

Meeting Date: 04/26/22
Lease Number: 4145
Staff: J. Holt

Staff Report 16

LESSEE:

R. Daniel Putman and Kathleen L. Williams, Co-Trustees of The Putman Williams Living Trust dated April 30, 2015

APPLICANT:

Robert A. Buccola

PROPOSED ACTION:

Consider Waiver of Penalty and Interest; Void Invoice Number 54181; Termination and Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8307 Meeks Bay Avenue, Meeks Bay, El Dorado County.

AUTHORIZED USE:

Use and maintenance of an existing pier, boat lift, and two mooring buoys previously authorized by the Commission and an existing water intake pipeline not previously authorized by the Commission.

TERM:

10 years, beginning January 1, 2022.

CONSIDERATION:

\$1,167 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 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 recreational uses.

STAFF ANALYSIS AND RECOMMENDATION:

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 October 19, 2017, the Commission authorized a 10-year General Lease – Recreational Use to R. Daniel Putman and Kathleen L. Williams, Co-Trustees of The Putman-Williams Living Trust dated April 30, 2015, for an existing pier, boat lift, and two mooring buoys ([Item 02, October 19, 2017](#)). That lease will expire on December 31, 2026. On November 24, 2020, the upland was transferred to the Applicant. The Applicant is applying for a General Lease – Recreational Use, for use and maintenance of an existing pier, boat lift, and two mooring buoys previously authorized by the Commission and an existing water intake pipeline not previously authorized by the Commission. The Applicant is requesting use of the pipeline for irrigation purposes. Based on information provided in the application and Commission records, the subject facilities have existed in the lake for many years. The mooring facilities have been registered with the TRPA under registration number 11059.

The Commission's accounting records show that the annual rent is paid through December 31, 2021. Staff recommends voiding Invoice #54181, dated November 3, 2021, in the amount of \$1,270.27, issued to Putman-Williams Trustees (Lessee) for the period of January 1, 2022, through December 31, 2022. Further, staff requests waiving any penalty and interest associated with this invoice. Staff recommends termination of Lease Number PRC 4145, because the upland was sold without a lease quitclaim deed or notification to staff. The proposed termination date is December 31, 2021, the day preceding issuance of the proposed new lease and rent paid-through date. Staff recommends issuance of a new lease to the Applicant, effective January 1, 2022. The proposed lease will require the Applicant

to indemnify the State for the entire period of occupation noted as November 24, 2020, to December 31, 2021, ensuring the State is protected.

The subject pier, boat lift, and two mooring buoys are privately owned and maintained 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). Although the water intake pipeline is not related to Public Trust use, its presence and location do not interfere with public access and enjoyment of the lake. The facilities have existed at this location for many years. The facilities are located directly adjacent to the upland property and occupy 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 proposed lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition.

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 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 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; 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 Applicant may be required to remove the pier, boat lift, water intake pipeline, and two mooring buoys, and restore the premises to their original condition. Upon expiration or prior termination of a 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 Area of the Commission's 2021-2025 Strategic Plan.

3. Waiver of penalty and interest, and termination of the lease are not projects as defined by the California Environmental Quality Act (CEQA) because they are administrative actions 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. Staff recommends that the Commission find 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:

1. Find that the termination of the lease; waiver of penalty and interest 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 proposed lease; and
2. Find that the existing pier, boat lift, and two mooring buoys, used for the docking and mooring of boats, facilitate recreational boating which is a water-

dependent use that is generally consistent with the common law Public Trust Doctrine; and

3. Find that the existing and, for a limited period, continuing use and maintenance of the water intake pipeline is not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with Public Trust needs and values at this location for the approved term; and
4. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Waive penalty and interest due for the period of January 1, 2022, through December 31, 2022, and void Invoice Number 54181 issued to R. Daniel Putman and Kathleen L. Williams, Co-Trustees of The Putman Williams Living Trust dated April 30, 2015.
2. Terminate, effective November 23, 2020, Lease Number PRC 4145, a General Lease – Recreational Use, issued to R. Daniel Putman and Kathleen L. Williams, Co-Trustees of The Putman-Williams Living Trust dated April 30, 2015.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning January 1, 2022, for a term of 10 years, for the use and maintenance of an existing pier, boat lift, and two mooring buoys previously authorized by the Commission and an existing water intake pipeline not previously authorized by the Commission, 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 \$1,167, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4145

LAND DESCRIPTION

Four parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 28, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier with catwalk and boatlift lying adjacent to those parcels described in Grant Deed recorded November 24, 2020, as Document Number 2020-0068235 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 – WATER INTAKE PIPELINE

All those lands underlying an existing water intake pipeline lying adjacent to those parcels described in Grant Deed recorded November 24, 2020, as Document Number 2020-0068235 in Official Records of said County.

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

PARCELS 3 & 4 – BUOYS

Two circular parcels of land, being each 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded November 24, 2020, as Document Number 2020-0068235 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/03/2022 by the California
State Lands Commission Boundary Unit.



NO SCALE

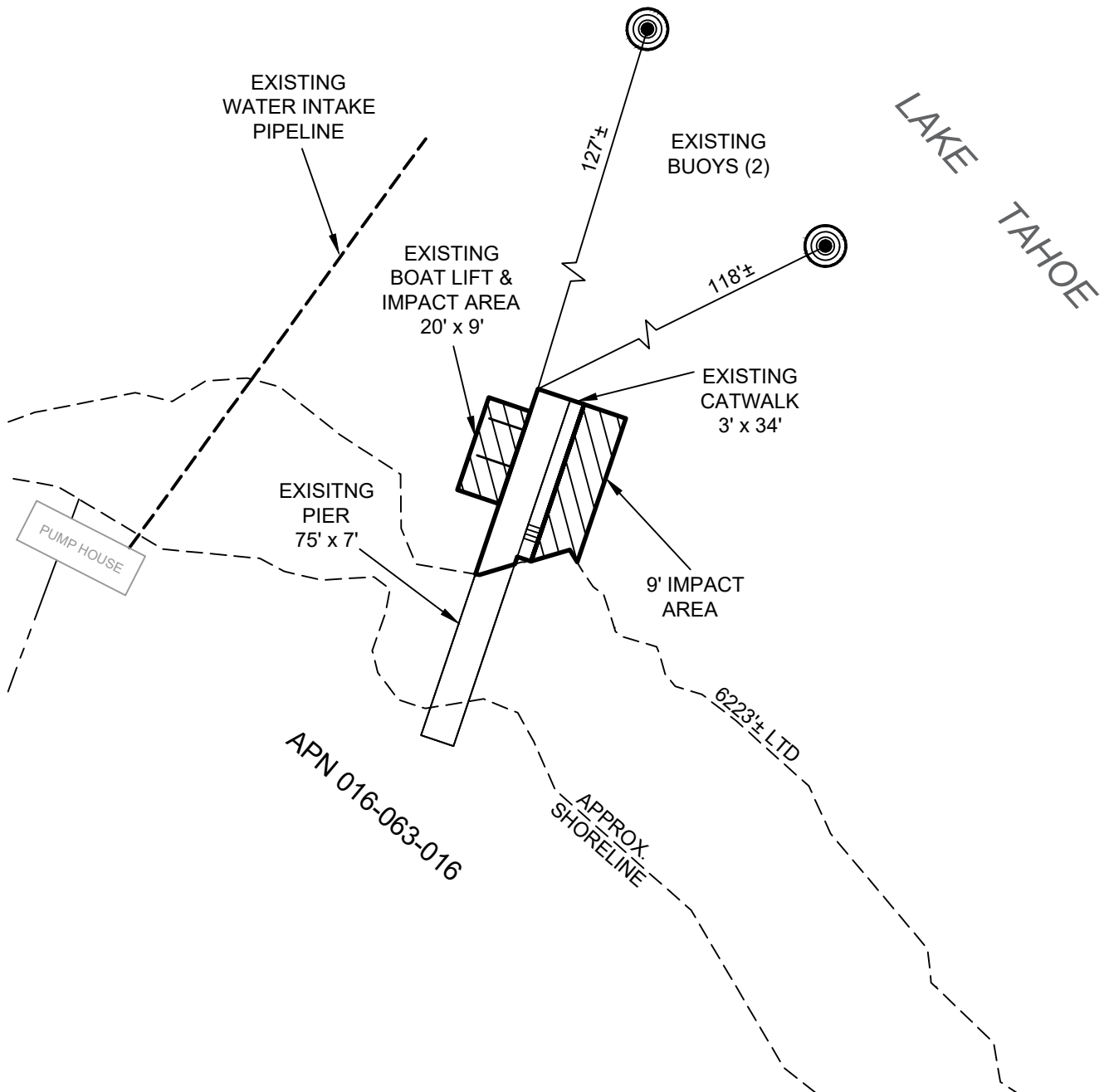


EXHIBIT A

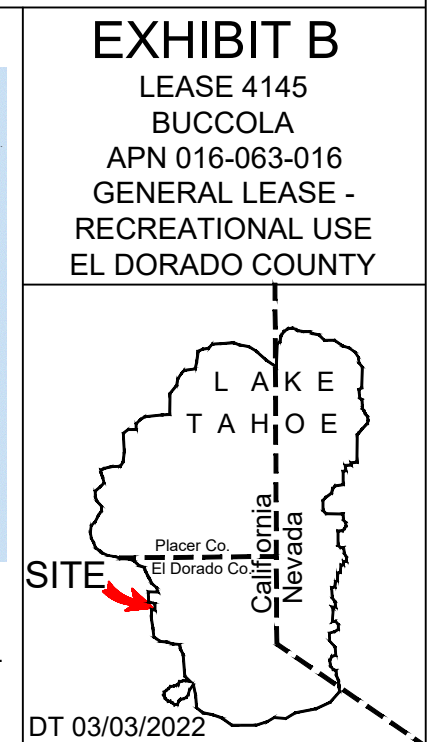
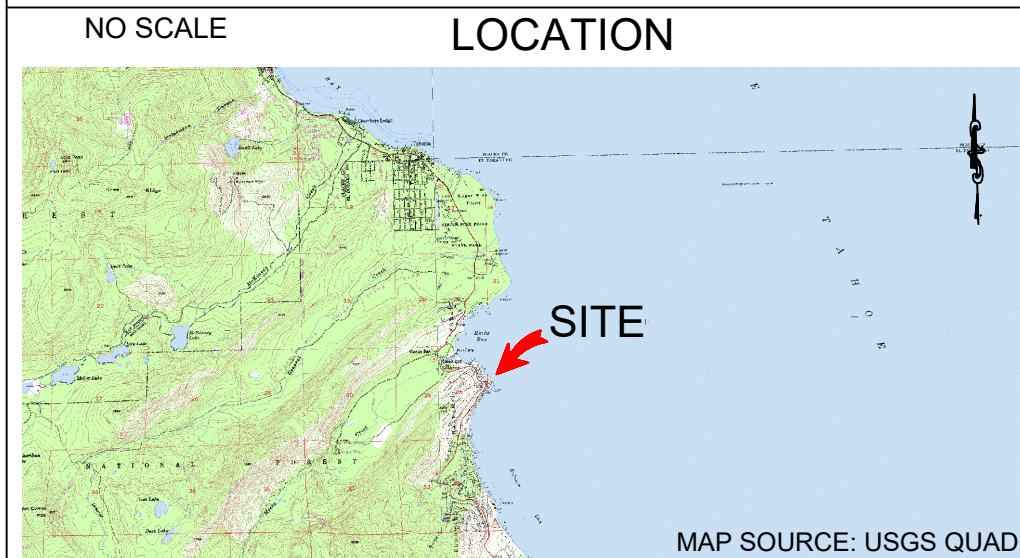
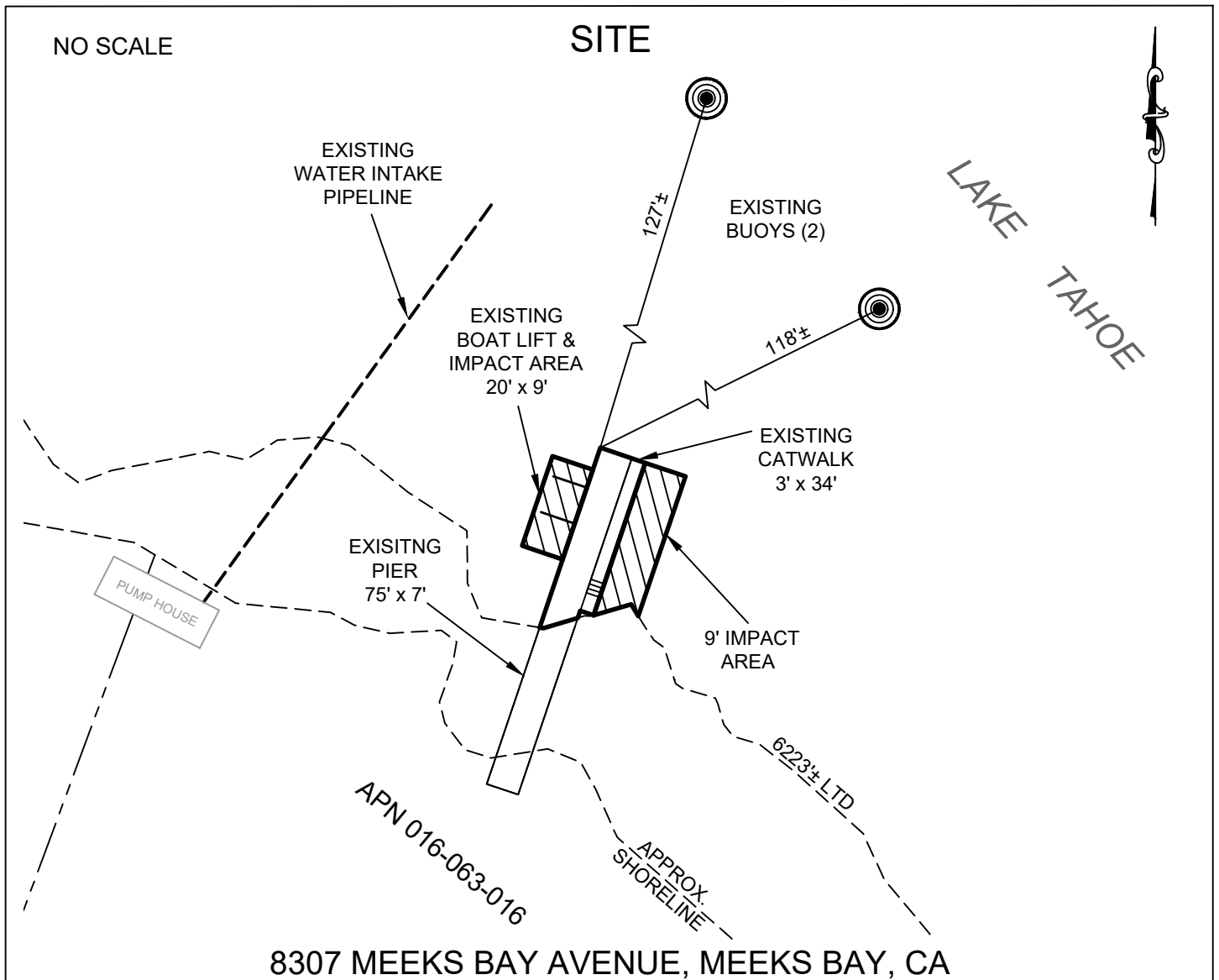
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DT 03/03/2022

LAND DESCRIPTION PLAT
LEASE 4145, BUCCOLA
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION





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.