

**CALENDAR ITEM
C71**

A 72
S 34

02/09/16
PRC 3265.1
D. Simpkin

**TERMINATION AND
ISSUANCE OF A GENERAL LEASE – COMMERCIAL USE**

LESSEE:

Mariner's Point, a California General Partnership

APPLICANT:

General Petroleum dba Maxum Petroleum

AREA, LAND TYPE, AND LOCATION:

0.115 acre, more or less, of sovereign land in Sunset Bay, near Huntington Beach, Orange County.

AUTHORIZED USE:

The continued use and maintenance of an existing commercial fuel dock facility.

LEASE TERM:

10 years, beginning February 9, 2016.

CONSIDERATION:

\$10,300 per year with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$2,000,000 per occurrence.

Bond:

\$25,000.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, and 6301; California Code of Regulations, Title 2, section 2000, subdivision (b).

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Public Trust and State's Best Interests Analysis:

The subject facility is consistent with the common law public trust doctrine because it is used to aid in water-dependent commerce and navigation. The facility sells fuel to the general boating community of Huntington Harbour and beyond. The fuel dock was built in the 1960s when Huntington Harbour was developed and is the only facility located within the Harbour. The nearest public fuel dock outside Huntington Harbour is located in Alamitos Bay, an approximate 8- to 9-mile round-trip. The commercial fuel dock provides a necessary and convenient service to regional boaters thereby facilitating public navigation, fishing, and water-related recreation. The proposed new lease will allow for the continued operation of the fuel dock facility.

The proposed new lease is for a ten year term and will include provisions requiring insurance, indemnity, and restoration of lease premises at the end of the lease. Additionally, the proposed new lease includes the payment of annual rent to compensate the people of the State for the occupation of and generation of revenue on public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine and in the best interests of the state.

OTHER PERTINENT INFORMATION:

1. On June 28, 2010, the Commission authorized a General Lease – Commercial Use to Mariner's Point, a California General Partnership (Lessee), for the continued use and maintenance of an existing commercial fuel dock facility.
2. On February 12, 2014, the Lessee submitted an application to amend the lease to allow suspension of operations for a period longer than 90 days and to terminate the lease on or after October 31, 2015. Commission staff informed the Lessee that lease termination would require the removal of existing improvements and the restoration of the lease premises, and that an environmental review pursuant to the California Environmental Quality Act (CEQA) would be needed in order to fully remove the fuel dock. On October 1, 2015, the Lessee ceased operation of the fuel dock. On January 7, 2016, the Lessee withdrew its Application.
3. On December 21, 2015, the City of Huntington Beach (City) approved and authorized execution of an Agreement for Purchase of the fuel dock from the Lessee for \$25,000. At the same meeting, the City approved and authorized execution of an Agreement for Sale of the fuel dock to General Petroleum dba Maxum Petroleum (Maxum).

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4. In order to allow Maxum to begin operation of the fuel dock, Commission staff is recommending that the existing lease be terminated and a new General Lease – Commercial Use be issued to Maxum. Maxum intends to replace worn fuel lines and make other improvements once a new lease has been authorized.
5. This activity is consistent with Strategy 1.1 to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
6. Termination of the lease is not a project as defined by CEQA because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378, subdivision (b)(5).

7. The staff recommends that the Commission find that the issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

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

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease is consistent with the common law public trust doctrine and is in the best interests of the State.

AUTHORIZATION:

1. Authorize termination, effective February 8, 2016, of Lease No. PRC 3265.1, a General Lease – Commercial Use, issued to Mariner's Point, a California General Partnership.
2. Authorize issuance of a General Lease – Commercial Use to General Petroleum dba Maxum Petroleum beginning February 9, 2016, for a term of 10 years, for the continued use and maintenance of a commercial fuel dock facility, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent of \$10,300 with an annual Consumer Price Index adjustment; liability insurance in the amount of \$2,000,000 per occurrence; and surety in the amount of \$25,000.

EXHIBIT A

PRC 3265.1

LAND DESCRIPTION

A parcel of submerged land in Sunset Bay, City of Seal Beach, Orange County, State of California, located adjacent to and northeasterly of Tideland Location No. 141 patented to Alamos Land Company April 4, 1901 and being further described as follows:

BEGINNING at the most northerly corner of Tract No. 5864 recorded book 214 pages 37 through 42 of miscellaneous maps filed in the office of the Orange County Recorder; thence N. 52° 45' 00" W. a distance of 100.00 feet along the northwesterly prolongation of the northeast tract boundary, said northeast tract boundary and its prolongation being coincident with the northeasterly line of said Tideland Location No. 141; thence leaving said tract boundary and northeasterly line, into Sunset Bay, N. 37° 15' 00" E. 75.00 feet; thence S. 52° 45' 00" E. 100.00 feet; thence S. 37° 15' 00" W. 75.00 feet to the POINT OF BEGINNING.

END OF DESCRIPTION

This document was prepared by me or under my supervision.



Patrick J. Savage 6/14/10

Patrick J. Savage P.L.S. 5183

