

## 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 Board of Supervisors 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 Board of Supervisors 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 Board of Supervisors 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 Board of Supervisors 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 5<sup>th</sup> Street Intersection**

The proposed Project will add 10 or more trips per day to the intersection of State Highway 32/West 5<sup>th</sup> 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 5<sup>th</sup> 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 5<sup>th</sup> 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 5<sup>th</sup> 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 20<sup>th</sup> Street/East Park Avenue**

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

The segment of Park Avenue between East 20<sup>th</sup> 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 Board of Supervisors 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'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 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's Stony Creek operation is replaced by this facility, since the aggregate resource will be closer to the Chico and Butte County markets.

The Board of Supervisors 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 Board of Supervisors 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 Board of Supervisors 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 Board of Supervisors 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 Board of Supervisors 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 Board of Supervisors 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 Board of Supervisors 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 Board of Supervisors 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.