

**STAFF REPORT  
C08**

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10/19/17  
PRC 8498.1  
K. Connor

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Arnold Nakazato; and Brian D. Walsh and Laura N. Walsh, Trustees, The Walsh Family Trust dated: March 20, 2001

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 4798 North Lake Boulevard, near Carnelian Bay, Placer County.

*AUTHORIZED USE:*

Continued use and maintenance of two existing mooring buoys.

*LEASE TERM:*

10 years beginning October 4, 2017.

*CONSIDERATION:*

\$754 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 within 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 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.

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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 29, 2010, the Commission authorized a 10-year Recreational Pier Lease for two existing mooring buoys to Arnold Nakazato; and Brian D. Walsh and Laura N. Walsh, Trustees, The Walsh Family Trust dated: March 20, 2001 ([Item C08, October 29, 2010](#)). That lease expired on October 3, 2017. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the two existing mooring buoys. The buoys are privately owned and maintained. There is also a pier extending from the upland to the approximate shoreline, as shown in Exhibit B; however, the pier does not extend below the low water line. Consequently, a lease for the pier is not required at this time.

The buoys are for the mooring of boats. 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 do not significantly alter the land and the lease does not alienate the State's fee simple interest or permanently impair public rights. The buoys have 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 buoys occupy a relatively small area of the lake. Based on the foregoing, Commission staff believes that the mooring buoys 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 October 4, 2017, for a term of 10 years, for the continued use and maintenance of two 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 \$754, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 8498.1**

**LAND DESCRIPTION**

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 fractional Section 22 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:

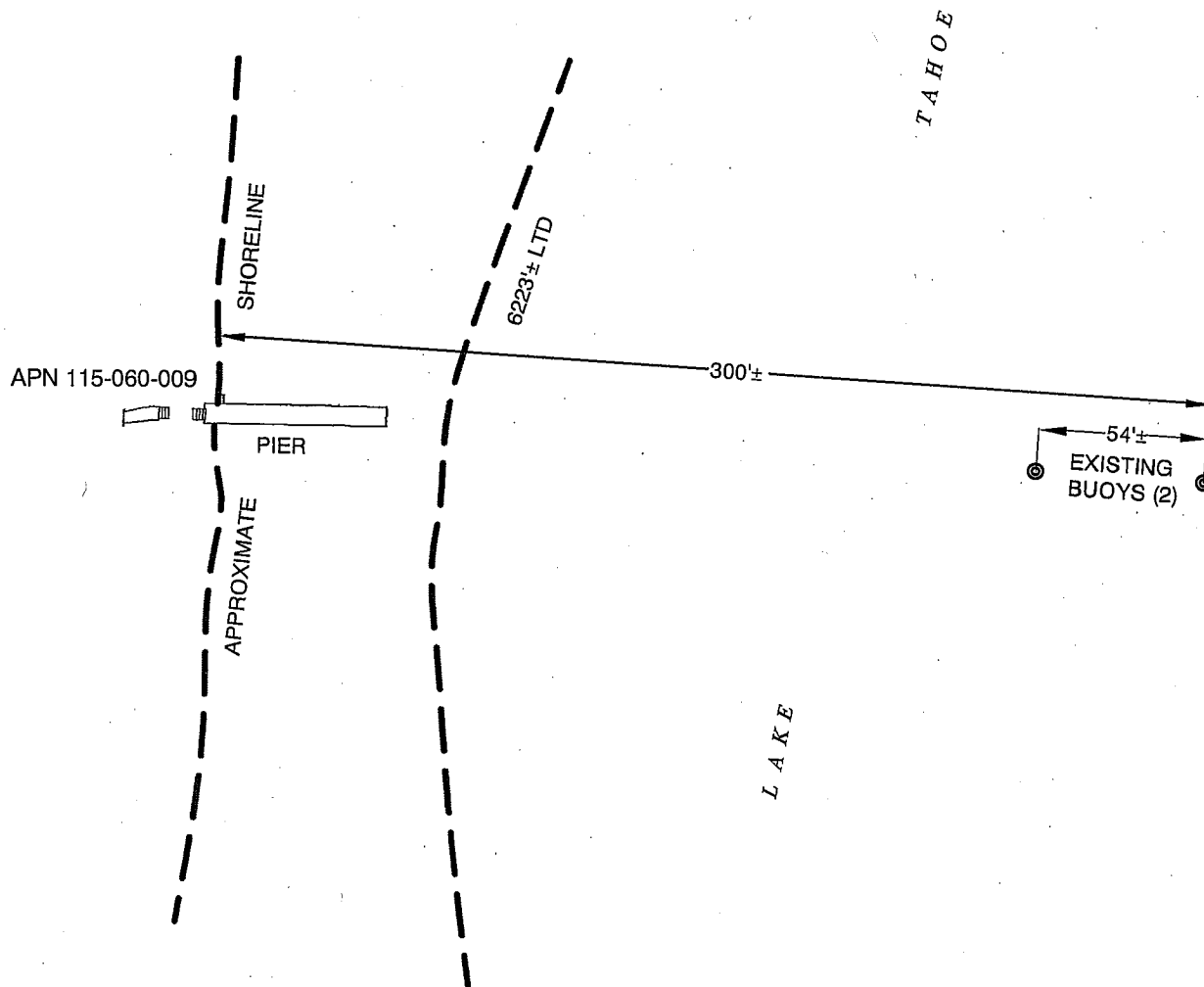
Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that parcel described in that Grant Deed recorded November 21, 2005 as Document Number 2005-0156512 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared February 22, 2017 by the California State Lands Commission Boundary Unit.





## EXHIBIT A

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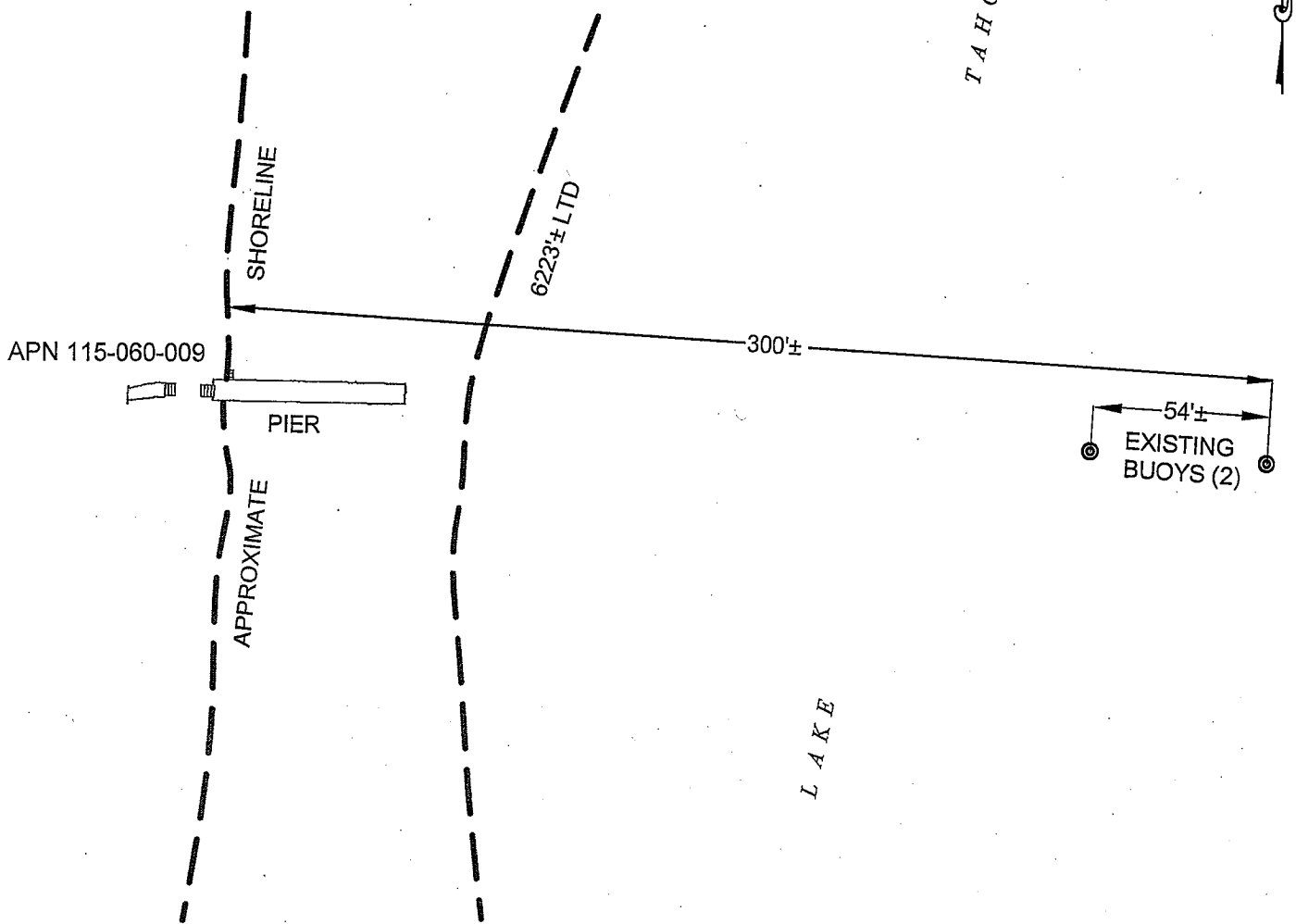
LAND DESCRIPTION PLAT  
 PRC 8498.1, WALSH FAMILY TRUST  
 NAKAZATO &  
 PLACER COUNTY

CALIFORNIA STATE  
 LANDS COMMISSION



NO SCALE

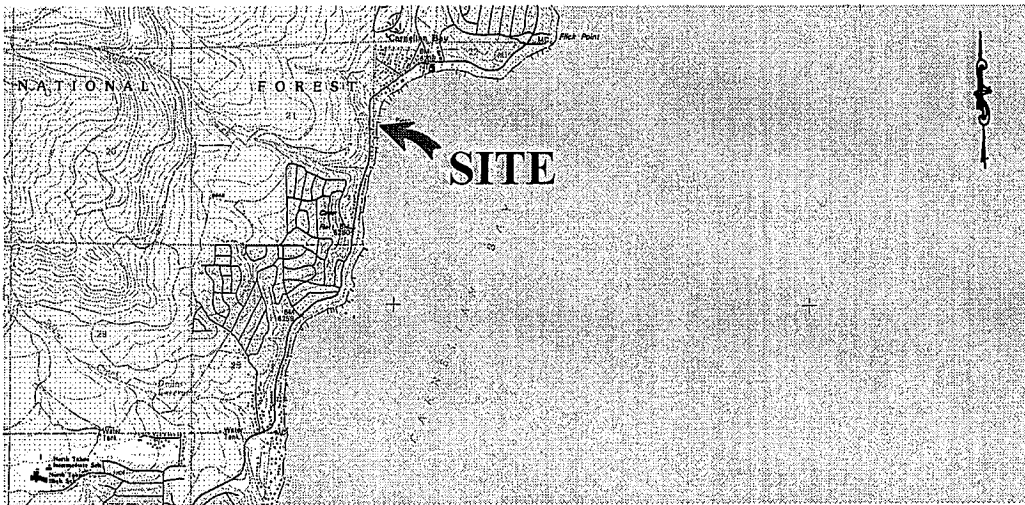
## SITE



4798 NORTH LAKE BLVD., CARNELIAN BAY

NO SCALE

## LOCATION

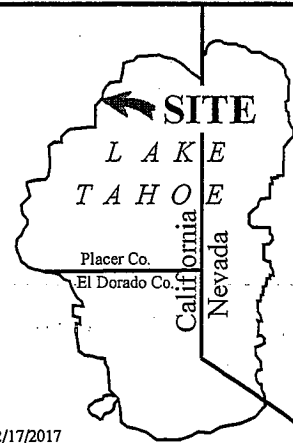


MAP SOURCE: USGS QUAD

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.

## **Exhibit B**

PRC 8498.1  
WALSH FAMILY TRUST  
& NAKAZATO  
APN 115-060-009  
GENERAL LEASE -  
RECREATIONAL PIER USE  
PLACER COUNTY



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