

**STAFF REPORT**

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06/28/19

PRC 8871.1

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S. Avila

**ACCEPTANCE OF LEASE QUITCLAIM DEED AND  
ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

**LESSEE:**

Thomas R. Keane and Susan D. Keane

**APPLICANT:**

Robert A. Mandel, Trustee of the 6800 Dume Drive Trust dated October 4, 2011

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 1250 West Lake Boulevard,  
near Tahoe City, Placer County.

*AUTHORIZED USE:*

Continued use and maintenance of two existing mooring buoys.

*LEASE TERM:*

10 years beginning December 7, 2018.

*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 provide proof of a Tahoe Regional Planning Agency (TRPA) buoy permit or proof that unpermitted buoys have been removed by October 23, 2020.
- 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.
- Lessee shall not store any personal items or construct any

STAFF REPORT NO. 10 (CONT'D)

improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing and lake-related recreational uses.

**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 June 28, 2010, the Commission authorized a 10-year Recreational Pier Lease for the continued use and maintenance of two existing mooring buoys to Thomas R. Keane and Susan D. Keane ([Item C08, June 28, 2010](#)). That lease will expire on June 27, 2020.

In 2011, the upland parcel (previously recorded as Assessor Parcel Number 083-202-006) was split to form two new parcels (APNs 083-202-016 and 083-202-017).

On December 7, 2018, Thomas R. Keane and Susan D. Keane transferred their interest in the upland parcels to Robert A. Mandel, Trustee of the 6800 Dume Drive Trust, dated October 4, 2011. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of the two existing mooring buoys.

The Lessee executed a quitclaim deed releasing their interest in the lease, effective December 6, 2018. The effective date aligns with the transfer of ownership of the upland parcel. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease effective December 7, 2018.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The two mooring buoys are used 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 land (Pub. Resources Code, § 6503.5).

The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

STAFF REPORT NO. 10 (CONT'D)

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 and restore the lease premises to their original condition.

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 will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the two mooring buoys and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. 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.
3. On October 24, 2018, the Tahoe Regional Planning Agency's Governing Board certified a FEIS and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. Acceptance of the quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

STAFF REPORT NO. 10 (CONT'D)

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

5. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of 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 issuance of the lease 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, and for the foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize acceptance of a quitclaim deed, effective December 6, 2018, of Lease No. PRC 8871.9, a Recreational Pier Lease, issued to Thomas R. Keane and Susan D. Keane.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 7, 2018, 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

STAFF REPORT NO. **10** (CONT'D)

Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 8871.1**

**LAND DESCRIPTION**

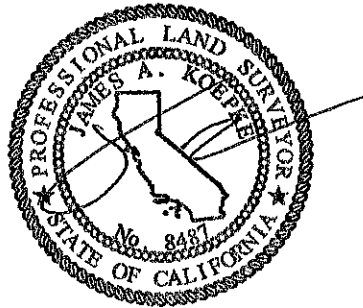
Two parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 18, Township 15 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 9, 1866, County of Placer, State of California, and more particularly described as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

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels as described in Exhibit "A" of that Grant Deed recorded December 7, 2018 in Document Number 2018-0088241-00 of Official Records of said County.

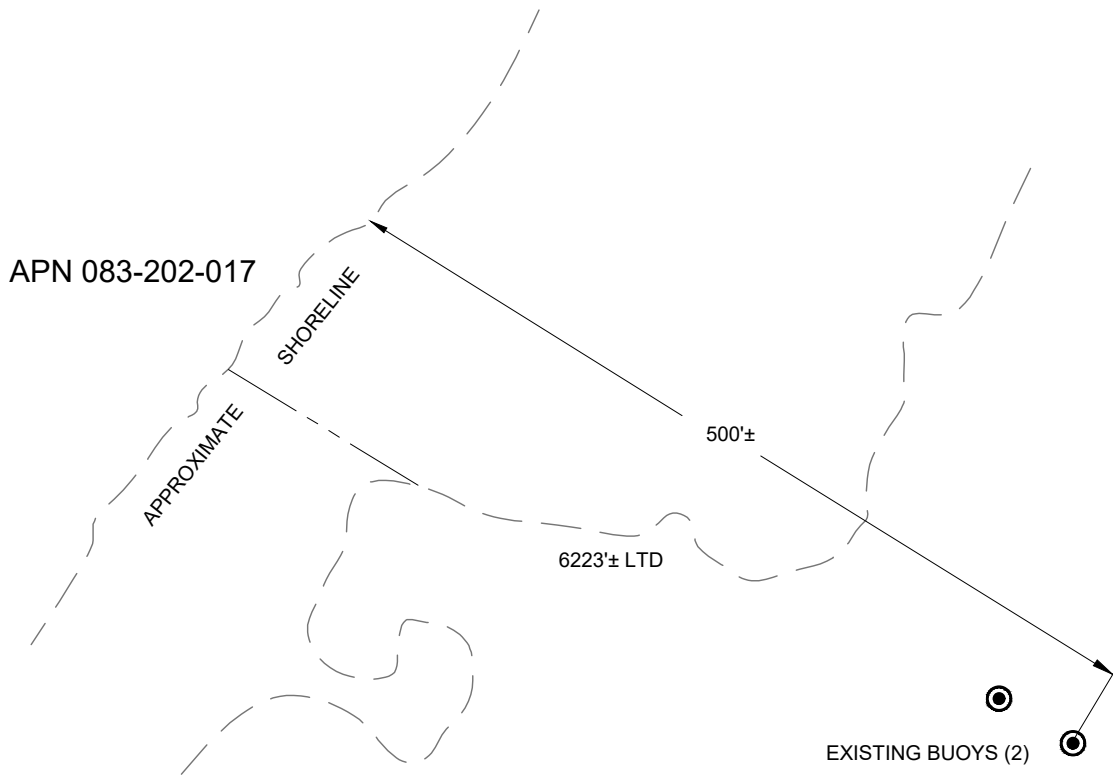
Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared March 25, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE



L A K E  
T A H O E

# EXHIBIT A

Page 2 of 2

MJJ 4/29/19

LAND DESCRIPTION PLAT  
PRC 8871.1, MANDEL TRUST  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE

APN 083-202-017

L A K E  
T A H O E

APPROXIMATE  
SHORELINE

500'±

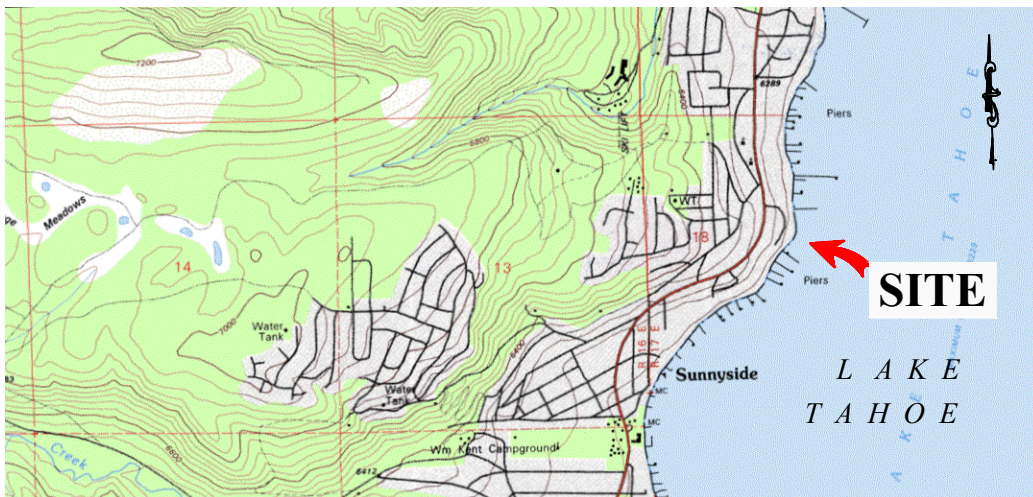
6223'± LTD

EXISTING BUOYS (2)

1250 WEST LAKE BLVD., NEAR TAHOE CITY

NO SCALE

# LOCATION

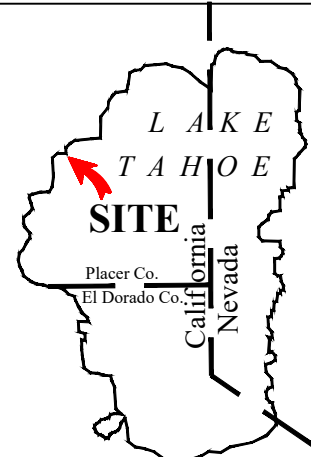


MAP SOURCE: USGS QUAD

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 8871.1  
MANDEL TRUST  
APN 083-202-017  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY



MJJ 4/29/19