

Staff Report 13

APPLICANT:

Peter E. Haas Jr., individually and as Trustee of the Peter Haas Trust, established under the Peter and Joanne Haas Family Trust instrument, dated May 3, 2001; Daniel S. Haas, individually and as Trustee of the Daniel S. Haas Trust, dated December 21, 2004; and Bradley J. Haas, individually and as Trustee of the Bradley J. Haas Trust, dated March 17, 2009

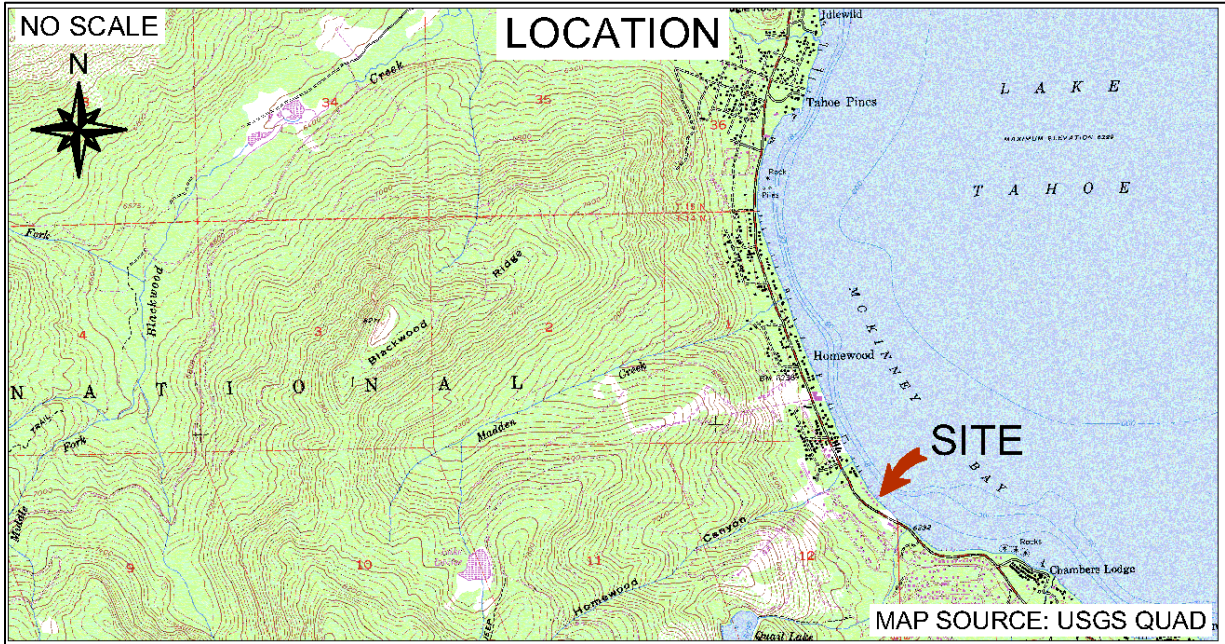
PROPOSED ACTION:

Amendment of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 5690 West Lake Boulevard, near Homewood, Placer County (as shown in Figure 1).

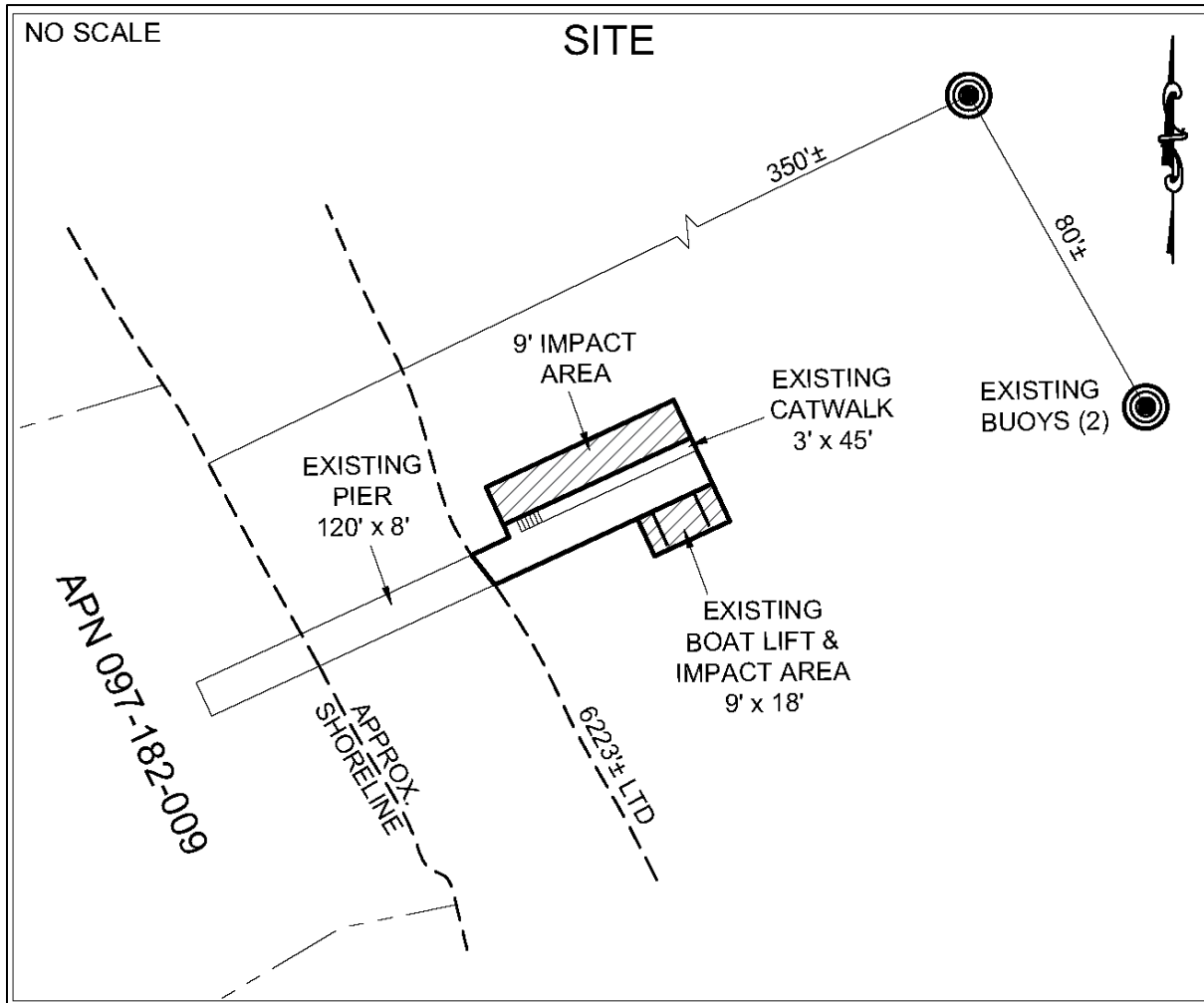
Figure 1. Location



AUTHORIZED USE:

Use and maintenance of an existing pier, boat lift, and two mooring buoys (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.

TERM:

10 years, beginning August 20, 2020.

CONSIDERATION:

\$1,324 per year, with Annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Section 1, CONSIDERATION, revise the annual rent from \$1,324 per year, with an annual Consumer Price Index adjustment, to \$1,338, with an annual Consumer Price Index adjustment, effective August 20, 2023.
- Section 2, SPECIAL PROVISIONS, is amended to include: The 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.
- Section 2, SPECIAL PROVISIONS, is amended to include: Lessee acknowledges that a Tahoe Regional Planning Agency (TRPA) permit or registration may be required for the Authorized Improvements and failure to obtain a permit or registration from TRPA and maintain compliance with that permit or registration may result in TRPA imposing civil penalties and will constitute a breach of this lease.
- Section 2, SPECIAL PROVISIONS, is amended to include: The lease provides that signs shall be posted on each side of the pier to indicate “Public Passage Allowed Under” in order to provide continuous shoreline access along 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, and 6503.5, 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On August 20, 2020, the Commission authorized the issuance of a General Lease – Recreational Use, to Peter E. Haas Jr., individually and as Trustee of the Peter Haas Trust, established under the Peter and Joanne Haas Family Trust instrument, dated May 3, 2001; Daniel S. Haas, individually and as Trustee of the Daniel S. Haas Trust, dated December 21, 2004; and Bradley J. Haas, individually and as Trustee of the Bradley J. Haas Trust, dated March 17, 2009, for the use and maintenance of an existing pier, boat lift, and two mooring buoys ([Item 05, August 20, 2020](#)). The lease expires August 19, 2030.

The Applicant is now applying for an amendment of a General Lease – Recreational Use to utilize the new 2021 Lake Tahoe Benchmark and change their yearly base rent from \$1,324 to \$1,338. The applicant's current rent is higher than the proposed amended rent due to the annual CPI adjustment. The Commission's accounting records show that the Applicant continued to pay the annual rent through August 20, 2023.

The subject facilities 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 facilities have existed for many years at this location. The existing pier is built on pilings, allowing public access for pedestrians and for lake-related activities at varying water levels underneath the pier. The immediate area of the pier is gently sloped with small rocks. Lessee agrees to allow the public to pass and re-pass underneath the pier in the Public Trust easement. The proposed amendment of the lease will include the Lessee to post signs on each side of the pier to identify the designated public passageway and are required to be in place at all times. 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.

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 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 lease; 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. 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 Change Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Amendment of the lease to revise the rent is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the amendment to include Section 1, CONSIDERATION, revise the annual rent from \$1,324, with an annual Consumer Price Index adjustment, to \$1,338, with an annual Consumer Price Index adjustment, effective August 20, 2023, the anniversary date.
2. Authorize the amendment to include Section 2, SPECIAL PROVISIONS, which is amended to include: The Lessee agrees and acknowledges that the hazards associate with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.
3. Authorize the amendment to include Section 2, SPECIAL PROVISIONS, which is amended to include: Lessee acknowledges that a Tahoe Regional Planning Agency (TRPA) permit or registration may be required for the Authorized Improvements and failure to obtain a permit or registration from TRPA and maintain compliance with that permit or registration may result in TRPA imposing civil penalties and will constitute a breach of this lease.
4. Authorize the amendment to include Section 2, SPECIAL PROVISIONS, which is amended to include: The lease provides that signs shall be posted on each side of the pier to indicate "Public Passage Allowed Under" in order to provide

continuous shoreline access to the Public Trust Easement below elevation 62228.75 feet, Lake Tahoe Datum (LTD).