

# Staff Report 20

## APPLICANT:

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The Gar Wood Building, a California Limited Partnership

## PROPOSED ACTION:

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Issuance of a General Lease – Other ~~Use~~

## AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 4998 North Lake Boulevard, near Carnelian Bay, Placer County.

## AUTHORIZED USE:

Use and maintenance of an existing pier associated with an upland restaurant, 14 mooring buoys, and three marker buoys.

## TERM:

15 years, beginning June 1, 2022.

## CONSIDERATION:

\$3,770 per year, with an annual Consumer Price Index adjustment.

## SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$~~23~~,000,000 per occurrence.
- Surety bond or other security in the amount of \$25,000.
- The lease requires that the Lessee implement the State Lands Commission's (Commission) "Best Management Practices for Guest Dock Users and Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. Lessee shall post the "BMPs for Guest Dock Users and Boaters" in prominent places within the Lease Premises. The Lessee shall provide the Commission, on the first anniversary of the lease and tri-annually thereafter, a report on compliance with all BMPs.

- 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 is prohibited from using the improvements for a commercial or revenue generating purpose without the prior written approval of the Lessor.
- 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.

## **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 October 19, 2012, the Commission authorized a 10-year General Lease – Recreational Use to The Gar Wood Building, a California limited partnership, for use and maintenance of an existing restaurant accommodation pier, 14 mooring buoys, and three marker buoys ([Item 19, October 19, 2012](#)). The rent was revised from \$4,171 per year to \$3,955 per year, effective June 1, 2017 ([Item 28, June 22, 2017](#)). The lease will expire on May 31, 2022.

The Applicant is applying for a General Lease – Other Use for use and maintenance of the existing restaurant accommodation pier, 14 mooring buoys, and three marker buoys. The facilities have existed for many years at this location.

The accommodation pier and 14 mooring buoys are owned and used by the upland restaurant, Gar Woods. The pier and buoys are accessible to the general public and are non-revenue generating. The restaurant operates a free shuttle boat from the end of the pier to pick up boaters using the mooring buoys who can then patronize the restaurant or the other nearby businesses and beaches. No overnight use of the mooring buoys is allowed.

The public can also access the restaurant accommodation pier from the parking lot located adjacent to the restaurant and the parcel next door (owned by the Lake Tahoe Conservancy) which provides picnic amenities. The pier and mooring buoys are open to the public in addition to the restaurant's patrons, providing a public benefit. TRPA registered the 14 mooring buoys on September 9, 2019 (Registration No. 10576).

There is room for the public to walk under the pier during varying lake levels and through the use of stairs located on either side of the pier for access through the Public Trust easement.

The subject 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 marker buoys are located directly lakeward of 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 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 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 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 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 pier, 14 mooring buoys, and three 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. 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.

### **APPROVAL OBTAINED:**

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Tahoe Regional Planning Agency  
U.S. Coast Guard

### **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 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:**

Authorize issuance of a General Lease – Other ~~Use~~ to the Applicant beginning June 1, 2022, for a term of 15 years, for the use and maintenance of an existing restaurant accommodation pier, 14 mooring buoys, and three marker 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 \$3,770, with an annual Consumer Price Index adjustment; a surety bond ~~or other security~~ in the amount of no less than \$25,000, and liability insurance in an amount no less than \$~~23~~,000,000 per occurrence.

## EXHIBIT A

LEASE 5402

### LAND DESCRIPTION

Eighteen (18) parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 22, 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 with catwalk lying adjacent to those parcels described in Quitclaim Deed recorded February 25, 2010 as Document Number 2010-0014468-00 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 through 18– BUOYS

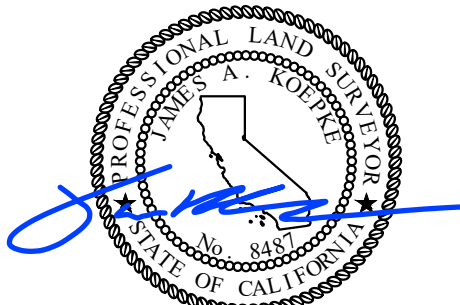
Fourteen (14) circular parcels of land, each being 50 feet in diameter, underlying fourteen existing buoys lying adjacent to those parcels described in Quitclaim Deed recorded February 25, 2010 as Document Number 2010-0014468-00 in Official Records of said County.

TOGETHER WITH three U.S. COAST GUARD MARKER BUOYS.

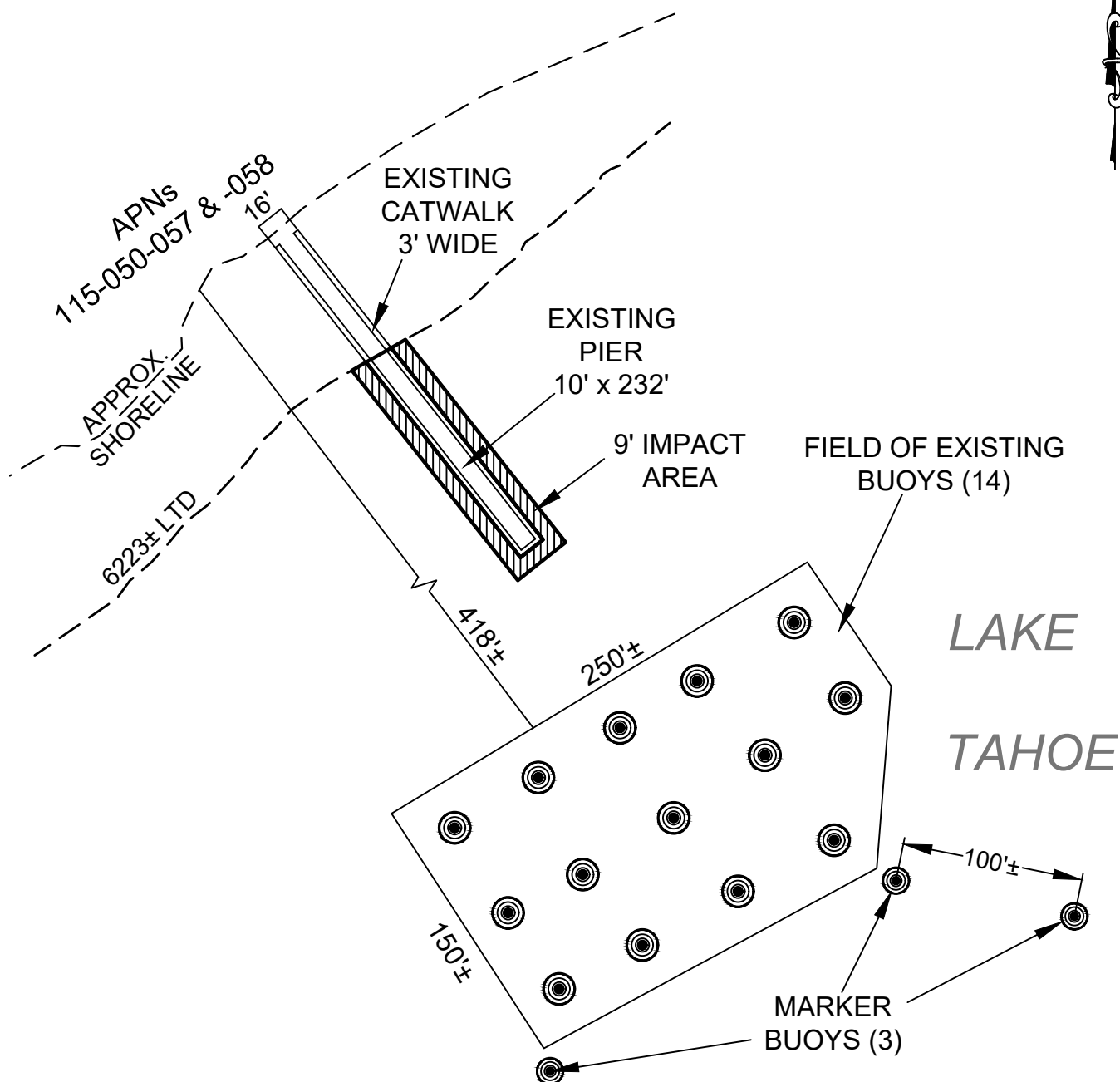
Accompanying plat is hereby made part of this description.

### END OF DESCRIPTION

Prepared 02/17/2022 by the California State Lands Commission Boundary Unit.



NO SCALE



## EXHIBIT A

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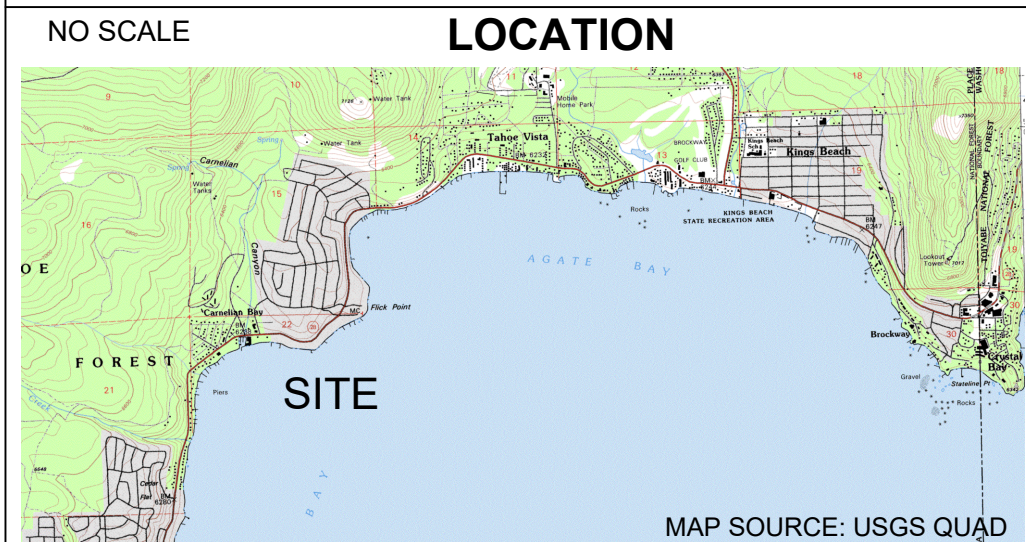
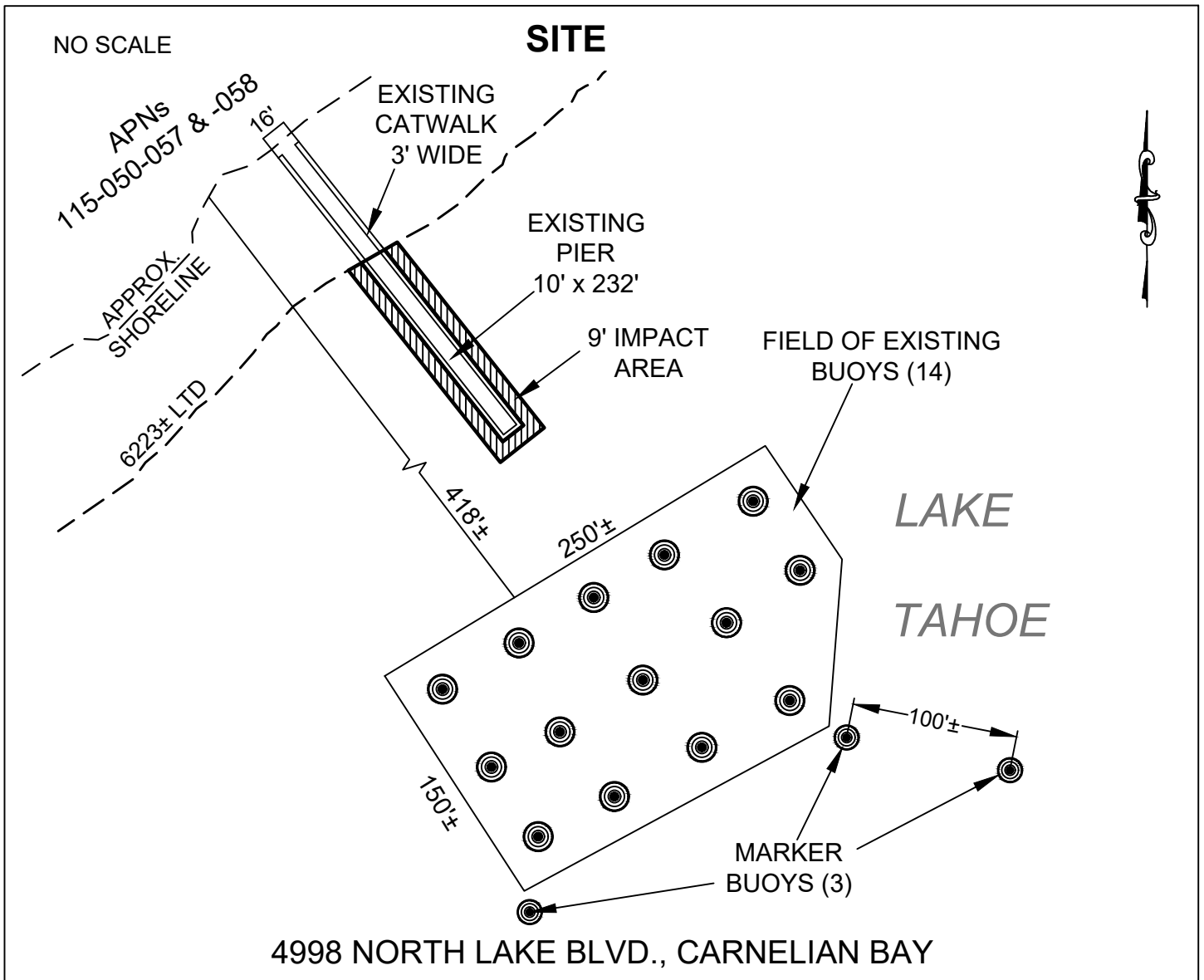
TS 02/17/2022

LAND DESCRIPTION PLAT  
LEASE 5402, GAR WOOD BUILDING, LP  
PLACER COUNTY

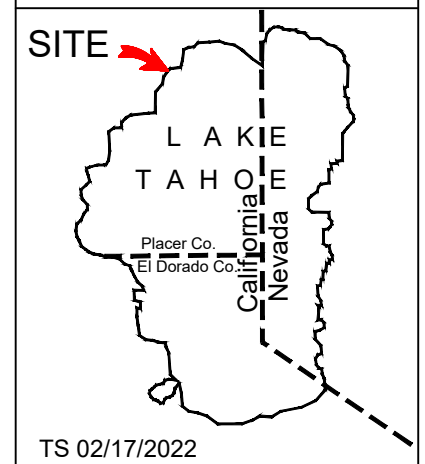
CALIFORNIA STATE  
LANDS COMMISSION







**Exhibit B**  
 LEASE 5402  
 GAR WOOD BUILDING, LP  
 APNs 115-050-057 & -058  
 GENERAL LEASE-  
 OTHER 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.