

Staff Report 11

APPLICANT:

Jeffrey M. Long, Trustee of the J and S Long Living Trust dated August 3, 2004

PROPOSED ACTION:

Issuance of General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Donner Lake, adjacent to 15799 Donner Pass Road and 10087 Lake Edge Court, near Truckee, Nevada County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier previously authorized by the Commission and a floating dock not previously authorized by the Commission.

TERM:

10 years, beginning December 17, 2020.

CONSIDERATION:

\$470 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 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.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On October 17, 1995, the Commission authorized a Recreational Pier Lease for construction of a new pier to Jeffrey M. and Maria E. Long [\(Item 63, October 17, 1995\)](#). That lease expired on October 16, 2005. The Applicant is applying for a new lease for the continued use and maintenance of the existing pier previously authorized by the Commission and a floating dock not previously authorized by the Commission.

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 extends 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 \$1,876 for the period beginning December 17, 2015 through December 16, 2020, the day before the new lease becomes effective.

The Applicant owns an upland parcel, Assessor Parcel Number (APN) 017-160-036, located at 10087 Lake Edge Court, within the Donner Lake Vista Homeowner's Association (HOA) owned property, APN 017-160-037, located at 15799 Donner Pass Road, near Truckee. The pier is located adjacent to APN 017-160-037 which is between Applicant's parcel and the lease premises. The Applicant was authorized by HOA Resolution on July 3, 1995, to construct and maintain the pier.

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, meaning the public may navigate next to and, at lower water levels, walk under the pier. The immediate area of the existing pier is moderately sloped with small boulders, stones, and gravel.

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 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 and values at this location, at this time, and for the foreseeable term of the proposed lease; is consistent with the Public Trust Doctrine; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of an 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. An applicant has no right to a new lease or to renewal of any previous lease. Denial of the application may result in a determination that the proposed activity on or use of state land is unauthorized and may result in legal action.
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 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 \$1,876 for unauthorized occupation of State lands for the period beginning December 17, 2015, through December 16, 2020.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 17, 2020, for a term of 10 years, for the continued use and maintenance of an existing pier previously authorized by the Commission and a floating 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 \$470 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 7861

LAND DESCRIPTION

A parcel of submerged land situated in the bed of Donner Lake, lying adjacent to Lot 4 of fractional Section 14, Township 17 North, Range 15 East, M.D.B.&M., as shown on Official Government Township Plat approved April 10, 1867, County of Nevada, State of California, more particularly described as follows:

All those lands underlying an existing pier and float lying adjacent to that parcel described in Quitclaim Deed recorded August 13, 2004 as Document Number 2004-0034189-00 Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFROM any portion lying landward of the low water mark of said Donner Lake.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 11/02/2020 by the California State Lands Commission Boundary Unit.



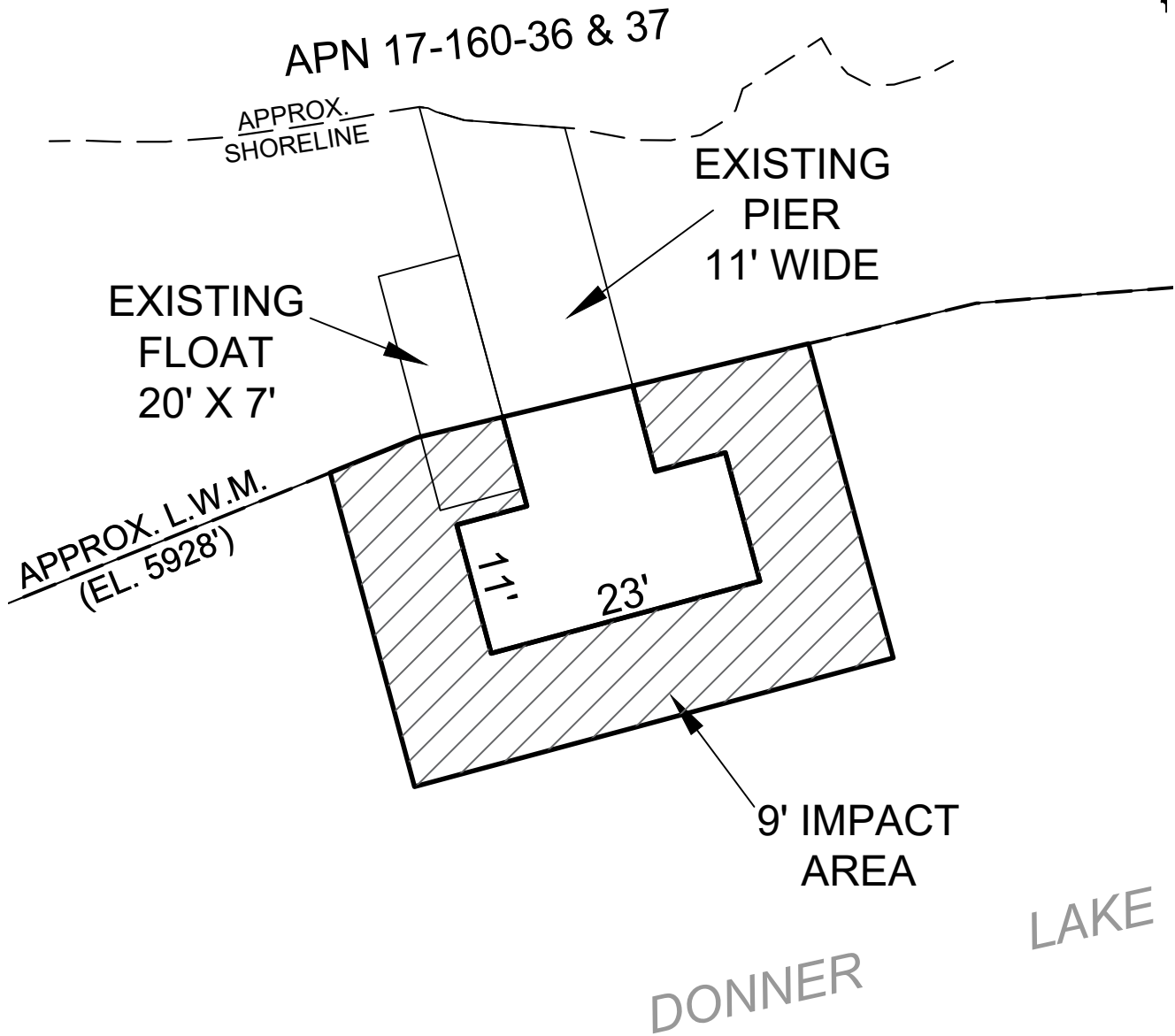


EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 7861, LONG LIVING TRUST
NEVADA COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

APN 17-160-36 & 37

APPROX.
SHORELINE

EXISTING
PIER
11' WIDE

EXISTING
FLOAT
20' X 7'

APPROX. L.W.M.
(EL. 5928')

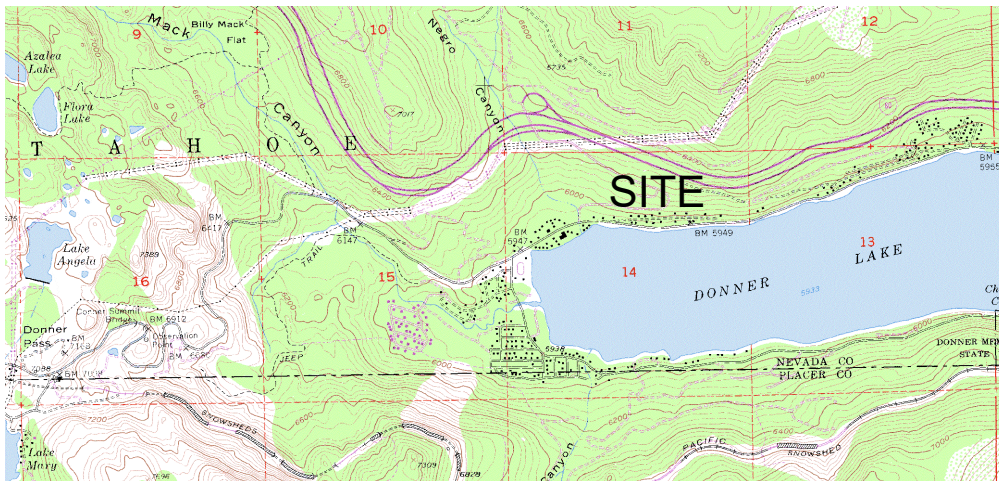
9' IMPACT
AREA

DONNER LAKE

10087 LAKE EDGE COURT, NEAR TRUCKEE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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.

Exhibit B

LEASE 7861
LONG LIVING TRUST
APN 17-160-36 & 37
GENERAL LEASE -
RECREATIONAL USE
NEVADA COUNTY



TS 11/02/2020