

# Staff Report 05

## **APPLICANT:**

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deBenedetti Tahoe House LLC, a California Limited Liability Company

## **PROPOSED ACTION:**

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Issuance of a General Lease – Recreational Use

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

Sovereign land in Lake Tahoe, adjacent to 5580 West Lake Boulevard, near Homewood, Placer County.

## **AUTHORIZED USE:**

Continued use and maintenance of two existing mooring buoys.

## **TERM:**

10 years, beginning December 1, 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 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:**

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### **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:**

On June 23, 2011, the Commission authorized a Recreational Pier Lease for the continued use and maintenance of two existing mooring buoys to John F. deBenedetti, as Trustee of the deBenedetti Family Trust U/A/D 10-14-04 F/B/O John F. deBenedetti separate property; Mary deBenedetti, as Trustee of the Newman-deBenedetti Family Trust, U/A/D 3/27/98 F/B/O Mary deBenedetti separate property; and Ann deBenedetti Levis, Trustee of the Ann deBenedetti Levis Trust, dated December 12, 2007 ([Item C04, June 23, 2011](#)). On September 21, 2012, ownership of the upland property was transferred to the Applicant. The lease expires on November 30, 2020. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of two existing mooring buoys. The Applicant has registered the mooring buoys with TRPA (#10573, dated July 14, 2019).

Staff recommends the Applicant's lease begin on December 1, 2020, the day after the prior lease ends. Staff further recommends acceptance of compensation in the amount of \$3,782 for the period beginning September 21, 2012, when ownership was transferred to an LLC and no longer qualified for rent-free status pursuant to the terms of the existing lease, through November 30, 2020, the day before the proposed new lease begins.

The subject facilities are privately owned and maintained, 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 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 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 common law Public Trust Doctrine; and is in the best interests of the State.

## **OTHER PERTINENT INFORMATION:**

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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, as the prior lessee, 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. 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:**

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- A. Land Description
- B. Site and Location Map

## **RECOMMENDED ACTION:**

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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 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 \$3,782 for unauthorized occupation of State land for the period beginning September 21, 2012 through November 30, 2020.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 1, 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 8263**

**LAND DESCRIPTION**

Two (2) parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 12, Township 14 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

**PARCELS 1 & 2 – BUOYS**

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded September 21, 2012 as Document Number 2012-0087876-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 09/02/2020 by the California State Lands Commission Boundary Unit.

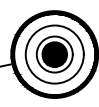




# LAKE TAHOE



EXISTING  
BUOYS (2)



APN  
097-182-005

6223' ± LTD

APPROX.  
SHORELINE

## EXHIBIT A

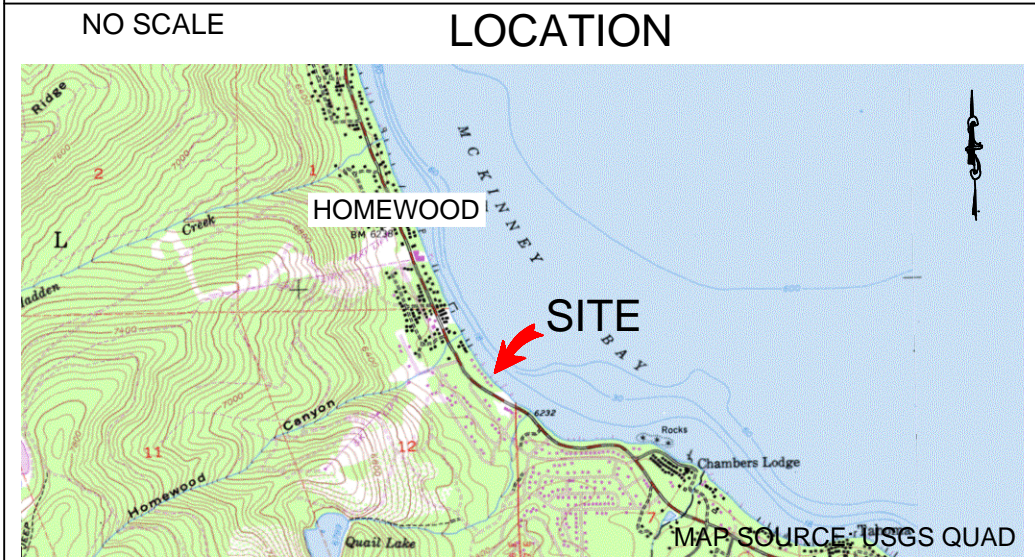
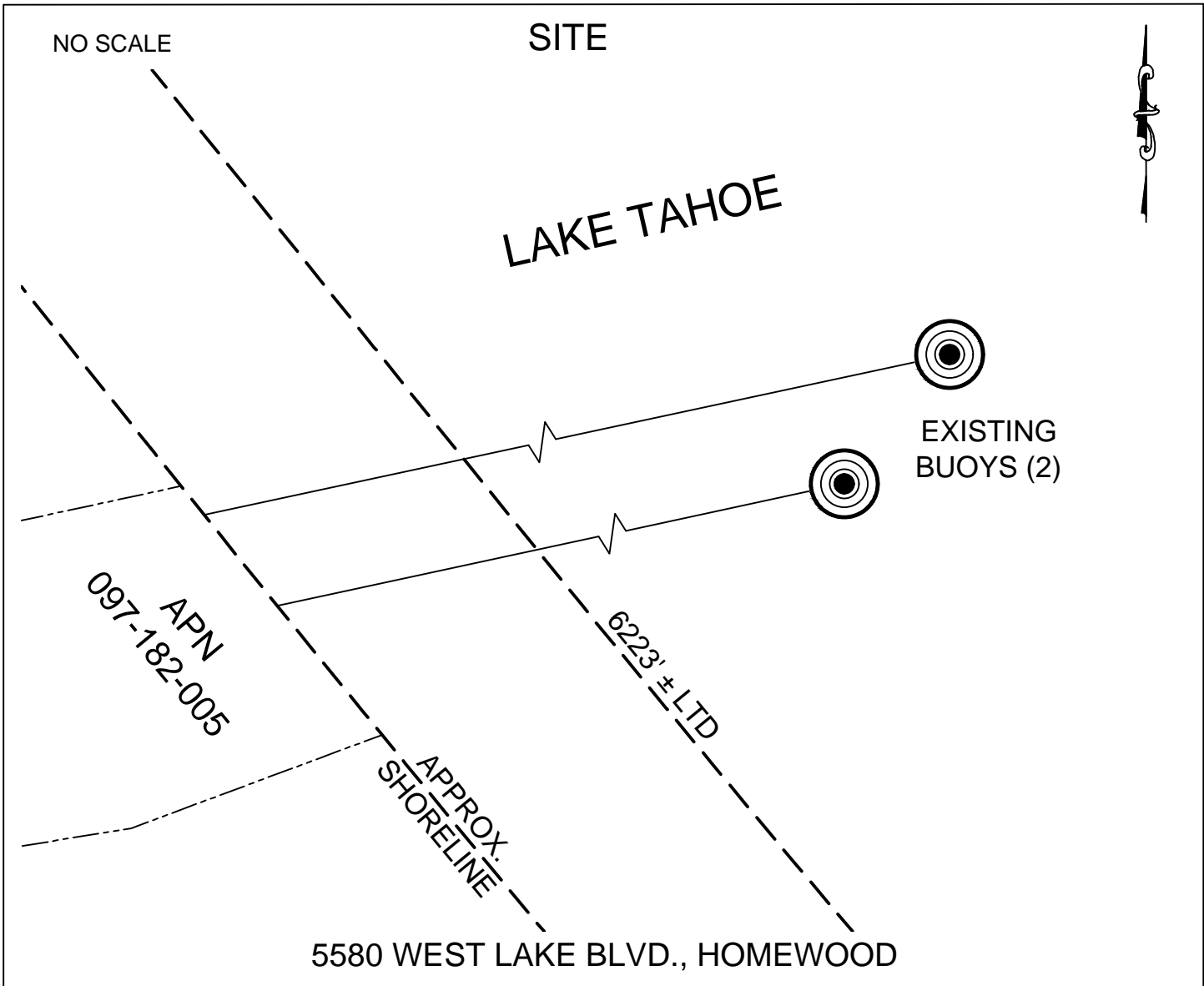
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LAND DESCRIPTION PLAT  
LEASE 8263, deBENEDETTI  
FAMILY TRUST LLC  
PLACER COUNTY

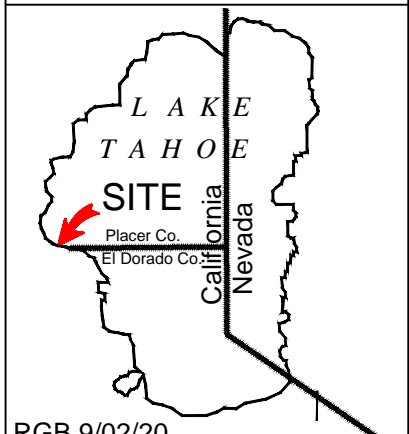
CALIFORNIA STATE  
LANDS COMMISSION





**EXHIBIT B**

LEASE 8263  
deBENEDETTI TAHOE  
HOUSE LLC  
APN 097-182-005  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY



RGB 9/02/20

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.