MATTOLE ROAD-PETROLIA AREA
APN 105-042-004

CHAMBERS STOCKPILE SITE

LICENSE AGREEMENT

This License Agreement, hereinafter referred to as AGREEMENT, made and entered into this 1 day of May, 2018, by and between KELTON J. CHAMBERS, a married man as his sole and separate property, 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 certain parcel of land contained within the Southwest Quarter of the Northwest Quarter of Section 10, in Township 2 South, Range 2 West, Humboldt Base and Meridian, and as such, has the exclusive right to enter into this AGREEMENT; and

WHEREAS, COUNTY desires to enter upon and use a portion of OWNER'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 stockpiling gravel and other road construction materials obtained from other sites, and for incidental storage of a road grader and other appurtenant equipment; and

WHEREAS, COUNTY'S use of the site is for the specific purpose of maintaining and repairing COUNTY roads;

NOW, THEREFORE, it is mutually agreed as follows:

1. **AGREEMENT**

OWNER grants to COUNTY, subject to the terms and conditions set forth in this AGREEMENT, the use of said SITE situated on and identified by Assessor's Parcel No. (APN) 105-042-004 located on Mattole Road in the Petrolia area of Humboldt County, as shown on Exhibit B, attached hereto and incorporated herein by reference.

2. **LICENSE IS NOT A LEASE**

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

3. **TERM**

The AGREEMENT shall commence upon Board approval, with the first term extending from the date of Board approval through April 30, 2019.

The AGREEMENT shall renew automatically for fourteen (14) 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 February 28, 2019 of the current term or February 28 of any successive term.

4. **PRIOR AGREEMENT TERMINATED AND SUPERSEDED**

This AGREEMENT terminates and supersedes the December 20,1994 License Agreement between COUNTY and Chambers Cattle Company regarding SITE.

5. **USE OF SITE**

OWNER grants COUNTY the right to use said SITE together with the right of ingress and egress over said portion of OWNER'S real property for the purpose of storing aggregates or other road maintenance materials, as well as intermittent staging of a road grader and other appurtenant equipment.

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

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.

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

COUNTY agrees to access SITE using only roads and entryways approved by OWNER.

COUNTY agrees to maintain perimeter fencing in order to restrict unauthorized motor vehicles from accessing SITE.

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

6. **COMPENSATION**

COUNTY agrees to pay OWNER a SITE rental fee of Fifty Dollars ($50.00) per month for use of said 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 payments shall be made payable before April 30 of each year.

SITE rental payments shall be made payable to:

Kelton J. Chambers
P.O. Box 1026
Fortuna, CA 95540

7. **OWNER'S ACCESS TO PREMISES**

OWNER shall retain the right of access and use of SITE at all times and COUNTY shall not restrict or otherwise hinder OWNER'S use thereof. COUNTY shall provide OWNER with any keys or combinations to access the site immediately upon any change to access.

8. **SITE MAINTENANCE**

COUNTY, at COUNTY'S expense, agrees to maintain said SITE in a clean and orderly manner, one free of materials deleterious to the environment.

9. **IMPROVEMENTS AND ALTERATIONS**

COUNTY may make non-structural alterations or improvements to the SITE as a means of enhancing safety and/or increasing operational efficiency. However, COUNTY shall not make alterations or improvements that would result in physical expansion of the SITE; or result in the removal of mature trees; or modify nearby watercourses or wetlands without prior written consent of the OWNER.

Upon termination of AGREEMENT, COUNTY shall bear the cost of closing SITE. Closure shall be limited to site grading, seeding, and straw mulching. Seeding and mulching shall be specific to areas of exposed mineral soil susceptible to erosion and the offsite release of fine sediment.

10. **SMOKING**

Pursuant to Humboldt County Code §971-1 et seq., COUNTY owned or leased premises are smoke free. COUNTY shall comply with said provision.

11. **COMPLIANCE WITH LAWS**

COUNTY shall comply with all federal, state, and local laws, agreements, permits, regulations, and statutes applicable to the use of said SITE.

OWNER does not warrant its authority to permit the use of said SITE on COUNTY'S behalf. COUNTY shall be solely responsible for acquiring, at its sole cost and expense, all permits, licenses, variances, and the like requisite that may become necessary over time.

12. **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 OWNER, 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 OWNER, 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 OWNER 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 OWNER 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).

13. HOLD HARMLESS INDEMNIFICATION

COUNTY agrees to indemnify and hold harmless and, at its own risk, cost, and expense, defend OWNER 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. Indemnification with respect to defense costs shall be made at the time the OWNER incurs such costs.

OWNER 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 OWNER'S negligence, intentional acts, or breaches of this AGREEMENT. Indemnification with respect to defense costs shall be made at the time the COUNTY incurs such costs.

14. 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.

OWNER:
Kelton J. Chambers
P.O. Box 1026
Fortuna, CA 95540

COUNTY:
County of Humboldt
Department of Public Works
3033 H Street, Room 17
Eureka, CA 95501

15. **LICENSE IS PERSONAL**

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

16. **NUCLEAR FREE CLAUSE**

OWNER certifies by its signature below that OWNER is not a nuclear weapons contractor, in that OWNER 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. OWNER 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 OWNER becomes a nuclear weapons contractor.

17. **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.

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

COUNTY shall have the exclusive right to erect and maintain upon the premises all signs that it deems appropriate. OWNER agrees that no signs or advertising matter of any nature other than COUNTY'S shall be permitted upon that portion of the premises occupied by the COUNTY. OWNER shall cooperate with COUNTY in obtaining any variances from restrictions placed on the use of signs by local authorities. OWNER and COUNTY shall mutually agree as to the location, size, and style of any signs.

19. **TERMINATION**

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

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

20. **AGREEMENT MODIFICATION**

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

21. **OWNER NOT AN OFFICER, EMPLOYEE, OR AGENT OF COUNTY**

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

22. **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.

23. **REAL PROPERTY TAXES**

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

24. **WAIVER OF BREACH**

The waiver by COUNTY or OWNER 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.

25. **BREACH, REMEDY FOR**

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

26. **SURRENDER OF PREMISES**

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

27. **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 shall be executed in duplicate, by the parties hereto upon the date first above written.

COUNTY OF HUMBOLDT

BY: _____
CHAIR, BOARD OF SUPERVISORS

OWNER

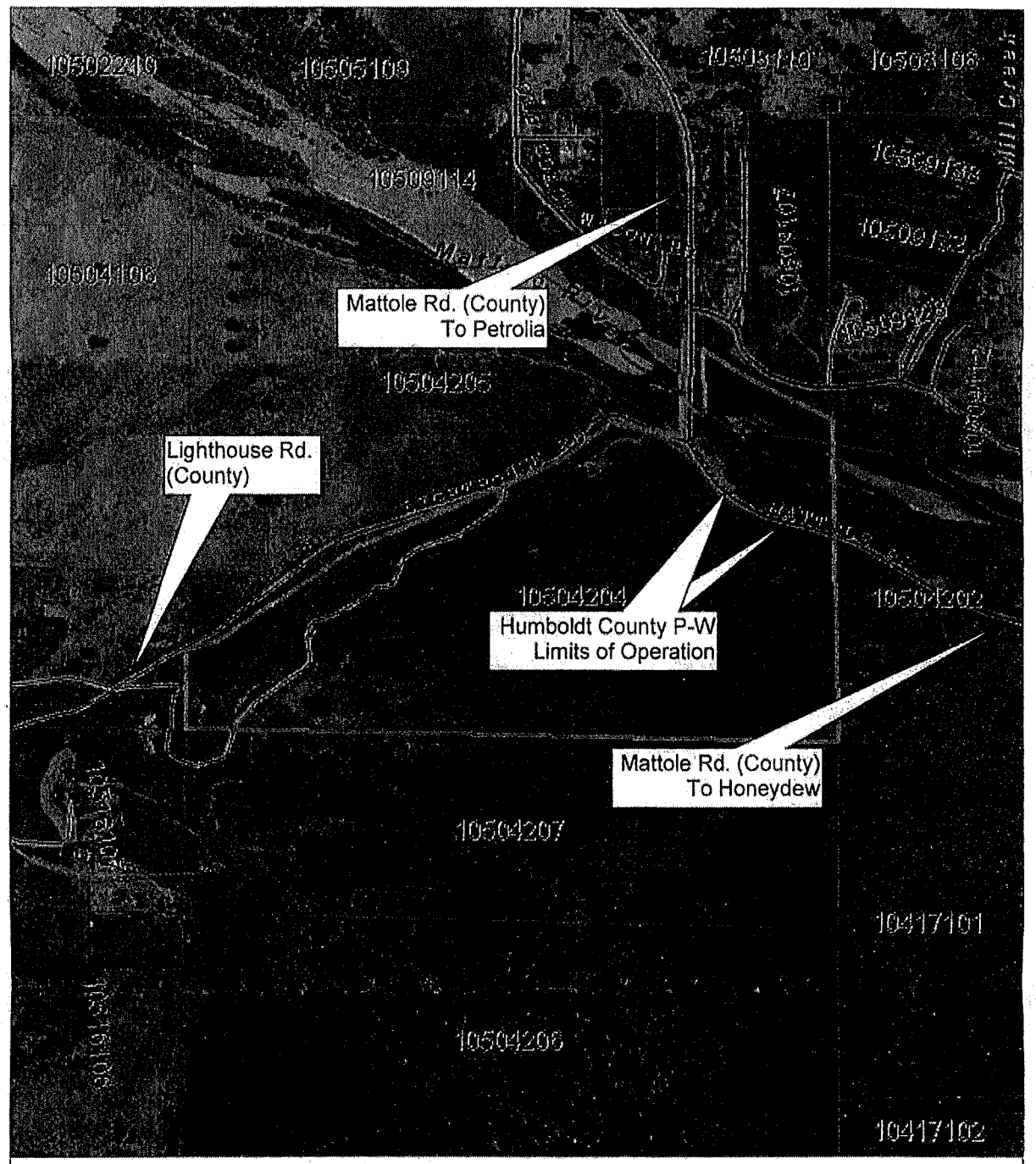
BY: _____
KELTON J. CHAMBERS, OWNER

DATE: 03-17-18

(SEAL)
ATTEST: KATHY HAYES
CLERK OF THE BOARD

BY: _____ Ryan Sharp, Deputy

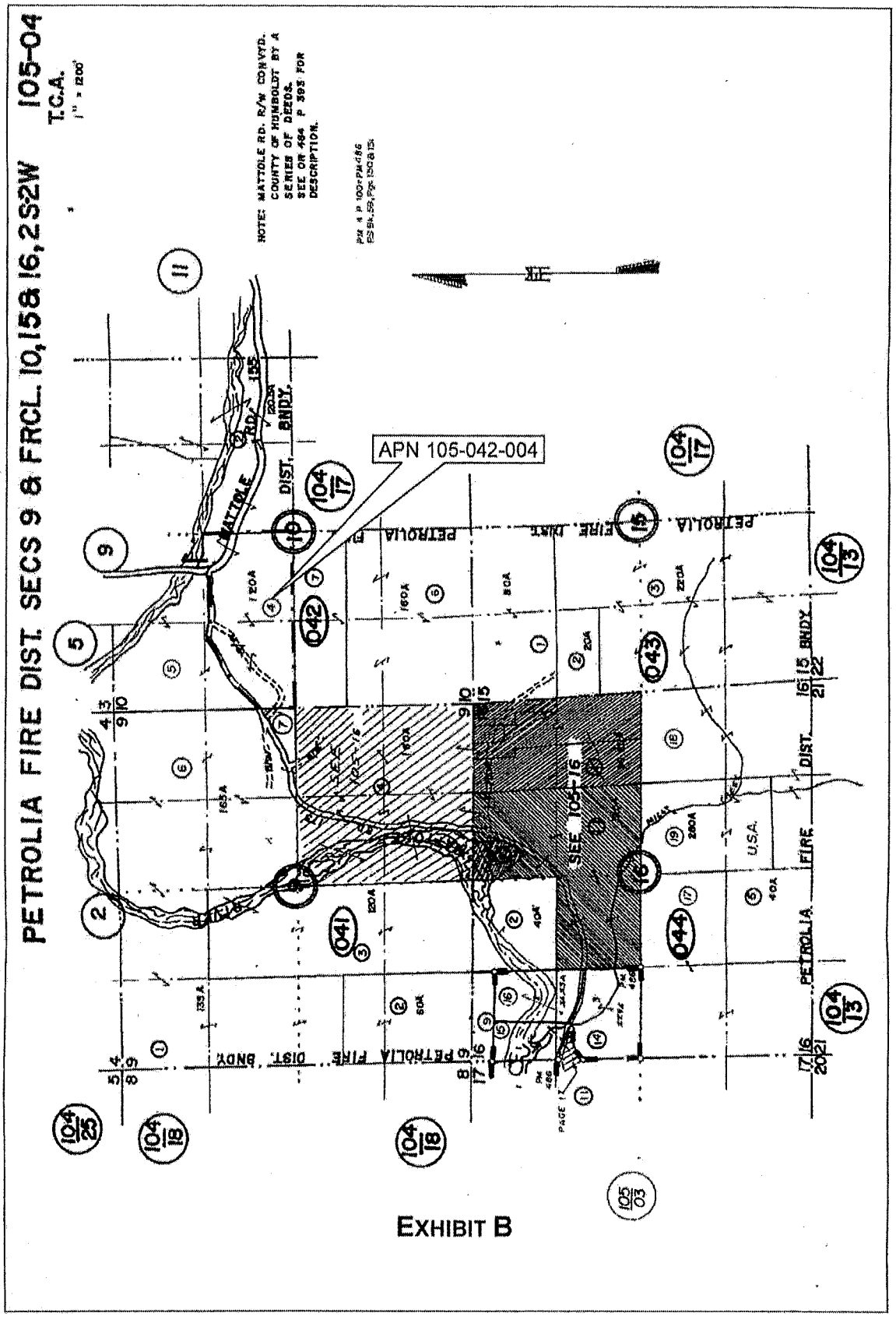
DATE: 5/1/18



CHAMBERS STOCKPILE SITE

EXHIBIT A

Humboldt County
Department of Public Works


PETROLIA FIRE DIST. SECS 9 & FRCL. 10,15 & 16, 2S-2W
105-04
T.C.A.
1" = 1200'
APN 105-042-004
SEE 104-16
PETROLIA FIRE DIST.
MATTOLE RD.
U.S.A.
EXHIBIT B