

**CALENDAR ITEM
C30**

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10/16/08
WP 4409.1
B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANTS:

Kathleen M. Ohlson and David A. Ohlson, Trustees of the Ohlson Trust dated October 3, 1978; Henry P.C. Culp and Susan O. Culp, as Trustees of the Culp Family Trust created by Declaration of Trust dated 3/25/98; Henry P.C. Culp and Susan Ohlson Culp; David A. Ohlson and Betty M. Ohlson, as Trustees of the Ohlson Family Trust Established September 15, 1999; Daniel Lee Ohlson and Susan Ohlson; and Kristin Louise Ohlson

And

Barbara Woods Heard, Trustee of the Barbara Woods Heard Amended and Restated Revocable Trust u/d/t dated October 15, 1999; Lauren H. Poage; Katherine M. Landers; David B. Heard; and Dwight B. Heard Investment Company, a corporation

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 5520 and 5540 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier, boat house with sundeck, and three mooring buoys and the retention of two boat lifts as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning January 1, 2008.

CONSIDERATION:

\$1,611 per year, 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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SPECIFIC LEASE PROVISIONS:

Insurance:

Liability coverage of no less than \$1,000,000.

Other:

The Lease contains a provision that the existing sundeck cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50 percent of the base value of the sundeck, then the sundeck must be removed from the lease premises; and

A provision which requires the Applicants obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoys within two years after the adoption of the Lake Tahoe Shorezone Amendments-Final Environmental Impact Statement (FEIS) and approval of the ordinances based on the FEIS.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. On November 26, 2001, the Commission authorized a Recreational Pier Lease with Louis D. Ohlson; Kathleen M. Ohlson; Barbara Woods Heard, Trustee of the Barbara Woods Heard Revocable Trust, U/T/D dated December 2, 1993; and Dwight B. Heard Investment Company. That lease expired on December 31, 2007. During the term of the lease, various ownership interests in the two adjoining upland properties have transferred to the Applicants. Applicants are now applying for a new General Lease – Recreational Use.
3. The existing joint-use pier, boat house with sundeck and two boat lifts are shared facilities; however, the mooring buoys are not. Ohlson et al. own and use one mooring buoy and Heard et al. and David B. Heard Investment Company own and use two mooring buoys.
4. Ohlson et al. and Heard et al. qualify for rent-free status because they are natural persons and own the littoral land that is improved with a single family dwelling. The Dwight B. Heard Investment Company does not qualify for rent-free status because it does not own the littoral property as a natural person pursuant to Public Resources Code section 6503.5. The investment company has a 50-percent ownership in the upland property at 5540 West Lake Blvd; therefore, the annual rent is prorated based on the investment company's interest in the pier and the two mooring buoys adjacent to the 5540 West Lake Blvd property.

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5. The sundeck located on the top of the boat house does not qualify for rent-free status because it is a facility not constructed for the mooring and docking of boats. Therefore, the use area of the sundeck located over the lease premises is subject to full rent.

6. **Joint-Use Pier, Boat House with Sundeck and Three 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.

7. **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 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)(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.

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.

APPROVAL REQUIRED:

Buoys: Tahoe Regional Planning Agency

EXHIBIT:

- A. Site and Location Map

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RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

JOINT-USE PIER, BOAT HOUSE WITH SUNDECK AND THREE 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).

TWO BOAT LIFTS:

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 STRUCTURES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (c)(1).

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 USE, TO KATHLEEN M. OHLSON AND DAVID A. OHLSON, TRUSTEES OF THE OHLSON TRUST DATED OCTOBER 3, 1978; HENRY P.C. CULP AND SUSAN O. CULP AS TRUSTEES OF THE CULP FAMILY TRUST CREATED BY DECLARATION OF TRUST DATED 3/25/98; HENRY P.C. CULP AND SUSAN OHLSON CULP; DAVID A. OHLSON AND BETTY M. OHLSON, AS TRUSTEES OF THE OHLSON FAMILY TRUST ESTABLISHED SEPTEMBER 15, 1999; DANIEL LEE OHLSON AND SUSAN OHLSON; KRISTIN LOUISE OHLSON; AND DWIGHT B. HEARD INVESTMENT COMPANY, A CORPORATION; BARBARA WOODS HEARD, TRUSTEE OF THE BARBARA WOODS HEARD AMENDED AND RESTATED REVOCABLE TRUST U/D/T DATE OCTOBER 15, 1999; LAUREN H. POAGE; KATHERINE M. LANDERS; AND DAVID B. HEARD BEGINNING JANUARY 1, 2008, FOR A TERM OF TEN YEARS, FOR AN EXISTING JOINT-USE PIER, BOAT HOUSE WITH SUNDECK AND THREE MOORING BUOYS AND THE

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RETENTION OF TWO EXISTING BOAT LIFTS AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$1,611, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; AND LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$1,000,000.