

**STAFF REPORT
C17**

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04/05/19
PRC 9069.1
M.J. Columbus

**ACCEPTANCE OF A LEASE QUITCLAIM DEED AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEE:

Louis Stervinou and Mary Stervinou

APPLICANT:

SNS 5306, LLC, a California Limited Liability Company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5306 North Lake Boulevard,
near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of two existing mooring buoys.

LEASE TERM:

10 years, beginning June 21, 2019.

CONSIDERATION:

\$754 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.

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- 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.
- Applicant acknowledges a portion of an existing raised sundeck and foundation exists within the State-administered Public Trust easement between the locations of the ordinary high-water mark and the low-water mark of Lake Tahoe as those locations existed prior to construction. Applicants agree not to block or otherwise prohibit the public from passing and re-passing landward of the sundeck to access adjacent property subject to the Public Trust easement.

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:

On June 21, 2013, the Commission authorized a General Lease - Recreational Use for two existing mooring buoys and a freshwater intake pipeline to Louis Stervinou and Mary Stervinou ([Item C14, June 21, 2013](#)). That lease will expire on June 20, 2023.

SNS 5306, LLC, a California Limited Liability Company, is managed by Louis Stervinou. On November 19, 2013, Louis Stervinou and Mary Stervinou transferred their interest in the upland parcel to SNS 5306, LLC, a California Limited Liability Company. The Applicant is applying for a General Lease - Recreational Use for the continued use and maintenance of two existing mooring buoys.

The Lessee will execute a quitclaim deed releasing their interest in the lease, effective June 20, 2019. The effective date aligns with the payment of annual rent for the mooring buoys. Rent has been paid through June 20, 2019. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease effective June 21, 2019.

The prior lease authorized a freshwater intake pipeline. The freshwater intake pipeline is not associated with traditional Public Trust uses. However, the pipeline has been in place for many years, and occupies a small area of the lakebed. The owner uses the pipeline to provide water to the upland property. The pipeline does not interfere with Public Trust

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activities at this location or at this time. As part of the current application, the Applicant submitted a copy of a License for the Diversion and Use of Water under Permit 4417 of the State Water Rights Board, effective August 6, 1934. Pursuant to Public Resources Code section 6327, the Commission is not required to authorize facilities for the procurement of fresh water if the Applicant has obtained a valid permit from another governmental agency. Pursuant to Public Resources Code Section 6327, the fresh water intake pipeline is not under lease.

The existing raised sundeck is not within the Commission's leasing jurisdiction. A portion of the sundeck is within the Public Trust easement. The immediate area of the existing sundeck is slightly sloped with large boulders. The topography and the location of the sundeck allows the public to navigate in front of the sundeck. In addition, the Applicant has agreed to allow the public to pass and re-pass around the landward end of the sundeck.

The subject mooring buoys 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 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.

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; is consistent with the Public Trust Doctrine; 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

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protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

2. On October 24, 2018, the Tahoe Regional Planning Agency's Governing Board certified a new Final Environmental Impact Statement and adopted new Lake Tahoe Shorezone Ordinance Amendments.
3. Acceptance of a 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 the 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 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.

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AUTHORIZATION:

1. Authorize acceptance of a quitclaim deed, effective June 20, 2019, of Lease No. PRC 9069.1, a General Lease – Recreational Use, issued to Louis Stervinou and Mary Stervinou.

2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 21, 2019, for a term of 10 years, for the continued 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 \$754, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 9069.1

LAND DESCRIPTION

Two parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 22, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel as described in Exhibit "A" of that Grant Deed recorded November 19, 2013 as Document Number 2013-0108157 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 March 1, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE

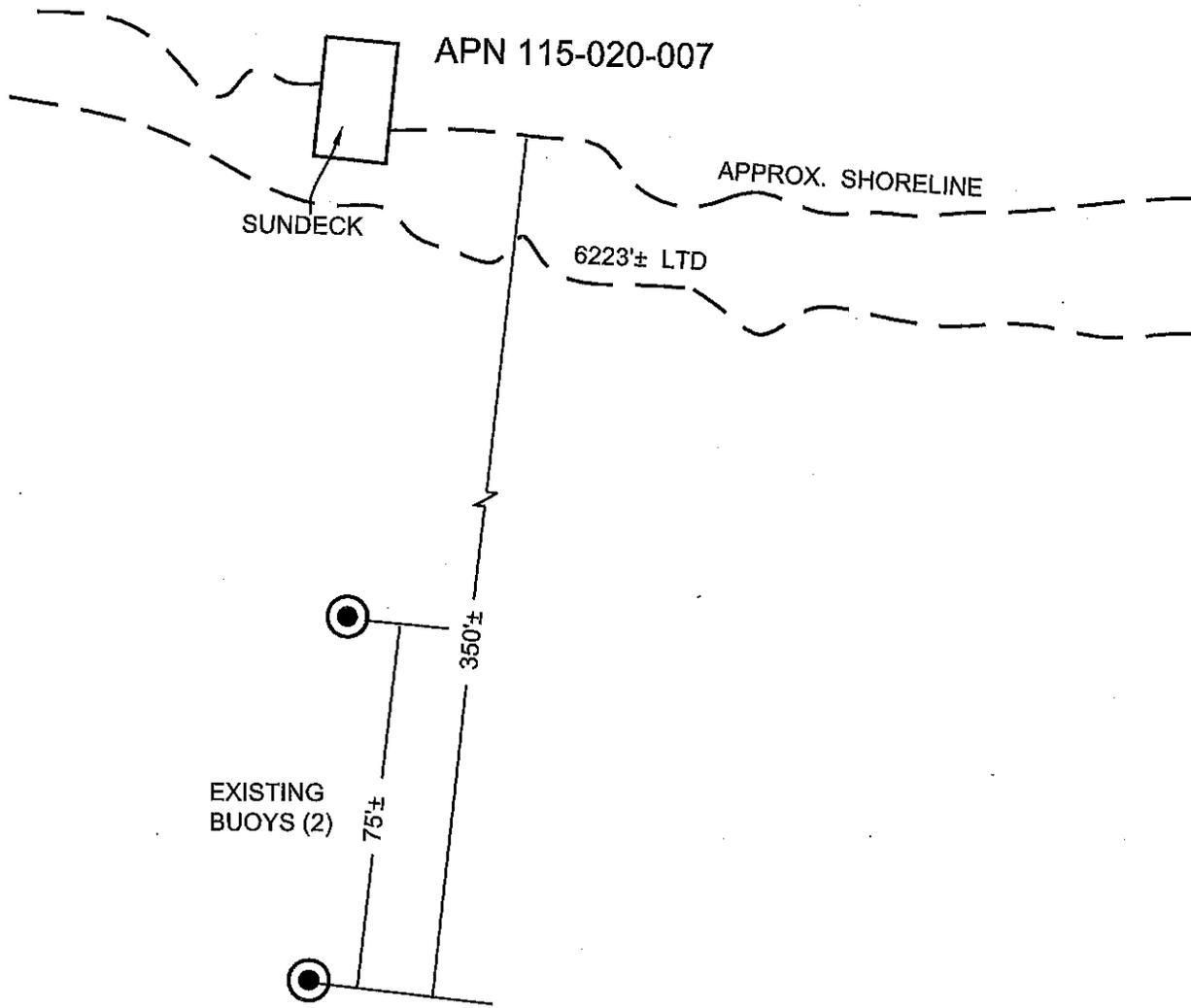


EXHIBIT A

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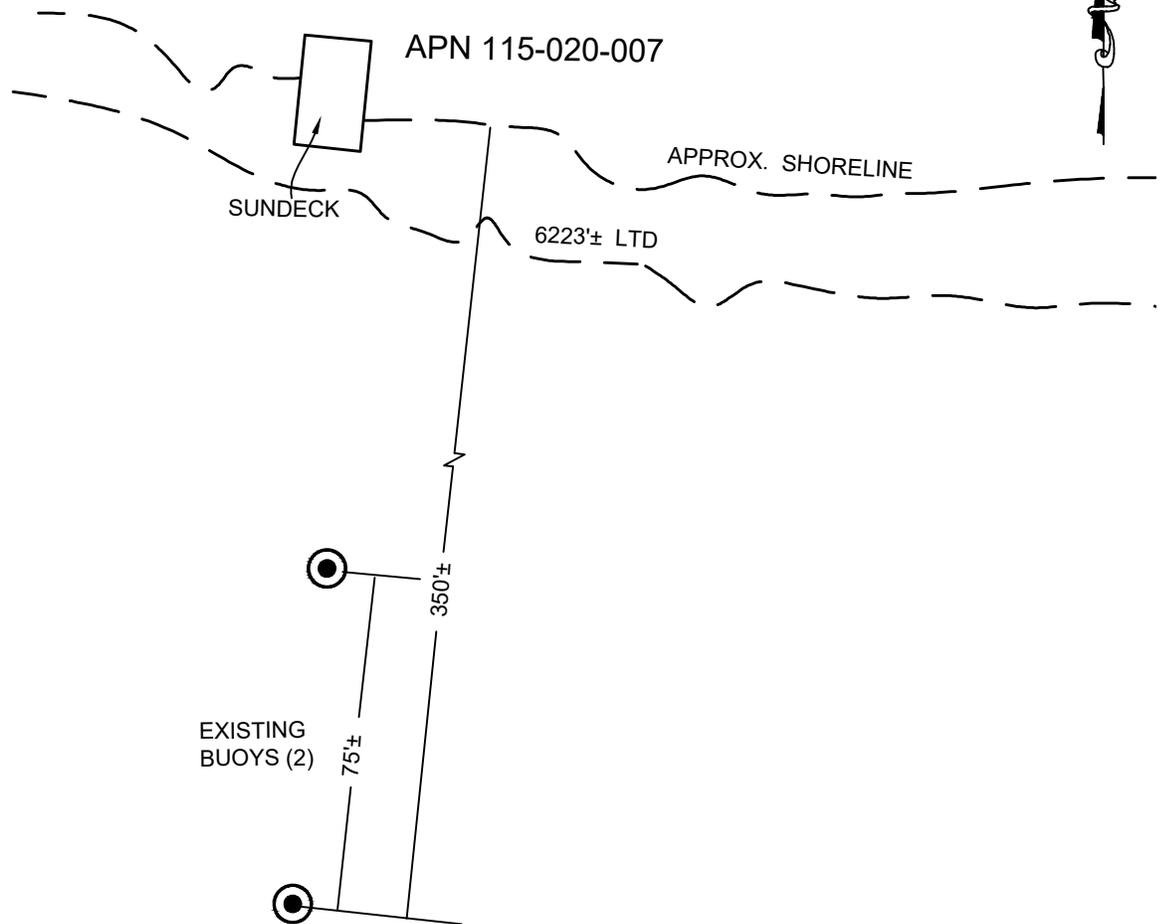
LAND DESCRIPTION PLAT
PRC 9069.1, SNS 5306, LLC
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



5306 NORTH LAKE BLVD., NEAR CARNELIAN BAY

NO SCALE

LOCATION

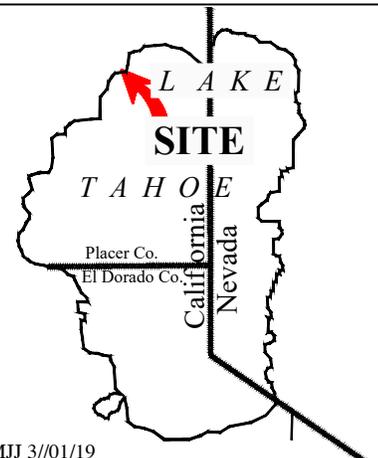


MAP SOURCE: USGS QUAD

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

PRC 9069.1
 SNS 5306, LLC
 APN 115-020-007
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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