

CALENDAR ITEM

C61

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MINUTE ITEM
This Calendar Item No. C61
was approved as Minute Item
No. 61 by the State Lands
Commission by a vote of 3
to 0 at its 11/15/94
meeting.

W 24372.

J. Ludlow
prc 7797

11/15/94

APPROVAL OF A GENERAL LEASE -
RIGHT-OF-WAY USE

APPLICANT:

Mercer Fraser Company
P.O. Box 1006
Eureka, California 95502

LOCATION:

Submerged land located in the bed of the Eel River near
Fortuna, Humboldt County.

EXHIBITS:

- A. Site Map
- B. Coastal Commission Permit

AB 884:

02/01/95

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT (COASTAL
COMMISSION PERMIT NO. 1-94-35) WAS CERTIFIED FOR THIS
PROJECT BY THE CALIFORNIA COASTAL COMMISSION UNDER ITS
CERTIFIED PROGRAM (14 CAL. CODE REGS. 15251 (c)), THAT THE
STATE LANDS COMMISSION HAS REVIEWED SUCH DOCUMENT AND THAT
THE CONDITIONS AS SPECIFIED IN 14 CAL. CODE REGS. 15253 (b)
HAVE BEEN MET.

SIGNIFICANT LANDS

INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE
CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C.
6370, ET SEQ.

AUTHORIZATION:

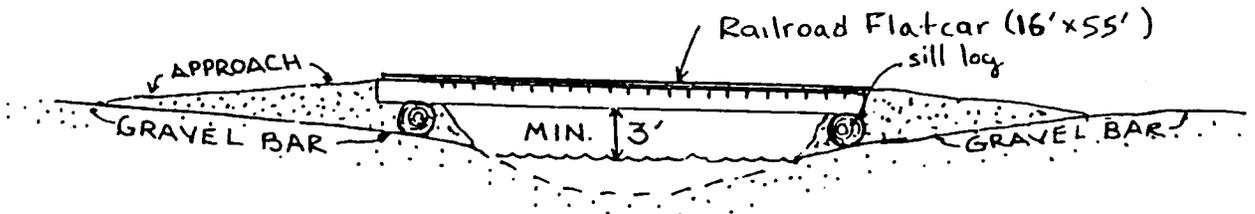
AUTHORIZE THE ISSUANCE OF A FIVE YEAR, FOUR MONTH GENERAL
LEASE - RIGHT-OF-WAY USE TO MERCER FRASER COMPANY, BEGINNING
SEPTEMBER 1, 1994; IN CONSIDERATION OF \$100 FOR THE PERIOD
COVERING SEPTEMBER 1, 1994 THROUGH DECEMBER 31, 1994 AND

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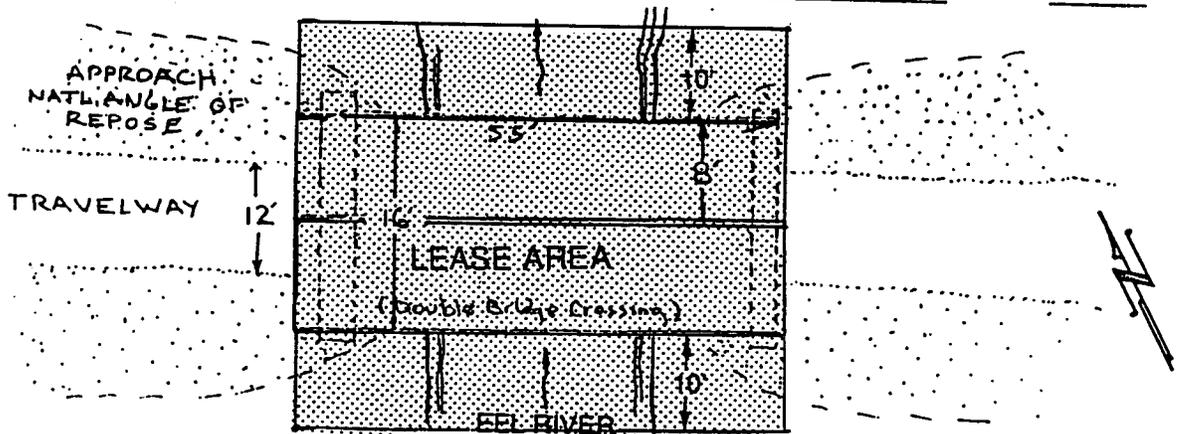
CALENDAR ITEM NO. C61 (CONT'D)

\$100 PER ANNUM DUE ON EACH JANUARY 1, THEREAFTER; WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000; FOR THE PLACEMENT OF TWO SEASONAL FLATCAR BRIDGES AND BRIDGE APPROACHES; ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

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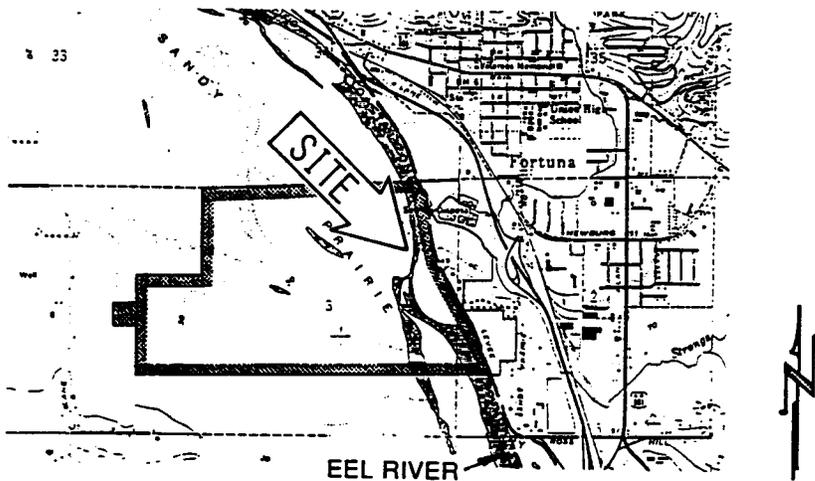


SECTIONAL VIEWS



PLAN VIEW NO SCALE

LOCATION MAP



NO SCALE

EXHIBIT A

W 24372

APNs 106-041-02;

200-352-02,03; &

200-361-01

Eel River

HUMBOLDT COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

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CG 8/04

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

IMPORTANT PUBLIC HEARING NOTICECOASTAL PERMIT APPLICATIONPERMIT NUMBER: **1-94-35**APPLICANT: **MERCER, FRASER COMPANY**PROJECT LOCATION
& DESCRIPTION:

Seasonally extract up to 70,000 cubic yards of sand and gravel per year from river gravel bars and install up to three seasonal truck crossings of the low water channel consisting of two flat cars each, at the Sandy Prairie landform within the Eel River, on the west side of 12th Street, west of Fortuna, Humboldt County.

HEARING DATE AND LOCATION:

DATE: Tuesday, August 9, 1994
 TIME: Meeting begins at 10:00 a.m., Item 17f
 PLACE: Hyatt Regency - Long Beach
 200 South Park Avenue
 Long Beach
 (310) 491-1234

HEARING PROCEDURES:

This item has been scheduled for a public hearing and vote. People wishing to testify on this matter may appear at the hearing or may present their concerns by letter to the Commission on or before the hearing date. Copies of all correspondence will be provided to the Commission if received a minimum of three working days prior to the public hearing. Written comments may be of any length; oral testimony may be limited to 5 minutes or less for each speaker, depending on the number wishing to be heard.

The above item may be moved to the Consent Calendar for this area by the Executive Director if, prior to Commission consideration of the Consent Calendar, staff and the applicant are in agreement on the staff recommendation. If this item is moved to the Consent Calendar, the Commission will either approve it with the recommended conditions in the staff report or remove the item from the Consent Calendar by a vote of three or more Commissioners. If the item is removed, the public hearing described above will still be held at the point in the meeting originally indicated on the agenda.

No one can predict how quickly the Commission will complete agenda items or how many will be postponed to a later date. The Commission begins each session at the time listed and considers each item in order, except in extraordinary circumstances. Staff at the appropriate Commission office can give you more information prior to the hearing date and you can call the staff at the hearing location for last-minute information.

Questions regarding the report or the hearing should be directed to Robert S. Merrill at the above address.

vam/mcr
4221P

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CALIFORNIA COASTAL COMMISSION
NORTH COAST AREA
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
(415) 904-5260

Ju 17f



Filed: July 14, 1994
49th Day: September 1, 1994
180th Day: January 10, 1995
Staff: Robert Merrill-E
Staff Report: July 28, 1994
Hearing Date: August 9, 1994
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 1-94-35
APPLICANT: MERCER, FRASER COMPANY
AGENT: Robert Brown, Rising Sun Enterprises
PROJECT LOCATION: At the Sandy Prairie landform within the Eel River on the west side of 12th Street (Sandy Prairie), west of Fortuna, Humboldt County (APN's 106-041-09; 200-352-02, 03; 200-361-01; 200-362-03, 04)
PROJECT DESCRIPTION: Seasonally extract up to 70,000 cubic yards of sand and gravel per year from river gravel bars and install up to three seasonal truck crossings of the low water channel consisting of two flat cars each.
LOCAL APPROVALS RECEIVED: Humboldt County Vested Rights Determination and Surface Mining/Reclamation Plan (SP-07-88).
OTHER APPROVALS REQUIRED: State Lands Commission General Lease; California Department of Fish & Game Streambed Alteration Agreement; U.S. Army Corps of Engineers Section 404 permit.
SUBSTANTIVE FILE DOCUMENTS: Humboldt County LCP.

STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will be in conformity with the provisions of the Humboldt County Local Coastal Program, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

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II. Standard Conditions. See attached.

III. Special Conditions.

1. State Lands Commission Review.

PRIOR TO ISSUANCE of the coastal development permit, the applicant shall submit to the Executive Director a copy of the approved general lease for the project required from the State Lands Commission.

2. Annual Administrative Approval to Continue Operations.

PRIOR TO THE START OF SEASONAL GRAVEL EXTRACTION OPERATIONS, the applicant shall submit for the review and approval of the Executive Director an annual report that contains: (1) evidence of a valid lease or other property interest sufficient to allow the applicant to carry out gravel extraction operations at the site during the coming gravel extraction season; (2) a copy of the California Department of Fish and Game's annual 1603 agreement for the coming gravel extraction season; (3) a copy of any necessary State Lands Commission approval for installation and removal of the seasonal crossing(s) during the coming gravel extraction season; (4) a copy of any necessary U.S. Army Corps of Engineers permit granting approval for the project during the coming gravel extraction season; and (5) annual environmental assessments and annual monitoring surveys to help determine changes in habitat values, changes to morphology and surface topography, areas of replenishment, when aggregate can be excavated without causing river bed degradation, the levels and volume of recruitment, the quantity and location of gravel extraction for the coming season, and compliance with the proposed mining and reclamation plans. The program shall incorporate the standards for performing surveys developed by the California Department of Fish and Game Region 1 for Fish and Game Code 1603 agreements, and by the Inter-agency committee headed by Mines and Geology that has developed an Instream Mining and Monitoring Program. The Executive Director shall approve the report if the report adequately provides the required information and if the proposed gravel extraction for the coming season is consistent with the terms and conditions of this permit, including the requirement of Condition No. 3 regarding seasonal extraction limits. The permittee shall not commence gravel extraction operations for the season until the Executive Director has approved the annual report in writing.

3. Annual Extraction Limits.

The applicant shall extract no more than 70,000 cubic yards of material from the site in any given year. In addition, no mining shall occur within the active channel bed and excavation of instream aggregate shall be limited to those sites that are above the water surface elevation of the Eel River and have experienced sufficient replenishment to accommodate the proposed mining without bed degradation. The applicant shall perform gravel skimming in a manner that will maintain a sloped extraction area.

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4. Extraction Season

Extraction shall only be performed during the period from June 1 through October 1 of each year, unless extended by the Executive Director after consultation with the California Department of Fish and Game.

5. Expiration Date

The permit shall expire on December 31, 1999 and shall not be subject to a time extension. Continued gravel extraction operations after the expiration date shall require a new coastal development permit.

6. Resource Protection

The gravel extraction operations shall not disturb or remove any of the North Coast black cottonwood riparian vegetation habitat at and around the project site. Furthermore, the operations shall not push any material into the low flow channel of the river, except as needed for annually installing and removing the proposed railroad flatcar river crossings.

7. Humboldt County River Management Plan

In the event that Humboldt County completes and adopts its proposed River Management Plan for gravel extraction along the Lower Eel River and/or adopts an interim set of gravel extraction policies prior to expiration of this permit, which in the opinion of the Executive Director call for significant changes in the gravel extraction operations authorized herein as conditioned to further reduce the impacts of these operations, the applicant shall apply to the Commission for an amendment to this permit that seeks to incorporate these changes into the project. The applicant shall submit a complete application for an amendment within 60 days of being notified in writing by the Executive Director that an amendment request is required. If the applicant chooses to permanently cease gravel extraction operations prior to expiration of the permit, no such amendment request is required.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

1. Site Description.

The applicant proposes to seasonally remove up to 70,000 cubic yards of river run sand and gravel per year and install seasonal crossings on the Eel River from a portion of the Sandy Prairie Landform within the lower Eel River, immediately west of Fortuna in Humboldt County (see Exhibit). The site is just west of Highway 101 and is accessed via 12th Street (Sandy Prairie Road).

The Sandy Prairie landform is a depositional feature with multiple channels at high flows, separated by islands. Sandy Prairie is located upstream of the

zone of tidal influence and is also at a transition point in the river where the channel slope of the river decreases from points further upstream. The proximity to the zone of tidal influence and the decrease in slope result in large quantities of sand and gravel carried in suspension in the river to be deposited at Sandy Prairie. The applicant's property includes the upper portion of the Sandy Prairie landform. Two other gravel operators extract sand and gravel from the landform downstream of the applicant's property.

The total project area occupies approximately 560 acres with 540 acres, within the Coastal Zone and 20 acres outside the Coastal Zone (see Figure 2). Of the 540 acres within the coastal zone, 390 acres are located below the Ordinary High Water channel of the river and are within the Commission's retained jurisdiction. Fifty of the remaining 150 acres within the coastal zone outside of the Commission's Jurisdiction are located below Ordinary High Water and are proposed for surface mining activities. The remaining 100 acres in the coastal zone consists of mostly established cottonwood riparian forested areas located on a river terrace that will not be part of extraction activities. Approximately 20 acres to the east, outside the coastal zone, has been developed as a gravel processing facility where processing activities, including stockpiling, aggregate crushing, washing, sorting, screening and asphalt concrete production occur.

Description of Approximate Project Area (acres)

	<u>Total in Project Area</u>	<u>Coastal (Retained Jurisdiction)</u>	<u>Other</u>
Processing Area	20	0	20 ¹
River	37	37	0
Exposed Cobble	275	242	33 ²
N.C. Riparian Scrub	93	80	13 ²
Cottonwood	35	31	4 ²
River Terrace (west side)	<u>100</u>	<u>0</u>	<u>100²</u>
Total	560 ac.	390 ac.	170 ac.

¹Non-Coastal

²Coastal, but outside of Retained Jurisdiction

The surrounding properties to the west of the river are all devoted to agricultural grazing. U.S. Highway 101 lies adjacent to the subject property to the east, buffering the site from the developed portions of the City of Fortuna. The gravel extraction areas and processing facilities are generally not visible from the highway.

Although the applicant is applying for a Coastal Development permit from the Commission for gravel extraction at this site for the first time, there has been an ongoing gravel extraction and processing operation occurring at this

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location since prior to 1959. A separate claim of vested rights has been submitted to the Coastal Commission staff. The claim lacks certain information and has not yet been filed as complete.

The Eel River and its tributaries are ranked among the most significant anadromous fisheries in Northern California. Chinook salmon, Coho salmon and steelhead trout are among the most important species with regard to commercial and sport fisheries. The project area and the lower Eel River are mainly important for the anadromous fish as a migration route to and from the upstream spawning grounds as an insignificant amount of spawning occurs in the lower Eel River.

Virtually the entire portion of the project area within the Coastal Zone is considered to be environmentally sensitive habitat. The sensitive habitat consists of several different kinds (see Figure 4). The riverine habitat of the river channels (37 acres) and the occasional ponds that form under summer low water conditions provide habitat for invertebrates, fish, amphibians such as frogs and salamanders, invertebrate-eating birds and various mammals including river otters and mink and other mammals that come to the river to forage (such as deer and raccoon). The exposed cobble (275 acres) in the gravel bars adjacent to the low-flow channels provides roosting habitats for one avian species, killdeer, but represents one of the sparsest habitats in terms of wildlife diversity and numbers. Two kinds of riparian habitat are found at the site as well.

North Coast riparian scrub habitat occurs on "islands" between the low flow channels and is the most extensive plant community at the project site occupying a total of approximately 93 acres. Portions of this habitat are inundated every winter during high river flows. The vegetation growing within the North Coast riparian scrub habitat is dominated by coyote brush which forms a dense shrub layer in some areas. The understory is comprised of weedy annual grasses and forbs. Only a sparse covering of small trees is found in the north coast riparian scrub communities (5%-25%), including black cottonwood and willows. The North Coast riparian scrub habitat of the Sandy Prairie Bar supports a variety of wildlife species, including a number of small mammals such as raccoon, striped skunk, gray fox, rodents and rabbits, and many bird species that use the foraging, nesting and cover.

The most important of the habitat types found at Sandy Prairie is the North Coast black cottonwood forest. A total of approximately 35 acres of this habitat is found within the project area on an island within the bank full channel. Approximately 100 acres is found on the west (left) bank terrace adjacent to the river and is outside of the extraction area. This habitat type is a broadleaved, winter deciduous forest dominated by black cottonwood with willow and red alder. The forest has a dense canopy as well as a dense shrub layer and herbaceous understory. The stands of North Coast black cottonwood forest on the applicant's property range back to 20 to 25 years old, becoming established following major flooding of the Eel River that occurred in 1964. The cottonwood forest represents the most structurally

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complex habitat on Sandy Prairie, which in turn supports a higher number and diversity of wildlife species than the other habitats. The North Coast black cottonwood forest provides valuable foraging, breeding, roosting (resting), and shelter habitat for a wide variety of wildlife species, including at least nine bird species, eight mammalian species, two amphibian species and one reptile species.

In general, the riparian vegetation lining the lower Eel River is perhaps the single-most important element for the natural environment in the area. The riparian habitat provides habitat for most of the birds and mammals in the project area. The presence of two different kinds of riparian habitat, the North Coast scrub and the North Coast black cottonwood forest, provides habitat for a greater number of wildlife species than a more uniform and simple habitat structure would. Also, the riparian zone along the river provides migration routes for wildlife. Over 200 different species of birds and 40 different species of mammals have been observed in the Eel River Delta, most of which utilize portions of the riparian corridor. In addition to its habitat value, the riparian corridor also provides protection of water quality, stream bank stabilization through root penetration and flood protection.

The previously mentioned Chinook salmon, Coho salmon and steelhead trout that use the Eel River are listed by the California Department of Fish & Game as "species of special concern". Other fish species in the river that are so listed includes coastal cutthroat trout, Pacific lamprey and Green sturgeon. Other than fish species of special concern, no other known species status species have been found at the project site. Special status species are those legally protected by state or federal endangered species laws, those under consideration for such protection or those of concern to state or federal resource agencies. Even though no special status species apart from the fish species mentioned above have been found at the site, the black cottonwood riparian forest areas at the site offer suitable habitat for a state listed endangered species, the willow flycatcher, and four "species of special concern," the black-shouldered kite, Cooper's hawk, yellow warbler and yellow-breasted chat.

2. Background

The lower Eel River has been used for gravel extraction since 1911. Currently, 11 gravel operations are located along an eight mile stretch of the lower Eel River, and two additional operations are located on the lower reaches of the Van Duzen River which flows into the Eel at Alton. The 11 operations along the Eel are within the Coastal Zone. The annual maximum amount of gravel permitted by the County to be extracted by the 13 gravel mining operations in the lower Eel and Van Duzen Rivers is estimated by the County to be approximately 1,480,000 cubic yards. Actual extraction is generally much lower.

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The projects are interrelated in the sense that all of the gravel bars derive their material from the same source. A report prepared by a Department of Fish & Game Scientific Team examining gravel extraction on the nearby Mad River describes the interrelationship of gravel miners on a river as follows:

"The gravel resource stored in any reach of a river can be visualized as a bank account. The capital in the account is contained in the bed, and in the bars and banks along the channel. Deposits are made naturally into the account as new gravel is brought in (recruited) from upstream. Natural withdrawals from the account occur as gravel is transported downstream out of the reach by the river. Checks are written on the account as gravel is extracted by man. As with any bank account, if deposits exceed withdrawals, the capital in the account will increase, that is the, river will raise its bed (aggrade) and build up the bars. On the other hand, if withdrawals and checks exceed the deposits, the balance in the account will diminish; in the case of a river, this means lowering of the bed (degradation) and widening of the channel."

"The river as a whole can be looked at as a string of serially linked adjacent bank accounts (reaches), whereby the natural withdrawals (outflows) of bed material from each account provide the natural deposits (inflows) to the account immediately downstream. Thus deposits to any downstream account reflect the cumulative effects of all upstream actions. In particular, if upstream reaches intercept most of the natural gravel recruitment (i.e., the cash flow to downstream accounts is reduced), deposits to reaches farther downstream can only come by reducing the capital in the intervening accounts, i.e., by eroding the bed and banks."

Thus, the projects can contribute cumulatively to erosion of the bed and banks of the river, which in turn can erode adjacent riparian and other habitat areas, interfere with fishery resources, undermine bridge supports, and cause other impacts. Besides the cumulative impacts resulting from river morphology changes, other cumulative impacts resulting from the gravel mining operations can include habitat degradation from the installation of gravel processing operations and access roads within environmentally sensitive habitat adjacent to the gravel bars, exclusion of recreational use of the river banks, and noise.

Until recently, there had been very little coordinated review of the combined effects of the various gravel mining operations. A gravel mining operation on the river can require the approval of a number of different agencies. Permits granted in the past by the various approving agencies were site specific and granted with little knowledge of the cumulative impacts of gravel mining throughout the lower Eel River.

The initiation of coordinated review began to change in 1991. That year, Humboldt County considered the granting of a gravel lease from the County owned bar at Worswick. To comply with environmental review requirements under

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CEQA, the County decided to prepare a Program Environmental Impact Report to describe and analyze the potential environmental effects resulting from the 13 gravel removal operations in the lower Eel River watershed. The document was certified on July 28, 1992, and is intended to be incorporated by reference into future environmental documents prepared for individual gravel removal projects in the area.

At the same time, the County initiated a comprehensive review of the status of County permits for each of the 13 operators in an effort to reach a final determination as to which operations were proceeding according to valid vested rights or County permits, and which ones required further review. The Department of Fish and Game also began to insist that the operators demonstrate that they had all necessary County approvals before the Department would issue annual 1603 agreements.

As a result, much was learned about the cumulative impacts of the gravel mining operations and the County developed a strategy for controlling the cumulative impacts of the gravel operations on river bed degradation and bank erosion. At the heart of the strategy is an annual administrative renewal of reclamation plans that will set a yearly limit on the amount of gravel that may be removed in any given year and specifies the particular method and location of extraction. The primary mitigation measure recommended by the Program EIR is for the County to prepare a River Management Plan which includes, as a primary component, an annual monitoring program to make annual decisions on where and how much gravel can be removed from the lower Eel and Van Duzen Rivers without adversely affecting the river. As described in the program EIR, the monitoring program was to be conducted by a consulting firm using funds provided by the gravel operators. The monitoring program would involve periodic biological surveys, creating cross-sections and thalweg profiles, plus taking aerial photos and ground photos each year for each gravel removal operation. This information would be compiled and compared to data from previous years to determine gravel recruitment, changes in channel morphology and impacts on wildlife and fisheries.

To initiate the river management planning process, the County established a Surface Mining Advisory Committee composed of gravel operators, representatives of certain environmental groups and interested citizens to advise the County on how to proceed with the preparation and implementation of the plan. However, the River Management Plan has not been developed. In the interim period before adoption of a River Management Plan, the County has been conditioning permits it grants for gravel extraction operations to require that the projects be made consistent with the river management plan when it is adopted.

To create an effective river management plan, there is a need to collect and analyze long-term data about the flow characteristics and bedload distribution of the river and how both vary from year to year. Much data is already being collected by the gravel operators as part of the annual reports that are required by some of the permitting and reviewing agencies before the commencement of mining each season.

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In an effort to standardize the information in annual monitoring reports so that the cumulative impacts of all the various gravel operations on the river can be better understood, Region 1 of the Department of Fish & Game has developed standards for gravel operators to follow in developing their annual monitoring reports. The standards were developed after a series of meetings were held with County Planning staff, numerous gravel operators and their representatives, and experts in the scientific community. Before an operator can obtain an annual 1603 Streambed Alteration Agreement from Fish & Game, the operator must submit annual reports consistent with the standards.

In a separate effort to standardize reporting and monitoring requirements, an Inter-Agency committee headed by the California Department of Conservation has developed a draft Instream Mining and Monitoring Program. The program is mandated by the California Code of Regulations Section 3710(c). The Instream Mining and Monitoring Program is in draft form and has not yet been officially adopted. The Instream Mining and Monitoring Program was based in part on the standards developed by Region 1 of the Department of Fish & Game.

In another new development in mining regulation, due to a recent amendment of the Army Corps of Engineers Clean Water Act Regulatory Program (effective September 24, 1993) the Army Corps of Engineers (Corps) will be taking a more expanded role in the review of instream gravel extraction operations. Whereas previously the Corps' regulatory review of many instream gravel extraction operations focused mainly on the installation of channel crossings and stockpiling of material on the river bar, the Corps will now be actively regulating incidental fill related to gravel mining activities.

The combination of the new federal regulatory authority of the Corps of Engineers, the Program EIR requirement for preparation of River Management Plan for the Eel River, and the standardization of state and local agency monitoring requirements, underscore how a comprehensive approach of river management of the Eel River gravel operations may be the only way in which permitted operations will be allowed to continue in the future.

3. Detailed Project Description

The applicant proposes to seasonally extract up to a maximum 70,000 cubic yards of sand and gravel per year from the Sandy Prairie landform, install seasonal crossings over low flow river channels, as needed, to facilitate gravel transport and reclaim the mined areas. The applicant has submitted a separate and distinct Claim of Vested Rights to be processed separately for the project.

Several areas are proposed for mining; however, activity has and will continue to occur primarily adjacent to the banks of the river (in the Coastal Zone). The sites adjacent to the active channel of the river are subject to inundation by high flows and potentially frequent (annual) replenishment. Areas adjacent to the active channel will continue to use traditional and modified skimming techniques as the primary mode of extraction. Other

locations include areas that are located west of the river on or adjacent to terraces that are partially outside of the Coastal Zone. These areas are above the active channel and are subject to inundation only during high flows and floods and are expected to recruit gravel less frequently, limited to large flood events. After mining in off channel areas are completed, those site will be reclaimed into riparian habitat.

Most of the extraction area is west of the low flow channel of the Eel River. To allow access for extraction equipment and hauling trucks, the applicant proposes to install up to 3 seasonal crossings. Each crossing would consist of two railroad flatcars (see Figure 6). Approximately 200 cubic yards of gravel would be scraped from adjoining areas to form abutments for each of the crossings. The crossings would be removed at the end of each extraction season and the abutment material would be regraded to restore the original contours. In the early 1980's two crossings were required. More recently, only one crossing has been installed.

The extraction operations will be served by processing facilities located on the applicant's property east of the river bank. These processing facilities are outside of the coastal zone and are not addressed by this permit.

The specific mining proposals within the Coastal Zone are as follows:

- (1) Extraction has and will continue to primarily occur along the active channel bed and consists of a low elevation bar on a straight or sometimes meandering portion of the river channel (see Figure 3). Replenishment could occur yearly depending on the magnitude and duration of the annual high flows. Skimming would generally be conducted with a loader or scraper starting at an elevation one foot above the low water channel and proceeding at a cross bar slope of 1% to 1-1/2%. Reclamation for this option consists of ensuring the bar is left in a configuration so as not to trap fish and which will encourage future gravel recruitment.
- (2) Some grading may also occur along off-channel areas consisting of removing high areas or removing terrace deposits. This may be proposed to increase overflow channel capacity. Such grading will occur in a manner that does not lower the flow regime of the channel, does not remove cottonwood forest vegetation or cause depressions that could trap fish at high flows.

No mining in any given season will occur at any location until after preparation of a specific operating plan for mining and reclamation developed on the basis of annual environmental assessments and monitoring of the proposed project site and the entire Sandy Prairie landform. Annual assessments and site evaluation will be used to determine when aggregate can be excavated without causing long-term river bed degradation. The proposed 70,000 cubic yards of annual gravel extraction is an upper limit. Annual monitoring will determine the levels and volume of recruitment and identify areas of mining, as well as appropriate volumes.

The applicant will continue to develop cross-sectional data and other monitoring information based on field surveys in accordance with the recently developed monitoring standards developed by Region 1 of the Department of Fish and Game.

4. Protection of Coastal Waters, Biological Productivity, Water Quality and Environmentally Sensitive Habitat Areas.

A number of Coastal Act policies address the protection of river environments from the impacts of gravel mining operations. Coastal Act Section 30233 allows dredging of coastal waters, wetlands and estuaries, but only where there is no feasible, less environmentally damaging alternative where feasible mitigation measures have been provided to minimize adverse environmental effects, and where the project is limited to one of eight specified uses, such as mineral extraction if not located within an environmentally sensitive area. Coastal Act Section 30231 requires that the biological productivity and the quality of coastal waters be maintained by a variety of means, such as by minimizing the alteration of natural streams and by maintaining natural vegetation buffer areas that protect riparian habitats. Coastal Act Section 30240 requires that environmentally sensitive habitat areas be protected against significant disruption of habitat values. Coastal Act Section 30250(a) requires in applicable part that new development not have significant adverse effects, either individually or cumulatively, on coastal resources.

Depending on the manner in which the gravel operations are conducted, the proposed project could have four potential adverse effects on the natural environment of the lower Eel River. These impacts include alteration of the river bed and increased bank erosion, impacts on fisheries, impacts on environmentally sensitive habitat, and impacts to the water quality of the river. The potential impacts and their mitigation are discussed separately in the following four sections:

a. River Morphology

As discussed above, a potential major impact of gravel mining operations is degradation of the river bed and erosion of the river banks. Such impacts can occur if the amount of gravel extracted from a particular part of the river over time exceeds the amount of gravel deposited at the site through natural recruitment, or downstream transport of sand and gravel by the waters of the river. Bed degradation and river bank erosion can also occur as a result of the manner in which the gravel is extracted. For example, according to the Fish & Game Scientific Team examining gravel extraction on the nearby Mad River, if bars are skimmed too flat and too close to the low-water surface, at slightly higher stages the river will tend to spread across the bars, reducing the depth of flow and the channel may both migrate rapidly and break into a number of shallow channels or threads. This is also true for stream sections where aggradation of material is a problem. Such sites will tend to trap gravel which would otherwise move downstream and may trap fish migrating up and down the river.

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The applicant proposes to extract a maximum of 70,000 cubic yards of sand and gravel per year from the site. However, extraction is proposed to be limited in part by the rate of natural replenishment of gravel to avoid degradation of the river bed. No mining in any given season will occur until after preparation of a specific operating plan for mining and reclamation developed on the basis of annual environmental assessments and monitoring of the entire Sandy Prairie landform. The applicant will use field surveys to prepare annual assessments that will determine the levels and volume of gravel recruitment during the last winter high flow period and identify areas where mining can occur without causing bed degradation.

The mining plans proposed by the applicant for each area to be mined are designed to ensure that the configuration of mining will also not lead to adverse bed degradation. The primary mining areas are located along the active channels of the river. Skimming will generally commence at an elevation one foot above the low water channel with a cross bar slope of 1% to 1-1/2%. Leaving the bar with a prescribed slope will encourage future gravel recruitment and minimize bed degradation.

Other alternative sites include off channel grading (away from the channels in higher ground where they would not affect the channel beds.) These are generally one time extractions. No subsequent mining will occur unless that particular area has experienced gravel replenishment since the last mining episode at the site.

The Commission finds that the proposed mining criteria and the annual assessment and monitoring procedures incorporated into the applicant's project will ensure that the project will not cause river bed degradation. To ensure that the criteria are followed, the Commission attaches Special Condition No. 3 which sets annual extraction limits in accordance with the described criteria. To ensure that the extraction limits of Special Condition No. 3 are appropriately applied to the changed conditions of the gravel bar each year, Special Condition No. 2 establishes an annual administrative review process to occur prior to each year's extraction operations. The condition requires in part, that the applicant submit for the review and approval of the Executive Director an annual report that contains the annual assessment and monitoring information described in the application. In addition, the report must contain evidence that the applicant has obtained other required agency approvals for extraction during the coming season. The Executive Director will approve the report if the report adequately provides the required information and if the proposed gravel extraction for the coming season is consistent with the terms and conditions of this permit, including the seasonal extraction limits established under Special Condition No. 3.

b. Fisheries

As noted previously, the Eel River and its tributaries are ranked among the most significant anadromous fisheries in Northern California. Chinook salmon, Coho salmon and steelhead trout are among the most important species. ~~the~~

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project area and the lower Eel River is mainly important for the anadromous fish as a migration route to and from the upstream spawning grounds. This stretch of the river itself is not a significant fish spawning area.

As proposed for seasonal extraction of gravel during the summer months only, the proposed gravel extraction operation will not adversely affect fisheries. However, gravel mining operations need to be out of the river bed before the rainy season to prevent impacts on fisheries. This is especially important in that the runs of the various species of anadromous fish up and down the river increase in the fall with the rise in river levels and remain at high levels through the early spring.

In recent 1603 Streambed Alteration Agreements issued for gravel extraction at this site, the Department of Fish & Game has imposed a seasonal limitation on gravel extraction operations of June 1 through September 30 each year, which corresponds to the period when potential impacts to fisheries is lowest. Therefore, the Commission attaches Special Condition No. 4 which states that the applicant proposes that extraction shall only be performed during the period from June 1 through October 1 of each year, unless the season is extended by the Executive Director after consultation with the Department of Fish and Game.

c. Environmentally Sensitive Habitat

As noted previously, virtually the entire portion of the project site within the Coastal Zone is considered to be environmentally sensitive habitat as it is located within the banks of the Eel River. The environmentally sensitive habitat consists of various types, including riverine habitat within the river channels, exposed cobble habitat along the channel borders, North Coast riparian scrub habitat occurring on high points within the bankfull channel of the river, and North Coast black cottonwood forest occurring on a large island and on the and left bank of the river within the project site. Descriptions of the habitats and their use by wildlife are found in the "Site Description" findings of this report.

Three of the four habitat types will not be adversely affected by the proposed project. The riverine habitat may be slightly expanded in certain areas as skimming or trenching extraction operations may extend back from existing channel edges. However, due to scouring, the riverine habitat has very little vegetation that would be affected by the extraction operations and the wildlife that uses the riverine environment will be able to continue to use the riverine habitat before and after gravel extraction episodes. As limited by Special Condition No. 4, the annual mining activities will generally be completed by October first of each year, prior to the peak runs of anadromous fish through the channels.

Much of the proposed gravel extraction will occur within the exposed cobble habitat. However, this habitat contains very little vegetation as high winter river flows inundate the habitat and scour away or bury vegetation that might

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take root during low flow summer months. The limited wildlife use made of the exposed cobble habitat will be able to continue before and after gravel extraction episodes.

The proposed project has been designed to avoid the North Coast black cottonwood forest habitat because of its importance for overall habitat values. No extraction will occur within or immediately adjacent to the indicated cottonwood forest areas. In addition, no extraction is proposed within North Coast Riparian scrub habitat. The Commission attaches Special Condition No. 6 to ensure that these habitats are avoided.

In addition, no special status species will be affected by the project. As noted previously, the only special status species that have been found at the project site to date are several fish species. Fisheries will be protected by which requiring that gravel extraction operations cease each year before the runs of anadromous fish reach their peak.

d. Water Quality

The principal potential impact of the Mercer, Fraser Company gravel extraction and processing operation on water quality occurs from the processing operations located adjacent to the east bank of the river in an area outside of the Coastal Zone. Water quality can be affected by stormwater runoff from the asphalt plant in addition to potential discharge of dissolved petroleum products and admixtures in stormwater. As the impacts are generated outside of the Coastal Zone, the Commission does not have permit jurisdiction to address these impacts. The processing facility has been subject to a Waste Discharge Requirements Order adopted by the California Regional Water Quality Control Board in 1984. The site has been maintained to address their concerns.

If properly managed, the proposed gravel extraction operations themselves should not adversely affect the river's water quality. However, excessive or sloppy gravel extraction operations could adversely impact water quality and ultimately the biological productivity and fishery resources of the river. For example, pushing gravel materials into the water could degrade water quality and biological productivity by increasing the turbidity of the water. Similarly, allowing muddy water to enter the river due to inappropriate gravel trenching operations could crease similar impacts.

To prevent such occurrences, the Commission attaches Special Condition No. 6 which requires that requires that gravel extraction operations not push any material into the river except as required for installing and removing the seasonal river crossing.

h. Conclusion on Consistency with Sections 30233, 30231, 30240 and 30250(a).

The Commission finds that as conditioned to (1) limit gravel extraction in a manner that will avoid degradation of the river bed; (2) limit the streambed

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skimming operation to the summer season when flows are low and runs of anadromous fish are not at their peak; (3) prevent the deposition of material into the river; (4) allow the Commission to consider an amendment to the permit in the event that the planning process for Humboldt County's River Management Plan develops more appropriate recommendations for managing gravel extraction along the river to reduce impacts to the river, the project will minimize alteration of the Eel River and maintain the biological productivity and quality of the river in a manner consistent with Sections 30231, 30233, 30240 and 30250(a) of the Coastal Act.

5. Permissible Use for Dredging of Coastal Waters

Gravel extraction within a river bed is a form of dredging within a wetland. Coastal Act Section 30233 states, in part, that the diking, filling or dredging of open coastal waters, wetlands, estuaries and lakes shall be allowed for only certain limited purposes.

The proposed project involves both dredging for mineral extraction and the temporary and seasonal placement of fill for the installation of seasonal crossing of the low flow channels to access the gravel extraction areas. Each river crossing fill includes a total of approximately 200 cubic yards of gravel graded from the surrounding area for creation of approach ramps and abutments for the bridge. After each extraction season, the bridge is removed and gravel approaches are removed or regraded back into the surrounding area.

Section 30233(6) allows dredging for mineral extraction. Therefore, as conditioned herein, the proposed gravel extraction is consistent with the use limitations of Section 30233 on dredging in wetlands and coastal waters as the extraction operation is for mineral extraction.

The seasonal crossings are an essential part of the gravel extraction operation as there would be no access to portions of the gravel extraction area. Therefore, the fill required for the seasonal crossings can be considered an ancillary component of the proposed dredging for mineral extraction and is an approvable use of fill under 30233(6).

6. Public Access

The project is located between the first public road (Highway 101) and the sea (the Eel River is considered to be an arm of the sea in this area).

Coastal Act Section 30210 requires that maximum public access opportunities be provided when consistent with public safety, private property rights and natural resource protection. Coastal Act Section 30211 requires that development not interfere with the public's right of access to the sea where acquired through use. Coastal Act Section 30212 requires that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects, except in certain instances, as when adequate access exists nearby. In applying Sections ~~30210, 30211 and 30212,~~

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the Commission is limited by the need to show that any denial of a permit application based on those sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a projects' adverse impact on existing or potential public access.

Recreational use of the river in this particular section of the river is very limited, largely because there are very few access points to the river. The principal public access use of the project site that does occur is by fishermen who go out to the river channel for recreational fishing. Other public access and recreational uses of this stretch of the river include canoeing and recreational boating. The prime fishing seasons occur during the wet months when gravel extraction is not occurring. The peak canoeing and boating use occurs in the spring before the gravel extraction season begins. Thus, the project will not significantly affect the fishermen, canoeists or other recreational boaters. Furthermore, gravel extraction operations have been occurring at the site for many years. The continued extraction authorized by this permit will not create any additional burdens on public access than have existed in the past. The project will not create any new demands for fishing access or other public access use.

Therefore, the proposed project does not appear to have any adverse effect on public access that would be significant enough to warrant requiring public access. The Commission finds that public access is not warranted for this project and the project, as proposed without new public access, is consistent with Sections 30210 and 30212.

7. State Lands Commission Review

The project is located in the bed of the Eel River, a navigable river, where the State of California holds a fee ownership between the two ordinary low water marks. In addition, the entire river between the Ordinary High Water mark is subject to a public trust easement. Both the easement and the fee owned lands are under the jurisdiction of the State Lands Commission. An application has been submitted to the State Lands Commission for consideration of approval of a general lease.

To ensure that the applicant has a sufficient legal property interest in the site to carry out the project and to comply with the terms and conditions of this permit, the Commission attaches Special Condition No. 1 which requires that the applicant submit a copy of the approved general lease for the project required from the State Lands Commission.

8. Department of Fish and Game Review

The project requires an annual 1603 streambed alteration agreement from the Department of Fish and Game. The last approved 1603 agreement is 1993. The applicant is currently preparing an application submittal to the Department of Fish and Game for the 1994 gravel extraction season.

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Therefore, to ensure that the project area reviewed by the Department of Fish and Game is the same project area that was reviewed under this permit by the Commission, and to ensure that the requested amount of gravel extraction does not exceed the seasonal extraction limits established under Special Condition No. 3, the Commission requires as part of Special Condition No. 2 that prior to commencing each gravel extraction season, the applicant submit a copy of a 1603 agreement from the Department of Fish and Game that is valid for that season.

9. U.S. Army Corps of Engineers Review

The project received a 404 permit in 1990 for placement of summer bridge and approaches. The project is within and adjacent to a navigable waterway and is subject to review by the U.S Army Corps of Engineers (Corps). Pursuant to the Federal Coastal Zone Management Act, any permit issued by a federal agency for activities that affect the coastal zone must be consistent with the coastal zone management program for that state. Under agreements between the Coastal Commission and the U.S. Army Corps of Engineers, the Corps will not issue a permit until the Coastal Commission approves a federal consistency certification for the project or approves a permit.

The applicant is now required to comply with the 1993 regulations. Under the grandfathering clause, this allows two years to obtain an updated permit. The applicant is currently preparing an application submittal. To ensure that the project ultimately approved by the Corps is the same as the project authorized herein, the Commission requires as part of Special Condition No. 2 that prior to commencing each gravel extraction season, the applicant demonstrate that it has all necessary permits from the U.S. Army Corps of Engineers for the proposed gravel extraction to be performed that season.

10. Permit Expiration

As noted in the "Background" finding of this report, regulation of gravel mining operations along the Eel River has been evolving rapidly over the last few years and is likely to continue to evolve in the future. The development of a river management plan is called for in the Program EIR for the gravel mining operations along the lower Eel River. The U.S. Army Corps of Engineers has recently been given greater regulatory authority over instream gravel extraction operations and is currently developing the approach the agency will take to exercise its new authority. Therefore, to enable the Commission to review future mining at the applicant's site in light of the new information and changed circumstances that may develop over the next few years, the Commission attaches Special Condition No. 5, which states that the permit shall expire on December 31, 1999.

The Commission notes that it may be necessary for the applicant to amend this authorization even before expiration of the permit at the end of 1999. The Eel River is a dynamic environment that can change dramatically in the course of a single winter due to extreme high water flows. Standard Condition No. 3

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requires that the project adhere to the project plans submitted with the application, as modified by the conditions of the permit. In the event that changes in the riverine environment necessitate changes to the extraction and/or reclamation plans for the project, such changes will require further review by the Commission.

11. Humboldt County LCP

The project is consistent with Humboldt County's Local Coastal Program. The project area within the Coastal Zone is designated Agriculture Exclusive (AE) under the Eel River Area Plan (The LUP segment covering this area), and zoned Natural Resources with a Streams and Riparian Corridor Protection combining zones (NR/R) under the Coastal Zoning Ordinance. Both the land use plan designation and zoning allow for the proposed gravel extraction use. Section 3.41.F.2 of the Eel River Area Plan states that new development within stream channels shall be permitted when there is no less environmentally damaging feasible alternative, where the best feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to only certain uses, including surface mining. Surface mining shall be conducted in a manner that, among other things, avoids or minimizes disturbance of banks, does not leave holes or pits which could adversely affect aquatic life, and adheres to Department of Fish and Game guidelines for seasonal limits on extraction. As conditioned herein, the proposed project will meet these requirements. In its action to approve the vested rights determination and reclamation plan for the project, the Humboldt County Board of Supervisors found that the proposed project is consistent with the Humboldt County LCP.

12. CEOA

The lead agency for the project, Humboldt County, certified a Program Environmental Impact Report (EIR) for the project and other gravel removal projects on the lower Eel River on July 28, 1992. Previous to this, the County approved a negative declaration for this particular project on November 3, 1988. As discussed above, the project has been mitigated to void or minimize impacts to environmentally sensitive habitats, fisheries, water quality and river channel morphology to ensure consistency with the Coastal Act.

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ATTACHMENT A

Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

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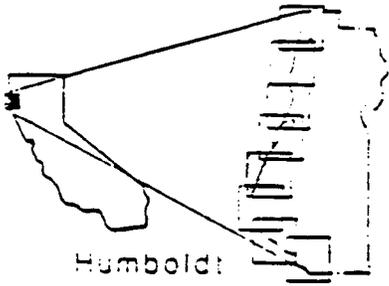


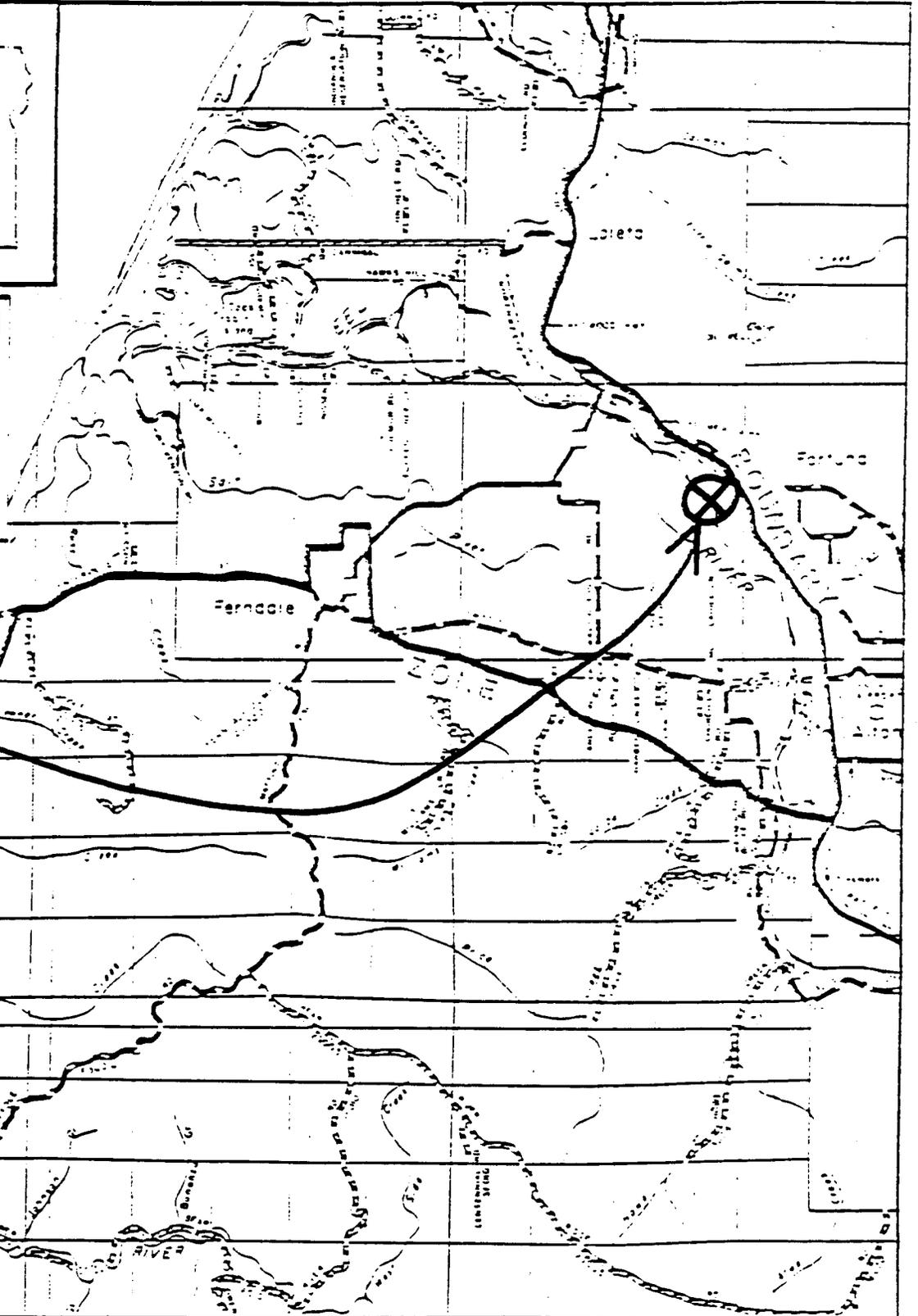
EXHIBIT NO. 1

APPLICATION NO.
1-94-35

REGIONAL LOCATION

California Coastal Commission

PROJECT
SITE



California Coastal Commission

LOCATION MAP

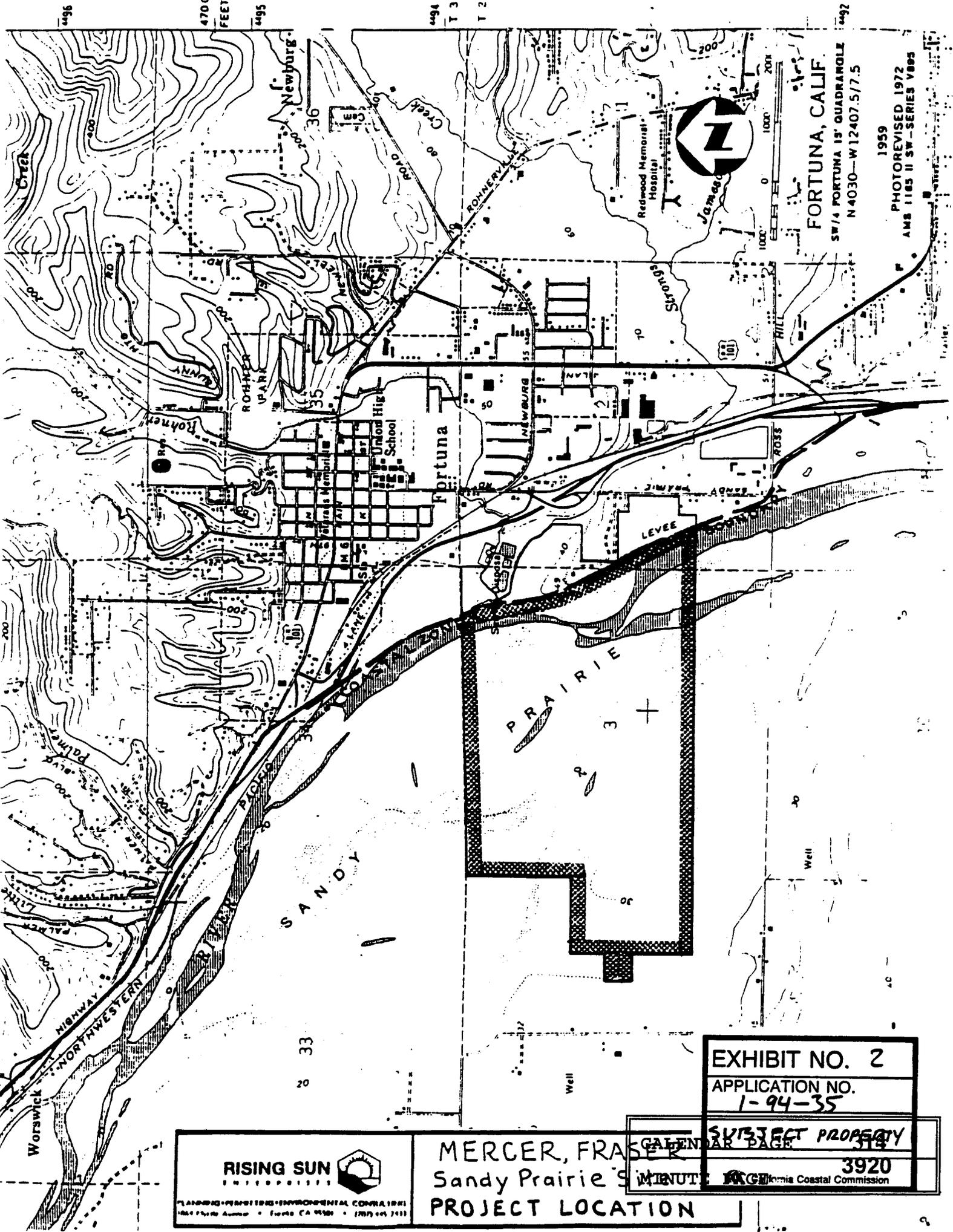
CALENDAR PAGE

N 313

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County of Humboldt



FORTUNA, CALIF.
 SW/4 PORTUNA 15' QUADRANGLE
 N4030-W12407.5/7.5
 1959
 PHOTO REVISSED 1972
 AMS 1185 II SW-SERIES V895

EXHIBIT NO. 2
 APPLICATION NO.
 1-94-35

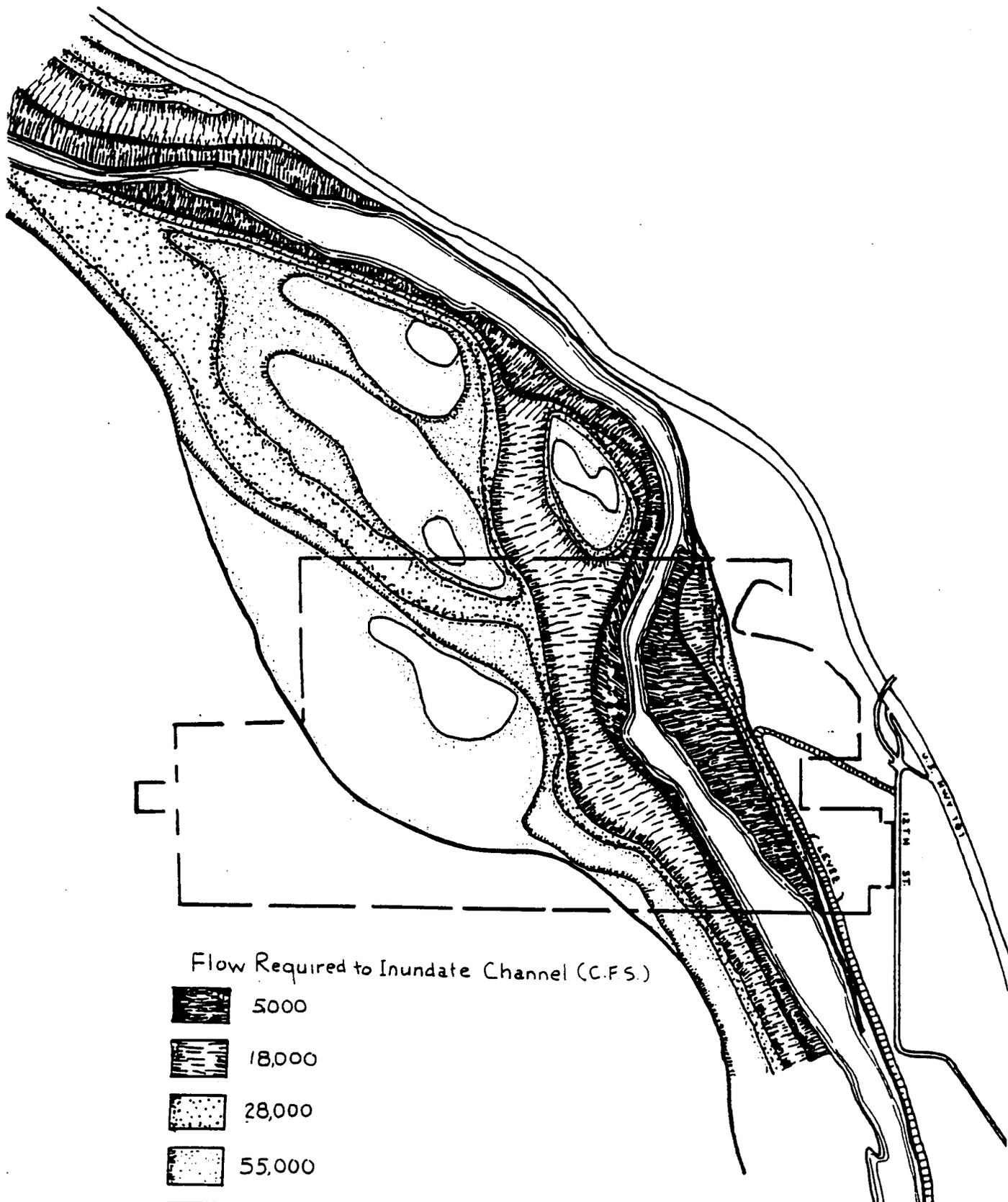
RISING SUN
 CONSULTANTS



PLANNING-DESIGN-CONSTRUCTION-ENVIRONMENTAL CONSULTANTS
 1841 Third Avenue • Fortuna, CA 95501 • (707) 425-3411

MERCER, FRASER & GALEN
 SANDY PRAIRIE SAND MINING
 PROJECT LOCATION

SUBJECT PROPERTY
 MAP PAGE 314
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 California Coastal Commission



Flow Required to Inundate Channel (C.F.S.)

-  5000
-  18,000
-  28,000
-  55,000
-  160,000

Near Fortuna, CA
On the Eel River



EXHIBIT NO. 3

APPLICATION NO.
1-94-35

Section 3 T2N R1W H. CHANNEL TOPOGRAPHY

MERCER, FRASER CALENDAR PAGE 315

Sandy Prairie S MINUTE 3921

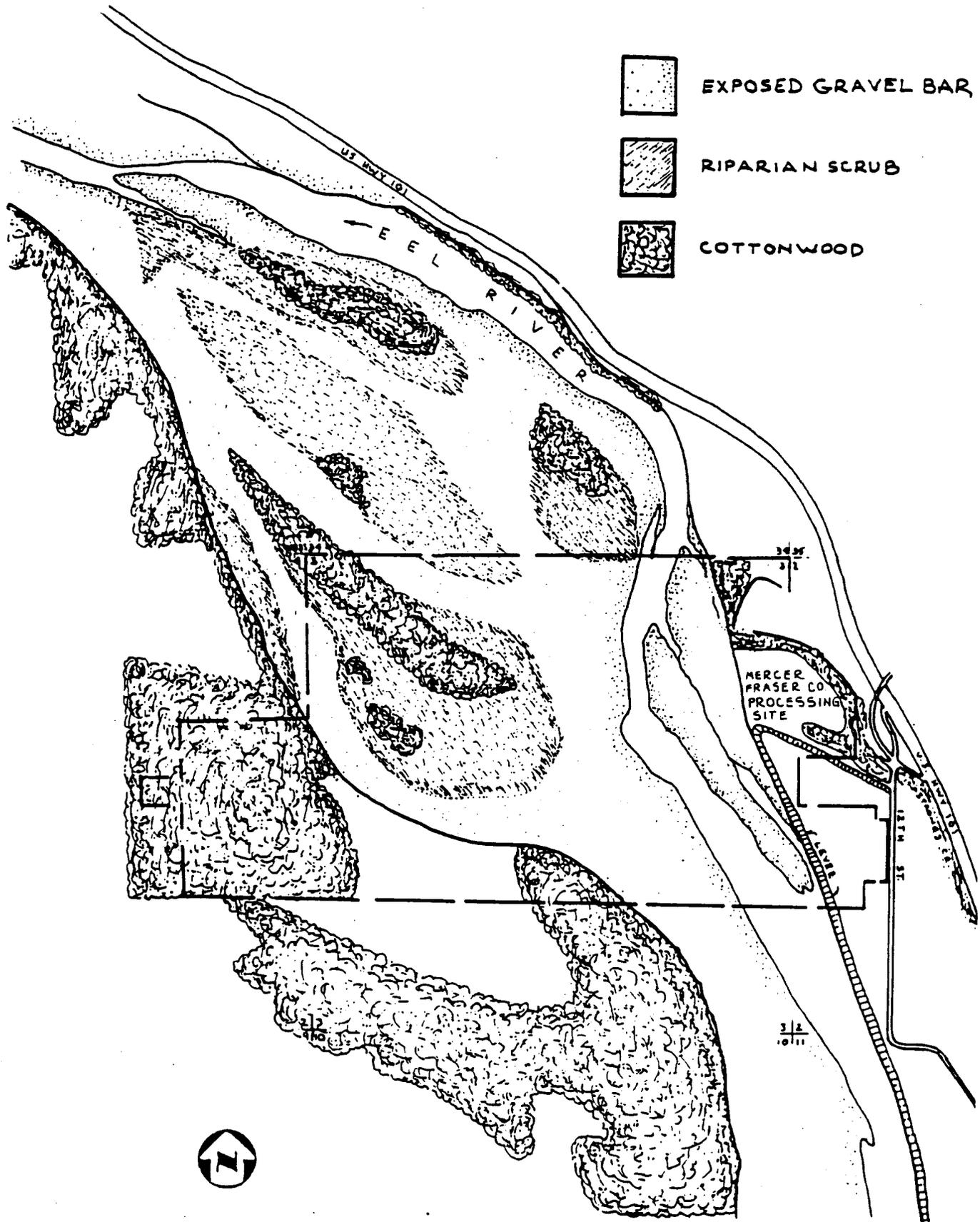
RISING SUN
ENTERPRISES



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1844 Phelan Avenue • Fortuna, CA 95504 • (707) 445-3111

CHANNEL TOPOGRAPHY

California Coastal Commission



EXPOSED GRAVEL BAR



RIPARIAN SCRUB



COTTONWOOD

MERCER FRASER CO. PROCESSING SITE

3/2
10/11



Near Fortuna, CA
On the Eel River

0 1000' 2000'

Section 3 T2N R1W 11M

EXHIBIT NO. 4

APPLICATION NO.

1-94-35

SENSITIVE 80227A1

PAGE

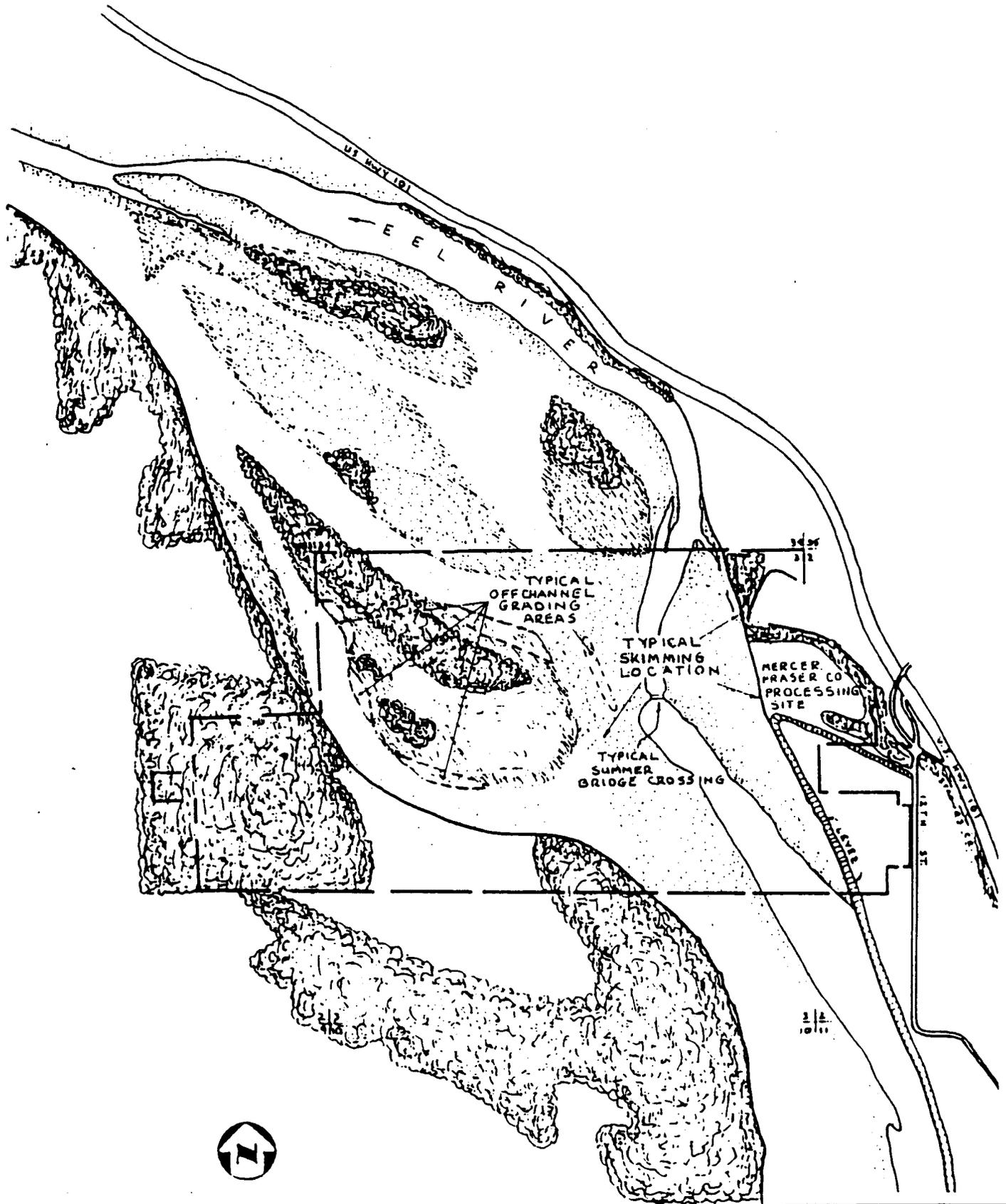
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MERCER, FRASER & CO. CALIFORNIA
Sandy Prairie Site
VEGETATION / HABITAT

MINUTE

California Coastal Commission



Near Fortuna, CA
On the Eel River

Section 3 T2N R

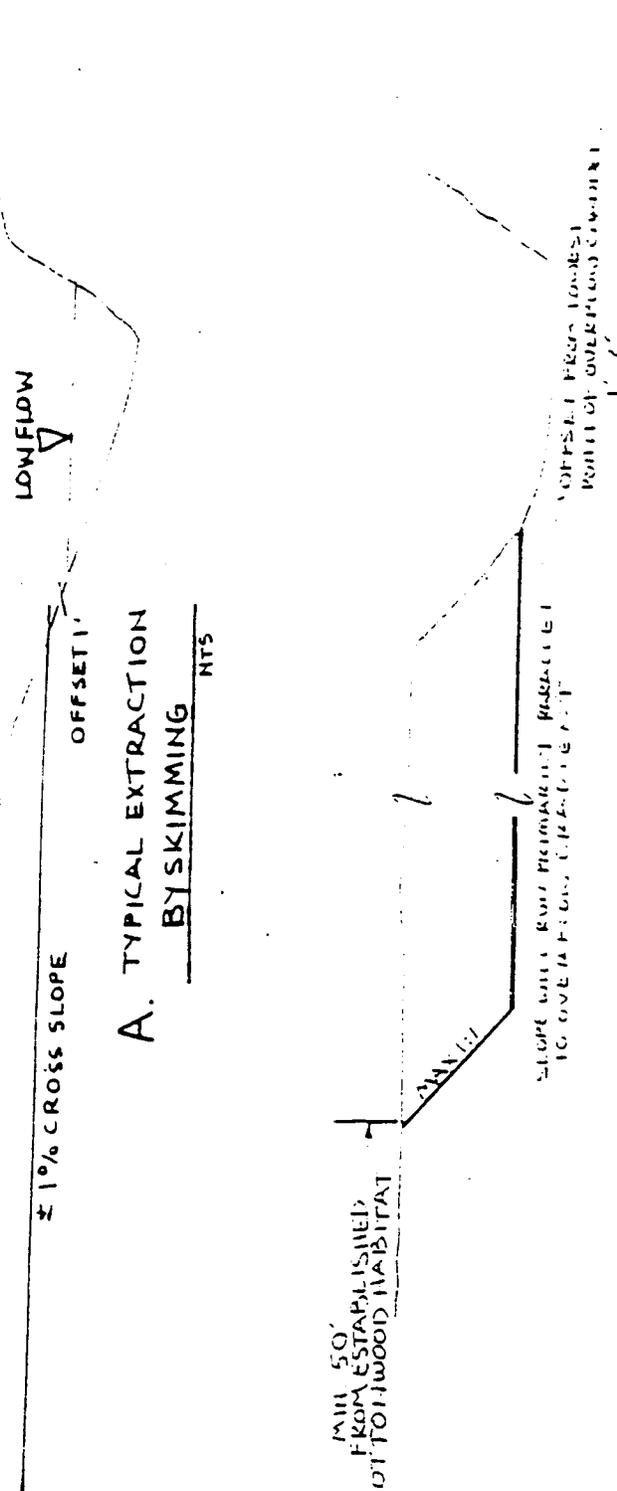
WALLENDALE
MERCER, FRASER CO.
Sandy Prairie S

EXHIBIT NO. 5
APPLICATION NO. 1-94-35
REPERCUSSION 317245
PAGE 3923
California Coastal Commission

RISING SUN
ENTERPRISES



EXTRACTION AREAS (typ.)



A. TYPICAL EXTRACTION BY SKIMMING
NTS

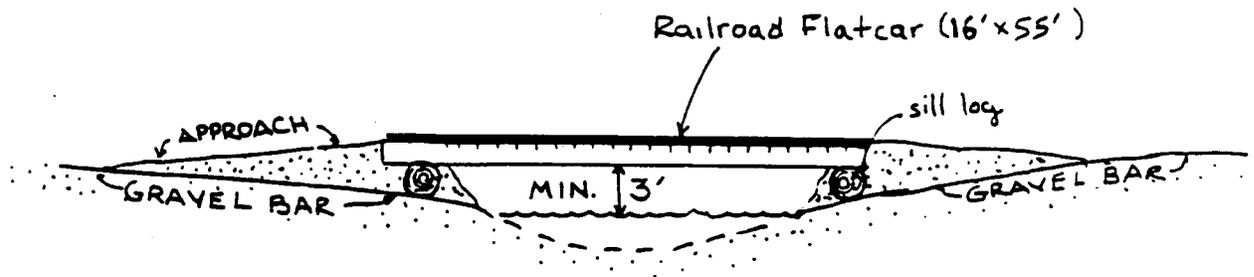
B. TYPICAL OFF CHANNEL GRADING
NTS

EXHIBIT NO. 6
 APPLICATION NO. 1-94-35
 EXTRACTION
 CROSS-SECTIONS PAGE 318
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 5924

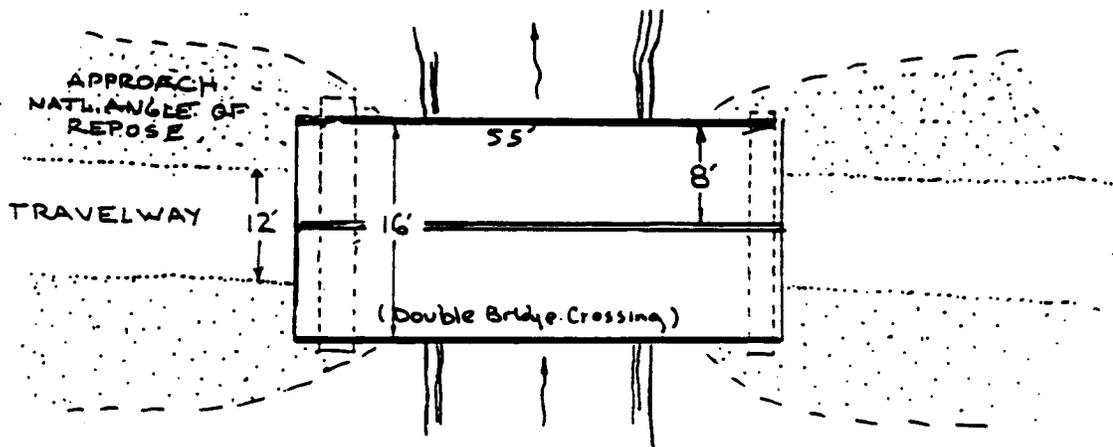
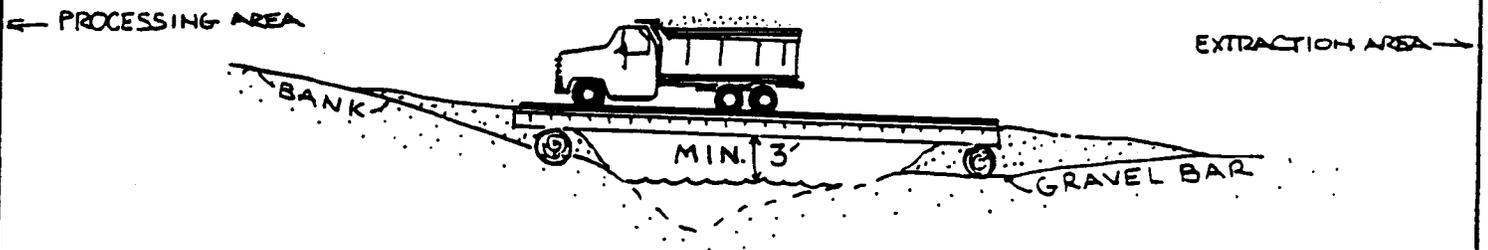
RISING SUN
 ENTERPRISES

MERCER, FRASER & CO.
 SANDY PRAIRIE S
 EXTRACTION X-SECTION (TYPICAL)

CALENDAR
 MONTH PAGE



SECTIONAL VIEWS



PLAN VIEW

1 INCH = 20 FEET

EXHIBIT NO. 7

APPLICATION NO.
1-94-35

STREAM CROSSING