

# Staff Report 14

## LESSEE/APPLICANT:

Second Manassas, LLC, a California Limited Liability Company

## PROPOSED ACTION:

Acceptance of a Lease Quitclaim Deed and Issuance of a General Lease – Recreational Use.

## AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 833 Stateline Avenue, South Lake Tahoe, El Dorado County (as shown on Figure 1).

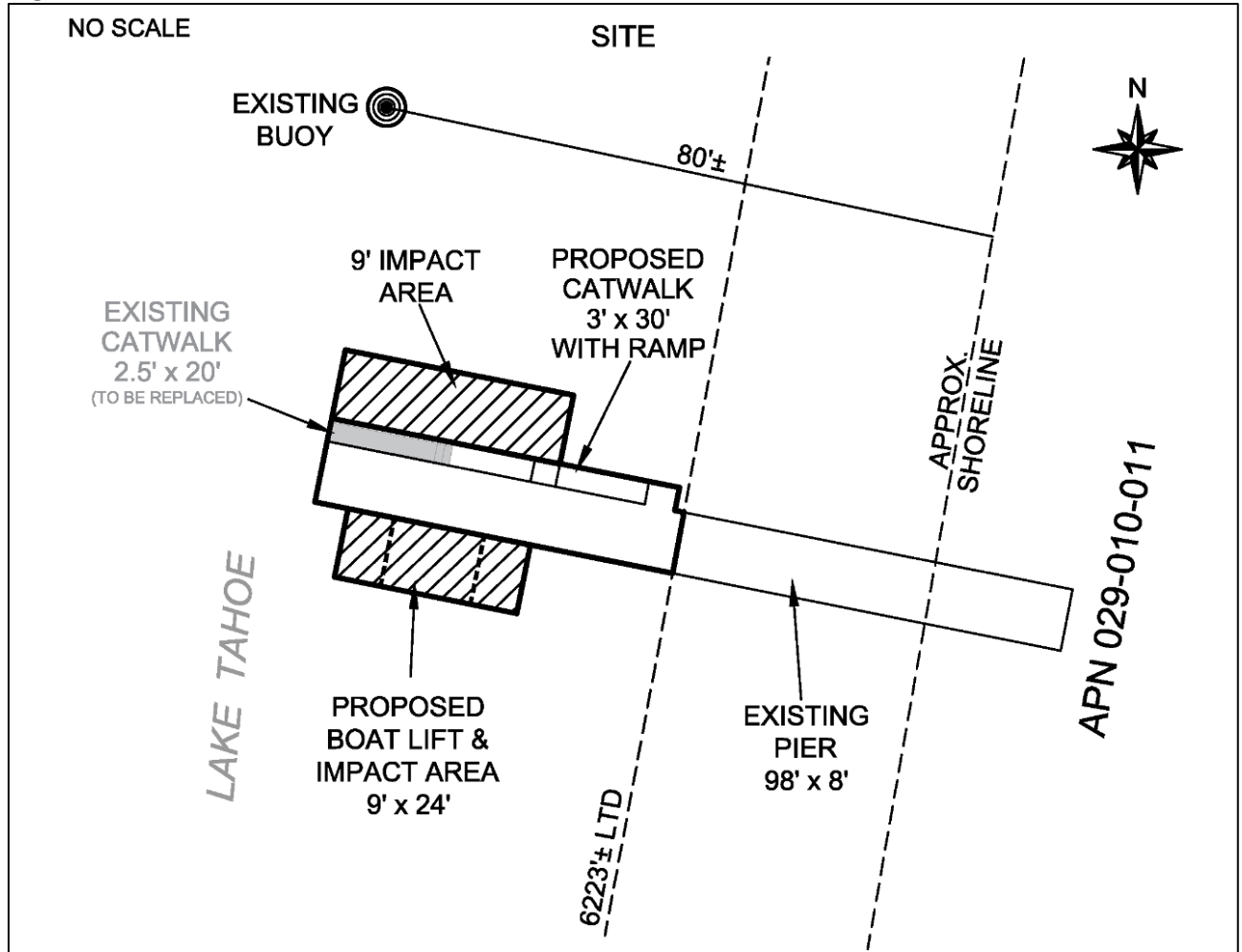
Figure 1. Location



**AUTHORIZED USE:**

Use of an existing pier and one mooring buoy, installation of a boat lift, removal and replacement of existing catwalk with adjustable catwalk and ramp (as shown on 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 17, 2023.

**CONSIDERATION:**

\$979 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 acknowledges that a permit or registration from the Tahoe Regional Planning Agency (TRPA) 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 the 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.
- 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).
- 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.
- 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, and Lessee, 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.
- Construction activities will be performed pursuant to the specific terms identified in the Lease, including the requirement for the Applicant to obtain all necessary permits and authorizations prior to commencement of work.

**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 April 23, 2015, the Commission authorized an acceptance of a lease quitclaim deed and issuance of a General Lease – Recreational Use from Shirlee M. Queirolo, Trustee of the Queirolo Family Trust U/T/D March 8, 1993 and Shirlee M. Queirolo, Trustee of the Queirolo Family Marital Deduction Trust dated March 14, 2000, to Second Manassas, LLC, a California Limited Liability Company for an existing pier and one mooring buoy ([Item 33, April 23, 2015](#)).

The existing lease expires March 27, 2024. The Applicant applied for and received a conditional permit from TRPA for a boat lift, buoy, and removal and reconstruction of an existing adjustable catwalk and ramp on October 24, 2022. The Applicant is now applying for an acceptance of a lease quitclaim deed and issuance of a General Lease– Recreational Use for an existing pier and mooring buoy, removal and replacement of an existing catwalk with an adjustable catwalk and ramp, and installation of a boat lift.

The removal of the existing catwalk and installation of an adjustable catwalk and ramp and boat lift will be performed by using a barge and would be consistent with TRPA regulations. No storage of materials or construction materials shall occur on the shoreline and the delivery and removal of all construction equipment shall occur by barge. The proposed catwalk and ramp would be constructed with 2"x6" Trex Decking to match the existing catwalk. Three-and-a-half-inch tube fender piles spaced evenly with blow molded cushion attached on the underside of the decking will be installed. "H" beams for the boat lift will be driven into the lakebed by a drop hammer pile driver. A floating fine mesh will be used to collect any debris and will be removed upon project completion. Pile driving operations will require installation of caissons for turbidity control.

The pier and mooring buoy have existed for many years at this location. The topography and location of the upland structures provide access to the pier and allow the public to navigate or walk next to, and at certain water levels, under the pier within the Public Trust easement. The pier is built on pilings, and public access for pedestrians and lake-related activities is available at varying water levels underneath the pier within the Public Trust easement. 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, LTD. The buoy is located directly lakeward of the upland.

The pier, proposed boat lift, removal and reconstruction of a catwalk with ramp and mooring buoy are all 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 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 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:**

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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. 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 Areas of the Commission's 2021-2025 Strategic Plan.
3. Acceptance of the lease quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.
4. **Existing Pier and Mooring Buoy:** 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).

**Catwalk Replacement and Ramp:** 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 2, Replacement or Reconstruction; California Code of Regulations, title 2, section 2905, subdivision (b).

**Boat Lift Installation:** 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)(2).

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

## **APPROVALS REQUIRED:**

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California Department of Fish and Wildlife  
Lahontan Regional Water Quality Control Board

## **APPROVALS RECEIVED:**

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U.S. Army Corps of Engineers  
Tahoe Regional Planning Agency

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

**Existing Pier and Mooring Buoy:** 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).

**Catwalk Replacement and Ramp:** 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 2, Replacement or Reconstruction; California Code of Regulations, title 2, section 2905, subdivision (b).

**Boat Lift Installation:** 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)(2).

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease 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; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize acceptance of a lease quitclaim deed from the Lessee for Lease Number PRC 5281, effective August 16, 2023.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 17, 2023, for a term of 10 years, for the use of an existing pier and one mooring buoy ,removal and replacement of an existing catwalk with an adjustable catwalk and ramp, and installation of a boat lift; annual rent in the amount of \$979, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
3. Authorize the Executive Officer or designee to replace Exhibits in the lease upon submission, review, and approval of as-built plans detailing the final location of the improvements following construction.