

**STAFF REPORT  
C04**

A 1  
S 1

08/17/17  
PRC 7974.1  
M.J. Columbus

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANT:**

Carle and Carle, a Partnership

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Donner Lake, adjacent to 13869 Donner Pass Road, town of Truckee, Nevada County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing pier and a portion of a deck.

*LEASE TERM:*

10 years, beginning June 1, 2017.

*CONSIDERATION:*

\$248 per year, with an annual Consumer Price Index adjustment.

*SPECIFIC LEASE PROVISIONS:*

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreational uses.
3. The lease contains provisions stating that the existing deck, as shown on the attached Exhibit B, cannot be expanded farther out in the lake over sovereign land, and if repairs to any portion of the existing deck cost more than 50 percent of the base value of the deck, then that portion of the deck extending out over sovereign land must be removed from the lease premises.

STAFF REPORT NO. **C04** (CONT'D)

**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 Analysis:**

On October 30, 2007, the Commission authorized a General Lease – Recreational Use to Carle and Carle, a Partnership. ([Item C36, October 30, 2007](#)). That lease expired on May 31, 2017. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier and a small portion of the deck that extends onto sovereign land. The Applicant owns and maintains the facilities.

The subject facilities have existed for many years at this location. The pier is used for 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).

Only a very small sliver of the deck extends onto sovereign land. Decks are not generally associated with traditional Public Trust uses. The area where the improvements are located has a sharp slope dropping into the lake and is covered with dense vegetation. The topography limits public access in this area. Due to the slope, the access point to the pier is from the deck. The improvements do not substantially interfere with the needs and values of the Public Trust Doctrine at this location and for the term of the proposed non-exclusive lease. While new decks are generally not favored, decks that have been in place for years have been permitted if, as is the case in this instance, they do not significantly interfere with trust activities. However, the lease contains provisions that the deck may not be expanded nor rebuilt if substantially destroyed.

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 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

STAFF REPORT NO. **C04** (CONT'D)

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. For all the reasons above, Commission staff believes the issuance of this lease does not substantially interfere with the Public Trust needs at this time, at this location or for the foreseeable term of the lease is substantially consistent with the common law Public Trust Doctrine and 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 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.

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.

**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

STAFF REPORT NO. **C04** (CONT'D)

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, at this time or for the foreseeable term of the lease, is substantially 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 Carle and Carle, a Partnership, beginning June 1, 2017, for a term of 10 years, for the continued use and maintenance of an existing pier and deck 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 \$248, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 7974.1**

**LAND DESCRIPTION**

A parcel of submerged land situate in the bed of Lake Donner, lying adjacent to Lot 2 fractional Section 18, Township 17 North, Range 16 East, MDM., as shown on Official Government Township Plat approved December 20, 1865 County of Nevada, State of California, and more particularly described as follows:

All those lands underlying an existing pier and deck lying adjacent to that parcel described in Exhibit A of that Individual Grant Deed recorded March 11, 1977 in Volume 846 Page 574 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 10, 2017 by the California State Lands Commission Boundary Unit.

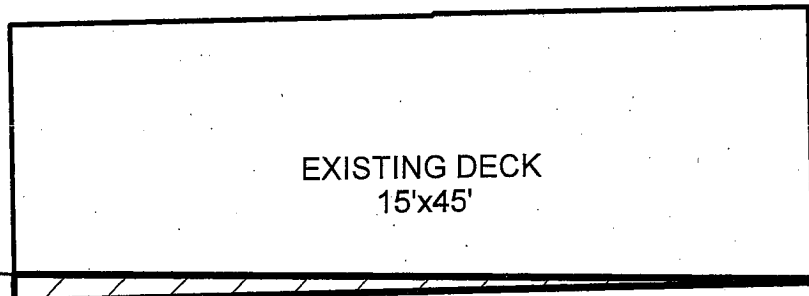




APN 18-352-01

APPROXIMATE

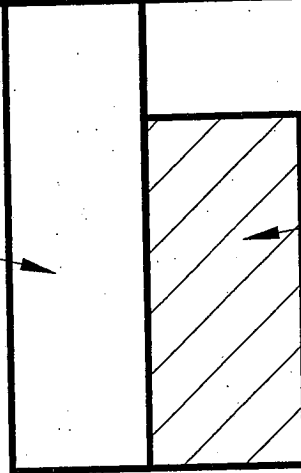
SHORELINE



EXISTING DECK  
15'x45'

5933.8'± LWL

EXISTING PIER  
8'x26'



9' IMPACT AREA

D O N N E R

L A K E

EXHIBIT A

Page 2 of 2

MJJ 7/05/17

LAND DESCRIPTION PLAT  
PRC 7974.1, CARLE & CARLE PARTNERSHIP  
NEVADA COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



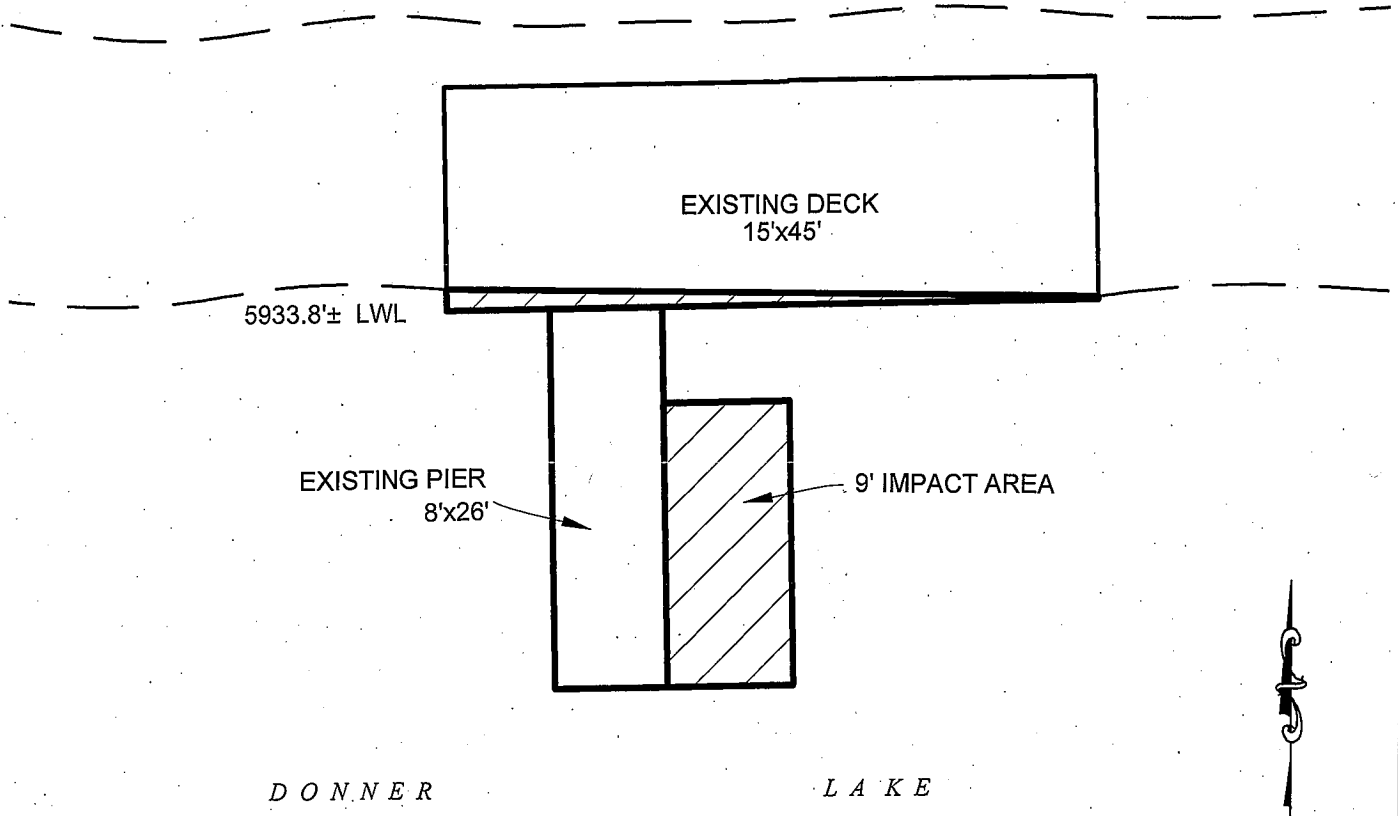
NO SCALE

# SITE

APN 18-352-01

APPROXIMATE

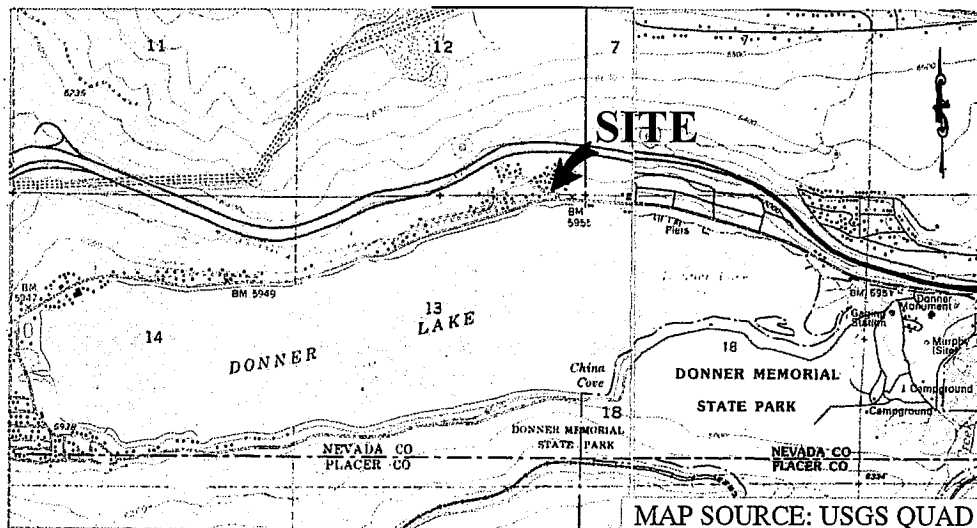
SHORELINE



13869 DONNER PASS ROAD, NEAR TRUCKEE

NO SCALE

## LOCATION



## Exhibit B

PRC 7974.1  
 CARLE & CARLE  
 PARTNERSHIP  
 APN 18-352-01  
 GENERAL LEASE-  
 RECREATIONAL USE  
 NEVADA COUNTY



MJ 07/05/2017

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.