
COMMERCIAL - INVESTMENT REAL ESTATE BROKERAGE SERVICES

August 13, 2018

Mr. John Kopcik, Director of Planning
Department of Conservation and Development
30 Muir Road Martinez, CA 94553:

Re: Zoning Change Request; 999 Bancroft Road in Concord, California

Dear Director, Kopchik:

I represent the Honorable John H. Sutter and Elouise Sutter, and the John H. and Elouise Sutter Trust, as the owners of 999 Bancroft Road in Concord, California. This property is developed with a building of 1955 construction that is designed for a commercial – industrial use. It is zoned “C-M”, for Controlled Manufacturing. The C-M zoning conflicts with the current General Plan zoning of “M-M”, or Medium Density Residential. For the past 26-27 years the property has been leased to a well-known gymnastics operation and used exclusively as an athletic training facility. The lease for this operation will end in early 2019, and the Sutters’, who depend on the rental income generated by the property, want to start re-leasing efforts right away. However, because the designed use for the building and the C-M zoning do not conform to the General Plan, re-leasing the property is gridlocked by administrative complications. Over the past two months I have discussed this matter extensively with Mr. William Nelson, Principal Planner at the County, to determine possible options and a reasonable path forward. It is based on these discussions that we present the following proposal for a resolution with the County along with check #3806 for \$750.00 to the County for the review.

Firstly, we request that the property be re-zoned for a Commercial use and that the General Plan be modified to accommodate this modified zoning. Second, we ask the County’s help in allowing the re-lease of the property now, as a Commercial use until the General Plan can be modified accordingly. I have outlined herein the most significant supporting reasons why this zoning change to a commercial (G-C) use is appropriate at this time.

This property, and the adjacent multi-tenant warehouse property immediately behind it at 981 Bancroft Road, are the only two properties within this “M-M” zoning district that were designed and constructed, and are now used for, commercial-industrial use. Neither property has ever operated in compliance with the “M-M” zoning, nor is it feasible for them to, given their designed function. Reportedly, the adjacent warehouse property was issued a Land Use Variance years ago to allow a gym use, and current records show a gym use is in place.

The Sutter property is separated from the residential sector by Bancroft Road to the east, and by the adjacent industrial building to the south. To the west and northwest are the Iron Horse Trail (formerly the Southern Pacific train line), the community park, and beyond are active commercial – industrial developments within the Cities of Pleasant Hill and Concord. The location of the Sutter property appears more strongly affiliated with these commercial developments than with the residential developments that are across Bancroft Road **(Refer Exhibit - A)**

The property has been operated under lease to a highly-popular Gym for approximately 27 consecutive years. The County has been aware of this use although no use permit was evidently ever issued. The gym trains young children to young adults and holds gymnastic meets on-site that are enthusiastically attended by families and the public. The property owners and tenant have worked with the County and the neighbors to operate the business and the property without material disturbance over this extended period, demonstrating a reasonable commercial compatibility with the neighborhood. **(Refer Exhibit - B)**

The property includes a 16,000 square foot industrial design building (1942 vintage) with concrete walls, twenty-two-foot open ceilings, multiple roll-up doors and loading docks. There are multiple paved parking spaces and a large, fenced rear yard that abuts the adjacent and separately owned warehouse. Given the designed function of the building and its close in location to the freeway and businesses, the building has significant market function and value. It is

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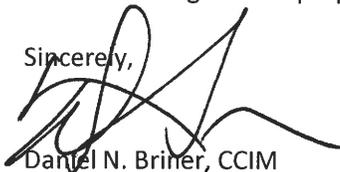
estimated that the property will generate over \$200,000 annually in gross rental income, and this results in a significant, capitalized market value. The construction and design of the building are not feasibly adaptable to conform to the current "M-M" zoning. In order to conform, the building would most certainly have to be razed and re-developed. This would result in extreme hardship to ownership by forcing a development risk and causing the loss of significant income and market value, effectively creating an economic forfeiture.

The property adjoins a known contamination site and is within an active contamination remediation and study zone. **(Ref Exhibit "C")** The property is within an area acquired by the Contra Costa County Redevelopment Agency in 1989 (now the CCC Department of Conservation and Development). Beginning in 1990 through 1996 the area was subject to numerous tests for soil and water contamination and both which were discovered. The sources for the contamination are known as the Hookston Station and the Vincent Road sites. A major study was completed in 2006 **(Ref Exhibit "E")** resulting in subsequent mediation measures being undertaken. A second study was done in 2017 **(Ref Exhibit "F")** disclosing remediation progress had been made, and that active testing continues through many open ground water wells and soil probes. **(Ref Exhibit "D")**. Active soil and groundwater contamination remediation are common in functioning commercial zones but are highly objectionable to residential developments in areas of ongoing contamination studies. This public concern is still highly evident in the affected Colony residential development within two blocks to the northeast of the Sutter property. It is also pertinent that the closest residential developments to The Sutter property were completed in 1964, 1971, and 1983, all well before the discovery on the contamination after 1990.

In summary, the Sutter property was zoned "C-M" prior to the County acquiring in 1989 a portion of the former Southern Pacific Railroad line and what is now a community park and part of the Iron Horse Trail. This was also prior to the discovery of major contamination in the immediate area that is still undergoing remediation study. The Sutter property was one of two commercially active properties that were subsequently encompassed by a General Plan purposed for residential re-development of the area and set a "M-M" re-zoning. The Sutter property was commercially leased to a gymnasium for about 27 years, or roughly from 1990, without major issues with the neighborhood. The County was aware of this non-conforming use. The property is set apart from the nearest residential development by Bancroft Road and nearby commercial developments. The property has significant market value and generates supporting income. A mandated compliance with the General Plan zoning would result in material risk and economic loss to ownership, effectively creating a forfeiture. The property location is immediately adjacent to an active contamination area, well-known since 1990, a materially significant deterrent to residential development. These facts support that the best use for the property is commercial, not residential.

We request that ownership be allowed to proceed immediately with the lease of the property to another commercial property use consistent with the design of the building and the use of the building since 1955. We request that the Board of Supervisors consider an amendment to the General Plan to re-zone the Sutter property to a "C-G" zoning for a Commercial use. The Sutters are aware that the building is older and while several upgrades to the building have been made over the years(seismic and ADA amounting to approximately \$250,000), new compliances to current code are appropriate for a re-lease for a commercial use. The Sutters are willing to make upgrades to their building to comply with a rezoning of their property as presented herein.

Sincerely,



Daniel N. Briner, CCIM

Attached : \$750 Sutter Check #3806 to C. C. County; Sutter Letter of Authorization for Briner Property Group Exhibits A - F

ACTIVE COMMERCIAL DEVELOPMENT
EXTENDS FROM MAYHEW WAY NORTH
BEYOND HOUSTON RD INTO CONCORD

EXHIBIT "A"

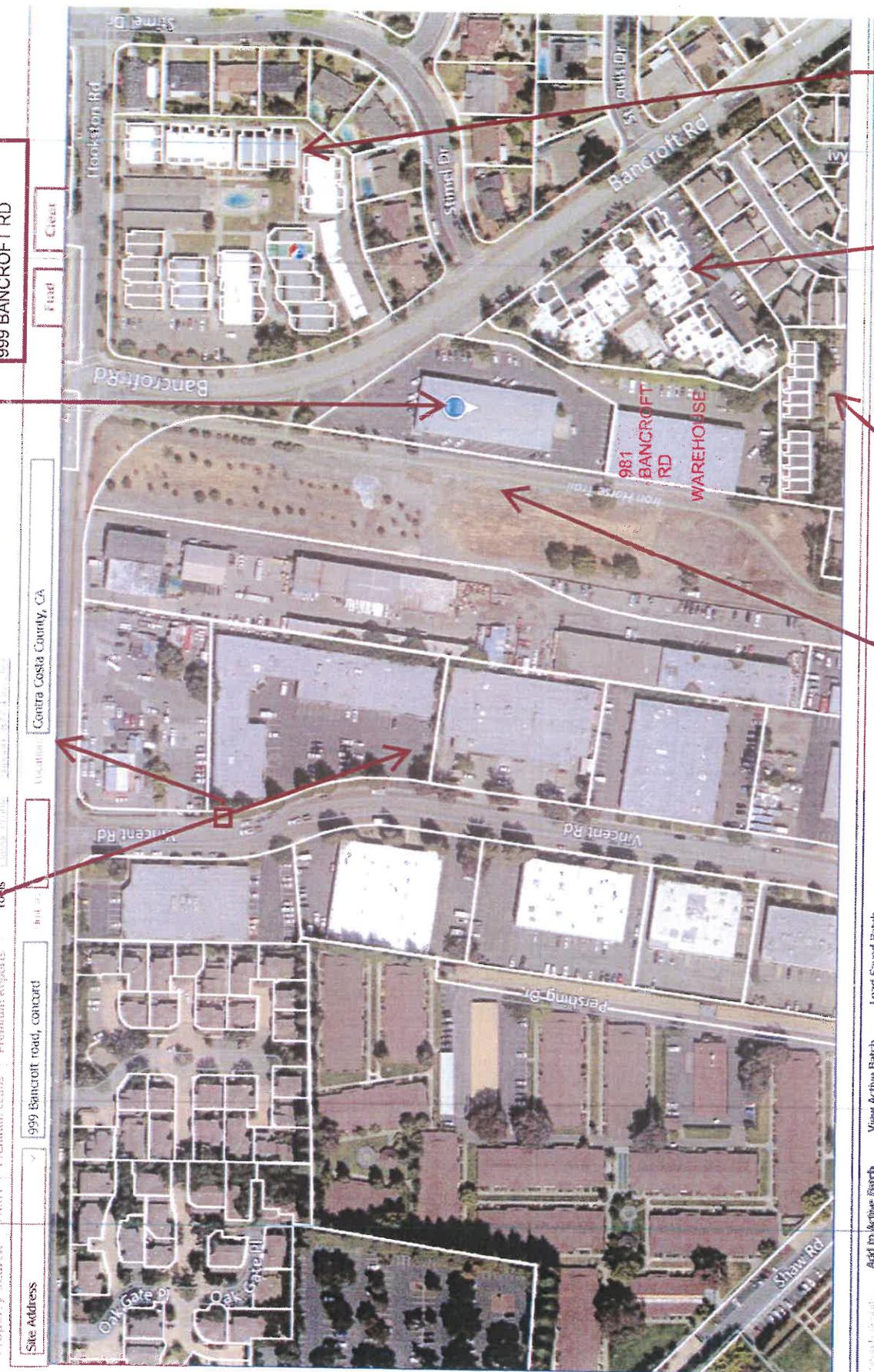
SUBJECT PROPERTY
999 BANCROFT RD

RESIDENTIAL CONDOS
BUILT IN 1964

RESIDENTIAL CONDOS
BUILT IN 1983 ON
BANCROFT RD

RESIDENTIAL CONDOS
BUILT 1971 ON
MAYHEW RD

COMMUNITY PARK &
IRON HORSE TRAIL



Property Search: Home Premium Reports Professional Reports

Tools: Links, Details, Alerts, My Account

Site Address: 999 Bancroft road, concord

Location: Contra Costa County, CA

Owner Name: SUTTER RICHARDSON

Address: 999 BANCROFT RD CONCORD

City: CONCORD

State: CA

Zip: 94718

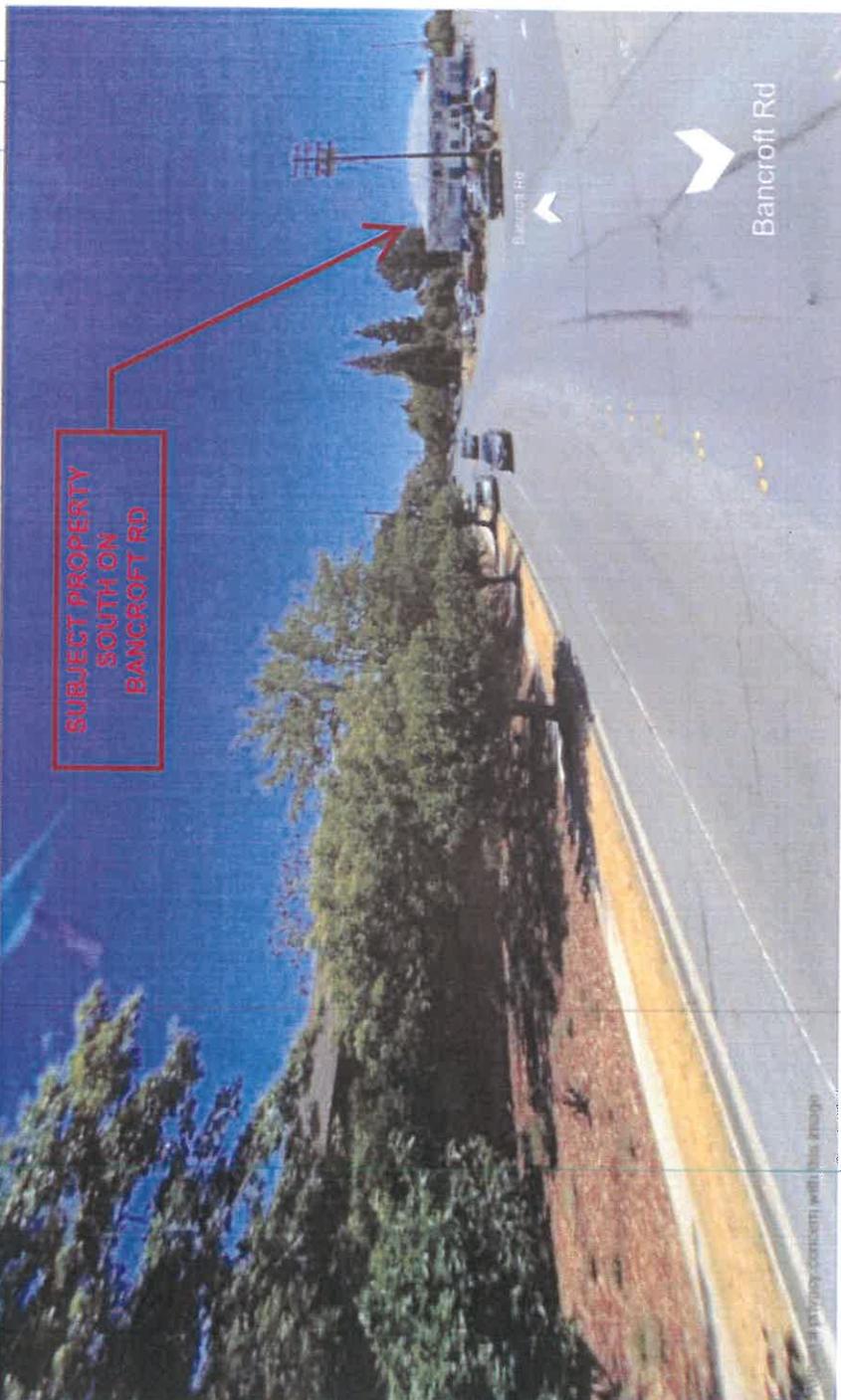
Use: 148-300-015-2 Manufacturing (Bldg)

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EXHIBIT "B"

Property Search | FAREP | Premium Leads | Premium Reports | Tools | Home | Links | Sign Out | 1/1/2014 10:00 AM

Site Address: 999 Bancroft Road | Location: Contra Costa County, CA | Find | Clear



Add to Active Batch View Active Batch Load Saved Batch
 Owner Name Address: 999 BANCROFT RD CONCORD City: State: CA Zip: 94518 APN: 148-300-015-2 Use: Manufacturing (light)
 SUTTER, JOHN H & ELIZABETH Page 1 of 0 (0 items)

Rock Voss/ehub



SUBJECT PROPERTY

AREA OF CONTAMINATION

Image Source: Google Earth Pro.
Dated: 3/11/2017

LEGEND

Hookston Station Property Boundary

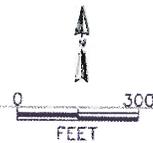
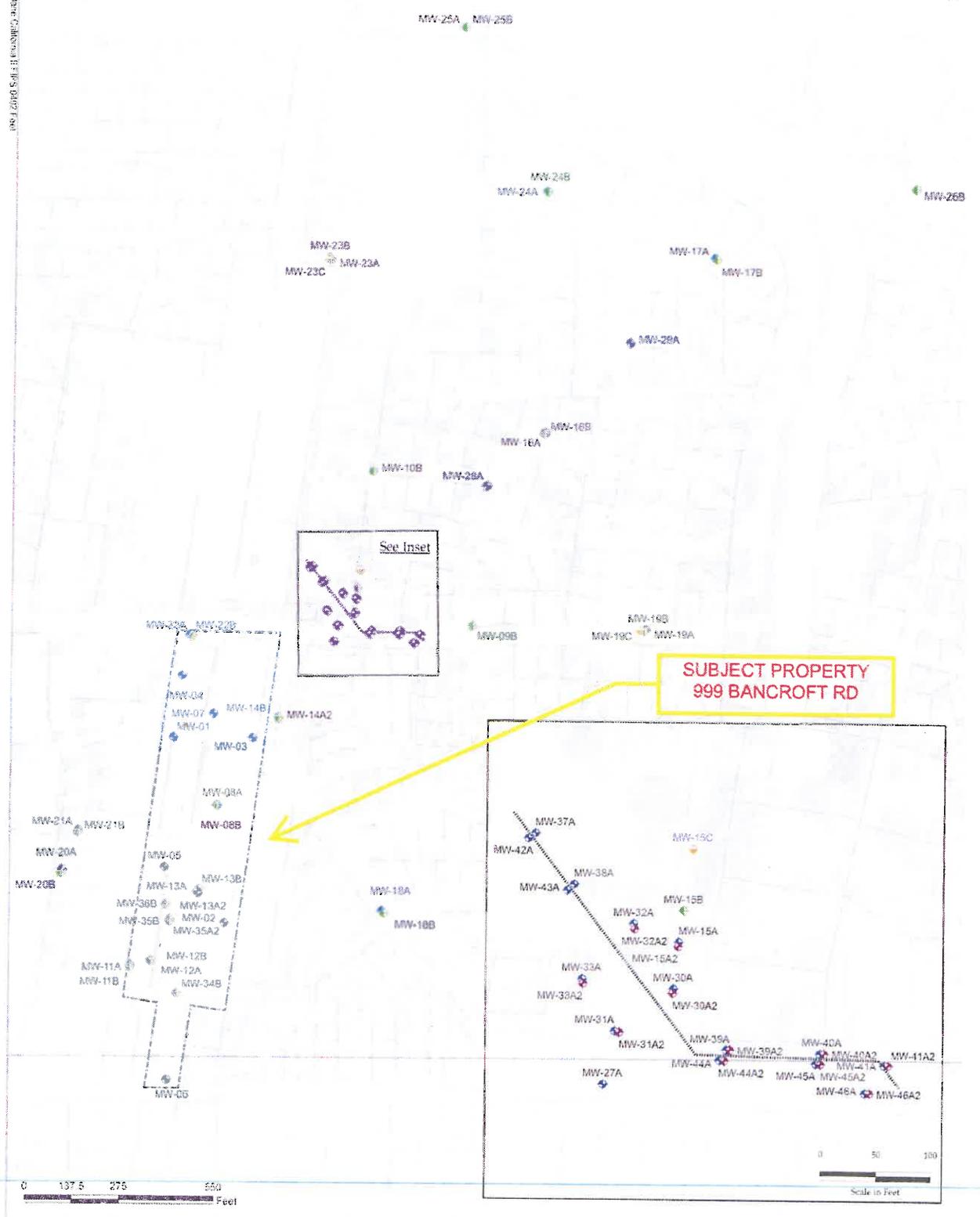


Figure 2
Hookston Station Vicinity Map
Hookston Station
Pleasant Hill, California

EXHIBIT "D"

Source: NAD 1983 StatePlane California 3 Feet Data Point



- Legend**
- ◆ A-Zone Monitoring Well
 - ◆ A2-Zone Monitoring Well
 - ◆ B-Zone Monitoring Well
 - ◆ C-Zone Monitoring Well
 - Permeable Reactive Barrier
 - Parcel Boundaries
 - Hookston Station Property Boundary

Figure 4
Monitoring Well Locations
Hookston Station
Pleasant Hill, California

Union Pacific Railroad Company,
Daniel C. Helix, Mary Lou Helix,
Elizabeth Young, John V. Hook,
Steven Pucell, Nancy Ellicock,
and the Contra Costa County Redevelopment Agency

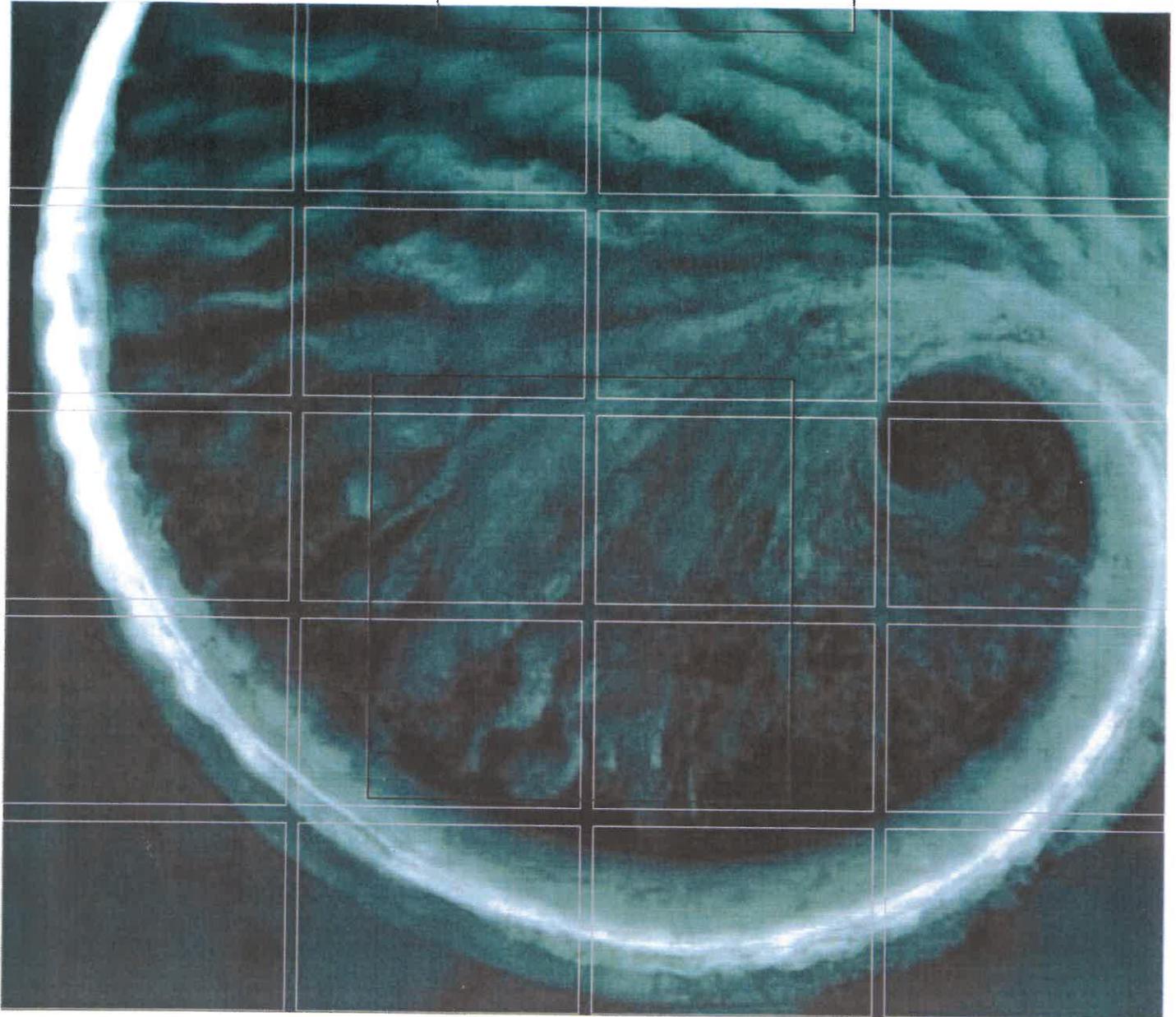
Feasibility Study

Hookston Station

Pleasant Hill, California

10 July 2006

Cover Page Only



Prepared for:
Hookston Station Parties

Status Report on Remedy Effectiveness

Hookston Station
Pleasant Hill, California

December 2017

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