

**CALENDAR ITEM
C34**

A	67	12/10/10
S	35	WP 3246.1 D. Simpkin

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Deborah DiBenedetto, Trustee of the Deborah DiBenedetto Trust, dated May 3, 2007

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 16562 Somerset Lane, city of Huntington Beach, Orange County.

AUTHORIZED USE:

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 5 feet waterward of the bulkhead.

LEASE TERM:

10 years, beginning May 29, 2010.

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 \$905, 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 insurance coverage in the amount of no less than \$1,000,000.

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 actual living quarters constitutes residential use and is prohibited.

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OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands 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 and recorded as Boundary Line Agreement 18, between the Commission and the Huntington Harbour Corporation. Appurtenances extending into these Channels are subject to lease pursuant to Public Resources Code section 6501, et seq. The Applicant's upland property is located along the Main Channel of Huntington Harbour.
3. On April 20, 2000, the Commission authorized the issuance of a Recreational Pier Lease, PRC 3246.9, to Nicholas DiBenedetto and Deborah DiBenedetto as trustees of the DiBenedetto Family Trust dated March 27, 1997, for a 10-year term, effective May 29, 2000. The lease expired on May 28, 2010. The Applicant is now applying for a new General Lease – Recreational Use for the existing boat dock and access ramp as well as for the existing cantilevered deck. A 5-foot portion of the cantilevered deck extends over the State's fee ownership in the Main Channel of Huntington Harbour, and was not previously authorized by the Commission. Since the deck is existing, staff is recommending that it be included in the lease.
4. The existing boat dock and access ramp qualify for rent-free status as the Applicant is a natural person who owns the littoral land improved with a single-family dwelling pursuant to Title 2, California Code of Regulations, sections 2002 (f) and 2003 (a)(5).
5. The cantilevered deck does not qualify for rent-free status because it is not used for the mooring or docking of boats. Therefore, that portion of the deck extending over State fee ownership within the Harbour is subject to annual rent pursuant to Title 2, California Code of Regulations, sections 2002 (b)(3) and 2003 (a)(4).
6. **Existing Boat Dock and Access Ramp:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

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

7. **Cantilevered Deck:** Pursuant to the Commission's delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction or Conversion of Small Structures; Title 14, California Code of Regulations, section 15303.

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15303 and Title 2, California Code of Regulations, section 15300.

8. This activity involves 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 staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Location and Site Map
- B. Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

EXISTING BOAT DOCK AND ACCESS RAMP: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

CANTILEVERED DECK: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 3, New Construction or Conversion of Small Structures; Title 14, California Code of Regulations, section 15303.

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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 sections 6370, et seq.

AUTHORIZATION:

Authorize issuance of a General Lease - Recreational Use to Deborah DiBenedetto, Trustee of the Deborah DiBenedetto Trust, dated May 3, 2007, beginning May 29, 2010, for a term of 10 years, for the continued use and maintenance of an existing boat dock, access ramp, and retention, use, and maintenance of an existing cantilevered deck as shown on Exhibit A attached (for reference purposes only) and described on Exhibit B 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 \$905, with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease; combined single limit liability insurance coverage in the amount of no less than \$1,000,000.