

# Staff Report 12

## **LESSEE/APPLICANT:**

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James Morrison

## **PROPOSED ACTION:**

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

## **AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Lake Tahoe, adjacent to 160 Sierra Terrace Road, near Tahoe  
City, Placer County.

## **AUTHORIZED USE:**

Construction of a boat lift, removal of one existing mooring buoy, and continued  
use and maintenance of one existing mooring buoy.

## **TERM:**

10 years, beginning February 25, 2022.

## **CONSIDERATION:**

\$289 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 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 lease provides that the public will be allowed to pass and re-pass over the pier via stairs to provide continuous shoreline access to the Public Trust easement below elevation 6,228.75 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:**

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### **AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

### **PUBLIC TRUST AND STATE'S BEST INTERESTS:**

On April 20, 2017, the Commission authorized a General Lease - Recreational Use for two existing mooring buoys to James Morrison ([Item C14, April 20, 2017](#)). The lease will expire on April 19, 2027.

The Lessee also owns and maintains an existing pier that extends from the upland parcel into the lake, but does not extend below elevation 6223 feet, Lake Tahoe Datum, into the Commission's leasing jurisdiction. In January 2022, TRPA issued a conditional permit to the Lessee for the reconstruction and expansion of the pier and retirement of one of the two mooring buoys permitted in 2009 in exchange for a proposed boat lift. TRPA does not allow the creation of additional mooring sites but does allow upland owners to exchange an existing buoy for a boat lift. The proposed pier will be constructed north of its current location with a boat lift extending from the end of the pierhead into the Commission's leasing jurisdiction.

The Applicant is now applying for a General Lease – Recreational Use for the construction of a boat lift, removal of one existing mooring buoy, and continued use and maintenance of one existing mooring buoy.

The project will be performed on-site with waterward access to the pier and boat lift from a floating/amphibious barge. All materials will be stored and

transported to the site from a barge. Depending on the water level of the lake, a turbidity curtain will be installed around the perimeter of the construction site.

Construction will take place after all required approvals have been obtained and will occur between October 1 and May 1. 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 requested issuance of a new lease and executed a quitclaim deed, releasing their interest in the current lease. Staff recommends the Commission accept the lease quitclaim deed, effective February 24, 2022 and approve the proposed lease beginning on the day of the Commission meeting, February 25, 2022. Staff also recommends pro-ration of the rent paid for the April 20, 2021 through April 19, 2022 lease year and a credit of \$124.75 for the period of February 25, 2022 through April 19, 2022 to be applied towards the first year's rent of the proposed lease.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained; and are and will be 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 immediate area of the proposed pier is gently sloped with cobbles. The pier, although not within the Commission's leasing jurisdiction, exists within the Public Trust easement. The lease provides that the public will be allowed to pass and re-pass over the pier via stairs to provide continuous shoreline access within the Public Trust easement below elevation 6,228.75 feet, Lake Tahoe Datum. Signs that read "Public Passage Allowed Over Pier" will be placed at the stairs on both sides of the pier. The mooring buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake.

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.

**CLIMATE CHANGE:**

Climate change significantly affects inland non-tidal lakes such as Lake Tahoe. The frequency and severity of natural disasters like flooding, wildfire, drought, extreme heat, and storms is increasing throughout the state of California, including the Sierra Nevada mountains, and will continue to accelerate through the end of the century. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events and shifts in seasonal characteristics.

According to California's Fourth Climate Change Assessment, released in 2018, the most significant impacts of climate change in the Sierra Nevada Region are more intense heat, precipitation extremes, declining snowpacks, and changes in streamflow timing. The long-term warming trend will lead to warmer and shorter winters, and longer and dryer summers. Successive dry and warm winters are resulting in minimal snowpack, increased winter streamflows and floods, and decreased spring and summer runoff. Prolonged low lake levels will become normal. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions interfere with boat launching and mooring facilities. This impact is most noticeable where the facilities are sited on shallow, low gradient lake bottom locations.

Dry winters will be punctuated with exceedingly wet years where prolonged and excessive precipitation can produce flash floods. High precipitation in these years will result in higher lake levels, causing beaches to narrow and reducing public access. Extra saturation of the soil can increase erosion, especially following intense wildfire seasons. Surface runoff water may carry more sediment into the lake, adversely impacting water quality and clarity.

Climate change may also lead to more intense and unpredictable winds and storm events. These storms may deviate from prevailing wind patterns for the region. These winds can accelerate shoreline erosion in some areas or cause erosion in areas not typically subject to erosion. Additionally, these winds can increase wave damage on structures and boats along the lake.

Shoreline structures authorized under this lease may require more frequent inspection and maintenance to ensure they are not displaced during storm events.

Watercraft moored to buoys, piers, or docks are also vulnerable to damage from high wind events and excessive waves.

**CONCLUSION:**

For all the reasons above, staff believes the issuance of this 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 proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

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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 Applicant, as the prior lessee, may be required to remove the mooring buoys and restore the premises to their original condition. If the Commission denies the application, the Applicant may not conduct the proposed construction activities within lands under the Commission’s jurisdiction. 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 the “Meeting Evolving Public Trust Needs” Strategic Focus Area of the Commission’s 2021-2025 Strategic Plan.
3. Acceptance of a lease 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. **Boat Lift 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 or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

6. **Buoy Removal:** 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.
7. **Existing mooring 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 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.

### **APPROVALS OBTAINED:**

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Tahoe Regional Planning Agency  
Lahontan Regional Water Quality Control Board

### **APPROVALS REQUIRED:**

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U.S. Army Corps of Engineers  
California Department of Fish and Wildlife

### **EXHIBITS:**

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

### **RECOMMENDED ACTION:**

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It is recommended that the Commission:

#### **CEQA FINDING:**

**Boat Lift 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 or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

**Buoy Removal:** 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.

**Existing Mooring 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 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 February 24, 2022, of Lease Number PRC 8380.1, a General Lease – Recreational Use, issued to James Morrison.
2. Authorize proration of the April 20, 2021 through April 19, 2022 lease year rent paid under Lease Number PRC 8380.1; and a credit of \$124.75 for the period of February 25, 2022 through April 19, 2022 to be applied towards the first year’s rent of the proposed lease.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 25, 2022, for a term of 10 years, for the construction of a boat lift, removal of one existing mooring buoy, and continued use and maintenance 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; annual rent in the amount of \$289, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
4. Authorize the Executive Officer or designee to replace exhibits in the lease upon submission, review, and approval of as-built plans detailing the final location of the new improvements following construction.

**EXHIBIT A**

**LEASE 8380**

**LAND DESCRIPTION**

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 5, Township 15 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, more particularly described as follows:

**PARCEL 1 – PIER**

All those lands underlying a proposed pier with catwalk and boat lift lying adjacent to that parcel described in Grant Deed recorded August 3, 2015 as Document Number 2015-0067333 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 – BUOY**

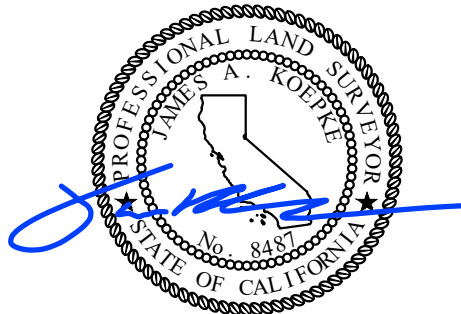
A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Grant Deed recorded August 3, 2015 as Document Number 2015-0067333 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

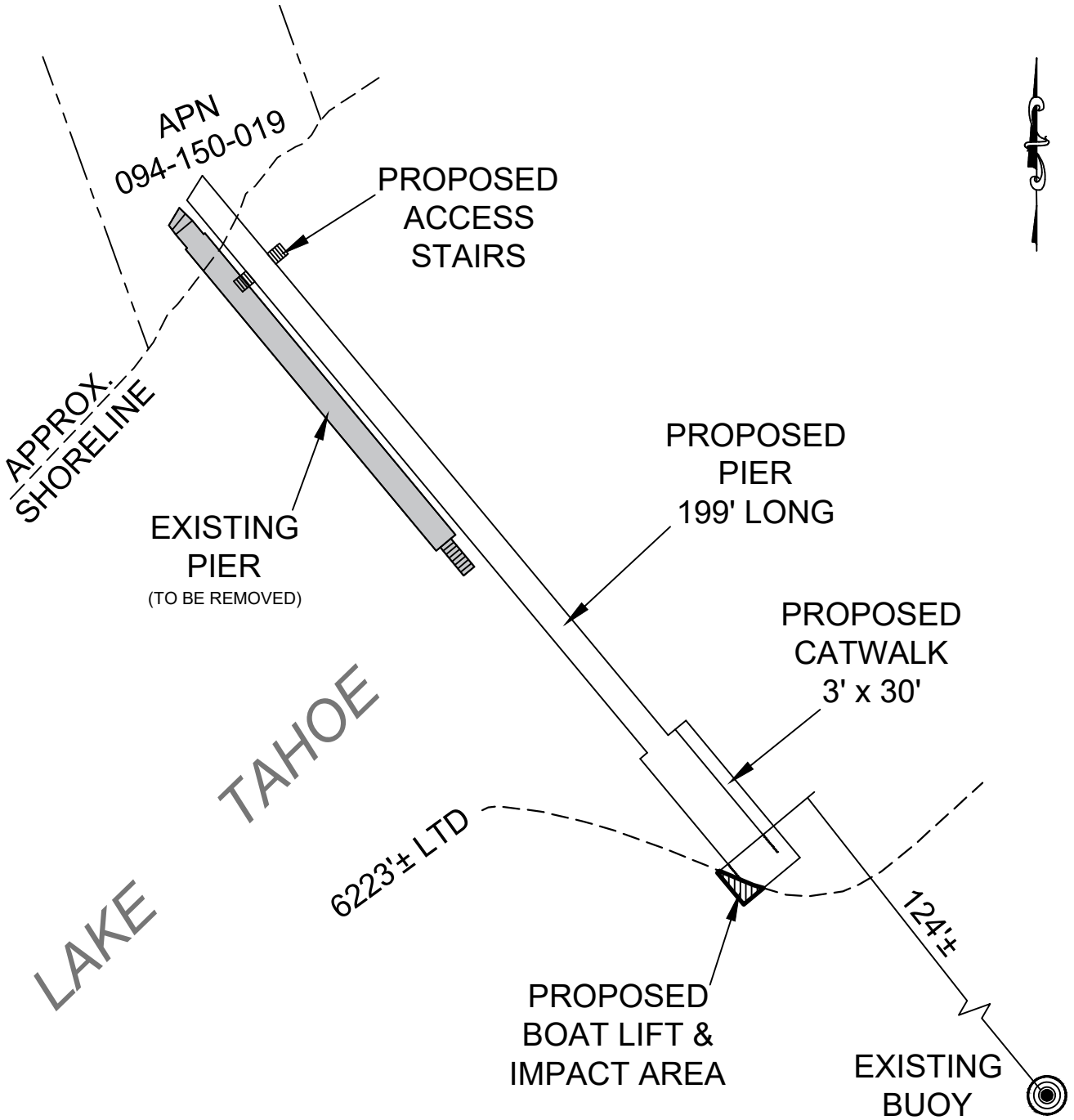
This description is based on Applicant provided design plans found in the Application for Lease of State Lands for a proposed pier, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built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

Prepared 11/15/2021 by the California State Lands Commission Boundary Unit.





NO SCALE



# EXHIBIT A

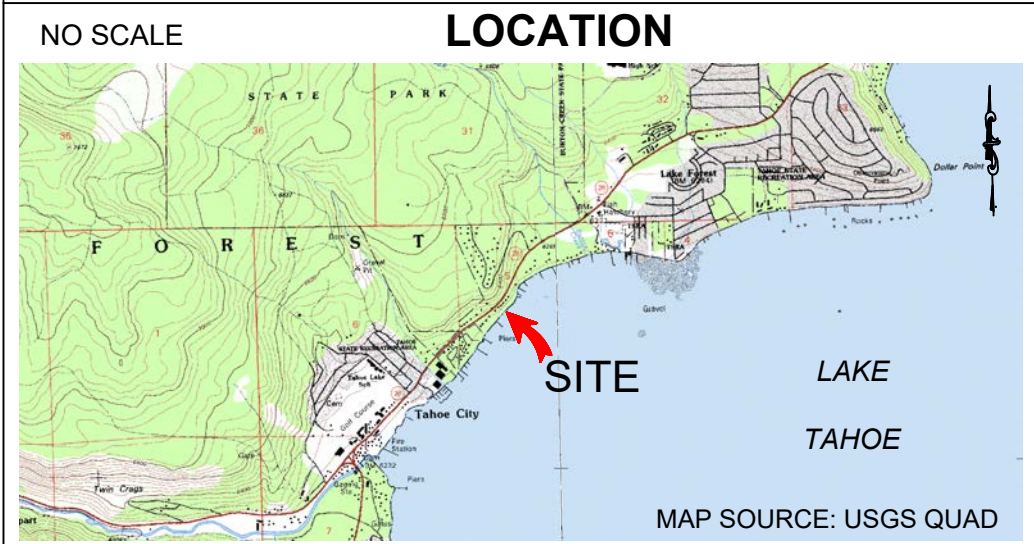
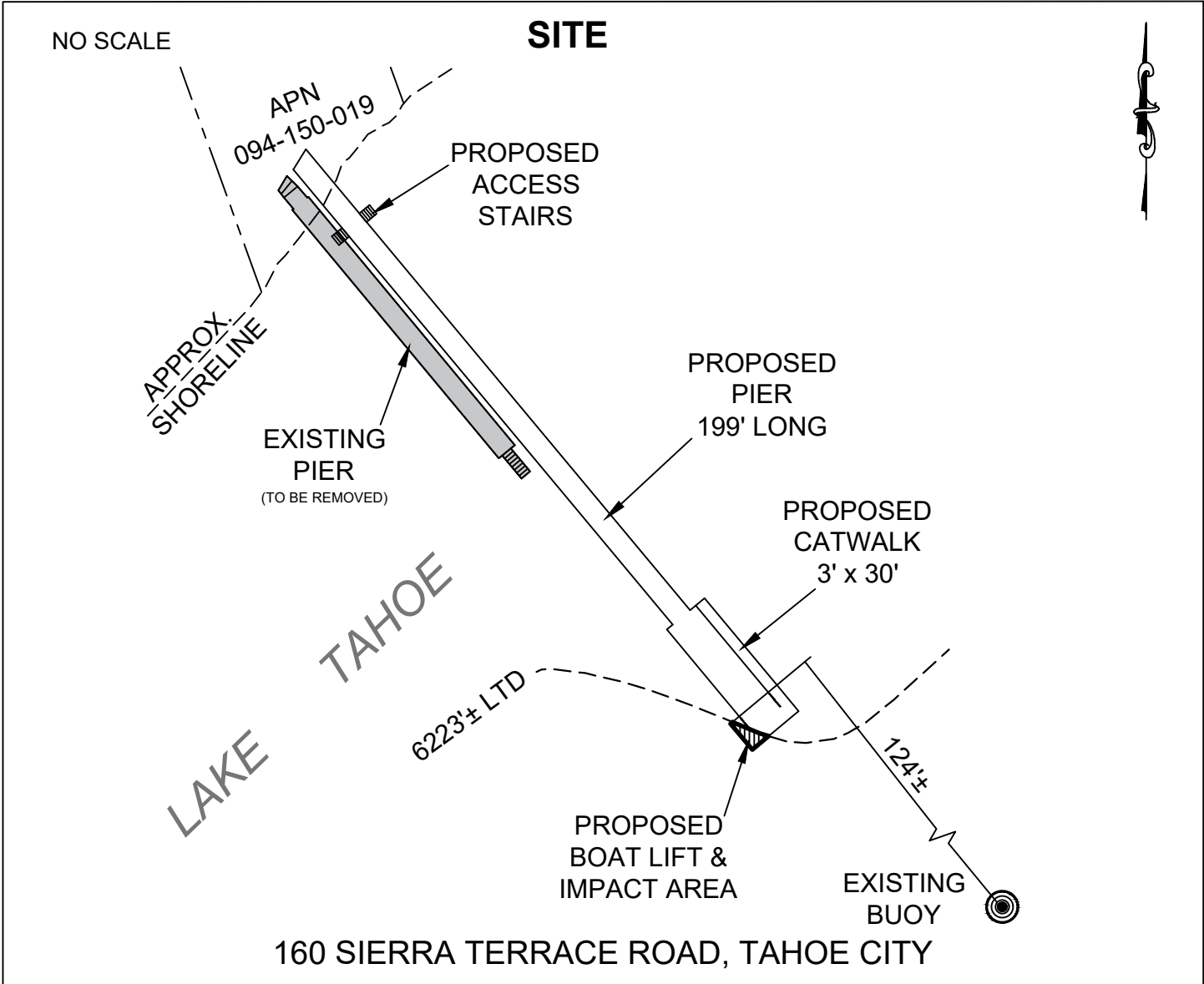
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TS 11/15/2021

LAND DESCRIPTION PLAT  
 LEASE 8380, MORRISON  
 PLACER COUNTY

CALIFORNIA STATE  
 LANDS COMMISSION





**Exhibit B**

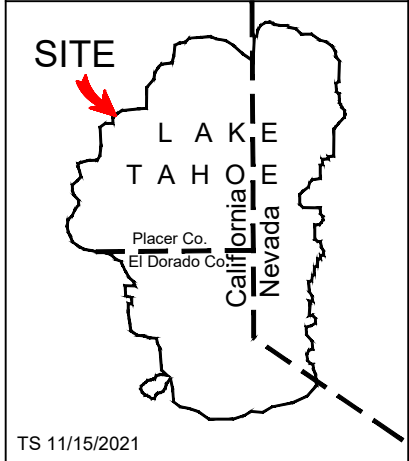
LEASE 8380

MORRISON

APN 094-150-019

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.