

**CALENDAR ITEM
C11**

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06/22/17
PRC 5316.1
K. Connor

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Barbara C. Thornton, Trustee of the Barbara C. Thornton Trust dated September 18, 2009

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8748 Brockway Vista Avenue, near Kings Beach, Placer County

AUTHORIZED USE:

Continued use and maintenance of one mooring buoy.

LEASE TERM:

10 years beginning May 1, 2017.

CONSIDERATION:

\$377 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.

2. Lessee shall not store any personal items or construct any improvements within the Public Trust easement that 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, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On May 10, 2007, the Commission authorized a 10-year Recreational Pier Lease to William C. Thornton and Barbara C. Thornton, as Trustees, or

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Successor Trustee, of the William C. Thornton and Barbara C. Thornton Trust under Trust Agreement dated January 29, 1997 ([Calendar Item C03, May 10, 2007](#)). That lease expired on April 30, 2017. On September 4, 2013, upland ownership was transferred to the Applicant. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of one existing mooring buoy. The mooring buoy is privately owned and maintained.

On January 4, 1977, the Tahoe Regional Planning Agency (TRPA) issued a permit for the mooring buoy adjacent to the upland parcel. The Applicant's TRPA permit is currently valid.

The buoy is for the mooring of boats. 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 lands (Pub. Resources Code, § 6503.5).

The mooring buoy does not significantly alter the land and the lease does not alienate the State's fee simple interest or permanently impair public rights. The buoy has existed for many years at this location. Upon termination of the lease, the lessee may be required to remove all improvements and restore the lease premises to their original condition. Additionally, the buoy occupies a relatively small area of the lake. Based on the foregoing, Commission staff believes that the mooring buoy will not substantially interfere with Public Trust needs at this location, at this time, or for the foreseeable term of the proposed lease.

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. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

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2. 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 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

RECOMMENDED ACTION:

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 the Public Trust needs and values at this location, at this time or 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.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

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AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning May 1, 2017, for a term of 10 years, for the continued use and maintenance of one existing mooring buoy 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 \$377, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 5316.1

LAND DESCRIPTION

One (1) parcel of submerged land situated in the bed of Lake Tahoe, lying adjacent to Lot 6 of fractional Section 19, Township 16 North, Range 18 East, M.D.B.&M., as shown on Official Government Township Plat approved January 24, 1875, County of Placer, State of California, more particularly described as follows:

One circular parcel of land, being 50 feet in diameter, underlying one existing buoy lying adjacent to that parcel described in Grant Deed recorded September 4, 2013 as Document Number 2013-0087119 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/30/2017 by the California State Lands Commission Boundary Unit.



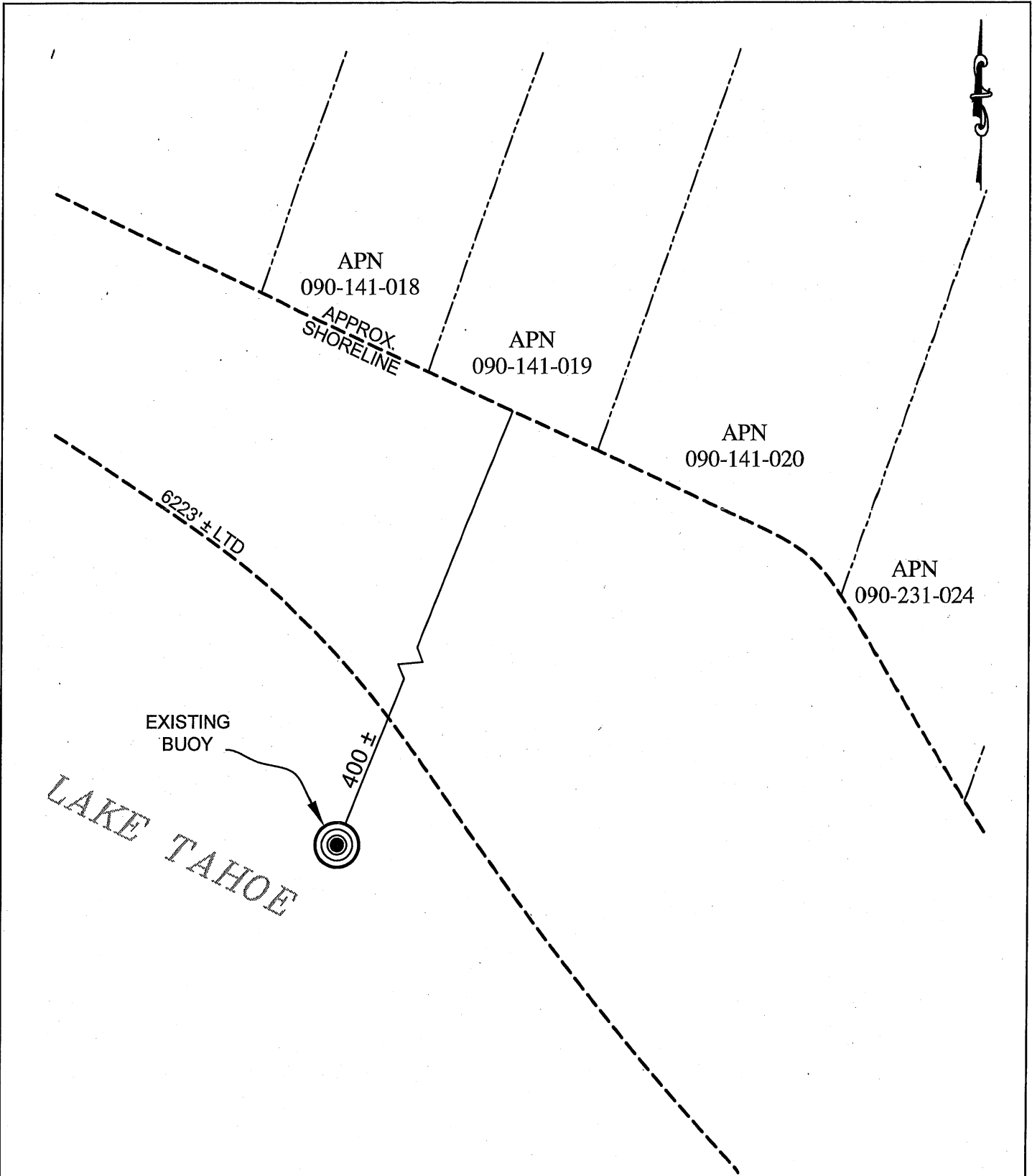
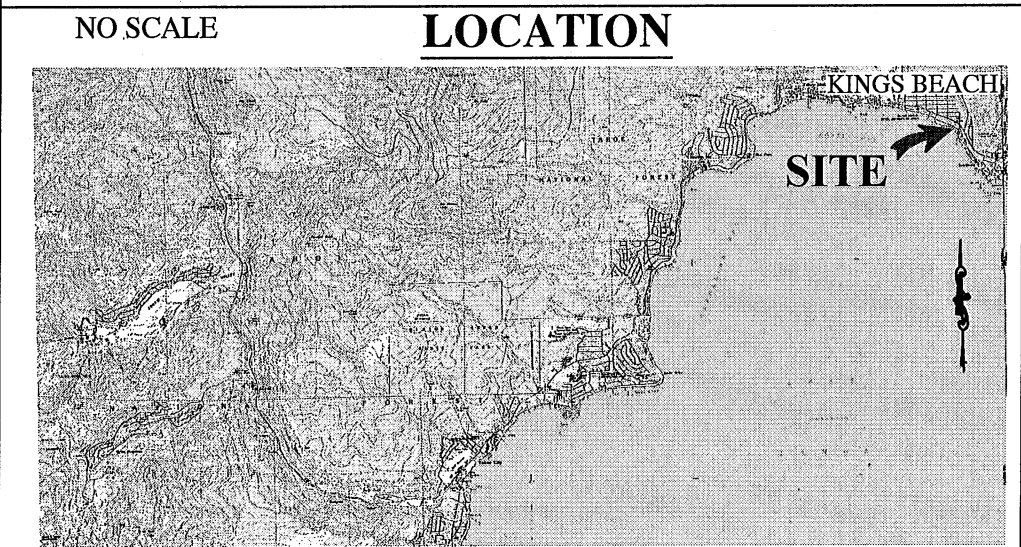
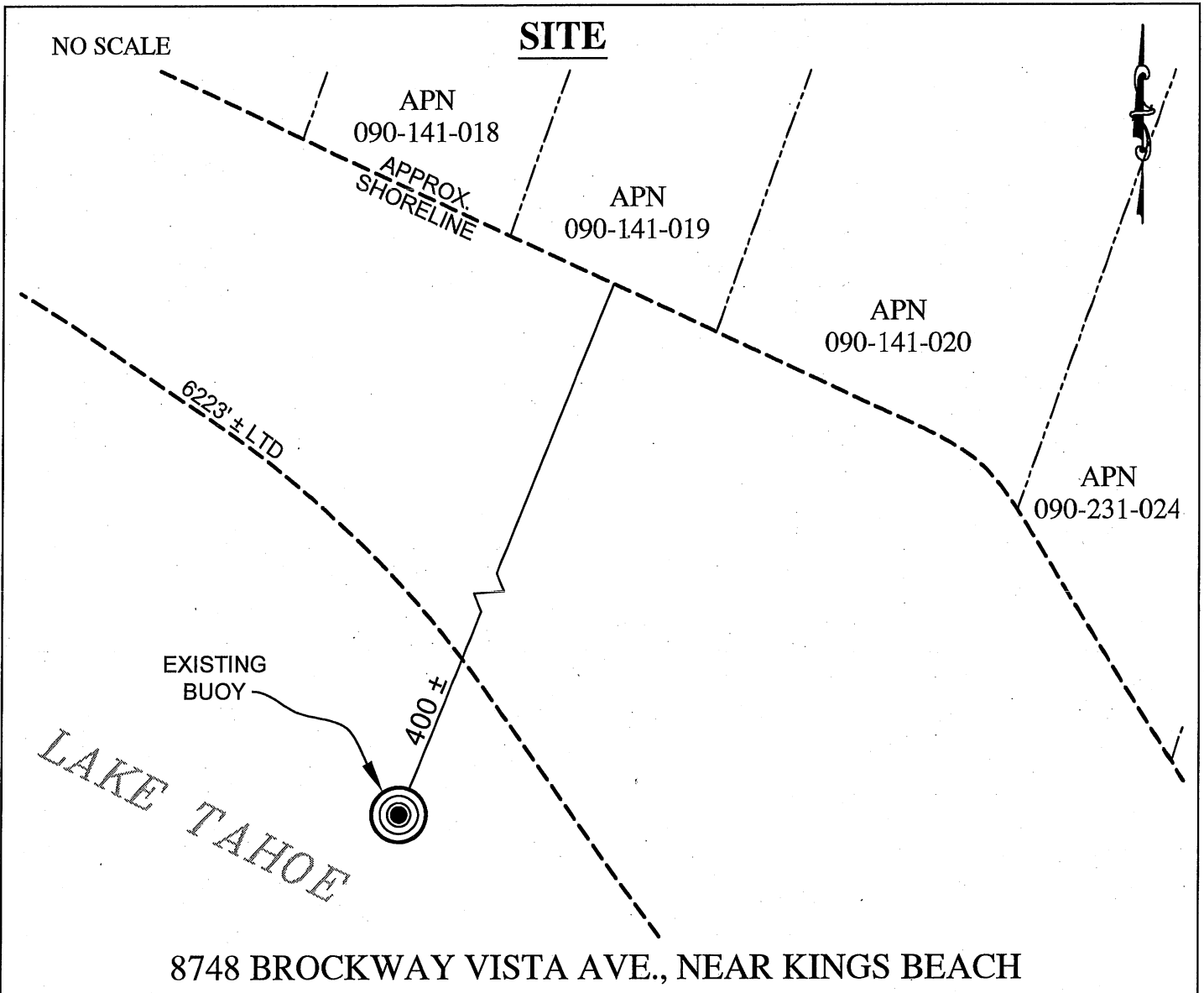


EXHIBIT A

LAND DESCRIPTION PLAT
 PRC 5316.1, THORTON TRUST
 PLACER COUNTY

CALIFORNIA STATE LANDS
 COMMISSION





MAP SOURCE: USGS QUAD

Exhibit B

PRC 5316.1

THORTON TRUST

APN 090-141-019

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.