

Staff Report 10

LESSEE/APPLICANT:

Ronald E. Iverson and Virginia L. Iverson, aka Virginia L. Iverson, Trustees of the 2004 Ronald E. Iverson and Virginia L. Iverson Revocable Trust U/D/T August 17, 2004; and Craig Miller and Beverly Jo Yuke-Miller, as co-Trustees of the Craig Miller and Beverly Jo Yuke-Miller Trust, U/A dated March 27, 2000.

PROPOSED ACTION:

Acceptance of a Lease Quitclaim Deed for Lease 5528; and Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 3350 and 3356 Edgewater Drive, near Tahoe City, Placer County (as shown in Figure 1).

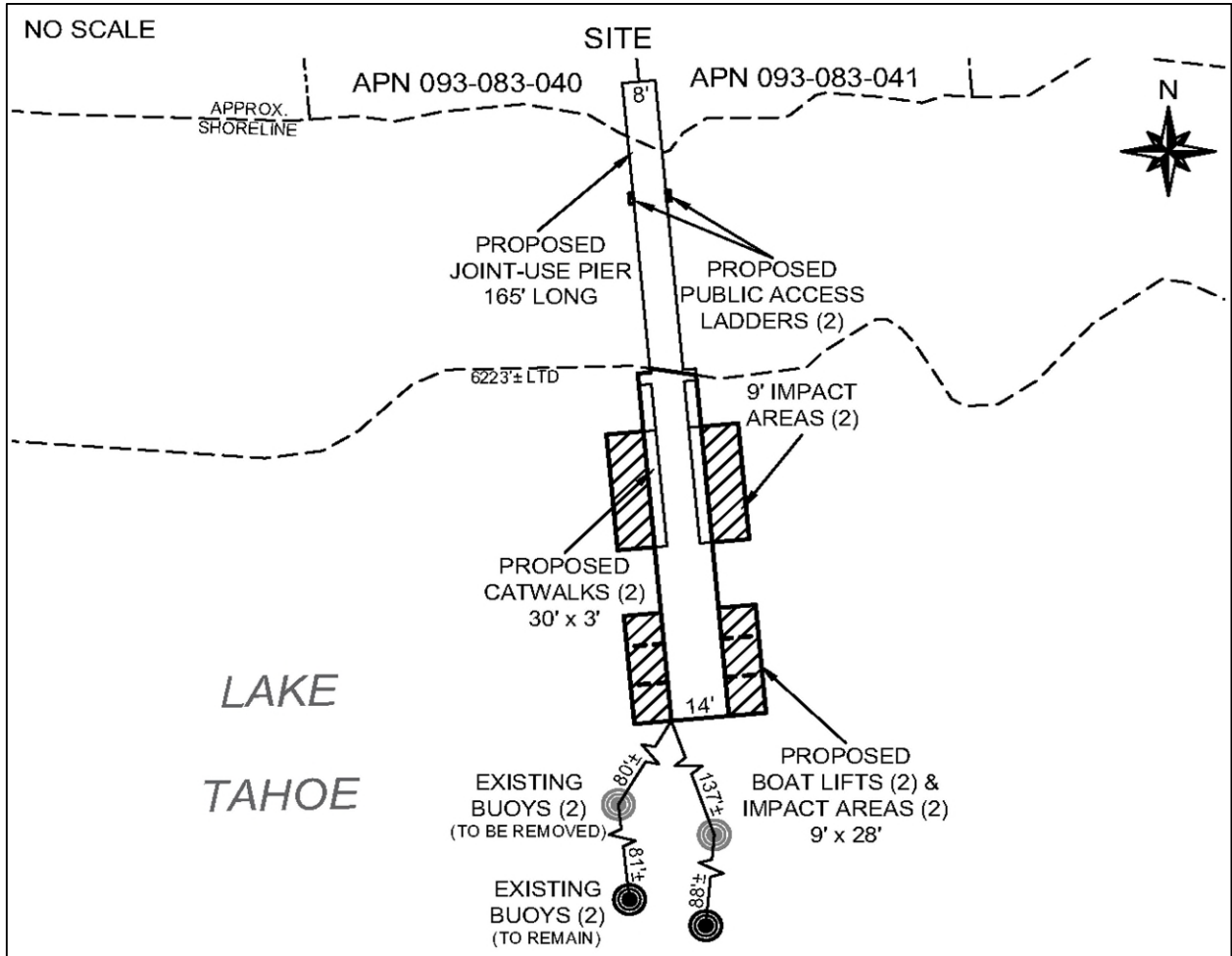
Figure 1. Location



AUTHORIZED USE:

Construction and use of a joint-use pier with two adjustable catwalks; removal of two mooring buoys in exchange for installation and use of two boat lifts; and the continued use of two 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 March 1, 2025.

CONSIDERATION:

\$2,188 per year, with an annual Consumer Price Index adjustment; and \$930 for the unauthorized occupation of State land for the period prior to March 1, 2025.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee acknowledges that a Tahoe Regional Planning Agency (TRPA) permit and registration for moorings is 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 this lease.
- Lessee acknowledges annual consideration shall be adjusted based on the actual area of the improvements as constructed, should they vary from the plans submitted.
- 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.
- 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.
- Lessee agrees that the public be allowed to pass and repass over the pier using the proposed ladders 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).
- 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.

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 June 21, 2013, the Commission authorized a General Lease – Recreational Use to Ronald E. Iverson and Virginia L. Iverson, aka Virginia L. Iverson, Trustees of the 2004 Ronald E. Iverson and Virginia L. Iverson Revocable Trust U/D/T August 17, 2004, for the use and maintenance of two existing mooring buoys adjacent to 3350 Edgewater Drive, Tahoe City, Placer County ([Item 17, June 21, 2013](#)). This lease, Lease 8320, expired on June 20, 2023.

On June 23, 2022, the Commission authorized a General Lease – Recreational Use to Craig Miller and Beverly Jo Yuke-Miller, as co-Trustees of the Craig Miller and Beverly Jo Yuke-Miller Trust, U/A dated March 27, 2000, for the use and maintenance of two existing mooring buoys adjacent to 3356 Edgewater Drive, Tahoe City, Placer County ([Item 13, June 23, 2022](#)). This lease, Lease 5528, will expire on July 31, 2032.

The Applicant, comprised of the lessees, has applied to quitclaim Lease 5528, and is now applying for a General Lease – Recreational Use for the construction and use of a joint-use pier with two adjustable catwalks; the removal of two mooring buoys in exchange for the installation and use of two boat lifts; and the use of two existing mooring buoys. The proposed project will be constructed adjacent to 3350 and 3356 Edgewater Drive, near Tahoe City, Placer County. Staff recommend acceptance of a Lease Quitclaim Deed for Lease 5528 upon execution of a new lease, a General Lease – Recreational Use, to the Applicant. The Applicant would like to merge Lease 8320 with Lease 5528; since Lease 8320 has already expired. Staff recommend issuance of a General Lease – Recreational Use to the Applicant, to take effect on March 1, 2025.

Rent under Lease 5528 was paid through July 31, 2025. Staff recommend that any rent paid for the existing leases beyond the March 1, 2025, start date for the new lease be prorated, and the remaining balance used to offset a portion of the rent due for the proposed new lease. Rent for this lease will be assessed for the joint-use

pier with two boat lifts, two catwalks, and two mooring buoys prior to the construction and installation of the improvements.

Staff further recommend that the Commission accept compensation from the Applicant for Lease 8320 in the amount of \$930 for the unauthorized occupation of State land for the subject facilities for the period prior to March 1, 2025. Additionally, the lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation, ensuring the State is protected.

On October 14, 2024, TRPA issued conditional permit No. ERSP2023-1795 for the proposed construction of a new joint-use pier with two boat lifts and two adjustable catwalks, including the conversion of two existing mooring buoys for the two 12,000-pound boat lifts.

The proposed joint-use pier will be approximately 165 feet in total length, 8 feet wide by approximately 120.1 feet in length, with a pierhead that is 45 feet long by 14 feet wide. Two adjustable catwalks, both 30 feet in length and 3 feet in width with shoreward access ladders, will be installed on each side of the pier leading to the adjustable catwalks. The proposed boat lifts will be installed on each side of the pierhead. The pier will be supported by 22 pilings below the mean high water mark, driven 8 feet or until refusal using a barge mounted pile driver or amphibious vehicle. Approximately 24 turtle-type lights will be flush mounted along the pier deck. Three safety ladders are also proposed, to be located between the mean high and mean low water marks.

The proposed pier's design will allow for public access laterally across the shoreline via public access ladders at the shoreward end of the pier. Staff conducted a site visit and determined that the topography of the shore at the proposed pier location makes it difficult for the public to access the length of the shoreline due to large rocks and overgrown vegetation with small and large trees. Staff has therefore determined access ladders are acceptable for public access across the shore in the Public Trust easement for this specific construction project.

The Applicant agrees to allow the public to pass and re-pass over the pier within the Public Trust easement by utilizing proposed public access ladders at the shoreline. Additionally, the proposed lease requires that the Applicant post signs on each side of the pier to clearly identify the designated public passageway over the pier; these signs are required to be in place at all times.

The proposed construction will be conducted with access to the site from the lake using a barge-mounted pile driver or amphibious/floating barge. Materials will be

precut and/or prefabricated to the extent practicable and transported by the barge to the site, in order to minimize disturbance to the shorezone and protect the lake from construction debris. 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. Materials, equipment storage, and fabrication will take place off-site and on the barge. Approximately 14.5 square feet of lake bottom disturbance is proposed.

The project area resides in spawning and marginal fish habitat. Displacement to spawning habitat will be offset, as required by TRPA, by the addition of two, 9 square-foot fish pyramids of clean gravel/cobble similar to the surrounding substrate. Upon the removal of the two buoys as described in the authorized improvements, the Applicant will decontaminate or destroy the buoy blocks in accordance with California Department of Fish and Wildlife requirements.

Construction will take place after all required approvals have been obtained and will occur between October 1 and May 1, to avoid fish spawning and disturbance to public enjoyment of the lake during the peak recreation season. 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 two mooring buoys have existed for many years at this location, are located directly lakeward of the upland properties, and occupy a relatively small area of the lake. Both mooring buoys have been registered with TRPA as of January 17 and January 24, 2024 (Registration No. 10160, 10654).

The existing mooring buoys 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 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 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 believe 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 interest of the state.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is 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, as prior lessees, 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. Acceptance of the quitclaim deed is not a project 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. **Existing Mooring Buoys:** Staff recommend 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).

New Multi-Use Pier: Staff recommend 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).

Removal of Two Mooring Buoys: Staff recommend 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.

APPROVALS OBTAINED:

- Tahoe Regional Planning Agency (ERSP2023-1795)
- Lahontan Regional Water Quality Control Board (R6T-2024-0018)
- California Department of Fish and Wildlife (EPIMS-PLA-48034-R2)
- U.S. Army Corps of Engineers (SPK-2024-00075)

RECOMMENDED ACTION:

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)(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 and existing improvements 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. Accept a Lease Quitclaim Deed for Lease 5528, effective March 1, 2025.
2. Authorize acceptance of compensation from the Applicant in the amount of \$930 for the unauthorized occupation of State land for the period prior to March 1, 2025.
3. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning March 1, 2025, for a term of 10 years, for the construction and use of a joint-use pier with two boat lifts and two adjustable catwalks; removal of two mooring buoys in exchange for installation of two boat lifts; and the continued use of two existing mooring buoys; annual rent in the amount of \$2,188 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.