

# Staff Report 24

## **APPLICANT:**

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Robert A. Robben and Suzanne A. Robben Trustees of the Robben 1993 Family Trust dated June 25, 1993

## **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 3208 Edgewater Drive, near Tahoe City, 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 a total of \$1,033 to compensate for the unauthorized occupation of state sovereign land for one existing mooring buoy, that was not previously authorized (\$831), and for two existing mooring buoys, previously authorized, for which authorization had expired (\$202).

## **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:**

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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:**

On September 1, 2011, the Commission authorized a 10-year Recreational Pier Lease to Robert A. Robben and Suzanne B. Robben, Trustees of the Robben 1993 Family Trust dated June 25, 1993, for use and maintenance of two existing mooring buoys in Lake Tahoe ([Item C23, September 1, 2011; this item erroneously listed Suzanne Robben's middle initial as "B"](#)). On September 23, 2019, the Applicant registered one additional mooring buoy with TRPA, which was not previously authorized by the Commission. The Applicant's prior lease with the Commission expired on August 31, 2021. The Applicant is now applying for a General Lease – Recreational Use, for two existing mooring buoys previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission. All three mooring buoys were registered with TRPA under registration number 10052. Based on the information provided in the application and Commission records, the subject buoys have existed at this location for many years, as shown on prior lease exhibits and TRPA records.

Staff is requesting compensation from the Applicant in the amount of \$831, for the unauthorized occupation of State land for one existing mooring buoy not previously under lease, for the period beginning September 23, 2019 through December 7, 2021, the day preceding issuance of the newly proposed lease. Additionally, staff is requesting compensation in the amount of \$202, for the unauthorized occupation of State land for the two existing mooring buoys which resided on State land past the lease expiration date, for the period beginning September 1, 2021 through December 7, 2021, the day preceding issuance of the proposed lease.

The subject facilities are privately owned and maintained by the Applicant. The mooring buoys are used for 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 facilities 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:**

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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 Lessee and Applicant may be required to remove the three mooring 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. 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 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 \$831, for the unauthorized occupation of State land for one existing mooring buoy, for the period of September 23, 2019 through December 7, 2021.
2. Authorize acceptance of compensation from the Applicant in the amount of \$202, for the unauthorized occupation of State land for two existing mooring buoys, for the period of September 1, 2021 through December 7, 2021.
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 8939**

### **LAND DESCRIPTION**

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 33, 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:

Three circular parcels of land, each being 50 feet in diameter, underlying three existing buoys lying adjacent to those parcels described in Grant Deed recorded September 27, 2005 in Document Number 2005-0129634 in Official Records of said County.

Accompanying plat is hereby made part of this description.

### **END OF DESCRIPTION**

Prepared 06/24/2021 by the California State Lands Commission Boundary Unit.



NO SCALE



APN  
093-072-043

APPROX.  
SHORELINE

6223' LTD

*LAKE*

*TAHOE*

260'±

50'±

40'±

EXISTING  
BUOYS (3)

EXHIBIT A

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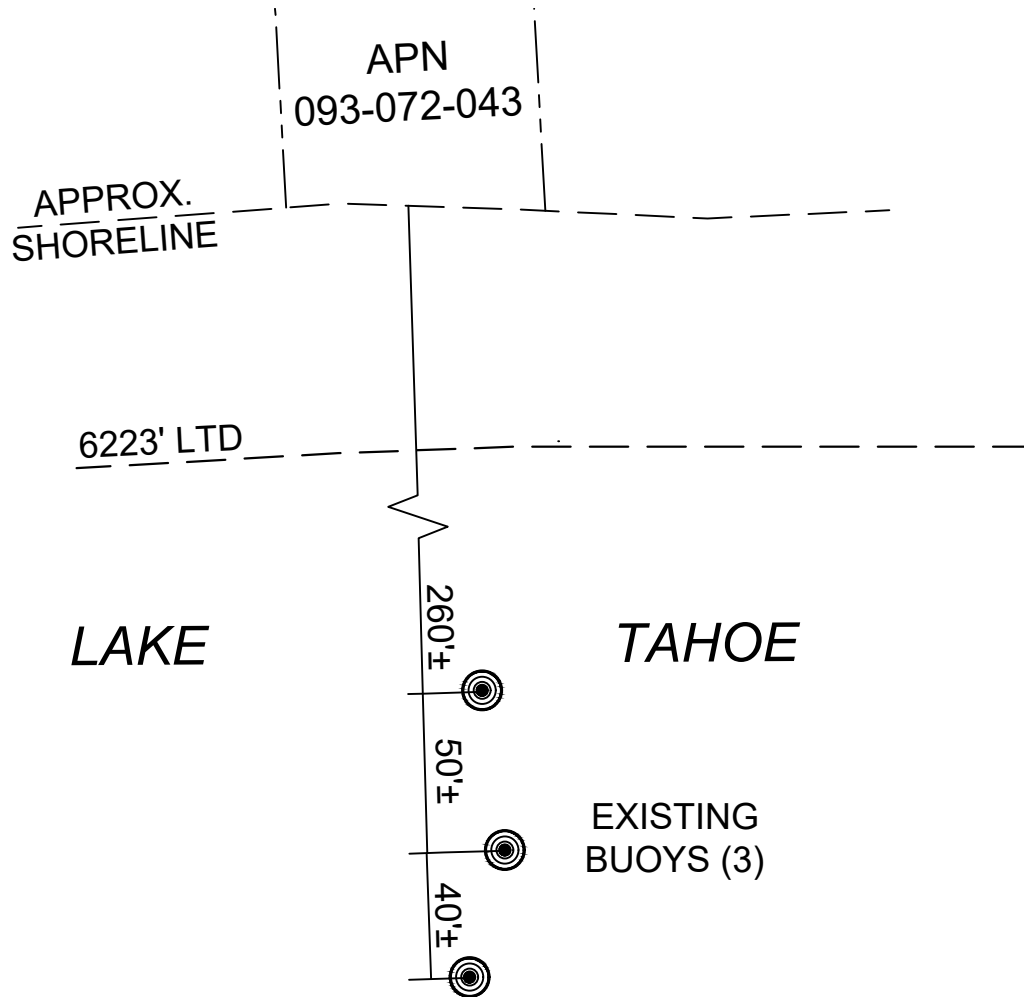
LAND DESCRIPTION PLAT  
LEASE 8939, ROBBEN 1993 FAMILY TRUST  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

## SITE



3208 EDGEWATER DRIVE, NEAR TAHOE CITY

NO SCALE

## LOCATION



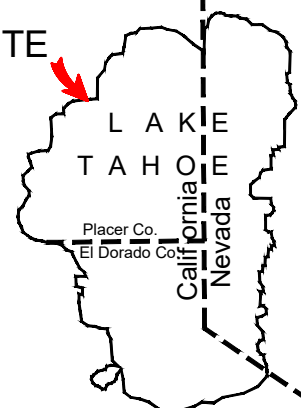
MAP SOURCE: USGS QUAD

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 8939  
ROBBEN 1993 FAMILY  
TRUST  
APN 093-072-043  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY

SITE



TS 06/24/2021