

**MINUTE ITEM**

This Calendar Item No. C41 was approved as Minute Item No. 41 by the California State Lands Commission by a vote of 3 to 0 at its 2-17-05 meeting.

**CALENDAR ITEM  
C41**

A 73

PRC 5542

02/17/05

S 38

WP 5542.9

J. Smith

**APPROVE, BY ENDORSEMENT, ASSIGNMENT AND ASSUMPTION  
OF SUBLEASE, PORTION OF MASTER LEASE PRC 5542**

**LESSEE/SUBLESSOR:**

City of San Clemente  
100 Avenida Presidio  
San Clemente, California 92672

**SUBLESSEE:**

Pierside Schleppey's  
5 Calle Del Apice  
San Clemente, California 92673

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

Master Lease: 1.38 acres, more or less, of sovereign lands in the Pacific Ocean, San Clemente, Orange County.

**AUTHORIZED USE:**

LEASE: Operation and maintenance of a public fishing pier.

SUBLEASE: Operation of a bait and tackle shop.

**TERM:**

LEASE: 35 years, beginning May 1, 1999.

SUBLEASE: Five years, beginning September 15, 2004.

**CONSIDERATION:**

LEASE: Submission by the City of annual reports of the income and expenses on the lease premises. The State has the right to set a monetary rent for any reporting period in which the income exceeds the expenses, not to exceed the amount of such excess income.

CALENDAR ITEM NO. C41 (CONT'D)

SUBLEASE: Rent to City is 5% of the first \$15,000 of annual gross sales; 10% of the next \$15,000 of annual gross sales; and 15% of annual gross sales in excess of \$30,000.

**OTHER PERTINENT INFORMATION:**

1. On April 20, 2000, pursuant to Minute Item 58, the Commission approved, by endorsement, the amendment and assignment of a sublease between the city of San Clemente, as Sublessor, and Carlos A. and Jasmin C. Kepner, as Sublessees, to expire on September 15, 2004, for the continued operation of a bait and tackle shop located on the San Clemente Municipal Pier. The Kepner's propose to assign all of their right, title and interest in the sublease to Pierside Schleppy's, Inc., a California Corporation (Pierside) and extend the term of the lease for an additional five years.
2. The City has submitted an application requesting that the Commission approve the Second Amendment and Assignment and Assumption of Amended Lease (Second Amendment and Assignment) by Pierside. The City Council approved the Second Amendment and Assignment at its meeting on September 7, 2004. Commission staff has reviewed the information submitted and has no objection.
3. 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.

**APPROVALS OBTAINED:**

City of San Clemente.

**EXHIBIT:**

- A. Location Map

**PERMIT STREAMLINING ACT DEADLINE:**

N/A

CALENDAR ITEM NO. **C41** (CONT'D)

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

**AUTHORIZATION:**

APPROVE, BY ENDORSEMENT, THE SECOND AMENDMENT AND ASSIGNMENT AND ASSUMPTION OF AMENDED LEASE BETWEEN THE CITY OF SAN CLEMENTE, SUBLESSOR, AND PIERSIDE SCHLEPPY'S, INC., A CALIFORNIA CORPORATION, SUBLESSEE, FOR THE CONTINUED OPERATION OF A BAIT AND TACKLE SHOP LOCATED ON THE SAN CLEMENTE MUNICIPAL PIER.

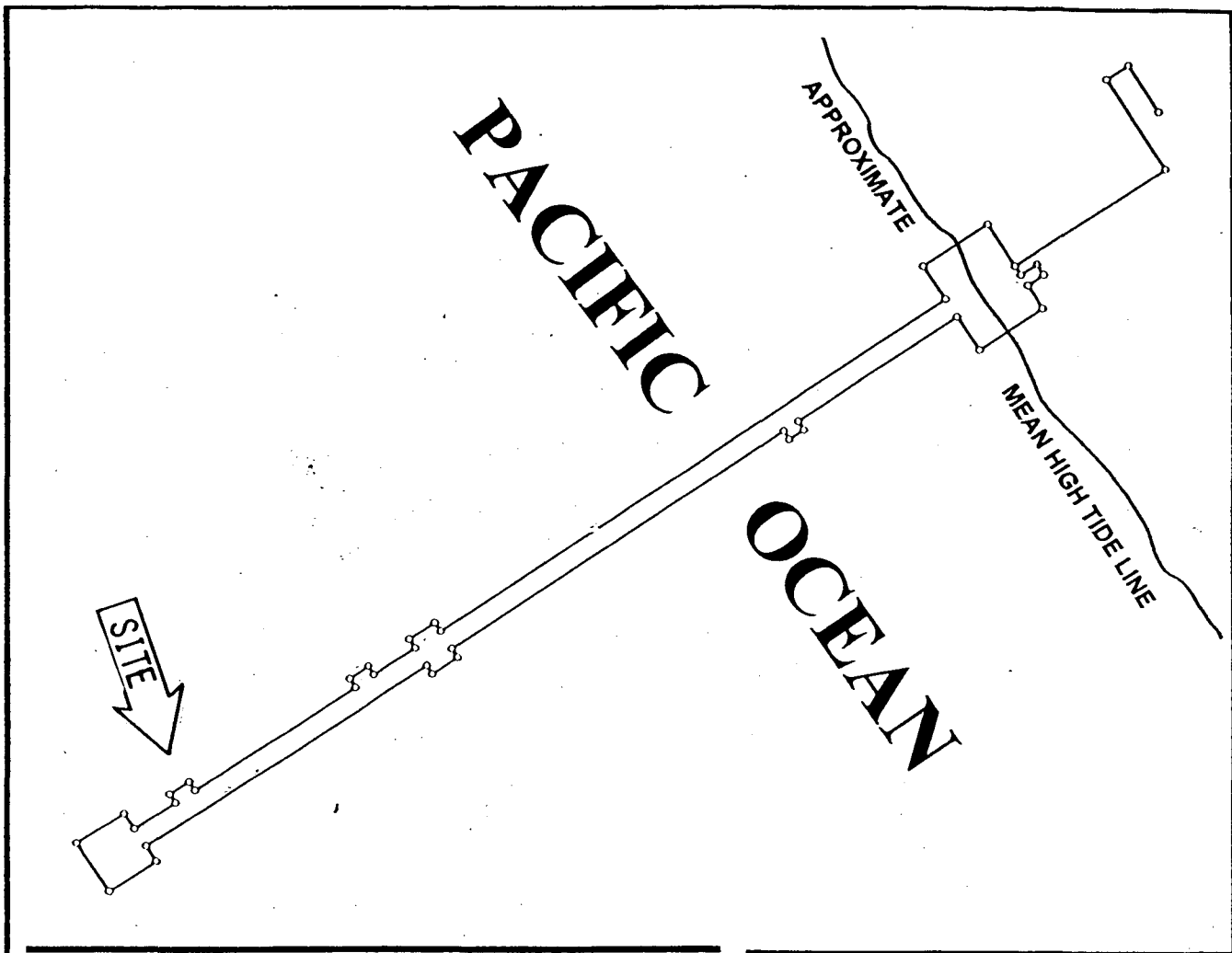


EXHIBIT "A"  
 PRC 5542.9  
 SITE MAP  
 SAN CLEMENTE PIER  
 CITY OF SAN CLEMENTE  
 ORANGE, COUNTY  
 CALIFORNIA