

**STAFF REPORT
C02**

A 1
S 1

04/05/19
W 26206
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

3015 WLB, LLC, a Nevada Limited Liability Company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3005 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning April 5, 2019.

CONSIDERATION:

\$377 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 that may impair public uses for access, navigation, fishing and lake-related recreational uses.
- Lessee shall provide proof of a Tahoe Regional Planning Agency (TRPA) buoy permit or proof that unpermitted buoys have been removed by October 23, 2020.
- Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF REPORT NO. C02 (CONT'D)

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 Analysis:

The Applicant and Douglas W. Regalia and Susan A. Regalia, Trustees, the Regalia Family Trust Dated June 11, 2013, own the upland adjoining the lease premises. The Applicant has applied for a General Lease - Recreational Use for the use and maintenance of one existing mooring buoy. The Applicant's buoy has been in Lake Tahoe for many years but was not previously authorized by the Commission. Under a separate lease, Lease No. PRC 9201.1, the Regalia's maintain one mooring buoy for the property adjacent to 3005 West Lake Boulevard. The Commission authorized the lease for the Regalia's buoy on April 23, 2015 ([Item C02, April 23, 2015](#)). That lease will expire on April 22, 2025. Staff recommends issuance of a separate lease for the Applicant's existing mooring buoy.

The subject mooring buoy is privately owned and maintained. The mooring buoy is used for the docking and mooring of boat and facilitates 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 buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake. TRPA issued a permit for the mooring buoy in 2009. This permit and others from the same time period were based on a Final EIS and Ordinance Amendments adopted by TRPA in October 2008. In September 2010, the U.S. District Court invalidated the Final EIS and nullified the Amendments. On October 24, 2018, the TRPA's Governing Board certified a new Final EIS and adopted Lake Tahoe Shorezone Ordinance Amendments. TRPA has indicated that it will recognize the previously issued permits and begin reissuing such permits in March 2019.

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.

STAFF REPORT NO. **C02** (CONT'D)

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 does not substantially interfere with the common law Public Trust Doctrine at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. 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

STAFF REPORT NO. C02 (CONT'D)

lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 5, 2019, for a term of 10 years, for the use and maintenance of 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 \$377, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 26206

LAND DESCRIPTION

One parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 25, Township 15 North, Range 16 East, MDM., as shown on Official Government Township Plat approved April 11, 1884, County of Placer, State of California, and more particularly described as follows:

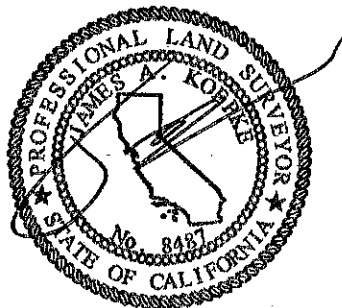
One circular parcel of land, being 50 feet in diameter, underlying one existing buoy lying adjacent to those parcels as described in Exhibit A of that Grant Deed recorded September 27, 2017 in Document Number 2017-0075049-00 of Official Records of said County.

EXCEPTING THEREFROM any portions lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 25, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE



L
A
K
E

T
A
H
O
E

APN 085-050-026

APPROXIMATE

SHORELINE
6223'± LTD

EXISTING
BUOY

126'



EXHIBIT A

Page 2 of 2

MJJ 1/24/18

LAND DESCRIPTION PLAT
W 26206, 3015 WLB LLC
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN 085-050-026

APPROXIMATE

SHORELINE

6223'± LTD

EXISTING BUOY

126'



L A K E
T A H O E

3005 WEST LAKE BLVD., NEAR HOMEWOOD

NO SCALE

LOCATION

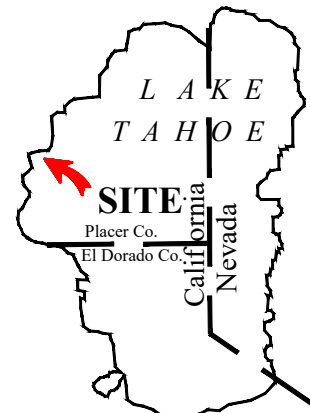


MAP SOURCE: USGS QUAD

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

W 26206
 3015 WLB LLC
 APN 085-050-026
 GENERAL LEASE -
 RECREATIONALS USE
 PLACER COUNTY



MIJ 3/22/19