

**CALENDAR ITEM
C84**

A 67

01/26/12
PRC 3168.1
PRC 5745.1
S. Paschall
K. Colson

S 35

**CONSIDER AUTHORIZATION TO TAKE ALL STEPS NECESSARY, INCLUDING
LITIGATION, TO SEEK EJECTMENT, DAMAGES FOR TRESPASS, AND REMOVAL
OF IMPROVEMENTS**

CURRENT OWNER:

Melton L. Bacon

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 16572 Somerset Lane and 16752 Coral Cay Lane, in the city of Huntington Beach, Orange County.

EXISTING FACILITIES:

16572 Somerset Lane: boat dock, access ramp, and cantilevered deck

16752 Coral Cay Lane: boat dock, access ramp, and cantilevered deck

BACKGROUND:

1. The Commission first issued a 10-year recreational pier lease for the boat dock located adjacent to 16572 Somerset Lane on July 25, 1984 to Helen and Ben Cowles. On June 20, 2005, the Commission approved a 10-year General Lease – Recreational Use to Jerry Fuller, Trustee of the Jerry Fuller Separate Property Trust, dated November 16, 2000, for use and maintenance of a boat dock, gangway, and cantilevered deck adjacent to 16572 Somerset Lane. This upland property was subsequently deeded to Melton L. Bacon, recorded April 4, 2006.
2. The Commission first issued a recreational pier lease for the boat dock located adjacent to 16752 Coral Cay Lane Lane on October 29, 1979 to Henry and Ria Lee. On October 26, 1989, a new 10-year recreational pier lease for a boat dock was issued to Stuart and Mary Makler and that lease was renewed for another 10 years in 1999. On October 26, 2009, the Commission issued a 10-year General Lease – Recreational Use to the Maklers, for their boat dock, access ramp, and cantilevered deck and a

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Memorandum of Lease was recorded on May 11, 2010. The upland property was also subsequently deeded to Melton L. Bacon, Trustee of the Bacon Family Trust, recorded September 9, 2010.

3. On November 28, 2007, January 19, 2011, and June 16, 2011, Commission staff sent letters notifying Melton L. Bacon that as the current owner of each property, he was required to obtain a lease from the Commission in order to continue to use and maintain the facilities located upon sovereign land adjacent to his properties. On December 30, 2011, Commission staff sent correspondence notifying Melton L. Bacon that failure to obtain a lease from the Commission would result in Commission staff taking an enforcement action, including taking all steps necessary to seek ejectment, damages for trespass and removal of improvements.
4. As of the posting of the January 26, 2012 Commission meeting agenda, Melton L. Bacon has not contacted Commission staff or submitted a lease application for the facilities located on sovereign land.

OTHER PERTINENT INFORMATION:

1. Melton L. Bacon owns the upland at 16572 Somerset Lane and 16752 Coral Cay Lane, city of Huntington Beach, Orange County.
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 upland properties are located along the Main Channel of Huntington Harbour.
3. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15060, subdivision (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.

Authority: Public Resources Code section 21065 and, California Code of Regulations, Title 14, sections 15060, subdivision (c)(3) and 15378.

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4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et seq., but such activity will not affect those significant lands. 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. Legal Description - 16572 Somerset Lane
- B. Site and Location Map - 16572 Somerset Lane
- C. Legal Description - 16752 Coral Cay Lane
- D. Site and Location Map - 16752 Coral Cay Lane

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that this activity is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the activity is not a project as defined by the Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

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 section 6370, et seq.

AUTHORIZATION:

1. Ratify staff's findings that Melton L. Bacon is and has been in immediate trespass for failure to obtain a lease from the Commission for the facilities located upon sovereign land, adjacent to the upland properties at 16572 Somerset Lane and 16752 Coral Cay Lane, city of Huntington Beach, Orange County.
2. Authorize staff to issue a Notice of Trespass and Ejectment to the property owner, for failure to cure the trespass set forth in Paragraph 1.
3. Authorize staff of the California State Lands Commission and the Office of the Attorney General to take all steps necessary, including litigation, to seek ejectment, removal of improvements from 16572 Somerset Lane and 16752 Coral Cay Lane including, but not limited to,

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boat docks, access ramps, and cantilevered decks; and to seek recovery of such other damages to which the State of California is entitled under the law; provided, however, that this authorization shall not be effective until the current owner of the properties has failed to submit an application to cure the trespass within 15 days of having received the Notice of Trespass and Ejectment.

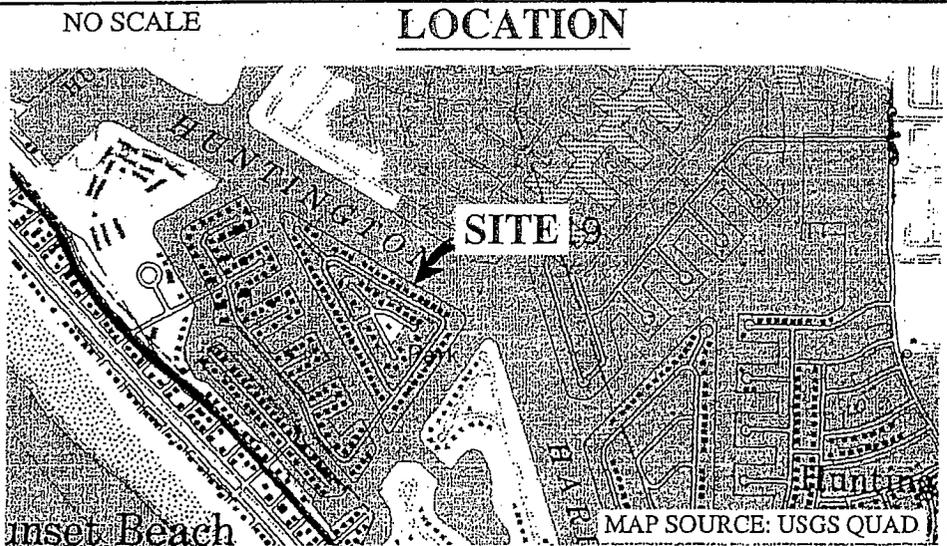
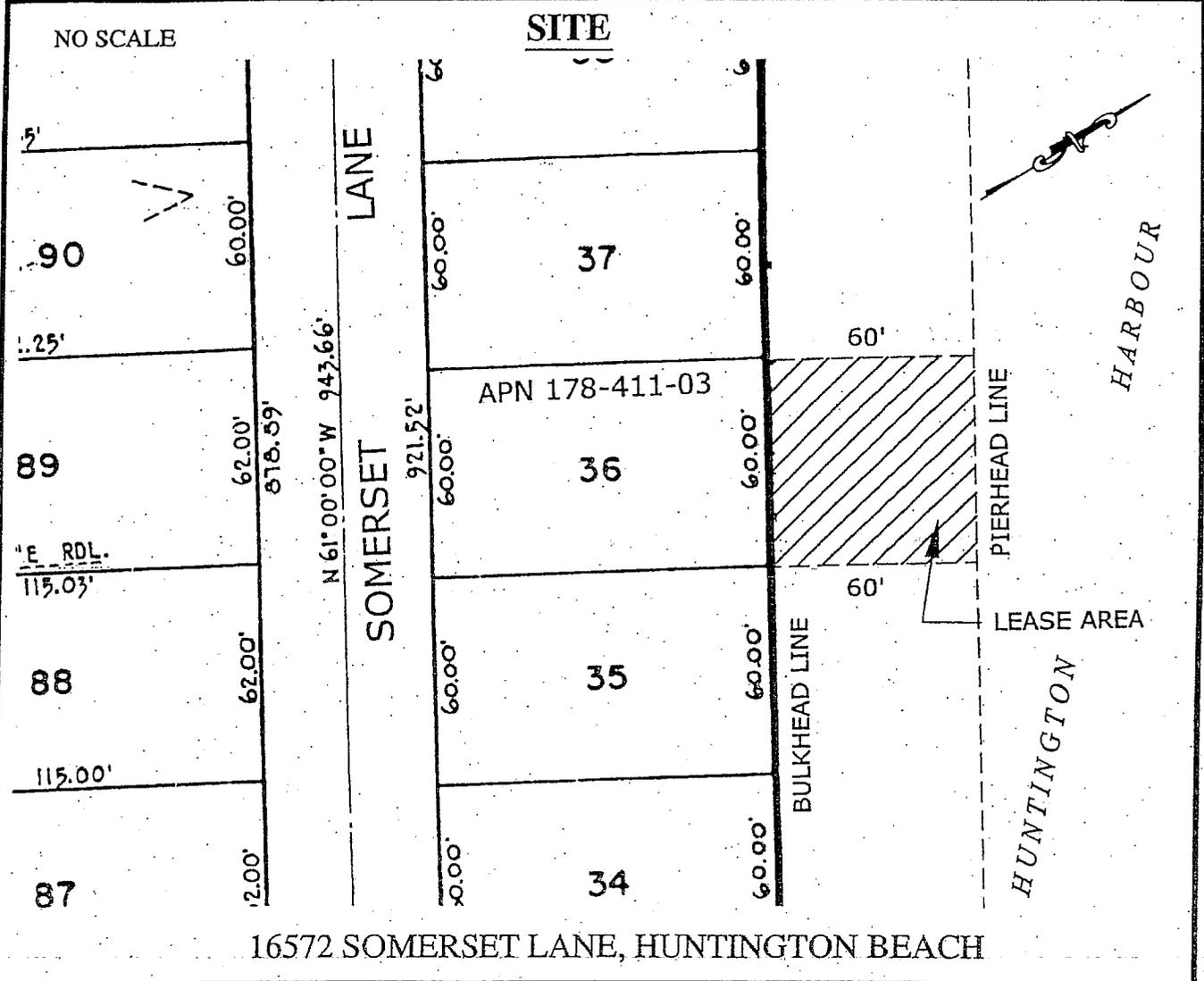
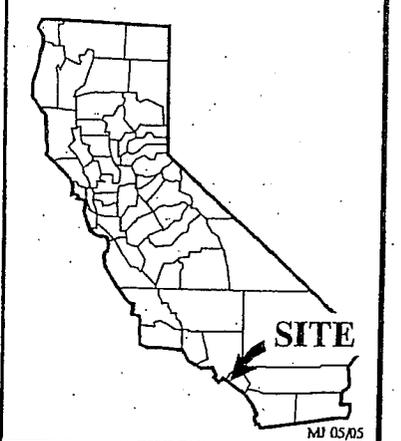


Exhibit A

WP 3168
GENERAL LEASE
RECREATIONAL USE
HUNTINGTON HARBOUR
ORANGE COUNTY



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 3168

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 northerly corner of Lot 36, as said lot is shown and so designated on that certain map of Tract No. 4677 filed in Map Book 168, Pages 14 through 18, Official Records of said County; thence along the northeasterly extension of the northwesterly line of said lot 60.00 feet, more or less, to the pierhead line as said pierhead line is described in Resolution No. 5908, passed and adopted August 1, 1988 by the City Council of said City; thence southeasterly along said pierhead line to the northeasterly extension of the southeasterly line of said lot; thence southwesterly along said extension 60.00 feet, more or less, to the most easterly corner of said lot; thence northwesterly along the northeasterly line of said lot to the point of beginning.

END OF DESCRIPTION

Prepared 06/06/2005 by the California State Lands Commission Boundary Unit

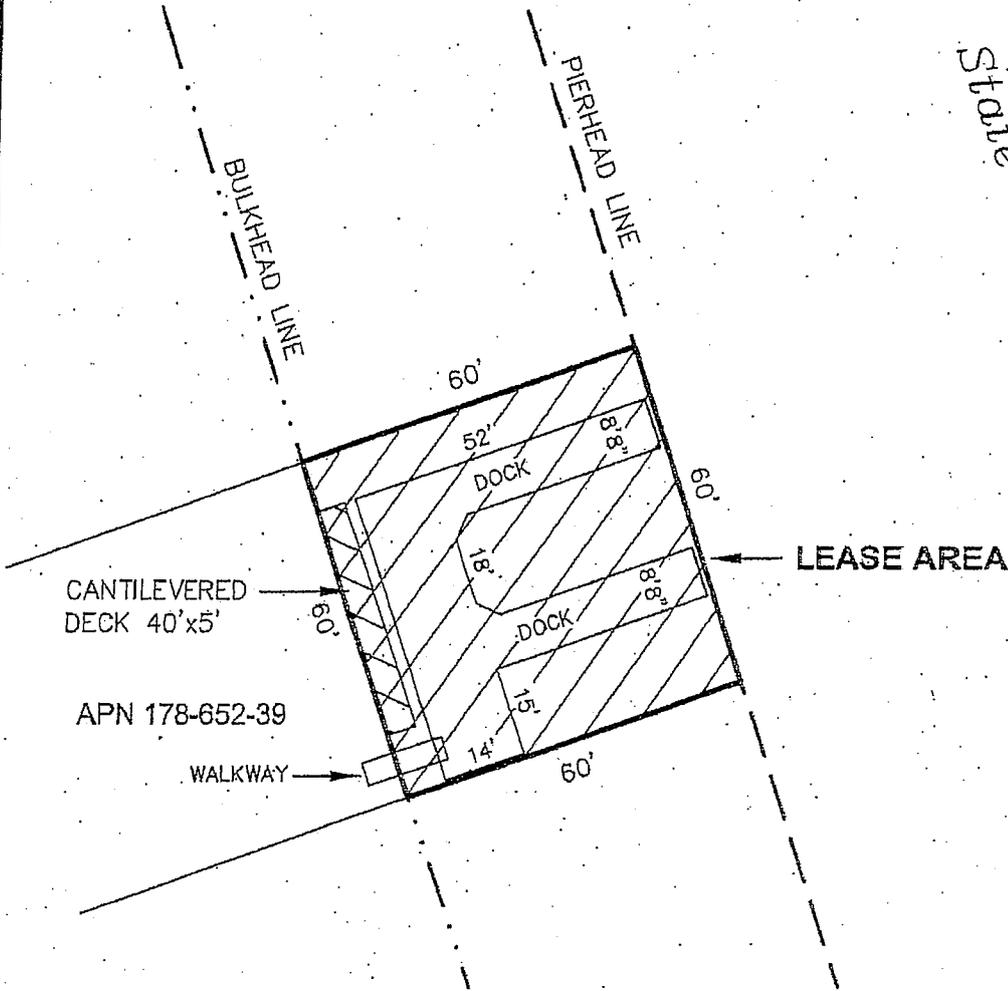


NO SCALE

SITE



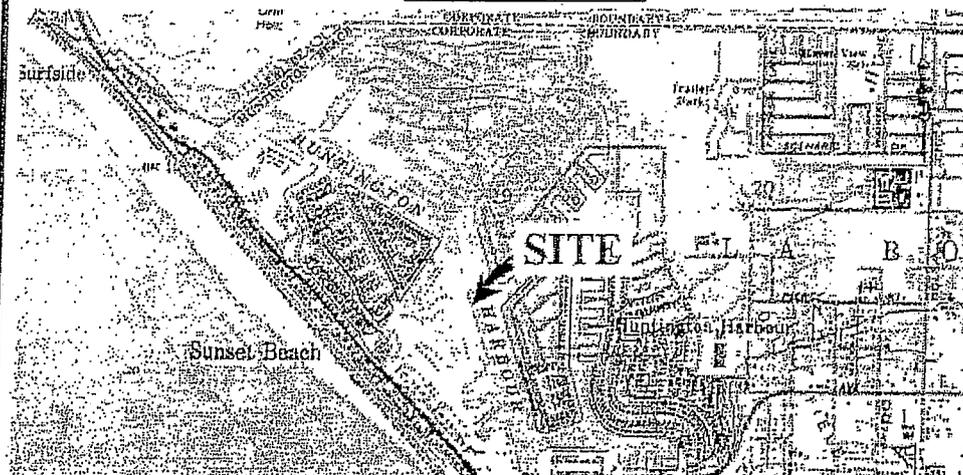
State of California Channel



16752 CORAL CAY LANE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit C

APN 178-652-39
GENERAL LEASE
RECREATIONAL USE
ORANGE COUNTY



SITE

DJF 01/10

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 D

PRC 5745.1

LAND DESCRIPTION

A parcel of submerged land situate in Huntington Harbour, in the City of Huntington Beach, Orange County, State of California, described as follows:

BEGINNING at the most easterly corner of Lot 45, as said lot is shown and designated on that certain map of Tract No. 8040 filed November 22, 1974, in Book 350, Pages 27 through 37, Official Records of said County; thence along the easterly prolongation of the southerly line of said lot 60.00 feet to the pierhead line, as said pierhead line is described in Resolution No. 5197, passed and adopted December 6, 1982 by the City Council of said City; thence northerly along said pierhead line 60.00 feet to the easterly prolongation of the northerly line of said lot; thence westerly along said prolongation 60.00 feet to the most northerly corner of said lot; thence southerly along the easterly line of said lot 60.00 feet to the POINT OF BEGINNING.

END OF DESCRIPTION

Prepared 1/11/2010 by the California State Lands Commission Boundary Unit



Michael J. Bell