

MINUTE ITEM

This Calendar Item No. C46 was approved as Minute Item No. 46 by the California State Lands Commission by a vote of 3 to 0 at its 2-17-05 meeting.

CALENDAR ITEM

C46

A 67

02/17/05

S 35

PRC 8241

WP 8241.1

S. Young

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

LESSEE:

Ronald B. Labowe

APPLICANT:

Arnold D. Feuerstein

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Huntington Harbour, Huntington Beach, Orange County.

AUTHORIZED USE:

(1) The proposed reconstruction and reconfiguration of the existing boat dock; (2) use and maintenance of a boat dock and access ramp; (3) repair of an existing bulkhead that may include all or some of the following: (a) existing pile repair; (b) replacement of sheet piles; (c) installation of rock slope protection and (d) eelgrass planting within the lease premises if required by the California Coastal Commission, as part of a mitigation program; (4) the construction and maintenance of a cantilevered deck extending no more than 5 feet waterward of the existing bulkhead.

LEASE TERM:

Ten years, beginning September 26, 2003.

CONSIDERATION:

As to the boat dock, no monetary consideration pursuant to Public Resources Code section 6503.5; as to the repair of the 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; as to the construction and maintenance of the cantilevered deck, \$585 per year, effective January 1, 2005, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

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SPECIFIC LEASE PROVISIONS:

Insurance:

Combined single limit coverage of no less than \$1,000,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. Applicant qualifies for a Recreational Pier Lease because he is a natural person who has improved the littoral land with, and uses the upland for, a single-family dwelling.
3. On August 19, 2003, the Commission authorized the issuance of a General Lease – Recreational and Protective Structure Use to Ronald B. Labowe for a ten year term for the continued use and maintenance of a boat dock and for bulkhead maintenance and repairs waterward and adjacent to the existing residence. On September 26, 2003, the littoral land, Lot 144 of Tract 5481, was deeded to Arnold D. Feuerstein. Arnold D. Feuerstein is now applying for a new General Lease – Recreational Use. The proposed lease would cover the bulkhead repairs, the reconstruction and reconfiguration of the existing boat dock and access ramp, and the proposed construction of a new deck that cantilevers five feet waterward of the existing bulkhead. The five-foot portion of the deck extends over the State's fee title ownership in the Main Channel of Huntington Harbour. Staff is recommending that the existing lease be terminated and the proposed uses be combined in a single General Lease - Recreational Use. As the cantilevered deck does not qualify for a rent-free lease, that portion of the deck extending over State fee ownership within the Harbour is subject to annual rent. The boat dock, to be reconstructed and reconfigured, and the repairs and maintenance to the bulkhead will remain rent-free.
4. **Termination of Existing 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 the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California

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Code of Regulations, sections 15060 (c)(3) and 15378.

5. **Issuance of New Lease:** As to the proposed use, reconstruction and reconfiguration of the boat dock and access ramp and the proposed construction of a new 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 these activities are exempt from the requirements of the CEQA as categorically exempt projects. The projects are exempt under Class 3, new Construction of Small Structures; Title 2, California Code of Regulations, section 2905(c)(1).

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

6. As to the bulkhead repairs, a Mitigated Negative Declaration (SCH 200081028) was prepared and adopted for this project by the city of Huntington Beach. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring Program was adopted by the City of Huntington Beach.
7. These activities involve 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 projects, as proposed, are consistent with its use classification.

APPROVAL TO BE OBTAINED:

California Coastal Commission – Coastal Development Permit

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 EXISTING LEASE: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE PROVISIONS OF THE CEQA BECAUSE IT IS NOT A "PROJECT" AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15060 (c)(3) AND 15378.

ISSUANCE OF NEW LEASE: AS TO THE USE, MAINTENANCE, RECONSTRUCTION AND RECONFIGURATION OF AN EXISTING BOAT DOCK AND ACCESS RAMP, AND THE PROPOSED CONSTRUCTION OF THE CANTILEVERED DECK, FIND THAT THE ACTIVITIES ARE EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS CATEGORICALLY EXEMPT PROJECTS, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905(c)(1).

AS TO THE BULKHEAD REPAIRS, FIND THAT A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE CITY OF HUNTINGTON BEACH AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE MITIGATION MONITORING PROGRAM, AS PREPARED BY THE CITY OF HUNTINGTON BEACH, A COPY OF WHICH IS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THESE ACTIVITIES ARE 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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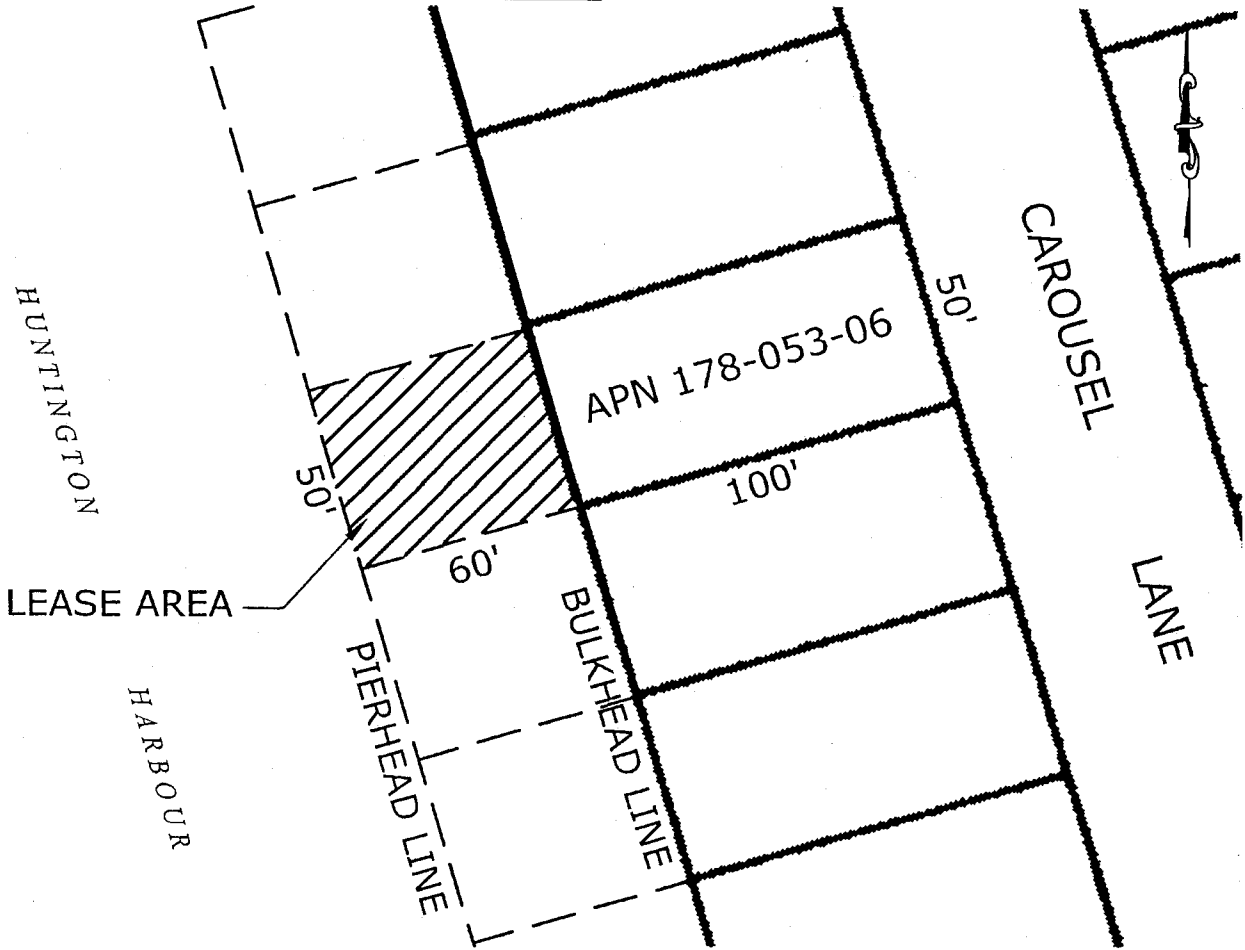
AUTHORIZATION:

AUTHORIZE THE TERMINATION OF GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE, NO. PRC 8241.9 TO RONALD B. LABOWE.

AUTHORIZE ISSUANCE TO ARNOLD D. FEUERSTEIN OF A GENERAL LEASE – RECREATIONAL USE, BEGINNING SEPTEMBER 26, 2003, FOR A TERM OF TEN YEARS, FOR USE, MAINTENANCE, RECONFIGURATION AND RECONSTRUCTION OF AN EXISTING BOAT DOCK AND ACCESS RAMP; FOR THE REPAIR OF AN EXISTING BULKHEAD ADJACENT TO 16681 CAROUSEL LANE, HUNTINGTON BEACH THAT MAY INCLUDE ALL OR SOME OF THE FOLLOWING: (1) EXISTING PILE REPAIR; (2) REPLACEMENT OF SHEET PILES; (3) PLACEMENT OF ROCK SLOPE PROTECTION AND (4) EEL GRASS PLANTING IF REQUIRED BY THE CALIFORNIA COASTAL COMMISSION AS PART OF A MITIGATION PROGRAM; AND FOR THE CONSTRUCTION OF A CANTILEVERED DECK, ON THE LAND SHOWN ON EXHIBIT A AND AS DESCRIBED ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; AS TO THE BOAT DOCK AND ACCESS RAMP, NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; AS TO THE REPAIR OF THE 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; AS TO THE CONSTRUCTION AND MAINTENANCE OF THE CANTILEVERED DECK, \$585 PER YEAR, BEGINNING JANUARY 1, 2005, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE FOR THE COMBINED SINGLE LIMIT COVERAGE OF NO LESS THAN \$1,000,000.

NO SCALE

SITE



16681 CAROUSEL LANE, HUNTINGTON HARBOUR

NO SCALE

LOCATION

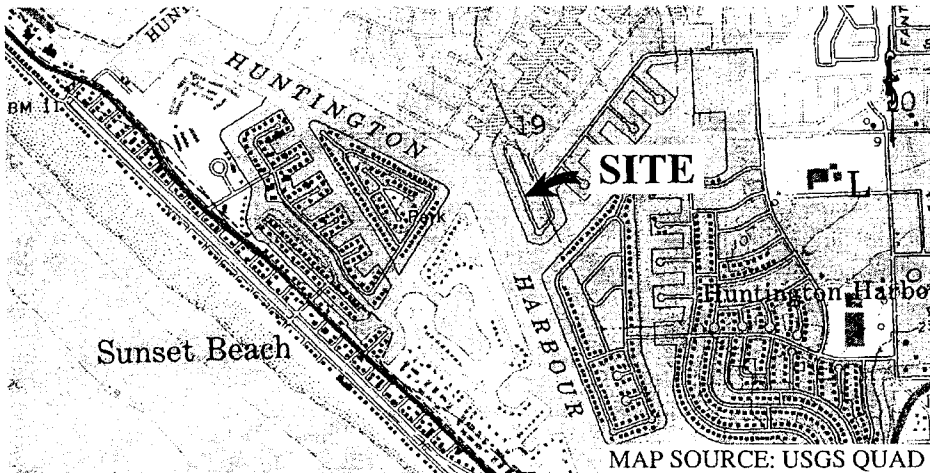


Exhibit A

WP 8241
 ARNOLD D. FEUERSTEIN
 APN 178-053-06
 RECREATIONAL PIER 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.

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EXHIBIT B

WP 8241

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 144 as said lot is shown and so designated on that certain map of Tract No. 5481 filed in Book 215, Pages 11 through 22 of Miscellaneous Maps, Official Records of said County; thence along the westerly extension of the southerly line of said lot, 60.00 feet, more or less, to the pierhead line, as said pierhead line is shown on EXHIBIT 'A' of Resolution No. 5631, passed and adopted January 21, 1986 by the City Council of the City of Huntington Beach and recorded January 27, 1986 as Document 86-035081, Official Records of said County; thence northerly along said pierhead line to the westerly extension of the northerly line of said lot; thence along said extension 60.00 feet, more or less, to the most westerly corner of said lot; thence along the westerly line of said lot to the point of beginning.

END OF DESCRIPTION

Prepared 02/07/2005 by the California State Lands Commission Boundary Unit



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