

Staff Report 12

LESSEE:

Jeffrey Todd Stone, Trustee of The Ray Stone Tahoe Residential Trust Dated May 18, 1999; Jeffrey Todd Stone, Trustee of The Mary Lou Stone Tahoe Residential Trust Dated May 18, 1999

APPLICANT:

Jeffrey Todd Stone, Trustee of The Ray Stone Tahoe Residential Trust Dated May 18, 1999, Jeffrey Todd Stone, Trustee of The Mary Lou Stone Tahoe Residential Trust Dated May 18, 1999; and West Shore Investors, L.P. a California limited partnership

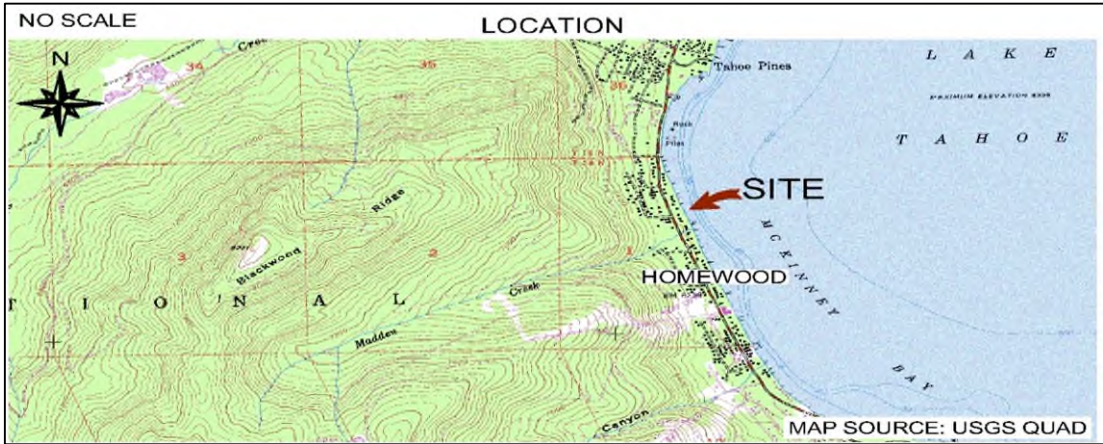
PROPOSED ACTION:

Amendment a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

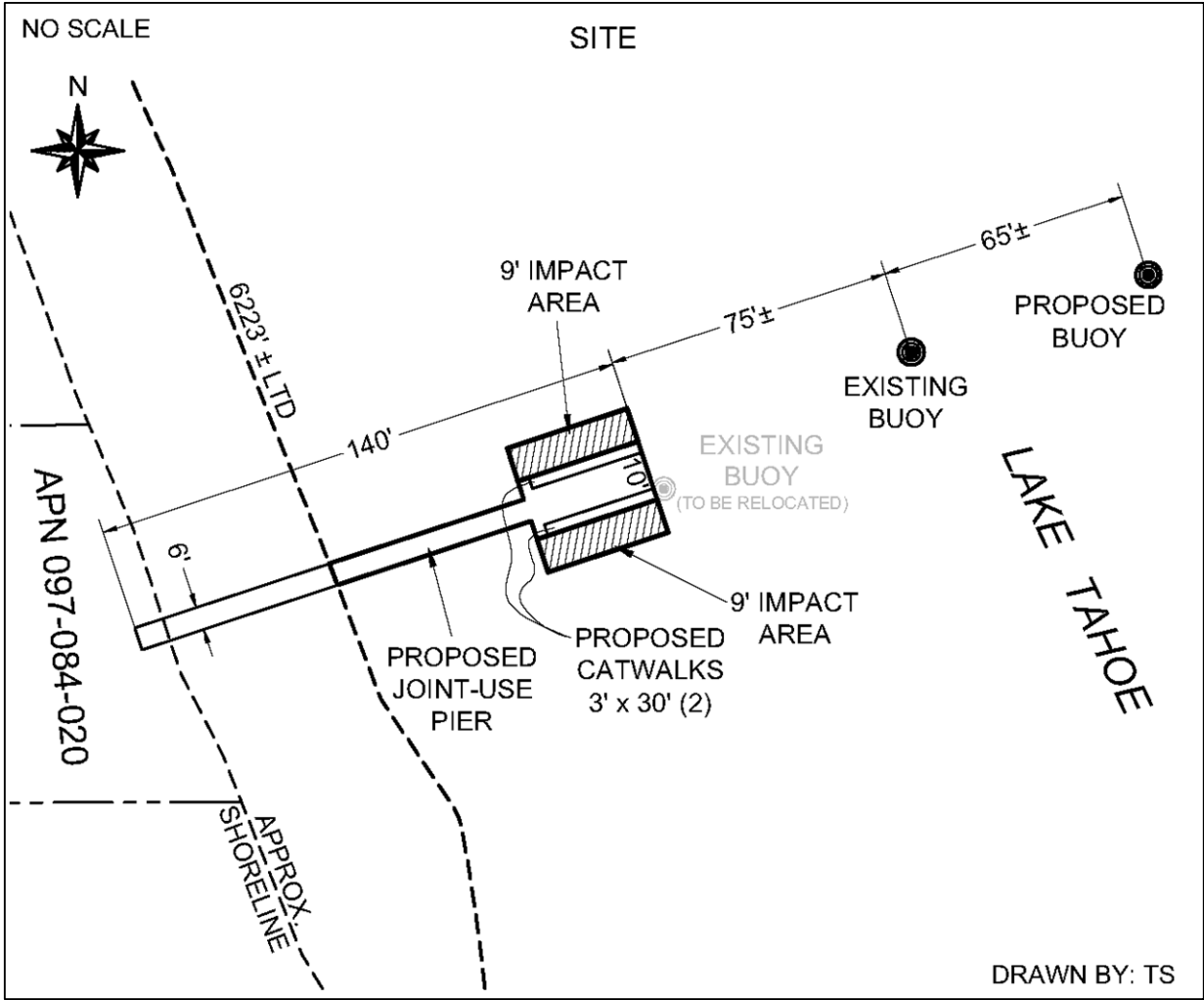
Sovereign land located in Lake Tahoe, adjacent to 4880 West Lake Boulevard and 4860 West Lake Boulevard, near Homewood, Placer County (as shown in Figure 1, below).

Figure 1. Location



AUTHORIZED USE:

Two existing mooring buoys.



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 February 22, 2023.

CONSIDERATION:

\$546 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Authorize West Shore Investors, L.P. as Co-Lessee.

- Include special provisions related to best practices for construction, including notification and pollution protections.
- Authorize construction of a joint-use pier and relocation of one existing mooring buoy adjacent to 4880 West Lake Boulevard and 4860 West Lake Boulevard, near Homewood, Placer County (as shown in Figure 2 below).
- Revise the annual rent from \$546, with an annual Consumer Price Index adjustment, to \$1,589, with an annual Consumer Price Index adjustment.
- Lessee acknowledges annual consideration shall be adjusted based on the actual area of improvements as constructed should they vary from the plans submitted.
- Replace the existing Lease Exhibit A, Land Description, and Lease Exhibit B, Site and Location Map (for reference purposes only).
- 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 and Lessee, 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.
- Include provision requiring the public be allowed to pass and repass under the pier on the landward end of the pier, with signs posted on each side of the pier, to provide continuous shoreline access to the Public Trust easement below elevation 6228.75 feet, Lake Tahoe Datum (LTD). 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, sections 2000 and 2003.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On February 22, 2023, the Commission authorized the issuance of a General Lease – Recreational Use to Jeffrey Todd Stone, as Trustee of the Ray Stone Tahoe

Residential Trust, dated April 18, 1999; Jeffrey Todd Stone, as Trustee of the Mary Lou Stone Tahoe Residential Trust, dated April 18, 1999, for the use of two existing mooring buoys, adjacent to 4880 West Lake Boulevard, near Homewood, Placer County ([Item 37, February 28, 2023](#)). This lease will expire on February 21, 2033.

The Applicant is now applying for an amendment to the General Lease – Recreational Use to add West Shore Investors, L.P., a California limited partnership, as Co-Lessee, construct of a joint-use pier, and relocate one of the existing mooring buoys. The proposed pier was permitted by TRPA on August 6, 2024 (Permit No. ERSP 2023-1670). On June 20, 2024, the Stone Trusts that own 4880 West Lake Boulevard, entered into a Multiple-Parcel Pier Agreement with West Shore Investors, L.P., owner of the nearby 4860 West Lake Boulevard. Per the terms of that Agreement, each party will maintain a one-half ownership interest as Tenants in Common in the Pier, which will be constructed on and adjacent to 4880 West Lake Boulevard.

The proposed joint-use pier will be approximately 140 feet in total length and 6 feet wide, with a pierhead of the last 33 feet measuring 10 feet wide. Two adjustable catwalks, 33 feet in length and 3 feet in width, and access stairs/ramp will be installed on each side of the pier leading to the adjustable catwalks. The pier will be supported by pilings below the mean high-water mark, which will be installed using a barge mounted pile driver or amphibious vehicle. The existing buoy will be relocated waterward to accommodate for the construction of the pier.

The pier design will allow for public access under the proposed pier at varying water levels. Access under the pier will be facilitated by a minimum pier height of six feet and an open piling design that allows for easy passage between the pilings.

The proposed construction will be performed on-site with access to the site from the lake. The project will be constructed with the use of a floating/amphibious barge, and materials will be transported via barge, rather than on the shoreline, and protected from discharge into the lake. Materials, equipment storage, and fabrication will take place in a shop and on the barge. Construction of the beams, joists, and decking will take place above the surface of the lake. To the extent practicable, all decking, accessory, and construction materials will be prefabricated and pre-cut. All work performed from the lake via barge or amphibious vessel will use caissons or turbidity curtains as needed during pile driving to protect water quality. All Best Management Practices and construction techniques will be utilized to protect the water body. Spill prevention materials and their plan will be on site during construction.

The project area resides in spawning and marginal fish habitat. All potential impacts to fisheries habitat will be offset as required by TRPA. For example, restoration of the disturbed area associated with the pilings will include the addition of three, 9-square foot fish pyramids of clean gravel/cobble similar to the surrounding substrate and will not be placed under the proposed pier.

Construction will take place after all required approvals have been obtained and will occur between October 1 and May 1 to comply with TRPA provisions to minimize the disturbance to fish habitat and public enjoyment of the lake during peak seasons. The Applicant will follow all construction methods and timeframes provided by TRPA, the Lahontan Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the U.S. Army Corps of Engineers.

The Applicant owns the uplands adjoining the lease premises. The subject facilities will be located directly waterward of the upland properties, and these facilities occupy a relatively small area of the lake. The proposed pier, two catwalks, and two existing mooring buoys will be 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 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 with the proposed amendment 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.

Staff recommends issuance of an amendment to the General Lease – Recreational Use held by the Applicant.

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 dryer 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 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 will not be authorized to construct the new proposed improvements or relocate an existing buoy, and will not authorize West Shore Investors, L.P. as co-lessee. 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. **New Pier Construction:** 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)(2).

Relocation of Mooring Buoy: 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 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 and California Code of Regulations, title 2, section 2905.

APPROVAL OBTAINED:

- Tahoe Regional Planning Agency

APPROVALS REQUIRED:

- U.S. Army Corps of Engineers
- California Department of Fish and Wildlife
- Lahontan Regional Water Quality Control Board

RECOMMENDED ACTION:

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 though the combination of the following exemptions: Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(2) 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 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:

1. Authorize amendment of a General Lease – Recreational Use effective October 17, 2024, to add West Shore Investors, L.P., as a lessee; for the construction and use of a joint-use pier, installation of two catwalks, and relocation of one existing mooring buoy with annual rent in the amount in the amount of \$1,589 per year, with an annual Consumer Price Index adjustment, effective October 17, 2024
2. 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 improvements following construction.