MINUTE ITEM

This Calendar Item No. C35 was approved as Minute Item No. 35 by the California State Lands Commission by a vote of 3 to ∅ at its 02/05/07 meeting.

CALENDAR ITEM
C35

A 35 | PRC 5809 | 02/05/07
WP 5809.1
S 19 | S. Young

TERMINATION AND ISSUANCE OF A GENERAL LEASE - PROTECTIVE STRUCTURE USE

LESSEES:
John Robert Sestak and Kristi Jo Sestak

APPLICANT:
Burman Real Estate, LLC
4706 West Magnolia Blvd.
Burbank, CA 91505-2732

AREA, LAND TYPE, AND LOCATION:
0.0017 acres, more or less, of sovereign lands in the Santa Barbara Channel, Santa Barbara, Santa Barbara County.

AUTHORIZED USE:
Use and maintenance of an existing seawall.

LEASE TERM:
Ten years, beginning April 7, 2006.

CONSIDERATION:
$50 per annum, with the State reserving the right to fix a different rent periodically during the lease terms, as provided in the lease.

SPECIFIC LEASE PROVISIONS:
Insurance:
Liability insurance for combined single limit coverage of no less than $1,000,000.

OTHER PERTINENT INFORMATION:
1. Applicant owns the uplands adjoining the lease premises.

2. On October 6, 2004, the Commission authorized the issuance of a General Lease – Protective Structure Use, PRC 5809.1, for a ten-year term to John Robert Sestak and Kristi Jo Sestak for the continued use and maintenance of a seawall located below the Sestak's bluff top residence in Santa Barbara. The purpose of the seawall is to prevent further bluff top retreat, thus protecting the existing residence. Subsequently in 2005, the upland parcel was transferred to the Thomas R. Burman and Bari Dreiband Burman, Trustees of the Burman Trust dated November 19, 1992. On April 7, 2006, the Burmans transferred the upland parcel to Burman Real Estate, LLC (Applicant). Applicant is the new owner of the upland residence and has submitted an application for a Protective Structure Lease for the existing seawall.

3. An offer to dedicate an easement for public access from the toe of the bluff seaward to the mean high tide line was recorded by the previous landowners. This offer to dedicate was accepted by Santa Barbara County in November 1998.

4. **Termination of Existing Lease**: 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 the CEQA because it is not a "project" as defined by the 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.

5. **Issuance of 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 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.

6. 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.

EXHIBITS:

A. Location and Site Map
B. Land Description

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF EXISTING LEASE: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE 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.

ISSUANCE OF NEW LEASE: 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).

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:

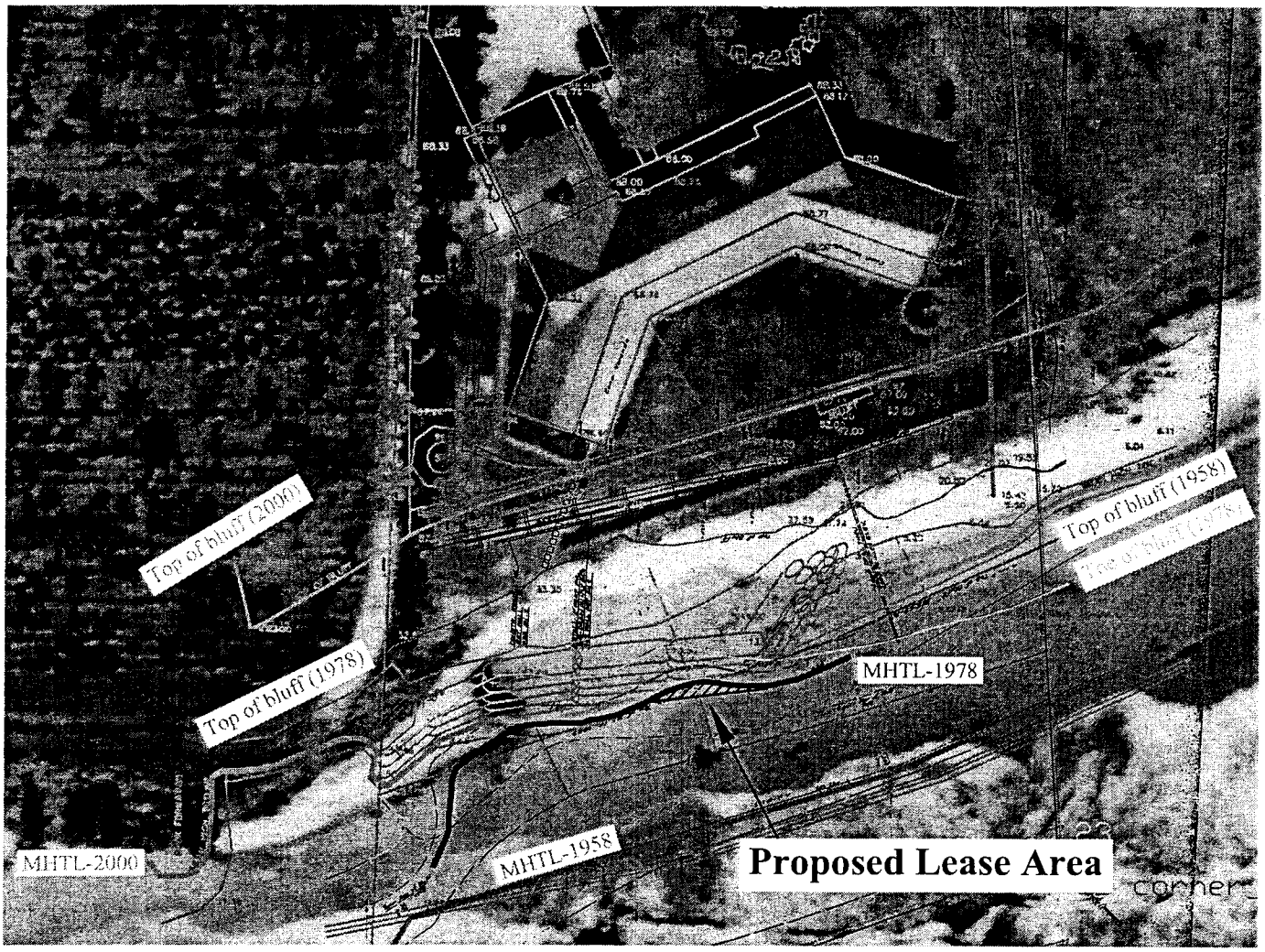
AUTHORIZE THE TERMINATION, EFFECTIVE APRIL 6, 2006, OF GENERAL LEASE – PROTECTIVE STRUCTURE USE ISSUED TO JOHN ROBERT SESTAK AND KRISTI JO SESTAK.

AUTHORIZE ISSUANCE TO BURMAN REAL ESTATE, LLC OF A GENERAL LEASE - PROTECTIVE STRUCTURE USE, BEGINNING APRIL 7, 2006, FOR A TERM OF TEN YEARS, FOR A SEAWALL ON

THE LAND AS SHOWN ON EXHIBIT A AND AS DESCRIBED ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF $50 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



Existing Seawall
5297 Austin Road, Santa Barbara

NO SCALE

LOCATION

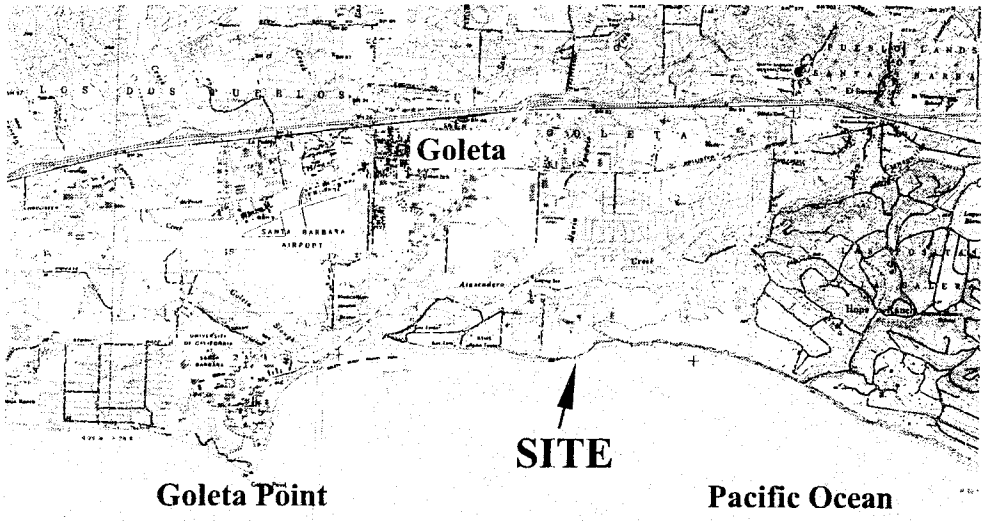


Exhibit A
PRC 5809
APN 065-310-026

Santa Barbara 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.

CALENDAR PAGE MAP SOURCE: USGS QUAD MINUTE PAGE

RAB 09/04

Exhibit B

PRC 5809

LAND DESCRIPTION

A parcel of tide and submerged land in the Pacific Ocean situated in Santa Barbara County, California, being adjacent to Lot 26 of Beguhl Tract No.2, recorded in Book 63 at Page 87 of Records of Surveys, Santa Barbara County Records, said parcel being more particularly described as follows:

COMMENCING at the southeast corner of said lot 26 as shown on said map; thence North 58° 57' 04" West 87.66 feet to the TRUE POINT OF BEGINNING; thence South 83° 18' 05" West 2.31 feet; thence North 90° 00' 00" West 4.48 feet; thence North 86° 11' 32" West 4.99 feet; thence North 81° 38' 53" West 5.71 feet; thence South 81° 52' 58" West 3.52 feet; thence South 72° 34' 48" West 6.09 feet; thence South 65° 15' 37" West 4.75 feet; thence South 59° 34' 35" West 2.44 feet; thence North 83° 33' 21" East 31.74 feet; thence North 55° 21' 32" East 1.92 feet, more or less to the TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Pacific Ocean.

END OF DESCRIPTION

Prepared 9-07-2004 by the Boundary Unit of the California State Lands Commission.

LICENSED LAND SURVEYOR
STEVE C. LEHMAN
Exp. 12/31/05
No. 7377
STATE OF CALIFORNIA