

Staff Report 14

APPLICANT:

The Woodrow A. Hahn and Charlotte M. Hahn Living Trust Dated June 7, 1977,
Charlene R. Doyle and Beverly J. Garton, Co-Trustees

PROPOSED ACTION:

Issuance of a General Lease - Recreational Use

AREA, LAND TYPE, AND LOCATION

Sovereign land in Lake Tahoe, adjacent to 3165 West Lake Boulevard, near
Homewood, Placer County.

AUTHORIZED USE:

Use and maintenance of one existing mooring buoy not previously authorized by
the Commission.

TERM:

10 years, beginning February 23, 2021.

CONSIDERATION:

\$377 per year, with an annual Consumer Price Index adjustment; and \$553 for
unauthorized occupation of State land for the period beginning September 5, 2019
through February 22, 2021.

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:

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 May 21, 2019, the upland property was deeded to The Woodrow A. Hahn and Charlotte M. Hahn Living Trust Dated June 7, 1977, Charlotte M. Hann, trustee. According to the Trust, Woodrow A. Hahn died on June 18, 1995. On November 14, 2019, Charlotte M. Hann, the surviving settlor, resigned as trustee of the Trust and appointed Beverley J. Garton and Charlene R. Doyle, as co-trustees. Charlene R. Doyle and Beverly J. Garton, Co-Trustees of The Woodrow A. Hahn and Charlotte M. Hahn Living Trust Dated June 7, 1977, known as the Applicant, have applied on behalf of the Trust.

The Applicant is applying for a General Lease – Recreational Use for the use and maintenance of one existing mooring buoy not previously authorized by the Commission. The buoy has existed for many years at this location but was never under lease, and TRPA has determined that the buoy meets the minimum requirements for mooring registration. The Applicant registered the buoy with TRPA on June 10, 2020 (Registration #10892).

Staff recommends the Applicant's lease begin on February 23, 2021, the day of the commission meeting. Staff further recommends acceptance of compensation in the amount of \$553 for the period beginning September 5, 2019, when the application for registration to Tahoe Regional Planning Agency was submitted, through February 22, 2021, the day before the proposed new lease begins.

The subject buoy is privately owned and maintained 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 buoy is located directly lakeward of the upland property and occupies 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 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 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. 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

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:

1. Authorize acceptance of compensation from the Applicant in the amount of \$553 for unauthorized occupation of State land for the period beginning September 5, 2019 through February 22, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 23, 2021, for a term of 10 years, for the use and maintenance of one existing mooring buoy not previously authorized by the Commission, 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

A 2767

LAND DESCRIPTION

One parcel of submerged land situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 25, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

One circular parcel of land, being 50 feet in diameter, underlying one existing buoy lying adjacent to those parcels described in Quitclaim Deed recorded May 21, 2019 as Document Number 2019-0033598 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 11/02/2020 by the California State Lands Commission Boundary Unit.





EXISTING BUOY (1)

LAKE TAHOE

138'±

6223'± LTD

APPROX. SHORELINE

STATE HIGHWAY 89

APN 085-280-048

EXHIBIT A

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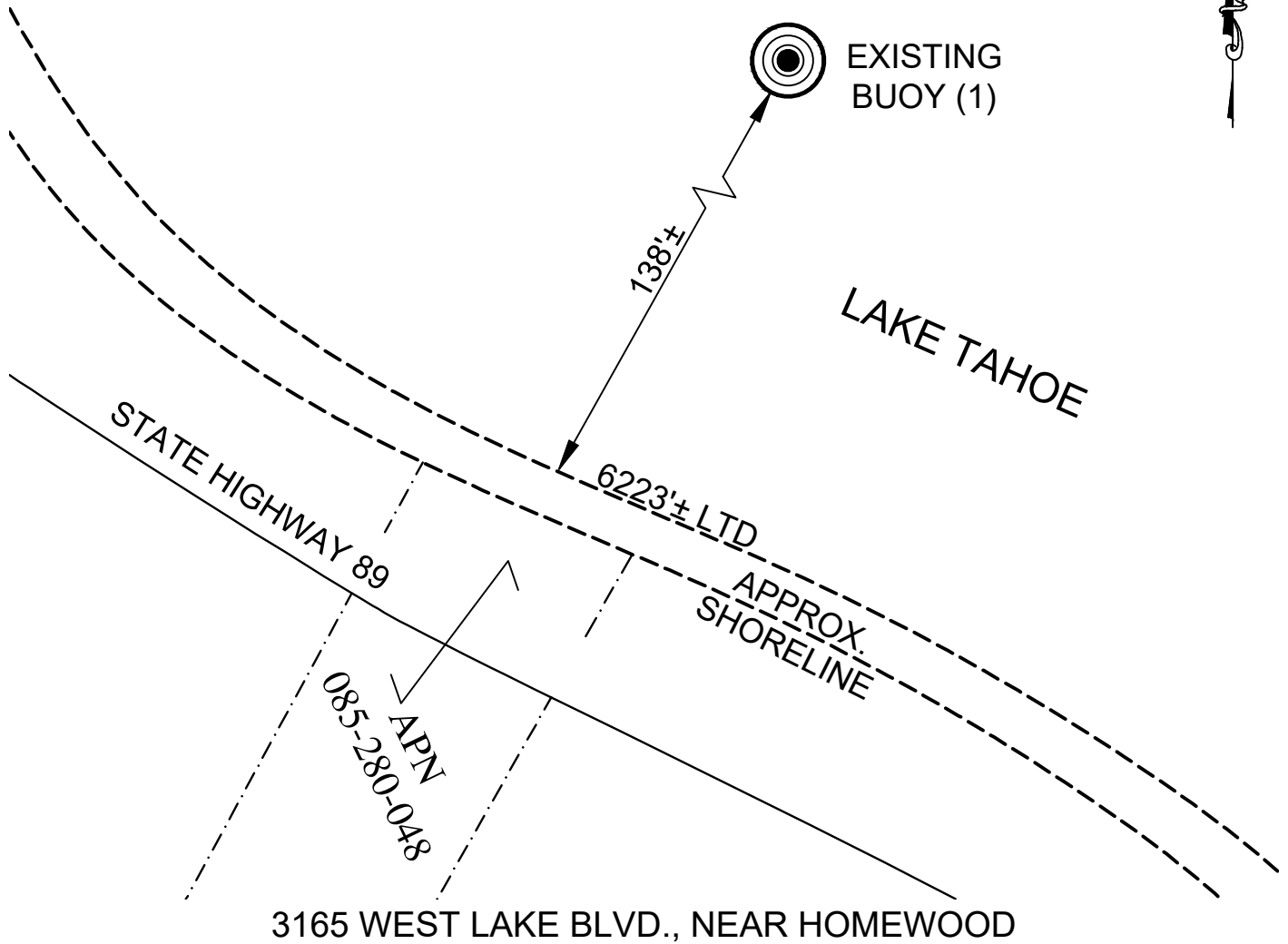
LAND DESCRIPTION PLAT
A2767 HAHN TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



NO SCALE

LOCATION



EXHIBIT B

A2767
 HAHN TRUST
 APN 085-280-048
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



RGB 11/02/20

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.