

**STAFF REPORT
01**

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06/28/19
PRC 8419.1
A. Franzoia

TERMINATION AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE

LESSEE:

10:10 Holdings, LLC, a California Limited Liability Company

APPLICANT:

Gregory M. King and Karen M. King, as Trustees for the Gregory M. King and Karen M. King Family Trust

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8551 Meeks Bay Avenue, near Tahoma, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of one existing mooring buoy.

LEASE TERM:

10 years, beginning June 28, 2019.

CONSIDERATION:

\$377 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.
- 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.

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- 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 October 19, 2012, the Commission authorized a General Lease-Recreational Use to 10:10 Holdings, LLC, for the use and maintenance of a mooring buoy ([Item C04, October 19, 2012](#)). The lease expires on October 18, 2022. On October 3, 2017, the upland was deeded to Gregory M. King and Karen M. King, as Trustees for the Gregory M. King and Karen M. King Family Trust. The Applicant is applying for a General Lease - Recreational Use for the continued use and maintenance of the existing mooring buoy.

Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the upland property without executing a lease quitclaim deed. The Lessee paid rent through October 18, 2018. Therefore, staff recommends the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$260 for the period beginning October 19, 2018, through June 27, 2019, the day before the proposed lease would begin.

The subject mooring buoy is privately owned and maintained. The mooring buoy is used for the docking and mooring of a boat and facilitates recreational boating. 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 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.

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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, Commission staff believes the issuance of this lease does not substantially interfere with the common law Public Trust Doctrine 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.

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 mooring buoy 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 new Final Environmental Impact Report and adopted Lake Tahoe Shorezone Ordinance Amendments.
4. Termination of the 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.

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).

STAFF REPORT NO. 01 (CONT'D)

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 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. Authorize termination, effective June 27, 2019, of Lease No. PRC 8419.1, a General Lease – Recreational Use, issued to 10:10 Holdings, LLC, a California Limited Liability Company.
2. Authorize acceptance of compensation from the Applicant in the amount of \$260 for the unauthorized occupation of State land for the period beginning October 19, 2018, through June 27, 2019.
3. Authorize issuance of a General Lease - Recreational Use to Gregory M. King and Karen M. King, as Trustees of the Gregory M. King and Karen M. King Family Trust, beginning June 28, 2019, for a term of 10 years, for one existing mooring buoy as described on 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 8419.1

LAND DESCRIPTION

One (1) parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 of fractional Section 29, 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:

One (1) circular parcel of land, being 50 feet in diameter, underlying one (1) existing buoy lying adjacent to Parcel No. 2 as described in Exhibit "A" of that Grant Deed recorded October 11, 2017 in Document Number 2017-0045531-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared May 13, 2019 by the California State Lands Commission Boundary Unit.





APN 016-101-92

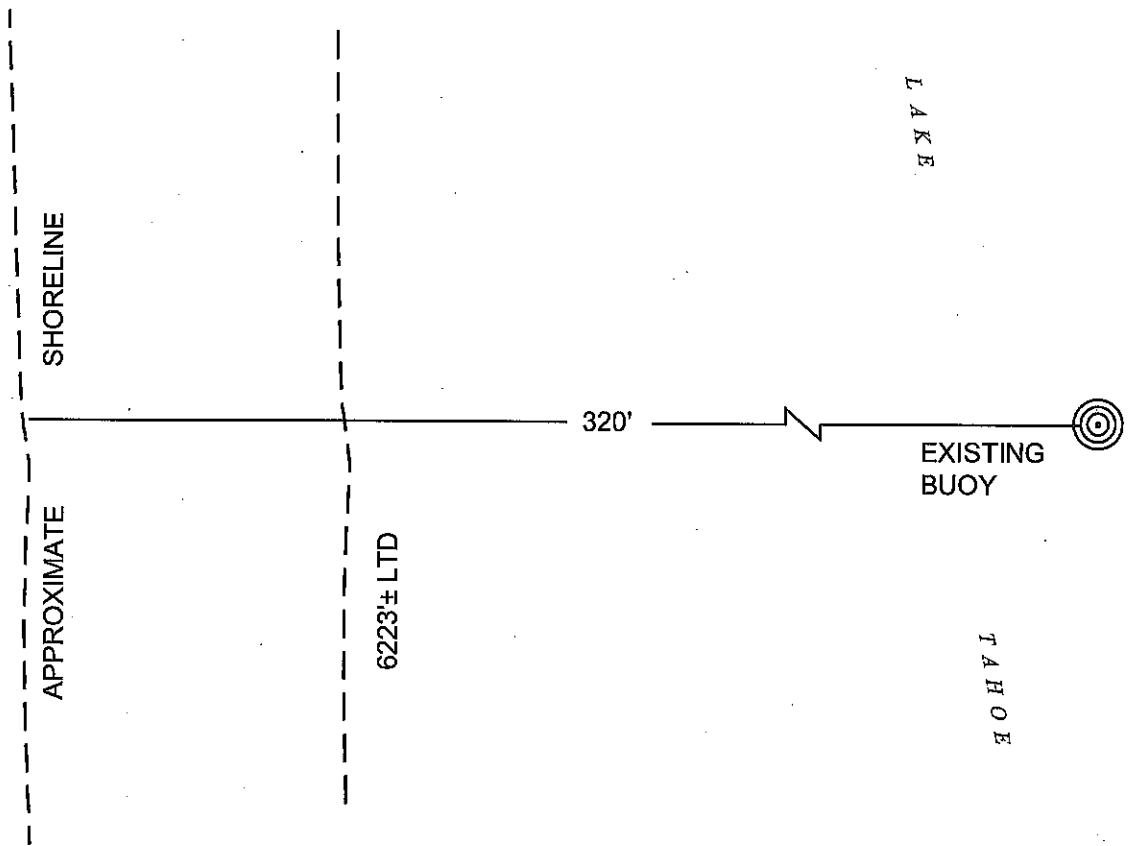


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 8419.1, KING TRUST
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN 016-101-92

SHORELINE

APPROXIMATE

6223'± LTD

320'

L A K E

EXISTING BUOY

T A H O E

8551 MEEKS BAY AVENUE, NEAR TAHOMA

NO SCALE

LOCATION

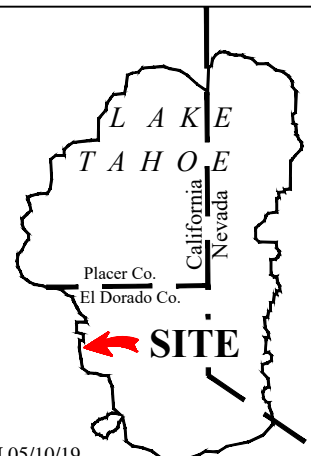


MAP SOURCE: USGS QUAD

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 8419.1
KING TRUST
APN 016-101-92
GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



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