

**CALENDAR ITEM
C32**

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06/01/09
WP 5559.1
C. Hudson

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

D.E. Tobie, Trustee of the D.E. Tobie Qualified Personal Residence Trust (Irrevocable) Dated January 3, 2005; Dorthy R. Tobie, Trustee of the Dorthy R. Tobie Qualified Personal Residence Trust (Irrevocable) Dated January 3, 2005; and Tobie Children’s Enterprises, LP, a California Limited Partnership

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 8569 Meeks Bay Avenue, near Meeks Bay, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and one mooring buoy and the retention of an existing boat lift as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning September 27, 2008.

CONSIDERATION:

\$50 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:

Liability insurance in the amount of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland property adjoining the lease premises.
2. On June 14, 1999, the Commission authorized a Recreational Pier Lease with D.E. Tobie and Dorthy R. Tobie. That lease expired on September 26, 2008. The littoral parcel has since been deeded to D.E. Tobie, Trustee of the D.E. Tobie Qualified Personal Residence Trust (Irrevocable) Dated January 3, 2005; Dorthy R. Tobie, Trustee of the Dorthy R. Tobie Qualified Personal Residence Trust (Irrevocable) Dated

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January 3, 2005; and Tobie Children's Enterprises, LP, a California Limited Partnership. Applicants are now applying for a new General Lease – Recreational Use for the continued use and maintenance of an existing pier and one mooring buoy and the retention of an existing boat lift. The boat lift has existed for many years, but was not previously authorized by the Commission.

3. D.E. Tobie, Trustee of the D.E. Tobie Qualified Personal Residence Trust (Irrevocable) Dated January 3, 2005, and Dorothy R. Tobie, Trustee of the Dorothy R. Tobie Qualified Personal Residence Trust (Irrevocable) Dated January 3, 2005, qualify for rent-free status because they are natural persons who own the littoral land that is improved with a single-family dwelling. Tobie Children's Enterprises, LP, a California Limited Partnership (LP), 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. Therefore, the annual rent is prorated based on the LP's two-percent interest in the pier, boat lift, and mooring buoy.
4. Staff is recommending that the Commission consider accepting rent in the amount of \$163 for the period beginning June 22, 2005 (the date when two-percent ownership of the littoral parcel transferred to the LP) through September 26, 2008.
5. **Pier and Buoy:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), 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.

6. **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.

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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.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

PIER AND BUOY: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

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:

1. AUTHORIZE ACCEPTANCE OF RENT IN THE AMOUNT OF \$163 FOR THE PERIOD OF JUNE 22, 2005, THROUGH SEPTEMBER 26, 2008, AND WAIVE ANY PENALTY OR INTEREST THAT MAY HAVE ACCRUED.
2. AUTHORIZE ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE TO D.E. TOBIE, TRUSTEE OF THE D.E. TOBIE QUALIFIED PERSONAL RESIDENCE TRUST (IRREVOCABLE) DATED JANUARY 3, 2005; DORTHY R. TOBIE,

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TRUSTEE OF THE DORTHY R. TOBIE QUALIFIED PERSONAL RESIDENCE TRUST (IRREVOCABLE) DATED JANUARY 3, 2005; AND TOBIE CHILDREN'S ENTERPRISES, LP, A CALIFORNIA LIMITED PARTNERSHIP, BEGINNING SEPTEMBER 27, 2008, FOR A TERM OF TEN YEARS, FOR THE CONTINUED USE AND MAINTENANCE OF AN EXISTING PIER AND ONE MOORING BUOY AND THE RETENTION OF AN EXISTING BOAT LIFT AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$50; 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.