

**STAFF REPORT  
C11**

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08/17/17  
PRC 7567.1  
K. Connor

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

William Allan Dale and Betty Ann Dale, Trustees of the William Allan Dale and Betty Ann Dale Revocable Living Trust Agreement dated April 28, 1989

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 731 Lakeview Avenue, city of South Lake Tahoe, El Dorado County

*AUTHORIZED USE:*

Continued use and maintenance of one mooring buoy.

*LEASE TERM:*

10 years beginning July 1, 2017.

*CONSIDERATION:*

\$377 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 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 buoy.

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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 10-year Recreational Pier Lease to William Allan Dale and Betty Ann Dale, Trustees of the William Allan Dale and Betty Ann Dale Revocable Living Trust Agreement dated April 28, 1989 ([Item 06, October 30, 2007](#)). That lease expired on June 30, 2017. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the one existing mooring buoy. The buoy is privately owned and maintained. There is also a pier extending from the upland to the approximate shoreline, as shown on Exhibit B; however, the pier does not extend below the low water line and is not within the Commission's leasing jurisdiction. Consequently, a lease for the pier is not required at this time.

The buoy is for the mooring of a boat. 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).

The subject facilities do not significantly alter the land and the lease does not alienate the State's fee simple interest or permanently impair public rights. The buoy has existed for many years at this location. Upon termination of the lease, the lessee may be required to remove all improvements and restore the lease premises to their original condition. Additionally, the buoy occupies a relatively small area of the lake. Based on the foregoing, Commission staff believes that the mooring buoy will not substantially interfere with Public Trust needs at this location, at this time, or for the foreseeable term of the proposed lease.

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

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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) 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).

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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 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.

**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 one existing 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 \$377, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 7567.1**

**LAND DESCRIPTION**

A parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 32, Township 13 North, Range 18 East, MDM., as shown on Official Government Township Plat approved July 8, 1875, County of El Dorado, State of California, and more particularly described as follows:

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in the Grant Deed recorded December 14, 1999 as Document Number 99-0076087-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 05/25/2017 by the California State Lands Commission Boundary Unit.





LAKE

TAHOE

EXISTING  
MOORING  
BUOY

6223'± LTD

175'±

EXISTING  
BOAT LIFT

10'

EXISTING  
CATWALK  
(3' X 45')

110'±

EXISTING PIER  
& PILINGS

APPROX. SHORELINE

APN: 026-021-09

NO SCALE

# EXHIBIT A

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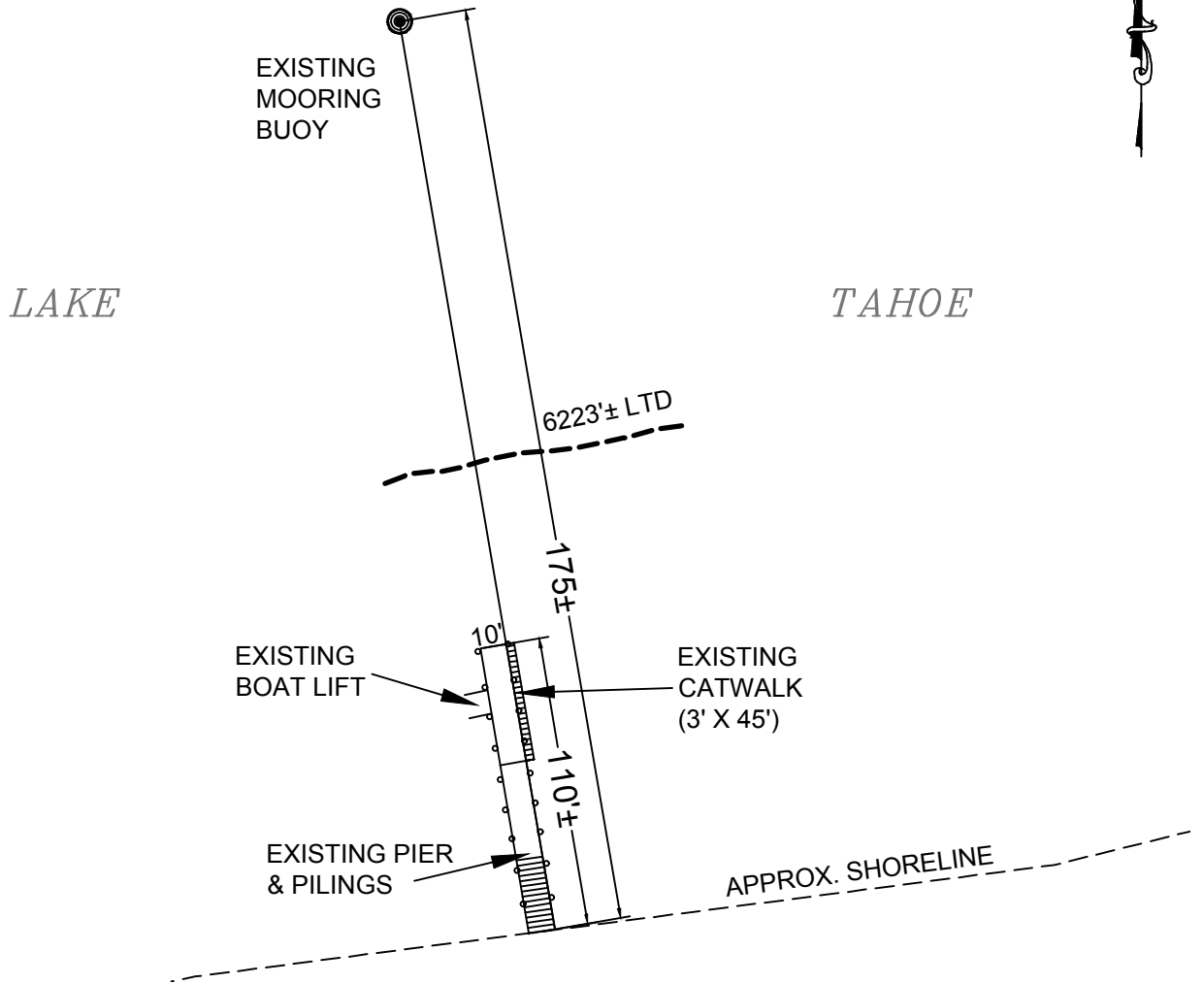
LAND DESCRIPTION PLAT  
PRC 7567.1, DALE REVOCABLE  
LIVING TRUST  
EL DORADO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE



731 LAKEVIEW AVENUE, CITY OF SOUTH LAKE TAHOE

NO SCALE

# LOCATION

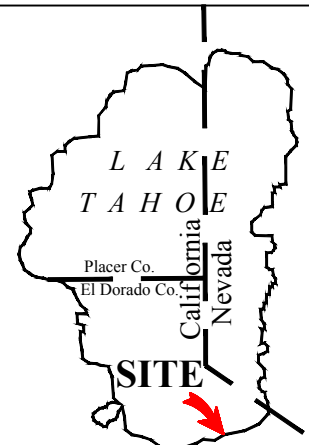


MAP SOURCE: USGS QUAD

# Exhibit B

PRC 7567.1  
 DALE REVOCABLE  
 LIVING TRUST  
 APN 026-021-09  
 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.



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