

**STAFF REPORT  
C07**

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08/17/17  
PRC 3598.1  
K. Connor

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Wayne D. Jordan and M. Quinn Delaney, as Trustees or the Successor Trustee or Trustees, U/A/D April 29, 1996, as amended, creating the Jordan/Delaney Family Trust

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 7127 Highway 89, Tahoma, El Dorado County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing pier, boat lift, and two mooring buoys previously authorized by the Commission and use and maintenance of an existing water intake line not previously authorized by the Commission

*LEASE TERM:*

10 years beginning July 1, 2017.

*CONSIDERATION:*

\$1,184 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 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 (FEIS) for

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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.

### **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 October 30, 2007, the Commission authorized a Recreational Pier Lease for an existing pier, boat lift, and two mooring buoys to Wayne D. Jordan and M. Quinn Delaney, as Trustees or the Successor Trustee or Trustees, U/A/D April 29, 1996, as amended, creating the Jordan/Delaney Family Trust ([Item 05, October 30, 2007](#)). That lease expired on June 30, 2017.

The Applicant has applied for a General Lease – Recreational Use for the continued use and maintenance of the existing pier, boat lift, and two mooring buoys previously authorized by the Commission as well as an existing water intake line not previously authorized by the Commission. The Applicant's water intake line has been in Lake Tahoe for many years, but was not previously 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 land (Pub. Resources Code, § 6503.5).

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. Over the years, the pipeline has become partially buried and therefore does not interfere with the Public Trust activities at this location and at this time.

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The pier, boat lift, and mooring buoys have been in Lake Tahoe for many years at this location. The pier is built on pilings over a rock jetty with the immediate area of the pier being slightly sloped with cobbles and boulders. The topography and the location of upland structures provide access for the pier and allow the public to walk or navigate under the pier within the Public Trust easement. 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, Commission staff believes the issuance of this lease does not substantially interfere with the common law Public Trust Doctrine at this time or 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. 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.

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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 Public Trust needs and values at this location, at this time or for the foreseeable term of the lease, 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.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning July 1, 2017, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys previously authorized by the Commission, and use and maintenance of a water intake line 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 \$1,184, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 3598.1**

**LAND DESCRIPTION**

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

**PARCEL 1 – PIER**

All those lands underlying an existing pier, boat lift and catwalk lying adjacent to that parcel described in Grant Deed recorded December 9, 1996 in Book 4819 at Page 727 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.

**PARCELS 2 & 3 – BUOYS**

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded December 9, 1996 in Book 4819 at Page 727 in Official Records of said County.

**PARCEL 4 – WATER LINE**

All those lands underlying an existing two inch water line lying adjacent to that parcel described in Grant Deed recorded December 9, 1996 in Book 4819 at Page 727 in Official Records of said County.

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

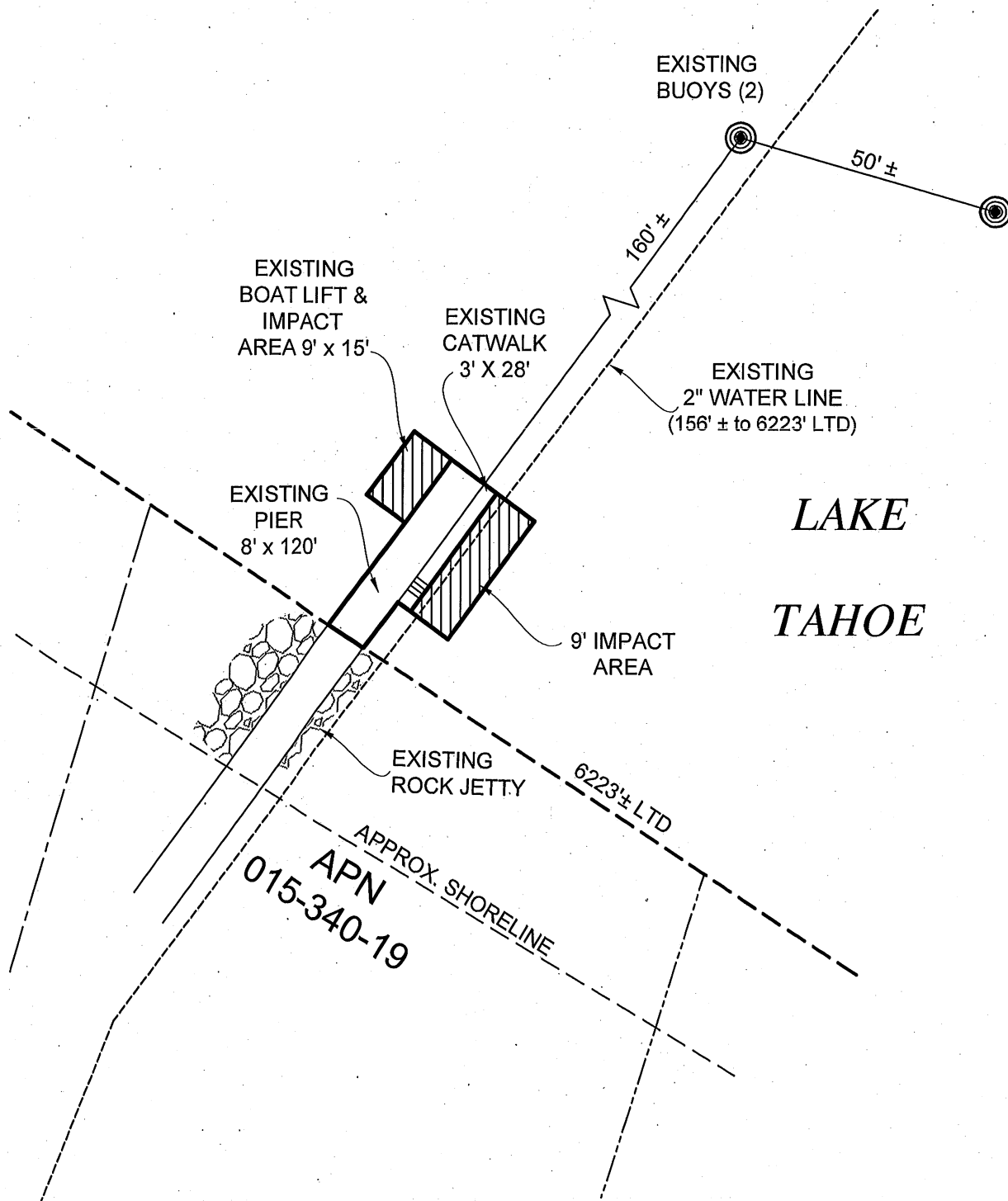
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 05/16/2017 by the California  
State Lands Commission Boundary Unit.



NO SCALE



LAKE  
TAHOE

### EXHIBIT A

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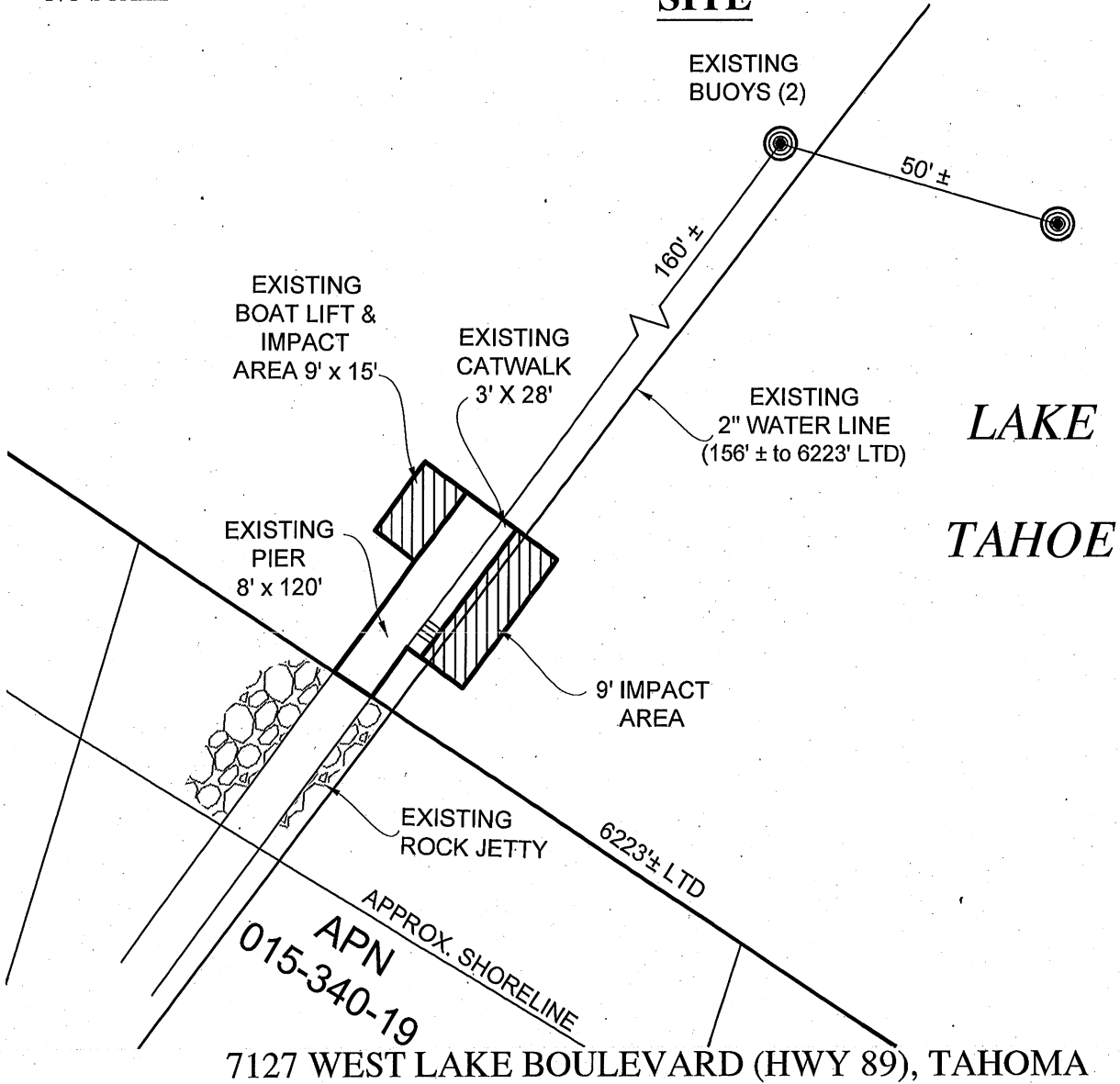
LAND DESCRIPTION PLAT  
 PRC 3598.1, JORDAN/DELANEY FAMILY TRUST  
 EL DORADO COUNTY

CALIFORNIA STATE  
 LANDS COMMISSION



NO SCALE

### SITE

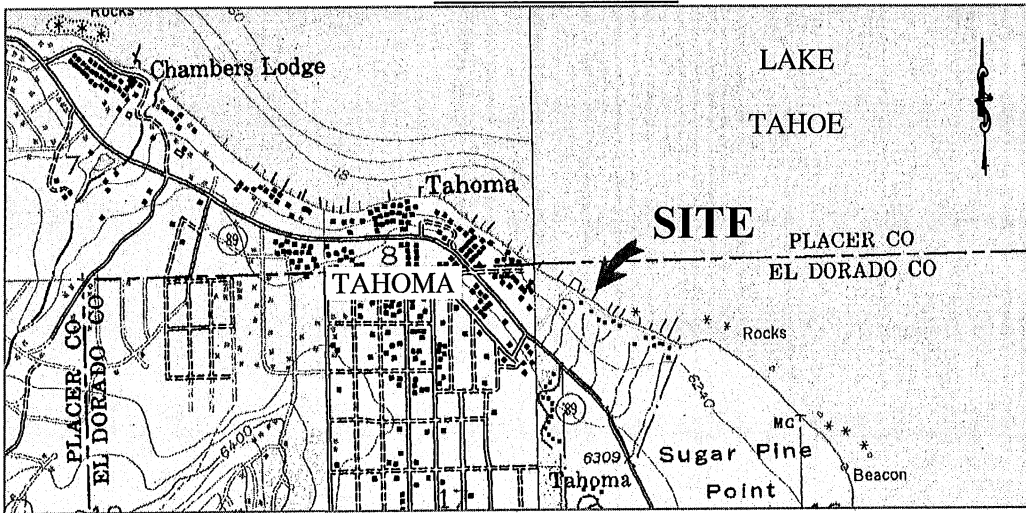


APN 015-340-19

7127 WEST LAKE BOULEVARD (HWY 89), TAHOMA

NO SCALE

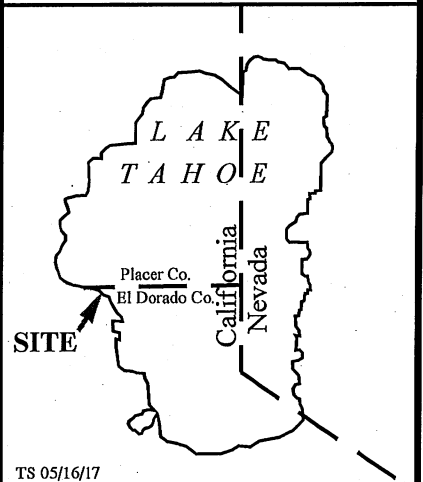
### LOCATION



MAP SOURCE: USGS QUAD

### Exhibit B

PRC 3598.1  
 JORDAN/DELANEY  
 FAMILY TRUST  
 APN 015-340-19  
 GENERAL LEASE -  
 RECREATIONAL USE  
 EL DORADO 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.