

Staff Report 12

APPLICANT:

Janice Lynn B. Minor

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Donner Lake, adjacent to 15130 Point Drive, near Truckee, Nevada County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier previously authorized by the Commission and an existing personal watercraft lift not previously authorized by the Commission.

TERM:

10 years, beginning October 22, 2020.

CONSIDERATION:

\$203 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 the public uses of access, navigation, fishing and lake-related recreation.

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.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 3, 2007, the Commission authorized a Recreational Pier Lease for an existing pier to Janice Lynn B. Minor ([Item C02, December 3, 2007](#)). That lease expired on February 11, 2017. The Applicant is applying for a new lease for the continued use and maintenance of the existing pier previously authorized by the Commission and an existing personal watercraft lift not previously authorized.

On October 24, 2019, the Commission authorized a Boundary Line and Easement Agreement that set the ordinary low water mark at Donner Lake at 5928 feet elevation ([Item 69, October 24, 2019](#)). The Applicant's pier and personal watercraft lift extend past low water onto sovereign land within the Commission's leasing jurisdiction.

Staff recommends that the Commission accept compensation from the Applicant for the unauthorized occupation of State land in the amount of \$1,046 for the period beginning February 12, 2017, through October 21, 2020, the day before the new lease becomes effective.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained, used for the docking and mooring of boats, 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 lands (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on pilings, which allows the public to navigate and, at lower water levels, walk next to the pier. The immediate area of the pier contains gravel with cobbles and large boulders along the shoreline. The personal watercraft lift is at the end of the pier.

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 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; 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 trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant, as the prior lessee, may be required to remove the pier and personal watercraft lift 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. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
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 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 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 the Public Trust needs and values at this location, at this time, or for the foreseeable 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 \$1,046 for unauthorized occupation of State lands for the period beginning February 12, 2017, through October 21, 2020.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning October 22, 2020, for a term of 10 years for the continued use and maintenance of an existing pier previously authorized by the Commission and an existing personal watercraft lift 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 \$203, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 7941

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Donner Lake, lying adjacent to fractional Section 14, Township 17 North, Range 15 East, MDM., as shown on Official Government Township Plat approved April 10, 1867, County of Nevada, State of California, and more particularly described as follows:

All those lands underlying an existing pier and personal watercraft lift lying adjacent to that parcel described in that Grant Deed recorded November 30, 1995 in Document No. 95031028 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of the Low Water elevation 5928 feet (NGVD29) on the shoreline of said Donner Lake.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 9/14/2020 by the California State Lands Commission Boundary Unit.





DONNER LAKE

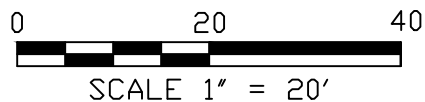
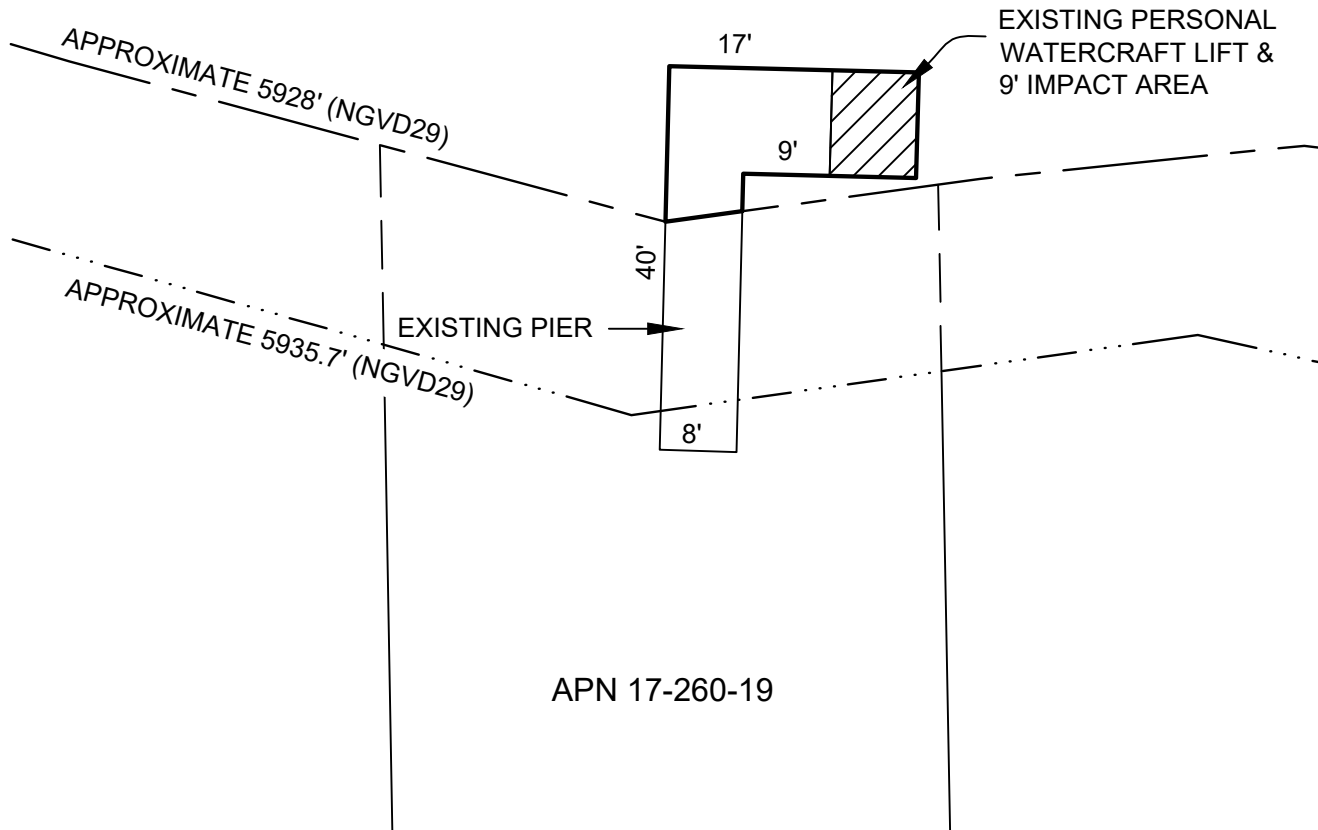


EXHIBIT A

PAGE 2 OF 2

DJF 9/25/2020

LAND DESCRIPTION PLAT
LEASE 7941, MINOR
NEVADA COUNTY

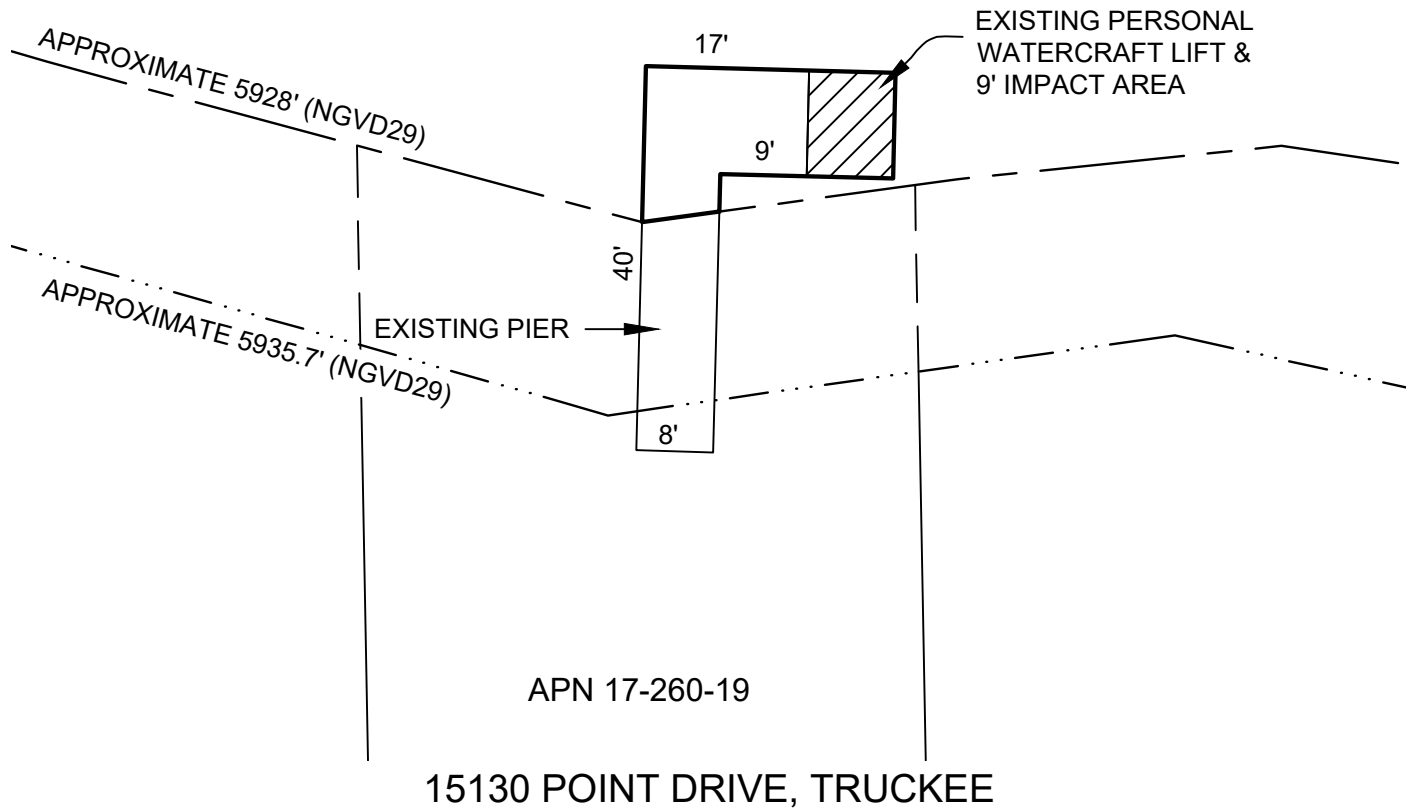
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

DONNER LAKE



NO SCALE

LOCATION

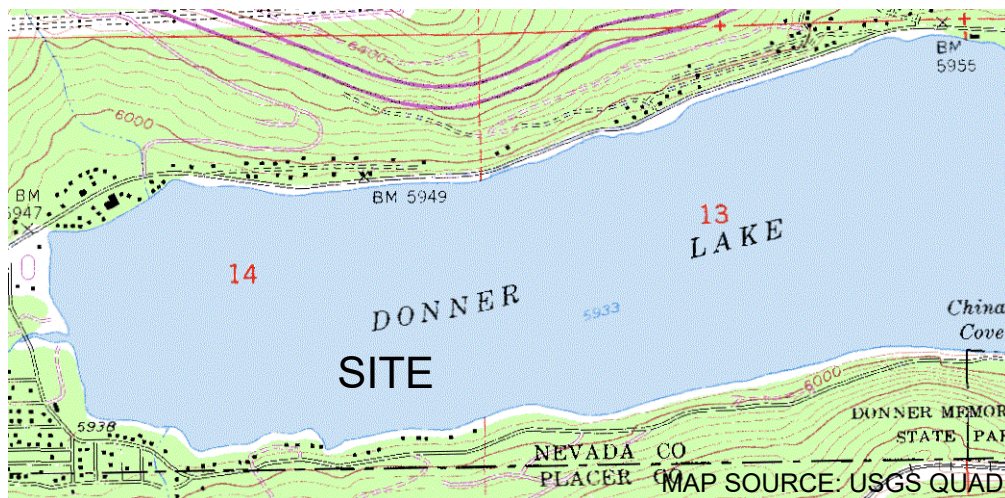


EXHIBIT B

LEASE 7941
 MINOR
 APN 17-260-19
 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 9/25/2020