

STAFF REPORT

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10/24/19

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S. Avila

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Arthur Wallace and Alfia Amanda Wallace

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Donner Lake, adjacent to 14096 South Shore Drive, near Truckee, Nevada County.

AUTHORIZED USE:

Use and maintenance of an existing pier; and installation, use and maintenance of a floating boat dock, not previously authorized by the Commission.

LEASE TERM:

10 years, beginning October 24, 2019.

CONSIDERATION:

\$319 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 shall not store any personal items or construct any improvements in the Public Trust easement that may impair public uses for access, navigation, fishing, and lake-related recreational uses.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

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Public Trust and State's Best Interests Analysis:

On June 26, 2018, Arthur Wallace and Alfia Amanda Wallace, submitted an application for the use of state-owned land for the use and maintenance of an existing pier, which was not previously authorized by the Commission, and for the installation of a floating boat dock.

The Applicant owns the uplands adjoining the lease premises. The subject facilities are privately owned and maintained. The pier is used for the mooring and docking of boats. 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 existing pier has been at this location for many years. The floating boat dock will be installed with galvanized hooks to a galvanized pipe railing attached to the existing pier. The adjacent upland is sloped. The topography and the location of upland structures allow the public to navigate around or walk next to and, at low water levels, under the pier within the Public Trust easement.

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 and 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.

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 foreseeable term of the proposed lease; 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

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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 pier and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.

2. The Applicant has been informed that the Commission is working on a Boundary Line Agreement (BLA) involving Donner Lake but chose to go forward with this lease in order to secure permits for their project. Any potential BLA would not be effective until fully executed by the Governor and the Applicant wishes to avoid this additional delay. If the Commission approves a BLA at Donner Lake, and the Applicant participates in the BLA, the boundaries of this lease may be impacted.
3. This action is consistent with Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
4. 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)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

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)(1).

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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 foreseeable term of the lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 24, 2019, for a term of 10 years, for the use and maintenance of an existing pier; and the installation, use, and maintenance of a floating boat dock, not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$319 with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000 per occurrence.

EXHIBIT A

A 2163

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Donner Lake, lying adjacent to Lot 7 of fractional Section 13, Township 17 North, Range 15 East, MDM, as shown on Official Government Township Plat approved April 10, 1867, County of Nevada, State of California, described as follows:

BEGINNING at a point lying distant S 76°35'48" W 9,287.78 feet from NGS Monument Donner, said monument being a survey disk stamped Donner 2004 (PID DH6439), thence the following six (6) courses:

- 1) N 7°20'15" W 34.02 feet thence;
- 2) N 82°39'45" E 15.00 feet thence;
- 3) N 7°20'15" W 20.00 feet thence;
- 4) S 82°39'45" W 24.93 feet thence;
- 5) S 7°19'34" E 54.01 feet thence;
- 6) N 82°39'53" E 9.94 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of elevation 5933.8' (NGVD29) on the shoreline of said Donner Lake.

The BASIS OF BEARINGS of this description is the California Coordinate System of 1983, Zone 2 (2017.50). All distances are grid distances.

END OF DESCRIPTION

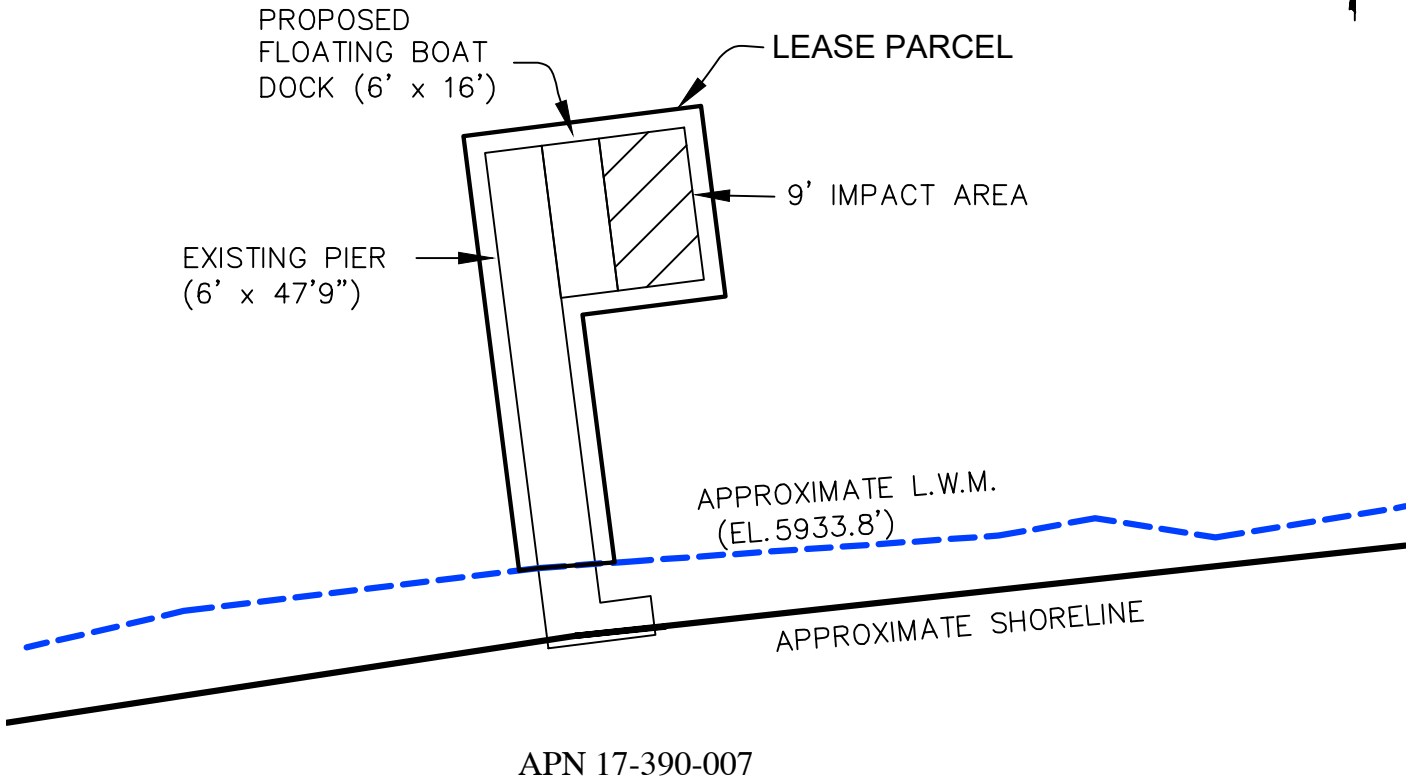
Prepared 8/21/2019 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE

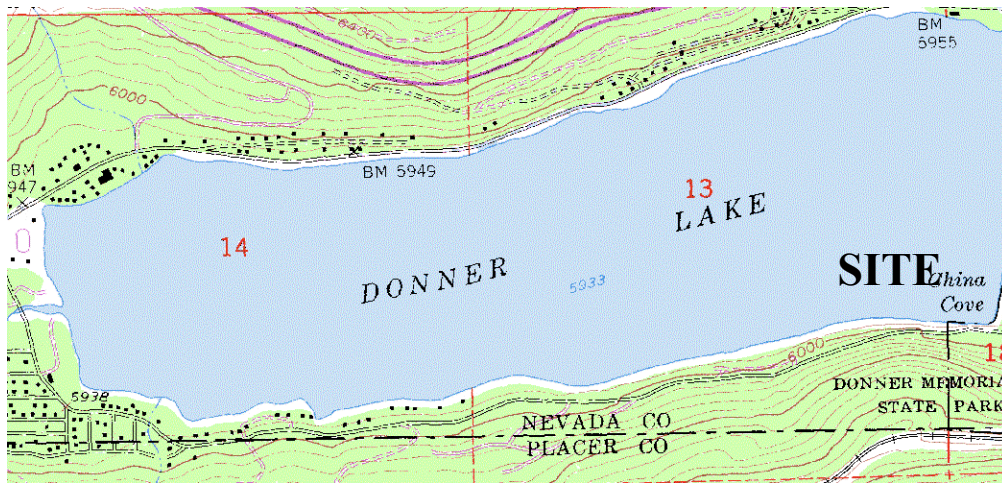
DONNER LAKE



14096 SOUTH SHORE DRIVE, TRUCKEE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

A 2163
 WALLACE
 APN 017-390-007
 GENERAL LEASE -
 RECREATIONAL USE
 NEVADA COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

DJF 09/18/19