

**CALENDAR ITEM
C07**

A 4
S 1

12/17/09
WP 8135.9
B. Terry

RECREATIONAL PIER LEASE

APPLICANT:

Martin A. Gaehwiler, Jr.

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 6668 West Lake Boulevard, near
Tahoma, Placer County.

AUTHORIZED USE:

Reconstruction of an existing pier, and continued use and maintenance of one
existing mooring buoy as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning December 1, 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 \$500,000.

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 2009 growing season. Should the construction on the site extend into a subsequent growing season after June 14, 2010, the Applicant is required to contact Commission staff to determine if the site should be re-surveyed (survey to be conducted between June 15-September 30) for the presence of TYC.

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2. 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 6,228.75' Lake Tahoe Datum.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland property adjoining the lease premises.
2. On December 3, 1999, the Commission authorized a Recreational Pier Lease with Martin A. Gaehwiler for the relocation and reconstruction of a pier, installation of a boatlift, and retention of one mooring buoy. The relocation and reconstruction of the pier and installation of a boatlift never occurred. The lease expired on November 30, 2009. Applicant is now applying for a new Recreational Pier Lease.
3. Applicant is now proposing to reconstruct the existing pier in the same footprint with no increase in size or configuration. The reconstruction will replace 12 wood pilings with steel pilings, replace wood deck supports with steel girders, replace wood decking with composite (Trex or equivalent) decking material, and replace the existing catwalk with an adjustable catwalk. Neither a boatlift nor boat hoist is included in the proposed reconstruction. All construction work associated with the project will be conducted from the Lake via barge.
4. The Tahoe Regional Planning Agency (TRPA) issued a permit for the pier reconstruction project on November 5, 2008. Among other conditions, the TRPA permit requires the removal of the fencing on the side property lines extending below high water.
5. Applicant qualifies for a rent-free Recreational Pier Lease because the Applicant is a natural person who owns the littoral land that is improved with a single-family dwelling.
6. The 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 on their behalf 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

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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 and evaluated by a Commission biologist on September 8, 2009. The site does support TYC. A site-specific management plan to protect and enhance existing plants and habitat has been prepared and submitted on behalf of the Applicant, approved by Commission staff and incorporated into the project description. Special provisions have also been incorporated into the lease for the protection of TYC.

7. **Mooring Buoy:** 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.

8. **Pier Reconstruction:** 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 2, Replacement or Reconstruction; Title 2, California Code of Regulations, section 2905 (b).

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 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:

Pier Reconstruction:

Tahoe Regional Planning Agency
Department of Fish and Game

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Lahontan Regional Water Quality Control Board

Buoy: Tahoe Regional Planning Agency

APPROVAL REQUIRED:

U.S. Army Corps of Engineers

EXHIBITS:

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

PERMIT STREAMLINING ACT DEADLINE:

February 16, 2010

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

MOORING BUOY: 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).

PIER RECONSTRUCTION: 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 2, REPLACEMENT OR RECONSTRUCTION; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (b).

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:

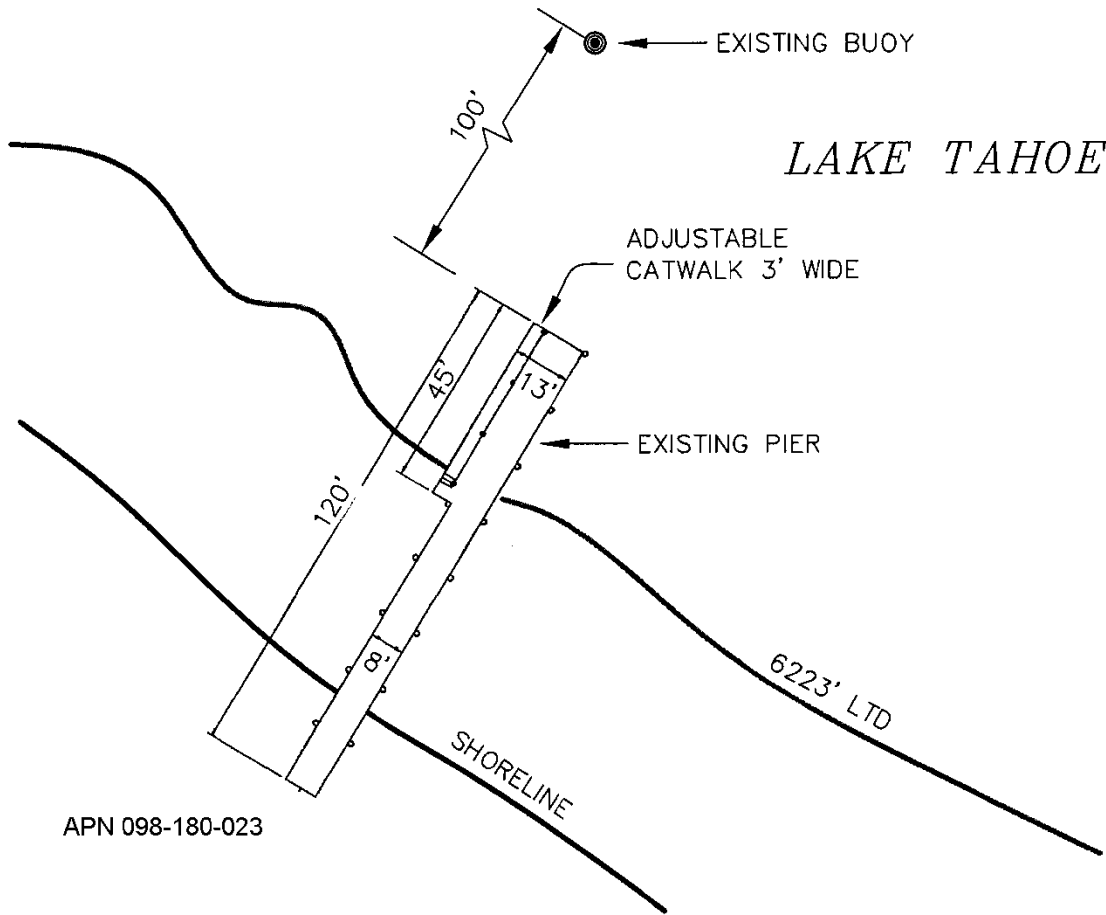
AUTHORIZE ISSUANCE OF A TEN-YEAR RECREATIONAL PIER LEASE TO MARTIN A. GAHWILER, JR., BEGINNING DECEMBER 1, 2009, FOR THE RECONSTRUCTION OF AN EXISTING PIER AND THE CONTINUED USE AND MAINTENANCE OF ONE EXISTING MOORING

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BUOY 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; AND LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$500,000.

NO SCALE

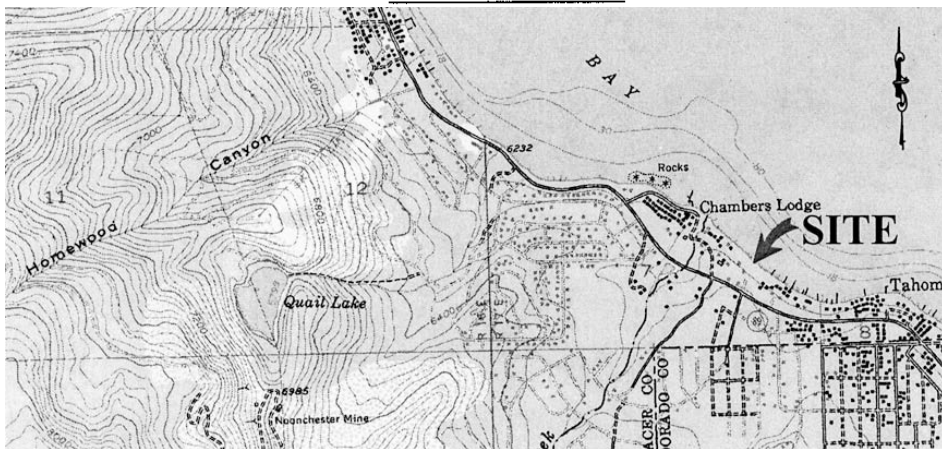
SITE



6668 WEST LAKE BOULEVARD, NEAR TAHOMA

NO SCALE

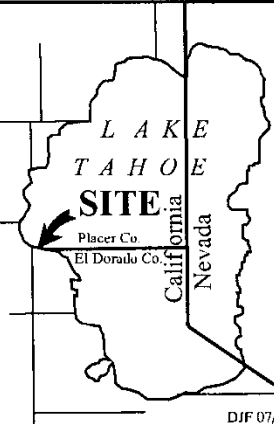
LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

PRC 8135.9
 GAEHWILER
 APN 098-180-023
 RECREATIONAL
 PIER LEASE
 PLACER COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

GAEHWILER PIER REPAIR PROJECT

PLACER COUNTY: 098-180-023

Tahoe Yellow Cress Management Plan

Due to low water levels, repair of the pier may require out-of-water removal and replacement of pier pilings. Should any out-of-water activity be necessary, a rubber-tired barge will be used. The movement of the barge will be restricted to the "footprint" of the pier structure and approximately 10 feet adjacent to the pier for access. This access will be the minimum amount of area necessary to allow the required work to be completed. All construction materials will be stored on the barge as applicable for the removal and replacement of the pier structure. No storage of construction materials will be allowed on the shoreline. Tarps will be temporarily placed under the construction area for collection of debris and to prevent any discharge of waste onto the shoreline or into lake waters.

If shoreline or lakebottom sediments are found to be disturbed by the construction activity, the area will be hand rolled to level the depression. Any compacted soils will be loosened with a pronged hand tool to reduce compaction and then filled with comparable sand, cobbles, and gravels taken from the backshore area without damaging the backshore habitat or plants.

The removal and replacement of the pier will not result in any impact to existing plants or potential habitat for the Tahoe Yellow Cress. The habitat beneath the pier and along this segment of shoreline is primarily cobbles, gravels, and sand. Vegetative protection fencing with flagging surrounding the plants will be installed to identify their location in those areas where the plants were found by California State Lands Commission staff on September 8, 2009 per the amended exhibit drawing, which is attached hereto. Proper signage will be placed on the fencing in order for construction equipment and labor force to avoid them, thus protecting the identified plant species.

Since the pile driving is required to be performed between October 1st and April 30th of the specified construction year per the California Department of Fish and Game Agreement, the plant will not have germinated, and thus will not be readily visible. Consequently, the exhibit drawing based upon agency site inspection will be used to the fullest extent possible. If construction is postponed until after October 1, 2010 another agency site inspection to identify any plants along the affected shoreline will be performed prior to construction between the required time periods (June 15th through September 30th).

The owner and selected contractor will comply with the November 19, 2008 California State Lands Commission Memorandum as reasonably as possible prior to, during, and after construction. For long-term monitoring, the property owner is open to have agency staff inspect the site on an annual basis per an executed agreement.