

**CALENDAR ITEM  
C30**

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01/29/09  
PRC 4409.1  
B. Terry

**RESCISSION AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

**RESCINDING APPLICANTS:**

Kathleen M. Ohlson and David A. Ohlson, Trustees of the Ohlson Trust dated October 3, 1978; Henry P. C. Culp and Susan O. Culp as Trustees of the Culp Family Trust created by Declaration of Trust dated 3/25/98; Henry P. C. Culp and Susan Ohlson Culp; David A. Ohlson and Betty M. Ohlson, as Trustees of the Ohlson Family Trust Established September 15, 1999; Daniel Lee Ohlson and Susan Ohlson; and Kristin Louise Ohlson

And

Barbara Woods Heard, Trustee of the Barbara Woods Heard Amended and Restated Revocable Trust u/d/t dated October 15, 1999; Lauren H. Poage; Katherine M. Landers; David B. Heard; and Dwight B. Heard Investment Company, a corporation

**APPLICANTS:**

David A. Ohlson, Trustee of the Ohlson Trust dated October 3, 1978; Henry P. C. Culp and Susan O. Culp as Trustees of the Culp Family Trust created by Declaration of Trust dated 3/25/98; Henry P. C. Culp and Susan Ohlson Culp; David A. Ohlson and Betty M. Ohlson, as Trustees of the Ohlson Family Trust Established September 15, 1999; Daniel Lee Ohlson, Susan Ohlson; and Kristin Louise Ohlson

And

Barbara Woods Heard, Trustee of the Barbara Woods Heard Amended and Restated Revocable Trust u/d/t dated October 15, 1999; Lauren H. Poage; Katherine M. Landers; David B. Heard; and Dwight B. Heard Investment Company, a corporation

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

Sovereign lands in Lake Tahoe, adjacent to 5520 and 5540 West Lake Boulevard, near Homewood, Placer County.

CALENDAR ITEM NO. **C30** (CONT'D)

**AUTHORIZED USE:**

Continued use and maintenance of an existing joint-use pier, boat house with sundeck, and three mooring buoys and the retention of two boat lifts as shown on the attached Exhibit A.

**LEASE TERM:**

Ten years, beginning January 1, 2008.

**CONSIDERATION:**

\$1,611 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 coverage of no less than \$1,000,000.

Other:

The Lease contains a provision that the existing sundeck cannot be expanded and if repairs to any portion of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck must be removed from the lease premises; and

A provision which requires the Applicants to obtain authorization from the Tahoe Regional Planning Agency (TRPA) 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.

**OTHER PERTINENT INFORMATION:**

1. Applicants own the upland properties adjoining the lease premises.
2. On October 16, 2008, the Commission authorized a General Lease – Recreational Use with the Rescinding Applicants. David A. Ohlson, the son of Kathleen M. Ohlson, advised staff that Kathleen M. Ohlson passed away in 2007.
3. Staff is requesting that the authorization made by the Commission at its October 16, 2008, meeting be rescinded and that a new General Lease - Recreational Use be issued to the Applicants.
4. The existing joint-use pier, boat house with sundeck and two boat lifts are shared facilities; however, the mooring buoys are not. Ohlson, et al., own and use one mooring buoy and Heard et al. and David B. Heard Investment Company own and use two mooring buoys.

CALENDAR ITEM NO. **C30** (CONT'D)

5. Ohlson, et al., and Heard, et al., qualify for rent-free status because they are natural persons and own the littoral land that is improved with a single family dwelling. The Dwight B. Heard Investment Company does not qualify for rent-free status because it does not own the littoral property as a natural person pursuant to Public Resources Code section 6503.5. The investment company has a 50 percent ownership interest in the upland property at 5540 West Lake Boulevard, therefore, the annual rent is prorated based on the investment company's interest in the pier facility and the two mooring buoys.
  
6. The sundeck is located on the top of the boat house and does not qualify for rent-free status because it is a facility not constructed for the mooring and docking of boats. Therefore, the use area of the sundeck located over the lease premises is subject to full rent.
  
7. **Rescind Issuance of a General Lease – Recreational Use:** 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, section 15060 (c)(3) and 15378.
  
8. **Issuance of a General Lease – Recreational Use:** 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.
  
9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 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 classification.

CALENDAR ITEM NO. **C30** (CONT'D)

**APPROVAL REQUIRED:**

Buoys: Tahoe Regional Planning Agency

**EXHIBIT:**

A. Site and Location Map

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

**RESCIND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE:** 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 GENERAL LEASE – RECREATIONAL USE:** 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:**

- 1) AUTHORIZE RESCISSION OF LEASE NO. PRC 4409.1, A GENERAL LEASE – RECREATIONAL USE, TO KATHLEEN M. OHLSON AND DAVID A. OHLSON, TRUSTEES OF THE OHLSON TRUST DATED OCTOBER 3, 1978; HENRY P. C. CULP AND SUSAN O. CULP AS TRUSTEES OF THE CULP FAMILY TRUST CREATED BY DECLARATION OF TRUST DATED 3/25/98; HENRY P. C. CULP AND SUSAN OHLSON CULP; DAVID A. OHLSON AND BETTY M. OHLSON, AS TRUSTEES OF THE OHLSON FAMILY TRUST ESTABLISHED SEPTEMBER 15, 1999; DANIEL LEE OHLSON AND SUSAN OHLSON; KRISTIN

CALENDAR ITEM NO. **C30** (CONT'D)

LOUISE OHLSON; AND BARBARA WOODS HEARD, TRUSTEE OF THE BARBARA WOODS HEARD AMENDED AND RESTATED REVOCABLE TRUST U/D/T DATED OCTOBER 15, 1999; LAUREN H. POAGE; KATHERINE M. LANDERS; DAVID B. HEARD; AND DWIGHT B. HEARD INVESTMENT COMPANY, A CORPORATION.

- 2) AUTHORIZE ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE, TO DAVID A. OHLSON, TRUSTEE OF THE OHLSON TRUST DATED OCTOBER 3, 1978; HENRY P. C. CULP AND SUSAN O. CULP AS TRUSTEES OF THE CULP FAMILY TRUST CREATED BY DECLARATION OF TRUST DATED 3/25/98; HENRY P. C. CULP AND SUSAN OHLSON CULP; DAVID A. OHLSON AND BETTY M. OHLSON, AS TRUSTEES OF THE OHLSON FAMILY TRUST ESTABLISHED SEPTEMBER 15, 1999; DANIEL LEE OHLSON, SUSAN OHLSON; KRISTIN LOUISE OHLSON; AND BARBARA WOODS HEARD, TRUSTEE OF THE BARBARA WOODS HEARD AMENDED AND RESTATED REVOCABLE TRUST U/D/T DATE OCTOBER 15, 1999; LAUREN H. POAGE; KATHERINE M. LANDERS; DAVID B. HEARD; AND DWIGHT B. HEARD INVESTMENT COMPANY, A CORPORATION, BEGINNING JANUARY 1, 2008, FOR A TERM OF TEN YEARS, FOR AN EXISTING JOINT-USE PIER, BOAT HOUSE WITH SUNDECK AND THREE MOORING BUOYS AND THE RETENTION OF TWO EXISTING BOAT LIFTS AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$1,611, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; AND LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$1,000,000.