MINUTE ITEM

This Calendar Item No C65 was approved as Minute Item No. 65 by the California State Lands Commission by a vote of 2 to 0 at its 12-08-05 meeting.

CALENDAR ITEM
C65

A 67

S 35

PRC 8652

12/08/05
W 26106
PRC 8239.9
PRC 8258.9
S. Young

TERMINATION OF GENERAL LEASE - RECREATIONAL PIER USE, TERMINATION OF GENERAL LEASE - PROTECTIVE STRUCTURE USE AND ISSUANCE OF A NEW GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE

LESSEES:

Richard Joseph Schuster and Iris Mae Laffoon Schuster, As Co-Trustees of the Schuster Revocable Inter-Vivos Trust, U/D/T April 26, 1996

APPLICANT:

Iris M. Schuster, Trustee of the Schuster Residence Trust I and Trust II, Dated March 6, 2001

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Huntington Harbour, Huntington Beach, Orange County.

AUTHORIZED USE:

(1) The continued use and maintenance of an existing boat dock; (2) repair of an existing bulkhead that may include all or some of the following: (a) existing sheet pile repair; (b) replacement of sheet piles; and (c) installation of rock slope protection; (3) re-construction, use and maintenance of an existing cantilevered deck extending waterward of the existing bulkhead no more than five feet.

LEASE TERM:

Ten years, beginning December 8, 2005.

CONSIDERATION:

As to the boat dock, no monetary consideration pursuant to Public Resources Code section 6503.5; as to the repair of the bulkhead, the public health and safety 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; as to the construction and maintenance of the cantilevered deck, $900 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:

Insurance:

Combined single limit coverage of no less than $1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.

2. In 2000, the Commission authorized the issuance of a General Lease – Protective Structure Use, PRC 8239.9 to the Lessees for a ten-year term for bulkhead repairs and maintenance waterward and adjacent to their residence in Huntington Harbour. In 2001, the Commission authorized the issuance of a General Lease –Recreational Pier Use, PRC 8258.9, for a ten-year term to the Lessees for the continued use and maintenance of the boat dock adjacent to the residence. On March 28, 2001, the Lessees recorded a Trust Transfer Deed granting their interest in Lot 142 of Tract No. 5481 to the Applicant. The Applicant is now applying for a new General Lease – Recreational and Protective Structure Use for the proposed construction of a replacement deck that cantilevers five feet waterward of the existing bulkhead and 40 feet in length. This five-foot portion of the deck extends over the State's fee title ownership in the Main Channel of Huntington Harbour. Staff is recommending that the two existing leases, PRC 8258.9 and PRC 8239.9, to the Lessees be terminated and the existing uses and proposed use be combined in one General Lease – Recreational and Protective Structure Use. As the cantilevered deck does not qualify for a rent-free lease, that portion of the deck extending over State fee ownership within the Harbour is subject to annual rental. The existing boat dock will remain rent-free as the Applicant qualifies for a rent free lease because she is natural person who has improved the littoral land with, and uses the upland for a single-family dwelling.

3. **As to the existing boat dock and bulkhead repairs and maintenance**: 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.

4. **As to the Cantilevered Deck**: 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 2, Replacement or Reconstruction; Title 2, California Code of Regulations, section 2905 (b).

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

5. 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:
California Coastal Commission

EXHIBITS:
A. Location and Site Map
B. Land Description

PERMIT STREAMLINING ACT DEADLINE:
N/A

RECOMMENDED ACTION:
IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:
AS TO THE EXISTING BOAT DOCK AND REPAIR AND MAINTENANCE OF THE BULKHEAD: 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).

AS TO THE CANTILEVERED DECK: 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 2, REPLACEMENT OR RECONSTRUCTION; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (b).

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 THE TERMINATION OF GENERAL LEASE – PROTECTIVE STRUCTURE USE, PRC 8239.9, ISSUED TO RICHARD JOSEPH SCHUSTER AND IRIS MAE LAFFOON SCHUSTER, AS CO-TRUSTEES OF THE SCHUSTER REVOCABLE INTER-VIVOS TRUST, U/D/T APRIL 26, 1996, AND APPROVED BY COMMISSION ON NOVEMBER 1, 2000.

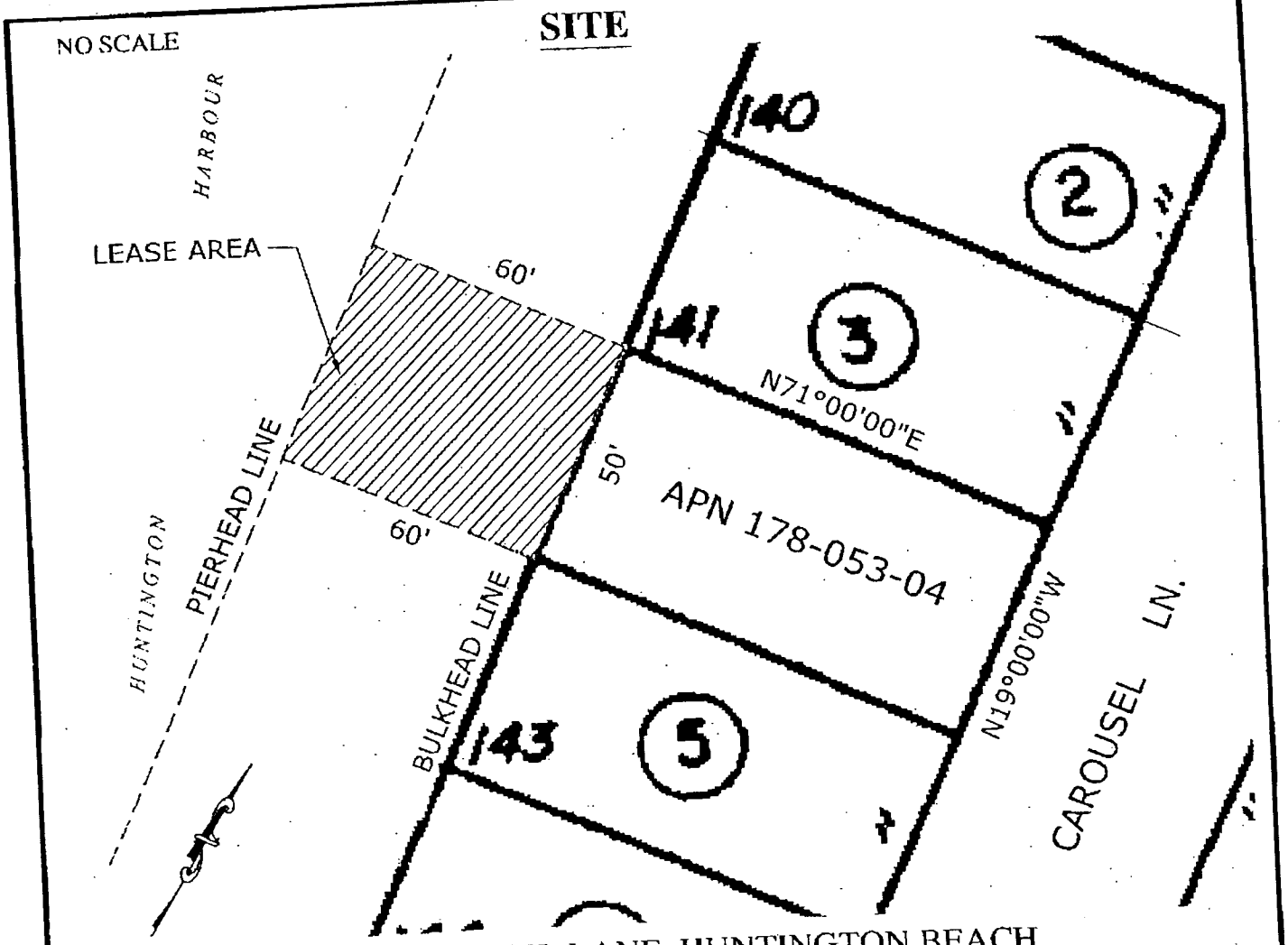
AUTHORIZE THE TERMINATION OF RECREATIONAL PIER LEASE, PRC 8258.9, ISSUED TO RICHARD JOSEPH SCHUSTER AND IRIS MAE LAFFOON SCHUSTER, AS CO-TRUSTEES OF THE SCHUSTER REVOCABLE INTER-VIVOS TRUST, U/D/T APRIL 26, 1996, AND APPROVED BY COMMISSION ON FEBRUARY 5, 2001.

AUTHORIZE ISSUANCE TO IRIS M. SCHUSTER, TRUSTEE OF THE SCHUSTER RESIDENCE TRUST I AND TRUST II, DATED MARCH 6, 2001, OF A GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE BEGINNING DECEMBER 8, 2005, FOR A TERM OF TEN YEARS, FOR AN EXISTING BOAT DOCK, FOR REPAIR OF AN EXISTING BULKHEAD THAT MAY INCLUDE ALL OR SOME OF THE FOLLOWING: (1) EXISTING PILE REPAIR; (2)

PLACEMENT OF SHEET PILES; AND (3) INSTALLATION OF ROCK SLOPE PROTECTION; AND THE RE-CONTRUCTION, USE AND MAINTENANCE OF AN EXISTING CANTILEVERED DECK ON THE LAND SHOWN ON EXHIBIT A AND AS DESCRIBED ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; AS TO THE BOAT DOCK, NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; AS TO THE REPAIR OF THE BULKHEAD, THE PUBLIC HEALTH AND SAFETY 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; AS TO THE CANTILEVERED DECK, $900 PER YEAR, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF NO LESS THAN $1,000,000.

NO SCALE

SITE



16661 CAROUSEL LANE, HUNTINGTON BEACH

NO SCALE

LOCATION

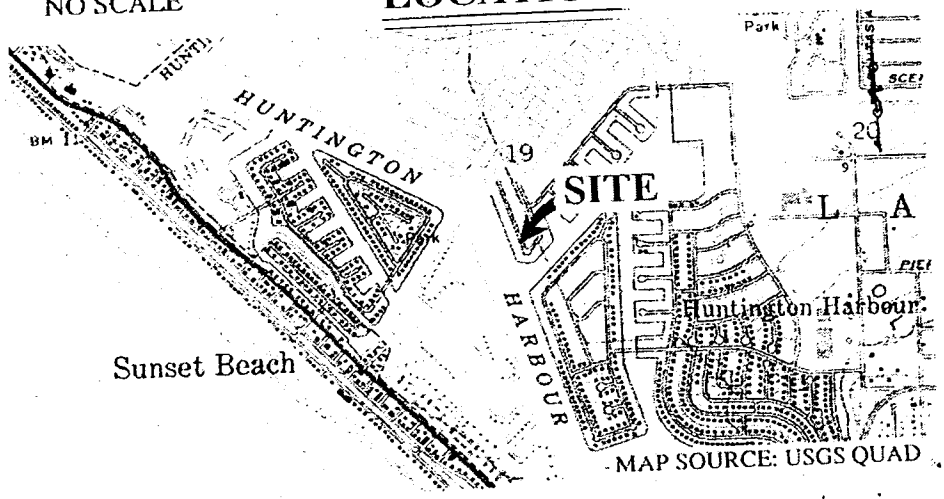
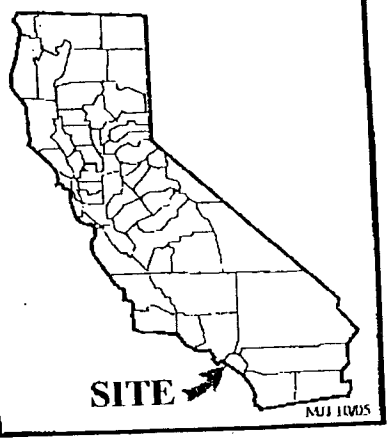


Exhibit A

W 26106
IRIS M. SCHUSTER, TRUSTEE
GENERAL LEASE
RECREATIONAL USE
HUNTINGTON BEACH
ORANGE COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT B

W 26106

LAND DESCRIPTION

A parcel of submerged land in Huntington Harbour, in the City of Huntington Beach, Orange County, California, described as follows:

Beginning at the most westerly corner of Lot 142, as said lot is shown and so designated on that certain map of Tract No. 5481 filed in Book 215, Pages 11 through 22, Official Records of said County; thence along the westerly extension of the northerly line of said lot 60.00 feet, more or less, to the pierhead line as said pierhead line is described in Resolution No. 5631, passed and adopted January 21, 1986 by the City Council of said City; thence southerly 50.00 feet along said pierhead line to the westerly extension of the southerly line of said lot; thence along said extension 60.00 feet, more or less, to the most southerly corner of said lot; thence northerly along the westerly line of said lot to the point of beginning.

END OF DESCRIPTION

Prepared 11/08/2005 by the California State Lands Commission Boundary Unit

PROFESSIONAL LAND SURVEYOR
MICHAEL J. BELL
No. 5764
Exp. 6/30/06
STATE OF CALIFORNIA