

Staff Report 24

LESSEE:

WS Marina, LLC, a Delaware limited liability company

PROPOSED ACTION:

Amendment of Lease

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 5190 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use, maintenance, and operation of an existing commercial marina, known as Homewood High & Dry Marina, consisting of an existing pier, retaining wall, two fuel pumps, ancillary services, two marker buoys, and 125 mooring buoys.

TERM:

20 years, beginning July 1, 2021.

CONSIDERATION:

\$23,417 per year, with an annual Consumer Price Index adjustment; and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

Amend the lease to:

- Authorize the one-time maintenance dredge of a maximum of 241 cubic yards to elevation 6,217 feet, Lake Tahoe Datum (LTD), within the enclosed launch and takeout harbor.
- In performing dredging operations, the Lessee will abide by mitigation measures and Best Management Practices to control turbidity and protect aquatic

resources and habitats from excessive siltation in the general vicinity of the Project.

- Lessee shall coordinate with the U.S. Coast Guard in placing and maintaining navigational buoys, a warning to boaters at all times, during dredging activities.
- Lessee shall provide copies of the proposed site sampling and analysis plan as well as the results of the sampling prior to dredging.
- Lessee acknowledges no monetary consideration is due for the lease dredging activity because it is for the public use and benefit. The dredged material may not be sold and the Lessee is not authorized to dredge for purposes of commercial resale, environmental mitigation credits, or other private benefits without Lessor's prior written consent.
- Replace Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map.
- Dredge material will be disposed of at the Placer County Eastern Regional Landfill.
- Lessee expressly acknowledges that Tahoe Regional Planning Agency, Lahontan Regional Water Quality Control Board, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers permits are required for the Authorized Dredging and failure to obtain a permit from the agencies and maintain compliance with the permits may result in the agencies imposing civil penalties and will constitute a breach of the lease.

All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6303, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 8, 2021, the Commission authorized a 20-year General Lease – Commercial Use to WS Marina, LLC, a Delaware limited liability company (Lessee), for the continued use, maintenance, and operation of an existing commercial marina, known as Homewood High & Dry Marina (Marina), consisting of an existing pier, retaining wall, two fuel pumps, ancillary services, two marker buoys, and 125 mooring buoys ([Item C30, December 8, 2021](#)). That lease will expire on June 30, 2041. The Lessee is now applying for an amendment of the lease to request authorization for maintenance dredging to an elevation of 6217 feet, LTD.

The proposed dredging area is located within the enclosed harbor area of the existing Marina. Due to current drought conditions that have lowered the lake level, the Lessee is proposing a single maintenance dredge event to an elevation of 6217 feet, LTD. The proposed dredging is intended to restore and preserve navigation at the Marina.

The Lessee proposes to use mechanical dredging with a barge mounted tracked excavator using an open bucket scoop. This type of excavator, operating from a barge in a confined and protected harbor, has a level-cut capability and an advantage of more controlled penetration depth and better control of bucket location and overlap. It is also more capable of cutting through large cobbles typical of the substrate found in the Marina harbor.

The harbor will function as a watertight enclosure with the perimeter and entrance blocked with an impermeable turbidity curtain. Dredged material will be deposited in lined roll-off bins or lined dump truck beds and hauled out of the basin to the Placer County Eastern Regional Landfill for discharge. After dredging excavation, turbid water will be allowed to settle on its own to a level of 3 nephelometric turbidity units or lower before removal of the turbidity curtain. If there is a need to expedite this process, turbid water from the harbor may be spray irrigated on permeable soils beneath the boat racks and an adjacent lawn area to accelerate the achievement of water quality standards in the post-dredging harbor. The ability of these land areas to receive turbid water is not unlimited and may significantly aid in reducing the turbidity in the harbor. The dredging is proposed to take place in the spring of 2022 and may take 2 months to complete.

The project is considered beneficial because it will promote the operation of the Marina facility and water-related commerce and navigation, which is a recognized Public Trust use. In addition, the dredging is consistent with the common law Public Trust Doctrine because it is intended to facilitate water-dependent recreation. The 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.

CLIMATE CHANGE:

Climate change significantly affects inland non-tidal lakes such as Lake Tahoe. The frequency and severity of natural disasters like flooding, wildfire, drought, extreme heat, and storms is increasing throughout the state of California, including the Sierra Nevada mountains, and will continue to accelerate through the end of the century. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events and shifts in seasonal characteristics.

According to California's Fourth Climate Change Assessment, released in 2018, the most significant impacts of climate change in the Sierra Nevada Region are more intense heat, precipitation extremes, declining snowpacks, and changes in streamflow timing. The long-term warming trend will lead to warmer and shorter winters, and longer and dryer summers. Successive dry and warm winters are resulting in minimal snowpack, increased winter stream flows and floods, and decreased spring and summer runoff. Prolonged low lake levels will become normal. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions interfere with boat launching and mooring facilities. This impact is most noticeable where the facilities are sited on shallow, low gradient lake bottom locations.

Dry winters will be punctuated with exceedingly wet years where prolonged and excessive precipitation can produce flash floods. High precipitation in these years will result in higher lake levels, causing beaches to narrow and reducing public access. Extra saturation of the soil can increase erosion, especially following intense wildfire seasons. Surface runoff water may carry more sediment into the lake, adversely impacting water quality and clarity.

Climate change may also lead to more intense and unpredictable winds and storm events. These storms may deviate from prevailing wind patterns for the region. These winds can accelerate shoreline erosion in some areas or cause erosion in areas not typically subject to erosion. Additionally, these winds can increase wave damage on structures and boats along the lake.

Although climate change may increase the need for maintenance dredging within the lease area, the one-time maintenance dredging as authorized under this lease should not be further affected by issues relevant to climate change.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease amendment will not substantially interfere with Public Trust needs 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 undertake any dredging within sovereign land. 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 Areas of the Commission's 2021-2025 Strategic Plan.
3. 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 Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(4).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

APPROVALS REQUIRED:

U.S Army Corps of Engineers
California Department of Fish and Wildlife
Lahontan Regional Water Quality Control Board
Tahoe Regional Planning Agency

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 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(4).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment 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 the amendment of Lease 3953, a General Lease – Commercial Use, effective April 26, 2022, to allow for a one-time maintenance dredging of sediment material to a previously established elevation of 6,217 feet Lake Tahoe Datum within the enclosed launch and takeout harbor; include consideration for dredging as the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission, at its discretion, determines such action to be in the State's best interest; include special lease provisions to require that the dredged material not be sold and to specify requirements for performing dredging operations; replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only); all other terms and conditions of the lease shall remain in effect without amendment.

EXHIBIT A

LEASE 3953

LAND DESCRIPTION

One hundred twenty-eight parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to fractional Section 1, Township 14 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

PARCEL 1 - Marina

All those lands underlying an existing marina facility lying adjacent to Lot 1 of Tract No. 490 HOMEWOOD HIGH AND DRY MARINA recorded May 27, 1980 in Book "M" of Maps, Page 79, in Official Records of said County.

TOGETHER WITH all lands lying within the entire marina area to be dredged.

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

PARCELS 2 through 128 - Buoys

One hundred twenty-five circular parcel of land, each being 50 feet in diameter, underlying one hundred twenty five existing buoys lying adjacent to those Lots of Tract No. 490 HOMEWOOD HIGH AND DRY MARINA recorded May 27, 1980 in Book "M" of Maps, Page 79, in Official Records of said County.

TOGETHER WITH two MARKER BUOYS.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

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



NO SCALE

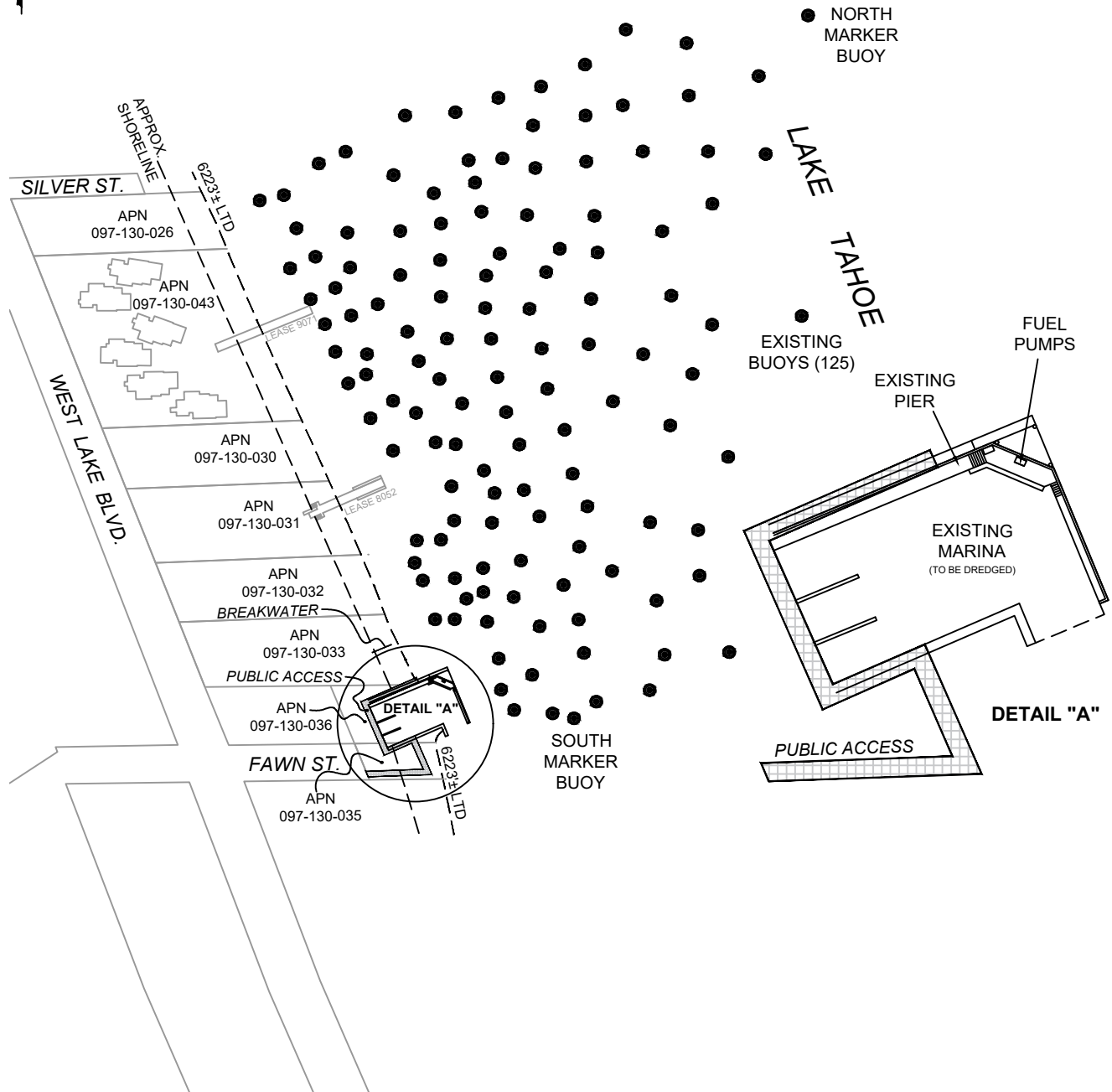


EXHIBIT A

Page 2 of 2

TS 03/14/2022

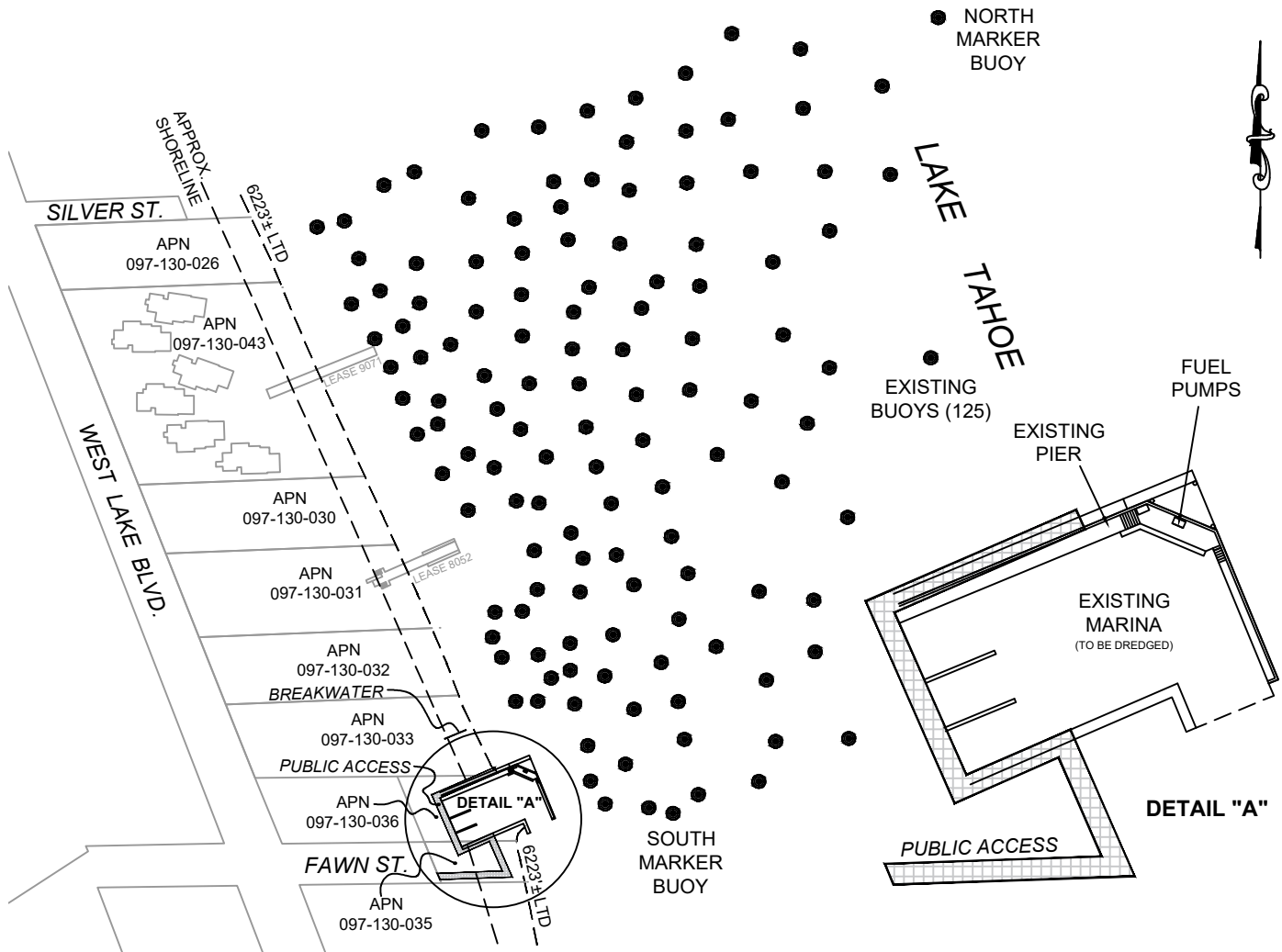
LAND DESCRIPTION PLAT
LEASE 3953, WS MARINA, LLC
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

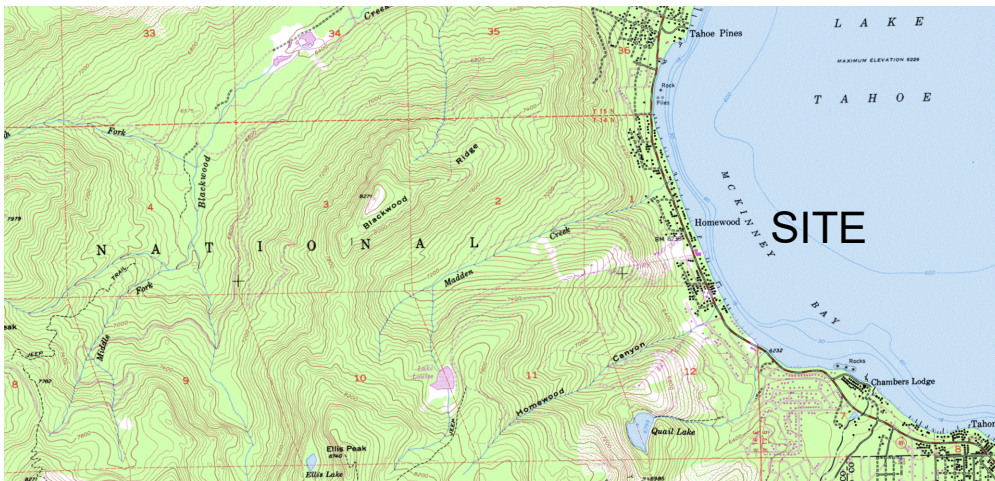
SITE



5190 WEST LAKE BLVD., HOMEWOOD

NO SCALE

LOCATION

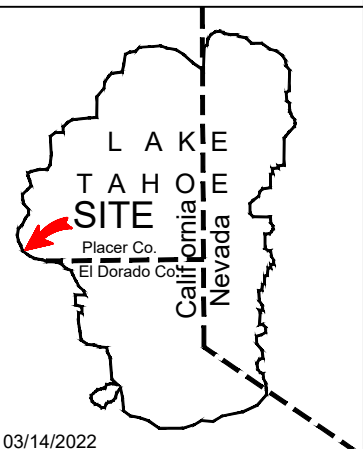


MAP SOURCE: USGS QUAD

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

LEASE 3953
WS MARINA, LLC
APNs: 097-130-026, 030, -031,
-032, -033, 035, 036 & -043
GENERAL LEASE -
COMMERCIAL USE
PLACER COUNTY



TS 03/14/2022