

Staff Report 20

LESSEE/APPLICANT:

Tahoe Meadows, a Corporation, DBA Tahoe Meadows Association

PROPOSED ACTION:

Rescission of prior authorization of a General Lease – Recreational Use and Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 3737 through 4009 Beach Road, South Lake Tahoe, El Dorado County (as shown in Figure 1).

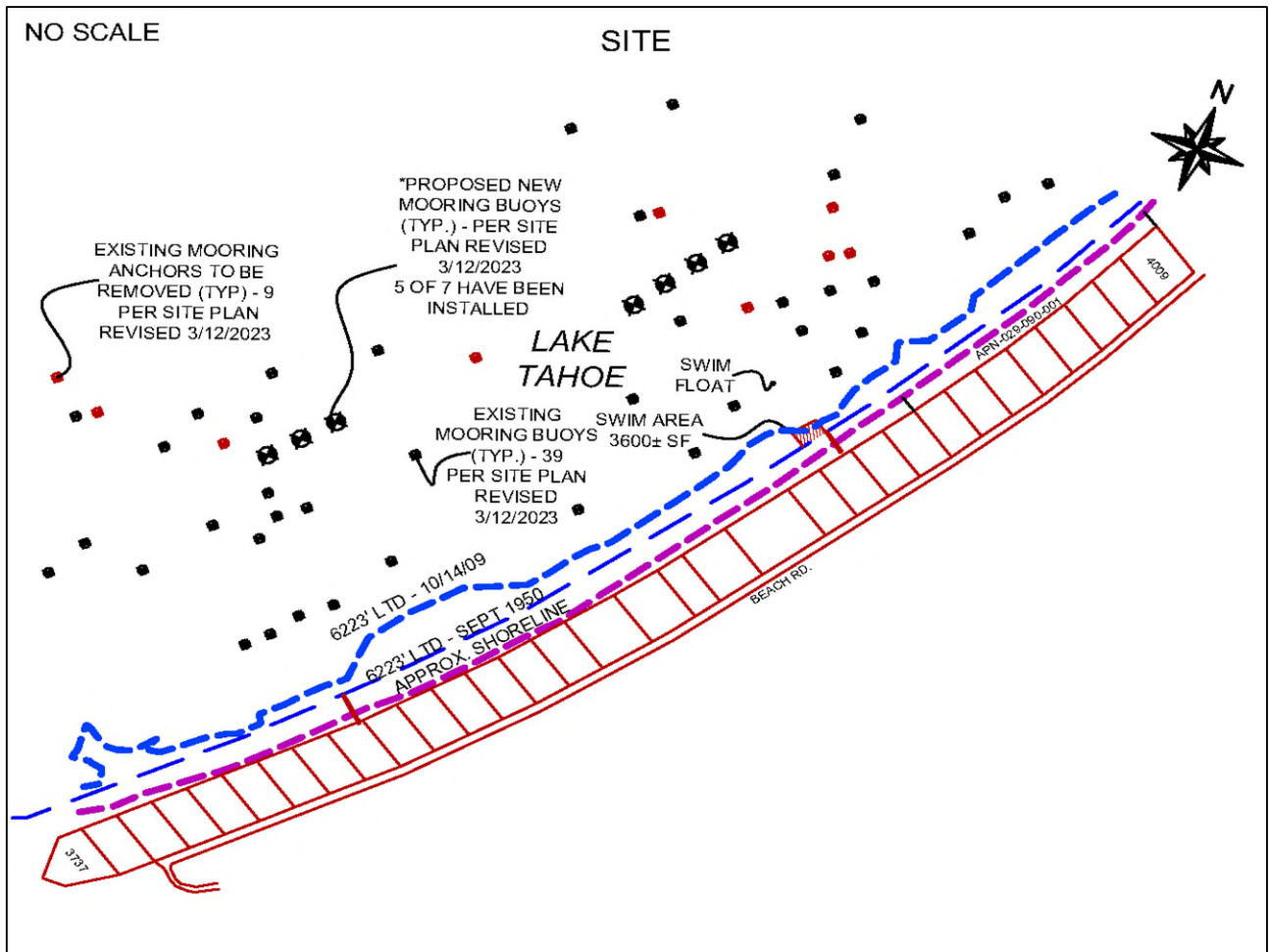
Figure 1. Location



AUTHORIZED USE:

Use of 39 existing mooring buoys, an enclosed seasonal swim area, and a seasonal swim float previously authorized by the Commission; five existing mooring buoys not previously authorized by the Commission; installation of two mooring buoys; and removal of nine unauthorized mooring anchor blocks (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 August 17, 2023.

CONSIDERATION:

\$13,303 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 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 to place a seasonal swim float and seasonal swim lines in the lake for the fully enclosed swim area no earlier than June 15, with removal no later than September 15 annually. Lessee to provide date-stamped photo documentation each year showing installation and removal.
- Within 60 days of completing the installation of the two mooring buoys, Lessee will provide Lessor with photographs and coordinates of where buoys 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 shall provide for the use of the mooring buoys by all members of the Association in a fair and equitable manner. Lessee shall provide a copy of Lessee's buoy allotment program, which identifies how the buoys will be managed, maintained, and distributed for use by members no later than 90 days after the execution of the Lease.
- Lessee agrees the provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of state-owned lands, from April 11, 2022 through August 16, 2023.

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 April 26, 2013, the Commission authorized a General Lease – Recreational Use to Tahoe Meadows, a Corporation, DBA Tahoe Meadows Association, for 39 existing mooring buoys, an enclosed swim area, one swim float, and two marker buoys ([Item 58, April 26, 2013](#)). On April 20, 2017, the Commission authorized a revision of annual rent from \$16,077 to \$16,162 ([Item 19, April 20, 2017](#)). That lease expired on April 10, 2022.

On August 17, 2023, the Commission authorized a General Lease – Recreational Use to Tahoe Meadows, a Corporation, DBA Tahoe Meadows Association, for 46 mooring buoys, a swim float, and swim area; and removal of all unauthorized mooring anchors, with annual rent in the amount of \$15,516 ([Item 21, August 17, 2023](#)). Staff is requesting that the lease authorization made by the Commission at its August 17, 2023 Commission meeting be rescinded, and that a new General Lease – Recreational Use be issued to correct an error made in calculating annual rent. The prior authorization did not account for the seasonal use of the enclosed swim area and swim float, which makes a seasonal use discount appropriate, resulting in annual rent in the amount of \$13,303.

The lease issued on August 17, 2023 (to be rescinded) required the Applicant to pay compensation for the unauthorized occupation of state land from April 11, 2022 through August 16, 2023. The State has since been duly compensated for that unauthorized occupation. Rent has also been paid for the period of August 17, 2023 through August 16, 2024. Staff recommends that the overpayment of rent for this period, in the amount of \$2,213, be credited to the Applicant and applied to their next annual rental payment, to account for the seasonal use discount which should have been applied to the enclosed swim area and swim float for the period of August 17, 2023 through August 16, 2024. Staff also recommends that the new proposed lease have an effective date of August 17, 2023, and that it require the Applicant to indemnify the State for the period of unauthorized occupation from April 11, 2022 through August 16, 2023, ensuring the State is protected.

The proposed lease authorizes 46 mooring buoys: 39 were existing and previously authorized by the Commission, five were installed with TRPA conditional approval prior to the issuance of the 2023 lease (three on 6/17/2023, and two on 6/23/2023) and have not been previously authorized by the Commission; and two buoys have not yet been installed at the time of this Commission action. All 46 mooring buoys were registered with TRPA on April 17, 2024 (Registration No. 10279).

The 46 mooring buoys, enclosed seasonal swim area, and seasonal swim float are privately owned and maintained and facilitate recreational boating and swimming. Recreational boating and swimming are water-dependent uses that are generally consistent with the common law Public Trust Doctrine. Additionally, the California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land. (Pub. Resources Code, § 6503.5.)

During discussions with TRPA, the Applicant requested the ability to remove remnant anchor blocks within the footprint of the buoy field. TRPA recommended the Applicant include the removal of the remnant anchor blocks under the TRPA permit application. The Applicant has no record of the placement or usage of the anchor blocks within the buoy field. The Applicant speculates that the anchor blocks may be remnants of individual homeowners who had buoys (authorized or not) not affiliated with the HOA's buoy field. The Applicant has removed smaller remnant anchor blocks from within the buoy field footprint, but the nine remaining blocks will require removal by a contractor using a barge. The Applicant is willing to undertake the removal operations at their cost to clean the bed of the lake. The proposed lease will require evidence of removal of the remnant blocks.

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.

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 leased 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.

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; 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 Applicant may be required to remove the improvements 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. Rescission of the lease 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, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

3. **Existing Buoys, Swim Area, and Swim Float:** Staff recommends that the Commission find that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

New Buoys: Staff recommends that the Commission find that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

Anchor Block Removal: Staff recommends that the Commission find that this activity is exempt from the requirements of the 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 15061.

RECOMMENDED ACTION:

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 though the combination of the following exemptions: Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301; Class 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303; 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 the 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. Authorize the rescission of the Commission's August 17, 2023 (Item 21) authorization of a General Lease – Recreational Use to Tahoe Meadows, a Corporation, DBA Tahoe Meadows Association.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 17, 2023, for a term of 10 years, for the use of 39 existing mooring buoys, an enclosed seasonal swim area, and a seasonal swim float previously authorized by the Commission; five existing mooring buoys not previously authorized by the Commission; installation of two mooring buoys; and removal of nine unauthorized remnant mooring anchors; annual rent in the amount of \$13,303, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
3. Authorize the overpayment of annual rent for the period August 17, 2023, through August 16, 2024, in the amount of \$2,213, to be credited to annual rent due under the proposed lease for the August 17, 2024 through August 16, 2025 rental period.

4. Authorize the Executive Officer or designee to replace Exhibits to the lease upon submission, review, and approval of coordinates detailing the final location of all improvements following installation.