

# Staff Report 03

## **LESSEE/APPLICANT:**

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James C. Blakemore and Grace E. Hackmeier

## **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 located in Lake Tahoe, adjacent to 3790 North Lake Boulevard,  
near Carnelian Bay, Placer County.

## **AUTHORIZED USE:**

Removal and reconstruction of an existing pier and boat lift; and use and  
maintenance of two existing mooring buoys.

## **TERM:**

10 years, beginning April 26, 2022.

## **CONSIDERATION:**

\$1,203 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 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 the 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 shall be allowed to pass and re-pass over the pier using the steel stairs to be installed on both sides of the pier within the Public Trust easement on the upland, 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 the Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by the 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 replaced Exhibits shall be incorporated in the Lease as though fully set forth therein.
- Construction activities will be performed pursuant to the specific terms identified in the Lease, including that the Applicant obtain all necessary permits and authorizations prior to commencing work, including requirements pertaining to construction equipment, debris, and the provision to Lessor of specified documents related to the construction activities.
- Prior to construction, a current Tahoe yellow cress (TYC) survey is required to be conducted between June 15 and September 30 and must be submitted to the Commission. If TYC is present, a Construction Impact Avoidance Plan must be submitted to the Commission for approval prior to construction to demonstrate no impact to the plant. The Plan must identify the location of TYC stems and include measures for ensuring no impact to the plant, including potential relocation of pilings, pier location, and construction access and staging areas; use of protection fencing surrounding TYC stems; signage for no work zones; etc. Revision of the pier design may also require submittal of updated site plans illustrating the pier design revisions.

## 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 February 22, 2013, the Commission authorized the termination of a Recreational Pier Lease and issuance of a General Lease – Recreational Use to 3790 NLB, LLC, a California limited liability company, for continued use and maintenance of an existing pier, boat lift, and two mooring buoys ([Item C26, February 22, 2013](#)). The lease will expire on January 31, 2023.

On December 6, 2013, ownership interest in the upland parcel transferred to James C. Blakemore and Grace E. Hackmeier. On June 21, 2018, the Commission authorized an assignment of Lease 5751, a General Lease – Recreational Use, to James C. Blakemore and Grace E. Hackmeier, for continued use and maintenance of an existing pier, boat lift, and two mooring buoys and revision of rent ([Item C01, June 21, 2018](#)).

The Applicant is now applying for a General Lease – Recreational Use for removal and reconstruction of an existing pier with one boat lift; and use and maintenance of two existing mooring buoys. The Applicant holds a current TRPA permit for the existing boat lift and two mooring buoys (Registration No. 10965). The proposed pier project was approved by TRPA on February 25, 2022. The Applicant proposes to start construction between October 15, 2022, and April 1, 2023. All construction is to be completed by April 1, 2024.

Since the proposed reconstruction and installation project will commence prior to the lease expiring in January 2023, staff recommends acceptance of a lease quitclaim deed from the current Lessee and issuance of a new lease beginning April 26, 2022, the day of the Commission meeting, to better align with the proposed reconstruction project. Rent under the current lease was paid through January 31, 2023. Staff also recommends pro-ratio of the rent paid for the February 1, 2022 through January 31, 2023 lease year and a credit of \$747.56 for the period of April 26, 2022 through January 31, 2023 be applied towards the first year's rent of the proposed lease.

The proposed project consists of the removal of the existing pier and boat lift and reconstruction of a new pier in the same location and relocation of the boat lift to the southern end of the new pier. The proposed pier will be 99 feet in total length,

which is approximately 30 feet longer than the original footprint of the existing pier. The extension is allowed to the TRPA pierhead line and is necessary due to lower lake levels. The new pierhead will be 10 feet wide and include a new 3-foot by 30-foot adjustable catwalk on the north side of the pier. Two of the eight existing pilings will be removed, and eight new steel pipe pilings are to be installed for support of the pier. Two steel I-beams will be installed on the pier to support the relocated boat lift.

All pier demolition and construction activities will be conducted from the lake using a barge or amphibious vehicle departing from an approved launching facility (public marina or boat ramp). The barge will be tethered to the existing pier pilings during the demolition phase and to at least one of the new pilings during the pile driving and construction phases of the project. Removed piling materials will be transported by barge and taken to an approved offloading site, where debris will be transported to TRPA approved disposal facilities.

Caissons/bubble curtains will be installed around each new piling while it is being set in place to minimize any adverse impacts to aquatic species from the concussive shock waves generated as a result of driving the pier pilings into the lakebed. The steel substructure will be prefabricated and installed via barge or amphibious vehicle. Decking will be installed atop of the steel substructure allowing for construction of the adjustable catwalk and electrical lighting. All building materials will be stored on the barge, and no construction materials shall be stored on the shoreline of the subject property unless proper agency authorizations are secured.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The reconstructed pier, boat lift, and two mooring buoys 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 lands. (Pub. Resources Code, § 6503.5.) The two existing mooring buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The proposed pier and boat lift will be built on pilings with the immediate upland area of the pier being relatively flat and rocky. Public access for pedestrians and lake-related activities is available at varying water levels underneath the pier and public access over the pier will be provided via the addition of steel stairs on the portion of the pier within the Public Trust easement. Signage directing the public to such access will be provided as required under the proposed lease.

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.

### **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 area 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 stream flows 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 interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the 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 would not be will not be able to remove and reconstruct the improvements. 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. 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).

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).

**Pier Demolition:** 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.

**Pier Reconstruction:** 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)(1).

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

## **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:**

**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).

**Pier Demolition:** 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.

**Pier Reconstruction:** 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)(1).

**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 Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize acceptance of a lease quitclaim deed, effective April 25, 2022, of Lease 5751, a General Lease – Recreational Use, issued to James C. Blakemore and Grace E. Hackmeier.
2. Authorize proration of the February 1, 2022 through January 31, 2023 lease year rent paid under Lease Number PRC 5751.1; and a credit of \$747.56 for the period of April 26, 2022 through January 31, 2023 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 April 26, 2022, for a term of 10 years, for removal and reconstruction of an existing pier and boat lift; and use and maintenance of two existing 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 \$1,203, 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 5751

### LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 28, 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 pier (to be removed/replaced), proposed pier with catwalk and boat lift lying adjacent to that parcel described in Grant Deed recorded December 6, 2013 as Document Number 2013-0112095-00 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 – BUOYS

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded December 6, 2013 as Document Number 2013-0112095-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

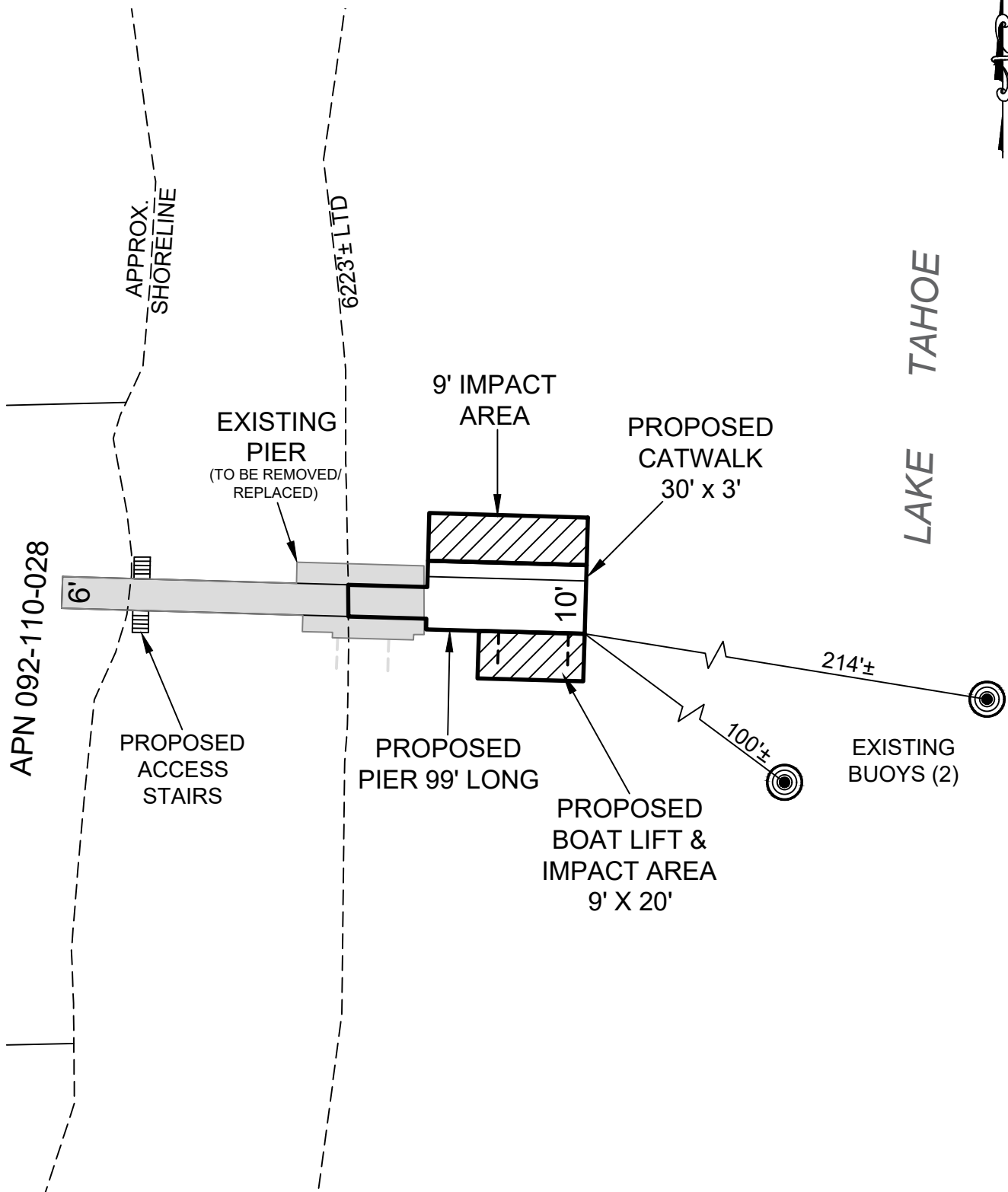
### END OF DESCRIPTION

This description is based on Applicant provided design plans for an existing pier (to be removed/replaced) and 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 03/10/2022 by the California  
State Lands Commission Boundary Unit.



NO SCALE



## EXHIBIT A

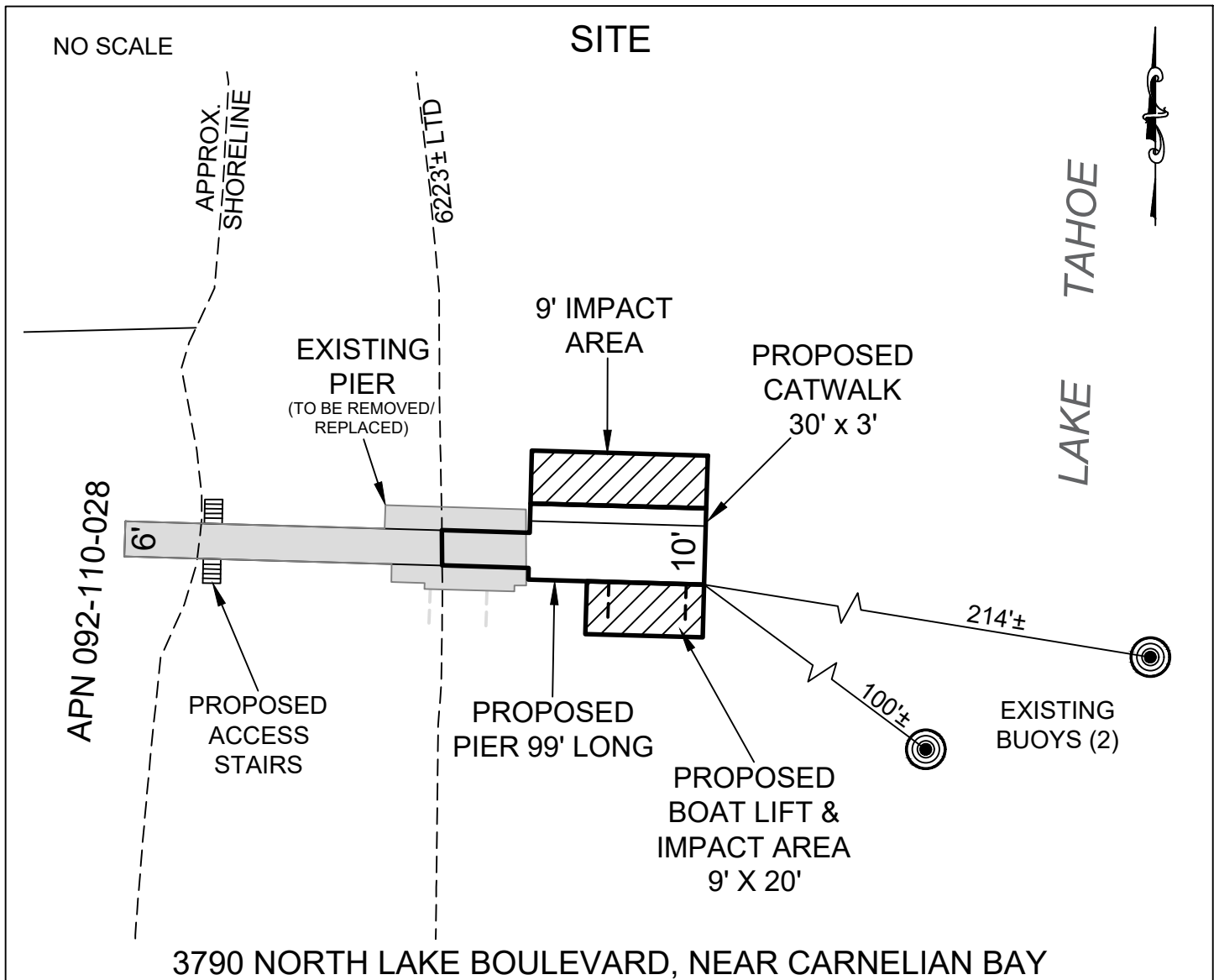
PAGE 2 OF 2

DT 03/15/2022

LAND DESCRIPTION PLAT  
LEASE 5751, BLAKEMORE & HACKMEIER  
PLACER COUNTY

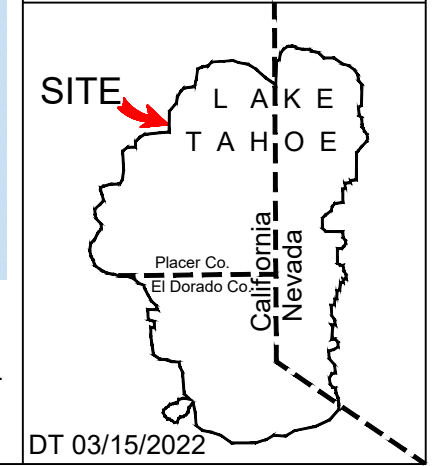
CALIFORNIA STATE  
LANDS COMMISSION





**EXHIBIT B**

LEASE 5751  
BLAKEMORE & HACKMEIER  
APN 092-110-028  
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.