

**CALENDAR ITEM
C07**

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12/03/08
WP 4328.9
N. Lee

TERMINATION AND ISSUANCE OF A NEW RECREATIONAL PIER LEASE

LESSEE/APPLICANT:

Lida Urbanek, Trustee of the Urbanek Rubicon Bay Trust, dated July 27, 2005

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 8865 Rubicon Drive, near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

Extension of an existing pier, installation of a new boat lift, removal of four remnant pier pilings, and the continued use and maintenance of two existing mooring buoys as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning December 3, 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:

1. This lease contains a provision which requires the Lessee to obtain authorization from the Tahoe Regional Planning Agency for the mooring buoys within two years after the adoption of the Lake Tahoe Shorezone Amendments-Final Environmental Impact Statement (FEIS) and approval of the ordinances based on the FEIS.
2. 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

CALENDAR ITEM NO. **C07** (CONT'D)

Act. No TYC was found during the site-specific survey performed during the 2008 growing season. Should the demolition, construction or continuation of construction on the site extend into a subsequent growing season after June 14, 2009, the Lessee is 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.

OTHER PERTINENT INFORMATION:

1. Lessee/Applicant owns the upland property adjoining the lease premises.
2. On November 21, 2006, the Commission authorized a Recreational Pier Lease with Lida Urbanek, Trustee of the Urbanek Rubicon Bay Trust, dated July 27, 2005. That lease will expire on August 3, 2015. Rather than amend the current lease, the Lessee has agreed to terminate the lease and has applied for a new Recreational Pier Lease for the proposed pier extension, installation of a new boat lift, removal of four remnant pier pilings, and the continued use and maintenance of two existing mooring buoys.
3. The existing 95-foot pier was originally constructed in 1955 to a length of 140 feet. As a result of deteriorating structural integrity, the pier reached a state of disrepair and needed to be replaced. Under a Tahoe Regional Planning Agency (TRPA) Qualified Exempt Declaration, the first 95 feet of the pier was replaced with a single-pile configuration in 2000. The proposed pier extension was permitted by TRPA on February 27, 2008. The pier extension will extend the pier to its original length and will be constructed of seven single steel pilings. One piling will support a low-level boat lift. In addition, four remnant pier pilings, related to the original pier structure, will be removed. Construction staging and access will occur solely by amphibious vehicle.
4. Lessee/Applicant qualifies for a rent-free Recreational Pier Lease because she is a natural person who owns the littoral land that is improved with a single-family dwelling.
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 to sign on their behalf 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

CALENDAR ITEM NO. **C07** (CONT'D)

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. The proposed project is located in suitable TYC habitat. The project site was surveyed/evaluated by Eric Gillies, CSLC Staff Environmental Scientist, on September 2, 2008. The project site does not presently contain TYC.

6. **Termination of an Existing Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

7. **Issuance of a New Lease:**
Pier, Pier Extension, Removal of Remnant Pilings and Mooring Buoys: 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 1, Existing Facilities; Title 14, California Code of Regulations, section 15301 (e)(1).

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

Boat Lift: 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 14, California Code of Regulations, section 15303.

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

8. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370,

CALENDAR ITEM NO. **C07** (CONT'D)

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:

Pier Extension, Boat Lift and Remnant Pilings:
Tahoe Regional Planning Agency

FURTHER APPROVALS REQUIRED:

Pier Extension, Boat Lift and Remnant Pilings:
California Department of Fish and Game
Lahontan Regional Water Quality Control Board
U.S. Army Corps of Engineers

Buoys:
Tahoe Regional Planning Agency

EXHIBIT:

A. Site and Location Map

PERMIT STREAMLINING ACT DEADLINE:

February 2, 2009

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF AN EXISTING LEASE: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

ISSUANCE OF A NEW LEASE:

PIER, PIER EXTENSION, REMOVAL OF REMNANT PILINGS AND MOORING BUOYS: 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 1, EXISTING FACILITIES; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15301 (e)(1).

CALENDAR ITEM NO. **C07** (CONT'D)

BOAT LIFT: 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 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15303.

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 TERMINATION, EFFECTIVE DECEMBER 2, 2008, OF LEASE NO. PRC 4328.9, A RECREATIONAL PIER LEASE, ISSUED TO LIDA URBANEK, TRUSTEE OF THE URBANEK RUBICON BAY TRUST, DATED JULY 27, 2005.

AUTHORIZE ISSUANCE OF A TEN-YEAR RECREATIONAL PIER LEASE TO LIDA URBANEK, TRUSTEE OF THE URBANEK RUBICON BAY TRUST, DATED JULY 27, 2005, BEGINNING DECEMBER 3, 2008, FOR, AN EXISTING PIER AND EXTENSION OF THE EXISTING PIER, INSTALLATION OF A NEW BOAT LIFT, REMOVAL OF FOUR REMNANT PIER PILINGS, AND THE CONTINUED USE AND MAINTENANCE OF TWO EXISTING MOORING BUOYS AS SHOWN ON EXHIBIT A, 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.