

**STAFF REPORT  
C15**

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04/19/18  
PRC 5120.1  
M.J. Columbus

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

**LESSEE:**

Gerald E. Johnston and Cynthia M. Johnston, Trustees of the Gerald E. Johnston and Cynthia M. Johnston Trust, under the Declaration of Trust dated April 26, 2002; Cyrus A. Johnson, Successor Trustee Under Revocable Trust Dated January 10, 1989; Stephen N. Gray and Carole J. Gray, Co-Trustees of the Gray Family Revocable Trust dated August 7, 1999, and William E. Landis and Julie H. Landis, Co-Trustees of the Landis Family Revocable Trust of 1999

**APPLICANT:**

Gerald E. Johnston and Cynthia M. Johnston, Trustees of the Gerald E. Johnston and Cynthia M. Johnston Trust, under the Declaration of Trust dated April 26, 2002; Cyrus A. Johnson, Trustee of the Johnson Family Revocable Trust of 1989; Carole J. Gray, (formerly Carole E. Johnson) and Stephen N. Gray, Co-Trustees of the Gray Family Revocable Trust dated August 7, 1999; Julie Landis, Trustee of the Julie Landis Revocable Trust of 2015

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 5020 and 5040 West Lake Boulevard, near Homewood, Placer County

*AUTHORIZED USE:*

Removal and reconstruction of an existing joint-use pier with minor expansion and continued use and maintenance of four existing mooring buoys.

*LEASE TERM:*

10 years, beginning April 19, 2018.

*CONSIDERATION:*

\$2,278 per year, with an annual Consumer Price Index adjustment.

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### *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 public uses for 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 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.
5. The lease provides that the public will be allowed to pass and re-pass underneath the pier to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 feet, Lake Tahoe Datum.

### **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 September 20, 2013 the Commission authorized a General Lease - Recreational Use for an existing joint-use pier and four existing mooring buoys to Gerald E. Johnston and Cynthia M. Johnston, Trustees of the Gerald E. Johnston and Cynthia M. Johnston Trust, under the Declaration of Trust dated April 26, 2002; Cyrus A. Johnson, Successor Trustee Under Revocable Trust Dated January 10, 1989; Stephen N. Gray and Carole J. Gray, Co-Trustees of the Gray Family Revocable Trust dated August 7, 1999, and William E. Landis and Julie H. Landis, Co-Trustees of the Landis Family Revocable Trust of 1999 ([Item C27, September 20, 2013](#)).

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That lease expires on November 22, 2023. On January 13, 2016, William E. Landis and Julie H. Landis, Co-Trustees of the Landis Family Revocable Trust of 1999 transferred ownership interest of the upland parcel, APN 097-122-016, to Cyrus A. Johnson, Trustee of the Johnson Family Revocable Trust of 1989; and Julie Landis, Trustee of the Landis Family Revocable Trust of 1999 transferred ownership interest to Julie Landis, Trustee of the Julie Landis Revocable Trust of 2015.

The Applicant is applying for a General Lease – Recreational Use for the removal and reconstruction of an existing joint-use pier with minor expansion and continued use and maintenance of four existing mooring buoys. The Applicant has executed a quitclaim deed releasing their interest in the General Lease - Recreational Use. Staff recommends that the Commission accept the lease quitclaim deed and approve the new lease effective on April 19, 2018.

The proposed pier removal and reconstruction include extending the pier and converting the catwalks to adjustable catwalks. The length of the current pier will be extended from 104 feet to approximately 114.4 feet. The proposed reconstruction will also widen the pierhead from 13 feet to 16 feet wide. The pier and adjustable catwalks will be located in the same location as the existing pier. The proposed reconstruction will require the removal of 14-inch pilings and installation of 10.75-inch pilings in the same location. All fender and ladder piles will no longer extend to the lake bottom and will result in a decrease of lake bottom disturbance.

The proposed project will be performed on-site with access to the site from the lake. The existing pier and structures will be dismantled and removed by manual labor utilizing a barge, and the pilings will have caissons around them to prevent turbidity from discharging. The wood pier and joists will be removed and disposed of at an approved local landfill site. The pile driving will be performed by barge with a vibratory hammer pile. All structures will be painted off-site prior to being transported to the project site. 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 Regional Water Quality Control Board, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers.

The subject improvements facilitate recreational boating. Recreational boating is a water-dependent use that is generally consistent with the

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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 proposed reconstruction of the pier will allow greater public access laterally across the beach. Within the Public Trust easement, there will be approximately 7.5 feet of headroom for the public to walk underneath the pier to facilitate lateral access across the beach.

The pier and four buoys are privately owned and maintained. 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 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 does not substantially interfere with the common law Public Trust Doctrine at this location, 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. **Acceptance of a Quitclaim Deed:** Acceptance of the quitclaim deed 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).

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3. **Pier Reconstruction and Expansion:** 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.
4. **Four Existing Mooring 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.

**EXHIBITS:**

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

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Pier Reconstruction and Expansion:** 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.

**Four Existing Mooring 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).

**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.

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**AUTHORIZATION:**

1. Authorize acceptance of a quitclaim deed, effective April 18, 2018, for Lease PRC 5120.1, a General Lease – Recreational Use, issued to Gerald E. Johnston and Cynthia M. Johnston, Trustees of the Gerald E. Johnston and Cynthia M. Johnston Trust, under the Declaration of Trust dated April 26, 2002; Cyrus A. Johnson, Successor Trustee Under Revocable Trust Dated January 10, 1989; Stephen N. Gray and Carole J. Gray, Co-Trustees of the Gray Family Revocable Trust dated August 7, 1999, and William E. Landis and Julie H. Landis, Co-Trustees of the Landis Family Revocable Trust of 1999.
  
2. Authorize issuance of a General Lease – Recreational Use to the Applicant; beginning April 19, 2018, for a term of 10 years, for the removal and reconstruction of an existing joint-use pier with minor expansion and continued use and maintenance of four existing 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 \$2,278, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 5120.1**

**LAND DESCRIPTION**

Five parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 1, Township 14 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

**PARCEL 1 – PIER**

All those lands underlying an existing joint-use pier, two catwalks and proposed pier and catwalks extension lying adjacent to those parcels described in Grant Deed recorded August 1, 2007 as Document Number 2007-0076108-00 and Quitclaim Deed recorded October 27, 2000 as Document Number 2000-0080979 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 & 5 – BUOYS**

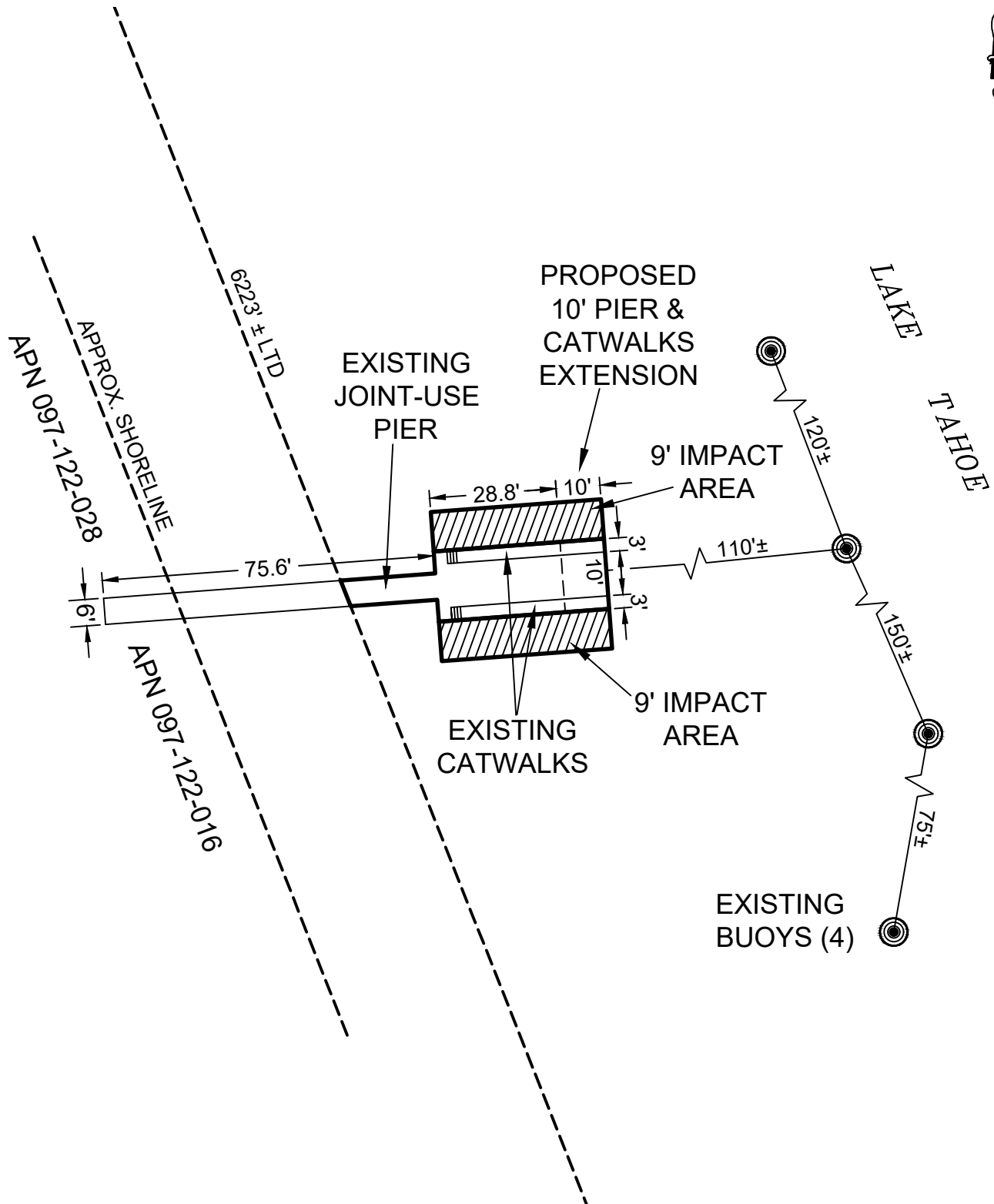
Four circular parcels of land, each being 50 feet in diameter, underlying four existing buoys lying adjacent to those parcels described in Grant Deed recorded August 1, 2007 as Document Number 2007-0076108-00 and Quitclaim Deed recorded October 27, 2000 as Document Number 2000-0080979 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 02/27/2018 by the California State Lands Commission Boundary Unit.

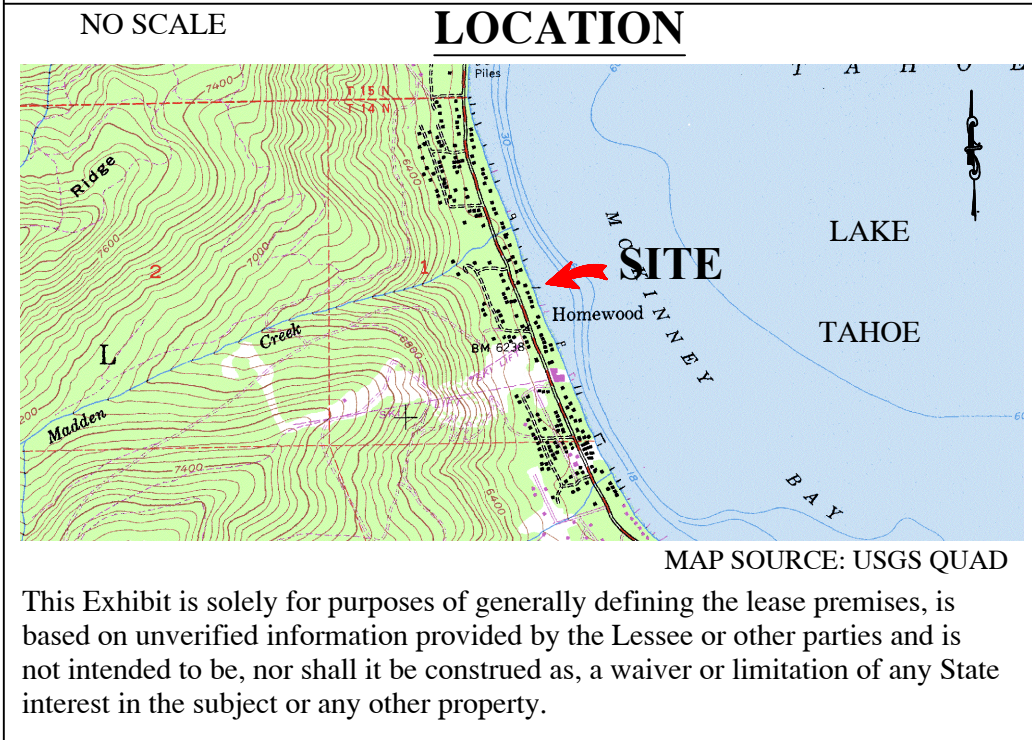
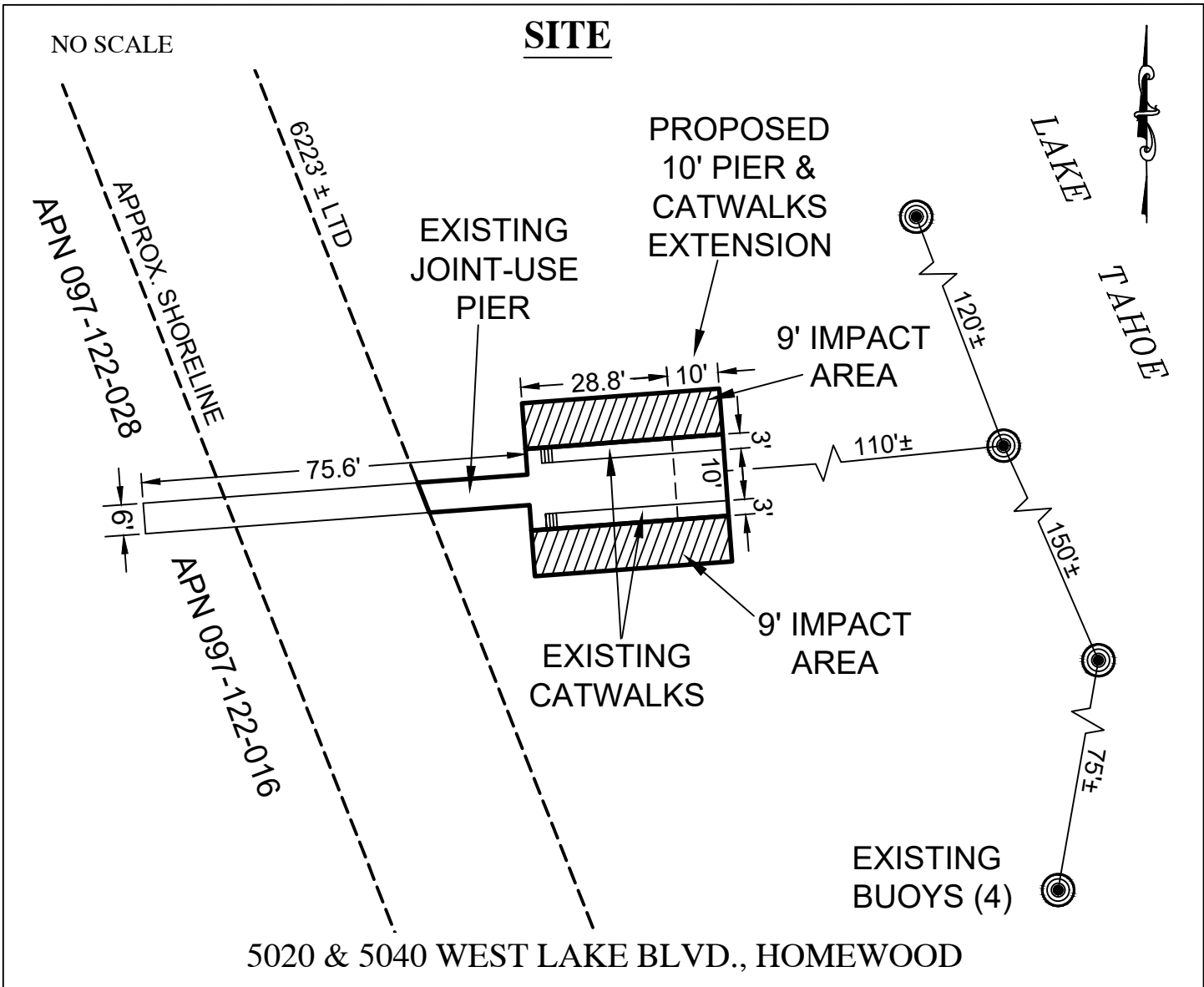




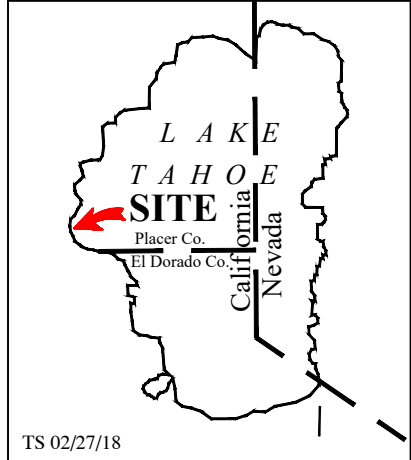
**EXHIBIT A**







**Exhibit B**  
 PRC 5120.1  
 GRAY TRUSTEES, ET. AL.  
 APN 097-122-016 & 028  
 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.