

**CALENDAR ITEM
C07**

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09/01/11
WP 2376.1
R. Barham

**GENERAL LEASE – COMMERCIAL USE
AND APPROVAL OF A SUBLEASE**

APPLICANT/SUBLESSOR:

U.S. Department of Agriculture, Forest Service
Lassen National Forest
2550 Riverside Drive
Susanville, CA 96130

SUBLEESSEE:

Lassen College Foundation, Inc.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Eagle Lake, adjacent to Assessor's Parcel Number 89-030-11, near Susanville, Lassen County.

AUTHORIZED ACTIVITIES:

LEASE: Continued use, maintenance, and operation of an existing public marina facility known as "Gallatin Marina at Eagle Lake" consisting of two boat launch ramps, courtesy dock, 65 berths, fueling facility, retaining wall, breakwater, and buoy field comprised of 15 existing mooring buoys previously authorized by the Commission; and periodic launch ramp maintenance dredging not previously authorized by the Commission as shown on the attached Exhibit A.

SUBLEASE: Operation and maintenance of a public marina.

LEASE TERM:

LEASE: 19 years, beginning January 1, 2012, ending December 31, 2030.

SUBLEASE: 20 years, beginning January 1, 2011, ending December 31, 2030.

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CONSIDERATION:

Public Facilities (boat launch ramps, courtesy dock, five berths, retaining wall, and breakwater): The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

Commercial Facilities: \$500 per year, against five percent of the gross annual income derived from the commercial activities of mooring, berthing, boat and personal watercraft rentals; and one and one-half cents per gallon of fuel sold annually on or over the Lease Premises to a maximum of 100,000 gallons and two cents per gallon thereafter, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Sublessee shall maintain liability insurance with coverage of no less than \$1,000,000.

Other:

1. At all times while launch ramp dredging activities are taking place in Eagle Lake, warning signs shall be installed on the upland side of the site to provide notice that dredging activities are taking place and to exercise caution. Prior to the start of dredging, warning buoys shall be placed in the lake indicating tentative dates that dredging will occur.
2. The lease contains provisions that lessee agrees to the implementation of the Commission's "Best Management Practices for Marina Owners/Operators" and "Best Management Practices for Guest Dock Users and Boaters," including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. Lessee shall post the "BMPs for Marina Owners/Operators" and "BMPs for Guest Dock Users and Boaters" in prominent places within the lease premises. The Lessee shall provide the Commission, on the first anniversary of the lease and tri-annually thereafter, a report on compliance with all BMPs.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland and has issued a 20-Year Resort/Marina Term Special Use Permit to Sublessee for the marina and associated facilities owned by Sublessee adjacent to the Lease Premises. The public marina is known as the Gallatin Marina at Eagle Lake.

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2. On June 19, 1998, the Commission authorized a 13-year and 10-month lease, beginning March 1, 1998, with the U.S. Department of Agriculture, Forest Service, Lassen National Forest (Forest Service). That lease will expire on December 31, 2011. On December 14, 2006, the Commission authorized an amendment to the lease to approve a sublease between the Forest Service and Lassen College Foundation, Inc. (LCF) and to clarify the dates of the annual reporting period and payment of any rent. The Commission authorized a second amendment on April 6, 2011, to approve construction of a proposed boat launch ramp.
3. The Forest Service is now applying for a new lease and approval of a new sublease. Under the new lease, the Forest Service is requesting authorization for the continued use, maintenance, and operation of the existing facilities, as well as authorization to perform periodic maintenance dredging on the launch ramps not previously authorized by the Commission and authorization to include an existing buoy field previously authorized under Lease No. PRC 7940.1. PRC 7940.1 was issued to the Eagle Lake Sailing Association (ELSA) and expired on February 11, 2007. ELSA continued to pay holdover rent until it disbanded in January 2011, and subsequently transferred its ownership interest in the buoy field to LCF.
4. Staff has worked with LCF to negotiate payment of the ELSA back rent from February 12, 2011 to December 31, 2011. LCF has agreed to pay back rent in the amount of \$250 and staff recommends the Commission accept this rent for Lease No. PRC 7940.1 to cover the period beginning February 12, 2011 through December 31, 2011.
5. LCF is the holder of the Resort/Marina Term Special Use Permit issued by the Forest Service. In order to legally conduct the business activities involved with the marina, LCF formed and solely owns Lassen Cougar Enterprises, Inc., a for-profit California corporation. LCF's mission is to provide financial support to Lassen Community College and improve the quality of life for the citizens of, and visitors to, Lassen County. Commission staff has reviewed the special use permit and found that all terms of the permit are consistent with the terms of the new lease.
6. A portion of the marina facilities is free-of-charge to the public. The free public facilities include: two boat launch ramps, parking, public restrooms, a fish cleaning station on the upland parcel, one berth for the California Department of Fish and Game, one berth for the Lassen County Sheriff's Department, and a minimum of three berths for short-term day-use courtesy dockage. Commercial usage of the marina facilities includes

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fueling facilities, berthing, mooring, and personal boat and watercraft rentals.

7. Due to high wind conditions during the winter months, sediment is deposited on the launch ramps making boat launching difficult. Therefore, periodic maintenance dredging or scraping of the launch ramps of up to 100 cubic yards annually may be required. No dredged material will be sold. Equipment staging for all aspects of the dredging will occur on the upland parcel. The use of turbidity curtains to reduce sediment from entering into Eagle Lake will be used for all in-water work. The dredged spoils will be trucked and deposited approximately one-quarter mile from the launch ramps on the Applicant's 9.15-acre upland parcel adjacent to the Applicant's entrance road and parking area.

8. **New Lease:** 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.

9. **Sublease:** 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.

10. **Maintenance Dredging:** 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 Alteration to Land; Title 2, California Code of Regulations, section 2905 (d)(4).

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Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, sections 15300 and Title 2, California Code of Regulations, section 2905.

11. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et seq., but such activity will not affect those significant lands. 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.

EXHIBITS:

- A. Site and Location Map
- B. Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

New Lease: 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).

Sublease: 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.

Maintenance Dredging: Find that this activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 4, Minor Alteration to Land; Title 2, California Code of Regulations, section 2905 (d)(4).

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 section 6370, et seq.

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AUTHORIZATION:

1. Accept back rent for Lease No. PRC 7940.1, a General Lease – Recreational Use, in the amount of \$250 for the period of February 12, 2011 through December 31, 2011.
2. Authorize issuance of a General Lease – Commercial Use to the U.S. Department of Agriculture, Forest Service, Lassen National Forest, beginning January 1, 2012, for a term of 19 years, for the continued use, maintenance and operation of an existing public marina facility known as “Gallatin Marina at Eagle Lake” consisting of two public launch ramps, courtesy dock, 65 berths, fueling facility, retaining wall, breakwater, and buoy field comprised of 15 existing mooring buoys previously authorized by the Commission and maintenance dredging not previously authorized by the Commission as shown on the attached Exhibit A (for reference purposes only) and as described in Exhibit B attached and by this reference made a part hereof; consideration for public facilities: the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State’s best interest; consideration for the commercial facilities: \$500 per year, against five percent of the gross annual income derived from mooring, berthing, boat and personal watercraft rentals; and one and one-half cents per gallon of fuel sold annually on or over the Lease Premises to a maximum of 100,000 gallons and two cents per gallon thereafter, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; the dredged material may not be sold; and Sublessee shall maintain liability insurance with coverage of no less than \$1,000,000.
3. Authorize a sublease between the U.S. Department of Agriculture, Forest Service, Lassen National Forest, and Lassen College Foundation, Inc., of Lease No. PRC 2376.1, for a term of 20 years, beginning January 1, 2011 and ending December 31, 2030.