MINUTE ITEM
This Calendar Item No. C62
was approved as Minute Item
No. 62 by the State Lands
Commission by a vote of 2
to Ø at its 7/11/97
meeting.

CALENDAR ITEM
C62

A 9

S 6

07/11/97
W 503.1605
M. Crow
L. Kiley

CONSIDER SETTLEMENT OF LITIGATION AND PURCHASE OF PROPERTY, AS KAPILOFF LAND BANK TRUSTEE, AT CHICORY BEND, SACRAMENTO RIVER, CITY OF SACRAMENTO

BACKGROUND:

The Commission, at its regular meeting on August 3, 1994, approved a proposed settlement of litigation and boundary line agreement together with the purchase of a portion of the property with Kapiloff Land Bank funds, along with additional rights for future acquisition, involving lands at Chicory Bend along the Sacramento River within the City of Sacramento. The proposed settlement was contingent upon certain legal contingencies which did not occur, and the settlement failed as a result. The underlying litigation, commonly referred to as "the Lovelace litigation", is still pending in Sacramento Superior Court.

A new settlement is proposed for Commission consideration which would involve the following elements:

1. The subject property would be purchased from Lovelace by the State of California and third parties for a price of $1,100,000, contingent upon obtaining the necessary third party funds to make the purchase possible.

   a. Of that amount, the Commission would contribute $400,000 from Kapiloff Land Bank funds;

   b. Third parties would contribute $700,000 toward the aggregate purchase price from their respective funding sources. The parties to the litigation would agree to jointly and aggressively pursue such third party funding.

2. The parties would jointly communicate the existence of the tentative settlement to the Sacramento County Superior Court, together with a request that the current trial date be vacated, and all pretrail deadlines be

suspended. Upon close of escrow, the litigation would be dismissed with prejudice.

3. The proposed settlement is intended to be comprehensive in nature, fully addressing and disposing of all claims of the parties. No separate provision for payment of any parties' costs or attorney's fees is contemplated.

If the proposed settlement is approved by the Commission, a detailed and formal settlement agreement will be drafted to memorialize the settlement terms.

EXHIBIT:

A. Site Map

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

2. AUTHORIZE THE EXECUTIVE OFFICER TO ENTER INTO A COMPREHENSIVE SETTLEMENT OF LITIGATION ENCOMPASSING THE TERMS OUTLINED IN THIS ITEM.

3. ACTING AS LAND BANK TRUSTEES, AUTHORIZE THE EXPENDITURE OF $400,000 AS PART OF THE PURCHASE PRICE FOR THE "LOVELACE" PARCEL AT CHICORY BEND.

4. AUTHORIZE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY TO CONCLUDE THE PROPOSED SETTLEMENT, INCLUDING DRAFTING AND EXECUTION OF DETAILED SETTLEMENT DOCUMENTS, COURT APPEARANCES, RECORDING OF DOCUMENTS, AND OTHER ACTIONS AS REQUIRED.

FOR REFERENCE ONLY
NOT TO SCALE

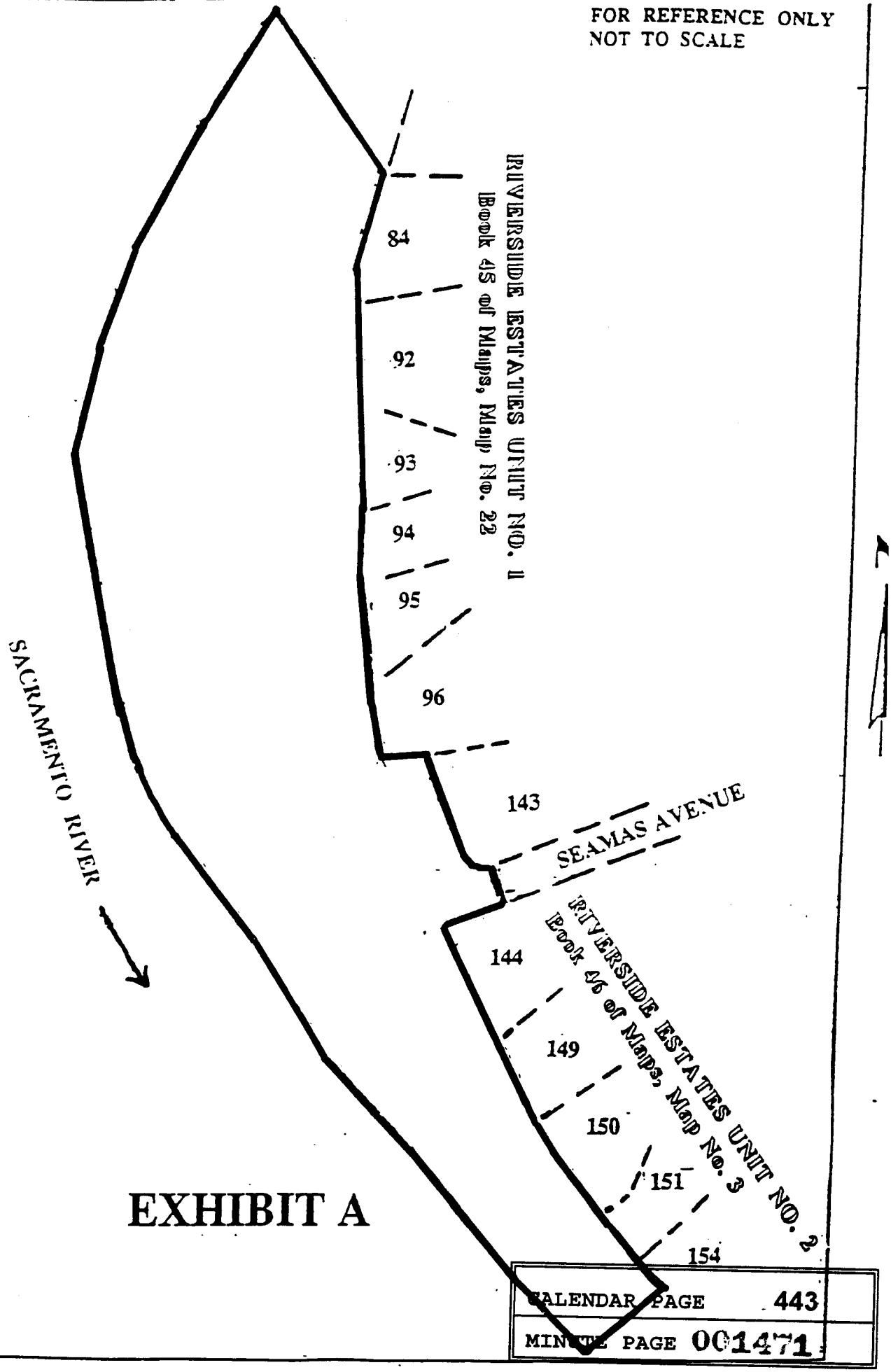

EXHIBIT A

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