

Staff Report 08

APPLICANT:

Dagmar Dolby, as Trustee of the Dagmar Dolby 2010 Homewood QPRT, dated October 26, 2010; Dagmar Dolby, as Trustee of the Dagmar Dolby Trust established under the Dolby Family Trust Instrument dated May 7, 1999

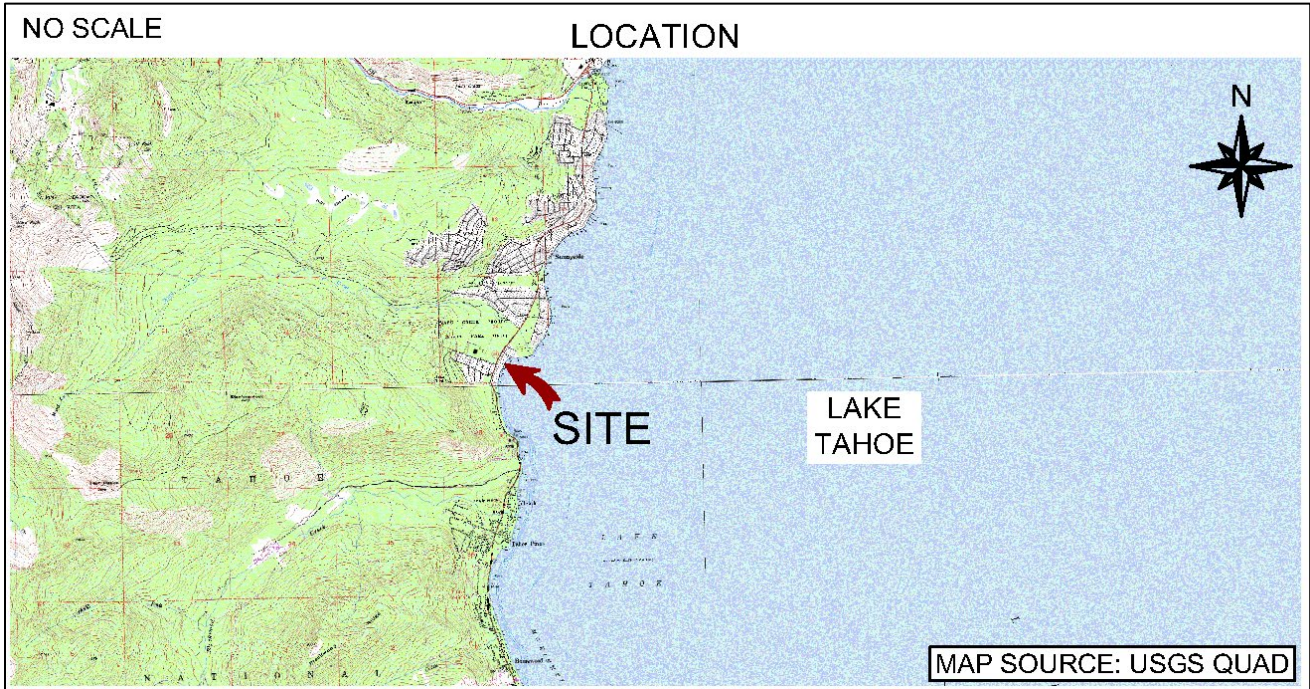
PROPOSED ACTION:

Amendment of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign Land in Lake Tahoe, adjacent to 2530 West Lake Boulevard, near Tahoe City, Placer County (as shown in Figure 1).

Figure 1. Location



AUTHORIZED USE:

Use and maintenance of an existing pier and one mooring buoy.

TERM:

10 years, beginning February 1, 2017.

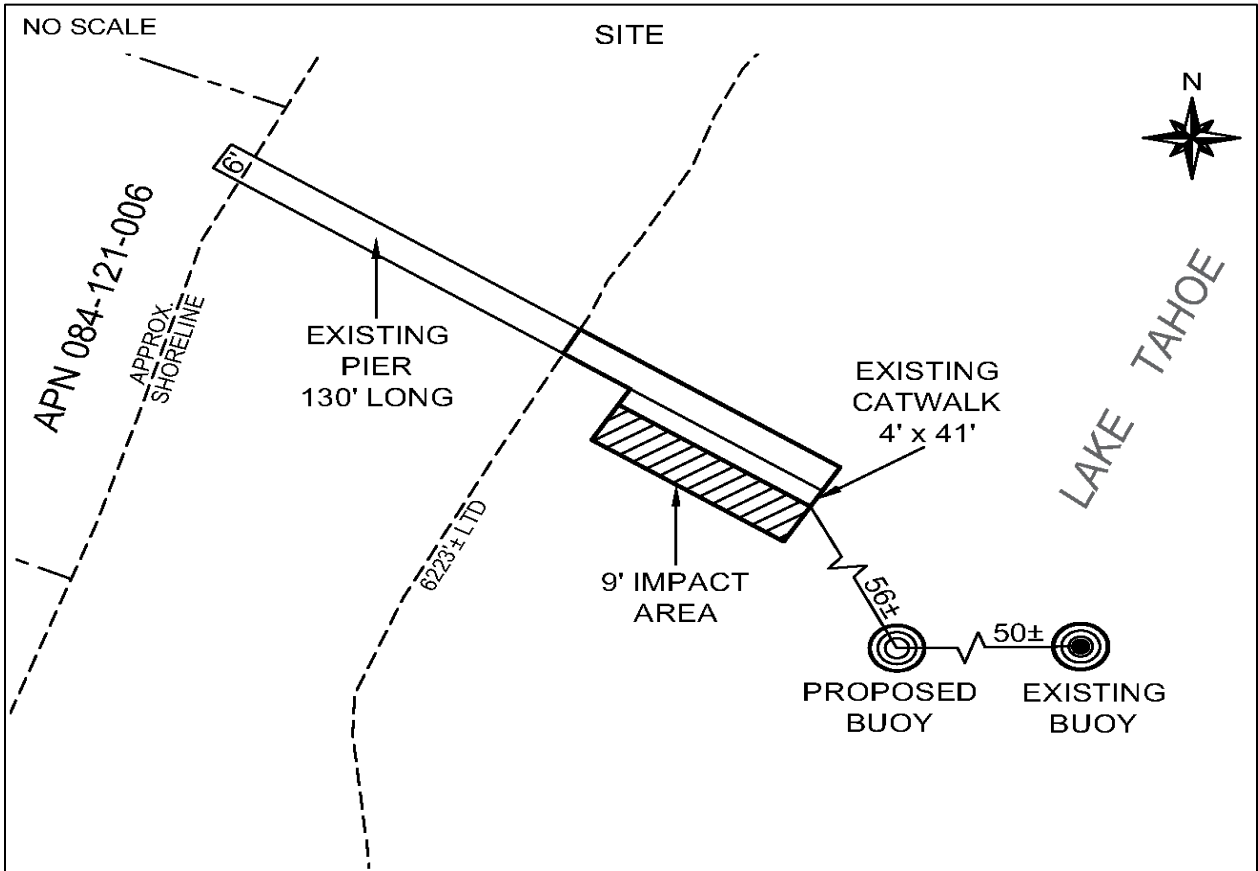
CONSIDERATION:

\$800 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Authorize the installation and use of one additional mooring buoy, adjacent to 2530 West Lake Boulevard, near Tahoe City, Placer County (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

- Revise the annual rent from \$800, with an annual Consumer Price Index adjustment, to \$1,169, with an annual Consumer Price Index adjustment.
- 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.
- Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only), in the lease.
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of "as-built" plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A, Land Description, and Exhibit B, Site and Location Map, to the lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by the Lessor's Executive Officer or designee, the revised Exhibits shall replace the Exhibits incorporated in the lease at the time of lease execution. The replaced Exhibits shall be incorporated in the lease as though fully set forth therein.
- The lease provides that signs 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).

All other terms and conditions of the lease to 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 June 28, 2016, the Commission authorized a General Lease – Recreational Use to Dagmar Dolby, as Trustee of the Dagmar Dolby 2010 Homewood QPRT, dated October 26, 2010, and Dagmar Dolby, as Trustee of the Dagmar Dolby Trust established under the Dolby Family Trust Instrument, dated May 7, 1999, for the use and maintenance of an existing pier and one mooring buoy ([Item C11, June 28, 2016](#)). The lease is set to expire on January 31, 2027.

The Lessee is applying to amend the lease to include the installation and use of an additional mooring buoy. On November 12, 2022, a conditional permit for the

additional mooring buoy was approved by the Tahoe Regional Planning Agency (TRPA). On January 17, 2023, both moorings were registered with TRPA (Registration No. 10455).

The pier and one mooring buoy have existed for many years at this location. The topography is sandy and flat making the shoreline accessible to pedestrians in the area. The pier is built on pilings, and public water access for pedestrians and lake related activities are available at varying water levels underneath the pier within the Public Trust Easement. The proposed amendment will require the Lessee to post signs on each side of the existing pier to indicate passage and to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 feet, Lake Tahoe Datum (LTD)

The additional mooring buoy will occupy a relatively small area of the lake directly lakeward of the upland property, will be privately owned and maintained, and will 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 proposed lease amendment 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 ensure 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 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 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 approval of this lease amendment 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. If the Commission denies the application, the Applicant as lessee will be prohibited from installing the

additional mooring buoy. The lessee has no right to a new lease or to renewal of any previous lease.

2. The 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 CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(3).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, Section 2905.

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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(3).

PUBLIC TRUST AND STATE’S BEST INTERESTS:

Find that the proposed lease 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 the amendment of Lease Number 5556, a General Lease – Recreational Use, effective June 5, 2023, for the installation and use of one additional mooring buoy; to revise rent from \$800 with an annual Consumer Price Index adjustment to \$1,169 with an annual Consumer Price Index adjustment; to incorporate climate change language; to require public access signage; and to replace the existing lease Exhibit A, Land Description, and lease

Exhibit B, Site and Location Map; all other terms and conditions of the lease shall remain in effect without amendment.

2. Authorize the Executive Office or designee to replace Exhibits to the lease upon submission, review, and approval of as-built plans detailing the final location of the new improvement following installation.