

EXCERPTS FROM RELEVANT DOCUMENTS RELATED TO 10-YEAR INTERIM REVIEW OF LONG-TERM MINING PERMITS AND OF OCMP

OCMP EIR, page 3-15 of Draft

- Establish 30 years as the maximum length of time for granting a mining permit. **Reviews that would revise the permit to account for unanticipated environmental effects and/or regulatory changes are recommended every 10 years.** Permits will be eligible for an additional 20-year extension, based on the satisfactory performance of the operation.
- Update the OCMP every ten years to account for the results of monitoring programs and reclamation efforts, so that the plan remains responsive to the changing conditions of the creek.

OCMP EIR, page 4-191 of Responses

Response to Comment 13-32 (Western Yolo Grange et.al.): Staff acknowledges the commentor's opinion. **The 10-year review period was considered by staff to be an appropriate length of time in which to allow discernible trends to develop so that County policies and regulations would be based on statistically valid data. Meanwhile the monitoring program would allow the County to respond to short-term concerns. The 10-year period does not prevent the County from amending the OCMP whenever the necessity arises.** ...

OCMP EIR, page 4-338 of Responses

Response to Comment 17-3 (Yolo County Farm Bureau): ...**It is also proposed that both the mining permit/reclamation plan and the OCMP undergo review a minimum of every 10 years, to respond to changing circumstances.** ...

OCMP, PAGE 26

Adoption of the Off-Channel Mining Plan

Both the Off-Channel Mining Plan and the companion Cache Creek Resources Management Plan are intended to be evolutionary documents, that adjust and change in response to new creek conditions. Adoption of the OCMP will allow the County to begin taking the first steps in managing the resources along Cache Creek, however, the plan should not be seen as a static vision of what the ultimate disposition of the creek will be in the future. As such, it is expected that the OCMP will undergo periodic review and updating, as additional data is gathered through monitoring and the success of habitat restoration projects and channel stabilization are known. **The OCMP shall be updated every ten years to respond to new regulatory requirements.** This will allow sufficient time for trends to become evident, yet still be early enough to change any policies that are

having an unexpectedly adverse effect on resource management before significant harm is done. Future amendments to the OCMP will be appropriately processed under CEQA.

OCMP, page 34

The OCMP also imposes a 30 year maximum term for any off-channel mining permit, as well as 10-year reviews that allow for the addition of new environmental regulations to the permit, if appropriate. In addition, a 15-year review may be held, at the discretion of the Planning Commission. A 20-year extension to the mining permit may be granted, if approved aggregate reserves have not yet been exhausted.

OCMP, page 38

2.4-3 Establish a "sunset clause" for each surface mining permit. This would set defined length of time during which mining may occur. Any extensions beyond the permit expiration would require further environmental review and discretionary approval. The term of mining should be balanced so as to allow sufficient time for the operator to amortize investments, without sacrificing regulatory effectiveness. The maximum length of time for which any surface mining permit may be approved is thirty (30) years, with ten (10) year reviews to examine actual environmental impacts and to apply any relevant environmental regulations or statutory changes promulgated by a responsible or trustee agency with authority over a particular environmental resource (such as air, water, habitat, state lands, etc.), including Yolo County. An additional review may be held fifteen (15) years after permit approval, at the discretion of the Planning Commission. The reviews will also be used to verify whether per-ton fees are sufficient to meet actual costs. The mining permit may be extended for a maximum period of twenty (20) years, if necessary, subject to the same ten- and optional fifteen-year review requirements.

Mining Ordinance

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 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.

Sec. 10-4.605. Interim permit review.

Every ten years after a surface mining permit has been approved, the Commission shall hold a public hearing in accordance with Article 5 of this chapter, for the purpose of amending the permit to bring it into conformance with applicable future environmental regulations and statutory changes. An additional public hearing may be held fifteen (15) years after a surface mining permit has been approved, at the discretion of the Commission. The Commission shall evaluate the permit to determine if there have been any subsequently adopted environmental regulations or statutory provisions which should be made applicable to the mining operation, even if such laws themselves are not made

retroactive to affect the permit. For the purposes of this article, an environmental regulation or statutory provision is one that is promulgated by a responsible or trustee agency that has authority for a particular natural resource (e.g., Yolo-Solano Air Quality Management District, California Department of Fish and Game, California Department of Conservation, Regional Water Quality Control Board, State Lands Commission, State Reclamation Board, etc.), including the County of Yolo.

As a part of this review, the Commission shall also consider whether per-ton fees to which the permit is subject, reasonably reflect actual costs. The fees shall be adjusted up or down accordingly.

Should the Commission decide to incorporate into the permit new regulatory or statutory provisions that were not available at the time of project approval, said provisions shall be applied as an amendment to the permit and processed in accordance with Article 6 of this chapter. The decision of the Commission may be appealed, in accordance with Article 10 of this chapter.

Reclamation Ordinance

Sec. 10-5.814. Interim permit review.

Every ten years after a reclamation plan has been approved, the Commission shall hold a public hearing in accordance with Article 5 of this chapter, for the purpose of amending the plan to bring it into conformance with applicable future environmental regulations and statutory changes. An additional public hearing may be held fifteen (15) years after a reclamation plan has been approved, at the discretion of the Commission. The Commission shall evaluate the plan to determine if there have been any subsequently adopted environmental regulations or statutory provisions which should be made applicable to the reclamation plan, even if such laws themselves are not made retroactive to affect the plan. For the purposes of this article, an environmental regulation or statutory provision is one that is promulgated by a responsible or trustee agency that has authority for a particular natural resource (e.g., Yolo-Solano Air Quality Management District, California Department of Fish and Game, California Department of Conservation, Regional Water Quality Control Board, State Lands Commission, State Reclamation Board, etc.), including the County of Yolo.

As a part of this review, the Commission shall also consider whether per-ton fees to which the permit is subject, reasonably reflect actual costs. The fees shall be adjusted up or down accordingly.

Should the Commission decide to incorporate into the reclamation plan new regulatory or statutory provisions that were not available at the time of project approval, said provisions shall be applied as an amendment to the plan and processed in accordance with Article 6 of this chapter. The decision of the Commission may be appealed, in accordance with Article 10 of this chapter.

Development Agreements

Section 1.1.11 "Effective Date" means January 1, 1997.

Section 1.6 Term of Agreement. Subject to the interim reviews described in Section 7.2 of this Agreement, this Agreement shall commence upon the Effective Date,

and shall be in force for a period coterminous with the Permit thereafter unless extended or terminated as provided herein.

Section 2.2.13 Clarification of CCAP. Developer shall be responsible for reimbursement to County on a proportional basis **all costs incurred in amending the CCAP to clarify the intent of the ten-year review (Section 10-4.605)** and make any other minor corrections and/or clarifications as may be known at that time.

Section 3.1 Abandonment. Effective on the date specified in Section 3.2, Developer hereby abandons any and all rights that Developer has, including permits, allocations and other entitlements issued by, or recognized by, the County, State, or Courts, allowing aggregate extraction on the real property within the active channel of Cache Creek, as defined by the Cache Creek Resources Management Plan ("CCRMP"). Developer acknowledges that the abandonment of the rights, permits, allocations, and other entitlements extinguishes in perpetuity any right held by signatories, including rights created by the permits, allocations, and other entitlements, to conduct aggregate extraction operations within the active channel of Cache Creek, subject to the provisions of the CCRMP.

Developer agrees not to conduct or cause to have conducted, any mining-related activities in the active channel except pursuant to any future entitlements for that purpose as may be authorized under the CCRMP. It is expressly understood that Developer may continue to enter the active channel to maintain flood protection, perform reclamation activities, and restore wildlife habitat pursuant to the terms of the Permit and this Agreement as allowed by the County under the provisions of the CCRMP and for the sole purpose of channel restabilization and creek restoration as envisioned under the CCRMP.

Developer agrees that areas of in-channel mining not covered by Condition #27 for which financial assurances are outstanding as of November 25, 1996 shall be further restored by Developer pursuant to the goals and requirements of the CCRMP, beyond the requirements of the approved reclamation plan. **This shall occur prior to the first Interim Review of the project which will occur in 2007.** This restoration may occur in phases, provided there is acceptable engineering, biological, and/or hydrological support for such phasing. If the land on which this would occur is not under the Developer's ownership or control as of November 25, 1996, the Developer shall seek authorization from the property owner to implement this work. If the property owner refuses, the Developer shall so inform the County and provide evidence of "good faith" efforts to secure property owner authorization. The County shall subsequently coordinate with the property owners to secure authorization for the Developer to perform said work. If, after a reasonable period of time, County representatives are also unable to secure property owner authorization, the Developer shall be relieved of this obligation.

Section 7.2 Interim Review. Notwithstanding the provisions of Section 2.6 of this Agreement, on the tenth, fifteenth, twentieth and thirtieth anniversaries of the Effective Date, the County may, at its sole discretion subject only to the paragraph below, amend the Permit pertaining to the Development of the Property and schedule public hearings for the purpose of considering and enacting amendments to the Permit

pursuant to Section 10-4.605 (Interim Permit Review) of the County Code (Off-Channel Surface Mining Ordinance).

Notwithstanding the provisions of Section 10-4.605 (Interim Permit Review) of the Mining Ordinance, the right to mine a specified maximum tonnage on specified acreage to a specified maximum depth, is vested with the property pursuant to this Agreement, so long as the regulatory requirements, conditions of approval, and CCAP performance standards (e.g. Section 10-4.417 of the Mining Ordinance relating to groundwater monitoring programs, Section 10-5.517 of the Reclamation Ordinance relating to mercury bioaccumulation in wildlife, etc.) are met, and so long as there is no threat to public health or safety and the operation in and of itself does not pose a public hazard or public nuisance.

Staff Reports

July 23, 1996 Staff Report to the Board of Supervisors Relating to Adoption of the OCMP (excerpt):

Annual and Ten-Year Reviews -- Staff was asked to clarify the proposed annual and ten-year reviews. All off-channel permits issued under the OCMP would be subject to: 1) annual compliance reviews; and 2) ten-year reviews to update applicable environmental regulations and to adjust fees. The intent of the annual compliance review is to verify that the operator is in full compliance with the spirit and intent of all conditions of approval and environmental mitigation measures. Should an operator be found not to be in compliance with applicable conditions of approval or adopted mitigation measures, and should the operator fail to correct that situation pursuant to the standards, thresholds and requirements of the permit, the County would have no choice but to revoke the surface mining permit and the operator's financial assurances would be forfeited to the County for the purposes of reclamation of the site.

Regarding the ten-year reviews, the OCMP and all off-channel mining permits subject to the OCMP would be re-evaluated at that time to determine if there had been any subsequently adopted environmental regulation or statutory provision which should be made applicable to the mining operation, even if such laws themselves would not have been made retroactive to affect a permit, by the promulgating agency. If any such regulations or statutory provisions were identified, the County could require the permits to conform with those new requirements. This could include subsequent countywide, areawide, or industrywide environmental regulations that the County itself adopts.

At the time of the ten-year reviews the County would also examine whether per-ton fees to which the permit was originally subjected should be adjusted (up or down) to accurately reflect actual costs.

July 30, 1996 Staff Report to the Board of Supervisors Relating to Adoption of the OCMP (excerpt):

Interim Permit Review -- The Board members concurred that an optional review period at Year 15 could be important. The staff has made changes, therefore, to show mandatory

reviews at Years 10, 20, and 30, and one optional review at Year 15. This is reflected in proposed modification of the text on page 31 of the OCMP, the text of Action 2.4-3 of the OCMP, and the text in Section 10-4.605 of the Off-Channel Surface Mining Ordinance and Section 10-5.814 of the Surface Mining Reclamation Ordinance.

Staff was also directed to add language to explicitly include the County as an agency whose own new environmental regulations could be applied to the permits at the interim reviews. This is also shown in the recommended modifications to Section 10-4.605 of the Off-Channel Mining Ordinance and Section 10-5.814 of the Surface Mining Reclamation Ordinance.

Mining Review Excerpts.doc