

**CALENDAR ITEM
C13**

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S 1

06/28/10
WP 8792.9
N. Lee

**TERMINATION OF A GENERAL LEASE – RECREATIONAL USE AND ISSUANCE
OF A RECREATIONAL PIER LEASE**

LESSEES/APPLICANTS:

Brian C. McCosker and Jacqueline S. McCosker

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3051 Jameson Beach Road, city of South Lake Tahoe, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and retention of two existing mooring buoys as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning September 15, 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:

The public is 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 6228.75 feet, Lake Tahoe datum.

OTHER PERTINENT INFORMATION:

1. Lessees/Applicants own the uplands adjoining the lease premises.
2. On August 22, 2008, the Commission authorized a General Lease – Recreational Use for a proposed pier with Brian C. and Jacqueline S. McCosker. That lease will expire on August 21, 2018. The McCoskers

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did not qualify for a Recreational Pier Lease because the pier was located adjacent to a vacant littoral parcel, Assessor Parcel Number (APN) 032-110-28. The McCoskers' residence was located on the neighboring littoral parcel, APN 032-110-29. On September 15, 2009, the County of El Dorado recorded a boundary lot line adjustment that formed new parcels. As a result, the pier is now located adjacent to the new parcel, APN 032-110-31, which is improved with the McCoskers' residence. In addition, two existing mooring buoys are located adjacent to APN 032-110-31. The rent is paid up to date as of September 15, 2009. Lessees are now applying for the termination of the General Lease – Recreational Use and issuance of a Recreational Pier Lease for the continued use and maintenance of an existing pier and the retention of two existing mooring buoys.

3. The existing mooring buoys have not been previously authorized by the Commission. However, the Applicants obtained a Tahoe Regional Planning Agency mooring buoy permit on February 25, 2010. Staff is recommending approval of the retention of the existing mooring buoys.
4. Lessees qualify for a Recreational Pier Lease because they are natural persons who own the littoral land that is improved with a single-family dwelling.
5. **Termination of Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], staff has determined that this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and the State CEQA Guidelines.

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

6. **Pier:** 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 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.

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7. **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 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.

8. 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:

Termination of Lease: Find that the activity is not subject to the requirements of 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.

Pier: 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).

Buoys: 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 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(3).

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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:

1. Authorize termination of Lease No. PRC 8792.1, a General Lease – Recreational Use, effective September 14, 2009, issued to Brian C. McCosker and Jacqueline S. McCosker.

2. Authorize issuance of a ten-year Recreational Pier Lease to Brian C. McCosker and Jacqueline S. McCosker beginning September 15, 2009, for the continued use and maintenance of an existing pier and the retention of two 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; and liability insurance in the amount of no less than \$500,000.