

# Staff Report 17

## **APPLICANT:**

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Jason Hill and Elizabeth Hill, Trustees of the Jason and Elizabeth Hill Family Trust, Dated November 1, 2006; Jonathan M. Hill, Trustee of The Jonathan Hill Trust, Dated June 18, 2015

## **PROPOSED ACTION:**

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Issuance of a General Lease – Recreational Use

## **AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Lake Tahoe, adjacent to 5672 North Lake Boulevard, Carnelian Bay, Placer County.

## **AUTHORIZED USE:**

Use and maintenance of an existing pier, boathouse, sundeck with stairs, two boat lifts, two mooring buoys, and a swim float.

## **TERM:**

10 years, beginning October 25, 2022.

## **CONSIDERATION:**

\$3,407 per year, with an annual Consumer Price Index adjustment and \$2,771 to compensate for the unauthorized occupation of state sovereign land for the period prior to October 25, 2022.

## **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 the 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 contains a provision that the existing sundeck with stairs as shown on the attached Exhibit B cannot be expanded or improved, and if repairs to any portion of the existing sundeck or stairs cost more than 50% of the base value of the sundeck and stairs, then the sundeck and stairs must be removed from the lease premises.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **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 January 26, 2012, the Commission authorized a General Lease – Recreational Use to Jason Lawrence Hill and Jonathan Martin Hill for an existing pier, boathouse, and two mooring buoys previously authorized by the Commission and use and maintenance of an existing sundeck with stairs, two boat lifts, and a swim float not previously authorized by the Commission ([Item 20, January 26, 2012](#)). The lease expired December 31, 2021. The Applicant is applying for a General Lease – Recreational Use for the use and maintenance of existing pier, boathouse, sundeck, two boat lifts, two mooring buoys, and a swim float. On January 19, 2022, the Applicant registered all moorings with TRPA (Registration No. 11037).

The pier, boathouse, sundeck with stairs, two boat lifts, two mooring buoys, and swim float have existed for many years at this location. The pier is built on a rock crib with the topography in the immediate area of the pier being flat with rocks and shrubbery clinging to the shore. The Public Trust Easement at this location in Lake Tahoe is covered in water, and there is no connected beach area traversable by the public due to the upland topography and the proximity of the private uplands to the water. The existing improvements therefore do not substantially interfere with any Public Trust resources at this time or in the foreseeable future.

The pier, boathouse, two boat lifts, two mooring buoys, and swim float are privately owned and maintained 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 sundeck with stairs is not consistent with Public Trust uses, but has been in place for many years and may continue as an authorized non-conforming use subject to the limitations expressed in the proposed lease.

The buoys are located directly lakeward of the upland property and occupy 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 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.

Staff recommends the Commission accept compensation from the Applicant in the amount of \$2,771 for the unauthorized occupation of state land for the existing pier, boathouse, sundeck with stairs, two boat lifts, two mooring buoys, and swim float, for the period beginning January 1, 2022, the day that the prior lease ended, through October 24, 2022, the day before issuing the proposed lease.

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 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 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.

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 consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

**OTHER PERTINENT INFORMATION:**

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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 be required to remove the pier, boat house, sundeck with stairs, two boat lifts, two mooring buoys and a swim float and restore the premises to their original condition. The lessee 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. 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, California Code of Regulations, title 14, section 15300, and California Code of Regulations, title 2, section 2905.

## **EXHIBITS:**

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

## **RECOMMENDED ACTION:**

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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 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; is consistent with the common law Public Trust Doctrine; and
2. Find that the existing and continuing use and maintenance of the sundeck with stairs 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
3. Find that issuing the proposed lease is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize acceptance of compensation from the Applicant in the amount of \$2,771 for unauthorized occupation of State land for the period beginning January 1, 2022 through October 24, 2022.
  
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 25, 2022, for a term of 10 years, for the use and maintenance of a pier, boathouse, sundeck with stairs, two boat lifts, two mooring buoys, and a swim float 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 \$3,407, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**LEASE 4871**

**LAND DESCRIPTION**

Four parcels of submerged lands situate in the bed of Lake Tahoe, lying adjacent to Lots 2 and 3 of fractional Section 15, 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:

**PARCEL 1 – PIER**

All those lands underlying an existing pier with rock crib, boathouse with two boat lifts and sundeck with stairs lying adjacent to that parcel described in Individual Grant Deed recorded August 11, 2015 as Document Number 2015-0069548-00 in Official Records of said County.

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

**PARCELS 2 & 3 – BUOYS**

Two circular parcels of land, each being 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Individual Grant Deed recorded August 11, 2015 as Document Number 2015-0069548-00 in Official Records of said County.

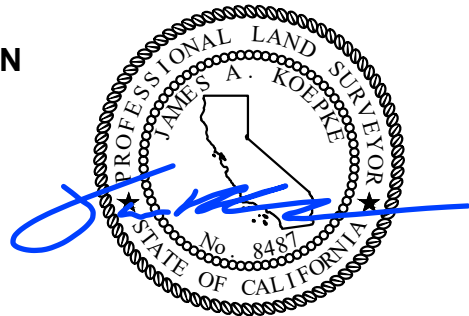
**PARCEL 4 – SWIM FLOAT**

All those lands underlying an existing swim float lying adjacent to that parcel described in Individual Grant Deed recorded August 11, 2015 as Document Number 2015-0069548-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 07/11/2022 by the California  
State Lands Commission Boundary Unit.



NO SCALE



EXISTING  
BOATHOUSE 25' x 25'  
WITH TWO BOAT LIFTS,  
& SUNDECK WITH  
STAIRS 3' x 12'

EXISTING  
SWIM  
FLOAT

EXISTING  
BUOYS (2)

EXISTING  
PIER WITH  
ROCK CRIB

LAKE TAHOE

APN 116-100-004

APPROX.  
SHORELINE  
6223'± LTD

6'

32'

25'

8'

41'

75'±

56'±

### EXHIBIT A

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LAND DESCRIPTION PLAT  
LEASE 4871, THE JONATHAN HILL TRUST  
PLACER COUNTY

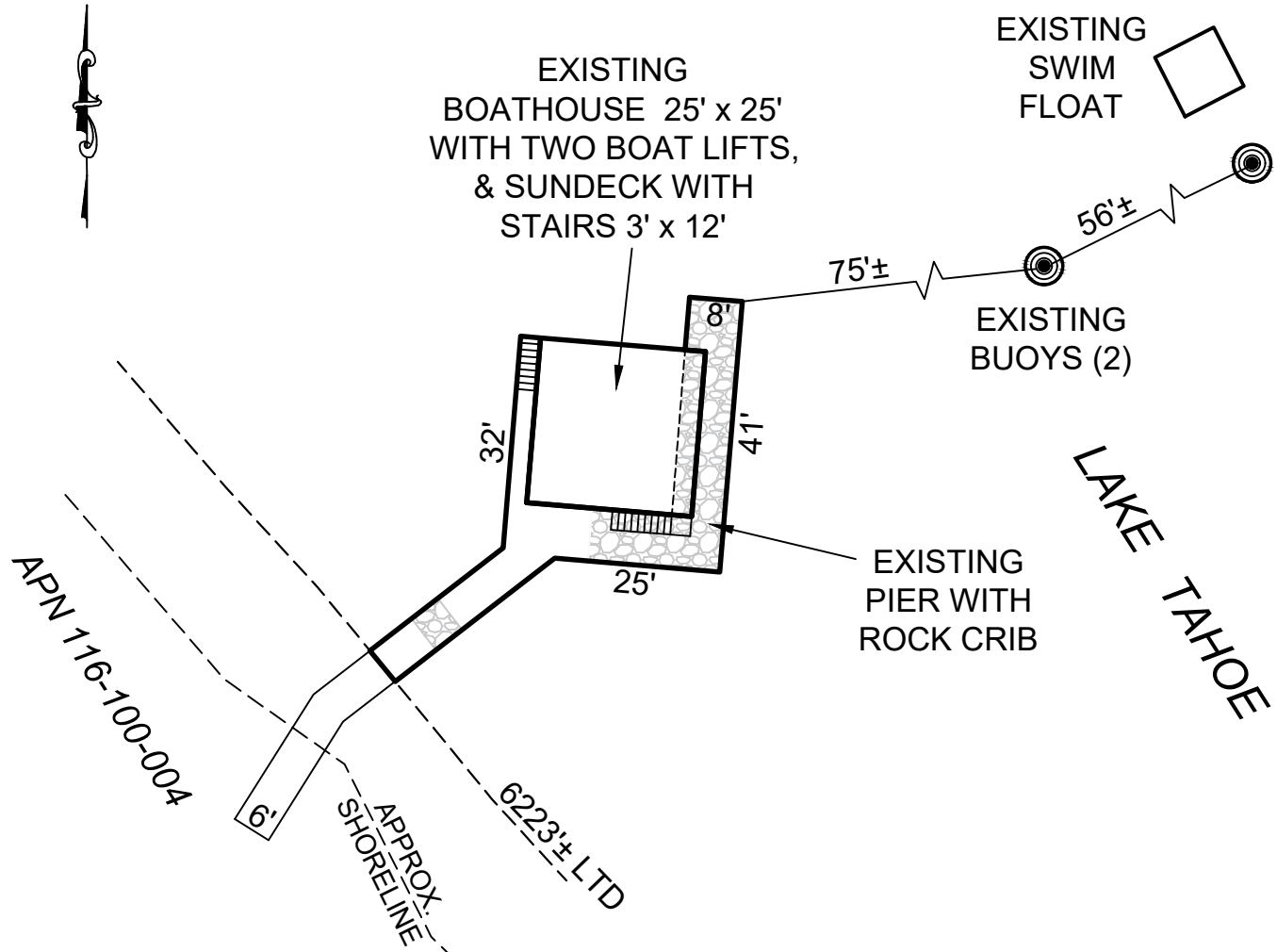
CALIFORNIA STATE  
LANDS COMMISSION





NO SCALE

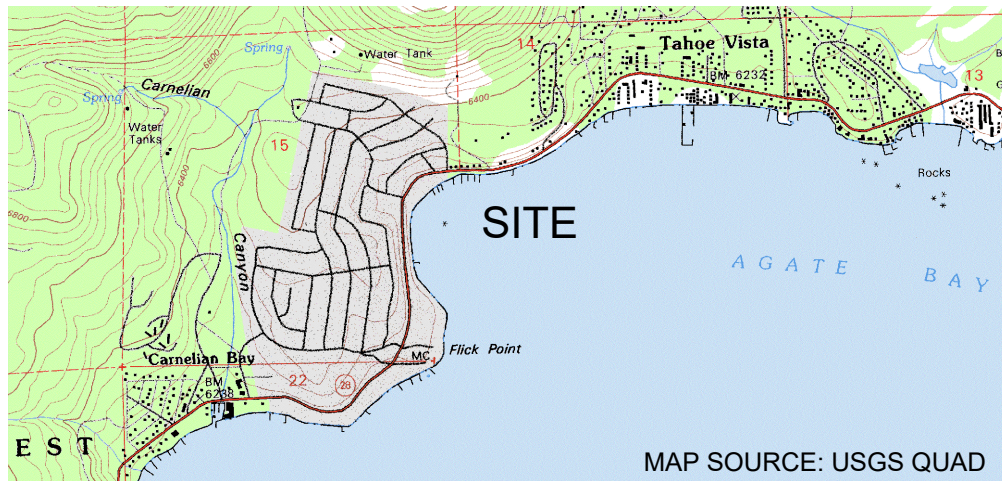
# SITE



5672 NORTH LAKE BOULEVARD, CARNELIAN BAY

NO SCALE

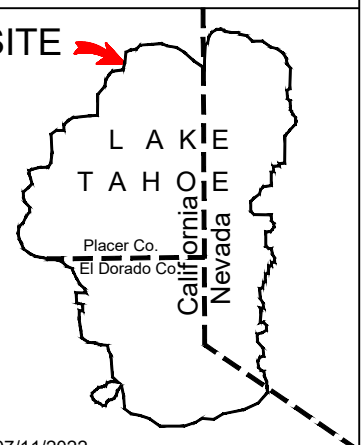
# LOCATION



# Exhibit B

LEASE 4871  
 THE JONATHAN HILL TRUST  
 APN 116-100-004  
 GENERAL LEASE -  
 RECREATIONAL USE  
 PLACER COUNTY

SITE



TS 07/11/2022

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.