

MINUTE ITEM

This Calendar Item No. 19
was approved as Minute Item
No. 19 by the State Lands
Commission by a vote of 2 CALENDAR ITEM
to 0 at its 4/26/79
meeting. 19.

4/79
W 22110
Grimes
Rusconi
BLA 187

APPROVAL OF SETTLEMENT OF TITLE
DISPUTE IN THE CITY OF EUREKA

In January of 1979, the State Lands Commission's staff received an application submitted to the North Coast Regional Coastal Commission for a permit to construct a warehouse and parking lot on a filled and partially developed parcel of land in the City of Eureka. Review by the Commission's staff revealed there were serious title questions involved in this application because the parcel was included within the perimeter description of Tideland Survey No. 1 and is subject to the public trust for commerce, navigation and fisheries and which was granted to the City of Eureka pursuant to Chapter 225 of the Statutes of 1945. In addition, the parcel may have been traversed by Clark Slough, the bed of which is submerged lands owned in fee by the City by virtue of a legislative grant.

In order for North Coast Merchantile Company, the developer to obtain financing for the project, it is necessary for them to have clear title. Following negotiations between the applicant, the City of Eureka, the Office of the Attorney General, and the State Lands Commission's staff, a proposed settlement has been reached.

Pursuant to Chapter 1085, Statutes of 1970, the State Lands Commission is required to approve the settlement of any dispute as to rights, title, or interest in or to tide and submerged lands located within the City. This settlement represents the fifth of what is expected to be a series of applications for settlement of waterfront title matters in this area. In this application, the Commission is requested to approve a settlement between the City of Eureka, the State Lands Commission, and North Coast Merchantile Company and any other holders of record title to this parcel.

The essential elements of this settlement are:

1. The City, with the approval of the State Lands Commission will quitclaim all of its rights, title and interest in the parcel to the current holders of record title.
2. The current holders of record title will pay into the Eureka Tidelands Fund the sum of \$2,000.

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3. Any sums deposited into the fund will be held in trust and can only be used for the purchase or improvement of tide and submerged lands, or interest therein or lands or interests in lands adjacent to sovereign lands which are susceptible to use for public trust purposes.
4. Withdrawal of the funds will only be made when a suitable parcel or other land interest is found and the State Lands Commission and the City of Eureka certify that the parcel meets the requirements specified above.
5. Any lands purchased with the funds will be subject to the trust and will be subject to the provisions and limitations contained in the granting statutes.

Because the parcel is currently surrounded by streets on all 4 sides, is completely filled and partially developed and because the cost of litigation would probably exceed the value of the land, the Office of the Attorney General and the Commissions' staff recommended approval of the settlement.

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 1085, STATUTES OF 1970:

1. FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF CEQA ARE INAPPLICABLE.
2. DETERMINE AND DECLARE, PURSUANT TO AND IN ACCORDANCE WITH SECTION 2(b) OF CHAPTER 1085, STATUTES OF 1970, THAT THOSE PORTIONS OF THE SETTLEMENT AS DESCRIBED IN EXHIBIT "A" OF THE PROPOSED SETTLEMENT AGREEMENT WHICH WERE BELOW THE LINE OF MEAN HIGH TIDE IN ITS LAST NATURAL POSITION, ARE LANDS WITHIN THE HUMBOLDT BAY AREA WHICH HAVE HERETOFORE BEEN IMPROVED IN CONNECTION WITH THE DEVELOPMENT OF THE HUMBOLDT BAY AREA, AND IN THE PROCESS OF SUCH DEVELOPMENT HAVE BEEN FILLED AND RECLAIMED; ARE NO LONGER SUBMERGED OR BELOW THE PRESENT LINE OF MEAN HIGH TIDE AND ARE NO LONGER NECESSARY OR USEFUL FOR COMMERCE, FISHERIES OR NAVIGATION.

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3. APPROVE THE SETTLEMENT, AS OUTLINED ABOVE, BETWEEN THE CITY OF EUREKA, THE STATE LANDS COMMISSION AND NORTH COAST MERCHANTILE AND OTHER HOLDERS OF RECORD TITLE PURSUANT TO AND IN ACCORDANCE WITH SECTION 6 OF CHAPTER 1085, STATUTES OF 1970.
4. APPROVE THE ADEQUACY OF THE CONSIDERATION WITH RESPECT TO THE SETTLEMENT, PROVIDED FOR IN THE SETTLEMENT PURSUANT TO AND IN ACCORDANCE WITH SECTION 4 OF CHAPTER 1085, STATUTES OF 1970.
5. AUTHORIZE THE EXECUTION AND DELIVERY INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF HUMBOLDT, PURSUANT TO AND IN ACCORDANCE WITH SECTIONS 2(b) AND 5 OF CHAPTER 1085, STATUTES OF 1970, A SETTLEMENT AGREEMENT WHICH AGREEMENT WILL CERTIFY THE LANDS WITHIN THE SETTLEMENT AREA DESCRIBED IN EXHIBIT "A" ARE LANDS ABOVE THE PRESENT LINE OF MEAN HIGH TIDE AND HAVE BEEN FOUND TO BE NO LONGER NECESSARY OR USEFUL FOR COMMERCE, FISHERIES OR NAVIGATION, UPON THE RECORDATION OF WHICH CERTIFICATE AND OTHER INSTRUMENTS PROVIDED FOR IN THE SETTLEMENT, THE LANDS WITHIN SAID SETTLEMENT AREA SHALL BE FREED OF THE PUBLIC USE AND TRUST FOR COMMERCE, FISHERY, AND NAVIGATION, AND FROM SUCH USES, TRUSTS, CONDITIONS AND RESTRICTIONS AS ARE OR HAVE BEEN IMPOSED BY CHAPTER 187, STATUTES OF 1927; CHAPTER 225, STATUTES OF 1945; AND CHAPTER 1086, STATUTES OF 1970; AS SUBSEQUENTLY AMENDED AND MODIFIED.
6. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO FILE IN ANY ACTION TO QUIET TITLE BROUGHT BY THE RECORD OWNERS PURSUANT TO AND CONSISTENT WITH THE SETTLEMENT AGREEMENT, A DISCLAIMER BY THE STATE OF CALIFORNIA ON BEHALF OF THE STATE LANDS COMMISSION OF ANY RIGHT, TITLE OR INTEREST IN OR TO THOSE CERTAIN LANDS DESCRIBED AS PARCELS 1, 2, AND 3 IN EXHIBIT "A" OF THE PROPOSED SETTLEMENT AGREEMENT.
7. AUTHORIZE THE COMMISSION STAFF TO INVESTIGATE POSSIBLE PARCELS MEETING THE CRITERIA SPECIFIED ABOVE FOR PURCHASE BY THE CITY WITH FUNDS DEPOSITED INTO THE ESCROW AND WHEN SUCH PARCEL IS FOUND AUTHORIZE THE CERTIFICATION TO THE ESCROW AGENT THAT A PARCEL MEETING SAID CRITERIA HAS BEEN FOUND AND THAT BY SUCH CERTIFICATION THE FUNDS MAY BE RELEASED FROM ESCROW FOR THE PURCHASE OF SUCH PROPERTY.

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8. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS WHICH THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THE SETTLEMENT AGREEMENT.

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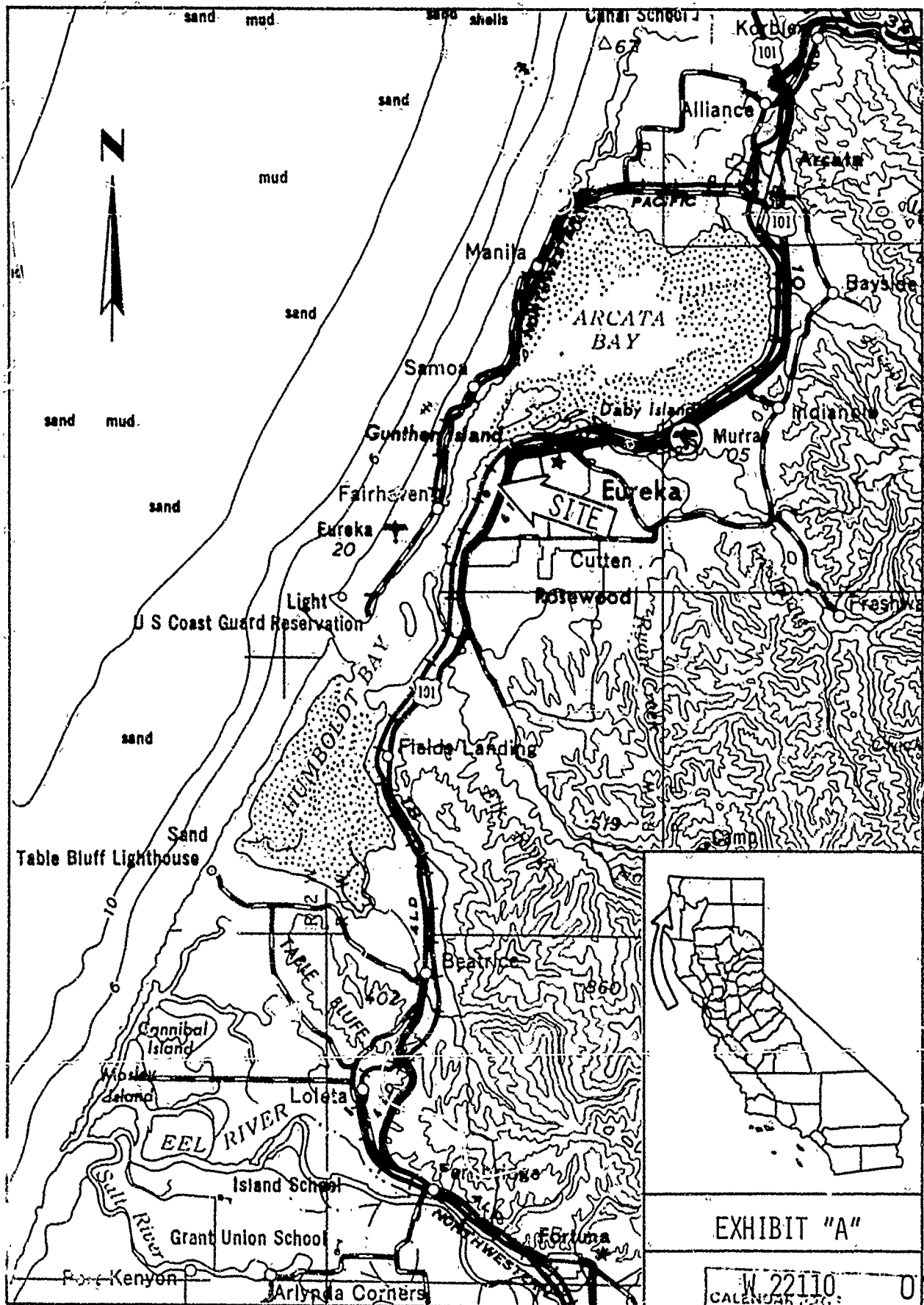


EXHIBIT "A"

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