

Staff Report 39

LESSEE/APPLICANT:

Tahoe Belleview LLC, a California Limited Liability Company; and John William Stannard, Sr. and Cathy J. Stannard, Trustees of the Cathy and John Stannard 2005 Trust, as Amended and Restated October 13, 2010

PROPOSED ACTION:

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 3915 and 3795 Belleview Avenue, near Homewood, Placer County.

AUTHORIZED USE:

Expansion of a joint-use pier; installation of two boat lifts and two adjustable catwalks; and use and maintenance of two existing mooring buoys.

TERM:

10 years, beginning March 1, 2023.

CONSIDERATION:

\$2,599 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 the public's right of access for navigation, fishing, and public trust consistent recreational uses.
- Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.
- 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 requirements pertaining to construction equipment, debris, and the delivery to Lessor of specified documents related to the construction activities; and that the Applicant obtain all necessary permits and authorizations prior to commencing work.
- The public will have continuous shoreline access to the Public Trust Easement below elevation 6228.75 Lake Tahoe datum. Lessee shall post signs identifying the designated public passageway. The signs shall be in place at all times. Lessee agrees to be responsible for all costs incurred for the installation and maintenance of this signage. The signage will be installed on each of the staircases which provide public passage over the pier.

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 February 20, 2015, the Commission authorized issuance of a General Lease - Recreational Use to Tahoe Belleview LLC, A California Limited Liability Company, and John William Stannard, Sr., and Cathy J. Stannard, Trustees of the Cathy and John Stannard 2005 Trust, as Amended and Restated October 13, 2010 for the use and maintenance of an existing joint-use pier, two boat lifts, and two mooring

buoys adjacent to 3915 and 3795 Belleview Avenue, near Homewood, Placer County ([Item C08, February 20, 2015](#)). This Lease will expire December 12, 2023.

The Applicant, who is also the Lessee, now seeks to quitclaim its existing leasehold interest and apply for a General Lease – Recreational Use for the expansion of the existing joint-use pier, installation of two boat lifts and two adjustable catwalks, and use and maintenance of two existing mooring buoys. Staff recommends acceptance of a Quitclaim Deed for the current lease effective February 28, 2023, upon execution of a new lease, and issuance of a General Lease – Recreational Use to the Applicant, to take effect on March 1, 2023.

On August 29, 2022, TRPA approved the project to expand the pier and install two boat lifts and two adjustable catwalks (File No. ERSP2020-1599). The work for this project is anticipated to occur between September 1 and November 2, 2023 and will commence after all necessary approvals are obtained.

The proposed project consists of expanding the existing pier, removing the existing boat lifts and catwalk, and installing two new boat lifts and two adjustable catwalks.

The existing pier is 181 feet in total length. Starting from the landward terminus, the existing pier has a width of six feet for the first 150 feet of length, and a width of 10 feet for the remaining 31 feet of length, with the lakeward terminus being a pierhead at elevation 6,220 feet. The proposed, expanded pier will be 241 feet in total length, with the first 150 feet of the pier being expanded from six feet in width to eight feet in width, and the remaining 91 feet being expanded to 15 feet in width, with a lakeward terminus at elevation 6218.5 feet. The proposed pier will be approximately 60 feet longer than the existing pier, with an increased footprint of approximately 1,490 square feet. The additional length will allow for greater boat access in deeper water and may serve as an adaptive measure for future low water level conditions at the Lake.

The landward terminus of the proposed pier will meet the shore in the same location as the existing pier. The topography immediately adjacent to the landward terminus of the pier is gently sloped and easily traversable, with public access for pedestrians and lake-related activities available at varying water levels over the pier. Public access over the pier is facilitated by the presence of two short stairways located on either side of the pier. These stairways allow access to the pier deck within the Public Trust easement. The proposed lease includes a provision that the Applicant post signs identifying the designated public passageway on each of the staircases which provide public passage over the pier. These signs shall be in place at all times and will ensure that the public is aware of the designated passageway within the Public Trust easement.

The two existing boat lifts and the existing catwalk are proposed to be removed. New boat lifts will be installed in the same location as the removed boat lifts, and two adjustable catwalks 30 feet in length and three feet in width will be installed on the North and South sides of the most lakeward portion of the expanded pier, terminating at the pierhead.

To facilitate expansion of the landward end of the pier from 6 feet to 8 feet in width, the existing 24-inch vertical extensions of the pilings will be cut, and new beams and joists will be installed. The 60-foot long, 15-foot wide extension to the lakeward end of the pier will be constructed with eight new steel pilings, each measuring 10.75 inches in diameter, as well as six 4-inch by 4-inch steel tubes, and two 2.5-inch diameter pipe columns. The eight new pilings will be driven into the lakebed with a 1000-pound drop hammer to a depth of six feet or refusal.

Construction will be accomplished via an amphibious vehicle departing from an approved launching facility such as a public marina or boat ramp. All construction materials will be transported to the project site via barge or amphibious vehicle. Construction materials will be stored within a barge or amphibious vehicle and protected from discharge into Lake Tahoe. Appropriate spill containment materials will be present during construction to minimize spread and damage from any hazardous fluids accidentally discharged onsite.

Caissons will be installed during the removal of existing pilings and the installation of new pilings to minimize sediment resuspension from escaping the project area. These caissons will not be removed until any disturbed sediment has settled.

The Applicant will follow all construction methods and timeframes provided by TRPA, the Lahontan Regional Water Quality Control Board, the California Department of Fish and Wildlife, the U.S. Army Corps of Engineers, and any other agency exercising pertinent jurisdiction within the lease area.

A Tahoe yellow cress survey was completed in the lease area on September 21, 2022. According to TRPA, Tahoe yellow cress (TYC) is a flowering perennial plant in the mustard family that grows on Lake Tahoe's sandy shorelines and nowhere else in the world. This survey indicated that there was no TYC present in the area. If pier construction landward of the ordinary low water mark is not complete by June 14, 2023, then a new TYC survey will be required. Should a subsequent TYC survey indicate the presence of TYC in the lease area, then a Construction Impact Avoidance Plan must be submitted to the Commission for approval before construction can begin or continue. Such a plan must identify the location of TYC stems and include measures to ensure that there will be no impact to the plant, including potential relocation of the pier, pilings, and construction access and staging areas; use of protective 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.

The Applicant owns the uplands adjoining the lease premises. The subject facilities 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.)

The subject mooring buoys have existed for many years at this location, are located directly lakeward of the upland property, and occupy a relatively small area of the lake. TRPA registered the buoys on July 19, 2019 (Registration No. 10076).

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.

Rent under the current lease is paid through December 12, 2023 and was paid by the Lessee/Applicant. As staff is recommending the acceptance of a lease quitclaim deed effective February 28, 2023, and the issuance of a new lease effective March 1, 2023 the payment made on the current lease will be prorated, with the remaining balance used to offset a portion of the rent due for the proposed new lease. Therefore, a credit of \$1,442.96 will be applied to the first year's rent under the proposed lease.

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.

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 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:

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 will not be authorized to expand the pier or install the two boat lifts. The lessee 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 the 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. **Pier Modifications:** 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)(2).
5. **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).

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:

Tahoe Regional Planning Agency

APPROVALS REQUIRED:

U.S. Army Corp of Engineers
California Department of Fish and Wildlife
Lahontan Regional Water Quality Control Board

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

1. **Pier Modifications:** 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)(2).
2. **Existing Mooring 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 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:

1. Authorize acceptance of a lease quitclaim deed, effective the day immediately preceding the date the new lease commences, of Lease 3905, a General Lease – Recreational Use, issued to Lessee.
2. Apply the payments previously submitted under Lease Number 3905 to offset rent due for the proposed lease, with a credit of \$1,442.96 being applied to the first year's rent of the proposed lease.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning March 1, 2023, for a term of 10 years, for the expansion of a joint-use pier and installation of two boat lifts and two adjustable catwalks, contingent on the Applicant's compliance with TRPA Permit ERSP2020-1599, 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 \$2,599, 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 improvements following construction.

EXHIBIT A

LEASE 3905

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 36 Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved April 11, 1884, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing joint-use pier with catwalk and two boat lifts (to be replaced), proposed joint-use pier with two catwalks and two boat lifts, lying adjacent to that parcel described in Grant Deed recorded December 13, 2013 as Document Number 2013-0114029-00 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 13, 2013 as Document Number 2013-0114029-00 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 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 10/18/2022 by the California State
Lands Commission Boundary Unit.



NO SCALE

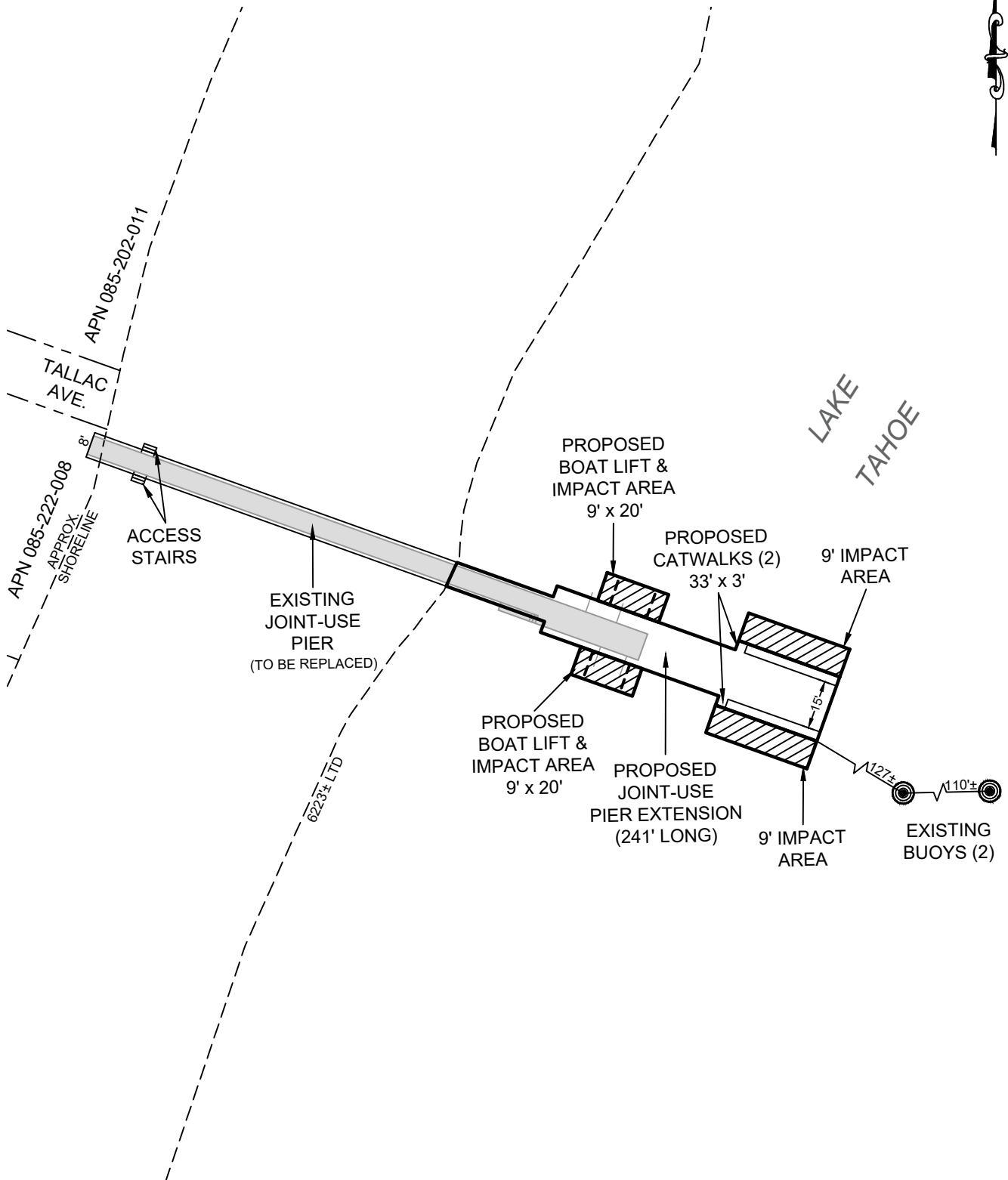


EXHIBIT A

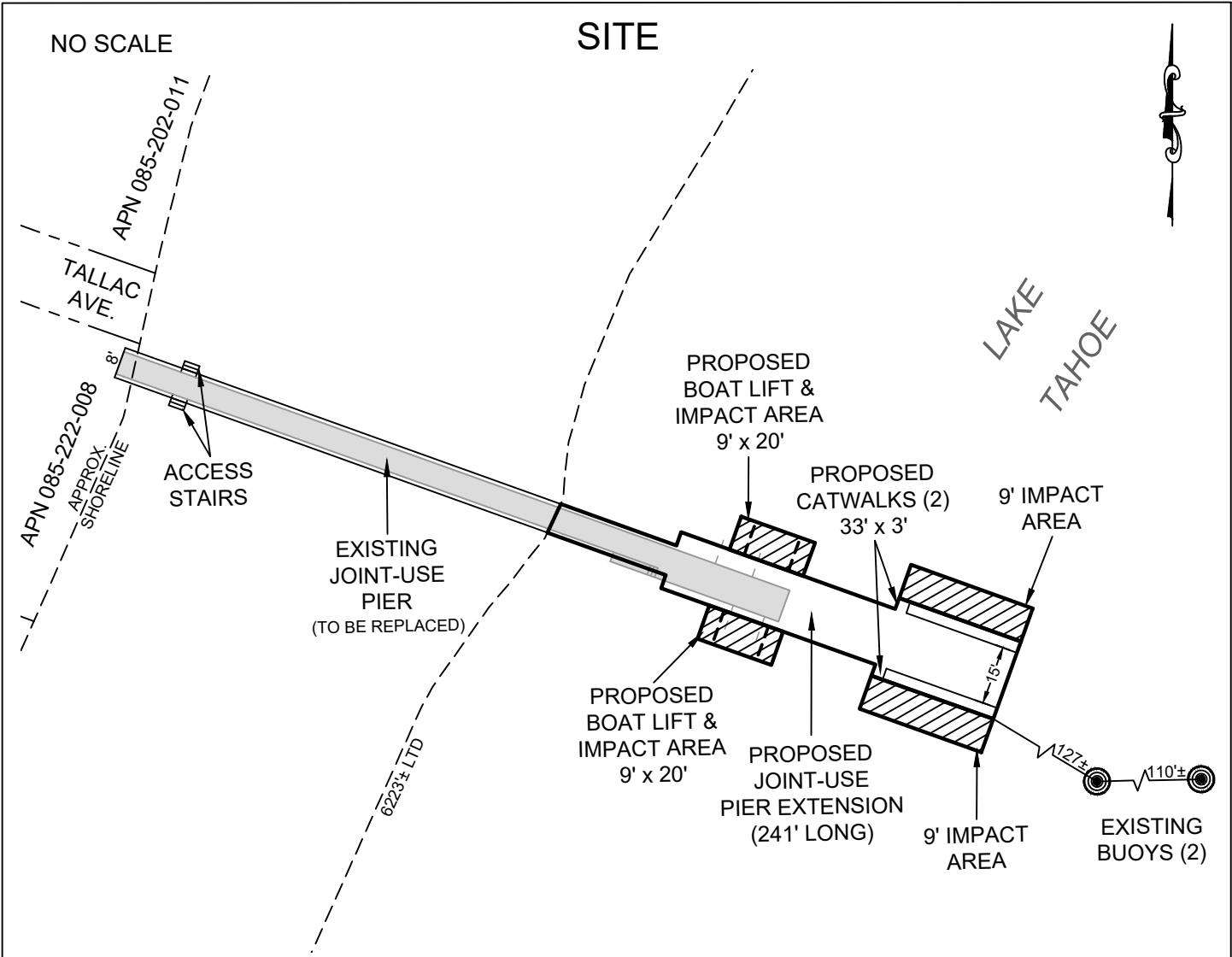
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DT 10/18/2022

LAND DESCRIPTION PLAT
 LEASE 3905, TAHOE BELLEVIEW LLC &
 STANNARD TRUST
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION





3915 & 3795 BELLEVIEW AVENUE, NEAR HOMEWOOD

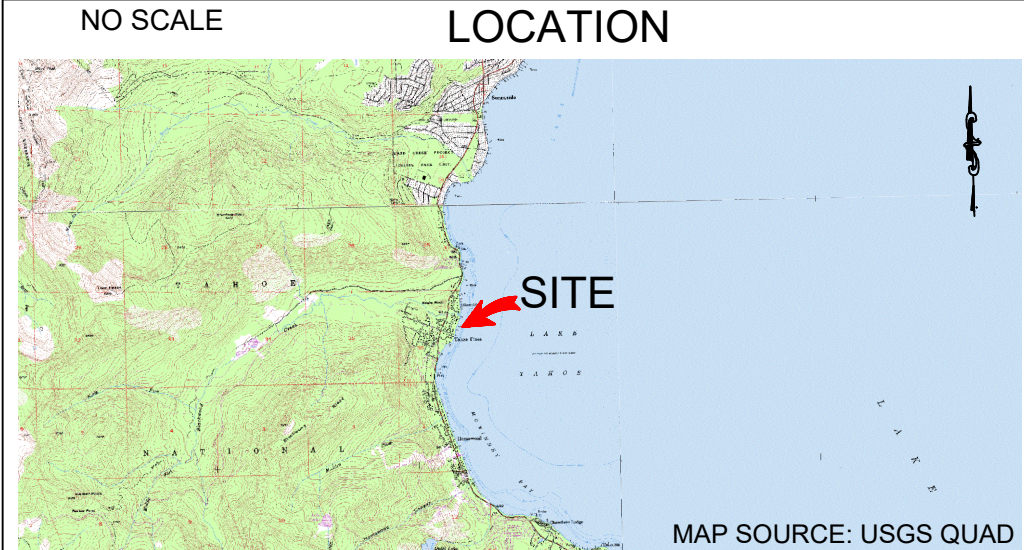
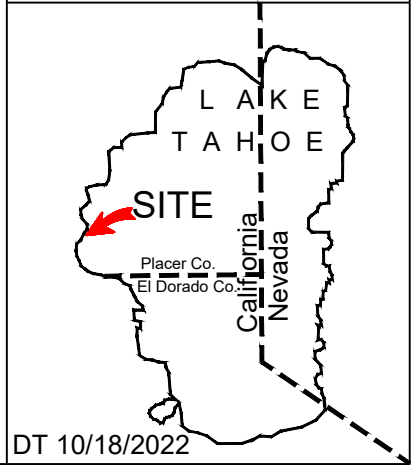


EXHIBIT B
 LEASE 3905
 TAHOE BELLEVIEW LLC &
 STANNARD TRUST
 APNs 085-222-008, 085-202-011
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.