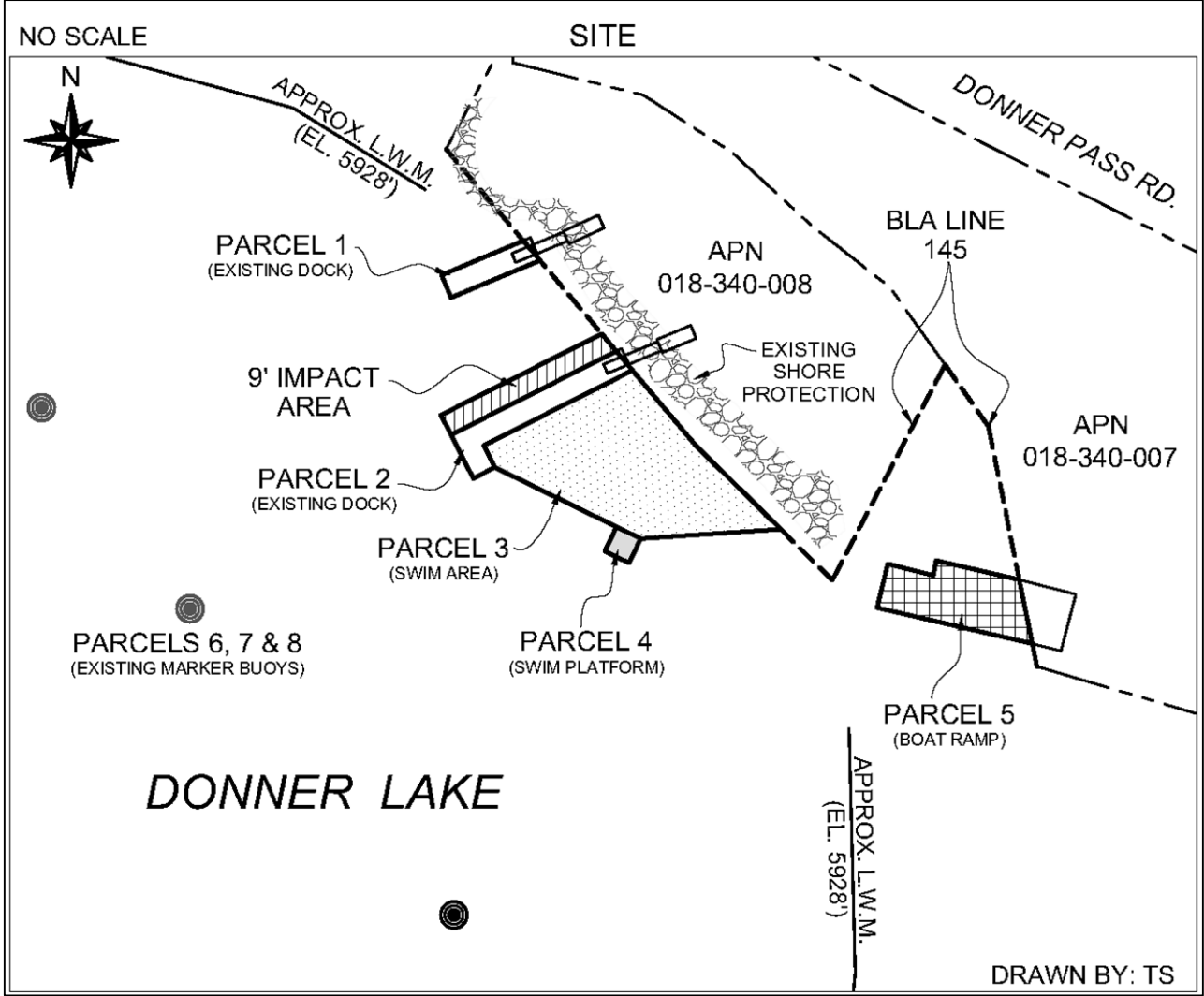


AUTHORIZED USE:

Use of two existing floating docks, boat launch ramp, swim area, one swim float, three speed marker buoys, and bank protection (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:

10 years, beginning December 17, 2024.

CONSIDERATION:

\$3,810 per year, with an annual Consumer Price Index adjustment; and \$5,948 for the unauthorized occupation of State land for the period prior to December 17, 2024.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee agrees the provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of State-owned land from May 1, 2023 through December 16, 2024

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 July 17, 1974, a boundary settlement and land exchange agreement was entered into between the Commission and Dart Industries Inc. This agreement granted two pieces of property on the north shore of Donner Lake consisting of 0.37 acres to the State. In exchange, the State issued Dart Industries a patent for the filled portion of Donner Lake consisting of 0.46 acres, and the Commission authorized a 49-year noncommercial lease to use submerged lands on the bed of Donner Lake under an existing boat ramp and floating boat dock ([Item 24, May 6, 1974](#)).

On June 24, 1976, the Commission approved an assignment of the lease to the Tahoe Donner Association and, at that time, amended the lease to update certain lease conditions ([Item 16, June 24, 1976](#)). On February 27, 1998, the Commission approved a second amendment for the retention of an additional existing floating dock, modification of the lease area, and the annual rent ([Item 77, February 27, 1998](#)). The Commission approved a third amendment on December 10, 2010, to include an existing swim area, one swim float, and three speed marker buoys; revise rent, the bond amount, and liability insurance coverage; and update lease provisions ([Item 36, December 10, 2010](#)). The lease expired April 30, 2023. The

Applicant is now applying for a General Lease – Recreational and Protective Structure Use, for two existing floating docks, boat launch ramp, swim area, one swim float, three speed marker buoys, and bank protection.

The Applicant owns the uplands adjoining the lease premises. The subject improvements 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 bank protection protects the upland property and maintains the integrity of the shoreline of Donner Lake, which will help protect the Public Trust resources for recreational and navigational use by the public. The facilities are located directly adjacent to the upland property and occupy a relatively small area of the river.

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.

The proposed lease will require the Applicant to pay compensation for the unauthorized occupation of State lands prior to December 17, 2024. The lease provisions regarding indemnity will be extended to apply from May 1, 2023 through December 16, 2024.

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.

Improvements 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 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; 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 15061 and California Code of Regulations, title 2, section 2905.

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:

1. Find that the existing and, for a limited period, continuing use of the existing two existing floating docks, boat launch ramp, swim area, one swim float, and three speed marker buoys, does not substantially interfere with Public Trust needs and values at this location and is consistent with the common law Public Trust Doctrine.

2. Find that the existing bank protection does not substantially interfere with Public Trust uses.
3. Find that issuing the proposed lease is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$5,948 for unauthorized occupation of State land for the period prior to December 17, 2024.
2. Authorize issuance of a General Lease – Recreational and Protective Structure Use to the Applicant beginning December 17, 2024, for a term of 10 years, for the use of two existing floating docks, boat launch ramp, swim area, one swim float, three speed marker buoys, and bank protection; annual rent in the amount of \$3,810, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.