

# Staff Report 02

## **LESSEE:**

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James F. Bagan and Meredith H. Bagan

## **APPLICANT:**

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William J. Glaser and Gina Glaser, Trustees of The Glaser Family Trust Agreement dated March 20, 2017

## **PROPOSED ACTION:**

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Acceptance of a Lease Quitclaim Deed; Void Invoice Number 51019 and Waive Penalty and Interest; and Issuance of a General Lease – Recreational Use

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

Sovereign land in Lake Tahoe, adjacent to 4762 North Lake Boulevard, near Carnelian Bay, Placer County.

## **AUTHORIZED USE:**

Use and maintenance of two existing mooring buoys.

## **TERM:**

10 years, beginning November 29, 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 that a TRPA permit is required for the Authorized Improvements and failure to obtain a permit from TRPA and maintain

compliance with that permit may result in TRPA imposing civil penalties and will constitute a breach of this lease.

- 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:**

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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 April 23, 2015, the Commission authorized a General Lease - Recreational Use to James F. Bagan and Meredith H. Bagan, for two existing mooring buoys ([Item C16, April 23, 2015](#)). That lease will expire on November 28, 2024. On July 10, 2020, the upland property was deeded to the Applicant. The Applicant is applying for a General Lease – Recreational Use for the use and maintenance of two existing mooring buoys in Lake Tahoe. The subject buoys have been registered with TRPA (Registration No. 10611).

Staff recommends that the effective date of the proposed new lease align with the lease anniversary date and rent paid-through date. Accounting records show the annual rent was paid through November 28, 2020. On September 14, 2020, an invoice was issued to the Lessee, for annual rent due for lease year November 2020 through November 2021. That invoice remains unpaid according to accounting records. Since the Lessee paid rent through its period of ownership and the new Applicant will be paying rent for the proposed lease term, there will be no gap in payment for the improvements. The proposed lease will require the Applicant to indemnify the State for the entire period of occupation, ensuring the State is protected. Therefore, staff recommends voiding invoice number 51019 and waiving any associated penalty and interest.

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 subject facilities have existed at this location for many years. 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:**

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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 Lessee or Applicant may be required to remove the two mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of a lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Acceptance of the quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of 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 issuance of the lease 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 a lease quitclaim deed, effective November 28, 2020, for Lease PRC 5074, a General Lease – Recreational Use, issued to James F. Bagan and Meredith H. Bagan.
2. Authorize voiding of annual rent invoice number 51019, issued to James F. Bagan and Meredith H. Bagan, and waive any associated penalty and interest.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning November 29, 2020, for a term of 10 years, for the 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 5074**

**LAND DESCRIPTION**

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 22, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

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 July 10, 2020 in Document Number 2020-0069420-00 in Official Records of said County.

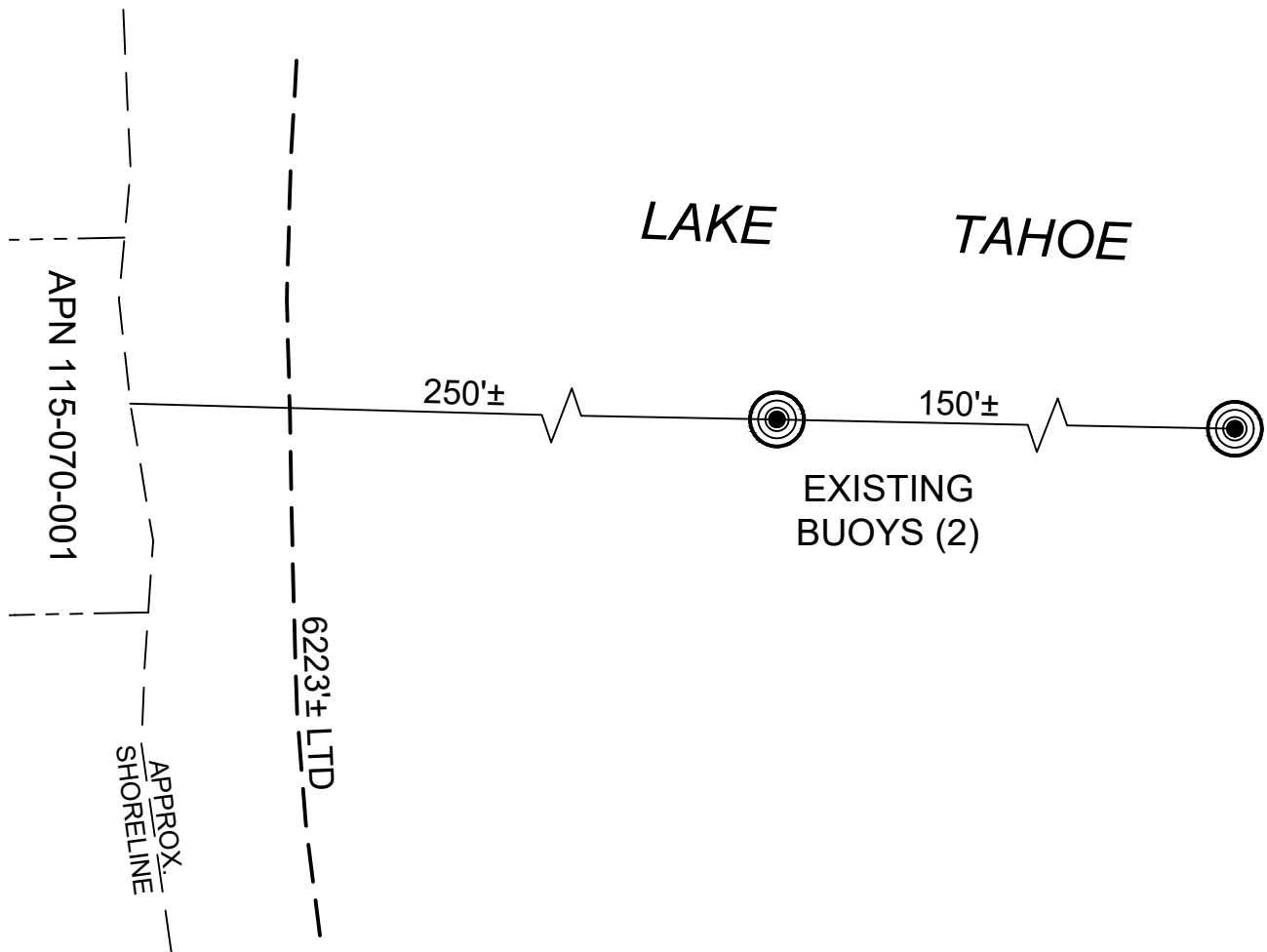
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 02/11/2021 by the California State Lands Commission Boundary Unit.



NO SCALE



## EXHIBIT A

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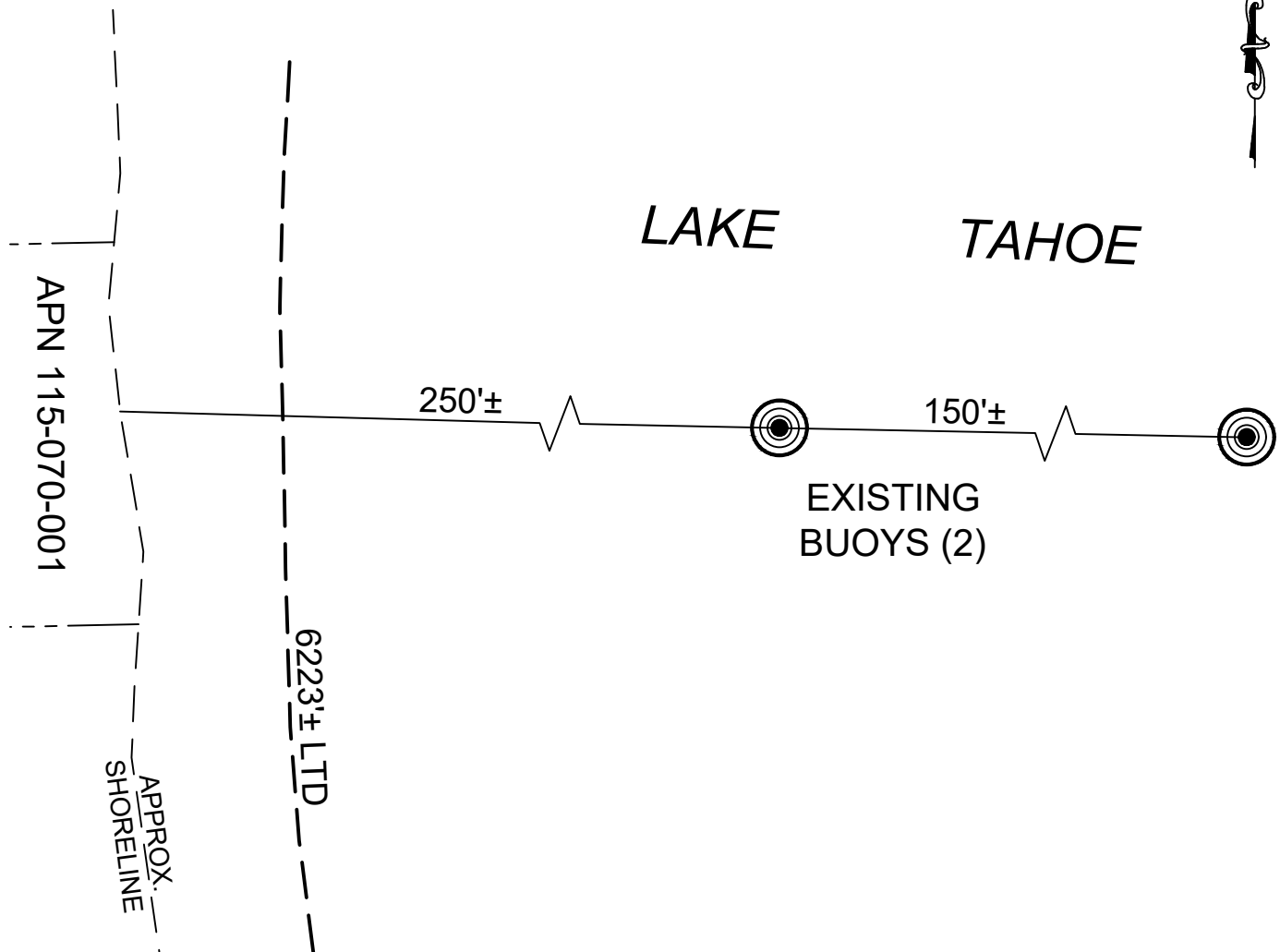
LAND DESCRIPTION PLAT  
LEASE 5074, GLASER FAMILY TRUST  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

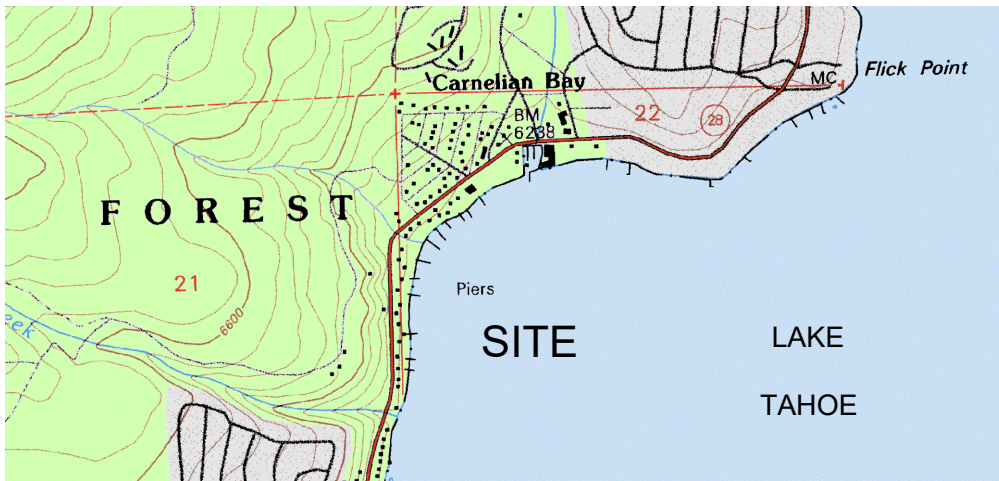
## SITE



4762 NORTH LAKE BLVD, NEAR CARNELIAN BAY

NO SCALE

## LOCATION



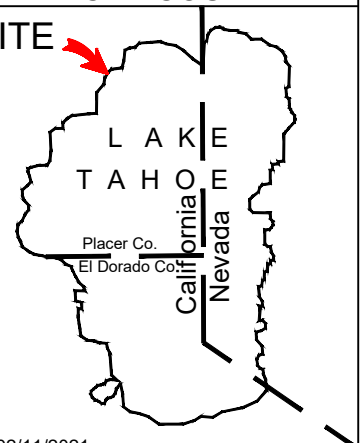
MAP SOURCE: USGS QUAD

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 5074  
GLASER FAMILY TRUST  
APN 115-070-001  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY

## **SITE**



TS 02/11/2021