

**CALENDAR ITEM
C04**

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08/09/16
W 26943
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Jan Cohn Stearns and Esther Marion Stearns, Trustees of the Cohn/Stearns Trust dated 7/26/97

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Donner Lake, adjacent to 14722 South Shore Drive, near the town of Truckee, Nevada County.

AUTHORIZED USE:

Reconstruction, use and maintenance of an existing pier not previously authorized by the Commission and installation of a boat lift.

LEASE TERM:

10 years, beginning August 9, 2016.

CONSIDERATION:

\$488 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

Other: Applicant acknowledges that a portion of the proposed pier will exist within the State administered Public Trust easement, which exists between the locations of the ordinary high watermark and low water mark of Donner Lake. Applicant agrees to allow the public to pass and repass around the landward end of the pier to allow access to the Public Trust easement. Applicant further agrees to not block the Public Trust easement to access adjacent property subject to the Public Trust easement.

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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 pier and boat lift 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). The subject facilities are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence.

The Applicant has applied for a General Lease - Recreational Use to authorize the reconstruction of an existing pier and installation of a boat lift. Thirteen wood posts and concrete footings will be removed and 15 new pilings will be driven into the lake bottom with a pile driver from a floating barge. The Applicant expects construction will take six weeks. The current pier has existed at this location for many years, but was not previously authorized by the Commission. The Applicant has submitted applications to other public agencies.

The lease includes certain provisions protecting the public use of the proposed lease area, including a lease term limited to 10 years, a non-exclusive use provision, and a reservation to the people of the State of an easement for access to and across the lease area. The Applicant proposes to reconstruct the pier and install a boat lift. The proposed facilities will be 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 or over the pier in the Public Trust easement between high and low water.

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

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involved. For all the reasons above, Commission staff believes the issuance of this lease is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. 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 promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. 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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

U.S. Army Corps of Engineers
California Department of Fish and Wildlife

FURTHER APPROVALS REQUIRED:

Lahontan Regional Water Quality Control Board
Town of Truckee

EXHIBITS:

- A. Land Description
- B. Site and Location Map

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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 3, New Construction of Small Structures; California Code of Regulations, title 2, section 2905, subdivision (c)(1).

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 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Jan Cohn Stearns and Esther Marion Stearns, Trustees of the Cohn/Stearns Trust dated 7/26/97, beginning August 9, 2016, for a term of 10 years, for the reconstruction, use and maintenance of an existing pier not previously authorized by the Commission and installation of a boat lift, 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 \$488, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 26943

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Donner Lake, lying adjacent to Lot 5 fractional Section 13, Township 17 North, Range 15 East, MDM., as shown on Official Government Township Plat approved April 10, 1867, County of Nevada, State of California, and more particularly described as follows:

All those lands underlying an existing pier, boat lift and catwalk lying adjacent to that parcel described in that Grant Deed recorded September 9, 2014 in Document Number 20140017258 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

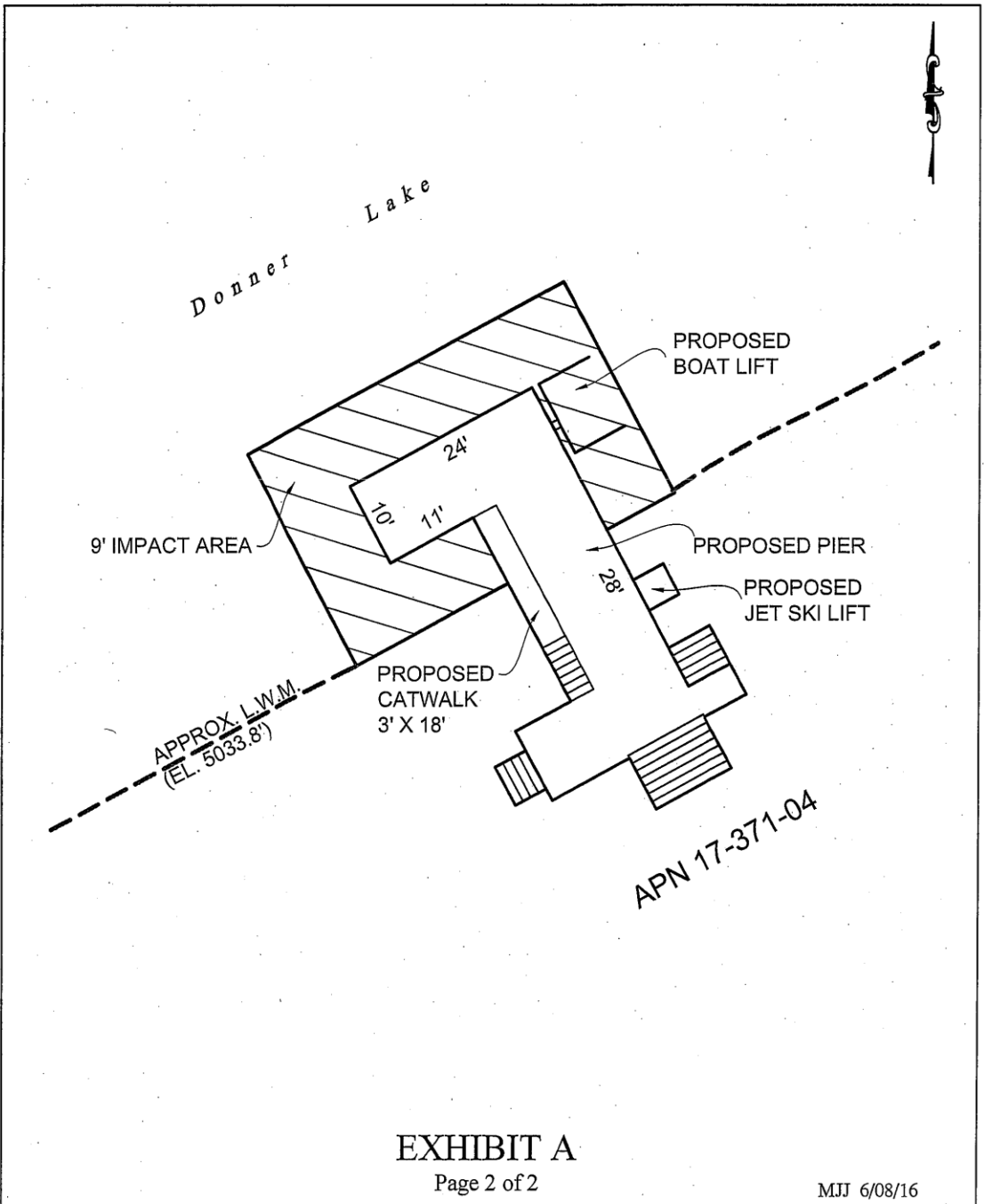
EXCEPTING THEREFROM any portion(s) lying landward of elevation 5933.8 feet on the shoreline of said Donner Lake.


Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared July 13, 2016 by the California State Lands Commission Boundary Unit.





<p>LAND DESCRIPTION PLAT W 26943 , COHN/STEARNS TRUST NEVADA COUNTY</p>	<p>CALIFORNIA STATE LANDS COMMISSION</p>	
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