

Staff Report 09

LESSEE/APPLICANT:

Paul C. Cress and Lorie S. Cress, as Trustees of the Cress Family 2002 Revocable Living Trust

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 5250 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

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

TERM:

10 years, beginning December 8, 2021.

CONSIDERATION:

\$819 per year, with an annual Consumer Price Index adjustment; and \$456 for the unauthorized occupation of state lands for the period beginning September 21, 2020 through December 7, 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 the 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, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 28, 2016, the Commission authorized a General Lease – Recreational Use to Paul C. Cress and Lorie S. Cress, as Trustees of The Cress Family 2002 Revocable Living Trust, established on November 26, 2003 for two existing mooring buoys ([Item C19, June 28, 2016](#)). The lease expires on June 27, 2026, but the Applicant wants to quitclaim the existing lease early and enter a new lease that encompasses a third mooring buoy not previously authorized by the Commission. The Applicant is applying for a General Lease – Recreational Use for the use and maintenance of the two existing mooring buoys previously authorized by the Commission and the one existing mooring buoy not previously authorized by the Commission. On September 21, 2020, the Applicant registered all three buoys with TRPA (Registration No. 101121).

Staff recommends acceptance of a lease quitclaim deed from the current Lessee and issuance of a new lease beginning December 8, 2021, the date of the Commission meeting. The Commission's accounting records show the annual rent for the two previously authorized mooring buoys is paid through June 28, 2022. This rent will be prorated through December 7, 2021, and the remainder credited towards the rent owed for the new proposed lease.

Staff recommends the Commission accept compensation from the Applicant in the amount of \$456 for the unauthorized occupation of state land for the one existing mooring buoy not under lease, for the period beginning September 21, 2020, through December 7, 2021, the day preceding issuance of the proposed lease.

The three 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 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 three 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 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, dated October 19, 2021 and effective December 8, 2021, of Lease 9341, a General Lease – Recreational Use, issued to Paul C. Cress and Lorie S. Cress, as Trustees of The Cress Family 2002 Revocable Living Trust, established on November 26, 2003.
2. Authorize acceptance of compensation from the Applicant in the amount of \$456, for the unauthorized occupation of state land for the period of September 21, 2020 through December 7, 2021, the day preceding issuance of the proposed lease.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 8, 2021, for a term of 10 years, for the use and maintenance of two existing mooring buoys 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 \$819, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 9341

LAND DESCRIPTION

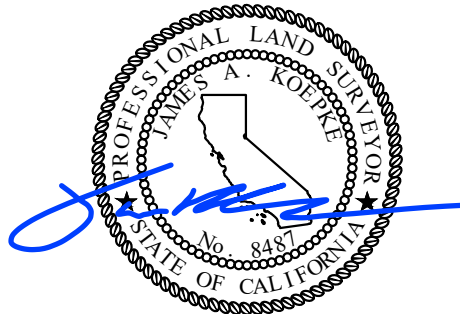
Three parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to fractional Section 1, Township 14 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

Three circular parcels of land, each being 50 feet in diameter, underlying three existing buoys lying adjacent to that parcel described in Quitclaim Deed recorded December 4, 2003 as Document Number 2003-0202131 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 02/18/2021 by the California State Lands Commission Boundary Unit.



NO SCALE

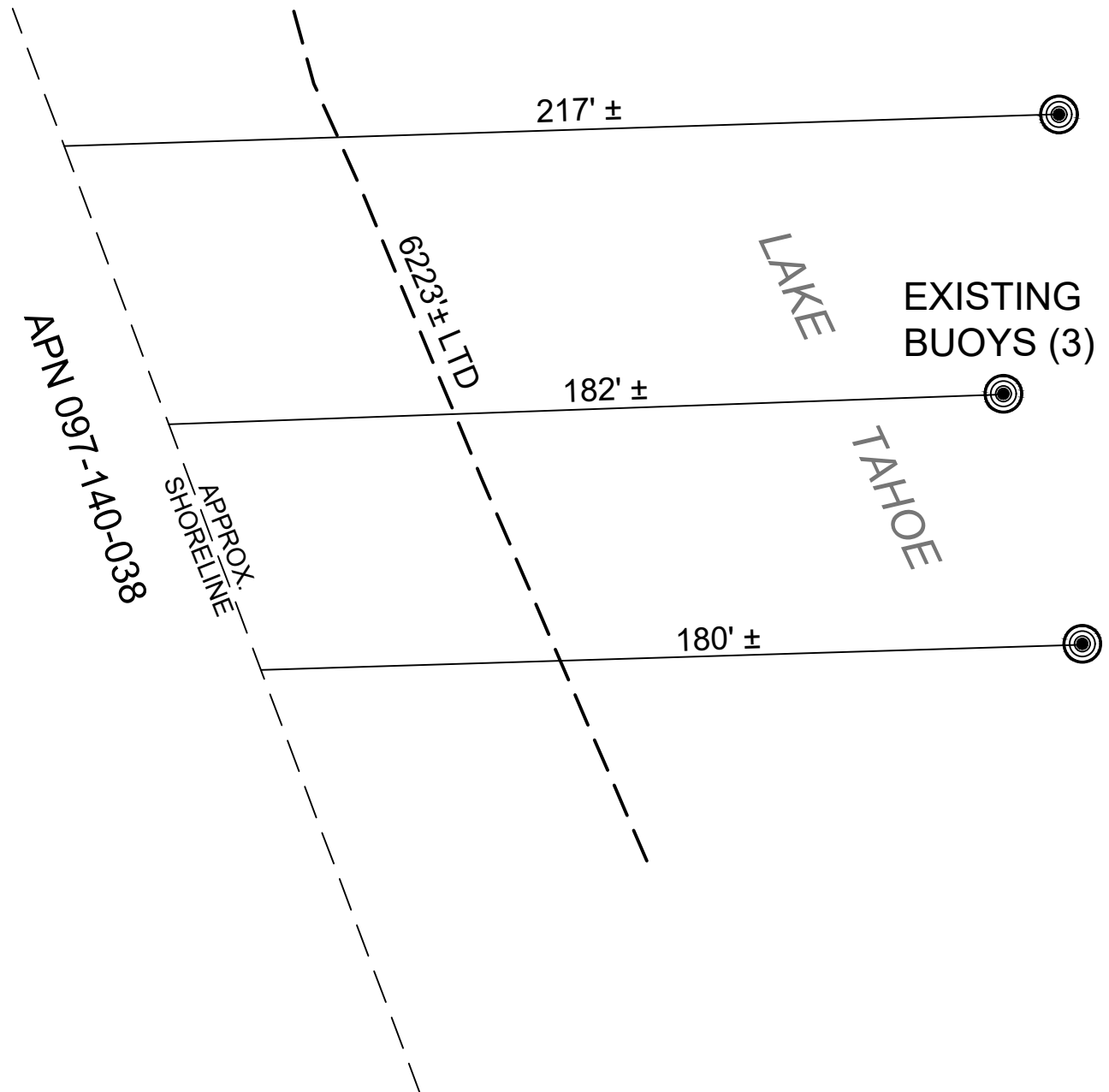


EXHIBIT A

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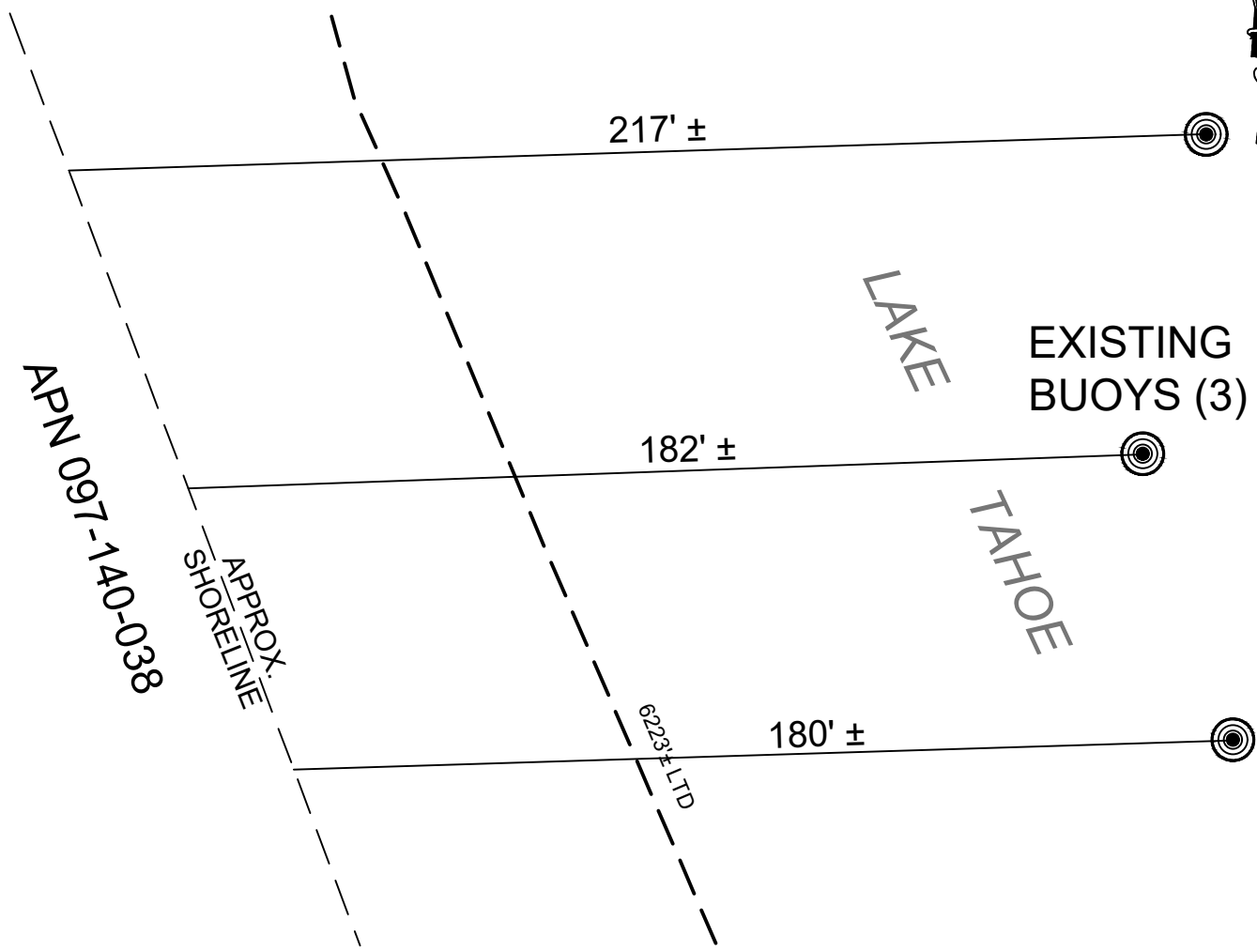
LAND DESCRIPTION PLAT
LEASE 9341, CRESS FAMILY TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

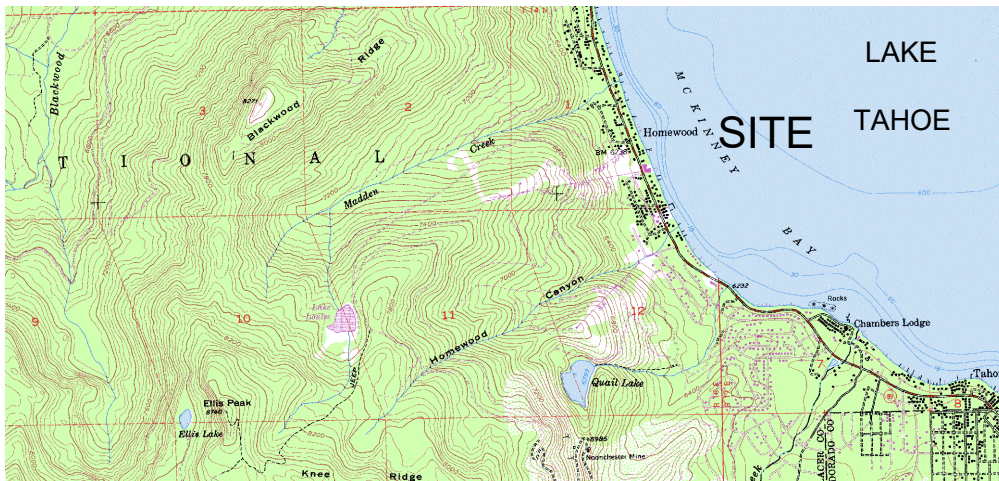
SITE



5250 WEST LAKE BLVD. NEAR HOMEWOOD

NO SCALE

LOCATION

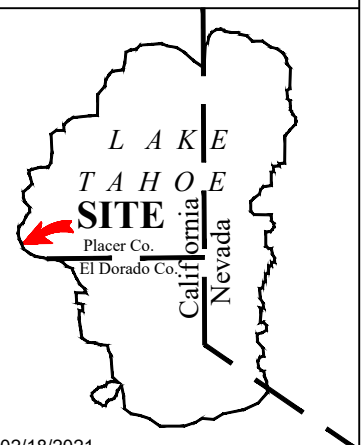


MAP SOURCE: USGS QUAD

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 9341
CRESS FAMILY TRUST
APN 097-140-038
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



TS 02/18/2021