

**STAFF REPORT  
C02**

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08/23/18  
PRC 4130.1  
S. Avila

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Richard T. Breuner, Trustee and Janet J. Breuner, Trustee of the Richard T. Breuner Trust dated May 11, 1973

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 2716 West Lake Boulevard, near Homewood, Placer County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing pier and one mooring buoy.

*LEASE TERM:*

10 years beginning May 31, 2018.

*CONSIDERATION:*

\$926 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 in the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreational 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 certification 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

## STAFF REPORT NO. C02 (CONT'D)

authorization within the time limit, they may be required to remove the buoy.

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.

### **STAFF ANALYSIS AND RECOMMENDATION:**

#### **Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

#### **Public Trust and State's Best Interests Analysis:**

On February 8, 2011, the Commission authorized the issuance of a Recreational Pier Lease for an existing pier and one mooring buoy to Richard T. Breuner, Trustee and Janet J. Breuner, Trustee of the Richard T. Breuner Trust dated May 11, 1973 ([Item C03, February 8, 2011](#)). That lease expired on May 30, 2018. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier and one mooring buoy.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and one mooring buoy are used for the mooring and docking 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 land (Pub. Resources Code, § 6503.5).

The pier and one mooring buoy have been in Lake Tahoe for many years at this location. The pier is built on single pilings. The immediate area of the pier is gently sloped with small gravel making up most of the shoreline. The topography and the location of upland structures provide access for the pier and allow the public to navigate under the pier within the Public Trust easement. The buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake.

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 and does not grant the Lessee exclusive rights to the lease premises and reserves an easement to the public for Public Trust-consistent uses. Upon

STAFF REPORT NO. **C02** (CONT'D)

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, 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; 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 land 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, 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.

**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

STAFF REPORT NO. **C02** (CONT'D)

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 Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning May 31, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier 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 \$926 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 4130.1**

**LAND DESCRIPTION**

Two parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 25, Township 15 North, Range 16 East, MDM., as shown on Official Government Township Plat approved April 11, 1884, County of Placer, State of California, and more particularly described as follows:

**PARCEL 1 – PIER**

All those lands underlying an existing pier and two catwalks lying adjacent to that parcel as described in Exhibit “A” of that Grant Deed recorded November 25, 2003 as Document Number 2003-0198890 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 – BUOY**

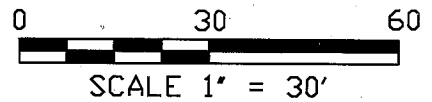
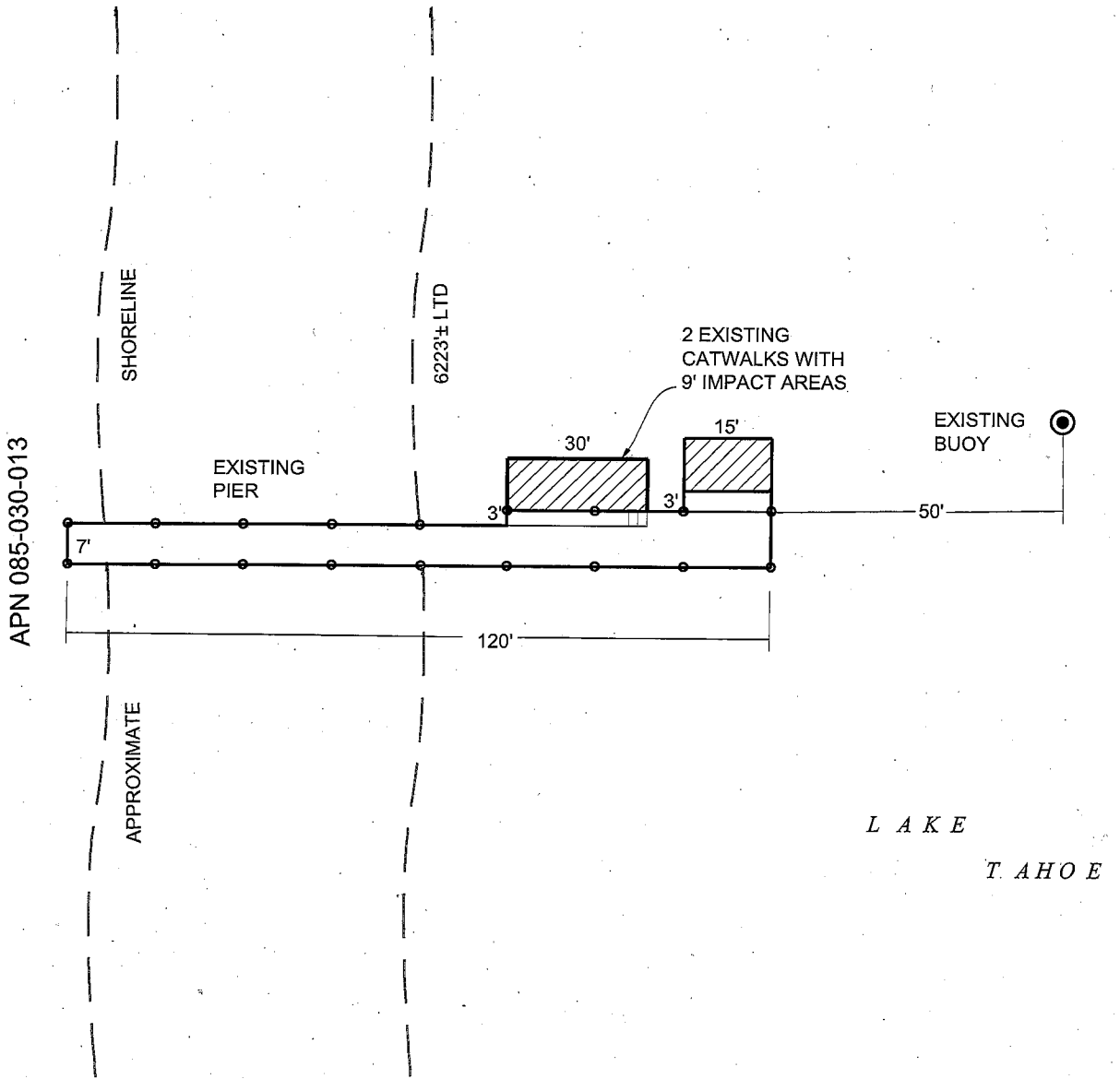
One circular parcel of land, being 50 feet in diameter, underlying one existing buoy lying adjacent to that parcel as described in said Grant Deed.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared May 30, 2018 by the California State Lands Commission Boundary Unit.





# EXHIBIT A

Page 2 of 2

MJI 5/29/18

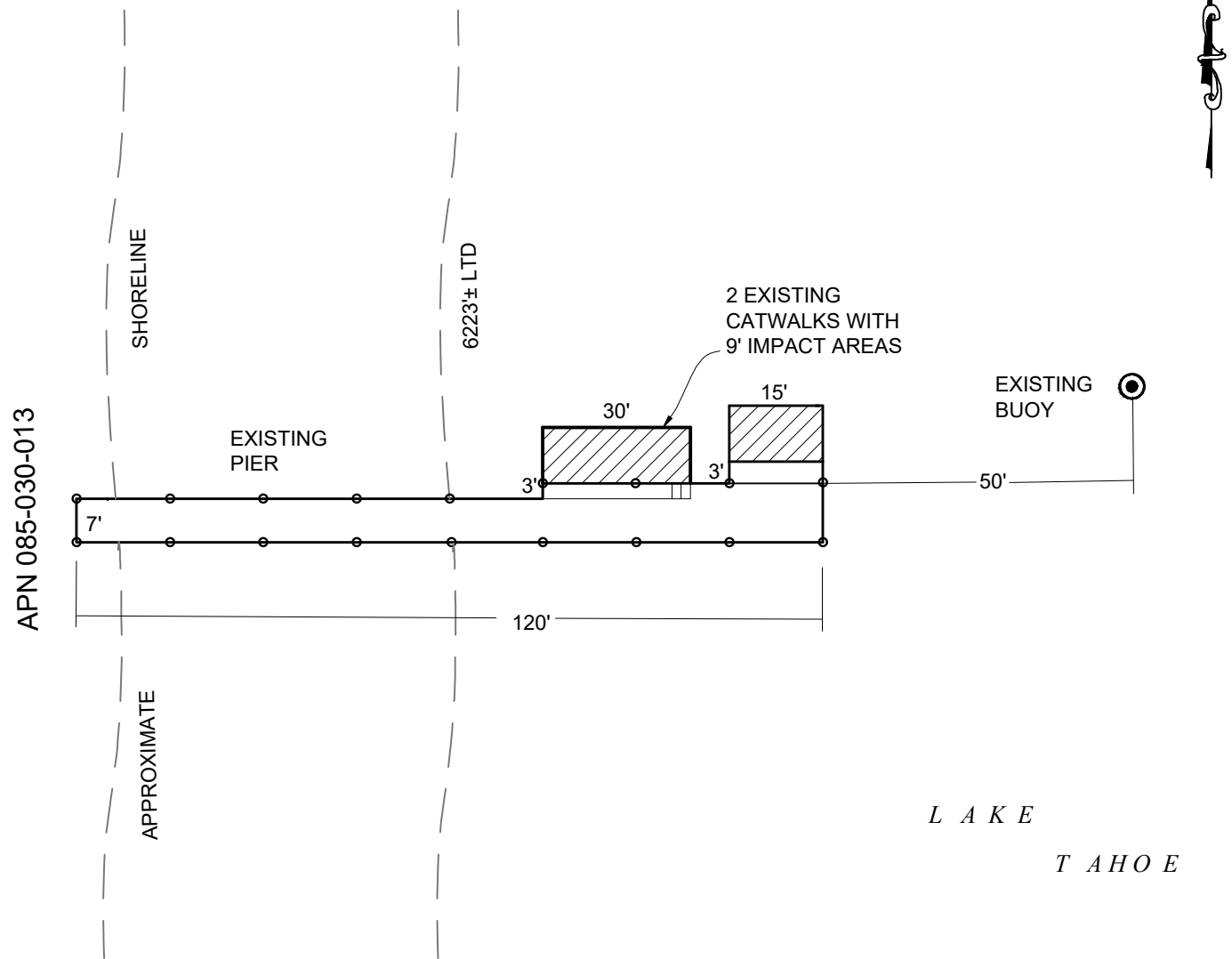
LAND DESCRIPTION PLAT  
PRC 4130.1, BREUNER  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE



2716 WEST LAKE BLVD., NEAR HOMEWOOD

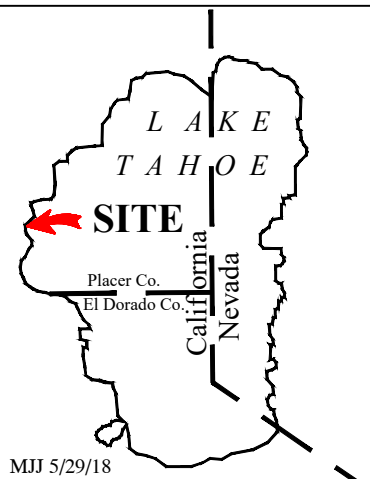
NO SCALE

# LOCATION



# Exhibit B

PRC 4130.1  
 BREUNER  
 APN 085-030-013  
 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.

MJJ 5/29/18