MINUTE ITEM
This Calendar Item No. C39
was approved as Minute Item
No. 39 by the State Lands
Commission by a vote of 3
to Ø at its 4/13/99
meeting.

CALENDAR ITEM
C39

A 73

S 38

04/13/99
WP 5542.9
J. Smith

TERMINATION OF EXISTING LEASE AND ISSUANCE OF NEW GENERAL LEASE - PUBLIC AGENCY USE

LESSEE:

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

AREA, LAND TYPE, AND LOCATION:

A 1.379-acre parcel, more or less, of sovereign lands in the Pacific Ocean, San Clemente, Orange County.

AUTHORIZED USE:

Operation and maintenance of a public fishing pier, including restrooms, restaurant, bait and tackle shop, and pier telescopes.

LEASE TERM:

35 years, beginning May 1, 1999.

CONSIDERATION:

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 rental for any reporting period in which the income exceeds the expenses, not to exceed the amount of such excess income.

SPECIFIC LEASE PROVISIONS:

Public Liability Insurance:

Combined Single Limit Coverage of $5,000,000

OTHER PERTINENT INFORMATION:

1. Lessee owns the uplands adjoining the lease premises.

2. In 1982, the City of San Clemente entered into a sublease with Hal E. Griffith, Jr., for construction and operation of the Fisherman's Restaurant. The Commission approved the sublease at its meeting on September 26,

1985, pursuant to Minute Item 17. Recently, the City and Mr. Griffith were involved in litigation in conjunction with the proposed expansion of the restaurant. Pursuant to a "Settlement Agreement and Release" , the City of San Clemente and Mr. Griffith have resolved the litigation. Copies of the Agreement and Addendum No. 10 to the sublease are on file in the offices of the Commission. Addendum No. 10 contains provisions which address, among other things, the term of the sublease, financial contributions by the City, and a revised rent structure.

The sublease, with options to extend, will expire April 20, 2034. The existing 45-year Master Lease to the City which began September 1, 1978 will expire September 1, 2023. The City is, therefore, requesting that the Commission terminate the existing lease and issue a new 35-year lease which will coincide with the expiration of the sublease to Mr. Griffith.

3. At its meeting on January 29, 1999, the Commission authorized the amendment of Lease No. PRC 5542.9 to accommodate the additional use area needed for the proposed expansion of the restaurant.

4. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905(a)(2).

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. 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. Location Map.

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:
IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905(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 SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE THE TERMINATION OF EXISTING LEASE PRC NO. 5542.9 AND THE ISSUANCE TO THE CITY OF SAN CLEMENTE OF A GENERAL LEASE - PUBLIC AGENCY USE, BEGINNING MAY 1, 1999, FOR A TERM OF 35 YEARS, FOR OPERATION AND MAINTENANCE OF A PUBLIC FISHING PIER AND APPURTENANCES THERETO ON THE LAND DESCRIBED ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; SUBMISSION BY THE CITY OF ANNUAL REPORTS OF THE INCOME AND EXPENSES ON THE LEASE PREMISES WITH THE STATE HAVING 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; PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF $5,000,000.

EXHIBIT "A"
LAND DESCRIPTION

PRC 5542.9

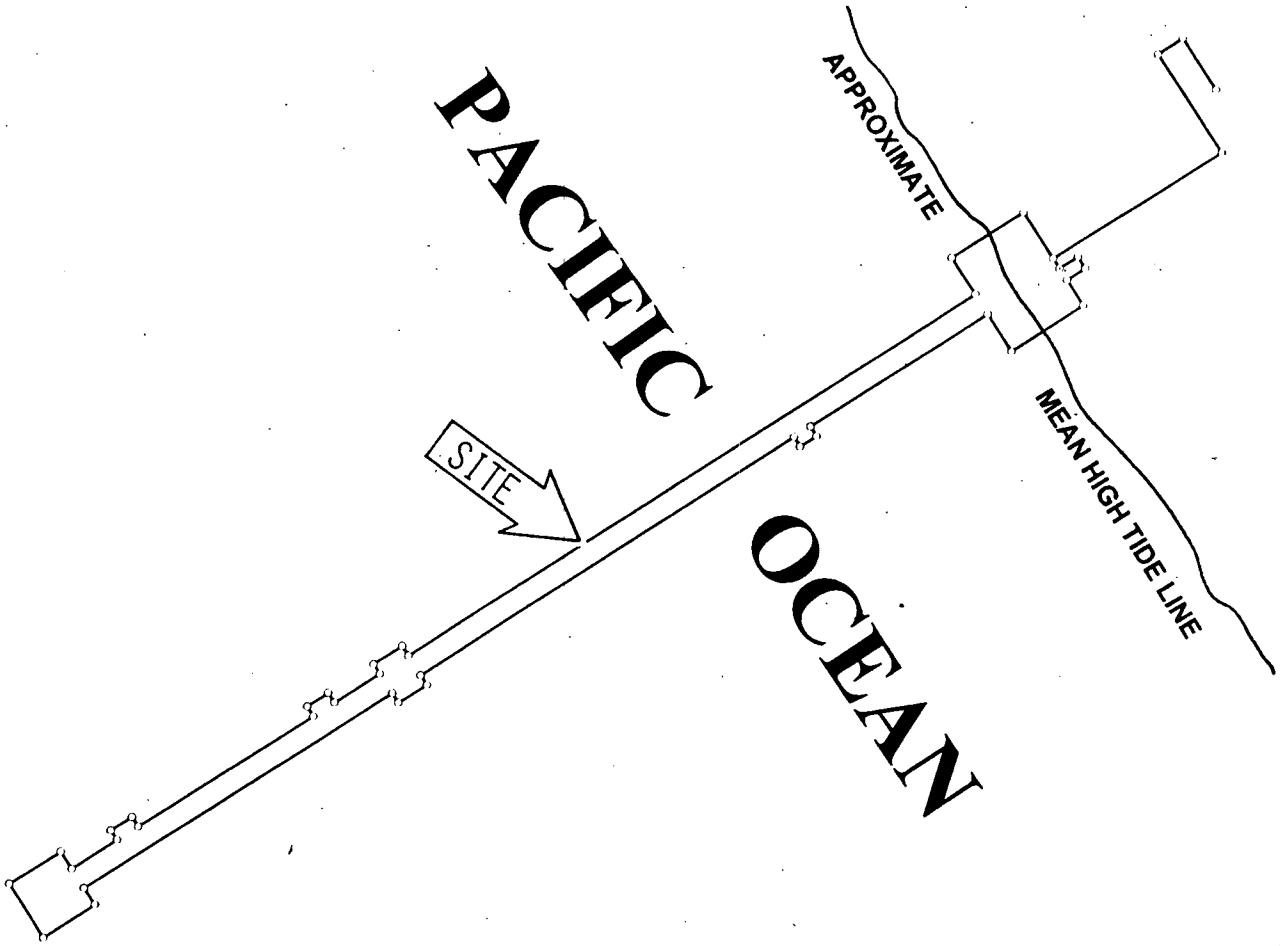
A parcel of tide and submerged land lying in the Pacific Ocean westerly of the City of San Clemente, Orange County, California, said parcel lying immediately beneath the San Clemente Municipal Pier and described as follows:

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" W, 63.00 feet; thence S 33° 28' 55" E, 66.00 feet; thence N 56° 31' 05" E, 63.00 feet; thence N 33° 28' 55" W, 21.00 feet; thence N 56° 31' 05" E, 377.50 feet; thence S 33° 28' 55" E, 12.00 feet; thence N 56° 31' 05" E, 35.00 feet; thence N 33° 28' 55" W, 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 15 feet from the extremities of said pier.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Pacific Ocean.

END DESCRIPTION



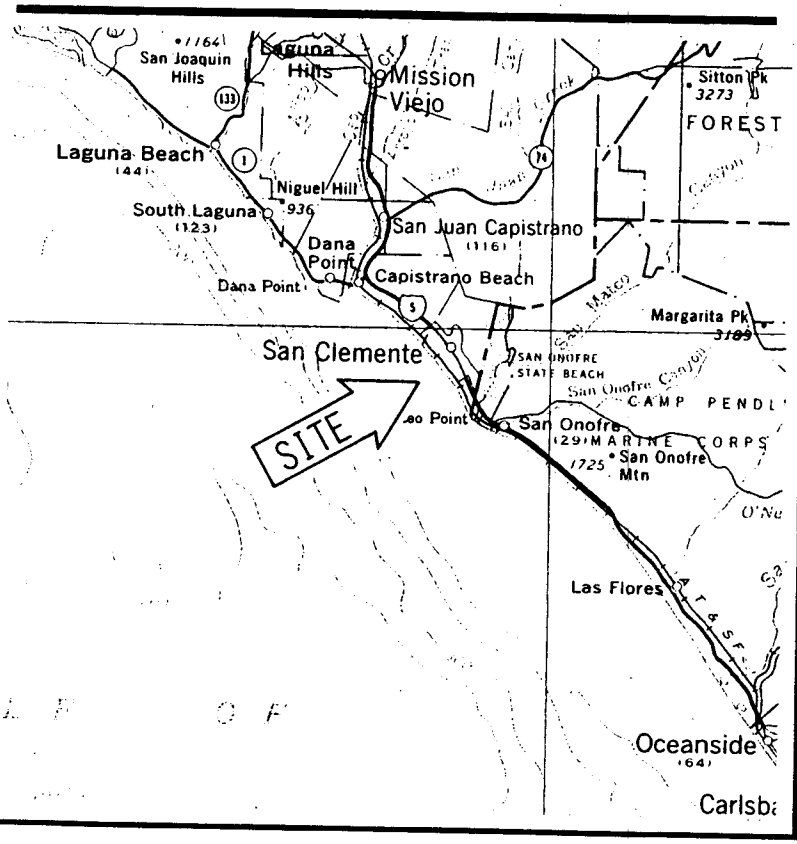


EXHIBIT "B"
PRC 5542.9
SITE MAP
SAN CLEMENTE PIER
CITY OF SAN CLEMENTE
ORANGE, COUNTY
CALIFORNIA

CALENDAR PAGE 000186
MINUTE PAGE 005239
CNP 90