

Staff Report 18

APPLICANT:

Rocky Roost 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 9818 Lake Street, Kings Beach, Placer County (as shown in Figure 1).

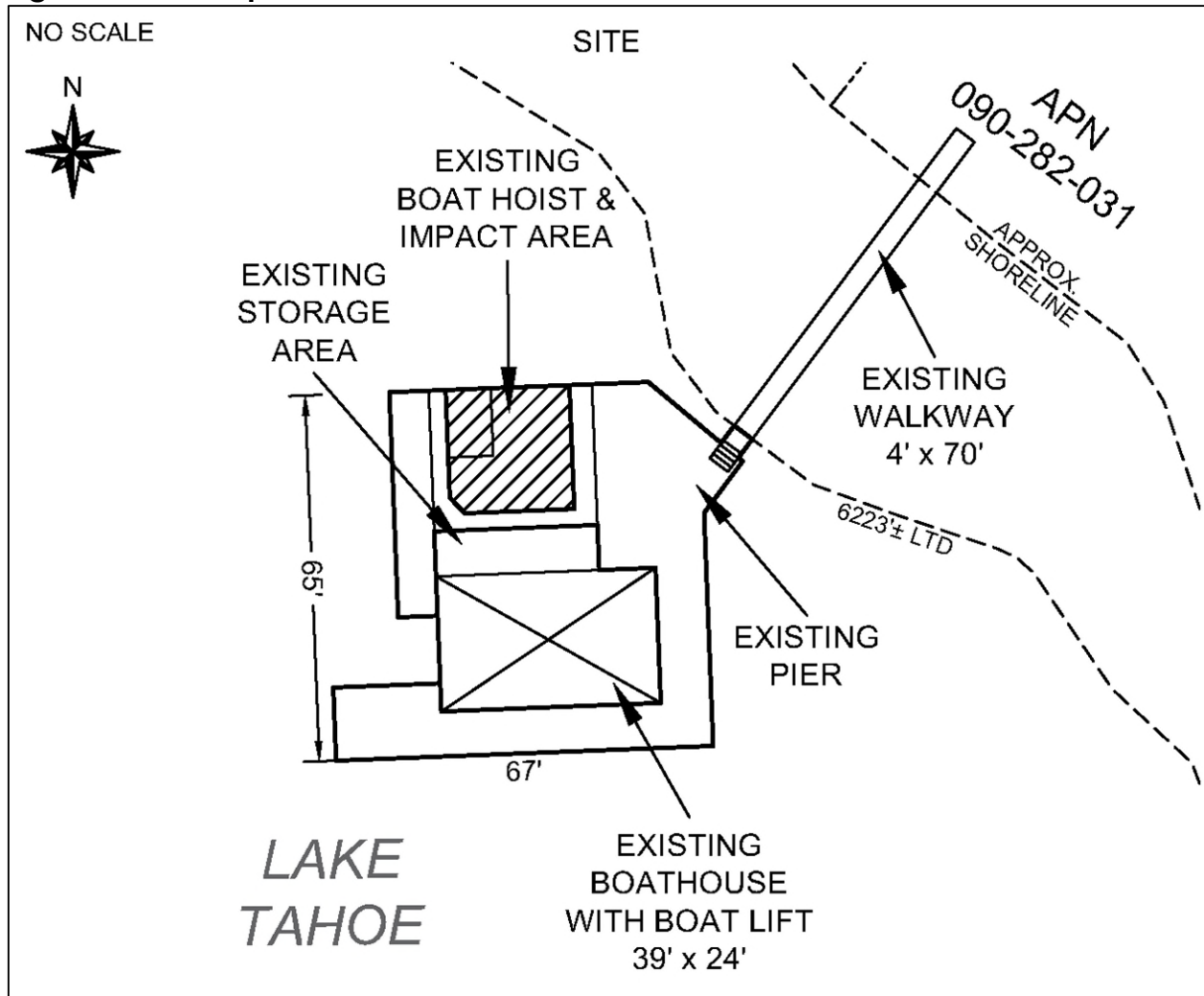
Figure 1. Location



AUTHORIZED USE:

Use of an existing pier with boat hoist, storage area, and boathouse with boat lift (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 June 1, 2025.

CONSIDERATION:

\$2,891 per year, with an annual Consumer Price Index adjustment; and \$4,348 for the unauthorized occupation of state land for the period prior to June 1, 2025.

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 that the public be allowed to pass and repass under 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).
- Should one or both buoys waterward of the parcel be determined to be owned by Lessee, Lessee agrees to promptly apply for an amendment of this Lease to include the buoys under this Lease.
- The storage area on the pier shown in Exhibit A shall only be used for the storage of boating and lake-related recreational items. Lessee accepts the risk of storing such items on a pier where items may be stolen. Lessor is not responsible for any stolen goods. Items in the storage area must fit within the identified storage parameters and not extend beyond it. No gasoline, oil, or hazardous or highly flammable materials shall be stored on the pier.
- The provisions of Section 3, Paragraph 11 of the proposed lease shall also extend to the entire period of Lessee's unauthorized occupation of state-owned lands, from December 1, 2023 through May 31, 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, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On February 21, 2014, the Commission authorized the rescission and issuance of a General Lease – Recreational Use to A. Nathaniel Goldhaber and Marilyn K. Goldhaber, Co-Trustees of the Goldhaber Revocable Trust u/a/d 11/11/2005, for the continued use and maintenance of an existing pier, boat hoist, boathouse with a boat lift, and two mooring buoys adjacent to 9818 Lake Street and 77 Speedboat Avenue, near Kings Beach, Placer County ([Item 64, February 21, 2014](#)). That lease expired on November 30, 2023.

In 2020, ownership interest in the upland parcel was transferred to Benjamin Michael Goldhaber, Charles Abraham Goldhaber, Samuel George Goldhaber, and Randall Hawks, as Trustees of the Goldhaber 2020 Exempt Gift Trust dated December 9, 2020. On June 24, 2021, ownership interest was again transferred to Rocky Roost LLC, a California Limited Liability Company, a related entity.

The Applicant is now applying for an issuance of a General Lease – Recreational Use for the use of an existing pier with boat hoist, storage area, and boathouse with boat lift. The improvements were registered with TRPA on June 24, 2024 (Registration No. 10070).

There are two buoys waterward of the upland property. These buoys were previously under a lease that referred to a Multiple Use Pier Agreement. However, the Agreement was terminated on June 7, 2013, and ownership of the buoys is being disputed by the Lessee and the other party to the Agreement. The Tahoe Regional Planning Agency (TRPA) and parties to the terminated Agreement have yet to resolve the ownership issues. The Applicant agrees to promptly apply for an amendment of this Lease to include these buoys under this Lease should one or both buoys be determined to be owned by the Applicant.

Staff recommend that the Commission accept compensation from the Applicant in the amount of \$4,348 for the unauthorized occupation of State land for the subject facilities for the period prior to June 1, 2025. Additionally, the lease will require the

Applicant to indemnify the State for the entire period from December 1, 2023 through May 31, 2025, for unauthorized occupation, ensuring the State is protected.

The subject facilities have existed for many years at this location, are located waterward of the upland property, and occupy a relatively small area of the lake. The topography surrounding the shoreward terminus of the pier consists of a sandy beach with scattered medium to large-sized rocks and small boulders. Public access is available under the pier within the Public Trust Easement by walking across the rocky beach 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 upland adjoining the lease premises. The existing pier with boat hoist and boathouse with boat lift serve to facilitate recreational boating. The storage area on the pier is used for the storage of boating and lake-related recreational items only. 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:

INTRODUCTION:

Climate change significantly affects inland non-tidal lakes such as Lake Tahoe, and its effects are increasing throughout the Sierra Nevada mountains. According to [California's Fourth Climate Change Assessment](#) (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.

These impacts create hazardous conditions like flooding, landslides, wildfire, drought, extreme heat, and severe storms. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events, year-to-year changes in total precipitation, and shifts in seasonal characteristics. |

DATA & PROJECTIONS:

Temperatures in the Sierra Nevada are expected to increase six to ten degrees Fahrenheit on average by the end of the century, causing the snowline to shift upslope 1,500 to 3,000 feet in elevation (California's Fourth Climate Change Assessment, 2018). The long-term warming trend will lead to warmer and shorter winters and longer and drier summers. The warmer winters will reduce winter snowpacks by up to 60 percent across most of the Sierra Nevada and will result in increased winter streamflows and floods and decreased spring and summer runoff. Loss of snowpack is expected to dry soils 15 to 40 percent below their historical norms. Hotter, drier summer seasons and low water years will increase stress to vegetation, elevating wildfire risk and fire severity in the Tahoe Basin.

Dry winters will be punctuated with exceedingly wet years and higher temperatures will result in more rain-on-snow events ([Integrated Vulnerability Assessment of Climate Change in the Lake Tahoe Basin](#), 2020). Atmospheric river systems will become more common. These events produce both flash floods and higher than normal seasonal flooding which may shift earlier in the year. Higher soil moisture will increase erosion and elevate landslide risk, particularly following intense wildfire seasons.

ANALYSIS:

The greatest vulnerability to recreational facilities is from flooding, landslides, and wildfire hazards (Integrated Vulnerability Assessment of Climate Change in the Lake Tahoe Basin, 2020). The Sierra Nevada is expected to experience year-to-year variability in precipitation and may shift between extreme wet and dry periods. High precipitation years or successive years will result in higher lake levels, causing beaches to narrow and reducing public access. Surface runoff may carry more sediment into the lake, adversely impacting water quality, clarity, and increasing risk of algal blooms ([UC Davis Tahoe Environmental Research Center](#), 2024). Conversely, low lake levels will become normal during periods of extended drought. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions could make some shoreline areas too shallow for effective recreational use of piers, boat docks,

and mooring buoys. During drought, structures will also be exposed to heat and wind that may accelerate deterioration or reduce the structural integrity of certain structures.

Additionally, atmospheric rivers and extreme weather events are expected to increase in the high Sierra. Storms may deviate from prevailing wind patterns for the region. Wind-driven waves can accelerate shoreline erosion in some areas or cause erosion in areas not typically subject to erosion. Winds can also increase wave damage on structures and boats along the lake.

RECOMMENDATIONS:

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. Replacing older structural components with materials designed to better withstand extreme heat, wind events, and storms can reduce the likelihood of degradation and damage to structures. Any future construction or activities on state land would require a separate authorization from the Commission.

Regular maintenance, as required by the lease, may reduce the risks from extreme temperatures and rain. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to the effects of climate change.

CONCLUSION:

For all the reasons above, staff believes issuance of this lease will not substantially interfere with the Public Trust needs at this location, at this time, and for the term of the lease; is consistent with the common law Public Trust Doctrine; and 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 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:

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 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 acceptance of compensation from the Applicant in the amount of \$4,348 for the unauthorized occupation of State land from December 1, 2023 through May 31, 2025.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 1, 2025, for a term of 10 years, for the use of an existing pier with

boat hoist, storage area, and boathouse with boat lift; annual rent in the amount of \$2,891, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.