

**STAFF REPORT
C19**

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10/19/17
PRC 8016.1
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Ronald F. Mack and Judy A. Mack, Co-Trustees of the Ron and Judy Mack Family Trust (U/T/A June 8, 1983)

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1170 West Lake Boulevard, Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of two existing mooring buoys.

LEASE TERM:

10 years, beginning November 1, 2017.

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. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of access, navigation, fishing and lake related recreational 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 buoys within 2 years after the certification of a Final Environmental Impact Statement 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 buoys.

STAFF REPORT NO. C19 (CONT'D)

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:

On March 25, 2008, the Commission authorized a 10-year Recreational Pier Lease for two existing mooring buoys to Ronald F. Mack and Judy A. Mack, Co-Trustees of the Ron and Judy Mack Family Trust (U/T/A June 8, 1983) ([Item C15, March 25, 2008](#)). That lease will expire on October 31, 2017. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of two existing mooring buoys. The buoys are privately owned and maintained. There is also a pier extending from the upland into the lake, as shown on Exhibit B; however, the pier does not extend below the low water line onto sovereign land and therefore a lease for the pier is not required at this time.

Applicant owns the upland adjoining the lease premises. The pier is built on pilings and the immediate area of the pier consists of a sloped rock revetment with large boulders. Sand and cobblestones make up the remainder of the shoreline. The topography and the location of upland structures allow for public access to the pier and the public may navigate or walk next to, and at certain water levels under, the pier within the Public Trust easement. The buoys are 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 lands (Pub. Resources Code, § 6503.5).

The subject facilities do not significantly alter the land and the lease does not alienate the State's fee simple interest or permanently impair public rights. The buoys 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.

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

STAFF REPORT NO. C19 (CONT'D)

may be required to remove all improvements from State land. Based on the foregoing, staff believes that the mooring 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, staff believes the issuance of this lease 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 and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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

STAFF REPORT NO. **C19** (CONT'D)

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 the 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:

Authorize issuance of a General Lease – Recreational Use to the Applicant; beginning November 1, 2017, 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 8016.1

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 18 Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, and more particularly described as follows:

All those lands underlying two (2) circular parcels of land, 50 feet in diameter, underlying two (2) existing buoys lying adjacent to those parcels described in Exhibit A of that Grant Deed recorded December 5, 2016 as Document Number 2016-0106983 in Official Records of said County.

EXCEPTING THEREFROM any portion(s) 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 February 3, 2017 by the California State Lands Commission Boundary Unit.





APN 083-195-006

SHORELINE

APPROXIMATE

246'

PIER

104'

EXISTING
BUOYS (2)

L A K E

T A H O E

EXHIBIT A

Page 2 of 2

MJJ 9/24/2017

LAND DESCRIPTION PLAT
PRC 8016.1, MACK TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN 083-195-006

SHORELINE

APPROXIMATE

246'
PIER

104'

EXISTING
BUOYS (2)

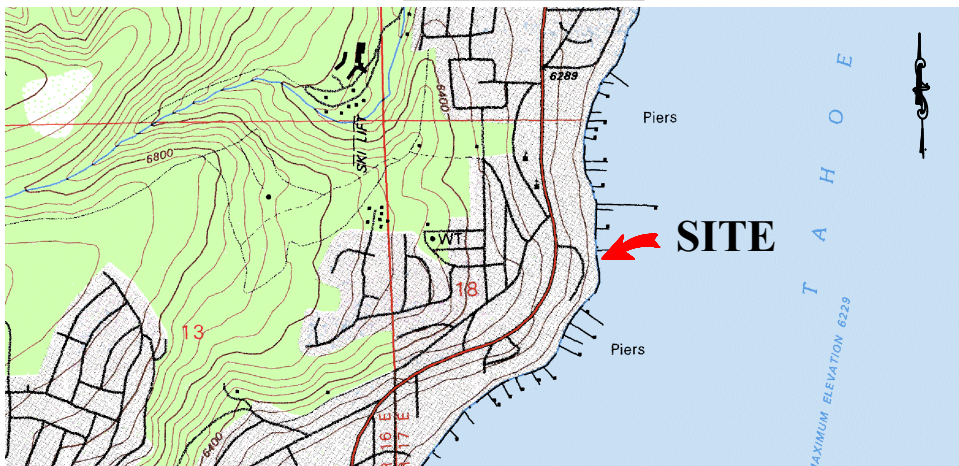
L A K E

T A H O E

1170 WEST LAKE BLVD., TAHOE CITY

NO SCALE

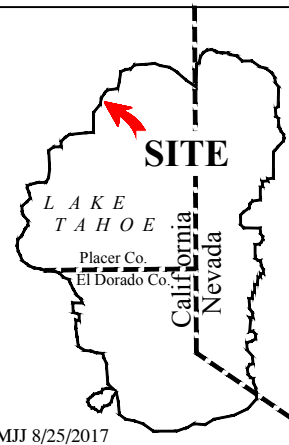
LOCATION



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 8016.1
MACK TRUST
APN 083-195-006
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJJ 8/25/2017