

MINUTE ITEM

39

08/29/85
W 23107
W 8848D
BLA 142
Trout
Stevenson

REQUEST FOR DENIAL WITHOUT PREJUDICE
OF APPLICATION FOR AMENDMENT OF
RECORDED BOUNDARY AND EXCHANGE AGREEMENT (BLA 142)
AND ISSUANCE OF PERMIT TO BREACH DUTCHMAN SLOUGH LEVEE;
CULLINAN RANCH NEAR VALLEJO, SOLANO COUNTY

Calendar Item 39, attached, was pulled from the agenda prior to the meeting.

Attachment: Calendar Item 39.

CALENDAR PAGE

MINUTE PAGE

2574

CALENDAR ITEM

A 3
S 2

39

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REQUEST FOR DENIAL WITHOUT PREJUDICE OF APPLICATION
FOR AMENDMENT OF RECORDED BOUNDARY AND EXCHANGE
AGREEMENT (BLA 142) AND ISSUANCE OF PERMIT TO BREACH
DUTCHMAN SLOUGH LEVEE; CULLINAN RANCH; NEAR VALLEJO,
SOLANO COUNTY

In 1974, the State Lands Commission entered into a Boundary and Exchange Agreement (BLA 142), clearing an approximately 1,400-acre hay ranch in Solano County of sovereign title claims. The ranch was then held in the record ownership of the Cullinan family which subsequently sold it to the Royal Land Company. As a part of the Boundary and Exchange Agreement, the State received roadway easements within the property terminating in two parcels at opposite ends of the tract to be used for public parking. These two parcels were joined by a public access way also held by the State along Dutchman and South Sloughs. The property which came to the State as a result of the Cullinan Ranch Boundary and Exchange Agreement was subsequently leased to the Department of Fish and Game (Lease PRC 5052) and is depicted for reference only on Exhibit "B" to this Calendar Item.

The staff is informed that the applicant, Pan Pacific and Redwood Realty, is the successor-in-interest to the Royal Land Company. Pan Pacific and Redwood Realty, through its agent (Walden R. Williams, Inc.), proposes to develop the Cullinan Ranch with approximately 4,500 homes and attendant schools and businesses. The development plan calls for a marina community with Dutchman Slough as the main source of inflow and outflow. The plans envision a 600-foot breach in the Dutchman Slough levee at the site of the eastern of the two State-owned parking lots.

(ADDED 08/20/85)

-1-

CALENDAR PAGE	175
MINUTE PAGE	2575

CALENDAR ITEM NO. 39 (CONT'D)

In February 1984, the developer sent to the Commission staff a proposed form of amendment to the Cullinan Ranch Boundary and Exchange Agreement (BLA 142). The Amendment, if implemented, would change State ownership in the area and the access way along Dutchman Slough to comport with the proposed development plan. The Amendment also calls for the State Lands Commission to permit a 600 feet wide breach in the Dutchman Slough levee. The developer was informed, as he had been earlier, that a request for an amendment to BLA 142 could not be considered by the State Lands Commission until the proposed amendment had received adequate environmental analysis pursuant to CEQA (P.R.C. Section 21000 and following). The developer was also informed that the Department of Fish and Game would be a necessary party to any modification of BLA 142 since the property in question was leased to the Department (Lease PRC 5052). To date, the Department of Fish and Game has not made a request to amend Lease PRC 5052.

On or about March 20, 1985, the Vallejo City Council certified the Final Program EIR/EIS for the Cullinan Ranch project and granted its approval of the application for the Planned Unit Development and Specific Plan for the Cullinan Ranch. Subsequently, the City of Vallejo was sued by the San Francisco Bay Conservation and Development Commission (BCDC) and Vallejoans for Cost Efficient Growth (COST) challenging the adequacy of the EIR/EIS. Also, the Attorney General, John Van De Kamp, has filed suit challenging the City's actions for failure to comply with California planning and zoning law.

Staff has brought this item to the Commission's attention to update the Commission on the progress of this project and to address the possible applicability of statutory time limits for action on proposed projects. Section 65940 (and following) of the Government Code set out specific time periods in which local and State government and their subdivisions must take action on development projects. Under those Government Code Sections, any responsible agency for a development project is required to consider that project within 180 days of the lead agency's decision or 180 days after the responsible agency has received a complete application (following the lead agency's decision), whichever is the greater. While staff has repeatedly advised the applicant that the application is incomplete, the applicant has prepared a time line for project review by state agencies which indicates its belief that the State Lands Commission action upon this project must occur within 180 days of the CEQA lead agency's approval of the overall Cullinan Ranch Project (by September 16, 1985).

(ADDED 08/20/85)

-2-

CALENDAR PAGE	175.1
MINUTE PAGE	2576

CALENDAR ITEM NO. 33 (CONT'D)

The public interest in this project, the litigation involving this project and the desire to keep the applicant and the public fully apprised of the status of this project have prompted the staff to recommend action at this time, within the 180-day time period. Such action will eliminate debate as to which of the above time requirements is appropriate.

Once a completed application is received, it will be necessary for the Commission, as lead agency for the modification of BLA 142 and Lease PRC 5052, to conduct the appropriate CEQA analysis prior to taking action. Staff has concluded that the final EIR/EIS for the overall Cullinan Ranch project did not fully examine this specific activity or alternatives to the applicant's proposal.

Through the CEQA/NEPA process, numerous unmitigable significant adverse impacts on wetland resources in the North Bay have been attributed to the proposed project, including habitat degradation due to construction, dredging, and bank erosion and direct impacts on wildlife from increased boat traffic and human disturbance. Because of these adverse impacts, the California Department of Fish and Game and the United States Fish and Wildlife Service have recommended the "no project" alternative. In addition, the United States Fish and Wildlife Service has issued a jeopardy opinion for the project because of its effects upon the endangered salt marsh harvest mouse and the California clapper rail and has recommended that the United States Army Corps of Engineers deny a permit. The Corps of Engineers denied a permit for Cullinan Ranch on April 17 of this year. That denial was founded upon lack of adequate mitigation for wetland impacts, the United States Fish and Wildlife Service jeopardy opinion, and absence of water quality certification from the Regional Water Quality Control Board.

The staff recommends a denial without prejudice of that portion of the Cullinan Ranch project which contemplate activities on State Lands and/or a modification of BLA 142. This recommendation is based on: 1) the nonexistence of a complete application before the Commission; 2) the fact that the Department of Fish and Game has not joined this application by a request to amend Lease PRC 5052 to comport with the Cullinan Ranch proposal; and 3) concerns regarding the existing public record indicating unavoidable significant adverse environmental impacts and detriment to public trust values under the jurisdiction of this Commission in the Napa Marshes and San Pablo Bay.

(ADDED 08/20/85)

-3-

CALENDAR PAGE	175.2
MINUTE PAGE	2577

CALENDAR ITEM NO. 39 (CONT'D)

- EXHIBITS:
- A. Location Map showing Cullinan Ranch.
 - B. Site Map of Cullinan Ranch (for reference only).

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA IN THAT CEQA DOES NOT APPLY TO PROJECTS WHICH A PUBLIC AGENCY REJECTS OR DISAPPROVES. (14 CAL. ADM. CODE 15270(a)).
2. DENY WITHOUT PREJUDICE THE APPLICATION FOR THE CULLINAN RANCH PROJECT AS IT APPLIES TO ACTIVITIES ON STATE LANDS AND/OR TO THE MODIFICATION OF BOUNDARY AND EXCHANGE AGREEMENT BLA 142, PRC 5052, OR A PERMIT TO BREACH THE DUTCHMAN SLOUGH LEVÉE.

(ADDED 08/20/85)

-4-

CALENDAR PAGE	175.3
MINUTE PAGE	2578

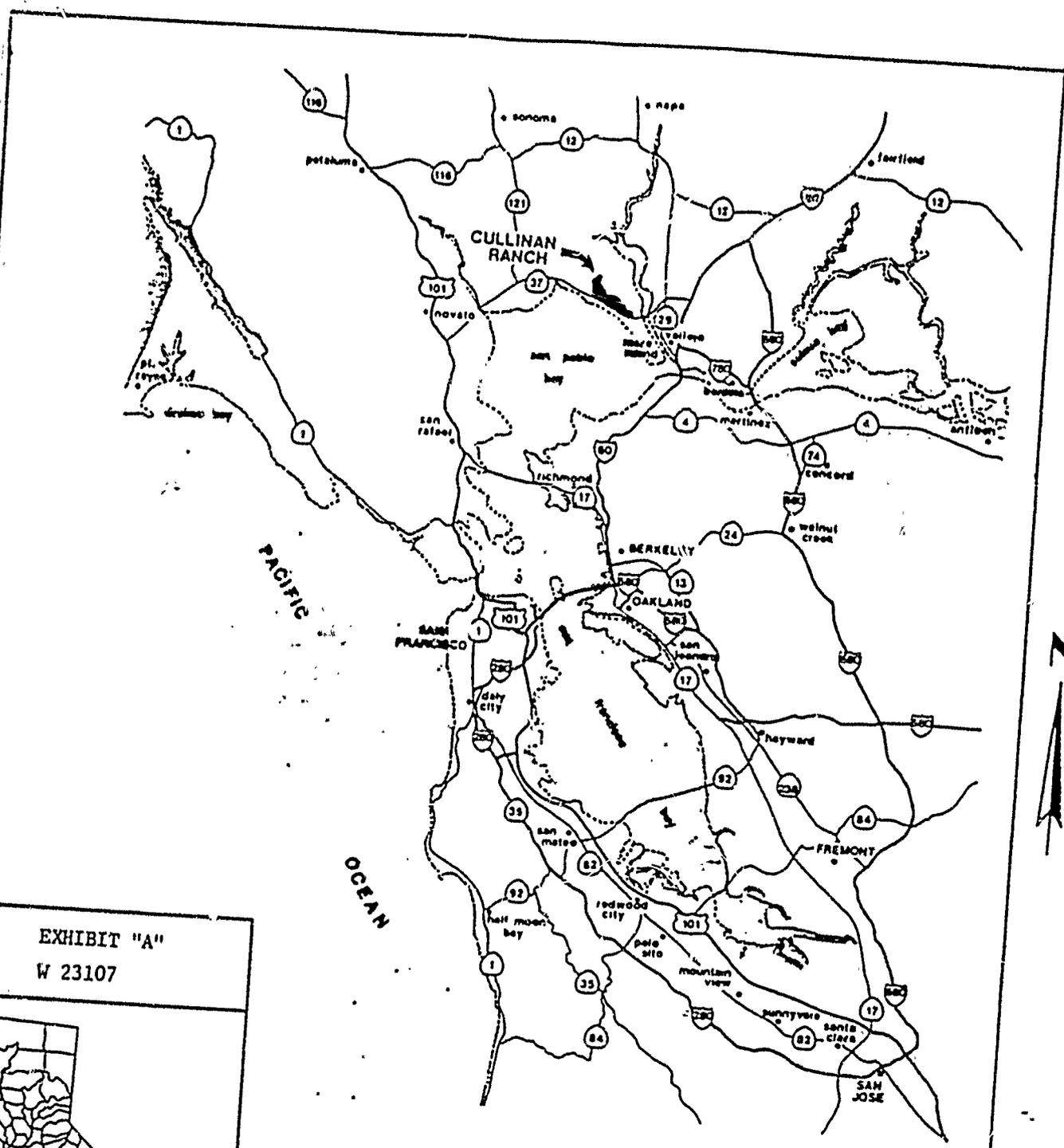
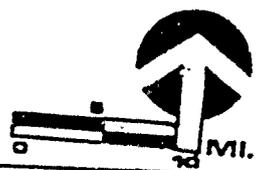
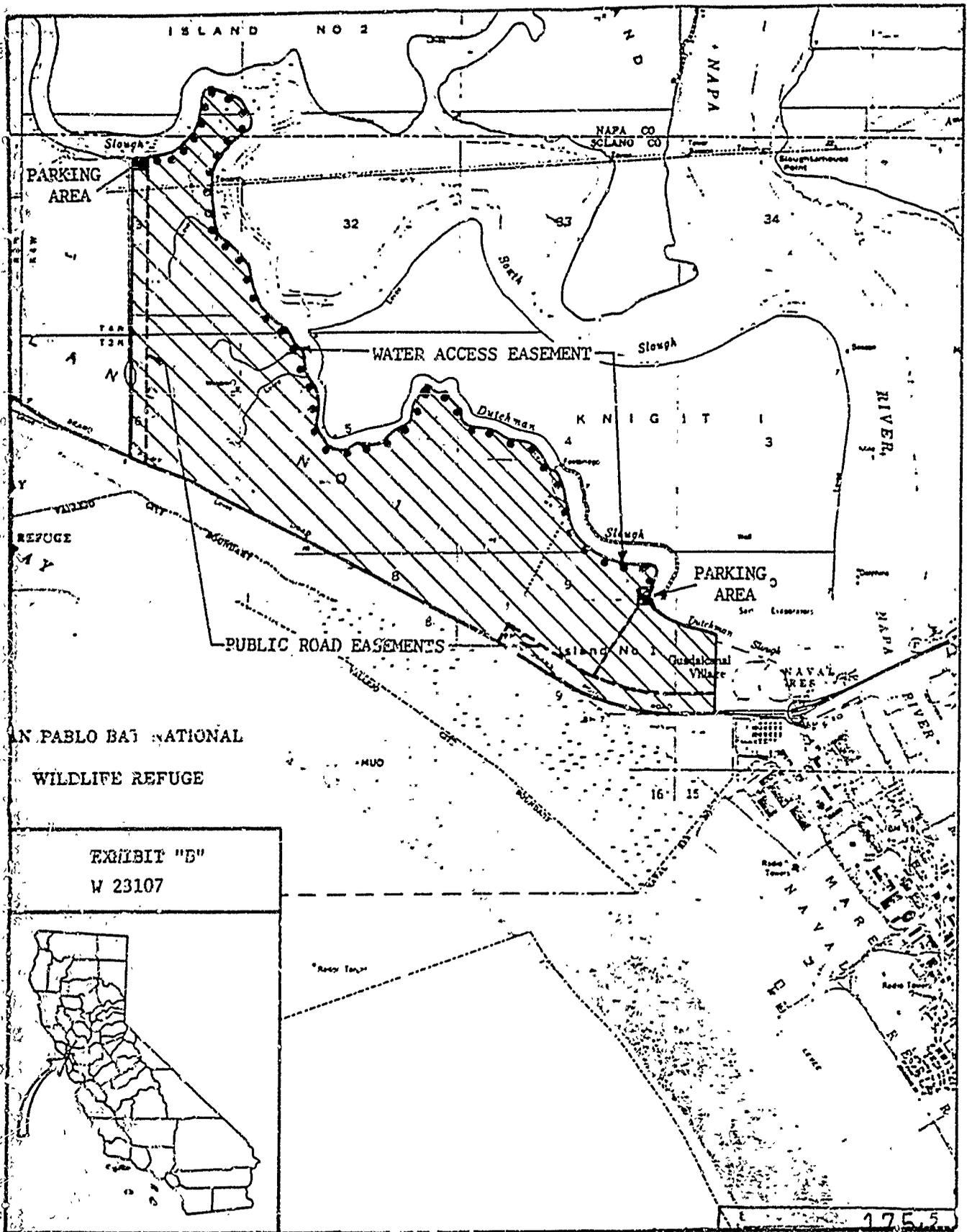


EXHIBIT "A"
W 23107



CALENDAR PAGE	175.4
MINUTE PAGE	2579



SAN PABLO BAY NATIONAL
WILDLIFE REFUGE

EXHIBIT "B"
W 23107

1755
CALIFORNIA PAGE
MINUTE PAGE 2580

NO PAGES 176-177

CALENDAR PAGE	176-177
MINUTE PAGE	2581