



# Appeal of Permit and Consideration of Poe Pier Rebuild and Expansion

February 27, 2019



## Why We Are Here

1. September 2018 Legal Committee Direction
2. October 2018 Poe Pier Permit Issued
3. November 2018 Pohl Appeal of Poe Pier Permit

# Recommendation

**Appeal:** The Legal Committee recommends that the Governing Board find that appropriate notice of September Legal Committee was not given and grant the appeal on that ground.

**Pier Project:** The Legal Committee recommends the Governing Board consider the Poe Rebuild and Expansion application on its merits and consider whether the weight of evidence, including any new evidence submitted on appeal, supports upholding the permit.

# Appeal of Permit Adequacy of Notice

## Legal Committee Noticing

- TRPA did not provide individual property owner notification
- TRPA did provide generalized noticing

## Notice of Application

- TRPA did notice of the Executive Director's intention to take action

## Adequacy of Notice

- Since the Executive Director considered the Legal Committee direction binding, individual notice should have been given to the affected property owners.

# Appeal of Permit

## Whether the Structure Was Legally Existing

### Existing Structure

- No direct evidence of the structure existing prior to 1988
- TRPA considered as coverage and legally existing
- Staff recommends the structure be treated as legally existing upland coverage



## Appeal of Permit

### Is Deck Located Over HWL Since Pre-1972

1991

- Over HWL in base map dated 1988
- Owner withdrew application to expand deck before action
- Application states deck is 6'x10'

1993

- TRPA Permit for residential rebuild
- Structure included as 1a coverage, indicating location is upland of HWL

2013

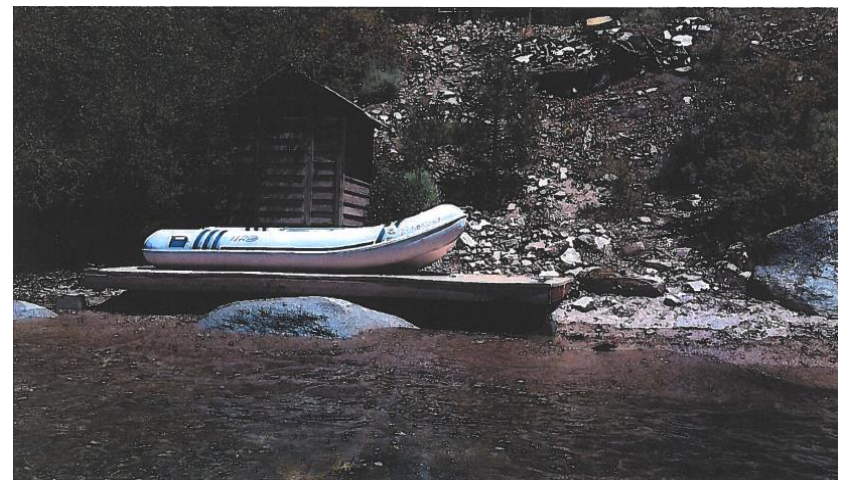
- “wood deck” expanded to measure 8'x16'
- Survey located deck landward of HWL, structure recognized as upland

2016

- “wood pier” measures 8'x16'
- Extends lakeward of HWL per latest Turner Survey



# Appeal --Photographs



# Appeal of Permit

- Is 2016 Survey consistent with photo evidence
- Is 2016 Survey consistent with coverage determinations
- Is 2016 Survey relevant for the narrower 6'x10' structure





# GB Has Discretion to Decide if Structure is a Pier

- No Estoppel from
  - 2016 Stamped Plan
  - 2018 Deed Restriction
- No Reasonable Reliance

# Governing Board Motions

A motion to **grant** the appeal regarding individual notice to the Mr. Pohl.

Motions to approve the project:

- A motion to make the findings as set forth in Handout 1, including a finding of no significant effect for the Poe Pier Project;
- A motion to approve the Poe Pier Project subject to the conditions set forth in the Draft Permit, as shown in Handout 2.