

**CALENDAR ITEM
C19**

A 1
S 1

06/28/16
W 26941
C. Singleton

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Paul C. Cress and Lorie S. Cress, as Trustees of The Cress Family 2002 Revocable Living Trust, established on November 26, 2003

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 5250 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Use and maintenance of two existing mooring buoys not previously authorized by the Commission.

LEASE TERM:

10 years, beginning June 28, 2016.

CONSIDERATION:

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

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, 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.
3. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining

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authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

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 activity and is generally consistent with the common law Public Trust Doctrine. The subject structures are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. Commission staff believes the mooring buoys do not substantially interfere with public trust needs at this time and at this location.

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 use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with public trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

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OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. The Applicant's two mooring buoys have been in Lake Tahoe for many years, but were not previously authorized by the Commission. The Applicant is now applying for a General Lease – Recreational Use for the use and maintenance of two existing mooring buoys. Staff recommends bringing the existing mooring buoys under lease.
3. 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.
4. 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.

5. 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 trust needs and values at this location at this time, 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 Paul C. Cress and Lorie S. Cress, as Trustees of The Cress Family 2002 Revocable Living Trust, established on November 26, 2003, beginning June 28, 2016, for a term of 10 years, for the use and maintenance of two existing mooring buoys 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 \$754 with an annual Consumer Price Index adjustment; and liability insurance with coverage in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 26941

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 fractional Section 1, Township 14 North, Range 16 East, MDM., as shown on Official Government Township Plat approved January 17, 1866 County of Placer, State of California, and more particularly described as follows:

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to that parcel as described in that Quitclaim Deed recorded December 4, 2003 in Document Number 2003-0202131 of Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared February 16, 2016 by the California State Lands Commission Boundary Unit.





L A K E

T A H O E

EXISTING
BUOYS (2)

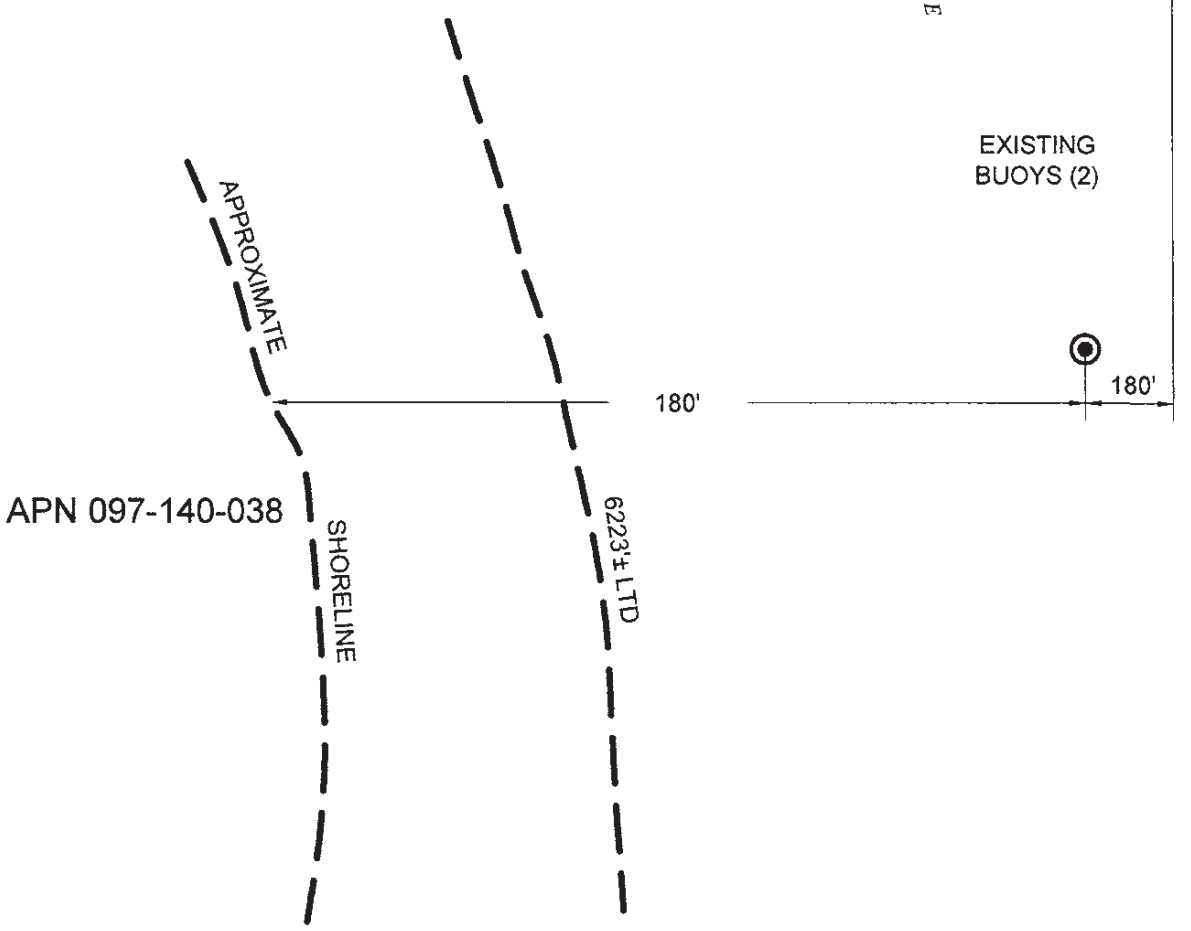


EXHIBIT A

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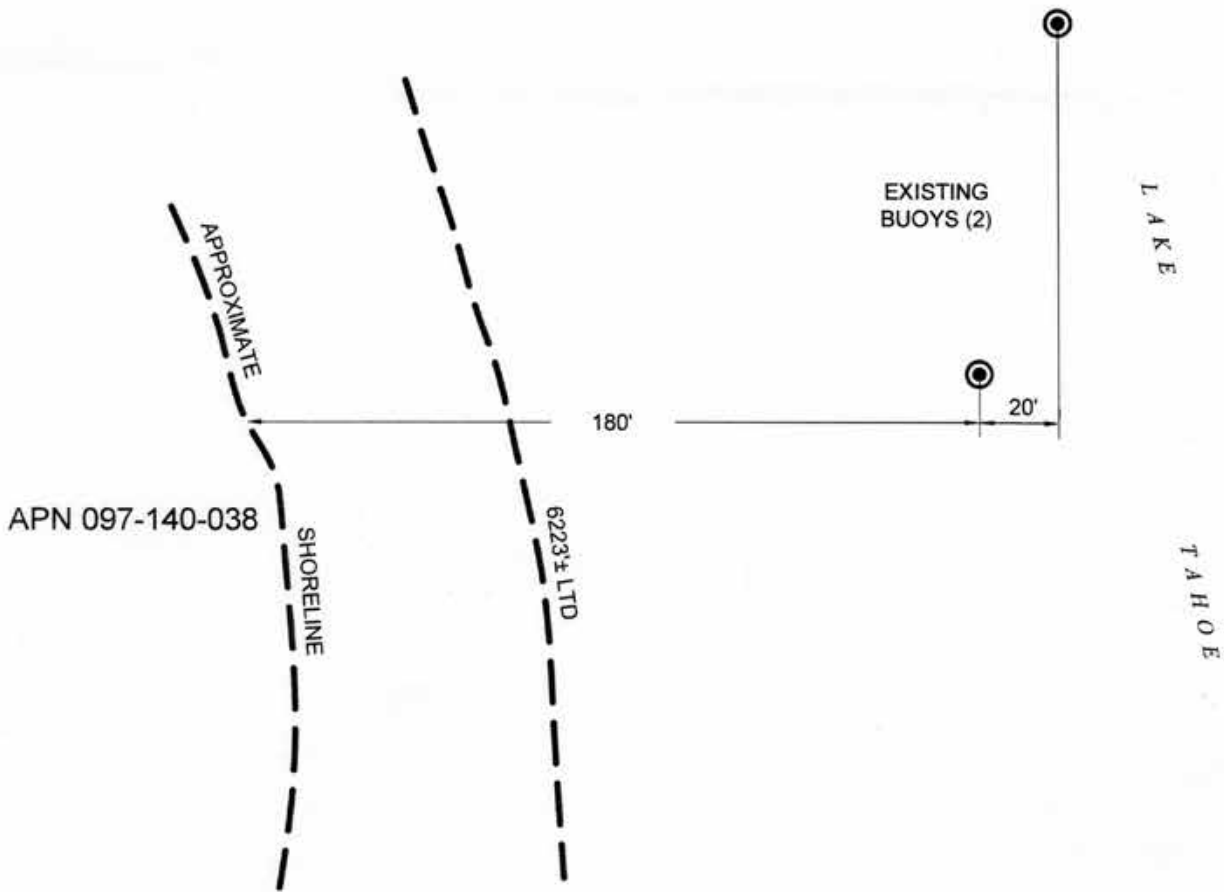
LAND DESCRIPTION PLAT
 W 26941, CRESS TRUSTEES
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



5250 WEST LAKE BLVD., NEAR HOMEWOOD

NO SCALE

LOCATION



Exhibit B

W 26941
 CRESS TRUSTEES
 APN 097-140-038
 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.