

# Staff Report 05

## **APPLICANT:**

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Ruth Bley, Trustee of the Ruth Bley Living Trust, dated 8/24/11

## **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 111 Chipmunk Street, Kings Beach, Placer County

## **AUTHORIZED USE:**

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

## **TERM:**

10 years, beginning April 27, 2021

## **CONSIDERATION:**

\$754 per year, with an annual Consumer Price Index adjustment; and \$1,043 for the unauthorized occupation of State Land for the period beginning December 10, 2019 through April 26, 2021.

## **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 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.

## **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:**

The improvements occupying sovereign land adjacent to 111 Chipmunk Street have not been previously authorized by the Commission. On September 13, 2018, ownership of the upland parcel was deeded to Ruth Bley, Trustee of the Ruth Bley Living Trust, dated 8/24/11.

The upland parcel is improved with a single-family residence. On December 10, 2019, TRPA registered two mooring buoys under Permit No. 11373. When the previously unauthorized mooring buoys were discovered, staff requested the Applicant to come under lease. On August 14, 2020, the Applicant applied for a General Lease – Recreational Use, for two existing mooring buoys. Staff recommends the Applicant's lease begin on April 27, 2021. Staff further recommends acceptance of compensation for the unauthorized occupation of sovereign land in the amount of \$1,043 for the period beginning December 10, 2019, when the application for registration to TRPA was submitted, through April 26, 2021, the day before the proposed new lease begins.

The subject facilities are privately owned and maintained and are located in Lake Tahoe. The mooring buoys are used for recreational boating. Recreational boating is water-dependent and 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 lands. (Pub. Resources Code, § 6503.5).

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.

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 Applicant may be required to remove the 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.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
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 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 \$1,043 for the unauthorized occupation of State lands for the period beginning December 10, 2019 through April 26, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 27, 2021, for a term of 10 years, for the use and maintenance of two existing mooring buoys 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 \$754, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

## EXHIBIT A

A 2725

### LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 19, Township 16 North, Range 18 East, M.D.B.&M., as shown on Official Government Township Plat approved January 2, 1875, 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 as described in Grant Deed recorded September 13, 2018 in Document Number 2018-0066292-00, in Official Records of said County.

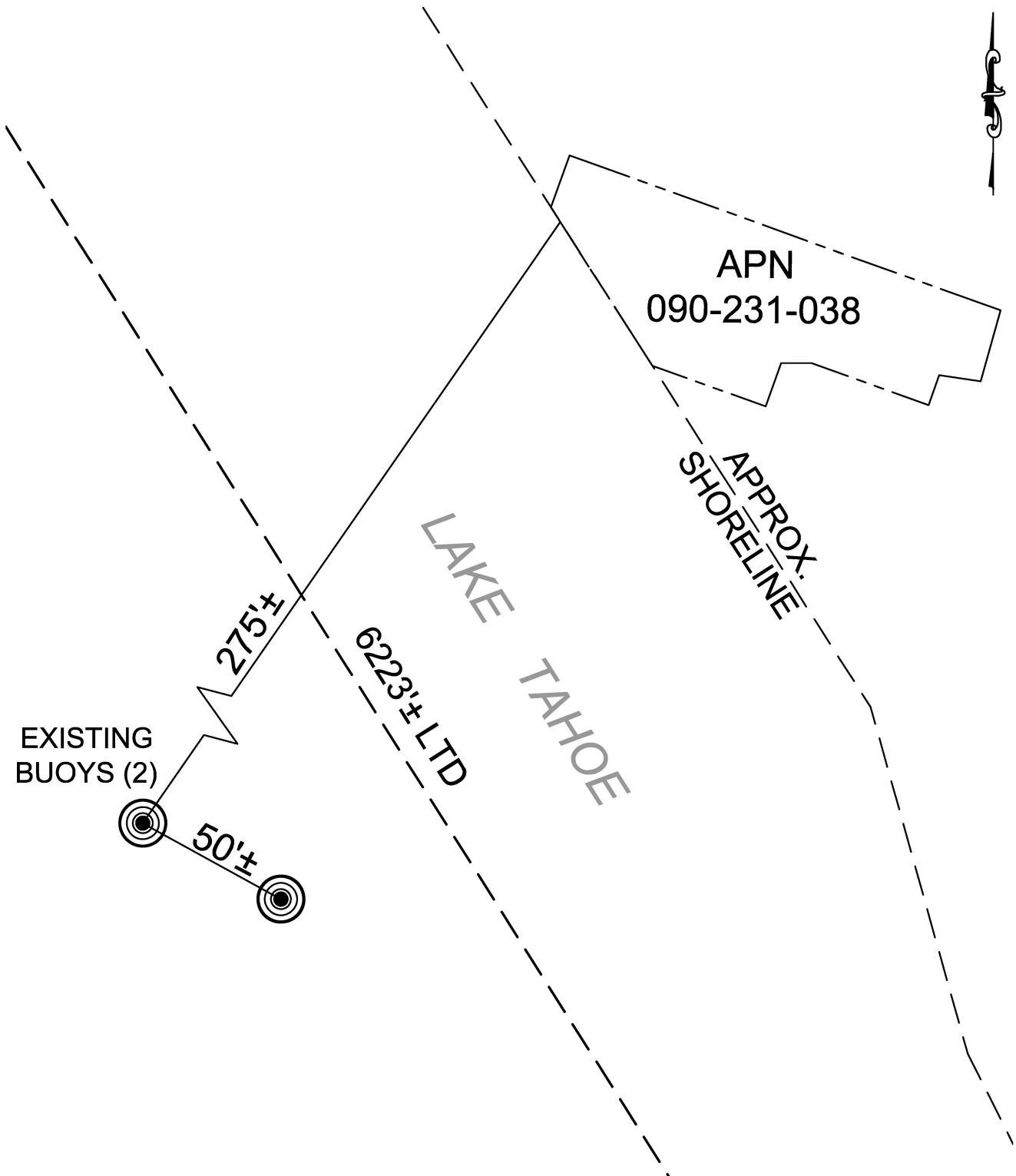
Accompanying plat is hereby made part of this description.

### END OF DESCRIPTION

Prepared 01/21/2021 by the California State Lands Commission Boundary Unit.



NO SCALE



## EXHIBIT A

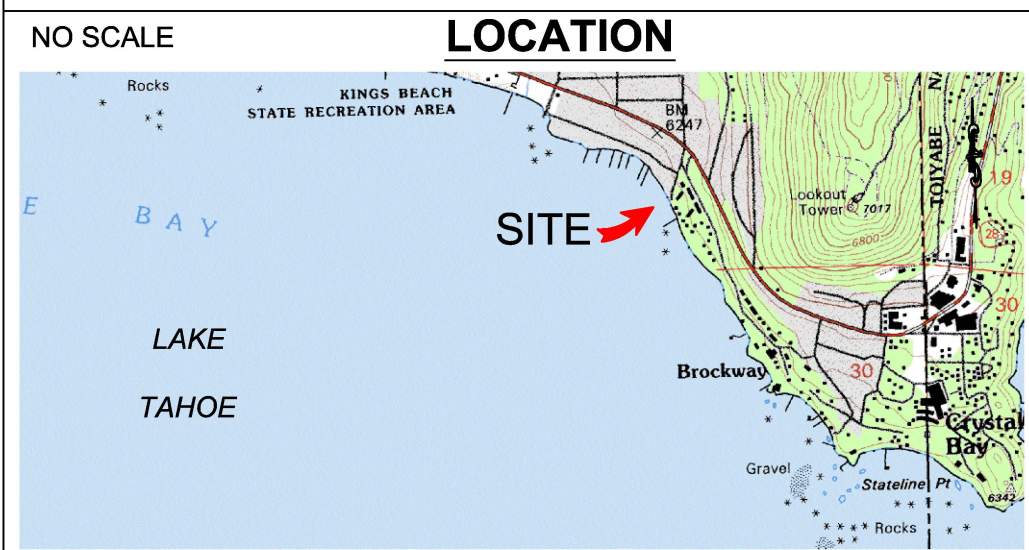
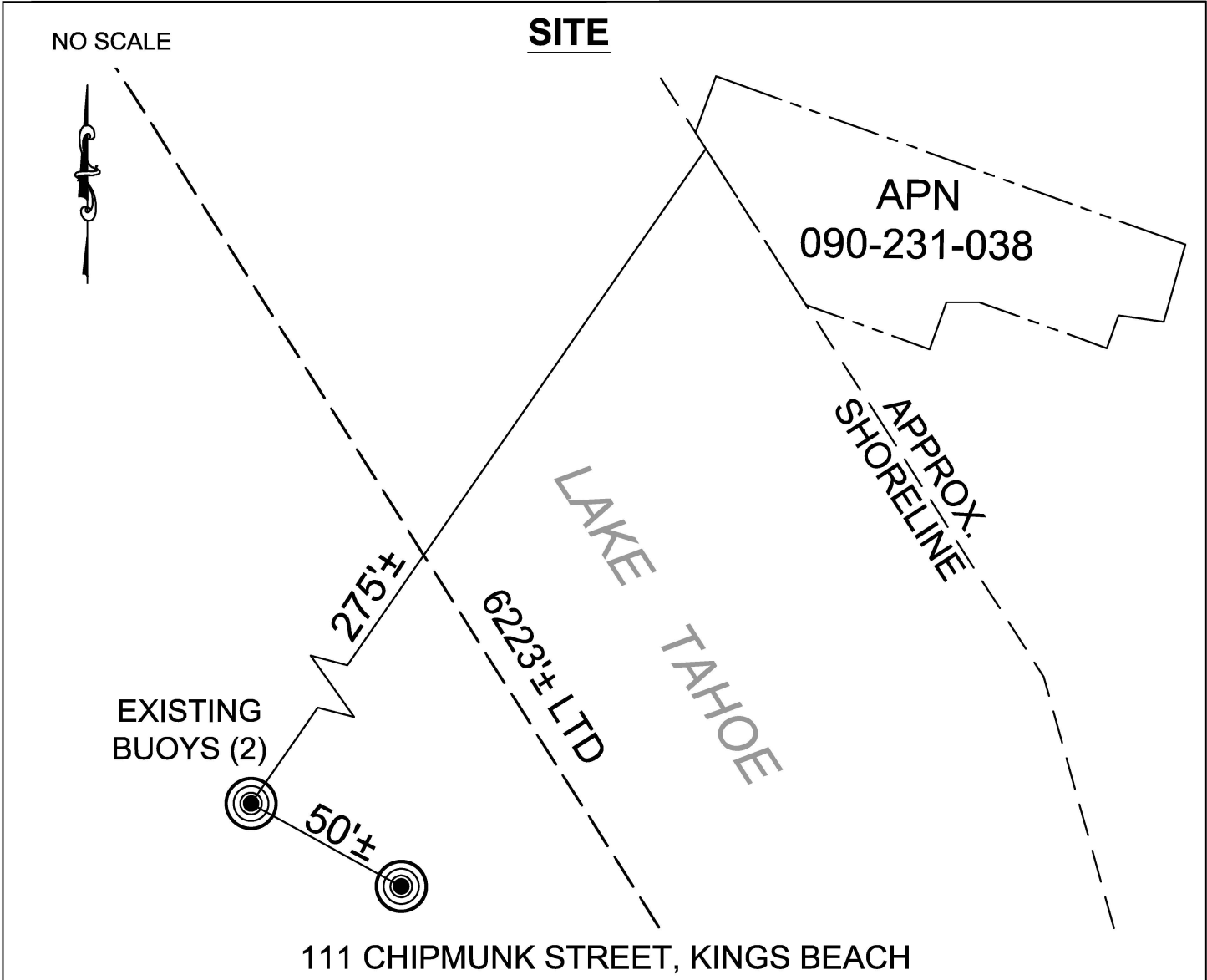
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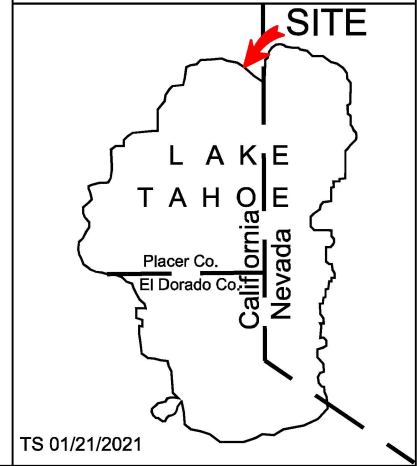
LAND DESCRIPTION PLAT  
A 2725, RUTH BLEY LIVING TRUST  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION





**Exhibit B**  
A 2725  
RUTH BLEY LIVING TRUST  
APN 090-231-038  
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.