

Staff Report 70

LESSEE/ASSIGNOR:

Lawrence C. Tistaert, Trustee of the Childrens Trust Estate of The James H. DeWald and Wanda E. DeWald Trust, Dated August 13, 1986, As Amended

APPLICANT/ASSIGNEE:

Charles Howell

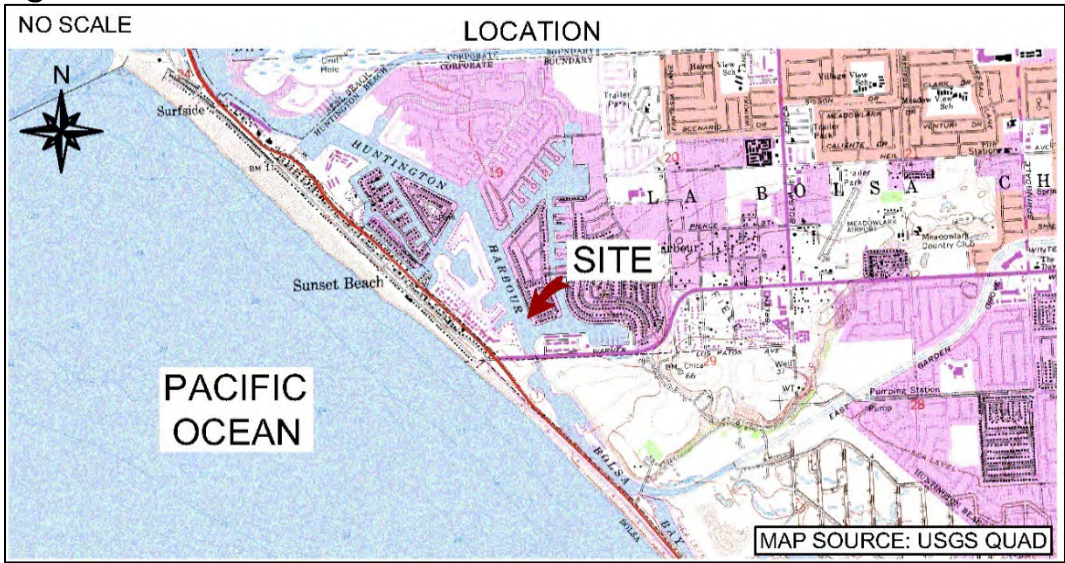
PROPOSED ACTION:

Assignment of a General Lease – Recreational Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Main Channel of Huntington Harbour, adjacent to 17051 Bolero Lane, Huntington Beach, Orange County (as shown in Figure 1).

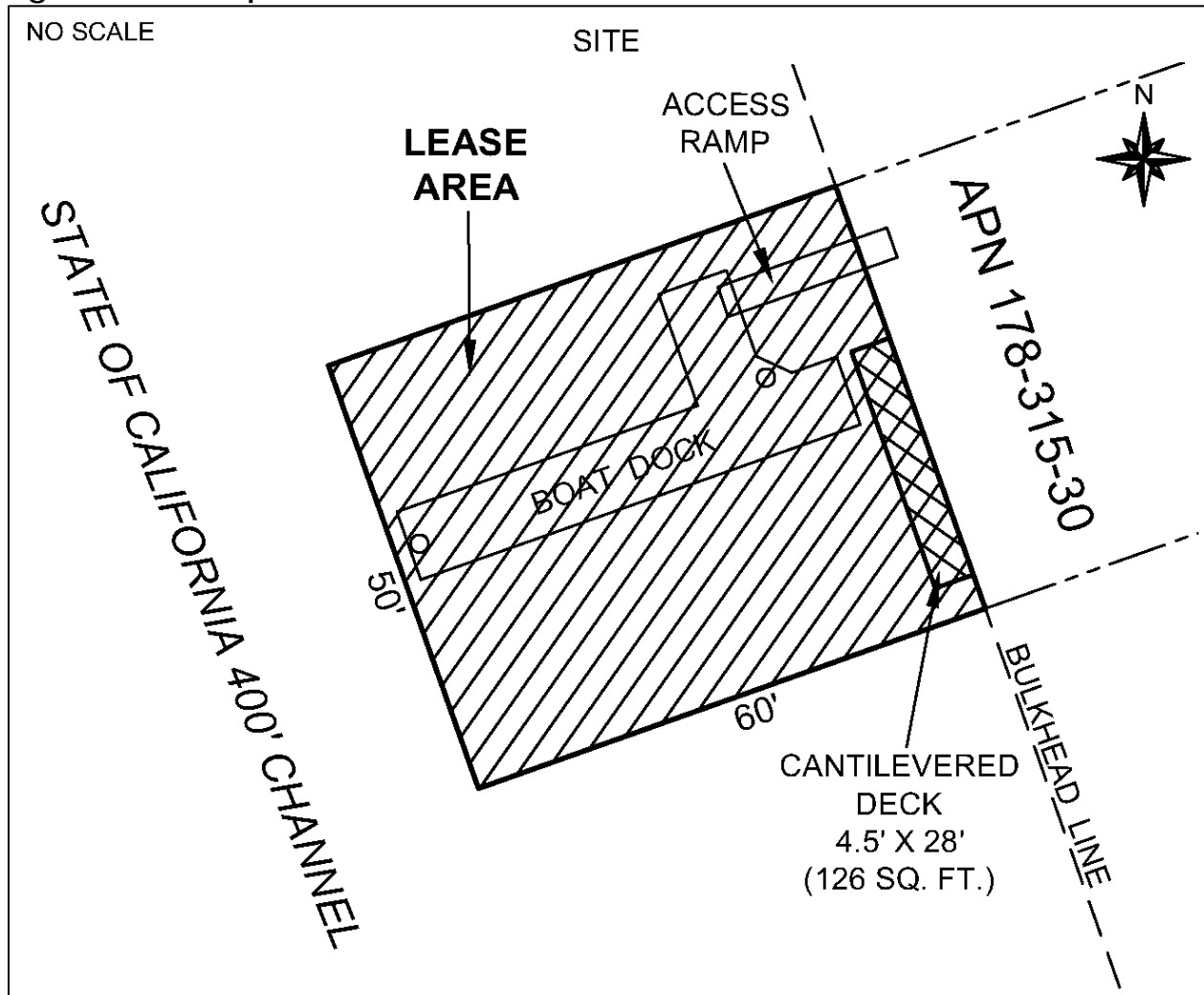
Figure 1. Location



AUTHORIZED USE:

Use of a boat dock, access ramp, and cantilevered deck (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

10 years Beginning December 14, 2022.

CONSIDERATION:

\$2,595 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.
- Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.
- Lessee shall not construct, or allow to be constructed, a permanent roof or other enclosure on the Lease Premises.
- Lessee agrees that any proposed use of the Lease Premises that includes extension of the actual living quarters constitutes residential use and is prohibited.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public resources Code sections 6005, 6216,6301,6501.1,6503,6503.5, and 6505.5; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On December 9, 2022, the Commission authorized a General Lease – Recreational Use to Lawrence C. Tistaert, trustee of the Childrens Trust Estate of the James H. Dewald and Wanda e. Dewald Trust dated August 13, 1986, as amended, for the use of a boat dock, access ramp, and cantilevered deck ([Item 55, December 9, 2022](#)). That lease will expire on December 13, 2032.

On August 18, 2023, ownership interest in the upland parcel was transferred to Charles Howell. The Applicant, in coordination with the lessee, is now applying for an assignment of lease number 3569, for the use of an existing boat dock, access ramp, and cantilevered deck. The effective date of the assignment will be August 18, 2023, to coincide with the applicant’s acquisition of the upland property.

The Applicant is qualified to hold the lease, and staff has not discovered any information that would provide a basis for withholding the assignment. Thus, staff believes that assigning the lease is in the state’s best interest to ensure that a capable lessee is committed to managing the improvements and fulfilling the lease obligations. The proposed assignment does not alienate the State’s fee simple interest or permanently impair public rights.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, increased wave activity, storm events, and flooding are not limited to the open coast. The existing structures subject to the proposed lease are located within the Huntington Harbour development, along an inland, navigable, tidally influenced channel, and may be vulnerable to the impacts of sea level rise. Huntington Harbour is built near sea level elevation, and as a result is vulnerable to flooding and storm surge events.

Currently, the area already experiences flooding during high tides exceeding 6.7 feet, King Tides, and El Niño events, impacting road infrastructure and boat ramps and launches ([Figure 6-17](#), City of Huntington Beach Sea Level Rise Vulnerability Assessment, 2021). While adjacent to two wetlands, Bolsa Chica Ecological Reserve and the Seal Beach National Wildlife Refuge, which may offer a natural buffer to storm surges and lessen flood risks, the area is still highly vulnerable due to its low elevation.

The California Ocean Protection Council updated the *State of California Sea-Level Rise Guidance* in 2018 to provide a synthesis of the best available science on sea level rise projections and rates. Commission staff evaluated the “high emissions,” “medium-high risk aversion” scenario to apply a conservative approach based on both current emission trajectories and the lease location and structures. The Los Angeles tide gauge was used for the projected sea level rise scenario for the lease area as listed in Table 1.

Table 1. Projected Sea Level Rise for Los Angeles

Year	Projection (feet)
2030	0.7
2040	1.2
2050	1.8
2100	6.7

Source: Table 28, [State of California Sea-Level Rise Guidance: 2018 Update](#)

Note: Projections are with respect to a 1991 to 2009 baseline.

As stated in [Safeguarding California Plan: 2018 Update](#) (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea level rise). The combination of these conditions will likely result in increased wave run up, storm surge, and flooding in coastal and near coastal areas. In tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea level rise will further influence coastal and riverine areas

by changing erosion and sedimentation rates. Beaches, coastal landscapes, and near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater beach or bank erosion than previously experienced. Additionally, the area is vulnerable to rising groundwater levels, which are currently estimated to be between 1-2 meters below the surface of much of Huntington Harbour ([Figure 6-25](#), City of Huntington Beach Sea Level Rise Vulnerability Assessment, 2021).

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area structures to higher flood risks, comprised of greater total water levels for longer periods of time. The lease is a 10-year General Lease – Recreational Use that began on December 14, 2022, and may be subject to the climate change effects of the projected sea level rise scenario provided above. Regular maintenance and implementation of best management practices, as referenced in the lease, may help reduce the likelihood of severe structural degradation and dislodgement. Further climate change impact analyses on the leased facilities will be assessed at the time the lease expires in 2032, if an application is submitted for a new lease, and would be based on projected sea level rise scenarios at that time.

CONCLUSION:

For all the reasons above, staff believes approval of this lease assignment will not substantially interfere with Public Trust needs at this location, at this time, and for the term of the lease; and is in the best interest of the state.

OTHER PERTINENT INFORMATION:

1. Approval or denial of an application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State’s Public Trust lands as authorized by law. If the Commission denies the application, the lease would not be assigned. The lessee has no right to a new lease or renewal of any previous lease.
2. This action is consistent with the “Leading Climate Activism” and “Meeting Evolving Public Trust Needs” Strategic Focus Areas of the Commission’s 2021-2025 Strategic Plan.

3. Assignment of a lease is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical change in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of the lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the remaining term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize the assignment of Lease Number 3569, a General Lease – Recreational use of sovereign land, from Lawrence C. Tistaert, Trustee of the Childrens Trust Estate of The James H. DeWald and Wanda E. DeWald Trust, Dated August 13, 1986, As Amended to Charles Howell; effective August 18, 2023, to coincide with the Applicant's acquisition of the upland property.