

**CALENDAR ITEM
C42**

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S 1

08/11/09
WP 8667
B. Terry

RECREATIONAL PIER LEASE

APPLICANTS:

Evelyn H. Richmond, Trustee of the ENR II QPRT Trust U/A/D 3/26/03; Ronald M. Naess and Ann J. Naess, Trustees of the Ronald M. Naess and Ann J. Naess Revocable Trust Dated January 15, 1999; Randall C. Naess and Susan E. Naess, Trustees of the Randall and Susan Naess Trust Dated November 30, 1998; Chris L. Stevens and Kristin N. Stevens, Trustees of the Chris and Kristin Stevens Trust dated June 13, 2007; Jeffrey R. Naess and Adriane Naess, Trustees of the Jeff and Adriane Naess Trust dated January 5, 1995; David L. Richmond; Robert E. Richmond and Karen L. Richmond, Trustees of the RKR Trust, dated June 29, 2000; and I. Elizabeth Richmond, Trustee of the Robert L. Richmond Exemption Trust of August 11, 2004

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 4812 and 4826 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Retention, use, and maintenance of an existing pier with a boatlift and a boathouse with two boatlifts, as shown on the attached Exhibit A.

LEASE TERM:

For a period of the lesser of 18 months, or the time required to obtain full approvals from the U.S. Army Corps of Engineers, the Tahoe Regional Planning Agency, and all other agencies having jurisdiction over the Lease Premises and the authorized facilities, beginning August 11, 2009.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

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SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$500,000.

Other:

Upon obtaining all required permits, Applicants may apply to the Commission to replace this lease with another ten-year Recreational Pier Lease.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On June 13, 2003, the Applicant submitted an application for the retention of an existing pier with a boatlift, boathouse with two boatlifts, sundeck with railing and stairs, and four mooring buoys. The application was submitted after 40 years of efforts by Commission staff to bring the pier under lease. Between 2003 and 2009, the Applicant's, through their attorney, continued to be unwilling to agree to certain standard lease terms and the removal of a sundeck with railing and stairs and four unpermitted mooring buoys. On April 9, 2009, the Commission denied the application and authorized the Commission staff to take legal enforcement steps, including litigation, to eject and remove all improvements from State sovereign lands. Applicants sought reconsideration of the denial at the Commission's June 1, 2009 meeting. Reconsideration was denied by the Commission.
3. Shortly after the June 1, 2009 denial of reconsideration, the Applicants agreed to remove the sundeck railing, stairs, and four mooring buoys and agreed with the terms of the Recreational Pier Lease as presented by staff. On July 6, 2009, the Applicants submitted an executed lease to the Commission and staff is now recommending approval of the new lease for the retention of an existing pier with a boatlift and a boathouse with two boatlifts. The new lease is a short term lease to allow the Applicants time to obtain any necessary permits for the existing pier structure with the boathouse and boatlifts. Once Applicants have obtained all required permits, they may apply to the Commission for a ten-year Recreational Pier Lease.
4. On July 22, 2009, photographs were provided that show the sundeck stairs and railing have been removed. Staff continues to monitor the removal of the sundeck with stairs and railing and the four mooring buoys.

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5. Applicants qualify for a Recreational Pier Lease because they are natural persons who own the littoral land that is improved with a single-family dwelling.
6. 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)(1).

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:

Tahoe Regional Planning Commission; U.S. Corps of Engineers; Lahontan Regional Water Quality Control Board; and California Department of Fish and Game

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

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)(1).

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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 ISSUANCE OF A RECREATIONAL PIER LEASE FOR A TERM OF THE LESSER OF 18 MONTHS, OR THE TIME REQUIRED TO OBTAIN FULL APPROVALS OF ALL THE AGENCIES HAVING JURISDICTION OVER THE LEASE PREMISES, TO EVELYN H. RICHMOND, TRUSTEE OF THE ENR II QPRT TRUST U/A/D 3/26/03; RONALD M. NAESS AND ANN J. NAESS, TRUSTEES OF THE RONALD M. NAESS AND ANN J. NAESS REVOCABLE TRUST DATED JANUARY 15, 1999; RANDALL C. NAESS AND SUSAN E. NAESS, TRUSTEES OF THE RANDALL AND SUSAN NAESS TRUST DATED NOVEMBER 30, 1998; CHRIS L. STEVENS AND KRISTIN N. STEVENS, TRUSTEES OF THE CHRIS AND KRISTIN STEVENS TRUST DATED JUNE 13, 2007; JEFFREY R. NAESS AND ADRIANE NAESS, TRUSTEES OF THE JEFF AND ADRIANE NAESS TRUST DATED JANUARY 5, 1995; DAVID L. RICHMOND; ROBERT E. RICHMOND AND KAREN L. RICHMOND, TRUSTEES OF THE RKR TRUST, DATED JUNE 29, 2000; AND I. ELIZABETH RICHMOND, TRUSTEE OF THE ROBERT L. RICHMOND EXEMPTION TRUST OF AUGUST 11, 2004, BEGINNING AUGUST 11, 2009, FOR RETENTION, USE, AND MAINTENANCE OF AN EXISTING PIER WITH A BOATLIFT AND A BOATHOUSE WITH TWO BOATLIFTS 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.