

Staff Report 17

APPLICANT:

Thomas A. Shields, Jr. and Louisa Lloyd Shields, Trustees, or their successors in trust, under the Shields Trust, established April 27, 2001, and any amendments thereto

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Donner Lake, adjacent to 15849 Donner Pass Road, Truckee, Nevada County.

AUTHORIZED USE:

Use and maintenance of an existing pier, boat dock, covered boat lift, and gangway.

TERM:

10 years, beginning June 29, 2021.

CONSIDERATION:

\$148 per year, with an annual Consumer Price Index adjustment; and \$77 to compensate for the unauthorized occupation of state sovereign land for the period beginning December 23, 2020 through June 28, 2021.

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 which 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 April 6, 2010, the Commission authorized a Recreational Pier Lease to Douglas C. Wallway for an existing pier, boat dock, gangway, and the retention of an existing covered boat lift [\(Item C01, April 6, 2010\)](#). The lease expired on November 29, 2018. On December 23, 2020, the upland property was sold to the Applicant. The Applicant is applying for a General Lease – Recreational Use for the use and maintenance of the existing pier, boat dock, covered boat lift, and gangway.

Staff recommends the Applicant's lease begin on June 29, 2021, the day of the Commission meeting. Staff further recommends acceptance of compensation in the amount of \$77 for the unauthorized occupation of State-owned property from December 23, 2020, when the upland ownership was transferred to the Applicant, through June 28, 2021, the day before the proposed lease begins. Staff also recommends a provision in the lease applying the indemnity provisions to the entire period of unauthorized occupation.

The Applicant owns the upland property adjoining the lease premises. The subject facilities are 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 pier, boat dock, covered boat lift, and gangway have existed for many years at this location. The pier is built on pilings with the immediate area of the pier being relatively flat and sandy. The topography and location are navigable; public access for pedestrians and lake-related activities is available at varying water levels underneath the pier and by passing through the upland parcel 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, 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; 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 owner of improvements on state land, may be required to remove the existing pier, boat dock, covered boat lift, and gangway 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 the "Meeting Evolving Public Trust Needs" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
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 does not 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 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 \$77 for unauthorized occupation of state sovereign land for the period beginning December 23, 2020 through June 28, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 29, 2021, for a term of 10 years, for the use and maintenance of existing pier, boat dock, covered boat lift, and gangway, 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 \$148, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 7740

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, floating boat dock, covered boat lift and gangway lying adjacent to that parcel described in Grant Deed recorded December 23, 2020 in Document Number 20200035996 in Official Records of said County.

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 03/10/2021 by the California State Lands Commission Boundary Unit.



NO SCALE



APN 17-160-045

APROX.
SHORELINE

EXISTING
GANGWAY

EXISTING
PIER

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

EXISTING
COVERED
BOAT LIFT
6' x 8'

EXISTING
FLOATING
BOAT DOCK
20' x 8'

DONNER LAKE

EXHIBIT A

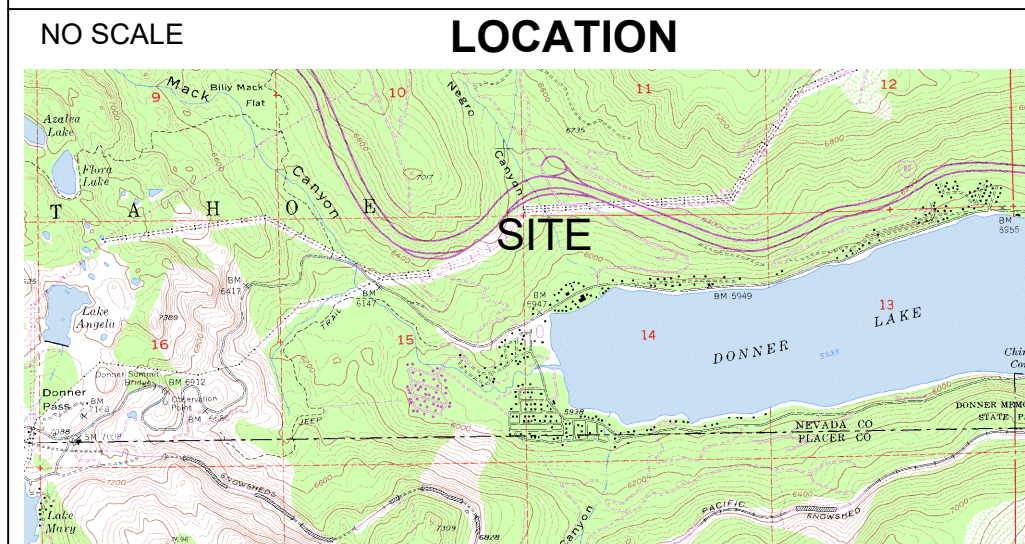
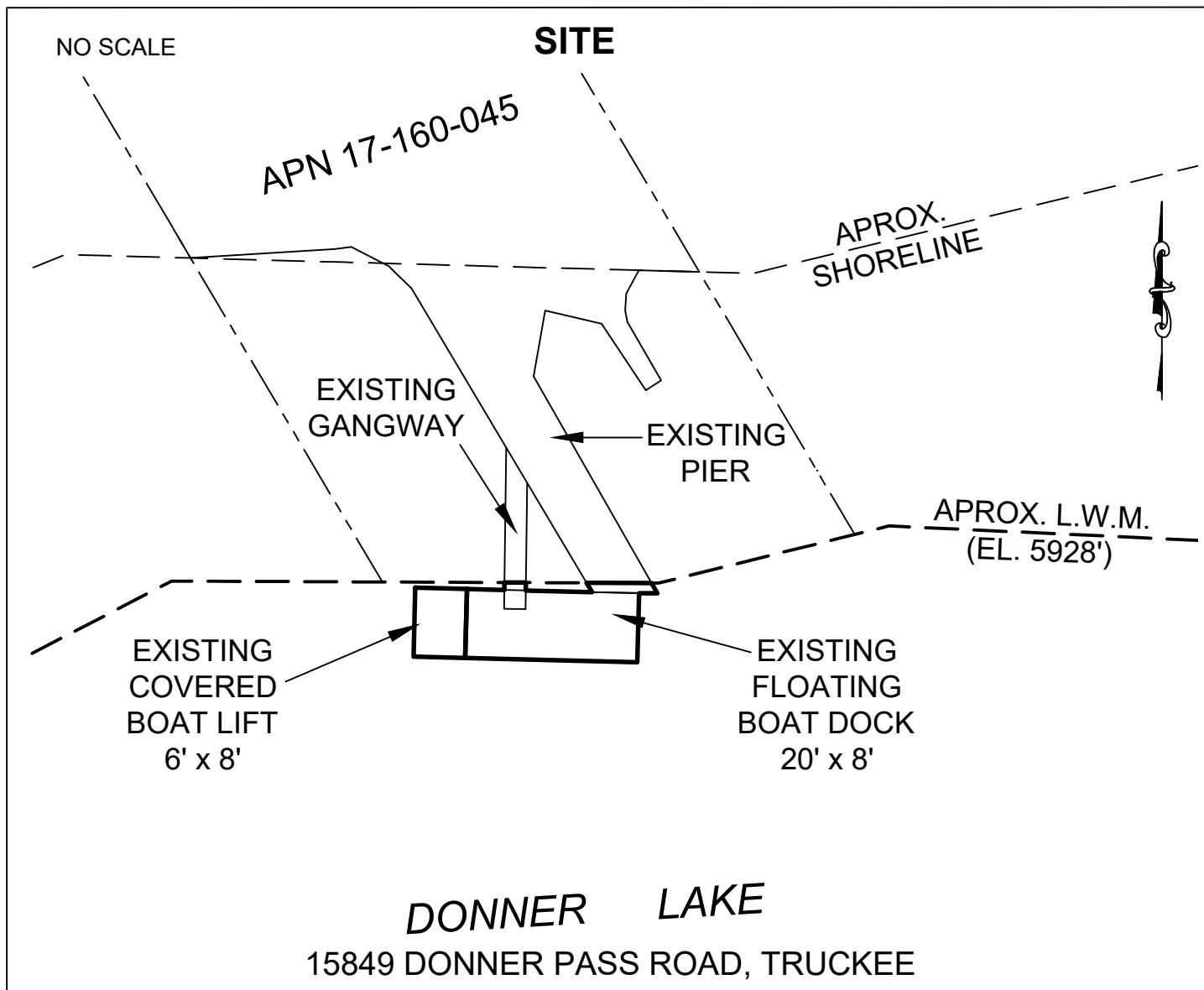
Page 2 of 2

TS 03/10/2021

LAND DESCRIPTION PLAT
LEASE 7740, SHIELDS TRUST
NEVADA COUNTY

CALIFORNIA STATE
LANDS COMMISSION





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 7740
 SHIELDS TRUST
 APN 17-160-045
 GENERAL LEASE -
 RECREATIONAL USE
 NEVADA COUNTY



TS 03/10/2021