

Staff Report 14

APPLICANT:

Richard Martucci Sr. and Carol T. Martucci, as Co-Trustees of The Richard L. Martucci and Carol T. Martucci Trust dated May 8, 1992, as amended and restated; Dolan Lake Tahoe Home, LLC, a California limited liability company

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign Land in Lake Tahoe, adjacent to 5736 and 5744 North Lake Boulevard, near Carnelian Bay, Placer County (as shown in Figure 1).

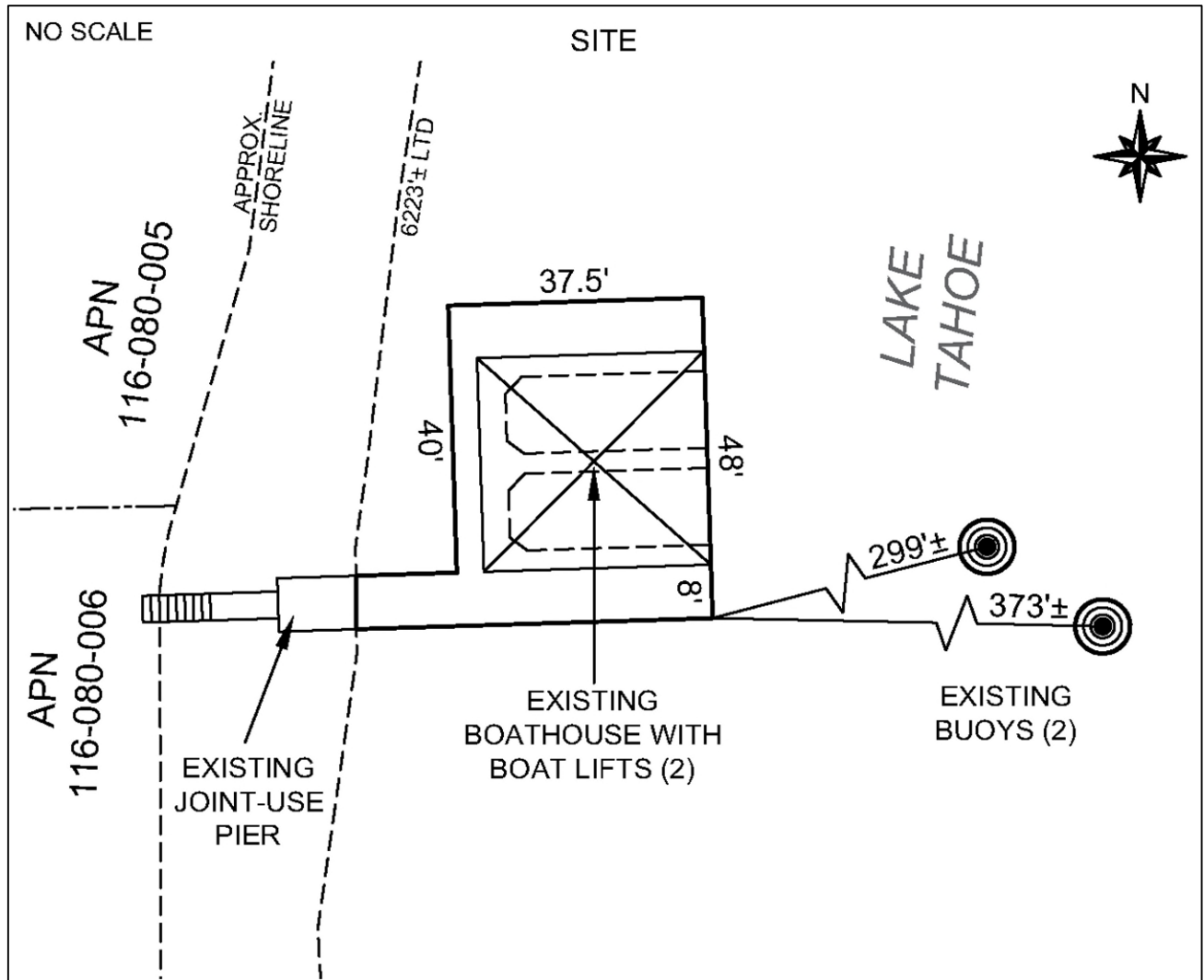
Figure 1. Location



AUTHORIZED USE:

Use of an existing joint-use pier, boathouse, two boat lifts, and 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 April 23, 2025.

CONSIDERATION:

\$2,109 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence
- Lessee expressly 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.
- The lease provides that signs shall be posted on each side of the pier to indicate passage and 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, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 18, 2015, the Commission authorized issuance of a General Lease – Recreational Use to Richard L. Martucci and Carol T. Martucci; and Dolan Lake Tahoe Home, LLC for the use and maintenance of an existing joint-use pier and boathouse previously authorized by the Commission; and the use and maintenance of two existing boat lifts and two mooring buoys not previously authorized by the Commission, adjacent to 5736 and 5744 North Lake Boulevard, near Agate Bay, Placer County ([Item 25, December 18, 2015](#)). The lease expires April 22, 2025.

On May 23, 2022, Richard Martucci Sr., also known as Richard L. Martucci, and Carol T. Martucci deeded ownership of 5744 North Lake Blvd to Richard Martucci Sr. and Carol T. Martucci, as Co-Trustees of The Richard L. Martucci and Carol T. Martucci Trust dated May 8, 1992, as amended and restated. Staff was not made aware of the ownership transfer, as ownership of the property was put into a trust, and the current lessees are the trustees.

The Applicant is now applying for a General Lease – Recreational Use for the use of an existing joint-use pier, boathouse, two boat lifts, and two mooring buoys. TRPA registration for the two mooring buoys and two boat lifts is current (Registration No. 10858, 10857, 11539). Accounting records show rent invoices have been paid through the end of the lease. Staff recommend the new lease to start April 23, 2025, for continuity with the date of the previous lease. The proposed lease will require the Applicant to indemnify the State for the entire period of unauthorized occupation, ensuring the State is protected prior to April 23, 2025.

The existing pier, boathouse, two boat lifts, and two mooring buoys have existed for many years at this location. The topography is comprised of a shallow slope of small pebbles and medium to large boulders and scattered foliage, making the shoreline difficult to traverse to pedestrians in the area. The pier is built on pilings, and public access for pedestrians and lake-related activities is available by traversing 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 existing pier and two 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 two mooring buoys are located directly lakeward of the upland properties and occupy a relatively small area of the lake. 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 use. 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 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 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 the 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 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. Staff recommend 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.

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, 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 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 April 23, 2025, for a term of 10 years, for the use of an existing joint-use pier, boathouse, two boat lifts, and two mooring buoys; annual rent in the amount of \$2,109, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.