

Staff Report 06

APPLICANT:

Clean Up The Cayes 501(c)3

PROPOSED ACTION:

Issuance of a General Lease – Other Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, El Dorado, and Placer Counties; Donner Lake and Independence Lake, Nevada County; June Lake and Twin Lakes, Mono County; Echo Lake and Fallen Leaf Lake, El Dorado County; and Gold Lake, Plumas County.

AUTHORIZED USE:

SCUBA-enabled litter removal, data collection, and monitoring to improve lake health, and to promote mitigation of litter accumulation and public enjoyment.

TERM:

10 years, beginning May 1, 2022.

CONSIDERATION:

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee will submit annual reports that include frequency and timing of removal activities completed each calendar year, as well as narrative descriptions, evaluations, and results of removal activities.
- At least 15 days prior to the start of the project activities, Lessee shall provide notification to the public, all owners of littoral parcels adjacent to the project site, and recreational concessionaires with project details and dates the project will occur.

- If Lessee discovers any culturally sensitive artifact(s), historical, or paleontological resource, Lessee must immediately contact Lessor's staff and notify Lessor's staff of the location. Lessee agrees that such artifacts will not be disturbed or collected.

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:

Clean Up The Cayes 501(c)3, DBA Clean Up The Lake 501(c)3 (CUTL), is a non-profit organization seeking to conduct SCUBA-enabled litter removal with the aid of surface support operators and remotely operated underwater vehicles (ROVs) in lakes across the State of California and beyond to improve lake health, enhance public recreation, and educate the public by spreading awareness and gaining insight on litter accumulation patterns that may be used for planning and education by local and state governing entities, non-profits, and community organizations to mitigate future litter accumulation. Their findings will be made publicly available through multiple formal and informal platforms including organizational white paper(s), scientific talks, local events, social media, www.cleanupthelake.org, documentaries filmed by CUTL, news outlets, and press releases to reach national and international audiences.

On June 17, 2020, the Commission issued a Letter of Non-Objection (LON) to CUTL for litter removal and exploratory dives down to a depth of 100-feet in Lake Tahoe and Donner Lake. Over 5,000 pounds of litter was removed from the nearshore of the approximately 8-mile circumference of Donner Lake. On June 1, 2021, the Commission issued a second LON to CUTL for continued lake wide litter removal and data collection in Lake Tahoe. CUTL is working to complete the 72-mile circumnavigation clean-up of Lake Tahoe in the spring of 2022. Over 26,000 pounds of submerged litter have been removed to date.

The Applicant is now applying for a General Lease – Other Use for SCUBA enabled litter removal, data collection, and monitoring to improve lake health, and to promote mitigation of litter accumulation and public enjoyment in Lake Tahoe, El Dorado and Placer Counties; Donner Lake and Independence Lake, Nevada County; June Lake and Twin Lakes, Mono County; Echo Lake and Fallen Leaf Lake, El Dorado County; and Gold Lake, Plumas County.

SCUBA divers provide precision litter removal with minimal disruption to the lakebed, vegetation, and native fish populations. This method will also minimize further degradation of decaying litter, such as plastics that can release toxins and microplastics in the water, during removal compared to bottom trawling. Dives will begin at daybreak to take advantage of calm water. Dive teams will include two to 15 SCUBA divers as well as four to 10 surface support personnel including kayakers, snorkelers, jet skiers, and boat captains. Dives will typically be to a depth of 35 feet but as low as 100 feet and from 10 feet to about 200 feet from the shoreline. Deep dives will be conducted by at least three expert local divers with substantial deep dive experience. The Applicant has formulated safety clean-up and weather protocols to ensure the health and safety of their staff and volunteers. There will be a three-phased approach to conduct the activities.

Phase 1 – Circumnavigated SCUBA Clean Up:

If an initial survey dive identifies a need for clean-up activities, a circumnavigation of the nearshore in the lake to remove litter and to identify areas of special interest will be conducted.

Depending on litter volume and mass, water depth, and air tank levels, clean-up dives will employ a range of methodologies to bring collected litter to the surface. This includes: 1) use of mesh dive bags carried up to surface support; 2) collection of filled dive bags using a weighted rope pulley system through the assistance of surface support; and 3) use of small inflatable bags to bring filled dive bags to the surface. Items that exceed approximately 100 pounds will not be removed.

GPS locations, pictures, and descriptions of heavy, significantly buried, and unknown items that do not appear to be litter will be noted using field data collection software and marked as non-collection items to avoid lakebed disturbance and removal of items that may be of importance. Items that appear to be over 50 years old will also be untouched and noted in the event they are culturally significant. Heavily littered areas will be noted for future monitoring. The location of items that may be Native American in nature must be kept confidential; therefore, GPS locations of any suspected Native American items shall be transmitted to the Commission and not kept by the Applicant and shall not be disclosed to the public. In addition, Commission staff will notify the geographically and culturally affiliated tribes listed by the Native American Heritage Commission of the proposed cleanup activities, and will provide those tribes with the contact information of the Applicant in the event any tribal representatives wish to coordinate with the Applicant or participate in project activities.

Thorough documentation of recovered litter using a peer reviewed litter categorization method will be used to contribute to the relatively sparse

documentation of underwater litter accumulation in freshwater lakes in peer-reviewed or popular literature, compared to marine litter. This process includes identifying and sorting the litter based on nine different material types (e.g., metal, plastic, glass) and 83 various usage categories (e.g., fishing, single-use packaging). Each category is then counted, weighed, and photographed. The results, along with the location they were collected, are entered into a spreadsheet to identify problem materials, litter patterns, and hot spot areas.

All findings will be made publicly available via white paper(s) or other reports and data analysis for third parties including academic, government, and non-government organizations to use in planning and public education.

The litter will then be recycled at local waste disposal sites, kept for art projects, or properly disposed of.

Phase 2 – Monitoring Program:

Monitoring dives will occur at least 1 year after Phase 1 to allow for potential further accumulation of litter during the recreational season and to identify accumulation patterns. Clean-up dives will be conducted at heavily littered areas from recreational related activities (hot spots) or possibly the entire nearshore of the lake. Investigative deep-water transect dives ranging from 30 to 100 feet in depth may be conducted offshore from hot spot areas. CUTL's goals are to: 1) enhance understanding of litter input and accumulation rates; 2) establish an initial estimate of offshore litter transport processes and deep-water litter loads; and 3) use the data to incite action and environmental stewardship that mitigates freshwater litter accumulation at its origin.

Phase 3 – Further Exploration of Potential Litter Accumulation Zones:

Hot spots will continue to be monitored and deep-water litter accumulation will be explored further. Divers or ROVs will be used to investigate areas where litter accumulation was expected to occur but was not found in Phase 1. These locations would typically be where the nearshore lakebed was primarily sand and the potential for underwater transport to a deeper depth is possible and low trafficked areas of at least 25 feet water depth.

In 2021, the Applicant performed an exploratory dive along the south beach of June Lake, during which 31 pounds of trash were removed in about 22 minutes, indicating a need for a circumnavigated clean-up which will begin in Spring 2022. June Lake is a small alpine lake and provides its local community with its drinking water supply, potential for recreational activities and its aesthetic appeal. It is also home to the Lahontan Cutthroat trout, a native subspecies of cutthroat trout that has been classified as threatened since 1975.

The Applicant also performed an exploratory dive in Fallen Leaf Lake in 2021. Within 40 minutes, 102 pieces of litter totaling just over 24 pounds were collected. Limited time and haul capacity prevented further litter removal during that dive. Fallen Leaf Lake is a mountain lake which is an integral part of the local ecosystem supporting habitat for many species including the threatened Lahontan Cutthroat trout. The lake also provides recreational opportunities, aesthetic appeal, and seasonal drinking water for the local community.

Between May 2022 and May 2023, the Applicant plans to implement Phase 2 and begin Phase 3 activities in Donner Lake. They also plan to complete Phase 1 in Lake Tahoe this Spring.

The proposed activities will provide local, regional, and statewide benefits through increasing the aesthetics and safety for recreational users, improving habitats for plants and wildlife, and promoting public awareness of the transportation of litter into lakes and its impacts. The lease requires the lessee to submit annual reports detailing their activities and data collected and to carry liability insurance to protect the state from any incidents or damage that could occur due to the lease activities. The lease is also nonexclusive, allowing public access to be maintained in the area.

For all the reasons above, staff believes the issuance of this 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 proposed 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 not conduct the proposed activities within lands under the Commission's jurisdiction. 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 the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.

3. **Litter Removal:** 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.
4. **Data Collection and Monitoring:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 6, Information Collection; California Code of Regulations, title 14, section 15306.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Litter Removal: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Data Collection and Monitoring: 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 6, Information Collection; California Code of Regulations, title 14, section 15306.

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 – Other Use to the Applicant beginning May 1, 2022, for a term of 10 years, for SCUBA enabled litter removal, data collection, and monitoring to improve lake health, and to promote mitigation of litter accumulation and public enjoyment, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration being the public benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A
LAND DESCRIPTION

A 2492

PARCEL 1 – Gold Lake

All sovereign land situate in the bed of Gold Lake, Sierra County, State of California.

PARCEL 2 – Independence Lake

All sovereign land situate in the bed of Independence Lake, Nevada and Sierra Counties, State of California.

PARCEL 3 – Donner Lake

All sovereign land situate in the bed of Donner Lake, Nevada County, State of California.

PARCEL 4 - Lake Tahoe

All sovereign land situate in the bed of Lake Tahoe, Placer and El Dorado Counties, State of California.

PARCEL 5 – Fallen Leaf Lake

All sovereign land situate in the bed of Fallen Leaf Lake, El Dorado County, State of California.

PARCEL 6 – Echo Lake

All sovereign land situate in the bed of Echo Lake, El Dorado County, State of California.

PARCEL 7 – June Lake

All sovereign land situate in the bed of June Lake, Mono County, State of California.

PARCEL 8 – Twin Lakes

All sovereign land situate in the bed of Twin Lakes, Mono County, State of California.

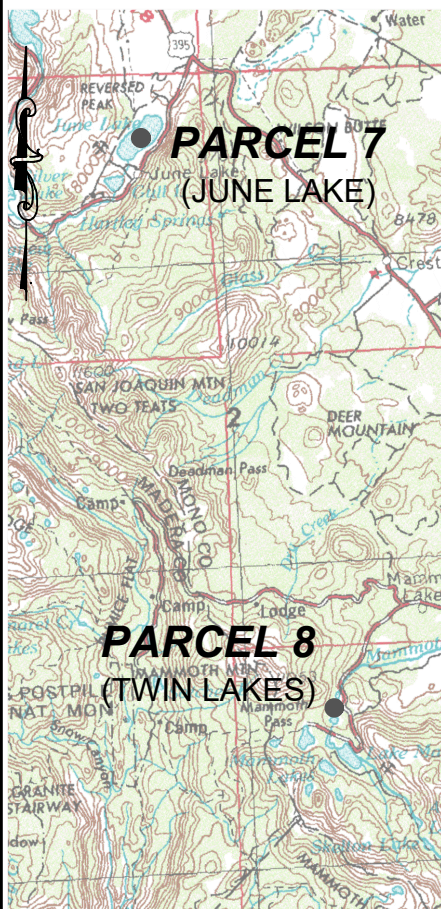
END OF DESCRIPTION

Prepared 03/14/2022 by the California State Lands Commission Boundary Uni



SITE

NO SCALE



MONO COUNTY

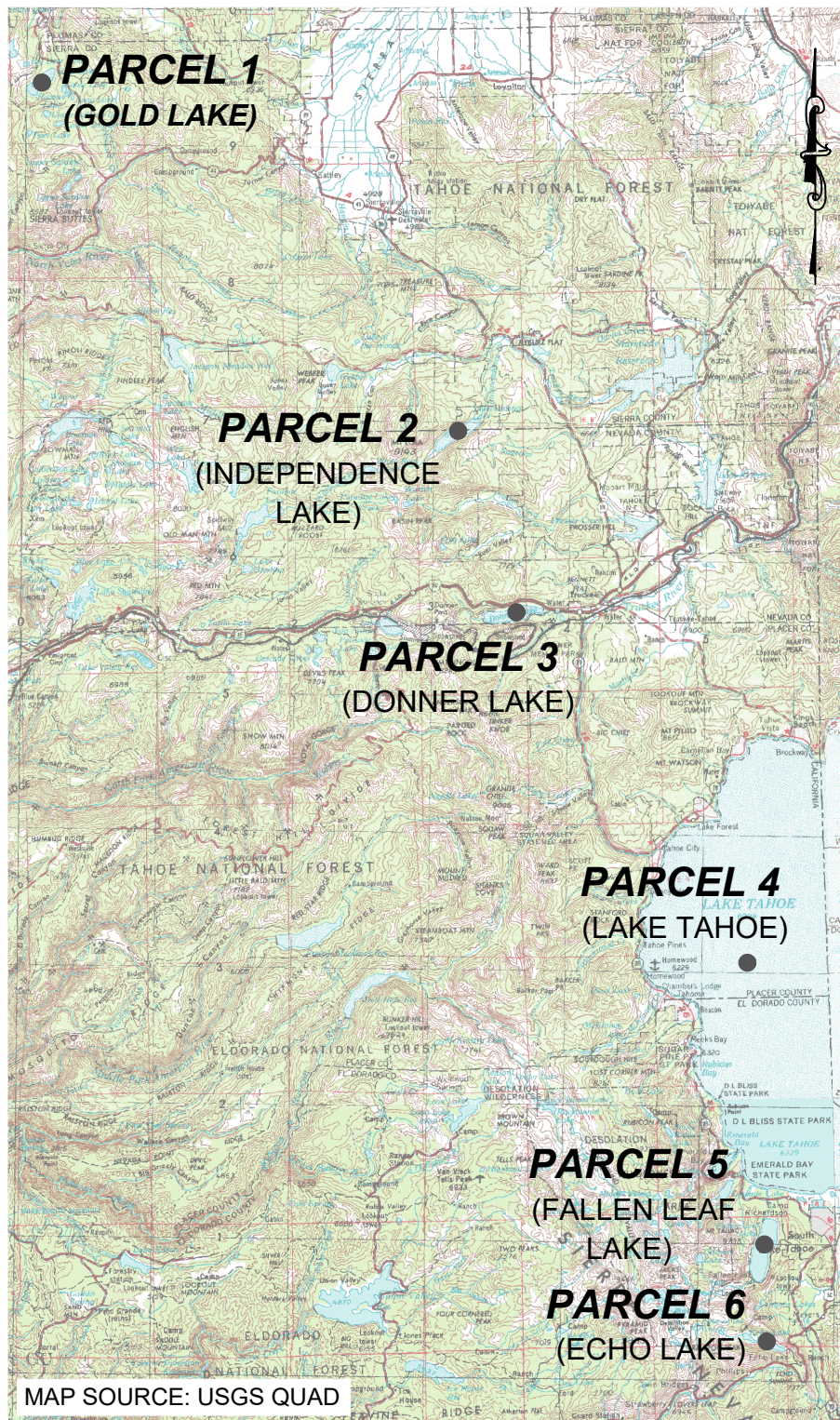
Exhibit B

A 2492

CLEAN UP THE CAYES
GENERAL LEASE -
OTHERL USE
MULTIPLE COUNTIES



TS 03/14/2022



MAP SOURCE: USGS QUAD

SIERRA, NEVADA, PLACER AND EL DORADO COUNTIES

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.