

# Staff Report 22

## **APPLICANT:**

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Maureen O' Brien Sullivan, Trustee of the Marital Trust subdivision of the Craig and Maureen Sullivan Living Trust, under Third Amendment and Restatement of Declaration of Trust dated June 9, 2017, as amended

## **PROPOSED ACTION:**

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Issuance of a General Lease – Recreational Use

## **AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Lake Tahoe, adjacent to 5526 North Lake Boulevard, near Carnelian Bay, Placer County.

## **AUTHORIZED USE:**

Use and maintenance of an existing pier, boat lift, and one mooring buoy previously authorized by the Commission; and one freshwater intake pipeline not previously authorized by the Commission.

## **TERM:**

10 years, beginning June 23, 2022.

## **CONSIDERATION:**

\$1,215 per year, with an annual Consumer Price Index adjustment, and \$417 to compensate for the unauthorized occupation of state sovereign land for the period prior to June 23, 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 lease provides that signs shall be posted on each side of the pier to indicate passage and to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 feet, Lake Tahoe Datum (LTD).

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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 2, 2013, the Commission authorized Lease Number PRC 5401.1, a General Lease – Recreational Use, to G. Craig Sullivan and Maureen O'Brien Sullivan, Trustees of the Craig and Maureen Sullivan Living Trust dated May 27, 1992, for the use and maintenance of an existing pier previously authorized by the Commission, removal of an existing boat lift, installation of a new boat lift, adjustable catwalk alteration, and use and maintenance of one existing mooring buoy not previously authorized by the Commission ([Item 62, December 2, 2013](#)). That lease expired on February 26, 2022.

On December 6, 2016, the Commission authorized the amendment of Lease Number PRC 5401.1, 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 a reduced impact area and revise the rent from \$1,606 to \$1,021 per year, effective February 27, 2017 ([Item 06, December 6, 2016](#)). The lease expired on February 26, 2022.

In December 2017, the Applicant became the surviving Trustee, and in 2020, the Applicant transferred ownership interest in the upland parcel into her own Trust as sole owner. The Applicant is now applying for a General Lease – Recreational Use, for an existing pier, boat lift, and one mooring buoy previously authorized by the Commission, and one existing freshwater intake pipeline not previously authorized by the Commission.

The approximately 123-linear-foot-long pipeline has existed in the lake for many years, and the Applicant has provided evidence of application for an Initial Statement of Diversion from the California State Water Resources Control Board.

The Commission's accounting records show that the rent is paid through February 26, 2022. The Applicant will pay \$417 in compensation for the unauthorized occupation of State lands for the pier, boat lift, mooring buoy, and freshwater intake pipeline for the period through June 22, 2022, the day before the beginning date of the proposed lease. Additionally, the proposed lease will require the Applicant to indemnify the State for the entire period of occupation from February 27, 2022 through June 22, 2022, ensuring the State is protected.

The Applicant owns the upland adjoining the lease premises. The existing pier, boat lift, and mooring buoy 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 subject facilities 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 to access the Public Trust easement. Signs are required to be posted on each side of the pier identifying the designated public passageway and are required to be in place at all times.

The buoys are located directly lakeward of the upland property and occupy relatively small areas of the lake. TRPA registered the existing boat lift and one mooring buoy on March 25, 2019, under Registration Number 10126.

The freshwater intake pipeline is not generally associated with traditional Public Trust uses, occupies a small area of the lakebed, and does not interfere with Public Trust activities at this location at this time.

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.

Improvements 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 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; 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 for a new lease, the Applicant may be required to remove the pier, boat lift, mooring buoy, and freshwater intake pipeline, 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.

## **APPROVALS OBTAINED:**

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State Water Resources 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:**

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:**

1. Find that the pier, boat lift, and one mooring buoy 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; is consistent with the common law Public Trust Doctrine; and
2. Find that the existing and, for a limited period, continuing use and maintenance of the freshwater intake pipeline is not generally associated with traditional Public Trust uses, but the current use does not substantially interfere with Public Trust needs and values at this location, at this time; and
3. Find that issuing the proposed lease is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize acceptance of compensation from the Applicant in the amount of \$417 for the unauthorized occupation of state sovereign land for the period prior to June 23, 2022.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 23, 2023, for a term of 10 years, for the use and maintenance of an existing pier, boat lift, one mooring buoy previously authorized by the Commission, and an existing freshwater 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 \$1,215 with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 5401**

**LAND DESCRIPTION**

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 3 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 pier, catwalk and boat lift lying adjacent to that parcel described in Quitclaim Deed recorded November 19, 2020 as Document Number 2020-0135275-00 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.

**PARCEL 2 – WATER INTAKE PIPELINE**

All those lands underlying an existing water intake pipeline lying adjacent to that parcel described in Quitclaim Deed recorded November 19, 2020 as Document Number 2020-0135275-00 in Official Records of said County.

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

**PARCEL 3 – BUOY**

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Quitclaim Deed recorded November 19, 2020 as Document Number 2020-0135275-00 in Official Records of said County in Official Records of said County.

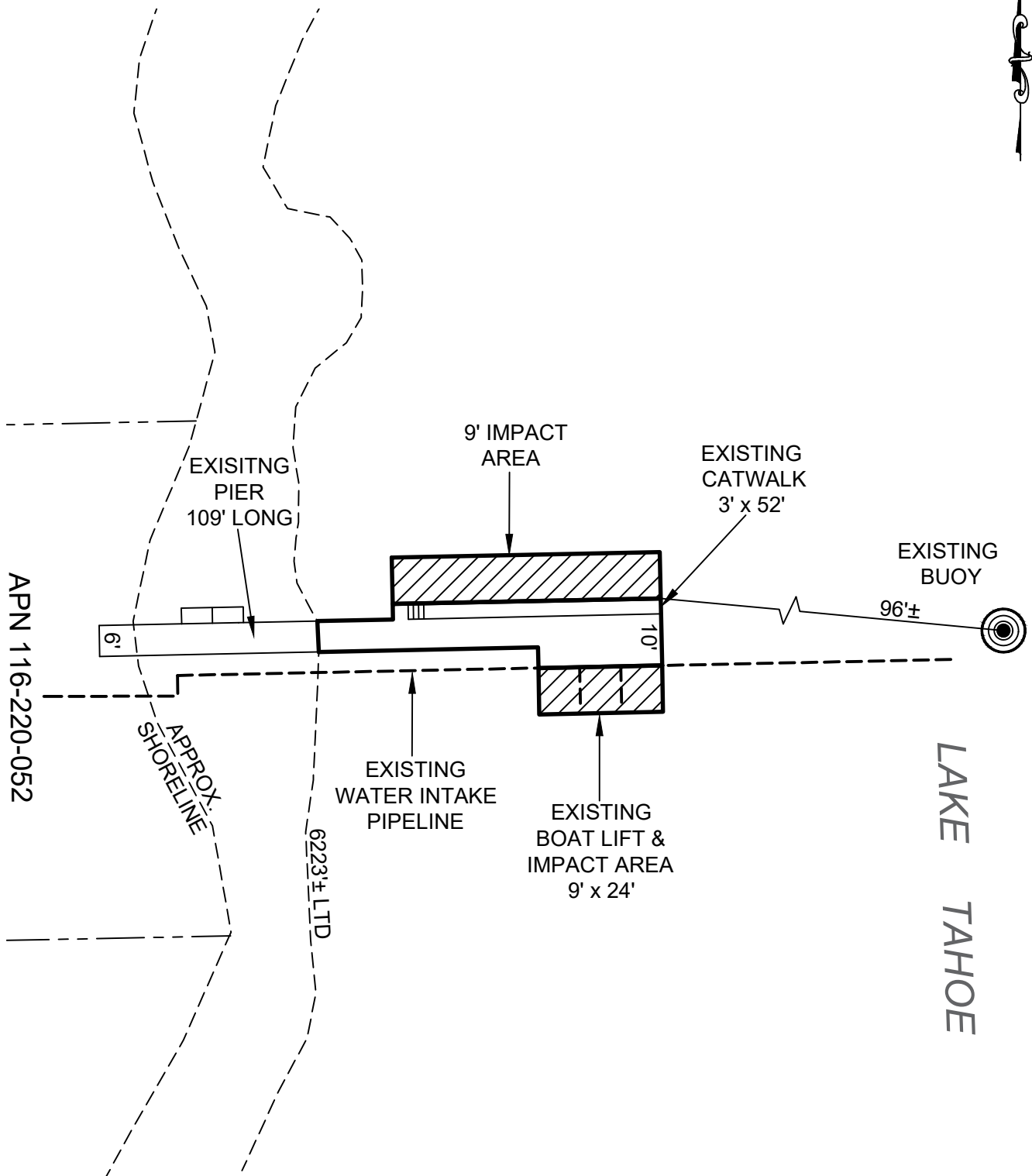
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 04/07/2022 by the California  
State Lands Commission Boundary Unit.



NO SCALE



## EXHIBIT A

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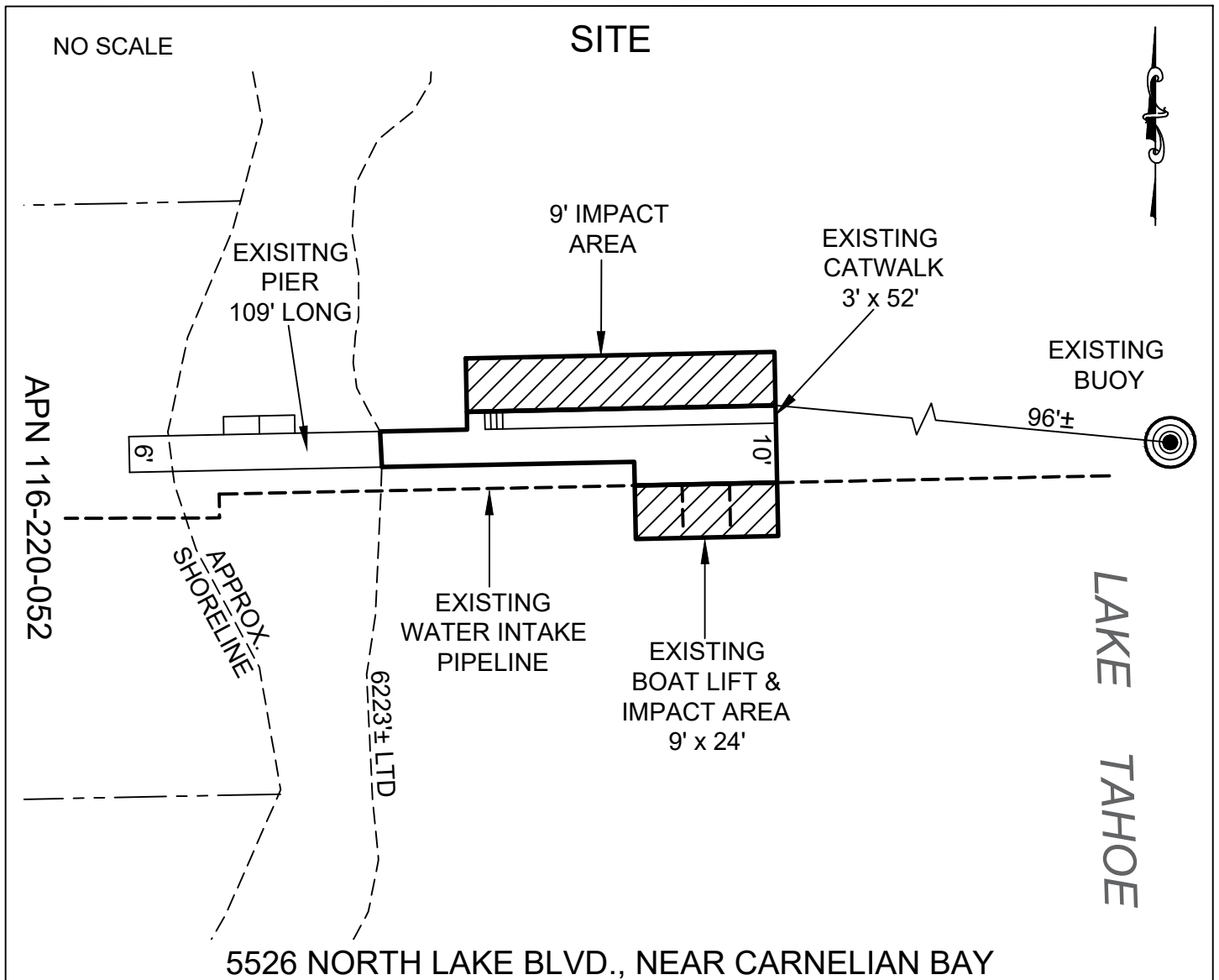
DT 04/07/2022

LAND DESCRIPTION PLAT  
LEASE 5401, SULLIVAN TRUST  
PLACER 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.

## EXHIBIT B

LEASE 5401  
SULLIVAN TRUST  
APN 116-220-052  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY

