

CALENDAR ITEM

C23

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12/03/08

WP 8131.1

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N. Lee

**TERMINATION AND ISSUANCE OF
GENERAL LEASE - RECREATIONAL USE**

LESSEES:

Otis Russell Johnson, III, Forrest Lowell Jones, and Daniel George Volkmann, III, as Co-Trustees U/T/A dtd December 20, 1984, and Virginia Volkmann Bosche, Trustee of the Virginia Volkmann Bosche Qualified Personal Residence Trust dated October 30, 1995

APPLICANT:

Jeffrey Point LLC, a California Limited Liability Company

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 9846 Pilot Circle, near Brockway, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat house, two boat hoists and two mooring buoys.

LEASE TERM:

Ten years, beginning February 20, 2007.

CONSIDERATION:

\$3,361 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:

The lease contains a provision which requires the Applicant to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoys within two years after the adoption of the Lake Tahoe

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Shorezone Amendments-Final Environmental Impact Statement (FEIS)
and approval of the ordinances based on the FEIS.

OTHER PERTINENT INFORMATION:

1. On December 3, 1999, the Commission authorized a General Lease - Recreational Use with Otis Russell Johnson, III, Forrest Lowell Jones, and Daniel George Volkmann, III, as Co-Trustees U/T/A dtd December 20, 1984, and Virginia Volkmann Bosche, Trustee of the Virginia Volkmann Bosche Qualified Personal Residence Trust dated October 30, 1995. That lease will expire on September 30, 2009.
2. The lease authorizes an existing joint-use pier, boat house, two boat hoists and two mooring buoys. The facilities are adjacent to two littoral parcels, Assessor Parcel Numbers (APN) 090-321-010 and 090-282-005. APN 090-282-005 was owned by Otis Russell Johnson, III, Forrest Lowell Jones, and Daniel George Volkmann, III, as Co-Trustees U/T/A dtd December 20, 1984. This parcel has since been deeded to Brockway Properties LLC. APN 090-321-010 was owned by Virginia Volkmann Bosche, Trustee of the Virginia Volkmann Bosche Qualified Personal Residence Trust dated October 30, 1995. Upon her death, her children inherited the parcel and, acting as trustees, transferred ownership to Jeffrey Point LLC on February 20, 2007.
3. The Applicant, Jeffrey Point LLC, is now applying for a new General Lease – Recreational Use and has advised staff that the pier and other facilities are not shared with Brockway Properties LLC. A grant deed dated August 30, 1976, executed by the owners of both littoral parcels at that time, reserves a perpetual easement over APN 090-282-005 for the owner of APN 090-321-010 (Jeffrey Point LLC) to use, maintain, repair, improve or replace existing piers, hoists, cribs, walkways and other structures located in Lake Tahoe adjoining the properties. Therefore, the Applicant is requesting that a General Lease – Recreational Use be issued only to Jeffrey Point LLC. Brockway Properties LLC has provided a letter of non-objection and supports the request for the termination of the existing lease and issuance of a new General Lease – Recreational Use to Jeffrey Point LLC.
4. Applicant does not qualify for rent-free status because the Applicant does not own the littoral parcel as a natural person pursuant to Public Resources Code section 6503.5.

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5. **Termination of 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 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, section 15060(c)(3) and 15378.

6. **Issuance of New Lease:** 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 2, California Code of Regulations, section 2905 (a)(2).

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 the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

Buoys: Tahoe Regional Planning Agency

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF EXISTING LEASE: FIND THAT THE ACTIVITY IS EXEMPT FROM 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.

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ISSUANCE OF NEW LEASE: 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 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

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 OF LEASE NO. PRC 8131.1, A GENERAL LEASE – RECREATIONAL USE, EFFECTIVE FEBRUARY 19, 2007, ISSUED TO OTIS RUSSELL JOHNSON, III, FORREST LOWELL JONES, AND DANIEL GEORGE VOLKMANN, III, AS CO-TRUSTEES U/T/A DTD DECEMBER 20, 1984, AND VIRGINIA VOLKMANN BOSCHE, TRUSTEE OF THE VIRGINIA VOLKMANN BOSCHE QUALIFIED PERSONAL RESIDENCE TRUST DATED OCTOBER 30, 1995.

AUTHORIZE ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE TO JEFFREY POINT LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, BEGINNING FEBRUARY 20, 2007, FOR A TERM OF TEN YEARS, FOR THE CONTINUED USE AND MAINTENANCE OF AN EXISTING PIER, BOAT HOUSE, TWO BOAT HOISTS AND TWO MOORING BUOYS AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$3,361, 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.