

**CALENDAR ITEM
C02**

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04/09/09
WP 4314.9
N. Lee

TERMINATION AND ISSUANCE OF A RECREATIONAL PIER LEASE

LESSEES/APPLICANTS:

Alan D. Harley and JoAnn W. Harley, Trustees of the Alan D. Harley and JoAnn W. Harley Trust, initially created April 12, 1995; and Marilyn Belk Wallis and Edward James Wallis, Co-Trustees of the 1996 Jamee Gray Wallis Trust; Marilyn Belk Wallis and Edward James Wallis, Co-Trustees of the 1996 Charlotte Pierce Wallis Trust; and Edward James Wallis, Trustee of the Edward James Wallis Trust dated September 26, 1989

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 2490 West Lake Boulevard, near Sunnyside, Placer County.

AUTHORIZED USE:

Removal of an existing pier, boat house and boat hoist; construction of a new joint-use pier and two boat lifts; and continued use and maintenance of two existing mooring buoys as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning April 9, 2009.

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 \$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. TYC was found during the site-specific survey performed during the 2008 growing season. Should the demolition,

CALENDAR ITEM NO. C02 (CONT'D)

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 determine if the site should be re-surveyed (survey to be conducted between June 15-September 30, 2009) for the presence of TYC.

2. The lease provides that 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. Lessees/Applicants own the upland properties adjoining the lease premises.
2. On November 27, 2000, the Commission authorized a Recreational Pier Lease with Alan D. Harley and JoAnn W. Harley, Trustees of the Alan D. Harley and JoAnn W. Harley Trust initially created April 12, 1995; and Marilyn Belk Wallis and Edward James Wallis, Co-Trustees of the 1996 Jamee Gray Wallis Trust; Marilyn Belk Wallis and Edward James Wallis, Co-Trustees of the 1996 Charlotte Pierce Wallis Trust; and Edward James Wallis, Trustee of the Edward James Wallis Trust dated September 26, 1989. That lease will expire on November 30, 2010. Rather than amend the current lease, the Lessees have agreed to terminate the lease and have applied for a new Recreational Pier Lease for the removal of an existing single use pier, boat house and boat hoist; the construction of a new joint-use pier and two boat lifts; and continued use and maintenance of two existing mooring buoys.
3. In 2006, the upland property, Assessor Parcel Number (APN) 084-121-003, owned by the Lessees/Applicants was divided into two separate parcels, APNs 084-121-012 and 084-121-013. At the same time, ownership of APN 084-121-012 was deeded to the Harley Family and APN 084-121-013 was deeded to the Wallis Family. The existing pier, boat house and boat hoist is adjacent to APN 084-121-012. Lessees/Applicants are proposing to remove the pier, boat house and boat hoist and construct a new 205-foot pier with two boat lifts adjacent to the shared boundary line between the two parcels. Removal and construction staging and access will occur solely by amphibious vehicle or barge.

CALENDAR ITEM NO. **C02** (CONT'D)

4. Lessees/Applicants qualify for a rent-free Recreational Pier Lease because they are natural persons who own the littoral lands that are improved with single-family dwellings.

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 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. The proposed project is located in suitable TYC habitat. The project site was surveyed/evaluated by a Commission biologist on July 8, 2008. The site does support TYC. A site-specific management plan to protect and enhance existing plants and habitat has been prepared, submitted by the Applicant, approved by staff, and incorporated into the project description. Special provisions have been incorporated into the lease for the protection of 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:**
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 2, California Code of Regulations, section 2905 (a)(2).

CALENDAR ITEM NO. **C02** (CONT'D)

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

Construction of Pier with Boat Lifts: 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)(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.

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:

Removal and Construction of Pier with Boat Lifts:
California Department of Fish and Game
Lahontan Regional Water Quality Control Board
Tahoe Regional Planning Agency
U.S. Army Corps of Engineers

Buoys:

Tahoe Regional Planning Agency

EXHIBITS:

- A. Site and Location Map
- B. TYC Site-Specific Management Plan

PERMIT STREAMLINING ACT DEADLINE:

June 8, 2009

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CALENDAR ITEM NO. **C02** (CONT'D)

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:

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 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

CONSTRUCTION OF PIER WITH BOAT LIFTS: 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)(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, EFFECTIVE APRIL 9, 2009, OF LEASE NO. PRC 4314.9, A RECREATIONAL PIER LEASE, ISSUED TO ALAN D. HARLEY AND JOANN W. HARLEY, TRUSTEES OF THE ALAN D. HARLEY AND JOANN W. HARLEY TRUST INITIALLY CREATED APRIL 12, 1995; AND MARILYN BELK WALLIS AND EDWARD JAMES WALLIS, CO-TRUSTEES OF THE 1996 JAMEE GRAY WALLIS TRUST; MARILYN BELK WALLIS AND EDWARD JAMES WALLIS, CO-TRUSTEES OF THE 1996 CHARLOTTE PIERCE WALLIS TRUST; AND EDWARD JAMES WALLIS, TRUSTEE OF THE EDWARD JAMES WALLIS TRUST DATED SEPTEMBER 26, 1989.

CALENDAR ITEM NO. **C02** (CONT'D)

AUTHORIZE ISSUANCE OF A TEN-YEAR RECREATIONAL PIER LEASE TO ALAN D. HARLEY AND JOANN W. HARLEY, TRUSTEES OF THE ALAN D. HARLEY AND JOANN W. HARLEY TRUST INITIALLY CREATED APRIL 12, 1995; AND MARILYN BELK WALLIS AND EDWARD JAMES WALLIS, CO-TRUSTEES OF THE 1996 JAMEE GRAY WALLIS TRUST; MARILYN BELK WALLIS AND EDWARD JAMES WALLIS, CO-TRUSTEES OF THE 1996 CHARLOTTE PIERCE WALLIS TRUST; AND EDWARD JAMES WALLIS, TRUSTEE OF THE EDWARD JAMES WALLIS TRUST DATED SEPTEMBER 26, 1989, BEGINNING APRIL 9, 2009, FOR THE REMOVAL OF AN EXISTING PIER, BOAT HOUSE AND BOAT HOIST, THE CONSTRUCTION OF A NEW JOINT-USE PIER AND TWO BOAT LIFTS, 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 \$1,000,000.