

# Staff Report 20

## LESSEE/APPLICANT:

Sloss Property Tahoe, a California General Partnership

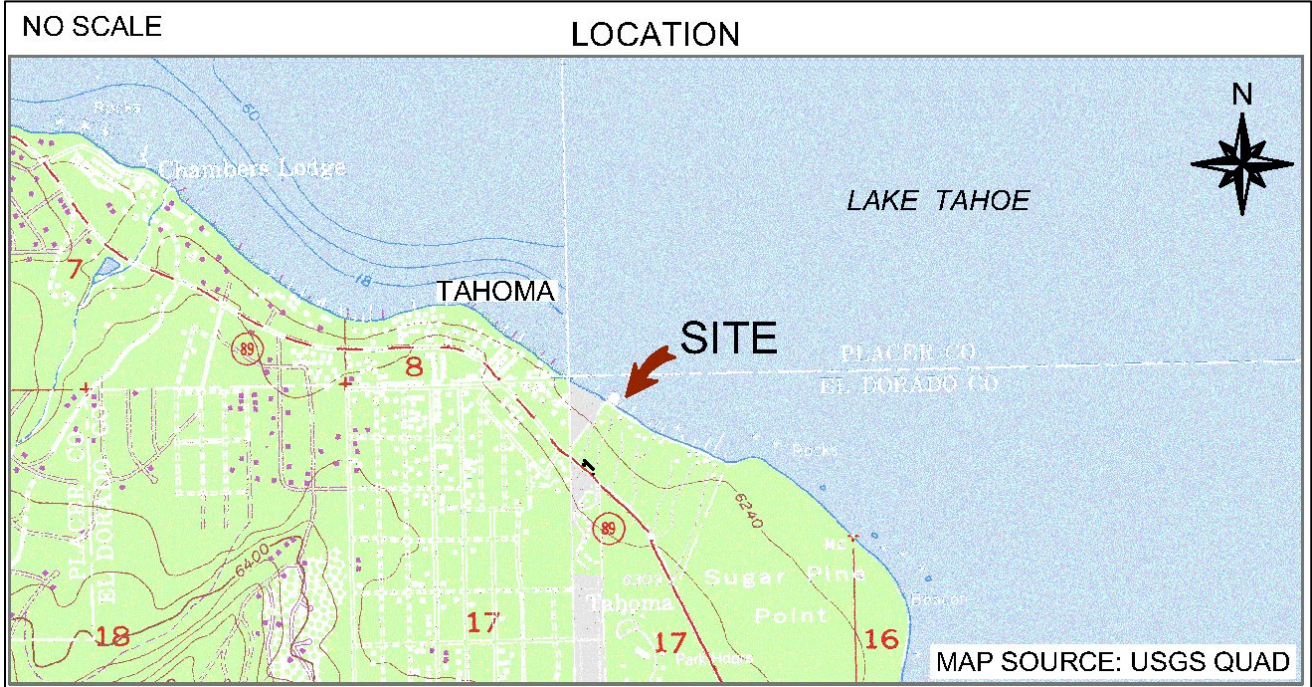
## PROPOSED ACTION:

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 7117 State Highway 89, near Tahoma, El Dorado County (as shown in Figure 1).

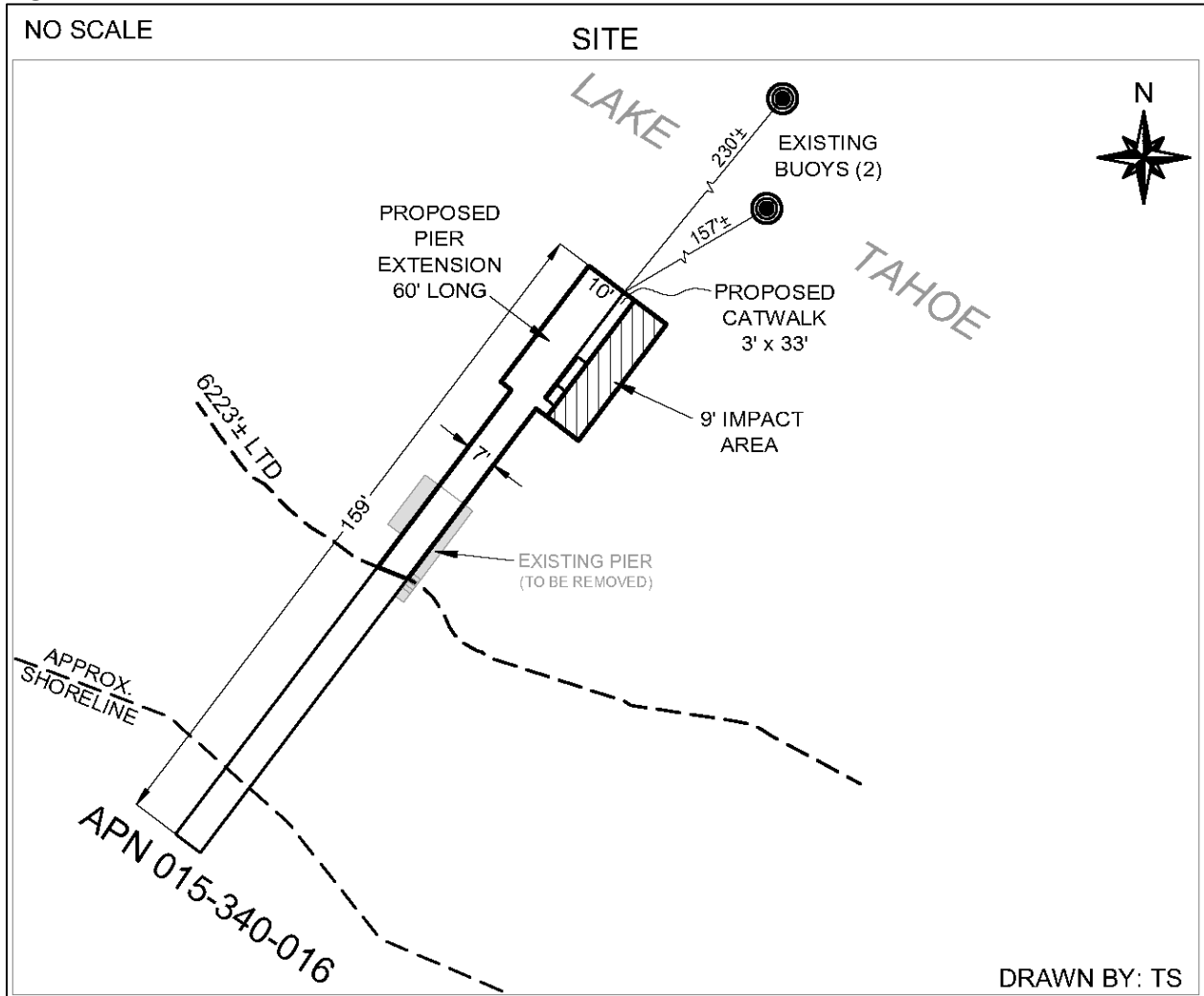
Figure 1. Location



**AUTHORIZED USE:**

Extension of an existing pier; removal of portions of an existing pier, installation of an adjustable catwalk; and use of two existing 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 June 7, 2024.

**CONSIDERATION:**

\$1,352 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 item or construct any improvements in the Public Trust easement, that 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).
- 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, 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.
- Lessee acknowledges annual consideration shall be adjusted based on the actual area of improvements as constructed should they vary from the plans submitted.

**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, section 2000 and 2003.

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

On February 7, 2017, the Commission authorized issuance of a General Lease – Recreational Use to Sloss Property Tahoe, a California General Partnership, for the use of a pier and two mooring buoys ([Item 10, February 7, 2017](#)). This lease will expire on February 28, 2027.

The Lessee is applying for acceptance of a lease quitclaim deed and issuance of a General Lease – Recreational Use for the extension of an existing pier, removal of portions of an existing pier, and use of two mooring buoys. Since the proposed extension project will take place prior to the lease expiring in February 2027, staff recommends acceptance of a lease quitclaim deed from the current Lessee and issuance of a new lease beginning June 7, 2024, the day of the Commission meeting, to align with the proposed pier extension project. TRPA registration is current as of January 21, 2024 (Registration No. 10431).

Rent under the current lease has been paid through February 28, 2025. Staff recommends the acceptance of a lease quitclaim deed effective June 6, 2024, and the issuance of a new lease starting June 7, 2024. The payment made on the current lease will be prorated and the remaining balance used to offset a portion of the rent due for the proposed new lease.

The Applicant is proposing to extend the existing 84-foot-long pier to a length of 159 feet. The last 33 feet of the pier will be 10 feet wide and include a 3-foot adjustable catwalk. The proposed project will rebuild the existing pierhead and remove two existing steel pilings and portions of the existing pier. The project will be constructed using a floating/amphibious barge. All materials will be transported to the site via barge. Construction will take place after all required approvals have been obtained. The Applicant will follow all construction methods and timeframes as prescribed by the U.S. Army Corps of Engineers, California Department of Fish and Wildlife, California State Water Resources Control Board (Lahontan Region), and TRPA.

The Applicant 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 existing buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake. The subject pier is built on pilings, on a sandy beach that is easily traversable. At varying water levels, pedestrians may walk under the pier. The shore end of the pier is low enough for pedestrians to step over or walk around the pier. The proposed lease includes a provision requiring the Applicant 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.

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, Commission staff believes acceptance of the lease quitclaim deed and issuance of this lease will not substantially interfere with the Public Trust needs at this location at this time, or for the remaining term of the lease; is consistent with the common law Public Trust Doctrine; and 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. If the Commission denies the application, the Applicant will not be authorized to extend the pier. 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).

**Existing pier and two mooring buoys:** 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 2, section 2905, subdivision (a)(2).

**Pier extension:** 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

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 OBTAINED:**

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- Tahoe Regional Planning Agency
- California Department of Fish and Wildlife

## **APPROVALS REQUIRED:**

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- U.S. Army Corps of Engineers
- Lahontan Regional Water Quality Control Board

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

Find that 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 through the combination of the following exemptions: Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2), and Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

### **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 for Lease 3506, effective June 6, 2023.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 7, 2024, for a term of 10 years, for the extension and use of an existing pier and two existing mooring buoys; annual rent in the amount of \$1,352, 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 new improvements following construction.