

**CALENDAR ITEM  
C51**

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S 1

02/22/13  
PRC 8340.1  
B. Terry

**GENERAL LEASE - RECREATIONAL USE**

**APPLICANT:**

Donner Tract Improvement Association

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in Donner Lake, adjacent to 13954 Donner Pass Road, near Truckee, Nevada County.

**AUTHORIZED USE:**

Continued use and maintenance of an existing rock crib pier and an open pile pier.

**LEASE TERM:**

10 years, beginning June 1, 2012.

**CONSIDERATION:**

\$129 per year, with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease.

**SPECIFIC LEASE PROVISIONS:**

Liability insurance in the amount of no less than \$1,000,000.

**OTHER PERTINENT INFORMATION:**

1. Applicant owns the upland adjoining the lease premises.
2. On September 17, 2001, the Commission authorized a General Lease – Recreational Use. That lease expired on May 31, 2011. The Applicant is now applying for a new General Lease – Recreational Use.
3. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law took effect January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned land by certain private parties for their recreational piers. It replaced the former section with a new section 6503.5 which provides that the State

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Lands Commission “shall charge rent for a private recreational pier constructed on state lands.” The law provides for two exceptions to the imposition of rent. Those exceptions are for:

- A. A lease in effect on July 1, 2011 through the remaining term of that lease. If a lease in effect on July 1, 2011 expires or is otherwise terminated, any new lease will be subject to rent; and
- B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

Because the application was submitted to the Commission prior to March 31, 2011, the lease meets the statutory requirements for an exception to recently-enacted changes to Section 6503.5 of the Public Resources Code for the term of this lease.

- 4. The Applicant is a homeowners association comprised of 43 members, and, of these 43 members, two do not qualify for rent-free status pursuant to the original definition of Public Resources Code section 6503.5. Therefore, the annual rent for the rock crib pier and the open pile pier has been prorated based on the two non-qualifying members.
- 5. After the prior lease expired, the Association continued to pay the annual rent in effect during the term of that lease. Pursuant to the expired lease, the annual rent in effect during any holding-over shall be increased by 25 percent. Staff is recommending that the Commission accept the additional 25 percent holdover rent in the amount of \$20 for the period beginning June 1, 2011 through May 31, 2012.
- 6. The 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.

- 7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et

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seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**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).

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

1. Authorize acceptance of additional holdover rent in the amount of \$20 for the period of June 1, 2011 through May 31, 2012.
2. Authorize issuance of a General Lease – Recreational Use to the Donner Tract Improvement Association, beginning June 1, 2012, for a term of 10 years, for the continued use and maintenance of an existing rock crib pier and an open pile 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 \$129, with the State reserving the right to fix a different rent periodically during the least term, as provided in the lease; and liability insurance with coverage of no less than \$1,000,000.

**EXHIBIT A**

**PRC 8340.1**

**LAND DESCRIPTION**

A parcel of land situated in the bed of Donner Lake, lying adjacent to Lot 1 of fractional Section 13, 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 two existing piers lying adjacent to that parcel described in Corporation Grant Deed recorded December 1, 1967 as Document Number 11850 in Volume 436 at Page 56 Official Records of said County.

TOGETHER WITH a ten foot impact area.

EXCEPTING THEREFROM any portion lying landward of the low water mark elevation of 5933.8 feet of said Donner Lake.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

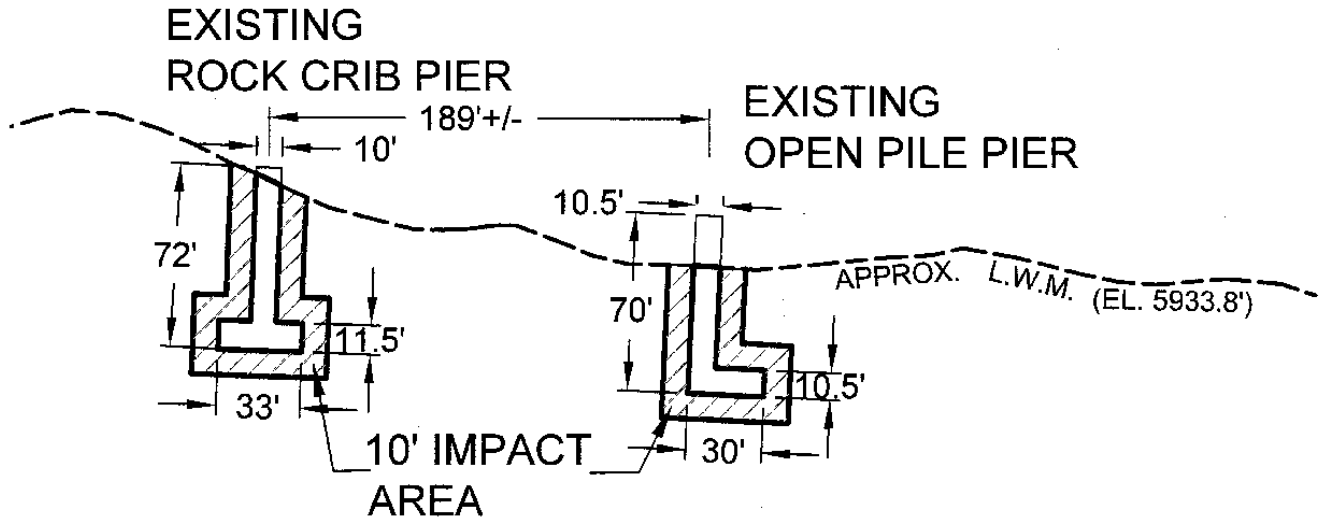
Prepared 10/18/2012 by the California State Lands Commission Boundary Unit.





DONNER PASS ROAD

APN 17-320-02



DONNER LAKE

EXHIBIT A

LAND DESCRIPTION PLAT  
PRC 8340.1, DONNER TRACT  
IMPROVEMENT ASSOCIATION  
NEVADA COUNTY

CALIFORNIA STATE  
LANDS COMMISSION

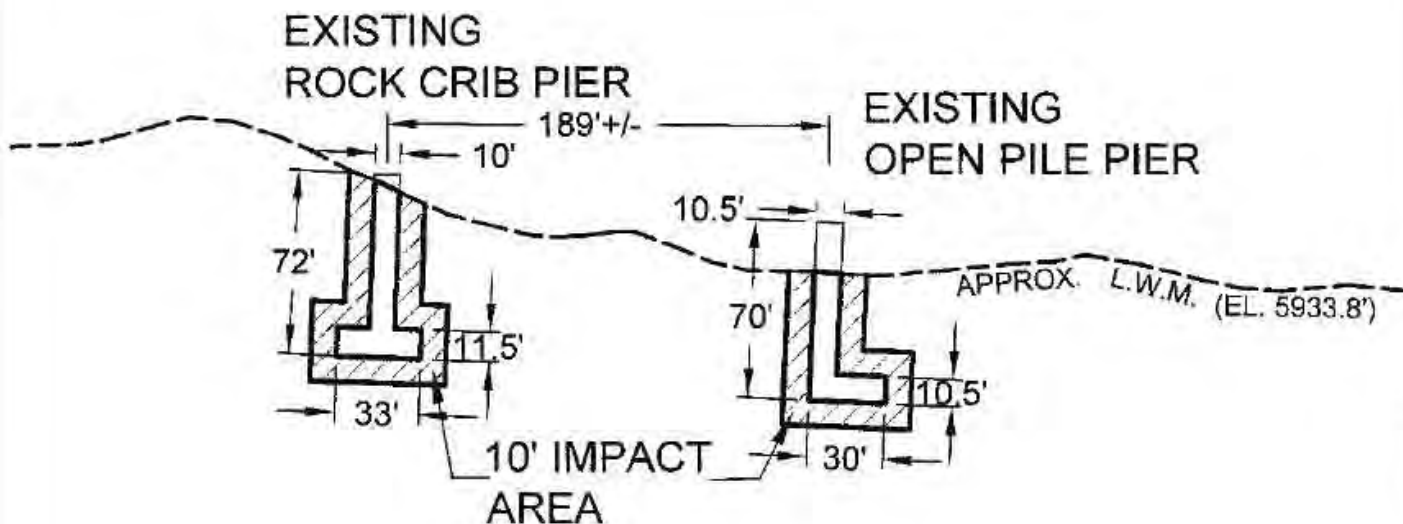


NO SCALE

### SITE

## DONNER PASS ROAD

### APN 17-320-02



## DONNER LAKE

### 13954 DONNER PASS ROAD, NEAR TRUCKEE

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

### **Exhibit B**

PRC 8340.1  
 DONNER TRACT IMPROVEMENT  
 ASSOCIATION  
 APN 17-320-02  
 GENERAL LEASE -  
 RECREATIONAL USE  
 NEVADA COUNTY



TS 10/18/13

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.