

November 29, 2007

70542

Russ Mull, Director
Rick Simon, Assistant Director
Department of Resource Management
County of Shasta
1855 Placer Street
Redding, CA 96001

**Re: EIR Addendum Language Draft
Shasta Ranch Aggregate Project**

Gentlemen:

Attached is proposed draft language for the addendum to the Environmental Impact Report (EIR) associated with construction during the winter season. This is provided in Microsoft Word format for your modification.

Please call me if you have questions at (530) 223-2585.

Sincerely,

VESTRA Resources, Inc.



Wendy L. Johnston
Project Manager

Attachment

cc: Lyle Tullis/Shasta Ranch Aggregate

INTRODUCTION

This document constitutes an Addendum to the 2007 Environmental Impact Report (EIR) for the Shasta Ranch Mining and Reclamation Plan, SCH NO. 2005102134. The EIR was prepared by the County of Shasta pursuant to the California Environmental Quality Act (CEQA), Public Resources Code 21000 *et seq.*, circulated for public review and comment, and adopted by the Shasta County Board of Supervisors on July 24, 2007.

The County of Shasta Department of Resource Management is proposing to amend the EIR to clarify responsibilities for the regulation of erosion control mechanisms and to provide consistency with the County Grading Ordinance. The proposal does not constitute a change to the project, which would necessitate a subsequent environmental document under CEQA, and aside from the addition of text to provide the clarification noted, no other changes are being proposed.

The County has determined that an Addendum is the appropriate subsequent CEQA document to address RWQCB comments because there are no project changes or changes to the EIR that would trigger any conditions identified in CEQA Guidelines §15162, as explained in more detail below. Pursuant to CEQA Guidelines §15164(c), an Addendum need not be circulated for public review, but can be included in or attached to the adopted EIR.

CALIFORNIA ENVIRONMENTAL QUALITY ACT: Use of an Addendum to Address Proposed Changes

CEQA Guidelines (§15164(a)) allow a lead agency to prepare an Addendum to an EIR if all of the following conditions pursuant to §15162 are met:

- Changes to the project do not require major revisions to the previously prepared EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Changes with respect to the circumstances under which the project is undertaken do not require major revisions to the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- No new information becomes available which shows new significant effects, or significant effects substantially more severe than previously discussed;
- Only minor technical changes or additions are necessary to make the EIR under consideration adequate under CEQA; and,
- The changes to the EIR made by the Addendum do not raise important new issues about the significant effects on the environment.

AMENDMENT

Mitigation Measure MM 4.8.3(c) states:

“Soil disturbance, grading, and other site preparation (levee construction, road improvements, and construction of the processing area), including vegetative clearance shall occur between May 1 and October 15 of any project construction year to avoid the rainy season and reduce soil erosion and potential runoff.”

This mitigation measure was included to reduce the potential for soil erosion and runoff from the site. In Shasta County, the Department of Resource Management, Division of Environmental Health, is responsible for the regulation of erosion through the issuance of grading permits. The grading permit is the mechanism by which the Division controls erosion mitigation practices. Work is allowed to be completed during the wet weather season if a Wet Weather Operating and Erosion Control Plan has been submitted to, and approved by, the Division of Resource Management. Specifically, Section 12.12.070 (D) of the Shasta County Ordinance states that:

“If the permit allows work to be done during the wet weather season, the permit shall contain a condition requiring a wet weather operating and erosion control plan, which plan shall be approved prior to the commencement of any work. The wet weather plan shall be prepared and certified by a professional listed in subsection B of this section. That plan shall include all necessary temporary and permanent erosion control measures, including those to be followed should the work stop at any time during the wet weather season. The permit shall contain a timetable for installation of the erosion control measures.”

The Department of Resource Management has determined that the mechanisms currently in place in the County provide equivalent, or better, protection of the environment and proposes to amend the mitigation measure above to be consistent with the requirements of Shasta County Ordinance Section 12.12.070(D).

As follows: *“Soil disturbance, grading, and other site preparation (levee construction, road improvements, and construction of the processing area), including vegetative clearance shall occur between May 1 and October 15 of any project construction year to avoid the rainy season and reduce soil erosion and potential runoff, unless conducted under a grading permit issued by the county pursuant to SC Ordinance Section 12.12.070(D).”*

AMENDMENT TO THE ENVIRONMENTAL CHECKLIST

No changes to the environmental checklist, or levels of environmental significance, were identified to be associated with the revised mitigation measure.

DISCUSSION

An Addendum to the adopted EIR is thus considered the appropriate CEQA document for the proposed inclusion of text to Mitigation Measure MM 4.8.3(c) for the following reasons:

1. Changes to the project do not require major revisions to the previously prepared and adopted EIR or substantially increase the severity of previously identified significant effects. The change is mistrial in allowing the construction activities to be completed IF operating under existing County ordinance.
2. Only minor technical and clarifying changes have been made by the Addendum. Erosion and runoff are controlled via existing grading ordinance and the additional mitigation is redundant and inconsistent. The grading ordinance requires planning and mitigation to avoid erosion and runoff in a construction setting and will have equivalent protection to the mitigation originally proposed.
3. No substantial changes will occur with respect to the circumstances under which the project was undertaken which will require major revisions, such as new areas of significance or increases in severity of previously identified effects. No changes to the project have been proposed. The addendum addresses a modification to a mitigation measure, wherein the activities were already covered by existing County ordinance, providing equivalent or better mitigation.
4. The changes to the EIR made by the Addendum do not raise important new issues about the significant effects on the environment; no new information was introduced. The grading ordinance was in effect at the time of the adoption of the EIR, the project has not changed, and the mitigation measure is feasible, but no longer required, as equivalent protection to the mitigation measure is provided through existing County Ordinance; the mitigation measures are not different than previously proposed.

CONCLUSIONS

As a result of the additional analysis, the County, as lead agency, has made a determination that the proposed revisions would not result in:

1. Any new significant effect on the environment, or
2. A substantial increase in the severity of previously identified effects, or
3. One or more significant effects not discussed in the previous EIR, or
4. Significant effects previously examined being substantially more severe than shown in the previous EIR.

An Addendum is the appropriate CEQA document for the proposed modification to the adopted EIR pursuant to CEQA Guidelines §15164(b) because only minor technical changes or additions to the existing project are necessary, and there are no project changes or changes to the adopted EIR that would trigger any conditions identified in CEQA Guidelines §15162. Consequently, a subsequent EIR or supplement to the EIR is required.

The proposed amendment will not alter the conclusions regarding adverse environmental impacts contained in the adopted EIR, nor will the amendment result in any new significant adverse impacts. This addendum has appropriately disclosed the potential impacts from the proposed modifications and will be included as part of the CEQA record for the existing project.

**FINDINGS OF FACT
AND
STATEMENT OF OVERRIDING CONSIDERATIONS**

FOR THE

**SHASTA RANCH MINING AND RECLAMATION PLAN
ENVIRONMENTAL IMPACT REPORT**

SCH# 2005102134

PREPARED BY:

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March 2007

TABLE OF CONTENTS	PAGE
A. INTRODUCTION	1
B. MANDATORY FINDINGS OF SIGNIFICANCE	2
C. CEQA PROCESS REVIEW	2
D. ADMINISTRATIVE RECORD	3
E. FINDINGS REQUIRED UNDER CEQA	4
F. SIGNIFICANT EFFECTS AND MITIGATION MEASURES.....	5
G. DOCUMENT ORGANIZATION	6
1. Findings Associated with Less than Significant Impacts Identified in the EIR	6
2. Findings Associated with Significant, Potentially Significant impacts which can be Mitigated to a Less than Significant Level.....	22
3. Findings Associated with Significant and Unavoidable Impacts which cannot Feasibly be Mitigated to a Less than Significant Level.....	76
4. Findings Associated with Project Alternatives.....	87
5. Statement of Overriding Considerations.....	91
H. SPECIFIC FINDINGS.....	94
I. OVERRIDING CONSIDERATIONS.....	94

A. INTRODUCTION

The Shasta Ranch Mining and Reclamation Plan Environmental Impact Report (EIR) identified significant impacts associated with the Shasta Ranch Mining and Reclamation Plan (project). These Findings of Fact consider the certification of the Shasta Ranch Mining and Reclamation Plan project and adoption of the project as presented in the EIR.

These Findings of Fact and Statement of Overriding Considerations consider the project as a whole.

Approval of a project with significant impacts requires that findings be made by the Lead Agency pursuant to the California Environmental Quality Act (CEQA, California Public Resources Code Sections 21000 et seq.), and CEQA Guidelines (California Administrative Code, Title 14, Chapter 3) Sections 15043, 15091, and 15093. Significant impacts of the project would either: 1) be mitigated to a less than significant level pursuant to the mitigation measures identified in the EIR; or 2) have a significant impact following mitigation that requires a Statement of Overriding Consideration. Specifically, CEQA Guidelines Section 15091 requires lead agencies to make one or more of the following written findings:

1. Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the findings. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measure or project alternative identified in the Final EIR.

These Findings accomplish the following: a) they address the significant environmental effects identified in the EIR for the approved project; b) they incorporate all General Plan policies and action items associated with these significant impacts identified in either the Draft EIR or the Final EIR; c) they indicate which impacts remain significant and unavoidable, because there are no feasible mitigation measures; and, d) they address the feasibility of all project alternatives identified in the EIR. For any effects that will remain significant and unavoidable, a "Statement of Overriding Considerations" is presented. The conclusions presented in these Findings are based on the Final EIR (consisting of the Draft EIR, Response to Comments, and errata to the Draft EIR) and other evidence in the administrative record.

To the extent that these Findings conclude that various mitigation measures outlined in the EIR are feasible to reduce significant and unavoidable impacts to a level of in significance have not been modified, superseded, or withdrawn, the County of Shasta hereby binds itself to implement these measures. These Findings are not merely informational, but constitute a binding set of obligations that will come into effect when the County of Shasta approves the project (Public Resources Code, Section 21081.6[b]). The mitigation measures identified as feasible and within the County's authority to implement for the approved project become express conditions of approval which the County binds itself to upon project approval. The County of Shasta, upon review of the Final EIR, which includes the Draft EIR and based on all the information and evidence in the administrative record, hereby makes the Findings set forth herein.

B. MANDATORY FINDINGS OF SIGNIFICANCE

As required by CEQA Guidelines Section 15065(a)(1) through (4), the Shasta Ranch Mining and Reclamation Plan project addressed the following:

- (1) The project has the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species; or eliminate important examples of the major periods of California history or prehistory.
- (2) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
- (3) The project has possible environmental effects that are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
- (4) The environmental effects of a project will cause substantial adverse effects on human beings either directly or indirectly.

These impacts are addressed in Sections 4.1 through 4.12 of the Shasta Ranch Mining and Reclamation Plan Draft EIR, the Final EIR, and the Final MMRP for the project. The mitigation measures in the Shasta Ranch Mining and Reclamation Plan EIR are consistent with this section of CEQA as well. As required by subsection (c) of CEQA Guidelines Section 15065, these Findings of Fact and the Statement of Overriding Considerations take into account the project's impacts on land use, traffic and circulation, noise, air quality, hydrology and water quality, soils and geology, biological resources, and cultural resources, public services and utilities, visual resources/aesthetics, and hazards and hazardous materials.

C. CEQA PROCESS OVERVIEW

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the County of Shasta prepared and circulated a Notice of Preparation (NOP) and Initial Study for the Shasta Ranch Mining and Reclamation Plan EIR for public and agency review on November 1, 2005 and held a public scoping meeting on December 1, 2005. The comments received in response to the NOP and scoping meeting were included as an appendix to the Draft EIR. Comments raised in response to the NOP were considered and addressed during preparation of the EIR.

Upon completion of the Shasta Ranch Mining and Reclamation Plan Draft EIR, the County prepared and distributed a Notice of Availability on July 17, 2006 pursuant to CEQA Guidelines Section 15087. Pursuant to CEQA Guidelines, Sections 15087 and 15105, a 45-day public comment and review period was opened on July 17, 2006 and closed on August 31, 2006. Based on a copying error in one of the appendices, a 30-day extension of time for was granted by the County. That extended review period ended on September 30, 2006. Written comment

letters and oral comments were received during this public review period. No new significant environmental issues, beyond those already covered in the Draft EIR, were raised during the comment period, and the Final EIR was prepared. Responses to comments received on the Draft EIR did not involve any changes to the project that would create new significant impacts or provide significant new information that would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5. Responses to comments were provided in the Final EIR, and responses were sent to public agencies that commented on the Draft EIR ten days prior to certification of the Final EIR.

A public hearing was noticed and held on March 22, 2007. A comment letter was received on March 19, 2007, which identified certain issues not previously identified in the Draft EIR and not commented on during the written comment period. The comments were reiterated verbally at the hearing on March 22, 2007. Based on those comments, Impact 4.11.6 was recirculated to address the energy conservation issues relating to the use of alternative fuels. Impact 4.3.1 regarding traffic safety was also recirculated. A second Notice of Availability for these specific impacts was published on April 27, 2007. Pursuant to CEQA Guidelines, Sections 15087 and 15105, a 30-day public comment and review period was opened on April 27, 2007 and closed on May 28, 2007.

D. SUPPORTING EVIDENCE

The environmental analysis provided in the Draft and Final EIR and the Findings provided herein are based on and are supported by the following documents, materials and other evidence:

1. The NOP, comments received on the NOP and all other public notices issued by the County in relation to the Shasta Ranch Mining and Reclamation Plan (e.g., Notice of Availability).
2. The Shasta County General Plan Draft EIR, associated appendices to the Draft EIR and technical materials cited in the Draft EIR.
3. The Shasta Ranch Mining and Reclamation Plan Draft EIR, associated appendices to the Draft EIR and technical materials cited in the Draft EIR.
4. The Shasta Ranch Mining and Reclamation Plan Final EIR, including comment letters, oral testimony and technical materials cited in the document.
5. All non-draft and/or non-confidential reports and memoranda prepared by the County of Shasta and consultants.
6. Minutes and transcripts of the discussions regarding the project and/or project components at public hearings held by the County of Shasta Planning Commission and Board of Supervisors.
7. Staff reports associated with Planning Commission and Board of Supervisors meetings on the Shasta Ranch Mining and Reclamation Plan.
8. Relevant portions of the Shasta County General Plan, 1998, as identified in the draft and final EIRs

The County Clerk is the custodian of these documents. The documents and materials are available for review at the County of Shasta at 1855 Placer Street, Redding, California 96001.

E. FINDINGS REQUIRED UNDER CEQA

Public Resources Code Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would *substantially lessen* the significant environmental effects of such projects[.]" (Emphasis added.) The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will *avoid* or *substantially lessen* such significant effects." (Emphasis added.) Section 21002 goes on to state that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof."

The mandate and principles announced in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See Pub. Resources Code, Section 21081, subd. (a); CEQA Guidelines, Section 15091, subd. (a).) For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The first such finding is that "[c]hanges or

alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR." (CEQA Guidelines, Section 15091, subd. (a)(1).) The second permissible finding is that "[s]uch changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency." (CEQA Guidelines, Section 15091, subd. (a)(2).) The third potential conclusion is that "[s]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR." (CEQA Guidelines, Section 15091, subd. (a)(3).) Public Resources Code Section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." CEQA Guidelines Section 15364 adds another factor: "legal" considerations. (See also *Citizens of Goleta Valley v. Board of Supervisors* ("Goleta II") (1990) 52 Cal.3d 553, 565.)

The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*County of Del Mar v. County of San Diego* (1982) 133 Cal.App.3d 410, 417.) "'[F]easibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*Id.*; see also *Sequoyah Hills Homeowners Assn. v. County of Oakland* (1993) 23 Cal.App.4th 704, 715.)

The CEQA Guidelines do not define the difference between "avoiding" a significant environmental effect and merely "substantially lessening" such an effect. The County of Shasta must therefore glean the meaning of these terms from the other contexts in which the terms are used. Public Resources Code Section 21081, on which CEQA Guidelines Section 15091 is based, uses the term "mitigate" rather than "substantially lessen." The CEQA Guidelines therefore equate "mitigating" with "substantially lessening." Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." (Pub. Resources Code, Section 21002.)

For purposes of these findings, the term "avoid" refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. In contrast, the term "substantially lessen" refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less than significant level. These interpretations appear to be mandated by the holding in *Laurel Hills Homeowners Association v. County Council* (1978) 83 Cal.App.3d 515, 519-521, in which the Court of Appeal held that an agency had satisfied its obligation to substantially lessen or avoid significant effects by adopting numerous mitigation measures, not all of which rendered the significant impacts in question less than significant.

Although CEQA Guidelines Section 15091 requires only that approving agencies specify that a particular significant effect is "avoid[ed] or substantially lessen[ed]," these findings, for purposes of clarity, in each case will specify whether the effect in question has been reduced to a less than significant level, or has simply been substantially lessened but remains significant.

Moreover, although Section 15091, read literally, does not require findings to address environmental effects that an EIR identifies as merely "potentially significant," these findings will nevertheless fully account for all such effects identified in the Final EIR.

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility for modifying the project lies with some other agency. (CEQA Guidelines, Section 15091, subd. (c).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, Sections 15093, 15043, subd. (b); see also Pub. Resources Code, Section 21081, subd. (b).) The California Supreme Court has stated, "[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced." (*Goleta II*, 52 Cal.3d at p. 576.)

These findings constitute the County of Shasta's best efforts to set forth the evidentiary and policy bases for its decision to approve the project in a manner consistent with the requirements of CEQA. To the extent that these findings conclude that various proposed mitigation measures outlined in the Final EIR are feasible and have not been modified, superseded or withdrawn, the County of Shasta hereby binds itself to implement these measures. These findings, in other words, are not merely informational, but rather constitute a binding set of obligations that will come into effect when the County of Shasta approves the project.

F. SIGNIFICANT EFFECTS AND MITIGATION MEASURES

The Draft EIR identified a number of significant and potentially significant environmental effects (or "impacts") that the project will cause. Some of these significant effects can be avoided through the adoption of feasible mitigation measures. Other effects cannot be avoided by the adoption of feasible mitigation measures or alternatives, and thus will be significant and unavoidable. Some of these unavoidable significant effects can be substantially lessened by the adoption of feasible mitigation measures. Other significant, unavoidable effects cannot be substantially lessened or avoided. The County of Shasta has determined that the significant and unavoidable effects of the project are outweighed by overriding economic, social, and other considerations.

G. Document Organization

These Findings are organized into the following sections:

1. Findings Associated with Less Than Significant and Less than Cumulatively Considerable Impacts Identified in the EIR.
2. Findings Associated with Significant, Potentially Significant, and Cumulative Significant Impacts which can be Mitigated to a Less Than Significant Level.
3. Findings Associated with Significant and Cumulative Significant Impacts which Cannot Feasibly be Mitigated to a Less Than Significant Level.
4. Findings Associated with Project Alternatives.
5. Statement of Overriding Considerations for Significant and Unavoidable Impacts.

1. Findings Associated With Less Than Significant Impacts Identified in the EIR.

The County of Shasta (County) hereby adopts and makes the following findings relating to its approval of the Shasta Ranch Mining and Reclamation Plan project. Having received, reviewed, and considered the entire record, both written and oral, relating to Shasta Ranch Mining and Reclamation Plan project and associated Draft and Final Environmental Impact Reports, the County makes the following findings associated with less than significant impacts:

1.1 Land Uses

1.1.1 Existing Land Uses

Impact 4.2.2 The proposed project would not conflict with permitted or existing land uses on adjacent lands. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.2 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with adjacent land uses are **less than significant** because a wide range of rural land uses including farmland, rural residential uses, recreation and open space are common in the vicinity of the proposed project.

Reference: Draft EIR pages 4.2-22 through 4.2-23; General Plan Community Organization and Development Pattern page 7.1.01.

1.1.2 Population and Housing Increases

Impact 4.2.3 The proposed project would not substantially increase local employment or displace existing housing. The proposed project will result in a **less than significant impact**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Section 15126.4, subd. (a)(3), and 15091.)

Explanation: Based on the analysis presented in Section 4.2 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with housing and employment are **less than significant** because the project will not result in a significant increase in employment and there will be no loss of available housing.

Reference: Draft EIR page 4.2-23.

1.1.3 Off-site agricultural land uses and Williamson Act Contracts

Impact 4.2.4 The project would not conflict with off-site agricultural land uses and/ or existing Williamson Act contracts. The proposed project will result in a **less than significant impact**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Section 15126.4, subd. (a)(3), and 15091.)

Explanation: Based on the analysis presented in Section 4.2 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with agricultural lands uses and/or Williamson Act contracts are **less than significant** because there are no Williamson Act contracts or preserves located onsite and mining of mineral resources is permitted under the General Plan agricultural land use with an approved discretionary use permit and reclamation plan.

Reference: Draft EIR page 4.2-23; General Plan Agricultural Lands, pages 6.1.09 thru 6.1.11, and Shasta County Williamson Act Contract Ranches Agricultural Preserves Map 2003, Shasta County.

1.1.4 Cumulative Land Use

Impact 4.2.6 Implementation of the proposed project would result in changes to the existing agricultural and open space patterns. In relation to the existing

Shasta County General Plan land uses the cumulative impacts are considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Section 15126.4, subd. (a)(3), and 15091.)

Explanation: Based on the analysis presented in Section 4.2 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with agricultural land and open space patterns are **less than significant** because the proposed project is consistent with the General Plan Land Use designation under approval of a conditional use permit and reclamation plan. The property will be restored back to a self sustainable ecosystem including agricultural production and open space to enhance biological diversity upon completion of the reclamation plan.

Reference: Draft EIR pages 3.0-17 and 4.2-23; General Plan Agricultural Lands, pages 6.1.09 thru 6.1.11, Shasta Ranch Aggregates Mining and Reclamation Plan.

1.2 Transportation and Circulation

1.2.1 Access, Design and Parking

Impact 4.3.4 The project may substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersection or incompatible uses (e.g., farm equipment), access or emergency access. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Section 15126.4, subd. (a)(3), and 15091.)

Explanation: Based on the analysis presented in Section 4.3 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with access, design and parking are **less than significant** because the proposed project will comply with Shasta County General Plan Policy C-6a, which states that future road and street development including future right-of-way shall comply with the adopted County Development Standards.

Reference: Draft EIR page 4.3-37; General Plan Circulation Element, Policy C-6a.

1.2.2 Cumulative Impacts - Roadways

Impact 4.3.5 The project may cause a cumulative increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system or the project may exceed, a level of service standard established by the county (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, congestion at intersections or the level of service). This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Section 15126.4, subd. (a)(3), and 15091.)

Explanation: Based on the analysis presented in Section 4.3 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with cumulative roadway levels are **less than significant** because the study roadway sections will operate at acceptable levels of service under both cumulative and cumulative plus project conditions.

Reference: Draft EIR page 4.3-38.

1.2.3 Cumulative Impacts - Intersections

Impact 4.3.6 The project may cumulatively cause an intersection that operates acceptably (LOS A, B, or C) to degrade to an unacceptable LOS (D, E, or F) due to the additional traffic from the project. Or if an intersection is already predicted to operate at an unacceptable LOS under cumulative conditions without the project, the project may cause an increase of 5 or more seconds of control delay due to the addition of project traffic. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Section 15126.4, subd. (a)(3), and 15091.)

Explanation: Based on the analysis presented in Section 4.3 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with cumulative intersection levels are **less than significant** because although the project will contribute to the further reduction in service at intersections already predicted to operate at an unacceptable level of service, the amount of delay attributable directly to project related traffic at the study intersections is less than significant.

Reference: Draft EIR pages 4.3-38 through 4.3-39.

1.3

Air Quality

1.3.1 Possible Adverse Effects from Carbon Monoxide

Impact 4.4.3 Vehicle trips attributable to the proposed project would generate carbon monoxide. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based upon the analysis presented in Section 4.4 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with carbon monoxide concentrations are **less than significant** because the project's contribution of localized concentrations of mobile-source CO, under future conditions would be considered less than significant.

Reference: Draft EIR pages 4.4-31 through 4.4-32.

1.3.2 Airborne Concentrations of Asbestos Fibers

Impact 4.4-8 Project related activities could result in exposure of sensitive receptors to airborne concentrations of asbestos fibers. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based upon the analysis presented in Section 4.4 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with airborne concentrations of asbestos fibers are **less than significant** due to the minimal likelihood that asbestos-containing aggregate is present in the project area and because current applicable AQMD rules and regulations would protect public health in the unlikely event asbestos is uncovered.

Reference: Draft EIR page 4.4-42.

1.3.3 Possible Exposure of Sensitive Receptors to Odorous Emissions

Impact 4.4.10 Project implementation may result in exposure of sensitive receptors to nuisance odors. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based upon the analysis presented in Section 4.4 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with nuisance odors are **less than significant** because the proposed project would not involve the operation of any major odor sources typically associated with gravel mining and processing facilities, such as asphalt batch plants.

Reference: Draft EIR page 4.4-44.

1.4 **Biological Resources**

1.4.1 **Potential Adverse Effect on Riparian Habitat and Sensitive Plant Communities**

Impact 4.5.1 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in the direct loss of, or indirect impacts to, riparian habitat or other sensitive plant communities identified in local or regional plans, policies, or regulations. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to riparian habitat or other sensitive plant communities are **less than significant** because in the long term, riparian habitat on the site would be enhanced through revegetation and reclamation of riparian habitat.

Reference: Draft EIR pages 4.5-43 through 4.5-44.

1.4.2 **Potential Adverse Effect on Upland Habitat Types**

Impact 4.5.2 Development of the proposed project would result in the loss of upland habitat types including valley oak woodland, annual grassland, and cropland. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that loss to upland habitat types are **less than significant** because the regional abundance of annual grasslands and cropland, the preservation of the open space areas and the reclamation of habitat after mining operations are completed, the impacts to upland habitats would be minimal.

Reference: Draft EIR page 4.5-44.

1.4.3 Direct Impacts - Jurisdictional Wetlands

Impact 4.5.3 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in the direct impacts to federally-protected jurisdictional wetlands and other waters of the United States. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that direct impacts to jurisdictional wetlands and other waters of the U.S. are **less than significant** because the project would not result in any direct discharge or fill of federally-protected jurisdictional wetlands.

Reference: Draft EIR page 4.5-44.

1.4.4 Direct and Indirect Impacts – Non-Listed Special Status Wildlife Species

Impact 4.5.16 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in direct or indirect impacts to non-listed special-status wildlife species that occur only as migrants or foragers on the site. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to the breeding success of the double-crested cormorant, sharp-shinned hawk, merlin, prairie falcon, northern harrier, Vaux's swift, and Townsend's western big-eared bat are **less than significant** due to the abundance of similar habitats regionally, the infrequency with which most of these species occur in the study area, and the temporary nature of the impacts to the foraging habitat, the impact is considered to be **less than significant**.

Reference: Draft EIR page 4.5-59.

1.4.5 Direct and Indirect Impacts – Fish and Wildlife Migration/Travel Corridor

Impact 4.5.17 Implementation of the Shasta Ranch Mining and Reclamation Plan could block or disrupt a major fish or wildlife migration/travel corridor. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to migration and travel corridors are **less than significant** because the project is not expected to result in any direct or indirect impacts to major fish or wildlife migration/travel corridors. The project would not result in the temporary or permanent blockage, fragmentation, or reduction in width of a wildlife migration/travel corridor and neither the Sacramento River nor the riparian habitat lining its banks would be blocked or reduced in width.

Reference: Draft EIR page 4.5-60.

1.4.6 Local Policies or Ordinances – Oak Woodlands

Impact 4.5.18 Implementation of the Shasta Ranch Mining and Reclamation Plan could conflict with local policies or ordinances protecting biological resources. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to Oak Woodlands are **less than significant** because the project may require that a few oak trees be removed but would not result in the conversion of oak woodlands.

Reference: Draft EIR page 4.5-60.

1.5 Cultural Resources

1.5.1 Cultural Sites CA-SHA-780 and Ca-SHA-2939

Impact 4.6.1 Implementation of the proposed project could result in the potential disturbance or destruction of sites CA-SHA-780 and CA-SHA-2939. However, implementation of the project will have a **less than significant impact** on these sites.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based upon the analysis presented in Section 4.6 of the Draft EIR and considering the information in the administrative record, the County hereby finds that impacts to two cultural sites would be **less than significant** because Site CA-SHA-780 was recommended ineligible for inclusion on the NRHP, the CRHR, or for consideration for designation as a unique archaeological resource. Site CA-SHA-2939 was also determined ineligible for inclusion on the NRHP, the CRHR, or for consideration for designation as a unique archaeological resource.

Reference: Draft EIR pages 4.6.9 through 4.6.10.

1.6 Noise

1.6.1 Increased Exposure to Groundborne Vibration Levels

Impact 4.7.6 Exposure to Project-Generated Groundborne Vibration. Exposure to groundborne vibration levels at land uses located near the project site along proposed haul routes would not exceed applicable thresholds. As a result, this impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based upon the analysis presented in Section 4.7 of the Draft EIR and considering the information in the administrative record, the County hereby finds that exposure to groundborne vibration levels would be **less than significant** because predicted groundborne vibration levels associated with onsite construction and mining activities would not exceed the conservative threshold of 0.2 in/sec PPV.

Reference: Draft EIR pages 4.7.29 through 4.7.30.

1.7 Geology, Soils and Minerals

1.7.1 Seismic ground shaking

Impact 4.8.1 In the event of a major earthquake, seismic ground shaking could potentially result in substantial adverse effects, including the risk of loss, injury, death, or cause structural damage to existing structures. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based upon the analysis presented in Section 4.8 of the Draft EIR and considering the information in the administrative record, the County hereby finds that the risk of seismic ground shaking would be **less than significant** because the project site is not located within an Alquist-Priolo Earthquake Fault Zone (EFZ). The project site is located in the Seismic zone 3, as defined by the Uniform Building Code. The construction of structures and the installation of equipment, including the processing plant, must be designed and constructed in accordance with State and Local seismic safety regulations.

Reference: Draft EIR page 4.8-20.

1.8 Hydrology and Water Quality

1.8.1 Storm Water Runoff Generation and Water Quality

Impact 4.9.1 Potential violation of any water quality or waste discharge requirements or otherwise substantially degrade water quality, create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.9 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to water quality due to storm water runoff generation are **less than significant** because the proposed mining and reclamation activities would create a minor increase in impervious surfaces associated with processing and storage area. Further any increases in runoff that might occur, would flow into onsite extraction areas. Thus, runoff rates existing at the site will actually be reduced by the project.

Reference: Draft EIR page 4.9-20.

1.8.2 Environmental Effects on Groundwater

Impact 4.9.2 Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.9 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to groundwater supplies and recharge are **less than significant** because the proposed mining and reclamation activities are not expected to adversely impact the quantity of groundwater available within the region. The proposed project will result in a minimal amount of impervious surfaces, and will therefore have no impact on recharge rates. [Is all the water being used recycled or is it actually pumped from the ground? Needs clarification. 50,000 gallons of water per day doesn't seem less than significant.] spraying/evaporation from ponds

Reference: Draft EIR pages 4.9-19 through 4.9-20.

1.8.3 Exposure of Structures and Facilities to Flood Hazards and Potential Damage

Impact 4.9.4 Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation. This impact is considered to be **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.9 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to structures within a 100-year floodplain are **less than significant** because the proposed project will not place housing or similar permanent structures within the 100-year floodplain.

Reference: Draft EIR pages 4.9-23 through 4.9-24.

1.8.4 Placement of Structure within a Flood Hazard Area

Impact 4.9.5 Place within a 100-year flood hazard area structures which would impede or redirect flood flows. This impact is considered to be a **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.9 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to structures within a flood hazard area are **less than significant** because the proposed levee construction would have a 0.1 foot rise during 100-year flood events. This rise in flood level is negligible.

Reference: Draft EIR page 4.9-24.

1.9 Visual Resources/Aesthetics

1.9.1 Scenic Vistas

Impact 4.10.1 The project will impact scenic vistas within the vicinity of the project area. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.10 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts regarding degrading the existing visual character would be **less than significant** because the project site is located approximately 200 feet from the Sacramento River and includes a substantial amount of riparian vegetation, screening viewsheds from the Sacramento River corridor.

Reference: Draft EIR page 4.10-11.

1.9.2 Aesthetic and Visual Resources

Impact 4.10.4 The project could have adverse cumulative effects on aesthetics and visual resources in the area. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.10 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to aesthetics and visual resources are **less than significant** because mitigation measures MM 4.10.2 and MM 4.10.3 would reduce the negative effects of views in the area. Development in the vicinity of the project site would be limited and impacts on the local view shed would be minimal.

Reference: Draft EIR page 4.10-15.

1.10 Public Services and Utilities

1.10.1 Fire Protection

Impact 4.11.1 The project will not substantially increase the demand for fire protection, emergency services, and law enforcement and exceed the current level of services maintained. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.11 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to fire protection is **less than significant** because the project will not exceed the current staffing levels and will not interfere with existing response times.

Reference: Draft EIR page 4.11-14.

1.10.2 Schools

Impact 4.11.2 The project will not increase the number of school aged children and attendance to the Anderson and Cottonwood School Districts. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.11 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to schools is **less than significant** because the project is a non-residential development that does not include more than nine employees. The predicted implementation of the project would result in the addition of less than 10 families.

Reference: Draft EIR pages 4.11-14 through 4.11-15.

1.10.3 Water Service

Impact 4.11.3 The project will not result in an increase demand for water. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.11 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to schools is **less than significant** because the project has adequate groundwater to meet the needs of the project. The project will use approximately 50,000 gallons of water per day, which will be supplied by an existing water supply of wells onsite.

Reference: Draft EIR page 4.11-15.

1.10.4 Wastewater Treatment Facilities

Impact 4.11.4 The project would generate additional demands for wastewater treatment services and disposal that would not exceed the current wastewater treatment systems capacity. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.11 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to wastewater treatment facilities is **less than significant** because the project does not include any wastewater treatment services that would exceed the current wastewater treatment facilities capacity. Pursuant to the Shasta County Environmental Health Division (EHD) the project will be required to install a permanent restroom facility and an on-site sewage disposal system. The sewage disposal system must be constructed, under a permit issued by EHD, in an area of suitable soils that meet the applicable setbacks. This impact is considered **less than significant**. [LS]

Reference: Final EIR page 3.0.13.

1.10.5 Solid Waste

Impact 4.11.5 The project will not generate a significant increase in solid waste and/or the need for disposal services. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.11 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to solid waste facilities is **less than significant** because the project will generate a very low volume of waste (e.g., less than one ton per year) and will not create a need to increase the landfill capacity.

Reference: Draft EIR page 4.11-15.

1.10.6 Electricity and Telephone

Impact 4.11.6 The project would retain services and could increase the demand for electricity and telephone services. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.11 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to electricity and telephone is **less than significant** because the project will use wireless telecommunications. The project would use electricity to power the processing equipment. The electric motors associated with the processing equipment total 1,382 horsepower. (Draft EIR page 4.11-7) PG&E has indicated that it can supply power to the project without reducing power supply elsewhere in the service area. In an effort to reduce greenhouse gas emissions to avoid wasting energy, the project will use biodiesel fuel (as opposed to regular diesel fuel) for on-site loading and haul equipment.

Reference: Draft EIR page 4.11-16.

1.11 Hazards and Hazardous Materials

1.11.1 Hazardous Materials

Impact 4.12.6 Hazardous material usage in the vicinity would mainly be limited to the project site. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.12 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to the vicinity from hazardous material usage is **less than significant** because the project will comply with standard regulatory requirements.

Reference: Draft EIR page 4.12-33.

1.1.1.2 Cumulative Impacts from Hazardous Materials and/or Hazardous Waste Management

Impact 4.12-7 The project may result in adverse cumulative impacts to both public health and safety from the hazardous materials and/or hazardous waste management activities onsite. This impact is considered **less than significant**.

Mitigation Measures: None required.

Finding: Under CEQA, no mitigation measures are required for impacts that are less than significant. (Pub. Resources Code, Section 21002; CEQA Guidelines, Sections 15126.4, subd. (a)(3), 15091.)

Explanation: Based on the analysis presented in Section 4.12 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts to public health and safety from hazardous materials is **less than significant** because the project will be required to adhere to all local, state and federal laws and regulations.

Reference: Draft EIR page 4.12-33.

2. Findings Associated with Significant, Potentially Significant, Impacts which can be Mitigated to a Less Than Significant Level

The County of Shasta (County) hereby adopts and makes the following findings relating to its approval of the Shasta Ranch Mining and Reclamation Plan project. Having received, reviewed, and considered the entire record, both written and oral, relating to the Shasta Ranch Mining and Reclamation Plan project and associated Draft and Final Environmental Impact Report, the County makes the following findings associated with potentially significant impacts which can be mitigated to a less than significant level through: 1) adoption of the mitigation measures identified in the Final EIR, and 2) implementation of General Plan policies identified in the Final EIR:

1.2 Transportation and Circulation

1.2.1 Roadways

- Impact 4.3.1** The project may cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system or the project may exceed, a level of service standard established by the county (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, congestion at intersections or the level of service). This impact is considered **potentially significant, therefore subject to mitigation**.

Mitigation Measures:

MM 4.3.1 When school is in session, the quarry shall not permit haul trucks to enter or leave the facility until after 8:30 a.m.

Timing/Implementation: The improvement shall be implemented prior to operation of trucks on the study roadway segments.

Enforcement/Monitoring: Shasta County is responsible for ensuring implementation of the identified mitigation measure.

Explanation: Based on the analysis presented in Section 4.3 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with increase of traffic are less than significant because the existing roadways serving the project site were developed prior to the County's current design standards for lane widths. The existing level of service on the roadways in the traffic study area are adequate (See Table 4.3-10, DEIR) and remain adequate even under cumulative plus project conditions (See Table 4.3-13, DEIR). Although the project would contribute truck traffic onto adjacent roadways which lack adequate shoulders and have smaller travel lanes than the current Shasta County roadway design standards, the level of service does not change as a result of the project's relatively low number of trips associated with the quarry. Notwithstanding, the concern regarding the safety of school children waiting for school buses in the morning hours when trucks and buses would be required to use the same roads persists. Eliminating trucks from operating before 8:30 a.m. on days that school is in session will alleviate this traffic concern.

Significance After Mitigation: Mitigation Measure MM 4.3.1 would require that haul trucks entering or leaving the quarry not operate in the morning at the same time as the local school buses. As mitigated, this impact is reduced to a **less than significant level**.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.3.1 would require roadways providing access to the project be brought up to current County design standards, thereby reducing Impact 4.3.1 to a **less-than-significant level** as described in the Draft EIR. The County further finds that mitigation measure MM 4.3.1 is a feasible mitigation measure to offset the impact and is, therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.3-34 thru 4.3-35.

1.2.2 Intersections

Impact 4.3.2 The project may cause an intersection that operates acceptably (LOS A, B, or C) to degrade to an unacceptable LOS (D, E, or F) due to the additional traffic from the project. Or if an intersection is already operating

at an unacceptable LOS without the project, the project may cause an increase of 5 or more seconds of control delay due to the addition of project traffic. This impact is considered **potentially significant, therefore subject to mitigation.**

Mitigation Measures:

MM 4.3.2(a) No project traffic may use the Bowman/Interstate 5 north bound off-ramp intersection during the am peak hours of 7:00 am to 9:00 am during Monday through Friday work days until improvements at this intersection have been completed. Once the improvements have been completed, this mitigation is no longer necessary.

Timing/Implementation: Ongoing. The restriction shall remain in place until the improvements to the intersection have been completed.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division

MM 4.3.2(b) The owner, applicant or successor in interest shall contribute a pro-rata share of the improvements at the Bowman/Interstate 5 north bound off-ramp intersection. The pro-rata share shall be determined by the lead agency in conjunction with Tehama County.

Timing/Implementation: Prior to issuance of a permit to operate.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division.

Explanation: Based on the analysis presented in Section 4.3 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with unacceptable levels of service at intersections are less than significant with the exception of Bowman/I-5 interchange. Since no use of this intersection is permitted until identified improvements at the intersection have been made, this impact is less than significant.

Significance After Mitigation: Mitigation measure MM 4.3.2(a) would require no project traffic use the Bowman/Interstate 5 north bound off-ramp intersection during the am peak hours until improvements at this intersection have been completed. Additionally, this Mitigation Measure MM 4.3.2(b) would require the applicant to contribute a pro-rata share of the cost of improvements at the Bowman/Interstate 5 north bound off-ramp intersection.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of

mitigation measures MM 4.3.2(a) and MM 4.3.2(b) would require no project traffic use the Bowman/Interstate 5 north bound off-ramp intersection during the a.m. peak hours until improvements are completed and the applicant will contribute a pro-rata share of the cost of improvements, thereby reducing Impact 4.3.2 to a **less-than-significant** level as described in the Draft EIR. The County further finds that mitigation measures MM 4.3.2(a) and 4.3.2(b) are feasible mitigation measures to offset the impact and are, therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.3-35 through 4.3-36.

1.2.3 Freeway

Impact 4.3.3 The project may cause a freeway ramp that is operating at an acceptable level (LOS A, B, or C) to deteriorate to an unacceptable level (LOS D, E, or F) due to the addition of project traffic. Or project traffic may increase traffic at a freeway ramp already operating at an unacceptable level 10 or more passenger car equivalents (PCE's). This impact is considered **potential significant, therefore subject to mitigation.**

Mitigation Measures:

MM 4.3.3 The owner, applicant or successor shall enter into an agreement with the City of Anderson to contribute a pro-rata share for the cost of improvements at both the Deschutes Road and Interstate 5 intersections. The pro-rata share shall be determined by the lead agency in conjunction with the City of Anderson.

Timing/Implementation: Prior to issuance of a permit to operate.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division.

Explanation: Based on the analysis presented in Section 4.3 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with unacceptable levels of service at the Interstate 5 freeway ramp are less than significant because merge-diverge conditions at north bound Interstate 5 and Deschutes Road will remain unacceptable during pm peak hour, but will be largely unaffected by the project since it would not significantly contribute to peak hour traffic. Nevertheless, this mitigation measure requires the owner/applicant of the project to enter into an agreement with the City of Anderson to pay the project's fair share of improvements at the I-5 and Deschutes intersection. The City of Anderson amended its municipal code to include a traffic mitigation fee for each equivalent dwelling unit ("EDU") to fund improvements to the interchange on December 20, 2005. The interchange project has defined improvements and will be fully funded by the time construction is expected to commence in the fall of 2007. The EDU allows the City to convert the traffic from any land use, residential or non-residential, into a single-family

equivalent. This is usually done using the Institute for Traffic Engineers (ITE) manual. In the EIR, Fehr and Peers shows the number of trips associated with the project in Table 4.3-9 as 168 trips per day. Typically 10 trips per day are assumed for a single-family unit. Thus, $168/10=16.8$ or 17 'equivalent' single-family units. Based on the City's ordinance, the project's pro rata share would be around \$23,239 ($17 \times \$1,367$).

Significance After Mitigation: Mitigation measure MM 4.3.3 would require the applicant contribute a pro-rata share for the cost of improvements at both the Deschutes Road and Interstate 5 intersections. The City of Anderson will have collected all fees for the proposed improvements; construction is set to commence in the fall of 2007.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.3.3 would require the applicant to contribute a pro-rata share for the cost of improvements at both the Deschutes Road and Interstate 5 intersections, thereby reducing Impact 4.3.3 to a **less-than-significant** level as described in the Draft EIR. The County further finds that mitigation measure MM 4.3.3 is a feasible mitigation measure to offset the impact and is, therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR page 4.3-37.

1.2.4 Cumulative Impacts - Interchanges

Impact 4.3.7 The project traffic may cause a freeway ramp that is operating at an acceptable level (LOS A, B, or C) to deteriorate to an unacceptable level (LOS D, E, or F) under cumulative plus project conditions. Or project traffic may increase traffic at a freeway ramp predicted to operate at an unacceptable level of service during cumulative plus project conditions, by adding 10 or more passenger car equivalents (PCE's). This impact is considered **potentially significant, therefore subject to mitigation**.

Mitigation Measures: Apply MM 4.3.3

Explanation: Based on the analysis presented in Section 4.3 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with unacceptable levels of service at the Interstate 5 freeway ramp are less than significant because merge-diverge conditions at north bound Interstate 5 and Deschutes Road will remain unacceptable during pm peak hour, but will be largely unaffected by the project.

Significance After Mitigation: Mitigation Measure MM 4.3.3 would require the applicant contribute a pro-rata share for the cost of improvements at both the Deschutes Road and Interstate 5 intersections. The City of Anderson has collected fees for the proposed improvements. See the explanation of Mitigation Measure MM 4.3.3 for further details.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.3.3 that requires participation in the zone of benefit for the Deschutes Road/Interstate 5 roundabouts contemplated by the City of Anderson. Upon completion, the roundabouts are designed to ensure an adequate level of service under cumulative plus project conditions, thereby reduce Impact 4.3.7 to a **less than significant** level as described in the Draft EIR. The County further finds that mitigation measure MM 4.3.3 is a feasible mitigation measure to offset the impact and is, therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program, contained in Section 4.0 of the Final EIR.

Reference: Draft EIR pages 4.3.37 and 4.3-39.

1.3 Air Quality

1.3.1 Construction-related Emissions

Impact 4.4.1 Estimated increases in onsite short-term construction-related emissions of NO_x, and PM₁₀ would exceed applicable thresholds. This impact is considered **potentially significant, therefore subject to mitigation.**

Mitigation Measures:

MM 4.4.1(a): The applicant shall submit a construction dust mitigation plan to the AQMD for review and approval. The plan shall be deemed adequate and approved by the AQMD for mitigating onsite emissions of fugitive PM₁₀ before implementation of the proposed project. This plan shall specify the methods used to control dust and particulate matter, demonstrate the availability of needed equipment and personnel, and identify a responsible individual who can authorize the implementation of additional measures, if needed. Dust control measures shall include County-recommended Best Available Mitigation Measures (BAMM), including, but not limited to, the following:

1. All disturbed areas, including storage piles, that are not being actively used shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, or vegetative ground cover.
2. Alternatives to open burning of vegetative material on the project site shall be used by the project applicant unless otherwise deemed infeasible by the AQMD. Suitable alternatives include chipping, mulching, or conversion to biomass fuel.
3. The applicant shall be responsible for ensuring that all adequate dust control measures are implemented in a timely and effective manner during all phases of project development and construction.

4. All material excavated, stockpiled, or graded shall be sufficiently watered to prevent fugitive dust from leaving property boundaries and causing a public nuisance or a violation of an ambient air standard. Watering shall occur at least twice daily with complete site coverage, preferably in the mid-morning and after work is completed each day.
5. All onsite unpaved roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
6. Onsite vehicle speeds on unpaved surfaces shall be limited to 15 mph.
7. All land clearing, grading, earth moving or excavation activities on the project site shall be suspended when winds are expected to exceed 20 miles per hour.
8. All inactive portions of the development site shall be seeded and watered until a suitable grass cover is established. Seeding shall be with an approved native seed mix.
9. The applicant shall be responsible for applying Department of Public Works approved non-toxic soil stabilizers (according to manufacturers' specifications) to all inactive construction areas (previously graded areas which remain inactive for 96 hours), in accordance with the Shasta County Grading Ordinance.
10. When materials are transported offsite, all material shall be covered and effectively wetted to limit visible dust emissions, or at least 6 inches of freeboard space from the top of the container shall be maintained.
11. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at least once every 24 hours when operations are occurring.
12. The site access road shall be paved prior to conducting other onsite construction activities (e.g., grading of the processing area, construction of equipment footings, equipment installation).

Timing/Implementation: Prior to and during construction

Enforcement/Monitoring: Shasta County AQMD and Department of Resource Management

MM 4.4.1(b): To reduce short-term emissions from onsite mobile source construction equipment, (e.g., NO_x and PM₁₀), the applicant shall implement the following mitigation measures:

1. Idling time for all diesel-powered equipment shall be limited to no more than 5 minutes when not in use.

2. Heavy-duty (>50 horsepower) off-road vehicles to be used in the initial construction process, including owned, leased and subcontractor vehicles, shall achieve a minimum fleet-average 45 percent particulate reduction, compared to the most current ARB fleet average at the time of construction. Acceptable options for reducing emissions may include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and/or other options as they become available.
3. Onsite truck and equipment engines shall be maintained in good running condition, in accordance with manufacturer's specifications. Maintenance records demonstrating compliance shall be kept onsite by the applicant and shall be made available to AQMD upon request.

Timing/Implementation: Prior to and during construction operations

Enforcement/Monitoring: Shasta County AQMD and Department of Resource Management

Explanation: Based on the analysis presented in Section 4.4 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with construction-related emissions of NO_x and PM₁₀ would exceed applicable thresholds. These construction related activities are considered short-term during site preparation, when greater soil disturbance and the use of large diesel-powered mobile equipment. Initial construction-generated emissions of PM₁₀ would exceed the AQMD's recommended Level B significance threshold.

Significance After Mitigation: Mitigation measures MM 4.4-1(a) and MM 4.4.1(b) would require the applicant to apply Best Available Mitigation Measures (BAMM) and mitigation measures for reduction of short-term emissions from onsite mobile source construction equipment.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.4.1(a) and MM 4.4.1(b) that require the application of BAMMs and mitigation measures to reduce short-term emissions from onsite mobile source construction equipment, would thereby reduce Impact 4.4.1 to a **less than significant** level as described in the Draft EIR. The County further finds that mitigation measure MM 4.4.1(a) and MM 4.4.1(b) are feasible mitigation measures to offset the impact and are therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.4-21 through 4.4-22; General Plan Air Quality Element, pages 6.5.01 through 6.5.15.

1.3.2 On-Site Emissions

Impact 4.4.2 Operation of the proposed project would result in emissions of NO_x and PM₁₀ that would exceed applicable thresholds. This impact is considered **potentially significant subject to mitigation.**

Mitigation Measures:

The following mitigation measure shall be implemented to reduce onsite PM₁₀ emissions from fugitive sources:

MM 4.4.2(a): The applicant shall develop and implement a fugitive dust control plan (FDCP) for purpose of reducing project-related fugitive dust emissions associated with the long-term operation of the proposed project. At a minimum, the FDCP shall include those measures identified in Mitigation Measure 4.4-1(a), and shall be submitted to and approved by the AQMD before implementation of the proposed project.

Timing/Implementation: Prior to project implementation

Enforcement/Monitoring: Shasta County AQMD and Department of Resource Management

The following mitigation measures shall be implemented to reduce onsite mobile-source emissions from off-road equipment:

MM 4.4.2(b): Heavy-duty (>50 horsepower) off-road vehicles to be used at this facility, including owned, leased and subcontractor vehicles, shall achieve a minimum fleet-average 20 percent NO_x reduction, compared to the most current ARB fleet average at the time of construction. Acceptable options for reducing emissions may include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and/or other options as they become available.

Timing/Implementation: During mining operational period

Enforcement/Monitoring: Shasta County Department of Resource Management

MM 4.4.2(c): Off-road and on-road vehicles, including owned, leased and subcontractor vehicles, shall comply with all applicable rules and regulations, including applicable diesel-risk reduction program rules and air toxic control measures (ATCMs) for diesel particulate matter. The ARB is currently in the process of adopting rules pertaining to the use of off-highway and on-highway vehicles, including those used in the mining industry. These rules are anticipated to establish emission standards for new engines and to require the use of best-available control technologies, which includes use of alternative diesel fuels or retrofit technologies such as diesel oxidation catalysts or diesel particulate filters. In the event these rules are not in effect at the time the project is implemented, off-road and on-road vehicles, including owned, leased and subcontractor vehicles shall be equipped with applicable ARB-certified diesel PM reduction

technologies, including but not limited to diesel oxidation catalysts, diesel particulate filters, or use alternative diesel fuels. Prior to operation, the AQMD shall be consulted to determine applicable control measures to be implemented.

Timing/Implementation: During mining operational period

Enforcement/Monitoring: Shasta County Department of Resource Management.

MM 4.4.2(d): Off-road and on- road vehicles, including owned, leased and subcontractor vehicles, shall use the lowest sulfur-content fuel available.

Timing/Implementation: During mining operational period

Enforcement/Monitoring: Shasta County Department of Resource Management.

MM 4.4.2(e): The applicant shall comply with all AQMD rules and regulations, including AQMD Rule 2-1, New Source Review. Rule 2-1 requires, in part, that the applicant comply with measures to reduce operational emissions of PM₁₀, including but not limited to, the installation of spray bars on screens and transfer points. Rule 2-1 also requires the applicant to provide offsets for any increase in cumulative emissions, including emissions of NO_x and PM₁₀, associated with the operation of any new or modified emission sources that exceed 25 tons per year (137 lbs/day equivalent) (AQMD 2006).

Based on the analysis conducted for this project, annual emissions offsets to be provided by the applicant would total approximately 25.4 tons of NO_x and 3.4 tons of PM₁₀. Based on discussions with the AQMD, emission offsets may be obtained by purchase of emission credits or through implementation of AQMD-approved emission reduction measures.

Timing/Implementation: Prior to mining operations

Enforcement/Monitoring: Shasta County AQMD and Department of Resource Management

Explanation: Based on the analysis presented in Section 4.4 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with long-term increases in regional criteria pollutants and ozone precursors attributable to the project would be associated primarily with the onsite generation of fugitive dust as a result of material handling and onsite operation of stationary sources of emissions. To reduce project-generated emissions, the use of onsite diesel powered electrical generators will not be required instead, onsite equipment proposed as part of the project would be connected to the local electrical power grid. In addition, the site access road will be paved to reduce fugitive dust emissions.

Significance After Mitigation: Mitigation measures MM 4.4-2(a) through MM 4.4-2(e) would result in substantial reductions in project-generated PM₁₀. In accordance with

Shasta County General Plan, emissions offsets would be required prior to issuance of a permit to operate from the Air Quality Management District (AQMD).

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.4.2(a) through MM 4.4.2(e) requires emission offsets be required prior to issuance of a permit to operate from the AQMD, thereby reducing Impact 4.4.2 to a **less than significant** level as described in the Draft EIR. The County further finds that mitigation measures MM 4.4.2(a) through MM 4.4.2(e) are feasible mitigation measures to offset the impact and are, therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.4-24 through 4.4-31; General Plan Air Quality Element, pages 6.5.01 through 6.5.15.

1.3.3 Particulate Deposition on Agricultural Crops

Impact 4.4.5 Project related activities would result in particulate deposition on nearby agricultural crops. The accumulation of dust on the leaves of nearby agricultural plants and orchards may result in reduced crop yields associated with decreased rates of plant photosynthesis and may affect the health of nearby sensitive plant species. This impact is considered **potentially significant subject to mitigation.**

Mitigation Measures: Apply MM 4.4.1(a) and MM 4.4.2(a)

Explanation: Based upon the analysis presented in Section 4.4 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that emissions of fugitive dust generated during mining may result in the transmission of dust to nearby agricultural crops and orchards. The nearest areas currently under agricultural production include orchards adjacent to and south (downwind) of the Phase 2 mining area. The accumulation of dust on the leaves of nearby agricultural plants may result in reduced crop yields associated with decreased rates of plant photosynthesis.

Significance After Mitigation: Mitigation measures MM 4.4.1(a) through MM 4.4.2(a) would result in substantial reductions in project-generated PM₁₀. The applicant is required to develop and implement a fugitive dust control plan which includes mitigation measures outlined in MM 4.4.1(a).

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.4.1(a) through MM 4.4.2(a) would require a fugitive dust control plan that would reduce long-term particulate deposition on nearby agricultural

crops, thereby reducing Impact 4.4.2 to a **less than significant** level as described in the Draft EIR. The County further finds that mitigation measure MM 4.4.1(a) through MM 4.4.2(a) are feasible mitigation measures to offset the impact and are, therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.4-35 through 4.4-36; General Plan Air Quality Element, pages 6.5.01 through 6.5.15.

1.3.4 Crystalline Silica

Impact 4.4.9 Future mining activities may expose sensitive receptors to airborne concentrations of crystalline silica. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measures:

MM 4.4.9 If a crystalline silica risk value is adopted by ARB during the life of the project, the applicant shall comply with the AB 2588 facility prioritization and health risk assessment requirements. In accordance with AQMD requirements implementation of mitigation measures would be required to ensure that health risks to sensitive receptors remain within established acceptable levels of risk.

Timing/Implementation: During mining operational period

Enforcement/Monitoring: Shasta County AQMD and Department of Resource Management

Explanation: Based on the analysis presented in Section 4.4 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the mining activities may result in emissions of crystalline silica. Because mining can occur in close proximity to nearby residences, increased concentrations of crystalline silica at these residences could occur.

Significance After Mitigation: Mitigation measure MM 4.4-9 would result in substantial reductions in health risks due to crystalline silica. Implementation of this mitigation measure would reduce this level to less than significant.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.4.9 would ensure that associated health effects on nearby sensitive receptors remain at or below established standards for acceptable risk. The County further finds that mitigation measure MM 4.4.9 is a feasible mitigation measures to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.4-43 thru 4.4-44; General Plan Air Quality Element pages 6.5.01 through 6.5.15.

1.4 Biological Resources

1.4.1 Indirect Impacts - Jurisdictional Wetlands

Impact 4.5.4 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in indirect impacts to federally-protected jurisdictional wetlands and other waters of the United States. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measure:

MM 4.5.4 The following measures shall be implemented to reduce the indirect impacts to waters of the United States:

1. Silt fencing or straw bale siltation barriers shall be installed between all waters of the United States and the construction area.
2. Initial site grading and levee construction shall be conducted during the dry summer months (June 15 through October 15).
3. Hydromulch and/or hydroseed (using native plant species) will be applied to all soil stockpiles to minimize wind and water erosion.
4. Disturbed soil, including roads, shall be watered frequently to prevent dust emissions.
5. Fueling and maintenance of construction equipment shall occur only at the processing facility to reduce the area of potential fuel spills, lubricant spills, etc.
6. Spill containment materials shall be kept on site at all times to contain any accidental spill.
7. The design of the aggregate haul roads and pond levees shall be sloped toward the pond areas to prevent storm water runoff from leaving the site and flood waters from entering the ponds.
8. Work conducted within jurisdictional waters would be limited to the summer dry months, June 15 through October 15.
9. Additional mitigation measures may be implemented as conditions of the Water Quality 401 Certification issued by the Central Valley Regional Water Quality Control Board and/or the Section 1602 Streambed Alteration Agreement issued by the California Department of Fish and Game.

Timing/Implementation: Prior to initiating construction and ongoing throughout construction for each phase.

Enforcement/Monitoring: U.S. Army Corps of Engineers.

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the construction and operation of the project could result in indirect impacts to waters of the U.S. within and adjacent to the project site. Project indirect effects could result from modification of local hydrology and degradation of water quality through operation and construction activities.

Significance After Mitigation: Implementation of mitigation measure MM 4.5.4 would reduce indirect impacts to waters of the U.S. thru measures designed to reduce impacts within 50 feet of waters of the U.S.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.5.4 would ensure that measures are implemented to reduce the indirect impacts to waters of the U.S. to a **less than significant** level as described in the Draft EIR. The County further finds that mitigation measure MM 4.5.4 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-46 thru 4.4-47; Final EIR pages 3.0-5 and A-7 and A-8 in Section 3.0-A Revised Figures, General Plan Fish and Wildlife Element pages 6.7.08 and 6.7.09.

1.4.2 Direct and Indirect Impacts – Fox Sedge

Impact 4.5.5 Implementation of the Shasta Ranch Mining and Reclamation Plan will result in direct and indirect impacts to fox sedge. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measure:

MM 4.5.5 Preconstruction surveys for fox sedge shall be conducted, prior to construction of each phase. The survey shall be conducted the same year that construction is anticipated. If special-status plant species cannot be avoided during construction, the CDFG shall be contacted immediately and determine the appropriate salvage and relocation measures. Special-status plant species populations that can be avoided shall be protected with exclusionary fencing to prohibit disturbance.

Timing/Implementation: Prior to implementing construction

Enforcement/Monitoring: Shasta County

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that one non-listed special-status plant species, fox sedge, is known to occur in the study area. Fuel and oil spills may occur and these materials may be toxic to this species.

Significance After Mitigation: Implementation of mitigation measure MM 4.5.5 would reduce impacts to fox sedge to a less than significant level through avoidance, or salvage and relocation measures, or use of exclusionary fencing.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.5.5 requiring avoidance or relocation measures for the fox sedge or use of exclusionary fencing. This measure would reduce impact 4.5.5 to a **less than significant** level as described in the Draft EIR. The County further finds that mitigation measure MM 4.5.5 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR page 4.5-44; Final EIR pages 3.0-5 through 3.0-7 and A-7 in Section 3.0-A Revised Figures, General Plan Fish and Wildlife Element pages 6.7.08 and 6.7.09.

1.4.3 Direct and Indirect Impacts – Federal and State-listed endangered species

Impact 4.5.6 Implementation of the Shasta Ranch Mining and Reclamation Plan will result in the direct loss of, or indirect impacts, to federal and state-listed endangered Sacramento River winter-run ESU Chinook salmon and threatened Central Valley spring-run ESU Chinook salmon; federal-listed threatened Central Valley ESU steelhead and/or their designated critical habitat; and federal-listed as threatened green sturgeon. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measure: Apply MM 4.9.3 (a-c)

MM 4.5.6(a): In the event that flood events exceed the 50-year (Phases 1, 2 and 3) design flood capacities of the proposed quarry levees, a qualified fishery biologist shall be retained to conduct site surveys to quantify the extent of anadromous fish stranding that may occur. Fish shall be salvaged and returned to the Sacramento River to the extent practicable using fish collection and handling protocols approved by the California Department of Fish and Game and National Marine Fisheries Service.

Timing/Implementation: During project operation and in perpetuity.

Enforcement/Monitoring: Shasta County

MM 4.5.6(b): The design of the Phase 2 and Phase 3 quarry ponds shall include a controllable drainage system that allows any juvenile salmonids that may

enter the ponds during floods exceeding the 50-year recurrence level to be passively returned to the Sacramento River.

Timing/Implementation: To be implemented during project operation and maintained in good operation for perpetuity.

Enforcement/Monitoring: Shasta County

MM 4.5.6(c) Grading of the restored Phase 1 quarry shall avoid creating pits or swales and insure that slopes and contours drain to the Sacramento River in order to prevent stranding of fish species during high flow events. Further, mitigation measure MM 4.9-3 (a-c) shall be implemented to reduce the potential for impacts to spawning gravels and aquatic invertebrates as a result of erosion and sedimentation.

Timing/Implementation: During reclamation activities.

Enforcement/Monitoring: Shasta County and National Marine Fisheries Service.

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project could result in discharge sediment to the Sacramento River and Anderson Creek. Sediment discharge to the river may cover spawning gravel and negatively affect aquatic invertebrates. Fish exclusion levees to prevent river channel migration, gravel pit entrainment and fish stranding in gravel pits at river flows would prevent entrainment and stranding in quarry ponds except during extreme flood events exceeding the 50-year flood recurrence level.

Significance After Mitigation: Implementation of mitigation measures MM 4.5.6(a) through MM 4.5.6(c), and MM 4.9.3 (a-c) would reduce impacts to species of special concern through salvage of fish and their return to the Sacramento River. Grading shall avoid impacting spawning gravels.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.5.6(a) through MM 4.5.6(c) requires design of quarry ponds with a controllable drainage system, retention of qualified biologist to analyze stranding and salvage of fish in the event that flood events exceed the 50-year design flood capacities of the proposed quarry levees. These measures will reduce Impact 4.5.6 to a **less than significant** level as described in the Draft EIR and Final EIR. The County further finds that mitigation measures MM 4.5.6(a) through MM 4.5.6(c) are feasible mitigation measures to offset the impact and are therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-47 through 4.5-49; Final EIR pages 3.0-10 through 3.0-12 and pages A-1 through A-4 in the Section 3.0-A Revised Figures.

1.4.4 Direct and Indirect Impacts – California Species of Special Concern

Impact 4.5.7 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in direct and indirect impacts to the California Species of Special Concern: Central Valley fall/late-fall run ESU Chinook salmon, Sacramento splittail, and river lamprey. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measure: Apply MM 4.5.6(a) through MM 4.5.6(c)

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project could result in discharge sediment into the Sacramento River and Anderson Creek. Sediment discharge to the river may cover spawning gravel and negatively affect aquatic invertebrates. Fish exclusion levees to prevent river channel migration, gravel pit entrainment and fish stranding in gravel pits at river flows would not prevent entrainment and stranding in quarry ponds except during extreme flood events exceeding the 50-year flood recurrence level.

Significance After Mitigation: Implementation of mitigation measures MM 4.5.6(a) through MM 4.5.6(c), and MM 4.9.3 (a-c) would reduce impacts to species of special concern through salvage of fish and their return to the Sacramento River. Grading shall avoid impacting spawning gravels.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.5.6(a) through MM 4.5.6(c) would ensure that impacts to California Species of Special Concern is less than significant. These measures would reduce Impact 4.5.7 to a **less than significant** level as described in the Draft EIR. The County further finds that mitigation measures MM 4.5.6(a) through MM 4.5.6(c) are feasible mitigation measures to offset the impact and are therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-49 through 4.5-50; Final EIR page 3.05- through 3.0-7 and A-7 and A-8 Section 3.0-A Revised Figures; General Plan Fish and Wildlife Element pages 6.7.08 and 6.7.09.

1.4.5 Direct and Indirect Impacts – Valley Elderberry Longhorn Beetle

Impact 4.5.8 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in direct and/or indirect impacts to the federally listed valley elderberry longhorn beetle. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measure:

MM 4.5.8

In order to avoid and/or minimize the impacts to federally listed valley elderberry longhorn beetle, the following measures shall be implemented:

1. Prior to the start of construction activities in the project area, exclusionary fencing shall be erected around all elderberry shrubs within 100 feet of the project construction areas (e.g., roads, levees). Fencing shall be erected a minimum of 20 feet from the dripline (core avoidance area) of each elderberry shrub. In areas where encroachment within 100 feet of an elderberry shrub is necessary to complete construction activities, approval from the USFWS must be received. The exclusionary fencing shall be periodically inspected throughout each period of construction and be repaired as necessary. Signs shall be erected every 50 feet along the avoidance area that state the following: "This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment." The signs should be readily visible and must be maintained for the duration of construction and mining operations.
2. Prior to construction, a Worker Environmental Awareness Program for construction workers and miners shall be conducted by a qualified biologist. The program shall provide all workers with information on their responsibilities with regard to sensitive biological resources, specifically the status of the federally threatened VELB and the need to protect its elderberry host plant.
3. All initial construction-related disturbances in buffer areas shall be minimized, and any damaged area shall be promptly restored after construction.
4. All construction personnel shall be excluded from core avoidance areas before, during, and after construction.
5. The Project Engineer shall oversee the construction by the subcontractors, to ensure that the required mitigation measures are being properly implemented (i.e., placement of the temporary exclusionary fencing, monitoring of construction-related activities within the 20-foot buffer area, protection of existing habitat).
6. The USFWS shall be provided with a map and written details identifying the avoidance areas.
7. Should complete avoidance of elderberry shrub buffer zones and core avoidance areas be impossible, the Applicant shall immediately halt construction and consult with the USFWS for further mitigation measures. Construction will continue upon receipt of written authorization from USFWS to proceed.
8. The following additional mitigation measures are identified in the event that intentional/unintentional damage (due to project construction

activities) occurs to any qualifying elderberry plant. These include the following:

- a. Any damage to the buffer area during construction shall be restored following construction. Restoration shall include erosion control and re-vegetation with appropriate native plants as appropriate.
- b. Continue to protect the buffer areas from adverse effects following construction. These measures may include fencing, signs, weeding, and trash removal as appropriate.
- c. No insecticides, herbicides, fertilizers, or other chemicals that might harm the beetle or its host plant shall be used within the buffer areas, or within 100 feet of any elderberry plant with one or more stems measuring 1 inch or greater in diameter at ground level.
- d. Mowing of grasses and other ground cover may occur from July through April to reduce fire hazard. No mowing shall occur within 5 feet of elderberry stems. Mowing must be done in a manner that avoids damaging plants (e.g., stripping away bark by mowing/trimming equipment).
- e. The Applicant shall provide the USFWS with a brief written description of how the core and buffer avoidance areas are to be restored, protected, and maintained after construction is completed.

Timing/Implementation: Prior to any ground disturbance within 100 feet of elderberry shrubs.

Enforcement/Monitoring: U.S. Fish and Wildlife Service

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project may have indirect impacts to elderberry shrubs as a result of the proximity of four shrubs to the Phase 1 levee and spur dike.

Significance After Mitigation: Implementation of mitigation measure MM 4.5.8 would reduce impacts to valley elderberry longhorn beetle to a less than significant level through exclusionary fencing, exclusion from core avoidance areas, and measures for restoration protection and maintenance of core and buffer avoidance areas.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of

mitigation measure MM 4.5.8 would ensure that impacts to the federally listed valley elderberry longhorn beetle is avoided by exclusionary fencing, exclusion from core avoidance areas, and measures for restoration damage and thereby reduce impact 4.5.8 to a **less than significant** level. The County further finds that mitigation measure MM 4.5.8 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-50 through 4.5-51; General Plan Fish and Wildlife Element pages 6.7.08 and 6.7.

1.4.6 Direct and Indirect Impacts – Bald Eagle

Impact 4.5.9 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in direct or indirect impacts to the bald eagle. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measure:

MM 4.5.9 In order to avoid and/or minimize the impacts to the habitat of bald eagles, the following measures shall be implemented during construction activities:

1. Initial grading and levee construction activities shall be scheduled to avoid the nesting season (February 15 through September 30) to the extent possible.
2. If vegetation is to be removed by the Project and all necessary approvals have been obtained, potential nesting substrate (e.g. trees) that will be removed by the Project may be removed between October 1 and February 14 (i.e., outside the nesting season) to ensure that active bald eagle nest trees are not removed as a result of construction activities.
3. The project proponent shall retain a qualified biologist to conduct a minimum of one survey for nesting eagles in the proposed construction and mining activities area and in a surrounding 500-foot buffer of the area. The survey shall be conducted no more than one week prior to the onset of construction. Active bald eagle nests located within 500 feet of construction activities shall be mapped.
4. If an active nest is found, Section 10 consultation with the USFWS will be required before any construction activities can begin.

Timing/Implementation: Prior to initiating construction activities for each phase

Enforcement/Monitoring: U.S. Fish and Wildlife Service

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project may have indirect impacts to nesting bald eagles due to the proximity of the project to the Sacramento River and the project sites suitable foraging and nesting habitat. Although no eagles were observed during reconnaissance surveys, suitable habitat is present on the site.

Significance After Mitigation: Implementation of mitigation measure MM 4.5.9 would reduce impacts to bald eagles to a less than significant level through avoidance and minimizing measures during the nesting season and the requirement of a survey for nesting eagles.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.5.9 would ensure that impacts to direct or indirect impacts to bald eagle habitat is minimized by avoidance of nesting season and a survey to determine site nesting eagles. These measures will reduce Impact 4.5.9 to a **less than significant** level. The County further finds that mitigation measure MM 4.5.9 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-50 through 4.5-5; General Plan Fish and Wildlife Element pages 6.7.08 and 6.7.

1.4.7 Direct and Indirect Impacts – California red-legged frog

Impact 4.5.10 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in direct or indirect impacts to the California red-legged frog. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measure:

MM 4.5.10 A California red-legged frog habitat assessment shall be conducted in accordance with guidelines provided by the USFWS (U.S. Fish and Wildlife Service 2005). This assessment shall be submitted to the USFWS who will make a determination as to whether protocol-level surveys will be required. If surveys are required by the USFWS, the applicant shall retain a qualified biologist to complete red-legged frog surveys per the USFWS protocol (U.S. Fish and Wildlife Service 2005). If it is determined that red-legged frogs may occur on the site, formal Section 10 consultation with the USFWS will be required to determine the mitigation measures that will be required. These measures will include, but are not limited to, the following:

1. Only USFWS-approved biologists will participate in activities associated with the capture, handling, and monitoring of California red-legged

frogs.

2. Ground disturbance will not begin until written approval is received from the USFWS that the biologist is qualified to conduct work.
3. A USFWS-approved biologist will survey the project site 48 hours before the onset of work activities. If any life stage of the California red-legged frog is found and these individuals are likely to be killed or injured by work activities, the approved biologist will be allowed sufficient time to move them from the site before work activities begin. The USFWS-approved biologist will relocate the California red-legged frogs the shortest distance possible to a location that contains suitable habitat and will not be affected by activities associated with the proposed project.
4. Before any activities begin, a USFWS-approved biologist will conduct a training session for all construction personnel. At a minimum, the training will include a description of the California red-legged frog and its habitat, the specific measures that are being implemented to conserve the California red-legged frog, and the boundaries within which the project may be accomplished.
5. Compensatory mitigation for directly impacted California red-legged frog habitat will be provided at a ratio of not less than 1:1.

Timing/Implementation: Prior to initiating construction activities for each phase.

Enforcement/Monitoring: Shasta County

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project could cause impacts to California red-legged frogs during site grading and levee construction. California red-legged frogs might be present almost anywhere in uplands and would be at risk of "take" caused by construction equipment and materials.

Significance After Mitigation: Implementation of mitigation measure MM 4.5.10 would reduce impacts to the California red-legged frog to a less than significant level through habitat assessment, protocol level survey and capture. Handling and monitoring conducted by USFWS approved biologist.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.5.10 would ensure that direct or indirect impacts to the California red-legged frog is minimized by requiring a habitat assessment, possibly protocol level surveys and capture. Handling and monitoring conducted by USFWS approved biologist. This measure will reduce Impact 4.5.10 to a **less than significant** level.

The County further finds that mitigation measure MM 4.5.10 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-53 through 4.5-54; Final EIR page 3.0-7; General Plan Fish and Wildlife Element pages 6.7.08 and 6.7.

1.4.8 Direct and Indirect Impacts – Northwestern pond turtle

Impact 4.5.11 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in direct or indirect impacts to the northwestern pond turtle. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measure:

MM 4.5.11 In order to avoid and/or minimize the impacts to the habitat of northwestern pond turtle, the following measures shall be implemented:

1. Prior to any disturbance in suitable pond turtle habitat, the project proponent shall retain a qualified biologist to survey for pond turtles in the areas to be disturbed. Surveys shall occur in no more than 48 hours prior to the onset of disturbance. Surveys of the area shall be repeated if a lapse in construction activity of two weeks or greater occurs. If the species is detected, individuals shall be relocated to a suitable site within the same drainage by a qualified biologist, and a monitoring biologist will be present during initiation of construction activities to ensure that no turtles are present during the onset of disturbance activities.
2. If a northwestern pond turtle is encountered during construction, activities shall cease until appropriate corrective measures have been implemented or it has been determined that the turtle will not be harmed. Any trapped, injured, or killed northwestern pond turtles shall be reported immediately to the CDFG.

Timing/Implementation: Prior to implementing construction activities for each phase.

Enforcement/Monitoring: Shasta County

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project will impact upland habitat (potential pond turtle aestivation habitat) adjacent to the Sacramento River by grading and levee construction. Further, pond turtles may be impacted indirectly by increased erosion and sedimentation, or accidental fuel leaks/spills.

Significance After Mitigation: Implementation of mitigation measure MM 4.5.11 would reduce impacts to the northwestern pond turtle to a less than significant level through relocation and removal of pond turtles during construction.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.5.11 would ensure that direct or indirect impacts to northwestern pond turtle are minimized by requiring a survey for pond turtles in the areas to be disturbed and the relocation and removal of pond turtles during construction. This measure will reduce Impact 4.5.11 to a **less than significant** level. The County further finds that mitigation measure MM 4.5.11 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-54 through 4.5-55; General Plan Fish and Wildlife Element pages 6.7.08 and 6.7.

1.4.9 Direct and Indirect Impacts – Cooper’s hawks, osprey and white-tailed kites

Impact 4.5.12 Implementation of the Shasta Ranch Mining and Reclamation Plan will result in take of Cooper’s hawks, osprey, and white-tailed kites and/or loss of habitat for these species. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measure:

MM 4.5.12 In order to avoid and/or minimize the impacts to nesting raptors, the following measures shall be implemented:

1. Initial grading and levee construction activities shall be scheduled to avoid the nesting season (February 15 through September 30) to the extent possible.
2. If vegetation is to be removed by the Project and all necessary approvals have been obtained, potential nesting substrate (e.g. trees, shrubs) that will be removed by the Project may be removed between October 1 and February 14 (i.e., outside the nesting season for raptor species) to ensure that active raptor nest trees are not removed as a result of construction activities.
3. The project proponent shall retain a qualified biologist to conduct a minimum of one survey for nesting raptors in the proposed construction and mining activities area and in a surrounding 500-foot buffer of the area. The survey shall be conducted no more than one week prior to the onset of construction. Active raptor nests located within 500 feet of construction activities shall be mapped.

4. If an active nest (a nest containing eggs or young) is found a qualified biologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest. A qualified biologist shall monitor the nest(s) to determine when the young have fledged and submit status reports to the CDFG, as appropriate, throughout the nesting season. An active nest may only be removed after the young have fledged (based on field verification).

Timing/Implementation: Prior to initiating construction activities for each phase.

Enforcement/Monitoring: Shasta County

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project will impact nesting and foraging habitat for the Cooper's hawk, white-tailed kite and osprey. Construction and mining activities during the nesting season may disturb a nesting raptor or destroy an active nest.

Significance After Mitigation: Implementation of mitigation measure MM 4.5.12 would reduce the potential adverse impacts on nesting raptors to less than significant through avoidance of nesting season, conducting a survey for nesting raptors by a qualified biologist, and incorporation of a construction-free zone around any nest, if an active nest is found.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.5.12 would ensure that impacts to direct or indirect impacts to nesting raptors are minimized through avoidance of nesting season, conducting a survey for nesting raptors by a qualified biologist, and incorporation of a construction-free zone around any nest. This measure will reduce Impact 4.5.12 to a **less than significant** level. The County further finds that mitigation measure MM 4.5.12 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-55 through 4.5-56; General Plan Fish and Wildlife Element pages 6.7.08 and 6.7.

1.4.10 Direct and Indirect Impacts – Purple martin, tricolored blackbird, California yellow-warbler, yellow-breasted chat and loggerhead shrike.

Impact 4.5.13 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in direct or indirect impacts to the purple martin, tricolored blackbird, California yellow-warbler, yellow-breasted chat, and loggerhead shrike. This impact is considered **potentially significant**

subject to mitigation.

Mitigation Measure:

MM 4.5.13 In order to avoid and/or minimize the impacts to the purple martin, tricolored blackbird, California yellow-warbler, yellow-breasted chat, and loggerhead shrike, the following measures shall be implemented:

1. Initial grading and other construction activities shall be scheduled to avoid the nesting season (March 1 through September 30) to the extent feasible.
2. If vegetation is to be removed and all necessary approvals have been obtained, potential nesting substrate (e.g. bushes, trees, grass) that will be removed by the Project may be removed between October 1 and February 28 (i.e., outside of the nesting season) to help preclude nesting.
3. A qualified biologist shall be retained to conduct a minimum of one survey for nesting birds within the proposed construction and mining activities area and in a surrounding 250-foot buffer of the area. The survey shall be conducted no more than one week prior to the onset of construction. If no active nests are located, no further mitigation is necessary.
4. If active nests (nests containing eggs or young) are located within 250 feet of construction activities, their location shall be mapped and a qualified biologist, in consultation with CDFG, will determine the extent of a construction-free buffer zone to be established around the nest. Active nests may not be removed until after the young have fledged (based on field verification). A qualified biologist shall monitor the nest to determine when the young have fledged and submit status reports to the CDFG throughout the nesting season.

Timing/Implementation: Prior to initiating construction activities for each phase.

Enforcement/Monitoring: Shasta County

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project could impact suitable nesting and foraging habitat for the purple martin, tricolored blackbird, California yellow-warbler, yellow-breasted chat, and loggerhead shrike. Construction and mining disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment.

Significance After Mitigation: Implementation of mitigation measure MM 4.5.13 would reduce potential adverse impacts on purple martin, tricolored blackbird, California yellow-warbler, yellow-breasted chat, and loggerhead shrike to less than significant through avoidance during nesting season, conduct a survey for nesting raptors by a

qualified biologist, and implementation of a construction-free zone around any active nest that is identified.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.5.13 would ensure that direct or indirect impacts to purple martin, tricolored blackbird, California yellow-warbler, yellow-breasted chat, and loggerhead shrike are minimized to less than significant through avoidance during nesting season, conduct a survey for nesting raptors by a qualified biologist, and implementation of a construction-free zone around any active nest that is identified. This measure will reduce Impact 4.5.13 to a **less than significant** level. The County further finds that mitigation measure MM 4.5.13 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-56 through 4.5-57; General Plan Fish and Wildlife Element pages 6.7.08 and 6.7.

1.4.11 Direct and Indirect Impacts – Pallid bat and Townsend's western big-eared bat

Impact 4.5.14 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in direct or indirect impacts to the pallid bat and Townsend's western big-eared bat. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measure:

MM 4.5.14 In order to avoid and/or minimize the impacts to the pallid bat and Townsend's western big-eared bat, the following measures shall be implemented:

1. A pre-construction survey for roosting bats shall be conducted prior to any removal or disturbance of large trees ≥ 12 inches in diameter at 4.5 feet above grade. The survey will be conducted by a qualified biologist. No activities that would result in disturbance to active roosts of special-status bats shall proceed prior to the completed surveys. If no active roosts are found, then no further action would be warranted. If an active roost is located in a tree not scheduled to be removed, a qualified biologist will determine the extent of a construction-free zone to be implemented around the roost. If either a maternity roost or hibernacula is present and located in a tree scheduled to be removed, the Mitigation Measures detailed below shall be implemented. CDFG shall also be notified of any active nurseries within the construction zone.

2. If an active maternity roost or hibernacula is found in a tree scheduled to be removed, the Project will be redesigned to avoid the loss of the tree if feasible.
3. If an active maternity roost is located and the Project cannot be redesigned to avoid removal of the occupied tree, demolition of that tree should commence before maternity colonies form (i.e., prior to March 1) or after young are volant (flying) (i.e., after July 31). The disturbance-free buffer zone described above should be observed during the maternity roost season (March 1 - July 31).
4. If a non-breeding bat hibernacula is found in a tree scheduled to be removed, the individuals shall be safely evicted, under the direction of a qualified biologist by opening the roosting area to allow air flow through the cavity. Demolition shall then follow no less than the following day (i.e., there will be no less than one night between initial disturbance for air flow and the demolition). This action should allow bats to leave during dark hours, thus increasing their chance of finding new roosts with a minimum of potential predation during daylight. Trees with roosts that need to be removed shall first be disturbed at dusk, just prior to removal that same evening, to allow bats to escape during the darker hours.

Timing/Implementation: Prior to initiating construction activities for each phase.

Enforcement/Monitoring: Shasta County

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project is within the Sacramento River riparian corridor for roosting and/or foraging habitat for bat species. Although no bats were observed during reconnaissance surveys, suitable habitat is present. Noise and visual disturbances associated with construction activities may disrupt bats roosting within or adjacent to the project area.

Significance After Mitigation: Implementation of mitigation measure MM 4.5.14 would reduce potential adverse impacts on the pallid bat and Townsend's western big-eared bat by measures to avoid and minimize impacts to active roosts or hibernating bats by requiring a pre-construction survey for roosting bats, for identification of roosting in trees, and incorporation of a construction free zone around any active nest..

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.5.14 would ensure that impacts to direct or indirect to the pallid bat and Townsend's western big-eared bat are minimized through avoidance of nesting season, a pre-construction survey by a qualified biologist to determine habitat in trees

greater than 12 inches in diameter used for roosting. If active-nests are found, the project will be redesigned to avoid the loss of the tree occupied by a nest, or demolition of the tree outside of the nesting season. This measure will reduce Impact 4.5.14 to a **less than significant** level. The County further finds that mitigation measure MM 4.5.14 is a feasible mitigation measures to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-57 through 4.5-58; General Plan Fish and Wildlife Element pages 6.7.08 and 6.7.

1.4.12 Direct and Indirect Impacts – Ring-tailed cats

Impact 4.5.15 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in direct or indirect impacts to the ringtail cats. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measure:

MM 4.5.15(a) A pre-construction survey for ringtails shall be conducted prior to any removal of trees ≥ 12 inches in diameter at 4.5 feet above grade. The survey will be conducted by a qualified biologist. No activities that would result in disturbance to active dens of ring-tail cats shall proceed prior to completion of the surveys. If no active dens are found, no further action would be warranted.

Timing/Implementation: Prior to initiating construction activities for each phase.

Enforcement/Monitoring: Shasta County

MM 4.5.15(b) If an active ring-tail nest is found, the project will be redesigned to avoid the loss of the tree occupied by the nest if feasible. If the project cannot be redesigned to avoid removal of the occupied tree, demolition of that tree should commence outside of the breeding season (February 1 to August 30). If a non-breeding den is found in a tree scheduled to be razed, the individuals shall be safely evicted under the direction of a qualified biologist. Trees with dens that need to be removed shall first be disturbed at dusk, just prior to removal that same evening, to allow ring-tail cats to escape during the darker hours.

Timing/Implementation: Prior to initiating construction activities for each phase.

Enforcement/Monitoring: Shasta County

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project is within the Sacramento River riparian corridor for ringtail habitat. Removal of large trees with cavities or snags could result in the loss of ringtails.

Significance After Mitigation: Implementation of mitigation measures MM 4.5.15 (a) and (b) would reduce potential adverse impacts on ringtail cats by requiring a survey prior to removal of any tree to determine the presence of active nests. Measures include avoidance of trees or removal of ringtail cats.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.5.15(a) and MM 4.5.15(b) would ensure that impacts to the ringtail cats are minimized by requiring a pre-construction survey by a qualified biologist to determine habitat in trees greater than 12 inches in diameter. If active-nests are found, the project will be redesigned to avoid the loss of the tree occupied by a nest, or if demolition of the tree is done outside of the nesting season. This measure will reduce Impact 4.5.15 to a **less than significant** level. The County further finds that mitigation measures MM 4.5.15(a) and MM 4.5.15(b) are feasible mitigation measures to offset the impact and are therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-58 through 4.5-59; General Plan Fish and Wildlife Element pages 6.7.08 and 6.7.

1.4.13 Invasive plant species

Impact 4.5.19 Implementation of the Shasta Ranch Mining and Reclamation Plan could result in the spread of non-native and invasive plant species. This impact is considered **potentially significant subject to mitigation**.

Mitigation Measures:

MM 4.5.19(a) In order to avoid and/or minimize the potential introduction and/or spread of noxious weeds, the following measures shall be implemented:

1. Use only certified weed-free erosion control materials, mulch, and seed.
2. Preclude the use of rice straw in riparian areas.
3. Limit any import or export of fill to material not known to be weed free.
4. Annual weed monitoring of the project area will be conducted until habitat performance criteria (as detailed in the Reclamation Plan) have been met for two consecutive years. Areas planted with native species will be weeded between the months of April and August using the best available method. Herbicide treatment for invasive species that cannot be eradicated through manual or mechanical removal will be permitted as needed.

Timing/Implementation: Throughout project construction and reclamation.

Enforcement/Monitoring: Shasta County

MM 4.5.19(b) All slopes shall be vegetated with indigenous grasses or plants to minimize surface erosion.

Timing/Implementation: Prior to issuance of the final grading permit, Conditional Use Permit and Reclamation Plan.

Enforcement/Monitoring: Shasta County Department of Resource Management, Environmental Health Division and Planning Division.

Explanation: Based on the analysis presented in Section 4.5 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project could introduce invasive non-native species.

Significance After Mitigation: Implementation of mitigation measures MM 4.5.19(a) and MM 4.5.19(b) would reduce potential adverse impacts from on-native and invasive plant species by application of measures to minimize their introduction and/ or spread.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.5.19(a) and MM 4.5.19(b) would ensure that non-native and invasive plant species would be avoided or minimized by weed erosion control materials and annual weed monitoring of the project site. This measure will reduce Impact 4.5.19 to a **less than significant** level. The County further finds that mitigation measures 4.5.19(a) and MM 4.5.19(b) are feasible mitigation measures to offset the impact and are therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-60 through 4.5-61;

1.5 Cultural Resources

1.5.1 Cultural Site – CA-SHA-779

Impact 4.6.2 Implementation of the proposed project could result in the potential disturbance or destruction of site CA-SHA-779. This is considered a **potentially significant impact, subject to mitigation.**

Mitigation Measure:

MM 4.6.2(a) Ground disturbing project activity should not be conducted within boundaries of site CA-SHA-779. Site preservation (as-is) should be retained through impact avoidance. To ensure site preservation the boundaries of the site and the site area should be flagged by an archaeologist with a 30 ft. buffer accurately located through formal survey. Once the area is flagged and mapped the area should be designated as an impact avoidance zone on project and county development maps.

MM 4.6.2(b) Ground-disturbing project activity should not be conducted within boundaries of sites CA-SHA-779. If ground disturbing activity within boundaries of this site cannot be avoided, one of the following options shall be implemented:

1. An archaeologist meeting the Secretary of Interior's Professional Qualifications Standards in prehistoric archaeology shall be retained to excavate the sites to determine their eligibility for inclusion on the NRHP and the CRHR and recover the data potential of the sites, if appropriate; or
2. An archaeologist meeting the Secretary of Interior's Professional Qualifications Standards in prehistoric archaeology shall be retained to: prepare an inadvertent discovery plan; monitor any ground disturbing activities within site boundaries; and update the records for the sites; or
3. A representative of the Wintu Tribe shall be on-site to monitor all ground disturbing activity within the boundaries of CA-SHA-779. If significant cultural resources are identified during monitoring the protocols presented in the inadvertent discovery plan shall be implemented.

Timing/Implementation: As a condition of project approval, and implemented prior to and during grading, mining and/or construction activities.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division.

Explanation: Based on the analysis presented in Section 4.6 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project may impact site CA-SHA-779 which contains a buried deposit. There is no evidence of substantial prior disturbance or pot hunting on the site, and the existing road through the site appears to have been only lightly graded over the years. Therefore, it may be presumed that virtually all of the original deposit remains intact.

Significance After Mitigation: Implementation of mitigation measures MM 4.6.2(a) and MM 4.6.2(b) would reduce potential adverse impacts on CA-SHA-779 by avoidance and site preservation or non-avoidance and monitoring of any discovery.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.6.2(a) and MM 4.6.2(b) would ensure that CA-SHA-779 is preserved or monitored for any discoveries by an archaeologist. This measure will reduce Impact 4.6.2 to a **less than significant** level. The County further finds that mitigation measures MM 4.6.2(a) and MM 4.6.2(b) are feasible mitigation measures to offset the impact and are therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.5-60 through 4.5-61; Final EIR page 3.0-7 and 3.0-8; General Plan Heritage Resources Element pages 6.10.01 through 6.10.04.

1.5.2 Possible discovery of Prehistoric or historic sites

Impact 4.6.3 Prehistoric or historic sites may be uncovered in the course of any grading, construction or mining activity associated with the project. This will result in a **potentially significant impact, therefore subject to mitigation.**

Mitigation Measure:

MM 4.6.3 If any prehistoric and/or historic resources, or other indications of cultural resources are found once project implementation is underway, all work in the immediate vicinity of the find must stop and the County shall be immediately notified. An archaeologist meeting the Secretary of Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, shall be retained to evaluate the finds and recommend appropriate mitigation measures.

Timing/Implementation: During grading, mining and/or construction activities.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division

Explanation: Based on the analysis presented in Section 4.6 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project may uncover additional cultural resources and cause impacts to unidentified cultural resources.

Significance After Mitigation: Implementation of mitigation measure MM 4.6.3 would reduce potential adverse impacts to unidentified cultural resources by requiring evaluation and recommendation of appropriate mitigation measures, if a cultural resource is discovered during grading or mining activities.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.6.3 would ensure protection of any undiscovered and unidentified cultural resources by consultation with an archeologist on any finds. This measure will reduce Impact 4.6.3 to a **less than significant** level. The County further finds that mitigation measure MM 4.6.3 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.6.11 through 4.6.12; General Plan Heritage Resources pages 6.10.01 through 6.10.04.

1.5.3 Possible discovery of Paleontological Resources

Impact 4.6.4 Paleontological resources may be uncovered in the course of any grading or construction work associated with the project. This will result in a **potentially significant impact, therefore subject to mitigation.**

Mitigation Measure:

MM 4.6.4 If any paleontological resources are found once project implementation is underway, all work in the immediate vicinity of the find must stop and the County shall be immediately notified. A qualified paleontologist (i.e. one with a graduate degree in paleontology, geology, or related field, and having demonstrated experience in the vertebrate, invertebrate, or botanical paleontology of California) shall be retained to evaluate the finds and recommend appropriate mitigation measures.

Timing/Implementation: During grading, mining and/or construction activities.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division

Explanation: Based on the analysis presented in Section 4.6 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project may uncover additional paleontological resources and cause impacts to unidentified resources if paleontological resources are discovered during grading or mining activities.

Significance After Mitigation: Implementation of mitigation measure MM 4.6.4 would reduce potential adverse impacts to unidentified paleontological resources by requiring evaluation and recommendation of appropriate mitigation measures.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant

environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.6.4 would ensure protection of any undiscovered and unidentified paleontological resources. This measure will reduce Impact 4.6.4 to a **less than significant** level. The County further finds that mitigation measure MM 4.6.4 is a feasible mitigation measures to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.6.12 through 4.6.13; General Plan Heritage Resources pages 6.10.01 through 6.10.04.

1.5.4 Possible discovery of human remains

Impact 4.6.5 Human remains may be uncovered in the course of any grading or construction work associated with the project. This will result in a **potentially significant impact, therefore subject to mitigation.**

Mitigation Measure:

MM 4.6.5 If human remains are discovered, all work must stop in the immediate vicinity of the find, and the County Coroner must be notified, according to Section 7050.5 of California's Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Section 15064.5(d) and (e) shall be followed.

Timing/Implementation: During grading, mining and/or construction activities.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division

Explanation: Based on the analysis presented in Section 4.6 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project may uncover human remains in the course of grading or construction work.

Significance After Mitigation: Implementation of mitigation measure MM 4.6.5 would reduce potential adverse impacts to unidentified human remains by requiring cessation of work and consultation with the Native American Heritage Commission.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.6.5 would ensure protection of any undiscovered human remains of Native American heritage by requiring cessation of work and consultation. This measure will reduce Impact 4.6.5 to a **less than significant** level. The County further finds that mitigation measure MM 4.6.5 is a feasible mitigation measure to offset the impact

and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.6.12 through 4.6.13; General Plan Heritage Resources pages 6.10.01 through 6.10.04.

1.6 Noise

1.6.1 Increase in Ambient Noise Levels

Impact 4.7.1 Construction activities may potentially occur during the more noise-sensitive evening and nighttime hours (i.e., 7p.m. to 7a.m.). Increases in ambient noise levels during these noise-sensitive hours of the day could result in potential increase in levels of annoyance and/ or sleep disruption to occupants of nearby dwellings. As a result, this impact is considered **potentially significant, therefore subject to mitigation.**

Mitigation Measures

MM 4.7.1(a) Use of construction equipment during initial placement of the onsite equipment and paving of the access road shall be limited to the hours between 7 a.m. and 6 p.m., Monday through Saturday. Construction activities shall be prohibited on Sundays, and federal-/state-recognized holidays.

Timing/Implementation: Upon commencement of project operation

Enforcement/Monitoring: Shasta County Resource Management Department.

MM 4.7.1(b) Construction equipment shall be properly maintained and equipped with noise control, such as mufflers and engine shrouds, in accordance with manufacturer specifications.

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

Explanation: Based on the analysis presented in Section 4.7 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project may cause increases in ambient noise levels during noise-sensitive hours of the day. Increases in ambient noise levels would result in potential increases in levels of annoyance and/or sleep disruption for occupants of nearby dwellings.

Significance After Mitigation: Implementation of mitigation measures MM 4.7.1(a) and MM 4.7.1(b) would reduce potential adverse impacts to nearby dwellings by requiring

limitation on hours of operation for construction equipment, proper maintenance, and use of noise control on equipment.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.7.1(a) and MM 4.7.1(b) would limit hours of operation on construction, proper maintenance, and use of noise control requirements on equipment. This measure will reduce Impact 4.7.1 to a **less than significant** level. The County further finds that mitigation measures MM 4.7.1(a) and MM 4.7.1(b) are feasible mitigation measures to offset the impact and are therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.7-13 through 4.7-15; General Plan Noise Element.

1.6.2 Long-term exposure to stationary source noise levels

Impact 4.7.2 Long-term exposure to Stationary-Source Noise Levels. Predicted onsite operational noise levels would exceed County noise standards. This impact is **potentially significant, therefore subject to mitigation.**

Mitigation Measures:

MM 4.7.2(a) Mining equipment shall be properly maintained and equipped with noise control devices, such as mufflers and engine shrouds, in accordance with manufacturer specifications.

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

MM 4.7.2(b) Mining and processing operations shall be limited to hours between 7 a.m. and 6 p.m.

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

MM 4.7.2(c) A sound barrier (e.g., earthen berms, walls, etc.) shall be constructed to shield nearby residential dwellings from line-of-sight to nearby mining areas. Recommended barrier locations are depicted in Figure 4.7-2. The recommended barrier located along the southwestern boundary of the Phase 2 mining area shall be constructed concurrent with removal of material from Phase 1 mining area and prior to commencing Phase 2 mining activities. The recommended barrier located along the

northwestern boundary of the Phase 3 mining area shall be constructed prior to commencing Phase 3 mining activities.

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

MM 4.7.2(d) The proposed levee located along the southeastern boundary of the project site shall be constructed to a minimum height of 12 feet above ground level (AGL) (refer to Figure 4.7-3).

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

MM 4.7.2(e) Material screens and crushers shall be strategically located on the project site, enclosed, or reflective barriers installed sufficient to shield line-of-sight between the noise-generating source of the equipment and the nearest adversely affected receptors (i.e., Receptors 4 and 5). As an alternative, the height of the proposed levee located immediately southwest of the processing area may be increased to a minimum height of 8 feet, provided the increased levee height would interrupt line-of-sight between the noise-generating source(s) of the equipment and the nearest adversely affected receptors (i.e., Receptors 4 and 5).

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

MM 4.7.2(f) Excavation of the proposed Phase 1 mining area shall commence at the northern-most boundary (Phase 1d), at the furthest distance, from the nearest residential dwelling (i.e., Receptor 7).

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

Explanation: Based on the analysis presented in Section 4.7 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project may cause long term exposure to stationary-source noise levels and onsite operational noise levels to nearby receptors. Activities occurring at or near the surface would be projected to exceed the County's noise standard.

Significance After Mitigation: Implementation of mitigation measures MM 4.7.2(a-f) would reduce potential adverse impacts reducing operational noise levels at nearby receptors through use of mufflers and engine shrouds, limitation on operational hours to least noise-sensitive hours and construction of sound barriers. The levees shall be constructed to a minimum height of 12 feet.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.7.2(a-f) would reduce operational noise levels at nearby receptors through use of mufflers and engine shrouds, limitation on operational hours to least noise-sensitive hours and construction of sound barriers, and require mining of Phase 1 begin at the furthest distance from residential dwellings. These measures will reduce Impact 4.7.2 to a **less than significant** level. The County further finds that mitigation measures MM 4.7.2(a-f) are feasible mitigation measures to offset the impact and are therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.7-15 through 4.7-21; General Plan Noise Element.

1.6.3 Exposure of Noise-Sensitive Receptors to Intermittent Noise Events

Impact 4.7.5 Exposure of Noise-Sensitive Receptors to Intermittent Noise Events. Predicted impulsive noise levels at nearby residences could exceed the County's recommended noise standard. This impact is considered **potentially significant, therefore subject to mitigation.**

Mitigation Measures: MM 4.7.2(a) through MM 4.7.2(f)

Explanation: Based on the analysis presented in Section 4.7 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project predicted intermittent noise levels at the nearest residential dwellings would exceed the noise threshold of 60 dBA Lmax. Intermittent noise levels in excess of 60 dBA Lmax may result in increased levels of annoyance, as well as potential speech interference and sleep disruption to occupants of nearest residential dwellings.

Significance After Mitigation: Implementation of mitigation measures MM 4.7.2(a-f) would reduce potential adverse impacts reducing operational noise levels at nearby receptors through use of mufflers and engine shrouds, limitation of operational hours to least noise-sensitive hours and construction of sound barriers.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.7.2(a-f) would reduce operational noise levels at nearby

receptors through use of mufflers and engine shrouds, limit operational hours to least noise-sensitive hours and construction of sound barriers, and require mining of Phase 1 begin at the furthest distance from residential dwellings. This measure will reduce Impact 4.7.5 to a **less than significant** level. The County further finds that mitigation measures MM 4.7.2(a-f) are feasible mitigation measures to offset the impact and are therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.7-27 through 4.7-29; General Plan Noise Element.

1.7 Geology and Soils

1.7.1 Potential for Erosion

Impact 4.8.3 Mining operations would require extensive grading, excavation, filling, and site preparation that will increase the potential for erosion and could lead to slope instability resulting in a **potentially significant impact, subject to mitigation.**

Mitigation Measures: Also apply MM 4.9.3, MM 4.4.1(a), MM 4.4.2(a), MM 4.5.3(a)

MM 4.8.3(a) All excavated slopes shall be hydroseeded with indigenous grasses or plants to minimize surface erosion.

Timing/Implementation: During project implementation and thereafter as part of the annual mine inspection program.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division.

MM 4.8.3(b) Topsoil and overburden piles shall be treated with hydroseed and/or mulch to restore the structure of the bare soil during storage and reduce soil erosion from wind and heavy rains.

Timing/Implementation: During project implementation and thereafter as part of the annual mine inspection program.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division.

MM 4.8.3(c) Soil disturbance, grading, and other site preparation (levee construction, road improvements, and construction of the processing area), including vegetative clearance shall occur between May 1 and October 15 of any project construction year to avoid the rainy season and reduce soil erosion and potential runoff.

Timing/Implementation: During project implementation and thereafter as part of the annual mine inspection program.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division.

MM 4.8.3(d) Drainage and storm water runoff control systems and related facilities shall be designed to fit the hydrology of the site under full development and have full flow capacity plus adequate safety features. The systems shall be non-erosive in design, should conduct runoff to a stable outlet, and be installed prior to October 15 of each construction year.

Timing/Implementation: During the initial road construction and equipment installation.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division.

MM 4.8.3(e) Excavated slopes shall be protected from concentrated runoff and sheet flows using v-ditches at the tops of the slopes to keep the drainage from running over the slope face.

Timing/Implementation: During project implementation and thereafter as part of the annual mine inspection program.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division.

Explanation: Based on the analysis presented in Section 4.8 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that implementation of the proposed project could lead to soil erosion hazards during mining and reclamation activities, especially during the initial site grading, stripping and grubbing, when stockpiles of loose soil and rock material would be present, and during the replacement and compaction for reclamation features.

Significance After Mitigation: Implementation of mitigation measures MM 4.8.3(a) through MM 4.8.3(e) would reduce potential adverse impacts with proper erosion and sediment controls throughout the duration of the mining and reclamation activities.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.8.3(a) through MM 4.8.3(e) would reduce impacts from soil erosion and slope stability by implementation of proper erosion and sediment controls throughout the duration of mining activities. These measures will reduce Impact 4.8.3 to a **less than significant** level. The County further finds that mitigation measures MM 4.8.3(a) through MM 4.8.3(e) are feasible mitigation measures to offset the impact and are

therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.8-22 through 4.7-25; General Plan Minerals Element pages 6.3.01 through 6.3.09.

1.7.2 Expansive and Unstable Soils

Impact 4.8.4 Structures associated with the project may be constructed on potential expansive soils as defined in Table 18-1-B of the California Building Code. This is considered a **potentially significant impact, subject to mitigation.**

Mitigation Measures:

MM 4.8.4 For portion of the project site where structures would be placed, the project applicant shall submit a report from a qualified engineer or soils specialist that identifies the location of expansive soils and demonstrates how the potential negative impacts of these soils can be minimized or avoided, in accordance with Policy SG-e of the Shasta County General Plan.

Timing/Implementation: Prior to construction and equipment installation.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division.

Explanation: Based on the analysis presented in Section 4.8 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the proposed processing area would be located on the Reiff Series soil, which has a low to moderate shrink-swell potential. The processing area which includes the crushing and screening operations, would be located on this soil structure.

Significance After Mitigation: Implementation of mitigation measure MM 4.8.4 would reduce potential adverse impacts by the project's compliance with the construction requirements of the currently adopted version of the Uniform Building Code and the submission of a soils report to identify location of expansive soils.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.8.4 would reduce impacts by minimizing or eliminating the negative effects that expansive soils may have to structures and equipment located on the site by submission of a soils report and identification of expansive soils. This measure will reduce Impact 4.8.4 to a **less than significant** level. The County further finds that mitigation measure MM 4.8.4 is a feasible mitigation measure to offset the impact and is

therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.8-26 through 4.7-27; General Plan General Plan Minerals Element pages 6.3.01 through 6.3.09.

1.8 Hydrology and Water Quality

1.8.1 Alteration of Drainage Patterns for the Site

Impact 4.9.3 Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on-or off-site, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on-or off-site. This impact is considered **potentially significant, therefore subject to mitigation.**

Mitigation Measures:

MM 4.9.3(a) Prior to the construction of any drainage improvements for the access roadway to the project site in the vicinity of the crossing(s) of Anderson Creek that will raise the elevation of the roadway embankment or result in construction outside of the limits of the existing roadway, plans and specifications for the modifications to the access roadway and crossing(s) shall be prepared by a registered professional engineer and submitted to the County for approval. Additionally, the design shall be supported by a hydrologic and hydraulic analysis that demonstrates that the proposed crossing modifications will not impede or redirect flood flows.

Timing/Implementation: Prior to the acquisition of a Conditional Use Permit.

Enforcement/Monitoring: Shasta County Department of Resource Management.

MM 4.9.3(b) The project shall incorporate the following provisions for local drainage control as represented in the submitted Reclamation Plan: 1) Surface runoff generated within proposed mining operation areas will be prevented from discharging into the river; 2) Construction of the site levees and grading performed during mining operations will be performed in a manner such that onsite runoff will be directed to the interior of the mining phases. The onsite haul roads and pond levees will be sloped toward the pond areas and the internal Oak Woodland/Riparian/Wetland Reserve area to prevent storm water from leaving the site; and 3) A flood control levee will be constructed along the south boundary of the project site to prevent runoff from mining operations from entering the property to the south.

Timing/Implementation: Prior to the commencement of operations.

Enforcement/Monitoring: Shasta County Department of Resource Management.

MM 4.9.3(c) Construction plans and specifications and a maintenance plan shall be prepared by a registered professional engineer and submitted to the County for the proposed flood control levee (spur dike) along the south boundary of the project site. This levee will be constructed in conjunction with the initial phase of the project using topsoil and overburden produced by initial grading operations. The construction plans and specifications and maintenance plan shall include and conform to the following: 1) Relevant provisions set forth in the geotechnical investigation report prepared for the project by Kleinfelder; 2) Provision for an appropriate level of freeboard for the levee height above the 100-year flood elevation for the Sacramento River, considering wave action, velocity head, settlement potential and other factors; 3) Provision for armoring of any portions of the levee that may be subject to erosion due to flow velocities or other concerns; and 4) A plan/program for inspection and maintenance of the levee, including the period beyond the life of the project.

Timing/Implementation: Prior to the acquisition of a Conditional Use Permit.

Enforcement/Monitoring: Shasta County Department of Public Works.

Explanation: Based on the analysis presented in Section 4.9 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the proposed project may include the possibility that the project will include upgrades to augment the capacity of the existing crossing(s) of Anderson Creek along the primary access to the site, and if implemented, will likely consist of clear spans that are placed over the existing crossings to avoid any disturbance to the existing jurisdictional wetland areas for Anderson Creek adjacent to the crossing(s). As the proposed mining and reclamation activities would result in substantial re-grading of the site and alter existing drainage patterns this could result in increased storm drainage concentrating in and being discharged to offsite areas at different rates, volumes, and/or locations when compared with existing conditions.

With regard to potential flooding of the overbank and across the proposed mining pits and ponds may cause or contribute to the alteration of the Sacramento River alignment during a major storm event, flood studies performed by Hydmet, Inc. have indicated that construction of the proposed flood control levee (spur dike) along the south boundary of the project site will effectively eliminate this potential.

Significance After Mitigation: Implementation of mitigation measures MM 4.9.3(a) through MM 4.9.3(c) would reduce potential adverse impacts from alteration of drainage patterns by armoring of any portions of the levee that may be subject to erosion due to flow velocities or other concerns. The levee will also need to be periodically inspected and maintained for structural integrity.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.9.3(a) through MM 4.9.3(c) would reduce impacts by armoring portions of the levee that may be subject to erosion due to flow velocities and inspection of the levee for structural integrity and allowing appropriate freeboard to provided adequate wave action, velocity head, and settlement potential at a levee height above the 100-year flood elevation for the Sacramento River. Implementation of these measures will reduce Impact 4.9.3 to a **less than significant** level. The County further finds that mitigation measures MM 4.9.3(a) through MM 4.9.3(c) are feasible mitigation measures to offset the impact and are therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.9-20 through 4.9-23; Final EIR pages 3.0-10 thru 3.0-12; General Plan Water Resources and Water Quality. Geotechnical Investigation Report by Kleinfelder Inc., March 2005.

1.8.2 Increase Risk from Flooding

Impact 4.9.6 Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam, inundation by seiche, tsunami or mudflow. This impact is considered to be **potentially significant, therefore subject to mitigation.**

Mitigation Measures: Also apply MM 4.9.3(c)

Explanation: Based on the analysis presented in Section 4.9 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the proposed project by including construction plans and specifications to ensure that the flood control levee is adequately constructed, maintained, and inspected to reduce the possibility of failure. The proposed project is located in central Shasta County, characterized by landscape that is relatively level topography and is therefore not subject to tsunami or mudflow.

Significance After Mitigation: Implementation of mitigation measure MM 4.9.3(c) would reduce potential adverse impacts by ensuring that the flood control levees that are constructed as a part of the proposed project is adequately built, maintained and inspected to reduce the possibility of failure.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.9.3(c) would reduce impacts by including construction plans and specifications to ensure that the flood control levee is adequately constructed, maintained, and inspected to reduce the possibility of failure. This measure will reduce Impact 4.9.6 to a **less than significant** level. The County further finds that mitigation

measure MM 4.9.3(c) is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR page 4.9-25.

1.9 Visual Resources and Aesthetics

1.9.1 Degradation of Visual character

Impact 4.10.2 The project will substantially degrade the visual character or quality of the site and the surrounding area. This impact is considered **potentially significant, therefore subject to mitigation.**

Mitigation Measure:

MM 4.10.2 All mining stockpiles, spoils, and recycled material shall be stored at least 200 feet away from natural waterways (i.e. Anderson Creek, and Sacramento River) unless it is fully screened by a berm and/ or vegetation. New structures shall be located at least 200 feet away from existing waterways. No junk, debris, non-operative vehicles, or equipment that is not already existing and/or unrelated to the quarry shall be stored anywhere on the property, unless visually screened from off-site views.

Timing/Implementation: Upon commencement of mining operations.

Enforcement/Monitoring: Shasta County Department of Resource Management - Planning Division, Building Department.

Explanation: Based on the analysis presented in Section 4.10 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the proposed project is identified as containing high visual quality and the surrounding area is considered to be predominantly agricultural and rural residential. The sites existing aesthetic character is described as rural agricultural farmland surrounded by open space, oak woodlands, and riparian corridors that are home to many wildlife species.

Significance After Mitigation: Implementation of mitigation measure MM 4.10.2 would reduce potential adverse impacts requiring the proposed project to ensure that obstructions of view sheds from residences adjacent to the property would not extend beyond the boundaries of the project site. Adherence to standards set forth in the Shasta County General Plan and SMARA, include setbacks, screening and revegetation, and minimizing of visual impacts throughout the active mining operations.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of

mitigation measure MM 4.10.2 would reduce adverse impacts of quarrying on the landscape by applying conditions and requirements of a use permit and SMARA. This measure will reduce Impact 4.10.2 to a **less than significant** level. The County further finds that mitigation measure MM 4.10.2 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.10-12 through 4.10-14.

1.9.2 Aesthetic Quality – Light and Glare

Impact 4.10.3 The project would introduce new light and glare sources into the project area. This impact is considered **potentially significant, therefore subject to mitigation.**

Mitigation Measures:

MM 4.10.3 All lighting on the site shall meet the Illuminating Engineering Society of North America (IESNA) requirements for reduction/illuminations of light trespass as set forth in Recommended Practice Manual: Lighting for Exterior Environments (RP-33-99). The location of lighting shall be shown on building/ site plans for review and approval by the Planning Division.

Timing/Implementation: The location of lighting shall be approved prior to issuance of a building permit for the first phase of construction.

Enforcement/Monitoring: Shasta County Department of Resource Management, Planning Division.

Explanation: Based on the analysis presented in Section 4.10 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the proposed project will have security lights associated with the equipment. Unshielded light pollution could impact the visual resource qualities of the general area, especially night sky resources and the visual quality of scenic views of the Sacramento River.

Significance After Mitigation: Implementation of mitigation measure MM 4.10.3 would reduce potential adverse impacts by requiring attention to direction and placement of equipment and security lighting to ensure there is minimal or no light spillage onto adjacent properties or the night sky.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.10.3 would reduce adverse impacts on aesthetic quality and scenic views within the surrounding area by requiring direction and placement of equipment and security lighting to minimize light spillage. This measure will reduce Impact

4.10.3 to a **less than significant** level. The County further finds that mitigation measure MM 4.10.3 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.10-14 through 4.10-15.

1.11 Hazards and Hazardous Materials

1.11.1 Transport, storage and use of Hazardous Materials

Impact 4.12.1 Hazardous materials transported, stored and/or used onsite during proposed mining and reclamation activities (i.e., petroleum products, lubricants, solvents) could potentially be spilled or released into the atmosphere through improper storage and/ or handling. This impact is considered **potentially significant, therefore subject to mitigation**.

Mitigation Measure: See also MM 4.4.1(a) and MM 4.4.2(a).

MM 4.12.1 A designated parking area shall be paved for vehicles and equipment not in use.

Timing Implementation: Prior to initiating quarry operations.

Enforcement/Monitoring: Shasta County Resource Management,
Planning Division

Explanation: Based on the analysis presented in Section 4.12 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the proposed project will involve the use of substances and/ or petroleum products containing hazardous substances.

Significance After Mitigation: Implementation of mitigation measure MM 4.12.1 would reduce potential adverse impacts by requiring compliance with the provisions of the Aboveground Petroleum Storage Act and SWPPP. The fuel tank and fueling station will be located in an area that is removed from vegetation and flammable structures. All fuel operations and placement will be in accordance with the California Uniform Fire Codes and County safety requirements. The project will include the construction of a 900-square foot covered maintenance area to include a durable impermeable surface for maintenance activities.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.12.1 would reduce adverse impacts by requiring maintenance of onsite equipment by way of constructing a 900 square foot covered maintenance area and compliance with the Regional Water Quality Control Board. These measures

will reduce Impact 4.12.1 to a **less than significant** level. The County further finds that mitigation measure MM 4.12.1 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.12-22 through 4.12-23.

1.11.2 Possible Transport Contamination of 2,3,7,8-TCDD

Impact 4.12.2 The potential transport of polychlorinated dibenzo-p-dioxin (2,3,7,8-TCDD) and polychlorinated dibenzo-furan (2,3,7,8-TCDF) in groundwater during construction and mining operations could result in the contamination of neighboring private drinking water wells. This impact is considered **potentially significant, therefore subject to mitigation.**

Mitigation Measures: Also apply MM. 4.4.1(a), MM 4.4.2(a), MM 4.5.3(a), MM 4.8.2(a) through MM 4.8.2(e), MM 4.9.3

MM 4.12.2 The Phase 3 overburden material may not be used as fill material for the Phase 2 reclamation activities below existing groundwater levels.

Timing/Implementation: During Phase 2 site reclamation activities.

Enforcement/Monitoring: Regional Water Quality Control Board and Shasta County Resource Management Department, Planning Division.

Explanation: Based on the analysis presented in Section 4.12 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the proposed project has TEQ concentration levels for 2,3,7,8-TCDD and 2,3,7,8-TCDF that range between 0.072 pg/L and 8.7 pg/L. These concentrations are below the U.S. EPA and Cal EPA drinking water standard MCL 30 picograms per liter (pg/L) for 2,3,7,8-TCDD. The Groundwater Monitoring Reporting Program (GMRP) collected groundwater samples from seven monitoring wells. In response to EPA's recommendations to monitor discharges and groundwater for dioxins and the RWQCB's CAO a substantial amount of evidence and technical studies has concluded the dioxin levels present are not a threat to the existing and adjacent drinking water wells.

Significance After Mitigation: Implementation of mitigation measure MM 4.12.2 would reduce potential adverse impacts to groundwater and potential contamination to neighboring private wells because the project would stockpile and contain overburden material from Phase 3 on site. In accordance with the RWQCB the Phase 3 overburden may be applied as bank stabilization and construction of levees. The Phase 3 overburden material may be used in the reclamation activities but will not be placed at levels below the existing groundwater levels.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant

environmental effect as identified in the EIR. The County finds that Implementation of mitigation measure MM 4.12.2 would reduce potential adverse impacts to groundwater and contamination to neighboring private wells because the project would stockpile and contain overburden material from Phase 3 on site. In accordance with the RWQCB the Phase 3 overburden may be applied as bank stabilization and construction of levees. The Phase 3 overburden material may be used in the reclamation activities but will not be placed at levels below the existing groundwater levels. This measure will reduce Impact 4.12.2 to a **less than significant** level. The County further finds that mitigation measure MM 4.12.2 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.12-24 through 4.12-25.

1.11.3 Possible Airborne Contamination of 2,3,7,8-TCDD

Impact 4.12.3 Hazardous materials polychlorinated dibenzo-p-dioxin 2,3,7,8-TCDD and polychlorinated dibenzo-furan 2,3,7,8-TCDF, may become airborne during mining and reclamation activities that could potentially result in an adverse impact to both public and environmental health within the vicinity of the mining and reclamation activities. This impact is considered **potentially significant, therefore subject to mitigation.**

Mitigation Measures: Also apply MM 4.4.1 (a), 4.5.3(a), MM 4.8.2(a) through MM 4.8.2(e), MM 4.9.3, MM 4.12.3(a) through MM 4.12.3(b)

MM 4.12.3(a) Trenches constructed around the stockpiles containing Phase 3 soils/overburden shall have a minimum setback distance of 30 feet from the trench toe of slope to the Phase 3 excavated slope to ensure the trenches remain undisturbed. This 30-foot setback area does not prohibit the use of a haul road.

Timing/Implementation: Prior to grading and excavation activities for Phase 3 operations.

Enforcement/Monitoring: Shasta County Resource Management Department, Planning_Division.

MM 4.12.3(b) Bright colored exclusionary fencing shall be placed around the primary sludge trenches (Figure 3.0-3 of the DEIR) and between the stockpile trenches and Phase 3 mining pit (Figure 3.0-5 of the DEIR) to ensure the area remains undisturbed.

Timing/Implementation: Prior to grading and excavation activities for Phase 3 operations.

Enforcement/Monitoring: Shasta County Resource Management Department, Planning_Division.

Explanation: Based on the analysis presented in Section 4.12 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the proposed project will have the potential for polychlorinated dibenzo-p-dioxin 2,3,7,8-TCDD and polychlorinated dibenzo-furan 2,3,7,8-TCDF contaminants to become airborne during the grading and excavation operations. In areas where effluent was applied, (Phase 3) the highest dioxin concentration in the underlying aggregate was 0.034 ppt. These levels are well below the EPA residential PRG of 3.9 ppt, and the average near-surface background concentrations of 4.1 ppt observed in urban areas (Vestra Resources, 2006).

A summary report was prepared to determine the potential health risks associated with the exposure to airborne concentrations of dioxin and furan emissions beyond the property boundary during mining and reclamation activities on the proposed Shasta Ranch project site. The toxicity assessment focused on health impacts for oral, dermal and inhalation toxicity levels using the OEHHA guidelines. These toxicity levels considered both carcinogenic and non-carcinogenic effects of 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD). In summary, dioxin concentrations observed in onsite soils would not result in carcinogenic or non-cancer risk in excess of current regulatory standards. As stated in Section 3.0, Project Description the onsite haul roads will be paved to reduce dust emission and potential airborne contaminants from being dispersed offsite.

Significance After Mitigation: Implementation of mitigation measures MM 4.12.3(a) and (b), MM 4.4.1(a), 4.5.3(a), MM 4.8.2(a) through MM 4.8.2(e), MM 4.9.3, and MM 4.12.3(a) and (b) in addition to local and state regulations would reduce potential adverse impacts by requiring all disturbed areas, including storage piles, that are not being actively used be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, or vegetative ground cover. In addition, stockpiles meet the minimum setbacks and fenced to reduce any potential disturbance or impacts.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measures MM 4.12.3(a) and (b), MM 4.4.1(a), 4.5.3(a), MM 4.8.2(a) through MM 4.8.2(e), MM 4.9.3, and MM 4.12.3(a) and (b) would reduce adverse impacts to both public and environmental health within the vicinity of the mining and reclamation activities. These measures will reduce Impact 4.12.3 to a **less than significant** level. The County further finds that mitigation measures MM 4.12.3(a) and (b), MM 4.4.1(a), 4.5.3(a), MM 4.8.2(a) through MM 4.8.2(e), MM 4.9.3, and MM 4.12.3(a) and (b) are feasible mitigation measures to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.12-25 through 4.11-30; Final EIR page 3.0-13 and 3.0-14.

1.11.4 Mosquitoes and West Nile Virus

Impact 4.12.4 The project may increase the potential for mosquitoes and the West Nile virus to adversely impact public residents in the area. This impact is considered **potentially significant, therefore subject to mitigation.**

Mitigation Measures:

MM 4.12.4 The applicant shall consult with the Shasta Mosquito and Vector Control District in designing and developing the settling basins. Any recommendations made by the Control District shall be incorporated into the basin designs. At minimum, the shorelines of the banks shall be graded out to the maximum extent practical to minimize potential breeding grounds. Banks and slopes shall be constructed to inhibit the growth of emergent vegetation while maintaining slope stability. The Control District design guidelines and mosquito prevention measures shall also be incorporated into the project's continual maintenance program.

Timing/Implementation: Prior to granting of occupancy permit.

Enforcement/Monitoring: Shasta County Mosquito and Vector Control District.

Explanation: Based on the analysis presented in Section 4.12 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the proposed project could increase the potential for mosquitoes and the West Nile virus in the area. The proposed reclamation ponds and settling basins would create areas of suitable habitat for mosquitoes; however, it would be more likely to occur in the settling basins and along floor area of the excavated pits where there is a large surface area to volume ratio for sustainable breeding. The objective is to manage mosquito populations by incorporating appropriate design features that minimize habitat for mosquito breeding.

Significance After Mitigation: Implementation of mitigation measure MM 4.12.4 would reduce potential adverse impacts by requiring the project to manage mosquito populations by incorporating appropriate design features that minimize habitat for mosquito breeding in accordance with the Shasta Mosquito and Vector Control District design guidelines.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.12.4 would reduce potential adverse impacts by requiring the project to manage mosquito populations by incorporating appropriate design features that minimize habitat for mosquito breeding in accordance with the Shasta Mosquito and Vector Control District design guidelines. This measure will reduce Impact 4.12.4 to a **less than significant** level. The County further finds that mitigation measure MM 4.12.4 is a

feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.12-30 through 4.12-31.

1.11.5 Wildland Fire Hazard

Impact 4.12.5 The project would be located in an "Unclassified" wildland fire hazard area. This impact is considered **potentially significant, therefore subject to mitigation.**

Mitigation Measures:

MM 4.12.5 The project applicant shall comply with the standard requirements and recommendations of the Shasta County Fire Department, as described in the letter from the County Fire Warden, dated April 25, 2005 (See Appendix 3.0-2) These standards and requirements shall be incorporated into the condition of approval for the use permit, and include the following:

- The access road shall be in accordance with Section 6.12 of the Fire Safety Standards.
- Bridges and culverts shall be designed and constructed in accordance with the Fire Safety Standards and shall be capable of supporting 40,000-pound vehicle load.
- The applicant shall properly dispose of any vegetation cleared for this project. Disposal shall be in accordance with Air Quality management Regulation and Site or local Fire Department Burning Permit Regulations.
- Storage, use, and dispensing of flammable/combustible liquids shall be in accordance with the adopted edition of the California Fire Code. Plans shall be submitted for review and approval prior to construction, storage, or use.
- Any welding and storage of cylinders shall be in accordance with the adopted edition of the California Fire Code.
- Accumulations of waste paper, weeds, combustible waste material, waste petroleum products, tires, or rubbish of any type shall be prohibited.
- Rags, cloth, or paper towels saturated with oil, solvent, or petroleum products shall be kept in a metal can with a tight fitting cover.

- In accordance with Public Resources Code 4291 (a) the applicant shall provide "Defensible Space" by removing all flammable vegetation from around all buildings for a minimum of 100 feet or to the property line, whichever is closer.
- All mobile and stationary equipment with non-turbocharged internal combustion engines shall be equipped with a properly functioning, approved spark arrestor.
- Each vehicle shall be equipped with a portable fire extinguisher.

Timing/Implementation: Prior to approval of the conditional use permit.

Enforcement/Monitoring: Shasta County Fire Department, Department of Resource Management

Explanation: Based on the analysis presented in Section 4.10 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the proposed project will be located in an "unclassified" wildland fire hazard area. The main influences and fire hazards include power lines, fuels and hazardous materials used during maintenance of stationary and mobile equipment.

Significance After Mitigation: Implementation of mitigation measure MM 4.12.5 would reduce potential adverse impacts on high wildland fire danger hazards by requiring the project applicant shall comply with the standard requirements and recommendations of the Shasta County Fire Department.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(1), the County finds that changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the EIR. The County finds that implementation of mitigation measure MM 4.12.5 would reduce adverse impacts on potential wildland fire danger hazards in the area by requiring the project applicant to comply with the standard requirements and recommendations of the Shasta County Fire Department. This measure will reduce Impact 4.12.5 to a **less than significant** level. The County further finds that mitigation measure MM 4.12.5 is a feasible mitigation measure to offset the impact and is therefore, adopted and will be incorporated into the project via the Mitigation Monitoring and Reporting Program.

Reference: Draft EIR pages 4.12-31 through 4.12-33.

3. **Associated with Significant and Unavoidable Impacts which Cannot Feasibly be Mitigated to a Less than Significant Level**

Having received, reviewed, and considered the entire record, both written and oral, relating to the Shasta Ranch Mining and Reclamation Plan project and associated Draft and Final Environmental Impact Report, the County finds that the following environmental effects of the

Shasta Ranch Mining and Reclamation Plan project are significant and unavoidable. However, as explained in the Statement of Overriding Considerations contained in Section 6 below, these effects are considered to be acceptable when balanced against the economic, legal, social, technological, and other benefits of the project.

1.1 Land Use

1.1.1 Conversion of Agricultural Land, Prime Farmland, Farmland of Statewide Importance

Impact 4.2.1 The proposed project would result in a conversion of agricultural land to non-agricultural land uses, and would convert prime farmland, farmland of statewide importance, and unique farmland on the project site. This impact is considered a **significant and unavoidable impact**.

Mitigation Measures: None feasible.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(3), the County hereby finds that specific economic, legal, social, technological, or other considerations render potential mitigation for impacts for conversion of farmland to non-farmland infeasible. Based upon the information contained in the Draft EIR, Final EIR, and the administrative record, the County hereby finds that implementation of the proposed project reclamation plan will reduce, but cannot eliminate, the impact associated with converting farmland to non-farmland uses. No other mitigation has been identified that can both meet the objectives of the project and reduce this impact to a less than significant level. The County finds that while implementation of General Plan policies and Reclamation Plan activities will reduce the impact, it will remain **significant and unavoidable** as there are no feasible mitigation measures that might minimize, avoid or reduce this impact to a less than significant level. However, this impact is considered to be acceptable when balanced against the economic, legal, social, technological, and other benefits of the project as specified in Section 5, Statement of Overriding Considerations, of this document.

Evidence: Based on the analysis presented in Section 4.2 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that impacts associated with conversion of prime farmland and farmland of statewide importance and unique farmland is substantiated because the project site contains viable agricultural soils. The land use would, for the term of the project, be altered from the existing agricultural use to mineral resource extraction.

Reference: Draft EIR pages 4.2-21 thru 4.2-22; Final EIR pages 3.0-3 and A-6; General Plan Agricultural Lands, pages 6.1.09 thru 6.1.11 and approved Shasta Ranch Aggregates Mining and Reclamation Plan.

1.3 Air Quality

1.3.1 PM₁₀ Concentrations - Sensitive Receptors

Impact 4.4.4 Implementation of the proposed project could result in increased PM₁₀ concentrations at nearby sensitive receptors that would exceed state or federal standards. This impact is considered **significant and unavoidable**.

Mitigation Measures:

MM 4.4.2(a) The applicant shall develop and implement a fugitive dust control plan (FDCP) for purpose of reducing project-related fugitive dust emissions associated with the long-term operation of the proposed project. At a minimum, the FDCP shall include those measures identified in Mitigation Measure 4.4-1(a), and shall be submitted to and approved by the AQMD before implementation of the proposed project.

Timing/Implementation: Prior to project implementation

Enforcement/Monitoring: Shasta County AQMD and Department of Resource Management

Finding: Based upon the information contained in the Draft EIR, Final EIR, and the administrative record, the County hereby finds that implementation of General Plan policies and mitigation measure MM 4.4-2(a), would reduce conflicts with the regional air quality attainment plan, however there are no feasible changes or alterations that have been identified that could be required in or incorporated in to the project that will reduce predicted localized concentrations of PM₁₀ at nearby receptors to an acceptable level. As a result, this impact is considered **significant and unavoidable**.

Evidence: As described in the Shasta County General Plan Air Quality Element Shasta County does not meet the State ambient standards for ozone and particulate matter (PM₁₀). Shasta County is currently designated as a "moderate" Non-attainment area with respect to state standards. (*Shasta County, 1998*) Based on the modeling conducted, maximum PM₁₀ concentrations attributable to the proposed project were found to occur at receptors located adjacent to and south (downwind) of the project site. As discussed under Impact 4.4.4, predicted PM₁₀ concentrations are anticipated to be highest during initial excavation of the mining areas, due to the anticipated high silt content of the overburden materials. Concentrations of PM₁₀ at nearby receptors would likely decrease as mining increases in depth due to anticipated decreases in silt content, as well as increases in moisture content. Predicted concentrations of PM₁₀ attributable to the proposed project (without background concentrations) would not exceed either the State or National ambient air quality standards at the nearest sensitive receptor, however when added to the background concentrations, predicted concentrations at the maximum exposed receptor would exceed the more conservative 24-hour and annual California ambient air quality PM₁₀ standards. The County finds that as described in the Draft EIR and General Plan Air Quality Element, implementation of the project would have a significant effect regarding localized concentrations of PM₁₀ at nearby receptors to an acceptable level. While implementation of the General Plan Air Quality Element objectives and policies would reduce the impact, it will remain significant and unavoidable as there are no feasible mitigation measures that might minimize, avoid or reduce this impact to a less than significant impact.

Reference: Draft EIR pages 4.4-34 through 4.4-35.

1.3.2 Diesel Exhaust Particulate Matter

Impact 4.4.6 Predicted airborne concentrations of diesel exhaust particulate matter would result in predicted cancer risks that would exceed applicable standards. This impact is considered **significant and unavoidable**.

Mitigation Measure:

MM 4.4.2(b): Heavy-duty (>50 horsepower) off-road vehicles to be used at this facility, including owned, leased and subcontractor vehicles, shall achieve a minimum fleet-average 20 percent NOx reduction, compared to the most current ARB fleet average at the time of construction. Acceptable options for reducing emissions may include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and/or other options as they become available.

Timing/Implementation: During mining operational period

Enforcement/Monitoring: Shasta County Department of Resource Management

Finding: Based upon the information contained in the Draft EIR, Final EIR, and the administrative record, the County hereby finds that while implementation of General Plan policies and mitigation measure 4.4.2(b) would reduce DEPM cancer risk impacts, there are no feasible changes or alterations that have been identified that could be required in or incorporated in to the project that will lessen this significant adverse effect on sensitive receptors to an acceptable level. No mitigation is available to render the effects less than significant. The effects therefore remain **significant and unavoidable**. The County accepts these impacts because these effects are considered to be acceptable when balanced against the economics, legal, social, technological, and other benefits of the project as described in Section 5, Statement of Overriding Considerations, of this document.

Evidence: Based on the modeling conducted, the peak DPM concentrations were estimated to occur at residences located south (downwind) of the processing area and Phase 2 mining areas. The DPM concentrations generated by onsite off-road equipment use were substantially greater than emission estimates for the on-road haul trucks operating onsite. Because health risk is determined based on an extended period of exposure, typically 70 years for the estimation of cancer risk, the predicted health risk impacts attributable to emissions of diesel particulate matter, as presented in the DEIR, could be further offset by reductions in particulate matter emissions as a result of implementation of future regulations on diesel engines. However, based on the analysis presented in Section 4.4 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that there are health risk impacts associated with diesel particulate matter (DPM). The County finds that while

implementation of the General Plan Air Quality Element policies, MM 4.4.2(b), and Shasta Air Quality Management Plan will reduce the impact, it will remain significant and unavoidable as there are no feasible mitigation measures that might minimize, avoid or reduce this impact to a less than significant impact (Draft EIR pages 4.4-36 through 4.4-40).

Reference: Draft EIR pages 4.4-36 through 4.4-40.

1.3.3 Diesel Particulate Matter Concentrations

Impact 4.4.7 Implementation of the proposed project would result in increased haul truck traffic along area roadways that could exceed applicable cancer-risk thresholds at nearby sensitive receptors. This impact is considered **significant and unavoidable**.

Mitigation Measures:

MM 4.4.2(c) Off-road and on-road vehicles, including owned, leased and subcontractor vehicles, shall comply with all applicable rules and regulations, including applicable diesel-risk reduction program rules and air toxic control measures (ATCMs) for diesel particulate matter. The ARB is currently in the process of adopting rules pertaining to the use of off-highway and on-highway vehicles, including those used in the mining industry. These rules are anticipated to establish emission standards for new engines and to require the use of best-available control technologies, which includes use of alternative diesel fuels or retrofit technologies such as diesel oxidation catalysts or diesel particulate filters. In the event these rules are not in effect at the time the project is implemented, off-road and on-road vehicles, including owned, leased and subcontractor vehicles shall be equipped with applicable ARB-certified diesel PM reduction technologies, including but not limited to diesel oxidation catalysts, diesel particulate filters, or use alternative diesel fuels. Prior to operation, the AQMD shall be consulted to determine applicable control measures to be implemented.

Timing/Implementation: During mining operational period
Enforcement/Monitoring: Shasta County Department of Resource Management.

MM 4.4.2(d) Off-road and on- road vehicles, including owned, leased and subcontractor vehicles, shall use the lowest sulfur-content fuel available.

Timing/Implementation: During mining operational period

Enforcement/Monitoring: Shasta County Department of Resource Management.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(3), the County hereby finds that specific economic, legal, social,

technological, or other considerations render potential mitigation for DPM infeasible. Based upon the information contained in the Draft EIR, Final EIR, and the administrative record, the County hereby finds that implementation of mitigation measures MM 4.4-2(c) and 4.4.2(d) would reduce cancer risk impacts, there are no feasible changes or alterations that have been identified that could be required in or incorporated in to the project that will lessen this significant adverse effect on sensitive receptors to an acceptable level. No mitigation is available to render the effects less than significant. The effects therefore remain **significant and unavoidable**. The County accepts these impacts because these effects are considered to be acceptable when balanced against the economics, legal, social, technological, and other benefits of the project as described in Section 5, Statement of Overriding Considerations, of this document.

Evidence: Based on the analysis presented in Section 4.4 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that there are health risk impacts associated with increased truck traffic along area roadways. Based on the modeling conducted, predicted cancer risks at receptors located within 150 feet of haul routes would exceed the cancer risk threshold of 10 in one million, assuming a maximum of 128 one-way haul truck trips. Predicted concentrations and corresponding cancer risks would decrease with corresponding reductions in haul truck trips. However, even with an approximate one-third reduction in haul truck trips (i.e., 42 one-way haul truck trips), predicted 70-year cancer risks within approximately 150 feet of the haul route would still be projected to exceed the cancer threshold of 10 in one million. The County finds that while implementation of General Plan policies and mitigation measures 4.4.2(c) and 4.4.2(d) will reduce the impact, it will remain significant and unavoidable as there are no feasible mitigation measures that might minimize, avoid or reduce this impact to a less than significant impact (Draft EIR pages 4.4-41 through 4.4-42).

Reference: Draft EIR pages 4.4-41 through 4.4-42.

1.3.4 Cumulative Air Quality Impacts

Impact 4.4.11 The proposed project could contribute, on a cumulative basis, to increased emissions of ozone precursors and particulate matter, thereby exacerbating the existing exceedance of state ambient air quality standards for ozone and respirable particulate matter. This impact is considered **significant and unavoidable**.

Mitigation Measures: None feasible

Finding: Based upon the information contained in the Draft EIR, Final EIR, and the administrative record, the County hereby finds that project-generated emissions, would cumulatively contribute to existing and projected exceedances of state ambient air quality standards for ozone (O₃) and particulate matter (PM₁₀) within Shasta County. This cumulative impact is considered **significant and unavoidable**. The impacts of implementing these mitigation measures are found to render them infeasible. However this impact is considered to be acceptable when balanced against the economic, legal,

social, technological, and other benefits of the project as specified in Section 5, Statement of Overriding Considerations, of this document.

Evidence: Based on the analysis presented in Section 4.4 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that the proposed project, in conjunction with other cumulative projects, would contribute to and exacerbate current non-attainment of state ambient air quality standards within the NSVAB. The County finds that there are no feasible mitigation measures that might minimize, avoid or reduce this impact to a less than significant level. (Draft EIR 4.4-44 through 4.4-45)

Reference: General Plan Air Quality Element policies and Draft EIR pages 4.4-44 through 4.4-45.

1.3.5 Cumulative Air Quality Impacts

Impact 4.4.12 The proposed project and cumulative projects could combine to increase emission levels of mobile and fugitive source particulate matter at nearby sensitive receptors that would exceed applicable standards. This impact is considered **significant and unavoidable**.

Mitigation Measures:

MM 4.4.9 If a crystalline silica risk value is adopted by ARB during the life of the project, the applicant shall comply with the AB 2588 facility prioritization and health risk assessment requirements. In accordance with AQMD requirements implementation of mitigation measures would be required to ensure that health risks to sensitive receptors remain within established acceptable levels of risk.

Timing/Implementation: During mining operational period

Enforcement/Monitoring: Shasta County AQMD and Department of Resource Management

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(3), the County hereby finds that specific economic, legal, social, technological, or other considerations render potential mitigation for emission levels of mobile and fugitive source particulate matter at nearby sensitive receptors feasible. As stated in the Draft EIR localized emissions of crystalline silica would be considered less than significant with mitigation. Potential exposure to airborne asbestos fibers is not likely to occur as no asbestos-containing mineral deposits were found and odors from onsite equipment exhaust would not be anticipated to result in significant impacts to nearby receptors. Because these less than significant impacts are localized impacts and because there are no other related projects in the immediate project area that would contribute to these localized concentrations, on a cumulative basis, the projects cumulative contribution to localized concentrations of these pollutants would be considered **less than significant**.

Predicted mobile source CO concentrations at primarily affected intersections, under future cumulative conditions, would not exceed applicable ambient air quality standards. Shasta County is currently designated attainment of federal and state ambient air quality standards for CO. As a result, the project's cumulative conditions to localized concentrations of CO would be considered **less than significant**. However, the project's cumulative contribution to localized concentrations of PM₁₀ would be considered **significant and unavoidable**. In addition, project-generated emissions could combine with emissions from other nearby stationary and area sources, such as truck traffic on Interstate 5, to produce a cumulative impact that is **significant and unavoidable**.

Evidence: Based on the analysis presented in Section 4.4 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that mobile and fugitive particulate matter generated by onsite activities and by offsite haul trucks would result in increase emission levels to nearby sensitive receptors at levels that would exceed applicable standards. The County finds that there are no feasible mitigation measures that might minimize, avoid, or reduce this impact to a less than significant level.

Reference: General Plan Air Quality Element policies and Draft EIR pages 4.4-45 through 4.4-46.

1.6 Noise

1.6.1 Possible Effect from Onsite Operational Noise Levels

Impact 4.7.3 During temperature inversions and windy conditions, predicted onsite operational noise levels would result in noticeable increases in ambient noise levels at nearby receptors that will exceed County noise standards. As a result, this impact is **significant and unavoidable**.

Mitigation Measures:

MM 4.7.2(a) Mining equipment shall be properly maintained and equipped with noise control devices, such as mufflers and engine shrouds, in accordance with manufacturer specifications.

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department

MM 4.7.2(b) Mining and processing operations shall be limited to hours between 7 a.m. and 6 p.m.

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

MM 4.7.2(c) A sound barrier (e.g., earthen berms, walls, etc.) shall be constructed to shield nearby residential dwellings from line-of-sight to nearby mining areas. Recommended barrier locations are depicted in Figure 4.7-2. The recommended barrier located along the southwestern boundary of the Phase 2 mining area shall be constructed concurrent with removal of material from Phase 1 mining area and prior to commencing Phase 2 mining activities. The recommended barrier located along the northwestern boundary of the Phase 3 mining area shall be constructed prior to commencing Phase 3 mining activities.

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

MM 4.7.2(d) The proposed levee located along the southeastern boundary of the project site shall be constructed to a minimum height of 12 feet above ground level (AGL) (refer to Figure 4.7-3).

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

MM 4.7.2(e) Material screens and crushers shall be strategically located on the project site, enclosed, or reflective barriers installed sufficient to shield line-of-sight between the noise-generating source of the equipment and the nearest adversely affected receptors (i.e., Receptors 4 and 5). As an alternative, the height of the proposed levee located immediately southwest of the processing area may be increased to a minimum height of 8 feet, provided the increased levee height would interrupt line-of-sight between the noise-generating source(s) of the equipment and the nearest adversely affected receptors (i.e., Receptors 4 and 5).

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

MM 4.7.2(f) Excavation of the proposed Phase 1 mining area shall commence at the northern-most boundary (Phase 1d), at the furthest distance, from the nearest residential dwelling (i.e., Receptor 7).

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(3), the County hereby finds that specific economic, legal, social, technological, or other considerations render potential mitigation for increasing ambient noise levels due to onsite operational equipment. Predicted operational noise levels during temperature inversions and high wind conditions would result in an increase in ambient noise levels that would exceed County's noise standards at nearby residences. As a result this impact would be considered **significant and unavoidable**.

Evidence: Based on the analysis presented in Section 4.7 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that during temperature inversions and windy conditions, onsite operational noise levels would be noticeable and would exceed the County's daytime noise standard. The County finds that while implementation of General Plan policies and MM 4.7.2(a-f) will reduce the impact, it will remain **significant and unavoidable** as there are no feasible mitigation measures that might minimize, avoid, or reduce this impact to a less than significant level.

Reference: General Plan Noise Element Table N-1 on p. 5.5.11 and Draft EIR, page 4.7-24.

1.6.2 Exposure to Travel Noise Levels in Excess of Standards

Impact 4.7.4 The project will result in a noticeable increase in traffic noise levels that exceed the County's noise standard of 60dBA L_{dn}/CNEL at receptors located along proposed haul routes. As a result, this impact would be considered **significant and unavoidable**.

Mitigation Measure:

MM 4.7.2(b) Mining and processing operations shall be limited to hours between 7 a.m. and 6 p.m.

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(3), the County hereby finds that specific economic, legal, social, technological, or other considerations render potential mitigation for increasing traffic noise levels due to heavy truck traffic along roadways. Predicted heavy truck traffic noise levels would exceed the County's noise standard of 60dBA L_{dn}/CNEL at receptors located along proposed haul routes. Implementation of MM 4.7.2(b) would limit operational hours for the project. However, noticeable increases in traffic noise levels along adversely affected roadway segments would still be anticipated to occur. Additional mitigation measures considered included construction of sound walls and sound proofing of homes along adversely affected haul routes but was determined

infeasible. No additional mitigation measures have been identified that would reduce this impact to a less than significant level. As a result this impact would be considered **significant and unavoidable**.

Evidence: Based on the analysis presented in Section 4.7 of the Draft EIR and considering the information contained in the administrative record, the County hereby finds that no additional mitigation measures have been identified that would reduce the impact of traffic noise levels to receptors along proposed haul routes to a less than significant level.

Reference: General Plan Noise Element Table N-1 on p. 5.5.11 and Draft EIR, pages 4.7-26 through 4.7-27, Final EIR page 3.0-8.

1.6.3 Cumulative Traffic Noise Levels

Impact 4.7.7 The proposed project would result in a noticeable increase in traffic noise levels that could potentially exceed the County's noise standard of 60 dBA CNEL/Ldn at some receptors located along area haul routes. The project's contribution to future cumulative traffic noise levels would be considered **significant and unavoidable**.

Mitigation Measures:

MM 4.7.2(b) Mining and processing operations shall be limited to hours between 7 a.m. and 7 p.m.

Timing/Implementation: Upon commencement of project operations

Enforcement/Monitoring: Shasta County Resource Management Department.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a)(3), the County hereby finds that specific economic, legal, social, technological, or other considerations render potential mitigation for environmental effects associated with future cumulative traffic noise levels and the impact is significant and unavoidable. Based upon the information contained in the Draft EIR, Final EIR, and the administrative record, the County hereby finds that while implementation of mitigation measure MM 4.7.2(b) and General Plan policies would reduce the impact, that the impact will remain significant. However, noticeable increases in traffic noise levels along adversely affected roadway segments would still be anticipated to occur. Additional mitigation measures considered included construction of sound walls and sound proofing of homes along adversely affected haul routes. However, because construction of sound walls along these roadway segments would interfere with access to adjacent parcels, this measure was considered infeasible. Soundproofing of residential dwellings located along adversely affected roadways would help to reduce interior noise levels, but would not be effective in reducing exterior noise levels at outdoor activity areas within acceptable levels. There are no feasible mitigation measures that the County may employ to minimize, avoid or reduce the environmental effects of cumulative traffic noise levels to a less than significant level. However, this impact is

considered to be acceptable when balanced against the economic, legal, social, technological, and other benefits of the project as specified in Section 5, Statement of Overriding Considerations, of this document.

Evidence: As described in the Draft EIR, implementation of the project would have significant effects regarding cumulative traffic noise levels on nearby receptors. While implementation of 4.7.2(b) would limit operational hours to least sensitive hours and General Plan policies would reduce the impact, there are no feasible mitigation measures that would avoid or substantially lessen this impact. The County finds that while implementation of General Plan policies and mitigation measure MM 4.7.2(b) will reduce the impact, it will remain **significant and unavoidable** as there are no feasible mitigation measures that might minimize, avoid, or reduce this impact to a less than significant level.

Reference: General Plan Noise Element Table N-1 and N-3 Draft EIR pages 4.7-30 through 4.7-32.

4. Findings Associated with Project Alternatives

CEQA Guidelines require that an EIR "describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly obtain the basic objectives of the project..." (CEQA Guidelines 15126.6[a]).

The alternatives analyzed in the Shasta Ranch Mining and Reclamation Plan project are as follows:

- a) Alternative 1- No Project- leaves the site in its current use.
- b) Alternative 2- Alternative Sites- including other potential sites for a similar quarry; and
- c) Alternative 3- Restricted Hours of Operation- Operational alternatives designed to reduce or eliminate impacts identified in the EIR.

4.1 Alternative 1 – No Project

Description: CEQA Guidelines Section 15126.6(e)(1) states that a No Project alternative shall be analyzed. The purpose of describing and analyzing a No Project alternative is to allow decision makers to compare the impacts of approving a proposed project with the impacts of not approving the proposed project. The No Project alternative analysis is not the baseline for determining whether the environmental impacts of a proposed project may be significant, unless the No Project analysis is identical to the environmental setting analysis.

Under the No Project alternative, the property would continue to be farmed. It is likely given the pressure for residential development and the views this property has of the Sacramento River, that the site might eventually be developed with a residential subdivision. The current zoning does not allow for this potential and a zone change and subsequent environmental analysis would be required to create a residential subdivision. It is also possible that under the No Project alternative another different quarry project could be proposed and considered by the County consistent with the existing zoning. Since the current zoning allows for agriculture and for the proposed quarry, the No Project alternative would result in the property not having an approved quarry and reclamation plan. This would result in fewer air quality and transportation impacts. Overall, the No Project alternative would result in no change to the project area from its current

condition and result in environmental impacts considered *less than the proposed project*. This analysis of the No Project alternative is consistent with the requirements of CEQA Guidelines section 15126.6(e)(3)(A), which specifically identifies that when the project under evaluation is the revision of an existing land use or regulatory plan, that the "No Project" alternative will be the continuation of the existing plan.

Finding: Pursuant to CEQA Guidelines Section 15091(a)(3), the County finds that the No Project alternative is less desirable than the project and is infeasible for the following economic, social, and other reasons:

- This alternative would not encourage development in accordance with the County's General Plan Land Use goals for Interim Mineral Resource.
- This alternative would not meet the project goals to extract mineral resources within the County.
- This alternative would not provide an increase in resource diversity and habitat enhancement.

Facts that support the finding: Draft EIR pages 5.0-2 through 5.0-3 provide an analysis of the No Project alternative as compared to the proposed Shasta Ranch Mining and Reclamation project. Environmental benefits of this alternative over the proposed Shasta Ranch Mining and Reclamation project include no change in Prime agricultural land as discussed in Section 4.1 (Land Use); less exposure to toxic air contaminants as discussed in Section 4.4 (Air Quality); fewer impacts to increased traffic noise levels as discussed in Section 4.7 (Noise). As noted on Draft EIR page 5.0-4 through 5.0-5, the No Project alternative would not be considered the environmentally superior alternative.

The No Project alternative would result in no change to the existing site and remain agricultural farmland and fallow land. As stated above, the site could potentially be developed as a residential subdivision. It is also possible that under the No Project alternative another quarry project could be proposed and considered by the County consistent with the existing zoning. Under the existing land use designation the County has already considered mineral resource extraction as a potential temporary use of the site with an approved conditional use permit and reclamation plan. Since the current zoning allows for agriculture and mineral resource extraction, the No Project alternative would result in the property not having an approved quarry and reclamation plan. The No Project alternative would not meet the County's General Plan goals and objectives, nor would it meet the proposed project objectives.

4.2 Alternative 2 – Off-site

Description: PMC worked with County Staff to identify locations along the Sacramento River that could yield similar aggregate product (alluvial sand and gravel) to that of the proposed project. The area between Shasta Dam and the County line has gradually built up over the past several years so that the Sacramento River is nearly lined with residential homes. The area upstream of the proposed project site all the way to the Shasta Dam is densely populated with very little accessibility. Downstream of the project site is the end of the Shasta County line and limited access. Regardless, there are few opportunities to establish a quarry along the Sacramento riverbank.

Alternative sites were evaluated as potential locations for mineral extraction, crushing, washing, and screening operations using the Aggregate Resource Areas (ARA) map identified in the Shasta County Mineral Classifications Study of 1997. There are few locations within Shasta County that contain alluvial sand and gravel (PCC-Grade Aggregate) and there were no locations found to have the same compatible land use designation or meet the project objectives as the proposed project site. Further, the impacts associated with the proposed project including air quality, traffic and noise, would be similar regardless of the site. Sites further from major travelways might have less of an impact on surrounding residential uses, but would increase impacts associated with traffic and air quality. Since there were no other sites identified as having the same material and meeting the project objectives, an off-site alternative was not considered feasible.

Finding: Pursuant to CEQA Guidelines Section 15091(a)(3), the County finds that the Alternative 2 is less desirable than the project and is infeasible for the following economic, social, and other reasons:

- There are no alternative sites that were found to have the same compatible land use designation that would meet the project objectives as found on the existing site.
- Alternative 2 would encourage greater environmental impacts on air quality, traffic, and noise to surrounding land uses due to higher population densities adjacent to alternative site locations within Shasta County.
- Alternative 2 would not meet the County's General Plan land use goals for the proposed site.

Facts that support the finding: Draft EIR pages 5.0-3 through 5.0-4 provide an analysis of the Alternative 2 as compared to the proposed Shasta Ranch Mining and Reclamation Plan project. Environmental benefits of this alternative over the proposed Shasta Ranch Mining and Reclamation Plan project include better impacts relative to consistency with relevant land use planning documents as discussed in Section 4.1 (Land Use); less exposure to toxic air contaminants as discussed in Section 4.4 (Air Quality); fewer impacts to increased traffic noise levels as discussed in Section 4.7 (Noise). As noted on Draft EIR page 5.0-4 through 5.0-5, the Off-site alternative would not be considered the environmentally superior alternative.

Alternative 2 is not the environmentally superior alternative when compared with the Shasta Ranch Mining and Reclamation Plan project Alternative 1, and Alternative 3. As noted above, the review of alternative site locations were found to have greater environmental impacts on air quality, noise, and traffic. Based on the County General Plan and Mineral Land Classification Study conducted by the Division of Mines and Geology in 1997, alluvial sand and gravel minerals are primarily located along the Sacramento River banks and adjacent tributaries. Due to increased population growth and development along the Sacramento River corridor and limited access to the river no other sites were found to be superior or contain the same land use compatibility as the proposed project site. The proposed project site is located in an area surrounded by rural residential and agricultural lands that are consistent with the existing land use designation. For these economic, social, and other reasons, the proposed project is deemed the superior to Alternative 2.

4.3 Alternative 3 – Restricted Hours of Operation

Description. Because of the noise impacts associated with the proposed project, the EIR team considered restricting hours of operation of the project. Mitigation Measure 4.3.2(a) restricts project traffic from using the Bowman/I-5 northbound off-ramp intersection during the hours of 7a.m. and 9a.m. because of capacity issues at the Bowman Road/I-5 Interchange. This also reduces conflict with school buses on certain routes during school days. Other mitigation measures considered included the construction of sound walls and sound proofing of homes located along the adversely affected haul routes. However, because construction of sound walls along these roadway segments would interfere with access to adjacent parcels, this measure was considered infeasible. Further restriction of hours was considered to determine if the noise impact would be substantially reduced. This was considered as an alternative because the CNEL noise measurement factors for increased noise sensitivity change depending on the hour of measurement. Based on the analysis, the resulting reduction in noise was negligible. Other than as mitigated in Section 4.7 Noise, further reduction in operating hours was not considered further.

Restricting the hours of operation to reduce the level of truck traffic was also considered by the EIR team. As shown in Table 4.3-13, Level of Service-Cumulative Conditions, the results indicate all of the roadway sections studied will continue to operate at acceptable levels of service under both cumulative and cumulative plus project conditions. As originally written, Mitigation Measure 4.3.1 was provided in response to public safety concerns associated with increased truck traffic on existing roadways. An accident data summary (Table 4.3-5) was also provided by the County that addressed existing conditions and potential safety measures. Based on Section 4.3, Traffic and Circulation the increase in traffic does not warrant any further mitigation than has been provided. However, several comment letters raised the concern over haul trucks traveling on the same routes at the same time as school buses on, particularly on foggy days.

In response to public comment, the EIR team contacted Anderson Union High School District Superintendent, Randy Palomino, regarding operational periods for district school buses on foggy day schedules. Mr. Palomino spoke on behalf of all three school districts stating buses generally run between the hours of 6:30 a.m. to 8:45 a.m. during foggy day schedules. The Board of Supervisors could restrict the hours of operation of the quarry on foggy days to avoid any conflict between school buses and haul trucks. As noted in Section 4.3 Transportation and Traffic (page 4.3-38) the operation of the roadways will remain at an acceptable level of service under cumulative conditions. Any modification of the hours of operation would be to address potential safety concerns over the mix of truck and bus traffic during low visibility periods. Unlike the original Mitigation Measure 4.3.1, a modification of the hours of operation would affect all roadways, not just the Bowman Road/Interstate 5 intersection. However, this reduction in hours of operation is an infeasible alternative because it does not address the traffic safety issues during other school days.

Finding: Pursuant to CEQA Guidelines Section 15091(a)(3), the County finds that the Alternative 3 is less desirable than the project and is infeasible for the following economic, social, and other reasons:

- Alternative 3 would not result in any substantial reduction in noise.

- Alternative 3 would avoid safety concerns associated with the mix of school buses and truck traffic traveling during low visibility periods but would not reduce safety conflict to an acceptable level.

Facts that support the finding: Final EIR pages 3.0-14 through 3.0-15 provide an analysis of the Restricted Hours of Operation alternative as compared to the proposed Shasta Ranch Mining and Reclamation Plan project. The environmental benefits that would result from Alternative 3 are not substantial enough to justify the potential residual effects of the alternative.

Alternative 3 has environmental impacts similar to those of the proposed Shasta Ranch Mining and Reclamation project. As noted above the operation of roadways will remain at an acceptable level of service under cumulative conditions however the concern is potential safety concerns associated with school buses traveling at the same time as haul trucks during hours of low visibility (foggy days). Alternatives discussed with Anderson High School District Superintendent, Randy Palomino included the construction of bus turnouts and Mitigation Measure MM 4.3.1 (as originally written in the DEIR prior to recirculation), widening existing shoulder widths along proposed haul routes. Construction of bus turnouts was considered however, safety concerns could potentially increase as roadway traffic would be less likely to slow down and see children crossing during low visibility periods. Mitigation Measure 4.3.1 (as originally written), would not effectively mitigate the conflict between buses and truck traffic traveling at the same time during low visibility periods when children are adjacent to roadway. As a feasible alternative the school district agreed restricting the hours of operation for school buses and truck traffic on foggy days would be adequate mitigation to address this conflict. Based on review of public comments received the Board of Supervisors could restrict the hours of operation of the quarry on foggy days to avoid any conflict between school buses and haul trucks. Further, implementation of Alternative 3 would result in fewer potential safety concerns associated with bus and truck traffic during low visibility periods (foggy days). However, as noted above, eliminating the traffic safety issue only on days of low visibility does not alleviate the traffic safety concerns voiced by the community during other school days. Accordingly, Alternative 3 is infeasible because it is too limited.

Notably, the County revised Mitigation Measure 4.3.1 to provide for reduced hours of operation during all days school is in session. Section 4.3 of the Draft EIR was recirculated to document this revision, and incorporates a mitigation measure which further reduces potential pedestrian conflicts more effectively. Revised Mitigation Measure 4.3.1 will be included as a mitigation measure applicable to the project.

5. Statement of Overriding Considerations

In approving the proposed Shasta Ranch Mining and Reclamation Plan, which is evaluated in the Final EIR, the County makes the following Statement of Overriding Considerations in support of its findings on the Final EIR. The County has considered the information contained in the Final EIR (Draft EIR, Response to Comments on the Draft EIR, and Revisions to the Draft EIR) and has fully reviewed and considered the public testimony and record in this proceeding.

The County has carefully balanced the benefits of the project against any adverse impacts identified in the EIR that could not be feasibly mitigated to a level of insignificance. There exist no feasible mitigation measures that would apply to the proposed Shasta Ranch Mining and

Reclamation Plan project that would reduce impacts to a level of insignificance. All mitigation measures identified in the Shasta Ranch Mining and Reclamation Plan EIR will apply to the proposed project. The County, acting pursuant to Section 15093 of the CEQA Guidelines, hereby determines that the benefits of the project outweigh the adverse environmental impacts and the project should be approved. Each of the benefits is an overriding consideration, independent of other benefits, that warrants the approval of the project notwithstanding the projects' significant and unavoidable impacts. The EIR describes certain environmental impacts that cannot be avoided if the project is implemented. This Statement of Overriding Considerations applies specifically to those impacts found to be significant and unavoidable as set forth in the EIR and the administrative record.

Significant and Unavoidable Impacts

Nine significant and unavoidable impacts have been identified in the EIR.

1. Conversion of Prime agricultural land to Non-Prime agricultural land uses (Impact 4.2.1);
2. Operational Air Pollutants (Impact 4.4.4);
3. Health risks associated with DEPM Emission Impacts (Impact 4.4.6);
4. Truck Traffic Emission Impacts (Impact 4.4.7);
5. Cumulative Ozone and Particulate Matter Impacts (Impact 4.4.11);
6. Cumulative Mobile and Fugitive Source Particulate Matter Impacts (Impact 4.4.12);
7. Operational Noise Increases (Impact 4.7.2);
8. Traffic Noise Increases (Impact 4.7.4);
9. Cumulative Traffic Noise Increases (Impact 4.7.7)

First, implementation of the proposed Shasta Ranch Mining and Reclamation Plan project would result in a loss of soils and areas designated as prime farmland and farmland of statewide importance as identified in the General Plan Section 6.1 (Agricultural Lands) and Department of Conservation Mapping and Monitoring Program. Implementation of the General Plan policies and associated reclamation plan activities would assist in reducing impacts to soils designated prime farmland. However, there are no feasible mitigation measures available that will reduce this significant adverse effect on the environment to a less than significant level. Therefore, this impact is considered significant and unavoidable.

Second, implementation of the proposed project would have the potential to increase localized concentrations of PM₁₀ at nearby receptors. Policies stated in the General Plan Air Quality Element would require the County to coordinate with SHAQMD for the improvement of air quality in the area. Implementation of the General Plan policies and mitigation measure MM 4.4.2(a) would reduce conflicts with the regional air quality attainment plan, however there are no feasible mitigation measures available that will lessen this significant adverse effect on the

environment to a less than significant level. Therefore, this impact is considered **significant and unavoidable**.

Third, implementation of the proposed project has the potential to result in health risk impacts associated with diesel exhaust particulate matter (DEPM). The DEPM concentrations generated by onsite off-road equipment use were substantially greater than emission estimates for the on-road haul trucks operating onsite. Because health risk is determined based on an extended period of exposure, typically 70 years for the estimation of cancer risk, the predicted health risk impacts attributable to emissions of diesel exhaust particulate matter, as presented in the DEIR, could be further offset by reductions in particulate matter emissions as a result of implementation of future regulations on diesel engines. In result, implementation of General Plan policies and mitigation measure 4.4.2(b) would assist in the reduction of DEPM cancer risk impacts, however the impact will remain significant and unavoidable as there are no feasible mitigation measures that have been identified that could be required in or incorporated in to the project that will lessen this significant adverse effect on sensitive receptors to an acceptable level. The effects therefore remain **significant and unavoidable**.

Fourth, implementation of the proposed project could exceed applicable cancer-risk thresholds at nearby sensitive receptors from increased haul truck traffic along area roadways. Implementation of General Plan Air Quality Element policies and mitigation measure MM 4.4-2(c) and 4.4.2(d) would assist in reducing potential cancer risk impacts, but not fully mitigate impacts. No General Plan policies are available to completely mitigate operational air quality impacts. In addition, no feasible mitigation measures are available to mitigate operational air quality impacts. Therefore, this impact is considered **significant and unavoidable**.

Fifth, implementation of the proposed project could contribute, on a cumulative basis, to increased emissions of ozone precursors and particulate matter, thereby exacerbating existing regional problems with ozone and particulate matter. General Plan policies and the SHAQMD's Air Quality Management Plan would assist in reducing cumulative regional and local air quality impacts but would not fully mitigate these impacts. No feasible mitigation measures are available to completely mitigate this cumulative impact. Therefore, it remains **significant and unavoidable**.

Sixth, implementation of the proposed project and cumulative projects could combine to increase emission levels of mobile and fugitive source particulate matter at nearby sensitive receptors that would exceed applicable standards. General Plan policies and action items would assist in reducing cumulative regional and local air quality impacts but would not fully mitigate these impacts. However, no feasible mitigation measures are available to completely mitigate this cumulative impact. Therefore, it remains **significant and unavoidable**.

Seventh, implementation of the proposed Shasta Ranch Mining and Reclamation Plan project would exceed operational noise levels during temperature inversions and high wind conditions as a result of in an increase in ambient noise levels that would exceed County's noise standards at nearby residences. Implementation of General Plan policies and mitigation measures MM 4.7.2(a-f) would assist in reducing this impact, but will not fully mitigate the impact. No feasible mitigation measures are available that will lessen this significant adverse effect on the environment to a less than significant level. Therefore, this impact would remain **significant and unavoidable**.

Eighth, implementation of the proposed Shasta Ranch Mining and Reclamation Plan project would generate heavy truck traffic noise levels that would exceed the County's noise standard of 60dBA Ldn/CNEL at receptors located along proposed haul routes. Implementation of General Plan policies and mitigation measure MM 4.7.2(b) would limit operational hours for the project. However, noticeable increases in traffic noise levels along adversely affected roadway segments would still be anticipated to occur. Additional mitigation measures considered included construction of sound walls and sound proofing of homes along adversely affected haul routes but was determined infeasible. No feasible mitigation measures have been identified that would lessen this significant adverse effect on sensitive receptors located along proposed haul routes to a less than significant level. Therefore, this impact would remain **significant and unavoidable**.

Ninth, implementation of the proposed Shasta Ranch Mining and Reclamation Plan project would contribute, on a cumulative basis, to traffic noise levels that are projected to exceed the County's noise standards. Predicted noise levels at existing offsite land uses located along area roadways would exceed the County's noise standards. No feasible mitigation measures are available that will lessen this significant adverse effect on the environment to a less than significant level. Therefore, this impact is considered **cumulatively considerable** and the impact would be **significant and unavoidable**.

H. SPECIFIC FINDINGS

Project Benefits Outweigh Unavoidable Impacts. The County hereby finds that the remaining significant and unavoidable impacts of the project are acceptable in light of the long-term social, environmental, land-use and other considerations set forth herein. Specifically, these detrimental changes are outweighed by the following project benefits.

1. **The project would provide opportunities to meet the County's need for alluvial sand and gravel in Shasta County.** The proposed Shasta Ranch Mining and Reclamation Plan project would be consistent with the County's General Plan Land Use designation goals and objectives by providing mining, an allowable use, under the existing zoning. In addition, the project would meet the needs associated with building materials for current and future growth demands occurring in the south county region.
2. **The project would provide opportunities for non-prime agricultural lands to be mined in accordance with the County's Mineral Resource Element.** The General Plan Mineral Resource Element Policy MR-c requires short term mining operations included in the IMR zone district be designed to allow for compatible land uses while protecting the potential for mineral resource development. Implementation of this policy would allow the project site to be mined and ensure mined lands are reclaimed to minimize adverse impacts on the environment. The site reclamation plan would restore the mined areas to usable agricultural farmland, open space, and ponds that would provide an increase in habitat in accordance with the General Plans Mineral Resource Element objective MR-2.

Balance of Competing Goals. The County hereby finds it is imperative to balance competing goals in approving the project and the environmental documentation of the project. Not every environmental concern has been fully satisfied because of the need to satisfy competing concerns

to a certain extent. The County has chosen to accept certain environmental impacts because complete eradication of impacts would unduly compromise some other important community goals.

The County hereby finds and determines that the project proposal and the supporting environmental documentation provide for a positive balance of the competing goals and that the social, environmental, land-use and other benefits to be obtained by the project outweigh any remaining environmental and related potential detriment of the project.

I. OVERRIDING CONSIDERATIONS

Based upon the objectives identified for the project and through the extensive public participation, the County has determined that the project should be approved and that any remaining unmitigated environmental impacts attributable to the project are outweighed by the specific social, environmental, land-use and other overriding considerations. These include providing adequate opportunities within the County to accommodate the General Plan Agricultural and Mineral Resource Land Use designation; provide opportunities for the county to expand mineral resources available for future growth and development in the south county region; reduce environmentally adverse impacts to incompatible land uses in densely populated areas of the county; and ensure site reclamation activities to provide usable land that will enhance biological diversity and sustainable agricultural production.

The County has determined that any environmental detriment caused by the Shasta Ranch Mining and Reclamation Plan project has been minimized to the extent feasible through the mitigation measures identified herein, and, where mitigation is not feasible, has been outweighed and counterbalanced by the significant social, environmental, and land-use benefits to be generated to the County.

RESOLUTION NUMBER 2007-051

**A RESOLUTION OF THE SHASTA COUNTY PLANNING COMMISSION
APPROVING USE PERMIT 05-010 (SHASTA RANCH MINING AND RECLAMATION PLAN)**

WHEREAS, the Planning Commission of the County of Shasta has considered Use Permit 05-010, filed by Lyle Tullis, on Assessor's Parcels Number 091-040-002, 091-050-002 and 091-080-002, in accordance with Section 17.92.020 of the Shasta County Code; and

WHEREAS, said Use Permit was referred to various affected public and private agencies, County departments, and referral agencies for review and comment; and

WHEREAS, the Shasta County Environmental Review Officer has reviewed the project and recommends a specific environmental finding; and

WHEREAS, public hearings were held on March 22, 2007, May 10, 2007, and May 31, 2007; and

WHEREAS, the Shasta County Planning Commission has considered public comments and a report from the Planning Division.

NOW, THEREFORE, BE IT RESOLVED that the Shasta County Planning Commission:


1. Makes the following environmental findings:
 - A. The Shasta Ranch Mining and Reclamation Plan Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP) have been completed in compliance with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (California Code of Regulations Section 15000 et seq.).
 - B. The EIR and MMRP reflect the independent judgement and analysis of the Planning Commission and the Department of Resource Management, Planning Division.
 - C. All significant effects on the environment have been eliminated or substantially lessened where feasible, and any remaining significant effects on the environment found to be unavoidable are acceptable due to overriding concerns presented in the recommended statements of overriding consideration (see Attachment 9).
 - D. Mitigation monitoring provisions have been considered by the approving authority pursuant to County Mitigation Monitoring and Reporting Procedures. Feasible mitigation measures have been specifically identified in the Environmental Impact Report Study and incorporated in the Statement of Conditions with monitoring as specified in the Mitigation Monitoring and Reporting Program. The Environmental Impact Report, by its provisions for monitoring of mitigation measures or changes made to the project or conditions of project approval to be adopted in order to mitigate or avoid significant impacts on the environment, represents the program designed to ensure environmental compliance during project implementation. This program, as required by Public Resources Code Section 21081.6, is based on those

documents and materials referred to in the Environmental Impact Report, and incorporated therein by reference, which are maintained at the County Planning Division's office located at 1855 Placer Street, Suite 103, Redding, California.

- E. The Planning Commission has certified the Shasta Ranch Mining and Reclamation Plan Environmental Impact Report (EIR) and adopted the Mitigation Monitoring and Reporting Program (MMRP).
2. Makes the following findings for the use permit, based on the information contained in the Environmental Impact Report:
- A. The project, as conditioned, is consistent with the objectives, policies, uses and programs of the General Plan;
 - B. The establishment, operation, and maintenance of the subject use, under the circumstances of the particular case, will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the County.
 - C. The design and construction of all proposed improvements, including any manmade change to improved or unimproved real property, are consistent with the need to minimize flood damage based on conditions as set forth in the attachment to this Resolution; and
 - D. Drainage will be designed to reduce exposure to flood hazards based on conditions as set forth in the attachment to this Resolution.
3. Approves Use Permit 05-010, subject to the conditions as set forth in the attachment to this Resolution.

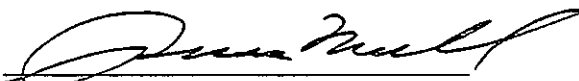
DULY PASSED this 31st day of May, 2007, by the following vote:

AYES: RUTLEDGE, CORNELIUS, RAMSEY, EASLEY
NOES: SMITH
ABSENT:
ABSTAIN:
RECUSE:



JOHN CORNELIUS, Chairman
Planning Commission
County of Shasta, State of California

ATTEST:



RUSS MULL, Secretary
Planning Commission
County of Shasta, State of California

RESOLUTION NUMBER 2007-052

A RESOLUTION OF THE SHASTA COUNTY PLANNING COMMISSION
APPROVING RECLAMATION PLAN 05-001
(SHASTA RANCH MINING AND RECLAMATION PLAN)

WHEREAS, the Planning Commission of the County of Shasta has considered Reclamation Plan 05-001, filed by Lyle Tullis, on Assessor's Parcels Number 091-040-002, 091-050-002 and 091-080-002, in accordance with Section 17.92.020 of the Shasta County Code; and

WHEREAS, said Reclamation Plan was referred to various affected public and private agencies, County departments, and referral agencies for review and comment; and

WHEREAS, the Shasta County Environmental Review Officer has reviewed the project and recommends a specific environmental finding; and

WHEREAS, public hearings were held on March 22, 2007, May 10, 2007, and May 31, 2007; and

WHEREAS, the Shasta County Planning Commission has considered public comments and a report from the Planning Division.

NOW, THEREFORE, BE IT RESOLVED that the Shasta County Planning Commission:


1. Makes the following environmental findings:
 - A. The Shasta Ranch Mining and Reclamation Plan Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP) have been completed in compliance with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (California Code of Regulations Section 15000 et seq.).
 - B. The EIR and MMRP reflect the independent judgement and analysis of the Planning Commission and the Department of Resource Management, Planning Division.
 - C. All significant effects on the environment have been eliminated or substantially lessened where feasible, and any remaining significant effects on the environment found to be unavoidable are acceptable due to overriding concerns presented in the recommended Statements of Overriding Consideration (see Attachment 9).
 - D. Mitigation monitoring provisions have been considered by the approving authority pursuant to County Mitigation Monitoring and Reporting Procedures. Feasible mitigation measures have been specifically identified in the Environmental Impact Report Study and incorporated in the Statement of Conditions with monitoring as specified in the Mitigation Monitoring and Reporting Program. The Environmental Impact Report, by its provisions for monitoring of mitigation measures or changes made to the project or conditions of project approval to be adopted in order to mitigate or avoid significant impacts on the environment, represents the program designed to ensure environmental compliance during project implementation. This program, as required by Public Resources Code Section 21081.6, is based on those documents and materials referred to in the Environmental Impact Report, and incorporated

therein by reference, which are maintained at the County Planning Division's office located at 1855 Placer Street, Suite 103, Redding, California.

- E. The Planning Commission has certified the Shasta Ranch Mining and Reclamation Plan Environmental Impact Report (EIR) and adopted the Mitigation Monitoring and Reporting Program (MMRP).
2. Makes the following findings for the Reclamation Plan, based on the information contained in the Environmental Impact Report:
- A. The Reclamation Plan complies with the requirements of the state Surface Mining and Reclamation Act of 1975 (SMARA), specifically Public Resources Code Sections 2772 and 2773, and the Reclamation Standards specified in California Code of Regulations, Title 14, Division 2, Chapter 8, Subdivision 1, Article 9, Sections 3700 through 3713, and subsequent amendments.
 - B. That the Reclamation Plan has been reviewed by the Department of Conservation pursuant to Public Resources Code Sections 2774 (c) through (e).
 - C. The Reclamation Plan complies with the purpose, intent, and requirements of Chapter 18.04, Surface Mining and Reclamation, of the Shasta County Code.
 - D. The proposed goal of reclamation is consistent with the General Plan policies and the zone district for the area.
3. Approves Reclamation Plan 05-001, subject to the conditions as set forth in the attachment to this Resolution.

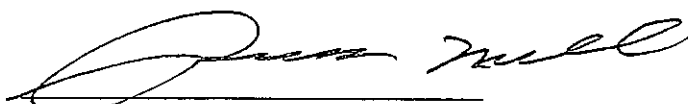
DULY PASSED this 31st day of May, 2007, by the following vote:

AYES: RUTLEDGE, CORNELIUS, RAMSEY, EASLEY
NOES: SMITH
ABSENT:
ABSTAIN:
RECUSE:



JOHN CORNELIUS, Chairman
Planning Commission
County of Shasta, State of California

ATTEST:



RUSS MULL, Secretary
Planning Commission
County of Shasta, State of California

SHASTA COUNTY BOARD OF SUPERVISORS

Tuesday, July 24, 2007

REGULAR MEETING

9:02 a.m.: Chairman Cibula called the Regular Session of the Board of Supervisors to order on the above date with the following present:

District No. 1 - Supervisor Kehoe
District No. 2 - Supervisor Cibula
District No. 3 - Supervisor Hawes
District No. 4 - Supervisor Hartman
District No. 5 - Supervisor Baugh

County Administrative Officer - Larry Lees
County Counsel - Karen Jahr
Deputy Clerk of the Board - Valerie Ibarra
Deputy Clerk of the Board - Nancy Rupert

INVOCATION

Invocation was given by Pastor Mark Smith, Risen King Community Church.

PLEDGE OF ALLEGIANCE

Pledge of Allegiance to the Flag was led by Mel Fisher.

INTRODUCTIONS

Introductions of the Members of the Board, County staff, elected officials, and County department heads were made.

ITEMS PULLED FROM CONSENT CALENDAR

Chairman Cibula announced that the minutes of the Board of Supervisors meeting held on July 17, 2007 were pulled at the request of the department. Pulled for discussion were the items of the Fall River Mills Airport Expansion Project-Automated Weather Observation System and the agreement with MuniFinancial Inc.

CONSENT CALENDAR

By motion made, seconded (Kehoe/Baugh), and unanimously carried, the Board of Supervisors took the following actions, which were listed on the Consent Calendar (Supervisor Cibula voted no on the Personnel Rules based on his views regarding speech):

Approved and authorized the Chairman to sign the County Claims List totaling \$3,129.64 requiring special board action. (Auditor-Controller)

Adopted Resolution No. 2007-87, which amends the Personnel Rules, Chapter 21, *Travel and Other Expenses*, regarding online education and Chapter 36, *Personnel Files*, regarding maintenance of medical files; and adopted Resolution No. 2007-88, which adds Chapter 41, *Campaign Activities*, to the Personnel Rules to implement rules as allowed under Government Code section 3207. (Support Services)

(See Resolution Book No. 48)

Approved and authorized the Chairman to sign a cooperative contract with the City of Tucson in the amount of seven percent of the gross sale of surplus County equipment to utilize the Public Surplus website for online surplus sales for Shasta County. (Support Services-Purchasing)

Took the following actions for the In-Home Supportive Services Advisory Committee: Appointed Jennifer Church to an unexpired term to March 2010; appointed Roberta Roberts to a three-year term to March 2010; and reappointed Cathy Wyatt, Lorna Webb, and Timothy Shell to three-year terms to March 2010. (In-Home Supportive Services Public Authority)

Approved and authorized the Chairman to sign an agreement with Vista Staffing Solutions, Inc. in an amount not to exceed \$200,000 per fiscal year to provide temporary psychiatric services from the date of signing through June 30, 2008, with one automatic one-year renewal. (Mental Health)

Approved and authorized the Chairman to sign a Declaration of Intent notifying the California Department of Public Health (DPH) of the County's intent not to apply for Fiscal Year 2007-08 Rural Health Services Program funding in favor of continuing DPH's disbursement of funds directly to area hospitals and physicians for a portion of their indigent medical care costs. (Public Health)

Approved and authorized the Chairman to sign an amendment to the agreement with the California Department of Health Services increasing compensation by \$80,000 (for a total of \$124,115) to continue providing activities for the prevention and control of sexually transmitted diseases and extending the term of the agreement to June 30, 2009. (Public Health)

Approved and authorized the Chairman to sign the AIDS Master Grant Agreement and Certification Statement with the California Department of Health Services in a total amount of \$412,827 for all HIV/AIDS activities for the period July 1, 2007 through June 30, 2010; and a Prevention Memorandum of Understanding (MOU) (\$71,652), an HIV Counseling and Testing MOU (\$281,175), and an HIV/AIDS Surveillance MOU (\$60,000). (Public Health)

Approved and authorized the Chairman to sign the annual Agreement Funding Application with the California Department of Health Services in the amount of \$303,909 (\$101,303 per year) to allow Public Health to continue providing maternal, child, and adolescent health services for the period July 1, 2007 through June 30, 2010; and authorized the Auditor-Controller to pay claims related to the expenditures of the allocated funds. (Public Health)

Approved and authorized the Chairman to sign a renewal agreement with the City of Anderson in an amount not to exceed \$6,600 per month for Opportunity Center participants to provide janitorial services at City of Anderson buildings from the date of signing through June 30, 2008, with two automatic one-year renewals (no General Fund impact) (Social Services)

For the proposed Tract Map No. 1878, Nunes Ranch Permanent Road Division (Shingletown area), received the petitions for formation and activation, affidavit verifying petition information, maintenance cost estimate, and parcel charge report; and set a public hearing for September 18, 2007 at 9:00 a.m. (or as soon thereafter as may be heard) to consider formation and activation. (Public Works)

Approved and authorized the Chairman to sign an amendment to the agreement with Mead and Hunt, Inc. in the amount of \$215,000 (for a total of \$1,442,000) to add construction engineering services to the Scope of Work for Phase III of the Fall River Mills Airport Expansion Project and retaining the term to September 25, 2011. (Public Works)

ACTION ON ITEMS PULLED FROM THE CONSENT CALENDAR

FALL RIVER MILLS AIRPORT EXPANSION PROJECT- AUTOMATED WEATHER OBSERVATION SYSTEM

In response to a question by Supervisor Kehoe, Public Works Director Pat Minturn explained the Federal Aviation Administration objected to the bids as a unit was selected without allowing a competitive bidding environment. By motion made, seconded (Kehoe/Hawes), and unanimously carried, the Board of Supervisors rejected all bids; directed the Public Works Director to revise the plans and specifications to eliminate the proprietary requirements as recommended by the Federal Aviation Administration and re-advertise for bids; and authorized the opening of bids on or after August 16, 2007 at 11:00 a.m. (Public Works)

AGREEMENT: MUNIFINANCIAL INC. DEVELOPMENT FEE IMPACT STUDY

In response to a question by Supervisor Baugh, County Administrative Officer (CAO) Lees related that the City of Redding recently provided pertinent data to MuniFinancial, requiring the contract to be extended to allow time to complete the study. By motion made, seconded (Baugh/Kehoe), and unanimously carried, the Board of Supervisors approved and authorized the Chairman to sign an amendment to the agreement with MuniFinancial Inc. extending the term of the agreement to finalize a development fee impact study prior to July 25, 2008. (Resource Management)

REGULAR CALENDAR

PRESENTATIONS

U.S. FOREST SERVICE SHASTA-TRINITY NATIONAL FOREST ACTIVITIES UPDATE

Shasta-Trinity National Forest Supervisor Sharon Heywood discussed activities in the Shasta-Trinity National Forest, including the possible expansion at Turntable Bay Marina, youth summer programs, timber harvest, and the inventory process of roads within the Shasta-Trinity National Forest.

9:46 a.m.: Supervisor Baugh left the room.

BOARD MATTERS

PROCLAMATION: CHILD SUPPORT AWARENESS MONTH

At the recommendation of Child Support Services Director Terri Love and by motion made, seconded (Kehoe/Hawes), and unanimously carried, the Board of Supervisors adopted a proclamation which designates August 2007 as Child Support Awareness Month in Shasta County.

9:48 a.m.: Supervisor Baugh returned to the room.

PROCLAMATION: BREASTFEEDING AWARENESS MONTH/WEEK

At the recommendation of Public Health Director Donnell Ewert and by motion made, seconded (Hawes/Kehoe), and unanimously carried, the Board of Supervisors adopted a proclamation which designates August 2007 as Breastfeeding Awareness Month in Shasta County and August 1-7, 2007 as Breastfeeding Awareness Week in Shasta County.

GENERAL GOVERNMENT

ADMINISTRATIVE OFFICE/BOARD OF SUPERVISORS

LEGISLATIVE UPDATE/SUPERVISORS' REPORTS

CAO Lees presented an update on specific legislation of importance to Shasta County, including the state budget. He has had discussions with Senator Aanestad regarding potential budget cuts and how they affect Shasta County.

Supervisor Kehoe reported he recently attended a joint meeting of the Mental Health Board and the Alcohol and Drug Advisory Board.

Supervisors reported on issues of countywide interest.

HEALTH AND HUMAN SERVICES

MENTAL HEALTH

**AGREEMENT: NORTH VALLEY BEHAVIORAL HEALTH
PSYCHIATRIC INPATIENT SERVICES**

At the recommendation of Mental Health Director Dr. Mark Montgomery and by motion made, seconded (Kehoe/Hawes), and unanimously carried, the Board of Supervisors approved and authorized the Chairman to sign a renewal agreement with North Valley Behavioral Health in an amount not to exceed \$1,228,250 per fiscal year to provide psychiatric inpatient services from the date of signing through June 30, 2008, with two additional one-year renewals.

LAW AND JUSTICE

SHERIFF

**AGREEMENT: GLOBAL TEL LINK CORPORATION
EQUIPMENT AND CARRIER SERVICES
JAIL INMATE PAYPHONES**

At the recommendation of Sheriff/Coroner Tom Bosenko and by motion made, seconded (Hartman/Hawes), and carried, the Board of Supervisors approved and authorized the Chairman to sign a Letter of Agency and an agreement with Global Tel Link Corporation to provide, install, and maintain inmate phone equipment and carrier services for jail inmate payphones for the period August 2, 2007 through August 1, 2012, with two automatic one-year renewals, with compensation to the County of 55 percent of the gross revenues. Supervisor Cibula voted no as he disagrees with spreading the costs to the inmates and because a Request for Proposal was not pursued.

PUBLIC WORKS

AGREEMENT: INTERNATIONAL SURFACING SYSTEMS 2007 RESURFACING PROJECT

At the recommendation of Public Works Director Pat Minturn and by motion made, seconded (Baugh/Hawes), and unanimously carried, the Board of Supervisors awarded to the low bidder, International Surfacing Systems, on a unit-cost basis, the contract for construction on the 2007 Resurfacing Project.

LONG HAY FLAT ROAD AND LAKE McCUMBER ROAD SPEED LIMITS

Public Works Director Pat Minturn presented the staff report and confirmed that speed limits enforceable by State law requires conducting a speed study, determining the existing pattern, and then identifying the 85th percentile.

Frank Galusha requested a 35-mile-per-hour speed limit and expressed his concern that a higher speed limit may not be appropriate as the road is traveled by school buses and pedestrians, is subject to winter road conditions, and the number of residents in the area.

Kenneth Burr requested a 35-mile-per-hour speed limit and expressed his concern regarding road conditions and number of residents of local roads surrounding Lake McCumber Road.

Battle Creek Subdivision Neighborhood Watch President Gordon Patterson recommended a 30- or 35-mile-per-hour speed limit due to children and wildlife in the area.

Supervisor Baugh moved that this item be postponed for three weeks for further review and to confirm calculations collected so as to consider whether a lower speed limit on Lake McCumber Road would be appropriate; however, the motion failed for lack of a second.

By motion made, seconded (Hartman/Hawes), and unanimously carried, the Board of Supervisors introduced and waived the reading of an ordinance which establishes a 30-mile-per-hour speed limit on Long Hay Flat Road and a 40-mile-per-hour speed limit on Lake McCumber Road. Supervisor Baugh voted no as he would rather postpone the matter to a later date to review and confirm calculations collected to consider whether a lower speed limit than 40-miles-per-hour on Lake McCumber Road would be appropriate.

RESOURCE MANAGEMENT

COMMUNITY EDUCATION SECTION

FISCAL YEAR 2006-07

LOCAL GOVERNMENT WASTE TIRE CLEANUP AND AMNESTY EVENT GRANT RESOLUTION NO. 2007-89

At the recommendation of Environmental Health Division Manager Jim Smith and by motion made, seconded (Hawes/Baugh), and unanimously carried, the Board of Supervisors adopted Resolution No. 2007-89, which authorizes the Director of Resource Management to accept a Local Government Waste Tire Cleanup and Amnesty Event grant for Fiscal Year 2006-07 in an amount not to exceed \$75,000 on behalf of Shasta County and the Cities of Anderson and Shasta Lake, appoints the Director of Resource Management as the agent for Shasta County for the purposes of this program, authorizes program expenditures to be

included in the Supplemental Budget process, and authorizes the Auditor-Controller to pay claims for said expenditures.

(See Resolution Book No. 48)

1:30 p.m.: The Board of Supervisors reconvened in Open Session with all Supervisors, County Administrative Officer Larry Lees, Assistant County Counsel Mike Ralston, Chief Deputy Clerk of the Board Glenda Tracy, and Deputy Clerk of the Board Linda Meikelburg present.

AFTERNOON CALENDAR

REPORT OF CLOSED SESSION ACTIONS

Assistant County Counsel Mike Ralston reported that the Board of Supervisors met in Closed Session to discuss existing litigation; however, no reportable action was taken.

SCHEDULED HEARINGS

RESOURCE MANAGEMENT

PLANNING DIVISION

APPEAL OF USE PERMIT 05-010 AND RECLAMATION PLAN 05-001 SHASTA RANCH ESTATES LLC, SOUTHEAST ANDERSON AREA RESOLUTION NO. 2007-90

1:31 p.m.: Supervisor Hawes recused himself on advice from the Fair Political Practice Commission (FPPC) resulting from business dealings with the project proponent, and he left the Chambers.

This was the time set to conduct a public hearing and consider the appeal by Joann Moore and Gail Mellow on behalf of Shasta County Citizens for a Healthy Environment of the Planning Commission's approval of Use Permit No. 05-010, Reclamation Plan No. 05-001, and certification of the Environmental Impact Report (EIR) for Shasta Ranch Estates LLC (Southeast Anderson area). The Notice of Hearing and Affidavit of Publication are on file with the Clerk of the Board.

Senior Planner Bill Walker presented the board report regarding the proposed gravel mining project by Shasta Ranch Estates, LLC in the Southeast Anderson area.

Public Works Director Pat Minturn, Director of Resource Management Russ Mull, Mr. Walker, and Special Land Use Economic Analysis Joel Ellinwood answered questions posed by members of the Board of Supervisors.

2:45 p.m. The Board of Supervisors recessed.

2:55 p.m. The Board of Supervisors reconvened.

Mr. Walker, Mr. Minturn, and Mr. Mull provided information regarding roads and safe travel.

The public hearing was opened and Joann Moore, Vicki Harris, Kathy Valles, Elaine Rutkowski, and Gail Mellow spoke in opposition of Shasta Ranch Estates, LLC because of

concerns of surrounding land values, water quality, road conditions, noise, and hazardous substances.

4:25 p.m. The Board of Supervisors recessed.

4:40 p.m. The Board of Supervisors reconvened.

Lyle Tullis, owner of Shasta Ranch Estates, LLC discussed the lack of available aggregate and its importance to Shasta County's economy; he responded to questions by members of the Board of Supervisors, noting that importing aggregate to Shasta County causes increased cost of the product and increased air quality issues due to the pollution from transport vehicles.

Earl Allen Beck, Louise Zimmerman, Linda Schreiber, Deon Pollett, Ken Benke, Doug Bennett, Lori Pritchett, Mark Franco, Caleen Sisk-Franco, Marie Carr-Fitzgerald, Kathy Valles, Patrick Carr, Galen Hopson, John Steiner spoke in opposition to Shasta Ranch Estates, LLC.

Sally Riley, Brian Crane, John Williams, Randall Smith, and Ed Shaw spoke in favor of Shasta Ranch Estates, LLC.

Nancy Milton stated she was not in favor or in opposition, but expressed that everyone uses aggregate, and aggregates are located in areas where they are found.

6:51 p.m. The Board of Supervisors recessed.

7:15 p.m. The Board of Supervisors reconvened.

Rick Anderson, Dianna Thrasher, Kathy Valles, and Betty Juarez spoke in opposition to the project.

On behalf of the appellant, Kathy Valles and Gail Mellow spoke of issues regarding diminishing quality of life and property values due to noise and traffic conditions.

On behalf of the proponent, Lyle Tullis, Wendy Johnston, and Todd Bernhard advised that the site for the Shasta Ranch Estates is not a toxic waste site.

No one else spoke for or against the proposal, and the public hearing was closed.

Supervisor Hartman moved that the intent to deny the appeal be approved, Supervisor Kehoe seconded the motion. Under discussion, Supervisor Baugh requested: (1) realign the project access road to connect direct to Kimberly Road and to not use the two proposed southern Cottonwood routes; (2) not to include Phase 3; however, Phase 3 be handled for one year of notification; (4) additional testings; (5) fencing around the existing trenches; (6) determine the days of operation; and (6) tie the road maintenance fee to the Consumer Price Index (CPI).

Supervisor Cibula expressed his concern regarding the presence of dioxin.

In reply to Supervisor Cibula's request, Mr. Mull proposed the owner/operator notify the Director of Resource Management at least twelve months prior to the initiation of Phase 3, the Director may then require additional monitoring by the applicant prior to the initiation and during the operation of Phase 3. Mr. Mull stated that based on a certain segment of the economy, the CPI for all urban consumers changes in January every year. This is the same scale used on the changes to fee schedules. The current amount is ten cents and may increase or decrease by approximately one or two percent in January of each year.

Mr. Mull advised that changing the traffic pattern by eliminating the two southern routes would increase traffic on the remaining two routes, which was not evaluated in the EIR, and would therefore require a supplemental EIR.

Supervisor Hartman amended her motion of intent to deny the appeal to: (1) include Phase 3 monitoring; (2) realign the access road at Kimberly Road; (3) tie the annual road maintenance fee to the Consumer Price Index; (4) limit days and hours of operation to be Monday through Friday, 7:00 a.m. to 6:00 p.m., (hauling 8:30 a.m. to 6:00 p.m. when school is in session), with a maximum of 77 round trips per day; (5) install fences around the trenches containing the paper mill waste. Supervisor Kehoe seconded the amended motion, and the motion carried. Supervisor Baugh voted no to respect the wishes of many area residents.

By motion made, seconded (Kehoe/Hartman), and carried, the Board of Supervisors approved certification of the Environmental Impact Report. Supervisor Baugh voted no.

By motion made, seconded (Hartman/Kehoe), and carried, the Board of Supervisors adopted Resolution No. 2007-90, which denies the appeal and upholds the Planning Commission approval of Use Permit No. 05-010, with amendments approved to the conditions as set forth in the motion of intent to deny the appeal. Supervisor Baugh voted no.

By motion made, seconded (Hartman/Kehoe), and carried, the Board of Supervisors adopted the Mitigation Monitoring and Reporting Program, adopted the Findings of Fact and Statement of Overriding Consideration, and approved Reclamation Plan No. 05-001. Supervisor Baugh voted no.

(See Resolution Book No. 48)

9:00 p.m.: The Board of Supervisors adjourned.

Chairman

ATTEST:

LAWRENCE G. LEES
Clerk of the Board of Supervisors

By _____
Deputy

SHASTA COUNTY PLANNING COMMISSION

MINUTES

Special Meeting

Date: May 31, 2007
Time: 2:00 p.m.
Place: Shasta County Administration Center
Board of Supervisors' Chambers

Flag Salute

ROLL CALL

Commissioners

Present:	John Cornelius	District 3
	Dave Rutledge	District 1
	Jerry Smith	District 2
	Roy Ramsey	District 4
	Shirley Easley	District 5

Staff Present:

Russ Mull, Director of Resource Management
Mike Ralston, Assistant County Counsel
Bill Walker, Senior Planner
Jim Smith, Environmental Health Division Manager
Jim Diehl, Shasta County Fire Department
Patrick Minturn, Director of Public Works
Al Cathey, Public Works/Subdivision Engineer
Dawn Duckett, Staff Services Manager, Recording Secretary

Note: All unanimous actions reflect a 5-0 vote.

Key: California Environmental Quality Act (CEQA): Mitigated Negative Declaration (MND), Negative Declaration (ND), Categorically Exempt (CE), De Minimis Finding of Significance (DM).

CONFLICT OF INTEREST

DECLARATIONS: Commissioner Easley disclosed that in the summer of 2006, she toured the subject property and in the fall of 2006, she was asked to sign a petition regarding the project. Both events took place prior to Ms. Easley being appointed to the Planning Commission.

OPEN TIME: No speakers.

PUBLIC HEARING:

R1: Use Permit 05-010 and Reclamation Plan 05-001 (Shasta Ranch Mining and Reclamation Plan) Continued from March 22, 2007, and May 10, 2007: The project is located near the Sacramento River, northeast of Balls Ferry Road, between Riverland Drive and Blue Jay Road approximately 2.5 miles southeast of the City of Anderson. Access to the project site is gained from Balls Ferry Road by way of a private road located

approximately 100 yards northwest of the Balls Ferry Road and Kimberly Road intersection. The project site is located in the following Shasta County Assessor's Parcels: 091-040-002, 091-050-002 and 091-080-002 (Section 53, 55, 56, 59, 60 of the P. B. Reading Grant).

The proposed project is a request for approval for a Use Permit (UP 05-010) and Reclamation Plan (RP 05-001) to mine alluvial sand and gravel near the Sacramento River. The project site encompasses approximately 947 acres, of which 268 acres will be mined for aggregate material. The mined aggregate (gravel) would be crushed, screened, washed, stockpiled, and loaded for off-site transport. Approximately 3.43 million cubic yards of overburden and 6.06 million cubic yards of soil and gravel would be excavated. The project would generate an average of 60 truck round-trips, and a maximum of 120 truck round-trips, per day. The project would operate for approximately 30 years until the year 2037. There are three phases, and each phase would operate for 8 to 10 years. Upon completion of all mining activities, the areas of disturbance would be reclaimed to agricultural farmland, ponds, and open space.

The public hearing will be opened to discuss only those issues pertaining to traffic and public utilities. Planner: Walker.

Senior Planner Bill Walker presented the staff report. Mark Teague, from Pacific Municipal Consultants (Environmental Impact Report (EIR) Consultant), discussed the public comments received since recirculating the Traffic and Utilities sections of the EIR, stating that the majority of responses to comments reiterated or reaffirmed responses given in the Final EIR.

The public hearing was opened and Lyle Tullis, the applicant, spoke in favor of the project. Mr. Tullis told the Commission that the traffic study performed for the project stated that the project would have virtually no impact on the roads in the area and that the haul routes would be limited to 64 truck round trips per day. He said that he agreed with the conditions of approval for the project and that the use of biodiesel fuel will reduce emissions by as much as 10 percent.

Speaking in opposition to the project were:

<i>Speaker's Name</i>	<i>Comment/Issue/Concern</i>
Joann Moore	Ms. Moore provided a PowerPoint presentation which included photographs of existing traffic conditions in the project area. She discussed the proposed truck routes and stated that the EIR doesn't include use percentages of traffic for each route. Ms. Moore added that the road conditions will deteriorate due to truck traffic and stated problems with road widths being too narrow to accommodate large trucks. Ms. Moore also discussed health risks related to truck emissions and recommended denial of the project.
Dale Hansen	Mr. Hansen (Superintendent of the Cottonwood School District) stated that afternoon school dismissal times are

staggered and that the proposed truck schedules should be restricted in the afternoons as well as during the morning hours.

- Ken Behnke Mr. Behnke voiced concerns regarding traffic and safety. He discussed several bridges and irrigation ditches in the area as well as truck traffic interfering with garbage collection and mail delivery. Mr. Behnke stated that there is a 100-year supply of gravel available at the Clear Creek gravel plant.
- Lori Pritchett Ms. Pritchett (Cottonwood Enrichment Council) discussed concerns regarding truck traffic traveling through Tehama County and parts of historic downtown Cottonwood. She asked that the historic integrity of downtown Cottonwood be maintained.
- Rita Frankovich Ms. Frankovich agreed with the previous speaker and added that truck traffic will have a negative impact to businesses located in downtown Cottonwood.
- Kathy Valles Ms. Valles displayed photos of existing traffic conditions in the project area and discussed traffic safety issues. She told the Commission that there are many accidents in the area due to the narrowness of the roads.
- Michael Hendrix Mr. Hendrix agreed with the previous speakers regarding the issue of the roads being too narrow to accommodate large trucks. He also discussed air pollution, noise, and health risks related to emissions.
- Debra Earhart Ms. Earhart voiced concerns regarding truck traffic through downtown Cottonwood, noise, dust, and hazards created by loose gravel on the roads.
- Larry Sergent Mr. Sergent discussed traffic/safety issues for cyclists on the roads and concerns regarding air quality and loose gravel.
- Colette Bither Ms. Bither voiced concerns regarding health risks caused by dust and emissions. She asked that trucks wait until after the school busses have completed their routes.
- Alexa Bither Ms. Bither discussed health risks, noise, dust, and emissions.
- Art Bither Mr. Bither voiced general opposition to the project.
- Lloyd Bither Mr. Bither discussed negative impacts to animals in the project area.

- Karen Bither Ms. Bither agreed with previous speakers and discussed traffic speeds and low visibility on the area roads.
- Gail Mellow Ms. Mellow distributed a petition to the Commission and discussed road conditions. She disagreed with the findings in the EIR that the number of truck trips would have a limited impact to the roads. Ms. Mellow also discussed inconsistencies in the traffic study prepared for the project.
- Randy Smith Mr. Smith discussed the importance of gravel and asked for approval of the project. He was advised by Chairman Cornelius that this was the time set for testimony in opposition to the project.
- Elain Rutkowski Ms. Rutkowski agreed with the previous speakers in opposition to the project.
- Gail Mellow Ms. Mellow concluded her discussion of traffic issues and safety concerns.
- Kathy Valles Ms. Valles stated that there are more cyclists on roads due to rising fuel costs. She also stated that she wasn't notified in 1999 when parts of the Balls Ferry Road area were rezoned to an Interim Mineral Resource district.
- Jason Bither Mr. Bither described a previous incident that occurred when he was run off the road by a truck while he was traveling in his wheelchair.

Lyle Tullis provided rebuttal remarks stating that truck route test runs had been performed and that all tests revealed that the trucks had no problem maneuvering safely on the roads. He added that the gravel plant would not operate during the evening. Mr. Tullis told the Commission that an agreement had been signed with Tehama County requiring that the plant provide aggregate to maintain County roads and that the plant would be paying a per-ton fee for the use of County roads. He also said that he would agree to a maximum of 64 truck round trips per day for the project. There being no other speakers for or against the project, the public hearing was closed.

Bill Walker advised the Commission that Condition 30 for the Use Permit could be revised to state a maximum of 64 of truck round trips per day, to which the Commission agreed.

ACTION: By motion made, seconded (Rutledge/Cornelius), and carried with Commissioners Ramsey, Easley, Cornelius, and Rutledge voting AYE and Commissioner Smith voting NO, for a 4-1 vote, the Commission by Resolution 2007-050 reviewed and certified the Environmental Impact Report for the Shasta Ranch Mining and Reclamation Plan and adopted the related Mitigation Monitoring Program; and by Resolution 2007-051 approved Use Permit 05-010 based on the findings and subject to the conditions, as amended, listed in the Resolution; and by Resolution 2007-052 approved Reclamation Plan 05-001 based on the findings and subject to the conditions listed in the Resolution.

ADJOURNMENT: The Planning Commission adjourned at 3:55 p.m.

Submitted by:

Dawn Duckett, Staff Services Manager
Recording Secretary

NOTICE OF DETERMINATION

RECEIVED

JUL 30 2007

SHASTA COUNTY CLERK

TO:

FROM:

[] Office of Planning & Research
1400 Tenth Street
Sacramento, CA 95814

County of Shasta
Planning Division
1855 Placer Street, Suite 103
Redding, CA 96001

[X] Shasta County Clerk/Registrar of Voters
1643 Market Street
Redding, CA 96001

Phone: 530/225-5532
FAX: 530/245-6468

A copy of the environmental document and the record of the project approval may be examined at the Planning Division, 1855 Placer Street, Suite 103, Redding, CA 96001.

Subject: Filing of Notice of Determination in compliance with Section 21152 of the Public Resources Code.

PROJECT TITLE: Use Permit 05-010
Reclamation Plan 05-001

STATE CLEARINGHOUSE NO.: 2005102134

APPLICANT: Tullis, Inc.
Shasta Ranch Mining & Reclamation

Date Approved: 05/31/07

BOS: ~~NA~~ 7-24-07

Original Sent to Clerk: 06/01/07

Date Fees Paid: JUL 30 2007

Date Sent to Clerk for Posting: 7/30/07

PROJECT LOCATION AND DESCRIPTION: The proposed project is a request for approval for a Use Permit (UP 05-010) and Reclamation Plan (RP 05-001) to mine alluvial sand and gravel near the Sacramento River. The project site encompasses approximately 947 acres, of which 268 acres will be mined for aggregate material. The sand and gravel processing facility would occupy approximately 10 acres. The mined aggregate (gravel) would be crushed, screened, washed, stockpiled, and loaded for off-site transport. Approximately 3.43 million cubic yards of overburden and 6.06 million cubic yards of soil and gravel would be excavated. The project would generate an average of 64 truck round-trips, and a maximum of 120 truck round-trips per day. The project would operate for approximately 30 years until the year 2037. There are three phases and each phase would operate consecutively for 8 to 10 years. Upon completion of all mining activities, the areas of disturbance would be reclaimed to agricultural farmland, ponds, and open space.

The project is located near the Sacramento River, northeast of Balls Ferry Road, between Riverland Drive and Blue Jay Road. This is approximately 2.5 miles southeast of the City of Anderson. Access to the project site is gained from Balls Ferry Road by way of a private road located approximately 100 yards northwest of the Balls Ferry Road and Kimberly Road intersection.

This is to advise that the County of Shasta, as [X] lead agency/[] responsible agency, has approved the project described above and has made the following determinations regarding the project:

1. The project in its approved form [X] will, [] will not, have a significant effect on the environment.
2. [X] An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of CEQA.
3. [] A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
4. [] A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
5. [] Readoption of a Negative Declaration or Mitigated Negative Declaration. Fees which have been previously paid to the Department of Fish and Game are not required. A document posting fee required by the County Clerk's office still applies.
6. [X] Mitigation measures were made a condition of the approval of the project.
7. [X] Findings were made pursuant to Section 15091 of the State CEQA guidelines.
8. A statement of overriding considerations [X] was, [] was not, adopted for this project.

DATE RECEIVED FOR FILING:


Richard W. Simon
Assistant Director of Resource Management

REFERENCE: California Administrative Code, Title 14,
Division 6, Chapter 3, Sections 15075, 15094, 15373

005508

5147

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SHASTA

SHASTA COUNTY CITIZENS FOR
A HEALTHY ENVIRONMENT and
SIERRA CLUB,

CASE NO: 161115

Petitioners.

INTENDED DECISION

vs.

COUNTY OF SHASTA; SHASTA
COUNTY BOARD OF SUPERVISORS
and DOES 1-10,

Respondents.

TULLIS INC; and DOES 11 – 100,

Real Party In Interest.

//

I

INTRODUCTION

The above entitled matter came before the Court for trial on May 20, 2009, at 8:30 a.m. Petitioners SHASTA COUNTY CITIZENS FOR A HEALTHY ENVIRONMENT and SIERRA CLUB appeared by Ms. Marsha Burch of the Law Office of Donald B. Mooney. Respondents COUNTY OF SHASTA and SHASTA COUNTY BOARD OF SUPERVISORS appeared by William W. Abbott and Diane K. Kindermann, Attorneys at Law, and Michael Ralston, Assistant

County Counsel, County of Shasta. Real Party In Interest TULLIS, INC. appeared by Michael P. Ashley of Carr, Kennedy, Peterson & Frost, a Law Corporation, and Thomas H. Terpstra of Thomas H. Terpstra, a Law Corporation.

The trial consisted of oral argument, which lasted until 4:30 p.m. The matter was deemed to be submitted upon the filing of the transcript, which the Court ordered to be filed on or about June 6, 2009. The date of submission was revised after the case *California Native Plant Society vs. City of Rancho Cordova* (2009 3rd District) 172 Cal.App.4th 603 became final as hereinafter set forth. This case was then deemed submitted on September 4, 2009.

RELIEF SOUGHT

The Petitioners' First Amended Complaint, filed on January 15, 2008, requested the following relief:

1. A Temporary and Permanent injunction prohibiting the Respondents and Real Party In Interest from granting or receiving permits for mining activities on the property owned by Real Party In Interest;
2. An alternative writ issue to Respondents vacating the approval of the project by County for Real Party In Interest and ordering the preparation of a new environmental impact report;
3. A finding that the quarry project violates the General Plan; and
4. Costs and attorney's fees.

Respondents and Real Party in Interest requested the following:

1. That Petitioners take nothing by reason of their Petition;
2. That Petitioners' request for attorney's fees and costs be denied;
3. That Respondents and Real Party In Interest be awarded costs and attorney's fees;
4. That the Court deny the request for writ of mandate;

5. That in the event an order or judgment is awarded for Petitioners in whole or in part, the Court declare portions of the project which are found not to be in compliance with CEQA severable within the meaning of Public Resources Code Section 21168.9(b); and

6. Such other relief as deemed proper by the Court.

The Respondents and Real Party In Interest each set forth Seven Affirmative Defenses, six of which were not argued as separate defenses. The only one separately urged was standing based upon failure to exhaust administrative remedies.

ABBREVIATIONS USED IN INTENDED DECISION

The following abbreviations will be used in this Intended Decision:

“AR” refers to the Administrative Record. The Court has not used the references of the respective parties to the appendices they filed with their briefs.

“PRC” refers to the Public Resources Code.

“Guideline” refers to the CEQA.

“Guidelines” refers to California Code of Regulations Title 14, Chapter 3.

Since Respondents and Real Party In Interest filed a joint brief, they will be collectively referred to as “Respondents” unless a specific designation of one such party is made.

“POB” refers to Petitioners’ Opening Brief.

“RB” refers to the joint brief of Respondents.

“PRB” refers to Petitioners’ Reply Brief.

“EIR” refers to the adopted Environmental Report.

“DEIR” refers to the draft Environmental Report.

“FEIR” refers to the final Environmental Report presented to the Board of Supervisors.

“PMC” refers to Pacific Municipal Consultants, the preparer of the EIR.

“NOD” refers to Notice of Determination.

Petitioners and Respondents have presented the arguments in their briefs by headings in outline form and the Court is following that approach by outline form, which melds the two outlines of the respective parties.

II

STATEMENT OF FACTS

I. SETTING OF PROPERTY

The Project site is located in the southern portion of Shasta County, approximately 140 miles north of Sacramento and 16 miles south of Redding. The project site is along the southwestern bank of the Sacramento River, just east of Balls Ferry Road. (AR 607). The project area includes three parcels, totaling 947 acres. (AR 607)

The Project site is located in a 100-year alluvial floodplain that was once the Sacramento River. (AR 635). The Sacramento River Conservation Forum has included the 100-year floodplain and the Project site within a conservation area for riparian habitat. (AR 3357) It currently supports row crops, areas of native habitat, and fallow farmland. The project area includes 55.2 acres of wetlands. (AR 607-608.).

The Shasta County General Plan Land Use Element designates the project area Agriculture-Cropland (AC) and Agriculture-Cropland combined with Interim Mineral Resource (A-C/IMR). (AR 642). The County's General Plan provides that the IMR designation refers to the short-term development of mining operations (less than 30 years). The purpose of the IMR designation is to allow for compatible land uses while protecting the potential for mineral resources development. (AR 642).

The property includes four zoning districts: Exclusive Agriculture (EA); Exclusive Agriculture combined with Interim Mineral Resource (E-IMR); Exclusive Agriculture combined with Restrictive Flood (EA-F-2) and Exclusive Agriculture combined with Restrictive Flood District and

Interim Mineral Resource District (EA-F-2-IMR). (AR 651). Portions of the property have been classified as MRZ-2b, which indicates significant mineral deposits of alluvial sand and gravel suitable for use as concrete aggregate. (AR 3357).

The Project will result in the conversion of 268 acres of agricultural land to non-agricultural uses, including 162 acres of prime agricultural land, 16.2 acres of Farmland of Statewide Importance, and 12.3 acres of Unique Farmland. (AR 3054.)

2. HISTORIC USE

The present land use is primarily agricultural, consisting of row crops and fallow farmland. The project area also includes areas of native habitat and 52.2 acres of wetlands. (AR 607-608). From 1964 to 2002, Kimberly Clarke and subsequent operators of the Shasta Paper Mill (a bleached kraft pulp and paper mill) operated in the area of the Project site and discharged mill solids and liquid wastes on the Project property. (AR 960). Primary sludge was disposed of in trenches located on the Project site, while secondary sludge (effluent) was applied to crops and trees on the Project site. (AR 960). Wastewater from the pulp and paper mill generally contained adsorbable organic halides (AOX) and volatile organic compounds (VOCs) from the pulping process, and AOX, VOCs and dioxins from the bleaching process. (AR 958).

3. PROJECT

The proposed gravel operation includes excavating and processing aggregate materials. (AR 612). The project site includes approximately 268 acres on a 947-acre site made up of three parcels. The Project includes excavation pits, stockpiles, staging areas, retention basins, project roadways, levees and a spur dike. (AR 613). The conditional use permit would allow Tullis to excavate and process 12 million tons (or about 6.06 million cubic yards) of aggregate material for transport off site. (AR 613). Mining operations will occur in three phases, with each phase estimated to last approximately 8 to 10 years, with a total duration for the Project of 24 to 30 years. (AR 615.)

Processing of aggregate materials includes stockpiling, washing, sorting and crushing. (AR 616). The mining operations will occur between 7 a.m. and 6 p.m., Monday through Friday, and 8:30 a.m. to 6:00 p.m. when school is in session. The material will be trucked off site, with a maximum of 77 truck load round trips per day. (AR 5239).

Following the completion of mining operations, all of the project area will then be reclaimed, with Phase 1 restored to farmland, and Phases 2 and 3 modified and revegetated to create riparian and aquatic habitat. (AR 624).

4. CHRONOLOGY

In light of the many challenges to the EIR, the chronology of administrative events is as follows:

- Application to Shasta County for a Use Permit and Reclamation Plan Approval, April 2006 [DIER] (AR 00529);
- Revised Mining and Reclamation Plan, December 2006 (AR 2485);
- Revised FEIR, March 2007 (AR 2485);
- Planning Commission Meeting, March 22, 2007 (AR 3796-3805);
- Recirculation of FEIR, April 30, 2007 (AR 3805);
- Planning Commission Meeting May 10, 2007 (AR 4186-4188);
- Planning Commission Meeting of May 31, 2007 (AR 4199-4475);
- Board of Supervisors' Meeting of July 24, 2007 [Agenda (AR 4531)];
- Staff Report (AR 4539);
- Public Hearing and PowerPoint presentation (AR 5049);
- Minutes (AR 5232);
- Transcript (AR 5258);
- Resolution (AR 5503)].

PREPARERS OF EIR

Key preparers of the reports and EIR and individuals involved (AR 001011):

Prime Contractor: Pacific Municipal Consultants, Project Manager – Mark Teague.

Sub-Contractors: Hazards and Hazardous Materials – Geomatrix Inc. – Ann Holbrow, Manager and Vestra Resources Inc. – John Andrews, Manager; Air Quality and Noise – Kurt Legieiter – Ambient Air Quality and Noise Consulting; Traffic and Circulation – Fehr & Peers Transportation Consultants – Jason Pack, Manager; Hydrology and Water Resources – GEOPlus Inc. – William R. Bergman, Manager and Stormwater Consulting Inc. – Jim Nelson, Manager; Cultural – Peter Jensen, Manager Archeologist – Jensen & Associates; Biology – Wilt Lanning, Biologist and Ginger Bolen, Wildlife Biologist – North State Resources.

COUNTY OFFICIALS

Shasta County Officials Involved:

Bill Walker, Senior Planner (AR 1012); Pat Mintum, Public Works Director (AR 4828); Russ Mull, Director of Resource Management (AR 4828).

OMNI-MEANS

Because of the frequent references to a study prepared by Omni-Means Engineers and Planners, it is necessary for the Court to make clear that Omni-Means was not involved with the preparation of the EIR other than as a source for limited traffic information. The Omni-Means report was referred to under Section 8.1, 4.3 (AR 1015) as a reference contained in the DEIR of July 2006 and it was not named as one of the consultants involved in the preparation of the Mining and Reclamation Plan. The Omni-Means reports were dated March 9, 2005 (AR 5509), entitled “Memorandum of Assumptions” and June 14, 2005 (AR 5709), entitled “Draft Letter Report”. Both reports assumed ancillary sites. The report was prepared for RPI who hired Omni-Means. The first report dealing with assumptions of ancillary sites preceded the Application for Use Permit

(AR 0001) and Application for Approval of Mining and Reclamation Plan (AR 0002) by over a month. On August 17, 2005, the Respondent sent a Request for Proposal for the EIR preparation and on September 27, 2005, Pacific Municipal Consultants were selected to prepare the EIR and they engaged Fehr & Peer to prepare the traffic safety and circulation portion of the EIR (AR 00660). The record is clear that Omni-Means was not engaged to work on the EIR and its report was not the one circulated to the public. Not only do the Omni-Means reports differ as to their assumptions regarding ancillary sites, but they were prepared before the EIR preparer was selected and the reports run contrary to Condition 22 (AR 004376) of the EIR, which prohibits importing materials or recycling them on the project site.

III

PROCEDURAL HISTORY

The First Amended Complaint was filed on January 15, 2008.

The Administrative Record was lodged with the Court on April 10, 2008, and Notice of Lodging was filed on April 11, 2008.

On May 8, 2008, Petitioner filed a Motion for Leave to Conduct Limited Discovery, which was granted, and by stipulation, the extent of the discovery took place.

On May 29, 2008, a Motion for Stay and/or Preliminary Injunction was filed by Petitioner, which was denied.

On September 4, 2008, Petitioner filed a Motion to Augment the Administrative Record, which was granted.

On November 14, 2008, Respondents lodged supplemental materials to be included in the Administrative Record.

Each respective side filed objections and motions to strike matters filed by the other parties and a telephonic hearing was held on March 16, 2009, by stipulation, and the items to which objection

was taken were withdrawn, stricken, or admitted in limited form. Prior to the trial (argument), Respondent advised the Court and Counsel of the fact that the case of *California Native Plant Society vs. City of Rancho Cordova Defendant and Jaeger Road 530, LLC* (CNPS) had been ruled upon by the Third District Court of Appeal and could become final before the issuance of the Intended Decision in this case. At the trial, the Court indicated it would consider argument if such became final, as it did. Respondent opened, Petitioner responded, and Respondent closed its reply and the matter was submitted. As part of this Intended Decision, the Court rules that said published case will be deemed to apply in this subject case.

IV

ANALYSIS

1. PETITIONER'S CLAIM OF NONCOMPLIANCE WITH CEQA BY RESPONDENT/RPI

A. STANDING OF PETITIONER

In their Second Affirmative Defense to the Petition, Respondent and RPI both alleged Petitioners failed to exhaust their administrative remedies. By so doing, the Respondent/RPI placed in issue whether or not Petitioners had standing to challenge certain issues before the Court. Respondent/RPI, in their Joint Opposition Brief at page 11, asserted that there was a failure by Petitioners to exhaust their administrative remedies in the following issues: Traffic, Water Supply, Hydrology, Toxics, Project Alternatives, Responses to Comments, Findings, and General Plan Consistency. Respondent/RPI in their Supplemental Points and Authorities (page 5, lines 22-23) requested the Court rule on all issues, procedurally and on the merits, which it will do.

On July 24, 2007, the Board of Supervisors of Shasta County, having duly given notice of said hearing as required by law, conducted a public hearing on the FEIR, and after presentations by Mark Teague, County Staff, and questions by the Board of Supervisors, the public hearing was

opened to numerous persons who gave testimony. After hearing all the evidence from PMC, staff, and the public, the Board adopted Resolution 2007-90 denying the appeal and affirming the Planning Commission's decision and certification of the EIR (AR 5503), adopted the Mitigation Monitoring and Reporting Program (AR 4893, 5365), approved the Conditional Use Permit 05-010 with amendment to conditions, and approved the Reclamation Plan 05-001 as submitted by RPI. The Board also approved the Findings of Fact and Statement of Overriding Considerations (AR 4928, 5365). On July 30, 2007, the NOD was filed and posted by the County Clerk confirming the above EIR and related matters, as required by Guidelines section 15094.

The CNPS case held that exhaustion of administrative remedies is a jurisdictional prerequisite to maintenance of a CEQA action (CNPS 615, 616). The requirement is satisfied if the alleged grounds for noncompliance with CEQA is made during the public comment period provided by CEQA or prior to the close of the public hearing on the project before the issuance of the NOD (CNPS 616). More is required than generalized environmental comments at the public hearings but, on the other hand, less specificity is required to preserve the issue for appeal in an administrative proceeding because the parties are not generally represented by counsel (CNPS 616). The Court held it was no hardship to require a layperson to make known what facts are contested (CNPS 616). The comments of opponents must give the Respondents notice they needed to address the issue prior to approval of the project (CNPS 617).

The CNPS case, page 626, held that a challenge to the sufficiency of the evidence supporting an EIR determination requires the challenger to bear the burden of affirmatively showing there was no substantial evidence in the record supporting the findings in the report. The challenger must set forth in its challenge to the EIR all of the evidence material to the agency's finding and then show that the evidence could not reasonably support the finding. A disagreement with other agencies is not sufficient to show lack of substantial evidence.

B. STANDARD OF REVIEW

CEQA requires that a decision or finding must be supported by substantial evidence and arrived at by proceeding in the manner required by law. *Laurel Heights Improvement Association vs. Regents of the University of California* (1988) 47 Cal.3d 376, 392. In *Vinyard Area Citizens For Responsible Growth, Inc. vs. City of Rancho Cordova* (2009) 40 Cal.4th 412, 435, the Court said:

Finally, before assessing the adequacy of the FEIR's water supply analysis, we pause to clarify the nature of our review. As explained earlier, an agency may abuse its discretion under CEQA either by failing to proceed in the manner CEQA provides or by reaching factual conclusions unsupported by substantial evidence. (§21168.5.) Judicial review of these two types of error differs significantly: while we determine de novo whether the agency has employed the correct procedures, "scrupulously enforce[ing] all legislatively mandated CEQA requirements" (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564, 276 Cal.Rptr. 410, 801 P.2d 1161), we accord greater deference to the agency's substantive factual conclusions. In reviewing for substantial evidence, the reviewing court "may not set aside an agency's approval of an EIR on the ground that an opposite conclusion would have been equally or more reasonable, for, on factual questions, our task is not to weigh conflicting evidence and determine who has the better argument." (*Laurel Heights I, supra*, 47 Cal.3d at p. 393, 253 Cal.Rptr. 426, 764 P.2d 278.)

In evaluating an EIR for CEQA compliance, then, a reviewing court must adjust its scrutiny to the nature of the alleged defect, depending on whether the claim is predominantly one of improper procedure or a dispute over the facts. For example, where an agency failed to require an applicant to provide certain information mandated by CEQA and to include that information in its environmental analysis, we held the agency "failed to proceed in the manner prescribed by CEQA." (*Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1236, 32 Cal.Rptr.2d 19, 876 P.2d 505; see also *Santiago County Water Dist. v. County of Orange, supra*, 118 Cal.App.3d at p. 829, 173 Cal.Rptr. 602 [EIR legally inadequate because of lack of water supply and facilities analysis].) In contrast, in a factual dispute over "whether adverse effects have been agency's contention that the EIR did not need to evaluate the impacts of the project mitigated or could be better mitigated" (*Laurel Heights I, supra*, 47 Cal.3d at p. 393, 253 Cal.Rptr. 426, 764 P.2d 278), the agency's conclusion would be reviewed only for substantial evidence. Thus, in *Laurel Heights I*, we rejected as a matter of law the agency's contention that the EIR did not need to evaluate the impacts of the project's foreseeable future uses because there had not yet been a formal decision on those uses (*id.* at pp. 393-399, 253 Cal.Rptr. 426, 764 P.2d 278), but upheld as supported by substantial evidence the agency's finding that the project impacts described

in the EIR were adequately mitigated (*id.* at pp. 407-408, 253 Cal.Rptr. 426, 764 P.2d 278). (See also *California Oak, supra*, 133 Cal.App.4th at p. 1244, 35 Cal.Rptr.3d 434 [absent uncertain purchase of additional water, as to which the EIR's discussion is legally inadequate, "substantial evidence of sufficient water supplies does not exist"].)

The substantial evidence requirement does not mean that the Court should act as a sixth member of the Board of Supervisors and reweigh the evidence. Insubstantial or de minimus errors are not prejudicial. *Environmental Protection Information Center vs. Johnson* (1985) 170 Cal.App.3d 604, 623. Perfection is not required, only a good faith effort at full disclosure. *Western Placer Citizens For An Agricultural & Rural Environment vs. County of Placer* (2006) 144 Cal.App.4th 890, 899. An agency may abuse its discretion under CEQA either by failing to proceed in the manner CEQA provides, or by reaching factual conclusions unsupported by substantial evidence. *Vinyard, supra*. The non-compliance with CEQA must also result in prejudice to Petitioners or the public. PRC § 21005; *Environmental Protection Information Center vs. Johnson* (1985) 170 Cal.App.3d 604, 623.

C. COURT'S SCOPE OF POTENTIAL REMEDIES

In *Vinyard Area Citizens For Responsible Growth, Inc. vs. City of Rancho Cordova* (2009) 40 Cal.4th 412, 435, the Court addressed its power to fashion a writ to reasonably deal with a proposed EIR deficiency and said:

In the event the Petitioners meet their burden of proof and show no abuse of discretion, court retains the discretion to fashion the relief it grants by way of writ pursuant to PRC Section 21168.9(b). The court should exercise its common sense to fashion relief for the portions of the EIR not complying with CEQA. The court must make the specific findings called for by the statute in the particular instances applicable.

The Court has the power with proper findings to fashion a reasonable peremptory writ that complies with PRC Section 21168.9(b). *Laurel Heights, supra*, at 428.

2. CONTENTIONS OF NON-COMPLIANCE WITH CEQA REGARDING INFORMATIONAL MATTERS

Petitioners assert the Respondents failed to comply with the requirements of CEQA overall and with respect to specific areas. Except as hereinafter specifically set forth and addressed by Petitioner in its briefs, the Court finds that the EIR complies with the requirements of CEQA.

A. FAILURE TO GIVE NOTICE TO SCHOOLS

Petitioner asserts Respondents failed to adequately give notice to school districts in the area along the haul routes of gravel from the mining and crushing site and did not consult with those districts as required by Guideline 15186(b). The Court finds this contention is without merit. The record reflects that Respondents gave notice of preparation to three school districts: Cascade Union Elementary, Cottonwood Union Elementary, and Anderson Union High School (AR 000485-000486¹). In addition, Respondents consulted with Anderson Union High School District regarding a traffic matter (AR 3055).

Respondents correctly contend that no notice to schools is required regarding sensitive receptors, as the DEIR does not indicate any schools are located within a quarter mile of the project boundary as shown on the project map (AR 00611) even though single family residences are within said distance (AR 00713). In addition, Respondents correctly conclude Guideline 15186(b) does not apply by its terms, and cite Remy et al., Guide to CEQA 11th ed. 2006, page 375, as supporting that conclusion, stating the intended definition of "facilities" as meaning freeways, etc. The Court also rules the project in this specific case would not include all haul routes, even though such must be considered as the project does impact them.

B. MISINFORMATION REGARDING BLACK LANE PIT

On July 24, 2007, the date of the hearing before the Board of Supervisors of Shasta County regarding the FEIR for this project, Supervisor Cibula's asked whether there would be a decrease in traffic coming from the Black Lane if the project were to go forward. Mr. Tullis was quoted in

¹Incorrectly referenced to AR on page 17, line 14 of Respondents' Brief as 2AR4564.

POB as responding with the statement “absolutely.” (AR 5312). He explained that the property had been sold, and that RPI would not be hauling rock from that pit. When questioned further about whether the new owner, who also owned the surrounding property, would be hauling from the pit, he said, “they may, but I can’t imagine it.” He then opined that because the purchaser owned land contiguous with the Anderson/Cottonwood Concrete Plant, it could haul the rock across its own land to the plant (AR 5313). The POB, page 18, and the PRB, page 6, failed to quote or mention the qualification Tullis made to the word “absolutely” which made it clear the reason for his use of the term. The Court finds there was no misinformation communicated to the Board and no non-compliance with CEQA’s information requirements.

3. SPECIFIC INADEQUACIES OF THE EIR CLAIMED BY PETITIONER

A. PROJECT DESCRIPTION DEFICIENCIES

1. WATER SOURCE

Petitioner asserts the EIR fails to disclose information concerning the source of the project’s water supply. Water for the project would be provided by existing wells. (AR 000623 under Project Infrastructure). The location of the wells and monitoring wells on the site are depicted in Figure 4-9.5 (AR 000902). In addition, water would be pumped from a small pond located on Phase 1 of the project for dust suppression (AR 3149). A proposed settling basin for waste water would be built which will be one acre in size and 10 feet deep (AR 3149). A study of the current water usage on the existing site was made. The existing usage of the property is agriculture and a portion is fallow land. A very detailed analysis of the groundwater, the present and intended usage, and the impact of the project on the adjoining properties having wells is set forth in the property description in 3.0-17 (AR 000623). An extensive collection of groundwater information is set forth in Appendix 4.9-1 (AR 1882-2204). The detailed studies of the groundwater that affects the supply source of the project is described and addressed *infra* under the failure to mitigate contention, item

3.B.3 of this decision. The extensive groundwater and water supply source are addressed as above referenced in the project description; however, the details are placed properly in the above referenced appendix where such are available for study (Guideline 15147). The Court had no problem locating the information for the preparation of this Intended Decision.

2. FAILURE TO DESCRIBE LOCATION OF SLUDGE TRENCHES

Petitioners assert that the location of the primary sludge trench is not adequately disclosed in the EIR. The exact location of the primary sludge disposal was not specifically described or located in the EIR. The sludge resulted from disposal of paper company waste on the project property or in close proximity to it. Site operations prior to 1963 are unknown. In 1964, Kimberly-Clark Inc. purchased the project site property and developed the site and the Shasta Mill as a paper mill. In 1972, the Simpson Paper Company acquired the property and operated the paper mill and shut down operations of the wood pulp part of the mill. The history of the paper mill operations and disposal of the waste sludge is described in detail in the Bechtel Expanded Site Inspection, September 13, 1996 (AR 8148, et seq.). The primary sludge disposal sites are shown on many maps contained in the EIR and are shown in the area marked in red-brown on the north side of Phase 3 on figures contained in the EIR and used as exhibits at the trial, including Figure 3.0-3 (AR 00611) Exhibit 1, Figure 4.12-2 (AR 000966) Exhibit 2, marked portion of Figure 4.12-3 (AR 000967) Exhibit 3, as well as Figure 4.12-4 (AR 981) and many other figures in the EIR. In addition to maps prepared for the EIR, two maps of the site are included in the Administrative Record, one referred to as ESI Simpson Ranch ww 996² (AR 8159) and the other having the notation at the lower left of Source: Simpson Paper Company, rec'd 5/94. The first map is designated "Field Sample Locations" and has four areas marked as former primary sludge landfill (AR 008159) located in the approximate location as shown on the above referenced maps. The

² The date is unclear; however, it is believed to be correct.

second map (AR 8152) shows the approximate area of former Kimberly-Clark Inc. sludge landfills. This map was not to scale and reflects the sludge area as larger than the first map and extending further into what is considered Phase 3. In summary, it appears that the location of the sludge trenches from the paper companies could be reasonably believed to be located on the maps shown above on figures 4.12-2, 3, and 4 as well as figure 3.0-3. Digging up the area could be hazardous for the reasons discussed *infra* under hazards and toxins.

The Court finds the research of the history of the site by Respondents and the contractors who participated in the preparation of the EIR appear to give sufficient certainty to the location of the old sludge trenches, but all of such was based upon hearsay from old maps. The situation changed totally at the July 24, 2007, hearing before the Board of Supervisors when Mr. Russ Mull, Director of Resource Management of Shasta County, stated at the public hearing on the FEIR, "...the individual who knows where those trenches are works for me and so we should not have a tremendous amount of difficulty figuring out where all of that stuff is...." (AR 5505).

It is difficult to understand how the Director of the department charged with preparing the EIR was unaware of the issue of location of the sludge trenches; however, with the information he provided, it is clear that the agency would be required to have the individual in question locate the trenches, have such location surveyed, and erect the fence ordered by the Board of Supervisors (AR 5505) 25 feet from the edge of said trenches. The Court finds Petitioner had standing to challenge the EIR as to the trench location issue, and the statement above mentioned by the county official in charge of the department in charge of the EIR project was sufficient to justify the issuance of a writ as hereinafter ordered. The Petitioner has not shown under the holding of the CNPS case, *supra*, they have standing to challenge the 25 foot spacing between trenches and the fence as being inadequate, particularly in light of the fact that a levee will be between the Phase 3 mining operation and the fence.

3. ANCILLARY SITES NOT DISCLOSED

The primary thrust of Petitioners' assertion that the description of the whole project is deficient is based upon their use of the June 14, 2005, Omni-Means report as describing the project and a number of ancillary sites present and future. As stated above, the Omni-Means report was a document that preceded the preparation of the DEIR and, in fact, preceded the selection of PMC to prepare the EIR. By using this report, Petitioner misstates many parts of the DEIR as prepared. The EIR was prepared embodying the conditions prescribed for the project, and was specifically limited by Condition 22, which prohibited any materials from being brought to the project and limiting all crushing activities to materials mined on the property. This was adopted by the Board of Supervisors (AR 5504), who adopted the condition imposed by the Planning Commission (AR 4501-4503). As mentioned, *supra*, the Black Lane Pit was included in the traffic study as it was initially owned by Tullis but the inclusion dealt only with traffic exporting materials to locations other than the project. The Omni-Means Report was included in the Administrative Record and EIR as a reference and because certain traffic counts in its report were used by Fehr & Peers in their preparation of the traffic study for the EIR prepared by PMC. The project described in and for which the EIR was prepared was a single source gravel pit which crushed gravel mined on the project site and exported such to asphalt plants already operating and other purchasers. The other plant was operating under valid use permits. There are no ancillary cites to the subject property. The argument of Petitioner is based upon a different report for a prior proposed project for the site, which was never the subject of an EIR preparation. This portion of the Petitioner's brief and argument are misleading.

The Black Lane Pit was also considered as an existing operation with no significant impact and was recognized as operational. It was included in the general existing traffic analysis and assumed to be existing throughout the life of the project according to Mark Teague at the July 24, 2007,

Board of Supervisors' meeting (AR 5270). The impact would be insignificant particularly in light of the reduction by the Board of Supervisors of the trips from the project from 120 round trips per day to 77 round trips per day under Condition 30 (AR 5270). The contention of Petitioner regarding water source is meritless.

4. FLOOD PLAIN BASELINE NOT DESCRIBED

The Administrative Record on figure 14A (AR 2553) depicts the levees and the spur dike to be built by the project; the initial study contained a similar map (AR 440). The environmental setting at the time of the NOP's publication in October 2005 (AR 000440) constituted the baseline on this project (Guideline Section 15125). The baseline depicts the environmental condition of the area of the project at the time the project is proposed.

Environmental Planning and Informational Council vs. County of El Dorado (1982) 131 Cal.App.3d 350, 354. The height of the levees was changed to accommodate a 50-year flood during the course of the studies for the EIR, and the height of the 50-year flood levee was increased by 1.5 feet of freeboard as required by the Corps of Engineers for all levees. This increase of height gave the 50-year levee the capacity to withstand a 100-year flood and still have reasonable freeboard (AR 2551-2552). In order to determine the exact baseline and provide meaningful baseline information, a flood plain analysis was done with surveyed transects as shown on Figure 4.9-4 (AR 899). The area encompassed by the dark blue line on Figure 4.9-4 is the area within the 100-year flood plain and the area marked in green is outside said flood plain and this figure should eliminate any doubt as to the locations of the respective flood plain baselines. This contention of Petitioners is without merit.

B. PETITIONER ASSERTS A FAILURE TO PROPERLY ANALYZE, MITIGATE, OR PROPERLY EVALUATE THE PROJECT'S IMPACT ON THE ENVIRONMENT IN EIGHT AREAS

3.B.1. GLOBAL WARMING

Petitioners assert that the EIR failed to analyze or mitigate the impact on the environment with respect to global warming. Petitioners assert global warming had to be addressed, and the failure to do so was noncompliant with CEQA. In order to address the issue, it is necessary to consider the chronology of events regarding the appreciation and developments in the acceptance and adoption of the same. Exhibit 13 presented by Respondents at the trial and not contested by Petitioners sets forth a chronology of the State of California's actions with regard to greenhouse gases and as such relates to the chronology of the EIR in this case. Even as of the date of writing this Intended Decision, the State of California has not developed and enacted Guidelines or regulations dealing with this subject. The DEIR was released in July 2006, while the very first action by the State of California that required a plan be developed for greenhouse gases was not effective until January 2007. In July 2007 the EIR was certified.

Global warming is caused by the release of greenhouse gases. The major, if not only, source of greenhouse gases that would be released by the project itself would be carbon monoxide, which is one of the six greenhouse gases considered by climate change legislation as a result of burning fossil fuel. It is significant that one of the first steps for determining the threshold of significance was addressed on October 28, 2008, in the Public Resources, California Air Resources Board, Preliminary Draft of Staff Proposal, "CEQA and Climate Change" CAPCOA, one year and fifteen months after certification of the EIR. In that Staff Report, it was mentioned that one of the first steps that must be taken was to determine the threshold of significance for implementation of a program for control of greenhouse gases. The methodology would appear not yet determined for the analysis of a project such as this, not to mention that almost all steps in developing methodology postdated the certified EIR in this case. Petitioner has not provided any factual basis that any type of analysis for the subject project is even in existence, which would deny them standing on this issue, as well as supporting the position of the Respondents that an attempt to

analyze such would be speculative (AR 4237, 4255). The contention of Petitioners with regard to global warming is without merit.

3.B.2. TRAFFIC

a. TRAFFIC SAFETY

The Petitioner claims the analysis fails to adequately analyze the impacts on traffic safety and such is not supported by substantial evidence.

At the outset, the Court finds that, insofar as the ruling of the Court on the issue presented here, the Petitioners have exhausted their administrative remedy and do have standing to challenge this portion of the EIR.

The Petitioners assert that the initial condition requiring the roads be brought into compliance with county standards and the deletion of that condition without any change of facts with regard to the road's capacity to handle traffic, except for a limitation on trips in the immediate period before school, failed to properly mitigate the traffic safety issue. Respondents correctly assert it can change earlier conclusions, and that agency staff were experts and entitled to do so. The law allows the County staff, on the basis of its expertise, the right to change DEIR mitigation measures and requirements on the basis of substantial evidence (Guidelines Section 15084(e)) on the basis of its review. The record shows that Mr. Minturn reviewed Impact 4.3.1, and on the basis of his evidence presented to the Planning Commission on March 22, 2007 (AR 3814) and to the Board of Supervisors (AR 5277), the requirement of shoulders and county standards for haul roads was dropped (AR 3053-3054). It is unclear if Mr. Minturn's analysis had been completed with regard to turning analysis at that time. On the face of this, it would appear the deletion was supported by substantial evidence.

In this case, Petitioners have raised an issue as to the motivation of Mr. Minturn, which must be addressed (POB p. 34, line 15). On March 23, 2007, the day after the Planning Commission

meeting, Mr. Teague and Mr. Pack from Fehr & Peers, Traffic Consultant, discussed that two issues had to be revisited and said, "The first issue deals with a method of making MM (mitigation measure) 4.3.1 go away" (AR 9440-9441). Mr. Teague went on to say that turning movements could be analyzed so as to resolve the problem, as Mr. Minturn said he had not completed his analysis of turning movements. The fact that the traffic expert consultant was asked to address a solution to the problem indicates a possibility of impropriety. In all other respects, the Court finds there is substantial evidence supporting the traffic safety issue. In light of the question raised by Petitioners and the action of the Planning Commission on a partial report, the entire issue of the safety of truck traffic on roads not to county standards should be addressed further by the consultants Fehr & Peers, and a report analyzing such should be ordered, prepared, and submitted. If the traffic consultants, aware of the facts and claim of impropriety, confirm Mr. Minturn's conclusion, their finding would eliminate any question of the objectivity of Mr. Minturn's opinion and support a finding of substantial evidence supporting the modification of Mitigation Measure 4.3.1. The Court will issue a writ requiring such.

3.B.2.b. TRAFFIC CIRCULATION

Petitioners assert the truck traffic distribution is unenforceable. Respondents correctly assert Petitioners have not exhausted their administrative remedy under the CNPS case, *supra*, and have no basis to assert this challenge and the Court so rules.

Nevertheless, the Court will address this issue. Mitigation Measure 4.3.2 was adopted to deal with a possible impact on the northbound ramp of the Bowman Road/I-5 Interchange (AR 695) by restricting use during certain busy times. This was made a condition of the project as Condition 3 (AR 4506). A provision for future change in Mitigation Measure 4.3.2(b), requires respondents' "fair share" participation in any improvements. The early hour restriction will end when and if the ramp is improved as provided in the "fair share" requirement. The objection of Petitioners is

without merit, and the "fair share" requirement is the only feasible manner of dealing with future improvements by third parties. The payment of fees to the Zone of Benefit of the City of Anderson for ramp improvement of the Deschutes/I-5 Interchange prior to a permit being granted to operate is also a reasonable method of minimizing the impact on that interchange. In summary, the Petitioner does not have standing to challenge this impact mitigation, and even if such challenge were permitted, it is without merit as the mitigation measure reasonably mitigates the impact.

3.B.3. GROUNDWATER MATTERS

At the outset, Petitioners have showed a general concern about the ground water and the effect of the project upon the wells, and usage by RPI. They have provided no information to contradict the studies made as above referenced or hereinafter described and as referred to under water source above (paragraph 3.A.1), wherein the source was clearly indicated and there was some mention of the groundwater. However, their expressions of concern meet the minimum level of challenge so as to give them standing on this matter.

As stated in *Stanislaus Natural Heritage Project vs. County of Stanislaus* (1996) 48 Cal.App.4th 182 and the *Vinyard* case 421-422, *supra*, a project such as this must give information concerning the source of water, which was addressed *infra*, the impact of the project on the ground water, and how it will be addressed by the project's applicant.

The decision makers preparing the report and the public must be presented with sufficient facts to evaluate the pros and cons of the water supply for the project and have assurances of no or mitigated impact on the environment including neighbors. *Vinyard, supra*, page 829.

The project will use water to keep down the dust on road and mining operations as well as washing the gravel removed from the pit and reclamation of the land. The reports contained in the Administrative Record show extensive study of all phases of the groundwater situation as well as the negligible effect on neighboring wells and water supply. The expected quantity of groundwater

to be used on the site will be approximately 50,000 gallons per day, which equates to 35 gallons per minute on a continuous 24-hour day basis. That would amount to 1" of water applied each year if spread over the entire 660 acre project (AR 002114-GEOPLUS Report February 28, 2006). The land is presently used for agriculture. The use for agriculture consisting of row crops or orchards is 4 feet per year. GEOPLUS concluded that the water usage for the project would be about 2% of the present agricultural usage of the project property (AR 2114).

Petitioners refer to the use of 32 acre-feet by the project, referencing AR 2098-2099. A careful reading of those pages makes it clear that the preparer is dealing with consumptive water use in the context of evaporation upon completion of the project when the reclamation is completed and the ponds reflected in Figure 3.0-10 (AR 00625) are present, and not the usage of groundwater during project operations, which are as above stated and referred under water source, *infra*. There is no showing that the groundwater will be used to create the ponds except in reclamation activities. The preliminary Humphrey Report outlined the nature of his investigation and the natural situation as it existed before the project and how the study was to proceed (AR 20049). The Hydramet study (AR 20049-20099), as well as the GEOPLUS peer review studying Appendix 4.9-6 of the DEIR (AR 2114-2116), provide extensive analysis and conclusions supporting the conclusions set forth in the EIR. The assertion that the study, analysis, and conclusions in the EIR, as well as the mitigation measures, are deficient is not supported by the evidence and are not contradicted by any facts provided by Petitioner.

3.B.4. ASSERTION THAT THE CONSTRUCTION AND MAINTENANCE OF THE LEVEES WERE DEFICIENT ENVIRONMENTALLY

Petitioner claims that the EIR fails to adequately analyze the project's potential for damage to downstream properties and river morphology from the construction of the levees and spur dike. In the first instance, the Petitioner has failed to give notice of any specifics, provide any

facts, place Respondents on notice of any defect or question, or contradict or raise specific facts prior to the NOD regarding this issue and, therefore, have no standing under the CNPS case, *supra*.

The levees and spur dike were depicted on the map (AR 2553). The Court has reviewed the Hydrology and Water Quality sections of the DEIR, and finds the analysis contained in section 4.9.3 regarding alteration of drainage, 4.9.4 regarding flood patterns and related matters, and 4.9.5 and .6 as to the said structures within a flood hazard which would impede, obstruct or redirect flows, they reasonably analyzed the situation with regard to the levees and dike in both normal and flood situations and indicated no significant impact on river morphology or downstream properties. The Court further found no contradictory facts provided by Petitioner. The Court finds that Respondents adequately responded to the letter by Mr. Pompy of the California Department of Conservation (AR 3356 at 3363). It is concluded that the deferral issue raised by Petitioners with regard to drainage control systems (AR 0884) is answered by section 4.9 and thus meets the analysis requirement (AR 584).

With regard to the basis for raising the fish exclusion levees from 10 feet to 50 feet, the County relied, justifiably so, on the State of California Department of Fish and Game and their expertise. The Petitioner's claim of non-compliance 15126.4(a)(1)(B) was not raised before the NOD and Petitioner is without standing to raise it. Notwithstanding the lack of standing, Respondent replied that there was no deferral as Section 4.8 of the DEIR and Mitigation Measure 4.8.2 contemplates a detailed erosion plan and section 4.9 actually was intended to relate back to 4.8. Such error was de minimus.

The use of covenants running with the land that require that a buyer keep the levies in good condition and repair, which are contemplated in the condition that the owner not sell without such a covenant, is the only practical manner of providing for future maintenance. This is a satisfactory reply to Petitioner's assertion of no permanent plan of repair.

The Petitioner's claims concerning the levees and spur dike are without merit.

3.B.5 INSUFFICIENT ANALYSIS AND MITIGATION OF PROJECT HAZAARDS.

The primary thrust of Petitioners' claim under the hazard issue is that there are hazardous substances on the project property, including dioxin, and the analysis, description, and mitigation have not been properly analyzed. As stated *infra*, there was a paper mill which operated on project land and disposed of toxic sludge by depositing it in trenches and by spraying effluent containing hazardous substances on the land, as shown on Figure 4.12-1 (AR 967) and Figure 4.12-2 (AR 966). The trench deposits are fully addressed above and contingency of error in their location will be dealt with under the terms of the writ to be issued. The project lands have been monitored and tested by many agencies, experts, and consultants engaged for the preparation of the EIR that is the subject of these proceedings. The DEIR addressed the toxic substances under Section 4.12-11 (AR 964). That section summarizes the Geomatrix test results, and the tests are presented in appendix 4.2-2 of the EIR. The one area not tested was the area on the northeast of Phase 3, where the sludge trenches are believed to be located. If the sludge trenches are located outside of the boundary of the project, they will not be tested or addressed, as no evidence presented indicates the need for such. The mining and reclamation area are located within the boundaries depicted on Figure 3.0-3. The area where the primary sludge is located is north and east of the levee on Phase 3, also shown on Figure 4.12-4 (AR 981). At least five investigations of the property have been conducted since 1996 (AR 901 – groundwater, 965 – soil and groundwater TEQ results, 1782-1788 – soil sampling by Geomatrix, AR4571 - response to appeal issue 18, and numerous other studies reflected in Respondent's brief at page 42). The studies have been ongoing and exhaustive, and Petitioners have failed to show any factual bases for claiming inadequate studies or analysis. The one exception would be if the location of the sludge trenches is determined to be within the mining area rather than outside the levee of Phase 3.

3.B.6 BIOLOGICAL RESOURCES IMPACTS DEFICIENT STUDIES

The Petitioner asserts there was a failure to analyze impacts to Chinook salmon and steelhead. One point Petitioner contended was that California Fish and Game said the levees should be able to withstand a 100-year flood (AR 2663-2366 and response AR 2667-2671). The levee design provides for 50-year flood levees built with additional height that, in fact, amounts to 100-year flood protection. The levees are for protection of the fish, and the extensive discussions in the Administrative Record make it clear that the protection of the salmon and steelhead were studied and the levees constructed to accomplish such protection.

The EIR discussed three feasible mitigation measures (AR 795 and 796, AR 3036 and 3057) involving levee design and buffer area. Petitioner presented no evidence in the record to show that the two types of fish have been studied and protected. The two types of fish are the only biological resources Petitioners claim have not been properly protected. The contention of Petitioners is without merit.

3.B.7 THE CONTENTION THAT THE EIR FAILS TO CONSIDER MEASURES TO MITIGATE FOR THE IMPACT OF THE LOSS OF PRIME AND UNIQUE FARMLAND

Petitioner asserts that Respondents have failed to consider potentially feasible mitigation measures to mitigate for the significant impact of loss of prime and unique farmland. It appears that 162.8 acres of the project are prime farmland, 16.2 acres are of important farmland, and 12.3 acres are unique farmland (AR 3054). It appears from the Geomatrix and Kleinfelder reports that Phase 1 land may be incorrectly labeled. The Respondents assert the farmland loss is significant and unavoidable (AR 3054, impact 4.2.1 revision). From Table 4.2-4, it appears the total farmland converted will be 191.3 acres. The EIR asserts the loss of such land is significant and unavoidable, Impact 4.2.1 (AR 3054). Respondent points out that the reclamation activities of the project will return 85 acres of farmland to Phase 1 (AR 624). The county determined that no other mitigation had been identified that could both meet the objectives of the Project and reduce the impact to a less than significant level (AR 656). Respondents contend that Petitioners assert an agricultural

conservation easement would reduce the impact, to which Respondents counter that the county has no such program. There is neither evidence of the existence of such program, nor any program for in lieu of fees or the existence of comparable farmlands available for purchase or available for such an easement. Respondents correctly assert under the ruling of *Defend the Bay vs. City of Irvine* (2004) 119 Cal.App.4th 1261, 1266, that Petitioner must lay out the evidence to the other side, which they did not do.

3.B.8 INADEQUATE ALTERNATIVES ANALYSIS

Petitioners assert Respondents did not proceed in a manner required by law in that they failed to consider a reasonable range of alternatives. Petitioner asserts Respondents illegally limited the scope of alternatives and the alternatives were formulated in such a way as to make the preferred Project a foregone conclusion. Petitioners concluded that the only reasonable alternative was the no project alternative and such was in error.

Guideline 15126.6 required Respondents to consider a reasonable range of potentially feasible alternatives to foster informed decision-making and public participation. An EIR is not required to consider alternatives that are infeasible. Guideline 15126.6(b) requires Respondents to focus on alternatives to the project or location that are capable of avoiding or substantially lessening one or more of the significant effects of the project. It is asserted that respondents formulated the scope of alternatives so narrowly as to limit reasonable alternatives.

Petitioner characterizes the Respondents' analysis as murky, and asserted there was no reason why the alternative considered by staff on April 6, 2006 was not included. That alternative was to delete Phase 3, but there was no discussion of it. Respondents assert that the mining and crushing could only take place in a MRZ zone, and after consideration of other possible alternatives, it concluded there was no other site properly zoned with significant deposits of concrete quality aggregates in Shasta County. This conclusion was based on the testimony of Mr.

Tullis (AR 3816). Mr. Tullis further stated he had contacted the BLM who confirmed this conclusion. Petitioner has failed to present any evidence contradicting Mr. Tullis on this matter. The DEIR contains a detailed report of the Department of Conservation, Division of Mines and Geology, which deals in depth with mineral land classification of alluvial sand and gravel, crushed stone, and diatomite within Shasta County (AR 001714-1780). Respondents selected the no project alternative after considered analysis of other sites (AR 00993-996). Potential alternative sites were considered from the aforementioned Department of Conservation study (AR 1749). Petitioner has not shown evidence that eliminating Phase 3 would offer significant environmental benefits over and above including it. In summary, it is concluded that the selection of the "no project" alternative is supported by substantial evidence and the criteria for such selection was, under the facts of this case, not too narrowly drawn. Petitioners' contentions are not supported by the facts.

3.C. FAILURE TO RESPOND TO PUBLIC OR AGENCY COMMENTS

Respondents assert that Petitioners failed to exhaust their administrative remedy and have no standing to raise this issue (PRC 21177) and CNPS Case, *supra*, page 629. This is based upon the assertion the Petitioners have not shown they objected to the responses to the letters from the governmental agencies or specific public written comments. The Petitioners have not specifically pointed out to the Court evidence that they asserted the failure to properly respond, and the Court is not required to search the record for such. The Petitioner does not have standing on this issue to challenge the EIR.

Nevertheless, the Court will address the issue on the merits. The large number of comments and responses and the general phrasing of the Petitioners' assertion are not within the range of feasibility. Petitioner must be specific and the Court will only address those instances brought to its attention by the Petitioner. The Court is not required to sort through the 300 pages containing

158 specific individual comments asserted by Respondents (RB p. 512, lines 1 and 2) without the Petitioners being more specific. The three letters mentioned by Petitioners will be addressed.

The responses to comments must provide a good faith response and reasoned analysis in writing (Guideline 15088). The first letter, comment, and response, was that of the California Division of Fish and Game (AR 2663-2664). The comment of Petitioners in its brief that the response said, "that a 50-year levee is equivalent to a 100-year levee" is, at best, disingenuous. Since the height of the levee is what determines the capacity to hold the water back, the answer in Response S-2 says the levee was built as a 50-year flood levee, and in addition thereto had freeboard of 1.5 feet. As a 100-year flood would increase the height of the water by only 0.7 feet, the levee plus freeboard would provide a water blocking structure 0.8 feet above the level of water in a 100-year flood. This was explained on more than one occasion by Respondents in their brief. This matter was addressed during oral argument, which also dealt with the base not being required to be increased. (Transcript of oral argument, May 20, 2009, page 163, line 13 – 165 (AR 3363)).

The second letter was that of Mr. Pompy of the Department of Conservation, which Petitioner asserts dealt with long-term maintenance. It is true the VESTRA response said, "Provisions for long term maintenance were discussed on page 49. Long-term maintenance is addressed by deed-related conditions on future owners." (AR 3363). Page 49 of the Reclamation Plan (AR 00057) provides that maintenance of the spur dike and levees will be required of the property owner in perpetuity. Such can easily be accomplished by covenants running with the land, which is the instrument carrying out this requirement.

The third letter was from the City of Anderson dealing with road deterioration (AR 2633-2634). The response set forth on AR 3473 adequately answered the comment. The declaration of Katherine Hart dated February 2, 2009, attaches the ordinance, which resolved the matter for the

City of Anderson as well as the fact there was no identifiable impact. The Respondents' response (AR 3473) adequately answered the letter.

3.D. FINDINGS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE

Petitioner failed to show they exhausted their administrative remedies, as stated in CNPS case or by PRC 21177(a). In addition, Petitioner did not meet its legal requirements in order to assert this claim. Petitioner failed to provide sufficient facts in order to prevail. The Board of Supervisors in the finding entitled "Statement of Overriding Considerations" recognized the unmitigated impacts (AR 5021-5022). The project's benefits were addressed (AR 5023). The record contains sufficient evidence to support the Board's finding of benefit.

3.E. GENERAL PLAN CONSISTENCY

Petitioners have failed to establish standing by failing to direct the Court to the areas in the record. Although the Court finds no standing to litigate this issue by Petitioner, the Court will also address the merits of the claim. In addition, Respondents assert the issue of consistency with the General Plan falls under Section 65000, et seq. of the Government Code. Respondents assert that an action challenging an agency's compliance with the general plan must be brought under Government Code section 65009 and there was no pleading filed by Petitioner under the Government Code, only the PRC, as stated in Paragraph 49 of the Petition. Respondents assert the challenge under the Government Code is not alleged, only a challenge under the CEQA. As a result, Respondents claim the challenge cannot be heard, as it has no foundation in the Amended Petition, which is solely based upon violation of CEQA. The legal effect of this action by Petitioners is to leave undisturbed the Board's finding of consistency with the General Plan (AR 5026).

In terms of applicable law, land use decisions must be consistent with the general plan. The Court will proceed with an abundance of caution to analyze whether a limited departure from the

standards is permissible under the circumstances. The standard under which the Court must consider consistency with the General Plan is whether the action of the local agency is arbitrary, capricious or without evidentiary basis. *San Franciscans Upholding the Downtown Plan vs. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 677. The Board has discretion to liberally construe its own policies and to weigh and balance them in their application. *Greenebaum vs. City of Los Angeles* (1984) 153 Cal.App.3rd 391, 407 and *Sequoyah Hills Homeowners Association vs. City of Oakland and W.P.N. Associates* (1993) 23 Cal.App.4th 704, 719. The Shasta County General Plan includes a standard based upon average exposures and does not identify an L_{max} or maximum noise level standard (AR 838). The Respondents did follow the noise standard, forcing mitigation provisions as part of the approval (AR 835-836). Use of the threshold of significance (AR 837), limitation of hours of operation (AR 840) for initial construction generally, as well as other sound dampeners (AR 840) have been required as mitigation matters. The project fails to meet the sound criteria only in circumstances of high wind or temperature inversion (AR 5022), and in all other respects, the array of mitigation measures are able to bring the noise levels within acceptable range (AR 000835-846 and 5012-5016). The County determined the project was consistent with the General Plan (AR 5026).

On the issue of consistency with the General Plan, the CNPS case held that the review regarding consistency with a general plan is made under the arbitrary and capricious standard (page 637), that is, the decision must be arbitrary, capricious and entirely lacking in evidentiary support, unlawful or procedurally unfair. The CNPS case went further in discussing consistency with the general plan which will be addressed on that issue hereafter.

Considering the extensive mitigating provisions and requirements with regard to noise, the limited number of receptors, the general and overall consistency as mitigated, the overall objectives of the General Plan, and the very limited atmospheric conditions where the noise factor

cannot be brought under the 55 decibel level, the decision of the parties who enacted the general plan and interpret it should control. The objection of Petitioners is so limited as contrasted with the benefit, the decision of the county should control. The objection is overruled as the Respondents approval was not arbitrary, capricious, or entirely lacking in evidentiary support.

3.F. FAILURE OF THE EIR TO COMPLY WITH THE WATER CODE

Petitioner asserts that the Respondent failed to comply with Sections 10110-10914 of the Water Code of the State of California. Petitioner asserts section 10912 is mandatory in the case of this project and Respondents deny such is applicable. Petitioner asserts the project falls within 10912(a)(5) of the California Water Code. It asserts the project occupies more than 40 acres. The other provisions of subsection (5) clearly would not apply, as there will be well under 1000 persons working on the project or housed by it and the plant has much less than the threshold of 650,000 square feet. The only issue is whether the project occupies more than 40 acres. Petitioner apparently asserts the whole area of operations must be considered while Respondents state that at any given time the area occupied by the plant is less than 10 acres of the 268 acres over an estimated 20 plus years. Considering the purpose of the statute and the other included types of use, it is clear that it is the demand for water in large types of developments where a number of people will be using the premises accounts for the reason the statute was adopted. It is clear this statute was not intended to apply to the subject project with its less than 10 employees on site. The analysis shows that people are present and water is used only in the plant, which covers less than 40 acres and the area of immediate mining. It is further concluded that the response of the Respondents (AR 4255) is a better interpretation of the statute. The assertion of the Petitioner is without merit.

G. RECORD ISSUES

1. INADEQUATE CERTIFICATION

Petitioners assert the certification of the Administrative Record is inadequate, as Mr. Walker, who certified the record, was not identified in the Findings of Fact or in the NOD as custodian. Respondents assert the Petitioner did not raise the issue in a timely manner so it could have been addressed. Respondents are correct in their contention. In addition, Respondents assert the certification by Mr. Walker complied with legal requirements. PRC section 21167.6(b)(1) states the public agency shall prepare and certify the record. Nothing cited by Petitioner specifies what agency official is required to certify the record. Mr. Walker was the Senior Planner directly involved with the preparation and assembling the record of the EIR (AR 4204), and was the person best qualified to make the certification for the agency. The contention of Petitioners on this issue is without merit.

G. 2. NON-COMPLIANCE WITH PRC 21081.6(a)(2)

PRC section 21081.6(a)(2) requires the lead agency to specify the location and custodian of the documents or other material that constitute the record of proceedings upon which its decision is based. Petitioner states the NOD failed to identify the custodian of records but indicated the material that made up the record was located at 1855 Placer Street, Suite 103, Redding, California; however, deposition testimony indicated the records were not at said location with no reference to the Administrative Record supporting such. Respondents replied the County identified the County Clerk as the custodian and gave the above mentioned address. The Petitioners have failed to show any person attempted to see the records and was unable to do so, therefore no harm or prejudice resulted. This contention of Petitioner is without merit.

G. 3. CLAIMED NON COMPLIANCE WITH PRC SECTION 21167.6(e)(10)

Petitioner claims Respondent did not comply with PRC section 21167.6(e)(10) and the result was an evidentiary gap (POB, page 631.11). The Petitioners failed to carry their burden of proof on this issue. First, there is no question that e-mails were deleted by Respondents and there is

no dispute that the Court granted Petitioner limited discovery which was, by stipulation regarding the extent of such deleted e-mails. The record contains a vast number of e-mails that were resurrected from the electronic atmosphere (AR 8232, 8238-8255, 8374, 8378-8384, 8405-8406, 8409-8412, 8415-8558, 8560-8585, and 8588-8820). It appears that only two are referenced by Petitioners: the e-mail by Mark Teague regarding the traffic safety matter above referenced, and the other concerning some boxes of records of the paper company. The Petitioners referenced the Court's failure to require Geomatrix to produce all of its records, which was addressed at the time the motion was denied. Petitioners have made no showing, nor did they show that the production of a plethora of additional records would in any way be of public interest or help with regard to the record and EIR. It is significant that the record does contain copies of maps from Simpson Paper (AR 8152, 8159, 8158, and 8166) and the Bechtal report on the paper company at AR 8148, et seq. The depositions afforded Petitioner, as well as all of the supplemental records produced and copies of the Supplemental record and index, afforded Petitioner more than adequate information on past history. At some point in time, even in CEQA cases, the accumulation of documents not shown to afford any additional information must be ended. The Court will not rule on whether e-mails must be kept even if such have no relevance, by virtue of the fact the Court-ordered discovery led to the many emails above referenced being produced. Petitioners have failed to show any relevant material has not been produced and copied. At the present time, the retention of e-mails, even those of no substance, should have been retained, not because such are required, but to save the time and expense herein presented in restoring such. Petitioners have failed to show there is a requirement that staff keep all work in progress, notes, written records, or memoranda, which was the case here.

In this case, the "no harm, no foul" rule appears to apply, as many records were provided or resurrected and there was no showing of prejudice. In addition, there was little or no evidence of

relevance in the e-mail matters. With the advent of e-mail, the legislature or drafters of guidelines might consider more specificity in what records must be retained. The position of Petitioners in this matter is without merit. The Court finds the Administrative Record was properly maintained and prepared by the Respondents and properly supplemented by the Court-ordered limited discovery. The Court finds there is no merit to Petitioners' record objections after the discovery was produced.

RULING

1. IT IS HEREBY ORDERED that a Writ of Mandate issue requiring the Respondents to have Mr. Mull produce the knowledgeable employee and have him or her, if able, mark the trench or trenches or designate the specific area where the sludge from the paper companies was buried. THE COURT FURTHER ORDERS the location or locations surveyed, and a 25-foot protective fenced area be established, as required by the Board of Supervisors. If any portion of the trenches is in a mining area or within the 25-foot buffer, such should be surveyed, fenced with a buffer, and excluded from mining.

2. IT IS FURTHER ORDERED that a Writ issue directing Respondents to have Fehr & Peers completely re-evaluate the safety issue with regard to road narrowness and confirm or reject the conclusions reached by Mr. Minturn and make any additional recommendations and submit such to the Court for further orders as may be consistent with the laws of CEQA. The Court finds that by virtue of the fact that the sludge trenches are in Phase 3, this is severable as no action will be taken on Phase 3 until Phases 1 and 2 are completed. The Court further finds there is what appears to be a reasonable safety report being reviewed because of possible lack of impartiality, and there is good reason not to enjoin operations of the project pending as no evidence corroborating the Minturn report has been made and is before the Court. This aspect is severable. The Court finds both areas of issuance of a writ are: (1) severable and (2) do not prejudice compliance with CEQA.

THE COURT ORDERS all matters ordered by the above writs completed within 60 days and returned to the Court within said time frame. The Court finds all other aspects of the EIR comply with CEQA for reasons above stated, and are severed from the two above stated writ matters.

As requested by Petitioners at oral argument, a Statement of Decision will be prepared within 10 court days after the filing of this Intended Decision and notice to the parties. Petitioners shall prepare and file a Statement of Issues to be addressed in the Statement of Decision as discussed at the trial in this matter on May 20, 2009. Respondents shall prepare the Statement of Decision and file and serve the same not later than 20 court days after the filing of the Statement of Issues to be addressed by Petitioners.

Dated: November 4, 2009


PATRICK J. RILEY
JUDGE OF THE SUPERIOR COURT

CERTIFICATE OF MAILING

STATE OF CALIFORNIA, COUNTY OF SHASTA

I, THE UNDERSIGNED, CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT I AM A DEPUTY COURT CLERK OF THE ABOVE-ENTITLED COURT AND NOT A PARTY TO THE WITHIN ACTION; THAT I MAILED A TRUE AND CORRECT COPY OF THE ABOVE TO EACH PERSON LISTED BELOW BY DEPOSITING SAME IN THE UNITED STATES POST OFFICE IN REDDING, CALIFORNIA, ENCLOSED SEALED ENVELOPES WITH POSTAGE PREPAID.

DATED: November 27, 2009


DEPUTY CLERK

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