

**CALENDAR ITEM
C14**

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02/09/16
PRC 5730.1
B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Viking 1 Property, LLC, a California Limited Liability Company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, located adjacent to 4100 Ferguson Avenue, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of one existing mooring buoy previously authorized by the Commission, and use and maintenance of one existing mooring buoy not previously authorized by the Commission.

LEASE TERM:

10 years, beginning January 5, 2015.

CONSIDERATION:

\$754 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they must remove the buoys.

Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from the TRPA or any other regulatory agency for the improvements authorized.

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STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The subject facilities are for the docking and mooring of boats. 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 lands (Public Resources Code 6503.5). The subject structures are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a lease term limited to 10 years, a non-exclusive use provision, and a reservation to the people of the State of an easement for access to and across the lease area.

The subject facilities have existed for many years at this location. The subject facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the Lessee may be required to remove all improvements and restore the lease premises to their original condition. The mooring buoys occupy a relatively small area of the lake. Based on the foregoing, Commission staff believes that the buoys will not substantially interfere with public trust needs at this location, at this time, or for the foreseeable term of the proposed lease.

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, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On October 26, 1989, the Commission authorized a Recreational Pier Permit for one mooring buoy that expired on September 25, 1994. The

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upland parcel was sold after the permit was issued in 1989 but the purchaser never obtained authorization from the Commission.

3. On January 5, 2015, ownership of the upland was deeded to Viking 1 Property, LLC, a California Limited Liability Company. The Applicant is now applying for a General Lease – Recreational Use for two existing mooring buoys. One of the two existing mooring buoys was not previously authorized by the Commission but has been in Lake Tahoe for many years.
4. This proposed action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest level of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
5. The 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.
6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

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

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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's public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Viking 1 Property, LLC, a California Limited Liability Company, beginning January 5, 2015, for a term of 10 years, for the continued use and maintenance of one existing mooring previously authorized by the Commission and 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 purposed 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 5730.1

LAND DESCRIPTION

Two (2) parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 28, 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:

PARCELS 1 & 2 – BUOYS

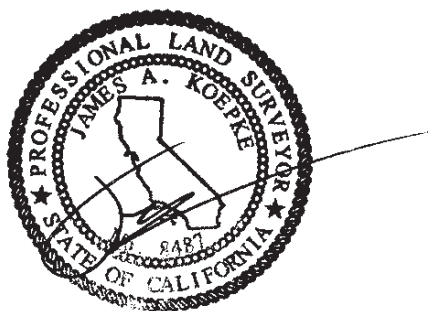
Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded January 5, 2015 as Document Number 2015-0000496 in Official Records of said County.

EXCEPTING THEREFROM any portion 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 12/15/2015 by the California State Lands Commission Boundary Unit.



APN
092-142-010

APPROX.
SHORELINE

6223'± LTD

283'±

381'±

LAKE TAHOE

EXISTING
BUOYS
(2)

EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 5730.1, VIKING 1 PROPERTY
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN
092-142-010

APPROX.
SHORELINE

6223'± LTD

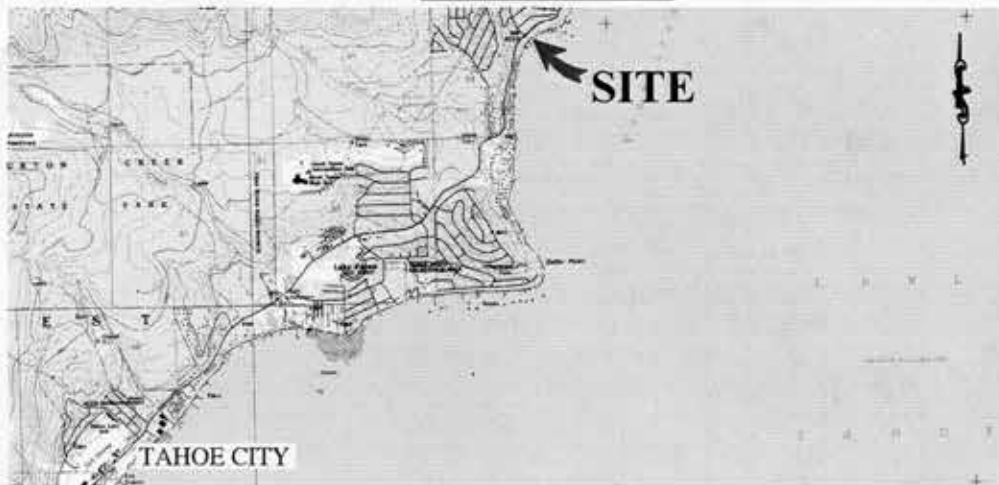
LAKE TAHOE

EXISTING
BUOYS
(2)

4100 FERGUSON AVE., 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 5730.1
VIKING 1 PROPERTY, LLC
APN 092-142-010
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



RGB 12/15/15