

# Staff Report 02

## APPLICANT:

California Department of Parks and Recreation

## PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

## AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to Assessor’s Parcel Numbers 090-080-014; -015; -016, Kings Beach, Placer County (as shown in Figure 1).

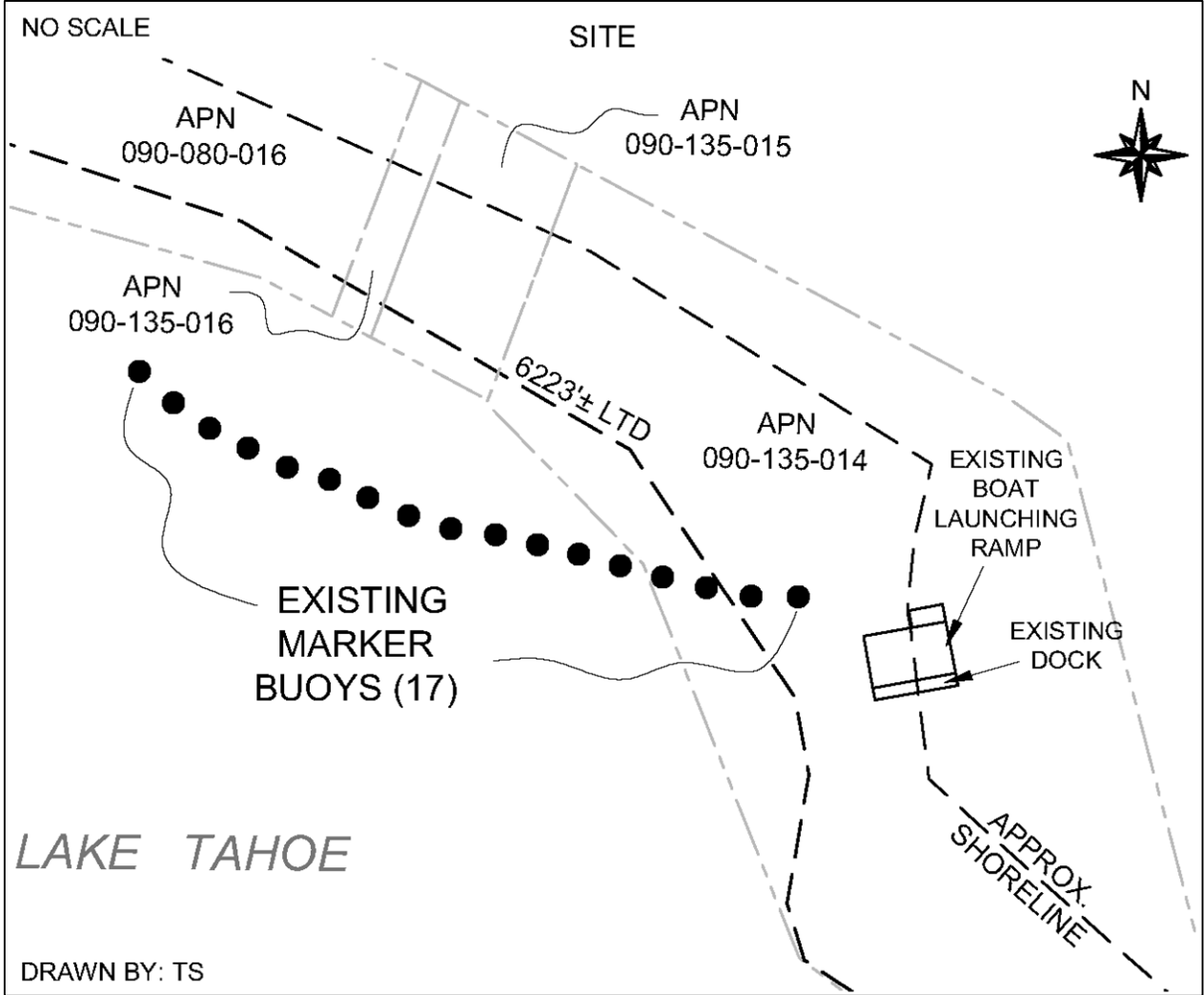
Figure 1. Location



**AUTHORIZED USE:**

Use of 15 existing marker 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:**

20 years, beginning April 2, 2025.

**CONSIDERATION:**

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State’s best interest.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- The lease indemnity provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee’s unauthorized occupation of state-owned lands prior to April 2, 2025.

**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 June 22, 1978, the Commission authorized the issuance of a Public Agency Permit to the Department of Navigation and Ocean Development (later known as the Department of Boating and Waterways), to construct, reconstruct, and maintain a two-lane launching ramp, two floating docks, launching area, and the placement of 17 marker buoys ([Item 9, June 22, 1978](#)). The permit expired June 14, 2023. In the time since the prior permit was issued, the California Supreme Court has clarified the application of the Public Trust Doctrine to Lake Tahoe. Specifically, the Court determined that the shoreline land between Lake Tahoe’s low watermark (6,223 feet above sea level) and high watermark (6,228.75 feet above sea level), as measured by Lake Tahoe datum, is subject to the public trust which exists as an easement. While shoreline property owners retain ownership of this area, their rights are limited by the State’s Public Trust interest. As such, a number of the 1978 facilities lie above the easement line and do not require a lease. However, 15 existing marker buoys remain subject to the Commission’s leasing jurisdiction.

On July 1, 2013, the Department of Boating and Waterways merged with the California Department of Parks and Recreation (State Parks). It was determined that the Department of Boating and Waterway’s Kings Beach Marina was abutting State Park’s Kings Beach State Recreation Area, and the areas were subsequently merged. The Applicant is applying for a General Lease – Public Agency Use for 15 marker buoys.

The marker buoys facilitate water-oriented recreation consistent with the Public Trust Doctrine. The facilities allow access for tourists and local residents to

participate in water recreation such as fishing, boating, and swimming by increasing public access to sovereign lands. The marker buoys also facilitate safe access to the public boat dock and launching facilities, which allow for mooring boats and fishing.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 20-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 proposed lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition.

The lease provisions regarding indemnity will be extended to apply from June 15, 2023, when the previous lease expired, through April 1, 2025, the day before the beginning of the proposed lease. 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.

#### **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 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 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 an 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. 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 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 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.

## **RECOMMENDED ACTION:**

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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 2, section 2905, subdivision (a)(2).

### **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:**

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning April 2, 2025, for a term of 20 years, for the use of 15 existing marker buoys; consideration being the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest; and liability insurance in an amount no less than \$1,000,000 per occurrence or equivalent staff-approved self-insurance program.