

**STAFF REPORT  
C03**

A 1

08/17/17  
PRC 7036.1  
PRC 9279.1  
M.J. Columbus

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**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Paul Thompson and Kathleen Thompson, as Trustee of the Thompson Family Living Trust (1998) dated April 15, 1998

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 7015 Pine Street, near Tahoma, Placer County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing pier, marine rail, and two mooring buoys previously authorized by the Commission and use and maintenance of an existing freshwater intake pipeline not previously authorized by the Commission.

*LEASE TERM:*

10 years, beginning February 17, 2017.

*CONSIDERATION:*

\$1,536 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. If Lessee does not have 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 (FEIS) 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.

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3. 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.
4. Lessee shall not store any personal items or construct any improvements within the Public Trust easement which may impair the public uses of access, navigation, fishing, and lake-related recreational uses.

**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 Beset Interests Analysis:**

On October 30, 2007, the Commission authorized a Recreational Pier Lease, Lease No. PRC 7036.9, for an existing pier and two mooring buoys to Paul Thompson and Kathleen Thompson ([Item C15, October 30, 2007](#)). That lease expired on February 16, 2017.

On April 23, 2014, the Commission authorized a General Lease - Recreational Use, Lease No. PRC 9279.1, for construction, use, and maintenance of a marine rail to Paul Thompson and Kathleen Thompson, as Trustee of the Thompson Family Living Trust (1998) dated April 15, 1998 ([Item C40, April 23, 2014](#)). That lease expired on February 16, 2017.

The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of an existing pier, marine rail, two mooring buoys, and to combine the two leases into a single lease as Lease No. PRC 7036.1 previously authorized by the Commission, and for the use and maintenance of an existing freshwater intake pipeline not previously authorized by the Commission. The Applicant's freshwater intake pipeline has been in Lake Tahoe for many years, but had not previously been included in the lease. Staff became aware of the water intake line when the Applicant submitted their current application.

With the exception of the freshwater intake pipeline, 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 identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

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The freshwater intake pipeline is not generally associated with traditional Public Trust uses. However, this pipeline has been in place for many years, and occupies a small area of the lakebed. The owners use the pipeline for the property. The pipeline does not interfere with the Public Trust activities at this location at this time.

The subject improvements have existed for many years at this location. The pier is built on a rock crib and the immediate area of the pier is slightly sloped and sandy. 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 built on a rock crib and restricts public access from walking or navigating underneath the pier. The marine rail extends from the upland property into the lake. The rail lies on the lakebed allowing the public to navigate or walk over it. 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 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 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.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA)

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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.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

**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 the Public Trust needs and values at this location, at this time or 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.

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

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**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to Paul Thompson and Kathleen Thompson, as Trustee of the Thompson Family Living Trust (1998) dated April 15, 1998; beginning February 17, 2017, for a term of 10 years, for the continued use and maintenance of an existing pier, marine rail, and two mooring buoys previously authorized by the Commission, and use and maintenance of a freshwater intake pipeline not previously authorized by the Commission 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 \$1,536 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 7036.1**

**LAND DESCRIPTION**

Four (4) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 8 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 –PIER**

All those lands underlying an existing pier and two (2) catwalks adjacent to those parcels described in Exhibit "A" of that Grant Deed recorded August 10, 2010 as Document Number 2010-0061321 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

**PARCEL 2 – WATER INTAKE PIPE**

All those lands underlying a water intake pipe adjacent to said parcels.

**PARCEL 3 – MARINE RAIL**

All those lands underlying a Marine Rail adjacent to said parcels.

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

**PARCELS 4 & 5 – BUOYS (2)**

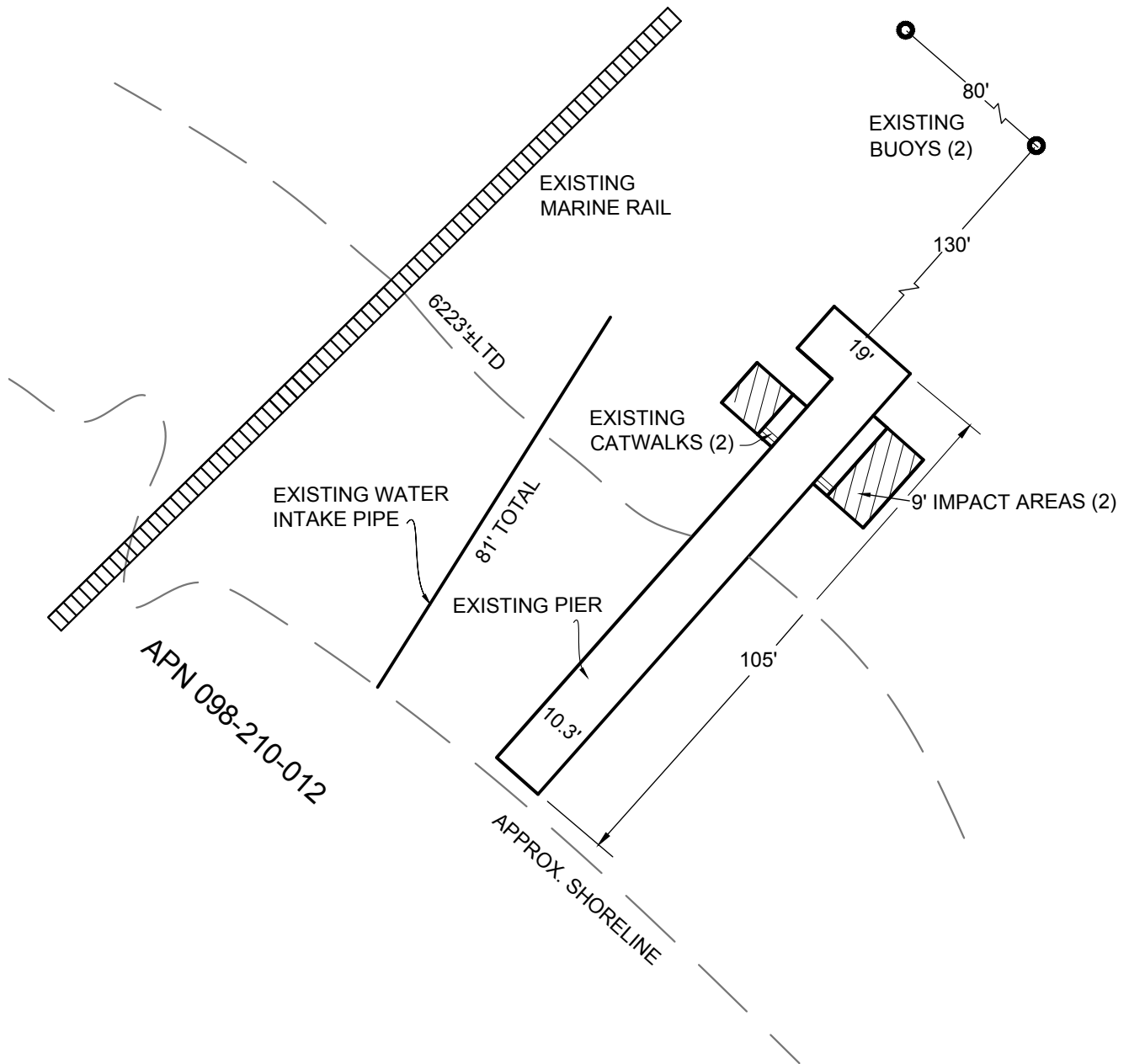
Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcels.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared July 12, 2017 by  
the California State Lands Commission Boundary Unit.





# EXHIBIT A

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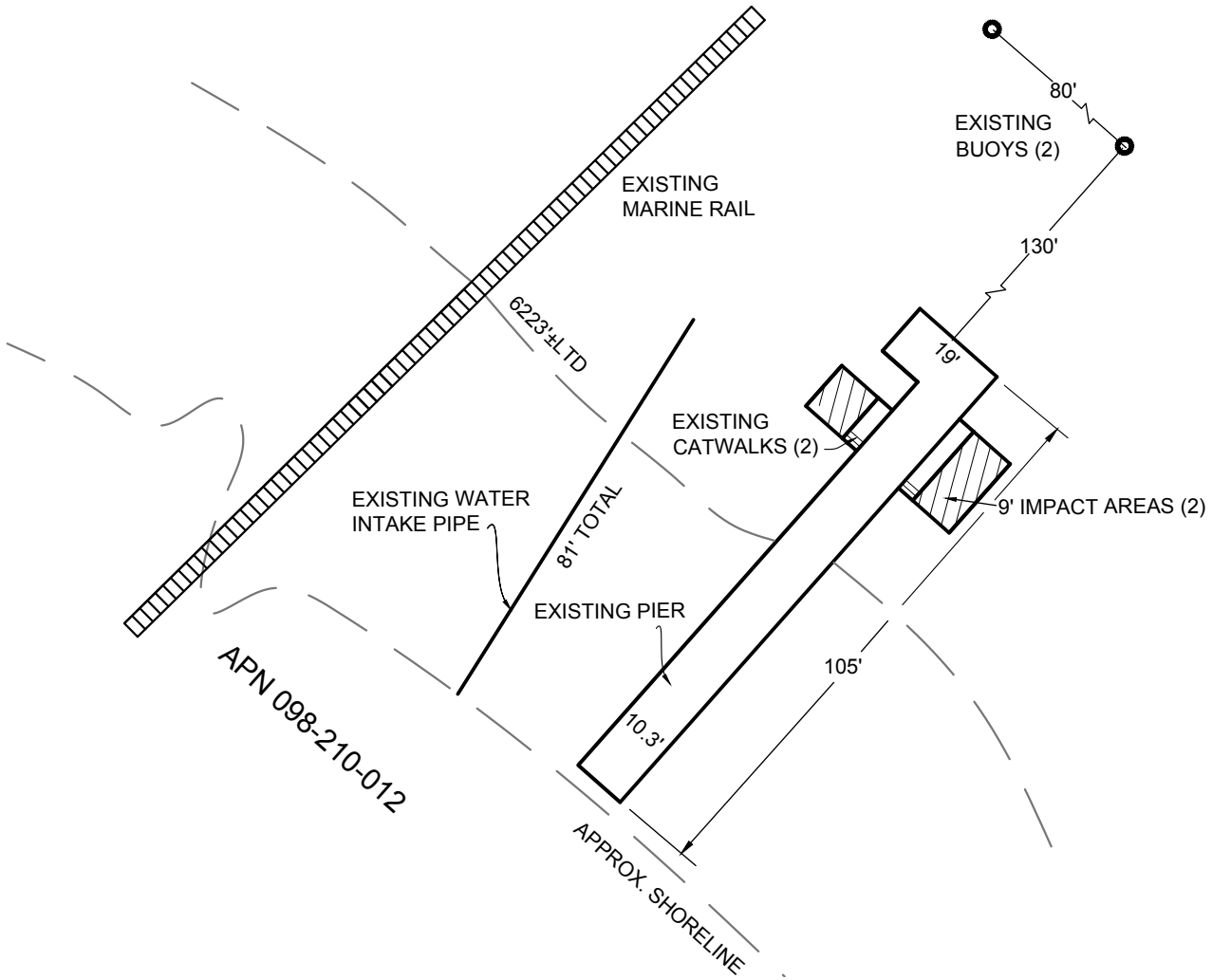
LAND DESCRIPTION PLAT  
PRC 7036.1, THOMPSON  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE



7015 PINE STREET, NEAR TAHOMA

NO SCALE

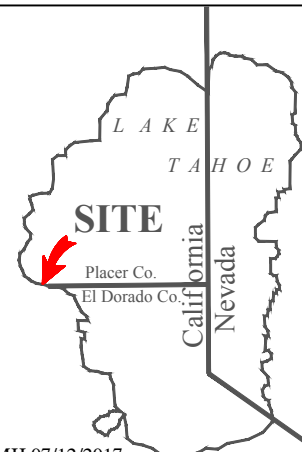
# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 7036.1  
 THOMPSON  
 APN 098-210-012  
 GENERAL LEASE -  
 RECREATIONAL USE  
 PLACER COUNTY



MJJ 07/12/2017

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.