

Staff Report 15

APPLICANT:

Carolyn M. Paul, Trustee of the Paul Family Trust dated January 22, 2001

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 4745 West Lake Boulevard, near Homewood, 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 \$1,381 to compensate for the unauthorized occupation of state sovereign land for the period beginning June 30, 2019 through April 26, 2021.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee acknowledges that a permit from the Tahoe Regional Planning Agency (TRPA) 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 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:

The two existing mooring buoys were identified as existing prior to 1968 by the U.S. Army Corps of Engineers letter, dated October 5, 2009. TRPA issued Mooring Tags on June 30, 2019. The Applicant is applying for a new lease for the continued use and maintenance of the two existing mooring buoys not previously authorized by the Commission.

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 \$1,381 for the unauthorized occupation of state sovereign land from June 30, 2019, 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 facilities are privately owned and maintained. The improvements 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 lands (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, and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove all improvements 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, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and 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 prior lessee and current Applicant may be jointly liable to remove the 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.

APPROVAL OBTAINED:

TRPA

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, or 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 \$1,381 for unauthorized occupation of state sovereign land for the period beginning June 30, 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 2518

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 1, Township 14 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, 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 Quitclaim Deed recorded February 23, 2001 as Document Number 2001-0014883 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.



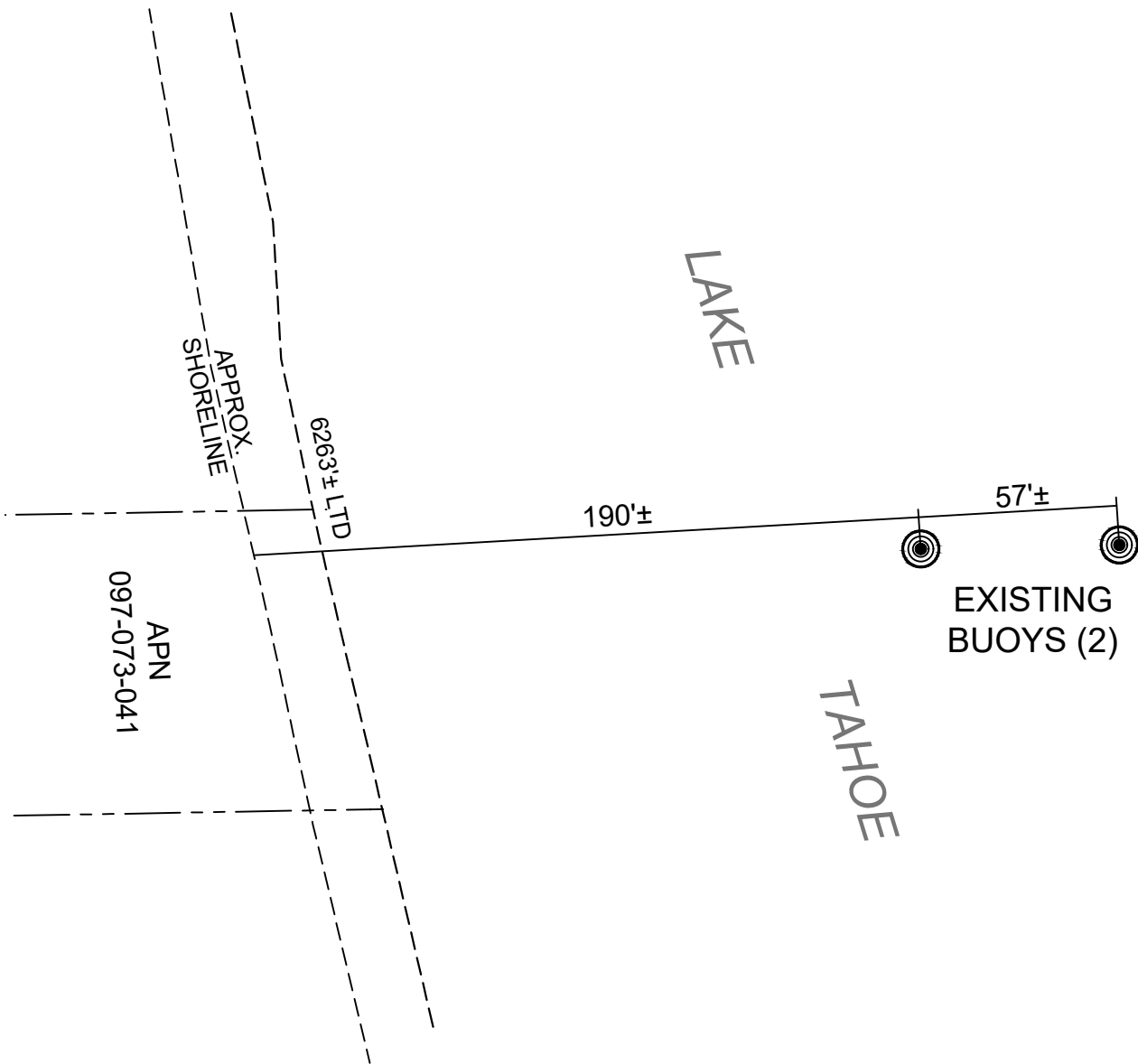


EXHIBIT A

Page 2 of 2

TS 11/02/2020

LAND DESCRIPTION PLAT
A 2518, PAUL FAMILY TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



SITE



LOCATION

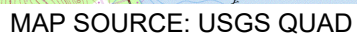


Exhibit B

LAKE
TAHOE
SITE

Placer Co.
El Dorado Co.

California
Nevada

4/22/2022

TS 11/02/2020