

MINUTE ITEM

This Calendar Item No. 1
was approved as Minute Item
No. 1 by the City Lands
Commission by a vote of 2
to 0 at its 7/27/84
meeting.

MINUTE ITEM

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AUTHORIZATION TO TERMINATE
SOVEREIGN INTERESTS IN EXCHANGE FOR
A \$15,000 CONTRIBUTION TO EUREKA'S
LAND BANK

During consideration of Calendar Item 1 attached, Eureka City
Manager Robert Stockwell appeared before the Commission and
stated that the City agreed with staff's recommendations.

Upon motion duly made and carried, the resolution in Calendar
Item 1 was approved as presented by a vote 2-0.

Attachment: Calendar Item 1.

(NON-SUBSTANTIVE REVISION 03/27/85)

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CALENDAR ITEM

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AUTHORIZATION TO TERMINATE
SOVEREIGN INTERESTS IN EXCHANGE FOR
A \$15,000 CONTRIBUTION TO
EUREKA'S LAND BANK

In April of this year, the staff of the State Lands Commission was contacted by the City of Eureka regarding the termination of sovereign title in a parcel of land in Eureka. This parcel, comprising 1.30 acres, is now occupied by the municipal dog pound. The parcel is shown for reference only on Exhibit "B" (which is attached to this calendar item and incorporated by reference as a part of it) and will be referred in this item as the TRUST TERMINATION PARCEL.

Once contacted, the staff of the Commission completed a title study of the TRUST TERMINATION PARCEL which showed that:

1. In its natural state, the TRUST TERMINATION PARCEL was comprised of tide and submerged land;
2. The TRUST TERMINATION PARCEL was included within the perimeter description of Tideland Survey Patent No. 1 for Humboldt County;
3. The Supreme Court of the State of California held in the case of Peop'e v. California Fish Company (1913) 166 Cal. 576, that sales of tidelands passed private title to land lying between the lines of high and low tide, but subject to a public trust easement for commerce, navigation, and fisheries
4. In 1930 and 1931, the City of Eureka purchased the remaining private title to the TRUST TERMINATION PARCEL; and

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5. The State of California, by Ch. 225, Statutes of 1945, as amended, granted in trust to the City of Eureka any remaining sovereign interests in the TRUST TERMINATION PARCEL;
6. By the 1940's, the TRUST TERMINATION PARCEL had been filled to a grade of approximately ten feet elevation;
7. The City of Eureka now desires to sell the TRUST TERMINATION PARCEL to its Redevelopment Agency which will, in turn, transfer the land to Bien Padre, a manufacturer of taco shells and similar baked products.

It is the position of the staff of the Commission that the City of Eureka cannot hold any proprietary title in the TRUST TERMINATION PARCEL since the City has a fiduciary duty towards this property through its grant of sovereign interests. Further, the staff contends that various legal remedies could be used to rectify the City's holding of a conflicting interest. These include, but are not limited to, the imposition of constructive trust on the City's title or the collection of rent on the value of the use of the trust termination parcel for those years that the City held dual, conflicting interests in it.

The City contends that there is no sovereign interest in the TRUST TERMINATION PARCEL because it was mistakenly identified as tidelands, instead of swamp and overflowed land, when it was first sold by the State. Also, the City's position is that no merger of sovereign and private interests occurred since the City spent its proprietary money to acquire private interests in the TRUST TERMINATION PARCEL.

In an attempt to resolve this impasse, the staff completed an appraisal and legal analysis of this matter. The staff has concluded that the value of sovereign interests in the TRUST TERMINATION PARCEL is \$15,000.

A Proposed Agreement has been drafted to clear title to the TRUST TERMINATION PARCEL, the Agreement utilizes Ch. 1085 Statutes of 1970, which was enacted to allow clearing titles to specified property in Eureka of sovereign interests. The Agreement is now on file in the office of the State Lands Commission. The basic terms of the Agreement are as follows:

1. The City of Eureka will quitclaim its granted lands interest in the TRUST TERMINATION PARCEL to itself in its proprietary capacity; this interest derives from Chapter 225, Statutes of 1945, as amended;
2. The State will then quitclaim all sovereign interests in the TRUST TERMINATION PARCEL reserved to the State by Chapter 225, Statutes of 1945, as amended, to the City of Eureka, acting in the City's proprietary capacity;
3. The City of Eureka will contribute \$15,000 of non-trust money to its land bank for the purchase of other sovereign property to be held by the City or granted land.

The staff of the Commission recommends the approval and execution of the proposed Exchange Agreement in a form similar to that now on file in the Commission's offices. The TRUST TERMINATION PARCEL is filled above the tides and far removed from the present day Eureka waterfront. Property more appropriate for public trust uses will be purchased with the contribution made by the City of Eureka to its land bank fund.

AB 884:

N/A.

EXHIBITS:

- A. General Site Map.
- B. Specific Site Map showing the TRUST TERMINATION PARCEL.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY QUESTIONS AND THAT CEQA IS THEREFORE INAPPLICABLE.
2. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE AND TO DELIVER INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF HUMBOLDT COUNTY, THE SUBJECT EXCHANGE AGREEMENT IN A FORM SIMILAR TO THAT NOW ON FILE WITH THE OFFICE OF THE STATE LANDS COMMISSION.

3. FIND, UPON RECORDATION OF THE EXCHANGE AGREEMENT, THAT THE TRUST TERMINATION PARCEL HAS BEEN FILLED AND RECLAIMED IN CONNECTION WITH THE DEVELOPMENT OF THE EUREKA WATERFRONT, IS NO LONGER BELOW THE PRESENT LINE OF MEAN HIGH TIDE, AND IS NOT NECESSARY OR USEFUL FOR COMMERCE, NAVIGATION, OR FISHERIES.
4. FIND THAT \$15,000 IS AN AMOUNT EQUAL OR GREATER THAN THE VALUE OF SOVEREIGN INTERESTS IN THE TRUST TERMINATION PARCEL.
5. AUTHORIZE THE EXECUTIVE OFFICER OR HER DESIGNEE AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS SHE/THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THIS EXCHANGE INCLUDING REPRESENTATION OF THE COMMISSION IN ANY LEGAL ACTION TO DETERMINE THE LEGALITY OF THIS AGREEMENT.

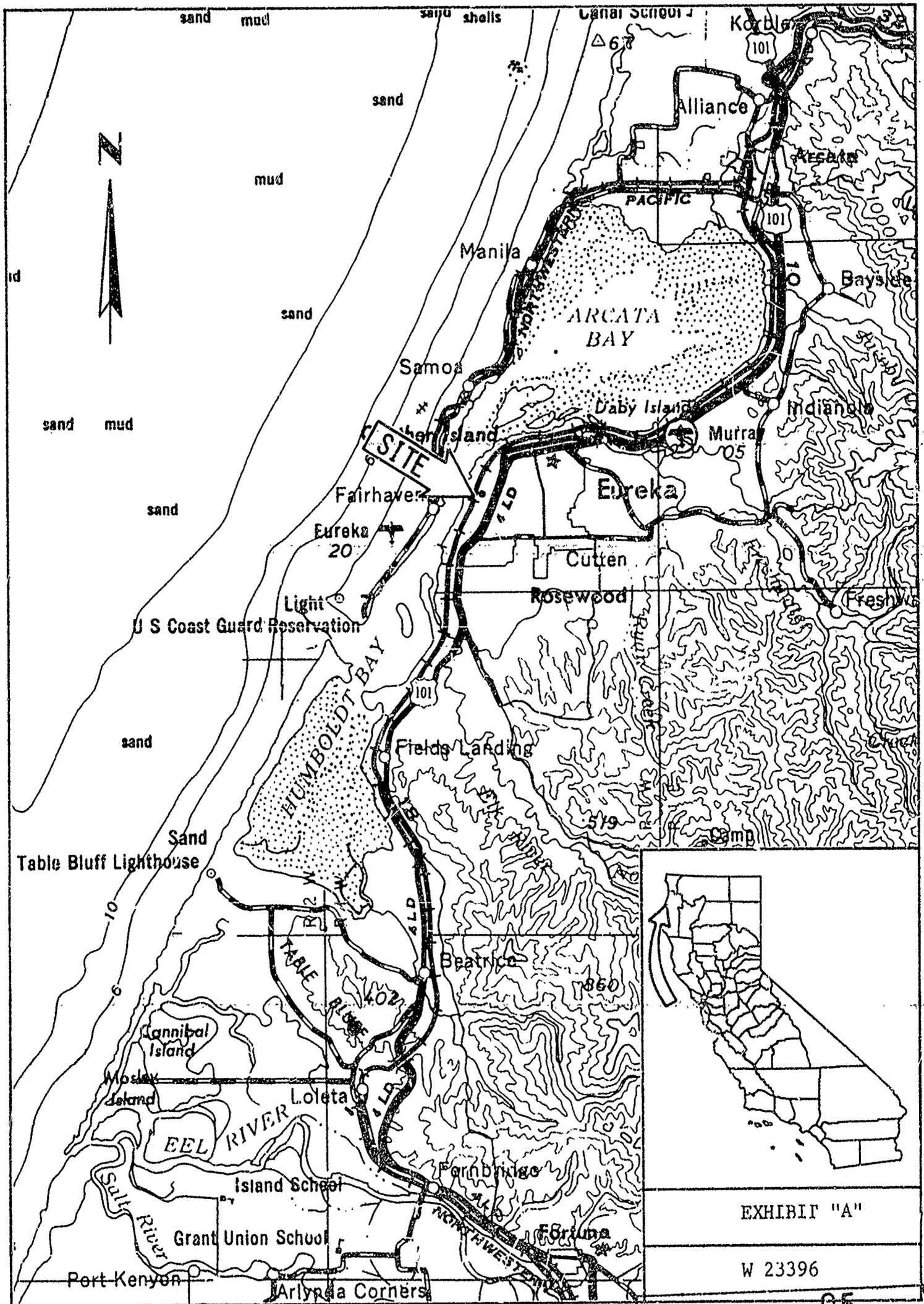


EXHIBIT "A"

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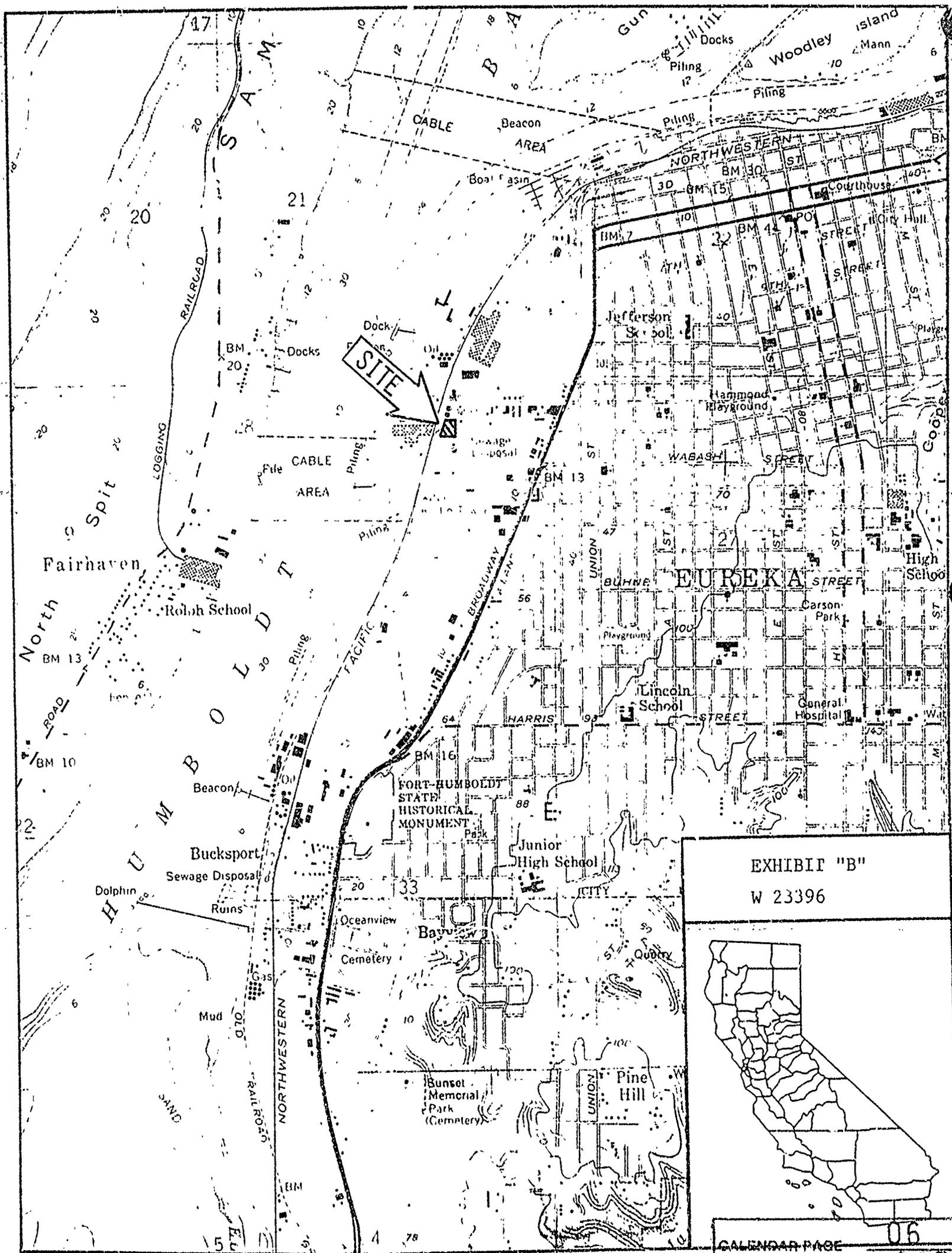


EXHIBIT "B"
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