MINUTE ITEM

This Calendar Item No. 06
was approved as Minute Item
No. 6 of the State Lands
Commission by a vote of 2
to 0 at its 8/26/86
meeting.

CALENDAR ITEM

C06

A 74

S 37

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.

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,

(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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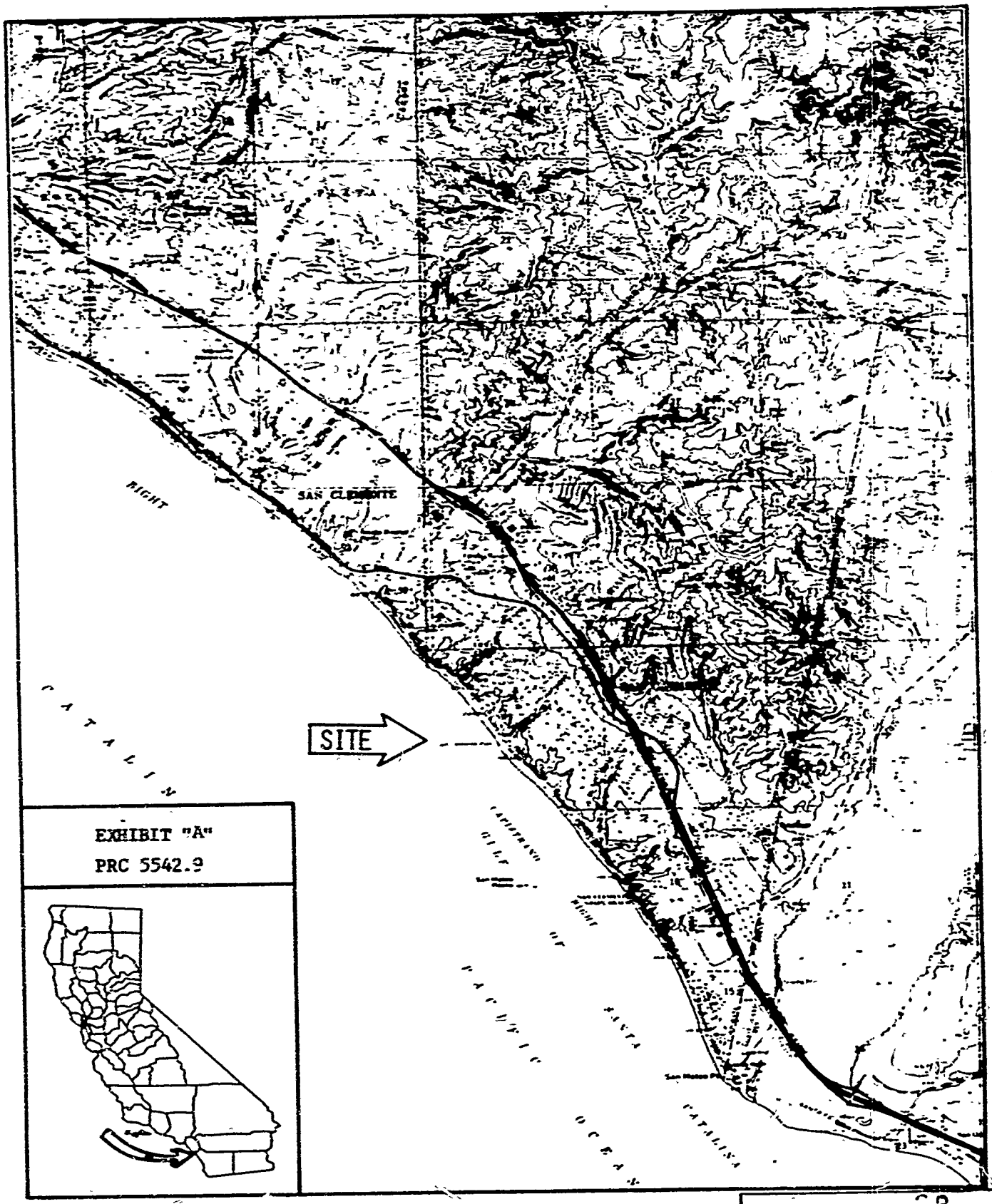
2. FIND THAT THIS ACTIVITY WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO P.R.C. 6370, ET SEQ., BUT THAT SUCH ACTIVITY WILL HAVE NO DIRECT OR INDIRECT EFFECT ON SUCH LANDS.

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.


SAN CLEMENTE
SITE
EXHIBIT "A"
PRC 5542.9