

**STAFF REPORT  
C10**

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04/19/18  
PRC 4317.1  
S. Avila

**TERMINATION AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

**LESSEE:**

Kjell H. Qvale, Trustee of the Kjell H. Qvale Survivor's Trust and Kjell H. Qvale, as Trustee of the Kathryn C. Qvale Nonexempt Marital Trust dated January 31, 2000

**APPLICANT:**

Earl L. Skidmore, Trustee of the Earl L. Skidmore Survivor Trust

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 4410 North Lake Boulevard, near Carnelian Bay, Placer County.

*AUTHORIZED USE:*

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

*LEASE TERM:*

10 years, beginning February 27, 2018.

*CONSIDERATION:*

\$705 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

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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 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 22, 2013, the Commission authorized the issuance of Lease No. PRC 4317.1, a General Lease - Recreational Use, for an existing pier, boat lift, and one existing mooring buoy, to Kjell H. Qvale, Trustee of the Kjell H. Qvale Survivor's Trust and Kjell H. Qvale, as Trustee of the Kathryn C. Qvale Nonexempt Marital Trust dated January 31, 2000 ([Item C09, February 22, 2013](#)). That lease will expire on February 21, 2023. On July 22, 2016, the upland was deeded to Earl L. Skidmore, Trustee of the Earl L. Skidmore Survivor Trust. The Applicant is applying for a General Lease – Recreational Use for the existing pier, boat lift, and one mooring buoy.

Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the upland property without executing a lease quitclaim deed. The Applicant occupied State land from the period of July 22, 2016, through February 26, 2018. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$1,130 for the period beginning July 22, 2016, through February 26, 2018, the day before the new lease becomes effective.

Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The pier, boat lift, and one mooring buoy are used for the docking and mooring of boats. 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 pier, boat lift, and buoy have existed for many years at this location. The pier is built on pilings with the immediate area of the pier being flat with cobbles and small boulders. The topography and location of upland structures provide access for the pier and allow the public to walk or navigate next to the end of the pier within the Public Trust easement. However, the lateral public access is limited within the Public Trust easement because the pier is low lying and restricts public access from walking or navigating underneath the pier. The buoy is located directly lakeward of the upland parcel 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 termination of the lease, the lessee may be required to remove all improvements from State land 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 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. The proposed lease was previously scheduled for Commission consideration at the February 27, 2018 meeting. At that meeting, the Commission considered updates to the Lake Tahoe benchmarks ([Item C90, February 27, 2018](#)). The Commission deferred action on revising the existing Lake Tahoe benchmark and directed staff to identify funding options to conduct a thorough evaluation of the various methodologies available to the Commission to assess rent for piers, buoys and other structures located on state property in Lake Tahoe. The Commission further directed staff to continue applying the 2012 Lake Tahoe

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benchmarks for the next 5 years. Consequently, this item was removed from the February agenda, revised to reflect the current benchmark rates, and rescheduled for the Commission's consideration at the Commission's April meeting.

2. These actions are 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.
3. Termination of a lease 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).

4. Staff recommends that the Commission find that issuance of the lease 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.

**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).

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**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 termination, effective February 26, 2018, of Lease No. PRC 4317.1, a General Lease – Recreational Use, issued to Kjell H. Qvale, Trustee of the Kjell H. Qvale Survivor's Trust and Kjell H. Qvale, as Trustee of the Kathryn C. Qvale Nonexempt Marital Trust dated January 31, 2000.
2. Authorize acceptance of compensation from the Applicant in the amount of \$1,130 for the unauthorized occupation of State land for the period beginning July 22, 2016, through February 26, 2018.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 27, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, 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 \$705, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 4317.1**

**LAND DESCRIPTION**

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 21, 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, catwalk and boat lift lying adjacent to those parcels described in Grant Deed recorded July 22, 2016 as Document Number 2016-0060045-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

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 those parcels described in Grant Deed recorded July 22, 2016 as Document Number 2016-0060045-00 in Official Records of said County.

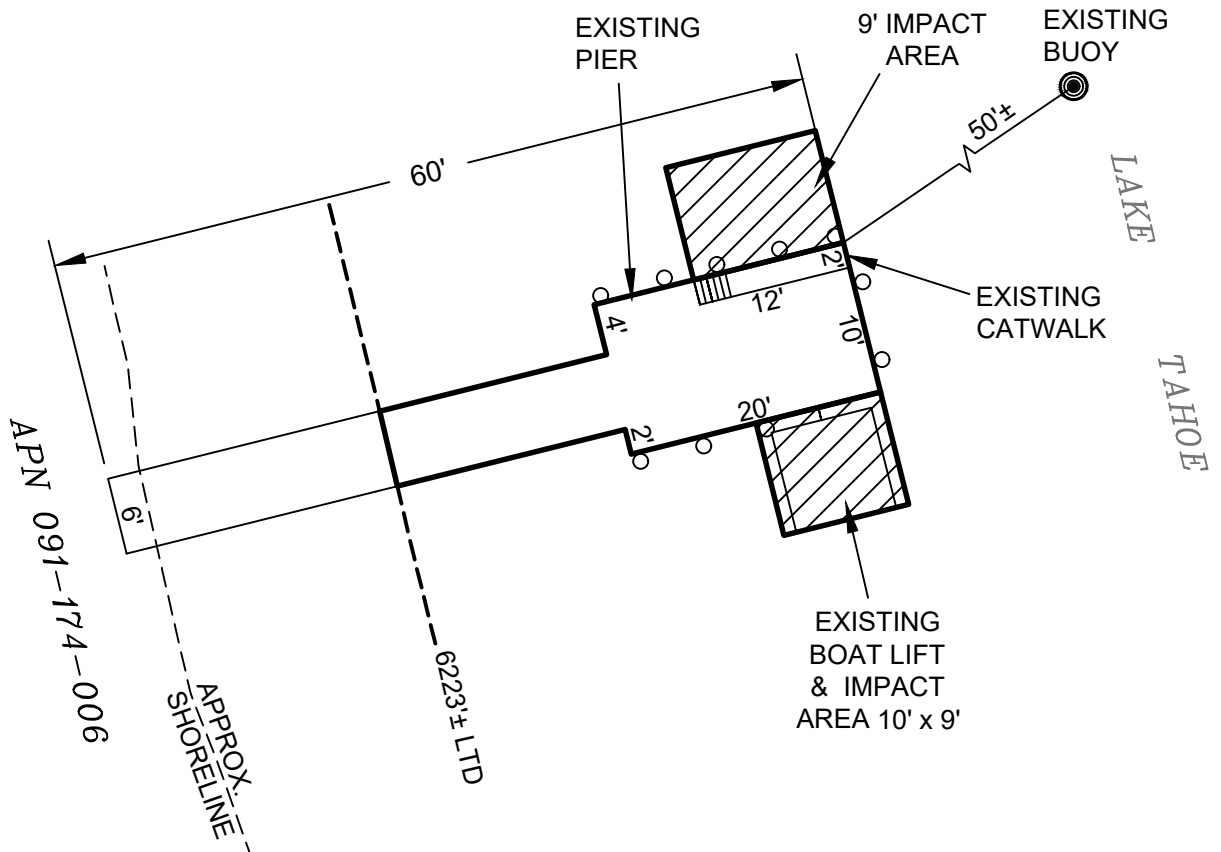
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 10/16/2017 by the California State Lands Commission Boundary Unit.



NO SCALE



# EXHIBIT A

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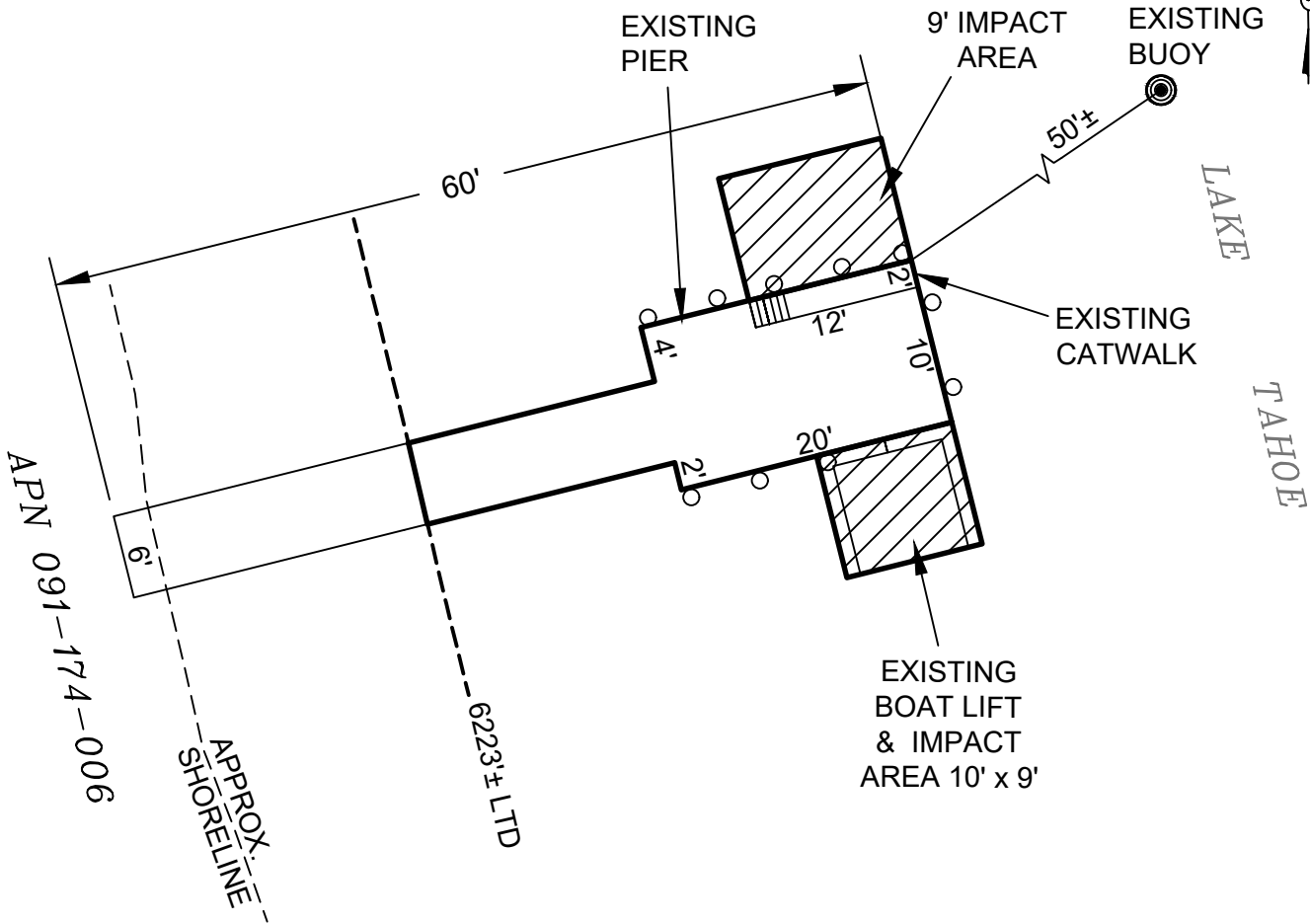
LAND DESCRIPTION PLAT  
PRC 4317.1, SKIDMORE TRUST  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

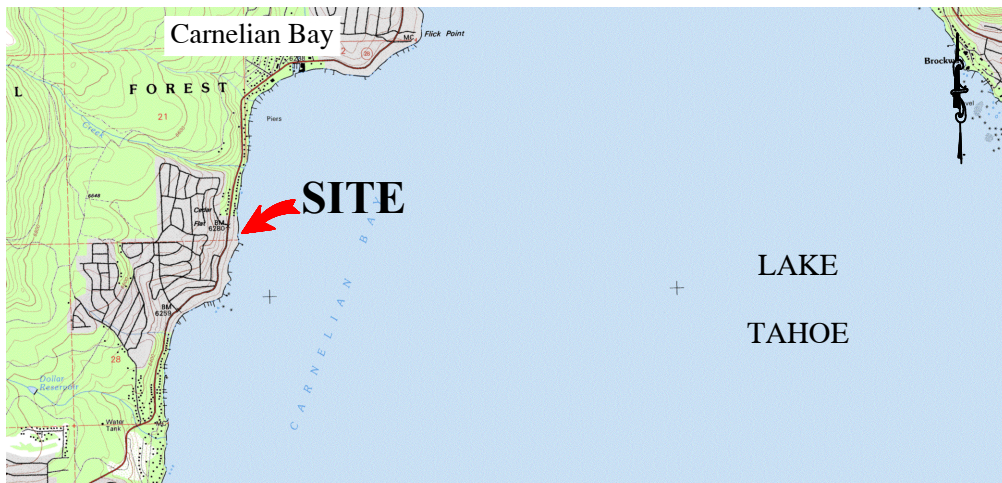
# SITE



4410 NORTH LAKE BOULEVARD, NEAR CARNELIAN BAY

NO SCALE

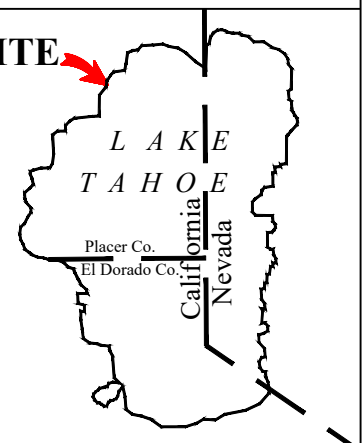
# LOCATION



# Exhibit B

RRC 4317.1  
 SKIDMORE TRUST  
 APN 091-174-006  
 GENERAL LEASE -  
 RECREATIONAL USE  
 PLACER COUNTY

# SITE



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.