

**CALENDAR ITEM
C22**

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06/22/17
PRC 6358.1
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Robert N. Taylor and Scott B. Taylor, Co-Trustees of the Dorothy B. Warne Grandchildren’s Trust, established March 14, 1996; Robert N. Taylor and Scott B. Taylor

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 4290 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing boathouse with boat hoist, an artificially filled area, and one mooring buoy.

LEASE TERM:

10 years, beginning January 6, 2017.

CONSIDERATION:

\$5,010 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 personal items or construct any improvements in the Public Trust easement that may impair public uses.
3. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoy within 2 years after the adoption of a Final Environmental Impact Statement for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they may be required to remove the buoy.

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4. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.
5. The public will be allowed to pass and re-pass across the artificially filled area to provide continuous shoreline access to the Public Trust Easement.
6. Ladders or stairs and signage will be installed and maintained by the Applicant allowing the public to access the Public Trust easement on the northern and southern end of the artificially filled area.

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 March 25, 2008, the Commission authorized a 10-year General Lease – Recreational Use for an existing boathouse with boat hoist, artificially filled area, and one mooring buoy to Dorothy B. Warne, Robert N. Taylor and Scott B. Taylor as individuals; Dorothy B. Warne as Trustee of the Dorothy B. Warne Revocable Trust, established April 12, 1990; and Robert N. Taylor and Scott B. Taylor, Co-Trustees of the Dorothy B. Warne Grandchildren's Trust, established March 14, 1996 ([Calendar Item C64, March 25, 2008](#)).

On December 17, 2014, the Commission authorized a revision of rent from \$1,825 per year to \$1,793 per year ([Calendar Item C17, December 17, 2014](#)). That lease expired January 5, 2017. Since issuance of the lease, Dorothy B. Warne, individually, and as Trustee of the Dorothy B. Warne Revocable Trust, established April 12, 1990, deeded all interest in the upland to Robert N. Taylor and Scott B. Taylor. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the existing boathouse with boat hoist, artificially filled area, and one mooring buoy.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The boathouse with boat hoist and one mooring buoy are used for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally

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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. A portion of the artificially filled area lies in the Public Trust easement. The artificially filled area provides access to the boathouse and boat hoist. The lease includes a provision acknowledging a portion of the artificially filled area exists within the Public Trust easement and allows for the public to pass and re-pass providing access to the Public Trust easement of neighboring properties. Ladders or stairs and signage will be installed on the northern and southern end of the artificially filled area providing the public with notification and points of access to the Public Trust easement. The boathouse is constructed of concrete, stone, and wood. The buoy is located directly lakeward of the upland property and occupies a relatively small area of Lake Tahoe.

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 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. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and is 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 and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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,

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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 Public Trust needs and values at this location, at this time or for the foreseeable term of the lease, and 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning January 6, 2017, for a term of 10 years, for the continued use and maintenance of an existing boathouse with boat hoist,

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artificially filled area, and one 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 \$5,010 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 6358.1

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 36, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – BOATHOUSE

All those lands underlying an existing boathouse with boat hoist and artificially filled area lying adjacent to that parcel described in Quitclaim Deed recorded May 17, 2011 as Document Number 2011-0038386-00 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 2– 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 May 17, 2011 as Document Number 2011-0038386-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 02/27/2017 by the California State Lands Commission Boundary Unit.





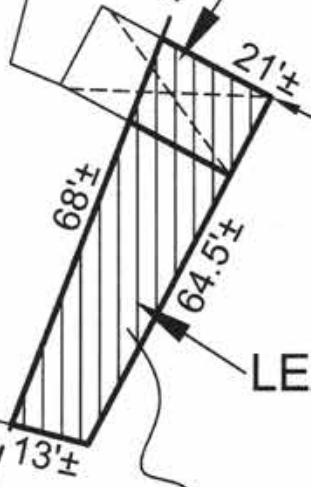
APPROX. HIGH WATER EL. 6229'±
PER USBR SHORELINE SURVEY (1918)

APN 085-250-003

APPROX. LOW WATER
EL. 6223' LTD

EXISTING
BOATHOUSE
WITH BOAT HOIST
14.5' X 31.75'

TAHOE



LEASE AREA

ARTIFICIALLY
FILLED AREA

175'±

EXISTING
BUOY

LADDER
OR STAIRS

LAKE

EXHIBIT A



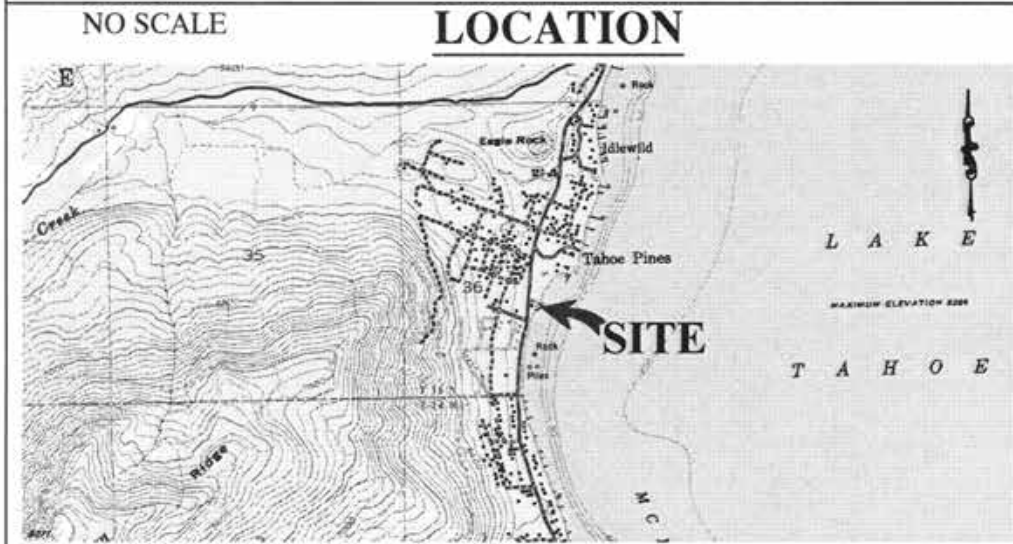
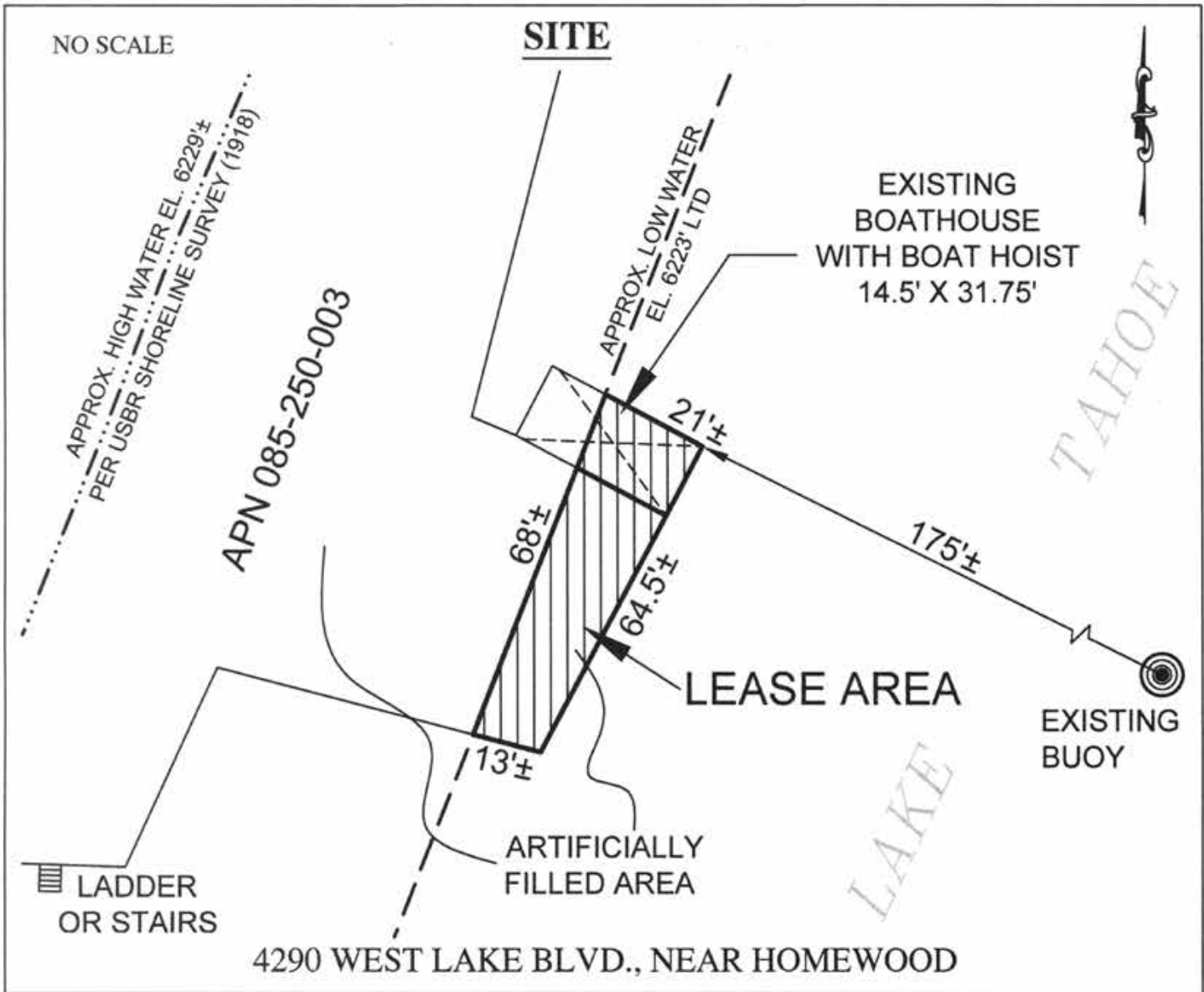
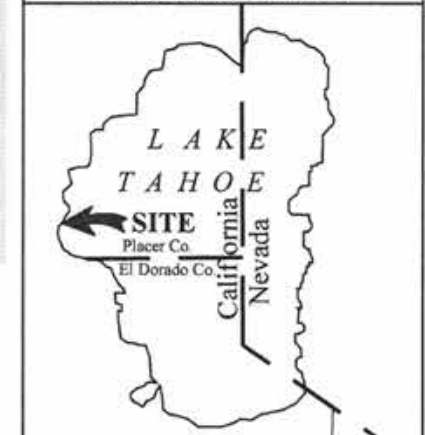


Exhibit B
 PRC 6358.1
 TAYLOR/WARNE TRUST
 APN 085-250-003
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.