

**CALENDAR ITEM
C01**

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04/09/09
WP 5828.9
R. Barham

RECREATIONAL PIER LEASE

APPLICANTS:

Dan Best II, in trust, for the benefit of Brenda Payne Cooley, William Ashley Payne and Robert Best Payne under The Barbara Best Payne Testamentary Trust; Dan G. Best II, as Trustee under The Brenda Best Weaver Testamentary Trust; Dan G. Best II, Trustee of The Dan G. Best II Revocable Living Trust under Declaration of Trust dated October 7, 1993; Dan G. Best, as Sole Trustee of the "Best Exempt Credit Trust"; and Dan G. Best, as Sole Trustee of the "Best Survivor's Trust"

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 4950 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Removal of an existing pier and construction of a new pier as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning April 9, 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:

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. No TYC was found during the site-specific survey performed during the 2008 growing season. Should the demolition, construction or continuation of construction on the site extend into a

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subsequent growing season after June 14, 2009, the Lessee is required to contact staff of the Commission to conduct a site-specific survey (survey to be conducted between June 15-September 30, 2009) 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 Lake Tahoe datum.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland property adjoining the lease premises.
2. On July 6, 1995, the Commission authorized a Recreational Pier Lease with Dan G. Best Trust, et al. That lease expired on May 28, 2005. Since then, the upland property has been deeded to Dan Best II, in trust, for the benefit of Brenda Payne Cooley, William Ashley Payne and Robert Best Payne under The Barbara Best Payne Testamentary Trust; Dan G. Best II, as Trustee under The Brenda Best Weaver Testamentary Trust; Dan G. Best II, Trustee of The Dan G. Best II Revocable Living Trust under Declaration of Trust dated October 7, 1993; Dan G. Best, as Sole Trustee of the "Best Exempt Credit Trust"; and Dan G. Best, as Sole Trustee of the "Best Survivor's Trust". The Applicants are now applying for a new Recreational Pier Lease for the removal of an existing pier and construction of a new pier.
3. Applicants are proposing to remove the pier that was previously authorized by the Commission and construct a new 136-foot pier with a 30-foot by 16-foot pierhead and two catwalks. Construction of the pier will be performed by amphibious vehicle. Tarps and/or small boats will be placed adjacent to the pier structure to prevent discharge of waste material from entering into the lake or onto the shoreline. All construction wastes will be collected and disposed of at a dumpster or sanitary landfill site.
4. Applicants qualify for a rent-free Recreational Pier Lease because they are natural persons who own the littoral land that is improved with a single-family dwelling.
5. The Tahoe Yellow Cress (TYC) is listed under the provisions 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 to sign on their behalf a Memorandum of

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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. The proposed project is located in suitable TYC habitat. The project site was surveyed/evaluated by a Commission biologist on September 2, 2008. The project site does not presently contain TYC.

6. 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.

7. 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:

Tahoe Regional Planning Agency
California Department of Fish and Game

FURTHER APPROVALS REQUIRED:

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

EXHIBIT:

- A. Site and Location Map

PERMIT STREAMLINING ACT DEADLINE:

June 8, 2009

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RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

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 TEN-YEAR RECREATIONAL PIER LEASE TO DAN BEST II, IN TRUST, FOR THE BENEFIT OF BRENDA PAYNE COOLEY, WILLIAM ASHLEY PAYNE AND ROBERT BEST PAYNE UNDER THE BARBARA BEST PAYNE TESTAMENTARY TRUST; DAN G. BEST II, AS TRUSTEE UNDER THE BRENDA BEST WEAVER TESTAMENTARY TRUST; DAN G. BEST II, TRUSTEE OF THE DAN G. BEST II REVOCABLE LIVING TRUST UNDER DECLARATION OF TRUST DATED OCTOBER 7, 1993; DAN G. BEST, AS SOLE TRUSTEE OF THE "BEST EXEMPT CREDIT TRUST"; AND DAN G. BEST, AS SOLE TRUSTEE OF THE "BEST SURVIVOR'S TRUST" , BEGINNING APRIL 9, 2009, FOR THE REMOVAL OF AN EXISTING PIER AND CONSTRUCTION OF A NEW PIER 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.