

**CALENDAR ITEM
C86**

A 67
S 35

01/26/12
PRC 3851.1
S. Paschall
K. Colson

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

CURRENT OWNERS:

Craig H. Kronick and Stuart A. Kronick, as Co-Trustees or their Successors in Interest, for the Amended Elbert M. Kronick and Shirley Kronick Inter Vivos Revocable Trust Agreement, dated December 20, 1991

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 16502 Somerset Lane, in the city of Huntington Beach, Orange County.

EXISTING FACILITIES:

Boat dock, access ramp, and cantilevered deck.

BACKGROUND:

1. The Craig H. Kronick and Stuart A. Kronick, as Co-Trustees or their Successors in Interest, for the Amended Elbert M. Kronick and Shirley Kronick Inter Vivos Revocable Trust Agreement, dated December 20, 1991 ("Kronicks") had a rent free 10-year Recreational Pier Lease with the Commission which expired on August 30, 2008.
2. On September 3, 2009 Commission staff sent the Kronicks a letter stating the lease had expired and needed to be renewed. Staff also advised the Kronicks that annual rent would be charged for any portion of the cantilevered deck which extended over the bulkhead. On September 23, 2009 Commission staff received a lease application from the Kronicks.
3. On April 6, 2010, the Commission approved Lease No. PRC 3851.1, a 10-year General Lease – Recreational Use, to the Kronicks, for the continued use and maintenance of an existing boat dock and access ramp, and the retention of an existing cantilevered deck extending no more than five feet

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waterward of the bulkhead. The boat dock and access ramp were not subject to rent pursuant to the former Public Resources Code Section 6305.5. The cantilevered deck did not qualify for rent-free status and annual rent was set at \$340. The Kronicks did not execute the lease.

4. Over the past 8 months Commission staff sent numerous letters to the Kronicks requesting that they execute the lease and comply with the various provisions of the lease including rental consideration and submittal of proof of insurance.
5. As of the posting of the January 26, 2012 Commission meeting agenda, the Kronicks have refused to execute a lease with the Commission; therefore the cantilevered deck and boat dock remain unauthorized structures located on the Main Channel in Huntington Harbour.

OTHER PERTINENT INFORMATION:

1. The Kronicks own the upland adjoining the Main Channel of Huntington Harbour.
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 must obtain 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(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 Code of Regulations, sections 15060 (c) (3) and 15378.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et

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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
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that this activity is not subject to the requirements of the CEQA pursuant to Title 14, California Code of Regulations, section 15060(c)(3) because the activity is not a project as defined by the Public Resources Code section 21065 and Title 14, California Code of Regulations, 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 the Kronicks, owners of the upland property, are and have been in immediate trespass for failure to obtain a lease from the Commission for the facilities located upon sovereign land, adjacent to the upland property at 16502 Somerset Lane, in the 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, damages for trespass, and removal of improvements adjacent to the upland property at 16502 Somerset Lane, including, but not limited to, 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

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owner of the properties has failed to cure the trespass within 15 days of having received the Notice of Trespass and Ejectment.

EXHIBIT A

PRC 3851.1

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 43, 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 Official Records of said County; thence along the northeasterly extension of the northwesterly line of said lot 60.00 feet, 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 along said extension 60.00 feet, to the most easterly corner of said lot; thence northwesterly along the northeasterly line of said lot to the point of beginning.

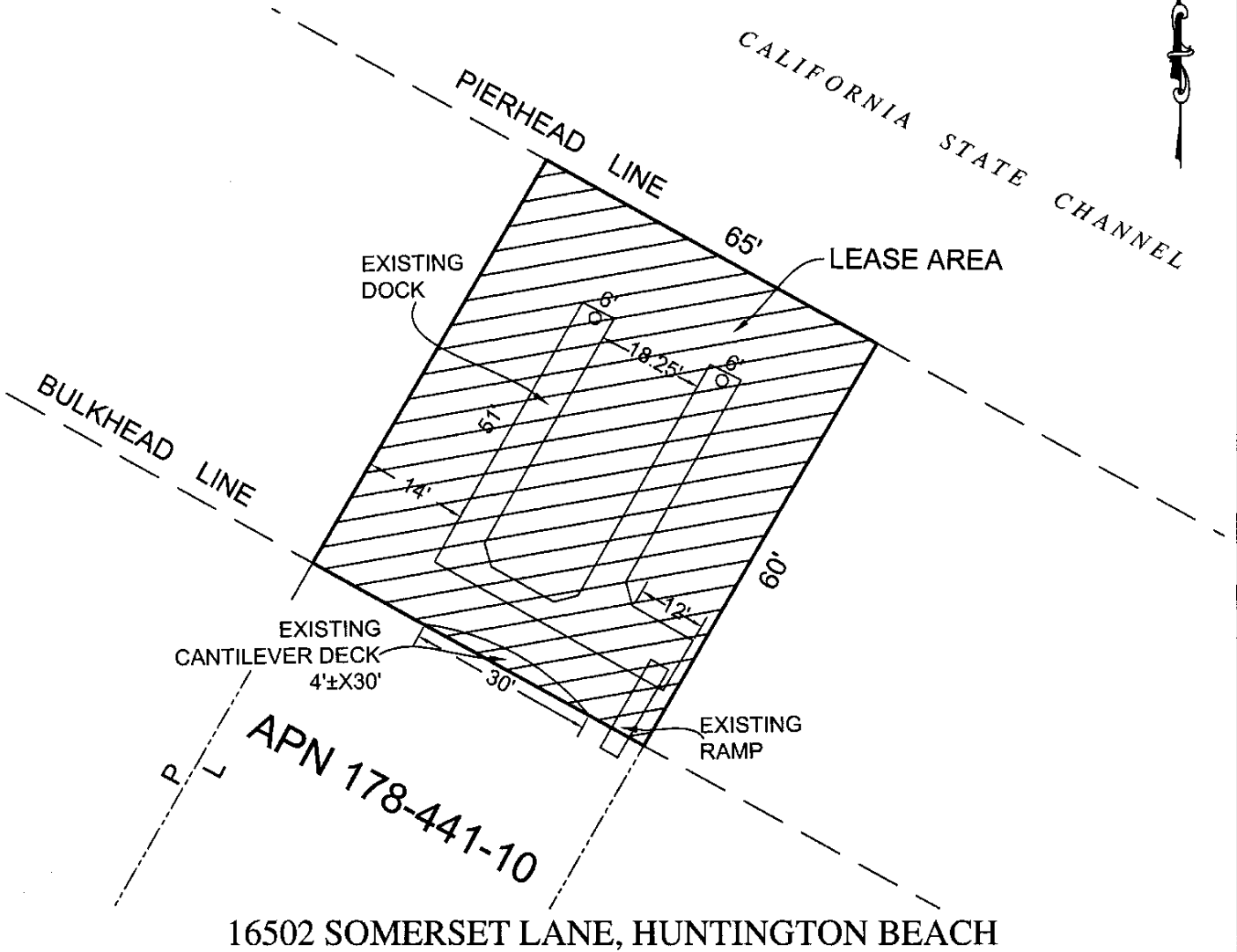
END OF DESCRIPTION

Prepared 02/27/2010 by the California State Lands Commission Boundary Unit



NO SCALE

SITE



16502 SOMERSET LANE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3851.1
 KRONICK
 APN 178-441-10
 GENERAL LEASE -
 RECREATIONAL USE
 ORANGE COUNTY



MIJ 02/10

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.