

Staff Report 15

LESSEE:

Laura Rosch Gillette and Thomas Lee Rosch

APPLICANT:

3340 Edgewater Lake Tahoe LLC, a California limited liability company; and
391a120lo LLC, a California limited liability company

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 3340 Edgewater Drive, near Tahoe City,
Placer County.

AUTHORIZED USE:

Use and maintenance of two existing mooring buoys.

TERM:

10 years; beginning October 25, 2022.

CONSIDERATION:

\$546 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- 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.

- 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 agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.

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 April 20, 2017, the Commission authorized issuance of a 10-year General Lease – Recreational Use to Laura Rosch Gillette and Thomas Lee Rosch, for two existing mooring buoys ([Item 05, April 20, 2017](#)). That lease will expire on August 22, 2026. The Lessee now wishes to execute a quitclaim deed to release its interest in the Lease based on modifications to upland title. On November 16, 2018, the Lessee transferred ownership interest to the legal entities known as 3340 Edgewater Lake Tahoe LLC, a California limited liability company; and 391a120lo LLC, a California limited liability company. Both entities are registered with the California Secretary of State's Office. The Applicant is now applying for a General Lease – Recreational Use, for use and maintenance of two existing mooring buoys in Lake Tahoe. On January 17, 2022, the Applicant registered the mooring buoys with the TRPA under registration number 11069. Based on the lease application and Commission records, the facilities have existed at this location for many years.

Staff recommends acceptance of a lease quitclaim deed from the Lessee and issuance of a new lease to Applicant beginning October 25, 2022, to coincide with the date of the Commission meeting. The new lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation from November 16, 2018 through October 24, 2022, ensuring the State is fully protected. The Commission's accounting records show that the annual rent is paid current through August 22, 2023. The rent will be prorated through October 24, 2022, and the remaining amount paid will be credited towards the rent owed for the newly proposed lease.

The Applicant owns the littoral parcel adjoining the lease premises. The subject facilities will be privately owned and maintained by the Applicant. The facilities will be used for the docking and mooring of boats 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 facilities are located directly lakeward of the Applicant's littoral parcel and occupy a relatively small area of the lake. The proposed lease will not interfere with navigation and does not substantially interfere with any Public Trust needs at this time or the foreseeable future. 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 Applicant/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.

CLIMATE CHANGE:

Climate change significantly affects inland non-tidal lakes such as Lake Tahoe. The frequency and severity of natural disasters like flooding, wildfire, drought, extreme heat, and storms are increasing throughout the state of California, including the Sierra Nevada mountains, and will continue to accelerate through the end of the century. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events and shifts in seasonal characteristics.

According to California's Fourth Climate Change Assessment, released in 2018, the most significant impacts of climate change in the Sierra Nevada Region are more intense heat, precipitation extremes, declining snowpacks, and changes in streamflow timing. The long-term warming trend will lead to warmer and shorter winters, and longer and dryer summers. Successive dry and warm winters are resulting in minimal snowpack, increased winter streamflows and floods, and decreased spring and summer runoff. Prolonged low lake levels will become normal. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions interfere with

boat launching and mooring facilities. This impact is most noticeable where the facilities are sited on shallow, low gradient lake bottom locations.

Dry winters will be punctuated with exceedingly wet years where prolonged and excessive precipitation can produce flash floods. High precipitation in these years will result in higher lake levels, causing beaches to narrow and reducing public access. Extra saturation of the soil can increase erosion, especially following intense wildfire seasons. Surface runoff water may carry more sediment into the lake, adversely impacting water quality and clarity.

Climate change may also lead to more intense and unpredictable storm events and winds. These storms may deviate from prevailing wind patterns for the region. These winds can accelerate shoreline erosion in some areas or cause erosion in areas not typically subject to erosion. Additionally, these winds can increase wave damage on structures and boats along the lake.

Improvements authorized under this lease may require more frequent inspection and maintenance to ensure they are not displaced during storm events. Watercraft moored to buoys, piers, or docks are also vulnerable to damage from high wind events and excessive waves.

CONCLUSION:

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 lease; is consistent with the common law 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. The lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas 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 this activity 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 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 acceptance of a lease quitclaim deed and issuance of 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 common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, effective October 24, 2022, of Lease Number 7910, a General Lease – Recreational Use, issued to Laura Rosch Gillette and Thomas Lee Rosch.
2. Authorize proration of annual rent paid under existing Lease Number 7910, with rent paid for the period October 25, 2022 through August 22, 2023, to be credited to annual rent due under the proposed lease.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 25, 2022, for a term of 10 years, for the use and maintenance of two existing mooring buoys, 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 \$546, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 7910

LAND DESCRIPTION

Two parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 6 of 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:

Two circular parcels of land, being each 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels described in Grant Deed recorded November 16, 2018, as Document Number 2018-0083934-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/09/2022 by the California State Lands Commission Boundary Unit.



NO SCALE

APN 093-094-039



APPROX.
SHORELINE

6223'± LTD

264'±

82'±

EXISTING
BUOYS (2)

LAKE TAHOE

EXHIBIT A

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DT 03/08/2022

LAND DESCRIPTION PLAT
LEASE 7910, 39LA120LO LLC &
3340 EDGEWATER LAKE TAHOE LLC
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



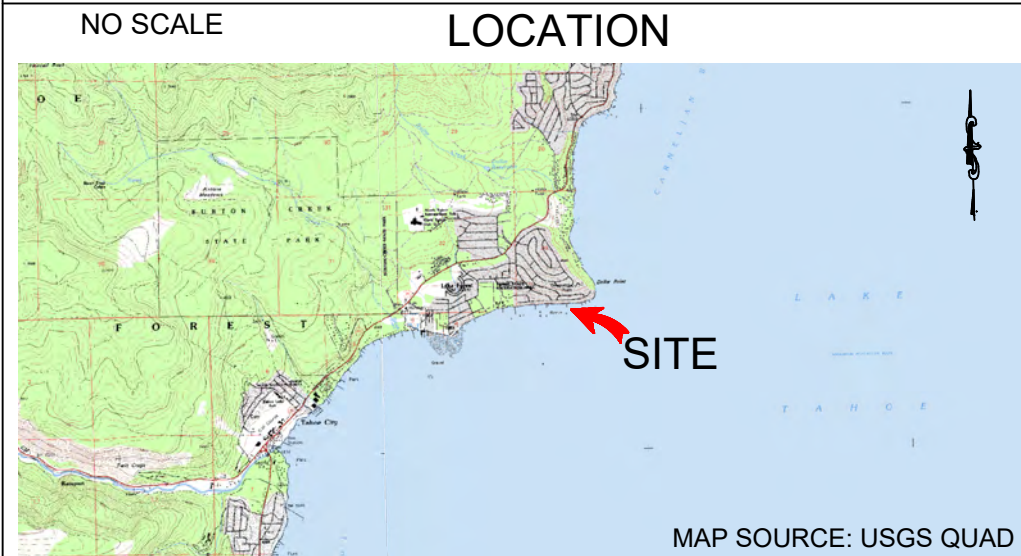
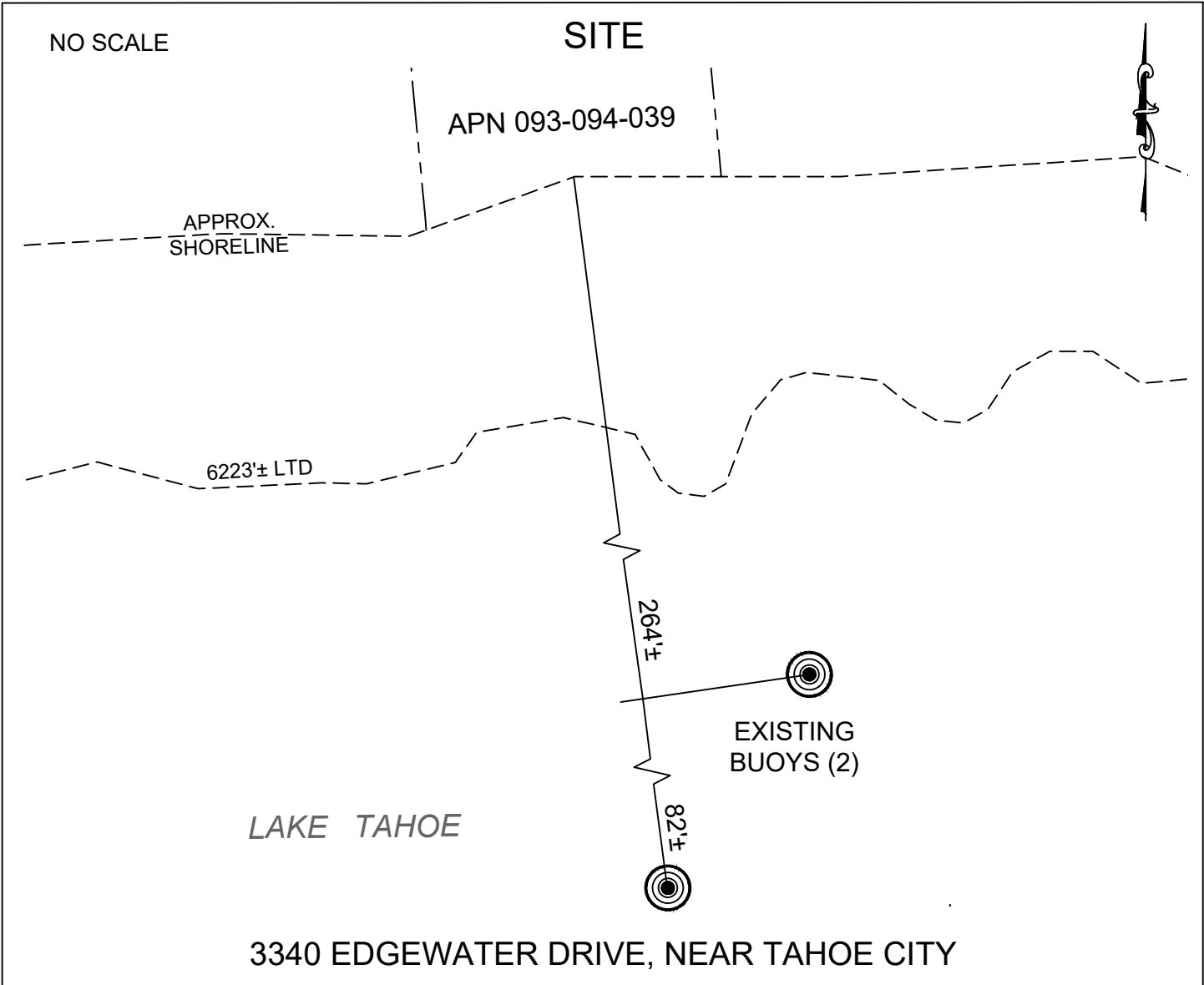
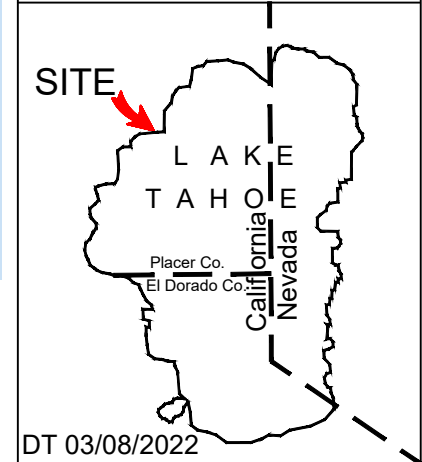


EXHIBIT B

LEASE 7910
 39LA120LO LLC & 3340
 EDGEWATER LAKE TAHOE LLC
 APN 093-094-039
 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.