

Staff Report 11

LESSEE/APPLICANT:

Randall E. Pond and Cynthia M. G. Pond, as Trustees of the Cynthia M. G. Pond Personal Residence Trust U/T/A 12/13/08; and Randall E. Pond and Cynthia M.G. Pond, as Trustees of the Randall E. Pond Personal Residence Trust U/T/A 12/13/08

PROPOSED ACTION:

Amendment of a General Lease - Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3240 Edgewater Drive, near Tahoe City, Placer County (as shown in Figure 1).

Figure 1. Location



AUTHORIZED USE:

Use of two existing mooring buoys.

TERM:

10 years, beginning June 23, 2021.

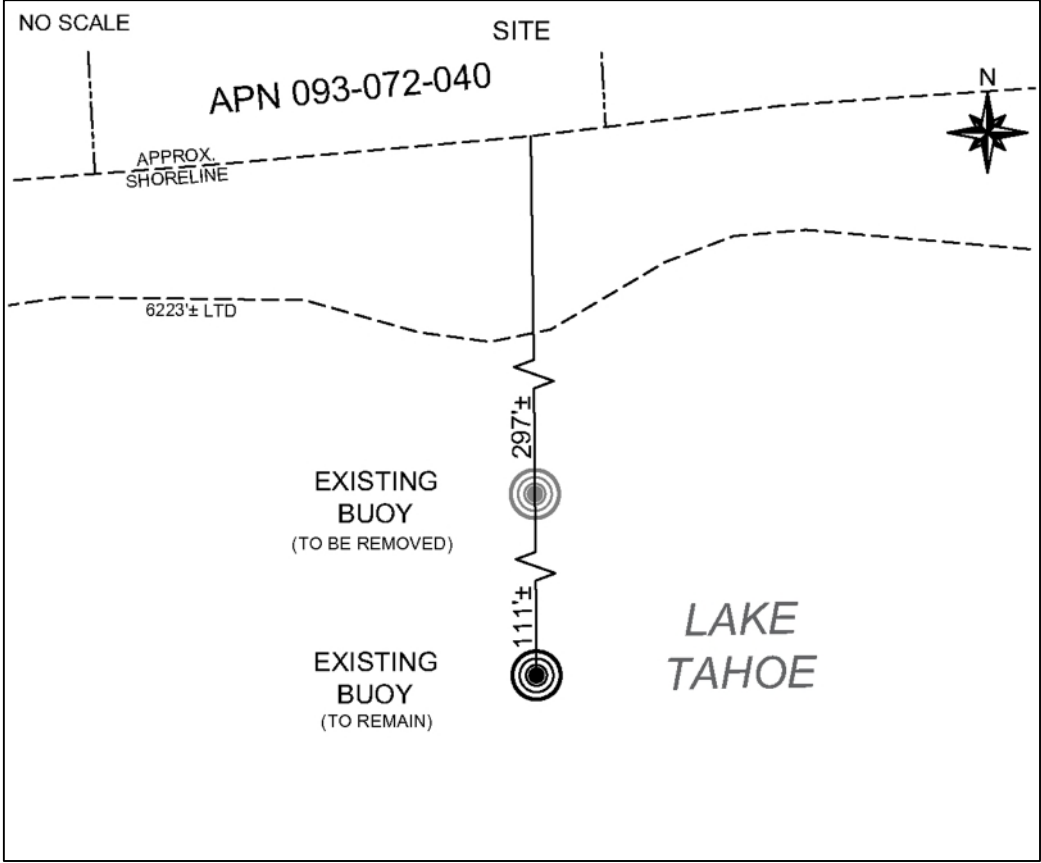
CONSIDERATION:

\$754 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Authorize the removal of one mooring buoy, adjacent to 3240 Edgewater Drive, near Tahoe City, Placer County (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.

- Revise the annual rent from \$754, with an annual Consumer Price Index adjustment, to \$273, with an annual Consumer Price Index adjustment.
- 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.
- Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only), in the lease.
- Within 60 days of completing the removal of one mooring buoy, Lessee will provide Lessor with a copy of a receipt by a licensed contractor confirming the removal of the buoy and buoy block.

All other terms and conditions of the lease to remain in effect without amendment.

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 April 27, 2021, the Commission authorized issuance of a General Lease – Recreational Use to Randall E. Pond and Cynthia M. G. Pond, as Trustees of the Cynthia M. G. Pond Personal Residence Trust U/T/A 12/13/08; and Randall E. Pond and Cynthia M.G. Pond, as Trustees of the Randall E. Pond Personal Residence Trust U/T/A 12/13/08, for the use of two existing mooring buoys ([Item 16, April 27, 2021](#)). The lease expires on June 22, 2031 (TRPA Registration No. 10153).

The Applicant is applying for an amendment of a General Lease – Recreational Use for the removal of one mooring buoy. Concurrently, the Applicant is a co-lessee to a separate lease, Lease Number 4287, authorized by the Commission on June 7, 2024 ([Item 11, June 7, 2024](#)). The pier's construction includes the inclusion of one boat lift in exchange for removal of a buoy, pursuant to a TRPA conditional permit. Under this proposed lease amendment, the Applicant is agreeing to, and will be responsible for, removing one buoy before June 23, 2025.

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 proposed lease amendment 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 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 that are already 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 proposed amendment will not substantially interfere with Public Trust needs 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.

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. 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 this activity is exempt from the requirements of the California Environmental Quality Act (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, 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 amendment 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:

Authorize an amendment of Lease Number 8919, a General Lease – Recreational Use, effective October 17, 2024, for the removal of one mooring buoy; to revise rent from \$754 with an annual Consumer Price Index adjustment to \$273 with an annual Consumer Price Index adjustment; to incorporate climate change language; and to replace the existing lease Exhibit A, Land Description, and lease Exhibit B, Site and Location Map; all other terms and conditions of the lease shall remain in effect without amendment.