

# Staff Report 13

## LESSEE/APPLICANT:

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Sally Bankofier Markstein as Trustee of the Sally Bankofier Markstein Trust dated March 11, 1997

## PROPOSED ACTION:

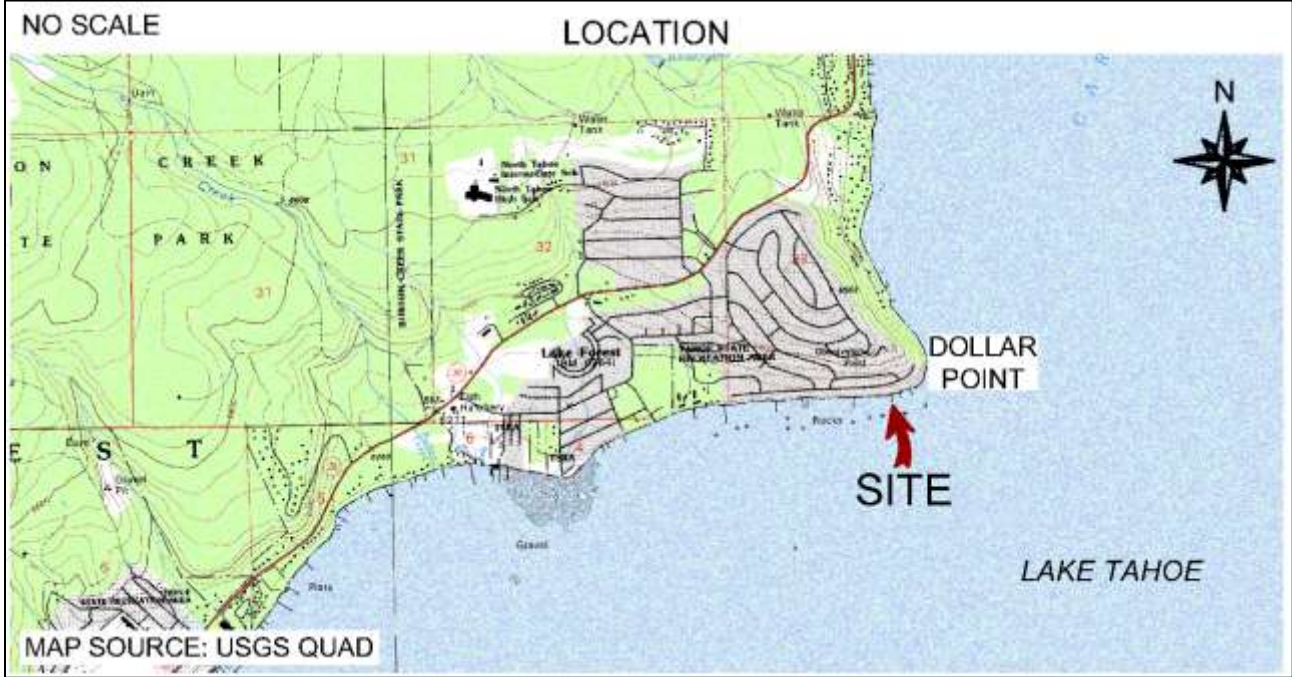
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Acceptance of a Lease Quitclaim Deed; and Issuance of a General Lease – Recreational Use.

## AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 3380 Edgewater Drive, near Dollar Point, Placer County (as shown in Figure 1).

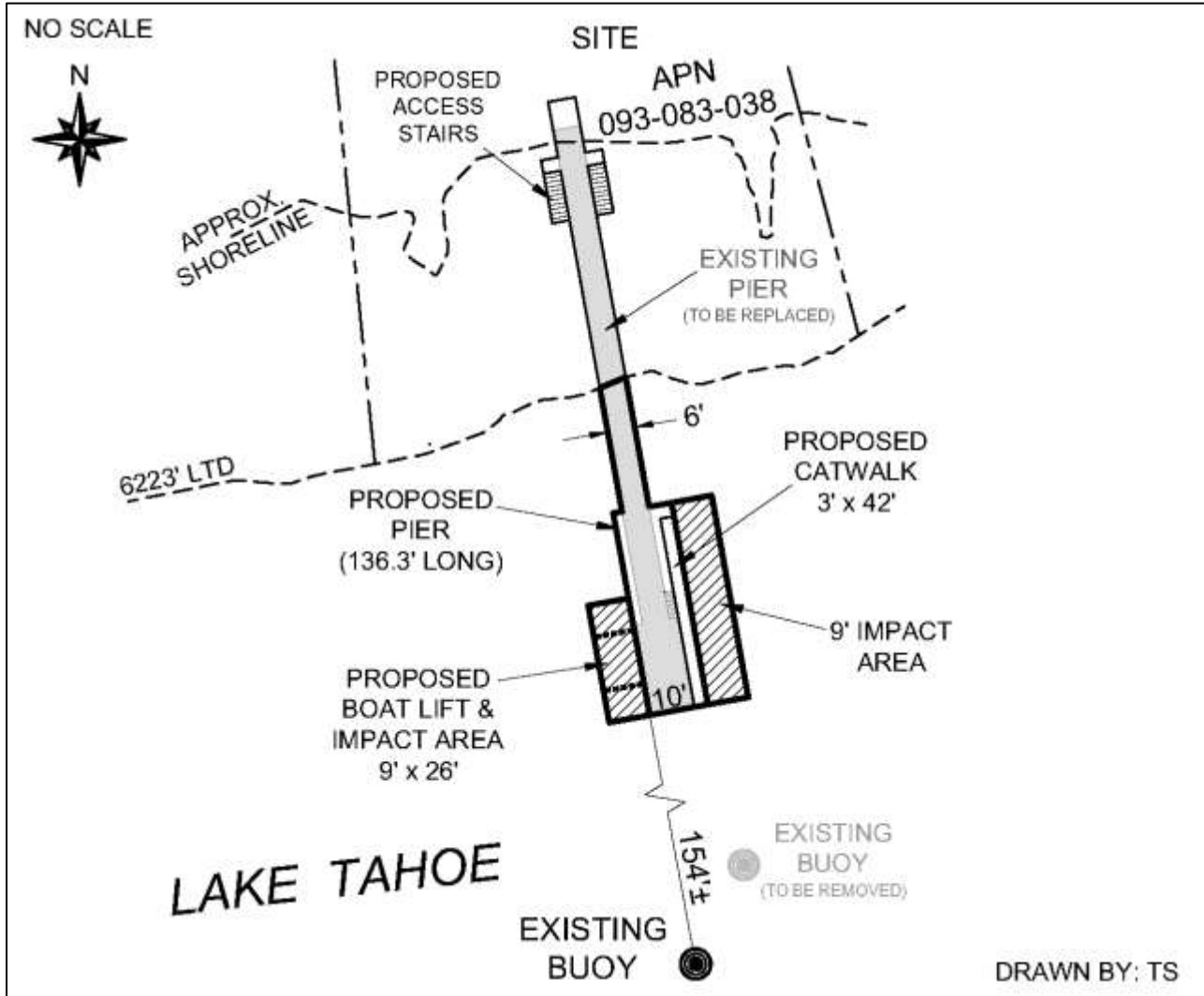
**Figure 1. Location**



**AUTHORIZED USE:**

Reconstruction, expansion, and use of an existing pier, installation of one boat lift, removal of one mooring buoy, and use of an existing mooring buoy (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 7, 2026.

**CONSIDERATION:**

\$1,266 per year, with an annual Consumer Price Index adjustment.

**SPECIFIC LEASE PROVISIONS:**

- 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 this lease.
- Lessee acknowledges annual consideration shall be adjusted based on the actual area of the improvements as constructed, should they vary from the plans submitted.
- Lessee shall not store any personal item or construct any improvements in the Public Trust easement, that may impair the public's right of access for navigation, fishing, and Public Trust consistent recreational uses.
- 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.
- Lessee agrees that the public be allowed to pass and repass over the pier using the proposed public access 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).
- 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, 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.

## **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 21, 2018, the Commission authorized a General Lease – Recreational Use to Sally Bankofier Markstein as Trustee of the Sally Bankofier Markstein Trust dated March 11, 1997, for the use and maintenance of an existing pier and two mooring buoys ([Item 19](#)). The lease will expire on May 8, 2028.

The Lessee, now the Applicant, is applying for acceptance of a lease quitclaim deed and issuance of a General Lease – Recreational Use for the reconstruction, expansion, and use of an existing pier, installation of one boat lift, removal of one mooring buoy, and use of a mooring buoy. Since there are less than five years until the current lease expires, staff recommends acceptance of a lease quitclaim deed from the current Lessee and issuance of a new lease beginning April 7, 2026, the date of the Commission meeting. Rent on the new lease will be prorated to account for rent already paid.

On July 24, 2025, the Applicant obtained conditional permit No. ERSP2024-0329 from TRPA authorizing the rebuild and expansion of the existing pier and a mooring conversion to a boat lift. The boat lift is allowed through conversion of an existing mooring buoy. The lease requires that the mooring buoy shall be removed by May 31, 2026.

The rebuilt pier would maintain the existing pier's total length of 140.2 feet. The rebuilt pier deck elevation would be 6,233 feet, which will be two-feet higher than the current deck elevation of 6,231 feet. The reconstruction and expansion of the existing pier will include replacing the existing girders, joists, and decking. The proposed rebuilt pier will include one, three-foot by 30-foot adjustable catwalk and gangway, and one 12,000-pound capacity boat lift on the pierhead. The anchor block associated with the mooring buoy to be removed shall be permanently removed from the water.

The proposed construction will be conducted with access to the site from the lake using a floating/amphibious barge. The two new pilings will be driven with a vibratory hammer to six feet or refusal. Since the shape of the pierhead is changing

due to the catwalk modification, nine of the existing 10.75-inch diameter pilings will be removed and 14 pilings will be installed, and two new pilings will be installed for the new boat lift. Once the new steel pilings are installed, the pier joists and decking will be removed and placed on the barge to allow installation of the new joists. Fire cloth will be placed under the pier to prevent any material from falling into the lake, and the pilings will be cut to the level of the deck. Caissons will be available and deployed if turbidity is observed during pile driving. All steel pilings and accessories will be painted prior to being transported to the project site. All materials will be stored on the floating/amphibious barge.

The lease requires the Applicant provide two staircases to allow for public access over the pier in the location shown on the submitted site plan, including any portion which may be located above the Public Trust easement. The topography of the shore at the proposed pier location consists of small to large boulders. The Applicant agrees to allow the public to pass and re-pass over the pier by utilizing the proposed public access stairs near the landward end of the pier. 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.

The proposed project is located partially in spawning habitat and partially in feed and cover habitat. Since pilings are being removed and new pilings installed to accommodate the shape of the pierhead, the lake bottom disturbance will be reduced by 3.27 square feet and as a result, no fish habitat construction is required.

Construction will take place after all required approvals have been obtained. 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 two mooring buoys have existed for many years at this location, are located directly lakeward of the upland property, and occupy a relatively small area of the lake. The one mooring buoy and the proposed boat lift were registered with TRPA on January 6, 2026 (Mooring Registration No. 10131). The Applicant will remove one of the existing mooring buoys to allow for the proposed boat lift.

The remaining existing mooring buoy is 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:**

### ***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 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 interest of the state

### **OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the application is 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, cannot reconstruct the pier and install the boat lift 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.
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. Acceptance of the quitclaim deed 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. **Existing Buoy:** Staff recommends that the Commission find that this activity 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.

**Pier Reconstruction:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

**Buoy Removal:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061.

## **APPROVALS OBTAINED:**

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- Tahoe Regional Planning Agency (ERSP2024-0329)
- California Department of Fish and Wildlife
- U.S. Army Corps of Engineers
- Lahontan Regional Water Quality Control Board

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

Find that this activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project through the combination of the following exemptions: Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301; Class 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302; and Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

**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. Accept a Lease Quitclaim Deed for Lease 5575, effective April 6, 2026.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 7, 2026, for a term of 10 years, for the reconstruction, expansion, and use of an existing pier, installation of one boat lift, removal of one mooring buoy, and use of a mooring buoy; annual rent in the amount of \$1,266 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
3. 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