



# County of Yolo

## PARKS AND RESOURCES DEPARTMENT

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**TO:** SUPERVISOR DUANE CHAMBERLAIN, Chairman,  
and Members of the Board of Supervisors

**FROM:** WARREN WESTRUP, Director  
KENT REEVES, Principal Natural Resources Planner  
Parks and Resources Department

**DATE:** July 15, 2008

**SUBJECT:** Second reading on an ordinance repealing and replacing Chapter 3 of Title 10 of the Yolo County Code with new regulations entitled "Cache Creek Area Plan In-Channel Maintenance Mining Ordinance." (No general fund impact).

### RECOMMENDED ACTIONS:

Waive the second reading, and adopt a proposed ordinance repealing and replacing Chapter 3 of Title 10 of the Yolo County Code with new regulations entitled "Cache Creek Area Plan In-Channel Maintenance Mining Ordinance."

### FISCAL IMPACTS:

The proposed CCAP In-Channel Maintenance Mining Ordinance provides specific regulations for channel maintenance within the creek. There is no fiscal impact to the General Fund.

### REASONS FOR RECOMMENDED ACTIONS:

Adoption of the ordinance would satisfy Action 2.4-16 of the 1996 Cache Creek Resources Management Plan (CCRMP), calling for an in-channel ordinance to regulate the limited "maintenance mining" allowed under the plan. It would also allow for Section 2715.5 of the State Public Resources Code (PRC) to become operational.

### BACKGROUND:

The Cache Creek Area Plan (CCAP) was adopted by the Yolo County Board of Supervisors in August 1996 and approved by County voters in November 1996. The CCAP is comprised of the Off-Channel Mining Plan (OCMP), which is a mining and reclamation plan, and the Cache Creek Resources Management Plan (CCRMP), which is a creek management plan. The focus of the CCAP is groundwater protection, agricultural preservation, restoration of Cache Creek, and limitation and regulation of mining.

The Off-Channel Mining Plan (adopted July 30, 1996) restricts the location and extent of new mining, eliminates vested processing plants and facilities at the end of the mining period, creates a fund to address unforeseen environmental concerns, and adds various environmental protections and monitoring requirements to the base requirements of State law established by the Surface Mining and Reclamation Act (SMARA). The Off-Channel Mining Plan is accompanied by two implementing ordinances: one regulating off-channel mining (mining outside of the creek channel) and one regulating reclamation of mined areas.

*Reviewed by Ekampur, ext 8221*

The Cache Creek Resources Management Plan (adopted August 20, 1996, amended August 15, 2002) eliminated in-channel commercial mining, and established an improvement program for implementing on-going projects to improve channel stability and restore habitat along the creek banks. The CCRMP provides the policy framework for restoration of the 14.5 mile Lower Cache Creek. It includes specific implementation standards within the Cache Creek Improvement Program (CCIP). The CCIP is the implementation plan for the CCRMP that identifies categories of restoration/protection projects along a precisely defined stretch of creek. These include: bank stabilization, channel maintenance, revegetation, and habitat restoration according to identified design requirements.

The proposed CCAP In-Channel Maintenance Mining Ordinance provides specific regulations for channel maintenance within the creek. It establishes standards for maintenance mining that ensure that the policies and regulations of the CCRMP/CCIP are strictly followed.

The proposed ordinance would also allow for Section 2715.5 of the State Public Resources Code (PRC) to become operational. PRC Section 2715.5 was recently amended by the legislature (Assembly Bill 646), approved and filed October 13, 2007) and is critical to the ongoing implementation of the CCRMP and CCIP in Cache Creek because it recognizes the CCRMP as the functional equivalent of a reclamation plan under the State Surface Mining and Reclamation Act. Pursuant to PRC Section 2715.5(f), county approval of an ordinance governing in-channel non-commercial extraction activities is necessary in order for the code section to become operative.

This item was heard by the Planning Commission on May 8, 2008. The Planning Commission, by unanimous vote, directed staff to present this item to the Board of Supervisors with a recommendation of "approval". The Planning Commission also authorized staff to make modifications to the ordinance version presented to them on May 8.

After Planning Commission modifications were made by staff this item was heard in a first reading by the Board of Supervisors on June 24, 2008. The BOS by a unanimous vote continued the ordinance to the next regularly scheduled public meeting for consideration for adoption, together with related CEQA and other actions recommended by staff in the June 24, 2008 BOS staff report.

#### **OTHER AGENCY INVOLVEMENT:**

This package was coordinated with County Council and the Planning and Public Works Department.

Notice of this action was provided to approximately 1,900 addresses, including property owners in, and within 300 feet of, the 2,324-acre CCRMP area. The CCRMP area generally includes all land in, and adjoining Cache Creek along 14.5 miles from the Capay Dam, to the town of Yolo. Notice was also provided to the County's CEQA distribution list and the CCRMP Technical Advisory Committee (TAC) distribution list. These lists include a variety of federal, state, regional, and local agencies, and other interested parties, including the mining industry.

The ordinance has been reviewed twice by the State Mining and Geology Board of the Department of Conservation and was found to be adequate. Upon adoption by the County Board of Supervisors, notification of the State Mining and Geology Board (MGB), and transmittal by the MGB to the Secretary of State, PRC Section 2715.5 will become operational.

#### **ATTACHMENTS (on file with County Clerk from 06/24/2008):**

- Attachment A** - Resolution Adopting a Negative Declaration
- Attachment B** - CCAP In-Channel Maintenance Mining Ordinance
- Attachment C** - Negative Declaration Comment Letters (6) and Responses
- Attachment D** - CCAP Boundaries
- Attachment E** - Section 2715.5 of the Public Resources Code

JUL 18 2008

ORDINANCE NO. 1376ANA MORALES, CLERK OF THE BOARD  
BY Julie Dachtler  
DEPUTY

**AN ORDINANCE OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF YOLO REPEALING AND REPLACING CHAPTER 3 OF  
TITLE 10 OF THE YOLO COUNTY CODE WITH NEW REGULATIONS ENTITLED "CACHE  
CREEK AREA PLAN IN-CHANNEL MAINTENANCE MINING ORDINANCE"**

The Board of Supervisors of the County of Yolo hereby ordains as follows:

**1. Purpose and Findings.**

The County of Yolo is charged with the regulation of mining operations in Cache Creek in the unincorporated areas of Yolo County. By its Resolution 96-117 passed July 30, 1996, the Board of Supervisors of the County of Yolo adopted an Off-Channel Mining Plan for Lower Cache Creek ("OCMP") and by its Resolution 96-132 passed August 20, 1996, the Board adopted a Cache Creek Resource Management Plan ("CCRMP"). By its Minute Order 96-346 passed August 20, 1996, the Board of Supervisors directed that the OCMP and CCRMP shall together be known as the Cache Creek Area Plan ("CCAP").

In connection with the preparation of the CCRMP the County caused to be prepared a Program Environmental Impact Report for the Cache Creek Resource Management Plan and Project-Level Environmental Impact Report for the Cache Creek Improvement Program (SCH# 96013004), which the Board of Supervisors certified on August 20, 1996. Further, in connection with update of the CCRMP in 2002 the County caused to be prepared a Supplemental Environmental Impact Report, which the Board of Supervisors certified on July 23, 2002.

The CCRMP provides the policy framework for restoration of the 14.5 mile Lower Cache Creek. The CCRMP eliminated in-channel commercial mining, and established an improvement program, the Cache Creek Improvement Program (CCIP), for implementing on-going projects to improve channel stability and restore habitat along the creek banks. The CCIP is the implementation plan for the CCRMP. It identifies categories of restoration/protection projects along a precisely defined stretch of creek. These include: bank stabilization, channel maintenance, revegetation, and habitat restoration according to identified design requirements.

This Ordinance, the In-Channel Maintenance Mining Ordinance (Ordinance) provides specific regulations for channel maintenance within the creek. The adoption of this Ordinance satisfies Action 2.4-16 of the CCRMP calling for an in-channel ordinance to regulate the limited "maintenance mining" allowed under the plan. Also, adoption of the subject Ordinance is required to allow for Section 2715.5 of the State Public Resources Code (PRC) to become operational. PRC Section 2715.5 was recently amended by the legislature (Assemble Bill 646, approved and filed October 13, 2007) and is critical to the ongoing implementation of the CCRMP and CCIP in Cache Creek because it recognizes the CCRMP as the functional equivalent of a mining and reclamation plan under the State Surface Mining and Reclamation Act (SMARA). Pursuant to PRC Section 2715.5(f), County approval of an ordinance governing in-channel non-commercial extraction activities is necessary in order for the code section to become operative.

This Ordinance has been noticed in accordance with California Government Code 66001 et seq., and the Board of Supervisors held a public hearing to consider all written and oral comments regarding this ordinance.

**2. Rescission of Existing Regulations.**

Title 10, Chapter 3, known as the Interim In-Channel Surface Mining Regulations of Yolo County, is hereby rescinded and replaced with new regulations entitled Cache Creek Area Plan In-Channel Maintenance Mining Ordinance, as set forth in Section 3, below.

**3. New Regulations.**

Title 10 of Chapter 3 of the Yolo County Code shall be entitled "Cache Creek Area Plan In-Channel Maintenance Mining Ordinance," and shall read in full as follows:

**Article 1. Title, Authority, and Purpose**

**Sec. 10-3.101. Title.**

This chapter shall be known as the "Cache Creek Area Plan In-Channel Maintenance Mining Ordinance of Yolo County". It replaces the "Interim In-Channel Surface Mining Regulations of Yolo County".

**Sec. 10-3.102. Authority.**

This chapter is enacted pursuant to the authority granted by the California Surface Mining and Reclamation Act (SMARA) of 1975, Chapter 9 of Division 2 of the Public Resources Code of the State, commencing with Section 2710; and pursuant to the powers of the County to protect the public health, safety, and welfare pursuant to Section 7 of Article XI of the Constitution of the State.

**Sec. 10-3.103. Purpose.**

(a) The purpose of this chapter is to implement the provisions of the Cache Creek Area Plan (CCAP) as related to allowed in-channel activities. Limited excavation activities related to stream stabilization, flood protection, and riparian restoration (referred to as "maintenance mining") may be performed pursuant to the Cache Creek Resources Management Plan (CCRMP) and the Cache Creek Improvement Program (CCIP). This maintenance mining is necessary and required in order to protect structures, infrastructure and land uses along the creek and downstream, from damage from natural creek forces (flooding, erosion, deposition, washout, etc.). This chapter establishes the regulations applicable to all maintenance mining allowed to occur within Cache Creek, within the boundaries of the CCAP.

(b) Stabilizing the channel banks and profiles pursuant to the CCRMP/CCIP will result in reduced erosion, increased in-channel recharge, and additional riparian habitat opportunities.

**Article 2. Definitions**

**Sec. 10-3.201. Scope.**

The definitions set forth in Article 2 of Chapters 4 and 5 of Title 10 of the County Code shall apply throughout this chapter.

**Sec. 10-3.202. Act.**

"Act" shall mean the Surface Mining and Reclamation Act of 1975, specifically referring to Chapter 9 of Division 2 of the Public Resources Code, Sections 2710 et seq.

**Sec. 10-3.203. Commercial Mining.**

"Commercial mining" shall mean mining undertaken for the sole and/or primary purpose of commercial gain. Pursuant to the CCAP, commercial in-channel mining is precluded within Cache Creek.

**Sec. 10-3.204. Director**

As used within this Chapter, "Director" shall refer to the Director of the Parks and Resources Department or his/her designee as provided in Section 10-3.1104 unless otherwise specified.

**Sec. 10-3.205. Excavation.**

As used within this Chapter, "excavation" shall be synonymous with "maintenance mining" as defined below.

**Sec. 10-3.206. In-Channel.**

"In-Channel" shall mean that portion of Cache Creek (approximately 2,324 acres in total) depicted in Figure 2 of the CCRMP as falling within the creek channel boundary.

**Sec. 10-3.207. Maintenance Mining.**

"Maintenance mining" shall mean mining undertaken for the sole and/or primary purpose of stream stabilization, flood protection, and riparian restoration as described in the CCIP. This includes erosion control, flood control, bank protection, riparian restoration, and other in-channel activities and/or in-channel modifications consistent with the CCRMP/CCIP.

**Sec. 10-3.208. Off-Channel.**

"Off-Channel" shall mean that portion of the lower Cache Creek basin depicted in Figure 2 of the CCRMP as falling outside of the creek channel boundary.

**Sec. 10-3.209. Site Specific Plan.**

"Site specific plan" shall mean an individual project plan for which a Flood Hazard Development Permit (FHDP) (also known as a Floodplain Development Permit) is approved by the Director that is consistent with the CCRMP (Public Res. Code Section 2715.5(d)). Site specific plans shall, at a minimum, include the information required by Section 2715.5(d) of the Act and such additional information as may be required pursuant to this chapter.

**Sec. 10-3.210. Technical Advisory Committee.**

"Technical Advisory Committee" shall be as defined in the CCRMP/CCIP and shall also be known as the "TAC". The TAC is established to provide scientific and technical review for all projects conducted under the CCIP. Members of the TAC are contracted by the Parks and Resources department. The TAC is comprised of members with technical expertise in river systems, including hydraulic engineering, fluvial geomorphology, biology, and riparian restoration.

### Article 3. Scope and Exemptions

**Sec. 10-3.301. Scope of regulations.**

Unless otherwise provided in this article, no person or entity shall conduct in-channel maintenance mining operations unless a FHDP has been approved in accordance with Chapter 3 of Title 8 of the County Code (commencing with Section 8-3.404) and a Site Specific Plan and financial assurances as described in the Act (Public Res. Code Section 2715.5) have been approved in accordance with this chapter.

**Sec. 10-3.302. Scope: Area defined.**

This chapter shall apply only to maintenance mining activities that occur within the area located within the boundary of Cache Creek as defined in the Cache Creek Area Plan of the Yolo County General Plan. The conduct of mining outside of the channel of Cache Creek is regulated by Chapter 4 of this title and shall not be subject to the provisions of this chapter.

**Sec. 10-3.303. Exemptions: Defined.**

The provisions of this chapter shall not apply to those activities and operations, which are exempted by Sections 2714 (e.g. farming, construction projects, etc) and 2776 (vested rights) of the Act. Any exemption granted from the provisions of this chapter shall not, in and of itself, exempt a project or activity from the application of other applicable regulations and requirements.

**Sec. 10-3.304. Exemptions: Applications.**

Applications for exemptions shall be submitted to the Director for review and determination as to completeness. If the application is determined incomplete, the Director shall notify the applicant in writing within thirty (30) days, specifically describing the information necessary to complete the application. Upon receipt of a completed application, the Director shall determine whether the operation is exempt or is subject to the provisions of this chapter. Any person with standing may appeal the Director's decision to the Planning Commission pursuant to Article 10 of Chapter 4 or Title 10.

### Article 4. In-Channel Maintenance Mining Standards

**Sec. 10-3.401. Access Roads.**

(a) All unpaved roads used during in-channel maintenance mining operations shall be adequately watered to keep soil moist at all times, in order to control fugitive dust.

(b) Upon cessation of use, operational areas and haul roads that are not required for future use of the site shall be ripped and prepared to prevent compaction and allow for revegetation.

(c) In-channel haul roads shall be located along the toe of the streambank, in order to provide additional bank stabilization and to minimize disturbance of the low-flow channel. Each operation may have no more than two (2) haul roads at one time that cross the low-flow channel. Construction of the haul roads shall not result in excavation of the toe of the streambank, and shall be designed to avoid existing or restored riparian habitat.

(d) No new haul roads shall be constructed through significant riparian vegetation. Haul roads shall be realigned or redesigned to avoid established habitat.

(e) Haul roads shall comply with all applicable requirements and conditions of approval.

**Sec. 10-3.402. Adherence to CCRMP/CCIP.**

The general standard for excavation within the creek shall be to ensure that CCRMP and CCIP are strictly followed. This article sets forth minimum acceptable in-channel maintenance mining standards to implement this general standard.

**Sec. 10-3.403. Agency approvals.**

All work within the channel shall comply with the requirements of all agencies of jurisdiction, including but not limited to: Yolo County Building Division (engineered plans for dams or sills), Yolo County CCRMP and CCIP (all applicable standards), the State Department of Conservation (SMARA compliance), the State Department of Fish and Game (Section 1601 Streambed Alteration Agreement), the State Regional Water Quality Control Board (Section 401 and stormwater discharge), Caltrans (protection of bridges and highways), the U.S. Army Corps of Engineers (Section 404), the U.S. Fish and Wildlife Services (Endangered Species Act), and the Federal Emergency Management Agency (Flood Hazard Development Permit). These requirements may take the form of programmatic ("general") permits issued for the entire CCRMP/CCIP for a multi-year period if proposed activities are deemed consistent with the provisions of those permits by the Director.

**Sec.10-3.404. Cultural Resources.**

(a) If human skeletal remains are encountered during excavation, all work within seventy-five (75) feet shall immediately stop, and the County Coroner shall be notified within twenty-four (24) hours. If the remains are of Native American origin, the appropriate Native American community identified by the Native American Heritage Commission shall be contacted, and an agreement for treating or disposing, with appropriate dignity, of the remains and associated grave goods shall be developed. If any cultural resources, such as chipped or ground stone, historic debris, building foundations, or paleontological materials are encountered during excavation, then all work within seventy-five feet shall immediately stop and the Director shall be notified at once. A qualified archaeologist shall then examine any cultural resources found on the site and the information shall be submitted to the County.

(b) Damaging effects to cultural resources shall be avoided whenever possible. If avoidance is not feasible, the importance of the site shall be evaluated by a qualified archeologist prior to the commencement of excavation operations. If a cultural resource is determined not to be important, both the resource and the effect on it shall be reported to the County, and the resource need not be considered further. If avoidance of an important cultural resource is not feasible, a mitigation plan shall be prepared and implemented. The mitigation plan shall explain the importance of the resource, describe the proposed approach to mitigate destruction or damage to the site, and demonstrate how the proposed mitigation would serve the public interest.

**Sec. 10-3-405. Design Guidelines.**

All in-channel activities shall be consistent with and fully implement the design guidelines for channel stabilization and maintenance contained in Chapter 5.0 of the CCIP.

**Sec. 10-3.406. Excavation Limitations.**

(a) Where gravel bars are to be excavated, aggregate removal shall be limited to the downstream portion of the deposit and may not exceed seventy-five (75) percent of the length of the bar. At least twenty-five (25) percent of the upstream portion of the gravel bar shall be retained, in order to allow for the establishment of riparian vegetation. Complete removal of gravel bars may be recommended by the TAC and approved by the Director only if hydraulic conditions related to the bar are recognized to threaten structures and property.

(b) Aggregate material to be removed from the streambed or stream bank under approved in-channel projects shall be excavated as soon as is practicable after deposition, prior to the establishment of vegetation. No stockpiles shall be left within the channel after excavation has been completed.

(c) The amount of aggregate removed from the channel shall be limited to the amount of sand and gravel deposited during the previous year as estimated by the TAC based on channel morphology data (approximately 200,000 tons annually on average), except where bank excavation is necessary to widen the channel as a part of implementing the Test 3 Run Boundary, or where potential erosion and flooding problems exist. The amount and location of in-channel aggregate removal shall be carried out according to the ongoing recommendations of the TAC and any related County approvals, with the voluntary cooperation of the landowners.

(d) Aggregate material removed pursuant to this ordinance may be sold (CCRMP, Section 6.1, para. 5). This material is excluded from the tonnage allocation assigned to each off-channel operator pursuant to an approved FHDP (CCRMP, Section 6.1, para. 7).

(e) The volume of aggregate material removed pursuant to this ordinance shall be reported to the County on an annual and total-per-permit basis.

#### **Sec. 10-3-407. Exceptions.**

Where an applicant demonstrates to the lead agency that an exception to the standards specified in this article is necessary, the TAC may recommend an alternative standard for inclusion in the FHDP. Exceptions will be considered by the Director only where necessary due to special circumstances associated with the subject site, including size, shape, topography, location, or surroundings. Although the TAC may recommend alternative standards, in all cases the alternative standard must meet or exceed the policy objectives, technical requirements, and/or environmental thresholds set forth in the OCMP, as determined by the Director (see Article 5).

#### **Sec. 10-3.408. Hazards and Hazardous Materials.**

(a) All heavy equipment used for channel improvement projects shall be kept in good working order to reduce emissions and preclude the leakage of oils, fuels, and other substances that may adversely affect property, the environment, or human health and safety. Fueling and maintenance activities shall not occur within one-hundred (100) feet of the active channel. All procedures for handling, storage, and disposal of hazardous materials shall be described in a Storm Water Pollution Prevention Plan if required for the projects. Any long-term project (e.g., extensive erosion control, gravel removal) shall have a chemical spill prevention and emergency plan filed and approved by the appropriate local agency. The plan must include training of the equipment operator and workers in spill reporting and how to minimize environmental damage.

(b) Firms or individuals performing work within the channel shall immediately notify the Director and/or the Yolo County Office of Emergency Services of any events such as fires, explosions, spills, land or slope failures, or other conditions at the site which could pose a risk to property, the environment, or human health and safety outside the permitted area. Upon request by any County agency, the firm or individual shall provide a written report of any such event, within thirty (30) days, which shall include, but not be limited to, a description of the facts of the event, the corrective measures used, and the steps taken to prevent a recurrence of the incident. This condition does not supersede nor replace any requirement of any other government agency for reporting incidents.

(c) A copy of the approved Business Emergency Response Plans and the approved Spill Prevention Control and Countermeasure Plans, if required, shall be filed with the Yolo County Health Department, prior to the commencement of work within the channel.



(d) Wastewater from in-channel projects shall not be directly discharged to Cache Creek. Measures such as berms, silt fences, sediment ponds, hay bales, and/or revegetation shall be used to control erosion. Agricultural tailwater shall be diverted to catchment basins prior to release to the creek.

(e) Sediment fines generated by aggregate processing of in-channel sand and gravel shall be used for agricultural soil enhancement or -stream revegetation projects. In-channel sediment fines shall not be used as backfill material in off-channel habitat restoration, due to potential high mercury content.

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

**Sec. 10-3.409. Hours of Operation.**

All in-channel operations shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, unless emergency conditions require otherwise as determined by the Director.

**Sec. 10-3.410. Location.**

Removal of in-channel aggregate materials shall only occur pursuant to this chapter and pursuant to the requirements of the CCRMP/CCIP. Removal of in-channel aggregate materials shall be restricted to locations within the Cache Creek channel that fall within the boundaries of the CCAP.

**Sec. 10-3.411. Noise.**

Noise levels shall not exceed an average noise level equivalent (Leq) of eighty (80) decibels (dBA) measured at the outermost boundaries of the parcel being excavated. However, noise levels may not exceed an average noise level equivalent (Leq) of sixty (60) decibels (dBA) at any nearby residences or other noise-sensitive land uses, unless emergency conditions require otherwise as determined by the Director.

**Sec. 10-3.412. Permit Life.**

FHDPs shall be approved for the period of time identified by the Director as necessary to complete the proposed in-channel activity, up to a maximum period of two years. A permit may be extended for an additional two years, subject to further review and approval by the Director. All FHDPs shall be subject to annual adjustment by the Director to address the amount of materials that can be extracted from the site based on data obtained through the annual monitoring program.

**Sec. 10-3.413. Processing Prohibition.**

Processing of in-channel excavated material shall occur only at approved off-channel plant facilities. No new plant facilities shall be established for the purposes of processing in-channel materials.

**Sec. 10-3.414. Regrading.**

Streambed regrading after excavation shall leave behind an undulating surface outside of the low-flow channel, so that the resulting surface depressions expose the shallow water table and encourage the colonization of riparian trees. Features such as channels and pools maximize the diversity of environmental conditions for the establishment of riparian habitat, and are therefore encouraged.

**Sec. 10-3.415.           Revegetation.**

(a) Approved projects requiring excavation of channel banks and removal of riparian vegetation shall be revegetated consistent with Performance Standards 4.5-1 through 4.5-23 of the CCRMP, and with the CCAP, upon the completion of excavation activities.

(b) Vegetated buffers should be placed between restored habitat areas and adjoining farmland, in order to minimize the potential for riparian areas to serve as reservoirs for agricultural pests. Said buffers will also reduce the effects of noise, dust, and spraying generated by agricultural operations on wildlife and riparian vegetation.

(c) Species and water features included in habitat areas should be designed to discourage the proliferation of agricultural pests and weeds that would impair local crops.

(d) Species shall be selected to encourage the biological control of agricultural and native habitat pests and weeds.

(e) Trees that are suitable for wildlife perching near agricultural fields dedicated to row crop production should be incorporated into habitat design, in order to provide foraging habitat for Swainson's Hawks and other birds of prey.

(f) As an alternative to on-site revegetation where such cannot be feasibly and successfully implemented, habitat restoration or creation at a suitable off-site location and/or non-native removal and other habitat enhancement at a suitable off-site location will be required.

**Sec. 10-3.416.           Seasonal Restrictions.**

Pursuant to the CCIP, the deadline for submittal of applications for an FHDP in the Cache Creek channel is May 31<sup>st</sup>. The deadline for completion of approved in-channel work is November 1<sup>st</sup>, unless an extended period for completion is recommended by the TAC, consistent with applicable general permit conditions imposed by other agencies of jurisdiction (see Section 10-3.403), and approved by the Director.

**Sec. 10-3.417.           Setbacks.**

(a) No excavation shall take place within one-hundred and fifty (150) feet of the centerline of the low-flow channel, where the creek is contained within a single channel. Where the creek is braided or contains multiple channels, no excavation shall take place within one-hundred and twenty-five (125) feet of each channel.

(b) No excavation shall take place within twenty-five (25) feet of any mature trees to be retained within the channel.

(c) For the purposes of this Section and CCRMP Performance Standard 6.5-8, channel stabilization and/or restoration activities that are otherwise consistent with the CCRMP and CCIP, but would encroach within these setbacks, are allowed subject to the review of the TAC and approval by the Director.

**Sec. 10-3.418.           Slopes.**

(a) Final slopes for in-channel excavations shall conform to the channel slope and sinuosity guidelines shown in Figure 11 of the CCRMP. Excavations shall be sloped in a downstream direction, towards the low-flow channel. When recommended by the TAC, alternate grading plans may be approved by the Director.

(b) In-channel excavations shall generally conform to the cross-section profiles shown in Figures 12 through 16 of the CCRMP. When recommended by the TAC, alternate grading plans may be approved by the Director.

**Sec. 10-3-419. Surveys.**

The applicant shall ensure that completed projects are surveyed to provide a record of as-built conditions. This survey shall be completed in a form acceptable to the TAC, and shall be submitted to the TAC within thirty days of completion of the project as determined by the Director.

**Article 5. In-Channel Maintenance Mining Approval Process**

**Sec. 10-3.501. Applications: Contents.**

Except as provided for in Section 10-3.502 of this article, all project application documentation shall be submitted to the Director at one time. Three (3) complete copies of the application shall be provided to the County. Applications for proposed in-channel activities shall include, but shall not be limited to, the following:

- (a) Completed Flood Hazard Development Permit (FHDP) application forms;
- (b) A detailed narrative description of the proposed activity;
- (c) Appropriate site-specific technical reports (if not already on file) such as a biological resources analysis and revegetation program; a hydrology analysis; a geotechnical analysis; an engineered excavation plan.
- (d) A site plan showing property lines, assessor's parcel numbers, on-site and adjoining land uses, topography, access, and vegetation.
- (e) A description of the potential effects of the proposed project on hydraulic conditions upstream and downstream of the proposed project site.
- (f) A chemical spill prevention and emergency plan (or its equivalent) files and approved by the appropriate lead agency for all long-term projects that involve the use of heavy equipment.
- (g) Major stabilization projects, as opposed to annual channel maintenance activities, may be required to submit refined hydraulic and sediment transport models for specific creek reaches to develop design parameters. The County will make available flow and sediment discharge data, current versions of hydraulic and sediment transport models, and information on channel stability trends in the vicinity of the proposed project. This information shall be used to prepare the application.
- (h) In addition to the foregoing, the Director may require such other and further information relevant to the project as needed to determine whether the proposal may affect the public health and safety, to evaluate the potential environmental effects of the proposal, or for such other good cause as determined by the Director in his sole discretion.

**Sec. 10-3.502. Applications: Waiver of Information.**

The Director may waive any of the items of information required in Section 10-3.501 of this Article, if the following conditions apply:

- (a) The gathering of such information is precluded by physical conditions existing on the site on the date of the application; and
- (b) The applicant has provided a statement describing the reasons for the delay, including the date by which the information required in the application will be submitted. If granted, the Director shall notify the applicant in writing, specifically describing the information which is being waived and specifying the date by which the applicant shall provide the necessary information. If all other information required pursuant to this chapter has been submitted and the appropriate fees have been paid, then the Director shall receive the application for filing; or
- (c) The County or TAC is acting as the applicant; or
- (d) The information (or an acceptable equivalent) is already on file.

**Sec. 10-3.503. Applications: Filing.**

Applications shall be submitted to the Director no later than May 31<sup>st</sup>. TAC review and comment, review by the Director, and final action of the FHDP shall occur no later than June 30<sup>th</sup>. However, the application shall not be processed until the Director has determined it to be complete and the appropriate fees have been paid, as required under Article 8 of this chapter.

**Sec. 10-3.504. Applications: Review.**

The application shall be reviewed by the TAC and Director for consistency with the CCRMP, CCIP, and all applicable terms of the permits issued by other agencies of jurisdiction (see Section 10-3.403).

Once the application has been accepted, the Director shall submit the application package to the TAC for review and recommendation as soon as possible. Pursuant to the CCIP the role of the TAC is provide scientific and technical review and recommendations.

**Sec. 10-3.505. Findings for Permit Approval.**

The Director may approve a FHDP pursuant to this chapter (and Section 8-3.404 of the County Code) only if all of the following findings are made:

(a) The proposed in-channel activity is consistent with any County-administered general permits from other agencies of jurisdiction (see Section 10-3.403); or alternatively, that all other state and federal permits have been obtained.

(b) Any sand and gravel removed from the channel is a result of the proposed in-channel activity is necessary for one or more of the following reasons:

- (i) to provide flood control
- (ii) to protect existing structures
- (iii) to minimize bank erosion
- (iv) to implement the Test 3 boundary

(c) The proposed in-channel activity will protect sensitive biological resources.

(d) The proposed in-channel activity is consistent with the requirements of both the CCRMP and the CCIP.

(e) Existing flooding problems are not exacerbated by the proposed in-channel activity.

**Sec. 10-3.506. Decision.**

After considering the application materials and the recommendations of the TAC, Director shall approve, conditionally approve, or deny the application by a written decision setting forth the findings supporting the action. Approval may be granted subject to any relevant condition which the Director may deem necessary to effectuate the purposes of the Act and this chapter. Such conditions may address any or all of the findings required by Section 10-4.504 of this article. If the application is conditionally approved, the conditions shall be specified in writing. Conditions of the permit will require that completed projects be surveyed to provide a record of as-built conditions.

**Sec. 10-3.507. Appeals.**

The decision of the Director shall become final within fifteen (15) days, unless appealed. The decision of the Director may be appealed pursuant to Section 8-3.405 of the County Code, upon submittal of a properly filed appeal form and appeal fee.

## **Article 6. Amendments and Minor Modifications to Approved Flood Hazard Development Permits**

### **Sec. 10-3.601. Amendments and Minor Modifications: Purpose.**

The purpose of this article is to provide procedures for changing the conditions of approval or project description (as described in the application and accompanying analyses) to account for unanticipated changes in the proposed activity, site characteristics, regulations, or other aspects of the approved FHDP. Such changes may constitute either an amendment or minor modification of a permit, as described further below.

### **Sec. 10-3.602. Amendments: Applications.**

Applications for amendments to previously approved FHDPs shall be submitted to the Director, on forms provided by the County, and shall be accompanied by the appropriate fees, as determined in Article 8 of this chapter. Such applications shall be processed pursuant to the procedures set forth in Article 5 of this chapter.

### **Sec. 10-3.603. Amendments: Exceptions.**

Proposed exceptions to the in-channel maintenance mining standards constitute an amendment, and may not be included as part of any application for a minor modification. Any changes in the conditions of approval or the amount of surface area and/or depth to be disturbed shall also be treated as a substantial deviation from the approved plan, and shall be processed as an amendment to the FHDP.

### **Sec. 10-3.604. Minor Modifications.**

The Director may approve minor modifications of FHDPs pursuant to this chapter. A minor modification may only be approved if the Findings for Permit Approval in Section 10-3.504 can be made. If these criteria are not satisfied, an amendment must be pursued instead. Such modifications shall be noted on the approved plans and shall be initialed by the Director.

### **Sec. 10-3.605. Amendments and Modifications.**

Amendments shall be acted upon by the County pursuant to the procedures identified in Article 5 of this chapter, as supplemented by this article.

## **Article 7. Annual Reports**

### **Sec. 10-3.701. Cache Creek Monitoring Program.**

The TAC shall implement a creek monitoring program pursuant to Chapter 6.0 of the CCIP, consisting of periodic collection of stream discharge and sediment transport data and annual analysis of changes in channel morphology and riparian vegetation. All data and analysis shall be summarized in an annual report submitted to the Board of Supervisors.

### **Sec. 10-3.702. Channel Improvement Projects.**

Pursuant to Performance Standards 2.5-1 through 2.5-9 of the CCRMP, the TAC will annually identify priority channel improvement projects on the basis of the results of the Cache Creek Monitoring Program. The annual report will describe the need for and purpose of identified priority projects. The report will describe the specific location of the projects and the general aspects of the improvements. Pursuant to the CCIP, the Director will coordinate with property owners to implement the projects.

## Article 8. Fees

### Sec. 10-3.801. Fees: Applications.

Each application for a FHDP or any amendments and modifications thereto shall be accompanied by the appropriate fee as determined in the Master Fee Resolution adopted by the Board of Supervisors.

## Article 9. Confidentiality of Records

### Sec. 10-3.901. Confidentiality of records.

Any proprietary information submitted in a permit application, a report, or other document required by this chapter, which is considered by the applicant to be confidential shall be submitted under separate cover and shall be so marked by the applicant. Proprietary information shall include, but may not be limited to, the following: annual production figures, reserves, or rates of depletion of the aggregate resource being mined, pursuant to Section 2778(a) of the Act; well log information; and the location and extent of sensitive archaeological sites.

The proposed confidential information shall be accompanied by a statement citing the legal authority supporting the applicant's claim of confidentiality. The request for confidentiality shall be reviewed by the Director, in consultation with the Office of the County Counsel if necessary, and shall either be approved or denied. The information at issue shall be maintained in a confidential manner by the County until the Director reaches a decision.

The decision to approve or deny the claim of confidentiality by the Director shall be made in writing. If the claim of confidentiality is denied, the applicant may request the return of the information at issue. The Director's action on a claim of confidentiality is final, and may not be appealed to the Planning Commission or the Board of Supervisors. In any subsequent judicial action or proceeding where the proprietary, confidential nature of the information is contested, the applicant shall reimburse the County for any legal fees and other costs reasonably incurred in defending against the disclosure of such information, regardless of whether the County prevails.

If the request is approved, then the confidential information shall be maintained under separate cover and shall be marked "confidential," "trade secret," or otherwise stamped to indicate its confidential status. The contents of the confidential file shall be made available only to the Director and those persons authorized in writing by the applicant and by the property owner. If the request is denied, the applicant may withdraw the information and include it with the application or report as a public document. Failure to submit any necessary information, or the applicant's decision to withdraw such information if a claim of confidentiality is denied, may result in an incomplete application or report.

## Article 10. Inspections: Notices of Violations

### Sec. 10-3.1001. Inspections: Purpose.

The Director shall make such necessary inspections and investigations of all in-channel maintenance mining operations within the unincorporated portion of the County in order to accomplish any of the following purposes:

- (a) To determine compliance with this chapter and the Act;
- (b) To determine compliance with the conditions of any permit approved pursuant to this chapter;

(c) To investigate the environmental effects which the operations may be causing to the surrounding area; and

(d) To verify the information submitted in any application or any annual report submitted pursuant to this chapter.

**Sec. 10-3.1002. Inspections.**

During the life of the permit and any required monitoring, the Director shall conduct an inspection or inspections not less than once in any calendar year (consistent with the requirements of Pub. Resources Code Section 2774) of each in-channel maintenance mining operation to determine whether the applicant is in compliance with the Act, this chapter, and any permits or other approvals, and/or whether all authorized work has been properly completed.

**Sec. 10-3.1003. Inspections: Notification.**

All inspections shall be documented using forms adopted by the State Department of Conservation. The Director shall notify the Department of the inspection within thirty (30) days after it has been completed. Said notice shall include the following:

(a) A statement regarding whether the operation is in compliance with the Act and this chapter. Any violations of either the Act or this chapter shall be specifically described;

(b) The completed inspection forms;

(c) A description of any pending reviews or appeals of permits, financial assurances, amendments or modifications thereto; and

(d) Any supporting documentation.

Copies of the notice shall also be provided to the applicant.

**Sec. 10-3.1004. Inspections; Designee.**

Inspections shall be conducted by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, state-registered forester, County staff, or other designee as determined by the Director, who is familiar with land reclamation issues (as described in the Act and related regulations) and experienced in activities governed by the Act, and who has not been employed by the applicant in any capacity during the previous twelve (12) months.

**Sec. 10-3.1005. Violations: Notice.**

Whenever the Director has reasonable cause to believe that an in-channel maintenance mining operation is in violation of the Act, this chapter, or any terms or conditions of a permit issued pursuant to this chapter, a written notice of violation shall be served to the applicant. The notice shall specifically describe both the violation(s) and the remedial steps required for compliance. Said notice shall be served by certified mail and a copy shall be sent to the State Department of Conservation. In the event that the notice is returned undeliverable, a copy of the notice shall be posted in a conspicuous place within the project site.

**Sec. 10-3.1006. Violations: Order to comply.**

If the violation continues after thirty (30) days from the date of notification, then the Director shall issue an order requiring compliance. Said order shall be served upon the applicant by certified mail, with a copy sent to the Department. The order shall specify a time by which compliance must be completed, as determined by the Director. A reasonable amount of time shall be allowed to bring the operation into compliance, taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

The order shall also state the date, time, and place set for a hearing before the Planning Commission regarding the notice of violation. The hearing shall be conducted no sooner than

thirty (30) days and no later than sixty (60) days after the service of the order upon the applicant. Public notice of such hearing shall be given as set forth in Section 10-4.507 of this chapter. The Director may cancel the hearing if, in his judgment, the violation is fully resolved prior to the date of the hearing.

**Sec. 10-3.1007. Violations: Hearing.**

At the time and place described in the order of compliance, the Planning Commission shall conduct a public hearing to consider the violation. Upon the close of the hearing, the Planning Commission shall deliberate and take one of the following actions:

- (a) Approve the order of the Director;
- (b) Remove any of the violations and approve the order as modified; or
- (c) Decline to approve the order of the Director.

If the order of the Director is approved, the Planning Commission's decision shall become final and the approved order will take effect fifteen (15) days after the decision, unless an appeal is filed with the Board, pursuant to Article 11 of this chapter.

**Sec. 10-3.1008. Violations: Revocation.**

If an applicant fails to observe an order of compliance following the final decision of the Planning Commission pursuant to Section 10-3.1107, above, then the FHDP shall be considered revoked and the Director shall initiate procedures to forfeit the financial assurances in accordance with Article 9 of Chapter 5 of this title.

**Sec. 10-3.1009. Violations: Administrative penalties.**

If the applicant fails to comply with an order of compliance following the final decision of the Planning Commission, issued pursuant to this article, the Director may, either as an alternative or in addition to revoking the permit in accordance with section 10-3.1008, above, issue an order imposing administrative penalties of not more than five thousand dollars (\$5,000) per day, retroactive to the original date of noncompliance. When determining the amount of the penalty, the Director shall consider, but may not be limited to, the following factors:

- (a) The nature, circumstances, extent, and gravity of the violation(s);
- (b) Any prior history of violations; and,
- (c) The degree of culpability by the applicant.

The order establishing administrative penalties shall be served by certified mail to the applicant. Any such order shall become effective upon issuance and the penalties imposed therein shall be paid to the Director within thirty (30) days, unless the order imposing administrative penalties is appealed to the Planning Commission, pursuant to Article 11 of this chapter. If no writ petition is filed, then the order setting administrative penalties shall not be subject to review by any court or agency.

Any decision by the to order administrative penalties shall become effective within thirty (30) days of the exhaustion of the administrative remedies provided in this chapter, unless the applicant files a petition for writ of mandate in the superior court for review of the order. If no appeal is filed, then the order setting administrative penalties shall not be subject to review by any court or agency. The order establishing administrative penalties shall be served by certified mail to the applicant.

Payment of the administrative penalties shall be made by the applicant to the County within thirty (30) days of receipt of the order or a final decision on any subsequent appeals, whichever occurs later. Penalties collected by the Director shall only be used to cover the reasonable costs incurred by the County in administering either the Act or Chapters 3, 4, and 5 of Title 10 of this Code.



**Sec. 10-3.1010.**

**Violations: Public nuisance.**

Any in-channel activity in violation of this title, or in violation of any permit or effective order of compliance approved pursuant to this chapter, shall be considered a public nuisance. If the applicant fails to comply with an effective order of compliance, issued pursuant to this article, the Director may refer the violation to the District Attorney for further civil or criminal action.

**4. Severability.**


If any section, sub-section, sentence, clause, or phrase of this ordinance is held by a court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance, and each section, sub-section, sentence, clause, and phrase hereof, irrespective of the fact that one or more sections, sub-sections, sentences, clauses, and phrases be declared invalid.

**5. Effective Date.**

This ordinance shall take effect and be in force thirty (30) days after its passage, and prior to expiration of fifteen (15) days after its passage thereof, shall be published by title and summary only in the ~~Davis Enterprise~~ together with the names of members of the Board of Supervisors voting for and against the same.

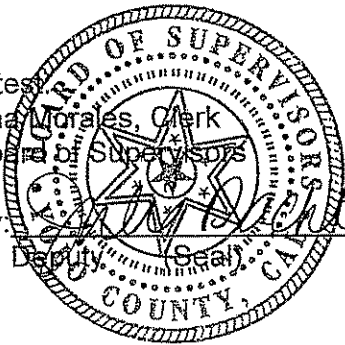
**PASSED AND ADOPTED** by the Board of Supervisors of the County of Yolo, State of California, this 15<sup>th</sup> day of July, 2008, by the following vote:

- AYES: McGowan, Thomson, Rexroad, Yamada, Chamberlain.
- NOES: None.
- ABSENT: None.
- ABSTAIN: None.

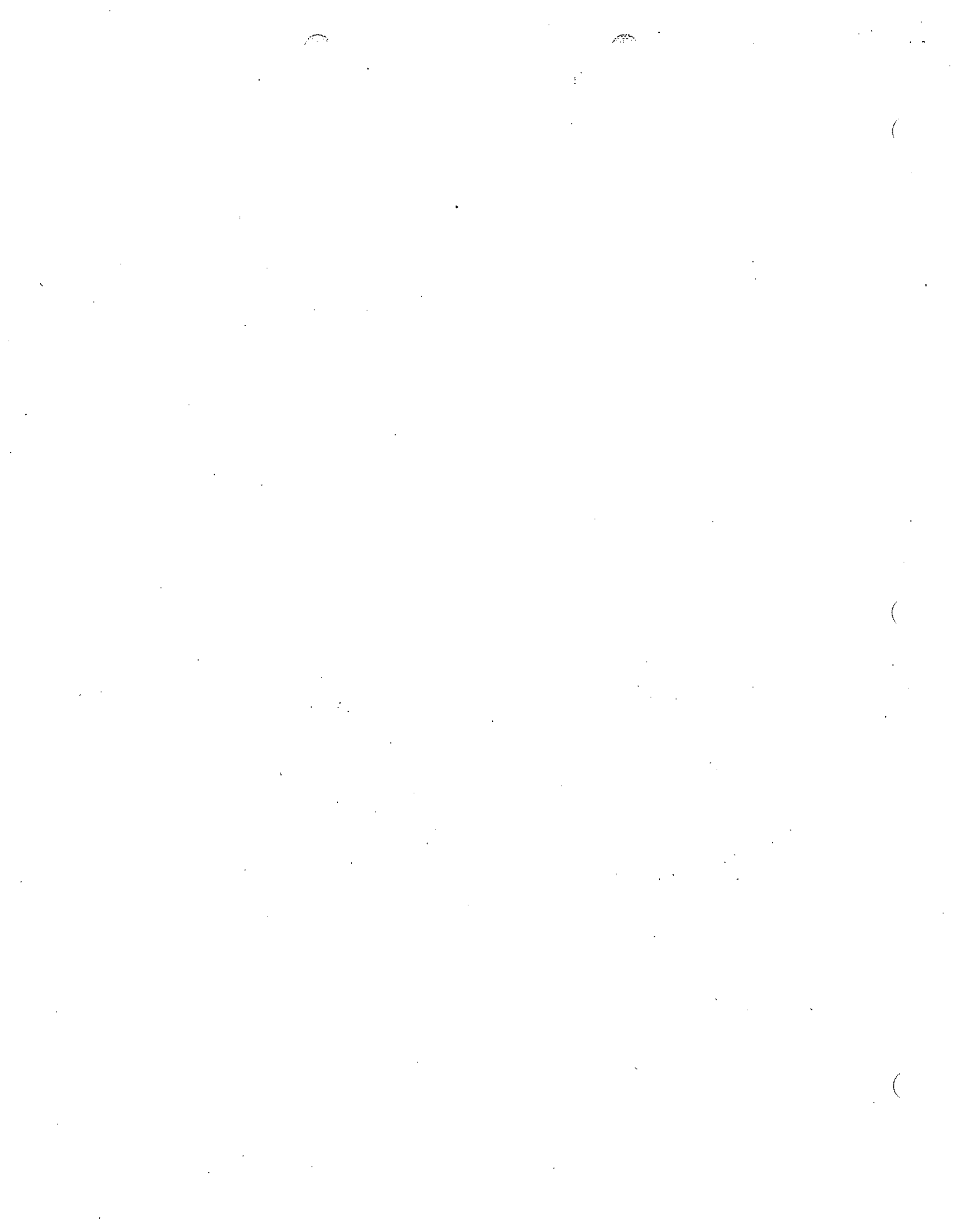
  
 Duane Chamberlain, Chairman  
 Yolo County Board of Supervisors

Approved as to Form:  
 Robyn Truitt Drivon, County Counsel

Attest:  
 Ana Morales, Clerk  
 Board of Supervisors  
 By: 



By:   
 Philip J. Pogledich, Senior Deputy



## **RESPONSES TO COMMENTS received on the CCAP In-Channel Maintenance Mining Ordinance Negative Declaration**

**LETTER 1: Sally Oliver, Resident** – Ms. Oliver asks the County to identify any changes to the CCRMP/CCIP that resulted from PRC Section 2715.5 and/or AB 646. There were no changes to the CCRMP/CCIP that resulted from the PRC Section or the bill. As described in the Initial Study (Page 2), the code section and the bill allow for the implementation of the CCRMP/CCIP, specifically recognition of the CCRMP/CCIP as the reclamation plan under SMARA for the creek.

Ms. Oliver asks about the "less-than-significant" finding regarding water quality impacts (Item VIII,f). She specifically asks about mercury in the creek and indicates mining will "increase the mercury available." The County has no control over the mercury in Cache Creek. It enters the system below Clear Lake from natural deposits and old mercury mines. The issue of mercury in the Cache Creek watershed and concerns regarding off-channel mining were addressed extensively in 1996 as a part of examining the entire Cache Creek Area Plan (CCAP). This issue was found to be less-than-significant as mitigated in the OCMP EIR which is why that issue was shown as "less-than-significant" in the subject Negative Declaration as well. Among the measures required by the county to address this issue were the following:

- Continuous monitoring and testing for over 40 years, twice annually initially, then annually through the period of mining and reclamation, followed by every other year for 10 years after reclamation.
- Required remediation if a problem is found, including performance standards for cleanup and the ability to close the operation immediately, if necessary. Regarding the potential for accumulation of mercury in fish in the wet pits, if mercury is ever found in excess of naturally occurring amounts, the operators are required to fix it or fill it. To date, in over 30 years of monitoring, there has been no evidence of problems.
- A Maintenance and Remediation Fund in the event of an unforeseen circumstance after reclamation is complete. This is funded by aggregate sales at a base rate of \$0.02 per ton over the life of the off-channel mining permits.

Additionally, the county, through its police powers, has the authority to protect the public health, safety, and welfare, of its residents. If the county determined there was an immediate danger to health or safety, it could take whatever steps were necessary at any time to correct the situation, including shutting down the operation immediately.

Since in-channel commercial mining is no longer allowed in Cache Creek, the concerns about mercury being mobilized by mining have dramatically decreased. The question is whether the limited amount of in-channel maintenance and restoration work that is allowed/encouraged under the CCRMP is problematic. The CCRMP recognizes that in the long-term the creek continues to require active "management" to prevent erosion and loss of agricultural land, to protect public infrastructure like roads and bridges, and to restore the creek to create a regional habitat corridor. The work envisioned in the CCRMP will help stabilize and restore the creek, and prevent future catastrophic flood and erosion events that could be much more adverse in terms of releases of mercury into the environment. By continuing to utilize testing, monitoring; and adaptive management the County and others can ensure that these goals are accomplished without worsening the pre-existing mercury environment in the creek.

the creek in order to prevent the type of dramatic events mentioned by the commenter. The ordinance does not allow for commercial mining – this activity has been prohibited in the creek since 1996.

The commenter points out that encroachment permits are required for any work within the State right-of-way. The Parks and Resources Department is aware of this requirement.

**LETTER 4: Cache Creek Conservancy** – The Executive Director of the Conservancy expresses support for the ordinance and raises two issues: 1) a request for greater flexibility for hours of operation allowed under Section 10-3.409; and 2) the need for clarification of Section 10-3.417 related to setbacks from the low-flow channel. The staff believes that the proposed language allowing for flexibility in hours under emergency conditions addresses the first comment.

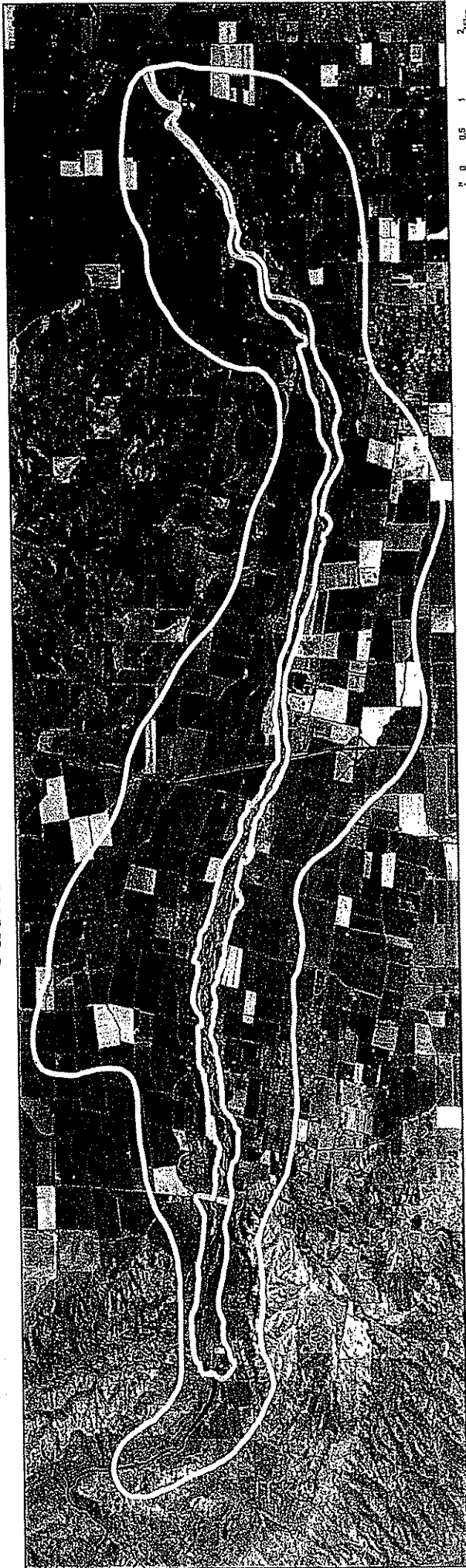
The staff agrees that the section addressing setbacks can be clarified by adding the following:

*(c) For the purposes of this Section and CCRMP Performance Standard 6.5-8, channel stabilization and/or restoration activities that are otherwise consistent with the CCRMP and CCIP, but would encroach within these setbacks, are allowed subject to the review of the TAC and approval by the county.*

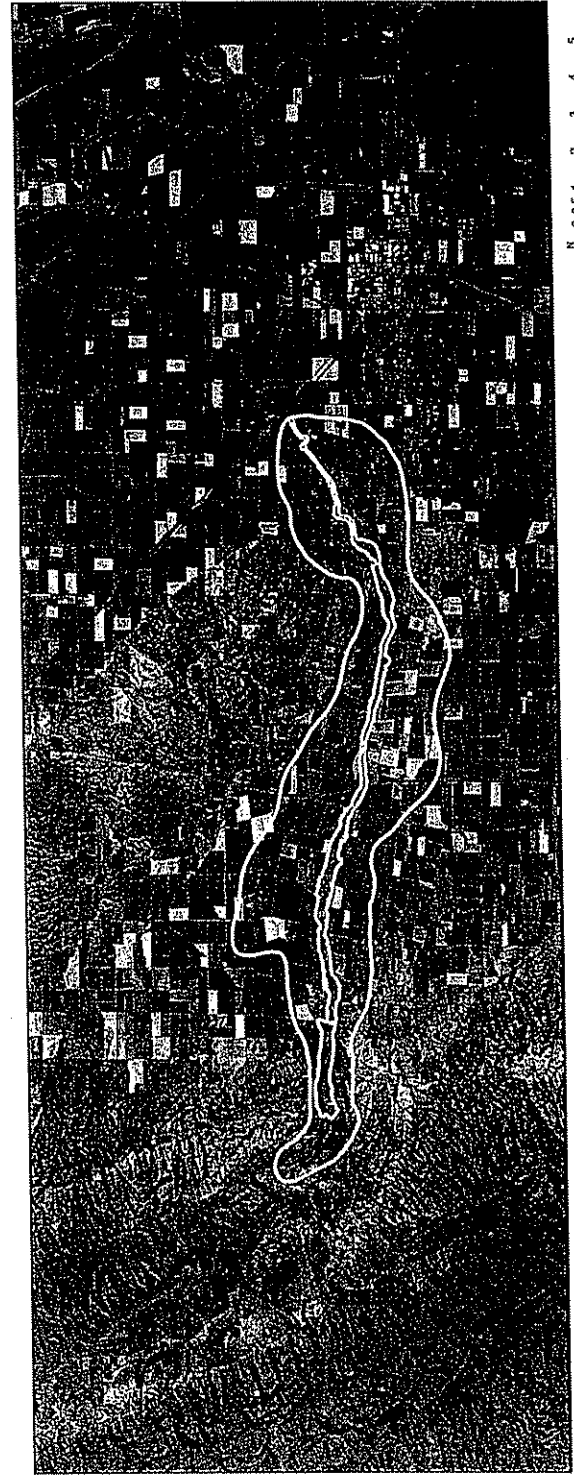
**LETTER 5: Sally Oliver, Resident (Letter #2)** – Ms. Oliver expresses her opinions regarding the off-channel mining program and a groundwater recharge program. As indicated in response to her first letter, the issue of recharge through the off-channel pits is unrelated to the subject ordinance which addresses only maintenance excavation within the creek channel. Nonetheless, as pointed out in the project initial study, the CCRMP/CCIP supports and encourages a coordinated groundwater recharge program, but does not initiate one, as this is the responsibility of the Yolo County Flood Control and Water Conservation District. The District is very active in this area and is in the process of implementing a Groundwater Management and Recovery Program and a countywide Integrated Groundwater and Surface Water Model to better understand the hydrology and recharge opportunities in the county and along Cache Creek.

**LETTER 6: Governor's Office of Planning and Research** – This letter documents that the county has satisfied the state requirements for circulation and comment on the Negative Declaration.

# Cache Creek Area Plan



In-Channel Boundary  
(CCRMP Area)  
Off-Channel Boundary  
(OCMP Area)



CALIFORNIA PUBLIC RESOURCES CODE

SECTION 2715.5. (a) The Cache Creek Resource Management Plan, in conjunction with a site specific plan deemed consistent by the lead agency with the Cache Creek Resource Management Plan, until December 31, 2012, shall be considered to be a functional equivalent of a reclamation plan for the purposes of this chapter. No other reclamation plan shall be required to be reviewed and approved for any excavation project subject to the Cache Creek Resource Management Plan that is conducted in conformance with an approved site specific plan that is consistent with the Cache Creek Resource Management Plan, and the standards specified in that plan governing erosion control, channel stabilization, habitat restoration, flood control, or infrastructure maintenance, if that plan is reviewed and approved by a lead agency pursuant to this chapter.

(b) For purposes of this section, the board of supervisors of the county in which the Cache Creek Resource Management Plan is to be implemented shall prepare and file the annual report required to be prepared pursuant to Section 2207.

(c) Nothing in this section precludes an enforcement action by the board or the department brought pursuant to this chapter or Section 2207 if the lead agency or the director determines that a surface mining operator, acting under the authority of the Cache Creek Resource Management Plan, is not in compliance with the requirements of this chapter or Section 2207.

(d) "Site specific plan," for the purposes of this section, means an individual project plan approved by the lead agency that is consistent with the Cache Creek Resource Management Plan. Site specific plans prepared in conformance with the Cache Creek Resource Management Plan shall, at a minimum, include the information required pursuant to subdivision (c) of Section 2772, shall comply with the requirements of Article 9 (commencing with Section 3700) of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and shall be provided along with a financial assurance estimate to the department for review and comment pursuant to Section 2774. Notwithstanding the number of days authorized by paragraph (1) of subdivision (d) of Section 2774, the department shall review the site specific plan and the financial assurance estimate and prepare any written comments within 15 days from the date of receipt of the plan and the estimate.

(e) Prior to engaging in an excavation activity in conformance with the Cache Creek Resource Management Plan, a surface mining operation shall be required to obtain financial assurances that meet the requirements of Section 2773.1.

(f) This section shall not become operative until the date the State Mining and Geology Board notifies the Secretary of State in writing that the board has approved an ordinance adopted by the Board of Supervisors for the County of Yolo that governs in-channel noncommercial extraction activities carried out pursuant to the Cache Creek Resources Management Plan.

(g) This section shall remain in effect only until December 31, 2012, and as of that date is repealed, unless a later enacted statute that is enacted before December 31, 2012, deletes or extends that date.

JUL 18 2008

ANA MORALES, CLERK OF THE BOARD  
BY Julia Pacheco  
DEPUTY

**RESOLUTION NO. 08-112**

**RESOLUTION OF THE YOLO COUNTY BOARD OF SUPERVISORS  
ADOPTING A NEGATIVE DECLARATION PURSUANT TO THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT (CEQA) FOR THE CACHE CREEK AREA PLAN IN-  
CHANNEL MAINTENANCE MINING ORDINANCE**

**WHEREAS**, the County of Yolo has prepared and is considering adoption of an ordinance that would satisfy Action 2.4-16 of the 1996 Cache Creek Resources Management Plan (CCRMP) calling for an in-channel ordinance to regulate the limited "maintenance mining" allowed under the plan; and

**WHEREAS**, the proposed ordinance would also allow for Section 2715.5 of the State Public Resources Code to become operational, as it requires County approval of an ordinance governing in-channel non-commercial extraction activities; and

**WHEREAS**, the CCRMP was subject to a program-level environmental impact report certified by the Yolo County Board of Supervisors on August 20, 1996 (SCH #96013004). A related plan, the Cache Creek Improvement Plan ("CCIP") was subject to a project-level environmental impact report certified by the Yolo County Board of Supervisors on August 20, 1996 (SCH #96013004). A supplemental environmental impact report was certified on July 23, 2002 (SCH #96013004). The potential for impacts in all issue areas covered by the proposed ordinance was analyzed as a part of these prior analyses; and

**WHEREAS**, a CEQA initial study has been completed examining the potential for significant environmental impacts as a result of adoption and implementation of the proposed ordinance. Based on an analysis of available information, the staff has concluded that the prior EIRs adequately addressed the potential for environmental impact from the proposed ordinance and its implementation, and that no new impacts that would result. Therefore, the staff has determined that the appropriate CEQA documentation for the proposed ordinance is a Negative Declaration; and

**WHEREAS**, the subject Negative Declaration utilizes relevant information from the prior EIRs, and relies on the EIR findings of fact and statements of overriding considerations where applicable; and

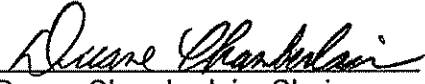
**WHEREAS**, the Negative Declaration was circulated for a 30-day period from April 1, 2008 through April 30, 2008, during which time six timely comment letters were received. Responses to these comments are provided in the Planning Commission staff report dated May 8, 2008. The nature of the comments and responses did not result in any changes to the Negative Declaration; and

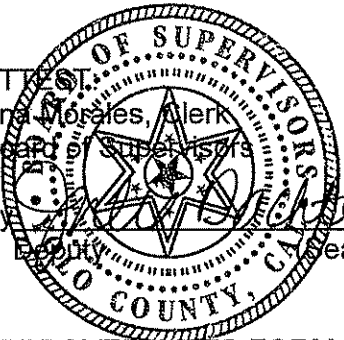

**WHEREAS**, the Planning Commission held a public hearing on May 8, 2008, to take final action on the proposed ordinance in the form of a recommendation to the Board of Supervisors, wherein public testimony was taken on the project, the CEQA determination, and the adequacy of the CEQA analysis; and

**WHEREAS**, the Board of Supervisors held a public hearing on June 24, 2008, to take final action on the proposed ordinance wherein public testimony was taken on the project, the CEQA determination, and the adequacy of the CEQA analysis.

**APPROVED AND ADOPTED** by the Board of Supervisors of the County of Yolo at its regular meeting held on this 15<sup>th</sup> day of July, 2008, by the following vote:

AYES: **McGowan, Thomson, Rexroad, Yamada, Chamberlain.**  
NOES: **None.**  
ABSENT: **None.**  
ABSTAIN: **None.**

  
Duane Chamberlain, Chairman  
Yolo County Board of Supervisors

ATTN:   
Ana Morales, Clerk  
Board of Supervisors  
By   
(Ana Morales, Clerk)

APPROVED AS TO FORM:  
Robyn Trujitt Drivon, County Counsel

By   
Philip J. Pogledich, Senior Deputy

Exhibit 1 -- Negative Declaration (including Environmental Checklist and Initial Study)



Notice of Determination

Appendix D

To:

[X] Office of Planning and Research
For U.S. Mail: Street Address:
P.O. Box 3044 1400 Tenth St.
Sacramento, CA 95812-3044 Sacramento, CA 95814

[X] County Clerk

County of: Yolo
Address: 625 Court Street
Woodland, CA 95695

From:

Public Agency: Yolo County Parks & Resources Department
Address: 120 West Main Street
Woodland, CA 95695
Contact: Kent Reeves
Phone: 530.406.4888

FILED
YOLO COUNTY CLERK/RECORDER
JUL 17 2008

Lead Agency (if different from above): FREDDIE OAKLEY, CLERK
BY [Signature]
Address:
Contact:
Phone:

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 2008042001

Project Title: CCAP In-Channel Mining Ordinance

Project Location (include county): Cache Creek (lower) between Capay Dam and Town of Yolo, Yolo County

Project Description:

Proposed ordinance to regulate limited channel maintenance activities allowed within lower Cache Creek pursuant to the Cache Creek Resource Management Plan of the Cache Creek Area Plan.

This is to advise that the County of Yolo has approved the above described project on July 15, 2008 and has made the following determinations regarding the above described project:
(Lead Agency or Responsible Agency)

- 1. The project [ ] will [X] will not have a significant effect on the environment.
2. [ ] An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA. [X] A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [ ] were [X] were not made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [ ] was [X] was not adopted for this project.
5. A statement of Overriding Considerations [ ] was [X] was not adopted for this project.
6. Findings [X] were [ ] were not made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at: Yolo County Parks & Resources Dept., 120 W. Main St., Ste. C, Woodland, CA 95695

Signature (Public Agency) [Signature] Title Principal Natural Resources Planner/Div. Mgr.
Date July 17, 2008 Date Received for filing at OPR

Authority cited: Sections 21083, Public Resources Code. Reference Section 21000-21174, Public Resources Code.

Revised 2005

POSTED JUL 17 2008 TO AUG 15 2008

NO8-97