

# Staff Report 05

## **APPLICANT:**

---

Richard and Sheila Hickman

## **PROPOSED ACTION:**

---

Issuance of a General Lease – Recreational Use

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

Sovereign land in Lake Tahoe, adjacent to 7372 North Lake Boulevard, Tahoe Vista, Placer County.

## **AUTHORIZED USE:**

Use and maintenance of two existing mooring buoys not previously authorized by the Commission.

## **TERM:**

10 years, beginning February 23, 2021.

## **CONSIDERATION:**

\$754 per year, with an annual Consumer Price Index adjustment; and \$3,782 for unauthorized occupation of State land for the period beginning July 11, 2003 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 recreational uses.

## **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 December 14, 1966, the Commission authorized a Recreational Pier Permit to Paul Rieger for the use and maintenance of a pier. ([Item 34, December 14, 1966, PRC 3597.9](#)) The lease expired on December 13, 1976. On July 10, 1978, staff determined that the pier was located landward of the low water mark and is not within the Commission jurisdiction.

On July 11, 2003, the upland property was sold to the Applicant. Staff worked with the Applicant to apply for the two mooring buoys between 2003 and 2017. On June 9, 2017, the Applicant applied for a General Lease – Recreational Use for the use and maintenance of two existing buoys. The application was not deemed complete until July 1, 2020. The Applicant registered the buoys with TRPA on September 16, 2019 (Registration #11072).

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 \$3,782 for the unauthorized occupation of State Land. Staff also recommends a provision in the lease applying the indemnity provisions to the entire period of unauthorized occupation, beginning July 11, 2003, when ownership was transferred to the Applicant, through February 22, 2021, the day before the proposed new lease begins.

The subject buoys are privately owned and maintained 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 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 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:**

---

- 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 \$3,782 for unauthorized occupation of State land for the period beginning July 11, 2003 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 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**

**W 27121**

**LAND DESCRIPTION**

Two parcels of submerged land, situate in the bed of Lake Tahoe, lying adjacent to fractional Section 13, Township 16 North, Range 17 East, MDM, as shown on the Official Township Plat, approved November 10<sup>th</sup>, 1865, County of Placer, State of California, and more particularly described as follows:

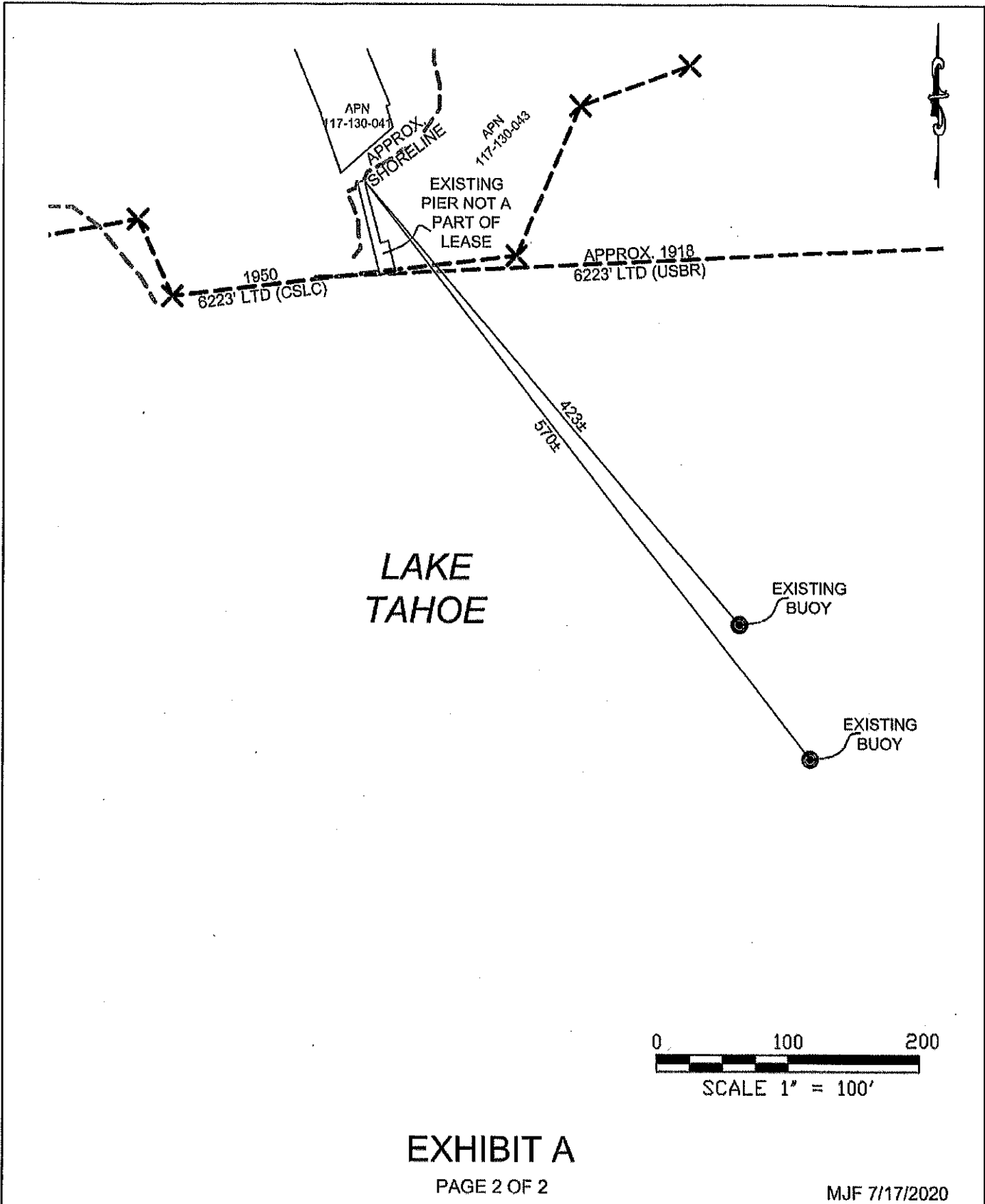
Two circular parcels of land, each being 50 feet in diameter, underlying an existing buoy, adjacent to that Parcel as described in "EXHIBIT ONE" of that Grant Deed recorded July 21<sup>th</sup>, 2003 as document number 2013-118655 in Official Records of said County.

Accompanying plat is hereby made a part of this description.

**END OF DESCRIPTION**

PREPARED 7/17/2020 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT





**EXHIBIT A**

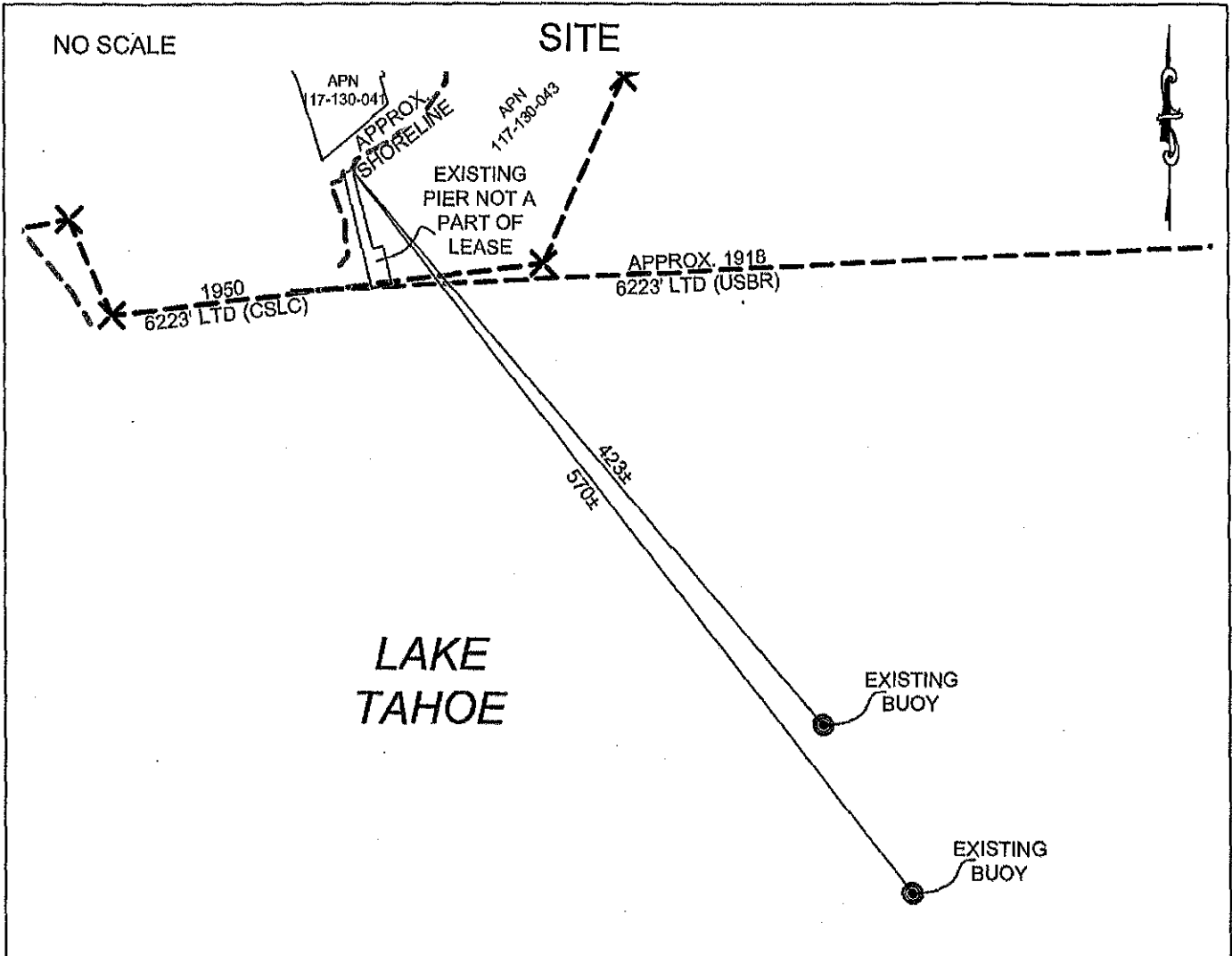
PAGE 2 OF 2

MJF 7/17/2020

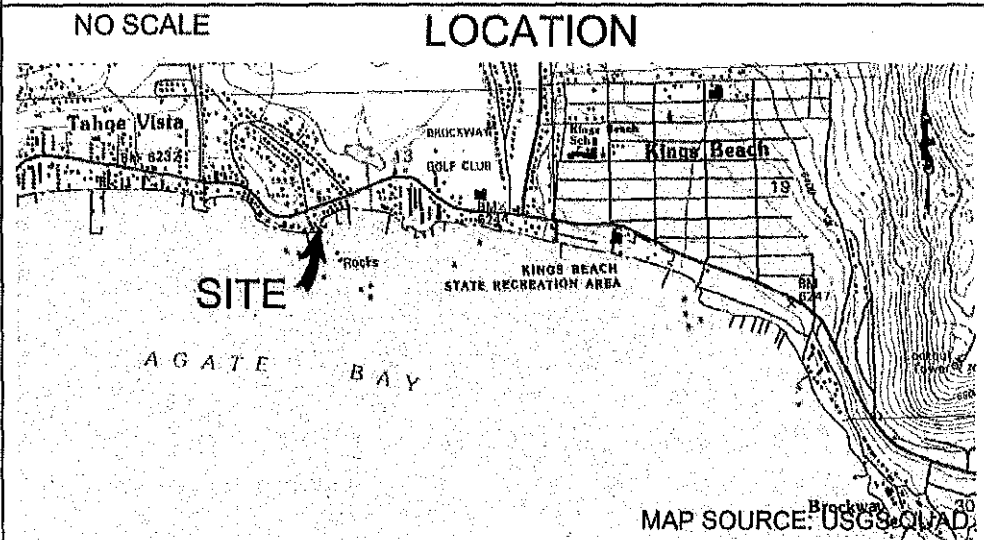
LAND DESCRIPTION PLAT  
W 27171, HICKMAN  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



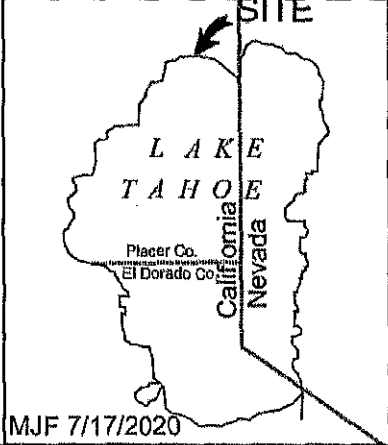


2 MOORING BUOYS ADJACENT TO 7372 NORTH LAKE BLVD, TAHOE VISTA



**EXHIBIT B**

W 27121  
HICKMAN  
APN 117-130-041  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY



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.

MJF 7/17/2020