

Staff Report 06

LESSEE:

Muriel M. Harris as Trustee of The MMH Revocable Trust

APPLICANT:

Frederic T. Cline & Nancy J. Cline, Trustees of The Cline Family Trust, dated March 5, 1991 and Timothy Hachman & Elizabeth H. Hachman, Trustees of The Hachman 2003 Revocable Trust dated June 18, 2003 and Gregory M. Harris, Trustee of The Gregory M. Harris Trust UAD December 26, 2001

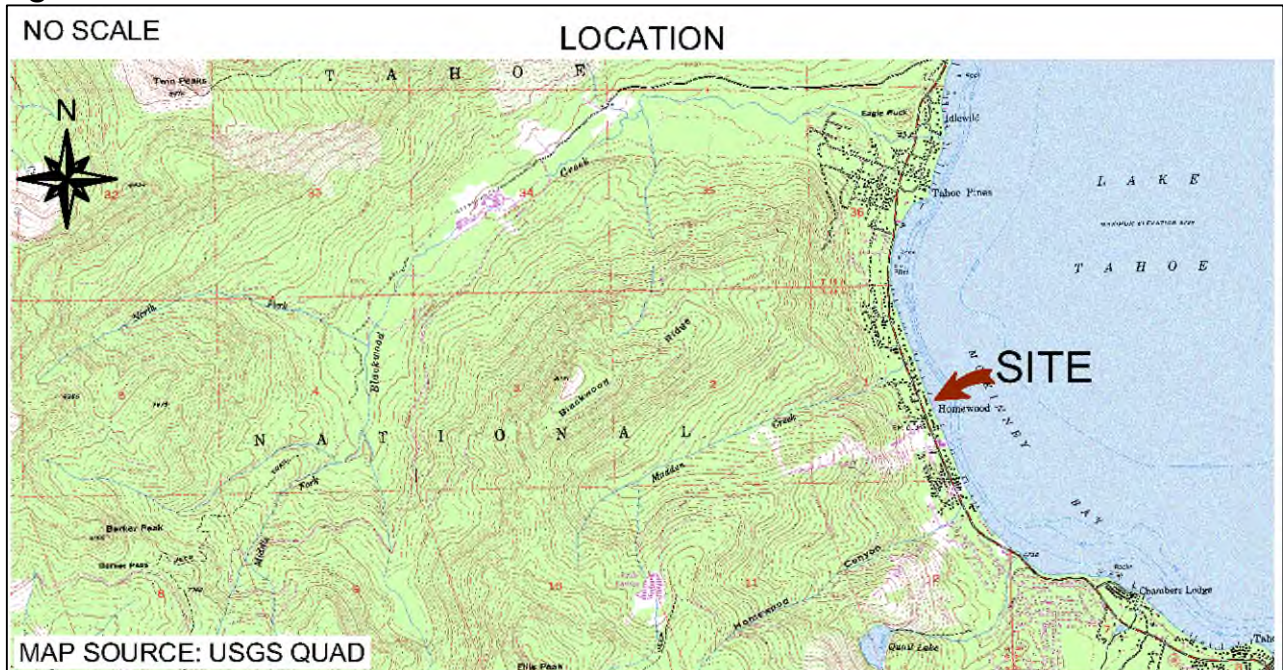
PROPOSED ACTION:

Termination of Lease Number 6713, a General Lease – Recreational Use; and Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5046 and 5050 West Lake Boulevard, near Homewood, Placer County (as shown in Figure 1).

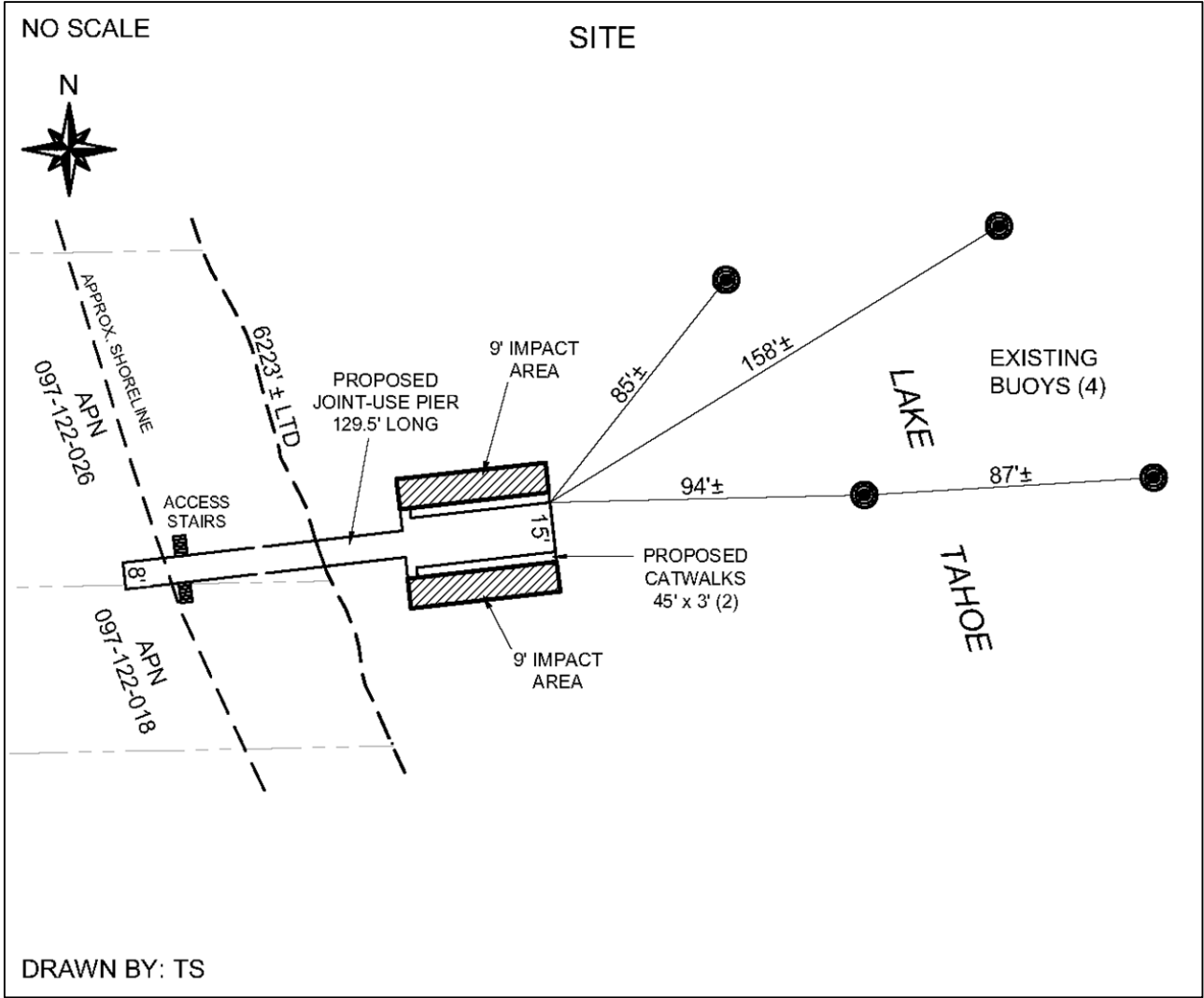
Figure 1. Location



AUTHORIZED USE:

Construction and use of a joint-use pier; and use of four existing 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:

\$2,506, with an annual Consumer Price Index adjustment, and \$24 to compensate for the unauthorized occupation of state sovereign lands 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 acknowledges annual consideration shall be adjusted based on the actual area of improvements as constructed should they vary from the plans submitted.
- Lessee will post signs on each side of the pier, to indicate continuous shoreline access to the Public Trust easement below elevation 6228.75 feet, Lake Tahoe Datum (LTD).
- 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 construction of the 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.

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 October 14, 2014, the Commission authorized issuance of Lease 8575, a General Lease – Recreational Use for the use of two mooring buoys adjacent to 5046 West Lake Boulevard ([Item 27, October 14, 2014](#)) On April 5, 2019, the Commission authorized the Assignment of Lease 8575 to Frederick T. Cline and Nancy J. Cline, Trustees of the Cline Family Trust, dated March 5, 1991 ([Item 11, April 5, 2019](#)). This lease expired on November 30, 2024. The two buoys are registered with TRPA (Registration No. 10520).

On April 26, 2013, the Commission authorized issuance of Lease 6713, a General Lease – Recreational Use, to Hugh W. Harris as Trustee of The HWH Trust and Muriel M. Harris as Trustee of The MMH Revocable Trust for the use of two mooring buoys adjacent to 5050 West Lake Blvd ([Item 4, August 19, 2015](#)). In August of 2018, Hugh W. Harris passed away. On January 6, 2021, the ownership of the upland property was deeded to Timothy Hachman & Elizabeth H. Hachman, Trustees of The Hachman 2003 Revocable Trust dated June 18, 2003, and Gregory M. Harris, Trustee of The Gregory M. Harris Trust UAD December 26, 2001 on January 6, 2021. The two buoys are registered with TRPA (Registration No. 10977).

The Applicant, comprised of the aforementioned lessees, is now applying for a General Lease – Recreational Use for construction and use of a joint-use pier and use of four previously authorized mooring buoys. Staff recommends terminating Lease 6713, effective January 6, 2021. Lease 8575 expired on November 30, 2024.

The Commission's accounting records show that the rent for Lease 6713 was paid through July 9, 2025. Staff recommends that the rent on the new lease be prorated to account for rent that has already been paid. The new lease will require the Applicant to indemnify the State for the period of January 6, 2021 through December 16, 2024 to align with the termination of Lease 6713.

The Commission's accounting records show that the rent for Lease 8575 was paid through November 30, 2024. The proposed lease will require the Applicant to pay compensation for the unauthorized occupation of State lands and indemnify the

state for the period of December 1, 2024, the day after Lease 8575 expired, through December 16, 2024.

On August 26, 2024, TRPA issued a conditional permit No. ERSP 2023-1817 for the proposed construction of a joint-use pier, which will extend approximately 129.5-foot long with two 3-foot by 30-foot catwalks, three safety ladders, and public access stairs on the north and south sides of the pier within the Public Trust easement. The pier design will also allow for public access under the pier. Per TRPA, no new buoys are authorized as a part of this pier project. 18 square feet of fish habitat enhancement will be placed within the project area.

Construction will take place after all required approvals have been obtained and will occur between October 1 and May 1, to minimize the disturbance to natural habitats 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 proposed project 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 to the site. Construction materials will be stored within the 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.

The Applicant owns the uplands adjoining the lease premises. The subject facilities will be located directly waterward of the upland property, and these facilities occupy a relatively small area of the lake. The proposed pier will have public access stairs on each side within the Public Trust easement. The proposed pier and appurtenant facilities are used for recreational boating. Recreational boating is water-dependent and 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, Commission staff believes the issuance of this lease will not substantially interfere with the 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 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 cannot construct the proposed pier and may be required to remove the improvements and restore 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. Termination of Lease Number 6713 are not projects 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).
4. **New Pier:** 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 of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Existing Facilities: 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 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061 and California Code of Regulations, title 2, section 2905.

APPROVALS OBTAINED:

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

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 through the combination of the following exemptions: Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2), and Class 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

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:

1. Authorize termination, effective January 6, 2021, of Lease Number 6713, a General Lease – Recreational Use, issued to Muriel M. Harris as Trustee of The MMH Revocable Trust.

2. Authorize acceptance of compensation from the Applicant in the amount of \$24 for unauthorized occupation of State lands for the period prior to December 17, 2024.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 17, 2024, for a term of 10 years, for the construction and use of a joint-use pier and use of four previously authorized mooring buoys; annual rent in the amount of \$2,506, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
4. 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.