

MINUTE ITEM

This Calendar Item No. 37  
was approved as Minute Item  
37 by the State Lands  
Commission by a vote of 2  
to 0 at its 2-28-80  
meeting.

CALENDAR ITEM

37.

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APPROVAL OF SETTLEMENT OF  
TITLE DISPUTE IN THE CITY OF EUREKA

In October of 1979, the State Lands Commission's staff received a request from the City of Eureka for a resolution of title problems which were holding up the planned development of City property located at 14th and Koster Streets, in the City of Eureka. The parcel in question is included within the perimeter description of Tideland Survey No. 1, is subject to the common law public trust for commerce, navigation and fisheries, and was granted to the City of Eureka pursuant to Chapter 225 of the Statutes of 1945. In addition, a portion of the parcel may have been traversed by Clark Slough, the bed of which may be submerged lands owned in fee by the City by virtue of a legislative grant. The City of Eureka acquired the private title to the subject parcel by virtue of a tax deed.

Based upon it's acquisition of the private title to the parcel in question, the City wishes to develop the property for a use which may not be consistent either with the public trust or with the granting statutes. Following negotiations between the City of Eureka, the Office of the Attorney General, and the State Lands Commission's staff, a proposed settlement and exchange has been reached.

Pursuant to Chapter 1085 of 1970, the State Lands Commission is required to approve the settlement of any dispute as to the right, title, or interest in or to tide and submerged lands located within the City. In this case, the Commission is requested to approve a settlement and exchange between the City of Eureka and the State Lands Commission.

The essential elements of this settlement are:

1. The State of California, State Lands Commission, will quitclaim to the City of Eureka all of its right, title and interest in the settlement area located at 14th and Koster streets.
2. The City of Eureka agrees to hold a parcel of

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land located at First and D Streets in the City of Eureka, which currently is subject neither to the common law public trust nor to the terms of the grant, in trust subject to all the provisions of Chapter 225 of the Statutes of 1945 and Chapter 1086 of the Statutes of 1970 as well as the common law public trust for commerce, navigation and fisheries and will hold said parcel as if it were originally sovereign land granted by the State to the City.

3. The City of Eureka also agrees to relinquish its claim to reimbursement from tideland or other trust revenues for any and all funds, estimated at \$40,000.00, which have been or may be used for the purchase of that parcel known as the Kaiser Parcel in connection with the settlement of the commercial to K street tideland litigation.

The Office of the Attorney General and the Commission's staff recommend approval of the settlement on the basis public trust has not been deminished. The settlement agreement this office of the Commission.

EXHIBIT A. Location Map.

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

1. FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY DISPUTE 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 AREA 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.

3. APPROVE THE SETTLEMENT, ON FILE WITH THE OFFICE OF THE COMMISSION, BETWEEN THE CITY OF EUREKA AND THE STATE OF CALIFORNIA, STATE LANDS COMMISSION, PURSUANT TO AND IN ACCORDANCE WITH SECTION 4 OF CHAPTER 1085, STATUTES OF 1970.

4. APPROVE THE ADEQUACY OF THE CONSIDERATIONS PROVIDED

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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 1986, STATUTES OF 1970; AS SUBSEQUENTLY AMENDED AND MODIFIED.

6. AUTHORIZE THE STAFF OF THE COMMISSION AND OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS WHICH THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THE SETTLEMENT AGREEMENT.

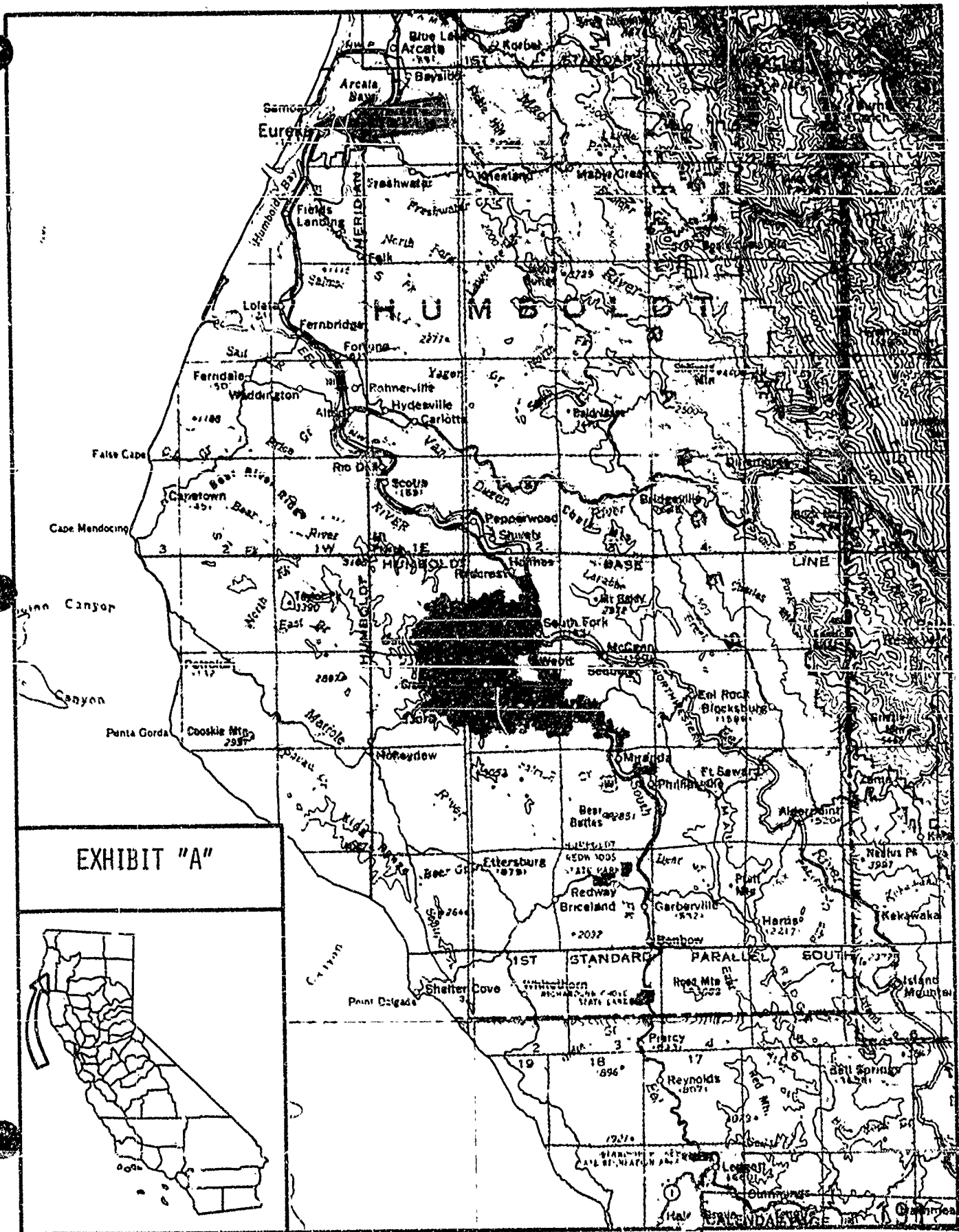


EXHIBIT "A"