

Staff Report 03

APPLICANT:

Donner Lake Village Owners Association

SUBLESSEE:

Donner Lake Water Adventures, Inc., dba Donner Lake Marina

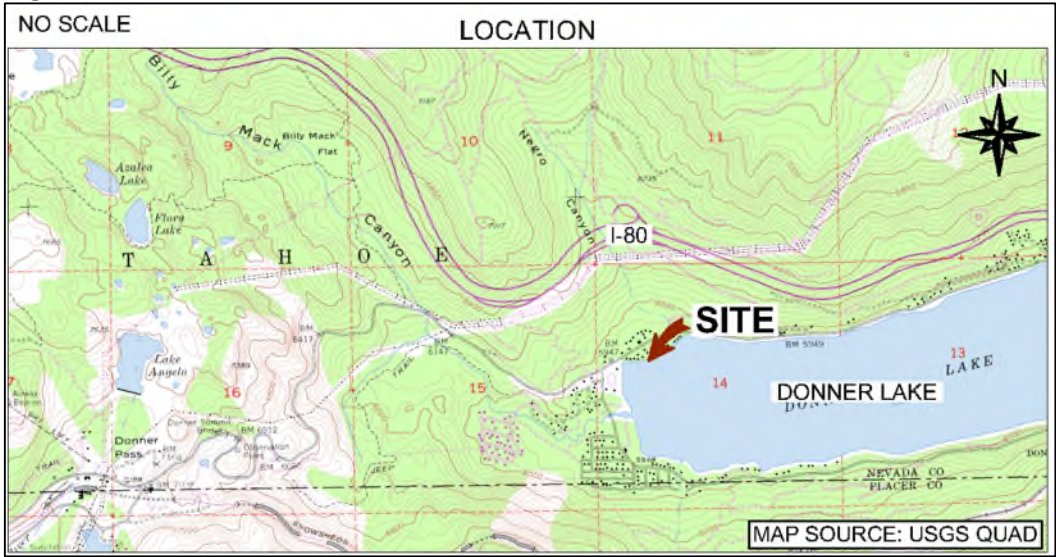
PROPOSED ACTION:

Acceptance of a Lease Quitclaim Deed, Issuance of a General Lease – Commercial Use and Recreational Use, and Endorsement of a Sublease.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Donner Lake, adjacent to 15695 Donner Pass Road, Truckee, Nevada County (as shown in Figure 1).

Figure 1. Location

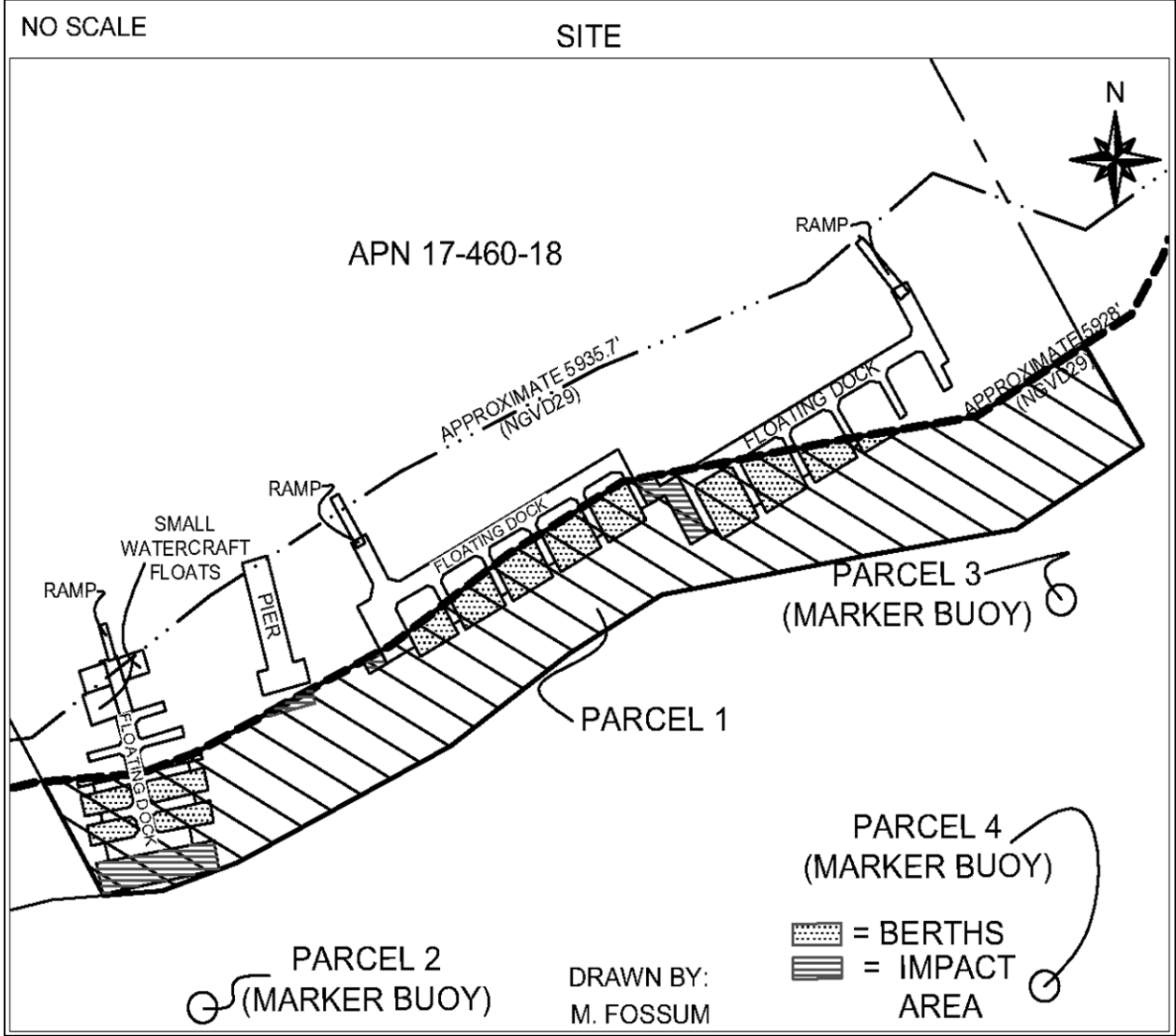


AUTHORIZED USE:

Lessee: For extension, operation, and use of an existing commercial marina known as Donner Lake Marina, consisting of one dock with four slips and boat rental concessions; and for use of two existing recreational docks with one slip, eight partial slips, and three existing marker buoys (as shown in Figure 2).

Sublessee: Operation of Donner Lake Marina and watercraft rental concessions.

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:

Lease: 10 years, beginning May 1, 2025.

Sublease: January 1, 2024 through December 31, 2026.

CONSIDERATION:

\$28,594 per year, with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; and \$24,804 to compensate for the unauthorized occupation of state sovereign land for two additional commercial slips and one marker buoy for the period prior to May 1, 2025.

SPECIFIC LEASE PROVISIONS:

- Surety or other security instrument in the amount of \$50,000.
- The lease contains provisions requiring implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and encouraging implementation of the Commission's "Best Management Practices for Berth Holders and Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories.
- Expansion of the uses, improvements and activities as set forth in Section 1 of this Lease shall be subject to Lessor's prior written consent and may be subject to environmental review prior to their commencement.
- Lessee or its operators may issue, without Lessor's prior approval, individual berth subleases in conjunction with normal commercial marina subleasing practices for terms of one year or less.

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, section 2000 and 2003.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On April 20, 2017, the Commission authorized a 10-year General Lease – Commercial and Recreational Use to the Donner Lake Village Owners Association and endorsement of a sublease to Donner Lake Water Adventures, Inc., dba Donner Lake Marina ([Item 1, April 20, 2017](#)). That lease will expire on April 30, 2026. On October 24, 2019, the Commission entered into a boundary line agreement (AD 671) which set the Commission's jurisdiction at elevation 5928 and therefore reduced the number of improvements which fall on state land in Donner Lake. A pier, several slips, floats, and ramps were no longer on state land. Based on this action, the lease exhibits were replaced, and the rent was modified from \$22,310 to \$7,223 with an annual Consumer Price Index adjustment. In May 2022, the Applicant and Sublessee extended the existing commercial dock with two additional berths without notice to the Commission; and in June 2023, the Applicant and Sublessee installed one marker buoy without authorization from the Commission. The commercial dock expansion with two additional slips were needed to accommodate the marina operator's boat rental fleet. The Applicant will indemnify the State for the entire period of occupation, prior to May 1, 2025, the starting date of the new lease.

The Applicant is applying for a new General Lease - Commercial and Recreational Use and endorsement of a sublease to Donner Lake Water Adventures, Inc., dba Donner Lake Marina, to obtain authorization for all existing improvements on state land in Donner Lake. The subject improvements include a commercial marina known as Donner Lake Marina, consisting of one dock with four slips and boat rental concessions; and for use of two existing recreational docks with one slip, eight partial slips, and three existing marker buoys. Staff is requesting a lease quitclaim deed from the Applicant, releasing its interest in Lease 8719. The Commission's accounting records show that the annual rent is paid current through April 30, 2026.

In January 2024, the Applicant entered into an agreement with Donner Lake Water Adventures, Inc., dba Donner Lake Marina to manage a watercraft rental business consisting of motorized boats, non-motorized boats, and personal water sports equipment. The rental business is seasonal and operates approximately five months per year, during daylight hours. During business hours when the power boats are not in use, they are moored in slips within the lease premises. The use will remain seasonal, aligning with the annual tourist season running from late spring to early fall. Given the duration that the Lease Premises may be occupied by the sublessee, the Applicant will be required to provide a copy of the primary lease to ensure that

Donner Lake Water Adventures, Inc., dba Donner Lake Marina is fully aware of the covenants and lease term limitations that govern its rights as a sublessee.

The Applicant is required to obtain endorsement of the sublease from the Commission. The lease terms and conditions require Lessor's evaluation of proposed assignees, sublessees, secured third parties and other transferees and to grant approval or disapproval according to the standard of commercial reasonableness. Staff have reviewed the sublessee's professional background and deemed them acceptable for this use.

Staff recommends starting the proposed lease on May 1, 2025, to align with the lease anniversary date. The proposed lease will require the Applicant to indemnify the State for the entire period of occupation for two additional commercial slips and one marker buoy dating back to April 1, 2022, and June 1, 2023, respectively, ensuring the State is protected. Staff is requesting compensation from the Applicant for the two commercial slips on state land during the period of unauthorized occupation. The Applicant's compensation will ensure that the State is made whole for the occupation of state land prior to the starting date of the new lease term.

The subject commercial marina and recreational docks directly promote Public Trust uses. The improvements accommodate, promote, and foster the public's need for maritime services and the public's enjoyment of the State's waterways. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The adjacent upland is developed as a commercial marina.

The proposed lease includes provisions and BMPs intended to protect the public's use of the proposed lease area, including a limited lease term of 10 years. The facilities have existed at this location for many years; they do not significantly alter the land, they do not permanently alienate the State's fee simple interest in the underlying land, and they do not permanently impair public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Furthermore, the lease requires that the lessee insure the lease premises and provide a bond or other form of financial security for the faithful performance of the lease obligations. The proposed agreement would require the Lessee to provide a surety in the amount of \$50,000 within 60 days of the lease authorization date. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

CLIMATE CHANGE:

INTRODUCTION:

Climate change significantly affects inland non-tidal lakes such as Donner Lake, and its effects are increasing throughout the Sierra Nevada mountains. According to [California's Fourth Climate Change Assessment](#) (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. These impacts create hazardous conditions like flooding, landslides, wildfire, drought, extreme heat, and severe storms. Structures along the shores of inland lakes are particularly vulnerable to the more frequent and extreme weather events, year-to-year changes in total precipitation, and shifts in seasonal characteristics.

DATA & PROJECTIONS:

Temperatures in the Sierra Nevada are expected to increase six to ten degrees Fahrenheit on average by the end of the century, causing the snowline to shift upslope 1,500 to 3,000 feet in elevation (California's Fourth Climate Change Assessment, 2018). The long-term warming trend will lead to warmer and shorter winters and longer and drier summers. The warmer winters will reduce winter snowpacks by up to 60 percent across most of the Sierra Nevada and will result in increased winter streamflows and floods and decreased spring and summer runoff. Loss of snowpack is expected to dry soils 15 to 40 percent below their historical norms. Hotter, drier summer seasons and low water years will increase stress to vegetation, elevating wildfire risk and fire severity in the Tahoe Basin.

Dry winters will be punctuated with exceedingly wet years and higher temperatures will result in more rain-on-snow events ([Integrated Vulnerability Assessment of Climate Change in the Lake Tahoe Basin](#), 2020). Atmospheric river systems will become more common. These events produce both flash floods and higher than normal seasonal flooding which may shift earlier in the year. Higher soil moisture will increase erosion and elevate landslide risk, particularly following intense wildfire seasons.

ANALYSIS:

The greatest vulnerability to recreational facilities is from flooding, landslides, and wildfire hazards (Integrated Vulnerability Assessment of Climate Change in the Lake Tahoe Basin, 2020). The Sierra Nevada is expected to experience year-to-year variability in precipitation and may shift between extreme wet and dry periods.

High precipitation years or successive years will result in higher lake levels, causing beaches to narrow and reducing public access. Surface runoff may carry more sediment into the lake, adversely impacting water quality, clarity, and increasing risk of algal blooms ([UC Davis Tahoe Environmental Research Center, 2024](#)). Conversely, low lake levels will become normal during periods of extended drought. Low lake level conditions can create more expansive beaches and increased shoreline access in dry months. However, these conditions could make some shoreline areas too shallow for effective recreational use of piers, boat docks, and mooring buoys. During drought, structures will also be exposed to heat and wind that may accelerate deterioration or reduce the structural integrity of certain structures.

Additionally, atmospheric rivers and extreme weather events are expected to increase in the high Sierra. Storms may deviate from prevailing wind patterns for the region. Wind-driven waves can accelerate shoreline erosion in some areas or cause erosion in areas not typically subject to erosion. Winds can also increase wave damage on structures and boats along the lake.

RECOMMENDATIONS:

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 high wind events and damaging waves. Replacing older structural components with materials designed to better withstand extreme heat, wind events, and storms can reduce the likelihood of degradation and damage to structures. Any future construction or activities on State land would require a separate authorization from the Commission.

Regular maintenance, as required by the lease, may reduce the risks from extreme temperatures and rain. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to the effects of climate change.

CONCLUSION:

For all the reasons above, staff believe acceptance of the lease quitclaim deed and issuance of this lease will not substantially interfere with the Public Trust needs at this location at this time, or for the remaining term of the lease; is consistent with the common law Public Trust Doctrine; and 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 must remove the improvements and restore the property to its 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. Acceptance of the quitclaim deed and endorsement of the sublease are not projects as defined by the California Environmental Quality Act (CEQA) because they are administrative actions that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

4. Staff recommend that the Commission find that issuance of the lease is exempt from the requirements of 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.

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease and the endorsement of the sublease are 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 and endorsement of a sublease 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 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 \$24,804 for the unauthorized occupation of state sovereign land for May 1, 2022 through May 1, 2025.
2. Accept a Lease Quitclaim Deed for Lease 8719, effective April 30, 2025.
3. Authorize issuance of a General Lease – Commercial and Recreational Use to the Applicant beginning May 1, 2025, for a term of 10 years, for extension, operation, and use of an existing commercial marina known as Donner Lake Marina, consisting of one dock with four slips and boat rental concessions; and for use of two existing recreational docks with one slip, eight partial slips, and three marker buoys; annual rent in the amount of \$28,594 with an annual Consumer Price Index adjustment, and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; liability insurance in an amount no less than \$2,000,000 per occurrence; and a surety or other security instrument of in the amount of \$50,000.
4. Authorize endorsement of a sublease between Donner Lake Village Owners Association and Donner Lake Water Adventures, Inc., dba Donner Lake Marina, to manage Lessee's improvements leased under Lease 8719 for the entirety of the lease period, including the period of unauthorized occupation.