

**CALENDAR ITEM  
C21**

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08/22/08  
W 26201  
N. Lee

**GENERAL LEASE - RECREATIONAL LEASE**

**APPLICANTS:**

Brian C. McCosker and Jacqueline S. McCosker

**AREA, LAND TYPE, AND LOCATION:**

Sovereign lands in Lake Tahoe, adjacent to 3051 Jameson Beach Road, South Lake Tahoe, El Dorado County.

**AUTHORIZED USE:**

Removal of an existing pier and construction, use and maintenance of a new pier as shown on the attached Exhibit A.

**LEASE TERM:**

Ten years, beginning August 22, 2008.

**CONSIDERATION:**

\$2,353 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

**SPECIFIC LEASE PROVISIONS:**

Insurance:

Liability insurance with coverage of no less than \$1,000,000.

Other:

1. The proposed project is located in an area identified as Tahoe Yellow Cress (TYC) habitat. The TYC is an endangered plant species statutorily protected by the California Endangered Species Act. No TYC was found during the site-specific survey performed during the 2007 and 2008 growing seasons. Should the demolition, construction or continuation of construction on the site extend into a subsequent growing season after June 14, 2009, the Applicants are required to contact staff of the Commission to conduct a site-specific survey (survey to be conducted between June 15-September 30, 2009) for the presence of TYC.

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2. The public will be allowed to pass and re-pass around the landward end of the pier to provide continuous shoreline access to the Public Trust Easement below elevation 6228.75 Lake Tahoe datum.

**OTHER PERTINENT INFORMATION:**

1. Applicants own the uplands adjoining the lease premises.
2. On February 4, 2005, Brian C. and Jacqueline S. McCosker obtained ownership of the littoral parcel, Assessor Parcel Number (APN) 032-110-12. This parcel was subsequently divided into APN 032-110-28 and 032-110-29. The existing pier is adjacent to APN 032-110-29 and was not previously authorized by the Commission. Applicants are now applying for a new General Lease – Recreational Use to remove the existing pier and construct a new pier adjacent to APN 032-110-28.
3. The proposed pier will be constructed of single steel pilings and beams with composite decking. The pier will be 151 feet long and seven feet wide and include a 13-foot wide by 45-foot long pierhead and a 3-foot wide by 45-foot long catwalk. Construction staging and access will occur solely by amphibious vehicle. In order to reduce the visual impact of the pier, it will be built with a very low profile, which could limit the public's ability to pass under the pier within the public trust easement. However, the Applicants have agreed to allow the public to pass and re-pass around the landward end of the pier to allow access to the public trust easement.
4. Applicants do not qualify for a rent-free Recreational Pier Lease because the littoral land is not improved with a single-family dwelling. A single-family dwelling is located on APN 032-110-29.
5. The Tahoe Yellow Cress (TYC) is listed under the provisions of the California Endangered Species Act as an endangered plant species subject to special protection. On October 1, 2002, the Commission authorized the Executive Officer on their behalf to sign a Memorandum of Understanding to implement the "Conservation Strategy For Tahoe Yellow Cress (*Rorippa subumbellata*) in conjunction with the Tahoe Regional Planning Agency, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Nevada Division of Forestry, the Nevada Division of State Lands, the Nevada Division of State Parks, the Nevada Natural Heritage Program, the California Department of Fish and Game, the California Department of Parks and Recreation, the California Tahoe Conservancy, the Tahoe Lakefront Owners' Association and the League To Save Lake Tahoe.

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6. The proposed project is located in suitable TYC habitat. The project site was surveyed/evaluated by Eric Gillies, CSLC Staff Environmental Scientist, on July 11, 2007 and July 8, 2008. The project site does not presently contain TYC. In the event that the proposed project has not begun or is not completed by the beginning of the next TYC growing season (June 14 through September 30, 2009), the site may require a resurvey for the presence of TYC before construction may begin or continue.
  
7. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the 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)(1).  
  
Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.
  
8. 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 the staff's opinion that the project, as proposed, is consistent with its use classification.

**APPROVALS OBTAINED:**

California Department of Fish and Game  
Lahontan Regional Water Quality Control Board  
Tahoe Regional Planning Agency

**FURTHER APPROVALS REQUIRED:**

U.S. Army Corps of Engineers

**EXHIBIT:**

A. Location and Site Map

**PERMIT STREAMLINING ACT DEADLINE:**

September 6, 2008

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**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE 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)(1).

**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:**

AUTHORIZE ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE TO BRIAN C. MCCOSKER AND JACQUELINE S. MCCOSKER, BEGINNING AUGUST 22, 2008, FOR A TERM OF TEN YEARS, FOR THE REMOVAL OF AN EXISTING PIER AND CONSTRUCTION, USE AND MAINTENANCE OF A NEW PIER AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$2,353 WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE WITH COVERAGE OF NO LESS THAN \$1,000,000.