

**CALENDAR ITEM
C18**

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02/07/17
PRC 8374.1
M. Schroeder

**CONSIDER WAIVER OF RENT, PENALTY, AND INTEREST
AND ACCEPTANCE OF A LEASE QUITCLAIM DEED AND
ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

LESSEE:

James A. Gregory and Maureen Gregory

APPLICANT:

Frank Sлотman and Brenda L. Sлотman, Trustees of the Sлотman Living Trust
dated Sept 8, 1999

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2140 North Lake Boulevard,
Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of two existing mooring buoys.

LEASE TERM:

10 years, beginning April 11, 2016.

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. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the mooring buoys within two years after the adoption 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

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authorization within the time limit, they may be required to remove the buoys.

3. 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, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On May 24, 2012, the Commission authorized a General Lease – Recreational Use to James A. Gregory and Maureen Gregory ([Calendar Item C36, May 24, 2012](#)). This lease will expire on January 31, 2022. On April 11, 2016, ownership of the upland was deeded to Frank Slooman and Brenda L. Slooman, Trustees of the Slooman Living Trust dated Sept 8, 1999. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of two existing mooring buoys.

Commission staff sent annual rent invoices to the Gregorys for the 2016-2017 and 2017-2018 lease periods. The Gregorys did not pay these invoices. These invoices were issued before Commission staff became aware of the transfer of the upland property. Given the low amount of rent, the high staff costs incurred in collection efforts, and the fact that the Applicant agreed to be responsible for the rent dating back to the transfer of ownership on April 11, 2016, staff do not believe it is in the State's best interests to pursue collection of the rent, penalty, and interest from the Gregorys. James A. Gregory and Maureen Gregory executed a lease quitclaim deed releasing their interest in the lease. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease.

The Applicant owns the upland adjoining the lease premises. The two mooring buoys are privately owned and maintained. The subject 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).

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The two mooring buoys have existed for many years at this location. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The subject buoys do not significantly alter the land and the 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 and restore the lease premises 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 is consistent with the common law Public Trust Doctrine 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. Acceptance of the lease quitclaim deed and waiver of rent, penalty, and interest are not projects as defined by the California Environmental Quality Act (CEQA) because they are administrative actions 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. 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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4. 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 issuance of the lease 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 acceptance of a lease quitclaim deed; waiver of rent, penalty and interest; and issuance of 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, and 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:

1. Waive annual rent, penalty, and interest due for the period of February 1, 2016, through January 31, 2018, and void annual rent invoices #38633 and #41215 issued to James A. Gregory and Maureen Gregory.
2. Authorize acceptance of a lease quitclaim deed, effective April 10, 2016, of Lease No. PRC 8374.1, a General Lease – Recreational Use, issued to James A. Gregory and Maureen Gregory.

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3. Authorize issuance of a General Lease – Recreational Use to Frank Sloomman and Brenda L. Sloomman, Trustees of the Sloomman Living Trust dated Sept 8, 1999, beginning April 11, 2016, 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 8374.1

LAND DESCRIPTION

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

PARCELS 1 & 2 (BUOYS)

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that parcel described in Exhibit "A" of Grant Deed recorded April 11, 2016 as Document number 2016-0026251-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 08/24/2016 by the California State Lands Commission Boundary Unit.



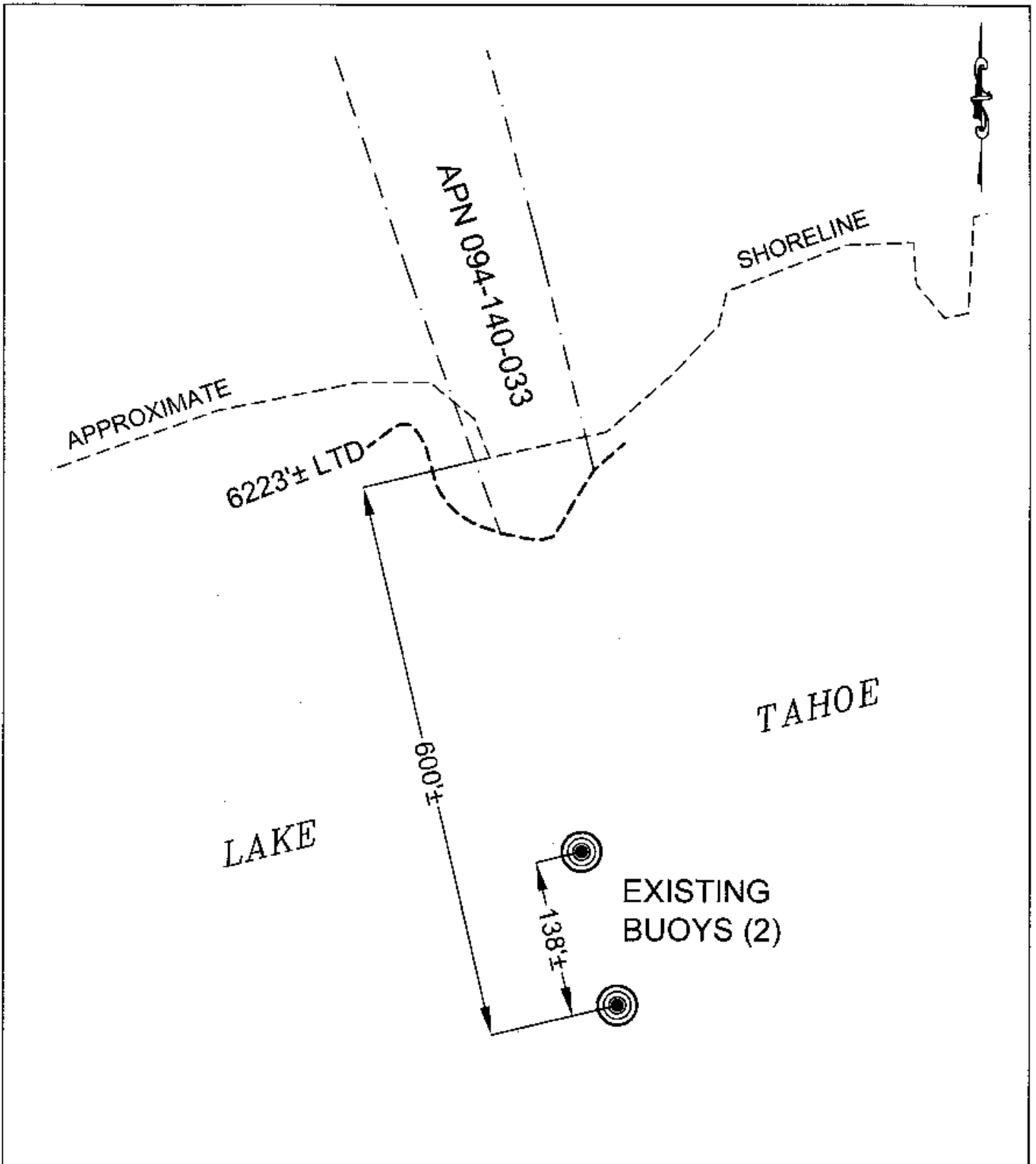


EXHIBIT A

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LAND DESCRIPTION PLAT
 PRC 8374.1, SLOOTMAN TRUST
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



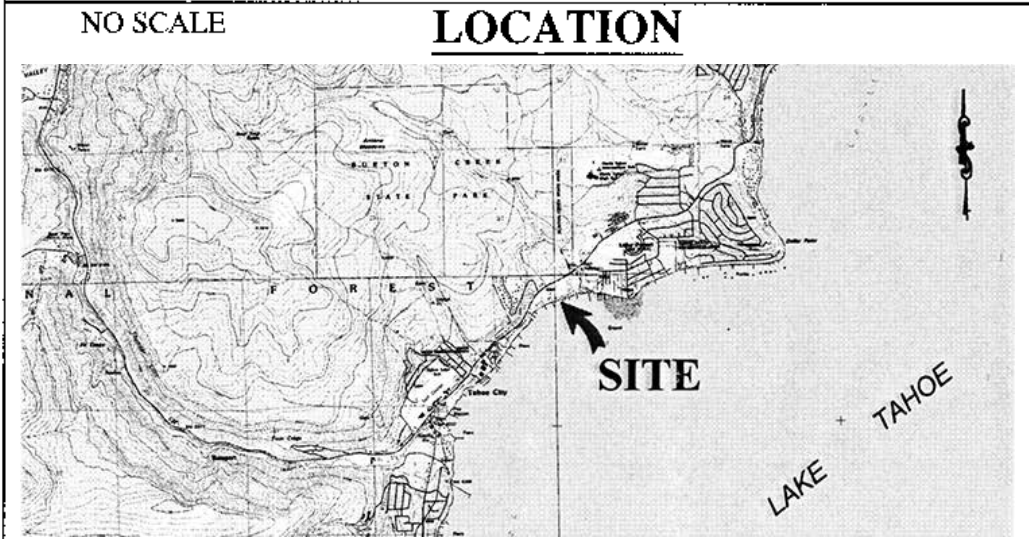
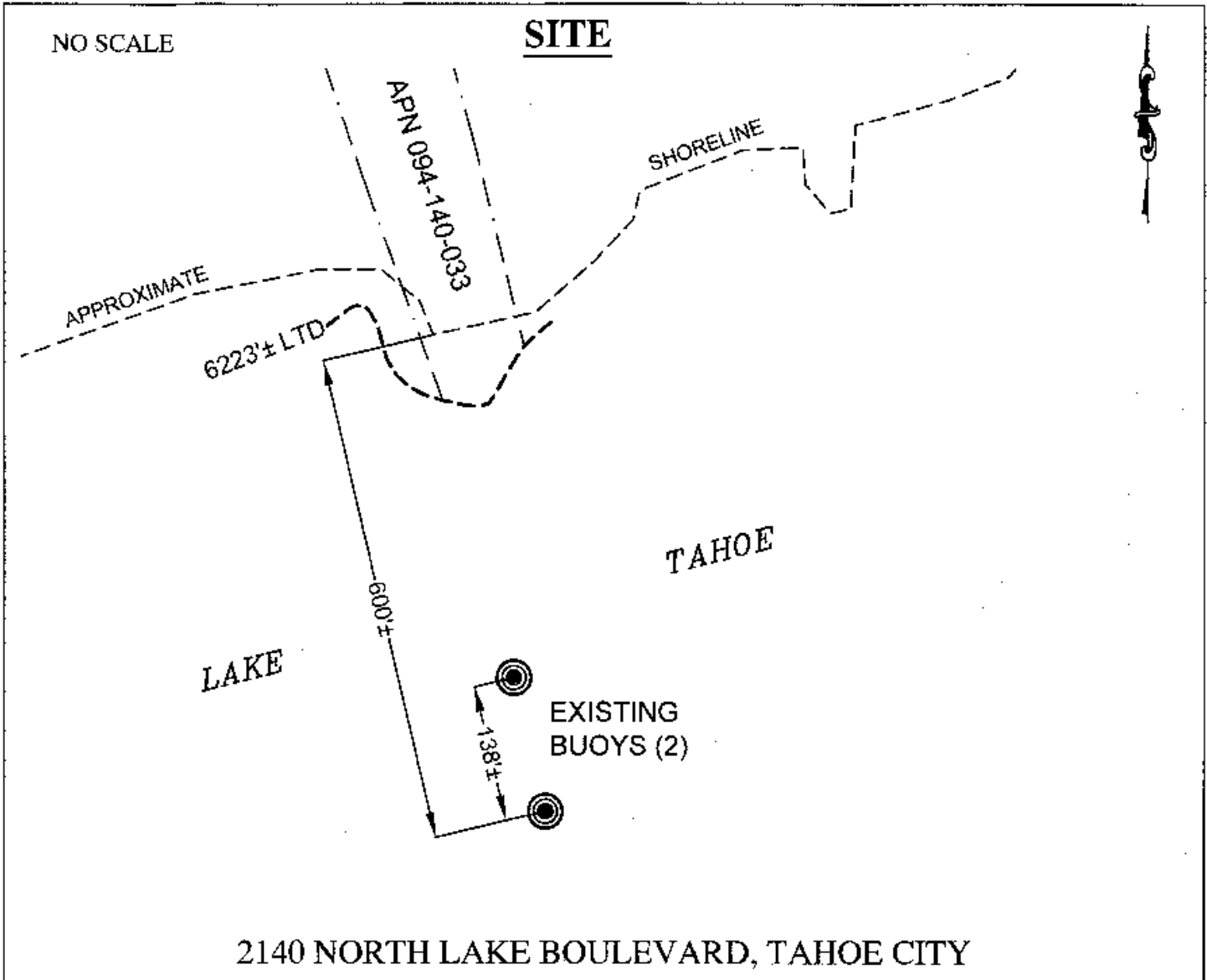
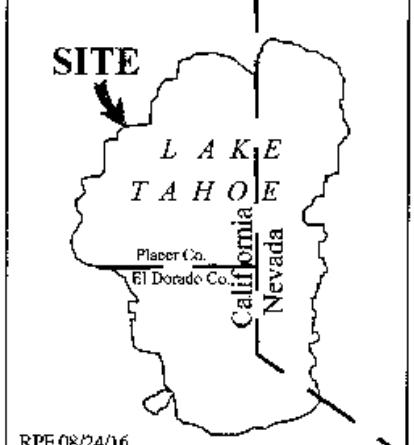


Exhibit B
 PRC 8374.1
 SLOOTMAN TRUST
 APN 094-140-033
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.