



COUNTY OF HUMBOLDT

AGENDA ITEM NO.  
**C-16**

For the meeting of: December 16, 2014

Date: November 14, 2014  
To: Board of Supervisors  
From: *(Signature)* Thomas K. Mattson, Public Works Director

Subject: **LICENSE AGREEMENT WITH HUMBOLDT REDWOOD COMPANY, LLC FOR THE DYERVILLE GRAVEL STORAGE SITE, APN 211-141-003, DYERVILLE LOOP ROAD (6D100), DYERVILLE**

RECOMMENDATION(S):

That the Board of Supervisors:

1. Grant a waiver of the Nuclear Free Ordinance.
2. Authorize the Chairperson to sign, in duplicate, the License Agreement between the County of Humboldt and Humboldt Redwood Company, LLC.
3. Direct the Clerk of the Board to return both executed License Agreements to the Department of Public Works Land Use Division for further processing.

Prepared by Doug Dinsmore

CAO Approval *(Signature)*

REVIEW: Auditor \_\_\_\_\_ County Counsel *JS* Human Resources \_\_\_\_\_ Other \_\_\_\_\_

TYPE OF ITEM:  
 Consent  
 Departmental  
 Public Hearing  
 Other \_\_\_\_\_

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT**  
Upon motion of Supervisor *Sundberg* Seconded by Supervisor *Fennell*  
Ayes: *Sundberg, Lovelace, Bohn, Fennell, Bass*  
Nays \_\_\_\_\_  
Abstain \_\_\_\_\_  
Absent \_\_\_\_\_

PREVIOUS ACTION/REFERRAL:

Board Order No. C-17

Meeting of: 05-20-1980

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: Dec. 16, 2014  
By: *(Signature)*  
Kathy Hayes, Clerk of the Board

SOURCE OF FUNDING:

Roads Maintenance – 1200325-2121

DISCUSSION:

The County has had a License Agreement (Attachment 1) with the Pacific Lumber Company since 1980. The subject property (APN 211-141-003) is now under Humboldt Redwood Company, LLC ownership and requires a new license agreement.

The Department of Public Works recommends executing a new License Agreement that is consistent with the County's current compensation rates for similar agreements, one that reflects current ownership, and includes standard agreement provisions.

Humboldt Redwood Company, LLC is requesting a waiver from the provisions of the Nuclear Free Ordinance. The waiver is requested because the Nuclear Free Ordinance does not apply to the proposed license agreement, as it does not provide for any services or products, but simply allows the County to store and process a natural commodity from owner's land. Section 2: Purpose of the Nuclear Free Ordinance states that purpose of the ordinance is to prohibit the County from contracting for services or products with, or investing County funds in, any business which is a nuclear weapons contractor. Section A-3b of Amendment A to the Ordinance states that an exception to the Nuclear Free Ordinance can be made if there are no viable alternatives meeting the specifications of the proposed exception requested. The County has a need for permitted aggregate processing and storage sites strategically located throughout the County. Where the County does not have an alternative site in the Dyerville area with a readily available, nearby aggregate source, and the expense associated with importing needed construction materials from outside areas is an added burden on the County's operations budget, the continued use of said site will allow the County to maintain local roads at costs within established budget parameters.

The proposed License Agreement includes Humboldt Redwood Company, LLC Special Compliance Provisions clause which calls for the County's observation and compliance with the terms and provisions of (a) that certain Final Environmental Impact Statement/Environmental Impact Report and Habitat Conservation Plan/Sustained Yield Plan for the Headwaters Forest Project, dated January 1999; (b) any Implementation Agreement with regard to Habitat Conservation Plans) for the properties of Humboldt Redwood Company, LLC by and among the United States Fish and Wildlife Service, the National Marine Fisheries Service, the California Department of Fish and Wildlife (CDFW), the California Department of Forestry and Fire Protection (CAL FIRE) and Humboldt Redwood Company, LLC including those agreements assumed by Humboldt Redwood Company, LLC in the reorganization of the Pacific Lumber Company, Scotia Pacific Lumber Company and Salmon Creek Corporation dated February 1999; (c) any Habitat Conservation Plan for the properties of Humboldt Redwood Company, LLC, including that certain Habitat Conservation plan of February 1999 that was assumed by Humboldt Redwood Company, LLC in the reorganization of Pacific Lumber Company, Scotia Pacific Lumber Company and Salmon Creek Corporation; (d) any Streambed Alteration Agreement with regard to Humboldt Redwood Company, LLC including that certain Streambed



Alteration Agreement with Regard to the Pacific Lumber Company, Habitat Conservation Plan, by and among CDFW and Pacific Lumber and Salmon Creek dated February 1999 that was assumed by Humboldt Redwood Company, LLC in the reorganization of Pacific Lumber Company and Salmon Creek Corporation, to the extent any of the above documents bind the premises and other lands of Humboldt Redwood Company, LLC and are applicable to County's activities on the premises or other lands of Humboldt Redwood Company, LLC. The County is committed to observing and complying with the terms and provisions of the aforementioned documents.

The new License Agreement (Attachment 2) shall commence upon the date of execution, and shall expire on December 31, 2017. Upon the termination date of this License Agreement, the County shall have removed all of its equipment and stockpiled aggregate. The County agrees that any aggregate left on the site, after the termination date, shall become the property of Humboldt Redwood Company, LLC.

Rental rate for use of said site shall be Fifty Dollars (\$50.00) per month, payable in advance, on an annual basis, at the sum of Six Hundred Dollars (\$600.00) per year. The Agreement stipulates that annual site payments shall be made payable prior to January 1 of each calendar year.

A check in the amount of Six Hundred Dollars (\$600.00) shall be drawn and made payable to Humboldt Redwood Company, LLC, for site rent for the calendar year 2015.

Extraction of river-run aggregate will require a separate agreement and shall not occur under this proposed Agreement. Activities allowed under the proposed Agreement shall be limited to the removal of existing county-owned aggregate and for temporary storage of appurtenant equipment for loading and hauling of said materials.

This project is categorically exempt from environmental review pursuant to Section 15301 (Existing Facilities) and Section 15304 (Minor Alterations to Land) of the CEQA Guidelines.

FINANCIAL IMPACT:

The new Agreement provides for annual site rental payments payable to Humboldt Redwood Company, LLC. The Roads Maintenance budget 1200325-2121 shall bear the cost of all payments. There is no impact to the General Fund.

This item conforms to the Board of Supervisors' Core Role of providing for and maintaining infrastructure.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to execute a new License Agreement. The Department of Public Works recommends executing the new Agreement because of the need to remove County-owned roads materials, which are stockpiled onsite, before the new Agreement's termination date of December 31, 2017. Materials remaining onsite after the termination date will become the property of HRC, LLC.

ATTACHMENTS:

1. Old License Agreement
2. New License Agreement in duplicate



Re: South Fork Bar  
Borrow Site  
Source Code No. A-01  
AP#211-141-03

BORROW AGREEMENT

THIS AGREEMENT, dated this 20th day  
of May, 1980, between THE PACIFIC LUMBER  
COMPANY, a Maine corporation, hereinafter called OWNER, and  
the COUNTY OF HUMBOLDT, a political subdivision of the State  
of California, hereinafter called COUNTY.

WITNESSETH:

WHEREAS, OWNER represents and warrants that it is the  
owner in fee of a parcel of land in the northeast quarter of  
Section 26, T.1S., R.2E., H.B.&M., and as such has the ex-  
clusive right to enter into this Agreement; and

WHEREAS, COUNTY desires to enter upon said parcel of land  
to borrow and remove river run aggregate for use in repairing  
and maintaining County roads.

NOW, THEREFORE, it is mutually agreed as follows:

1. OWNER hereby grants to COUNTY the non-exclusive right  
to enter upon said parcel of land at such locations mutually  
agreed upon between COUNTY and OWNER to remove river run ag-  
gregate in such quantities as may be required for road repair  
and maintenance purposes.

2. COUNTY shall pay OWNER a royalty of twenty-five cents (\$0.25) per cubic yard for all river run aggregate removed. Said aggregate to be measured by truck capacity and said royalty to be paid monthly.

3. The initial term of this Agreement shall be from the date COUNTY executes this Agreement to July 1, 1981, and shall be renewable for one year terms thereafter, extending from July 1st of the year involved through June 30th of the year following.

Unless either party gives written notice of cancellation not less than 60 days prior to the expiration of any Agreement period, this Agreement shall automatically be renewed for an additional one year period under the same terms and conditions of the previous agreement period.

4. COUNTY shall hold and save OWNER harmless and free from any claims or demands of any person which might result from or be related to COUNTY's entry or borrow operation on OWNER's land.

THE PARTIES HERETO have hereby set forth the whole of their agreement.

IN WITNESS WHEREOF, this agreement has been executed in duplicate.

THE PACIFIC LUMBER COMPANY

BY Warren W. Flinchbaugh

Title Executive Vice President -  
Humboldt County Operations

ATTEST:

DONALD R. MICHAEL  
COUNTY CLERK

BY Doris L. Smith  
Deputy

COUNTY OF HUMBOLDT

APPROVED AS TO FORM:

RAYMOND W. SCHNEIDER  
COUNTY COUNSEL

BY William J. Smith  
Deputy

BY Sara Parsons  
Chairman, Board of Supervisors  
County of Humboldt,  
State of California



## LICENSE AGREEMENT

THIS LICENSE AGREEMENT, hereinafter referred to as LICENSE, made and entered into this 11th day of December, 2014, by and between HUMBOLDT REDWOOD COMPANY, LLC, a Delaware limited liability company, hereinafter referred to as LICENSOR, and the COUNTY OF HUMBOLDT, a political subdivision of the State of California, hereinafter referred to as LICENSEE.

### WITNESSETH:

WHEREAS, LICENSOR represents and warrants that it is the owner in fee of a parcel of land in the northeast quarter of Section 26, T.1S., R.2E., H.B. & M., also identified by Assessor's Parcel No. 211-141-003 (the "Real Property") and as such has the exclusive right to enter into this LICENSE; and

WHEREAS, LICENSEE desires to enter upon and use a portion of the Real Property depicted on Exhibit A (the "SITE"), for the purposes of removing stockpiled aggregate and other materials relevant to maintenance and repairs of LICENSEE roads, and for the temporary storage of equipment necessary to load and transport aggregate and other material from said SITE. This LICENSE only pertains to pre-existing material previously purchased by LICENSEE presently stored on the SITE and does not permit or allow additional aggregate or other materials brought onto the SITE for storage subsequent to the commencement date of this LICENSE. Removal of stored material should be done as expeditiously as is reasonable by LICENSEE with the intent to remove the stored material and burden of SITE occupancy to LICENSOR as soon as feasible.

NOW THEREFORE, in consideration of the mutual covenants and promises contained below, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the parties hereto, LICENSEE and LICENSOR agree as follows:

### 1. SUMMARY OF TERMS

- a. **Purpose of License Agreement:** For the expedient removal of stored aggregate from the Site.
- b. **Site Location (Site):** Eel River South Fork/Dyerville Bar Aggregate Storage Site accessed by HRC Road No. C07 (County Road 5E010; AKA, Vinnum Rd), as shown on Exhibit A.
- c. **Site Rent:** Fifty Dollars (\$50.00) per month paid in advance, at the sum of Six Hundred Dollars (\$600.00) per year, and paid prior to January 1 of each calendar year.
- d. **Payment Forwarded to:** Humboldt Redwood Company  
Attention: Accounts Receivable  
Post Office Box 712  
Scotia, CA 95565



- e. **Licensor's Designated Representative:** Mark Biaggi
- f. **Term of License Agreement:** From date of execution through December 31,2017
- g. **Licensee's Address for Noticing:** County of Humboldt  
Department of Public Works  
1106 Second Street  
Eureka, CA 95501-0531
  
- h. **Licensee's Designated Representative:** Art Reeve, Deputy Public Works Director of Roads

**2. LICENSE**

LICENSOR grants permission, subject to all terms and conditions of this LICENSE, for LICENSEE and LICENSEE'S officers, agents, employees, contractors, and volunteers to enter and use the SITE for purposes described above. The approximate SITE location is referenced on the aerial photograph attached hereto as Exhibit A and identified as the License Area, and further generally shown on the Assessor's Parcel Map attached hereto as Exhibit B, which are incorporated herein by reference.

**3. LICENSE NOT A LEASE**

This LICENSE does not constitute a lease, but constitutes a mere license to LICENSEE and LICENSEE is limited to the use of the premises expressly and specifically described in Sections 2 and 6 herein.

**4. TERM**

The term of this LICENSE shall commence upon date of execution by the County of Humboldt Board of Supervisors and shall expire December 31, 2017.

Upon the termination date of this LICENSE, the LICENSEE will have removed all of its equipment and stockpiled aggregate. LICENSEE agrees that any aggregate left on the SITE, after the termination date, will become the property of the LICENSOR.

**5. EARLY TERMINATION**

During the term of this LICENSE, should the LICENSOR determine there is a need for the SITE; the LICENSOR will notify the LICENSEE in writing. The LICENSEE shall have ninety (90) days from the date of notification to remove all equipment and stockpiled aggregate. Any aggregate left, on the area covered under this LICENSE, 90 days after the early termination date notification, will become property of the LICENSOR.

**6. USE OF PREMISES**

LICENSOR grants to the LICENSEE the right to use the SITE for LICENSEE'S aggregate storage operation, hereinafter referred to as ACTIVITIES. Removal of stored material should be done as expeditiously as is reasonable by LICENSEE in order to remove the burden of site occupancy to LICENSOR as soon as feasible. A concerted effort shall be made to consolidate and reduce the amount and size of the stored material on SITE as the removal



project proceeds through the term of the LICENSE; reducing the area impacted by the occupation of the stockpiled material and equipment storage.

ACTIVITIES shall be limited to storage and removal of LICENSEE'S existing stockpile of aggregate previously paid for and other related material to be used for maintenance and repair projects on County maintained roads, and for temporary storage of appurtenant equipment for loading and hauling aggregate and other material from the SITE. No additional processing of aggregate or storage of other material is allowed on SITE. At the termination of this LICENSE, any materials remaining shall become property of the LICENSOR. Parking of equipment and storage of materials after operations cease each day shall be done in such a way as to not interfere or impede access or use of the area or C07 Road ( county road 5E010 AKA, Vinnum Rd) by LICENSOR or other easement holders for ingress or egress. It is the intent of this LICENSE to provide for loading stockpiled aggregate on-site and hauling to an off-site location for use or further processing and storage.

Any use of LICENSOR'S stockpiled material or extraction of river-run aggregate from the active river channel is not permitted by this LICENSE and shall require a separate agreement. A separate license shall be executed at such time that LICENSEE determines there is a need for LICENSOR'S stockpiled material or an instream extraction, not covered under this LICENSE.

Use of said SITE by LICENSEE shall comply with all applicable laws including laws governing the use of hazardous materials and the management and discharge of stormwater. LICENSEE shall not store hazardous materials on SITE. For purposes of this section, hazardous materials are defined as any noxious or hazardous substance, the use of which is regulated by Federal or State Laws. LICENSEE shall immediately notify LICENSOR of any violation of any applicable law, code or regulation.

LICENSOR and LICENSEE agree that all of LICENSEE'S stockpiled material as of this date has been paid in full by LICENSEE and is the sole property of LICENSEE.

**Special Compliance Provisions:** LICENSEE shall, at all times, observe and comply with the terms and provisions of (a) that certain Final Environmental Impact Statement/Environmental Impact Report and Habitat Conservation Plan/Sustained Yield Plan for the Headwaters Forest Project, dated January 1999; (b) any Implementation Agreement with regard to Habitat Conservation Plan(s) for the properties of LICENSOR by and among the United States Fish and Wildlife Service, the National Marine Fisheries Service, the California Department of Fish and Wildlife (CDFW), the California Department of Forestry and Fire Protection (CAL FIRE) and LICENSOR including those agreements assumed by LICENSOR in the reorganization of the Pacific Lumber Company, Scotia Pacific Lumber Company and Salmon Creek Corporation dated February 1999; (c) any Habitat Conservation Plan for the properties of LICENSOR, including that certain Habitat Conservation plan of February 1999 that was assumed by LICENSOR in the reorganization of Pacific Lumber Company, Scotia Pacific Lumber Company and Salmon Creek Corporation; (d) any Streambed Alteration Agreement with regard to LICENSOR including that certain Streambed Alteration Agreement with Regard to the Pacific Lumber Company, Habitat Conservation Plan, by and among CDFW and Pacific Lumber and Salmon Creek dated February 1999 that was assumed by LICENSOR in the reorganization of Pacific Lumber Company and Salmon Creek Corporation, to the extent any of the above documents bind the Premises and other lands of LICENSOR and are applicable to LICENSEE'S ACTIVITIES on the Premises or other lands of LICENSOR, and copies of which



LICENSOR agrees to provide LICENSEE upon request. LICENSOR acknowledges and agrees that to best of LICENSOR'S knowledge, as of the Execution Date, the LICENSOR has not been notified that the LICENSEE is in violation of any aforementioned Special Compliance Provision and if during the term of the LICENSE the LICENSOR is notified of any violation of such provisions, as it relates to the LICENSEE'S occupancy or use of the Premises, the LICENSOR shall promptly notify the LICENSEE of such violation.

**7. COMPENSATION**

**A. Rental**

LICENSEE shall pay LICENSOR a SITE rent of Fifty Dollars (\$50.00) per month for use of said SITE referred to in clause (1). LICENSEE shall pay monthly SITE rent payment in advance on an annual basis, at the sum of Six Hundred Dollars (\$600.00) per year. Annual SITE payment shall be made payable prior to January 1 of each calendar year.

**B. Payment**

Payments herein required shall be made to:

Humboldt Redwood Company, LLC  
Attn: Accounts Receivable  
PO Box 712  
Scotia, CA 95565

**8. LICENSOR'S ACCESS TO PREMISES**

LICENSOR shall retain the right of access and use of SITE at all times and LICENSEE shall not restrict LICENSOR'S use thereof.

**9. ROADS AND TRANSPORTATION**

LICENSEE will enter the SITE by using Road No.C07 (County Road 5E010, AKA Vinnum Road). Any road use is done at LICENSEE'S risk or at the risk of individuals having LICENSEE'S consent to enter the SITE and the indemnity provisions of Paragraph 16 apply.

**10. ASSIGNMENT AND SUBLETTING**

LICENSEE shall not assign this LICENSE, or any interest therein, and shall not sublet the SITE or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the agents and servants of LICENSEE excepted) to occupy or use the SITE, or any portion thereof, without first obtaining the written consent of LICENSOR, which consent is at the sole discretion of LICENSOR and may be denied for any reason or no reason at all. If LICENSOR does consent, that consent may, among other things, be conditioned on reimbursement to LICENSOR of all expenses incurred by LICENSOR, payment to LICENSOR of all rents or fees received by LICENSEE that exceed the Rent paid hereunder, and any other commercial terms deemed appropriate to the LICENSOR. LICENSOR'S consent to one assignment, subletting, occupation, or use by another person shall not be deemed to be consent to any subsequent assignment, subletting, occupation or use by another person. Any such assignment or subletting without such consent shall be void and shall, at the option of



LICENSOR, terminate this LICENSE. This LICENSE shall not, nor shall any interest therein, be assignable, as to the interest of LICENSEE, by operation of law, without the written consent of LICENSOR, which consent is at the sole discretion of LICENSOR and may be denied for any reason or no reason at all. No assignment, whether or not with LICENSOR'S consent, shall relieve LICENSEE of any liability hereunder. LICENSOR shall have the right to inspect the SITE from time to time to determine compliance by the LICENSEE with this Paragraph 10.

#### **11. COMPLIANCE WITH LAWS**

LICENSEE shall comply with regulations applicable to forestry practices, water quality, the protection of flora and fauna, fire prevention, environmental protection and safety, occupational health and safety, and any other conditions or restrictions imposed by any governmental or quasi-governmental body. LICENSEE shall be solely responsible for acquiring, at its sole cost and expense, (a) all permits, licenses, variances, and the like requisite to conduct said ACTIVITIES, (b) shall conform to and comply or cause compliance in all material respect with all federal, state, county, city, or local laws, statutes, ordinances, regulations, rules, orders, approvals, consents, authorizations and other requirements of any government or regulatory agencies or authorities with respect to LICENSEE'S use and operation of the SITE, including without limitation all pollution, environmental protection, fire prevention, safety, and zoning laws applicable to the SITE, (c) not commit any waste of the SITE nor cause or permit any use of the SITE which would be unreasonably offensive to LICENSOR or users of neighboring properties or which would tend to create a nuisance or damage the reputation of LICENSOR or its property, (d) comply with all reasonable rules and regulations adopted by LICENSOR with respect to the SITE, and (e) comply with the terms and provisions of The Pacific Lumber Company Habitat Conservation Plan/Sustained Yield Plan for the Headwaters Forest Project (HCP) binding Humboldt Redwood Company, LLC as successor to Scotia Pacific Company, LLC its subsidiaries and affiliates.

#### **12. REPRESENTATIONS**

LICENSOR makes no representations as to the present or future conditions, natural or man-made, of SITE, the character of the traffic on any of its roads, the condition of access roads, or risks associated with or arising from other persons on SITE. LICENSEE has entered into this LICENSE at its own risk and assumes all risk of personal injury and property damage to itself, its agents, servants, employees, contractors, successors, and assigns in connection with ACTIVITIES under this LICENSE. Nothing in this LICENSE shall be construed as a guarantee of the type of work or quantity or quality of any products located in or on SITE.

LICENSEE represents that it, or its contractor(s), is experienced and competent in performing the ACTIVITIES herein described and further represents it is familiar with and will comply with all the applicable statutes, rules and regulations promulgated by federal, state, county, local and other governmental agencies having control over, or an interest in, the activities hereunder.

LICENSEE agrees to conduct its ACTIVITIES in a diligent and workmanlike manner in accordance with the highest standards and practices recognized in the industry. LICENSEE shall not unnecessarily damage trees while conducting its ACTIVITIES.



**13. RESPONSIBILITIES OF LICENSEE**

LICENSEE shall promptly report to LICENSOR any violations of any laws, regulations, or permits of which LICENSEE has knowledge and promptly send to LICENSOR a copy of any notice of violation received by LICENSEE. A copy of all citations or other written documents LICENSEE receives from any agency shall accompany the notice of violation.

SITE access shall be limited to LICENSEE'S normal business hours unless otherwise directed by LICENSOR. LICENSEE shall maintain SITE used by LICENSEE in an orderly, clean, and sanitary manner as required by LICENSOR.

In the event of any violation of this LICENSE, or the occurrence of dangerous fire weather, or of possible damage to roads by their use in wet weather, or of the interference of LICENSOR'S operations, LICENSOR shall notify LICENSEE'S representative in charge in the field, and LICENSEE shall immediately suspend the ACTIVITIES or take steps to address the situation as LICENSOR may direct.

LICENSEE shall strictly limit the ACTIVITIES to those described above, and shall not construct or erect any buildings, structures, equipment, or improvements on the SITE without the prior written consent of LICENSOR.

LICENSEE shall acquaint itself with and confine the ACTIVITIES within the SITE boundaries, and shall be responsible and liable for any trespass outside such boundaries as a result of the ACTIVITIES.

LICENSEE may prune encroaching vegetation but shall not cut or remove trees without prior written consent from LICENSOR.

LICENSEE shall promptly pay and discharge all liabilities to vendors and contractors for all labor and material employed in the ACTIVITIES. LICENSEE shall indemnify, defend, and hold harmless LICENSOR from any losses, costs, and expenses, including attorneys' fees, incurred to remove any construction, mechanics, or material man's liens filed against LICENSOR'S property by any vendors or contractors supplying goods or services.

**14. FIRE AND FIRE PREVENTION**

LICENSEE shall not undertake any burning of debris.

LICENSEE assumes full responsibility for personal injury or property damage resulting from the ACTIVITIES by fire or otherwise, including without limitation damage to any timber, logs, logging works, or equipment, and agrees to conform to all laws of the State of California pertaining to forest fires and their prevention and to all rules and regulations of the various departments and subdivisions thereof, as well as those of LICENSOR, State or Federal Parks, or any other public authority.

**15. PERMITS**

Although LICENSOR grants to LICENSEE the right to use the portion of said land described in Section 2 for the purpose of conducting the aforementioned ACTIVITIES, LICENSOR does not warrant that it has authority to permit the ACTIVITIES on behalf of any

third party and LICENSEE shall secure all required permits, privileges, or rights necessary for the lawful conduct of said ACTIVITIES.

**16. HOLD HARMLESS/INDEMNIFICATION**

A. LICENSOR shall indemnify, defend and hold harmless LICENSEE and its officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorneys' fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with LICENSOR'S duties and obligations under this LICENSE and any amendments hereto.

B. LICENSEE shall indemnify, defend and hold harmless LICENSOR and its managers, members, officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorneys' fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its managers, members, officers, agents or employees) in connection with LICENSEE'S duties and obligations under this LICENSE and any amendments hereto.

C. Notwithstanding Sections (A) and (B), in the event that LICENSOR and LICENSEE are both held to be negligently or willfully responsible, LICENSOR and LICENSEE will bear their proportionate share of liability as determined in any such proceeding. Each side will bear their own costs and attorneys' fees.

D. Acceptance of insurance, if required by this LICENSE, does not relieve LICENSEE from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by LICENSOR regardless if any insurance is applicable or not.

E. LICENSEE shall maintain with LICENSOR'S designated representative as listed in Section 1.e., a current list of names of all persons having COUNTY'S consent to be on the Site. Prior to entering upon the Site, LICENSOR may require that non-county employees (i.e. contractors) having LICENSEE'S consent to enter the Site execute a release and indemnity agreement in a form satisfactory to LICENSOR. This indemnity obligation would include actual attorney's fees and costs (including consultant and expert witness expenses) reasonably incurred in the enforcement of this Agreement. This indemnity obligation shall not apply to the extent any such liabilities and expenses are directly caused by LICENSOR'S sole and active negligence.

**17. NOTICE**

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by next day delivery by a nationally recognized carrier with postage fully pre-paid to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.



If to LICENSEE:

Attn: County of Humboldt  
Department of Public Works  
1106 Second Street  
Eureka, CA 95501-0531  
Email:

If to LICENSOR:

Humboldt Redwood Company, LLC  
Attn: Asset Management  
125 Main Street  
Scotia, CA 95565  
Email:

Each party may at any time change its address for notice by giving written notice of such change to the other party in the manner provided in this section.

**18. LICENSEE'S INSURANCE**

Without limiting LICENSEE'S indemnification provided herein, LICENSEE shall take out and maintain, throughout the period of this LICENSE, the following policies of insurance placed with insurers with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of LICENSEE, its agents, employees, or sub-licensees:

A. Comprehensive/Liability Insurance

Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$2,000,000 per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit. Said policy shall contain, or be endorsed with, the following provisions:

(1) The LICENSOR, its officers, employees and agents, are covered as additional insured for liability arising out of the operations performed by or on behalf of LICENSEE. The coverage shall contain no special limitations on the scope of protection afforded to LICENSOR, its officers, agents, and employees.

(2) The policy shall not be canceled or materially reduced in coverage without thirty (30) days prior written notice (10 days for non-payment of the premium) to LICENSOR by certified mail.

(3) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

(4) For claims related to this project, the LICENSEE'S insurance is primary coverage to the LICENSOR, and any insurance or self-insurance programs maintained by LICENSOR are excess to LICENSEE'S insurance and will not be called upon to contribute with it.

(5) Any failure to comply with reporting or other provisions of the parties, including breach of warranties, shall not affect coverage provided to LICENSOR, its managers, members, officers, employees, and agents.

(6) If LICENSEE chooses to hire a contractor to perform work which may be allowed under this LICENSE, prior written approval must be issued by LICENSOR and the contractor shall be required to provide the same insurance coverage and comply with the notice procedures as described in this entire section.

B. By its signature hereunder, LICENSEE certifies that LICENSEE is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and LICENSEE will comply with such provisions in connection with any work performed on the premises. Any persons providing services with or on behalf of LICENSEE shall be covered by workers' compensation (or qualified self-insurance).

#### **19. LICENSE IS PERSONAL**

The license herein granted is personal to LICENSEE and no right hereunder may be assigned, sublet or otherwise transferred in whole or in part without prior written consent of LICENSOR and any attempt to assign, sublet, or transfer shall be of no force or effect whatsoever unless and until LICENSOR shall have given its written consent, which consent is at the sole discretion of LICENSOR and may be denied for any reason or no reason at all.

#### **20. JURISDICTION AND APPLICABLE LAWS**

This LICENSE shall be governed by the laws of the State of California and shall be deemed to have been entered into in the City of Eureka, County of Humboldt, and State of California. Any dispute arising hereunder or relating to this LICENSE shall be litigated in the State of California and venue shall lie in the County of Humboldt, unless transferred by court order pursuant to Code of Civil Procedure Sections 394 and 395.

#### **21. TERMINATION**

LICENSEE and LICENSOR reserve the right to terminate this LICENSE on seven (7) days notice for any cause or reason provided by the LICENSE itself, or by law, or upon the happening of one or more of the following:

A. The failure of LICENSEE or LICENSOR to remedy any default, breach, or violation of federal/state/county laws or regulations by LICENSEE or LICENSOR or its employees.

B. The violation of any of the provisions of this LICENSE.

C. Said SITE becomes damaged due to fire, flood, earthquake, or any other natural disaster.

D. Intentionally supplying LICENSEE or LICENSOR with false or misleading information or misrepresenting any material fact on its application or documents or in its statement to or before LICENSEE or LICENSOR, or intentional failure to make full disclosure on its financial statement or other documents.



**22. LICENSE MODIFICATION**

Any modifications, changes, additions, or deletions to this LICENSE or the Exhibits attached hereto shall first be approved by and between LICENSOR and LICENSEE in writing.

**23. LICENSEE NOT OFFICER, EMPLOYEE, OR AGENT OF LICENSOR**

While engaged in carrying out and complying with the terms and conditions of this LICENSE, LICENSEE is an independent contractor and not an officer, employee, or agent of LICENSOR.

**24. LICENSEE'S EMPLOYEES**

LICENSEE'S employees shall be deemed employees of LICENSEE and will not for any purpose be considered employees or agents of LICENSOR. LICENSOR shall exercise no control or supervision over the employees of LICENSEE hereunder. It is understood and agreed that no relationship of employer and employee is or shall be deemed to exist either between LICENSOR and LICENSEE or between LICENSOR and any other person(s) performing labor or services on behalf of LICENSEE. LICENSEE shall furnish and be responsible for its own employees, agents and equipment. It is expressly understood that LICENSOR has no authority over LICENSEE'S agents or employees, and any complaint by LICENSOR about LICENSEE'S agents or employees will be brought by LICENSOR to LICENSEE'S attention for resolution by LICENSEE.

**25. SAFETY**

LICENSEE shall comply with all federal, state, and local safety and health laws, regulations, and standards, including California Labor Code Sections 6400 et seq., related provisions of the California Code of Regulations and standards of the California Occupational Safety and Health Board, all as amended from time to time, and if applicable shall operate under a current Injury and Illness Prevention Plan that complies with Section 3203 of Title 8 of the California Code of Regulations. Failure of LICENSEE to comply with all federal, state, and local health and safety laws, rules and regulations is grounds for immediate termination of this LICENSE.

**26. HAZARDOUS MATERIALS**

LICENSEE shall indemnify LICENSOR and hold LICENSOR harmless from and against any and all loss, cost, damage, expense, or claim of any kind and nature (including without limitation, court costs, expenses, and attorneys' fees) paid, incurred, or suffered by, or asserted against LICENSOR, as a direct or indirect result of the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, or release from SITE, of any Hazardous Materials arising out of, in connection with, or in any manner related this LICENSE or of any actions or omissions of LICENSEE. The provisions of this Section shall survive the expiration or termination of this LICENSE.



**27. HAZARDOUS MATERIALS; SPILL NOTIFICATION AND RESPONSE**

In the event of a spill or release of Hazardous Materials, LICENSEE shall promptly comply with all federal, state, and local spill notification and response requirements. LICENSEE shall, at a minimum:

- A. Prevent further spilling or release;
- B. Take appropriate corrective actions to mitigate the spill;
- C. Specifically comply with federal, state, and local spill notification and reporting requirements, and notify LICENSOR of any spill event; and
- D. Immediately notify LICENSOR by telephone and email of the spill or release.

LICENSEE shall be responsible for the response and restoration costs of any release of Hazardous Materials in connection with this LICENSE.

**28. ATTORNEYS' FEES**

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this LICENSE to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees (including reasonable value of services rendered by County Counsel) to be fixed by the court, and such recovery shall include court costs and attorneys' fees (including reasonable value of services rendered by County Counsel) on appeal, if any. As used herein, "the party prevailing" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

**29. WAIVER OF BREACH**

The waiver by LICENSEE or LICENSOR of any breach of any provision of this LICENSE shall not constitute a continuing waiver of any subsequent breach of the same or a different provision of this LICENSE.

**30. BREACH, REMEDY FOR**

In the event of breach of this LICENSE by LICENSEE or LICENSOR, LICENSEE and/or LICENSOR shall have all rights and remedies provided by law.

**31. SURRENDER OF PREMISES**

Upon expiration of this term, or upon any sooner termination of this LICENSE, LICENSEE shall quit and surrender the premises to LICENSOR and the keys to the SITE, and any personal property or appurtenances belonging to LICENSOR, peaceably, quietly and in good condition and repair, except for reasonable use, normal wear and tear thereof and insured casualty, excepted as the same are now and as hereafter may be put in by LICENSOR. Any personal property not belonging to LICENSOR left on the SITE after expiration or earlier termination of this LICENSE shall be deemed to be abandoned and LICENSOR may, without

notice, at LICENSEE'S sole expense, and without liability to LICENSOR for injury or damage to the personal property, store, or dispose of the personal property as permitted by law. Any stockpiled aggregate material stored on-site during the term of this LICENSE and remaining on the SITE after expiration of this LICENSE, or for more than 90 days after early termination of this LICENSE, shall become the property of LICENSOR. LICENSEE shall be under no obligation to repair or restore the whole or any portion of the SITE, which may be damaged by reasons of fire, earthquake, the elements, or other casualty not the direct or indirect result of actions by LICENSEE.

### **32. BINDING EFFECT**

All provisions of this LICENSE shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, successors, and assigns.

### **33. MISCELLANEOUS PROVISIONS**

A. The activities under this LICENSE shall in no way interfere with the land management and logging activities conducted by LICENSOR, its contractors, or assigns. LICENSEE shall supervise all persons connected with LICENSEE under this LICENSE to assure that its activities are within the boundaries specified in this LICENSE.

B. Section headings and sub-headings in this LICENSE are for convenience only and shall not be considered part of this LICENSE or used in its interpretation.

C. This LICENSE may be executed in one or more counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument, which may be sufficiently evidenced by one counterpart.

D. If any provision contained herein is declared by a court of competent jurisdiction to be void or unenforceable as written, the parties intend and desire that such provision be enforced and enforceable to the fullest extent permitted by law and that the invalidity or unenforceability of such provision shall not affect the validity or enforceability of the balance of this LICENSE.

E. Each of the parties hereto has been or has had the opportunity to be represented, to the extent desired, by legal counsel of its choice in respect to this transaction.

F. Portions of this LICENSE are intended to survive any expiration or termination of this LICENSE. Accordingly, all provisions hereof which contemplated performance after any such event shall so survive, as shall all indemnity and restoration obligations of LICENSEE, and the right to exercise remedies for default.

### **34. PREVIOUS AGREEMENT SUPERSEDED**

This LICENSE supersedes the May 20, 1980 Borrow Agreement between LICENSEE and The Pacific Lumber Company regarding this SITE.



IN WITNESS WHEREOF, this LICENSE has been executed in duplicate by the parties hereto upon the date first above written.

(SEAL)  
ATTEST:  
CLERK OF THE BOARD

BY *An Hurstwell*

APPROVED AS TO FORM:  
COUNTY COUNSEL

BY *Joyce Stigth*  
DEPUTY

LICENSOR:  
Humboldt Redwood Company, LLC  
A Delaware Limited Liability Company

BY *Mark Biaggi*

Mark Biaggi  
Manager, Assets

COUNTY:

BY *Ray Boy*  
CHAIRPERSON,  
BOARD OF SUPERVISORS,  
COUNTY OF HUMBOLDT,  
STATE OF CALIFORNIA

# EXHIBIT "A"

1S,2E  
23

1S,2E  
26

1S,2E  
25

1S,2E  
27

## Dyerville Gravel Storage License Area

- Class 1 Watercourse
- Class 2 Watercourse
- Class 3 Watercourse
- Paved
- Rocked
- Dirt
- Proposed
- Lease Area
- Federal, State, County Parks
- HRC



500 Feet

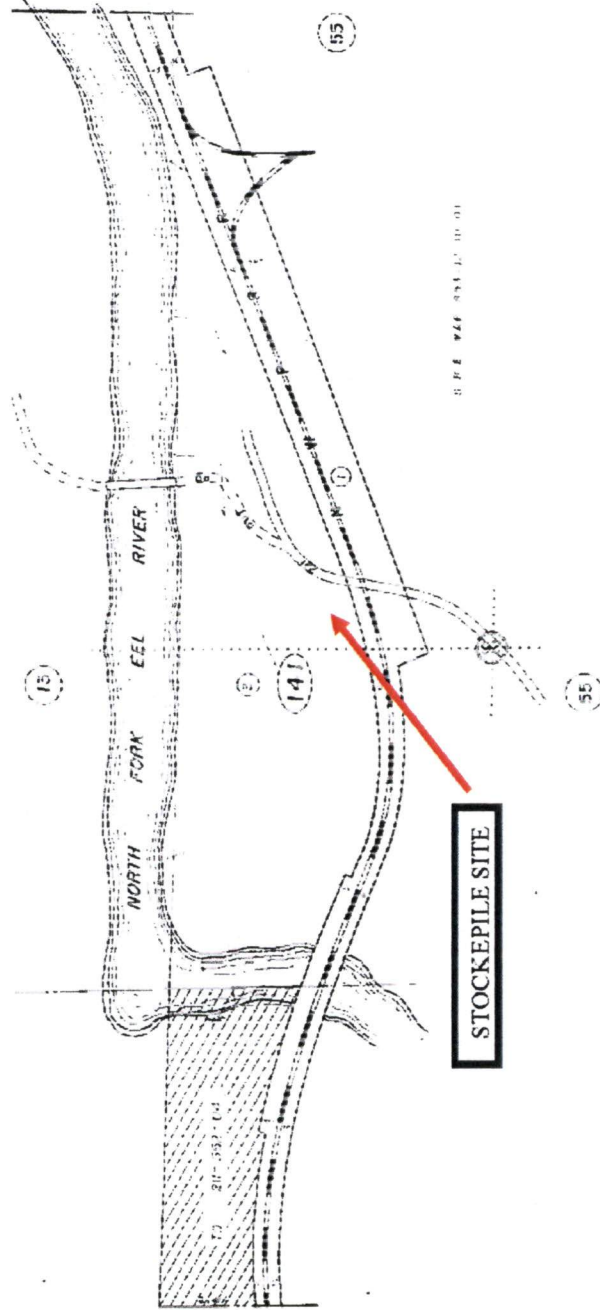
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HUMBOLDT REDWOOD COMPANY, LLC. LICENSE AGREEMENT  
DYERVILLE BAR STOCKPILE SITE  
EXHIBIT B - PAGE 1 OF 1