

**CALENDAR ITEM
C64**

A 67

06/28/10

S 35

WP 3164.1

D. Simpkin

**TERMINATION OF A GENERAL LEASE – RECREATIONAL USE AND ISSUANCE
OF A NEW GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE
USE**

APPLICANT:

Donald G. Goodwin

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 16492 Somerset Lane, city of Huntington Beach, Orange County.

AUTHORIZED USE:

The continued use and maintenance of an existing boat dock, access ramp, and cantilevered deck extending no more than five feet waterward of the bulkhead.

The repair of an existing bulkhead that may include all or some of the following: (1) existing bulkhead pile repair; (2) placement of sheet piles; and (3) installation of rock slope protection.

LEASE TERM:

Ten years, beginning June 28, 2010.

CONSIDERATION:

Boat dock and access ramp: No monetary consideration pursuant to Public Resources Code section 6503.5.

Cantilevered deck: Annual rent in the amount of \$1,103, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

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.

SPECIFIC LEASE PROVISIONS:

Insurance:

Combined single limit liability insurance coverage in the amount of no less than \$1,000,000.

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Other:

No permanent roof or other enclosure will be constructed on the Lease Premises. Applicant agrees that any proposed use of the Lease Premises that includes a residential extension of the actual living quarters constitutes residential use and is prohibited.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. On May 10, 2007, the Commission authorized the issuance of a General Lease – Recreational Use, PRC 3164.1, to Donald G. Goodwin, for a ten-year term, effective March 1, 2007. The lease will expire on February 28, 2017. Staff is recommending termination of the existing lease and issuance of a new General Lease – Recreational and Protective Structure Use to Donald G. Goodwin for a ten-year term in order to accommodate the existing facilities and the proposed bulkhead repairs, which were not covered by the lease now in effect.
3. The State of California acquired fee ownership of the Huntington Harbour Main and Midway Channels in 1961 as a result of a land exchange entered into and recorded as Boundary Line Agreement 18, between the Commission and the Huntington Harbour Corporation. Appurtenances extending into these Channels are subject to lease pursuant to Public Resources Code section 6501, et seq. The Applicant's upland property is located along the Main Channel of Huntington Harbour.
4. Over the years, erosion due to localized tidal currents, recreational boat use, and periodic maintenance dredging activities in the area have undermined the bulkhead, damaged the support piles, and threatened the overall structural integrity. The Applicant is requesting that the Commission authorize repairs and reinforcement of the bulkhead adjacent to their property in order to prevent more structural damage. A portion of the repairs will take place on sovereign land waterward of the bulkhead, thus requiring the Commission's authorization.
5. Tetra Tech Inc. is currently working with 30 homeowners to repair bulkheads in Huntington Harbour. The main purpose of the bulkhead repair project is to restore the foundation of the bulkhead and to provide toe protection to inhibit any future scouring or erosion, which may expose the footing foundation and jeopardize the bulkhead's structural integrity. The repairs would be made in three phases: bulkhead pile repair, placement of sheet piles, and installation of slope protection, although not all phases apply to all properties. The total project duration is estimated to

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take 120 working days. The project will begin once all necessary permits/approvals have been obtained.

6. The existing boat dock and access ramp qualify for rent-free status as the Applicant is a natural person who owns the littoral land improved with a single-family dwelling pursuant to Title 2, California Code of Regulations, sections 2002 (f) and 2003 (a)(5).
7. The cantilevered deck does not qualify for rent-free status because it is not used for the mooring of boats. Therefore, that portion of the deck extending over State fee ownership within the Harbour is subject to annual rent pursuant to Title 2, California Code of Regulations, sections 2002 (b)(3) and 2003 (a)(4).
8. **Termination of 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 CEQA because it is not a "project" as defined by CEQA and the State CEQA Guidelines.
9. **Existing 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 this activity is exempt from the requirements of 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.
10. **Bulkhead:** A Mitigated Negative Declaration (SCH# 2008071142) was prepared by the City of Huntington Beach and adopted on September 3, 2008, for this project. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring Program was adopted by the city of Huntington Beach.
11. 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.

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APPROVAL OBTAINED:

City of Huntington Beach

FURTHER APPROVAL REQUIRED:

Regional Water Quality Control Board; California Coastal Commission, California Department of Fish and Game; U.S. Army Corps of Engineers.

EXHIBITS:

- A. Location and Site Map
- B. Land Description
- C. Notice of Determination
- D. City of Huntington Beach Notice of Action (Mitigation Measures)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

TERMINATION OF LEASE:

Find that the activity is not subject to the requirements of 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.

EXISTING BOAT DOCK, ACCESS RAMP, AND CANTILEVERED

DECK: Find that the activity is exempt from the requirements of 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).

BULKHEAD: Find that a Mitigated Negative Declaration (SCH# 2008071142) and a Mitigation Monitoring Program were prepared by the City of Huntington Beach and adopted on September 3, 2008, for this project and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in Exhibit D, attached hereto.

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.

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AUTHORIZATION:

Authorize termination, effective June 27, 2010, of Lease No. PRC 3164.1, a General Lease – Recreational Use, issued to Donald G. Goodwin. Authorize issuance of a General Lease – Recreational and Protective Structure Use to Donald G. Goodwin beginning June 28, 2010, for a term of ten years, for the continued use and maintenance of an existing boat dock, access ramp, cantilevered deck, and for repairs of an existing bulkhead, that may include all or some of the following: (1) existing bulkhead pile repair; (2) placement of sheet piles; (3) installation of rock slope protection as shown on Exhibit A attached (for reference purposes only) and as described on Exhibit B attached and by this reference made a part hereof; consideration for the boat dock and access ramp: no monetary consideration pursuant to Public Resources Code section 6503.5; consideration for the cantilevered deck: annual rent in the amount of \$1,103, with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease; consideration for the bulkhead repairs: 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; combined single limit liability insurance coverage in the amount of no less than \$1,000,000.