

STAFF REPORT

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12/06/19

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Lease 4858.1
M.J. Columbus

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

LESSEE:

Michael J. Lombardi and Helen E. Lombardi, Trustees of the Lombardi Living Trust Established by Declaration of Trust dated January 14, 1997

APPLICANT:

Kevin Chessen and Christine Chessen, Trustees of The Kevin and Christine Chessen Revocable Trust dated November 6, 2002

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3940 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Use and maintenance of an existing pier, boat lift, and one mooring buoy.

LEASE TERM:

10 years, beginning December 6, 2019.

CONSIDERATION:

\$982 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 shall provide proof of a Tahoe Regional Planning Agency (TRPA) permit and registration for all moorings, or proof that any unregistered and unpermitted mooring(s) have been removed on or before October 23, 2020.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from Tahoe Regional Planning Agency (TRPA) or

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any other regulatory agency for the improvements authorized by the Commission.

- Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair public uses for 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 December 10, 2010, the Commission authorized a 10-year Recreational Pier Lease for an existing pier, boat lift, and one mooring buoy to Michael J. Lombardi and Helen E. Lombardi, Trustees of the Lombardi Living Trust Established by Declaration of Trust dated January 14, 1997 ([Item C06, December 10, 2010](#)). That lease will expire on August 31, 2020. On July 16, 2018, the upland was deeded to Kevin Chessen and Christine Chessen, Trustees of The Kevin and Christine Chessen Revocable Trust dated November 6, 2002.

The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the existing facilities. The Lessee has executed a quitclaim deed releasing their interest in the Recreational Pier Lease. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease effective December 6, 2019. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$1,367 for the period beginning July 16, 2018, through December 5, 2019, the day before the proposed new lease becomes effective.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The facilities 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 subject facilities have existed for many years at this location. The pier is built on pilings, providing public access for pedestrians and for lake-

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related activities at varying water levels underneath the pier. The immediate area of the existing pier is flat with rocks. The buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake. The Applicant has registered the boat lift and mooring buoy with TRPA.

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 does not substantially interfere with the common law Public Trust Doctrine at this location, at this time, and for the foreseeable term of the lease; 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. If the Commission denies the application, the Lessee may be required to remove the pier, boat lift, and one mooring buoy and restore the premises to their original condition. Upon expiration or prior termination of the lease, 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, TRPA's Governing Board certified a Final Environmental Impact Statement and adopted new Lake Tahoe Shorezone Ordinance Amendments.

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4. Acceptance of the 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. Staff recommends that the Commission find that issuance of the lease 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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease 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 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 July 16, 2018, for Lease No. PRC 4858.9, a Recreational Pier Lease, issued to Michael J. Lombardi and Helen E. Lombardi, Trustees of the Lombardi Living Trust Established by Declaration of Trust dated January 14, 1997.

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2. Authorize acceptance of compensation from the Applicant in the amount of \$1,367 for unauthorized occupation of State lands for the period beginning July 16, 2018, through December 5, 2019.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant; beginning December 6, 2019, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and one existing mooring 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 \$982, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4858.1

LAND DESCRIPTION

Two (2) parcels of submerged land, situate in the bed of Lake Tahoe, lying adjacent to fractional Section 28, Township 16 North, Range 17 East, MDM, as shown on the Official Township Plat, approved November 10th, 1865, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, catwalk and boat lift adjacent to that parcel as described in that Grant Deed recorded July 16th, 2018 in Document No. 2018-0050794-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

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

PARCEL 2 – MOORING BUOY

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy, adjacent to said parcel as described in that Grant Deed recorded July 16th, 2018 in Document No. 2018-0050794-00 in Official Records of said County.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

PREPARED 10/31/19 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



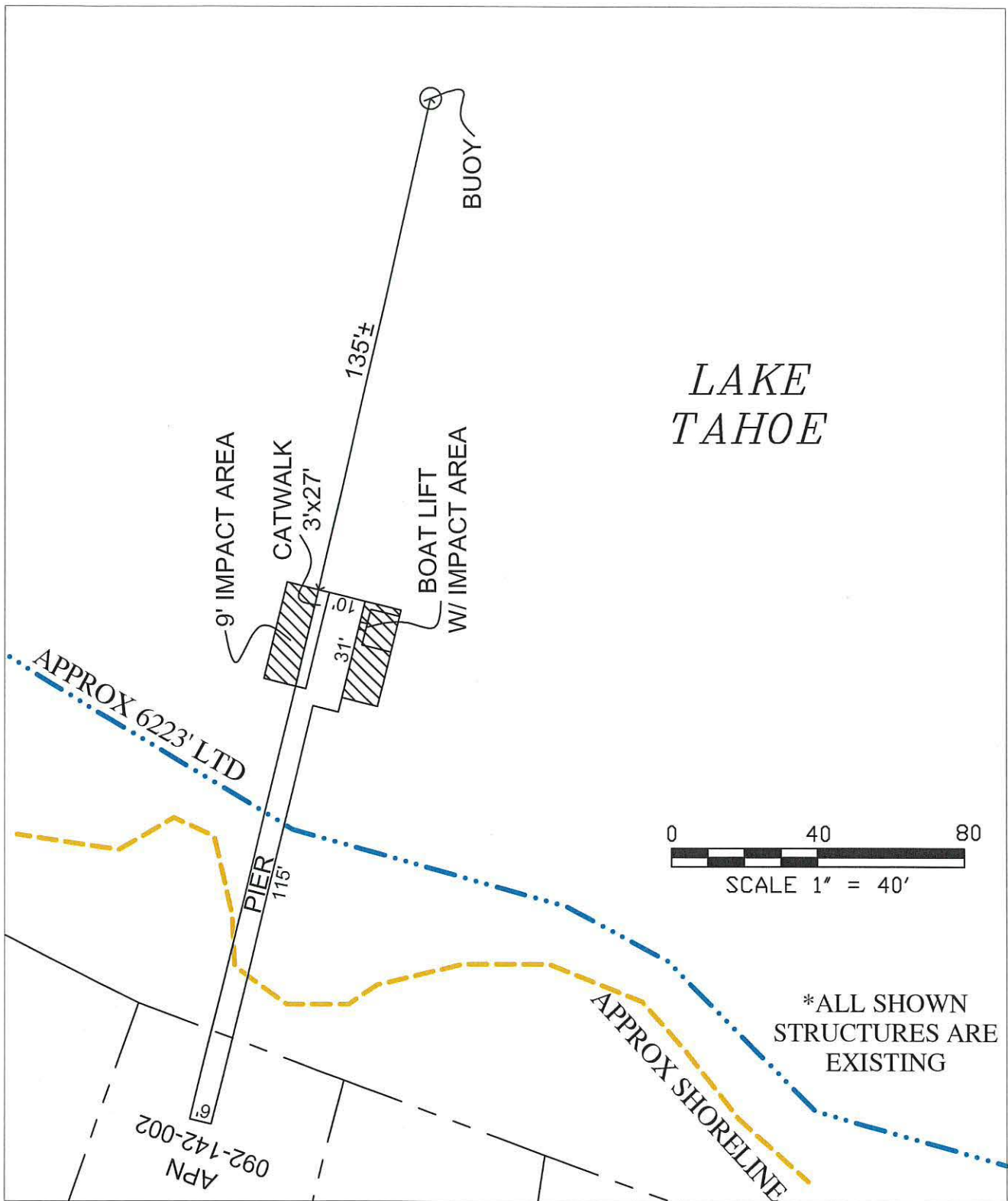


EXHIBIT A

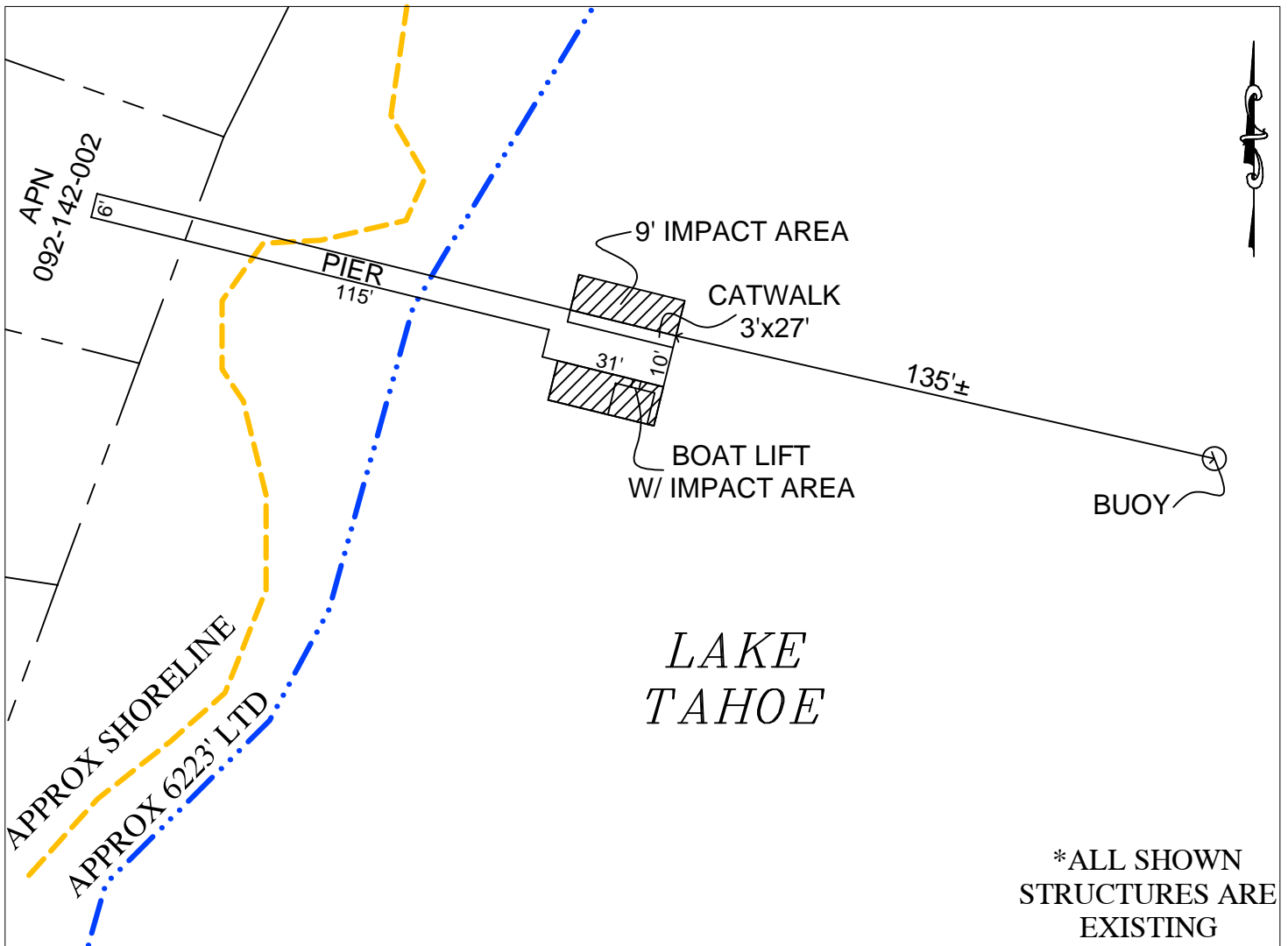
LAND DESCRIPTION PLAT
LEASE 4858.1, CHESSEN
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

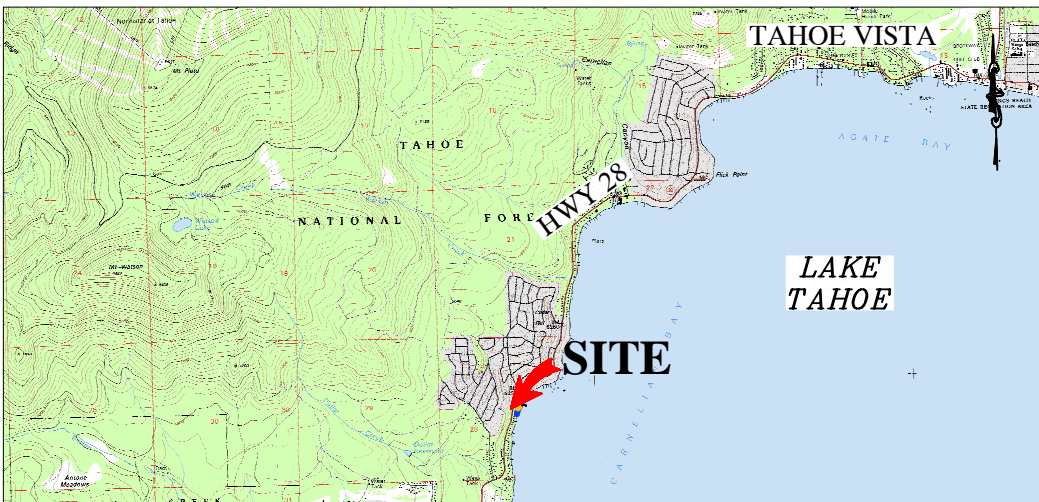
SITE



3940 North Lake Blvd, near Carnelian 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

LEASE 4858.1
 CHESSEN
 APN 092-142-002
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY

