

A vertical decorative bar on the left side of the slide, featuring a light blue background with a white grid pattern. It is overlaid with several dark blue and yellow rectangular blocks of varying sizes and positions. A thin white line runs vertically through the center of the bar.

Navigating New State Housing Laws
California League of Cities Conference

David Garcia Policy Director

September 21, 2023

California Housing Laws

- Since 2016, over 100 laws pertaining to housing have been passed and signed into law
- These bills have collectively made over 275 changes to code sections, or created new sections

Our goal: catalogue these changes, assess collective impact relative to need



Planning and zoning

Several new laws have changed how cities must plan for housing through the Housing Element and RHNA process

Examples:

- SB 828/AB 1771 created new requirements for calculating housing goals, leading to larger allocations
- Strict requirements for where housing can be planned/feasibility (AB 686/AB 1397)
- New enforcement authority (AB 72) has been used to keep cities honest



Planning and zoning

Many new laws require local cities to approve certain types of housing, especially in single family areas.

Examples

- Several ADU laws have driven new supply (SB 1069, SB 13, AB 881)
- SB 9 – uptake slow, but still early
- Density Bonus changes also increasing usage, but only in some places (AB 2345, AB 1763)

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How California Set Off a Backyard Apartment Boom

With a state law easing restrictions on accessory dwelling units, granny flats are proliferating in L.A. and other cities — and pre-fab options may make these tiny houses even more common.



Permitting/streamlining

Several attempts have been made to make the housing review and approvals faster, with mixed results

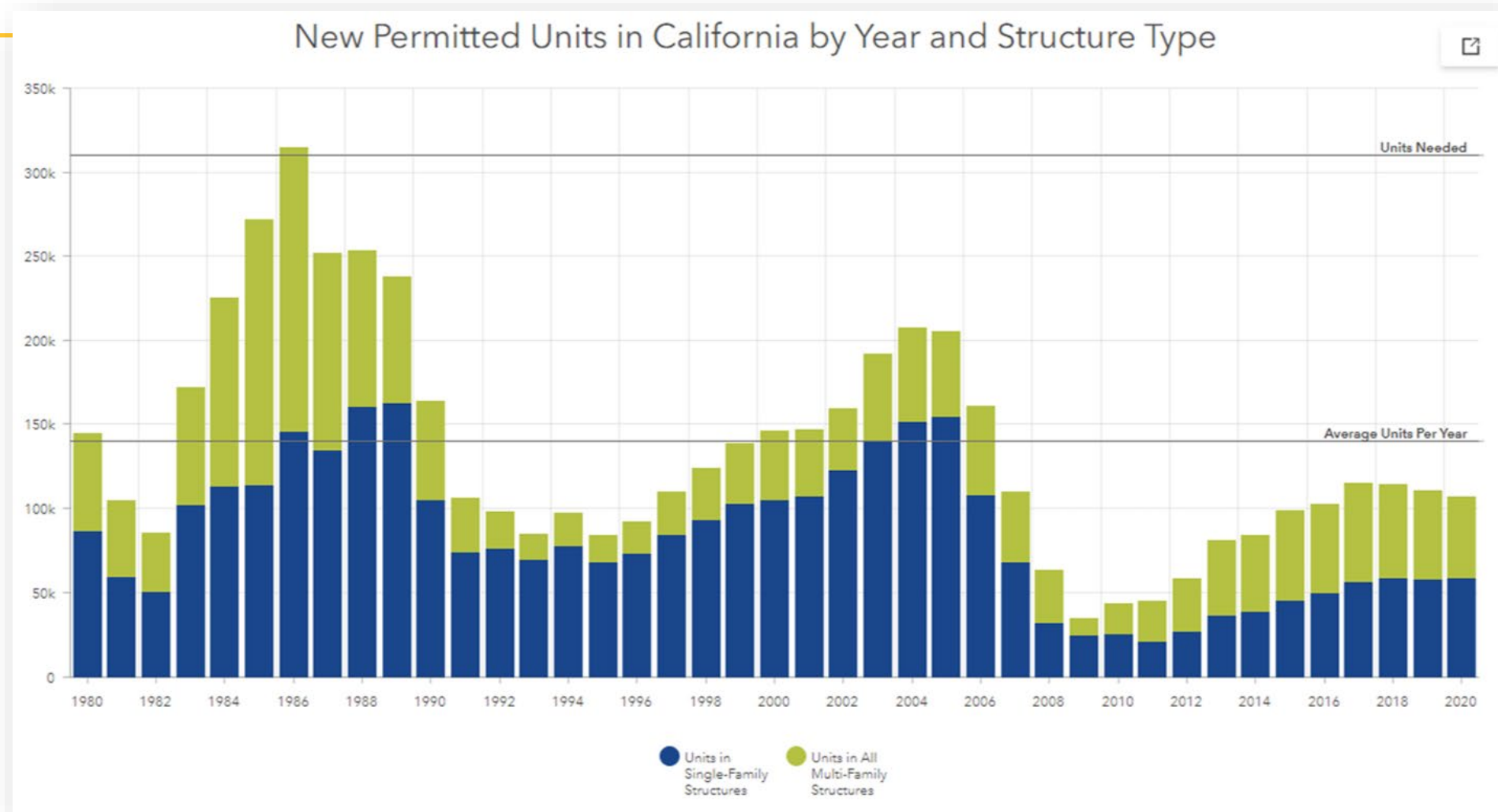
Examples

- Housing Accountability Act reforms (SB 167) have been useful for the approval of zoning compliant projects
- Streamlining reforms show some promise, though they are difficult to use in many scenarios (SB 35, AB 2167, SB 330)
- In general, new housing continues to face CEQA delays despite attempts to address



Bottom Line: is it working?

Housing unaffordability remains high and production relatively stagnant



What will get these existing laws to work better?

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HOUSING

Newsom campaigned on building 3.5 million homes. He hasn't gotten even close

BY MANUELA TOBIAS
OCTOBER 31, 2022

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- Numbers are lagging, but we may need more time to assess
- Clean up bills
- What could help? More technical assistance for low-capacity jurisdictions. More tools for locals to implement Housing Element programs



Navigating New State Housing Laws

Barbara E. Kautz
Goldfarb & Lipman LLP
CalCities Annual Conference
September 21, 2023

Presentation Overview

- **Understanding the Laws**
- **Developers' “Tricks of the Trade”**
- **Implementing the Laws with Limited Capacity**

Understanding the Laws

Making It Hard to Deny Housing Projects

“The Legislature’s intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval & construction of new housing for all economic segments of California’s communities by meaningfully and effectively ***curbing the capability of local governments to deny, reduce the density of, or render infeasible housing development projects.*** This intent has not been fulfilled.”

BUT: Who Can Possibly Understand Over 100 Poorly Drafted Laws?

- Dense, prolix language
- Examples:
 - “Deemed complete” v. “determined to be complete” with “deemed complete” having two different meanings
 - Two meanings of “housing development project”: sometimes includes single-family homes and ADUs, sometimes not

What Are the Key Points to Remember?

- Difficult to have grounds to deny or substantially modify a housing project
 - CEQA and the Coastal Act MAY provide opportunities
- Density bonus law blows out local standards
- Must conform with strict statutory timelines or may lose opportunity to modify project
- Public hearings often exercises in frustration



Developers' Tricks of the Trade

The Builder's Remedy

- Applies to cities with housing elements not in conformance with state law
- **May** allow developer to construct project inconsistent with local planning & zoning, beyond density bonus
- NO published case, many legal questions

Alleged Zoning/General Plan Inconsistency

- No rezoning required if general plan is “inconsistent” with zoning
- Examples:
 - Zoning has minimum density, GP does not.
 - GP describes commercial designation as allowing residences in some areas. Zoning does not allow residences in specific areas.

Missing Key Processing Deadlines

- Formal application subject to Permit Streamlining Act
 - Must review for completeness within 30 days of **each** submittal, or “deemed complete”
- Once complete, staff must notify applicant in short time (30 or 60 days) if there are any “inconsistencies” – or “deemed consistent” with all local standards
 - If “deemed consistent,” can probably not be denied for inconsistency

Implementing with Limited Capacity

Vacancies and Turnover

- Majority of our public clients have significant vacancies and sometimes high turnover.
 - Attacks from public.
 - Aggressive developers and litigation.
 - Housing element slog.
 - Waivers from carefully crafted plans and guidelines.

Checklists and Application Forms

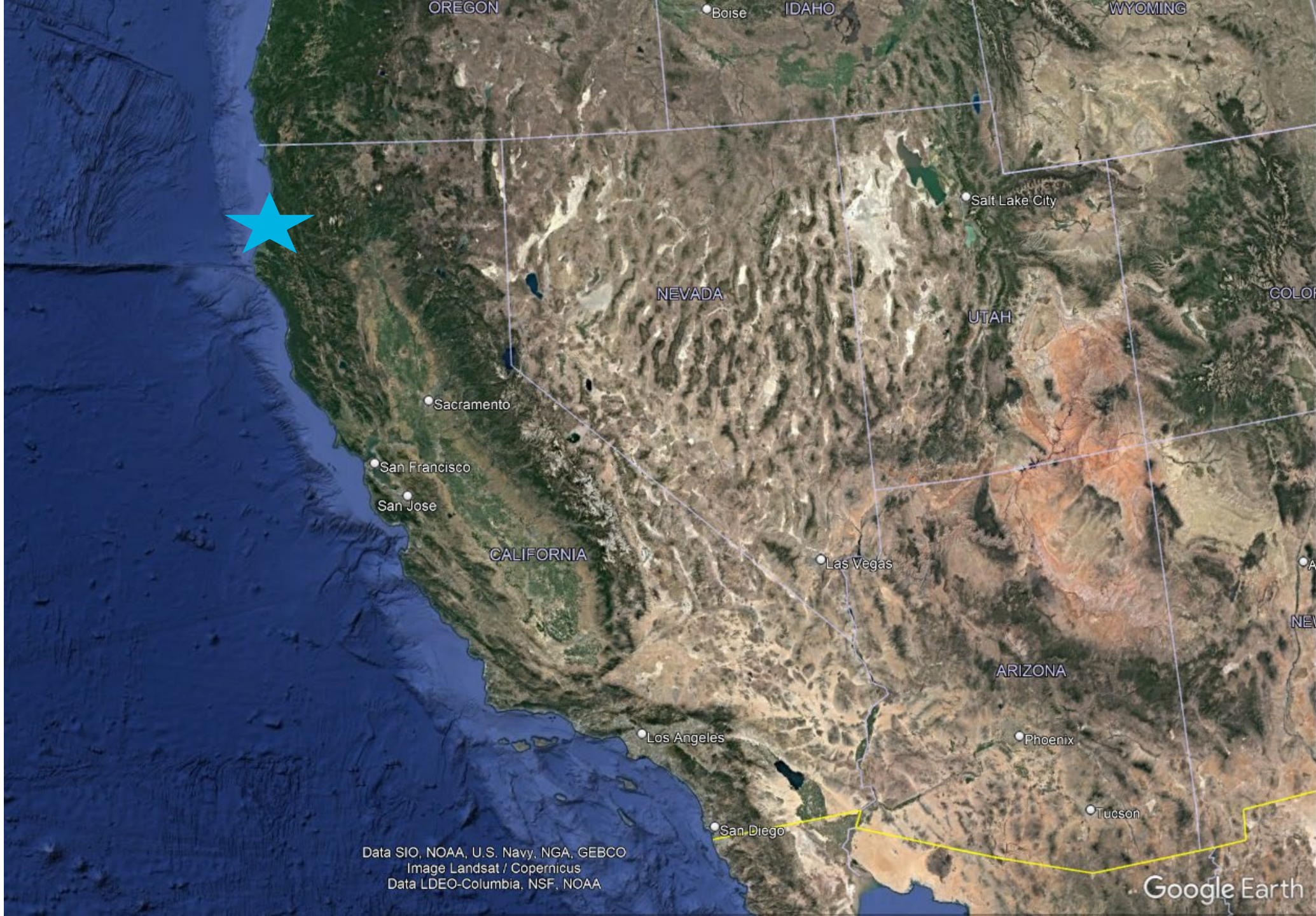
- Using REAP money, COGs have developed checklists, application forms, and model ordinances to implement recent state laws.
- Local planning consortia, like '21 Elements' in San Mateo County

Tracking System

Agencies need to develop tracking systems to ensure that strict timelines are met.

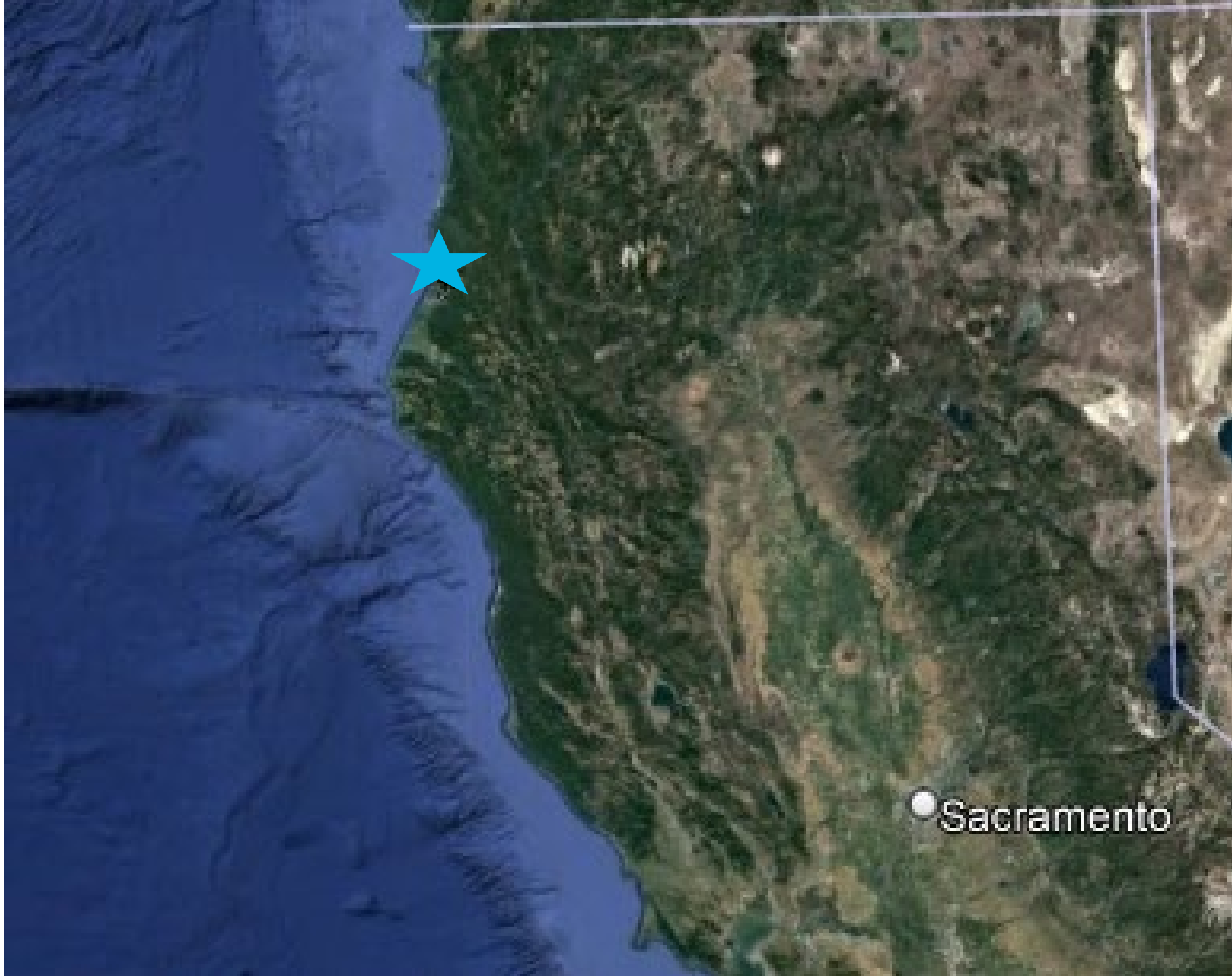
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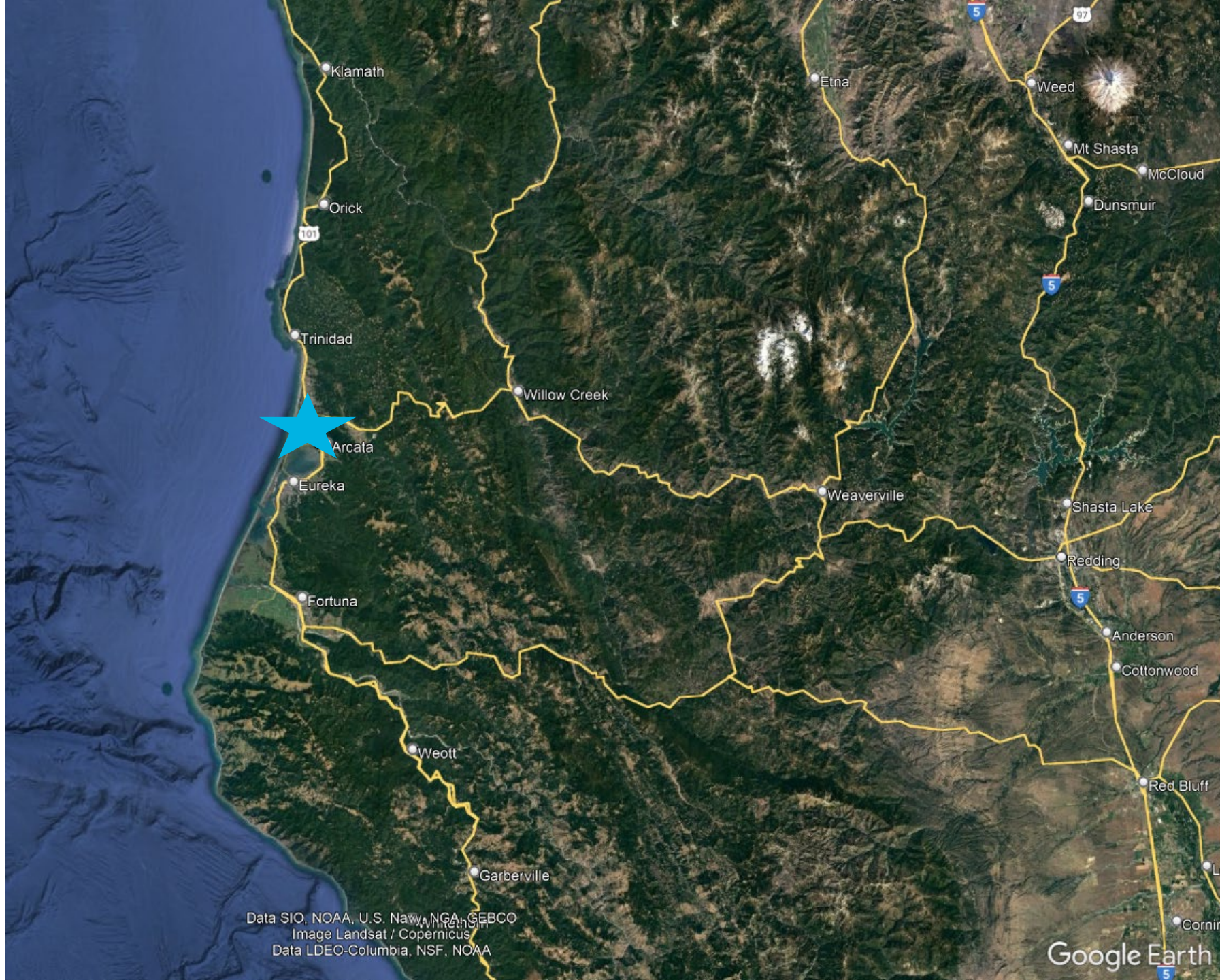
- Projects have been approved that would not have been in the past
- Changes to CEQA would make the biggest difference
- BUT: As can be seen by anemic results (driven mostly by ADUs) entitlement reform is “necessary but not sufficient”
 - High interest rates
 - High construction costs
 - Not enough construction labor
 - Wages too low
 - Americans like single-family homes



Data SIO, NOAA, U.S. Navy, NGA, GEBCO
Image Landsat / Copernicus
Data LDEO-Columbia, NSF, NOAA

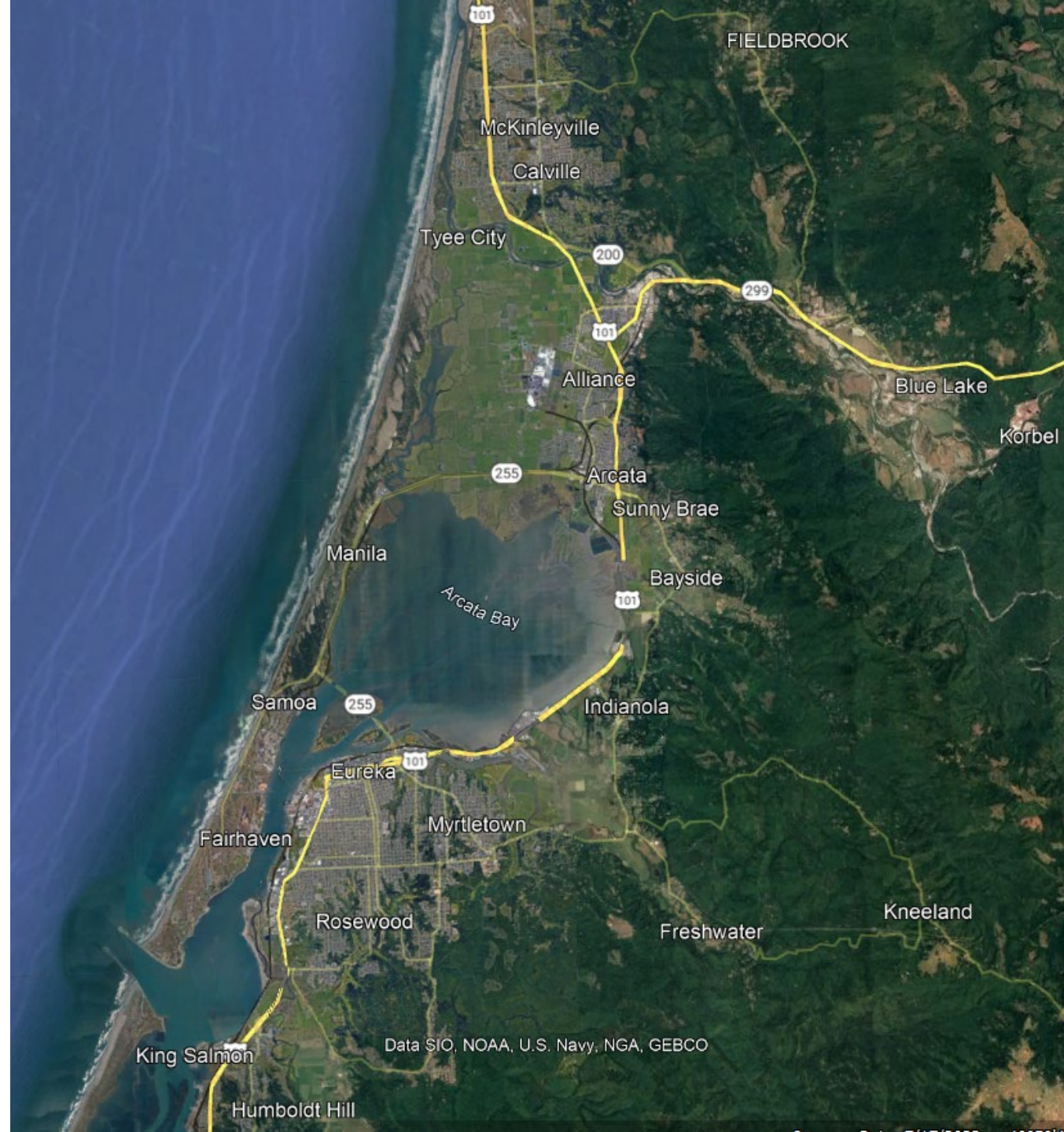
Google Earth

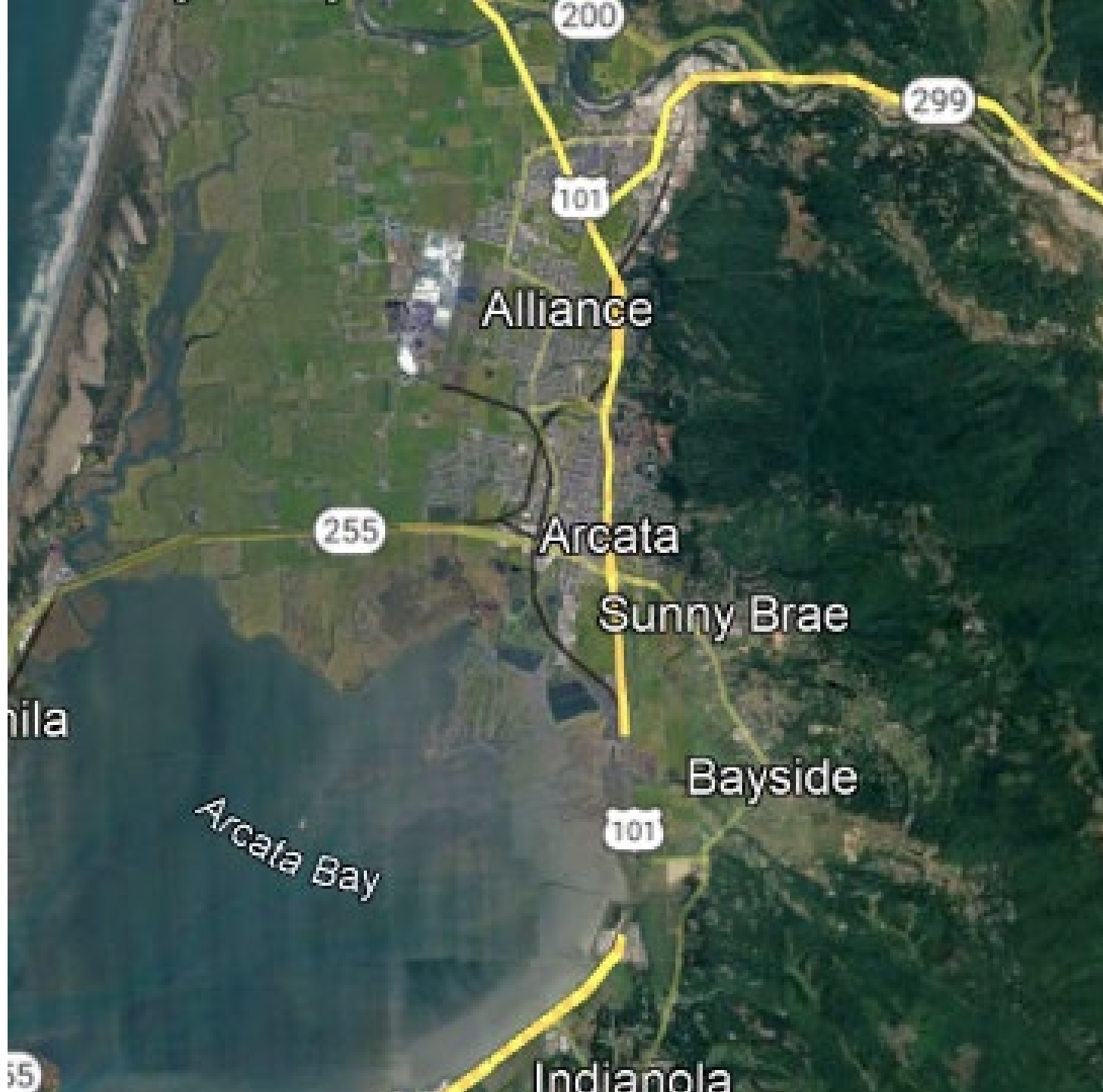




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Image Landsat / Copernicus
Data LDEO-Columbia, NSF, NOAA

Google Earth





Alliance

Arcata

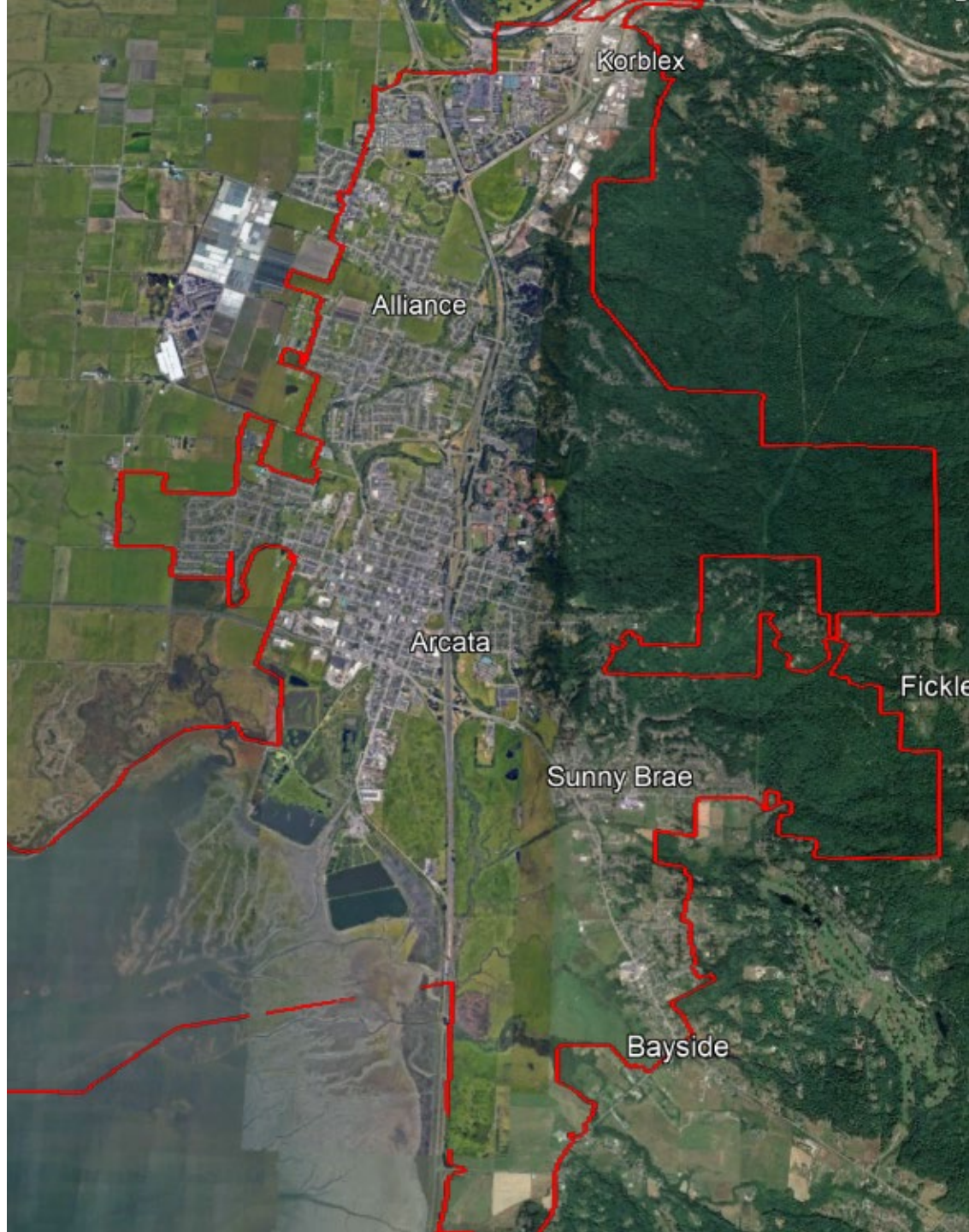
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Alliance

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Brackish Pond

Grotzman Creek

Sunny Brae

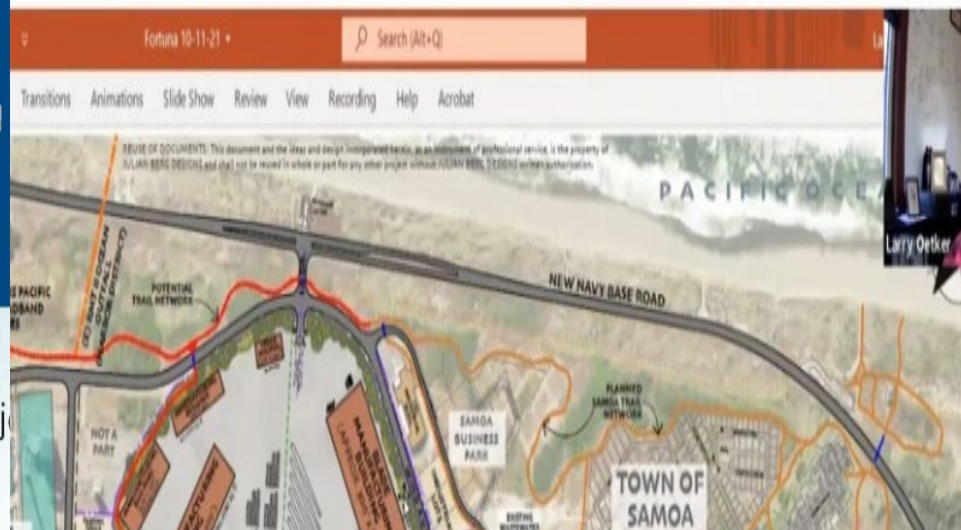
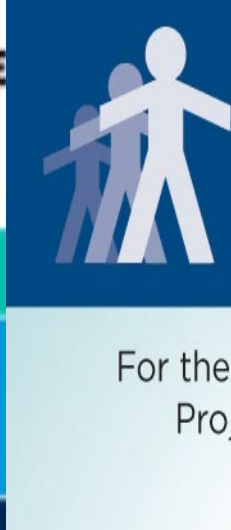
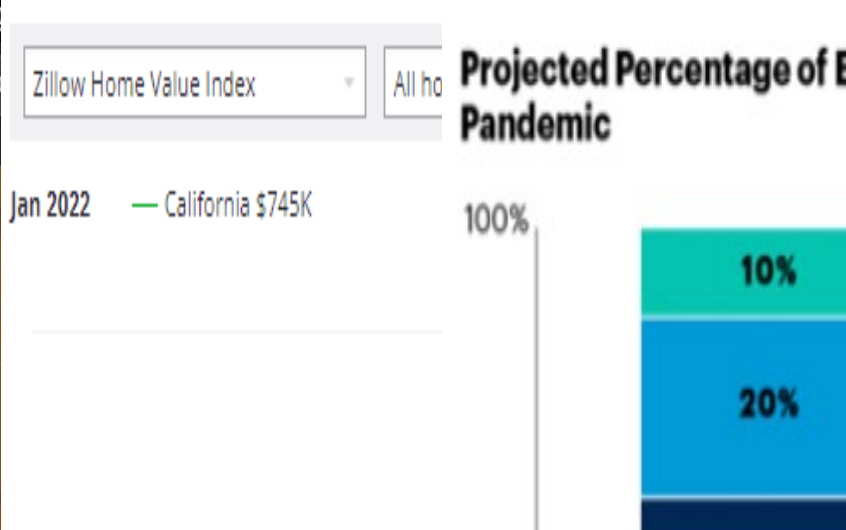
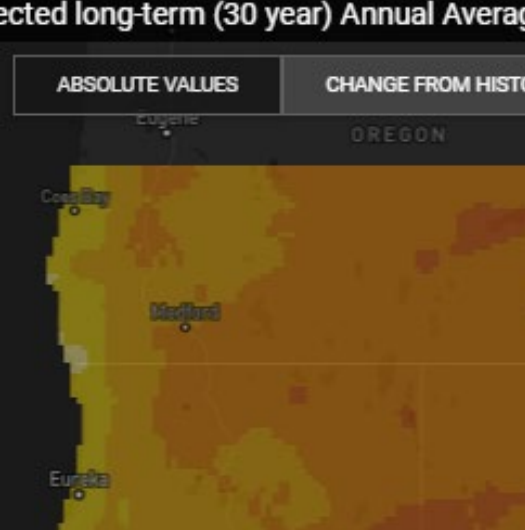
Slough

Google Earth



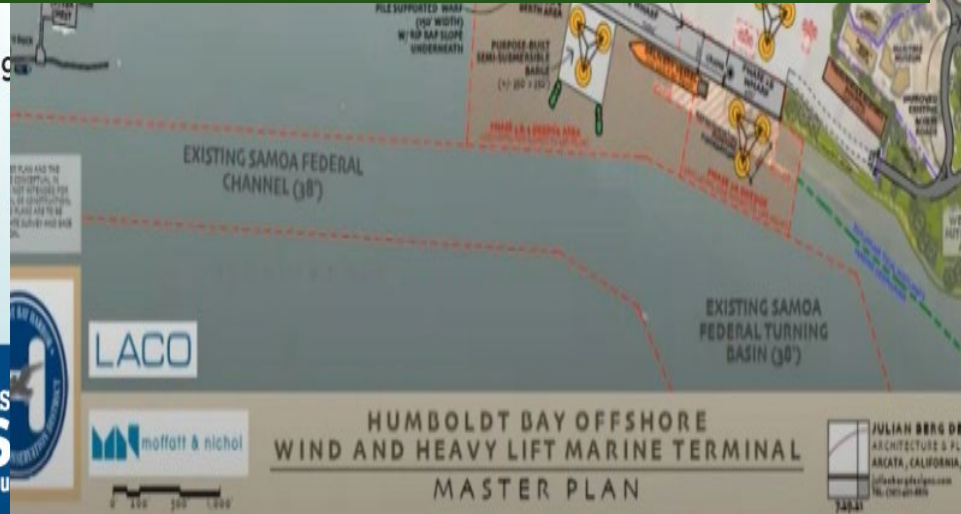
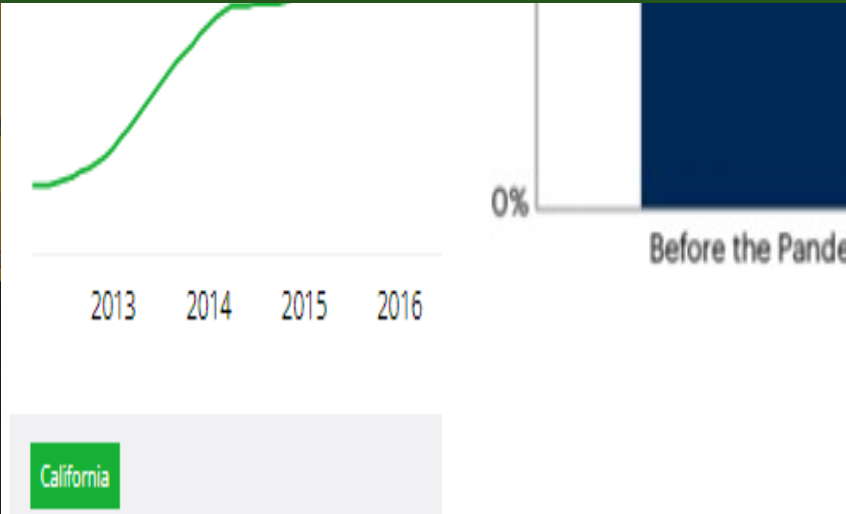
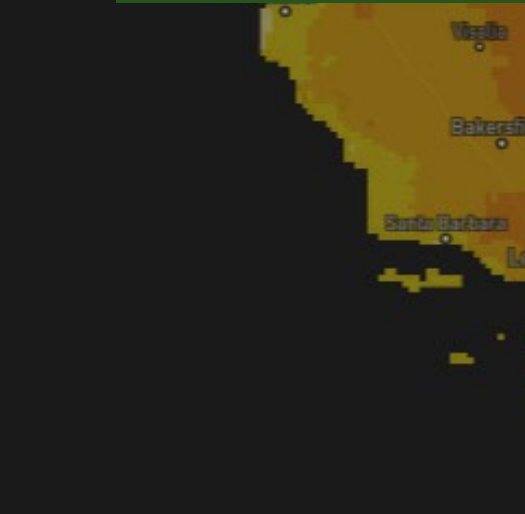


McDaniel Slough

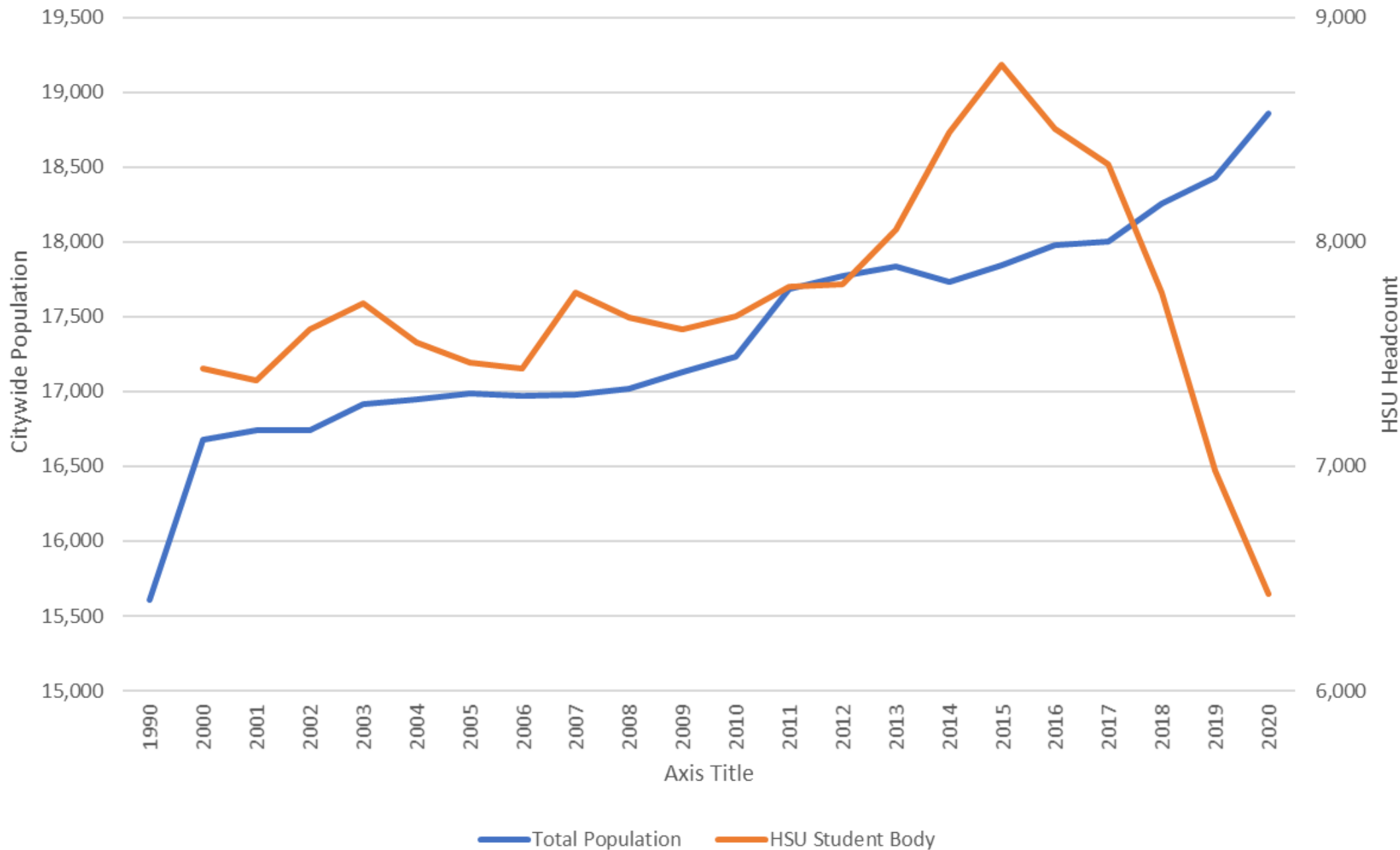


CAL POLY HUMBOLDT

A California State University Campus



Arcata Population and HSU Student Average Annual Headcount 2010-2020





Alliance

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Arcata

Grotzman Creek

Sunny Brae

Brackish Pond

Slough

Google Earth

