

**STAFF REPORT
C27**

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06/21/18
W 27068
J. Toy

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

David L. Strong and Sharon H. Strong; Donald L. Strong and Katherine Miller Strong; Virginia McAfee Nix and David William Nix, as Trustees of the Nix Living Trust, dated July 19, 2013; Robert Keith McAfee, Jr. and Jeannette Louise McAfee; and Peter Kirk McAfee and Deborah Kay McAfee

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3212 Edgewater Drive, near Tahoe City, Placer County.

AUTHORIZED USE:

Use and maintenance of one existing mooring buoy not previously authorized by the Commission.

LEASE TERM:

10 years, beginning June 21, 2018.

CONSIDERATION:

\$377 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. 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.
3. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoy within 2 years after the certification of a Final Environmental Impact Statement for the Lake Tahoe Shorezone Ordinance Amendments and approval of the

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amended ordinances. If the Lessee is unable to obtain such authorization within the time limit, they may be required to remove the buoy.

4. 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:

The Applicant is applying for a General Lease – Recreational Use for use and maintenance of one existing mooring buoy not previously authorized by the Commission.

The Applicant owns the upland adjoining the lease premises. The buoy is privately owned and maintained and is used for the 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 buoy does not significantly alter the land and the lease does not alienate the State's fee simple interest or permanently impair public rights. The buoy has existed for many years at this location. Upon termination of the lease, the lessee may be required to remove the buoy and restore the lease premises to its original condition. Additionally, the buoy occupies a relatively small area of the lake. Based on the foregoing, Commission staff believes that the mooring buoy will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease.

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 is consistent with the common law Public Trust Doctrine and in the best interests of the State.

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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. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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 activity 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:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 21, 2018, for a term of 10 years, for the use and maintenance of one existing mooring buoy not previously authorized by the Commission 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 \$377, with an annual Consumer Price

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

EXHIBIT A

W 27068

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 7 of fractional Section 33, 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:

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Quitclaim Deed recorded January 8, 2015 as Document Number 2015-0001133-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 02/23/2017 by the California State Lands Commission Boundary Unit.



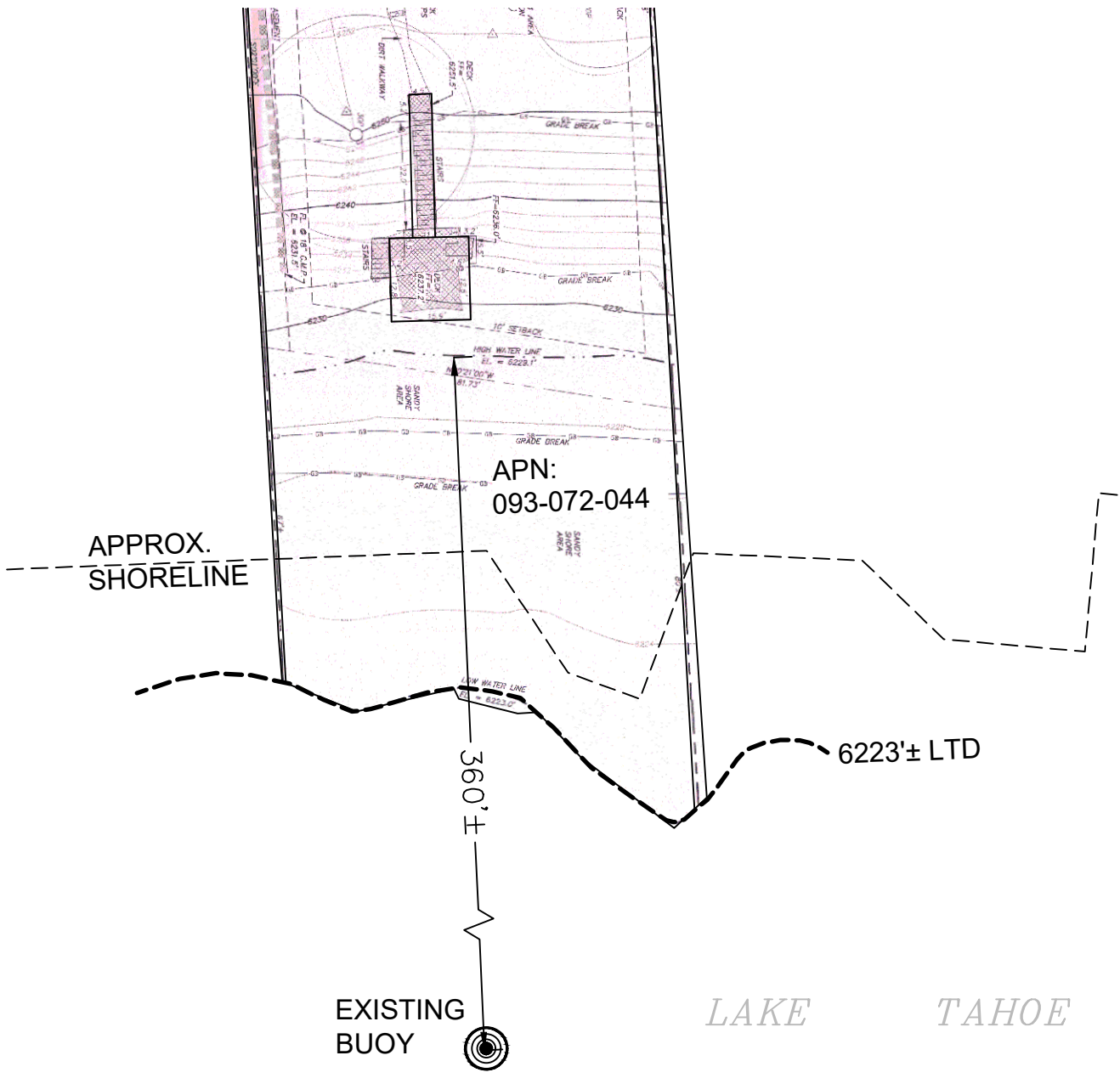


EXHIBIT A

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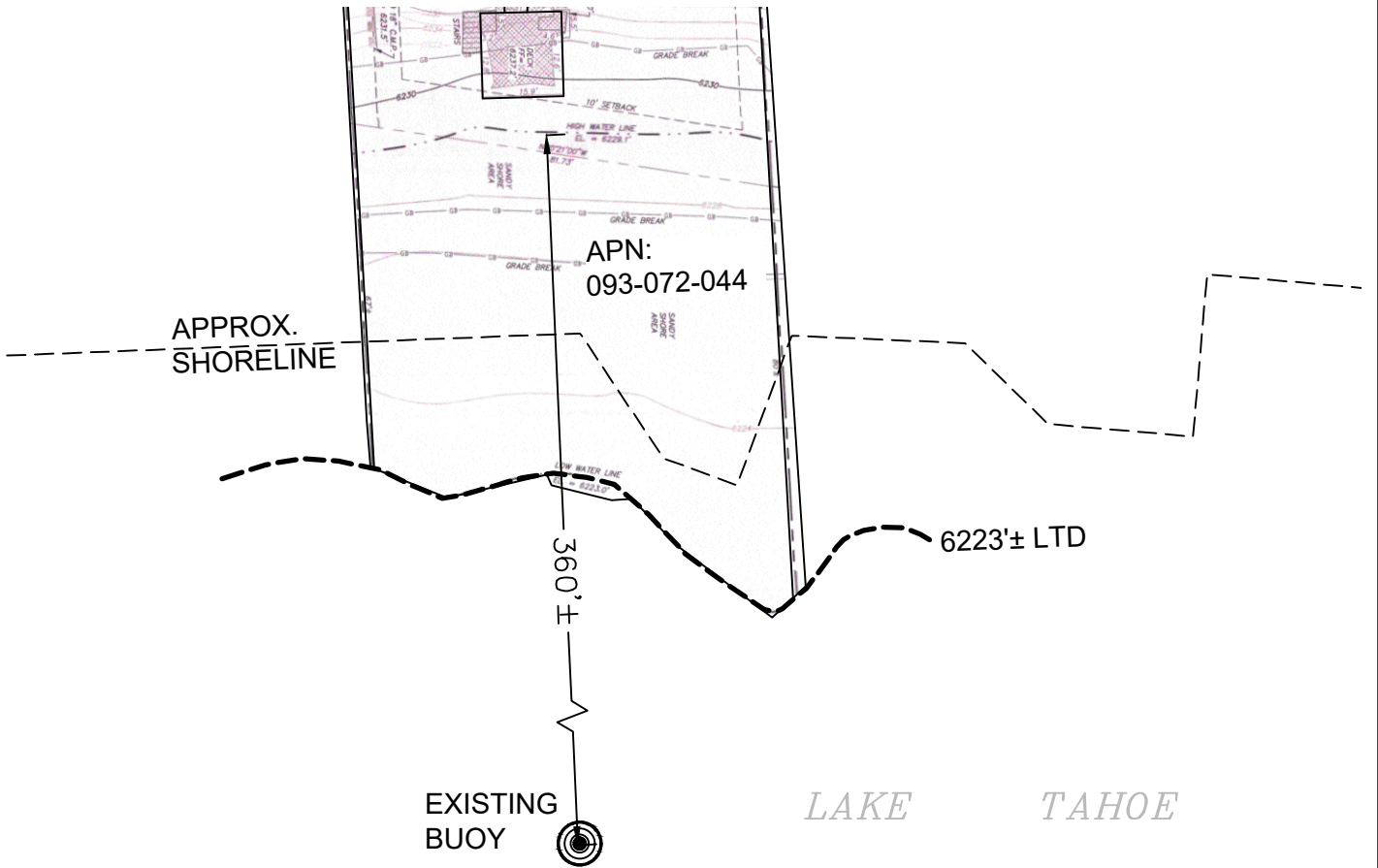
LAND DESCRIPTION PLAT
W 27068, STRONG ET AL.
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



3212 EDGEWATER DRIVE, TAHOE CITY

NO SCALE

LOCATION



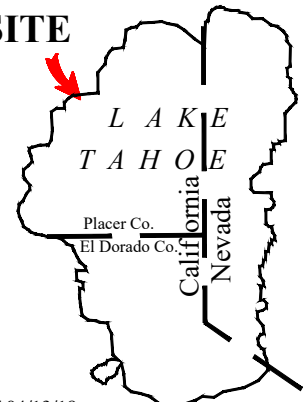
MAP SOURCE: USGS QUAD

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

W 27068
STRONG ET AL.
APN 093-072-044
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY

SITE



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