

**MINUTE ITEM**

This Calendar Item No. C43 was approved as Minute Item No. 43 by the California State Lands Commission by a vote of 3 to 0 at its 12/9/04 meeting.

**CALENDAR ITEM  
C43**

A 67  
S 35

12/09/04  
PRC 8574 W 26029  
PRC 5242.9  
PRC 8283.9  
S. Young

**TERMINATION OF GENERAL LEASE - RECREATIONAL PIER USE, TERMINATION OF GENERAL LEASE - PROTECTIVE STRUCTURE USE AND ISSUANCE OF A NEW GENERAL LEASE – RECREATIONAL USE**

**LESSEES:**

Gregory D. Kriesel and Jane K. Kriesel, Trustees of The Kriesel Family Trust  
UTD Dated May 14, 1999

Gregory D. Kriesel and Jane K. Kriesel

**APPLICANTS:**

Gregory D. Kriesel and Jane K. Kriesel, Trustees of The Kriesel Family Trust  
UTD Dated May 14, 1999.

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

Sovereign lands in Huntington Harbour, Huntington Beach, Orange County.

**AUTHORIZED USE:**

(1) The continued use and maintenance of an existing boat dock; (2) repair of an existing bulkhead that may include all or some of the following: (a) existing pile repair; (b) replacement of sheet piles; and (c) installation of rock slope protection; (3) the construction and maintenance of a cantilevered deck extending waterward of the existing bulkhead no more than 5 feet.

**LEASE TERM:**

Ten years, beginning December 9, 2004.

**CONSIDERATION:**

As to the boat dock, no monetary consideration pursuant to Public Resources Code section 6503.5; as to the repair of the bulkhead, the public health and safety with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest; as to the

CALENDAR ITEM NO. C43 (CONT'D)

construction and maintenance of the cantilevered deck, \$1,125.00 per year, 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 coverage of no less than \$1,000,000.

**OTHER PERTINENT INFORMATION:**

1. Applicant owns the uplands adjoining the lease premises.
2. In 2000, the Commission authorized the issuance of a General Lease – Recreational Pier Use, PRC 5242.9, for a ten-year term to the Lessees for the continued use and maintenance of the boat dock adjacent to their residence in Huntington Harbour. In 2001, the Commission authorized the issuance of a General Lease – Protective Structure Use PRC 8283.9 to the Lessees for bulkhead repairs and maintenance waterward and adjacent to this residence. The Applicants, Mr. and Mrs. Kriesel, are now applying for a new General Lease – Recreational Use for the proposed construction of a deck that cantilevers five feet waterward of the existing bulkhead and 50 feet in length. This five-foot portion of the deck extends over the State's fee title ownership in the Main Channel of Huntington Harbour. Staff is recommending that the two existing leases PRC 5242.9 and PRC 8283.9 to the Lessees be terminated and the existing uses and proposed use be combined in a single General Lease – Recreational Use. As the cantilevered deck does not qualify for a rent-free lease, that portion of the deck extending over State fee ownership within the Harbour is subject to annual rental. The existing boat dock and the repairs and maintenance to the bulkhead will remain rent-free.

Staff has recently determined that a large percentage of residential parcels adjacent to the Main and Midway Channels, have existing decks that extend up to five feet over the State's fee ownership within the Harbour. From staff's research, it is apparent that the city of Huntington Beach has been approving the construction of the cantilevered decks "in concept" and that the Coastal Commission has found the projects consistent with the Coastal Act and has been approving and issuing Coastal Development permits for these structures occupying State lands. The California State Lands Commission has not previously approved any General Leases – Recreational Use for these cantilevered decks.

CALENDAR ITEM NO. C43 (CONT'D)

3. The Coastal Commission approved this project on September 10, 2004, under Permit #5-03-290 subject to the approval of the California State Lands Commission. This condition requires "*applicant shall provide to the Executive Director a copy of a permit issued by California State Lands Commission, or letter of permission, or evidence that no permit or permission is required.*"

4. **Termination of Existing Leases:** Pursuant to the Commission's delegation of authority and the State CEQA guidelines [Title 14, California Code of Regulations, section 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.

5. **Issuance of New Lease:** On September 10, 2004, the California Coastal Commission (CCC) granted Permit #5-03-290 for this project under its certified regulatory program (Title 14, California Code of Regulations, section 15251 (c)).

Staff has reviewed the document and determined that the conditions, as specified in Title 14, California Code of Regulations, section 15253 (b), have been met for the Commission to use the environmental analysis document certified by the CCC as a Negative Declaration equivalent in order to comply with the requirements of the CEQA.

6. 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 the staff's opinion that the project, as proposed, is consistent with its use classification.

**APPROVALS OBTAINED:**

California Coastal Commission Permit #5-03-290.

CALENDAR ITEM NO. C43 (CONT'D)

**EXHIBITS:**

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

**PERMIT STREAMLINING ACT DEADLINE:**

December 20, 2004

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

**TERMINATION OF EXISTING LEASES:** FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE PROVISIONS OF THE CEQA BECAUSE IT IS NOT A "PROJECT" AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15060 (c)(3) AND 15378.

**ISSUANCE OF NEW LEASE:** FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT, CALIFORNIA COASTAL COMMISSION (CCC) PERMIT # 5-03-290, WAS ADOPTED FOR THIS PROJECT BY THE CCC UNDER ITS CERTIFIED PROGRAM (TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15251 (c)), AND THAT THE CALIFORNIA STATE LANDS COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION THEREIN AND CONCURS IN THE CCC'S DETERMINATION.

**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 THE TERMINATION OF GENERAL LEASE – RECREATIONAL PIER, PRC 5242.9, ISSUED TO GREGORY D. KRIESEL AND JANE K. KRIESEL AND APPROVED BY COMMISSION ON FEBRUARY 8, 2000.

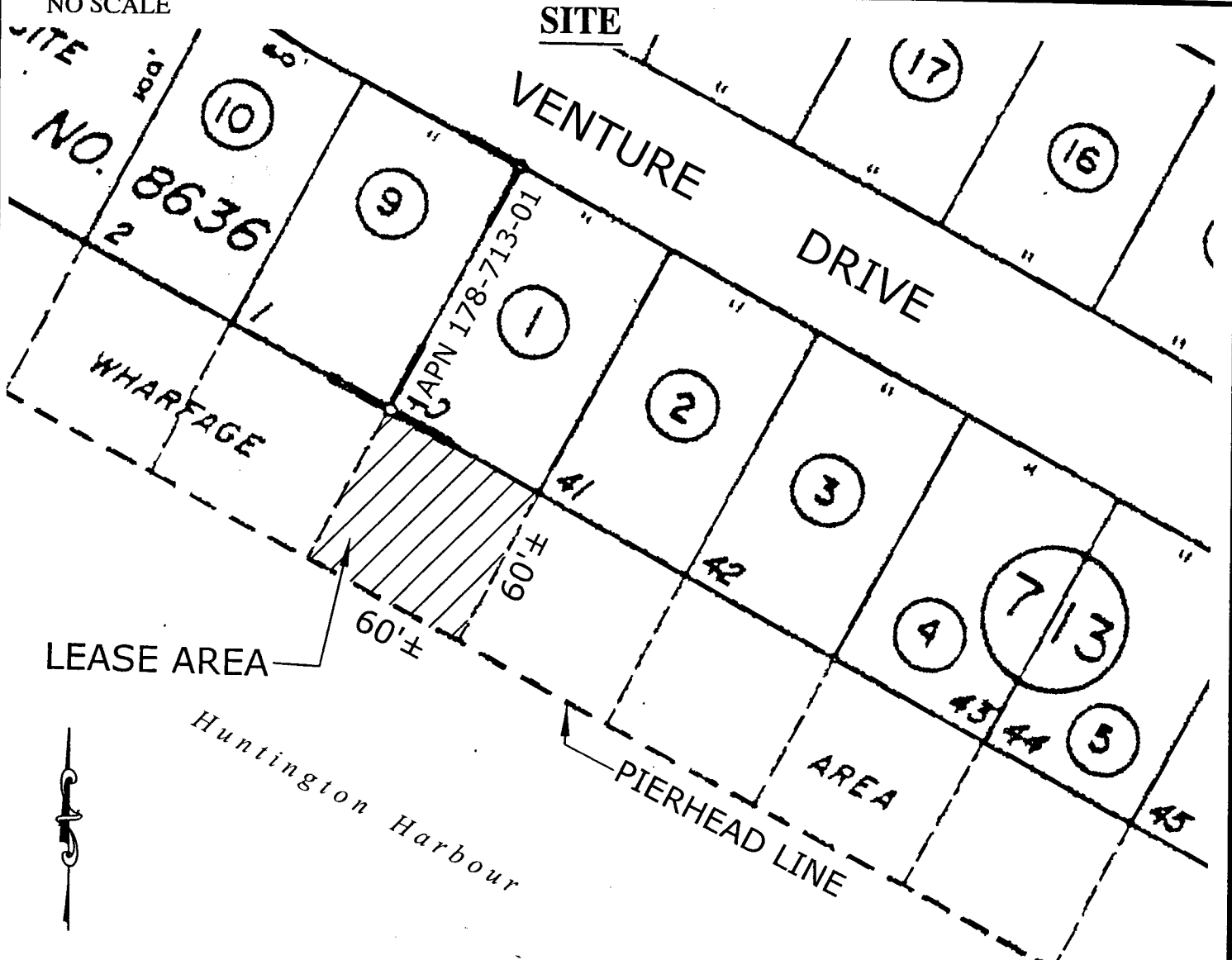
AUTHORIZE THE TERMINATION OF GENERAL LEASE – PROTECTIVE STRUCTURE USE, PRC 8283.9, ISSUED TO GREGORY D. KRIESEL

CALENDAR ITEM NO. C43 (CONT'D)

AND JANE K. KRIESEL, TRUSTEES OF THE KRIESEL FAMILY TRUST UTD DATED MAY 14, 1999, AND APPROVED BY COMMISSION ON APRIL 24, 2001.

AUTHORIZE ISSUANCE TO GREGORY D. KRIESEL AND JANE K. KRIESEL, TRUSTEES OF THE KRIESEL FAMILY TRUST UTD DATED MAY 14, 1999, OF A GENERAL LEASE - RECREATIONAL USE, BEGINNING DECEMBER 9, 2004, FOR A TERM OF TEN YEARS, FOR AN EXISTING BOAT DOCK, FOR REPAIR OF AN EXISTING BULKHEAD THAT MAY INCLUDE ALL OR SOME OF THE FOLLOWING: (1) EXISTING PILE REPAIR; (2) PLACEMENT OF SHEET PILES; AND (3) INSTALLATION OF ROCK SLOPE PROTECTION; AND CONSTRUCTION OF A CANTILEVERED DECK ON THE LAND SHOWN ON EXHIBIT A AND AS DESCRIBED ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; AS TO THE BOAT DOCK, NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; AS TO THE REPAIR OF THE BULKHEAD, THE PUBLIC HEALTH AND SAFETY WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENT IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST; AS TO THE CONSTRUCTION AND MAINTENANCE OF THE CANTILEVERED DECK, \$1,125.00 PER YEAR, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF NO LESS THAN \$1,000,000.

NO SCALE



3512 VENTURE DRIVE, HUNTINGTON BEACH

NO SCALE

LOCATION

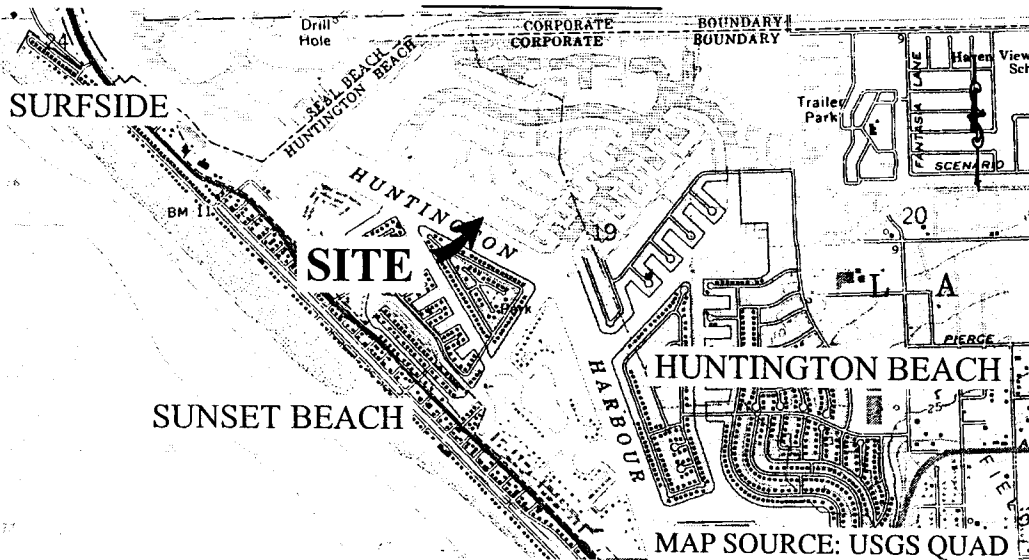


Exhibit A

W 26029

APN 178-713-01

THE KRIESEL FAMILY TRUST  
 RECREATIONAL USE  
 HUNTINGTON BEACH  
 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.

**EXHIBIT B**

**W 26029**

**LAND DESCRIPTION**

A parcel of submerged land in Huntington Harbour in the City of Huntington Beach, Orange County, California, described as follows:

A portion of those lands described in that certain Corporation Grant Deed recorded December 20, 1962 in Book 6368, Pages 411-413, Official Records of said County, described as follows:

Beginning at the most southerly corner of Lot 40, as said lot is shown and so designated on that certain map of Tract No. 9335 filed in Book 386, Pages 32 and 33 of Miscellaneous Maps, Official Records of said County; thence along the southwesterly extension of the southeasterly line of said lot 60.00 feet, more or less, to the pierhead line, as said pierhead line is shown on EXHIBIT 'A' of Resolution No. 5503, passed and adopted May 6, 1985 by the City Council of the City of Huntington Beach and recorded May 10, 1985 as Document 85-170510, Official Records of said County; thence northwesterly along said pierhead line to the southwesterly extension of the northwesterly line of said lot; thence along said extension 60.00 feet, more or less, to the most westerly corner of said lot; thence along the southwesterly line of said lot to the point of beginning.

**END OF DESCRIPTION**

Prepared 11/02/2004 by the California State Lands Commission Boundary Unit

