

MINUTE ITEM

20

04/23/87  
W 23719  
Beutler  
Scott  
Gordon

APPROVAL OF AUTHORIZATION OF LITIGATION

During consideration of Calendar Item 20, attached, Executive Officer, Claire Dedrick, advised the Commission that the applicant, Willard Collins, had withdrawn his application and thus staff's recommendation of denial was no longer applicable.

Upon motion made by Commission-Alternate Wallace and seconded by Acting Chairwoman Ordway, the following Resolution was approved by a vote of 2-0:

THE COMMISSION:

1. FINDS THAT THIS ACTIVITY IS EXEMPT FROM CEQA [PURSUANT TO 14 CAL. ADM. CODE 15270] BECAUSE CEQA DOES NOT APPLY TO PROJECTS WHICH A PUBLIC AGENCY REJECTS OR DISAPPROVES.
2. FINDS THE APPLICANT'S EXISTING FACILITIES AND USE OF STATE-OWNED LAND AT THE TRESPASS SITE ARE A HAZARD TO HEALTH AND SAFETY.
3. AUTHORIZES STAFF COUNSEL AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO TERMINATE THE CONTINUING UNAUTHORIZED OCCUPATION OF STATE-OWNED TIDE AND SUBMERGED LAND IN THE BED OF MIDDLE RIVER, SAN JOAQUIN COUNTY BY WILLARD C. COLLINS AND ANY OTHER NECESSARY PARTIES AND TO COLLECT REASONABLE COMPENSATION FOR THE USE OF SUCH LANDS AND FOR WHATEVER OTHER LEGAL OR EQUITABLE REMEDIES THAT MAY BE NECESSARY OF APPROPRIATE.

Attachment: Calendar Item 20.

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CALENDAR ITEM

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DENIAL OF APPLICATION  
APPROVAL OF AUTHORIZATION OF LITIGATION

Pursuant to Government Code Section 65920, et seq., the following application is submitted for denial due to potential hazards to health and safety relating to the location of the existing activity and the deteriorated physical condition of the existing facilities; and to the formal objection of the authorization of existing nonconforming navigational floating signs which staff has received from the office of the Sheriff, San Joaquin County, Boating Safety Unit.

APPLICANT: Willard C. Collins  
2236 Moreing Road  
Stockton, California 95204

OTHER PERTINENT INFORMATION:

1. 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 CEQA does not apply to projects which a public agency rejects or disapproves.

Authority: P.R.C. 21080(b)(5) and 14 Cal. Adm. Code 15270.

2. This is an application to bring long standing trespass structures under the authorization of the Commission, which include a dock, a water ski jump, a water ski slalom course with six marker buoys and

CALENDAR ITEM NO. 20 (CONT'D)

eight floating warning signs, all existing and utilized for recreational purposes. located in Middle River, San Joaquin County. In the recently completed Sacramento River Study, floating signs were identified as a source of potential enforcement problems. For that reason staff contacted San Joaquin County local law enforcement and requested comment on the subject application even though the signs were not located in the Study area. The San Joaquin County Sheriff's Office provided a letter dated March 9, 1987 recommending denial of the application. After review of that letter and independent assessment, Commission enforcement staff identified the following problems with the application.

1. Signs as requested would be in violation of the waterway marking system set forth in Article 6, Sections 7000 through 7009, Title 14, of the California Administrative Code.
2. Signs as requested could result in discouraging the free, easy and unobstructed use of the waterway by the boating public. According to the letter from the Sheriff dated March 9, 1987, such prohibitions would be in conflict with United States Army Corps of Engineers permit requirements (4289 & 9129), and create an unintended exclusive use by the applicant.
3. Existing upland signs imply a "special use area." This conflicts not only with uniform marking regulations but indicate sanction for special use by the local jurisdiction. Such special use has not been permitted by the County of San Joaquin.
4. The applicant indicates the activity proposed is "dangerous" and creates a boating "hazard" thus his need for the

CALENDAR ITEM NO. 20 (CONT'D)

warning signs. The applicant also indicated to the enforcement officer that individuals had died in boating accidents nearby the location.

5. The facilities to be permitted are in a deteriorated condition. Signs and other facilities currently in place are in poor repair and occasionally drift into the waterway, creating navigational hazards. Other obstructions have been intentionally placed in the waterway.

Staff presented the above concerns to the applicant. The applicant indicated to staff that he would resolve problems with the Sheriff's office, bring all facilities into good repair, and remove certain items from the waterway during periods of non-use.

In consideration of potential lease problems, and in order to verify the condition and location of existing facilities, staff performed a site inspection on April 1, 1987. Staff found that the facility was in poor repair and that no items applicant had agreed to remove or repair had been removed or repaired. Staff found one sign floating in the middle of an adjacent waterway. Other signs at the site were unreadable and some had vegetation growing on them.

Additionally, the site in question was found by staff not to be suitable to safely provide for the proposed use. Because of the configuration of the waterway and vegetation growing at the entrance to the area, visibility is extremely poor. Other users of the waterway at each end of the proposed lease area are not able to see the proposed activity in time to take evasive actions. The signs suggested by the applicant do not resolve this difficulty.

CALENDAR ITEM NO. 20 (CONT'D)

The San Joaquin County Sheriff's office provided the applicant with a copy of their letter to the Commission and spent some time in discussion with the applicant. They indicate that the applicant has still not resolved their concerns.

AB 884: 05/01/87.

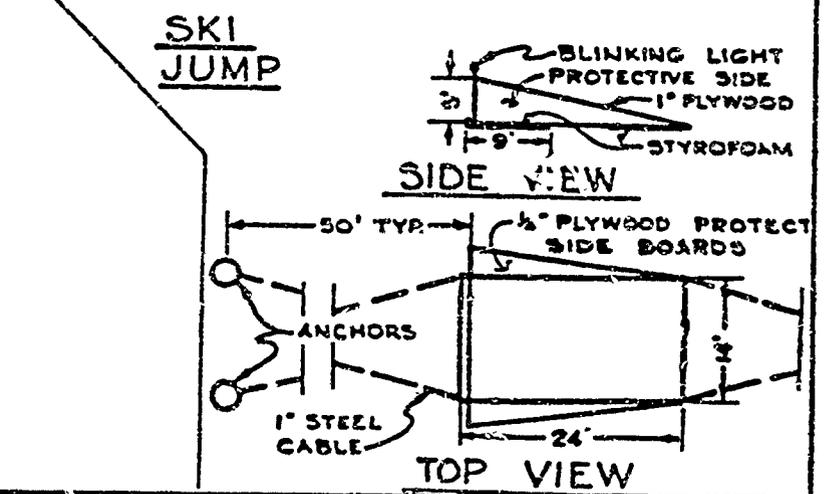
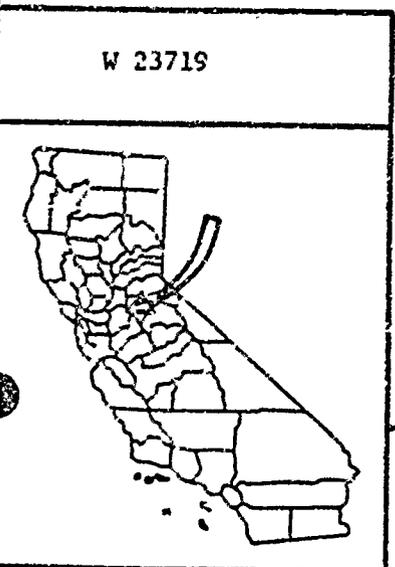
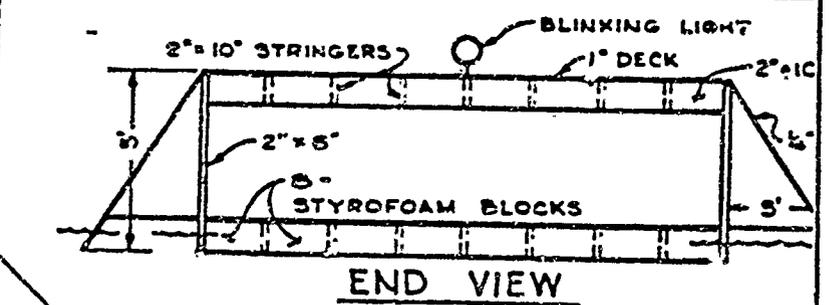
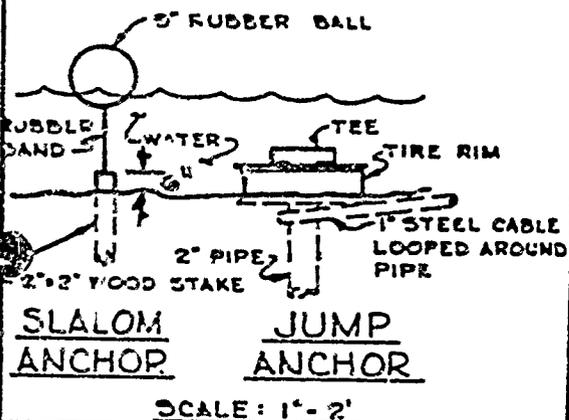
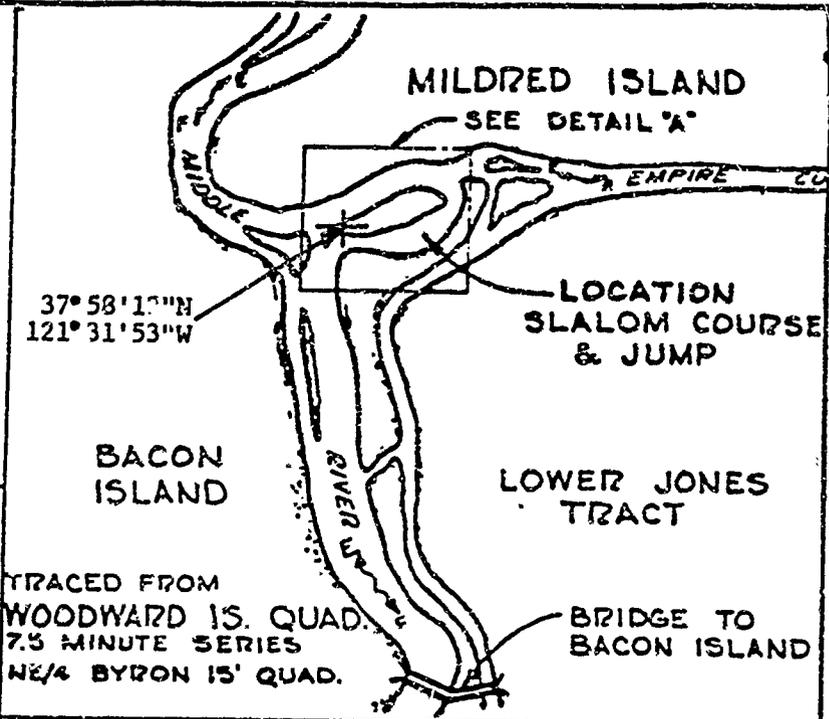
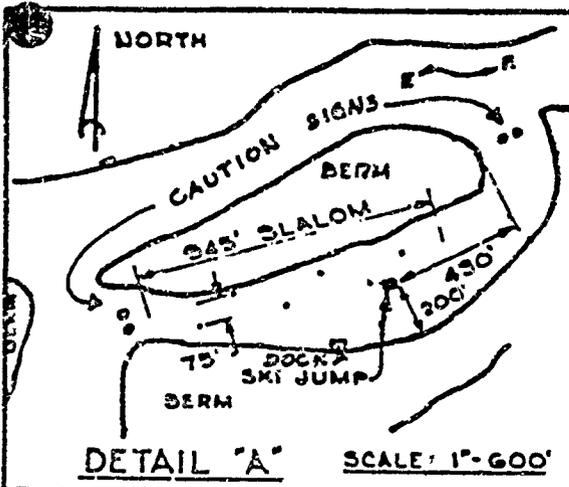
EXHIBITS: A. Land Description.  
B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS EXEMPT FROM CEQA [PURSUANT TO 14 CAL. ADM. CODE 15270] BECAUSE CEQA DOES NOT APPLY TO PROJECTS WHICH A PUBLIC AGENCY REJECTS OR DISAPPROVES .
2. DENY THE APPLICATION OF WILLARD C. COLLINS FOR A LEASE FOR MAINTENANCE OF A DOCK, A WATER SKI JUMP, A SLALOM COURSE DEMARCAIED WITH SIX MARKER BUOYS AND EIGHT FLOATING WARNING SIGNS ON A .2.199-ACRE AREA OF TIDE AND SUBMERGED LAND LOCATED IN MIDDLE RIVER, SAN JOAQUIN COUNTY IN COMPLIANCE WITH THE STANDARDS FOR DENIAL SET FORTH IN STATE ADMINISTRATIVE MANUAL SECTION 1099.
3. FIND THE APPLICANT'S EXISTING FACILITIES AND USE OF STATE-OWNED LAND AT THE TRESPASS SITE ARE A HAZARD TO HEALTH AND SAFETY.
4. AUTHORIZE STAFF COUNSEL AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO TERMINATE THE CONTINUING UNAUTHORIZED OCCUPATION OF STATE-OWNED TIDE AND SUBMERGED LAND IN THE BED OF MIDDLE RIVER, SAN JOAQUIN COUNTY BY WILLARD C. COLLINS AND ANY OTHER NECESSARY PARTIES AND TO COLLECT REASONABLE COMPENSATION FOR THE USE OF SUCH LANDS AND FOR WHATEVER OTHER LEGAL OR EQUITABLE REMEDIES THAT MAY BE NECESSARY OR APPROPRIATE.

EXHIBIT "A"  
LAND DESCRIPTION

W 23719



DOCK, WATER SKI JUMP, WATER SKI SLALOM COURSE, AND FOUR FLOATING WARNING SIGNS.

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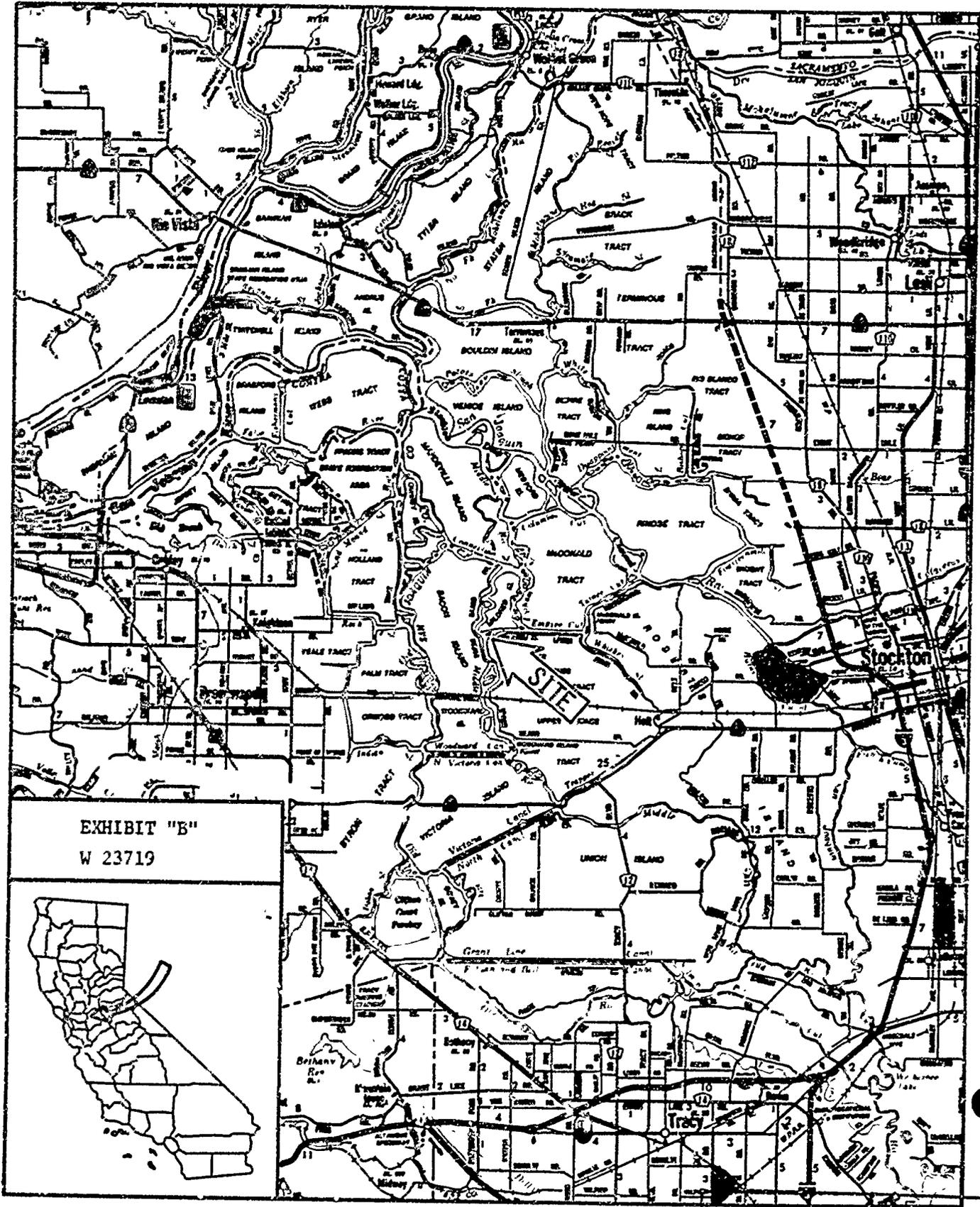


EXHIBIT "B"  
W 23719

