

MINUTE ITEM

This Calendar Item No. 17
was approved as Minute Item
No. 17 by the State Lands
Commission by a vote of 2
to 0 at its 9/26/85
meeting.

CALENDAR ITEM

17

09/26/85
PRC 5542
Townsend

A 74

S 37

AMENDMENT OF GENERAL PERMIT - PUBLIC AGENCY USE AND
APPROVAL OF A SUBLEASE

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

AREA, TYPE LAND AND LOCATION:
1.397-acres 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 ORIGINAL PERMIT:
Initial period 35 years beginning
September 1, 1978.

Special: Lessee 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.

TERMS OF AMENDED PERMIT:
Initial period: 45 years beginning
September 1, 1978.

Public liability insurance. Combined single
limit coverage of \$5,000,000.

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CONSIDERATION: Same as present.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Adm. Code 2003.

APPLICANT STATUS:

Applicant is owner of upland.

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: 10/16/85.

OTHER PERTINENT INFORMATION:

1. By its action on September 27, 1978 (MI 10), the Commission authorized the issuance of a 35-year General Permit - Public Agency Use, to the City of San Clemente, for the renovation, operation, and maintenance of an existing public fishing pier. Pursuant to the provisions of the Lease, the Commission also approved subleases to M. Gable for a cafe, M. Baker for a bait shop, and J. Carden for a telescope.
2. In 1981, Section 2 of the Lease was amended to include a Paragraph 6 to provide for an annual report by the City of income and expense of the Lease Premises. The amendment also provides that, for any reporting period in which the income exceeds expense, the State shall have the right to set a monetary rental for that reporting period. At that time, the Commission also approved a sublease to H. Burke for a bait/tackle shop which replaced the sublease to M. Baker.
3. Similar to many piers along the southern California coast, the municipal pier operated by the City was severely damaged during the March 1983 storms. The City

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divided its reconstruction efforts into three phases. Phases 1 and 2, and a portion of Phase 3, were completed on an emergency basis and included

- (1) reconnection of the outbound damaged section to the base of the pier;
- (2) design features that will mitigate the chances of future storm damage; and
- (3) other required immediate repairs. The remaining portion of Phase 3 included the reconstruction of the restaurant, landward of the ordinary high water mark, and proposes a ten-foot extension of the seaward restaurant decking. The City may, sometime within the next three years, add a ten-foot decking extension to the side portions of the pier restaurant. Similar to the old structure, Phase 3 includes an area for a restroom and bait/tackle shop.

4. In compliance with the provisions of the Lease, the City has requested approval of a sublease to Hal E. Griffith for the restaurant. For clarification purposes, the new restaurant replaces the old cafe and sublease to Baker. The City has also submitted an application for amendment of the Lease to (1) amend the authorized improvements to include the restaurant; (2) extend the base lease term to 45 years to coincide with the term of the restaurant sublease; and (3) provide for a new land description
5. Staff has reviewed the terms and conditions of the sublease, on file in the offices of the Commission, and found them to be consistent with the Commission's leasing policies.
6. Staff feels it is in the best interests of the State to approve the sublease from the City to Hal Griffith and amend the Lease as follows:
 - a. Extend the base lease term to 45 years, effective September 1, 1978, and expiring August 31, 2023;

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- b. Authorized improvements will include the new restaurant;
 - c. The City shall provide public liability insurance in an amount not less than \$5,000,000 combined single limit coverage;
 - d. The land description contained in Section 4 of the Lease shall be superseded by the land description shown as Exhibit "A" attached and by reference made a part hereof; and
 - e. As included by amendment of the Lease in 1981, Paragraph 6 of Section 2 of the Lease shall provide that the annual report of income and expense for the pier shall be consistent with general accounting practices.
7. The City has agreed to provide Commission staff with a copy of the "as built" plans for the renovated pier and all appurtenances thereto upon completion of construction.
8. The annual rental value of the site is estimated to be \$56,151.
9. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. The project, as proposed, is consistent with its use classification.
10. 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 as a categorical exempt project. The project is exempt under Class 1, Existing Facility, 14 Cal. Adm. Code 15301(e)(1) and Class 2, Replacement or Reconstruction, 2 Cal. Adm. Code 2905(b).

Authority: P.R.C. 21084, 14 Cal. Adm. Code 15300, and 2 Cal. Adm. Code 2905.

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FURTHER APPROVALS OBTAINED:

City of San Clemente, California Coastal
Commission, State Department of Fish and Game
(WCB), Federal Emergency Management Agency
(FEMA), United States Army Corps of Engineers.

EXHIBITS: A. Land Description
 B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CFQM PURSUANT TO 14 CAL. ADM. CODE 15061 AS A CATEGORICAL EXEMPT PROJECT, CLASS 1, EXISTING FACILITY, 14 CAL. ADM. CODE 15301(e)(1) AND CLASS 2, REPLACEMENT OR RECONSTRUCTION, 2 CAL. ADM. CODE 2905(b).
2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 63'0, 11 SEQ.
3. APPROVE THE SUBLEASE FROM THE CITY OF SAN CLEMENTE TO HAL E. GRIFFITH, AND AUTHORIZE THE AMENDMENT OF LEASE PRC 5542, PROVIDING FOR AN EXTENDED BASE LEASE TERM OF 45 YEARS; PUBLIC LIABILITY INSURANCE IN AN AMOUNT NOT LESS THAN \$5,000,000; AMENDMENT OF SECTION 2, PARAGRAPH 6; AND AMENDMENT OF THE LAND DESCRIPTION SET FORTH IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
4. ALL OTHER TERMS AND CONDITIONS OF LEASE PRC 5542 SHALL REMAIN IN FULL FORCE AND EFFECT.

EXHIBIT "A"

PRC 5542.9

LAND DESCRIPTION

A parcel of tide and submerged land lying in the Pacific Ocean westerly of the City of San Clemente, Orange County, California, said parcel lying immediately beneath the San Clemente Municipal Pier and described as follows:

COMMENCING at the most southerly corner of Lot 1, Block 12, Tract 785, as filed for record in Book 23, Pages 36 and 37, Records of Orange County, California, said point also being on the easterly right-of-way line of Avenida Victoria; thence N 33° 28' 55" W 63.92 feet; thence S 56° 31' 05" W 30.00 feet to a point in the centerline of Lot 20, Block A, Tract 779, as filed for record in Book 23, Pages 19 through 25, Records of Orange County, California, and known as Avenida Victoria; thence S 33° 28' 55" E along the centerline of Avenida Victoria 122.97 feet; thence leaving said centerline S 56° 31' 05" W 204.68 feet to the TRUE POINT OF BEGINNING; thence N 33° 28' 55" W 57.00 feet; thence S 56° 31' 05" W 87.00 feet; thence S 33° 28' 55" E 45.00 feet; thence S 56° 31' 05" W 696.00 feet; thence N 33° 28' 55" W 12.00 feet; thence S 56° 31' 05" W 35.00 feet; thence S 33° 28' 55" E 12.00 feet; thence S 56° 31' 05" W 56.00 feet; thence N 33° 28' 55" W 12.00 feet; thence S 56° 31' 05" W 26.00 feet; thence S 33° 28' 55" E 12.00 feet; thence S 56° 31' 05" W 214.00 feet; thence N 33° 28' 55" W 12.00 feet; thence S 56° 31' 05" W 26.00 feet; thence S 33° 28' 55" E 12.00 feet; thence S 56° 31' 05" W 55.50 feet; thence N 33° 28' 55" W 21.00 feet; thence S 56° 31' 05" E 63.00 feet; thence S 33° 28' 55" E 66.00 feet; thence N 56° 31' 05" E 377.50 feet; thence N 33° 28' 55" W 21.00 feet; thence N 56° 31' 05" E 35.00 feet; thence S 33° 28' 55" E 12.00 feet; thence N 56° 31' 05" E 459.00 feet; thence S 33° 28' 55" E 12.00 feet; thence N 56° 31' 05" E 20.00 feet; thence N 33° 28' 55" W 12.00 feet; thence N 56° 31' 05" E 217.00 feet; thence S 33° 28' 55" E 45.00 feet; thence N 56° 31' 05" E 87.00 feet; thence N 33° 28' 55" W 30.92 feet; thence N 56° 31' 05" E 22.17 feet; thence N 33° 28' 55" W 14.08 feet; thence S 56° 31' 05" W 22.17 feet; thence N 33° 28' 55" W 12.00 feet to the point of beginning.

TOGETHER WITH a use area extending 10 feet from the extremities of said pier. EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Pacific Ocean.

END OF DESCRIPTION

PREPARED JANUARY 15, 1985, BY BOUNDARY SERVICES UNIT, M. L. SHAFER, SUPERVISOR.

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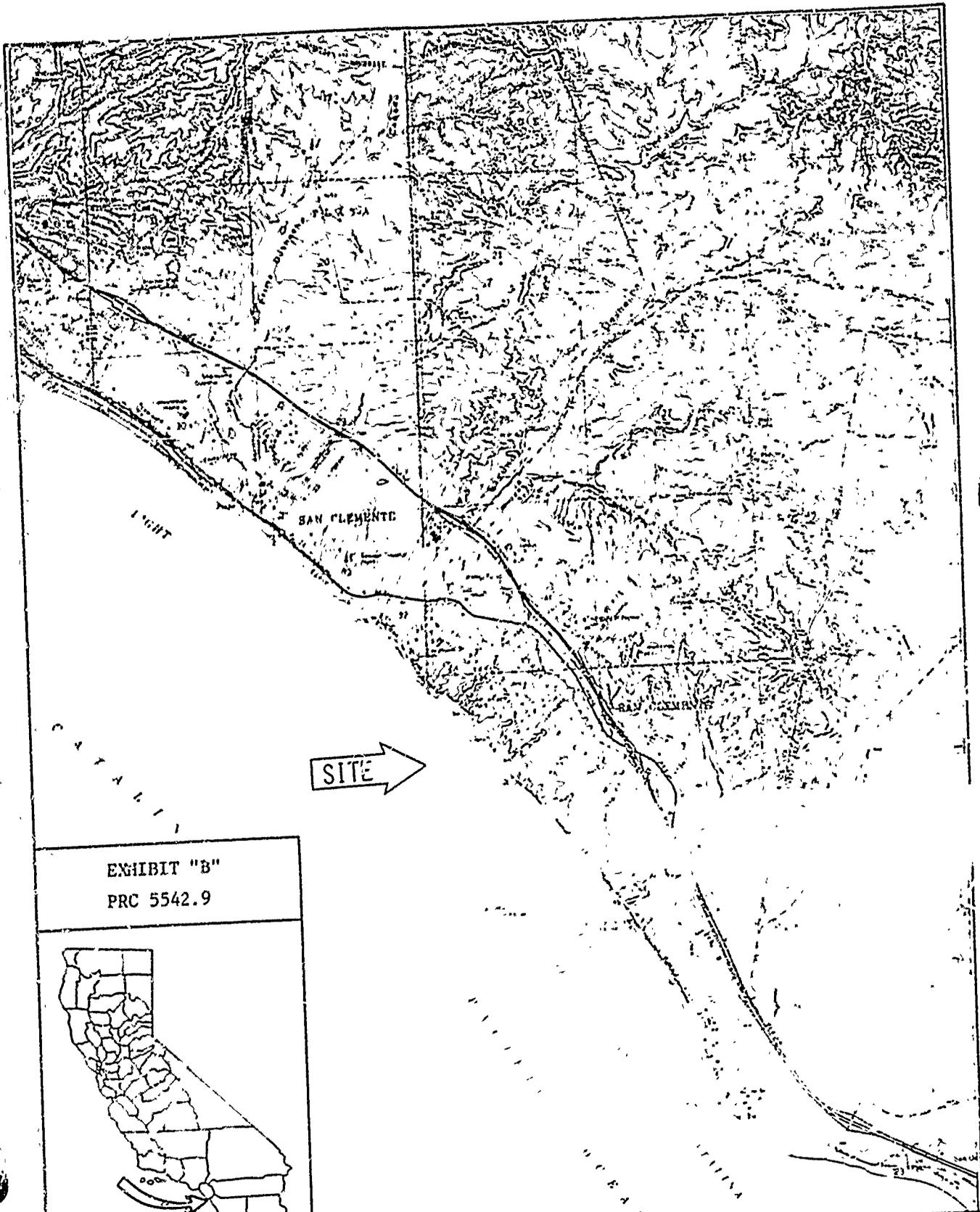


EXHIBIT "B"
PRC 5542.9



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