

**CALENDAR ITEM
C70**

A 72

06/21/13
PRC 8295.9
A. Franzoia

S 34

GENERAL LEASE – PROTECTIVE STRUCTURE USE

APPLICANTS:

Larry Lambert and Patricia Lambert

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Main Channel of Huntington Harbour, adjacent to 3362 Venture Drive, Huntington Beach, Orange County.

AUTHORIZED USE:

Continued use and maintenance of existing bulkhead protection.

LEASE TERM:

20 years, beginning April 1, 2011.

CONSIDERATION:

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds it to be in the State's best interest.

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.

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3. On April 24, 2001, the Commission authorized the issuance Lease No. PRC 8295.9, a General Lease – Protective Structure Use, to Sophia Kosta, Trustee of the Kosta QPRT, dated December 29, 1997, for a period of 10 years, for the repair of an existing bulkhead which included placement of sheet piles and concrete backfill, and installation of slope protection including rock and geotextile fabric. That lease expired on March 31, 2011. The upland property was deeded to the Applicants on November 7, 2003 and they are now applying for a new lease.
4. The lease was one of several in the area for bulkhead repair projects. The leases for all the bulkhead repair projects were processed through Tetra Tech, Inc., an engineering firm acting as a consultant representing the individual homeowners. On December 14, 2006, the California Coastal Commission (Coastal) approved Coastal Development Permit (CDP) No. 5-06-436 which covers this lease.
5. On April 19, 2012 staff held a public meeting in Huntington Beach pursuant to a recommendation by the Commissioners to receive questions, comments, and concerns from Huntington Harbour residents regarding the Commission's jurisdiction and the enactment of Chapter 585, Statutes of 2011, which requires the Commission to charge rent for private recreational piers on State lands. At the meeting, questions were again raised regarding the relatively short lease term and the need for insurance requirements in leases for bulkhead protection only in this geographic area.
6. After independent research and analysis by staff, staff is now recommending a new General Lease – Protective Structure Use for a 20-year term with strengthened indemnification provisions for leases with bulkhead protection only in this geographic area. The bulkhead protection mutually benefits the public and the Applicants. The bulkhead will be protected from undermining at no cost to the public.
7. 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.

CALENDAR ITEM NO. **C70** (CONT'D)

8. 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Protective Structure Use, to Larry Lambert and Patricia Lambert, beginning April 1, 2011, for a term of 20 years, for continued use and maintenance of existing bulkhead protection, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration: the public use and benefit, with the state reserving the right at any time to set a monetary rent if the Commission finds it to be in the State's best interest.

EXHIBIT A

PRC 8295.9

LAND DESCRIPTION

Parcel 1 –(adjacent to APN 178-731-24)

A parcel of tide and submerged land situate in the City of Huntington Beach, Orange County, California and more particularly described as follows:

Beginning at the most southerly corner of Lot 12, as said lot is shown on that certain map entitled Tract No. 8636, filed in Book 397 of Miscellaneous Maps at Pages 33 to 35, Orange County Records; thence along the southwesterly line of said lot, North 61° 00' 00" West, 72.00 feet to the most westerly corner of said lot; thence along the southwesterly prolongation of the northwesterly line of said lot, South 29° 00' 00" West, 10.00 feet to a line which is parallel with and distant 10.00 feet southwesterly from said southwesterly line of said lot; thence along said parallel line, South 61° 00' 00" East 72.00 feet to the southwesterly prolongation of the southeasterly line of said lot ; thence along said prolongation, North 29° 00' 00" East, 10.00 feet to the point of beginning.

Prepared in February, 2001 from record data.



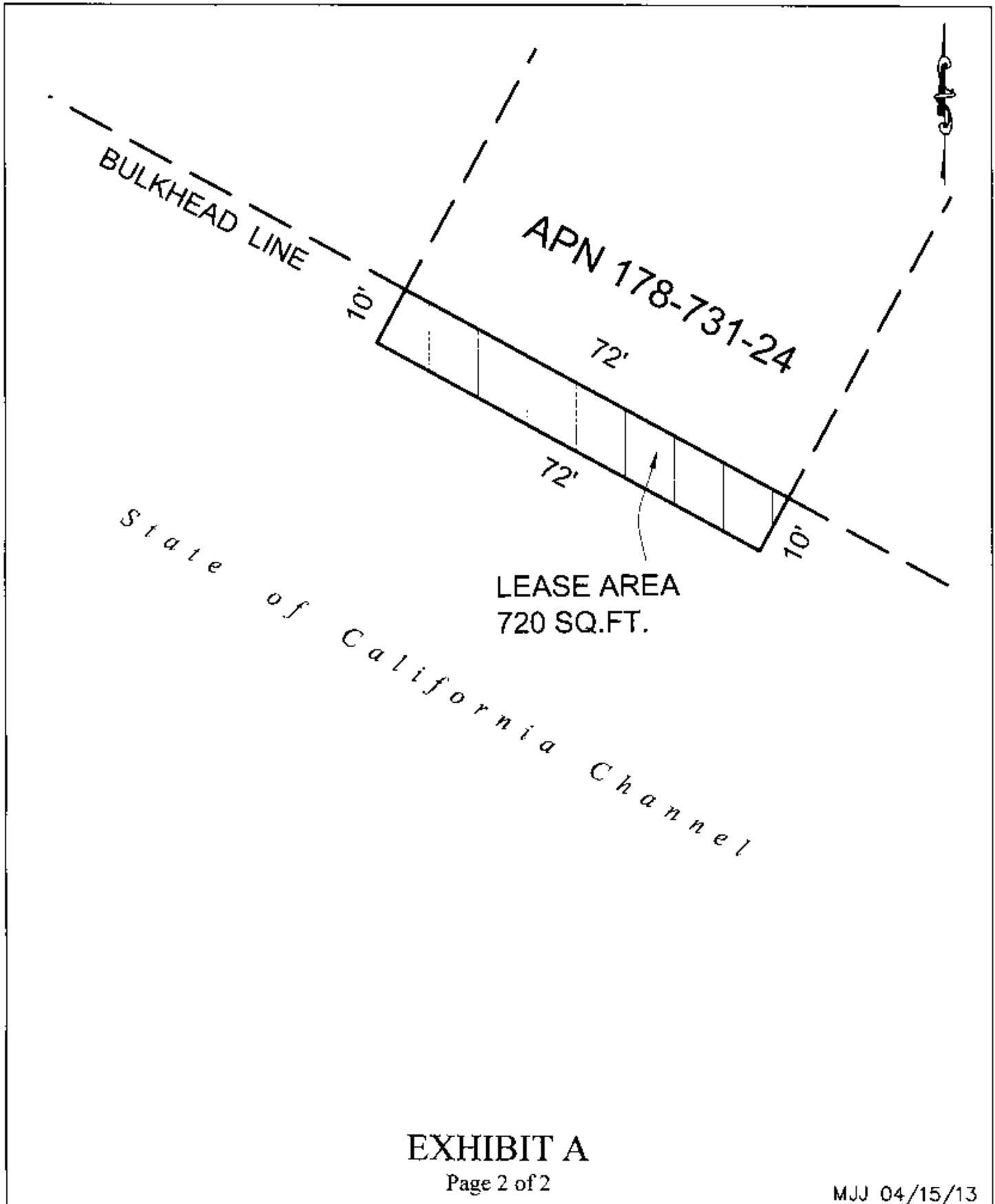


EXHIBIT A

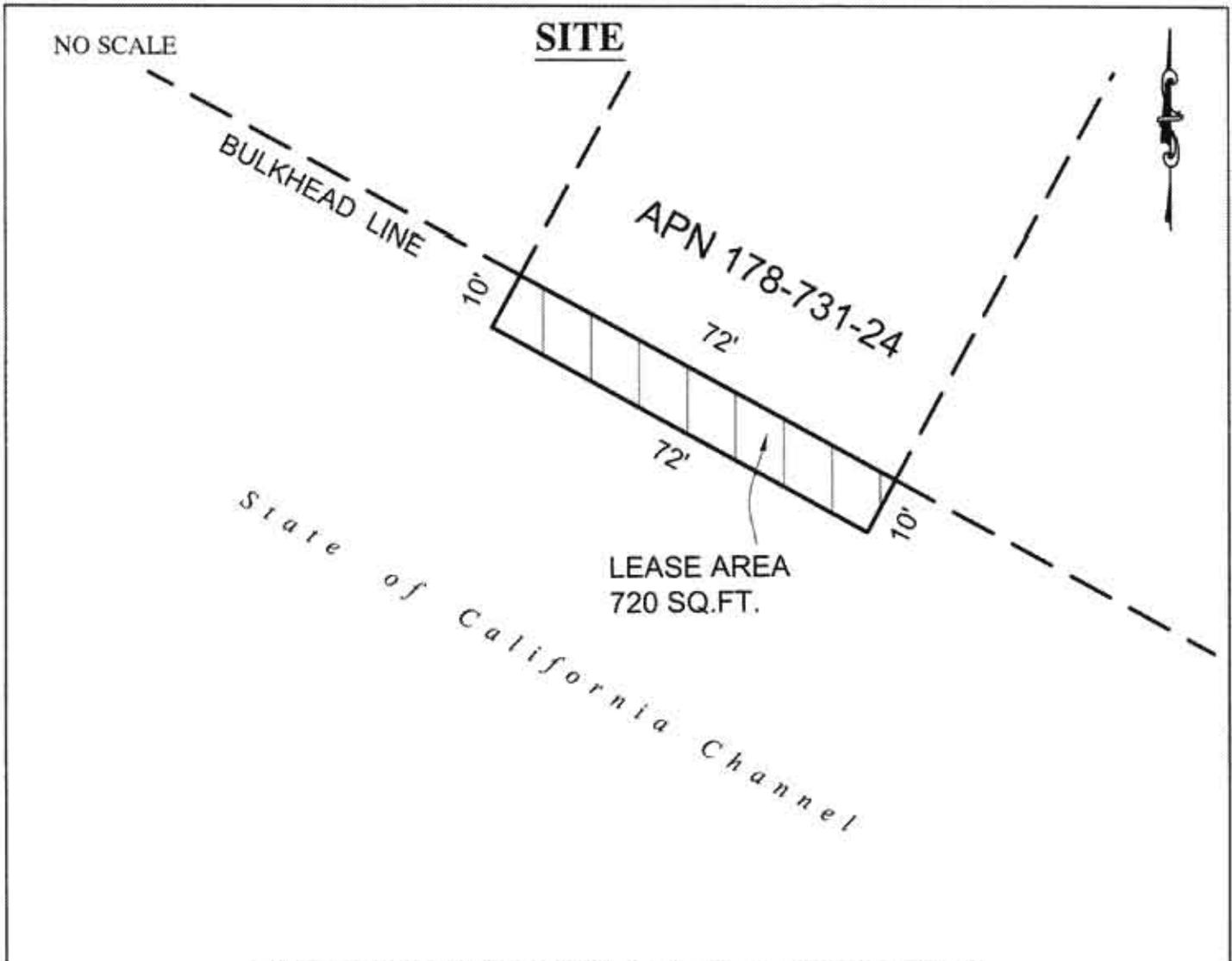
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LAND DESCRIPTION PLAT
 PRC 8295.9, LAMBERT
 ORANGE COUNTY

CALIFORNIA STATE
 LANDS COMMISSION





3362 VENTURE DRIVE, HUNTINGTON BEACH

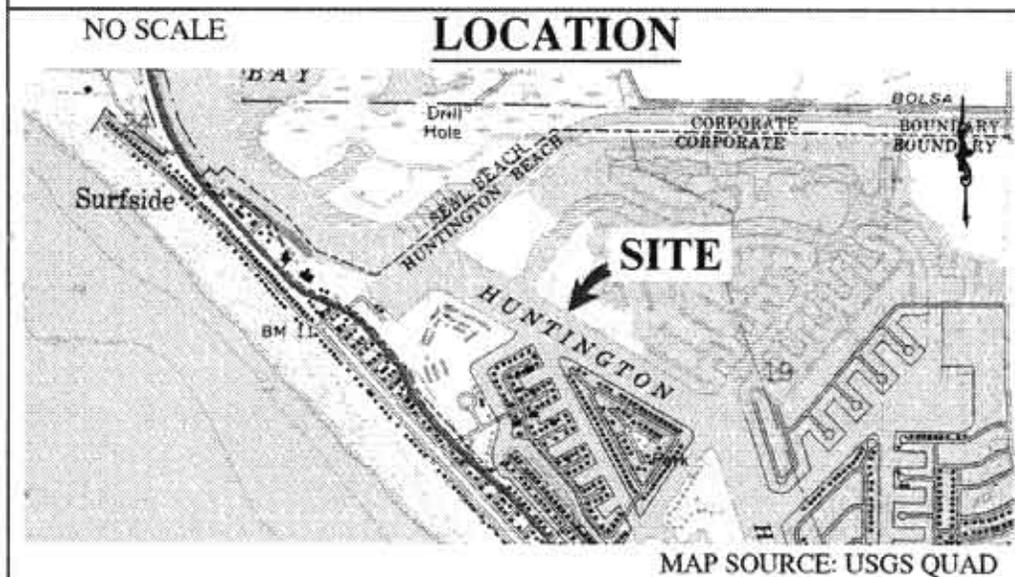


Exhibit B

PRC 8295.9
LAMBERT
APN 178-731-24
GENERAL LEASE -
PROTECTIVE STRUCTURE 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