

This Calendar Item No. 16
was approved as Minute Item
No. 16 by the State Lands
Commission by a vote of 2
to 0 at its 3/28/79
meeting.

MINUTE ITEM

3/79
W 503.719
W 503.722
Grimes
Graber

16. APPROVAL OF PARTIAL SETTLEMENT OF TIDE AND
SUBMERGED LANDS LITIGATION IN THE CITY OF EUREKA -
(BLA 185).

During consideration of Calendar Item 16, Mr. William F. Northrop, Executive Officer of the Commission, and Mr. Jan Stevens, Assistant Attorney General, commended Leslie H. Grimes, Deputy Chief, Division of Land Management and Conservation; Lewis R. Allen, Senior Land Agent, Office of the Attorney General; and Peter H. F. Graber, Deputy Attorney General, for their efforts in negotiating this settlement.

Commission-Alternate Roy M. Bell questioned whether this settlement will postpone the litigation until the remainder of the area in dispute has been resolved. Mr. Grimes stated that the parties involved in the litigation which has not been resolved are going to ask the judge to delay his ruling on the second phase of the trial and that a settlement clearing up the whole matter looks favorable.

Mr. Grimes pointed out for the record that the city engineers of Eureka elected to divide Parcel 14 into two parcels, making it Parcels 14 and 16. Therefore, every reference in the Calendar Item to Parcel 14 should be amended to reach Parcels 14 and 16.

Upon motion duly made and carried, the following resolution was adopted by a vote of 2-0:

1. APPROVE THE SETTLEMENT - (BLA 185), CONVEYANCES AND AGREEMENTS, SUBSTANTIALLY IN THE FORM ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AS OUTLINED ABOVE, BY AND AMONG THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION; THE CITY OF EUREKA; HALVORSEN LUMBER PRODUCTS, INC.; EUARC INVESTMENTS, INC.; AND OTHER HOLDERS OF RECORD TITLE, PURSUANT TO AND IN ACCORDANCE WITH SECTION 6 OF CHAPTER 1085, STATUTES OF 1970.

MINUTE ITEM NO. 16. (CONTD)

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" TO THE PROPOSED SETTLEMENT AGREEMENT, WHICH MAY HAVE BEEN 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, AND CONSEQUENTLY ARE 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 82, STATUTES OF 1857; CHAPTER 438, 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. 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 WITH SECTIONS 2(b) AND 5 OF CHAPTER 1085, STATUTES OF 1970, A CERTIFICATE THAT THE LANDS WITHIN PARCELS 4, 5, 8, 13, 14, 15 AND 16, AS DESCRIBED IN EXHIBIT "A" TO 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.

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5. 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 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.
6. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO FILE, IN ANY PENDING ACTION TO QUIET TITLE BROUGHT BY THE RECORD OWNERS, OR IN ANY FUTURE ACTION TO QUIET TITLE BROUGHT BY THE RECORD OWNERS PURSUANT TO SECTION 4.1 OF THE PROPOSED SETTLEMENT AGREEMENT, A DISCLAIMER BY THE STATE OF CALIFORNIA ON BEHALF OF THE STATE LANDS COMMISSION OF ANY RIGHT, TITLE OR INTEREST IN OR TO THOSE CERTAIN LANDS DESCRIBED AS PARCELS 4, 5, 8, 13 and 15 IN EXHIBIT "A" TO SAID AGREEMENT.
7. 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.
8. FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF CEQA ARE INAPPLICABLE.

CALENDAR ITEM

16.

3/79
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APPROVAL OF PARTIAL SETTLEMENT OF TIDE AND
SUBMERGED LANDS LITIGATION IN THE CITY OF EUREKA
(BLA 185)

This proposed settlement, involving approximately 70 acres of lands adjoining and in Humboldt Bay, would partially resolve a 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, a settlement agreement which embraces an exchange of various parcels and the termination of the public trust easement for commerce, fisheries and navigation over certain lands.

Under the proposed settlement, the public would gain access to a total of approximately 5,045 feet of mainland waterfront extending from a point between K and L Streets on the west to a point about 500 feet northwesterly of the Northwestern Pacific Railroad's bridge over Eureka Slough on the east.

The City would obtain fee title to approximately 12.28 acres of mainland property and the 20-acre Daby Island, a total of about 32.28 acres. Private parties would receive fee title to approximately 36.34 acres.

Since 1968 a major portion of the City's downtown waterfront between A and S Streets has been the subject of litigation filed by a number of private parties against defendants City and State of California. Fourteen lawsuits relating to title to tide and submerged lands were consolidated, and the first 2 phases of trial took place in 1976 and 1978/79. A third phase of trial may be necessary.

In the A-S Streets litigation area, this proposed settlement would embrace about 2,420 feet of waterfront property, representing 50 percent of the total frontage of approximately 4,805 feet that has been in such litigation. Two of the 14 cases would be settled.

In addition to the A-S Streets litigation, other portions of the City's waterfront have been the subject of title disputes, some of which are presently in litigation. This proposed settlement would assure public access to about 2,625 feet of waterfront property easterly of the northerly prolongation of S Street along Humboldt Bay and Eureka Slough.

A 2
S 2

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The City claims title to its tide and submerged lands by virtue of Chapter 82, Statutes of 1857, and later statutes, as subsequently amended and modified. The private parties claim title to tide and submerged lands between A and S Streets under sales by the City purportedly authorized by the 1857 act and through tideland and swamp and overflowed land patents issued by the State outside the A-S Streets area.

The private parties claim lands lying easterly of the northerly prolongation of S Street adjoining Humboldt Bay and Eureka Slough as successors to the patentee of Tideland Survey 25 and Daby Island as successors to the patentee of Swamp and Overflowed Land Survey 141.

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 westerly of S Street, the City claims ownership in fee of all lands lying bayward of the last natural position of the line of mean high water. In the mainland portion of the settlement area easterly of S Street, the City contends that such lands within Tideland Survey 25 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 mean high water of Tideland Survey 25. In the area patented as Swamp and Overflowed Land Survey 141, comprising Daby Island, the City claims the lands bayward of the last natural position of the line of mean high water.

During the past century many artificial changes have been made in the shoreline of the mainland 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.

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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 second involving lands within the A-S Streets 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 in and to those lands within the settlement area described as Parcels 4, 5, 8, 13 and 15, as shown on Exhibit "B" of this calendar item, free of the public trust easement.
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 described as Parcels 1, 2, 3, 6, 9, 10, 11 and 16, as shown on Exhibit "B" of this calendar item. The private parties are Halvorsen Lumber Products, Inc., Euarc Investments, Inc., and a number of individuals.
3. With respect to other parcels as shown on Exhibit "B" of this calendar item, Parcel 7 will be subject to an irrevocable offer of dedication to the City, and the City will agree to purchase Parcel 14.

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

1. The City will acquire approximately 2.12 acres of prime waterfront property (Parcel 1), with a frontage of about 500 feet, which is expected to be the site of the City's proposed convention center.
2. Public access will be provided along the balance of the waterfront in the mainland portion of the settlement area, except beneath the Samoa Freeway bridge (which is already owned by the State Department of Transportation). None of this portion of the waterfront is presently open to the public. The access will be by means of an esplanade (Parcels 2, 6 and 9) and a 100-foot-wide parkland/open space strip adjoining Humboldt Bay and Eureka Slough and a waterfront park area of 2 plus areas (Parcel 11).

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3. The City will obtain land needed for its proposed waterfront drive from M to S Streets (Parcel 3) and from westerly of U Street to X Street (Parcel 10).
4. Additional public access will be provided perpendicular to the shoreline between S and T Streets (portion of Parcel 2 and Parcel 7) and along the northerly prolongation of V Street (portion of Parcel 10).
5. Consolidated upland sites with unclouded titles (Parcels 4, 5, 8, 13 and 15) 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 long-range 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. Parcel Map.

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

1. APPROVE THE SETTLEMENT - (BLA 185), CONVEYANCES AND AGREEMENTS, SUBSTANTIALLY IN THE FORM ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AS OUTLINED ABOVE, BY AND AMONG THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION; THE CITY OF EUREKA; HALVORSEN LUMBER PRODUCTS, INC.; EUARC INVESTMENTS, INC.; AND OTHER HOLDERS OF RECORD TITLE, PURSUANT TO AND IN ACCORDANCE WITH SECTION 6 OF CHAPTER 1085, STATUTES OF 1970.

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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" TO THE PROPOSED SETTLEMENT AGREEMENT, WHICH MAY HAVE BEEN 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, AND CONSEQUENTLY ARE 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 82, STATUTES OF 1857; CHAPTER 438, STATUTES OF 1915; CHAPTER 187, STATUTES OF 1927; CHAPTER 225, STATUTES OF 1945; AND CHAPTER 1086, STATUTES OF 1970, AS SUBSEQUENTLY AMENDED AND MODIFIED.
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CALENDAR ITEM NO. 16. (CONTD)

5. 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 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.
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8. FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF CEQA ARE INAPPLICABLE.

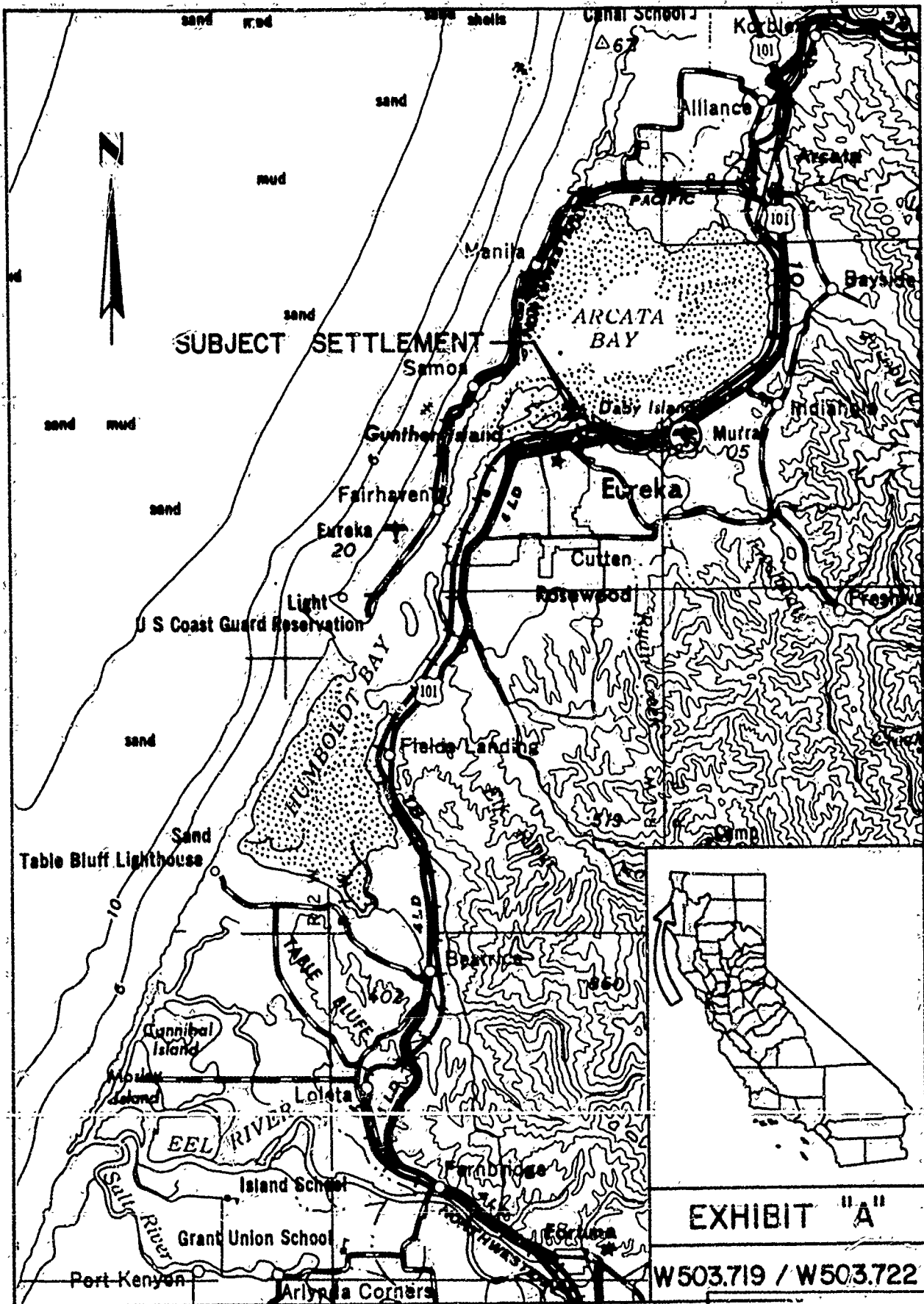


EXHIBIT "A"

W503.719 / W503.722

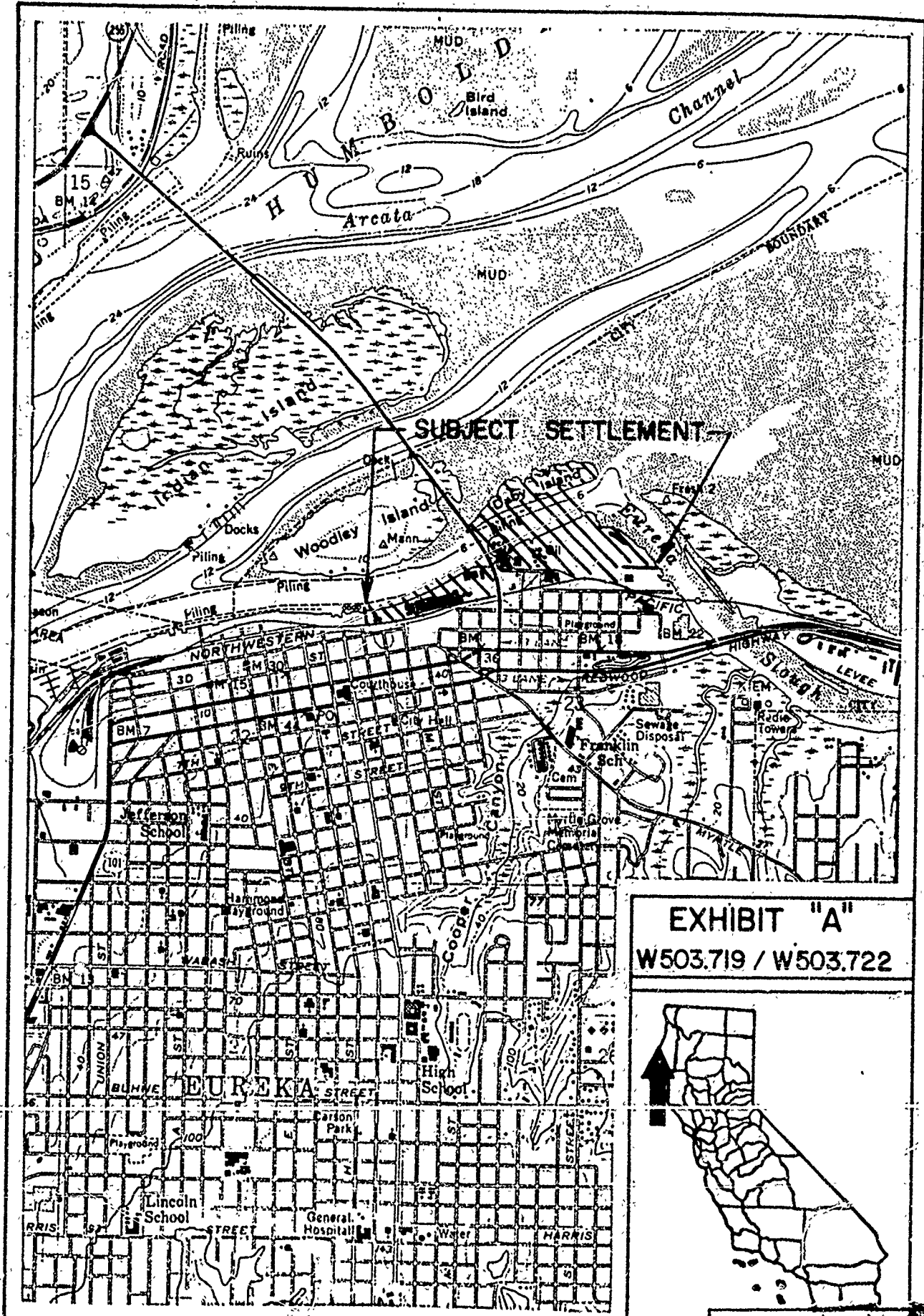
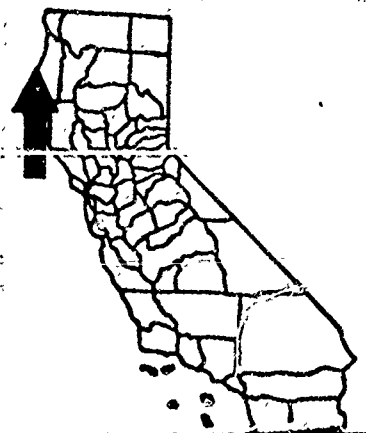
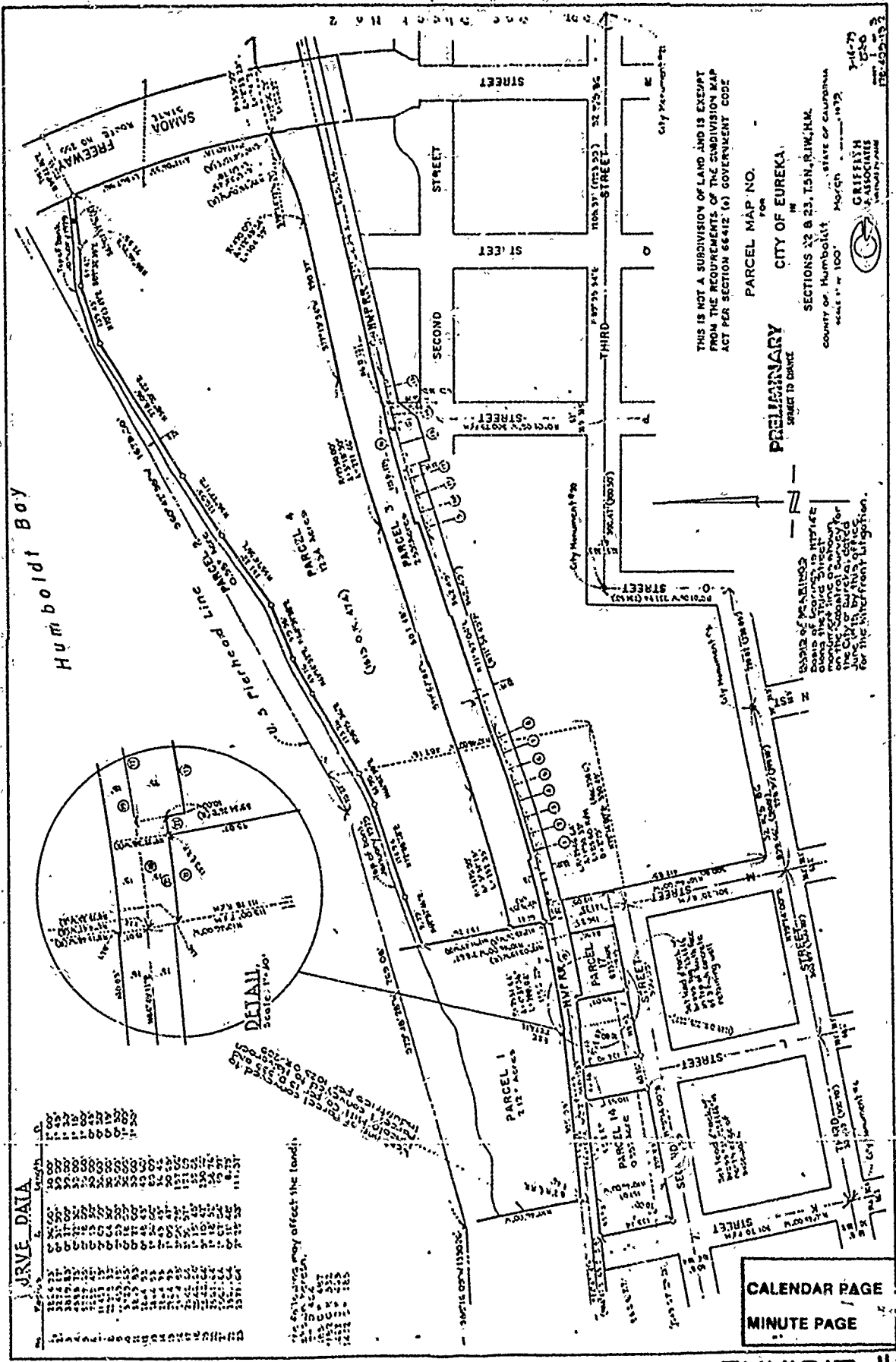


EXHIBIT "A"
 W503.719 / W503.722





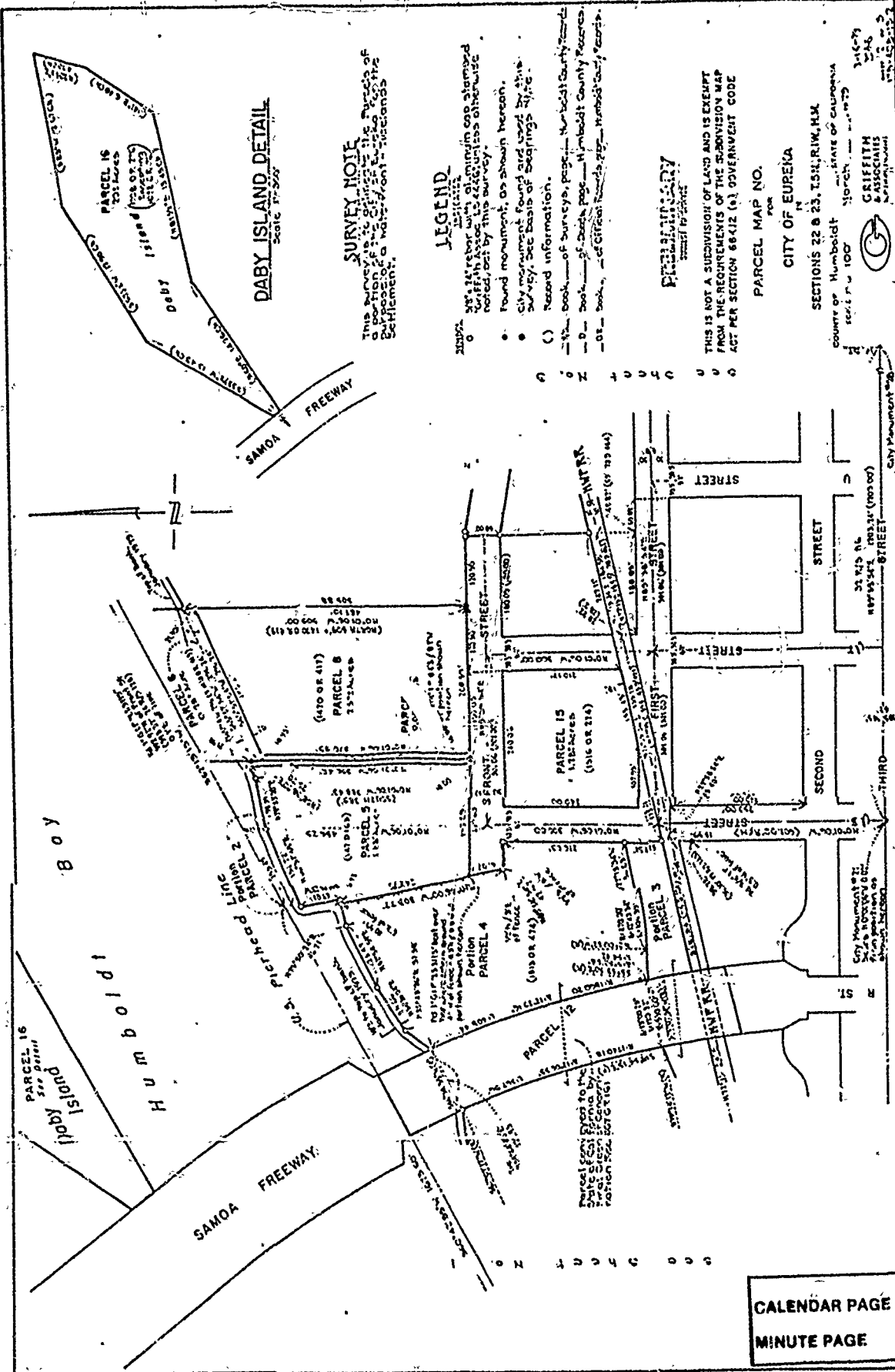
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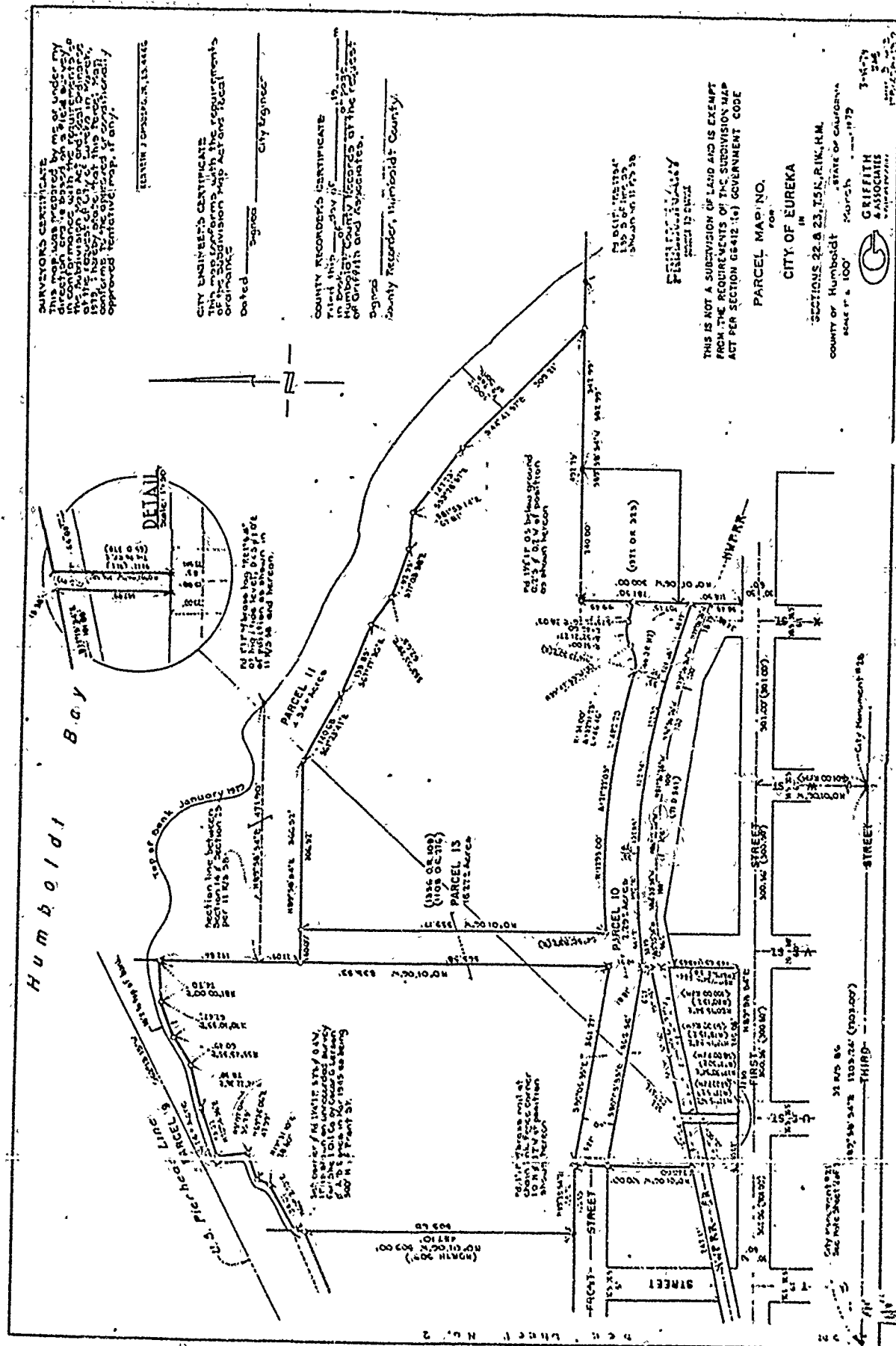
CALCULATED DATA

CALENDAR PAGE 077

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SURVYORS CERTIFICATE
 This map was prepared by me or under my supervision in conformity with the requirements of the Subdivision Map Act and local ordinance. I am a duly Licensed Surveyor in Humboldt County, California, and I certify that this map conforms to the requirements of the Subdivision Map Act and local ordinance.

CITY ENGINEER'S CERTIFICATE
 This map conforms with the requirements of the Subdivision Map Act and local ordinance.

Dated _____ Signed _____ City Engineer

COUNTY RECORDER'S CERTIFICATE
 I have examined this map and find it conforms to the requirements of the Subdivision Map Act and local ordinance.

Dated _____ Signed _____ County Recorder, Humboldt County

THIS IS NOT A SUBDIVISION OF LAND AND IS EXEMPT FROM THE REQUIREMENTS OF THE SUBDIVISION MAP ACT PER SECTION 66412.1(a) GOVERNMENT CODE

PARCEL MAP NO. _____ FOR _____
 CITY OF EUREKA
 IN SECTIONS 22 & 23, T5N, R14E, H.M.
 COUNTY OF HUMBOLDT STATE OF CALIFORNIA
 SCALE 1" = 100' March 1979
GRIFFITH ASSOCIATES
 1467 1/2
 1467 1/2