

Staff Report 07

APPLICANT:

Donner Pines West Homeowners Association

PROPOSED ACTION:

Issuance of a General Lease – Recreational Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Donner Lake, adjacent to 15825 Donner Pass Road, near Truckee, Nevada County.

AUTHORIZED USE:

Use and maintenance of a portion of an existing boat dock.

TERM:

10 years, beginning April 26, 2022.

CONSIDERATION:

\$140 per year, with an annual Consumer Price Index adjustment, and \$663 to compensate for the unauthorized occupation of state sovereign land for the period beginning April 24, 2017, through April 25, 2022.

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 November 21, 2006, the Commission authorized a General Lease - Recreational and Protective Structure Use to Donner Pines West Homeowners Association, for the continued use and maintenance of an existing floating boat dock, bridge, gazebo, ramp, and bank protection ([Item 12, November 21, 2006](#)). That lease expired on August 20, 2016. In 2015, the Applicant applied for a General Lease – Recreational Use for a portion of an existing floating boat dock. 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 the Boundary Line and Easement Agreement that set the ordinary low-water mark at Donner Lake at 5928 feet elevation ([Item 69, October 24, 2019](#)). A portion of the Applicant's boat dock 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 dock. Staff recommends the Applicant's lease begin on April 26, 2022, the day of the Commission meeting.

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 boat dock has existed for many years at this location. The boat dock is secured to the shoreline with the immediate upland area of the dock 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 by navigating around the end of the pier or 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 recommends collecting compensation for the period leading up to the effective date of the proposed lease. Staff recommends the Commission accept compensation from the Applicant in the amount of \$663 for the

unauthorized occupation of state land during the 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.

CLIMATE CHANGE:

Climate change significantly affects inland non-tidal lakes such as Donner Lake. The frequency and severity of natural disasters like flooding, wildfire, drought, extreme heat, and storms are increasing throughout the state of California, including the Sierra Nevada mountains, and will continue to accelerate through the end of the century. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events and shifts in seasonal characteristics.

According to California's Fourth Climate Change Assessment, released in 2018, the most significant impacts of climate change in the Sierra Nevada Region are more intense heat, precipitation extremes, declining snowpacks, and changes in streamflow timing. The long-term warming trend will lead to warmer and shorter winters, and longer and dryer summers. Successive dry and warm winters are resulting in minimal snowpack, increased winter streamflows and floods, and decreased spring and summer runoff. Prolonged low lake levels will become normal. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions interfere with boat launching and mooring facilities. This impact is most noticeable where the facilities are sited on shallow, low gradient lake bottom locations.

Dry winters will be punctuated with exceedingly wet years where prolonged and excessive precipitation can produce flash floods. High precipitation in these years will result in higher lake levels, causing beaches to narrow and reducing public access. Extra saturation of the soil can increase erosion, especially following intense wildfire seasons. Surface runoff water may carry more sediment into the lake, adversely impacting water quality and clarity.

Climate change may also lead to more intense and unpredictable storm events and winds. These storms may deviate from prevailing wind patterns for the region. These winds can accelerate shoreline erosion in some areas or cause erosion in

areas not typically subject to erosion. Additionally, these winds can increase wave damage on structures and boats along the lake.

Shoreline structures authorized under this lease may require more frequent inspection and maintenance to ensure they are not displaced during storm events. Watercraft moored to buoys, piers, or docks are also vulnerable to damage from high wind events and excessive waves.

CONCLUSION:

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 boat dock 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 "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas 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 \$663 for unauthorized occupation of State land through April 25, 2022.
2. Authorize issuance of a General Lease – Recreational Use to the Applicant beginning April 26, 2022, for a term of 10 years, for the use and maintenance of a portion of an existing boat dock, 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 7901

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 floating boat dock, two pilings, ramp, gazebo and walkway lying adjacent to that parcel described in Corporation Grant Deed recorded September 12, 1980 in Document Number 80-24758 in 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 03/21/2022 by the California State Lands Commission Boundary Unit.



NO SCALE



APN 017-160-025

APROX.
SHORELINE

EXISTING
WALKWAY

EXISTING
GAZEBO

EXISTING
RAMP

EXISTING
PILINGS (2)

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

EXISTING
FLOATING
BOAT DOCK
24' x 6.5'

9' IMPACT
AREA

DONNER LAKE

EXHIBIT A

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LAND DESCRIPTION PLAT
LEASE 7901, DONNER PINES WEST HOA
NEVADA COUNTY

CALIFORNIA STATE
LANDS COMMISSION



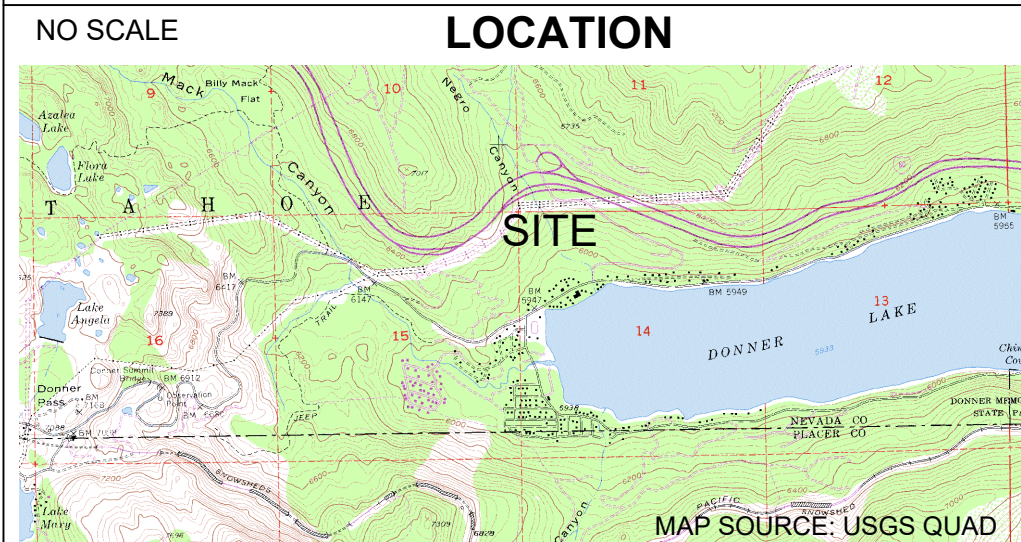
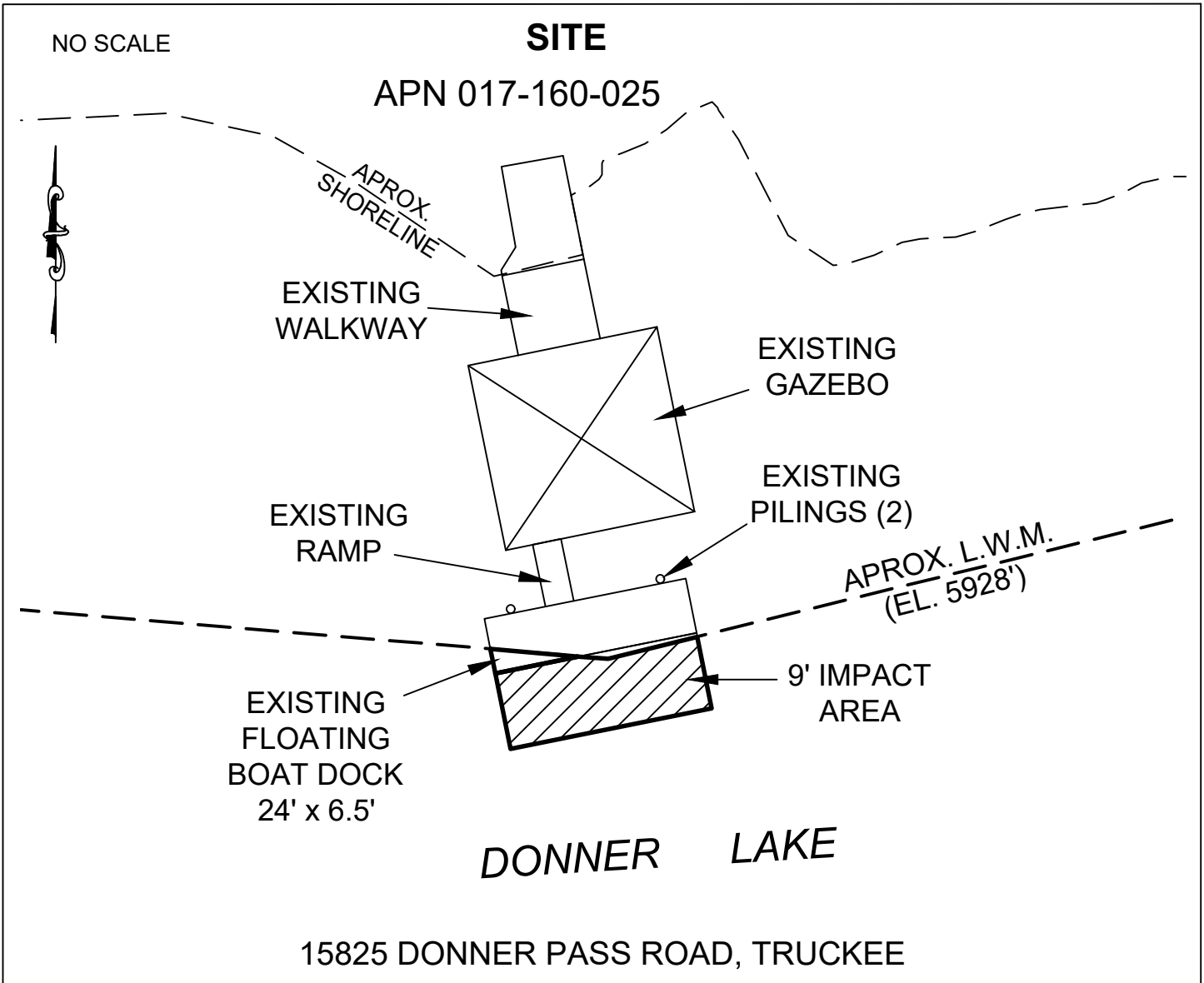


Exhibit B
 LEASE 7901
 DONNER PINES WEST HOA
 APN 017-160-025
 GENERAL LEASE -
 RECREATIONAL USE
 NEVADA COUNTY



TS 03/21/2022

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.