CALENDAR ITEM

C34

A	67	04/06/11
		WP 4637.1
S	35	S. Paschall

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Conrad G. Banks and Catherine V. Banks, Trustees of the Conrad G. Banks and Catherine V. Banks Inter Vivos Revocable Trust, dated November 7, 1980

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 3372 Gilbert Drive, city of Huntington Beach, Orange County.

AUTHORIZED USE:

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

LEASE TERM:

10 years, beginning April 6, 2011.

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. 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. 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 between the Commission and the Huntington Harbour Corporation, recorded as Sovereign Lands Location No. 34 dated December 22, 1960 and recorded on January 31, 1961 in Book 5611, Page 470, Official Records, Orange County, California. Projects, including new development or maintenance of existing facilities, extending into these Channels beyond the bulkhead line require obtaining a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicant's upland property is located along the Midway Channel of Huntington Harbour.

3. On May 12, 1997, the Commission authorized the issuance of a Recreational Pier Lease, PRC 4637, to Conrad and Catherine Banks, for a 10-year term, effective June 1, 1997. The lease expired on May 31, 2007. The Applicant is now applying for a new General Lease – Recreational Use for the existing boat dock and access ramp as well as for the existing cantilevered deck. A five-foot portion of the cantilevered deck extends over the State's fee ownership in the Main Channel of Huntington Harbour, and was not previously authorized by the Commission. Since the deck is existing, staff is recommending that it be included in the lease.

4. 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 Public Resources Code 6503.5.

5. The cantilevered deck does not qualify for rent-free status because it is not used for the mooring or docking of boats. Therefore, that portion of the deck extending over State fee ownership within the Harbour is subject to annual rent pursuant to Public Resources Code 6503.5.

6. **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.

7. **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 15303 and Title 2, California Code of Regulations, section 15300.

8. 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:

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:

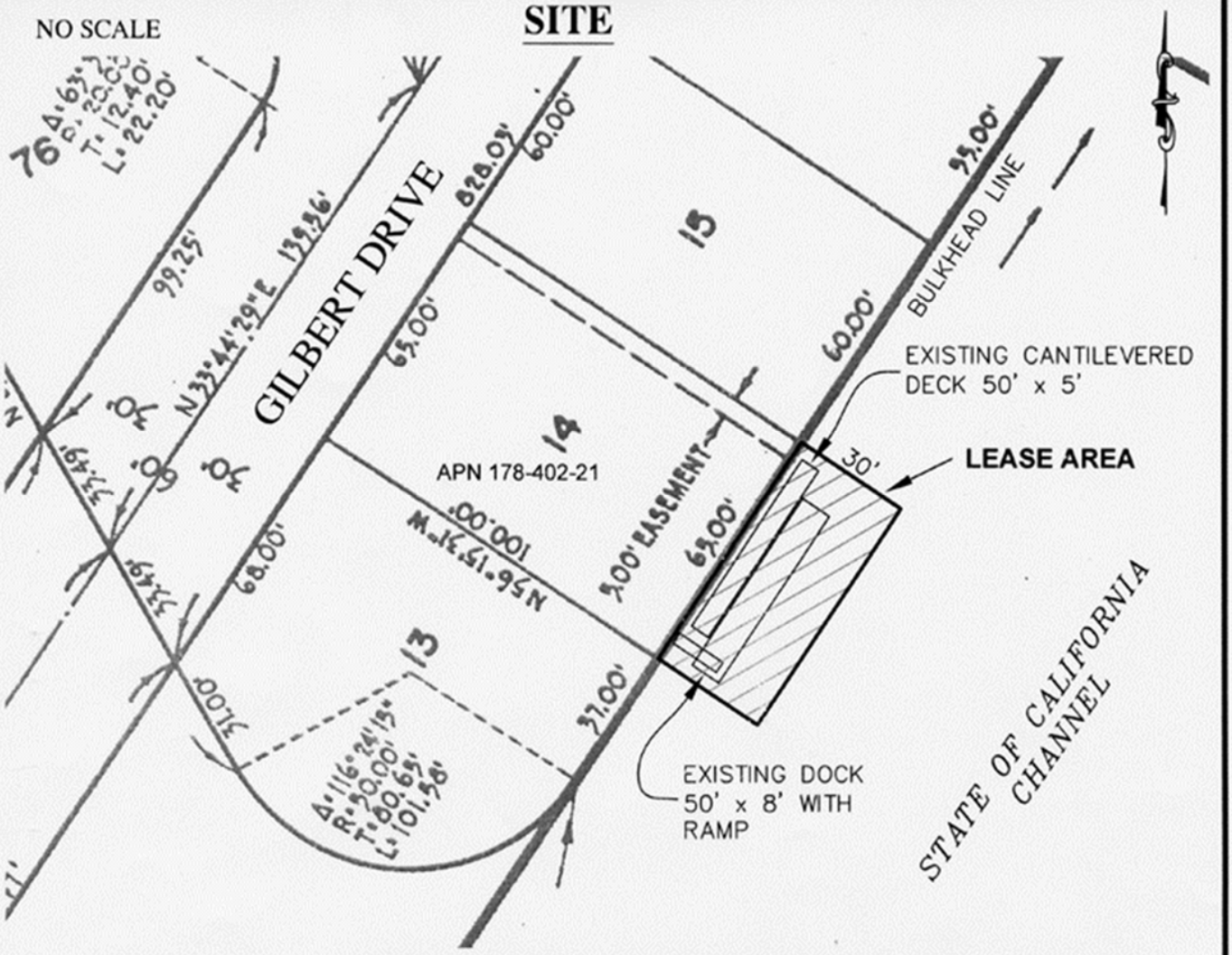
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

AUTHORIZATION:

Authorize issuance of a General Lease - Recreational Use to Conrad G. Banks and Catherine V. Banks, beginning April 6, 2011, for a term of 10 years, for the continued use and maintenance of an existing boat dock, and access ramp, and, retention, use, and maintenance of an existing 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 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.

NO SCALE

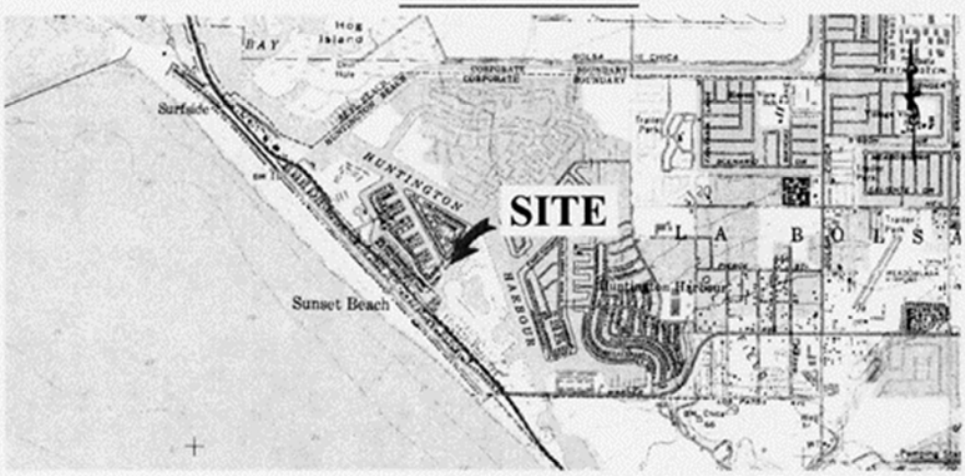
SITE



3372 GILBERT 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 4637.9
BANKS
APN 178-402-21
GENERAL LEASE - RECREATIONAL USE
ORANGE COUNTY

DJF 3/2/2011

EXHIBIT B

PRC 4637.9

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 14, as said lot is shown and so designated on that certain map of Tract No. 4677 filed in Book 168, Pages 14 through 18 of Miscellaneous Maps, Official Records of said County; thence southeasterly along the southeasterly extension of the southwesterly line of said lot to a line parallel with and 30.00 feet southeasterly, measured at a right angle, of the southeasterly line of said lot; thence northeasterly along said parallel line to the southeasterly extension of the northeasterly line of said lot; thence northwesterly along said southeasterly extension to the most easterly corner of said lot; thence along said southeasterly line of said lot to the point of beginning.

END OF DESCRIPTION

Prepared 05/30/2006 by the California State Lands Commission Boundary Unit

PROFESSIONAL LAND SURVEYOR
MICHAEL J. BELL
No. 5764
Exp. 6/30/12
STATE OF CALIFORNIA