MINUTE ITEM
This Calendar Item No. C66 was approved as Minute Item No. 66 by the California State Lands Commission by a vote of 3 to 0 at its 05/10/07 meeting.

CALENDAR ITEM
C66

A 67

S 35

05/10/07
WP 8281.1, PRC 7998.9
PRC 8281
S. Young

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

LESSEES/APPLICANTS:

Syrus Rayhan and Elaheh Rayhan, as Trustees of the "Syrus Rayhan and Elaheh Rayhan 1994 Trust" dated April 20, 1994

AREA, LAND TYPE, AND LOCATION:

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

AUTHORIZED USE:

The continued use and maintenance of an existing boat dock and access ramp; repair of an existing bulkhead that may include all or some of the following: (a) existing pile repair; (b) replacement of sheet piles; (c) installation of rock slop protection and (d) eelgrass planting within the lease premises if required by the California Coastal Commission, as part of a mitigation program; and the use and maintenance of a cantilevered deck extending no more than five feet waterward of the existing bulkhead.

LEASE TERM:

Ten years, beginning May 10, 2007.

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 existing cantilevered deck, annual rent in the amount of $837, 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. Applicants own the uplands adjoining the lease premises.

2. On November 7, 1997, the Commission authorized the issuance of a ten-year Recreational Pier Lease, No. PRC 7998.9, for an existing boat dock to Syrus Rayhan and Elaheh Rayhan, as Trustees of the "Syrus Rayhan and Elaheh Rayhan 1994 Trust" dated April 20, 1994 (Applicants).

3. On November 24, 2001, the Commission authorized the issuance of a ten-year General Lease – Protective Structure Use, No. PRC 8281.9, to the Applicants for repair of an existing bulkhead adjacent to the boat dock. A number of bulkhead repair projects, proposed by Tetra Tech, Inc., an engineering firm representing homeowners within Huntington Harbour, were originally approved by the California Coastal Commission (Coastal) under coastal development permits (CDP) 5-99-032 and 5-00-390. As a condition of approval of those permits, the homeowners were required to provide evidence of an approved and valid CDP for the implementation of an eelgrass mitigation plan. That condition was never met and the permits were never issued and the repairs were not made.

   Extension requests for the CDPs were requested by the homeowners. However, each of the permits included some sites which proposed to use polyvinyl chloride (PVC) plastic sheet piles in the repairs. Because Coastal's concerns regarding adverse impacts potentially caused by the use of plastic in the marine environment, the extension requests were denied at an August 8, 2006 hearing.

   Subsequently, the project sites were regrouped based on project impacts. The Applicants' bulkhead project proposes to use plastic sheet pile that will displace soft bay bottom habitat and accordingly, is expected to adversely impact eelgrass. On December 14, 2006, Coastal did approve CDP No. 5-06-438, which includes the Applicants' bulkhead repair project, with conditions that require the Eelgrass Mitigation Plan be implemented as proposed and also requires pre- and post- construction eelgrass surveys. Other permit conditions require monitoring of the plastic sheetpile and consideration of alternatives to plastic should such

alternatives become available in the future. The permit also requires compliance with the *Soft Bottom Mitigation Plan, Humboldt Island and Trinidad Island Bulkhead Repair Project, Huntington Beach, California* dated April 2000 and prepared by Tetra Tech, Inc. of Pasadena, California.

4. In order to address the conditions provided in the CDP permit as well as to provide for a new lease construction completion date for the bulkhead repairs, Applicants are now applying for a new General Lease – Recreational and Protective Structure Use. The proposed new lease will provide for the revised bulkhead repairs including required eelgrass and soft bottom mitigation plans as well as for the existing boat dock and access ramp previously authorized by the Commission, and for the existing cantilevered deck, not previously authorized by the Commission. A five-foot portion of the cantilevered deck extends over the State's fee ownership in the Main Channel of Huntington Harbour.

5. 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 rent. The existing boat dock and access ramp will remain rent-free as the Applicants are natural persons who have improved the littoral land with, and use the upland for, a single-family dwelling.

6. **Termination of Existing Lease:** Pursuant to the Commission's delegation of authority and the State CEQA guidelines [Title 14, California Code or 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.

7. **Boat Dock, Access Ramp and 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 these activities are exempt from the requirements of the CEQA as categorically exempt projects. The projects are exempt under Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905(c)(1).

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. **Bulkhead Repairs:** A Mitigated Negative Declaration (SCH 200081028) was prepared and adopted for this project by the city of Huntington Beach on September 13, 2000. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring Program was adopted by the city of Huntington Beach.

9. 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.

APPROVALS OBTAINED:

California Coastal Commission

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 PROVISIONS OF THE CEQA BECAUSE IT IS NOT A "PROJECT" AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15060 (c)(3) AND 15378.

BOAT DOCK, ACCESS RAMP, AND CANTILEVERED DECK: FIND THAT THE ACTIVITIES ARE EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS CATEGORICALLY EXEMPT PROJECTS, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905(c)(1).

BULKHEAD REPAIRS: FIND THAT A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE CITY OF HUNTINGTON BEACH AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE MITIGATION MONITORING PROGRAM AS PREPARED BY THE CITY OF HUNTINGTON BEACH, A COPY OF WHICH IS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.

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 MAY 9, 2007, OF LEASE NO. PRC 7998.9, A RECREATIONAL PIER LEASE, TO SYRUS RAYHAN AND ELAHEH RAYHAN, AS TRUSTEES OF THE "SYRUS RAYHAN AND ELAHEH RAYHAN 1994 TRUST" DATED APRIL 20, 1994.

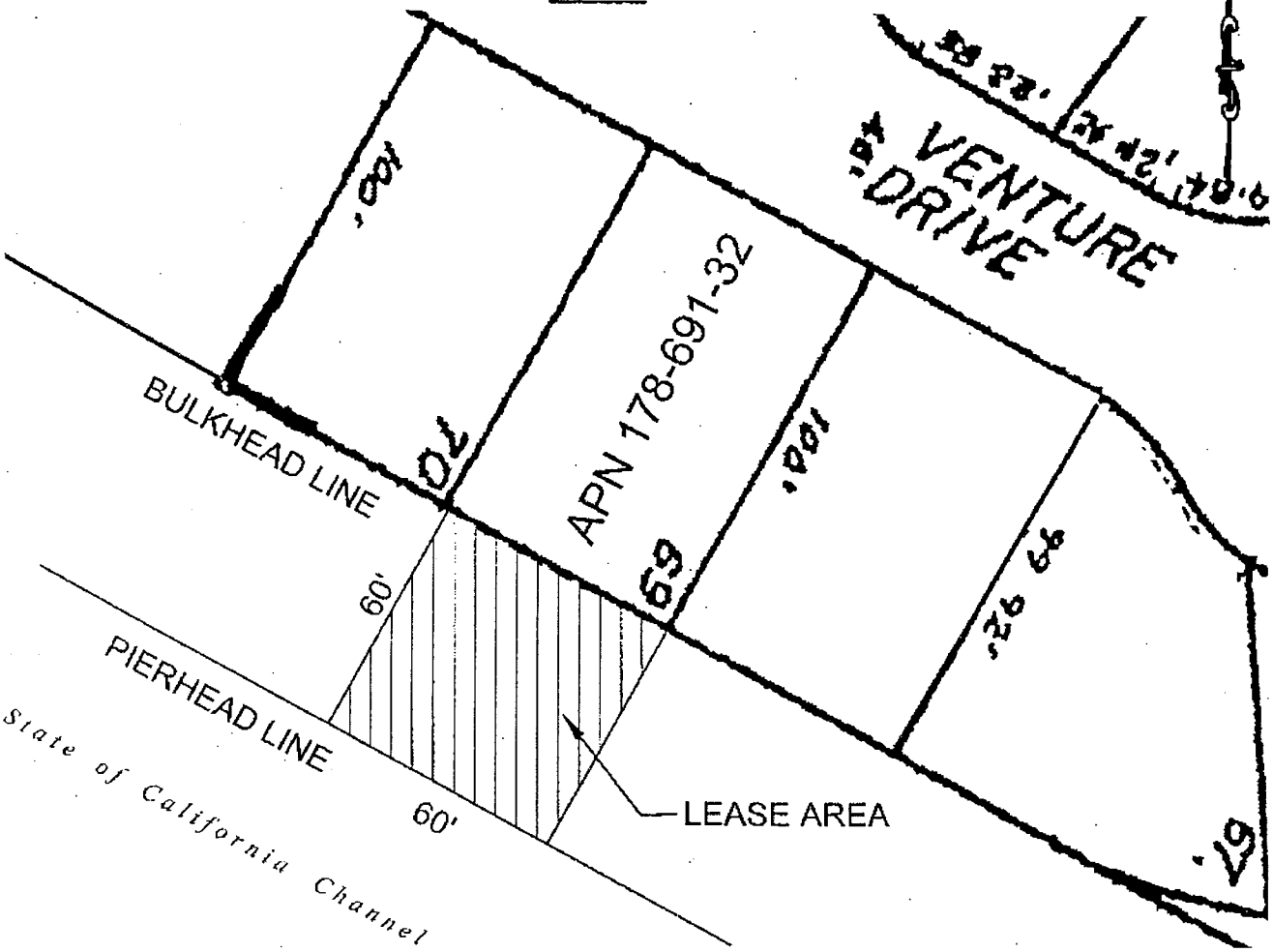
AUTHORIZE THE TERMINATION EFFECTIVE MAY 9, 2007, OF LEASE NO. PRC 8282.9, A GENERAL LEASE – PROTECTIVE STRUCTURE USE, TO SYRUS RAYHAN AND ELAHEH RAYHAN, AS TRUSTEES OF THE "SYRUS RAYHAN AND ELAHEH RAYHAN 1994 TRUST" DATED APRIL 20, 1994.

AUTHORIZE ISSUANCE TO SYRUS RAYHAN AND ELAHEH RAYHAN, AS TRUSTEES OF THE "SYRUS RAYHAN AND ELAHEH RAYHAN 1994 TRUST" DATED APRIL 20, 1994, OF A GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE, BEGINNING MAY 10, 2007, FOR A TERM OF TEN YEARS, FOR THE USE AND MAINTENANCE OF AN EXISTING BOAT DOCK, ACCESS RAMP AND CANTILEVERED DECK AND FOR THE REPAIR OF AN EXISTING BULKHEAD, ADJACENT TO 3612 VENTURE DRIVE, HUNTINGTON BEACH, THAT MAY INCLUDE ALL OR SOME OF THE FOLLOWING: (1) EXISTING PILE REPAIR; (2) REPLACEMENT OF SHEET PILES; (3)

PLACEMENT OF ROCK SLOPE PROTECTION AND (4) EEL GRASS PLANTING IF REQUIRED BY THE CALIFORNIA COASTAL COMMISSION AS PART OF A MITIGATION PROGRAM; 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 AND ACCESS RAMP, 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, ANNUAL RENT IN THE AMOUNT OF $837, BEGINNING MAY 10, 2007, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE FOR THE COMBINED SINGLE LIMIT COVERAGE OF NO LESS THAN $1,000,000.

NO SCALE

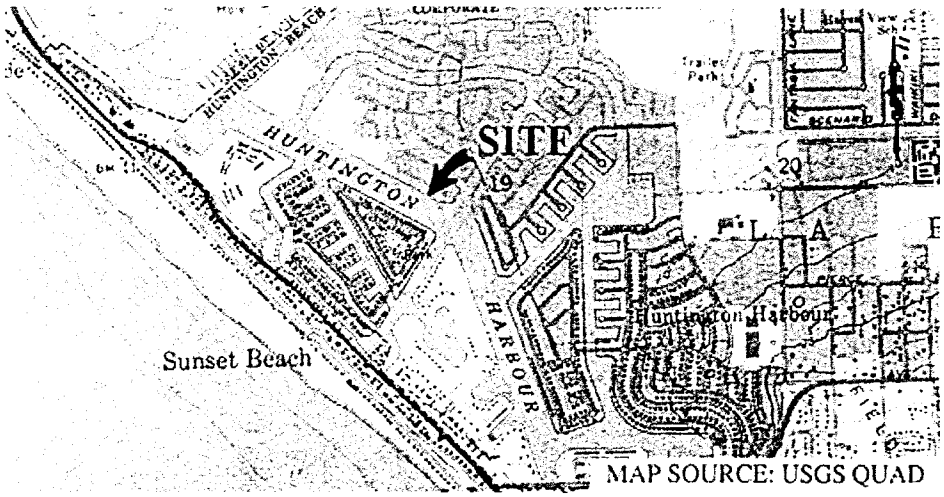
SITE



3612 VENTURE DRIVE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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 A

PRC 8281
RAYHAN
GENERAL LEASE
RECREATIONAL &
PROTECTIVE STRUCTURE USE
ORANGE COUNTY

MJ 04/07

EXHIBIT B

PRC 8281

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 southerly corner of Lot 69, as said lot is shown and so designated on that certain map of Tract No. 9168 filed in Book 371, Pages 16 through 20, Official Records of said County; thence along the southwesterly extension of the southeasterly line of said lot 60.00 feet to the pierhead line as said pierhead line is described in Resolution No. 5503, passed and adopted May 6, 1985 by the City Council of said City; thence northwesterly along said pierhead line to the southwesterly extension of the northwesterly line of said lot; thence along said extension 60.00 feet to the most westerly corner of said lot; thence southeasterly along the southwesterly line of said lot to the point of beginning.

END OF DESCRIPTION

Prepared 04/17/2007 by the California State Lands Commission Boundary Unit