STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
FACSIMILE (707) 445-7877

MAILING ADDRESS:
P. O. BOX 4908
EUREKA, CA 95502-4908

Th 16a

Date Filed:	October 30, 2002
49th Day:	December 18, 2003
180th Day:	April 28, 2003
Staff:	Tiffany S. Tauber
Staff Report:	June 27, 2003
Hearing Date:	July 10, 2003
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.:	**1-02-154**
APPLICANT:	**HUMBOLDT BAY FOREST PRODUCTS**
PROJECT LOCATION:	On property located between Railroad Avenue and C Street, west of the Northwestern Pacific Railroad, in the Fields Landing area, Humboldt County (APNs 305-201-016 & -017)
PROJECT DESCRIPTION:	After-the-fact approval of approximately 530 cubic yards of site grading and construction of a 9-foot-high, chain-link perimeter fence. The project also proposes removal of approximately 5,000-square-feet of blackberries along a drainage ditch, and an additional 200 cubic yards of grading.
GENERAL PLAN DESIGNATION:	Coastal Dependent Industrial (MC)
ZONING DESIGNATION:	Coastal Dependent Industrial (MC)
LOCAL APPROVALS REQUIRED:	None Required
OTHER APPROVALS:	None Required
SUBSTANTIVE FILE DOCUMENTS:	Humboldt County LCP

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with special conditions of approximately 530 cubic yards of site grading and construction of a 9-foot-high, chain-link perimeter fence. The project also proposes removal of approximately 5,000-square-feet of blackberries along a drainage ditch, and an additional 200 cubic yards of grading adjacent to the ditch.

The site is located between Railroad Avenue and C Street, west of the Northwestern Pacific Railroad in Fields Landing, an unincorporated community located approximately five miles south of Eureka in Humboldt County. The site is located along the shoreline of Humboldt Bay in an area of coastal industrial development.

The grading of approximately 530 cubic yards of material and construction of a perimeter fence was performed without benefit of a coastal development permit. The proposed project is intended to correct the violation by authorizing the work that has occurred at the site and authorizing grading of an additional 200 cubic yards and removal of vegetation along a drainage ditch on the east side of the property to improve site drainage.

The vegetation proposed to be removed does not constitute environmentally sensitive habitat. However, the drainage ditch meets the definition of a wetland, as it conveys water during most of the year and drains to Humboldt Bay. To ensure that stormwater runoff from the site does not cause sedimentation and other water quality impacts to the wetland and coastal waters to which the ditch drains, staff recommends Special Condition No. 1. The condition requires the applicant to submit an erosion and runoff control plan for the review and approval of the Executive Director. The condition requires the plan to provide for the installation of a vegetated swale along the length of the drainage ditch that is adequately sized and vegetated to filter stormwater runoff prior to entering the drainage ditch and requires that the swale be properly maintained. Special Condition No. 1 also requires the applicant to install silt fencing along the length of the drainage ditch prior to commencement of grading activities as a temporary erosion control measure to further reduce the amount of sediment that could enter the adjacent wetland drainage ditch during site grading. Lastly, Special Condition No. 1 requires that all grading be completed prior to the start of the rainy season (October 15, 2003) and that all disturbed portions of the site be seeded within 10 days following completion of grading and no later than October 25, 2003.

Based upon tsunami inundation modeling, the site is shown to be within an area of tsunami runup. As the proposed project does not introduce a new use at the site, it does not present an increased risk to life or property from geologic hazards than the level of risk that has occurred at the site for over 50 years. There is no indication that the applicant has either stored hazardous materials at the site in the past, or has plans to store

hazardous materials at the site in the future. The storage of hazardous materials such as petroleum products, chlorine, or large quantities of fertilizer could increase the risk to life or property if such materials were stored at the site where they would be potentially volatile in the event of a tsunami. Therefore, to ensure the project's consistency with Coastal Act Section 30253, staff recommends Special Condition No. 2 to ensure that no storage of hazardous materials (e.g. petroleum products, chlorine, fertilizer) occurs at the site without an amendment to this permit, or a new coastal development permit unless it is determined by the Executive Director that no permit is legally necessary. Special Condition No. 3 requires recordation of a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property.

As conditioned, staff believes that the project is fully consistent with the Chapter 3 policies of the Coastal Act.

STAFF NOTES:

1. Standard of Review

The proposed project is located in the Fields Landing area of Humboldt County. Humboldt County has a certified LCP. However, the project site is located within an area shown on State Lands Commission maps over which the state retains a public trust interest. Therefore, the site is within the Commission's retained jurisdiction and the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

2. Permit Streamlining Act

The Commission must act on the coastal development permit application at the July 2003 hearing to meet Streamlining Permit Act deadline requirements.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit No. 1-02-154 pursuant to the staff recommendation.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions: See Attachment A.

III. Special Conditions:

1. Erosion and Runoff Control Plan

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for review and approval of the Executive Director, an erosion and runoff control plan.

1. Erosion Control Plan

(a) The erosion control plan shall demonstrate that:

(i) During grading, erosion on the site shall be controlled to avoid adverse impacts to the drainage ditch;

(ii) Silt fencing shall be installed along the entire length of the drainage ditch prior to grading and shall remain in place until all disturbed areas have been seeded consistent with section (1)(a)(iv) below;

(iii) All grading shall be completed before the start of the rainy season (October 15, 2003);

(iv) Following grading, all disturbed portions of the site shall be seeded with a native seed mix within 10 days following completion of grading and no later than October 25, 2003.

(b) The plan shall include, at a minimum, the following components:

(i) A narrative report describing all temporary erosion control measures to be used during grading consistent with section (1)(a)(ii) above;

(ii) A site plan showing the location of temporary erosion control measures (i.e. silt fencing);

(iii) A schedule for grading and installation and removal of the temporary erosion control measures (i.e. silt fencing).

2. Runoff Control Plan

(a) The runoff control plan shall demonstrate that:

(i) Runoff from the project shall not increase sedimentation into the drainage ditch;

(ii) A vegetated swale shall be constructed adjacent to and along the length of the drainage ditch to capture and treat any pollutants contained in site runoff, increase infiltration, and reduce runoff velocity;

(iii) The vegetated swale shall be designed to be a minimum of 8-feet-wide, and shall be planted with turfgrass or wetland vegetation.

(iv) The vegetated swale shall be maintained on a regular basis including periodic mowing (and removal of cuttings), weed control, reseeding of bare areas, and clearing of debris and blockages.

(b) The plan shall include, at a minimum, the following components:

(i) A schedule for installation and maintenance of the vegetated swale consistent with section (2)(a)(iii)-(iv) above;

(ii) A site plan showing finished grades and drainage improvements.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Permitted Activity and Future Development

No storage of hazardous materials (e.g. petroleum products, chlorine, fertilizer) is authorized by this permit. Any proposed storage of hazardous materials on-site soils will require an amendment to this permit, or a new coastal development permit unless it is determined by the Executive Director that no permit is legally necessary.

3. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

4. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to the issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

1. Site Description & Project Description

The project site is located between Railroad Avenue and C Street, west of the Northwestern Pacific Railroad in Fields Landing, an unincorporated community located approximately five miles south of Eureka in Humboldt County. The site is located along the shoreline of Humboldt Bay in an area of coastal industrial development.

The site supports an import and export operation where logs, wood products, and other cargo are loaded and unloaded at the existing Olsen Terminal located north of the project site. According to the applicant, the subject site and surrounding parcels currently owned by the applicant have been used for over 50 years for the handling and storage of logs, first in conjunction with the operation of a sawmill that previously existed at the site, and later with other materials as cargo for a marine terminal operation.

The proposed project involves after-the-fact approval of approximately 530 cubic yards of site grading and construction of a 9-foot-high, chain-link perimeter fence. The project also proposes removal of approximately 5,000-square-feet of blackberries along approximately 560 linear feet of a drainage ditch that borders the east side of the parcel and an additional 200 cubic yards of grading.

Approximately 530 cubic yards of grading occurred on the parcel without benefit of a coastal development permit as part of a clean-up effort to remove debris that has accumulated on the parcel from historic uses. According to the applicant, there were several large pieces of concrete, steel, metal, and other debris removed during the grading operation that were remnants of the site's previous use as a sawmill in the 1950's and 1960's. Soil from the site was temporarily excavated and stockpiled on the site. Following removal of the debris, the soil was replaced and regraded. No soil or debris stockpiles currently exist at the site, as all debris has been disposed of and all of the graded soil has been recontoured into the site. The applicant proposes to grade an additional 200 cubic yards of material along the eastern property boundary adjacent to the drainage ditch to recontour the area and improve site drainage.

The majority of the site drains toward the east into the drainage ditch which leads to Humboldt Bay. The approximately 5,000 square feet of blackberry bramble proposed to be removed from along the drainage ditch is not considered an environmentally sensitive habitat, as it is not rare or especially valuable because of any special nature or role in an ecosystem. Similarly, the ditch itself is not considered an environmentally sensitive habitat area. The ditch is relatively narrow (approximately 3-feet-wide) and does not contain well-developed wetland vegetation. The ditch is not contiguous with any other wetland feature or other type of environmentally sensitive habitat and as such, does not

provide any sort of transitional habitat. However, the ditch meets the definition of a wetland, as it conveys water during most of the year. The main function of the wetland ditch is to convey runoff from the site and provide flood protection.

The applicant is also seeking after-the-fact approval for construction of a 9-foot-high, chain-link perimeter fence. According to the applicant, the site has recently been included in the Free Trade Zone and the perimeter fence is necessary for security purposes. The site would continue to be used for storage of cargos that are shipped over the dock located adjacent to the project site. The applicant has indicated that the types of cargo that are stored and handled at the site include logs, wood products, steel, gravel, and cable. Most of the cargo is kept on the site for a matter of days. However, according to the applicant, some cargos arrive and are stored over a period of months before being loaded and shipped.

2. Protection of Water Quality

Section 30231 of the Coastal Act addresses the protection of coastal water quality and marine resources in conjunction with development and other land use activities. Section 30231 states:

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with the surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.* (emphasis added)

Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal wetlands be maintained and, where feasible, restored through among other means, minimizing adverse effects of wastewater discharge and entrainment, and controlling runoff.

The majority of the site drains toward the east into the drainage ditch which leads to Humboldt Bay. The approximately 5,000 square feet of blackberry bramble proposed to be removed from along the drainage ditch is not considered an environmentally sensitive habitat. Similarly, the ditch itself is not considered an environmentally sensitive habitat area. The ditch is relatively narrow (approximately 3-feet-wide) and does not contain well-developed wetland vegetation. The ditch is not contiguous with any other wetland feature or other type of environmentally sensitive habitat and as such, does not provide any sort of transitional habitat. However, the ditch meets the definition of a wetland, as it

conveys water during most of the year. The main function of the wetland ditch is to convey runoff from the site and provide flood protection.

Due to the proximity of the grading to the adjacent drainage ditch that drains to Humboldt Bay, the proposed grading has the potential to adversely impact water quality and the biological productivity of the wetland from erosion and sedimentation. Sediments entrained in runoff can result in adverse water quality impacts such as increased turbidity and can result in potential adverse impacts to wetlands. Potential adverse impacts from the introduction of sediment include reduction of surface area, changes in chemical composition and nutrient cycling, changes in hydrologic regime, and burial of sensitive wetland plant and animal species.

The applicant proposes to remove approximately 5,000 square feet of blackberries growing on top of a berm-like feature along approximately 560 linear feet of the drainage ditch. The applicant has indicated that the berm-like feature along the ditch was created from the side casting of excavated spoils during maintenance of the ditch when it was previously maintained by the County. The applicant proposes to remove the blackberries from the top of the berm-like feature and grade the material into the site to improve site drainage.

The vegetation growing adjacent to the ditch that is proposed to be removed currently provides some filtration effect by capturing sediment prior to stormwater being discharged into the ditch. Therefore, removing the berries and grading the material to increase the site's drainage capability would also likely increase the velocity and amount of runoff reaching the ditch. The Commission finds that while removing the blackberry vegetation and grading the material adjacent to the ditch would improve the efficiency of site drainage, incorporating runoff control measures, such as a vegetated swale, adjacent to the ditch would minimize the amount of sedimentation reaching the ditch and reduce the velocity of the runoff by increasing infiltration.

Vegetated swales, or biofilters, are open, shallow channels with vegetation covering the side slopes and bottom that collect and slowly convey runoff flow to discharge points. Biofilters are designed to treat runoff through filtering by the vegetation in the channel, filtering through a subsoil matrix, and/or infiltration into the underlying soils. Biofilters trap particulate pollutants (suspended solids and trace metals), promote infiltration, and reduce the flow velocity of stormwater runoff. According to design guidelines from "*Start at the Source – Design Guidance Manual for Stormwater Quality Protection*" (Bay Area Stormwater Management Agencies Association, 1999), vegetated swales are typically 2-8 feet in width with vegetation approximately 4 to 6 inches high and a maximum water depth of less than 2 inches. Biofilters are typically vegetated with turfgrass or wetland vegetation.

To ensure that site runoff is adequately treated prior to draining to the wetland ditch that leads to Humboldt Bay, the Commission attaches Special Condition No. 1 which requires

the applicant to submit for the review and approval of the Executive Director an erosion and runoff control plan. Special Condition No. 1 requires the plan to provide for the installation of a vegetated swale along the length of the drainage ditch that is adequately sized and vegetated to capture and filter stormwater runoff prior to entering the drainage ditch.

The efficacy of water quality Best Management Practices is dependent upon on-going, regular maintenance to ensure proper functioning. To ensure proper functioning of vegetated swales, regular maintenance including periodic mowing (and removal of cuttings), weed control, reseeding of bare areas, and clearing of debris and blockages is required. Therefore, Special Condition No. 1 requires the erosion and runoff control plan to demonstrate that the drainage swale would be properly maintained.

Special Condition No. 1 also requires the applicant to install silt fencing along the length of the drainage ditch prior to commencement of grading activities as a temporary erosion control measure to further reduce the amount of sediment that could enter the adjacent wetland drainage ditch during site grading. The condition requires the silt fencing to remain in place until after disturbed portions of the site are seeded.

Lastly, the Commission finds that if the site were to be graded and remain exposed during the rainy season, the excavated material could more likely become entrained in surface runoff and could result in adverse water quality impacts in the form of increased turbidity and sedimentation to the adjacent wetland ditch that drains to Humboldt Bay. Therefore, to ensure that the proposed grading is completed prior to the start of the rainy season, Special Condition No. 1 requires that all grading be completed prior to October 15, 2003. In addition, Special Condition No. 1 requires that all disturbed portions of the site be seeded with native seed mix within 10 days following completion of grading and no later than October 25, 2003.

In 1997, a Storm Water Pollution Prevention Plan was prepared for operations on surrounding parcels pursuant to a Regional Water Quality Control Board Order to comply with the General Industrial Storm Water Permit. The SWPPP however, does not cover the project site. There are no existing National Pollutant Discharge Elimination System (NPDES) permits that apply to the site and the proposed project does not require any permits from the Regional Water Quality Control Board. Therefore, conditions and/or BMPs required by the Commission to minimize adverse impacts to water quality from the proposed development would not conflict with actions of the RWQCB consistent with the requirements of Coastal Act Section 30412 which prevent the Commission from modifying, adopting conditions, or taking any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality.

Therefore, the Commission finds that the project as conditioned would be sited and designed to prevent impacts that would significantly degrade the water quality of the

adjacent wetland ditch and would protect the biological productivity of the wetland by minimizing site runoff and sedimentation, consistent with Section 30231 of the Coastal Act.

3. Hazards

Section 30253 of the Coastal Act requires, in part, that new development minimize risks to life and property from geologic hazards. Given the subject property's location near the bay, the project site is subject to exposure to seismic hazards related to tsunamis and seiches.

Tsunamis are waves that are generated by undersea earthquakes, volcanic eruptions, and landslides. The Cascadia Subduction Zone and other off-shore faults are potential sources of tsunamis in the region although tsunamis can be generated by seismic events thousands of miles away. Seiches are sudden oscillations in the water levels of enclosed water bodies such as lakes, reservoirs and bays caused by a seismic event. Seiches can cause abnormally high water levels resulting in wave runup along the shore.

A tsunami model was prepared by the National Oceanic and Atmospheric Administration in 1994 entitled, *"Tsunami Inundation Model Study of Eureka and Crescent City, California,"* by Bernard and others. This tsunami model was further incorporated into a planning scenario document (Special Publication 115) prepared for the California Office of Emergency Services by the California Department of Conservation (Toppozada and others, 1995). Based upon the tsunami inundation modeling, the site is shown to be within an area of tsunami runup. Although the study was approximate and was not intended to be sufficiently accurate for site-specific use, it does indicate the possibility of inundation of the project site following a major seismic event.

The site supports an import and export operation where logs, wood products, and other cargo are loaded and unloaded at the existing Olsen Terminal located north of the project site. According to the applicant and historic photos, the subject site and surrounding parcels currently owned by the applicant have been used for over 50 years for the handling and storage of logs and marine cargo. Although the site is currently vacant, following the applicant's 'clean-up' efforts by grading the site and clearing historic remnant debris, the site would continue to be used for storage of marine cargo. As the proposed project does not introduce a new use at the site, it does not present an increased risk to life or property from geologic hazards than the level of risk that has occurred at the site for over 50 years.

There is no indication that the applicant has either stored hazardous materials at the site in the past, or has plans to store hazardous materials at the site in the future. The storage of hazardous materials such as petroleum products, chlorine, or large quantities of fertilizer could increase the risk to life or property if such materials were stored at the site where they would be potentially volatile in the event of a tsunami. Therefore, the

Commission attaches Special Condition No. 2 to ensure that no storage of hazardous materials (e.g. petroleum products, chlorine, fertilizer) occurs at the site without an amendment to this permit, or a new coastal development permit unless it is determined by the Executive Director that no permit is legally necessary. This condition would allow the Commission to review any future proposal to store hazardous materials at the site to determine whether it can be found to be consistent with Section 30253 of the Coastal Act by implementing appropriate mitigation measures such as locating any storage areas at an elevation above the tsunami runup elevation to minimize risks to life and property.

Furthermore, to ensure that all future owners of the property are aware of the limitations and requirements of the use of the site, the Commission attaches Special Condition No. 3 that requires recordation of a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property.

Therefore, the Commission finds that the proposed project is consistent with Section 30253 as the proposed project would not result in any new development that would increase risks to life or property from geologic hazards.

4. Visual Resources

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance, and requires in applicable part that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas. Furthermore, Section 30240(b) of the Coastal Act states that development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those recreation areas.

The proposed project involves after-the-fact approval of approximately 530 cubic yards of site grading and construction of a 9-foot-high, chain-link perimeter fence. The project also proposes removal of approximately 5,000-square-feet of blackberries along a drainage ditch, and an additional 200 cubic yards of grading.

The subject site is located in an industrially developed area along the shoreline of Humboldt Bay in Fields Landing. The site has historically been used for an import and export operation where logs, wood products, and other cargo are loaded and unloaded at the existing Olsen Terminal located to the north of the project site. According to the applicant, the subject site and surrounding parcels currently owned by the applicant have been used for over 50 years for the handling and storage of logs and marine cargo. Therefore, the continued use of storing marine cargo would not change the view shed of the area.

The 9-foot-high, chain-link perimeter fence would be an addition to the view shed of the area. Although the fence is tall, it is of a see-through, chain-link design that would not block views of Humboldt Bay afforded across the site from public roads adjacent to the site (i.e. Railroad Avenue and C Street). The fence is located in an industrially developed area and therefore, the fence is not out of character with accessory development typically associated with industrial facilities.

Furthermore, although the project involves a relatively large amount of grading, the material would be stockpiled, 'sifted' to remove trash and debris, and then recontoured on site. Therefore, the proposed grading does not result in landform alteration, as the elevation and visual appearance of the site would not change following completion of the grading.

Therefore, the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act as the development will not block views to and along the coast, will not involve any alteration of land forms, and would not be visually incompatible with the character of the area.

5. Public Access

Coastal Act Section 30210 requires in applicable part that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. In applying these sections of the Coastal Act, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential access.

Although the project is located between the first public road and Humboldt Bay, it will not adversely affect public access. The project site is located in an area of coastal-dependent industrial development along the shoreline of Humboldt Bay. There are no trails or other public roads that provide shoreline access within the vicinity of the project. Furthermore, the proposed fence, grading, and vegetation removal would not change the nature or intensity of use of the site that has historically been used as a marine cargo import and export operation. Thus, the proposed project would not create any significant new demand for public access or otherwise create any additional burdens on public access.

Therefore, the Commission finds that the proposed project would not have an adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, and 30212.

6. Alleged Violation

As noted above, approximately 530 cubic yards of grading and construction of a 9-foot-high, chain-link perimeter fence occurred at the site in an area within the Commission's jurisdiction without the benefit of a coastal development permit. This coastal development permit application seeks after-the-fact authorization for construction of the fence and site grading. The Commission has attached a special condition requiring the applicant to submit a runoff and erosion control plan to ensure that potential adverse impacts to water quality and biological resources associated with site grading are minimized. As conditioned, the Commission finds that the project is consistent with the Chapter 3 policies of the Coastal Act.

To ensure that the unpermitted development component of this application is resolved in a timely manner, Special Condition No. 4 requires that the applicant satisfy all conditions of this permit that are required to be satisfied prior to issuance of this permit within 90 days of Commission action. The Executive Director may grant additional time for good cause.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the cited alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

7. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to be found consistent with the policies of the Coastal Act. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. Mitigation

measures which will minimize or avoid all significant adverse environmental impact have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

EXHIBITS:

1. Regional Location
2. Vicinity Map
3. Site Plan
4. Fence Plan

ATTACHMENT A

Standard Conditions:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

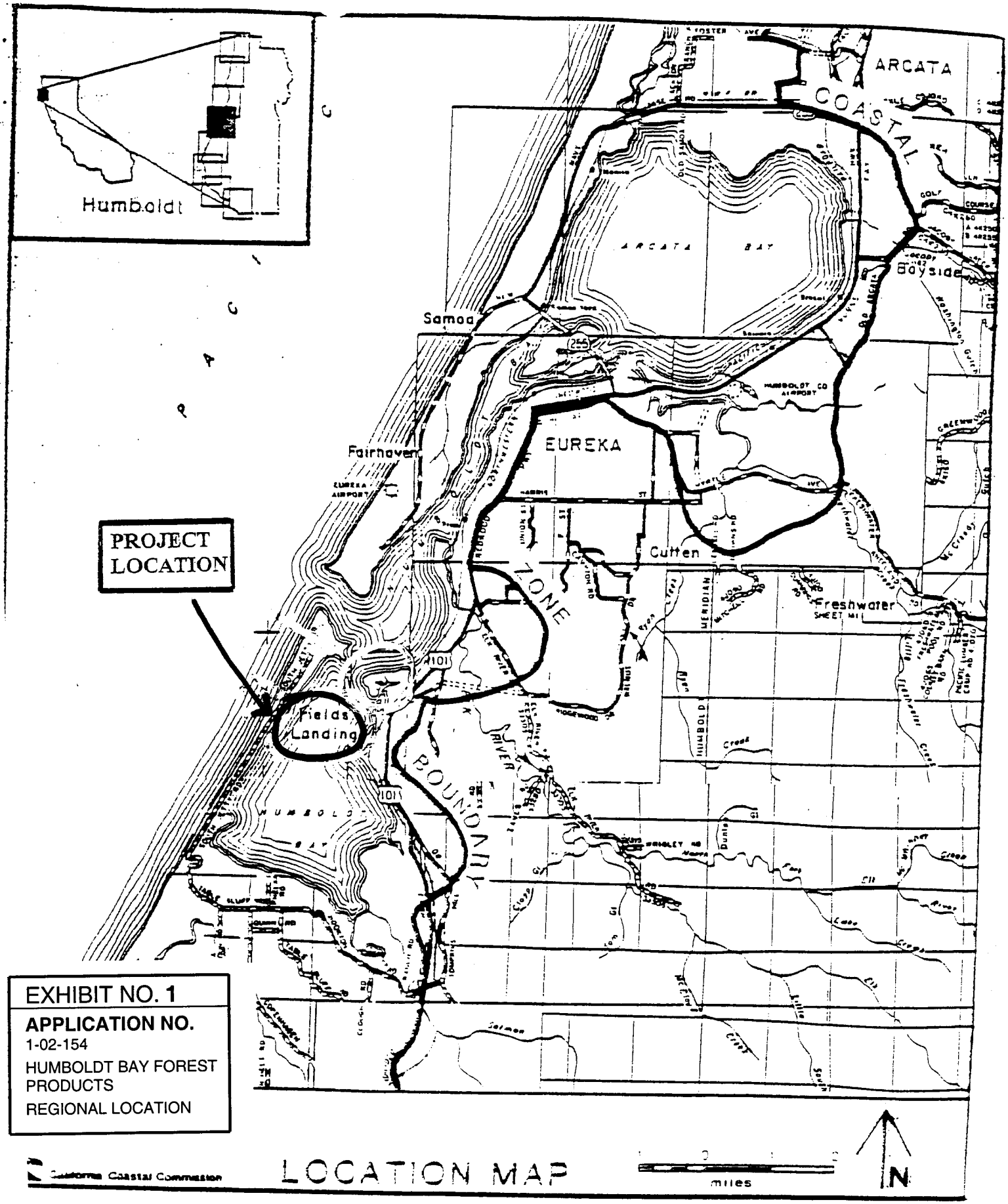


EXHIBIT NO. 1

APPLICATION NO.
1-02-154

HUMBOLDT BAY FOREST PRODUCTS

REGIONAL LOCATION

California Coastal Commission

County of Humboldt

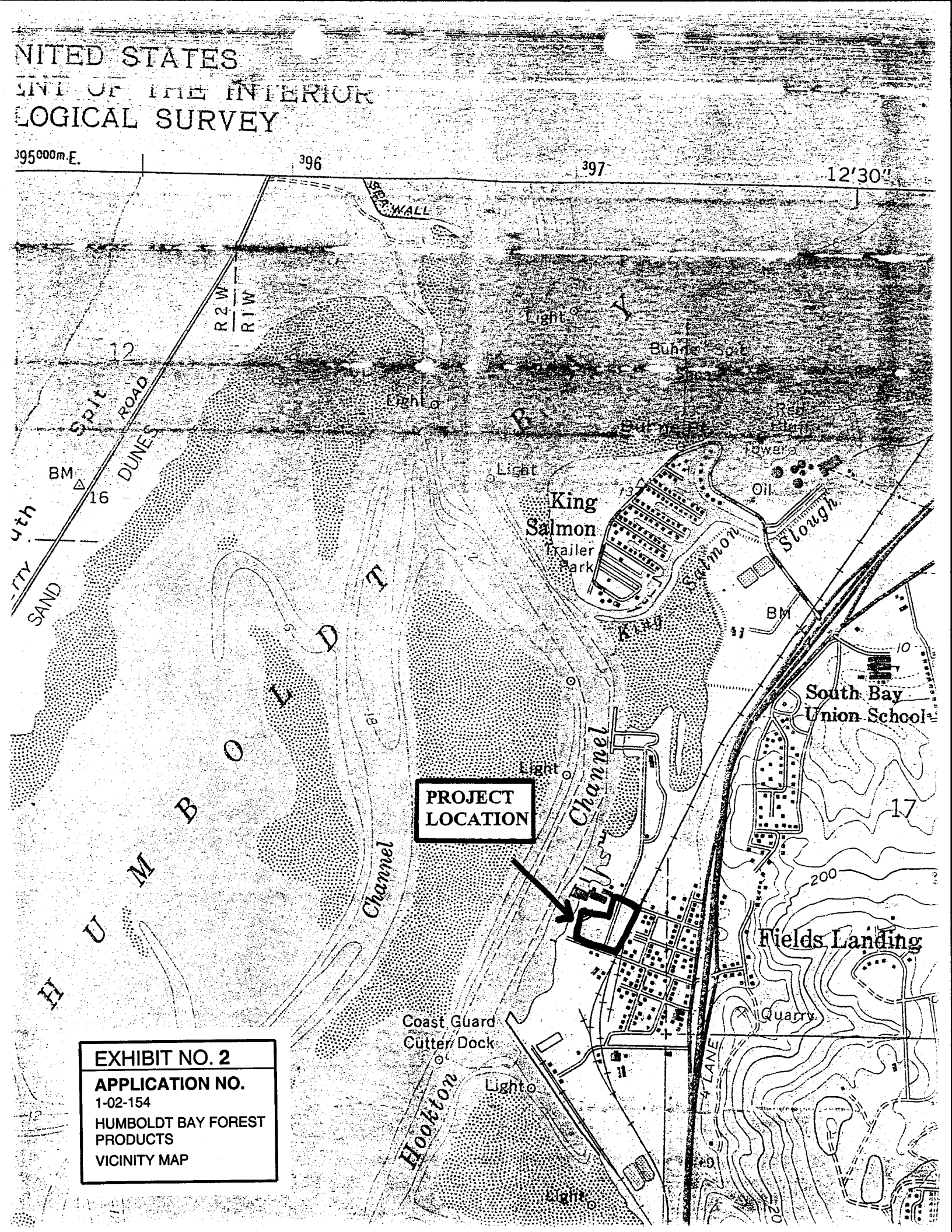


EXHIBIT NO. 2

APPLICATION NO.
1-02-154

HUMBOLDT BAY FOREST PRODUCTS

VICINITY MAP

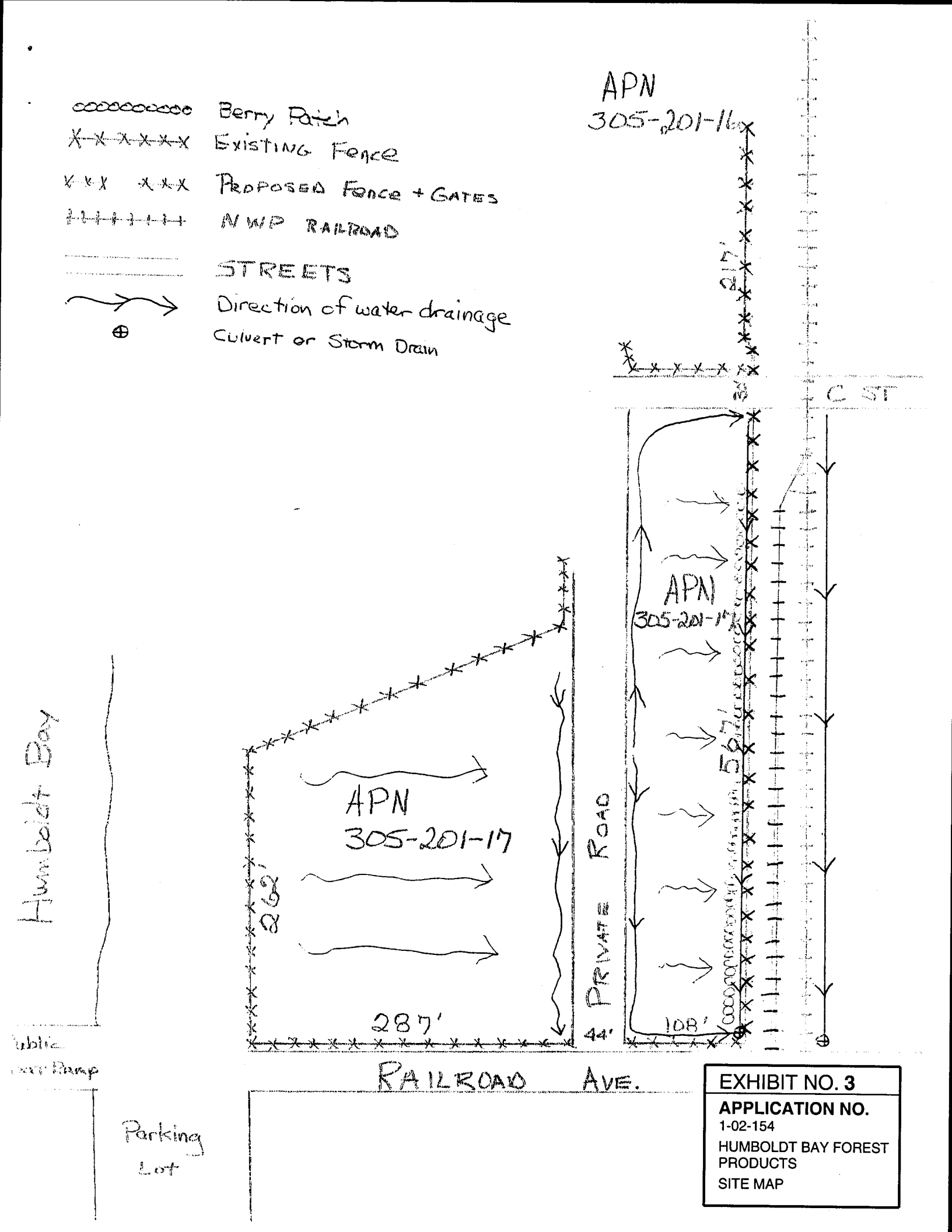
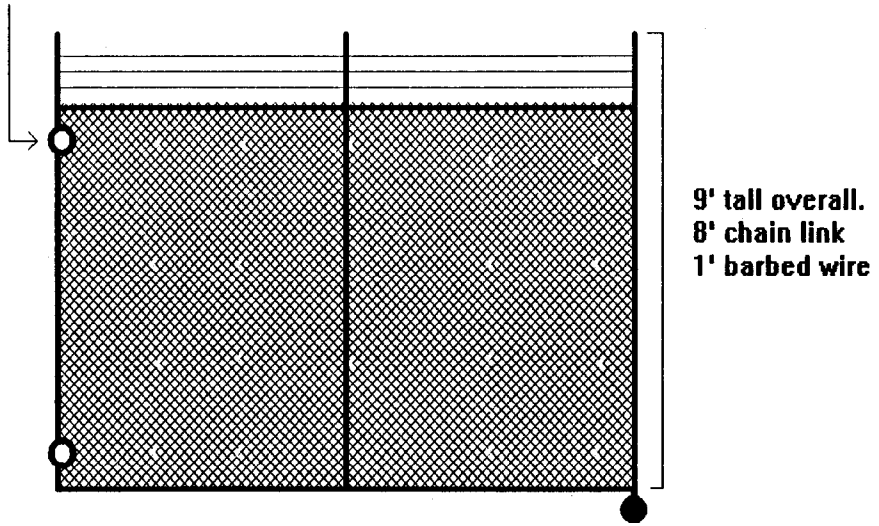


EXHIBIT NO. 3

APPLICATION NO.
1-02-154
HUMBOLDT BAY FOREST PRODUCTS
SITE MAP

Fence will be constructed with same type of pipe, chain link.
Fence poles are 8' between each.
Fence with also be 9' tall overall;
8' chain link and 1' barbed wire.
Barbed wire on fence will lean at a 45 degree angle toward outside of proper

Gates mounted with rollers,
allow gate to slide open and closed on pipes mounted to fence.



Gates each have a set of 8 1/2" pneumatic tires.

Gates constructed of 2 5/8" (outside diameter) galvanized pipe. (Inside diameter of 2 1/2")
Posts on leading edge of fence (nearest to gates) are 3" (outside diameter) galvanized.
(inside diameter of 3 3/4")

EXHIBIT NO. 4
APPLICATION NO.
1-02-154
HUMBOLDT BAY FOREST PRODUCTS
FENCE PLANS