

**CALENDAR ITEM
C81**

A 67
S 35

02/22/13
PRC 3859.1
S. Paschall

**CORRECTION AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

APPLICANT:

Prior: Scott S. Brown and Melissa L. Brown, Co-Trustees U/D/T dated December 13, 2002, F/B/O the Brown Family

Current: Scott S. Brown, Trustee U/D/T dated May 23, 2011, F/B/O of the Scott S. Brown Trust

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Huntington Harbour, adjacent to 16801 Bolero Lane, city of Huntington Beach.

AUTHORIZED USE:

Use and maintenance of an existing boat dock, access ramp, and cantilevered deck extending no more than 5 feet waterward of the bulkhead line.

LEASE TERM:

10 years, beginning September 16, 2009.

CONSIDERATION:

Boat Dock and Access Ramp: No rent for the remaining term of the lease pursuant to Public Resources Code section 6503.5 (b)(2), with the State reserving the right at such time as the lease expires to set a monetary rent if the Commission finds such action to be in the State's best interest.

Cantilevered Deck: Annual rent in the amount of \$1,110, 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 coverage in an amount not less than \$1,000,000.

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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 living quarters constitutes residential use and is prohibited.

OTHER PERTINENT INFORMATION:

1. Current applicant owns the upland 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 a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicants upland property is located along the Main Channel of Huntington Harbour.
3. On April 6, 2010, the Commission authorized issuance of a General Lease – Recreational Use to Scott S. Brown and Melissa L. Brown, for the continued use and maintenance of an existing boat dock, access ramp, and cantilevered deck extending no more than five feet waterward of the bulkhead, beginning September 16, 2009 for a term of 10 years. This lease was not executed by Melissa L. Brown or the state.
4. Staff was notified of a divorce subsequent to the abovementioned authorization. The upland property has since been deeded to the current applicant. The current applicant has been paying rent without delay and is a natural person who owns the littoral land improved with a single-family dwelling. Staff recommends correcting the previous authorization to reflect the current applicant and issuance of the lease with all other terms and conditions remaining in effect.
5. **Correction of Lease:**
The staff recommends that the Commission find that the subject correction of lease does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and

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is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

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

6. Issuance of Lease:

The staff recommends that the Commission find that this activity 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.

7. 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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Correction of Lease:

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

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Issuance of Lease:

Find that the activity 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).

AUTHORIZATION:

Authorize the correction and issuance of Lease No. PRC 3859.1, a General Lease – Recreational Use, to Scott S. Brown, Trustee U/D/T dated May 23, 2011, F/B/O of the Scott S. Brown Trust, beginning September 16, 2009, for a term of 10 years, for the use and maintenance of an existing boat dock, access ramp, and cantilevered deck, as described in Exhibit A and shown on Exhibit B (for reference purposes only) 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 \$1,110, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; all other terms and conditions of the prior authorization and lease will remain in effect.

EXHIBIT A

PRC 3859

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 58, as said lot is shown and so designated on that certain map of Tract No. 5264 filed in Map Book 185, Pages 27 through 34, Official Records of said County; thence along the westerly extension of the southerly line of said lot 60.00 feet; thence northerly along a line parallel with the westerly line of said lot to the westerly extension of the northerly line of said lot; thence easterly along said extension 60.00 feet to the most westerly corner of said lot; thence southerly along said westerly line of said lot to the point of beginning.

END OF DESCRIPTION

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



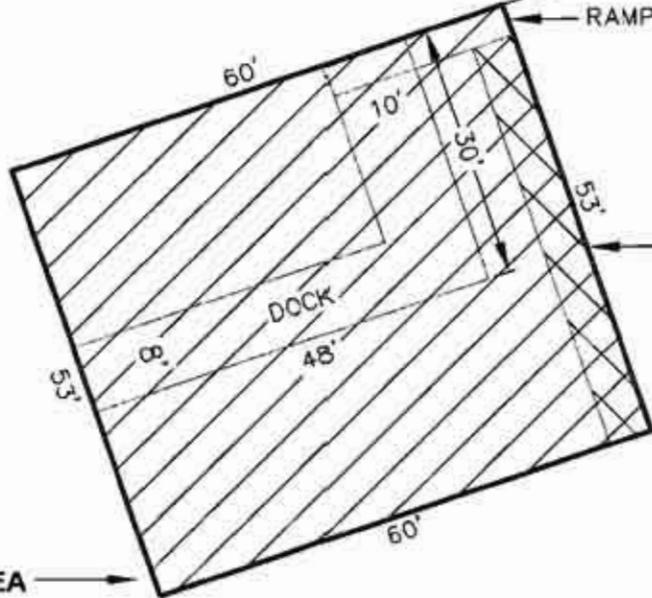
Michael J. Bell

NO SCALE

SITE

State of California Channel

LEASE AREA



RAMP

APN 178-371-10

CANTILEVERED DECK 5'x49'2"

BULKHEAD LINE

*ALL STRUCTURES SHOWN ARE EXISTING

16801 BOLERO LANE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3859.1

BROWN

APN 178-371-10

GENERAL LEASE-
RECREATIONAL USE
ORANGE COUNTY



SITE

DIP 05/11

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.