

**CALENDAR ITEM
C06**

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06/22/17
PRC 7399.1
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

David Lee Hicks, Kathleen Hicks Cannon, and Michael Pau Hicks

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3850 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of one existing mooring buoy.

LEASE TERM:

10 years, beginning June 11, 2017.

CONSIDERATION:

\$377 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. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses.
3. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoy within 2 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 may be required to remove the buoy.

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4. 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 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 owns the upland adjoining the lease premises. On February 9, 2006, the Commission authorized a 10-year Recreational Pier Lease for one existing mooring buoy to David L. Hicks and Barbara E. Hicks ([Calendar Item C16, February 9, 2006](#)). That lease expired on June 10, 2015. On November 7, 2012, the upland was transferred and deeded to the Applicant. The Applicant is applying for issuance of a new lease for the continued use and maintenance of one mooring buoy.

Staff recommends that the Commission accept compensation for the unauthorized occupation of State land in the amount of \$754 for the period beginning June 11, 2015, through June 10, 2017, the day before the new lease becomes effective.

The buoy is used for the 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 land (Pub. Resources Code, § 6503.5).

The buoy has existed for many years at this location. The buoy is located directly lakeward of the Applicant's upland property and occupies a relatively small area of the lake.

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

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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 the lease for one mooring buoy is consistent with the common law 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 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.

3. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is 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 categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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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 or for the foreseeable term of the lease, and 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:

1. Authorize acceptance of compensation in the amount of \$754 for the unauthorized occupation of State land for the period beginning June 11, 2015, through June 10, 2017.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant, beginning June 11, 2017, for a term of 10 years, for the continued use and maintenance of an existing mooring buoy 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

PRC 7399.1

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 3 of fractional Section 28 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:

One circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to those parcels described in Exhibit A of that Grant Deed recorded November 7, 2012 as Document Number 2012-0105267 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared March 13, 2017 by the California State Lands Commission Boundary Unit.





APN 092-100-015

APPROX. SHORELINE

200'

EXISTING BUOY

L a k e T a h o e

EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 7399.1, HICKS
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN 092-100-015

APPROX. SHORELINE

200'

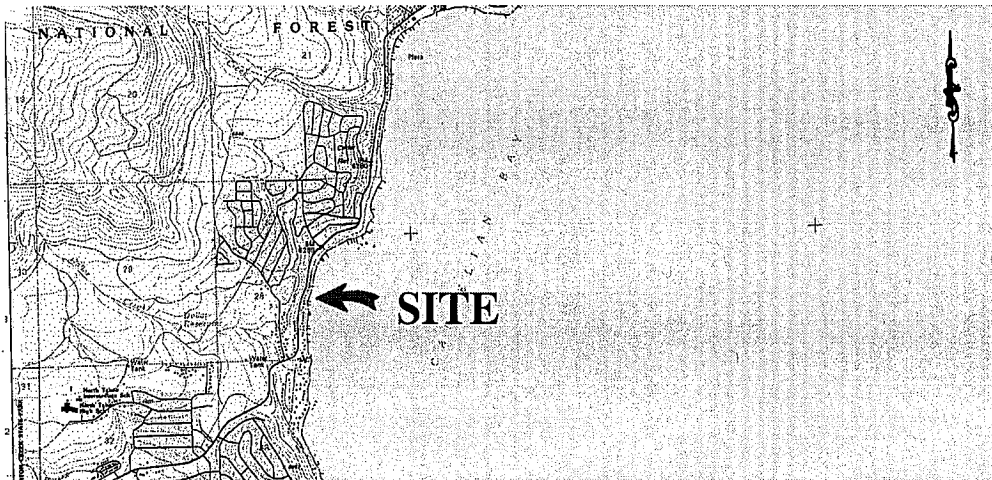
EXISTING BUOY

Lake Tahoe

3850 NORTH LAKE BLVD., NEAR CARNELIAN BAY

NO SCALE

LOCATION

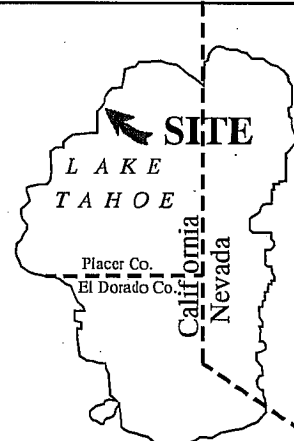


MAP SOURCE: USGS QUAD

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 7399.1
HICKS
APN 092-100-015
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJJ 3/13/2017