

Staff Report 02

APPLICANTS:

Stephen G. Blume and Jennifer Leavengood; Maquina De Vapor, LLC, a Delaware limited liability company; and Randy G. Burdick and Linda T. Burdick, Trustees of the Linda and Randy Burdick Trust A.D.T. dated August 22, 1991, as Amended and Restated

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 6350 North Lake Boulevard, near Carnelian Bay, Placer County (as shown in Figure 1).

Figure 1. Location



SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- 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.
- 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.
- The public will be allowed to pass and repass over the pier using the proposed stairs 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 December 7, 2023, Maquina De Vapor, LLC, a Delaware limited liability company, and Linda T. Burdick, Trustee of the Linda and Randy Burdick Trust (L.T.B.'s S.P.) dated August 22, 1991, submitted an application for issuance of a new General Lease – Recreational Use for construction and use of a joint-use pier to be associated with three littoral, non-adjacent parcels: 6350 North Lake Boulevard, 6061 North Lake Boulevard, and Assessor's Parcel Number 117-060-016, near Carnelian Bay, Placer County. At that time, Linda Burdick, Trustee, was the owner of the parcel located at 6350 North Lake Boulevard, as well as Assessor's Parcel Number 117-060-016, near Carnelian Bay, Placer County.

Pursuant to TRPA, the three non-adjacent littoral parcels associated with the proposed joint-use pier have been permanently tied via deed restriction as a single project area. The Applicant, now comprised of Stephen G. Blume and Jennifer Leavengood; Maquina De Vapor, LLC, a Delaware limited liability company; and Randy G. Burdick and Linda T. Burdick, Trustees of the Linda and Randy Burdick Trust A.D.T. dated August 22, 1991, as Amended and Restated, is now applying for a new General Lease – Recreational Use for the construction and use of a joint-use pier with two adjustable catwalks, two ramps, and two boat lifts, to be located adjacent to 6350 North Lake Boulevard, near Carnelian Bay, Placer County.

On October 14, 2024, TRPA issued conditional permit No. ERSP2023-1454 for the proposed construction of a joint-use pier with two adjustable catwalks and two ramps; and two 12,000-pound boat lifts.

The proposed joint-use pier will be approximately 157.7 feet in total length (152.9 feet as measured from the high water line), and approximately 15 feet wide at the pierhead. One adjustable catwalk, 30 feet in length and 3 feet in width, will be installed on the westerly side of the pier; one additional adjustable catwalk, 15 feet in length and 3 feet wide, will be installed at the pierhead. Two 12,000 pound boat lifts are proposed to be installed on each side of the pierhead. The pier will be supported by 17 pilings below the mean high water mark, driven 8 feet or until

refusal using a barge mounted pile driver or amphibious vehicle. Approximately 22 turtle-type lights will be flush mounted along the pier deck. Two ramps are to be installed connecting each catwalk to the pier. One safety ladder is proposed to be located at the pierhead.

The topography at this location is steeply sloped and rocky. Access to the pier facilities for the associated parties with non-adjacent parcels will be via an easement constructed out to the road which directly abuts the residence on the upland. The proposed pier's design will allow for public access laterally across the shoreline via public access stairs at the landward end of the pier. 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 stairs. 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.

Materials will be precut and/or prefabricated to the extent practicable and transported by 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 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 plans 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. 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 proposed improvements will be privately owned and maintained and will serve to 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:

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 believe 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. There are two separate applications relevant to the issuance of this joint-use pier lease, which are being processed concurrently and also scheduled to be considered by the Commission at its August 21, 2025 meeting: Application 5100 and Application 5101. Application 5100 is for issuance of a General Lease – Recreational Use for the use of one existing mooring buoy not previously authorized by the Commission, located adjacent to 6350 North Lake Boulevard. TRPA conditional permit ERSP2023-1454 permits registration of this buoy (TRPA Mooring Registration No. 13526). Application 5101 is for the amendment of General Lease 9414 – Recreational Use, to remove one existing mooring buoy. Per ERSP2023-1454, installation of one boat lift on the proposed pier is contingent upon the removal of one mooring buoy associated with the pier project area.
2. An abandoned 12-foot diameter water pipeline, owned by the North Tahoe Public Utility District, is located near the proposed pier construction project area and is not associated with this project, nor the Applicant.
3. 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 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.

4. 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.
5. 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(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.

APPROVALS OBTAINED:

- U.S. Army Corp of Engineers (Action I.D.: SPK-2023-00852)
- Tahoe Regional Planning Agency (Conditional Permit: ERSP2023-1454)

APPROVALS REQUIRED:

- California Department of Fish and Wildlife
- Lahontan Regional Water Quality Control Board

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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(2).

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. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning August 21, 2025, for a term of 10 years, for the construction and use of a joint-use pier, appurtenant facilities, and two boat lifts; annual rent in the amount of \$1,543 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
2. 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.