nancy Ghilotti Family Trust under declaration of trust dated July 11, 1997; Michelle Ghilotti Mandel, Trustee of the Joseph and Stella May Residence Trust dated May 18, 1992; and Dale L. Marcellini and Jill A. Marcellini, Co-Trustees, or any successor Trustee, of the Dale L. Marcellini and Jill A. Marcellini Revocable Living Trust, executed on November 1, 2005, for an existing pier and three mooring buoys ([Item C03, February 9, 2016](#)). The lease will expire on November 30, 2025.

On September 11, 2018, a 50 percent interest in the upland parcel was deeded from Richard Ghilotti, Trustee of the Richard and Nancy Ghilotti Family Trust under declaration of trust dated July 11, 1997; and Michelle Ghilotti Mandel, Trustee of the Joseph and Stella May Residence Trust dated May 18, 1992, to Loraine Lee Simpson and William Braxton Simpson, Trustees of the Simpson Living Trust dated 12/10/2004. The Marcellini Trustees still hold a 50 percent interest in the upland parcel. The Marcellini Trustees have been notified about the assignment to Applicant. The Applicant is now requesting an assignment of the lease and agrees to be bound by the terms, conditions, covenants, and agreements contained in the lease. Staff recommends an assignment of the lease to reflect the change in ownership of 50 percent of the upland parcel from the Assignor to the Assignee. The assignment will be effective as of the date of transfer, September 11, 2018.

The lease assignment will not result in a change in the use of, or impacts to, Public Trust resources. Staff believes approval of this assignment is consistent with the common law Public Trust Doctrine and is 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. Upon expiration or prior termination of the lease, the lessee has no right to a new lease or to renewal of any previous lease.

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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.
3. On October 24, 2018, the Tahoe Regional Planning Agency's Governing Board certified a Final Environmental Impact Report and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. Assignment of the lease is not a project as defined by the California Environmental Quality Act 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, sections 15378, subdivision (b)(5).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment will not impact 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; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease No. PRC 5491.1, a General Lease – Recreational Use, of sovereign land as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof, from Richard Ghilotti, Trustee of the Richard and Nancy Ghilotti Family Trust under declaration of trust dated July 11, 1997; and Michelle Ghilotti Mandel, Trustee of the Joseph and Stella May Residence Trust dated May 18, 1992, to Loraine Lee Simpson and William Braxton Simpson, Trustees of the Simpson Living Trust dated 12/10/2004; effective September 11, 2018. The status of Dale L. Marcellini and Jill A. Marcellini, Co-Trustees, or any successor Trustee, of the Dale L. Marcellini and Jill A. Marcellini

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Revocable Living Trust, executed on November 1, 2005 as Lessee will remain unchanged.

EXHIBIT A

LEASE 5491.1

LAND DESCRIPTION

Four (4) parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 5 of fractional Section 36, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and catwalk lying adjacent to those parcels described in Grant Deed recorded September 11, 2018 as Document Number 2018-0065679-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

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

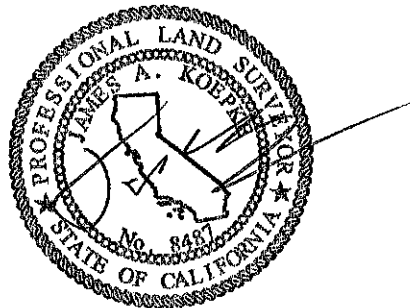
PARCEL 2 through 4 – BUOYS

Three circular parcels of land, each being 50 feet in diameter, underlying three existing buoys lying adjacent to those parcels described in Grant Deed recorded September 11, 2018 as Document Number 2018-0065679-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 10/28/2019 by the California State Lands Commission Boundary Unit.



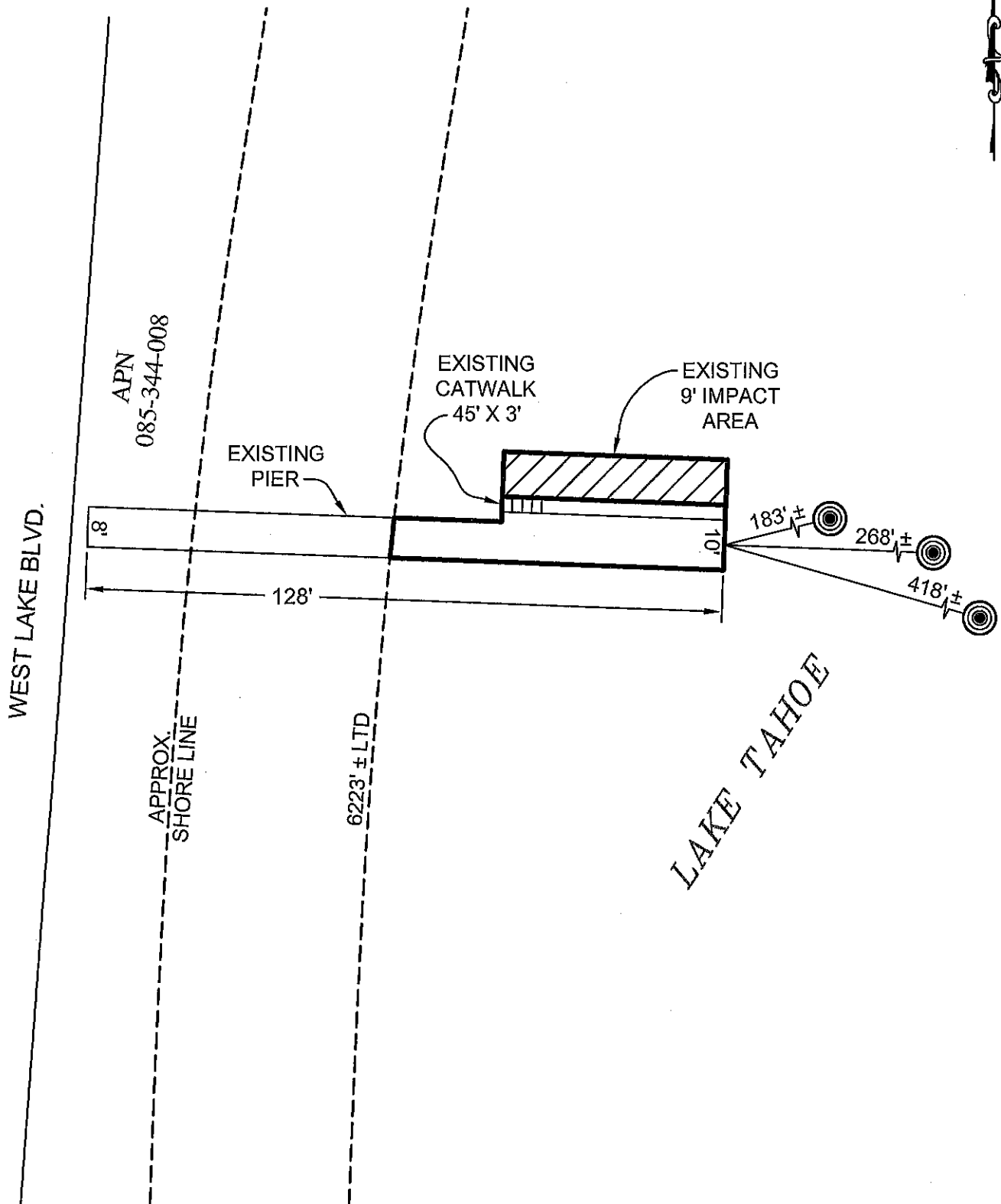
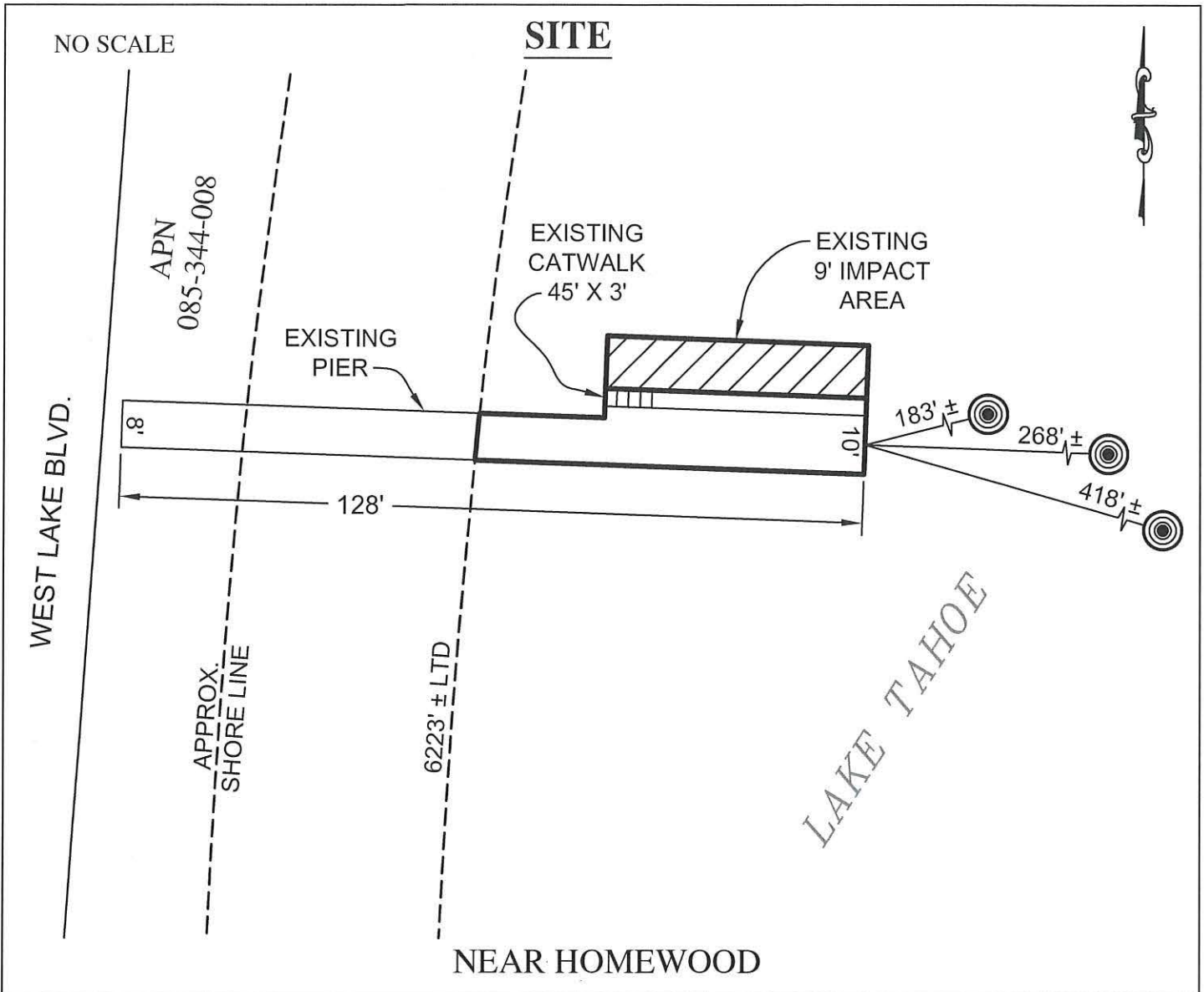


EXHIBIT A

LAND DESCRIPTION PLAT
 LEASE 5491.1, SIMPSON & MARCELLINI
 TRUSTS
 PLACER COUNTY

CALIFORNIA STATE LANDS
 COMMISSION





LOCATION

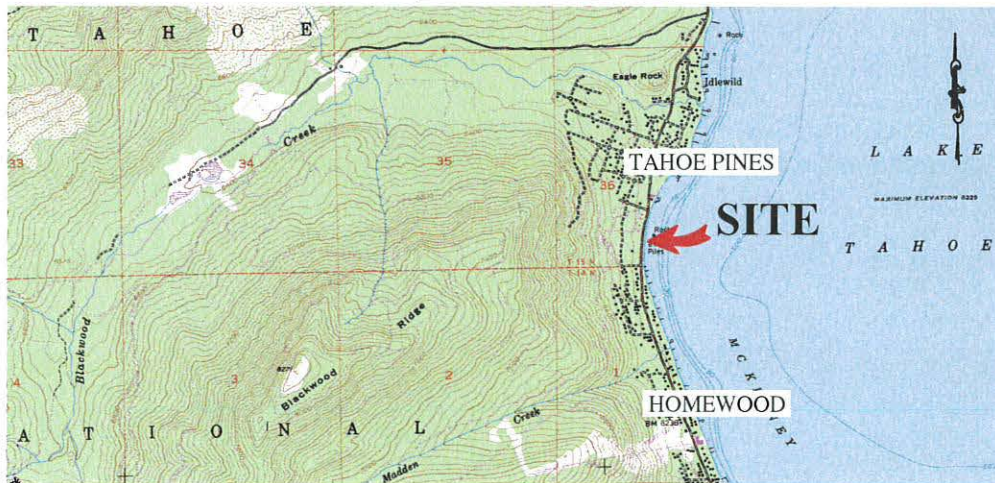


Exhibit B

LEASE 5491.1
 SIMPSON & MARCELLINI
 TRUSTS
 APN 085-344-008
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.