

Staff Report 16

APPLICANT:

Gina Manion, as Trustee of the Stephen T. Humphrey Exempt Trust created under the Angel Kissed Trust established December 19, 2012

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Donner Lake, adjacent to 15208 Point Drive, near Truckee, Nevada County.

AUTHORIZED USE:

Use and maintenance of an existing pier.

TERM:

10 years, beginning December 8, 2021.

CONSIDERATION:

\$140 per year, with an annual Consumer Price Index adjustment, and \$722 to compensate for the unauthorized occupation of state sovereign land for the period beginning December 8, 2016 through December 7, 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, 6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On December 9, 2003, the Commission authorized a Recreational Pier Lease to Harmon E. Burns and Susan T. Burns, Trustees of the Burns Family Trust, dated April 25, 1996, for the construction, use, and maintenance of a pier ([Item C29, December 09, 2003](#)). That lease expired on November 30, 2013. In December 2012, the upland parcel was transferred to the Applicant. On June 1, 2015, the Applicant applied for a General Lease – Recreational Use for an existing pier. The Applicant's application (Item C07) was removed from the Commission's December 18, 2015, meeting agenda because of the Boundary Line Agreement being negotiated for Donner Lake. 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 and therefore the Applicant is applying for a General Lease – Recreational Use for the pier. Staff recommends the Applicant's lease begin on December 8, 2021, the day of the Commission meeting. The Applicant has a boat hoist and cleats attached to the portion of the pier that is not in the Commission's leasing jurisdiction. There is no evidence of cleats at the end of the pier for the docking or mooring of a boat and therefore an impact area for the end of the pier is not included.

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 has existed for many years at this location. The pier is built on pilings with the immediate upland area of the pier being built on level cement with access stairs. The topography at the location is 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 Applicant agreed to pay compensation for the unauthorized occupation of state land. Staff recommend the statutory 5-year period apply. Staff recommends

the Commission accept compensation from the Applicant in the amount of \$722 for the unauthorized occupation of state land during this period prior to the commencement of the proposed lease.

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.

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 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. 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 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, 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:

1. Authorize acceptance of compensation from the Applicant in the amount of \$722 for unauthorized occupation of State land through December 7, 2021.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning December 8, 2021, for a term of 10 years, for the use and maintenance of one existing pier, 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 \$140, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

LEASE 8503

LAND DESCRIPTION

A parcel of submerged land situated in the bed of Donner Lake, lying adjacent to Lots 7 and 8 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 lying adjacent to that parcel described in Grant Deed recorded December 31, 2012 in Document Number 20120035486 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 05/26/2021 by the California State Lands Commission Boundary Unit.

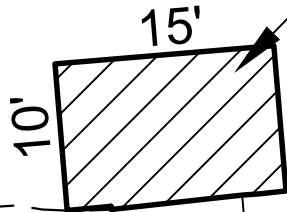


NO SCALE



DONNER LAKE

**LEASE
AREA**



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

**EXISTING
PIER**

9'

APROX.
SHORELINE

APN
17-260-012

EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 8503, ANGEL KISSED TRUST
NEVADA COUNTY

CALIFORNIA STATE
LANDS COMMISSION

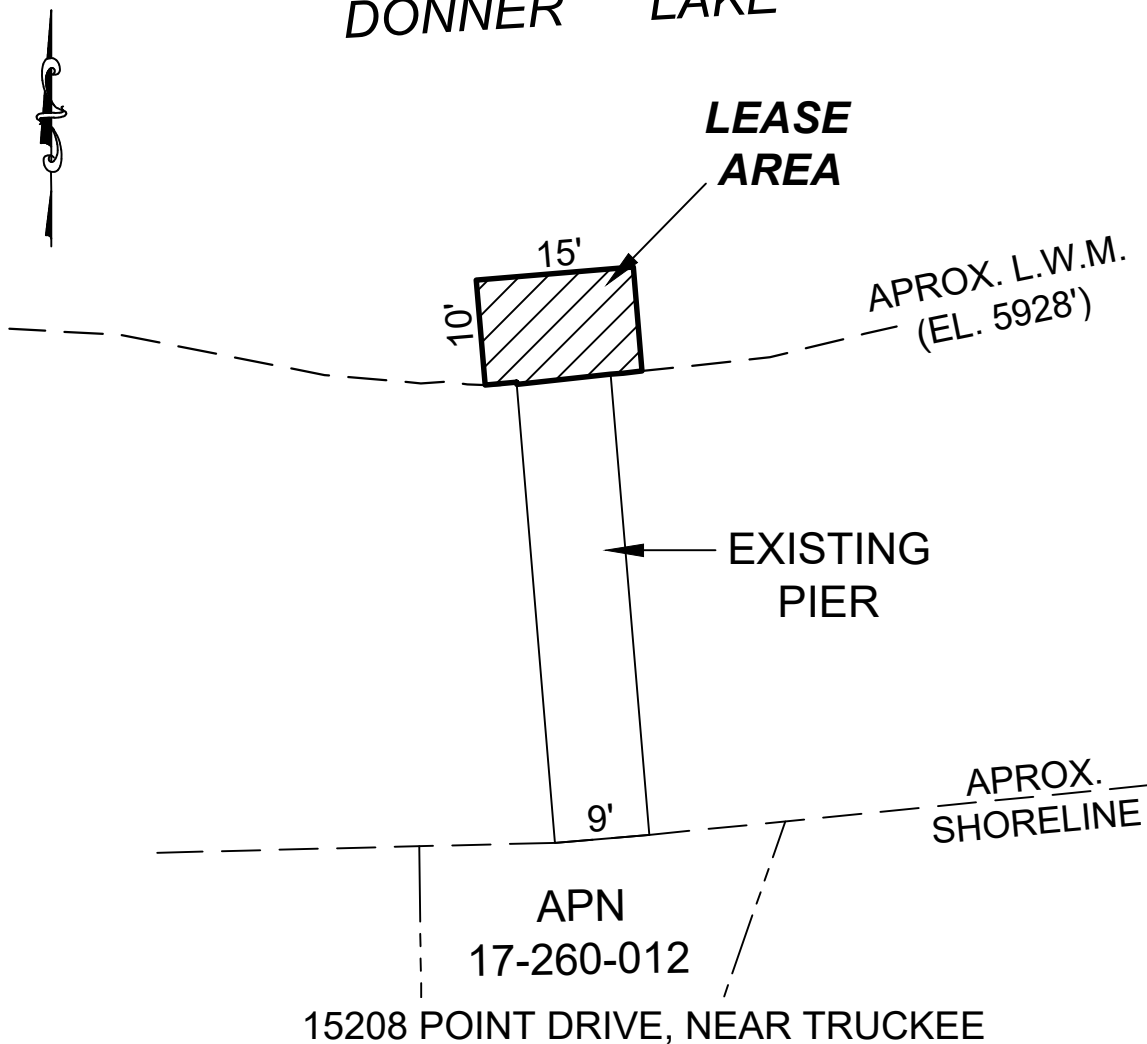


NO SCALE

SITE

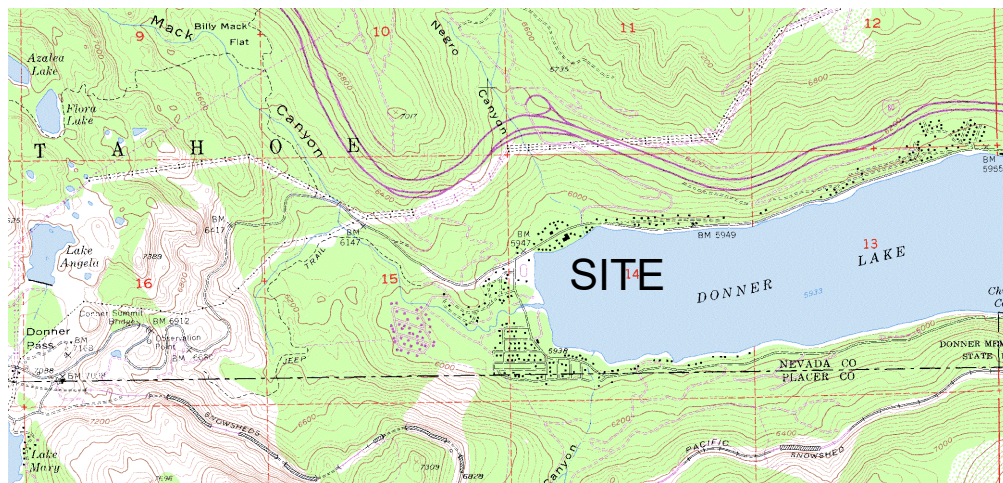
DONNER LAKE

LEASE
AREA



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 8503
ANGEL KISSED TRUST
APN 17-260-012
GENERAL LEASE -
RECREATIONAL USE
NEVADA COUNTY



TS 05/26/2021