

Staff Report 11

APPLICANT:

Peter H. Geremia and Janet L Geremia, Trustees of the Geremia Family Trust

LESSEE:

Peter Geremia, Trustee of the Geremia Family Trust

PROPOSED ACTION:

Amendment of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign Land in Lake Tahoe, adjacent to 3600 Idlewild Way, near Homewood, Placer County (as shown in Figure 1).

Figure 1. Location



AUTHORIZED USE:

Use and maintenance of two existing mooring buoys.

TERM:

10 years, beginning August 20, 2020.

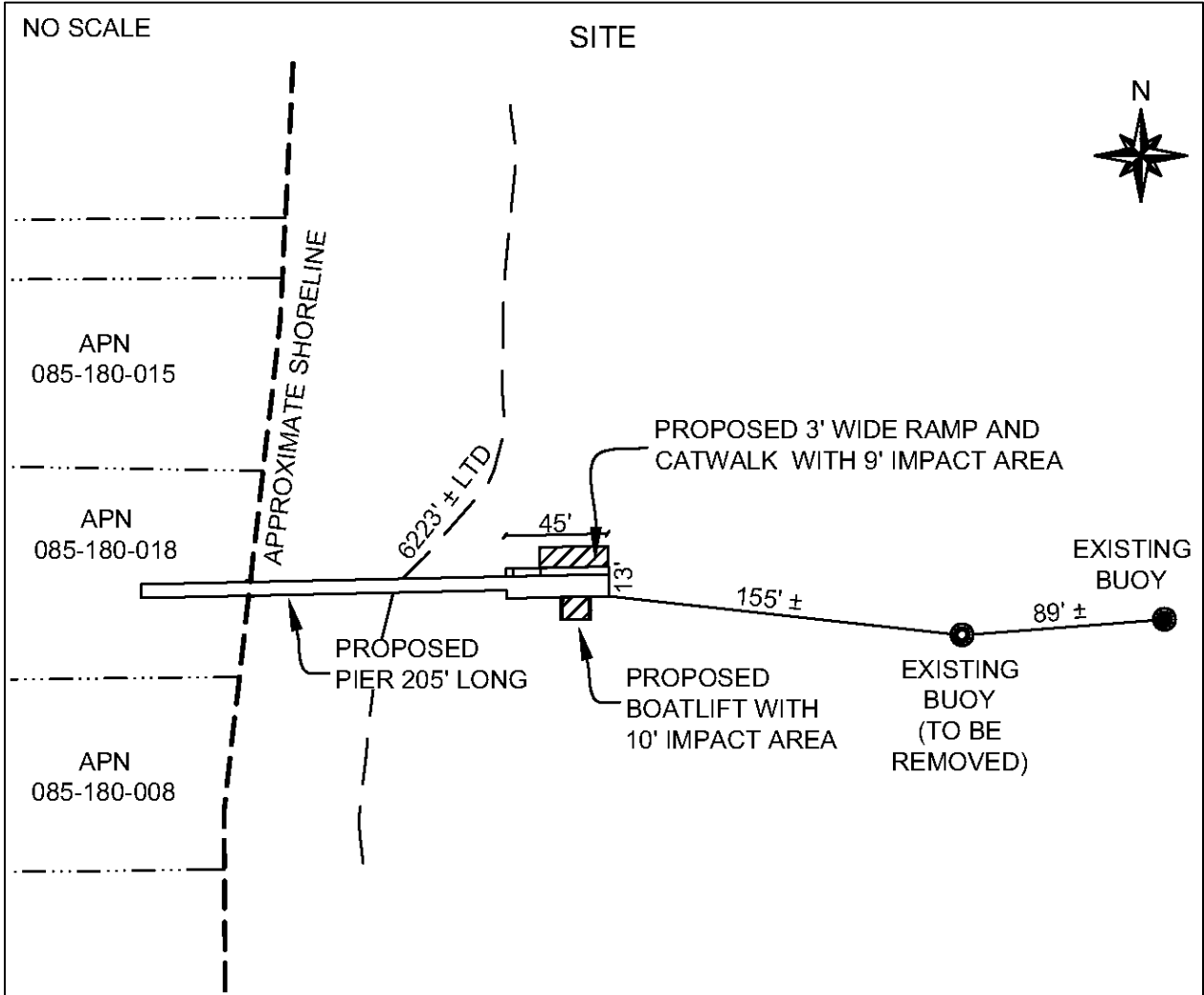
CONSIDERATION:

\$754 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Authorize the construction and use of a pier, boat lift, and catwalk; and removal of one mooring buoy, adjacent to 3600 Idlewild Way, near Homewood, 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.

- Include special provisions related to construction.
- Require a current Tahoe yellow cress (TYC) survey be conducted between June 15 and September 30, and must be submitted prior to construction. If TYC is present, Lessee must submit a Construction Impact Avoidance Plan to the Commission for approval prior to construction.
- Include a provision requiring that the public be allowed to pass and repass over the pier using ladders on the landward end of the pier, with signs posted on each side of the pier, to provide continuous shoreline access to the Public Trust easement below elevation 6228.75 feet, Lake Tahoe Datum.
- Revise the annual rent from \$746, with an annual Consumer Price Index adjustment, to \$1,221, with an annual Consumer Price Index adjustment.
- 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.
- Lessee acknowledges annual consideration shall be adjusted based on the actual area of improvements as constructed should they vary from the plans submitted.
- 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.
- Change lessee name to include spouse and read as: Peter H. Geremia and Janet L. Geremia, Trustees of the Geremia Family Trust.

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, 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 February 28, 2020, the Commission authorized a General Lease – Recreational Use to Peter Geremia, Trustee of the Geremia Family Trust, for the use and maintenance of two existing mooring buoys ([Item 08, February 28, 2020](#)). That lease is set to expire on August 19, 2030.

The Lessee is now applying for a lease amendment to authorize the construction of a pier with one boat lift and catwalk; and removal of one mooring buoy. The Lessee is also applying to modify the lessee name to include the name of the spouse and read as: Peter H. Geremia and Janet L. Geremia, Trustees of the Geremia Family Trust. Janet L. Geremia was always part of the deed, but was inadvertently left off the lease. This change is being made to correct that error so the lessee and the upland owner are one in the same. To simplify, staff will continue to refer to the Applicant and Lessee as the "Lessee" throughout. On April 26, 2023, the Tahoe Regional Planning Agency (TRPA) issued conditional permit No. ERSP2022-1935 for the proposed construction of a single-parcel pier and conversion of one existing mooring buoy for one 12,000-pound capacity boat lift. The TRPA permit specifically states that the relocation of any boulders is not authorized.

The TRPA permit specifically authorizes the transfer of scenic credits associated with an existing single-use pier associated with Placer County Assessor's Parcel Number (APN) 117-020-005 (Lease 4065/Application 3963) to Placer County APN 085-180-018 (Lease 8887/Application 3943. Pursuant to the TRPA permit, the Lessee is required to demolish the existing pier located on Placer County APN 117-020-005 before the scenic credits can be transferred to Placer County APN 085-180-018 for the proposed pier construction project. Both applications are on the agenda for the June 5, 2023 Commission meeting.

The pier causeway will be approximately 160-feet long by 6-feet wide. The proposed pier will include a pier head of 45-feet long and 10-feet wide, for a total length of 205-feet. The proposed pier will be built in an open-piling design and will be supported by 17 single steel pilings of 8-5/8-inch diameter.

The proposed adjustable catwalk will be approximately 3-feet wide by 30-feet long. To comply with TRPA regulations, the Lessee will remove one existing mooring buoy

in exchange for a 12,000-pound capacity boat lift. The pier has a clearance of approximately 6-feet underneath within the public trust easement area to allow passage at varying water levels.

The proposed pier will contain three safety ladders, one swim ladder located at the waterward end of the pier and two located at the landward end of the pier for Public Trust access. Signage reading "Public Passage Allowed Over Pier" located at the designated public access passageway will be required to be in place at all times.

The proposed project will be performed on-site with amphibious access to the site from the lake. The project will be constructed with the use of a floating barge, and materials will be transported via barge to the site. Caissons will be installed around the pilings during installation to reduce suspended sediments from escaping the project area. The caissons will not be removed until sediment has settled. Construction materials will be stored on the barge, rather than on the shoreline, and protected from discharge into the lake. Materials, equipment storage, and fabrication will take place in a shop and on the barge. Construction of the beams, joist, and decking will take place above the surface of Lake Tahoe.

Construction may take place only after all required approvals have been obtained from the appropriate regulatory bodies. The Lessee will follow all construction methods and timeframes provided by TRPA, Lahontan Regional Water Quality Control Board, California Department of Fish and Wildlife, and U.S. Army Corps of Engineers.

TYC is a flowering perennial plant in the mustard family that grows on Lake Tahoe's sandy shorelines and nowhere else in the world. Prior to construction, as a special condition of the lease, the lessee is required to provide a TYC survey for the subject property lakeward of the high-water line to the surface elevation of Lake Tahoe. The survey shall be performed between June 15th and September 30th of 2023. If TYC is present within the subject property, the lessee shall provide a Construction Impact Avoidance Plan with measures to demonstrate no impact to TYC. The survey, and if applicable, the Construction Impact Avoidance Plan shall be provided to Commission staff prior to pier construction.

The Lessee owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The subject improvements 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 pier's design will allow for public access laterally across the shoreline via the ladders. Additionally, the pier has an open piling construction which will allow for passage under the pier at varying lake levels. The proposed 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 proposed amendment 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 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. Watercraft moored to buoys, piers, or docks are vulnerable to damage from high wind and rough wave events.

The 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 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 will not be authorized to construct the new proposed improvements. 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 Area of the Commission's 2021-2025 Strategic Plan.
3. **New Pier Construction:** 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Buoy Removal: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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

APPROVAL OBTAINED:

Tahoe Regional Planning Agency

APPROVALS REQUIRED:

U.S. Army Corps of Engineers
Lahontan Regional Water Quality Control Board
California Department of Fish and Wildlife

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

New Pier Construction: 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).

Buoy Removal: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the construction of a pier and catwalk; installation of a boat lift; and removal of one mooring buoy will not substantially interfere with Public Trust needs and values at this location, at this time and for the term of the lease; are consistent with the common law Public Trust Doctrine; and that the proposed amendment is in the best interests of the State.

AUTHORIZATION:

1. Authorize the amendment of Lease number 8887, a General Lease – Recreational Use, effective June 5, 2023, for the construction and use of a pier with a boat lift, and a catwalk, and the removal of one mooring buoy; to modify the lessee name to include spouse and read as: Peter H. Geremia and Janet L. Geremia, Trustees of the Geremia Family Trust; to include special lease provisions related to construction and public access; to revise rent from \$754 per year, with an annual Consumer Price Index adjustment, to \$1,221 per year, with an annual Consumer Price Index adjustment; and to replace the existing lease Exhibit A, Land Description, and lease Exhibit B, Site and Location Map, with 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 Officer or designee to replace Exhibits in the lease and adjust rent upon submission, review, and approval of as-built plans detailing the final location of the new improvements following installation.