



COUNTY OF HUMBOLDT

AGENDA ITEM NO.  
**C-21**

For the meeting of: April 22, 2014

Date: March 24, 2014

To: Board of Supervisors

From: P Thomas K. Mattson, Public Works Director

Subject: LICENSE AGREEMENT FOR FORT SEWARD GRAVEL BAR AND STOCKPILE SITE

RECOMMENDATION(S):

That the Board of Supervisors:

1. Authorize the Chairman to execute two originals of the License Agreement between the County of Humboldt and Peggy L. Webster, Robert G. Satterlee, and Norman G. Satterlee.
2. Direct the Clerk of the Board to return both executed License Agreements to the Department of Public Works Land Use Division for further processing.

SOURCE OF FUNDING:

Roads Maintenance – 1200325-2121

Prepared by Doug Dinsmore

CAO Approval Cheryl Dillingham

REVIEW:

Auditor \_\_\_\_\_ County Counsel X gs Personnel \_\_\_\_\_ Risk Manager X Other \_\_\_\_\_

TYPE OF ITEM:

Consent  
 Departmental  
 Public Hearing  
 Other \_\_\_\_\_

PREVIOUS ACTION/REFERRAL:

Board Order No. \_\_\_\_\_

Meeting of: \_\_\_\_\_

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Lovelace Seconded by Supervisor Bass

Ayes Sundberg, Lovelace, Bohn, Fennell, Bass  
Nays \_\_\_\_\_  
Abstain \_\_\_\_\_  
Absent \_\_\_\_\_

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

Dated: April 22, 2014

By: Kathy Hayes  
Kathy Hayes, Clerk of the Board

### DISCUSSION:

Public Works has utilized this resource site since the 1960's. It is strategically located within the County's road system, and is a viable source of aggregate for county road maintenance and repair projects in the area. Historically the property owners have held the surface mining permits, but those permits expired on August 9, 2011. By that time, the owners had already determined that with the demise of the railroad it was no longer cost effective for them to manage the permits. That being the case, Public Works staff prepared the necessary permit applications and CEQA documents, and the project was approved by the County Planning Commission on May 3, 2012. Public Works now has exclusive surface mining rights to the Fort Seward Gravel Bar operation to extract a maximum of 125,000 cubic yards/year (yd<sup>3</sup>/yr), averaged over a five (5) year period with provisions to extract a maximum of 200,000 yd<sup>3</sup> in any given year. The current surface mining permits expire on August 9, 2026.

With the County having acquired ownership of the permits, the proposed new license agreement sets the royalty rate for mined river-run aggregate at one-dollar (\$1.00) yd<sup>3</sup>. Furthermore, an annual rental fee for use of the stockpile site will be \$600.00 per year over the life of the Agreement. This scheduled compensation is consistent with what is paid to other landowners with similar agreements throughout the County.

The initial term of the new agreement shall commence upon approval by the County, and shall terminate on June 30, 2015. This agreement shall renew automatically for successive one (1) year term(s) upon the same 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 eleven (11) automatic renewals except by written amendment. The agreement requires the County to remain in compliance with all permit conditions at all times.

### FINANCIAL IMPACT:

The new License Agreement provides for royalty payments when instream mining occurs as well as annual site rental payments to the Fort Seward Ranch. The Roads Maintenance budget 1200325-2121 shall bear the cost of all payments. There is no impact to the General Fund.

### OTHER AGENCY INVOLVEMENT:

None

### ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to execute the License Agreement. This is not recommended because of the County's need for aggregate resource sites located strategically within our roads system, which offset expenses incurred by importing construction material from distant locations.

### ATTACHMENTS:

License Agreement

FORT SEWARD ROAD (C7C010)  
APN 216-233-001, 002, 003, 216-302-003, 216-303-001

**FORT SEWARD GRAVEL BAR  
and  
STOCKPILE SITE**

**LICENSE AGREEMENT**

This License Agreement hereinafter referred to as AGREEMENT, made and entered into this 22nd day of April, 2014, by and between PEGGY L. WEBSTER, ROBERT G. SATTERLEE, and NORMAN G. SATTERLEE, 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 certain parcels of land within Sections 8, 9, and 17, Township 3 South, Range 5 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 river-run aggregate on said portion of OWNERS' real property for the purpose of maintenance and repair of COUNTY roads;

NOW, THEREFORE, it is mutually agreed as follows:

1. **AGREEMENT**

OWNERS grant to COUNTY, subject to the terms and conditions of this AGREEMENT, the right to use a portion of OWNERS' real property situated on and identified by Assessor's Parcel No. (APN) 216-233-001, 002, 003, 216-302-003, 216-303-001 located along or near Fort Seward Road, in the area known as Fort Seward, Humboldt County, California, as shown on Exhibits B and C, attached hereto and incorporated herein by reference.

2. **LICENSE IS NOT A LEASE**

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

3. **TERM**

The term of this AGREEMENT shall commence upon Board approval, with the first term extending from the date of Board approval through June 30, 2015. The AGREEMENT shall renew automatically for eleven (11) 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 April 30 of the

current term. There shall be no more than eleven (11) 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), together with the right of ingress and egress over said portion of OWNERS' real property for access to COUNTY'S surface mining operation and processing/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**

A. **Rental Fee**

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

B. **Royalty Fee**

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. Totals shall be computed based on driver trip tickets logged by Public Works dispatch personnel. Said royalty payments shall be made payable before July 1 of each fiscal year.

All royalty and rent payments shall be made payable to:

Fort Seward Ranch  
c/o Peggy Webster  
6020 Fort Seward Rd.  
Garberville, CA 95542

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 for personal and business related activities, including the removal of aggregates previously stockpiled by the OWNERS for use on ranch-related projects or for any other purposes.

7. **MAINTENANCE**

COUNTY agrees, at COUNTY'S expense, to maintain SITE and to maintain site roads from the intersection of Fort Seward Road and Fort Seward Drive, along Fort Seward Drive to the gravel bars 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 and maintain all permits required for the extraction of river-run gravel from said gravel bar(s) for use on COUNTY roads, for emergency and maintenance activities in the general area. Current permits held by the COUNTY are specific to surface mining activities and do not allow for activities unrelated to surface mining, processing, and storage of aggregates and construction related equipment. 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 operation to conform to such change so as to remain in compliance with all permits at all times.

10. **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) The OWNERS, their 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 OWNERS, their 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 OWNERS 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 the OWNER'S, and any insurance or self-insurance programs maintained by OWNERS 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).

11. **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.

12. **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: Fort Seward Ranch  
c/o Peggy L. Webster  
6020 Fort Seward Rd.  
Garberville, CA 95542

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

13. **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.

14. **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.

15. **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.

16. **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.

17. **AGREEMENT MODIFICATION**

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

18. **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.

19. **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.

20. **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.

21. **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.

22. **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.

23. **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.

//

//

//

//



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 *[Signature]*

OWNERS:

*[Signature]*  
PEGGY L. WEBSTER

APPROVED AS TO FORM:  
COUNTY COUNSEL

*[Signature]*  
ROBERT G. SATTERLEE

BY *[Signature]*  
DEPUTY

*[Signature]*  
NORMAN G. SATTERLEE

COUNTY:

BY *[Signature]*  
CHAIRPERSON,  
BOARD OF SUPERVISORS,  
COUNTY OF HUMBOLDT,  
STATE OF CALIFORNIA

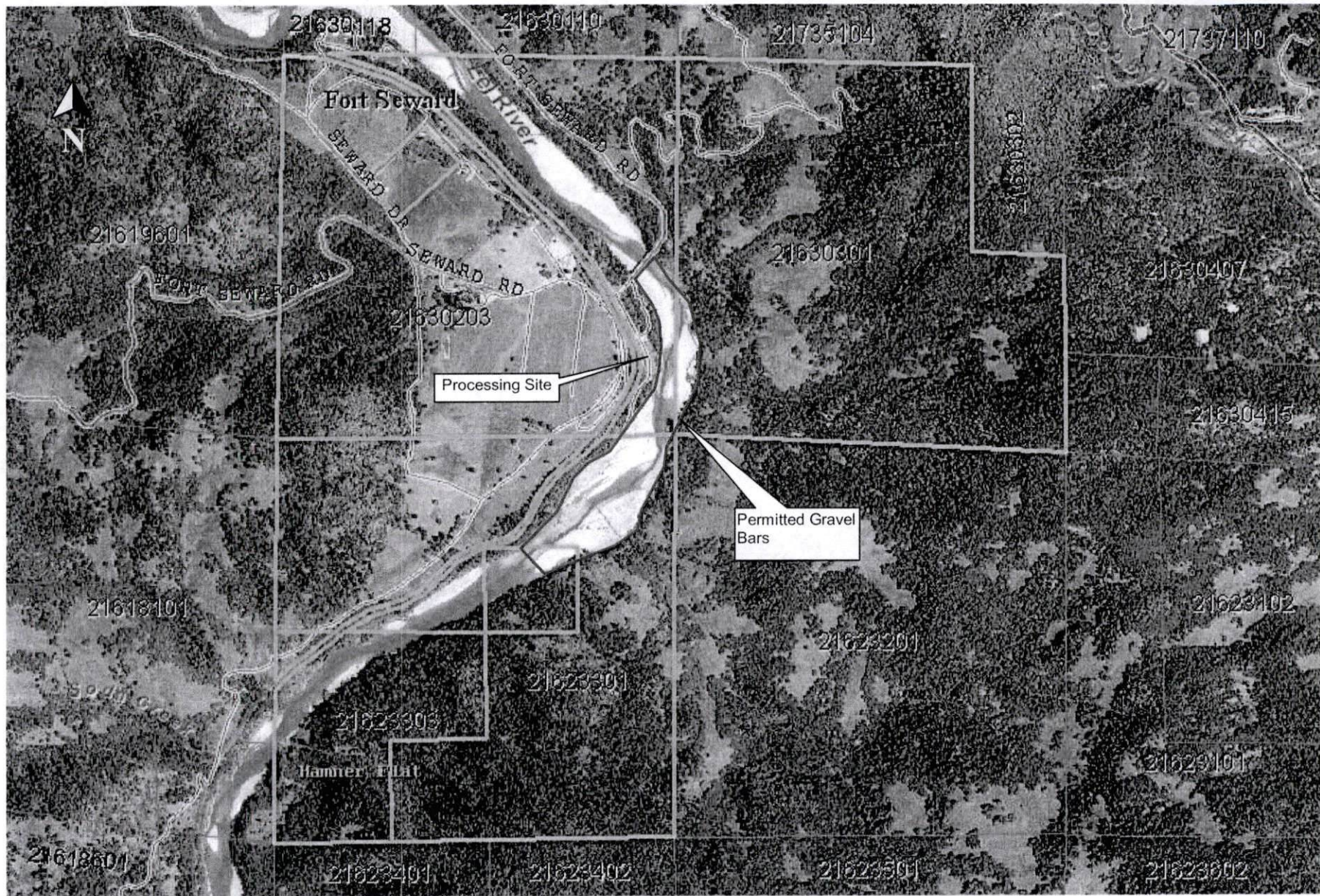


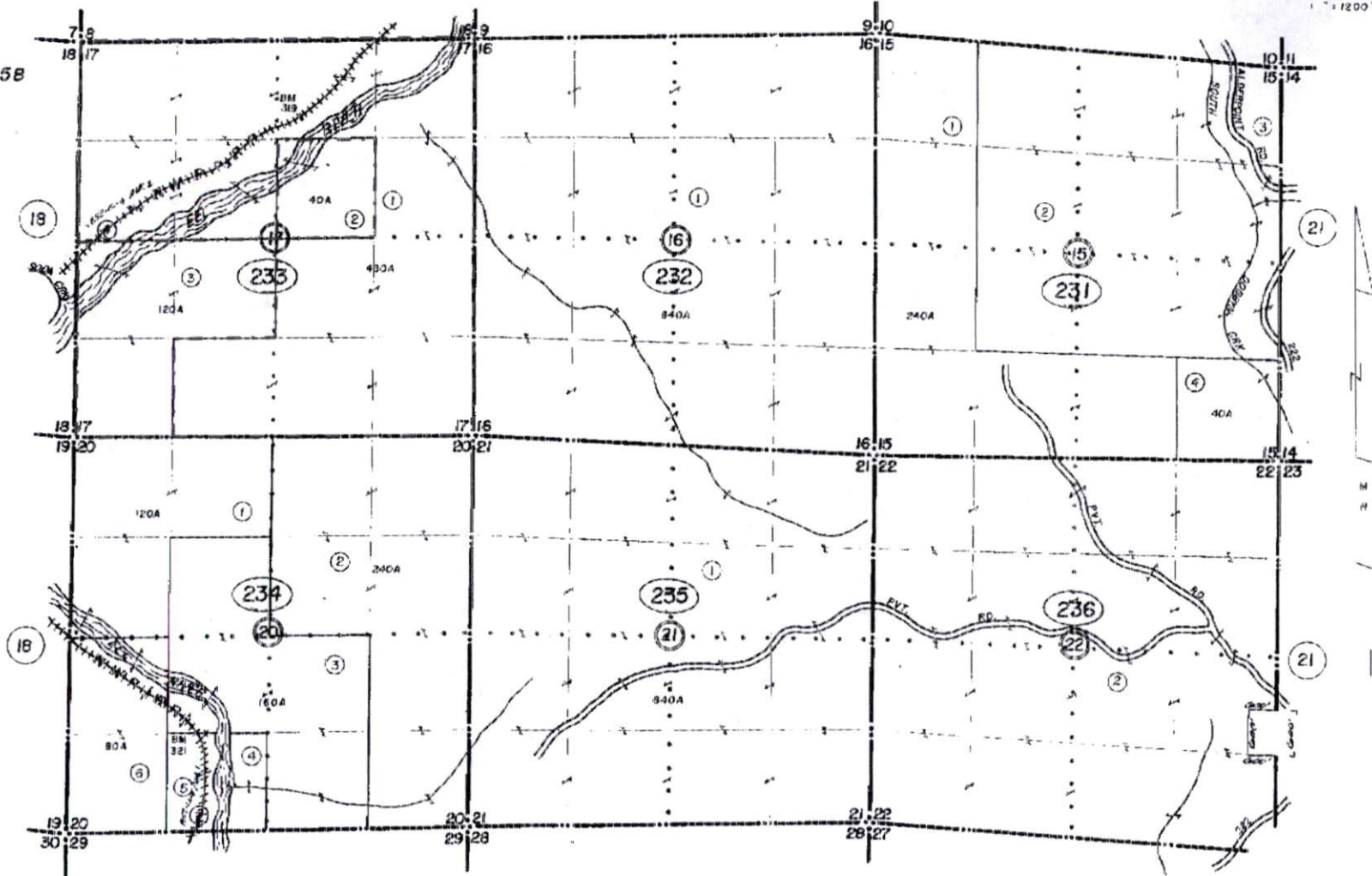
Exhibit A

SECS 15, 16, 17, 20, 21 & PTN SEC 22, 3S 5E

216-23  
T.C.A. 156-01  
1" = 1200'

L.S. 25 Pg 5B

Exhibit B



NOTE: 216-231-01 INCLUDES W/4 OR NE 1/4 OF SW 1/4 SEC 15.  
S.S.E. MAP 853-12-4

SECS 5, 8, 9 & 10, 3S 5E

216-30

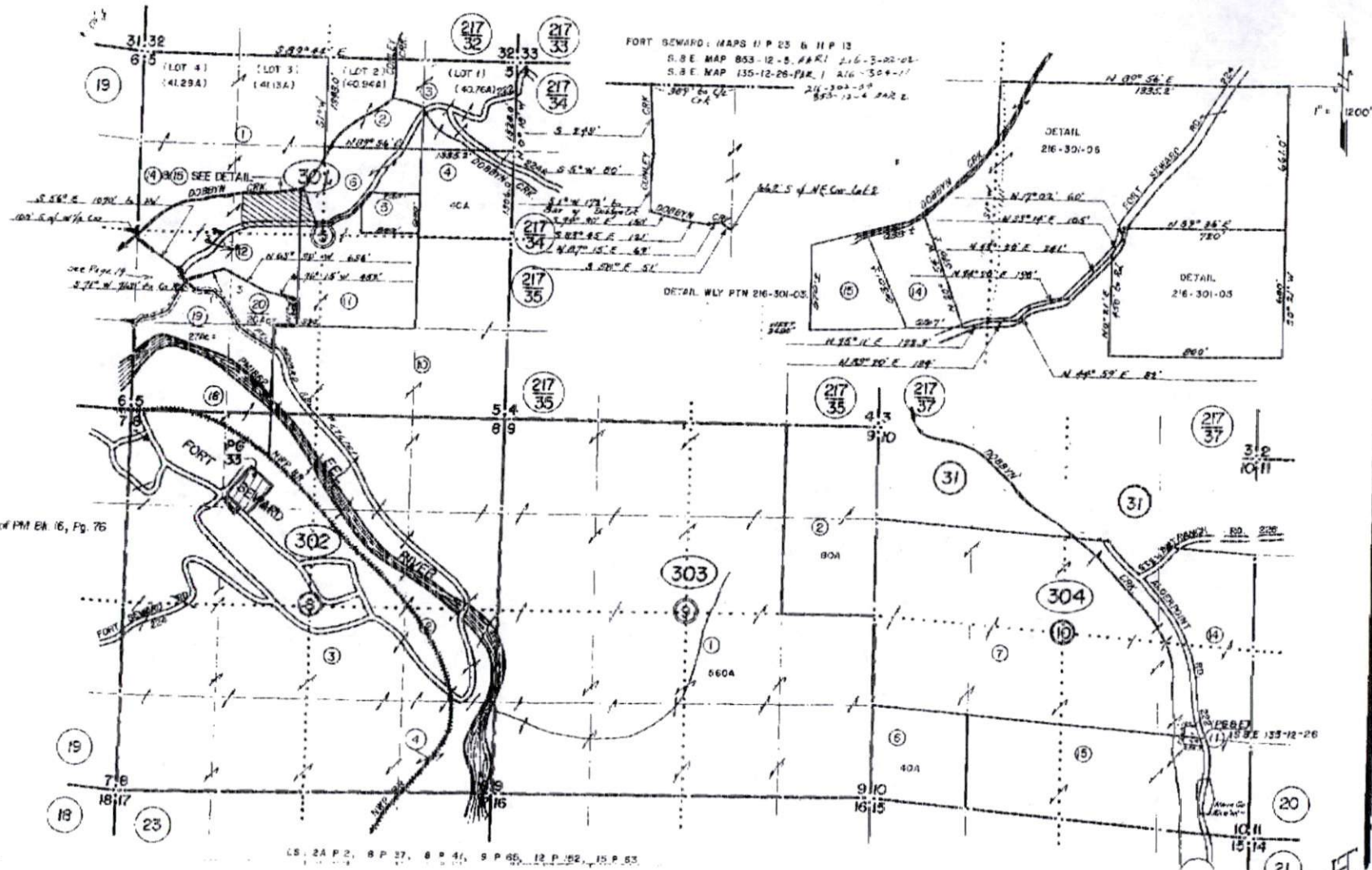


Exhibit C

Pln. FM 1662 of FM EA 16, Pg. 76