

MINUTE ITEM

46

09/27/89
W 24093
AD 102
Kiley
Stevenson
Crow

REQUEST FOR AUTHORIZATION TO ENTER A
BOUNDARY LINE AGREEMENT SETTLING TITLE TO A
TRACT OF LAND IN AND ALONG MORRISON CREEK,
SACRAMENTO COUNTY

Calendar Item 46, attached, was pulled from the agenda prior to
the meeting.

Attachment: Calendar Item 46.

A 10

S 5

COPIES PER PAGE	3300
DATE	
TIME	

CALENDAR ITEM

A 10
S 5

46

09/27/89
W 24093 AD 102
Kiley
Stevenson
Crow

REQUEST FOR AUTHORIZATION TO ENTER A BOUNDARY LINE
AGREEMENT SETTTLING TITLE TO A TRACT OF LAND
IN AND ALONG MORRISON CREEK, SACRAMENTO COUNTY

APPLICANT: Beach Lake Preserve,
a limited partnership
c/o Dee Hartzog, Weintraub, Genshlea,
Hardy, Erich & Brown
2535 Capitol Oaks Drive
Sacramento, California 95833

In 1987, staff of the State Lands Commission was contacted by attorneys for Camray Construction and Development Company regarding possible sovereign title rights in an approximate 800-acre tract of land in unincorporated Sacramento County. The site in question is on the inland side of the Sacramento River levee about 1 mile south of the town of Freeport. It lies across the levee road from Cliff's Marina, an existing State Lands Commission lease (PRC 3264). It is currently in the record ownership of Beach Lake Preserve, a California limited partnership (referred to in this item as "Private Party") which has granted an option to purchase to Camray. If developed according to current plans, the area to the north of Morrison Creek will be developed with homes on an inland lake.

The subject site is depicted for reference on Exhibit "A" which are attributed to this calendar item. Exhibits "A" "B" are incorporated by reference as a part of this calendar item.

CALENDAR ITEM NO. 46 (CONT'D)

Title research done by the staff has shown that the subject parcel is comprised of Swamp and Overflowed Lands sales made in the last century. These surveys meandered the Sacramento River to the west and are numbered Swamp and Overflow Lands Surveys 152 and 168. The subject parcel also includes the bed of Morrison Creek which conveys runoff from an area to the east of the American River into Stone Lake and on into the sloughs of the Sacramento River Delta. Private record title in the subject parcel extends through Morrison Creek. The Creek is surrounded by a thick riparian grove and oaks.

Staff has reviewed the historic record of private and public surveys of the subject property and relevant topographic mapping. The information analyzed has led to the following conclusions:

1. In its natural condition, Morrison Creek was the primary waterway which carried surface waters from the east side of the American River to the delta.
2. As it flowed in its last natural condition through the subject property, Morrison Creek was a navigable and/or tidal waterway of the State of California.
3. The subject property is removed from the Sacramento River by the River's levee. The location of the Sacramento River at this site has been such that it has not extended into the subject property.
4. The present location of Morrison Creek within the subject property closely follows the historic location of that waterway.

The position of Private Party is that Morrison Creek is not now, and has never been, a navigable and/or tidal waterway of this State for land title purposes and that the partnership holds fee title to the subject parcel free and clear of any sovereign rights of the State.

The State and the Private Party have arrived at a settlement of the dispute between them regarding their opposing title interest in the subject property. A document implementing the settlement and containing the conveyances between the parties is on file at the offices of the State Lands Commission. In general terms, it provides that:

CALENDAR ITEM NO. 46 (CONT'D)

1. The parties will set ordinary high water marks on the right and left banks of Morrison Creek through the subject property.
2. The STATE will quitclaim to the Private Party any interest it may hold, by virtue of its sovereignty, landward of the agreed ordinary high water marks of Morrison Creek, free of the public trust for commerce, navigation, fisheries, recreation, and preservation as open space. This property is referred to in the Agreement as the UPLAND PARCELS.
3. The Private Party shall quitclaim to the STATE as sovereign land subject to public trust all of its right, title, and interest in and to the land lying waterward of the agreed ordinary high water marks of Morrison Creek within the subject property. This property is referred to in the Agreement as the PUBLIC TRUST PARCEL.
4. The Private Party will reserve the right to cross Morrison Creek on the bridge now in place over the Creek. The Private Party will convey to the State an easement from a public road to the PUBLIC TRUST PARCEL.

The staff has investigated all matters relevant to the subject parcel and believes that the settlement proposed is fully supported by the evidence. If implemented, this boundary line agreement will benefit the STATE by establishing and recognizing sovereign ownership in Morrison Creek. An area of significant riparian growth will be preserved in State ownership along with access to the site.

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 statutorily exempt project. The project is exempt because it involves the settlement of title and boundary problems.

Authority: PRC Section 21080.

EXHIBIT:

- A. Land Description.
- B. Location Map.
- C. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

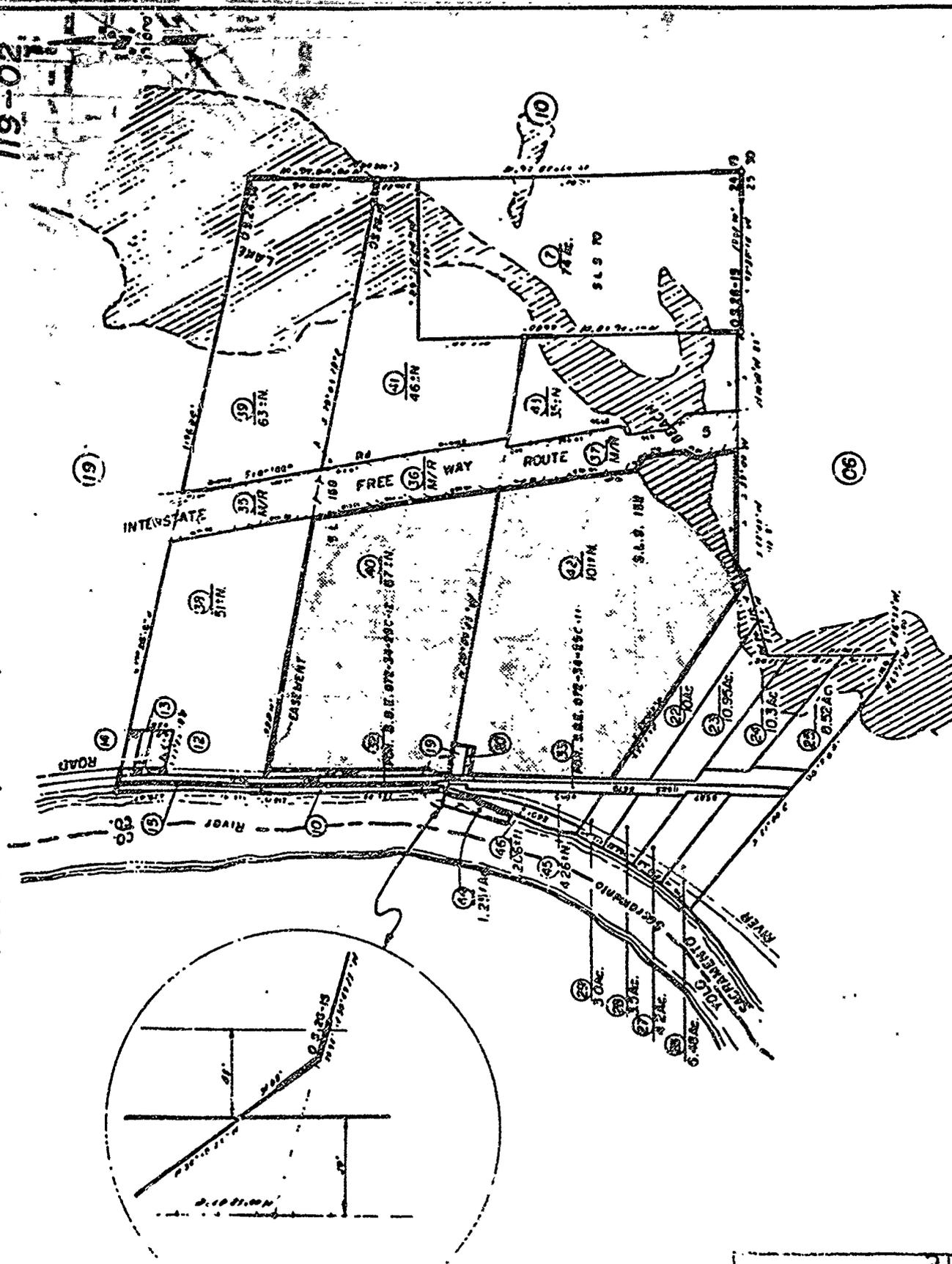
1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11 SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. AUTHORIZE THE EXECUTIVE OFFICER OR HER DESIGNEE TO EXECUTE AND TO DELIVER INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE SACRAMENTO COUNTY RECORDER THE SUBJECT BOUNDARY LINE AGREEMENT IN A FORM SUBSTANTIALLY SIMILAR TO THAT NOW ON FILE IN THE OFFICES OF THE STATE LANDS COMMISSION.
3. AUTHORIZE THE EXECUTIVE OFFICER OR HER DESIGNEE AND/OR THE OFFICE THE ATTORNEY GENERAL TO TAKE ALL STEPS SHE/THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THIS AGREEMENT, INCLUDING REPRESENTATION OF THE COMMISSION IN ANY LEGAL ACTION TO DETERMINE THE LEGALITY OF THIS AGREEMENT.

EXHIBIT "A"
LAND DESCRIPTION

W 24093

119-02

POR. T.7 N., R.4 E., M.D.S. & M.



Record of Survey, Bk. 26, Map 15, Ptn. S.L.S. 70 & 150 Assessor's Map Bk. 119, Pg. 02
County of Sacramento, Calif.

CHLOND R PAGE 355
PREPARED SEPTEMBER, 14, 1989 BY BIG 1.

AND CO. CO.

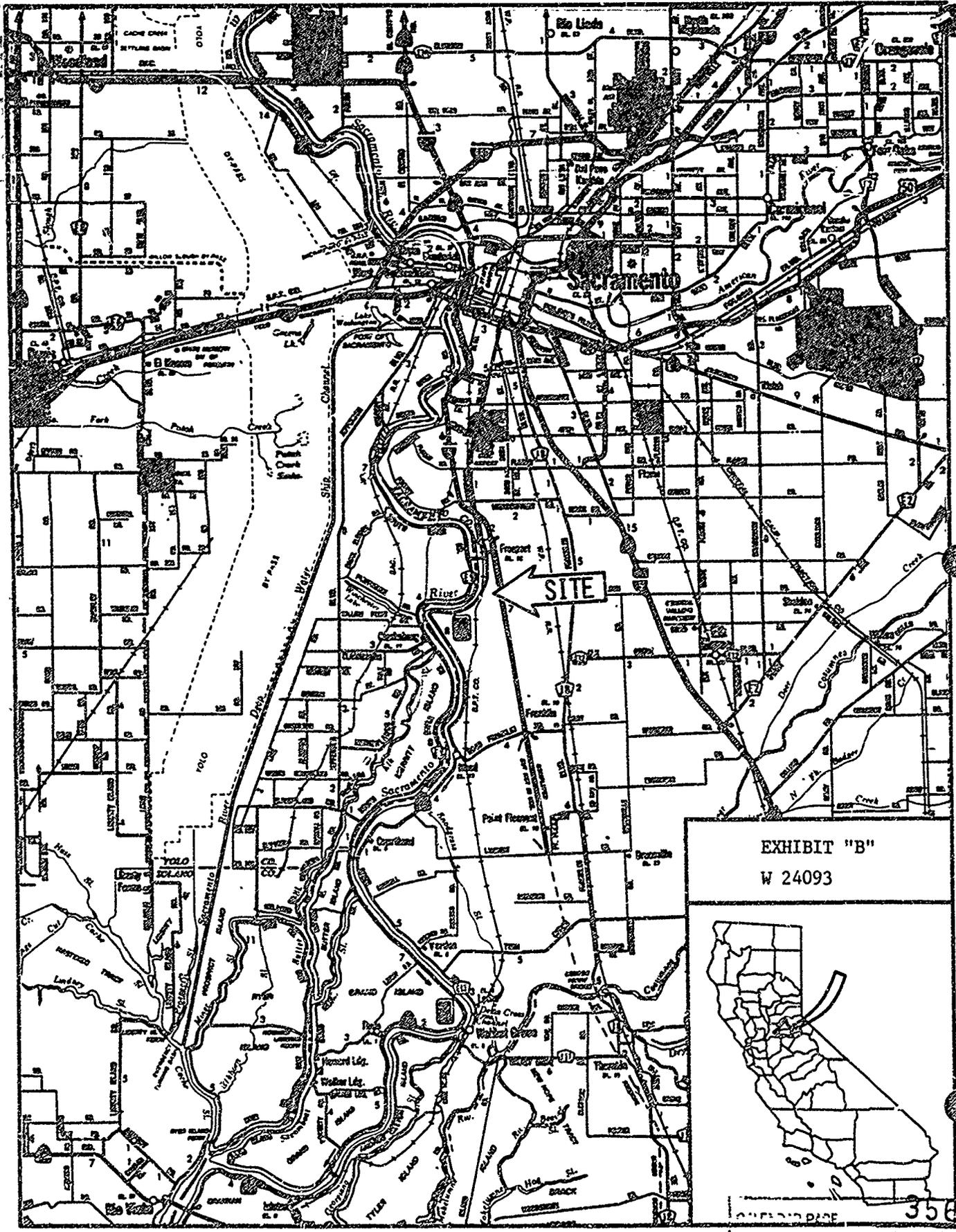


EXHIBIT "B"
W 24093



CALENDAR ITEM

NO. 46

WORK ORDER: W 24093

CALENDAR DATE: 9/27/89

NEGOTIATOR: KILEY
STEVENSON
CROW

BEACH LAKE PRESERVE, A GENERAL PARTNERSHIP (APPLICANT)

EXHIBIT "C" NOT AVAILABLE AT TIME OF PRINT

CALENDAR PAGE	357
MINUTE PAGE	3075