

Staff Report 04

LESSEE:

BHR Tahoe LP, a Delaware Limited Partnership

PROPOSED ACTION:

Amendment of a General Lease – Commercial Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 7170 North Lake Boulevard, Tahoe Vista, Placer County (as shown in Figure 1).

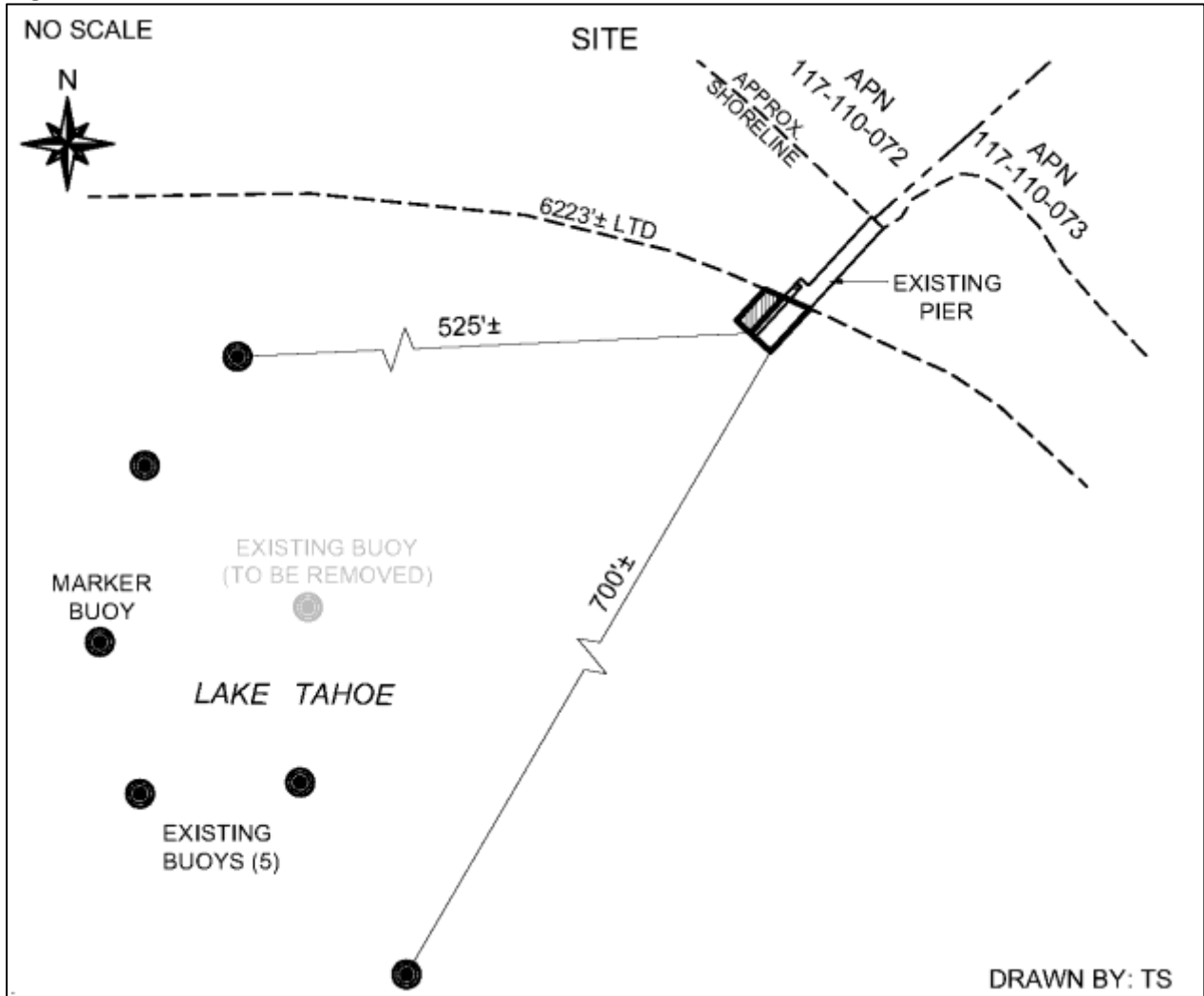
Figure 1. Location



AUTHORIZED USE:

Operation, use, and maintenance of an existing pier, boat lift, six mooring buoys, and one marker 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 March 23, 2019.

CONSIDERATION:

\$2,728 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Authorize the relocation of one mooring buoy and the removal of one boat lift and mooring buoy, adjacent to 7170 North Lake Boulevard, Tahoe Vista, Placer County.
- Revise Authorized Use to operation and use of an existing pier, five mooring buoys, and one marker buoy (as shown in Figure 2).
- Revise annual rent to \$1,918 per year, with an annual Consumer Price Index adjustment, effective March 23, 2026.
- Replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only), in the lease.
- Within 60 days of completing the removal of a boat lift and one mooring buoy and the relocation of one mooring buoy, Lessee will provide Lessor with a copy of a receipt by a licensed contractor confirming the removal of the boat lift, the removal of the mooring buoy and associated anchor block, and the final location of the relocated mooring buoy.

All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 28, 2019, the Commission authorized a 10-year General Lease – Commercial Use, to BHR Tahoe LP, a Delaware Limited Partnership, for the use of an existing pier, boat lift, six mooring buoys, and one marker buoy ([Item 11](#)). The lease expires March 22, 2029.

The Lessee is applying for the amendment of a General Lease – Commercial Use for the removal of a boat lift and one mooring buoy, and relocation of one mooring buoy. To abide by TRPA permitting, the mooring buoy to be relocated will be moved back to its original location (TRPA Mooring 8308). Rent will be revised to reflect the proposed use changes, and all other terms of the lease will remain in

effect for the remainder of the lease term. The Lessee has all the required permits and approvals from the Tahoe Regional Planning Association (TRPA) to conduct the proposed changes.

The proposed lease amendment 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 improvements remain 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 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 approval of this lease amendment will not substantially interfere with 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 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 a trustee of the State's Public Trust lands authorized by law. The Lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" and "Leading Climate Activism" Strategic Focus Areas of the Commission's 2021 – 2025 Strategic Plan.
3. **Boat Lift Removal:** 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 14, section 15301, subdivision (l)(4).

Buoy Relocation and 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.

RECOMMENDED ACTION:

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, subdivision (l)(4), 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 assignment and amendment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the amendment of Lease 8601, a General Lease – Commercial Use, for the removal of a boat lift and one mooring buoy; and relocation of one mooring buoy.
2. Authorize the revision of annual rent from \$2,728, with an annual Consumer Price Index adjustment, to \$1,918, with an annual Consumer Price Index adjustment, effective March 23, 2026, to reflect changes to the lease area and authorized improvements.
3. Authorize the replacement of Exhibit A, Land Description and Exhibit B, Site and Location Map, in the lease with a new Exhibit A and Exhibit B.

4. 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.