

## STAFF REPORT

**03**

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12/06/19  
Lease 8866.1  
A2239  
S. Avila

S 1

### GENERAL LEASE – RECREATIONAL USE

#### APPLICANT:

William M. Feeley; Katherine B. Feeley; Suzanne E. Feeley; Dennis C. Hersley and Jane Feeley Lilly-Hersley, Trustees of the Hersley 2009 Family Trust dated December 2, 2009; and Steven Wesley Marchette and Laura Feeley Marchette or their Successors in Trust, as Trustees of the Marchette Family Trust dated May 3, 2001.

#### PROPOSED LEASE:

##### *AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 6762 North Lake Boulevard, near Tahoe Vista, Placer County.

##### *AUTHORIZED USE:*

Continued use and maintenance of two existing mooring buoys.

##### *LEASE TERM:*

10 years beginning April 6, 2020.

##### *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 expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from Tahoe Regional Planning Agency (TRPA) or any other regulatory agency for the improvements authorized by the Commission.
- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the

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public uses of access, navigation, fishing, and lake-related recreational uses.

### **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 April 6, 2010, the Commission authorized a Recreational Pier Lease for the retention of two existing mooring buoys to Daniel M. Feeley, Jr.; Jane Feeley Lilly-Hersley; and Laura Feeley Marchette. ([Item C07, April 6, 2010](#))

Since that time, ownership of the upland parcel transferred within the family to the current Applicant. The lease expires on April 5, 2020. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the two existing mooring buoys. The Applicant registered the two existing mooring buoys with TRPA on May 16, 2019 (Permit No. 10175).

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The two 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).

The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. 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 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

### STAFF REPORT NO. 03 (CONT'D)

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 will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

#### **OTHER PERTINENT INFORMATION:**

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the two mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. 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.
3. On October 24, 2018, the TRPA's Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. 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

STAFF REPORT NO. **03** (CONT'D)

**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 the 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:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 6, 2020, 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

LEASE 8866.1

### LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 fractional Section 14, 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 mooring buoys lying adjacent to that parcel described in that Grant Deed recorded June 2, 2017 as Document 2017-0040587 of Official Records of said County.

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

### END OF DESCRIPTION

Prepared November 4, 2019 by The California State Lands Commission Boundary Unit.

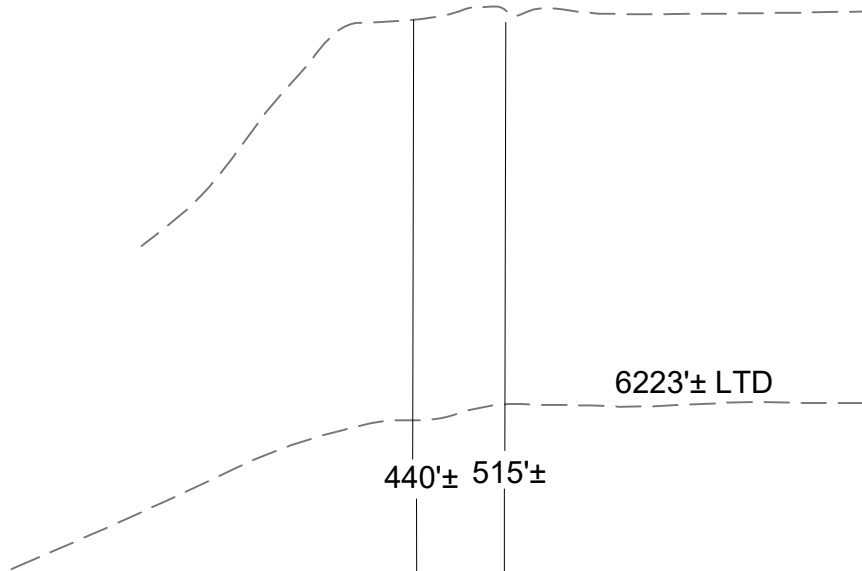


NO SCALE



APN 117-072-010

APPROX. SHORELINE



L A K E

T A H O E

2 EXISTING  
BUOYS



## EXHIBIT A

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LAND DESCRIPTION PLAT  
LEASE 8866.1, FEELEY ET AL  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

## SITE

APN 117-072-010

APPROX. SHORELINE

L A K E  
T A H O E

2 EXISTING  
BUOYS

6762 NORTH LAKE BLVD., NEAR TAHOE VISTA



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**

LEASE 8866.1  
FEELEY ET AL  
APN 117-072-010  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY

**SITE**

L A K E  
T A H O E  
Placer Co.  
El Dorado Co.  
California  
Nevada

MJJ 11/12/19