

**CALENDAR ITEM
C01**

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S 3

12/03/08
W 8670.98
R. Barham

RECREATIONAL PIER LEASE

APPLICANTS:

John J. Bessolo, III and Kim W. Bessolo, Trustees of the Bessolo Family Trust, a revocable inter vivos trust

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Donner Lake, adjacent to 15360 South Shore Drive, near Truckee, Nevada County.

AUTHORIZED USE:

Construction, use and maintenance of a pier as shown on Exhibit A.

LEASE TERM:

Ten years, beginning November 7, 2008.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$500,000.

Other:

The public will be allowed to pass and re-pass along the filled lawn and pier to provide continuous shoreline access to the Public Trust Easement below elevation 5935.8 feet, NGVD (1929).

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. The proposed pier will be built within the same footprint as an existing pier that was not previously authorized by the Commission. Under other agency approvals, the existing pier was recently removed. The Applicants and their contractor believed that the existing pier did not extend beyond the low water mark of Donner Lake, elevation 5933.8 feet, NVGD (1929).

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However, upon review of the site plan drawings, Commission staff confirmed that the proposed pier would extend onto State-owned sovereign land lying below the low water mark. Applicants are now applying for a Recreational Pier Lease.

3. Applicants have obtained all permits for the construction of the new pier from all applicable agencies with the exception of the Town of Truckee, which is pending until the Applicants can provide a lease or permission to use sovereign land. Pursuant to California Department of Fish and Game requirements at Donner Lake, construction can begin after September 15th and end prior to December 31st. Due to time and weather constraints and the resulting increase in Lake levels, the Applicants submitted a request to Commission staff to proceed with the project prior to formal consideration by the Commission. Commission staff provided the Applicants a letter of non-objection to proceed with the pier project, subject to formal approval by the Commission and in compliance with all other applicable permits from federal, state and local government agencies having jurisdiction over the project. On November 7, 2008, the Applicants accepted the conditions contained in the letter of non-objection.
4. The proposed pier will be constructed of composite decking material and concrete pilings reinforced with steel. The pier will be 72 feet long and eight feet wide and include a 16-foot wide by six-foot long pierhead. A portion of a filled lawn area with a concrete retaining wall exists within the Public Trust easement and limits the public's ability to pass and re-pass across the Public Trust easement. The Applicants have agreed to allow the public to pass and re-pass across the filled lawn area to access the Public Trust easement along the shoreline.
5. Applicants qualify for a rent-free Recreational Pier Lease because they are natural persons who own the littoral land that is improved with a single-family dwelling.
6. 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.

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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 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
U.S. Army Corps of Engineers

FURTHER APPROVALS REQUIRED:

Town of Truckee

EXHIBIT:

- A. Site and Location Map

PERMIT STREAMLINING ACT DEADLINE:

February 2, 2009

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 TEN-YEAR RECREATIONAL PIER LEASE TO JOHN J. BESSOLO, III AND KIM W. BESSOLO, TRUSTEES OF THE BESSOLO FAMILY TRUST, A REVOCABLE INTER VIVOS TRUST BEGINNING NOVEMBER 7, 2008, FOR CONSTRUCTION, USE AND MAINTENANCE OF A NEW PIER AS SHOWN ON EXHIBIT A

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ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$500,000.