

MINUTE ITEM

This Calendar Item No. C04 was approved as Minute Item No. 04 by the California State Lands Commission by a vote of 3 to 0 at its 05/10/07 meeting.

CALENDAR ITEM

C04

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05/10/07
PRC 8457 WP 8457.9
R. Barham

**RESCIND ISSUANCE OF RECREATIONAL PIER LEASE AND
ISSUANCE OF A NEW RECREATIONAL PIER LEASE**

RESCINDING APPLICANTS:

Victor L. Metas and Shirley F. Metas, Trustees of the Metas Trust Dated June 17, 1998, and William W. Reinhard, as Trustee of the William W. Reinhard Trust created by Revocable Living Trust Agreement Dated March 8, 1993

CO-APPLICANTS:

Victor Metas and Shirley Metas and William W. Reinhard, as Trustee of the William W. Reinhard Trust created by Revocable Living Trust Agreement Dated March 8, 1993

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, Agate Bay, Placer County.

AUTHORIZED USE:

The removal of an existing single use pier, two remnant pilings and one rock crib pier remnant; the construction, use and maintenance of a joint use pier; the continued use and maintenance of two existing mooring buoys; and the retention of two existing mooring buoys as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning October 12, 2006.

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 \$300,000.

Other:

The lease contains a provision which requires the Applicants to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the

CALENDAR ITEM NO. C04 (CONT'D)

mooring buoys within two years after the adoption of the Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances based on the FEIS.

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. No TYC was found during the site-specific survey performed during the 2006 growing season. Should the demolition, construction or continuation of construction on the site extend into a subsequent growing season after June 14, the Applicants are required to contact staff of the Commission to conduct a site-specific survey (survey to be conducted between June 15-September 30) for the presence of TYC.

OTHER PERTINENT INFORMATION:

1. On April 7, 2003, the Commission authorized a ten-year Recreational Pier Lease No. PRC 8457.9 for two mooring buoys with Victor L. Metas and Shirley F. Metas, Trustees of the Metas Trust dated June 17, 1998. This lease was to expire on March 31, 2013.
2. On November 1, 2006, the Commission authorized the termination of Lease No. PRC 8457.9, and approved the issuance of a new ten-year Recreational Pier Lease with Victor L. Metas and Shirley F. Metas, Trustees of the Metas Trust dated June 17, 1998 and William W. Reinhard, as Trustee of the William W. Reinhard Trust created by Revocable Living Trust Agreement Dated March 8, 1993, for the removal of an existing previously unauthorized single use pier, two remnant pilings, and one rock crib pier remnant; the construction, use and maintenance of a joint-use pier located on the common property line between the Metas and Reinhard properties; and the use and maintenance of four mooring buoys.
3. Prior to the execution of the new lease, the Applicants notified staff that the littoral property owned by the Metas was changed from a Trust to joint ownership. Staff is now requesting that the Commission rescind the previous Recreational Pier Lease and issue a new Recreational Pier Lease to the Applicants.

CALENDAR ITEM NO. C04 (CONT'D)

4. Applicants qualify for a Recreational Pier Lease because they are natural persons who have improved the littoral lands with, and use the uplands for, single-family dwellings.
5. The proposed project is located in suitable Tahoe Yellow Cress (TYC) habitat. The TYC is listed under the provisions of the California Endangered Species Act as an endangered plant species subject to special protection at Lake Tahoe. On October 1, 2002, the Commission authorized the Executive Officer on their behalf 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.
6. A project site-specific survey for the presence of TYC was performed on September 12, 2006, by staff of the Commission and found that the project site did not contain TYC. Should the demolition, construction, or continuation of construction on the site extend into a subsequent growing season, the Applicants are required to contact the staff to conduct a site-specific survey (conducted between June 15 - September 30) for the presence of TYC.
7. The Applicants are required by the Tahoe Regional Planning Agency (TRPA) to develop a Fish Habitat Monitoring Plan. The Plan will assess fish use of the shorezone restoration areas and the joint-use pier as fish habitat and will include monitoring with annual reports conducted over a three-year period. After the initial three years, the TRPA will determine the need for continued monitoring.
8. **Rescind Issuance of a Recreational Pier 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.

CALENDAR ITEM NO. C04 (CONT'D)

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

9. **Removal of an Existing Pier, Two Remnant Pilings and One Rock Crib Pier Remnant:** 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 4, Minor Alterations to Land; Title 14, California Code of Regulations, section 15304.

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 14, California Code of Regulations, section 15304.

10. **Issuance of New Lease:**
Two 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).

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

11. **New Pier:** The Applicant has received approval to construct the new pier and associated pilings, from the Tahoe Regional Planning Agency (TRPA). The lessee is required by TRPA to develop a Fish Habitat Monitoring Plan. The plan will assess fish use of the shorezone restoration areas and the joint-use pier as fish habitat and will include monitoring with annual reports conducted over the three-year period. After the initial three-year period, the TRPA will determine the need for continued monitoring.

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 under the general rule that the CEQA applies only to projects

CALENDAR ITEM NO. C04 (CONT'D)

which have the potential for causing a significant effect on the environment. The staff believes, based on the information available to it, that there is no possibility that this project may have a significant effect on the environment.

Authority: Title 14, California Code of Regulations, section 15061 (b)(3).

12. **Retention of Two Additional 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 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(3).

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

13. 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: Tahoe Regional Planning Agency
California Department of Fish and Game
Lahontan Regional Water Quality Control Board
U. S. Army Corps of Engineers

FURTHER APPROVALS REQUIRED:

Buoys: Tahoe Regional Planning Agency

EXHIBIT:

A. Site and Location Map

CALENDAR ITEM NO. C04 (CONT'D)

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

RESCIND THE ISSUANCE OF A RECREATIONAL PIER LEASE: FIND THAT THE ACTIVITY IS EXEMPT FROM 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.

REMOVAL OF AN EXISTING PIER, TWO REMNANT PILINGS AND ONE ROCK CRIB PIER REMNANT: 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 4, MINOR ALTERATIONS TO LAND; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15304.

ISSUANCE OF NEW LEASE:

TWO 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).

NEW PIER: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THERE IS NO POSSIBILITY THAT THE ACTIVITY MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 (b)(3).

RETENTION OF TWO ADDITIONAL 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 3, NEW CONSTRUCTION OF SMALL

CALENDAR ITEM NO. C04 (CONT'D)

STRUCTURES; TITLE 2, CALIFORNIA CODE OF REGULATIONS,
SECTION 2905 (c)(3).

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) RESCIND THE ISSUANCE OF LEASE NO. PRC 8457.9, A
RECREATIONAL PIER LEASE, AUTHORIZED BY THE
COMMISSION ON NOVEMBER 1, 2006, TO VICTOR L. METAS
AND SHIRLEY F. METAS, TRUSTEES OF THE METAS TRUST
DATED JUNE 17, 1998, AND WILLIAM W. REINHARD, AS
TRUSTEE OF THE WILLIAM W. REINHARD TRUST CREATED
BY REVOCABLE LIVING TRUST AGREEMENT DATED
MARCH 8, 1993.

- 2) AUTHORIZE ISSUANCE OF A TEN-YEAR RECREATIONAL PIER
LEASE BEGINNING OCTOBER 12, 2006, TO VICTOR METAS
AND SHIRLEY METAS, AND WILLIAM W. REINHARD, AS
TRUSTEE OF THE WILLIAM W. REINHARD TRUST CREATED
BY REVOCABLE LIVING TRUST AGREEMENT DATED
MARCH 8, 1993 AS CO-LESSEES, FOR THE REMOVAL OF AN
EXISTING SINGLE USE PIER, TWO REMNANT PILINGS, AND
ONE REMNANT ROCK CRIB STRUCTURE; THE
CONSTRUCTION, USE AND MAINTENANCE OF A JOINT USE
PIER; THE CONTINUOUS USE AND MAINTENANCE OF TWO
MOORING BUOYS; AND THE RETENTION OF TWO
ADDITIONAL 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 \$300,000.

