

# Staff Report 19

## **APPLICANT:**

---

Tahoe Sierra Estates Association

## **PROPOSED ACTION:**

---

Waiver of Rent, Penalty, and Interest; 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 624 Olympic Drive, Tahoe City, Placer County.

## **AUTHORIZED USE:**

Use and maintenance of an existing pier previously authorized by the Commission; 43 existing mooring buoys and four existing navigational marker buoys; and removal of two existing navigational marker buoys and one freshwater intake pipeline with conduit not previously authorized by the Commission.

## **TERM:**

10 years, beginning April 26, 2022

## **CONSIDERATION:**

\$13,344 per year, with an annual Consumer Price Index adjustment, and \$12,463 to compensate for the unauthorized occupation of state sovereign land for the period prior to April 26, 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.
- Include special provisions relating to construction.
- Within 60 days of removal of pipeline with conduit, Lessee will provide Lessor with photographs and a set of “as-built” plans that will show where the improvements have been removed. 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, 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.
- Buoy Allotment Program: The use of the buoy field will be made available to all members of the Applicant homeowners association in a fair and equitable manner. A buoy allotment program must be maintained during the lease term that will identify how the buoys will be managed, maintained, and distributed for use by the Applicant's members.
- If the removal of the freshwater intake pipeline is not completed by May 31, 2022, then starting on June 1, 2022, a new Tahoe yellow cress survey will be required prior to any removal activities below the high water line.

## **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:**

On December 17, 2014, the Commission authorized Lease Number PRC 9167, a General Lease – Recreational Use, for use, maintenance, and expansion of an existing pier not previously authorized by the Commission to Tahoe Sierra Estates Association ([Item 15, December 17, 2014](#)).

On February 27, 2018, the Commission authorized the amendment of Lease Number PRC 9167, a General Lease – Recreational Use, to replace the existing

Exhibit A, Land Description, and Exhibit B, Site and Location Map, with updated Exhibits A and B to reflect corrected pier dimensions; with all other terms and conditions remaining the same ([Item 26, February 27, 2018](#)). The lease was set to expire on December 16, 2024.

On May 30, 2019, the Applicant applied to amend the Lease for use and maintenance of 43 existing mooring buoys and four navigational marker buoys, not previously authorized by the Commission. During the application review process staff discovered an existing freshwater intake pipeline with conduit, which was not previously authorized by the Commission.

The Applicant amended their application to include removal of the existing 5.5-inch diameter freshwater intake pipeline with conduit. On February 24, 2022, staff became aware of the existence of two additional navigational marker buoys. On February 28, 2022, the Applicant amended their application again to request a new 10-year lease instead of amending the existing lease. On March 1, 2022, the Applicant stated that the two additional navigational marker buoys are to be removed, leaving only four navigational marker buoys in place.

The lease authorized in 2014 did not include approval for the existing mooring buoys or navigational marker buoys because TRPA lacked updated shorezone ordinances that had impacted the Commission's leasing in Lake Tahoe. The Applicant continued to use and maintain the existing mooring buoys and navigational marker buoys. TRPA had been unable to issue approvals for new piers or buoys in Lake Tahoe, leaving many structures in an unauthorized status. The absence of updated shorezone ordinances reduced the Commission's ability to meaningfully address unauthorized structures on the lake in a coordinated manner with TRPA.

On October 18, 2018, the Commission authorized a Memoranda of Understanding regarding shoreline permitting and enforcement with TRPA ([Item 86, October 18, 2018](#)). On December 12, 2012, the TRPA Governing Board adopted the TRPA Code of Ordinances and on December 2, 2018, amended the ordinances enabling the Commission to authorize the buoys.

TRPA approved the existing 43 mooring buoys on June 14, 2021, under Permit Number 10646, but this approval did not include the existing navigational marker buoys. One of the terms of the proposed lease is that the Applicant provide a copy of the current TRPA permit for the navigational marker buoys within 12 months of the effective date of the proposed lease. The Applicant has obtained a U.S. Coast Guard seasonal permit for the four existing lighted navigational marker buoys.

Staff recommends acceptance of a lease quitclaim deed from the Lessee, who paid rent through December 16, 2021, and issuance of a new lease to the Applicant beginning April 26, 2022. Staff sent Invoice No. 53975 to the Lessee for rent that was due on December 17, 2021. Staff recommends voiding Invoice No. 53975 and waiving rent and any penalty and interest under that invoice because the applicant has agreed to pay compensation from the point that they obtained the property through the start date of the proposed lease.

The proposed lease will require the Applicant to indemnify the State for the entire period of occupation prior to the date the new lease takes effect, ensuring the State is protected.

Based on Commission records, the buoys and pipeline have existed at this location for many years, but rent has not historically been paid for the buoys. The Applicant has agreed to pay compensation for the unauthorized occupation of State Lands for the 43 existing mooring buoys, six existing navigational marker buoys, and one freshwater intake pipeline with conduit for the period through April 25, 2022, the day before the proposed lease takes effect.

If the Commission approves the proposed lease, the Applicant will pay \$12,463 in compensation for the unauthorized occupation of State land for the period beginning June 14, 2021, when TRPA registered the mooring buoys, through April 25, 2022, the day before the beginning date of the proposed lease.

The existing buoy field lying adjacent to Tahoe Sierra Estates includes 67 existing mooring buoys and four U.S. Coast Guard navigational marker buoys. Of the 67 existing mooring buoys located adjacent to the subject upland, 43 are controlled by the Applicant. The 43 mooring buoys and four navigational marker buoys within the Applicant's buoy field are indicated on a site plan approved by TRPA on June 10, 2021 (Approval Number Buoy 2021-0853).

Currently, there are 12 lakefront parcels within the Tahoe Sierra Estates subdivision which are responsible for their respective piers and for the other 24 of the 67 existing mooring buoys located within the buoy field. The Applicant has obtained an extension of a Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife (Number 1600-2015-0267-R2), approving the maintenance of the buoys and removal of the freshwater intake pipeline.

Removal of the existing freshwater intake pipeline with conduit is proposed to take place before the 2022 Lake Tahoe Boating Season (July 4, 2022). Documentation confirming removal is required to be provided when the removal activity is completed. Most of the water intake pipeline and conduit lie on the lake shore and the lakebed, however portions of the pipeline are buried in the lakebed, therefore

two methods are proposed for its removal, dependent upon lake levels when the removal activity occurs.

Removal of two of the existing six navigational marker buoys and the freshwater intake pipeline and conduit may take place only after all required approvals have been obtained from the appropriate regulatory bodies. The Lessee will follow all construction methods and timeframes provided by TRPA, Lahontan Regional Water Quality Control Board, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers.

The Applicant owns the upland adjoining the lease premises. The six navigational marker buoys are privately owned and maintained, are used for public safety, and four of the buoys are currently registered with the U.S. Coast Guard. The pier and 43 mooring buoys are privately owned and maintained, 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 pier, 43 mooring buoys, and navigational marker buoys have existed for many years at this location. The pier is built on pilings with the immediate 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 by passing through the upland parcel within the Public Trust easement. The buoys are located lakeward of the upland property and neighboring properties which are members of the homeowners association and have buoys in the buoy field. The buoy field is also organized to minimize the area of the lake occupied.

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 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 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 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 43 mooring buoys, six navigational marker 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. 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 HOA Pier and Buoy Field:** 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. **Removal of Pipeline/Conduit and Two Marker 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 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 and California Code of Regulations, title 2, section 2905.

## APPROVALS OBTAINED:

---

Tahoe Regional Planning Agency  
U.S. Coast Guard  
California Department of Fish and Wildlife

## **APPROVALS REQUIRED:**

---

U.S. Army Corps of Engineers  
Tahoe Regional Planning Agency (navigational marker buoys)  
California State Water Resources Control Board – Lahontan Region

## **EXHIBITS:**

---

- A. Land Description
- B-1. Site and Location Map
- B-2. Expanded Site and Location Map (buoy field)

## **RECOMMENDED ACTION:**

---

It is recommended that the Commission:

### **CEQA FINDING:**

**Existing HOA Pier and Buoy Field:** 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).

**Removal of Pipeline/Conduit and Two Marker 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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

1. 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 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 pier, 43 mooring buoys, and four navigational marker 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.
3. Find that issuing the proposed lease is in the best interests of the State.

**AUTHORIZATION:**

1. Waive rent, penalty, and interest due by Lessee for the period of December 17, 2021 through December 16, 2022, and void annual rent invoice number 53975 issued to Tahoe Sierra Estates Association.
2. Authorize acceptance of a lease quitclaim deed, effective April 25, 2022, of Lease Number PRC 9167, a General Lease – Recreational use, issued to Tahoe Sierra Estates Association.
3. Authorize acceptance of compensation from the Applicant in the amount of \$12,463 for the unauthorized occupation of state sovereign land for the period prior to April 26, 2022.
4. Authorize the Executive Office or designee to replace Exhibits in the lease and adjust rent, as appropriate, upon submission, review, and approval of as-built plans detailing the final location of the existing improvements following maintenance/removal.
5. Authorize issuance of a General Lease – Recreational Use to the Applicant, beginning April 26, 2022, for the use and maintenance of an existing pier previously authorized by the Commission, and 43 existing mooring buoys and four navigational marker buoys not previously authorized by the Commission, and removal of two existing navigational marker buoys and one freshwater intake pipeline with conduit, 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 \$13,344 with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000 per occurrence.

## **EXHIBIT A**

**LEASE 9167**

### **LAND DESCRIPTION**

Forty-six parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 7, 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 an existing pier and catwalk lying adjacent to those parcels as shown on the map "Tahoe Sierra Estates" filed May 18, 1956 in Book F of Maps at Page 4, Recorder Office 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 Line**

All those lands underlying an existing water intake line lying adjacent to those parcels as shown on the map "Tahoe Sierra Estates" filed May 18, 1956 in Book F of Maps at Page 4, Recorder Office of said County.

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

#### **PARCELS 3 through 46 – Buoys**

Forty-three circular parcels of land, each being 50 feet in diameter, underlying forty three existing buoys lying adjacent to those parcels as shown on the map "Tahoe Sierra Estates" filed May 18, 1956 in Book F of Maps at Page 4, Recorder Office of said County.

TOGETHER WITH six (two to be removed) U.S. COAST GUARD MARKER BUOYS.

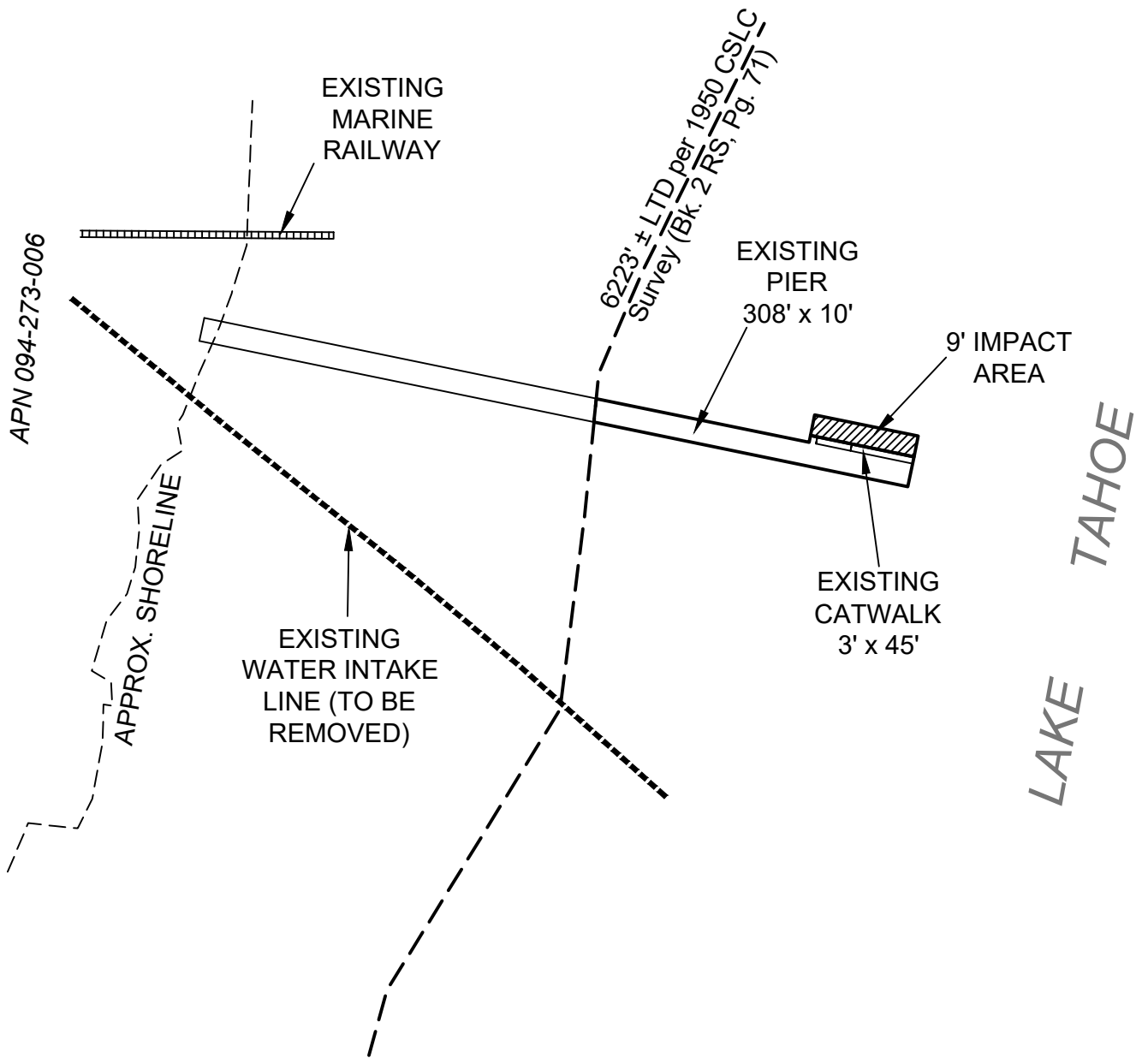
Accompanying plat is hereby made part of this description.

## END OF DESCRIPTION

Prepared 03/17/2022 by the California State Lands Commission Boundary Unit.



NO SCALE



## EXHIBIT A

Page 3 of 4

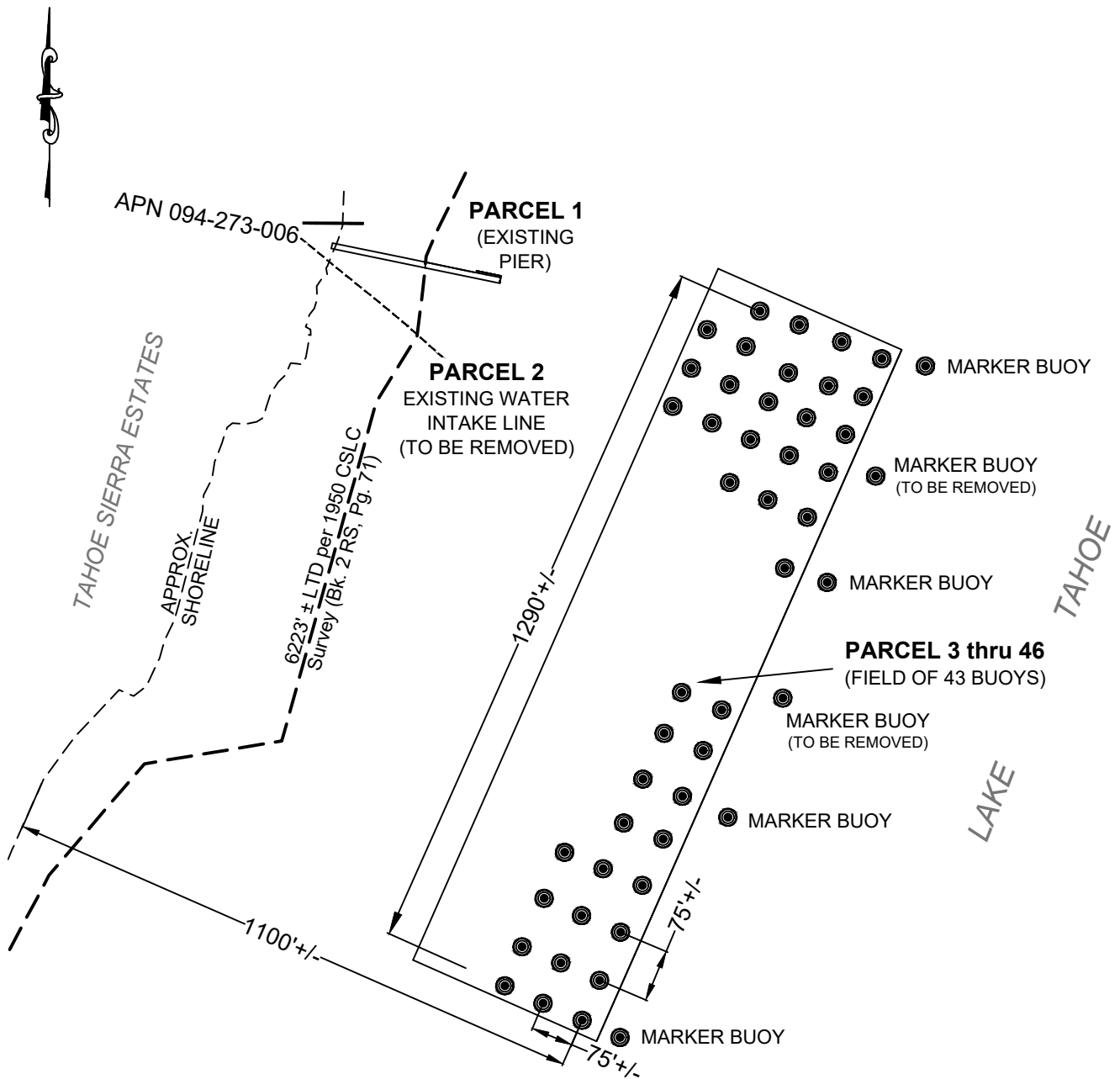
TS 03/17/2022

LAND DESCRIPTION PLAT  
LEASE 9167, TAHOE SIERRA ESTATES  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE



## EXHIBIT A

Page 4 of 4

TS 03/17/2022

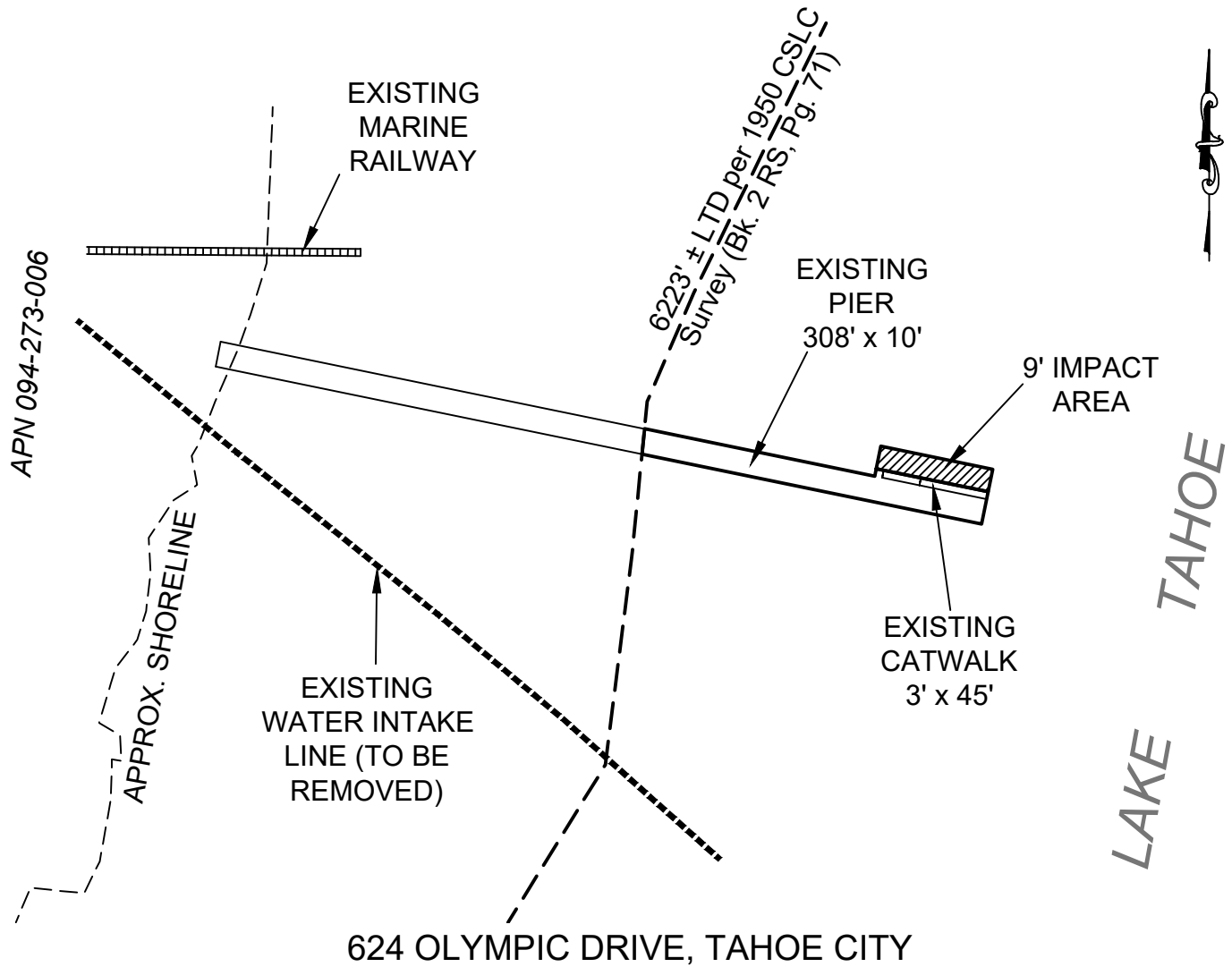
LAND DESCRIPTION PLAT  
LEASE 9167, TAHOE SIERRA ESTATES  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



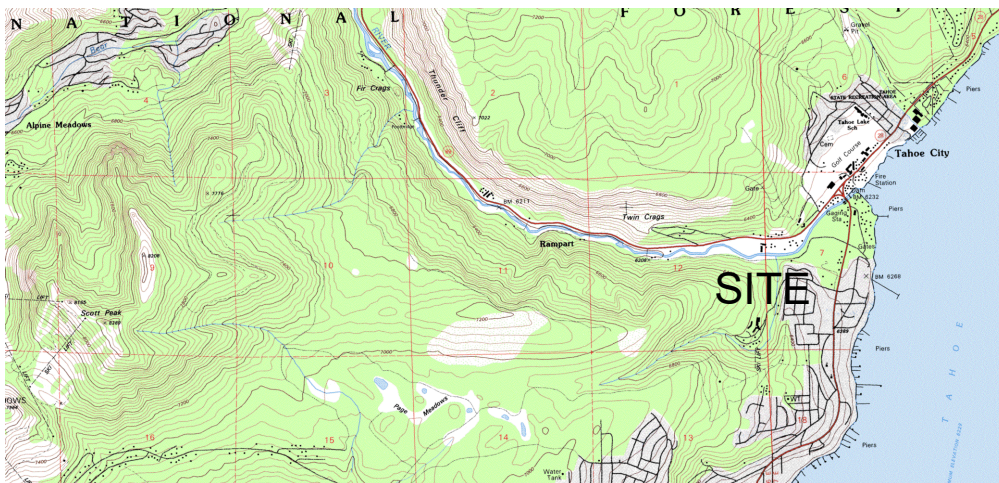
NO SCALE

## SITE



NO SCALE

## LOCATION



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-1

LEASE 9167  
TAHOE SIERRA ESTATES  
APN 094-273-006  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY

