

# Staff Report 20

## **APPLICANT:**

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Nydia Gletne and Glenda L. Gaither, Trustees of the Survivor's Trust of the Gletne Family Living Trust, Dated November 24, 2014

## **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 4020 North Lake Boulevard, Carnelian Bay, Placer County.

## **AUTHORIZED USE:**

Use and maintenance of an existing pier, two catwalks, a portion of a boathouse, boat lift, sundeck with stairs and railing, and two mooring buoys.

## **TERM:**

10 years, beginning March 1, 2023.

## **CONSIDERATION:**

\$2,258 per year, with an annual Consumer Price Index adjustment and \$1,232 to compensate for the unauthorized occupation of state sovereign land for the period prior to March 1, 2023.

## **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.

- The lease provides that sign 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).
- 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.
- Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on 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 August 14, 2012, the Commission authorized a General Lease – Recreational Use to John S. Gletne and Nydia Gletne, Trustees, U.D.T., dated May 27, 1992, for an existing pier, a portion of a boathouse with a sundeck, railing and stairs, and two mooring buoys previously authorized by the Commission and use and maintenance of a portion of a boat lift not previously authorized by the Commission ([Item 24, August 14, 2012](#)).

On February 4, 2019, the Commission authorized an assignment of lease and revision of rent ([Item 8, February 4, 2019](#)). That lease expired August 13, 2022.

The Applicant is applying for a General Lease – Recreational Use for use and maintenance an existing pier, a portion of a boathouse, sundeck with stairs and railing, boat lift, and two mooring buoys. On March 2, 2020, all moorings were registered with TRPA (Registration #11395).

The subject facilities have existed for many years at this location. The subject facilities are privately owned and maintained by the Applicant and facilitate recreational boating. The pier is built on pilings with the immediate upland area of the pier being gently sloped and sandy. Public access for pedestrians and lake-related activities is available at varying water levels underneath the pier. 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 railing and stairs is not a Public Trust consistent use. While new sundecks are generally not authorized, sundecks that have been in place for years have been permitted, as long as they do not significantly interfere with Public Trust needs or activities. However, the sundeck may not be expanded or rebuilt if substantially destroyed.

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 \$1,232 for the unauthorized occupation of state land for the existing subject facilities for the period beginning August 14, 2022, the day that the prior lease ended, through February 28, 2023, the day preceding issuance of 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; 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. 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. 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 existing and continuous use of the pier, boathouse, boat lift, and two buoys 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; are consistent with the common law Public Trust Doctrine; and
2. Find that the existing and continuing use and maintenance of the sundeck with railing and 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 \$1,232 for unauthorized occupation of State land for the period beginning February 14, 2022 to March 1, 2023.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning March 1, 2023, for a term of 10 years, for the use and maintenance of an existing pier, two catwalks, a portion of a boathouse with sundeck, railing and 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 \$2,258, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

## EXHIBIT A

LEASE 4121

### LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 28, 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 two catwalks, boathouse with boat lift, sundeck and stairs lying adjacent to those parcels described in Grant Deed recorded February 25, 2014, as Document Number 2014-0012059-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

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 those parcels described in Grant Deed recorded February 25, 2014, as Document Number 2014-0012059-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

### END OF DESCRIPTION

Prepared 11/17/2022 by the California State Lands Commission Boundary Unit.



NO SCALE

APN  
092-142-006

APPROX.  
SHORELINE

EXISTING  
BOATHOUSE  
WITH BOAT LIFT &  
SUNDECK 24' x 14'  
WITH STAIRS  
2.5' x 20'

EXISTING  
PIER  
177' x 6'

6223'± LTD

9' IMPACT  
AREA

260'±

9' IMPACT  
AREA

EXISTING  
CATWALK  
3' x 25'

EXISTING  
CATWALK  
3' x 40'

LAKE

TAHOE

100'±

EXISTING  
BUOYS (2)

## EXHIBIT A

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TS 11/17/2022

LAND DESCRIPTION PLAT  
LEASE 4121, GAITHER & GLETNE, TRUSTEES  
PLACER COUNTY

CALIFORNIA STATE  
LANDS COMMISSION





