

MINUTE ITEM  
This Calendar Item No. 46  
was approved as Minute Item  
No. 46 by the State Lands  
Commission by a vote of 3  
to 0 at its 1-21-88  
meeting.

CALENDAR ITEM

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46

01/21/88  
W-503.1366

S 6

WP 4081 AD 76  
Simmons  
Maricle  
Grimmett

AUTHORIZATION FOR COMPROMISE SETTLEMENT  
OF PEOPLE V. MARY BETH DAROSA BURKE, ET AL.  
(SACRAMENTO SUPERIOR COURT NO. 219047)  
AND APPROVAL OF BOUNDARY LINE AGREEMENT

On March 29, 1984, the People of the State of California, acting by and through the State Lands Commission, filed a Complaint for Recovery of Possession of Real Property against Mary Beth DaRosa and others. Damages for trespass and injunctive relief were sought.

The Complaint alleged that sovereign tidelands and submerged lands were being unlawfully occupied by the defendants with a marina and other facilities. The subject property had been under Commission lease between 1964 and 1974 (PRC 4081). In 1970, this lease was assigned to a new operator, Albert Powell. After 1974, staff of the Commission unsuccessfully sought to renew the lease with the operator. In 1978 Mr. Powell died and the marina operations were sold by the estate. The State settled, by compromise, its back rent claims for the period between 1974 and 1979 with the estate.

Thereafter, staff of the Commission continued its attempts to bring the marina under lease. In 1983 the DeRosa's sought to evict the marina operator for non-payment on the note of sale. The operator filed for bankruptcy and the Commission filed a claim for back rentals for the period 1979 to 1983. This claim was discharged in bankruptcy.

In late 1983 most of the marina improvements were removed pursuant to a Corps of Engineers order that in the then state of disrepair, the improvements were a hazard to navigation.

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The subject lawsuit was put on hold when the Commission declared a moratorium on marina development on the Sacramento River. The defendants now wish to sell their property to a marina developer and have offered the following terms on which to settle the case:

1. Payment to the State of \$5,856 in full satisfaction of back rentals, and penalties and interest thereon;
2. Execution of a Compromise Settlement/Boundary Line Agreement with the State; and
3. Dismissal with prejudice of the subject lawsuit and removal of the lis pendens on the property.

Staff believes that this represents a fair and equitable settlement of the State's claims in the subject lawsuit and recommends approval to avoid long and costly litigation that would result without such a settlement.

AB 884: N/A.

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 as a statutory exempt project because it involves settlement of title and boundary problems.

Authority: P.R.C. 21080.11.

EXHIBITS:

- A. Agreed Boundary Line: Description.
- B. Agreed Boundary Line: Plat.
- C. 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 AS A STATUTORY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

(CALENDAR ITEM NO. 26 CONT'D)

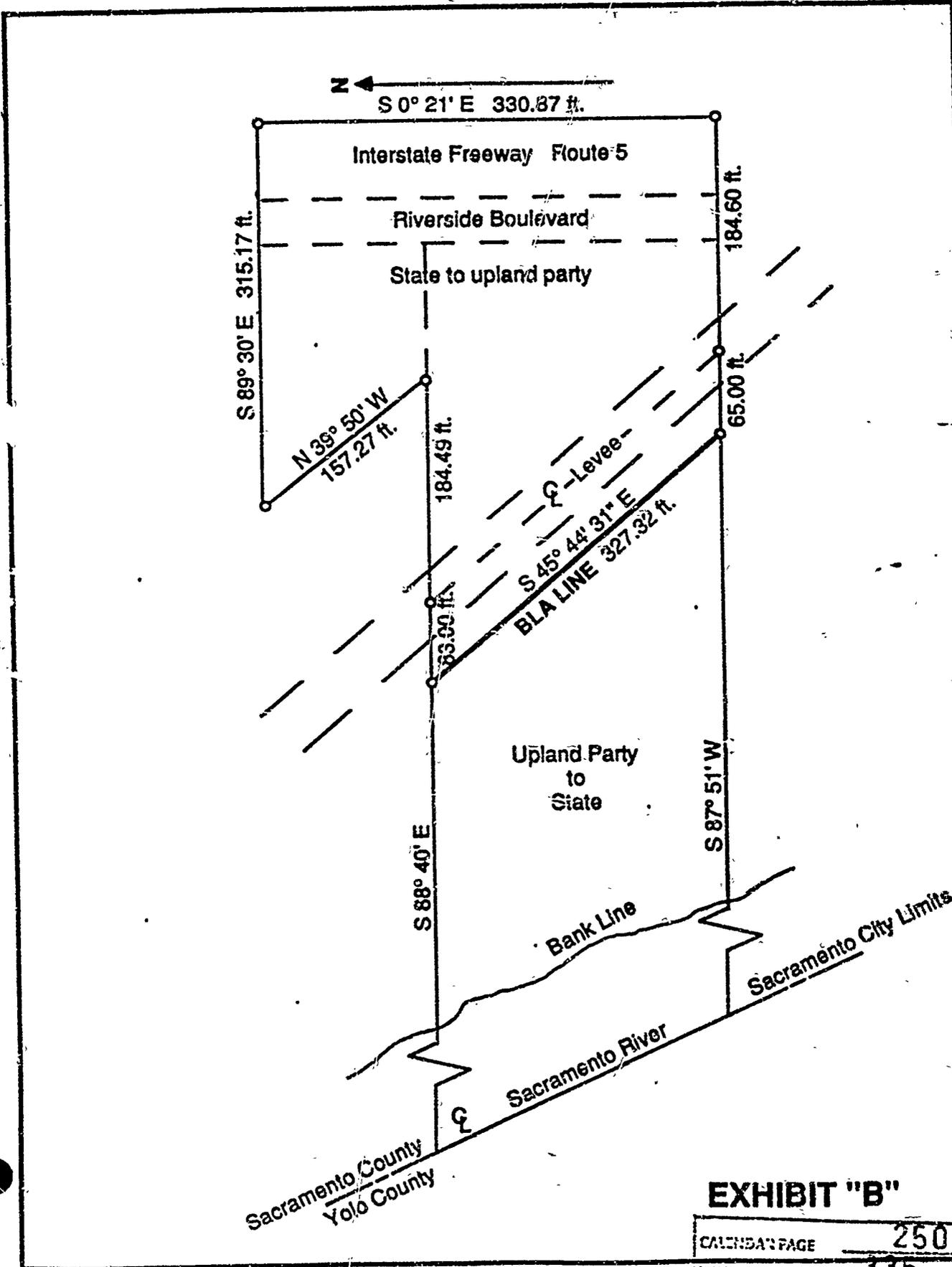
2. APPROVE THE SETTLEMENT OF PEOPLE V. MARY BETH DAROSA BURKE, ET AL., SACRAMENTO SUPERIOR COURT NO. 219047 AND AUTHORIZE STAFF TO EXECUTE THE COMPROMISE SETTLEMENT/BOUNDARY LINE AGREEMENT IN SUBSTANTIALLY THE FORM NOW ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION, WHICH IS INCORPORATED HEREIN BY THIS REFERENCE.
3. AUTHORIZE STAFF TO ACCEPT \$5,856 IN SETTLEMENT OF STATE CLAIMS INCLUDING ANY PENALTY AND INTEREST, IN PEOPLE V. MARY BETH DAROSA BURKE, ET AL., SACRAMENTO SUPERIOR COURT NO. 219047.
4. AUTHORIZE STAFF TO DISMISS WITH PREJUDICE SACRAMENTO SUPERIOR COURT CASE NO. 219047, PEOPLE V. MARY BETH DAROSA BURKE, ET AL., AND TO EXPUNGE THE LIS PENDENS FILED THEREIN.
5. AUTHORIZE STAFF TO EXECUTE A QUITCLAIM OF STATE INTERESTS LANDWARD OF THE AGREED BOUNDARY LINE AND TO ACCEPT A QUITCLAIM OF THE PRIVATE PARTIES' INTERESTS WATERWARD OF THE AGREED BOUNDARY LINE.
6. AUTHORIZE STAFF TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE ABOVE TRANSACTION.

EXHIBIT A  
AGREED BOUNDARY LINE  
DESCRIPTION

COMMENCING at a 1 1/2 inch iron pipe marking the southeast corner of the A. G. DaRosa property as shown on that certain map entitled, "Plat of Survey of the property of A.G. Da Rosa, located in Section 27, T8N, R4E", as said map was filed on May 3, 1949 with the Sacramento County recorder, in Book 7 of Surveys at Page 30; thence along the southerly line of said property S 87°51'00" W, 184.60 feet to a three-quarter inch iron pipe marking the centerline of a levee, as described in deed recorded in Book 68-09-10, page 303, Official Records of Sacramento County; thence continuing along said southerly line S 87°51'00" W, 65.00 feet to the POINT OF BEGINNING of the herein described line; thence northwesterly along said line N 45°44'31" W, 327.32 feet to the intersection with the northerly line of the parcel of land shown on said Record of Survey recorded in Book 7 of Surveys at page 30, also being the end of the herein described line.

END OF DESCRIPTION

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**EXHIBIT "B"**

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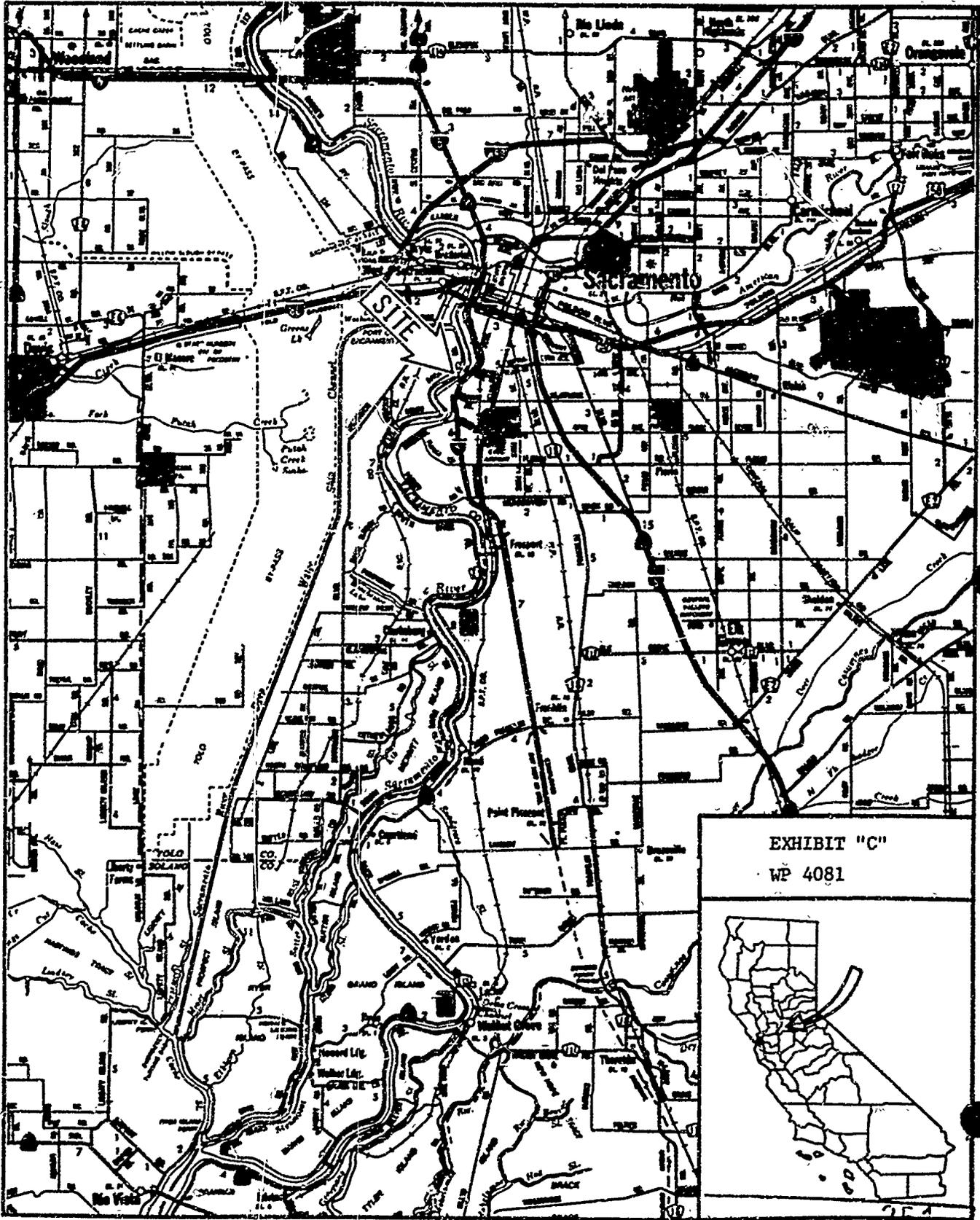


EXHIBIT "C"

WP 4081

