

**CALENDAR ITEM
C54**

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J. Frey

CONSIDER BOUNDARY LINE AGREEMENT BETWEEN THE CALIFORNIA STATE LANDS COMMISSION AND THE CITY OF SACRAMENTO, A MUNICIPAL CORPORATION, AND THE REDEVELOPMENT AGENCY SUCCESSOR AGENCY (FOR THE DISSOLVED REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO), AN ENTITY CREATED BY STATUTE, TO ESTABLISH AN AGREED COMMON BOUNDARY LINE BETWEEN CITY OWNED PROPERTIES, REDEVELOPMENT AGENCY SUCCESSOR AGENCY OWNED PROPERTIES, AND STATE SOVEREIGN LANDS IN AND ALONG THE SACRAMENTO RIVER IN SACRAMENTO, SACRAMENTO COUNTY

PARTIES:

The City of Sacramento
Economic Development Department

City of Sacramento
Redevelopment Agency Successor Agency

State of California, State Lands Commission

IDENTIFICATION OF PROPERTIES AFFECTED BY THIS AGREEMENT:

This proposed boundary line agreement (BLA) involves the permanent fixing and establishment of a common boundary between sovereign lands in the bed of the Sacramento River and adjacent lands owned by either the City of Sacramento (City) or the Redevelopment Agency Successor Agency (for the dissolved Redevelopment Agency of the City of Sacramento), an Entity Created by Statute (RASA). The sovereign lands and the City and RASA owned lands (the Subject Property) are located southerly of "Q" Street on the north, the right of way of Interstate 5 on the east; the north line of the right of way of Highway 50 (Pioneer Bridge) on the south; and the center line of the Sacramento River on the west. City and RASA commonly refer to the Subject Property's upland area as "The Docks."

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BACKGROUND:

The Subject Property is made up of lands owned by the State of California in its sovereign capacity as well as adjacent uplands owned by the City and RASA. The City is also the record owner of several upland parcels which extend into the bed of the Sacramento River. The Subject Property, for purposes of this BLA, does not include lands owned by the Sacramento Municipal Utility District, PG&E Corporation or any of its subsidiaries, or the State of California (other than those lands administered by the California State Lands Commission specifically described in the BLA), including lands owned by the California Department of Parks and Recreation. These latter property owners are not parties to the BLA.

All of the uplands within the Subject Property are located within the historic Rancho New Helvetia. The west line of Rancho New Helvetia is the boundary between the sovereign lands of the State of California and the upland property owners.

In September 2005, Commission staff and representatives of the City and RASA began discussions to determine whether there was any State sovereign interest in the Subject Property, with specific reference to the lots on or behind the levee along the banks of the Sacramento River, and if so, to establish a common boundary separating the interests of each of them. This determination was being sought in conjunction with planning for redevelopment of the uplands within the Subject Property. Previously the City and the Commission have conducted similar discussions and entered into BLAs for lands in and adjacent to the bed of the Sacramento River in Old Sacramento above Tower Bridge and below Tower Bridge down to "Q" Street..

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6107, 6216, 6301, 6341, and 6357.

Public Trust and State's Best Interests Analysis:

Pursuant to Public Resources Code section 6357, the Commission may establish the ordinary high water mark by agreement whenever it is deemed expedient or necessary. The boundary between State sovereign lands and the private uplands within the Subject Property has not been fixed by a court or an agreement but has been subject to significant artificial influences. At various times since 1850, the City and RASA lands and the reach of the Sacramento River adjacent to them have been

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subject to flooding, accretion, erosion, avulsion, filling, the construction of levees, docks, outfalls, dredging and regulated flows. The sole issue of contention between the Parties is the location of the last natural bed of the Sacramento River within the Subject Property. Staff believes the boundary is susceptible to being permanently fixed and established through an agreement pursuant to Public Resources Code section 6357.

The Parties acknowledge that the Sacramento River has been subject to various natural and artificial influences over the years. Accurate maps and descriptions showing the location of the levees relative to the Sacramento River and the ordinary high water mark prior to 1900 cannot be found despite the best efforts of the Parties. The Parties are proposing to establish a fixed common boundary along the boundary of Rancho New Helvetia. Staff believes there is no sovereign interest within Rancho New Helvetia at this location because there is no evidence that the State made an appearance at the Rancho's confirmation proceedings and under *Summa Corporation v. California* (1984) 466 U.S. 198, the Commission is precluded from asserting a sovereign interest. The location of the common boundary is also consistent with an earlier boundary line agreement north of the Subject Property.

The BLA contains the following major provisions:

1. The establishment of a fixed common boundary line which is the extension of the previously established common boundary north of "Q" Street downstream along the waterward hinge point of the levee to the north line of Pioneer Bridge.
2. Quitclaim by the City and RASA of any interest they may have waterward of the proposed common boundary. This will give the State clear title to lands within the bed of the Sacramento River free of any claim or interest of the City or RASA. The City has several recorded deeds which describe lands extending into the bed of the river. The quitclaim will also remove any unrecorded City or RASA interest or claim to the bed of the river waterward of the common boundary.
3. Quitclaim by the State to City and RASA of any interest the State may have landward of the proposed common boundary, i.e. Rancho New Helvetia lands within the Subject Property. Staff

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believes there is no sovereign interest within Rancho New Helvetia at this location because there is no evidence that the State made an appearance at the Rancho's confirmation proceedings.

4. The reservation of a right to the City to repair and maintain the existing levee within the Subject Property. Except for the intentional or negligent acts or omissions of the Commission, its employees, agents and officers, the Commission shall incur no liability nor assume any responsibility whatsoever for damages, injuries, causes of action or otherwise, resulting now or hereafter from any defect of the levee, including but not limited to its condition, state of repair or maintenance.
5. The BLA does not provide for termination of the Public Trust over any lands landward of the common boundary because these lands are considered rancho lands and there is no record of the State asserting an interest in them in the proceedings for confirmation of the Rancho.
6. Agreement by the Parties that should the City or RASA acquire any of the excluded properties within the Subject Property, the City and RASA will accept the boundary line established in the BLA as the western property boundary line to the extent appropriate.

This proposed BLA is consistent with the Public Trust in that it clarifies the location and extent of sovereign lands subject to the Public Trust in and along the Sacramento River within the Subject Property. No Public Trust interest is being relinquished in the upland properties because there is no evidence of State sovereign ownership in them as a result of the upland properties being part of Rancho New Helvetia. Further, execution of the proposed BLA would establish a common boundary line and clear title to the interests of each of the Parties from Old Sacramento down to Pioneer Bridge.

Staff believes the proposed BLA is favorable to the State overall and is a good compromise resolving the contentions of the Parties. Staff recommends the approval of the proposed BLA because it eliminates the possibility of litigation with an uncertain outcome between the Parties over ownership of the various property interests. Secondly, it accomplishes a Commission goal of clarifying, defining and permanently fixing the

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boundaries between State interests and those of other local governmental entities.

OTHER PERTINENT INFORMATION:

1. The proposed action is consistent with Strategy 1.2 of the Commission's Strategic Plan to provide that the current and future management of ungranted sovereign lands and resources and granted lands, including through strategic partnerships with trustee ports and harbor districts, is consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-level rise, public access, and complex land use planning and marine freight transportation systems; and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a statutorily exempt project. The project is exempt because it involves settlement of a title and boundary dispute.

Authority: Public Resources Code section 21080.11 and California Code of Regulations, title 14, section 15282, subdivision (f).

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21080.11 and California Code of Regulations, title 14, section 15282, subdivision (f), settlement of a title and boundary dispute.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed boundary line agreement is consistent with the Public Trust and in the best interests of the State.

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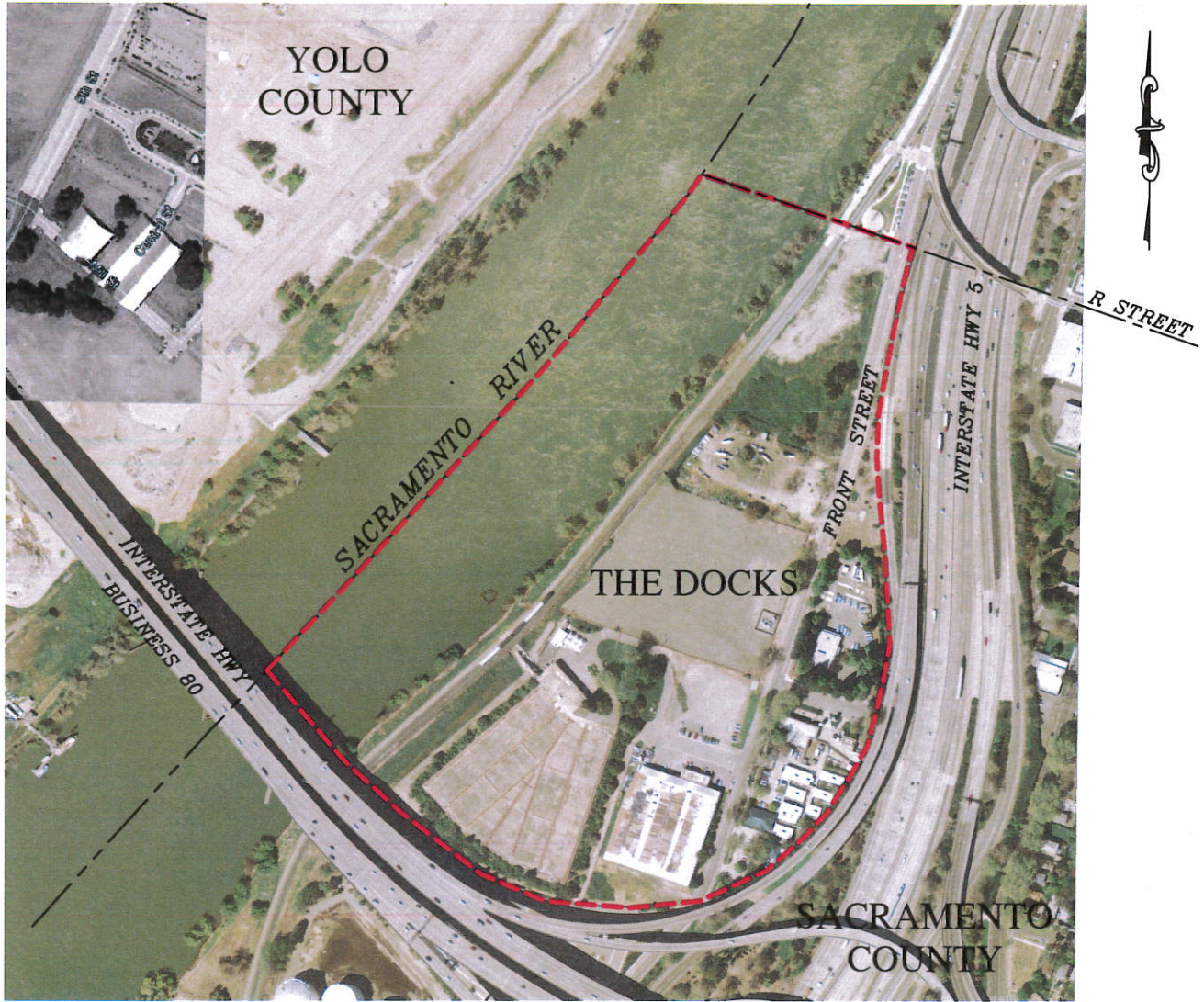
AUTHORIZATION:

1. Approve and authorize the execution, acknowledgment, acceptance and recordation, on behalf of the Commission, of that certain agreement entitled "Boundary Line Agreement between the California State Lands Commission and the City of Sacramento, a Municipal Corporation, and the Redevelopment Agency Successor Agency (for the dissolved Redevelopment Agency of the City of Sacramento), an Entity Created by Statute, to Establish an Agreed Common Boundary Line between City Owned Properties, Redevelopment Agency Successor Agency Owned Properties, and State Sovereign Lands in and along the Sacramento River in Sacramento, Sacramento County" pertaining to certain lands in an area bounded by the center line of the Sacramento River on the west, "Q" Street on the north, Interstate 5 on the east and the north line of the right of way for Pioneer Bridge on the south, in substantially the form of the agreement on file with the Commission and, including but not limited to the State's Certificate of Acceptance and Consent to Recording and all other further documents and instruments that may be necessary to fully effectuate the provisions of the agreement.

2. Authorize and direct the staff of the Commission and/or the California Attorney General to take all necessary or appropriate actions on behalf of the Commission, including the execution, acknowledgment, acceptance and recordation of all documents as may be necessary or convenient to carry out the proposed agreement; and to appear on behalf of the Commission in any legal proceedings relating to the subject matter thereof.

NO SCALE

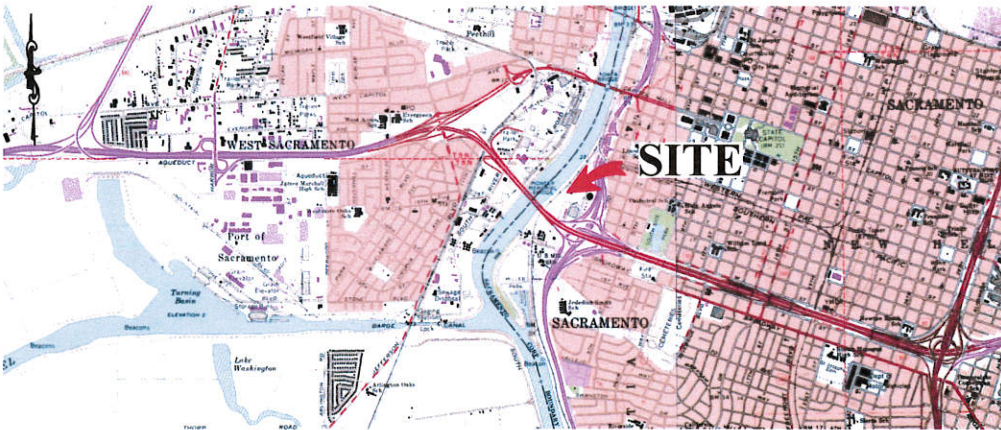
SITE



THE DOCKS, SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

W 26265
 BLA BETWEEN SLC AND THE
 CITY OF SACRAMENTO
 BOUNDARY LINE
 AGREEMENT
 SACRAMENTO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.