

**STAFF REPORT  
C16**

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08/23/18  
PRC 3616.1  
M.J. Columbus

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Janice V. Lawler, William H. Lawler, III, Janice Kathleen La Grandeur, Kenneth Patrick Lawler, Diane Ruth Lawler and Gordon Bruce Lawler

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 4838 North Lake Boulevard, near Carnelian Bay, Placer County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing pier with boat slip, boat lift, and two mooring buoys.

*LEASE TERM:*

10 years beginning August 23, 2018.

*CONSIDERATION:*

\$ 1,578 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 buoys 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

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

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, 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 upland adjoining the lease premises. On October 20, 2005, the Commission authorized a Recreational Pier Lease for an existing pier, boat hoist, and two mooring buoys to Janice V. Lawler and Gregory Thelen, Trustee of the William H. Lawler Residence Trust Dated April 25, 2000 ([Item C09, October 20, 2005](#)). That lease expired on July 23, 2015. On April 6, 2011, Gregory Thelen, Trustee of the William H. Lawler Residence Trust, dated April 25, 2000, deeded their interest in the upland parcel to William H. Lawler, III, Janice Kathleen La Grandeur, Kenneth Patrick Lawler, Diane Ruth Lawler and Gordon Bruce Lawler. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier with a boat slip, boat lift, and two mooring buoys.

The pier and boat hoist authorized under the previous lease was actually a pier with a boat slip and boat lift. TRPA issued a permit for one boat lift adjacent to the upland parcel in 2009. The proposed lease corrects the description of the improvements and accurately reflects the structures on the lease premises.

Staff recommends issuance of a new lease beginning August 23, 2018. Staff also recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$4,864 for the period beginning July 24, 2015, the day after the prior lease expired, through August 22, 2018.

The subject improvements 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

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identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The facilities have been in Lake Tahoe for many years at this location. The pier is built on pilings with the immediate area of the pier being flat with sand and medium to large rocks. The topography and location of upland structures provide access for the pier and allow the public to walk or navigate next to and, at lower water levels, under the pier within the Public Trust easement. The two mooring buoys are located directly lakeward of the upland property and occupy 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, 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.

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 does not substantially interfere with the common law Public Trust Doctrine at this time and for the foreseeable term of the 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 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, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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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 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 compensation from the Applicant in the amount of \$4,864 for unauthorized occupation of State land for the period beginning July 24, 2015, through August 22, 2018.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 23, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier with boat slip, boat lift, and two 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 \$1,578 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 3616.1**

**LAND DESCRIPTION**

Three parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to Lot 5 of fractional Section 22, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

**PARCEL 1- PIER**

All those lands underlying an existing pier, berth, boat lift and catwalk lying adjacent to that parcel described in that Grant Deed recorded June 21, 2000 as Document Number 2000-0044060 and that parcel described in that Grant Deed recorded April 6, 2011 as Document Number 2011-0027408 in Official Records of said County.

**PARCEL 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 those said Grant Deeds in Official Records of said County.

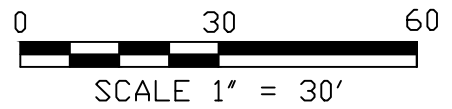
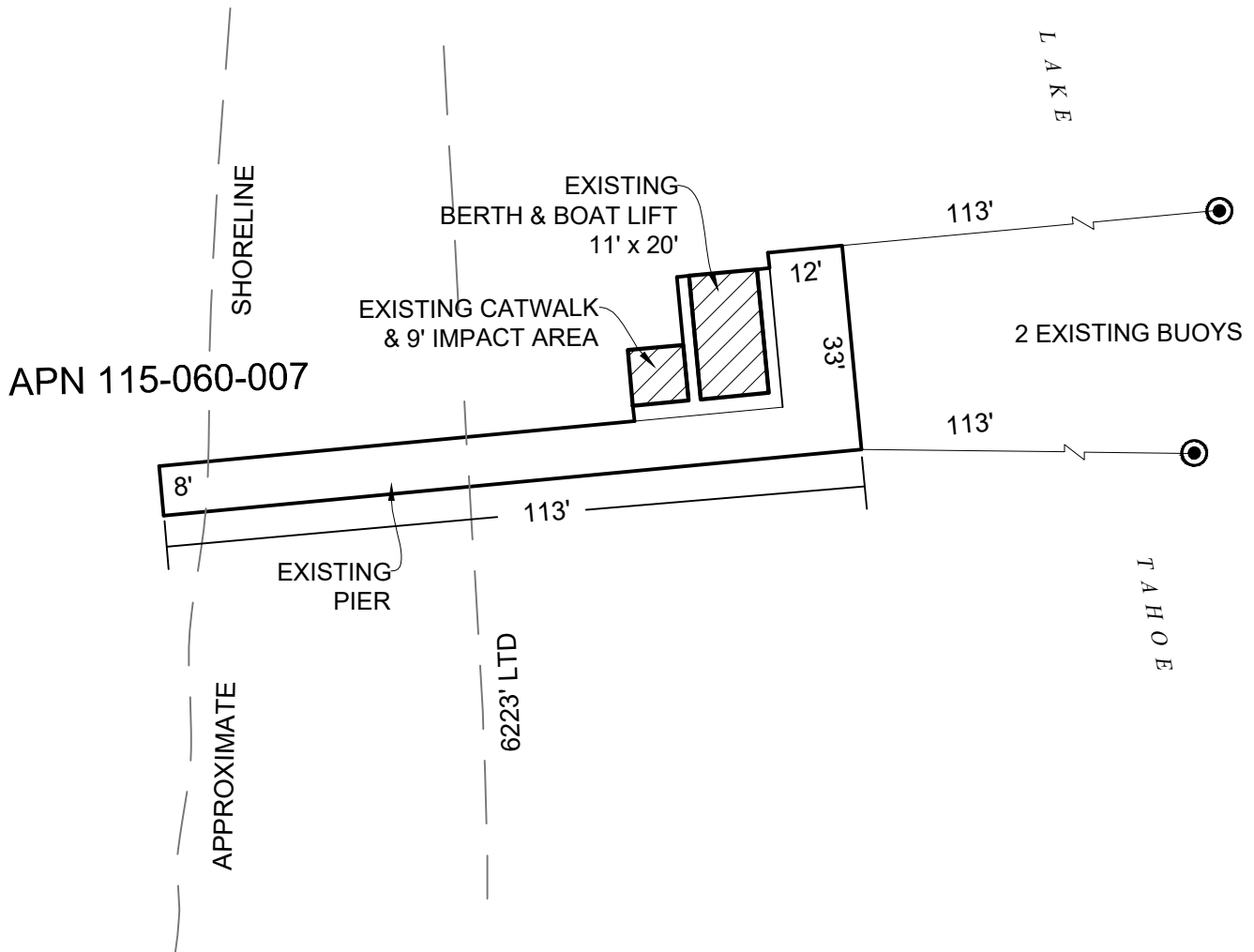
EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 5/30/2018 by the California State Lands Commission Boundary Unit.





# EXHIBIT A

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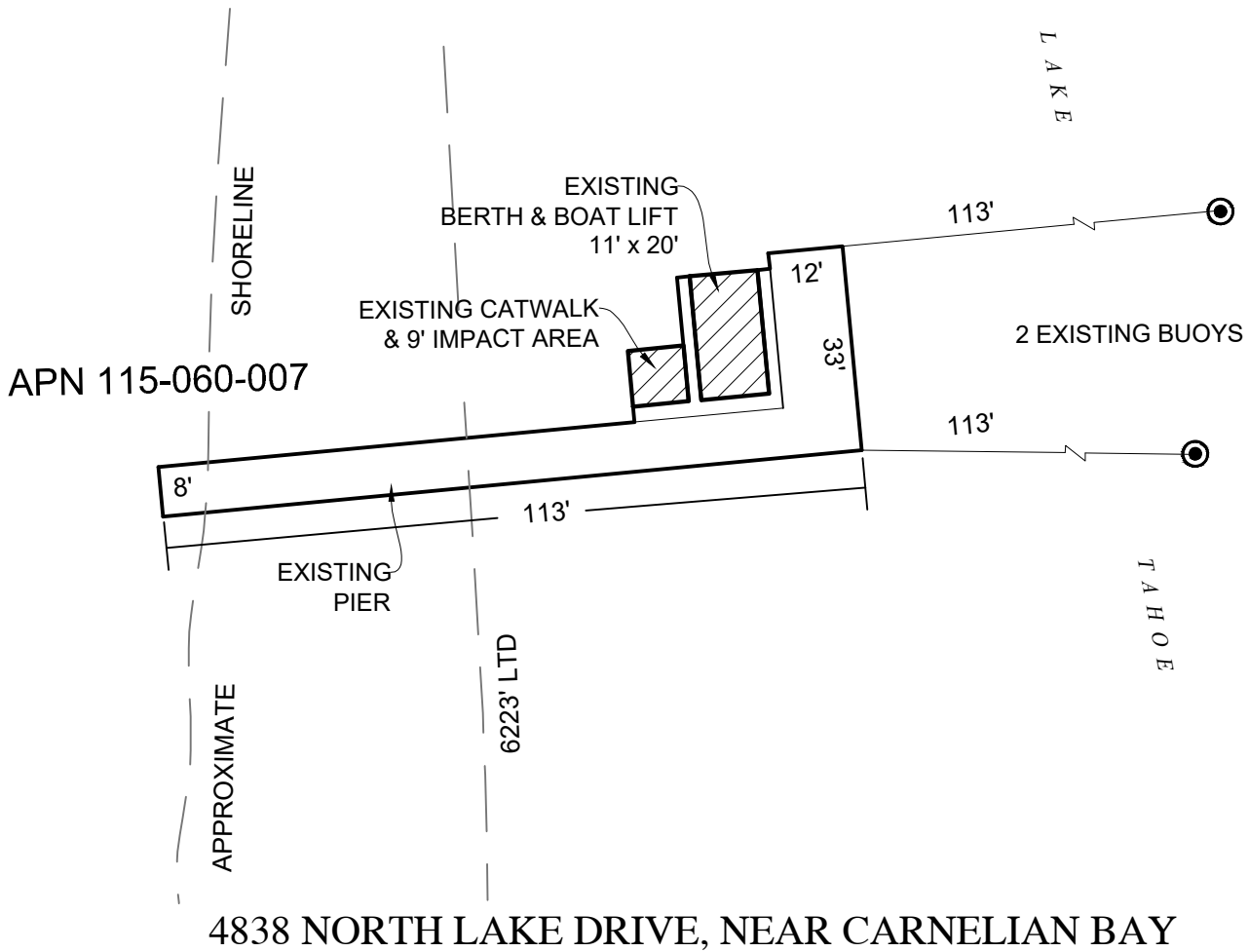
LAND DESCRIPTION PLAT  
PRC 3616.1, LAWLER & LaGRANDEUR  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE



NO SCALE

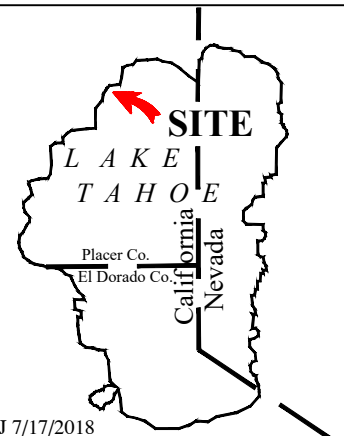
# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 3616.1  
 LAWLER &  
 LaGRANDEUR  
 APN 115-060-007  
 GENERAL LEASE -  
 RECREATIONAL USE  
 PLACER COUNTY



MJJ 7/17/2018

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.