

**STAFF REPORT  
C11**

A 1  
S 1

11/29/17  
PRC 7805.1  
K. Connor

**CONSIDER WAIVER OF RENT, PENALTY, AND INTEREST;  
ACCEPTANCE OF A LEASE QUITCLAIM DEED; AND  
ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

**LESSEE:**

William E. Doyle and Marion J. Doyle Family Limited Partnership

**APPLICANT:**

Robert F. Whittey, Trustee of the RM Karadanis 2001 Irrevocable Trust dated 9/17/2001

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land in Donner Lake, adjacent to 13880 South Shore Drive, near Truckee, Nevada County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing pier and floating boat dock.

*LEASE TERM:*

10 years, beginning November 29, 2017.

*CONSIDERATION:*

\$611 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.

## STAFF REPORT NO. C11 (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 April 23, 2015, the Commission authorized the issuance of a General Lease – Recreational Use to William E. Doyle and Marion J. Doyle Family Limited Partnership ([Item C25, April 23, 2015](#)). That lease expires on November 12, 2024. On October 4, 2016, ownership of the upland parcel was deeded to Robert F. Whittey, Trustee of the RM Karadanis 2001 Irrevocable Trust dated 9/17/2001. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing fixed pier and floating boat dock.

The Lessee paid annual rent through November 12, 2016. Therefore, staff recommends that the Commission accept compensation for the unauthorized occupation of State land from the Applicant in the amount of \$635 for the period beginning November 13, 2016, through November 28, 2017, the day before the new lease becomes effective.

Staff sent an annual rent invoice to the Lessee for the 2016-2017 lease period. The Lessee did not pay this invoice. Staff believes it is not in the State's best interests to pursue collection of rent, penalty, and interest from the Lessee for the period of November 13, 2016, through November 12, 2017, since they are no longer the upland owners at this time, and the Applicant already agreed to payment of compensation for the unauthorized occupation of State land during this time. The Lessee executed a lease quitclaim deed releasing their interest in the lease. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease.

During the winter, the pier structure was damaged by a storm that caused the shifting of a large ice sheet on the surface of Donner Lake. Several pilings were damaged and need to be replaced. The repairs will consist of installing new pilings as well as new decking to replace the previously damaged deck. There will be no change in size or configuration of the existing pier and all repairs will be made to the lakeward end of the pier structure. Therefore, the need for this work is solely to repair severe damage to the pier structure sustained by a shifting ice sheeting caused by a recent storm.

## STAFF REPORT NO. C11 (CONT'D)

The subject facilities are 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 authorized uses of Public Trust land (Pub. Resources Code, §6503.5).

The subject facility has existed for many years at this location. The pier is built on pilings and the immediate area of the pier is made up of gravel and cobbles with large boulders scattered along the shoreline. The topography and the location of upland structures provide access for the pier and allow the public to walk or navigate under the pier within the Public Trust easement.

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 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, staff believes the issuance of this lease is 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. Acceptance of a quitclaim deed and waiver of rent, penalty, and interest 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, section 15378, subdivision (b)(5).

STAFF REPORT NO. **C11** (CONT'D)

3. **Existing Floating Boat Dock and Ramp:** Staff recommends that the Commission find that this activity 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).
4. **Repair of the Damaged Pier:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, title 2, section 2905, subdivision (b).

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

5. 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:**

**Existing Floating Boat Dock and Ramp:**

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).

**Repair of the Damaged Pier:**

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 2, Replacement or Reconstruction; California Code of Regulations, title 2, section 2905, subdivision (b).

STAFF REPORT NO. C11 (CONT'D)

**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, and for the foreseeable term of the lease; 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:**

1. Waive annual rent, penalty, and interest due for the period of November 13, 2016, through November 13, 2017, and void annual rent invoice #40672 issued to William E. and Marion J. Doyle Family Limited Partnership.
2. Authorize acceptance of a lease quitclaim deed, effective November 28, 2017, for Lease No. PRC 7805.1, a General Lease – Recreational Use, issued to William E. and Marion J. Doyle Family Limited Partnership.
3. Authorized acceptance of compensation in the amount of \$635 for unauthorized occupation of State land for the period beginning November 13, 2016, through November 28, 2017.
4. Authorize issuance of a General Lease – Recreational Use to the Applicant; beginning November 29, 2017, for a term of 10 years, for the continued use and maintenance of the fixed pier and existing floating boat dock, 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 \$611, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 7805.1**

**LAND DESCRIPTION**

One parcel of submerged land situated in the bed of Donner Lake, lying adjacent to Lot 8 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 fixed pier, floating boat dock, and ramp lying adjacent to that parcel described in Grant Deed recorded October 04, 2016 as Document Number 20160022840 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

EXCEPTING THEREFROM any portion lying landward of the Low Water mark on the shoreline of said Donner Lake.

Accompanying plat is hereby made part of this description.

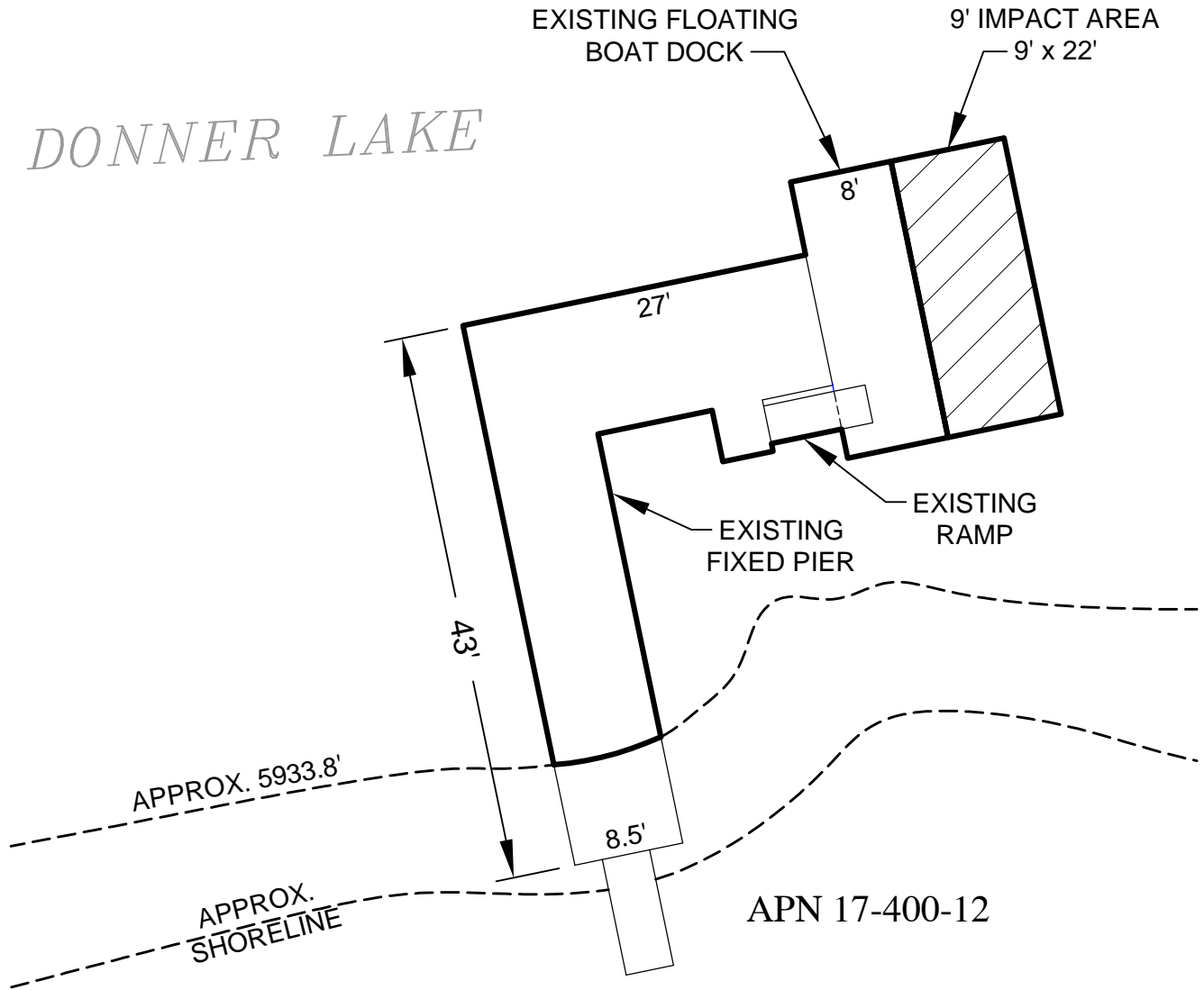
**END OF DESCRIPTION**

Prepared 10/17/2017 by the California State Lands Commission Boundary Unit.





*DONNER LAKE*



# EXHIBIT A

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RGB 10/17/17

LAND DESCRIPTION PLAT  
PRC 7805.1, RM KARADANIS  
NEVADA COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

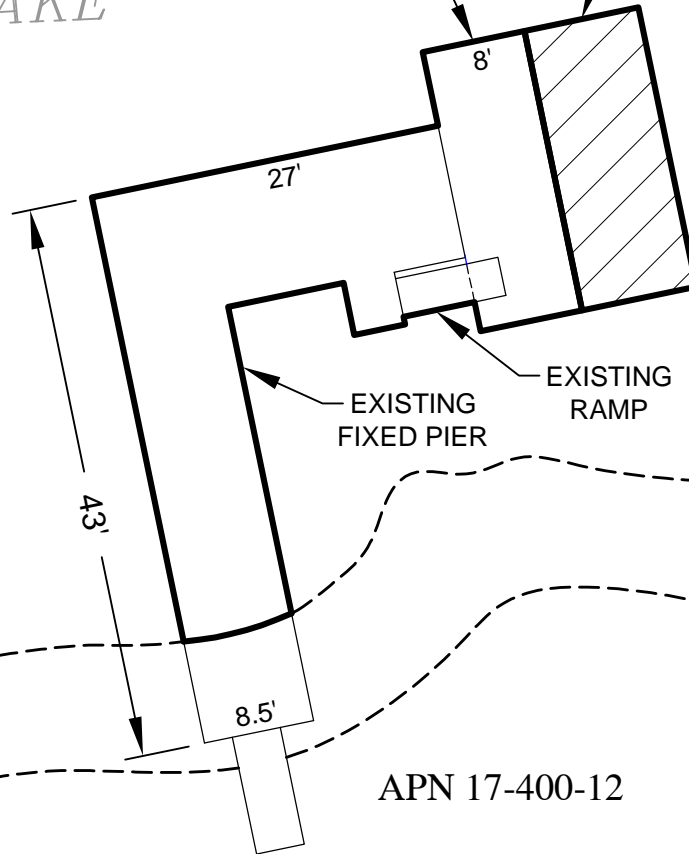
# SITE



## DONNER LAKE

EXISTING FLOATING BOAT DOCK

9' IMPACT AREA  
9' x 22'

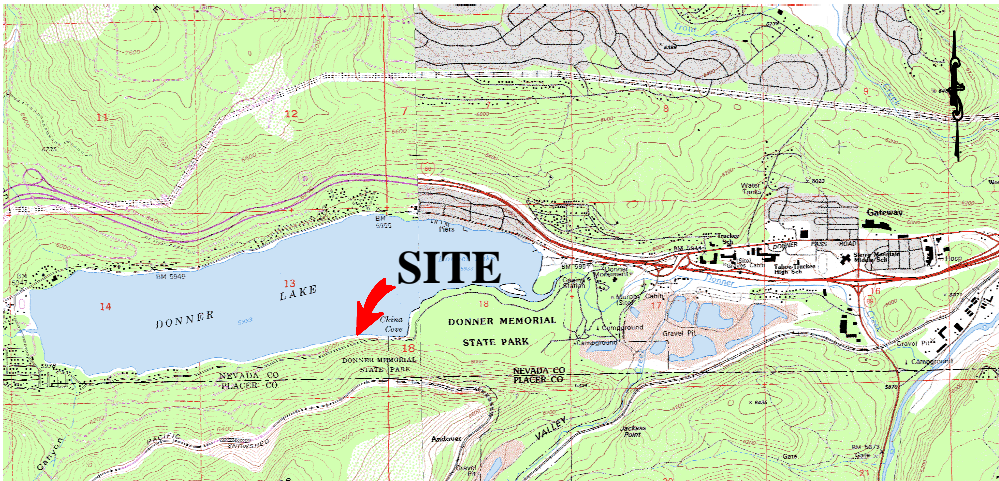


APN 17-400-12

13880 SOUTH SHORE DRIVE, TRUCKEE, CA

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 7805.1  
 RM KARADANIS 2001  
 REVOCABLE TRUST  
 APN 17-400-12  
 GENERAL LEASE -  
 RECREATIONAL USE  
 NEVADA COUNTY



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.