MINUTE ITEM

27

04/12/88
W 24079
Townsend

ISSUANCE OF GENERAL PERMIT TO THE
DEPARTMENT OF FISH AND GAME
AND DENIAL OF ANY OTHER LEASE APPLICATIONS
PENDING BEFORE THE STATE LANDS COMMISSION
AFFECTING SAID PARCEL

Calendar Item 27, attached, was pulled from the agenda prior to the meeting.

Attachment: Calendar Item 27.

CALENDAR ITEM

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ISSUANCE OF GENERAL PERMIT
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APPLICANT: State of California
Department of Fish and Game
Attn: Brian Hunter, Regional Manager
P.O. Box 47
Yountville, California 94599

AREA, TYPE LAND AND LOCATION:
A 620±-acre parcel of tide and submerged land, located in and adjacent to Black John Slough at the Petaluma River, Marin County.

LAND USE: Preservation and enhancement of wetland habitat for wildlife species, and provide public access for wildlife observation.

TERMS OF PROPOSED PERMIT:
Initial period: 49 years beginning March 1, 1988.

CONSIDERATION: The public use and benefit; with the State reserving the right at any time to set a monetary rental if the Commission finds such action to be in the State's best interest.

BASIS FOR CONSIDERATION:
Pursuant to 2 Cal. Adm. Code 2003.

APPLICANT STATUS:
N/A.

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PREREQUISITE CONDITIONS, FEES AND EXPENSES:
Filing fee has 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. The area proposed for lease by the Department of Fish and Game (DF&G) includes Black John Slough and the tidal and diked lands which border it, including Mahoney Spur, a parcel of approximately 38 acres of diked, State-owned sovereign lands. To the south is the Bahia development, a water-oriented residential development which extends into the low wooded hills south of the site. The proposed lease area provides nesting habitat for resident birds and is used by migratory shorebirds and waterfowl. Two State and federally listed species (salt marsh harvest mouse and California clapper rail) are found in the area, as well as the State-listed threatened black rail. The area will be posted as a wildlife area and a management plan will be developed to optimize habitat values, protect endangered species, and provide for public access. The management plan may consider the installation of water control structures to allow improved water management within the diked wetlands. Prior to construction activities on the property, Fish and Game will submit it's Management Plan for Commission approval.

2. Since the late 1970's, the State Lands Commission staff and representatives from Debra Investments Corporation have been discussing settlement of title and boundary disputes for a portion of the area of the proposed lease premises. In connection

with Debra Investment's proposed residential and commercial development, the staff of the State Lands Commission received a prior application from Debra Investments on October 30, 1987, to amend their development plans. The upland, over a 10-12-year period would feature 1,500 residential units, with parks, marina, and local shopping. The State-owned land proposed for lease, approximately 38 acres in Mahoney Spur, was to be used as a desilting basin for the construction of a sailing lagoon. By letter dated November 25, 1987, staff notified Stuber-Stroeh Associates, agent for Debra Investment, that the application did not contain sufficient information to be determined complete as provided by law and the Commission's application requirements. Debra Investment has not submitted the required information to complete its application. PRC Code Section 6223 requires the Commission to give priority to applications of public agencies over private parties; therefore, the DF&G shall have priority over all other applications regardless of time of filing.

3. DF&G has requested waiver of the $450 processing cost for this transaction; by leasing State lands along Black John Slough, the Department would insure that this area is maintained and enhanced to preserve and improve wetland habitat for fish and wildlife. Commission staff recommends waiver of the normal $450 processing cost in this instance.

4. The annual rental value of the 620-acre site is estimated to be $111,600.

5. 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.

6. As to the permit to the Department of Fish and Game, 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 8, Actions By Regulatory Agencies for the Protection of the Environment, 14 Cal. Adm. Code 15308.

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

APPROVALS OBTAINED:
N/A.

FURTHER APPROVALS REQUIRED:
1. United States Army Corps of Engineers
2. Bay Conservation and Development Commission.

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

IT IS RECOMMENDED THAT THE COMMISSION:

1. WAIVE THE REQUIREMENT FOR PAYMENT OF $450 PROCESSING COST.

2. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A CATEGORICAL EXEMPT PROJECT, CLASS 8, ACTIONS BY REGULATORY AGENCIES FOR THE PROTECTION OF THE ENVIRONMENT, 14 CAL. ADM. CODE 15308.

3. AUTHORIZE ISSUANCE TO STATE OF CALIFORNIA DEPARTMENT OF FISH AND GAME OF A 49-YEAR GENERAL PERMIT BEGINNING MARCH 1, 1988; IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST; FOR PRESERVATION AND ENHANCEMENT OF WETLAND HABITAT FOR WILDLIFE SPECIES, AND PROVIDE PUBLIC ACCESS FOR WILDLIFE OBSERVATION ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

4. DENY ANY OTHER LEASE APPLICATIONS FOR ALL OR A PORTION OF THE FISH AND GAME LEASE APPLICATION AREA, PURSUANT TO THE PREFERENTIAL RIGHT OF THE DEPARTMENT OF FISH AND GAME UNDER PUBLIC RESOURCES CODE SECTION 6223.

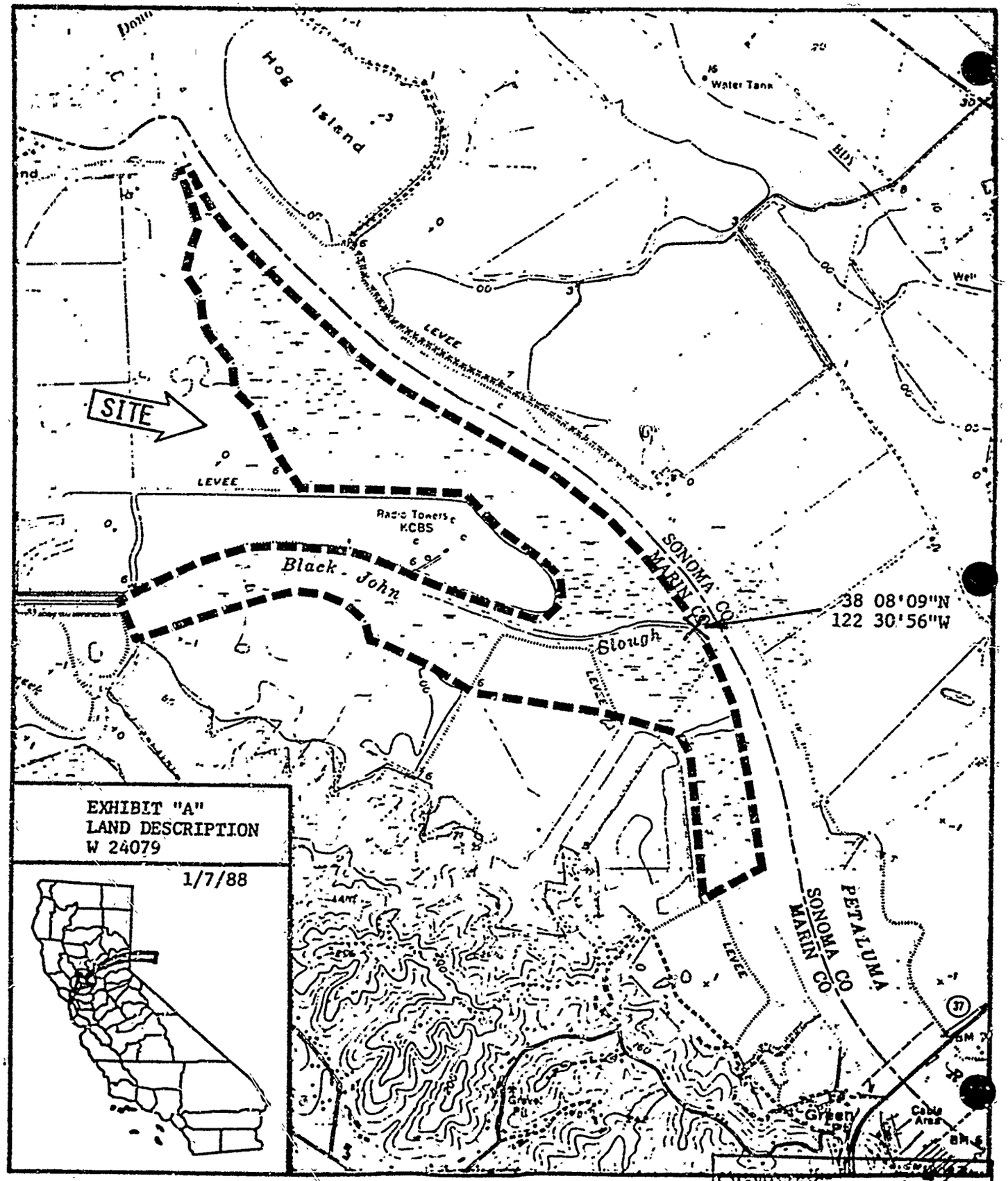

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EXHIBIT "B"
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