

**STAFF REPORT  
C18**

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02/04/19  
PRC 4884.1  
J. Toy

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Keith Thomas Schuler and Chelle Renae Schuler, Trustees of The Schuler Family Revocable Trust, dated January 7, 2016; James Gordon Oliver; and Patricia J. Oliver

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 6140 and 6150 West Lake Boulevard, near Homewood, Placer County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing joint-use pier, boathouse, boat hoist, four mooring buoys, and sundeck with stairs.

*LEASE TERM:*

10 years, beginning February 28, 2019.

*CONSIDERATION:*

\$3,325 per year, with an annual Consumer Price Index adjustment.

*SPECIFIC LEASE PROVISIONS:*

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- 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.
- 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 the Lessee is unable to obtain such

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

- 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.
- 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 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:**

On June 19, 2014, the Commission authorized a General Lease - Recreational Use for an existing joint-use pier, boathouse, four mooring buoys, and sundeck with stairs to Keith Schuler, Chelle Schuler, James Gordon Oliver, and Patricia J. Oliver ([Item C23, June 19, 2014](#)). The lease authorized a pier shared between the two upland parcels adjoining the lease premises, Assessor's Parcel Number (APN) 098-031-003 owned by Keith Schuler and Chelle Schuler, and APN 098-031-004 owned by James Gordon Oliver and Patricia J. Oliver. On January 11, 2016, Assessor's Parcel Number (APN) 098-031-003 was transferred to Keith Thomas Schuler and Chelle Renae Schuler, Trustees of The Schuler Family Revocable Trust, dated January 7, 2016. The lease expires on February 27, 2019. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the facilities.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. Other than the sundeck with stairs, the facilities are used for the docking and mooring of boats and 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 identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

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The subject facilities have existed for many years at this location. The boat hoist was not specifically included in the previous lease but has existed for many years at this location. The pier is built on pilings, which allows the public to navigate or walk next to and, at lower water levels, under the pier. The immediate area of the existing pier is rocky and gently sloped. The four buoys are located directly lakeward of the upland properties and occupy relatively small areas of the lake.

The existing sundeck with stairs is not associated with traditional Public Trust uses. While sundecks are generally not favored, sundecks that have been in place for years have been permitted if, as is the case in this instance, they do not significantly interfere with trust activities. However, the lease contains provisions that the sundeck with stairs may not be expanded nor rebuilt if substantially destroyed. The sundeck with stairs has been in place for many years and occupies a small area of the lakebed. The sundeck with stairs does not interfere with Public Trust activities at this location, at this time.

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 will not substantially interfere 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.

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2. On October 24, 2018, the Tahoe Regional Planning Agency's Governing Board certified a new Final Environmental Impact Report and adopted Lake Tahoe Shorezone Ordinance Amendments.
3. 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 exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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

1. Find that the existing and, for a limited period, continuing use and maintenance of the joint-use pier, boathouse, boat hoist, and four mooring buoys will not substantially interfere with Public Trust needs and values at this location and are consistent with the common law Public Trust Doctrine; and,
2. Find that the existing and, for a limited period, continuing use and maintenance of the sundeck with stairs is not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust; and,
4. Find that issuing the proposed lease is in the best interests of the State.

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**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 28, 2019, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier, boathouse, boat hoist, four mooring buoys, and sundeck with stairs, 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 \$3,325, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 4884.1**

**LAND DESCRIPTION**

Five (5) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 fractional Section 7, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of Placer, State of California, and more particularly described as follows:

**PARCEL 1 – JOINT-USE PIER**

All those lands underlying an existing joint-use pier, boathouse, sundeck, stairs, boat hoist and two catwalks lying adjacent to those Lots as described in that Grant Deed recorded March 4, 2005 as Document Number 2005-0026561 and to those Lots as described in that Grant Deed recorded February 28, 1995 as Document Number 95-009879 in Official Records of said County.

**ALSO 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.

**PARCELS 2, 3, 4 & 5 – BUOYS (4)**

Four (4) circular parcels of land, being 50 feet in diameter, underlying four (4) existing buoys lying adjacent to said lots.

Accompanying plat is hereby made part of this description.

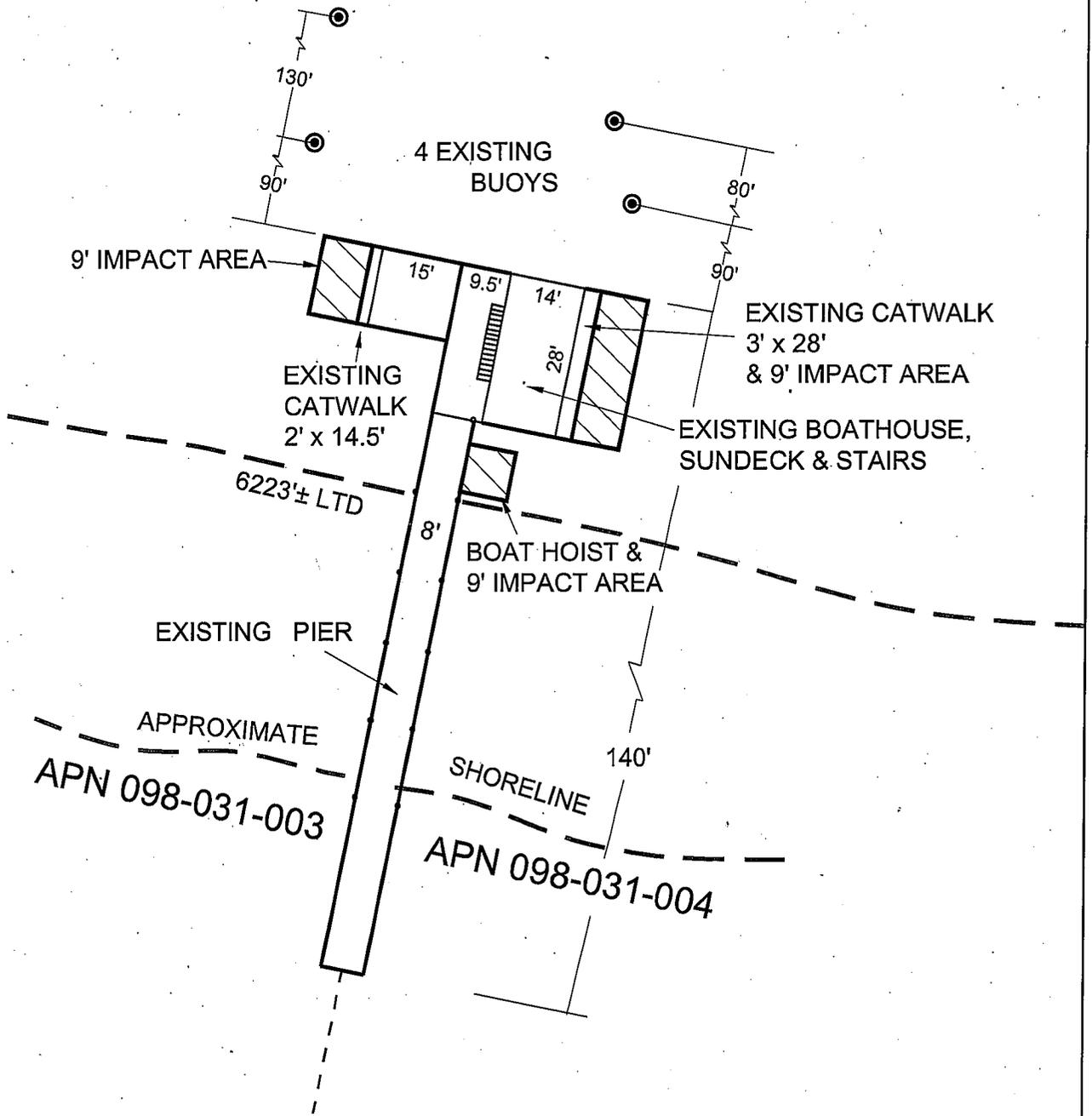
**END OF DESCRIPTION**

Prepared November 9, 2018 by  
The California State Lands Commission Boundary Unit.



L A K E

T A H O E



### EXHIBIT A

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MJJ 11/09/18

LAND DESCRIPTION PLAT  
 PRC 4884.1, SCHULER TRUSTEES & OLIVER  
 PLACER COUNTY

CALIFORNIA STATE  
 LANDS COMMISSION

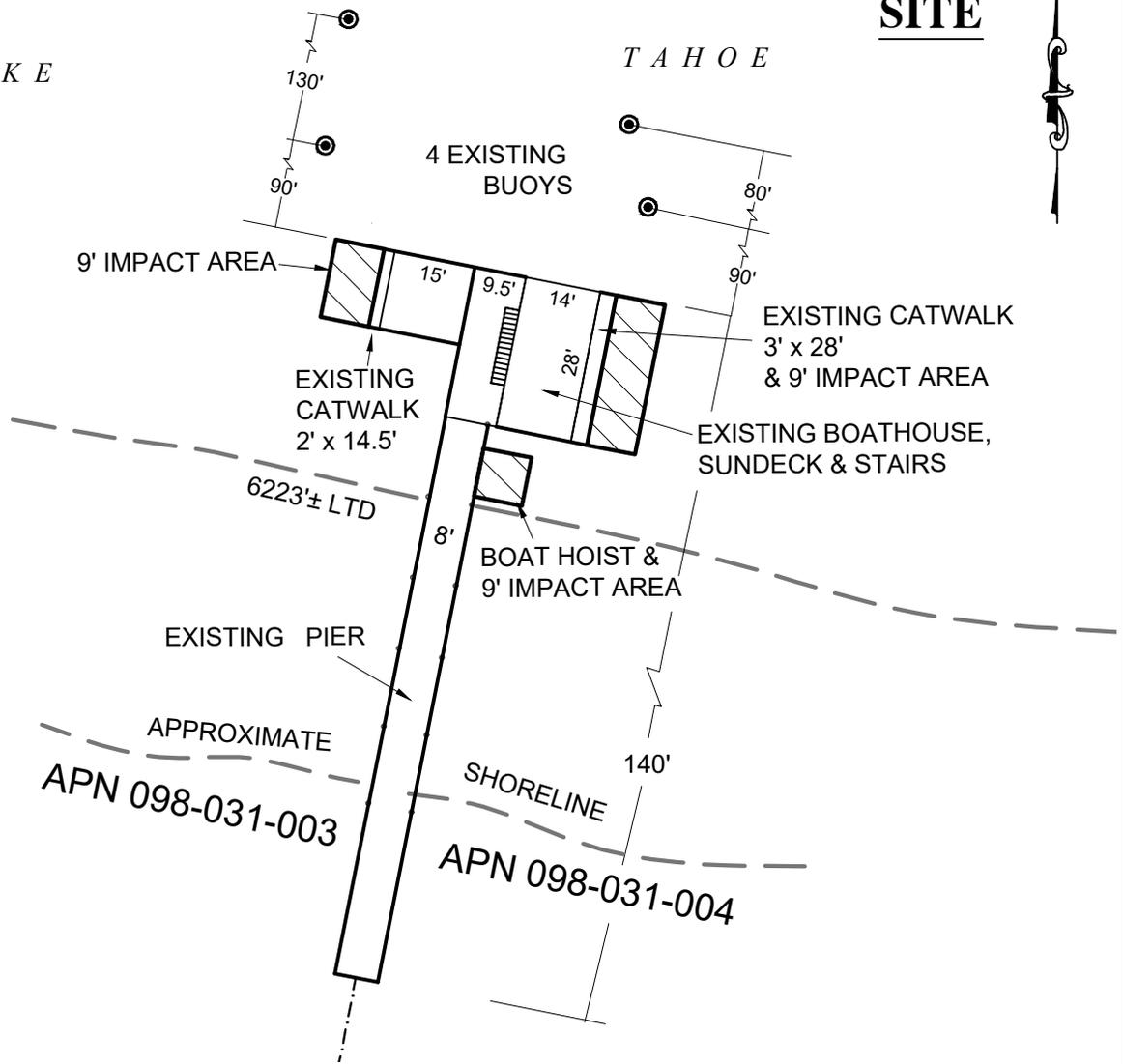


NO SCALE

L A K E

# SITE

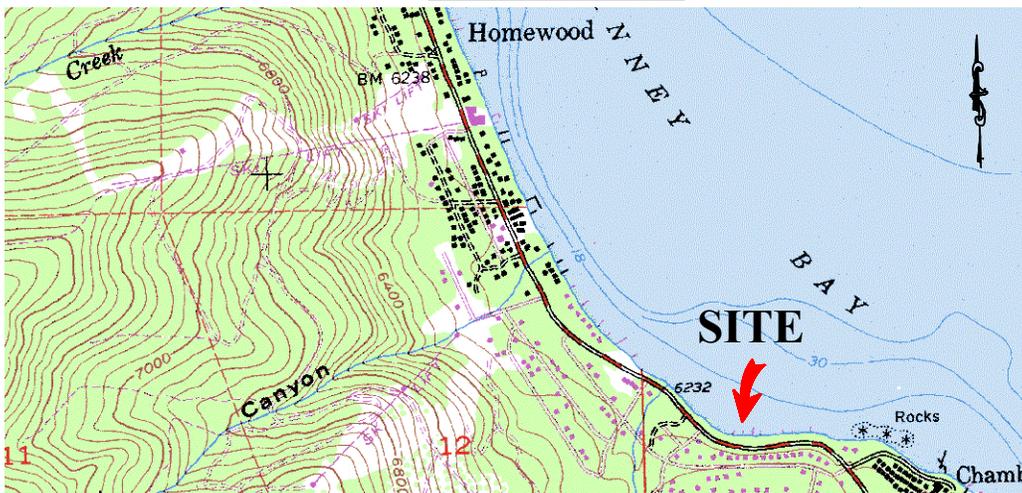
T A H O E



6140 AND 6150 WEST LAKE BLVD., NEAR HOMEWOOD

NO SCALE

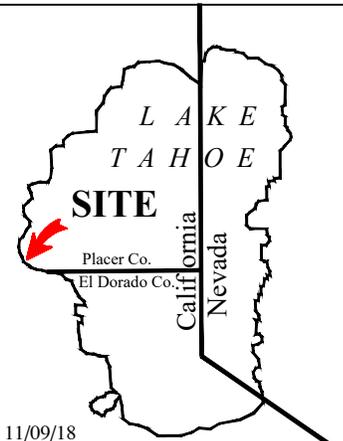
## LOCATION



MAP SOURCE: USGS QUAD

## Exhibit B

PRC 4884.1  
 SCHULER TRUSTEES &  
 OLIVER  
 APN 098-031-003 & 004  
 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.