

Staff Report 16

APPLICANT:

Rocky Ridge Property Owners Association

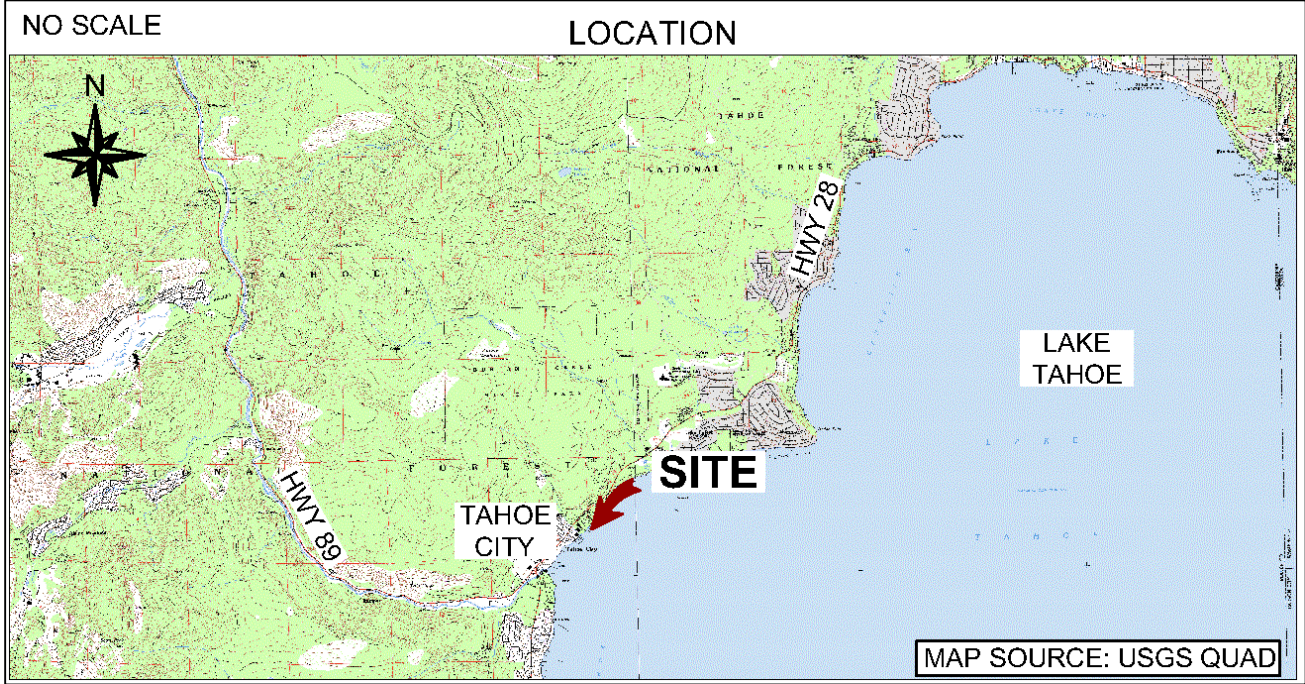
PROPOSED ACTION:

Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 180 Sierra [Vista Terrance Road](#), near Tahoe City, Placer County (as shown in Figure 1).

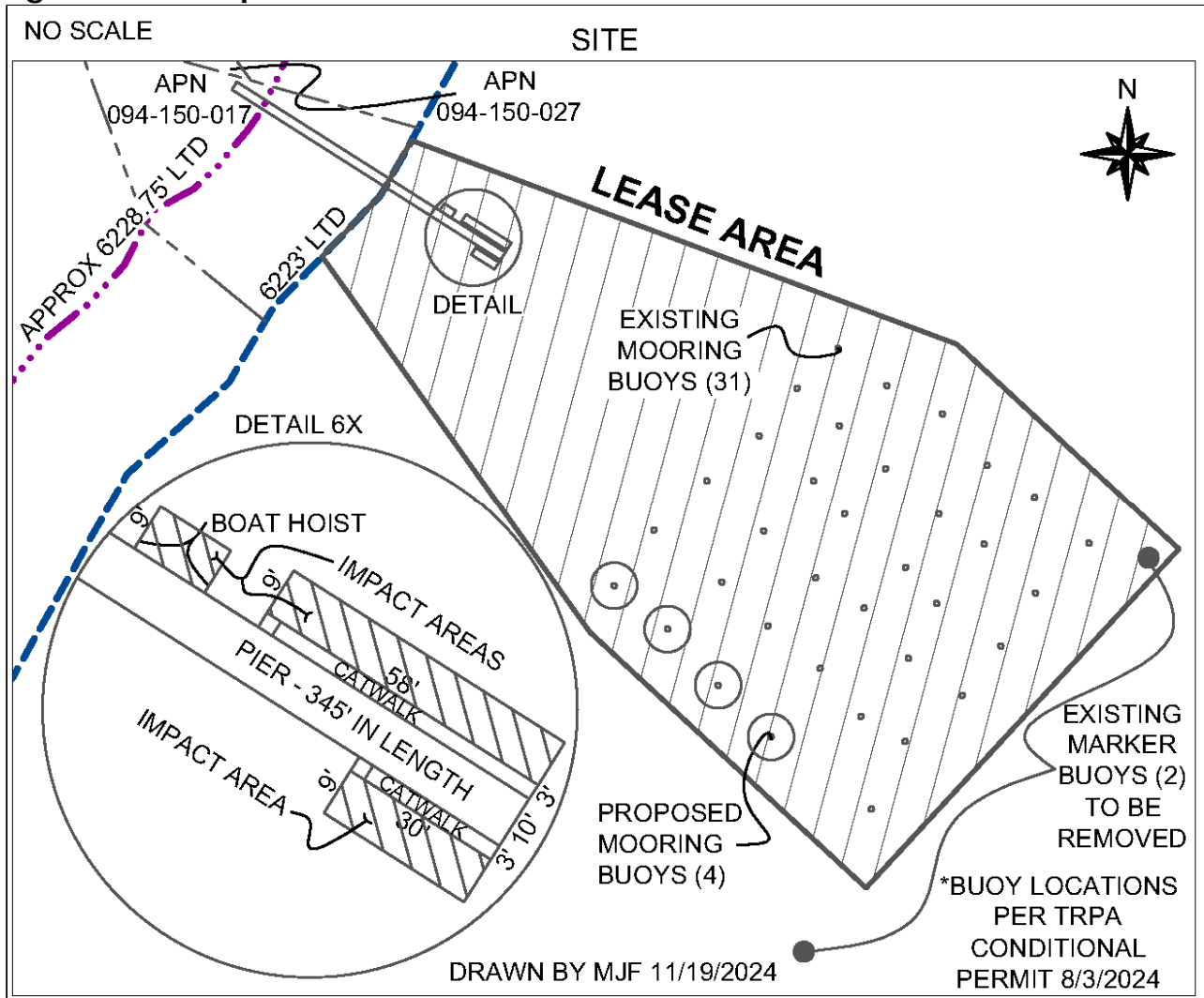
Figure 1. Location



AUTHORIZED USE:

Use of an existing pier, boat hoist, and 31 mooring buoys; removal of two marker buoys; and installation and use of four additional 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 August 23, 2024.

CONSIDERATION:

\$13,020 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 or over 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).
- Lessee agrees the provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of state-owned lands, from August 23, 2023 to August 22, 2024.

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 December 2, 2013, the Commission authorized a General Lease – Recreational Use to Rocky Ridge Property Owners Association, for an existing pier, 19 mooring buoys, and 2 marker buoys previously authorized by the Commission; and an existing boat hoist and 12 mooring buoys not previously authorized by the Commission ([Item 25, August 23, 2013](#)). On August 23, 2018, the Commission authorized a revision of annual rent from \$13,462 to \$13,537 ([Item 25, August 23, 2018](#)). This lease expired on August 22, 2023.

The Applicant is now applying for a General Lease – Recreational Use, for an existing pier, boat hoist, and 31 mooring buoys; removal of two marker buoys; and the installation and use of four additional mooring buoys. On January 17, 2024, the boat hoist and 31 mooring buoys were registered with TRPA (Registration No. 10015). On August 3, 2024, TRPA issued a conditional permit for four additional mooring buoys (File No. MOOR2022-0072).

The Applicant has paid annual rent in holdover through August 22, 2024. Staff recommends the proposed lease begin on August 23, 2024. The lease provisions regarding indemnity will be extended to apply for the whole period of the Applicant's unauthorized occupation of State land, from August 23, 2023 to August 22, 2024.

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 is gently sloped and consists of small pebbles and rocks which abut a flat grassy area. There is a sandy beach landward of this grassy area over which the shoreward terminus of the pier sits, making the shoreline accessible for pedestrians in the area. During periods of high water, public access is

available over the pier within the Public Trust easement by stepping up from the grassy area. At low water, public access is available below the pier within the Public Trust easement by walking beneath the pier. 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 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 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. **Existing Improvements:** 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 14, section 15301.

New 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 or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

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.

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 through the combination of the following exemptions: Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301; Class 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303; 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 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. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 23, 2024, for a term of 10 years, for the use of an existing pier, boat hoist, and 31 mooring buoys; removal of two marker buoys; and installation

and use of four additional mooring buoys annual rent in the amount of \$13,020, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$2,000,000 per occurrence.

2. Authorize the Executive Officer or designee to replace Exhibits to the lease upon submission, review, and approval of as-builts plans detailing the final location of the new improvements following installation.