

ALDERPOINT ROAD/BLOCKBURG AREA
APN 217-053-004 & 217-053-005

**CHARLES GRAVEL BAR
and
STOCKPILE SITE**

LICENSE AGREEMENT

This License Agreement, hereinafter referred to as AGREEMENT, made and entered into this 28 day of January, 2020, by and between Charles Mountain Ranch, California General Partnership, hereinafter referred to as LICENSOR, and the COUNTY OF HUMBOLDT, a political subdivision of the State of California, hereinafter referred to as COUNTY.

WITNESSETH:

WHEREAS, LICENSOR represent and warrant that they are the owner in fee of certain parcels of land within Section 36, Township 1 South, Range 4 East, Humboldt Base 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 LICENSOR'S real property, hereinafter referred to as SITE, as shown on aerial photograph attached hereto as Exhibit A and incorporated herein by reference, for the purposes of a surface mining operation, aggregate processing, and gravel storage site, hereinafter referred to as ACTIVITIES; and

WHEREAS, COUNTY'S use of said SITE shall be for the specific purpose of maintaining and repairing COUNTY roads;

NOW, THEREFORE, it is mutually agreed as follows:

1. **AGREEMENT**

LICENSOR grants to COUNTY, subject to the terms and conditions set forth in this AGREEMENT, the right to use said SITE situated on and identified by Assessor's Parcel No. (APN) 217-053-004 and 217-053-005 located near Alderpoint Road, at the confluence of the Larabee Creek, Thurman Creek, Boulder Flat Creek, and Hayfield Creek, between Bridgeville and Blocksburg, Humboldt County, California, as shown on Exhibit B, attached hereto and incorporated herein by reference.

2. **LICENSE IS NOT A LEASE**

This AGREEMENT is not a lease but constitutes a mere license agreement and COUNTY is limited to the use of SITE as expressly and specifically described in Section 4.

3. **TERM**

The AGREEMENT shall commence upon Board approval, with the initial term extending from the date of Board approval through June 30, 2020. The AGREEMENT shall renew automatically for seven (7) successive one (1)-year terms upon the same terms and conditions

herein, unless either party provides written notice of non-renewal to the other party by March 31, 2020 of the initial term or March 31 of any successive term. There shall be no more than seven (7) automatic renewals except by written amendment.

4. USE OF SITE

LICENSOR grants COUNTY the right to use certain portions of LICENSOR'S real property described in Section 1, together with the right of ingress and egress over said portion of LICENSOR'S real property for access to COUNTY'S ACTIVITIES.

COUNTY shall have the right to conduct surface mining activities, which shall include excavation of river-run gravel and crushing and stockpiling of processed aggregate, together with the right of temporary storage of all equipment necessary for COUNTY'S surface mining operation, processing, stockpiling, and road maintenance activities.

COUNTY shall remove all stockpiled processed aggregate from the streambed of Larabee Creek by October 15 of each year surface mining and processing activities occur.

COUNTY'S license to use SITE as a surface mining operation is exclusive to COUNTY. The necessary mining permits are held by COUNTY and LICENSOR shall not allow any third party to conduct surface mining operations within COUNTY'S permitted "limits of operation" or otherwise interfere with COUNTY'S ACTIVITIES.

If SITE access is gated and locked, COUNTY shall be provided a key or combination code to conduct COUNTY ACTIVITIES.

Use of SITE by COUNTY shall be in compliance with all applicable laws including those governing the use of hazardous materials and the management and discharge of stormwater. COUNTY 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, state, or local laws. Prior to commencement of use of SITE, COUNTY shall provide LICENSOR with written notice demonstrating that COUNTY has obtained National Pollutant Discharge Elimination System (NPDES) permit coverage for any stormwater discharge from SITE or has established that no stormwater discharge to waters of the United States will originate from SITE used by COUNTY. If an NPDES permit is required for SITE, COUNTY shall maintain NPDES permit coverage during all periods of SITE use.

COUNTY agrees to provide and pay for all labor, equipment, materials, and supplies for its ACTIVITIES as described under this AGREEMENT.

COUNTY'S year-around access to SITE shall be limited to only those roads and entryways approved by LICENSOR.

5. COMPENSATION

A. Rental

COUNTY agrees to pay LICENSOR a SITE rental fee of Fifty Dollars (\$50.00) per month for use of SITE. COUNTY shall pay monthly SITE rental payment in advance on an annual basis, at the sum of Six Hundred Dollars (\$600.00) per year. Annual SITE rental payment shall be made payable before July 1 of the fiscal year.

B. Royalty

In addition to the rent set forth in the previous paragraph, COUNTY agrees to pay LICENSOR a royalty for river-run aggregate mined from Larabee Creek by COUNTY at the rate of One Dollar and Twenty-Five (\$1.25) per cubic yard as measured per loaded capacity of dump trucks or loader bucket (in cubic yards) multiplied by truckload or bucket count based on certified yardage capacity of dump trucks or loader bucket(s). Totals shall be computed based on driver trip tickets or plant production logs provided to Public Works dispatch personnel. Said royalty payments shall be made payable annually following completion of extraction and processing activities.

In lieu of such royalty, LICENSOR may agree to accept as compensation from COUNTY crushed aggregate valued at Nine Dollars (\$9.00) per cubic yard.

LICENSOR and COUNTY agree said compensation in lieu of royalty payment shall not exceed the total dollar amount of the royalty generated by COUNTY'S surface mining operation in any one (1) term.

LICENSOR and COUNTY agree said crushed aggregate yardage, in lieu of royalty payment, shall be calculated (measured) by truckload or loader bucket capacity.

COUNTY shall place said crushed aggregate in lieu of royalty payment on LICENSOR'S property at a location determined through mutual agreement between LICENSOR and COUNTY.

It is agreed and understood that mined material and crushed aggregate shall become COUNTY'S personal property upon LICENSOR'S receipt of payment thereof, or upon LICENSOR receiving crushed aggregate as compensation in lieu of royalty payment.

Royalty and SITE rental payments shall be made payable to:

Charles Mountain Ranch
32000 Alderpoint Road
Blocksburg, CA 95514

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

LICENSOR shall have access to SITE at all times.

7. **SITE MAINTENANCE**

COUNTY, at COUNTY'S expense, agrees to maintain SITE and SITE haul road during COUNTY'S surface mining and aggregate processing operations.

8. **COMPLIANCE WITH LAWS**

COUNTY shall conduct its operations in accordance with all federal, state, and local laws, agreements, permits, regulations, and statutes governing the COUNTY'S surface mining operations.

9. **PERMITS**

In consideration of COUNTY'S surface mining operation on LICENSOR'S real property, COUNTY shall acquire and maintain all permits necessary for the extraction of river-run aggregate and onsite processing and storage of said aggregate. Existing permits are specific to surface mining activities and do not allow for activities unrelated to surface mining, processing, or storage of aggregate. COUNTY shall remain in compliance with all permits, including any permit extensions, renewals, and expirations. Should any permit condition change, COUNTY shall modify, suspend, or terminate its operations to conform to such change so as to remain in compliance with all permits at all times.

10. **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. COUNTY has entered into this AGREEMENT 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 AGREEMENT. Nothing in this AGREEMENT shall be construed as a guarantee of the type of work or quantity or quality of any products located in or on SITE.

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

11. **RESPONSIBILITIES OF COUNTY**

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

SITE access shall be limited to normal business hours unless otherwise approved by LICENSOR, with the exception of natural disasters, in which case SITE shall be available to COUNTY 24-7 without prior approval by LICENSOR.

COUNTY shall maintain SITE used by COUNTY in an orderly, clean, and sanitary manner as required by LICENSOR.

In the event of any violation of this AGREEMENT, or of dangerous fire weather, or of possible damage to roads by use in wet weather, LICENSOR shall notify COUNTY'S Public Works Deputy Director of Roads, and COUNTY shall immediately suspend the ACTIVITIES or take steps to address the situation as LICENSOR may direct.

COUNTY shall limit ACTIVITIES to those described above, and shall not construct or erect any buildings, structures, equipment, or improvements on the SITE without prior written

consent of LICENSOR.

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

COUNTY shall not cut merchantable trees without prior written consent of LICENSOR.

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

12. **FIRE AND FIRE PREVENTION**

COUNTY shall not undertake any burning of debris.

COUNTY 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, the U.S. Forest Service, and any other public authority.

13. **COUNTY'S INSURANCE**

Without limiting COUNTY'S indemnification provided herein, COUNTY shall take out and maintain, throughout the term of this AGREEMENT, 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 COUNTY, 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 \$1,000,000 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) LICENSOR, its officers, employees and agents, are covered as additional insured for liability arising out of the operations performed by or on behalf of COUNTY. 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, COUNTY'S insurance is primary coverage to LICENSOR, and any insurance or self-insurance programs maintained by LICENSOR are excess to COUNTY'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 COUNTY, its officers, employees, and agents.

B. By its signature hereunder, COUNTY certifies that COUNTY 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 COUNTY will comply with such provisions in connection with any work performed on the premises. Any persons providing services with or on behalf of COUNTY shall be covered by workers' compensation (or qualified self-insurance).

14. **HOLD HARMLESS INDEMNIFICATION**

COUNTY agrees to indemnify and hold harmless and, at its own risk, cost, and expense, defend LICENSOR 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.

LICENSOR agrees to indemnify and hold harmless and, at its 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 LICENSOR'S negligence, intentional acts, or breaches of this AGREEMENT.

15. **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.

LICENSOR

Charles Mountain Ranch General Partnership
32000 Alderpoint Road
Blocksburg, CA 95514

COUNTY

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

16. **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 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.

17. **NUCLEAR FREE CLAUSE**

LICENSOR certifies by its signature below that LICENSOR is not a Nuclear Weapons contractor, in that LICENSOR is 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. LICENSOR agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor, as defined above. COUNTY may immediately terminate this AGREEMENT if it determines that the foregoing certification is false or if LICENSOR becomes a nuclear weapons contractor.

18. **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.

19. **COUNTY'S RIGHT TO ERECT SIGNS**

COUNTY shall have the right to erect and maintain upon SITE all signs that it deems appropriate for employee safety. With the exception of trespass signage, LICENSOR agrees that no signs of any nature other than COUNTY'S shall be permitted upon those portions of SITE occupied by COUNTY. Signage installed by COUNTY on LICENSOR'S property shall be temporary and shall be removed by COUNTY at the conclusion of each surface mining and/or aggregate processing event.

20. **TERMINATION**

COUNTY and LICENSOR 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 LICENSOR of any general assignment for the benefit of creditors.

B. The failure of COUNTY or LICENSOR to remedy any default, breach, or violation of Federal/State/County laws or regulations by COUNTY or LICENSOR 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 LICENSOR with false or misleading information or misrepresenting any material fact on their applications or documents or in their statements to or before COUNTY or LICENSOR, or intentional failure to make full disclosure on their financial statements or other documents.

21. **AGREEMENT MODIFICATION**

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

22. **LICENSOR NOT OFFICER, EMPLOYEE, OR AGENT OF COUNTY**

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

23. **COUNTY'S EMPLOYEES**

COUNTY'S employees shall be deemed employees of COUNTY and will not for any purpose be considered employees or agents of LICENSOR. LICENSOR shall exercise no control or supervision over the employees of COUNTY hereunder. It is understood and agreed that no relationship of employer and employee is or shall be deemed to exist either between LICENSOR and COUNTY or between LICENSOR and any other person(s) performing labor or services on behalf of COUNTY. COUNTY shall furnish and be responsible for its own employees, agents, and equipment. It is expressly understood that LICENSOR have no authority over COUNTY'S agents or employees, and any complaint by LICENSOR about COUNTY'S agents or employees will be brought by LICENSOR to COUNTY'S attention in the manner prescribed in Section 15, or through direct communication with COUNTY'S Public Works Deputy Director of Roads.

24. **SAFETY**

COUNTY 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 COUNTY to comply with all federal, state, and local health and safety laws, rules and regulations is grounds for immediate termination of this AGREEMENT.

25. **HAZARDOUS MATERIALS**

COUNTY 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 to ACTIVITIES or of any actions or omissions of COUNTY. The provisions of this section shall survive the expiration or termination of this AGREEMENT.

LICENSOR shall indemnify COUNTY and hold COUNTY 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 COUNTY, 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 to any actions or omissions of LICENSOR. The provisions of this section shall survive the expiration or termination of this AGREEMENT.

26. **HAZARDOUS MATERIALS SPILL NOTIFICATION AND RESPONSE**

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

COUNTY shall, at a minimum:

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

COUNTY shall be responsible for the response and restoration costs associated with any release of hazardous materials in connection with COUNTY'S activities.

LICENSOR shall be responsible for the response and restoration costs associated with any release of hazardous materials in connection with LICENSOR'S activities.

27. **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.

28. **REAL PROPERTY TAXES**

LICENSOR 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.

29. **WAIVER OF BREACH**

The waiver by COUNTY or LICENSOR 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.

30. **BREACH, REMEDY FOR**

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

31. **SURRENDERING SITE**

At the termination of this AGREEMENT, COUNTY shall surrender SITE to LICENSOR in good condition and repair. COUNTY shall be under no obligation to repair or restore the whole or any portion of SITE, which may be damaged by reason of fire, earthquake or the elements or other casualty.

32. **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.

33. **MISCELLANEOUS PROVISIONS**

A. The ACTIVITIES under this AGREEMENT shall in no way interfere with the land management and logging activities conducted by LICENSOR, LICENSOR'S contractors, or assigns, or use by other counties. COUNTY shall supervise all persons connected with COUNTY under this AGREEMENT to assure that its ACTIVITIES are within the boundaries specified in this AGREEMENT.

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

C. This AGREEMENT 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 AGREEMENT.

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

G. This Agreement, and any amendments hereto, may be executed in one (1) or more counterparts, each which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one (1) and the same agreement. A signed copy of this AGREEMENT, and any amendments hereto, transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this AGREEMENT, and any amendments hereto, for all purposes.

34. **PRIOR AGREEMENT TERMINATED AND SUPERSEDED**

This AGREEMENT terminates and supersedes the September 13, 1977 Borrow Agreement between COUNTY and Delores Fearrien regarding SITE.

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

COUNTY OF HUMBOLDT

BY: *Estelle Fennell*
CHAIR, *Estelle Fennell*
BOARD OF SUPERVISORS,
COUNTY OF HUMBOLDT,
STATE OF CALIFORNIA

LICENSOR

CHARLES MOUNTAIN RANCH,
A CALIFORNIA GENERAL PARTNERSHIP

BY: *Jacquelyn D. Pricer*
Jacquelyn D. Pricer, PARTNER

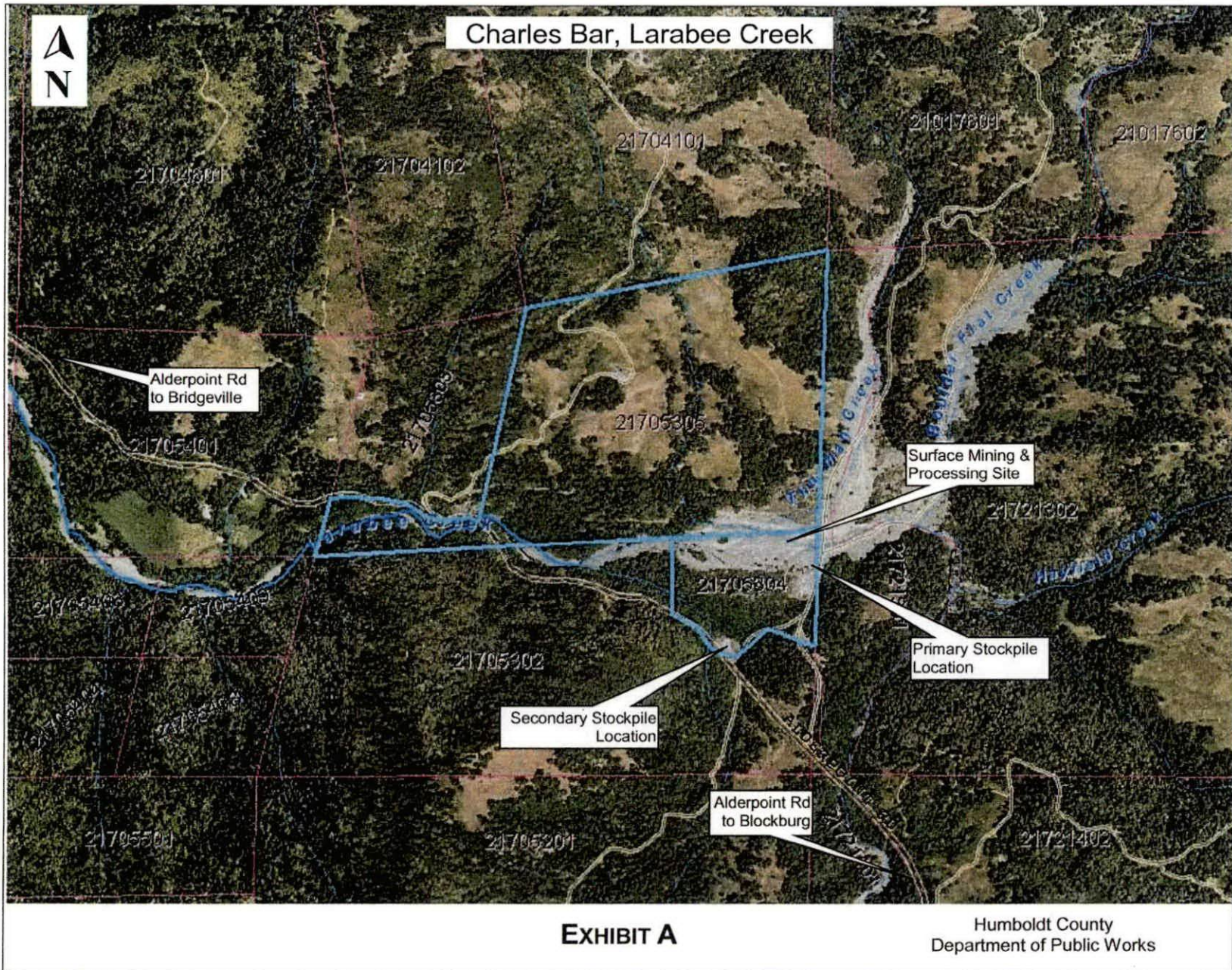
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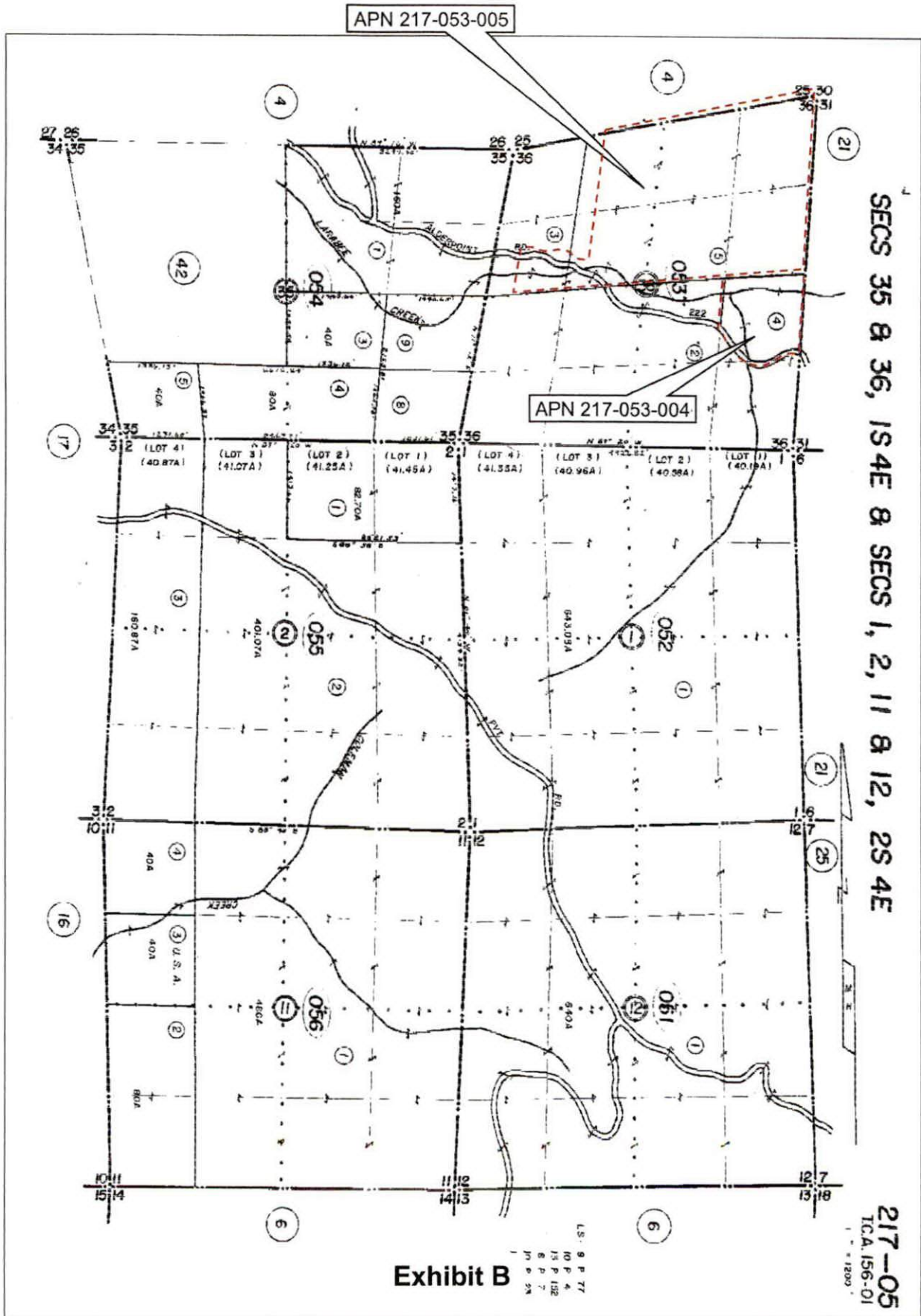
BY: *Timothy Pricer*
Timothy Pricer, PARTNER

DATE: *12-16-19*

BY: *Doris Fearrien*
Doris Fearrien, PARTNER

DATE: *12-16-19*





APN 217-053-005

APN 217-053-004

SECS 35 & 36, 15 4E & SECS 1, 2, 11 & 12, 25 4E

Exhibit B

217-05
TCA 156-01
1" = 1200'

LS: 9 P 77
10 P 4
15 P 132
6 P 7
P. 28