

SNOW CAMP ROAD (7J010)
APN 313-132-001

**RUSS ROCK QUARRY NO. 1
and
STOCKPILE SITE**

LICENSE AGREEMENT

This License Agreement hereinafter referred to as AGREEMENT, made and entered into this 7th day of June, 2011, by and between JUDY L. DIXON and JAMES T. RUSS, Co-Trustees of the Patricia R. Davis Trust, as tenants in common, STANLEY L. DIXON and JUDITH L. DIXON, husband and wife as community property, and JAMES T. RUSS and KATIE C. RUSS, husband and wife as community property, hereinafter collectively referred to as OWNERS, and the COUNTY OF HUMBOLDT, a political subdivision of the State of California, hereinafter referred to as COUNTY:

WITNESSETH:

WHEREAS, OWNERS represent and warrant that they are owners in fee of a certain parcel of land all of which is Section 15, Township 5 North, Range 3 East, Humboldt Meridian, and as such, have the exclusive right to enter into this AGREEMENT; and

WHEREAS, COUNTY desires to enter upon and use a portion of OWNERS' real property for the purposes of a surface mining operation and stockpile site, hereinafter referred to as SITE, as shown on aerial photograph attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, COUNTY shall perform a surface mining operation consisting of extracting, crushing, and stockpiling of rock on said portion of OWNERS' real property for the purpose of maintenance and repairs on COUNTY roads;

NOW, THEREFORE, it is mutually agreed as follows:

1. **AGREEMENT**

OWNERS grant to COUNTY, subject to all the terms and conditions of this AGREEMENT, the use of a portion of OWNERS' real property situated on and identified by Assessor's Parcel No. (APN) 313-132-001 located on Snow Camp Road, in the area known as Murphy Meadow of Humboldt County (see Exhibit A).

2. **LICENSE IS NOT A LEASE**

This license does not constitute a lease, but constitutes a mere license agreement and COUNTY is limited to the use of the premises expressly and specifically described in paragraphs (1) and (4).

3. **TERM**

The term of this AGREEMENT shall commence upon Board approval and shall terminate on June 30, 2012. The AGREEMENT shall renew automatically for successive one (1) year terms upon the same terms and conditions, unless either party provides written notice of non-renewal to the other

party by April 30 of the current term. There shall be no more than fourteen (14) automatic renewals except by written amendment.

COUNTY shall have six (6) months after AGREEMENT termination date to remove stockpiled aggregate material and equipment from SITE.

4. USE OF PREMISES

OWNERS grant COUNTY the right to use a portion of OWNERS' real property described in paragraph (1) (see Exhibit A), together with the right of ingress and egress over said portion of OWNERS' real property for access to COUNTY'S surface mining operation and stockpiling activities.

COUNTY shall have the right to stockpile extracted and crushed aggregate produced from COUNTY'S surface mining operation together with right of temporary storage for all equipment necessary for those activities associated with the COUNTY'S surface mining operation, stockpiling, and road maintenance activities.

COUNTY shall have the right of access to and use of stockpiled material as deemed necessary by COUNTY.

5. COMPENSATION

COUNTY agrees to pay OWNERS a royalty for materials mined by COUNTY at the rate of one-dollar (\$1.00) per cubic yard. It is agreed the royalty payment shall be computed as per number of truckloads of mined material multiplied by the cubic yard load capacity of the truck. Said royalty payment shall be paid to OWNERS on a monthly basis during COUNTY'S surface mining operation.

COUNTY agrees to pay OWNERS the sum of Fifty Dollars (\$50.00) per month as rent for use of said SITE referred to in paragraph (1). Said monthly site rent payment shall be paid to OWNERS in advance on an annual basis, at a rate of Six Hundred Dollars (\$600.00). Annual site payment shall be made payable prior to July 1 of each fiscal year.

All royalty and rent payments shall be made separately and disbursed as follows:

<u>PERCENT INTEREST</u>	<u>PAYEE</u>	<u>MAILING ADDRESS</u>
One-Third (1/3) interest	Patricia R. Davis Trust	Patricia R. Davis Trust c/o Judith Dixon PO Box 235 Ferndale, CA 95536
One-Third (1/3) interest	Stanley L. Dixon and Judith L. Dixon	Judith Dixon PO Box 235 Ferndale, CA 95536
One-Third (1/3) interest	James T. Russ and Katie C. Russ	James and Katie Russ PO Box 118 Ferndale, CA 95536

It is agreed and understood, that said mined material shall become COUNTY'S personal property upon OWNERS' receipt of payment thereof.

6. **OWNERS' ACCESS TO PREMISES**

OWNERS shall have access to said SITE.

7. **MAINTENANCE**

COUNTY, at COUNTY'S expense, agrees to maintain SITE and to maintain site road, including culverts, from locked gate to quarry site during COUNTY'S surface mining and crushing operations, and including the removal of stockpiled aggregate. COUNTY shall be under no obligation to repair or restore the whole or any portion of road or SITE, which may have been damaged by reason of fire, earthquake, the elements, or other casualty.

8. **COMPLIANCE WITH LAWS**

COUNTY shall conduct all of its operations in accordance with all federal/state/county safety, health, fire, sanitary codes and ordinances, and the terms and conditions of all permits acquired for COUNTY'S surface mining operation.

9. **PERMITS**

In consideration of COUNTY'S surface mining operation on OWNERS' property, COUNTY shall acquire all permits necessary for the extraction of gravel from said quarry for use on COUNTY roads, for emergency and maintenance activities in the general area. The proposed extraction is for a total of 30,000 cubic yards of rock over the life of the permit (15 years). Mining may consist of an extraction of a maximum of 25,000 cubic yards per fiscal year or smaller extractions as frequently as once every 3-7 years but the total shall not exceed 30,000 cubic yards over 15 years.

10. **HOLD HARMLESS INDEMNIFICATION**

COUNTY agrees to indemnify and hold harmless and, at its own risk, cost, and expense, defend OWNERS from and against any and all liability expense, including defense costs, legal fees, and claims for damages arising from COUNTY'S negligence, intentional acts, or breaches of this AGREEMENT.

OWNERS agree to indemnify and hold harmless and, at their own risk, cost, and expense, defend COUNTY, its Board of Supervisors, officers, agents, employees, and volunteers from and against any and all liability expense, including defense costs, legal fees, and claims for damages arising from OWNERS' negligence, intentional acts, or breaches of this AGREEMENT.

11. **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 prepaid, first-class mail to the respective addresses set forth below. Notice shall be deemed communicated five (5) business days from time of mailing if mailed as provided herein.

OWNERS: Judith Dixon
PO Box 235
Ferndale, CA 95536

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

12. **LICENSE IS PERSONAL**

The license herein granted is personal to COUNTY and no right hereunder may be assigned, sublet, or otherwise transferred in whole or in part without prior written consent of OWNERS and any attempt to assign, sublet, or transfer shall be of no force or effect whatsoever unless and until OWNERS shall have given their written consent.

13. **NUCLEAR FREE CLAUSE**

OWNERS certify by their signature below that OWNERS are not a Nuclear Weapons contractor, in that OWNERS are not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. OWNERS agree to notify COUNTY immediately if they become a nuclear weapons contractor, as defined above. COUNTY may immediately terminate this AGREEMENT if it determines that the foregoing certification is false or if OWNERS become a nuclear weapons contractor.

14. **JURISDICTION AND APPLICABLE LAWS**

This AGREEMENT shall be construed under the laws of the State of California. Any dispute arising hereunder or relating to this AGREEMENT 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.

15. **TERMINATION**

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

- A. The making by COUNTY or OWNERS of any general assignment for the benefit of creditors.
- B. The failure of COUNTY or OWNERS to remedy any default, breach, or violation of federal/state/county laws or regulations by COUNTY or OWNERS or their employees.
- C. The violation of any of the provisions of this AGREEMENT.
- D. The SITE becomes damaged due to fire, flood, earthquake, or any other natural disaster.
- E. Intentionally supplying COUNTY or OWNERS with false or misleading information or misrepresenting any material fact on their applications or documents or in their statements to or before COUNTY or OWNERS, or intentional failure to make full disclosure on their financial statements or other documents.

16. **AGREEMENT MODIFICATION**

This AGREEMENT may be modified only by subsequent written amendment signed by COUNTY and OWNERS.

17. **OWNERS NOT OFFICER, EMPLOYEE, OR AGENT OF COUNTY**

While engaged in carrying out and complying with the terms and conditions of this AGREEMENT, OWNERS are an independent contractor and not an officer, employee, or agent of COUNTY.

18. **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 AGREEMENT 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.

19. **REAL PROPERTY TAXES**

OWNERS shall pay all real property taxes and general and special assessments levied and assessed against the property. Any improvements created by COUNTY, by action of this AGREEMENT that may create any assessments, shall be the responsibility of COUNTY.

20. **WAIVER OF BREACH**

The waiver by COUNTY or OWNERS of any breach of any provision of this AGREEMENT shall not constitute a continuing waiver of any subsequent breach of the same or a different provision of this AGREEMENT.

21. **BREACH, REMEDY FOR**

In the event of breach of this AGREEMENT by COUNTY or OWNERS, COUNTY and/or OWNERS shall have all rights and remedies provided by law.

22. **BINDING EFFECT**

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

23. **PREVIOUS AGREEMENT SUPERSEDED**

This AGREEMENT supersedes the previous license agreement dated January 24, 1995, between the COUNTY and TERRY RUSS (now deceased), mother of Patricia R. Davis, Judith L. Dixon, and James T. Russ.

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

(SEAL)
ATTEST:
CLERK OF THE BOARD

BY Nancy L. Hampton

OWNERS:

Judy L. Dixon
JUDY L. DIXON, Co-Trustee of the
Patricia R. Davis Trust

APPROVED AS TO FORM:
COUNTY COUNSEL

BY R. Juber
DEPUTY

James T. Russ
JAMES T. RUSS Co-Trustee of the
Patricia R. Davis Trust

Stanley L. Dixon
STANLEY L. DIXON

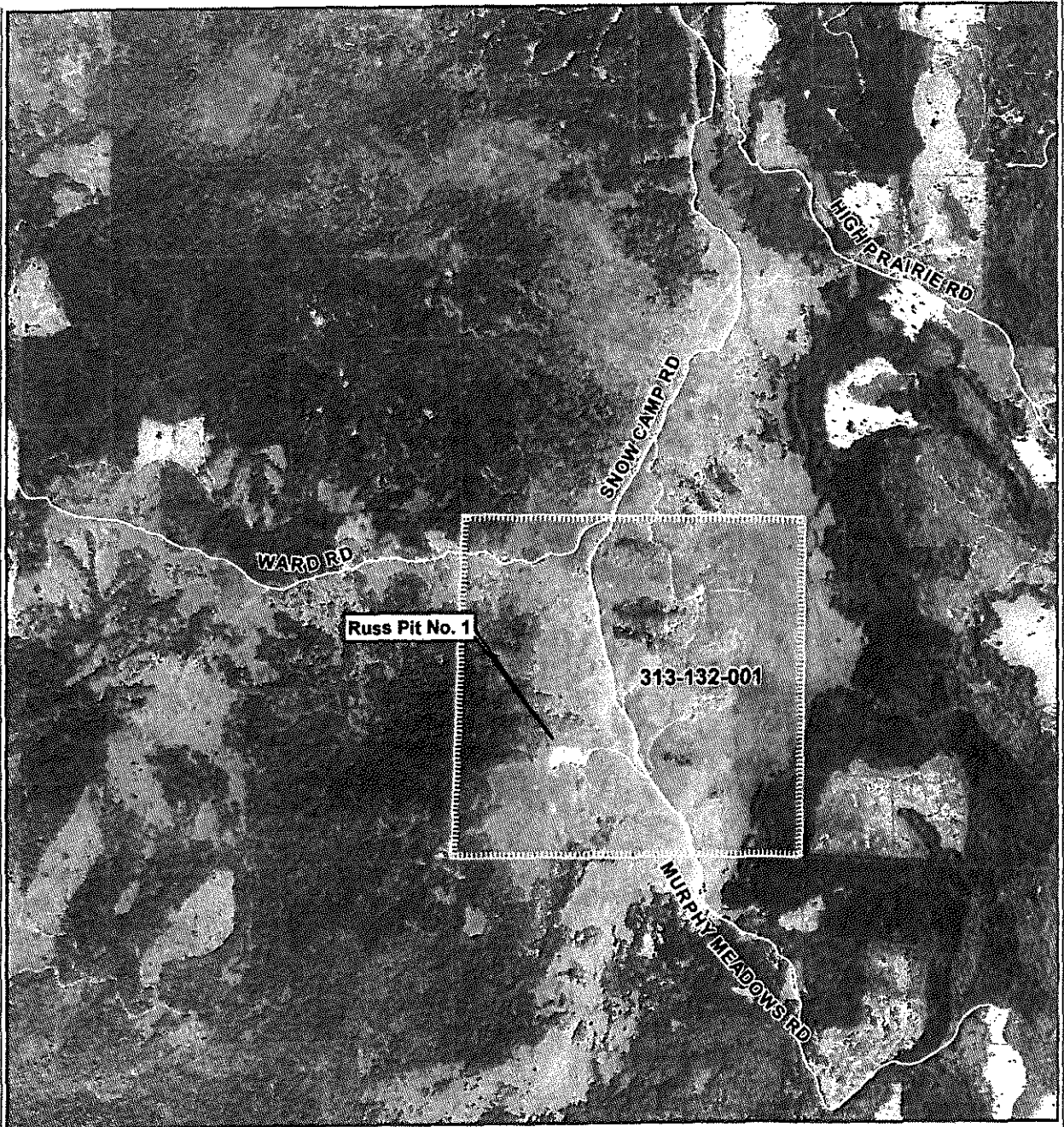
Judith L. Dixon
JUDITH L. DIXON

James T. Russ
JAMES T. RUSS

Katie C. Russ
KATIE C. RUSS

COUNTY:

BY Mark Lambert
CHAIRPERSON,
BOARD OF SUPERVISORS,
COUNTY OF HUMBOLDT,
STATE OF CALIFORNIA



Russ Pit No. 1

**Rock Pit
and
Stockpile Site**

Map Disclaimer
While every effort has been made to assure the accuracy
of this information, this map is intended for display purposes and
should not be used for precise measurement or
navigation. Data has not been completely checked
for accuracy.

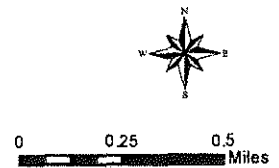


Exhibit A