

**CALENDAR ITEM
C39**

A 67
S 35

08/20/10
WP 3563.1
D. Simpkin

**TERMINATION OF A RECREATIONAL PIER LEASE
AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE**

LESSEES:

Richard G. Lewis and Sandra A. Lewis, Co-Trustees of the Lewis Family Trust
Established September 18, 1991

APPLICANTS:

Richard G. Lewis and Sandra A. Lewis, Co-Trustees of the Lewis Family Trust
Established September 18, 1991

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 16472 Malden Circle, city of
Huntington Beach, Orange County.

AUTHORIZED USE:

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

LEASE TERM:

Ten years, beginning August 20, 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 \$1,125, 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 liability insurance coverage in the amount of no less
than \$1,000,000.

Other:

No permanent roof or other enclosure will be constructed on the Lease
Premises. Applicants agree that any proposed use of the Lease Premises

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that includes a residential extension of the actual living quarters constitutes residential use and is prohibited.

OTHER PERTINENT INFORMATION:

1. Applicants own the uplands adjoining the lease premises.
2. 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 Applicants' upland property is located along the Main Channel of Huntington Harbour.
3. On April 24, 2001, the Commission authorized the issuance of a Recreational Pier Lease, PRC 3563.9, to Richard G. Lewis and Sandra A. Lewis, Co-Trustees of the Lewis Family Trust Established September 18, 1991, for a ten-year term, effective April 1, 2001. The lease expires on March 31, 2011. The Applicants are now applying for a new General Lease – Recreational Use for the existing boat dock and access ramp as well as for the construction and maintenance of a cantilevered deck. A five-foot portion of the cantilevered deck will extend over the State's fee ownership in the Main Channel of Huntington Harbour. The existing cantilevered deck was present in 2001, but was not brought under lease at that time. The new deck is part of an extensive remodel of the upland residence and will occupy the same footprint as the existing deck. Staff is recommending that construction of a new deck be included in the lease.
4. The existing boat dock and access ramp qualify for rent-free status as the Applicants are natural persons who own the littoral land improved with a single-family dwelling pursuant to Title 2, California Code of Regulations, sections 2002 (f) and 2003 (a)(5).
5. 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).
6. **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

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activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and the State CEQA Guidelines.

7. **Existing Boat Dock and Access Ramp:** 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.

8. **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 3, New Construction or Conversion of Small Structures; Title 14, California Code of Regulations, section 15303.

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. 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.

FURTHER APPROVAL REQUIRED:

California Coastal Commission

EXHIBITS:

- A. Location and Site Map
- B. Land Description

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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 AND ACCESS RAMP: 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).

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 3, New Construction or Conversion of Small Structures; Title 14, California Code of Regulations, section 15303.

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 termination, effective August 19, 2010, of Lease No. PRC 3563.9, a Recreational Pier Lease, issued to Richard G. Lewis and Sandra A. Lewis, Co-Trustees of the Lewis Family Trust Established September 18, 1991.

Authorize issuance of a General Lease - Recreational Use to Richard G. Lewis and Sandra A. Lewis, Co-Trustees of the Lewis Family Trust Established September 18, 1991, beginning August 20, 2010, for a term of ten years, for the continued use and maintenance of an existing boat dock, access ramp, and the construction and maintenance of a cantilevered deck as shown on Exhibit A attached (for reference purposes only) and 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

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of \$1,125, with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease; combined single limit liability insurance coverage in the amount of no less than \$1,000,000.