

# Staff Report 26

## **APPLICANT:**

---

Ronald T. Vanderbeek; Billie J. Vanderbeek; Robert S. Marston, Jr., Co-trustee of the Marston Family Trust dated September 29, 2016; and John Burdette Gage and Linda Joan Schacht, co-trustees of the Kalalau Revocable Inter Vivos trust dated October 4, 1986

## **PROPOSED ACTION:**

---

Issuance of a General Lease – Recreational Use

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

Sovereign land located in Lake Tahoe, adjacent to 1620 Sequoia Avenue, Tahoe City, Placer County.

## **AUTHORIZED USE:**

Use and maintenance of an existing joint-use pier, boathouse with boat lift, and sundeck with stairs.

## **TERM:**

10 years, beginning December 5, 2022.

## **CONSIDERATION:**

\$3,090 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's right of access for navigation, fishing, and public trust consistent recreational uses.

## **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 December 5, 2012, the Commission authorized a General Lease - Recreational Use to Ronald T. Vanderbeek and Billie J. Vanderbeek; Robert S. Marston; and John Burdette Gage and Linda Joan Schacht, Co-Trustees of the Kalalau Revocable Inter Vivos Trust dated October 4, 1986 for the use and maintenance of an existing joint-use pier, boathouse with boat lift, and sundeck with stairs adjacent to 1620 Sequoia Avenue, Tahoe City, Placer County ([Item 22, December 5, 2012](#)). This Lease expired December 4, 2022.

The Applicant is now applying for a General Lease – Recreational Use for the use and maintenance of the existing joint-use pier, boathouse with boat lift, and sundeck with stairs. Staff recommends issuance of a General Lease – Recreational Use to the Applicant, to take effect on December 5, 2022.

The subject joint-use pier and boathouse with boat lift 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 subject pier, boathouse with boat lift, and sundeck with stairs are built on pilings with the area immediately upland of the pier being gently sloped and sandy. The immediate upland topography is easily traversable, with public access for pedestrians and lake-related activities available at varying water levels underneath and over the pier within the Public Trust easement.

Although the sundeck with stairs is a private use of public property, and not a Public Trust consistent use, the sundeck is built onto the existing boathouse and does not expand the footprint of the subject facilities. While new sun decks are not generally authorized, sun decks that have been in place for many years have been

permitted, so long as they do not significantly interfere with Public Trust needs or activities.

Despite previous controversy pertaining to this sundeck, its use and maintenance was authorized by the Commission on December 5, 2012 ([Item 22, December 5, 2012](#)). Therefore, staff recommends the authorization of the sundeck. However, the proposed lease contains terms such that the sundeck may not be expanded or rebuilt if it is substantially damaged or 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 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 are 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 storm events and winds. 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:**

---

1. Staff is aware of two unauthorized buoys adjacent to this lease, one owned by co-lessee Robert Marston and the other by co-lessee John Gage and Linda Schacht. These co-lessees applied for TRPA mooring buoy permits in 2019 following TRPA adoption of new shorezone ordinances and were both denied said permits. Staff is working with TRPA's enforcement division to pursue removal of unauthorized improvements.
2. The parcel is associated with another lease (Lease No. 9010) with the Commission for two mooring buoys. Lease No. 9010 is to be considered by the Commission under a separate action on the Commission's December 9, 2022 public meeting agenda.
3. 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, boathouse, boat lift, sundeck and stairs and return the premises to their original condition. The lessee has no right to a new lease or to renewal of any previous lease.

4. 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.
5. 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:**

---

- 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 use and maintenance of the existing joint-use pier and boathouse with boat lift 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 and is consistent with the common law Public Trust Doctrine; and

2. Find that the use and maintenance of the existing sun deck is not generally consistent with the Public Trust Doctrine, but the current use does not substantially interfere with the trust; and
3. Find that issuing the proposed lease is in the best interest of the State.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 5, 2022, for a term of 10 years, for the use and maintenance of an existing joint-use pier, boathouse with boat lift, and sundeck with stairs, 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 \$3,090, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

## EXHIBIT A

LEASE 9012

### LAND DESCRIPTION

A parcel of submerged land, situate in the bed of Lake Tahoe, lying adjacent to Lot 3, fractional Section 18, Township 15 North, Range 17 East, MDM, as shown on the Official Township Plat, approved November 9<sup>th</sup>, 1866, County of Placer, State of California, and more particularly described as follows:

All those lands underlying an existing pier, catwalks, sundeck, stairs, boathouse and boatlift adjacent to that "Resultant Parcel 1" of "Exhibit A" of that Grant Deed recorded August 6, 2008 as Document Number 2008-0063470-00 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

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

Accompanying plat is hereby made a part of this description.

### END OF DESCRIPTION

PREPARED 9/29/2022 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

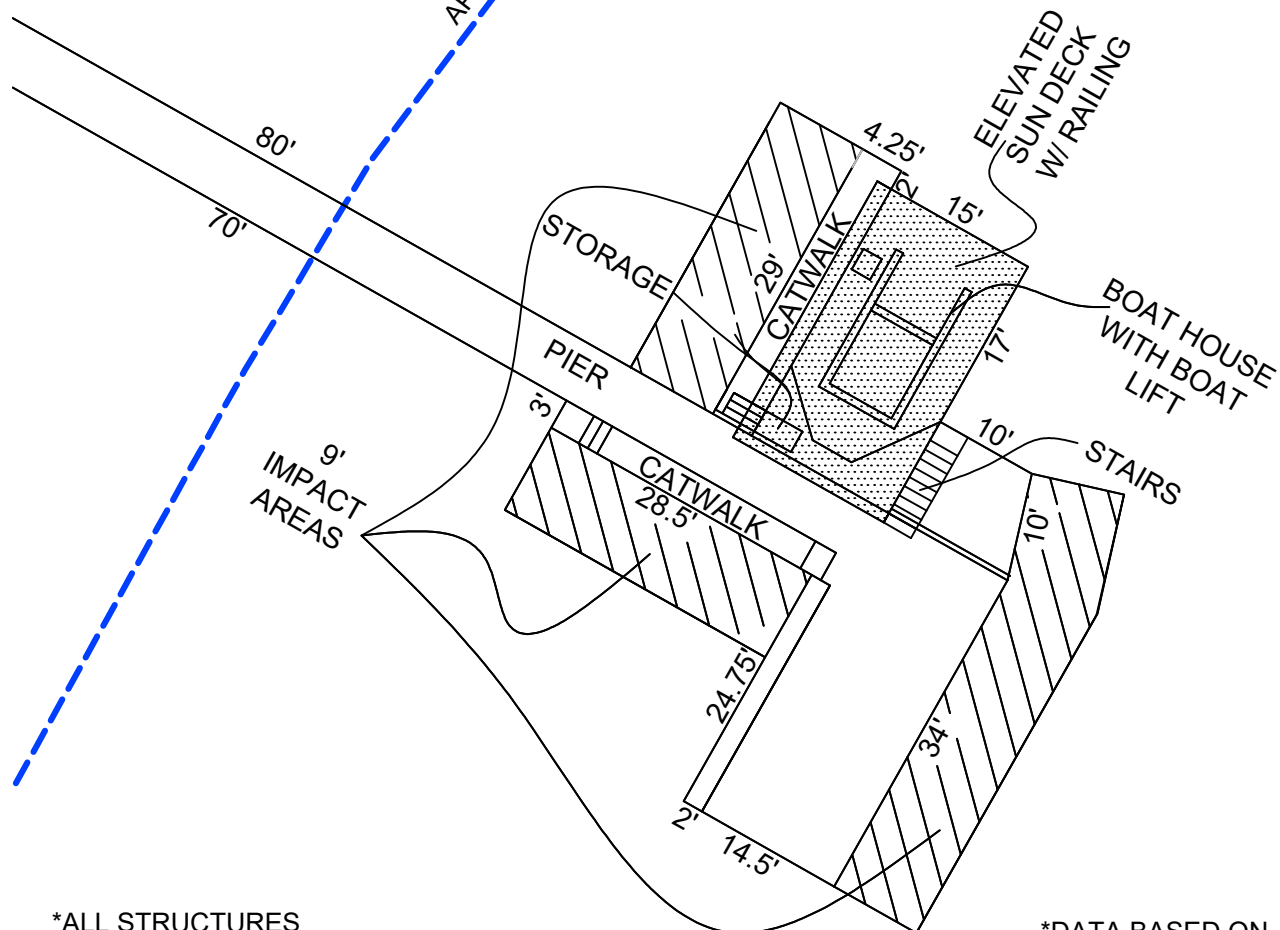


APPROX HIGH WATER  
6228.75' LTD

APN 083-162-037

APPROX. 6223' LTD

LAKE  
TAHOE



\*ALL STRUCTURES  
SHOWN ARE  
EXISTING

\*DATA BASED ON  
01/24/2011 SURVEY  
SUPPLIED BY APPLICANT

## EXHIBIT A

Page 2 of 2

MJF 9/29/2022

LAND DESCRIPTION PLAT  
LEASE 9012, VANDERBEEK, ET. AL.  
PLACER COUNTY

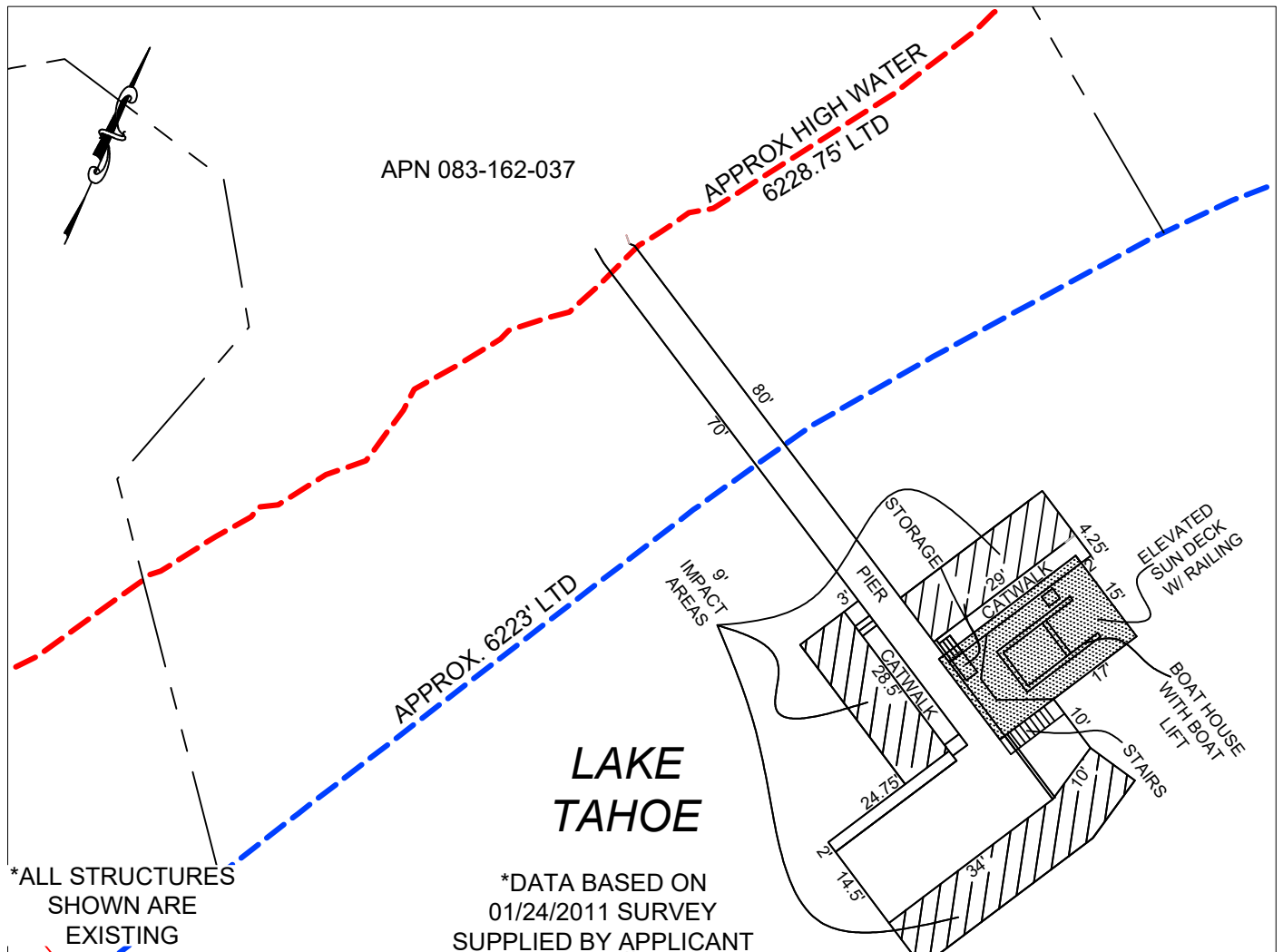
CALIFORNIA STATE  
LANDS COMMISSION





NO SCALE

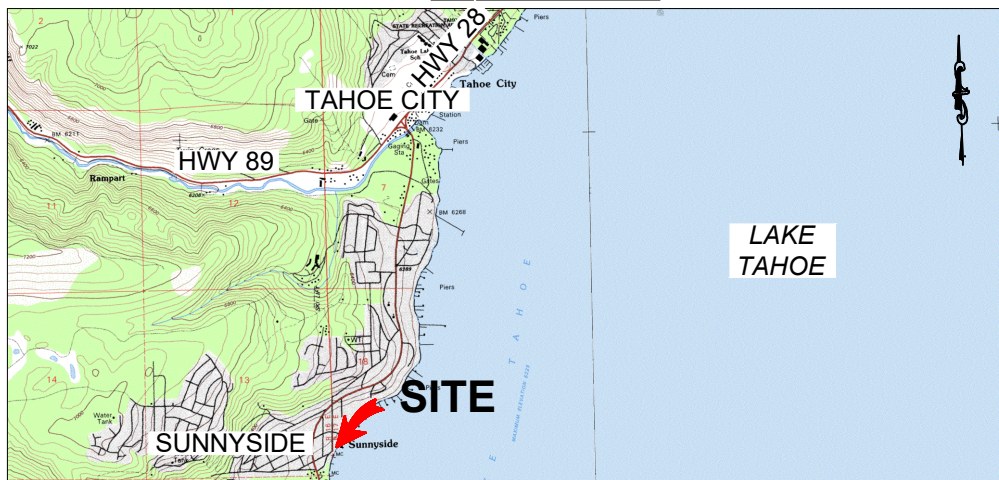
## SITE



1620 Sequoia Ave, Tahoe City

NO SCALE

## 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 9012  
VANDERBEEK, ET. AL.  
APN 083-162-037  
GENERAL LEASE -  
RECREATIONAL USE  
PLACER COUNTY

