

**CALENDAR ITEM
C14**

A 4
S 1

04/06/10
WP 8427.9
B. Terry

TERMINATION AND ISSUANCE OF A RECREATIONAL PIER LEASE

LESSEES:

John J. Maggi and Emily B. Maggi

APPLICANTS:

Emily B. Maggi, Trustee, Trust One under John and Emily Maggi Living Trust, dated January 31, 2002; Emily B. Maggi, Trustee, Trust Two under John and Emily Maggi Living Trust, dated January 31, 2002; and Richard P. Ross and Juana T. Ross

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2123 and 2131 Cascade Road, near the city of South Lake Tahoe, El Dorado County.

AUTHORIZED USE:

Removal of an existing pier and boathouse; and construction, use, and maintenance of a new joint-use pier with two boat lifts; and the continued use and maintenance of one existing mooring buoy as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning April 6, 2010.

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 \$1,000,000.

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

CALENDAR ITEM NO. C14 (CONT'D)

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

2. The lease provides that 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 6228.75 feet, Lake Tahoe Datum.
3. This lease is conditioned upon the Applicants obtaining authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoy by October 22, 2010, which is two years after the October 22, 2008 adoption of the Final Environmental Impact Statement (FEIS) and the approval of the Lake Tahoe Shorezone Ordinance Amendments based on the FEIS.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On October 1, 2002, the Commission authorized a ten-year Recreational Pier Lease with John J. Maggi and Emily B. Maggi. That lease authorized an existing pier and one mooring buoy adjacent to Assessor's Parcel Number (APN) 018-291-05 and will expire on July 31, 2012. John J. Maggi died on September 14, 2005, and his interest was transferred to Emily B. Maggi, Trustee, Trust One under John and Emily Maggi Living Trust, dated January 31, 2002; and Emily B. Maggi, Trustee, Trust Two under John and Emily Maggi Living Trust, dated January 31, 2002. The above Trustee is now proposing to remove the existing pier with boathouse, and construct a new joint-use pier with two boatlifts. The proposed joint-use pier will be constructed along the shared boundary line between APN 018-291-05 and the adjacent upland parcel, APN 018-291-04, which is owned by Applicants, Richard P. and Juana T. Ross. Applicants are now applying for a new Recreational Pier Lease for the project and have agreed to termination of the existing lease and issuance of a new lease to all owners.
3. The proposed joint-use pier will be 100 feet long and ten feet wide with a 30-foot long by 16-foot wide pierhead. It will have two low-level boat lifts and two 45-foot long by three-foot wide adjustable catwalks. All

CALENDAR ITEM NO. **C14** (CONT'D)

construction work associated with the project will be conducted from the water via barge.

4. 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.
5. The TYC is listed under the provision 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 on their behalf to sign a Memorandum of Understanding (MOU) to implement the Conservation Strategy for TYC (*Rorippa subumbellata*) in conjunction with the TRPA, the U.S. Fish and Wildlife Services, 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.

The proposed project is located in suitable TYC habitat. The project site was surveyed/evaluated by a Commission biologist on September 15, 2009. The site does support TYC. A site-specific management plan to protect existing plants and habitat has been prepared, submitted by the applicant/agent, approved by staff and incorporated into the project description. Special provisions have been incorporated into the lease for the protection of TYC.

6. **Termination of an Existing 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 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.

7. **Removal of an Existing 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 4, Minor Alterations to Land; Title 2, California Code of Regulations, section 2905 (d)(3).

CALENDAR ITEM NO. **C14** (CONT'D)

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. **Joint-Use Pier with Two Boat Lifts:** 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)(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.

9. **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 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.

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 OBTAINED:

Removal of an Existing Pier and Boathouse and Construction of a Joint-Use Pier with Two Boat Lifts:

Tahoe Regional Planning Agency
California Department of Fish and Game

CALENDAR ITEM NO. **C14** (CONT'D)

APPROVALS REQUIRED:

Removal of an Existing Pier and Boathouse and Construction of a Joint-Use Pier with Two Boat Lifts:

Lahontan Regional Water Quality Control Board
U.S. Army Corps of Engineers

Buoy: Tahoe Regional Planning Agency

EXHIBITS:

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

PERMIT STREAMLINING ACT DEADLINE:

July 6, 2010

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Termination of an Existing 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.

Removal of an Existing Pier and Boathouse: Find that the activity is exempt from the Requirements of CEQA Pursuant to Title 14, California Code of Regulations, section 15061 as a Categoricaly exempt project, Class 4, Minor Alterations to Land; Title 2, California Code of regulations, section 2905 (d)(3).

Construction of a Joint-Use Pier with Two Boat Lifts: 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)(1).

Mooring Buoy: 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).

CALENDAR ITEM NO. C14 (CONT'D)

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 8427.9, a Recreational Pier Lease effective April 5, 2010, issued to John J. Maggi and Emily B. Maggi.

2. Authorize issuance of a ten-year Recreational Pier Lease to Emily B. Maggi, Trustee, Trust One under John and Emily Maggi Living Trust, dated January 31, 2002; Emily B. Maggi, Trustee, Trust Two under John and Emily Maggi Living Trust, dated January 31, 2002; and Richard P. Ross and Juana T. Ross, beginning April 6, 2010, for the removal of an existing pier with a boathouse, construction, use, and maintenance of a new joint-use pier with two boat lifts, and the continued use and maintenance of an existing mooring 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 \$1,000,000.