

## ATTACHMENT C

### RESOLUTION \_\_\_-\_\_\_

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

The M&T Chico Ranch Mine (“Project”) proposed by Baldwin Contracting Company (“Baldwin”) 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 and January 22, 2004. 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. Anticipated lifespan of the operation including reclamation is approximately 20-30 years. The proposed quarry and processing plants 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. Between January 22, 2004 and November 28, 2005, the Planning Commission held several noticed public hearings on the Project in part to resolve concerns regarding the Department of Conservation's Williamson Act requirements. The dispute was addressed off the agenda with the applicant's filing of an immediate cancellation request.

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 making findings of fact, adopting a Mitigation Monitoring and Reporting Program, and Certifying the Final Environmental Impact Report for the M&T Chico Ranch Mine Mining Use Permit and Reclamation Plan (State Clearinghouse No. 97022080).

### **FINDINGS OF FACT**

- 1. FINDING: LAND USE CONSISTENCY** - The Project is consistent with the policies of the Butte County General Plan and with the Butte County Zoning and Mining Ordinance. Based on a current interpretation of the Butte County General Plan, the proposed mining operation is not only considered an appropriate use under the Orchard and Field Crops General Plan Designation, but also compatible in all agriculturally designated lands within Butte County where minerals are known to exist, including 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..." 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, dated October 2003.

- 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 Baldwin 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 estimates for the Project are \$103,526.93. (See Reclamation Plan, Attachment 4.)
- 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.) Baldwin 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 of safety for final slopes. Based on this study, Baldwin 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. Baldwin 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, Baldwin 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.

- 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 Baldwin 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, Baldwin 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, Baldwin 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. (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.

### **DECISION**

**IN VIEW OF THE ABOVE FINDINGS, EVIDENCE, AND THE RECORD AS A WHOLE**, the Butte County Planning Commission hereby adopts the Statement of Overriding Considerations (attached as Exhibit 1 and incorporated by reference herein) and approves the M&T Chico Ranch Mining Use Permit and Reclamation Plan (MIN 96-03, Baldwin Contracting Company [“Baldwin”]), subject to the Conditions of Approval

(attached as Exhibit 2 and incorporated by reference herein).

**DULY PASSED AND ADOPTED** this 30<sup>th</sup> day of November 2006, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Chuck Nelson - Chairman  
Planning Commission  
County of Butte, State of California

**ATTEST:**

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LYNN RICHARDSON, Secretary  
Planning Commission  
County of Butte, State of California