

**CALENDAR ITEM
C35**

A 72
S 34

08/09/16
PRC 3175.1
S. Kreutzburg

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Marilyn M. Donovan, as Trustee of the Donovan Family Trust dated May 9, 1988 as to an undivided 8% interest, and Marilyn M. Donovan, as Trustee of the Donovan Family Trust C as to an undivided 92% as tenants in common

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 3402 Gilbert Drive, city of Huntington Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of an existing boat dock and access ramp.

LEASE TERM:

10 years, beginning August 9, 2016.

CONSIDERATION:

\$662 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

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

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On February 27, 1996, the Commission authorized the issuance of a Recreational Pier Lease to Robert M. and Marilyn M. Donovan for a term of 10 years

http://archives.slc.ca.gov/Meeting_Summaries/1996_Documents/02-27-

CALENDAR ITEM NO. **C35** (CONT'D)

[96/Items/022796C43.pdf](#)). The lease expired on May 22, 2005. On November 10, 2005, ownership of the upland parcel was transferred to the family trust. The Applicant is now applying for a new lease. Staff recommends acceptance of \$2,648 as compensation for the prior unauthorized occupation of State land.

Recreational boating is water dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5). The subject facilities, consisting of a boat dock and access ramp are privately owned and maintained and located within the Midway Channel of Huntington Harbour. The boat dock and access ramp facilitate recreational boating because they are used for the docking and mooring of recreational boats.

The Midway Channel in Huntington Harbour was created in the early 1960s and the adjacent upland parcel is privately owned and developed with a residence. There is no public access at this upland property because the private upland property directly abuts the concrete bulkhead that defines the limits of the channel. The boat dock extends to the pierhead line which is 60 feet into the 200-foot wide channel leaving the majority of the Midway Channel available for navigation and public recreation.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

CALENDAR ITEM NO. **C35** (CONT'D)

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan 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.
2. The issuance of a lease 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.

3. 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 staff's consultation with the persons nominating such lands and through the CEQA review process, it is 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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time and for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

CALENDAR ITEM NO. **C35** (CONT'D)

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:

Authorize issuance of a General Lease – Recreational Use to Marilyn M. Donovan, as Trustee of the Donovan Family Trust dated May 9, 1988 as to an undivided 8% interest, and Marilyn M. Donovan, as Trustee of the Donovan Family Trust C as to an undivided 92% as tenants in common; beginning August 9, 2016, for a term of 10 years, for use and maintenance of an existing boat dock and access ramp, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration in the amount of \$662 per year with an annual Consumer Price Index adjustment; compensation in the amount of \$2,648 for the prior unauthorized occupation of State land, and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3175.1

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 17, 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 southeasterly line of said lot; thence northeasterly along said parallel line 50.00 feet to the southeasterly extension of the northeasterly line of said lot; thence northwesterly along said southeasterly extension 40.00 feet to the most easterly corner of said lot; thence along said southeasterly line of said lot 50.00 feet to the POINT OF BEGINNING.

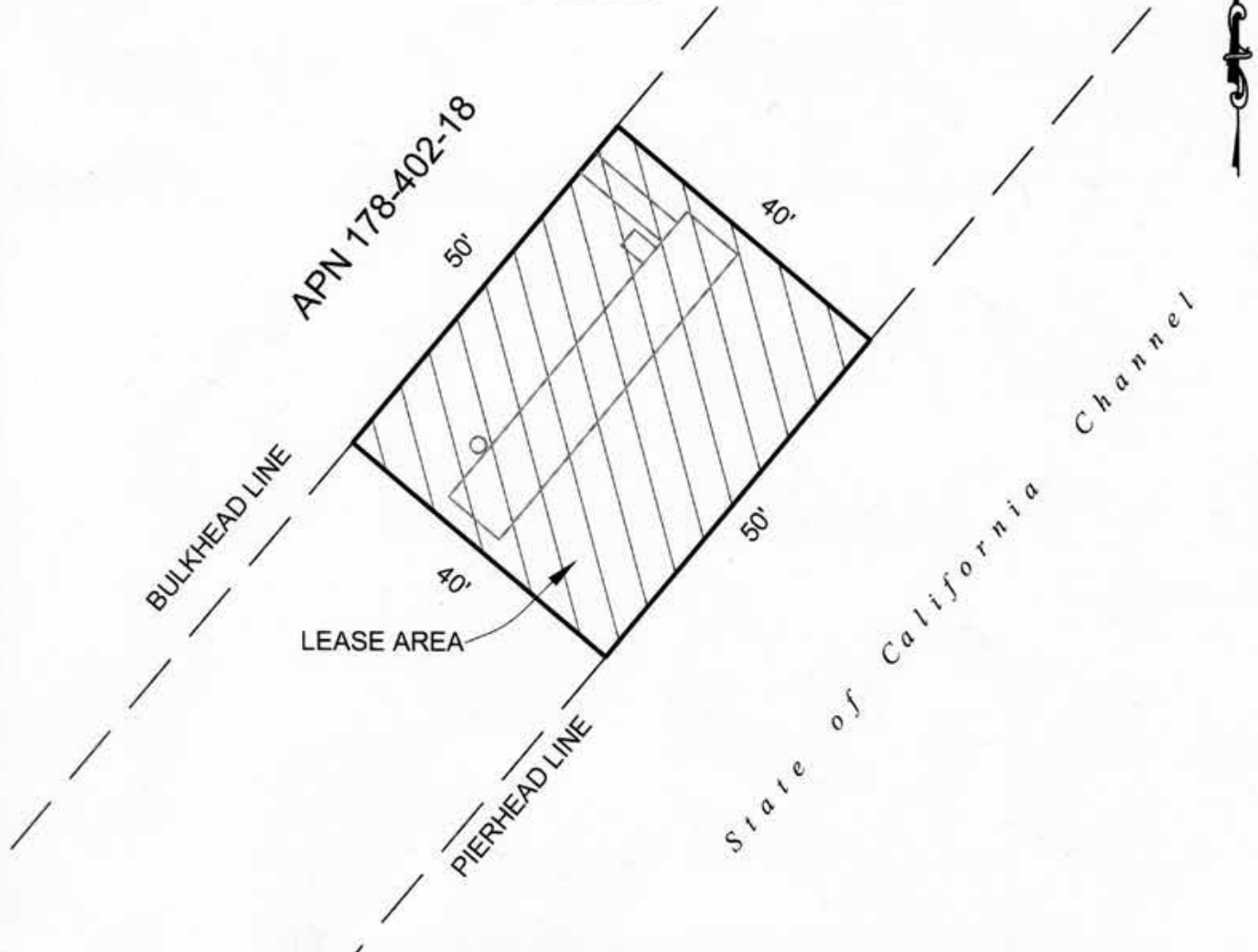
END OF DESCRIPTION

Prepared 06/01/2016 by the California State Lands Commission Boundary Unit



NO SCALE

SITE



3402 GILBERT DRIVE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3175.1
 DONOVAN TRUST
 APN 178-402-018
 GENERAL LEASE -
 RECREATIONAL USE
 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.

MJJ 5/26/2016