

# Staff Report 02

## APPLICANT:

Rajit Kumar Agrawal and Reena Modi Agrawal, trustee(s) of The Rajit and Reena Agrawal Living Trust

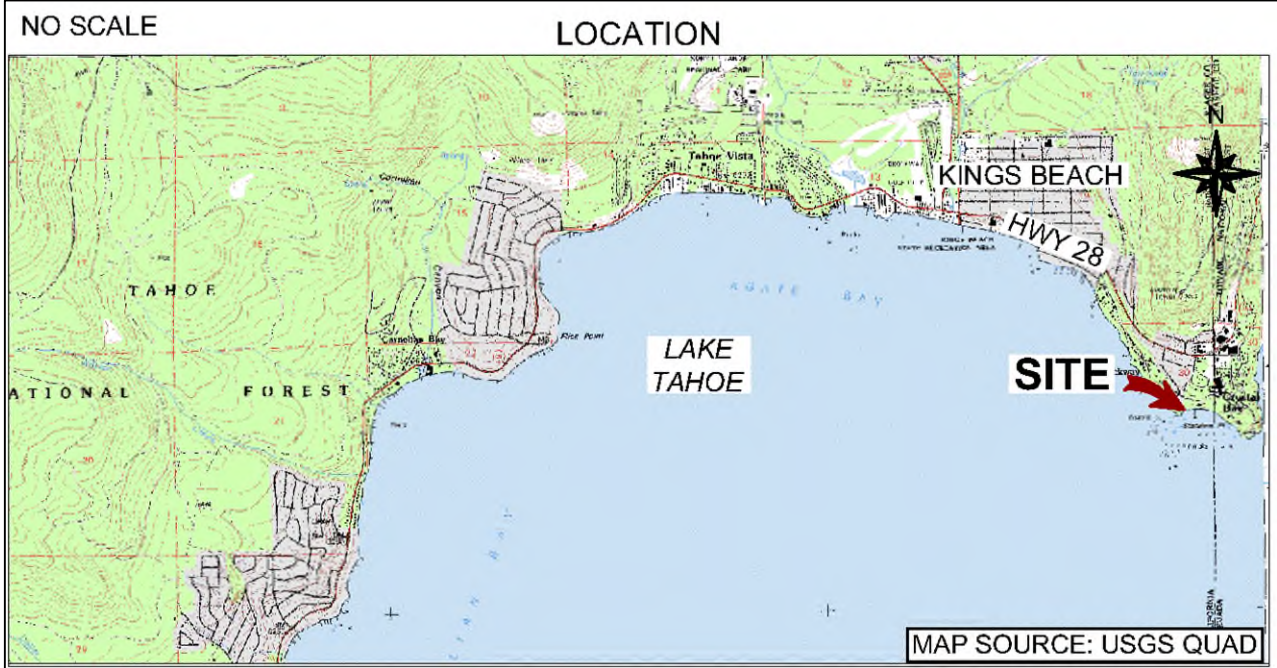
## PROPOSED ACTION:

Issuance of a General Lease – Recreational Use.

## AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 9902 and 9910 Lake Street, near Kings Beach, Placer County (as shown in Figure 1).

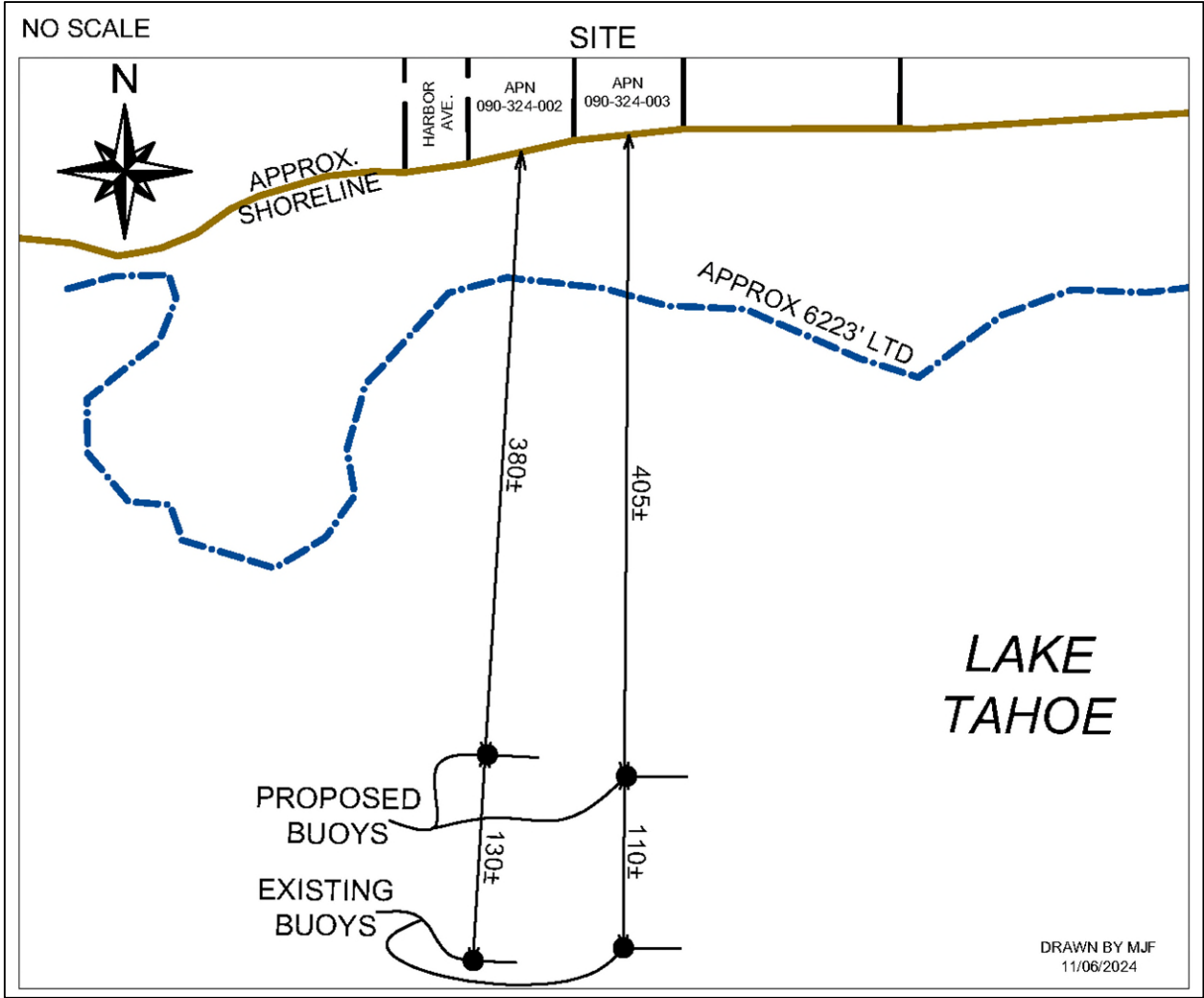
Figure 1. Location



**AUTHORIZED USE:**

Use of two existing mooring buoys; and installation and use of two mooring 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 December 17, 2024.

**CONSIDERATION:**

\$1,092 per year, with an annual Consumer Price Index adjustment; and \$1,086 for the unauthorized occupation of state land for the period prior to December 17, 2024.

**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.
- 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 agrees the indemnity provisions of Section 3, Paragraph 11 of the proposed lease shall also extend to the period of Lessee's unauthorized occupation of state-owned lands, from December 24, 2022 to December 16, 2024.

**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 September 20, 2013, the Commission authorized a termination of a General Lease – Recreational Use to Heigh Ho, LLC, and issuance of a General Lease – Recreational Use to Rajit Kumar Agrawal and Reena Modi Agrawal, Trustees of The Rajit and Reena Agrawal Living Trust, for two existing mooring buoys ([Item 43, September 20, 2013](#)). This lease expired on December 23, 2022.

The Applicant is now applying for a General Lease – Recreational Use for the use of two existing mooring buoys; and installation and use of two mooring buoys. On January 22, 2024, the Applicant registered two mooring buoys with TRPA (Registration No. 10508); and on February 5, 2024, the Applicant registered two additional mooring buoys with TRPA (Registration No. 10509).

Accounting records show that the annual rent was paid through the end date of the previous lease, December 23, 2022. Due to the absence of a valid lease from December 24, 2022 through December 16, 2024, staff recommends that the Commission accept \$1,086 in compensation from the Applicant for the unauthorized occupation of State land during this period. The lease provisions regarding indemnity in the proposed lease will also be extended to apply to the entire period of the Applicant's unauthorized occupation of State land.

The Applicant owns the uplands adjoining the lease premises. The subject and proposed improvements 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 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 the 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 lease, the Applicant may be required to remove the existing improvements. 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 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(3).

**Existing 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 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(3), and Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

### **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. Accept compensation from the applicant in the amount of \$1,086, for the unauthorized occupation of State land for the period prior to December 17, 2024.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 17, 2024, for a term of 10 years, for the use of two existing mooring buoys; and installation and use of two mooring buoys; annual rent in the amount of \$1,092, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
3. Authorize the Executive Officer or designee to replace Exhibits to the lease upon submission, review, and approval of coordinates detailing the final location of the improvements following installation.