

**CALENDAR ITEM
C02**

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08/09/16
PRC 7851.1
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

David Michael Lancisi and Janine Lancisi

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Donner Lake, adjacent to 14106 South Shore Drive, near the town of Truckee, Nevada County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier.

LEASE TERM:

10 years beginning April 24, 2015.

CONSIDERATION:

\$385 per year, with an annual Consumer Price Index adjustment.

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, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

Applicant owns the upland adjoining the lease premises. The subject facilities are for the docking and mooring of boats. 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 lands (Pub. Resources Code, § 6503.5).

CALENDAR ITEM NO. **C02** (CONT'D)

The subject facility has existed for many years at this location. The pier is built on pilings, meaning the public may navigate next to, and at lower water levels, under the pier. This construction also permits lateral access along the beach area. The proposed lease will allow the public to walk or otherwise use the beach and shore area below high water for uses consistent with the Public Trust easement. The public can pass under the pier in the Public Trust easement between high and low water.

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.

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 use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. On October 17, 1995, the Commission authorized a Recreational Pier Lease to Anita McGill, Trustee. That lease expired on September 30, 2005. On April 24, 2015, the upland was deeded to David Michael Lancisi and Janine Lancisi. The Applicant is now applying for a General Lease – Recreational Use.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.

CALENDAR ITEM NO. **C02** (CONT'D)

3. 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.

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

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

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.

CALENDAR ITEM NO. **C02** (CONT'D)

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to David Michael Lancisi and Janine Lancisi beginning April 24, 2015, for a term of 10 years, for the continued use and maintenance of an existing 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 \$385, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7851.1

LAND DESCRIPTION

A parcel of submerged land situated in the bed of Donner Lake, lying adjacent to Lot 7 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 an existing pier lying adjacent to that parcel described in Grant Deed recorded April 24, 2015 as Document Number 20150009012 Official Records of said County.

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 12/11/2015 by the California State Lands Commission Boundary Unit.





DONNER LAKE

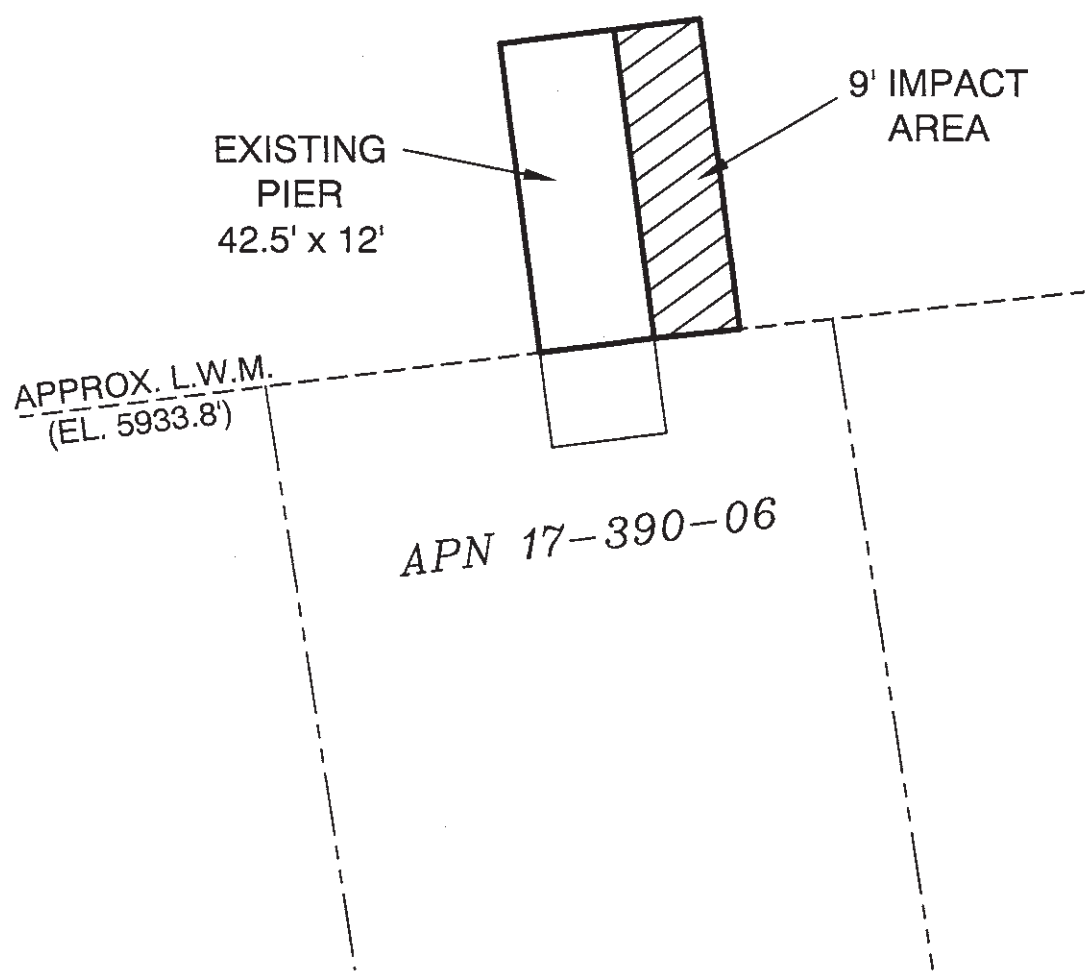


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 7851.1, LANCISI
NEVADA COUNTY

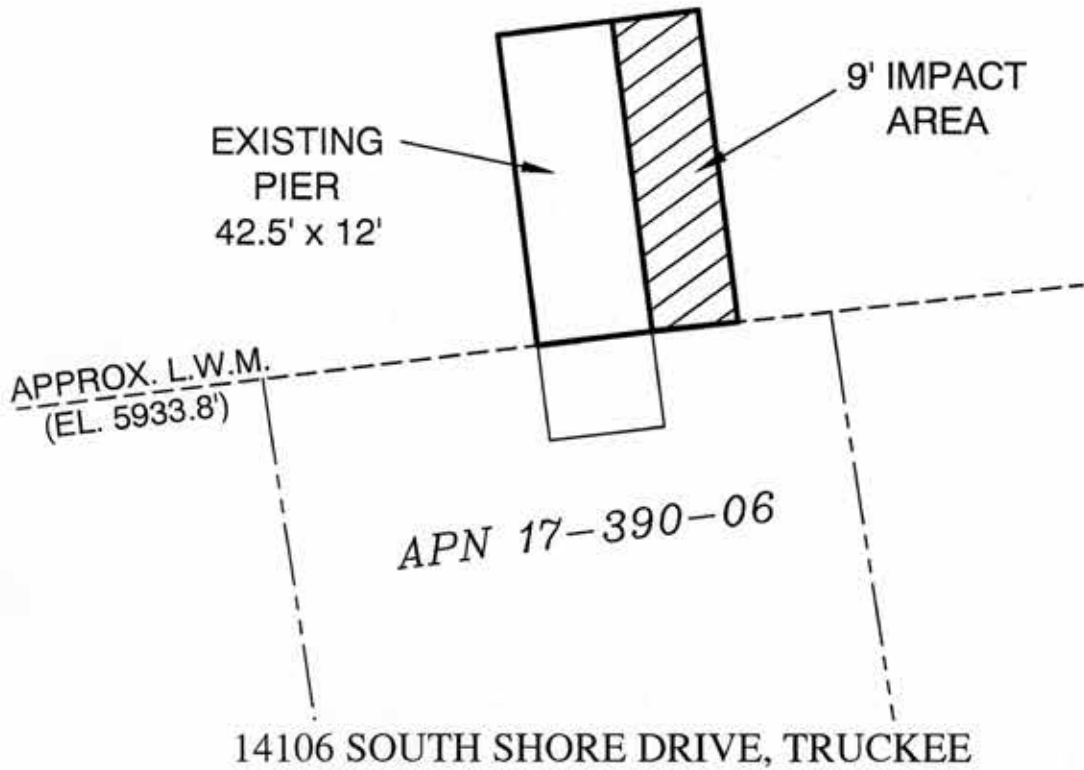
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

DONNER LAKE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7851.1
 LANCISI
 APN 17-390-06
 GENERAL LEASE -
 RECREATIONAL USE
 NEVADA COUNTY



TS 12/11/15

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.