

**CALENDAR ITEM
C28**

A 4
S 1

12/17/09
WP 4120.1
B. Terry

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Paradise Flat II, L.P.

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, adjacent to 281 and 301 Paradise Flat Lane, near Rubicon Bay, El Dorado County.

AUTHORIZED USE:

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

LEASE TERM:

Ten years, beginning December 1, 2008.

CONSIDERATION:

\$2,409 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Liability insurance in the amount of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On June 14, 1999, the Commission authorized a ten-year Recreational Pier Lease with F. Tracy Schilling and August H. Schilling, Co-Trustees of the Schilling Living Trust u/t/a dated November 2, 1992, August H. Schilling and F. Tracy Schilling; Elizabeth F. Schilling; Tracey A. Schilling; August H. Schilling III; Heather H. Schilling; John Ralston Schilling; Morgan Schilling; Christian Schilling; Gretchen Schilling; Kate Schilling; Tracy P. Schilling; Giacomo L. Moris; Stefano A. Moris; and Alexandra S. Santos. That lease expired on November 30, 2008. On April 23, 2003,

CALENDAR ITEM NO. C28 (CONT'D)

the upland property ownership was quitclaimed to Paradise Flat II, L.P., who is now applying for a new General Lease - Recreational Use.

3. Applicant does not qualify for rent-free status because the Applicant does not own the littoral property as a natural person pursuant to Public Resources Code section 6503.5.
4. The two mooring buoys have not been previously authorized but have existed for many years and the Applicant obtained permits for the buoys from the Tahoe Regional Planning Agency on September 30, 2009.
5. Staff is recommending that the Commission accept rent in the amount of \$7,004 for the period beginning April 23, 2003, which is when the uplands were transferred to the Applicant, to November 30, 2008.
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 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. **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.

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.

CALENDAR ITEM NO. **C28** (CONT'D)

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

PIER: 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).

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 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. AUTHORIZE ACCEPTANCE OF RENT IN THE AMOUNT OF \$7,004 FOR THE PERIOD OF APRIL 23, 2003 THROUGH NOVEMBER 30, 2008, AND WAIVE ANY PENALTY AND INTEREST THAT MAY HAVE ACCRUED.
2. AUTHORIZE ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE TO PARADISE FLAT II, L.P., BEGINNING DECEMBER 1, 2008, FOR A TERM OF TEN YEARS, FOR THE CONTINUED USE AND MAINTENANCE OF AN EXISTING PIER AND THE RETENTION OF TWO MOORING BUOYS AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$2,409, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM,

CALENDAR ITEM NO. **C28** (CONT'D)

AS PROVIDED IN THE LEASE; AND LIABILITY INSURANCE IN
THE AMOUNT OF NO LESS THAN \$1,000,000.