

FINNIGAN, 1952

DIVISION OF FISH AND GAME

FIELD CORRESPONDENCE

FROM: John O. Finigan

PLACE Arcata, Calif.

TO: Bureau of Patrol

DATE Oct. 31st. 1952

SUBJECT: Mae Creek

For sometime I've been trying to negotiate with Mr. Howard Libbey of the Arcata Redwood Co. to voluntarily remove the debris accumulation in Mae Creek.

Several months ago he assured me that he would remove the debris etc. when the weather dried the area sufficiently to permit the operation of the required heavy equipment.

At varying intervals I went to Mae Creek and contacted Mr. Harry Weir woods superintendent for the Arcata Redwood Co. He would again refer me to Mr. Libbey.

Again I tried to arrange with Mr. Libbey to go to Mae Creek with Mr. Bruce Kinsey, our district biologist, and myself to see what measures should be taken to rectify the situation. I was unsuccessful in making such an arrangement even though a tentative date had been agreed upon.

On August 1st. accompanied by Mr. Bruce Kinsey, Lee Mongold and warden Larry Werder I met Mr. Harry Weir and inspected the Mae Creek area. Then on Aug. 11th. I again contacted Mr. Libbey and told him that if the conditions at Mae Creek were not remedied I would have to file a complaint against his company under our pollution and stream block sections.

It was at this time that Mr. Libbey intimated that I would be wasting my time in doing so as his company had an agreement with the Dept. of Fish & Game that permitted the company to pollute, roil, muddy or block not only Mae Creek, but also Prairie Creek and streams tributary to it.

Naturally I was more than surprised to hear this, but such an agreement does in fact exist. This deed was recorded 2/22/37 and is in Book of Deeds page 65 of the Humboldt County Records. This deed was originally made the 29th. day of July 1936 between the Hill-Davis Co. Ltd. and it's assigns (Arcata Redwood Co.) and the Div. of Fish & Game. Said deed being given by the Hill^l Davis interests to the Div. of Fish & Game when the state acquired the Prarie Creek hatchery site.

While talking to Mr. Libbey I pointed out to him, that to my knowledge Sec. 534 of the Fish & Game code prohibited stream barriers in Dist. I^g prior to the date of the deed; and further, that even though the deed did specifically grant the Hill-Davis Co. the right to pollute, block etc. Mae Creek, I thought it highly questionable if anyone could make such an agreement and abrogate an established law of the state, even though such was not the intent of the signers.

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FISH AND GAME
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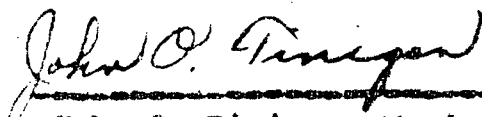
SUBJECT: Mae Creek

In conversation with Mr. Harold Hammond, Humboldt district attorney, after appraising him of the facts of the case, he was of the opinion that a prosecution under Sec. 482.5 of the Fish & Game Code could have little hope of success as the state would have to prosecute the Arcata Redwood Co. for the very acts that the deed expressly gives them a right to do.

At my most recent meeting with Mr. Libbey we again discussed the matter as I believed it might still be possible to get him to clean up the creek voluntarily. He now says he will definitely (?) clean it up next year. I pointed out to Mr. Libbey that the stream is frequented by migratory fish and their need was imperative and they could not wait until 'next year'. Mr. Libbey however was not impressed in the least.

I believe this matter should be brought to the attention of the Attorney General's office as the legal intricacies involved make it more than a routine pollution case.

Very truly yours



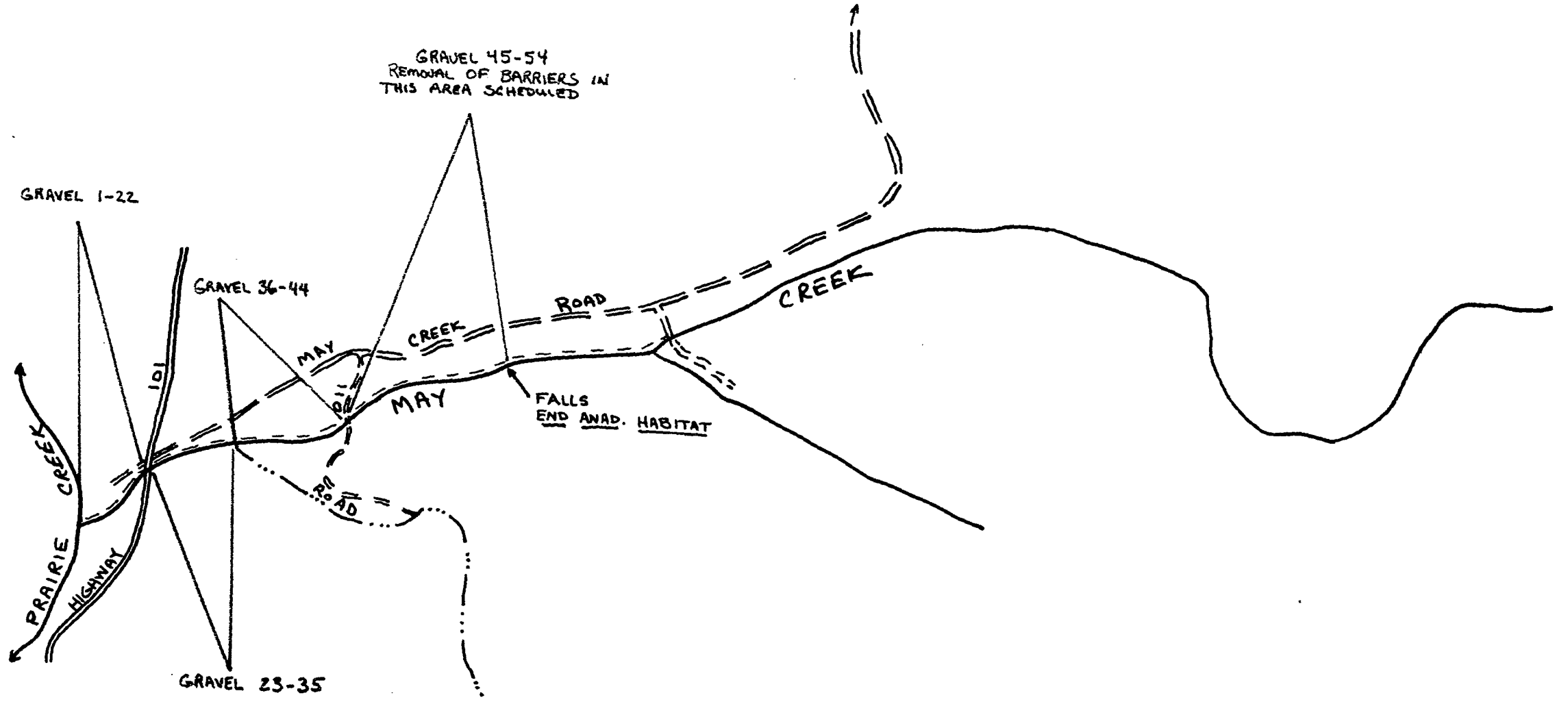
John O. Finigan, Warden

cc:

Capt. L. Lehr



May Creek
2 4/5 mile will be available to salmon
and steelhead when stream clearance
complete.
About 1/2 mile now available



SCALE: 5" = 1 MILE
SURVEY ROUTE - - - -