

**STAFF REPORT
C05**

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11/29/17
PRC 7284.1
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Steven D. Mellema and Cynthia L. Mellema

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Donner Lake, adjacent to 13671 Donner Pass Road, near Truckee, Nevada County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and boat hoist.

LEASE TERM:

10 years, beginning October 1, 2016.

CONSIDERATION:

\$397 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 ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

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Public Trust and State's Best Interests Analysis:

On November 21, 2006, the Commission authorized a Recreational Pier Lease to Dirk Mellema and Joann Mellema, as Trustees of the Dirk Mellema and Joann Mellema 1979 Trusts dated April 30, 1979 ([Item C09, November 21, 2006](#)). That lease expired on September 30, 2016. On August 27, 2013, the property was deeded to Steven D. Mellema and Cynthia L. Mellema. The Applicant is now applying for a General Lease – Recreational Use for the continued use and maintenance of the existing pier and boat hoist that extends onto sovereign land. The Applicant owns and maintains the facilities.

The 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 an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on a crib skirting. The topography and location of upland structures provide access for the pier and allow the public to walk or navigate next to the end of the pier within the Public Trust easement. However, the lateral public access is limited within the Public Trust easement because the pier is built on a crib and restricts public access from walking or navigating underneath the pier.

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, Commission 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

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protection, preservation and responsible economic use of the land and resources under the Commission's jurisdiction and Strategy 1.3 of the Commission's Strategic Plan 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 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, 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.

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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 Steven D. Mellema and Cynthia L. Mellema, beginning October 1, 2016, for a term of 10 years, for the continued use and maintenance of an existing pier and boat hoist 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 \$397, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7284.1

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 boat hoist adjacent to that parcel described in Exhibit A of that Grant Deed recorded August 27, 2013 in Document 20130024177 of 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 31, 2016 by the California State Lands Commission Boundary Unit.



APN 18-352-13

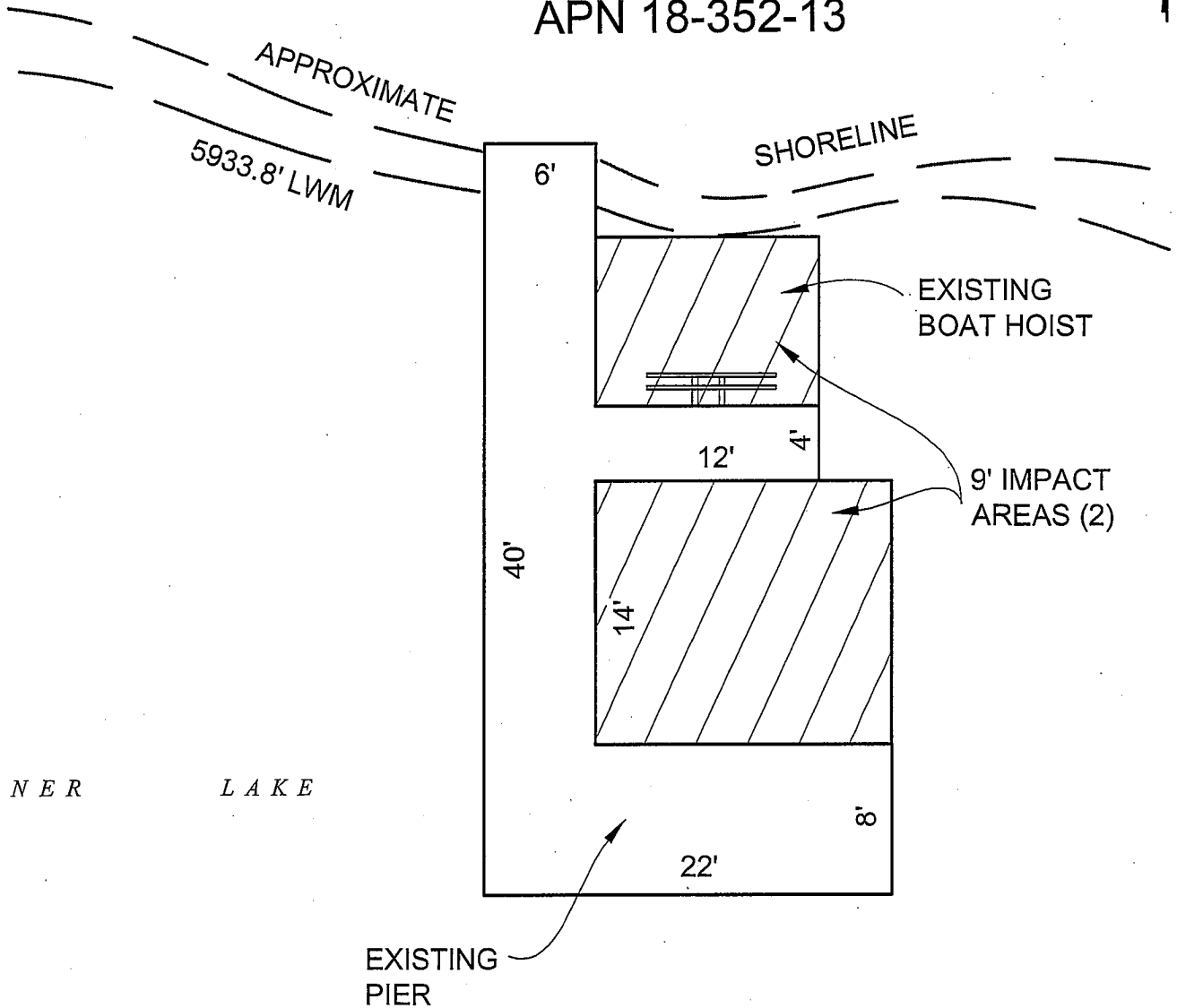


EXHIBIT A

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LAND DESCRIPTION PLAT
 PRC 7284.1, MELLEMA
 NEVADA COUNTY

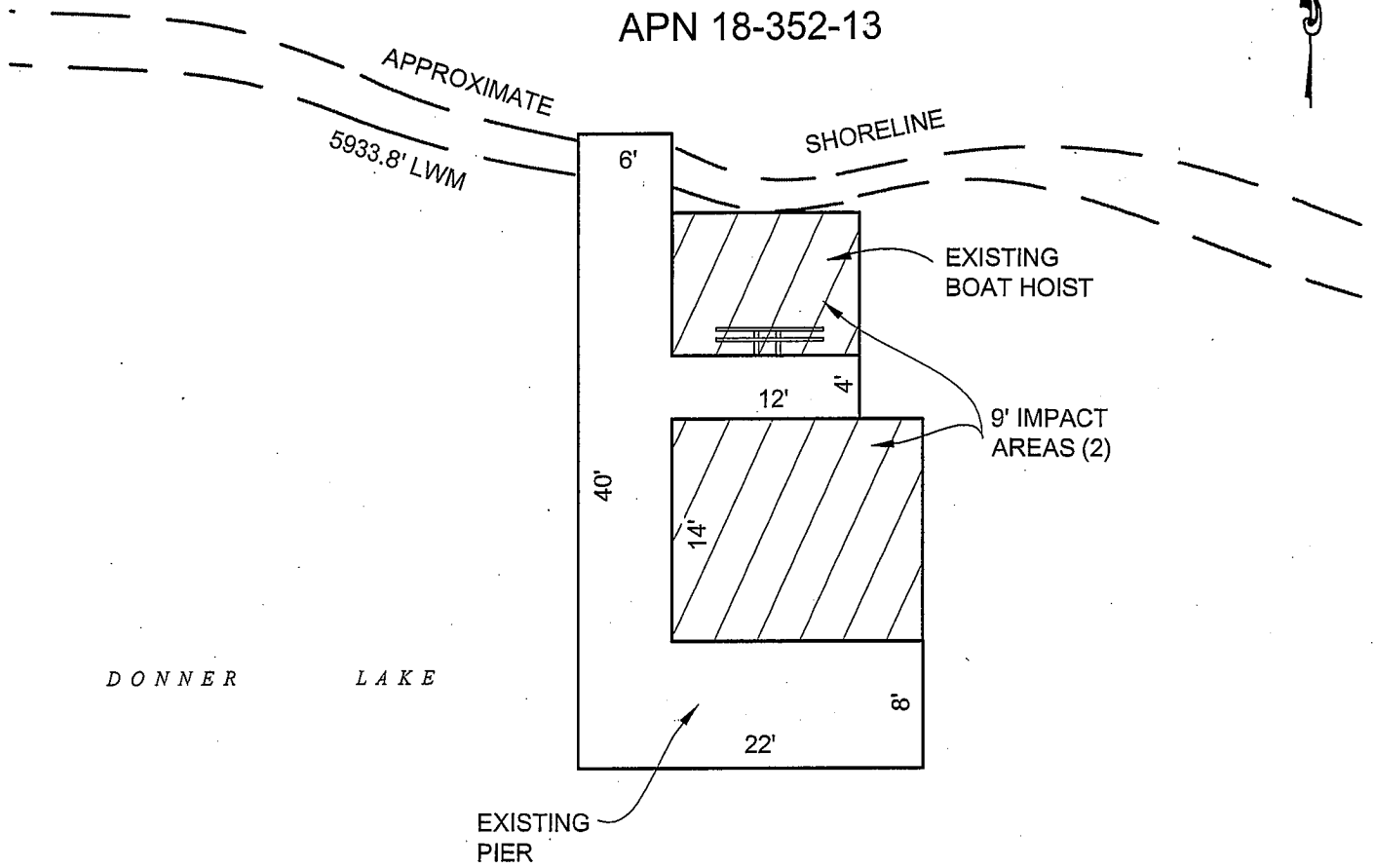
CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE

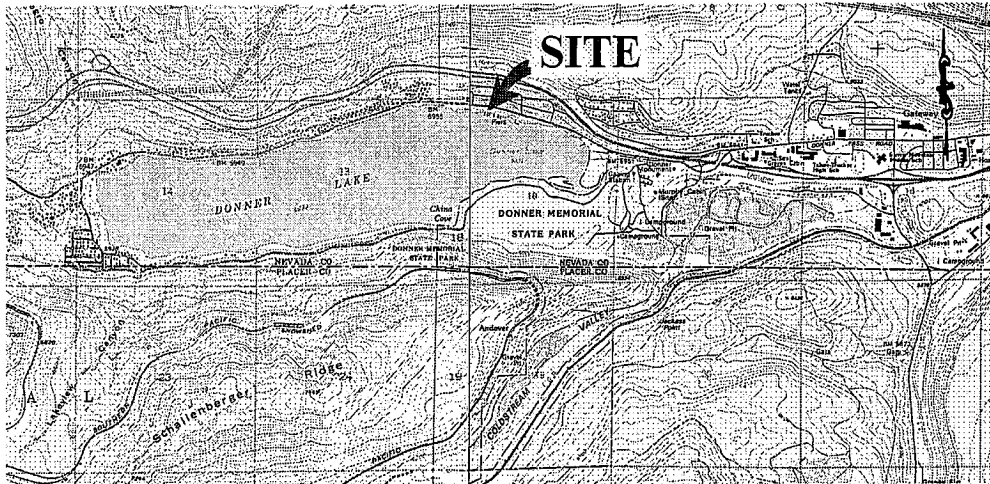
APN 18-352-13



13671 DONNER PASS ROAD, NEAR TRUCKEE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7284.1
 MELLEMA
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 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.

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