

Staff Report 11

LESSEE/ASSIGNOR

Maria Martelino, Trustee of the Maria Martelino Living Trust dated February 18, 2013

APPLICANT/ASSIGNEE:

John M. Wilson, as Trustee of the John Wilson Revocable Trust under Trust instrument dated 03/15/2012

PROPOSED ACTION:

Assignment and Amendment of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6115 and 6120 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Use and maintenance of one mooring buoy.

TERM:

10 years, beginning February 22, 2017.

CONSIDERATION:

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

PROPOSED AMENDMENT:

- Amend Section 1, Consideration, to revise the annual rent based upon the current 2021 Lake Tahoe Benchmark rates to \$273 as of February 22, 2023, with an annual Consumer Price Index adjustment.
- Replace Exhibit A, Land Description.
- Replace Exhibit B, Site and Location Map.

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, 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 April 20, 2017, the Commission authorized a General Lease – Recreational Use to Maria Martelino, Trustee of the Maria Martelino Living Trust dated February 18, 2013, for one existing mooring buoy ([Item C04, April 20, 2017](#)). The lease expires on February 21, 2027. On February 28, 2022, ownership interest in the upland parcels transferred from the Lessee to John M. Wilson, as Trustee of the John Wilson Revocable Trust under Trust instrument dated 03/15/2012.

The Applicant, in coordination with the Lessee, is applying for an assignment of a General Lease – Recreational Use for the use and maintenance of one existing mooring buoy. According to the Commission's records, the Lessee paid annual rent on February 15, 2022, bringing the rent current through February 21, 2023. However, because that payment was late, Invoice No. 55024 was generated for Penalty and Interest in the amount of \$95.19. The Lessee and the Applicant have concluded their transaction with the Applicant benefiting from the rent paid for February 21, 2022 through February 20, 2023. The Applicant has paid the balance owed to bring the lease into good standing. Staff recommends acceptance of \$95.19 from the Applicant. On September 25, 2019, the Tahoe Regional Planning Agency (TRPA) registered the mooring buoy under registration number 11201.

The mooring buoy is privately owned and maintained and facilitates 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 mooring buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake. 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 and restore the lease premises to their original condition. 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. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Staff is recommending an assignment of the lease to reflect the change in ownership of the upland property from the current Lessor to the Applicant. If the assignment is approved, the new upland owner will be required to comply with all the existing lease conditions. The lease is also being amended to revise the rent effective the next lease anniversary, because the rent is already paid through the current lease year, to reflect the recently adopted Tahoe Benchmark, ensuring consistent and fair rates in the Tahoe area. The lease assignment will not result in a change in the use of, or impacts to, Public Trust resources. The effective date of the proposed assignment would begin on the date the uplands property transferred ownership.

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 streamflows 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.

The buoy authorized under this lease may require more frequent inspection and maintenance to ensure it is not displaced during storm events. Watercraft moored to the buoy is also vulnerable to damage from high wind events and excessive waves.

CONCLUSION:

For all the reasons above, staff believes the assignment and amendment 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 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. 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 "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Assignment and amendment of the lease to revise the rent and replace lease exhibits are not a projects as defined by the California Environmental Quality Act 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).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease assignment and amendment 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; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of \$95.19 payment covering Penalty and Interest for Invoice No. 55024.
2. Authorize the assignment of Lease No. PRC 9046, a General Lease – Recreational use, from Maria Martelino, Trustee of the Maria Martelino Living Trust dated February 18, 2013, to John M. Wilson, as Trustee of the John Wilson Revocable Trust under Trust instrument dated 03/15/2012, effective February 28, 2022.
3. Authorize the amendment of Lease Number PRC 9046, a General Lease – Recreational Use, to revise the rent using the 2021 Lake Tahoe Benchmark rates currently in effect to \$273 per year, with an annual Consumer Price Index adjustment starting on February 22, 2023; and 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); with all other terms and conditions of the lease to remain in effect without amendment.

EXHIBIT A

LEASE 9046

LAND DESCRIPTION

A parcel of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 7, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved July 29, 1880, County of Placer, State of California, more particularly described as follows:

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to those parcels described in Grant Deed recorded February 28, 2022 as Document Number 2022-0017868-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/25/2022 by the California State Lands Commission Boundary Unit.



LAKE
TAHOE



EXISTING
BUOY

274'±

6223'± LTD

APN 098-031-001

W. LAKE BLVD.

APN 098-032-005

APPROX.
SHORELINE

EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 9046, WILSON TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

LAKE TAHOE



EXISTING
BUOY

274'±

6223'± LTD

APN 098-031-001

APPROX.
SHORELINE

W. LAKE BLVD.

APN 098-032-005

6115 & 6120 WEST LAKE BOULEVARD, NEAR HOMEWOOD

NO SCALE

LOCATION

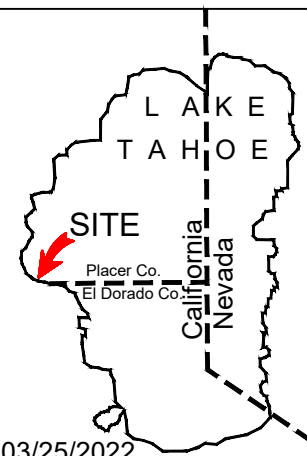


MAP SOURCE: USGS QUAD

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 9046
WILSON TRUST
APNs 098-031-001 & 098-032-005
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



DT 03/25/2022