

**CALENDAR ITEM
C12**

A 1
S 1

10/13/16
W 8670.65
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

William A. Manke and Lavon T. Manke, as Co-Trustees under the William A. Manke Family Trust Agreement dated July 20, 1981

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Donner Lake, adjacent to 14956 South Shore Drive, near the town of Truckee, Nevada County.

AUTHORIZED USE:

Use and maintenance of an existing single-berth pier and storage shed not previously authorized by the Commission.

LEASE TERM:

10 years, beginning December 18, 2015.

CONSIDERATION:

\$737 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:

The single-berth pier facilitates recreational boating and the storage shed is used to store boating-related items. 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

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(Pub. Resources Code, § 6503.5). The subject facilities are privately owned and maintained. The Applicant owns the upland adjoining the lease premises and has applied for a General Lease – Recreational Use to authorize the subject facilities.

The single-berth pier and storage shed have existed for many years at this location. The subject facilities are built on pilings located on a flat part of the shore. The adjacent upland is sloped. The Applicant's lease application was originally scheduled to be considered at the Commission's December 18, 2015 public meeting, but the Applicant's attorney requested that it be removed from the agenda for further review. The Applicant is now requesting authorization of the lease.

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 occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease 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. 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,

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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 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 Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and 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. **C12** (CONT'D)

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to William A. Manke and Lavon T. Manke, as Co-Trustees under the William A. Manke Family Trust Agreement dated July 20, 1981; beginning December 18, 2015, for a term of 10 years, for the use and maintenance of an existing single-berth pier and storage shed not previously authorized by the Commission, 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 \$737, with an annual Consumer Price Index adjustment; and liability insurance in the amount of \$1,000,000 per occurrence.

EXHIBIT A

W 8670.65

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Donner Lake, lying adjacent to Lot 8 fractional Section 14, 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:

PARCEL 1- PIER

All those lands underlying an existing pier and one (1) berth lying adjacent to a parcel described in that Quitclaim Deed recorded May 30, 1995 in Document Number 95-13269 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 October 16, 2015 by the California State Lands Commission Boundary Unit.





DONNER LAKE

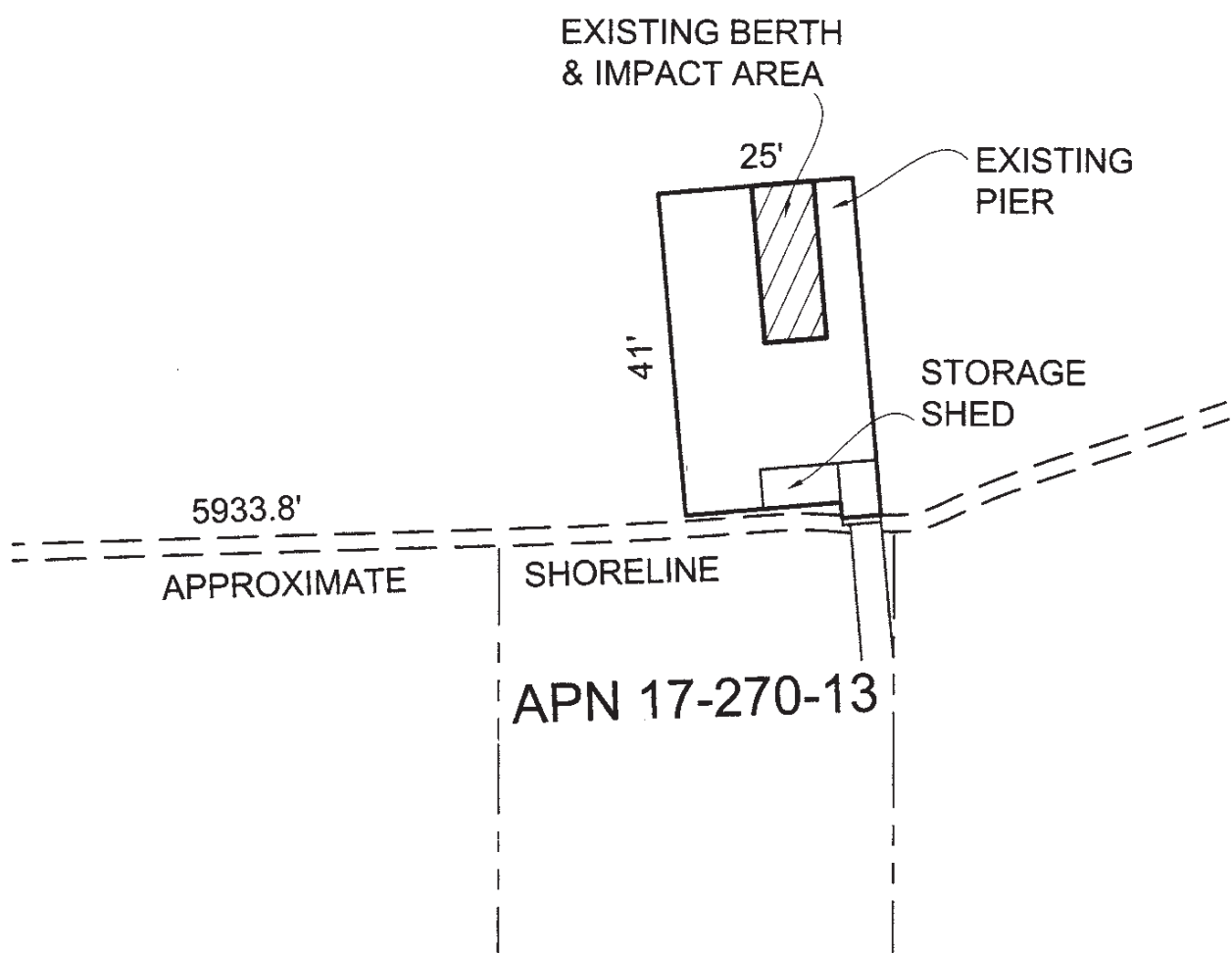


EXHIBIT A

LAND DESCRIPTION PLAT
W 8670.65, MANKE TRUST
NEVADA COUNTY

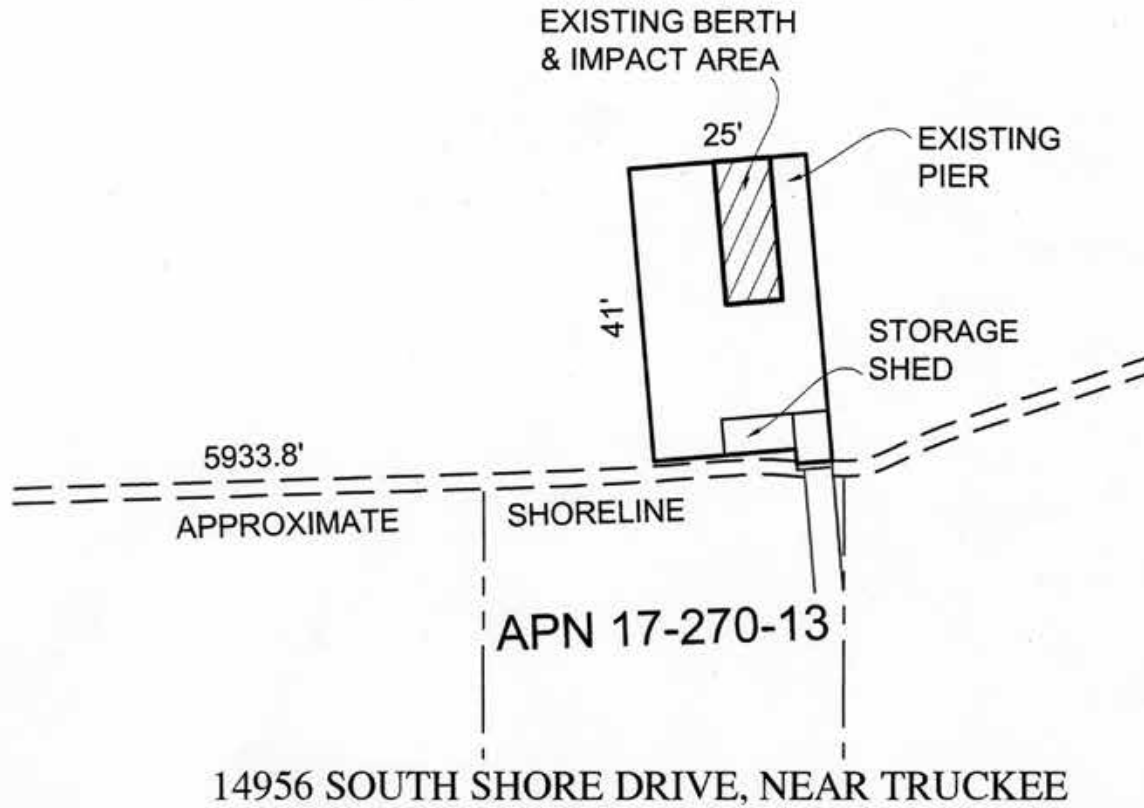
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

DONNER LAKE



NO SCALE

LOCATION

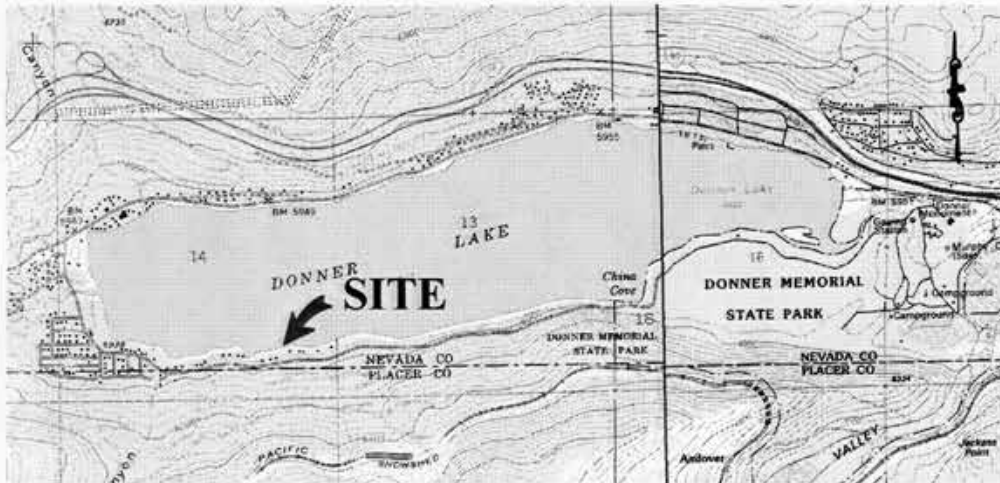


Exhibit B

W 8670.65
 MANKE TRUST
 APN 17-270-13
 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.