

STAFF REPORT

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06/28/19

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PRC 8601.1

S. Avila

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

LESSEE:

KW-Northstar Ventures, LLC, a Delaware Limited Liability Company

APPLICANT:

BHR Tahoe, LP, a Delaware Limited Partnership

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 7170 North Lake Boulevard,
near Tahoe Vista, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat lift, six mooring
buoys, and one marker buoy.

LEASE TERM:

10 years, beginning March 23, 2019.

CONSIDERATION:

\$2,728 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.

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- Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair public uses for 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 February 9, 2016, the Commission authorized a General Lease - Commercial Use for an existing pier, boat lift, six mooring buoys, and one marker buoy to KW-Northstar Ventures, LLC, a Delaware Limited Liability Company ([Item C07, February 9, 2016](#)). That lease will expire on March 22, 2025.

The privately-owned upland was originally developed as a "Bed and Breakfast" inn. On January 16, 2019, KW-Northstar Ventures, LLC, a Delaware Limited Liability Company transferred its interest in the upland parcel to BHR Tahoe, LP, a Delaware Limited Partnership. The Applicant proposes to provide use of the upland facilities to guests and condominium owners of the Applicant's nearby hotel for the docking and mooring of boats. The Applicant is applying for a General Lease - Commercial Use for the continued use and maintenance of the existing pier, boat lift, six mooring buoys, and one marker buoy.

The Lessee executed a quitclaim deed releasing its interest in the lease effective January 15, 2019. The effective date aligns with the transfer of ownership of the upland parcel. Rent has been paid through March 22, 2020. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease effective March 23, 2019.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and 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 pier and mooring buoys have existed for many years at this location. The pier is built on single pilings with the immediate area of the pier

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surrounded by gravel and small cobbles. The topography and location of upland structures allows for public access for pedestrians and lake-related activities at varying water levels underneath the pier. The buoys are located directly lakeward of the upland property 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, 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.

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 lease; is consistent with the common law 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 pier, boat lift, six mooring buoys and the marker 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, and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to land along the State's inland and coastal waterways.
3. On October 24, 2018, the Tahoe Regional Planning Agency's Governing

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Board certified a new Final Environmental Impact Statement and adopted new 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.

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 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 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:

1. Authorize acceptance of a quitclaim deed, effective January 15, 2019, of Lease No. PRC 8601.1, a General Lease – Commercial

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Use, issued to KW-Northstar Ventures, LLC, a Delaware Limited Liability Company.

2. Authorize issuance of a General Lease – Commercial Use to the Applicant beginning March 23, 2019, for a term of 10 years, for the use and maintenance of an existing pier, boat lift, six mooring buoys, and one marker buoy 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 \$2,728, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8601.1

LAND DESCRIPTION

Eight parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 13, Township 16 North, Range 17 East, MDM., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier, boat lift and catwalk lying adjacent to those parcels described in Grant Deed recorded March 23, 2015 as Document Number 2015-0020995-00 of Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCELS 2 through 8 – BUOYS

Six circular parcels of land, being 50 feet in diameter, underlying six existing buoys lying adjacent to those said parcels.

TOGETHER WITH a U.S. COAST GUARD MARKER BUOY.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared March 18, 2019 by the California State Lands Commission Boundary Unit.



NO SCALE



APN 117-110-008 &
APN 117-110-009

APPROX.

SHORELINE

EXISTING PIER
8' x 80'

9' IMPACT AREA

EXISTING CATWALK

EXISTING BOAT LIFT &
9' X 12' IMPACT AREA

6223± LTD

500±

50±

50±

6 EXISTING
MOORING BUOYS

L A K E

T A H O E

EXISTING
U.S. COAST GUARD MARKER BUOY

EXHIBIT A

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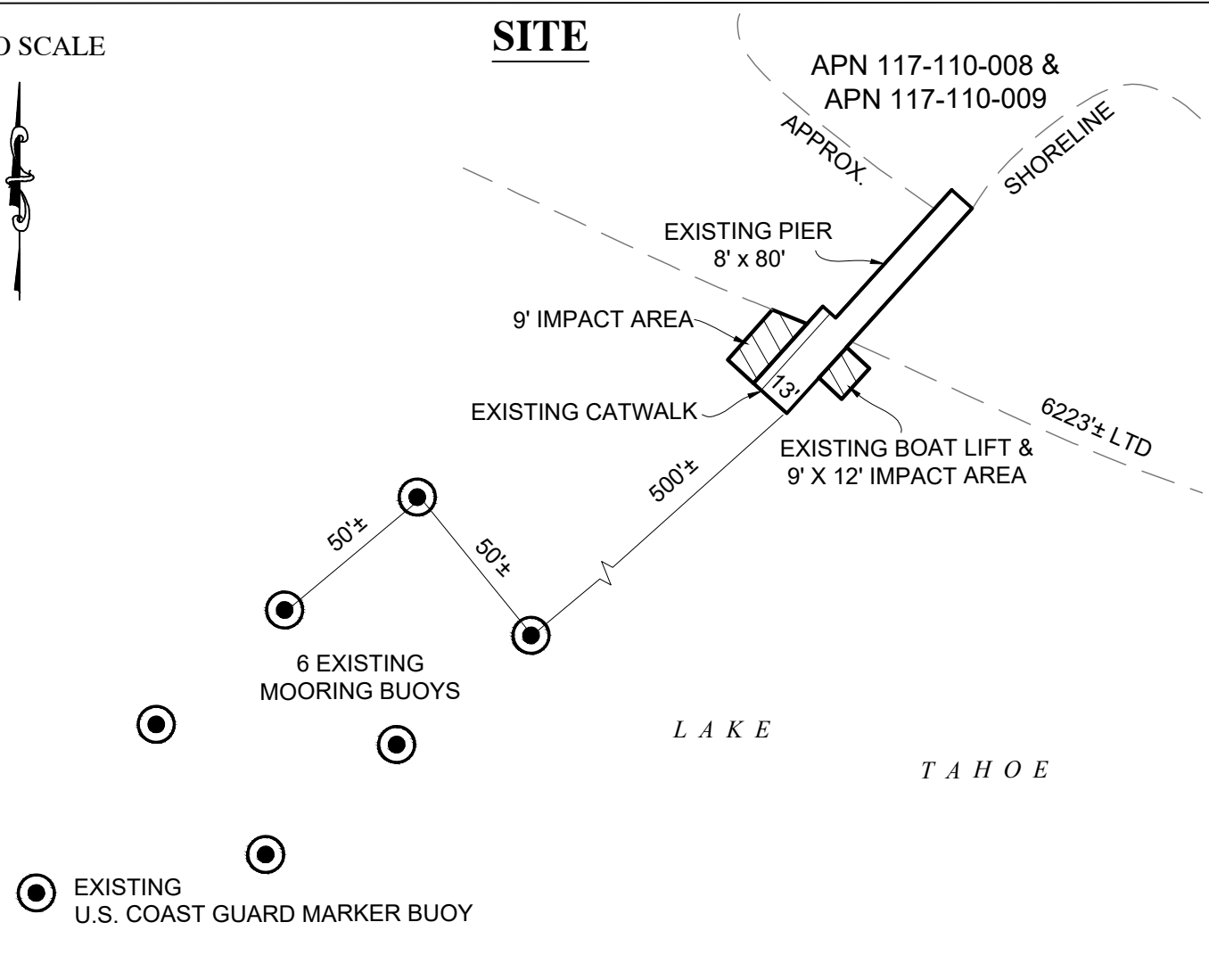
LAND DESCRIPTION PLAT
PRC 8601.1, BHR TAHOE, LP
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



7170 NORTH LAKE BLVD., TAHOE VISTA

NO SCALE

LOCATION

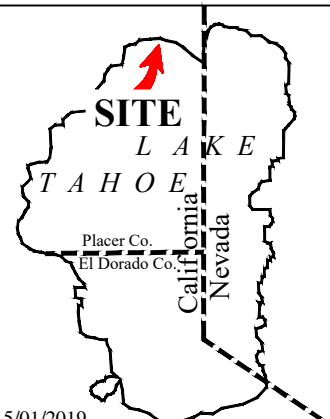


MAP SOURCE: USGS QUAD

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 8601.1
 BHR TAHOE, LP
 APN 117-110-008 & 009
 GENERAL LEASE -
 COMMERCIAL USE
 PLACER COUNTY



MJJ 5/01/2019