

Staff Report 29

LESSEE/ASSIGNOR:

Gabrielle D. Harle; Anne B. Donahoe, as trustee of the Anne B. Donahoe Tahoe Residence Trust No. 1 fbo Gabrielle Donahoe Harle; Anne B. Donahoe, as trustee of the Anne B. Donahoe Tahoe Residence Trust No. 2 fbo Daniel Justin Donahoe IV; and Anne B. Donahoe, as trustee of the Anne B. Donahoe Tahoe Residence Trust No. 3 fbo Brooke Donahoe Roberts

APPLICANT/ASSIGNEE:

Rubicon Redux, LLC, a California limited liability company

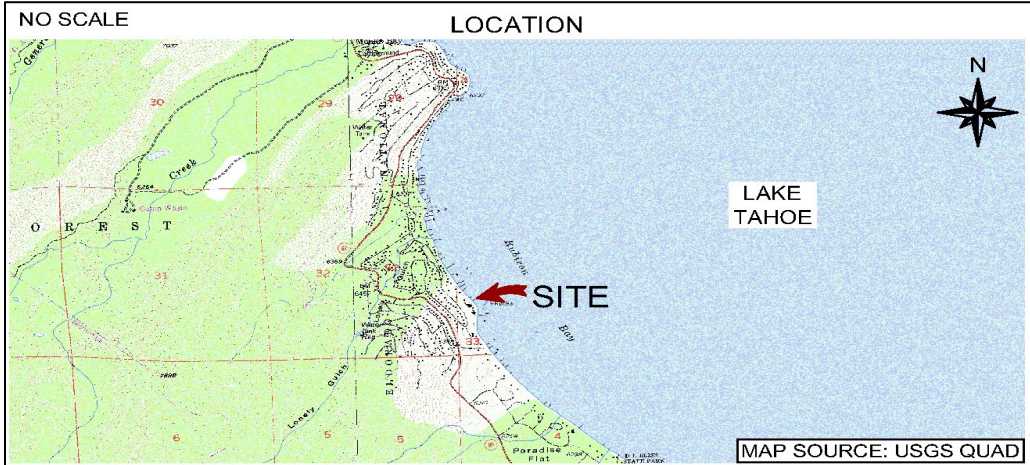
PROPOSED ACTION:

Assignment of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 8873 and 8879 Rubicon Drive, near Tahoma, El Dorado County (as shown in Figure 1 below).

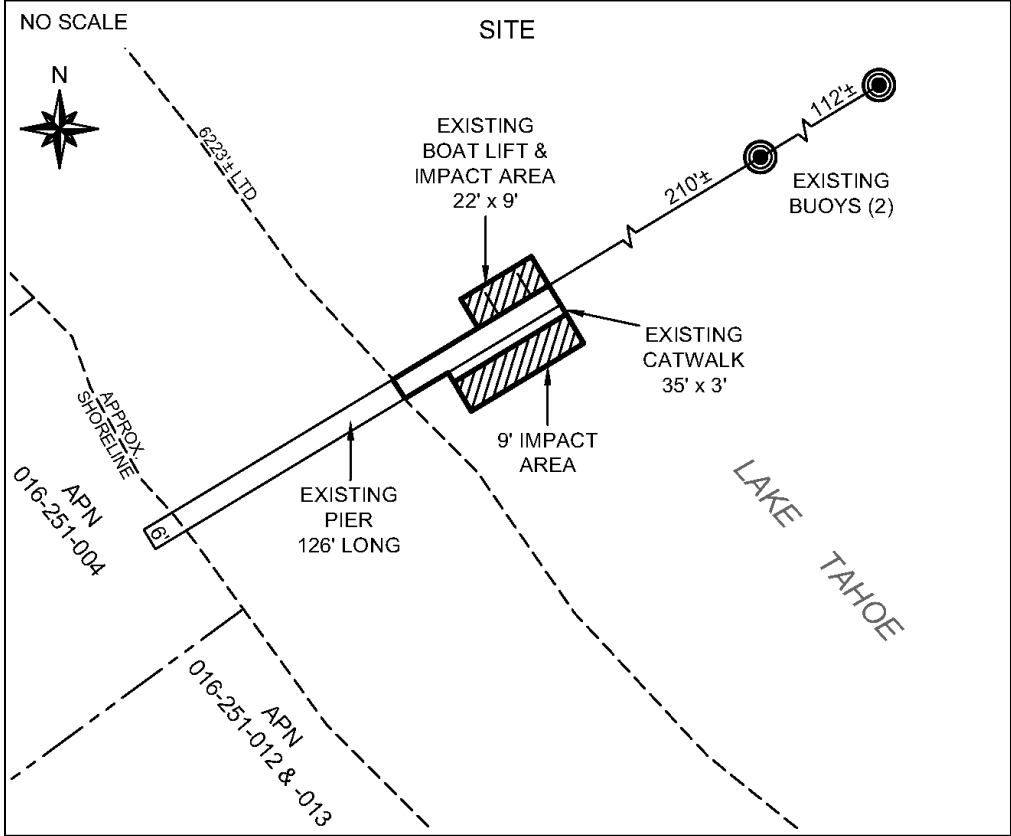
Figure 1. Location



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 December 11, 2022.

CONSIDERATION:

\$1,172 per year, with an annual Consumer Price Index adjustment.

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 December 9, 2022, the Commission authorized a General Lease – Recreational Use to Gabrielle D. Harle; Anne B. Donahoe, as trustee of the Anne B. Donahoe Tahoe Residence Trust No. 1 fbo Gabrielle Donahoe Harle; Anne B. Donahoe, as trustee of the Anne B. Donahoe Tahoe Residence Trust No. 2 fbo Daniel Justin Donahoe IV; and Anne B. Donahoe, as trustee of the Anne B. Donahoe Tahoe Residence Trust No. 3 fbo Brooke Donahoe Roberts, use and maintenance of an existing pier, boat lift, and two mooring buoys ([Item 14, December 9, 2022](#)). This lease expires on December 10, 2032.

On February 6, 2023, Rubicon Redux, LLC, a California limited liability company, acquired full ownership interest in the upland parcels. The Applicant, in coordination with the lessee, is now applying for an assignment of Lease Number 3653, for the use and maintenance of an existing pier, boat lift, and two mooring buoys. The effective date of the assignment will be February 6, 2023, to coincide with the Applicant's acquisition of the upland property.

The Assignee owns the uplands adjoining the lease premises. The subject improvements 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 Assignee is qualified to hold the lease, and staff has not discovered any information that would provide a basis for withholding the assignment. Thus, staff believes that assigning the lease is in the state's best interest to ensure that a capable lessee is committed to managing the improvements and fulfilling the lease obligations. The proposed assignment does not alienate the State's fee simple interest or permanently impair public rights.

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 drier 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.

The lease is a 10-year General Lease – Recreational Use that began on December 11, 2022, and may be subject to the climate change effects provided above. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities would be assessed if a new lease is considered in 2032, and would be based on projected climate change at that time.

CONCLUSION:

For all the reasons above, staff believes approval of this lease assignment will not substantially interfere with Public Trust needs at this location, at this time, and for the term of the proposed lease; and is in the best interest 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 may be required to remove the pier, boat lift, and mooring buoys and restore the premises to their original condition. The Assignee 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. Assignment of a lease 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 change 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 assignment 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 term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease Number 3653, a General Lease – Recreational Use, from Gabrielle D. Harle; Anne B. Donahoe, as trustee of the Anne B. Donahoe Tahoe Residence Trust No. 1 fbo Gabrielle Donahoe Harle; Anne B. Donahoe, as trustee of the Anne B. Donahoe Tahoe Residence Trust No. 2 fbo Daniel Justin Donahoe IV; and Anne B. Donahoe, as trustee of the Anne B. Donahoe Tahoe Residence Trust No. 3 fbo Brooke Donahoe Roberts, to Rubicon Redux, LLC, a California limited liability company; effective February 6, 2023.