

**STAFF REPORT  
C14**

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11/29/17  
PRC 7920.1  
N. Lee  
W. Crunk

**TERMINATION AND ISSUANCE OF A GENERAL LEASE – COMMERCIAL USE**

**LESSEE/APPLICANT:**

Tahoe Boat Company Owners Association

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Lake Tahoe, adjacent to 700 North Lake Boulevard,  
Tahoe City, Placer County.

*AUTHORIZED USE:*

LEASE:

Commercial marina consisting of 90 boat slips, portions of 17 boat  
slips, docks, sheet pile crib walls, and a boathouse.

MEMBER SUBLEASE:

Operation, use, and maintenance of 90 boat slips and portions of  
17 boat slips by members of Tahoe Boat Company Owners  
Association.

*LEASE TERM:*

20 years, 2 months, and 16 days; beginning October 28, 2017, and ending  
January 13, 2038.

*CONSIDERATION:*

\$47,048 per year, with an annual Consumer Price Index adjustment, and  
the State reserving the right to fix a different rent on the 10th anniversary  
of the lease term, as provided in the lease.

*SPECIFIC LEASE PROVISIONS:*

Insurance: Liability insurance in an amount no less than \$3,000,000 per  
occurrence.

Bond: \$100,000.

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Other: The lease contains provisions requiring implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and encourages implementation of the Commission's "Best Management Practices for Berth Holders/Guest Dock Users/Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.

### **STAFF ANALYSIS AND RECOMMENDATION:**

#### **Authority:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

#### **Public Trust and State's Best Interests Analysis:**

The lease premises have been under lease to various parties since 1952 ([Item 9, January 4, 1952](#)). In 1982, K&C Marine, the then-current lessee, began converting the existing commercial marina into a "dockominium" format by selling off interests in the improvements to individual slip purchasers and assigning a corresponding sublease underlying the slip to each purchaser. These transactions were not authorized under Lease No. PRC 706.1, which covered the property at that time.

The marina subsequently fell into disrepair. Staff notified K&C Marine of multiple breaches of the Lease. K&C Marine filed Chapter 11 bankruptcy on March 7, 1994. In order to facilitate the bankruptcy resolution, and the settlement of a related civil case (Placer County Superior Court Case SCV 3458), the Commission bifurcated Lease No. PRC 706.1 and created Lease No. PRC 7920.1. The Commission authorized Lease No. PRC 7920.1, a General Lease – Commercial Use, to the Tahoe Boat Company Owners Association on October 28, 1996 ([Item C30, October 28, 1996](#)). Lease No. PRC 7920.1 recognized and authorized the existing marina to continue functioning in the dockominium sublease format to avoid jeopardizing the civil settlement and bankruptcy resolution despite the fact that this is a disfavored use of public lands subject to the common law Public Trust Doctrine.

On April 26, 2005, the Commission authorized an amendment of the lease to include an existing boathouse ([Item C23, April 26, 2005](#)). On February 8, 2011, the Commission authorized an amendment for one-time maintenance dredging prior to the 2011 boating season ([Item C17, February 8, 2011](#)). A third amendment was authorized on April 26, 2013, to extend the completion date for maintenance dredging ([Item C42, April 26, 2013](#)). The lease will expire on June 30, 2020. The Lessee is now applying for termination of the lease and issuance of a new General Lease

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– Commercial Use. The termination of the proposed lease coincides with the termination of a ground lease on the rest of the marina and adjoining upland held by the Tahoe Boat Company Owners Association.

Staff recommends approval of the proposed lease, including the subleases existing as of the effective date of the proposed lease. The subleases will run concurrently with the term of the proposed lease. All sublessees will be required to execute a Member Sublease.

Each of the members of the Tahoe Boat Company Owners Association holds an undivided fractional share of the common areas, owns the improvements constituting their particular boat slip, and holds a sublease for the State lands underlying their particular boat slip. From time to time, individual members desire to sell their boat slip. To accomplish this, the individual will sell their interest in the Association and assign their sublease rights to a willing purchaser.

The lease and assignment documents include language that notifies both sellers and buyers that transfer of the sublease is subject to Commission authorization and that sale of the membership interest does not include any rights to use State land. The Lessee will continue to be ultimately responsible for performing all lease requirements, so these individual transfers will have no impact on the State's interests. Staff recommends the Commission delegate the authority to the Executive Officer or his or her Designee to approve transfers of any Member Sublease for a term greater than 1 year.

To obtain this approval, a sublessee will be required to complete a "Sublease Assignment, Acceptance, and Approval" document made part of the proposed lease and submit processing fees of \$500. The processing fees of \$500 represent staff's anticipated average costs for processing for these transactions.

The subject facilities have existed for many years at this location. The facilities are used for 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 has a limited term, does not grant the lessee exclusive rights to the lease premises, and reserves an

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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. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. For all the reasons above, staff believes the issuance of this lease will not substantially interfere with the 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. 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. 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).

3. 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.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

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**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 Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

1. Authorize termination, effective October 27, 2017, of Lease No. PRC 7920.1, a General Lease – Commercial Use, issued to Tahoe Boat Company Owners Association.
2. Authorize issuance of a General Lease – Commercial Use to Tahoe Boat Company Owners Association beginning October 28, 2017, and ending on January 13, 2038, for the continued use and maintenance of an existing commercial marina consisting of 90 boat slips, portions of 17 boat slips, docks, sheet pile crib walls, and a boathouse, 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 \$47,048, with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent on the 10th anniversary of the lease term, as provided in the lease; liability insurance in an amount no less than \$3,000,000 per occurrence; and a surety bond or other security in the amount of \$100,000.

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3. Authorize Member Subleases between the Tahoe Boat Company Owners Association and members of the Tahoe Boat Company Owners Association, of Lease No. PRC 7920.1, which shall be subject to the terms of Lease No. PRC 7920.1, for a term ending January 13, 2038.
4. Authorize the Executive Officer or his or her designee to approve the transfer, assignment, or sub-sublease of any Member Sublease for a term greater than 1 year.

EXHIBIT A

PRC 7920.1

LAND DESCRIPTION

That portion of submerged land in the bed of Lake Tahoe situate adjacent to fractional Section 6, Township 15 North, Range 17 East, M.D.M., as shown on Official Government Plat approved November 9, 1866, in the County of Placer, State of California, described as follows:

COMMENCING at the most westerly corner of Parcel B as shown on Parcel Map 72165 recorded in Book 11 of Parcel Maps, Page 124, Official Records of said County; thence along the westerly boundary of said parcel S 45°48'00" E 259.86 feet to the Lake Tahoe meander line as shown on said Parcel Map; thence along said meander line N 81°26'30" E 135.23 feet; thence N 50°26'30" E 162.28 feet to the most northerly corner of that parcel described in Exhibit A of Lease PRC 706.1, dated 7/10/2012, on file at the California State Lands Commission also being the POINT OF BEGINNING; thence leaving said meander line and along said Lease Parcel the following seven (7) courses:

- 1) S 44°27'15" E 146.57 feet;
- 2) S 44°28'33" W 37.70 feet;
- 3) S 45°27'15" E 98.64 feet;
- 4) N 44°32'45" E 124.00 feet;
- 5) N 78°32'45" E 76.00 feet;
- 6) N 21°32'45" E 49.00 feet;
- 7) N 45°32'45" E 176.00 feet;

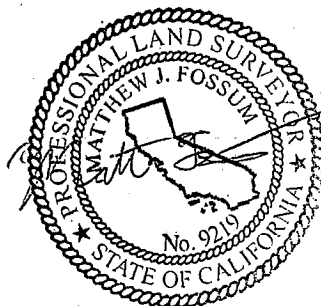
thence leaving said Lease Parcel N 45°32'45" E 9.19 feet; thence N 47°02'24" W 270.68 feet to said meander line; thence along said meander line S 36°56'30" W 157.32 feet; thence S 50°26'30" W 214.72 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the 6223' Lake Tahoe Datum elevation.

The Basis of Bearings for this description is the westerly boundary of Parcel B as shown on Parcel Map 72165 recorded in Book 11 of Parcel Maps, Page 124, Official Records of said County.

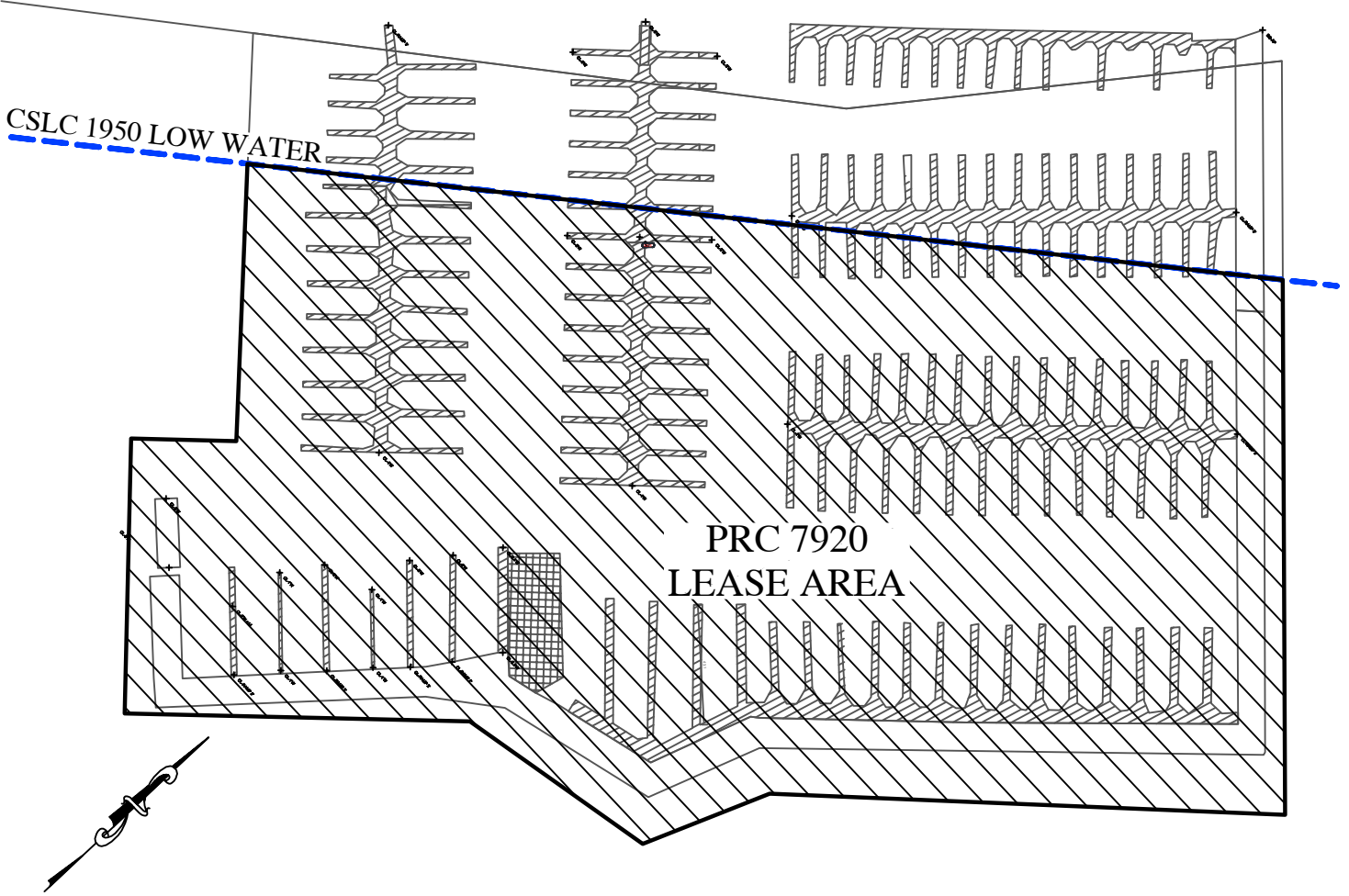
END OF DESCRIPTION

Prepared 10/24/2017 by the California State Lands Commission Boundary Unit.



NO SCALE

# SITE



700 North Lake Blvd., Tahoe City - APN 094-090-032

NO SCALE

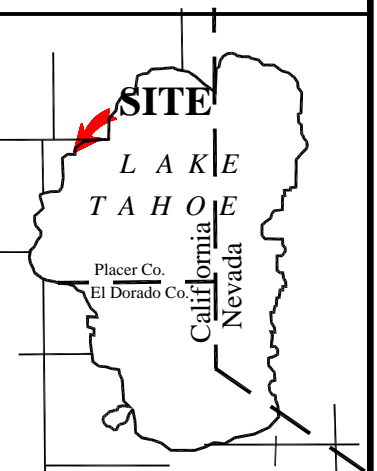
# LOCATION



MAP SOURCE: USGS QUAD

## **Exhibit B**

PRC 7920.1  
 TAHOE BOAT COMPANY  
 OWNERS ASSOCIATION  
 GENERAL LEASE -  
 COMMERCIAL USE  
 PLACER COUNTY



MJF 1/1/17

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.