

## STAFF REPORT

# 01

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04/29/20  
Lease 7346.1  
A2202  
S. Avila

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### ACCEPTANCE OF A LEASE QUITCLAIM AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE

#### LESSEE:

Robert W. Angell, as Trustee of the Robert W. Angell Cabin Trust dated August 3, 1995; and Elizabeth A. Cook, Trustee under Declaration of Trust dated September 7, 1994

#### APPLICANT:

Kuhn Holdings, LLC, a California limited liability company; and Elizabeth A. Cook, Trustee under Declaration of Trust dated September 7, 1994

#### PROPOSED LEASE:

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

Sovereign land in Lake Tahoe, adjacent to 1260 West Lake Boulevard, near Tahoe City, Placer County.

##### *AUTHORIZED USE:*

Continued use and maintenance of an existing pier, boat lift, and two mooring buoys.

##### *LEASE TERM:*

10 years beginning April 29, 2020.

##### *CONSIDERATION:*

\$2,276 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 acknowledges and agrees that Lessee must maintain continuous authorization from the neighboring littoral parcel owner, ~~Bill Nguyen and Amanda Nguyen,~~ to maintain and access the pier on the littoral property (APN 083-202-011) adjacent to the lease

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premises. The lease shall terminate if the agreement documenting such authorization lapses or is revoked.

- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from the 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 public uses of access, navigation, fishing and lake-related recreation.

### **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 June 28, 2010, the Commission authorized a 10-year Recreational Pier Lease for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys to Robert W. Angell, as Trustee of the Robert W. Angell Cabin Trust dated August 3, 1995; and Elizabeth A. Cook, Trustee under Declaration of Trust dated September 7, 1994 ([Item C17, June 28, 2010](#)). That lease will expire on June 27, 2020. On November 5, 2018, a portion of the fee interest in the upland parcel transferred from Robert W. Angell, as Trustee of the Robert W. Angell Cabin Trust dated August 3, 1995, to Kuhn Holdings, LLC, a California limited liability company.

The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the existing facilities. The Lessee executed a quitclaim deed releasing their interest in the Recreational Pier Lease. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease effective April 29, 2020. Staff further recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$1,688 for the period beginning November 5, 2018, through April 28, 2020, the day before the proposed new lease becomes effective.

The lake shoreline at this location is shaped like a cove which has caused a portion of the existing pier to extend from the Applicant's littoral parcel

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across the neighboring littoral parcel as the pier extends onto the Lease premises. The Applicant has the right to use the intervening adjacent parcel pursuant to a pier easement agreement effective September 18, 2008.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The facilities are used for the docking and mooring of boats and 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 subject facilities have existed for many years at this location. The pier is built on pilings, providing public access for pedestrians and for lake-related activities at varying water levels underneath the pier. The immediate area surrounding the existing pier is sloped with cobbles. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The Applicant has registered the two mooring buoys and boat lift with TRPA (Permit No. 11230).

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 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, 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

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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 Lessee may be required to remove the pier, boat lift, and two mooring buoys, and restore the premises to their original condition. Upon expiration or prior termination of the lease, a 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; and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to land along the State's inland and coastal waterways.
3. On October 24, 2018, the TRPA Governing Board certified a Final Environmental Impact Statement and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. Acceptance of the quitclaim deed 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).

5. Staff recommends that the Commission find that the issuance of the lease is exempt from the requirements of the 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. 01 (CONT'D)**

**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 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:**

1. Authorize acceptance of a lease quitclaim deed, effective April 28, 2020, for Lease No. PRC 7346.9, a Recreational Pier Lease, issued to the Lessee.
2. Authorize acceptance of compensation from the Applicant in the amount of \$1,688 for unauthorized occupation of State lands for the period beginning November 5, 2018, through April 28, 2020.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 29, 2020, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and two 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 \$2,276, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

## EXHIBIT A

LEASE 7346.1

### LAND DESCRIPTION

Three (3) parcels of submerged land, situate in the bed of Lake Tahoe, lying adjacent to fractional Section 18, Township 15 North, Range 17 East, MDM, as shown on the Official Township Plat, approved November 9<sup>th</sup>, 1866, County of Placer, State of California, and more particularly described as follows:

#### PARCEL 1

All those lands underlying an existing pier, catwalk and boat lift adjacent to that "Parcel One" as described in that Grant Deed recorded November 5<sup>th</sup>, 2018 in Document Number DOC-2018-0080527-00 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

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

#### PARCEL 2 & 3 – BUOYS

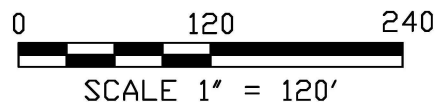
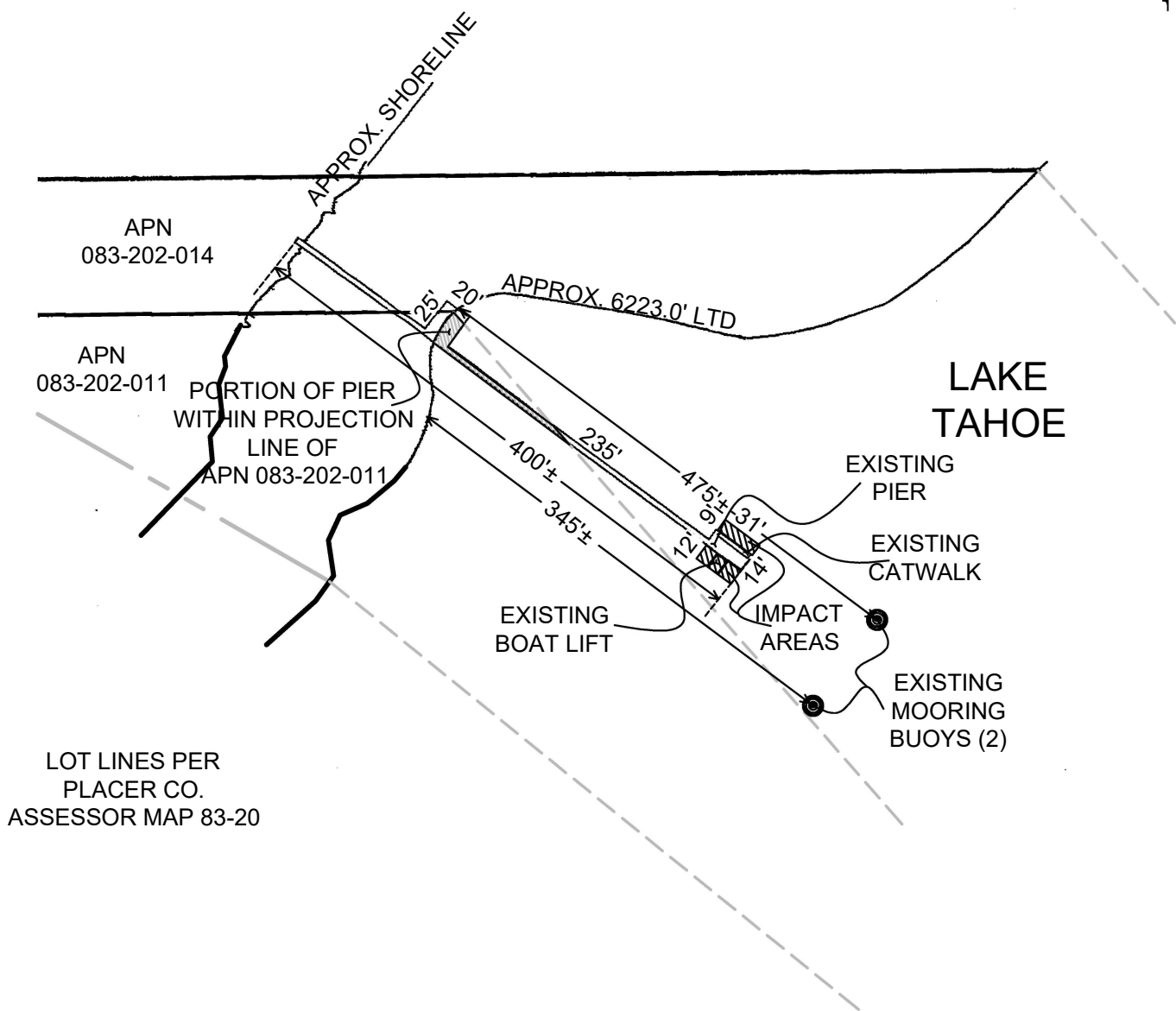
Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys, adjacent to that "Parcel One" as described in that Grant Deed recorded November 5<sup>th</sup>, 2018 in Document Number DOC-2018-0080527-00 in Official Records of said County.

Accompanying plat is hereby made a part of this description.

### END OF DESCRIPTION

PREPARED 1/10/20 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





## EXHIBIT A

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MJF 1/10/20

LAND DESCRIPTION PLAT  
LEASE 7346.1  
KUHN HOLDINGS, LLC & COOK  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



