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CITY OF EUREKA

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HUMBOLDT COUNTY RECORDS
EMMA COY-ALCALA, RECORDER

FRED J. MOORE, JR. DEPUTY
COUNTY CLERK

FILED

JAN 31 1974

DEPUTY

1 EVELLE J. YOUNGER, Attorney General
of the State of California.
2 DENNIS M. EAGAN
Deputy Attorney General
3 6000 State Building
San Francisco, California 94102
4 Telephone: 415-557-3650
5 Attorneys for Defendant
State of California

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF HUMBOLDT

11	THE PEOPLE OF THE STATE OF CALIFORNIA, etc.)	No. 47736
12)	
13	Plaintiff,)	STIPULATION FIXING
14	vs.)	BOUNDARY LINE OF
15	W. A. ROBINSON, et al.,)	SWAMP AND OVERFLOWED
16	Defendants.)	LANDS LOCATION NO. 3540 AND MORE PRECISELY DESCRIBING PARCEL 8

17 The parties to this Stipulation are THE PEOPLE OF THE
18 STATE OF CALIFORNIA, acting by and through the Department of
19 Public Works; W. A. ROBINSON; FRANK M. TURNER; FRANK RAY; HARVEY
20 G. HARPER; the CITY OF EUREKA (hereinafter referred to as "City"),
21 by its duly authorized City Attorney, Melvin S. Johnsen; and the
22 STATE OF CALIFORNIA (hereinafter referred to as "State"), acting
23 by and through the State Lands Commission, by the Attorney General,
24 the Commission's duly authorized attorney.

25 WHEREAS, the State obtained title to the tide and
26 submerged lands in Humboldt Bay, located in Humboldt County,
27 California (hereinafter referred to as "sovereign lands"), by
28 virtue of its sovereignty upon admission to the Union on
29 September 9, 1850; and

WHEREAS, lands abutting that portion of the ordinary
high water mark of Humboldt Bay affected by this Stipulation, as

The within instrument is a full, true
and correct copy of the original as
file in this office.

ATTEST:

FRED J. MOORE, JR. JUN 18 1974

County Clerk, and ex-officio Clerk of
the Superior Court of the State of
California, in and for the County of
Humboldt.

Deputy Clerk

1 said ordinary high water mark last existed in a state of nature,
2 unaffected by artificial influences, were patented into private
3 ownership as Swamp and Overflowed Lands Location No. 3540,
4 recorded in Book 18 of Patents, Page 18, in the Office of the
5 County Recorder of Humboldt County; and

6 WHEREAS, all right, title and interest of the State in
7 that portion of Humboldt Bay affected by this Stipulation
8 was granted by the State to the City, in trust, by Statutes of
9 1945, chapter 225; Statutes of 1970, chapter 1086; and Statutes
10 of 1971, chapter 1001, subject to certain exceptions, reservations,
11 terms, and conditions set forth in said Statutes, and subject to
12 the public trust and easement for commerce, navigation, and
13 fishery; and

14 WHEREAS, the boundary between said patented lands and
15 the sovereign lands in Humboldt Bay is the ordinary high water
16 mark of Humboldt Bay as it last existed in a state of nature, un-
17 affected by artificial influences; and

18 WHEREAS, the ordinary high water mark along that portion
19 of Humboldt Bay affected by this Stipulation, as the same existed
20 in its last natural state, has been affected and controlled by
21 artificial processes, including, but not limited to, the deposit
22 of dredging spoils and construction activities in connection with
23 the completion of the State highway between the City of Eureka
24 and the Samoa Peninsula, and there is consequently substantial
25 doubt and uncertainty as to the last natural location of said
26 ordinary high water mark, and consequently the true boundary
27 between the patented lands and the sovereign lands in that portion
28 of Humboldt Bay affected by this Stipulation is uncertain and in
29 doubt; and

30 WHEREAS, W. A. Robinson, Frank M. Turner, Frank Ray,
31 and Harvey G. Harper claim ownership, as successors in interest

1 to the original patentee, of said patented lands; and

2 WHEREAS, the portion of the complaint description of
3 Parcel 8 which is described as running along the "ordinary high
4 water line of Humboldt Bay" was not a surveyed line, did not
5 represent a precise location of the ordinary high water mark at
6 any point in time, and was not intended to and did not describe
7 a fixed location for the boundary between said patented lands
8 and the sovereign lands in that portion of Humboldt Bay affected
9 by this Stipulation, but was intended to, and did call to the last
10 natural position, unaffected by artificial influences, of the
11 ordinary high water mark of Humboldt Bay, wherever it might be;
12 and

13 WHEREAS, the aforementioned grant from the State to the
14 City contained the express reservation and condition that the State
15 might at any time in the future use said lands or any portion
16 thereof for highway purposes without compensation to the City,
17 its successors, or assigns, or any person, firm, or public or
18 private corporation claiming under it; and

19 WHEREAS, the parties hereto have attempted in good faith
20 to determine the boundary between said patented lands and the lands
21 held by the City, in trust, for the purpose of entering into this
22 compromise and settlement agreement and the parties believe it is
23 expedient and necessary within the meaning of Public Resources
24 Code §6357 and in the best interest of the State, the City, the
25 private parties hereto, and the public to avoid the time, expense
26 and uncertainty of litigation by stipulating to: (1) the location
27 of the last natural position of the ordinary high water mark,
28 unaffected by artificial influences, in this area, thereby
29 describing, determining, and fixing permanently by stipulation,
30 the boundary between said patented lands and the lands held by
31 the City, in trust, in Humboldt Bay by virtue of the aforementioned

1 statutes; and (2) a more precise description of Parcel 8 and hence
2 of the lands which are privately owned and for which just compensa-
3 tion is therefore due;

4 NOW, THEREFORE, IT IS HEREBY STIPULATED THAT:

5 1. The boundary of Swamp and Overflowed Lands Location
6 No. 3540 is as set forth in Exhibit A attached hereto, which
7 exhibit is hereby incorporated by reference as though fully set
8 forth herein.

9 2. It is the intent of the parties hereto that the
10 boundary between the sovereign lands in Humboldt Bay and Swamp
11 and Overflowed Lands Location No. 3540, which boundary is
12 characterized in Exhibit A as "the last natural position, unaffected
13 by artificial influences, of the ordinary high water mark of
14 Humboldt Bay" shall be permanent and fixed and not subject to
15 change by reason or erosion or accretion.

16 3. The lands adjacent to and waterward of said boundary
17 are owned in fee simple by the City of Eureka, in trust, by virtue
18 of the grant to the City from the State by Statutes of 1945,
19 chapter 225; Statutes of 1970, chapter 1086; and Statutes of
20 1971, chapter 1001, subject to certain exceptions, reservations,
21 terms and conditions set forth in said statutes, and subject to
22 the public trust and easement for commerce, navigation, and fishery.

23 4. That Parcel 8 and the privately owned land for which
24 the State of California, acting by and through the Department of
25 Public Works, is required to pay just compensation, is described
26 in Exhibit B attached hereto, which exhibit is hereby incorporated
27 by reference as though fully set forth herein.

28 5. Parcel 8 does not include within it any lands outside
29 the boundaries of Swamp and Overflowed Lands Location No. 3540,
30 nor does it include any lands within the aforementioned grant to
31 the City of Eureka.

1 6. It is expressly understood by the parties hereto
2 that this Stipulation has been entered into for the purpose of
3 compromising and settling the boundary line between the lands
4 solely of the parties hereto. The boundary line stipulated to
5 herein shall not constitute any admission by any of the parties
6 hereto, nor is it to be construed as any expression on the part
7 of any of the parties hereto as to the location of any other
8 interests of any of the parties hereto in lands in or adjacent
9 to Humboldt Bay. Specifically, the City and the State are
10 currently parties to other litigation concerning lands in or
11 adjacent to Humboldt Bay, and this Stipulation shall not be
12 construed in any way as limiting or inhibiting in any way the
13 contentions which the City and the State may wish to make in that
14 litigation concerning the location of pertinent boundaries, or
15 ~~the character or extent of interests in real property, having~~
16 particular regard to the existence of and effect upon such
17 boundaries or interests of artificial or natural influences
18 within Humboldt Bay.

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1 7. The parties hereto hereby consent to the entry
2 of all orders and judgments necessary to effectuate this
3 Stipulation, including an order by the court that the provisions
4 of this Stipulation contained in paragraphs 1 through 5, inclusive,
5 shall be incorporated into the final judgment in this action.

6
7 DATED: Jan 22, 1974 1974 *W. A. Robinson*
W. A. ROBINSON

8
9 DATED: Jan 22, 1974 1974 *Frank M. Turner*
FRANK M. TURNER

10
11 DATED: 1/22 1974 *Frank Ray*
FRANK RAY

12
13 DATED: 1/22 1974 *Harvey G. Harper*
HARVEY G. HARPER

14 DATED: 1/22 1974 MITCHELL, DEDEKAM & ANGELL

15
16 By *Robert C. Dedekam*
ROBERT C. DEDEKAM

17
18 Attorneys for Defendants and
19 Cross-Defendants W. A.
Robinson, Frank M. Turner,
Frank Ray and Harvey G. Harper

20
21 DATED: January 16, 1974 EVELLE J. YOUNGER
Attorney General

22
23 *Dennis M. Eagan*
24 DENNIS M. EAGAN
Deputy Attorney General

25 Attorneys for Defendant and
26 Cross-Defendant State of
27 California, acting by and
28 through the State Lands
29 Commission
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DATED: January 22, 1974

MELVIN S. JOHNSEN
City Attorney

By Melvin Johnsen

Attorneys for Defendant and
Cross-Complainant City of Eureka

DATED: January 31, 1974

HARRY S. FENTON, Chief Counsel
JOHN B. MATHENY, Assistant
Chief Counsel
RICHARD W. BOWER
WILLIAM M. McMILLAN

By Richard W. Bower
RICHARD W. BOWER

Attorneys for Plaintiff and
Cross-Defendant State of
California, acting by and through
the Department of Public Works,
now known as the Department of
Transportation

10643

BOUNDARY OF SWAMP AND OVERFLOWED

LANDS LOCATION NO. 3540

Beginning at the corner common to Sections 14, 15, 22, and 23, Township 5 North, Range 1 West, Humboldt Base and Meridian, as said corner was re-established and shown on the survey recorded February 6, 1951 in Book 12 of Surveys, page 86, Humboldt County Records;

(1) Thence, N. 1° 29' 38" E., along the west line of said Section 14, 849.99 feet to the intersection of said section line with the last natural position, unaffected by artificial influences, of the ordinary high water mark of Humboldt Bay;

(2) Thence, along the last natural position, unaffected by artificial influences, of the ordinary high water mark of Humboldt Bay the following courses and distances: N. 25° 57' 58" E., 28.62 feet:

- (3) Thence, N. 88° 06' 57" E., 76.04 feet;
- (4) Thence, N. 50° 22' 16" E., 41.55 feet;
- (5) Thence, N. 10° 22' 40" W., 84.38 feet;
- (6) Thence, S. 77° 06' 04" E., 26.88 feet;
- (7) Thence, S. 2° 23' 09" E., 60.05 feet;
- (8) Thence, N. 47° 17' 26" E., 88.46 feet;
- (9) Thence, S. 33° 20' 27" E., 68.23 feet;
- (10) Thence, N. 37° 52' 30" E., 22.80 feet;
- (11) Thence, N. 14° 02' 10" W., 16.49 feet;
- (12) Thence, S. 73° 18' 03" E., 26.10 feet;
- (13) Thence, S. 33° 08' 49" W., 29.26 feet;
- (14) Thence, N. 67° 31' 14" E., 31.39 feet;
- (15) Thence, N. 6° 06' 56" W., 28.16 feet;

HUMBOLDT A

- (16) Thence, N. 47° 38' 33" E., 23.01 feet;
- (17) Thence, S. 56° 43' 30" E., 76.55 feet;
- (18) Thence, N. 67° 22' 48" E., 6.50 feet;
- (19) Thence, N. 36° 58' 22" W., 55.70 feet;
- (20) Thence, N. 37° 41' 22" E., 43.34 feet;
- (21) Thence, N. 53° 22' 32" E., 22.31 feet;
- (22) Thence, S. 24° 10' 45" W., 26.86 feet;
- (23) Thence, S. 75° 57' 50" E., 8.25 feet;
- (24) Thence, N. 24° 18' 16" E., 17.01 feet;
- (25) Thence, N. 84° 55' 40" E., 33.93 feet;
- (26) Thence, S. 27° 58' 11" E., 16.42 feet;
- (27) Thence, N. 34° 22' 49" E., 11.51 feet;
- (28) Thence, S. 87° 08' 15" E., 30.04 feet;
- (29) Thence, S. 36° 01' 39" E., 13.60 feet;
- (30) Thence, N. 31° 44' 28" E., 25.28 feet;
- (31) Thence, N. 1° 01' 46" W., 44.51 feet;
- (32) Thence, S. 22° 31' 14" E., 88.77 feet;
- (33) Thence, S. 39° 10' 25" W., 17.41 feet;
- (34) Thence, N. 73° 33' 35" W., 31.80 feet;
- (35) Thence, S. 11° 27' 32" E., 37.75 feet;
- (36) Thence, S. 73° 27' 01" W., 40.37 feet;
- (37) Thence, S. 10° 48' 30" E., 22.40 feet;
- (38) Thence, S. 67° 09' 59" W., 41.23 feet;
- (39) Thence, N. 28° 04' 21" W., 17.00 feet;
- (40) Thence, S. 42° 55' 48" W., 117.46 feet;
- (41) Thence, S. 25° 20' 46" W., 21.02 feet;
- (42) Thence, S. 9° 09' 44" E., 15.70 feet;
- (43) Thence, S. 28° 23' 35" E., 21.03 feet;
- (44) Thence, S. 39° 50' 21" E., 174.51 feet;
- (45) Thence, S. 43° 57' 47" E., 31.26 feet;

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- (46) Thence, S. 77° 11' 45" E., 22.56 feet;
- (47) Thence, N. 65° 12' 46" E., 165.77 feet;
- (48) Thence, S. 88° 18' 55" E., 17.01 feet;
- (49) Thence, S. 37° 44' 48" E., 19.60 feet;
- (50) Thence, S. 4° 56' 45" E., 52.19 feet;
- (51) Thence, S. 4° 30' 50" W., 38.12 feet;
- (52) Thence, S. 24° 50' 07" W., 266.66 feet;
- (53) Thence, S. 29° 55' 09" W., 122.30 feet;
- (54) Thence, S. 43° 58' 04" W., 78.50 feet;
- (55) Thence, S. 30° 15' 23" W., 90.30 feet;
- (56) Thence, S. 40° 56' 26" W., 54.94 feet;
- (57) Thence, S. 48° 24' 18" W., 512.32 feet to the west line of said Section 23;

(58) Thence, leaving the last natural position, unaffected by artificial influences, of the ordinary high water mark of Humboldt Bay, N. 1° 29' 38" E., along said west line, 285.77 feet to the point of beginning.

Containing 11.73 acres.

The bearings and distances used in the above description are on the California Co-ordinate System, Zone 1. Multiply distances shown by 1.0001052 to obtain ground distances.

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PARCEL 8

For freeway purposes, that portion of fractional Section 14, Township 5 North, Range 1 West, Humboldt Base and Meridian, which lies within the following described boundaries:

Commencing at a brass cap set for the southwest corner of said Section 14 as shown on the Record of Survey recorded in Book 12 of Surveys, page 86, Humboldt County Records; thence, N. 8° 07' 30" E. (=N. 6° 43' 00" E. True Meridian), 711.59 feet to a point that bears S. 53° 23' 16" W., 216.14 feet from Engineer's Station 132+75.00 P.O.T. of the Control Line of the Department of Public Works' Survey (State highway 01-Hum-255-PM 0.0/2.0) as shown on the Record of Survey recorded in Book 23 of Surveys, pages 69 through 71, Humboldt County Records; said point being the TRUE POINT OF BEGINNING;

(1) Thence, N. 88° 30' 22" W., 82.17 feet to the west line of said Section 14;

(2) Thence, N. 1° 29' 38" E., along said west line, 143.16 feet to the last natural position, unaffected by artificial influences, of the ordinary high water mark of Humboldt Bay (hereinafter referred to as the "last natural ordinary high water mark");

Thence, along said last natural ordinary high water mark, the following courses and distances:

- (3) N. 25° 57' 58" E., 28.62 feet;
- (4) N. 88° 06' 57" E., 76.04 feet;
- (5) N. 50° 22' 16" E., 41.55 feet;
- (6) N. 10° 22' 40" W., 84.38 feet;
- (7) S. 77° 06' 04" E., 26.88 feet;
- (8) S. 2° 23' 09" E., 60.05 feet;
- (9) N. 47° 17' 26" E., 88.46 feet;
- (10) S. 33° 20' 27" E., 68.23 feet;

EXHIBIT B

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- (11) N. 37° 52' 30" E., 22.80 feet;
- (12) N. 14° 02' 10" W., 16.49 feet;
- (13) S. 73° 18' 03" E., 26.10 feet;
- (14) S. 33° 08' 49" W., 29.26 feet;
- (15) N. 67° 31' 14" E., 31.39 feet;
- (16) N. 6° 06' 56" W., 28.16 feet;
- (17) N. 47° 38' 33" E., 23.01 feet;
- (18) S. 56° 43' 30" E., 76.55 feet;
- (19) N. 67° 22' 48" E., 6.50 feet;
- (20) N. 36° 58' 22" W., 55.70 feet;
- (21) N. 37° 41' 22" E., 1.74 feet;

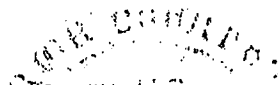
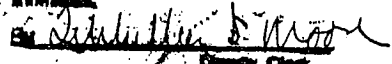
(22) Thence, leaving said last natural ordinary high water mark, S. 36° 36' 44" E., 99.94 feet to said last natural ordinary high water mark;

Thence, along said last natural ordinary high water mark, the following courses and distances:

- (23) S. 42° 55' 48" W., 107.42 feet;
- (24) S. 25° 20' 46" W., 21.02 feet;
- (25) S. 9° 09' 44" E., 15.70 feet;
- (26) S. 28° 23' 35" E., 21.03 feet;
- (27) S. 39° 50' 21" E., 174.51 feet;
- (28) S. 43° 57' 47" E., 31.26 feet;
- (29) S. 77° 11' 45" E., 22.56 feet;
- (30) N. 65° 12' 46" E., 108.23 feet;

(31) Thence, leaving said last natural ordinary high water mark, S. 36° 36' 44" E., 124.63 feet to the last natural ordinary high water mark;

Thence, along said last natural ordinary high water mark, the following courses and distances:


 The within instrument is a full, true and correct copy of the original as filed in this office.
 ATTEST: JUN 18 1974
 FRED J. MOORE, JR.
 County Clerk and ex-officio Clerk of the Superior Court of the State of California, in and for the County of Humboldt.

 Deputy Clerk

10643

- (32) S. 24° 50' 07" W., 246.65 feet;
- (33) S. 29° 55' 09" W., 122.30 feet;
- (34) Thence, S. 43° 58' 04" W., 42.12 feet to a point that bears S. 37° 07' 59" E. from the true point of beginning;
- (35) Thence, leaving said last natural ordinary high water mark, N. 37° 07' 59" W., 632.60 feet to the TRUE POINT OF BEGINNING.

Lands abutting said freeway shall have no right or easement of access thereto except over and across course (1) above to a 50.00 foot opening in the freeway opposite Engineer's Station 133+00.00 P.O.T. of said Control Line.

The bearings and distances used in the above description are on the California Co-ordinate System, Zone 1. Multiply distances shown by 1.0001052 to obtain ground distances.

