

# Staff Report 13

**APPLICANT:**

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Tahoe Marina Owners' Association

**PROPOSED ACTION:**

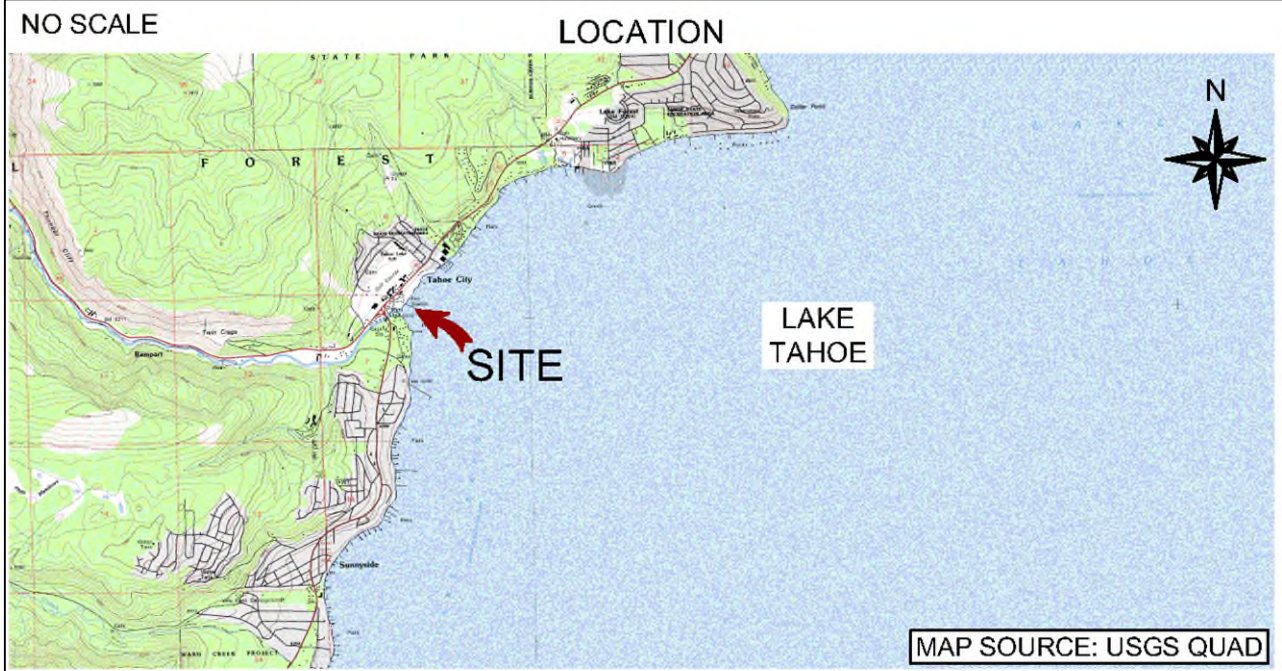
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Issuance of a General Lease – Recreational Use.

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

Sovereign land located in Lake Tahoe, adjacent to 270 North Lake Boulevard, near Tahoe City, Placer County (as shown in Figure 1).

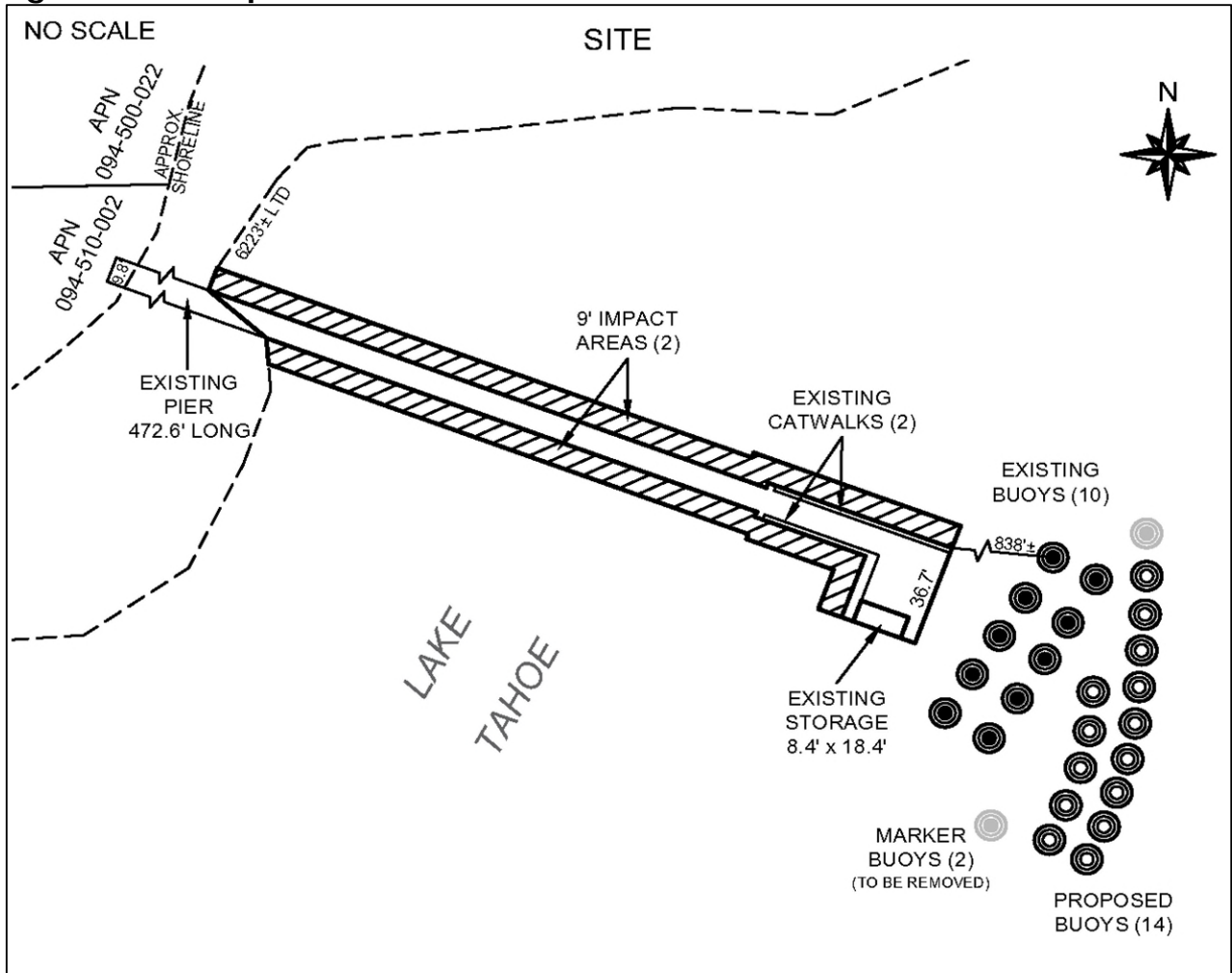
**Figure 1. Location**



**AUTHORIZED USE:**

Use of an existing pier, storage building, and 10 mooring buoys; installation and use of 14 additional mooring buoys; and removal of two marker 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 October 6, 2024.

**CONSIDERATION:**

\$12,417 per year, with an annual Consumer Price Index adjustment.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$2,000,000 per occurrence.
- Lessee acknowledges that a Tahoe Regional Planning Agency (TRPA) permit or registration 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 will 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.
- Construction activities will be performed pursuant to the specific terms identified in the Lease, including that the Applicant obtain all necessary permits and authorizations prior to commencing work, including requirements pertaining to construction equipment, debris, and the provision to Lessor of specified documents related to the construction activities.
- Within 60 days of completing the installation 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.
- Lessee agrees that the public be allowed to pass and repass under 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).

**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 October 14, 2014, the Commission authorized a General Lease – Recreational Use to Tahoe Marina Owners’ Association, for the use and maintenance of an existing pier, storage building, 10 mooring buoys, and two marker buoys ([Item 13, October 14, 2014](#)). The lease expiration date is October 5, 2024.

The Applicant is applying for a General Lease – Recreational Use for the use of an existing pier, storage building, and 10 mooring buoys; the installation and use of 14 additional mooring buoys; and removal of two marker buoys. On January 18, 2023, the Applicant registered 10 of the mooring buoys with TRPA (Registration No. 10230). On December 18, 2023, TRPA issued a conditional permit for six additional mooring buoys (File No. MOOR2021-1839-01). On August 1, 2024, TRPA issued a conditional permit for eight additional mooring buoys (File No. MOOR-1839-02).

The 10 existing mooring buoys have existed for many years at this location, are located directly lakeward of the upland property, and occupy a relatively small area of the lake. The pier has also existed for many years at this location.

The Applicant owns the adjoining lease premises. The existing and proposed 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 topography surrounding the pier contains large shrubs, large rocks, and flat marshy terrain, making the shoreline difficult to access for pedestrians in the area. However, the pier is built on pilings, and public access is available at varying water levels under the pier within the Public Trust easement. Signs are required to be posted on each side of the pier identifying the designated public passageway and are required to be in place at all times.

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, 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 common law Public Trust Doctrine; 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 would be unable to install the additional mooring buoys, and may be required to remove the existing 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. 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. **Existing Pier, Storage Building, and Mooring Buoys:** 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 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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

**Removal of Two Marker 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 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.

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

Find that this activity 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); Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(3); 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 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 issuance of a General Lease – Recreational Use to the Applicant beginning October 6, 2024, for a term of 10 years, for the use of an existing pier, storage building, and 10 mooring buoys; installation and use of 14 additional mooring buoys; and removal of two marker buoys; annual rent in the amount of \$12,417, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$2,000,000 per occurrence.