

**STAFF REPORT  
C03**

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12/03/18  
W 27202  
M.J. Columbus

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

C.E. Anderson, Sole Trustee of the Anderson Family Trust, dated April 27, 1993

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 7840 North Lake Boulevard, near Tahoe Vista, Placer County.

*AUTHORIZED USE:*

Use and maintenance of two existing mooring buoys not previously authorized by the Commission.

*LEASE TERM:*

10 years, beginning December 3, 2018.

*CONSIDERATION:*

\$754 per year, with an annual Consumer Price Index adjustment.

*SPECIFIC LEASE PROVISIONS:*

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- 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.
- 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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- 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:**

The Applicant owns the upland adjoining the lease premises. The Applicant has applied for a General Lease – Recreational Use for the use and maintenance of two existing mooring buoys. The Applicant's two mooring buoys are privately owned and maintained and have been in Lake Tahoe for many years, but were not previously authorized by the Commission.

The mooring buoys 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 mooring buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The mooring buoys do not substantially interfere with the Public Trust needs at this time and at this location.

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, staff believes the issuance of this lease does not substantially interfere with the common law Public Trust

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Doctrine at this location, at this time, and 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.
2. On October 24, 2018, the Tahoe Regional Planning Agency's Governing Board certified a new Final Environmental Impact Report and adopted Lake Tahoe Shorezone Ordinance Amendments. These Amendments are anticipated to take effect on December 23, 2018.
3. 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.

**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, and 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.

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**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 3, 2018, for a term of 10 years, for the use and maintenance of two existing mooring buoys 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 \$754, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**W27202**

**LAND DESCRIPTION**

Two parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 fractional Section 13, Township 16 North, Range 17 East, MDM., as shown of Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

**PARCELS 1 and 2 – Buoys**

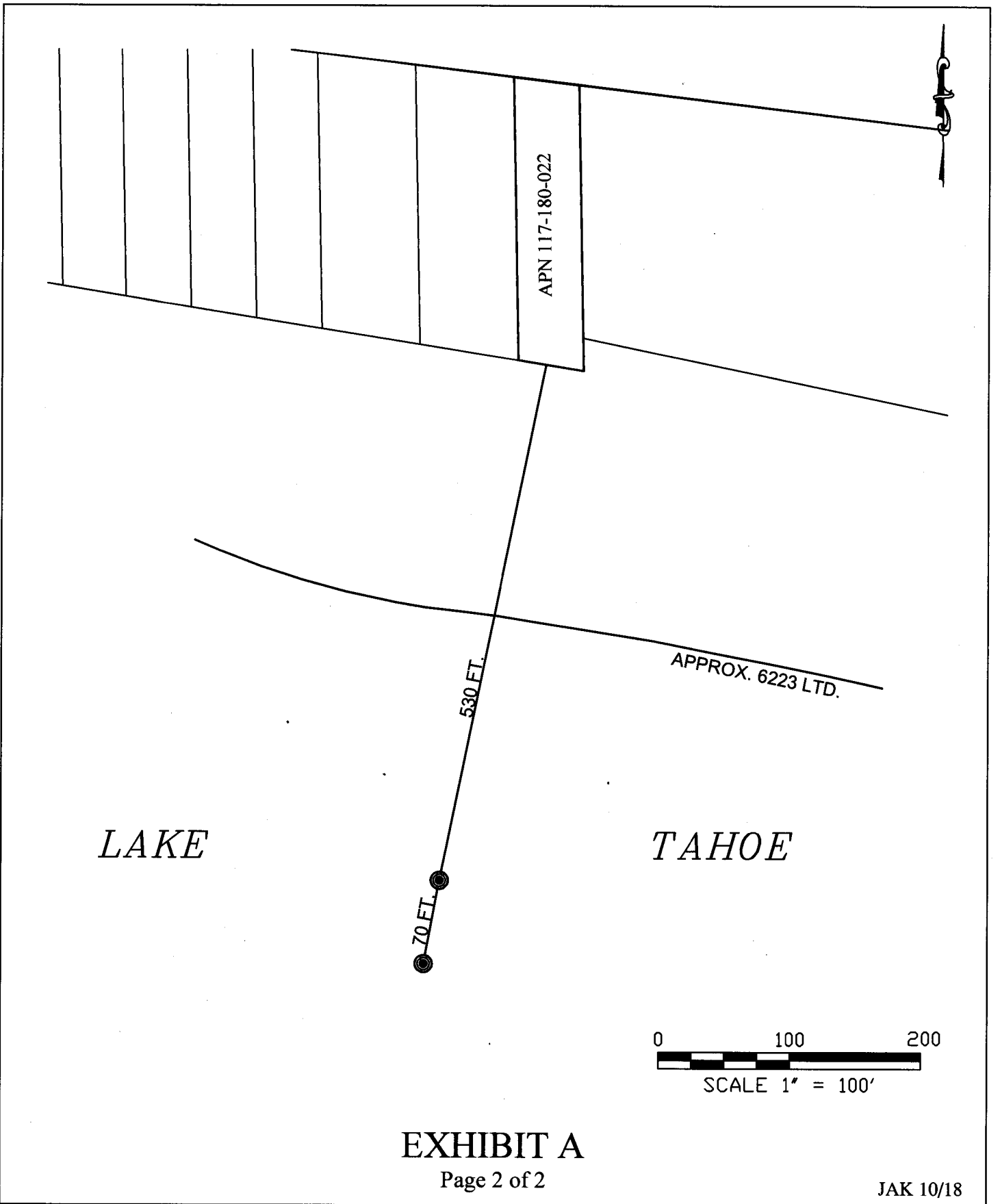
Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel as described Exhibit A of that Affidavit of Change of Trustee recorded as Document Number 2011-0008489-00, January 31, 2011 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared October 30, 2018 by the California State Lands Commission Boundary Unit





**EXHIBIT A**

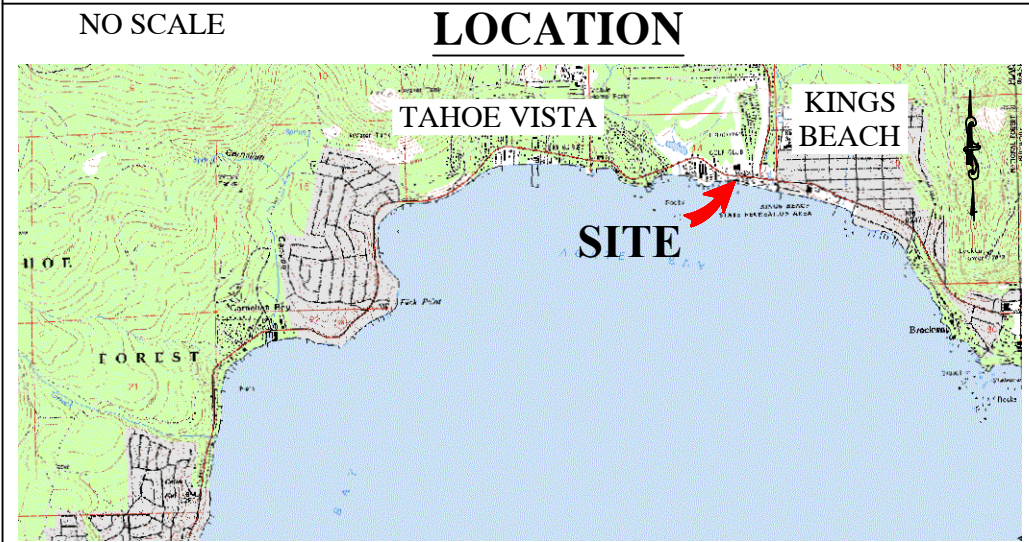
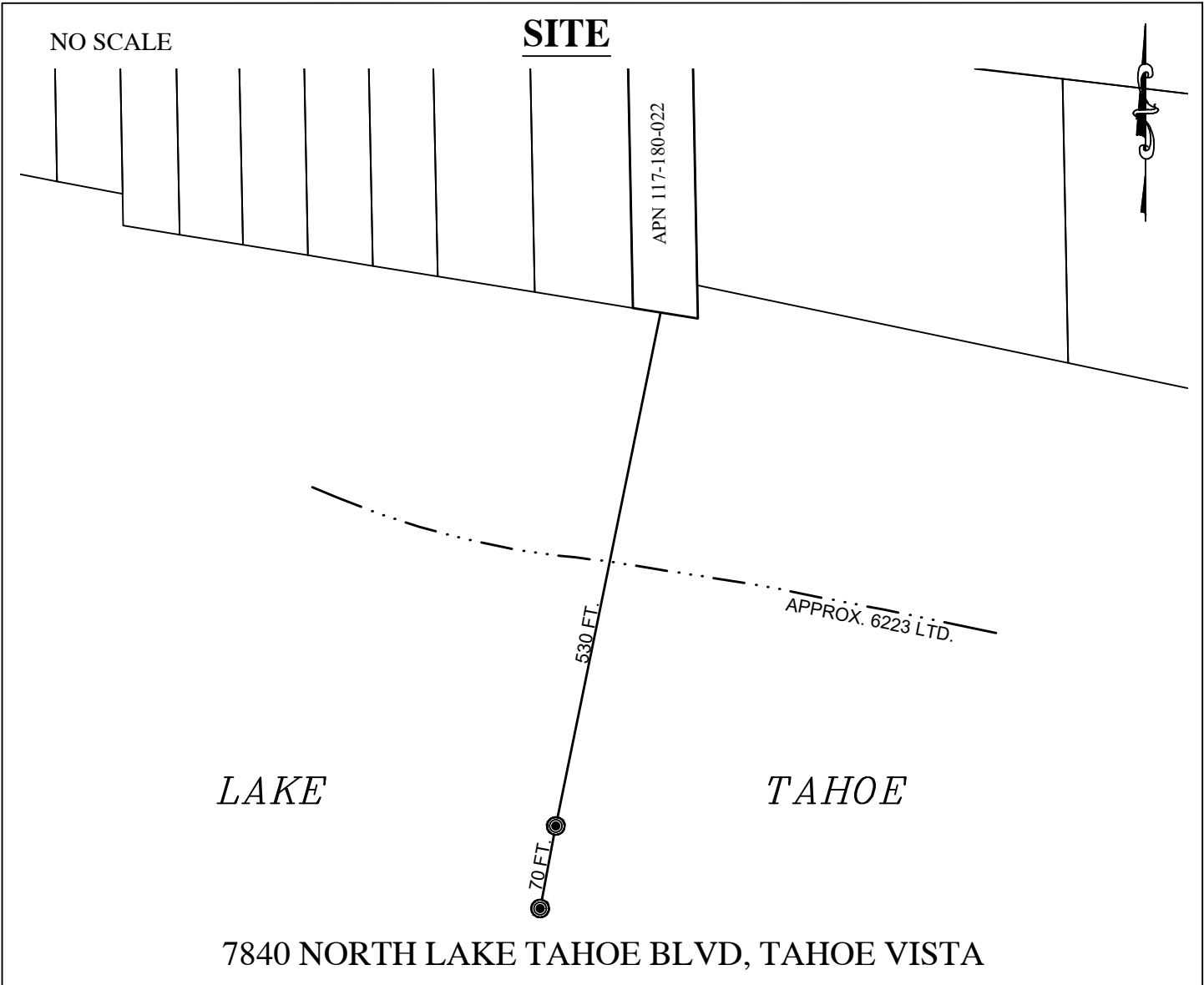
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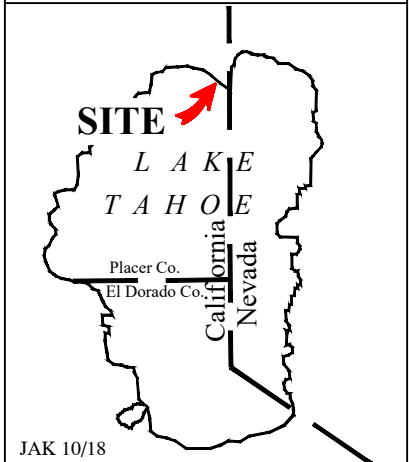
LAND DESCRIPTION PLAT  
W27202, ANDERSON FAMILY TRUST  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION





**Exhibit B**  
 W 27202  
 ANDERSON FAMILY TRUST  
 APN 117-180-022  
 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.