

Staff Report 09

LESSEE:

MMAA, LLC, a Delaware limited liability company

APPLICANT:

CMTJH LLC, a Delaware Limited Liability Company

PROPOSED ACTION:

Termination and Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 9950 Lake Street, near Kings Beach, Placer County (as shown in Figure 1).

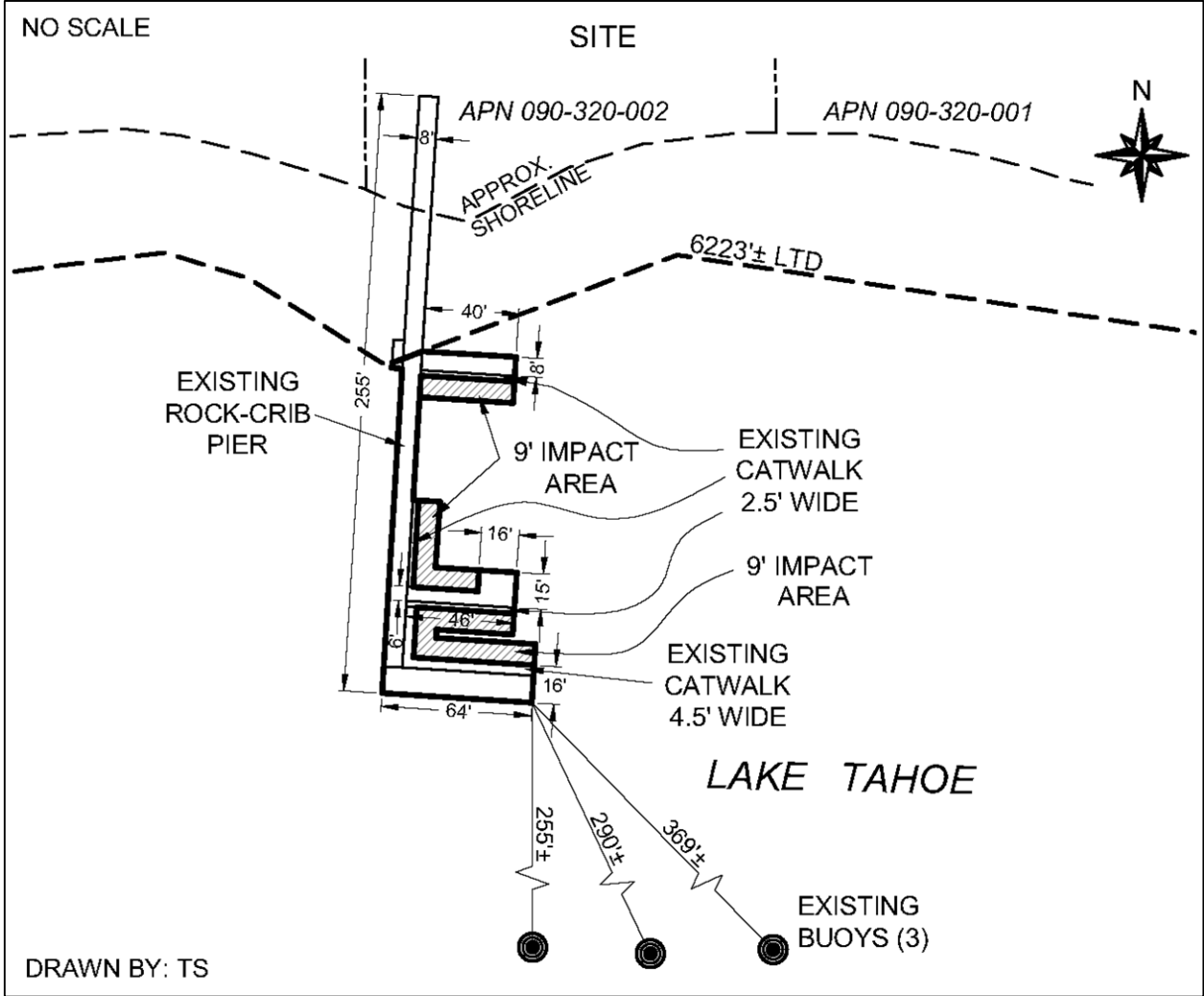
Figure 1. Location



AUTHORIZED USE:

Use of an existing pier and three 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 2, 2025.

CONSIDERATION:

\$4,458 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.
- 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.
- 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 September 12, 2022 to April 1, 2025.

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 18, 2015, the Commission authorized issuance of a General Lease – Recreational Use to MMAA, LLC, a Delaware limited liability company, for the continued use and maintenance of an existing pier and three mooring buoys ([Item 29, December 18, 2015](#)). That lease will expire on June 28, 2025.

On September 12, 2022, Michael Hasenstab and Mary Ann Hasenstab, as Trustees of The Hasenstab Family Trust under agreement dated March 21, 2013, acquired ownership of the upland parcel from the Lessee. On the same date, the following ownership transfers also occurred from Michael Hasenstab and Mary Ann Hasenstab, as Trustees of The Hasenstab Family Trust under agreement dated March 21, 2013, to Michael Hasenstab and Mary Ann Hasenstab; from Michael Hasenstab and Mary Ann Hasenstab to Mary Anne Hasenstab; and from Mary Ann Hasenstab to CMTJH, LLC, a Delaware limited liability company. Staff recommends terminating the lease because the Lessee did not notify staff of the sale of the

upland parcel nor execute a quitclaim deed. The proposed termination date is April 1, 2025, the day preceding the start of the proposed new lease.

The Applicant is now applying for an issuance of a General Lease – Recreational Use for the use of an existing pier and three mooring buoys. The improvements were registered with TRPA on January 22, 2024 (Registration No. 10560).

Accounting records for Lease 3883 show rent is paid through June 27, 2025. Staff recommends crediting \$1,344.64 to the first year's rent through this date, with an adjusted amount, based on the proposed lease's full rent value. The proposed start date of the new lease is April 2, 2025, and its terms require the Applicant to indemnify the State for unauthorized occupation from September 12, 2022 through April 1, 2025, ensuring the State is protected.

The pier and three mooring buoys have existed for many years at this location. The topography surrounding the pier consists of gently sloped sandy beach. The shoreward terminus of the pier sits over the sandy beach, 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 beach. 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 designating the public passageway and are required to be in place at all times.

The Applicant owns the uplands adjoining the lease premises. The subject facilities 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 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 application the Applicant may be required to remove the improvements and return 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 the lease 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. Staff recommends that the Commission find that issuance of the lease 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 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 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, 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:

1. Authorize termination, effective April 1, 2025, of Lease 3883, a General Lease – Recreational Use, issued to MMAA, LLC, a Delaware limited liability company.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 2, 2025, for a term of 10 years, for the use of an existing pier and three mooring buoys; annual rent in the amount of \$4,458, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence