

MINUTE ITEM
This Calendar Item No. C67 was approved as
Minute Item No. 67 by the California State Lands
Commission by a vote of 3 to 0 at its
05/10/07 meeting.

**CALENDAR ITEM
C67**

A 67 05/10/07
S 35 WP 8286.1 and PRC 5241.9
PRC 8286 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:

Ruben Baghdassarian and Cheryl B. Baghdassarian

Ruben Baghdassarian and Cheryl B. Baghdassarian, as Trustees of the Ruben Baghdassarian and Cheryl B. Baghdassarian Living Trust Dated February 17, 2000

APPLICANTS:

Ruben Baghdassarian and Cheryl B. Baghdassarian, as Trustees of the Ruben Baghdassarian and Cheryl B. Baghdassarian Living Trust Dated February 17, 2000

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 or toe stone as permitted by the California Coastal Commission; (c) installation of rock slope 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.

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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 \$815 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 April 20, 2000, the Commission authorized the issuance of a ten-year Recreational Pier Lease, No. PRC 5511.9, for an existing boat dock effective March 1, 2000 to Ruben Baghdassarian and Cheryl B. Baghdassarian (Lessees).
3. On April 24, 2001, the Commission authorized the issuance of a ten-year General Lease – Protective Structure Use, Lease No. PRC 8286.9, to Ruben Baghdassarian and Cheryl B. Baghdassarian, as Trustees of the Ruben Baghdassarian and Cheryl B. Baghdassarian Living Trust Dated February 17, 2000 (Lessees/Applicants). This ten-year lease has a beginning date of April 1, 2001 and is for the 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 permit (CDP) 5-00-401. 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 CDPs were never issued and the repairs were never made.
4. 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

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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 does not propose to use plastic sheet pile but consists only of placement of toe stone. On December 14, 2006, Coastal did approve CDP No. 5-06-439, 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.

5. In order to address the conditions provided in the coastal development 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 the required eelgrass plan 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.
6. 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.
7. **Termination of Existing Leases:** 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.

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8. **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.

9. **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.
10. 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 LEASES: 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

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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 5241.9, A RECREATIONAL PIER LEASE, ISSUED TO RUBEN BAGHDASSARIAN AND CHERYL B. BAGHDASSARIAN.

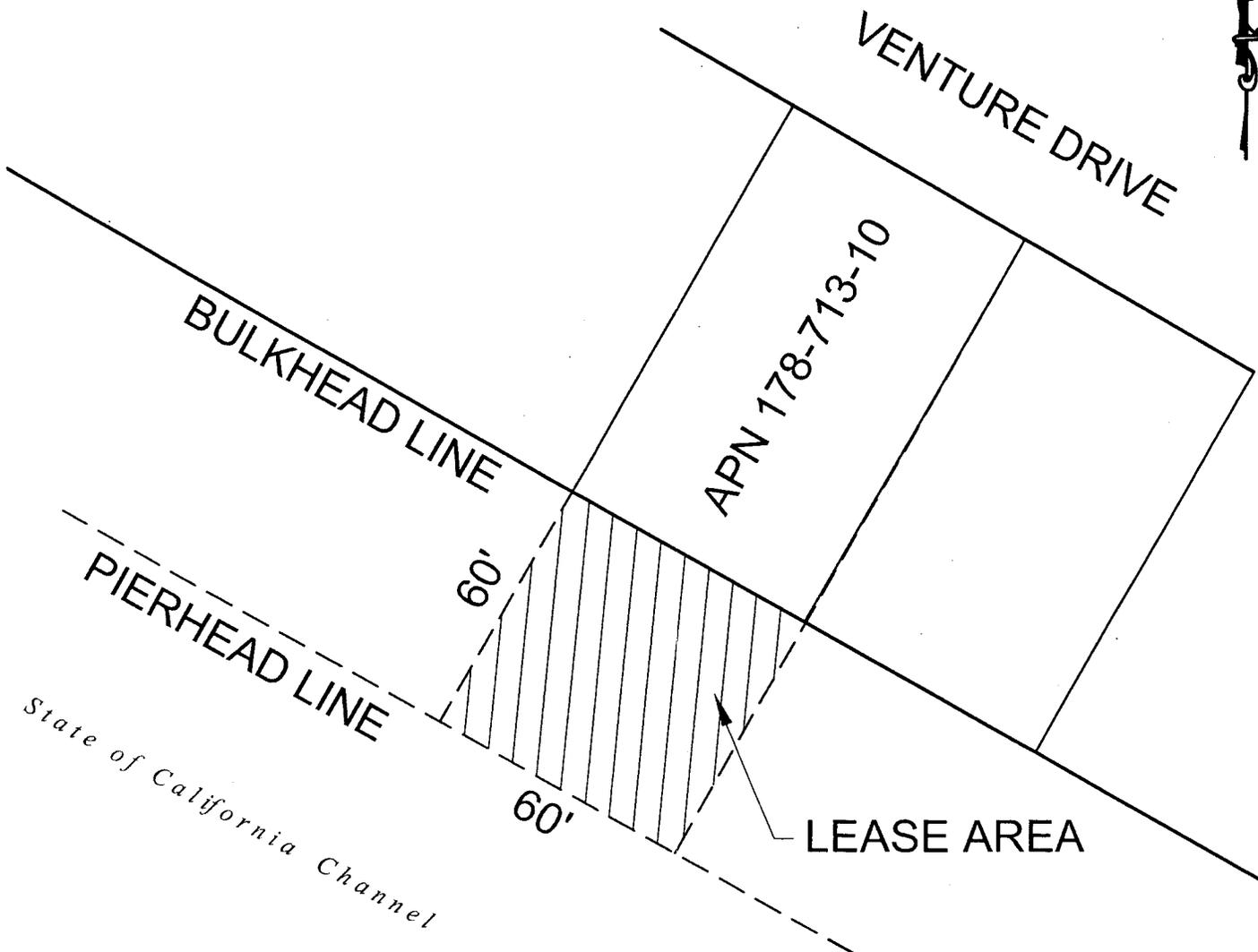
AUTHORIZE THE TERMINATION EFFECTIVE MAY 9, 2007 OF LEASE NO. PRC 8286.9, A GENERAL LEASE – PROTECTIVE STRUCTURE USE, ISSUED TO RUBEN BAGHDASSARIAN AND CHERYL B. BAGHDASSARIAN, AS TRUSTEES OF THE RUBEN BAGHDASSARIAN AND CHERYL B. BAGHDASSARIAN LIVING TRUST DATED FEBRUARY 17, 2000.

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AUTHORIZE ISSUANCE TO RUBEN BAGHDASSARIAN AND CHERYL B. BAGHDASSARIAN, AS TRUSTEES OF THE RUBEN BAGHDASSARIAN AND CHERYL B. BAGHDASSARIAN LIVING TRUST DATED FEBRUARY 17, 2000 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 3492 VENTURE DRIVE, HUNTINGTON BEACH, THAT MAY INCLUDE ALL OR SOME OF THE FOLLOWING: (1) EXISTING PILE REPAIR; (2) REPLACEMENT OF SHEET PILES OR TOE STONE AS PERMITTED BY THE CALIFORNIA COASTAL COMMISSION; (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 \$815 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

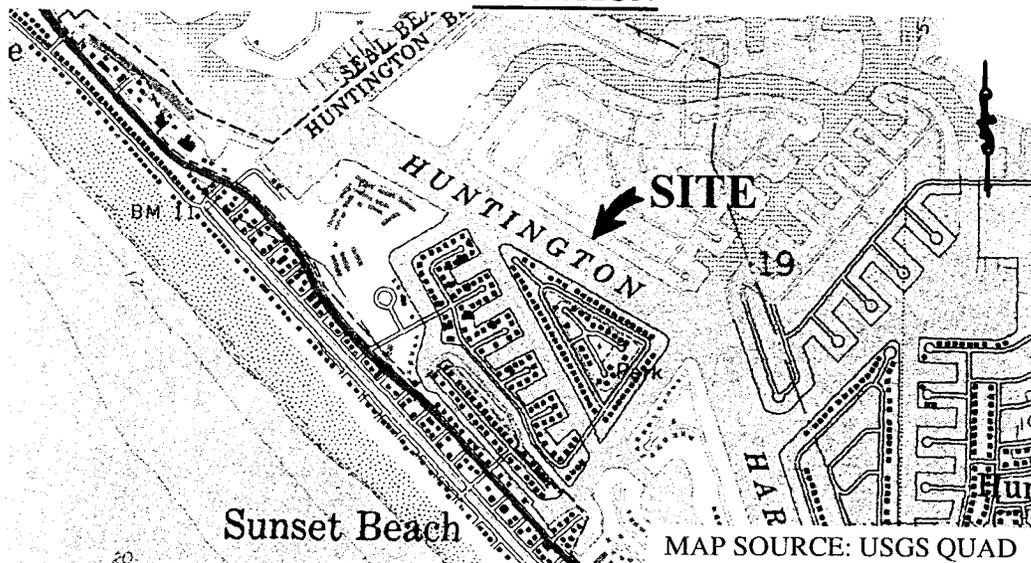
SITE



3492 VENTURE DRIVE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

PRC 8286
 BAGHDASSARIAN, TRUSTEES
 APN 178-713-10
 GENERAL LEASE
 RECREATIONAL &
 PROTECTIVE STRUCTURE
 ORANGE COUNTY



SITE

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

PRC 8286

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 2, as said lot is shown and so designated on that certain map of Tract No. 8636 filed in Book 397, Pages 33 through 35, 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 60.00 feet 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 4/24/2007 by the California State Lands Commission Boundary Unit

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