

Staff Report 07

LESSEE:

Dagmar Dolby, as Trustee of the Dagmar Dolby Trust established under the Dolby Family Trust instrument, dated May 7, 1999

APPLICANT:

2550 W Lake LLC, a California limited liability company

PROPOSED ACTION:

Termination of a General Lease – Recreational Use and Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2550 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Use and maintenance of an existing pier, pumphouse/shed, open-sided boathouse with stairs, boat lift, and two mooring buoys.

TERM:

10 years, beginning June 23, 2022.

CONSIDERATION:

\$2,087 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee expressly acknowledges that a permit from the Tahoe Regional Planning Agency (TRPA) is required for the Authorized Improvements and failure to obtain

a permit from TRPA and maintain compliance with that permit may result in TRPA imposing civil penalties and will constitute a breach of this lease.

- Lessee shall not store any personal items or construct any improvements in the Public Trust easement which may impair the public uses of access, navigation, fishing, and lake-related recreation.
- The lease provides that signs shall be posted on each side of the pier to indicate passage and to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 feet, Lake Tahoe Datum (LTD).
- The lease contains a provision that the existing pumphouse/shed as shown on the attached Exhibit B cannot be expanded or improved, and if repairs to any portion of the existing pumphouse/shed cost more than 50% of the base value of the pumphouse/shed, then the pumphouse/shed must be removed from the lease premises.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On October 19, 2012, the Commission authorized a General Lease – Recreational Use for an existing pier, pumphouse/shed, open-sided boathouse with stairs, and one mooring buoy previously authorized by the Commission; and the use and maintenance of an existing boat lift and one mooring buoy not previously authorized by the Commission to Ray Dolby and Dagmar Dolby, as Trustees of the Dolby Family Trust dated May 7, 1999 ([October 19, 2012, Item C17](#)).

On June 21, 2018, the Commission authorized the assignment of the lease from Ray Dolby and Dagmar Dolby, as Trustees of the Dolby Family Trust dated May 7, 1999, to Dagmar Dolby, as Trustee of the Dagmar Dolby Trust established under the Dolby Family Trust instrument, dated May 7, 1999. Pursuant to the lease provision that the Commission could modify the rent periodically during the lease term, staff reviewed and revised the rent from \$77 per year to \$263 per year, effective October 19, 2018 ([June 21, 2018, Item C12](#)). The lease will expire on October 18, 2022.

On August 25, 2020, ownership interest in the upland parcel transferred to 2550 W Lake LLC, a California limited liability company. The Applicant is applying for a General Lease – Recreational Use, for the continued use and maintenance of the existing pier, pumphouse/shed, open-sided boathouse with stairs, boat lift, and two

mooring buoys. TRPA registered the two mooring buoys and boat lift on June 18, 2019, under registration number 10457.

The Commission's accounting records show that the Lessee paid annual rent through October 18, 2022 for the pumphouse/shed. No rent was charged for the pier, open-sided boathouse with stairs, boat lift, and two mooring buoys at the time of the issuance of the prior lease due to the then-in-effect provisions of Public Resources Code 6503.5. Staff recommends termination of the lease because the upland was transferred without a lease quitclaim deed and notification to Commission staff. The proposed termination date is June 22, 2022, the day preceding the proposed effective date of the new lease, June 23, 2022. Additionally, the proposed lease will require the Applicant to indemnify the State for the entire period of occupation, ensuring the State is protected.

The Applicant owns the upland parcel. The pier, open-sided boathouse, boat lift, and two mooring buoys are privately owned and maintained, and are used for the docking and mooring of boats and 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 pier is built on steel pilings with the immediate area of the pier being a relatively flat beach with small stones and boulders. The topography and location of the upland structure provides access for the pier. Public access for pedestrians and lake-related activities is available at varying lake levels underneath the pier within the Public Trust easement. Signs are required to be posted on each side of the pier identifying the designated public passageway and are required to be in place at all times. The buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

The pumphouse/shed is not a trust consistent use. Appurtenant facilities on piers that have been in place for years have been permitted if they do not significantly interfere with Public Trust needs or activities. However, lease provisions prohibit the pumphouse/shed from being expanded or rebuilt if substantially destroyed.

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 proposed lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition.

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.

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.

Improvements authorized under this lease may require more frequent inspection and maintenance to ensure they are not displaced during storm events. Watercraft

moored to buoys, piers, or docks are also vulnerable to damage from high wind events and excessive waves.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; 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. Upon expiration or prior termination of a 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 "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. 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).

4. Staff recommends that the Commission find 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 Strategic Plan.

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:

1. Find that the termination of the lease and issuance of 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, and for the foreseeable term of the lease; and
2. Find that the open-sided boathouse with stairs, boat lift, and two mooring buoys, used for the docking and mooring of boats, facilitate recreational boating which is a water-dependent use that is generally consistent with the common law Public Trust Doctrine; and
3. Find that the existing and continuing use and maintenance of the pumphouse/shed is not consistent with the Public Trust Doctrine, but the current use does not substantially interfere with Public trust needs and values at this location for the approved term; and
4. Find that the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Terminate, effective June 22, 2022, Lease Number PRC 4132, a General Lease – Recreational Use, issued to Dagmar Dolby, as Trustee of the Dagmar Dolby Trust established under the Dolby Family Trust instrument, dated May 7, 1999.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 23, 2022, for a term of 10 years, for an existing pier, pumphouse/shed, open-sided boathouse with stairs, boat lift, and two mooring 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 \$2,087, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 4132

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 4 of fractional Section 24, Township 15 North, Range 16 East, M.D.B.&M., as shown on Official Government Township Plat approved December 20, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing rock-crib pier, pumphouse/shed, open-sided boathouse with stairs and boat lift lying adjacent to that parcel described in Grant Deed recorded August 25, 2020, as Document Number 2020-0091160-00 in Official Records of said County.

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

PARCEL 2 & 3 – BUOYS

Two circular parcels of land, being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded August 25, 2020, as Document Number 2020-0091160-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 05/04/2022 by the California State Lands Commission Boundary Unit.



NO SCALE

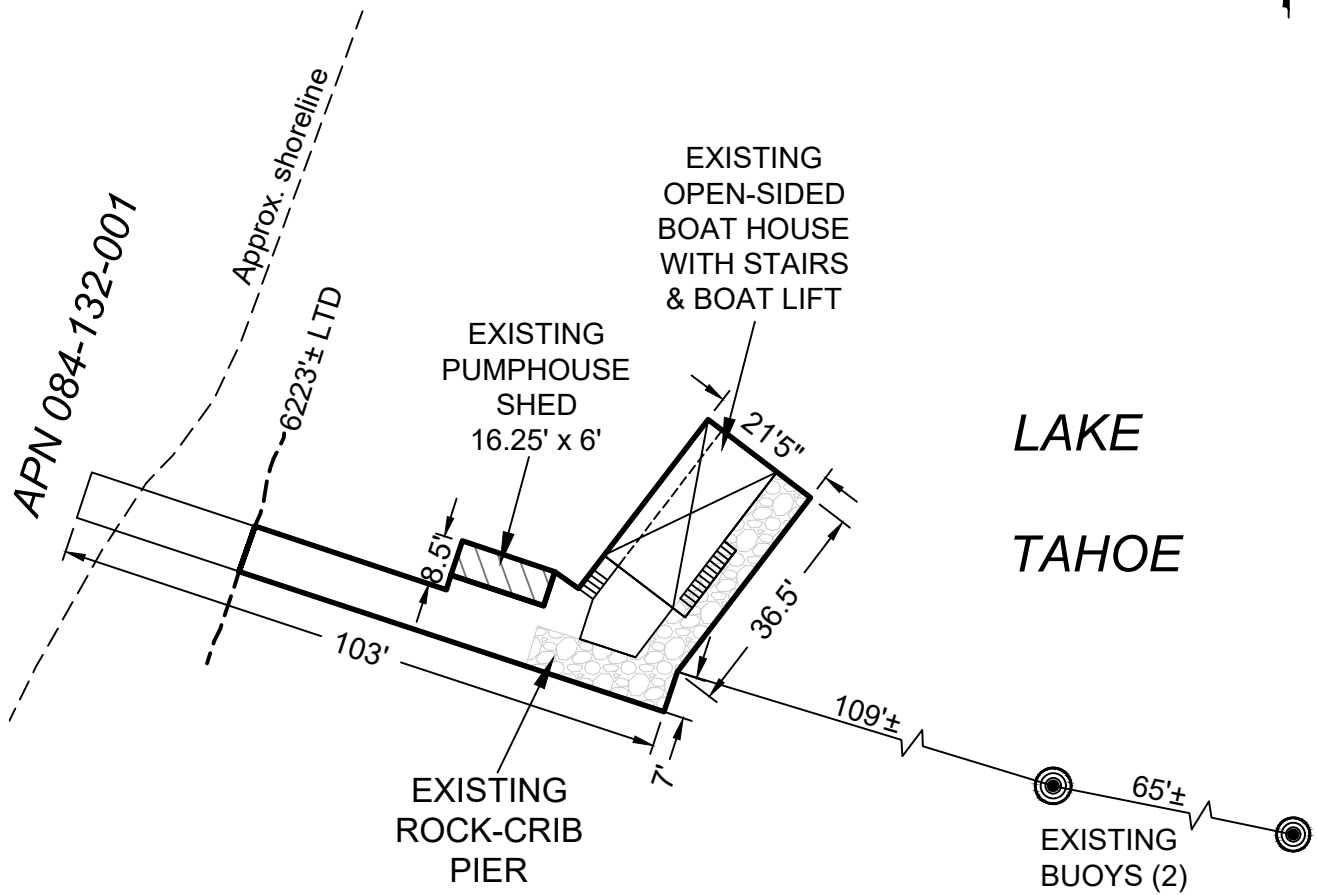


EXHIBIT A

Page 2 of 2

TS 05/04/2022

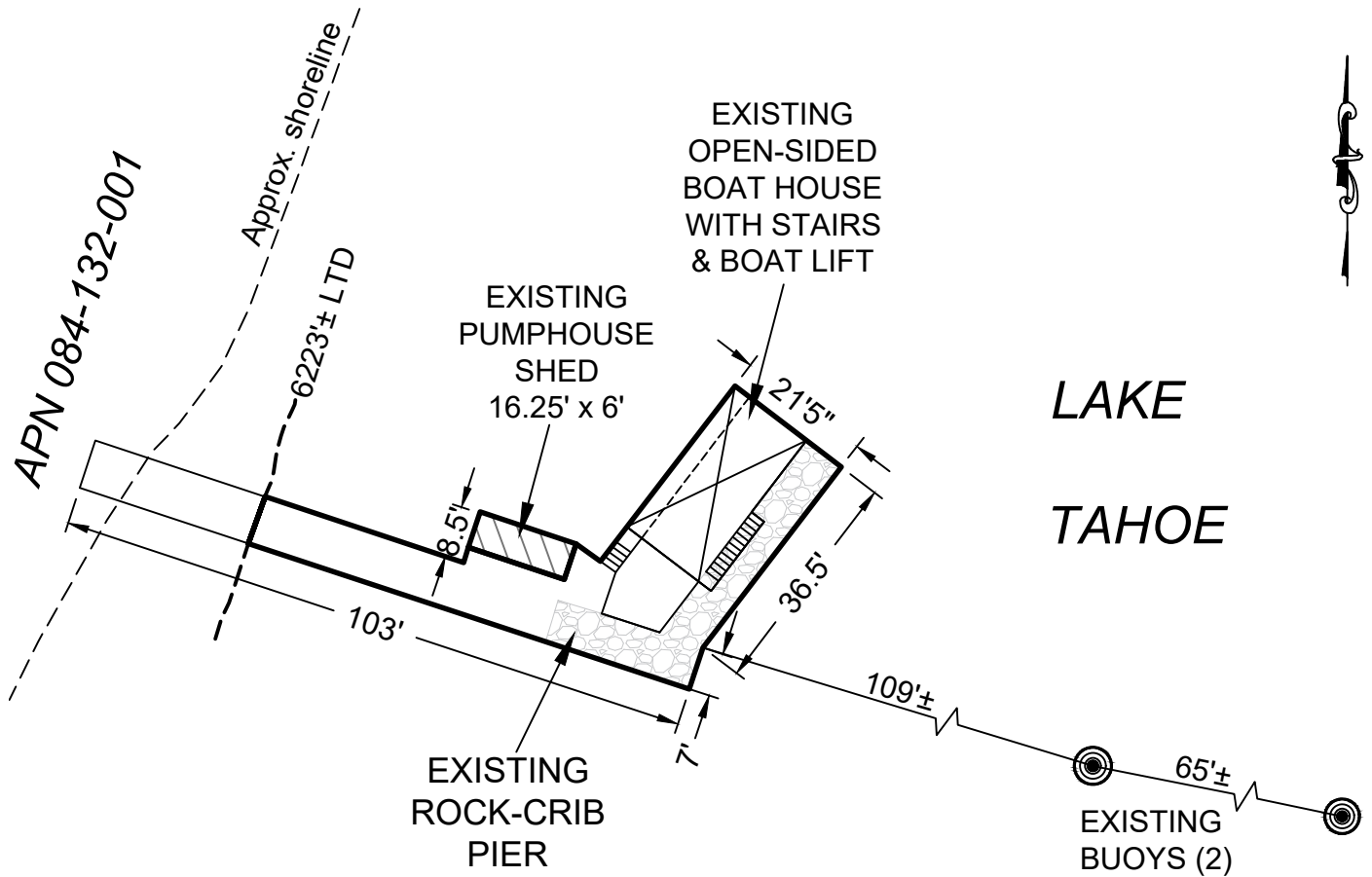
LAND DESCRIPTION PLAT
LEASE 4132, 2550 W LAKE LLC
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

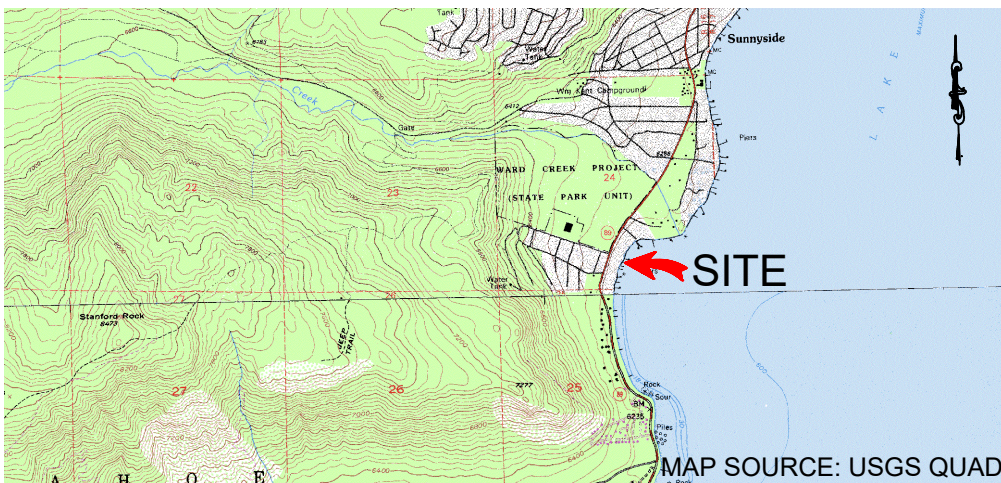
SITE



2550 WEST LAKE BLVD., TAHOE CITY

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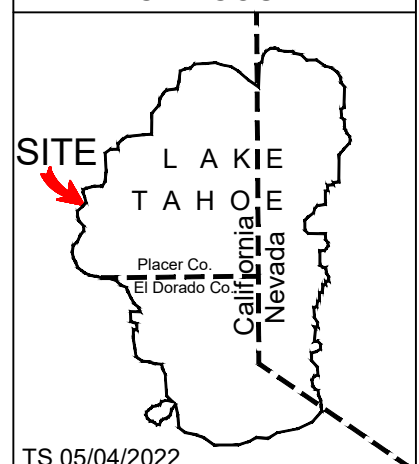
LOCATION



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 4132
2550 W LAKE LLC
APN 084-132-001
GENERAL LEASE-
RECREATIONAL USE
PLACER COUNTY



TS 05/04/2022