

# Staff Report 21

## APPLICANT:

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James R. Trembath and Joanne Olvera Trembath; Mary M. Cravalho, Trustee of the Mary M. Cravalho Survivor's Trust under the Cravalho Family Living Trust, dated August 5, 1993; William B. Seith and Mary S. Seith; Monte Lee Osborn and Mary Kay Osborn, Trustees of the 1993 Osborn Family Trust dated 7/22/93; Monte L. Osborn and Mary Kay Osborn, Trustee(s), or successor trustee(s) of the 1993 Osborn Family Trust, as amended and restated 8/23/2007; William M. Peterson, or his successors, as Trustee of the William M. Peterson Qualified Personal Residence Trust, under declaration dated September 10, 2009; and Nancy E. Peterson, or her successors, as Trustee of the Nancy E. Peterson Qualified Personal Residence Trust, under declaration dated September 10, 2009

## PROPOSED ACTION:

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Issuance of a General Lease – Recreational Use

### AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 5768 and 5784 North Lake Boulevard, near Carnelian Bay, Placer County.

### AUTHORIZED USE:

Use and maintenance of an existing joint-use pier and four mooring buoys.

### TERM:

10 years, beginning February 25, 2022.

### CONSIDERATION:

\$2,202 per year, with an annual Consumer Price Index adjustment, and \$1,552 to compensate for the unauthorized occupation of state sovereign land for the period beginning June 23, 2021, through February 24, 2022.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee expressly acknowledges that a permit from the Tahoe Regional Planning Agency (TRPA) is required for the Authorized Improvements and failure to obtain a permit from TRPA and maintain compliance with that permit may result in TRPA imposing civil penalties and will constitute a breach of this lease.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing, and lake-related recreation.
- The public will be allowed to pass and repass over the landward end of 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, Lake Tahoe Datum.

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 June 23, 2011, the Commission authorized a Recreational Pier Lease to James Trembath and Joann Trembath; Clarence J. Cravalho and Mary M. Cravalho, Trustees of the Cravalho Family Living Trust, dated August 5, 1993; Dean C. Croft and Arma B. Croft, Trustees of the Croft Family Trust, dated May 20, 1993; Steve Foster and Jill Foster; Monte Lee Osborn and Mary Kay Osborn, Trustees of the 1993 Osborn Family Trust, dated July 22, 1993; William B. Seith and Mary S. Seith; James R. Trembath and Joann Olvera Trembath; and William M. Peterson and Nancy E. Peterson, Trustees of the William M. and Nancy E. Peterson Family Trust, under an agreement dated December 11, 2007, as amended, for continued use and maintenance of an existing joint-use pier and four mooring buoys ([Item 25, June 23, 2011](#)).

At various times during the term of the lease, ownership interest in the Cravalho Trust parcel transferred to the successor Trustee; ownership interest in the Croft Trust and the Fosters parcel transferred to the Seiths; and ownership interest in the Peterson Trust parcel transferred to the Trembaths and the Osborn Trust. The Lessee did not notify the Commission of changes in ownership or seek assignments of the lease. The lease expired on June 22, 2021.

The Applicant is now applying for a General Lease – Recreational Use for the use and maintenance of the existing joint-use pier and four mooring buoys.

On September 18, 2019, TRPA registered two mooring buoys adjacent to 5768 North Lake Boulevard under Permit No. 11000, and on December 12, 2019, TRPA registered the two mooring buoys adjacent to 5784 North Lake Boulevard under Permit No. 11377.

The Applicant has agreed to pay compensation for the unauthorized occupation of state land after the lease expired for the period from June 23, 2021, through February 24, 2022. Staff recommends that the Commission accept compensation from the Applicant in the amount of \$1,552 for the unauthorized occupation of state land prior to the commencement of the proposed lease.

The subject facilities have existed for many years at this location. The pier is built on pilings, providing public access for pedestrians and lake-related activities at varying water levels underneath the pier. The landward end of the pier lies across the shoreline within the Public Trust easement. Public access along the Public Trust easement will be provided over the landward end of the pier where the public will be allowed to pass and repass over the pier. Signs are required to be posted on each side of the pier identifying the designated public passage and are required to be in place at all times. The immediate area of the pier is gently sloped with pebbles under the pier and along the shoreline. The mooring buoys are located directly lakeward of the upland properties and occupy a relatively small area of the lake.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The joint-use pier and four mooring buoys 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 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 payment of annual rent to compensate the people of the State for the occupation of the public land involved.**

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 are 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 storm events and winds. 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 interfere with Public Trust needs 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 may be required to remove the joint-use pier and four 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 the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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, California Code of Regulations, title 14, section 15300, and California Code of Regulations, title 2, section 2905.

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:

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 proposed lease will not substantially impair 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:

1. Authorize acceptance of compensation from the Applicant in the amount of \$1,552 for the unauthorized occupation of State lands for the period beginning June 23, 2021, through February 24, 2022.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 25, 2022, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier and four 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 \$2,202, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 5784**

**LAND DESCRIPTION**

Five parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 15, 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 – PIER**

All those lands underlying an existing joint-use pier and two catwalks lying adjacent to those parcels described in Grant Deed recorded April 29, 2016 as Document Number 2016-0031986-00 and Grant Deed recorded September 29, 2009 as Document Number 2009-0083863-00 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, 3, 4 & 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 Deed recorded April 29, 2016 as Document Number 2016-0031986-00 and Grant Deed recorded September 29, 2009 as Document Number 2009-0083863-00 in Official Records of said County.

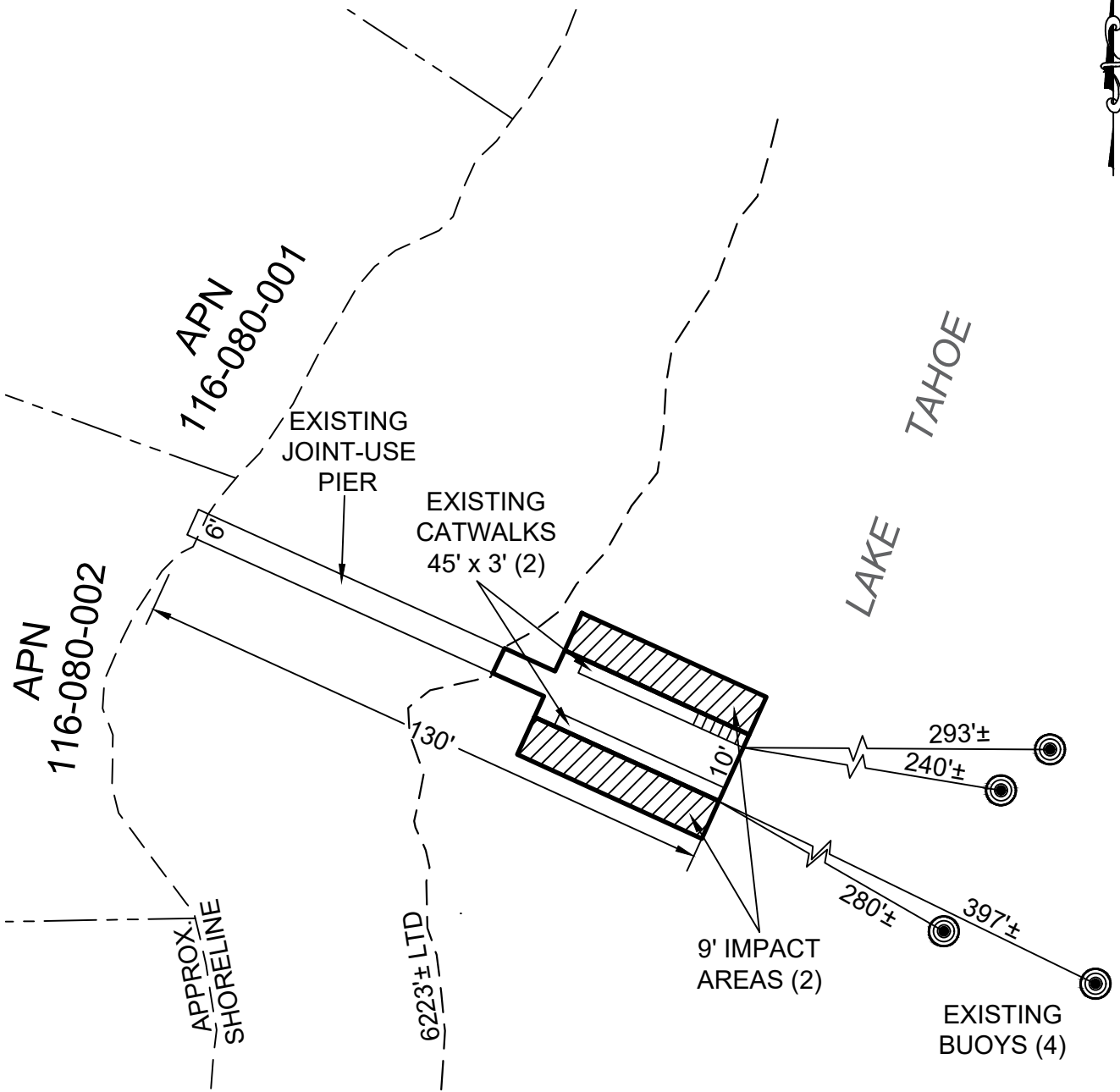
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 1/10/2022 by the California  
State Lands Commission Boundary Unit.



NO SCALE



# EXHIBIT A

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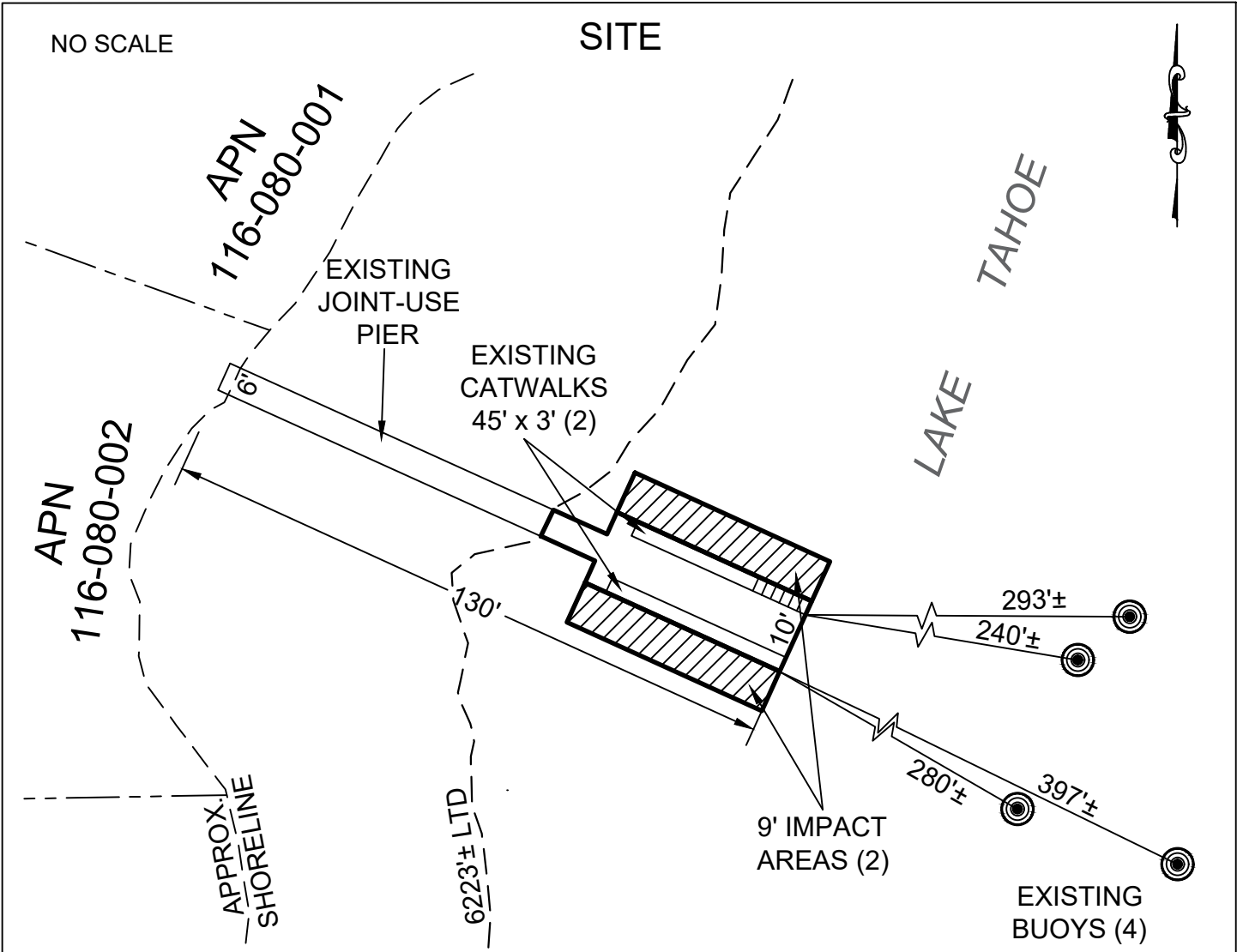
DT 01/10/2022

LAND DESCRIPTION PLAT  
 LEASE 5784, TREMBATH ET AL. & PETERSON  
 PLACER COUNTY

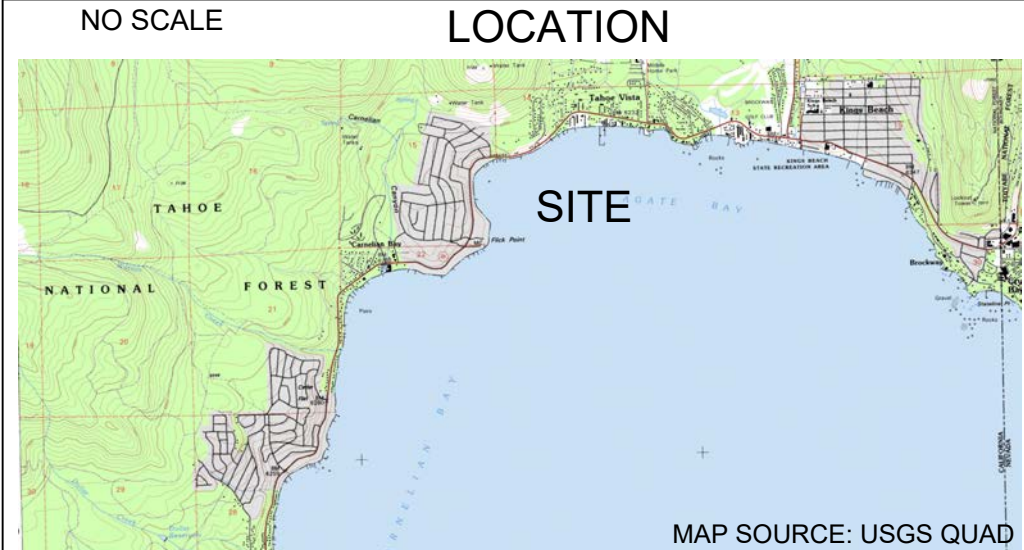
CALIFORNIA STATE  
 LANDS COMMISSION





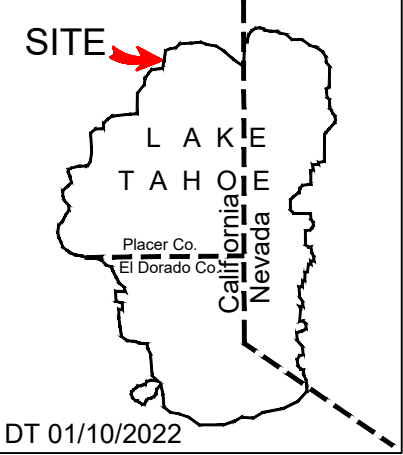


5768 & 5784 NORTH LAKE BOULEVARD, NEAR CARNELIAN BAY



**EXHIBIT B**

LEASE 5784  
 TREMBATH ET AL. & PETERSON  
 APNs 116-080-001 & -002  
 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.