

MINUTE ITEM

This Calendar Item No. 23
was approved as Minute Item
No. 23 by the State Lands
Commission by a vote of 2
to 0 at its 23
meeting.

MINUTE ITEM

23

05/23/85
WP 3289
PRC 3289
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DENIAL OF GENERAL PERMIT RECREATIONAL AND RESIDENTIAL USE

During consideration of Calendar Item 23, attached, Mr. Al Eames appeared to ask the Commission's approval of a 10-20 year lease. Acting Chairman Walter Harvey stated his desire to limit the lease term to 2 years during which time staff would develop a report on which the Commission could adopt a formal policy concerning residential use of sovereign tide and submerged lands.

Deputy Attorney General Dave Judson stated the Attorney General's position that exclusive residential use of tide and submerged lands is inconsistent with the public trust. Mr. Judson also stated the Attorney General's Office would not take a position on the proposed lease to Al Eames.

Therefore, the following resolution was approved by a vote of 2-0:

THE COMMISSION:

1. FINDS THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A CATEGORICAL EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES, 14 CAL. ADM. CODE 15061.
2. FINDS THAT THE ACTIVITY IS ON LANDS NOT NOMINATED UNDER P.R.C. 6370, ET SEQ., AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES AND, THEREFORE, A FINDING OF CONSISTENCY WITH THE USE CLASSIFICATION AS REQUIRED BY 2 CAL. ADM. CODE 2954 IS NOT APPLICABLE.

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3. AUTHORIZES ISSUANCE TO AL EAMES OF A TWO-YEAR GENERAL PERMIT - RECREATIONAL/RESIDENTIAL USE BEGINNING APRIL 29, 1985; IN CONSIDERATION OF RENT IN THE AMOUNT OF \$560 PER ANNUM; PROVISION OF A \$5,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$300,000; AND SUBJECT TO THE FOLLOWING PROVISIONS:

(a) SHOULD THE FACILITY AUTHORIZED BY THIS PERMIT SUFFER MAJOR STRUCTURAL DAMAGE DURING THE TERM OF THIS PERMIT, LESSEE SHALL REMOVE THE FACILITY FROM THE STATE'S LANDS.

(b) IF THE FACILITY IS SOLD OR CONVEYED TO ANOTHER PERSON OR THE ADJACENT UPLAND IS SOLD OR CONVEYED TO ANOTHER PERSON DURING THE TERM OF THIS PERMIT, LESSEES SHALL REMOVE THE FACILITY FROM THE STATE'S LAND.

(c) LESSOR MAY TERMINATE THIS PERMIT UPON SIX MONTHS WRITTEN NOTICE TO LEASE.

FOR THE CONTINUED MAINTENANCE OF A FLOATING CABIN, BOATDOCK, AND WALKWAY ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED TO THE PERMIT ON FILE IN THE PRINCIPAL OFFICE OF THE COMMISSION.

4. DIRECTS STAFF TO CONDUCT SUCH STUDIES AS ARE NECESSARY TO BRING RECOMMENDATIONS TO THE COMMISSION THAT ADDRESS THE PROBLEM OF RESIDENTIAL USE OF TIDE AND SUBMERGED, TOGETHER WITH A PROGRAM FOR ABATING SUCH NON-TRUST USES OF THE PUBLIC'S WATERWAYS.

5. AUTHORIZES STAFF TO CONDUCT PUBLIC WORKSHOPS AND HEARINGS, AS MAY BE NECESSARY, TO REPORT ON RESIDENTIAL USE OF TIDE AND SUBMERGED LANDS.

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DENIAL OF
GENERAL PERMIT - RECREATIONAL AND RESIDENTIAL USE

APPLICANT: Al Eames
17241 Terminous Road
Isleton, California 95641

AREA, TYPE LAND AND LOCATION:

A 0.095-acre parcel of tide and submerged land,
located in Georgiana Slough, at Andrus Island,
Sacramento County.

LAND USE: Floating cabin, boat dock and walkway.

TERMS OF EXISTING PERMIT:

Initial period: Ten years beginning April 29,
1975.

Surety bond: \$2,000.

Public liability insurance: \$300,000 per
occurrence for bodily injury
and \$200,000 for property
damage.

Consideration: \$480 per annum; Five-year
rent review.

AB 884: 06/15/85.

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

PERTINENT INFORMATION:

1. The Commission has permitted the
residential use of the subject property to

(ADDED 05/21/85)

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Mr. Eames for 20 years. On August 13, 1984, Mr. Eames informed the staff that he desired a replacement permit for his continued occupancy of the subject lands.

2. Under advice received August 27, 1984, the State Attorney General's Office advised the Executive Officer that private residential use of the bed of an inland navigable waterway is a non-trust use, and that the Commission should prohibit such use. The public trust, according to Marks v. Whitney (1971) 6 Cal. 3d 251, 259, is restricted to uses which promote public interest in commerce, navigation, fisheries, recreation and conservation.
3. Acting on the advice of the Attorney General, the staff advises denial of the subject application.
4. This matter is outside the purview of the CEQA of 1970. 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.

AB 884:

06/15/85.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT CEQA DOES NOT APPLY TO PROJECTS WHICH A PUBLIC AGENCY REJECTS OR DISAPPROVES. P.R.C. 21080(b)(5) AND 14 CAL. ADM. CODE 15270.
2. DENY THE APPLICATION OF AL EAMES FOR A REPLACEMENT PERMIT FOR THE RESIDENTIAL USE OF THE LANDS DESCRIBED IN EXPIRING PERMIT PRC 3289.
3. AUTHORIZE STAFF TO ADVISE AL EAMES OF THE COMMISSION'S ACTION TO DENY THE APPLICATION.
4. AUTHORIZE THE STAFF OF THE COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY INCLUDING LITIGATION TO HAVE EXISTING IMPROVEMENTS REMOVED FROM GEORGIANA SLOUGH.

(ADDED 05/21/85)

EXHIBIT "A"

LAND DESCRIPTION

WP 3289

A strip of land 50 feet wide, in the State-owned bed of Georgiana Slough adjacent to Andrus Island, Sacramento County, State of California, and lying 25 feet on each side of the following described centerline:

COMMENCING at the point of intersection of that certain course designated as S 30° 45' 41" W 62.40 feet as described in Parcel 2 of that certain deed recorded in Book 2892 at page 200 of Deeds, records of said county, with the southwesterly line of that certain 15.841-acre tract of land as described in Parcel 2 of that certain deed recorded in Book 360, page 58 of deeds, records of said county; thence N 30° 45' 41" E 62.40 feet; thence S 43° 15' 16" E 1,210 feet to the TRUE POINT OF BEGINNING; thence N 48° 56' 44" E 265 feet to the end of the herein described centerline.

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

END OF DESCRIPTION

REVIEWED JANUARY 22, 1985 BY BOUNDARY SERVICES UNIT, M.L. SHAFER, SUPERVISOR.

(ADDED 05/21/85)

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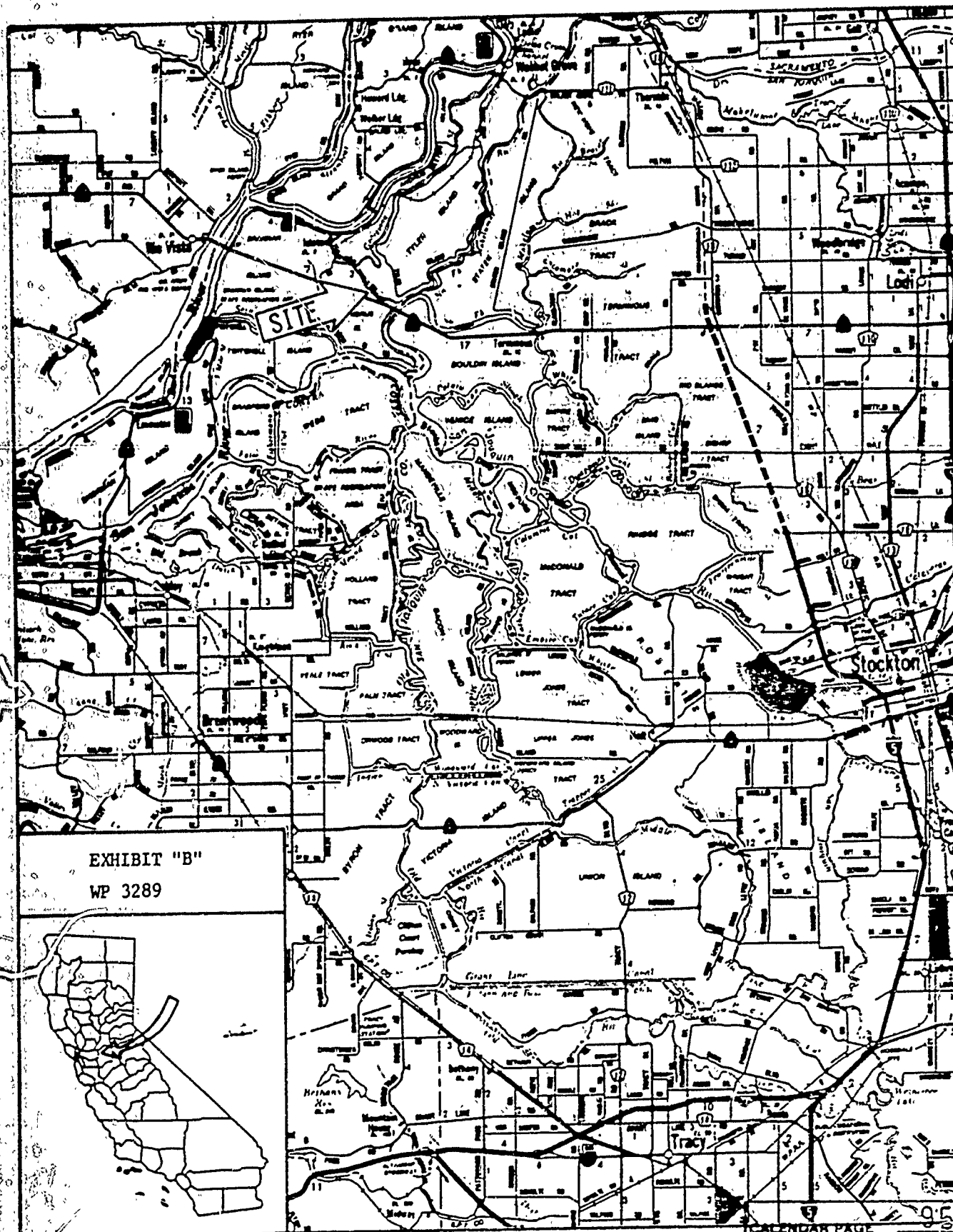


EXHIBIT "B"

WP 3289

(ADDED 05/21/85)

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