

**STAFF REPORT
C12**

A 1
S 1

04/19/18
PRC 8265.1
S. Avila

**TERMINATION OF A RECREATIONAL PIER LEASE AND
ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

LESSEE:

Richard M. Stout and Susanne S. Stout, Trustees of the Richard and Susanne Stout Family Trust dated November 24, 2004

APPLICANT:

GBRE North Lake Boulevard, LLC, a Georgia limited liability company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1830 North Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of two existing mooring buoys.

LEASE TERM:

10 years, beginning April 19, 2018.

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 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 for the Lake

STAFF REPORT NO. **C12** (CONT'D)

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, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On October 19, 2012, the Commission authorized the issuance of Lease No. PRC 8265.9, a Recreational Pier Lease, for two existing mooring buoys, to Richard M. Stout and Susanne S. Stout, Trustees of the Richard and Susanne Stout Family Trust dated November 24, 2004 ([Item C14, October 19, 2012](#)). That lease will expire on October 19, 2022. On July 22, 2016, ownership of the upland parcel transferred to GBRE North Lake Boulevard, LLC, a Georgia limited liability company. The Applicant is applying for a General Lease – Recreational Use for the two existing mooring buoys.

Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the upland property and two mooring buoys, without notifying staff and without executing a lease quitclaim deed. The Applicant occupied State land from the period of July 22, 2016, through April 18, 2018. Therefore, staff recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$1,315 for the period beginning July 22, 2016, through April 18, 2018, the day before the proposed new lease would become effective.

Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The mooring buoys are used for the docking and 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).

STAFF REPORT NO. C12 (CONT'D)

The mooring buoys have existed for many years at this location. The buoys are located directly lakeward of the upland parcel and occupy a relatively small area of the lake. There is also a pier extending from the upland into the lake, 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 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 and 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 and restore the lease premise 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 will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. These actions are 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. Termination of the lease 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 issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project.

STAFF REPORT NO. **C12** (CONT'D)

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 issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as 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, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize termination, effective April 18, 2018, of Lease No. PRC 8265.9, a Recreational Pier lease, issued to Richard M. Stout and Susanne S. Stout, Trustees of the Richard and Susanne Stout Family Trust dated November 24, 2004.
2. Authorize acceptance of compensation from the Applicant in the amount of \$1,315 for the unauthorized occupation of State land for the period beginning July 22, 2016, 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 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

STAFF REPORT NO. **C12** (CONT'D)

Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8265.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 5, Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, and more particularly described as follows:

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to those lots as described in Exhibit "A" of that Grant Deed recorded July 22, 2016 in Document Number 2016-0060053 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 11, 2018 by the California State Lands Commission Boundary Unit.





APN 094-160-023

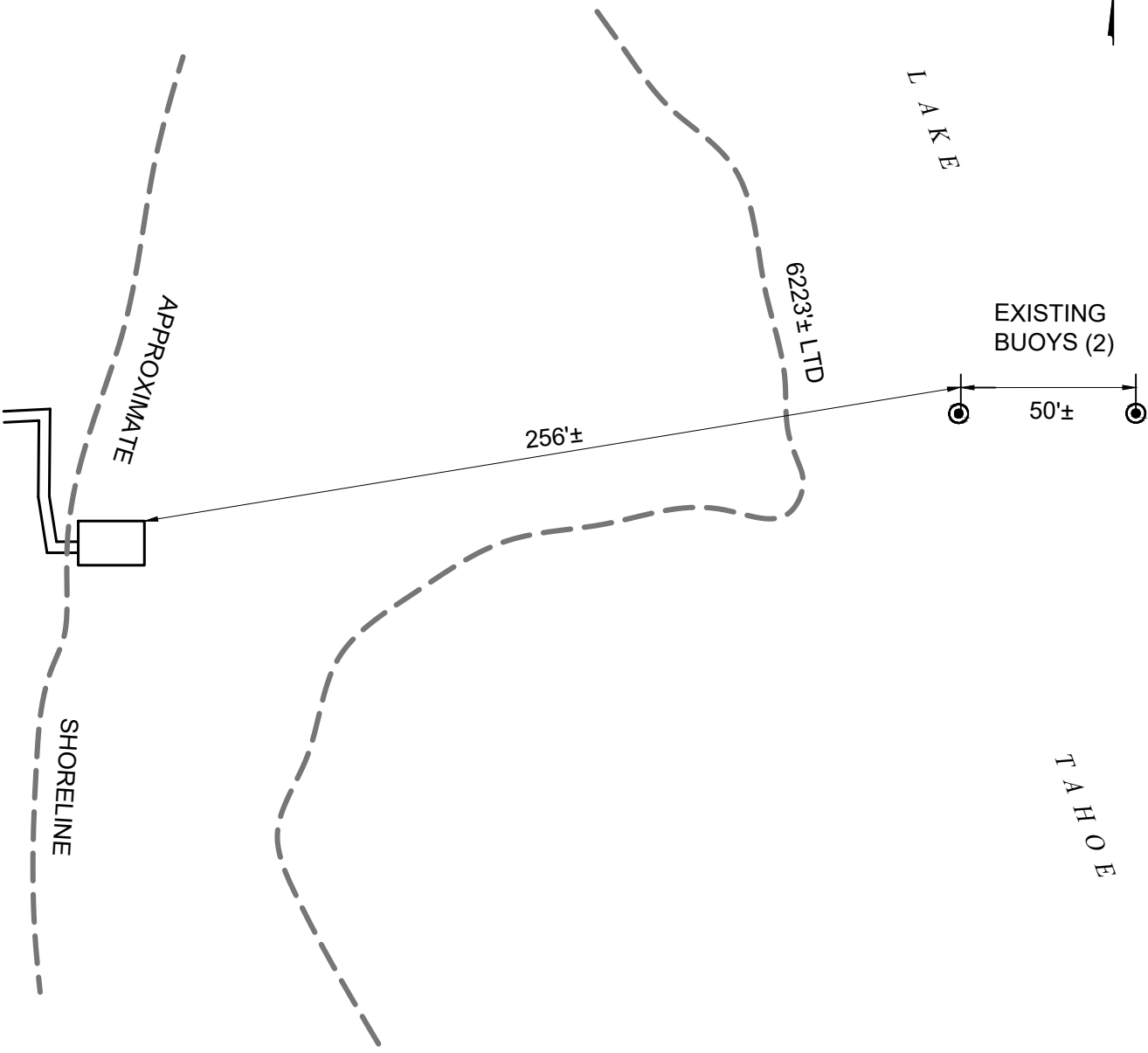


EXHIBIT A

Page 2 of 2

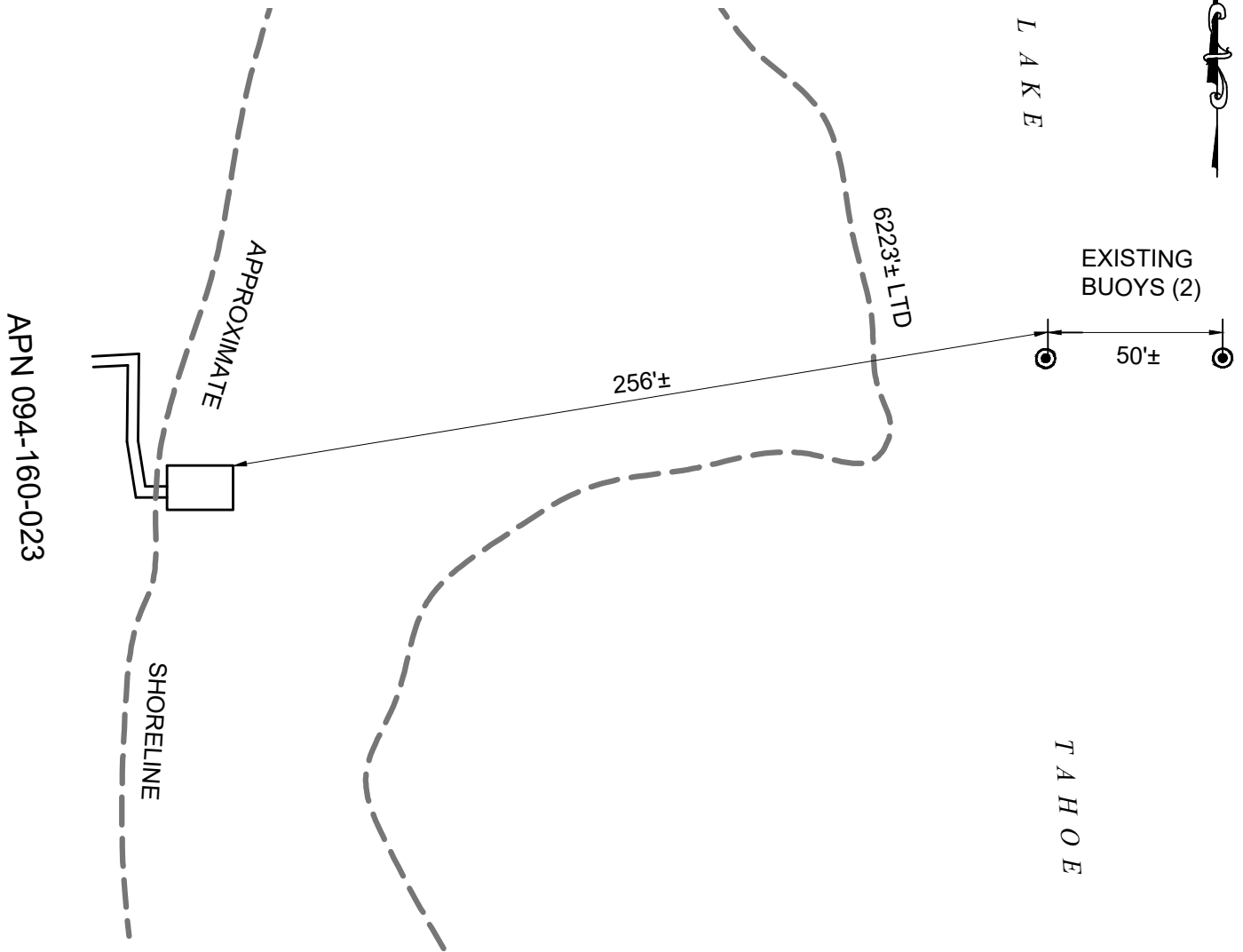
MJJ 03/19/18

LAND DESCRIPTION PLAT
 PRC 8265.1, GBRE NORTH LAKE BOULEVARD, LLC
 PLACER COUNTY



NO SCALE

SITE



1830 NORTH LAKE BLVD., NEAR TAHOE CITY

NO SCALE

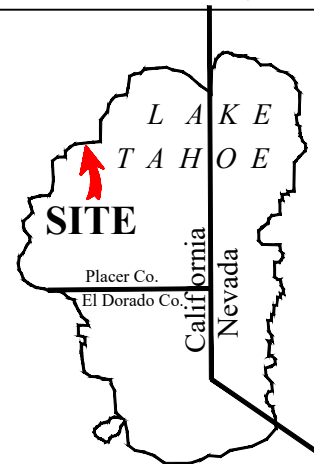
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8265.1
 GBRE NORTH LAKE
 BOULEVARD, LLC
 APN 094-160-023
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER 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.

MJJ 3/19/18