

Staff Report 26

APPLICANT:

United States Department of Agriculture, Forest Service

PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to #1 Valhalla Road, near South Lake Tahoe, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier.

TERM:

20 years, beginning August 3, 2020.

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:

Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreation.

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 July 6, 1972, the Commission authorized a General Lease - Public Agency Use for an existing pier to the U.S. Forest Service ([Item C01, July 6, 1972](#)). In 2002, the pier was reconstructed following a storm event that damaged the pier. In 2009, the Applicant reconstructed the pier as part of the Valhalla Pier Erosion Control and Accessibility Retrofit Project. The project goals were to protect the long-term water quality of Lake Tahoe by reducing existing sedimentation near the Valhalla Pier and to provide access to the pier consistent with the United States Department of Agriculture, Forest Service Outdoor Recreation Accessibility Guidelines. Prior to 2009, the erosion was primarily due to pedestrian traffic between upland trails and the pier. The project connected the pier to the trail system, and the public no longer needs to walk down the bluff and across the beach to reach the pier. Logs were also installed on the bluff, above the Commission's leasing jurisdiction, to retain soil. The lease expired on August 2, 2020. The Applicant is now applying for a General Lease – Public Agency Use for the continued use and maintenance of the existing pier.

The Applicant owns the upland parcel adjoining the lease premises and works in partnership with Valhalla Tahoe, a non-profit organization formed in 1979 as the Tahoe Tallac Association, which hosts tours, cultural events, and private events throughout the Spring, Summer, and Fall. Their goal is to restore the three estates on the Tallac Historic Site and develop the site as a historic center. The site is on the National Registry of Historic places, and Valhalla Tahoe's events provide funding for restoration and preservation projects.

The pier is open year-round to the public at no cost and is one of a handful of public piers in Lake Tahoe. Members of the public typically walk, sit, and enjoy the view from the pier. There are no fishing or mooring restrictions; however, this type of use has not been observed by the Applicant. The public pier is built on pilings, providing public access for pedestrians and for lake-related activities at varying water levels underneath the pier. The public also has access to the upland area around the pier. The immediate area of the existing pier is a gently sloped sand beach.

The pier enhances, promotes, and encourages the use and enjoyment of Lake Tahoe. The Applicant's continued operation of the facilities and use of State land preserves and promotes equitable access and enhances water-dependent recreational opportunities. It is consistent with the common law Public Trust doctrine, the Commission's Strategic Plan, and the goals and objectives of the Commission's 2018 Environmental Justice Policy.

The proposed lease is limited to a 20-year term and does not alienate the State's

fee interest or grant the lessee exclusive rights to the lease premises. Upon termination of the lease, lessee may be required to remove all improvements and restore the lease premises to its natural state. Furthermore, the proposed lease will require the lessee to indemnify the State for all liability incurred, directly or indirectly, as a result of its activities on the lease premises.

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 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, as the prior lessee, may be required to remove the pier 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 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

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:

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 – Public Agency Use to the Applicant beginning August 3, 2020, for a term of 20 years, for the continued use and maintenance of an existing pier, 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 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 interest.

EXHIBIT A

LEASE 4678

LAND DESCRIPTION

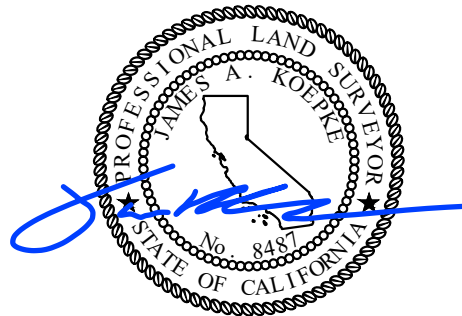
A parcel of submerged land in the bed of Lake Tahoe adjacent to Lot 1 of Section 25, Township 13 North, Range 17 East, Mount Diablo Meridian, as shown on Official Government Township Plat approved May 19, 1875, El Dorado County, State of California, more particularly described as follows:

All those lands underlying an existing pier with catwalk lying adjacent to East half of said Lot 1 as shown on said Township Plat.

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

END OF DESCRIPTION

Prepared 05/03/2022 by the California State Lands Commission Boundary Unit.



NO SCALE



LAKE TAHOE

EXISTING
PIER

EXISTING
CATWALK

6223'± LTD

APPROX.
SHORELINE

APN 019-081-004

EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 4678, USDA FOREST SERVICE
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

LAKE TAHOE

EXISTING
PIER

EXISTING
CATWALK

6223'± LTD

APPROX.
SHORELINE

APN 019-081-004

VALHALLA PIER, NEAR CITY OF SOUTH LAKE TAHOE

NO SCALE

LOCATION

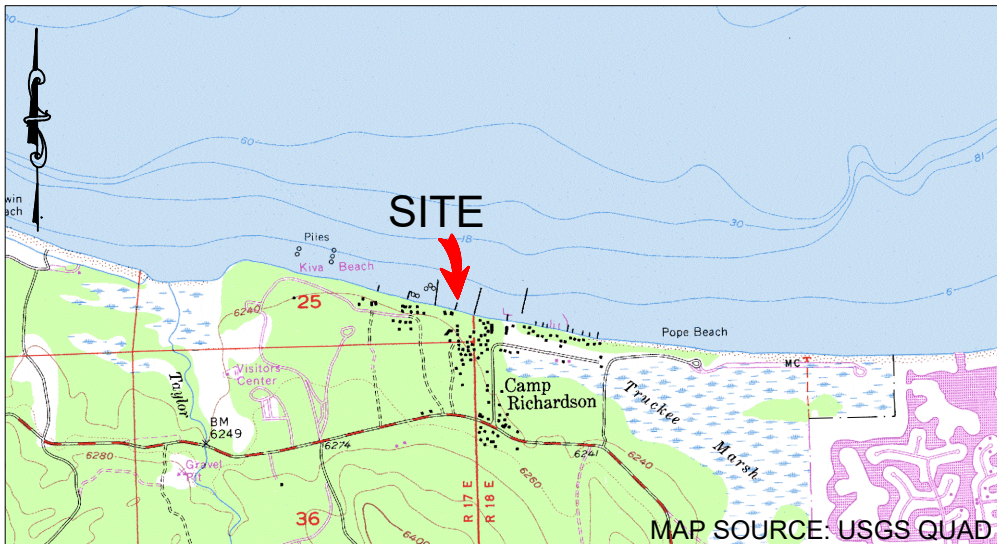
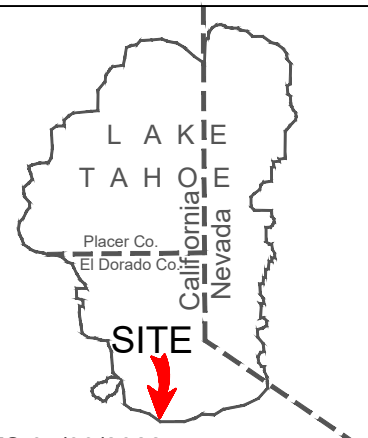


EXHIBIT B

LEASE 4678
 USDA FOREST SERVICE
 APN 091-081-004
 GENERAL LEASE -
 PUBLIC AGENCY
 EL DORADO COUNTY



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.

TS 05/03/2022