

MINUTE ITEM

23

W 23677

Article:

DENIAL OF APPLICATION

Calendar Item 23, attached, was pulled from the agenda prior to the meeting.

Attachment: Calendar Item 23

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DENIAL OF APPLICATION

APPLICANTS:

Vollman-Clark Ranch
c/o The Vollman Company
Attn: Mr. Dennis Vollman
1765 Challenge Way, Suite 125
Sacramento, California 95815-5005

Current law requires State agencies to compile lists of criteria specifying the detailed application information required of applicants for development projects. Accordingly, the State Lands Commission adopted its application criteria through Calendar Item 2 at its April 12, 1978 meeting.

Once an application has been accepted as complete, the Commission must act on the application within specified time periods. Failure to act within the time allowed, either by approving or denying the project, could result in approval of the project. Consideration of this application requires the balancing of competing public trust interests at this location. The staff's recommendation that the permit be denied is based on the weighing of those interests.

BACKGROUND

The Applicant submitted an application to construct a 30-berth marina on the Sacramento River at Walnut Grove. Project approvals have been granted by the United States Army, Corps of Engineers (USCE), the County of Sacramento, and the State Reclamation Board.

A Negative Declaration was prepared and adopted for this project by the County of Sacramento. The State Lands Commission's staff has reviewed such document.

CALENDAR ITEM NO. 3 (CONT'D)

The requested Commission lease would include two access ramps, a header float, pilings, and 30 berths, all as described and shown on Public Notice No. 9407, dated September 5, 1986, published by the United States Army, Corps of Engineers.

The State Department of Fish and Game (Department), in 1985, recommended denial of the marina project on the basis that it would interfere with established striped bass trolling by fishermen in this area. The Applicant subsequently engaged Mr. George Bruns, licensed by Fish and Game as a guide between 1977 and 1985, who concluded, in a written statement, that the subject area has very little to offer to recreational fishermen and who has repeatedly advised anglers that the most popular and productive trolling areas are downstream of this site.

By Memorandum to Commission staff, dated December 11, 1990, the Department reiterated its opposition to the above project, again on the grounds that the marina would interfere with established recreational fishing activities at the subject location.

The Department has stated that the marina and the boat traffic associated with it would significantly interfere with striped bass fishing in the immediate vicinity. Based on this concern, the Department has continued to indicate its opposition, as stated above, to the project.

As indicated previously, the USCE has permitting authority over the proposed project. On January 20, 1987, the USCE issued permit no. 9407 for the proposed marina. An environmental assessment prepared by the USCE took notice of the concerns by the Department of Fish and Game, but concluded that impacts to the fishing area would be minimal and would be outweighed by the public's need for additional berthing. The terms of the Corps' permit are valid until June 30, 1992.

The competition between public trust interests at this location, specifically, recreational fishing vs. the berthing of pleasure craft, has been reviewed by the staff. The Commission has the discretion to determine: (1) whether its lands will be left in an undeveloped state; or (2) the uses, and under what conditions such lands are to be put. Accordingly, it may preclude any development

which might negatively affect a known public trust use, in this instance, recreational fishing, either now or in the future. The staff believes, based on the information provided by the Department of Fish and Game, that recreational fishing at the subject location rights should be protected, and accordingly recommends denial of the application.

The Applicant has been notified of the above staff position, and has requested the opportunity to be heard by the Commission and to present arguments in favor of a commercial marina at the subject site.

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OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that his 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. Code Regs. 15270.

EXHIBITS:

- A. Land Description
- A-1. Site Map
- B. 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. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080(b)(5) AND 14 CAL. CODE REGS. 15270, PROJECTS WHICH A PUBLIC AGENCY REJECTS OR DISAPPROVES.
2. DENY, WITHOUT PREJUDICE, THE APPLICATION OF VOLLMAN-CLARK RANCH FOR A 30-BERTH MARINA AT WALNUT GROVE ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
3. AUTHORIZE STAFF TO ADVISE THE APPLICANT OF THE COMMISSION'S DECISION TO DENY SAID MARINA PROJECT.

EXHIBIT "A"

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LAND DESCRIPTION

A parcel of tide and submerged land in the bed of the Sacramento River, Walnut Grove, Sacramento County, California, said parcel lying immediately beneath a dock TOGETHER WITH a necessary use area extending 10 feet from the extremities of said dock, said dock, being adjacent to the land described in the document recorded April 17, 1957, in Book 3283, page 563, of Official Records said County.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Sacramento River.

END OF DESCRIPTION

PREPARED AUGUST 24, 1989 BY BIU 1

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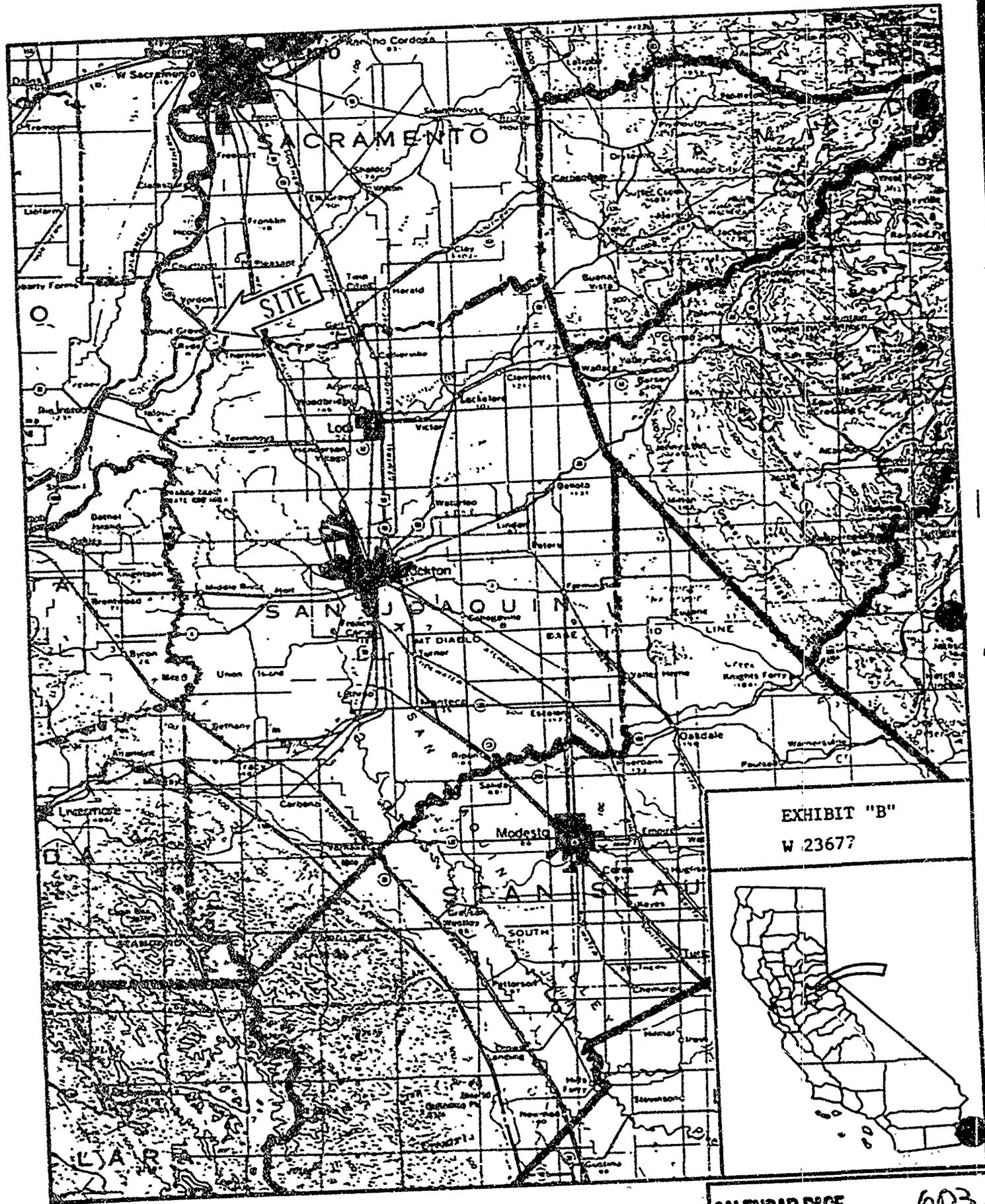


EXHIBIT "B"
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