

**YOLO COUNTY CCAP MINING AND RECLAMATION PERMITS  
INTERIM REVIEW PROCESS  
April 20, 2005**

**DISCUSSION PAPER #1  
Scope of the Interim Review**

**Introduction**

The Cache Creek Area Plan (CCAP) was adopted by the Yolo County Board of Supervisors (BOS) in August of 1996 and approved by County voters in November of 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 OCMP was accompanied by two implementing ordinances: the Off-Channel Surface Mining Ordinance (Mining Ordinance) and the Surface Mining Reclamation Ordinance (Reclamation Ordinance).

Under the authority of the OCMP and both implementing ordinances, the BOS approved five off-channel Mining and Reclamation Permits (Permits) in November of 1996. These permits were each for a 30-year period and they were contingent on individual Development Agreements (DAs) which were executed in January of 1997.

Among the many terms of the Permits, one was the requirement for “Interim Permit Review”. Section 10-4.605 of the Mining Ordinance and 10-5.814 of the Reclamation Ordinance mirror one another in requiring specified interim reviews of the Permits. Such reviews were required at 10 years, 20 years, and 30 years. A discretionary review is allowed at 15 years. The DAs establish the effective date of each of the Permits as January 1, 1997. Therefore, the following schedule is applicable:

January 1, 1997	Effective date.
January 1, 2007	Date by which 10-year interim review must be complete.
January 1, 2012	Date by which 15-year discretionary review must be complete, if required.
January 1, 2017	Date by which 20-year interim review must be complete.
January 1, 2027	Date by which 30-year interim review must be complete.
January 1, 2027	Expiration date for Permits unless extended.

In order to prepare for the upcoming 10-year interim review, this discussion paper is the first in a series. The topics are intended to explore relevant issues in detail in order to allow for extensive public involvement, education, understanding, and input as a part of the review process. The topics may be expanded or modified as determined necessary, as the process moves along in order to be responsive to public inquiry and input.

**Purpose and Scope**

The purpose and scope of the interim reviews are discussed throughout the relevant planning, regulatory, CEQA, and approval documents from 1996. Attachment A provides relevant excerpts of verbatim language from the OCMP EIR, the OCMP, the Mining Ordinance, the Reclamation Ordinance, the Development Agreements, and

OCMP Staff Reports from 1996. There was no discussion of the interim reviews in any other documentation from the time (see Attachment A, Excerpts). Read together the excerpts support that there were/are two clear foci for the review:

- 1) Changes to environmental regulations
- 2) Modifications to per-ton fees

Each of these is discussed in greater detail below.

### Changes to Environmental Regulations

The main purpose of the interim review is to allow the County a “second bite at the apple” in effect by opening a window during which relevant future environmental regulations or statutory changes may be applied to the Permits whether or not they would otherwise apply. The regulations/statutes to be considered must be promulgated by a responsible or trustee agency with authority over a particular environmental/natural resource. Examples are the 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, Yolo County, and the U.S. Army Corps of Engineers.

### Modifications to Per-Ton Fees

A secondary purpose of the interim review is to allow the County to re-examine per-ton fees, to verify whether they are sufficient to meet actual costs. The fees are to be adjusted “up or down accordingly.”

### **Process**

Section 10-4.605 of the Mining Ordinance and 10-5.814 of the Reclamation Ordinance specify that a hearing must be held before the Planning Commission (in accordance with the Ordinance) for the purpose of amending the permit to bring it into conformance with applicable future environmental regulations and statutory changes. This indicates that modifications are not mandatory, depending on the results of the Planning Commission review. Section 7.2 of the DAs reinforces this by indicating that whether the permits are amended is within the sole discretion of the County. Should the Commission decide to incorporate these provisions into the permits, they are to be applied as an amendment to the permits and processed in accordance with Article 6. Several text passages suggest that the trigger for attaching the new regulations/permits is where actual environmental impacts have occurred.

Section 7.2 of the DAs sets boundaries on the interim review, indicating that tonnage, acreage, and depth are vested so long as: 1) the regulatory requirements, conditions of approval, and performance standards are met; 2) there is no threat to public health or safety; and 3) the operation does not pose a public hazard or public nuisance.

The Planning Commission is tasked with evaluating each Permit to determine if there have been any subsequently adopted environmental regulations or statutory provisions which should be made applicable to the mining operation. This indicates that the review

is to be focused on environmental regulations and statute changes that have occurred since the Permits were issued in November of 1996, and were not in place at the time of project approval.

The decision of the Commission may be appealed to the BOS (in accordance with the Ordinance). Costs for the process are the responsibility of the applicant.

### **Next Steps**

In order to prepare for the interim review hearings, staff has determined that the following steps are necessary:

- Prepare an analysis of environmental regulations and statute changes that have occurred since November 1996 for the specified agencies. It is proposed that this be undertaken by sending specific inquiries to each agency. The results will be reported for public consideration in a subsequent Discussion Paper (#2, Analysis of Regulatory Changes).
- Prepare an analysis of whether any unanticipated or unmitigated environmental changes have occurred since the 1996 approvals. It is proposed that this be undertaken by reviewing the annual compliance reports for each permit. The results will be reported for public consideration in a subsequent Discussion Paper #3, Analysis of Unanticipated Environmental Changes).
- Prepare an analysis of fee revenue and fee expenditures to determine whether actual costs are covered. It is proposed that this be undertaken by reviewing the annual budget documents for the mining fee accounts. The results will be reported for public consideration in a subsequent Discussion Paper (#4, Analysis of Fees).
- Prepare an analysis of whether CEQA is triggered by the interim reviews, and if so, what type of environmental analysis is necessary to provide appropriate CEQA clearance. The results will be reported for public consideration in a subsequent Discussion Paper (#5, Analysis of CEQA Applicability).

After each Discussion Paper (including this first one) is released, public outreach and informal meetings with interested parties will commence, followed by Planning Commission workshops to discuss each paper (see Attachment B, Schedule). This will then be followed by Planning Commission final action on the individual interim reviews.

### **Attachments**

- A) Excerpts from Relevant Documents
- B) Tentative Working Schedule for Interim Review Process