

ATTACHMENT B

RESOLUTION ___-___

A RESOLUTION OF THE BUTTE COUNTY PLANNING COMMISSION APPROVING THE MINING USE PERMIT, RECLAMATION PLAN, AND FINANCIAL ASSURANCES FOR BALDWIN CONTRACTING COMPANY (MIN 96-03) CONSISTING OF THE FOLLOWING: A) MINING USE PERMIT ALLOWING THE ESTABLISHMENT AND OPERATION OF AN AGGREGATE MINE WITH ASSOCIATED STRUCTURES; B) RECLAMATION PLAN ESTABLISHING STANDARDS, TIMELINES AND PRACTICES FOR PHASED RECLAMATION; C) FINANCIAL ASSURANCES COST ESTIMATE ENSURING THE COMPLETION OF RECLAMATION ACTIVITIES; D) A STATEMENT OF OVERRIDING CONSIDERATIONS BASED UPON THE FINAL ENVIRONMENTAL IMPACT REPORT AND MITIGATION MONITORING PROGRAM; AND E) CONDITIONS OF APPROVAL

The M&T Chico Ranch Mine (“Project”) proposed by Baldwin Contracting Company (“Applicant”) consists of a long-term, off-channel gravel mining operation approximately 5-miles southwest of the City of Chico. The mining would take place on 193-acres of a 235-acre site over an estimated 20 to 30-year period. The Project site would be reclaimed to high-quality, open-water, wetland wildlife habitat and agricultural uses. The mined aggregate would be processed (washed and screened) on a 40-acre area at the site.

The Mining Use Permit and Reclamation Plan (MIN 96-03) for the Project came on public hearing before the Planning Commission of the County of Butte (“County”) on October 23, 2003, January 22, 2004, March 11, 2004, April 8, 2004, August 26, 2004, November 30, 2006, December 14, 2006, and January 25, 2007. Having considered all the written and documentary information submitted, the staff reports, oral testimony, other evidence presented, and the administrative record as a whole, the Planning Commission hereby finds and decides as follows:

RECITALS

1. The proposed operation is located on approximately 193 acres of the M&T Chico Ranch. The proposed quarry and processing facilities are approximately 1.5 miles east of the Sacramento River, and approximately 5 miles southwest of the City of Chico (Assessor's Parcel Numbers 416-039-530-015 & 018).
2. On August 30, 1997, Pacific Realty filed an application for a Mining Use Permit and Reclamation Plan (MIN 96-03) consisting of the following: 1) Mining Use Permit to allow the development and operation of a new aggregate mine with an onsite processing operation and associated structures, and 2) Reclamation Plan establishing standards, timelines and practices for phased reclamation of the site to open space/wildlife habitat.

3. In 1996 the County prepared an Initial Study to evaluate the environmental impacts associated with the proposed Project and identified several potentially significant environmental effects that may occur with implementation of the project. Accordingly, a draft environmental impact report (“Draft EIR”) was prepared pursuant to section 15064(a) of the California Environmental Quality Act Guidelines (“Guidelines”).
4. On February 28, 1997, the County distributed a Notice of Preparation of the Draft EIR to the State Clearinghouse, responsible agencies and the public.
5. From May 12, 1998 to July 2, 1998, the Draft EIR was circulated for public review.
6. On June 11, 1998, the Planning Commission conducted a hearing on the Draft EIR. The Planning Commission took extensive public input. The Project was continued off the agenda to allow further Staff evaluation. Written comments received during this review period are on file at the Butte County Planning Division and are incorporate by reference in the revised Draft EIR/Final EIR.
7. Based on public comment and in order to maximize public participation in the environmental review of the Project, the County decided to recirculate the Draft EIR to update and supplement the underlying technical analyses.
8. The County hired a new consultant to prepare the recirculated Draft EIR (Resource Design Technology, Inc.)
9. In September 2002, the County issued the revised Draft EIR. On September 30, 2002, the County filed the Notice of Completion with the State of California Clearinghouse.
10. The County circulated the revised Draft EIR for a 45-day public review and comment period commencing October 12, 2002 through November 25, 2002.
11. On October 24, 2002, the Planning Commission held a public hearing on the revised Draft EIR in Oroville. The County provided public notice of this meeting. At the hearing, the Planning Commission heard and received all relevant oral and written testimony and evidence filed or presented regarding the Draft EIR.
12. In October 2003, the County distributed the Final EIR to all commenting agencies, departments, individuals and organizations. The Final EIR is comprised of the Draft EIR and the Response to Comments Document

(collectively, “Final EIR”).

13. The Final EIR does not contain significant new information, as defined in CEQA Guidelines Section 15088.5, which would require recirculation of the modified sections or entire document.

Final EIR Section 3.2 delineates the changes to the Draft EIR in response to comments received on the Draft EIR. The changes are not substantial, do not include significant new environmental impacts, do not show a substantial increase in the severity of an environmental impact, do not identify a feasible project alternative or mitigation measure considerably different from others previously identified, and the Draft EIR was not fundamentally inadequate.

Further, Section 3.2 does not contain significant new information that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the Project or a feasible way to mitigate or avoid such an effect. All of the information added to the Final EIR merely clarifies, amplifies, or makes insignificant modifications in the Draft EIR. Therefore, recirculation of the Draft EIR is not required. (See Guidelines Section 15088.5.)

14. The Planning Commission held hearings to solicit public comment on the Project (including the EIR, Mining Use Permit and Reclamation Plan) on January 22, 2004, March 11, 2004, April 8, 2004, August 26, 2004, November 30, 2006, December 14, 2006, and January 25, 2007. These Planning Commission hearings also addressed, in part, issues raised by the Department of Conservation regarding the Williamson Act. On October 11 2005, the Applicant voluntarily filed a Petition for Partial Cancellation for a 106 acre area of the Project. (M&T Chico Ranch Mine Updated Response to Comments Regarding Williamson Act, p. 6.) Under State law, the Petition for Partial Cancellation is beyond the purview of the Planning Commission, and will be resolved by the County Board of Supervisors.

15. As lead agency for compliance with the requirements of the California Environmental Quality Act (Section 21000 et seq. of Public Resources Code), the Planning Commission has adopted a resolution certifying the Final EIR (State Clearinghouse No. 97022080), and approving a Mitigation Monitoring and Reporting Program for the M&T Chico Ranch Mine Mining Use Permit and Reclamation Plan.

FINDINGS OF FACT

1. FINDING: LAND USE CONSISTENCY – Based on its land use compatibility analysis, the County finds that the Project is consistent with the Project site's General Plan designation (i.e., Orchard and Field Crops) as a secondary use, the Project's zoning district (A-40), and with the County Mining Ordinance. Further, the proposed mining is an appropriate use under the Orchard and Field Crops General Plan Designation, and is also compatible in all agriculturally designated lands within Butte County where minerals are known to exist, pursuant to General Plan Policies 2.6.a, 2.6.b, and 6.1.a. (Butte County, 1997). In addition, the Project site also lies approximately two miles west on the agricultural side of the Chico Area Greenline designated on the Chico Area Land Use Plan. Land uses on the agricultural side of the Greenline are limited by the Butte County General Plan to agricultural uses, which are defined in the Land Use Element of the Butte County General Plan as "the 'Primary Uses' and the 'Secondary Uses' set forth in the 'Orchard and Field Crops' land use designation..." As stated above, the Project falls within the "Secondary Uses" category, which includes "resource extraction and processing," and "environmental preservation activities."

2. FINDING: SITE SUITABILITY - The site is suitable for the use proposed.

- (a) The Project has been reviewed for suitability by the County Agricultural Commissioner, County Public Works Department, County Air Quality Management District, Department of Conservation, County Office of Environmental Health, Central Valley Regional Water Quality Control Board, Department of Water Resources, City of Chico Department of Public Works and California State Clearinghouse.
- (b) Technical reports submitted by qualified consultants indicate that there are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats or similar areas that would indicate the site is not suitable for the use proposed. The following reports were submitted with the Mining Use Permit application, or subsequently submitted, and independently reviewed by County staff:

- 1 *AGRA Earth and Environmental, Inc. 1996. Aggregate Investigation Hallwood and M&T Properties. California. April.*
- 2 *AGRA Earth and Environmental, Inc. 1997. Excavation Stability M&T Chico Ranch Mine Reclamation, West of Dayton, California. August 22.*

- 3 *Hydroscience, Inc., Water Quality Report.*
- 4 *Kelley & Associates Environmental Sciences, Inc. 1997. Memorandum of Prime Farmland Soils Analysis for the M&T Chico Ranch. September 24.*
- 5 *Department of Water Resources, Northern District. 1993. M&T Chico Ranch Groundwater Investigation, Phase I, Memorandum Report, Red Bluff, California.*
- 6 *Deverel, S.J. 1996. Hydrology Report for Proposed Gravel Mining: M&T Chico Ranch.*
- 7 *Fehr & Peers Associates, Inc. 1997. Traffic Impact Analysis for the M&T Chico Ranch Project.*
- 8 *Kelley & Associates Environmental Sciences, Inc. 1996. M&T Chico Ranch Mine Use Permit, Mining Permit, and Reclamation Plan Application.*
- 9 *Kelley & Associates Environmental Sciences, Inc. 1996. Jurisdictional Wetlands Delineation: M&T Chico Ranch. November.*
- 10 *City of Chico. 1995. Draft Environmental Impact Report: Chico Water Pollution Control Plant Expansion. State Clearinghouse Number 94112054.*

(c) Final EIR prepared by Resource Design, as certified by the Planning Commission on February 22, 2007.

- 3. FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance.
- 4. FINDING:** The Project, as conditioned, is consistent with the provisions of the County's surface mining ordinance (County Code, Chapter 13-101 et seq., *Surface Mining and Reclamation*), which establishes regulations for mining operations and reclamation.
- 5. FINDING:** The Project complies with the provisions of the Surface Mining and Reclamation Act of 1975, Public Resources Code, Section 2710 et seq ("SMARA"), which establishes state authority to regulate mining operations and reclamation, and other applicable State regulations, as those provisions may be amended from time to time.
- 6. FINDING:** Sections 2770 and 2773.1 of SMARA require surface mining operators to obtain lead agency (city or county) approved financial assurances for reclamation. The County will annually require the Applicant to update the existing financial assurances to ensure there are adequate financial assurances in place for all costs related to completing the reclamation. The current financial assurances cost estimate for the Project is

\$103,526.93. (**Exhibit 1.**)

7. FINDING: RECLAMATION STANDARDS - The Reclamation Plan complies with applicable requirements of State regulations (CCR Sections 3500-3505, and Sections 3700-3713, as those provisions may be amended from time to time).

a) **Section 3703: Performance Standards for Wildlife Habitat** - The Reclamation Plan for the Project meets the requirements of Section 3703. Baseline conditions are described in Section 4.6 (Biological Resources) of the Draft EIR. (Reclamation Plan, Attachment 15.) As discussed in the revised Reclamation Plan dated September 2004 (“Reclamation Plan”), shallow wetlands will be established along the margins of a reclaimed lake. A combination of shallow and deep water habitat for a variety of wildlife species will be created using best management practices. Further, a nesting island will be constructed using excess overburden. (Reclamation Plan, pp. 18-19, Attachments 7, 13.) Native vegetation will be established on the reclaimed area by a combination of natural revegetation and plantings. Topsoil will be respread on the margins of the lake and in the shallow wetlands areas to enhance the establishment and growth of native vegetation. (Reclamation Plan, pp. 18-19, 22-23.) The Applicant will retain an expert in wildlife habitat reclamation to implement the revegetation plan and monitor success. Performance standards for the shallow wetlands and lake perimeter will be evaluated based on the effectiveness of the vegetation for wildlife habitat by comparing appropriate measures of cover, density, and species-richness for the reclaimed lands to similar parameters on reference areas and the baseline conditions put forth in the Draft EIR. Methods of monitoring and assessment will be based on guidelines provided in the Department of Conservation’s recently published manual on the rehabilitation process for disturbed lands (Newton and Claassen, 2003). (Reclamation Plan, pp. 22-23.)

b) **Section 3704: Performance Standards for Backfilling, Regrading, Slope Stability, and Recontouring** - The Reclamation Plan for the Project meets the requirements of Section 3704. A comprehensive slope stability study was prepared for the Project by AGRA Earth & Environmental, Inc., *Excavation Stability: M&T Chico Ranch Mine Reclamation* (Draft EIR, Appendix E; Reclamation Plan, Attachment 8.) The study concluded a 3:1 slope was an adequate factor or safety for final slopes. Based on this study, the Applicant has incorporated a 3:1 slope for all final slopes into the project design and Reclamation Plan. In addition, the design of any structures proposed onsite, including offices, and other ancillary facilities will be regulated by the Butte County Building Division of the Development Services

Department. (Draft EIR, Section 4.3, p. 4.3-16.) No backfilling will take place.

- c) **Section 3705: Performance Standards for Revegetation** - The Reclamation Plan for the Project meets the requirements of Section 3705. Section 3705 measures success of revegetation “based upon the effectiveness of the vegetation for the approved end use, and by comparing the quantified measures of vegetative cover, density, and species-richness of the reclaimed mined-lands to similar parameters of naturally occurring vegetation in the area.” (Cal. Code Regs., tit. 14, § 3705(m).) The Reclamation Plan’s revegetation standards track the statutory requirements mandated by SMARA and its associated regulations. For example, Section 3705(m) states the following:

Success of revegetation shall be judged based upon the effectiveness of the vegetation for the approved end use, and by comparing the quantified measures of vegetative cover, density, and species-richness of the reclaimed mined-lands to similar parameters of naturally occurring vegetation in the area. (Cal. Code Regs., tit. 14, § 3705(m).)

The Reclamation Plan tracks these requirements. The reclamation plan states “Performance standards . . . will be evaluated based on the effectiveness of the vegetation for wildlife habitat by comparing appropriate measures of cover, density and species-richness of the reclaimed lands to similar parameters on reference areas.” Further, the Reclamation Plan specifically provides that revegetation monitoring will take place for five years. During the five-year monitoring period, annual reports will be submitted to the Butte County Planning Division. The reports will describe the success of the revegetation plan and will include recommendations for how to improve, if possible, the plan’s success in the following year. In addition, the reclamation plan requires that “[m]ethods for monitoring and assessment will be based on guidelines provided in the Department of Conservation’s recently published manual on the rehabilitation process for disturbed lands (Newton and Claassen, 2003).”

- d) **Section 3706: Performance Standards for Drainage, Diversion Structures, Waterways, and Erosion Control** - The Reclamation Plan meets the requirements of Section 3706. The Applicant will obtain coverage under a general stormwater control permit from the Regional Water Quality Control Board before initiating onsite activities. The stormwater permit will require the development and implementation of a stormwater pollution prevention plan (“SWPPP”). By complying with the requirements of the stormwater permit and SWPPP, the Applicant will necessarily control runoff to ensure that

discharge of surface flows from the site meet stormwater pollution control permit requirements, and comply with applicable erosion control and sediment control requirements. Further, as indicated in the excavation stability study (Reclamation Plan, Attachment 8), the 3:1 final slopes incorporated into the final Project design will stabilize the reclaimed area, allowing most onsite runoff to remain onsite, thereby minimizing contribution of sediment to nearby streams and limiting erosion. The streambed and streambanks of Little Chico Creek will not be disturbed except for road and conveyor crossings. Stanchions supporting the conveyor will be footed in nonsensitive areas, and the road crossing of the stream will be improvements on an already existing crossing thus resulting in no increased impact. There will be no in-stream mining. (Reclamation Plan, p. 13.)

- e) **Section 3707: Performance Standards for Prime Agricultural Land Reclamation** - This performance standard does not apply to the Project because it is not located on Prime Agricultural Land. (See Final EIR, pp. 4.0-30 – 4.0-31.)

- f) **Section 3708: Performance Standards for Other Agricultural Land** - The Reclamation Plan meets the requirements of Section 3708. As discussed in Section 4.2 of the Draft EIR, the Project's end use will be reclamation to agricultural uses for the plant area (40 acres) while the mining area (193 acres) will be reclaimed as open water and wetlands. The revegetation scientist that the Applicant will retain for the Project will set up appropriate reference areas for both the plant site agricultural reclaimed area as well as the perimeter of the lake/wetland area. Productivity of the irrigated agricultural land at the reclaimed plant site will be compared to that of adjacent irrigated agricultural land on the M&T Ranch. The plant site will revert to become a part of a larger field on the M&T Ranch, and will be managed the same as the rest of the land in that field. Performance standards for the shallow wetlands and lake perimeter will be evaluated based on the effectiveness of the vegetation for wildlife habitat by comparing appropriate measures of cover, density and species richness of the reclaimed lands to similar parameters on reference areas approved by County staff.

- g) **Section 3709: Performance Standards for Building, Structure and Equipment Removal** - There are currently no buildings or structures within the proposed Project area. Buildings and structures associated with the aggregate processing plant will be removed when mining is completed.

- h) Section 3710: Performance Standards for Stream Protection, Including Surface and Groundwater** - The Reclamation Plan meets the requirements of Section 3710. Section 4.4 (Hydrology and Water Quality) of the Draft EIR describes the potential impacts of the Project. The only surface water stream, Little Chico Creek, will not be disturbed. There will no in-stream mining. Other surface water bodies include wetlands which will be mitigated as required by the U.S. Army Corps of Engineers and other state and federal agencies. During mining operations, industrial stormwater and process water will be collected in onsite recycle ponds. In addition, the Applicant will operate the Project in accordance with a California Regional Water Quality Control Board stormwater control permit and SWPPP. As discussed in *Hydrology Report for Proposed Gravel Mining – M&T Chico Ranch* (Reclamation Plan, Attachment 9; Draft EIR, Appendix D.1), the Project will not have a significant impact on groundwater resources. (See Draft EIR, section 4.4). The proposed lake will actually result in enhanced groundwater recharge from precipitation and evaporation from the shallow groundwater. Further, although there is recharge to the water table, which occurs as result of percolation losses from Little Chico Creek, the Project is not expected to alter that process. (Draft EIR, p. 4.4-38.) The groundwater quality study prepared for the Draft EIR by Monarch Laboratory concluded that there is no groundwater problem associated with the existing pit. (Reclamation Plan, Attachment 11; Draft EIR, Appendix D-3). Following reclamation, as part of the approved Mitigation and Monitoring Plan for the Project, the Applicant will develop a groundwater monitoring program to be approved by the Central Valley Regional Water Quality Control Board and Butte County to measure recharge and water quality following reclamation. (Draft EIR, pp. 4.4-64 - 4.4-78.)
- i) Section 3711: Performance Standards for Topsoil Salvage, Maintenance, and Redistribution** – The Reclamation Plan meets the requirements of Section 3711. The Reclamation Plan describes how topsoil and subsoil (growth medium) will be saved and stockpiled for reclamation uses as shown in Attachment 7 of the Revegetation Plan. (Reclamation Plan, p. 8; Attachment 3, Item 6, p. 5; Attachment 5.)
- j) Section 3712: Performance Standards for Tailing and Mine Waste Management** – The Reclamation Plan meets the requirements of Section 3712. Under the Reclamation Plan, the Project will not generate any mine wastes because all mine products will be sold or used in reclamation. (Reclamation Plan, Attachment 3, Item 5, p. 5.)
- k) Section 3713: Performance Standards for Closure of Surface Openings** – The Reclamation Plan meets the requirements of Section

3713. There are no drill holes, portals, shaft or tunnels associated with the mining operations proposed for the site that would require abandonment.

8. FINDING: HEALTH AND SAFETY – The establishment, maintenance or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.

Findings Regarding Statement of Overriding Considerations

In determining whether to approve the project, CEQA requires a public agency to balance the benefits of a Project against its unavoidable environmental risks. (CEQA Guideline section 15093). Implementation of the Mitigation Measures discussed in the Final EIR will avoid or substantially lessen the Project's significant impacts to a less than significant level, with the only exception being project-level and cumulative air quality impacts, and traffic. The County cannot state with certainty that these impacts will be fully mitigated and therefore has found that these impacts are significant and unavoidable. The County has weighed the economic, legal, social, technological, and other benefits of the Project against these impacts, and has determined that the adverse environmental impacts are acceptable for the reasons outlined herein.

The Planning Commission finds that the proposed Project will create the following benefits for the County of Butte and County residents (in no relative order):

- A. Continued supply of readily available high quality aggregate for use in local public and private construction projects. At present, the County only has approximately 40 percent of its 50-year demand for aggregate permitted. The State Geologist/Division of Mines and Geology conducted a Mineral Land Classification Study for the Project site in 2000 and determined the land was a significant mineral deposit and classified the land at MRZ-2a (Draft EIR, section 4.2.2, p. 4-2.1).
- B. Protection and development of a significant aggregate resource designated under the Mineral Land Classification system by the California Department of Conservation as a MRZ-2a. As explained in Draft EIR Section 3.4.3, the M&T Chico Ranch Site has been classified by the State Geologist. This report classifies the site as MRZ-2a for construction aggregates. Mineral Resource Zone 2a is specifically defined as:

“Areas underlain by mineral deposits where geologic data indicate that significant measured or indicated resources are present. MRZ-2 is divided into MRZ-2a and MRZ-2b on the

basis of degree of knowledge and economic factors. Areas classified MRZ-2a contain discovered mineral deposits that are either measured or indicated reserves as determined by such evidence as drilling records, sample analysis, surface exposure, and mine information. Land included in MRZ-2a is of prime importance because it contains known economic mineral deposits.”

Total Project reserves are estimated at over 5.5 million cubic yards (approximately 8.25 million tons). The resources identified on the Project site are considered by the State to be excellent potential aggregate sources for use in both ready-mix concrete and asphaltic concrete product.

- C. The Project will include fair share monetary contributions to improve and maintain transportation facilities in the area including road pavement, intersection safety, and Little Chico Creek Bridge reconstruction. Mitigation Measure 4.6-1 requires the Applicant to contribute a fair share contribution to reconstruct the Ord Ferry Road at Little Chico Creek. Mitigation Measure 4.6-2 requires the Applicant to contribute a fair share of the cost to improve the pavement on River Road between Chico River Road and the Project access with a two-inch asphalt overlay. Mitigation Measure 4.6-9 requires the Applicant to contribute a fair share of the cost to install a traffic signal and improve lane configurations at the Durham-Dayton Highway and Midway intersection.
- D. Potential decrease in the use of fuels and transportation costs for trucking aggregate to markets in Butte County and Chico compared with the current Baldwin Contracting Company aggregate source on Stony Creek. Section 4.3.2 of the Final EIR cites that transportation costs are a significant part of aggregate prices. In areas lacking nearby aggregate sources, delivery charges may be greater than the sale price of the material at the plant site. Transportation is a key factor in underscoring the economic importance of maintaining local aggregate sources. In many cases, for each 30 miles of haul distance, the price per ton of delivered aggregate doubles. Since much of the statewide use of aggregate is for public works projects (see Figure 4.0-1) each doubling of the price of the construction aggregate means less public improvements (e.g., roadway maintenance projects, public building construction) can be accomplished for each public dollar.
- E. Maintenance of adequate aggregate reserves available for future use in Butte County to account for population growth. Final EIR Section 4.3 provides a collective response concerning comments received regarding the necessity of additional aggregate resources in Butte County. In the next 30 years (the maximum permit time frame requested by the Applicant), the City of Chico will consume over 20 million tons of aggregates (four times the total reserves at the M&T Chico Ranch Mine site) while the County as a whole will

consume over 60 million tons. Over the next 50 years, Chico will require more than 45 million tons, and the County will need nearly 130 million tons. When compared to the current estimates of supply, the County may currently have approximately 40 percent of its 50-year demand and, without permitting of additional reserves for development, could exhaust aggregate supplies before 2030. While actual conditions will vary based on a number of factors, including actual unreported supplies and production levels (which vary in response to the economy and local growth), it is clear that the County will need new aggregate production if demand is to be met.

- F. Extraction of a known valuable aggregate resource consistent with local and state policy.
- G. Potential to reduce impacts on transportation systems and reduce air quality impacts if Baldwin Contracting Company's Stony Creek operation is replaced by this facility, since the aggregate resource will be closer to the Chico and Butte County markets.
- H. Highly regulated, responsible mining under carefully controlled conditions, with the ability to revoke the individual permit at any time after due process, for failure to comply with the terms and conditions of the permit.
- I. Creation of an opportunity for open space and new wildlife habitat areas after Reclamation Plan implementation. The end use of the mine site will include an over-wintering pond for waterfowl and associated aquatic and wetland fauna. The pond area shall become a managed wildlife preserve. Shallow cuts along the perimeter of the pond will result in the creation of wetland areas along the pond.
- J. Maintenance of 100-year flood plain, increased storage of floodwaters and improved flood protection. As discussed under Final EIR 4.7.-4 and Impact 4.4-8 (Page 4.4-76 of the Draft EIR), the creation of the proposed pond/pit will result, at the end of operations, in approximately 1,000 acre-feet of available floodwater storage and the same amount of groundwater recharge. This will be a sustained beneficial impact of the Project. Mitigation Measures 4.4-7a, b, and c provide approximately ten-year flood protection for the created lake from overflows of Little Chico Creek and from local agricultural runoff. For flows in Little Chico Creek exceeding approximately 2,000 cfs, or for flooding from the Sacramento River which yields equivalent flood stages, floodwaters will flow into the pond/lake, serving to reduce flood depths.
- K. Protection of adjacent wells and generation of data relevant to groundwater quality and quantity over a period of up to 30 years (life of operation) for use by the State and County in gaining a greater understanding of groundwater resources in the area. Mitigation Measures 4.4-3e and 4.4-2c require that The Applicant develop a groundwater monitoring program, approved by the

Central Valley Regional Water Quality Control Board and by Butte County.

- L. Avoidance and reduction in reliance upon highly disturbing in-stream mining and related environmental concerns associated with in-stream mining. The Applicant's closest available source of aggregate is its mining operation at Stony Creek near Hamilton City in Glenn County (located on SR-32). This site is nearing depletion and is considered an in-stream mining operation. The proposed M&T Chico Ranch Mine is considered an "off channel" mine, meaning that it is not located within a stream. The M&T Chico Ranch Mine is instead located on alluvial terraces away from environmentally sensitive in-stream mine sites.
- M. Generation of employment opportunities associated with mining of aggregates, required monitoring and reporting, construction associated with on site facilities and improving and maintaining roadway facilities, and restoration of wildlife areas.
- N. Generation of employment opportunities for a locally based company Baldwin Contracting, which employs approximately 200 people during peak construction season (approximately 80 employees are employed year round) and has an annual payroll of more than 9 million dollars.
- O. Generation of property and sales tax revenues.

The County finds that all of these benefits outweigh the risks associated with the identified unmitigated impacts. Accordingly, the County approves the attached Statement of Overriding Considerations (**Exhibit 2**).

DECISION

IN VIEW OF THE ABOVE FINDINGS, EVIDENCE, AND THE RECORD AS A WHOLE, the Butte County Planning Commission hereby approves the M&T Chico Ranch Mining Use Permit, Reclamation Plan (MIN 96-03, and Financial Assurances Cost Estimate (attached as **Exhibit 1** and incorporated by reference herein), adopts the attached Statement of Overriding Considerations (attached as **Exhibit 2**), and approves the attached Conditions of Approval (**Exhibit 3** and incorporated by reference herein).

DULY PASSED AND ADOPTED this 22nd day of February 2007, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Nina Lambert - Chair
Planning Commission
County of Butte, State of California

ATTEST:

TINA BONHAM, Secretary
Planning Commission
County of Butte, State of California

EXHIBIT 1
M & T CHICO RANCH MINE
Financial Assurances Cost Estimate
(Excerpted from November 2006 Reclamation Plan)

- 1) **Regrade pit areas**- Side slopes will be left a stable angle per the reclamation plan. Reclamation will occur yearly for those areas that have been depleted of aggregates. Approximately 6 acres will be mined each year, which will result in an average of 607 feet of perimeter edge to reclaim each year. The remainder of the mined area will be underwater. Recontouring of the perimeter will typically be done by D-8 class dozer.

a) Dozer Speed

Forward speed 2.2 miles per hour: 194 feet per minute.
Return speed 6.0 mile per hour: 528 feet per minute.
Average dozer width per pass: 11 feet

b) Production Calculation

Number of passes required to cover pit area:
One time: 22' divided by 11 = 2 passes
Average pass length = 3,035 feet
Average forward speed: 194 feet/minute
Use 199 feet/minute
Average return speed: 528 feet/minute
Use 528 feet/minute
Change direction: .05 minutes
3035 feet divided by 194 feet/minute = 15.64 minutes forward
3035 divided by 528 = 5.75 minutes return
Use 50 minute hours or .83 efficiency: 15.64 + 5.75 = 21.4 minutes
21.4 divided by .83 = 25.8 per complete pass
Add .05 minutes for change of direction: 25.8 minutes + .05 = 25.85 min
2 passes x 25.85 minutes per pass = 51.7 to cover area one time
Cover area 3 times to complete grading: 51.7 x 3 = 155.1
155.1 minutes divided by 60 minutes per hour = 2.6 hours
Use 3 hours

c) Equipment cost

D8-K Dozer 3 hours x \$150/hour = \$450.00
Total Equipment cost: \$450.00

d) Labor

Dozer Operator – 3 hours x \$59.25/hour = \$177.75
Total Labor Costs = \$177.75

Total Cost to Regrade pit area: \$627.75

- 2) **Topsoil Respreading**- If necessary, a one-foot thickness of topsoil will be respread on recontoured perimeter areas. Topsoil will be direct respread from adjacent areas to be mined. Typical equipment to be used will be a 623 class tractor scraper and a 12G blade.

a) **Production Calculation**

Area to be respread = 22 ft x 3035 ft. = 66,770 SF
 Volume to be respread = 66,770 SF 1 ft thick/27 = 2,473 CY (use 2,500 CY)
 Scraper production = 15 loads per hour 20 CY / load = 300 CY
 Scraper hours = 2500 / 300 = 8.3 (use 9 hours)

Area to blade = 66,770 SF
 Blade production = 200, 000 SF per day = 26,000 SF per hour in 7.5 hour day
 66,770 / 26,000 = 2.57 hours (use 3 hours)

b) **Equipment costs**

9 hours x \$182.00/hr = \$1,638.00 for tractor scraper
 3 hours x \$ 56.30/hr = \$168.90 for blade

c) **Labor costs**

Scraper operator 9 hours x \$59.25 per hour = \$533.25
 Blade operator 3 hours x \$63.00 per hour = \$189.00

TOTAL COST TO RESPREAD TOPSOIL **\$2,529.15**

3) **Equipment Removal**

Activity to complete task: Dismantle plants, load onto trucks and haul to Chico.
 Equipment to be moved: Tanks conveyors, screens, crushers, drier, baghouse
 40 truckloads

a) **Production Calculations**

Dismantle and load out 40 truckloads of plant and plant-related equipment.

1. One 40-ton truck crane with pickup – 4 days
2. Four Operating Engineers – 10 days
3. 40 loads from M&T to Chico @ 1.5 hours each = 60 hours
4. Pilot cars: 10 loads @ 1.5 hours each = 15 hours

b) **Equipment costs**

40 Ton Crane: 32 hours @\$175.00/hour = \$5,600.00
 Pickup: 32 hours @\$11.00/hour = \$352.00
 Lowbed or 40' Highbed 60 hours @ \$80.00/hour = \$4,800.00
 Pilot Car 15 hours @ \$50.00/hour = \$750.00

TOTAL EQUIPMENT COSTS **\$11,502.00**

c) Labor

Operating Engineer 320 Hrs. @ \$59.25/hr = \$18,960.00

TOTAL LABOR \$18,960.00

TOTAL TO REMOVE PLANT \$30,462.00

4) Regrade Plant Areas

Remove settling pond dikes, spread sediment over adjacent pit area, grade plant area

Scraper (623B) Production

15 loads/hr. @ 20 cy/Load = 300 cy/hr x 7.5 hrs./day = 2,250 cy/day
Est. quantity of Sediment: 400' x 400' x 3' divided by 27 = 17,778 cy
17,778 CY divided by 2250 cy/day = 7.9 days (Use 8)
8 days @ 8 hrs/day = 64 hours

Blade (12G) Production

200,000 SF/Day to subgrade to +/- 0.25'
35 Acres x 43,560 SF/Acre = 1,524,600 SF
1,524,600 divided by 200,000 = 7.6 days (Use 8)
7 days @ 8 hrs/day = 56 hours

Item Summary:

623 Scraper:	64 hrs. @ \$182.00/hr	= \$11,648.00
14 G Blade:	64 hrs. @ \$56.30/hr	= \$3,603.20
Scraper operator	64 hours x \$59.25 per hour	= \$3,792.00
Blade operator	64 hours x \$63.00 per hour	= \$4,032.00

TOTAL TO REGRADE PLANT AREA \$23,075.20

- 5) Revegetation – Approximately 15 acres of perimeter will be revegetated every five years. Most, if not all this revegetation is expected to occur naturally as a result of volunteer establishment of species present in the area. If necessary natural revegetation will be augmented by planting as described in the Reclamation Plan. These plantings will use plant materials available on the M&T ranch. Plantings will be supervised and their establishment monitored by a revegetation specialist. Since plant materials and planting equipment are readily available at the M&T ranch, the only revegetation costs are expected to be for contracting with a revegetation specialist. For reclamation costs, it is assumed that the maximum perimeter (3,035 ft.) must be reclaimed.

Annual Supervision of revegetation = 4 days x \$960 per day = \$3,840
Annual monitoring data collection, analysis and reporting=

10 days x \$1,700 per day =	<u>\$17,000</u>
TOTAL REVEGETATION COSTS	<u>\$20,840.00</u>

TOTAL DIRECT COSTS:

Regrade pit area	=	\$627.75
Topsoil respreading	=	\$2,529.15
Plant and equipment removal	=	\$30,462.00
Regrade plant areas	=	\$23,075.20
Revegetation costs	=	<u>\$20,840.00</u>
TOTAL DIRECT COSTS	=	\$77,534.10

The following items are taken from Pages A-12, A-13, and A-14 included in the Surface Mining and Reclamation Act Financial Assurance Guidelines:

6) <u>Supervision</u> – Taken from Graph 1		
6.3% of cost $\$77,534.10 \times .063 = \$4,884.65$		
TOTAL COST OF SUPERVISION		\$4,884.65
7) <u>Overhead and Profit</u> – Taken from Graph 2		
14% of cost = $\$77,534.10 \times .14 = \$10,854.77$		
TOTAL COST OF O/H AND PROFIT		\$10,854.77
8) <u>Contingencies</u> – Taken from table on Page A-12		
0-\$500,000 use 10% $\$77,534.10 \times .10 = \$7,753.41$		
TOTAL COST OF CONTINGENCIES		\$7,753.41
9) <u>Mobilization and Permits Lump Sum</u>		<u>\$2,500.00</u>
TOTAL RECLAMATION COSTS		<u>\$103,526.93</u>

EXHIBIT 2

STATEMENT OF OVERRIDING CONSIDERATIONS FOR APPROVAL OF THE M&T CHICO RANCH LONG-TERM OFF-CHANNEL MINING PROJECT

In approving the M&T Chico Ranch Mine (also referred to herein as “Project”) which is evaluated in the Final Environmental Impact Report for the M&T Chico Ranch Mine Mining Use Permit and Reclamation Plan (State Clearinghouse No 97022080) (“EIR”), the County makes the following Statement of Overriding Considerations in support of its findings on the EIR and in support of the Project. The Planning Commission has considered the information contained in the EIR, and has fully reviewed and considered the public testimony and record in this proceeding.

Pursuant to CEQA Guidelines Section 15093, the Planning Commission finds that specific economic, legal, social, technological, or other benefits of the Project outweigh its acknowledged environmental consequences. As such, a statement of overriding considerations is hereby adopted.

The Planning Commission hereby finds and declares, based upon substantial evidence in the entire record, that specific economic, legal, social, technological or other benefits of the M&T Chico Ranch Mine outweigh the Project’s acknowledged environmental impacts. The Findings of the Planning Commission set forth in Exhibit 1 identify the environmental impacts of the Project, as well as feasible mitigation measures which have been incorporated into the Project. In addition, the Findings reject the Project alternatives as infeasible.

For that environmental impact which remains individually significant after the imposition of feasible mitigation measures, a Statement of Overriding Considerations must be adopted.

SIGNIFICANT AND UNAVOIDABLE IMPACTS

The environmental analysis contained within Chapter 4.0 of the Draft EIR concluded that the following impacts were found to be significant and unavoidable for the proposed Project:

Impact 4.5.-5: Addition to Carbon Monoxide (CO) Hot Spots

Under both with, and without batch plant scenarios, certain intersections in the vicinity of the Project will experience congestion under cumulative conditions. Carbon monoxide emissions from vehicle traffic will increase at congested intersections due to increased idling time. Under Butte County Air Quality Management District thresholds of significance, the creation of a CO hot spot is a significant impact.

There are no feasible mitigation measures to reduce traffic congestion at the impacted intersections. The air quality impacts are a direct result of traffic congestion. Therefore, there are no feasible mitigation measures for the air quality impacts. This is a significant and unavoidable impact.

Impact 4.6-4: Highway 32/West 5th Street Intersection

The proposed Project will add 10 or more trips per day to the intersection of State Highway 32/West 5th street. This intersection has been identified as a location having 4 or more accidents in a 12-month period over the last three years. This location also had more than one accident over a 12-month period, which involved heavy vehicles. This is considered a significant impact.

The intersection of SR-32/West 5th Street has had a total of 13 accidents over the last three years with 6 occurring in 1997. Two of the accidents in 1997 involved heavy vehicles. In 1999, seven accidents occurred with no heavy vehicle involvement.

Accident data provided by the California Department of Transportation (“Caltrans”) for this location revealed that all accidents were due to driver behavior. Field observations revealed there are no significant obstacles blocking site distance, no significant grades (level terrain), and adequate signing and striping. However, signal phasing could be improved to increase safety. Currently there are protected left-turns for the SR-32 approaches and permitted left turns for the West 5th Street approaches. With permitted phasing, vehicles turning left must yield to opposing through and right-turn movements. Field observations also revealed the absence of all-red time at this intersection; consequently, vehicles are not able to clear the intersection between signal phases.

The following Mitigation Measure is set-forth:

Mitigation Measure 4.6-4: Baldwin Contracting Company (“Baldwin”) shall contribute a fair share contribution to improve the intersection of State Route 32/West 5th Street by modifying the existing traffic signal to provide split phase timing, including three seconds of yellow time and one second of all-red time per phase. The fair share contribution amount should not be based upon the relative proportion of Project vehicles traveling through the impacted intersection.

The level of significance after implementation, however, is still considered significant and unavoidable. The Mitigation Measure will nevertheless be implemented as a condition of the Mining Permit as it will improve conditions at the intersection.

Impact 4.6-5: Park Avenue/East 20th Street/East Park Avenue

The proposed Project will exacerbate LOS F operating conditions on Park Avenue from East 20th Street to East Park Avenue under cumulative conditions.

The segment of Park Avenue between East 20th Street and East Park Avenue is expected to operate at LOS F under cumulative no Project conditions. The addition of Project trips will exacerbate unacceptable operating conditions. Possible mitigation measures would include physically expanding the facility or rerouting Project traffic. The physical constraints of this roadway segment (i.e., city streets with pedestrian and bicycle facilities, minimal setbacks to existing buildings) prohibit expansion from four to six lanes. Project trips may be rerouted to avoid this roadway segment, however, this is difficult to enforce. The cumulative no project daily traffic volume on this roadway segment is 36,000. The Project will add an additional 20 trips to this segment. This represents less than 1 percent increase in traffic. Therefore, the impact of Project trips being added to this roadway segment will be minimal yet significant based upon the criteria listed in the Impacts and Mitigation Measures section of the Draft EIR.

No feasible mitigation measure will reduce the level of impact to this roadway segment. This is considered a significant unavoidable impact.

Impact 4.6-6: East Park Avenue/Park Avenue/Highway 99

The proposed Project will exacerbate LOS F operating conditions on East Park Avenue from Park Avenue to Highway 99 under cumulative conditions.

The segment of East Park Avenue between Park Avenue and Highway 99 is expected to operate at LOS F under cumulative no project conditions. The addition of Project trips will exacerbate unacceptable operating conditions. Possible mitigation measures would include physically expanding the facility or rerouting Project traffic. The physical constraints of this roadway segment (i.e., city streets with pedestrian and bicycle facilities, minimal setbacks to existing buildings) prohibit expansion from four to six lanes. Project trips may be rerouted to avoid this roadway segment, however, this is difficult to enforce. The cumulative no project daily traffic volume on this roadway segment is 40,000. The Project will add an additional 40 trips to this segment. This represents a less than 1 percent increase in traffic. Therefore, the impact of Project trips being added to this roadway segment will be minimal yet significant based upon the criteria listed in Impacts and Mitigation Measures Section of the Draft EIR.

No feasible mitigation measure will reduce the level of impact to this roadway segment. This is considered a significant and unavoidable impact.

Impact 4.6-7: Bruce Road/Highway 32/Skyway

The proposed Project will exacerbate LOS E operating conditions on Bruce Road from Highway 32 to Skyway under cumulative conditions.

The segment of Bruce Road between Highway 32 and Skyway is expected to operate at LOS E under cumulative no project conditions. The addition of Project trips will exacerbate unacceptable operating conditions. Possible mitigation measures would include physically expanding the facility or rerouting Project traffic. The physical

constraints of this roadway segment (i.e., city streets with pedestrian and bicycle facilities, minimal setbacks to existing buildings) prohibit expansion from four to six lanes. Project trips may be rerouted to avoid this roadway segment, however, this is difficult to enforce. The cumulative no project daily traffic volume on this roadway segment is 31,500. The Project will add an additional 30 trips to this segment. This represents a less than 1 percent increase in traffic. Therefore, the impact of Project trips being added to this roadway segment will be minimal yet significant based upon the criteria listed in the Impacts and Mitigation Measures Section of the Draft EIR.

No feasible mitigation measure will reduce the level of impact to this roadway segment. This is considered a significant unavoidable impact.

Impact 4.6-8: Baldwin Plant Driveway/Skyway

The proposed Project will exacerbate LOS F operating conditions in the a.m. peak hour and LOS D in the p.m. peak hour at the intersections of the Baldwin Plant driveway and Skyway under cumulative conditions.

The intersection of the Baldwin Plant driveway and Skyway is expected to operate at LOS F in the a.m. peak hour and LOS D in the p.m. peak hour under cumulative no project conditions. The addition of Project trips will exacerbate unacceptable operating conditions. The peak hour volume signal warrant contained in the Traffic Manual, Caltrans, July 1995, is not met at this location due to the low volumes at the driveway to the Baldwin Plant.

Improvements to the median crossing, acceleration/deceleration lanes, improved signing and striping, and channelization of the driveway approach could improve the safety characteristics of this intersection, and this will be reflected as a condition of the Mining Permit. In addition, signalization of the Skyway/Honey Run Road (anticipated by 2005) may provide sufficient gaps in through traffic on Skyway to improve ingress and egress from the driveway. However, no feasible mitigation measure will reduce the level of impact to this roadway segment. This is considered a significant and unavoidable impact.

STATEMENT OF OVERRIDING CONSIDERATIONS

The Planning Commission specifically finds that to the extent the identified significant adverse impacts have not been mitigated to less-than-significant levels, the benefits identified in Exhibit A (Section J) of these findings support approval of the proposed Project and entitlements, as follows:

Fiscal and Economic Considerations

1. Continued supply of readily available aggregate for use in local public and private construction projects.
2. Generation of property and sales tax revenues.
3. Generation of employment opportunities associated with mining of aggregates, required monitoring and reporting, construction associated with on

site facilities and improving and maintaining roadway facilities, and restoration of wildlife areas.

4. Generation of employment opportunities for locally based company Baldwin, which employs approximately 200 people during peak construction season (approximately 80 employees are employed year round) and has an annual payroll of more than 9 million dollars.
5. Protection and development of a significant aggregate resource designated under the Mineral Land Classification system by the California Department of Conservation as a MRZ-2a. As explained in Draft EIR Section 3.4.3, the M&T Chico Ranch Site has been classified by the State Geologist. This report classifies the site as MRZ-2a for construction aggregates. Mineral Resource Zone 2a is specifically defined as:

Areas underlain by mineral deposits where geologic data indicate that significant measured or indicated resources are present. MRZ-2 is divided into MRZ-2a and MRZ-2b on the basis of degree of knowledge and economic factors. Areas classified MRZ-2a contain discovered mineral deposits that are either measured or indicated reserves as determined by such evidence as drilling records, sample analysis, surface exposure, and mine information. Land included in MRZ-2a is of prime importance because it contains known economic mineral deposits.

Total Project reserves are estimated at over 5.5 million cubic yards (approximately 8.25 million tons). The resources identified on the Project site are considered by the State to be excellent potential aggregate sources for use in both ready-mix concrete and asphaltic concrete product.

6. Potential decrease in the use of fuels and transportation costs for trucking aggregate to markets in Butte County and Chico compared with the current Baldwin aggregate source on Stony Creek. Section 4.3.2 of the Final EIR cites that transportation costs are a significant part of aggregate prices. In areas lacking nearby aggregate sources, delivery charges may be greater than the sale price of the material at the plant site. Transportation is a key factor in underscoring the economic importance of maintaining local aggregate sources. In many cases, for each 30 miles of haul distance, the price per ton of delivered aggregate doubles. Since much of the statewide use of aggregate is for public works projects (see Figure 4.0-1) each doubling of the price of the construction aggregate means less public improvements (e.g., roadway maintenance projects, public building construction) can be accomplished for each public dollar.
7. Extraction of a known valuable aggregate resource consistent with local and state policy.

Social Considerations

1. Generation of employment opportunities associated with mining of aggregates, required monitoring and reporting, construction associated with on site facilities and improving and maintaining roadway facilities, and restoration of wildlife areas.
2. Generation of employment opportunities for locally based company Baldwin Contracting, which employs approximately 200 people during peak construction season (approximately 80 employees are employed year round) and has an annual payroll of more than 9 million dollars.
3. Maintenance of adequate aggregate reserves available for future use in Butte County to account for population growth. Section 4.3 of the Final EIR provides a collective response concerning comments received regarding the necessity of additional aggregate resources in Butte County. In the next 30 years (the maximum permit time frame requested by the Applicant), the City of Chico will consume over 20 million tons of aggregates (four times the total reserves at the M&T Chico Ranch Mine site) while the County as a whole will consume over 60 million tons. Over the next 50 years, Chico will require more than 45 million tons, and the County will need nearly 130 million tons. When compared to the current estimates of supply, the County may currently have approximately 40 percent of its 50-year demand and, without permitting of additional reserves for development, could exhaust aggregate supplies before 2030. While actual conditions will vary based on a number of factors, including actual unreported supplies, and production levels (which vary in response to the economy and local growth) it is clear that the County will need new aggregate production if demand is to be met.
4. Potential to reduce impacts on transportation systems and reduce air quality impacts if Baldwin's Stony Creek operation is replaced by this facility, since the aggregate resource will be closer to the Chico and Butte County markets.
5. Highly regulated, responsible mining under carefully controlled conditions, with the ability to revoke the individual permit at any time after due process, for failure to comply with the terms and conditions of the permit.
6. Creation of an opportunity for open space and new wildlife habitat areas after Reclamation Plan implementation. The end use of the mine site will include an over-wintering pond for waterfowl and associated aquatic and wetland fauna. The pond area shall become a managed wildlife preserve. Shallow cuts along the perimeter of the pond will result in the creation of wetland areas along the pond.

Safety Considerations

- 1 Maintenance of 100-year flood plain, increased storage of floodwaters and improved flood protection. As discussed under Final EIR 4.7.-4 and Impact 4.4-8 (Page 4.4-76 of the Draft EIR), the creation of the proposed pond/pit will result, at the end of operations, in approximately 1,000 acre-feet of available floodwater storage and the same amount of groundwater recharge. This will be a sustained beneficial impact of the Project. Mitigation Measures

4.4-7a, b, and c provide approximately ten-year flood protection for the created lake from overflows of Little Chico Creek and from local agricultural runoff. For flows in Little Chico Creek exceeding approximately 2,000 cfs, or for flooding from the Sacramento River which yields equivalent flood stages, floodwaters will flow into the pond/lake, serving to reduce flood depths.

- 2 Protection of adjacent wells and generation of data relevant to groundwater quality and quantity over a period of up to 30 years (life of operation) for use by the State and County in gaining a greater understanding of groundwater resources in the area. Mitigation Measures 4.4-3e and 4.4-2c requires that the applicant develop a groundwater monitoring program, approved by the Central Valley Regional Water Quality Control Board and Butte County.
- 3 The Project will include fair share monetary contributions to improve and maintain transportation facilities in the area including road pavement, intersection safety, and Little Chico Creek Bridge reconstruction. Mitigation Measure 4.6-1 requires the applicant to contribute a fair share contribution to reconstruct the Ord Ferry Road at Little Chico Creek. Mitigation Measure 4.6-2 requires the applicant to contribute a fair share of the cost to improve the pavement on River Road between Chico River Road and the Project access with a two-inch asphalt overlay. Mitigation Measure 4.6-9 requires the applicant to contribute a fair share of the cost to install a traffic signal and improve lane configurations at the Durham-Dayton Highway and Midway intersection.

Scientific and Educational Considerations

1. Protection of adjacent wells and generation of data relevant to groundwater quality and quantity over a period of up to 30 years (life of operation) for use by the State and County in gaining a greater understanding of groundwater resources in the area. Mitigation Measures 4.4-3e and 4.4-2c requires that the applicant develop a groundwater monitoring program, approved by the Central Valley Regional Water Quality Control Board and Butte County.

Environmental Considerations

- 1 Creation of an opportunity for open space and new wildlife habitat areas after Reclamation Plan implementation. The end use of the mine site will include an over-wintering pond for waterfowl and associated aquatic and wetland fauna. The pond area shall become a managed wildlife preserve. Shallow cuts along the perimeter of the pond will result in the creation of wetland areas along the pond.
2. Avoidance and reduction in reliance upon highly disturbing in-stream mining and related environmental concerns associated with in-stream mining. Baldwin Contracting Company's closest available source of aggregate is its mining operation at Stony Creek near Hamilton City in Glenn County (located on SR-32). This site is nearing depletion and is considered an in-stream mining operation. The proposed M&T Chico Ranch Mine is considered an "off channel" mine, meaning that it is not located within a stream. The M&T

Chico Ranch Mine is instead located on alluvial terraces away from environmentally sensitive in-stream mine sites.

3. Potential decrease in the use of fuels and transportation costs for trucking aggregate to markets in Butte County and Chico compared with the current Baldwin Contracting Company aggregate source on Stony Creek. Section 4.3.2 of the Final EIR cites that transportation costs are a significant part of aggregate prices. In areas lacking nearby aggregate sources, delivery charges may be greater than the sale price of the material at the plant site. Transportation is a key factor in underscoring the economic importance of maintaining local aggregate sources. In many cases, for each 30 miles of haul distance, the price per ton of delivered aggregate doubles. Since much of the statewide use of aggregate is for public works projects (see Figure 4.0-1) each doubling of the price of the construction aggregate means less public improvements (e.g., roadway maintenance projects, public building construction) can be accomplished for each public dollar.
4. Potential to reduce impacts on transportation systems and reduce air quality impacts if Baldwin Contracting Company's Stony Creek operation is replaced by this facility, since the aggregate resource will be closer to the Chico and Butte County markets.

The Planning Commission has balanced these environmental benefits considerations against the unavoidable and irreversible environmental risks identified in the EIR and has concluded that those impacts are outweighed by these environmental benefits, among others. Upon balancing the environmental risk and countervailing environmental benefits, the Planning Commission has concluded that the environmental benefits that the County will derive from the implementation of the Project, when combined with the other beneficial considerations discussed in this Section, outweigh those environmental risks.

CONCLUSION

1. The Project includes an EIR prepared pursuant to the CEQA Guidelines. The Planning Commission has independently determined that this EIR fully and adequately addresses the impacts and mitigations of the proposed operation.
2. The number of project alternatives identified and considered in the EIR meet the test of "reasonable" analysis and provide the Planning Commission with important information from which to make an informed decision.
3. Public noticing and involvement in the process, as demonstrated in the record, were also extraordinary.
4. Substantial evidence in the record demonstrates various benefits and considerations including fiscal and economic, social, safety, scientific and educational and environmental which the County would derive and/or face from the implementation of the Project.

5. The Planning Commission has balanced these Project benefits and considerations against the unavoidable and irreversible environmental risks identified in the EIR and has concluded that those impacts are outweighed by the Project benefits. Upon balancing the environmental risk and countervailing Project benefits, the Planning Commission has concluded that the benefits that the County will derive from the implementation of the Project, as compared to the existing and planned future conditions, outweigh those environmental risks.
6. The Planning Commission believes that the above-referenced Project benefits override the significant, unavoidable and irreversible environmental impacts identified with the Project EIR.

Therefore, for the reasons enumerated above, the Planning Commission finds that any remaining effects on the environment attributable to the Project, which are found to be unavoidable in the preceding Findings of Fact, are acceptable due to the overriding concerns set forth in this Statement of Overriding Considerations. Therefore, the Planning Commission should adopt and certify the Final EIR, and approve the Project subject to appropriate mitigation requirements.

EXHIBIT 3

CONDITIONS OF APPROVAL FOR M&T CHICO RANCH MINING USE PERMIT AND RECLAMATION PLAN (MIN 06-03 BALDWIN CONTRACTING COMPANY)

1. This Mining Use Permit allows the extracting, processing, and sale of up to 5,500,000 cubic yards of aggregates within Assessor Parcels 039-530-019 and 020 ("Project") in accordance with County ordinances and land use regulations subject to the following terms and conditions. This approval also allows construction of facilities ancillary to the mining project and related improvements.
2. Failure to comply with the conditions specified herein as the basis for approval of application and issuance of the Mining Use Permit constitutes cause for the revocation of said permit in accordance with the procedures set forth in the County Zoning Ordinance, including County Code Sec. 24-45.65.
3. Unless otherwise provided for in a special condition to this Mining Use Permit, all conditions must be completed prior to or concurrently with the establishment of the granted use. Owner/Operator shall commence operations within 5 (five) years from the date of issuance of the final permit. Should operations not commence within said 5 (five) years the final permit shall expire and become void, unless extended by the Planning Commission prior to expiration.
4. Amendments to an approved Mining Use Permit may be submitted to the Planning Commission, detailing proposed changes to the original plan. Substantial deviations from the original plan shall not be undertaken until such amendments have been filed with and approved by the Planning Commission. The Planning Commission shall set a public hearing regarding such amendments in the same manner as provided for in County Code Section 13-107.
5. The terms and conditions of this permit shall run with the land and shall be binding upon and be to the benefit of the heirs, legal representatives, successors, and assigns of Owner/Operator.
6. Financial assurances to ensure compliance with the approved Reclamation Plan shall be in place to the satisfaction of the Director of the Department of Development Services or his/her designee prior to the establishment of the approved mining use. Financial assurances have been initially calculated at \$103,526.93.
7. Prior to use of the site for the proposed use Owner/Operator shall contact the Planning Division for a field inspection to verify that all conditions and ordinance requirements have been met.

Planning Division

8. All Reclamation work shall be in substantial compliance with the approved Reclamation Plan.
9. All mine operations shall comply with the Project Description and Mining Use Permit application as submitted and approved and set forth in the M&T Chico Ranch Certified Final Environmental Impact Report ("Final EIR"), dated October 2003.

10. Annual inspection of the mine shall be conducted in accordance with the Surface Mining and Reclamation Act. All applicable inspection fees shall be paid in accordance with adopted rates.
11. Mine Operation and Reclamation shall be in accordance with the Mitigation Measures contained within the Final EIR incorporated herein by reference.
12. All Mitigation Measures as identified in the Final EIR for the M&T Chico Ranch Mine are adopted as conditions of this Mining Use Permit and as such the Mitigation Measures have full weight and authority in the same manner as conditions of the Mining Use Permit.
13. Mitigation Monitoring and Reporting shall commence and proceed in accordance with the Mitigation Monitoring Reporting Plan referenced within the Final EIR. The owner/operator is responsible for all costs associated with monitoring and reporting activities including but not limited to the hourly rate of County staff time, as approved by the Board of Supervisors and as amended, and any contract services as may be necessary to conduct such work on behalf of the County as determined by the Director or designee.
14. Mining, processing, maintenance and load-out activities shall occur from 7:00 am to 5:00 pm (nine hours per day) from November through April, and from 6:00 am to 5:00 pm (ten hours per day) from May through October. Operations shall take place five days per week; however, Saturday operations may occur sporadically to meet customer demands. Aggregate load-out for delivery to the plant could also occasionally, not to exceed 30 times per year to be verified by log book, begin by 5:00 am. Only during times of declared emergency (when aggregate resources are needed to address flood damage or other natural disaster) either under executive order from the State or County, operations are allowed 24 hours until such time as the emergency is declared over.
15. Prior to establishment of the use, the Owner/Operator shall obtain County Board of Supervisors approval of the partial California Land Conservation Act (Williamson Act) immediate cancellation request or determination of compatibility.

Butte County Air Quality Management District

16. The Butte County Air Quality Management District requires Owner/Operator to obtain an Authority to Construct Permit to operate. Owner/Operator shall be required to implement all emission controls necessary to assure specified limits are not exceeded on both mobile sources (mining equipment) and stationary sources (processing facilities). As noted within the Draft EIR for Impact 4.5-2 (Page 4.5-30) all diesel fueled construction-type equipment shall be required to meet the emission reduction requirements recently set by the California Air Resources Board (“CARB”). An equipment inventory shall be maintained at the project site and available for review by District staff. All equipment shall be maintained and kept in proper repair per manufacturer’s maintenance schedules.

Department of Public Works

17. Prior to operations Owner/Operator shall construct improvements to River Road at the Project's entrance, including acceleration/deceleration lanes, turn pockets, signing and striping. Improvement plans shall be approved by the Butte County Public Works Department prior to construction.
18. Prior to operations Owner/Operator shall provide improvements to the median crossing at the Baldwin Plant site driveway and the Skyway. Improvements to include acceleration and deceleration lanes, improved signing and striping, and channelization of the driveway approach. Improvement plans shall be approved by the Butte County Public Works Department prior to construction.
19. The project Applicant shall contribute its fair share of the costs to improve the pavement on River Road between Chico River Road and Ord Ferry Road with a two-inch asphalt concrete overlay. The fair share amount shall be based on the increase in ESALs, which is 51%. Butte County Public Works estimates the cost of this improvement to be approximately \$1,200,000. Therefore, the Applicant's fair share cost would be about \$40,000 per year. The Public Works Department has indicated that the fee shall be submitted annually based on the tonnage of material that is hauled from the project site and shall be relative to an inflation index. Based on the information contained in Table 4.6-9, the cost per ton of material hauled from the project site would be approximately \$0.08.
20. The project applicant shall contribute its fair share of the cost to maintain the asphalt concrete pavement on the following roads over the 30 year life of the project:
 - River Road; between Chico River Road and Ord Ferry Road;
 - Ord Ferry Road; between County Line and Dayton Road;
 - Durham Dayton Road; between Dayton Road and SR 99;
 - Dayton Road; between Ord Ferry Road and Chico City Limit;
 - Hegan Lane; between Dayton Road and Midway; and
 - Chico River Road; between River Road and Chico City Limit.

Road Maintenance shall include a chip seal surface treatment every 10 years with M & T Chico Ranch Mine project's fair share contribution based on the projected net increase in ESALs as shown in the attached Table A. Based on the information contained in Table A, the cost per ton of material hauled from the project site would be approximately \$0.06 and shall be relative to an inflation index.

If maintenance costs are rolled into a single fee per ton of material extracted, the mitigation fee shall be made up of \$0.08 per ton for the overlay on River Road, plus \$0.01 per ton for the improvements to the Ord Ferry Bridge, and the installation of a signal at Midway and Durham Dayton highway, for a total of \$0.09 per ton of material removed from the site. The amount intended to compensate for the extra maintenance required due to the increased truck traffic, shall be \$0.06 per ton of material extracted. These fees shall be deposited by the

operator into the Butte County Road Fund, and shall be adjusted for inflation based upon the change in the Construction Cost Index for San Francisco, during the month of January of each year. These fees shall cease to be collected should the County impose a countywide tax or fee for road maintenance based upon weight of materials moved over the roads.

21. Prior to establishment of the use Applicant shall provide a fully executed agreement to preserve, maintain, restore and or repair in perpetuity, any and all mitigation improvements constructed or required as a condition of this project. These improvements shall include, but are not limited to, any weirs, dykes, levees, channels, berms or other flood control devices. All repairs shall be completed in a timely manner in conformance with the adopted mitigation measures. This agreement shall be recorded and shall run with the land. In order to insure compliance with this condition, applicant provide a performance bond, cash deposit or other County approved security; in an amount equal to 100% of the construction costs of said improvements. Said security shall be adjusted annually using the change in Engineering News Record Construction Cost Index for San Francisco as the basis for adjustment. The County, at its sole discretion, shall have the authority to call said bond and use the proceeds to perform the required work. Nothing contained in this condition shall be so construed as to attach any liability to the County for its actions or failures to act in order to preserve any of the improvements required by this project.

Environmental Health Division

22. Owner/Operator shall receive a Hazardous Material Release and Response Plan (Health and Safety Code 25500 et seq.) (Business Plan) for hazardous materials inventory and emergency response planning.
23. Owner/Operator shall receive a septic and domestic water well permit from the Environmental Health Division prior to site development for waste water disposal and drinking water.

Pacific Gas and Electric Company

24. If there is a conflict between the mining operations and the PG&E natural gas line, Owner/Operator will be responsible for the relocation of the PG&E gas line and all associated costs, along with the acquisition of new rights of ways.
25. Weights of all mining equipment shall be provided to PG&E to ensure that weights will not damage gas lines.
26. Any use of PG&E easements shall require a review and consent of PG&E. Upon review a consent agreement would be prepared if the use is appropriate.

Mosquito Abatement

27. Owner/Operator shall be required to comply with Butte County Mosquito and Vector Control District requirements for the cost of any future mosquito control work performed by the District at the Project site. This shall include stocking the pond with mosquito fish to prey on and control mosquito larvae.

State and Federal Requirements and Conditions

28. Owner/Operator shall comply with the Clean Water Act and obtain all necessary approvals, including a 404 Permit for fill or disturbance of wetlands and other waters of the United States.
29. Owner/Operator shall comply with the Federal Endangered Species Act, including a Section 10a Permit for incidental take of federally-listed threatened or endangered species or their habitat, if any.
30. Owner/Operator shall comply with the California Endangered Species Act, and obtain all necessary permits, including a Section 2081 Permit (Fish and Game Code 2081) and Streambed Alteration Agreement (Fish and Game Code 1603) for incidental take of State-listed threatened/endangered species or habitat (if anticipated) for possible impacts, if determined to the Swainson's hawk and for any new stream crossings.
31. Owner/Operator shall comply with the following Regional Water Quality Control Board requirements, and obtain all necessary approvals, including:
 - a) NPDES Permit or Waste discharge requirements Permit CFR Title 40, Section 436, Subpart B, for on-site gravel washing and discharge of wash water to on-site settling basins.
 - b) Stormwater Pollution Prevention Plan prior to construction activities used to identify potential pollutants and to eliminate or reduce the amount of pollutants entering surface waters.
 - c) General Industrial Activities Storm Water Permit is required if there are storm water discharges to surface waters.
 - d) A Review of Groundwater Monitoring Plan prior to approval by the County.
32. Owner/Operator shall comply with the following California Department of Water Resources, Reclamation Board requirements, and obtain all necessary approvals, including:
 - a) A Construction Activity Storm Water Permit for any construction activities where clearing, grading, filling and excavation result in a land disturbance of five acres or more.
 - b) A Storm Water Pollution Prevention Plan must be in place prior to construction activities.
 - c) Compliance with the California Aboveground Petroleum Storage Act for owners and operators of above ground petroleum storage tanks to file a storage statement and prepare a federal spill prevention and control

countermeasure plan.

- d) A Section 401 Water Quality Certification is required for projects needing an Army Corps of Engineers 404 Permit; this certification must verify that the project does not violate State Water Quality Standards.
33. Owner/Operator shall receive a State Board of Reclamation Encroachment Permit (CCR Title 23 Section 135) for any encroachment that could reduce or impede flood flows, or would reclaim any of the floodplain within the Butte Basin, if necessary.

Agricultural Commissioner's Office

34. Prior to Mining Permit issuance, submit a Weed Management Plan to the Agricultural Commissioner's Office for review and Approval.

Butte County Counsel

35. If this entire matter or any finding, action or condition of this matter is appealed to the Board of Supervisors, Baldwin or any other developer/operator other than Baldwin agrees to indemnify the County of Butte from liability or loss related to the approval of this project and agrees to sign an indemnification agreement in a form approved by County Counsel before the Board's appeal hearing. If the application is not appealed, these conditions of approval are deemed satisfied.

Attachment: Table A

Table A

Total Truck	Route	length	Current				Future				% Diff ESAL	County share	M & T share	M & T Miles
			ADT	% Trucks	ESAL	% on road	ADT	% Trucks	ESAL	ESAL				
128	River Road: Ord Ferry to Chico River Road to Oro Ferry	5.3	3089	9.8%	265440	55.00%	70	3159	11.8%	332130	25.1%	79.9%	20.1%	1.1
	Ord Ferry: County Line to Dayton Road	8.0	3150	13.2%	369960	40.00%	51	3201	14.5%	409170	10.6%	90.4%	9.6%	0.8
	Durham Dayton Road: Dayton Road to SR 99 to 99	10.5	1032	12.1%	109120	10.00%	13	1045	13.2%	122860	12.6%	88.8%	11.2%	1.2
	Dayton Rd: Ord ferry to Chico City Limit	4.5	4927	9.5%	402730	30.00%	38	4965	10.2%	444470	10.4%	90.6%	9.4%	0.4
	Hegan Lane: Dayton road to Midway to Midway	3.2	1893	10.9%	179720	20.00%	26	1909	12.1%	207890	15.7%	86.4%	13.6%	0.4
Chico River Road to Chico	4.2	3793	9.8%	332130	55.00%	70	3863	11.4%	388300	16.9%	85.5%	14.5%	0.6	
		35.7												4.5
	total road length (miles)	586432												
	SY of roadway one chip seal		Chip Seal Cost/SY		\$2.10	cost/seal	\$1,231,507.20							
						3 seals in 30 years	\$3,694,521.60							
						over all M & T %	12.5%							
						M & T cost	\$462,473.85							
						Cost per ton	\$0.06							