

**STAFF REPORT  
C35**

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04/19/18  
PRC 5557.1  
J. Toy

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

**LESSEE:**

Wells Fargo Bank N.A., Trustee of the Frederick Taylor Testamentary Trust

**APPLICANT:**

Robert L. Dumas and Sabrina E. Dumas, Trustees of the Dumas Family Trust  
dated December 2, 2015

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 4500 North Lake Boulevard,  
near Carnelian Bay, Placer County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing pier and two mooring  
buoys.

*LEASE TERM:*

10 years, beginning April 19, 2018.

*CONSIDERATION:*

\$788 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

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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 the 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.

**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 1, 2009, the Commission authorized a Recreational Pier Lease for two existing mooring buoys to Wells Fargo Bank N.A., Trustee of the Frederick Taylor Testamentary Trust ([Item C15, June 1, 2009](#)). That lease expires on September 26, 2018. On September 21, 2017, ownership of the upland property was deeded to Robert L. Dumas and Sabrina E. Dumas, Trustees of the Dumas Family Trust dated December 2, 2015.

The Applicant is applying for issuance of a new lease for the continued use and maintenance of an existing pier and two mooring buoys. The pier was not previously included in the current lease because it did not appear to extend onto sovereign land below the low water mark of Elevation 6,223 feet Lake Tahoe Datum. The Commission had previously authorized the pier under permits issued in 1978 and 1988 ([Item C20, September 27, 1978](#) and [Item C02, May 9, 1988](#)). A bathymetric survey conducted on August 17, 2017, confirms that the pier does extend onto sovereign land. Therefore, staff recommends including the pier in the lease as an authorized improvement.

The Lessee executed a lease quitclaim deed releasing their interest in the lease. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease.

Staff recommends issuance of a new lease beginning April 19, 2018. Therefore, staff recommends that the Commission accept compensation for the unauthorized occupation of State land from the Applicant in the amount of \$453 for the period beginning September 21, 2017, (the day the

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property was deeded to the Applicant) through April 18, 2018, (the day before the effective date of the new lease) for the pier and two mooring buoys.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and two mooring buoys 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).

The subject facilities have 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 covered with stones. The two 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 is consistent with the common law Public Trust Doctrine and 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. Acceptance of a lease 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).

3. 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:**

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 acceptance of a lease quitclaim deed and issuance of 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 a lease quitclaim deed, effective April 18, 2018, of Lease No. PRC 5557.1, a General Lease – Recreational Use, issued to Wells Fargo Bank N.A., Trustee of the Frederick Taylor Testamentary Trust.

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2. Authorize acceptance of compensation from the Applicant in the amount of \$453 for the unauthorized occupation of State land for the period beginning September 21, 2017, through April 18, 2018.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 19, 2018, for a term of 10 years, for the continued use and maintenance of an existing pier 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 \$788, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 5557.1**

**LAND DESCRIPTION**

Three parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 21 Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

**PARCEL 1 –PIER**

All those lands underlying an existing pier and one (1) boat lift adjacent to that parcel described in that Grant Deed recorded September 21, 2017 as Document Number 2017-073401 in 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.

**PARCELS 2 & 3 – BUOYS (2)**

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcel.

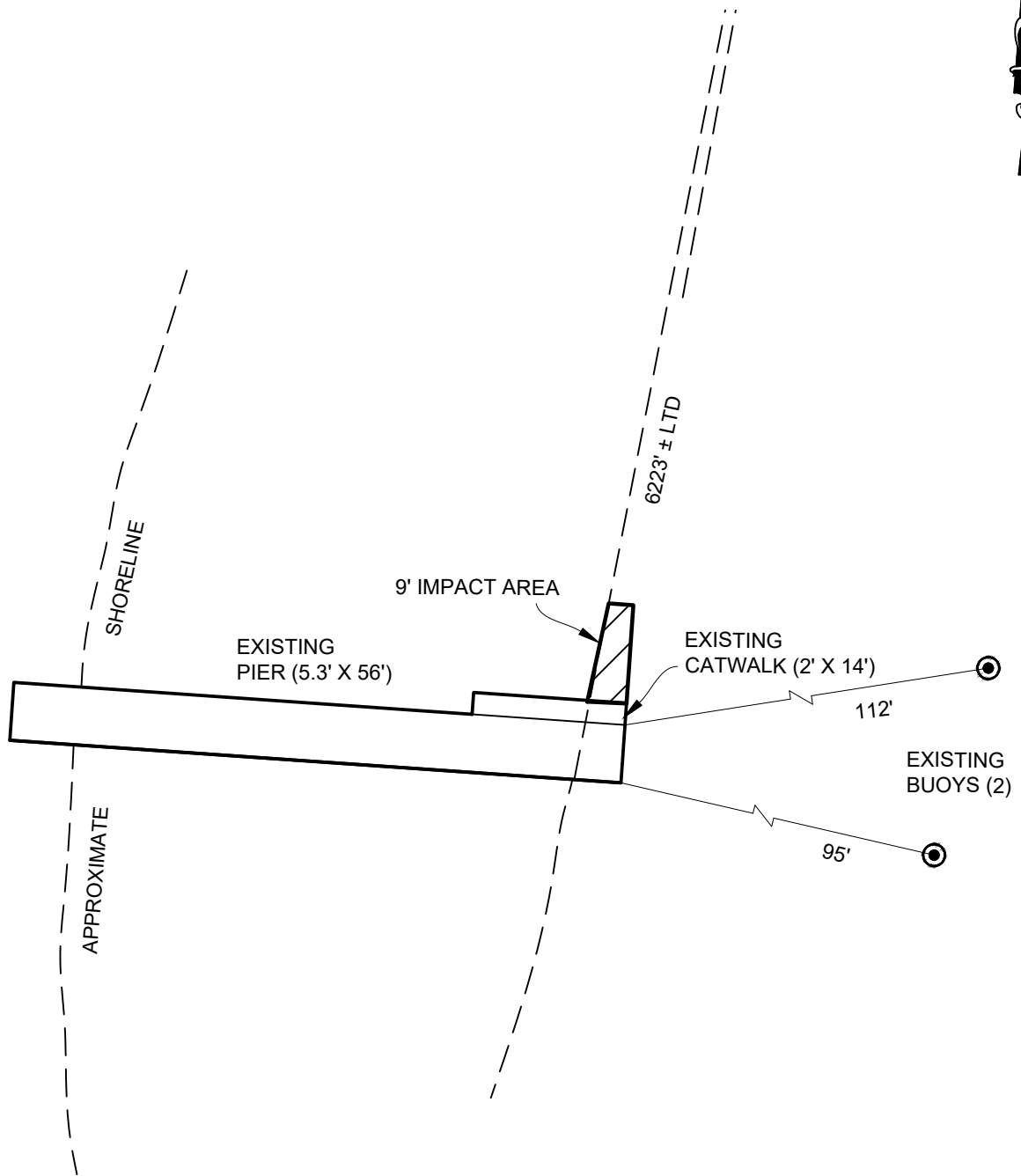
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared January 12, 2018 by the California State Lands Commission Boundary Unit.



APN 091-165-007



## EXHIBIT A

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LAND DESCRIPTION PLAT  
PRC 5557.1, DUMAS TRUST  
PLACER COUNTY

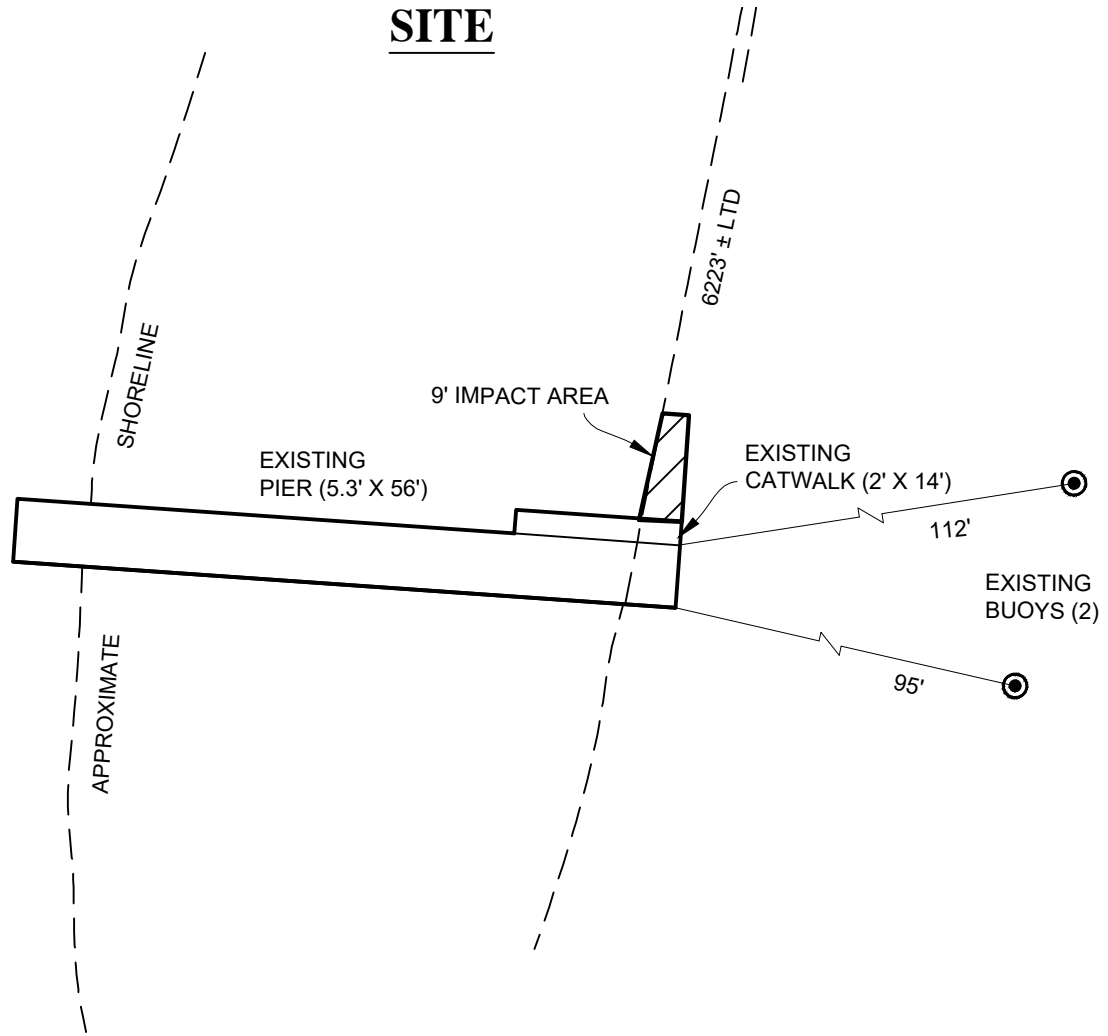
CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE

APN 091-165-007



4500 NORTH LAKE BLVD., NEAR CARNELIAN BAY

NO SCALE

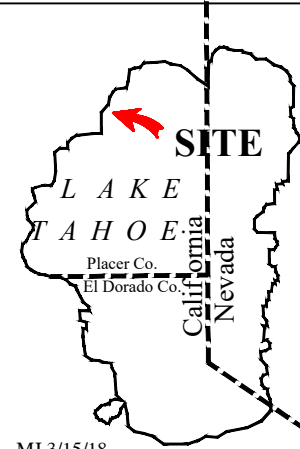
# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 5557.1  
 DUMAS TRUST  
 APN 091-165-007  
 GENERAL LEASE -  
 RECREATIONAL USE  
 PLACER COUNTY



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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.