

MINUTE ITEM
44

10/28/82
W 503.984
Grimes
Graber
Stevenson

BLA 228

APPROVAL OF BOUNDARY LINE AGREEMENT
AND AUTHORIZATION TO SETTLE LAWSUIT;
HUMBOLDT BAY HARBOR RECREATION
AND CONSERATION DISTRICT v.
FUR BREEDERS COOPERATIVE ASSOCIATION

Calendar Item 44, attached, was pulled from the agenda
prior to the meeting.

Attachment: Calendar Item 44.

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AND CONSERVATION DISTRICT v.
FUR BREEDERS COOPERATIVE ASSOCIATION

The Humboldt Bay Harbor, Recreation, and Conservation District is successor to the State's interests in tide and submerged lands in the Humboldt Bay area pursuant to Chapter 1283, Statutes of 1970, as amended. By Chapter 1040 of 1976, the District may settle the title disputes to sovereign land within its boundaries subject to approval of the State Lands Commission.

In 1978, the District sued Fur Breeders to establish the boundaries and right to occupation of land within and adjacent to Tideland Survey No. 101 claimed by Fur Breeders as successor in interest to the original patentee. The District claimed ownership in fee of all of the lands lying bayward of the last natural position of the line of mean low water. The purpose of the agreement now before the State Lands Commission is to settle this lawsuit by establishing the bayward boundary of a portion of Tideland Survey No. 101, under which Fur Breeders claims title.

The District, in conjunction with the Commission's staff, has undertaken studies to ascertain the last natural position of the line of mean low water through the land Fur Breeders claims. The determination of the District and Commission staff is acceptable to Fur Breeders and is incorporated in the boundary line agreement. The proposed low water line runs for approximately 100 feet along Humboldt Bay and corresponds to the low water line set by the Humboldt County Superior Court for the adjoining parcel at South Bay Marina.

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The District has approved the settlement and boundary line agreement. The Commission's staff and the Attorney General's Office were involved in negotiating the proposed settlement and recommend its approval by the Commission. This agreement does not contemplate an exchange of land or a termination of the public trust easement to any of the property claimed by Fur Breeders.

The major benefits flowing to the District from the settlement and boundary line agreement include the following:

1. There will be an end to burdensome litigation.
2. The District's fee title to approximately 2.10 acres of unfilled tide and submerged lands will be resolved.
3. Fur Breeders will lease a portion of the unfilled tide and submerged lands from the District at an initial rental of \$3,000 per year.
4. Fur Breeders will pay the District a nominal back rent of \$750.
5. The settlement will enable Fur Breeders to continue its fish processing operations.

The Office of the Attorney General has orally advised the Commission's staff that the settlement and boundary line agreement are permissible under the circumstances outlined above and are consistent with the provisions of Chapter 1040, Statutes of 1976. Copies of the proposed settlement and boundary line agreement are on file in the Commission's offices and are incorporated by reference as a part of this calendar item.

AB 884: N/A.

EXHIBITS: A. Site Map.
B. Map of appropriate location of settlement line.

IT IS RECOMMENDED THAT THE COMMISSION, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 1040, STATUTES OF 1976:

1. APPROVE THE SETTLEMENT, BOUNDARY LINE, AND LEASE AGREEMENTS, SUBSTANTIALLY IN THE FORM ON FILE IN THE OFFICE OF

CALENDAR ITEM NO. 44 (CONTD)

THE STATE LANDS COMMISSION AS OUTLINED ABOVE BETWEEN THE HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVATION DISTRICT AND FUR BREEDERS COOPERATIVE ASSOCIATION IN ACCORDANCE WITH SECTION 3(b) OF CHAPTER 1040, STATUTES OF 1976.

2. APPROVE THE ADEQUACY OF CONSIDERATION WITH RESPECT TO THE SETTLEMENT, CONVEYANCES, AND AGREEMENTS PROVIDED FOR IN THE PROPOSED SETTLEMENT AGREEMENT. IN ACCORDANCE WITH SECTION 4 OF CHAPTER 1040, STATUTES OF 1976.
3. AUTHORIZE EXECUTION OF AND DELIVERY INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF HUMBOLDT, A MINUTE ITEM AND CERTIFICATE EVIDENCING THE APPROVAL OF THE COMMISSION OF THE SETTLEMENT AND THE LEASE AND BOUNDARY LINE AGREEMENTS PROVIDED FOR THEREIN.
4. AUTHORIZE THE EXECUTIVE OFFICER OR HER DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS WHICH THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THE PROPOSED SETTLEMENT AND BOUNDARY LINE AGREEMENT.
5. FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF CEQA ARE INAPPLICABLE.

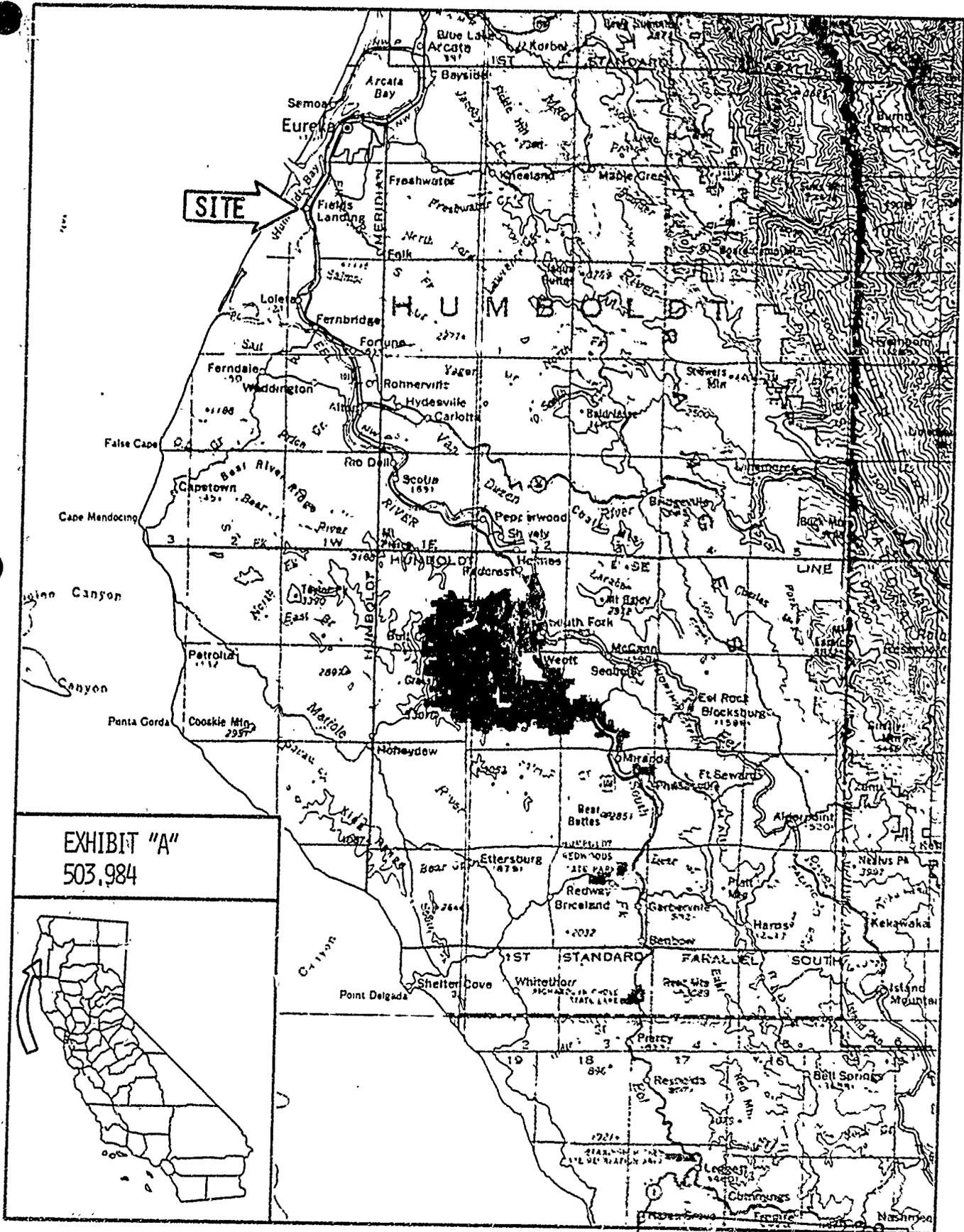


EXHIBIT "A"
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