

**CALENDAR ITEM
C15**

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02/07/17
PRC 5886.1
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

The Franciscan Owners Association, a California Nonprofit Corporation

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6944 North Lake Boulevard, near Tahoe Vista, Placer County.

AUTHORIZED USE:

Continued use and maintenance of 16 existing mooring buoys and two marker buoys.

LEASE TERM:

10 years, beginning January 1, 2017.

CONSIDERATION:

\$6,157 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 within the Public Trust easement below elevation 6228.75 feet, Lake Tahoe Datum, which may impair the public uses of access, navigation, fishing and lake related recreational uses such as bathing, swimming, and open space, as described in the case of *State of California v. Superior Court of Lake County (Lyon)*, 29 Cal. 3d 210, 229-231.

CALENDAR ITEM NO. **C15** (CONT'D)

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On May 10, 2007, the Commission authorized a General Lease – Recreational Use to The Franciscan Owners Association (Association), a California Nonprofit Corporation ([Calendar Item 59, May 10, 2007](#)). On October 19, 2012, the Commission authorized a revision of rent from \$5,490 per year to \$6,082 per year ([Calendar Item 42, October 19, 2012](#)). That lease expired on December 31, 2016. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of 16 mooring buoys and two marker buoys. The subject facilities are privately owned and maintained. The Applicant owns the upland adjoining the lease premises.

The upland adjacent to the lease premises is improved with multiple member units owned by the Association and leased to individuals. The use of the mooring buoys is on a first come, first served basis and is limited to use by the members of the Association and their guests. On February 21, 1978, the Tahoe Regional Planning Agency (TRPA) issued a permit for the 16 mooring buoys adjacent to the upland parcel. The TRPA permit is currently valid.

The subject mooring buoys facilitate 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 subject facilities have existed for many years at this location. A pier is adjacent to the lease premises; however, the pier appears to be located landward of elevation 6,223 feet, Lake Tahoe Datum, based on the information available at this time, and therefore not within the Commission's leasing jurisdiction. The pier does lie within the Public Trust easement. The pier is built on pilings, allowing the public to navigate next to, and at certain water levels, under the pier. The immediate area of the existing pier is relatively flat and sandy with a few cobblestones. The mooring buoys are located directly lakeward of the upland property and occupy a relatively moderate area of the lake.

CALENDAR ITEM NO. **C15** (CONT'D)

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, 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.

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 and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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.

3. 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.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

CALENDAR ITEM NO. **C15** (CONT'D)

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 the Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is consistent with the common law Public Trust Doctrine, 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:

Authorize issuance of a General Lease – Recreational Use to The Franciscan Owners Association, a California Nonprofit Corporation beginning January 1, 2017, for a term of 10 years, for the continued use and maintenance of 16 existing mooring buoys and two existing marker 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 \$6,157, with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000 per occurrence.

EXHIBIT A

PRC 5886.1

LAND DESCRIPTION

Eighteen circular parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 14, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

PARCELS 1 through 16 – BUOYS

Sixteen circular parcels of land, each being 50 feet in diameter, underlying sixteen existing buoys lying adjacent to those parcels described in Exhibit "A" of Grant Deed of Project recorded July 8, 1980 as in Volume 2273 at Pages 397-400 in Official Records of said County.

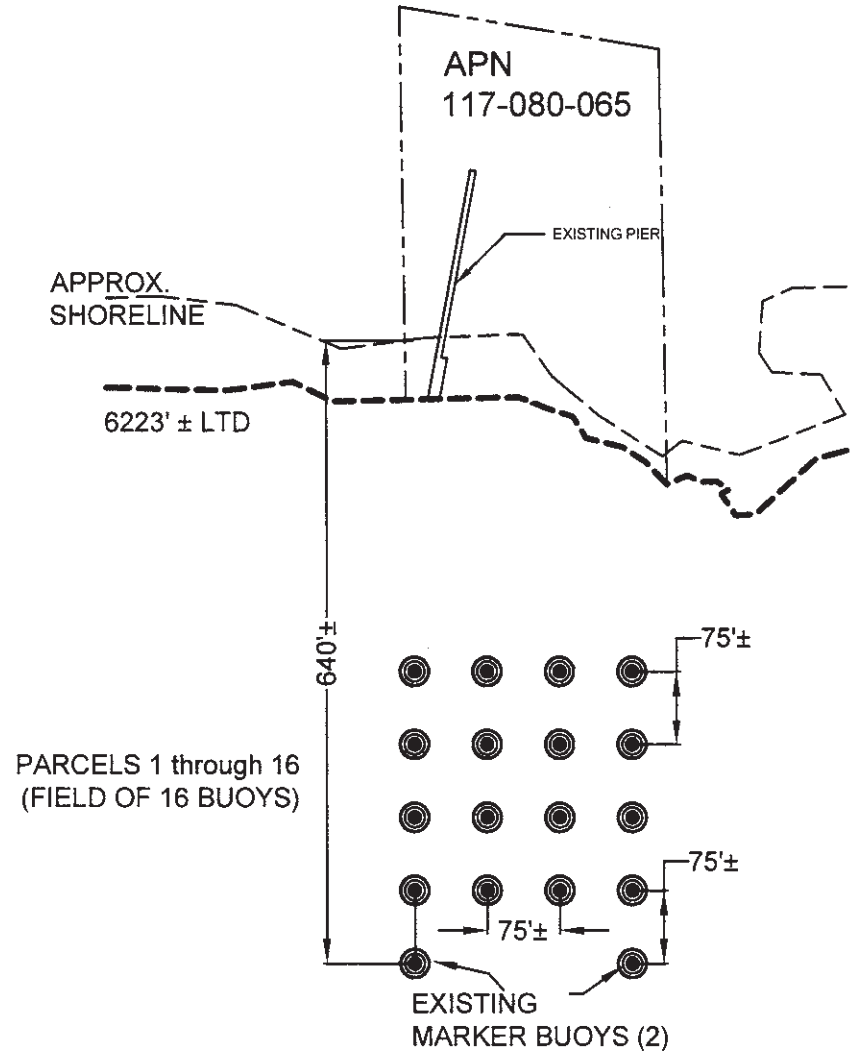
TOGETHER WITH two U.S. COAST GUARD MARKER BUOYS.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 09/21/2016 by the California State Lands Commission Boundary Unit.





L A K E T A H O E

EXHIBIT A

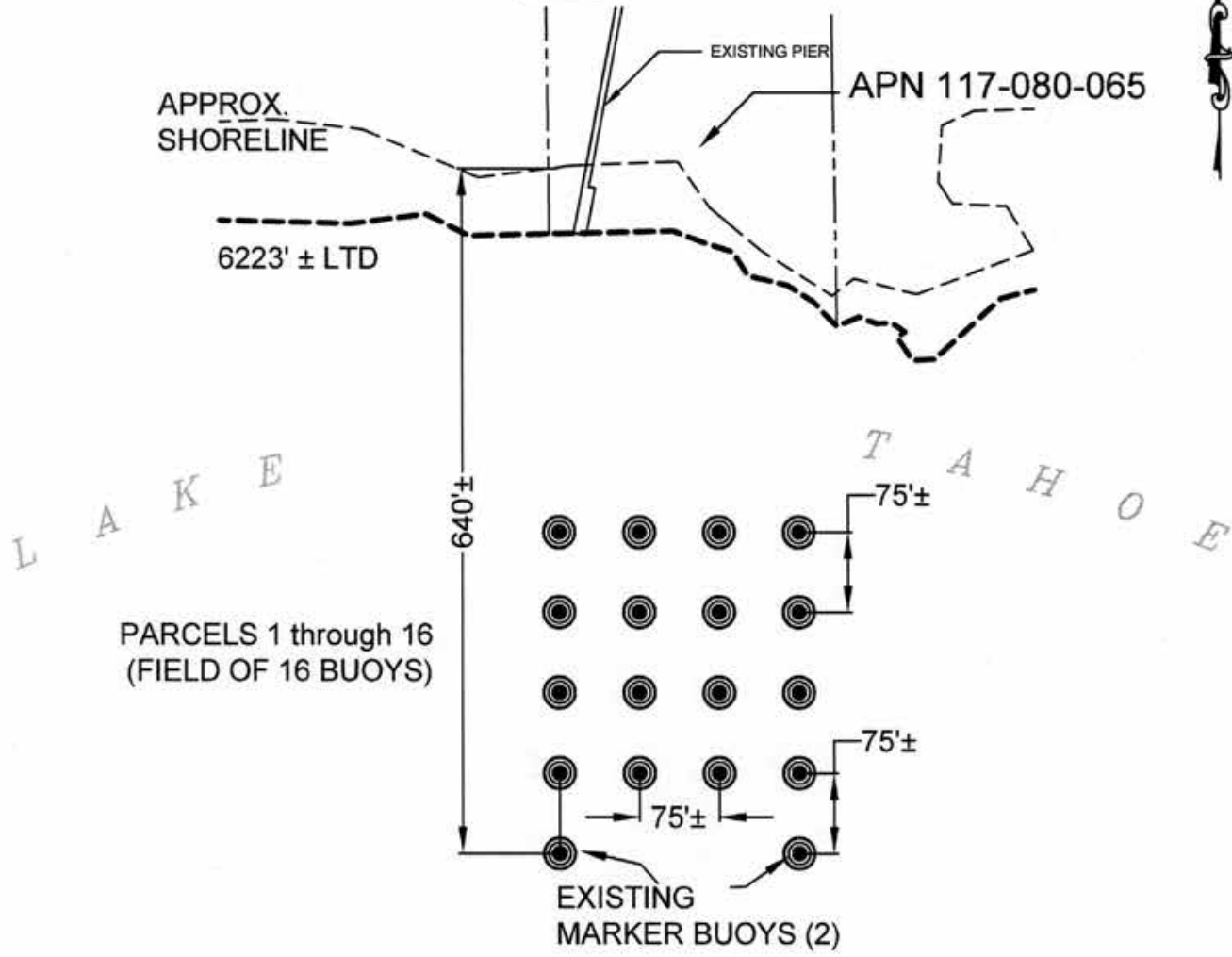
LAND DESCRIPTION PLAT
PRC 5886.1, FRANCISCAN OWNERS
ASSOCIATION
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



6944 NORTH LAKE BLVD., NEAR TAHOE VISTA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 5886.1
 FRANCISCAN OWNERS
 ASSOCIATION
 APN 117-080-065
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



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.