

# Staff Report 13

**APPLICANT:**

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Lawrence Monson, Trustee of the Atkinson 2009 Family Residence Trust dated August 31, 2009

**PROPOSED ACTION:**

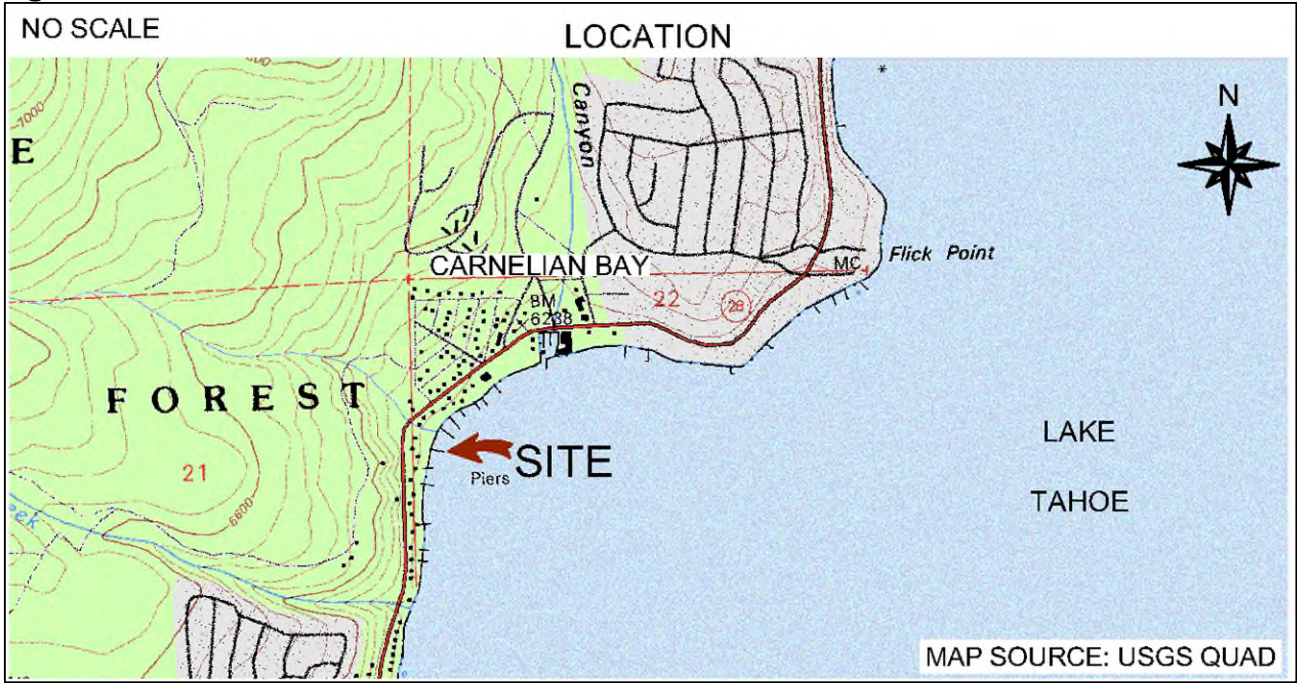
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Issuance of a General Lease – Recreational Lease.

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in Lake Tahoe, adjacent to 4870 North Lake Boulevard, near Carnelian Bay, Placer County (as shown in Figure 1).

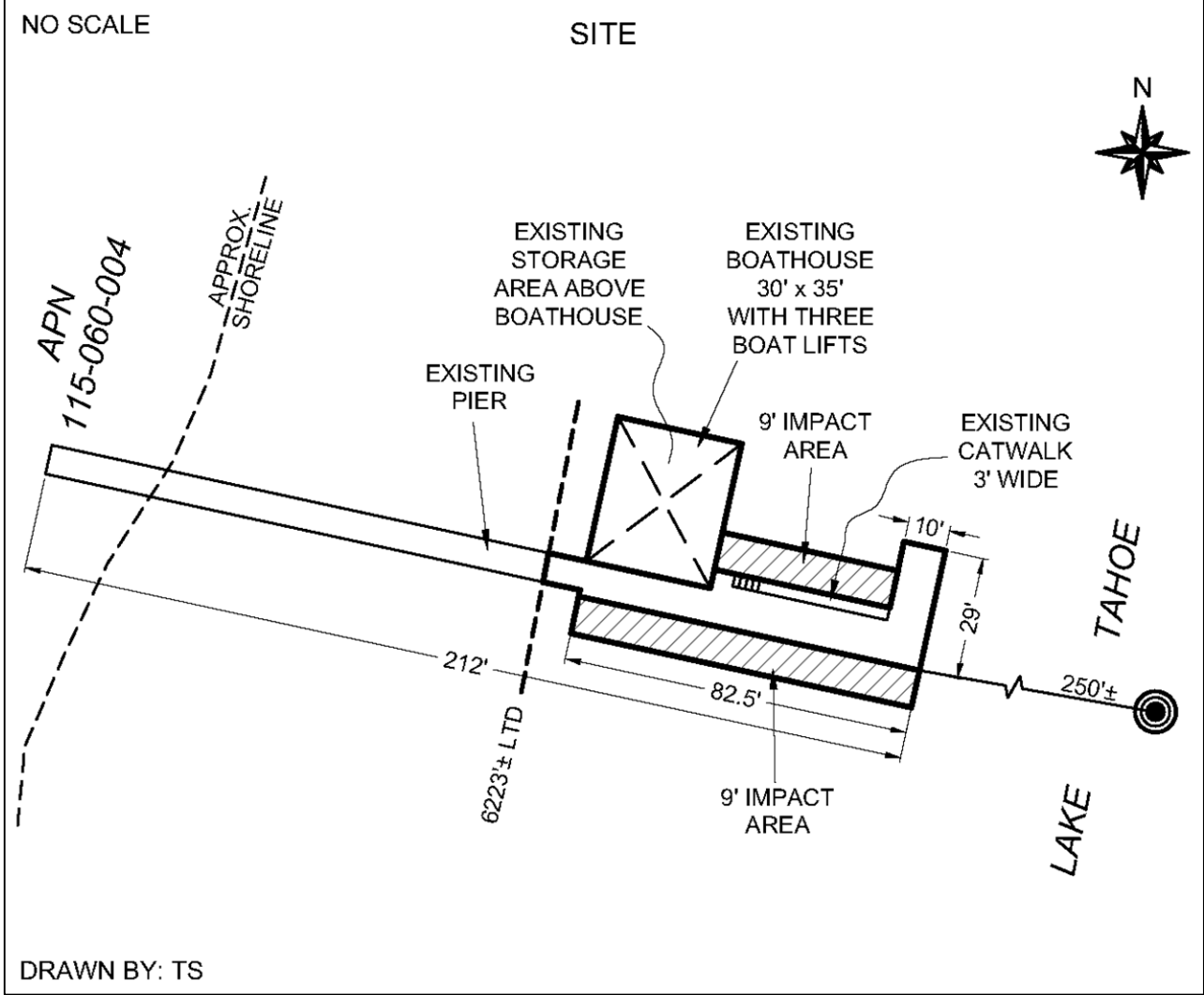
**Figure 1. Location**



**AUTHORIZED USE:**

Use of a pier, boathouse with upstairs storage, and three boat lifts previously authorized by the Commission and an existing mooring buoy not previously authorized by the Commission (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 November 29, 2024.

**CONSIDERATION:**

\$3,598 per year, with an annual Consumer Price Index adjustment, and \$1,069 to compensate for the unauthorized occupation of state sovereign land prior to November 29, 2024.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee expressly 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 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 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.

**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 October 14, 2014, the Commission authorized a General Lease – Recreational Use to Bernard John Atkinson, Trustee of the Bernard John Atkinson Qualified Personal Residence Trust I, Dated August 31, 2009; Bernard John Atkinson, Trustee of the Bernard John Atkinson Qualified Personal Residence Trust II, Dated August 31, 2009; and Carol Sue Atkinson, Trustee of the Carol Sue Atkinson Qualified Personal Residence Trust I, Dated September 10, 2009; Carol Sue Atkinson, Trustee of the Carol Sue Atkinson Qualified Personal Residence Trust II, Dated September 4, 2009, for the use and maintenance of an existing pier, catwalk, boathouse with upstairs

storage, and three boat lifts ([Item 28, October 14, 2014](#)). The lease will expire on November 28, 2024.

The improvements are registered with TRPA (Registration No. 10291). The existing buoy was not authorized under the prior lease but has been registered with TRPA since April 6, 2021. Therefore, staff recommends the Commission accept compensation from the Applicant in the amount of \$1,069 for the unauthorized improvements for the period prior to November 29, 2024. The indemnity provisions for the new lease will also be extended to cover the period of unauthorized occupation of state land.

On December 7, 2021, ownership interest in the upland property was transferred to Lawrence Monson, Trustee of the Atkinson 2009 Family Residence Trust dated August 31, 2009. The Commission was not notified of the change in ownership nor was an assignment of lease sought; however, the beneficial interest in the infrastructure is still held by the same Trust. Accounting records show annual rent for the pier, boathouse with upstairs storage, and three boat lifts was paid through November 28, 2024.

The Applicant is now applying for a General Lease – Recreational Use for the use of an existing pier, boathouse with upstairs storage, and three boat lifts previously authorized by the Commission and an existing mooring buoy not previously authorized by the Commission. Staff recommends issuance of a General Lease – Recreational Use to the Applicant, to take effect on November 29, 2024.

The subject pier, boathouse with upstairs storage, three boat lifts, and mooring buoy 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.)

Although the upstairs storage is a private use of public property, and not a Public Trust consistent use, the upstairs storage is built onto the existing boathouse and does not expand the footprint of the subject facilities. The upstairs storage has existed for many years and is not expected to negatively impact the Public Trust at this location.

The subject mooring buoy has existed for many years at this location but was never called out in the lease, is located directly lakeward of the upland property, and occupies a relatively small area of the lake. The pier, boathouse with upstairs

storage, and three boat lifts are built on pilings, providing public access for pedestrians and lake related activities at varying water levels underneath the pier. The immediate area of the existing pier is relatively flat with scattered small boulders and rocks making it easily traversable.

The lease provisions regarding indemnity for the existing mooring buoy will apply for the entire period prior to November 29, 2024, the first day of the new lease.

### **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, 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; 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. If the Commission denies the application the Applicant may be required to remove the pier, boathouse with upstairs storage, three boat lifts, and one mooring buoy and return 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. Staff recommends that the Commission find that 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).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061 and California Code of Regulations, title 2, section 2905.

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

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).

### **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; and is in the best interests of the State.

### **AUTHORIZATION:**

1. Accept compensation from the Applicant in the amount of \$1,069 for the unauthorized occupation of state land for the period prior to November 29, 2024.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning November 29, 2024, for a term of 10 years, for use of a pier, boathouse with upstairs storage, and three boat lifts previously authorized by the Commission and an existing mooring buoy not previously authorized by the Commission; annual rent in the amount of \$3,598, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.