

# Staff Report 06

## **APPLICANT:**

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Oliver Barnhard Friedrichs

## **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 1270 West Lake Boulevard, near Tahoe City, Placer County.

## **AUTHORIZED USE:**

Continued use and maintenance of two existing mooring buoys.

## **TERM:**

10 years, beginning December 17, 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 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.
- 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.

## **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 28, 2010, the Commission authorized a Recreational Pier Lease for the continued use and maintenance of two existing mooring buoys to Robert N. Grant, as Trustee of Title Services Trust dated May 7, 2001 ([Item C70, June 28, 2010](#)). That lease expired on June 27, 2020.

On August 20, 2013, upland ownership was transferred to Bill Nguyen and Amanda Nguyen, but the lease was never assigned to the Nguyens. On January 17, 2020, ownership of the upland parcel transferred to Oliver Barnhard Friedrichs. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the two existing mooring buoys.

The Applicant agreed to pay compensation for the unauthorized occupation of State land from January 17, 2020 through December 16, 2020, the day before the December Commission meeting when staff recommends the new lease begin. Staff further recommends the Commission accept compensation from the Applicant in the amount of \$693 for the unauthorized occupation of State land prior to the commencement of the proposed lease.

The Applicant owns the upland adjoining the lease premises. 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 two mooring buoys have existed for many years at this location. The two mooring buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. On September 29, 2009, TRPA issued a permit for the buoys (MOOR2009-2653). On September 27, 2019, TRPA registered the buoys under Permit No. 11277.

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 ensure the lease premises and indemnify the State for any liability incurred because 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:**

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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 may be required to remove the two existing 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 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 compensation from the Applicant in the amount of \$693 for the unauthorized occupation of State land for the period beginning January 17, 2020 through December 16, 2020.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 17, 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 8883**

**LAND DESCRIPTION**

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 18, Township 15 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, more particularly described as follows:

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded January 17, 2020 as Document Number 2020-0004913-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 08/13/2020 by the California State Lands Commission Boundary Unit.





APN  
083-202-011

6223'± LTD

250'±

400'±

LAKE TAHOE

EXISTING  
BUOYS (2)

## EXHIBIT A

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LAND DESCRIPTION PLAT  
LEASE 8883, FRIEDRICHS  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

SITE



APN  
083-202-011

6223'± LTD

250'±

400'±

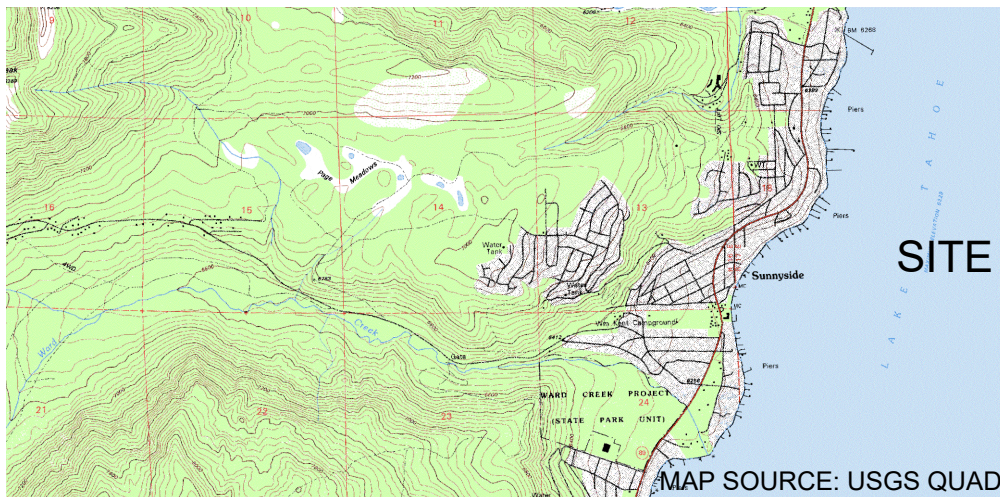
LAKE TAHOE

EXISTING  
BUOYS (2)

1270 WEST LAKE BOULEVARD, TAHOE CITY

NO SCALE

LOCATION

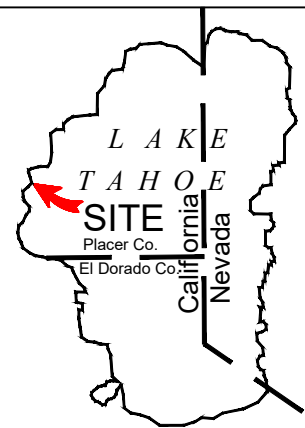


SITE

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 8883  
FRIEDRICHS  
APN 083-202-011  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY



TS 08/13/2020