

MINUTE ITEM

This Calendar Item No. 43
was approved as Minute Item
43 by the State Lands
Commission by a vote of 3
to 0 at its 10/28/82
meeting.

CALENDAR ITEM

43

10/28/82
W 503.825
Grimes
Graber
Stevenson
BLA 227

APPROVAL OF BOUNDARY LINE AGREEMENT
AND AUTHORIZATION TO SETTLE LAWSUIT;
HUMBOLDT BAY HARBOR,
RECREATION AND CONSERVATION DISTRICT V.
LOUISIANA PACIFIC CORPORATION

The Humboldt Bay Harbor Recreation and Conservation District is successor to the State's interest in tide and submerged lands in Humboldt Bay area pursuant to Chapter 1283, Statutes of 1970, as amended.

Chapter 1040 of the Statutes of 1976 authorizes the District to settle disputes regarding sovereign claims within its boundaries subject to the approval of the State Lands Commission. This Calendar Item seeks such an approval. The predecessors in interest of Louisiana Pacific began occupying the tide and submerged lands involved in this boundary line agreement in the late-1800's for lumber mill purposes. A portion of the lands had been patented into private ownership pursuant to Tideland Survey No. 75. The remainder of the lands were never conveyed into private ownership. However, a great amount of filling and construction of improvements was done on the lands by the predecessors of Louisiana Pacific after the statutorily established Board of Harbor Commissioners for the Port of Eureka purportedly issued permits. Louisiana Pacific and its predecessors have developed the lands as a major lumber mill and shipping facility and have continued in possession of the lands to the present day.

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The District sued Louisiana Pacific in 1976 to resolve the dispute regarding the boundaries of land claimed by Louisiana Pacific in fee and the right to occupation of adjoining unpatented land. The District claimed ownership in fee of all the land lying bayward of the last natural position of the line of mean high water, excepting the land within Tideland Survey No. 75. The District contended that such patented land is subject to the public trust easement and that the District is the owner in fee of all lands lying bayward of the last natural position of the line of mean low water. Louisiana Pacific responded that, irrespective of the last natural positions of the lines of high mean and mean low water, it has the right to occupy all unpatented land subject to the lawsuit under an irrevocable license for the useful life of the lumber complex. The District, in conjunction with the Commission's staff, undertook studies to establish the last natural position of the lines of mean high and mean low water along the subject land. The determinations of the District and Commission staff are acceptable to Louisiana Pacific and are incorporated in the boundary line agreement.

The proposed settlement, involving a boundary line and settlement agreement settling lands on the west side of Humboldt Bay, would substantially resolve this lawsuit. No exchange of sovereign lands or termination of the public trust easement for commerce, navigation, and fisheries is contemplated by the agreement.

Under the proposed boundary line agreement, boundaries would be established along more than 10,750 feet of the shoreline of Humboldt Bay as to lands (a) owned in fee by Louisiana Pacific free of the public trust easement (b) owned by Louisiana Pacific subject to the public trust easement, and (c) owned by the District as grantee in trust subject to State reversionary interests. The agreement will resolve the boundaries along one of the largest privately owned parcels on Humboldt Bay under the District's jurisdiction.

The District has approved the settlement and boundary line agreement. The Commission's staff and Attorney General's Office were actively involved in negotiating the proposed settlement and recommend its approval by the Commission.

The essential elements of the boundary line agreement are:

1. The last natural position of the line of mean high water will be established

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along approximately 10,750 feet of Humboldt Bay.

2. The last natural position of the line of mean low water will be established along the bayward boundary of Tideland Survey No. 75.

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

1. There will be an end to complex and burdensome litigation.
2. The water boundaries of one of the largest privately owned waterfront parcels on Humboldt Bay under the District's jurisdiction will be resolved.
3. The District's fee title to approximately 54.75 acres of filled tide and submerged lands will be resolved.
4. The District will receive \$150,000 in consideration for past occupation of the filled tide and submerged lands.
5. Louisiana Pacific will lease the filled tide and submerged lands together with adjacent docking areas, from the District, at an initial rental of \$75,000 per year.
6. The settlement will enable Louisiana Pacific to continue its major lumber milling and shipping operations.
7. At the termination of the lease between the District and Louisiana Pacific, the District will receive additional enhanced upland access to its filled tide and submerged land waterfront parcel via a dedicated road.

A copy of the proposed settlement and boundary line agreement is on file in the Commission's staff office and is incorporated by reference as a part of this Calendar Item.

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AB 884: N/A.

EXHIBITS: A. Site Map.
B. Map showing approximate location of settlement lines.

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

1. APPROVE THE BOUNDARY LINE AND LEASE AGREEMENTS SUBSTANTIALLY IN THE FORM ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AS OUTLINED ABOVE BY AND BETWEEN THE HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVATION DISTRICT AND LOUISIANA PACIFIC CORPORATION, PURSUANT TO AND 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, PURSUANT TO AND 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 OFFICE OF THE ATTORNEY GENERAL TO FILE, IN ANY PENDING ACTION TO QUIET TITLE TO THE SETTLEMENT LANDS, A STIPULATION DISCLAIMING BY THE STATE OF CALIFORNIA ON BEHALF OF THE STATE LANDS COMMISSION OF ANY RIGHT, TITLE OR INTEREST IN OR TO LANDS LOCATED LANDWARD OF THE LAST NATURAL POSITION OF THE MEAN HIGH WATER LINE AS DESCRIBED IN THE SETTLEMENT AGREEMENT, EXCEPTING THE ACCESS ROAD PROVIDED FOR IN THE AGREEMENT.
5. 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; INCLUDING, BUT NOT LIMITED TO JOINING AS A PARTY TO THE AGREEMENT, IF NECESSARY.
6. FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF CEQA ARE INAPPLICABLE.

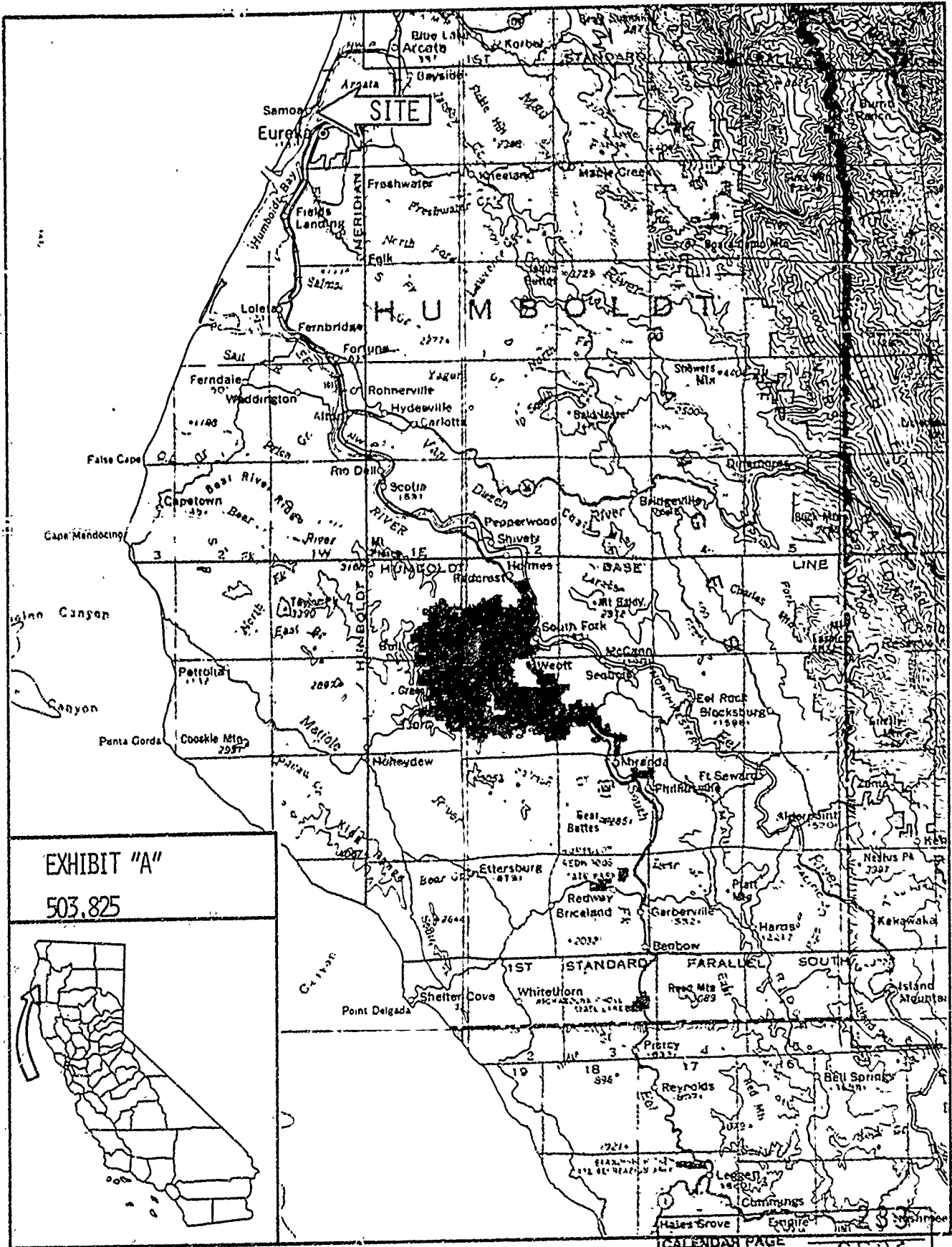


EXHIBIT "A"
503.825



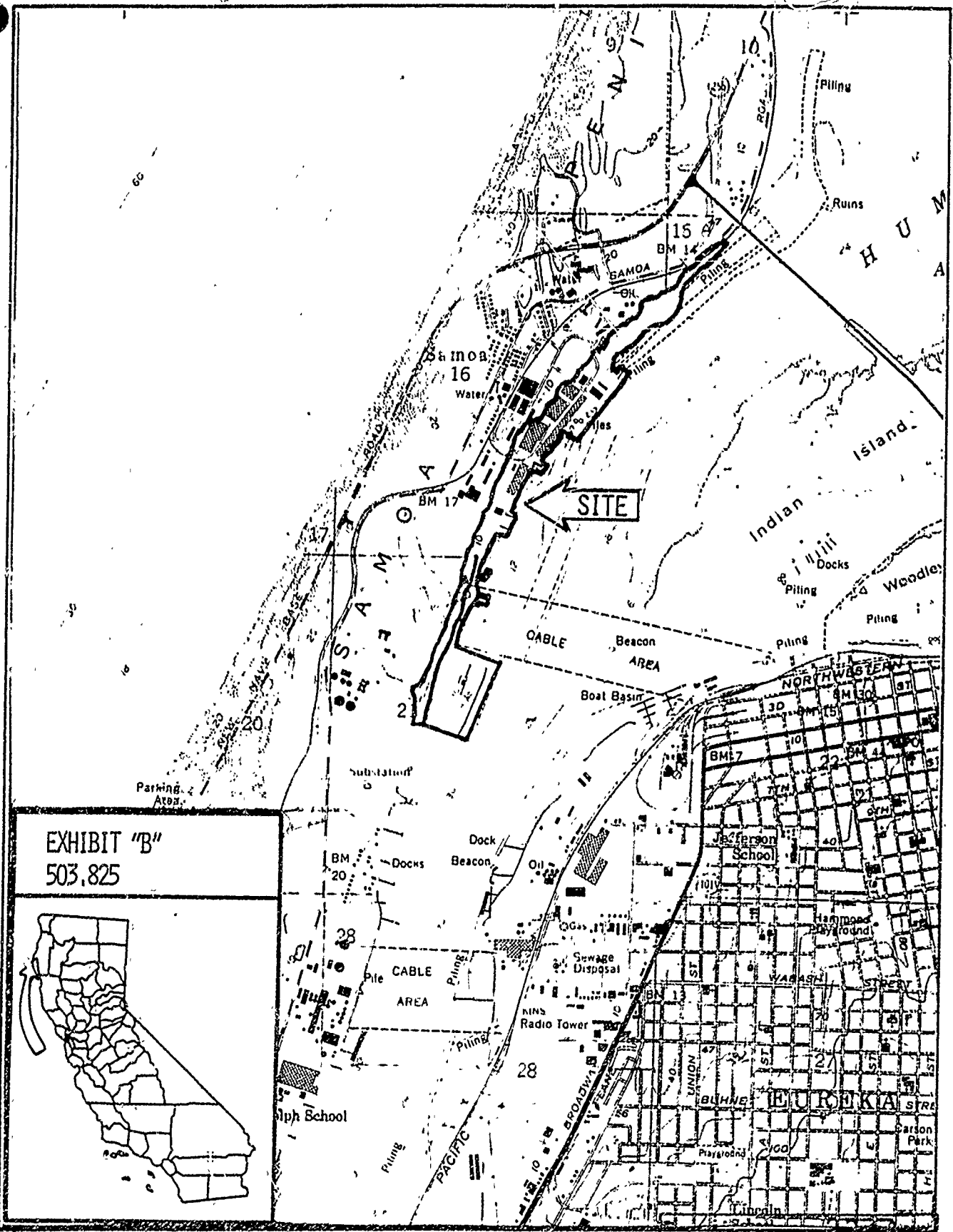


EXHIBIT "B"
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