

Staff Report 01

LESSEES:

Allison California Holdings, LLC, an Ohio limited liability company (L8509)

Margie Lockwood, Trustee of the Margie Lockwood Living Trust dated October 26, 2005 (L9153)

APPLICANT:

Allison 184 LLC; and Margie Lockwood, Trustee of the Margie Lockwood Living Trust dated October 26, 2005

PROPOSED ACTION:

Acceptance of Lease Quitclaim Deeds and Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 184 and 200 Rim Drive, near Tahoe Vista, Placer County.

AUTHORIZED USE:

Construction, use, and maintenance of a new joint-use pier, boat lift, and three fish habitat rock pyramids; and the continued use and maintenance of three mooring buoys previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission; and removal of one existing mooring buoy.

TERM:

10 years, beginning October 14, 2020.

CONSIDERATION:

Joint-use pier, boat lift, and four moorings: \$2,807 per year, with an annual Consumer Price Index adjustment.

Three fish habitat rock pyramids: The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- 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 recreation.
- 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 improvements authorized by the Commission.
- 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.
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of "as-built" plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A (Land Description) and Exhibit B (Site and Location Map) to this Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by Lessor's Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The revised Exhibits shall be incorporated in this Lease as though fully set forth herein.

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:

The Applicants are applying for a General Lease – Recreational Use for the construction, use, and maintenance of a joint-use pier, boat lift, and three fish habitat rock pyramids; and the continued use and maintenance of three mooring buoys previously authorized by the Commission and one existing mooring buoy not

previously authorized by the Commission; and removal of one unauthorized existing mooring buoy in Lake Tahoe, adjacent to 184 and 200 Rim Drive, near Tahoe Vista, Placer County. The owners of the two upland parcels each have current leases for two existing mooring buoys and have submitted an application to quitclaim their existing lease interests and consolidate the leased and proposed facilities under one lease.

On October 14, 2014, the Commission authorized a General Lease - Recreational Use for two existing mooring buoys to Margie Lockwood, Trustee of the Margie Lockwood Living Trust Dated October 26, 2005 (Lockwood), Lease Number PRC 9153 ([Item C17, October 14, 2014](#)). The lease will expire on October 13, 2024. Lockwood paid \$854.79 in rent through October 13, 2020. The two mooring buoys, as well as the previously unauthorized third buoy, were registered with TRPA on September 17, 2019, registration #11034.

On December 6, 2016, the Commission authorized a General Lease - Recreational Use for two existing mooring buoys to Allison California Holdings, LLC, an Ohio limited liability company, Lease Number PRC 8509 ([Item C12, December 6, 2016](#)). On February 7, 2018 the parcel was deeded to Allison 184 LLC (Allison). The lease will expire on March 31, 2026. Allison paid \$844.37 in rent through March 31, 2021 and will remove one of their two existing mooring buoys in order to construct the boat lift (the boat lift is an additional mooring site) and maintain compliance with the number of moorings allowed by TRPA. TRPA permitted the two mooring buoys on February 6, 2020, BUOY2020-0197.

Staff recommends acceptance of the lease quitclaim deeds, effective October 13, 2020; and consolidation of the proposed and existing facilities under Lease 9153, commencing on October 14, 2020 to align with the existing lease anniversary of Lease Number PRC 9153.

The site of the proposed 125-foot by 15-foot double piled pier with two catwalks and one boat lift is located in feed and cover fish habitat, with a small portion in marginal habitat. Three fish habitat rock pyramids at nine square feet each are proposed to be constructed to mitigate the impacts of the pier at a 1:1 ratio. The rock pyramids will provide a public use and benefit by providing fish habitat; however, the State reserves the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests. The TRPA Governing Board approved the project on July 22, 2020, subject to special conditions.

The new pier will be constructed via barge/amphibious vehicle. The new 10.75-foot pilings will be driven with a vibratory hammer from a barge/amphibious vehicle to a depth of 8 feet or deeper. If turbidity is observed during pile driving, caissons/sleeves will be used.

Construction will take place after all required approvals have been obtained. The Applicants 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 Applicants own the uplands adjoining the lease premises. The subject facilities will be privately owned and maintained, will be used for the docking and mooring of boats, and will 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).

Highway 28 separates the upland portion of the property from the shorezone portion of the property. The pier will extend from the base of a steep rocky embankment adjacent to Highway 28. A proposed stairway will provide access down the embankment to the pier. Due to the steep rocky embankment, lateral access along this area of shoreline occurs primarily along the shoulder of Highway 28. Additionally, the proposed pier will be built on pilings with a clearance of about 6 feet underneath the pier, 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 consists primarily of boulders. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The submerged fish habitat rock pyramids are consistent with the common law Public Trust Doctrine and are not anticipated to impede lake-related activities.

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 Applicants, as the prior lessees, may not construct the joint-use pier, boat lift, and fish habitat rock piles and may be required to remove the mooring buoys 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. Acceptance of lease quitclaim deeds 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).

4. **Existing Mooring 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).
5. **New Pier Construction:** 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)(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.

6. **Removal of Buoy:** 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

APPROVALS OBTAINED:

Tahoe Regional Planning Agency
Lahontan Regional Water Quality Control Board
California Department of Fish and Wildlife

APPROVAL REQUIRED:

U.S. Army Corps of Engineers

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Mooring 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).

New Pier Construction: 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)(2).

Removal of Buoy: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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:

1. Authorize the Executive Officer or designee to accept an executed lease quitclaim deed, from Margie Lockwood, Trustee of the Margie Lockwood Living Trust Dated October 26, 2005 for Lease Number PRC 9153, a General Lease – Recreational Use, on behalf of the Commission, thereby terminating said lease.
2. Authorize the Executive Officer or designee to accept an executed lease quitclaim deed, from Allison California Holdings, LLC, an Ohio limited liability company for Lease Number PRC 8509, a General Lease – Recreational Use, on behalf of the Commission, thereby terminating said lease, upon Lessee's demonstration to the Executive Officer or designee's satisfaction of the successful removal of a mooring buoy and restoration of the premises to their natural condition.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 14, 2020, for a term of 10 years, for the construction, use, and maintenance of an existing joint-use pier, boat lift, and fish habitat rock piles; the continued use and maintenance of three mooring buoys previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission; and removal of 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; consideration for the joint-use pier, boat lift, and four mooring buoys: \$2,807 per year, with an annual Consumer Price Index adjustment; consideration for the fish habitat rock pyramids: the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 9153

LAND DESCRIPTION

Five parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 14, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PROPOSED PIER

All those lands underlying a proposed joint-use pier with catwalk and boat lift lying adjacent to those parcels described in Grant Deeds recorded February 7, 2018 in Document Number 2018-0007701-00 and recorded January 24, 2011 in Document Number 2011-0006361-00 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.

PARCELS 2 through 5 – BUOYS

Four circular parcels of land, each being 50 feet in diameter, underlying four existing buoys lying adjacent to those parcels described in Grant Deeds recorded February 7, 2018 in Document Number 2018-0007701-00 and recorded January 24, 2011 in Document Number 2011-0006361-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

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

Prepared 08/05/2020 by the California
State Lands Commission Boundary Unit.



NO SCALE

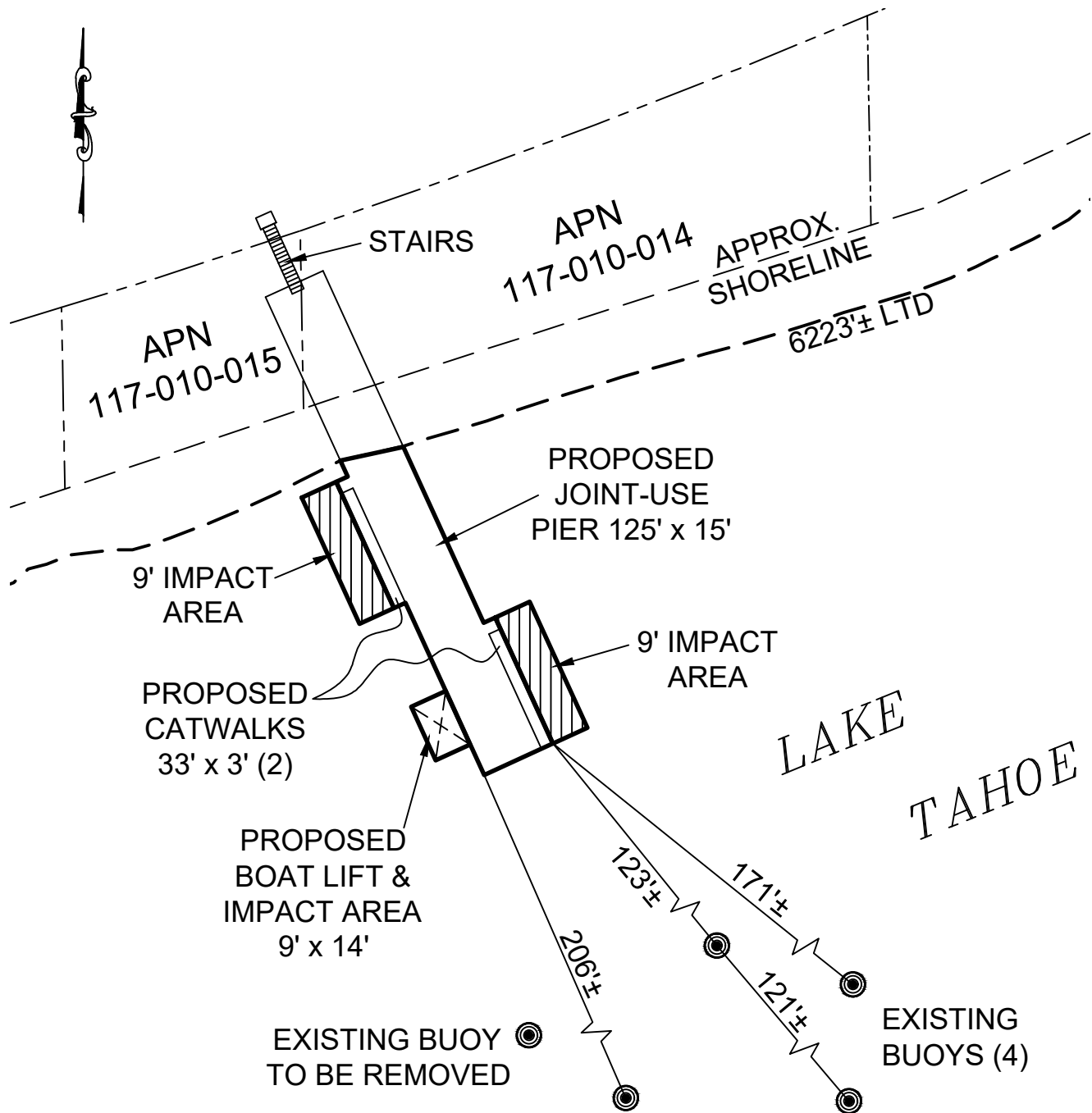


EXHIBIT A

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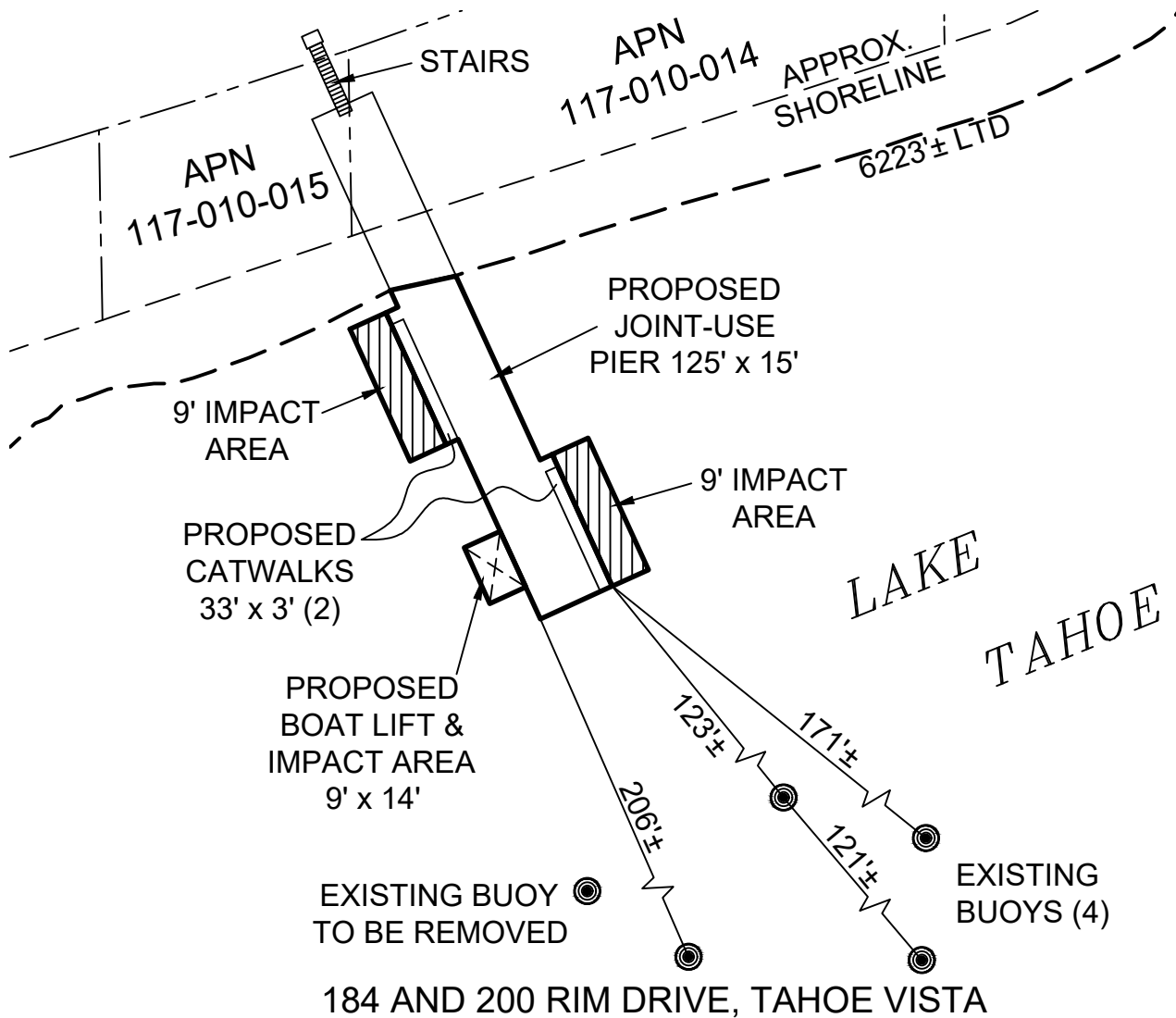
LAND DESCRIPTION PLAT
LEASE 9153, LOCKWOOD TRUSTEE &
ALLISON HOLDING, LLC
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



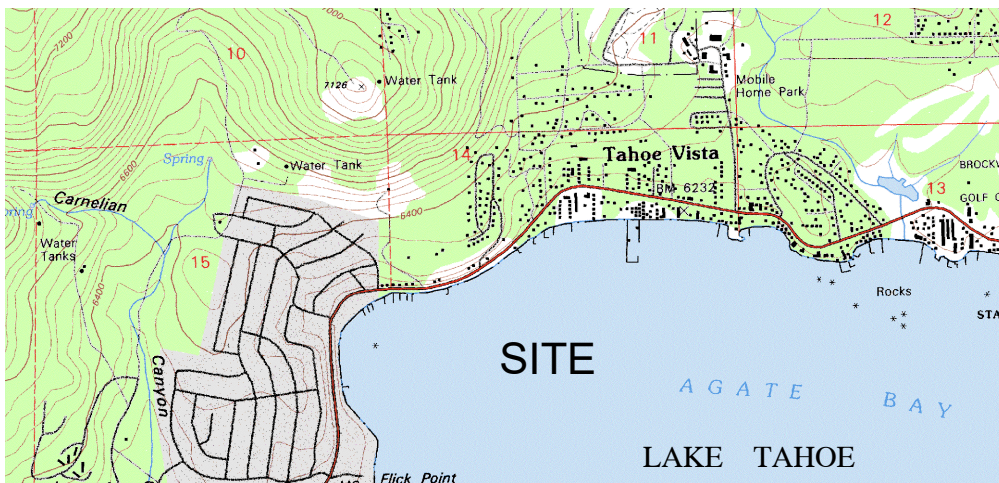
NO SCALE

SITE



NO SCALE

LOCATION



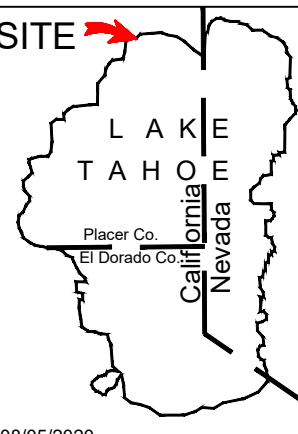
MAP SOURCE: USGS QUAD

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 9153
LOCKWOOD TRUSTEE &
ALLISON HOLDING, LLC
APNs 117-010-014 & -015
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



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