

Staff Report 53

PARTY:

Trudy Marilyn Ehmke and Troy Elbert Land, successors in interest of Peter Hauck

PROPOSED ACTION:

Issuance of a Patent for Swamp and Overflowed Lands Survey No. 340, Location 3518.

AREA, LAND TYPE, AND LOCATION:

Swamp and Overflowed Land located near the Eel River, Fortuna, Humboldt County identified by Swamp and Overflowed Lands Survey 340, Location No. 3518 (as shown in Figure 1).

Figure 1. Location

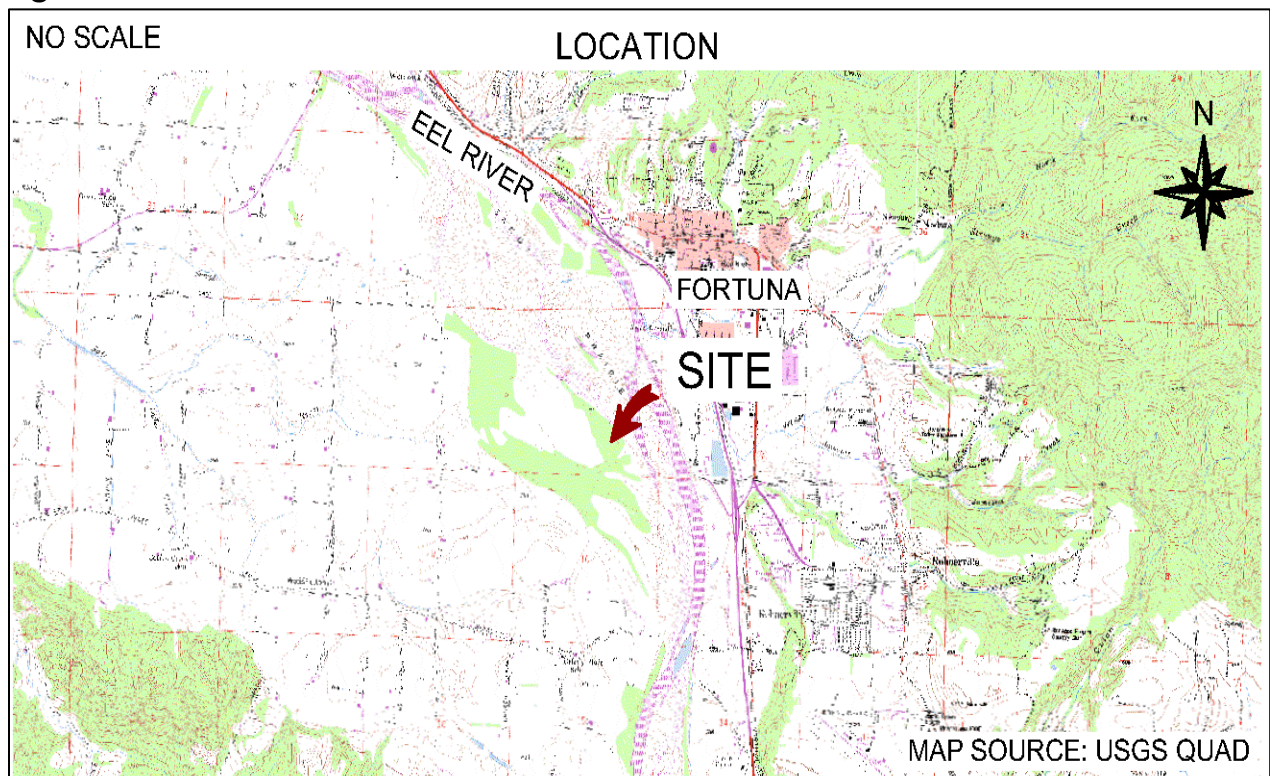
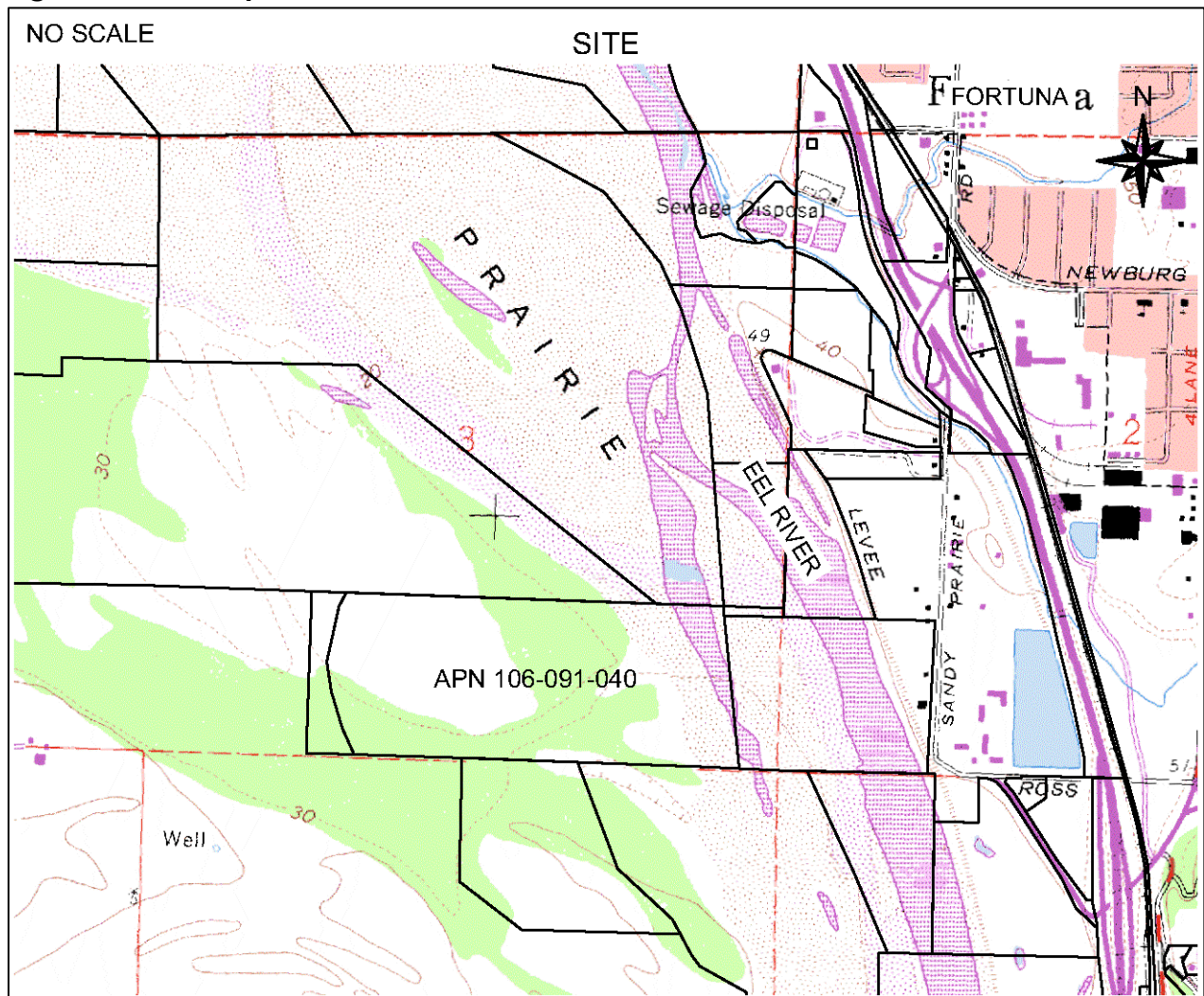


Figure 2. Site Map



STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code section 7729; California Code of Regulations, title 2, section 2904.

BACKGROUND:

The Party, Trudy Marilyn Ehmke and Troy Elbert Land, has requested a State patent be issued for Swamp and Overflowed Land Location No. 3518, located in Humboldt County near the Eel River (Property). The Property was originally purchased by Peter Hauck, who made an application for purchase of the parcel on October 30, 1899. The application for purchase was approved on February 7, 1900. The Certificate of

Purchase No. 296 was paid in full and issued to Peter Hauck on March 5, 1900. However, the Commission cannot locate records showing that the patent was ever issued to complete the chain of title on the Property.

The Party does not have possession of the original certificate of purchase and such possession is beyond their control. Public Resources Code section 7729 provides the Commission may issue a patent in such cases, albeit in the name of the original applicant for the certificate, provided that: (1) the person having an interest in the land or any portion thereof to be patented submits an affidavit that the certificate is lost, destroyed or beyond their control, and (2) the Commission certifies that applicable laws have been complied with, payment in full has been made, and the person named in the patent is entitled to said patent.

Staff has examined the file and other information submitted by the Party and determined the requirements for issuance of a patent have been met. A title report issued by Fidelity National Title on July 13, 2020, and affidavits executed by the Party pursuant to Public Resources Code section 7729 provide evidence that the Party is the successor in interest for the Property. Staff has found sufficient evidence that the Party has an interest in the Property and that the laws relating to the issuance of a patent for the Property have been complied with. Additionally, staff confirmed that payment in full was received for the original Certificate of Purchase, and the original applicant in whose name the patent will be issued, Peter Hauck, is entitled to it.

The patent serves as legal proof that Mr. Hauck purchased Swamp and Overflowed Land Location No. 3518 in 1899. Issuance of the patent does not extinguish any State interests that would otherwise exist on the land regardless of its status as a Swamp and Overflowed parcel. Such interests include but are not limited to any sovereign interest that may arise in the future as a result of the ambulation of the Eel River toward S&O Location 3518. Nor does issuance of the patent impact any interests in the land that may have been validly transferred since Mr. Hauck made the purchase.

OTHER PERTINENT INFORMATION:

1. Issuance of the patent document is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5)

EXHIBIT:

A. Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

AUTHORIZATION:

1. Find the laws in relation to the issuance of a state patent have been complied with; that payment in full has been made; that two affidavits have been received; and that the person named in the patent, Peter Hauck, is entitled to it.
2. Authorize staff and the Office of the Attorney General to prepare and process a state patent to be issued in the name of Peter Hauck for the state's interest in the Property as described in Exhibit A.

EXHIBIT A

**S&O Location 3518
(Humboldt County)**

LAND DESCRIPTION

A parcel of Swamp and Overflowed land situate in protracted Section 3, Township 2 North, Range 1 West, H.B.M., County of Humboldt, State of California, more particularly described as follows:

Those lands described in Swamp and Overflowed Lands Location No. 3518, approved February 7, 1900 and filed in the Office of the California State Lands Commission.

EXCEPTING THEREFROM any State interest in tide and submerged lands lying in said parcel.

END OF DESCRIPTION

