

Staff Report 15

LESSEE:

6980 West Lake, LLC, a California limited liability company

APPLICANT:

Tahoe Cedars Association, a California nonprofit corporation

PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 6980 West Lake Boulevard, near Tahoma, Placer County (as shown in Figure 1).

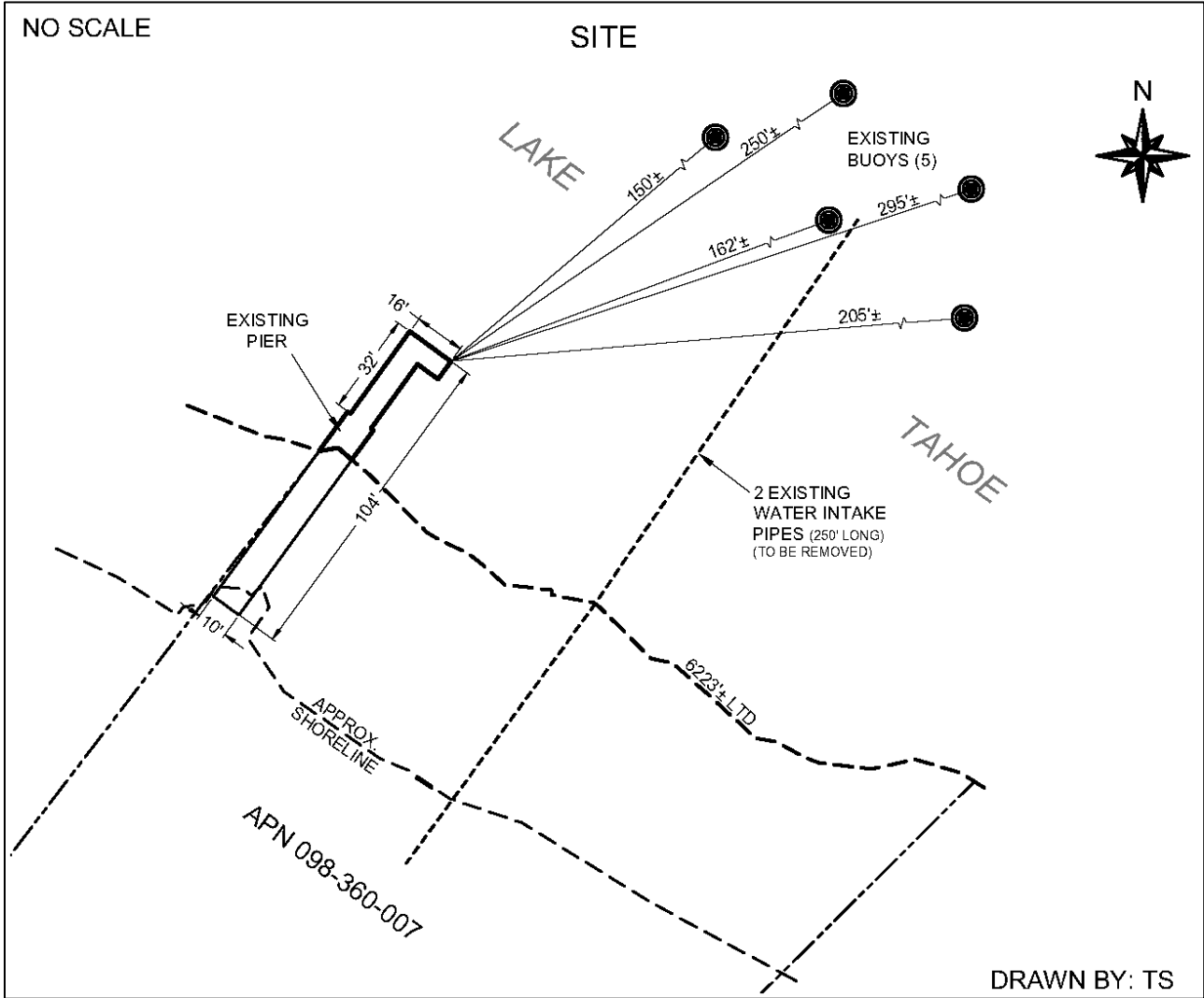
Figure 1. Location



AUTHORIZED USE:

Use of an existing pier and five mooring buoys, and removal of two water intake lines (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 April 4, 2024.

CONSIDERATION:

\$1,718 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 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.
- 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 will 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.
- 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 removal of the water intake lines, Lessee will provide Lessor with a copy of a receipt by a licensed contractor confirming the removal of the water intake lines.
- Provide that construction activities will be performed pursuant to the specific terms identified in the Lease, including requirements pertaining to construction equipment, debris, and the delivery to Lessor of specified documents related to the construction activities; and that the Lessee obtain all necessary permits and authorizations prior to commencing work.

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, section 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On October 13, 2016, the Commission authorized the issuance of a General Lease – Commercial Use to 6980 West Lake, LLC, a California limited liability company, for

the use and maintenance of an existing pier, five mooring buoys, and three freshwater intake lines ([Item 08, October 13, 2016](#)). This lease was set to expire on March 9, 2025.

On March 23, 2021, ownership interest in the upland parcel was transferred to Tahoe Cedars Association, a California nonprofit corporation (Applicant). The existing Lessee has executed a lease quitclaim deed to release their interest in previously issued Lease No. 3637.

The Applicant is now applying for a General Lease – Recreational Use for the use of an existing pier and five mooring buoys, and to remove two water intake lines. On February 24, 2023, the Applicant registered the five mooring buoys with TRPA (Registration No. 10822). During the application review process, staff learned that the upland was converted into residential housing and one of the three freshwater water intake lines was removed.

Staff recommend accepting the lease quitclaim deed and issuing a new General Lease – Recreational Use. The proposed lease will require the Applicant to indemnify the State for the entire period of the Applicant's ownership of the upland leading into to the date the new lease takes effect, ensuring the State is protected.

Removal of the two water intake pipelines 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. The water intake lines will be removed via barge by a marine contractor and off-hauled to an approved boat ramp, then to a sanitary landfill. The contractor will minimize any disturbance to the lakebed to the furthest extent possible, employing caissons if there is any potential for turbidity.

The Applicant owns the upland adjoining lease premises. The subject mooring buoys have existed for many years at this location, are located directly lakeward of the upland property, and occupy a relatively small area of the lake. The pier is privately owned and maintained and facilitates 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 topography surrounding the pier is slightly sloped, with small sized rocks scattered across the shoreline, making the shoreline accessible to pedestrians in

the area. The pier is built on pilings and public access is available at varying water levels underneath the pier within the Public Trust easement. The Applicant agrees to post signs on each side of the pier identifying the designated public passageway. These signs shall be in place at all times and will ensure that the public is aware of the designated public passageway within the Public Trust easement.

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.

The proposed lease 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 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 remaining 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 high wind events and damaging 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 term of the proposed lease; is consistent with the common law Public Trust Doctrine; and is in the best interest of the state.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is 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 improvements and restore the premises to their original condition. 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 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.

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

4. **Existing Facilities:** 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 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

Water Line 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.

APPROVALS REQUIRED:

- U.S. Army Corps of Engineers
- California Department of Fish and Wildlife
- California State Water Resources Control Board – Lahontan Region
- Tahoe Regional Planning Agency

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project though the combination of the following exemptions: Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301, and Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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

AUTHORIZATION:

1. Accept a lease quitclaim deed from the Lessee for Lease No. 3637.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 4, 2024, for a term of 10 years, for the use of an existing pier and five mooring buoys, and removal of two water intake lines; annual rent in the amount of \$1,718, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000.