

MINUTE ITEM

This Calendar Item No. C19
was approved as Minute Item
No. 19 by the State Lands
Commission by a vote of 2
to 0 at its 5/22/86
meeting.

~~Minute Item 10, meeting of 11/29/82~~
~~minute item 19, meeting of 5/22/86~~

CALENDAR ITEM

C19

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RESCISSION OF PREVIOUSLY AUTHORIZED LEASE,
ACCEPTANCE OF EARNED RENTALS,
AND RETURN OF UNEARNED RENTALS

APPLICANT: R. Jane Law, dba K. J. Systems
P. O. Box 1109
Bethel Island, California 94511

AREA, TYPE LAND AND LOCATION:
An 0.154-acre parcel of tide and submerged
land, located in Alviso Slough, San Jose,
Santa Clara County.

LAND USE: Barge and dock facilities.

TERMS OF ORIGINAL AUTHORIZATION:

Initial period: Five years beginning
December 1, 1981.

Surety bond: \$1,000.

Public liability insurance: Combined single
limit coverage of \$300,000.

Consideration: \$370 per annum; or
five percent of gross income,
whichever greater; five-year
rent review.

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.

CALENDAR ITEM NO. C19 (CONT'D)

OTHER PERTINENT INFORMATION:

1. On November 29, 1982, the State Lands Commission authorized the issuance of a lease to the applying party, R. J. Systems; for a variety of reasons, the lease was never signed by the State. In addition, under correspondence dated November 12, 1985 and December 13, 1985, the Applicant notified the staff that the application was being cancelled as of December 1, 1985. The United States Fish and Wildlife Service has verified the Applicant's departure from the site.

The Applicant's use of State property was paid for by the submittal of rent in the amount of \$370 per year, for a three-year period summed up as follows:

<u>PERIOD</u>	<u>AGREED RENT</u>	<u>PAYMENT RECEIVED</u>
12/01/82 - 11/30/83	\$370	\$370
12/01/83 - 11/30/84	\$370	\$370
12/01/84 - 11/30/85	\$370	\$370

Although a lease number was assigned (PRC 6348) the lease document was itself never fully executed nor delivered to the Applicant. The Applicant's short use of the State property was under an expectancy only, under the assumption that a binding lease would eventually be executed. But with the lack of such execution the anticipated leasehold interest never materialized. That fact, coupled with the Applicant's departure from the site - on or about December 1, 1985 - makes it clear that R. J. Systems has no future interest in the subject lands.

2. The barge and dock facilities that were formerly owned by R. J. Systems - and now owned by the federal government (acting through the United States Department of the Interior) - will be removed from the underlying sovereign lands by the United States Fish and Wildlife Service. That agency purchased the barge and docks from the Applicant in 1985, subsequent to federal acquisition of the upland property.

CALENDAR ITEM NO. C19. (CONT'D)

3. Prior to the Applicant's decision to vacate the subject premises, an additional rental payment of \$370 had been earlier submitted to the Commission in anticipation of another year's occupancy beginning December 1, 1985. A change in circumstances caused the Applicant instead to retire from the property as of that date, and a refund of the \$370 has accordingly been requested. Staff has no objection to that request.
4. 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 the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Adm. Code 15378.

APPROVALS OBTAINED:

None.

FURTHER APPROVALS REQUIRED:

None.

EXHIBIT: A. 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. ADM. CODE 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.
2. RESCIND MINUTE ITEM NO. 6, OF NOVEMBER 29, 1982, IN ITS ENTIRETY.
3. ACCEPT EARNED RENTAL FOR APPLICANT'S USE OF SOVEREIGN LANDS AT ALVISO SLOUGH IN THE ANNUAL AMOUNT \$370, FOR THE THREE-YEAR PERIOD BEGINNING DECEMBER 1, 1982 AND ENDING NOVEMBER 30, 1985.
4. AUTHORIZE A REFUND OF \$370 TO THE APPLICANT FOR NON-OCCUPANCY OF SOVEREIGN LANDS AT ALVISO SLOUGH FOR PERIOD FOLLOWING NOVEMBER 30, 1985.

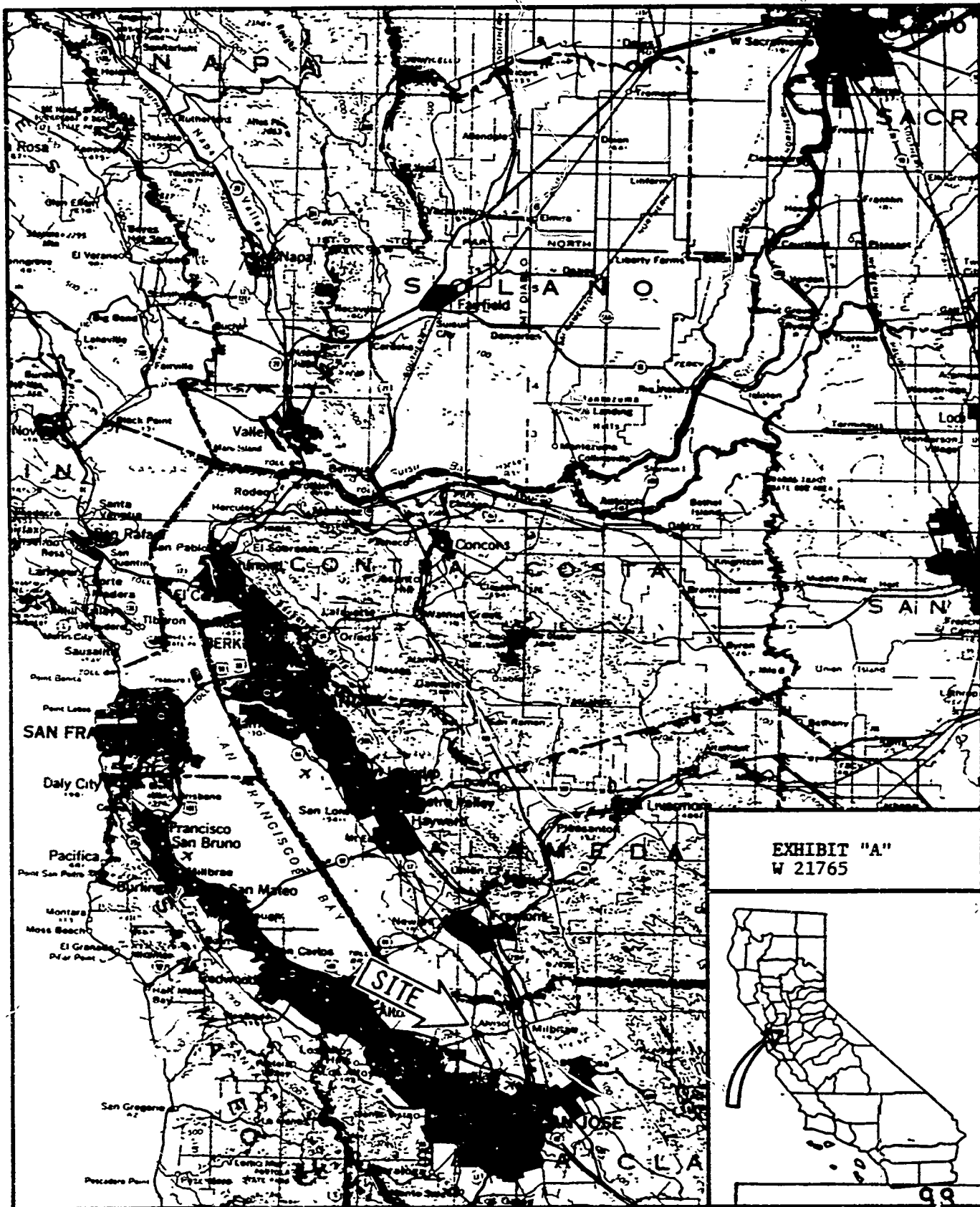


EXHIBIT "A"
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