MINUTE ITEM

This Calendar Item No. 34 was approved as Minute Item No. 34 by the State Lands Commission by a vote of 2 to 0 at its 8-26-80 meeting.

CALENDAR ITEM

34.

8/80
W 503.570
W 503.720
W 503.721
W 503.723
W 503.724
W 503.728
W 503.736
W 503.748
W 503.749
W 503.750
W 503.816
W 503.824
Grimes
Rusconi

APPROVAL OF SETTLEMENT OF TIDE AND SUBMERGED LANDS LITIGATION IN THE CITY OF EUREKA (BLA 199)

This proposed settlement, involving eleven city blocks of land in Eureka, Humboldt Bay, together with the Halverson settlement approved by the State Lands Commission in March of 1979, finally resolves the lengthy and complex title and boundary dispute in the City of Eureka. The State Lands Commission is required to approve and is requested to be a party to the settlement agreement which embraces an exchange of various parcels, a determination of waterfront boundary, and the termination of the public trust easement for commerce, navigation and fisheries over certain lands.

Under the proposed settlement, questions regarding the public and private titles to approximately 3,153 lineal feet of waterfront between Commercial Street and a point near the easterly line of K Street will finally be resolved.

Since 1968 a major portion of the city's downtown waterfront between Commercial and S Streets has been the subject of litigation. There are currently pending in the Superior Court of Humboldt County, sixteen actions in which the parties to the proposed agreement are litigating their respective competing claims to various parcels of the Eureka waterfront. Eleven of the actions involve property located between A and K Streets which were consolidated for trial. The first phase of trial took place in 1976 and the second phase in 1978/1979. The settlement will make the planned third phase unnecessary.

A 2

S 2

The other five pending actions are condemnation and quit title actions and concern title to land between Commercial and A Streets and involve the proposed westerly natural extension of First Street. To date these five actions have not been tried. Parent source of title to private and public claims in this area stem from a tideland patent (TLS 8).

The City of Eureka claims title to its tide and submerged lands by virtue of Chapter 82, Statutes of 1857, and later statutes, as subsequently amended and modified. Since the settlement area is within the perimeter of tide and submerged lands previously granted in trust to the city by the Legislature, the city is the successor in interest to any sovereign rights remaining in such portions of the settlement area.

In that portion of the settlement area easterly of A Street, the city claims ownership in fee of all lands lying bayward of the last natural position of the mean high waterline. In the portion of the settlement area between Commercial and A Streets, the city contends that such lands within Tideland Survey 8 Humboldt are subject to the public trust easement and that the city is the owner in fee of all lands lying bayward of the last natural position of the line of ordinary low water of Tideland Survey 8 Humboldt.

The private parties claim title to tide and submerged lands between A and K Streets under sales by the city purportedly authorized bt the 1857 act. The private parties claim title to tidelands between Commercial and A Streets through a Tideland patent issued by the state.

During the past century many artificial changes have been made in the shoreline and the upland portion of the settlement area. As a result of the uncertainty of the locations of the respective boundaries and the varying classifications of lands involved in the settlement area, the City, the Commission's staff and the Office of the Attorney General undertook to resolve the dispute on an overall basis with the private parties.

The Eureka City Council has approved this settlement agreement. The Commission's staff and the Attorney General's Office were actively involved in negotiating the proposed settlement and recommend its approval by the Commission.

Pursuant to Chapter 1085, Statute of 1970, the Commission is required to approve the settlement of any dispute as to the rights, title or interests in or to tide and submerged lands located within the City. This settlement is the third involving lands within the overall litigation area; there have also been several other prior settlements as to lands outside that area.

The essential elements of this settlement are:

1. The City, with the approval of the State Lands Commission, will convey to the private parties all of its rights, title and interests, excepting easements for utilities, etc., in and to those lands within the settlement area which are presently filled and southerly or landward of the agreed waterfront boundary line as shown on Exhibit "B" of this calendar item, free of the public trust easement. For those lands which are presently unfilled but southerly or landward of the agreed waterfront boundary line as shown on Exhibit "B" of this calendar item, the private parties may, pursuant to the settlement agreement, fill the lands and have the trust terminated in the future.

2. The private parties will convey to the City all of their rights, title and interests in and to those lands within the settlement area which are northerly or bayward of the agreed waterfront boundary line as shown on Exhibit "B" of this calendar item.

3. The private parties will enter into leases with the City for occupied areas which are northerly or bayward of the agreed waterfront boundary line as shown on Exhibit "B" of this calendar item. Copies of the proposed leases are on file in the records of the State Lands Commission.

4. The private parties will convey to the city all of their rights, title and interests in and to those lands within the settlement area described as Parcels 3, 4, 9, 10, and 15, as shown on Exhibit "C" of this calendar item to be used for the First Street Extension.

The major benefits flowing to the City from the settlement agreement include the following:

1. The City of Eureka will receive $129,500 from the private parties which will be used toward the purchase of two prime waterfront parcels. One parcel commonly known as Kaiser is shown as parcel 16 on Exhibit 'C'. The second parcel is at the northeast corner of First and Commercial Street commonly known as the Norcoast parcel.

2. The City of Eureka will receive several needed parcels for the planned First Street Extension free of costs of condemnation, and severence damage. Said parcels are those listed in item 4 above.

3. The private parties are entering into leases with the City of Eureka for occupied tide and submerged lands waterward of the agreed waterfront boundary line. This will generate steady and substantial income to the Humboldt Bay Tidelands Fund.

4. Consolidated upland sites with unclouded titles will be made available for the location of privately owned facilities, such as motels, restaurants, and commercial and residential structures, in harmony with the City's longrange plans to transform the downtown waterfront area and to increase employment in an economically depressed area by providing construction jobs and additional jobs after the facilities are built. The settlement is in accordance with the Eureka Core Area Development Plan, which provides in part for the development of the City's waterfront.

The Office of the Attorney General has orally advised the Commission's staff that the settlement is permissible under the circumstances outlined above and is consistent with the provisions of Chapter 1085, Statutes of 1970. The Commission's Staff, which was actively involved in negotiating this settlement, has determined the adequacy of the consideration received by the City in exchange for its conveyances, releases, quitclaims and settlement, and said analysis supporting such determination is on file in the Commission's office. A copy of the proposed settlement is also on file in such office.

EXHIBITS:
A. Location Map.
B. Agreed Waterfront Boundary Line Map.
C. Parcel Map.

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

1. APPROVE THE SETTLEMENT - (BLA 199), CONVEYANCES AND AGREEMENTS, SUBSTANTIALLY IN THE FORM ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AS OUTLINED ABOVE, FOR THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION: THE CITY OF EUREKA; AND HOLDERS OF RECORD TITLE, PURSUANT TO AND IN ACCORDANCE WITH SECTION 6, OF CHAPTER 1085, STATUTES OF 1970.

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 SHOWN ON EXHIBIT "C" TO THE PROPOSED SETTLEMENT AGREEMENT, SOUTHERLY OR LANDWARD OF THE AGREED WATERFRONT BOUNDARY LINE WHICH WERE BELOW THE LINE OF MEAN HIGH TIDE IN ITS LAST NATURAL POSITION, ARE LAND 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, AND CONSEQUENTLY PURSUANT TO AND IN ACCORDANCE WITH PART 6 OF THE SETTLEMENT AGREEMENT ARE FREED OF THE PUBLIC USE AND TRUST FOR COMMERCE, FISHERIES AND NAVIGATION AND FROM SUCH USE TRUSTS, CONDITIONS AND RESTRICTIONS AS ARE OR HAVE BEEN IMPOSED BY CHAPTER 82, STATUTES OF 1857; CHAPTER 38, STATUTES OF 1915; CHAPTER 187, STATUTES OF 1927; CHAPTER 225, STATUTES OF 1945; AND CHAPTER 1086, STATUTES OF 1970, AS SUBSEQUENTLY AMENDED AND MODIFIED.

3. APPROVE THE ADEQUACY OF CONSIDERATION WITH RESPECT TO THE SETTLEMENT, CONVEYANCES AND AGREEMENTS PROVIDED FOR IN THE PROPOSED SETTLEMENT AGREEMENT, PURSUANT TO AND IN ACCORDANCE WITH SECTION 4 OF CHAPTER 1085, STATUTES OF 1970.

4. ADOPT THE MAP OF THE AGREED WATERFRONT BOUNDARY LINE AND PARCEL MAP, EXHIBITS "B" AND "C" HERETO, AS OFFICIAL MAPS OF THE STATE LANDS COMMISSION PURSUANT TO SECTION 6202 OF THE PUBLIC RESOURCES CODE.

5. AUTHORIZE EXECUTION OF AND DELIVERY INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF HUMBOLDT, PURSUANT TO AND IN ACCORDANCE



CALENDAR PAGE 155
MINUTE PAGE 1816
(Rev. 8/21/80)

WITH SECTIONS 2(b) and 5 OF CHAPTER 1085, STATUTES OF 1970, A CERTIFICATE THAT THE PRESENTLY FILLED LANDS SOUTHERLY OR LANDWARD OF THE AGREED WATERFRONT BOUNDARY DESCRIBED IN THE PROPOSED SETTLEMENT AGREEMENT, 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 THE OTHER INSTRUMENTS PROVIDED FOR IN THE AGREEMENT, THE LANDS WITHIN SAID PARCELS SHALL BE FREED OF THE PUBLIC USE AND TRUST FOR COMMERCE, FISHERIES 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 EXECUTION OF THE PROPOSED SETTLEMENT AGREEMENT SUBSTANTIALLY IN THE FORM ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND OTHER APPROPRIATE TITLE DOCUMENTS ON BEHALF OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LAND COMMISSION, AND DELIVERY OF SAID AGREEMENT INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF HUMBOLDT, PURSUANT TO AND IN ACCORDANCE WITH SECTIONS 3 AND 5 OF CHAPTER 1085, STATUTES OF 1970.

7. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO FILE, IN ANY PENDING ACTION TO QUIET TITLE, A DISCLAIMER BY THE STATE LANDS COMMISSION ON BEHALF OF THE STATE OF CALIFORNIA OF ANY RIGHT, TITLE OR INTEREST IN OR TO THOSE CERTAIN LANDS LYING SOUTHERLY OR LANDWARD OF THE AGREED WATERFRONT BOUNDARY LINE DESCRIBED IN PART 4 OF SAID AGREEMENT OR ENTER INTO STIPULATIONS OF FACTS AND FOR JUDGMENTS IN THE PENDING ACTIONS CONFINING THE VALIDITY OF THE SETTLEMENT AND ESTABLISHING TITLES TO THE PRIVATELY OWNED PARCELS SOUTHERLY OR LANDWARD OF THE AGREED WATERFRONT BOUNDARY LINE CONSISTENTLY WITH THE SETTLEMENT AGREEMENT.

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 PROPOSED SETTLEMENT AGREEMENT.

9. FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF CEQA ARE INAPPLICABLE.



CALENDAR PAGE 156
MINUTE PAGE 1817

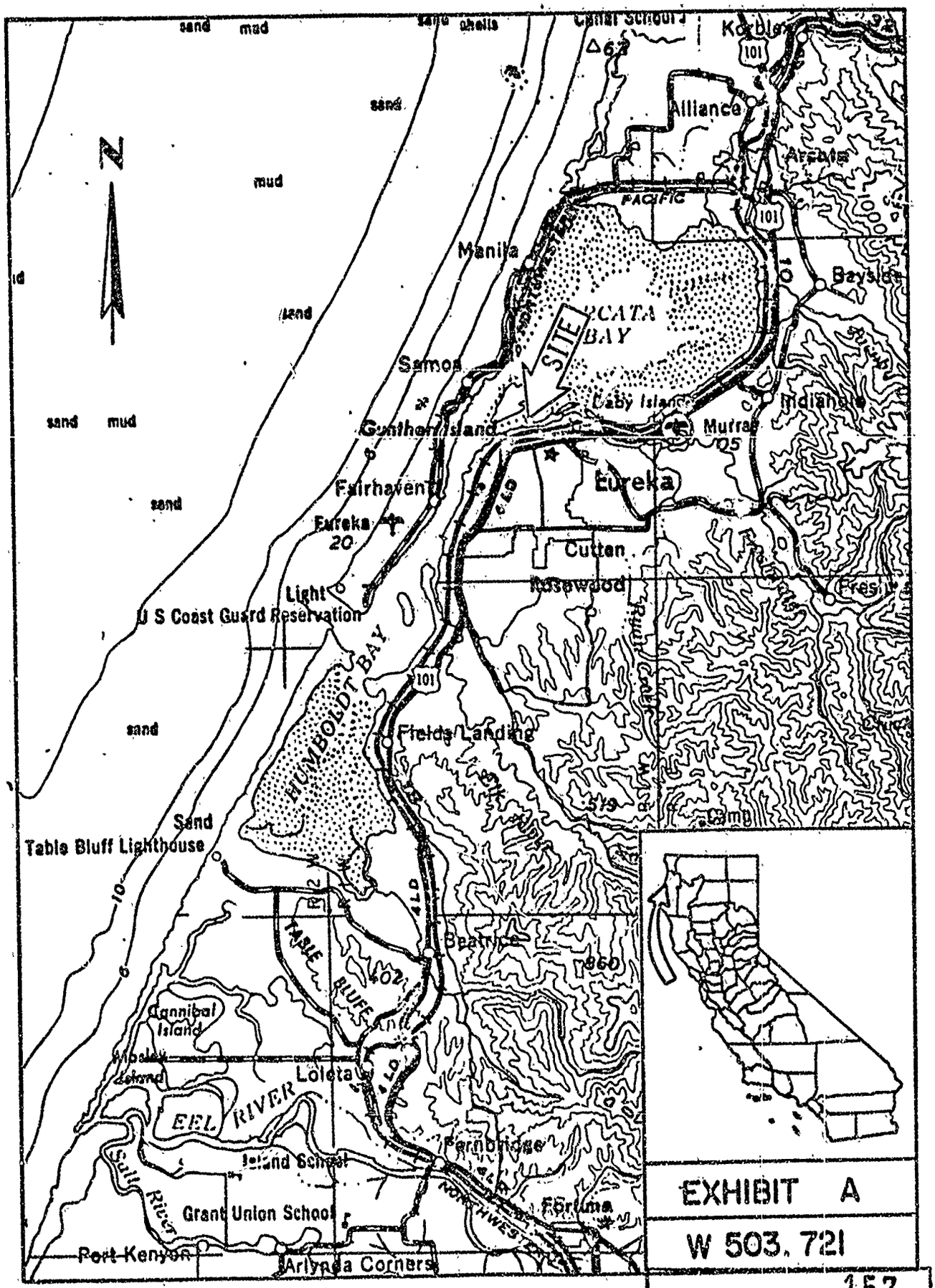
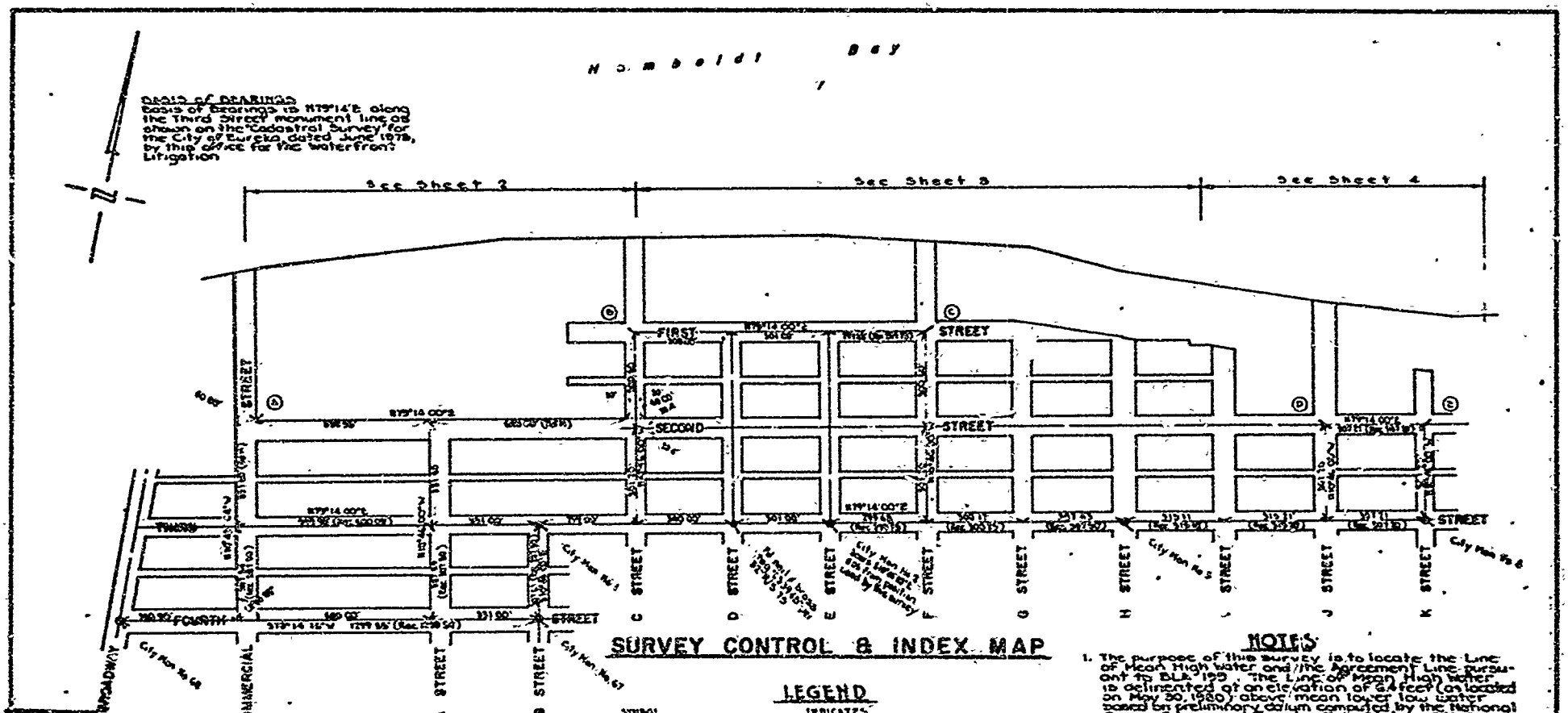



EXHIBIT A

W 503.721

CALENDAR PAGE 157

MINUTE PAGE 1818




# SURVEY CONTROL & INDEX MAP

## LEGEND

| SYMBOL | INDICATES |
|---|---|
| ⊙ | Standard City monument found and used to control this survey. (See 32R/573, 33R/560, 5 PM 17 and 14 PM 111) |
| ● | Found monument as described hereon. |
| Ⓐ | Designation of common points for identification purposes. |
| | Agreement Line. |
| | Line of Mean High Water. |
| #30 | Angle point (number) in US Pierhead and Bulkhead Lines as designated by US Army Corps of Engineers "HARBOR LINES" map #5-4-5, dated August 1, 1957. |

## NOTES

1. The purpose of this survey is to locate the Line of Mean High Water and the Agreement Line pursuant to BLA 199. The Line of Mean High Water is delineated at an elevation of 6.4 feet (as located on May 30, 1980) above mean lower low water based on preliminary datum computed by the National Ocean Survey at Eureka Tide Station 941-8801. On this datum NOS tidal benchmark EP 45 is at an elevation of 10.48 feet above mean lower low water.
2. The US Bulkhead Line per US Army Corps of Engineers "HARBOR LINES" Map #5-4-5, dated August 1, 1957 was established by this office on the "CADASTRAL SURVEY" for the City of Eureka, dated June 1978, from files to USC&GS, Control Stations "Depot RM No. 2" and "SAN 2 USE"

THIS MAP IS TO BE DEEMED A MAP OF THE CALIFORNIA STATE LANDS COMMISSION-BLA 199

**RECORD OF SURVEY**
FOR
**CITY OF EUREKA**
WITHIN THE CITY OF EUREKA
N 1/2, SECTION 22, T5N, R1W, H.M.

COUNTY OF Humboldt, STATE OF CALIFORNIA
SCALE 1" = 200' May, 1980

GRIFFITH & ASSOCIATES
SURVEYORS PLACER

SHEET 1 OF 6
179-408-18

**SURVEYOR'S CERTIFICATE**
This map correctly represents a survey made by me or under my direction, in conformance with the requirements of the Land Surveyor's Act at the request of City of Eureka in May, 1980.

KENNETH J. OHSBURG, JR., LS 4448

**COUNTY SURVEYOR'S CERTIFICATE**
This map has been examined for conformance with the requirements of the Land Surveyor's Act this ____ day of _____ 19__.

COUNTY SURVEYOR

**COUNTY RECORDER'S CERTIFICATE**
Filed this ____ day of _____ 19__ at ____ M in Book ____ of Surveys at Page ____ Humboldt County Records at the request of the City of Eureka.

Fee ____

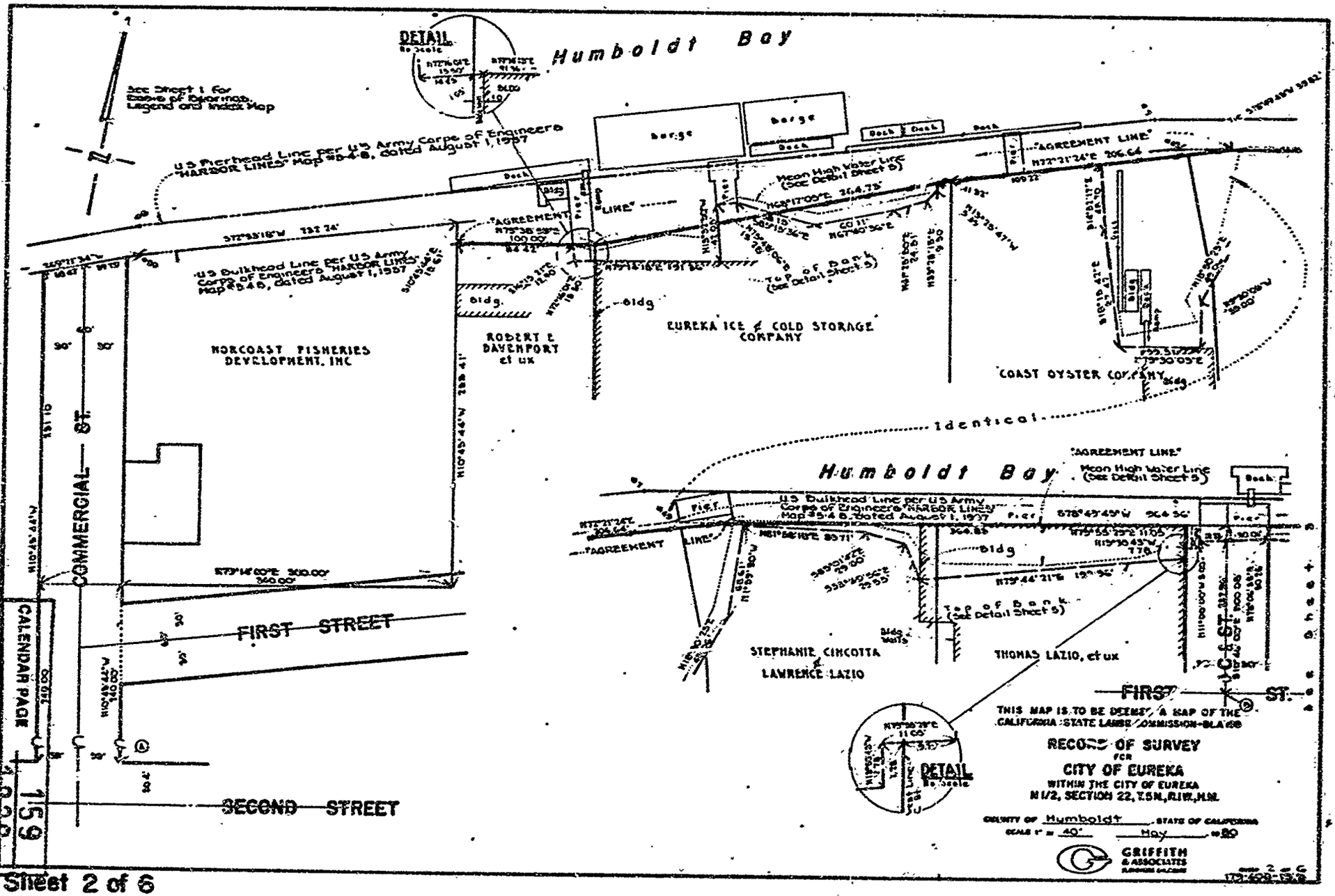
HUMBOLDT COUNTY RECORDER

CALENDAR PAGE 1158
MINUTE PAGE 1819

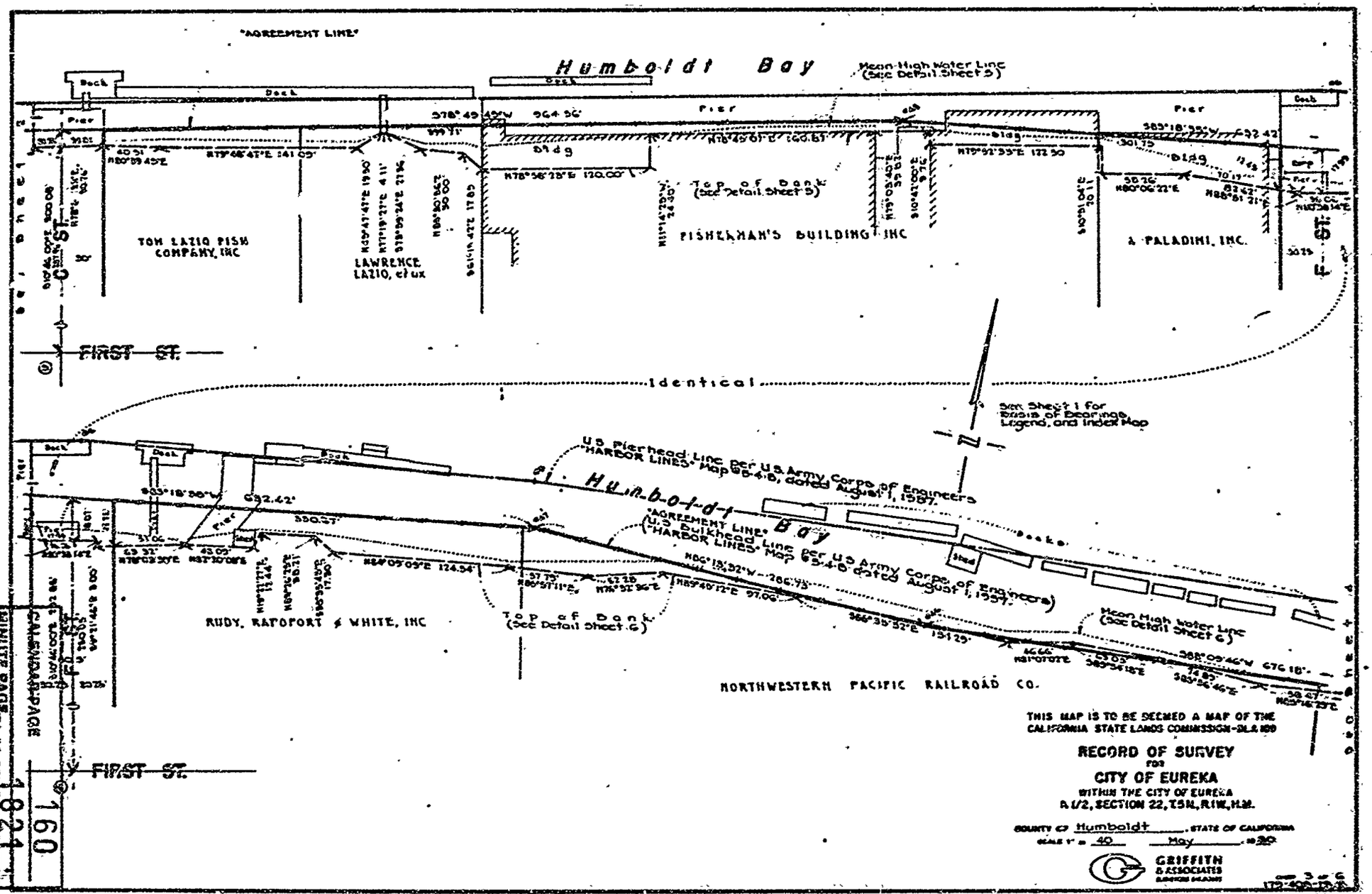
EXHIBIT B

Sheet 1 of 6

BOOK ____ OF SURVEYS, PAGE ____

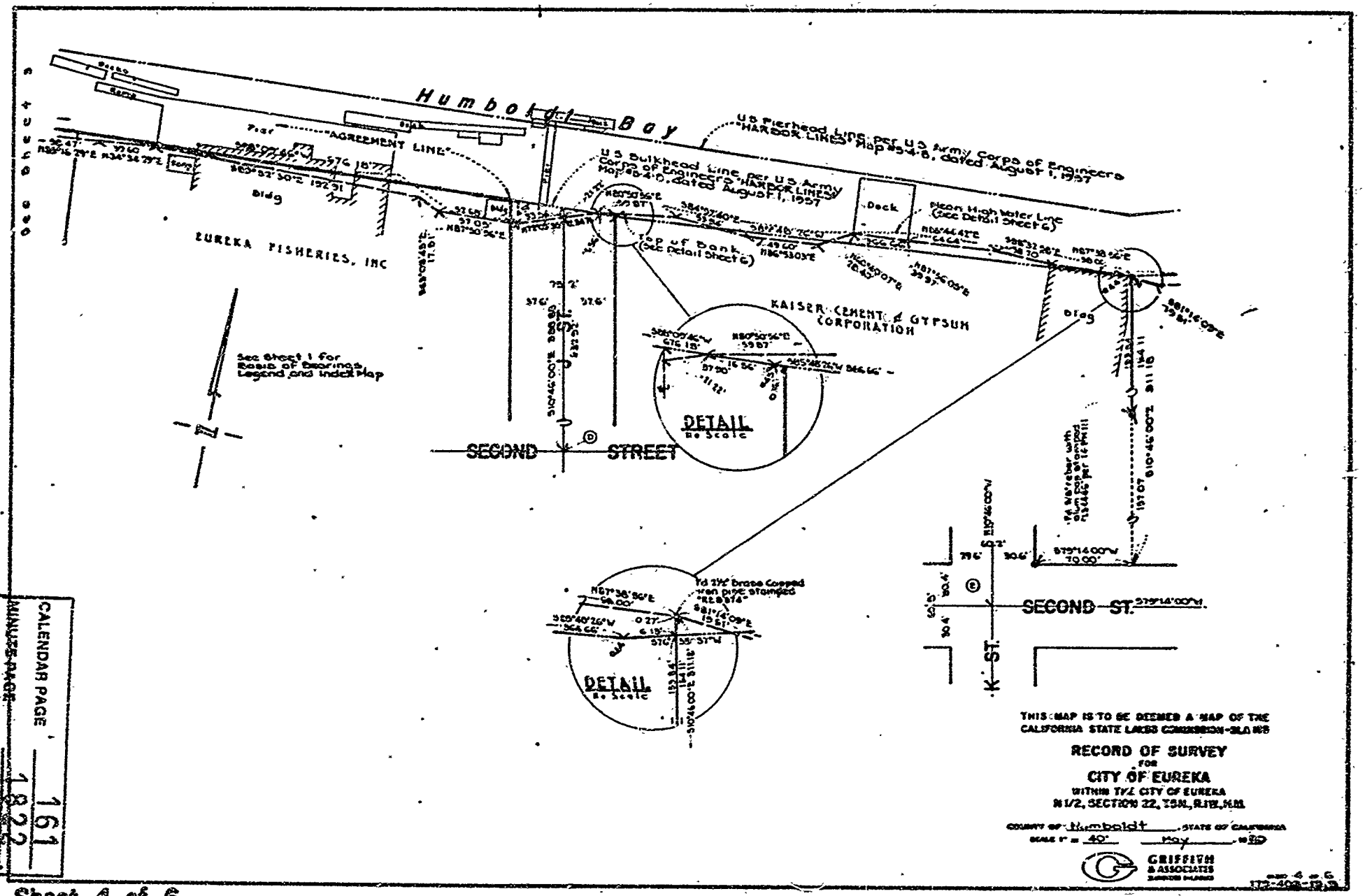

Humboldt Bay
DETAIL
See Sheet 1 for Basis of Bearings, Legend and Index Map
U.S. Pierhead Line per U.S. Army Corps of Engineers "HARBOR LINES" Map #5-4-8, dated August 1, 1937
U.S. Bulkhead Line per U.S. Army Corps of Engineers "HARBOR LINES" Map #5-4-8, dated August 1, 1937
"AGREEMENT LINE"
Mean High Water Line (See Detail Sheet 5)
Top of Bank (See Detail Sheet 5)
Bldg.
NORCOAST FISHERIES DEVELOPMENT, INC
ROBERT E DAVENPORT et ux
EUREKA ICE & COLD STORAGE COMPANY
COAST OYSTER COMPANY
Identical
COMMERCIAL ST.
FIRST STREET
SECOND STREET
STEPHANIE CINCOTTA & LAWRENCE LAZIO
THOMAS LAZIO, et ux
FIRST ST.
THIS MAP IS TO BE DEEMED A MAP OF THE CALIFORNIA STATE LANDS COMMISSION-BLA 88
RECORD OF SURVEY FOR CITY OF EUREKA
WITHIN THE CITY OF EUREKA
N1/2, SECTION 22, T.5N., R.1W., H.M.
COUNTY OF Humboldt STATE OF CALIFORNIA
SCALE 1" = 40' May 1980
GRIFFITH & ASSOCIATES
CALENDAR PAGE 159
MINUTE PAGE 1020
EXHIBIT B

Sheet 2 of 6




Sheet 3 of 6

BOOK ___ OF SURVEYS PAGE ___

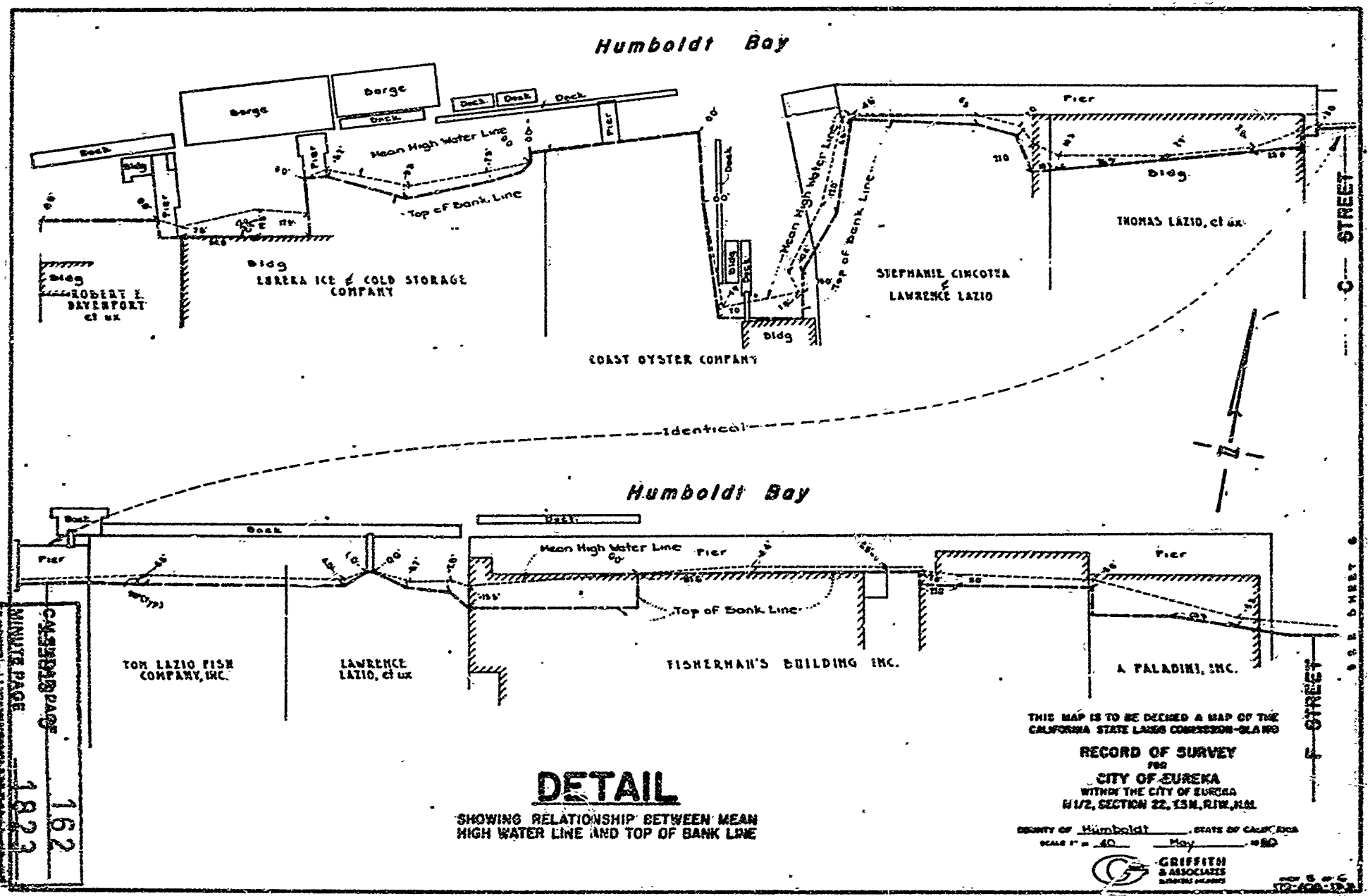



CALENDAR PAGE 161
MINUTE PAGE 1822

EXHIBIT B

Sheet 4 of 6

BOOK ___ OF SURVEYS, PAGE ___




# DETAIL

SHOWING RELATIONSHIP BETWEEN MEAN HIGH WATER LINE AND TOP OF BANK LINE

THIS MAP IS TO BE DECIDED A MAP OF THE CALIFORNIA STATE LANDS COMMISSION-BLANKS

**RECORD OF SURVEY**
FOR
**CITY OF EUREKA**
WITHIN THE CITY OF EUREKA
W1/2, SECTION 22, T3N, R1W, H.M.

COUNTY OF Humboldt, STATE OF CALIFORNIA
SCALE 1" = 40' — May — 1980

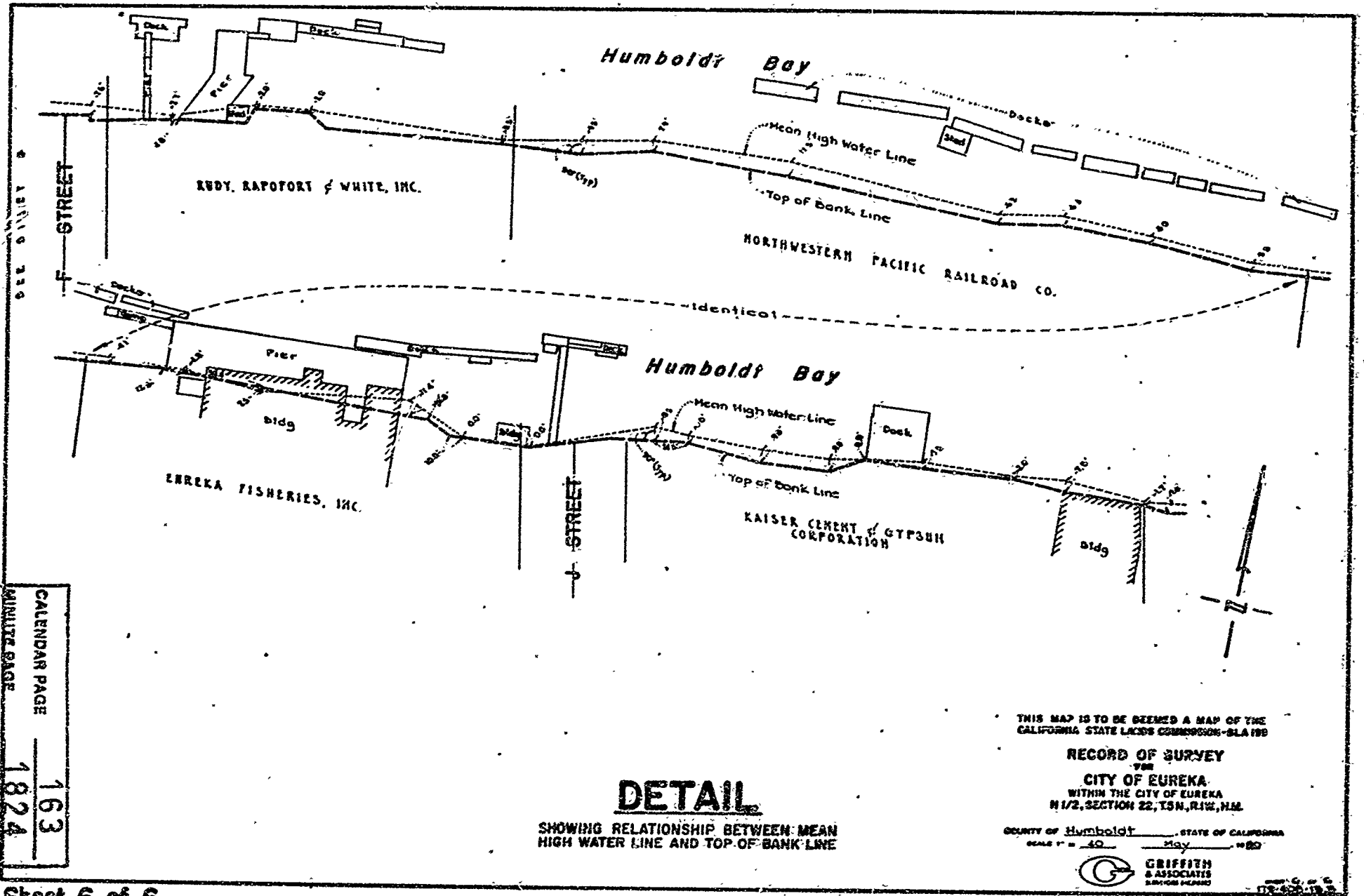
GRIFFITH & ASSOCIATES

SHEET 5 OF 6 SHEETS

BOOK ___ OF SURVEYS, PAGE ___

MINUTE PAGE
CALENDAR PAGE 162
1822

EXHIBIT B




THIS MAP IS TO BE DEEMED A MAP OF THE CALIFORNIA STATE LANDS COMMISSION-SLA 199

RECORD OF SURVEY
FOR
CITY OF EUREKA
WITHIN THE CITY OF EUREKA
N 1/2, SECTION 22, T5N., R1W., H.M.

COUNTY OF Humboldt, STATE OF CALIFORNIA
SCALE 1" = 40' May, 1980

GRIFFITH & ASSOCIATES

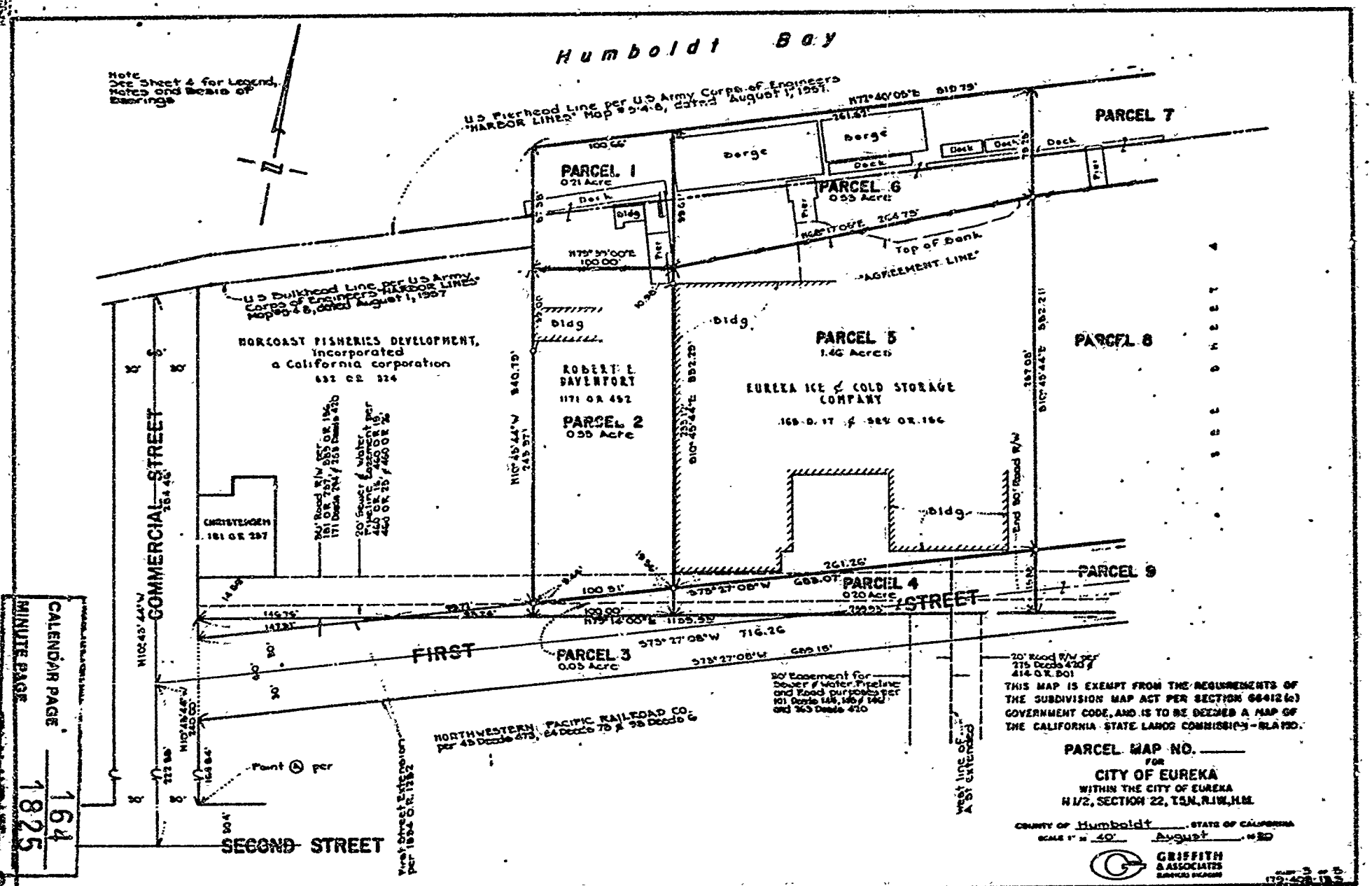
# DETAIL

SHOWING RELATIONSHIP BETWEEN MEAN HIGH WATER LINE AND TOP OF BANK LINE

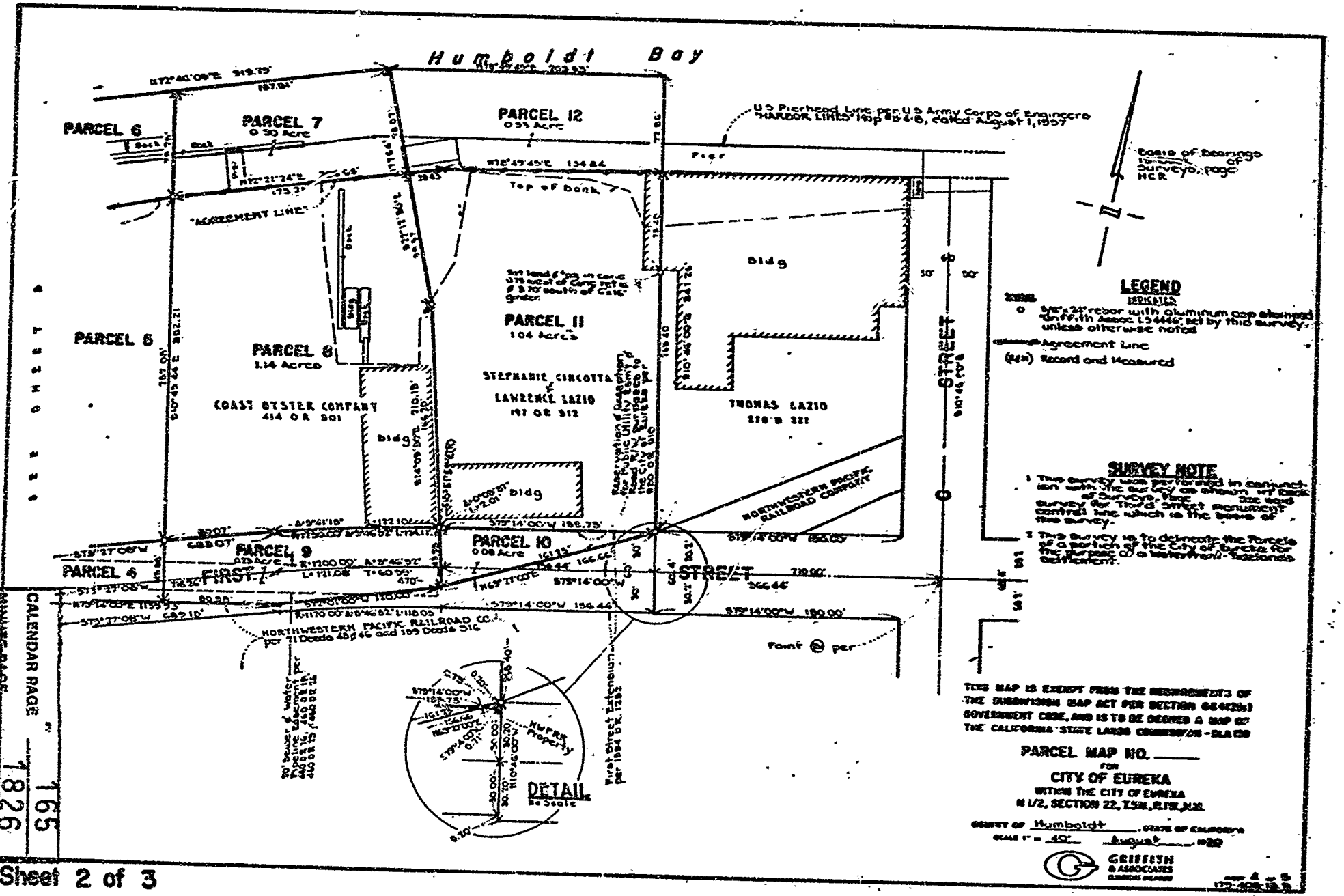
BOOK ___ OF SURVEYS, PAGE ___

CALENDAR PAGE 163
MINUTE PAGE 1824
EXHIBIT B

Sheet 6 of 6


Humboldt Bay
Note
See Sheet 4 for Legend, Notes and Basis of Bearings
U.S. Pierhead Line per U.S. Army Corps of Engineers "HARBOR LINES" Map #5-4-8, dated August 1, 1957.
U.S. Bulkhead Line per U.S. Army Corps of Engineers "HARBOR LINES" Map #5-4-8, dated August 1, 1957
PARCEL 1
0.21 Acre
PARCEL 2
0.55 Acre
PARCEL 3
0.05 Acre
PARCEL 4
0.20 Acre
PARCEL 5
1.46 Acres
PARCEL 6
0.53 Acre
PARCEL 7
PARCEL 8
PARCEL 9
Barge
Dock
Pier
Bldg
Top of Bank
"AGREEMENT LINE"
NORCOAST FISHERIES DEVELOPMENT, Incorporated a California corporation
632 O.R. 324
ROBERT E. DAVENPORT
1171 O.R. 452
EUREKA ICE & COLD STORAGE COMPANY
169 O.R. 17 & 584 O.R. 156
CHRISTENSEN
181 O.R. 237
COMMERCIAL STREET
FIRST STREET
SECOND STREET
NORTHWESTERN PACIFIC RAILROAD CO. per 45 Deeds 473, 64 Deeds 78 & 98 Deeds 6
20' Easement for Sewer & Water Pipeline and Road purposes per 101 Deeds 146, 148 & 146 and 363 Deeds 420
20' Road R/W per 275 Deeds 420 & 414 O.R. 801
West line of A St extended
First Street Extension per 1834 O.R. 1252
Point (A) per
THIS MAP IS EXEMPT FROM THE REQUIREMENTS OF THE SUBDIVISION MAP ACT PER SECTION 66412(c) GOVERNMENT CODE, AND IS TO BE DEEMED A MAP OF THE CALIFORNIA STATE LANDS COMMISSION - BLA 130.
PARCEL MAP NO. ____
FOR
CITY OF EUREKA
WITHIN THE CITY OF EUREKA
N 1/2, SECTION 22, T5N, R1W, H.M.
COUNTY OF Humboldt STATE OF CALIFORNIA
SCALE 1" = 40' August 1980
GRIFFITH & ASSOCIATES
SHEET 3 OF 3
179-408-183
SEE SHEET 4
CALENDAR PAGE 164
MINUTE PAGE 1825
EXHIBIT C

Sheet 1 of 3




THIS MAP IS EXEMPT FROM THE REQUIREMENTS OF THE SUBDIVISION MAP ACT PER SECTION 66428(b) GOVERNMENT CODE, AND IS TO BE DEEMED A MAP OF THE CALIFORNIA STATE LANDS COMMISSION - BLAZED

PARCEL MAP NO. _____

FOR

CITY OF EUREKA

WITHIN THE CITY OF EUREKA

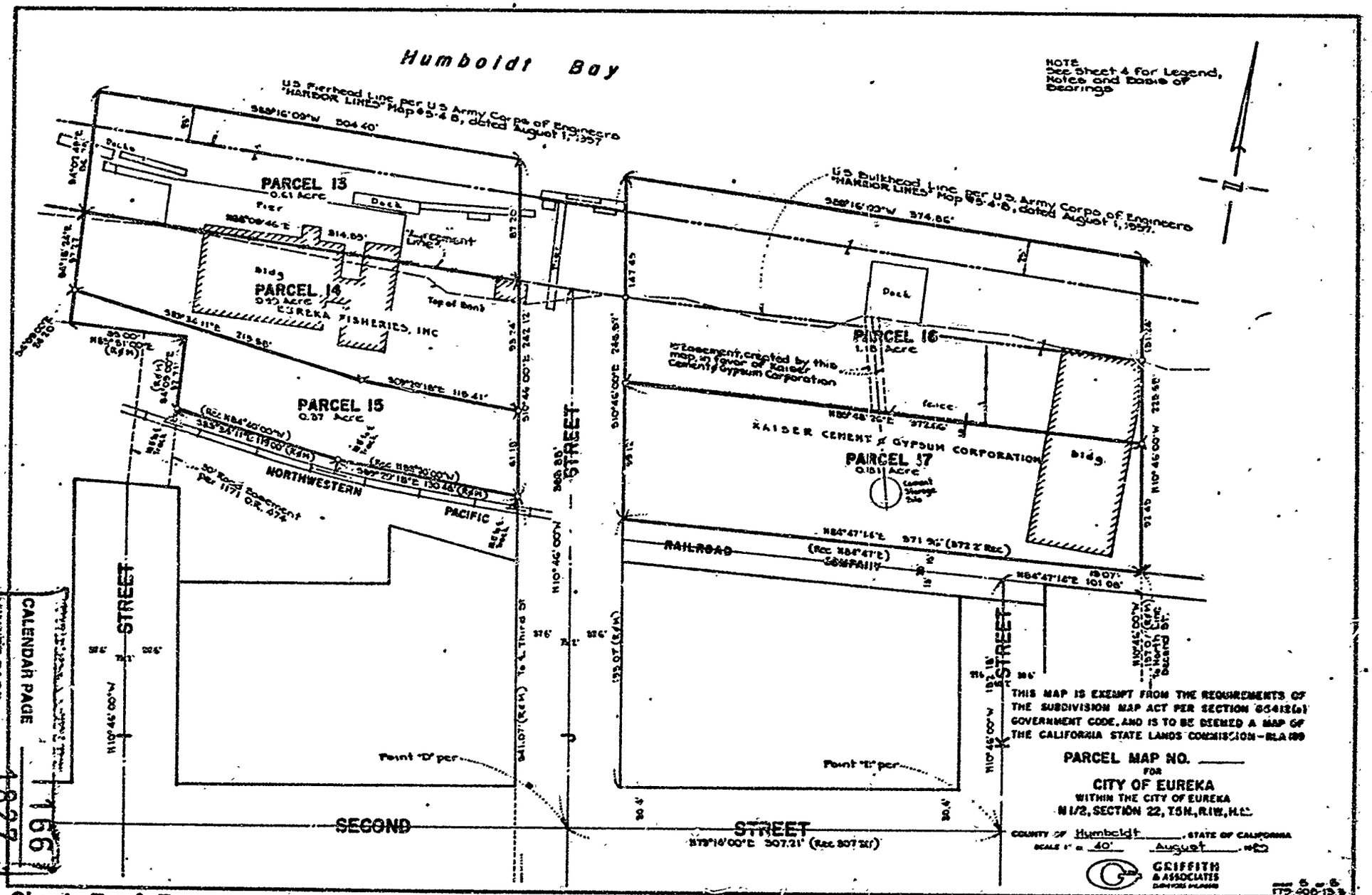
N 1/2, SECTION 22, T5N., R1W., H.M.

COUNTY OF Humboldt, STATE OF CALIFORNIA

SCALE 1" = 40' August, 1980

GRIFFITH & ASSOCIATES

Sheet 2 of 3




CALENDAR PAGE 166
MINUTE PAGE
EXHIBIT D
4827

Sheet 3 of 3

BOOK ____ OF PARCEL MAPS, PAGE ____