

**STAFF REPORT  
C03**

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10/19/17

PRC 6819.1

PRC 8981.1

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M.J. Columbus

**AUTHORIZE ACCEPTANCE OF LEASE QUITCLAIM DEEDS AND ISSUANCE  
OF A GENERAL LEASE – RECREATIONAL USE**

**LESSEE/APPLICANT:**

Sienna Partners, LLC; Lee J. Schweichler, Trustee of the Ann W. Schweichler Qualified Personal Residence Trust, dated September 10, 2009; and Ann W. Schweichler, Trustee of the Lee J. Schweichler Qualified Personal Residence Trust, dated September 10, 2009

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 8375 and 8381 Meeks Bay Avenue, near Meeks Bay, El Dorado County.

*AUTHORIZED USE:*

Continued use and maintenance of four existing mooring buoys, and proposed removal, relocation, and reconstruction of an existing pier with a ramp, boat lift, and catwalk that will become a joint-use structure for both properties previously authorized by the Commission, and an existing sundeck with safety railings not previously authorized by the Commission.

*LEASE TERM:*

10 years beginning October 19, 2017.

*CONSIDERATION:*

\$2,778 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. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoys within 2 years after the certification of a Final Environmental Impact Statement for the Lake Tahoe Shorezone Ordinance Amendments and approval of the

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amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they may be required to remove the buoys.

3. 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.
4. Applicant acknowledges that portions of the existing sundeck and proposed joint-use pier will exist within the State-administered Public Trust easement, which exists between the locations of the ordinary high watermark and low watermark of Lake Tahoe. Applicant agrees to allow the public to pass and repass around the landward end of the sundeck and pier to allow access to the Public Trust easement. Applicant agrees to not further block the Public Trust easement.
5. Lessee shall not store any personal items or construct any improvements within the Public Trust easement which may impair the public uses of access, navigation, fishing and lake-related recreational uses.
6. The lease contains provisions stating that the existing sundeck, as shown on the attached Exhibit B, cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck with railings must be removed from the lease premises.

**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:**

The Applicant owns the uplands adjoining the lease premises. On March 29, 2012, the Commission authorized a 10-year General Lease – Recreational Use, Lease No. PRC 8981.1, to Lee J. Schweichler, Trustee of the Ann W. Schweichler Qualified Personal Residence Trust, dated September 10, 2009; and Ann W. Schweichler, Trustee of the Lee J. Schweichler Qualified Personal Residence Trust, dated September 10, 2009, for two existing mooring buoys adjacent to Assessor's Parcel Number (APN) 016-081-42 ([Item C50, March 29, 2012](#)). That lease will

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expire on March 28, 2022. On April 5, 2016, the Commission authorized a 10-year General Lease – Recreational Use, Lease No. PRC 6819.1, to Sienna Partners, LLC, a Nevada Limited Liability Company, for an existing pier, boat lift, boat hoist, and two mooring buoys adjacent to APN 016-081-43 ([Item C20, April 5, 2016](#)). That lease will expire on July 29, 2025. Because the leases have not expired, the Applicant executed quitclaim deeds releasing their interest in the leases. The two leases will be combined into a single lease referenced as Lease No. PRC 6819.1.

The Applicant is applying for a General Lease – Recreational Use for continued use and maintenance of four existing mooring buoys and a sundeck with safety railings. In addition, the Applicant is applying to remove, relocate, and reconstruct an existing pier, ramp, catwalk, and boat lift. The proposed relocation of the pier will be on the property line between APNs 016-081-42 and 016-081-43. The Applicant obtained a boundary line adjustment to relocate the shared property line and to relocate the pier for its proposed joint use by both littoral parcels.

The current facilities include a 65-foot wide sundeck that runs roughly parallel to the shoreline. The pier currently extends from the southern end of this sundeck. The existing sundeck with safety railings has existed at this location for many years, and was not previously under lease because the sundeck did not appear to be on State sovereign land. Staff became aware that a portion of the sundeck is on State sovereign land when the Applicant submitted their current application and survey dated January 23, 2017.

The Applicant proposes to relocate the pier from the southern end of the sundeck to the northern end without moving or rebuilding the existing sundeck. The pier will be removed in large sections by crane and amphibious vehicle. The pilings will be removed by a hydraulic puller. Any debris from the existing pier will be skimmed from the lake surface, retrieved, and removed. While the pier will be relocated, the overall footprint of the pier will not change. All steel will be pre-painted and fabricated off-site with the exception of the final cutting of the steel joist lengths. Some new piles will be installed by use of a drop hammer and other piles will be attached to boulders on the site by means of drilling and pinning. No construction materials will be stored on the shoreline.

Construction will take place after all required approvals have been obtained. The Applicant will follow all construction methods and timeframes provided by the Tahoe Regional Planning Agency, Lahontan

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

The existing sundeck with safety railings is not associated with traditional Public Trust uses. While sundecks are generally not favored, those that have been in place for years may be permitted if, as is the case in this instance, they do not significantly interfere with Public Trust needs or activities. The shoreline at this location is sharply sloped and strewn with large boulders. The Applicant has agreed to allow public passage around the landward end of the sundeck to provide lateral public access. The lease also contains provisions that the sundeck may not be expanded or rebuilt if substantially destroyed.

Other than the sundeck with stairs, the subject facilities are used for 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 improvements have existed for many years at this location. The pier will be reconstructed on pilings and the immediate area of the pier is rocky with large boulders. The topography and the location of upland structures allow for public access to the pier and the public may navigate or walk landward of the pier within the Public Trust easement. The lease includes certain provisions protecting the public use of the proposed lease area, including a lease term limited to 10 years, a non-exclusive use provision, and a reservation to the people of the State of an easement for access to and across the lease area. The proposed facilities will not significantly alter the land, alienate the State's fee simple interest, or permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition.

The lease requires the lessee to insure the lease premises and to 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 will not substantially interfere with Public Trust needs, at this location, at this time, or for the foreseeable term of the lease and is in the best interests of the State.

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**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. Acceptance of the quitclaim deeds 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).

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

4. **Reconstruction of the Pier:** 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 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

5. 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.

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**APPROVALS REQUIRED:**

U.S. Army Corps of Engineers  
California Department of Fish and Wildlife  
Lahontan Regional Water Quality Control Board  
Tahoe Regional Planning Agency

**EXHIBITS:**

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Existing 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).

**Reconstruction of the Pier:** 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 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease will not substantially impair 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, 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:**

1. Authorize acceptance of a quitclaim deed, effective October 18, 2017, for Lease No. PRC 6819.1, a General Lease – Recreational Use, issued to Sienna Partners, LLC.
2. Authorize acceptance of a quitclaim deed, effective October 18, 2017, for Lease No. PRC 8981.1, a General Lease – Recreational Use, issued to Lee J. Schweichler, Trustee of the Ann W.

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Schweichler Qualified Personal Residence Trust, dated September 10, 2009; and Ann W. Schweichler, Trustee of the Lee J. Schweichler Qualified Personal Residence Trust, dated September 10, 2009.

3. Authorize issuance of a General Lease – Recreational Use to Sienna Partners, LLC; Lee J. Schweichler, Trustee of the Ann W. Schweichler Qualified Personal Residence Trust, dated September 10, 2009; and Ann W. Schweichler, Trustee of the Lee J. Schweichler Qualified Personal Residence Trust, dated September 10, 2009; beginning October 19, 2017, for a term of 10 years, for the continued use and maintenance of four existing mooring buoys, and proposed removal, relocation, and reconstruction of an existing pier with a ramp, boat lift, and catwalk that will become a joint-use structure for both properties previously authorized by the Commission, and an existing sundeck with safety railings 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 \$2,778, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 6819.1**

**LAND DESCRIPTION**

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 29, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California, and more particularly described as follows:

**PARCEL 1 – PIER**

All those lands underlying an existing joint-use deck and proposed joint use pier, ramp, catwalk, and boat lift lying adjacent to those parcels as described in that Grant Deed recorded July 30, 2015 as Document Number 2015-0035758 and those parcels as described in Exhibit "A" of that Grant Deed recorded October 27, 2009 as Document Number 2009-0053647 of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

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

**PARCEL 2 - 5 – BUOYS (4)**

Four existing circular parcels of land, being 50 feet in diameter, underlying four existing buoys, lying adjacent to those said parcels.

Accompanying plat is hereby made part of this description.

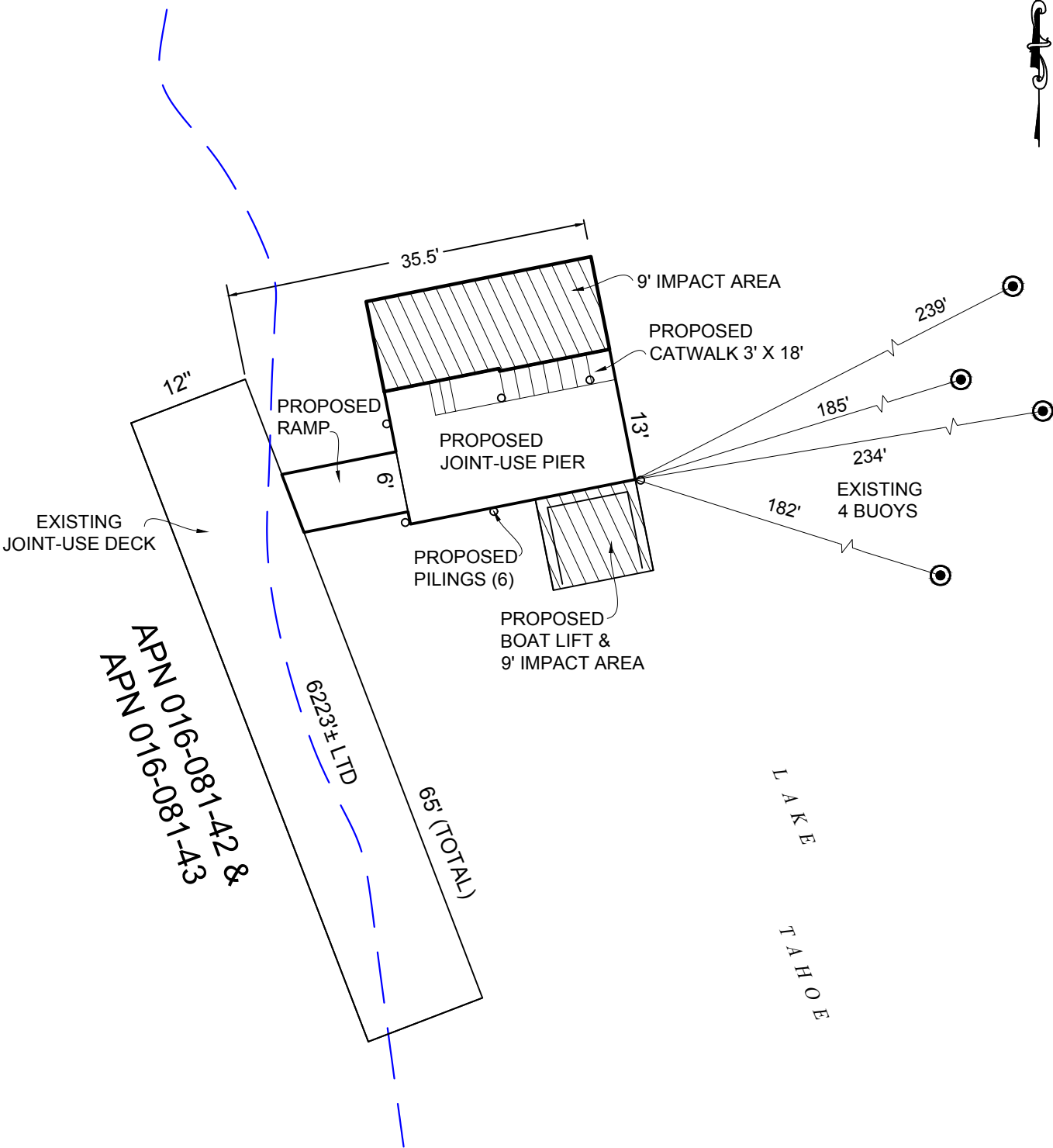
This description is based on Applicant provided design plans by Tahoe Basin Land Surveying dated February 21, 2017, for a proposed pier, ramp, boat lift and catwalk together with any and all appurtenances pertaining thereto, to be built at a later date within the lease time frame. This description is to be updated once final as-built plans are submitted.

**END OF DESCRIPTION**

Prepared August 21, 2017 by  
The California State Lands Commission Boundary Unit.







## EXHIBIT A

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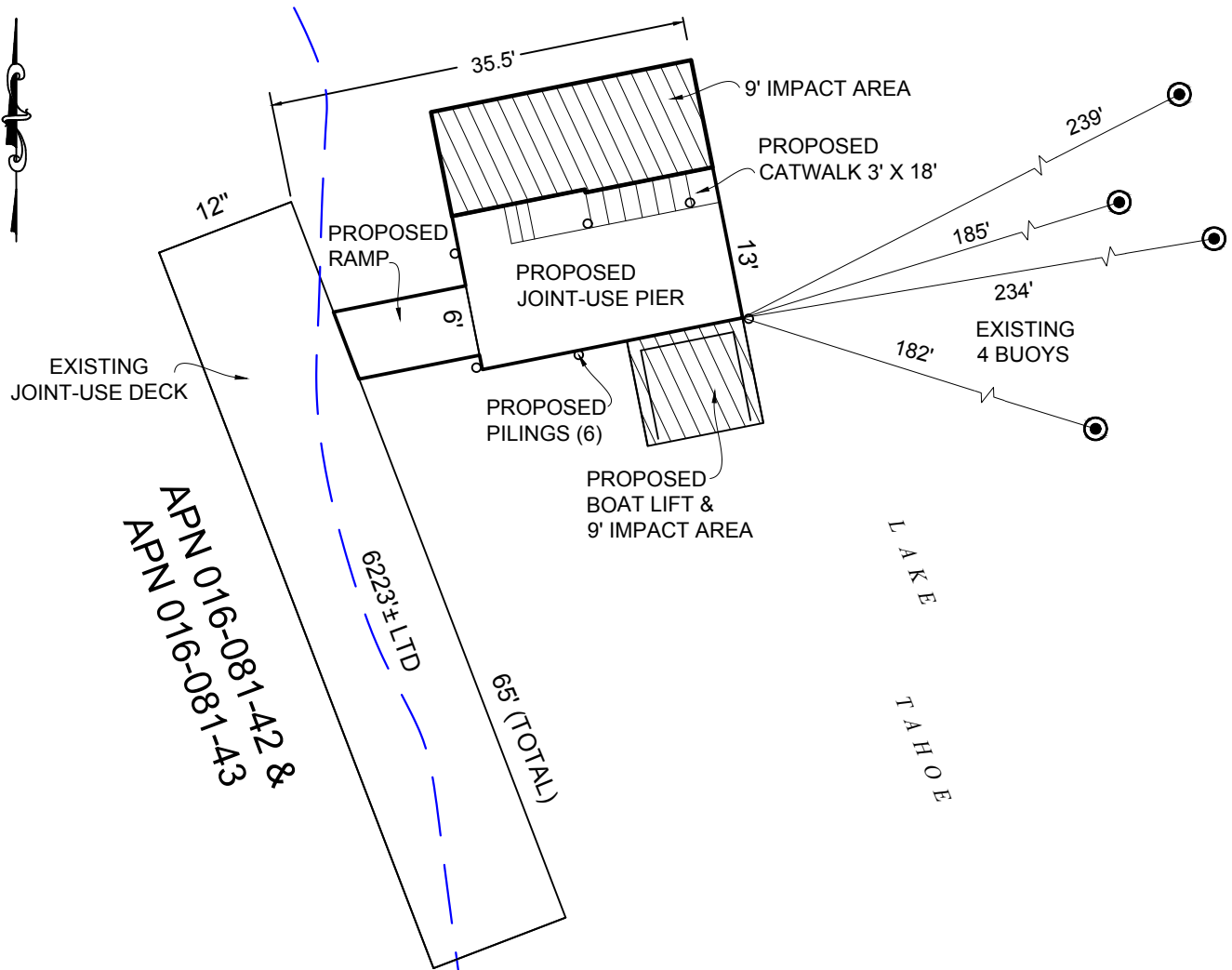
LAND DESCRIPTION PLAT  
PRC 6819.1, SCHWEICHIER, TRUSTEES  
& SIENNA PARTNERS, LLC.  
EL DORADO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

## SITE



8375 & 8371 MEEKS BAY AVENUE, NEAR MEEKS BAY

NO SCALE

## LOCATION

