

MINUTE ITEM

This Calendar Item No. 41
 was approved by Minute Item
 No. 41 by the State Lands
 Commission by a vote of 3
 to 0 at its 8/24/78
 meeting.

MINUTE ITEM

8/78
 Greenwood

41. SETTLEMENT IN LIEU OF LITIGATION AND ISSUANCE OF MINERAL
 EXTRACTION LEASE - MR. ROBERT WESTBROOK - W 21428 - PRC 5536

During consideration of Calendar Item 41, attached, Commission-
 Alternate Sid McCausland asked if the applicant had agreed to
 the settlement. Mr. Robert C. Hight, Chief Counsel, advised
 that he had tentatively agreed to it, but the lease as yet had
 not been signed. However, Mr. Hight indicated the staff had
 no reason to believe the lease would not be signed. If the
 applicant does change his mind, the item would be brought back
 to the Commission for its further consideration.

Upon motion duly made and carried, the resolution as presented
 in Calendar Item 41 was approved by a vote of 3-0.

Attachment: Calendar Item 41 (9 pages)

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CALENDAR ITEM

41.

SETTLEMENT IN LIEU OF LITIGATION
AND ISSUANCE OF MINERAL EXTRACTION LEASE

8/78
W 21428
Greenwood
PRC 5536

APPLICANT: Mr. Robert Westbrook
Reservation Ranch, Inc.
c/o David L. Schneider, LACO Assoc. Les
212 J. Street
Eureka, California 90501

AREA, TYPE LAND AND LOCATION:
52.8 acres of tide and submerged lands
in the Smith River at Ranch Bar, Del Norte
County.

PERTINENT INFORMATION:

1. On January 26, 1978, the Commission authorized the staff to take all steps necessary including litigation against Robert Westbrook, DBA Reservation Ranch, Inc., to end continued trespass and conversion of sand and gravel from State owned tide and submerged land in the bed of the Smith River. The dispute involved the location of the limit of State ownership at this tidal area on a natural, wild river that is subject to seasonal extremes of high and low water as well as occasional severe floods and droughts. Subsequent negotiations with the applicant have resulted in a proposed commercial lease for sand and gravel extraction from sovereign lands.
2. The applicant has requested a lease on 52.8 acres of tide and submerged lands in the Smith River at Ranch Bar, Del Norte County for the removal of not less than 1,000 or more than 30,000 cubic yards of sand and gravel per year for commercial and/or private use.
3. The rental shall be \$1 per acre per year. Royalty shall be paid at the

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rate of 20% of the gross sales price or \$0.15 per cubic yard whichever is the greater.

4. In accordance with Section 6818 of the Public Resources Code the Director of Parks and Recreation was notified of the proposed lease and has determined that the project will not interfere with recreational use of the littoral lands.

5. Prerequisite items:

(a) The filing fee and processing costs have been received from the applicant.

(b) This project is situated on State land identified as possessing significant environmental values pursuant to Public Resources Code 6370.1, and is classified in a use category, Class A, Natural Area, which authorizes restricted use.

(c) Pursuant to Division 13 of the Public Resources Code, EIR No. SCH 77041121 was prepared and circulated. Del Norte County was the lead agency. Said EIR is on file in the office of the Commission, and by reference is made a part hereof. The report concludes that the proposed gravel extraction operations, we mitigated, would not have a significant detrimental environmental effect.

(d) The EIR has been reviewed by all interested agencies and persons, including the California Coastal Commission, Del Norte County, United States Army Corps of Engineers and the Department of Fish and Game. Each have indicated that there are no objections to the proposed operations.

CALENDAR ITEM NO. 41. (CONTD)

EXHIBITS: A. LAND DESCRIPTION. B. Location Map. C. EIS.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS BEEN PREPARED FOR THIS PROJECT AND CERTIFIED BY DEL NORTE COUNTY PLANNING DEPARTMENT, ACTING AS THE LEAD AGENCY.
2. CERTIFY THAT THE FINAL EIR OF DEL NORTE COUNTY #SCH 77041121 HAS BEEN COMPLETED IN COMPLIANCE WITH THE CEQA OF 1970, AS AMENDED, AND THE STATE GUIDELINES, AND THAT THE COMMISSION HAS REVIEWED THE INFORMATION CONTAINED THEREIN.
3. DETERMINE THAT THE PROJECT, AS MITIGATED BY THE ALTERATIONS SUGGESTED IN THE EIR, WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO SECTION 21081(a) OF THE PUBLIC RESOURCES CODE.
4. FIND THAT GRANTING OF THE LEASE WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE PUBLIC RESOURCES CODE.
5. FIND THAT GRANTING OF THE LEASE WILL NOT UNREASONABLY INTERFERE WITH THE MAINTENANCE OR USE OF LITTORAL LANDS FOR RECREATIONAL PURPOSES NOR WITH THE PROTECTION OF SHORE PROPERTIES PURSUANT TO SECTION 6818 OF THE PUBLIC RESOURCES CODE.
6. AUTHORIZE SETTLEMENT IN LIEU OF LITIGATION AND ISSUANCE TO ROBERT WESTBROOK, DBA RESERVATION RANCH, INC., OF A 5-YEAR MINERAL EXTRACTION LEASE WITHOUT RENEWAL FOR IN-PLACE SALES.

EXHIBIT "A"

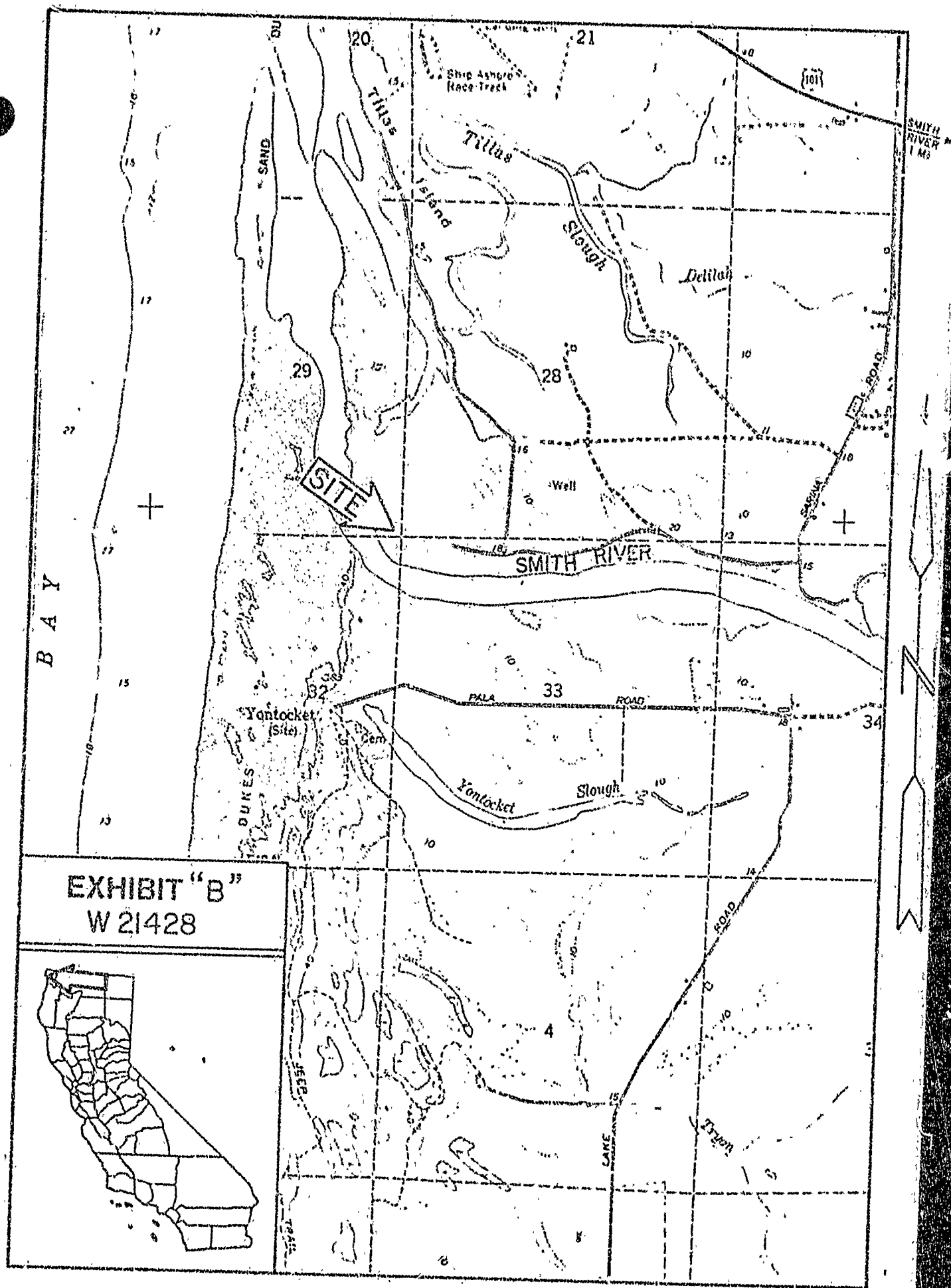
LAND DESCRIPTION

W 21428

All those State-owned tidelands at Ranch Bar (gravel bar) along the right bank of the Smith River, facing downstream, Del Norte County, California, lying within Sections 28 and 32, the west 2000 feet of Section 33, and the South 2000 feet of Section 29, T18N, R1W, HBM, as said sections are shown on the official township plat for T18N, R1W, HBM, dated November 6, 1856.

END OF DESCRIPTION

Prepared M. L. Shaffer Checked C. N. Perry
Reviewed Ray M. Munk Date June 30/78



SUMMARY

ENVIRONMENTAL IMPACT REPORT

WESTBROOK GRAVEL EXTRACTION

The proposed project involves the removal of river - deposited gravel from Reservation Ranch Bar, Smith River. The average annual volume of gravel removal from this bar would vary from 1 to 30,000 cubic yards per year. The gravel materials would be extracted with conventional excavating equipment and stockpiled on the owner's property, at commercial processing plants or on ultimate use sites. Processing of gravel would not occur on the removal site.

Gravel extraction would be conducted in accordance with regulations established by the California Department of Fish and Game, the California Coastal Commission, the Army Corps of Engineers and Del Norte County for the conservation of natural resources and water quality.

Gravel removal, if conducted in the conventional manner, by skimming off the top of the bar, would tend to aggravate existing problems with stream meandering and streambank erosion. Riffles and pools of the Smith River, used by salmon and steelhead during annual spawning migrations, would be made wider and shallower. Shallowing of these riffles and pools could inhibit fish passage, preventing migrating fish from reaching usual spawning areas and causing them to spawn in the areas in which they are trapped. When spawning occurs for this reason in tidewater, as it did in 1976, the efforts may largely be unsuccessful in producing

seaward-migrant juveniles.

However, in the proposed operation gravel extraction would proceed in such a way as to avoid these effects and improve hydrologic conditions on the site significantly. The method for accomplishing this would be to, as gravel is removed, dredge a new stream channel composed of riffles and pools, which would permit easy and protected fish passage and navigation by small fishing boats with outboard motors. Dredging would not occur in live stream waters. The new channel would be completed, then the entire flow of the river diverted into it (see Map).

The following mitigation measures are proposed to avoid any adverse effects, and significantly improve existing conditions. Gravel should be removed from the project sites in such a way as to provide new and hydrologically improved salmon and steelhead passage channels and holding pools; the benefit of this method of extraction could be substantial in dry years. Based on low flow records and on the known velocity and depth requirements of salmon and steelhead, a design for gravel extraction is suggested:

- A. Dredge the aggregate to be removed from each bar from a designated meandering channel to consist of "pools" and "riffles" of suitable dredged depths and widths. The depths provided would permit easy and somewhat protected fish passage, and easy navigation by small fishing boats with outboard motors. Dredging should commence at the downstream end of the bar and proceed upstream until the new channel is completed. The completed channels should be designed to carry the entire low flow and some level of higher flow of the river at these points.

- B. On completion of the new channels, divert the entire flow of the river into them.
- C. The proposed channels should probably be dug as near as possible to the existing flow channel so as to change the general course of the river as little as possible, and to allow for the greatest meandering length of the new channel. This would tend to restore original (before filling by past bed-load movement) riffle width and depth. When normal wintertime high flows occur, the new channel might soon be altered, if not eliminated, but in the meantime improved passage and holding areas would serve enhancement and protection functions during periods of low flow. However, if gravel removal is carried on annually in such a manner, improvements could be effected every year.
- D. In addition to the proposed channel, rules and regulations set forth by the Department of Fish and Game and others, should be strictly adhered to to prevent muddying, silting or pollution of surface waters.

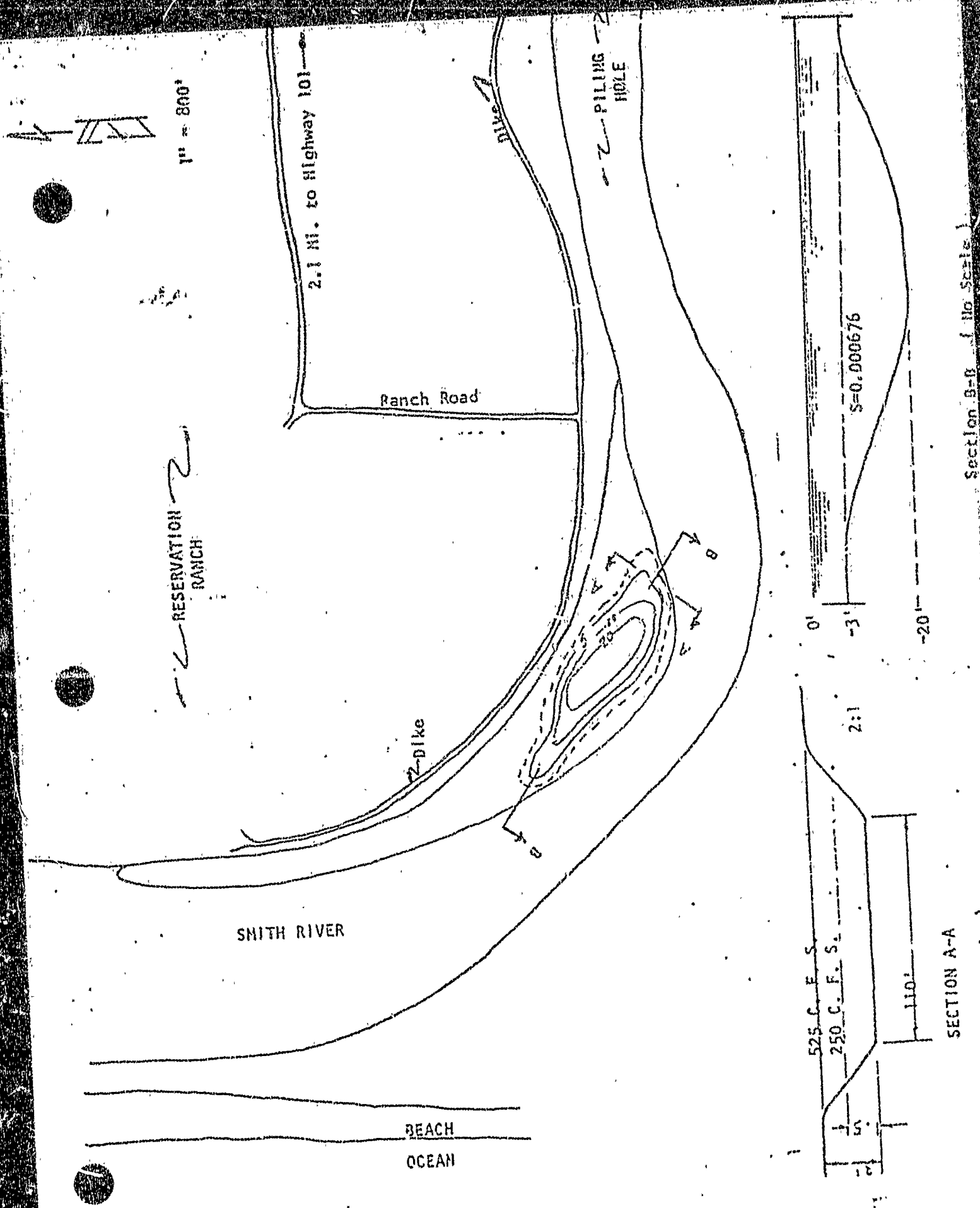


Figure 9 - Generalized Design of Possible Fish Habitat Enhancement Channel - Ranch Bar
(bottom depth contour lines are in feet below low flow water levels in the existing)