

**CALENDAR ITEM  
C68**

A 72  
S 34

06/21/13  
PRC 3078.1  
A. Franzoia

**GENERAL LEASE – RECREATIONAL USE**

**APPLICANTS:**

Charles F. Nichols and Judith A. Nichols, Trustees of The Nichols Family Trust (Restated January 1991).

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land located in the Midway Channel of Huntington Harbour, adjacent to 3492 Gilbert Drive, city of Huntington Beach, Orange County.

**AUTHORIZED USE:**

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

**LEASE TERM:**

10 years, beginning June 21, 2013.

**CONSIDERATION:**

**Boat Dock and Access Ramp:** no monetary consideration pursuant to Public Resources Code section 6503.5.

**Cantilevered Deck:** Annual rent in the amount of \$1,188, 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:**

Liability in an amount no less than \$1,000,000 per occurrence.

**Other:**

No permanent roof or other enclosure will be constructed on the lease premises. Applicants agree that any proposed use of the lease premises that includes an extension of the actual living quarters constitutes residential use and is prohibited.

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**OTHER PERTINENT INFORMATION:**

1. Applicants own 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 November 15, 1994, the Commission approved the issuance of a Recreational Pier Lease, Lease No. PRC 3078.9, for a 10-year term to Charles F. and Judith A. Nichols for use and maintenance of the boat dock. The lease expired on December 31, 2003. The Applicants submitted an application for a new lease on April 22, 2004. Staff deemed the application incomplete and requested more information. However, due to a lack of communication by both parties, the application was not deemed complete until recently.
4. On October 8, 2011, Chapter 585, Statutes of 2011 became law. The law took effect on January 1, 2012. This new law repeals section 6503.5 of the Public Resources Code, which had allowed rent-free use of State-owned land by certain private parties for their recreational piers. It replaced the former section with a new section 6503.5 which provides that the State Lands Commission "shall charge rent for a private recreational pier constructed on state lands." The law provides for two exceptions to the imposition of rent. Those exceptions are for:
  - A. A lease in effect on July 1, 2011 through the remaining term of that lease. If a lease in effect on July 1, 2011 expires or is otherwise terminated, any new lease will be subject to rent; and
  - B. A lease for which the lease application and application fees were submitted to the Commission prior to March 31, 2011.

The proposed lease meets one of the statutory exceptions because the Applicants submitted an application to renew Lease No. PRC 3078.9 prior

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to March 31, 2011. Therefore, the boat dock and access ramp are rent-free for the term of the lease.

5. While the existing access ramp and cantilevered deck were not previously authorized or explicitly leased, staff is recommending that these facilities be included in the new combined lease. The cantilevered deck is subject to rent.
6. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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:**

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).

**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.

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**AUTHORIZATION:**

Authorize Issuance of a General Lease – Recreational Use to Charles F. Nichols and Judith A. Nichols, Trustees of The Nichols Family Trust (Restated January 1991), beginning June 21, 2013, for a term of 10 years, for 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 \$1,188; Liability insurance in an amount of no less than \$1,000,000 per occurrence

## EXHIBIT A

PRC 3078.1

### 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 southerly corner of Lot 23, 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 Miscellaneous Maps, Official Records of said County; thence southeasterly along the southeasterly extension of the southwesterly line of said lot 40.00 feet to a line parallel with the southeasterly line of said lot; thence northeasterly along said parallel line 55 feet to the southeasterly extension of the northeasterly line of said lot; thence northwesterly along said southeasterly extension 40 feet to the most easterly corner of said lot; thence along said southeasterly line 55 feet of said lot to the point of beginning.

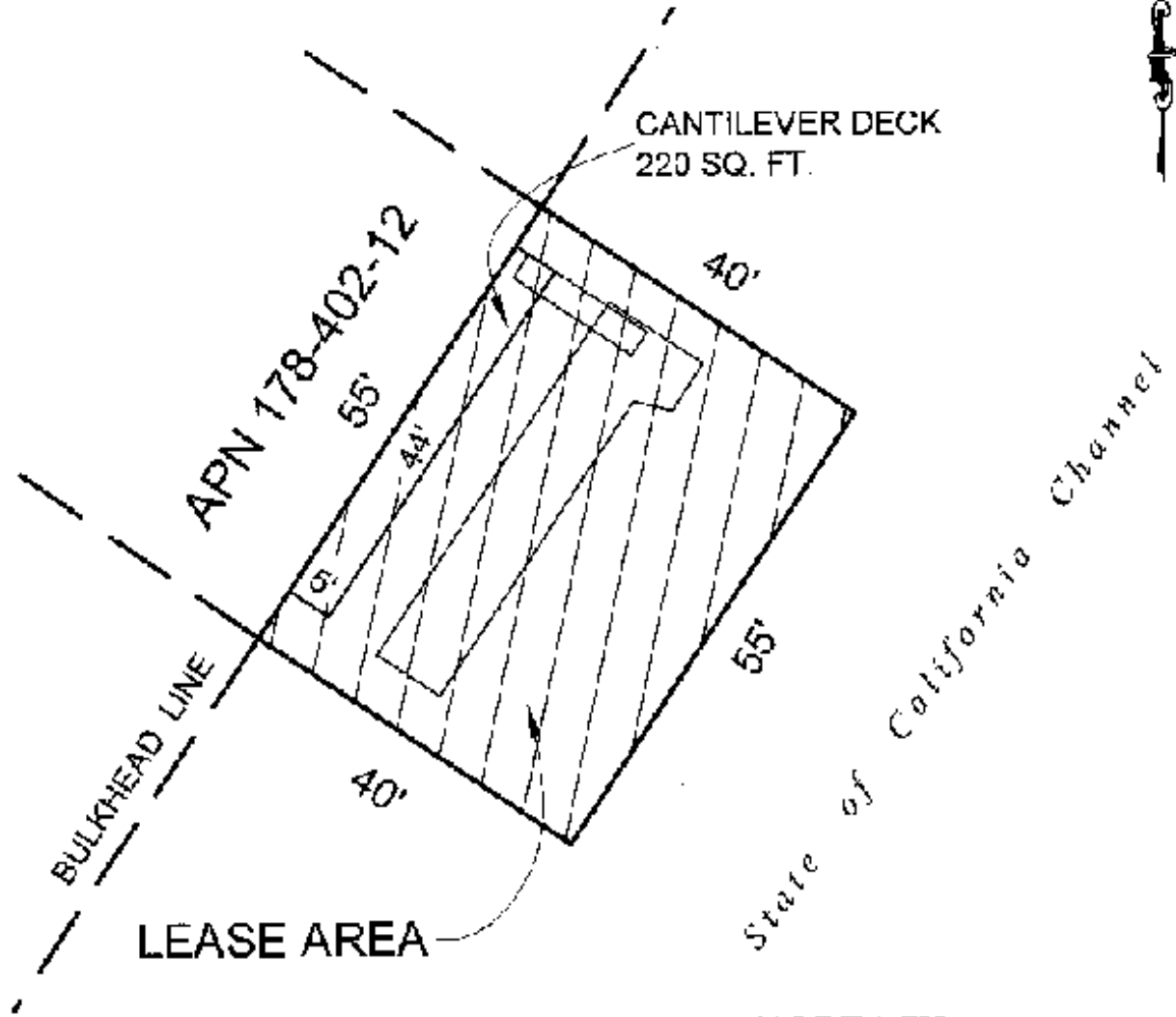
### END OF DESCRIPTION

Prepared 09/21/2012 by the California State Lands Commission Boundary Unit



NO SCALE

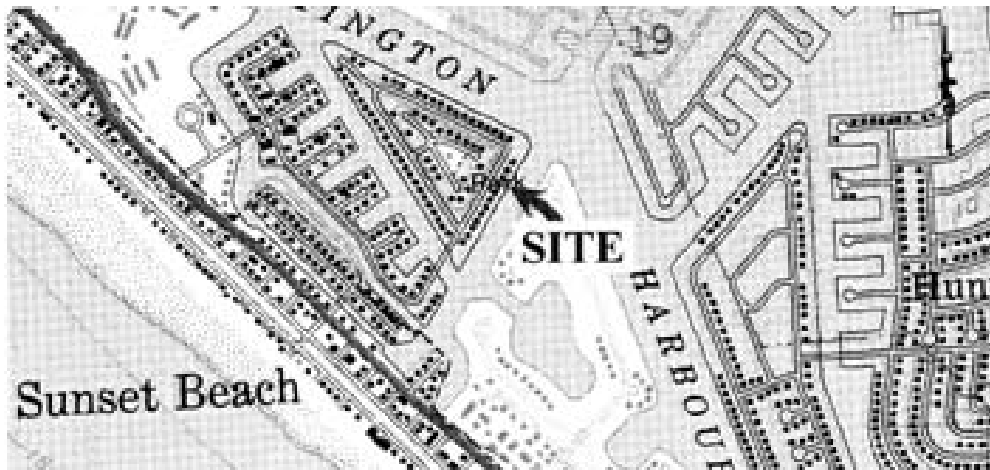
**SITE**



3492 GILBERT DRIVE, HUNTINGTON BEACH

NO SCALE

**LOCATION**



MAP SOURCE: USGS QUAD

**Exhibit B**

PRC 3078.1  
 NICHOLS TRUST  
 APN 178-402-12  
 GENERAL LEASE -  
 RECREATIONAL USE  
 ORANGE COUNTY



MLJ 09/21/12

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.