

**CALIFORNIA COASTAL COMMISSION**

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



# F 8a

Date Filed: July 26, 1999  
 49<sup>th</sup> Day: September 14, 1999  
 180<sup>th</sup> Day: January 23, 2000  
 Hearing Date: November 19, 2010  
 Staff Report: November 4, 2010  
 Staff: Melissa B. Kraemer  
 Commission Action:

## **STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 1-99-055

**APPLICANTS:** Pacific Gas & Electric Company and Humboldt Bay Harbor, Recreation, & Conservation District (HBHRCDC)

**PROJECT LOCATION:** On the west side of Highway 101, in the King Salmon area south of Eureka, along King Salmon Drive and Buhne Drive, Humboldt County (APNs 305-131-28, -29, -23, -33, -34, -35, -36, -37, 305-141-03, -04, and 305-161-01)

**PROJECT DESCRIPTION:** Merger and resubdivision of two contiguous parcels (113 acres and 144 acres) totaling approximately 257 acres to result in two contiguous parcels (108 acres and 149 acres) totaling approximately 257 acres to correct the unpermitted subdivision of the parcels and conveyances in 1983 and 1984 of (1) one 34-acre APN by Eureka Shipbuilders to the Humboldt Bay Harbor, Recreation, & Conservation District (APNs 305-161-01, split off from 305-141-03, & -04) and (2) two APNs totaling approximately 5 acres by Pacific Gas & Electric Company to the HBHRCDC (APNs 305-131-36 and -37, split off from 305-131-34 & -35).

**GENERAL PLAN DESIGNATION:** APNs 305-131-34, -36, 305-141-04, -03, & 305-161-01 = Natural Resources; APNs 305-131-35 & -

37 = Coastal Dependent Industrial; APNs 305-131-32, -33, -28, -29 = Commercial Recreation

ZONING DESIGNATION: APNs 305-131-34, -36, 305-141-04, & -03 = Natural Resources with a Coastal Wetlands combining zone (NR/W) and 305-161-01 = NR with a Dune & Beach Areas combining zone (B); APNs 305-131-35 & -37 = Coastal Dependent Industrial with Coastal Resource Dependent, Coastal Wetland & Flood Hazard Areas combining zones (MC/C,W,F); APNs 305-131-32, -33, -28, -29 = Commercial Recreation (CR/C,W,F).

OTHER APPROVALS: Humboldt County Notice of Merger No. 07-12 (Approved December 11, 2007)

SUBSTANTIVE FILE DOCUMENTS: Humboldt County Local Coastal Program

### **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission approve with special conditions the coastal development permit for the proposed merger and resubdivision of two parcels totaling 257 acres.

The proposed project involves the merger and resubdivision of two contiguous parcels (113 acres and 144 acres) totaling approximately 257 acres to result in two contiguous parcels (108 acres and 149 acres) totaling approximately 257 acres to correct the unpermitted subdivision of the parcels and conveyances in 1983 and 1984 of (1) one 34-acre Assessor's Parcel Number (APN) by Eureka Shipbuilders to the Humboldt Bay Harbor, Recreation, & Conservation District (APNs 305-161-01, split off from 305-141-03 & -04) and (2) two APNs totaling approximately 5 acres by Pacific Gas & Electric Company to the HBHRCD (APNs 305-131-36 and -37, split off from 305-131-34 & -35) (see Exhibit Nos. 1-5)

The project area includes submerged lands of Humboldt Bay (APNs -03, -04, -28, 29, -33, -34, and portions of -01 and -36), the rock jetty at Buhne Point (located in portions of -04, -01 and -36), coastal dunes, wetlands, and shoreline (-37, -34, -32, and portions of -01), and coastal-dependent industrial facilities (the Humboldt Bay Power Plant on APN -35) (see Exhibit Nos. 2 & 3). Except for the rock jetty and the power plant facility on APN -35, the parcels to be merged and resubdivided are undeveloped, and no other development is proposed. The purpose of the merger and resubdivision is to correct violations of local and state regulations, as APNs -01, -36, and -37 were conveyed without the benefit of Humboldt County or Coastal Commission review and approval. The merged APNs -01, -03, -04, -36, and -37 would all be under one ownership (the Humboldt Bay Harbor, Recreation, and Conservation District) and would result in an approximately 5-acre expansion of the District's property. The resubdivision would result in a legally separate parcel for PG&E (APNs 305-131-34, -35, -28, -29, -32, & -33, which are one

legal parcel, and from which -36 and -37 were split off and conveyed to the District).

Staff believes that the proposed project is consistent with the rural land division criteria of Section 30250(a) of the Coastal Act, as the proposed parcel sizes (108 acres and 149 acres) of the two lots to be created by the merger and resubdivision are significantly larger than the average parcel size of similarly zoned parcels in the surrounding area, and over 50 percent of the surrounding parcels are developed. Additionally, staff believes that the proposed development is consistent with Coastal Act Section 30250(a) to the extent that it will not cause significant adverse effects, either individually or cumulatively, on coastal resources. Moreover, staff believes that the proposed merger and resubdivision will not result in (a) increased density of use, (b) parcels for which development may be expected which would be inconsistent with applicable NR, MC, or CR uses of the resultant parcels, (c) the development of uses in wetlands inconsistent with Section 30233, or (d) the development of non-resource-dependent uses in other environmentally sensitive habitat areas inconsistent with Section 30240. Finally, staff believes that the proposed project will benefit public access and is consistent with the requirements of Coastal Act Sections 30210, 30211, and 30212, as the proposed project will increase the amount of lands under Harbor District ownership, which are to be managed for public trust purposes, by 5 acres.

In conclusion, staff believes that the proposed project, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act. **The Motion to adopt the Staff Recommendation of Approval with Conditions is on Page 4.**

---

## **STAFF NOTES**

### **1. Standard of Review**

The subject site is bisected by the boundary between the retained coastal development permit (CDP) jurisdiction of the Commission and the CDP jurisdiction delegated to Humboldt County by the Commission through the County's certified local coastal program (LCP). The jurisdictional boundary line bisects the southern portions of APN 305-131-35 & -32, with the Commission's area of jurisdiction including the northern portions of the APNs and the entirety of all other involved APNs, and the County's area of jurisdiction including the southern portion of APNs 305-131-35 and -32.

Section 30601.3 of the Coastal Act authorizes the Commission to process a consolidated coastal development permit application when requested by the local government and the applicant and approved by the Executive Director for projects that would otherwise require coastal development permits from both the Commission and from a local government with a certified LCP. In this case, the Humboldt County Board of Supervisors adopted a resolution and both the applicants and the County submitted letters requesting consolidated processing of the coastal development permit application by the Commission for the subject project, which was approved by the Executive Director.

The policies of Chapter 3 of the Coastal Act provide the legal standard of review for a consolidated coastal development permit application submitted pursuant to Section 30601.3. The local government's certified LCP may be used as guidance.

---

**I. MOTION, STAFF RECOMMENDATION & RESOLUTION**

The staff recommends that the Commission adopt the following resolution:

**MOTION**

*I move that the Commission approve Coastal Development Permit No. 1-99-055 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 feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

**II. STANDARD CONDITIONS:** See Appendix A.

**III. SPECIAL CONDITIONS:**

**1. Permit Effectiveness**

This permit shall become effective immediately upon Commission action.

**2. Evidence of Merger Recordation**

**WITHIN 180 DAYS OF COMMISSION ACTION**, the permittee shall submit evidence to the Executive Director demonstrating that the County-approved Notice of Merger and Certificate of Subdivision Compliance for the development approved by Coastal Development Permit No. 1-99-055 have been recorded.

#### **IV. FINDINGS & DECLARATIONS:**

The Commission hereby finds and declares the following:

##### **A. Project Description & Background**

The proposed project involves the merger and resubdivision of two contiguous parcels (113 acres and 144 acres) totaling approximately 257 acres to result in two contiguous parcels (108 acres and 149 acres) totaling approximately 257 acres to correct the unpermitted subdivision of the parcels and conveyances in 1983 and 1984 of (1) one 34-acre Assessor's Parcel Number (APN) by Eureka Shipbuilders to the Humboldt Bay Harbor, Recreation, & Conservation District (APNs 305-161-01, split off from 305-141-03 & -04) and (2) two APNs totaling approximately 5 acres by Pacific Gas & Electric Company to the HBHRCDC (APNs 305-131-36 and -37, split off from 305-131-34 & -35) (see Exhibit Nos. 1-5)

The project area includes submerged lands of Humboldt Bay (APNs -03, -04, -28, 29, -33, -34, and portions of -01 and -36), the rock jetty at Buhne Point (located in portions of -04, -01 and -36), coastal dunes, wetlands, and shoreline (-37, -34, -32, and portions of -01), and coastal-dependent industrial facilities (the Humboldt Bay Power Plant on APN -35) (see Exhibit Nos. 2 & 3). Except for the rock jetty and the power plant facility on APN -35, the parcels to be merged and resubdivided are undeveloped, and no other development is proposed. The purpose of the merger and resubdivision is to correct violations of local and state regulations, as APNs -01, -36, and -37 were conveyed without the benefit of Humboldt County or Coastal Commission review and approval. The merged APNs -01, -03, -04, -36, and -37 would all be under one ownership (the Humboldt Bay Harbor, Recreation, and Conservation District) and would result in an approximately 5-acre expansion of the District's property. The resubdivision would result in a legally separate parcel for PG&E (APNs 305-131-34, -35, -28, -29, -32, & -33, which are one legal parcel, and from which -36 and -37 were split off and conveyed to the District).

The genesis of the property transfer from PG&E to the District, which created unauthorized parcels -36 and -37, was the District's project in the 1980s to install rock jetties and create public access along Buhne Drive (known as the King Salmon Beach and Dunes Restoration project). A portion of the shoreline area within the project boundaries extended into the very western tip of the Humboldt Bay Power Plant property. PG&E determined the portion of the power plant property to be surplus and sold the needed 4.9 acres to the District for \$100 in August 1984. The property was sold as two parcels – "parcel 1" included 4.21 acres of water surface, and "parcel 2" included 0.69 acres of shoreline. These properties today are known as APN 305-131-36 (water area) and 305-131-37 (land area). The segregation of these two APNs from PG&E's power plant property (APNs 305-131-34 and -35) was done without local government or Coastal Commission review and approval.

The Coastal Act requires a coastal development permit prior to undertaking "development," which includes: "...change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the

*Government Code*), and any other division of land, including lot splits...” (Coastal Act Section 30106). The land division that attempted to create the two lots transferred to the Harbor District by deed in the 1980s occurred after the effective date of the Coastal Act (January 1, 1977). As such, the land division requires a coastal development permit pursuant to the provisions of the Coastal Act to be legally effective. No CDP was obtained for this land division.

During a zoning consistency review by Humboldt County for a building permit on the PG&E Humboldt Bay Power Plant property in 1998, the County Planning Division discovered the inconsistency in the assessor’s parcelization of the project area. In response to inquiries from the County, PG&E submitted an application for a lot-line adjustment to the County to authorize the after-the-fact division and reconfiguration of the property under the Subdivision Map Act, which was triggered by PG&Es conveyance to the District. As the creation of the contiguous APN conveyed by Eureka Shipbuilders (APN 305-161-01) to the Harbor District also had not been authorized, the County decided instead to process a lot merger for all of the affected property in one administrative approval. On December 3, 2007 the County conditionally approved the Notice of Merger. Condition of Approval No. 5 of the Notice of Merger requires PG&E to obtain a coastal development permit or a waiver from the Commission, which is the basis for the subject application.

**B. Rural Land Divisions**

Coastal Act Section 30250 states, in applicable part, the following (emphasis added):

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

...

Section 30250(a) of the Coastal Act states in part that rural land divisions shall only be permitted where 50 percent of the usable parcels in the area have been developed, and the created parcels would be no smaller than the average size of surrounding parcels.

The majority of the subject property, except for APN 305-131-35 on which the Humboldt Bay Power Plant is located, is outside of the urban limit line and is therefore subject to the rural land division criteria of Section 30250(a) of the Coastal Act. To meet the criteria, the subject property must be located within an area where 50 percent or more of the usable parcels have been developed, and the newly created parcels must be no smaller than the average size of the surrounding parcels.

Taking the second test first (i.e., the newly created parcels must be no smaller than the average size of the surrounding parcels), the Commission has normally considered “surrounding parcels” to include those within a quarter-mile radius. Consistent with the decision of a state court of

appeal [Billings v. CCC (1980) 103 Cal.App.3rd 729], this radius may be modified where geographic or other features clearly distinguish some of the parcels within it from those surrounding the subject property. In this instance, a major distinguishing factor is the local zoning and land use of the surrounding area. The residential community of King Salmon, which abuts the eastern side of APN 305-161-01, the western side of APN 305-131-35, and the northern sides of APNs 305-131-28 & -32, is located within the urban limit line and consists of hundreds of small (~0.2-acre or smaller) lots zoned for single family residential or commercial recreational uses, which starkly contrasts with the otherwise large, natural resources and coastal-dependent industrial zoned parcels in the surrounding area. Therefore, the Commission finds that it is appropriate to examine the average parcel size for those parcels within a quarter-mile radius of the subject site, excluding the residentially- and commercial recreationally zoned parcels within the urban portions of the King Salmon area, to evaluate the proposed subdivision's consistency with the average parcel size requirements of Section 30250.

Of the parcels examined in the parcel size study area, which consists of approximately 30 APNs within a quarter-mile radius of the subject site as described above, virtually all of them are smaller than the proposed parcel sizes (108 acres and 149 acres) of the two lots to be created by the merger and resubdivision. Thus, the two lots to be created by the merger and resubdivision are significantly larger than the average parcel size of similarly zoned parcels in the surrounding area, consistent with the rural land division criteria of Section 30250(a) of the Coastal Act.

The other test of the rural land division criteria of Section 30250(a) is whether 50 percent or more of the surrounding parcels are developed. In this case, the proposed merger and resubdivision meets the developed parcel criteria, as over 50 percent of the surrounding parcels are developed.

Therefore, the Commission finds that the proposed merger and resubdivision is consistent with the rural land division criteria of Section 30250(a) of the Coastal Act.

### **C. Locating & Planning New Development**

Coastal Act Section 30250 states, in applicable part, the following (emphasis added):

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

...

Section 30250(a) of the Coastal Act states in part that new development shall be located within or near existing developed areas able to accommodate it or in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is to channel development toward

more urbanized areas where services are provided and potential impacts to resources are minimized.

The proposed merger and resubdivision is located on lands locally designated and zoned "Natural Resources" (NR) (APNs 305-131-34, -36, 305-141-04, -03, & 305-161-01), "Coastal Dependent Industrial" (MC) (APNs 305-131-35 & -37), or Commercial Recreation (CR) (APNs 305-131-28, -29, -32, & -33). Principal uses permitted on land zoned NR under the County's certified LCP include fish and wildlife habitat management (i.e., the manipulation or maintenance of vegetation or streams, or construction of minor structures to yield desired results in terms of habitat suitable for designated wildlife or fishery species or groups of species). Principal uses permitted on land zoned MC include coastal-dependent uses that require a maintained navigable channel to function (e.g., public docks, water-borne carrier import and export operations, ship building and boat repair, commercial fishing facilities, fish processing when product is for human consumption, marine oil terminals, Outer Continental Shelf service or supply bases, ocean intake, outfall or discharge pipelines and pipelines servicing offshore facilities, aquaculture and aquaculture support facilities). Principal uses permitted on land zoned CR include visitor-serving facilities, transient habitation, commercial recreation, coastal dependent recreation, resource related recreation, coastal access facilities, and minor utilities to serve these uses. The project site is bordered by lands planned and zoned for natural resources, coastal-dependent industrial, and commercial recreational uses. The proposed merger and resubdivision, which will allow for natural resources uses on the resultant 149-acre lot (undeveloped except for the rock jetty) in the Harbor District's ownership and coastal-dependent industrial and commercial recreational uses on the resultant 78-acre lot (developed with the power plant) in PG&E's ownership, is consistent with the local zoning.

The subject permit application proposes no development other than the merger and resubdivision of the subject property. Therefore, the Commission will be able to review any future proposals for development on the lots resulting from the proposed merger and resubdivision to ensure that future development does not adversely affect environmentally sensitive habitats.

As described in the Findings below, the proposed project, as conditioned, will not have significant adverse impacts on coastal resources. Therefore, the Commission finds that the proposed development is consistent with Coastal Act Section 30250(a) to the extent that it will not cause significant adverse effects, either individually or cumulatively, on coastal resources.

**D. Wetlands & Environmentally Sensitive Habitat Areas (ESHA)**

Coastal Act Section 30107.5 defines "environmentally sensitive habitat area" as:

*...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Coastal Act Section 30240 states that:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and 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 habitat and recreation areas.*

Coastal Act Section 30233 states in part that:

*(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (6) Restoration purposes.*
- (7) Nature study, aquaculture, or similar resource dependent activities.*

*(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.*

*(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...*

*(d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.*

Section 30240(a) of the Coastal Act limits activities within environmentally sensitive habitat areas (ESHAs) to only uses that are dependent on the resources of the ESHA. In addition, ESHA must be protected against any significant disruption of habitat values. Section 30240(b) requires that development in areas adjacent to ESHA shall be sited and designed to prevent impacts

which would significantly degrade the ESHA, and that development shall be compatible with the continuance of the adjacent ESHA.

Coastal Act Section 30233 sets forth a number of limitations on development in coastal waters, wetlands, and estuaries, including (a) that the purpose of the filling, diking, or dredging is for one of the seven uses allowed under Section 30233; (b) that the project has no feasible less environmentally damaging alternative; (c) that feasible mitigation measures have been provided to minimize adverse environmental effects; and (d) that the biological productivity and functional capacity of the habitat shall be maintained and enhanced where feasible.

The proposed merger and resubdivision will not result in (a) increased density of use, (b) parcels for which development may be expected that would be inconsistent with applicable NR, MC, or CR uses of the resultant parcels, (c) the development of uses in wetlands inconsistent with Section 30233, or (d) the development of non-resource-dependent uses in other environmentally sensitive habitat areas inconsistent with Section 30240. The resultant 149-acre lot consisting mostly of submerged tidelands and beach and dune ESHA owned by the Harbor District will be managed for public trust purposes, as the Legislature granted the state tidelands to the District to administer as such. Therefore, the proposed project does not create pressure to develop non-resource-dependent uses on the resultant ESHA lot. Likewise, the proposed 108-acre resultant lot on which the Humboldt Bay Power Plant is located (APN 305-131-35) is already developed with an economic use, and this lot will be reduced in size by 5 acres (Exhibit No. 5).

Therefore, for the reasons discussed above, the Commission finds that the proposed development is consistent with Coastal Act Section 30240 requirements that ESHA shall be protected against any significant disruption of habitat values, and development in areas adjacent to ESHA shall be sited and designed to prevent impacts that would significantly degrade such areas.

#### **E. Public Access**

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. 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 30211 requires, in applicable part, that development not interfere with the public's right of access to the sea where acquired through use (i.e., potential prescriptive rights or rights of implied dedication). Section 30212 requires, in applicable part, that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects, except in certain instances, such as when adequate access exists nearby or when the provision of public access would be inconsistent with public safety. In applying Sections 30211 and 30212, the Commission is 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 public access.

Public access is currently available at the subject site at the beach and dunes area owned by the Harbor District (APN 305-161-01), at Buhne Point (APN 305-131-36 & -37, which are proposed

to be merged and resubdivided so as to comprise a portion of the 149-acre parcel under Harbor District ownership), and on the submerged parcels consisting of public trust tidelands of Humboldt Bay (APNs 305-141-04, -05, and portions of -01), including the Fisherman's Channel (APN 305-131-28 & -32 in part). The proposed project will increase the amount of lands under Harbor District ownership, which are to be managed for public trust purposes, by 5 acres.

Therefore, the Commission finds that the proposed project will benefit public access and is consistent with the requirements of Coastal Act Sections 30210, 30211, and 30212.

**F. Alleged Violation**

The unpermitted land divisions are a form of development as defined by Section 30106 of the Coastal Act and occurred without the benefit of a coastal development permit. Although certain development (division of lands) has taken place at the project site without the benefit of a coastal development permit, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

**G. California Environmental Quality Act**

The Humboldt County Planning Division acted as the lead agency for this project and issued a Notice of Merger for the project on December 11, 2007. The County found the NOM to be categorically exempt per Class 5, Section 15305(a) of the CEQA Guidelines.

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 achieve consistency between the proposed project and the requirements of the applicable 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 that 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.

**V. EXHIBITS:**

1. Regional Location
2. Vicinity Map
3. Aerial Photo
4. Assessors Parcel Maps
5. Existing & Proposed Parcel Configurations

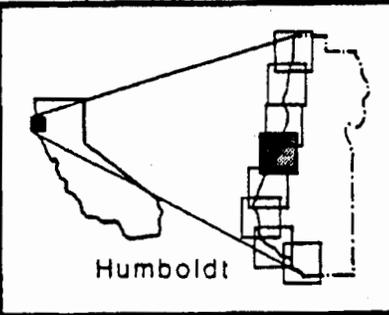
## **APPENDIX A**

### **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. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
3. 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.
4. 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.

A B C D E F G H I J K L M N O

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18



Project Location

**EXHIBIT NO. 1**  
**CDP APPLICATION NO.**  
 1-99-055  
 Pacific Gas & Electric Co. (PG&E) and  
 the Humboldt Bay Harbor, Recreation  
 & Conservation District (HBHRCD)  
**REGIONAL LOCATION MAP**



**LOCATION MAP**



County of Humboldt



City of Eureka  
southern boundary

PG&E's  
Humboldt  
Bay Power  
Plant

Subject parcels  
(area outlined)

King Salmon

South Spit

EXHIBIT NO. 2  
APPLICATION NO.  
1-99-055  
PG&E & HBHRCD  
VICINITY MAP

Aerial Detail



EXHIBIT NO. 3  
APPLICATION NO.  
1-99-055  
PG&E & HBHRCD  
AERIAL PHOTO

Imagery Date: Sep 25, 2006

40°44'23.90" N 124°12'52.31" W elev 7 ft

Image © 2010 DigitalGlobe  
© 2010 Google

Google

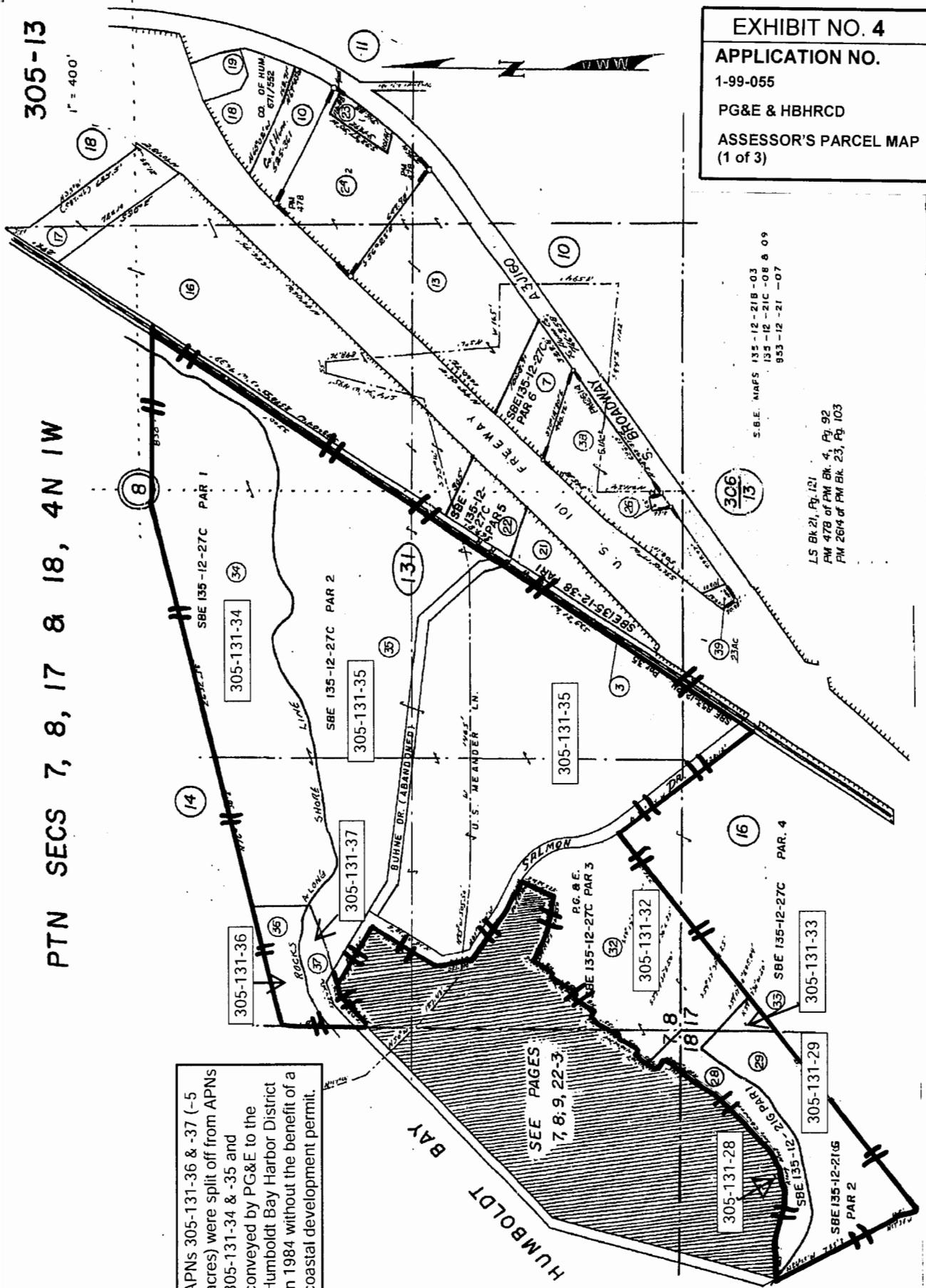
Eye alt 3999 ft

305-13

1" = 400'

PTN SECS 7, 8, 17 & 18, 4N 1W

**EXHIBIT NO. 4**  
**APPLICATION NO.**  
 1-99-055  
 PG&E & HBHRC  
**ASSESSOR'S PARCEL MAP**  
 (1 of 3)



APNs 305-131-36 & -37 (-5 acres) were split off from APNs 305-131-34 & -35 and conveyed by PG&E to the Humboldt Bay Harbor District in 1984 without the benefit of a coastal development permit.

S.B.E. MAPS 135-12-216-03  
 135-12-216-08 & 09  
 953-12-21-07

LS Blk. 21, Pg. 121  
 PM 478 of PM Blk. 4, Pg. 92  
 PM 2694 of PM Blk. 23, Pg. 103

305-16

PTN SECS 7, 8, 17 & 18, 4N 1W

1" = 400'

L.S. 22 P 70  
24 P 82  
25 P 19

APN 305-161-01 (~34 acres) was split off and conveyed by Eureka Shipbuilders to the Humboldt Bay Harbor District in 1983 without the benefit of a coastal development permit.

PTN T.L.S. 102

305-161-01

Humboldt Bay Harbor, Recreation and Conservation Dist. 11/25/952 4/2/88

Pl of notes at City Eng. & Civil En. (Seabury) & Many Lines not Shown Etc.

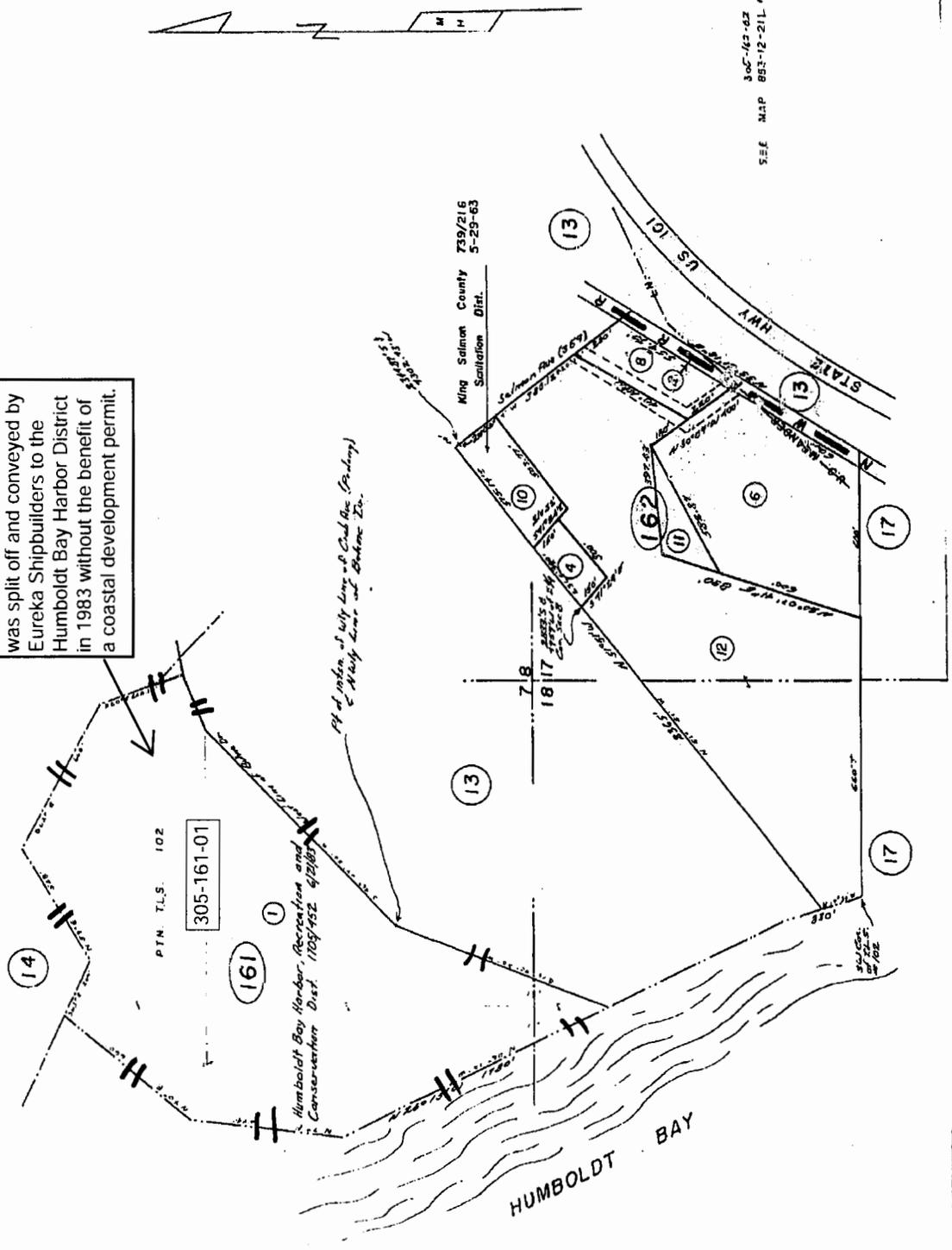
Ming Salmon County 739/216  
Sanitation Dist. 5-29-63

HUMBOLDT BAY

305-161-02  
SEE MAP 883-12-211 4M 34

2093

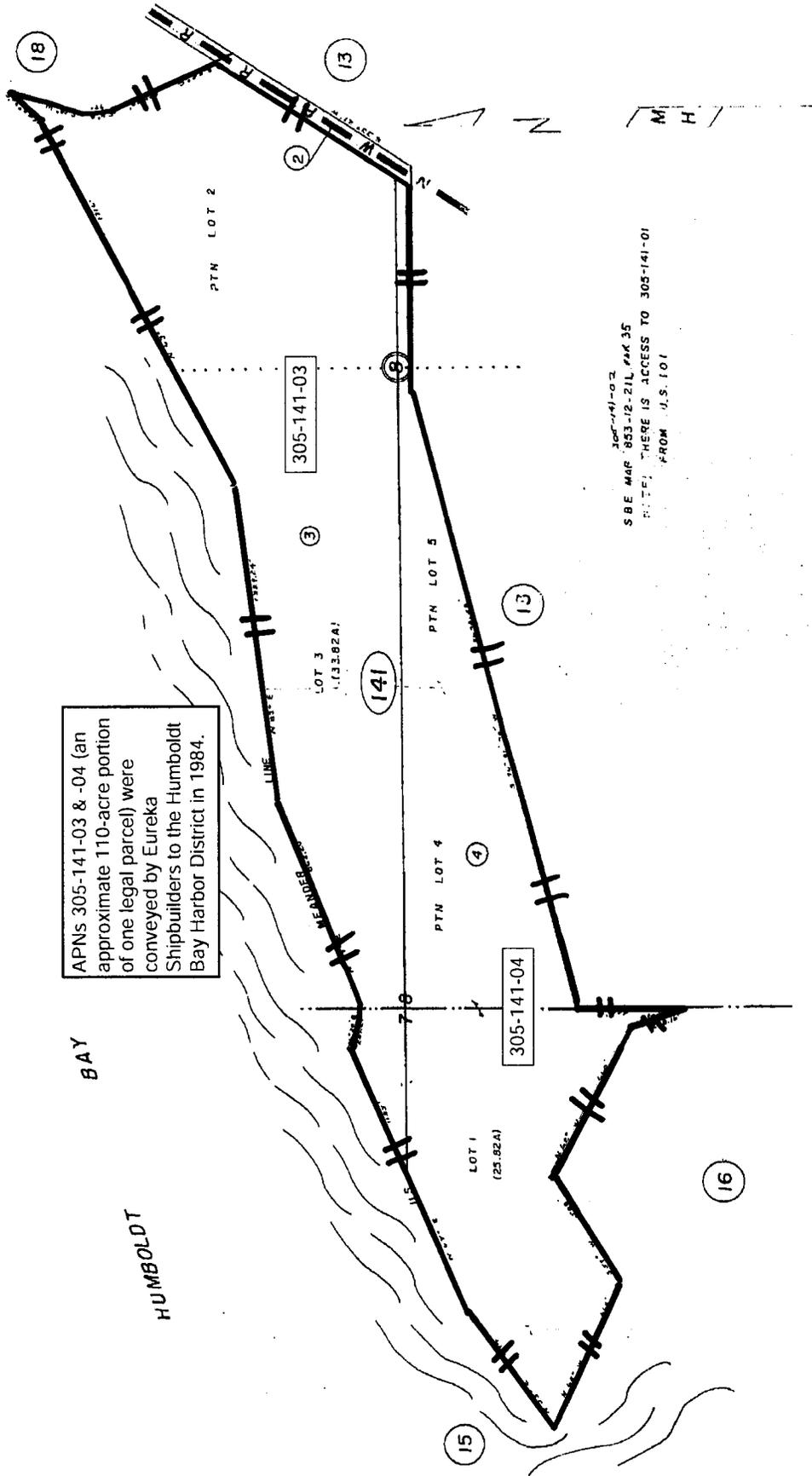
176



305-14

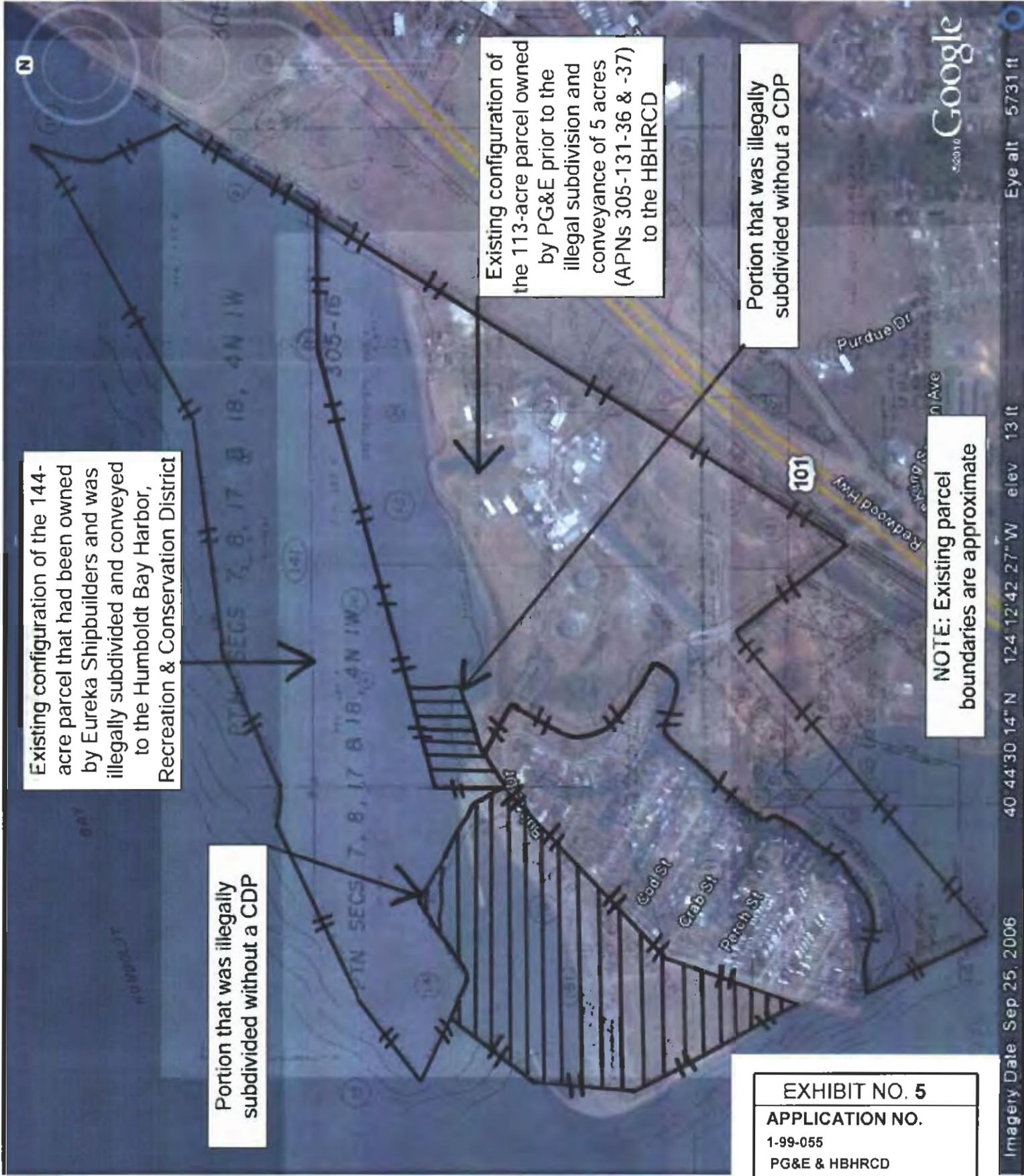
PTN SECS 7 & 8, 4NIW

1" = 400'



APNs 305-141-03 & -04 (an approximate 110-acre portion of one legal parcel) were conveyed by Eureka Shipbuilders to the Humboldt Bay Harbor District in 1984.

3 of 3



Existing configuration of the 144-acre parcel that had been owned by Eureka Shipbuilders and was illegally subdivided and conveyed to the Humboldt Bay Harbor, Recreation & Conservation District

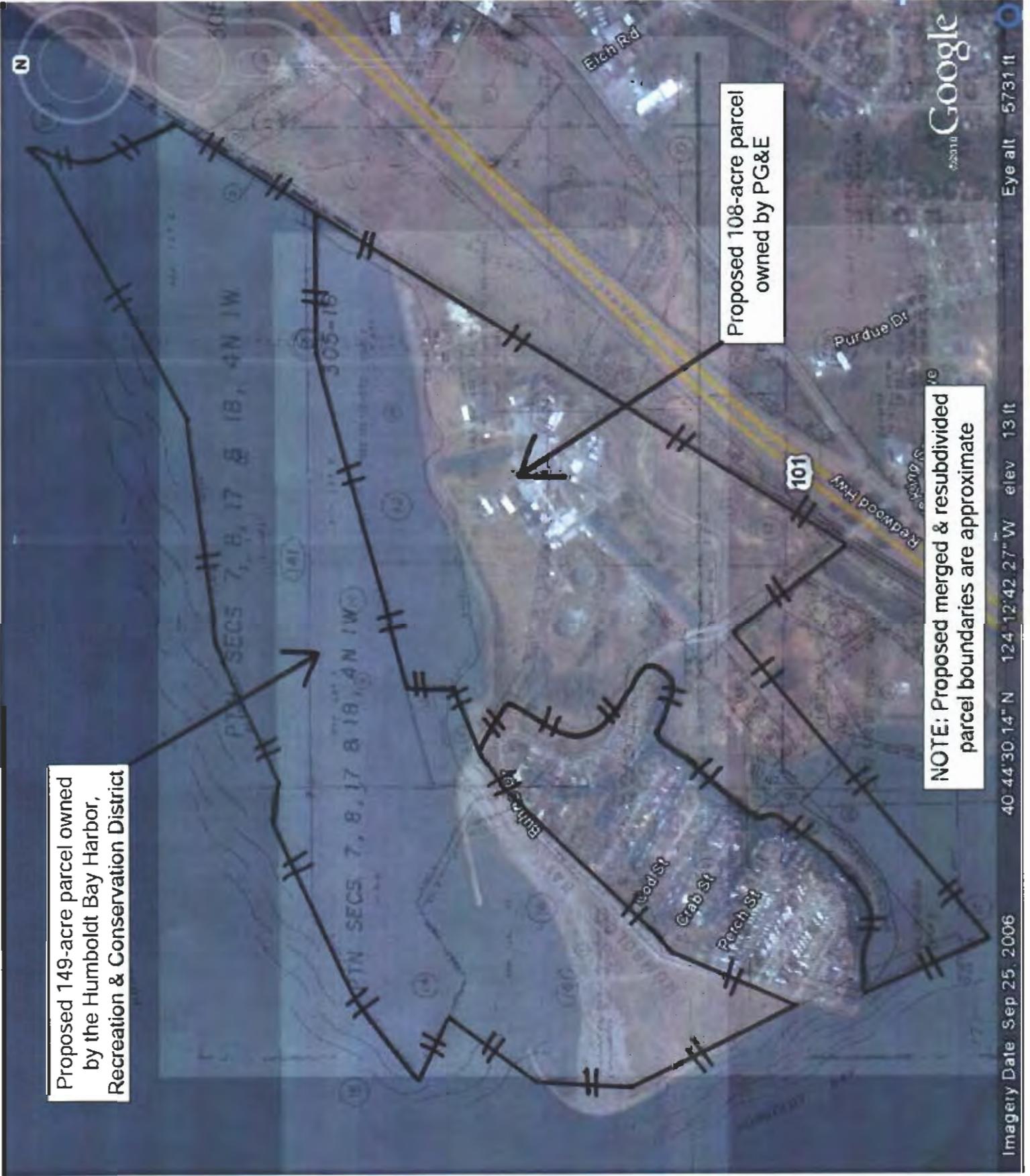
Portion that was illegally subdivided without a CDP

Existing configuration of the 113-acre parcel owned by PG&E prior to the illegal subdivision and conveyance of 5 acres (APNs 305-131-36 & -37) to the HBHRCD

Portion that was illegally subdivided without a CDP

NOTE: Existing parcel boundaries are approximate

**EXHIBIT NO. 5**  
**APPLICATION NO.**  
1-99-055  
PG&E & HBHRCD  
**EXISTING & PROPOSED PARCEL CONFIGURATIONS**  
(1 of 2)



Proposed 149-acre parcel owned by the Humboldt Bay Harbor, Recreation & Conservation District

Proposed 108-acre parcel owned by PG&E

NOTE: Proposed merged & resubdivided parcel boundaries are approximate

2 of 2