

Staff Report 05

LESSEE/APPLICANT:

Linda Nelson Davis, and Robert L. Webster, and Patricia Louise Nelson Atassi, as Co-Trustees of the Jennifer Joanna Davis Revocable Trust dated July 20, 2001, as amended and restated on July 3, 2012

PROPOSED ACTION:

Acceptance of a Lease Quitclaim Deed and Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 76 Lassen Drive, Tahoe City, Placer County.

AUTHORIZED USE:

Use and maintenance of one existing mooring buoy previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission.

TERM:

10 years, beginning August 1, 2021.

CONSIDERATION:

\$754 per year, with an annual Consumer Price Index adjustment, and \$726 to compensate for the unauthorized occupation of state sovereign land for one mooring buoy for the period beginning August 6, 2019 through July 31, 2021.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee expressly 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 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 February 9, 2016, the Commission authorized a 10-year General Lease - Recreational Use to Linda Nelson Davis, Robert L. Webster, and Patricia Louise Nelson Atassi, as Co-Trustees of the Jennifer Joanna Davis Revocable Trust dated July 20, 2001, as amended and restated on July 3, 2012, for one existing mooring buoy ([Item C06, February 9, 2016](#)). The lease will expire on July 31, 2025. On August 6, 2019, the Applicant registered the second mooring buoy with TRPA. The two mooring buoys are identified as TRPA registration number 10651. The Applicant is applying for a General Lease – Recreational Use for one existing mooring buoy previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission in Lake Tahoe.

Staff recommends acceptance of a lease quitclaim deed from the current Lessee and issuance of a new lease beginning August 1, 2021, to align with the lease anniversary. The Commission's accounting records show the annual rent for the one mooring is paid through July 31, 2021.

Staff is requesting compensation from the Applicant in the amount of \$726, for the unauthorized occupation of State land of the one existing mooring buoy, for the period beginning August 6, 2019 through July 31, 2021, the day preceding issuance of the proposed lease. Based on information provided in the application, the Applicant's second existing mooring buoy has existed in the lake for many years. The prior lease application did not include a request to approve the second buoy.

The two 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 mooring 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 Lessee and Applicant may be required to remove the 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 a lease 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:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

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, July 31, 2021, of Lease 9317, a General Lease – Recreational Use, issued to Linda Nelson Davis, Robert L. Webster, and Patricia Louise Nelson Atassi, as Co-Trustees of the Jennifer Joanna Davis Revocable Trust dated July 20, 2001, as amended and restated on July 3, 2012.
2. Authorize acceptance of compensation from the Applicant in the amount of \$726, for the unauthorized occupation of State land for the period of August 6, 2019 through July 31, 2021, the day preceding issuance of the proposed lease.

3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 1, 2021, for a term of 10 years, for the use and maintenance of one existing mooring buoy previously authorized by the Commission and one existing mooring buoy 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

LEASE 9317

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 32, 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 parcel of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded March 6, 2014 as Document Number 2014-0014154-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 12/21/2020 by the California State Lands Commission Boundary Unit.



NO SCALE

APN
093-060-022

APPROX.
SHORELINE

360'±

6223'± LTD

EXISTING
BUOYS (2)

60'±

LAKE *TAHOE*

EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 9317, DAVIS REVOCABLE TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN
093-060-022

APPROX.
SHORELINE

360'±

6223'± LTD

EXISTING
BUOYS (2)

60'±

LAKE TAHOE

76 LASSEN DRIVE, TAHOE CITY



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 9317
DAVIS REVOCABLE TRUST
APN 093-060-022
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



TS 12/21/2020