

Meeting Date: 06/07/24
Lease Number: 4866
Staff: L. Ward

Staff Report 08

LESSEE/ASSIGNOR:

Max W. Day and Alvena V. Day, as Trustees of the Day Family Trust Established February 16, 1999; and Robert C. Marvin and Nancy K. Marvin, Trustees of the Marvin Family Trust Dated May 1, 2000

APPLICANT/ASSIGNEE:

Charles W. Day and Margaret A. Day, Trustees of the Day Family Trust; James R. Day, Trustee of the James R. Day Trust; and Paul J. Normandin and Lisa J. Normandin, as Trustees of the Paul & Lisa Normandin 1995 Trust dated October 26, 1995

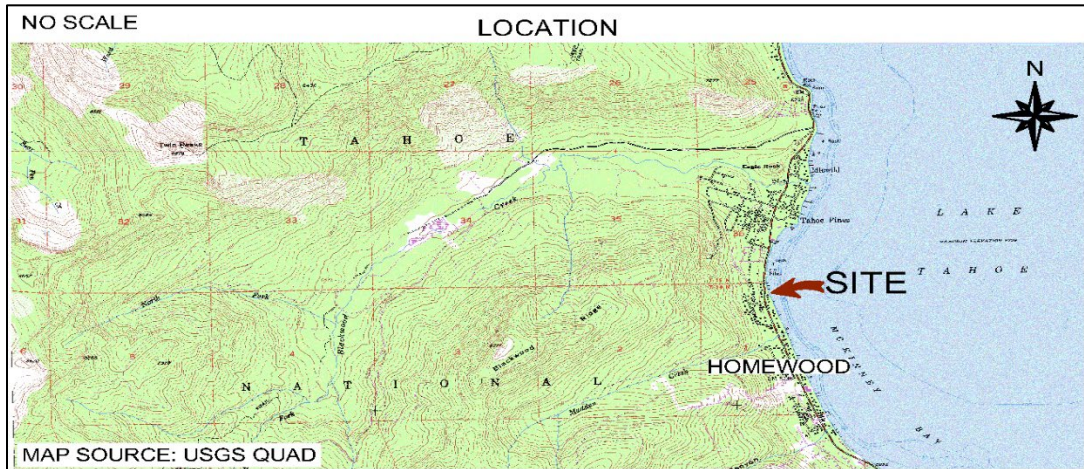
PROPOSED ACTION:

Assignment of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 4760 West Lake Boulevard, near Homewood, Placer County (as shown in Figure 1, below).

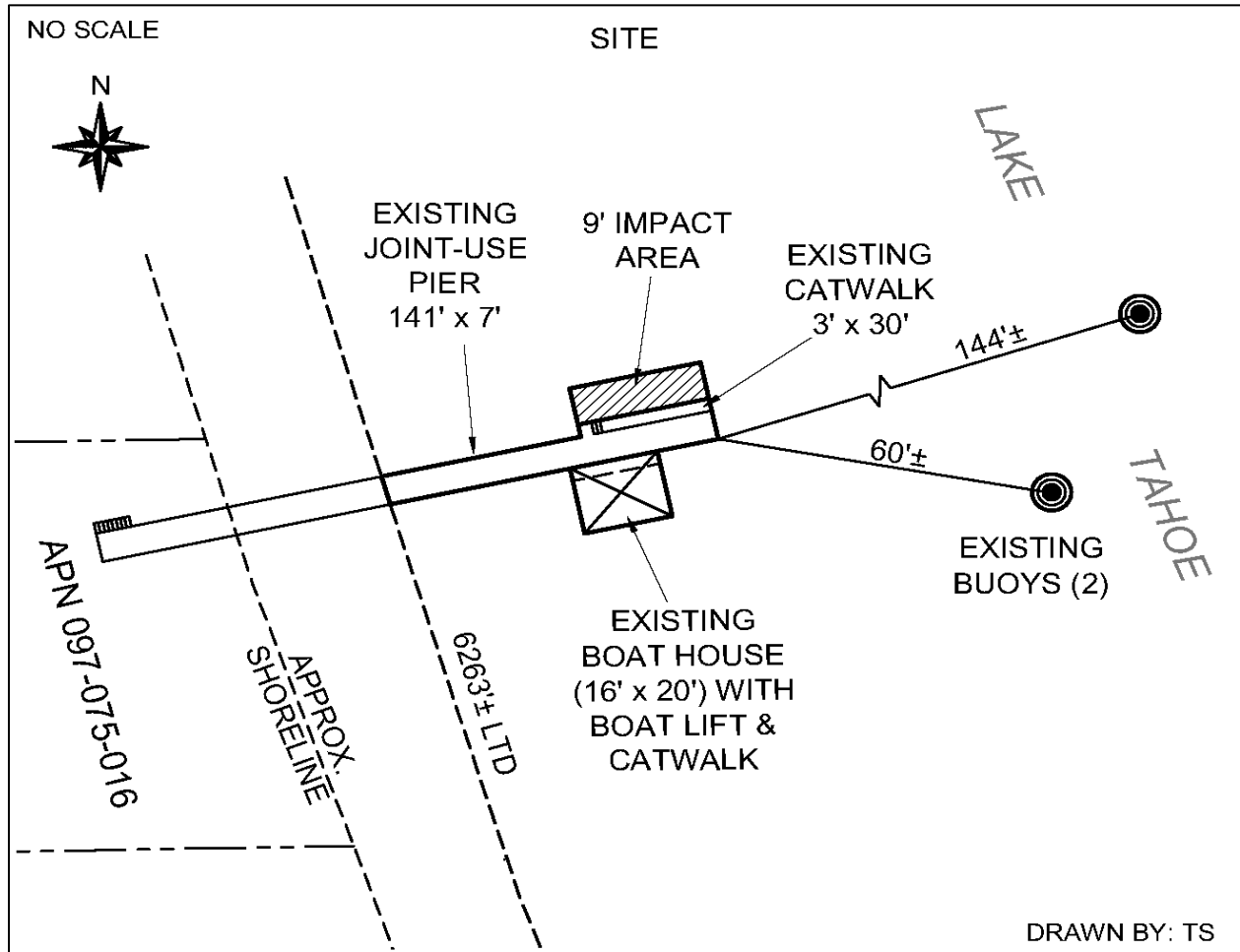
Figure 1. Location



AUTHORIZED USE:

Use and maintenance of an existing joint-use pier, boathouse with a boat lift, and two mooring buoys (as shown in Figure 2, below).

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 May 28, 2019.

CONSIDERATION:

\$1,593 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.

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 October 24, 2019, the Commission authorized a General Lease – Recreational Use to Max W. Day and Alvena V. Day, as Trustees of the Day Family Trust Established February 16, 1999; and Robert C. Marvin and Nancy K. Marvin, Trustees of the Marvin Family Trust Dated May 1, 2000, for the use and maintenance of an existing joint-use pier, boathouse with a boat lift, and two mooring buoys ([Item 08, October 24, 2019](#)). The lease will expire May 27, 2029. Max W. Day and Alvena V. Day, as Trustees of the Day Family Trust Established February 16, 1999, owned the littoral parcel. Robert C. Marvin and Nancy K. Marvin, Trustees of the Marvin Family Trust Dated May 1, 2000, owned an adjacent non-littoral parcel with an easement across the littoral parcel for access to the lease premises.

On June 12, 2023, ownership interest of the non-littoral parcel, Assessor's Parcel Number 097-073-032, was transferred from Robert C. Marvin and Nancy K. Marvin, Trustees of the Marvin Family Trust Dated May 1, 2000, to Paul J. Normandin and Lisa J. Normandin, as Trustees of the Paul & Lisa Normandin 1995 Trust dated October 26, 1995.

On December 23, 2023, ownership interest of the littoral parcel, Assessor's Parcel Number 097-075-016, was transferred from Max W. Day and Alvena V. Day, as Trustees of the Day Family Trust Established February 16, 1999, to Charles W. Day and Margaret A. Day, Trustees of the Day Family Trust.

Paul J. Normandin and Lisa J. Normandin, as Trustees of the Paul & Lisa Normandin 1995 Trust dated October 26, 1995, and Charles W. Day and Margaret A. Day, Trustees of the Day Family Trust (collectively, Applicant) are now applying for an assignment of Lease 4866, for the use of an existing joint-use pier, boathouse with a boat lift, and two mooring buoys. The effective date of the assignment will be December 23, 2023, to coincide with the latest transfer, which was of the littoral upland parcel.

The Applicant 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 May 28, 2019, 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 2029 and would be based on projected climate change scenarios 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 remaining term of the 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 lease would not be assigned. 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 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 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 assignment 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; 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 4866, a General Lease – Recreational Use of sovereign land, from Max W. Day and Alvena V. Day, as Trustees of the Day Family Trust Established February 16, 1999; and Robert C. Marvin and Nancy K. Marvin, Trustees of the Marvin Family Trust Dated May 1, 2000, to Charles W. Day and Margaret A. Day, Trustees of the Day Family Trust; James R. Day, Trustee of the James R. Day Trust; and Paul J. Normandin and Lisa J. Normandin, as Trustee of the Paul & Lisa Normandin 1995 Trust dated October 26, 1995; effective December 23, 2023, to coincide with the transfer of the littoral upland property.