

## ATTACHMENT A

Resolution No. \_\_\_\_\_

### A RESOLUTION OF THE BUTTE COUNTY BOARD OF SUPERVISORS CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING FINDINGS OF FACT, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE M&T CHICO RANCH MINE MINING USE PERMIT AND RECLAMATION PLAN (MIN 96-03)

#### BACKGROUND

The M&T Chico Ranch Mine ("Project") proposed by the applicant, 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 Final Environmental Impact Report ("Final EIR") 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. On February 22, 2007, the County Planning Commission certified the Final EIR and adopted the attached Mitigation Monitoring and Reporting Plan. The Final EIR came on public hearing before the County Board of Supervisors on April 24, 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 Board of Supervisors hereby finds and decides as follows.

#### RECITALS

1. Lead Agency Status: The County is the lead agency under the California Environmental Quality Act, Public Resources Code sections 21000 et seq. ("CEQA") for preparation and certification of the Final EIR for the Project.
2. Project Description: The Project allows a long-term, off-channel gravel mining operation. The mining would take place on 193-acres of a 235-acre site over an estimated 20 to 30-year period. Approximately six acres will be mined each year. The aggregate would be processed (washed and screened) on a 40-acre area at the site.

a) *Acreages:* The approximate acreages for the Project are as follows:

Lease area: 627 acres  
Project site: 235 acres  
Mined area: 193 acres  
Equipment area: 40 acres  
Topsoil stockpile: 2 acres

*b. Location:* The Project is located on a portion of the M&T Chico Ranch approximately 1.5 miles east of the Sacramento River and approximately 5 miles southwest of the City of Chico, in an area north of and adjacent to Old Ferry Road, and east of, and partially adjacent to, River Road. Access to the site would be provided by River Road.

*c. Material to be mined:* High quality construction aggregates including gravel and sand. The Project site is part of the present Sacramento River Floodplain and the gravels and sands underlying the site consist of channel deposits from the river.

*d. Production:* Production numbers for the Project are as follows:

Maximum annual mine production:	275,000 cubic yards (mined)
Maximum annual mine production:	250,000 cubic yards (marketed)
Average annual mined product amount:	66,667 cubic yards
Total production:	5,500,000 cubic yards

*e. Traffic Volumes for Trucks:* According to the traffic study contained in the Draft EIR, the Project will generate approximately 16,667 trips per year. Average daily trips generated will be 128 (64 arriving and 64 departing). The Project will generate 20 additional AM and PM Peak Traffic Trips. These trips equate to a less than one percent (1%) increase of total traffic volumes in the Project area under cumulative conditions.

3. Discretionary Approvals Required: The proposed Project involves the following discretionary approvals and CEQA actions by the Board of Supervisors:

- a) **Certify the Final EIR for the M&T Chico Ranch Mine Long-Term Off-Channel Mining Use Permit application** (SCH 97022080), based on Findings of Fact documenting compliance with CEQA (**Exhibit 1**), and independent review and consideration of the information in the EIR prior to taking action on the Project.
- b) **Adoption of the Mitigation Monitoring and Reporting Program** implementing mitigation measures. (**Exhibit 2.**)
- c) **Approve the M&T Chico Ranch Mining Use Permit No. Min 96-03**, to allow for the excavation of 193-acres of a 235-acre site, including

portions of Assessor Parcels 039-530-019 & 039-530-020.

- d) **Approve the M&T Chico Ranch Mine Reclamation Plan**, to allow for the establishment of a lake with shallow wetland areas along the perimeter for wildlife habitat and a 40-acre area reclaimed to agricultural uses.
- e) **Approve the Financial Assurances Cost Estimate** in the amount of \$103,526.93 to ensure reclamation of the mine site.
- f) **Adoption of a Statement of Overriding Considerations.**
- g) **Adopt Conditions of Approval** as set forth by County departments and agencies.
- h) **Approve the Petition for Partial Cancellation.**

4. Preparation of an EIR: Pursuant to CEQA and the CEQA Guidelines, 14 Cal. Code Regs. sections 15000 et seq. ("CEQA Guidelines"), an EIR was prepared for the Project to analyze the environmental effects of the Project.

5. Process: Preparation of the Final EIR was a multi-year process, which included the following activities:

- a) On August 30, 1996, the Project application was submitted to the County.
- b) An Initial Study to evaluate the environmental impacts associated with the proposed project identified several potentially significant environmental effects that may occur with implementation of the project. Accordingly, an EIR was prepared pursuant to CEQA Guidelines section 15064(a).
- c) On February 28, 1997, the County distributed a Notice of Preparation for the EIR to the State Clearinghouse, responsible agencies, and the public.
- d) In May 1998, the County issued the Draft EIR. The County circulated the Draft EIR for public review and comment from May 12, 1998 to July 2, 1998. Over 80 comment letters were submitted to the County on the Draft EIR. These comment letters are on file and available for review at the County Planning Department. County staff and the EIR consultant reviewed all comments during preparation of the revised Draft EIR.
- e) On June 11, 1998, the Draft EIR for the Project was first heard by the Planning Commission. Extensive public input was received at that time. The Planning Commission continued the matter to allow additional input and analysis following the hearing.
- f) The County decided to update and supplement certain sections of the Draft EIR (including the Traffic, Hydrology and Water Quality, and

Noise sections) in order to update technical data contained in the Draft EIR. In addition, the County required the completion of a pedestrian level archaeological survey at the Project site. The County then decided to recirculate the entire Draft EIR to ensure consistency and accuracy between the new and old sections, and to maximize the opportunity for public comment on the Project and the Draft EIR. The County hired a new consultant, Resource Design Inc., to prepare the revised Draft EIR. The particular modifications to the original May 1998 Draft EIR are outlined on page 1-3 of the revised Draft EIR.

- g) In September 2002, the County issued the revised Draft EIR. The County circulated the revised Draft EIR for a 45-day public review period commencing October 12, 2002 through November 25, 2002. Comments were received on the revised Draft EIR and are included and responded to within the Final EIR.
- h) On September 30, 2002, the County Filed a Notice of Completion for the revised Draft EIR with the State of California Clearinghouse.
- i) On October 24, 2002, the Planning Commission held a public hearing in Oroville to receive public comment on the Project and the revised Draft EIR. Public notice of this meeting was provided by the County.
- j) In October, 2003, the County released the M&T Chico Ranch Final EIR. The County provided notice of the availability of the Final EIR to agencies, organizations, and the public.
- k) On October 23, 2003, the Planning Commission held another hearing to solicit further public comment on the Final EIR. The Planning Commission held additional hearings to solicit public comment on the Project on January 22, 2004, March 11, 2004, April 8, 2004, August 26, 2004, November 30, 2006, December 14, 2006, and January 25, 2007.
- l) During the public comment period to the Draft EIR, the Department of Conservation ("DOC") commented that the proposed Project was not an allowed use under the Williamson Act.
- m) On October 11, 2005, Pacific Realty Associates, L.P., filed a Notice of Partial Nonrenewal for the 106 acres to be cancelled and voluntarily submitted a Petition of Partial Cancellation.
- n) On November 28, 2005, DOC commented in writing on the Petition for Partial Cancellation and concurred that the "consistency" findings required for cancellation could be met.

- o) On February 21, 2006, the Butte County Land Conservation Act (Williamson Act) Committee (also known as the LCA Committee) voted 5-0 to approve a Motion of Intent to recommend approval of the Petition for Partial Cancellation to the Board of Supervisors.
- p) On April 18, 2006, the LCA Committee unanimously agreed that consistency Findings 1-4 for cancellation could be met, with the majority unable to support consistency Finding 5.
- q) In November, 2006 the County released an Updated Response to Comments Regarding the Williamson Act for the Final EIR.
- r) On November 30, 2006, the County held a duly noticed public hearing before the Planning Commission to consider certification of the Final EIR, approval of the Mitigation and Monitoring Program, approval of Mining Use Permit No. Min 96-03, the M&T Chico Ranch Mine Reclamation Plan, and the Financial Assurances Cost Estimate, and adoption of a Statement of Overriding Considerations. The Planning Commission voted to continue the hearing until December 14, 2006.
- s) On December 14, 2006, the County held a duly noticed public hearing before the Planning Commission to consider certification of the Final EIR, approval of the Mitigation and Monitoring Program, approval of Mining Use Permit No. Min 96-03, the M&T Chico Ranch Mine Reclamation Plan, and the Financial Assurances Cost Estimate, and adoption of a Statement of Overriding Considerations. At this hearing, Staff provided responses to public comments which were received at the November 30, 2006 hearing. The Planning Commission voted to continue the hearing until January 25, 2007.
- t) In January, 2007 the County issued an Errata to the Final EIR, which: (1) clarified that the Llano Seco Ranch was part of the EIR's Environmental Setting, meaning the County evaluated all foreseeable impacts to the ranch; and (2) supplemented the Project Description to include the Petition for Partial Cancellation.
- u) On January 25, 2007, the County held a duly noticed public hearing before the Planning Commission to consider certification of the Final EIR, approval of the Mitigation and Monitoring Program, approval of Mining Use Permit No. Min 96-03, the M&T Chico Ranch Mine Reclamation Plan, and the Financial Assurances Cost Estimate, and adoption of a Statement of Overriding Considerations. In addition, Staff returned to the Planning Commission with responses to public comments that were received at the December 14, 2006 hearing. The Planning Commission voted 3-2 to adopt a Motion of Intent to: (1) adopt a resolution certifying the Final EIR and approving a Mitigation

Monitoring and Reporting Program; and (2) adopt a separate resolution approving Mining Use Permit No. Min 96-03, including the M&T Chico Ranch Mine Reclamation Plan and the Financial Assurances Cost Estimate, and adopting a Statement of Overriding Considerations.

- v) On February 22, 2007, The Planning Commission acted on the Motion of Intent, and voted 3-2 to: (1) adopt a resolution certifying the Final EIR and approving a Mitigation Monitoring and Reporting Program; and (2) adopt a separate resolution approving Mining Use Permit No. Min 96-03, including the M&T Chico Ranch Mine Reclamation Plan and the Financial Assurances Cost Estimate, and adopting a Statement of Overriding Considerations.
- w) The Planning Commission did not consider the Petition for Partial Cancellation because, under both state and county law, Petitions for Cancellation are beyond its purview.

6. Documents Comprising Final EIR: The Final EIR for the M&T Chico Ranch Mine Project includes the following items (collectively referred to as the "Final EIR").

- a) M&T Chico Ranch Mine Draft EIR (SCH 97022080) dated September 2002;
- b) Comments and responses to comments on the Draft EIR, dated October 23, 2003;
- c) Draft EIR Errata containing corrections and clarifications made to the text of the Draft EIR;
- d) Updated Response to Comments Regarding Williamson Act, dated November, 2006;
- e) Updated Draft EIR Errata Regarding Environmental Setting and Project Description; and
- f) Mitigation Monitoring and Reporting Program.

7. Description Of The Record: For purposes of CEQA and the findings hereinafter set forth, the administrative record for the Project consists of those items listed in Section 21167.6 (e) of the Public Resources Code (Chapter 1230, Statutes of 1994) including but not limited to:

- a) All application materials and correspondence contained in the Lead agency's Project files (MIN 96-03);

- b) The original Draft EIR;
- c) The revised Draft EIR;
- d) The Final EIR;
- e) All Notices of Availability, the Notice of Determination, staff reports and presentation materials related to the Project;
- f) All studies contained in, or referenced by, staff reports, the Draft EIR, or the Final EIR;
- g) All public reports and documents related to the Project prepared for the County and other agencies;
- h) All documentary and oral evidence received and reviewed at public hearings and workshops, and all transcripts and minutes of those hearings related to the Project; and
- i) For documentary and informational purposes, all locally-adopted land use plans and ordinances, including, without limitation, general plans, area plans and ordinances, master plans together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.

8. Custodian of the Record: The administrative record is maintained at the Butte County Department of Development Services, 7 County Center Drive, Oroville, California.

## **FINDINGS REGARDING ENVIRONMENTAL IMPACTS**

1. Evidentiary Basis for Findings: These findings are based upon substantial evidence in the entire record before the Board of Supervisors. The references to the Draft EIR, Final EIR, and other evidence in the record set forth in the findings are for ease of reference and are intended to demonstrate the analytical path between the evidence in the record and the findings adopted by the Board of Supervisors. The references are not intended to provide an exhaustive list of the evidence in the record that is relied upon for these findings.

2. Impacts of the M&T Mining Project: Appendix F of the Final EIR provides a summary of environmental impacts and mitigation measures associated with this Project. These impacts and mitigation measures are associated with the following impact categories: Aesthetics and visual resources, Agricultural Land, Air Quality, Archeological Resources, Drainage and Flooding, Geology, Noise, Traffic and Circulation, Water Quality/Groundwater, Land Use, Biological

Resources, Cumulative impacts associated with Air Quality and Traffic and Circulation.

3. Mitigation Measures: The Mitigation Measures herein referenced are those identified in the Draft EIR, as clarified or amplified in the Final EIR, and as modified by the Resolution approving the Project, including the conditions of approval contained therein. The tables included in **Exhibit 1** specify available and feasible mitigation measures.

a) All feasible mitigation measures that avoid or substantially lessen the significant effects of the Project and that are adopted in these Findings shall become binding on the County and The Applicant at the time of approval of the Project.

b) The Board of Supervisors also finds that the Mitigation Measures incorporated into and imposed upon the Project will not have new significant environmental impacts that were not already analyzed in the

4. Findings of Fact: CEQA states that a project shall not be approved if it would result in a significant environmental impact, or if feasible mitigation measures or feasible alternatives can avoid or substantially lessen the impact. Only when there are specific economic, social, or other considerations which make it infeasible to substantially lessen or avoid an impact can a project with significant impacts be approved.

a) If the project can be defined as having significant impacts on the environment, then an EIR must be prepared. Therefore, when an EIR has been completed which identifies one or more potentially significant environmental impacts, the approving agency must make one or more of the following findings for each identified significant impact:

1) Changes or alterations have been required in, or incorporated into, such projects which mitigate or avoid the significant environmental effects thereof as identified in the completed Environmental Impact Report.

2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and such changes have been adopted by such other agency, or can and should be adopted by such other agency.

3) Specific economic, transportation or other considerations make infeasible the mitigation measures or project alternatives identified in the Environmental Impact Report.

b) **Exhibit 1**, attached hereto, contains the Board of Supervisors' Findings

of Fact concerning each of the impacts and mitigation measures identified as significant and mitigatable, and significant and unavoidable in the Final EIR. The Board of Supervisors' determination regarding environmental impacts that remain significant or are reduced to a less-than-significant level given the implementation of adopted feasible mitigation is provided in the "Findings of Fact" column.

5. Areas of Controversy: The CEQA Guidelines require that an EIR identify areas of controversy known to the lead agency based upon review of public and agency comment. Controversial aspects of the Project have been determined to be: 1) potential impacts to groundwater resulting from mining operations; 2) potential pit water quality impacts; and 3) potential traffic impacts resulting from the proposed Project. Mitigation measures have been provided within the Final EIR to address these impacts, to the extent feasible.

**FINDINGS REGARDING WRITTEN APPEALS SUBMITTED PRIOR TO THE  
APRIL 24, 2007 BOARD OF SUPERVISORS HEARING**

The Board of Supervisors received two letters appealing the Planning Commission's decision to certify the Final EIR. Although not required, below are specific findings that address the main statements contained in these letters.

**RON JONES,  
LETTER OF MARCH 2, 2007**

**Statement #1**

1. *The Project is not consistent with the Agricultural Element of the County General Plan.*

**Response:**

As part of the CEQA environmental review process the County evaluated the proposed Project's consistency with the County General Plan. The County determined that the proposed Project is consistent with the Butte County General Plan.

The General Plan has a general Agricultural Element that sets forth basic policies and goals with respect to agriculture. The Agriculture Element identifies two separate land use designations. The Project site is designated "Orchard and Field Crops". The Land Use Element of the General Plan sets forth the types of uses allowed in this designation, which uses are consistent with the Agricultural Element. The General Plan states:

**Primary Uses:** Cultivation, harvest, storage,

processing, sale and distribution of all plant crops, especially annual food crops.

**Secondary Use:** Animal husbandry and intense animal uses, resource extraction and processing, hunting and water-related recreation facilities, dwellings, airports, utilities, environmental preservation activities, public and quasi-public uses, home occupations.

The General Plan defines secondary uses as compatible uses which are conditionally allowed.

Further, the General Plan sets forth the following policies in regards to surface mining operations within the County:

- 2.6a Encourage extraction and processing of identified deposits of building materials and other valued mineral resources.
- 2.6b Encourage the reclamation of lands subject to mineral extraction.

As required by law, the County finds that the General Plan is internally consistent and the Land Use Element and its descriptions are consistent with the general policies of the Agricultural Element. Surface mining is consistent with both of these elements as made clear by the express reference to mineral extraction in the “Orchard and Field Crops” description as well as the Williamson Act program of the County, which also expressly allows surface mining.

**Evidence:** Butte County General Plan – Land Use Element; DEIR § 4.2; FEIR § 4.6; Planning Commission Testimony; Letter from Diepenbrock Harrison (Dec. 13, 2006).

### **Statement #2**

- 2. *Truck traffic generated by the Project will cause substantial traffic problems.*

### **Response:**

The County conducted an extensive analysis of the impacts of truck traffic generated by the Project. The traffic study conducted for the Draft EIR was designed in coordination with the Butte County Public Works Department and the Butte County Planning Division, Department of Development Services. This included analyzing the Project’s impacts to both local school bus operations, and the bicycle and pedestrian system in the vicinity of the Project.

The Draft EIR concluded that the Project would not impact the Levels of Service (LOS) of any of the roadways studied or the existing bicycle, pedestrian, transit facilities and school bus operations. Further, the Draft EIR found truck trips generated by the Project equate to a less than one percent (1%) increase of total traffic volumes in the Project area under cumulative conditions.

However, the County found that in four instances the LOS for impacted intersections already exceeded the County's minimum LOS C threshold without the Project. Therefore, the addition of Project trips to these roadways, even if less than 1% of the total, will constitute a significant impact which can not be mitigated.

The County also addressed comments regarding traffic impacts in the Final EIR. Analysis contained in the Final EIR reiterates the County's finding made in the Draft EIR that the proposed Project would not change the LOS rating of any of the roadways studied in the traffic analysis. The Final EIR also explains that because existing conditions on four roadways already breached the County's LOS requirements, the Project's cumulative impact at these locations could not be mitigated.

The Final EIR also responded to comments regarding the Project's impacts to roadway safety, and the bicycle and pedestrian system due to increased truck traffic. The Final EIR clarified that the Draft EIR traffic study included an analysis of current roadway conditions and operations, intersection operations, accident history, and truck traffic. Further, the Final EIR explained that the traffic study is based on detailed traffic counts that identified the mix of autos, bicycles, and trucks. The Final EIR reiterated the traffic study's conclusion that the proposed Project would not disrupt or interfere with existing or planned bicycle, pedestrian, transit facilities or school bus operations, and would not create a hazard for pedestrians or bicyclists.

Given the importance of the Project to the County, the Planning Commission will adopt a Statement of Overriding Considerations to address these impacts.

**Evidence:** DEIR § 4.6; FEIR § 4.4; Planning Commission Testimony; Administrative Record; Planning Commission hearing transcript, Nov. 30, 2006 [testimony of Kevin Cotter, pp. 106-110]; Planning Commission hearing transcript, Jan. 25, 2007 [testimony of Andrew White, pp. 74-76].

### **Statement #3**

3. *Truck traffic generated by the Project will degrade the quality of affected County roads.*

**Response:**

The Final EIR explains that a pavement conditions analysis was conducted as part of the Draft EIR traffic analysis and specific mitigation was identified. Specifically, a chip seal surface treatment and a two-inch asphalt concrete overlay will be required, which will mitigate all physical impacts. The Final EIR also further explains that the Applicant will contribute “fair share” funding to offset costs to the Public Works Department, and that the Public Works Department must concur with all final dollar amounts of the exact fair share contribution.

The Final EIR also states that the fair share requirements would be conditions of approval for the use permit. In accordance with this statement, Conditions of Approval 18 and 19 implement the Applicant’s fair share obligations. These conditions were later updated and expanded upon by the Public Works Department in a November 3, 2006 letter from Director Mike Crump.

In addition, Public Works Department representative Shawn O’Brien testified at the Planning Commission’s December 14, 2006 hearing by that the Applicant’s per/ton “fair share” contributions to the County are appropriate to cover the Project’s impacts to infrastructure.

**Evidence:** DEIR § 4.6; FEIR § 4.4; Planning Commission Testimony; Administrative Record; Letter from Mike Crump, Public Works Department to Pete Calarco, Nov. 20, 2006; Planning Commission hearing transcript, Nov. 30, 2006 [testimony of Jeffrey Dorso, p. 126]; Planning Commission hearing transcript, Dec. 14, 2006 [testimony of Shawn O’Brien, p. 43].

**Statement #4**

4. *The County Assessor has classified the Project site as prime farmland. Therefore, approving the Project will result in the conversion of prime farmland.*

**Response:**

The County addressed the issue of agricultural land conversion as part of the CEQA process, and, based on an extensive soil analysis, determined that the Project site, consists of nonprime farmland.

In the Final EIR, the County further explained that the Assessor’s classification of the Project site, for purposes of CEQA review, is irrelevant. The Final EIR explained that the Assessor characterizes property on a parcel-by-parcel basis

utilizing different standards than the Williamson Act. To comply with CEQA, the EIR properly analyzed the actual site specific conditions of the 235-acre Project site, not the entire 8,000 acre M&T Ranch. Based on this site-specific analysis, the County determined that the Project site did not contain prime soil. The County reiterated this conclusion in the November 2006, *Updated Response to Comments Regarding the Williamson Act*.

The Planning Commission addressed this issue in the findings supporting its resolution to certify the EIR, and, based on the substantial evidence in the administrative record determined that the Project will not result in the destruction of prime agricultural farmland.

**Evidence:** DEIR, pp. 4.2-5 – 4.2-6; 4.3-20 – 4.3-23; FEIR, p. 5.0-10; Updated Response to Comments Regarding Williamson Act, pp. 4-5; Planning Commission EIR Resolution, pp. 16-17; Planning Commission hearing transcript, Nov. 30, 2006 [testimony of Jeffrey Dorso, p. 126]; Planning Commission hearing transcript, Dec. 14, 2006 [testimony of Dave Brown, pp. 127-128; Planning Commission hearing transcript, Jan. 25, 2007 [testimony of Pete Calarco, pp. 4-5; testimony of Jeff Dorso, pp. 63-64].

**HOWARD ELLMAN,  
LETTER OF FEBRUARY 26, 2007  
(REPRESENTING PARROTT INVESTMENT COMPANY)**

**Statement #1**

5. *The EIR mischaracterizes the uses of the Llano Seco Ranch.*

**Response:**

Under CEQA Guidelines section 15125, a proper discussion of the environmental setting includes a description of the physical environmental conditions in the vicinity of a project from both a local and regional perspective, including a discussion of environmental resources.

Here, the Draft EIR included an extensive discussion of the Project's regional setting. As part of this discussion, the Draft EIR delineated several properties and uses in the vicinity of the Project site. For example, the Draft EIR identifies both the Jones parcel and the Llano Seco Ranch. Additionally, each section of the Draft EIR contains a description of the regional environment and local conditions, and how the Project could impact the local and regional environment. Both the Draft EIR and the Final EIR evaluated all potentially significant environmental

impacts to both onsite and offsite properties. For example, the Draft EIR and Final EIR evaluated potential impacts to neighboring properties caused by the Project's flood control design.

In addition, testimony was proffered to the Planning Commission at the December 14, 2006 hearing which detailed both the Draft EIR's description of the regional environment, and the Draft EIR's analysis of the Project's potential environmental impacts to surrounding properties.

However, following the December 14, 2006 hearing, at the direction of the Planning Commission, the County's EIR consultant issued an Errata to the Final EIR, which specifically named the Llano Seco Ranch as part of the Regional Environmental Overview section of the Draft EIR.

**Evidence:** DEIR § 3.0; FEIR § 4.0 and 4.7; Planning Commission Testimony; Letter from Diepenbrock Harrison (Dec. 13, 2006); Letter from Diepenbrock Harrison (Dec. 11, 2006); Planning Commission Staff Report, Jan. 25, 2007 hearing; Administrative Record; Planning Commission hearing transcript, Dec. 14, 2006 [testimony of Dave Brown, pp. 18-22; testimony of Jeff Dorso, pp. 70-74]; Planning Commission hearing transcript, Jan. 25, 2007 [testimony of Pete Calarco, p. 5].

### **Statement #2**

6. *"The EIR does not address the cumulative impact of adding mine sediments to flood flows that travel directly from the mine to the [Llano Seco] Ranch..."*

### **Response:**

The EIR adequately evaluated the Project's impacts to the Llano Seco Ranch caused by flooding and/or particulate matter and concluded that these impacts were less than significant.

The County's analysis of the flood control measures designed for the Project included a comprehensive flooding study which was conducted by NorthStar Engineering. The flooding study and the analysis contained in the Draft EIR evaluated off-site impacts caused by stormwater discharges and runoff from the proposed pit and processing facilities. Based on this analysis, the EIR concluded that the Project, with approval of relevant state and federal permits, would not result in significant environmental impacts to neighboring properties.

Furthermore, the Final EIR explained how the Project's design, as well as applicable state and federal stormwater prevention requirements, would ensure that neighboring landowners would not be impacted by polluted stormwater or mine sediment.

Additionally, at the January 22, 2004 Planning Commission hearing on the Project, Mr. Ellman requested that as a precautionary measure to prevent "fine particulate matter" from entering the Llano Seco Ranch, the Planning Commission require the Applicant to obtain a "stormwater management plan approved by the Regional Water Quality Control Board." The County adopted and expanded upon Mr. Ellman's recommendation and those recommendations contained in the EIR with additional conditions of approval. As such, the Applicant must acquire all relevant state and federal stormwater pollution prevention entitlements prior to commencing mining operations, which mitigates all potential for sediment transfer.

In addition, Mark Adams, PE of NorthStar Engineering gave expert testimony to the Planning Commission at the December 14, 2006 hearing that the stormwater prevention plan that the Applicant will implement (as required by the County's Conditions of Approval) will prohibit mine sediments from being transported to other properties during flood events.

**Evidence:** DEIR § 3.0; FEIR § 4.0 and 4.7; Planning Commission Testimony; Letter from Diepenbrock Harrison (Dec. 13, 2006); Letter from Diepenbrock Harrison (Dec. 11, 2006); Administrative Record; Planning Commission hearing transcript, Nov. 30, 2006 [testimony of Jeffrey Dorso, pp. 123, 131]; Planning Commission hearing transcript, Dec. 14, 2006 [testimony of Mark Adams, pp. 61-66; testimony of Jeffrey Dorso, pp. 74-75].

### **Statement #3**

7. *The Project is not compatible with the surrounding environment.*

### **Response:**

Surface mining is expressly recognized in State law, the County General Plan, the County Zoning Ordinance, the County Williamson Act Program, and the M&T Williamson Act Contract as a use that is compatible and consistent use with agriculture, the primary use occurring on properties surrounding the Project site. This is reflected in the land use compatibility analysis contained in the EIR. In this analysis, the County evaluated the proposed Project's consistency with the County General Plan, Zoning Ordinance, and the Project's potential environmental impacts on agricultural uses and wildlife habitat in the Project's vicinity. The EIR concluded that the Project is consistent with the Project site's

General Plan designation (i.e., Orchard and Field Crops) as a secondary use, as well as the Project's zoning district (A-40). (See also, Response to Ron Jones Statement #1.)

As part of the CEQA process, the County also evaluated potential impacts to agricultural uses. The Draft EIR explained that the proposed mining and reclamation activities proposed for the Project would be similar in scope and equipment to neighboring agricultural operations. Accordingly, the Draft EIR concluded that, with the proposed mitigation, the Project is compatible with the existing and planned uses in the vicinity of the Project site.

The County addressed this issue again in the Final EIR, again finding that the Project is consistent with the County's Zoning and Mining Ordinance and General Plan requirements.

The County also conducted an extensive analysis of the Project's impacts to wildlife and wildlife habitat as part of the CEQA process. The Draft EIR explained that the Project's impacts to wildlife and wildlife habitat, with the identified mitigation measures, would be less-than-significant. In particular, the County concluded: (1) wildlife will not be adversely affected by noise emanating from the Project; (2) the Project will block unique or important migration corridors; and (3) species inhabiting the Project site will remain common in adjacent habitats.

The Final EIR also addressed comments regarding the Project's impacts on wildlife and wildlife habitat. The Final EIR explained that special-status species known to occur in the vicinity of and in habitats similar to the Project site will continue to use the suitable habitats available to them, whether on or off the Project site, and whether or not the Project is approved.

In sum, the environmental analysis conducted by the County as part of the CEQA process indicates that (1) the Project is consistent with the County General Plan and Zoning Ordinance, and (2) the Project will not adversely affect surrounding agricultural operations or wildlife/wildlife habitat.

**Evidence:** DEIR § 4.7; FEIR; Planning Commission Testimony; Letter from Diepenbrock Harrison (Dec. 13, 2006); Letter from Diepenbrock Harrison (Dec. 11, 2006); Administrative Record.

#### **Statement #4**

8. *The EIR does not adequately describe the flood impacts on the neighbors that will be caused by the protective works to be erected around the gravel mine.*

**Response:**

As part of the CEQA process, the County included an extensive analysis of potential off-site impacts caused by the Project's flood control design. The Draft EIR concluded that, with appropriate mitigation, potential environmental impacts to adjacent landowners resulting from the flood design would be less-than-significant.

The County addressed comments on this issue again in the Final EIR, and concluded that Mitigation Measures 4.4-7(a), (b), and (c) will eliminate any additional flooding effects on adjacent property owners caused by the Project. Thus, the County extensively analyzed and addressed the issue of flood impacts to adjacent landowners both in the Draft EIR and again in the Final EIR.

Expert testimony was also received at both the November 30, 2006 and December 14, 2006 Planning Commission hearings regarding the Project's flood control design. This testimony, given by Mark Adams, PE of NorthStar Engineering, explained the form and function of the flood control design (including the weir design). Mr. Adams explained how the flood control design for the Project protects, and does not exacerbate, floodwater impacts on adjacent water bodies and properties during large flood stage events.

**Evidence:** DEIR § 4.4; FEIR § 4.7; Planning Commission Testimony; Letter from Diepenbrock Harrison (Dec. 13, 2006); Letter from Diepenbrock Harrison (Dec. 11, 2006); Administrative Record; Planning Commission hearing transcript, Nov. 30, 2006 [testimony of Dave Brown, pp. 30-43; testimony of Jeffrey Dorso, pp. 122-123]; Planning Commission hearing transcript, Dec. 14, 2006 [testimony of Dave Brown, pp. 24-29; testimony of Mark Adams, pp. 30-35, 57-66].

**Statement #5**

9. *Mine sediments will infiltrate the aquifer through the mining pit.*

**Response:**

The County analyzed this issue as part of the CEQA process and determined that, with proper mitigation, impacts to adjacent properties caused by the transfer of mine sediments (and other contaminants) through the aquifer are less-than-significant. Mitigation Measures 4.4-3(a), (b), (c), (d), and (e) all serve to prevent groundwater contamination due to exposure of the aquifer to contaminants generated by the proposed mining activities.

In addition, Mark Adams, PE of NorthStar Engineering gave expert testimony to the Planning Commission at the January 25, 2006 hearing that mine sediments will not be transferred through the aquifer because the sediments cannot

physically interface with the opening to the aquifer.

**Evidence:** DEIR § 4.4; FEIR § 4.7; Planning Commission Testimony; Letter from Diepenbrock Harrison (Dec. 13, 2006); Letter from Diepenbrock Harrison (Dec. 11, 2006); Administrative Record; Planning Commission hearing transcript, Jan. 25, 2007 [testimony of Mark Adams, pp. 77-78; testimony of Richard Leland, p. 97].

### **Statement #6**

10. *“The reclamation plan mischaracterizes the gravel mine as a wildlife habitat creation project, a result that can only be achieved after 30 years of extraction that will devastate the environment.”*

### **Response:**

Under the Reclamation Plan, reclamation will occur at the same time as mining activities. Thus, beginning in Year Five (5) of the Project, Baldwin will begin reclamation activities, which will include the formation of wildlife habitat. The Reclamation Plan explains that the reclamation of the mining area cannot commence until there is a sufficient area which exists that is unaffected by mining activities. This initial period is expected to last five years, after which 600 lineal feet of lake perimeter will be reclaimed each year to high quality wildlife habitat.

In addition, the Reclamation Plan for the Project site complies with all State law requirements. This is supported by County staff discussions with the Office of Mine Reclamation. The pit site, which is subject to a notice of nonrenewal, will be reclaimed to open space habitat. The 40-acre processing site will be reclaimed to agricultural land.

**Evidence:** Reclamation Plan, p. 34; Letter from Diepenbrock Harrison (Dec. 13, 2006); Planning Commission hearing transcript, Nov. 30, 2006 [testimony of Dave Brown, pp. 14, 22; testimony of Pete Calarco, pp. 72-74; testimony of Jeffrey Dorso, p. 125]; Planning Commission hearing transcript, Dec. 14, 2006 [testimony of Pete Calarco, pp. 14-15]; testimony of Jeffrey Dorso, p. 121]; Planning Commission hearing transcript, Jan. 25, 2007 [testimony of Pete Calarco, pp. 5-7].

## **FINDINGS REGARDING ALTERNATIVES**

1. CEQA Guidelines Section 15126.6 requires a discussion of a reasonable range of alternatives to a project or to the location of the project which would feasibly attain most of the basic objectives of the project but would avoid or

substantially lessen any of the significant effects of the project. An EIR need not consider alternatives which are infeasible. For this project, several alternatives were evaluated. These alternatives are discussed in the Draft EIR section 5.0.

2. In evaluating the potential alternatives to the Project, the County recognizes that actual implementation of one or more alternatives could be remote and speculative due to the complexities in locating and developing mineral resources. It is recognized that the range of reasonable alternative locations is necessarily limited by location of the particular mineral resource. (See CEQA Guidelines, section 15126.6(f)(2)(B).) In contrast to other forms of development that can occur anywhere, many factors are considered in the selection of an aggregate production site, including appropriate quality and quantity of the resource, its location and distance to the market (consumption) area, transportation accessibility, availability of the land, a willing lessor or seller, mine economics and engineering, and proximity to incompatible land uses and environmentally sensitive receptors.

3. The Draft EIR examines four project alternatives, all at a comparative level of detail, consistent with the requirements of CEQA. A summary comparison of the alternatives is provided in Table 5-1 of the Draft EIR. The alternatives analyzed are as follows:

- A) Alternative 1, No Project Alternative (Existing Conditions);
- B) Alternative 2, Alternative Project Location;
- C) Alternative 3, Reduced Project Area Alternative;
- D) Alternative 4, Lower Processing Rate Alternative; and
- E) Environmentally Superior Alternative.

4. For the reasons stated below, the Board of Supervisors finds that adoption and implementation of the current Project as described is appropriate. The Board of Supervisors further determines that no other one or combination of project alternatives would implement the goals and objectives of the Project while providing the same public benefit. The Board of Supervisors, therefore, accepts the Project as proposed and rejects all the alternatives, for the reasons outlined below:

**A. Alternative 1: No Project (Existing Conditions)**

This alternative would consist of the continued use of the Project site for infrequent agricultural purposes. The consideration of this alternative is required under CEQA Guidelines Section 15126.6 (e).

**Environmental Impacts:** If the Project site were not developed, other aggregate mining sites would be used to meet the existing and future growth demand for aggregate in Butte County. For example, currently aggregate is imported from other counties, including Glenn County. This would generate additional criteria

pollutant emissions, vehicle miles traveled, and truck trips, with or without the Project. Other environmental effects associated with quarrying, such as impacts to biological resources, hydrology and water quality, noise, etc., would similarly not be avoided, but simply transferred to other sites. The No Project Alternative therefore avoids the impacts at the Project site, but not the regional effects associated with the production and distribution of construction aggregate products, nor the site specific effects from mining activities at another site.

**Project Objectives, Time, Economic, and Technical Considerations:** The No Project alternative would not meet the Project objectives to develop a high quality aggregate mine within the County. In addition, it would not allow the extraction of known aggregate resources that would be available for use in the construction industry, supplying County infrastructure needs. Currently, the County has 40 percent of its 50-year aggregate demand. Without permitting additional aggregate reserves for development, the County could exhaust aggregate reserves by 2030. (Final EIR, p. 4.0-19.) Further, if materials are supplied from outside the County, the County receives no impact fees from the Project to assist it in maintaining safe and structurally sound roadways. With the Project, the County will receive impact fees (“fair share” monetary contributions) to help maintain and improve County roads and transportation infrastructure. In addition, the County will receive additional sales tax revenue. Sales tax, property tax, and secondary expenditures of goods and services spent outside the County do not assist in maintaining or enhancing the County’s economy and do not pay for impacts caused by importation of aggregate, or assist in funding other services in the County.

Further, as detailed in Alternative 2, if the M&T Chico Ranch Mine is not developed, other aggregate mining sites would be used to meet the existing and future growth demand for aggregate in Butte County. Thus, environmental impacts associated with the Project will only be transferred to other locations when market demands for aggregate warrant new supplies.

## **B. Alternative 2: Alternative Project Location**

**Environmental Impacts:** If the Project site were not developed, other aggregate mining sites would be used to meet the existing and future growth demand for aggregate in Butte County. This would generate additional criteria pollutant emissions, vehicle miles traveled, and truck trips, with or without the Project. Other environmental effects associated with quarrying, such as impacts to biological resources, hydrology and water quality, noise, etc., would similarly not be avoided, but simply transferred to other sites. The Project Location Alternative therefore avoids the impacts at the Project site, but not the regional effects associated with the production and distribution of construction aggregate products, nor the site specific effects from mining activities at another site.

**Project Objectives, Time, Economic, and Technical Considerations:** This alternative would place the Project in an alternative location within the County or eastern Glenn County. The nature of aggregate mining dictates that aggregate mines can generally only be developed where the resource is available and proximate to markets. The successful development of the project at another location would depend on a number of geologic, environmental, and economic factors, primarily the existence of marketable quantities of construction grade aggregate.

One of the objectives of the proposed Project is to provide aggregate for markets in the City of Chico and Butte County consumption area. The Project site has been identified by the Applicant as the best source available for aggregate production with aggregates being available in sufficient quantity and quality for construction materials. Further, the State has designated the Project site as MRZ-2a, meaning the property contains a known, important and significant mineral resource. There are no other potential aggregate mine sites that have been identified in close proximity to the Project site, or to the Chico/Butte County market. The nearest areas of potential aggregate deposits have been identified in eastern Glenn County. However, these aggregate resources have not been quantified, and have not been designated by the State Geologist as a known, significant mineral resource.

Further, if materials are supplied from more distant locations, such as from Glenn County, there is an increase in vehicle miles traveled, potential increase in environmental impacts (more specifically, air impacts), an increase in cost of materials for the City of Chico, the County, and local consumers, and the County derives little economic benefit from the impact fees, sales tax, property tax, and other secondary expenditures of goods and services spent in other jurisdictions. Higher cost materials and lower tax revenues, including impact fees and “fair share” contributions, mean that fewer miles of County roads can be constructed or maintained. Under the current development framework, the Applicant will pay impact fees and make “fair share” monetary contributions to the County in order to help maintain and improve County roads and transportation infrastructure. This is revenue that would otherwise be lost if the County continues rely on source of aggregate located in other counties.

The Board of Supervisors therefore finds that this alternative is inconsistent with Project objectives regarding location (discussed in section 3.3.2 of the Draft EIR) because the Project site is superior to alternative locations because it is a known aggregate resource, and is proximate to area aggregate markets.

### **C. Alternative 3: Reduced Project Area**

This alternative would reduce the area of active mining under the proposed Project by 50 percent to approximately 96.5 acres thereby reducing the amount of mined aggregate by approximately 50 percent. The mine life would be

reduced by 50 percent to approximately 10 to 20 years. Mining methods and reclamation would remain the same as those for the proposed Project. This proposal would minimize the area of disturbance and thus potentially reduce environmental impacts.

**Environmental Impacts:** The primary reduction in environmental impacts associated with the Reduced Project Alternative would be the potentially lessened effects to biological resources and aesthetics due to the 50 percent reduction in mine acreage. Reduced impacts at this site could, however, be offset by additional impacts at other locations, since existing and future construction aggregate demand would require development of alternative resources, and the Project site would only operate for a short period. Air quality, water resources, traffic and noise impact significance would not be reduced under this alternative due to the cumulative effects of more mines supplying the same amount of material from further locations, such as Glenn County.

**Project Objectives, Time, Economic, and Technical Considerations:** The development of a Reduced Project Alternative would not meet the basic Project objective of obtaining a reliable long-term source of construction grade aggregate in Butte County. This Alternative would leave 50 percent or more of the known reserves in the ground, resulting in questionable economic feasibility of the Project.

#### **D. Alternative 4: Lower Processing Rate**

This alternative would reduce the processing rate approximately 50 percent to a maximum rate of 137,500 cubic yards per year mined and 125,000 cubic yards marketed. The mining and processing of the 5.5 million cubic yards of known aggregate reserves would take approximately 30 to 40 years, an increase in project life of 50 percent. Mining methods and reclamation would remain the same as those for the proposed Project.

**Environmental Impacts:** If the Project site utilized a lower processing rate, other aggregate mining sites would be used to meet the existing and future growth demand for processing aggregate. This would generate additional criteria pollutant emissions, vehicle miles traveled, and truck trips, with or without the Project. Other environmental effects associated with quarrying, such as impacts to biological resources, hydrology and water quality, noise, etc., would similarly not be avoided, but simply transferred to other sites. Potential environmental impacts associated with the Reduced Processing Rate Alternative would be similar to those identified the proposed Project since the same amount of surface disturbance (approximately 193 acres) would occur. Further, potential impacts to biological resources would be similar if not greater than those of the proposed Project due to the extended life of the mining Project. Additionally, reducing the processing rate by 50 percent necessarily means that the Project will generate twice as many truck trips. Thus, the reduced processing rate would not offer any

significant environmental advantage over the proposed Project, and would likely result in increased environmental impacts.

**Project Objectives, Time, Economic, and Technical Considerations:** Since local supplies of processed aggregate would be restricted under this alternative, additional aggregate would have to be imported to meet project demand. However, the development of processed aggregate resources outside of the Butte County/Chico area specifically for the Butte County/Chico market will only transfer environmental impacts to another site, and will also result in added environmental impacts including an increase in vehicle miles traveled and truck trips. Further, the demand for aggregate products to meet countywide construction project demands would need to be supplemented from other sites, which may not be efficiently located, and therefore more costly to consumers, which include Butte County and the City of Chico. Therefore, operating at a reduced processing rate would not substantially reduce any identified significant impacts, and does not meet the basic Project objectives.

#### **E. Environmentally Superior Alternative**

CEQA Guidelines Section 15126.6(e)(2) requires the EIR to identify the environmentally superior alternative. Additionally, if the environmentally superior alternative is the No Project alternative, the EIR must also identify an environmentally superior alternative from the remaining alternatives. According to Draft EIR Section 5.5, for the proposed Project, the No Project alternative would be the environmentally superior alternative since no mining would occur on the site. Among the other alternatives the Reduced Project Area Alternative #3 does offer some environmental advantages over the proposed Project due to the reduction in mined acreage and the shortened life of the Project. This alternative would not feasibly attain most of the basic Project objectives, and leave approximately 50 percent of known mineral reserves. Since local supplies would be restricted under this alternative, additional aggregate would have to be imported to meet Project demand. This would result in similar environmental impacts associated with developing an alternative project location as detailed in the "Alternative Project Location" alternative. Therefore, permitting the Project is the other environmentally superior alternative.

### **FINDINGS REGARDING GROWTH INDUCEMENT**

1. CEQA Section 15126 (g) requires that an EIR consider the potential for a project to create growth inducing impacts. A project could have a growth inducing impact if it could:

- a) Foster economic or population growth, or construction of additional housing, either directly or indirectly, in the surrounding environment;
- b) Remove obstacles to population growth, for example, developing

service areas in previously unserved areas, extending transportation routes into previously undeveloped areas, and establishing major new employment opportunities; and

- c) Encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively.

2. The proposed Project will not result in a significant increase in employment, or any increase in housing. (Draft EIR, section 6.2, pp. 6-4 – 6-5.) No new roads or public services would be installed as a result of the Project that would remove obstacles to growth. The Project would make available aggregate materials used in a variety of activities, including road building and maintenance, and construction. While the Project will make these materials available, it cannot be considered to be facilitating the activities using aggregate materials. The Project is not the only source of these materials, and these activities will occur regardless of the availability of the additional resources made available by this Project. Therefore, the Project would not encourage or facilitate activities and create environmental effects other than those addressed in this Draft EIR.

### **FINDINGS REGARDING CUMULATIVE IMPACTS**

1. A cumulative impact is the effect on the environment which results from the incremental impact of the proposed project when combined with the effects of other past, present, and reasonably foreseeable future projects. (CEQA Guidelines, § 15355, subd. (b).) The significance of a cumulative impact may be greater than the effects resulting from the individual actions if the effects of more than one action are additive.

2. Criteria for evaluating the significance of adverse effects were identified for each environmental issue in Chapter 4.0. of the Draft EIR. These criteria, which are based on resource sensitivity, quality, and quantity, are also applicable to cumulative impacts. The timing and duration of each activity is also an important consideration for evaluating the potential cumulative effects of activities that occur only for a limited period. In those cases, a cumulative effect may occur only when two or more of the activities are occurring simultaneously.

3. The CEQA Guidelines provide that cumulative impacts shall be discussed when they are significant and that the discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence (section 15130 (a) and (b)). These effects, where they occur, are then evaluated for their impact in combination with other activities in the area for cumulative impact.

4. The following section discusses the potential cumulative environmental effects that could result when the potential impacts of the proposed Project are combined with impacts associated with the reasonably foreseeable projects identified in Section 6.1.1 of the Draft EIR.

## **A. Land Use**

As part of the CEQA process, the County conducted an extensive analysis of the Project's cumulative impacts to surrounding uses, as well the Project's consistency with County land use documents. The County concluded that the Project is consistent with the County General Plan, Zoning Ordinance, Surface Mining Ordinance, Williamson Act program, and the M&T Williamson Act Contract.

Further, analysis contained in the EIR demonstrates that the Project site does not meet the standard for prime farmland. Though the Project will result in the conversion of non-prime farmland to open space, the amount of agricultural land surrounding the site is relatively abundant. (Draft EIR section 6.1.2, p. 6-3.) In terms of prime agricultural land loss, no significant cumulative land use impacts are expected as a result of this Project.

## **B. Hydrology and Water Quality**

The County extensively analyzed and evaluated the Project's cumulative impacts to local hydrology and water quality as part of the CEQA environmental review process. Substantial evidence in the record demonstrates that impacts to hydrology and water quality from other projects in the vicinity that could contribute to a cumulative effect would be mitigated to less-than-significant levels. Further, evidence generated as part of the CEQA review process shows that mining activities at the M&T Chico Ranch would not have a significant effect on the hydrogeology of the area, nor would it adversely affect the volume or quality of regional groundwater resources. (Draft EIR section 6.1.2, p. 6-3.) Additionally, no significant cumulative hydrological impacts are expected as a result of this Project.

## **C. Air Quality**

As described in Impact 4.5-1 (see **Exhibit 1**), when viewed independently, the proposed Project would result in a significant impact on PM10 emissions, based solely on the Level C significance thresholds. However, when viewed in relation to existing conditions at the site and surrounding areas, the Project would result in a net reduction in PM10 emissions (refer to Draft EIR Table 4.5-8). Because other impacts from these projects would be individually less than significant, and the combined impacts would not exceed the significance criteria defined for these issues in Chapter 4.0, no significant cumulative PM10 emission impacts are expected. (Draft EIR section 6.1.2, p. 6-3.)

As discussed in Draft EIR Section 4.6, Traffic, there are no feasible mitigation measures to reduce cumulative traffic congestion at certain intersections. This cumulative traffic congestion will result in an increase to carbon monoxide

emissions due to increased idle time at these intersections. Under cumulative conditions, this is a significant, unavoidable impact.

#### **D. Traffic and Circulation**

The cumulative traffic impact analysis contained in Draft EIR section 4.6 (see also Draft EIR section 6.1.2, pp. 6-3 – 6-4) indicates that the daily levels of service for all locations would operate at LOS C or better with or without the Project, except for the following locations, which will operate at LOS E or F with or without the Project:

- Park Avenue between East 20th Street and East Park Avenue will operate at LOS F;
- East Park Avenue between Park Avenue and SR 99 will operate at LOS F;
- Bruce Road between SR 32 and Skyway will operate at LOS E; and
- Skyway – between SR 99 and the Butte Creek Bridge is expected to operate at LOS E.

The Project will add additional trips to these road segments. In all cases, these additions represent a *de-minimis* increase in traffic. Specifically, analysis contained in the Draft EIR demonstrates that truck trips generated by the Project equate to a less than one percent (1%) increase of total traffic volumes in the Project area under cumulative conditions. Therefore, the impact of additional Project traffic to these roadway segments would be minimal yet significant based upon the significance criteria established by in the Draft EIR.

Peak hour intersection operations under cumulative conditions with and without the Project also indicate that all intersections will operate at LOS C or better, except for the Skyway/Baldwin Plant Driveway and Durham-Dayton Highway at Midway. Both locations operate unacceptably without the Project and those unacceptable operations are improved by the Project. The Skyway/Baldwin Plant Driveway intersection will operate at LOS F in the a.m. peak hour and LOS D in the p.m. peak hour. The Durham-Dayton Highway/Midway intersection will operate at LOS F in both the a.m. and p.m. peak hours.

As discussed in Draft EIR section 4.6, Traffic, there are no feasible mitigation measures to reduce cumulative traffic congestion at certain road segments. Under cumulative conditions, this is a significant, unavoidable impact.

#### **E. Biological Resources**

As part of the CEQA process, the County analyzed the Project's cumulative impacts to wildlife and wildlife habitat. The EIR concluded that the resulting habitat associated with the reclaimed lake would result in an overall increase in wildlife values over the long-term. (Draft EIR section 6.1.2, p. 6-4.) Accordingly,

the Project will not result in significant cumulative biological impacts.

#### **F. Noise**

The County analyzed cumulative noise impacts as part of the CEQA process and determined that none of the cumulative projects located near in the vicinity of the Project site (delineated in Draft EIR Section 6.1.1) are close enough to the M&T Chico Ranch Project to contribute to cumulative noise impacts associated with mining operations. (Draft EIR section 6.1.2, p. 6-4.) Therefore, no significant cumulative noise impacts will result from this Project.

#### **G. Cultural Resources**

Records review and field surveys show no evidence of “cultural resources” at the proposed Project site, as defined by CEQA. (Draft EIR section 6.1.2, p. 6-4.) Therefore, the proposed Project will not contribute to cumulative impacts to cultural resources.

#### **H. Aesthetics**

The aesthetic character of the site would change as a result of mining and reclamation. However, completion of reclamation activities at the site will eliminate the potential for any negative cumulative visual effect. (Draft EIR section 6.1.2, p. 6-4.) Therefore, no significant negative cumulative aesthetic impacts will result from this Project.

### **Findings Regarding Mitigation Monitoring and Reporting Program**

1. Section 21081.6 of the California Public Resources Code, CEQA Guideline section 15097, and Board policy require the Butte County Board of Supervisors to adopt a monitoring and reporting program on the changes in the Project and Mitigation Measures it has imposed to mitigate or avoid significant environmental effects. The Mitigation Monitoring and Reporting Program is attached to this resolution as **Exhibit 2**.

2. The Mitigation Monitoring and Reporting Program fulfills the CEQA mitigation monitoring requirement because: the Conditions of Approval are specific and, as appropriate, define performance standards to measure compliance under the Program. The Program contains detailed descriptions of conditions, implementation, verification, a compliance schedule and reporting requirements to insure compliance with the Conditions of Approval and Mitigation Measures. The Program also ensures that the Mitigation Measures are in place, as appropriate, throughout the life of the Project.

**DECISION**

**NOW, THEREFORE, BE IT RESOLVED, THAT THE BUTTE COUNTY BOARD OF SUPERVISORS:**

- I Certifies the Final Environmental Impact Report for the M&T Chico Ranch Mine Mining Use Permit and Reclamation Plan (Min 96-03);
- II. Adopts the Mitigation Monitoring and Reporting Program contained in **Exhibit 2**;
- III. This Project has the potential to have a significant impact to fish or wildlife habitat. The collection of Department of Fish and Game fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5 is required.

**PASSED AND ADOPTED** by the Board of Supervisors, of the County of Butte, State of California, at regular meeting of said Board, held on the        day of        2007, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**NOT VOTING:**

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**JANE DOLAN**, Chair  
Butte County Board of Supervisors

**ATTEST:**

**PAUL MCINTOSH**, Chief Administrative Officer  
and Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy