

**CALENDAR ITEM
C35**

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02/01/10
WP 6454.1
B. Terry

GENERAL LEASE – RECREATIONAL AND MAINTENANCE DREDGING USE

APPLICANT:

Fleur Du Lac Estates Association
P.O. Box 628
Homewood, CA 96141

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 4000 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of 12 existing floating boat slips and a portion of four existing floating boat slips; one steel sheet pile jetty and breakwater with pier; one rock filled breakwater with a wood walkway and steel sheet pile bulkhead; one steel sheet pile jetty and breakwater; a portion of a boat house; submerged remnants of wood pile jetties; and maintenance dredging, as shown on the attached Exhibit A.

LEASE TERM:

12 years, beginning July 27, 2008.

CONSIDERATION:

Floating Boat Slips, Pier Portion of a Breakwater /Jetty, Wood Walkway Portion of a Bulkhead and Portion of a Boathouse: \$1,780 per year, prorated pursuant to Public Resource Code section 6503.5; and

Jetties, Breakwaters, Bulkhead, and Remnant Wood Pile Jetties: \$4,417 per year.

Total Annual Rent - \$6,197, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

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Maintenance Dredging: No royalty will be charged as the project will improve navigational safety and provide a public fire protection benefit, and is, therefore, in the State's best interest. The dredged material may not be sold.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$2,000,000.

Other:

The Lease contains provisions stating that:

1. Prior to commencement of maintenance dredging, Lessee shall notify the Commission's staff and provide a written description regarding dates of dredging activity, location and volume. Additionally, the Lessee is required to submit copies of all permits prior to dredging and comply with all Federal, State, and local requirements for dredging and disposal of materials.
2. Lessee shall submit results of a survey and inspection for the presence of aquatic invasive species, including Eurasian Water Milfoil, within the Lease Premises. If found, Lessee agrees to comply with the management plan submitted for the removal of the aquatic invasive species on the Lease Premises.
3. Lessee agrees to allow the public to pass and re-pass around the landward end of the improvements to allow access to the Public Trust Easement.
4. In the event that the submerged remnant wood pile jetties become a public safety hazard, Lessee will remove the jetties upon written notice from Lessor.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On December 9, 2003, the Commission authorized a General Lease – Recreational Use with Fleur Du Lac Estates Association (Association). That Lease expired on July 26, 2008. The Association is now applying for a new General Lease – Recreational and Maintenance Dredging Use.
3. The Association's harbor and boat slips are for the private use of its members, their families and guests. The Association consists of 22 members and, of these, three (13.6%) do not qualify for rent-free status pursuant to section 6503.5 of the Public Resources Code. A portion of the

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Association's facilities qualify for rent-free status because they are used for the mooring and docking of boats. The rental calculation for these facilities will be prorated according to the number of qualifying members. However, the portion of the facilities not utilized for the mooring and docking of boats is subject to full rent.

4. The lease premises includes portions of four existing floating boat slips. The other portion of these slips lie landward of elevation 6223 feet, Lake Tahoe Datum, and are therefore outside of the Commission's leasing jurisdiction.
5. Due to the lower Lake level in 2009 and the accumulation of sediment, the Association reports that it has become critical to remove up to 700 cubic yards of sediment to re-establish and maintain functional and safe ingress, egress and berthing within the facilities and to restore adequate lake water supply within the harbor to maintain their fire protection system. The dredging will be done using a barge mounted excavator enclosed by an impermeable turbidity screen. All dredged material will be carried by a conveyor to sealed trucks, which will transport and dispose of the dredged material at an off-site location approved by the Lahontan Regional Water Quality Control Board. The Applicant anticipates that the 2010 maintenance dredging will be completed by April 15, 2010 which is the end of the work window.
6. To provide continuous flow of water for safe access to the harbor and boat slips, throughout the term of the lease, the Association proposes to dredge material on an as needed basis, not to exceed 700 cubic yards of material per year from the Lease Premises. Maintenance dredging of the harbor provides a public benefit as the fire protection system that serves the uplands depends on the water from the harbor for reserve storage. Currently, there is an insufficient volume of water to provide the fire flow requirements established by the Tahoe City Fire Protection District.
7. Due to the presence of Eurasian Water Milfoil, an aquatic invasive species in the harbor, the Association prepared a management plan that will be implemented during dredging and will provide for inspection and removal of milfoil, if found, in the future.
8. **Twelve Existing Floating Boat Slips and a Portion of Four Existing Floating Boat Slips, One Steel Sheet Pile Jetty and Breakwater with Pier, One Rock Filled Breakwater with a Wood Walkway and Steel Sheet Pile Bulkhead, One Steel Sheet Pile Jetty and Breakwater, a Portion of a Boat House, and Remnants of Wood Pile Jetties**

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(Improvements): Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of 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. **Maintenance Dredging:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 4, Minor alterations to land; Title 2, California Code of Regulations, section 2905 (d)(4)

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

10. 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 CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS REQUIRED:

Maintenance Dredging:

United States Army Corps of Engineers
Lahontan Regional Water Quality Control Board
California Department of Fish and Game

EXHIBITS:

- A. Site and Location Map
- B. Land Description

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Improvements: Find that the activity is exempt from the requirements of 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).

Maintenance Dredging: Find that the activity is exempt from requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; Title 2, California Code of Regulations, section 2905 (d)(4).

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 General Lease – Recreational and Maintenance Dredging Use to Fleur Du Lac Estates Association, beginning July 27, 2008, for a term of 12 years, for the continued use and maintenance of 12 existing floating boat slips and a portion of four existing floating boat slips, one steel sheet pile jetty and breakwater with pier; one rock filled breakwater with wood walkway and steel sheet pile bulkhead; one steel sheet pile jetty and breakwater; a portion of a boathouse; submerged remnants of wood pile jetties; and maintenance dredging a maximum of 700 cubic yards of material per year, as shown on Exhibit A (for reference purposes only) and described in Exhibit B attached and by this reference made a part hereof; consideration for the floating boat slips, pier portion of a breakwater and jetty, wood walkway, portion of a bulkhead and portion of a boathouse: \$1,780 per year, prorated pursuant to Public Resource Code section 6503.5; consideration for the jetties, breakwaters, bulkhead, and remnant wood pile jetties: \$4,417 per year; total annual rent in the amount of \$6,197, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the Lease; no monetary consideration for the maintenance dredging as the project is in the State's best interest; dredged material may not be sold; dredge materials will be disposed of at a Lahontan Regional Water Quality Control Board approved disposal site; and liability insurance with coverage of no less than \$2,000,000.