

CHAPTER 3.0 RESPONSES TO COMMENTS

This chapter contains individual responses to comments raised in the comment letters received during the comment period for the DEIR. Each comment is identified and numbered. The comment numbering system reflects the number of the comment letter (see Chapter 2.0) and the number of the specific comment. For example, the first comment of the third letter is numbered Comment 3-1.

**ESPARTO CITIZENS ADVISORY COMMITTEE
MEETING MINUTES
01/19/2010**

Attending: Colleen Fescenmeyer, Pat Harrison, John Hulsman Jr, Melissa Jordan, Giacomo Moris, Patrick Scribner.

Absent: Gretchen Adan, Wayne Belshaw.

MEETING ADMINISTRATION

- 1) Call To Order. The meeting was called to order at 7:04 p.m. by Chair Jordan.
- 2) Introduction of ECAC committee members for 2010/2011. Chair Jordan introduced the following members and their terms as appointed by the Board of Supervisors: Pat Harrison, one year; Giacomo Moris, one year; John Hulsman, two years; and Melissa Jordan, two years. Colleen Fescenmeyer is to be appointed at the next Board of Supervisors meeting. Chair Jordan noted that applications are still being taken by the Board of Supervisors.
- 3) Approval of Agenda. A motion to approve the agenda with Item 10) a. (Streetscape) moved prior to item 8) (draft Granite EIR) was made by P. Harrison and seconded by G. Moris. This change was requested by the citizens wishing to speak about the streetscape. The group presenting the EIR was not opposed. All ECAC members attending voted in favor, none opposed.
- 4) Minutes and Notes from Previous Meetings. None presented.
- 5) Correspondence & Announcements. Chair Jordan stated that there will be a Town Hall Session on Rural California, focused on Jobs, Agriculture, Sustainability, and Rural development, on January 26, 6 - 8 pm, at the Davis Veteran's Memorial Theater, 203 East 14th Street, Davis. People are invited to tell our state USDA representatives about needed policies and programs in rural Yolo and Solano counties. Sue Heitman at Capay Valley Vision has additional information about the meeting.

PUBLIC FORUM

- 6) Public Requests. No requests were made.

COUNTY UPDATE

- 7) County Update. Eric Parfrey provided the county update.
- The county has a new administrator as of this month.
 - The permit request for the Manas cut and wrap facility has been received.
 - The first permit request for the changes to the ACE Hardware building has been received.
 - Regarding the "Nail Parlor", a letter citing the business for permit, code and DMX sign violations has been sent. A second letter will be sent this month. However the county no longer has a code enforcement person, so action may not be swift. One of the citizens in attendance stated that regardless of the county code, state cosmetology rules prohibit this business from being in a residence.

ACTION ITEMS

- 8) Streetscape. Chair Jordan summarized an email from Sue Heitman of the Streetscape Task Force which is paraphrased in the following sentences. (Sue Heitman wasn't able to attend the ECAC meeting because of a conflict with a meeting in Sacramento.) The Streetscape Task Force is an advisory committee chaired by the County that includes representatives from Caltrans, Yolo County, the Tribe and the Esparto community (Tammy Fullerton, Alice Manas, and Sue Heitman). It is funded by SACOG and the Tribe (IGLCBC funds) and is a follow-up to the Dan Burden project. A complete streets project for Yolo Avenue is the primary focus of the task force and a contract was awarded last year to Mark Thomas and Assoc. to prepare an application to SACOG for that project. Because the application for the project has not yet been submitted to SACOG, the Esparto community representatives requested that the task force put some streetscape improvements forward with the available funding. Hence, the lanes on Yolo Avenue were narrowed to 11-feet, back-in angle parking was implemented and crosswalks were marked at every intersection. All these are done in paint with the crosswalks to be stamped with a streetprint of the color used in Capay when the weather permits. The Esparto community representatives on the task force do not remember any discussion of losing a turn lane and were just as surprised about it as the rest of the community. However, the Esparto community representatives do stand behind the 11-foot lanes, parking and of course the crosswalks which the community has asked for for many years, including Ardie Lange at every past ECAC meeting before her death. The responsibility for these changes falls on Caltrans and they will remove them if they do not prove to be safety features. The Streetscape Task Force is not scheduled to meet again, but the Esparto community representatives are willing to continue to pass on concerns to the people that sat on the task force. For example, the Esparto community representatives finally got the Mark Thomas group to not hold workshops

on roundabouts because there wasn't wide community support for them now or a particular need at this time. While this does mean it won't come back up, the Esparto community representatives will bring forth any issue they think is representative of the community, safety and our future. In closing, Chair Jordan noted that the lanes were narrowed to reduce the speed of traffic.

The following comments were received from the citizens in attendance:

- a) No left turn onto Capay Street from Yolo Avenue increases pollution because drivers have to go around the block to get home. The alternative would be to take Fremont Street, but that has a lot of stop signs. The prohibition on left turns from Yolo Avenue at most of its cross streets is causing congestion on the side streets.
- b) Left turns are permitted only on the less used streets. Is there a traffic analysis that supports the placement of the left turn lanes and no left turn signs?
- c) No left turn tickets are \$360. The no left turn signs seem like a way for the county to make money.
- d) Back-in diagonal parking is confusing and hasn't yielded a significant increase in parking spaces. The post office lost some spaces due to diagonal parking. Some drivers are crossing the centerline of Yolo Avenue and nose-in parking in the diagonal spaces. The diagonal parking lines are hard to see at night in front of the Burger Barn (no street light). Back-in parking may result in pick-up beds protruding so far over the sidewalk that they restrict sidewalk use by the handicapped. Diagonal parking along the park is OK.
- e) The width of the parallel parking spaces in front of the beauty parlor on the west side of Yolo Avenue is too narrow. The 18-inch high curb prevents opening the passenger side door of cars parked within the lines.
- f) Parallel parking at the edge of Yolo Avenue in front of the meat market blocks cars parked in the off-street parking in front of the market.
- g) If SR-16 (Yolo Avenue) is to be slurry sealed in the spring (as the rumor making the rounds suggests), all the marking will have to be redone. If true, it means that the current marking is a waste of money in times when money is scarce.
- h) The double yellow lines at the north end of Yolo Avenue are too close to the west side. Busses and trucks making the turn from Woodland Avenue onto Yolo Avenue have to cross the double yellow lines to make the turn.
- i) Theoretically, fire trucks can't turn left coming out of the fire station due to the placement of double yellow lines. (24" between double yellow lines indicates a divided highway).
- j) The vehicle code specifies 12-foot lanes for state highways.
- k) Where are the signed plans for the changes? Barry Burns, Chief of the Esparto Fire Department, said that he didn't sign any plans and the supervisor at the local Caltrans maintenance yard told him that he hadn't either. What was done reportedly doesn't conform to the plans at the Caltrans District 3 office in Marysville.
- l) Farm equipment may not be able to pass through town with the new marking.

- m) The bicycle lanes are a waste of space. Few if any people ride bicycles on Yolo Avenue. Parents have said that if their children are caught riding bicycles on Yolo Avenue, they will discipline their children.
- n) There are many, many new signs (at the crosswalks and at the intersections with no left turn). The signs are reflective and at night the reflections of head lights off the signs light up the street like Las Vegas.
- o) The curving traffic lane due to the left turn lanes is a concern.
- p) The old lane markings that were abraded or painted-over can be confused with the new lane markings, especially in the wet at night.
- q) Street lights are needed at crosswalks. The Capay Street crosswalk doesn't have a street light.
- r) Traffic on Yolo Avenue is now faster than before. There are no cars turning left to slow traffic. If slowing traffic was the #1 concern of Streetscape along with getting children safely across SR-16, these changes have failed.

COMMUNITY UPDATES

- 9) Public Meeting on the proposed Granite Esparto Mining Project Draft Environmental Impact Report (EIR). Contract planner Heidi Tschudin presented an overview of the project and the draft report describing its impacts. Ben Adamo and others from Granite Construction were present to answer questions as needed. The project site encompasses 390 acres on the west side of CR-87, approximately one mile north of Esparto. Mining is planned on 313 acres north of Cache Creek and east of Granite's existing Capay facility. One million tons is planned to be mined (870,000 tons sold) annually for 30 years. This is 87% of the current Capay permit. The site is currently gravel reserve and was planned to be mined after 2026. There will be a new plant located just east of the Capay plant. The new plant will not have the capability to make asphalt. The new plant and the Capay plant will be operated concurrently, so truck traffic will just about double. The site will be mined down to 75 feet. When mining and reclamation are complete there will be 195 acres of habitat/wetland/open water. The surface of the water will be 35-40 feet below grade level and the water will be 35-40 feet deep. 74 acres will be reclaimed for agriculture and 34 acres will be reclaimed for dry pasture.

Unavoidable impacts are:

- Loss of prime or unique farmland
- Loss of Swainson's hawk habitat
- Greenhouse gas emissions
- Cumulative climate change contribution
- Reduced air quality (fugitive dust emissions and PM₁₀)

1-1

The traffic increase due to this project will not be an unavoidable impact. Granite will assume joint maintenance responsibility for the roadway segments of CR-87 and CR-19 that comprise the approved truck route.

The draft EIR looks at four alternatives:

- No Project
- Reduced Tonnage/Acreage
- Alternative Location
- Off-site Processing (Sequential Mining)

1-1
(cont'd)

Of the alternatives, sequential mining is better environmentally.

The draft EIR is now out for comment. The comment period ends at 4 p.m. on 28 January, 2010. There will also be a workshop on the draft EIR at the Planning Commission meeting on 28 January. The purpose of the workshop is to receive testimony regarding the adequacy of the draft EIR as an informational tool for making decisions regarding the project. The decision to approve or deny the project will be made by the Planning Commission and Board of Supervisors in subsequent hearings.

Comments received from the ECAC and community members:

- a) Chief Burns voiced his disagreement with the finding that the traffic increase due to this project is not an unavoidable impact.
- b) Chair Jordan expressed concern about potential impact on Esparto's groundwater. The reply to that concern was a statement that the 1996 hydraulic analysis and the analysis of this project show no impact to groundwater. Groundwater flows from the south edge of Cache Creek toward Davis.
- c) G. Moris stated that he prefers a reduced scope alternative. The scope of the proposed project seems inconsistent with the rationale used to approve the parcel split of the Stephens property several years ago.

1-2

1-3

1-4

10) Other community updates. None presented.

ACTION ITEMS

11) Other action items.

- a) Standing Rules. G Moris moved to postpone this item until the February meeting. P. Harrison seconded the motion. All in favor none opposed. The motion passed.
- b) Progress on Rd. 21A at 85B stop sign. No progress to date.
- c) Speed indicator signs on either side of the high school. The various functions within Caltrans are not talking between themselves regarding changes to the Yolo Avenue portion of SR-16. Further the radar cart is on the "back burner" at

the CHP. Acceptable locations for radar cart use have not yet been identified by CHP.

12) Future agenda items. The following items were suggested:

- a) Standing Rules
- b) Streetscape
- c) Election of officers
- d) Parks
- e) Stop signs on CR-85B at CR-21A
- f) Potholes.

13) Adjourn. Chair Jordan adjourned the meeting at 9:08 p.m.

JRH
2/15/2010

Letter 1, Esparto Community Advisory Committee Meeting Minutes for January 19, 2010

Response to Comment 1-1: This comment summarizes the overview presented by the County's contract Project Manager. No response is necessary.

Response to Comment 1-2: The analysis demonstrates based on facts, standard practice in the industry, adopted thresholds of significance, and substantiated analysis, that the impacts from the project can be fully mitigated and will be no residual impact under existing or cumulative conditions. This satisfies the requirements of CEQA. No further analysis is necessary and further response is not possible.

Response to Comment 1-3: Groundwater is analyzed in Section 4.10 of the DEIR and found to be less-than-significant. This conclusion is reliant in part on project specific information provided as a part of the project application, and in part on other prior analyses of this issue upon which the CCAP is based. The potential for impacts to groundwater were also analyzed in the Technical Studies and Recommendations for Lower Cache Creek Resource Management Plan (October 1995), the certified program EIRs for the OCMP (SCH #96012035 certified July 30, 1996) and CCRMP (SCH #96013004 certified August 20, 1996), the certified project EIR for the Cache Creek Aggregates (R.C. Collet) Long-Term Mining Permit Application (SCH #96012035 certified November 25, 1996), and the Supplemental EIR for the Cache Creek Aggregates (R.C. Collet) Long-Term Mining Permit Application (SCH #2002062034 certified November 26, 2002).

Response to Comment 1-4: The commenter expresses support for approval of a reduced scope alternative rather than the project as proposed. This is noted for the record. The EIR examines and analyzes at a comparative level several project alternatives including Alternative 2, Reduced Tonnage/Acreage Alternative. This is described more fully starting on page 6-8 of the DEIR. The Planning Commission and Board of Supervisors will consider the merits of the project at upcoming hearings. It is within the County's purview to consider approval of the various CEQA alternatives at that time.

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. LL40
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682
PERMITS: (916) 574-0685 FAX: (916) 574-0682

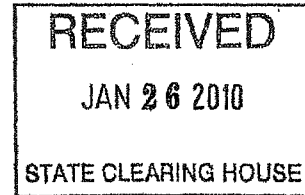


January 21, 2010

Kent Reeves
Yolo County Parks and Resources Department
120 West Main Street, Suite C
Woodland, CA 95695

Dear Mr. Reeves:

Clear
1-28-10
e



State Clearinghouse (SCH) Number: 2009022033
Granite Esparto Mining and Reclamation Project
Draft Environmental Impact Report

Staff for the Department of Water Resources has reviewed the subject document and provides the following comments:

The proposed project is located within the jurisdiction of the Central Valley Flood Protection Board (Formerly known as The Reclamation Board). The Board is required to enforce standards for the construction, maintenance and protection of adopted flood control plans that will protect public lands from floods. The jurisdiction of the Board includes the Central Valley, including all tributaries and distributaries of the Sacramento River and the San Joaquin River, and designated floodways (Title 23 California Code of Regulations (CCR), Section 2).

A Board permit is required prior to starting the work within the Board's jurisdiction for the following:

- The placement, construction, reconstruction, removal, or abandonment of any landscaping, culvert, bridge, conduit, fence, projection, fill, embankment, building, structure, obstruction, encroachment, excavation, the planting, or removal of vegetation, and any repair or maintenance that involves cutting into the levee (CCR Section 6);
- Existing structures that predate permitting or where it is necessary to establish the conditions normally imposed by permitting. The circumstances include those where responsibility for the encroachment has not been clearly established or ownership and use have been revised (CCR Section 6);
- Vegetation plantings will require the submission of detailed design drawings; identification of vegetation type; plant and tree names (i.e. common name and scientific name); total number of each type of plant and tree; planting spacing and irrigation method that will be within the project area; a complete vegetative management plan for maintenance to prevent the interference with flood control, levee maintenance, inspection and flood fight procedures (Title 23, California Code of Regulations CCR Section 131).

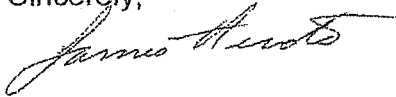
2-1

January 21, 2010
Kent Reeves
Page 2 of 2

The permit application and Title 23 CCR can be found on the Central Valley Flood Protection Board's website at <http://www.cvfpb.ca.gov/>. Contact your local, federal and state agencies, as other permits may apply.

If you have any questions please contact me at (916) 574-0651 or by email jherota@water.ca.gov.

Sincerely,



James Herota
Staff Environmental Scientist
Floodway Protection Section
Division of Flood Management

cc:

Governor's Office of Planning and Research
State Clearinghouse
1400 Tenth Street, Room 121
Sacramento, CA 95814

Letter 2, James Herota, Central Valley Flood Protection Board

Response to Comment 2-1: Please refer to correspondence provided in Appendix 2 sent January 25, 2010 by Yolo County Counsel in response to this letter. In summary the CVFPB has no jurisdiction over this project. Text changes have been made to reflect this in the DEIR.



California Natural Resources Agency
DEPARTMENT OF FISH AND GAME

ARNOLD SCHWARZENEGGER, Governor
John McCamman, Director



North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
(916) 358-2900
<http://www.Department.ca.gov>

January 27, 2010

Kent Reeves
Principle Natural Resource Planner
Yolo County Parks and Resources Department
120 West Main Street, Suite C
Woodland, CA 95695

Dear Mr. Reeves:

The California Department of Fish and Game (Department) has received and reviewed the Draft Environmental Impact Report (DEIR) (SCH #2009022036) for the Granite Esparto Mining and Reclamation Project (Project). The Project proposes to mine and process approximately 1 million tons of sand and gravel per year from the Project site over 30 years. The Project proposes to convert the Project site to open water or lakes, open pasture, and agricultural lands at its completion.

3-1

The Department is providing comments in response to the circulation of the DEIR under the California Environmental Quality Act (CEQA), as both a responsible and trustee agency. As a trustee agency for the State's fish and wildlife resources, the Department ensures that proposed projects conserve and protect, fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of such species. In this capacity, the Department administers the California Endangered Species Act (CESA), the Native Plant Protection Act, and other provisions of the California Fish and Game Code.

Significant natural resources, including agricultural resources, occur on the Project site and areas adjacent to the Project. These natural resources occurring on the Project site and adjacent to the Project (e.g. areas effected by Project actions or features) include aquatic habitats (Cache Creek), wetlands, riparian habitats, and vital wildlife foraging areas. Several species, including special-status species, utilize the habitats occurring within the Project area and areas to be impacted by the Project.

3-2

The Department believes that the Project will result in significant cumulative impacts to important wildlife habitats and wildlife in general. The Department disagrees with the conclusions and mitigation measures identified in the DEIR and finds the document to be inadequate and incomplete. Additionally, the Department believes the DEIR fails to consider or discuss specific Project impacts and alternatives designed to reduce and mitigate impacts to a level that is below significant. The DEIR has identified Project impacts to biological resources that remain significant, even with the proposed mitigation measures. The following are specific comments related to the inadequacy of the DEIR:

3-3

CEQA is predicated on a complete and accurate description of the environments to be impacted by the Project (CEQA Guidelines Section 15125). The DEIR fails to quantify the types and acreages of habitats to be temporarily or permanently impacted by the Project.

3-4

Conserving California's Wildlife Since 1870

For example, the DEIR describes that the Project will occur on a 390-acre site, yet fails to discuss specific acreages of the various habitat types to be impacted. To allow for an adequate evaluation of the Projects impacts, the Department recommends that the DEIR be revised to include analysis, discussion, and quantification of impacts to riparian habitats, aquatic habitats, wetland habitats, and agricultural lands. The quantification should include existing crop types and their acreages.

CEQA requires that the DEIR contain an analysis of cumulative impacts associated with the Project (CEQA Guidelines Section 15355). The DEIR lacks a quantification of specific habitat types to be impacted by the Project, and as a result, the Department is unable to conduct a meaningful review of the cumulative impacts of the Project. Additionally, the DEIR lacks a discussion of the cumulative impacts associated with the Project when considering permitted sand and gravel mining operations that occur on adjacent parcels; in the immediate vicinity of Cache Creek and the proposed Project. These permitted sand and gravel operations, when considering their cumulative impact in combination with the proposed Project, represent a significant cumulative impact that has not been analyzed in the DEIR. The Department recommends that the DEIR be revised to include a discussion of the cumulative impacts with respect to the loss of agricultural land that provides foraging habitats for listed species. Additionally, the Department recommends that the DEIR be revised to include a discussion of the cumulative impacts to biological resources in general, as the DEIR's chapter on Cumulative Effects fails to discuss any cumulative impacts to biological resources.

The Department disagrees with the DEIR's Alternative Analysis. The DEIR concludes that the Project is equivalent to the "No Project" alternative. The DEIR states in the No Project Alternative ... "the site could result in changes from row crops to orchards which would eliminate Swainson's hawk habitat" (DEIR page 6-6). The Alternative Analysis provides no further discussion of alternatives that could reduce the Project's impacts to biological resources. The analysis provided is narrow, speculative, and fundamentally in conflict with the Yolo County Natural Heritage Program (Yolo NHP). The Yolo NHP is a county wide Habitat Conservation Plan and a Natural Community Conservation Plan that is being developed between Yolo County, the U. S. Fish and Wildlife Service, and the Department. The foundations and assumption utilized for the development of the Yolo NHP rely on Yolo County's rich agricultural heritage and include a variety of protection measures for wildlife and plants. To conclude in the DEIR that the conversion lands with high habitat value to a sand and gravel mining operation with little or no habitat value is without merit. The value of retained areas subsequent to Project construction due to indirect impacts and the direct loss of habitat currently occupied by both sensitive and local endemic wildlife will be irretrievably lost. The document has failed to identify any measures designed to mitigate direct, indirect and cumulative Project impacts to native habitat and associated wildlife species throughout the life of the Project. The Department recommends that the DEIR be revised to include an appropriate Alternative Analysis that analyses alternatives that would reduce impacts to biological resources and that is consistent with the goals of the Yolo NHP.

The DEIR contains inadequate and incomplete Swainson's hawk nest avoidance measures. Page 4.5-35 of the DEIR relies upon *The Timing and Methodology for Conducting Swainson's Hawks Nest Surveys* (nest survey guidelines) as its basis for

3-5

3-6

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3-8

3-9

avoiding the potential to take Swainson's hawks or their nest. The DEIR incorrectly refers to nest survey guidelines as a Department document. The nest survey guidelines are not a Department generated document and are inappropriately referenced in the DEIR. Furthermore, the nest survey guidelines do not discuss in any manner nest avoidance buffers. Additionally, the nest avoidance buffers discussed in the DEIR are in conflict with existing Department guidelines that, if utilized, may reduce Project impacts to a level that is less than significant with respect to CEQA. The *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California* (Swainson's' hawk guidelines) (Enclosed) states in part "No new disturbances (e.g. heavy equipment operations associated with construction, use of cranes or draglines, new rock crushing activities) or other project related activities which may cause nest abandonment or forced fledging, should be initiated within ¼ mile (buffer zone) of an active nest". The Swainson's hawk guidelines define an active nest as a nest that has been utilized by a Swainson's hawk within the past five years. The DEIR establishes a maximum buffer of 300 feet and a minimum buffer of 100 feet. If the Project is approved with existing DEIR buffers, take of the State listed Swanson's hawk will likely occur. The Department recommends that the DEIR be revised to include the protective measures identified in the Swainson's hawk guidelines. Utilizing all of the identified measures would likely reduce impacts to Swainson's hawk to a level that is less than significant with respect to CEQA.

3-10

As the take of Swainson's hawk is likely to occur with the Project, the Department recommends that the Project obtain take authorization under CESA for Swainson's hawk as required by Fish and Game Code (Section 2081). Fish and Game Code 2081 prohibits the taking of a State listed species incidental to a lawful activity without first obtaining take authorization, second, without fully minimizing the potential for take (adhering to the Swainson's hawk guidelines), and third, without fully mitigating the impacts to the State listed species. The DEIR acknowledges that the take of Swainson's hawk could occur with the project as proposed, yet fails to fully minimize the potential to take and to fully mitigate the take of Swainson's hawk.

3-11

The Department recommends the Project mitigate for the loss of Swainson's hawk foraging habitat at a ratio that is commensurate with the ratios being established through the Yolo NHP and that the acquisition of the mitigation habitat become a condition of the Project's approval. The CEQA (CEQA Guidelines Section 21081.6 (b) states:

A public agency shall provide the measures to mitigate or avoid significant effects on the environment that are enforceable through permit conditions, agreements or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the projects design

3-12

The Department has entered into an interim management agreement with Yolo County for projects that will impact Swainson's hawks and their foraging habitat during the development of the Yolo NHP. Therefore, the Department recommends that the conditions set forth in that management agreement be applied to this Project. For assistance related to the provisions of the Yolo NHP, please contact Mrs. Maria Wong, Executive Director of the Yolo County Habitat/Natural Community Conservation Plan JPA at (530) 406-4880.

Thank you for the opportunity to review this Project. If you have any questions, please contact Mr. James Navicky, Environmental Scientist at (916) 358-2926 or myself, Mr. Jeff Drongesen, Acting Environmental Program Manager, at (916) 358-2919.

3-13

Sincerely,



Jeff Drongesen
Acting Environmental Program Manager

ec: Jeff Drongesen
James Navicky
Department of Fish and game
North Central Region

jdrongesen@dfg.ca.gov
jnavicky@dfg.ca.gov

cc: Governor's Office of Planning and Research
State Clearing House and Planning Unit
1400 10th Street
P.O. Box 3044
Sacramento, CA 95812-3044

Maria Slawson Wong, AICP
Executive Director
Yolo County Habitat
Natural Community Conservation Plan JPA
120 West Main Street, Suite C
Woodland, CA 95695

Enclosure

3-14

Staff Report regarding Mitigation
for Impacts to Swainson's Hawks (*Buteo swainsoni*)
in the Central Valley of California

INTRODUCTION

The Legislature and the Fish and Game Commission have developed the policies, standards and regulatory mandates which, if implemented, are intended to help stabilize and reverse dramatic population declines of threatened and endangered species. In order to determine how the Department of Fish and Game (Department) could judge the adequacy of mitigation measures designed to offset impacts to Swainson's hawks in the Central Valley, Staff (WMD, ESD and Regions) has prepared this report. To ensure compliance with legislative and Commission policy, mitigation requirements which are consistent with this report should be incorporated into: (1) Department comments to Lead Agencies and project sponsors pursuant to the California Environmental Quality Act (CEQA); (2) Fish and Game Code Section 2081 Management Authorizations (Management Authorizations); and (3) Fish and Game Code Section 2090 Consultations with State CEQA Lead Agencies.

The report is designed to provide the Department (including regional offices and divisions), CEQA Lead Agencies and project proponents the context in which the Environmental Services Division (ESD) will review proposed project specific mitigation measures. This report also includes "model" mitigation measures which have been judged to be consistent with policies, standards and legal mandates of the Legislature and Fish and Game Commission. Alternative mitigation measures, tailored to specific projects, may be developed if consistent with this report. Implementation of mitigation measures consistent with this report are intended to help achieve the conservation goals for the Swainson's hawk and should complement multi-species habitat conservation planning efforts currently underway.

The Department is preparing a recovery plan for the species and it is anticipated that this report will be revised to incorporate recovery plan goals. It is anticipated that the recovery plan will be completed by the end of 1995. The Swainson's hawk recovery plan will establish criteria for species recovery through preservation of existing habitat, population expansion into former habitat, recruitment of young into the population, and other specific recovery efforts.

During project review the Department should consider whether a proposed project will adversely affect suitable foraging habitat within a ten (10) mile radius of an active (used during one or more of the last 5 years) Swainson's hawk nest(s). Suitable Swainson's hawk foraging habitat will be those habitats and crops identified in Bechard (1983), Bloom (1980), and Estep (1989). The following vegetation

types/agricultural crops are considered small mammal and insect foraging habitat for Swainson's hawks:

- alfalfa
- fallow fields
- beet, tomato, and other low-growing row or field crops
- dry-land and irrigated pasture
- rice land (when not flooded)
- cereal grain crops (including corn after harvest)

The ten mile radius standard is the flight distance between active (and successful) nest sites and suitable foraging habitats, as documented in telemetry studies (Estep 1989, Babcock 1993). Based on the ten mile radius, new development projects which adversely modify nesting and/or foraging habitat should mitigate the project's impacts to the species. The ten mile foraging radius recognizes a need to strike a balance between the biological needs of reproducing pairs (including eggs and nestlings) and the economic benefit of development(s) consistent with Fish and Game Code Section 2053.

Since over 95% of Swainson's hawk nests occur on private land, the Department's mitigation program should include incentives that preserve agricultural lands used for the production of crops, which are compatible with Swainson's hawk foraging needs, while providing an opportunity for urban development and other changes in land use adjacent to existing urban areas.

LEGAL STATUS

Federal

The Swainson's hawk is a migratory bird species protected under the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-711). The MBTA makes it unlawful to take, possess, buy, sell, purchase, or barter any migratory bird listed in Section 50 of the Code of Federal Regulations (C.F.R.) Part 10, including feathers or other parts, nests, eggs or products, except as allowed by implementing regulations (50 C.F.R. 21).

State

The Swainson's hawk has been listed as a threatened species by the California Fish and Game Commission pursuant to the California Endangered Species Act (CESA), see Title 14, California Code of Regulations, Section 670.5(b)(5)(A).

LEGISLATIVE AND COMMISSION POLICIES, LEGAL MANDATES AND STANDARDS

The FGC policy for threatened species is, in part, to: "Protect and preserve all native species...and their habitats" This policy also directs the Department to work with all interested persons to protect and preserve sensitive resources and their habitats. Consistent with this policy and direction, the Department is enjoined to implement measures that assure protection for the Swainson's hawk.

The California State Legislature, when enacting the provisions of CESA, made the following findings and declarations in Fish and Game Code Section 2051:

- a) "Certain species of fish, wildlife, and plants have been rendered extinct as a consequence of man's activities, untempered by adequate concern and conservation";
- b) "Other species of fish, wildlife, and plants are in danger of, or threatened with, extinction because their habitats are threatened with destruction, adverse modification, or severe curtailment because of overexploitation, disease, predation, or other factors (emphasis added)"; and
- c) "These species of fish, wildlife, and plants are of ecological, educational, historical, recreational, esthetic, economic, and scientific value to the people of this state, and the conservation, protection, and enhancement of these species and their habitat is of statewide concern" (emphasis added).

The Legislature also proclaimed that it "is the policy of the state to conserve, protect, restore, and enhance any endangered or threatened species and its habitat and that it is the intent of the Legislature, consistent with conserving the species, to acquire lands for habitat for these species" (emphasis added).

Section 2053 of the Fish and Game Code states, in part, "it is the policy of the state that state agencies should not approve projects as proposed which would jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species and/or its habitat which would prevent jeopardy" (emphasis added).

Section 2054 states "The Legislature further finds and declares that, in the event specific economic, social, and or other conditions make infeasible such alternatives, individual projects may be approved if appropriate mitigation and enhancement measures are provided" (emphasis added).

Loss or alteration of foraging, habitat or nest site disturbance which results in:

(1) nest abandonment; (2) loss of young; (3) reduced health and vigor of eggs and/or nestlings (resulting in reduced survival rates), may ultimately result in the take (killing) of nestling or fledgling Swainson's hawks incidental to otherwise lawful activities. The taking of Swainson's hawks in this manner can be a violation of Section 2080 of the Fish and Game Code. This interpretation of take has been judicially affirmed by the landmark appellate court decision pertaining to CESA (DFG v. ACID, 8 CA App. 4, 41554). The essence of the decision emphasized that the intent and purpose of CESA applies to all activities that take or kill endangered or threatened species, even when the taking is incidental to otherwise legal activities. To avoid potential violations of Fish and Game Code Section 2080, the Department recommends and encourages project sponsors to obtain 2081 Management Authorizations for their projects.

Although this report has been prepared to assist the Department in working with the development community, the prohibition against take (Fish and Game Code Section 2080) applies to all persons, including those engaged in agricultural activities and routine maintenance of facilities. In addition, sections 3503, 3503.5, and 3800 of the Fish and Game Code prohibit the take, possession, or destruction of birds, their nests or eggs.

To avoid potential violation of Fish and Game Code Section 2080 (i.e. killing of a listed species), project-related disturbance at active Swainson's hawk nesting sites should be reduced or eliminated during critical phases of the nesting cycle (March 1 - September 15 annually). Delineation of specific activities which could cause nest abandonment (take) of Swainson's hawk during the nesting period should be done on a case-by-case basis.

CEQA requires a mandatory findings of significance if a project's impacts to threatened or endangered species are likely to occur (Sections 21001 {c}, 21083, Guidelines Sections 15380, 15064, 15065). Impacts must be avoided or mitigated to less than significant levels unless the CEQA Lead Agency makes and supports findings of Overriding Consideration. The CEQA Lead Agency's Findings of Overriding Consideration does not eliminate the project sponsor's obligation to comply with Fish and Game Code Section 2080.

NATURAL HISTORY

The Swainson's hawk (*Buteo swainsoni*) is a large, broad winged buteo which frequents open country. They are about the same size as a red-tailed hawk (*Buteo jamaicensis*), but trimmer, weighing approximately 800-1100 grams (1.75 - 2 lbs). They have about a 125 cm. (4-foot) wingspan. The basic body plumage may be highly variable and is characterized by several color morphs - light, dark, and rufous. In dark phase birds, the entire body of the bird may be sooty black. Adult birds generally have dark backs. The ventral or underneath sections may be light with a characteristic dark, wide "bib" from the lower throat down, to the upper breast, light colored wing linings and

pointed wing tips. The tail is gray ventrally with a subterminal dusky band, and narrow, less conspicuous barring proximally. The sexes are similar in appearance; females however, are slightly larger and heavier than males, as is the case in most sexually dimorphic raptors. There are no recognized subspecies (Patmer 1988).

The Swainson's hawk is a long distance migrator. The nesting grounds occur in northwestern Canada, the western U.S., and Mexico and most populations migrate to wintering grounds in the open pampas and agricultural areas of South America (Argentina, Uruguay, southern Brazil). The species is included among the group of birds known as "neotropical migrants". Some individuals or small groups (20-30 birds) may winter in the U.S., including California (Delta Islands). This round trip journey may exceed 14,000 miles. The birds return to the nesting grounds and establish nesting territories in early March.

Swainson's hawks are monogamous and remain so until the loss of a mate (Palmer 1988). Nest construction and courtship continues through April. The clutch (commonly 3-4 eggs) is generally laid in early April to early May, but may occur later. Incubation lasts 34-35 days, with both parents participating in the brooding of eggs and young. The young fledge (leave the nest) approximately 42-44 days after hatching and remain with their parents until they depart in the fall. Large groups (up to 100+ birds) may congregate in holding areas in the fall and may exhibit a delayed migration depending upon forage availability. The specific purpose of these congregation areas is as yet unknown, but is likely related to: increasing energy reserves for migration; the timing of migration; aggregation into larger migratory groups (including assisting the young in learning migration routes); and providing a pairing and courtship opportunity for unattached adults.

Foraging Requirements

Swainson's hawk nests in the Central Valley of California are generally found in scattered trees or along riparian systems adjacent to agricultural fields or pastures. These open fields and pastures are the primary foraging areas. Major prey items for Central Valley birds include: California voles (*Microtus californicus*), valley pocket gophers (*Thomomys bottae*), deer mice (*Peromyscus maniculafus*), California ground squirrels (*Spermophilus beecheyi*), mourning doves (*Zenaida macroura*), ring-necked pheasants (*Phasianus colchicus*), meadowlarks (*Sturnella neglecta*), other passerines, grasshoppers (*Conocephalinae* sp.), crickets (*Gryllidae* sp.), and beetles (Estep 1989). Swainson's hawks generally search for prey by soaring in open country and agricultural fields similar to northern harriers (*Circus cyaneus*) and ferruginous hawks (*Buteo regalis*). Often several hawks may be seen foraging together following tractors or other farm equipment capturing prey escaping from farming operations. During the breeding season, Swainson's hawks eat mainly vertebrates (small rodents and reptiles), whereas during migration vast numbers of insects are consumed (Palmer 1988).

Department funded research has documented the importance of suitable foraging habitats (e.g., annual grasslands, pasture lands, alfalfa and other hay crops, and combinations of hay, grain and row crops) within an energetically efficient flight distance from active Swainson's hawk nests (Estep pers. comm.). Recent telemetry studies to determine foraging requirements have shown that birds may use in excess of 15,000 acres of habitat or range up to 18.0 miles from the nest in search of prey (Estep 1989, Babcock 1993). The prey base (availability and abundance) for the species is highly variable from year to year, with major prey population (small mammals and insects) fluctuations occurring based on rainfall patterns, natural cycles and agricultural cropping and harvesting patterns. Based on these variables, significant acreages of potential foraging habitat (primarily agricultural lands) should be preserved per nesting pair (or aggregation of nesting pairs) to avoid jeopardizing existing populations. Preserved foraging areas should be adequate to allow additional Swainson's hawk nesting pairs to successfully breed and use the foraging habitat during good prey production years.

Suitable foraging habitat is necessary to provide an adequate energy source for breeding adults, including support of nestlings and fledglings. Adults must achieve an energy balance between the needs of themselves and the demands of nestlings and fledglings, or the health and survival of both may be jeopardized. If prey resources are not sufficient, or if adults must hunt long distances from the nest site, the energetics of the foraging effort may result in reduced nestling vigor with an increased likelihood of disease and/or starvation. In more extreme cases, the breeding pair, in an effort to assure their own existence, may even abandon the nest and young (Woodbridge 1985).

Prey abundance and availability is determined by land and farming patterns including crop types, agricultural practices and harvesting regimes. Estep (1989) found that 73.4% of observed prey captures were in fields being harvested, disced, mowed, or irrigated. Preferred foraging habitats for Swainson's hawks include:

- alfalfa;
- fallow fields;
- beet, tomato, and other low-growing row or field crops;
- dry-land and irrigated pasture;
- rice land (during the non-flooded period); and
- cereal grain crops (including corn after harvest).

Unsuitable foraging habitat types include crops where prey species (even if present) are not available due to vegetation characteristics (e.g. vineyards, mature orchards, and cotton fields, dense vegetation).

Nesting Requirements

Although the Swainson's hawk's current nesting habitat is fragmented and unevenly distributed, Swainson's hawks nest throughout most of the Central Valley floor. More than 85% of the known nests in the Central Valley are within riparian systems in Sacramento, Sutter, Yolo, and San Joaquin counties. Much of the potential nesting habitat remaining in this area is in riparian forests, although isolated and roadside trees are also used. Nest sites are generally adjacent to or within easy flying distance to alfalfa or hay fields or other habitats or agricultural crops which provide an abundant and available prey source. Department research has shown that valley oaks (*Quercus lobata*), Fremont's cottonwood (*Populus fremontii*), willows (*Salix* spp.), sycamores (*Platanus* spp.), and walnuts (*Juglans* spp.) are the preferred nest trees for Swainson's hawks (Bloom 1980, Schlorff and Bloom 1983, Estep 1989).

Fall and Winter Migration Habitats

During their annual fall and winter migration periods, Swainson's hawks may congregate in large groups (up to 100+ birds). Some of these sites may be used during delayed migration periods lasting up to three months. Such sites have been identified in Yolo, Tulare, Kern and San Joaquin counties and protection is needed for these critical foraging areas which support birds during their long migration.

Historical and Current Population Status

The Swainson's hawk was historically regarded as one of the most common and numerous raptor species in the state, so much so that they were often not given special mention in field notes. The breeding population has declined by an estimated 91% in California since the turn of the century (Bloom 1980). The historical Swainson's hawk population estimates are based on current densities and extrapolated based on the historical amount of available habitat. The historical population estimate is 4,284-17,136 pairs (Bloom 1980). In 1979, approximately 375 (± 50) breeding pairs of Swainson's hawks were estimated in California, and 280 (75%) of those pairs were estimated to be in the Central Valley (Bloom 1980). In 1988, 241 active breeding pairs were found in the Central Valley, with an additional 78 active pairs known in northeastern California. The 1989 population estimate was 430 pairs for the Central Valley and 550 pairs statewide (Estep, 1989). This difference in population estimates is probably a result of increased survey effort rather than an actual population increase.

Reasons for decline

The dramatic Swainson's hawk population decline has been attributed to loss of native

nesting and foraging habitat, and more recently to the loss of suitable nesting trees and the conversion of agricultural lands. Agricultural lands have been converted to urban land uses and incompatible crops. In addition, pesticides, shooting, disturbance at the nest site, and impacts on wintering areas may have contributed to their decline. Although losses on the wintering areas in South America may occur, they are not considered significant since breeding populations outside of California are stable. The loss of nesting habitat within riparian areas has been accelerated by flood control practices and bank stabilization programs. Smith (1977) estimated that in 1850 over 770,000 acres of riparian habitat were present in the Sacramento Valley. By the mid-1980s, Warner and Hendrix (1984) estimated that there was only 120,000 acres of riparian habitat remaining in the Central Valley (Sacramento and San Joaquin Valleys combined). Based on Warner and Hendrix's estimates approximately 93% of the San Joaquin Valley and 73% of the Sacramento Valley riparian habitat has been eliminated since 1850.

MANAGEMENT STRATEGIES

Management and mitigation strategies for the Central Valley population of the Swainson's hawk should ensure that:

- suitable nesting habitat continues to be available (this can be accomplished by protecting existing nesting habitat from destruction or disturbance and by increasing the number of suitable nest trees); and
- foraging habitat is available during the period of the year when Swainson's hawks are present in the Central Valley (this should be accomplished by maintaining or creating adequate and suitable foraging habitat in areas of existing and potential nest sites and along migratory routes within the state).

A key to the ultimate success in meeting the Legislature's goal of maintaining habitat sufficient to preserve this species is the implementation of these management strategies in cooperation with project sponsors and local, state and federal agencies.

DEPARTMENT'S ROLES AND RESPONSIBILITIES IN PROJECT CONSULTATION AND ADMINISTRATION OF CEQA AND THE FISH AND GAME CODE

The Department, through its administration of the Fish and Game Code and its trust responsibilities, should continue its efforts to minimize further habitat destruction and should seek mitigation to offset unavoidable losses by (1) including the mitigation measures in this document in CEQA comment letters and/or as management conditions in Department issued Management Authorizations or (2) by developing

project specific mitigation measures (consistent with the Commission's and the Legislature's mandates) and including them in CEQA comment letters and/or as management conditions in Fish and Game Code Section 2081 Management Authorizations issued by the Department and/or in Fish and Game Code Section 2090 Biological Opinions.

The Department should submit comments to CEQA Lead Agencies on all projects which adversely affect Swainson's hawks. CEQA requires a mandatory findings of significance if a project's impacts to threatened or endangered species are likely to occur (Sections 21001 {c} 21083, Guidelines 15380, 15064, 15065). Impacts must be: (1) avoided; or (2) appropriate mitigation must be provided to reduce impacts to less than significant levels; or (3) the lead agency must make and support findings of overriding consideration. If the CEQA Lead Agency makes a Finding of Overriding Consideration, it does not eliminate the project sponsor's obligation to comply with the take prohibitions of Fish and Game Code Section 2080. Activities which result in (1) nest abandonment; (2) starvation of young; and/or (3) reduced health and vigor of eggs and nestlings may result in the take (killing) of Swainson's hawks incidental to otherwise lawful activities (urban development, recreational activities, agricultural practices, levee maintenance and similar activities). The taking of Swainson's hawk in this manner may be a violation of Section 2080 of the Fish and Game Code. To avoid potential violations of Fish and Game Code Section 2080, the Department should recommend and encourage project sponsors to obtain 2081 Management Authorizations.

In aggregate, the mitigation measures incorporated into CEQA comment letters and/or 2081 Management Authorizations for a project should be consistent with Section 2053 and 2054 of the Fish and Game Code. Section 2053 states, in part, "it is the policy of the state that state agencies should not approve projects as proposed which would jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species and or its habitat which would prevent jeopardy". Section 2054 states: "The Legislature further finds and declares that, in the event specific economic, social, and/or other conditions make infeasible such alternatives, individual projects may be approved if appropriate mitigation and enhancement measures are provided."

State lead agencies are required to consult with the Department pursuant to Fish and Game Code Section 2090 to ensure that any action authorized, funded, or carried out by that state agency will not jeopardize the continued existence of any threatened or endangered species. Comment letters to State Lead Agencies should also include a reminder that the State Lead Agency has the responsibility to consult with the Department pursuant to Fish and Game Code Section 2090 and obtain a written

findings (Biological Opinion). Mitigation measures included in Biological Opinions issued to State Lead Agencies must be consistent with Fish and Game Code Sections 2051-2054 and 2091-2092.

NEST SITE AND HABITAT LOCATION INFORMATION SOURCES

The Department's Natural Diversity Data Base (NDDDB) is a continually updated, computerized inventory of location information on the State's rarest plants, animals, and natural communities. Department personnel should encourage project proponents and CEQA Lead Agencies, either directly or through CEQA comment letters, to purchase NDDDB products for information on the locations of Swainson's hawk nesting areas as well as other sensitive species. The Department's Nongame Bird and Mammal Program also maintains information on Swainson's hawk nesting areas and may be contacted for additional information on the species.

Project applicants and CEQA Lead Agencies may also need to conduct site specific surveys (conducted by qualified biologists at the appropriate time of the year using approved protocols) to determine the status (location of nest sites, foraging areas, etc.) of listed species as part of the CEQA and 2081 Management Authorization process. Since these studies may require multiple years to complete, the Department shall identify any needed studies at the earliest possible time in the project review process. To facilitate project review and reduce the potential for costly project delays, the Department should make it a standard practice to advise developers or others planning projects that may impact one or more Swainson's hawk nesting or foraging areas to initiate communication with the Department as early as possible .

MANAGEMENT CONDITIONS

Staff believes the following mitigation measures (nos. 1-4) are adequate to meet the Commission's and Legislature's policy regarding listed species and are considered as preapproved for incorporation into any Management Authorizations for the Swainson's hawk issued by the Department. The incorporation of measures 1-4 into a CEQA document should reduce a project's impact to a Swainson's hawk(s) to less than significant levels. Since these measures are Staff recommendations, a project sponsor or CEQA Lead agency may choose to negotiate project specific mitigation measures which differ. In such cases, the negotiated Management Conditions must be consistent with Commission and Legislative policy and be submitted to the ESD for review and approval prior to reaching agreement with the project sponsor or CEQA Lead Agency.

Staff recommended Management Conditions are:

1. No intensive new disturbances (e.g. heavy equipment operation associated with construction, use of cranes or draglines, new rock crushing

activities) or other project related activities which may cause nest abandonment or forced fledging, should be initiated within 1/4 mile (buffer zone) of an active nest between March 1 - September 15 or until August 15 if a Management Authorization or Biological Opinion is obtained for the project. The buffer zone should be increased to 1/2 mile in nesting areas away from urban development (i.e. in areas where disturbance [e.g. heavy equipment operation associated with construction, use of cranes or draglines, new rock crushing activities] is not a normal occurrence during the nesting season). Nest trees should not be removed unless there is no feasible way of avoiding it. If a nest tree must be removed, a Management Authorization (including conditions to off-set the loss of the nest tree) must be obtained with the tree removal period specified in the Management Authorization, generally between October 1- February 1. If construction or other project related activities which may cause nest abandonment or forced fledging are necessary within the buffer zone, monitoring of the nest site (funded by the project sponsor) by a qualified biologist (to determine if the nest is abandoned) should be required. If it is abandoned and if the nestlings are still alive, the project sponsor shall fund the recovery and hacking (controlled release of captive reared young) of the nestling(s). Routine disturbances such as agricultural activities, commuter traffic, and routine facility maintenance activities within 1 /4 mile of an active nest should not be prohibited.

2. Hacking as a substitute for avoidance of impacts during the nesting period may be used in unusual circumstances after review and approval of a hacking plan by ESD and WMD. Proponents who propose using hacking will be required to fund the full costs of the effort, including any telemetry work specified by the Department.

3. To mitigate for the loss of foraging habitat (as specified in this document), the Management Authorization holder/project sponsor shall provide Habitat Management (HM) lands to the Department based on the following ratios:

(a) Projects within 1 mile of an active nest tree shall provide:

- one acre of HM land (at least 10% of the HM land requirements shall be met by fee title acquisition or a conservation easement allowing for the active management of the habitat, with the remaining 90% of the HM lands protected by a conservation easement [acceptable to the Department] on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk) for each acre of development authorized (1:1 ratio); or

- one-half acre of HM land (all of the HM land requirements shall be met by fee title acquisition or a conservation easement [acceptable to the Department] which allows for the active management of the habitat for prey production on the HM lands) for each acre of development authorized (0.5:1 ratio).

(b) Projects within 5 miles of an active nest tree but greater than 1 mile from the nest tree shall provide 0.75 acres of HM land for each acre of urban development authorized (0.75:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the Department) on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk.

(c) Projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree shall provide 0.5 acres of HM land for each acre of urban development authorized (0.5:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or a conservation easement (acceptable to the Department) on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk.

4. Management Authorization holders/project sponsors shall provide for the long-term management of the HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands) at the rate of \$400 per HM land acre (adjusted annually for inflation and varying interest rates).

Some project sponsors may desire to provide funds to the Department for HM land protection. This option is acceptable to the extent the proposal is consistent with Department policy regarding acceptance of funds for land acquisition. All HM lands should be located in areas which are consistent with a multi-species habitat conservation focus. Management Authorization holders/project sponsors who are willing to establish a significant mitigation bank (> 900 acres) should be given special consideration such as 1.1 acres of mitigation credit for each acre preserved.

PROJECT SPECIFIC MITIGATION MEASURES

Although this report includes recommended Management Measures, the Department should encourage project proponents to propose alternative mitigation strategies that provide equal or greater protection of the species and which also expedite project environmental review or issuance of a CESA Management Authorization. The Department and sponsor may choose to conduct cooperative, multi-year field studies to assess the site's habitat value and determine its use by nesting and foraging

Swainson's hawk. Study plans should include clearly defined criteria for judging the 'project's -impacts on Swainson's hawks and the methodologies (days of monitoring, foraging effort/ efficiency, etc.) that will be used.

The study plans should be submitted to the Wildlife Management Division and ESD for review. Mitigation measures developed as a result of the study must be reviewed by ESD (for consistency with the policies of the Legislature and Fish and Game Commission) and approved by the Director.

EXCEPTIONS

Cities, counties and project sponsors should be encouraged to focus development on open lands within already urbanized areas. Since small disjunct parcels of habitat seldom provide foraging habitat needed to sustain the reproductive effort of a Swainson's hawk pair, Staff does not recommend requiring mitigation pursuant to CEQA nor a Management Authorization by the Department for infill (within an already urbanized area) projects in areas which have less than 5 acres of foraging habitat and are surrounded by existing urban development, unless the project area is within 1/4 mile of an active nest tree.

REVIEW

Staff should revise this report at least annually to determine if the proposed mitigation strategies should be retained, modified or if additional mitigation strategies should be included as a result of new scientific information.

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California Department of Fish and Game, Habitat Conservation Planning Branch
1416 Ninth Street, Sacramento, California 95814

DRAFT STAFF REPORT:

Recommended Mitigation Strategies for the Swainson's Hawk (*Buteo swainsoni*) Within
the California Breeding Range, 2004

INTRODUCTION

The Department of Fish and Game has established the mitigation goal of no net loss of Swainson's hawk, a State-listed Threatened species, nesting or foraging habitat, and has developed conservation strategies and mitigation criteria to reverse the continuing population decline and habitat loss of this bird of prey in its California breeding range. These criteria and conservation strategies provide guidance for responsible agencies and project sponsors to follow in developing adequate mitigation for the loss of Swainson's hawk habitat and the protection of nesting and foraging populations. Management and recovery strategies for the Swainson's hawk are also included within this document. These mitigation recommendations are to be considered interim and will remain in effect until a comprehensive Swainson's Hawk Recovery Strategy Plan is completed by the Department. Several Habitat Conservation Plans (HCP's) for Swainson's hawk within specific project areas are currently being developed. These mitigation criteria will be used in conjunction with existing and future HCP's and recommendations to be contained in the Swainson's Hawk Recovery Strategy Plan. The goals of the Recovery Strategy Plan are to establish criteria for species recovery through population expansion into former habitat, recruitment of young into the population, and attainment of other specified recovery objectives. Currently, translocation of active nests will not be considered a viable option to enable development to proceed. Hacking (controlled release) of captive reared young has not been employed to enhance the population at this time.

During project review, the Department will consider whether suitable foraging and other essential habitats occur within a ten (10) mile radius of active nests and contribute to maintaining local Swainson's hawk breeding territories. This ten-mile radius standard was developed from Department funded telemetry studies conducted in Central Valley agricultural habitats (Estep 1989). Ten miles is considered to be a conservative estimate of the average flight distance from known active nest sites to suitable foraging habitats within the home range (area where most essential activities such as foraging and nesting occur) of a Swainson's hawk. Therefore, proposed development projects may be required to mitigate impacts at active nest sites and surrounding suitable feeding habitat areas; both of which are essential to the integrity of the breeding territory. In addition, since over 90% of Swainson's hawk nests occur on private land, a program of incentives for the private landowner may be desirable to ensure that crop types (such as alfalfa and certain row crops) that are compatible to the foraging needs of Swainson's hawks are not replaced by incompatible crops (orchard, vineyards, and rice fields) and agriculture practices, urbanization, or other land uses that remove or degrade habitat.

LEGAL STATUS

The Swainson's hawk is a migratory bird species protected under the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-711). The MBTA makes it unlawful to take, possess, buy, sell, purchase, or barter any migratory bird listed in 50 C.F.R. Part 10, including feathers or other parts, nests, eggs, or products, except as allowed by implementing regulations (50 C.F.R. 21). The State of California, Fish and Game Commission, acting on a recommendation from the Department of Fish and Game (DFG), listed the Swainson's hawk in 1983 as a Threatened species, thereby providing protection under the California Endangered Species Act [CESA] (Chapter 1.5, Sections 2050 to 2116, Fish and Game Code). In addition, Sections 3503, 3503.5, 3800 of the Fish and Game Code prohibit the take, possession, or destruction of birds, their nests or eggs. The DFG has interpreted the "take" clause in the CESA to include the destruction of either nesting and/or foraging habitat necessary to maintain the reproductive effort. Impacts resulting from such destruction of habitat must be fully mitigated (Section 2081 (b) (2)) through conservation measures detailed in a DFG issued incidental take permit. Implementation of the take provisions of the CESA also require that any project-related disturbance at active Swainson's hawk territories, or other circumstances, be reduced or eliminated during critical phases of the nesting cycle (March 1 - September 15 annually). Disturbance that causes nest abandonment and/or loss of reproductive effort (e.g., killing or abandonment of eggs or young) is considered "taking" under CESA. Such taking would also violate the federal MBTA.

The California Environmental Quality Act (CEQA) requires a mandatory findings of significance if impacts to threatened or endangered species are likely to occur (Sections 21001(c), 21083. Guidelines 15380, 15064, 15065). Avoidance or mitigation must be presented to reduce impact to less than significant levels (See Mitigation Criteria #2.).

NATURAL HISTORY

The Swainson's hawk is a moderately large broad winged Buteo that inhabits open county. Slightly smaller in size when compared to a red-tailed hawk (*Buteo jamaicensis*), adult Swainson's hawks weigh approximately 800 - 1100 gm. (1 3/4 - 2 lbs) , and have about a 125 cm. (4+)' wingspan. The basic body plumage may be highly variable and is characterized by several color morphs including: light, dark, and rufous. In dark morph birds, the entire body of the bird may be sooty black. Adult birds generally have dark brown or gray backs. The ventral or underneath sections may be light with a characteristic dark, wide "bib" from the lower throat down to the upper breast. The tail is gray ventrally with a sub-terminal dusky band, and narrow, less conspicuous barring proximally. The sexes are similar in appearance; females however, are slightly larger and heavier than males as is typical for most sexually dimorphic raptors. There are no recognized subspecies (Palmer 1988).

The Swainson's hawk is a long distance migrator, leaving nesting grounds in northwestern Canada, the western U.S. and Mexico, most North American populations migrate to wintering grounds in the open pampas areas of South America (Argentina, Uruguay, southern Brazil). This round trip journey may exceed 14,000 miles. Recent research indicates that birds nesting in the

Central Valley of California spend the winter months in parts of Mexico. All birds from the various wintering areas will return to the North American nesting grounds in early March to establish breeding territories.

Swainson's hawks are monogamous and will remain so until the loss of a mate (Palmer 1988). Nest construction and courtship continues through April. The clutch (commonly 3-4 eggs) is laid in early-April to early-May. Incubation lasts 34-35 days, with both parents participating in the brooding of eggs and young. The young Swainson's hawk fledglings leave the nest approximately 42-44 days after hatching (July). The fledglings remain with their parents after hatching for up to a month and gain hunting experience until they all depart on migration in the fall (September to October). Following is a typical chronology of Swainson's hawk reproductive events in the Central Valley (modified from Estep 1989). While this is a typical breeding cycle for most Swainson's hawks in the Central Valley, individual variations may occur due to a variety of regional, biological, disturbance, and environmental factors.

Reproductive Chronology (The Breeding Cycle)

<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEPT</u>
X-----	X	ARRIVAL FROM WINTERING GROUNDS (March 11 - April 4)				
X-----	X	COURTSHIP & NEST CONSTRUCTION (April - Early-May)				
X-----	X	EGG LAYING (Mid-April - Mid-May)				
X-----	X	FIRST NESTLINGS APPEAR (Mid-May-)				
X-----	X	NESTLING APPEAR (Mid- to Late-May & Early July)				
X-----	X	FLEDGING (Begins in July-)				
X-----	X	POST-FLEDGING (Late July-Sept.-)				
X-----	X	MIGRATION (Late Aug.- Oct.)				

FORAGING REQUIREMENTS

Swainson's hawk nests in the Central Valley of California are generally established in isolated trees or along riparian systems adjacent to agricultural fields or pastures. These associated open

fields and pastures typically form the primary forage areas. Research has shown the major prey items for Central Valley Swainson's hawks to include: California voles (*Microtus californicus*), valley pocket gophers (*Thomomys bottae*), deer mice (*Peromyscus maniculatus*), California ground squirrels (*Spermophilus beecheyi*), mourning doves (*Zenaidura macroura*), ring-necked pheasants (*Phasianus colchicus*), meadowlarks (*Sturnella neglecta*), other passerine birds, grasshoppers (*Conocephalinae*), crickets (*Gryllidae*), and silphadids (Estep 1989). Swainson's hawks generally search for prey by soaring in open country and agricultural fields in a manner similar to northern harriers (*Circus cyaneus*) and ferruginous hawks (*B. regalis*). Oftentimes, many (dozens or more) Swainson's hawks may be seen foraging together while following tractors or other farm equipment capturing prey escaping from these agricultural operations. During the breeding season, Swainson's hawks prey primarily on vertebrates (small rodents and reptiles). Whereas, during migration, and while they are on the wintering ground, large quantities of insects are consumed by the birds (Palmer 1988).

Department of Fish and Game funded research has documented the importance of suitable foraging habitats (e.g., native grasslands, lightly-grazed pastures, alfalfa and other hay crops, and combinations of hay grain and row crops) within an energetically efficient (i.e. energy expended in the flight does not exceed the energy gained as prey biomass) flight distance from active Swainson's hawk nests (Estep 1989, DFG territory files). Recent telemetry studies to determine foraging requirements have shown that birds may require in excess of 15,000 acres of habitat or range up to 18.0 miles from the nest in search of prey (Estep 1989). The area needed for foraging is determined by crop types, agricultural practices, harvesting regimes, prey abundance and availability. Estep (1989) found that 73.4% of observed prey captures were in fields being harvested, disked, mowed or irrigated. Some of the preferred foraging habitats for Swainson's hawks include: (1) *Alfalfa* - relatively low prey abundance but steady rate of prey accessibility throughout the breeding season (March to September). (2) *Certain Fallow Fields* - high prey abundance and prey accessibility if not dominated by dense stands of thistle and other weedy vegetation. (3) *Beet and Tomato Fields* - largest prey populations but dense cover reduces prey accessibility, except during harvesting operations when Swainson's hawks have been observed foraging almost exclusively in these fields from late-July to early-September. (4) *Dry-land Pasture* provided the primary forage area for 1 radioed pair, and appears to be an important foraging area. (5) *Irrigated Pasture* provides suitable foraging habitat, especially during flooding. Unsuitable foraging habitat types include any crop where prey are not available due to the *high density of vegetation*, or have *low abundance of prey* such as in *flooded rice fields, mature corn, vineyards, orchards, and cotton fields* (Estep 1989).

NESTING REQUIREMENTS

Swainson's hawks nest throughout most of the floor of the Central Valley, although nesting habitat is extremely fragmented and unevenly distributed. More than 85% of the known nests in the Central Valley are located within riparian systems in Sacramento, Yolo, and San Joaquin Counties (DFG 1993). Most of the potential nesting habitat remaining in this area is

in riparian forests, lone trees, oak groves, and roadside trees (Schlorff and Bloom 1983, Estep 1989). The riparian areas are often within easy flying distance to alfalfa or hay fields. Department research has shown specifically that valley oaks (*Quercus lobata*), Fremont's cottonwood (*Populus fremontii*), willows (*Salix spp.*), sycamores (*Platanus spp.*), and walnut (*Juglans spp.*) are the preferred nest trees for Swainson's hawks (Bloom 1980, Schlorff and Bloom 1983, Estep 1989). Depending on location, the birds have been documented nesting in a variety of other tree species throughout the State (DFG files).

HISTORICAL AND CURRENT POPULATION STATUS

The Swainson's hawk was historically (ca 1900) regarded as one of the most common and numerous raptor species in the state, so much so that they were often not given special mention in naturalists' field notes (Sharp 1902). The breeding population has declined by an estimated 91% in California since the turn of the century (Bloom 1980). The historical Swainson's hawk population estimate, based on current densities and estimates of former available habitat, is 4,284 - 17,136 pairs (Bloom 1980). The large range of historical population estimate considers a large variance in the quality of habitat available in those earlier years. In 1979, approximately 375 ±50 breeding pairs of Swainson's hawks were estimated in California, and 280 (75%) of those pairs were estimated to be in the Central Valley (Bloom 1980). In 1988, 241 active breeding pairs were found in the Central Valley, with an additional 78 active pairs known in northeastern California (DFG files). The 1989 population estimate was 430 pairs for the Central Valley and 550 pairs statewide (DFG files). In 1993, the statewide population estimate remained about 550 pairs (DFG 1993). For purposes of this 2004 document the 1993 population estimate will be used as baseline of nesting Swainson's hawks breeding in California with approximately 80% of that number (440 pairs) found in the Central Valley. Most of the remaining Central Valley population of Swainson's hawks is currently found breeding in suitable agricultural lands in Yolo, San Joaquin, Sacramento, and Sutter counties. The Swainson's hawk population centers in the State are characterized by a variety of intensive agriculture, with interspersed residential developments in the Central Valley, Great Basin type sage brush grasslands and some irrigated agriculture and pastures in the north and northeastern region, and a mix of Great Basin type and irrigated agriculture, primarily alfalfa, in the Owens Valley (DFG files).

It should be noted that the apparent difference in population estimates over the past decades may reflect increased survey intensity and not an actual population increase.

REASONS FOR DECLINE, MANAGEMENT NEEDS

The dramatic population decline from historic levels has been attributed to loss of native nesting and foraging habitat, and more recently from the conversion of agriculture to urban uses, changes to incompatible crop types, and loss of suitable nesting trees. In addition, pesticides, shooting, disturbance at the nest site, and other disturbances on wintering areas may have contributed to the decline. Although recent reports of massive pesticide poisoning of Swainson's hawks migrating to Argentina in South America are potentially troubling, the preliminary results

of an ongoing satellite telemetry study indicate that the hawks breeding in the Central Valley of California may avoid this fate since most study birds wintered in Mexico where the timing of pesticide applications poses little threat (DFG files, M. Bradbury pers. comm.). The loss of nesting habitat within riparian areas has been accelerated by flood control practices and bank stabilization programs. Smith (1977) estimated that in 1850 over 770,000 acres of riparian habitat were present in the Sacramento Valley alone. Today less than 12,000 acres of riparian habitat remain. A 98% decrease in riparian vegetation has been documented within the Central Valley (Katibah 1983).

In summary, management needs of the California population of Swainson's hawks include ensuring the availability of suitable nesting habitat through the 1) preservation and recruitment of suitable nesting trees, 2) protection of existing nesting habitat from destruction or disturbance, 3) maintenance of compatible agricultural practices to preserve forage habitat, and 4) full mitigation for loss of breeding and/or foraging habitat. Coordination and cooperation with local agencies must be continued to prevent further habitat destruction from development projects.

MITIGATION RECOMMENDATIONS

GOAL: NO NET LOSS OF SWAINSON'S HAWK NESTING OR FORAGING HABITAT; FULL MITIGATION OF HABITAT LOST TO PROJECT IMPACTS

I. Consultations under California Environmental Quality Act (CEQA) and/or California Endangered Species Act (CESA).

1. Project Consultation

Project proponent must consult with the DFG regarding take of an endangered species or its habitat pursuant to intent of CESA, and appropriate Fish and Game Code Sections.

A. Pursuant to Section 2081 of the Fish and Game Code, project proponents, private or public entities alike, are required to obtain an incidental take permit for any actions that may impact a State listed threatened or endangered species.

B. Project impacts must be fully mitigated according to a schedule of conservation and restoration measures contained in the incidental take agreement developed by the DFG.

2. CEQA and Subdivision Map Act

Project proponents are encouraged to consult the Department's California Natural

Diversity Data Base (NDDB) and Species Conservation and Recovery Program (SCARP) of the Habitat Conservation Planning Branch (HCPB) to receive location information regarding active Swainson's hawk territories. However, the NDDB information must not be considered the most recent information on the species' nest locations; additional information is available annually from other DFG sources and should be sought by project proponents. Due to the complexities of individual cases, it is advisable that developers or others planning projects or actions that may impact one or more Swainson's hawk territories initiate communication with the Department as early as possible. Department staff may then be able to advise a suitable course of action that reduces impacts to Swainson's hawk populations and habitat and thereby reduce the extent of mitigation actions necessary.

A. CEQA Guidelines Sec. 15065 directs that a *mandatory finding of significance* is required for projects that have the potential to substantially degrade or reduce the habitat of, or restrict the range of a *threatened or endangered species*. CEQA requires agencies to implement feasible mitigation measures or feasible alternatives identified in EIR's for projects which will otherwise cause significant adverse impacts (Sections 21002, 21081, 21083; Guidelines, sections 15002, subd. (a)(3), 15021, subd. (a)(2), 15091, subd. (a).).

To be legally adequate, mitigation measures must be capable of "avoiding the impact altogether by not taking a certain action or parts of an action"; "minimizing impacts by limiting the degree or magnitude of the action and its implementation"; "rectifying the impact by repairing, rehabilitating or restoring the impacted environment"; "or reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action." (Guidelines, section 15370).

B. Section 66474 (e) of the Subdivision Map Act states "a legislative body of a city or county shall deny approval of a tentative map or parcel map for which a tentative map was not required, if it makes the following findings:...*that the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish and wildlife or their habitat*. In recent court cases, the court upheld that Section 66474(e) provides for environmental impact review separate from and independent of the requirements of CEQA (*Topanga Assn. for a Scenic Community v. County of Los Angeles*, 263 Cal. Rptr. 214 (1989)). The finding in Section 66474 is in addition to the requirements for the preparation of an EIR or Negative Declaration.

II. Maintenance of breeding pairs and their supporting habitat

1. Prevention of disturbance at the nest site.

A. No project *induced or related disturbance* shall occur within 1/2 mile of an active nest between March 1 and September 15 annually. If the nest tree is to be removed and *fledglings are present*, the nest tree may not be removed until after September 30 or the DFG has documented that fledgling hawks have left the nest and are no longer dependent upon it. If construction or other project related activities which may cause nest abandonment or forced premature fledging are proposed within this 1/2 mile buffer zone, intensive monitoring (funded by the project sponsor) by a *Department approved raptor biologist* will be required. Exact implementation of this measure will be based upon specific information at the project site. Abandonment of the nest by adults and consequent take (i.e. death of eggs and/or young) resulting from project disturbance or activities, even though monitored, will result in *citation of the project proponent* for violation of CESA, unless they are addressed and fully mitigated in a DFG approved incidental take permit pursuant to Section 2081 of the Fish and Game Code. Removal of abandoned nestlings to a wildlife rehabilitation center or similar facility will not be considered a DFG approved mitigation measure as the birds are migratory in Nature and require their parents' guidance for further development; the young would therefore be considered *biologically dead* as far as normal reproduction capabilities into the future are concerned.

2. Prevention of loss of nest trees.

A. Projects shall be designed to avoid all and any direct and indirect impacts to nest trees. These impacts shall include any activities which remove or otherwise damage active nest sites or any disturbance from the main project or *any onsite or offsite project supporting facilities* (e.g. hauling roads, parking lots, equipment storage, bridges, dredges, etc.) which negatively affects normal nesting activities and reproductive success rates or results in the loss (i.e. death) of eggs and/or nestling hawks.

B. Re-vegetation of historical nesting habitat with suitable native nest trees species (e.g., oaks, cottonwoods, sycamores, etc.) adjacent to adequate forage habitat shall be undertaken as an integral part of any mitigation measures plan affecting this habitat but can not alone be considered full mitigation for project impacts due to the extreme time required to achieve tree maturity and therefore the utilization by nesting Swainson's hawks. A schedule of further mitigation measures will be

required to offset the negative impact of the consequent decades of time delay while planted trees reach a stage mature enough to provide suitable nest substrates for Swainson's hawks. For example, additional offsets in the form of permanent foraging habitat may be required to mitigate for lost and/or delayed maturity of nesting habitat.

3. Maintenance of sufficient foraging habitat to support breeding pairs and successful fledging of young.

A. Impact avoidance and project alternatives must be thoroughly analyzed and discussed with DFG representatives prior to adverse modification of foraging habitat as required by CEQA (Section 21002; Guidelines sec. 15002, 15021, 15126, 21 100), CESA, Section 2081, Fish and Game Code. This discussion must focus on alternatives capable of either eliminating any significant adverse environmental effect or reducing them to a level less than significant, even if such alternatives would be more costly or to some degree impede the projects objectives. To satisfy CESA, an incidental take permit (Section 2081) will be required for any adverse impact to essential habitat of a listed species such as the Swainson's hawk. Such project related impacts shall be "fully mitigated" as required in Section 2081 (b) (2), Fish and Game Code. Specific provisions contained in an incidental take permit will be designed to achieve the CESA standard of full mitigation.

B. Potential foraging areas are described as identified foraging habitat types located within a 10-mile radius from an active Swainson's nesting territory. These are further described as documented, and DFG approved, habitats known, or, based on research findings; anticipated to harbor or support populations of Swainson's hawks due to their nature and proximity to other nesting pairs as well as the abundance of *available* prey at these sites. Any adverse modification of these foraging areas will require mitigation for loss of foraging habitat. The criteria for assessing the form and extent of this mitigation requirement are as follows:

a. Foraging habitat within the home range of *an active nest territory that must have been used at least once* historically (as documented by DFG Swainson's hawk nesting records, compiled since the 1979 breeding season; DFG files, Bloom 1979).

b. Mitigation may be required for *all lands within the defined foraging area* (a circle of a radius of 10 miles around active nest site(s)), *excluding* the following: Lands which are currently in urban use, or lands that have no existing or potential value for

foraging Swainson's hawks (i.e. due to lacking habitat quality or excessive disturbance) as determined by a recent site specific surveys by a DFG qualified raptor biologist.

c. **Mitigation for project related impacts to foraging areas shall be assessed at not less than a 2.0:1.0 acre ratio (i.e., 2.0 acres of mitigation land replacement for each 1.0 acre loss of habitat).** This ratio has been designed to achieve *full mitigation*. Habitat values may be increased on mitigation lands through appropriate agricultural plantings, and sound land management practice and may result in an offset that is effectively greater in value than the 2.0 acre multiple initially indicates. Increased mitigation ratios may be necessary in certain instances in order to maintain adequate foraging habitat to support Swainson's hawk populations or if a proposed project site currently (at the time of construction) provides breeding or forage habitat for more than one pair. Habitat conservation plans (HCP's) for several areas are currently being prepared which, along with the findings of continuing field research, may identify new information regarding habitat requirements and management prescriptions for nesting pairs. Therefore, these project impact replacement criteria are to be considered interim and the mitigation ratios required here may increase for future projects based on additional information from scientific research, updated status of the species, and the overall mitigation implementation track record relative to this species. Beginning on January 1, 2005, all future projects or "phases" of existing development projects and their associated HCP's shall replace lost habitats on the basis of a *minimum* of 2.0: acres of mitigation offset, of habitats identical to that affected, or suitable as determined by the Department, for every 1.0 acres of project caused or related **habitat loss**. There will be *no exceptions or exemptions* granted to this ratio of offsets which has been designed to achieve the full mitigation standard for those impacts which destroy or otherwise render useless habitats and habitat values for this species.

4. Retention of Habitat

Retain and create sufficient quality habitat to maintain existing population levels and to allow for future population increases to meet recovery goals for the Swainson's hawk (a breeding population target to be determined in the Swainson's Hawk Recovery Strategy Plan, in prep. by the Department).

A. Restoration and enhancement of Swainson's hawk nesting and foraging

habitats through the creation and establishment of mitigation banks or Swainson's hawk conservation areas set aside as part of an HCP.

a. **Mitigation banks and HCP** conservation areas must meet the following minimum criteria:

1. *Minimum acreage size of 1,200 contiguous or semi-contiguous (at least 75% of total is contiguous) acres* of undeveloped land that has been certified and approved by the Department as habitat suitable for foraging Swainson's hawks (i.e. based on research findings, they are likely to hunt for prey there). Smaller individual projects may participate in mitigation banks, HCP's, or other fee assessment programs, to acquire the minimum acreage needed to support a nesting pair.

2. Creation or enhancement of riparian woodlands may be required for some projects. These riparian areas should be not less than 200' wide, with the successful establishment of native riparian species, documented by research findings as having been used by the Swainson's hawk for nest sites, such as: cottonwoods, oaks, sycamores, and willows (Schlorff and Bloom 1983). These established riparian corridors shall be buffered by a further 50', on both sides, of undeveloped or acceptable (to the Department) agricultural lands. Re-vegetation plans submitted by the project proponent, or his agent, shall include but is not limited to the following:

- i. Tree densities
- ii. Species compositions
- iii. Amount of cover (acres)
- iv. Compensated revegetation for loss due to fire, pests, or improper maintenance.
- v. Maintenance schedule, with remedial actions detailed should the re-vegetation attempt fail.

3. Agriculture practices shall be incorporated into the bank or HCP mitigation area to produce crop types that are suitable and compatible with the foraging requirements of Swainson's hawks (i.e. these habitats support an abundance of available prey animals), such as but not limited to: alfalfa, dry pasture or native grasslands with little to no

grazing, disked fields, and tomato/beet/row crop fields, or other crops which are compatible for foraging Swainson's hawks. Cultivation of known (documented by the DFG) *incompatible crops such as vineyards, orchards, or rice fields* shall be avoided and *shall not be considered or credited* as "suitable" Swainson's hawk foraging habitat (i.e. no mitigation credit for incompatible crop types) unless they are changed (i.e. re-planted) to become so.

4. Fee title to land or permanent conservation easements obtained for the Department of Fish and Game, or its designee (e.g. land management or conservation organization).

5. Management and operation plans must be incorporated within the HCP or other mitigation plan document, and any action detailed therein must be fully implemented by the project proponent *prior to initiating project construction*.

6. Project proponent would be responsible for the successful establishment of Swainson's hawk nesting/foraging areas in perpetuity. Monitoring programs will require an annual written review report submitted to the DFG for the first 5 years, and thereafter written reviews will be required every 3-5 years for private or public mitigation projects. This schedule of annual and/or periodic breeding season monitoring shall remain fully in effect until the Department directs otherwise.

III. Restoration of the Swainson's hawk population.

1. Support and acquire funding to continue studies related to breeding success, contaminants, dispersal, movement, mortality, habitat use, migration, and other identified research needs. Responsibility: DFG, HCPB.
2. Development of a Recovery Strategy Plan. Responsibility: DFG, HCPB and DFG Regional staffs.
3. Coordinate with local governmental agencies overseeing projects within their jurisdictions for long term planning to maintain sufficient quantity and quality of habitat for Swainson's hawks. Responsibility: DFG, HCPB and DFG Regional staffs.

- A. Maintain close coordination with city and county agencies, other state agencies, local agricultural districts, federal agencies, academics, and private conservation organizations and groups to organize a concerted land use plan sensitive to the need of the Swainson's hawk and other listed or sensitive species with the same habitat requirements.
- B. Identify, describe, and delineate on maps all existing *critical to the survival and recovery of the species* habitats throughout the range of the Swainson's hawk in California.
- C. Protect, maintain, and enhance agricultural preserves within the range of the species.
- D. Coordinate appropriate management planning for the species with responsible agencies.
- E. Participate in all levels of land use planning at the local and regional level.

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Revision Author: Ronald W. Schlorff, California Department of Fish and Game, Habitat Conservation Planning Branch, October 10, 2003 (Draft).

Letter 3, Jeff Drongesen, Department of Fish and Game

Response to Comment 3-1: This comment contains introductory remarks and summarizes jurisdiction. Further response is not necessary. It is noted for the record that on March 18, 2010 the County and the applicant met with Department of Fish and Game representative James Navicky to discuss the project and the subject comment letter. It was determined at the meeting that the DFG representative was not aware of the certified program-level EIRs prepared for both the OCMP and the CCRMP/CCIP upon which the project DEIR cumulative analysis relies. Also it was acknowledged that additional procedural requirements and details for implementation of the biological mitigation measures would be provided in the Mitigation and Monitoring Plan (MMP) that is included in this Responses to Comment document in Chapter 5.0. It was the understanding of County staff at the conclusion of the meeting that the concerns of the Department were resolved and would be further memorialized with the release of this final volume of the EIR.

Response to Comment 3-2: Biological resources on the project site are described in Section 4.5 of the DEIR starting on page 4.5-1. Submitted as a part of the project application was a Biological Assessment (TRC, 2007) that provides additional information regarding on-site resources and is provided in Appendix 3.

Response to Comment 3-3: The commenter states that the project will result in "significant cumulative impacts to important wildlife habitats and wildlife in general." The County concurs that the subject project contributes to cumulative biological impacts associated with implementation of the CCAP. For cumulative impacts (Section 5.1) the DEIR relies upon the program-level EIR for the Off Channel Mining Plan (OCMP) which identified the following cumulative biological resource impacts as significant: Impact 4.6-2 (sensitive natural community types), Impact 4.6-3 (wildlife habitat and movement corridors), Impact 4.6-4 (special status species), Impact 4.6-5 (jurisdictional wetlands), Impact 4.6-6 (compatibility of restoration provisions). All mitigation measures identified in the program EIR were incorporated into the final adopted OCMP.

The DEIR also relies upon the program-level EIR for the Cache Creek Resource Management Plan (CCRMP) and project-level EIR for the Cache Creek Improvement Program (CCIP) which identified the following cumulative biological resources impacts as significant: Impact 4.6-1 (existing vegetative cover), Impact 4.6-2 (sensitive natural community types), Impact 4.6-3 (wildlife habitat and movement corridors), Impact 4.6-4 (special status species), Impact 4.6-5 (jurisdictional wetlands), Impact 4.6-6 (compatibility of restoration provisions). All mitigation measures identified in the program EIR were incorporated into the final adopted CCRMP/CCIP.

This comment goes on to state generically that the Department has concerns about the conclusions and mitigations identified in the DEIR. The County demonstrates below with each response to the specific concerns of the commenter that the DEIR is adequate and complete. It is the County's understanding, based on the meeting held March 18, 2010 to

discuss and address the Department's concerns that these concerns have been satisfactorily resolved.

The comment also expresses concerns regarding specific Project impacts and alternatives designed to reduce and mitigate impacts to a level that is below significant. The DEIR identifies the following project-level impacts as significant: Impact 4.5-1 (sensitive wildlife species), Impact 4.5-2 (riparian vegetation and habitat), and Impact 4.5-3 (federally protected wetlands). Mitigation measures are identified for each of these impacts to reduce all project-level impacts to acceptable levels, with the exception of impacts to Swainson's hawk foraging land which remains unavoidable due to the net loss of such habitat that will result notwithstanding the requirement for 1:1 mitigation via land dedication.

The DEIR examines four project alternatives in detail in Chapter 6.0, and describes specifically how the impacts of each alternative would compare to the impacts in various areas that will result from the project. Alternative 2 (Reduced Tonnage/Acreage) is described as having biological impacts that would be similar but "less intense" than the project (DEIR, p. 6-11). This is supported by the fact that similar to the project, mining on the northerly 156 acres of the site would adversely affect various species and habitats, but fewer total acres would be adversely affected due to the elimination of the southerly half (about 157 acres) of the 313-acre from the proposed mining area. Other alternatives are found to have similar or identical impacts on species and habitats for reasons stated in the Section, and further amplified in Response to Comment 3-6 below.

Response to Comment 3-4: The information requested by the commenter is referenced in the DEIR and available in the project file and various technical reports prepared for the project and used to perform the biological impact analysis in Section 4.5 of the DEIR (see Appendix 3 which includes the TRC Biology Assessment; and an email communication dated 9/17/09 between Ben Adamo (applicant representative) and Darcy Kremlin (EIR consultant) describing crops on site by acreage; and a clarified figure illustrating habitat locations, types, acreages, and other features).

As described in the DEIR starting on page 4.5-1, the project area occurs within an agricultural landscape. The total project area includes two parcels totaling 390 acres. The gravel extraction portion of the project area includes 313 acres of agricultural land and related uses. With the exception of the area within the channel of Cache Creek, which occurs immediately south of the gravel extraction portion of the project area, the entire project area is cultivated land. Agricultural and related land uses consist of row crops, orchards, and fallow fields in the acreages indicated in the table below and illustrated in the final figure in Appendix 3. The associated built environment consists of roads, canals, equipment storage buildings, and a home site.

Other than ornamental trees around the perimeter of the project area and at the home site, there are no other natural communities within the 313 acre portion of the project area planned for gravel extraction.

Included within the 390-acre total project area but south of the 313-acre gravel extraction area is an approximately 77-acre area within the Cache Creek basin not subject to gravel extraction. This area includes 48 acres within the Cache Creek basin, 43.3 acres of which is classified as riverine habitat, approximately 17 acres of stream bank on the north side of Cache Creek, and an approximately 7 acre strip between the stream bank and the road separating the gravel extraction area. Included as a part of the project, the applicant also proposes to stabilize the 17-acre stream bank area as provided for under the CCRMP and CCIP. Stabilization work will include constructing benches, rocking, and re-contouring the bank slope. Within this area are annual grasses and small patches of riparian scrub. Implementing the stabilization work will result in the removal of 3.7 acres of valley foothill riparian consisting primarily of willow-mulefat scrub and five mature cottonwood trees. The removal of riparian habitat will be mitigated by implementing the proposed Habitat Restoration and Visual Screening Plan using riparian restoration performance standards from the CCRMP and related documents. The re-designed 17-acre bank will initially be planted with grasses and the newly contoured bench will be planted with riparian trees and shrubs. No other areas of the Cache Creek basin and no other areas within the southern parcel will be affected by the project.

As summarized below, the row crop and fallow/annual grassland portions of the project area (202.88 acres) provide habitat value for several wildlife species. The state-listed Swainson's hawk, the state-protected white-tailed kite, and the state species of special concern northern harrier may use this area for foraging. As concluded in the DEIR (p. 4.5-32), the gradual removal of this foraging habitat over the 30-year project period will reduce available foraging habitat for these species in the region. However, the gradual conversion of approximately 203 acres of farmland in is not expected to affect the distribution or abundance of any of these species in Yolo County.

Crop/land use	Acres	Foraging Habitat (ac)
Mining (Off Channel) Area	313.0	202.88
Row crop	174.20	yes
Orchard	96.79	no
Fallow field/annual grassland	28.68	yes
Roads, canal, and structures	13.33	no
Creek (In Channel) Area	77.0	0*
Riverine habitat	43.3	no
Valley foothill riparian	3.7	no
Other In-channel Area	30.0	no*
PROJECT SITE TOTAL	390.0	202.88

* As a part of the project, the applicant proposes to implement CCIP Test 3 streambank stabilization improvements along a 17-acre are of the north bank, adjoining the CR 87 (Esparto) Bridge. The 17-acre area falls within the "Other in-channel area" as noted above. It includes 3.7 acres of valley foothill riparian habitat as well as grassland, ruderal vegetation, and riparian scrub; however the condition of the habitat is degraded. These in-channel lands currently provide very low to no forage value due to frequent flood events that suppress establishment of sustainable prey populations. The proposed improvements will restore this area to a much higher value habitat condition resulting in a beneficial outcome of the project. The loss of the existing condition on the 17-acre in-channel area does not rise to a level considered significant and therefore was not included in the impacted acreage.

Yolo County has long required mitigation in the form of fees and/or dedications to address the cumulative loss of foraging habitat for Swainson's hawks in the unincorporated area. Since the early 1990's the County was routinely required this mitigation measure in CEQA documents. The Swainson's Hawk Interim Mitigation Fee Program (originally established in 1993) utilizes mitigation fees to acquire conservation easements protecting Swainson's hawk habitat. The Yolo County NCCP/HCP Joint Powers Agency ("JPA") was formed in August 2002 to more formally manage the mitigation program (including acquisitions of Swainson's hawk habitat conservation easements) and to serve as the lead agency for the county-wide Natural Communities Conservation Plan/Habitat Conservation Plan (NCCP/HCP), now known as the Yolo Natural Heritage Program (NHP). Yolo County is one of several member agencies on the JPA and two members of the Board of Supervisors serve on the JPA governing board. In 2006 the mitigation program was amended to require projects responsible for more than 40 acres of mitigation to mitigate by acquiring land directly.

Mitigation Measure 4.5-1c requires the applicant to mitigate for loss of Swainson's hawk foraging habitat according to the provisions in the interim management agreement. The California Department of Fish and Game is a signatory to the agreement. The mitigation measure also requires surveys for hawk nests. Various text changes have been made to clarify this mitigation measure. Please also see Response to Comment 3-10 below.

Response to Comment 3-5: The DEIR tiers from the certified OCMP EIR and CCRMP/CCIP EIR for the analysis of cumulative effects. Please refer to Response to Comment 3-3. A clarified summary of project habitat types is provided above. Please refer also to Response to Comment 3-4 for clarification regarding impacts to foraging land.

Response to Comment 3-6: As indicated in Response to Comment 3-3, the DEIR examines four project alternatives in detail in Chapter 6.0, and describes specifically how the impacts of each alternative would compare to the impacts in various areas that will result from the project. The following provides additional amplification and clarification regarding how the project alternatives differ from the proposed project with respect to biological resources.

Alternative 1 (No Project)

Under the Alternative 1, agriculture would continue to be the primary land use in the project area. Thus, biological values associated with agricultural lands, particularly foraging habitat for Swainson's hawk, would be based on the crop types planted in any given year, generally a function of agricultural economics. Currently 31 percent of the project area is unavailable as Swainson's hawk foraging habitat due to the presence of orchards and 65 percent is moderately suitable fallow and row crops. This proportion could change annually as different crop types are used. If conversion to orchards continued, the entire project area could become unavailable. However, as long as

suitable crop types continue to be used, then some proportion of the project area would remain suitable habitat for foraging Swainson's hawks.

The proposed project would phase excavation over a 30-year period and restore excavation sites back to agricultural use or as open water and wetland habitat following excavation. The new pond may provide habitat value to western pond turtle and other native species, but will not provide future foraging habitat for Swainson's hawks.

There is currently no suitable nesting habitat for Swainson's hawk or other raptors in the project area, with the possible exception of trees around the house site. Under the no-project alternative, this is unlikely to change. The proposed project will plant screen trees, riparian trees in the bank stabilization area, and trees around the perimeter of the new pond, all of which may provide future nesting habitat.

Thus, over the long term following gravel extraction activities, the reclaimed mining site will provide a more diverse landscape including agricultural lands, open water, wetlands, riparian, and other trees. The current landscape that would be affected is limited to agricultural lands and a small amount of riparian vegetation. However, during the 30-year extraction period, actively mined portions of the project area will be highly disturbed and provide little to no biological resource value. Thus, in the short term, biological resource values in the project area will decline until restoration activities are implemented.

Alternative 2 (Reduced Tonnage/Acreage)

Under Alternative 2 the bottom half of the farmland acreage is eliminated from consideration for mining. The types of impacts would be similar to the proposed project (e.g., loss of agricultural foraging habitat for raptors), but the total amount of agricultural land impacted would be reduced.

Alternative 3 (Alternative Location)

An alternative location would result in similar impacts to the proposed alternative. Agricultural uses in identified alternative locations are similar to the proposed location and therefore impacts to biological resources associated with farmland would likely be identical.

Alternative 4 (Off-site Processing)

The off-site processing alternative does not change the extent of agricultural habitat loss, though it does affect the phasing and timing. Some impacts would occur later in time; however the net result would be the same as the proposed alternative.

Response to Comment 3-7: The Yolo NHP has been under development for many years but is not an adopted program. The NHP description of covered activities is expected to incorporate the mining planned for under the County's 1996 CCAP, including the tonnage and sites proposed as part of the subject project. Furthermore, the interim

hawk mitigation requirements of the NHP are fully incorporated in Mitigation Measure 4.5-1c. Please review the proposed modification of this mitigation measure and also Response to Comment 3-4.

The CCAP (approved in 1996) explicitly considered impacts to agricultural lands and biological resources, which is why aggregate mining was restricted under that plan to approximately 3,073 off-channel acres (OCMP, p. 11) within the 28,130 acre area (OCMP, p. 9) known to contain an estimated 838 million tons (OCMP, p. 7) of valuable high-grade (Portland Cement Concrete or PCC-grade) aggregate resources, in addition to eliminating all in-channel commercial mining.

Response to Comment 3-8: The County understands that the perspective of the Department reflected in this letter has changed based on being provided a better understanding of the CCAP program and history.

The proposed project is consistent with the 1996 CCAP and covered under the program-level EIR analyses prepared for that effort. The mining program overall reflects a deliberate, extensive, and transparent science-based watershed-focused process that included extensive public and agency involvement and has been since recognized as one of, if not the, leading aggregate resource management programs in the State. The County has repeatedly been recognized for leadership in the adoption and implementation of this plan. It reflects a careful balancing of environmental and economic factors that was approved by an overwhelming majority of the voters when put on the ballot in November of 1996. The CCAP was approved by over 60 percent of the voters and an opposing plan was rejected by same margin.

Regularly, since its adoption, the Yolo County CCAP has been referenced and utilized as a model for outstanding resources management and protection since its adoption in 1996. It is regularly referenced by the aggregate industry and DOC officials as state of the art.

Response to Comment 3-9: The CCAP incorporates all mitigation measures adopted in 1996 certified program-level EIRs thus making the entire program self-mitigating. The project as mitigated is consistent with those extensive requirements. Similarly, the project, if approved, will be required to incorporate all project-level mitigation measures. Appendix 1 contains the final revised summary of project-level mitigation measures and Chapter 5.0 contains the project-specific MMP that the applicant will be required to implement.

The comment also contains a recommendation regarding the alternatives analysis and the HCP. Response to Comment 3-7 clarifies that the Yolo HCP is an in-progress effort that has not been completed nor adopted by any agency. The response points out that the gravel planned for extraction under the OCMP (including the tonnage and land area proposed as a part of the project) as well as the creek stabilization projects planned under the CCRMP (including the proposed streambank improvements) are included in the NHP description of covered activities and that revision of the alternatives analysis is not merited.

Response to Comment 3-10: The clarifications regarding the nest survey guidelines on the DFG website are noted for the record. In response to the comment the reference to a specific set of guidelines has been deleted from the second component of Mitigation Measure 4.5-1c and the measure has been clarified to summarize take avoidance assessment and procedures consistent with the referenced DFG guidance.

Response to Comment 3-11: There is no evidence that take of Swainson's hawk is likely to occur. The DEIR indicates that no Swainson's hawk nest sites occur within or in the immediate vicinity of the project boundaries. The nearest active nest documented in the DEIR is more than one mile from the project boundary, which is consistent with county-wide surveys conducted in 2007 (Estep 2008). Also, there are very few potential nest trees available within at least a one-mile radius of the project boundary. With no documented nesting occurrences and few potential nesting opportunities in the vicinity of the project, the potential for take of Swainson's hawk is low.

Page 4.5-32 of the DEIR states that project construction could affect Swainson's hawk through removal of trees in the project area. While reducing potential nesting sites for Swainson's hawk, the removal of unoccupied trees does not constitute a take of the species.

With the modifications to the mitigation discussed in Response to Comment 3-10, the project fully minimizes the potential for take and the need for a Section 2081 is avoided. It is the understanding of County staff that the Department concurs on this point.

Response to Comment 3-12: As recommended by the commenter, Mitigation Measure 4.5-1c requires the applicant to mitigate for loss of Swainson's hawk foraging habitat according to the provisions in the interim management agreement between Yolo County and the California Department of Fish and Game. Please refer to Response to Comment 3-4 and the text changes for Mitigation Measure 4.5-1c.

Response to Comment 3-13: Thank you for participating in the review process and for meeting with the County in advance to clarify and resolve concerns.

Response to Comment 3-14: The bibliography presented in Section 7.2 has been modified (DEIR p. 7-4) to reference both documents attached to the comment letter.

U.S. Department of Homeland Security
FEMA Region IX
1111 Broadway, Suite 1200
Oakland, CA. 94607-4052

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YOLO COUNTY PARKS & RESOURCES
DEPARTMENT



FEMA

January 25, 2010

Kent Reeves, Principal Natural Resources Planner
Yolo County Parks and Resources Department
120 West Main Street, Suite C
Woodland, California 95695

Dear Mr. Reeves:

This is in response to your request for comments on the Notice of Availability and Public Hearing for the Draft Program Environmental Impact Report on the Granite Esparto Mining and Reclamation project.

4-1

Please review the current effective countywide Flood Insurance Rate Maps (FIRMs) for the County of Yolo (Community Number 060423), December 20, 2002. Please note that the County of Yolo, California is a participant in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

4-2

A summary of these NFIP floodplain management building requirements are as follows:

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.
- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any *development* must not increase base flood elevation levels. **The term *development* means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed *prior* to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.

4-3

4-4

Kent Reeves, Principal Natural Resources Planner

Page 2

January 22, 2010

- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at <http://www.fema.gov/business/nfir/forms.shtm>.

4-5

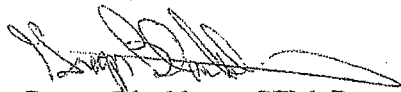
Please Note:

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The Yolo County floodplain manager can be reached by calling Lonell Butler, Building Official, at (530) 666-8803.

4-6

If you have any questions or concerns, please do not hesitate to call Jana Critchfield of the Mitigation staff at (510) 627-7266.

Sincerely,



Gregor Blackburn, CFM, Branch Chief
Floodplain Management and Insurance Branch

cc:

Lonell Butler, Building Official, Yolo County

Ray Lee, State of California, Department of Water Resources, Central District

Jana Critchfield, Insurance Specialist, DHS/FEMA Region IX

Alessandro Amaglio, Environmental Officer, DHS/FEMA Region IX

Letter 4, Gregor Blackburn, Federal Emergency Management Agency

Response to Comment 4-1: Thank you for your comments.

Response to Comment 4-2: The FIRM maps are described on pages 4.10-7 through -8 and the 100-year flood plain is depicted in Figure 4.10-3 on page 4.10-8. The County administers floodplain management and the requirements of the National Flood Insurance Program through Chapter 3 (Flood Damage Prevention) of Title 8 (Land Development and Zoning) of the Yolo County Code. Chapter 3 (In-Channel Maintenance Mining Ordinance) of Title 10 (Environment) of the County Code is also relevant to this discussion as it regulates the Flood Hazard Development Permit required for this specific type of in-channel activity.

Response to Comment 4-3: Comment noted. There are no buildings proposed in the floodplain as a part of this project.

Response to Comment 4-4: The hydrologic character of the area and project site is described in Section 4.10 of the DEIR starting on page 4.10-2. Submitted as a part of the project application was a Hydraulics Study that provides additional information regarding on-site conditions and establishes 100-year event water surface elevations. The 100-year flood water elevation was determined to be confined to the banks of the existing creek channel at the project site. The proposed aggregate excavation would occur off-channel and therefore would not result in any rise in base flood levels within the regulatory floodway.

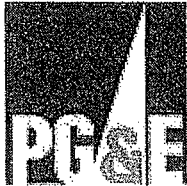
The proposed Streambank Stabilization Plan is proposed/required pursuant to the CCIP in order to provide a smooth transition from the wider channel width upstream to the narrower width defined by the Esparto Bridge abutments. This stabilization and revegetation project implements the approved CCIP and assists with the re-establishment of natural geomorphic processes at that location. This is beneficial in terms of creek stability, protection of major infrastructure, and revegetation. The analysis of potential impacts related to activities within designated flood hazard zones is analyzed in Impact 4.10-8 (DEIR, p. 4.10-29). The analysis concludes that impacts in this area would be less-than-significant.

Response to Comment 4-5: The project would not trigger changes in any existing Special Flood Hazard Area nor the need for a FIRM revision.

Response to Comment 4-6: Comment noted. See Response to Comment 4-2. Mr. Butler's department was involved in the preparation and review of the DEIR.

Pacific Gas and Electric Company
Land Services Office
343 Sacramento Street
Auburn, CA 95603

Direct: (530) 889-5089
Fax: (530) 889-3392
Email: dlkn@pge.com



January 28, 2010

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DEPARTMENT

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JAN 27 2010

YOLO COUNTY PARKS & RESOURCES
DEPARTMENT

Yolo County Parks and Resources Department
Attn: Kent Reeves, Principal Natural Resources Planner
120 West Main Street, Suite C
Woodland, CA 95695

RE: Notice of Availability for the Draft Program Environmental Impact Report
on the Granite Esparto Mining and Reclamation Project

Dear Mr. Reeves:

Thank you for giving PG&E the opportunity to review the above referenced project and
PG&E's comments are as follows:

5-1

PG&E owns and operates electric facilities which are located within and adjacent to the
proposed project. To promote the safe and reliable maintenance and operation of utility
facilities, the California Public Utilities Commission (CPUC) has mandated specific clearance
requirements between utility facilities and surrounding objects or construction activities. To
ensure compliance with these standards, project proponents should coordinate with PG&E
early in the development of their project plans. Any proposed development plans should
provide for unrestricted utility access and prevent encroachments that might impair the safe
and reliable maintenance and operation of PG&E's facilities.

5-2

The requesting party will be responsible for the costs associated with the relocation of
existing PG&E facilities to accommodate their proposed development. Because facilities
relocation's require long lead times and are not always feasible, the requesting party should
be encouraged to consult with PG&E as early in their planning stages as possible.

5-3

Relocations of PG&E's electric transmission and substation facilities (50,000 volts and
above) could also require formal approval from the California Public Utilities Commission.
If required, this approval process could take up to two years to complete. Proponents with
development plans which could affect such electric transmission facilities should be referred
to PG&E for additional information and assistance in the development of their project
schedules.

5-4

Continued development consistent with the City's General Plans will have a cumulative impact on PG&E's gas and electric systems and may require on-site and off-site additions and improvements to the facilities which supply these services. Because utility facilities are operated as an integrated system, the presence of an existing gas or electric transmission or distribution facility does not necessarily mean the facility has capacity to connect new loads.

5-5

We would also like to note that continued development consistent with the City's General Plans will have a cumulative impact on PG&E's gas and electric systems and may require on-site and off-site additions and improvements to the facilities which supply these services. Because utility facilities are operated as an integrated system, the presence of an existing gas or electric transmission or distribution facility does not necessarily mean the facility has capacity to connect new loads.

5-6

Expansion of distribution and transmission lines and related facilities is a necessary consequence of growth and development. In addition to adding new distribution feeders, the range of electric system improvements needed to accommodate growth may include upgrading existing substation and transmission line equipment, expanding existing substations to their ultimate buildout capacity, and building new substations and interconnecting transmission lines. Comparable upgrades or additions needed to accommodate additional load on the gas system could include facilities such as regulator stations, odorizer stations, valve lots, distribution and transmission lines. The requesting party is also encouraged to consult with PG&E early in their planning process concerning motor starting current limitations that could effect motor design and/or require upgrading distribution line facilities.

5-7

We would like to recommend that environmental documents for proposed development projects include adequate evaluation of cumulative impacts to utility systems, the utility facilities needed to serve the project, any possible relocations, and any potential environmental issues associated with extending utility service to the proposed project. This will assure the projects compliance with CEQA and reduce potential delays to the project schedule.

5-8

PG&E remains committed to working with the County to provide timely, reliable and cost effective gas and electric service. We would also appreciate being copied on future correspondence regarding this subject as the project develops.

Please contact me with any questions at (530) 889-5089 or at dlkn@pge.com.

Sincerely,



Donald Kennedy
Land Agent

Letter 5, Donald Kennedy, Pacific Gas and Electric

Response to Comment 5-1: Thank you for your comments.

Response to Comment 5-2: Comment noted. The applicant has already coordinated with PG&E and is in receipt of a "will-serve" letter dated February 16, 2010.

Response to Comment 5-3: Comment noted. The applicant has already coordinated with PG&E and is in receipt of a "will-serve" letter dated February 16, 2010.

Response to Comment 5-4: Comment noted. The applicant has already coordinated with PG&E and is in receipt of a "will-serve" letter dated February 16, 2010.

Response to Comment 5-5: The reference to the "City General Plan" is unclear as this is a County project. For cumulative impacts (Section 5.1) the DEIR relies upon the program-level EIR for the Off Channel Mining Plan (OCMP) and the program-level EIR for the Cache Creek Resource Management Plan (CCRMP). These documents identify no cumulative impacts associated with utility service or electrical systems to serve the County's aggregate program. The documents were circulated to PG&E and other service providers at the time and no comments were received. Pursuant to Section 15207 of the State CEQA Guidelines, any agency or person that fails to comment on an EIR within the established period is presumed to have "no comment to make".

Response to Comment 5-6: Again the reference to the "City General Plan" is unclear. Please refer to Response to Comment 5-5 above regarding cumulative impacts.

Response to Comment 5-7: Comment noted. The applicant has already coordinated with PG&E and is in receipt of a "will-serve" letter dated February 16, 2010.

Response to Comment 5-8: Please refer to Response to Comment 5-5. The recommended revisions to the DEIR are not merited.



Letter 6
(commencing on
Pg. 7 of these
minutes)

County of Yolo

John Bencomo
DIRECTOR

PLANNING AND PUBLIC WORKS DEPARTMENT

292 West Beamer Street
Woodland, CA 95695-2598
(530) 666-8775 FAX (530) 666-8728
www.yolocounty.org

YOLO COUNTY PLANNING COMMISSION

CHAIR: Jeb Burton
VICE-CHAIR: Richard Reed
MEMBERS: Leroy Bertolero; Jeff Merwin; Richard Reed; Keith Williams; Don Winters

MINUTES

January 28, 2010

ADMINISTRATIVE AGENDA

1. Chair Kimball called the meeting to order at 8:37 a.m.
2. Pledge of Allegiance was led by Commissioner Williams.

MEMBERS PRESENT: Bertolero, Burton, Kimball, Merwin, Reed, Williams, and Winters
MEMBERS ABSENT: None
STAFF PRESENT: David Morrison, Assistant Director of Planning
Eric Parfrey,
Donald Rust, Principal Planner
Stephanie Cormier, Associate Planner
Jeff Anderson, Assistant Planner
Philip Pogledich, Senior Deputy County Counsel
Heidi Tschudin, Contract Planner for Yolo County Parks
Aundrea Hardy, Office Support Specialist

3. ADOPTION OF MINUTES OF THE **DECEMBER 10, 2009** MEETING.

Commission Action

The Minutes of the **December 10, 2009** meeting were approved with no corrections.

MOTION: Bertolero SECOND: Merwin
AYES: Bertolero, Burton, Kimball, Merwin, Reed, Williams, and Winters
NOES: None

Yolo County Planning and Public Works Department

January 28, 2010

Page 2 of 12

ABSTAIN: None
ABSENT: None

4. PUBLIC REQUESTS

The opportunity for members of the public to address the Planning Commission on any subjects relating to the Planning Commission, but not relative to items on the present agenda, was opened by the Chair. The Planning Commission reserves the right to impose a reasonable limit on time afforded to any individual speaker.

No one from the public came forward.

5. CORRESPONDENCE

5.1 2010 Commission Meeting Schedule

5.2 California County Planning Commissioners Association Newsletter

5.3 California Country Magazine

5.4 Letter regarding the abandonment of County Road 75A from Tuleyome

Chair Kimball acknowledged receipt of all correspondence sent with the packet and distributed at the beginning of the meeting.

Agenda Item 8.1 Election of Officers was discussed and the following actions were taken.

Commissioner Bertolero made a motion to nominate Vice-Chair Burton as Chair of the Planning Commission.

MOTION: Bertolero SECOND: Winters
AYES: Bertolero, Burton, Kimball, Merwin, Reed, Williams, and Winters
NOES: None
ABSTAIN: None
ABSENT: None

Chair Burton made a motion to nominate Commissioner Reed as Vice-Chair of the Planning Commission.

MOTION: Burton SECOND: Williams
AYES: Bertolero, Burton, Kimball, Merwin, Reed, Williams, and Winters
NOES: None
ABSTAIN: None
ABSENT: None

David Morrison, Assistant Director of Planning Services, thanked and complimented Commissioner

Kimball for her valuable leadership as the Planning Commission Chair during 2009.

The Planning Commission members thanked Commissioner Kimball for all of her hard work and dedication.

CONSENT AGENDA

Chair Burton pulled the following item from the consent agenda and opened for discussion.

- 6.1 **2004-037:** Findings and certification of the CEQA document for an appeal of the Planning and Public Works Department's decision regarding a proposal to construct partial foundations for the 49 homes remaining to be built as part of the Rivers Edge (White) residential subdivision in Knights Landing. The project site is zoned Residential One-Family / Planned Development (R-1/PD) and is designated in the General Plan as Low Density Residential. The project site is bordered by the Colusa Basin Drain Canal and at the western end of 6th and 9th Streets in the Town of Knights Landing. Owner/Applicant: Castle Companies (D. Rust). Continued from the December 10, 2009 meeting.

Donald Rust, Principal Planner, presented the project and answered questions from the commission.

Chair Burton opened and closed the public hearing.

No one from the public came forward.

Commission Action

The Planning Commission took the following actions:

1. **DETERMINED** that the Categorical Exemption prepared for the approval to construct partial foundations for the 49 remaining residential units is the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and CEQA Guidelines (**Attachment A**); and
2. **ADOPTED** the FINDINGS (**Attachment B**) of approval to construct partial foundations for the 49 remaining residential units to be constructed as part of the River's Edge (White) residential subdivision project.

MOTION: Winters SECOND: Reed
AYES: Burton, Kimball, Merwin, Reed, and Winters
NOES: Bertolero, Williams
ABSTAIN: None
ABSENT: None

FINDINGS

A summary of evidence to support each FINDING is shown in Italics.)

Upon due consideration of the facts presented in this staff report and at the public hearing for Zone File # ZF2004-037, the Yolo County Planning Commission finds the following:

A. Introduction

The River's Edge (White) residential project was approved by the Yolo County Board of Supervisors on July 19, 2005, as a rezone from Agriculture General (A-1) to Residential One-Family, Planned Development (R-1/PD) zone, and a Tentative Subdivision Map (TSM# 4708) to divide 22.19 acres into 63 single-family residential units and two non-residential lots. One of the non-residential lots, 1.36 acres in size, is to be utilized to create a 5-acre-foot detention pond in the southwest corner of the project site. The detention basin is to drain into the Colusa Basin Drain with a low-lift pump. The other non-residential lot, 7.87 acres in size, consists of the levee for the adjoining Colusa Basin Drain. The Final Subdivision Map, Subdivision Improvement Agreement, and associated actions were approved by the Board of Supervisors on February 27, 2007. On September 9, 2008, accepted the public improvements for the River's Edge project and approved an affordable housing agreement. Minor changes to the project—primarily regarding development standards for the residential units and flood insurance requirement—were approved by the Board of Supervisors on April 7, 2009.

At the time of this appeal, the project is partly built, with 14 of the 63 residential units having been constructed. In addition, the subject site is currently designated by FEMA (Federal Emergency Management Agency) FIRMs (Flood Insurance Rate Maps) as being located outside of the 100-year floodplain.

The applicant is appealing the Department's determination that the construction of partial foundations for the remaining dwelling units is not adequate to grandfather building permits when new FEMA FIRMs go into effect on June 18, 2010, to re-designate the River's Edge project as being located within the 100-year floodplain.

B. California Environmental Quality Act (CEQA) and Guidelines

The Planning Commission finds that the recommended Categorical Exemption is the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines. This appeal concerns the legal interpretation of FEMA regulations and related provisions of the Yolo County Code. As such, it is not a "project" under CEQA. Even if it were, however, it can be seen with certainty that there is no possibility the interpretation of these provisions may have a significant effect on the environment, and the project is therefore exempt from CEQA under CEQA Guidelines Section 15061(b)(3).

C. Grandfathering

The Planning Commission agrees with the applicant's position that the relevant legal authorities—specifically, FEMA's regulatory definition of "start of construction" and parallel language appearing in Yolo County Code Section 8-3.245—deem the placement of partial foundations to be sufficient to constitute the "start of construction" for grandfathering purposes. The Planning Commission's reasons for reaching this conclusion are briefly as follows:

1. Both the FEMA regulation and Yolo County Code Section 8-3.245 state the "actual start" of construction begins when "any work beyond the stage of excavation" for a particular structure occurs. Certainly, it is reasonable to conclude that "any work" includes placing part of the concrete foundation of a structure. The plain meaning of the phrase "any work beyond the stage of excavation" broadly encompasses work on a portion of the foundation of a structure, as the applicant has argued.

Yolo County Planning and Public Works Department

January 28, 2010

Page 5 of 12

2. FEMA staff were provided numerous opportunities to address the applicant's proposal and did not object to it or contend that it was insufficient to grandfather permits for the affected structures. In one communication, FEMA staff even appeared to concur with the applicant's interpretation of the FEMA regulation and Section 8-3.245. Presumably, as the lead federal agency charged with administering the NFIP and related regulations, FEMA would have made clear its objection to the applicant's interpretation if it had any such objection. It did not do so, and the Commission finds that its apparent support for the applicant's position is a strong factor in the Commission's interpretation of the relevant provisions, as described in Paragraph 1, above.

3. Various other factors support the Planning Commission's determination, even though they do not directly bear on the interpretation of the FEMA regulation or Section 8-3.245. First, the Commission is persuaded that there are instances where building a dwelling unit foundation in phases is appropriate and does not jeopardize the integrity or safety of the resulting structure (though this issue ultimately is not decided as part of this appeal, as noted below). Second, the project at issue is already 25 percent completed and it is important to allow the rest of the project to be completed in a manner that takes into account the financial situation of the developer, the needs of the community, and various aesthetic considerations relating to architectural consistency within the neighborhood. Third, the original project was approved nearly a year before Yolo County was notified by FEMA in April of 2006 that new FIRMs would be issued for Yolo County, as part of a nation-wide review carried out after the Katrina Hurricane occurred in August of 2005. As there are few other ongoing projects similarly affected by the new FIRMs that also pre-date the FEMA remapping process, this decision does not create a broad precedent for avoiding the application of FEMA and County floodplain regulations to new construction after the new FIRM maps take effect on June 18, 2010.

Importantly, in deciding this appeal, the Planning Commission does not reach the issue of whether the construction of partial foundations is consistent with the California Building Code and other authorities governing matters of design, construction, and engineering. This issue was not properly before the Planning Commission as part of this appeal, and it remains subject to resolution by the County Planning and Public Works Department upon the provision of adequate construction drawings and related materials by the applicant. In fact, if this issue had been before the Planning Commission as part of this appeal, the Planning Commission could not have decided this appeal in favor of the applicant because adequate drawings and other items needed for the issuance of permits remained outstanding at the time of the final hearing on this appeal. The Planning Commission's decision is thus limited to the issue of "grandfathering" discussed above.

As a final matter, the Commission notes that County staff has agreed that the applicant may have up to 36 months to complete construction of the entire residential dwelling unit for each of the 49 lots that remain undeveloped. The applicant and staff agreed to this time frame during a meeting on May 29, 2009. The Planning and Public Works Department provided written confirmation that it would commit to the specific time frame, described above. With the applicant's consent, this issue was therefore not considered by the Commission as part of the appeal.

TIME SET AGENDA

- 7.1 **2009-044:** A road right-of-way abandonment request for County Road 75A, located in Brooks, and accessed off State Route 16 (affects APNs: 060-030-15 and 060-030-16). County Road 75A serves both Tribal trust land and fee title property, owned by the Yocha Dehe Wintun Nation. The right-of-way dead ends at the western high bank of Cache Creek.

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The project proposes abandonment of CR 75A in order to enhance Tribal security through privatization of the road. An Exemption has been prepared for this project. Applicant: Yocha Dehe Wintun Nation (S. Cormier).

Stephanie Berg Cormier, Associate Planner, presented background information on the project and answered questions from the commission.

There was a discussion regarding the financial value of county road rights-of-way and the potential for monetary compensation from landowners who benefit from the abandonment. Direction was given to hold a formal discussion at a future meeting regarding legal and policy questions concerning road abandonment.

Chair Burton opened the public hearing.

Jim Etters, Director of Land Management of Yocha Dehe Wintun Nation, made himself available to answer questions, and explained that they use County Road 75A as the main access to their housing and as the staging area for their orchards operations.

Jim Cassil, property owner to the east, said that he has owned his property since 2004, and he does not want to give up access to his land from that portion of County Road 75A. He clarified that he does have alternative access, but that he uses County Road 75A to cross Cache Creek when the water is low enough for certain vehicles.

Chair Burton asked Mr. Cassil if he had spoken to the tribe regarding resolving his access concerns

There was general discussion among the Commission regarding alternative access to the Cassil property. Chair Burton noted that there were some inconsistencies between various maps; therefore, further discussion ensued regarding the location of easements and property lines.

Phil Pogledich, Senior Deputy County Counsel, recommended continuation of the road abandonment request until the next regularly scheduled meeting, to allow the applicant's engineering firm to issue a formal statement rectifying the inconsistency.

Chair Burton agreed with the continuation and recommended that the applicant and Mr. Cassil get together to see if they can come to a private agreement regarding access.

Dan Gallardo, Yolo County resident, explained that the roads in the neighborhood go down to the creek, and it is common knowledge that County Road 75A provides ranch access to the neighbors. He added that the Maps for the Tancred township have a lot of problems.

There was discussion among the Commission about liability to the county if someone were to drive off the end of County Road 75A into the creek.

Chair Burton closed the public hearing

Vice-Chair Reed made a motion to continue the item and the public hearing, with encouragement to the Yocha Dehe Wintun Nation and Mr. Cassil to meet and endeavor to come to an agreement on access. His motion also included a future policy discussion about road abandonment and the value of easements.

Chair Burton added a friendly amendment to request information regarding how road

abandonments have been addressed in the past by Yolo County.

Commission Action

The Planning Commission:

- 1. **CONTINUED** the item to the next regularly scheduled Planning Commission meeting.

MOTION: Reed SECOND: Kimball
 AYES: Bertolero, Burton, Kimball, Merwin, Reed, Williams, and Winters
 NOES: None
 ABSTAIN: None
 ABSENT: None

7.2 The applicant proposes aggregate mining and processing of approximately 30 million tons of aggregate on 313 acres. The subject property is located immediately adjoining and north of Cache Creek, adjoining and west of County Road 87, approximately one mile north of the town of Esparto (APNs: 048-220-022 and 048-220-015). The project requires the following approvals from Yolo County: Rezoning; Mining Permit; Reclamation Plan; 20 percent exceedance under Section 10.4-405 of the County Code; relinquishment of existing mining entitlements on APNs: 025-300-005, 025-300-032, and 025-350-009; Development Agreement; Demolition Permit; Streambank Stabilization Plan; and Flood Hazard Development Permit (FHDP). The site is zoned A-1 (Agricultural General) and A-P (Agricultural Preserve), and is designated in the General Plan as Agriculture and Open Space with a Mineral Resource Overlay.

6-1

The County has prepared a Draft Environmental Impact Report (DEIR) pursuant to the California Environmental Quality Act (CEQA). The purpose of the workshop is to present an overview of the DEIR and its conclusions, and to receive oral comments on the DEIR. There will be no transcription made of the oral comments received at the workshop. Comments received will be summarized by staff for inclusion in the Final EIR. Those who wish to have their verbatim comments incorporated in the Final EIR must submit their comments in writing. Applicant: Granite Construction Company (H. Tschudin/K. Reeves).

Heidi Tschudin, Contract Planner for the Yolo County Parks Department, presented the project and answered questions from the commission.

Commissioner Bertolero pointed out an error regarding the soil type on the first page.

6-2

Commissioner Kimball asked questions regarding how agricultural mitigation will be implemented include the timing and phasing for Mitigation Measure 4.3-1. Tschudin responded that the mitigation measure is written to allow room to negotiate the details regarding the timing of the mitigation.

6-3

Commissioner Kimball asked about Mitigation Measure 4.4-2a related to air quality. She questioned whether the requirements to cover the inactive piles and cover the trucks were standard for the industry and the area. Tschudin responded that she will verify these requirements and if modifications are necessary, they will be made in the Final Environmental Impact Report (FEIR).

6-4

Commissioner Burton indicated that it was very hard to find the DEIR on the County website and

6-5

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that there should be a link from the Planning Commission agenda and staff report to the DEIR. Tschudin responded that she would pass this onto the Parks Department and work with them to try to improve the website.

Commissioner Merwin commented that because greenhouse gases (GHG) are an issue, we should let them maximize the use of the existing processing plant before we look at a new one. He pointed out that Alternative 4 lets the new site stay undeveloped for a longer period, which has benefits related to GHG emissions and biology. The DEIR should better explain that.

6-6

Ms. Tschudin responded that the alternatives analysis recognizes Alternative 4 as environmentally superior and that when the project comes forward for final action, the County has the ability to adopt that alternative.

Commissioner Merwin asked whether other producers were interested in mining more at their existing facilities.

Ms. Tschudin responded that there is an effort underway to explore an update of the Cache Creek Area Plan (CCAP) to allow for mining of new tonnage. That effort would be subject to a separate environmental review process.

6-7

Commissioner Bertolero commented that the applicant should not have to mitigate for "agriculture" in the riverwash area. Tschudin responded that the riverwash acreage was not included in the mitigation requirement.

6-8

Chair Burton opened the public hearing.

Ben Adamo, Granite Construction, advised the commission that they would submit comment letters and made himself available to answer questions. He indicated that Alternative 4 is acceptable to them

6-9

Janet Levers, Yolo County resident, provided some history regarding what citizens were told about mining in the active channel. She asked if citizens were going to be given the right to vote to reverse their 1996 decision not to mine in the channel, and to her, expanding the CCAP undermines the promise made to citizens at the time the ordinance was adopted.

6-10

Ms. Tschudin clarified that the only activity proposed in the creek channel is implementation of the Test 3 improvements consistent with the Cache Creek Management Plan (CCRMP). There is no mining proposed in the creek. Commercial mining in the creek has been prohibited since 1997.

Chair Burton closed the public hearing.

Commissioner Winters had no questions or comments.

6-11

Commissioner Merwin made his comments in support earlier.

6-12

Commissioner Williams said that he had some of the same comments in support of Alternative 4.

6-13

Commissioner Kimball commented that she too supports Alternative 4. Regarding Mitigation Measure 4.2-1 she would like to see the berms more natural in appearance in the future, and she

6-14

provided descriptions of alternative berm designs. She commented on the agriculture and habitat mitigation measures and recommended that mitigation happen as sequentially as possible, rather than all up front. She reiterated that she would like the staff to review the air quality mitigations in light of local requirements. In addition, she commented that requiring Granite Construction to take full responsibility for the maintenance of the road was unfair, as other large agricultural vehicles and other traffic travel on that road.

6-15

Commissioner Reed expressed concern over the consumption of total resource, increasing the rate of mining, and accounting for the cumulative impacts of all mines. He said he understood there are references to other Environmental Impact Reports, so he is trying to get an understanding of the total resource loss at Cache Creek.

6-16

Commissioner Bertolero stated that he attended the Esparto Advisory Committee meeting, and the project was one of their agenda items. When it was heard, there was a little discussion, but there was no action taken. Most committee members had not seen the Environmental Review Report, so they did not make a formal recommendation. However, there were no red flags from the community or the members present. As for the agricultural land mitigation and the Swainson Hawk mitigation, he doesn't feel it is fair to require them to have to double mitigation on each acre. Also, as far as the restoration timing, it is possible they can have credits or debits out of their account each year from the county; therefore, as sites are restored they can receive a credit on their account or as they access a new site, their account can be debited. In closing, he expressed his support for Alternative 4, suggesting that the applicant should convey the rock from the new site to the existing plant for processing. This way two plants would not be required.

6-17

6-18

Chair Burton closed commissioner comments and closed agenda item 7.2.

Commission Action

The Planning Commission:

1. **RECEIVED** a staff report regarding the Draft Environmental Impact Report (DEIR) for the Granite Esparto Mining and Reclamation Project; and
2. **PROVIDED** an opportunity for the public to comment on the adequacy of the DE IR.

6-19

REGULAR AGENDA

8 DISCUSSION ITEMS

None.

9. DIRECTOR'S REPORT

A report by the Assistant Director on the recent Board of Supervisor's meetings on items relevant to the Planning Commission and an update of the Planning and Public Works Department activities for the month. No discussion by other commission members will occur except for clarifying questions. The commission or an individual commissioner can request that an item be placed on a future

agenda for discussion.

David Morrison brought the commission up to date on the following:

9.1 Personnel and Budget:

- a. In 2005, the County issued approximately 350 new residential Building Permits. Last year, that number had dropped to 35 new permits issued. There was a similar steep decline the number of new Zoning /Planning applications. The Development Services Division relies on fees for eighty percent of their funding. This has a significant affect on the division's budget, and has caused a decrease in total employee positions from twenty to eleven. As with much of the county, the division will have no other option but to do less with fewer people.

9.2 Board of Supervisors:

- a. At the January 26, 2010 meeting, the Board of Supervisors approved the Bogle Winery application with a 4-0 vote.
- b. The Parking Ordinance was also approved on January 26, 2010.

9.3 Around the County

- a. The county continues to work with the applicants on the Dunnigan Specific Plan, with the anticipation that a formal application will be submitted in early to mid-April.
- b. The plans for the Cache Creek Casino expansion are being reviewed by staff with a Notice of Preparation and a response.
- c. The work done by Caltrans on Main Street in Esparto is moving along.
- d. Planning staff has been meeting with Sacramento Area Council of Governments (SACOG) staff to look at future housing and growth projections. These are particularly important with regards to SACOG's update of the Metropolitan Transportation Plan and the affordable housing allocation for the 2013 Housing Element Update. He provided further information regarding the subject.
- e. The Commission asked questions and briefly discussed the postponed Habitat Ordinance.

10. COMMISSION REPORTS

Reports by commission members on information they have received and meetings they have attended which would be of interest to the commission or the public. No discussion by other commission members will occur except for clarifying questions.

- A. Commissioner Winters had nothing to report.

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- B. Commissioner Merwin attended the January 26, 2010 Board of Supervisors meeting, the Yolo County Farm Bureau meeting and their annual dinner. He also attended a meeting with Granite Construction at their Capay site, which included Commissioners Bertolero and Williams, and had several phone calls from neighbors regarding the Bogle Winery project and the potential lack of maintenance for Hamilton Road, heard by the Board of Supervisors.
- C. Commissioner Williams reported that he attended the Granite Construction Company tour, went to a Colusa Basin Watershed Assessment meeting, and attended advisory committee meetings in Yolo-Zamora and Dunnigan. He has been in contact with a Charter School System, so he informed them of a potential site in Knights Landing.
- D. Commissioner Kimball stated that she attended a tour with Granite Construction Company, was interviewed for the Sacramento Business Journal for a story on Bogle Winery, and was recently elected president to the Land Trust Board. She added that the Land Trust has a new Executive Director, Michelle Clark, and shared some of their current goals and projects.
- E. Vice-Chair Reed reported a tour that he attended at the Granite Construction tour.
- F. Commissioner Bertolero reported that he toured the Granite Construction site, and attended several citizen advisory committees, including: Esparto, Knights Landing, and Clarksburg,
- G. Chair Burton said he met with the West Sacramento Chamber of Commerce.

11. FUTURE AGENDA ITEMS

The opportunity for commission members to request that an item be placed on a future agenda for discussion. No discussion by other commission members will occur except for clarifying questions.

- 11.1 Planning Commission meeting schedule for the year.
- 11.2 Overview of the updates on the zoning code.
- 11.3 County Road 75A abandonment.
- 11.4 Commission request for discussion of road abandonment and road easements.
- 11.5 Results Radio.
- 11.6 Proposed cell tower in El Macero.

12. ADJOURNMENT

The Regular Meeting of the Yolo County Planning Commission was adjourned at 10:47 a.m. The next regularly scheduled meeting of the Yolo County Planning Commission is March 11, 2010, in

Yolo County Planning and Public Works Department

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the Board of Supervisors' Chambers.

Any person who is dissatisfied with the decisions of this Planning Commission may appeal to the Board of Supervisors by filing with the Clerk of the Board within fifteen days from the date of the action. A written notice of appeal specifying the grounds and an appeal fee immediately payable to the Clerk of the Board must be submitted at the time of filing. The Board of Supervisors may sustain, modify, or overrule this decision.

Respectfully submitted by,

David Morrison, Assistant Director
Yolo County Planning and Public Works Department

Letter 6, County Planning Commission Meeting Minutes for January 28, 2010

Response to Comment 6-1: This comment summarizes the report given by staff. No response is needed.

Response to Comment 6-2: The comment refers to the staff report, not the DEIR. No response is needed.

Response to Comment 6-3: The comment was answered at the meeting and is provided in the minutes. No further response is needed.

Response to Comment 6-4: This measure has been modified in response to comments from the Yolo Solano Air Quality Management District. Please see the text changes as well as the responses to Letter 9.

Response to Comment 6-5: The DEIR is available on the website at the following internet address: <http://www.yolocounty.org/index.aspx?page=1799>

Response to Comment 6-6: The Commissioner's support for Alternative 4 is noted for the record. A more detailed analysis of Alternative 4 is provided on pages 6-17 through 6-19 of the DEIR. The primary advantages of this alternative are reduced air quality and climate change impacts, and delayed impacts to agriculture, habitat, and land use. The discussion of Agriculture impacts, Biological Resource impacts, and Land Use impacts of the alternative have been expanded to underscore the latter point.

The Planning Commission and Board of Supervisors will consider the merits of the project at upcoming hearings when final action on the project application is taken. It is within the County's purview to consider approval of the various CEQA project alternatives at that time.

Response to Comment 6-7: The comment is related to the CCAP program in general rather than to the subject project specifically. The comment was answered at the meeting and further response is not necessary.

Response to Comment 6-8: The comment was answered at the meeting and is provided in the minutes. No further response is needed.

Response to Comment 6-9: The applicant's support for Alternative 4 is noted for the record. Please refer to Response to Comment 6-6.

Response to Comment 6-10: The comment was answered at the meeting and is provided in the minutes. No further response is needed.

Response to Comment 6-11: No response necessary.

Response to Comment 6-12: Please see Response to Comment 6-6.

Response to Comment 6-13: The Commissioner's support for Alternative 4 is noted for the record. Please refer to Response to Comment 6-6.

Response to Comment 6-14: The Commissioner's support for Alternative 4 is noted for the record. Please refer to Response to Comment 6-6. Regarding Mitigation Measure 4.2-1, the staff will be further addressing this screening requirement as a condition of approval for the project, including a requirement for naturalized design and local, native landscaping. Regarding the comment in support of sequential mitigation, this concept is embodied in several mitigations for example Mitigation Measure 4.2-1 and 4.5-1. In general, the concept of a mitigation not being triggered until the actual impact is eminent is consistent with the County's practice and would be allowed where feasible and reasonable for implementation of Mitigation Measures 4.3-1a and 4.3-1b, 4.5-1c, and possibly others where consistent with the procedures of the implementing agency.

Please refer to Response to Comment 6-4 regarding the air quality requirement (Mitigation Measure 4.4-2a) to cover trucks and piles.

Response to Comment 6-15: Mitigation Measure 4.13-1 requires the applicant to share pavement maintenance responsibility with the County. Mitigation Measure 4.13-3 identifies initial road improvements required of the applicant to serve the project. These measures are consistent with the requirements of Sections 10-4.408 (County road improvements) and 10-4.409 (County road maintenance) of the County Mining Ordinance and reflect reasonable and typical nexus-based requirements. The Commissioner's concerns are noted for the record.

Response to Comment 6-16: The concerns of the Commissioner are noted for the record. Please refer to Response to Comments 3-3, 3-7, and 3-8.

Response to Comment 6-17: No response to this comment is necessary.

Response to Comment 6-18: Regarding the requirements for agricultural land mitigation and hawk foraging mitigation, the Commissioner expressed support for dual credit to satisfy these mitigation requirements. However that is expressly prohibited under Section 8-2.2416(4)(f) of the Agricultural Conservation Easement Program.

Regarding the comments related to restoration and "credit", Section 8-11.09 of the Gravel Mining Fee Ordinance allows for a credit of up to 35 percent against the CCRMP implementation fee for in-channel maintenance activity that goes beyond the requirements of conditions of approval or of the CCAP program. In this case the in-channel stabilization work is necessary in order to support the applicant's request to mine closer than 700 feet from the channel bank, and therefore credit would not be available.

The Commissioner's support for Alternative 4 is noted for the record. Please refer to Response to Comment 6-6. Please also refer to text changes to pages 4.3-9 and 4.3-10, proposed in Chapter 4.0.

Response to Comment 6-19: This reflects the action taken by the Commission. No response is necessary.

RECEIVED

Letter 7

JAN 28 2010

YOLO COUNTY PARKS & RESOURCES DEPARTMENT
Via Electronic and Overnight Mail
Kent.reeves@yolocounty.org



Kent Reeves, Principal Natural Resources Planner
Yolo County Parks and Resources Department
120 West Main Street, Suite C
Woodland, CA 95695

RE: Draft Environmental Impact Report for the Granite Esparto Mining and Reclamation Project (SCH# 2009022036)

Dear Mr. Reeves:

On behalf of the applicant, Granite Construction Co., this letter provides comments on the Draft Environmental Impact Report ("EIR") for the Granite Esparto Mining and Reclamation Project ("Project"). For your convenience, we provide our comments by page number in the order the information appears in the Draft EIR.

7-1

Front Cover

While we recognize these photographs are intended to be illustrative, they are inaccurate. Only the photograph at the top left is of a Granite Construction plant; the other two photographs are not representative of our facility.

7-2

Introduction

Page 1-3, Paragraph (i)

This paragraph should be corrected as follows:

Approval of a Flood Hazard Development Permit (FHDP) to implement proposed bank stabilization and the Test 3 boundary along approximately 2,300 linear feet of creek bank from County Road 87 (Esparto Bridge) westward eastward.

7-3

Page 1-4, Table 1-1 (Required Permits for the Proposed Project)

This table identifies U.S. Army Corps of Engineers Regional General Permit 58 as authorization for instream activities under Section 404 of the Clean Water Act. It appears, however, that Regional General Permit 58 has expired and may not be renewed. With regard to the Central Valley Flood Protection Board, at the time these permits were programmatically reviewed and issued, the Reclamation Board determined that it did not

7-4

NORTHERN CALIFORNIA OPERATING GROUP
8950 Cal Center Drive, Suite 201
Sacramento, CA 95826
916-855-8840, Fax 916-855-8885

have permitting jurisdiction. Yolo County Counsel's own analysis confirms this conclusion. Please see attached correspondence from the Reclamation Board that was included as an attachment to Issue Paper No. 2 in 2005. (Exhibit A.)

Table 1-1 also suggests that there is an existing Streambed Alteration Agreement in place with the California Department of Fish and Game ("DFG"). The Streambed Alteration Agreement that was originally approved as part of the Cache Creek Improvement Program ("CCIP") process has expired and been replaced with a new Memorandum of Agreement between Yolo County and DFG. The EIR should be corrected to reflect the new Memorandum of Agreement, which requires the applicant to obtain a project-specific Streambed Alteration Agreement from DFG through the Yolo County Parks and Resources Department.

7-5

Page 1-4, Section 1.3

The series of paragraphs describing the Initial Study and Notice of Preparation explains that the Draft EIR "takes advantage of the opportunity to 'tier' the impact analysis from previously completed environmental reviews performed by Yolo County," and further states that certain "sources of information, as well as other information from various sources listed in Chapter 7.0 (Report Preparation), are incorporated by reference in this EIR. . . ." Tiering and incorporation by reference are encouraged under CEQA and are appropriate in these circumstances, As the document explains. The portions of the Project EIR that utilize these approaches comply with the requirements of tiering and incorporation by reference by identifying the relevant documents, summarizing their contents and relationship to the current analysis, and stating where the documents can be reviewed. To clarify the document and provide the reader with an additional road map to the information the Draft EIR later conveys, Section 1.3 of the Draft EIR should provide a list of the documents tiered from and/or incorporated by reference, and should restate the location at which those documents can be reviewed.

7-6

Summary of Impacts and Mitigation Measures

Page 2-2, Section 2.2

The first bulleted item is incorrect. The applicant does not propose to transfer its allotment from the "Woodland (Reiff) site" to the Project site. Rather, we have offered to relinquish our existing allotment (420,000 tons mined per year) at the Woodland site upon approval of the Esparto application.

7-7

In the third bulleted item, the sentence should be revised as follows, "The Applicant proposes a 30-year term for the requested permit, which would exceed the environmental analysis year of the Off-Channel Mining Plan. . . ."

7-8

Page 2-8, Table 2-1, Mitigation Measure 4.3-3

Mitigation Measure 4.3-3 in the summary table should be the same as the wording of that measure shown on page 4.3-12.

7-9

Page 2-12, Table 2-1, Mitigation Measure 4.5-1d

The last sentence of Mitigation Measure 4.5-1d is not contained in Section 10-4.433 of the Off-Channel Surface Mining Ordinance ("OCSMO") and should be deleted. If included, this measure should be written separately and should be qualified as follows, "Soil stockpiles shall be inspected weekly during nesting season to verify that no bank swallows have begun nesting activities in the slope areas, if disturbance is planned between May 1 through July 31."

7-10

Page 2-19, Table 2-1, Mitigation Measure 4.13-1

Road maintenance responsibilities for both the applicant and County are identified in and should remain as per the requirements of the Yolo County Off-Channel Mining Plan ("OCMP") and its implementing ordinance.

7-11

Granite Construction Company believes that initial road improvements should occur after combined total sales at the existing and proposed facility exceed the already permitted 1,200,000 tons annually. The applicant would agree to complete improvements within one year from that date.

Project Description

Page 3-9 Table 3-2 (Proposed Phasing Plan)

The Predicted Mining Period for Phase 2 should be corrected to read: 2019 -2040

7-12

Page 3-17, Section 3.6 (Jurisdictional/Permitting Agencies)

With regard to the fifth bulleted item, it should be noted that at the time these permits were programmatically reviewed and issued, the

7-13

Reclamation Board determined that it did not have permitting jurisdiction. Yolo County Counsel's own analysis confirms this conclusion. Please see attached correspondence from the Reclamation Board that was included as an attachment to Issue Paper No. 2 in 2005. (Exhibit A.)

Section 4.2, Aesthetics

Page 4.2-1

The description of Regional Environment should include aggregate operations.

7-14

The Description of Local Environment should also include aggregate operations.

Page 4.2-4

The caption describing Figure 4.2-3 should be revised as follows:

7-15

"View of on-site residential property from road 87...."

Page 4.2-5

The caption describing Figure 4.2-4 should be revised as follows:

"View of residential-creekside property adjacent to the Yolo County Convenience Center from Road 19A approximately 0.25 mile east of Road 87 facing southwest (Viewpoint 13)"

7-16

The caption describing Figure 4.2-5 should be revised as follows:

"View from intersection of Road 87 and Road 19A facing west of the on-site residence."

Page 4.2-8

Delete the word permanent from the first sentence.

7-17

Page 4.2-11, Mitigation Measure 4.2-1

Delete the sentence "All planting.....of the project." Depending upon terms of approval, the timing could be later and still provide the necessary screening as required by the last sentence.

7-18

Section 4.3, Agriculture

The Surface Mining and Reclamation Ordinance, Section 10-5.601, requires an applicant who proposes reclamation to agriculture to prepare a site-specific soil analysis that documents "current and reclaimed soil conditions and classifications." A soil analysis was prepared and submitted as part of this application. The analysis provides a justification for utilizing soil classifications from the Natural Resources Conservation Service ("NRCS") as a basis for determining prime agricultural lands and reclamation.

7-19

The "Prime Soils" identified on the site are 104 acres; the remainder (176 acres) are Class IV Non-Prime soils.

Pages 4.3-2 and 4.3-3

Not only is there a discrepancy between the actual acreage of Prime Soils and the acreage characterized as Prime Farmland, but the total acreage shown as Prime and Unique Farmlands is greater than the totals of the soils on the site. This may be explained by the attached exhibit, Farmland Designation Response, which identifies approximately 11 acres that are not suitable for agriculture because they are existing roads or a portion of the homestead. (Exhibit B.) Using the NRCS soil classifications, the site contains 104 acres of Prime and 176 acres of Class IV soils. Using the Farmland Mapping and Monitoring Program ("FMMP"), the mining area (after adjustment of non-agricultural areas) contains 152 acres of Prime and 124 acres of Unique Farmland.

7-20

Granite Construction Company strongly believes that the NRCS soil classifications and site-specific data should be used as a basis for this analysis. The FMMP used in the Draft EIR's analysis is crude in comparison, and at best, imprecise. Under CEQA, the lead agency's charge is to evaluate and mitigate impacts based on the most accurate and reliable information reasonably available. In this situation, the lead agency should use the more accurate and reliable site-specific data available to it under the NRCS classifications. Further, the following statements are taken directly from the Yolo County Important Farmland Map published by FMMP (2006):

- "Soil units qualifying for Prime Farmland and Farmland of Statewide Importance are determined by the NRCS."
- "Land use status is determined using current and historic aerial imagery and field verification."

- "This map is not designed for parcel-specific planning purposes due to its scale and the ten-acre minimum land use mapping unit. Classification of important farmland and urban areas on this map is based on best available data."

As previously noted, the NRCS has classified and our site-specific soil analysis has concurred that only 104 acres of the site are prime. Current and historic aerial imagery is not indicative of soil characteristics, and it is infeasible for the NRCS to do site specific field verifications of all properties in Yolo County. Therefore, our knowledge of soil conditions at the site and published soils analysis provide better data for parcel-specific planning purposes, and should be used instead. Further, the FMMP map itself indicates that the map is not designed for parcel-specific planning purposes.

Page 4.3-7, Action 5.4-7

The discussion includes the 38 acres proposed as Open space/Dry Pasture. The Dry Pasture designation in previous documents has been acknowledged as *agriculture* and should also be acknowledged as agriculture here.

7-21

Page 4.3-9, Impact 4.3-1

The discussion incorrectly identifies the permanent loss of Prime Farmland as 152 acres, when it is actually either 30 acres (104 – 74 reclaimed) based on the NRCS classifications, or 78 acres (152 – 74 reclaimed) based on the FMMP. It also incorrectly identifies the permanent loss of 133 acres of Unique Farmland, which should be corrected to read 138 acres Class IV (176 – 38 reclaimed) based on the NRCS classifications or 86 acres Unique Farmland (124 – 38 reclaimed) based on the FMMP.

7-22

As discussed above, Granite Construction Company strongly believes that the NRCS soil classifications should be used as a basis for this analysis.

Page 4.3-10

While the Draft EIR discusses a loss of 154 acres of Prime Farmland on the Project site, we believe the actual Prime Soils, as shown in the Soils Study, are 104 acres. After reclamation, however, the actual loss of Prime Farmland will be 30 acres (104 acres -- 74 acres reclaimed to Prime). If FMMP mapping is used, then the actual loss is 78 acres (152 acres -- 74

acres reclaimed to Prime). The impact as presented in the Draft EIR is overstated. Both the OCMP and implementing Ordinance require that the mining and reclamation plans for proposed operations (1) minimize the facility's footprint; and (2) reclaim as much land as possible to Prime Farmland. The OCMP and Ordinance recognize reclamation as a means to avoid permanent losses of farmland; it is part of the structure of the very system under which the Project has been designed. The Draft EIR's discussion is inconsistent with the OCMP and the Board's findings in adopting it. Because we are returning 74 acres to Prime agriculture, impacts associated with those 74 acres are not permanent and are limited to temporal loss. Mitigation therefore is not required for the permanent loss of those 74 acres.

7-23

Mitigation Measure 4.3-1a should be corrected as follows, "Prior to the commencement of mining activity on any Prime Farmlands, . . . for each acre (~~154-30~~ OR 78 acres) of Prime Farmland permanently converted to non-agricultural use. . . ."

As discussed above, Granite Construction Company strongly believes, and the statements on the FMMP Map support, that the NRCS soil classifications should be used as a basis for this analysis.

Page 4.3-10, Mitigation Measure 4.3-1b

The 38 acres of agricultural pasture should also be credited toward agricultural reclamation. Accordingly, the permanent loss of Class IV soils would be 138 acres (176 – 38 acres) using NRCS classifications or 86 acres Unique Farmland (124 – 38 acres) based on the FMMP.

7-24

Granite Construction Company strongly believes that the NRCS soil classifications should be used as a basis for this analysis.

Page 4.3-11, Impact 4.3-2

The fifth sentence should be revised as follows:

"Because the contracted parcel contains ~~273- 104~~ NRCS or 152 FMMP acres of Prime Farmland, the proposed reclamation. . . ."

7-25

Granite Construction Company strongly believes that the NRCS soil classifications should be used as a basis for this analysis.

Page 4.3-12, Mitigation Measure 4.3-3

The Draft EIR states that the Board of Supervisors may make an alternative finding based on a balancing of relevant policies, including but not limited to Action 5.4-6. The discussion should include the actual language of that policy, to "[e]ncourage off-channel excavation operations to access additional aggregate reserves through the use of wet pits, in order to minimize the amount of agricultural land disturbed by mining." This finding was made in the previous Cache Creek Aggregates, Teichert Esparto and Syar Industries approvals. The OCMP EIR did in fact analyze an Agricultural Reclamation alternative, which would have required a certain percentage of reclamation to agriculture. The Board of Supervisors instead adopted the current policies to reduce the footprint of operations by mining deeper.

7-26

Table 4.5-4 of the OCMP Draft EIR shows the anticipated acreage reclaimed to agriculture as 988 acres, and other uses as 1,044 acres. The use of a percentage as shown in the current analysis therefore is inappropriate. Agricultural reclamation was viewed as the top priority when designing the current Project, returning the ground as near to original grade as possible and locating the reclaimed agricultural area adjacent to the West Adams Canal for a less costly water supply.

Section 4.4, Air Quality

Page 4.4-10, Table 4.4-5

This table should include a note that reflects the discussion on page 5-9 regarding growth-inducing effects ["Because this site is not the only source of these materials, and planned construction projects would be expected to proceed with or without materials from the project site, the project would not measurably induce population growth in the region"]. "Off-site" truck impacts therefore would remain the same without the Project, and could be greater if material comes from outside the County as it did for the Costco development on the east side of Woodland.

7-27

Page 4.4-11, Mitigation Measure 4.4-2a

These measures are *not* consistent with Yolo-Solano Air Quality Management District ("YSAQMD") rules or standard conditions, and are not appropriate for a sand and gravel operation. They appear to be developed for sites that are primarily dirt or fine-grained material.

7-28

In the second bulleted item, please clarify that this is a requirement of the YSAQMD for stationary sources and where it might be found. No other aggregate operation in the OCMP area is required to tarp all loads. The

vehicle code requires 6 inches of freeboard. The additional height suggested here would require that trucks hauling from this facility be treated differently than all other trucks on the road, and the additional height could make them very difficult to load.

7-29

The requirements described in the third and fourth bullets would be appropriate for soil stockpile areas but not aggregate materials.

7-30

Page 4.4-12

The first bulleted item is infeasible because leaves or needles from trees would blow into processed stockpiles and could prevent the material from meeting California Department of Transportation ("Caltrans") specifications. The perimeter of the plant site would not lend itself to sufficient tree growth to create an effective windbreak using native trees.

7-31

The third bulleted item is infeasible. Granite has tried in the past to cover aggregate piles to avoid high moisture during the winter months, and it was economically infeasible to maintain the tarps.

7-32

The fifth bulleted item should be revised as follows:

Treat accesses to a distance of 100 feet from the paved County road with a 6 to 12-inch layer of wood chips or mulch or with a 6-inch layer of gravel or a minimum of 500 feet of paved road to be swept if soil material is visible.

7-33

Page 4.4-14, Impact 4.4-4

Please reference the attached letter from Kleinfelder dated January 26, 2010 (Exhibit C), and revise the health risk assessment.

7-34

Section 4.5, Biological Resources

Page 4.5-36, Mitigation Measure 4.5-1d

The last sentence of Mitigation Measure 4.5-1d is not contained in Section 10-4.433 of the Off-Channel Surface Mining Ordinance ("OCSMO") and should be deleted. If included, this measure should be written separately and should be qualified as follows, "Stockpiles shall be inspected weekly during nesting season to verify that no bank swallows have begun nesting activities in the slope areas, if disturbance is planned between May 1 through July 31.

7-35

Section 4.8, Geology and Soils

Page 4.8-12, Action 2.4-7

7-36

The discussion should reflect that the Project satisfies all of the criteria (a, b, and c) to provide a "net gain" to the County.

Section 4.9, Hazards

Page 4.9-1

7-37

The first sentence in the fourth paragraph should be revised as follows, "Cache Creek crosses the project site, ~~following~~ flowing from west to east."

Section 4.11, Land Use

Page 4.11-2, Project Site

7-38

Add the wordsalmond orchards in the northwestern and walnut....

Page 4.11-19, Table 4.11-6 (Off-Channel Surface Mining Ordinance),
Section 10-4.409

7-39

Mitigation Measure 4.13-1 does not reflect the requirements of the Ordinance. The requirements and responsibilities of the applicant and County should be as set forth in the Ordinance.

Section 4.13, Traffic and Circulation

Page 4.13-13

7-40

Bullet CI-3.12 states that improvements are to be "constructed and operational prior to *or concurrent* with the need, to the extent feasible." Accordingly, Granite Construction Company believes this mitigation measure should be revised to require improvements after total volume of traffic from both facilities out the gate exceeds the currently-approved level of 1,200,000 annual tons.

Page 4.13-19, Mitigation Measure 4.13-1

Timing to reflect discussion above.

Page 4.13-22, Mitigation Measure 4.13-3

There may not be room in the right-of-way to build to current standards. County Road 19 has been upgraded, and the timing of improvements to County Road 87 should be tied to an annual production rate (exceed currently approved maximum of 1,200,000 tons sold then within 1 year).

7-41

Chapter 5.0, CEQA Considerations

Page 5-6, Impact 5-3

The Draft EIR asserts a potentially significant impact related to consistency of the Project "with the successful implementation of the OCMP." This discussion confuses the analysis of cumulative effects in future mining periods with the policy determinations to be made by the Board of Supervisors regarding an appropriate permit term and consistency with applicable plans. (See *Sequoyah Hills Homeowners Association v. City of Oakland* (1993) 23 Cal.App.4th 704.) Project impacts are limited to adverse changes in the physical environment. (CEQA Guidelines, § 15358 ["[e]ffects analyzed under CEQA must be related to a physical change"]; see also Pub. Resources Code, § 21068.)

Characterization of the Board's policy determinations regarding an appropriate permit term and consistency with applicable plans as potential environmental effects is incorrect and misleading, and the so-called "mitigation measures" identified in 5-3a and 5-3b are not mitigation in any sense because they have no bearing on any physical environmental condition. Instead, they are alternative consistency findings that the Board may make, in its discretion and on the basis of the information in the entire record before it. These are not CEQA impacts. Furthermore, the applicant has demonstrated the substantial public economic benefit of the requested permit term, as well as consistency with the County's 50-year planning envelope. Not only is the requested term allowed, it should be encouraged.

7-42

Moreover, the discussion does not accurately reflect the Action 2.4-13 of the OCMP. The referenced action is related to processing plants and facilities, and *not* the "sunsetting of all *mining*." The language refers to 30 years following commencement of mining under the approved permit, not a particular date. The fact that the approved permits expire in 2027 does not prohibit a new permit expiring at a later date. This Project can easily be brought within the "cycle" for interim reviews. The assertion that activity extending beyond 2026 would somehow affect the "full and effective implementation of the adaptive management components of the CCIP" is baseless. In fact, activity beyond 2026 was anticipated, and such

activity will continue to fund CCIP improvements as well as provide the County and the public with a secure source of aggregate materials.

The adopted implementing ordinance language states:

Sec. 10-4.426. Permit life. Surface mining permits and permits for aggregate processing facilities shall be approved for a maximum of thirty (30) years. **Extensions** of the permits, for up to twenty (20) years, may be granted, subject to further environmental review and discretionary approval by the County. All surface mining permits shall be subject to annual reporting requirements, as well as review by the County every ten (10) years, to account for changing regulatory requirements. (§ 1, Ord. 1190, eff. September 5, 1996) [emphasis added].

Clearly, unless mining under most of the currently approved permits proceeds at the maximum allowed annual rate every year (which is not happening for most producers), the mining that was approved will not be completed. This means that reclamation, as approved, could not be completed without the already contemplated *extensions*. The Ordinance does *not* state that permits must expire at the end of 2026, nor does it appear that was the intention. The OCMP and its implementing ordinance make it clear that it is a 50-year plan. The OCMP does not expire, lapse or otherwise terminate at 30 years, and to interpret the plan in such a manner would be arbitrary and unreasonable.

7-42
cont'd

As noted above, characterization of this policy discussion as an "impact" requiring "mitigation" is erroneous. Using the Draft EIR's formulation, however, a new Mitigation Measure 5-3c could be added as follows:

The project permit will be required to synchronize the interim reviews with existing permit dates as well as an additional 10-year review in 2037 and a final review at termination of the permit; and therefore, with the additional cumulative analysis provided by this EIR, the requested permit period could be approved.

Implementation of Mitigation Measure 5-3c would mitigate the impact to less-than-significant.

In summary, Granite Construction Company believes that the proposed Project, including the 30-year permit term, is consistent with the OCMP's 50-year horizon and should be approved so long as the County complies with CEQA. This process is contemplated by the Plan itself and by the OCMP Program EIR, and is reflected

in the Draft EIR's current analysis. The Draft EIR recognizes that the required environmental review for a 30-year permit has been done, and that there is *no difference in physical environmental effects between a 17-year permit or a 30-year permit*. As the Draft EIR acknowledges, the permit term is a matter of policy within the Board's discretion.

Table 5-4 should have an additional column reflecting possible approved extensions or a footnote to 2047.

7-43

Chapter 6.0, Alternatives

Page 6-6, Air Quality

7-44

Importation of aggregate material could contribute substantially to air quality impacts for the 30-year term of the permit.

Page 6-7, Climate Change

7-45

Importation of aggregate material could contribute substantially to greenhouse gas emissions/climate change impacts for the 30-year term of the permit.

Page 6-8, Conclusion

7-46

Increased impacts to air quality and climate change could be anticipated.

Page 6-8, Alternative 2

7-47

There would be no Streambank Stabilization Plan associated with this alternative. There is not enough fill material available, so the facility would be located more than 200 feet from the existing high bank near the haul road. Mining would not occur within 700 feet of the creek bank.

This alternative might not allow for amortization of facility construction costs over the life of the permit.

Page 6-15, Alternative 4

7-48

The Streambank Stabilization Plan would *not* have to be implemented to accomplish the mining plan. (See Alternative 4, Figure 6-3.) The County would have to determine if the benefit provided a "net gain" through implementation of the CCIP.

Page 6-17

Agriculture: Mining in area 1a would be deeper, allowing for reclamation of tree crop agriculture instead of pasture and reducing the agricultural offsets required.

7-49

Air Quality: Having only one active mining area rather than two will reduce the disturbed acreage, leading to less particulate emissions at any given time, and thus on a cumulative basis as well. Efficiencies for processing facilities utilization (increased facility production rates through minor horsepower increases versus two complete operations running at lower rates) require less power per ton of production. Adding one loader to existing processing operations will allow for a reduction of equipment utilization. Having only one yard to maintain would reduce motor grader and water truck hours of operation. Cumulative impacts would be reduced.

7-50

Climate Change: Efficiencies for processing facility utilization (increased production rates through minor horsepower increases versus two complete facilities running at lower rates) require less power per ton of production. Adding one loader to existing processing operations will allow for a reduction of equipment utilization. Having only one yard to maintain would reduce motor grader and water truck hours of operation. Cumulative impacts would be reduced due to increased efficiency.

7-51

Page 6-18

Hydrology and Water Quality: Streambank Stabilization Plan does not have to occur.

7-52

Page 6-19

Conclusion: Air quality and climate change cumulative impacts would also be reduced through more efficient facility operations, as well as reduced footprint for processing facilities. Elimination of all impacts associated with construction of a second processing facility, such as equipment, steel, belting, and concrete, etc., is a significant reduction in emissions.

7-53

Page 6-20, Table 6-2

Air Quality 4.4-1: Alternative 4 should be shown as less than the proposed Project (<).

7-54

Page 6-21, Table 6-2



Biological Resources 4.5-2: Assuming that the Streambank Stabilization Plan is not implemented, Alternative 4 could be less than the proposed Project (<).

7-55

Geology and Soils 4.8-1: Having one facility rather than two reduces the risk of damage to processing facilities. Alternative 4 therefore should be less than the proposed Project (<).

7-56

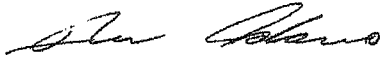
Page 6-22, Table 6-2

Hydrology and Water Quality: Assuming that the Streambank Stabilization Plan is not implemented, Alternative 4's impacts should be less than the proposed Project (<).

7-57

Thank you for the opportunity to provide these comments.

Very truly yours,



Ben Adamo, Plant Operations and Permitting Coordinator
Sacramento Valley Branch
Granite Construction Company

cc: Mark D. Harrison

THE RECLAMATION BOARD

3310 El Camino Ave., Rm. LL40
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682
PERMITS: (916) 574-0653 FAX: (916) 574-0682

EXHIBIT A



July 14, 2005

Ms. Linda Flack, Deputy Director
Parks and Natural Resources
County of Yolo
Planning & Public Works Department
292 West Beamer Street
Woodland, CA 95695-2598

Dear Ms. Flack

In response to your letter of May 31, 2005, requesting The Reclamation Board (Board) input regarding new or revised environmental circumstances or regulations that have occurred since 1996 and whether those changes should be applied to gravel mining permits along lower Cache Creek issued by Yolo County in 1996 and that are currently up for limited review, we have the following comments.

1. The Board has responsibility for ensuring the maintenance and operation of the levees and channel of Cache Creek from the Yolo Bypass to Interstate 5 as part of the Sacramento River Flood Control Project (SRFCP). Prior to any work being performed on, adjacent to, or between the levees of the SRFCP, an encroachment permit from the Board is required.
2. The Board adopted new regulations, *California Code of Regulations, Title 23 - Waters, Division 1 - Reclamation Board (Title 23)*, which were filed on September 30, 1996 and became operative on October 30, 1996, that apply to areas under the jurisdiction of the Board.
3. In about 1980, Board staff developed a Cache Creek Designated Floodway for the area from Interstate 5 to Camp Haswell near Rumsey that was never adopted by the Board.
4. During the designated floodway adoption proceedings, an informal agreement with Yolo County was reached that would not require Board encroachment permits for activities in this area if Yolo County would modify its floodplain ordinance to address Board concerns and allow enforcement of the ordinance.

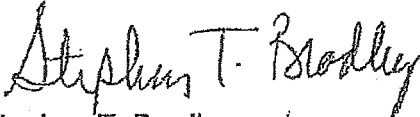
Ms. Linda Flack, Deputy Director
July 14, 2005
Page 2

5. Board concerns for the designated floodway area were to maintain the capacity of Cache Creek by not allowing encroachments that would obstruct the stream or cause it to change direction and to minimize deposition of sediment in the Cache Creek Settling Basin as stated in a letter to Yolo County dated November 12, 1981 (Attachment A).
6. Yolo County modified its Floodplain Ordinance to address Board concerns and agreed to enforce the revised ordinance through normal permit processes, such as, building permits, use permits, rezoning, etc. as stated in a letter from Yolo County to the Board dated February 16, 1982 (Attachment B).

In summary, the Board has authority for Cache Creek between Interstate 5 and the Yolo Bypass and will continue to regulate activities in this reach through the issuance of encroachment permits. Upstream of Interstate 5, Yolo County should continue regulation through its normal permitting and approval process although it is in the best interest of both the County and the Board to have encroachments comply with the requirements of Title 23, the Board's regulations.

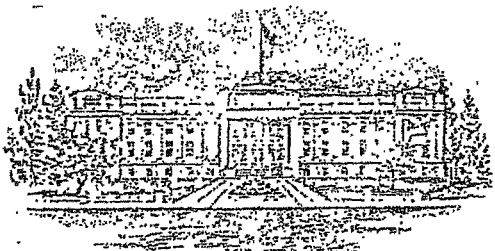
If you have any questions or need additional information regarding this matter, please contact me at the above address or telephone.

Sincerely,



Stephen T. Bradley
Chief Engineer

Attachments



COUNTY OF YOLO

Woodland, California 95695

BOARD OF SUPERVISORS

725 Court Street
Room 104, Courthouse
(916) 565-8407

First District - Clark H. Cameron Second District - Robert N. Black
Third District - George P. DeMars Fourth District - Betsy A. Marchand
Fifth District - Twyla Thompson

February 16, 1982

Elden Rinehart, General Manager
The Reclamation Board
Department of Water Resources
1416 Ninth Street,
Sacramento, CA 95814

Re: Reclamation Board
(350.16-1)

Dear Mr. Rinehart:

In response to your letter of November 12, 1981 concerning your Board's decision not to adopt a Designated Floodway for Cache Creek, the following is to confirm Yolo County's understanding of our informal agreement.

Yolo County has adopted the modification to its Flood Plain Ordinance to include the definition of obstructions. (Ord. #921 dated September 22, 1981). Yolo County will, through its normal permit processes (Building Permits, Use Permits, Rezoning, etc.), enforce the provisions of the Yolo County Flood Plain Ordinance. Both Yolo County and the State ~~will have the power to abate any illegal obstruction placed within the flood plain that might normally be a designated flood plain.~~ It is our understanding that as long as these County procedures are followed there is no need for permits to be issued by the Reclamation Board.

The Yolo County Board of Supervisors is very appreciative of the efforts to work out this understanding.

Very truly yours

GEORGE P. DEMARS,
Chairman of the Yolo County
Board of Supervisors

LHR/GPD/r/c

NOV 12 1981

Mr. Robert Black, Chairman
Board of Supervisors
County of Yolo
725 Court Street
Woodland, CA 95695

Dear Mr. Black:

On September 16, 1981, The Reclamation Board, in accordance with the request in your letter of August 11, 1981, decided not to adopt a designated floodway on Cache Creek at this time. Instead, the Board accepted the lines on the maps which had been prepared for the designated floodway between the Cache Creek Project levees and Camp Haswell as the boundary of a floodway in which the Board has an interest and directed its staff to monitor Yolo County's encroachment controls within the floodway so identified. Supervisor Twyla Thompson attended the meeting, commended the Board for its action, and indicated that the proposed modifications to Yolo County's flood plain ordinances upon which this decision rests would proceed.

Since there will be no formal agreement between the Board and Yolo County for encroachment control on this portion of the Cache Creek floodway, we request confirmation from you that the County understands exactly what the Board's interests are. The Board has responsibilities to see that the flood-carrying capacity of the channels of the Sacramento and San Joaquin Rivers and their tributaries is maintained. This means that no encroachments should be allowed which will obstruct the stream or cause it to change direction. The Board is also interested in minimizing the deposition of sediment in the Cache Creek Settling Basin and has conditioned permits for sand and gravel mining to achieve this goal.

When you have adopted the proposed amendments to your flood plain ordinances and confirmed in writing that you understand the above interests of the Board in the Cache Creek floodway between the project levees and Camp Haswell, we will send a letter to all existing permit holders within that floodway. This letter will inform them that upon receipt of a copy of an approved County land use permit for their operation, we will close out their file.

Mr. Robert Black

Page 2

NOV 12 1981

We will also inform all owners within the floodway that as long as the County takes care of the Board's interests within the floodway, the Board will not require applications and only a County permit will be required.

These actions will have no effect on the Federal/State flood control project on Cache Creek. The Board will continue to require applications for new encroachments in this area and the existing permits will continue with no changes in the conditions of approval. It has been the Board's policy to delegate parts of its floodway encroachment control authority to willing and able local government. In the case of project floodways or adopted designated floodways, this requires a formal agreement. We would encourage Yolo County to enter into such an agreement for the Cache Creek Project floodway so that its citizens would only have to obtain a County permit.

We wish to thank you for your cooperation in this matter and hope to receive the news of adoption of the ordinances and confirmation that Yolo County understands the Board's interests so that we may bring this effort to a conclusion.

Sincerely,

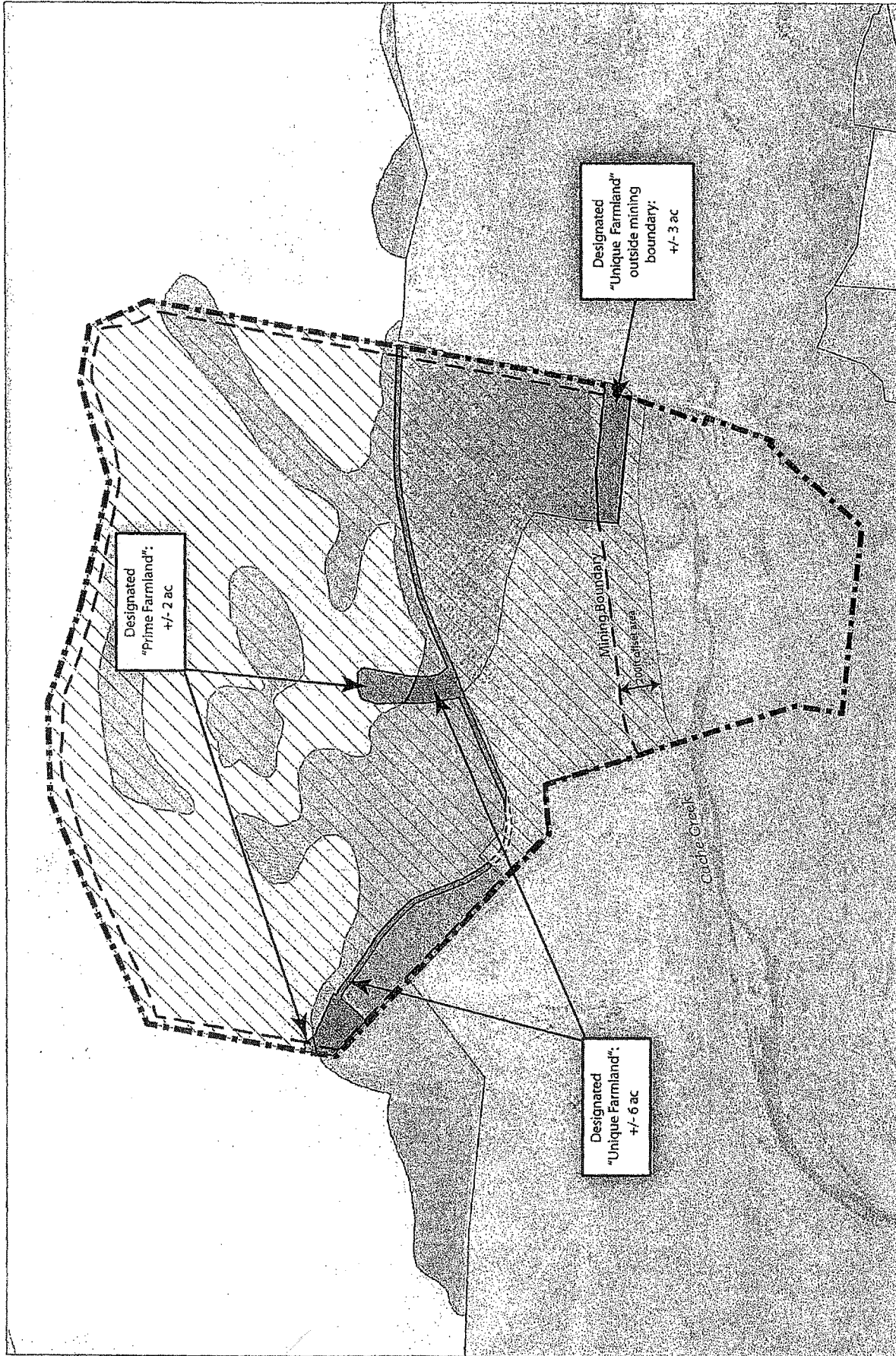
Original signed by
Eldon E. Rinehart

ELDON E. RINEHART
General Manager

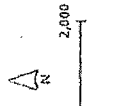
JEBaughner:rv

Coordinated with Dave Anderson October 9, 1981

EXHIBIT B

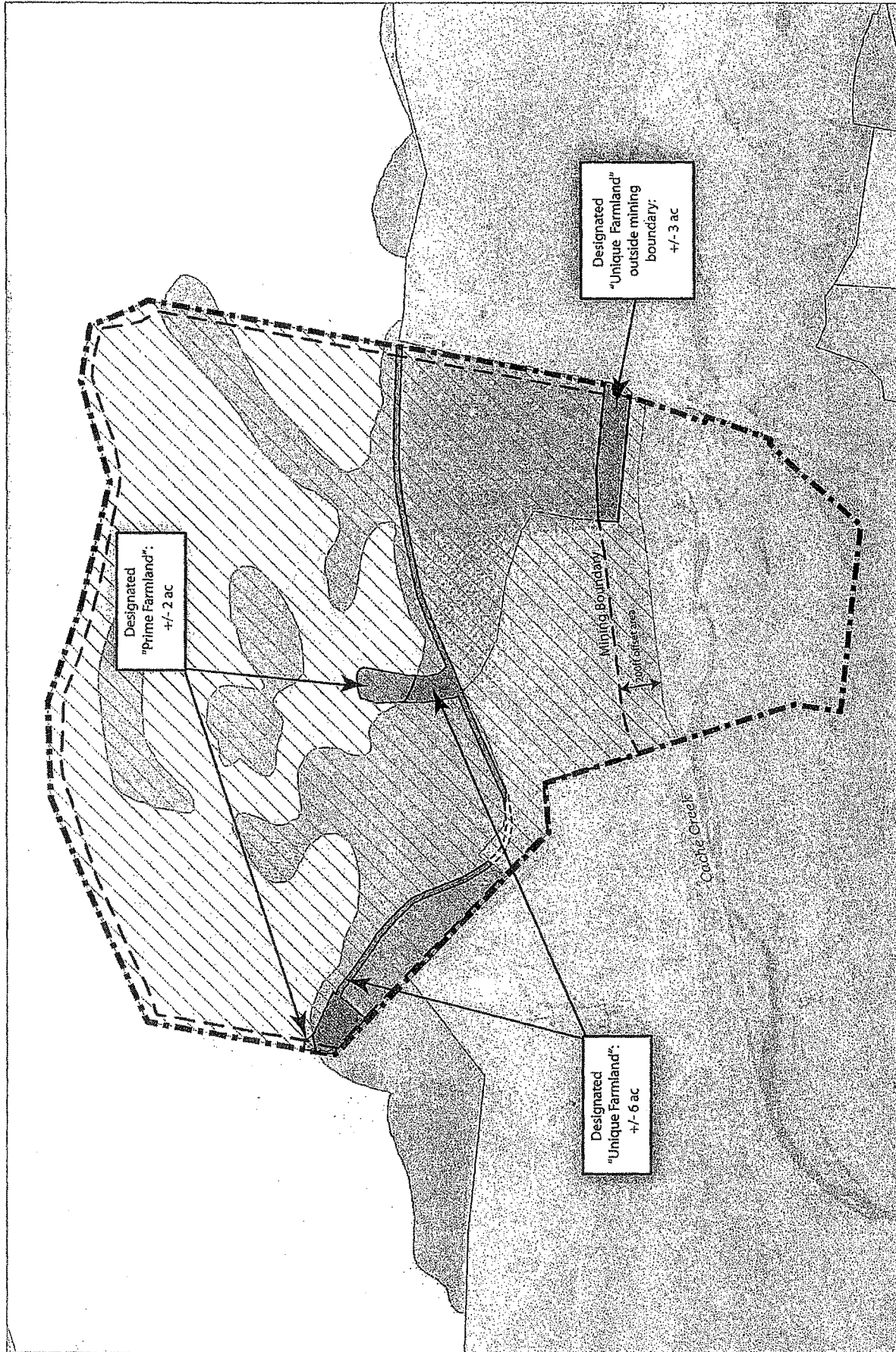


- LEGEND**
- Project Site
 - Mining Plan Boundary
- FARMLAND DESIGNATIONS**
- Farmland of Local Importance
 - Prime Farmland
 - Unique Farmland
 - Other Land

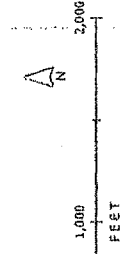


Response to FIGURE 4.3-1
 Granite Esparto Mining and Reclamation Project
 Granite Construction, Inc.
 January 20, 2010

EXHIBIT B



Response to FIGURE 4-3-1
 Granite Esparto Mining and Reclamation Project
 Granite Construction, Inc.
 January 20, 2010



- FARMLAND DESIGNATIONS**
- Farmland of Local Importance
 - Prime Farmland
 - Unique Farmland
 - Other Land

- LEGEND**
- Project Site
 - Mining Plan Boundary



Exhibit C



10044 Granite Hill Drive
Parker, CO
80134
p| 303.840.4571
f| 303.840.4579
kleinfelder.com

January 26, 2010

Mr. Ben Adamo
Granite Construction
4001 Bradshaw Road
Sacramento, CA 95851

**Subject: Comments on Draft Environmental Impact Report for the
Proposed Granite Esparto Mining and Reclamation Project
SCH Number 2009022036**

Dear Mr. Adamo:

Per your request, I have reviewed portions of the Draft Environmental Impact Report (DEIR), SCH Number 2009022036, dated December 2009, for the proposed Granite Esparto Mining and Reclamation Project. You asked me to focus only on the diesel health risk assessment of the air quality analysis contained in the DEIR.

7-58

I am a Certified Consulting Meteorologist and a California Registered Environmental Assessor. I have 34 years of air quality impact assessment experience, including significant experience in assessing the potential diesel health risk of proposed and operating facilities, especially aggregate quarries and plants. I have an MS in atmospheric science and a BS in physics.

My review of the DEIR concludes that the DEIR diesel health risk assessment is an extremely conservative upper bound assessment that indicates a potential diesel health risk at least eighty times greater than a traditional "worst-case" assessment used by regulatory agencies throughout California. The basis for my conclusion is as follows:

7-59

- The DEIR used a relatively old screening dispersion model that uses hypothetical meteorology instead of a more modern dispersion model that uses actual meteorology. The screening dispersion model used in the DEIR was published in 1992.
- The DEIR assumed that all of the emissions from on-site diesel emitting activities would be released from a single point.

7-60

7-61

- The DEIR used Tier 1 (1996 engines) emission factors for the on-site off-road equipment, when the equipment used will be a mix of Tier 2 (2001 engines) and Tier 3 (2006 engines). 7-62
- The DEIR used emission factors for on-site, on-road product delivery trucks for calendar year 2008 and for the South Coast Air Quality Management District (SCAQMD). What should have been done is to use emission factors for calendar year 2025 (the mid-point in the life of the mine) and for Yolo-Solano Air Quality Management District (YSAQMD). 7-63

Each of these factors is discussed below.

Dispersion Model

You provided me with an Excel Workbook that contained several worksheets that detailed the methodology and results of the diesel health risk assessment in the DEIR. The worksheets were very explanatory and detailed the methodology used in the DEIR. Unfortunately, the methodology does not yield representative results. The main problem with the DEIR methodology is the use of a 1992 United States Environmental Protection Agency (USEPA) publication entitled *Screening Procedures for Estimating the Air Quality Impact of Stationary Sources (Revised)*, EPA-454/R-92-019. The USEPA screening methodology was coupled with the assumption that all of the on-site diesel-emitting activities are emitted from a single point source (stack) to assess the potential diesel health risk at the Esparto High School (located 2,440 meters south of the proposed facility and the Madison Migrant Day Care Center (located 5,600 meters southeast of the proposed facility).

The 1992 USEPA screening methodology uses an assumed single hour worst-case hypothetical meteorological condition and an assumed worst-case dispersion adjustment to convert the worst-case hour impact to an annual impact. Annual impacts are required for diesel health risk assessments. A more representative methodology is to use an USEPA, California Air Resources Board (CARB), and YSAQMD-approved dispersion model, called AERMOD. AERMOD is the currently approved dispersion model for impact assessments. The AERMOD dispersion model requires actual meteorological data. Personal communication with YSAQMD staff indicated that the YSAQMD uses Sacramento meteorological data since there are no readily available meteorological data near Esparto. Accordingly, we used 2006 surface meteorological data from the Sacramento Executive Airport (SacEx) coupled with 2006 upper air data from Oakland. This data set has been used in other health risk assessments in the area and represents the nearest readily available meteorological data suitable for use in AERMOD. In addition, my experience has shown that the 2006 meteorological data yields the highest annual impacts for the period 2004 through 2008. Thus, selection of 2006 data provides conservatively high impacts. We used AERMOD version 09292 (published in 2009), with AERMET Version 06341, and AERMAP version 09040 with the National Elevation Dataset from USGS. The AERMET and AERMAP models are preprocessors for AERMOD. 7-64

In addition, rather than assuming that all of the on-site diesel-emitting activities are emitted from a single point source, we accounted for the fact that over the 30-year lifetime of the mine, emissions will occur over the entire 313 acre site. However, in any given year, the emissions will occur over about a 25 acre area (there are 11 mining phases, and 313 divided by 11 is about 25 acres). For dispersion modeling purposes, this is termed an "area source", and to be conservative the area source was located in the southeast corner of the proposed project site. We also assumed that the diesel exhaust would be released 10 feet above the surface. The AERMOD input file is included as Attachment A to this letter.

Off-Road Equipment Emission Factors

The DEIR assumed that all of the off-road equipment would meet 1996 emission limits (called Tier 1 limits). However, you indicated that there will be a mix of Tier 2 and Tier 3 equipment used at the proposed project. The Tier 2 and Tier 3 emission limits are much lower than Tier 1. For purposes of our re-assessment, we assumed 50% Tier 2 and 50% Tier 3 engines. This changes the off-road emission rates calculated in the DEIR as follows:

- DEIR off-road diesel exhaust emissions = 1.258 tons/year
- DEIR (Tier 1) off-road emission factor = 0.4 grams per brake horsepower-hour (g/bhp-hr)
- Tier 2 off-road emission factor = 0.15 g/bhp-hr
- Tier 3 off-road emission factor = 0.15 g/bhp-hr
 - Note that there is no difference in diesel particulate for Tier 2 versus Tier 3, but there is a difference for other pollutants)
- Ratio of Tier 2 and 3 emission factor to Tier 1 emission factor = $0.15 / 0.40 = 0.375$
- Revised off-road diesel exhaust emissions = $1.26 \text{ tons/yr} \times 0.38 = 0.471 \text{ tons/year}$

7-65

On-Road Truck Emission Factors

For on-road trucks on-site, the DEIR used emission factors for the South Coast Air Quality Management District for calendar year 2008. Emission factors decrease over time because newer and newer engines are used for on-road trucks (i.e., more modern model year vehicles replace older model year vehicles). Therefore, typically, for diesel health risk assessments, a calendar year is chosen that is the mid-point in the life of the proposed project, in this case 2025. Also, typically, emission factors for on-road trucks in the county and/or the air district in which the proposed project is located is used. Choosing a calendar year of 2025 instead of 2008 will lower the emissions for on-road trucks by more than 50%. (For example, 2007 and newer engines emit only 10% of the diesel exhaust particulate as pre-2007 engines). However, due to the lack of time and lack of detailed information regarding truck travel, this conservative assumption in the DEIR was not changed. In addition, emissions from on-site travel of on-road trucks are only 0.01 tons per year, compared to 0.47 tons per year for off-

7-66

Mr. Ben Adamo
January 26, 2010
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10044 Granite Hill Drive
Parker, CO
80134
p| 303.840.4571
f| 303.840.4579
kleinfelder.com

road equipment. Therefore, changing the on-road emission factors will have very little effect on the diesel health risk results.

Re-Calculated Diesel Health Risk Assessment

To re-calculate the potential health risk at the High School and Day Care Center, the AERMOD model was run with the 2006 SacEx meteorological data and the revised emission rates discussed above. The AERMOD model output file is included as Attachment B to this letter.

According to the DEIR, the proposed mine will operate 260 days per year and 12 hours per day. Therefore, the emission rate used in the AERMOD model was calculated as follows:

- 0.47 tons/yr off-road equipment + 0.01 tons/yr on-road equipment on-site = 0.48 tons/yr
- 0.48 tons/yr x 2000 lb/ton x 453.6 g/lb divided by 260 days per year x 12 hours per day x 3600 seconds/hr = 0.039 grams per second (g/sec)
- 0.039 g/sec divided by 25 acres x 4,407 square meters (m²) per acre = 3.5×10^{-7} g/sec-m²

The AERMOD model was run only for the 260 days per the operating schedule of Monday through Friday, and for the hours 0600 to 1800, which are the operating hours for the proposed project according to the DEIR.

The resultant diesel exhaust particulate concentrations at the High School and Day Care Center are as follows (although the Day Care Center is further away, the wind direction is more persistent towards the Day Care Center and the annual concentration is slightly greater at the Day Care Center than at the High School):

- Day Care Center = 0.00025 micrograms per cubic meter (ug/m³)
- High School = 0.00020 ug/m³

The potential diesel health risk is then calculated as follows (the same diesel exhaust Unit Risk Factor of 3.0×10^{-4} (ug/m³)⁻¹ for a 70 year exposure that was used in the DEIR is used here):

- Day Care Center Risk = $0.00025 \text{ ug/m}^3 \times 3 \times 10^{-4} \times 30 \text{ yrs}/70 \text{ yrs} = 0.032 \times 10^{-6}$ risk, or 0.032 in a million
- High School = $0.00020 \text{ ug/m}^3 \times 3 \times 10^{-4} \times 30 \text{ yrs}/70 \text{ yrs} = 0.026 \times 10^{-6}$ risk, or 0.026 in a million

The risk assessment above and in the DEIR assumed a continuous 30-year exposure for workers and students at the two closest sensitive receptors, the Esparto High School and the Madison Day Care Center. But workers and students are not continuously exposed for that duration. However, since the High School and Day Care Center are located near residential areas, it is assumed that the workers will live and work in the same general area, thus a

Mr. Ben Adamo
January 26, 2010
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10044 Granite Hill Drive
Parker, CO
80134
p| 303.840.4571
f| 303.840.4579
kleinfelder.com

continuous exposure may be representative of a worst-case. If a worker resides elsewhere, then the potential risk would be lower than calculated above.

The re-calculated risk assessment results above can be compared to the values presented in the DEIR of 2.5 in a million for the Day Care Center and 7.1 in a million for the High School as shown in Table 1.

Table 1
Comparison of DEIR and Re-calculated Diesel Health Risk

Location	DEIR Diesel Health Risk Assessment	Re-Calculated Diesel Health Risk Assessment	Ratio of DEIR to Re-Calculated Risk
Day Care Center	2.5 in a million	0.032 in a million	78
High School	7.1 in a million	0.026 in a million	273

In summary, the over-estimate of the potential diesel health risk is primarily due to the combination of an overly-conservative dispersion model and overly conservative emission factors for off-road equipment. These two conservative assumptions are multiplicative, resulting in a much greater calculated risk than is representative.

Please feel free to contact me at 303.840.4571 if you have any questions.

Sincerely,
KLEINFELDER



Russell E. Erbes, CCM
Senior Principal

Attachment A AERMOD Model Input
Attachment B AERMOD Model Output

Attachment A
AERMOD Model Input

** BREEZE AERMOD
 ** Trinity Consultants
 ** VERSION 7.2

CO STARTING
 CO TITLEONE Granite Esparto Mining
 CO TITLETWO Annual Diesel PM Emissions, Met Year 2006
 CO MODELOPT DEFAULT CONC
 CO RUNORNOT RUN
 CO AVERTIME ANNUAL
 CO POLLUTID OTHER
 CO FINISHED

SO STARTING
 SO ELEVUNIT METERS
 SO LOCATION MINE AREAPOLY 585813.6 4285998.4 55.70
 ** SRCDESCR Average Mine Area
 SO SRCPARAM MINE 3.52574E-07 3.048 4 0
 SO AREAVERT MINE 585813.6 4285998.4 586092.1 4285993.4
 SO AREAVERT MINE 586019.6 4285589.7 585751.0 4285601.2
 SO EMISFACT MINE SHRDOW 0 0 0 0 1 1 1 1 1 1 1 1 1 1 1 1
 SO EMISFACT MINE SHRDOW 1 0 0 0 0 0 0 0 0 0 1 1 1 1 1 1
 SO EMISFACT MINE SHRDOW 1 1 1 1 1 1 1 1 0 0 0 0 0 0 0 0
 SO EMISFACT MINE SHRDOW 0 0 1 1 1 1 1 1 1 1 1 1 1 1 1 1
 SO EMISFACT MINE SHRDOW 0 0 0 0 0 0 0 0 1 1 1 1 1 1 1 1
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 SO EMISFACT MINE SHRDOW 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
 SO EMISFACT MINE SHRDOW 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
 SO SRCGROUP ALL
 SO FINISHED

RE STARTING
 RE ELEVUNIT METERS
 RE DISCCART 585519.91 4283071.07 57.62 57.62
 ** RCPDESCR Esparto High School
 RE DISCCART 590013.54 4281750.53 45.45 45.45
 ** RCPDESCR Madison Migrant Day Care
 RE FINISHED

ME STARTING
ME SURFILE "C:\Esparto Mine\Met Data\2006\SACEX_06.SFC"
ME SURFILE "C:\Esparto Mine\Met Data\2006\SACEX_06.SFC"
ME PROFILE "C:\Esparto Mine\Met Data\2006\SACEX_06.PFL"
** PROFILE "C:\Esparto Mine\Met Data\2006\SACEX_06.PFL"
ME SURFDATA 72483 2006 SacEx
ME UAIRDATA 23230 2006 Oakland
ME PROFBASE 5
ME FINISHED

OU STARTING
OU FILEFORM FIX
OU FINISHED

** It is recommended that the user not edit any data below this line

** TERRFILE C:\ESPART-1\Images\NED_06063414.tif 2 0 WGS84 10 0 580007.4 4272342.9 579748.3 4298174.0 598965.6 4298390.5 589287.1
4272559.0

** AMPTYPE NED
** AMPDATUM 3
** AMPZONE 10
** AMPHEMISPHERE N

** PROJECTION UTM
** DATUM NAR-C
** UNITS METER
** ZONE 10
** HEMISPHERE N
** ORIGINLAT 0
** ORIGINLON 0
** PARALLEL1 0
** PARALLEL2 0
** AZIMUTH 0
** SCALEFACT 0
** FALSEEAST 0
** FALSENORTH 0

** POSTFMT UNIFORM

** AERMODEXE AERMOD_BREEZE_09292.exe
** AERMAPEXE AERMAP_EPA_09040.EXE

Attachment B
AERMOD Model Output

1 AERMOD PRIME - (DATED 09292)

AERMODPrMSF: VERSION 5.0.3

(C) COPYRIGHT 1998-2009, Trinity Consultants

Run Began on 1/22/2010 at 15:08:07

** BREEZE AERMOD
** Trinity Consultants
** VERSION 7.2

CO STARTING
CO TITLEONE Granite Esparto Mining
CO TITLETWO Annual Diesel PM Emissions, Met Year 2006
CO MODELOPT DEFAULT CONC
CO RUNORNOT RUN
CO AVERTIME ANNUAL
CO POLLUTID OTHER
CO FINISHED

SO STARTING
SO ELEVUNIT METERS
SO LOCATION MINE AREAPOLY 585813.6 4285998.4 55.70
** SRCDSCR Average Mine Area 3.52574E-07 3.048 4 0
SO SRCPARAM MINE 585813.6 4285998.4 586092.1 4285993.4
SO AREAVERT MINE 586019.6 4285589.7 585751.0 4285601.2
SO EMISFACT MINE SHRDOW 0 0 0 0 0 1 1 1 1 1 1 1 1 1 1 1 1
SO EMISFACT MINE SHRDOW 1 0 0 0 0 0 0 0 0 0 0 0 0 1 1 1 1
SO EMISFACT MINE SHRDOW 1 1 1 1 1 1 1 1 1 0 0 0 0 0 0 0 0
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SO EMISFACT MINE SHRDOW 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
SO EMISFACT MINE SHRDOW 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
SO SRCGROUP ALL
SO FINISHED

RE STARTING
RE ELEVUNIT METERS
RE DISCCART 585519.91 4283071.07 57.62 57.62
** RCPDESCR Esparto High School
RE DISCCART 590013.54 4281750.53 45.45 45.45
** RCPDESCR Madison Migrant Day Care
RE FINISHED

ME STARTING
ME SURFFILE "C:\Esparto Mine\Met Data\2006\SACEX_06.SFC"
** SURFFILE "C:\Esparto Mine\Met Data\2006\SACEX_06.SFC"
ME PROFFILE "C:\Esparto Mine\Met Data\2006\SACEX_06.PFL"
** PROFFILE "C:\Esparto Mine\Met Data\2006\SACEX_06.PFL"
ME SURFDATA 72483 2006 SacEx
ME UAIRDATA 28230 2006 Oakland
ME PROFBASE 5
ME FINISHED

OU STARTING
OU FILEFORM FIX
OU FINISHED

** It is recommended that the user not edit any data below this line

** TERRFILE C:\ESPART~1\Images\NED_06063414.tif 2 0 WGS84 10 0 580007.4 4272342.9 579748.3 4298174.0 598965.5 4298390.5 599287.1
4272559.0
** AMPTYPE NED
** AMPDATUM 3
** AMPZONE 10
** AMPHEMISPHERE N

** PROJECTION UTM
** DATUM NAR-C
** UNITS METER
** ZONE 10
** HEMISPHERE N
** ORIGINLON 0
** ORIGINLAT 0
** PARALLEL1 0
** PARALLEL2 0
** AZIMUTH 0
** SCALEFACT 0
** FALSEEAST 0
** FALSENORTH 0

** POSTFMT UNIFORM

** AERMODEXE AERMOD_BREEZE_09292.exe
** AERMAPEXE AERMAP_EPA_09040.EXE

*** SETUP Finishes Successfully ***

*** AERMOD - VERSION 09292 *** ** Granite Esparto Mining
*** Annual Diesel PM Emissions, Met Year 2006 *** 01/22/10
15:08:07

**MODELOPTs: RegDEFAULT CONC PAGE 1
ELEV

*** MODEL SETUP OPTIONS SUMMARY ***

**Model Is Setup For Calculation of Average CONCentration Values.

-- DEPOSITION LOGIC --

**NO GAS DEPOSITION Data Provided.
**NO PARTICLE DEPOSITION Data Provided.
**Model Uses NO DRY DEPLETION. WETDPLT = F
**Model Uses NO WET DEPLETION. WETDPLT = F

**Model Uses RURAL Dispersion Only.

**Model Uses Regulatory DEFAULT Options:

1. Stack-tip Downwash.
2. Model Accounts for ELEVated Terrain Effects.
3. Use Calms Processing Routine.
4. Use Missing Data Processing Routine.
5. No Exponential Decay.

**Model Assumes No FLAGPOLE Receptor Heights.

**Model Calculates ANNUAL Averages Only

**This Run Includes: 1 Source(s); 1 Source Group(s); and 2 Receptor(s)

**The Model Assumes A Pollutant Type of OTHER

**Model Set To Continue RUNNING After the Setup Testing.

**Output Options Selected:
Model Outputs Tables of ANNUAL Averages by Receptor

**NOTE: The Following Flags May Appear Following CONC Values: c for Calm Hours
m for Missing Hours
b for Both Calm and Missing Hours

**Misc. Inputs: Base Elev. for Pot. Temp. Profile (m MSL) = 5.00 ; Decay Coef. = 0.000 ; Rot. Angle = 0.0
Emission Units = GRAMS/SEC ; Emission Rate Unit Factor = 0.10000E+07
Output Units = MICROGRAMS/M**3

**Approximate Storage Requirements of Model = 3.5 MB of RAM.

**Input Runstream File: AERMOD.INP
**Output Print File: AERMOD.OUT

*** AERMOD - VERSION 09292 *** *** Granite Esparto Mining *** 01/22/10
*** Annual Diesel PM Emissions, Met Year 2006 *** 15:08:07

**MODELOPTs: RegDEFAULT CONC PAGE 2
ELEV

*** AREAPOLY SOURCE DATA ***

NUMBER EMISSION RATE LOCATION OF AREA BASE RELEASE NUMBER INIT. URBAN EMISSION RATE
SOURCE PART. (GRAMS/SEC X Y ELEV. HEIGHT OF VERTIS. SZ SOURCE SCALAR VARY
ID CATS. (METER**2) (METERS) (METERS) (METERS) (METERS) BY

MINE 0 0.35257E-06 585813.6 4285998.4 55.7 3.05 4 0.00 NO SHRDOW

*** AERMOD - VERSION 09292 *** *** Granite Esparto Mining *** 01/22/10
*** Annual Diesel PM Emissions, Met Year 2006 *** 15:08:07

**MODELOPTs: RegDEFAULT CONC PAGE 3
ELEV

*** SOURCE IDs DEFINING SOURCE GROUPS ***

GROUP ID SOURCE IDs

ALL MINE

*** AERMOD - VERSION 09292 *** *** Granite Esparto Mining *** 01/22/10
*** Annual Diesel PM Emissions, Met Year 2006 *** 15:08:07

**MODELOPTs: RegDEFAULT CONC PAGE 4
ELEV

17 .0000E+00 18 .0000E+00 19 .0000E+00 20 .0000E+00 21 .0000E+00 22 .0000E+00 23 .0000E+00 24 .0000E+00
SEASON = FALL; DAY OF WEEK = SUNDAY
1 .0000E+00 2 .0000E+00 3 .0000E+00 4 .0000E+00 5 .0000E+00 6 .0000E+00 7 .0000E+00 8 .0000E+00
9 .0000E+00 10 .0000E+00 11 .0000E+00 12 .0000E+00 13 .0000E+00 14 .0000E+00 15 .0000E+00 16 .0000E+00
17 .0000E+00 18 .0000E+00 19 .0000E+00 20 .0000E+00 21 .0000E+00 22 .0000E+00 23 .0000E+00 24 .0000E+00

*** AERMOD - VERSION 09292 *** Granite Esparto Mining *** 01/22/10
*** Annual Diesel PM Emissions, Met Year 2006 *** 15:08:07

**MODELOPTs: RegDEFAULT CONC PAGE 5
ELEV

*** DISCRETE CARTESIAN RECEPTORS ***
(X-COORD, Y-COORD, ZELEV, ZHILL, ZFLAG)
(METERS)

(585519.9, 4283071.1, 57.6, 57.6, 0.0); (590013.5, 4281750.5, 45.4, 45.4, 0.0);

*** AERMOD - VERSION 09292 *** Granite Esparto Mining *** 01/22/10
*** Annual Diesel PM Emissions, Met Year 2006 *** 15:08:07

**MODELOPTs: RegDEFAULT CONC PAGE 6
ELEV

*** METEOROLOGICAL DAYS SELECTED FOR PROCESSING ***
(1=YES; 0=NO)

1111111111 1111111111 1111111111 1111111111 1111111111 1111111111 1111111111 1111111111
1111111111 1111111111 1111111111 1111111111 1111111111 1111111111 1111111111 1111111111
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NOTE: METEOROLOGICAL DATA ACTUALLY PROCESSED WILL ALSO DEPEND ON WHAT IS INCLUDED IN THE DATA FILE.

*** UPPER BOUND OF FIRST THROUGH FIFTH WIND SPEED CATEGORIES ***
(METERS/SEC)

1.54, 3.09, 5.14, 8.23, 10.80,

*** AERMOD - VERSION 09292 *** Granite Esparto Mining *** 01/22/10
*** Annual Diesel PM Emissions, Met Year 2006 *** 15:08:07

PAGE 7

**MODELOPTs: RegDEFAULT CONC

ELEV

*** UP TO THE FIRST 24 HOURS OF METEOROLOGICAL DATA ***

Surface file: C:\Esparto Mine\Met Data\2006\SACEX_06.SFC Met Version: 06341

Profile file: C:\Esparto Mine\Met Data\2006\SACEX_06.PFL

Surface format: FREE

Surface station no.: 72483

Upper air station no.: 23230

Name: SACEX

Name: OAKLAND

Year: 2006

First 24 hours of scalar data

YR	MO	DY	JDY	HR	H0	U*	W*	DT/DZ	ZICNV	ZIMCH	M-O	LEN	Z0	BOWEN	ALBEDO	REF	WS	WD	HT	REF	TA	HT
06	01	01	1	01	-43.0	0.380	-9.000	-9.000	-999.539	115.5	1.00	2.00	1.00	2.60	131.	10.0	282.1	2.0				
06	01	01	1	02	-54.5	0.452	-9.000	-9.000	-999.770	185.8	1.00	2.00	1.00	3.10	128.	10.0	282.1	2.0				
06	01	01	1	03	-64.0	0.679	-9.000	-9.000	-999.1285	441.0	1.00	2.00	1.00	4.10	134.	10.0	282.1	2.0				
06	01	01	1	04	-64.0	0.773	-9.000	-9.000	-999.1560	651.4	1.00	2.00	1.00	4.60	143.	10.0	282.1	2.0				
06	01	01	1	05	-64.0	0.579	-9.000	-9.000	-999.1052	273.7	1.00	2.00	1.00	3.60	153.	10.0	281.1	2.0				
06	01	01	1	06	-64.0	0.579	-9.000	-9.000	-999.1015	273.0	1.00	2.00	1.00	3.60	162.	10.0	281.1	2.0				
06	01	01	1	07	-64.0	0.679	-9.000	-9.000	-999.1284	439.0	1.00	2.00	1.00	4.10	165.	10.0	282.1	2.0				
06	01	01	1	08	-64.0	1.241	-9.000	-9.000	-999.3177	2679.7	1.00	2.00	1.00	7.20	163.	10.0	283.1	2.0				
06	01	01	1	09	-1.6	1.337	-9.000	-9.000	-999.3539	8888.0	1.00	2.00	0.41	7.70	157.	10.0	284.1	2.0				
06	01	01	1	10	-999.0	-9.000	-9.000	-999.-999	-999999.0	1.00	2.00	0.28	999.00	999.	0.0	999.0	0.0					
06	01	01	1	11	21.5	1.426	-9.000	-9.000	-999.3913	-8888.0	1.00	2.00	0.24	8.20	154.	10.0	285.1	2.0				
06	01	01	1	12	28.6	1.878	-9.000	-9.000	-999.3997	-8888.0	1.00	2.00	0.22	10.80	156.	10.0	286.1	2.0				
06	01	01	1	13	29.7	1.964	-9.000	-9.000	-999.4000	-8888.0	1.00	2.00	0.22	11.30	163.	10.0	286.1	2.0				
06	01	01	1	14	25.6	1.513	-9.000	-9.000	-999.4000	-8888.0	1.00	2.00	0.23	8.70	149.	10.0	287.1	2.0				
06	01	01	1	15	14.3	1.964	-9.000	-9.000	-999.4000	-8888.0	1.00	2.00	0.26	11.30	152.	10.0	284.1	2.0				
06	01	01	1	16	0.3	1.876	-9.000	-9.000	-999.4000	-8888.0	1.00	2.00	0.35	10.80	154.	10.0	285.1	2.0				
06	01	01	1	17	-64.0	2.046	-9.000	-9.000	-999.4000	8888.0	1.00	2.00	0.60	11.80	151.	10.0	284.1	2.0				
06	01	01	1	18	-64.0	1.504	-9.000	-9.000	-999.4000	4754.0	1.00	2.00	1.00	8.70	167.	10.0	284.1	2.0				
06	01	01	1	19	-64.0	1.241	-9.000	-9.000	-999.3266	2666.0	1.00	2.00	1.00	7.20	174.	10.0	284.1	2.0				
06	01	01	1	20	-59.7	1.064	-9.000	-9.000	-999.2597	1823.7	1.00	2.00	1.00	6.20	167.	10.0	284.1	2.0				
06	01	01	1	21	-49.0	0.870	-9.000	-9.000	-999.1933	1215.3	1.00	2.00	1.00	5.10	160.	10.0	283.1	2.0				
06	01	01	1	22	-54.2	0.976	-9.000	-9.000	-999.2211	1534.6	1.00	2.00	1.00	5.70	162.	10.0	284.1	2.0				
06	01	01	1	23	-64.0	1.152	-9.000	-9.000	-999.2830	2137.6	1.00	2.00	1.00	6.70	160.	10.0	284.1	2.0				
06	01	01	1	24	-38.5	0.693	-9.000	-9.000	-999.1584	772.6	1.00	2.00	1.00	4.10	150.	10.0	284.1	2.0				

First hour of profile data

YR MO DY HR HEIGHT F WDIR WSPD AMB_TMP sigmaA sigmaW sigmaV
06 01 01 01 10.0 131. 2.60 282.2 99.0 -99.00 -99.00

F indicates top of profile (=1) or below (=0)

*** AERMOD - VERSION 09292 *** Granite Esparto Mining 01/22/10
 *** Annual Diesel PM Emissions, Met Year 2006 15:08:07

**MODELOPTs: RegDEFAULT CONC ELEV PAGE 1

*** THE ANNUAL AVERAGE CONCENTRATION VALUES AVERAGED OVER 1 YEARS FOR SOURCE GROUP: ALL ***
 INCLUDING SOURCE(S): MINE ,

*** DISCRETE CARTESIAN RECEPTOR POINTS ***

** CONC OF OTHER IN MICROGRAMS/M**3 **

X-COORD (M)	Y-COORD (M)	CONC	X-COORD (M)	Y-COORD (M)	CONC
585519.91	4283071.07	0.00020	590013.54	4281750.53	0.00025
*** AERMOD - VERSION 09292 *** Granite Esparto Mining 01/22/10					
*** Annual Diesel PM Emissions, Met Year 2006 15:08:07					

**MODELOPTs: RegDEFAULT CONC ELEV PAGE 2

*** THE SUMMARY OF MAXIMUM ANNUAL RESULTS AVERAGED OVER 1 YEARS ***

** CONC OF OTHER IN MICROGRAMS/M**3 **

GROUP ID AVERAGE CONC RECEPTOR (XR, YR, ZR, ZLEV, ZHILL, ZFLAG) OF TYPE GRID-ID NETWORK

ALL	1ST HIGHEST VALUE IS	0.00025 AT (590013.54, 4281750.53, 45.45, 45.45, 0.00) DC
	2ND HIGHEST VALUE IS	0.00020 AT (585519.91, 4283071.07, 57.62, 57.62, 0.00) DC
	3RD HIGHEST VALUE IS	0.00000 AT (0.00, 0.00, 0.00, 0.00, 0.00)
	4TH HIGHEST VALUE IS	0.00000 AT (0.00, 0.00, 0.00, 0.00, 0.00)
	5TH HIGHEST VALUE IS	0.00000 AT (0.00, 0.00, 0.00, 0.00, 0.00)
	6TH HIGHEST VALUE IS	0.00000 AT (0.00, 0.00, 0.00, 0.00, 0.00)
	7TH HIGHEST VALUE IS	0.00000 AT (0.00, 0.00, 0.00, 0.00, 0.00)
	8TH HIGHEST VALUE IS	0.00000 AT (0.00, 0.00, 0.00, 0.00, 0.00)
	9TH HIGHEST VALUE IS	0.00000 AT (0.00, 0.00, 0.00, 0.00, 0.00)
	10TH HIGHEST VALUE IS	0.00000 AT (0.00, 0.00, 0.00, 0.00, 0.00)

*** RECEPTOR TYPES: GC = GRIDCART
 GP = GRIDPOLR
 DC = DISCCART
 DP = DISCPOLR

*** AERMOD - VERSION 09292 *** ** Granite Esparto Mining 01/22/10
*** Annual Diesel PM Emissions, Met Year 2006 15:08:07

PAGE 1
ELEV

**MODELOPTs: RegDEFAULT CONC

*** Message Summary : AERMOD Model Execution ***

..... Summary of Total Messages

A Total of	0 Fatal Error Message(s)
A Total of	0 Warning Message(s)
A Total of	2442 Informational Message(s)
A Total of	8760 Hours Were Processed
A Total of	1662 Calm Hours Identified
A Total of	780 Missing Hours Identified (8.90 Percent)

***** FATAL ERROR MESSAGES *****
*** NONE ***

***** WARNING MESSAGES *****
*** NONE ***

*** AERMOD Finishes Successfully ***

Letter 7, Ben Adamo, Granite Construction

Response to Comment 7-1: No response to these introductory comments is necessary.

Response to Comment 7-2: The comment is noted. The pictures were meant to be illustrative only.

Response to Comment 7-3: The correction has been made.

Response to Comment 7-4: The applicant is correct that the USACOE Regional General Section 404 Permit #58 has expired. Table 1-1 has been modified to reflect this.

The applicant is correct regarding the Central Valley Flood Protection Board. Please see Response to Comment 2-1 and Appendix 2.

Response to Comment 7-5: The applicant is correct that CDFG Section 1601/1603 Stream or Lake Alteration Agreement #315-97 has expired and been replaced with a new Memorandum of Understanding. Table 1-1 has been modified to reflect this.

Response to Comment 7-6: A clarification to the subject paragraphs has been made.

Response to Comment 7-7: The comment is noted, and the list of approvals on page 1-3 uses the terminology preferred by the applicant. The referenced text was intended to convey that the effect of the proposed project would be to “transfer” the “allotment” as described and disclose that that is a potentially controversial result given that no mining was assumed at the Woodland (Reiff) site beyond the year 1996 (OCMP EIR, Draft Volume, p. 3-23, Footnote 11). The text has been clarified.

Response to Comment 7-8: This clarification has been made. This issue is discussed further on page 5-6 of the DEIR.

Response to Comment 7-9: This correction has been made.

Response to Comment 7-10: Please see Response to Comment 7-35.

Response to Comment 7-11: Please see Response to Comment 7-41.

Response to Comment 7-12: This change has been made.

Response to Comment 7-13: The fifth bullet has been removed. Please see Response to Comment 2-1 and Appendix 2.

Response to Comment 7-14: These changes have been made.

Response to Comment 7-15: This change has been made.

Response to Comment 7-16: These changes have been made.

Response to Comment 7-17: This change has been made.

Response to Comment 7-18: This change has been made.

Response to Comment 7-19: The comment refers to the requirements contained in Section 10-5.601(c)(2) of the Reclamation Ordinance. The description of the applicant's methods in satisfying this requirement is noted. No further comment is required.

Response to Comment 7-20: CEQA Guidelines Appendix G, Item II(a) specifies that the assessment of conversion of Prime Farmland, Unique Farmland, and Farmland of Statewide Importance is to be determined based on the State Farmland Mapping and Monitoring Program (FMMP). As specified in the second paragraph on page 4.3-3 of the DEIR, the FMMP mapping was used as the basis for the analysis presented on that page.

The applicant points out possible differences between the total acreage of "prime soils" identified by their hydro-geologist (Soil Evaluation Report and Reclamation Plan, LFR, August 20, 2007) and the acreage mapped by the State on the FMMP maps. The differences in these two analyses relate to their purpose and the assumptions upon which they are based. The LFR report was prepared for the Reclamation Plan pursuant to Section 10-5.601(c)(2). As stated on page 4.3-1 of the DEIR, this report analyzed only the 280 acres identified by Granite as being "used for agricultural purposes" and concluded that 104 of those acres qualified as "prime soils" based on the NRCS Soils Survey Report for the County. Whereas, the FMMP mapping summarized for the DEIR pursuant to CEQA Guidelines Appendix G, Item II(a) covers the entire 390 acre site (DEIR, Table 4.3-2, page 4.3-3), of which a total of 287 acres is identified as falling into the three farmland categories considered significant under CEQA.

The comment goes on to state that within the FMMP mapping approximately 8 acres of farm roads and homestead within the mining area, and 3 acres that fall outside the mining area, should be excluded. The County agrees that deducting 11 acres from the FMMP total (287 – 11 = 276) for the reasons stated is an appropriate refinement to make.

The comment further requests that the FMMP mapping be rejected in light of the more "accurate" data from the Soil Evaluation Report. However, the FMMP mapping is referenced by the CEQA Guidelines and covers the entire property. The Soil Evaluation Report focuses only on the acreage identified by the applicant as being in agricultural use at that time. The latter information does not fulfill the needs of the EIR for the CEQA analysis of loss of loss of farmland.

Response to Comment 7-21: The applicant points out that the 38 acres of open space would be in the form of dry pasture. The text has been changed to reflect this clarification.

Response to Comment 7-22: Taking into account the adjustments to acreage discussed in Responses to Comment 7-20, Impact 4.3-1 and associated text will be modified to reflect the following:

- Impacts to FMMP Prime Farmland acreage adjusted from 154 to 152 to reflect deduction of 2 acres consisting of a portion of the farmsite and roads. Subtract 74 acres proposed to return back to prime agriculture/row crop use as a part of reclamation of Phase 1b. Net (permanent) impacts to prime farmland = 78 acres.
- Impacts to FMMP Unique Farmland acreage adjusted from 133 to 124 to reflect deduction of 9 acres consisting of a portion of the farmsite and roads. Net (permanent) impacts to unique farmland = 124 acres

Total net impacts 202.

Please note the 38 acres being reclaimed to open space and dry pasture have not been factored into this calculation as suggested; however this acreage could possibly serve as partial mitigation if the resulting soil quality would satisfy the mitigation criteria for either identified measure. This determination can be made at a subsequent date in the course of identifying mitigation lands for the 202 acres impacted.

Response to Comment 7-23: This comment points out that mitigation measures should only apply to the permanent loss of farmland. In support of this, the text at the top of page 4.3-10 indicates that the OCMP EIR addressed interim loss of farmland and no further mitigation is required for this project. These two mitigation measures have been corrected to reflect this, based on the accounting shown in Response to Comment 7-22 above.

Response to Comment 7-24: As noted in Response to Comment 7-22, the 38 acres being reclaimed to open space and dry pasture have not been factored into the revised acreage calculations as suggested because it is understood the resulting soil quality would not be equal to or greater than the quality of the lost prime and unique soils. However this acreage could possibly serve as partial mitigation if the resulting soil quality is shown to satisfy the mitigation criteria for either identified measure. This determination can be made at a subsequent date in the course of identifying mitigation lands for the 202 acres impacted.

Response to Comment 7-25: The sentence has been revised to refer to 152 acres of prime farmland (as mapped by the FMMP).

Response to Comment 7-26: The comment is noted and will be considered by the decision-makers during deliberations on the project. This text has been modified to recognize the 38 acres of proposed open space/pasture land as agriculture.

Response to Comment 7-27: The fact that some of the emissions from project-related haul truck travel may not actually be new emissions to the region is noted. Due to the

uncertainty of where the actual truck trips may go to deliver product, the specific uses of the product, and actual distances traveled, it is not possible to identify what portion of the emissions would occur even without the proposed project. However, a discussion has been added following the third paragraph under Methodology on page 4.4-7 that discusses this issue.

Response to Comment 7-28: The items listed in Mitigation Measure 4.4-2a are based on measures developed primarily for mitigating construction dust emissions, where construction activities can encompass a wide range of activities. While the commenter is correct that the basis for many of the mitigation measures are for sites that would traditionally emit primarily dirt or fine-grained material, many of mitigation measures, or at least the principles embodied in them, are also applicable to mining operations. This is exemplified by the dust control measures required by the Mining Ordinance (Section 10.4-414) for surface mining operations in the County. However, some of the mitigation measures listed in Mitigation Measure 4.4-2a were originally designed to be implemented during temporary construction activities and may not be feasible for projects where excavation activities will be a permanent part of project operations. As such, this measure has been modified. Please refer also to Response to Comment 9-8.

Response to Comment 7-29: The second bulleted item under Mitigation Measures 4.4-2a, "Cover all trucks hauling dirt, sand, or loose materials while maintaining at least 2 feet of freeboard" is not a YSAQMD requirement for stationary sources. It is a combination of two potential mitigation measures for control of construction dust listed in Table 5 of the YSAQMD Handbook for Assessing and Mitigating Air Quality Impacts, July 11, 2007.

Since most of the fines will have been removed from the aggregate during processing, the likelihood of significant PM being emitted from the haul trucks while traveling on local roadways is relatively small. Thus, compliance with the vehicle code requirements should be sufficient. As such, this measure has been modified. Please refer also to Response to Comment 9-8.

Response to Comment 7-30: The third and fourth bullets were not intended to apply to stockpiles of aggregate materials. They were directed at mitigation of dust from exposed areas after cut and fill operations and from inactive areas. These same mitigation measures are required by the County in the Mining Ordinance (Section 10.4-414), "All disturbed but inactive portions of the site shall either be seeded or watered until vegetation is grown *or shall be stabilized using methods such as chemical soil binders, jute netting, or other Yolo-Solano Air Quality Management District approved methods.*[emphasis added]". Mitigation Measure 4.4-2a has been modified. Please refer also to Response to Comment 9-8.

Response to Comment 7-31: The difficulties in implementing the first bulleted item and potential effects on saleable product from the mine are noted. This mitigation measure has been modified. Please see also Response to Comment 9-8.

Response to Comment 7-32: The difficulties in implementing the third bulleted item are noted. The mitigation measure has been revised to be consistent with Section 10-4.414 of the Mining Ordinance and the requirements of the Air Quality Management District, which also provides the applicant flexibility in how to mitigate dust from storage piles. Please refer to Response to Comment 9-8.

Response to Comment 7-33: Please see Response to Comment 9-8. The revised mitigation measure includes the suggested revisions.

Response to Comment 7-34: Please refer to Response to Comments 7-58 through 7-67.

Response to Comment 7-35: The commenter is requesting that the inspection requirement only apply if disturbance is planned during the nesting season. This is appropriate as there would be no requirement to monitor when there is no potential for effects to occur. The clarification has been made.

Response to Comment 7-36: The referenced text on page 4.8-12 does indicate that the applicant is proposing donation of the Woodland Reiff site which is consistent with Action 2.4-7(c). Based on the proposal no further edit is necessary.

Response to Comment 7-37: The text has been changed to reflect this correction.

Response to Comment 7-38: The text has been clarified as suggested.

Response to Comment 7-39: Please see proposed edits to Mitigation Measure 4.13-1.

Response to Comment 7-40: The requested modification would clarify that the improvement is only triggered by the new requested tonnage, which is the intent of the measure. This change has been made.

Response to Comment 7-41: The requested modification would clarify that the improvement is only triggered by the new requested tonnage, which is the intent of the measure. This change has been made.

Regarding the availability of right-of-way, the road will accommodate a large volume of large and heavy gravel trucks entering and exiting the applicant's facilities. Safety for the traveling public is imperative and requires sufficient facilities. If there is not enough right-of-way to build the road to the appropriate standards per the requirement, then the applicant would be required to acquire the necessary right-of-way via easement or fee purchase. This would be no different burden that the County requires of other applicants. The measure has been clarified to reflect this.

Response to Comment 7-42: Pursuant to Appendix G of the CEQA Guidelines, Item IXb, the County considers inconsistency with the General Plan to be a valid component of

the environmental impact analysis. Staff agrees that the identified possible measure reflects an additional acceptable mitigation option. This measure has been added.

Response to Comment 7-43: The OCMP EIR did not provide CEQA clearance for possible approved extensions beyond 2026. The original EIR only studied implementation of the program through 2026. As such, the requested change has not been made. With additional CEQA analysis the County may extend the program beyond that date. Please see modifications to Impact 5-3.

Response to Comment 7-44: If the demand for aggregate in this market were to exceed available supply under existing conditions and/or if aggregate to serve local needs was imported from outside the County as a result of, or would have to be trucked for longer distances than would occur for the proposed project, staff agrees that would contribute to air quality impacts.

Response to Comment 7-45: Please see Response to Comment 7-44.

Response to Comment 7-46: Please see Response to Comment 7-44.

Response to Comment 7-47: The description and discussion of Alternative 2 has been corrected to reflect that mining would not occur within 700 feet of the creek bank under this alternative and therefore, implementation of the Test 3 streambank stabilization improvements should not be assumed.

The comment regarding financial feasibility is noted.

Response to Comment 7-48: This alternative involves mining closer than 700 feet from the creek bank and therefore the County would require the construction of Test 3 improvements along the creek frontage in order to consider the bank “stable” pursuant to Section 10-4.429(d). Implementation of the Test 3 improvements pursuant to the CCIP is a requirement of the project and is not considered a net gain item.

Response to Comment 7-49: This comment is acknowledged. This proposed modification of the mining and reclamation plans under Alternative 4 was not previously available and therefore not considered in the analysis. Staff agrees that the potential outcome as described would be beneficial. If reclaimed to tree crops, the Phase 1a acreage (38 ac) could possibly serve as partial mitigation for loss of farmland if the resulting soil quality would satisfy the mitigation criteria.

Response to Comment 7-50: Duplicate facilities and equipment would be eliminated under this alternative. The commenter is correct that over the life of the project, proposed concurrent mining operations would result in greater total overall emissions than would result under this alternative. The YSAQMD significance thresholds are on a tons-per-year or pounds-per-day basis. As such, cumulative emissions under the Sequential Alternative would be less than those generated under the proposed project,

although they would occur for a longer time. In other words “duration” of the impact is not relevant. This paragraph has been modified to reflect these clarifications.

Response to Comment 7-51: Please see Response to Comment 7-50.

Response to Comment 7-52: Please see Response to Comment 7-48.

Response to Comment 7-53: Please see Response to Comment 7-50.

Response to Comment 7-54: The entries in this table have been modified consistent with the text changes.

Response to Comment 7-55: No change has been made. Please see Response to Comment 7-48.

Response to Comment 7-56: The risk is unchanged by the number of facilities. No change has been made.

Response to Comment 7-57: No change has been made. Please see Response to Comment 7-48.

Response to Comment 7-58: The qualifications of the commenter are noted for the record.

Response to Comment 7-59: The comment is consistent with the conclusions of the DEIR. As stated in the DEIR, p. 4.4-15, the screening health risk assessment (HRA) assumptions are highly conservative and actual risks would be far less.

Response to Comment 7-60: The screening model used for the DEIR HRA, EPA's SCREEN3 dispersion model, is a model that is accepted for use by the EPA, ARB, and air quality management districts throughout California to provide worst-case estimates of pollutant concentrations from a variety of emission source types. It is recognized that the results of this model will overestimate potential pollutant concentrations, which is why the DEIR identified the evaluation as a Screening HRA.

Response to Comment 7-61: The SCREEN3 model is limited to predicting impacts from a single source type in a given model run. Emissions from on-site mobile sources were aggregated into a single point source and used for the screening modeling. This is a common approach. It is the same approach that the commenter used in their modeling of project DPM emissions. However, rather than a single point source the commenter's analysis modeled the mobile source exhaust emissions as a single area source. It could be argued that a point source is more representative of the exhaust release mechanism and subsequent plume rise from diesel fueled mobile equipment than an area source which requires the use of a fixed release height that is not affected by prevailing atmospheric conditions. Both methods, either the use of a point source or area source, are valid approaches for a screening level assessment.

Response to Comment 7-62: The specific mix of on-site off road mobile equipment has not been specified by the applicant. The commenter is correct that the majority of the equipment will likely be equipped with Tier 2 or Tier 3 engines. However, it is likely that some Tier 1 equipment may be used. An assumption of the Tier 1 equipment is consistent with a screening level evaluation.

Response to Comment 7-63: Use of emission factors for diesel trucks in 2025 would not necessarily be representative of the DPM emissions that would occur over the life of the project. This is because emissions of DPM from trucks in the earlier years of the project will be considerably higher than those from diesel trucks in 2025. Potential health risks from exposure to DPM may be underestimated if only 2025 emissions are used since the exposure to higher levels of DPM in the years prior to 2025 would be greater than those in 2025 and the exposure levels of DPM after 2025 will not be significantly lower than those of 2025. Thus, the average DPM levels over the exposure period may be underestimated if emissions are solely based on 2025 levels.

The emission factors used in the DEIR analysis were for 2011, not for 2008 as the commenter stated. The commenter is correct that emission factors for vehicles in the YSAQMD should be used. The DEIR emission inventory was modified to include on road emission factors for vehicles in the YSAQMD. These emission factors were calculated for calendar year 2012 using the CARB EMFAC2007 mobile source emissions model. Year 2012 was selected because this is likely the first year that a full year of mining at the maximum rate could occur. Please refer to Response to Comment 9-14 for further discussion of the changes that were made to the DEIR emissions inventory.

Response to Comment 7-64: It is acknowledged that the screening modeling method used in the DEIR is a very conservative approach that substantially overestimates potential health risks and that the AERMOD model will likely provide more accurate results when combined with the use of hourly meteorological data. However, the simplified screening modeling used in the screening HRA showed that the potential health risks from the proposed project would be less than significant. Thus, more detailed modeling analyses were not warranted to show that the potential health risks from the proposed project would be less than significant.

Response to Comment 7-65: Please refer to Response to Comment 7-62.

Response to Comment 7-66: Please refer to Response to Comment 7-62.

Response to Comment 7-67: The results of the re-calculated health risk provided by the commenter appear to confirm the conclusion of the DEIR that the potential health risks from DPM exposure at the high school and day care center are less than significant and that the DEIR used a conservative modeling methodology to come to this conclusion.

Letter 8

TAYLOR & WILEY

A PROFESSIONAL CORPORATION

ATTORNEYS

2870 GATEWAY OAKS DR., SUITE 200
SACRAMENTO, CALIFORNIA 95833

TELEPHONE: (916) 929-5545

TELEFAX: (916) 929-0283

JOHN M. TAYLOR
JAMES R. WILEY
JESSE J. YANG
KATIE A. WHEATLEY
MATTHEW S. KEARLING
JAMES E. MIZELL, III

OF COUNSEL
KATHLEEN R. MARKEL

RECEIVED

JAN 28 2010

YOLO COUNTY PARKS & RESOURCES
DEPARTMENT

January 28, 2010

Mr. Kent Reeves, Principal Natural Resources Planner
Yolo County Parks and Resources Department
120 West Main Street, Suite C
Woodland, California 95695

Re: Granite Esparto Mining and Reclamation Project Draft EIR (SCH #
2009022036/Zone File # 2007-071)

Dear Mr. Reeves:

Taylor & Wiley represents Teichert, Inc. ("Teichert") with respect to its Woodland and Esparto aggregate mining and reclamation operations in unincorporated Yolo County. We have reviewed the Draft Environmental Impact Report ("DEIR") for the Granite Esparto Mining and Reclamation Project ("Granite Project") and offer the following comments:

8-1

Page 1-4. Initial Study and Notice of Preparation. On February 18, 2009, we submitted the enclosed NOP comment letter on behalf of Teichert. Some of our comments from that letter have been addressed in the DEIR. However, the DEIR fails to consider the cumulative effects of the Granite Project in conjunction with the two pending applications to amend Teichert's Woodland and Esparto facility referenced in that letter. As discussed in that letter, Teichert submitted applications to the County in December 2008 to increase the annual permitted production at its Woodland facility and to allow for the ability to exceed the annual permitted production by up to 20 percent at its Esparto facility. The two Teichert applications are related and reasonably foreseeable projects that should be considered in the DEIR.

8-2

Pages 3-6 to 3-16. Section 3.4. Project Components and Characteristics. The figures provided in this section lack sufficient information to permit a detailed understanding of the Granite Project. For example, no cross-sections of the mining or reclamation plans are provided.

8-3

Pages 3-16 and 3-17. Section 3.5. Net Gain Benefits Identified by the Applicant. As a proposed "net gain" for the Granite Project, Granite proposes to reclaim its Woodland property and dedicate it to the County. This proposal is not equivalent to the substantial net gains that were required of the CCAP participating mining operators as part of the first phase of mining permit approvals in 1997. According to the description provided, Granite is proposing to reclaim its Woodland property in accordance with the requirements of its reclamation plan that was approved in 1980. Such a proposal is

8-4

Mr. Kent Reeves
January 28, 2010
Page 2

already required under that reclamation plan and should not be viewed as a "net gain." Nor should the dedication of a property that is reclaimed to 1980 standards be considered a "net gain." To be consistent with the nature of net gains that were required as part of other CCAP mining permit approvals, Granite should be required to reclaim the proposed net gain site to meet current reclamation regulations and to substantially enhance the property prior to dedication. For these reasons, the EIR should analyze the consistency of Granite's net gain proposal with the types of net gains that were required as part of the first phase of CCAP mining permit approvals and propose mitigation as needed to ensure that all mining projects proposed under the CCAP are treated equitably with respect to the nature and amount of net gains requirements.



Pages 4.5-34 and 4.5-35, Mitigation 4.5-1c. The proposed mitigation for loss of Swainson's hawk foraging habitat requires the payment of "appropriate enhancement and management funds" for any land that is dedicated as mitigation for such impacts. Given that Swainson's hawk foraging habitat consists primarily of agricultural land, it appears that no additional enhancement or management would be required.

8-5

Pages 5-5 and 5-6, Impacts 5-1 and 5-2. The DEIR concludes that both the annual tonnage and total tonnage over the project lifetime requested by Granite are adequately covered by the Off-Channel Mining Plan (OCMP) EIR's cumulative analysis. However, the DEIR fails to consider the cumulative effects of the Granite Project and the two pending Teichert applications. As noted in our NOP comment letter, the Granite Project and both Teichert projects would cumulatively exceed the total tonnage analyzed in the OCMP EIR. As such, the Granite Project would contribute to the need to update the OCMP and the CCAP. While we understand that such an update is being contemplated by the County, this potential cumulative impact should nonetheless be disclosed in the DEIR.

8-6

Pages 5-6 and 5-7, Impact 5-3. The DEIR concludes that the proposed 30-year term of the Granite Project is inconsistent with the existing CCAP and proposes as mitigation that the term be reduced to 17 years to be consistent with the remaining term of the current CCAP. Teichert concurs with this conclusion and the proposed mitigation.

8-7

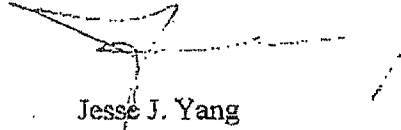
Chapter 6, Alternatives. In light of the two pending Teichert applications, the DEIR should consider another feasible alternative that was not analyzed: dividing the remaining annual permitted production volume available under the OCMP EIR analysis among the four participating producers.

8-8

Mr. Kent Reeves
January 28, 2010
Page 3

Thank you for the opportunity to provide our comments on this matter. Please contact me if you have any questions regarding our comments or need additional information. 8-9

Sincerely,



Jesse J. Yang

Enclosure

cc: Lillie Noble

TAYLOR & WILEY

A PROFESSIONAL CORPORATION

ATTORNEYS

2870 GATEWAY OAKS DR., SUITE 200
SACRAMENTO, CALIFORNIA 95833

TELEPHONE: (916) 929-5545
TELEFAX: (916) 929-0283

JOHN M. TAYLOR
JAMES D. WILBY
JESSE J. YANG
KATH A. WHEATLOBY
MATTHEW S. KOEASLING
JAMIS E. MITZELL, III

OF COUNSEL
KARLEEN R. MARTEL

February 18, 2009

Mr. Kent Reeves, Principal Natural Resources Planner
Yolo County Parks and Resources Department
120 West Main Street, Suite C
Woodland, California 95695

Re: Notice of Preparation (NOP) for the Granite Esparto Mining and Reclamation Project

Dear Mr. Reeves:

Taylor & Wiley represents Teichert, Inc. ("Teichert") with respect to its Woodland and Esparto aggregate mining and reclamation operations in unincorporated Yolo County. We have reviewed the notice of preparation (NOP) for the Granite Esparto Mining and Reclamation Project ("Granite Project") and offer the following comments:

Land Use and Planning. The Granite Project may require the amendment of the Cache Creek Area Plan (CCAP) and the Off-Channel Mining Plan (OCMP), two regional plans that apply to the Granite Project. CEQA requires that an EIR analyze a project's consistency with applicable regional plans. (CEQA Guidelines § 15125(d).) Therefore, the EIR should evaluate the consistency of the Granite Project with the OCMP and CCAP.

Cumulative Impacts. CEQA requires that an EIR's analysis of cumulative impacts either follow a "list" approach that considers "past, present, and probable future projects producing related or cumulative impacts" or a "plan" approach that contains a summary of projections from an adopted general plan or related planning document or a certified environmental document that evaluated regional or areawide conditions. (CEQA Guidelines § 15130(b)(1).) On December 1, 2008, Teichert submitted applications to the County to modify its existing Woodland and Esparto operations as follows:

- To increase annual permitted production, permit additional mining properties, and increase the permitted life of the Woodland operation; and
- To increase annual permitted production at the Esparto operation.

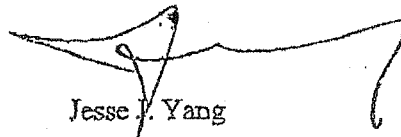
The two Teichert applications are related and reasonably foreseeable projects that should be considered in the cumulative impact analysis to be conducted for the Granite Project, as required under the list approach to cumulative impact analysis. Moreover, the Granite Project and both Teichert projects could cumulatively contribute to a need to update the

Mr. Kent Reeves
February 18, 2009
Page 2

CCAP and OCMP, two regional planning documents that would need to be evaluated under the plan approach to cumulative impact analysis. For this reason, the EIR for the Granite Project should consider the combined impacts of the Granite Project and the two pending Teichert projects, along with other reasonably foreseeable cumulative development.

Thank you for the opportunity to provide our comments on this matter. Please contact me if you have any questions regarding our comments or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jesse J. Yang', with a long, sweeping horizontal stroke extending to the right.

Jesse J. Yang

cc: Lillie Noble

Letter 8, Jesse Yang, Taylor and Wiley

Response to Comment 8-1: Thank you for your comments.

Response to Comment 8-2: Neither of the two applications referenced were ever completed. They remain incomplete at this time. The Teichert Woodland application was submitted December 1, 2008 for an amendment to the existing permit to allow for mining of up to 670,000 tons sold on a new project site (the 300 acre Shifler property) not previously contemplated for mining. The application also requested a 15-year extension to the permit. The application was found to be incomplete and a letter outlining required information was sent February 19, 2009.

On March 19, March 25, May 28, and September 2 of 2009 additional information was provided modifying the application to eliminate the new acreage, increase the requested new tonnage to 870,000 and eliminate the request to extend the mining permit. The revised application was redefined to request mining of more material at a faster rate at the Teichert Woodland site. This revised application was found to be incomplete and a letter outlining requested information was sent September 3, 2009. There has been no activity on the application since that time.

The Teichert Esparto application was also submitted December 1, 2008. That application was to utilize the 20 percent exceedance production option as allowed by Section 10.4-405 of the Mining Ordinance which would allow for an extra 200,000 tons sold in any given year. A letter was sent February 11, 2009 indicating the application would be "complete" once three specified additional items were received. These items were never received and the application remains incomplete. There has been no activity on the application since that time.

The NOP for the subject project was issued February 13, 2009. Neither Teichert application was complete at that time and therefore would not be considered a "probable future" project for purposes of the cumulative impact analysis (CEQA Guidelines Section 15130(b)(1) nor a part of "existing physical conditions" contemplated in CEQA Guidelines Section 15125(e).

Additionally, pursuant to CEQA Guidelines Sections 15130(b)(1) (B) and 15130(d) additional cumulative analysis is not triggered for the project.

Notwithstanding the points made above, the Teichert Woodland requested tonnage is not "new tonnage". It is the same tonnage being analyzed for the subject project and already provided program level clearance in the certified OCOMP and CCRMP FEIRs. In other words it is already included in the cumulative tonnage, it does not add to it.

Similarly, the Teichert Esparto requested 20 percent exceedance tonnage would have no effect on the cumulative conditions because the running ten-year average annual production can not exceed ten million tons per the original Teichert Esparto approval

(Section 10.4-405 of the Mining Ordinance) which also was provided program level clearance in the certified OCMP and CCRMP FEIRs.

Response to Comment 8-3: This information was sent to the commenter on August 9, 2010. The project application is available for review at any time at the County Natural Resources Division Office and has been since the date of submittal in October 2007. The current location of that office is:

Yolo County Administrator's Office
Natural Resources Division
625 Court Street, Room 202
Woodland, CA 95695
(530) 666-8150

The subject figures are also available online and have been since early 2008. They are currently located at the following internet address:

<http://www.yolocounty.org/index.aspx?page=1799>

For convenience the detailed mining plans and cross-sections are included in Appendix 5.

Response to Comment 8-4: Consistency with Action 2.4-7 is discussed on page 4.8-12 of the DEIR. The project staff report will contain a more detailed policy analysis and recommendation regarding this issue.

Response to Comment 8-5: That determination would be made by the HCP JPA. Note this Mitigation Measure has been reworded in response to other comments. Please see Chapter 4, Text Changes.

Response to Comment 8-6: Please see Response to Comment 8-2.

Response to Comment 8-7: Please refer to Response to Comment 7-43 and text changes to Impact 5-3. The referenced text analyzes the potential for inconsistency and identifies two optional mitigation measures. A third optional mitigation measure has been added.

Response to Comment 8-8: Please refer to Response to Comment 8-2. The recommendation is effectively covered under the Reduced Tonnage Alternative (#2) and the Alternative Location (#3). However at this time only the Granite Esparto project is moving forward. The two referenced Teichert applications remain incomplete and there has been no activity on either one for over a year. Also the Teichert Esparto application does not request new tonnage, it is merely a request to utilize the market flexibility allowed in the Mining Ordinance.

Response to Comment 8-9: Thank you for your comments.



January 28, 2010

RECEIVED

JAN 29 2010

YOLO COUNTY PARKS & RESOURCES DEPARTMENT

Kent Reeves, Principal Natural Resources Planner
Yolo County Parks & Resources Department
120 W. Main Street, Suite C
Woodland, CA 95695

Re: Granite Esparto Mining and Reclamation Project – DEIR comments

Dear Mr. Reeves:

The Yolo-Solano Air Quality Management District (District) learned that a Draft Environmental Impact Report (DEIR) for the above referenced project was available for review. The District appreciates the opportunity to offer comments. The project proposal includes an aggregate mining and processing operation on approximately 313 acres of a 390 acre parcel. The proponent, Granite Construction, is proposing a multi-phased development plan over the course of the next 30 years to mine approximately 30 million tons of aggregate (nearly 1.2 million tons per year). In addition to the mining permit, Granite is also requesting a rezone, reclamation plan approval, County Code Section 10.4-405 20% exceedance approval and various other planning entitlements including a demolition permit for the existing residence at the site. The reclamation plan proposes to reclaim the mined areas to the following general uses: open lake and associated habitat, agriculture, and open space/dry pasture.

9-1

The area in our District's jurisdiction includes all of Yolo County and the northeastern portion of Solano County. For all projects, impacts to air quality are a concern for various pollutants. This includes pollutants with regional impacts such as ozone, as well as pollutants with more localized impacts such as particulate matter (PM) and Hazardous Air Pollutants (HAPs). While the District has jurisdiction over stationary sources, a majority of air pollution in the region comes from vehicles, which are regulated by the State and Federal government. Since the District lacks direct authority over vehicles, the most effective tools for reducing vehicle emissions at the local level lay in the hands of local land use decision-makers. As a commenting agency under the California Environmental Quality Act, the District has reviewed the DEIR and is submitting the following comments:

9-2

1. Page 4.6-11, Mitigation 4.6-1: The mitigation relies partly on the acquisition of verifiable offsets to reduce emissions of greenhouse gases (GHGs). The mitigation should clearly state what program or programs the applicant would be using to submit offsets.

9-3

2. Page 4.4-2, Table 4.4-1, YSAQMD Attainment Status for Criteria Pollutants: This table indicates that the District has been designated nonattainment for the federal Fine Particulate Matter

9-4

(PM_{2.5}) Annual Standard. The District is currently unclassified for this standard. Please amend this table accordingly.

3. Page 4.4-5, Regional Air Quality Management Plans, second paragraph states that the Clean Air Plan (CAP) is currently being updated to address the new 8-hour ozone standard. The Sacramento Regional 8-hour Ozone Attainment and Reasonable Further Progress Plan (Plan) was adopted by the various air district boards during January and February 2009. The California Air Resources Board (ARB) adopted the Plan in March 2009 and has subsequently forwarded the plan to the United States Environmental Protection Agency (EPA) for approval. Please revise the paragraph to reflect the most recent information regarding the processing/status of the CAP.
4. Page 4.4-7, Methodology, fourth paragraph states that “EPA has not yet officially proposed a PM_{2.5} designation for the District” however, on 12/13/2009, EPA’s partial nonattainment designation for the District became official. Please correct accordingly.
5. Page 4.4-8, Analysis of Potentially Significant Impacts, Impact 4.4-1: The District does not agree with the Less than Significant finding for Impact 4.4-1. The document states that:

“The project will introduce additional sources of criteria air pollutant emissions, in particular, PM₁₀, and ozone precursors (NO_x and ROG). However, these emissions are generally consistent with the total tonnage analyzed in 1996 with the approval of the CCAP and therefore an anticipated outcome of planned mining for which land use approval and CEQA clearance has already been secured.”

The 8-hour ozone attainment plan relies on reductions in NO_x and VOC to attain the ozone standard. This project would contribute both. While calculated levels of VOC emissions during operation (shown in Tables 4.4-4 through 4.4-7) appear to be below our thresholds of significance, NO_x emissions definitely exceed our thresholds. We would consider any project that exceeds our thresholds to obstruct implementation of our air quality plan.

Additionally, one of the entitlements the proponent is seeking approval of is a 20% exceedance of the annual production limits allowed under County Code Section 10.4-405. A case would need to be made that this additional production, as well as, the operational emissions mentioned above were somehow accounted for in the 8-Hour Ozone Attainment Plan.

6. Page 4.4-9 – 4.4-12, Impact 4.4-2: The DEIR indicates that this impact is significant and unavoidable because PM₁₀ emissions would exceed the District’s threshold of significance. The language in this impact also states that NO_x emissions would exceed 10 tons per year, but that this is not significant because the emissions would not cause an exceedance of the NO₂ standard. However, exceedance of the District’s NO_x threshold is significant because NO_x is an ozone precursor and the District is in nonattainment of the federal ozone standard.

Consequently, NOx produced by the project in excess of 10 tons per year should be considered significant since these emissions would contribute to ozone exceedances within the District and the larger Sacramento ozone nonattainment area.

Regarding PM mitigation in Mitigation Measure 4.4-2a, several measures are identified for PM reduction during project operation. Many of these listed measures were originally designed to be implemented during temporary construction activities. Some of these measures may not be feasible for the proposed project, since excavation activities will be a permanent part of project operations. The applicant currently has permits with the District that specify that District Rule 2.5 – Nuisance must be adhered to. Rule 2.5 requires that the permit holder “shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause to have a natural tendency to cause injury or damage to business or property”. This will also be a permit condition for the proposed project when the permit is issued. Consequently, the applicant can choose the most feasible, most effective PM reduction measures for the project as long as Rule 2.5 is not violated. The measures may not necessarily be those listed in Mitigation Measure 4.4-2a. Whatever measures are chosen to suppress PM during operation, they must be sufficient to ensure compliance with Rule 2.5, since if the proposed project does violate the requirements of this rule during the course of project operations, the applicant will be subject to enforcement action by the District.

9-8

7. Page 4.4-13, Mitigation Measure 4.4-2b: Bullet number four currently reads “Engines shall be retrofitted with diesel oxidation catalysts to remove emissions such as diesel particulate matter filters.” The District advocates reducing diesel particulate matter where possible. Retrofitting engines with diesel particulate matter filters can accomplish this. The District does not advocate the use of any one particular filter as long as it is a verified retrofit technology. In addition, bullet number five of Mitigation Measure 4.4-2b states that diesel-fueled equipment will generally be limited to two minutes of idling. While this will further decrease emissions of diesel particulate matter, it is in excess of the State regulation that limits idling time to no more than five minutes.

9-9

8. Page 4.4-14, Impact 4.4-4: The DEIR indicates that there is a school and a daycare center nearby, with the high school at 1.5 miles SE of the project and the daycare at 3.5 miles SE of the project. Since the District does not have any adopted threshold for mobile source toxic impacts, it will be up to the lead agency to determine whether the calculated cancer risk of seven in one million is a less than significant impact. Additionally, while it is true that screening HRA assumptions are conservative, this is so that an adequate measure of protection can be afforded to the most sensitive populations. The fact that assumptions are conservative does not necessarily mean that impacts are less than significant.

9-10

9. Page 4.6-3, Regulatory Setting, Federal, first paragraph: The section states, "...the U.S. Supreme Court ruled that carbon dioxide and other greenhouse gases are pollutants under the Clean Air Act, which the USEPA must regulate if it determines they pose an endangerment to public health or welfare. To date, the EPA has not made such a finding or developed a regulatory program for greenhouse gas emissions." This latter sentence is not correct. On December 15, 2009, EPA released the endangerment finding for greenhouse gases under Section 202(a) of the Clean Air Act (Federal Register Document Volume 74, Number 239, Page 66495-66546). Please correct the document language to reflect this.

9-11

Also, the last sentence of the paragraphs states, "In June 2008, the EPA issued an Advanced Notice of Proposed Rulemaking: Regulating Greenhouse Gas Emissions under the Clean Air Act." The Mandatory Greenhouse Gas Reporting Rule was posted in the Federal Register on October 30, 2009, with an effective date of December 29, 2009. This rule applies to fossil fuel suppliers, industrial gas suppliers, direct greenhouse gas emitters, and manufacturers of heavy duty and off-road vehicles and engines.

9-12

10. Page 4.6-5, Senate Bill 97, last paragraph, last sentence: The last sentence of this section reads, "At the time of this writing, the Natural Resources Agency is preparing to conduct formal rulemaking, prior to certifying and adopting the amendments (referring to CEQA guideline amendments), as required by SB 97." According to <http://www.ceres.ca.gov/ceqa/guidelines>, "on December 31, 2009, the Natural Resources Agency (NRA) transmitted the adopted amendments and rulemaking to the Office of Administrative Law (OAL). OAL has 30 working days to review the adopted amendments and NRA's rulemaking file. The adopted amendments will become effective 30 days after OAL completes its review and submits them to the Secretary of State for inclusion in the California Code of Regulations." Please amend this section accordingly.

9-13

11 In general, there is little supporting documentation to show how the lead agency arrived at its conclusions regarding operational emissions, although there is a brief description of the equipment to be used on page 3-12. We would like to see the assumptions that were used to generate emission numbers, including the amount of time that these pieces of equipment would be used per day. This will help the District to verify the accuracy of the emission calculations presented in the DEIR

9-14

In addition to the above comment, the District would like to add that the following District Rules and Regulations may apply to the project:

- Visible emissions from any operation which emits or may emit air contaminants are not allowed to exceed 40 percent opacity for more than three minutes in any one-hour, as regulated under District Rule 2.3, Ringelmann Chart. Effective July, 2010, the opacity limit is reduced to 20% as per the rule amendments adopted January 13, 2010.

9-15

-
- Portable diesel fueled equipment greater than 50 horsepower (HP), such as generators or pumps, must be registered with either the Air Resources Board's (ARB's) Portable Equipment Registration Program (PERP) (<http://www.arb.ca.gov/perp/perp.htm>) or with the District. 9-16
 - Particulate matter concentrations for any source operation which may emit dust, fumes or total suspended particulate matter should not be released in excess of 0.1 grain per cubic foot for gas as described in Rule 2.11, Particulate Matter Concentration. 9-17
 - All stationary equipment, other than internal combustion engines less than 50 horsepower, emitting air pollutants controlled under District rules and regulations require an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. 9-18

In conclusion, the District appreciates receiving the project and the opportunity to discuss the recommendations presented in this letter. If you require additional information, please contact me at (530) 757-3668. 9-19

Sincerely,



Matthew R. Jones
Supervising Air Quality Planner

Letter 9, Matthew Jones, Yolo-Solano Air Quality Management District

Response to Comment 9-1: The District's comments are appreciated. For clarification purposes, the 390 acre project site is comprised of two assessor parcels, not one parcel as indicated in the comment. Also, the proposed mining of 30 million tons (26.1 million tons sold maximum) over the 30-year period will result in an extraction rate of about 1.0 million tons per year (870,000 million tons sold per year) not 1.2 million tons per year as indicated in the comment. The applicant is requesting approval to exceed their maximum annual production allocation of 870,000 tons per year (1.0 million tons per year mined) by up to 20 percent in any one calendar year pursuant to Section 10.4-405 of the Mining Ordinance. This would allow for a maximum of 1.2 million tons mined in any given year; however the 10-year running average cannot exceed 1.0 million tons per year.

Response to Comment 9-2: Comment noted.

Response to Comment 9-3: The Mitigation Measure is required by Action CO-A115.1 of the County's General Plan until such time as an adopted CAP for the unincorporated area is in place. The CAP is under preparation at this time but is not complete. The offsets that will be used and/or the specific program or programs that will be used for offsetting GHG emissions from the proposed project have not been identified at this time. As described in the mitigation measure the applicant must submit a plan for approval by the County. This plan will include specific details on the measures, methods, and programs that will be used that will be used to satisfy the specified performance criteria.

Response to Comment 9-4: Table 4.4-1 has been corrected to show that the District is "Unclassified" for the annual PM_{2.5} standard.

Response to Comment 9-5: The referenced text has been corrected.

Response to Comment 9-6: On November 13, 2009, the Environmental Protection Agency (EPA) issued final area designations for the 24-hour national air quality standards for fine particulate matter (PM_{2.5}). The partial nonattainment designation for the District became effective December 14, 2009. The area of the proposed project is within the partial nonattainment area. The text on page 4.4-7 has been corrected.

Response to Comment 9-7: As identified throughout the DEIR, the proposed project is consistent with the CCAP and all applicable mining regulations for which cumulative and program-level environmental clearance was provided in the 1996 certified OCMP FEIR (SCH #95113034) and CCRMP FEIR (SCH #96013004).

The 1996 OCMP EIR found emissions of PM₁₀ (Impact 4.7-1), emissions of ozone precursors (ROG and NOx) (Impact 4.7-2), and cumulative impacts to air quality (Impact 4.7-3) to be significant and unavoidable as a result of implementation of the County's CCAP mining program. The Board of Supervisors adopted a Statement of Overriding Considerations accepting these unavoidable impacts (Resolution 96-117A, adopted July 30, 1996) which is relied upon for this analysis.

As documented in Chapter 5.0, CEQA Considerations, the amount of mined material requested for the proposed project, including the allowance for a 20 percent exceedance allowed under Section 10.4-405 of the Mining Ordinance, is within the production limits and maximum cumulative tonnages analyzed in the 1996 OCMP FEIR. As such, the proposed project's production levels are within allowable individual facility production levels, as well as cumulative production levels anticipated and allowed by the County.

As indicated on page 4.4-8 of the DEIR, because the capacity requested is part of the currently permitted capacity under the OCMP, the projected increases in emissions associated with this amount of mining are included in regional projections that are the basis for the most recent relevant air quality plans including the YSAQMD OAP and the SVAB CAP. Therefore, the conclusion is reached that project would not conflict with the OAP or CAP in the sense of new resulting emissions not already known and accounted for since 1996.

This is not to say that the project won't result in significant air quality emissions. This issue is addressed separately in Impact 4.4-2 where project level emissions are disclosed.

Response to Comment 9-8: The DEIR identified the proposed project's NOx emissions as exceeding the District's significance threshold for NOx. As part of the air quality analysis in the DEIR, air quality dispersion modeling was conducted to evaluate potential impacts of the proposed project on the ambient air quality standards. Air quality modeling of the NOx emissions showed that the project's NOx emissions would not cause or contribute substantially to an existing or projected violation of the NO₂ air quality standard. However, the District's comment regarding the proposed project's NOx emissions being a significant impact with respect to regional ozone is correct. The conclusion of the significance of Impact 4.4-2 was that it was significant and unavoidable. The mitigation measures identified in Mitigation Measure 4.4-2b applies to equipment and vehicle NOx emissions, as well as to PM₁₀. The last sentence of the second paragraph on page 4.4-9 will be revised to delete the last seven words which reflect an editing error.

With respect to PM mitigation, Section 10.4-414 of the Mining Ordinance requires the following measures to control fugitive dust:

- (a) All stockpiled soils shall be enclosed, covered, or adequately watered to keep soil moist at all times. Inactive soil stockpiles should be vegetated or adequately watered to create an erosion-resistant outer crust.*
- (b) During operating hours, all disturbed soil and unpaved roads shall be adequately watered to keep soil moist.*
- (c) All disturbed but inactive portions of the site shall either be seeded or watered until vegetation is grown or shall be stabilized using methods such as chemical soil binders, jute netting, or other Yolo-Solano Air Quality Management District approved methods.*

Additionally, the use of conveyor systems, whenever practical and economically feasible, is required to be used to transport raw materials and overburden (Section 10.4-407). This

reduces fugitive dust and exhaust emissions from trucks or other equipment that would otherwise be used to transport materials at mining sites.

Under Section 10-4.415 of the Mining Ordinance, mobile equipment emissions are also minimized by the following requirement:

All internal combustion engine driven equipment and vehicles shall be kept tuned according to the manufacturer's specifications and properly maintained to minimize the leakage of oils and fuel. No vehicles or equipment shall be left idling for a period of longer than ten (10) minutes.

As the District comment points out, many of the mitigation measures listed in Mitigation Measure 4.4-2a were originally designed to be implemented during temporary construction activities and may not be feasible for the proposed project since excavation activities will be a permanent part of project operations. For ongoing operations which generate dust District Rule 2.5 – Nuisance is applicable. It will apply to the proposed project and be included as a permit condition in the Authority to Construct (ATC) and Permit to Operate (PTO) for the project. In order to maintain compliance with Rule 2.5 the applicant can choose the most feasible, most effective PM reduction measures, so long as the outcome is consistent with the District's requirements.

Considering the District's comments and in order to be consistent with the requirements of the Mining Ordinance, avoid redundancy, and maintain clarity, the mitigation measures listed in Mitigation Measure 4.4-2a have been modified.

Please also see responses to comments 7-23 through 7-33.

Response to Comment 9-9: The intent of mitigation described in bullet number four of Mitigation Measure 4.4-2b was to reduce particulate matter (PM) emissions from off road diesel-fueled mobile equipment. However, as the District points out in the comment, there are several methods of reducing exhaust particulate matter, and specification of use of only a diesel oxidation catalyst is unintentionally limiting.

The ARB has recently adopted the In-Use Off Road Diesel Vehicles Regulation (Article 4.8, Chapter 9, Title 13 of the California Code of Regulations), which requires owners of diesel-powered off road equipment to meet stringent emission control requirements. The regulation seeks to reduce NOx and PM emissions over a number of years starting in 2010. Owners of large fleets of equipment are required to meet more stringent emission limitations than those of smaller fleets. In general, compliance with the regulations can be achieved by retiring older equipment from the fleet, replacing older equipment with newer lower-emitting engines, or installing ARB verified diesel emission control strategies. Owners of are required to meet the regulation's requirements on a fleet average basis (i.e., all equipment owned within the state).

In order to ensure that the highest degree of feasible NOx and PM emission reductions are achieved for the equipment to be used at the proposed project, the equipment at the project site should be required to meet the In-Use Off Road Diesel Vehicle Regulation requirements for a large fleet. The fourth bulleted item has been revised to reflect this.

The District also commented on bullet number five of Mitigation Measure 4.4-2b noting that the two minute limit on idling time for diesel-powered equipment is in excess of the State regulation that limits idling time to no more than five minutes. The District is correct in stating that State regulation (In-Use Off Road Diesel Vehicle Regulation) limits idling time to no more than five minutes. This regulation also requires that medium and large fleets must have a written idling policy that is made available to operators of the vehicles and informs them that idling is limited to five consecutive minutes or less.

Taking the District's comment into consideration, and since as a practical matter a two minute limitation on idling would be difficult to enforce, the appropriate mitigation is to limit equipment idling to five minutes, consistent with the State regulation. As such, bullet number five will be deleted since bullet number four requires the proposed project to be in compliance with the In-Use Off Road Diesel Vehicle Regulation, which include a five minute idling limitation.

Response to Comment 9-10: See Responses to Comments 7-59 through 7-67 regarding comments on the DEIR screening health risk assessment (HRA) for diesel particulate matter (DPM). The DEIR evaluated potential health impacts to the high school and day care center from DPM emitted by equipment operating at the proposed project using a screening HRA approach. The probability of increased cancer risk at the high school was determined to be 7 in a million and 2.5 in a million for the day care center. These risks were compared to a threshold of significance of 10 in a million and found to be less than significant. Although the District does not have any adopted threshold for mobile source toxic impacts, use of the 10 in a million threshold of significance is appropriate. Other air quality management districts, such as the Bay Area Air Quality Management District, have adopted a CEQA threshold of significance for cancer risks of 10 in a million that apply to toxic air contaminant impacts from mobile sources.

Additionally, the DEIR did not rely on the conservative assumptions of the screening HRA to conclude that impacts are less than significant. The DEIR states that "Since screening HRA assumptions are highly conservative, actual risks would be far less." The finding of a less than significant impact was based on the calculated increased cancer risks being less than the threshold of significance of 10 in a million.

Response to Comment 9-11: At the time of preparation and publication of the DEIR (December 2009) the statement in the DEIR was correct. However, the District is correct that since that time the EPA has made the endangerment finding for greenhouse gases. This text has been updated.

Response to Comment 9-12: Comment noted. This sentence has been deleted.

Response to Comment 9-13: At the time of preparation and publication of the DEIR (December 2009) the statement in the DEIR was correct. However, the District is correct that since that time the amendments were adopted. The text has been updated.

Response to Comment 9-14: The requested information was sent to the commenter on February 2, 2010. Due to concerns expressed by the District regarding the emission calculations and assumptions, the County engaged an independent consulting air quality engineer to re-run the appropriate modeling and verify the results as reported in the DEIR. To provide a better estimate of potential emissions from the project and respond to specific comments on the DEIR, the emission calculations were modified and specific assumptions used for these calculations were documented. Both the criteria pollutant and GHG emission inventories were modified. The results of the modification to the DEIR emission inventory are provided in Appendix 4. Tables 4.4-4, 4.4-5, 4.4-6, 4.4-8, 4.4-9, and 4.4-10 in Section 4.4 Air Quality, and Tables 4.6-1 and 4.6-2 in Section 4.6 Climate Change, have been revised to reflect the revised emission calculations. The emission calculation methods used, along with associated emission factors, and assumptions used are shown on these tables.

The revised emission inventory resulted in a decrease in NO_x, ROG, PM₁₀, fugitive dust, and diesel particulate matter (DPM) emissions. Emissions of CO and GHGs increased. Neither change in emissions was substantial enough to change the findings and conclusions of the DEIR air quality and climate change analyses. The biggest change in emissions was the decrease in the particulate matter (PM₁₀, fugitive dust, and DPM) emissions. Even with this decrease in PM₁₀ emissions, the emissions are still greater than the threshold of significance, and the conclusions of the DEIR remain unchanged. With the decrease in DPM, it is expected that the estimated cancer risks at the high school and day care center would proportionally decrease from those presented in the DEIR.

The changes to the DEIR emission inventory are summarized below:

- Emission calculations for criteria pollutants and DPM were based on the peak annual mining rate of 1.2 million tons per year rather than the normal maximum mining rate of 1.0 million tons per year. Although the peak mining rate will not normally occur, estimating emissions at this mining rate ensures that the maximum potential impacts are evaluated. The GHG emission inventory was calculated based on the normal maximum mining rate of 1.0 million tons per year since it is the long term GHG emissions that are of concern and the long term average mining rate allowed for this project is not to exceed a 10-year running average of 1.0 million tons per year.
- The DEIR emission calculations for on road vehicles and trucks used emission factors from the South Coast Air Quality Management District. These emission factors are representative of the vehicle population, age distribution, and driving characteristics (trip lengths, number of starts, etc.) of vehicles in the South Coast Air Basin. Emission factors that are more representative of vehicles in the project region were used for the revised emission calculations. Specifically, the CARB EMFAC2007 mobile source emissions model was used to calculate emissions factors for vehicles in the YSAQMD area. These emission factors were then used to calculate emissions from on road project-related mobile sources.

- The DEIR emission calculations for off road mobile equipment were based on a national average age distribution for off road equipment in 2007 developed by the U.S. EPA for calculating nationwide GHG emissions. The off road equipment used for the proposed project will be made up of equipment specifically required for the project and will be more representative of Granite Construction Company's off road mobile equipment fleet characteristics. The revised emission calculations for off road mobile equipment used an equipment age distribution based on information from the applicant and one that would be consistent with the CARB regulatory requirements for off road diesel equipment.
- Material throughputs for the processing plant were revised to better reflect the material flows through individual plant processing equipment rather than assuming that the entire daily throughput was processed by each piece of equipment.
- Emission factors for GHG compounds (CO₂, N₂O, and CH₄) were updated to reflect the most recent emission factors available from the California Climate Action Registry.

Response to Comment 9-15: This comment will be included as a condition of approval of the project.

Response to Comment 9-16: This comment will be included as a condition of approval of the project.

Response to Comment 9-17: This comment will be included as a condition of approval of the project.

Response to Comment 9-18: This comment will be included as a condition of approval of the project.

Response to Comment 9-19: Thank you for your comments on this project.

DEPARTMENT OF TRANSPORTATION
DISTRICT 3 – SACRAMENTO AREA OFFICE
2800 GATEWAY OAKS DRIVE, MS 19
SACRAMENTO, CA 95833
PHONE (916) 274-0635
FAX (916) 263-1796
TTY 711

Letter 10



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JAN 30 2010

YOLO COUNTY PARKS & RECREATION DEPARTMENT

January 28, 2010

09YOL0031
03-YOL-16 PM 27.821
Granite Esparto Mining and Reclamation Project
Draft Program Environmental Impact Report

Mr. Kent Reeves
Yolo County
1210 West Main Street
Woodland, CA 95695

Dear Mr. Reeves,

Thank you for the opportunity to review and comment on Draft Program Environmental Impact Report for the Granite Esparto Mining and Reclamation Project. The project proposes significant mining activity approximately 2 miles north of Esparto and State Route (SR) 16. Our comments are as follows:

10-1

- Mitigation Measure 4.13-1. Caltrans requests that Yolo County include pavement monitoring for the Interstate (I) 505 ramps in the annual evaluation of the structural integrity of roads that will be submitted by the applicant.
- Caltrans requests that mining trucks be spaced to avoid truck platooning as they enter I-505.

10-2

10-3

If you have any questions about these comments please do not hesitate to contact Arthur Murray at (916) 274-0616.

Sincerely,

ALYSSA BEGLEY, Chief
Office of Transportation Planning - South

Letter 10, Alyssa Begley, Caltrans District 3, Transportation Planning

Response to Comment 10-1: Thank you for your comments. The proposed mining is consistent with what was planned by the County and approved in 1996. See discussion of Impact 4.12-1 on page 4.12-5 of the DEIR.

Response to Comment 10-2: The County is highly supportive of continuing ongoing coordination with Caltrans on matters of mutual concern; however the request raises liability, jurisdictional, and financial concerns for the County. Mitigation Measure 4.13-1 is essentially an elaboration of the requirements of Sections 10-4.408 and 10-4.409 of the Mining Ordinance as related to County roads. Table 4.13-11 demonstrates that for the I-505 ramps even under the cumulative peak hour condition, LOS will be A and B which is well below both the County's and Caltrans' significance thresholds. As such there is no nexus to require the mitigation requested.

Response to Comment 10-3: The County Public Works staff has indicated that platooning has not been observed from any of the mining facilities in recent memory (Panos, pers comm, 2/17/10). This is likely a result of communications improvements in the last decade or more, which allows for greater dispersal from the gate. Also there are only two scales at the yard which inherently facilitates metered exits. Current conditions support the conclusion that spacing of trucks to avoid platooning is already occurring.



DEPARTMENT OF CONSERVATION

OFFICE OF MINE RECLAMATION

801 K STREET • MS 09-06 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 323-9198 • FAX 916 / 445-6066 • TDD 916 / 324-2555 • WEBSITE www.dnr.ca.gov

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JAN 30 2010

YOLO COUNTY PARKS & RESOURCES DEPARTMENT

January 29, 2010

VIA EMAIL: kent.reeves@yolocounty.org
ORIGINAL SENT BY MAIL

Kent Reeves
Yolo County Parks and Resources Department
120 West Main Street, Suite C
Woodland, CA 9595

Dear Mr. Reeves:

DRAFT ENVIRONMENTAL IMPACT REPORT

SCH#2009022030

The Department of Conservation's Office of Mine Reclamation (OMR) has reviewed the Draft Environmental Impact Report (DEIR) for the proposed Granite Esparto Mining and Reclamation Project, dated December 2009. The applicant is proposing to mine construction aggregate on 313 acres of a 390-acre project site for a period of 30 years. The applicant estimates that approximately 1 million tons of material will be removed annually. The proposed project site is located approximately 1 mile north of the town of Esparto, adjacent to County Road 87. The site encompasses the active channel of Cache Creek and a portion of the terrace north of the creek. 11-1

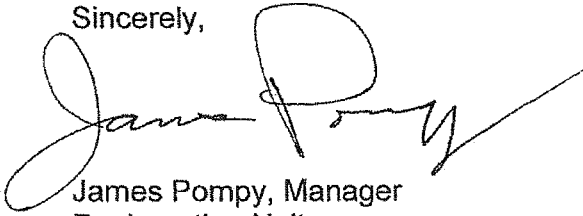
OMR has no comment at this time on the DEIR for the proposed Granite Esparto Mining and Reclamation Project. 11-2

The project is located within the region regulated by the 1996 Cache Creek Area Plan, and is required to comply with the Cache Creek Resource Management Plan pursuant to section 2715.5 of the Surface Mining and Reclamation Act. Once the "Site specific plan" required under section 2715.5(d) has been completed, please submit it for OMR's required 15-day review. The County should also submit, for OMR's review of the site specific plan, information from documents referenced in the DIER (e.g., slope stability evaluation, stormwater pollution prevention plans, or hydrogeologic studies) or other pertinent information (e.g., grading plans) used to prepare the site specific plan. OMR staff are available to provide technical assistance in the preparation of the plan. 11-3

When submitting the site specific plan and financial assurance cost estimate to OMR for review, the lead agency is required to certify that the plan is complete pursuant to section 2774(c) of the Surface Mining and Reclamation Act. Please include a cover letter with a statement such as: "The Granite Esparto Reclamation Plan is enclosed for OMR's 15-day review. Yolo County certifies that this submission is in compliance with the applicable requirements of Article 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations." 11-4

If you have any questions on the content of this letter or require any assistance with other mine reclamation issues, please contact me at (916) 323-5435.

Sincerely,



James Pompy, Manager
Reclamation Unit

Letter 11, James Pompy, Department of Conservation, Office of Mine Reclamation

Response to Comment 11-1: The comment is information and no response is necessary.

Response to Comment 11-2: This comment is noted for the record and no response is necessary.

Response to Comment 11-3: The County is aware of this requirement as related to the proposed Streambank Stabilization Plan, and will ensure that it is satisfied.

Response to Comment 11-4: The County will make sure these items are addressed with the required submittal. Thank you.



STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

January 29, 2010

RECEIVED

JAN 30 2010

YOLO COUNTY PARKS & RESOURCES
DEPARTMENT

Kent Reeves
Yolo County Parks and Resources Department
120 West Main Street, Suite C
Woodland, CA 95695

Subject: Granite Esparto Mining and Reclamation Project
SCH#: 2009022033

Dear Kent Reeves:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 28, 2010, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

12-1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Acting Director, State Clearinghouse

Enclosures
cc: Resources Agency

12-2

**Document Details Report
State Clearinghouse Data Base**

SCH# 2009022033
Project Title Granite Esparto Mining and Reclamation Project
Lead Agency Yolo County

Type EIR Draft EIR
Description NOTE: Review Per Lead

In October 2007, Granite Construction Company, Inc. filed an application with the Yolo County Parks and Resources Department (YCPRD) for approval of commercial mining and processing of sand and gravel resources from a site in central unincorporated Yolo County. Approval of the project is considered a discretionary action under CEQA. As such, the YCPRD is the lead agency overseeing the preparation of this EIR for the application for the Granite Esparto Mining and Reclamation Project. The Applicant is requesting approval of a new 30 yr Off Channel Mining Permit to excavate, process and sell sand gravel resources. The 390 acres project site is located ~1.4 miles north of the town of Esparto, CA, and 27 miles west of Sacramento. The proposed project site is located adjacent to and east of the existing Granite Capay Mining site, a project originally approved in 1996 and revised in 2002.

Lead Agency Contact

Name Kent Reeves
Agency Yolo County Parks and Resources Department
Phone (530) 406-4888 **Fax** 530-668-1801
email kent.reeves@yolocounty.org
Address 120 West Main Street, Suite C
City Woodland **State** CA **Zip** 95695

Project Location

County Yolo
City
Region
Lat / Long 38° 43' 16" N / 122° 1' 0.6" W
Cross Streets County Road 87/Fulton and Frank Lane
Parcel No. 048-220-015; 048-220-022
Township 10N **Range** 1W **Section** None **Base** MDB&M

Proximity to:

Highways 16
Airports No
Railways No
Waterways Cache Creek, West Adams Canal
Schools Esparto HS and ES
Land Use General Agriculture (A-I) and Agricultural Preserve (A-P) zoning

Project Issues Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Minerals; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Landuse; Aesthetic/Visual; Cumulative Effects; Growth Inducing; Noise; Wildlife

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Game, Region 2; Office of Historic Preservation; Department of Parks and Recreation; Central Valley Flood Protection Board; Department of Water Resources; California Highway Patrol; Caltrans, District 3; Air Resources Board, Major Industrial Projects; Resources, Recycling and Recovery; Regional Water Quality Control Bd., Region 5 (Sacramento); Department of Toxic Substances Control; Native American Heritage Commission

Note: Blanks in data fields result from insufficient information provided by lead agency.

Document Details Report
State Clearinghouse Data Base

Date Received 12/14/2009

Start of Review 12/14/2009

End of Review 01/28/2010

Note: Blanks in data fields result from insufficient information provided by lead agency.

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. LL40
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682
PERMITS: (916) 574-0685 FAX: (916) 574-0682



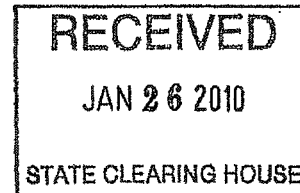
January 21, 2010

Kent Reeves
Yolo County Parks and Resources Department
120 West Main Street, Suite C
Woodland, CA 95695

Dear Mr. Reeves:

State Clearinghouse (SCH) Number: 2009022033
Granite Esparto Mining and Reclamation Project
Draft Environmental Impact Report

Clear
1-28-10
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Staff for the Department of Water Resources has reviewed the subject document and provides the following comments:

The proposed project is located within the jurisdiction of the Central Valley Flood Protection Board (Formerly known as The Reclamation Board). The Board is required to enforce standards for the construction, maintenance and protection of adopted flood control plans that will protect public lands from floods. The jurisdiction of the Board includes the Central Valley, including all tributaries and distributaries of the Sacramento River and the San Joaquin River, and designated floodways (Title 23 California Code of Regulations (CCR), Section 2).

A Board permit is required prior to starting the work within the Board's jurisdiction for the following:

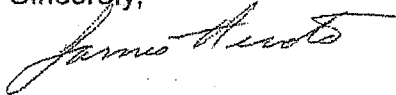
- The placement, construction, reconstruction, removal, or abandonment of any landscaping, culvert, bridge, conduit, fence, projection, fill, embankment, building, structure, obstruction, encroachment, excavation, the planting, or removal of vegetation, and any repair or maintenance that involves cutting into the levee (CCR Section 6);
- Existing structures that predate permitting or where it is necessary to establish the conditions normally imposed by permitting. The circumstances include those where responsibility for the encroachment has not been clearly established or ownership and use have been revised (CCR Section 6);
- Vegetation plantings will require the submission of detailed design drawings; identification of vegetation type; plant and tree names (i.e. common name and scientific name); total number of each type of plant and tree; planting spacing and irrigation method that will be within the project area; a complete vegetative management plan for maintenance to prevent the interference with flood control, levee maintenance, inspection and flood fight procedures (Title 23, California Code of Regulations CCR Section 131).

January 21, 2010
Kent Reeves
Page 2 of 2

The permit application and Title 23 CCR can be found on the Central Valley Flood Protection Board's website at <http://www.cvfpb.ca.gov/>. Contact your local, federal and state agencies, as other permits may apply.

If you have any questions please contact me at (916) 574-0651 or by email jherota@water.ca.gov.

Sincerely,



James Herota
Staff Environmental Scientist
Floodway Protection Section
Division of Flood Management

cc:

Governor's Office of Planning and Research
State Clearinghouse
1400 Tenth Street, Room 121
Sacramento, CA 95814

Letter 12, Scott Morgan, OPR State Clearinghouse

Response to Comment 12-1: This comment is informational and requires no response.

Response to Comment 12-2: Please see responses to Letter 2.



STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

February 3, 2010

RECEIVED

FEB 05 2010

YOLO COUNTY PARKS & RESOURCES
DEPARTMENT

Kent Reeves
Yolo County Parks and Resources Department
120 West Main Street, Suite C
Woodland, CA 95695

Subject: Granite-Esparto Mining and Reclamation Project
SCH#: 2009022033

Dear Kent Reeves:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on January 28, 2010. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2009022033) when contacting this office.

Sincerely,

Scott Morgan
Acting Director, State Clearinghouse

Enclosures
cc: Resources Agency

13-1

13-2



California Natural Resources Agency
 DEPARTMENT OF FISH AND GAME
 North Central Region
 1701 Nimbus Road, Suite A
 Rancho Cordova, CA 95670
 (916) 358-2900
 http://www.Department.ca.gov

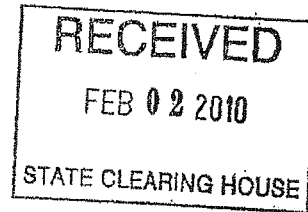
ARNOLD SCHWARZENEGGER, Governor
 John McCamman, Director



January 27, 2010

Kent Reeves
 Principle Natural Resource Planner
 Yolo County Parks and Resources Department
 120 West Main Street, Suite C
 Woodland, CA 95695

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2009022033

Dear Mr. Reeves:

The California Department of Fish and Game (Department) has received and reviewed the Draft Environmental Impact Report (DEIR) (SCH #~~2009022033~~ 2009022036) for the Granite Esparto Mining and Reclamation Project (Project). The Project proposes to mine and process approximately 1 million tons of sand and gravel per year from the Project site over 30 years. The Project proposes to convert the Project site to open water or lakes, open pasture, and agricultural lands at its completion.

The Department is providing comments in response to the circulation of the DEIR under the California Environmental Quality Act (CEQA), as both a responsible and trustee agency. As a trustee agency for the State's fish and wildlife resources, the Department ensures that proposed projects conserve and protect, fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of such species. In this capacity, the Department administers the California Endangered Species Act (CESA), the Native Plant Protection Act, and other provisions of the California Fish and Game Code.

Significant natural resources, including agricultural resources, occur on the Project site and areas adjacent to the Project. These natural resources occurring on the Project site and adjacent to the Project (e.g. areas effected by Project actions or features) include aquatic habitats (Cache Creek), wetlands, riparian habitats, and vital wildlife foraging areas. Several species, including special-status species, utilize the habitats occurring within the Project area and areas to be impacted by the Project.

The Department believes that the Project will result in significant cumulative impacts to important wildlife habitats and wildlife in general. The Department disagrees with the conclusions and mitigation measures identified in the DEIR and finds the document to be inadequate and incomplete. Additionally, the Department believes the DEIR fails to consider or discuss specific Project impacts and alternatives designed to reduce and mitigate impacts to a level that is below significant. The DEIR has identified Project impacts to biological resources that remain significant, even with the proposed mitigation measures. The following are specific comments related to the inadequacy of the DEIR:

CEQA is predicated on a complete and accurate description of the environments to be impacted by the Project (CEQA Guidelines Section 15125). The DEIR fails to quantify the types and acreages of habitats to be temporarily or permanently impacted by the Project.

Conserving California's Wildlife Since 1870

For example, the DEIR describes that the Project will occur on a 390-acre site, yet fails to discuss specific acreages of the various habitat types to be impacted. To allow for an adequate evaluation of the Project's impacts, the Department recommends that the DEIR be revised to include analysis, discussion, and quantification of impacts to riparian habitats, aquatic habitats, wetland habitats, and agricultural lands. The quantification should include existing crop types and their acreages.

CEQA requires that the DEIR contain an analysis of cumulative impacts associated with the Project (CEQA Guidelines Section 15355). The DEIR lacks a quantification of specific habitat types to be impacted by the Project, and as a result, the Department is unable to conduct a meaningful review of the cumulative impacts of the Project. Additionally, the DEIR lacks a discussion of the cumulative impacts associated with the Project when considering permitted sand and gravel mining operations that occur on adjacent parcels; in the immediate vicinity of Cache Creek and the proposed Project. These permitted sand and gravel operations, when considering their cumulative impact in combination with the proposed Project, represent a significant cumulative impact that has not been analyzed in the DEIR. The Department recommends that the DEIR be revised to include a discussion of the cumulative impacts with respect to the loss of agricultural land that provides foraging habitats for listed species. Additionally, the Department recommends that the DEIR be revised to include a discussion of the cumulative impacts to biological resources in general, as the DEIR's chapter on Cumulative Effects fails to discuss any cumulative impacts to biological resources.

The Department disagrees with the DEIR's Alternative Analysis. The DEIR concludes that the Project is equivalent to the "No Project" alternative. The DEIR states in the No Project Alternative ... "the site could result in changes from row crops to orchards which would eliminate Swainson's hawk habitat" (DEIR page 6-6). The Alternative Analysis provides no further discussion of alternatives that could reduce the Project's impacts to biological resources. The analysis provided is narrow, speculative, and fundamentally in conflict with the Yolo County Natural Heritage Program (Yolo NHP). The Yolo NHP is a county wide Habitat Conservation Plan and a Natural Community Conservation Plan that is being developed between Yolo County, the U. S. Fish and Wildlife Service, and the Department. The foundations and assumption utilized for the development of the Yolo NHP rely on Yolo County's rich agricultural heritage and include a variety of protection measures for wildlife and plants. To conclude in the DEIR that the conversion lands with high habitat value to a sand and gravel mining operation with little or no habitat value is without merit. The value of retained areas subsequent to Project construction due to indirect impacts and the direct loss of habitat currently occupied by both sensitive and local endemic wildlife will be irretrievably lost. The document has failed to identify any measures designed to mitigate direct, indirect and cumulative Project impacts to native habitat and associated wildlife species throughout the life of the Project. The Department recommends that the DEIR be revised to include an appropriate Alternative Analysis that analyzes alternatives that would reduce impacts to biological resources and that is consistent with the goals of the Yolo NHP.

The DEIR contains inadequate and incomplete Swainson's hawk nest avoidance measures. Page 4.5-35 of the DEIR relies upon *The Timing and Methodology for Conducting Swainson's Hawks Nest Surveys* (nest survey guidelines) as its basis for

avoiding the potential to take Swainson's hawks or their nest. The DEIR incorrectly refers to nest survey guidelines as a Department document. The nest survey guidelines are not a Department generated document and are inappropriately referenced in the DEIR. Furthermore, the nest survey guidelines do not discuss in any manner nest avoidance buffers. Additionally, the nest avoidance buffers discussed in the DEIR are in conflict with existing Department guidelines that, if utilized, may reduce Project impacts to a level that is less than significant with respect to CEQA. The *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California* (Swainson's hawk guidelines) (Enclosed) states in part "No new disturbances (e.g. heavy equipment operations associated with construction, use of cranes or draglines, new rock crushing activities) or other project related activities which may cause nest abandonment or forced fledging, should be initiated within ¼ mile (buffer zone) of an active nest". The Swainson's hawk guidelines define an active nest as a nest that has been utilized by a Swainson's hawk within the past five years. The DEIR establishes a maximum buffer of 300 feet and a minimum buffer of 100 feet. If the Project is approved with existing DEIR buffers, take of the State listed Swainson's hawk will likely occur. The Department recommends that the DEIR be revised to include the protective measures identified in the Swainson's hawk guidelines. Utilizing all of the identified measures would likely reduce impacts to Swainson's hawk to a level that is less than significant with respect to CEQA.

As the take of Swainson's hawk is likely to occur with the Project, the Department recommends that the Project obtain take authorization under CESA for Swainson's hawk as required by Fish and Game Code (Section 2081). Fish and Game Code 2081 prohibits the taking of a State listed species incidental to a lawful activity without first obtaining take authorization, second, without fully minimizing the potential for take (adhering to the Swainson's hawk guidelines), and third, without fully mitigating the impacts to the State listed species. The DEIR acknowledges that the take of Swainson's hawk could occur with the project as proposed, yet fails to fully minimize the potential to take and to fully mitigate the take of Swainson's hawk.

The Department recommends the Project mitigate for the loss of Swainson's hawk foraging habitat at a ratio that is commensurate with the ratios being established through the Yolo NHP and that the acquisition of the mitigation habitat become a condition of the Project's approval. The CEQA (CEQA Guidelines Section 21081.6 (b) states:

A public agency shall provide the measures to mitigate or avoid significant effects on the environment that are enforceable through permit conditions, agreements or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the projects design

The Department has entered into an interim management agreement with Yolo County for projects that will impact Swainson's hawks and their foraging habitat during the development of the Yolo NHP. Therefore, the Department recommends that the conditions set forth in that management agreement be applied to this Project. For assistance related to the provisions of the Yolo NHP, please contact Mrs. Maria Wong, Executive Director of the Yolo County Habitat/Natural Community Conservation Plan JPA at (530) 406-4880.

Mr. Reeves

4

January 27, 2010

Thank you for the opportunity to review this Project. If you have any questions, please contact Mr. James Navicky, Environmental Scientist at (916) 358-2926 or myself, Mr. Jeff Drongesen, Acting Environmental Program Manager, at (916) 358-2919.

Sincerely,



Jeff Drongesen
Acting Environmental Program Manager

ec: Jeff Drongesen
James Navicky
Department of Fish and game
North Central Region

jdrongesen@dfg.ca.gov
jnavicky@dfg.ca.gov

cc: Governor's Office of Planning and Research
State Clearing House and Planning Unit
1400 10th Street
P.O. Box 3044
Sacramento, CA 95812-3044

Maria Slawson Wong, AICP
Executive Director
Yolo County Habitat
Natural Community Conservation Plan JPA
120 West Main Street, Suite C
Woodland, CA 95695

Enclosure

Letter 13, Scott Morgan, OPR State Clearinghouse

Response to Comment 13-1: This comment is informational and requires no response.

Response to Comment 13-2: Please see responses to Letter 3.

YOLO COUNTY

FLOOD CONTROL &
WATER CONSERVATION
DISTRICT

March 1, 2010

RECEIVED

MAR 3 2010

YOLO COUNTY PARKS & RESOURCES
DEPARTMENT



Kent Reeves, Principal Natural Resources Planner
Yolo County Parks and Resources Department
120 West Main Street, Suite C
Woodland, CA 95695

Subject: Draft EIR for the Granite Esparto Mining and Reclamation Project
Granite Construction Company, Applicant
Zone File Number: 2007-071

Dear Mr. ~~Reeves~~ ^{Kent}:

We have reviewed the Draft EIR for the Granite Esparto Mining and Reclamation Project along with the Granite Application Exhibit A, Mining Plans, and the Granite Application Appendix I, Esparto Slope Stability Report. 14-1

Although the proposed gravel pit slope gradients and setbacks have been determined in the Wallace Kuhl 2007 Slope Stability Evaluation as meeting or exceeding the Yolo County Channel Mining Ordinance requirements, the depth and extensiveness of the proposed gravel pit along the District's West Adams Canal is a great concern to the District. 14-2

We believe that increased canal water seepage losses and the potential for catastrophic canal levee failure need to be further quantified and mitigation measures addressed, if necessary. 14-3

As many issues are involved with this project, we would like to arrange a meeting to discuss the matters with the County and Granite. We have a good ongoing relationship with Granite and would like to work cooperatively with you to further our mutual goals. 14-4

Thank you for the opportunity to comment on this proposed project and the draft EIR.

If you have questions, please call me at (530) 662-0265.

Sincerely yours,

Tim O'Halloran
General Manager

34274 State Highway 16
Woodland, CA 95695-9371
(530) 662-0265
FAX (530) 662-4982
www.ycfcwod.org

Tim O'Halloran
General Manager

Letter 14, Tim O'Halloran, Flood Control and Water Conservation District

Response to Comment 14-1: The comment is introductory and requires no response.

Response to Comment 14-2: The potential for slope failure where the mining pit adjoins the West Adams Canal was analyzed in the project Slope Stability Evaluation (Wallace Kuhl Associates, 2007). The results are further summarized on page 4.9-17 of the DEIR under Impact 4.8-2 which concludes that the potential for slope failure or significant erosion would be less-than-significant.

The analysis concludes that proposed 50-foot setback from the canal and 3:1 slope for the pit wall where it adjoins the canal, meets or exceeds all performance and safety factors specified in Section 10-5.530 of the County's Reclamation Ordinance. The analysis also recommends that exposed slopes be inspected by a geotechnical engineer or certified engineering geologist every 10 to 15 feet of excavation depth or at least once per year for subsurface conditions that could affect slope stability. This will be added as a condition of approval of the project. The District has indicated that this satisfies their concerns.

Response to Comment 14-4: The applicant's hydro-geologist has stated that the canal bottom and the depth to first groundwater are the primary factors related to seepage. The District has indicated that this satisfies their concerns.

Response to Comment 14-4: On July 13, 2010 the County and the applicant met with District representatives Tim O'Halloran and Max Stevenson to discuss the project and the subject comment letter. It was determined at the meeting that the District representatives would benefit from a tour of the site and additional information from the applicant regarding geotechnical analysis. Subsequent to this meeting the parties did visit the site and further discuss the District's concerns. On August 2, 2010 the District informed the County that their concerns had been addressed, as summarized above.