

Staff Report 23

APPLICANT:

Truckee-Donner Recreation and Park District

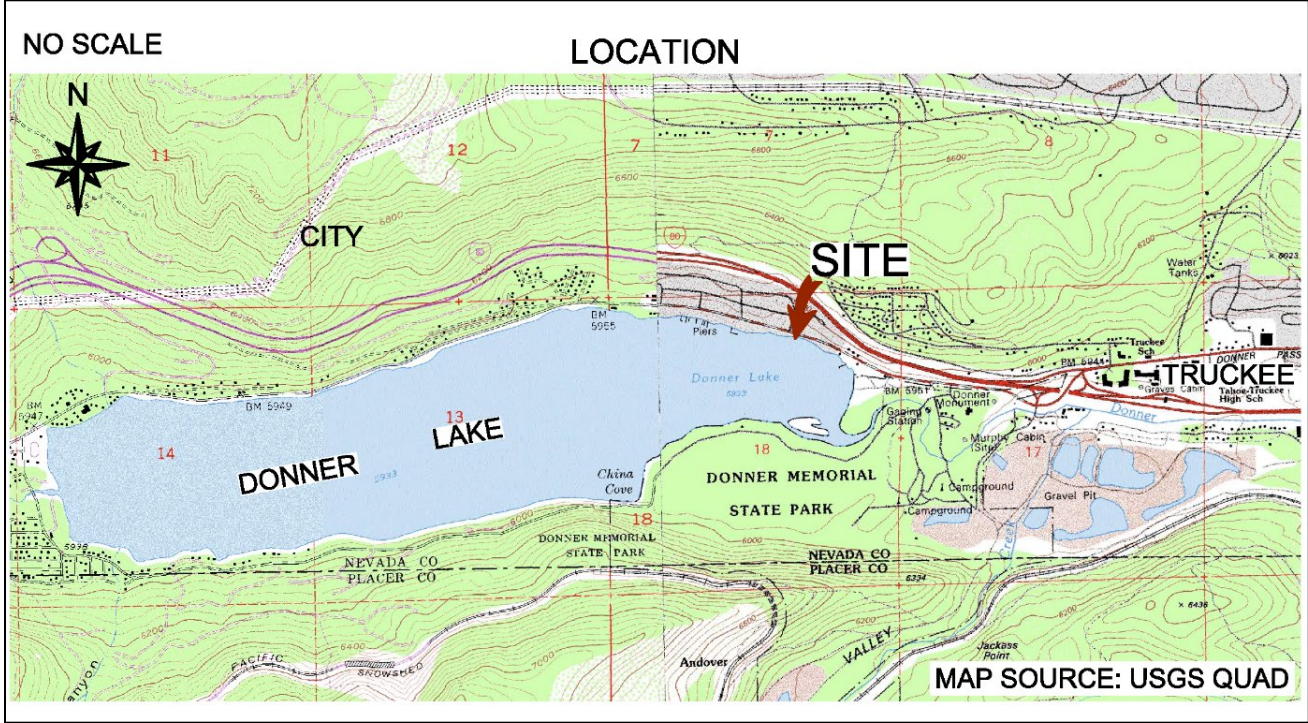
PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Donner Lake, adjacent to 13145 and 13253 Donner Pass Road, near Truckee, Nevada County (as shown in Figure 1).

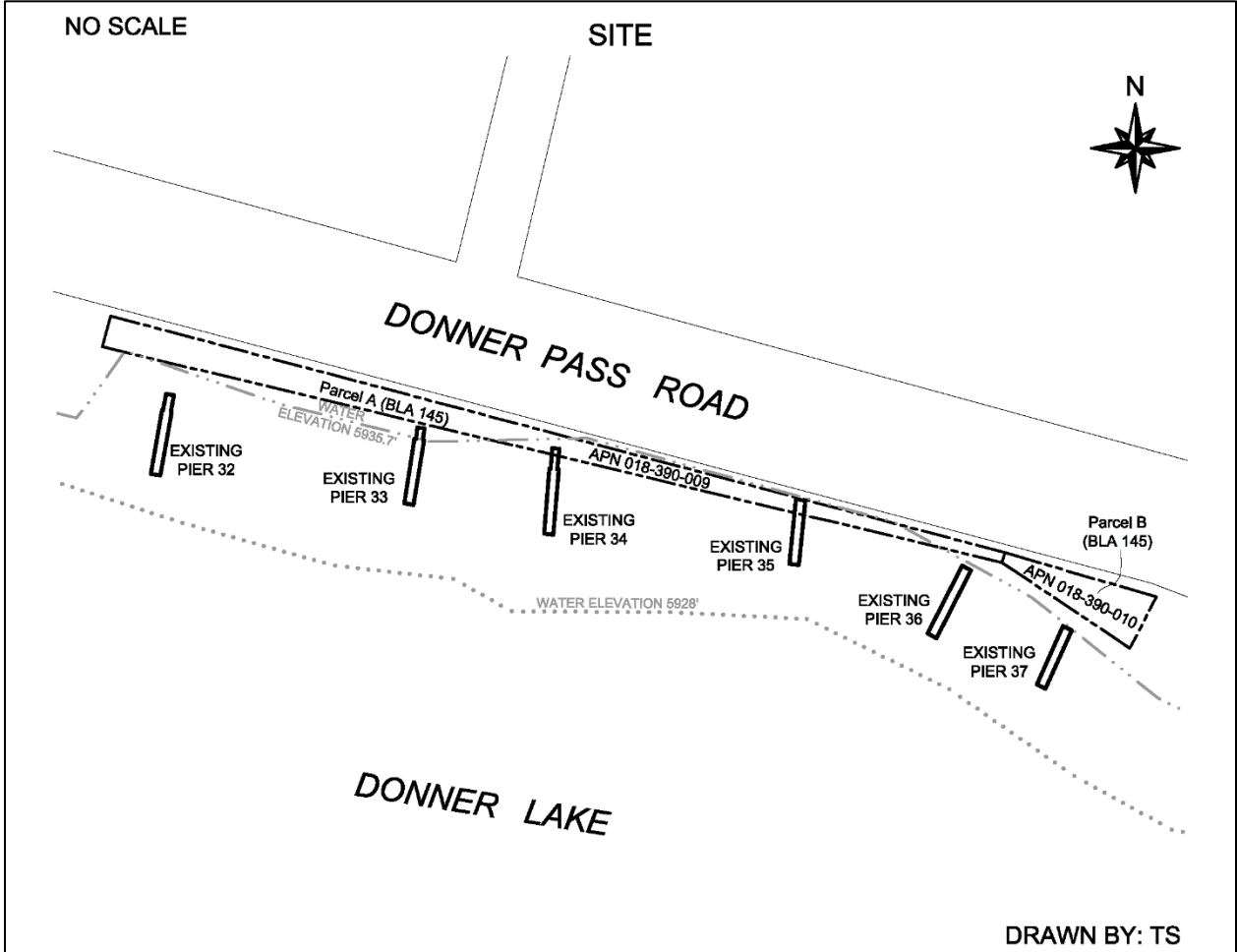
Figure 1. Location



AUTHORIZED USE:

Use of six existing public piers (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

20 years, beginning June 7, 2024

CONSIDERATION:

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.

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 June 6, 1974, the Commission authorized a boundary line and exchange agreement (Boundary Line Agreement 145) and a 49-year -Public Agency Permit to the Applicant for 11 existing public piers ([Item 26, June 6, 1974](#)). The permit was amended on August 21, 1996 to add a pier with access for the physically disabled, bringing the total number of piers to 12 ([Item 65, August 21, 1996](#)). The permit was amended for a second time on June 19, 1998 to include an additional 25 existing piers obtained by the Applicant through shoreline acquisitions ([Item 95 June 19, 1998](#)). The permit was amended for a third time on December 9, 2003 to replace two damaged piers ([Item 34 December 09, 2003](#)). The permit was amended for a fourth and final time on October 14, 2014 to authorize the construction of a uncovered boat dock with two anchors, two galvanized chains and two shore pins ([Item 14, October 14, 2014](#)). The permit expired July 31, 2023.

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, except in areas that have been filled or in areas where the Commission and the upland property owner have previously entered into a boundary line agreement or settlement agreement ([Item 69, October 24, 2019](#)). Although the Applicant was not a party to this Boundary Line Agreement, the low-water mark used for this agreement has been applied to other non-participating parties when there is not a preexisting agreement or areas of significant fill. Using 5928-foot elevation low-water mark means 31 of the Applicant’s 37 piers are not located on sovereign land under the Commission’s jurisdiction. The Applicant manages and maintains two parcels of land owned by the Commission that were received as part of Boundary Line Agreement 145 in 1974(Parcels A and B), and thus are not affected by the October 24, 2019, Boundary Line and Easement Agreement. Parcel A is identified as Assessor Parcel Number (APN) 018-390-009 (13253 Donner Pass

Road) and Parcel B is identified as APN 018-390-010 (13145 Donner Pass Road). The Applicant owns and maintains five piers adjacent to Parcel A and one pier adjacent to Parcel B. These six public piers are located within the Commission's jurisdiction and the Applicant is now applying for a General Lease - Public Agency Lease.

The piers are maintained by the Applicant and publicly accessible at no charge to the public. Tourists may use the public piers to participate in water recreation such as fishing and boating. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 20-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 proposed 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.

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 drier 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.

The piers 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 high wind events and damaging waves.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, and for the 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 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. If the Commission denies the application, the Applicant may be required to remove the improvements and restore the premises to their original condition. The lessee 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.

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 term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant beginning June 7, 2024, for a term of 20 years, for the use of six existing public piers; consideration being the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest; and liability insurance in an amount no less than \$1,000,000 per occurrence.