

**STAFF REPORT  
C19**

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02/04/19  
W 27204  
J. Toy

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Pamela A. Seroy, Trustee of The Pamela A. Seroy Revocable Trust dated 11/17/99

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 8642 Brockway Vista Avenue, near Kings Beach, Placer County.

*AUTHORIZED USE:*

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

*LEASE TERM:*

10 years, beginning February 4, 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 the public uses of access, navigation, fishing, and lake-related recreational uses.
- 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 the Lessee is unable to obtain such

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authorization within the time limit, they may be required to remove the buoys.

- 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 is applying for a General Lease – Recreational Use for use and maintenance of two existing mooring buoys not previously authorized by the Commission.

The Applicant owns the upland adjoining the lease premises. The buoys are privately owned and maintained and 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 land (Pub. Resources Code, § 6503.5).

The mooring buoys will 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. TRPA issued a permit for the buoys in 2010. This permit and others from the same time period were based on a Final Environmental Impact Statement (FEIS) and Ordinance Amendments adopted by TRPA in October 2008. In September 2010, the U.S. District Court invalidated the FEIS and nullified the Amendments. On October 24, 2018, the Tahoe Regional Planning Agency's Governing Board certified a new FEIS and adopted Lake Tahoe Shorezone Ordinance Amendments. TRPA has indicated that it will recognize the previously issued permits and begin reissuing such permits in March 2019. Upon termination of the lease, the lessee may be required to remove the buoys and restore the lease premises to their original condition. Additionally, the buoys occupy a relatively small area of the lake. Based on the foregoing, staff believes that the mooring buoys will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease.

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

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

**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).

STAFF REPORT NO. C19 (CONT'D)

**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.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 4, 2019, 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 in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

W 27204

**LAND DESCRIPTION**

Two parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 6 fractional Section 19, Township 16 North, Range 18 East, MDM., as shown on Official Government Township Plat approved July 29, 1875, 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 those lots described in that Grant Deed recorded July 30, 2014 as Document Number 2014-0051774-00 in Official Records of said County.

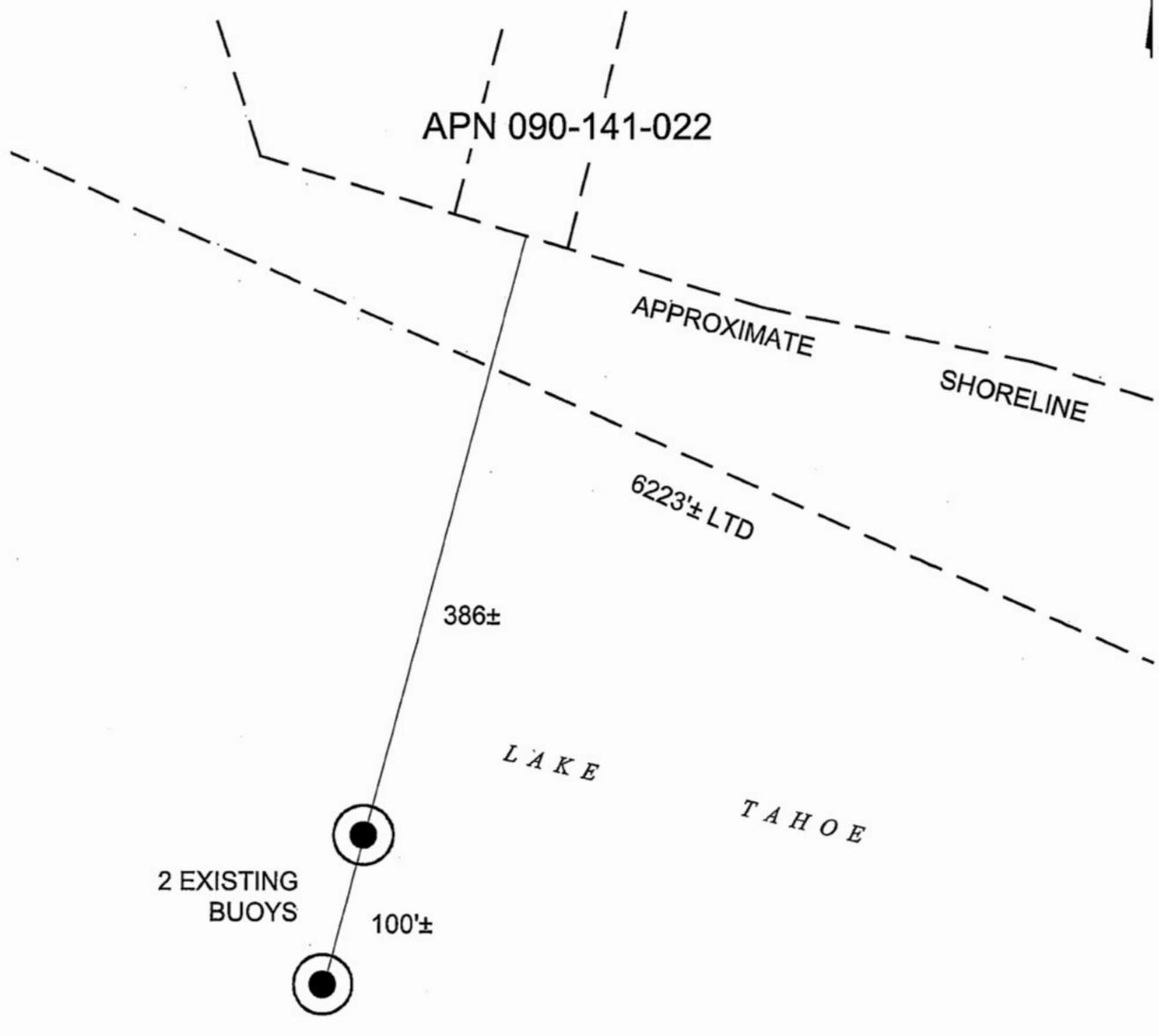
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared November 13, 2018 by The California State Lands Commission Boundary Unit.



NO SCALE



### EXHIBIT A

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LAND DESCRIPTION PLAT  
W 27204, SEROY TRUST  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE

APN 090-141-022

APPROXIMATE  
SHORELINE

6223'± LTD

386±

L A K E

T A H O E

2 EXISTING  
BUOYS

100'±

8642 BROCKWAY VISTA AVENUE, NEAR KINGS BEACH

NO SCALE

## LOCATION



MAP SOURCE: USGS QUAD

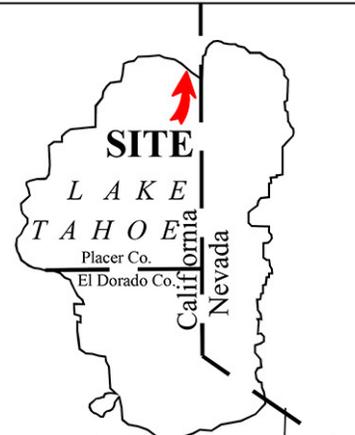
## Exhibit B

W 27204

SEROY TRUSTEE

APN 090-141-022

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.

MJJ 11/13/18