

Staff Report 09

APPLICANT:

Debi L. Langston, as Trustee of the Debi L. Langston Living Trust, dated August 15, 2008

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8246 Brockway Vista Avenue, 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 \$188 to compensate for the unauthorized occupation of state sovereign land for the period beginning January 26, 2021 through April 26, 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 April 17, 2009, the upland property adjoining the lease premises 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 not previously authorized by the Commission. The U.S. Army Corps of Engineers determined the buoys existed prior to 1968. No prior application or TRPA registration existed until the Applicant registered the buoys with TRPA on January 26, 2021 (Permit No. 2020-2108).

Staff recommends the Applicant's lease begin on April 27, 2021, the day of the Commission meeting. Staff further recommends acceptance of compensation in the amount of \$188 for the unauthorized occupation of state sovereign land from January 26, 2021, when TRPA permitted the buoys, through April 26, 2021, the day before the April Commission meeting when the new lease is proposed to begin. Staff also recommends a provision in the lease applying the indemnity provisions to the entire period of unauthorized occupation.

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 for many years at this location. 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 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:

- 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 \$188 for unauthorized occupation of state sovereign land for the period beginning January 26, 2021 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

A2086

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 19, Township 16 North, Range 18 East, MDM., as shown on Official Government Township Plat approved January 29, 1875, County of Placer, State of California,
and more particularly described as follows:

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to those parcel as described in that Quitclaim Deed recorded April 17, 2009 in Document Number 2009-0031247-00 of Official Records of said County.

EXCEPTING THEREFROM any portions lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared May 24, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE



APN 090-073-019

APPROXIMATE SHORELINE

6223'± LTD

L A K E T A H O E

600'



130'

2 EXISTING BUOYS



EXHIBIT A

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LAND DESCRIPTION PLAT
A2086, LANGSTON LIVING TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN 090-073-019

APPROXIMATE SHORELINE

6223'± LTD

LAKE TAHOE

600'

130'

2 EXISTING BUOYS

8246 BROCKWAY VISTA AVENUE, KINGS BEACH



NO SCALE

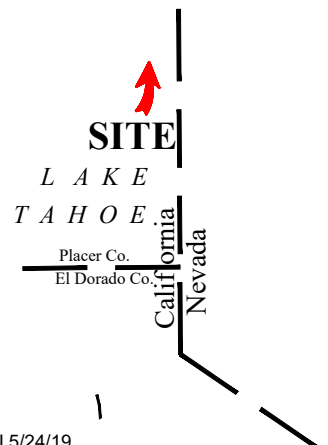
LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

A2086
LANGSTON LIVING TRUST
APN 090-073-019
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.

MJJ 5/24/19