

**STAFF REPORT  
C05**

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12/03/18  
PRC 7420.1  
S. Avila

**CONSIDER WAIVER OF RENT, PENALTY, AND INTEREST AND TERMINATION  
AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

**LESSEE:**

L.C. Bowman, Trustee of the L.C. Bowman Trust initially created on April 15, 2009

**APPLICANT:**

Betsy L. Stone, as Trustee of The Harris Family Trust UDT dated January 26, 2018

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 247 Drum Road, near Meeks Bay, El Dorado County.

*AUTHORIZED USE:*

Continued use and maintenance of two existing mooring buoys.

*LEASE TERM:*

10 years, beginning February 6, 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 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

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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.

- 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 February 21, 2014, the Commission authorized the issuance of Lease No. PRC 7420.1, a General Lease - Recreational Use, for two existing mooring buoys, to L.C. Bowman, Trustee of the L.C. Bowman Trust initially created on April 15, 2009 ([Item C26, February 21, 2014](#)). That lease will expire on December 31, 2023. On January 31, 2017, ownership of the upland transferred to Michael Oliver, who did not submit a lease application to the Commission but continued to pay rent through December 31, 2017. On February 6, 2018, ownership of the upland transferred to Betsy L. Stone, as Trustee of The Harris Family Trust UDT dated January 26, 2018. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of two existing mooring buoys.

Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the upland property and mooring buoys without notifying staff and executing a lease quitclaim deed. Staff sent an annual rent invoice to the Lessee for the 2018 lease period that the Lessee did not pay. Staff believes it is not in the State's best interests to pursue the collection of rent, penalty, and interest from the Lessee for the period of January 1, 2018, through December 31, 2018, since they were no longer the upland owners as of January 30, 2017, and the Applicant has agreed to be responsible for rent during the time of their ownership starting February 6, 2018.

The Applicant owns the upland adjoining the lease premises. The subject facility is privately owned and maintained. The mooring buoys are used for

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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 mooring buoys have existed for many years at this location. The buoys are located directly lakeward of the upland parcel and occupy 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 and 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; and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

1. These actions are 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. These Amendments are anticipated to take effect on December 23, 2018.
3. Termination of a lease 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.

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

4. 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 the 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 termination of a lease; waiver of rent, penalty, and interest; and issuance of 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 Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

1. Waive annual rent, penalty, and interest due for the period of January 1, 2018, through December 31, 2018, and void annual rent invoice #43524 issued to L.C. Bowman, Trustee of the L.C. Bowman Trust initially created on April 15, 2009.
2. Authorize termination, effective February 5, 2018, of Lease No. PRC 7420.1, a General Lease - Recreational Use, issued to L.C. Bowman, Trustee of the L.C. Bowman Trust initially created on April 15, 2009.

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3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning February 6, 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 Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 7420.1**

**LAND DESCRIPTION**

Two parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 20, Township 14 North, Range 17 East, MDM., as shown on Official Government Township Plat approved July 29, 1880, County of El Dorado, State of California and more particularly described as follows:

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to those parcels as described in that Grant Deed recorded February 6, 2018 as Document Number 2018-0004480 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.

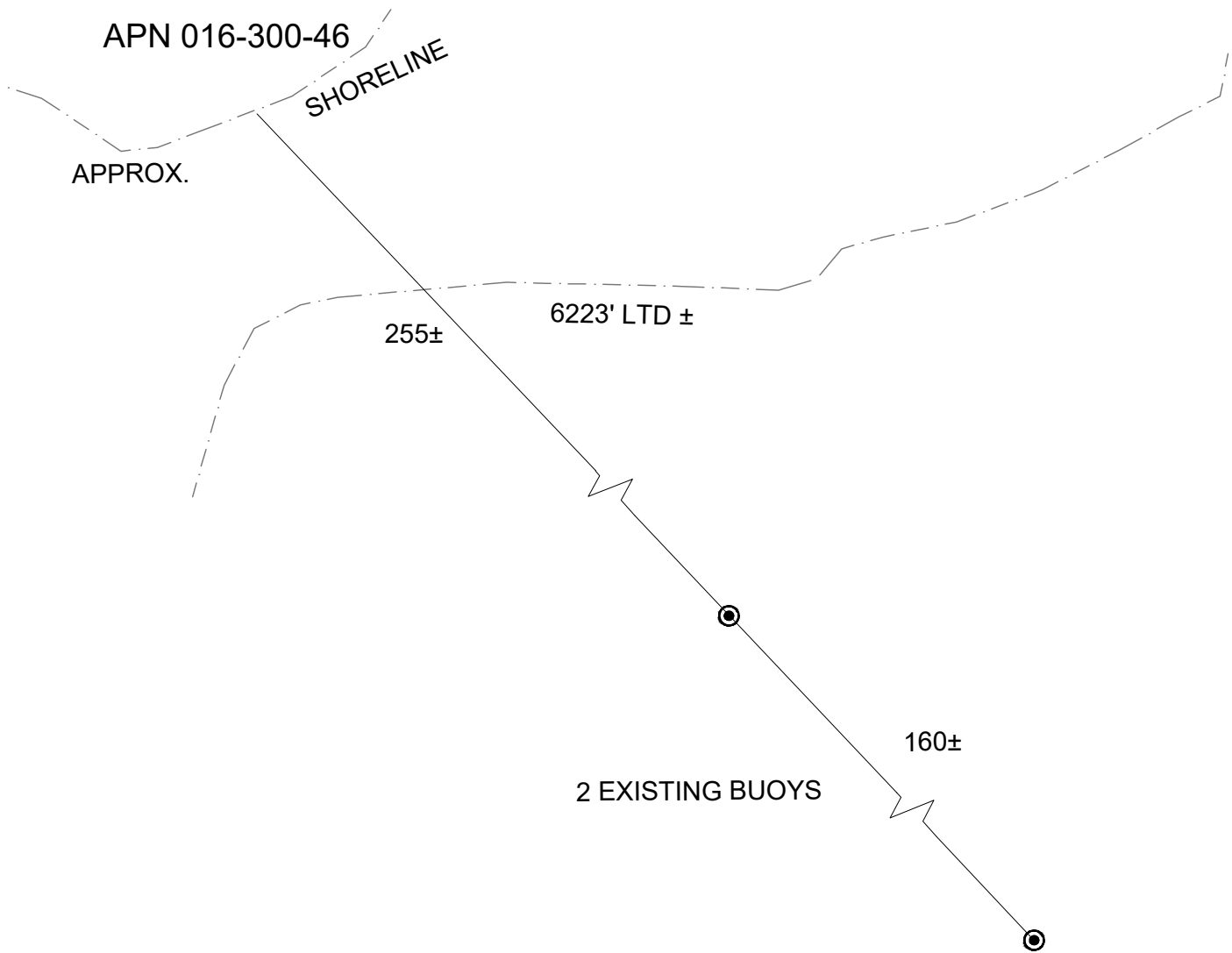
**END OF DESCRIPTION**

Prepared August 24, 2018 by The California State Lands Commission Boundary Unit.





NO SCALE



# EXHIBIT A

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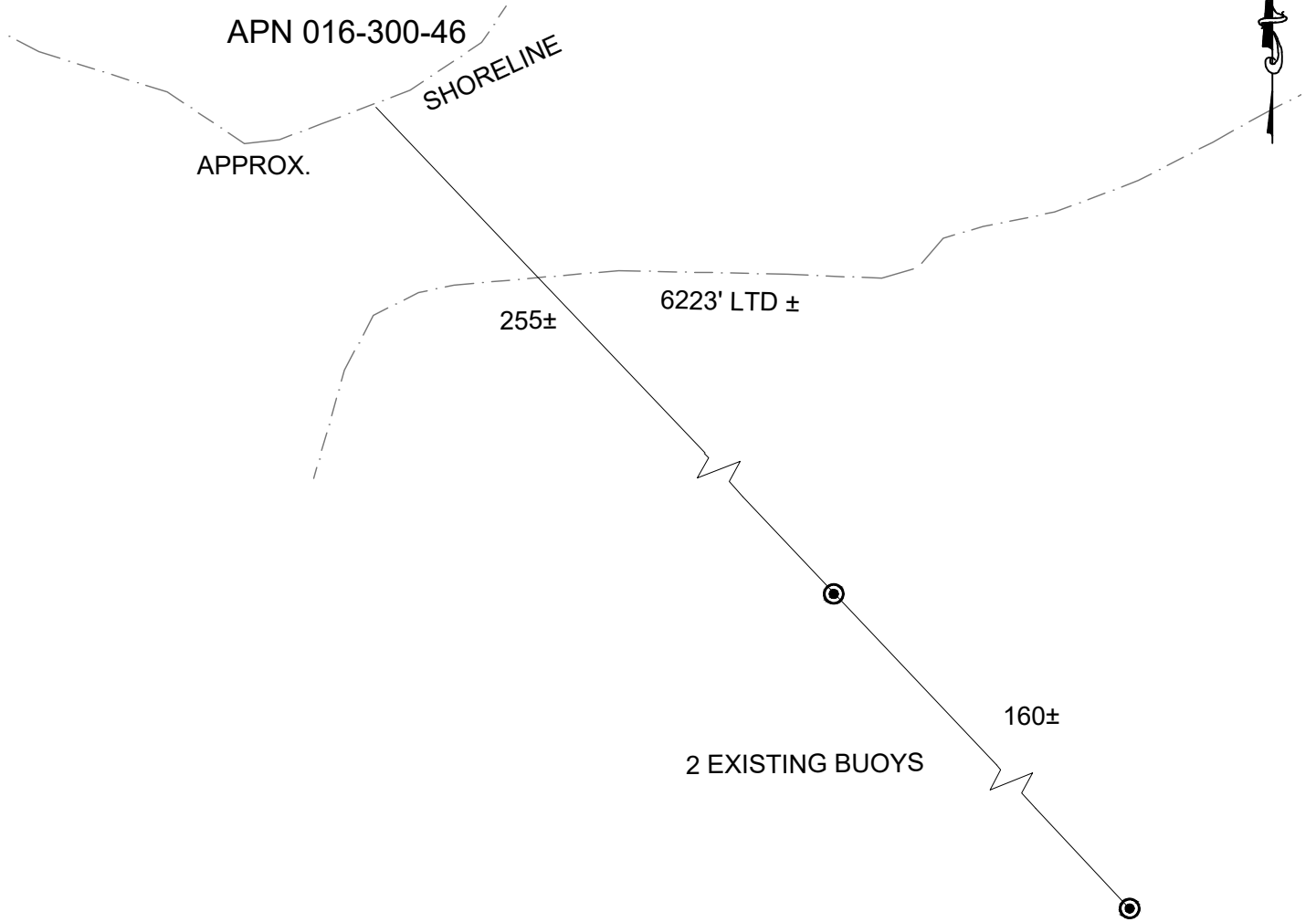
LAND DESCRIPTION PLAT  
PRC 7420.1, HARRIS TRUST  
EL DORADO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

# SITE



247 DRUM ROAD, NEAR MEEKS BAY

NO SCALE

# LOCATION

