

## STAFF REPORT

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04/29/20  
Lease 7992.1  
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### GENERAL LEASE – RECREATIONAL USE

#### APPLICANT:

Thomas Kessler McManus, Jr., and Janet Moore McManus

#### PROPOSED LEASE:

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

Sovereign land in Lake Tahoe, adjacent to 3087 Jameson Beach Road, near South Lake Tahoe, El Dorado County.

##### *AUTHORIZED USE:*

Continued use and maintenance of one existing mooring buoy.

##### *LEASE TERM:*

10 years, beginning April 29, 2020.

##### *CONSIDERATION:*

\$377 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 recreation.
- Lessee shall provide proof of a Tahoe Regional Planning Agency (TRPA) permit and registration for all moorings, or proof that any unregistered and unpermitted mooring(s) have been removed on or before October 23, 2020.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining

## STAFF REPORT NO. 15 (CONT'D)

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:**

On January 29, 2009, the Commission authorized a Recreational Pier Lease for one existing mooring buoy to Thomas Kessler McManus, Jr. and Janet Moore McManus ([Item C07, January 29, 2009](#)). The lease expired on August 23, 2018. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the one existing mooring buoy.

Staff recommends issuance of a new lease beginning April 29, 2020. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$634 for the period beginning August 24, 2018, the day after the prior lease expired, through April 28, 2020.

The Applicant owns the upland adjoining the lease premises. The subject facility is privately owned and maintained. The existing mooring buoy is used for the docking and mooring of boats and facilitates 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 facility does not significantly alter the land and the lease does not alienate the State's fee simple interest or permanently impair public rights. The buoy has existed for many years at this location. Upon termination of the lease, the lessee may be required to remove the buoy and restore the lease premises to their original condition. Additionally, the buoy occupies a relatively small area of the lake. Based on the foregoing reasons, staff believes that the mooring buoy will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease.

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. 15 (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 is consistent with the common law Public Trust Doctrine and 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 mooring buoy 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 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. **15** (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 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.

**AUTHORIZATION:**

1. Authorize acceptance of compensation from the Applicant in the amount of \$634 for unauthorized occupation of State land for the period beginning August 24, 2018, through April 28, 2020.
2. 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 one existing mooring buoy, 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 \$377, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

## EXHIBIT A

LEASE 7992.1

### LAND DESCRIPTION

One parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 fractional Section 32, Township 12 North, Range 18 East, MDM., as shown on Official Government Township Plat approved May 16, 1863, County of El Dorado, State of California, and more particularly described as follows:

One circular parcel of land, being 50 feet in diameter, underlying one existing buoy lying adjacent to said parcel as described in that Grant Deed recorded August 24, 1998 as Document Number 980048284 in Official Records of said County.

Accompanying plat is hereby made part of this description.

### END OF DESCRIPTION

Prepared October 11, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE



EXISTING  
BUOY



*L a k e     T a h o e*

150' ±

6223' ± LTD

APPROXIMATE

SHORELINE

APN 032-120-008

EXHIBIT A

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LAND DESCRIPTION PLAT  
LEASE 7992.1 McMANUS ET. AL  
EL DORADO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

## SITE



EXISTING  
BUOY

*Lake Tahoe*

150' ±

6223' ± LTD

APPROXIMATE

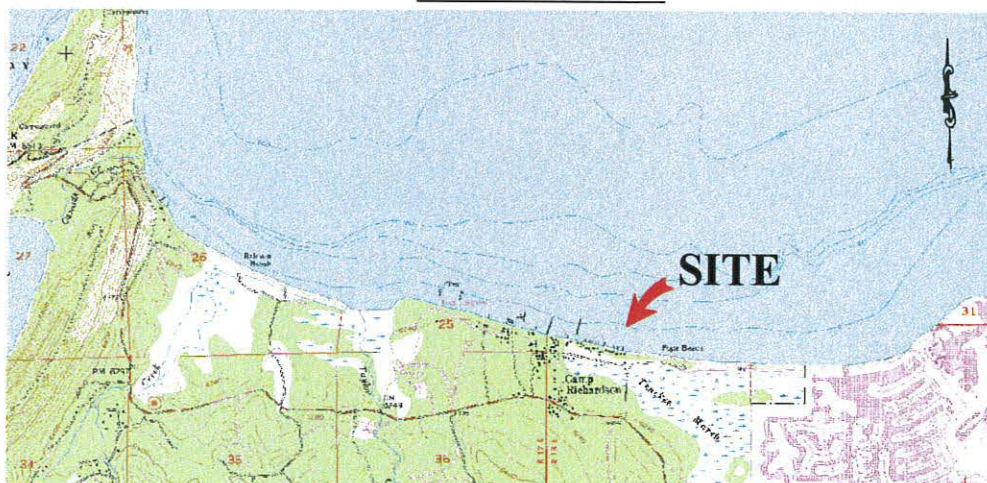
SHORELINE

APN 032-120-008

3087 JAMESON BEACH ROAD, SOUTH LAKE TAHOE

NO SCALE

## LOCATION

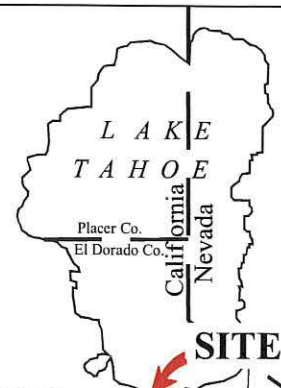


MAP SOURCE: USGS QUAD

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 7992.1  
McMANUS ET. AL  
APN 032-120-008  
GENERAL LEASE -  
RECREATIONAL USE  
EL DORADO COUNTY



MJJ 10/11/19