

MINUTE ITEM

This Order of Item No. 06  
is a Minute Item  
of the State Lands  
Commission by a vote of 2  
to 0 at its 5/26/86  
meeting.

CALENDAR ITEM

A 74  
S 37

C06

06/26/86  
PRC 5542  
Townsend

APPROVAL OF AMENDMENT AND EXTENSION OF SUBLEASE TO  
GENERAL LEASE - PUBLIC AGENCY USE

SUBLESSOR: City of San Clemente  
Attn: Lynn Hughes  
Marine Safety Captain  
100 Avenida Presidio  
San Clemente, California 92672

SUBLESSEE: Harlo Gene Burke  
612 Avenida Victoria, Apt. 5  
San Clemente, California 92672

AREA, TYPE LAND AND LOCATION:  
A 1.397-acre parcel of tide and submerged land,  
located in the Gulf of Santa Catalina, west of  
the City of San Clemente, Orange County.

LAND USE: Renovation, operation, and maintenance of a  
public municipal pier.

TERMS OF LEASE:  
Initial period: 45 years beginning  
September 1, 1978.  
Public liability insurance: Combined single  
limit coverage of \$5,000,000.  
Consideration: The City shall provide an  
annual report of the income  
and expenses on the lease  
premises. The State has the  
right to set a monetary  
rental for any reporting  
period in which the income  
exceeds the expenses, not to  
exceed the amount of such  
excess income.

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PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee and processing costs have been received.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Adm. Code: Title 2, Div. 3; Title 14, Div. 6.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. On June 24, 1981, the State Lands Commission approved a sublease to Harlo Gene Burke, for a term of five years, for operation of a bait and tackle shop. The winter storms in early 1983 seriously damaged the San Clemente Municipal Pier and destroyed the bait and tackle shop. The Sublessee has not occupied the lease premises since that time, but has periodically operated from a motor vehicle. The City has reconstructed the Municipal Pier and is currently reconstructing the bait and tackle shop at a new location on the pier. Year-round operation of the bait and tackle shop is not economically feasible in view of increased costs and decreasing use of the pier by fishermen. The City and Mr. Burke have entered into an amendment and extension of the sublease to provide for the resumed operation of the bait and tackle shop.
2. The staff has reviewed the terms and conditions of the proposed amended sublease and found them to be consistent with the Commission's leasing policies. The term of the amendment shall commence on May 8, 1986, and shall terminate on September 15, 1991. The proposed rental to the City is a sum equal to (i) five percent the first \$15,000 of annual gross sales or receipts,

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(ii) ten percent of the next \$15,000, and  
(iii) 15 percent of all annual gross sales  
or receipts in excess of \$30,000. The  
minimum insurance requirements have been  
increased as follows: (a) personal injury  
or death to one or more persons:  
\$500,000 single limit coverage; and  
(b) property damage: \$500,000 per  
occurrence. The State has not been named  
as an additional insured under this amended  
sublease.

The Commission did, however, by its action  
of September 26, 1985 (Minute Item 17),  
authorize approval of an amendment to the  
Public Agency Lease to the City for  
renovation of the pier, wherein the City  
shall provide public liability coverage in  
the amount of \$5,000,000. Commission staff  
feels this coverage is adequate for the  
lease premises.

3. Pursuant to the Commission's delegation of  
authority and the State CEQA Guidelines  
(14 Cal. Adm. Code 15061), the staff has  
determined that this activity is exempt  
from the requirements of the CEQA because  
the activity is not a "project" as defined  
by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Adm.  
Code 15378.

4. This activity involves lands identified as  
possessing significant environmental values  
pursuant to P.R.C. 6370, et seq. but will  
not affect those significant lands.

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF  
THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE THE  
ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND  
14 CAL. ADM. CODE 15378.

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2. FIND THAT THIS ACTIVITY WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO P.R.C. 6370, ET SEQ., BUT THAT SUCH ACTIVITY WILL HAVE NO DIRECT OR INDIRECT EFFECT ON SUCH LANDS.
  
3. APPROVE THE AMENDMENT TO AND EXTENSION OF THE SUBLEASE IN THE FORM ON FILE IN THE OFFICES OF THE COMMISSION FROM THE CITY OF SAN CLEMENTE TO HARLO GENE BURKE, EFFECTIVE MAY 8, 1986, FOR OPERATION OF A BAIT AND TACKLE SHOP LOCATED ON THE SAN CLEMENTE MUNICIPAL PIER.

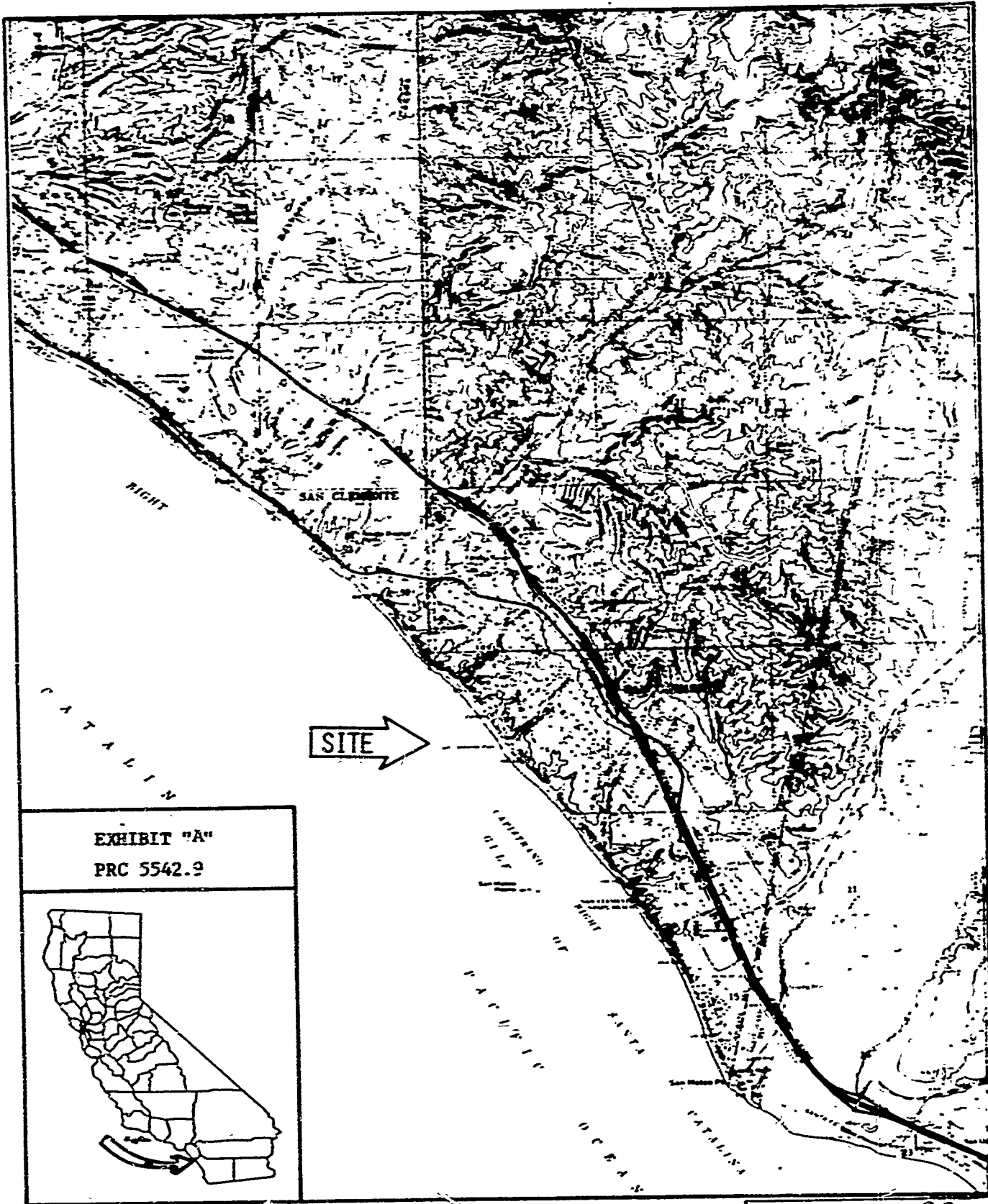


EXHIBIT "A"  
 PRC 5542.9