

**CALENDAR ITEM
C36**

A 4, 3
S 1

12/10/10
WP 4909.1
B. Terry

AMENDMENT OF LEASE

APPLICANT/LESSEE:

Tahoe Donner Association
P.O. Box 11049
Truckee, California 96162

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Donner Lake, adjacent to Assessor's Parcel Numbers 18-340-07 and 18-340-08, near the town of Truckee, Nevada County.

AUTHORIZED USE:

Continued use and maintenance of two floating docks and a boat launch ramp.

LEASE TERM:

49 years, beginning May 1, 1974.

CONSIDERATION:

\$1,208 per year, under existing lease, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

PROPOSED AMENDMENT:

Amend the Lease to:

1. To include in the Authorized Improvements the retention of an existing swim area, one swim float, and three speed marker buoys;
2. Revise the annual rent from \$1,208 to \$5,751, effective May 1, 2010;
3. Revise the liability insurance coverage from no less than \$1,000,000 to no less than \$3,000,000 combined single limit coverage;
4. Revise the surety bond amount from \$2,000 to \$10,000;
5. Include additional special lease provisions related to the lease premises;
6. Replace Section 3 (Site and Location Map) of the second amendment of the lease with the attached Exhibit A; and
7. Replace Section 3 (Land Description) of the original lease with the attached Exhibit B.

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All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On June 6, 1974, the Commission approved a 49-year Non-Commercial Lease with Dart Resorts, a division of Dart Industries, for the continued use and maintenance of a floating dock and launch ramp. On June 24, 1976, the Commission approved an assignment of the lease to the Tahoe Donner Association and, at that time, amended Section 4, Paragraphs 1 – 30 of the lease, to bring covenants and conditions to current standards. On February 27, 1998, the Commission approved a second amendment for the retention of an additional existing floating dock, modification of the lease area, and the annual rent.
3. Lessee has now applied to amend the lease to revise the authorized improvements to include the retention of an existing swim area, one swim float, and three speed marker buoys, not previously authorized by the Commission. Further, the proposed amendment will include a revised Site and Location Map and Land Description shown as Exhibit A and B, attached; a revision in rent; an increase in the bond and insurance requirements pursuant to the terms of the lease; and special provisions related to the use of the Lease Premises.
4. Tahoe Donner Association is a homeowners association that consists of 6,473 units. Of these 6,473 units, 247 are located within one mile of the lease facilities. Five of these 247 units are not owned by natural persons. Pursuant to Public Resources Code section 6503.5, the above five units, plus the 6,226 units which are located more than a mile from the lease premises, do not qualify for rent-free status. The annual rent for the two docks and boat ramp has been prorated according to the number of units that qualify for rent-free status. The swim area, swim float, and three speed marker buoys are subject to full annual rent because they are not used for the docking and mooring of boats.

Pursuant to the terms of the lease, the annual rent has been revised from \$1,208 to \$5,752 which also includes the swim area, swim float, and three marker buoys effective May 1, 2010. Staff is recommending that the Commission accept back rent in the amount of \$9,679 for the period beginning May 1, 2005, when the additional facilities were placed in the Lake, through April 30, 2010.

CALENDAR ITEM NO. **C36** (CONT'D)

5. **Swim Area and Swim Float:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(4).

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

6. **Speed Marker Buoys:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(5).

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

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the 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. Site and Location Map
- B. Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Swim Area and Swim Float: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(4).

CALENDAR ITEM NO. **C36** (CONT'D)

Speed Marker Buoys: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(5).

SIGNIFICANT LANDS INVENTORY FINDING:

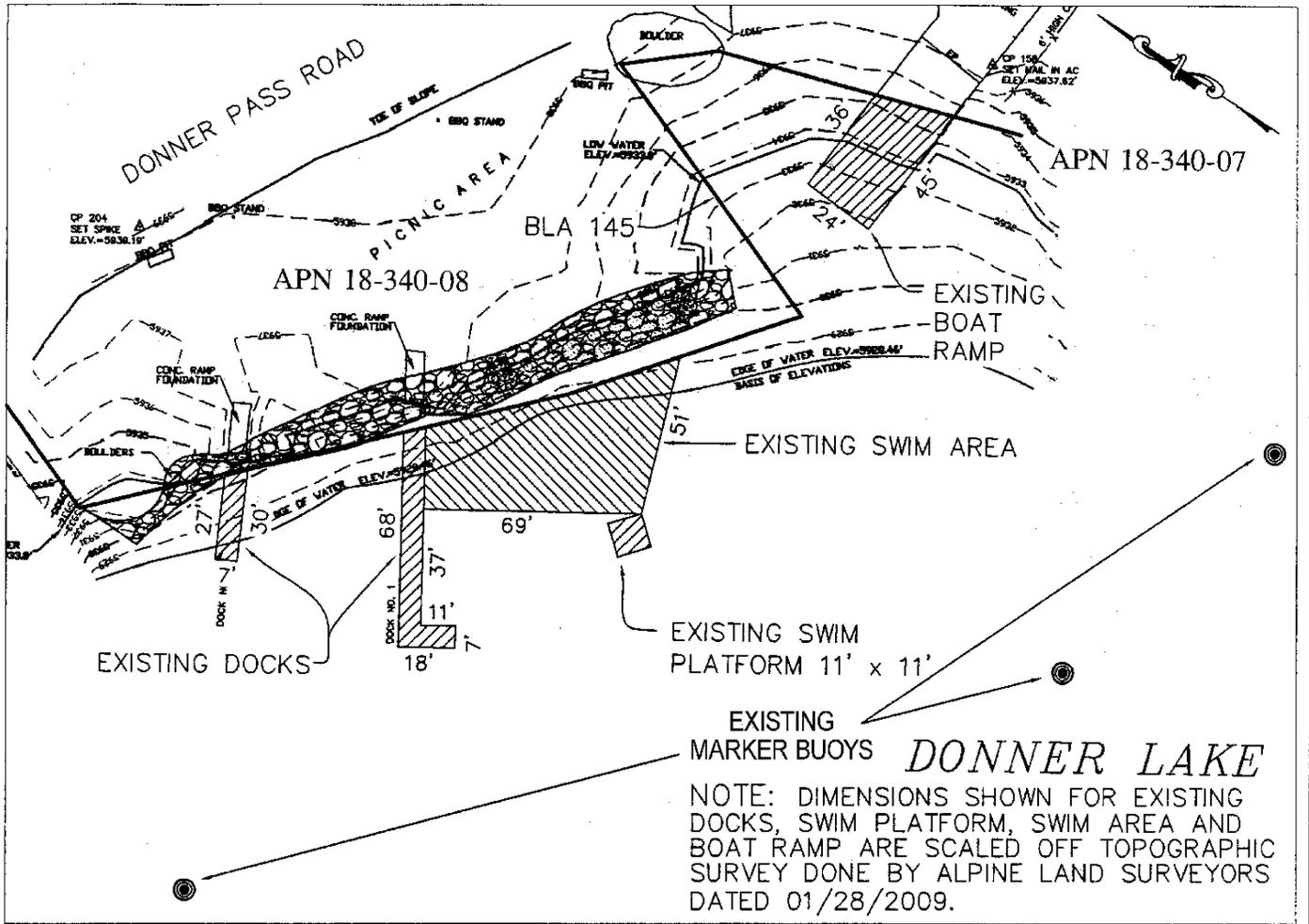
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

AUTHORIZATION:

1. Authorize acceptance of rent in the amount of \$9,679 for the period of May 1, 2005 through April 30, 2010.
2. Authorize the Amendment of Lease No. PRC 4909.1, a Non-Commercial Lease, effective December 10, 2010, to retain an existing swim area, one swim float, and three speed marker buoys, not previously authorized by the Commission; revise the annual rent from \$1,250 to \$5,752, effective May 1, 2010; revise the liability insurance coverage from no less than \$1,000,000 to no less than \$3,000,000; revise the surety bond amount from \$2,000 to \$10,000; include additional special lease provisions related to the lease premises; replace Section 3 (Site and Location Map) with the attached Exhibit A; and replace Section 3 (Land Description) with the attached Exhibit B; all other terms and conditions of the lease will remain in effect without amendment.

NO SCALE

SITE



12519 DONNER PASS ROAD, NEAR TRUCKEE

NO SCALE

LOCATION

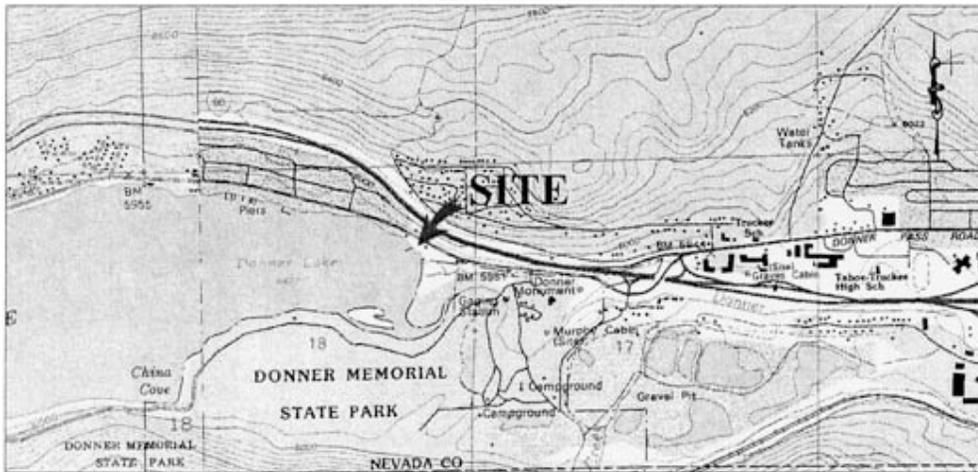


Exhibit A

PRC 4909.1
 TAHOE DONNER ASSOCIATION
 APN 18-340-07, 18-340-08
 GENERAL LEASE
 NON-COMMERCIAL
 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.

EXHIBIT B

PRC4909.1

LAND DESCRIPTION

Eight parcels of submerged land lying in the filled bed of Donner Lake, situate adjacent to Section 18, T17N, R16E, MDM, as shown on the official U.S. Government Township plat approved December 20, 1865, Nevada County, State of California, more particularly described as follows:

PARCEL 1: (Dock No. 2)

A strip of land 7 feet wide, lying 3.5 feet on each side of the following described centerline:

BEGINNING at a point being the intersection of the centerline of an existing dock with the line of that certain course, N39°15'00"W 158.95 feet, as described in Exhibit C of Boundary Line Agreement 145 recorded in Book 702 Page 502, Official Records of Nevada County, said point bears S39°15'00"E 51.02 feet, more or less, from the northwesterly terminus of said course; thence from said point of beginning S70°31'09"W 28.26 feet to the end of said existing dock being the terminus of said centerline.

The sidelines of said strip shall be prolonged or shortened as to commence at that certain course, N39°15'00"W 158.95 feet, as described in said Exhibit C and terminate at a line perpendicular to the terminus of said centerline.

EXCEPTING THEREFROM any portion of land lying landward of the southwesterly boundary of Parcel C as described in said Exhibit C.

PARCEL 2: (Dock No. 1)

A strip of land 7 feet wide, lying 3.5 feet on each side of the following described centerline:

BEGINNING at a point being the intersection of the centerline of an existing dock with the line of that certain course, N39°15'00"W 158.95 feet, as described in Exhibit C of Boundary Line Agreement 145 recorded in Book 702 Page 502, Official Records of Nevada County, said point bears S39°15'00"E 108.88 feet, more or less, from the northwesterly terminus of said course; thence from said point of beginning S65°10'16"W 65.45 feet, thence S24°49'44"E 14.50 feet to the end of said existing dock being the terminus of said centerline.

The sidelines of said strip shall be prolonged or shortened as to commence at that certain course, N39°15'00"W 158.95 feet, as described in said Exhibit C and terminate at a line perpendicular to the terminus of said centerline.

EXCEPTING THEREFROM any portion of land lying landward of the southwesterly boundary of Parcel C as described in said Exhibit C.

PARCEL 3: (Swim Area)

BEGINNING at a point being the intersection of the south side of an existing dock with the line of that certain course, N39°15'00"W 158.95 feet, as described in Exhibit C of Boundary Line Agreement 145 recorded in Book 702 Page 502, Official Records of Nevada County, said point also bears S39°15'00"E 112.50 feet, more or less, from the northwesterly terminus of said course; thence from said point of beginning S65°10'16"W 25.85 feet; thence S24°49'44"E 69.00 feet; thence N77°35'43"E 51.14 feet to a point on the southwesterly boundary of said Exhibit C; thence along said southwesterly boundary the following two courses:

- (1) N44°30'00"W 37.18 feet;
- (2) N39°15'00"W 46.45 feet to the point of beginning.

EXCEPTING THEREFROM any portion of land lying landward of the southwesterly boundary of Parcel C as described in said Exhibit C.

PARCEL 4: (Swim Platform)

COMMENCING at the southerly terminus of that certain course, N39°15'00"W 158.95 feet, as described in Exhibit C of Boundary Line Agreement 145 recorded in Book 702 Page 502, Official Records of Nevada County; thence S32°29'15"W 44.46 feet to the corner of an existing swim platform, said corner also being the POINT OF BEGINNING; thence along the said swim platform the following four (4) courses:

- (1) N42°27'20"W 11.00 feet
- (2) S47°32'40"W 11.00 feet
- (3) S42°27'20"E 11.00 feet
- (4) N47°32'40"E 11.00 feet to the point of beginning.

PARCEL 5: (Boat Ramp)

A strip of land 24 feet wide, lying 12 feet on each side of the following described centerline, BEGINNING at a point which is the intersection of the centerline of an existing dock and the agreed boundary line described in Exhibit A of Boundary Line Agreement 145 recorded in Book 702 Page 502, Official Records of Nevada County, said point also bears S10°31'00"E 65.14 feet, more or less, from the southerly terminus of that certain course, N34°00'00"W 70.00 feet as described in said Exhibit A; thence from said point of beginning N79°03'36"W 40.32 feet to the end of said existing dock being the terminus of said centerline.

The sidelines of the above described Parcel shall be prolonged or shortened so as to commence at the agreed boundary line of said Exhibit A and terminate at a line perpendicular to the terminus of said centerline.

EXCEPTING THEREFROM any portion of land lying landward of the agreed boundary line as described in Exhibit A of Boundary Line Agreement 145, recorded in Book 702 Page 502, Official Records of Nevada County, State of California.

PARCELS 6,7 AND 8

Three (3) circular parcels of submerged land 20 feet in diameter lying below three (3) existing 5 mile per hour buoys, said Parcels lying southwesterly of the herein above described Parcels.

END OF DESCRIPTION

Prepared 04/24/2009 by the California State Lands Commission Boundary Unit.

